



Report on FAO/SARPN Workshop on HIV/AIDS and Land

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Executive summary

On 23 and 24 June 2002 the Southern African Regional Poverty Network (SARPN) hosted a workshop to look at the impact of HIV/AIDS on land rights, tenure and use. The workshop looked at three country studies commissioned by the UN Food and Agriculture Organisation (FAO) in Kenya, Lesotho and South Africa, a similar study undertaken by Oxfam in Malawi, a number of personal testimonies from people in Southern Africa living on the land with HIV/AIDS, and a personal narrative recorded in Uganda. Although HIV/AIDS clearly has major impacts on the livelihoods of people living on the land in Africa there have been few attempts to date to study these impacts.

The aim of the pilot studies presented at this workshop was to:

- Bring issues around HIV/AIDS and land use into the public domain
- Interrogate the methodology used in the pilot studies
- Identify regional perspectives on individual countries
- Synthesise the findings into programmatic recommendations
- Create a bridge from research to policy change.

The central policy issue is how access to land can contribute to the prevention, care and support of HIV/AIDS affected households and the mitigation of impacts. Effective intervention requires identifying the different stakeholders and their roles. If government is involved throughout the process it is likely to give greater priority to policies that deal with the impact of HIV/AIDS and land issues and land based livelihood options. Where government is not involved, stakeholders have to ensure that it recognises the importance of the information.

Methodological issues

There is a need for more extensive quantitative studies and for in depth local studies and case histories to bring out the differences between households. All these studies should incorporate controls to distinguish between impacts attributable to HIV/AIDS and those due to other causes. These studies need to be linked to the development of policies and implementation programmes. For this reason government and other stakeholders need to be drawn into the process. Community structures and local government should be drawn into policy development and implementation.

Designing future studies

Future studies would require greater focus for local implementation and clearer identification of policy implications. Macro studies are also needed that link to future-orientated demographic modelling. Future studies should address geographical, cultural and economic diversity. Teams need a mix of skills including involvement in, or knowledge of, HIV/AIDS and land issues in addition to research skills. Researchers should investigate the potential of coding information to assist in bridging the gap between quantitative and qualitative studies and their research methodology should be appropriate to the scale and objectives of the study. They should be mindful of the sensitive nature of the subject matter, of ways in which the situation of informants may influence results and should look at ways to assist affected households in the course of research work.

Finances will limit the scope of what can be done. The aim should be for 'good enough' research. This needs to be defined in terms of what will be effective in influencing policy in specific countries or localities.

Findings

Despite differences in the studies a *common picture* of a downward spiral leading ultimately to destitution was evident as the disease progressed in households. Broadly, the elements are:

- Loss of income due to loss of a job or the ability to work due to illness or the burden of caring for the ill.
- Depletion of savings and sale of assets to meet medical expenses and to pay for funerals.
- Limitation of livelihood options as a result of chronic illness with land use assuming increased importance as a result
- Limitation of ability to use the land as a result of illness and caring for the ill, sale of livestock, and inability to purchase inputs.
- Vulnerability to loss of land following HIV/AIDS related deaths. This resulted from lack of secure tenure for widows and orphans.

In general better resourced households have a greater chance of recovery from these shocks. Despite its declining importance, land remains a significant resource in the livelihoods of most communities in sub-Saharan Africa and a main vehicle to invest, accumulate wealth and transfer it between generations.

Policy Issues

Livelihoods

- HIV/AIDS *narrows livelihood options* with land becoming more important. But is land an effective option? What can be done to make it more effective?
- Assess the possibility of the state providing some of the needs that households are selling off their assets to meet, for example *education and health care*.

Land use

- Support the use of *agricultural techniques* suitable for low labour input households.
- Review current land use and *support land use appropriate to different localities*.
- Ensure affected households have the necessary resources to implement optimum land use for their situation.

Land tenure and rights

- Consider including a *land chapter in the bill of rights*.
- Provide for preferential / *affirmative land allocation* to widows / single women (quota system)
- *Legalise leasing* to ensure effective use of land taking account of specific local contexts.
- Be aware that *laws do not always change local practices*.
- Address land tenure and use issues under *different land tenure regimes*, namely statutory, freehold and customary tenure.

Land policy and administration

- *Land policy needs to address HIV/AIDS* and HIV/AIDS policy needs to address the land issue.
- Policy focus should go beyond prevention and treatment to *deal with the effects of the pandemic*.
- *Mainstream HIV/AIDS* in land policies and address the issue specifically.
- Land related departments and ministries must adopt an *intersectoral approach* that can address legal, economic, social and cultural issues and coordinate the provision of services like health care, education, water and sanitation.
- To *strengthen legal/ administrative system* the following issues need attention:
 - Joint ownership of plots guaranteeing equal access
 - Amendment of Marriage Acts
 - Succession plans prepared before parents die
 - Access to legal systems / aid to protect widows, for example an ombudsman, women's groups, community based organisations
- Policy recommendations need to *strengthen government support* for basic needs.

