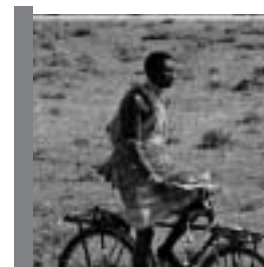


5 RESEARCH FINDINGS - EMBU DISTRICT



5.1 Background on Embu District

Location and brief description of the study site

Embu District, in the south of Eastern Province, is a district with high agricultural potential where over half the population is nevertheless classified as poor, and poverty is reported to be on the increase.

Eastern Province itself has considerable variation in terms of environment and socio-economic conditions. It is the second most populous province after Rift Valley and has the second highest provincial HIV prevalence rate (after Nyanza Province), estimated in 2000 as 16% of the population between 15 and 49 years of age (Ministry of Health 2001: 6).

While land registration is not complete in the province as a whole, the district of Embu was one of the first to undergo land titling in the early 1960s, and all land in the district is registered. Official records have, however, not kept up with informal processes of transfer and subdivision of land parcels on the ground.

As already noted, the study site chosen within Embu was a cluster of three small adjoining settlements centred on the village of Kinthithe. The fieldwork covered 98 households, with a total population of 503 persons. Forty-three of the 98 households were in Kinthithe itself, 32 in Masicho and 23 in Kanthoga.

The site falls within the Karurumo sub-location of Kyeni division, which is one of six administrative divisions into which Embu District is divided. It lies on the lower slopes of the eastern foothills of Mt Kenya, at an altitude of around 1 300 metres. It is about 35 kilometres by road from the provincial capital of Embu, on district road D470 that links the settlements of Kyeni and Karurumo.

The Karurumo Health Centre, some five kilometres from Kinthithe, is a national HIV/AIDS surveillance site. This influenced the choice of the Kinthithe cluster of villages as a field site, as the Centre is its nearest health facility.

HIV/AIDS is a very serious threat to health and well-being in the district. Judging from records on the number of pregnant women testing positive at the Karurumo Health Centre, the epidemic has exploded during the 1990s. However, the early course of the epidemic is difficult to trace. In 1994 the percentage of pregnant women testing HIV positive at the Centre was 2%; the following year, the figure was 10%; two years after that, in 1997, the prevalence rate was 27%; and the following year it was measured as 12% (Ministry of Health 2001: 5).

The large year-on-year variability indicates that, at least up to 1997, the sentinel site prevalence figures from Karurumo Health Centre should not be considered a reliable indication of the trend in Embu District. However, data in the Embu District Development Plan show a more stable, high trend from 1998 onwards: 27.1% in 1999, 24% in 2000 and 26.6% as of August 2001 (Embu District 2002: 32).¹

Although it is difficult to discern a trend for the whole period, it seems likely that the pandemic is at a less advanced stage in Embu compared to the other two sites in this

¹ The total numbers of pregnant women screened for HIV were 1 370 in 1997; 1 385 in 1998; 1 681 in 1999; 1 725 in 2000 and 1 177 up to August 2001 (Embu District 2002: 32).

THE IMPACT OF HIV/AIDS ON LAND RIGHTS

study, meaning that the extent of full-blown AIDS is still relatively low, but that HIV prevalence is now on a par with the worst affected parts of the country.

Population and employment profile of Embu District

The study site falls within one of the more densely settled regions in Kenya. According to the Embu District Development Plan 2002–2008, the population of Kyeni division was 50 985 in 2002, with a population density of 486 per square kilometre (Embu District 2002: 12). This compares with a district average of 564² (Embu District 2002: 12), and a provincial average of 30 per km² (Institute of Economic Affairs 2002: 53). However, the population in the Karurumo sub-location, where our study site is located, is less dense than the district average, calculated at 285 people per square kilometre from the 1999 census.

It is of note that the annual population growth rate has declined sharply in the district since the 1980s, from 3.08% between 1979 and 1989 to a 'moderate' 1.7% between 1989 and 1999 (Embu District 2002: 26). This is significantly lower than the estimated annual population growth rate for Kenya for 1989–1999 of 2.98% (Central Bureau of Statistics 2002). The District Development Plan attributes the falling growth rate to a 'general decline' in the fertility rate, as well as the role of HIV/AIDS 'in raising the mortality rates among the population' (Embu District 2002: 26).

One result of the decline in the growth rate has been a drop in the proportion of the district population of children under the age of 15, from about 48% in 1989 to 38% in 2002 (Embu District 2002). Based on the figures supplied in the District Development Plan, the percentage of Embu's population under the age of 19 is also a relatively low 38%. However, it is worth noting that those under the age of 19 constitute 50% of the population in our study site.

Currently the district has a higher proportion of females than males, with a ratio of 96 males for every 100 females (Embu District 2002). The District Development Plan attributes this to male out-migration from the district. As discussed below, the preponderance of females over males is even higher in our field study area, not because of a greater rate of adult male out-migration, but because of higher male than female mortality, as well as a larger number of girl children than boy children in the sample population.

The composition of the economically active population of Embu District is shown in Table 5.1:

Table 5.1: Composition of the economically active population of Embu District

	Female	Male	Total
Work for pay	13 323	24 936	38 259
Unemployed	2 246	2 621	4 867
Unpaid workers – family business	7 313	6 973	14 286
Unpaid workers – family farm	44 516	34 795	79 311

Source: Central Bureau of Statistics 2002.

² This figure excludes the protected area of Mt Kenya National Forest from the calculation.

RESEARCH FINDINGS - EMBU DISTRICT

Among the economically active population of Embu District, 28% are engaged in work for which they are paid. Very likely, a disproportionate share reside in the urban settlement of Embu town and to a lesser extent, Runyenjes, which together comprise about 12% of the district's population. Among economically active women, only about 20% work for pay, versus 77% who perform mainly agricultural unpaid work in the family enterprise. Moreover, women constitute 56% of all unpaid workers on family farms.

Land tenure

As noted, Embu was one of the first districts in Kenya to undergo land registration, with the first title deeds being issued in 1961 (Interview, member of the Kyeni/Runyenjes Land Control Board).

Currently all available land in the district has been demarcated and registered, although not all title deeds have been collected from the Land Control Board (Interview, District Commissioner). Twenty-nine per cent of the district on the higher reaches of Mt Kenya is protected as national forest, but outside that less than 1% of the district is designated as Trust land.³

Unpublished records in the Ministry of Lands and Settlement in Nairobi show a total of 97 688 registered land parcels in Embu District in 2001. A little over 10 000 new parcels have been registered since 1997, over half of them in 1998:

Table 5.2: Total land parcels registered in Embu District, 1997-2001

	1997	1998	1999	2000	2001	Total
Total	86 879	92 618	94 357	95 881	97 688	
Increase over previous year		5 739	1 739	1 524	1 807	10 809

Note: The figures show total land parcels registered, not total land transactions recorded.

Source: Data in Ministry of Lands and Settlement files, September 2002.

This means that there is, on average, one registered land parcel for every three people in the district. While this computation is not an accurate indicator of the distribution of land holdings, which is not uniform across households, it does illustrate the comprehensiveness of land registration.

The increase in land parcels in the 1990s highlights the phenomenon of ongoing subdivision of land into smaller and smaller parcels. In 1962 the average land holding in Embu was 20 acres or 8.1 hectares per family⁴ (Interview, District Commissioner). Today, as a result of population growth and the subdivision of family land among successive generations, the average holding is down to three acres (1.2 hectares).

The District Development Plan notes with concern how increasing population pressure is leading to the subdivision of the land into increasingly uneconomical units (Embu District 2002: 29). Some families have less than one-quarter of an acre of land (0.1 hectares), and

³ Calculated from figures supplied in Embu District 2002: 13.

⁴ One acre = 0.405 hectare.

THE IMPACT OF HIV/AIDS ON LAND RIGHTS

outright landlessness, as well as loss of productive land to residential use, are on the increase (Interviews, District Commissioner and District Development Officer). This is exacerbating both gender and generational tensions.

Unfortunately, actual estimates of the percentage of the population that can be classified as landless, as opposed to general observations noting the phenomenon, are not readily available. The District Development Plan describes the proportion of poor that is landless as 'significant' (Embu District 2002: 31) but does not quantify this term.

One consequence of landlessness has been the growth of slum areas on the outskirts of the small provincial capital of Embu (Interview, District Development Officer). This town more than doubled its population between 1989 and 1999, from 26 525 to 59 732 (Embu District 2002: 29). In part this population increase can be explained by a redrawing of the municipal boundaries to incorporate more of the surrounding areas, but the increase also reflects growth in the urban population, as more people abandon unviable rural-based livelihoods. Currently 22.5% of the district population is classified as urban (Embu District 2002: 13); of concern is that there has not been a corresponding growth in off-farm economic opportunities.

Monthly returns from the district lodged with the Ministry of Lands and Settlement in Nairobi reveal the following level of official land transactions in the district in 2001, in order of frequency over the year:

Table 5.3: Land transactions in Embu District, 2001

Transactions	December 2001	Jan–Dec 2001
Official searches	439	6 032
Application for consent to transfer and/or subdivide	310	3 762
Land/lease certificates	211	2 814
Transfers	117	1 759
Subdivisions	15	814
Succession	28	420
Correction of names	24	262
Cautions	13	201
Leases	3	70
New grants on government land	-	-
Total transactions	1 193	16 631
Total fees collected		KShs 4 877

Notes: 'Cautions' are placed when a transaction is in process to prevent other transactions being registered. Land/lease certificates are generally issued for leases of 25 years or longer. Official searches are searches regarding the history of land parcel registration.

Source: Data in files of the Ministry of Lands and Settlement, September 2002.

RESEARCH FINDINGS - EMBU DISTRICT

Given the national concern with 'land grabbing' and the privatisation of state and Trust land, it is of interest that no new grants on government land were recorded officially in 2001.

According to this data, land transfers (involving both sales to outsiders and inheritance by family members) outnumber formalised subdivisions by more than two to one. Comments by participants in our study indicate that the cost of engaging the official machinery of the Land Control Board and the courts encourages reliance on informal transactions, not only for land disputes but also for subdividing, transfer and succession. The District Officer quoted a figure of KShs 2 000 to transfer title from a deceased husband to his widow, while a figure of KShs 10 000 was quoted in one of our focus group discussions as the cost of obtaining a title deed.

It is difficult to gauge the size of the land market from the official transaction figures since transfers cover both intra-family transfers and sales to outside parties. It is also not clear from the data how many of these transactions took place in Embu town itself. What the official figures, read with the results from our fieldwork, indicate is that there is a land market in Embu District, including in rural land, but the market is not the most significant institution through which land is transacted.

Agriculture in Embu District

Agriculture in the form of small-scale food and cash-crop production is the major economic activity in the district, accounting for 70% of incomes (Embu District 2002: 31). According to the District Development Plan, there are some 60 000 small holders in the district, who account for 90% of total agricultural output (2002: 33).

Women provide 80% of family labour and produce 60% of farm-derived incomes in the district, but most do not own land in their own name and access it through male relatives – husband, brother, father or sons. About 15% of smallholder farms in the district are female-headed and these households are generally regarded as among the poorest, 'having smaller or no land holdings at all, fewer assets, low incomes and unreliable sources of income' (Embu District 2002: 33).

The agricultural sector as a whole is in serious decline, with the Embu economy a microcosm of developments across Kenya in this regard. The agricultural potential of the district is high, with good rainfall and soils suitable for the production of a range of food and cash crops, but, according to the District Development Plan, 'low or absolute lack of resources' means that the majority of people in the district are unable to invest in agriculture, 'including those who own the land but do not have financial capability to improve on its productivity' (Embu District 2002: 31).

The District Development Plan comments that the local economic situation is worse in 2002 than it was in 1997:

... strategies were not only unrealised, but the situation seems to have deteriorated over the [1997–2001] plan period. This is particularly true for the agricultural sector, physical infrastructure – specifically roads and the marketing services. (Embu District 2002: 31)

Coffee was developed as a cash crop on a large scale from the 1970s. Before that time it was restricted to a few growers in the higher regions of the district, but, according to one

THE IMPACT OF HIV/AIDS ON LAND RIGHTS

local informant, in 1974 a local agricultural officer championed the expansion of coffee cultivation to 'the lower side', including Kinthithe. The 1980s were a boom period but the local coffee industry collapsed in the 1990s. Prices plummeted and the production of coffee in the district declined from 40 000 tons in 1997 to 29 500 tons in 2000 (Embu District 2002: 21).

A number of factors are involved, including the deregulation of the industry, unfavourable competition from other coffee-producing countries, declining quality and productivity as poor coffee growers find it more and more difficult to pay for inputs such as fertilisers and pesticides, and mismanagement and corruption within the industry.

The dairy industry is also in decline, reflected in the collapse of a local dairy, Kenya Co-operative Creameries, and the closure of a milk cooling plant in Runyenjes (Embu District 2002: 31). District-level plans to expand the horticultural sector have not been realised.

