

## **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.<sup>10</sup> 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

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<sup>10</sup> 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 Mpfana/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 Mudén area*

The pattern of illness and impoverishment in the Mudén 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 Mudén 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 afford 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.<sup>11</sup> 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.

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<sup>11</sup> 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 way 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
<u>Dudu F</u> – Ailing adult pregnant daughter returns home with AIDS in 2000; newborn child dies in same year.	Unclear	No	No	No	
<u>Mary G</u> – 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.
<u>Lukas I</u> – 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	
<u>Nokuthula H</u> – 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	
<u>Vuyisile I</u> – 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.
<u>Thembisile J</u> – 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 <i>induna</i> for help, who revealed men as impostors.	
<u>Sibongile K</u> – 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.	
<u>Sibusiso M</u> – Eldest of 5 youth who lost both parents to AIDS in 1998.	Sometimes has to hire casual workers.	No	No	No	
<u>Rebecca L</u> – 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.
<u>Thembi N</u> – 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	
<u>Maria T</u> – 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 <i>induna</i> pre-emptively to minimise the chance that there would be any problems.	
<u>Thoko K</u> – 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 <i>induna</i> .	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 responsibility 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 alleged 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<sup>12</sup>. 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

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<sup>12</sup> 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<sup>13</sup> 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

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<sup>13</sup> 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
<u>Shella M</u> – stays with her 5 siblings together with her maternal aunt.	Family hires casual labour	No	No	No	
<u>Jazz M</u> – 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.	
<u>Annie S</u> – 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.
<u>Manzi K</u> (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				
<b>Taki L</b> – 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 life 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
<u>Cecelia P</u> – 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 <i>induna</i> ruled in her favour, saying there is no legal ground on which to evict her.
<u>Nona M</u> – 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.
<u>Samuel K</u> – 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 <i>induna</i> .	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.
<u>Goodwill K</u> – AIDS infected son of Samuel K.					Feels guilty about the devastating effect his AIDS has on his father physically, emotionally and financially.
<u>Ruth N</u> – 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.				
<u>Betty O</u> – 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 <i>induna</i> 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 <i>induna</i> 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.
<u>Phumlani P</u> – 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.
<u>Petra V</u> – 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.
<u>Philani X</u> – 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.	
<u>S'bo A</u> – 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.
<u>Zinzi B</u> – 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.				
<u>Mandisa C</u> – Her mother died of AIDS. Unscrupulous relatives and moneylender make life 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 <i>induna</i> ruled in their favour.	The <i>induna</i> also ruled against the uncle when he misused their crops and livestock.
<u>Jabulani D</u> – 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 Pumlanani 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 Municipal 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. Siphon 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
<u>Sipho D</u> – 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.
<u>Vusumuzi M</u> – 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.	
<u>Busisiwe N</u> – 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 important.	No.	No.	Death of eldest daughter impacted on cultivation as she conducted most agricultural activity.
<u>James L</u> – 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.
<u>Sarah K</u> – 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.

<u>Dora B</u> – 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.
<u>David T</u> – 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.
<u>Rose Z</u> – 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.
<u>Sibongile C</u> – 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.
<u>Nkosinathi R</u> – 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.	
<u>Daniel N</u> – 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.
<u>Sandile E</u> – 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.	
<u>Bhekumuzi F</u> – 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.
<u>Buhle G</u> – 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.
<u>Magdalene M</u> – 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.
<u>Mandla H</u> – 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.	
<u>Jimmy D</u> – 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 <i>induna</i> . 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 <i>induna</i> .  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 <i>induna</i> , who kept relatives at bay.	
<u>Jabu J</u> – 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.	

<p>establish rental units on the land. Rental already established earlier on land. Jabu already ill as he contests the uncle's actions.</p>			<p>the tribal court, the land fell back under Jabu's control.</p> <p>Unclear what happened with first structures set up for rental.</p>	<p>Not clear what transpired with first rental units.</p>	
<p><u>Elias H</u> – 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.</p>	<p>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.</p>	No.	No.	No.	
<p><u>Thandiwe S</u> – 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.</p>	<p>Yes. Land use has declined since grandparents died; only a small area immediately around the house is used.</p> <p>Daughters not putting effort into cultivation to make land effectively utilised.</p>	No.	No.	No.	<p>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.</p>