- Governments need to recognise that they are *losing personnel to the pandemic* and take steps to ensure they have the capacity to implement policy.
- Support *participation* of HIV/AIDS affected / infected in policy processes
- Policy framework needs to address the *growing impoverishment of rural people*.
- *Laws need to be based on the situation on the ground* so that administrators do not have to circumvent them to display compassion.
- Emphasis on *commercialisation and economic growth* should not prejudice subsistence use where alternative livelihood options are limited or non-existent.
- *Ask affected people* what they need.
- Ensure *land reform programmes* address the needs of HIV/AIDS affected households.

Gender and age

- Governments need to *secure women's rights to land* and deal with the marginalisation of women and women's issues in the government system.
- Information campaigns need to address the fact that women are frequently *blamed for the infection* and carry much of the stigma attached to HIV/AIDS.
- Policies and programmes need to address problems women face including:
 - land grabbing
 - decision making about land use without consultation
 - uncertainty about inheritance
 - no formal wills and
 - polygamous marriages.
- Policies and programmes need to address the issue of *women competing with women* for land and other resources, for example wives and mother in laws.
- The *situation of orphans* needs to be investigated and ways devised to protect and support them.

Communities and local support structures

Policies and programmes need to

- Support community based *institutions that assist affected households* as a way of building social capital, these include churches and voluntary associations.
- *Protect the land rights of vulnerable groups*, including provision for secure leasing, incentives for guardians to care for orphans without usurping their land rights and innovative coping strategies at community level
- Review *local culture and practices* with a negative impact on HIV/AIDS affected households and infected individuals and look for ways to address them.
- Build *local social capital* through supporting local structures that can assist households. This could include public hearings on land for orphans and inputs to assist them with production.
- Look for ways to support *micro finance institutions* to improve support to affected households for land use
- *Provide services* that meet the needs of infected people and affected households.
- *Any measures introduced need to be publicised* through radio and other means so that people know and understand their rights.

What next?

Participants agreed on the need to take the information and knowledge gained from the studies and the workshop back to their countries to try to secure policy interventions and to support each other where possible in achieving this. Methodological problems encountered in these studies will be important for informing any subsequent studies, with the range of methodological issues outlined in this report providing some guidance.

A web site will be set up to provide access to the information and contact between people concerned with HIV/AIDS and land issues.

Introduction

On 23 and 24 June 2002 the Southern African Regional Poverty Network (SARPN) hosted a workshop to look at the impact of HIV/AIDS on land rights, tenure and use. The workshop looked at three country studies commissioned by the UN Food and Agriculture Organisation (FAO) in Kenya, Lesotho and South Africa, a similar study undertaken by Oxfam in Malawi, a number of personal testimonies from people in Southern Africa living on the land with HIV/AIDS, and a personal narrative recorded in Uganda. These personal accounts gave participants a chance to hear first hand how the HIV/AIDS pandemic is affecting the lives of people in the region.

In addition to researchers involved in the studies, presenters and discussants, participants in the workshops included people active in work on HIV/AIDS and on land rights, tenure and use, a representative from the Agricultural Office of the Tanzanian government, representatives from the South African Government's Departments of Health and Land Affairs and representatives of the FAO, UNAIDS, Oxfam and SARPN.

Although HIV/AIDS clearly has major impacts on the livelihoods of people living on the land in Africa there have been few attempts to date to study these impacts. Given this situation, the pilot studies presented at the workshop were essentially exploratory and aimed at gathering qualitative rather than quantitative information. The aim of the workshop was to:

- Bring issues around HIV/AIDS and land use into the public domain
- Interrogate the methodology used in the pilot studies
- Identify regional perspectives on individual countries
- Synthesise the findings into programmatic recommendations
- Create a bridge from research to policy change.

This report focuses on the debate and issues that emerged at the workshop rather than the content of the studies and presentations. The studies are available on the SARPN website (www.sarpn.org.za).

Opening the workshop, Mr Q-B West, the FAO South African representative, outlined the extent of the pandemic in Africa, and emphasised that it is a development as well as a health issue. HIV/AIDS has already killed 7 million people in sub-Saharan Africa, with the prospect of a further 16 million deaths. Poverty, poor nutrition, armed conflict and gender inequality all contribute to the spread of the disease which in turn worsens problems like gender imbalance and unequal distribution of resources.

