

**Integrating HIV/AIDS in the
Land Reform Process**

By

**Herbert Kamusiime
Esther Obaikol
Margaret Rugadya**

Associates for Development

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ABOUT THE AUTHORS

Herbert Kamusiime is an agriculturalist and natural resource management specialist. He is a scholar of Master of Science (Environment and Natural Resource Management) of Makerere University, on top of a Bachelors degree in Agriculture (Agricultural Extension) from Makerere University (2000). Herbert has previously worked as a Research Associate with Makerere Institute of Social Research (MISR) for 4 years before joining Associates for Development where he is currently, the Manager Research and Monitoring

Esther Obaikol is a lawyer by profession and the current Programme Manager of Associates for Development. She holds a Bachelors degree in Laws (LLB) from Makerere University, Kampala (1995), a postgraduate Diploma in Management from Uganda Management Institute (2003), a Diploma in Legal Practice from the Law Development Centre, Kampala (1997) and a Certificate in International Criminal Law and Humanitarian Law from the International Law Institute (1995). Esther is a seasoned legal researcher on natural resources and policy development.

Margaret Rugadya is a Sociologist and Management Specialist; currently working as a Manager, Advocacy and Capacity Building at Associates for Development. Previously Margaret worked as a Programme Officer for 4 yaers at Uganda Land Alliance. Margaret holds a Diploma in Legislative Drafting from the International Law Institute (July, 2003); Master of Arts (Sociology), from Makerere University (2001); Postgraduate Diploma in Management, from Uganda Management Institute (2002); Certificate in Managing NGO's, from the Institute of Development Policy and Management, University of Manchester, (1999) and Bachelors Degree from Makerere University (1996).

TABLE OF CONTENTS

LIST OF FIGURES AND TABLES.....	iii
ACRONYMS.....	iv
1. INTRODUCTION.....	1
1.1 HIV/AIDS and Poverty	1
1.2 Land and Social/ Economic Safety Nets.....	2
1.3 Land, HIV/AIDS and Livelihoods	3
2. IMPACTS OF HIV/AIDS ON LAND.....	5
2.1 Effects on Land Management and Administration.....	5
2.2 Impacts on Land Rights	6
2.2.1 Persons Living with HIV/AIDS and Land.....	8
2.3 HIV/AIDS and Land Use	11
3. INTERNATIONAL SYNTHESIS.....	13
3.1 Land Tenure and Rights.....	13
3.2 Land Policy and Administration.....	13
3.3 Policy Considerations.....	14
4. HIV/AIDS AND THE LAND REFORM PROCESS.....	16
4.1 Conclusions.....	16
4.2 Strategic Actions.....	17
REFERENCES.....	18
ENDNOTES	20

LIST OF FIGURES AND TABLES

<i>Figure 1: Proliferative Relationship between Poverty and HIV/AIDS</i>	1
<i>Table 1: Significance of Land as an Asset for the Poor and Non-poor in</i> 2	
<i>Uganda</i>	2
<i>Figure 2: Effect of HIV/AIDS on households with Land as the main Asset</i>	
<i>Endowment</i>	3
<i>Figure 3: Effects of HIV/AIDS on Land Ownership among Women and Men</i>	7
<i>Figure 4: Effects of HIV/AIDS on Land</i>	8
<i>Table 2: Land Related Problems faced by PLWHAS</i>	9
<i>Table 3: Gender Dimensions of Land Related Problems faced by PLWHAS</i>	10
<i>Figure 5: Issues Affecting Land Access and Control among PLWHAS</i>	11
<i>Table 4: Country Experiences on National Approaches to Land and HIV/AIDS</i>	14

ACRONYMS

AFD	Associates for Development
FGD	Focus Group Discussions
IDPs	Internally Displaced Persons
HSRC	Human Sciences Research Council
LSSP	Land Sector Strategic Plan
PLWHAs	Persons Living With HIV/AIDS
EASSI	Eastern Africa Sub Regional Initiative
MISR	Makerere Institute of Social Research

