ANNEXURE THREE:

BRIEFING NOTE: HIV/AIDS and Land Reform in KwaZulu-Natal

This briefing note has been designed to help participants at the HIVAN/SARPN seminar think about HIV/AIDS and land reform. It is intended to enable people to understand and target the pandemic more effectively

There are a number of reasons why the seminar is important. At the SARPN Land Reform conference it was argued that the impact and trends of HIV/AIDS should be a central feature of conducting land reform. A failure to do so was deemed to be professionally negligent, misusing resources for poverty reduction, and unlikely to achieve stated objectives. This means actively seeking to understand the overall pandemic, and learning about how HIV/AIDS affects both the people whom land reform is intended to benefit, and the people staffing the institutions that support land reform, and then changing the understanding of how to go about it.

It would be a limitation if it were assumed that everyone shared a perspective about why land reform was important or even necessary and held common concerns around the impact and implications of the HIV/AIDS pandemic. The current land reform policy has a range of meanings within the province and there exist a number of competing views about its objectives and implementation. Two dominant perspectives often emerge: land reform for commercial farming purposes (this relates to the de-racialisation of the commercial farming sector and the establishment of emergent black farmers) and land reform for enhancing existing multiple livelihood strategies for rural households. The latter may not necessarily be agricultural economic activities.

Regardless of the perspective, land reform has the potential to make a direct impact on poverty through targeted resource transfers, particularly in the rural areas. This is very important when considering the context of rural poverty and the impact of HIV/AIDS on communities living in these areas. The SADC region of Southern Africa is now home to at least one third of the global population of people living with HIV, with about twelve percent of the adult population now infected. As a consequence the following patterns are beginning to emerge:

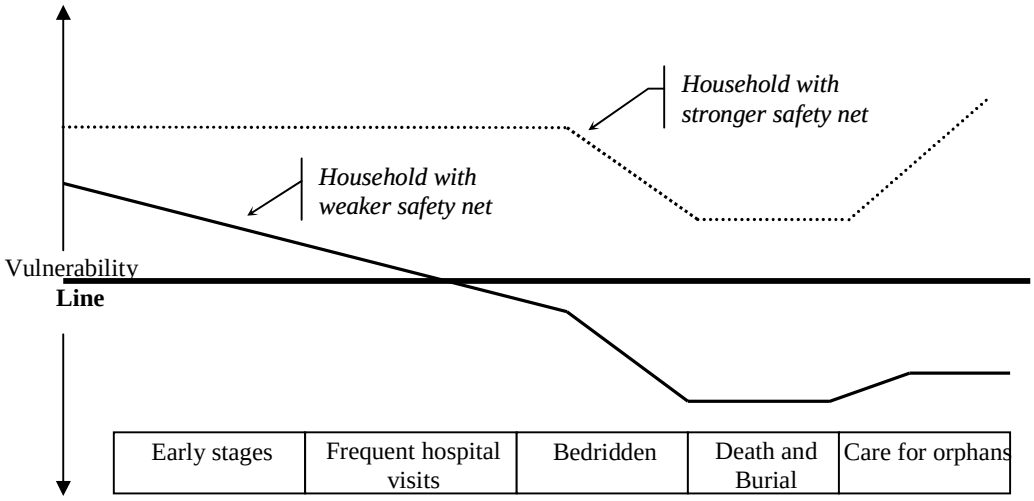
- At the household level, people who fall sick with HIV/AIDS are less and less able to work productively.
- So family members begin to devote more time to caring for them.
- So they devote less time to vital seasonal agricultural activities (e.g. planting or weeding).
- When people become sick, **vital physical and social assets like cattle or tools are depleted or sold off** as they or their families draw on their savings to pay for expensive medical care and then funerals, and for the hire of replacement labour. (Some advisers now try to convince infected people to accept that they are dying and not to deplete family assets).

- Once such productive assets are sold (often for artificially low prices), people's future range of activities is reduced.
- People's options become more limited.
- So they become increasingly vulnerable.
- Productivity declines in those activities still undertaken.
- **The quality of assets may also decline** (e.g. labour intensive work to protect against soil erosion may stop as shortage of labour increases).
- People in the most productive age group die off before they can pass on their experience and specialist skills (formal and informal) to the next generation.
- So **the skills and knowledge base within communities declines**.
- In these processes **women are especially vulnerable:**
- (a) **to infection** by their husbands;
- (b) **as widows**, to landlessness and near destitution following **property grabbing** by her husband's relatives - a 'custom' still prevalent in many parts of Africa.
- A widow is left to eke out a living without her land base or other assets.
- She becomes vulnerable to opportunistic illnesses.
- Those left to farm and earn income are disproportionately the elderly and children.
- External supports may also decline as relatively mobile **service providers**, such as NGOs and churches, government extension officers and teachers, themselves **become more deeply affected and infected by HIV/AIDS**, and their staff fall ill and die.

