THE IMPACT OF HIV/AIDS ON LAND ISSUES IN KWAZULU-NATAL PROVINCE SOUTH AFRICA

CASE STUDIES FROM

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Contents

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Scott Drimie (Project co-ordinator)

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1 Introduction and Objectives

This report presents the findings of a preliminary study into the link between HIV/AIDS and land issues in customary tenure areas of KwaZulu-Natal, South Africa. The term 'land issues' is understood broadly to include three main dimensions, namely land use, land rights and land administration. The report was commissioned by the Sub-Regional Office for Southern and Eastern Africa of the Food and Agricultural Organization of the United Nations (FAO) as part of a three-country study into the impact of HIV/AIDS on land issues.

The report focuses predominantly on presenting empirical evidence gathered in the four study sites within KwaZulu-Natal, thus far the province in the country hit hardest by the HIV/AIDS pandemic. The objectives of the study, as stipulated by the FAO, were to evaluate:

- Possible changes in land tenure systems as a consequence of HIV/AIDS.
- The strategic options for survival among HIV/AIDS affected households in terms of land.
- The consequence of such survival strategies on security in access or rights to land.
- Changes in land tenure, access or rights to land among different categories of people, particularly widows and orphans, as a consequence of HIV/AIDS and how these are affecting agricultural productivity, food security and poverty.
- The possible implications for the future of the above on land tenure systems.
- The short- and the long-term implications for land administration.
- Relevant policy implications and recommendations.

For the purposes of this study, the inter-linked issues of land use, land rights, and land administration, are conceptualised through the lens of the household:

- In terms of land use, HIV/AIDS-affected households generally have less access to labour, less capital to invest in agriculture, and are less productive due to limited financial and human resources. Thus the issue of land use becomes extremely important as a result of the pandemic's impact on mortality, morbidity and resultant loss of skills, knowledge and the diversion of scarce resources. A range of multiple livelihood strategies, often involving land, has been directly affected as the pandemic compounds issues surrounding poverty. This has resulted in a number of changes to these strategies with a range of consequences for rural economies as rural households fight for survival in the context of HIV/AIDS.

- The focus on land rights considers the extent of the impact of HIV/AIDS on the terms and conditions in which households and individuals hold, use and transact land. This has particular resonance with women's and children's rights which, in the context of rural power relations that are themselves falling under increasing pressure from the pandemic, are especially vulnerable to being usurped. Another particular concern is that, quite apart from its other impoverishing effects, HIV/AIDS compels households to divest themselves of land resources, diminishing the resources the household has available to it to meet its needs. On the other hand, the research explores the possibility that under some circumstances land markets can function to the benefit of households that are affected by

HIV/AIDS, e.g. by allowing households that have lost the labour power to make use of their land to earn some income from renting it out. As one would expect, the complex relationship between the pandemic and land rights is made more complex through the effects of other processes, such as increasing land pressure, commercialisation of agriculture, increased investment, and intensifying competition for residential sites.

- The dimension of land administration has two aspects. The one is the extent to which land administration systems – including community-level institutions such as traditional authorities and civil society, and various levels of government and the private sector – cope with the additional pressures on households' land rights issues imposed by the AIDS pandemic. The other is the direct impact of HIV/AIDS on the capacity of land administration systems, i.e. as HIV/AIDS affects people involved in the institutions that are involved in the administration of land. This latter aspect, though important, was not examined in detail in the course of this study.

As of 2000, KwaZulu-Natal reported an adult prevalence rate of HIV infections of 36.2%, the highest in the country. This was one reason for selecting KwaZulu-Natal as the focus of the study. Within KwaZulu-Natal, four study sites were chosen, of which three are within customary tenure areas, and one – an area recently resettled under the government's redistribution programme – has effectively been absorbed into a nearby tribal area. The sites were chosen for the fact that they differ from one another in important respects, notably the degree of land scarcity, the balance between agricultural and residential demand, the level of activity in the land market, and the effectiveness of control by traditional authorities.

The study involved 50 household interviews as well as two focus group interviews. Households were selected on the basis that they were known to be, or to have been, affected by a chronic illness, not necessarily AIDS. In many cases, the person interviewed confided to the interviewer that the illness was indeed AIDS. In many other cases, the symptoms indicated by the respondent suggest a high probability that the underlying illness is or was AIDS. In a handful of other cases, the illness appeared not to be AIDS-related, though given the chronic nature of the illness, many of the effects on the household and its relationship to land were much the same.

Thus far, HIV/AIDS does not figure in South Africa's official land policy, nor in any discernible manner in the Department of Land Affairs' approach to land reform. This appears to be typical of the Southern African region. Even countries that are currently engaged in writing or revising their land policies (e.g. Botswana, Lesotho, Malawi, and Mozambique), HIV/AIDS does not figure as a distinct practical concern, though it does sometimes merit a passing mention. This study on the other hand gives a preliminary indication both of the practical implications of HIV/AIDS to land policy, including land reform.

The paper is organised as follows. The next section provides a number of contextual perspectives that help orient the reader for the purposes of the present study. Section 3 describes the methodological approach followed in the study. Section 4 relates the finds of the field research

according to each of the four study sites. The fifth section syntheses these findings, and section 6 concludes with a presentation of policy recommendations.

Two appendices are attached which outline the questionnaire framework used for the field research and relevant maps detailing population densities and per capita incomes in each of the four study sites.

2 Contextual Perspectives

This section presents five brief descriptive passages by way of providing the reader contextual perspective for the present study. These are: an introduction to concepts of tribal authorities and tribal land tenure as they function in tribal areas of South Africa; a summary of South Africa's Land Reform Programme; a description of the incidence and nature of poverty in South Africa; a brief discussion of livelihoods in rural KwaZulu-Natal; and a summary of the HIV/AIDS situation in South Africa.

2.1 Tribal authorities and tribal land tenure

Within tribal authority areas, traditional authorities perform various judicial functions under customary law, dispute resolution, and land allocation and administration. These authorities are therefore central to the institutional environment in traditional rural areas and many of them hold statutory positions on the Regional Councils. The term "traditional authorities", or its correct *isiZulu* term, *AmaKhosi*, is used throughout this study as an encompassing term to indicate "chiefs" of various ranks. It is used to refer to people, and not structures. Tribal authorities were structures established by the Bantu Authorities Act, 68 of 1951, and are composed of traditional authorities, being the "chief", headmen or *izinduna,* from the constituent tribal wards, appointed councillors, usually one from each ward, and a tribal secretary. The extent to which "chiefs" can be regarded as "traditional" is a highly disputed issue.

Under tribal land tenure the individual male household head receives individual allotments of land for residential and arable purposes from the *Inkosi*, with all grazing shared as commonage. The general concepts of land tenure and the problem of population pressure apply to all the tribal authority areas in the study. Land available to a tribe is allocated firstly on the basis of "citizenship", kinship or the length of time a person has lived in an area, and thereafter on the basis of considerations of equity. However, the process of allocation varies from place to place according to local practice. There are no set rules for land use but land is tended to be set aside for farming, for grazing, which is mostly communal, and for dwellings. If a person is allocated land for farming, and does not use it for about three years, the land is repossessed by the *Inkosi* on the advice of the *induna*, and allocated to someone else. These rules have become difficult to enforce with overcrowding and overstocking with the result that *AmaKhosi* spend more time resolving disputes than in land management.

2.2 Land problems and land reform in South Africa

The first post-apartheid, democratically-elected government of 1994 inherited a country with a starkly dualistic agricultural sector and a corresponding land dispensation characterised by racially skewed land holdings and racially distinct tenure regimes. Most rural land accessed by blacks consisted and still consists of holdings within the former 'homelands' which is held in terms of communal tenure under tribal authorities, and collectively comprised only about 13% of the country's land area. As of 1994, homeland land administration systems were in an advanced

state of disarray, and confusion reigned as to the proper role of traditional leaders. By contrast, the vast majority of the 67% of the land area comprising the commercial agricultural sector was held under freehold by about 60 000 white commercial farmers. Administrative infrastructure for the recognition of land rights in former 'white' South Africa includes a well-functioning Registrar of Deeds and a highly accurate cadastre maintained by the Office of the Surveyor General.

In order to address the myriad inequities and other problems besetting the land sector, from 1994 the Department of Land Affairs initiated a legislative reform as well as introduced South Africa's Land Reform Programme. The legislative reform had numerous aims, including reconciling the diverse legislative regimes that governed land administration in former homeland areas, protecting resident farm workers against arbitrary eviction, and providing a legal framework to enable various aspects of land reform.

The land reform programme itself consists of three main parts:

- Tenure reform seeks to improve the clarity and robustness of tenure rights, mainly for residents of former homeland areas, who comprise roughly 34% of South Africa's population, but sometimes also those living in informal settlements in urban and peri-urban areas. The major activity of the government's approach in respect of tenure reform is the rationalisation of existing legislation and the introduction of new key pieces of legislation, such as the Interim Protection of Informal Land Rights Act 31 of 1996, which protects those with informal land rights (e.g. in communal areas and on State land) against removal pending further investigation, and the Extension of Security of Tenure Act 62 of 1997, which seeks to protect resident farm workers from arbitrary eviction. The flagship piece of tenure reform legislation was meant to have been the Land Rights Bill. It aims to introduce a decision-making framework and an infrastructure to enable residents of communal areas to apply for stronger forms of tenure security according to their own preferences, but in a manner that respects the wishes of the broader community. The drafting process for the Bill started in 1997, was halted in 1999, and then restarted and re-christened in 2001 as the draft Communal Land Rights Bill. The present draft bill is expected to be released for public comment in mid-2002.

- Land restitution, as mandated by the Constitution, seeks to restore land to those who were forcefully removed from it, provided the dispossession can be proven and occurred no earlier than June 19, 1913. However, in cases where the restoration of the exact piece of land is not feasible, alternative land or cash compensation is contemplated. The entity responsible for restitution is the Commission on Restitution of Land Rights, which is accountable to the Minister of Agriculture and Land Affairs. The Department of Land Affairs carries the cost of buying out the land from present owners. Expropriation has generally not been used to settle restitution claims, though when it is, compensation is made to the expropriatee in the manner broadly prescribed by section 25(3) of the Constitution, i.e. the so-called 'property clause'. Originally, the closing date for the lodging of claims was April 1998, but this was extended until December 1998. In total, almost 69,000 claims have been registered, of which 28% are rural and 72% are urban. 'A

claim', however, is not a uniform entity: urban claims are typically for single households whereas rural claims tend to represent more than one household, and often whole communities. The pace of resolving claims has improved considerably in the last few years. Notwithstanding well-publicised discontent at its inadequate pace, restitution is a relative success story for the land reform programme. Most provinces appear to be on schedule to complete the validation phase by mid-2002, and some provinces even expect to have completed settling all claims by 2003. The problem remains, however, in laggard provinces such as Mpumalanga, Northern Province and KwaZulu-Natal. These have large numbers of outstanding rural claims, and yet are key agricultural provinces whose production environment is inhibited by the slow progress made in addressing those claims.

- Land redistribution is the process according to which people apply for grants towards the purchase of land for farming and/or settlement. The original redistribution programme initiated by Land Affairs in 1995 was based on a flat grant of R16,000 per household (that is, on a par with the housing grant) for the acquisition of land and start-up capital. Initially, the primary aim of the programme – as well as the rationale for the small size of the grant – was to cater for the need for secure residential tenure as well as land with which to contribute to one's own sustenance. Although still inadequate, the pace of delivery accelerated rapidly between 1995 and March 1999. Over the period, roughly 60,000 households were allocated grants for land acquisition, of which 20,000 benefited in the 1998/1999 financial year alone. Altogether, around 650,000 hectares were approved for redistribution by March 1999, representing less than one percent of the country's commercial farmland. Apart from insufficient delivery, as of 1999 the Department of Land Affairs was beginning to come to grips with the variable quality of its redistribution projects. Attention focused on the fact that groups were too large, that project plans often called for group farming which frequently proved unstable, and that the programme did not easily accommodate those aspiring to farm commercially. Upon taking over the land portfolio in June 1999, Minister Thoko Didiza called for a sweeping review of the redistribution programme. The essence of her call was that the programme should be broadened to cater for those aspiring to become full-time, medium-scale commercial farmers, and should build more on synergies between Land Affairs and Agriculture. The new redistribution programme, called Land Redistribution for Agricultural Development (LRAD), was launched in late 2001.

For the purposes of this study, arguably it is the tenure reform component of the land reform programme that is of greatest relevance. This is because tenure reform directly affects more people than either redistribution or restitution, and because the fact that work on the draft Communal Land Rights Bill is on-going means that there is possibly still a window to influence the draft bill in light of current findings. However, the issues raised by HIV/AIDS in respect of land issues are also of relevance to redistribution and restitution, as is evidenced from the case studies from Muden which involved a community that benefited under the redistribution programme.

2.3 Poverty in South Africa

Although South Africa is one of the most developed countries in the Southern African Development Community (SADC), it is also well known for its high level of poverty and inequalities. It has the highest level of inequality in the region and the second highest in the world behind Brazil. This high level of inequality is the product of past policies that discriminated against the majority of the population.

Based on a per adult equivalent poverty line of R352 per month, in 1995 61% of Africans were poor, 38% of coloureds, 5% of Indians, and 1% of whites.[1] Although the data are old and the percentages have likely changed in the meantime, the stark racial differentiation certainly still obtains. There is also a strong geographical dimension to the incidence of poverty. Based on the same data set, 72% of all poor people (those below the poverty line) reside in rural areas, and 71% of all rural people are poor. By most measures, the poorest provinces are those encompassing the most populous former homeland areas, namely KwaZulu-Natal, Northern Province, and Eastern Cape.

A reasonable proxy for income poverty is child under-nutrition. Around 23% of children under 6 are stunted, indicating a protracted period of under-nutrition.[2] The most seriously affected children are those in rural areas whose mothers have relatively little education. Anemia and marginal vitamin A status affect between 20% and 30% of young children. Also, the infant mortality rate is 8 to 10 times higher for blacks than for whites. According to the Department of Health, approximately 14 million South Africans are vulnerable to food insecurity. The minimum recommended dietary intake will require a minimum of R286.5 per person per month (Bonti-Ankomah, 1999). With a household size of 5, this will imply a minimum monthly food expenditure of R1432.5 per month. However, 50% of all households in the country have incomes of less than R1200/month.

The way in which data are captured in Stats SA's main annual survey, i.e. the October Household Survey, is not comparable to that for the Income and Expenditure Survey of 1995, upon which the headcount measures reported above are based. For that reason, it is not possible to state trends in the headcount measure of income poverty since 1995.[3] However, the direction of the trend is not difficult to guess, given the close relationship between poverty and unemployment. For example, among those who were below the poverty line in 1995, the unemployment rate was 55%, where as among those above the poverty line, the unemployment rate was 14%.[4] In terms

[1] J. May, I. Woolard, and S. Klasen, 2000, "The Nature and Measurement of Poverty and Inequality", in J. May, ed., *Poverty and Inequality in South Africa: Meeting the Challenge*, Cape Town: David Philip. Data for the headcount measures are from the Income and Expenditure Survey of Stats SA.

[2] N. Steyn, 2000, "A South African Perspective on Preschool Nutrition", *South African Journal of Clinical Nutrition*, Vol. 13, No. 1.

[3] It soon will be, however, as the next Income and Expenditure Survey is due to be released in late 2002.

[4] J. May *et al*., *op. cit.*

of formal sector employment, in the 5 years since 1996 there has been a contraction of more than 800 000 jobs, or about 5% of the workforce. While there has been a countervailing increase in informal sector employment, it is well known that these jobs are much less remunerative on average.[5] The implication is that, most likely, the prevalence of income poverty has worsened over the past half decade.

By the standards of middle income countries, an excessive number of South Africans live in shacks without access to potable water, sanitation facilities, electricity or telephones. According to the 1999 October Household Survey, about 12.3% of all South Africans and 16% of the African population live in shacks in informal settlements. Comparison of these figures to the 1996 figures of 11.7% and 13.7% indicates that a higher percentage of the population than before, are currently living in shacks. This is most likely on account of influxes of ex-farmworkers and other rural dwellers to urban and peri-urban areas, as well as informal settlements around rural towns.

South Africa's health services are relatively well funded, but provide poor coverage despite the shift of emphasis towards primary health care. Services remain inaccessible to a large number of poor people due to distance, inappropriate facilities and medicine costs. According to the 1998 October Household Surveys, 41% of households has to travel 5 km or more to the nearest medical service.

Other aspects of quality of life may be less tangible, but no less important to the experience of poverty or non-poverty. The Speak Out on Poverty Hearings sponsored by the South African NGO Coalition (SANGOCO) in 1998, evoked many of the experiential aspects of poverty, including exposure to crime and violence, a sense of vulnerability and powerlessness, disrespect from government officials (e.g. those responsible for pension payouts), etc. Similarly with the South African Participatory Poverty Appraisal (SA-PPA), which vividly portrayed the relationship of poverty to hopelessness, social isolation, and family fragmentation.[6]

2.4 Livelihoods in Rural KwaZulu-Natal

Turning now to the specific case of rural KwaZulu-Natal, we offer a few glimpses of livelihoods and livelihoods strategies there. About half of the African population of KwaZulu-Natal lives in rural areas, some 4.6 million individuals as of 1999. Of these, about 43% were 14 years old or younger, and 7% 60 years or older.

According to the narrow definition of unemployment, which presumes one is actively seeking work, the unemployment rate in 1999 among rural Africans 15 years and older was 48%, versus 41% in urban areas. Using rather the broad definition of unemployment, which includes those not actively seeking work (i.e. presumed to be 'discouraged' job seekers), the figures are 51% and

[5] G. Kingdon and J. Knight, 2000, "The Incidence of Unemployment in South Africa", TIPS Conference "2000 Annual Forum".

[6] J. May, H. Attwood, P. Ewang, F. Lund, A. Norton, W. Wentzal, 1997, *Experience and Perceptions of Poverty in South Africa* (synthesis report for the SA-PPA), Durban: Praxis.

42%, respectively. There is no significant difference in unemployment rates if one rather limits the calculation to those who are between 20 years and 60 years old. It should be stressed however that employment is understood broadly to include various forms of self-employment.

As in other parts of the country, the problem of unemployment is not just the overall rate, but the fact that those who are unemployed are apt to remain unemployed for long spells. For example, among rural dwellers who were unemployed in 1999, 76% had never previously worked. Of those unemployed in 1999 but who had previously worked, 32% had been seeking work for more than a year, and 17% for more than three years.

Among Africans who are employed, the pattern of employment is as indicated in Table 1 below. The table disaggregates according to whether one is self-employed or works for someone else, and whether the work is in the formal or informal sector. The breakdown is shown also for urban dwellers for sake of comparison. About a quarter of all rural Africans who are working are self-employed in the informal sector, versus 13% for urban dwellers. Rural dwellers are by and large less likely to work in the formal sector, although it should be noted that 'informal employment' includes paid work as a domestic.

Table 1 – Employment patterns among Africans in KwaZulu-Natal, 1999

Rural		
	Formal	Informal
Self-employed	Less than 1%	27%
Work for someone else	54%	19%
Urban		
	Formal	Informal
Self-employed	Less than 1%	13%
Work for someone else	67%	20%

Source: OHS 1999.

What is not shown on the table is that, of rural dwellers who work for someone else in the formal sector, only 7% are employed on a seasonal or casual basis, versus 26% among those who work for someone else in the informal sector. What this suggests is that many of those unfortunate enough to have to work in the informal sector have the added disadvantage of not having secure and or regular work there. That those in the informal sector are likely to be worse off than those in the formal sector is indicated by the fact that, among rural households whose head is in the formal sector, only 20% reported not having enough money to prevent hunger in the previous year, versus 27% for households whose head is in the informal sector. Those households which have reliable and constant access to wage work are those which enjoy a decent standard of living, or reach what can be thought of as elite status in the local context (cf May, Carter & Posel, 1997).

Interestingly, among urban households whose head is in the informal sector, 37% reported not having enough money to prevent hunger in the previous year, significantly higher than for corresponding rural households. A plausible interpretation is that, notwithstanding the other hardships associated with rural life, at least rural households are more likely to be able to avoid encountering hunger through their agricultural activities. What this indicates is that access to agricultural land can perform a vital safety-net function, even though it may not serve as an actual route out of poverty. For very poor rural households, on the other hand, even the safety-net function of land may not materialize. With few exceptions, how far the poor can improve or sustain their support position by using the collection and production options that are available to them is limited by the level of resources they are able to put in. Most of the poorest households have neither good quality able-bodied labour available, nor enough cash to capitalize a significant informal business operation. Loss of children's labour time into school attendance and schoolwork is another factor which cuts back the total labour available to poor households trying to cultivate or run businesses.

An important dimension of income poverty that is receiving more and more attention, is its duration. Based on data from KwaZulu-Natal, it would appear that more than half of those households that were poor in 1998, were also poor in 1993, meaning than they are 'chronically poor'.[7] At least for the KwaZulu-Natal data set, the incidence of chronic poverty tends to be much higher among rural households, female-headed households, households with older household heads, and those households with below-average access to arable land. Cichello *et al*. (2000) demonstrate that the experience of 'transitory' or 'episodic' poverty – i.e. households that escaped poverty between 1993 and 1998, or conversely, fell into poverty between 1993 and 1998 – is largely a function of employment transitions, in terms of a household member getting or losing a key job. In attempting to identify factors that contribute to the prospect of escaping poverty or the risk of falling into it, they conclude that: "*ceteris paribus*, males and urban residents are more likely to move out of poverty and less likely to fall into poverty", implying that women and rural dwellers are more likely to end up in poverty.

Given the importance of finding gainful employment, it is not surprising that the population is quite mobile. Often times this mobility is in the form of an individual household member who relocates to an area with better job prospects, but whole households are also known to relocate. Of those African households in KwaZulu-Natal that re-located between 1994 and 1998, almost 60% did so to seek or take up employment. As one would expect, some of this movement is rural-to-urban, but much is not. Cross *et al*. (1998) show that within KwaZulu-Natal a large and growing share of internal migration involves whole households engaged in rural-to-rural movements, typically from former homeland areas to areas around rural towns, where not only better job prospects are hoped for, but also better access services and resources (e.g. water). Cross *et al*. point out that one consequence of this greater mobility is a disruption of social networks that hitherto had served as critical safety-nets.

[7] B. Roberts, 2000, *Chronic and Transitory Poverty in Post-Apartheid South Africa: Evidence from KwaZulu-Natal*, Working Paper No. 28, Centre for Social and Development Studies, University of Natal.

One area where this phenomenon is especially strong is in the peri-urban areas around Durban, especially those that are communal lands. The intense peri-urban demand for land almost entirely for residential purposes has had the effect of turning what had been more or less typical agricultural communities into densely settled areas with a quasi-suburban relationship to the city. That is, the majority of households support themselves mainly on the wage economy, either from inside the metro boundaries or from local jobs linked into the city. However, recently this trend is reported to have reversed to some extent as unemployment has continued to rise, and more and more households have found themselves cut off from wage income. As in other areas, land has become a more common fallback option for families losing their foothold in the cash economy.

2.5 HIV/AIDS in South Africa

The first two cases of AIDS in South Africa were diagnosed in 1982. At the end of 1995 about 9000 cases of AIDS had been reported. However estimates from projection models show that 1.8 million people were infected at that time (National Population Unit, 2000) (NPU). According to the estimates from the Department of Health, up to 3% of the total population were infected with AIDS in 1996 (NPU, 2000). The latest estimated figure on AIDS in South Africa is 4.2 million. Recent UNAIDS reports indicate that the growth rate of HIV infections in South Africa is one of the highest in the world. HIV prevalence in 1999 was 22.8%, compared to 14% three years earlier. In some provinces, e.g. KwaZulu-Natal, the prevalence rate has passed the 30% mark.

It has been estimated that by the year 2003, South Africa, Botswana and Zimbabwe will be experiencing negative population growth rates of between –0.1% and –0.3%, compared to rates of 1.1% to 2.3% without AIDS. It is also estimated that crude death rates in South Africa are 14.7 per thousand population compared to the 7.4 per thousand population they would have been without AIDS[8]. The pandemic had caused 25 000 deaths in the country by 1999.

Table 2 below reports the progression between 1998 and 2000 of prevalence rates of HIV infection according to province. The figures refer to the prevalence rates for adults, estimated on the basis of blood tests of women reporting to clinics for ante-natal care. The table indicates that the incidence of HIV infection was highest in KwaZulu-Natal for both years, though the degree of increase between 1998 and 1999 was not as great as for some other provinces.

Table 2 - Provincial HIV/AIDS Prevalence Rates (%), 1998 and 2000

Area	1998	2000
South Africa	22.8	24.5
Western Cape	5.2	8.7
Eastern Cape	15.9	20.2
Northern Cape	9.9	11.2

[8] MAP (2000), *The Status and Trends of the HIV/AIDS Epidemics in the World,* XIII International AIDS Conference, 5-7 July, Durban South Africa.

Free State	22.8	27.9
KwaZulu-Natal	32.5	36.2
Mpumalanga	30.0	29.7
Northern Province	11.5	13.2
Gauteng	22.5	29.4
North West	21.3	22.9

Source: Department of Health, 2000.

AIDS orphans are defined by UNAIDS as children under the age of 15 who have lost their mother or both parents to AIDS. The number of AIDS orphans is set to rise as South Africa's high HIV prevalence rate among adults translates into a higher prevalence of AIDS and then AIDS deaths. UNAIDS estimates that as of the end of 1999, there were around 371 000 living AIDS orphans in South Africa (UNAIDS/WHO, 2000, p.3), while 50 000 AIDS orphans have already died, presumably from AIDS but also other causes, as HIV negative AIDS orphans have a higher-mortality rate than non-orphans. The Metropolitan Life model estimates that by 2005 there will be 920 000 AIDS orphans in South Africa, and by 2010 there will be roughly two million (reported in Whiteside and Sunter, 2000). By contrast, according to the 1996 census, the total number of motherless orphans 14 years and younger in the country was about 400 000. This figure is presumably inclusive of AIDS orphans of that time, but at any rate the number of AIDS orphans will soon account for a very large increase in the total number of orphans in the country.

3 Methodology

This sections sets out the methodology that was followed in the conduct of the study. There are three main considerations: the study sites; the means of identifying households; and the data collection technique. The section closes with a brief consideration of limitations to the methodology employed.

