



UNDP Regional Project
on HIV and Development

THE IMPACT OF HIV/AIDS ON LAND REFORM IN SOUTH AFRICA

**Report of a Department of Land Affairs workshop
organised in conjunction with the UNDP Regional
Project, SARPN and the HSRC**

Pretoria
14 & 15 August 2002

ACKNOWLEDGEMENTS

Acknowledgements are hereby extended to individuals and organizations that contributed to this report, and provided the information on which it is based. The Department of Land Affairs, the United Nations Development Programme Regional Project and the Human Science Research Council in particular for organizing the workshop and the rest of participants for their co-operation, support and helpfulness.

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LIST OF ACRONYMS

AIDS	Acquired Immune Deficiency Syndrome
DLA	Department of Land Affairs
DoH	Department of Health
HIV	Human Immuno-deficiency virus
HSRC	Human Sciences Research Council
IEC	Information, Education and Communication
LRAD	Land Redistribution for Agricultural Development
NGO(s)	Non-governmental organization(s)
RDP	Reconstruction and Development Program
SADT	South African Development Trust areas
SARPN	South African Regional Poverty Network.
STD	Sexually Transmitted Diseases
UNAIDS	United Nations Programme on HIV/AIDS
UNDP	United Nations Development Program Regional Project

EXECUTIVE SUMMARY

The Department of Land Affairs (DLA) requested the United Nations Development Programme Regional Project and the Southern African Regional Poverty Network (SARPN), to develop a workshop on mainstreaming HIV/AIDS and development within the Department of Land Affairs. The workshop was mainly attended by participants from various DLA offices, other government departments, and some HIV/AIDS organizations. Officials from the United Nations Development Programme Regional Project (hereafter referred to as the UNDP) and the Human Sciences Research Council (HSRC) were invited to participate and lead the discussions of the workshop based on their experience in shaping policy and programmes in the field of HIV/AIDS and development.

The objectives of the workshop were to:

- Carefully consider the implications of HIV/AIDS (in the context of development) for beneficiaries and employees of DLA.
- Look at the consequences of DLA's policies and program implementation for HIV/AIDS spread.

The workshop participants noted that the impact of HIV/AIDS on the DLA's mandate and the mainstreaming of the epidemic into DLA's development policy and programmes are major concerns and should therefore be treated with urgency and care they deserve. They also noted that the workshop has granted them the opportunity to give thorough consideration of other issues that might affect the extent and impact of their service delivery onto their beneficiaries.

Participants felt that the workshop did not provide them with solutions to their problems and concerns but instead provided them with tools that would assist them to take the processes such as the review of organizational policies and land reform policies forward. The DLA together with other related sectors, have to act on the knowledge gained.

From the discussions and presentations it was clear that a holistic way of addressing the HIV/AIDS epidemic is needed to promote systematic thinking across sectors and disciplines. This focus should not be concentrated on health but also at the impact on social support, finances, housing, land-use and land tenure. After all, individuals (including those living with HIV) are not only employees; they are also a family or community member, a landholder or a house tenant, or a sharecropper etc. Organizations, land, forests and crops are all affected by the HIV/AIDS epidemic, for example, land may not be tilled and certain crops may not be grown because of the lack of labour, and land may be sold to pay medical fees, funeral costs or everyday household expenses.

It is important to consider the political and historical context as well as the dynamics thereof in any attempt to provide effective mainstreaming of HIV/AIDS and in an effort to maximize the effectiveness of the DLA.

Policies and institutions can play a key role in addressing the impact of HIV/AIDS. Organizations such as the DLA have to build or reform policies and laws so that they provide better opportunities for the poor and to ensure that attention to HIV/AIDS is not confined to health strategies and actions that are informed by policy. Further, to ensure that HIV and AIDS do not undermine DLA's mandate and core business.

WORKSHOP PROGRAMME

Day 1: Wednesday, August 14, 2002

09:00-10:00	Registration and morning tea	
10:00-10:30	Official Opening: DLA-DDG UNDP-Representatives	Mr. Glen Thomas
10:30-11:00	Theoretical premise upon which workshop is based	Dr. Roland Msiska
11:00-11:45	Review of HIV/AIDS epidemic in South Africa	Mr. Niko Knigge
11:45-12:30	Determinants of the Epidemic in South Africa	Mr. Vivian Khanye
12:30-13:00	Group Discussions	
13:00-14:00	Lunch	
14:00-15:00	Group Discussions (continues)	
15:00-16:00	Group Presentations	
16:00-16:15	Afternoon tea	
16:15-17:00	Basic concepts of Mainstreaming	Dr. Roland Msiska
17:00	Closure	

Day 2: Thursday, August 15, 2002

08:30-09:30	Impact of HIV/AIDS in Kenya, Lesotho and South Africa: Implications for the South African Land Policy	Dr. Scott Drimie
09:30-10:15	Overview of Land Reform Policies	Mr. Glen Thomas
10:15-10:30	Morning Tea	
10:30-12:15	Mainstreaming HIV/AIDS in Land Affairs	Dr. Roland Msiska & Mr. Vivian Khanye
12:15-13:00	Group Discussions	
13:00-14:00	Lunch	
14:00-15:00	Group Discussions	
15:00-15:30	Plenary Group Presentations	
15:30-16:00	Summary and Way Forward	Dr. Roland Msiska
16:00-16:15	Evaluation of the workshop	Mr. Vivian Khanye
16:15	Closure	

INTRODUCTION

The Acquired Immune Deficiency Syndrome (AIDS) and the Human Immunodeficiency virus (HIV) are some of the most serious health problems facing most countries in the world, the Southern Africa in particular. While remarkable efforts to contain the spread of HIV have been made worldwide, the number of people infected with HIV has continued to increase unabated and are now a serious concern among governments and development partners.

HIV/AIDS created unique demands at all levels of society. Individuals, organizations and sectors worldwide have mobilized to meet these unique demands through a number of strategies and policies. Clearly, through the strategic and long-term implementation of DLA's policies, with careful consideration given to the provision of necessary resources and with the relevant communication of implementation improvement, the goal of mainstreaming HIV/AIDS and development can be attained. It is in this context that the DLA workshop was organized.

The aim of the DLA workshop was to establish the impact of HIV/AIDS on land reform, which is the core competence of DLA, and to extrapolate the impact of DLA's policies and programmes on the prevention or spread of HIV/AIDS.

The workshop was held over two days. It was structured around an adult learning model aimed at establishing an open interaction between facilitators and participants and maximizing their contribution in the fight against the epidemic. There were presentations challenging the conventional conceptualization of the relationship between the epidemic and development. Also, there were group tasks, discussions and case studies related to the exposure and analysis of the bitter reality imposed by the epidemic on the beneficiaries of the department.

Two UNDP officials made presentations regarding the state of affairs in HIV/AIDS policies, programmes and activities. They exposed both incidental and underlying factors influential to the fuelling of the epidemic in South Africa, with particular emphasis on the latter as critical for the DLA to pay special attention to. In the light of these, they also unearthed key strategic tools to be employed in constructing a formidable response to the epidemic. A senior official from the DLA also made a presentation on the historical and political background of the land reform policies and highlighted some challenges that they have inherited from the past dispensation. Officials from the Human Resource Council (HSRC) and the Department of Health (DoH) made reference to various research studies to highlight the HIV/AIDS situation and its impact on the South African population. The two programme directors were from the DLA.

DAY ONE

Official Opening

Programme Director

Mr. Sam Mathikhi

The programme director welcomed the participants. He in particular noted the presence of Dr. Roland Msiska of the UNDP, Mr. Vivian Khanye, also from the UNDP, Dr. Scott Drimie of the HSRC and Mr. Glen Thomas of the DLA. Workshop participants introduced themselves. See Appendix A for a list of participants.

Mr. Glen Thomas did the official opening of the workshop. He stated the purpose of the workshop as to:

Look at the impact of HIV/AIDS on two levels. Firstly to consider the beneficiaries and the institutions. That is to consider what effects does HIV/AIDS have on the mandate and beneficiaries of the DLA. Secondly, is to consider the HIV/AIDS impact of policies on the spread of HIV.

Dr. Msiska also made a presentation as part of the official opening of the workshop. He stressed that most people do not immediately respond to HIV as they should. He believes that the spread of HIV/AIDS in sub-Saharan Africa cannot be divorced from past and current development policies. Development policies that undermine institutions, communities, households and individual capacities to access and use prevention technology are going to fuel the spread of HIV in the communities. For example commercial sex workers and any form of transactional sex puts the individuals who are providing sex at higher risk of getting HIV infected. But the question to be asked from a development perspective is why do these individuals find themselves in commercial sex? In the majority of cases, these individuals are doing so to survive economically. Migratory patterns, which may or not be linked to sex worker are also influenced by past and present development practices. A causal analysis of the situation of HIV/AIDS in sub-Saharan Africa, seem to suggest that HIV/AIDS is a symptom of development gone wrong.