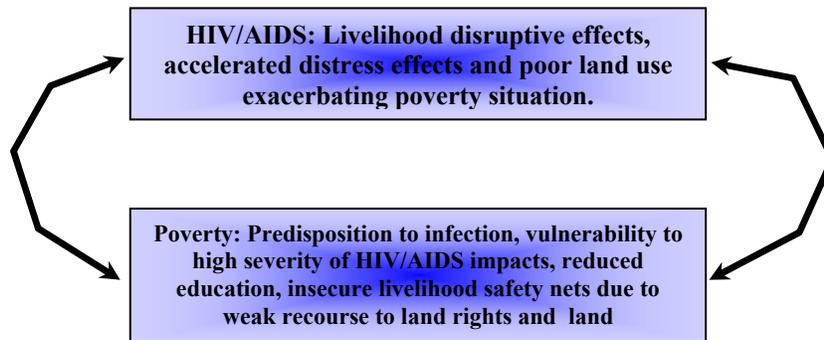
1. INTRODUCTION

Uganda has achieved impressive results in stemming the escalation of HIV/AIDS. The prevalence of HIV/AIDS among adults was estimated to have dropped from 18% in 1992 to 5% in 2001¹. Amidst this success however, is the persistent quest to mitigate the livelihood effects of the pandemic. This report is a result of extensive literature review and secondary data analysis aimed at developing strategies for the land sector to respond to the livelihood effects of HIV/AIDS in households and communities. Specifically, the report seeks to situate and explain the linkage between HIV/AIDS and Land with keen attention to response measures adaptable in the Land Reform Process.

1.1 HIV/AIDS and Poverty

HIV/AIDS, like all communicable diseases, is linked to poverty. Adequate conceptualization of the complex relationship between poverty and HIV/AIDS is central to understanding the impact of the pandemic on rural livelihoods. This relationship is bi-directional, with a proliferative effect; poverty is a key factor in the spread of HIV/AIDS and at the same time, HIV/AIDS can impoverish people in such a way as to intensify the pandemic itself (Figure 1).

Figure 1: Proliferative Relationship between Poverty and HIV/AIDS?



HIV/AIDS acts to strengthen the noose of poverty on households and communities by having a multiplier negative effect. This effect is directly noticeable through dwindling agricultural production and declining household assets as well as strain on thinly spread household incomes.

Many studies³ on HIV/AIDS especially in Uganda have reasonably articulated these aspects setting forth a wide variety of impacts and their severity. Indeed, the World Bank⁴ has suggested, “low income, income inequality and low status of women are all fairly highly associated with high levels of HIV infection”. In these works however, there has been limited exploration of the link between HIV/AIDS and land. The link between HIV/AIDS and Land in most discussions has been limited to asset stripping and declining use of land. In reality, however the link transcends this scope.

1.2 Land and Social/ Economic Safety Nets

To bring the nexus of Land and HIV/AIDS into context one has to understand the centrality of land to social and economic safety nets of households and communities. The strength of social and economic safety nets of a household are tied to the level and character of its asset endowment. This asset endowment determines a households’ resilience in event of adversity⁵. In a situation where the HIV/AIDS scourge overwhelms traditional social and economic safety nets⁶, as is the case in Uganda, then the character of household asset endowment is a critical determinant in self-insurance and resilience. Thus, appreciating the fact that land is the single most dominant asset for both poor and non-poor households’ (Table 1); contextualizes the need to explore the link between HIV/AIDS and Land and the merit for sector specific consciousness.

Land constitutes more than 50% of the asset endowment of poor households. This implies that land reform issues like increment in tenure security, land access and ownership, transparency of land administration and transferability of land have implications on the ability of households to have sustainable and dynamic social and economic safety nets.

Table 1: Significance of Land as an Asset for the Poor and Non-poor in Uganda

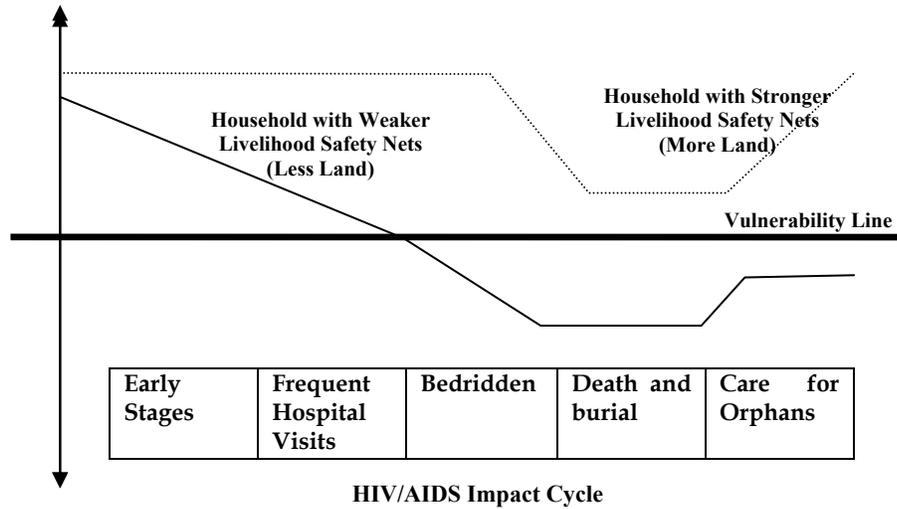
Extent to Which Land Constitutes Household Assets	Total		Poor		Non -Poor	
	1992	2000	1992	2000	1992	2000
Total Value (US\$ Equivalent)	2,167	2,670	1,384	1,419	3,570	4,914
Of which is land	57%	51%	64%	56%	53%	48%