3.1 Study sites

Four study sites were selected on the basis of two main criteria. The first criterion was that the sites are spread out geographically and represent a variety of different situations in terms of the types of communities and the relationship to land. This is reflected on the map on page 15, which reflects the location of KwaZulu-Natal within South Africa and within Africa itself, as well as the locations of the study areas in the province. The second criterion was that the research team had some prior familiarity with the sites so that the study could take advantage of existing knowledge and thus advance more quickly than would otherwise have been possible.

These selected sites were as follows:

- Muden, situated in the KwaZulu-Natal Midlands. Muden is one of the earliest land redistribution projects in KwaZulu-Natal, and takes its name from a small nearby town. Although the property is technically owned by a communal property association under freehold, the settlement has effectively been absorbed into the adjacent tribal authority. The project is also distinguished by the fact that it is relatively far from large towns or urban centres. Twelve interviews were conducted in Muden, as well as one focus group interview.

- Dondotha, situated within 20 kilometres of Empangeni, and about 30 kilometres from Richards Bay on the north coast of KwaZulu-Natal. Dondotha has the reputation of being a conservative tribal area, but has excellent transport links to Empangeni and Richards Bay, and also a relatively high number of wealthy households. Some of this wealth derives from involvement in cane farming, and some because there is a concentration of professional people in the vicinity of the tribal court. The five interviews that were conducted in Dondotha were specifically targeted at interviewing AIDS orphans.

- KwaDumisa, a rural peri-urban settlement about 80 km south of Durban and 20 km inland from Umzinto on the Ixopo Road. Most of the local residents are employed on the surrounded white-owned commercial farms. Although the area is somewhat sparsely populated, its character is gradually changing due to steady in-migration. Thirteen interviews were conducted in KwaDumisa, together with one focus group interview.

- KwaNyuswa, a tribal authority within the Valley of a Thousand Hills west of Durban. KwaNyuswa has emerged as part of the peri-urban zone of dense, partly urbanized settlement which has changed and thickened the occupation of the districts of former KwaZulu located closest to Durban. The tribal district itself lies on the extreme outer fringes of urban development, west of the Inanda Dam and north-west of Pinetown, about 35 kilometers by road from the Durban city centre. Twenty-one interviews were conducted in KwaNyuswa, of which one was discarded after the fact because the household in question did not appear to have been afflicted with any illness.

Africa

Legend

- Country Boundaries
- KwaZulu_Natal
- Study areas

KM

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HSRC GIS Centre

Produced by: GIS Centre

Section Four of the report summarises the findings from each of the study sites, as well as provides more detail about the sites themselves.

Maps depicting population density and average per capita income of each of the area studies are provided at the end of the report and should be referred to for a useful overview of each site.

3.2 Identification of respondent households and the link to HIV/AIDS

The identification of respondent households posed both an ethical and a methodological problem. The ethical concern was that the interview process not compromise respondents' right to privacy – that is, it would be unacceptable if an individual's or household's HIV positive status were to be made known to other members of the community by virtue of the fact that the individual/household had been selected to be interviewed. The methodological problem was that not all individuals or households of interest would even themselves be aware of their HIV positive status.

The strategy that was adopted consisted of two elements. First, households were identified not on the basis of being affected by HIV/AIDS, but rather on the basis that the household was known to be affected – or to have previously been affected – by a chronic illness. This meant in practice that the field researcher approached a key informant, for example a community health worker, and asked that informant to help him identify such households, without any specific mention of HIV or AIDS. The second element of the strategy was that once a household had been identified and approached, they were asked to describe the symptoms of their illness or that or their relative or, in some cases, late relative.[9] In many cases, the description of these symptoms presented a strong likelihood that the underlying illness is or was HIV/AIDS. At least as often, however, the respondent freely revealed that ultimately a diagnosis of HIV/AIDS was made. In only a small number of cases does there remain some doubt, or was it positively established that the illness was something other than HIV/AIDS. These cases were maintained within the sample on the argument that they appeared to present similar issues to those of HIV/AIDS.

One exception to the procedure described above was the case of Dondotha. Dondotha was added as a study site somewhat later in the process, when it was realised that few of the interviews in the other three study sites provided insights on the situation of AIDS orphans, which was a category of affected people for which the FAO requested information. In Dondotha, therefore, the interviewer asked key informants specifically to identify households where the parents had passed away following a chronic illness. Although this illness in most cases was either revealed to be AIDS-related or closely fits the profile of an AIDS-related illness, there are two reasons why in practice this method did not generally result in interviews with 'children-headed households' nor with orphans as defined by UNAIDS (i.e. children 15 years or younger who had lost their mother). First, "children" was interpreted liberally by key informants to

[9] This is analogous to, though far less rigorous than, the 'Bangui case definition' established by the World Health Orgnisation in 1985, through which AIDS was diagnosed on the basis of symptoms rather than a blood test.

include 'parentless' households whose eldest siblings were in the mid-twenties. Second, where children were younger, they had typically become wards of members of the extended family. Both situations raise important issues about the relationship between HIV/AIDS and land rights, although they were not necessarily the situations that were being sought out, and in fact resembled a number of the case studies that were collected from the other study sites. This raises a question around the assumption that there are a large number of child-headed households in KwaZulu-Natal, which proved to be difficult to ascertain in the four areas studies. It was evident that the kinship system usually absorbed such households either through an adult guardian assuming the head of such families or the children becoming members of relatives' households.

An important issue that arose was the vulnerability of youth-headed households, which often consisted of family members not qualified to hold land under the communal system. Such households seemed to be particularly vulnerable to losing their land as indicated in some of the case material. As unqualified heirs, male-headed "youth" households were particularly vulnerable, as none of these *de facto* household heads had been officially placed on their land. Many were holding their land asset on default inheritance, so that the land was still formally unallocated after the death of the last holder. This uncertain status combined with the kind of poverty exarcabated by HIV/AIDS creates tenure vulnerability, and seems to invite attempts at land grabbing. Unlike widows, whose households can continue to exist according to established practice, younger people who inherit prematurely seemingly tend not to become established households, and may remain for long periods without formal standing.

3.3 Data collection

The predominant data collection activity consisted of household interviews, by which is meant an interview with one or more members of a household about the experience of that household. Two focus group interviews were also conducted, which will be discussed in turn.

The household interviews were semi-structured, in the sense that the interviewer prompted the interviewee to relate a narrative of the household's experience in the course of the illness, while ensuring that specific questions were attended to at one point or another. The questions raised by the interviewers are detailed in Appendix One. Among the 'general' areas that the interviewer ensured were covered were:

- symptoms of illness(es)
- household composition and changes therein
- employment and self-employment history of household members
- other coping/support strategies
- changes in the household's assets
- uptake of credit and evolution of the households debt situation
- extent of social capital and changes in respect of.

In addition, the interviewer ensured that a number of land-specific issues were attended to:

- changes in extent of land use
- changes in amount of agricultural production and income
- experiences in renting land in or out
- experiences in purchasing or selling land
- changes in possession of other agricultural assets
- perceived changes in tenure security.

It should be stressed that the emphasis of the survey exercise was to capture changes qualitatively rather than quantitatively, thus numerical changes in income, production, etc., were not collected.

The two focus group interviews that were conducted gathered small groups of women whose partners had passed away from an AIDS-related illness. The emphasis of the focus group discussions was on the vulnerability of widows and orphans in respect of land rights.

3.4 Limitations and shortcomings of the methodology

It is important to bear in mind a number of limitations and shortcomings of the methodology employed in the present study. Some of these limitations are a function of the fact that the study was conducted within a tight timeframe and with limited financial resources. Others are lapses that only became evident in hindsight. In any event, one purpose of drawing attention to these limitations is to indicate opportunities and pointers for future research.

- Absence of a control group – While the narratives derived from the interviews provide little doubt as to the multi-faceted impact of HIV/AIDS on households, the absence of a control group means that it is difficult to say with certainty that other households do not have similar experiences. The focus on infected and affected households this makes it difficult to know what problems can be attributed to HIV/AIDS and which ones are due to poverty (and powerlessness) in general.

- Absence of interviews with antagonists – Where a land dispute appears to have been triggered by the illness or death of a household member, it would have been valuable to have interviewed the other party to the dispute, e.g. the person perceived by the respondent as trying to usurp the household's land rights. This would have added some depth to the analysis.

- Possible bias in selection of sample – Although the present study was not aiming at statistical representivity, a possible concern is that the key informants who were relied upon – usually community health workers – tended to lead the interviewer to particular kinds of households, e.g. those with a relatively high degree of openness about the illness, or possibly even women, given that most of the community health workers are themselves women.

- Lack of interviews with other role players – The most significant lapse in this regard is the lack of interviews with traditional authorities, who in many instances intervened on behalf of AIDS-affected households to help protect their land rights. Such interviews would have provided another perspective as to the cause of such land disputes, as well as helped inform policy considerations around land administration.

- Greater depth of information around changing patterns of land use. It was evident in the peri-urban case material that land has become commodified, particularly in terms of residential purposes. This was unlike the rural case studies, which raises the issue of agricultural production within the rural economy. This requires a greater sample to gauge effectively as it has important conceptual implications for land and the rural economy in the context of HIV/AIDS. This is particularly important as changing patterns of rural livelihoods may reduce dependence on land. Additionally, the report has equally neglected to emphasise the role of land as a form of power.

- Focus on KwaZulu-Natal. The study is limited in providing insights into the impact of HIV/AIDS on four areas in KwaZulu-Natal. The findings are therefore indicative and of a preliminary nature and should only be extrapolated to other parts of the country with caution.

4 Field Studies of the Link Between HIV/AIDS and Land Issues

This section summarises the findings of the field research from the four study sites. Each section begins with a brief description of the study site and its history, then proceeds to describe aspects of the methodological approach that may have been specific to that study site, and then examines the effects of HIV/AIDS – or in some cases other chronic illnesses or illnesses that are only suspected of being AIDS – on household welfare and various issues relating to land.

4.1 HIV/AIDS and land in Muden

Description and history of the area

The Muden area is among the Upper Tugela tributaries of KwaZulu-Natal. The main farm towns for the area is Muden itself, a small village connected by Route 74 to Weenen on the west and to Greytown on the east. Estcourt, the main town of the land reform pilot area (see below), lies about 85 kilometers west of Muden, but there is no direct road connection. Three maps depicting location, population density and per capita income are provided on pages 78 to 80.

The history of the Muden area is characterised by profound racial tensions stemming from extensive land deprivation and stock clearances, the last wave of which occurred in the 1970s. Of those dispossessed of their ancestral lands, some stayed on as farm workers or labour tenants (notwithstanding the outlawing of labour tenancy in 1969), but most were moved to the adjacent Msinga magisterial district in the former KwaZulu homeland. The very high levels of violence found in the area are largely related to the fact that most of the locally-born Msinga families along the border have had to give up their agricultural land in the common effort to find space for the evicted people, who are regarded as members of the tribal communities and who had nowhere else to go. Significantly, the main chiefships of Msinga are seen by African families to have jurisdiction over the people living on the white-owned farms in the area.

Starting in the mid-1990s a local community-based organization, the Zibambeleni Community Development Centre, spearheaded a process of negotiations aimed at returning the land to its original owners. Prominent members of Zibambeleni led rallies against oppressive farmers and police. Such rallies were attended by current tenant families as well as former tenants that had fled to the nearby tribal area. This action yielded dividends in the sense that white farmers began to see the need to negotiate with the people. The national Department of Land Affairs got involved in the process and eventually designated the Estcourt/Weenen/Muden region as the pilot land redistribution area for KwaZulu-Natal.[10] The fact that Muden fell within the pilot area gave the Zibambeleni initiative more weight. Meetings were held with the farmers and the would-be recipients of the farms. The Department of Land Affairs' commitment to paying adequate compensation to the farmers for their land helped ease the tension that was building up among the white farmers in the Muden area. After protracted negotiations, several farmers agreed to sell their farms to the government for settlement

[10] One pilot area was designated within each province. The purpose of the pilots was to test mechanisms to effect government's new redistribution programme. Farms would be identified within each pilot area for redistribution on the basis of a willing-buyer / willing-seller approach.

and cultivation by people who had been formerly evicted. Most of the farmers who sold then left the area.

The four farms comprising the Muden component of the pilot area lies in the valley of the Mpofana/Mooi River as it flows northeast to join the Tugela. Curiously, because the area was designated as a pilot for the nascent redistribution programme, it did not go through the process prescribed for restitution even though there was a clear restitution rationale for the project. In addition, it was among the earlier and more contentious redistribution projects, which may account for the relatively poor planning and the long period of time it took to finalise the transfer. When the farms were returned to their rightful owners in 1997, the people who had been evicted from them flocked back to re-occupy their ancestral land. Because the amount of land returned to the people was less than that which was taken away, the resettled land ended up somewhat 'densified' relative to the days before the forced removals. There are no pronounced agricultural activities on the land. Some community members have come together to start up community gardens, however, these gardens have for the most part never taken off, allegedly because the departing farmers failed to honour the sale agreement that stipulated that they would leave behind key elements of their irrigation infrastructure.

Despite people's overall joy at having had their ancestral land restored to them, there have also been bitter frustrations and disappointments. Many of the households that returned to the land had to pay large amounts of money for transport out of their own meagre resources. In addition, many of these households lost livestock in the process, either to disease or theft, or because the owners of the farms where they had been working as labour tenants refused to allow them to remove their livestock. In addition, the infrastructure development on the sites that have been restored has been much slower than expected, partly owing to the weak capacity of local government structures to undertake such tasks.

The Muden case studies

Interviews were conducted with twelve people belonging to twelve different households living on the former Lonsdale farm. These respondents were identified by key informants as having been affected by some kind of chronic illness. In all cases, it emerged that the illness in question was AIDS. Of the individuals interviewed, six were ill with AIDS at the time of the interview, and six were close relatives of someone who had died of AIDS, in most cases within the past two or three years but in one case as long ago as 1996. A number of the households are affected by HIV/AIDS in multiple ways. For example, among the six interviewees who were ill at the time of the interview, three had lost their infants to AIDS. In a fourth household, both parents had died of AIDS; and in a fifth household, one parent died of AIDS while the other is HIV positive but not yet having symptoms of full-blown AIDS.

In addition to the individual interviews, the researcher conducted a focus group interview with 10 women from the community. All but one of these women were selected on the basis that they had survived the loss of a partner or other family member to AIDS, or were presently caring for someone incapacitated by AIDS. The tenth woman was selected because she is a community

health worker who often deals with households afflicted by HIV/AIDS. By way of context, one of the more striking themes that emerged from the focus group interview was the fact that the area is presently badly hit by increasing unemployment, whereby men are losing their wage jobs and women are increasingly relied upon to provide for the household's needs.

Illness and impoverishment in the Muden area

The pattern of illness and impoverishment in the Muden area is similar to that which has been observed in other rural and urban areas:

- Wage income of the ailing person (if an adult) is reduced or lost altogether, depending upon the extent to which they have to stop working.
- Caregivers also partially or fully abandon income earning activities in order to tend to the ailing person.
- Household resources are drained away as the household pays for health care and for transport to and from clinics and/or traditional healers. This is despite the fact that government subsidises care and treatment available in its own clinics, but is aggravated by the fact that many people afflicted with HIV/AIDS are ill for a long time and consult a mix of Western doctors, traditional herbalists, and faith healers. Many people are successfully treated for tuberculosis, only then to succumb to other opportunistic infections.
- Funeral costs often deplete what little household resources may be left following the illness.
- Households become increasingly dependent on credit, especially from moneylenders and *stokvels* (rotating saving and credit association). This borrowing sometimes takes on the aspect of a debt trap, which the person struggles to escape because of high interest charges and lack of resources.

Obviously, the intensity of these effects depends to a huge extent on who within the household falls ill, what economic role they played prior to the illness (e.g. breadwinner versus dependent), and how long and how intensely they have been or were ill. Moreover, among the households in the sample, some are only beginning to experience these effects now, some have lost members very recently and thus are probably at the peak of the immediate economic distress caused by the illness, and still others have lost a family member two or more years ago and may be beginning to cope again.

In addition to the direct effects mentioned above, one observes in the Muden case studies a number of secondary effects associated with chronic illness:

- Ailments in caregivers induced by the stress of having to care for a seriously ill person, made worse sometimes by the stigma specifically associated with HIV/AIDS.
- Greater dependence on elderly people and their old age grants.

- Children leaving school prematurely to earn income to support the household and/or to assume some of the burden of household chores; sometimes also the impoverishing effects of the disease are such that the household can no longer accord school fees and other school-related items.

Land use, land transactions and land tenure in relation to chronic illnesses in Muden

The observed effects from the case studies of chronic illness on land use, land transactions and land tenure are summarised in Table 3.[11] There are two main effects of chronic illness in respect of land use. The one effect is that the individual and/or the individual's household will cultivate a smaller share of their land, either because the ailing person or his caregivers can no longer tend to them, or because there is no cash in the household with which to purchase seeds. This is exacerbated by the poor agricultural conditions that characterise Muden, which are such that the returns to agricultural labour are low to begin with. The other main effect is that, in order to not reduce the area cultivated, the individual or household may hire casual workers to compensate for the decline in the household's own available labour. While the hiring of casual workers is no doubt sub-optimal from the point of view of the household, it is apparently better than leaving the land idle, and it certainly benefits those doing the work, even if the work is poorly paid or mainly paid in kind.

In terms of land transactions, there have been no sales (or purchases) among the respondents, nor did any of the respondents mention having contemplated selling their land. There were however a few instances of land renting. In one of these, the household decided to rent out its land because it did not have the resources to make use of it. Given that Maria T, the household head, was a woman, and the would-be lessee was a man, Maria worried that there was a risk of the lessee trying to usurp her land rights. She therefore approached the *induna* (headman) and arranged to conclude the agreement with the lessee in the *induna's* presence. This gave her ample assurance that the lessee would not likely challenge her land rights, but that if he did she would be adequately protected by the *induna*.

In another instance, Rebecca L, who is ill with AIDS, was faced with a rental arrangement that her grandmother had struck before she passed away. Rebecca was uncertain about the exact conditions of this rental arrangement, but became alarmed a little while after the grandmother's death when the lessee – a neighbour – stopped paying his monthly rent. She then started hearing rumours that the lessee was conniving to gain control of the land. Rebecca appealed to the *induna* to intervene, which he did. The *induna* is a distant relative of Rebecca's and it is unclear to what extent this was instrumental in his decision to assist her. It is also difficult to say whether or not Rebecca's evident illness had anything to do with her neighbour's scheming. At the time of the interview, Rebecca no longer felt in danger of losing her ownership of the land, but she was uncertain how she could regain day-to-day control of it from the lessee.

[11] The table does not include findings from the focus group discussion.

In a third instance, Sibongile K, the eldest of 5 orphaned children who fell ill with AIDS in 2000, reported having wanted to respond to the frequent offers to rent the family's land, but having hesitated to do so out of a sense of insecurity. Instead, the household was hiring casual workers to cultivate as much of the land as it could afford to.

Finally, there is the somewhat idiosyncratic case of Thoko K, who responded to the loss of her husband to AIDS by renting in additional land, primarily to cultivate for subsistence purposes. The logic seems to be that the loss of her husband, who had been the main breadwinner, necessitated minimising cash expenses associated with food purchases. Thoko went so far as to appeal to the *induna* to find additional land that she could cultivate. Whether this would be to enable her family to cultivate even more, or to replace land it is currently renting, is not clear.

Lastly, we address the question whether the illness or death of a family member had a palpable effect on its sense of security over its land. This has already been touched upon in the context of renting out land, but apart from this there were a couple of instances where tenure security was indeed threatened. In one of these, Thembisile J was confronted by two men pretending to be brothers of her late husband. On this basis they attempted to assert their rights over the land. Thembisile sought the assistance of the *induna*, who asked the men to produce proof that they were indeed brothers to the late husband. They could not produce any such proof, and so were deemed impostors. The unsettling thing about this story is that it could be inferred that had the men been able to offer credible proof of their relationship to the late husband, then Thembisile J might well have lost her rights to the land.

In another case, Vuyisile I was deprived by her brother of the right to stay in her deceased parents' home, because her brother accused her of bringing shame on the household and of being a danger to him. Vuyisile therefore had to find another place to stay, despite the fact that she was penniless and seemingly had no other relatives to turn to. It should be pointed out however that in this instance the motivation of the brother did not seem to be personal gain, as Vuyisile I was not asserting a right to use of the land, but merely a desire to reside in the house. A similar situation occurred with Mary G, whose family forced her to leave the home upon learning of her infection. However, the community health worker intervened such that Mary's family accepted her back a few months later.

Finally, according to the focus group interview, some extended family members attempt to offer care to siblings' orphaned children as a was of getting access to siblings' land holdings. They make it appear that they are doing this so that they can offer real support to the children, but their motives are sometimes self-serving. In such cases, it has been observed that the orphaned children become totally submissive because they are afraid of losing the support of their deceased parents' relatives. It is difficult to say how common this occurrence is, nor whether the perceptions of the focus group are accurate in respect of the family members' 'true' motives.

Another situation that arises is when a woman's husband dies and his brother tries to compel the widow to marry him. The motive here, according to the focus group participants, is also that in this way the brother can obtain control of the widow's land. In these cases, the man's promise to support his new wife and her children is a false one, and he may even refuse to try to have

children with his new wife. If the woman is poor and in need of financial support she is more likely to succumb to whatever demands the late husband's brother tries to impose. The focus group participants stressed however that this situation was not very common, as most widows did everything in their power to remain independent, even if it meant trying to earn a living on their own. Sometimes when a recently widowed woman did resist, the late husband's family treated her like an outcast and could be very cruel. However, in other cases where a woman has reported the mistreatment or veiled threats of eviction to the traditional structures, the chief has taken action against the late husband's family.

Table 3 – Summary of case studies for the Muden area

Situation	Change in land use	Land sales	Land rentals	Tenure insecurity	Comments
Dudu F – Ailing adult pregnant daughter returns home with AIDS in 2000; newborn child dies in same year.	Unclear	No	No	No	
Mary G – Adult pregnant daughter falls ill; newborn child dies in same year.	Temporarily thrown out of household by family, thus denied residential as well as production rights.	No	No	Yes	The family's treatment of Mary is a direct function of her illness, but does not appear to have been motivated by a desire to usurp her land rights.
Lukas I – Disabled former farm worker is diagnosed HIV positive in 1997 but is not yet ill. Wife diagnosed at same time and dies of AIDS in 1999.	Family hires casual workers to help since wife fell ill, but amount of agricultural production and income from surplus sales decline.	No	No	No	
Nokuthula H – Farm worker becomes ill with AIDS in 1997; 2-year old daughter dies of AIDS in same year.	Mother struggles to carry on with cultivation without daughter's help. Sometimes assisted by generous neighbours.	No	No	No	
Vuyisile I – Young woman diagnosed with HIV in 1995; rejected by family on account of illness.	Thrown out of household by brother, thus denied residential as well as production rights.	No	No	Yes	The brother's treatment of his sister is a direct function of her illness, but does not appear to be motivated by a desire to usurp her land rights.
Thembisile J – Mother of 5 children; husband dies of AIDS in 2000.	Land use interrupted temporarily. Now hires casual	No	No	Threatened by two men posing as brothers to late husband, but she	

	workers. Also, sold goats and chickens to help make ends meet.			appealed to *induna* for help, who revealed men as impostors.	
Sibongile K – Eldest of 5 orphaned children in granny household falls ill with AIDS in 2000.	Now must hire casual workers.	No	No, but has been asked a number of times.	No, except that concern over tenure security is main reason for not renting out land as per requests.	
Sibusiso M – Eldest of 5 youth who lost both parents to AIDS in 1998.	Sometimes has to hire casual workers.	No	No	No	
Rebecca L – Ailing single parent with 2 children, falls ill in late 2001 after partner dies of AIDS.	Has to hire casual workers.	No	Yes, but arrangement was struck before onset of illness.	Yes, in that the neighbour renting some of households land now refuses to pay and appears to be trying to gain control of that land.	The neighbour's attempt to gain control of the land appears to be less related to Rebecca's illness than to the recent death of Rebecca's grandmother, although that death was certainly hastened by Rebecca's illness.
Thembi N – Cares for orphans left by daughter who died of AIDS in early 2000.	Use of arable land unchanged, however sold off livestock after daughter's death in evident 'distress sale'.	No	No	No	
Maria T – Eldest of 5 youth whose mother died of AIDS in 2001.	Stop using land completely.	No	Yes, all cultivable land is now rented out.	Maria wanted to rent out land despite sense of insecurity. She consulted the *induna* pre-emptively to minimise the chance that there would be any problems.	
Thoko K – Widow with 3 children whose husband died of AIDS in 1996.	Have increased land use by renting-in land, and are seeking additional land with help of the *induna.*	No	Rent-in land.	No.	

Based on these case studies, we draw the following conclusions:

- Although AIDS diminishes households' ability to cultivate their land, they are loathe to leave their land idle. Most afflicted households respond in one of two ways, either by hiring casual workers to help cultivate the land, or renting out the land. It is difficult to discern what governs which of these options are selected in a particular case, but there is some indication that if tenure were more secure, then at least some households would be more inclined to rent out their land.

- Whether or not the incidence of AIDS affects an afflicted household's tenure security appears to have a great deal to do with the gender of the household head. The reason this conclusion is somewhat tentative is that very few of the Muden respondents were men, thus a clear comparison is difficult to draw.

- Traditional institutions play a critical role in ensuring the tenure security of weaker members of the community. However, this protection has a degree of informality about it that might suggest it is not as potent and reliable in protecting the weak as it might be. One indication of this, as mentioned above, is that households that might wish to rent out their land hesitate to do so out of concern for maintaining ownership over it. There are no cases of vulnerable households approaching local or provincial government officials for assistance in protecting their tenure rights.

4.2 HIV/AIDS and land in Dondotha

Description and history of the area

Dondotha is situated about twenty kilometres away from the town of Empangeni and about thirty kilometres away from Richards Bay. It falls under the traditional leadership of *Inkosi* (Chief) Mthethwa who is said to be the descendant of the late *Inkosi* Dingiswayo, the founder of the Mthethwa clan, who fought pitched battles with the King Tshaka. The grandson of Dingiswayo, uSoshangane, left Dondotha and settled in what is known as Mozambique and this gave rise to the Amashangane clan. The entrance to Dondotha is preceded by the presence of white-owned sugar cane farms. Dondotha is interspersed with gravel roads leading to different sections. It is also characterised by an efficient transport system: taxis and buses transport people from the area to Empangeni and Richards Bay. In other words, Dondotha is a point of connection between Empangeni and Richards Bay. There is also a gravel road that leads to KwaMbonambi town.