Dr. Msiska further indicated that in the case of South Africa, it is important to look at the ultimate, long-term effects of some of the development policy decisions. He also alluded to the fact that epidemics like HIV, take a much longer time to mature and therefore need to be approached from long-term basis in terms of policy.

PRESENTATIONS

Theoretical premise upon which workshop is based

Dr. Roland Msiska

Dr. Msiska urged participants to be open, participate fully and allow for differing perspectives. He set the scene by referring to some key differences on how adults, in comparison to children, learn. See Table 1 for details.

Child Learning/pedagogy	Adult Learning/andragogy¹
1. Lessons conducted by a teacher.	Lessons conducted by a facilitator.
2. Objectives are vague and of very little interest.	Objectives are clear and aim to influence behaviour.
3. Learning is involuntary.	Learning is voluntary.
4. Have no say about what is taught.	Have a say on the content of the lesson.
5. Child learner rarely internalizes lessons for immediate benefit.	Adult learners internalize lessons for the purpose of immediate application and benefit.

Table 1: Differences between pedagogy and andragogy.

He also drew differences between how adults and children learn so as to make participants understand that they, as adults and unlike children, have valuable experience related to the fight against the epidemic. He believed that all workshop participants were at the workshop because of their interest in the mainstreaming of HIV/AIDS within the DLA.

He felt that mainstreaming should not be limited to changes at institutional level but also at individual level.

He said the universal problem with HIV/AIDS programs is that they are designed and presented as if the audience is only children, in the sense that people are just told what to do and then expected to change. Unfortunately when change does not happen, experts wonder why people are not changing.

Further, Dr. Msiska, drew from existent learning models to demonstrate that there are different ways through which adults assimilate knowledge or learn and therefore each participant should be free to learn and participate through whichever style suitable to his or her learning. He referred to four different categories of people. See table below for details:

¹ Is the science and art of presenting knowledge and skills to adults with the view of influencing their behaviour.

Category	Explanation
1. Accommodators	People who easily and immediately adapt to change.
2. Divergers	People who are very imaginative and have an awareness on values.
3. Assimilators	People will try and get an integrated explanation of the situation by for instance creating more theories related to the explanation.
4. Convergers	People who are more practical and prefer solving problems immediately.

Table 2: Different categories of people.

Dr. Msiska referred to a number of processes that people go through in terms of how they learn. See table 3 for details.

Category	Explanation
1. Intuitive learning	Learning without a very conscious process. People who learn intuitively, are content that learning occurs naturally.
2. Incidental learning	Learning by chance from activities that jolt an individual into conducting a post-mortem. Those that use this approach tend to use the benefit of hindsight as a way of rationalizing, even justifying what happened.
3. Retrospective learning	Looking back over what happened and reaching conclusions about it in a more structured way. Those people who use this approach, review mistakes and lessons are drawn from routine events and success.
4. Prospective approach	All the retrospective elements are included but include an additional dimension, whereas retrospective concentrates on what happened after an experience, the prospective approach includes planning to learn before an event. Future events are not merely seen as things to be done (this is important) but also opportunities to learn.

Table 3: Different learning approaches.

Dr. Msiska then indicated various instructional techniques that should be followed in workshops in order to accommodate all of the learning styles aforementioned. He cited group tasks, active experimentation, case studies (like it was done in this workshop through KwaZulu-Natal case studies) and the use of films and videos.

Clearly, from the input made about the differences between child and adult learning the workshop was structured around the adult learning model. It was also expected that the workshop was attended by different categories of people who learn differently.

An exercise to apply Dr. Msiska’s theory on adult learning was done at the end of his presentation. Participants were requested to reflect into their past learning experiences and establish their respective patterns of learning in comparison to different learning styles presented by Dr. Msiska. Participants were also requested to establish causes for failures and successes in their learning experiences. Dr. Msiska believed that if participants understood how they, as individuals, learn, then they would accommodate each other in the process of their participation in the workshop.

Review of HIV/AIDS in South Africa

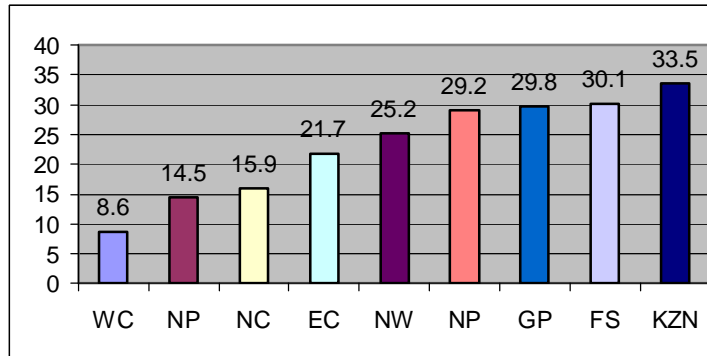
Mr. Niko Knigge

Mr. Knigge started his presentation by outlining that HIV trends in South Africa are mainly measured by annual antenatal surveys conducted in public health facilities because women are more accessible than men. Extrapolations conducted point out that for every 100 women, who are infected, 85 men are infected. He said to date there are no reliable methods of measurement. On the positive side, these surveys focus on the sexually active strata and the stable community over time, which has access to health systems (routine blood taking). The limited focus raises questions such as: what about men? what about the non-sexually active? (including children and the old), what about those not accessing public health facilities? (that is those who opt for private health and traditional birth), what about those who have fertility problems and those on contraceptions? United Nations Programme on HIV/AIDS (UNAIDS) recommended surveillance tool to estimate HIV in populations of high-*generalized* epidemic. Here are figures indicating global HIV/AIDS prevalence and trends.

Those living with HIV/AIDS	40 m.
HIV/AIDS related deaths in 2001	3 m.
New Infections	5 m.
0-14y AIDS orphans	14 m.
Total AIDS deaths since 1982	+20m.

Table 4: Global HIV/AIDS prevalence and trends by end of 2001 as per the Report of UNAIDS.

South Africa hosts 12% on the world’s HIV **infections (& 0.7% of the world population)**. In 2000, it had the largest number of HIV positive people in the world. In 2001, although increasing, the rate of HIV prevalence in South Africa was possibly overtaken by India. It is important to bear in mind that AIDS follows HIV trends by almost eight years. Graph 1 below indicates prevalence differences in provinces in South Africa as per survey conducted by the Department of Health (DoH). Up until last year, KwaZulu-Natal had the highest HIV cases and the lowest was the Western Cape. Interestingly, in the Western Cape there is a rise although steady. The reasons for that are not understood yet.



Graph1: HIV prevalence by province among antenatal clinic attendees in South Africa, 2000-2001.

Mr. Knigge warned that HIV/AIDS is currently the leading cause of death in Africa. It leads to a reduction in life expectancy. It is also threatening to significantly reduce the workforce of selected African countries by 2005. Scientific extrapolations point out that AIDS in selected African countries, Botswana would be the highest, followed by Zimbabwe then South Africa while Thailand seems to rate the lowest.

Undoubtedly, from Mr. Knigge’s presentation it is clear that HIV/AIDS is one of the critical challenges facing if not the most challenge facing South Africa. The increasing infection rates of prevalence are a cause for concern among governments and development partners.

Determinants of the epidemic in South Africa

Mr. Vivian Khanye

The objectives of the presentation were to ensure a clear and common understanding of what systems thinking is and how its application helps us to understand the determinants of HIV. On the vertical, systems thinking is “*about looking beyond the surfaced incident(s) or event(s), to analyze patterns and structural influence underneath*”. On the horizontal, systems thinking is “*about looking besides the isolated incident(s) or event(s) to analyze linkages between events, patterns and aspects of structural influence*”.

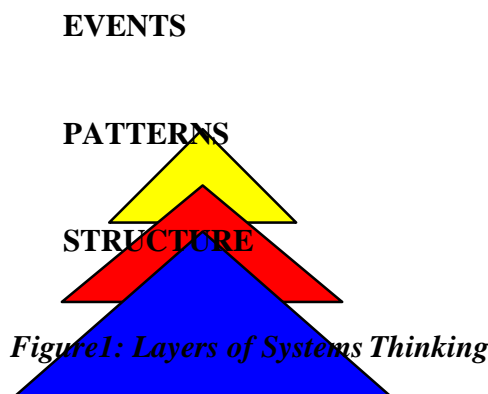


Figure 1 mirrors the concept of systems thinking. It illustrates that the primary influence of events emanates from the underlying structure. On this basis HIV should be primarily dealt with at the structural level of the department.