The district has irrigation potential but this has not been harnessed. A number of participants in our study complained about the lack of an irrigation infrastructure, despite the good rainfall and abundance of rivers and streams. A further problem for cash crop production is that the district road network is poor and deteriorating. Only 50 out of a total of 583 kilometres of district roads are tarred. Many roads were extensively damaged in 1997/98 as a result of severe flooding in the area, and these have not been restored, further hampering farmers' access to markets and the delivery of services (Embu District 2002: 20).

Local agricultural production is caught in a vicious poverty trap. People are cutting back on inputs such as fertiliser and pesticides because of lack of finances, which results in reduced harvests and a further decline in income. In the words of a widow in one of our focus group discussions:

Coffee has been affected by a very bad disease. Before, when there was money, we were spraying. From when there was no money, we no longer spray the coffee. It has been infected by diseases which cause the trees to dry. So we don't have enough coffee to help us. And as there is no money, we can't afford pesticides.

Social development indicators

In terms of poverty Embu District falls somewhere in the middle range in Kenya. While not the most severely disadvantaged region in the country, the district nevertheless faces serious socio-economic problems.

In 1997 just under 56% of the population were calculated to be living in absolute poverty, giving the district a national poverty-level ranking of 25 out of the 46 districts in the country for which this information was available (Institute of Economic Affairs 2002: 61). According to a 1994 study, the average Embu household then spent about 80% of its income on food (Embu District 2002: 30), which meant there was very little surplus for other household expenses, including health, education, shelter and agricultural inputs. Furthermore, while poverty levels reportedly declined between 1994 and 1997, they are now on the rise according to the District Development Plan (Embu District 2002: 20).

The District Development Plan reports an infant mortality rate of 56 (per 1 000) and a life expectancy figure of 57 (Embu District 2002: 14). The life expectancy rate is below the

RESEARCH FINDINGS - EMBU DISTRICT

64.5 reported for the district in the 1999 census (Institute of Economic Affairs 2002: 61), but higher than the national figure of 52 (UNAIDS 2002: 3).

Basic literacy is relatively high, but skewed against women, with literacy rates of 89.7% for men and 76.3% for women (Embu District 2002: 24). According to the District Development Plan, over 95% of children of primary school age are enrolled in primary school, but only 40% of the secondary school age group is in school (Embu District 2002: 20–21). The payment of school fees imposes a serious financial burden on most households with school-age children.

Only 8.3% of households have access to electricity, with over 90% of households relying on firewood and charcoal for cooking (Embu District 2002: 18). While the district is well endowed with water, proposals to improve the water supply in the 1997–2001 District Development Plan were not implemented and the bulk water supply has fallen into disrepair. Sixty per cent of households in the district have access to piped water but in most cases this is not treated. In Kinthithe the main pipe transporting water to and beyond the village has been broken since the early 1990s and water-borne diseases, including typhoid, present serious health risks.

There is one doctor for every 10 474 people and one hospital bed for every 522 people, which is better than the provincial average of 690 (Embu District 2002; Institute of Economic Affairs 2002: 61). The district has a total of seven hospitals, of which five are private. The public hospitals are considerably cheaper than the private; however, the government's cost-sharing policy means that the public institutions also charge user fees. According to the Officer in Charge (OIC), an average stay of between one and two days at the state-run Karurumo Health Centre will cost in the region of two to three hundred shillings.⁵ Respondents in our fieldwork quoted costs for various tests of between KShs 40 (cited for malaria) and KShs 120.

Based on our in-depth interviews in the Kinthithe area, the major problem with access to basic health services in the district is not availability so much as cost. However, if medical treatment were to become more affordable, the existing health services infrastructure could be expected to come under severe pressure, as the current fee structure does inhibit demand. People also utilise a range of more traditional therapies, including herbal remedies, and rely on these to supplement or substitute for relatively expensive hospital and clinic treatment.

State capacity

State capacity to meet the many development challenges facing the district, including HIV/AIDS, is clearly under strain. By way of illustration, the District Development Plan reports that only 33 out of 104 state-initiated projects for economic and infrastructural development planned for the district between 1997 and 2001 were actually allocated funds, and the overall implementation rate for projects in this period was just 13.5% (Embu District 2002: 21–20).

Information management is generally poor. Indicative of the constraints under which district officials work, the District Development Officer does not have a computer in his

⁵ This is equivalent to three to four days wages for local casual labour, for which the going rate is KShs 70 per day. At the time of the fieldwork, KShs 70 was approximately equal to \$1 or £0.64.

office, although one is on order for him. He has also struggled to access basic information tools, such as official maps and socio-economic data, and has had to turn to private consultants to meet some of his resource needs. Reliable, in-depth information on land tenure and land administration, social and economic development indicators, and HIV/AIDS is not readily accessible and the data that is available is inconsistent.

The brief district overview establishes the vulnerability of the district to the social and economic shocks that the HIV/AIDS pandemic brings in its wake; the weakness of state institutions in response to this and other developmental challenges; as well as the centrality of land to people's livelihood strategies.

However, the impact of the pandemic on land tenure systems emerges from our fieldwork as a highly mediated one. There are many intervening variables, which influence the level of vulnerability of different households and individuals in different ways. Furthermore, because AIDS-related morbidity and especially mortality have not yet reached their peak in the Kinthithe area, the cumulative impact of the pandemic on land tenure systems and relationships must be understood as still gathering momentum. The full implications for land tenure systems over the longer term are, therefore, somewhat conjectural.

5.2 Recap of the fieldwork

The fieldwork in Embu involved the following research instruments:

- A socio-economic survey of 98 households in Kinthithe and the two surrounding localities of Masicho and Kanthoga. Field staff estimated the total number of households in the three villages to be 110, so the sample is close to a complete census of the locality (covering 89% of all possible households).⁶
- In-depth interviews with 27 individuals across 18 of the households in the household survey. In keeping with the terms of reference of the study, these interviews were skewed towards women; in retrospect more interviews with men would have been desirable but it was not possible to undertake follow-up fieldwork in the site. Twenty-four of the 27 participants were women (eight widowed, seven married, six single, and three separated). The three men who were interviewed were all married and in their 50s. Two of the men were married to women who were also interviewed in-depth, albeit separately. Fourteen of the interviews (across nine households) were conducted with individuals in households where there was either clear evidence or strong indications that the households were or had been directly affected by HIV/AIDS.⁷ (See Appendix 4.2)
- Three focus group discussions involving a group of 13 widows, a group of eight land-poor men and a group of 14 land-poor women.
- Key informant interviews with six individuals, including: the District Commissioner; the District Officer; the District Development Officer; the Officer-in-Charge of the Karurumo Health Centre; the Assistant Chief for the Karurumo sub-location; and a member of the Kyeni/Runyenjes Land Control Board.
- A group participatory mapping exercise, to trace changes in land ownership and use over the past ten years. The primary value of this exercise was that it confirmed perceptions of active subdivision and densification of land holdings over this period

⁶ The households which were not captured in the survey were those where people declined to participate or no adults were available to be interviewed after two visits.

⁷ Note that only two respondents acknowledged openly that HIV/AIDS had struck their particular families.

RESEARCH FINDINGS - EMBU DISTRICT

and generated discussion among the participants around trends in local agriculture and land use.

Several of the participants in the in-depth interviews were also able to offer overviews of developments in the area, in particular a retired male schoolteacher, a young university-educated woman who is a teacher at the local school, and a middle-aged female nurse at the Karurumo Health Centre.

Given the ethical and methodological constraints on researching HIV/AIDS in the field, neither the household survey nor the in-depth interviews gathered empirically verifiable data on the actual extent of HIV/AIDS among the sample population. Instead, we worked with notions of chronic illness and a presumptive classification of households status as affected or not, based on a reading of the symptoms and indications reported to us. In the absence of any indications to the contrary, we assumed that the estimated HIV prevalence levels for the Embu District would apply roughly to the Kinthithe area as well.

5.3 Population and livelihoods profile

General description

The three adjoining villages that make up the field study site – Kinthithe, Masicho and Kanthoga – are typical in appearance of many rural settlements on the lower slopes of the Mt Kenya foothills in eastern Embu District.

Although the terrain is hilly, the slopes are less steep than in the upper reaches of the district. The area is also less densely settled than the higher, western parts of the district. Groups of dwellings are spread across a sloping promontory between two water courses, scattered among fields and trees. Most houses have earthen walls and iron or zinc roofs; a small number of more substantial houses are built out of cement blocks or stones.

The greater availability of land compared to the more densely settled villages in the higher elevations of the district has allowed a nucleated settlement pattern to develop, whereby adult children (principally the married sons) are able to establish their own households apart from parent households and often in separate compounds. Multi-household compounds are thus comparatively rare, although not unknown.

However, the area has experienced considerable in-migration and consequent population growth in recent decades, which, if it continues, will put increasing pressure on land holdings. One informant, a retired school teacher of 54, who himself settled in Kinthithe with his wife in the early 1980s on land he had bought, described the area at that time as 'not cultivated as it is today; it was all bush'. A woman who was born in 1966 recalled during her interview:

When I was growing up, the homesteads were far apart and there was a low population. And most of the farms were bushy. Even along the roads it was very bushy, along the sides. Only some parts were cultivated. People were not cultivating so much and they were going to graze in the semi-arid areas.

Immigrants have moved into the area from other parts of Embu as well as from further afield, including other districts in Eastern Province and from Central Province and Nairobi.

THE IMPACT OF HIV/AIDS ON LAND RIGHTS

Although there are local land transactions, one woman was emphatic in her interview that 'those who buy land do not come from here'.

The settlement has a local primary school, which was established in 1994, a secondary school, and a number of small shops and kiosks. The nearest health facility is the Karurumo Health Centre. The nearest market is also located at Karurumo.

Access to clean drinking water is a problem, as the public water pipe that used to supply the village has fallen into disrepair. Most households – 84 of the 98 – depend on water from unprotected sources such as rivers and streams, with only two households reporting taps in their yards.

Of interest is that a number of our respondents were personally affected in the 1950s by the enforced resettlement of people by the British colonial government into 'protected' villages in nearby Kathanjuri, in response to the Mau Mau resistance movement.

Population profile

The 98 households covered by the census have a total population of 503, of whom 53% are female and 47% male. The average household size is five, which is slightly larger than the district average of four members per household (Embu District 2002: 14). The great majority of households (84%) have between three and seven members each. The largest household in the sample had 11 members, while five households had only one member each.

As in Embu District, females outnumber males in our household sample. At 87:100, the imbalance in the male:female ratio is even more marked than in the district as a whole (where it is 96:100).

Table 5.4: Population profile of the Kintbithe study site

Age group	Male		Female		Total	
	Number	Percentage	Number	Percentage	Number	Percentage
0–19	115	49%	136	51%	251	50%
20–49	89	38%	91	34%	180	36%
50+	29	12%	41	15%	70	14%
Total	233	100%	268	100%	501	100%

Females outnumber males in all age cohorts, with the discrepancy most marked in the youngest and oldest age cohorts, where the proportion of females is 54% and 59% respectively. As Table 5.7 indicates, the latter can be explained by a not unusual higher mortality rate among older men compared to older women. The reasons for the gender disparity among children and youths under 19 years of age are not immediately apparent and may simply reflect an idiosyncrasy in the sample population.

The proportion of the total sample population in the 0–19 age cohort, which is 50%, is the same as the national figure for the under-19 age group in rural areas (National

RESEARCH FINDINGS - EMBU DISTRICT

Council for Population and Development *et al.* 1999). However, as already noted, it is larger than the figure for the district as a whole (which is a relatively low 38%).

The gender and age imbalances are reflected in the data on marital status in Table 5.5. There are markedly more widows than widowers, as well as a clear though less marked preponderance of single women (all ages) compared to single men in our survey population.

Table 5.5: Marital status of household members

Marital status	Male		Female		Total	
	Number	%	Number	%	Number	%
Single	162	70%	174	65%	336	67%
Separated/divorced	-	-	2	1%	2	0.5%
Married	68	29%	71	26%	140	28%
Widowed	3	1%	21	8%	23	4.5%
Total	233	100%	268	100%	501	100%

Household headship

Most households are headed by married men. The proportion of households reported as headed by women is just under 25%, which is comparable to the district figure.

Table 5.6: Household headship by gender and marital status

Marital status of household head	Male	Female	Total
Married	69	2	71
Widowed	2	18	20
Single and/or separated	1	4	5
Deceased	2	-	2
Total	74	24	98

Although the survey worked with the concept of household head, some cautions are due concerning the utility of the term. Headship was assigned according to the way in which it was reported by the respondents, who were not uniform in terms of age, gender and position within the household and whose understanding of the term was not probed. Furthermore, the fact that women are reported to be household heads does not mean that they exercise an unambiguous authority in their households, especially in relation to their adult sons, as the case studies in Section 5.6 illustrate. Nor does it mean that household land is necessarily registered in their names, as a glance at the table in Appendix 4.1 reveals.

Headship is not fixed but fluctuates with the developmental cycle of the household.