It is sparsely populated in some sections, but heavily populated around the location of the tribal court. There is juxtaposition of poverty and wealth, evidenced by the presence of both expensively built houses as well as poorly built ones. It is widely believed that most of the rich households have been enriched by their involvement in sugar-cane plantation. Generally households are provided with piped water and the majority of them have an electricity supply. Dondotha is regarded as having the relative advantage of an abundance of professional people who form the backbone of the area's development. Around the tribal court, there are some

expensive houses and a large number of shops. Within a kilometre of the tribal court is a community hall, which, at one stage, was converted into a medical centre where the cholera victims were treated in 2001. In addition, there is also a local agricultural produce market and a few industrial cottages, which were built by the Department of Public Enterprise with the intention of providing shelters for the small business entrepreneurs in the area. Three maps depicting location, population density and per capita income are provided on pages 81 to 83.

Institutional arrangements in Dondotha

Apart from the chieftainship under *Inkosi* Mthethwa, there is a development committee, which operates in close co-operation with the tribal leader and the tribal court. This committee is responsible for various developmental initiatives in Dondotha. The committee works closely with an organisation called Zisizeni (formerly called Helwell organisation). Its formation was meant to provide economic empowerment for the members of the church through the establishment of various projects, but specifically, agricultural projects. Funds for the organisation are received from England.

The organisation provides training for various community-based organisations in Dondotha and in each area of its operation it appoints a volunteer who takes care of the needs of the community, reporting back to the organisation which is based in Melmoth, about 60 kilometres away. The chairperson of Zisizeni visits all the sites that are serviced by the organisation to maintain a direct link with the communities affected. Situated closely to the tribal court is the Owen Sithole Agricultural College that supplies the area with agricultural information through extension and research. The students from this college are deployed in the area to assist with the agricultural activities. Zisizeni arranges student exchanges between Owen Sithole Agricultural College and institutions in England. These students come to the area to learn about the projects that are run in the area. Although the community-based health workers are also the initiative of the organisation, they are, however, controlled by the Valley Trust based in Botha's Hill.

The principals and staff of the significant number of schools in Dondotha work in close collaboration with the traditional authority or *Inkosi* with regard to the identification of the households that are affected by HIV/AIDS. The principals monitor the health of the children and if they show signs that their households are affected by extreme poverty, the principals have the responsibilty of establishing the extent of such poverty. They do this in collaboration with the Department of Social Welfare, which also links closely with the paralegal office attached to the tribal court. In turn, this office compiles the profile of affected families and advises them on how to access state support grants.

General economic activities

Most of the local community members that have jobs are employed in Empangeni, Richards Bay, Durban and Johannesburg. However, many of the big companies such as Alusaf have recently introduced contract employment systems whereby many tasks within the company are

outsourced to contracted companies and, consequently, a number of local people have become victims of resultant retrenchment policies. An indication of the importance of these companies impact on the local economy is the large number of expensive houses that have been built as a result of local people's employment and relatively higher salaries.

The retrenchment process has led to a higher level of unemployment with an allege increase in criminal activities. Crime in the area around Dondotha is characterised, *inter alia*, by car hijackings and general petty crimes. This has led to people not wanting to travel into the area by car as they fear that they may fall victim to hijackings. According to anecdotal evidence substantiated by media releases, the provincial government's cars have also fallen victim to this scourge and, as a result, many of the activities by the different provincial departments are being curtailed in the area. Recent newspaper reports have highlighted the soaring number of car hijackings where, in one instance, more than fourteen government cars and other private vehicles were found abandoned in the bush after being stripped of parts. These have found their way into the lucrative car parts market around Empangeni, Durban and Richards Bay. Car theft in the area has become an industry with young people driving around in expensive cars.

Despite increasing unemployment, a number of other livelihood strategies outside of crime have revolved around agricultural production in Dondotha. Local community members are involved in agricultural activities that often result in awards at agricultural shows. The agricultural produce is sold at the local market, which attracts people from Empangeni who buy at Dondotha for resale. Some residents of Dondotha also own big herds of cattle that readily become a major source of income for those who have lost their jobs: they sell them in times of need.

As a result of increasing unemployment, many young women in the area moved to Richards Bay to access the lucrative sex market. This is likely to be a reason for the alleged rapid spread of HIV/AIDS in the area[12]. In one section of Dondotha, it was claimed by a number of interviewees that more than fifty households were child-headed as a result of HIV/AIDS. Many of these child-headed households found it an intense struggle to survive. In some instances the welfare system worked against them in the sense that the social workers delayed the processing of the grants whilst validating the claims. In other instances, primary care givers from the extended family took over these child-headed households in order to access the grants for their own personal needs. However, if this practice was discovered, the *Inkosi* notified the police.

Methodology

The objective of the Dondotha study was to determine the impact of HIV/AIDS on land tenure with special reference to orphaned children. Five households were selected with the assistance of

[12] Another reflection on the spread of HIV/AIDS emanated from some community members who claimed that many of the people who had left Dondotha at the height of the political violence between the African National Congress (ANC) and the Inkatha Freedom Party (IFP) in 1992 were severely afflicted with the AIDS pandemic. Apparently many of these refugees relocated near the town of KwaMbonambi. It was claimed that many of the women from the squatter settlement near KwaMbonambi were plying their trade with the truck drivers who drive along the N3 highway.

a community based health worker who acted as a key informant. The households were identified as those that have been affected by chronic illnesses with the resultant death of the adult heads of the household. All the symptoms and the resultant death revealed that the chronic illnesses were HIV/AIDS related with some being confirmed as certain AIDS cases.

The intention in the Dondotha study was to identify and conduct interviews with child or orphan-headed households where the parents had passed away following HIV/AIDS. In KwaZulu-Natal in many households it is common practice that when parents die, an adult member of the extended family assumes the role of a guardian. Despite the intention to identify "true" orphan-headed households that were left in isolation after the parents' death, these were not easily identified as an adult guardian had often assumed the position of guardian. In the five cases in Dondotha, Manzi K was left on his own when his siblings joined his neighbour's household, and both Jazz M and Taki L were left with their siblings once a "guardian" had been forced to leave. From this particular study it became clear that a child or orphan-headed household is typically one wherein there is a guardian caring for the orphans. It is significant that in two out of four identified cases involving the extended family, and according to general anecdotal evidence, the guardians sometimes took over such a responsibility with the purpose of either dispossessing the orphans of their assets or utilising them for their own benefit. The most notable of these assets is the monthly child support grant from the Department of Welfare. When these mentors or guardians fail to fulfil their self-interest they often leave the orphans to fend for themselves. In other instances these guardians act in the best interest of the children.

Impact of HIV/AIDS on child-headed households

The impact of HIV/AIDS is both primary and secondary, as it affect both the household and the communities at large. Children in particular are severely affected by HIV/AIDS in their social context due to parental illness and the resultant death of their guardians. This section charts the magnitude of the orphan crisis, focusing on its psychological, social and economic impact, which together increases the vulnerability of children to poverty and HIV/AIDS.

Psychological impact

When a household-head is infected by HIV/AIDS, children are affected psychologically long before their parents die. Most orphans have to deal with the trauma of looking after a parent who is sick and is likely to be so for a long time knowing very well that the person is going to die. Orphans who have lost one parent to AIDS live with the knowledge that the other parent will also die. As a result of the stigma attached to HIV/AIDS, infected persons are often isolated in their communities. This was the case of some of the infected parents in the surveyed area who were isolated by their friends, neighbours and close relatives. This is despite the fact that HIV/AIDS is not a contagious disease outside of sexual contact or blood transfusions.

In many instances, children who have lost both parents often become absorbed into different households belonging to the extended family. Apart from the psychological implications of this

separation, it also raises serious questions about the future rights to land and other assets for these children. The research in Dondotha did not reveal serious inheritance problems but these could arise in the future when the children have grown up.

Socio-economic impact

The economic impact of HIV/AIDS on the Dondotha case studies were generally characterised in the form of a reduced household income and an increased expenditure usually related to health-related expenses. Household resources depleted quickly once parents became ill due to low productivity, which reduced income, and greater health costs, which increased expenditure. In some instances, when a parent became sick, the remaining spouse and sometimes other members of both the immediate and extended family were forced to withdraw from their income earning activities to meet the demands of caring for the HIV/AIDS-infected person.

As indicated in the background document, a common pattern around the impact of HIV/AIDS on poor households begins with the disease eroding the resources of the person living with AIDS, and then spreading to depleting the resources of the extended family. This ultimately threatens to overwhelm the capacity of communities to act as a final safety net. This is exemplified by the example of Taki L in Dondotha, whose parents both became infected with HIV/AIDS. His mother was taken care of by Taki L's aunt as the household could not afford to do so itself. When the mother died, the aunt could not afford to provide the necessary care needed for the father and, as a result, Taki L's uncle was forced to leave his job so that he could physically start taking care of his brother. This ultimately had a negative impact on the uncle's family as they started to starve as a result of the increased economic burden.

A further economic impact experienced by some households that compounded the crisis of HIV/AIDS was cultural practice. It has been well documented that women play a significant role in agricultural production and as contributors to the household livelihood strategy. Widows, however, are not allowed to work on their agricultural land for six months following the death of their husbands as this period is traditionally reserved for mourning. Sesi D, a mother of four children was making significant progress in becoming a commercial farmer. She entered into a number of strategies, including the selling of old clothes and surplus vegetables from her garden, to build up the capital requirements needed for her farming enterprise. With the money that she received from these sales she managed to purchase ten goats and five cattle as well as saving R1 500 from the sales of old clothes. However, when her husband died of AIDS, Sesi D was compelled by tradition to stop all these activities for six months to observe the mourning period. When Sesi D passed away the following year as a result of AIDS, she left her children without any savings as these had been spent on her medication. Her son had no option but to immediately borrow R4 000 for Sese D's funeral.

An issue closely related to the above was that of the reduced capacity of a household to effectively utilise their assets within their livelihood strategies. This capacity was undermined as a result of a household having to care for a diseased person, which increased the likelihood that productive assets would be sold. The most notable assets that the surveyed households sold were

livestock, in particular cattle and goats. The proceeds from these sales were largely utilised for medical purposes and funeral costs. The sale of such assets affected the ability of such households to utilise land-based livelihood strategies. The indirect costs of taking caring of sick household members were reduced labour inputs, which diminished the quantity and quality of household produce, such as vegetables in the case of Sesi D.

Funeral costs incurred as a result of premature AIDS deaths also impacted negatively on the surveyed households. As soon as any member of the household died, households were forced to borrow money for the funeral. If the household did not belong to a burial or saving society they were forced to borrow from informal moneylenders who often charged exorbitant interest rates. In most cases the households surveyed typically provided either cattle or furniture as collateral for the loan. For example, a 21-year old woman, Shella M, was charged with a weekly interest rate of 30 percent on a R1 000 loan. This money was borrowed in anticipation of accessing R5 000 that was deposited in her late father's bank account. The loan together with the interest rate accumulated at a value equivalent to the value of an adult cow of approximately R3 000. Shella M was forced to give the moneylender an adult cow to settle her debt and an additional R1 800 as a late penalty fee.

An additional factor is the deprivation of the basic right to education as children, in particular girl-children, were compelled to withdraw from school in order to support their siblings in the child-headed household. Another crucial issue arising out of the economic impact of HIV/AIDS was that of child labour. According to general anecdotal reflection in Dondotha, in many instances, girls were being withdrawn from schools to help with household chores that included the care of sick adults. The death of the parents often forced children to desperately search for employment, which, in most cases, were low-income generating jobs. For example, a sixteen-year old boy, Manzi Z, was forced to drop out from school in order to search for work at a local shop. The R10 that he earned per day was used to support his widowed mother who was suffering from AIDS. This is indicative of the increasing responsibilities, which are often associated with adults being placed on children's shoulders. In their desperate attempts to support their families, some of them found employment in dubious enterprises. Jazz M for example has unintentionally ended up working as a mechanic in an illegal 'chop shop' that processed stolen vehicle parts.

It is important to recognise that these child-headed households did not resort to agriculture as a source of income in such instances, which may be a result of a lack of agricultural knowledge and other crucial inputs in order to utilise their land asset. This is despite the locality of the Agricultural College nearby which dispensed agricultural extension. This reflected the general trend of many households to rely extensively on the cash economy with agriculture as a supplementary activity within the livelihood strategy.

General social relations

The following section outlines some of the dominant social relations in Dondotha that reflect and mediate on land issues in the context of HIV/AIDS. These included moneylenders using assets including land for security against loans, extended family members who took over the

guardianship of the orphans, neighbours who contributed labour for effective land use, and traditional authorities who acted as an effective mediatory role in disputes around land and loans.

Moneylenders

All of the households interviewed in Dondotha had dealings with moneylenders as a result of the financial shortages encountered due to the impact of HIV/AIDS. In some instances, moneylenders played an important role in ensuring that the affected household could afford to buy food or pay for a funeral. However, many moneylenders took advantage of their clients' position, granting loans at high interest rates and expected their clients to pledge security in the form of livestock, bedroom suites or other assets like TV sets to ensure repayments. In Dondotha it appeared that land was not an asset readily used as security for loans. In some situations, moneylenders refused to lend to child-headed households as there were no older people who could ensure repayment. In some instances, the *induna* would facilitate an application for a loan by providing the credentials of an applicant. Loans were granted at 30 percent interest per week and in case of a default there would be a payable fine.

Extended family members

All of the orphan households were linked to an extended family. In most instances, members of the extended family, usually maternal aunts or grandmothers, played an important care-giving role during the period of illness. After the death of both parents an uncle or sometimes an aunt would assume the authority of the household. Elderly people play a major role in the upbringing of the siblings in the sense that they support them financially with their pensions and provide emotional support. It was clear from the Dondotha interviews that the motive of some guardians to join orphaned households was ultimately to dispossess the children. As the guardians of the orphans, the extended family member would be eligible to receive child support grants for children who are under the age of seven as a primary caregiver. An alternative grant would be the foster care grants[13] although it is highly unlikely that these are common in Dondotha.

Neighbours

According to the interviews, the neighbours also played a major role in supporting such households both financially and in kind, especially in emergency situations. Neighbours were often the people who would volunteer to help with working the lands and caring for the younger siblings. This relationship usually developed with the understanding that they would receive a share of a produce in exchange for working the land. This arrangement could readily be changed into an informal sharecropping arrangement. However this was sometimes a guise to interfere

[13] Legal foster parents are eligible to apply for monthly grants for any child 18 years or younger. The process of becoming a legal foster parent is however quite rigorous. To date, there are fewer than 75 000 beneficiaries of this grant countrywide. Thus it is unclear how many actual cases there may be in Dondotha. Primary care givers may also apply for child-support grants for any child 7 years or younger. These grants are becoming much more common presently exceeding one million countrywide.

with the running of the household and of gaining access to land under the claim that they were in effect working it.

Traditional authorities

The case studies illustrated that the traditional authority was a central support structure for AIDS-affected households. They would often ensure that support was forthcoming in helpless situations. For example they would raise money for the households to bury their deceased member and were seen as mediators when the families experienced problems with moneylenders. Importantly, they also mediated between the extended household and the orphans on the issue of the ownership of land or other assets. The traditional authority and other prominent people in the community such as school principals offered important support structures for affected children, particularly in the realm of welfare grants, helping to facilitate the application of children's support grants.

General issues around land arising in Dondotha

As a way of summary, the table below outlines the general land issues in the study area as derived from the five case studies. These will be elaborated upon in more detail.

Table 4 - Summary of case studies for the Dondotha area

Situation	Change in land use	Land sales	Land rentals	Tenure insecurity	Comments
Shella M – stays with her 5 siblings together with her maternal aunt.	Family hires casual labour	No	No	No	
Jazz M – stays with his 4 siblings. Their aunt was their guardian soon after their parents' death, but later expelled as she was reaping-off the family of their assets.	Reduced quantity of produce to the market	No	No	Jazz M was once threatened by his relatives claiming that he is too young to own the land.	
Annie S – grandmother staying with 4 orphans.	No	No	No	No	There is a possibility that land tenure can be threatened after the death of the grandmother.
Manzi K (16) – his two young brothers are staying with his neighbour.	Manzi K's neighbour volunteered to assist with cultivation of land and this gradually changed into an informal sharecropping as	No	No	The chief advised them to work the land effectively to avoid interference of the neighbours.	

	they finally fought over the produce				
Taki L – he stayed with three younger siblings. Initially they were cared for by a maternal aunt who later left the household, then a paternal uncle who disposed them of their livestock left after being summoned by the chief.	The land was not effectively utilised due lack of manpower.	No	No (he considered leasing part of the land out so as to generate income, but this was prohibited by the chief.	No	

Land Administration

The traditional authority plays a major role in land administration in Dondotha, allocating the asset to a household on receipt of a fee. The land was allocated for household use and any forms of leasing arrangements were effectively prohibited. In the case of Manzi K, an informal sharecropping relationship developed when a neighbour began to help the AIDS-affected household. This informal arrangement broke down when the two parties disagreed about the sharing of the produce. In this instance, the *induna* stepped in to mediate in the particular dispute and to advise the orphan household to work their land efficiently to avoid allegations of under-utilisation. It appeared that the neighbours offered to work the orphan's land with the motive of dominating the share of the produce. In this instance, the orphaned household was able to turn to the local traditional authority to resolve the land conflict.

Land Rights

The general understanding in Dondotha was that the land of deceased parents was to be inherited by their children. This effectively entitled orphans to hold the land as they deemed fit. However, in many instances it was clear that when members of the extended family joined such households and assumed authority over the children, their rights to land became threatened. It was apparent that some relatives arrived at orphan households with a motive of dispossessing them. In the case of Taki L a paternal uncle assumed the authority over the household and then sold all of its livestock and kept the proceeds for himself. When the chief intervened the uncle disappeared with the proceeds. According to general anecdotal evidence such incidents were not uncommon and such acts were often directed at land and what was produced from it. This was reflected in the case of Manzi K. It is clear that the traditional authority is currently the only institution in Dondotha that can secure land rights for orphans and effectively stop outright dispossession.

Land Use

The impact of AIDS affected the orphaned households in a similar pattern throughout Dondotha in its impact on land use. As a result, production changed considerably. Despite the debilitating impact of the pandemic, orphan households still required to utilise their lands for their own

survival. Households struggled to use their land effectively when scarce resources had been diverted towards the treatment of chronically sick members and for burials. In addition, there was a loss of knowledge and skills for the effective utilisation of agricultural land.

Many orphaned households have adopted a range of strategies to cope with the situation they were faced with. As agriculture is a mainstay of the Dondotha economy, markets already existed for the produce and support from agricultural students from the agricultural college was available. Agricultural land use was therefore a viable option for many households, which justified the need for more land to farm. Strategies around land use included the hiring of additional labour that was affordable and manageable. Others included land rental. This was particularly the case for households who held larger tracts of land, which they found difficult to utilise effectively as a result of the scarcity of labour or other inputs. These households opted to lease out portions of their land in order to generate extra income. The interviewer was informed that in one district an orphan-headed household leased out a portion of land secretly, without making the transaction formally known to the *induna.* The household later experienced a problem when the lessee refused to pay and threatened to reveal the lease agreement to the local authority.

4.3 HIV/AIDS and land in KwaDumisa

Description

KwaDumisa is a rural peri-urban settlement in KwaZulu-Natal, 80 km south of Durban and 20 km inland from Umzinto on the Ixopo Road. It is situated adjacent to the coastal corridor extending from Port Shepstone in the south, via Durban, to Richards Bay in the north. Immediately, before entry into the area, lies a place called Braemer and is interspersed with some Indian-owned businesses. The area is enclosed within the White-owned farms and most of the local people are employed on these farms. KwaDumisa itself is an area of sandy coastal plain surrounded by commercial sugar farms and Sappi-owned tree plantation. It is sparsely populated, but the character of the area is gradually changing due to steady in-migration. Three maps depicting location, population density and per capita income are provided on pages 84 to 86.

This area, together with the interior corridor, generates most of the economic activity in the province and is also the focus of the Spatial Development Initiatives (SDIs), a spatial policy of the Department of Trade and Industry which aims to concentrate investment and infrastructure in areas of economic opportunity. KwaDumisa is connected to viable economic centres in Durban and Pietermaritzburg via a tarred road. The taxi service is extensive and serves agricultural interests by transporting produce to selling points. Although KwaDumisa is situated in an area of KwaZulu-Natal where there is economic opportunity, high unemployment rates affect its residents' hopes for cash employment.

In the typical household there is a differentiation of skills, with men commuting to KwaDumisa, Durban, Pietermaritzburg and Johannesburg, and women remaining at the rural home to ensure food security and land rights through agriculture. This system of multiple livelihoods is changing the nature of urbanisation as urban rates of unemployment rise and second-and-third-generation

township residents out-compete incoming rural people for jobs. These factors have forced men back to their rural homes to pursue their agricultural option.

KwaDumisa has a relatively well developed housing infrastructure, with some of the houses showing considerable investment. Such investment points to an area which people consider to be a final destination in migration terms; it also hints at perceived institutional and tenure security. Although a stable residential community is developing, there is limited communication systems.

Although soil in KwaDumisa has been classified as poor, many households have large plots of land and agriculture is seen as an important part of the livelihood strategies of families. Agriculture for commercial purposes is also common and a progressive extension officer provides KwaDumisa cultivators with invaluable advice. Because of the poor soil however, cultivation requires a lot of input such as labour, water and fertiliser. The majority of KwaDumisa households however lack access to water for household and agricultural purposes and as a result a number of community garden projects have failed.

There are three schools catering for primary to high school levels and are found in the locality of the chief. Health services are provided by a mobile clinic and a private medical doctor based at Jolivet, which is adjacent to KwaDumisa. There is also a large number of traditional healers some of whom work closely with the clinic. For serious health problems, residents travel to hospitals in KwaDumisa, Park Rynie, Scottburgh and Durban. Health services are expensive due to transport costs to the hospitals and the relatively high prices charged by traditional healers.

Institutional context

KwaDumisa is one of four tribal authorities in the area. This tribal authority is subdivided into four districts and falls under the jurisdiction of *Inkosi* Duma. Although the Chief has aligned himself politically along ANC lines, he is seen to have political tolerance. This is reflected in his administration system, where land and resource allocations are not made along party political lines. The system for dealing with crime works more effectively than most communities. The tribal authority has no authority over criminal cases and these are handed over to the South African Police Services. Civil cases and stock and crop theft are, however, within tribal authority jurisdiction. This has resulted in the creation of an environment in which fairness and justice prevail.

The institutional system allows leadership roles developed by women and civil society. There is an Advisory Development Committee that includes community members, as well as headmen. The committee has a very strong and dedicated female chairperson, who is influential with both the chief and the Regional Council Chair and has provided effective leadership on many community issues. There is a progressive extension officer who provides invaluable advice to cultivators in the area. Unfortunately the extension officer's work has created rivalry and competition between her and the Development Committee chairperson.

Apart from the institutional organisation, the community has organised itself into clubs that are financed by club subscriptions and managed by members. These clubs include *stokvels* (rotating saving and credit association), agricultural projects and burial societies. Although these informal credit-lending associations experience problems related to the lack of management skills, corruption and tension between the clubs and the Development Committee, they appear to be most successful at improving community life in providing funds for investments in housing, education and cultivation.

Methodology

The study aims at KwaDumisa aimed to determine the impact HIV/AIDS has on land issues. Specifically, the study aimed to determine the impact of long-term chronic illness, be it tuberculosis (TB), chronic pneumonia/bronchitis, or HIV/AIDS or any other sickness that continues for a long period and uses up the assets of the household resulting in poverty, on land, agriculture and land rights.

Thirteen household interviews and one focus group interview consisting of eight respondents were conducted in the KwaDumisa area. These households were identified by key informants as having been affected by one of the above chronic illnesses either through losing a member through the disease or having an infected member in the household. There are five households headed by widows who either care for children suffering from full-blown AIDS or who lost a husband to AIDS. There is one widowed father who cares for a son suffering from full-blown AIDS. There are also three child-headed or orphaned households where both or one parent died of AIDS related ailments. There is another household consisting of a wife caring for her ailing husband (AIDS related illness) and one single lady whose live-in partner died of AIDS. The last household consists of a husband and wife whose son died of AIDS.

These interviews were then transcribed into narratives that reflected case histories of what has happened to the household between the time of the onset of the chronic illness and the present time.

The impact of HIV/AIDS on households

In all cases, HIV/AIDS was identified as the major illness impacting on the households. However, most households seemed to be unfamiliar or have a sketchy understanding of the HIV/AIDS symptoms. Some of the households identified tuberculosis (TB) as the source of the illness in their families. This situation was exacerbated by the fact that the sick members were often reluctant to reveal the true nature of their illness because of the stigma attached to the illness. When Sandile P started to waste away, his condition was attributed to a TB infection although he had never been formally diagnosed as suffering from this disease. In fact, TB was his own story to account for his symptoms. In Nona M's case, Miriam told her mother Nona M that she was suffering from TB.

In some cases, caregivers went out to seek advice about their household members' condition. In Samuel K's case, a local teacher advised him to take his sons for a blood test that later declared them HIV positive. In other instances, women tried to convince their partners to go for a blood test. Although both Ruth N and Zinzi B tried to persuade their partners to go for blood tests in order to ascertain whether they were affected by HIV or not, they refused to collect the results. While Zinzi B's partner went to collect results that showed that he was HIV positive, Ruth N's partner disappeared without knowing his status.

Although some caregivers wanted to take their sick members for a blood test, they were concerned about the expensive transport costs as drivers are reluctant to have them in their cars and charge increased tariffs. In Cecilia P's case, she thought that instead of having to pay extra transport costs, it would be better if Sandile stayed at home and died in bed. The refusal to reveal the true nature of the sickness as well as reluctance to take blood tests, results in the worsening of the illness because the hospitals required a correct diagnosis in order to administer proper treatment. In other cases, caregivers were reluctant to go into debt for the possibility of a temporary improvement of the sick member's condition.

The community worker system was seen as ineffective by the local population because of its inability to heal the sick. It is clear that Cecilia P was not prepared to go into debt when there was no hope of this system saving her stepson. Nona M expressed anger about the community worker system as her daughter's suffering continued even after being provided with counselling. The care worker thus observed that the community's ignorance about this system would lead to a lack of confidence in them, as they seem to fail to deliver what the community expected. Although some households were not satisfied with the community worker system, Goodwill K acknowledged that despite the inability of this system to provide medical treatment, the visits and counselling he received from care workers made him feel that he was still part of the community.

