AIDS AND LEVIRATE AMONG THE LUO: A CASE STUDY OF UKWALA DIVISION, SIAYA DISTRICT

BY
ALBERT ODUOR KOMBO

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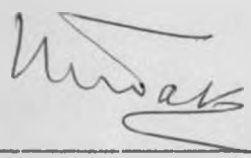
DECLARATION

This thesis is my original work and has not been presented for a degree in any other university.

ALBERT ODUOR KOMBO

This thesis has been submitted for examination with my approval as university supervisor.



PROF. OSAGA ODAK,
PROFESSOR OF ANTHROPOLOGY,
INSTITUTE OF AFRICAN STUDIES,
UNIVERSITY OF NAIROBI,
P.O. BOX 30197,
NAIROBI,
KENYA.

DEDICATION

To my late elder sister,
Rosemary Achieng Okoth,
I dedicate this thesis.

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LIST OF ABBREVIATIONS

IDS.....Acquired Immune Deficiency Syndrome.

GD..... Focused Group Discussion.

IIV .....Human Immune – Deficiency Virus.

IASCOP..... National AIDS and STIs Control Programme.

TI..... Sexually Transmitted Infection.

IN..... United Nations.

VHO..... World Health Organisation.

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ABSTRACT

The AIDs pandemic is having greater socio-economic impact than any other disease as it selects mainly those in the prime of life. This study examines the relationship between the spread of AIDs and the practice of levirate among the Luo community of Western Kenya. It also attempts to determine whether the custom can be modified in any meaningful way to suit the development needs of the people.

The relationship between AIDs and levirate in this study is explained within the context of one theoretical perspective namely the situational approach to health and illness. The study was based on a sample of 166 respondents which included both men and women. It relied heavily on qualitative methodology though supportive data were also collected through surveys where a standardized questionnaire was administered to randomly sampled respondents. The qualitative techniques employed included focused group discussions, key informant interviewing and in-depth interview.

Analysis of the data shows that levirate is widely practiced in Ukwala Division However, its perception is largely influenced by an individual's social status in the community such that what it means to an educated person may be quite different from what it means to an illiterate or semi-literate individual. The results also indicate that even though the practice of levirate can perpetuate the spread of AIDs, it is not the major reason for its rapid spread among the Luo. The results show that even though most people are aware of the risk involved in practising levirate this knowledge is largely theoretical as they are still willing to practise it.

The analysis further indicates that the custom cannot be modified in any meaningful way that can help in reducing its contribution to the spread of AIDS. There is also no alternative to the custom. The persistence of levirate, according to the findings of this study, only to a small extent depend on the community's definition and understanding of the institution of marriage. To a large extent, the continued practice of the custom is influenced by a complex system of taboos.

Given the findings of this study, it is clear that further studies should be conducted to identify the main reasons behind the relatively rapid spread of the disease among the Luo community compared to other communities in Kenya. The findings also imply that efforts should be made to carefully and systematically sensitise members of the community about the dangers of practising levirate as it is currently done.

CHAPTER ONE

1.1 INTRODUCTION

The Acquired Immune Deficiency Syndrome (AIDS) is having greater socio-economic impact than any other disease. According to Dr. Paul Chuke, the World Health Organization (WHO) representative in Kenya, malaria is still the greatest in incidence, while tuberculosis is the greatest killer (Chuke, 1996). But unlike these diseases which are non-selective among the population, AIDS selects those in the prime of life.

Since AIDS, the global pandemic, took hold in the early 1980s over 6 million people have died of it (Chuke, 1996). The UN estimates that over 30 million people around the world are living with the HIV VIRUS or AIDS. About 8,500 more people (including 1,000 children) are infected daily - five every minute - with the human immuno-deficiency virus (HIV) that causes AIDS.

AIDS, like any other disease, affect people everywhere, but not always to the same degree or in the same way. Because diseases are neither uniform nor random in their occurrence, they are usually observed to be more or less common among various social groupings. People view the event of disease from the perspectives of their own particular culture. So they tend to respond to diseases in specific ways depending on their definition of the situation.

The prevalence of a particular disease in an area may not only be a function of the physical environmental influence, but also of the social and cultural environment. For example, a person's lifestyle, especially his or her dietary habit, may expose him or her

to certain diseases. For instance, excessive cigarette smoking is associated with high incidence of lung cancer among certain groups of people. Likewise, certain cultural practices by some communities are believed to be related to the high incidences of some diseases in those communities. Some people (Okeyo 1993; Oluoch 1994; Oduor 1994; Agot 1996; Tuju 1996) have for some time held the belief that the spread of AIDS among the Luo of Western Kenya is perpetuated by the practice of levirate, popularly known as widow inheritance, though no causal relationship has been established.