Ms Nyaradzai Gumbonzvanda of Unifem said that the community care strategies most African countries have adopted in response to HIV/AIDS place most of the burden of care on women but do not provide them with additional resources and support. She also pointed out that land issues are political and that researchers need to look at national policies in the context of globalisation and the role that integration into the global economy plays in HIV/AIDS and land issues.

Taking it further

This report, along with the studies and testimonies presented at the workshop, represent work in progress aimed at focusing attention and action on the neglected area of the impact of the HIV/AIDS pandemic on rural livelihoods, particularly on land tenure, rights and use. The aim is to stimulate effective policy development and action in the region.

SARPN welcomes any comments on the report or suggestions for further research or action. These can be sent to us through the SARPN website www.sarpn.org.za, by email to sedrimie@hsrc.ac.za or by post to Southern African Regional Poverty Network (SARPN), Human Sciences Research Council, Private Bag x 41, Pretoria, 0001, South Africa.

Theoretical Considerations

There are a number of theoretical considerations that studies on HIV/AIDS and land need to take into account in promoting policy change. Prolonged illness and early death alter social relations and institutions governing access to land, land holding, and entitlement across dimensions of age and gender. Analyses need to take account of:

- Cultural, legal, political and other social dimensions affecting land entitlement
- How HIV/AIDS affects land entitlement and how land entitlement affects HIV/AIDS
- Whether lack of entitlement to land increases vulnerability to HIV/AIDS
- How HIV/AIDS impacts on institutions involved in land administration
- The inputs needed for effective land use by HIV/AIDS affected households
- The fact that entitlement is not static and changes across gender and age
- The complex continuum from landed to landless
- The fact that although access to land may not be the most effective livelihood strategy for HIV/AIDS affected households in rural areas it is likely to remain central to their survival.

Achieving policy change

The central policy issue is how access to land can contribute to the prevention, care and support of HIV/AIDS affected households and the mitigation of impacts. Effective intervention requires identifying the different stakeholders and their roles. The fact that players may be largely ignorant of the role, or potential roles of other stakeholders can lead to duplication and gaps.

How policy comes into being affects its implementation. If government is involved throughout the process it is likely to give the policy greater priority. We return to this point and some of the initiatives emerging from the workshop in the last section 'What next'.

Where government is not involved, stakeholders have to ensure that it recognises the importance of the information for policy development. Governments may not see land issues, and the rural sector as important. In addition we need to be aware that the ability of governments to implement policy is affected by the HIV/AIDS crisis. We also have to look at what is already part of policy and being implemented, and what is new. For example property rights for women is an established issue, but HIV/AIDS gives it new dimensions.

Methodology

The terms of reference for the country studies called for qualitative and exploratory studies using a participatory approach. Researchers were required to:

- Do interviews in at least 20 households in at least two villages in each of three countries, namely Kenya, Lesotho and South Africa
- Focus on the most food insecure and vulnerable, particularly widows and orphans
- Interview government agencies, NGOs and other organisations working on HIV/AIDS and land issues and
- Interview representatives of community institutions and organisations.

Specific issues to investigate included:

- Changes in land tenure systems due to HIV/AIDS
- Survival strategies of affected households
- Impacts on security of access and rights to land
- Impacts on agricultural productivity and food security
- Implications for land tenure and administration systems
- Future areas for research and concrete policy recommendations.

Lesotho

Studies were conducted in two villages, *Matsatsaneng* and *Ha Poli*. Matsatsaneng is in the lowland area with relatively larger agricultural lands and is closer to urban areas. Ha Poli is in the more isolated highland area with less agricultural land. People here have lost land to the Lesotho Highlands Water Project.

Due to the stigma attached to HIV/AIDS, researchers referred to prolonged illness, only referring to HIV/AIDS if respondents introduced the term.

Points raised in the discussion of this study included the need for more information on:

- Rural-urban links and on the impact of HIV/AIDS on peri-urban areas.
- Dates, places visited and how the study was conducted to give the study greater credence and to provide for possible follow up studies
- Household profiles, land, production, sources of livelihood, sharecropping arrangements, and agro-economic data.

Legal and administrative framework

The description of the policy, legal and administrative framework needs strengthening. The role of land administrators is unclear and there is some confusion between existing legislation and regulations and proposed changes that are not yet in effect: for example the proposals on people forfeiting land left fallow for more than two years. This is particularly important because of the gap that exists in Lesotho between law and practice. This gap is partly due to opposition to the new laws from traditional leaders who see their prerogatives being usurped. As a result concern for the welfare of households affected by HIV/AIDS may not be the only reason why chiefs and headmen allow them to retain access to land left fallow for extended periods. An assessment of the land policy review process and the new White Paper on land policy would be useful.