Mr. Khanye further expounded that systems thinking is also about the unearthing and reconstruction of peoples' mental models² or mental maps. He pointed out that mental models resident within the minds of 'problem solvers' are usually not unearthed, questioned or communicated as a result, HIV spread could be further complicated by unidentified gaps within the mental models of 'problem solvers'.

He also stressed that in dealing with HIV issues from the systems point of view, the importance of differences in our background such as in education, socialization and culture should be noted.

He emphasized systems thinking compels 'problem solvers' to look beyond the distribution of condoms as a solution to HIV. Instead 'problem solvers' should begin to look at the meaningful contribution that they can make in terms of their sectoral mandate and what is needed in responding to HIV at mega (pattern) and macro (structural) levels of influence. For the illustration, Mr. Khanye referred participants to the study made in Kenya by the UNAIDS.

The study highlighted differences of HIV infection between boys and girls. It was indicated that girls are infected earlier than boys. He pointed out that it is important to look into underlying reasons for the early infection of girls.

He also made reference to:

the situation in Lusaka whereby more females, aged between 15 and 30, are infected more than their male counterparts. Interestingly, from 30 to 50 years the situation changes, there is more HIV prevalence among males than females.

The drawn conclusion from these studies is that the transmission of HIV from older generations to younger ones goes through the younger girls from older men. As a way of illustrating the point, Mr. Khanye pointed out that, the DLA could reflect on the implications of this conclusion for its mandate and policy and programmatic interventions.

Mr. Khanye also discussed the "partner mix" problems in line with the cultural dynamics found in our societies. He referred to partner mix as the rate of acquisition of new partners. He cited for example:

the Chief in Ghana who felt that as a Chief he is in a high-risk group of infection because he is obligated by culture to have more than one partner. Further, the Chief said conventional African cultures compel them (as chiefs) to have unprotected sex.

Mr. Khanye stated that HIV has been prevalent in South Africa for about 20 years and not much success has been registered in the areas of prevention of new infections and reduction of the current impact. He suggested that multi-sectoral approaches underpinned by systems thinking in responding to the epidemic should be optimally utilized. At multi-sectoral level, each sector constructs its responses to the epidemic based on its unique position in the system and synergizes with others for joint action.

² Mental models are patterns of thinking and perceiving reality which have significant potential to hinder or facilitate processes of solving problems existent in the reality perceived.

He made reference to the educational, social and economic impact of HIV linking that to the land issue. He indicated for instance that higher death rates increase demands for land since people will need more land for their care and burial. There other challenge is in that due to HIV there are more and more orphans³ who are to own land because of the unprecedented death of adult parents. The unfortunate part is that orphans are not in a position to use land economically and optimally. Such problems pose a challenge to the DLA. The impact of HIV in the sector dictates that the DLA has to come up with long-term and specific intervention strategies. In conclusion he recommended that the empowerment of women and children should form part of the core policy and program interventions.

GROUP PRESENTATIONS/SUGGESTIONS

Programme Director

Ms. Jenny Jacobs

Key to sharing ideas and experiences between participants is to objectively present those experiences to colleagues. Participants were presented with a number of case studies that they had to be analyzed and were requested to suggest DLA oriented solutions to frustrations and challenges extracted from the case studies.

Each group was requested to prepare a summary of main issues pertaining to the cases. Salient features of the case studies were shared by the groups and adapted into practical and daily business of the DLA. The cases elicited much discussion with workshop participants pointing out that in terms of:

Land Tenure Security,

- The tribal system is still functional but still in conflict with the modern land governance in the country. In the traditional system, the human rights of women, children and youth are not always clearly protected. The department has to see to it that there is at least land tenure security for children and women otherwise land can be unfairly taken away from them. Further, DLA has to ensure that there is adequate and legally entrenched demarcation of land boundaries.
- The Land Rights Bill should look into the case of inheritance to ensure that landowners are not exploited. Obviously it is not only the DLA that can deal with the issue, Justice and Welfare departments should also be involved.
- Landowners can be encouraged to lease out land in cases where they cannot economically utilize it and there should be protection of lessors of such land.
- There is a need to enhance land administration systems. A lack of clearly defined leasing terms can create problems for landowners. Detailed records such as contracts should be kept.

Property Rates Bill,

³ As defined by the UN, it is children of 15years or younger who have lost either both parents and their mother.

- People living with HIV/AIDS are still responsible to pay rates.
- When people are terminally ill, the land cannot be used productively. So partnerships with others should be encouraged. Lessees of the land should also be encouraged to maintain optimal land productivity and income generation for owners of land. However, special consideration should be paid to the fact that there is no natural economic market for land related trade. Through multi-sectoral engagements of the DLA such markets may have to be created and sustained.

Political violence,

- The protection of tenure rights, distribution and demarcation of land should also take into consideration people who were displaced from their land through political violence especially in KwaZulu-Natal.

Title deeds,

- There is a need to ensure that these are correctly registered through legal mechanisms so that when land changes hands no parties are unfairly disposed of their rightfully earned land.

Financial burden,

- There is a loss of land, because of financial difficulties caused by HIV/AIDS related hardships and premature death. Prior to death, other HIV/AIDS related financial losses are caused by prolonged treatments (including expensive diet) of chronicle opportunistic diseases suffered by a landowner.

Income generation and production,

- It is clear that people need to be made aware that they should save for unforeseen circumstances. Land related business like crop and stock production in particular also depends on many other factors outside the control of the sector.

Integration of programs by government departments,

- There is a strong feeling that there should be interdepartmental collaboration. Interaction between the DLA and in particular and the Department of Health (DoH) so that for example, medication for HIV/AIDS is readily available for agricultural communities, which are usually, enclosed and excluded from the mainstream of society.
- Ensuring that government regulates money lending or micro financing schemes so that land bound communities, especially those who are historically disadvantaged, are not exposed to and exploited by unscrupulous loan-granting ways of some moneylenders.
- There is a need to capacitate and to educate people on the need to have will in place.
- The DLA has to collaborate with the Department of Correctional Services to prevent and mitigate HIV/AIDS in the prisons. Great impact of HIV infected people from prison has been greatly felt by land bound communities. This impact,

among others, has far reaching implications for the DLA especially in the area of care and support.

HIV/AIDS Information, Education and awareness (IEC) in Communities,

- It is important to note that there are pressures that are put on various groups by society because of culture e.g. beliefs associating HIV/AIDS with witchcraft. It was felt that without undermining the importance of culture or trying to bring about negative change to cultural beliefs it is imperative that people (especially in traditional or rural areas) are educated on HIV/AIDS in an attempt to doing away with cultural myths, which lead to HIV, related misconceptions.
- There is a need for setting up HIV/AIDS counseling sites in rural areas and capacitate support groups that would transfer skills to people who have HIV/AIDS so that they can generate income for themselves.
- Raise public awareness about some of the issues related to HIV/AIDS and rural livelihood.

Basic concepts of Mainstreaming

Dr. Roland Msiska

What is mainstreaming of HIV/AIDS?

In discussing mainstreaming, Dr. Msiska's definition of HIV/AIDS mainstreaming was two-pronged. The first was at the conceptual level; at this level he defined HIV/AIDS mainstreaming as "bringing HIV/AIDS into the centre of the development agenda". The second was at the operational level. At this level, one is responding to the following key questions:

- Firstly, what is the impact of AIDS related to morbidity and mortality on development? And therefore what policies, strategies and actions are needed to be put in place in an attempt to minimize the impact of HIV/AIDS on development processes.
- Secondly, what are the positive and negative impacts of implementation of development policies on the spread of HIV in the community? And therefore what policies, strategies and actions should be put in place to fight the epidemic? And therefore what policies, strategies and actions should be put in place to prevent and mitigate the impact of HIV.

He also pointed out that the link between development policies and HIV-spread is not very direct and takes a long time to manifest. He made reference to the gap between the point where the epidemic shows itself and the time that people will begin to see the magnitude of consequences on survivors, orphans, widows, capacity erosion in sectors households and communities.

The critical elements of mainstreaming within the DLA are:

- the impact of AIDS on in its current mandate,
- what can be done to ensure that the DLA mandate is not compromised as a result of the increasing HIV/AIDS morbidity and mortality,

- the implementation or the design of the existing DLA policies, strategies and programs,
- policies to increase or reduce the vulnerabilities of the communities that DLA serves and,
- questions related to what HIV is going to do to the existing demand patterns for the services that are provided to the clients and the supply patterns of DLA services.