Source: Adapted from Deininger and Okidi, 2002

1.3 Land, HIV/AIDS and Livelihoods

The centrality of land to sustainable and dynamic livelihood safety nets implies that instability of the household asset endowment either through distress sales, conflicts like asset stripping or reduction in effective production induces vulnerability on the household. This vulnerability varies depending on the character of the asset endowment as depicted in Figure 2.

Figure 2: *Effect of HIV/AIDS on households with Land as the main Asset Endowment*



Adopted from an Article by Donahue et al, 2000

From the figure above, it is important to recognize that the impact of HIV/AIDS on rural households is not equal: the poorer households, those with small land holdings, are much less able to cope with the effects of HIV/AIDS than wealthier ones (more endowed with land) who are better able to cope with adversity⁷.

HIV/AIDS infection ultimately stretches the resources of a household beyond its limits as both material and non-material resources are rapidly consumed in caring for the infected. It is increasingly clear that as a result of HIV/AIDS causing significant increase in morbidity and mortality in prime-age adults, increasing negative social, economic and developmental impacts are occurring to exacerbate the poverty situation.

As already discussed, the economic impact at the household level is visible as decreased income, increased health care costs, decreased productivity capacity and changing expenditure patterns. As a result, the major survival strategies developed in response to the pandemic include altering household composition, withdrawal of savings, sale of assets and receipt of assistance from other households. Following death, the impact breaks out of the household into the community in the form of increasing number of dependants such as orphans.

In the face of HIV/AIDS, households do not act in accordance with a previously formulated plan or strategy but react to the immediacy of need, disposing of their assets when no alternatives exist. Decisions are not based on the importance or usefulness of the asset to the household as saving lives is deemed more important than preserving assets. More evidence is emerging that even land, the “most important agrarian asset”, may not be spared in quest to ‘cope’ with illness⁸. The occurrence of HIV/AIDS leads to significant changes in the socio-economic structures of villages with attendant redistribution of wealth especially land.

Indeed, recent studies⁹ on the impact of HIV/AIDS on female microfinance clients in Kenya and Uganda, found that there was a clear sequence of “asset liquidation” among AIDS caregivers in order to cope with the economic impact; first, liquidating savings, then business income, then household movable assets and, finally, disposing off land. This last resort of disposing of land has profound consequences of people completely losing their economic base. In this event, such households are likely to be those with the fewest livelihood options and are the most vulnerable; usually not recovering economically in the post HIV/AIDS phase¹⁰.

2. IMPACTS OF HIV/AIDS ON LAND

The impacts of HIV/AIDS on land are not exclusive to households, but transcend into the realm of land management and administration as well as national development. Prolonged illness and early death can alter social and economic relations at household and institutional levels¹¹. Land management and administration at household, community and institutional levels is in essence management of a host of social and economic relations. The occurrence of HIV/AIDS disrupts these relations with adverse consequences on resource rights and use, technical capacity of institutions and achievement of development goals.

Analysis of the impact of HIV/AIDS on land is essentially scrutiny of relations in which rights to land are anchored¹². Thus, this has to take cognizance of a range of attributes that affect the dynamics of land relations. These attributes, particularly in relation to individuals and households, have dimensions that are cross cutting to age and gender. These dimensions include, though not limited, the following:

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

2.1 Effects on Land Management and Administration

The critical effects on land management and administration institutions are the adverse human resource consequences that occur. This affects community level institutions such as traditional authorities, civil society as well as various statutory institutions involved in land services delivery at throughout government. The internal capacity of organizations is affected as more staff become infected and affected. There is loss of morale, and as

infection rates increase, so does absenteeism coupled with declining productivity. Personnel turnover increases as staff gets sick and have to be replaced; ultimately reducing the pool of skill and experience.