As a consequence, subsistence farming gradually is becoming less and less productive, especially in drier areas and in commodities which need high labour inputs.

The following illustration is a useful tool to understand the HIV/AIDS lifecycle and the levels of economic degradation experiences by affected households. The economic strength of a household would include the ability of the group to utilise land for a range of livelihood options. The illustration is intended to be a generalised representation depicting the overall trends as described by households who responded to research questions about care taking burdens. It is not meant to depict a scientific analysis of the progression of HIV/AIDS-related illness and death.

The effect of HIV/AIDS on households/livelihood strategies



The dotted line represents the rate of degradation experienced by a household with a stronger economic safety net and a wider range of options (including land) to draw upon during the crisis. The other line represents the rate of economic degradation experienced by a household with a weaker safety net. The different rates of degradation appear to pivot on the presence or absence of physical assets, business income and access to credit or savings.

There are a number of issues to be examined in relation to HIV/AIDS and land tenure issues especially in the areas that are experiencing increasing land pressure, land scarcity, commercialisation of agriculture, high potential areas for investment, and intensifying competition and conflicts over land. In terms of land tenure reform, **there is a real danger**, where the opportunity and the temptation exist, **that people might sell their land** (together with their other assets) to pay for fruitless health care or costly funerals. The spectre of possible growing landlessness associated with HIV/AIDS should, at the very least, give serious pause for thought to those who still advocate that **individual titling** is the best, or indeed the only, way forward for land reform.

Simultaneously, in some countries where land reform programmes are being implemented, new problems are emerging. For instance in South Africa, increasing numbers of applicants for land redistribution and restitution are dying of HIV/AIDS before the land is allocated. Regulations as to who should inherit the land and whether the family should be given land or a cash compensation payment, are not clear in such cases, and lead to confusion in the land redistribution and restitution programme.

Another important impact of the epidemic is the reduction in numbers of appropriately qualified and experienced personnel, thus undermining national capacities to implement land reform initiatives and ongoing land administration responsibilities effectively.

Implications for land reform

Given the current trends in HIV/AIDS across the region we must assume that:

- Families badly hit by HIV/AIDS are likely to be excluded from the land reform process as family representatives "disappear" from participatory processes due to illness or death.

- About 15 to 35% of adults who could benefit from land reform are already HIV positive, although virtually none of them know it. They will begin to fall ill from chronic illness leading to death within the next five to ten years.

- Many other adults being resettled, and many of the children in their families, will in future become HIV positive and go on to develop HIV/AIDS.

- Some people might respond by trying to figure out how to "exclude unproductive people" through mechanisms such as mandatory HIV testing. This would be morally reprehensible, probably illegal, and in any case unworkable (after all, one can contract HIV the day after being tested).

Instead, we should discuss how land reform could be planned, given the clear understanding that HIV/AIDS will have consequences at many levels. HIV/AIDS will influence who gets land in the initial reform process, how the land is then used, and how it will be redistributed in future. The land reform process should recognise this, and explicitly seek to achieve a range of objectives, entailing relevant complementary services, in order to:

- Maximise appropriate access, with attention to the particular needs of those infected and affected by HIV and AIDS – implications of AIDS orphans, child-headed households, pressure on community cohesion, gendered dimensions of land reform

- Support productive use in the long term, including those affected and infected by HIV and AIDS

- Minimise HIV transmission and improve care and treatment for those who are ill, through the provision of essential services

- Need to integrate demographic projections into economic and social services planning, including land reform planning and policy

If a land reform process in Southern Africa simply transfers access to families in which everyone is relatively healthy, includes no efforts to help people from falling ill, and makes no efforts to help families of those who later become chronically ill to retain and make use of their land, then the process is not seriously contributing to long-term poverty alleviation.

Conclusion: this situation, clearly **leading both to deeper poverty and increased inequity,** calls for **policy and practice changes of the most basic and fundamental nature.**