Use of health workers

The use of health workers to identify informants may have distorted the responses. The researchers pointed out that health workers were only used to identify households and were not involved in the interviews. The fact that non-affected households were not included in the study made it difficult to distinguish what was due specifically to HIV/AIDS from what was associated with poverty in

general. This was a feature of all the studies. Providing this information would require a more extensive study and more sophisticated methodology.

Recommendations

The study appears to have yielded a limited number of land related recommendations. The researchers need to clarify whether the findings point to other recommendations related to land rights, tenure and use.

Kenya

The areas studied were *Bondo* in Nyanza district, and *Nyeri* in Central Province. They were selected for high HIV/AIDS prevalence, problems over land issues, and the presence of initiatives to address HIV/AIDS and issues such as land and gender. Finally, they represented different ethnic groups.

Interviews were approached with an awareness of the sensitivity of the issue and the stigma attached to HIV/AIDS infection.

In general the analysis needed to focus more on the qualitative information and not spend so much time on trying to quantify the results, given that this was essentially a qualitative study with a limited sample. The discussion noted that none of the studies quantified the impact of HIV/AIDS on household food security. The stigma attached to HIV/AIDS has undermined the ability of women to organise around the issue.

Connecting HIV/AIDS and land

The researchers noted that they experienced problems in getting people to reflect on the connections between HIV/AIDS and land issues as awareness that these issues are linked is only beginning to emerge amongst those affected.

Land disputes

More information on land disputes is needed – legal aid NGOs should be able to help with getting this information.

Research fatigue

The issue of research fatigue exhibited by respondents in Bondo came up. This underlines the need to link up with other organisations so that people are not repeatedly asked for the same information by different researchers. A related issue is the need to build a feedback process into the research design so that the research becomes action oriented. Possibilities here include linking respondents to legal aid to assist with land tenure and rights issues and taking the findings back to informants, their communities and district officials. This may also encourage them to seek an active role in the policy development process.

HIV/AIDS in nomadic communities

For Kenya there is a specific need to look at the issue of care for HIV/AIDS infected people and affected households in pastoral communities that are on the move. This may also apply to other Southern and Eastern African countries with similar nomadic populations.

Malawi

Field research was done in three villages, *Namatingwa* in the southern Mulanje District, *Kapida* in the central Dowa District and *Yaphama* in the northern Rumphu District.

Lack of a control group

The issue of a control group to help identify issues specific to HIV/AIDS affected households was raised. The discussant pointed out that in the context of general economic decline this made it difficult to distinguish the effects of HIV/AIDS from those of generalised impoverishment. A related issue was that the studies did not distinguish clearly between households experiencing different stages of the impact of HIV/AIDS. This made it difficult to identify specific interventions appropriate to households at different stages ranging from initial infection, through incapacitation and the death of household members to the consequences for survivors. The discussion noted that this level of analysis would require more sophisticated and in depth studies.

Effectiveness of land based livelihood options

The discussion noted that as the disease progressed household livelihood options tended to become more limited and land use became more prominent in people's livelihood strategies. However, despite this reality it is not clear that land use is the most effective option for HIV/AIDS affected households. Future studies need to investigate this, looking both at ways in which affected households can use the land more effectively and at other possible livelihood options and ways in which these households might be able to use them.

South Africa

Four study sites were selected on the basis of geographical spread and prior familiarity to the research team.

Muden is the site of one of the earliest land redistribution projects in KwaZulu-Natal. Residents have freehold tenure through a communal property association but in practice the settlement has been absorbed into the adjacent tribal authority under communal tenure.

Dondotha is a conservative tribal area with good links to nearby industrial areas and a relatively high number of comparatively wealthy households. The five interviews in this area were conducted after the others and targeted AIDS orphans when it became evident that orphan households were not well represented in the other interviews.

KwaDumisa is a rural peri-urban area with most residents employed on surrounding commercial farms. The area is relatively sparsely populated but experiences steady in-migration.

KwaNyuswa is densely populated and partly urbanised.

Households to be interviewed were identified as being affected by a chronic illness (not specifically HIV/AIDS for ethical reasons) in the past or present. This differed in Dondotha where key informants were asked specifically to identify households where parents had died following chronic illness. Informants interpreted this to include households that had lost parents but were headed by 'orphans' in their twenties. This does not comply with the UN definition of an AIDS orphan as someone below the age of 15 who has lost both parents due to AIDS. As in the other studies the main technique employed was semi-structured interviews. Limitations noted in connection with this methodology include:

- Absence of a control group means that while the study provides clear evidence of the problems confronting HIV/AIDS affected households it is not clear to what extent other households face similar problems.
- Absence of interviews with antagonists in the case of disputes over land or other issues
- Possible bias in the selection of households for interview by key informants
- Lack of interviews with other role players, most significantly in this case traditional authorities who often intervene to protect the land rights of affected households.