THE IMPACT OF HIV/AIDS ON LAND RIGHTS

Women tend to assume headship at a later stage in the cycle, after the male head has died and before the household has decomposed with the departure of married children to set up their own households. Thus, in marked contrast to male-headed households, most female-headed households are headed by widows,⁸ and all but three of the widows in our sample were described as heads of their households. Revealingly, two of the three widows who were not recorded as household heads identified their deceased husbands as occupying this role; the third widow was an 18-year-old woman living with her (widowed) mother-in-law.

The other category of female-headed households are those structured around single women, which tend to be socially even more marginal. Four of the households in our sample fall into this category.

Two of these women are separated from their husbands, and have returned to live on their natal land. One of these women is living with her single daughter and her daughter's two children on an acre of land registered in her own name, which her father gave her before he died. (Her other children remained with their father when she separated from him.) The other woman is living in her widowed mother's compound, which has not yet been formally subdivided among all the siblings. This woman, who is a teacher with a small salary, is better-off than many other household heads in the sample (male and female) and has used her income to buy an additional half-acre plot in her own name, outside the family compound. She regards this as an important investment in future security for herself and her three young children as she 'cannot predict the future' with regard to her tenure on her natal land.

The third single woman is 56 and living on her own, while the fourth woman, also 56, lives with her 19-year-old daughter in a separate household on her brother's compound.

Out-migration and mortality

In contrast to the information presented in the Embu District Development Plan, a higher number of females than males are reported to have left the 98 households in our Kinthithe sample in the last ten years. Off-setting the data on out-migration, more men

Table 5.7: Age, out-migration and mortality, by gender

Age group	(a) Sample population		(b) Left households in last ten years*		(c) Died in last ten years		Total (a) + (b) + (c)		
	Male	Female	Male	Female	Male	Female	Male	Female	Total
0–19	115	136	2	2	4	5	121	143	264
20–49	89	91	16	30	17	8	122	129	251
50+	29	41	-	-	10	4	39	45	84
Subtotals	233	268	18	32	31	17	282	317	599
Total	501		50		48		599		

**Note: These data have been adjusted to indicate the age of the person at the time of the study, not of departure.*

⁸ It is possible that the marital status of the two female heads who were reported as married was in fact misrepresented as neither had husbands resident with them and both were elderly.

RESEARCH FINDINGS - EMBU DISTRICT

than women were reported to have died in the last ten years. Male deaths outnumber female deaths by over two to one in both the 20–49 and the 50-plus age cohorts.

The reasons given for out-migration reflect the patrilocal nature of marriage and the gendered division of labour. Twenty-six of the 32 women left to join their husband's families and only six to look for work. On the other hand, two-thirds of the men who left (12 of the 18) did so to look for work. Four left to establish their households elsewhere and one to join his wife's family, with one case not explained.

Of note is that our sample reveals no cases of women being forced out of their marital households upon or as a consequence of the death of their husbands. The significance of this in relation to widows' land rights is discussed further below.

Orphans

The number of children in our sample population who could be classified as orphans is difficult to estimate precisely as data was not collected on all possible relationships among members but only on the relationship of household members to the household respondents in the survey exercise. Furthermore, the fact that children's mothers are not listed as resident in their households does not necessarily mean that the mothers are deceased and that the children are classifiable as orphans. A number of cases of mothers living apart from their children for family- or work-related reasons were noted.

Two clear cases were identified through the survey of children who had lost both parents and were being taken care of by their deceased mother's parents. The in-depth interviews established a further four households where there were orphans in the immediate family. Four of the six households identified through our research are HIV-affected. In at least three cases the orphans are being taken care of by their grandmothers – in two cases by their maternal grandmothers, while in the third case care is being shared between the maternal and the paternal grandmothers.

Education

The education data from Kinthithe is comparable to that for the district as a whole, with most children of primary-school age in school and a high dropout rate occurring in the secondary school phase. Few adults in Kinthithe have completed their secondary education and very few have a tertiary education qualification. Only five men and seven women – 2% of the total survey population – were reported to have tertiary qualifications.

Thirty-nine (40%) of the respondents in the household survey reported that there were school-age children in their households who were not at school, with significantly more female-headed than male-headed households reporting this. In the in-depth interviews and focus group discussions, payment of school fees and other school-related expenses was regularly cited as a major financial burden on households and a key explanation for the high dropout rate, especially in secondary school.

While several older women respondents in the in-depth interviews reported resistance from their parents to their attending school in the past, today there is greater parity between girls and boys in terms of school attendance, as Table 5.8 indicates.

THE IMPACT OF HIV/AIDS ON LAND RIGHTS

Table 5.8: Reached secondary education, by age and gender

Age group	Male		Female	
	Number reached sec. school	As % of age cohort	Number reached sec. school	As % of age cohort
20–29	40	81.6%	43	87.8%
30–49	35	87.5%	28	66.7%
50+	14	48.3%	6	14.6%
Total (20+)	89	75.4%	77	58.3%

Economic activity

Economically the study site presents a similar picture to that already detailed for the district. Agriculture is by far the most important economic activity, with farming the main source of household income in 70% of the households interviewed.

Table 5.9: Primary source of household income

Primary source of income	Households
Farming	69
Casual labour	20
Formal employment	4
Own business	5
Total	98

Reliable sources of cash incomes are hard to come by. Casual labour, generally in local agriculture, was the main source of household income in 20 of the sampled households and, at a going rate of KShs 70 per day, a very marginal way to make a living.

The few households where local formal employment is significant are those better-off households who have members employed as health or teaching professionals. Most people must travel out of the area to look for paid work and there is considerable mobility among the population, to small towns in Embu and neighbouring districts, as well as to Nairobi and as far afield as Mombasa.

Eighteen of the 50 people reported as migrating out of the area in the past ten years did so to look for work, 12 of them men and six women. A number of the people interviewed in the in-depth interviews have also spent varying periods of time in the past working away from Kinthithe. Domestic work in urban centres is a common option for women, often for employers who themselves have family ties with Kinthithe.

The Assistant Chief describes local farming in the following terms:

RESEARCH FINDINGS - EMBU DISTRICT

Currently people are cultivating mainly mangoes and tobacco. They have abandoned coffee farming due to the decline in the prices. There is cattle rearing, with zero grazing. There is also cultivation of maize, beans and fruit such as paw-paws and passion fruit.

With the collapse of the dairy industry, animal husbandry is mainly for own consumption. Cultivation is divided between cash and food crops, but leans towards the latter. Of the 115 parcels of land enumerated for the 98 households in the survey, just under half (54) were used for household consumption only, 50 were used for both food and cash crop production, and eight were devoted solely to crops for sale. (Details on the remaining three parcels were not obtained.)

Credit was drawn on in the production process in just one of the 115 fields. Fertiliser was used in the great majority of fields (95 of the 115), but the in-depth interviews indicated that many farmers are unable to afford fertiliser at optimal amounts. Interestingly, one of the more successful farmers interviewed, an energetic and enterprising married woman of 53, puts far greater store on manure than fertiliser:

People in this area believe in fertiliser but I don't. Now the Agricultural Officers have given me notice that they want to come and visit to see what I am doing. Also the senior Agricultural Officer was here last week. I know manure is better than anything else. I get two lorries of manure. I don't spread it over the whole farm. I select an area where it will fit and spread it there till the layer is thick enough.

As in other parts of the district, the coffee industry is in serious decline and people are turning to new cash crops, including mangoes and paw paws, in addition to cultivating staple food crops such as maize and beans.

Coffee growers interviewed during the fieldwork were deeply pessimistic about the prospects for the crop, with many reporting that they are no longer maintaining their trees or are abandoning production altogether – in the words of a 59-year-old widow, who has one acre of land under coffee, 'that one is a dead stone'. Payouts for the coffee harvest are erratic and inadequate, and people are disillusioned with the management of the local coffee factory. In the words of one man in the male land-poor focus group discussion:

If it's coffee, it's as if we are paid what they [the coffee factory] feel like ... and it's not even like being paid, because we are told that the money has been borrowed.

The collapse of the local coffee industry has had a serious impact on household incomes, as previously many households relied on their coffee harvest to finance major commitments such as school fees, and to reinvest in their farms. Another male informant said:

The coffee we sold in December, also, we have not been paid ... so you find that some people have been unable to manage on their coffee and have abandoned it because it is not earning any income. We are unable to educate our children, yet we have coffee and it is the crop that used to help the farmer. Despite our having coffee, you will find that our children are dropping out of school. So one abandons it. Now only a very few people have coffee.

THE IMPACT OF HIV/AIDS ON LAND RIGHTS

Another man said the following during an in-depth interview:

Here there is a lot of poverty from the time coffee money stopped being paid and land sizes diminished. So the parents couldn't afford to pay school fees so the children dropped out of school.... The people here depend on maize, beans and coffee and since the time coffee stopped bringing money, that was the end.

Most farming households rely on family labour, with hired labour used in only 29 of the 115 fields (25%) and then only on a casual basis, generally for between one to four days at a time. The study indicated sharply divergent views between men and women as to the relative contribution of each to household welfare. Women maintained that they are responsible for most agricultural work in the district (a claim corroborated by the District Development Plan), with a number blaming alcohol for men's lack of involvement in the sector. In the words of one woman, 'What makes most men not cultivate is that they drink a lot of alcohol'.

This view was contested by men who participated in the focus group discussion involving land-poor men. While they acknowledged a gendered division of labour, they did not accept that the division led to unequal workloads.

Illicit home brewing

A particularly controversial source of local income is the illicit trade in home-brewed beer. Officials were concerned at the extent of the trade and its negative effect on the community. According to the District Commissioner the use of illicit alcohol is 'rampant' in many rural locations in Embu, and closely associated with problems of drunkenness, violence and 'loose morals'.

Many of the people whom we interviewed spoke with concern about the impact of this trade on household finances and general well-being. Some linked it to sexual promiscuity and sexual 'carelessness', that is, unprotected sex, and in that way to the spread of HIV. S, a 56-year-old married man with a history of sexually transmitted diseases, attributed his health problems not to his own behaviour but to 'the women I meet drinking beer' who 'are not good people'. Whereas he suggested that he had learned to keep his distance from them, young men did not know any better: 'those women, older than his own mother, the ones who are drinking local brew, are the ones he will have sex with'. A number of women were particularly vocal, bitterly accusing their husbands and sons of wasting both time and money on the consumption of alcohol.

Excessive consumption of alcohol was also identified as a cause of domestic violence directed at women. In nine of the 18 households in which we conducted in-depth interviews women reported specific problems concerning domestic violence at the hands of either their husbands or their adult sons.

The gender dynamics are, however, complex, since brewing is generally a female activity. Several of the women we interviewed have turned to brewing to secure a living and find it a relatively lucrative endeavour, despite the attendant risks. One 18-year-old woman who lives with her widowed mother in an AIDS-affected household is making a significant contribution to household income through brewing; for her, paying off corrupt officials is just one of the attendant costs:

RESEARCH FINDINGS - EMBU DISTRICT

The bad thing about this business is, first, that I have to give the police some money. Secondly, you might face a problem, for example, of people drinking beer and refusing to pay and sometimes they run away from police arrests before they have paid for their drinks.... The good thing about that business is that they [the police] do not come daily. They skip some days. For example, if they come for money on Monday, they will not come back again until the next Monday. The profit I earn on the other days I can use.... I spend it on purchasing clothes and buying food because we rely on that money. (See Case Study 2 below.)

A history of home brewing and its social dynamics, including official attempts to police it, are beyond the terms of reference of this study. Nevertheless, it is clearly an area of social concern and, given the links with HIV/AIDS that many respondents ascribed to it, warrants additional attention. It appears to be embedded in a disturbing cycle of social fragmentation, both a contributor to as well as a consequence of financial and emotional stress at the individual and household level.

Land, economic activity, and welfare

Respondents were asked to categorise their households as better-off, worse-off or average, according to their own estimation, in comparison with other households in the community. A small minority (11) classified their households as relatively better-off than their neighbours, just under half (47) as average and the balance (40) as worse-off. Overall these self-assessments correlated with the average wealth scores that were calculated for each of the categories, as indicated in Table 5.12 below.

The criteria people used to classify their relative status focused on access to food, buying power and quality of housing. Thus one respondent, who classified her household as better-off, gave as her explanation: 'We have enough food to eat, while other households do not.' Another, who classified her household as worse-off, commented: 'We have a problem in getting good food and our house cannot be compared with the neighbours.'

It is worth noting that many of those households who considered themselves average noted that this was not because life was treating them reasonably well but because they shared common hardships with their neighbours: 'We are like most of our neighbours – we face problems of money to buy food.'

Household welfare was differentiated according to gender, with only one of the 11 better-off households being female-headed. This woman explained her standing by her employment status: 'I am employed, so I get a salary to develop my household.' Of the remaining 25 female-headed households, 14 considered themselves average and 11 worse-off than their neighbours.