Pertinent issues were summarized as follows:

- It is clear that HIV/AIDS is exacerbating or compounding issues around poverty.
- The incidents of HIV infection could be decreasing but the effects of infection are not, because the number of those already infected is high.
- HIV affects the supply side⁴ by reducing the number of service providers, replacements and complicating means of service provision.
- It is better to introduce interventions at an early stage when the problem is not so serious because the cost of dealing with the epidemic, will be much lower than waiting until the long-term impacts begin to appear.
- South Africa is in a better position to fight HIV/AIDS because there are countries that have maturer epidemics that South Africa can learn from. However, there is a need to consider that in terms of policy responses, there will be a need to generate specific policies and responses as per the mandate of the department.

Clearly, the idea of day one presentations was to mobilize institutional, human and financial resources within the DLA for a sector specific, multi-sectoral and development-oriented approach to fighting HIV/AIDS.

⁴ Inputs required under normal circumstances, to achieve core mandate and the type of services expected by clients and beneficiaries.

DAY ONE: QUESTIONS, COMMENTS AND RESPONSES

Facilitated by the Programme Director

Mr. Sam Mathikhi

<i>Questions and comments</i>	<i>Responses</i>
1. Is it a fact that South Africans have 12% of the world's population living with HIV/AIDS?	The figures are correct estimates and not necessarily exact figures. What is more important is to use these figures and not be arrested at whether they are correct or not.
2. Is the medication provided to HIV/AIDS patients not increasing the spread of HIV in the sense that it prolongs the life of the carrier and in the interim the person may spread the virus by being sexually involved with people who are HIV negative?	Treatment of the virus should go together with counseling targeting behaviour change and responsible living.
3. Why are the HIV figures not accelerating, when (Sexually Transmitted Diseases) STDs figures are declining too dramatically?	What is usually measured with HIV is its prevalence and not incidents. It is difficult to capture the incidents i.e. rate of infection. As such what is known is only it's the prevalence and not when one got the virus. With regard to STDs' relationship with HIV, it is possible that the HIV prevalence may increase while STDs are on the decline because STDs are treatable whilst HIV is not.
4. Why is there such a low prevalence of HIV in Madagascar with high poverty levels and tourism as one of the main sources of its income?	It is important to consider how HIV enters a country. HIV is not necessarily linked to high levels of poverty and mobility only. There are other issues or determinants to be taken into consideration when analyzing how the virus sustains itself within a society.
5. Is it appropriate to compare Botswana figures with South Africa's figures?	It may be inappropriate to compare Botswana with South Africa. Botswana has got a relatively small number of citizens, even smaller than Kwa-Mashu or Soweto.
6. Is it a fact that every second more than ten people are infected with AIDS in South Africa?	It does sound ridiculous that every second more than ten people are infected with AIDS in South Africa. But as already alluded to, the importance of these figures and rates is in that we should have a sense of the prevalence and incidence rate of the epidemic and apply appropriate measures. Debating the exactness of the rate and figures will not help.

<i>Questions and comments</i>	<i>Responses by DR. Msiska</i>
<p>1. Is the use of the word “mainstreaming” appropriate? I am unsure if the word spells out what the department should be doing.</p>	<p>Whether the word “mainstreaming” or “integration” is used it does not really matter. What matters most is to consider what is the HIV/AIDS impact on the DLA’s capacity to deliver on its core mandates.</p>
<p>2. Can we draw a line between mainstreaming and intervention? From presentations it was clear that the DLA must gear itself to deal with the HIV/AIDS impact.</p>	<p>We can draw a line between mainstreaming and intervention. In Zambia, there have been very interesting developments mainly because 30% of the sexually active population is positive or affected by HIV. So unlike in South Africa, there is more need for policy on issues such as the land ownership to avoid destitution. In this country, there is some good that is being done which is not publicized as much as it should be. Lots of resources, which cannot be justified, are put into initiatives/programmes. It appears most of the interventions are targeted at a primary determined level rather than a tertiary level. South Africa’s policies are good but they tend not to answer the questions that they should be answering. Comparing them to those of other countries in the region, one will realize that South Africa’s Land policies are much more advanced. However, current targets might be inappropriate because when they were planned, HIV was not factored in. Therefore, each department needs to review its policies in order to be able to stick to its core business and manage its affairs better. Frankly, South African policies look good on paper but are not addressing the core issues, particularly around poverty, gender and HIV. The challenge is also on their implementation.</p>
<p>3. In terms of sick leave, people forfeit their days if not used. Therefore employees would claim sick leave days even if they are not sick. So it is difficult to tell whether a person is absent as a result of illness (due to HIV) or not. We as DLA staff we have to think through our workplace systems and policies.</p>	

DAY TWO

PRESENTATIONS

Impact of HIV in Kenya, Lesotho and South Africa and the implications for the South African Land Policy **Dr. Scott Drimie**

The objective of this presentation was to describe the impact of HIV/AIDS on land in Kenya, Lesotho and South Africa and to then draw out possible lessons learned or implications from implementing the initiative in other countries such as Kenya and Lesotho.

His presentation was based on a study commissioned by the Southern African Regional Office of the Food and Agricultural Organization of the United Nations (FAO) into the impact of HIV/AIDS on land issues. The research, conducted in Kenya, Lesotho and South Africa, was co-ordinated by the Integrated Rural & Regional Development research programme of the Human Sciences Research Council (HSRC).

He stated that AIDS is one of the largest management challenges facing land reform practitioners. The pandemic challenges the social environment in which it occurs and all aspects of land reform such as its policy, affecting in particular, the people whom its intended to benefit as well as the people who staff institutions that support policy implementation. Further AIDS is going to impact on every aspect of management, planning and implementation of land reform for decades, as well as the social environment in which it occurs.

For the purpose of the discussion, the concept of land issues was broken down into three areas, namely, land use, land rights and land administration. He further indicated that it is important to look at the phases of HIV/AIDS: *asymptomatic; early illness; chronic illness; critical illness; death* and, *lastly, survivors*. Each phase of the disease is associated with a different impact, which has different implications for land issues. It is important to emphasize the final category on this continuum-the category of survivors. HIV/AIDS has a massive impact on those left living, as there are many affected than infected people.

It is important to recognize that the impact of HIV/AIDS on rural households is not equal: the poorer ones, especially those with small land holdings are much less able to cope with the effects of HIV/AIDS than wealthier households who can hire casual labour and are better able to absorb shocks.

Responses

As a result of the above-stated difficulties the survivors would resort to the following desperate measures:

- Leave land, abandon land (in Kenya & KZN).
- Rent/lease out all or portions of land.
- Illegal land sale and land use conversions.

- Sharecropping/livestock sale/Mafisa⁵ system/other contractual arrangements.
- Formally/informally selling land.
- Forcibly taking land away from their owners.
- Compels households to divest themselves with land assets, which diminishes the resources a household has available to meet its needs.

The country case studies presented below were referred to, in order to demonstrate how policies on HIV/AIDS are being operationalised by others. Case studies are extremely important as they reveal the real issues facing individuals living in the face of HIV/AIDS.

Lesotho Case Study

The examples from Lesotho were taken from a report compiled by researchers from Rhoma University. It is clear from this study that the problem of HIV/AIDS has affected various facets of life including households' coping strategies in the two study sites. These are namely Ha Poli in the Katse Catchment and Matsatsaneng in the Botha Bothe, two distinct areas under customary land management institutions. Morbidity and mortality have negatively impacted on the capacity of affected households to effectively utilize their assets, particularly labour and land. The epidemic deprived the affected households of their savings and investments because households incurred medical and funeral costs that basically dried up their resources.

It is important to note that practices varied depending on the manner in which land rights were interpreted and tended to variable circumstances pertaining to the level of understanding about HIV/AIDS, as well as the fairness and compassion of the local authority overseeing land rights. He said policy cannot ensure fairness and compassion this can only be encouraged. Agricultural land was highly valued because most infected individuals viewed it as an ultimate security for their children if they were to die. Many went to the extent of stipulating that it was not to be sold or converted. It was to be kept by a member of the immediate family, extended family or in trust for those children. In the studied areas, it was revealed that AIDS orphans were under the protection of the extended families on their fathers' sides that would use the late parents' land to raise them until they are of age and they can inherit the land. From this perspective it could thus be argued that traditional systems have imbedded within them a social security principle in the form of social capital that protects the vulnerability. Dr. Drimie stated that this position was strongly challenged by women and women groups who argued that some orphans were cheated of their heritage by their uncles, losing their land rights. It was also indicated that AIDS orphans lost their land rights when they were raised in hospitals or taken care of on the maternal side. He stated that a policy should be developed around the issue. He also indicated that effective land utilization was likely to be aggravated by the impending replacement of traditional land administration systems by the *de facto* land boards⁶, which often lack on-site knowledge on the status of people affected by the epidemic. It should be noted that in both studied areas land administration and management was found to be still under the control of the chiefs and some chiefs have not been observing legislation pertaining to land lying fallow. This legislation

⁵ It is a system of lending away land or livestock to members of the family (including extended family).