Discussion pointed to the need to broaden the studies beyond the household level to look at other role players in more depth and the need for more information on what happens to farm workers when they get HIV/AIDS?

Uganda

This study was based on a personal narrative collected from a Ugandan woman who openly acknowledged her HIV/AIDS infection. The narrative was analysed using the central concept of recurring crises precipitated by the infection. The crises began with the infection and death of the husband and proceeded through the women's struggle to retain access to her land, inability to pay for her children's schooling and her concern about how to secure her children's future after her death. Each crisis was analysed in terms of its consequences for the household, institutional responses, impacts on access to land and land use and the policy issues that it raised. For more details see the section below on policy issues.

Methodological issues

Achieving policy impact

Participants discussed how compelling qualitative studies of this nature would be for policy makers and what could be done to make these and future studies more compelling. There was general support for more extensive quantitative studies as well as in depth local studies with controls to distinguish between impacts attributable to HIV/AIDS and those due to other causes. There was also a strong feeling that government and other stakeholders needed to be drawn into the process as this would lead to a greater sense of ownership and increased policy influence. One option might be conducting a stakeholder analysis and using the current studies to draw policy makers into the process of broadening and deepening the enquiry. Such an analysis would help to address the need for coordination across a range of sectors to achieve effective policy impact.

Involving community structures and local government could also play a role by drawing them into the policy development process and into subsequent action to implement policy. This might also help to ensure that policies address local variables, which may be difficult to cater for at national level. Without this kind of involvement studies will need a clear strategy on how to achieve policy impact in different situations and countries.

Controls

Failure to differentiate between the impacts of HIV/AIDS and other causes such as poverty and gender was common to all the studies given their limited and exploratory nature.

Questions to consider include:

- What is specific to HIV/AIDS affected households and what is a reflection of poverty due to economic decline, poor governance, and decreased social expenditure as a result of structural adjustment programmes or other causes?
- Is HIV/AIDS only compounding issues that already exist or does it reach a point where it actually starts to change the nature of issues or introduce new issues?
- How much is due to HIV/AIDS and how much due to poverty and wider economic processes, gender and land issues?

Establishing this would require studies of unaffected households, households that are affected to different degrees, comparisons of households in different situations and areas, as well as studies that look at affected households before, during and after infection. On land conflicts studies need to include information from antagonists and third parties such as local government or traditional leaders.

Despite their limitations, the current studies show clearly that some issues are new, for example the level of orphan households.

Case histories

In depth case histories can bring out the differences between households and situations. For this to be effective the respondents have to be willing to talk openly about their HIV/AIDS status and their experiences.

Researchers need to establish a framework for analysing the case history and placing it in a context. This could include interviews with people with a direct or indirect interest in the land and with representatives of relevant institutional structures, including support structures identified by the respondent. This could be supported by research into the nature of land tenure, the agricultural economy of the area and cropping regimes.

Designing future studies

Some felt that this study had too many variables to really influence policy development. Future studies would require greater focus for local implementation and clearer identification of policy implications. Macro studies are also needed that link to future-orientated demographic modelling. Future studies should address geographical, cultural and economic diversity. To ensure policy impact involving government and other stakeholders who can influence policy development is important. Teams need a mix of skills including involvement in, or knowledge of, HIV/AIDS and land issues in addition to research skills.

Researchers need to take a range of issues into account in designing studies including:

- Coding information to facilitate larger scale studies and to bridge the gap between qualitative and quantitative studies
- Ensuring that the sample size is appropriate for the scale / unit of analysis (village, district, state)
- Identifying the range of information sources available in different locations
- Choosing information sources appropriate for the objectives of the study
- The influence that access and entry points may have on the study
- Ways of remunerating or adding value for informants. Possibilities include combining research with counselling and support by linking with service organisations in the area
- The different views and priorities of household members relating to variables such as age and gender that affect their position in the household and community.
- Sensitivities around HIV/AIDS relating to the use of words, confidentiality and a variety of ethical issues.

There is a general need for more specific and in depth information on how HIV/AIDS is affecting

- Security of tenure
- Capacity to use land
- Ability to access land (for the landless).

Finances will limit the scope of what can be done. The aim should be for 'good enough' research. This needs to be defined in terms of what will be effective in influencing policy in specific countries or localities.