All the case studies indicate that HIV has impacted on all households in a variety of ways, which resulted in the compounding of poverty. The presence of the AIDS pandemic created an unbearable pressure for the households affected by the disease. Not only had family members to contend with the emotional and psychological loss due to the death or imminent death of a loved one, they also had to face dire economic constraints. These include the loss of regular income when the sufferer is the breadwinner or a regular wage earner and the loss of income of the caregiver, whether that income constitute cash earnings or the loss of labour in terms of cultivating the land. The immediate effect in these households meant less expenditure on food.

Household members had to spend time caring for the sick member. This situation went to the extent of affecting children's education. Either households struggle to pay school fees or children have to leave school in order to care for younger siblings, care for ailing parents or take over the household chores and cultivation activities. Betty O had to leave school to care for her younger siblings as caring for her ailing father took up all her mother's time and energy. Philani X and his siblings were forced to leave school because their parents could not afford the school fees. Even though the children in both cases were left orphaned by the deaths of their parents due to AIDS related ailments, their schooling was only interrupted temporarily. With the help of relatives on the mother's side of the families, children from both households returned to school.

The illness also affected the livelihood of the family as the scarce financial resources are channelled towards medical care for the sick member. Most households spent huge amounts of money on numerous visits to both western and traditional doctors and faith healers because they believed that their members were bewitched, poisoned or possessed of spiritual powers. A large amount of the household income generated from the various sources is therefore spent on medical expenses for sick members. In many of the cases the families initially tried to provide nutritional food to the ailing person. This however became impossible as the family resources have by then almost been depleted and they were struggling just to feed themselves on a daily basis. All these expenses were an additional cost over and above the need to pay school fees and other household expenses. With no regular income, the economic situation of most households deteriorated rapidly.

Loans from stokvels, moneylenders and neighbours have also become a major problem for the afflicted households and exacerbate the destitution of many households. More and more often, households have to borrow to buy food or pay for medical, educational and transport costs to the hospital. In some cases funeral cost depletes whatever resources the family had left. The savings of Samuel K for example have almost been depleted with his move to KwaDumisa and paying for his wife's funeral. Having to pay for another funeral for his son and caring for another son had been devastating for his income security and asset base, forcing him to borrow money from a moneylender.

Although these households try to be financially self-sufficient or avoid borrowing because of the exorbitant interest rates, many are caught in a continuing cycle of borrowing that becomes a monthly need in order to cover domestic needs. The other problem is that most pensioners are caught in a practice of borrowing against their pension to tide the family through to the next pension day. However, the money-lending arrangement often led to harassment of some kind. For example, the moneylender threatened to confiscate anything of Nona M in order to get something against the interest which she owed him. She ultimately had to dispose of her daughter's wardrobe and her late husband's farm tools in order to repay a moneylender. In Samuel K's case, the moneylender demanded that he dismantles part of his house and give him the corrugated iron in repayment. When Samuel K refused, they both agreed that Samuel K surrender part of his land to repay the debt. Although the *induna* intervened to ensure that the land is transferred on a temporary basis, the lender was not satisfied with the land offered as he demanded a larger section.

In some cases households were forced to sell or dispose of some of their valuable assets, as the money was urgently required for other family expenses. Both Elsie N and Betty O were forced to sell some of their furniture. Elsie N had to repay a moneylender and Betty O had to ensure that she and her siblings survive. Petra V, whose husband has full-blown AIDS, was also forced to sell four goats to pay for her children's school fees.

The burden of these direct and indirect costs of HIV/AIDS on households is numerous and can't always be counted in financial or tangible terms. For example, many caregivers find it emotionally hard to see a loved one suffer and waste before their eyes. Respondents who

participated in the focus group indicated that the responsibility of caring for the sick is often left to women thus leaving devastating effects on their health. Furthermore, women are usually blamed for the health status of their daughters, attributing such conditions to failure of the woman to discipline their daughters. In some households, men even went to the extent of withdrawing financial support as a form of punishment towards the woman and her daughter. In Charles P' case, his wife Phumlani P took ill a few months after his death. Her illness was attributed to stress and changed circumstances in her life. The health worker, who took part in the focus group, pointed out that in most instances, women are often blamed by their husbands' relatives for the death of their husbands, accusing them of having poisoned or bewitching them.

Coupled with the economic and physical burden that women have to endure and the stigma and shame associated with HIV/AIDS, caregivers experience stress that leads to them developing for example, high blood pressure which in turn require further expenditure on medication. Cecelia P had to start medical treatment herself after Sandile's illness. The majority of the focus group respondents indicated that the health conditions of caregivers is often at stake because the responsibility of caring for the sick is left to them while at the same time they're expected to cultivate and produce food for the family.

Some of the households however have more than one survival or coping strategy and their situation is not as dire as others are. These households usually have access to some form of cash economy, either through pension grant, regular wage earnings, informal cash earnings, or remittances in the form of cash sent by the other family members who work in other areas outside KwaDumisa, death benefits or retrenchment packages. Ruth N, Elsie N's daughter who is suffering from AIDS received a retrenchment packages which was used to buy furniture and as an investment in the education of her children. To augment this money, which was almost depleted due to medical expenses, and the repayment of loans, Ruth N started an informal crèche in her community.

Neighbours played a significant role in helping some households to cope with their situation, by offering both physical and emotional support. Cecilia P and Petra V's help came from neighbours who often brought food parcels or helped with household chores. In both Magriet's (Mandisa C's mother) and Jabulani D's cases, relatives and neighbours were always available to offer help in times of need e.g. prayers, sympathies. Although neither Samuel K nor his son, Goodwill K are originally from KwaDumisa and do not have any relatives in the area, they have formed strong bonds with community members who are able to help them in times of need.

In households where parents died, surviving orphans were often left in the care of a relative who moved into the child-headed household on the pretext of wanting to care and support the children. Some of the caregivers made life tough for the orphans. After the death of Philani X's mother, his father's brother made his life, together with his siblings, unbearable. Very often, they would wake up early in the morning and work in the field or not allowed to attend school. This situation made Philani X and his siblings to flee to their mother's relatives. In Mandisa C's case, a male cousin of her deceased father claimed to have agreed with the *induna* to serve as a guardian to her and her siblings. However, he made their lives miserable, especially the aunt's who was left with the children when their mother passed away. Unfortunately, this turned out to be a guise to

take ownership of the land. In some cases, the relatives would apply for support grants for the children and act as primary care givers, while using the grants for their own personal needs. When Betty O's mother passed away, her aunt assumed all responsibilities in the household, including receiving a maintenance grant from their father's employer. However, this money was used to benefit the aunt and her boyfriend. Although many of these caregivers were interested in dispossessing orphans of their parents' land, Mandisa C's aunt proved to be an honest guardian.

Despite all the difficulties and hardships that Betty O, Phumlani P and Mandisa C had to endure after the death or illness of their family members, these women became resilient, strong and independent. They took up the challenge of providing for their families. Both Betty O and Phumlani P started their own small informal businesses.

The extent to which households are affected also depends on the economic role the sick person played prior to succumbing to the illness. In the case of breadwinners or regular wage earners the impact was felt immediately and led to an immediate reduction in cash earnings. The immediate effect was less expenditure on food. The lack of good food in turn worsened the physical condition of the ailing person.

Some families are also just beginning to experience the consequences of the AIDS pandemic on their lifestyle and chances are things will only get worse, whereas others are in the stages of recovery and family live is being normalised. Chances that Cecelia P's situation and tenure insecurity will deteriorate with the imminent death of her stepson are great, whereas the situation for S'bo A's family has stabilised after the death of their son, especially since her husband is a regular wage earner.

The impact of HIV/AIDS on land issues

A summary of all the KwaDumisa interviews is presented in the table below. Although many of the KwaDumisa households have relatively large plots of land and engage in agricultural activities either for subsistence and or commercial purposes, the soil has been classified as poor. Cultivation therefore requires a lot of input in the form of fertiliser, labour and water. Most households however do not have access to water for agricultural or household purposes and are largely dependent on the river, which is polluted, and rain water. In the past tankers from the KwaZulu-Natal government delivered water to KwaDumisa. It is believed that the practise was stopped because the community of KwaDumisa has aligned itself politically with the African National Congress (ANC) (Mbhele, 1998).

Despite the poor quality of the soil and the lack of water, land and especially agriculture are seen as important components to the livelihood strategies of households, whether as food security and or a cash economy since people loathe parting with their land. Cultivation for commercial purposes is common in KwaDumisa as the area is connected to viable economic centres in Durban and Pietermaritzburg via a tarred road. Coupled with this is a reasonable transport system, especially taxis that makes both the purchase of inputs (fertiliser, etc.) and the transport

of produce to markets possible. The area is also served by a progressive extension officer who provides invaluable advice to cultivators.

Table 5 - Summary of case studies for the KwaDumisa area

Situation	Change in land use	Land sales	Land rentals	Tenure insecurity	Comments
Cecelia P – widow. (Second wife, no children with deceased husband). Her stepson has full-blown AIDS and is mentally unfit.	Yes. She is increasingly growing low risk crops e.g. green crops that do not require much water, labour, etc. and maize, which is drought tolerant.	No	No	Yes. Her tenure rights are precarious. Her only claim to the land is a traditional one. As the (step) mother and caregiver to her husband's son, she is holding the land for him. Chances are Cecelia P will lose her precarious hold over the land once her AIDS-infected stepson dies.	Her brother in law wants the land. He tried to have her evicted claiming she tried to poison her stepson. The *induna* ruled in her favour, saying there is no legal ground on which to evict her.
Nona M – widow. Her daughter has AIDS. Nona M prefers a cash economy to cultivation, i.e. her pension, informal earning and wages of two daughters.	No. Cultivation is non-existent, even before onset of illness. Land is small and soil is poor. Cultivation will thus require large amount of input (i.e. labour, water, fertiliser, etc.).	No	No	No. Her tenure rights are secure. Despite the fact that she is a widow, she was allowed to buy land in KwaDumisa.	Real destitution followed AIDS due to loss of wage, the rise in dependency and fruitless heavy spending on treatment cost. The situation can only get worse as the illness progresses.
Samuel K – widower. Lost land and subsequent decline in food security and cash income as a direct result of AIDS.	Yes. Less cultivation as he has to care for his sick son. Less land to cultivate as he lost some of his land.	No	No	No. Samuel K's tenure rights are secure. However he lost part of his land to a moneylender as repayment for a loan. This moneylender also encroached on his remaining land, but was stopped by the *induna*.	Decline in food security for household and decline in cash income as he has less produce to sell. Samuel K is negotiating with a friend to lease part of the friend's land in order to expand his agricultural activities.
Goodwill K – AIDS infected son of Samuel K.					Feels guilty about the devastating effect his AIDS has on his father physically, emotionally and financially.
Ruth N – She has AIDS, survives on mother's pension. Family also grows vegetables for home consumption.	Yes. Daughter's AIDS affected mother physically: she developed high blood pressure. Sometimes the mother is physically too weak to cultivate the land and they then have to hire casual labourers. Despite this they still produce the same amount of vegetables on	No	No	No. Tenure rights are secure. The mother bought the land despite the fact that she was a widow and had no husband.	Ruth N wishes they had more money to buy more land and expand their cultivation activities in order to generate more income for the family as well as food security.

	same size land.				
Betty O – Orphans nearly dispossessed of land after parents died of aids.	Yes. Land became under utilised and lay idle due to parents' illnesses and subsequent deaths. Betty O is now growing vegetables on a small portion of land.	No	Yes. Lease part of land to neighbour who shares crops with them. The *induna* officiated over the transaction.	No. The tenure rights of the orphans seem secure after their aunt and her boyfriend left. Before they left the aunt and her boyfriend assumed all responsibility over the household with the boyfriend declaring himself the household head. They abused their power over the children and thus threatened their tenure rights. This changed when they left. The children have close ties with the *induna* and his wife, which will help secure their tenure rights.	Unscrupulous relative (aunt) and her boyfriend threaten tenure rights of orphans and assume responsibility over their assets, including their land. This changed after the aunt and her boyfriend left.
Phumlani P – Widow with five children supports her family after the death of her husband due to AIDS.	Yes. Widow leased land from a neighbour and cultivates, sells surplus produce for R800.	No	Is leasing from neighbour	Is lessee	Recognises agriculture as important and viable survival strategy and safety net hence wants to lease more land in order to increase agricultural output and thus increase cash income.
Petra V – Land not productive due to AIDS impact on labour, etc.	Yes. Level of cultivation decreased, as she has to care for her ailing husband. Less surplus produce to sell.	No	No	No. Tenure rights are secure.	Petra V says she needs money in order to buy more land as she wants to increase her agricultural output.
Phiani X – son of parents who died of AIDS. Children dispossessed of land by relatives before recovering it.	Unclear. With help of maternal aunt they grow beans, brinjals, maize, and madumbis. They sell surplus produce.	No	No	Yes. The tenure rights of the widow seemed precarious as her husband's brother wanted to force her into marriage, making it clear she had little choice but to comply. The mother died before the matter could be resolved. The uncle then assumed guardianship of the children and the assets, including the land. He made their lives miserable, forcing them to flee and thus abandon their land. They only got the land back after his death.	
S'bo A – Death of son severely impacted on the household survival strategy. Situation has stabilised though.	No. Cultivation still the same.	No	No	No. The tenure rights are secure.	Resilient household because of regular income from father. This is supported by some land cultivation. Household back to normal after passing of son.
Zinzi B – Live in partner died of AIDS.	Yes. Zinzi B engages in other money generating activities and hires labourers to	No	No	No. The tenure rights of Zinzi B seem secure even though she was not married to her partner who died.	

	do cultivation.				
Mandisa C – Her mother died of AIDS. Unscrupulous relatives and moneylender make live difficult for children.	No. Cultivate as before, but father's cousin brings in wife to cultivate and take all/most produce for his own family.	No	No	No. Their tenure rights seem secure although a moneylender wanted to apportion some of their land as payment for debt. The *induna* ruled in their favour.	The *induna* also ruled against the uncle when he misused their crops and livestock.
Jabulani D – died of AIDS. He leaves behind a wife and two children.	Yes. She has less time to cultivate as she acquired another job. She had to bring in her aunt and hired labourers to help with the cultivation. Produce still the same though.	No	No	No	

KwaDumisa households affected by the HIV/AIDS pandemic employ a variety of strategies in terms of land use. The most prevalent effect that AIDS had on households was that members could not cultivate effectively and some land became under utilised due to sickness in the household. Either the person responsible for cultivation as in the case of Betty O's parents who were both AIDS sufferers is infected and can't work due to the illness or the person has become the caregiver and is therefore unable to work in the fields. In most of the cases the care giver used to be the cultivator and now had to curb cultivation activities as in the case of Samuel K, a widower, who had to curb his cultivation activities to look after his sick son.

The situation of Samuel K is to some extent an exception as both caregivers and cultivators in the KwaDumisa households' studies are mostly female. Men are perceived to be very reluctant to engage in agricultural activities, even unemployed men tend to shun this activity. Samuel K not only cultivates his own lands, but also engages in cultivation activities for neighbours in exchange for food or money.

In one of the cases, Cecelia P, a widow caring for her stepson who has full-blown AIDS and is mentally unwell, decided to grow different and low risk crops. Caring for him meant she could not devote as much time or resources (water, fertiliser, etc.) on her fields and she opted for crops that require low maintenance, water and labour. She increasingly planted green crops, '*imifino*', this is a wild plant that grows abundantly. Although not known as an indigenous domestic crop, it is increasingly being used by poor people to make a sauce for maize meal. Cecelia P also grows maize, which is drought tolerant.

Other affected households opted to hire casual labour, as they did not want the land to lie idle. In most of the cases where casual labourers were hired, family members engaged in other money generating activities. Zinzi B for example whose live-in partner died of AIDS runs a tuckshop and can therefore not devote time to cultivating her lands and had to hire casual labourers to do the cultivation for her. Although many households in KwaDumisa seem to prefer access to a cash economy, many, like Zinzi B view their land, agricultural produce and livestock as their most

valuable assets. Others like Elsie N had to hire labourers as the stress of looking after her sick daughter caused her to develop high blood pressure and this resulted in her being too weak at times to do her own cultivation. The preference for a cash income might have to do with the fact that they would rather part with money in cases of emergency. The selling or renting out of land, livestock and agricultural tools can only be seen as a last desperate option.

Some, like Betty O leased a portion of the land to a neighbour. Being an orphan and realising their precarious tenure rights, she approached the *induna* first and involved him in the transaction with the neighbour. This transaction also stipulates that the neighbour should give the household a share of the crops. Involving the *induna* ensured that Betty O and her siblings wouldn't be deprived of this land in future. In the case of Nona M, the land became fallow. This might however not be a direct result of sickness, as she never considered agriculture a viable option. According to her the soil is poor and cultivating would require too much input, i.e. fertiliser, water, labour, etc. and is not worth all the effort as the land is too small. It is possible that Nona M does not possess the cultivation knowledge for this particular soil as she used to cultivate extensively before she moved to KwaDumisa. She however wanted to enter into sharecropping with a neighbour, but again, the neighbour required too much input from her and she abandoned the idea.

There have been no land sales and no one; not even Nona M who does no cultivation on her land has contemplated selling land. Samuel K however lost a portion of his land as a direct result of his son's illness. He borrowed money from a moneylender and was unable to repay the loan. After refusing to repay the moneylender in corrugated iron, he agreed to temporarily repay some of the loan in land. He gave the moneylender a portion of land, which he meant to buy back as soon as he could afford to. The moneylender however insisted on a bigger piece of land as full payment plus interest and Samuel K had to relent. He did involve the *induna* in this transaction, but still failed to protect his land from the moneylender.

The manner in which the *induna* officiates over land transactions tends to be fair and impartial. It however appears that his hands are tied in transactions between lenders and borrowers, especially when they have initially agreed on land as part of the repayment. The fact that there was no legally binding agreement clearly stipulating the terms of trade between lender and borrower might have harmed Samuel K's chances. The fact that Samuel K is an in-migrant in KwaDumisa and the moneylender is an influential individual might also have played a role in how this scenario unfolded. The result is that the land grabbing impacted negatively on Samuel K's agricultural input, his food security and his ability to earn cash income as he had less produce to sell. This neighbour also encroached on Samuel K's remaining land, but this time he was stopped through the successful intervention of the *induna*.

Despite the poor soil quality and the lack of access to water households in KwaDumisa value land and agricultural activities and recognise them as important parts of their livelihood strategies. A number of people from affected households such as Elsie N's daughter Ruth N and Samuel K expressed the need or wish to either buy or lease more land in order to increase their agricultural outputs for food security as well as earning a cash income from selling surplus produce. Even Phumlani P, a widow whose husband died of AIDS and who do not appear to own any land

leases land from a neighbour for cultivation purposes. She sells the surplus produce. She is also thinking of expanding her cultivation activities for commercial purposes by leasing more land.

Land administration in KwaDumisa and the manner in which the tribal authority, in this case the *induna* officiates over land transactions appears to be quite progressive and there are few land disputes. People born in KwaDumisa have large plots whereas in-migrants are allocated smaller plots. Mbhele (1998) alleges that those with good connections to the tribal authority seem to get larger plots of land whereas the tenure rights of young people are the weakest. Added to this is the perception of one of the female respondents in the focus group interview that the issue of land ownership depends on how strong the household network is, particularly in terms of their relationship with the *induna.* In-migrants are however free to lease under utilised land from neighbours in order to cultivate commercially. The tenure rights in most of the cases are secure. Three widows have even been allowed to buy land even though they were not married at the time. This is seen as remarkable, but the fact that these women were originally from KwaDumisa and still have relatives in the area might have played a role in their successful purchase of land in the area.

Other widows were not so fortunate. Cecelia P, an in-migrant who has no children with her deceased husband has a very precarious hold over the land her husband left behind. As the stepmother and hence guardian/caregiver to his son, she has a traditional claim to the land. Her stepson however has full-blown AIDS and chances are that she will lose her hold over the land once he dies. Her brother in law has already tried to have her evicted from the land, claiming she tried to kill her stepson, but the *induna* ruled in her favour.

This ruling may be seen as remarkable as Cecelia P is not only an in-migrant, but she has no heirs, (especially male heirs) with her deceased husband, as widows are usually perceived to only be temporary heirs who are holding the land for their sons to inherit in future. Added to this is the fact that the brother in law is a very influential man in the community. This ruling may therefore also be seen as indicative of the fairness and progressiveness of the land administration in this particular area. Chances are however that this ruling is only a temporary reprieve and that Cecelia P will lose her hold over the land once her stepson dies.

The tenure rights of Philani X's mother were also precarious. After the death of her husband, her brother-in-law wanted to force her into a marriage with him called *'ukungenwa'*. He made it very clear that she had little choice in the matter. Although she asked the *induna* to intervene, he said he was powerless, as this was a family matter. She died soon afterwards. In both these cases the deceased husbands were products of polygamous marriages and land disputes are common in these situations. Although this situation also involves the widow's land tenure rights, the *induna* did not appear too keen to intervene and said that it was a family matter.

The tenure rights of the orphans in the KwaDumisa case studies also seem secure and there have been no land disputes with outsiders trying to evict them. Mandisa C however was threatened by a moneylender that he would apportion some part of her land as payment for a debt. She however took the matter up with the *induna* who ruled in her favour. According to the *induna* the moneylender could not apportion some of her land, as it was not part of their original agreement.

Unscrupulous relatives, especially from the fathers' side of the family however have threatened the tenure rights of orphans in all three cases. These threats to their land rights had been either direct or indirect. In the case of Philani X and his siblings, their uncle made their lives unbearable, forcing them to flee to other relatives, and thus abandoning their land. They were only able to reclaim their land after they approached the *induna* about entitlement with the death of their uncle. The male cousin of Mandisa C's father not only made life unbearable, but he also took their produce and sold their livestock. It was only when she informed the *induna* that he left. The *induna* also played a crucial role in securing the tenure rights of Betty O and her siblings. After the death of their parents, Betty O was forced to lease some of their land to a neighbour. She however asked the *induna* to officiate over the transaction ensuring that they would not lose their land to the neighbour in future.

Although some family members had exploited these orphans, two of these households had the support of some family members, especially from the mother's side of the family. Both Mandisa C and Philani X had aunts' moving in with them and helping support the family. Betty O however had the help of the *induna* and his wife. The wife of the *induna* not only kept an eye on them, ensuring that they were safe, but also provided them with food. Without these support structures chances were that these households would have been forced to sell their land and spiral into absolute poverty and homelessness. It was not only the orphans who benefited from the help of neighbours though.

Social capital in terms of financial and emotional support of neighbours' play a crucial part in the survival and coping strategies employed by all of these households affected by HIV/AIDS. In times of emergencies neighbours have played an invaluable role in all of these cases and rallied to help affected families either by donating money or food. Compassionate neighbours also provided spiritual support and prayers; others like the neighbours of Cecelia P, would clean the house and cook for them when they had to go to the hospital or when the caregiver had to earn income elsewhere.

In times of financial need some of these household members would also borrow money from neighbours. Sometimes this money can't be repaid and then the borrower would do casual labour in order to pay off the loan. In the case of Samuel K for example he used to do casual work for neighbours in return for food. Samuel K's neighbours also lend him money from a stokvel even though he was not a member. This money was to bury his wife. They then donated money and food in order to help him bury his son soon afterwards. Philani X 's neighbours also rallied together in order to bury his mother when he and his siblings simply did not have the financial resources to bury her.

This type of solidarity and altruism is remarkable when one considers that many KwaDumisa households are financially insecure irrespective of their HIV/AIDS status. However financial insecurity experienced by individual households might be the reason for pooling resources together. According to Fukuyama (1995) the type of social capital as exhibited by these households, is made possible by the fact that they share similar values and norms and this enable them to sacrifice individual interests for the good of the group. Knowing that you can count on

others when a financial emergency exist must provide a sense of relief and reassurance to people whose meagre financial savings have almost been depleted by caring for a sick family member.

This pooling of resources had been taken a step further with the establishments of stokvels and burial schemes. These informal self-help groups empower members both economically and socially. Many of the affected households belong to one or both and see it as an important part of their safety net and survival strategy. Again knowing that you can borrow money from a stokvel or will have the necessary resources to bury a loved one provides reassurance and comfort for people already stressed by financial problems and emotional turmoil over caring for a terminally ill person.

Not all neighbours are this altruistic though. Some take advantage of the vulnerable position these households are in. Samuel K's neighbour, a moneylender, apportioned some of Samuel's land to himself when Samuel K was unable to repay a loan. This land grabbing severely impinged on Samuel K's ability to stabilise his financial ability as both his food security and cash income decreased. His situation further deteriorated, as he couldn't pay the *inyanga* whom unsuccessfully treated his son and was forced to work for him. Accompanying the *inyanga* on his healing mission and carrying his treatment kit diminished his standing in the community and left him feeling humiliated and depressed.

Careworkers also play a crucial role in assisting AIDS affected households. They however have been hampered in their attempts to be of as much help to community members as they would like to be. They provide counselling to HIV/AIDS infected people and their family members but are not allowed to provide any medical help whatsoever and this inability is seen by people such as Nona M as making careworkers useless. Others like Samuel K and his AIDS infected son Goodwill K however appreciates the counselling and spiritual visits careworkers provide and see their compassion, help and visits as signs of their acceptance in the community.

Even though careworkers do not provide medical help, their role should not be underestimated. Sometimes careworkers are the only ones who can persuade infected people to go for a blood test and to seek the necessary treatment as in the case of Petra V's husband who refused to go for a blood test because of the stigma and shame attached to the disease. Careworkers can play a crucial role in home-based care, especially for dying patients. Not only will this relieve hospitals and clinics that are overwhelmed by an influx of patients, but will also help families care better for their loved ones. If careworkers could be trained to provide basic medical assistance to these patients in their homes, it would lighten the financial strain on their cash strapped families, as they do not have to pay money for transport to and from hospitals or pay hospital fees.

Female caregivers in KwaDumisa proved to be quite resilient in the face of despair. Many were forced to become breadwinners when their spouses or children became sick or died. Many of them rose to the challenge and not only cared for a sick husband or child, but also employed a variety of income generating activities and showed remarkable entrepreneurial skills. Phumlani P for example, started a woman's sewing club that sells items such as pinafores and pillowcases. They share the income equally but plan to draw income separately once the club generates more

income. The sewing club also work closely with the female extension officer who helped them set up a garden project.