⁶ It is a form of land administration of the local government that has been developed in Botswana. The Lesotho government has brought in a number of Botswana land policy experts to help them evolve a strategy around land boards.

indicates that if land lies fallow for more than two years, then it must return to the allocated authority and the household loses access to that land. HIV/AIDS affected households, in order to avoid revocation, have been reporting their problems to the chiefs who then informally granted them a special concession by indefinitely postponing deprivation. In so doing, the chiefs have ensured that land management at community level provides a relatively secure means of livelihood for HIV/AIDS-affected households.

Dr. Drimie further indicated that the HIV/AIDS pandemic has also reduced the effectiveness of some institutions such as the Department of Agriculture and Health, and Lesotho Highlands Water Project, which have experienced loss of trained personnel resulting in a decline in services offered by them and their ability to generate income.

Kenyan case study

The examples from Kenya are largely derived from the forthcoming report compiled by Bosire, Kiai and Mwangi for the FAO study (2002). In the two study areas, namely Madiany Division in the Bondo District and Othaya Division in Nyeri District, land is held largely under a patriarchal system with households having a strong sense of individual household rights. In Nyeri much of the land was in fact titled although the community still adhered to traditional authorities.

Like in Lesotho, as a result of the high rate of death of breadwinners, there has been a significant reduction on cultivated land. Further, families are unable to continue with production because of shortages of labour and other agricultural inputs. Therefore, there has been an increase in the leasing out of land to less affected members of the community. In terms of land rights, HIV/AIDS has impacted on inheritance rights, in particular those of orphans and widows. Again women and children were noted as the most marginalized in land transactions. For example, women would be dispossessed of their inheritance to land and property after their husband's death or the land would be held in trust by male relatives. The prevailing practice being that inheritance is patriarchal. Women in cases where husbands have died of HIV/AIDS, they are often accused as the ones who infected them and are subsequently under tremendous pressure to leave their marital homes.

In the case of orphans, there was also dispossession of land under the pretext that their custodians or guardians, who are mostly men, came in to protect their rights. A further complication was the legal rights of orphans to property and their special vulnerability.

In Kenya there was a lack of disclosure on the cause of death because of the fear of stigmatization. However, respondents within the Ministry of Education in Nyanza did report on the high HIV/AIDS death toll among teachers, which obviously impacted on classrooms. At communal level the respondents were extremely concerned about the likely consequences of death among land officials.

South African case study

The examples from South Africa are derived from the work-in progress by the HSRC. The South African case study focused on KwaZulu-Natal mainly because it has been noted as the most affected province in the country. Like in the case of Lesotho and Kenya, the most direct consequences of HIV/AIDS impacting on rural households, is that

of having less labour available to work on land. It is because individuals suffering from AIDS related illnesses are less capable of performing agricultural tasks. Further, caregivers of those suffering from such illnesses, have less time available for chores in general. As households become more impoverished by expenses associated with medical care, funerals, and debt repayment, they have less money available to purchase things like seed and to pay for ploughing services. Under-utilization of land is more common than non-utilization. It was for example, noted in KwaZulu-Natal that most fields were partially sown and the level of production fell below what was necessary for the household's needs.

When an AIDS affected household is faced with the prospect of under-utilizing its land, they might hire casual labourers. They would then be faced with the problem of not being able to pay those labourers. However, there was hope that in the long term, there would be some income because the land is still under production. Alternatively, the household would consider renting out their land on a monthly basis. Researchers felt that this option was better because the household would receive cash income, without having to put cash down up front. The only problem with this approach is that in most tribal areas of KwaZulu-Natal rental markets are not well developed in most tribal areas and at some areas they are forbidden. The other option would be to enter into a sharecropping or contractual arrangement. The vulnerability caused by HIV/AIDS has placed many of those households in a weak position when negotiating the terms of the sharecropping contracts. Households considering sharecropping were also scared of losing their land to those utilizing it. The desperate option that they would consider was that of selling of the land.

In terms of land rights, women were generally not seen as having land rights independent of their husbands. For instance, upon the husband's death there was presumption that the woman remains in possession of the land at the sufferance of the husband's extended family. The position in respect to orphans was similar. In KwaZulu-Natal, particularly in *KwaNyuswa*⁷ area, it is now common for women to resist pressure to either relinquish their land or marry back into the husband's family. Dr. Drimie stated that in *KwaNyuswa*, the patriarchal cultural norms had broken down due to migration and peri-urban growth. Widows who purchased the land did not experience a threat to their tenor security. In the case of orphans, they experienced insecurity. The threat often emanated from relatives, neighbours, moneylenders and girlfriends who would initially position themselves as guardians and then to assert those rights. The intervention of the headman or the chief was instrumental in ensuring that the orphans' rights were protected.

Youth-headed⁸ households were also vulnerable to losing their land. None of these household heads had been officially placed on their land and were holding their land asset on default inheritance, so that the land was still formally unallocated after the death of the last holder. This uncertain status combined with the kind of poverty exacerbated by HIV/AIDS creates tenure vulnerability, and seems to encourage attempts at land grabbing.

Dr. Drimie said what is more important to note in terms of death caused by HIV/AIDS and death by other causes, is the fact that the pandemic is placing many more women,

⁷ A peri-urban area outside Durban, which is a densely populated area in which most of the poorest households did indeed sell their plots.

⁸ This often consisted of family members who were not qualified to hold land under the communal system.

children and youth in disposition than ever before, because AIDS leaves many relatively young widows, and orphans whose inheritance of land rights is directly threatened. Upon finding herself a widow, a woman for example, has few resources left with which to resist outside pressure exerted by neighbours. In the case study it was the intervention of the headman or the chief that extinguished the threat. It was however not clear on what ground the traditional authorities decided to come to the assistance of those whose rights were under threat.

He felt it was important that land uses shift to less labour intensive uses. In some cases land is left fallow or abandoned. Cattle that would help increase labour productivity are in some areas sold to cover incurred HIV/AIDS related expenses. Infected households in Lesotho and South Africa use sharecropping arrangements as a means to generate cash, share output or to avoid land under-utilization or abandonment that might result in repossession. Children of HIV/AIDS affected families suffer from poverty in the short run and risk losing their future inheritance. This may result if land is taken away by traditional authorities or the state due to abandonment or under-utilization.

He indicated that government should increase the capacity of households to engage in income generating activities, both agricultural and non-farm activities. He argued that government, in particular, South Africa should consider the diversification of the livelihood strategies because as demonstrated, households with some steady cash income, are more likely to be able to make effective use of their land.

The Department of Water Affairs and Forestry should increase access to water for gardening purposes. Innovative low-cost approaches to improving accessibility of water should be considered.

The government should continue the sensitization of people to the reality of HIV/AIDS and promote HIV-testing as well as counseling to prepare them to face the bitter reality of being HIV-positive.

In terms of land administration, Dr. Drimie made it clear that land registration systems in tribal areas should be strengthened in order to be helpful in resolving land disputes that might increase in terms of HIV/AIDS deaths. Better administration would reflect rights in land of women, adult children, in some cases perhaps minors. Further, to strengthen where they are doing a good job and perhaps conquer ties where they might be weak. They should also ensure representation of weak individuals and households in respect to land administration. Another suggestion would be the facilitation of the development of a land rental market. AIDS affected households would be able to bring in the labour from less affected households to still keep land under production if in fact it is central to the livelihood strategy in use. He suggested that the DLA should initiate sensitization and training campaigns for the benefit of traditional leaders, community health workers, land officials at the local level, traditional healers, social workers and agricultural extension workers. The aim of these campaigns would include themes such as ensuring that various categories of community-based officials understand basic concepts of land tenure, land inheritance, in the context of HIV/AIDS, the vulnerability of particular groups in respect of land, land administration procedures as well as more targeted messages such as the disadvantages of promoting high cost diets for AIDS sufferers and for households.

Community health workers must be recognized for the valuable resource that they are and be afforded a special measure of support to perform their role.

Another recommendation that he made is to strategize with officials within agriculture departments and the DLA to take better recognition of diverse household types that result from HIV/AIDS impacts. An effort to review land orientated government interventions, to constructively determine how they could be revised to take into account non-traditional households would do much to improve their effectiveness.