Findings

This section features findings and issues that were raised in discussion at the workshop. For more details of the findings people should refer to the studies available at www.sarpn.org.za

Livelihoods	
General	<p>Despite differences in the studies a <i>common picture</i> of a downward spiral leading ultimately to destitution was evident as the disease progressed in households. Broadly, the elements are:</p> <ul style="list-style-type: none"> ■ Loss of income due to loss of a job or the ability to work due to illness. This also affects people who have to stop working to care for the ill (formal wage employment is usually the first to go. People may continue longer with informal jobs, which bring lower returns) ■ Depletion of savings and sale of assets to meet medical expenses and to pay for funerals. This may be accompanied by short term loans that people struggle to repay (results often include children having to leave school, limiting their future options) ■ Limitation of livelihood options as a result of chronic illness with land use assuming increased importance as a result ■ Limitation of ability to use the land as a result of illness and caring for the ill, sale of livestock, and inability to purchase inputs (although sharecropping arrangements played an important role in maintaining some access to produce from the land they were threatened by the decreasing ability to fulfil the mutual obligations that underpin them. Fear of losing land may also inhibit households from taking this route). ■ Vulnerability to loss of access to land following HIV/AIDS related deaths. This resulted from lack of secure tenure for widows and orphans following the death of adult male household heads. ■ Better resourced households have a greater chance of recovery. <p>Loss of income, ability to use the land and to fulfil mutual obligations all contribute to reduced food security.</p> <p>Despite its declining importance, land remains a significant resource in the livelihoods of most communities in sub-Saharan Africa and a main vehicle to invest, accumulate wealth and transfer it between generations. This varies from country to country and area to area. For example, in some parts of South Africa land no longer features in the livelihood strategies of household, but in other parts it remains an essential element. Lack of access to land is a major element in poverty with many of the world's poor being landless.</p>

Land use	
General	While land use may become an increasingly importance source of livelihood as the progress of HIV/AIDS limits other options, the progress of the disease also limits the capacity of households to use the land effectively. Infected members become too weak to work in the fields and the increasing burden of caring for them prevents other household members from working in the fields. The disease usually strikes down those household members with the most knowledge, skills and experience of farming, often before they have had the opportunity to pass these skills on to the next generation. As a result orphan households often lack the skills to use the land well. The impact of HIV/AIDS on government agencies is reducing the effectiveness of extension services. Market related practices such as service on demand are also limiting access to extension services.
Lesotho	Sharecropping has reduced the amount of land left fallow as a result of people being too ill to work on their lands. Along with traditional practices like <i>mafisa</i> (loaning out livestock) it plays an important role in enabling affected households to continue getting something from the land. However these practices may also lead to people losing land or livestock and they are under pressure from the overall decline in the rural economy.
Malawi	Affected households exhibit a declining ability to work the land , reduction in the amount of land worked and conversion to crops that require less labour, fewer inputs and less expertise. They also show a preference for multi-functional crops such as cassava. As the disease advances households show a preference for food crops over cash crops and may only work on vegetable patches rather than fields (this may have ecological consequences). Children of school going age take greater responsibility for agricultural work with less supervision. Affected households may have to relinquish land to relatives where there is a high labour to land ratio and people have to share land.
Land tenure /rights	
General	Inability to use land may endanger a household's rights to land but the biggest issue here is that of inheritance following the death of a male household head. HIV/AIDS has exacerbated the already marginal land rights of women and children. Widows frequently face the threat of losing access to land on their husband's death. This leads to a number of strategies including avoidance of remarriage to retain access. Orphans also face danger of losing access to land on the death of their parents. Guardians often usurp land. Orphans of single mothers fare the worst. Increase in conflicts over land . Both the South African and Lesotho studies showed traditional authorities playing a role in helping to protect the land rights of widows and orphans but not always being effective in enforcing their decisions when relatives usurped land. Commercialising farming , increasing the size of landholdings, or limiting land holding to those who have the 'ability and resources to use it effectively' all make land tenure more insecure for affected households. For some, HIV/AIDS represents an opportunity to accumulate land (for example elders who may gain access to land from which women and orphans are excluded). The land rights that define security of tenure are the ability to: <ul style="list-style-type: none"> ■ Occupy ■ Use ■ Transact ■ Exclude ■ And the power to exercise these four.

Kenya	There are three forms of tenure – customary, leasehold and freehold. The ongoing land reform process presents an opportunity for impact.
Lesotho	Need a closer analysis of the ongoing land review process and the drafting of a White Paper on land policy. The land review recommended doing away with customary tenure. This would have a negative impact on the livelihoods of HIV/AIDS affected households.
Malawi	Although chiefs traditionally played a major role in land allocation , now that little new land is available for allocation family heads have largely taken over this role as family holdings are fragmented to accommodate new families. This leads to diminishing size of holdings, increasing landlessness and increasing conflict over land. The breakdown of land management systems as land becomes more crowded leads to degradation of natural resources. Once land is allocated to a family under the traditional tenure system it is difficult to reallocate. This leads to land not being used effectively , and could lead to increasing demand for reallocation to landless families.
South Africa	The traditional tenure system is based on marriage making it difficult for households that do not fit this profile to enter the system.
Land policy and administration	
General	Land policies do not address HIV/AIDS specifically and its implications for land rights, tenure and use. Government departments dealing with the impact of HIV/AIDS do not integrate and coordinate their policies and programmes . Government agencies responsible for land administration, extension services and HIV/AIDS programmes are not recognising that they are losing personnel to the pandemic and taking appropriate action to ensure that they have the human resource capacities needed to maintain services and programmes to address the impacts of HIV/AIDS.
Kenya	Government response is practical rather than strategic , with the focus on dealing with situations as they arise.
Lesotho	The proposal put forward in the land review process to do away with customary tenure is problematic in the context of HIV/AIDS Need to look beyond the concept of compassionate chiefs for the factors motivating their sympathetic handling of affected households. Chiefs are opposing changes to the land laws, which will reduce their role and powers.