This ambitious woman is also running a tuckshop and leases land from a neighbour on which she cultivates. She sells her surplus produce and is planning to lease more land in order to start a vegetable garden. She plans to grow spinach and cabbage for commercial purposes in order to augment her income. It seems as if KwaDumisa women are empowered and able to not only take charge of their own lives, but also to provide in the needs of their families. One wonders if the progressive institutional structures such as the advisory Development Committee and the leadership role women play in these institutions play a role in how KwaDumisa women have risen to the challenge that HIV/AIDS imposed on their lives. The female extension officer provides agricultural support and advice to people such as Pumlani P. One wonders if other female leaders such as the chairperson of the Development Committee also play a role in helping these women in their economic and agricultural endeavours.

All of these attempts are vitally important in ensuring that cash strapped families do not sell their land as the land is seen as an investment for future. Without land and agricultural produce, whether for subsistence and or a cash economy, these families will have nothing to fall back on and their meagre financial resources will be depleted leaving them absolutely destitute and homeless.

4.4 HIV/AIDS and land in KwaNyuswa

Description

The Valley of a Thousand Hills is the steeply dissected regions of hills and watercourses lying west of the city of Durban, formerly part of the KwaZulu homeland, and now designated as partly within the Durban Metropolitan Area. Thousand Hills, which includes the large Tribal Authority of KwaNyuswa, which is the focus of this section, is part of the peri-urban zone of dense, partly urbanized settlement which has changed and thickened the occupation of the districts of former KwaZulu located closest to Durban. Three maps depicting location, population density and per capita income are provided on pages 87 to 89.

Service delivery in the Thousand Hills area gathered speed in the early 1990s, and is now advanced in the central parts of KwaNyuswa. Because of its close links to the metro city and its unstable, often transient population, AIDS levels in the population appear to be high, and the area has a number of community-level AIDS services. At the same time, population densification has continued to roll over available land resources for residential use, and the older rural economy structured around household farming and stock raising is under considerable threat. In relation to local government and services access, for the immediate future all but one of KwaNyuswa's component *izigodi* ward sections remain under rural, tribal organization. However, under the Muncipal Demarcation legislation the metro region has already begun to swallow the tribally

structured territories located to the south and west of the city, and the prospect is for further metro incorporation at some unknown point in the future.

The study of the KwaNyuswa area raises some questions about the impact of HIV/AIDS on the land tenure system, through its effects on the household as shown in the case studies. The section, which comprises an overview of the different areas with respect to HIV/AIDS, households and livelihoods, attempts to develop an analysis based on the case data from the different areas. There are 20 cases in the KwaNyuswa sample, enough to begin to open a window into the way AIDS-affected households in KwaZulu-Natal's inner peri-urban zone are relating to land. In this transitional zone, where metro-urban and rural in-migration streams meet, the traditional rural land system – originally based on the old land economy, and adapted to supply the pre-colonial household with all its consumption requirements – comes up against the turbulent urban tenure system. In its popular version, urban tenure as it operates in the informal shack settlements stresses residential priority over any other concern, is based on reliance on the cash economy for all consumption, and all but excludes agricultural land use. In this urban land use system, an attenuated version of the rural land allocation system still prevails, but rental options and tenancy are among the most important mechanisms for getting access to land.

Out of this meeting of urban and rural institutions, a number of trends appear to be emerging which can be related to developments in the other areas of study, which lie further from the transformative orbit of the province's metropole. Perhaps the most significant difference lies in the lower ranking of home agriculture and crop production in household livelihoods at KwaNyuswa, compared to what was found in Dondotha, Muden and KwaDumisa. As noted above, crop production is still carried out by many households at KwaNyuswa, but it is no longer universal. In effect, the classical forms of agricultural land use in rural South Africa – livestock grazing, arable cultivation and residential use – have been competing for the land area of the former homelands, with increasing ferocity since land originally began to become scarce during the colonial period. Production uses have been losing out as the artificially induced population densities of apartheid have continued to rise in the old homelands.

In the peri-urban zone, and to a less extent in more rural localities, stock-grazing has largely dropped out, and stock holdings are now often concentrated in the hands of better-off older men who make up a relatively small fraction of the community. The remaining competition is between arable cultivation and residential use. Arable cultivation requires water and expensive inputs, and has been rising steeply in cost over the last ten years: it is now out of the price bracket for many poorer households who need cultivation products and income badly. Residential use has been taking over allocated arable area in any location where residential sites are in demand, and particularly in the peri-urban zone. As well as designated pasture, allocated arable land is regularly converted for housing use. One path taken by rural and peri-urban households in responding to land scarcity has been greater intensification of production, and a turn toward higher-value crops requiring greater investment: the other has been to abandon production activity entirely, and convert agricultural land for residential use. When home agriculture declines, households become more and more dependent on cash earning. The households of the poor and sick – including particularly AIDS affected households – then have less and less backup options when and if their access to cash income fails.

The impact of HIV/AIDS on land issues in the peri-urban context

At least two wide-scale trends are putting pressure on traditional tenure as it continues to operate in the former homelands, and look likely to combine with the very high incidence of AIDS in peri-urban KwaZulu-Natal to press for change.

First, there is the issue of rising population densities in the rural destination areas which are attracting population movement. The increasing densification of rural population goes along with the shift in the priority of the land system from production to residential uses. But it is also accompanied by high rates of residential turnover and increasingly impersonal communities, in which traditional security mechanisms based on long-standing relationships and high levels of social capital no longer work as well as they did in the past. As high mobility makes rural communities less stable, tenure security appears to be declining as well, and creating a need to reinforce witness procedures with standard written documents.

The increasingly shaky process of tenure security appears to be hitting the rising numbers of weak households, and particularly AIDS-affected households. Families that are not well qualified under the tenure system have the least chance to defend their claims to land and housing, and the tenure institutions also have less capacity to help. High residential turnover and unclear tenure status of land transactions are trends that are most advanced in peri-urban areas such as KwaNyuswa. Sipho D, Vusi M, Busi N, Sibongile C, Bhekumuzi F, Buhle G, Mandla H, Jabulani J, James L, Sandile E, and Thandiwe S were all in-migrants to the KwaNyuswa community where they were living, and their land claims were definitionally weaker than those of local-born residents. All but one of the reported chronic disease cases in which land rights had at some time been either taken away or put under threat were found in this grouping of in-migrant households, and in the one remaining case the land was sold out from under the family by the victim's own father before he left the area.

The second wide-scale trend is the increasing incidence of unemployment in the area. This implies that very large numbers of young men do not marry, thus leading toward widespread tenancy overtaking formal land allocation. The traditional land allocation system depends heavily on the married family – a conjugal unit of married parents with children – as a qualification for both formal citizenship of the community, and for receiving rights to land as a public sign of citizenship status. Unemployment is disqualifying significant numbers of young men – and therefore of young women as well – from legal marriage. Unemployed men are not acceptable partners because they usually can neither support a family nor complete the *lobola* marriage payments owed by the husband to his wife's family. The knock-on effect is therefore to disqualify unemployed men from having land allocated to them through the former homelands' tenure system. The result is that large numbers of younger people are forming unmarried partnerships and finding accommodation through a second-tier tenure mechanism in the form of the room-rental market. Residential rent tenancy is not a mechanism recognised by traditional rural tenure, though it dominates the urban informal areas. As tenants, couples have no formal identity as community citizens, their household is not recognized in relation to shared property or

inheritance, and they have no rights to public guarantees of tenure security. Such rights are emerging informally, but so far are protected only weakly. At the same time, rental transactions for access to agricultural land are generally not recognized either, and therefore remain unenforceable when they are not actually blocked.

HIV/AIDS enters this scenario in various ways. It can further weaken marginal households who are renting land or housing because they cannot qualify for formal site allocation. Likewise, the poverty of AIDS sufferers means they are usually unable to marry, and cannot fulfil the conditions for secure inheritance of land from parents who have died. Vusumuzi M, Daniel N, Sandile E, and Jimmy D were all involved in unmarried partnerships or households with weak tenure rights: it is not clear how Jabu J managed to find the resources he needed to marry, but his position in relation to his uncle's attempted land snatch would have been more precarious if he had not somehow succeeded.

Against this background, a number of linked trends in the relations of HIV/AIDS sufferers and their households to land tenure and land use can be tentatively identified for further study and assessment. The case studies from KwaNyuswa suggest a link between weak households of the kind often encountered in the peri-urban communities, and the more serious consequences of HIV/AIDS, including:

- Vulnerability to land loss
- Loss of access to wage income
- Ineffective internal labour mobilisation
- Decline in cultivation activity
- Further impoverishment
- Collapse or break-up of the household.

It appears to be the case that the same households that had already lost some of their human assets were also most vulnerable both to land snatching and to a fall in cultivation activity.

Land transactions

A handful of transactions in land were contemplated and a smaller number actually took place. It is interesting that two of the women household heads, Magdalene M and Thenjiwe H (the abandoned wife of Mandlakayise H), wanted to sell land but had been blocked from doing it. However, the declared intent in both cases is closer to an investment decision than to a distress sale. Magdalene M, an uneducated traditional widow, inherited a large tract from her husband and earlier in her widowhood contributed greatly to strengthening the local informal land market. She sold land to six households of new people in the 1970s and 80s, and also contributed land for a community garden. But at the time of her son's battle with AIDS she could not lighten her support burden by selling more, since her son was now an adult and the heir to the landholding, and he forbade his mother to dispose of any more land. Since his death, Magdalene M has begun considering selling more land to fund delivery of water to the house. Likewise, Thenjiwe H

wants to build a new house, and would like to sell land to cover the costs, but says she is unable to do it because the TA will not allow her to dispose of any land since her missing husband Mandlakayise H is the landholder of record. This might not hold if Thenjiwe H pushed forward with confidence as Sandile E's aunt did in disposing of Sandile's land against the rules of the tenure system, but Thenjiwe H is very aware of her weak tenure status and has not challenged this prohibition. These stories emphasise another aspect of women's inferior land rights. It is not that their right to use or remain on the land is contested, but rather to reap the benefits of alienating land that might rightfully be construed as theirs.

Not all women household heads did desire to sell land. More frequently, women heads who were in need appeared to rely on credit, borrowing against their pensions or cash incomes, to try to maintain their investment in the future by keeping children in school without having to sell off household land assets. Though KwaNyuswa women have in the past tended to be more willing than men to use the informal land market, and are widely believed at the level of rural social perceptions to be ruthless about selling off land to meet consumption needs, most of the women heads in this group were struggling to stay above water without liquidating the household's land assets.

The picture in the case studies for land sales in households hit by chronic disease might be considered unanticipated. Instead of land sales generally being linked to women heads, as community members often believe is the case, it turns out that land sales on KwaNyuswa's efficient market are strongly associated with weak-structured male-headed households facing severe poverty. To some extent it is because analogous female-headed households are prevented from doing so – as in the cases of Magdalene M and Thenjiwe H.

Tenure insecurity

Within the context of strong and weak households responding to AIDS and other chronic diseases, one specific point that comes up is how a legitimate heir is defined, and what is needed for orphan children to reach the point where they can qualify to hold land. In the gap between the point where orphans find themselves adrift without an adult qualified to hold land and manage the household, and the point where these same orphans can qualify to hold land and hold community citizenship themselves, and also run a household in their own right, is the entry point for the dishonest guardians and self-interested relatives who seem to be preying on the AIDS orphans in all the area case samples.

The households which one might suppose to be most vulnerable to hostile takeover attempts are those which fall into the immemorial category of widows and orphans' families. These households were facing the consequences of deaths in the family, in terms of lost managerial capacity, lost earning, and interrupted land use and occupation, while still unable to put forward fully qualified formal heirs able to claim full tenure rights. These disease-related points of crisis provide the opportunity for relatives with concealed self-interest to move in and exert dishonest claims on the pretext of protecting the shaken tenure rights of the legitimate heirs.

However, the KwaNyuswa study reveals another category of household vulnerable to such takeovers in the wake of HIV/AIDS, namely households whose head can be of either gender, but whose main breadwinner is sick or disabled with chronic disease and has no one available inside the household to substitute in generating income.

In particular, it looks clear that in the households run by youths in the KwaNyuswa case histories, vulnerability was very high. It was not a matter of fencing or borders that made them vulnerable. Their risky position was partly a matter of sequence, in relation to the trajectory of AIDS sickness and death in the family, and partly a matter of tenure standing. As young single men, most of whom were unemployed as well, these heirs could not be formally allocated the land which in principle they inherited even if it was not already being taken over by a relative, nor could they easily approach the traditional authority to help them. It appears that these households become vulnerable at the point when the former household head dies, and the generation of children does not include a qualified married heir able to deal with the tenure system and support the family.

Table 6 – Summary of case studies for the KwaNyuswa area

Situation	Change in land use	Land sales	Land rentals	Tenure insecurity	Comments
Sipho D – Deceased father of two youth who are now staying with their grandmother 2 pockets of land.	Yes. Grandmother's land left idle due to lack of labour and capital. Sipho D's land is being stolen by his relatives.	No.	No.	Yes. Relatives stealing the land of Sipho D.	Grandmother is in control of the land; however, future inheritance to grandchildren is uncertain.
Vusumuzi M – Grandfather of four orphans whose mother died of AIDS in 2001.	Yes. Land left idle since illness and then death of daughter as she used to cultivate.	No. However, Vusumuzi tried to sell, but asking price was too high.	No.	No.	
Busisiwe N – Head of a household of women, including a sick daughter and another who died.	Yes. Much smaller plot now under cultivation due to 2 AIDS deaths and further impact on labour.	No. Household indicated that they would not make any land transfers as regarded as being to important.	No.	No.	Death of eldest daughter impacted on cultivation as she conducted most agricultural activity.
James L – Sick father of four children, living with wife.	Yes. Cultivating a much smaller plot.	Yes. Sold off a portion of land to meet cash needs.	No.	No.	Cultivating all remaining land – alleged encroachment on neighbour's land.
Sarah K – Grandmother looking after children and 4 grandchildren. Multiple ailments in household including AIDS. Receives some financial support from daughter who lives with her and 2 sons not living with her.	No. Maintain cultivation for home consumption.	No.	No.	No.	Would like to cultivate more extensively and throughout year but inputs too expensive in current situation.

Dora B – Grandmother providing for 3 children and 2 AIDS-orphans from deceased daughter.	Yes. Cultivating a small plot rather than extensive agriculture as before illnesses.	No.	No.	No.	Garden too small to supplement income and no labour to increase production.
David T – Brother of 2 siblings all living in the household. Eldest brother has chronic illness.	No. Maintain cultivation for home consumption.	No.	No.	No.	Land too small to produce a surplus for sale.
Rose Z – Chronically ill pensioner looking after 2 children and 2 grandchildren. One daughter is main provider.	No. Use land for home consumption and for sale of fruits from established trees.	No.	No.	No.	Land too small to increase production. Limited labour further limits expansion.
Sibongile C – Widowed pensioner looking after 9 household members including 2 AIDS orphans from deceased daughter. 3 adult members died of AIDS.	No. Maintain cultivation for home consumption. There is pressure on production from less labour inputs.	No.	No.	No.	Would like to cultivate more extensively and throughout year but inputs too expensive in current situation.
Nkosinathi R – living by himself but taking care of 2 nephews living in mother's house. He has no land and lives in a rented room. His land sold by father who left community.	Father sold land before leaving community.			Nkosinathi effectively dispossessed by father.	
Daniel N – ailing 38 year-old man, very likely with AIDS, whose partner died in early 2002, also very likely from AIDS. Daniel is responsible for their 5 children.	Yes. Land left abandoned as a result of AIDS impact on labour and other inputs.	Yes. Part of land sold to offset starvation in household.	No.	No.	Chronic illness (AIDS) had direct impact on land use.
Sandile E – Young man who was dispossessed, along with his 3 younger siblings by Aunt who sold land. Sandile and brother went to KwaMashu to live with Aunt. His younger sisters went to live with his older sister. As the legitimate heir to land Sandile did not fight her as he had a weak status in community as unmarried.	Someone else now using land as it was sold out of household.	No	No.	As the heir, Sandile did not have security as an unmarried and unemployed (at the time) adult. He therefore did not take it to court as he felt he had no standing in the community.	
Bhekumuzi F – pensioned husband of Nelisiwe F. Their daughter-in-law dies after undiagnosed illness likely to be AIDS, and their household	No. Refuses to use land under cultivation. Have 2 pensions. Household has land	No.	No.	No.	As an ex-labour tenant, Nelisiwe will never "cultivate again". She derives her

absorbs twin grandchildren.	equal in size to 3 soccer fields,				livelihood as an informal business women.
Buhle G – Woman who adopted 5 children orphaned by death of sister-in-law due to AIDS and of brother who died of a heart attack shortly afterwards.	Yes. Partial decline in land use due to lack of labour and loss of cultivation skills of dead sister in law. .	No.	No.	No.	The land in question was Buhle's before the deaths of her brother and sister-in-law.
Magdalene M – Woman whose son dies leaving her to care for two teenage grandchildren. 12 people living in household.	No. Has relatively larger holding and cultivating large portion although not all. Utilisation not aggravated by son's death although increased pressure during son's illness.	No. Has sold land in the past but this was before son's illness.	No, and does not seem to be contemplating.	No, except that she is concerned about a rumour that the Durban Metro might start taking people's land away.	She has contemplated trying to sell a portion of her large remaining agricultural holding, not least to pre-empt the possible seizure of the land but the Durban Metro.
Mandla H – Young man dies at the age of 27 of AIDS. Household of 9 people after 2 adult deaths, including Mandla H, from AIDS. Unsupported as husband/father deserted family and they were left depending on Thenjiwe's (the mother) casual labour.	Unclear. Land use seems to have declined mostly on account of departure of Mandla's father, which has meant inadequate money for inputs.	No. Mandla's mother Thenjiwe would like to sell some of the land in favour of acquiring a better house, but cannot as she does not have her husband's consent.	No.	No. Tenure still rests with husband who could potentially cause insecurity for deserted household.	
Jimmy D – Young disabled man dies of respiratory problems in 1996, leaving property in hands of girlfriend who is mother of his child. Girlfriend dies 5 years later of AIDS.	Yes. Jimmy and girlfriend had only a small gardening plot allocated to them by the *induna.* Sick girlfriend stopped cultivating land.	No.	Yes. Original house snatched by relatives – no income. After Jimmy died, the girlfriend still staying in Valley Trust house but relatives also tried to snatch this as heirs of Jimmy as the 2 not married. Valley trust protected her rights, supported by *induna*. After her death, her mother took over and carried on renting the house out.	Jimmy D.'s relatives contest the right of the girlfriend to keep the house, even though it belonged to both of them. The NGO that built the house sought assistance from the *induna*, who kept relatives at bay.	
Jabu J – Young man whose mother dies is persuaded by grandmother and uncle to vacate his plot in favour of a half-brother, but later discovers that the uncle has engineered a deceit to	Unclear. Not clear how much land under cultivation, particularly after he was married.	No.	Yes, however the renting out of the land was without Jabu's knowledge and consent. When the uncle was excluded by	Yes, though the matter appears to have been resolved in Jabu's favour through the intervention of the tribal court.	

establish rental units on the land. Rental already established earlier on land. Jabu already ill as he contests the uncle's actions.			the tribal court, the land fell back under Jabu's control. Unclear what happened with first structures set up for rental.	Not clear what transpired with first rental units.	
Elias H – Dead husband of Nakile F, an elderly woman whose daughter died in 1998 of AIDS. Although Nakile is the main supporter. Her daughter used to contribute towards the household livelihood.	No. Daughter appears not to have helped with cultivation; slight decline in land use ascribed to Nakile 's age. Still earning cash by selling vegetables from her garden. This part of a diverse income earning strategy.	No.	No.	No.	
Thandiwe S – 15 year-old girl who is one of many grandchildren who used to live with grandparents, now deceased. 13 members of household: 3 daughters, 8 grandchildren, 1 great-aunt. Some assistance by uncle resident in Pietermaritzburg; support insufficient for household over the month.	Yes. Land use has declined since grandparents died; only a small area immediately around the house is used. Daughters not putting effort into cultivation to make land effectively utilised.	No.	No.	No.	Uncle effectively head of household' living away from home. Despite the possible vulnerability will not be snatched by this uncle as he will have to take care of 13 people.

5 Synthesis

This section synthesises the findings from the case studies. The strategy of the synthesis is first to summarise general patterns as to how HIV/AIDS affects households, and then to delve specifically into land issues.

5.1 General patterns observed in households affected by HIV/AIDS

The pattern of illness and impoverishment is fairly common to all of the case studies. The intensity of the effects depends significantly on who within the household falls ill, what economic role they played prior to the illness (e.g. breadwinner versus dependent), and how long and how intensely they have been or were ill. Moreover, among the households in the sample, some are only beginning to experience these effects now, some have lost members very recently and thus are probably at the peak of the immediate economic distress caused by the illness, and still others have lost a family member two or more years ago and may be beginning to cope again.

- Wage income of the ailing person (if an adult) is reduced or lost altogether, depending upon the extent to which they have to stop working. Upon losing wage employment, some seek to compensate with irregular piece jobs in the secondary labour market, or sometimes engage in petty commerce. This allows more flexibility than is permitted under wage employment, but also eventually must be abandoned as the illness progresses.

- Caregivers of those who are ill also partially or fully abandon income-earning activities in order to tend to the ailing person. Those with wage employment may take leave, are retrenched, or choose to quit, sometimes turning to informal sector opportunities that can be fit around their care-giving responsibilities.

- Despite the fact that government subsidises care and treatment available in its own clinics, AIDS-affected households tend to deplete their resources in search of medical or spiritual treatment. Transport often figures as an important component of these costs, especially for those living in more remote rural communities. Sometimes this medical treatment is partially successful in extending the person's life and in improving its quality temporarily, e.g. when tuberculosis is successfully treated pending the next opportunistic infection. Depletion of household resources, however, is nonetheless very real, and is aggravated by the fact that many people afflicted with HIV/AIDS are ill for a long time and consult a mix of Western doctors, traditional herbalists, and faith healers, especially if frustrated at the absence of any health improvements.

- When a chronically ill person dies, funeral expenses tend to impose a significant burden, especially on those households whose resources are already badly depleted. Because many AIDS-affected households are fragmented (see below), the burden of paying for funeral arrangements is often borne by a small number of people.

- Households become increasingly apt to take short-term credit from moneylenders and *stokvels.* This borrowing sometimes takes on the aspect of a debt trap, which the person struggles to escape because of high interest charges and lack of resources. Elderly people often borrow against their pensions, sometimes to the extent that after the moneylender gets his share little remains from the pension on the very day it is drawn.

- Secondary effects on caregivers can include stress-related ailments, malnutrition, social exclusion, and substance abuse.

- Children leave school prematurely to earn income to support the household and/or to assume some of the burden of household chores. Sometimes also the impoverishing effects of the disease are such that the household can no longer afford school fees and other school-related items.

- Affected households may indeed emerge from the crisis of losing a family member to AIDS, but it may take a number of years. The ability to recover appears to relate as much to resourcefulness and ingenuity as to material resources.

5.2 Effects of HIV/AIDS on household structure

A particularly complex effect of HIV/AIDS is in relation to household structure. The most obvious effect in this respect is that AIDS may eventually result in a parent and provider passing away, often leaving a single-parent household. This often places extreme pressures on the surviving partner, who in many cases may also be ill, and/or may be unaccustomed to earning an income. Even where the surviving partner is already a breadwinner, the exigencies of becoming a single-breadwinner household that relies on a narrow range of income sources, makes the household both poorer and more vulnerable.

However, a number of other tenuous situations also emerge:

- Strained relations between a widow and the late husband's family, who on some occasions seek to claim the late husband's property, especially if the widow is relatively young. In some cases, the situation manifests itself as the brother of the late husband insisting that he and the widow marry. If they seek to resist this pressure, widows may find that their support network is shrunk, because they cannot rely on these same relatives for help in critical times, and even other community members may be alienated. If the widow does accept to marry her late husband's brother – usually out of desperation – then he may or may not provide genuine support to her and her children.

- Orphans of parents who have died from AIDS-related diseases generally appear to be taken under the wing of extended family members. This can take different forms, for

example an aunt coming to stay with the children and to assume the role of household head, or just to provide assistance to the children. Alternatively, it can mean that the children are absorbed into and relocated to another household, or even split up among different households belonging to the same extended family. In either case, the experience of the orphans can be very positive – in that they receive genuine caring and support – or it can rather be one of neglect and exploitation. In terms of exploitation, the main target seems to be in order to be able collect a child support grant, though one could also argue that an uncle who assumes responsibility for a late brother's children needs to access these grants so that he is able to provide for them. In any event, it does not appear that exploitation of orphans by extended family members is so common in reality as anecdotal evidence sometimes suggests, i.e. focus group participants draw attention to this problem in a general way, but it was observed in the course of the household interviews in only a small number of instances, and even then rather ambiguously.[14] An equally small number of instances were discovered of extended family members assuming responsibility for orphaned children in an attempt to gain control of their land.

- The creation of 'granny households' is a special case of the previous situation, i.e. a grandmother or grandparents assume responsibility for their grandchildren because of the death of the children's parents. This situation places extraordinary pressures on grandparents, who typically rely mostly on their fixed old age grants for survival, and who often struggle to get children registered for child support grants.

- The issue of unqualified heirs is another serious issue relating to the impact of HIV/AIDS on household structure and tenure insecurity. The demographic impact of HIV/AIDS puts the youth category into the most vulnerable position. With parents dying in early middle age, unmarried youth between the ages of 18 and 25 seem to be inheriting more and more often, without being able to formalise their standing: marriage is expensive and very difficult for even employed youth if they are living on their own without parents to sponsor and assist with costs. Such households are particularly vulnerable to losing their land rights. To come up with policy measures, it is critical to understand the kinds of households that emerge from AIDS, and to come to grips with their resources, objectives and level of capacity.

- Intra-household ostracism sometimes results in an infected member being ejected from the household. When this happens, it seems to usually be motivated by a fear of contagion, outrage at the ill person's 'immorality' for having exposed themselves to HIV, and perhaps as well a real fear that the ill member will impose an unmanageable burden on the household as the illness progresses. Sisters/daughters appear to be more vulnerable to being ousted in this fashion, especially because the standard applied to women's 'morality' is much greater than that applied to men. Even though the ousting may not be motivated by a desire to usurp the ill person's land rights or land access, there

[14] One reason to suspect that the adoption of children is not frequently motivated by a desire to acquire their child support grants is that the grants are only available for children under the age of 7, which immediately precludes most children below the age of 18.

are serious consequences for the ousted individual, not least in being deprived of a place of residence and of the support from family members.