Revealingly, neither farming nor having larger than average land holdings guarantee above-average welfare, underscoring the inability of most people to derive an adequate living from agriculture alone. Only six households out of the 69 who relied primarily on agriculture for survival regarded themselves as better-off than their neighbours and among the households who classified themselves as worse-off were some with relatively large land holdings.

THE IMPACT OF HIV/AIDS ON LAND RIGHTS

Table 5.10: Household land, primary source of income and welfare

Primary source of income	Better-off		Average		Worse-off		Total	
	No.	Avg. acres	No.	Avg. acres	No.	Avg. acres	No.	Avg. acres
Farming	6	2.7	36	4.1	27	4.0	69	3.9
Casual labour	1	1.0	7	1.3	12	1.6	20	1.5
Formal employment	1	0.5	2	2.6	1	5	4	2.7
Own business	3	3.4	2	1.5	0	-	5	2.6
Total	11	2.5	47	3.5	40	3.3	98	3.3

Land does, however, act as an absolute safety net. Households that depend on casual labour as their primary source of income are more likely to be worse-off; they also tend to be those with the smallest land holdings. Furthermore, the 16 households in which respondents admitted to skipping meals regularly or frequently have, on average, smaller land holdings than the rest – these 16 households average 1.86 acres among them, which compares unfavourably with the average of 3.56 acres among those households where skipping meals is not a regular occurrence.

Table 5.11: Household well-being and primary source of income

Primary income source	Percentage of households in well-being category per primary economic activity		
	Better-off	Average	Worse-off
Farming	54.5%	76.6%	67.5%
Casual labour	9.1%	14.9%	30.0%
Formal employment	9.1%	4.3%	2.5%
Own business	27.3%	4.3%	0.0%
Total	100.0%	100.0%	100.0%

The number of large stock owned by a household is correlated with well-being. So is the average size of households. In Kinthithe, interestingly, better-off households tend to be marginally larger than the average. This relationship between larger household size and improved welfare in Kinthithe differs from the position in Gachugi, the study site in Thika District, where smaller households are more likely to be better-off than larger ones (see Table 6.7 below.) This difference may reflect differences in population density – in Gachugi, where land holdings are considerably smaller than in Kinthithe, large numbers of people on small pieces of land are more likely to be a liability than an asset.

The correlations between household well-being, household size, land and large stock ownership are set out in Table 5.12.

RESEARCH FINDINGS - EMBU DISTRICT

Table 5.12: Household well-being, land and large stock ownership

Household welfare	Average wealth scores	Number household size	Average	Average acres	Average no. large stock unit equivalents (LSUEs)
Better-off	2.2	11	5.5	2.5	2.2
Average	1.9	47	5.2	3.5	1.4
Worse-off	0.7	40	5.0	3.3	0.7
All	1.4	98	5.1	3.3	1.2

5.4 Land tenure, use and administration

Land tenure

The 98 households reported a total of 115 parcels of land considered to be 'household land', 80% of which had been acquired through inheritance.⁹ Most of these land parcels (97) fall within the respondents' compounds. Eight are within half an hour's walk from the household, six between half an hour and an hour's walk away, and four are located further away than that.

However, the question on land holdings asked about land belonging to the household and did not ask specifically about individual land that might be owned outside the compound. Collating the in-depth interviews with the household survey indicates that not all pieces of land acquired by individuals independently, outside the household/family land in Kinthithe, were captured in the survey; thus the survey data underestimates the total extent of land linked to all 98 households. More detailed information on land in those households where members were interviewed in-depth is presented in Appendix 4.1.

The average size of household land represented by the 115 parcels is 3.3 acres (or 1.3 hectares), which is a little larger than the district average of three acres. However, there is considerable range in the amount of land available to households participating in the survey, from 0.05 acres for the household with the least amount of land, to 23 acres for the household with the most. One of the households described in the in-depth interviews had a total of 31 acres of family land still registered in the name of the widowed head.

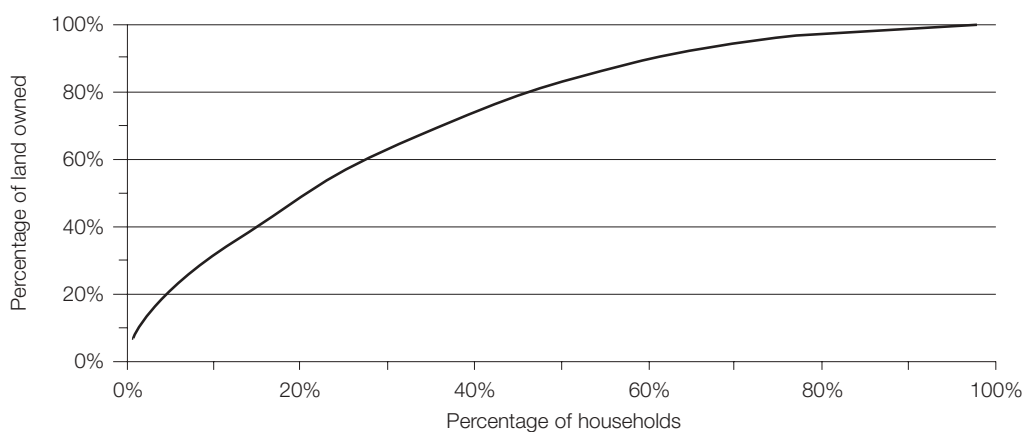
A graphical representation of the distribution of land is presented in the Lorenze curve below, which reveals that one-fifth of the households own one half of all the land.

However, before one concludes that land ownership in Kinthithe is highly unequal, it must be pointed out that some of the larger land parcels appear to be of lower quality, in particular those that are further away from the village, and are suitable mainly for keeping livestock. A number of respondents in the in-depth interviews noted that it was more difficult to farm and keep control over land that was far from the family homestead. In at least one case this land was utilised by others for grazing without any rent being paid.

⁹ Note that in the following sections the number of female-headed households used in the computations is 26 not 24 as presented in Table 5.5, as the two households where the head was reported to be the deceased husband of the senior adult present have been counted as de facto female-headed.

THE IMPACT OF HIV/AIDS ON LAND RIGHTS

Figure 5.1: Lorenze curve for household land ownership, Kintbithe



Eighty per cent of all land audited through the survey was acquired through inheritance, as shown in Table 5.13 below. Male-headed households are more likely to have acquired land through purchase and rental than female-headed households.

Table 5.13: Means of acquiring land, by gender of head

Acquisition	Male-headed		Female-headed		Total	
	Number	%	Number	%	Number	%
Inherited	68	78%	24	86%	92	80%
Purchased	12	14%	3	11%	15	13%
Rented	5	6%	1	3%	6	5%
Borrowed	1	1%	0	0%	1	1%
Unknown	1	1%	-	-	1	1%
Total	87	100%	28	100%	115	100%

The survey confirms the gap that exists between the formal land registration system and actual practices on the ground, but also establishes that land registration does happen more often than not in Kintbithe. While a significant proportion of land is registered in the name of prior rather than current land users, most land holdings are registered in the name of living rather than deceased household members. A major problem lies in the time lag between acquisition of land and registration, which is in part attributed to the cost of registration.

Thus, of the 92 plots identified in Table 5.13 above as inherited, 49 (53%) had been passed on to heirs with formal subdivision and 43 (47%) without formal subdivision and transfer as yet. Of the 63 parcels where ownership was reported to be formally registered, most are registered in the name of the household head, in both male-headed and female-

RESEARCH FINDINGS - EMBU DISTRICT

headed households. In two cases, the land parcels are registered in the name of the sons of the female head. About a quarter of the land parcels are still registered in the name of the parents or parents-in-law (generally the father) of the household head. As Appendix 4.1 shows, it is common for land in households headed by widows still to be registered in the name of the deceased husband. (Unfortunately, for a large tally of 46 plots ownership is not specified.)

Table 5.14: Registered ownership of household land, by gender of head

Registered ownership of household fields	Male-headed	Female-headed	Total fields	
			Number	%
Household head (HH)	30	15	45	71%
Household head + spouse	0	1	1	2%
HH's parents/parents-in-law	13	2	15	24%
Household head's son	0	2	2	3%
Household head's daughter	0	0	0	0%
Sub-total	43	20	63	100%
Rental	5	1	6	
Unspecified	39	7	46	
Total fields	87	28	115	

The land market

Table 5.13 above shows that purchases make up 13% and leases 5% of the methods of acquisition of the plots enumerated through the household survey (over all years). However, given the bias towards household as opposed to individual land that has already been noted, the scale of purchased and rental land is probably under-represented in the survey. Information collected through the in-depth interviews indicates additional activity around both the leasing and purchasing of land (see Appendix 4.1).

Land leasing appears to be on the increase partly as a consequence of the shrinkage in the amount of land available to people. According to participants in the focus group discussion involving land-poor men, renting is common among people who want to farm but are unable to access enough land to cultivate through their subdivided portion on family land. Leasing out of land is also turned to by households that are unable to work all their land themselves, or cannot afford to hire in labour to do so for them, or need to bring in extra cash, including to pay for medical treatment. In a couple of cases HIV/AIDS has been a catalyst for leasing out household land, as is discussed further in Section 5.5 below.

Participants in our study regard land sales as a regular, though not always desirable, feature of the tenure system. Few in the fieldwork questioned the legitimacy of selling land but many were concerned about frivolous sales that undermine the welfare of the household as a whole, in particular sales to finance short-term expenditure around alcohol and 'celebration'.

THE IMPACT OF HIV/AIDS ON LAND RIGHTS

For most people, sales appear to be a pressured response to financial pressures, including the cost of education and health care, not an active engagement with new economic opportunities. In response to a question about people's reasons for selling land, one participant in the male land-poor focus group replied:

At times it is because of illness. Others are selling because of education and they don't have other ways of making money [to pay for school fees]. But there are others who sell to celebrate and you as his child are not able to stop him. He will sell and leave a very small portion.

A minority of respondents have been able to capitalise on the land market and buy up land. However, it seems that once a certain minimum size of land holding has been reached, people become extremely reluctant to sell. One informant, a land-poor man, noted:

It is very rare to find a person with a small piece of land selling, unless he is very pressed and then mainly by a disease problem, but not selling for drink or to celebrate.

Thus distress sales, including as a response to AIDS-induced financial pressures, appear relatively rare. Although some interviewees had anecdotal accounts of other people who had sold land as a consequence of HIV/AIDS, none of the members of HIV-affected households who participated in our in-depth interviews said they intended to sell land themselves, even those who were experiencing considerable difficulty and considered themselves to be worse-off than their neighbours.

The only direct report of a land sale to pay for medical treatment in these interviews concerned a young college-educated woman who was hospitalised not for HIV/AIDS-related complications but for cancer. Hers is the relatively well-off household with 31 acres of family land already mentioned – the family land holding, down from a previous 37 acres as a result of her mother selling off six acres to raise money to pay for her daughter's long and extremely costly period of treatment, including hospitalisation and chemotherapy.

It is thus clear that retaining access to land is regarded as a critical resource in people's livelihood strategies. However, one informant, a married nurse working at the Karurumo Health Centre, reflected that constantly poor returns from farming are shifting perceptions about the relative value of land as a resource. In answer to a question whether land is being sold 'due to pressures arising from disease', she replied:

Yes ... For if a person gets sick and there is no other way to raise money, then the land has to be sold.... Land is being sold at a high rate because of diseases. For if you have maize or beans and their prices are very low, you have to say life is more important than farming; we shall buy [land] later, after the person has healed.

Land administration and land disputes

The Kyeni and Runyenjes administrative divisions share a Land Control Board. This meets once a month under the chairmanship of the District Officer. It consists of nominated members (at least two per location), councillors, and officials. Its primary functions are to

RESEARCH FINDINGS - EMBU DISTRICT

manage disputes, keep land records and approve proposed subdivisions and transfers of land, as well as loan applications before banks (in cases where the land in question is being used as security).

A number of informants in our study made reference to a 'special' Land Control Board hearing which can be used to expedite transfer applications. This hearing is presided over by the District Officer sitting on his own and requires only the seller and the would-be purchaser to make representations on the merits of the proposed transaction, along with the payment of a fee of KShs 3 000. Although people stopped short of calling this procedure corrupt, it is seen as prejudicial to the interests of other family members, in particular the wife and/or the sons of the seller, and a way of bypassing the consent mechanism that is, at best, irregular.

According to the Land Control Board member, land cases that come before the Board involve mainly trespass, invasion, and sales in which the husband as seller has not obtained prior consent of the wife. The Assistant Chief for Karurumo estimated that a land case reaches him perhaps once every two months, while the District Officer reported that land matters do not occupy much of his time.

None of the officials we interviewed reported a noticeable increase in land disputes in the district in recent years, nor pointed to any obvious links between land dispossession and HIV/AIDS. The Land Control Board member, who has served on the Board since 1987, denied that a significant link existed between HIV/AIDS and tenure insecurity:

Let me say for the time I have been there, there has been no case that was related to AIDS.... If one is suffering from AIDS, it does not mean that he has no right over property, that you can take his property because he is sick. Such cases, let me say, I have not heard of them.