Gender / age	
General	<p>The community based care strategy favoured by governments is threatened by poverty and limited services available in rural areas.</p> <p>Stigma, lack of understanding and fear inhibit the ability of communities to provide adequate support [cultural inhibitions about dealing with sex openly plus cultural practices that contribute to the spread of the disease].</p> <p>Stigma, leads to concealment, which prevents effective treatment.</p> <p>Stigma and fear lead to unwillingness to take on orphans.</p> <p>This adds to major practical problems arising from poverty, economic decline and limited services available in rural areas. As a result traditional support structures have limited capacity to help affected households and individuals, while more recently introduced structures (government, church) have not reached a level where they can meet the growing needs (especially the case for land use). Many traditional support systems and practices (for example cultivating the land of ill community members in Malawi) based on social cohesion are now significantly eroded by attitudes of individualism and self sufficiency.</p> <p>The tendency for people to leave urban areas and return to rural homes as disease progresses increases the burden on rural society.</p>
Kenya	<p>Orphans have no direct land rights, and are frequently taken advantage of, orphans of single women are the most disadvantaged of all.</p>
Malawi	<p>Men and women have equal access to land in law but in practice most women access land through men. Even in matrilineal areas where men hold user rights through their wives, the women's tenure depends on her maternal uncle, while husbands still exercise power over the use of land and its products.</p> <p>The in-laws rather than the law determine women's access to land in Malawi</p>
Community support	
General	<p>The community based care strategy favoured by governments is threatened by poverty and limited services available in rural areas.</p> <p>Stigma, lack of understanding and fear inhibit the ability of communities to provide adequate support [cultural inhibitions about dealing with sex openly plus cultural practices that contribute to the spread of the disease].</p> <p>Stigma, leads to concealment, which prevents effective treatment.</p> <p>Stigma and fear lead to unwillingness to take on orphans.</p> <p>This adds to major practical problems arising from poverty, economic decline and limited services available in rural areas. As a result traditional support structures have limited capacity to help affected households and individuals, while more recently introduced structures (government, church) have not reached a level where they can meet the growing needs (this is especially the case for land use). Many traditional support systems and practices (for example cultivating the land of ill community members in Malawi) based on social cohesion are now significantly eroded by attitudes of individualism and self-sufficiency.</p> <p>The tendency for people to leave urban areas and return to rural homes as disease progresses increases the burden on rural society.</p>
Kenya	<p>Communities are dealing with deaths from HIV/AIDS as individual occurrences rather than seeking a broader response to the pandemic.</p>
Malawi	<p>The community may influence access to land particularly where it is in short supply.</p>