As the stock of knowledge and skills essential for the smooth running of land management and administration institutions is gradually depleted; a huge loss in investment on capacity building and recruitment is incurred, yet land managers and administrators are among the most expensive human resources to develop, recruit and retain¹³.

In addition, this creates limitations on sustainable service delivery and efficiency of these institutions amidst increasing changes in the demand and nature of land services as well as operational expenses. However, this area needs further study especially for the land reform process in Uganda. There is no empirical clarification on the direct impacts of HIV/AIDS on land management and administration.

2.2 Impacts on Land Rights

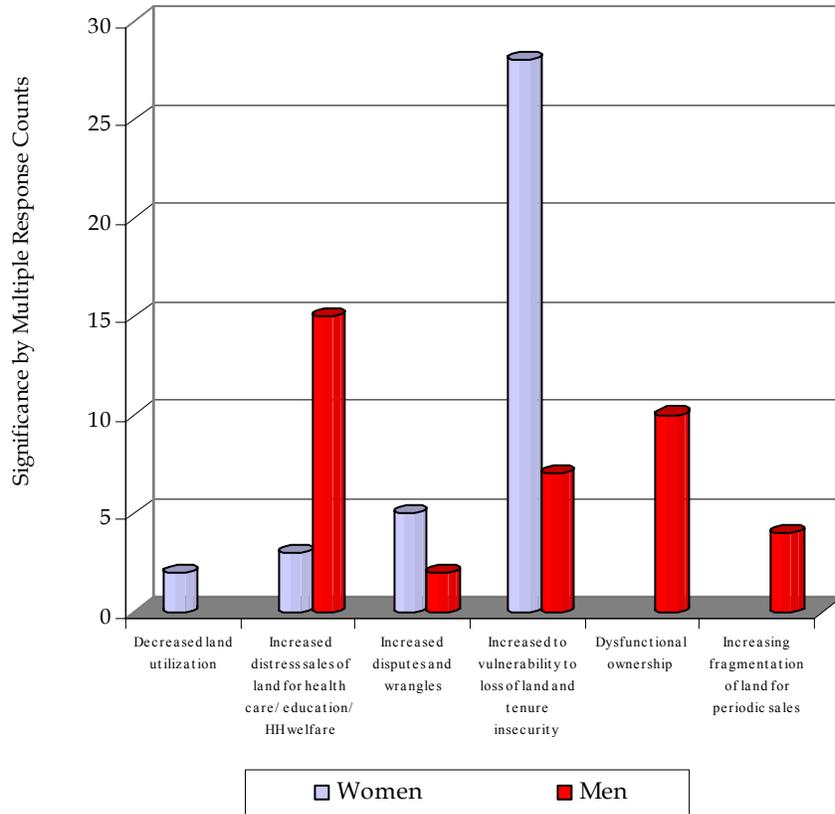
The effects of HIV/AIDS on individuals' land rights present a clear manifestation of the impacts of the scourge on the land sector. HIV/AIDS impact the terms and conditions under which individuals and households' access, own, use and transact in land. Pandemic related mortalities alter land rights and/or the command positions held by people of different ages and gender over land. Clear rights to land can contribute positively to households affected by the pandemic by safeguarding livelihoods and economic development through removing uncertainty.

Available evidence¹⁴ indicates that land policies that aggravate land tenure insecurity and ignore the rights and/or interests of women and children increase household vulnerability. The consequence is for individuals or families to experience distress resulting in actions that further exacerbate their situation. This has particular resonance with women and children's rights in the context of rural power relations, which are failing under increasing pressure from HIV/AIDS. Evidence from four districts¹⁵ indicates that women with HIV/AIDS have increased predisposition to loss of tenure security and land.

Figure 3 depicts the results of secondary analysis to show the effects of HIV/AIDS on land ownership among men and women as perceived by civil society organizations working with households afflicted by

HIV/AIDS. These results are recast in Figure 4 for further comparative synthesis.

