

# **HIV/AIDS IN UGANDA'S NATIONAL LAND POLICY**

*Evidence and Trends: Implications for Poverty Social Impact Assessment in Uganda*

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*7<sup>th</sup> June 2007*

*Presentation for the Poverty Social Impact Assessment (PSIA) Training  
Ministry of Finance, Planning and Economic Development  
Nile Resort Jinja, Uganda*

## **Abstract**

*This paper highlights the conceptual linkages between HIV/AIDS, productivity and land tenure security; it points out the transitional effects of the epidemic on household asset endowment. A checklist of issues and considerations for ex-ante, mid-term and ex-post analysis of HIV/AIDS on land tenure and land use in PSIA undertakings based on evidence from the Gender Baseline Survey by the Ministry of Lands, Housing and Urban Development and a specific site study on systematic demarcation in Rukarango, Ntungamo District*

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## **INTRODUCTION**

Uganda has been affected by the HIV/AIDS epidemic since the early 1980s. This epidemic started in the Rakai district, in the southwestern part of the country, thereafter HIV infection spread quickly, initially in major urban areas and along highways<sup>3</sup>. By 1986, HIV had reached all districts in the country, throughout the 1980s and early 1990s HIV infection continued to spread relentlessly and soon gave rise to a wave of AIDS as more HIV-infected people succumbed to opportunistic infections arising from their suppressed immune systems.

Results<sup>4</sup> indicate that just over 6% of Uganda's adult population is infected with HIV. Urban residents have a significantly higher risk of HIV infection (10%) than rural residents (6%). Prevalence among urban women is 13% compared with 7% for rural women, and prevalence among urban men is 7% compared with 5% for rural men. HIV/AIDS is predominantly spread through heterosexual contact<sup>5</sup>. The impact of the disease has been mainly felt through the escalating morbidity and mortality that disproportionately affects women and men during the prime of their productive life.

Uganda has successfully reversed the incidence of HIV and reduced the mother-to-child transmission rate of HIV by 50% through effective antenatal clinic screening and ARV programmes.<sup>6</sup> Although Uganda has been successful in reducing HIV/AIDS prevalence rates throughout the country, the government is yet to adequately incorporate violations of women's property rights. Property rights are absolutely essential for economic survival. Women's unequal property and inheritance rights contribute to women's poverty and place them at a social disadvantage.

## **CONCEPTUAL RELATIONS: HIV/AIDS AND PROPERTY RIGHTS**

Payment of bride price continues to place women in a disadvantaged position when it comes to ownership of land, because the argument by men is that they pay bride price to acquire their wives, this in itself equates them to any property acquired<sup>7</sup>. Traditionally women merely had access to land through men relatives, social rules guarded against exclusion of women from land use. For women living under customary systems of tenure, marriage remains the primary means for access to land on which to live and grow food or cash crops<sup>8</sup>. In the current context of rapid social and economic change, the institution of marriage is increasingly unstable and the rights in land are vulnerable to forfeiture or erosion of various kinds<sup>9</sup>.

Property rights violations exacerbate the vulnerability of HIV-positive women, who may be evicted from their homes and forced into poverty because they lack the ability to secure land and shelter for their families. Women often have no choice but to remain in abusive and dangerous relationships. Taking charge of property especially land is tactfully achieved, through negotiated mechanisms, which see several widows scheming in different ways, so that they have or give due acceptance, often the approach is delayed show of authority, otherwise absolute show of authority and control is often unachievable<sup>10</sup>. When property rights are threatened, the tendency is to seek protection from the local authorities against either the clan members or the children of the deceased and in other instances against both parties.

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<sup>3</sup> Ministry of Health (MOH) [Uganda] and ORC Macro, 2006

<sup>4</sup> from the 2004-05 Uganda Household Sero-Behavioral Survey

<sup>5</sup> Ministry of Health (MOH) [Uganda] and ORC Macro, 2006

<sup>6</sup> Uganda Aids Commission, 2004, Project Document submitted to the World Bank