Households that are hit by AIDS have a high likelihood of being badly damaged, in part because the impact tends to increase the dependency on a smaller number of providers and caregivers, and in part because the inter-personal situations that emerge are fraught with tensions, such as those stemming from resentment and fear. Both of these factors may be further played out in the context of the affected household's land holdings, on the one hand because the economic importance of any asset – especially a productive asset – is enhanced as other sources of economic support falter, and on the other hand because given the intra and inter-household tensions that often arise, the affected household's rights over that land may be contested.

5.3 Effects of HIV/AIDS on land issues

Here we seek to summarise findings in respect of the core issue of this report, namely the link between HIV/AIDS and land issues, where land issues are conceptualised to include the inter-linked dimensions of land use, land rights, and land administration.

Land use and land-based livelihoods

The KwaZulu-Natal study confirms the findings from numerous other studies in Africa, including reported studies from Kenya and Lesotho, that one of the earliest and most direct consequences when HIV/AIDS hits a rural household is that it has less labour available to work the land. This is because individuals suffering from AIDS-related illnesses are less capable of performing agricultural tasks, and because caregivers of those suffering from such illnesses have less time available for chores in general. A third factor leading to under utilisation of land is that as households become ever more impoverished by expenses associated with medical care, funerals, and debt repayment, they have less money available to purchase seed or pay for ploughing services.

It is important to note that under-utilisation is more common than non-utilisation. Often what is observed in the KwaZulu-Natal case studies is that fields are sown but only partially so. Inadequate weeding means that less is produced even in relation to the smaller amount of land that is used. Where before production might have been sufficient to meet household needs and left a surplus for cash sales, now the level of production falls below what is necessary for the households.

Another problem with land under-utilisation is that, in many localities, leaving land idle made it vulnerable to seizure. This helps explain why total non-utilisation was rare except in the early stages when the household AIDS crisis was unfolding, and sometimes amongst households consisting of orphans, which have been only weakly integrated into another part of the extended family. Thus, stricken households eventually adopt strategies to ensure not only that non-

utilisation does not occur, but that under-utilisation was minimised. Based on the KwaZulu-Natal case studies, an AIDS-affected household has four main options when faced with the prospect of under-utilising its land:

- Hire casual workers – This have the disadvantage of placing an obligation on the household to pay for the work, which it may not have the resources to do so. On the other hand, this option allowed the land to be used for the household's benefit, while ensuring that the land was not seen as left idle. This was the most common response of households unable to continue the full utilisation of their land due to inadequate labour resources. [15]

- Rent out the land – This option would appear to be ideal, in that the household would receive a cash income without having to put cash down up front. The fact that rental payments were often on a monthly basis was also advantageous in that it spreads out the benefits from the land more than if the household used the land itself. The problem with this approach, and the reason it was not used more often, is that rental markets are not well developed in most tribal areas of KwaZulu-Natal, and in some they are positively forbidden. Those households from the survey who did opt for renting out their land felt the need to be vigilant lest the lessee or someone else usurp control of the land altogether. One strategy adopted was to conduct the rental agreement in the presence of the headman so that he could serve as a well-informed referee should any problems arise. (Obviously this is not relevant in areas where renting land is forbidden.) It is possible that in the absence of the fear of losing land rights, many more AIDS-affected households would prefer this option. As it stands, the tenuous nature of renting land is such that rental rates are very low, thus benefits are not what they would be if proper rental markets existed.

- Enter into a sharecropping arrangement - In a small number of cases in the KwaDumisa area, which still has a significant agrarian economy, the crisis of illness caused by HIV/AIDS has cut off many households from using the land effectively. This has been largely a result of the impact on labour and agricultural inputs. Some households attempted to set up sharecropping arrangements with their existing land. The vulnerability caused by HIV/AIDS has, however, placed many of these households in a weak position when negotiating the terms of the sharecropping contracts. The fear of losing the land to those now utilising it was a major concern expressed by households considering sharecropping.

- Sell the land – This was considered an extreme measure, and few of the households in the study contemplated selling, much less actually did so. Selling land was considered extreme as it both precluded future benefits from the land – i.e. despite its crisis, the household tried to maintain a long-term view of its situation – and because it meant forfeiting an important element of the family's patrimony. To the extent households need to raise significant cash quickly, as when preparing for a funeral, they tended to rather

[15] This suggests that payment to casual workers is modest. Unfortunately, however, the fieldwork for the project did not involve collecting information on the terms of the employment of these casual workers, i.e. what they were paid and when.

borrow sums of money from moneylenders or from rotating savings and credit associations, or they liquidated other assets, such as livestock and furniture. The one exception was KwaNyuswa, in which three of the poorest households did indeed sell their plots. The informal land market in this area has allowed some households to sell land in crisis situations. This land is more valuable for residential purposes than for agricultural production and there is always a demand for such property close to the job market offered by the city. However, informal land markets results in mounting uncertainty, which makes economic land use risky for many.

The termination of cultivation due to a lack of inputs intensified by HIV/AIDS has resulted in many households becoming increasingly dependent on the cash economy, lending associations and state welfare grants, or dropping further into the poverty cycle. However, for many households the rights to land remain a potential solution to the crisis of HIV/AIDS and poverty, if they can find the resources to cultivate it. A few households in KwaNyuswa, a densely populated peri-urban area outside Durban, have either revisited production or intend to do so if they can mobilise resources in attempts to ameliorate the impact of HIV/AIDS and poverty. The impact of HIV/AIDS, however, usually severely undermines existing resources so that agricultural activity no longer is an option for many households.

Land rights

As already suggested, land use is intimately linked to land rights in that leaving land under-utilised can aggravate the risk that the household is dispossessed of that land. However, AIDS-affected households' concerns around land rights extend well beyond this particular consideration. Numerous studies in South Africa have shown an increasing breakdown of customary management arrangements and the often dysfunctional mixture of old and new institutions and practices (Adams et al, 1999). People are often uncertain about the nature of their rights and confused about the extent to which institutions and laws affect them.

The central issue in respect of HIV/AIDS and land rights from the KwaZulu-Natal case studies is inheritance, especially in the context where a woman's husband dies or when children lose their parents. Traditional, cultural norms in KwaZulu-Natal were such that women were generally not seen as having land rights independent of their husbands, thus upon a husband's death, there is a presumption that the woman remains in possession of the land at the sufferance of the husband's extended family. The position in respect of orphans was similar. However, in many areas of KwaZulu-Natal, this cultural norm is not as strong as it once was, and it is increasingly common for women to resist pressure to either relinquish their land or marry back into the husband's family, if that pressure is there at all.

Among the study sites covered in this research, KwaNyuswa is the most extreme example of where the patriarchal cultural norms have lost their force, in large measure because the traditional tribal institutions have themselves become increasingly impotent in the face of rapid in-migration. However, in Muden and KwaDumisa, half of the eight widows interviewed were forced to stave off pressures from those seeking to gain possession of their land. In two of these cases, the

pressure was exerted by members of the husband's extended family; in the third case the pressure came from two strangers who were posing as relatives of the late husband; and in the fourth case the problem was with a neighbour who was a lessee. It should be noted however that in two of the cases where widows did not experience a threat to their tenure security, it was largely because they themselves had purchased the land. If one excludes these two cases as being fundamentally different, then one can say that four out of six widows who claimed land as their rightful inheritance felt their tenure security threatened. By contrast, only one example was found of a widower who lost his land (out of four widowers interviewed), and this was to a moneylender to whom he had pledged the land as collateral.

In the two cases in which the widows were faced by pressure from the husband's extended family, they encountered problems with levirate or widow inheritance, a traditional practice in which the late husband's brother assumes a married relation with the widow, usually as a second wife, and takes over the responsibility of running and supporting the household of the deceased brother. It is expected that the arrangement would guarantee the support of the widow and her children, although in return the surviving brother would take over the late brother's assets, as well as the control of other resources and of the personal lives of the widow and her children.

Among the five interviews conducted with orphan-headed households in Dondotha, plus seven other interviews from Muden and KwaDumisa that also pertained to orphan-headed households, five (42%) actively experienced insecurity. In four of these cases, the pressure was exerted by a relative, or sometimes a relative in conjunction with another party (e.g. moneylender, boyfriend). In the fifth case, the threat emanated from a neighbour, who initially attempted to position himself as the children's guardian. Of these five attempts, one was initially successful, though the children regained the land when the offending uncle died. In most of the other cases, the intervention of the headman or the chief was instrumental in ensuring that the orphans' rights were protected.

A question naturally arises at this juncture: given that the central land rights issue is about recognising woman's rights in land upon the death of her husband, or children's rights upon the death of their parents, what is different about deaths due to HIV/AIDS versus those due to other causes? One possible answer is that it is not the disease itself, but rather the fact that the pandemic is placing many more woman and children in this position than ever before because AIDS leaves many relatively young widows and orphans. On another level, however, the specific manner in which HIV/AIDS impoverishes households means that upon finding herself a widow, a women has few resources left with which to resist outside pressures exerted by neighbours or members of the extended family, or make choices that are ultimately in her own best interest. A sadly typical situation observed in a number of the case studies from this study involve women who, still trying to repay debts incurred to pay for the late husbands funeral, are presented a choice to either yield to the wishes of the late husband's family, or be altogether shunned. One striking theme that emerges from the case studies, however, is how characteristically resilient and resourceful many of these women are.

Land administration

The main respect in which land administration was directly perceived in this study was in terms of measures taken by households to protect their land rights. In an overwhelming number of the cases where widows' or orphans' inheritance of land rights was directly threatened, it was the intervention of the headman or, more rarely, the chief that extinguished that threat. This was true even in Muden, which is not technically a customary area but which nonetheless has been effectively absorbed into the adjacent tribal administration. What is not clear from the case studies is exactly on what grounds the traditional authorities decided to come to the assistance of those whose rights were under threat. Reading between the lines, it appears in some cases that the manner in which the headman intervened was based on compassion for struggling households rather than out of respect for rules or norms. While this compassion is not to be dismissed (presuming this is the correct interpretation), neither can it be considered reliable. To recall one example from Muden, Thembisile J enlisted the intervention of the headman to ward off two men who claimed to be brothers to her recently deceased husband. The headman exposed the two men as impostors, and thus their attempt to gain control of Thembisile's land was unsuccessful. What is unclear however is what the headman would have done had he been unable to disprove the men's claim.

Another situation in which the role of the traditional authority was in evidence was in facilitating land renting. A handful of households who, because of AIDS-related illnesses were no longer capable of using their own land fully, sought to overcome the insecurity associated with land renting by engaging the assistance of the headman as a witness. This is in lieu of other, probably more satisfactory administrative arrangements for facilitating land renting, but it appeared to be nonetheless efficacious, and to the obvious benefit of the households. The fact that land renting is not more common most likely reflects the fact that in many customary areas of KwaZulu-Natal, the traditional authority itself forbids land renting. This was for example the case in Dondotha. However, another concern/possibility is that, even in an area where the headman is sometimes willing to oblige in facilitating a rental arrangement, his intervention depends in large measure on the land holder's relationship to him. The reason this is suggested is that, in two of the cases where the headman was called upon to perform such a function, the landholder was in fact a relative (albeit perhaps a distant one) of the headman's, suggesting that perhaps many other people who might similarly benefit from renting out their land would not presume to make a similar request to the headman.

6 Conclusions and Recommendations

The preliminary nature of the present study means that policy recommendations are sometimes also of a preliminary nature. In particular, some recommendations remain relatively general, and would need the benefit of further study in order to be usefully refined. However, other policy recommendations fall clearly out of the foregoing analysis. By and large, the recommendations are logical responses to what was learned from the respondents; this is not to say that the recommendations were themselves offered by the respondents, nor that they necessarily concur with them.

The policy recommendations are presented in three distinct sets. First, those that are general in nature but that are also of importance to the question of HIV/AIDS and land are presented. Second, we indicate areas in which land administration systems in tribal areas could be fortified to take into account specific concerns around HIV/AIDS and land; and third, we present a list of strategic interventions and actions that could be taken to further ameliorate the situation in respect of HIV/AIDS and land.

General recommendations

1 Increase the capacity of households to engage in income generating activities, both agricultural and non-farm activities. While this is obviously already an objective of government across the board, it would be a particularly important way of assisting households affected by HIV/AIDS, and thus could be targeted at such households. The importance of non-farm income generating activities is not in helping to sustain the households directly, but also because, as is well demonstrated in the study's case studies, households with some steady cash income are more likely to be able to make effective use of their land.

2 Increase access to water for gardening purposes. Pro-poor government-supported water programmes tend to fall into two categories, namely those that focus exclusively on water provision for human consumption, and community garden projects that tend to be very expensive and reach very few households. Innovative, low-cost approaches to improving accessibility of water for gardening, including of 'grey' water that is not fit for human consumption, would have an impressive impact on household's ability to benefit from the often modest amounts of land they have. As with the previous recommendation, this is general in the sense that it is something that would be valuable across the board, but on the other hand could also be particularly focussed on rural communities where there is known to be a large concentration of AIDS-affected households.

3 Carry on with the sensitisation of people to the reality of HIV/AIDS and promote voluntary HIV testing. One observation from this study is that individuals who fall ill dissipate a large amount of their and their family's resources in getting second and third

opinions from a variety of types of healers and doctors. While one can only sympathise with the immense challenge of coming to terms with a fatal illness such as HIV/AIDS, the public at large must be encouraged to opt for HIV testing so that, should they face the bitter reality of being HIV positive, at least they have some resources left when they need them most.

4 Enhance support to the elderly. The role played by the elderly in either keeping households together, or providing a refuge for children orphaned by AIDS, cannot be over-emphasised. However, the material poverty of many elderly people means that they often perform this role at immense personal cost, and receive in turn only modest support (see also Du Guerney, 2001). Recognising the elderly for the resource they are, the state should seek additional ways of supporting them, for example in facilitating their access to child support grants on behalf of their grandchildren, especially if and when these grants are modified to cater to children older than 6 years.

Recommendations in respect of land administration

5 The land registration system in tribal areas must be strengthened. Most tribal authorities maintain some form of written land register, but these registers are often unmethodical, incomplete, and difficult to effectively update. This has the effect that the register is not as useful as it otherwise might be in helping to resolve land disputes, thus opening up too much space for those wishing to unfairly usurp other's rights (e.g. lessees from lessors). A critical function of better-maintained land registries would of course be to reflect rights in land of women, adult children, and in some cases perhaps minors.

6 Tribal land administration systems should be strengthened all around. Various systems could be devised in order to improve the tribal land administration, for example drawing on the example of Malawi whereby tribal land clerks are trained in a number of land administration functions, and then appointed to assist tribal authorities perform their various land administration functions. These land clerks might be similar to the communal land rights officers contemplated under earlier drafts of the Communal Land Rights Bill.

7 Ensure representation of weaker individuals and households in respect of land administration. A particular challenge in view of the topic of this report is ensuring that the interests of weaker households are represented in land administration functions. This implies widow-headed households, orphan and youth-headed households, and poorest households generally. These households are more likely to lack voice in ensuring that those in authority are aware of their problems and needs. One practical possibility would be to create a post for an ombudsman at community level, whose role it is to interface with poorer and more vulnerable households, and in particular to have the power to intervene when intra-household problems erupt which traditional authorities are disinclined to address. Other functions of the ombudsman could include

assisting those households enlist for grants (e.g. child support grants) who presently find it difficult to do so because they lack the proper certificates or are unaware of procedures.

8 Facilitate the development of the land rental market. This recommendation falls out clearly from the case studies, which revealed that AIDS-stricken households must often temper their desire to rent out land which they cannot currently make use of, against the fear that renting it out might lead to dispossession. A number of steps can be taken to facilitate the rental market, of which the most obvious would be to develop the land registry system, as mentioned above, but also to develop simple formalities for centrally recording the terms of rental agreements.

Strategic interventions and actions

9 Government make a clear, public statement to the effect that the confiscation of land from AIDS-affected households is unacceptable. Although a symbolic gesture, it would nonetheless serve to raise public consciousness on the issue.

10 10Initiate large-scale sensitisation and training campaigns for the benefit of traditional leaders, community health workers, traditional healers, social workers, agricultural extension officers. The aims of these campaigns could include generally themes such as ensuring that various categories of community-based officials understand basic concepts of land tenure, the vulnerability of particular groups in respect of land, land administration procedures, etc., as well as more targeted messages such as the disadvantages of promoting high cost diets for AIDS sufferers in poor households.

11 Community health workers must especially be recognised for the valuable resource they are, not least because they have a greater awareness than most other community-level officials as to the circumstances affecting particular households. The active and constructive role of community health workers in mending intra-household disputes arising out of the discovery that one household member is HIV positive, is one example of the powerful role they can play. Accordingly, community health workers should be afforded a special measure of support to perform their role.

12 Strategise with officials within agriculture departments and Land Affairs to take better recognition of diverse household types that result from HIV/AIDS impacts. The premise of this recommendation that many interventions, e.g. agricultural extension, are based on one model of what a target household looks like, and as such other types of households – especially those that have been distorted by the pressures imposed by HIV/AIDS – are not engaged with successfully or are not even reached. A concerted effort to review land-oriented government interventions to constructively determine how they could be revised to take into account non-traditional households would do much to improve their effectiveness.

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APPENDIX ONE:

INTERVIEW QUESTIONS

This is a study of the impact of long-term chronic illness on land, agriculture, and land rights. We need to identify households which have been affected by any one of these long-term chronic illnesses - it can be TB, chronic pneumonia/bronchitis, or HIV/AIDS, or any other sickness that continues for a long period and uses up the assets of the household, resulting in poverty.

We are particularly interested in what households in this situation are doing with land, and what happens to their land assets as a result of the household being weakened by the chronic illness and the resulting process of impoverishment. That is, we are looking at land over the course of the illness: in terms of what land is held, how it is being used, and what kinds of transactions are taking place. Some of the symptoms, which are often found in these cases, are listed below to help identify families with these problems.

1. DIAGNOSTIC SYMPTOMS

- Loss of weight/ wasting/ progressive weakness
- History of trying different medical alternatives
- Sudden unexplained and undiagnosed illness
- Other opportunistic diseases: eg, pneumonia, TB, lung problems in general, skin problems, diarrhea
- Mouth and throat infections or difficulty in swallowing
- Death follows wasting onset, 6 months to 1-2 years
- Loss of access to wage work by supporters
- Forced retirement of workers, or medical resignation
- Changes in household support
- New mothers who are not breast-feeding their babies
- Loss of land or change in land access or land use
- Assets of household lost to treatment costs, transport costs getting to treatment

- Labour time demands on household of caring for ill person
  → women in household lose formal jobs or have to resign
  → children taken out of school to help with care

- Arrival of orphans in household
- Deaths of adults resulting in child-headed households

2. IDENTIFYING THE CHRONIC ILLNESS EVENT

There are a number of possible illness events that could identify events that could identify households for the study - we need to know what kind of event the household suffered from, when and over what time period:

- Chronic sickness of household member - who?
- Death of household member from chronic sickness, after extended illness
- Arrival of orphans, children of late relative needing care
- Establishment of child-headed household due to deaths of parents

All the case study narratives start from the onset of the original chronic illness that led to the consequences listed. Then we need some information on the course of the illness: when did it start, how did it proceed, how did the household respond and what were the coping strategies? What happened to the sick person? IF they have died, what has happened to the household? If the original household disappeared because of the death of the parents, then we are interviewing the household which has accommodated the survivors.

3. SHOWING THE IMPACT OF THE ILLNESS

General background: Origins of the household: where did this family come from - their original place? When did they arrive in this community, or when did a family born locally set up their own household?

Land assets: What land parcels does the household hold now? That is, how much land (in soccer fields) and of what kinds? Residential, garden, maize fields, other plots?

What land assets did the household have before the onset of the chronic illness? From whom did the household get the land they had before the onset of the illness?
Please include the history of the land plot(s) as part of the narrative case history.

Household tables: Create the 2 household tables, for all the individuals who are in the household now, and who were in the household just before the illness began. The household tables should cover:

- Who lives in the household?
- Who is the main supporter?
- For each member:
- age and gender
- Exact relation to household head - who are the parents?

- Schooling
- How often sleep and eat in the home
- Economic activity: wage job, informal work, receives remittances, pensions or other grants, home agriculture, reliance on natural resources?
- Is anyone outside the household actually supporting?

In relation to the types of income that the household is surviving on, for the sake of speeding up the interview we are only asking the amount of income from the two main sources of income. For all the others which are coming into the household, we are only asking yes or no - do they have that kind of income or not?

4. HOUSEHOLD CASE STUDIES

Making a living:

- How is the household supporting itself?
- Who is the main supporter?
- When things are tough, how do you make ends meet?
- How do you cope with emergencies?
- Have you incurred any major expenses as a result of the original illness?
- Are there now enough people in the household to do the necessary work? What tasks are going short?
- Is it still possible to do the same kinds of informal earning activity now as before the onset of the chronic illness?
- Is it still possible to do the same kinds of cultivation now as before the onset of the chronic illness?
- Does the household have any way of marketing its crops? Access to a local market? Or to outside markets? For supported crops like sugar or timber?

Assets:

- Have you bought, sold, lost, or disposed of anything valuable as a result of the chronic illness?
- Has anything valuable been inherited? Was any such inherited valuable thing lost during the course of the chronic illness?

Credit and debt:

- What use are you making of credits and borrowing? Personal debts? Stokvels? Bank loans? Other kinds of credits?
- Does the household use any kind of credit to provide the money for cultivation? If yes, what kind?
- How important is credit and borrowing to the household now? Is this more or less important than before the onset of the chronic illness?

- Has the household had any bad experiences as a result of using credits? What happened?

Changes in land size and use:

- What has happened to the total size of your landholding? Is it larger or smaller now than before the chronic illness began? Or the same as before?
- Have there been any changes in what the land is being used for? Different crops? More cultivation? Less? None now? None before?
- Has there been any change in the amount grown, of the main crops? More or less? None?
- If there have been such changes in the amount of land being used or the crops being grown, what are the reasons? Please tell the story.

Land transfers:

- If there have been changes in the total size of the landholding, what has happened?
- If some land has gone out of the household, who now has that land?
- Who had that land before, if the household has more land now than it did before?
- Are you thinking of selling or disposing of any land? What land, and why? Who to?
- Do you now have any land that you are not using? What do you intend to do with it? What is likely to happen to it if you are not able to use it?
- Has any land been taken away? By the other members of the family - the brothers of a late husband? By the neighbours? By the Tribal Authority? Or by anyone else? Who?

Temporary land transfers:

- Concerning leasing or sharecropping of land, we want to know whether there has been since the onset of the illness in the amount of land which is being used due to temporary transfers - that is, is the household using land which actually belongs to someone else, or is the household allowing some other person to use some of their land?
- If there is any such agreement, are the terms that were agreed to being observed in the proper way? Or is the other party not behaving in the right way about the arrangement?
- Has any of the household's land been lost to the household as a result of trying some temporary arrangement for someone else to use it?

Social capital and power relations:

- How many families that are related to you do you have around here?
- Any relations among the people who are in the community structures?
- Is there anyone around here who would help in an emergency?
- Does anyone in the household belong to any groups, clubs, associations or local institutions? If yes, to which ones?

Resolving the crisis of the illness:

- Who was able to help the family? What help did they give? Was anyone else asked, but they were unable to help?
- Has the situation for the household stabilized after the crisis caused by the chronic illness? Are things now all right, or has the situation remained difficult or very difficult?
- What would be needed for the household to come out all right? Can this be done by using the land?
- Are any death benefits or back wages due as a result of the illness? Have these been paid? Any insurance or other kinds of payment?

Agriculture:

- How do you see agriculture in relation to your sources of income? Is it a possible source of income or food support for your family under the present circumstances? Why or why not?
- In order to do some agriculture for the family, do you have the things you need? Are you short of money (money for what exactly)? Do you have as many workers as you need? Have you got any place to sell, or an outside market? Do you have access to transport for produce? Is it affordable to sell outside, or does everything cost so much you get nothing?
- How much of your land are you actually planting this year? How much did you plant before the onset of the illness?
- Does anyone in your household have a community garden plot? When did you obtain this plot? Is it helping you? Do you have a good way to get seeds and fertilizer and other supplies?
- How about ploughing services?
- Can you afford to buy supplies and also get your land ploughed? If it is too expensive, what are you able to do?

5. FOCUS GROUPS

We are asking for focus group interviews targeting surviving women, one group of 5-12 women in each community. We are specifically interested in what land-related opportunities are open for women in households affected by chronic illnesses to use land to make a living, especially when the husband or other employed person has died or become too sick to work. What things can women do safely, without risking loss of the land? What things would make money, but would be risky in terms of the security of the land?

What protection can the power structures of the community offer to women in such households? Do they offer protection? Or are some of these structures themselves a danger to women whose households have become weak? Does land get taken away unreasonably? How about the families of the husbands who have died? Do the male relatives try to take land from women who are now alone in supporting their family?

How do the women feel about the rights of their own children, if they themselves became sick with some chronic illness? Do they see as if the children would be able to inherit the land the women are holding now? If there was no father living at the time?

What can the participants say about child-headed households? What are the risks they are facing if they try to cultivate to support themselves? Do such households usually manage to keep the land they should inherit? Or does it usually go to someone else?