Policy Issues

Livelihoods	
	<ul style="list-style-type: none"> ▪ HIV/AIDS <i>narrows livelihood options</i> with land becoming more important. But is land an effective option? What can be done to make it more effective? ▪ Assess the possibility of the state providing some of the needs that households are selling off their assets to meet, for example <i>education and health care</i>.
Land Use	
	<ul style="list-style-type: none"> ▪ Support the use of <i>agricultural techniques</i> suitable for low labour input households. ▪ Review current land use and <i>support land use appropriate to different localities</i>. ▪ Ensure affected households have the <i>necessary resources to implement optimum land use</i> for their situation.
Malawi	Change extension policy from demand driven to include support for affected families.
Land tenure / rights	
	<ul style="list-style-type: none"> ▪ Consider including a <i>land chapter in the bill of rights</i>. ▪ Provide for preferential / <i>affirmative land allocation</i> to widows / single women (quota system) ▪ <i>Legalise leasing</i> to ensure effective use of land taking account of specific local contexts. ▪ Be aware that <i>laws do not always change local practices</i>. ▪ Address land tenure and use issues under <i>different land tenure regimes</i>, namely statutory, freehold and customary tenure.
Land policy and administration	
	<p><i>Land policy needs to address HIV/AIDS</i> and HIV/AIDS policy needs to address the land issue.</p> <p>Policy focus should go beyond prevention and treatment to <i>deal with the effects of the pandemic</i>.</p> <p><i>Mainstream HIV/AIDS</i> in land policies and address the issue specifically.</p> <p>Land related departments and ministries must adopt an <i>intersectoral approach</i> that can address legal, economic, social and cultural issues and coordinate the provision of services like health care, education, water and sanitation.</p> <p>To <i>strengthen legal/ administrative system</i> the following issues need attention:</p> <ul style="list-style-type: none"> ▪ Joint ownership of plots guaranteeing equal access ▪ Amendment of Marriage Acts ▪ Succession plans prepared before parents die ▪ Access to legal systems / aid to protect widows, for example an ombudsman, women's groups, community based organisations <p>Policy recommendations need to <i>strengthen government support</i> for basic needs. Governments need to recognise that they are <i>losing personnel to the pandemic</i> and take steps to ensure they have the capacity to implement policy.</p> <p>Support <i>participation</i> of HIV/AIDS affected / infected in policy processes</p> <p>Policy framework needs to address the <i>growing impoverishment of rural people</i></p> <p><i>Laws need to be based on the situation on the ground</i> so that administrators do not have to circumvent them to display compassion.</p> <p>Emphasis on <i>commercialisation and economic growth</i> should not prejudice subsistence use where alternative livelihood options are limited or non-existent.</p> <p><i>Ask affected people</i> what they need.</p> <p>Ensure <i>land reform programmes</i> address the needs of HIV/AIDS affected households.</p>

Malawi	<p>Need stronger integration of HIV/AIDS into the PRSP. Remove ‘those with the ability and resources’ from all land related legislation and regulations. The land bill should secure access for HIV/AIDS affected households. Laws that marginalise women should be changed, This includes the constitution, land policy, gender policy, PRSP, wills and inheritance laws, and the land bill. Mainstream HIV/AIDS in all development planning.</p>
Kenya	<p>Need to push for protection of women’ rights to land in the constitution. The need is clear and does not need to wait for quantification.</p>
Gender and age	
	<ul style="list-style-type: none"> ▪ Governments need to secure women’s rights to land and deal with the marginalisation of women and women’s issues in the government system. ▪ Information campaigns need to address the fact that women are frequently blamed for the infection and carry much of the stigma attached to HIV/AIDS. ▪ Policies and programmes need to address problems women face including: <ul style="list-style-type: none"> ▫ land grabbing ▫ decision making about land use without consultation ▫ uncertainty about inheritance ▫ no formal wills and ▫ polygamous marriages. ▪ Policies and programmes need to address the issue of women competing with women for land and other resources, for example wives and mother in laws. ▪ The situation of orphans needs to be investigated and ways devised to protect and support them.
Community / local support structures	
	<p>Policies and programmes need to</p> <ul style="list-style-type: none"> ▪ Support community based institutions that assist affected households as a way of building social capital, these include churches and voluntary associations. ▪ Protect the land rights of vulnerable groups, including provision for secure leasing, incentives for guardians to care for orphans without usurping their land rights and innovative coping strategies at community level ▪ Review local culture and practices with a negative impact on HIV/AIDS affected households and infected individuals and look for ways to address them. ▪ Build local social capital through supporting local structures that can assist households. This could include public hearings on land for orphans and inputs to assist them with production. ▪ Look for ways to support micro finance institutions to improve support to affected households for land use ▪ Provide services that meet the needs of infected people and affected households. ▪ Any measures introduced need to be publicised through radio and other means so that people know and understand their rights.

What next?

Participants agreed that the studies represented important and groundbreaking research into a neglected area. The interaction between people addressing HIV/AIDS issues and those addressing land issues had provided valuable new insights. Participants agreed that this area of cooperation needed to be pursued.

Participants agreed on the need to take the information and knowledge gained from the studies and the workshop back to their countries to try to secure policy interventions. Those from Kenya and Lesotho undertook to link their reports into policy processes in these countries. Martin Adams, one of the discussants at the workshop, is working closely with the Kenya Land Alliance and will be using the research to look at how constitutional obligations can be met by the Kenyan government. There was a suggestion that the Lesotho team could get together with them to look at ways to take the process further in Lesotho. Oxfam have already taken their research to the government in Malawi.

Methodological problems encountered in these studies will be important for informing any subsequent studies, with the range of methodological issues outlined in this report providing some guidance.

A web site will be set up to provide access to the information and contact between people concerned with HIV/AIDS and land issues. SARPN aims not only to provide an accessible repository of knowledge but also to support the development of networks to disseminate and apply that knowledge. It will also provide access to the methodology and content of the studies. Any feedback on the studies or the discussion at the workshop is welcome.