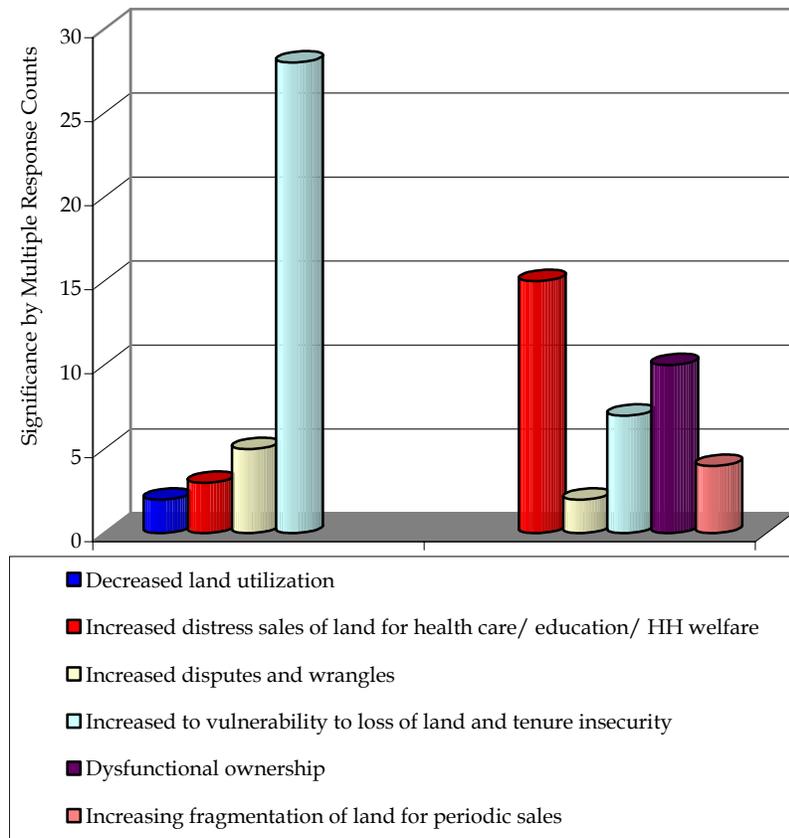
Figure 3: Effects of HIV/AIDS on Land Ownership among Women and Men



Source: Civil Society Capacity Audit; WB/AFD May 2004

The results above underscore tenure security and dysfunctional ownership as the key concerns among women and men respectively, these highlight adulterated land rights due to HIV/AIDS¹⁶. Figure 4 depicts greater consensus among women on the effect of HIV/AIDS than among men.

Figure 4: Effects of HIV/AIDS on Land



Source: Civil Society Capacity Audit; WB/ AFD May 2004

2.2.1 Persons Living with HIV/AIDS and Land

Owing to HIV/AIDS, the survival of the extended family and social fabric of community support systems underpinned by traditional systems of land rights are increasingly under pressure. These kinds of support systems are gradually eroding due to poverty exacerbated by HIV/AIDS. Recent community perspectives¹⁷ reveal persons living with HIV/AIDS to be prone to various land related problems as depicted in Table 2.

Table 2: Land Related Problems faced by PLWHAS

	Study District		
	Apac	Iganga	Rakai
Land Related Problems faced by PLWHAS	<ul style="list-style-type: none"> • Problems vary according to the person who is sick • They sell their land and leave their children without anything. It would help if there was a by-law stopping sale of land by such people. 	<ul style="list-style-type: none"> • People easily cheat PLWHA's of their land under the pretext of providing for treatment or welfare needs • They are usually sidelined on land transactions even before complete indisposition. • There are conflicts over land ownership between relatives and PLWHAs' family • Encroachment by neighbours is common especially when the husband is sick since they know that wives are often not aware of boundaries. 	<ul style="list-style-type: none"> • Failure to utilize land is a big problem. • It is not uncommon for clans to chase women (widows) off the land even when she has children to take care of. There is complete disregard for her. • PLWHA's normally sell their land without consideration for their children who survive them • By the time the person is bed-ridden, neighbours or the clan start selling off the land or encroaching.

Source: FGDs by AFD April 2004

It is apparent from these findings that land problems faced by PLWHAS are not entirely unique. It is the prevalence and severity of HIV/AIDS and the resultant consequences on the affected persons that make this such an intricate issue. These effects accelerate vulnerability of the affected persons, endangering subsistence in the post-HIV/AIDS period. Interestingly, there are gender dimensions in the occurrence of these problems as shown in Table 3.