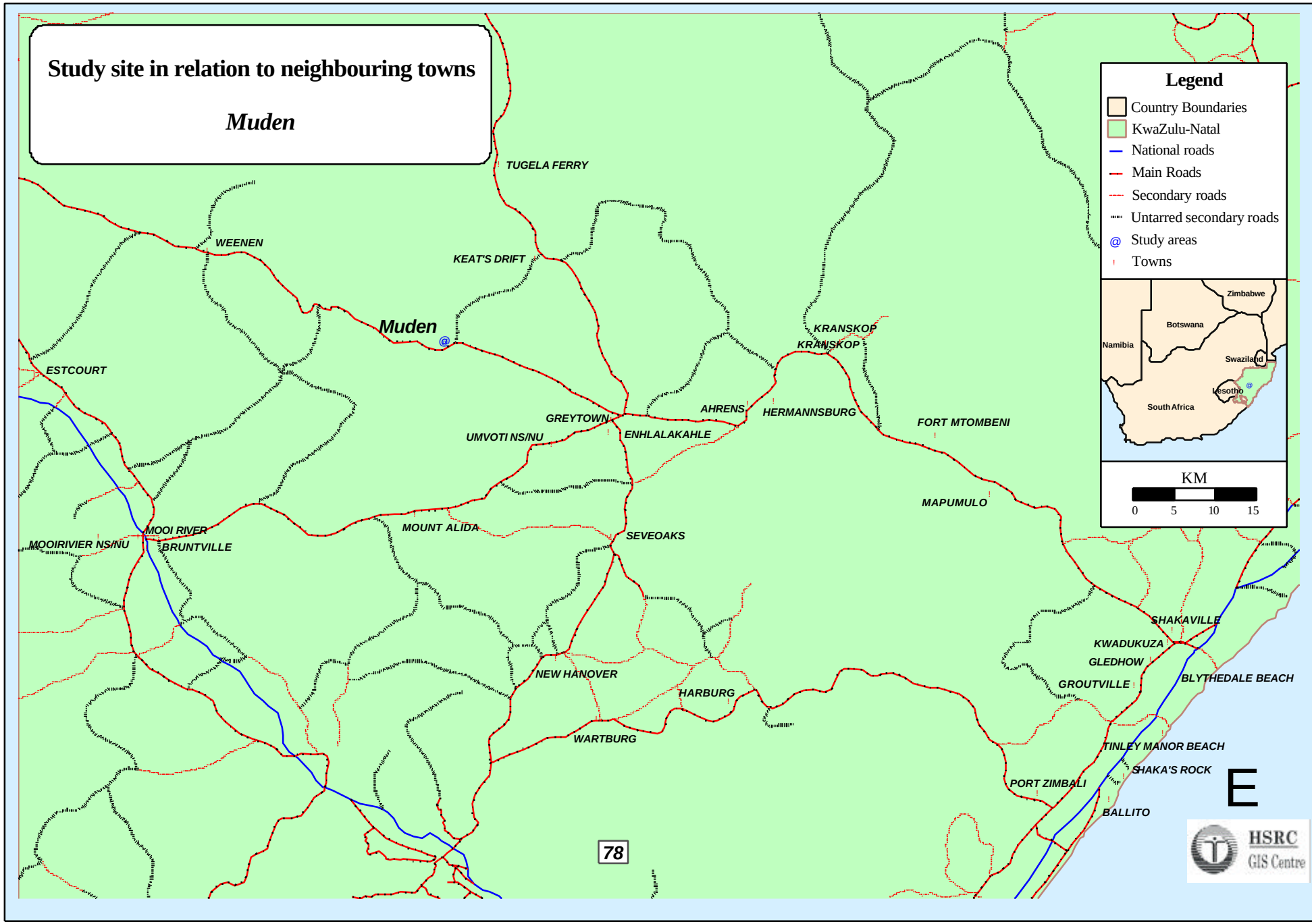
How about covering the costs of cultivation? Can surviving women or orphans usually find the money if they want to cultivate? Can they succeed at all if they do not have money to buy supplies and get the land ploughed?

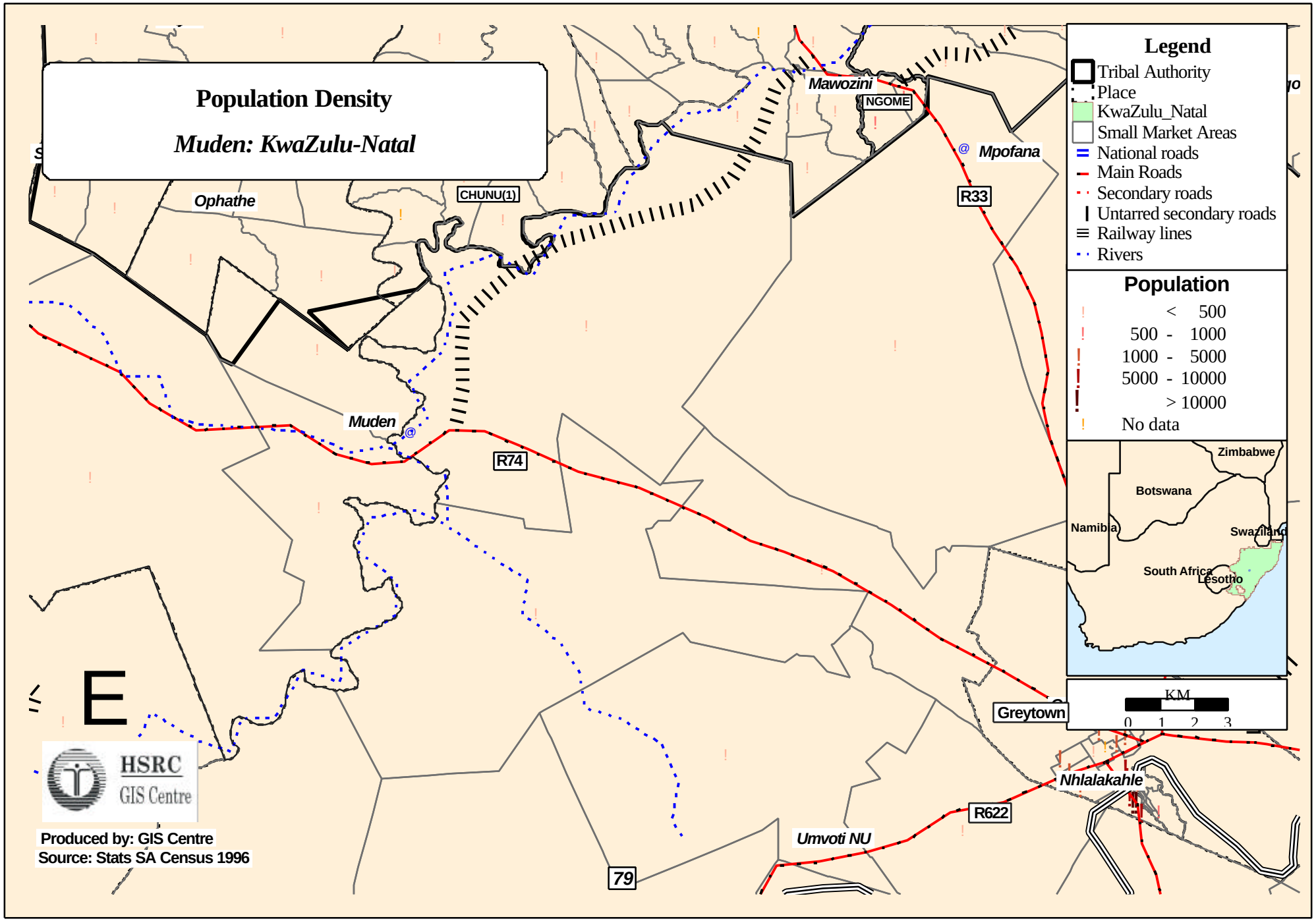
Can women and children succeed if they want to grow crops for sale? Or is this only something that can be done by well organised households with men as heads?

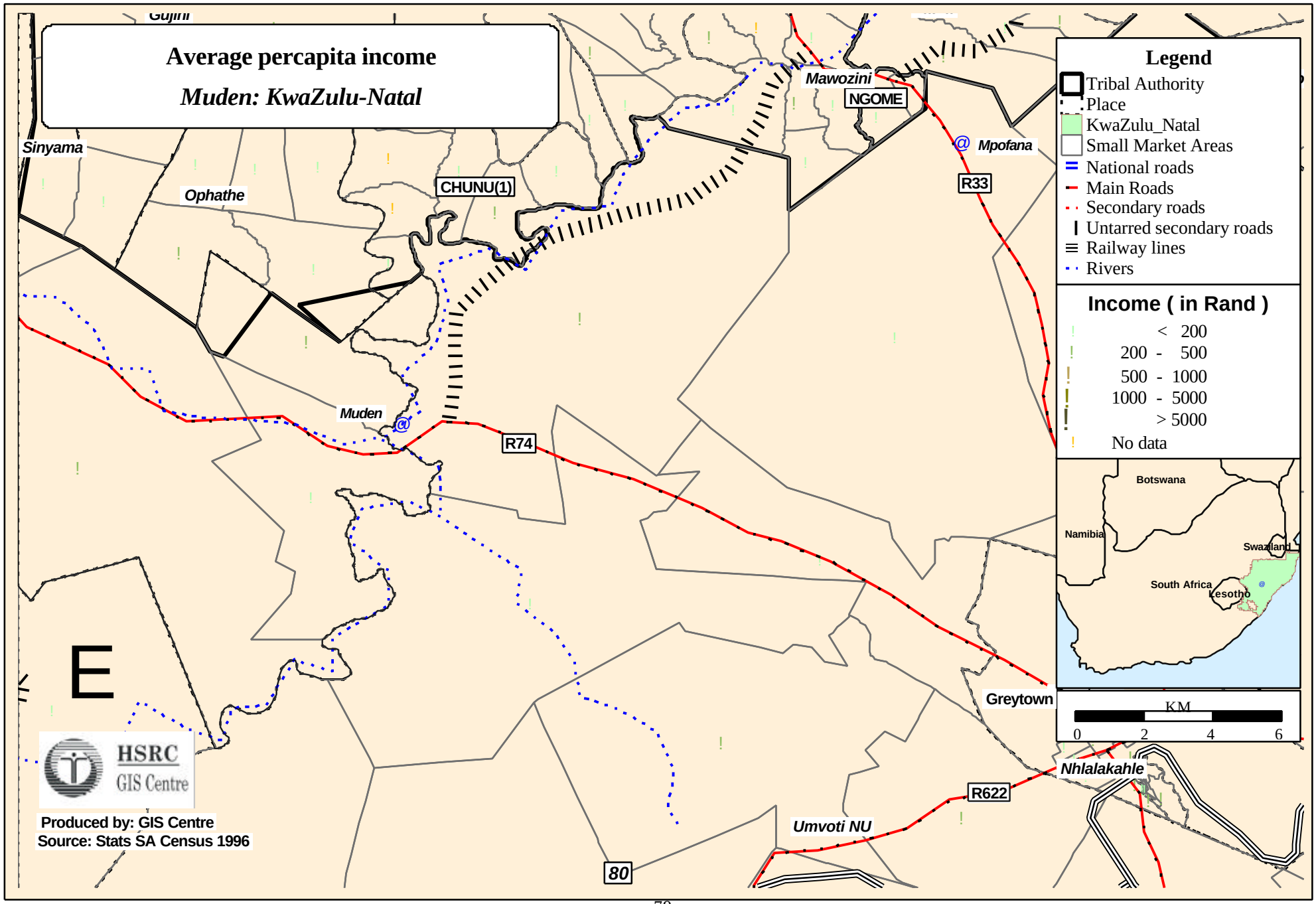
Also, how about surviving men who are unemployed? If they become the only adult in the household and they have land but no job? Would they face a risk of losing land, either to relatives or to neighbours or to people connected to the power structures?

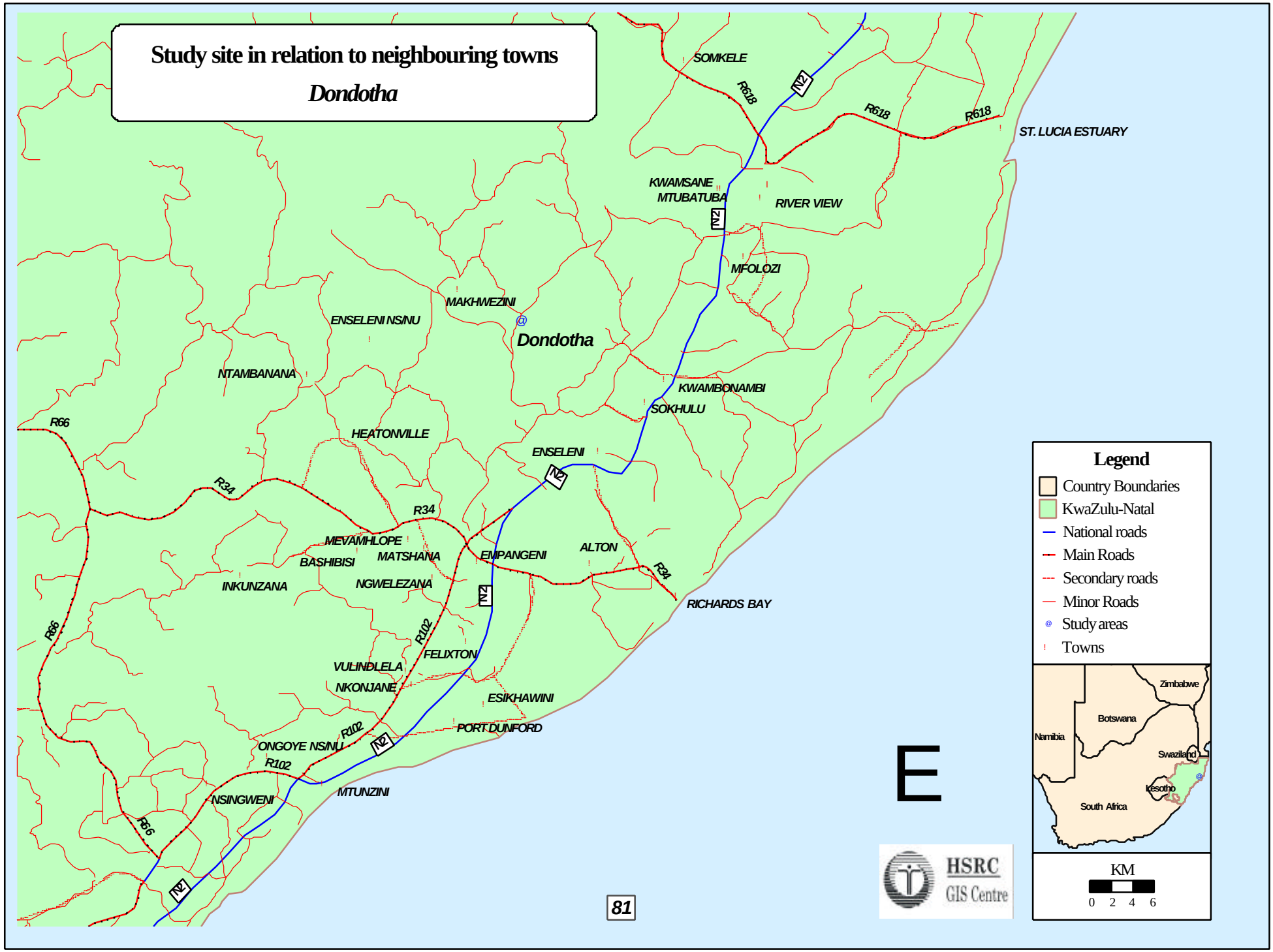
APPENDIX TWO

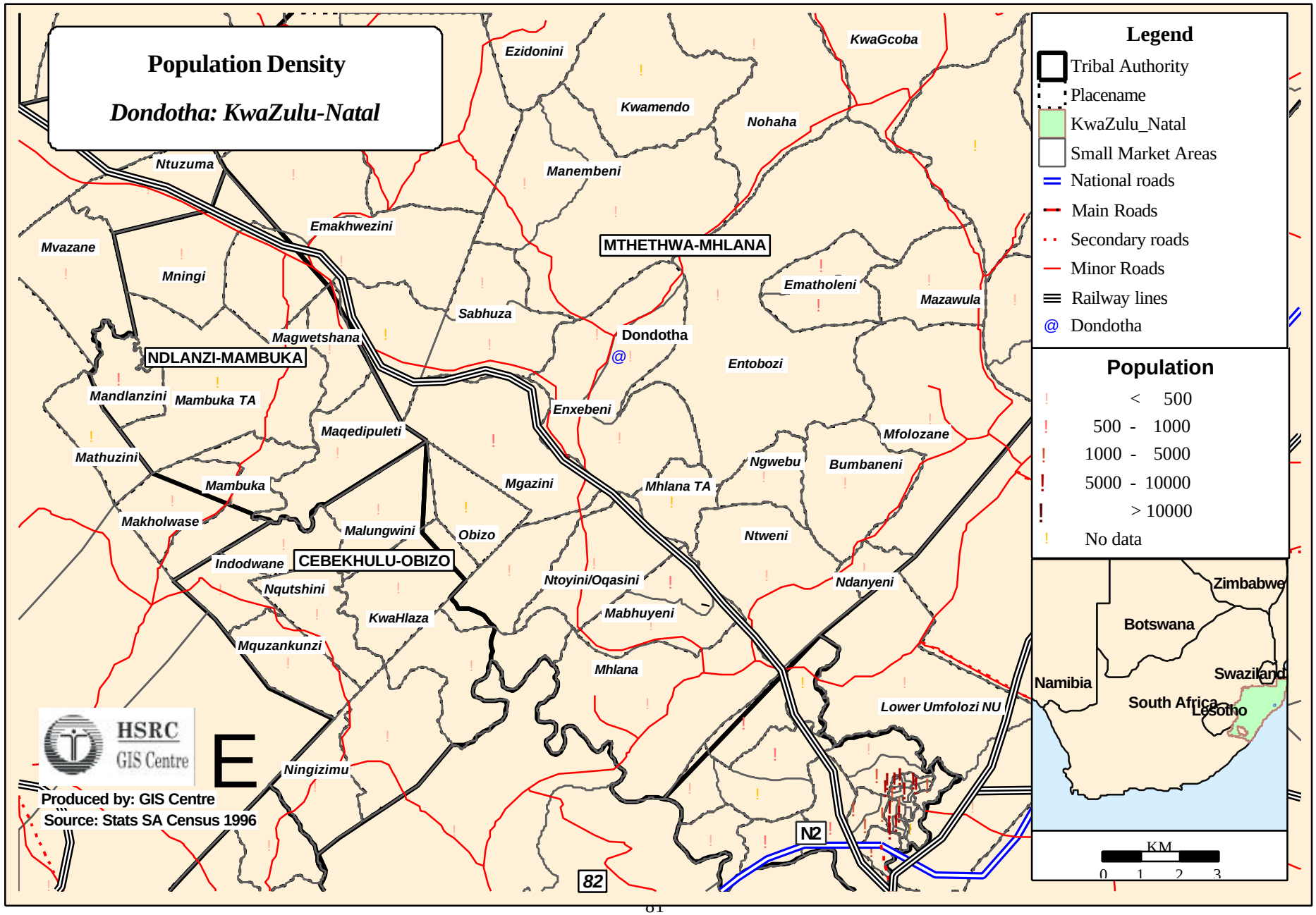
Maps depicting population density and average per capita income for case studies

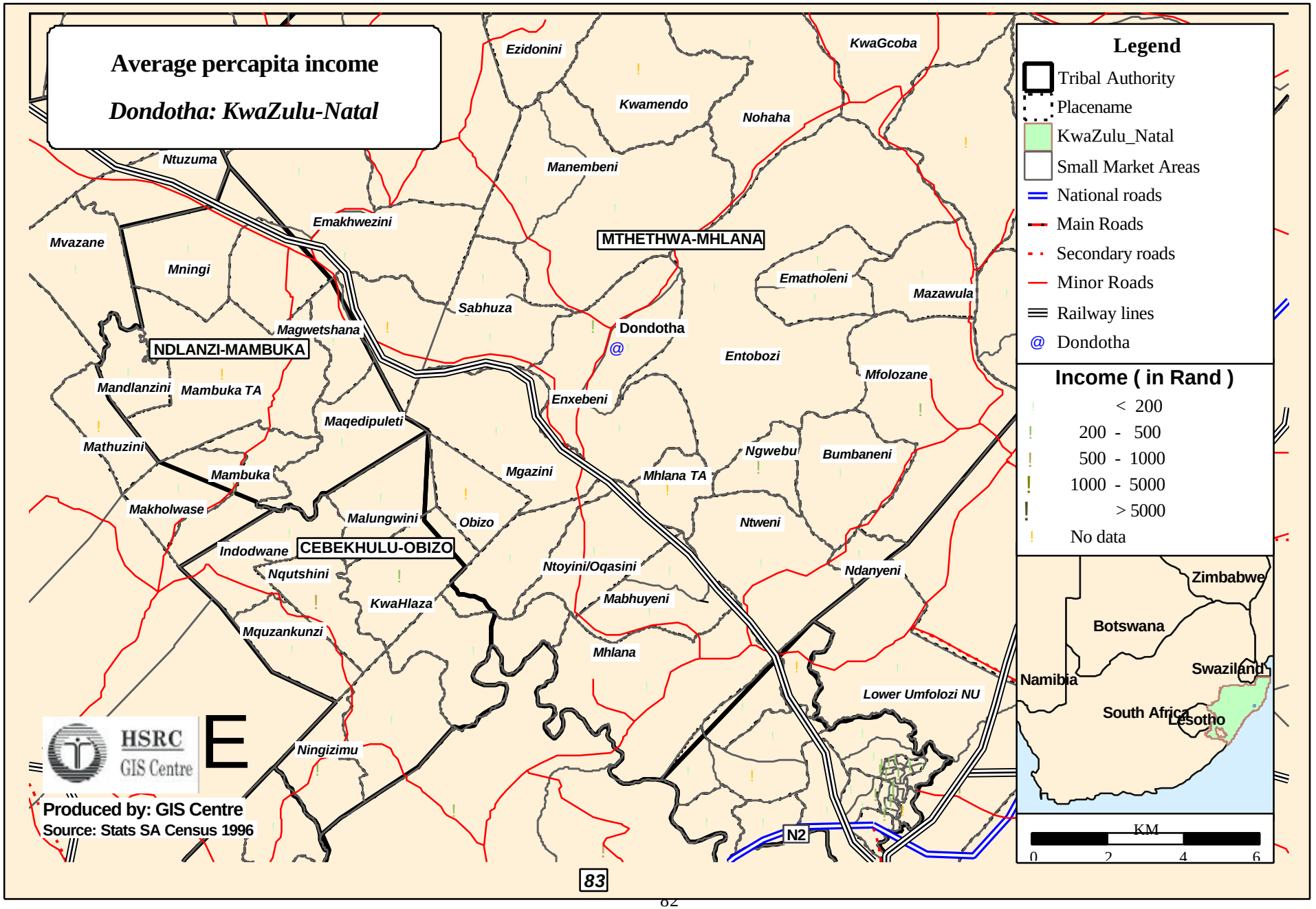

Study site in relation to neighbouring towns
Muden
TUGELA FERRY
WEENEN
KEAT'S DRIFT
Muden
KRANSKOP
KRANSKOP
ESTCOURT
GREYTOWN
AHRENS
HERMANNSBURG
FORT MTOMBENI
UMVOTI NS/NU
ENHLALAKAHLE
MAPUMULO
MOOI RIVER
MOOIRIVIER NS/NU
BRUNTVILLE
MOUNT ALIDA
SEVEOAKS
SHAKAVILLE
KWADUKUZA
GLEDHOW
BLYTHEDALE BEACH
GROUTVILLE
NEW HANOVER
HARBURG
WARTBURG
TINLEY MANOR BEACH
SHAKA'S ROCK
PORT ZIMBALI
BALLITO
78
Legend
Country Boundaries
KwaZulu-Natal
National roads
Main Roads
Secondary roads
Untarred secondary roads
Study areas
Towns
Zimbabwe
Botswana
Namibia
Swaziland
Lesotho
South Africa
KM
0 5 10 15
E
HSRC
GIS Centre


Population Density
Muden: KwaZulu-Natal
Legend
Tribal Authority
Place
KwaZulu_Natal
Small Market Areas
National roads
Main Roads
Secondary roads
Untarred secondary roads
Railway lines
Rivers
Population
< 500
500 - 1000
1000 - 5000
5000 - 10000
> 10000
No data
Zimbabwe
Botswana
Namibia
Swaziland
South Africa
Lesotho
KM
0 1 2 3
Mawozini
NGOME
Mpofana
R33
Ophathe
CHUNU(1)
Muden
R74
Greytown
Nhlalakahle
R622
Umvoti NU
79
E
HSRC
GIS Centre
Produced by: GIS Centre
Source: Stats SA Census 1996

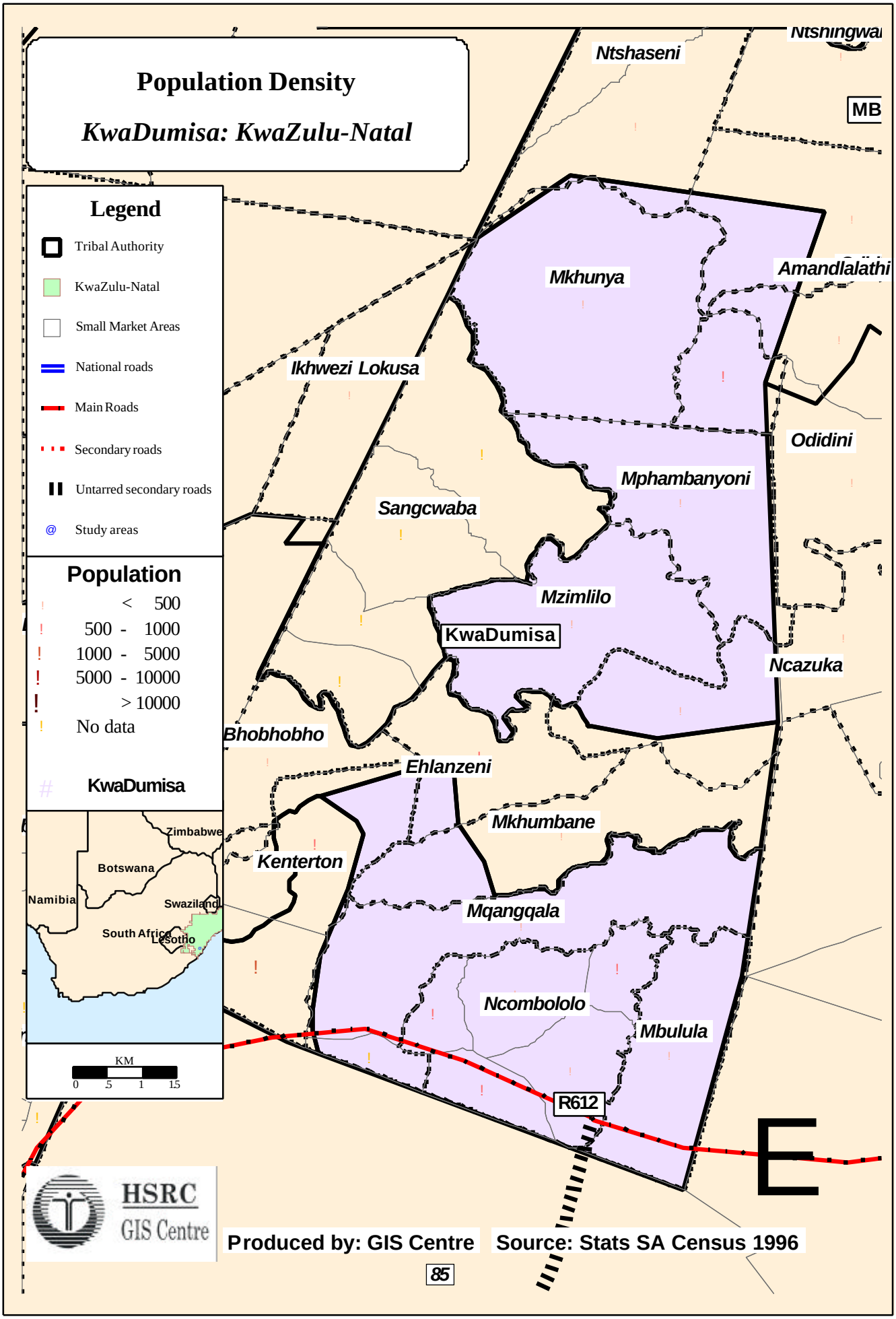

Average percapita income
Muden: KwaZulu-Natal
Legend
Tribal Authority
Place
KwaZulu_Natal
Small Market Areas
National roads
Main Roads
Secondary roads
Untarred secondary roads
Railway lines
Rivers
Income (in Rand)
< 200
200 - 500
500 - 1000
1000 - 5000
> 5000
No data
Botswana
Namibia
Swaziland
South Africa
Lesotho
KM
0 2 4 6
Sinyama
Ophathe
CHUNU(1)
Mawozini
NGOME
Mpofana
R33
Muden
R74
Greytown
Nhlalakahle
R622
Umvoti NU
80
E
HSRC
GIS Centre
Produced by: GIS Centre
Source: Stats SA Census 1996