As already mentioned, the impact of AIDS is great. The absence of neither vaccines nor cures and the fact that, in the event of them being found, they may not be affordable has created a very gloomy picture for the future. This has made it necessary for efforts to be made in all sectors, more so in the field of research, to control the spread of AIDS. This study, whose aim was to establish the relationship between levirate and the spread of AIDS among the Luo was, therefore, necessary. The study aspired to establish not only the extent to which levirate is practised in the community but also how it is perceived by different people in that community. The study also aimed at revealing, if any, the relationship between the practice of levirate and the spread of AIDS, as well as throwing some light on how best the practice can be modified, if possible, to suit development needs of the community. The need to generate such kind of information was justified because it can not only contribute to the substantive material on the socio-economic and cultural aspects of health and illness in developing countries but it can also be of great importance to the policy makers in Kenya.

The study is underpinned by one theoretical perspective - the situational approach to health and illness. It has also relied heavily on qualitative methodology, though supportive data have also been collected using other methods such as survey. The reliance on qualitative methodology has been based on the fact that it does not allow for the provision of a cloak of apparent scientific validity which may blame the afflicted for his or her misery but which allow as much as possible an understanding of the situation from the subject's point of view (Osaga Odak, personal communication, 1996).

As part of the study, relevant literature on HIV/AIDS and levirate has been reviewed. Anthropological literature shows several types of marital adjustments possible to a woman on the death of her husband. However, of relevance to our topic are two types of adjustment referred to in the literature as levirate and widow inheritance.

1.11 LEVIRATE AND WIDOW INHERITANCE

Levirate and widow inheritance are some of the many marriage-related customs practised by the Luo. Other such practises include sororate and polygyny (including sororal polygyny).

Levirate is the practise where a man forms a marital-like union with the widow of his deceased brother. It does not entail a new marriage; rather, it is a temporary adjustment to a continuing marriage. In levirate, the man is merely a substitute husband and any children born of the union are considered the children of the deceased.

On the other hand, widow inheritance is the practise where a man forms a marital union with the widow of the deceased brother. In this practice, a widow becomes a legal wife of her new partner. The children of this union inherit property through the new husband who is their father – he is both their genitor and their pater.

In both levirate and widow inheritance the male partner must come from within a range of recognised kin. He must be a man whom the widow refers to as a brother-in-law, a relationship which can be either real or classificatory. It is this fact that makes widow inheritance different from a new marriage. However, like in a new marriage, in widow inheritance the man can pay bridewealth to the widow's lineage – despite the fact that her late husband may have as well paid bridewealth to her lineage. This is not the case in levirate, where the widow continues to be regarded as the wife of the deceased.

Both levirate and widow inheritance involve sexual intercourse, and are therefore risky practices insofae as infection by HIV/AIDS virus is concerned. The risk involved is as a result of the necessity to cleanse a widow after the death of her husband. The cleansing is done through unprotected sex. As explained later in this thesis, this cleansing is a tricky affair that can easily result in chira (breaking of a taboo) if not properly done. This is why in the past, it was left for elderly men as they stood to loose little if by chance anything went wrong such as if a taboo was broken.

The cleansing of the widow is done through sexual intercourse in a ritual referred to as chodo okola (cutting banana fibres). This act of chodo okola applies to every widow, whether she

is inherited or is to enter into a leviratic union. Since the act of chodo okola is a tricky affair, some brothers-in-law shy away from it. This has led to the emergence of a relatively big number of 'professional cleansers' compared to previous years when cleansers could be hired only in instances where a widow died before being cleansed. Such cleansers performed sexual intercourse with corpses only. It is due to the presence of this large number of 'professional cleansers' that it becomes necessary to distinguish between widow inheritance and levirate in this thesis.

In most instances of widow inheritance, it is the brother-in-law who intends to inherit a widow that 'cuts the banana fibres'. Since the widow becomes his wife, he is not ready to let others (professional cleansers) have sexual intercourse with her.

In levirate, ,most of the widows pass through 'professional cleansers' before entering into socially recognised but ritually insignificant leviratic unions with their brother-in-law. This is because as stated above, brothers-in-law shy away from performing the ritual. Brothers-in-law avoid the ritual not only because it is tricky (risky) but also because leviratic unions are characterised by temporariness as a widow can divorce her partner any time she wishes. This is not the case in widow inheritance where the man is the husband and head of the union; the union is permanent.