<sup>7</sup> EASSI, 2003: 22; Margaret Rugadya: 2004; Irene Ovonji, 1999

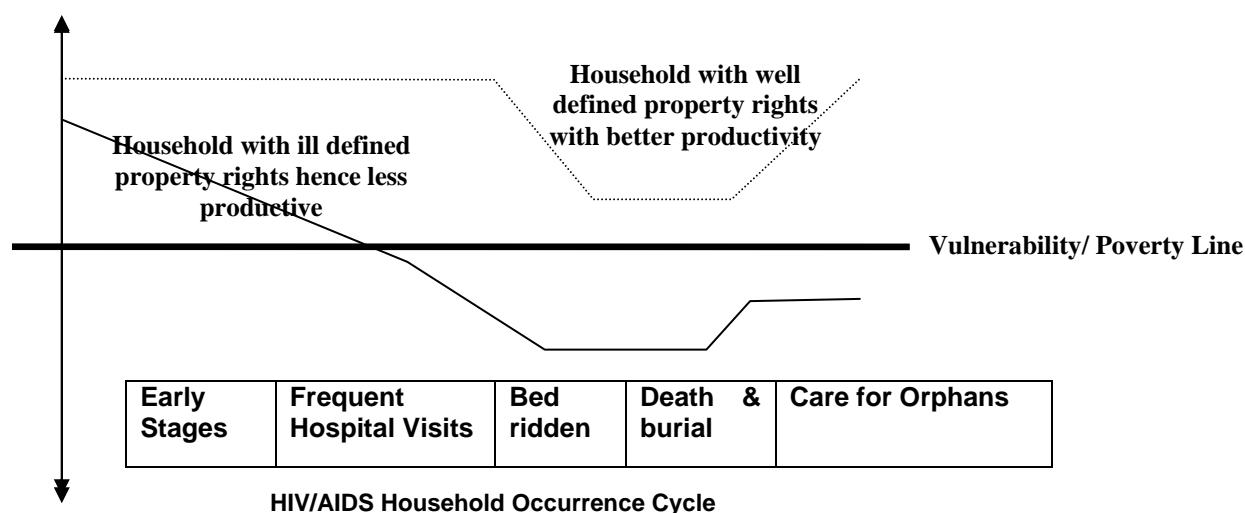
<sup>8</sup> Davison, 1998, Writing about "Agriculture, women and land" in sub-Saharan Africa

<sup>9</sup> Rugadya, 2005

<sup>10</sup> Rugadya, 2005

Exploring the effects of HIV/ AIDS on property rights and agricultural productivity is a three dimensional theme; with the HIV/AIDS disease cycle independent while property rights and agricultural productivity are dependent. This implies that the occurrence of HIV/AIDS in a household (unit of analysis) triggers off a series of changes in both property rights and agricultural productivity, which in turn impact on broader subsistence and development aspects in the face of this adversity. This three dimensional linkage is illustrated in the figure below;

**Figure 1: Property Rights, HIV/AIDS and Vulnerability**



*Adopted with modifications from an Article by Donahue et al, 2000*

## EMERGING POLICY ISSUES

It emerges that Land Policy must recognise that;