Table 3: Gender Dimensions of Land Related Problems faced by PLWHAS

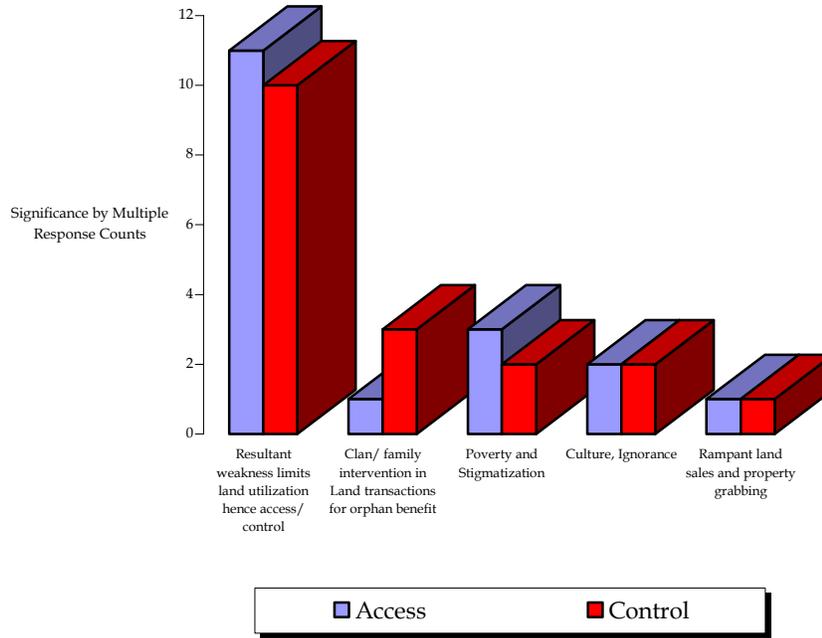
	Study District		
	Apac	Iganga	Rakai
<p>Whether there is a difference in Land Problems Experienced owing to the PLWHAs being male or female</p>	<ul style="list-style-type: none"> • There is no difference whether the wife or husband is infected; the control and ownership are the same. On the sale of land, if the husband is sick, the wife and the children have to be consulted first. 	<ul style="list-style-type: none"> • The problem is more pronounced for women, on falling sick she is isolated and made to live on another piece, so that when she dies her children may not come to claim the land. • At the time of a man’s illness, women are restrained from building, so that when the husband passes away women are easily evicted. • With men, people even work to accelerate death so that they can grab the land. 	<ul style="list-style-type: none"> • There is a difference especially for married women if she falls sick, she cannot sell land for treatment yet men readily do so. • Even in terms of sustaining the family widows are not allowed to sale land. • Even in this era of equality, when a woman falls sick, the equality ceases to exist, a woman has no say over land compared to a man.

Source: FGDs by AFD April 2004

It has been argued that the illness and death of a woman has a “particularly traumatic impact on the family” in that it threatens household food security, especially when households depend primarily on women’s labour for food production and animal tendering¹⁸. The gender dimensions of land related problems illuminate the implications of insecure rights for women, considering that women frequently carry a double burden of generating income outside the home as well as care giving and maintaining family land¹⁹.

In addition, the pandemic is increasing the number of vulnerable children at risk of losing rights and access to the family's agricultural land and thus, further decreasing food security. More explicitly, there are limitations on land access and control that come into play once one contracts HIV/AIDS as depicted by Figure 5²⁰. Most interesting is the direct linkage between failure in land use to loss of access and control; this has the effect of inadvertently increasing vulnerability.

Figure 5: Issues Affecting Land Access and Control among PLWHAS



Source: Civil Society Capacity Audit; WB/ AFD May 2004

2.3 HIV/AIDS and Land Use

The land use implications of the HIV/AIDS pandemic in affected households include less access to labour, capital to invest in agriculture and productivity due to strained financial and human resources. These are

direct effects of death, ill health and time spent in caring for the sick. Mortality and morbidity have resultant effects manifested as loss of skills, knowledge and diversion of scarce resources, changes, which affect rural households' fight for survival in context of the pandemic.

As previously shown (Figure 5) reduced land use has implications on the extent to which an individual and/ or household can effectively protect ownership and access to land. Actions under taken by households to maintain access and control to land in the event of HIV/AIDS in most instances serve to increase predisposition to loss of land. These actions often include²¹:

- Leaving land to fallow; renting or leasing out all or portions of land to others who can work it more readily in order to earn cash and to avoid allowing a potential income source lie idle.
- Entering into sharecropping or other contractual arrangements; lending land to others; selling land in order to earn cash; and changing land use to less labour intensive crops.

These land use manoeuvres by households affected by HIV/AIDS manifest the reinforcing relationship between HIV/AIDS and Poverty. Reduced land use translates into reduced productivity thus food insecurity, which exacerbates the poverty effects through malnutrition and ultimately quick degradation of the infected individual's condition. The challenge for the land reform process with regard to the effects of HIV/AIDS on land use is the dilemma of helping affected peasants with diminished hope and resources use the reforms to rid themselves of poverty.