In levirate, it is not uncommon to find 'professional cleaners' entering into unions with two or more widows during the same period. However, it is important to note that not all widows who enter into leviratic unions pass through the professional cleansers'(fibre-cutters).

The very fact that the 'professional cleansers' are always on the move from one widow to another makes it difficult not to suspect any claim that they are not seropositive. This cannot be said of all the widows who enter into leviratic unions or who are inherited, or of all the brothers-in-law.

Assuming that the majority of the 'professional cleansers' are seropositive and assuming further that they perform the ritual for atleast half the widows who practice levirate (as most discussants seemed to suggest), it becomes safe to say that the practise of levirate is much more risky than widow inheritance in as far as the spread of HIV/AIDS virus is concerned. This is because in widow inheritance there are no 'professional cleansers' , and if any, then in very few cases. In leviratee, a seropositive 'professional cleanser' can infect a widow, who in turn can infect a brother-in-law with whom she enters into a leviratic union. This brother-in-law in turn infect this wife or wives and any child born after engagement in the union – child born either by the widow or by the wife/wives.

In this study, it is shown that the leviratic custom as is currently practised by most people in Ukwala Division is risky in so far as vulnerability to HIV/AIDS virus infection is concerned. However, it is not the major cause of its rapid spread among the Luo as compared to other communities in Kenya. The study further shows that in order to significantly reduce the contribution of levirate to the spread of AIDS, it is necessary to demystify the disease.

1.2 PROBLEM STATEMENT

The roles of some cultural practices such as female circumcision, polygamy, sororate and levirate are generally fraught with ambiguities. Some of these practices are seen as having outlived their usefulness. The need to focus on the role of levirate in the spread of AIDS among the Luo arose from the fact that a significant number of people are dying from AIDS whose spread is believed by some to be perpetuated by levirate (Okeyo 1993; Oluoch 1994; Owuor 1994; Wanjiku 1995; Agot 1996; Tuju 1996). As such, levirate is looked upon as a disjunctive practice. The association between the spread of AIDS and levirate is equivalent to imputing a causal relationship between them. This claim, however, has not been supported by research. It has been based simply on the assumption that levirate entails having multiple sex partners.

The relationship between multiple sex partners and sexually transmitted infections are issues that have attracted attention among some scholars (Gordon and Klouda, 1988). Presently, there is a growing body of literature associating the spread of AIDS to having multiple sex partners. The cultural practices sanctioning multiple sex partners such as polygamy and levirate are thus being challenged. Some people have even suggested that one of the best ways of checking the spread of the disease is to stop the practice of levirate (De Bruyn 1992; Wanjiku 1995). Although it is possible that the practice may be disappearing due to such factors as urbanization and the presence of both statutory and church marriages, it is still prevalent in the rural areas (Republic of Kenya 1994). Therefore, there has been need to explore not only how far the custom is practised but also its relationship with the spread of

AIDS among the Luo. It has also been necessary to study the role of the custom in the community so as to find, if any, possible functional alternatives to it.

It has been the belief of the researcher that the spread of AIDS among the Luo may continue unabated if a clear understanding of the role of levirate is not sought. This is especially important because if there is no or insignificant association between the spread of AIDS and the custom, other alternative causes should be sought, and in case of strong association, possible alternatives, if any, be identified.

The key to controlling the spread of any infection in the rural areas has been considered by health officers to be increased delivery of health care services such as immunization and vaccination, health education on preventive measures, improved hygiene and improved nutrition. To this end, the government has come up with the National AIDS Control Programme. But this has only had limited success as figures show that AIDS cases are increasing nation-wide (Republic of Kenya 1994). In part, this seems to be because of a variety of factors such as lack of adequate knowledge about AIDS, and how it can be prevented. This could be either because of wrong interventionist approaches which aim at controlling the spread of the disease or even lack of such approaches.

The increase in HIV cases and AIDS related deaths have resulted not only in severe suffering for the victims but also a slow development pace, as the disease selects mainly those in the prime of life. There is not only loss of labour time through prolonged

sickness but also loss of potential income through premature deaths. The growing prevalence of the disease means that other members of the labour force shift their time and resources on managing those afflicted. Also, children are orphaned and, in most cases, end up losing their advancement opportunities in terms of education as well as parental love. Through mother-child transmission, over one-third of new borns whose mothers are HIV positive are denied the chance to grow up and develop their talents Republic of Kenya 1994; Chuke, 1996). In Siaya District, the pandemic is expected to raise infant mortality rate to over 200 deaths for every 1000 live births and unless the disease is contained, the district may experience negative natural population increase in the next twenty years (Republic of Kenya 1994).