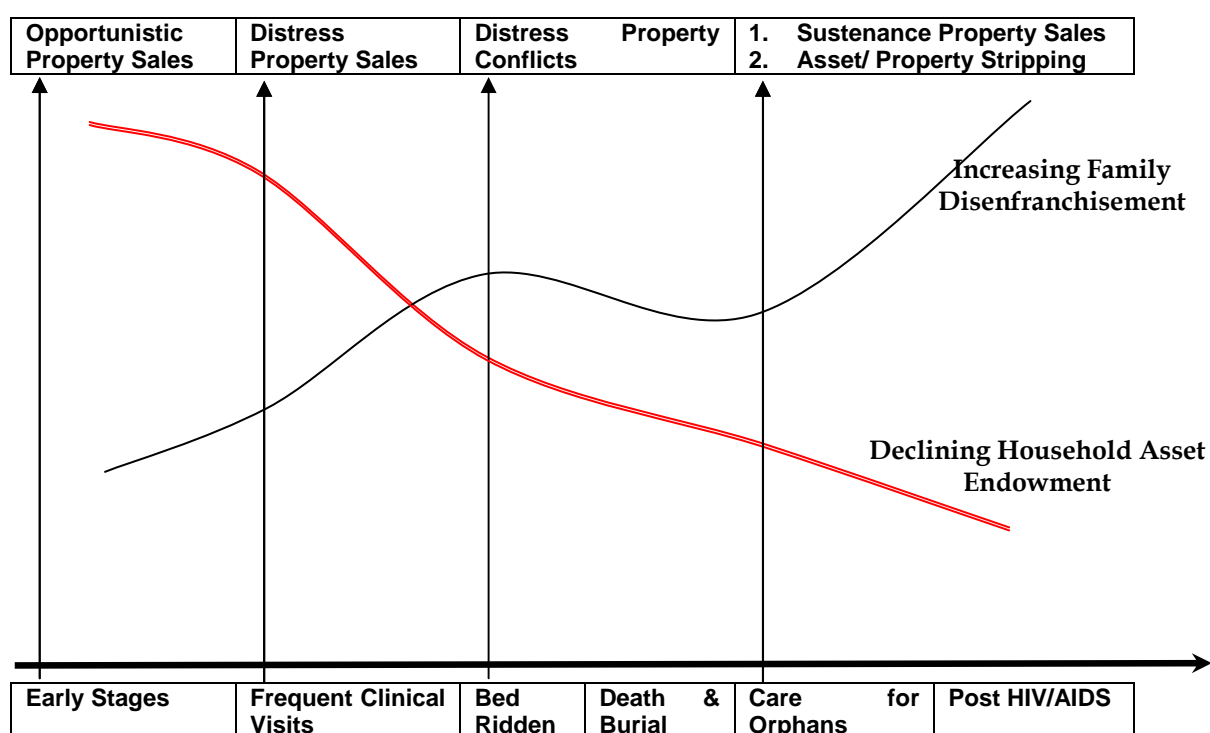
- (i) Households and individuals with well defined and recognised property rights are better endowed to cope and recover in event of adversity (HIV/AIDS and/or other similar shocks) compared to those that are not.
- (ii) The definition, recognition and clarification of property rights in policy has to be cognizant of household resilience determined by the linkage between adversity, property rights and productivity.
- (iii) There are diverse household types beyond poverty level categorisations, therefore is no single model 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, these households have been termed the “left behind poor”.
- (iv) HIV/AIDS tends to exacerbate existing development problems through catalytic effects and systematic impact, if unchecked, could transform the development performance because it challenges wider development issues such as poverty, standard of living, food and livelihood security.
- (v) The economic and social costs of HIV/AIDS are truly colossal, not simply in terms of national economic growth rates, but also in terms of broader human development indicators, since no sector of the economy or social strata is immune to the impacts of the epidemic. But there are very few firm projections of the scale, magnitude and impact of these anticipated changes in the whole of sub-Saharan Africa
- (vi) HIV is a factor in the exercise of rights, and access to justice, particularly for widows and orphans.

## EVIDENCE: TRENDS and PATTERNS

*Distress Sales; Household Bargaining Power; Intergenerational Transfer; Tenure Insecurity, Demand for Property Rights Interventions and HIV/AIDS Risk Factors*

Progression of HIV/AIDS triggers off various distress scenarios at Individual and Household level as shown in the general pattern below. The consequence is increased disenfranchisement/ reduced bargaining power- 'social capital' as the household/ individual asset endowment declines. In terms of land, tenure insecurity, uncertainty of land rights, changing production patterns and landlessness are the critical manifestations particularly the vulnerable (women, widows, children etc).