The fact that land disputes do not take up a great deal of local officials' time does not mean that conflict over land is uncommon. Although land disputes fall within the terms of reference of the Land Control Board, this is not the preferred route for dispute resolution. Most land disputes are handled informally among the parties in the first instance. If that is unsuccessful, disputants are likely to turn first to clan elders for help; thereafter, if those efforts fail, to the Chief or Assistant Chief. From there the matter can be referred to the Land Control Board and if that institution is unable to reach a resolution, the dispute may end up entering the court system.

Twelve of the 98 respondents in the household survey reported land disputes, ten of them involving conflict within households over inheritance and subdivision. One of the two disputes that involved unrelated people was over a threat to repossess land where the purchaser had not made all his payments, which matter had gone before the courts; the other involved a boundary/land invasion dispute which the parties appeared to have resolved by themselves. Of the 12 land disputes, seven were at various levels of disagreement and/or negotiation within the affected families, three had gone to clan elders for resolution, and two were in court.

In addition to these disputes, the in-depth individual interviews uncovered simmering tensions over land in at least another six of the 98 households. Five of these involved

THE IMPACT OF HIV/AIDS ON LAND RIGHTS

widowed women and their sons, while the sixth case involved a married male teacher who had left his father's 'overcrowded' compound to escape ongoing conflict among his siblings over competing interests in their highly congested paternal land.

The focus group discussion among land-poor men also highlighted generational conflicts among men over land. One informant described how some fathers demand that their sons pay them the equivalent of the Land Control Board transfer fee (said by them to be KShs 10 000) but then, having received the money, never effect the formal subdivision and transfer of the land to their sons.

Women's land rights

Understanding the data on women's land rights is challenging, as the situation is fluid and capable of different interpretations, depending where the emphasis is placed.

Table 5.14 above shows that most land in Kinthithi is registered in the name of men. Only some 13% of fields (15 out of the total of 115) are formally registered in the name of women (who are in all cases household heads). Joint registration of land in the name of both husband and wife is reported only once.

However, although the norms and practices that structure access to land continue to be strongly patriarchal with women disadvantaged in terms of both access to and control over land, there is evidence of shifts occurring in both attitudes and practice, and of women gaining stronger rights to land than in the past. Officials interviewed all stated that there are no longer legal barriers to women owning land and suggested that the formal systems of the Land Board are protecting women's rights within households, both to inherit land from their husbands and to be party to decisions to sell or lease family land through the consent mechanism.

The Land Control Board member described the formal proceedings around inheritance thus:

If the husband dies and she [the widow] reports his death, then the land automatically becomes hers. So she has the right to do anything with it, as it becomes her property like a man.... if a man has died leaving the land in his name, they go to the court to approve with the family members or other concerned persons that she is the rightful wife and the land belonged to her husband. So the land moves from the court to the Land Board, so that one gets consent to transfer from the dead person to the present wife or any other person who has the right to inherit the land.

On the practice of men claiming the land of a deceased brother and thereby dispossessing the widow, this same informant stated:

According to Kiambu or African culture, sometimes the brothers like to take over such things, but according to the present system, the woman has the right to inherit her husband's property without any problem. I think now people are understanding that no one can take away the land of the dead brother if he was married, even if there were no children.

RESEARCH FINDINGS - EMBU DISTRICT

According to the District Commissioner and the member of the Kyeni/Runyenjes Land Control Board, daughters are also inheriting land more regularly from their fathers, especially unmarried or separated daughters living on their natal land.

These trends are confirmed by our fieldwork. Appendix 4.1, summarising information collected through the in-depth interviews, shows that a minority of women are obtaining land through inheritance and the subdivision of both marital and natal land. In a small number of cases women with independent sources of income are also buying land as an investment for their and their children's future security.

However, having the status of head of household does not necessarily mean that the woman becomes the registered owner of the household land, or that she has unambiguous access to and authority over household land, particularly when there are adult sons living on it as well. Of the eight widows who participated in our in-depth interviews, only one had taken transfer of her deceased husband's land. In four cases the land was still registered in the name of the deceased husband, in one case in the name of the deceased husband's father, and in two cases the land was registered in the names of the widows' sons.

Furthermore, our fieldwork revealed significant discrepancies between official accounts of how the land administration system is working to safeguard women's rights and the actual experience of women. Participants in the widows' focus group discussion were highly sceptical of the Land Board member's claims that the consent mechanism is applied to women's benefit. 'That one was just guessing', commented one of the participants. 'We are the ones who know, here at home. We are the ones who have been married and have lived with men.' Three of the participants in this group had personal experience of their husbands' selling land against their will, while the group knew of at least two other local cases where the system had not protected women's rights to object to sales of household land by their husbands.

The Land Control Board member also failed to mention that it costs KShs 2 000 to 'open a file' preparatory to taking transfer. (This information was supplied to us by the District Officer). This fee is equivalent to a month of full-time work for most women in Embu, and serves as a real obstacle to formalising the transfer of ownership of land to widows after the death of their husbands. Revealingly, the District Officer could not recall any cases where widows had actually gone through this process in the ten months since he had taken up his position in the district.

The widows' group identified a number of weaknesses in the system. Firstly, it is relatively easy for a man to obtain official consent to sell land without his wife's consent, by enlisting the assistance of a girlfriend or female accomplice to pose as his wife before the Land Control Board – one informant described how her husband had been able to do this before officials who knew that the woman he brought with him was not his lawful wife.

Furthermore, men also assert their power by entering into private arrangements to sell their land or use it as collateral to raise loans, without their wives' knowledge. Often the wife only becomes aware of the agreement at a very late stage, after money has already passed to and been spent by the husband, when the purchaser wants to take transfer of the property or the lender calls in the loan. In addition, women who might be opposed

THE IMPACT OF HIV/AIDS ON LAND RIGHTS

to the sale of family land can be coerced into consenting because of their vulnerable position within the household. In the words of one informant, if a woman refuses, 'she cannot stay at home peacefully because she will be beaten and chased away'. Faced with such threats and without alternative places to stay or sources of support, many women may well give their consent to the sale going ahead, despite their misgivings.

However, of note is that our survey reveals no cases of women forced to leave their households upon or as a consequence of the death of their husbands. Nor did the survey identify cases of widowed daughters or sisters – as opposed to separated or divorced women – moving back to their natal households in Kinthithe from the households of their deceased husbands as a result of being chased away by their in-laws. All 21 women identified as widows in our fieldwork were women who were still living on their marital land. The in-depth interviews did pick up a few anecdotes about widow dispossession locally, but none of these stories involved widows in the households or (it would seem) the extended families of any of our respondents directly.

Interestingly, one of the widows interviewed in the in-depth interviews had separated from her husband in Kinthithe and moved away, not to her natal land but to her brother-in-law's compound, but had then returned to her marital home after her estranged husband had died. In this case, rather than the impetus to her losing her rights in marital land, her husband's death had made it possible for her to return, and she faced no challenges from her in-laws when she did so. (See Case Study 2 below.)

Thus there is little evidence from our fieldwork to suggest that widowed women in this area are the victims of 'land grabbing' on a large scale. Tensions between widows and their sons over the household land are more common than outright widow dispossession. Although still on their land, a number of widows we interviewed feel insecure about their future rights to that land, particularly if they do effect a formal subdivision among their sons.

It is possible that our data does not present a complete picture of the position of widows. People could have been reluctant to report incidents of widow dispossession in their own families, and if an entire household had dissolved in the past ten years as a result of widow dispossession, it is unlikely that we would have picked this up. In the case of in-migration, that is, widows returning to Kinthithe to rejoin their natal homes, the occurrence could also be masked by imprecise reporting of the marital status of the returning daughter or sister as single or married, rather than widowed.

Nevertheless, it does appear that the phenomenon of widows being chased off their land is not widespread in this area. This may reflect the relatively nucleated pattern of settlement and land holdings in Kinthithe, in which brothers have much more limited interest in and control over the land of their deceased brothers and their families than in the past. It may also reflect the degree to which the right of widows to inherit marital land is becoming socially more acceptable.

More common than stories of widow dispossession are accounts of married women being forced to leave their marital land on the break-up of their marriage, whether through separation and/or formal divorce. Marital instability appears to be common and when a marriage breaks up it is the women who lose any rights they may have had to their marital land. Those women who are not able to return to their natal homes are

RESEARCH FINDINGS - EMBU DISTRICT

particularly vulnerable and likely to end up moving to the urban centres to eke out a living in the informal sector, including in high-risk activities such as prostitution. However, many separated women end up returning to their natal homes, with or without their children, where their claims to a portion of the family compound may not be strongly welcomed but are likely to be tolerated, particularly if their mothers are still alive. The three separated women in our in-depth interviews were all living on their natal land. (See Appendix 4.1.)

Another development with important implications for the development of local tenure systems in the future is that of single adult women, with children but no long-term relationship with their children's fathers, continuing to live in their parental compounds. This also appears to be leading to adjustments in inheritance patterns. A number of older informants indicated acceptance of the fact that the likelihood of their daughters getting married is weaker now than it was in the past and that this requires that daughters be given some land within their parents' compounds if needed.

'Need' rather than 'right' seems to be the operative concept. A 59-year-old married woman, living on eight acres of land with her husband and two adult children, commented:

You know, you cannot trust marriage currently, as one can be married and then separate.... If a daughter comes back she will have a place to cultivate, as those now who have not been married. Like now – I have a daughter in college who has a child here. So she will depend on this place and it is where she belongs.

The married male teacher who had left his parental compound to escape family conflict described quarrelling with his brothers because they objected to their sister, who has four children, being allocated a share of the family land. The teacher has no interest in the family land for himself – he says it is too crowded and his income as a teacher enabled him to buy land of his own in Kinthit in the early 1980s. However, he is considering enforcing his claim to a portion of his father's land on behalf of his sister so 'she can have a base from which she can bring up her children'. Although he believes that all his children, both male and female, need to be self-reliant and should aim to make their own way in the world rather than presume upon family land, he acknowledges that if any of his daughters fail to get married, 'I would try to see how I could help them, even if it was to give them a small plot to help their families'.

Although it would appear that daughters' shares are generally smaller than those of sons, the inclusion of women in family sub-divisions does add to the pressure on household land and, as the above account indicates, can lead to tensions between brothers and sisters over natal land. It also raises questions about how the claims of the children of these women to their maternal family land will be accommodated in the future. (See Case Study 3 below.)

Land rights of orphans

Those informants who reported cases of orphans in their own extended families all indicated that the land that belonged to the children was known within the family and that the children's rights to that land would be respected when they were older. Thus the norms of guardianship are recognised, although how well these norms will be applied in practice has not yet been tested in these households as the children in question are still

THE IMPACT OF HIV/AIDS ON LAND RIGHTS

young. However, the Land Control Board member conceded that he knows of cases where orphans do not get their land:

There are people who take the land and go to report succession [for themselves], where there is no one to say that the land should not be inherited by the brothers but it should be left for the children.... Such things do happen.

The District Officer also knew of one case in which AIDS orphans had had their land usurped by an uncle.

5.5 Morbidity, mortality, and HIV/AIDS

The HIV/AIDS trajectory in Embu

As already noted, the HIV prevalence rate for Embu (based on data collected from the surveillance site at the Karurumo Health Centre near Kinthithe) is very high (27% in August 2001). However, the pandemic appears to have begun later in Embu and has thus been of shorter duration than is the case in both Thika and Bondo. Given that the average time from infection with HIV to the onset of full-blown AIDS ranges from three to ten years in Kenya (Ministry of Health 2001: 9), the effects of HIV/AIDS on the physical, economic and social health of the district as a whole (as opposed to those individual households that have been directly affected from early on) are thus only now beginning to gather momentum.

While national data suggests that the HIV/AIDS epidemic may be stabilising, key informants in Embu District are pessimistic about the direction in which the pandemic is moving. According to the OIC at Karurumo Health Centre:

Although nationally it was said it [the HIV prevalence rate] is going down, here it is difficult to tell whether it is rising or going down. But still, you know there is a relationship between HIV and poverty. If the poverty is increasing, you don't expect the HIV rate to go down.

The District Officer concurred that the AIDS situation is getting worse. He is responsible for assembling the statistics for AIDS deaths and stated that currently there are in the region of four reported AIDS deaths a month in the Kyeni administrative division. However, the OIC at the Karurumo Health Centre cautioned about the reliability of such figures:

... because of poverty many people are dying at home and these figures are not recorded. We only record those who die in hospital. The situation is in fact worse than we think. And you know, we don't say if somebody died of AIDS now, we don't – we say it is malaria, pneumonia, etc.

Resources to respond to the HIV crisis in the district are thin, and capacity to implement an effective preventative, counselling and treatment strategy remains seriously weak. State initiatives only began to be mobilised locally after former President Moi declared AIDS a national disaster at the end of 1999. A District AIDS Control Committee (DACC) was established in December 2001 and officially launched in May 2002 (Interview, District Development Officer). It has identified some nine projects which it hopes will obtain funding from the National Aids Committee, but as of late 2002 funding was not yet assured.