The fact that AIDS cases are increasing in Siaya District in general and in Ukwala Division in particular has been a major cause for worry. There has been even reason for gloomy prognostication because medical researchers acknowledge that the ultimate goal - a cure for AIDS - is not within sight. Even if new treatments work, as Dr Peter Piot, head of UN AIDS Programme, has reliably noted, they are likely to be of little use to most of the world's HIV infected people who cannot afford to pay $10,000 to $15,000 a year for treatment (Piot, 1996). This reality and the evidence of the disease's relentless spread, have resulted in pessimistic forecasts that have made a study of this nature (of the relationship between the spread of AIDS and the practice of levirate) overdue.

Therefore, in view of the picture portrayed above, the following questions became pertinent to the study: What is the extent to which the Luo of Ukwala Division practise levirate?; Is the

perception of levirate uniform in the community?; Is the practice a risk factor in the spread of AIDS among the Luo?; What are the reasons behind the persistence of the practice?; Is it possible to modify levirate to suit development needs of the community? These, therefore, are some of the factors which had to be put into consideration when analysing the role of levirate in the spread of AIDS among the Luo of Ukwala Division in Siaya District of Western Kenya.

1.3 OBJECTIVES OF THE STUDY

The major objective of the study was to determine the role of levirate in the spread of AIDS in Ukwala Division.

The specific objectives were:

1. To determine the extent to which levirate is practised in Ukwala Division.
2. To find out how different people perceive levirate.
3. To investigate the relationship between levirate and the spread of AIDS in Ukwala Division.
4. To establish the factors that contribute to the persistence of the practice.
5. To establish whether or not levirate contributes to the spread of AIDS and thereby determine how it can be modified to suit development needs of the local population

1.4 SIGNIFICANCE OF THE STUDY

This study is based on a rural population. Its intention is to add to the idea that any development effort that does not put into consideration cultural factors is essentially an exercise in futility. The subject of this study can be important not only to primary health care but also to policy makers in Kenya. This is because Kenya is one of the countries with high increase rates of HIV infections (Schopper, 1990). Also, more than three-quarters of its population live and work in the rural areas, the majority of whom are still very much tied to their traditional practices. The study may make some contribution to the substantive material on the socio-economic and cultural aspects of health and illness in developing countries.

The study also hopes to provide information that may be drawn upon for improving the living standards in rural areas. Its intention is to highlight the people's own perception of their problems and their aspirations in life.

CHAPTER TWO

2.1 LITERATURE REVIEW

This section is divided into five parts namely: the nature of AIDS; social status and perception of cultural practices; disease, beliefs and cultural practices; the nature of levirate; and development and culture change.

2.11 THE NATURE OF AIDS

Medically, AIDS is a diagnosis for a combination of illnesses which results from a specific weakness of the immune system. It is caused by infection with a type of virus called HIV. According to Gordon and Klouda (1988), there are three major stages of HIV infection. The first stage is around the time of infection when some people have a short illness similar to fever. After this, most people remain healthy with no signs of illness for many years. However they can infect others without either partner knowing it. In the second stage, which comes after about at least six months, the infected person may begin to show signs of illness. These signs are common in many illnesses and cannot be used by themselves to diagnose AIDS. They include weight loss, fever and diarrhoea for more than one month, and persistent severe fatigue as the major ones. The minor signs include cough for more than one month, itchy skin rashes, cold sores all over the body, shingles, thrush in the mouth and throat and swollen glands at two or more sites (excluding the groin) for more than three months. Finally, in the third stage, when much of the immune system is destroyed, the person is attacked by rare and serious infections that eventually kill him or her. The length of time it takes for a person infected to die

vary from individual to individual due to such factors as nutritional status and nature of social support.

The history of AIDS suggests that the disease is new though it has spread to almost every country in the world. According to Gordon and Klouda (1988:11), some people find it hard to believe that AIDS is a new disease. It is important to note that where people think that AIDS has been around for a long time, they may see less reason to change their behaviour.