**Figure 2: Distress and Progression of HIV/AIDS**

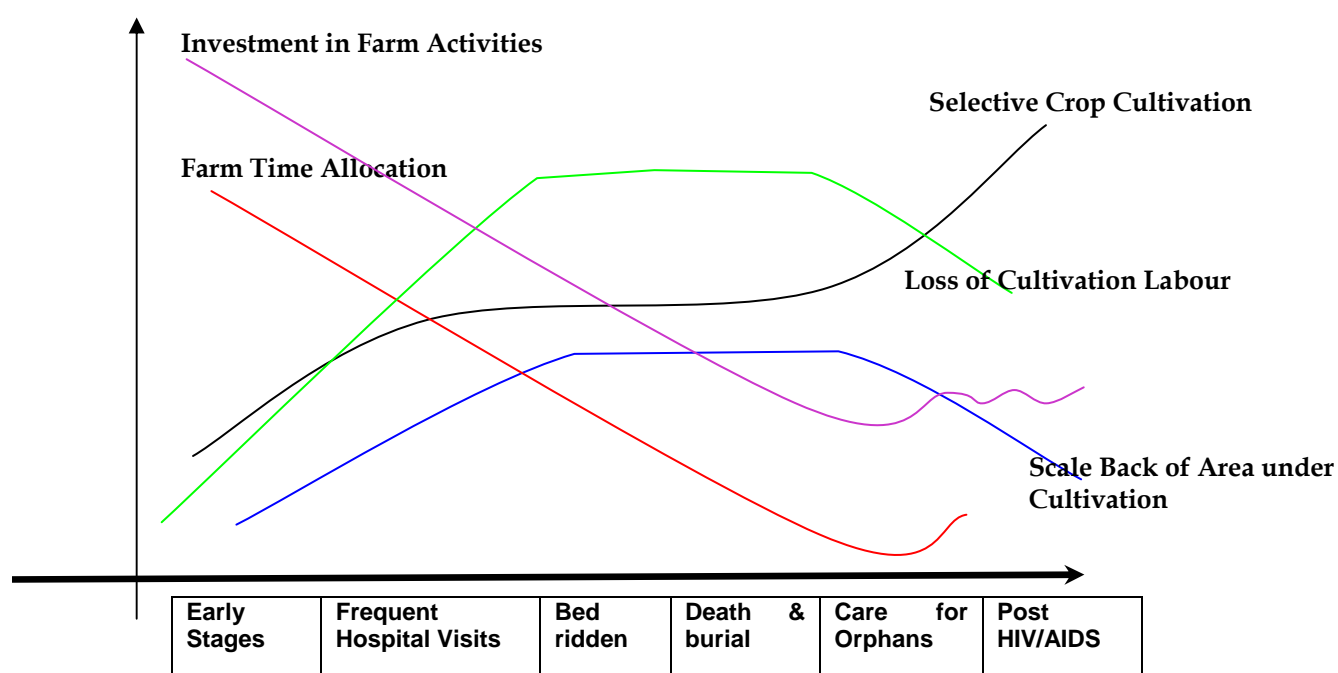


Source: Key Informant Interviews and PLWHAs Case Studies, April 2005

- (i) Households are compelled to divest themselves of assets. This is a coping strategy to generate income for education and health.
- (ii) Land is usually the last asset to be disposed of, particularly at the stage of care for orphans in the post HIV/AIDS scenario at this point intergenerational transfers also take place. Though in reality for the vulnerable it is a loss through sales or grabbing and is indicative of a household transcending further into poverty.
- (iii) HIV/AIDS affects people's ability to protect their rights to land, "use it or lose it" often applies, where use embodies the enforcement of rights; ability to control/ assert rights over property resources especially land diminishes as the HIV/AIDS advances.
- (iv) Evidence also shows instances of reverse inheritance, where grand parents are taking over property in anticipation of the responsibility of caring for the orphans left behind.

This not only presents an operational loophole in policy, but also in law; this is completely not anticipated.

**Figure 3: Agricultural Production Patterns Induced by HIV/AIDS**



- (v) With regard to land use, the implications of the HIV/AIDS pandemic in affected households are a direct effect of death, ill health and time spent in caring for the sick, that reduces time spent in land utilization, leading to under utilization of resources and reduced productivity.

The observations above were clear in the gender baseline survey in the figure below;

**Figure 4: Effect of HIV/AIDS on land in households**

Effects of HIV/AIDS in Households (Responses)	Household Category						Total	
	Female Headed		Male Headed		Child Headed		n	Col %
	n	Col %	n	Col %	n	Col %		
Sold land to finance health	12	7.7	40	12.4	2	16.7	54	11
Sold land for sustenance	5	3.2	11	3.4	2	16.7	18	3.7
Land disputes with relatives	6	3.8	4	1.2	2	16.7	12	2.4
Scaled back farming relatives	24	15.4	49	15.2	1	8.3	74	15.1
Could not invest/save	59	37.8	122	37.8	2	16.7	183	37.3
Was evicted from land	1	0.6	5	1.5			6	1.2
Grand parents took over land	1	0.6	1	0.3			2	0.4
Land disputes with neighbors	1	0.6	1	0.3	1	8.3	3	0.6
Was evicted from land			5	1.5			5	1
Our land was subdivided	1	0.6	4	1.2			5	1
Less time to farm/ fewer persons	46	29.5	81	25.1	2	16.7	129	26.3
<b>Total</b>	<b>156</b>	<b>100</b>	<b>323</b>	<b>100</b>	<b>12</b>	<b>100</b>	<b>491</b>	<b>100</b>

Source: Household Survey, May 2005

- (vi) Discriminatory inheritance practices exacerbate the negative consequences for HIV/AIDS affected households. Besides, widows and orphans, persons living with HIV/AIDS are head households and make decisions with far reaching consequences. It is important to note that land policies that ignore the rights and /or interests of the vulnerable aggravate tenure insecurity and make it easier for individuals or families to enter distress sales and deplete the economic means that would help them recover.