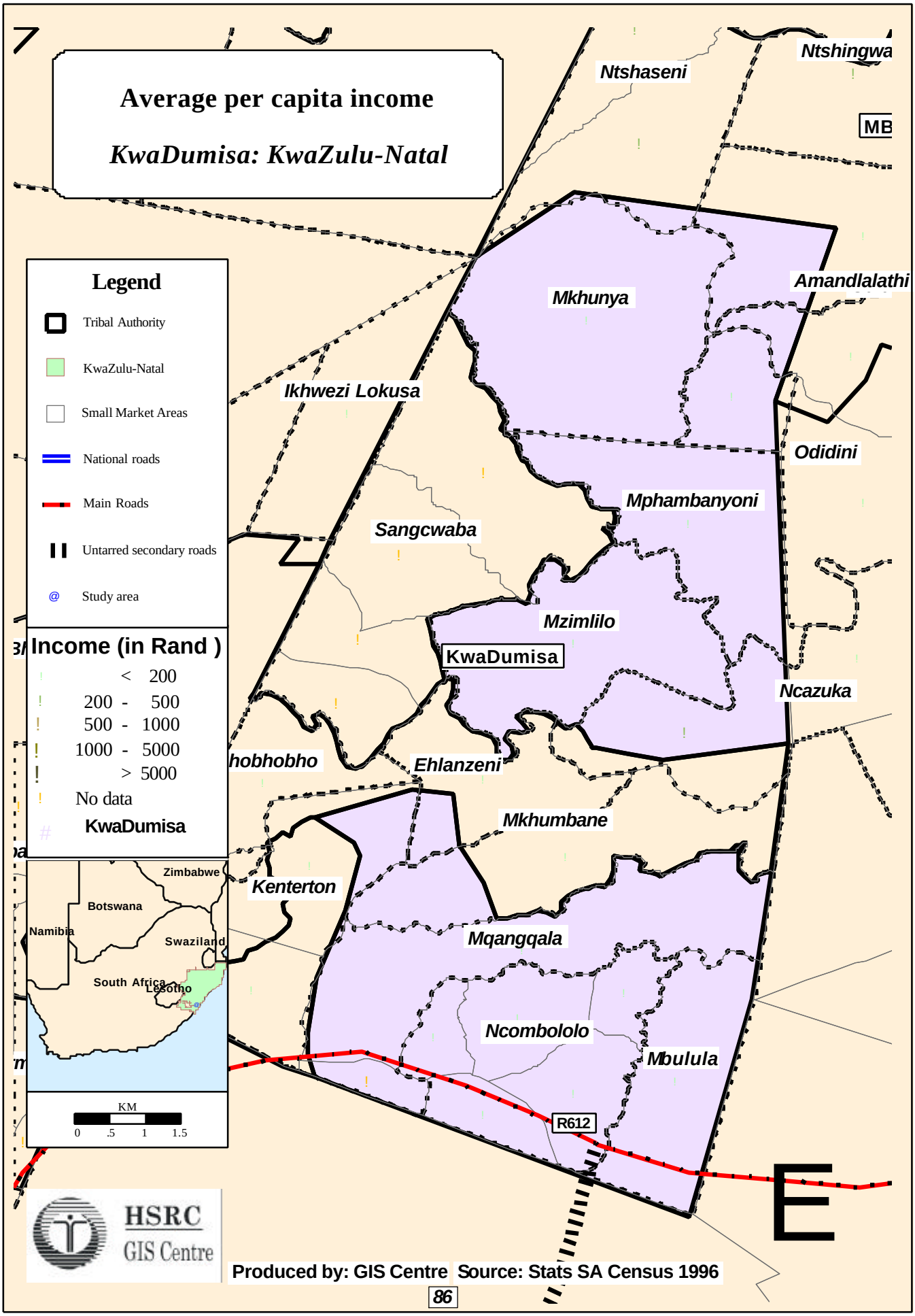

Study site in relation to neighbouring towns
Dondotha
SOMKELE
R618
N2
R618
R618
ST. LUCIA ESTUARY
KWAMSANE
MTUBATUBA
RIVER VIEW
MFOLOZI
MAKHWEZINI
ENSELENI NS/NU
Dondotha
NTAMBANANA
KWAMBONAMBI
SOKHULU
R66
HEATONVILLE
ENSELENI
R34
R34
MEVAMHLOPE
MATSHANA
EMPANGENI
ALTON
R34
BASHIBISI
INKUNZANA
NGWELEZANA
RICHARDS BAY
R66
R102
FELIXTON
VULINDLELA
NKONJANE
ESIKHAWINI
PORT DUNFORD
R102
ONGOYE NS/NU
R102
MTUNZINI
NSINGWENI
R66
N2
Legend
Country Boundaries
KwaZulu-Natal
National roads
Main Roads
Secondary roads
Minor Roads
Study areas
Towns
Zimbabwe
Botswana
Namibia
Swaziland
Lesotho
South Africa
KM
0 2 4 6
E
HSRC
GIS Centre
81

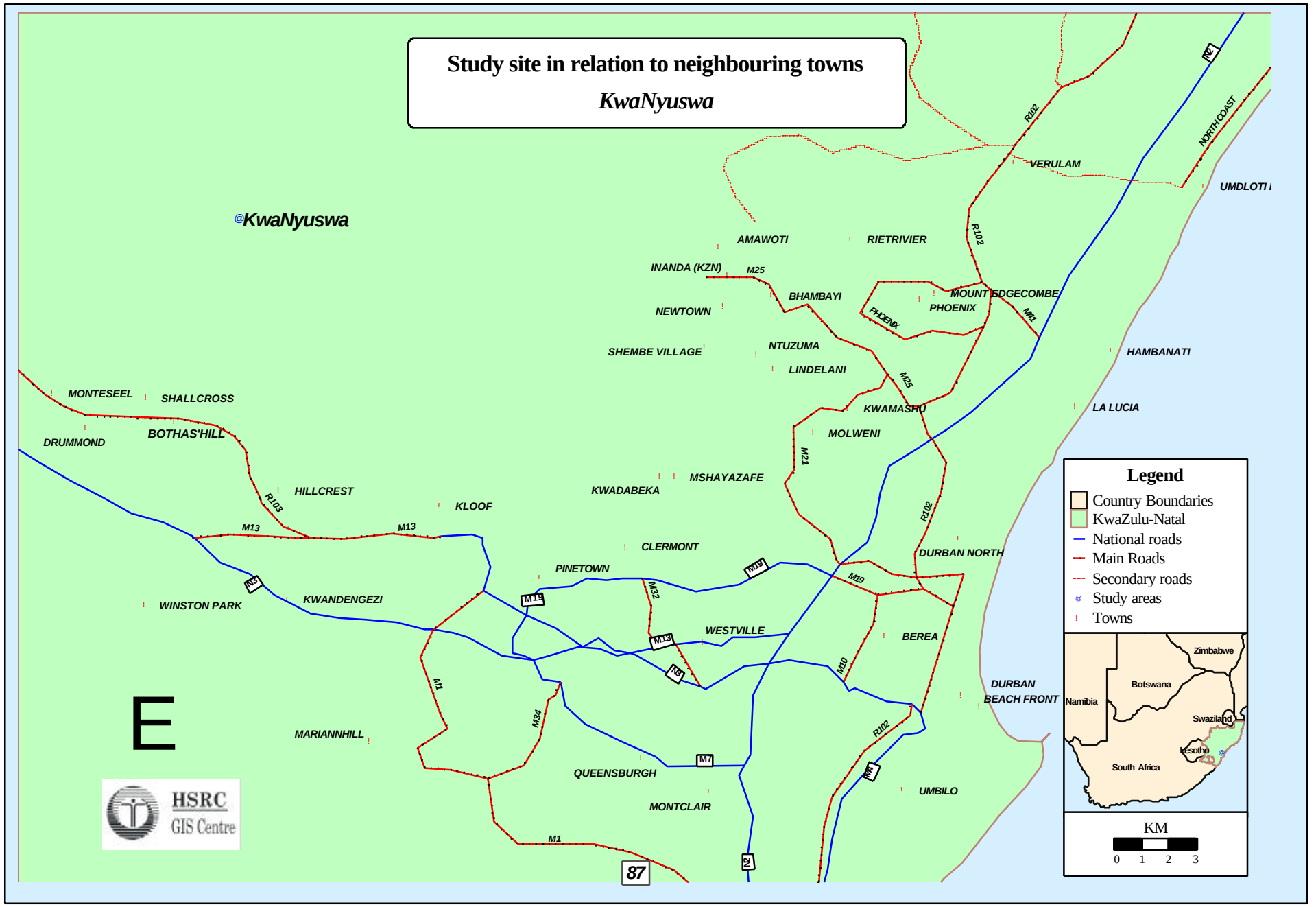

Population Density
Dondotha: KwaZulu-Natal
Legend
Tribal Authority
Placename
KwaZulu_Natal
Small Market Areas
National roads
Main Roads
Secondary roads
Minor Roads
Railway lines
Dondotha
Population
< 500
500 - 1000
1000 - 5000
5000 - 10000
> 10000
No data
Ezidonini
KwaGcoba
Kwamendo
Nohaha
Manembeni
Ntuzuma
Emakhwezini
Mvazane
Mningi
MTHETHWA-MHLANA
Ematholeni
Mazawula
Sabhuza
Magwetshana
Dondotha
NDLANZI-MAMBUKA
Entobozi
Mandlanzini
Mambuka TA
Enxebeni
Maqedipuleti
Mfolozane
Mathuzini
Ngwebu
Bumbaneni
Mambuka
Mgazini
Mhlana TA
Makholwase
Malungwini
Obizo
Ntweni
Indodwane
CEBEKHULU-OBIZO
Ntoyini/Oqasini
Ndanyeni
Nqutshini
KwaHlaza
Mabhuyeni
Mquzankunzi
Mhlana
Lower Umfolozi NU
Ningizimu
N2
82
HSRC
GIS Centre
Produced by: GIS Centre
Source: Stats SA Census 1996
Zimbabwe
Botswana
Namibia
Swaziland
South Africa
Lesotho
KM
0 1 2 3

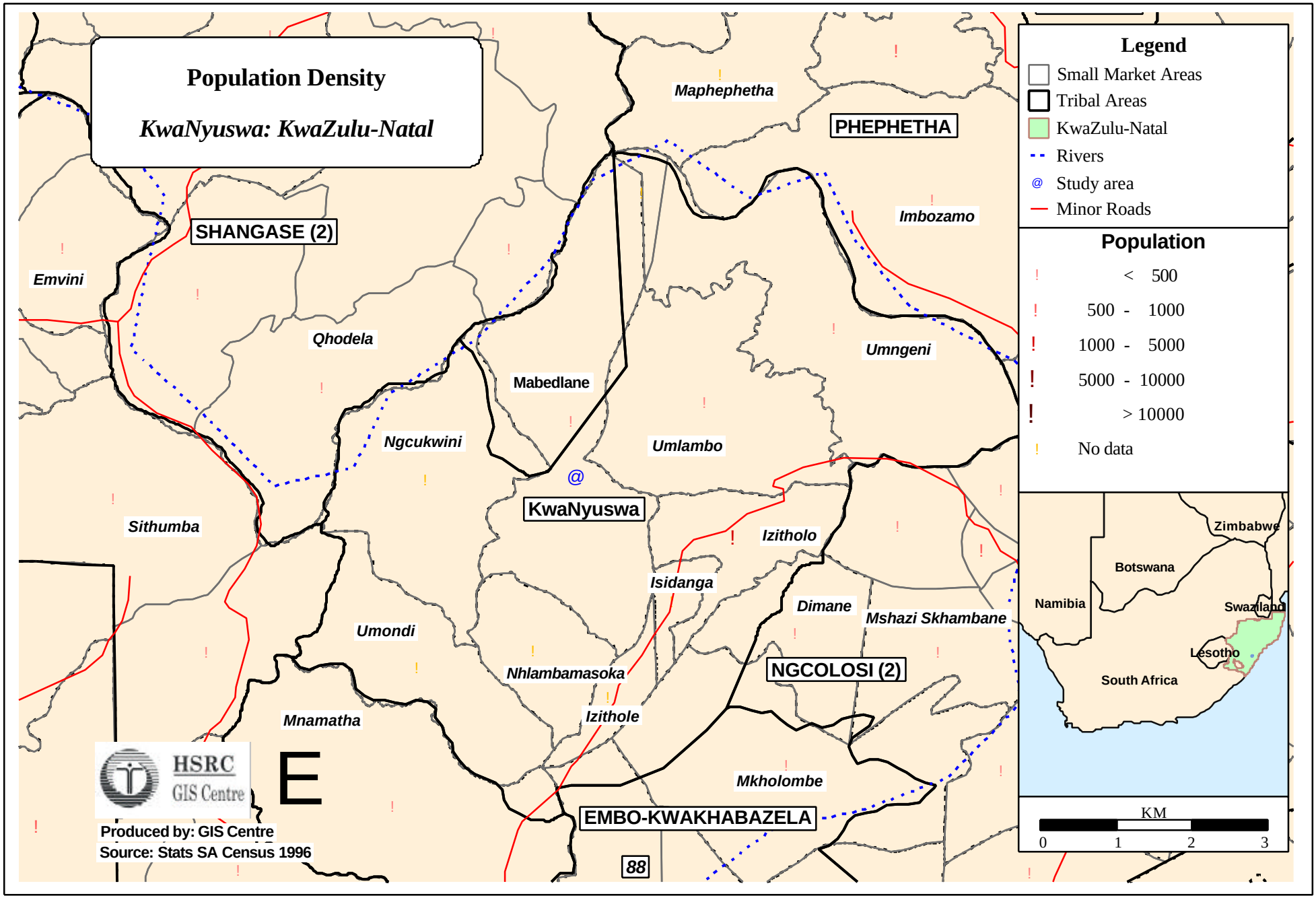

Average percapita income
Dondotha: KwaZulu-Natal
Legend
Tribal Authority
Placename
KwaZulu_Natal
Small Market Areas
National roads
Main Roads
Secondary roads
Minor Roads
Railway lines
Dondotha
Income (in Rand)
< 200
200 - 500
500 - 1000
1000 - 5000
> 5000
No data
Ezidonini
KwaGcoba
Kwamendo
Nohaha
Manembeni
Ntuzuma
Emakhwezini
Mvazane
MTHETHWA-MHLANA
Mningi
Ematholeni
Mazawula
Sabhuza
Magwetshana
Dondotha
NDLANZI-MAMBUKA
Entobozi
Mandlanzini
Mambuka TA
Mfolozane
Enxebeni
Maqedipuleti
Mathuzini
Ngwebu
Bumbaneni
Mambuka
Mgazini
Mhlana TA
Makholwase
Malungwini
Obizo
Ntweni
Indodwane
CEBEKHULU-OBIZO
Ntoyini/Oqasini
Ndanyeni
Nqutshini
KwaHlaza
Mabhuyeni
Mquzankunzi
Mhlana
Lower Umfolozi NU
Ningizimu
N2
HSRC
GIS Centre
Produced by: GIS Centre
Source: Stats SA Census 1996
Zimbabwe
Botswana
Swaziland
Namibia
South Africa
Lesotho
KM
0
2
4
6
83

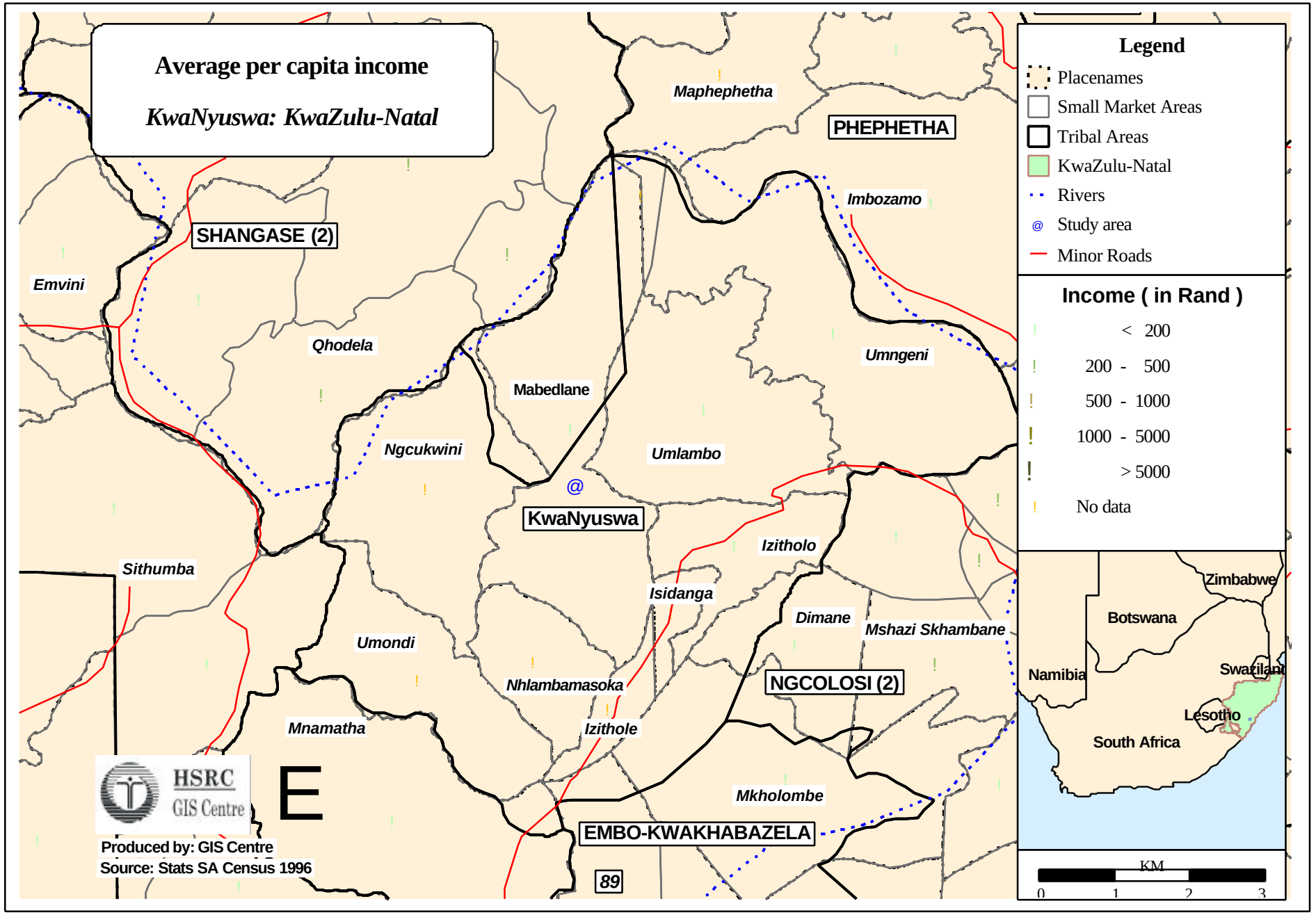

Study site in relation to neighbouring towns
KwaDumisa
R603
R603
IXOPO NS/NU
IXOPO
R612
VULAMEHLO (NU)
KwaDumisa
UMZINTO NORTH
DUDUDU
UMKOMAAS
CRAIGIE BURN
R102
HIGHFLATS
R612
RENISHAW
N2
SCOTTBURGH
BRAEMAR
SAICCOR
R612
PARK RYNIE
UMZINTO
R102
UMZINTO NS/NU
PENNINGTON
SEZELA
IFAFA BEACH
MTWALUME
HIBBERDENE
UMZUMBE
N2
UMTENTWENI
PORT SHEPSTONE
N2
SHELLY BEACH
UVONGO
R61
RAMSGATE
R61
PORT EDWARD
Legend
Country Boundaries
KwaZulu-Natal
National roads
Main Roads
Secondary roads
Untarred secondary roads
Study areas
Towns
Zimbabwe
Botswana
Namibia
Swaziland
Lesotho
South Africa
KM
0 2 4 6
HSRC
GIS Centre
84


Population Density
KwaDumisa: KwaZulu-Natal
Legend
Tribal Authority
KwaZulu-Natal
Small Market Areas
National roads
Main Roads
Secondary roads
Untarred secondary roads
Study areas
Population
< 500
500 - 1000
1000 - 5000
5000 - 10000
> 10000
No data
KwaDumisa
Zimbabwe
Botswana
Namibia
Swaziland
South Africa
Lesotho
KM
0 .5 1 1.5
Ntshaseni
MB
Mkhunya
Amandlalathi
Ikhwezi Lokusa
Odidini
Mphambanyoni
Sangcwaba
Mzimlilo
KwaDumisa
Ncazuka
Bhobhobho
Ehlanzeni
Mkhumbane
Kenterton
Mqangqala
Ncombololo
Mbulula
R612
HSRC
GIS Centre
Produced by: GIS Centre
Source: Stats SA Census 1996


Average per capita income
KwaDumisa: KwaZulu-Natal
Legend
Tribal Authority
KwaZulu-Natal
Small Market Areas
National roads
Main Roads
Untarred secondary roads
Study area
Income (in Rand)
< 200
200 - 500
500 - 1000
1000 - 5000
> 5000
No data
KwaDumisa
Zimbabwe
Botswana
Namibia
Swaziland
South Africa
Lesotho
KM
0 .5 1 1.5
Ntshaseni
Ntshingwa
MB
Mkhunya
Amandlalathi
Ikhwezi Lokusa
Odidini
Mphambanyoni
Sangcwaba
Mzimlilo
KwaDumisa
Ncazuka
hobhobho
Ehlanzeni
Mkhumbane
Kenterton
Mqangqala
Ncombololo
Mbulula
R612
E
HSRC
GIS Centre
Produced by: GIS Centre Source: Stats SA Census 1996


Study site in relation to neighbouring towns
KwaNyuswa
@KwaNyuswa
AMAWOTI
RIETRIVIER
INANDA (KZN)
BHAMBAYI
NEWTOWN
SHEMBE VILLAGE
NTUZUMA
LINDELANI
MOUNT EDGECOMBE
PHOENIX
VERULAM
UMDLOTI
HAMBANATI
LA LUCIA
KWAMASHU
MOLWENI
MONTESEEL
SHALLCROSS
DRUMMOND
BOTHAS'HILL
HILLCREST
KLOOF
MSHAYAZAFE
KWADABEKA
CLERMONT
PINETOWN
DURBAN NORTH
WINSTON PARK
KWANDENGEZI
WESTVILLE
BEREA
DURBAN BEACH FRONT
MARIANNHILL
QUEENSBURGH
MONTCLAIR
UMBILO
M25
M1
M13
M19
M32
M21
M7
M10
M34
R102
R103
N2
N3
NORTH COAST
Legend
Country Boundaries
KwaZulu-Natal
National roads
Main Roads
Secondary roads
Study areas
Towns
Zimbabwe
Botswana
Namibia
Swaziland
Lesotho
South Africa
KM
0 1 2 3
E
HSRC
GIS Centre
87


Population Density
KwaNyuswa: KwaZulu-Natal
Maphephetha
PHEPHETHA
SHANGASE (2)
Imbozamo
Emvini
Qhodela
Umngeni
Mabedlane
Ngcukwini
Umlambo
KwaNyuswa
Sithumba
Izitholo
Isidanga
Dimane
Mshazi Skhambane
Umondi
NGCOLOSI (2)
Nhlambamasoka
Izithole
Mnamatha
Mkholombe
EMBO-KWAKHABAZELA
88
HSRC
GIS Centre
Produced by: GIS Centre
Source: Stats SA Census 1996
Legend
Small Market Areas
Tribal Areas
KwaZulu-Natal
Rivers
Study area
Minor Roads
Population
< 500
500 - 1000
1000 - 5000
5000 - 10000
> 10000
No data
Zimbabwe
Botswana
Namibia
Swaziland
Lesotho
South Africa
KM
0 1 2 3


Average per capita income
KwaNyuswa: KwaZulu-Natal
Legend
Placenames
Small Market Areas
Tribal Areas
KwaZulu-Natal
Rivers
Study area
Minor Roads
Income (in Rand)
< 200
200 - 500
500 - 1000
1000 - 5000
> 5000
No data
Maphephetha
PHEPHETHA
Imbozamo
SHANGASE (2)
Emvini
Qhodela
Umngeni
Mabedlane
Ngcukwini
Umlambo
KwaNyuswa
Izitholo
Sithumba
Isidanga
Dimane
Mshazi Skhambane
Umondi
Nhlambamasoka
NGCOLOSI (2)
Mnamatha
Izithole
Mkholombe
EMBO-KWAKHABAZELA
89
HSRC
GIS Centre
Produced by: GIS Centre
Source: Stats SA Census 1996
Zimbabwe
Botswana
Namibia
Swaziland
Lesotho
South Africa
KM
0
1
2
3