The rapid spread of HIV infection in Africa has been well documented. For example, in Nairobi, the prevalence of HIV antibodies among commercial sex workers rose from 4% in 1981 to 61% in 1985 (Schopper, 1990). However, there are considerable differences between regions in the prevalence of HIV / AIDS and the rate of transmission of HIV (Ford and Koetsewang, 1991). In Kenya its prevalence is greatest in Nyanza province (G.o.K. 1994). According to Wanjiku (1995), its prevalence in Luo Nyanza is partly attributed to the practice of levirate. This study intended to either confirm or reject the claim.

Two major factors, the pool and polypartnerism, have been seen to influence the level and pace of transmission. The pool refers to the population already infected while polypartnerism is the number of different contacts with whom an individual engages in unprotected sex (Ford and Koetsewang, 1991). It, therefore, follows that transmission tends to be slower in societies where large numbers of people have few partners than in societies where people have many partners. Critics of levirate have based their argument on this premise. However, their argument seem to be lopsided

because implicit in it is the assumption that non-practice of levirate presupposes having few or no sex partner. Such an assumption is evidently erroneous.

According to Packard and Eqstein (1991), early discussions of AIDS in Africa developed in a similar environment to those in which early inquiries of TB and syphilis were conducted. They argue that when medical researchers first began studying AIDS in Africa, they quickly realised that the epidemiology of the disease was different from that in the West. As such stereotypic images of Africa and Africans entered into the discourse. A similar observation is made by De Bruyn, who notes that

> most research was carried out by the biomedical community with an emphasis on ... surveys of risk groups. A result of this was the reinforcement and expansion of negative stereotypes relating to certain categories of people (De Bruyn, 1992:250).

To minimize the social damage of such stereotypes, WHO now emphasizes that it is preferable to speak of risk practices rather than groups (De Bruyn, 1992). Risk practices are those that make one to be highly vulnerable to infection, for instance, commercial sex (prostitution). It is to this end that this study intends to contribute by studying the practice of levirate as a possible risk practice and thereby protect the practitioners of the custom from possible labelling as a risk group. By looking at practices, customs or patterns of social intercourse which provided opportunities for HIV transmission, AIDS researchers narrowed the range of

sociological data which was relevant for the discussion. The question became not what is the social-cultural context within which HIV transmission occurs in African communities, but rather what are the patterns of behaviour which place them at the risk of infection. This was and has been a misleading standpoint and this study is intended to contribute towards the rectification of the anomaly.

2.12 SOCIAL STATUS AND PERCEPTION OF CULTURAL PRACTICES

Cultures or group lifeways do not manifest themselves solely in observable customs and artefacts. There is much more to social and cultural phenomena than meets the ear and eye. Kennedy has reliably observed that:

> If the behavioural facts are to be correctly understood, certain presumptions constituting what might be termed a philosophy or ideology must also be known. The logic of all members of the human species is the same. It is the premises that are different. Moreover, the premises are learned as part of a cultural tradition (Kennedy, 1973:803).

Generally patterns of perception, beliefs and ideology are interconnected and they tend to form a coherent unity for the social actors concerned.

If culture is understood as being shared by all the members of a society then the question of what cultural elements are shared

by whom is answered; that is, all of the elements are shared by all of the members of the society. The "all-by-all" standpoint is not, however, generally supported (Swartz, 1982). Linton (1936), has observed that no individual has complete knowledge of his or her group's culture, and societies operate through members of various status categories sharing among themselves both knowledge of the skills and procedures necessary to the activities associated with their particular status. He adds that the sharing of cultural elements is also true of the more general values, beliefs and attitudes associated with membership in the status category. Linton's views may not apply to egalitarian societies, but since it is difficult to speak with confidence of purely egalitarian societies in the current world, his views to a large extent hold.

The Linton position is that culture is distributed among the statuses that make up a society and that the members of theses various status categories in consequence of their special knowledge, values and beliefs, share more with one another than with other members of the society who do not belong to their status category. With the latter they only share those broad and general, or ordinary and unavoidable elements of culture that are shared among all of a society's members.

It is in the light of the aforesaid that an analysis of the perception of levirate vis-à-vis socio-economic status become pertinent to this study. It is based on the premise that knowledge of how culture is distributed is indispensable to an understanding of how culture works, and that conventional assumptions concerning that distribution, as embodied in the Linton view of statuses as

centres of cultural sharing, are at least in need of close, empirically based examination.