3. INTERNATIONAL SYNTHESIS

This cross-country analysis is based on findings from four countries specifically in Africa that have linked Land and HIV/AIDS and are at varying levels of land reforms particularly land policy review. These countries include Kenya, Lesotho, Malawi and South Africa²².

3.1 Land Tenure and Rights

It emerged from these cross-country studies that the inability to use land may endanger a household's rights to land though the biggest issue is *inheritance* following the death of a male household head. HIV/AIDS exacerbates the already marginal land rights of women and children. The frequent threat to loss of access to land among widows has driven them to remarriage to retain access. On the other hand, orphans also face danger of losing access to land mostly through guardians usurping it.

There are also increased *conflicts over land*. Both the South Africa and Lesotho, studies showed traditional authorities playing a role in helping to protect the land rights of widows and orphans but not always being effective in enforcing their decisions when relatives usurped land.

Commercializing farming, increasing the size of land holdings, or limiting land holdings to those who have the 'ability and resources to use it effectively' all make land tenure more insecure for affected households. For some, HIV/AIDS presents an opportunity to accumulate land (for example elders who may gain access to land from which women and orphans are excluded). Government and society should *define security of tenure* as the ability to; occupy, use, transact and exclude.

3.2 Land Policy and Administration

Land policies do not address HIV/AIDS specifically, nor the implications for land rights, tenure and use. Government departments dealing with the impact of HIV/AIDS do not integrate or coordinate their policies and programmes.

Government agencies responsible for land administration, extension services and HIV/AIDS programmes do not recognize that they are losing personnel to the pandemic and are not taking appropriate action to ensure that they have the human resource capacities needed to maintain services and programmes to address the impacts of HIV/AIDS.

Table 4: Country Experiences on National Approaches to Land and HIV/AIDS

Kenya	Lesotho	Malawi
<ul style="list-style-type: none"> • Government responses are practical rather than strategic, focusing on dealing with situations as they arise. • Key to the Kenyan response is a need to protect women's rights to land in the constitution. 	<ul style="list-style-type: none"> • The proposal put forward in the land review process to do away with customary tenure is problematic in the context of HIV/AIDS. • There is need to look beyond the concept of compassionate chiefs for the factors motivating their sympathetic handling of affected households. Chiefs are opposing changes to the land laws, which will reduce their role and powers. 	<ul style="list-style-type: none"> • There is still a long way to go in terms of strategic responses to HIV/AIDS. There is need for stronger integration of HIV/AIDS into PRSP • Removing phrases like 'those with the ability and resources' from all land related legislation and regulations is still an issue to contend with. • Mainstreaming HIV/AIDS in all development planning is yet to take root.

Adapted from FAO/SARPN Workshop Report on Land and HIV/AIDS Sept, 2002

3.3 Policy Considerations

- There should be a link between land and HIV/AIDS policies. The HIV/AIDS policy should transcend prevention and treatment to dealing with the effects of the pandemic. Mainstream discussion of HIV/AIDS in land reform policies and address the issue specifically.
- Laws do not always change local or community daily practices. Thus, enhanced access to legal systems and aid for rights protection is an important element for realizing the benefits of the land reform process.
- Other mechanisms such as joint ownership of plots to guarantee equal access and succession planning to help reduce tenure insecurity should be encouraged by land reform practitioners. Excessive emphasis on commercialization, i.e. land markets and economic growth, should not prejudice subsistence and limit alternative livelihood options.

- Governments need to recognize that they are losing personnel to the pandemic and take steps to ensure that capacity to implement policy and service delivery is sustained.

4. HIV/AIDS AND THE LAND REFORM PROCESS

4.1 Conclusions

It is estimated that households experience a decline in income of between 48 to 78 percent when a household member dies from HIV/AIDS, excluding the costs of funerals²³. This burden readily translates into an overall cost on national development and the macro-economies of individual countries. This situation is aggravated by the fact that the portion of the population most affected by HIV/AIDS is also the most economically active. HIV/AIDS holds the national development agenda hostage by creating limitations on the key national production input-land. For land reform practitioners, the challenge is creating reform opportunities for poverty reduction in a situation negatively affected by HIV/AIDS. The pandemic demands fundamental changes in land reform implementation strategies for positive impacts to be realized.