Overall, Dr. Drimie's presentation indicates that the impact of HIV/AIDS on land particularly in the rural development cause reduction in the cultivation of land, declination of yields, and reduction of available labour. These in turn cause the impoverishment of households, which causes more vulnerability, and the vicious cycle is self sustained. In conclusion, Dr. Drimie urged the DLA to provide a more effective response to HIV/AIDS in its land policy response.

Overview of DLA's Land Reform Policies

Mr. Glen Thomas

Mr. Thomas in his presentation argued that the land reform is essential in facilitating access to and ownership of land. He further argued that the land reform is a critical component of a process for the sustenance of democracy in South Africa. Effective delivery of land reform is not only a challenge for government but for the society as a whole and warrants a broader participation as well as contribution of all organs of civil society. However, government is to remain the lead organ in its implementation.

Historical and political context

Mr. Thomas indicated that the importance of land reform in South Africa arises from the scale and scope of land dispossession of the African people that took place since 1652. The white man aimed the land dispossession at the control of and dominance over the African majority. By the end of the 19th century millions of African people were displaced from their ancestral land into ever smaller and farther patches of land resulting into overcrowding and environmental degradation. Many Africans were forced to enter into labour/tenant arrangements with white landowners or farmers. Africans could not buy land freely. In other cases Africans organized themselves in groups and syndicates to buy farms cheaply, often with the backing of missionaries. During the first three decades of the 20th century there was a struggle with the white class over the precise nature of the Uniform Native Policy. The differences arose from the inheritance of the different systems of African administration before 1910 and the contradictions brought by white farmers and mining companies on the principle of African reserves. White farmers did not support the idea of reserves and white mine workers did not share the same interest as their bosses on the mines and in the factories. In 1913 there was the introduction of the Native Land Act, which further disadvantaged Africans from land ownership, occupation and usage.

This legislation shaped the land policies in this country until the advent of a democratic state in 1994. Under the 1913 Land Act Africans could not buy or rent land outside proclaimed boundaries of the reserves. Rent tenant or sharecropping arrangements were to be phased out over time. No Africans were allowed to live on white-owned land, unless they were labour-tenants or full-time wagers. This resulted into a stage of

forced removals that saw thousands of sharecroppers and their families being driven off the land without being offered an alternative. The Development Trust and Land Act of 1936, established the Trust. The trust was empowered to acquire the land to be added to the reserves and administer it. It became the registered owner of almost all land in the reserves and thus ownership in the reserves rested in the trust, not in the people who lived there.

He said, when the National Party came into power in 1948, it started to review the Native Policy. Blacks were divided along ethnic lines and grouped together accordingly to form what was called *Separate Government Bantu National Units*. The implementation of the *Separate Development* Policy resulted in the second spade of forced removals, which took place from the 1960s to the 1970s. Africans who had acquired free-owned titles to their land outside the Bantu areas, were forced to relinquish them as a matter of urgent government priority. As a result since 1936, Africans, who constitute the majority of the population, have been confined to the 13% of the land surface of South Africa. Prior to the elections in 1994, the African National Congress has stated, in the Reconstruction and Development Program (RDP) that land reform was to redress the injustices of forced removals and the historical denial of access to land. This RDP objective is appropriately captured in section 25 of the Constitution of the Republic of South Africa, promulgated by the new democratic government since 1994.

The section below provides the framework for the implementation of land reform, which consists of the following:

- A restitution program: This is clearly outlined in section 25 (7) of the Constitution. It refers to the restitution of Land Rights Act 1994, act number 22 of 1994. This act provides the legal basis for the implementation of the restitution program. By the end of March 1999, 67 314 claims were received. It should be noted that until 1998 the judicial process was used to deal with the settlement of restitution claims. To this end, the Commission on Restitution of Land Rights and the Land Claims Court were established. The commission's main responsibilities are the investigation of the land claim and its validations. The court looked at whether the DLA has observed all the provisions of the act and the rules of the commission.
- The redistribution program: This is outlined in section 25 (5) of the Constitution. It is about the Provision of Land and Assistance Act of 1993. The Act has provided the legal basis for the implementation of the program addressing the unequal distribution of land along racial lines. Private land can be acquired for land reform beneficiaries on a willing-buyer/willing-seller basis or expropriated with a just and equitable compensation. Land was both costly and unavailable in small grant sized patches, as a result, people wishing to acquire land without a grant had to form themselves into groups to acquire land. Mr. Thomas indicated that this has been so, among other things because the DLA lacked skills, experience and capacity required in implementing the program and therefore could not deliver as expected. In the light of that the department redistributed over 600 000 hectares of land to approximately 35 households. Over all, less than 1% of the country's total private and cultural land has been redistributed to various beneficiaries programs. This indicates that the redistribution program has not contributed significantly to the reform of the agricultural sector. He said during this time the department delivered land and also dealt with agricultural and

housing issues that fall outside the department's area of competence. As a result of this experience, for example, a new program of land redistribution program called the "Land Redistribution for Agricultural Development" (LRAD) was designed in 2000. LRAD is intended to contribute towards the redistribution of land for agricultural production with growth.

- The tenure reform program: This is outlined in section 25 (6) of the Constitution. This program covers three main focal areas, namely:
 1. White farm areas in peri-urban areas, where farm workers and farm occupiers are mainly found. The extension of Security of Tenure Act and the Labour Tenant Act guaranteed freedom of movement in association to the extent that the freedom of movement does not infringe on the rights of others to use the same land. This legislation prohibits the unlawful impounding of livestock belonging to the farm-workers, farm occupiers and labour tenants. Since land occupied by farm-workers and occupiers, as well as labour tenants, is privately owned and the Constitution guarantees the property rights, these people are always at the mercy of the landowners. In essence, alternative land should be provided in order to guarantee the legally secure tenure of these groups of people.
 2. The former homeland and ex-South African Development Trust areas (SADT). In the former homelands, the minister held some of the land in trust and the land remained registered in the name of the SADT as State land. After 1994, the government enacted the interim protection of the Informal Land Rights Act, as an interim mechanism to protect insecure land tenure rights held by many South Africans, pending the promulgation of an overarching tenure reform legislation. The act provides protection against deprivation of informal rights to land. This means that, unlike in the past, no person and no sphere of government, whether national, provincial or local, can disregard the views and concerns of the communities, groups or individuals who have the underlying historical or common law rights to land. However the act neither stop development, nor freezing land transactions. People with informal rights to land must be treated as if they were owners. Thus the act is removing the assumption that people in communal areas have insecure tenure. In response to these colonial and apartheid legacies, the government is continuing with its endeavours to comply with the Constitutional injunction to provide security of tenure to vulnerable communities or groups. To this end a number of existing laws are being reviewed with the view to strengthen them or repeal them. Furthermore, new legislation is being planned to close gaps that exist and which restrict the legal extension of secure tenure to all South Africans. Currently, the government is contemplating to enact an overarching tenure reform legislation, which will diverse to the state of its ownership of the land that it acquired through racially discriminatory legislation and practices. The law will try to recognize the various communal tenure systems and the rights under these communal tenure systems in South Africa. This legal instrument will give the communal tenure systems status, profitability and force ability in law and thus providing people in communal areas with secure tenure. It will also

provide for the role of local institutions and land administration in communal areas.

3. The former coloured rural areas: The major issues of tenure reform in the areas designated by the apartheid state for the occupation of coloured people, relate to the vesting and the administration of the land that is currently held by coloured people. The Minister of Agriculture and Land Affairs has proclaimed the 18 months transitional period during which the communities have to decide on the tenure arrangements that they want. During this period the communities have to decide on the entity that is to administer land on their behalf. After the expiry of the 18 months the communities have to make a recommendation to the minister, regarding their tenure arrangements and the administration of the land. It is important to note that the residents are entitled to choose to transfer the land to the municipality. Further, until the finalization of the demarcation of the municipal boundaries towards the end of 2000, no significant activity could take place in these formal coloured areas.

It is important to note that the national program of land reform is a constitutional requirement, aimed at bringing about the most just and equated resolution of the unequal access to and ownership of land.

Challenges for effective land reform delivery

Mr. Thomas indicated that the government has some achievements and yet is still faced with a mammoth task that requires multi-strategies to address the land reform issue.

Achievements:

- The government, since 1994, has succeeded in putting in place a constitutional and legal framework for implementation of land reform.
- There has been a very significant increase in the number of restitution claims settled and aimed at improving the quality of the land redistribution program.