2.13 DISEASE, BELIEFS AND CULTURAL PRACTICES

Most social scientists agree that culture is learned and that human learning mechanisms are to a large extent influenced by natural selection. They are in profound disagreement, however, about the implications of this supposition. As Rogers has noted:

> some scientists believe that the action of natural selection on learning mechanisms constrains culture in important ways, while others are convinced that any such constraints are negligible (Rogers, 1988:819).

Those who argue for weak constraints seem to assert that a disease such as AIDS, which medically falls within the rubrics of biology is too weak to interfere with or influence change of the cultural practices of a community. This discussion is, however, still open.

Human infection and disease are biological phenomena with obvious social as well as biological implications. As McGrath (1988) has observed, biological and non-biological factors interact to determine the nature of disease occurrence under a given set of circumstances. Most of the Western-trained health workers argue that the main cause of poor health conditions in the Third World is their traditional practices and beliefs related to health and illness (Nyamwaya, 1982). Nyamwaya observes that by claiming that traditional beliefs and practices are the major constraints to the

improvement of health, Western health workers raise two important but separate questions, namely the contribution of these beliefs and practices to the incidence and prevalence of certain diseases and their role in preventing the acceptance of Western curative and preventive medicine as well as preventive steps. It is the former question that concerns us here most.

The most important fact about an illness in many societies in Africa is not the underlying pathological process but the underlying cause. Foster observes that

> In several accounts it is found that the kinds of cures, the mode of diagnosis, curing techniques, preventive acts, and the relationship of all these variables to the wider society of which they are a part derive from beliefs about illness causality (Foster, 1976: 774).

Young (1976) has observed that a people's beliefs and practices persist because they answer instrumental and moral imperatives. This, however, is not the same thing as saying that the beliefs and practices always bring results for which people hope for.

Their empirical effectiveness, nevertheless, has important ontological consequences since, for instance, it enables sickness episodes to communicate and confirm ideas about the real world.

The majority of works which have described what beliefs and practices mean for the people who hold and perform them have focused on phenomena that they think are closely tied to sickness episodes. Little attempt has been made to fit the chosen practices,

for instance, the leviratic custom, into a more comprehensive matrix of social and cultural system. To them preventive health behaviour can be thought of as a series of dos and don'ts or "shoulds" and "shouldn'ts". The implication is that the exercise of absolute care in avoiding disease - producing situations should, in theory, keep one healthy and, therefore, illness is an evidence that the patient has been guilty of lack of care. Such a view seems to be only partially true. It is lopsided in that it fails to appreciate the juxtaposition between biology and culture. For instance, an AIDS episode may be a result of sexual intercourse that may be a major requirement in a leviratic union and, at the same time an illness that may have the same characteristics as AIDS may be attributed to the breaking of a taboo, which in this case may be the non-practice of levirate. Such a complex situation calls for an anthropological approach and this study aims to contribute to it.

2.14 THE LEVIRATIC CUSTOM

Unlike in the industrialised countries where AIDS spreads mainly through homosexuality and dirty needles, AIDS in poorer countries is largely a heterosexual disease (Piot, 1996). At any instance, therefore, the spread of AIDS in Africa is most likely to involve transmission from a man to a woman and vice versa. Other casual intimate relationships aside, marriage is the single major institution that legalises sexual intercourse between men and women, the medium through which HIV is transmitted. There are several forms of marriage-related practices. Of significance in this study is levirate, where a man takes as a "wife" the widow of the deceased brother (Krige, 1964).

Levirate does not entail a new marriage; rather, it is a temporary adjustment to a continuing marriage (Radcliffe-Brown 1950; Wilson 1950; Dorjahn 1959; Vivelo 1978; Kirwen 1979). This custom is practised world-wide and is not confined to the Luo community alone. As Turney-High indicates:

> Among the Kirghiz of Central Asia, a widow needed a man to hunt for her and her children, and her brother-in-law was a logical choice. The levirate prevented the disruption of transactional rates between the two families; the return of bride-price and dowries would be inconvenient (Turney-High, 1968:331).

It is clear from this quotation that levirate performs the important function of ensuring continuity in social relations.

In Africa, the institution of levirate arises in the context of certain presuppositions about the nature of marriage as an institution. Therefore, when Bryk (1964:183) says that "among the negroes the widow represents the transition from wife to prostitute" and that "...most of the concubines are recruited from among widows...", it is not only in bad taste but also a clear manifestation of his ignorance and subjective view of other people's cultures. His claim cannot simply withstand the test of empirical validity. Kirwen (1979) observes that the African levirate is strange to Westerners because since they do not have comparable custom, they do not share with Africans certain presuppositions about the nature of marriage as an institution. The major presupposition is that marriage involves both individuals and their lineages; it is both a

personal and a social alliance. Likewise, children are both the children of their individual parents and of the lineage. For instance among the Shambala, when a man dies the widow and the children come under the control of a brother-in-law through a leviratic union (Winans, 1964:56). Likewise among the Nandi in Kenya, a widow joins a brother-in-law in a leviratic union (Gray, 1964).