## CONSIDERATIONS/ IMPLICATIONS

### For PSIAs

- (i) HIV/ AIDS has a redistributive effect on land; through distress sales and associated land market vagaries, intergenerational transfer whether positive (old to young) or negative (young to old: reverse inheritance) and even asset stripping. For PSIAs, the issue is how the policy has managed to disentangle and manage redistributive land reform tendencies emanating from HIV/AIDS.
- (ii) HIV/AIDS presents a host of intervention risk factors; increased household expenditure regimes, failure to save and invest, and development of vices as alternative income-generating strategies such as prostitution, disrupted agricultural activities/ production, resultant tenure insecurity and depletion of means to economic recourse. For PSIAs at ex ante level, the issue is recognition of the risks and incorporation of risk management strategies in the policy while at mid term and ex post levels the issue is the aggregate effect of the risks on the results of policy implementation.
- (iii) In the specific context of the land sector in Uganda review of research and extension programs, initiatives on inheritance and succession planning/ will writing; access to land and family justice and community capacity building that contributes to strengthening household adversity safety nets would critical to PSIA.

**Figure 5: Reasons for Opinion on Women's Land Rights**

(Multiple Responses)		Do women have clearer rights to land because of Systematic Demarcation				Total	
		Yes		No		n	%
		n	%	n	%		
Reasons for clarity of Women's land rights	Husband can't sale without consent of wife	105	77			105	67
	Women's names recorded on the documents	27	20			27	17
	Land still registered in husbands names	1	1	18	69	15	9
	No land problems in case of divorce	3	2	3	12	6	4
	Women's names not yet on the certificates			5	19	5	3
Total		136	100	26	100	162	100

*Source: Household Survey*

- (iv) In a sample study in Rukarango, Ntungamo District one of the areas of the pilot systematic demarcation, a dispute reduction rate of 16% was achieved and a resurgence rate of only 5%, this is a colossal accomplishment considering the socio-economic effects of land disputes on households and communities. This study revealed changing patterns in inheritance and spousal rights on land as well as ownership, access and use of land postulating both negative and positive facets. To others in the community, systematic demarcation was bent on altering the power relations within the family especially as regards land re-adjustments involving family members

*For Data Collection*

- (i) Recognise the diverse household types beyond poverty and conventional research categorisations; which have to be engaged, reached and/ or given due attention. Strategy of developing specific sampling frames- support provider based or community based.
- (ii) Ethical considerations are of paramount importance<sup>11</sup>; the issues to contend with are:
  - (a) Different approaches in different areas (men/women; FGDs/ In-depth interviews from different villages;
  - (b) One-off inclusion in information giving; and, take only one respondent per household; strategic geographic spread of the sample.
  - (c) Ensure physical safety of respondents and interviewers
  - (d) Informed consent
  - (e) Conduct interviews in a private setting; maintain the strictest confidentiality – To control stigma associated limitations to data collection
  - (f) Do not record the names of respondents on the interview forms, instead generate a unique identifier number
  - (g) Women should interview women, men should interview men
  - (h) Interviewers should not do interviews in villages or sites where they know the potential respondents (be they as friends, family, colleagues etc)
  - (i) It helps if the female interviewers are dressed in outfits similar to the respondents, and if they appear to be the same age or older than the respondent. –Trust and confidence building

*For Ex-post Impact Analysis*

- (i) Our experience in Uganda is that a lot is done at the level of descriptive statistics; which have limitations on the extent to which inferences can be made in the period after policy implementation. There is need to appreciate and practice a lot more econometric analysis for policy is about ameliorating certain conditions to have effect on others; therefore if PSIAs are concerned with promotion of evidence based policy choices then ex-post impact analysis has to go beyond what we are accustomed to in Uganda.
- (ii) Through the policy implementation cycle; data has to be accumulated such that at ex-post stage there is time series analysis; cross-sectional measures may not help much but changes over time are critical; baselines followed by sporadic often mutually exclusive studies driven by different motives create inconsistencies in the evidence gathered.

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<sup>11</sup> Internal Center for Research on Women (ICRW); Washington USA: Ethical Guidelines on Research Involving Violence and HIV/AIDS.

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