RESEARCH FINDINGS - EMBU DISTRICT

The District Development Officer has identified AIDS orphans as a priority and is working with representatives from the Welfare Department to launch a pilot study on the extent and nature of the associated issues. There are no statistics, or even estimates, of the number of orphans in the district, nor information on how many have been orphaned through AIDS. The Development Officer's intention is to identify and strengthen existing resources for care of orphans within the community, as to date no such programmes are in place.

The OIC at Karurumo complained that funds are not getting through to the DACC and suggested that there have been problems with financial management. Although functioning as a national surveillance site since the early 1990s, the Karurumo Health Centre has only very recently opened a Voluntary Counselling and Testing (VCT) Centre, in September 2002. The Health Centre had been waiting for the DACC to open a VCT centre, but, since funds have not been forthcoming, its management made a decision to open one themselves, using existing staff: 'We have been waiting and felt that we could not wait any longer' (Interview, OIC).

The Health Centre has, however, been running awareness projects for all its patients for some time, as well as training courses for home-based caregivers, and these have reached a number of the people we interviewed in the Kinthithe area.

Outside these limited state initiatives there appears to be very little mobilisation around HIV/AIDS activity on the part of affected people and civil society more broadly, despite the high levels of HIV/AIDS in the district and improvements in local levels of awareness about the pandemic. Several informants singled out the churches as playing an important role in trying to raise awareness and preaching behavioural changes to combat the spread of HIV; however, this work is anchored in a particular moral and religious paradigm which is likely to limit its ability to reach those who are not already within the fold of the local church denominations.

Neither the medical officer nor the Assistant Chief knew of other NGO or community-based initiatives around AIDS in the area. The member of the Kyeni/Runyenjes Land Control Board whom we interviewed said he had heard that there was meant to be an AIDS Constituency Committee, 'but from there I don't know what happened. There has been nothing from such people.' People interviewed in the in-depth interview phase of our research were similarly reticent about local support systems.

Morbidity and mortality rates in Kinthithe, according to the field data

General levels of health in Kinthithe are poor. A total of 83 out of the 503 people in the sample population (16.5%) were reported as not in good health at the time of our survey, concentrated in 54 of the 98 households. Twenty-nine households reported having one member who was not in good health, 21 households reported two members, and four reported between three and five members not in good health.

What is striking about the morbidity data is that not one of the 83 people identified as sick in Kinthithe through the household census was described as suffering from either HIV or AIDS. Nor was TB mentioned as an illness by any of the respondents, although 'coughing and loss of appetite' were mentioned twice. Respondents in the in-depth interviews also did not volunteer either HIV or AIDS as factors in their accounts of the ill health affecting their households, although, as the discussion on health problems and

THE IMPACT OF HIV/AIDS ON LAND RIGHTS

issues unfolded, two of the women in AIDS-affected households – one a widow and the other a married woman – voiced concerns about their own health status and were interested to learn about the option of voluntary testing at Karurumo Health Centre.

However, once HIV/AIDS was raised as a general issue by the interviewer, all participants had comments on how it was affecting the community as a whole. A number of respondents were quite vocal and some were well informed on the subject. One woman appealed to our research team to warn government of the ‘catastrophe that is coming’, drawing an analogy between our research work and a telephone with which we could communicate the urgency of the situation to the government.

The most commonly reported health problems in the survey were: malaria (27 reports); pain in joints and backache (26 reports); pneumonia and other respiratory problems (17 reports); headaches (seven reports); and typhoid (six reports).¹⁰ Malaria is certainly a serious health problem in the district in and of itself. However, high levels of malaria are also closely associated with HIV. The OIC at Karurumo noted that being HIV positive increases one’s vulnerability to malaria and that recurring bouts of malaria are often an indicator of HIV:

When you have HIV the immunity is compromised and even malaria ... it means that because your immunity is low, every month you have an attack of malaria.

As suggested by the OIC, ‘malaria’ is also used as a cover in attempts to mask the presence of HIV/AIDS. A number of participants in the in-depth interviews noted that AIDS sufferers are likely to ascribe their health problems to malaria, even when they know they are HIV positive:

We do not say that anyone has died of AIDS. So we can only know he died of AIDS secretly. When we go to the mortuary we can tell that he was suffering from AIDS as you cannot carry his body unless you buy papers and blankets to spread in the coffin. If you look at the person he has wounds all over the body.... But we are still hiding in the name of typhoid and malaria.... So it is really spreading. Like in this village of ours, a lot of people have died of it but we are saying that it is malaria. (Laughs.)

One respondent indicated that certain health workers could even be adding to the confusion by drawing an analogy between HIV/AIDS and malaria in their training programmes.

Other health problems suffered by small numbers of people were ulcers; ears, nose and throat complaints; high blood pressure; coughing and loss of appetite; swelling legs; and stomach aches. A host of additional health problems were mentioned once: weight loss; skin rash; allergies; chest pains; dental problems; mental problems; elephantiasis; diabetes; epilepsy; eye problems; and ill health relating to the pancreas. The OIC at Karurumo Health Centre identified depression as another widespread, though generally unacknowledged, health problem in the district. He linked this to family conflicts as well as to financial pressures:

¹⁰ Note that people could list more than one symptom/health problem per person.

RESEARCH FINDINGS - EMBU DISTRICT

You know, although people may not say so, more than 60 per cent of the patients we are treating are having the mental problem, that is depression.... So it is common, although patients don't come saying – unless maybe you are very close to the person – that I am having these problems due to the economy.

He also cited examples of land-related stress that had contributed to depression, including conflict between fathers and sons and husbands and wives over the subdivision or sale of family land.

High levels of denial around AIDS were also in evidence in the data collected on the causes of death in Kinthithe, although the extent of denial was not as extreme for the dead as it was for the living. In the household survey, 48 deaths were reported for the past ten years across the 98 households, of which two were attributed to AIDS, in both cases for deaths that have occurred since 1999. (Given the likelihood of under-reporting of deaths due to faulty recall, especially the further back in time one goes, the number of reported deaths should not be regarded as absolute fact.) Thirty-four, or just over 70% of the reported deaths were for people under the age of 50, with men in the 20–49 age category comprising 35% of the total. Reported male deaths outnumbered reported female deaths by almost two to one.

Table 5.15: Numbers of household members reported to have died in previous ten years

Age group	Male	Female	Total
0–19	4	5	9
20–49	17	8	25
50+	10	4	14
Total	31	17	48

The main cause of death for those 55 years or younger was reported by respondents as malaria. Given what is known about prevalence levels in the area through the surveillance data at Karurumo Health Centre, the clustering of the reported deaths among the 20–49 age cohort, and the general acknowledgement of AIDS as a cause of death in the area among informants (but attributed to other people's households), the figure of two AIDS deaths in the past ten years must be regarded as a major misrepresentation of the situation.

Table 5.16: Main cause of death among those who died in last ten years and were 55 years or younger at time of death

Main cause of death	Number	Share (%)
Malaria	11	30.6%
Pneumonia	2	5.6%
Respiratory	6	16.7%
AIDS	2	5.6%
Misc.	12	33.3%



THE IMPACT OF HIV/AIDS ON LAND RIGHTS

Main cause of death	Number	Share (%)
Not indicated	3	8.3%
Total	36	100.0%

A comparable degree of reticence was found in the in-depth interviews, where only one of the 14 people who were interviewed in what were presumed to be HIV/AIDS-affected households volunteered AIDS as a cause of death for family members – in this case J, a woman of 53 whose family has been devastated by AIDS with three family members, including her husband, dying in one year. (See Appendix 4.2 and Case Study 1 below.) One other respondent acknowledged AIDS as the cause of death of her brother and his wife, but only after the interviewee had prompted the discussion. When first asked about ‘other diseases which are a problem in your family’, she mentioned only malaria and typhoid. After further general discussion about health, the interviewer raised the issue of AIDS directly through the following exchange:

Interviewer: Now people speak a lot about malaria and typhoid but these days there are other diseases like AIDS. Can you tell us what the situation in this village is around AIDS?

Respondent: I hear that the AIDS disease is killing a lot of people, like those who died here, the two of them, I heard that they were suffering from AIDS.

Asked to clarify whom she was speaking about, she explained that she was talking of one of her brothers who had passed away in 2000, leaving three children. When asked what had happened to his wife, she replied that, ‘it is the wife who passed away first’. The source of her information was, ‘from people here but... also a doctor who knows and told people’. (See Case Study 4 below.)

Stigma and denial around HIV/AIDS

In the course of this study, a distinction began to emerge between the operation of ‘stigma’, connoting shame and social unacceptability, and ‘denial’, involving the refusal to accept that HIV/AIDS was affecting one’s own being or that of close family members. While the two forms of behaviour can be closely linked, with denial often flowing from a sense of shame and the fear of becoming a social outcast, the evidence from Bondo began to suggest that they should not be regarded as synonymous. In the Embu case, however, the two phenomena appear tightly intertwined, with both stigma and denial operating at high levels. However, according to the OIC at Karurumo, the level of stigma associated with the disease, if not of denial, has declined in recent years:

The community has already come across so many people who have died of AIDS, so stigma is not as it used to be.

An example of the interplay between stigma and denial is provided by the following claim by the member of the Land Control Board, who was at pains to stress that AIDS was a disease affecting outsiders, decadent people from town, not local people:

RESEARCH FINDINGS - EMBU DISTRICT

According to statistics, Karurumo is number one. But you know, that is about hospitals.... In the villages, let me say that not many people are infected. The people with AIDS are mainly from the towns, they bring AIDS here.... Let me say, those people who are contracting AIDS are people who can afford luxury. And you cannot have luxury without an income, so the class of people who are transmitting the disease and the ones who are infected are those people who have money.

Similar sentiments were expressed by a young married woman, Y, whose brother-in-law was widely believed to have died of AIDS, a claim she denied:

In the case of my brother-in-law the majority said he had died of AIDS but for me, I don't think so, because I never saw the signs.

She argued that AIDS 'doesn't stamp itself for people to read', while also characterising the people who contracted AIDS as promiscuous and associated with town: 'We hear that the rate of infection is very high in Nairobi.'

HIV/AIDS and changes in land tenure

Given the invisibility with which HIV/AIDS is cloaked in almost all of the households in the study, the links that can be drawn between HIV/AIDS and household land tenure have been done on the basis of an inferred, rather than confirmed incidence of HIV/AIDS in most cases. Appendix 4.2 summarises the information on land-related impacts in HIV-affected households that was obtained through the in-depth interviews. This shows the frequency of tensions around the allocation of household land between household members after the death of a male head, but also reveals no examples of AIDS-affected widows being pushed off their land and very few accounts of distress sales.

One land-related impact of HIV/AIDS that was identified by key informants concerned the cost of medical care. The Assistant Chief at Kinthithe knew of three cases where the cost of medical treatment had led to land sales, citing a case the week before our interview in which the husband of a woman who had been admitted to Kyeni hospital (reason unstated) had resorted to selling a piece of land to meet a hospital bill of KShs 20 000.

Both he and the Land Control Board member also spoke of a practice whereby hospitals take people's title deeds to hold as security pending the finalisation of their bill – a practice that the OIC at Karurumo denied was happening at his Health Centre. He did, however, indicate that, although this was not in his view an effective way of securing payment, it is happening at other institutions:

We have experience with other places in fact that it is not the best method ... and also, knowing that this is a government institution, we don't deny any patient treatment because he or she doesn't have the money.

The Land Control Board member acknowledged that the cost of being admitted to hospital – 'which these days have introduced a cost-sharing policy' – could push an affected person or family into selling land, but argued that this would not operate only in the case of AIDS. More serious than the cost of treatment, in his view, is the loss of productivity and income associated with (any) long-term illness:

If you fall sick, automatically you become unproductive.... So you cannot survive. So illness, not necessarily AIDS, any other disease, is a major problem because an ordinary person cannot afford to pay hospital bills due to the cost-sharing in government hospitals like Karurumo.

The clearest case reported by respondents in the in-depth interviews of land being sold to raise money to cover medical costs involved a cancer sufferer; in this case the family was relatively well-off, with close on 40 acres across different holdings before the sale, and the cancer sufferer's mother sold off six acres of family land to contribute towards meeting her daughter's extremely high hospital bill. Other reports of distress sales were either anecdotal, involving other people rather than the respondents or their households themselves, or, as in Case Study 4 below, not conclusively attributable to HIV/AIDS. When asked if they had any plans to sell any of their land, most respondents replied that they did not have enough to sell. Land rental, however, appears a more common response. Two households reported that they had leased land out from time to time, while three reported leasing land in for the purpose of growing food.