It is, therefore, clear that the obligations and relationships involving a woman and her children do not cease automatically with a husband's death. Indeed in Africa, as may be elsewhere in the world, she is able to continue in the lineage as a functioning wife through a leviratic union.

Leviratic custom among the Luo seems to be as old as the community. The Luo, who are a patrilineal people, legally allow a woman two choices upon the death of her husband (Kirwen, 1974). She may remain in her deceased husband's homestead in a leviratic union or she may return to her patrilineal home to remarry, provided the bridewealth is given back to her husband's lineage. The latter option, though legal, is not encouraged and, therefore, is rarely practised. If she opts to enter into a leviratic union;

> she may cohabit with one of her dead husband's brothers, or one of her husbands male relatives or any man who has been adopted into the deceased husband's clan, though originally a stranger. However, her choice is subject to the approval of the family and clan elders of her deceased husband. The children of a leviratic union belong

> to the family of the dead husband (Kirwen, 1979:30)

According to Kirwen, the Luo people maintain and insist upon levirate as the best way to care for widows. Conformity to the custom is ensured by the threat of the dead man's "evil eye", by the difficulty of paying back the bridewealth, and by the fact that no Luo man would marry a widow who is still regarded as someone's legal wife. Kirwen's reasons may be true but they may not be the only ones for the persistence of levirate among the Luo of Ukwala Division in Siaya District.

Concerning inheritance, it is worth noting that there are some conditions that must be satisfied. One significant ideal is that no property of any kind should ever be passed beyond the range of recognized kin (Wilson 1950; Leyton 1970; Wundram 1979).

But even for recognised kin there are two sets of opposition in kinship terminology namely, agnates versus affines, patrikins versus matrikins, and the like.

Leyton argues that at the household level there appears to be priority of affines over all agnates, but adds that:

> This is an inflexible value that nevertheless gives rise to much anxiety ... for there are stories of men who gave property to their wives without condition, and who in turn remarried and gave it to strangers (Leyton, 1970:1380).

In general, as Gray (1964) has noted this situation is dealt with in one of the two ways namely, either the "estate" remains

intact with the surviving family members retaining their attachment to it, and some "outsider" (usually the deceased's brother) steps in to replace the dead husband and father, or the survivors and their estates are merged with another family group. The former seems to be the case among the Luo. Nevertheless, as is shown elsewhere in this study, it is the contention of the researcher that there is more to levirate than just guardianship of property and being a husband or a father.

2.15 DEVELOPMENT AND CULTURE CHANGE

The concept of development has been defined in various ways by different scholars (Todaro, 1982; Giddens, 1990). What is common to these definitions is that development involves qualitative improvements in people's lives. These improvements should not only be physical but also social and psychological. This implies that the mere absence of medically diagnosticable disease in a body does not necessarily mean a healthy body. The AIDS pandemic presents a serious health problem in the world today. Basically the only remedy in the battle against the disease seems to be education. As Schoepf (1991) has observed, the biology of AIDS is complex and difficult for the lay people to grasp. Therefore, Herlitz and Brorsson (1990) are justified when they say that planning AIDS prevention educational campaigns require knowledge about information management on appropriate approaches toward different potential target groups, and about the impact of the information.

Current dialogue on AIDS prevention has been dominated by interpretations of traditional practices as barriers to risk

reduction. However, the tendency for culture-centred AIDS prevention approaches to interpret cultural differences as barriers has been challenged (Nyamwaya, 1982; Kline, 1992). The implication of the challenge is that the "culture as resistance" approach in AIDS education might be more fruitfully supplanted by a "culture as enabler" perspective. By this view, traditional values typically interpreted as barriers to behaviour change can be reframed in ways that promote preventive health behaviour. In line with this view, Kennedy has noted that:

> Recognition of central variations in orientation ... can assist policy formulation and decision-making where co-operative action is required. Significant improvement in health status for specific population groups will be retarded until this deeper level of understanding is achieved (Kennedy, 1973:787).