Despite the above stated achievements, the department and the ministry are the first to admit that the pace of implementation has not been as fast as expected. Delivery on land redistribution had somewhat declined. Further, they acknowledge that some serious challenges face, not only the government, but also the South African society as a whole in effective delivery of the land reform. The list below outlines some of those challenges:

- There is a need to reinforce political acceptability and legitimacy of the program. Building consensus among stakeholders can achieve this. The Constitutional entrenchment of land reform is a general indicator of its political acceptability and legitimacy. Political parties and organizations and civil society organizations, which participated in or supported the negotiation of the Constitution, reached consensus on the necessity and acceptability of the land reform program. However it has dawned upon government that if implementation continues, it is necessary to consciously and contentiously reinforce and sustain this political acceptability and legitimacy. Underlying this approach is the realization that the land reforms are not irreversible processes. It is precisely for this reason that

government continues to actively consult and engage the public, private communities and other respective organizations.

- In looking at the impact of HIV/AIDS it is important to consider that although land reform contributes to economic reconstruction and development, it is equally a political and social justice issue.
- Some sectors of the South African society recognize land reform as a tool to address racial imbalances and historic grievances over land dispossession. This position has the potential to cause political instability and violence in the country. Some opposition political parties and NGO's are using this attitude and behavior as ammunition to undermine the government's land reform program, by encouraging illegal land occupations. This indicates that South Africa cannot afford the manipulation of the democratic process and the rule of law to protect the land rights of the minority. It is therefore important that all sectors of the society view land reform as a crucial ingredient of reconciliation and development. Social justice, based on the equitable land redistribution, is an integral part of long-term political and economic development in the country. There is a need for social mobilization and law enforcement. As stated earlier, land reform as derived from the South African Constitution is a means to resolve the land issue. The Constitution together with other provisions of the Bill of Rights, allow for meaningful social mobilization without having to act unconstitutionally or illegal. The impact of HIV/AIDS should be looked at in that context. Particularly with regard to the provisions of the Bill of Rights.
- Currently there are pieces of land legislation that have been inherited from the colonial and apartheid governments. However, some of them have been amended whilst others have been promulgated. This has not reduced the oversupply of land laws which led to administrative confusion and spreading of resources of the DLA. In dealing with issues such as the HIV/AIDS and its impacts on the land reform, it is important to consider the limited inherited resources and legacy. The limited resources have resulted in difficulties in terms of evaluating the impact of land reform and incoherent and sometime contradictory policies. The role of government in the implementation of coherent policies and the legal framework would enable them to deal better with the impacts of HIV/AIDS and the implementation of land reform. The process has been started with the tenure reform program to streamline and consolidate the legislative framework.
- As indicated earlier, when the land reform program started, there were insufficient human resources and skills to implement it. The issue of inadequate capacity should be considered in addressing the mainstreaming of HIV/AIDS within the land reform program. Some drastic and innovative measures need to be taken.

Although government is the lead organ in the implementation of land reform, for its success, it requires constructive and meaningful participation and contribution of NGOs or more broadly organs of civil society and opposition political parties by coming up with creative proposals in dealing with the above stated challenges. In short, the challenges faced by government in effective delivery of land reform, must form the basis for development of an effective program of action by all. Overall, NGOs or the civil society is central to development programmes in Africa. NGOs have had a fair involvement in HIV prevention, care and support, and mitigation of the impacts of AIDS.

DAY 2: QUESTIONS, COMMENTS AND RESPONSES

Facilitated by the Programme Director

Ms. Jenny Jacobs

<i>Comments and Questions</i>	<i>Responses by Dr. Drimie</i>
1. If people can sell their land they would be more desperate and it is tempting to want to sell for immediate gains to address immediate needs.	It is good to consider providing a safety-net or rather a dwelling place to affected households.
2. Is the burden that HIV/AIDS pandemic brings to women and caring for the sick considered when administering and managing land?	It is all about sensitization, about the process of education. The fact is that immense pressure was placed on women as caregivers, also to keep production, to keeping goods such as food, crops, cash or whatever coming to the household. The rights of widows, orphans, youth and the vulnerable groups need to be emphasized on various levels of policies related to land.

<i>Questions and Comments</i>	<i>Responses by Mr. Thomas</i>
1. Is there a need for additional capital resources or not, in order to deal with the question of HIV/AIDS and its impact on land reform?	The implementation of land reform has to be an integrated approach otherwise resources would have to be spread thinner on the ground. In terms, of the impact of HIV/AIDS on land reform and its mainstreaming, it is important to acknowledge that some HIV/AIDS issues are not necessarily the core competence of the DLA. Hence a need to join forces with other departments otherwise DLA would start complaining that they do not have enough capacity to implement land reform.
2. Given that land reform has not to date been up to the expected level then land reform can also be delayed due to HIV/AIDS. It is all about corporate governance or the multi-sectoral approach/response?	
3. Corporate governance is already in place. However, it still has to be improved in terms of working with the Department of Agriculture. The Department of Agriculture is not contributing as much as it should be. The DLA on its own has exhausted what it is capable of doing in terms of ensuring pure land reform or the	The fact is that there is a need for greater coherence in policy and implementation co-ordination. There should be integration of planning and budgeting. The cited problem with the Department of Agriculture indicates that the kind of collaboration that the DLA has with the on defining roles, an integrated planning and budgeting processes. Clearly the DLA still

introduction of corrective measures. Therefore, there is a need to strategize on how the top management, senior management, and even the ministries can strengthen the relationship with other sectors.	has a problem with an integrated approach as it stands. There is a need to align budgets and to clearly stipulate what each of the stakeholders has to do in terms of spending money Department of Agriculture, is not based
4. Before involving other sector departments it is important that DLA should have a common approach.	Having a common coherent and co-ordinated approach as a department is important in discussing the mainstreaming of HIV/AIDS within the DLA. Procedures and systems should be sorted out first within the department.

General comment

There is also a need to clearly distinguish between what the initial intentions and definitions of land reform and social justice were and what they are increasingly becoming. There should be clarity and common understanding of the intentions of land reform, which is to address past injustices created by apartheid, allowing land dispossession and tenure security.

Mainstreaming HIV/AIDS in the DLA

Dr. Roland Msiska

Dr. Msiska, mentioned that firstly it is important to start understanding AIDS as a symptom of development that has gone wrong. Looking at the HIV statistics in the US, Canada and Europe it is clear that more blacks and especially females are becoming HIV positive. In Southern-Europe HIV is increasing mostly amongst sex workers and drug addicts. The other interesting picture is the breaking down of the Soviet Union and related to this we can see an increase of AIDS and TB. In terms of sexual behavior, there is no difference of sexual behavior between Africans and Europeans. However and interestingly, HIV is still increasing in the sub-Saharan Africa and declining in Europe. Clearly there is something wrong with the way the development systems are structured in areas where HIV/AIDS is rising.

For instance, even if HIV can be wiped out completely today, if another similar condition comes up and it is transmitted exactly the same way, if structural problems are not yet addressed, the new epidemic will unfortunately run exactly the same course. He stressed that it is important to consider core issues in terms of conceptual understanding of what is driving processes in communities. In terms of HIV, when one looks at the patterns of transmission and why, who and where are people getting infected, then one can see development conditions conducive to the transmission on the underlying structures of the viewed communities. He said another problem is the bio-medical focus, which has tended to over-play the primary determinant and ignoring in certain cases the secondary and tertiary determinants.

Dr. Msiska indicated that it is important to establish from a provincial perspective, whether there is any evidence linking HIV and poverty. He made reference to other countries and stated that at the beginning of the epidemic, like in Uganda between 1991 and 1994, Zambia, Tanzania and Malawi, HIV progress became higher in high-income

echelons for both women and men, irrespective of their education status. However as the epidemic matured such a progress declined. People in these high-income echelons and probably, higher education echelons, began to protect themselves.

What is the impact of AIDS on DLA's capacity to deliver on its mandate?

Dr. Msiska stated that it is important to establish positive and the negative impacts of the implementation of DLA's policies on the spread of HIV. He said of importance is to ensure that the DLA does not take the responsibilities of other stakeholders who can perform better in responding to HIV/AIDS. Therefore DLA should know what others are supposed to be doing to ensure an effective response to HIV/AIDS.

Dr. Msiska also said that existing prevention technologies, such as abstinence, mutual agreement and condom use might not be applicable in all context whereby sexual activities occur. For example, if a couple has decided to have a child, abstinence and condom use will not be a possible option, because they will defeat the purpose. Overall what is being implied is that, beyond the application of the existent technologies, there is need for creation of socio-economic and political conditions at the underlying structures of society that are promoting anti-HIV sexual behaviour.

The critical question for the DLA is when the land distribution, tenants reform and land restitution processes are completed, how will they influence individuals' capabilities to be able to protect themselves from HIV/AIDS?