5.6 Case studies

Six case studies are presented below, drawn from the in-depth interviews. The first four involve female-headed households which are definitely or appear to be HIV-affected. The fifth is a male-headed household which is possibly HIV-affected, while the sixth is a female-headed household which is not HIV-affected but shares many of the problems that the HIV-affected households do.¹¹

These case studies attempt to capture the complex and varying ways in which the pandemic is presenting itself in households and impacting on actual social and economic relationships, including those around land and land tenure. The information on these households (along with the information on the other households involved in the in-depth interviews) is summarised in Appendices 4.1 and 4.2.

Case Study 1: A widowed co-wife, J, and her daughter, C

J is a 53-year-old widow whose older husband died in 2000 of unspecified causes. She is the second of two wives and lives with eight of her and her co-wife's children and one grandchild on her marital land. Her husband is still the registered owner of the land, as there is no money to report his death and transfer his land to his heirs.

J dropped out of school in Std 5 because of sexual harassment by a teacher. She worked first on the family farm, then as a housemaid in Nairobi before getting married. Her marriage started off well, but later her husband started drinking and became abusive towards his mother, at which point J left him and returned to her natal home. After a very difficult period in which one of her babies died and she felt suicidal, she married an older man who was already married and lived with him and her co-wife on his land at Ndekere. She got on well with her co-wife, with whom she shared domestic and childcare tasks, but for a time both wives experienced problems with their husband who started drinking heavily and was abusive towards them. Subsequently he reformed and life became more peaceful until his death.

¹¹ Individuals discussed in the case studies and elsewhere in the text are designated by single or double letters. These letters are unique within a particular chapter, but denote different people when used in different chapters.

RESEARCH FINDINGS - EMBU DISTRICT

J's second husband had three separate pieces of land when he died – five acres at Ndekere, which he acquired in the 1960s through the clan demarcation process, eight acres at Kinthithe, which he inherited from his father in 1970, and an additional 15 acres which he acquired in the semi-arid areas and which he only revealed to his family when he was dying. He intended to subdivide this land at some future point to his sons, as places where they could build their own houses while continuing to farm on the other family holdings. He resisted subdividing before he died as he wanted to ensure that all his children were educated first, so that if he needed to sell or lease any of the land to cover the younger children's education, he would be able to do so.

J lives at Kinthithe, where she is considered the head of the household, while her co-wife is based at Ndekere. She and her co-wife have continued to get on well although there have been some tensions since their husband died around the internal allocation of land and the control of the coffee harvest. Between them the two women have 18 children. The land at Kinthithe is not formally subdivided and J is feeling pressure from the sons of her co-wife to do so; she also fears that if she were to subdivide to all her husband's sons, she might find herself forced off the land. She appears to regard her own land interest as confined to the Kinthithe compound.

This is an AIDS-affected household. J is not completely explicit about the cause of her husband's death, although AIDS is a possibility – the symptoms J describes include mouth ulcers and swollen glands, and also being very thin when he died. Unusually in Kinthithe, J is forthcoming about the fact that her sister died of AIDS, as did the wife of one of her step-sons. Her sister's husband also died of AIDS, but this was after the couple had separated. They left two young children who are currently being taken care of by their father's family.

J nursed her sister without knowing that she was HIV positive at the time. Having separated from her husband, the sister had nowhere to go and ended up staying with and being cared for by J on and off until she died.

She was my sister. When she and her husband separated, she came and stayed here for a while; then she rented a house in Kathanjuri. That is where she fell sick. When I realised that it was becoming serious I went and brought her to stay here. I did not know what she was suffering from. When I took her to hospital, she was diagnosed for malaria and amoeba, and then we would come back for drugs. She was sweating very much; to stop it I had to hold a cup of water so she could drink, which brought her some relief. When it became worse I took her to Kyeni hospital but even there she was diagnosed for amoeba and malaria. They did not want to tell me the truth.... Then she was discharged but I did not have the money, so she stayed there until she fell sick again.... She stayed there for some time; then when I got some money I paid and the wounds healed when she was still here at home.

Because she nursed her sister in ignorance of her health status, without taking appropriate precautions, J is now anxious about her own HIV status and interested to learn that a VCT centre has been established at the Karurumo Health Centre. Her attitude is unusually pragmatic:

THE IMPACT OF HIV/AIDS ON LAND RIGHTS

I want to go for testing so that I can know if I am suffering from it. If I am positive or negative, I will thank God ... And I can stop going to hospital for tests, as I will know the disease, let me just eat vegetables, tomatoes while I wait for my day. Instead of wasting money which my child would have used.

J relies on farming to make a living and considers herself no better or worse-off than her neighbours. About two acres at Kinthithe are under coffee, while the family also has mango trees and grows food crops. The land is prepared manually, using household labour. J says her productivity declined when her husband became ill, as he required nursing; also, when she is sick she is unable to work on the land. However, in the course of the household census she reports that the productivity of the family fields is about the same as it was five years ago.

Despite the financial pressures she is under, J says she has no intention of selling the land, as it is already not big enough for all the children who depend on it. She also notes that, 'these days daughters are not getting married', indicating an acceptance of the fact that her two daughters may also retain a long-term interest in the land.

Her daughter, C, is a 24-year-old single mother of one small child, who dropped out of school in Std 4 'for no particular reason', she notes. She has worked for periods as a maid in Nairobi and Meru, but has not enjoyed the working conditions. For the moment C feels she is managing her life adequately. She works on the family farm and also takes on casual work from time to time, which is always available when she wants it. In this way she is able to, 'make enough money to clothe my baby and myself'.

Case Study 2: A widow, AK, and her daughter, P

AK is a 50-year-old widow whose husband died in 2000 at a time when she had already separated from him and was living on her brother-in-law's compound. The death of her husband opened the way for her to return to her marital land, after being told by her son that 'there is no curse that will affect you'. 'So when my child told me that', she recalls, 'I took my things and went back to the farm.'

It is likely that the death of AK's husband was AIDS-related, although there is no discussion of this nor the possible ramifications for his wife and children. The reasons given for his death are stomachache, backache and malaria. As his health declined, he found it more and more difficult to work his land and started leasing it out. The coffee crop was neglected and food production declined. Because he had nobody to nurse him, his health deteriorated more rapidly.

AK herself is not well and suffers from flu, coughing, and recurring bouts of pneumonia. Her youngest child, a girl of nine, is sickly and despite regular trips to the hospital is not getting better. As a result the girl misses school regularly

AK lives on the family compound which is about two and a half acres in extent. There is another acre of land at Gacavari. The land is still registered in the name of her deceased husband as A cannot afford the cost of transfer. It appears that he wanted to sell the land before he died, but the proposed sale had not proceeded very far. She intends to subdivide the land among her children, to prevent future discord, but is delaying that because of the cost. She cites 'bad-tempered' children as one of her problems and fears

RESEARCH FINDINGS - EMBU DISTRICT

future conflict if she does not subdivide to them before she dies. Currently all the children have been shown a portion, which is theirs to use for cultivation if they wish.

There are still some coffee trees on the family compound, but AK is unable to afford pesticides so the trees are infested with pests. Currently AK is leasing out the land, although she wants to end the lease and start cultivating herself. The land at Gacavari is too far for her to farm so she also leases this out or leaves it fallow. AK has no intention of selling any of the land, which she wishes to subdivide to her children.

One of her daughters, P, who is 19, has started a business brewing beer and this is bringing money into the family, but it carries some risks. P, who was also interviewed, is currently on probation after being arrested for brewing, which she attributes to refusing to pay a bribe to the police when they raided her (she says she was drunk at the time). The eldest son (20) is in jail, adding to the family's problems.

AK's life has been one of constant hardship. Her family was very poor and she never went to school because her father did not believe in education for girls. When she was nine, her father, who had a drinking problem, sold her to a benefactor as a prospective bride for the benefactor's son. Subsequently the son refused to marry her but she continued to stay in the benefactor's house until she was about 18, when she returned to live with her mother. By then she had given birth to two children. One died in infancy while the other child stayed with the benefactor when AK left. This child, a daughter, is now in her 30s and does not seem to have kept ties with her mother.

AK worked as a housemaid for several years before moving with her mother to Karurumo, in the early 1970s, where she worked as a farm labourer. During this time she had her third child, a son. In 1982 she married a local coffee farmer, who seemed to have very good prospects as a farmer, but from 1986 her marriage started encountering problems. Her husband was embroiled in disputes with his father and brother over the land allocated to him by his clan in the demarcation process and also became abusive towards her.

By this time she had four children from her marriage and another child from a previous relationship. She left her husband, taking two of her children with her, but returned to him after several years as she was struggling to pay the rent on the room she had rented and had been evicted. AK stayed with her husband for some years, during which time she had another baby, but left him again because he continued to beat her. She then moved to her brother-in-law's land, from where she worked as a casual labourer, and later moved to the small centre of Kathunjuri for a few years. Only after her husband died did she return to her marital land.

While AK was living elsewhere, her husband treated the children she had left with him harshly and forbade them from seeing their mother. P recalls that there was not enough food to eat or money with which to buy school uniforms. Although she enjoyed reading, she dropped out of school in Std 4 because of the problems she was facing at home and eventually left to look for work as a housemaid. She only returned home after her father died, to help her mother for whom she feels responsible. She reports that there are no conflicts in their homestead, although she has heard of disputes in other homesteads that can only be sorted out by the courts.

Case Study 3: A land-poor, separated woman, H, and her daughter, N

H is a woman of about 56 years, who separated from her husband when she was 40, after 21 years of marriage. The break with her husband happened over an acre of land that her father had given to her. Her husband wanted to sell this land and when she refused he became violent and abusive. She suspected that his intention was to get hold of the money and then divorce her.

Eventually her parents-in-law brought her back to her parents' home, where she settled on her acre within the family compound of about six acres. H's daughter N, who was also interviewed, attributed her mother's separation from her father to the fact that he had a drinking problem and also had casual relationships with other women.

It seems at least some of H's children stayed with her husband when she left him, but they have since broken ties with their father and are staying with their mother. H is not sure if her sons will be allocated a place on her husband's land (which is also only one acre), because of his negative attitude towards his children.

H is the mother of seven children. Two of her children have died – a son, unexpectedly, followed six months later by a married daughter and then, a year after that, one of the daughter's children. The daughter's death is attributable to AIDS, which H half acknowledges and half denies; the symptoms were dullness, frequently getting sick, and, finally, wounds all over her body. H speaks of AIDS as a 'catastrophe' that is engulfing society, noting, 'We were told there is a type of malaria and that disease is taking seven years after infection and by that time it will have reduced the person to nothing. I have been counting its victims every year since the seminar.' However, later in the interview she denies that her children have been exposed to AIDS and claims that people are accused of having AIDS 'if one is emaciated'. Her own health is not good – she describes her symptoms as 'chest problems, headache and backache, which we refer to as malaria' and also describes AIDS as 'a disease which is ... a type of malaria'.

She attributes the spread of HIV/AIDS to the illegal alcohol trade and the promiscuous behaviour associated with it, 'because if one has the disease he/she will go to look for potential victims there'. She puts her faith in God, 'because if you get saved, you won't get infected. If you abstain [from sex] you will be comfortable.'

H is now looking after her daughter's surviving child, a 12-year-old boy. No details are forthcoming about her grandson's father and there appears to be no connection with the daughter's husband or his family. Whether this is AIDS-related is not clear. As a single woman with very little land she is making a precarious living from farming. Her five surviving children all live with her in addition to her grandson. The land is not sufficient for their needs, but H says she leases in land when she has extra money. Her mother has three acres on the family compound on which she is cultivating coffee, while her brother has two acres.

H has no formal education as her father feared that if his daughters became educated they would not be willing to work on the family farm any longer. She describes her household as worse-off economically than their neighbours. Before her children became ill, she had been saving money to improve the quality of her housing but had to divert that money to pay for the hospital costs of her daughter and son.

RESEARCH FINDINGS - EMBU DISTRICT

Her daughter, N, helps on her mother's land and also tries to bring in some money through casual labour and occasionally braiding hair. She is single and has two small children who are not supported by their father, who does not live in the area. N expects that eventually her mother's acre will be subdivided among her brothers since they will be unable to make any claims on their father's land.

H has a strong faith in God and her religious convictions have helped her cope with her difficulties. She experienced support from the village and her family when her two children died. Although her family's circumstances are precarious, she describes relationships within her family as good.

Case Study 4: A widow, K, and her daughter, L

K is in her 40s. She was widowed when she was very young, with small children. Although people expected that she would remarry, she never has, as, according to her, she did not see the need. Her husband's family and clansmen were supportive after she was widowed and she has remained on her marital land with her children. Although K makes no mention of a co-wife, her husband had a son with another woman, who also formed part of the extended family.

The household has six acres within the family compound, a portion of which K leases out to bring in a cash income. Her husband, who was the only son in his family, used to own two extensive pieces of land in addition (18 and 15 acres each) but he sold this land off before he died – it would seem as a result of his illness. At that time, K went to the Land Control Board to apply, successfully, for a restriction on his selling off the remainder of his land.

According to K the family land is still registered in her husband's name but when he died, subdivisions for each of his sons were registered with the Land Control Board with the assistance of clansmen. No separate subdivision was marked out for K or for her daughter, which K now regrets, as she feels insecure in relation to her sons and is also concerned for her daughter's future.