The LSSP stipulates that secure rights to land underpin the sustainability of livelihoods, particularly among rural farmers, by providing a secure basis on which to plan and invest in the future and even consider wider livelihood options. Hence, the LSSP seeks to strengthen the land rights of the vulnerable. These aspects of the LSSP specifically bring into context the need for a policy that is responsive to the increased vulnerability of PLWHAS. The land reform process in Uganda has to rise to the challenge of contributing to secure livelihoods and therefore reduce poverty amidst the impacts of HIV/AIDS. The quest for the land reform process is how to help the poor and the vulnerable seize opportunities created by land reforms to rid themselves of poverty. It should further be noted that whereas research and positive statements are important, time is of the essence.

As communities wait for implementation of responsive land reform processes, the pandemic is not waiting. Many survivors are being left with insecure land rights and diminished livelihoods. Although it is also true that land access is no cure for the HIV/AIDS adverse social and economic impacts, the experience in Sub-Saharan Africa indicates that land access is and will continue to be a vital tool for communities to survive the multi-faceted impacts of HIV/AIDS.

4.2 Strategic Actions

There should be acknowledgment of the impacts of HIV/AIDS on policy implementation and service delivery capacities, especially at a grassroots level. This requires putting in place appropriate safety nets for sustained land administration and management. Review of impacts of the pandemic on the land reform process especially service delivery is essential as a step stone to integrating HIV/AIDS in the land reform process.

In integrating HIV/AIDS in the land sector, innovative partnerships are needed; in the sectoral approach currently used by government agencies, it's ironic how the land sector is divorced from agriculture. The two are intricately related with the PMA acknowledging land reform issues as production constraints but falling short of creating a practical approach that directly links with land reform practitioners. A more proactive convergence should be sought for practical responses to HIV/ AIDS and productivity.

Target specific capacity building at community level on issues that directly contribute to strengthening household safety nets while encouraging greater civil society response is a necessity. This should specifically seek to make land tenure, land transferability, succession planning, legal literacy and legal aid essential elements of community interventions and awareness. This innovation is currently weak in the land sector, aggravated by the small number of civil society actors.

In responding to HIV/AIDS, the land sector should recognise the diverse household types beyond poverty level categorisations. This is premised on the fact that single model target household approaches do not build social and economic safety nets. As such, other types of households, especially those distorted by the pressures of HIV/AIDS are not engaged, reached or given due attention. Land oriented interventions could be improved through a concerted effort to develop better means of engaging and responding to non-traditional households.

An effective land policy is one, which will help secure livelihoods that are strongly 'land based'. The land reform process should through the policy encourage actions either by government or civil society that specifically lessen the impacts of HIV/AIDS or increase the self-insuring and resilience capacity of households.

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ENDNOTES

- ¹ Ministry of Health HIV/AIDS Surveillance Report, 2002
- ² Drawn from a Synthesis of Community Perspectives on HIV/AIDS and Land by AFD, April 2004
- ³ Mostly commissioned by NAADS, FAO and USAID
- ⁴ Ainsworth cited by IFAD, 2001: 11
- ⁵ Barnett et al 2001: 158
- ⁶ EASSI, 2001 and MISR/UNDP 2000
- ⁷ Du Guerney, 2001a: 9
- ⁸ Rugalema, 1999a: 11
- ⁹ Donahue et al, 2000; MISR/UNDP, 2003
- ¹⁰ Walker, 2002:8
- ¹¹ MISR/UNDP Focus Group Discussions on Social Cultural Factors Impacting on HIV/AIDS in Uganda 2003
- ¹² Rugalema, 2002
- ¹³ MISR: Human Resource Demand Assessment from the Perspective of the District; 2000 and I@Mak.Com Decentralization and Tertiary Institutions and Tertiary Institutions Unit Cost Study 2001.
- ¹⁴ Walker 2002:8.
- ¹⁵ Institutional Capacity Audit of Civil Society Organizations WB/ AFD April 2004.
- ¹⁶ This result is in congruence with similar findings by UNAIDS cited by HSRC 2000, 2001a: 14; HSRC, 2001a; IFAD, 2001: 10; WB/AFD, 2004; Biaier, 1997
- ¹⁷ By Focus Group Discussions in Apac, Iganga and Rakai; AFD, April 2004.
- ¹⁸ IFAD, 2001: 11.
- ¹⁹ Loewenson and Whiteside, 1997
- ²⁰ A recent review of Civil Society actors by AFD in the arena of Land and HIV/AIDS found a similar situation in five districts of Uganda
- ²¹ FAO/NAADS, Integrated Support to Sustainable Development and Food security Programme March 2003
- ²² International agencies that have helped with this process include FAO, OXFAM and HSRC
- ²³ Walker, 2002:7