Dr. Msiska mentioned that by looking at the impact of AIDS on poverty and community at the household level, one would realize that AIDS is on the increase. It gives no chance for the institutions to respond and it still has a stigma. In addition, there is increasing treatment costs and the changing patterns of household budgets. Due to illness, for example, a high rate of girls in some parts of the continent are dropping out of school because they have to look after the parents. Death increases funeral costs to an extent that people have to take loans to be able to contribute to the burial of their significant others. So the question then becomes, what does the changing dynamics at households, as a result of HIV/AIDS impact, mean for the implementation and achievement of targets that have been set out in the land reform policy?

Dr. Msiska felt that in constructing a demand-and-supply model for the DLA, the DLA should begin by defining the entire system to which the sector belongs. Using impact studies for the given sector, define the impact of AIDS on the supply-side and also on the demand-side. Then start thinking about what policy measures or instruments are needed to actually identify and respond to impacts that are being defined. For example, in the education sector, on the supply-side the number of teachers are reducing in the form of teaching hours. The quality of service will definitely be a problem. The availability of staff would be another problem.

On the demand-side, as a result of having orphans and child-headed households, the size of learners may reduce as the number of orphans who cannot pay school fees and attend class increase. There are a number of barriers other than just economic barriers that may create problems for orphans going to school. For instance, girls have been known to drop out because everybody laughs at them for using the same dress every day to go to school or because they are culturally expected to care for their sick family members. In terms of

curriculum content, it becomes more complicated for teachers to include HIV in the current curriculum. As such teachers and the Department of Education have to find new skills to teach the additional HIV content.

Group exercises

The aim of the exercises was to look at some of the DLA's key policies and strategies that should be reviewed for mainstreaming HIV and at the same time what the DLA should do to achieve its intended business targets.

PLENARY GROUP PRESENTATIONS

The participants were divided into three groups. Group one focused on task one and the other two groups focused on task two. Each group was given an opportunity to present and presentations are summarized in the box below. It should be noted that group three indicated that their presentation is not much detailed because most of their points were already covered by group two.

- The demands from their community or clients would be access to land, tenure security, rights in land, access to information, technical and legal support, financial assistance, training and capacity building and land administration.
- In terms of the impacts of HIV/AIDS, it was felt that human resources would be less productive, there will be high labour costs and reduced capacity within the department and therefore the DLA would not be able to achieve its targets. The quality of management will definitely deteriorate. There will be a reduction in financial resources because pension funds of workers would have to be paid out. Some workers would be paid whilst at home due to illness. Therefore, the DLA will experience an increase in expenditure and operational costs versus production. In terms of policies and legislation, the necessary development of policies would be slow because workers who are responsible for the development of policies would not be at work. They would be on sick leave and most of the time attending funerals of colleagues who would have died of HIV/AIDS.
- In terms of DLA achieving its targets, it was felt that the delivery of products and programs such as the land reform would be slow because the functioning in the offices will be disrupted and administration systems and procedures will be dysfunctional. The workers responsible for those services would be unavailable. Those that land would be distributed to, would be dying therefore no land improvements would be noted. As a result the quality of life would not improve.
- The demand on land would be high because when people retire from their jobs in urban areas due to illness they would go to settle in rural areas with the assumption that their extended family members would take care of them. At the same time, land utilization will drop and land disputes will increase because more people will be making land claims as rightful owners.
- As a result of increased insecure tenure for women, children and orphans will be forced into unwanted marriages and relationships as well as into other tenure arrangements, which the DLA is not prepared for or did not anticipate. There will definitely be an increased demand for dispute resolution and mediation skills.
- The financial assistance issue is controversial. On one side there will be a decrease in expenditure because less people would be approaching the DLA for land due to their sick state or death. On the other side more people will be migrating to rural areas, therefore making land claims in those areas and increasing demand for land there. There will be pressure for the payment of grants because people will be in need of medication. There will be a high demand for financial resources for training and retraining because more skilled or rather trained personnel are dying.
- In terms of policies, there is a need for the department to review its policies, in particular its policy on sick leave and pension funds. Therefore the DLA should encourage and promote HIV testing and counseling of all its employees. Again policies should be developed on tenure security, the optimal use of land and on managing the increased indebtedness. There should be insistence on the drawing of wills, so that some sort of inheritance can be build into compensation that may be carried out as a result of death.

Some workshop participants felt that the DLA can limit themselves to their core business, however, it should also consider the multi-sectoral approach, which must still be redefined and given context. Departments should look at ways of relating or rather collaborating with each other because at the end of the day it is about the government rendering a service to the public.

One participant felt it is important to cascade HIV/AIDS related tasks into performance appraisals of staff if it is to be truly integrated within the organization. Another participant felt multi-sectoral approach should be encouraged, however, departments should guard against duplication of services. It is therefore important to look at how they integrate, and how they configure that integration on the basis of their respective mandates.

Some workshop participants' felt that there should be HIV testing and disclosure of status so as to deal with the prevailing stigma. Others felt that studies have been conducted already by organizations such as the HSRC, which looked into various aspects of infected or affected households than those that are not. Therefore inferences can be drawn from such studies rather than reinventing the wheel searching for information. The main issue for the DLA is to face reality and start looking at the impact of HIV/AIDS rather than focusing on who has died of or has AIDS. They should look at issues such as the impact of death and the use of sick leave.

SUMMARY AND WAY FORWARD

Dr. Roland Msiska

- There is a need to be careful about how areas of business are defined. Otherwise everybody starts doing everybody else's business and therefore lose on quality and effectiveness.
- Apart from looking inward it is important to have a common platform with other departments to discuss issues and responses to HIV/AIDS as well as relevant social sector experiences.
- DLA should begin to ensure greater inter-sectoral identification and solving of problems.
- It is apparent that the process of mainstreaming may influence some of the key policies i.e. the way they are planned, implemented and monitored. It is important to review and fine-tune existing policies and organizational environment in the context of HIV/AIDS.
- The DLA should consider effects of HIV/AIDS for set targets and parameters for its delivery. The department should start looking into both the best and worst case scenario impacts when planning its policy implementation.
- The DLA should assess the environment in which it is operating. It should analyze the cross-impact of HIV/AIDS within other sectors and implications of its findings for its own business.

Workshop participants made comments in a context of high expectations and in the spirit of wanting to build and support the DLA in its mainstreaming efforts. *They called for the:*

- Support of senior management in terms of allowing staff to attend to HIV/AIDS activities and developed programs.
- Addressing of the major challenges and constraints within the DLA.
- Establishment of functional and contextual sensitive programmes.
- Confidentiality of HIV/AIDS status of the employees.
- DLA to look into its counseling facilities and locations because they have offices all over the country. DLA might want to consider outsourcing the counseling service.

- Need to look at programs within the DLA offices for employees who have HIV/AIDS and mainly for children.
- Active participation of all DLA staff members in HIV/AIDS programs.
- Establishment of whether DLA staff medical aids cover medication for the sufferers.
- Need to develop a communication strategy that will be put into action.
- HIV/AIDS activities to be included in the work planning and performance agreements. These should be carefully monitored and quarterly reports thereof should be made.
- Mainstreaming of HIV/AIDS to be at the top of the agenda and the DLA to treat it as a matter of urgency as the work place is already responding.
- Use of a great deal of information, which is already in existence, instead of reinventing the wheel.
- Need to develop systems to track down the effects of HIV/AIDS within the DLA.
- Workshop report to be on the Internet so that information can be easily accessed and shared by all interested individuals.
- DLA to start thinking about how it can improve its information management systems.
- Factoring of HIV/AIDS into its strategic and operational plans as of the next financial year.
- Need to revisit both corporate and land reform policies.

CONCLUSION

This workshop was organized as a start to a process of strategizing on how to best contribute to the mainstreaming of HIV/AIDS within the DLA.

While participants were critical of the current state of mainstreaming HIV/AIDS within the DLA, they all agreed that HIV/AIDS impacts on land reform translate to the inability to deliver service on the core mandate and business of the DLA, impacts on community economic growth, health, education and human capital. Therefore the spectrum of HIV/AIDS initiatives or activities should not be limited to a health sector-focused approach but rather broadened to an integrated multi-sectoral and development oriented approach.

Overall participants were appreciative of the workshop. They felt that the focus of the workshop was critical and a success. They made comments such as the following:

- “It has given me a lot of work to do”.
- “What you have shown us here are some very good tools and I think that what we have learnt over the last two days, is certainly going to be very important for our work”.
- “It has been an overwhelming experience”.
- “I think it has made me to think more of the impact we are making through our service delivery”.

APPENDIX A

LIST OF WORKSHOP PARTICIPANTS

NAME OF PARTICIPANT	ORGANIZATION	OCCUPATION	PHONE	EMAIL
1.				
2.				