This family has been hard hit by illness and death. K's step-son and his wife died within a year of each other, leaving two children who have been cared for by K, but are currently staying with their maternal grandmother who saw that K was struggling to cope. While K did not ascribe their deaths to AIDS, after some prompting by the interviewer L acknowledged that this was the case during her interview. The stepson and his wife had separated and the wife was living in Nairobi but she returned to her husband after she became ill and was buried with her husband. According to both K and L, the children's rights to their father's portion of land within the compound are recognised and secure. They are being taken care of but L acknowledges, 'when someone does not have parents he or she must face some problems'.

Two other sons of K have both been chronically ill for the past seven years or so. They go through recurring bouts of illness during which they become 'disturbed' and may act violently, including towards their mother. Despite the problems they cause her, K is concerned about who will care for them if she dies. She worries about the future and what will happen to society as a result of children being neglected and growing up in poverty. At times she cannot sleep:

THE IMPACT OF HIV/AIDS ON LAND RIGHTS

So you find that I think a lot, I even don't sleep sometimes. At times when my son is very sick I wake up at night and hear him shouting outside while it is raining. I wonder what the problem is, as he has taken his drugs and even been injected but without calming down. I tell God that if this thing is not going to come to an end, just clear it for me. Sometimes I ask myself who will take care of these sons when I die.

The stepson who died had wanted to sell his land but K prevented this. A cow and other household items (a bicycle and a radio) were sold to cover medical costs. L recounts how the first-born son was able to complete his education on the proceeds from the family's coffee harvest, but conditions became progressively more difficult as she grew older and she had to drop out of school in Std 7 because there was no longer any money for school fees.

L has one child. She says she has not been shown a separate place to cultivate but lives with her mother and farms with her. Compared to when she was a child, land sizes have 'greatly reduced, so the food you harvest is only enough to eat and other needs cannot be met'.

K mentions a number of short-term strategies to make money, including casual labour, borrowing and selling items, in addition to leasing out some of her land. Villagers have helped with contributions towards some of her medical costs – 'even the one who is laughing at you' – and the Catholic Church has offered emotional support in the form of prayers. She describes herself as worse-off than her neighbours.

Case Study 5: A married couple, S and EE

S and EE got married in 1969 and have a large family – nine children according to their father, S, but ten according to their mother EE. S's family appear to have moved to Kinthithe when he was a boy, at the time when land was being demarcated. In addition to the land allocated to the family by the clan in Kinthithe, there were an additional 70 acres at Gacavari. Part of this land was sold off and the remainder was subdivided between S's mother and brothers.

S was originally allocated 13 acres at Kinthithe. He has sold off two acres and sold or subdivided another two acres, leaving himself and his wife with nine acres. His mother appears to have an interest in this land as well. EE was left with her grandmother when she was very small as her mother 'went into the bush' during the Mau Mau uprising. Her mother later remarried but separated and has struggled to gain access to land throughout her life – the sale of a piece of land that she had bought was never formalised and most recently she has had to 'borrow' a piece of land on which to settle.

The S and EE household depends primarily on agriculture for their living. They have coffee trees, but experience problems with pests and struggle to afford pesticides and fertiliser. They also grow maize, beans and paw paws. In order to raise money when it is needed, EE may take on some casual work or sell some of their food crops or chickens. They describe themselves as worse-off than their neighbours. According to S, if the season is okay they have enough food to eat, but if they have a bad season there are no food reserves. EE complains that her husband is spending their money without consulting with her and they are experiencing lots of financial problems.

RESEARCH FINDINGS - EMBU DISTRICT

It is not clear what the HIV status of this household is, but it is certainly at risk. S has suffered from gonorrhoea and other sexually transmitted diseases (STDs) and during his interview appeared very concerned about his health, asking for information about HIV/AIDS. EE has had to be treated for STDs, as have two of their children. Although initially she thought they might have AIDS, she reports that they have all responded to treatment. However, according to EE her husband is still suffering from pneumonia. Medical treatment has been a major financial burden.

EE describes men's sexual behaviour as problematic, but although she is critical she also seems resigned about what she observes and experiences. She noted in her interview that in marriages, 'there is no time there are no fights. Wives are always beaten.' Yet at the same time she also stated that there were no disputes in the family, although she did not rule this out in the future, as the children grew older. Currently only the eldest son has had a portion of land subdivided for him. The other sons will get when they are older, and EE is supportive of daughters getting land too if they are not married or are divorced.

Case Study 6: A widow living on her son's land, W

This is a marginalised household consisting of W, a widow of about 70, and two of her grandchildren, a boy and a girl (the children of two of her daughters). In both cases the children were left with their grandmother because their own mothers had got married and their new stepfathers had not wanted to take responsibility for them.

W recalls a happy childhood with enough food and a grandmother who told wonderful stories. She was married just before the start of the 'Emergency' and widowed soon thereafter, when government forces shot her husband. At that time she had one child.

She remained on the father-in-law's compound and had another six children, it would seem with her father-in-law – she makes a reference to him 'protecting his name'. There had been no formal allocation of land to her husband by the time that he had died, but subsequently her father-in-law made an allocation of seven acres to his eldest grandson, W's first-born, who had been named after his grandfather.

W now lives on an acre of land allocated to her by this son out of his seven acres. The son initiated an informal process of subdivision whereby he kept five acres of land for himself and allocated his mother and one brother each one acre. W was unhappy at the size of her allocation and tried talking to her son about it, but he insisted that the arrangement was fair as he was the owner, and she has had to accept that.

The household is not HIV-affected. Nevertheless, W describes it as worse-off than her neighbours, because 'we have a problem getting food and our house cannot be compared with that of our neighbours'. She suffers from high blood pressure and arthritis, and struggles to ensure that her grandchildren get an adequate diet. Her land is her only source of livelihood – no reference is made to her daughters sending child support, and if this does happen, it is not a regular occurrence. W grows mainly food crops but finds labour a problem. If she has money, she may hire casual labour to work on the fields; she also expects her grandchildren to help, in return for the food that she prepares for them.

In contrast to the good memories she has of her childhood, she describes the present as 'bitter' and feels pessimistic about the future: 'How can life be sweet and there is no money?'

5.7 Conclusion: the impact of HIV/AIDS on land tenure in Kinthithe

There are clearly many pressures on land-based livelihoods in Kinthithe in addition to HIV/AIDS, including population pressure on shrinking household land; the collapse of the cash-crop economy, especially that of coffee; reduced productivity of the land; mal-administration in the coffee and other agricultural industries; and poor infrastructure. The institutions of the family and of marriage are also undergoing profound changes. Alongside evidence of strong family bonds and the resilience of networks of care and responsibility, especially but not only between mothers and their children, the study also reveals high levels of conflict over roles and resources between men and women (husbands and wives, mothers and sons, brothers and sisters) and across the generations, as well as high mobility in and out of households.

From one point of view, HIV/AIDS is just one more stress and, as Case Study 6 above makes clear, there are socially marginal and economically vulnerable households in the study site that are not directly HIV/AIDS-affected, which share many of the problems faced by affected households. However, the survey does confirm that there are specific features of the pandemic, which are compounding existing problems within vulnerable households and applying unprecedented pressure on social relationships, especially along existing fault lines of gender and generation. Stigma and denial associated with AIDS are limiting people's capacity to make sound judgements about treatment and care, and putting relationships where HIV/AIDS is involved under enormous strain.

In this concluding section, the findings from the Kinthithe study site are pulled together under two broad headings: i) issues around land tenure; and ii) issues around land administration.

Land tenure

The devastating impact of chronic ill health on productivity comes through clearly in the in-depth interviews, where many respondents spoke of reduced capacity to work the land, neglected crops, declining productivity and land left fallow. Both the ill health of the affected member of the household and the demands made on the caregiver(s) (who may herself – and it is usually a woman – be suffering from poor health) are implicated. The relatively high cost of medical treatment for very poor people is also diverting household money away from other necessary items of expenditure, including education, agricultural inputs, and housing.

However, with regard to tenure systems specifically, there is little evidence in the Kinthithe study of high levels of distress sales in response to the pandemic at this stage, although it is possible that this could change as mortality rates increase. A major reason why households are not resorting to selling their land in response to financial pressures appears to be because they regard themselves as having no reserves of land left to sell. Whether this will change as AIDS tightens its grip on the community remains to be seen, but at this point many poor households are resisting the idea of selling their land, which they recognise as a critical safety net and also an investment in security for their children.

More common than the sale of land is the sale of other movable assets. In addition, two households have been identified as resorting to what may be termed distress leasing of land that they are no longer able to work effectively as a means of bringing in some

RESEARCH FINDINGS - EMBU DISTRICT

income. This is, of course, providing opportunities for those better-off households in the area that can afford the rentals to access additional land and increase their own levels of agricultural activity. The conditions under which rentals are being negotiated, and how this could be better managed to protect the interests of poor households in very weak bargaining positions, are areas for further study.

Our fieldwork also uncovered little evidence of large-scale land dispossession of vulnerable members of society, widows in particular, although there was considerable evidence of tensions and conflict over land allocations to and the rights of widows, as well as concern about the possible manifestation of problems in the future, including vulnerability to a future loss of land rights. In Kinthithe widows seemed more concerned about maintaining good relationships with their adult sons than with the brothers of their deceased husbands, which is an indication of the degree to which the individualisation of land to a more nucleated family level has taken root.

More common than widows losing claims to land in their husbands' compounds is the phenomenon of women whose marriages have broken up losing their claims to marital land and, in the absence of any independent resources with which to acquire land, being thrown on the mercy of their natal families. While their rights of return to their natal land appear relatively strong when their mothers are alive, their claims appear more at risk when their mothers are no longer alive (and allowing them to access a portion of the maternal portion). Then they become dependent on the goodwill of their brothers – and their brothers' wives – to access natal land.

The situation with regard to the rights of orphans and the extent to which social norms protecting their rights to their parents' land will still prevail in the future when they try to claim those rights, also requires further study and ongoing monitoring so as to test the actual congruence of social norms with social practice when put to the test. Of additional concern in terms of children's rights are the claims of 'daughters' children,' that is, those children who do not have any relationship to their fathers and are growing up with or without their mothers on their mothers' natal land.

While households are endeavouring to hang on to their land, this does not mean that individual members are not being shed alongside that process. As already noted, our research design whereby we interviewed people who were present in the area – that is, by definition had not been squeezed off the land – makes it difficult to quantify the extent to which this may be happening and who is being targeted. However, in the stories that informants told there is evidence of vulnerable individuals within households, those with socially weak claims on the household land, who have been driven off the land altogether. Women are particularly vulnerable because of the patriarchal nature of local tenure systems on family land. A few women who are better placed financially have chosen to buy land in their own right in order to secure their access to land. There is also a category of land-poor men, generally younger sons and/or 'daughters' sons' who are finding themselves squeezed off household land as well.

What is not yet clear in the Kinthithe study area is what the consequences of a dramatic decline in population growth will be on the current situation of extreme pressure on land as well as high dependency on land-based livelihoods. Given emerging disparities in land ownership and levels of well-being, and in the absence of new policies or changes in the

broader economic dispensation, it is likely that this will widen the gap between the minority who are relatively well off and the majority who are not.

Land administration

Some 40 years after land registration was introduced into the Kinthitthe area, a hybridised version of individualised customary tenure appears to have taken root. This combines an accommodation of customary norms of access to land for all household members with the formalisation of individual rights to portions of the land and to land they have acquired independently through the market. The system is still strongly patriarchal but there is greater recognition of women's rights to land at the level of public discourse and some accommodations of women's claims to land in their own right in practice.

With regard to the administration of this evolving set of practices and norms, the study has identified a number of problems with existing institutions and practices. The land registration system is not up to date, with many respondents identifying the cost of formalising various land transactions, including the survey, registration, transfer and subdivision of land, as major impediments. Land transaction fees compete with other user fees which people find onerous and inhibitory, including school fees and healthcare costs. Land information systems are also very poor, and the quality of information supplied from the district to the centre is of doubtful value for monitoring and evaluation purposes and policy development.

The lack of formally recorded rights only becomes a problem when disputes arise. However, conflicts over land are common at the household level, and, given current social dynamics and the devastating effects of the HIV/AIDS pandemic on social and economic resources, are likely to intensify. Thus the dispute resolution system is also an area requiring attention. The cost of enforcing a right through the courts, if a complainant fails to obtain relief through the less formal mechanisms of clan elders and location and sub-location level administrators, is prohibitively high.

A number of informants identified possible corrupt practices at the local level, particularly around fast-tracking land transfers without enforcing the family consent mechanism. Women's rights continue to be vulnerable because of this. On the other hand, examples were also cited of the Land Control Board intervening to enforce the family 'consent' mechanism and protecting the rights of women and children, thereby highlighting the valuable role that an effective, well-informed institution at the local level can play in protecting the rights of vulnerable members of society.