This understanding is especially necessary because there seems to be a prevalence of fatalistic beliefs concerning health (Davison et al. 1992: 676). Such a belief in other agencies require some rectification which can only be done through education (Mettlin, 1979; Herlitz and Brorsson, 1990).

The need to modify cultural practices to suit development needs raises another question, that is, the possibility of modifying them. According to White (1949), culture controls "man" and thus "man" cannot control culture but can merely react to it. White does not restrict his claim to the view that individuals cannot control their culture; he asserts that neither individuals nor groups can

control culture. Thus, in denying that human beings can control culture, White is denying that they can change their culture in accordance with their plans. Some scholars such as Copeland (1975) who hold views opposite to White's argue that the activities of human beings have been responsible for current development which has seen changes in the cultures of different people.

Nevertheless, it is important to note that whereas White asserts that human beings cannot control culture, he adds that significant changes generally do not occur except in cases of social upheaval. Since the AIDS pandemic may be having social consequences, it is logical to assume that its spread should influence culture change.

The single major tool for influencing planned culture change is education. The specifics of education should be better adopted to particular target groups and should relate to problems which directly affect them. And, as Mettlin (1979) indicates, there should be; first, certainty of knowledge of the etiologic role of a cultural practice in disease; secondly, knowledge of the strength of the relationship between a cultural practice and disease; thirdly, availability of means of measuring the impact of intervention; and finally, there should be social institutions through which interventions can be mounted. It is the hope of the researcher that this study avails relevant data that can contribute towards the satisfaction of the above conditions and therefore contribute towards the improvement of the quality of life of the people of Ukwala Division in particular and Luo Nyanza and Kenya in general.

2.2 THEORETICAL FRAMEWORK

2.21 Situational Approach to Health and Illness

There is a general consensus that health behaviour cannot be understood solely on the basis of health status. This view has been reflected in increased research on a wide range of suspected non-medical factors such as social, economic and demographic variables (Rifkin,1973; Rosenstock, Leavitt, 1979; Quah, 1985).

The situational approach used in this study was propounded by Angelo A. Alonzo (1979). It states that health is a relationship to ones environment which is constantly changing and emerging – and not a fixed antity. In this approach, the environment of concern is the socially defined situation. Socially defined situations and occasions are necessary conditions of human conduct. People involve in situations for they (the situations) are little social systems wherein subjectively meaningful transactions occur (Alonzo,1983).

The situational approach to health and illness has three main assumptions relevant to this study. First, it assumes that definitions of health and illness derive from an evaluation of an individual's entire situation set and not a single activity. Secondly, the approach assumes that taking into consideration situational and role enactment demands as well as signs and symptoms, an individual must take into account the meaning of the situation as far as his/her commitment to it is concerned and its importance in terms of his/her identity.

Generally, the situational approach links attitudes and beliefs of an individual to health action. It assumes that individual attitudes and beliefs are important determinants of health action and account for variations in such action especially when cues to action such as symptoms and signs are present.

The situational approach is used in this study to analyse preventive health behaviour. Preventive health behaviour is the activity undertaken by persons who believe themselves healthy for the purpose of preventing or detecting an illness. An illness can be both physical and psychological. It can be argued in this study that since definitions of health and illness drive from an evaluation of an individual's entire situation set, what may appear to an outsider as a risk behaviour, for instance levirate, may in fact, be situationally meaningful to the participant, and its situational meaning may outweigh the (physical health) risk that may be evident, which in this case is vulnerability to infection by the HIV/AIDS virus.

An individual's perception of benefits and his or her evaluation of potential barriers act as opposing cost-benefit forces which in combination with the individual's readiness to act, determine an individual might weigh the cost and benefits of engaging in or avoiding a leviratic union before deciding which course of action to take. An individual would have to decide which one is either more costly or more beneficial: entering into a leviratic union and, therefore, being vulnerable to infection by the HIV/AIDS virus or not practising levirate and, may be, automatically breaking a taboo. Thus any decision about a course of health action would be

preceded by an evaluation of an individual's capacity to participate across the whole situation set. If non-practice of levirate leads to excommunication from the community, then one might consider practising levirate – especially if it outweighs the risk of HIV infection. Thus, every individual must establish a priority among the situations and activities of his or her situation set.

2.23 HYPOTHESES

The main hypothesis is that levirate perpetuates the spread of AIDS in Ukwala Division -

The specific hypotheses are:

1. Levirate is not widely practised in Ukwala Division.
2. People's perception of levirate is influenced by their socio-economic position.
3. The engagement in a leviratic union tends to increase the chances of one catching the HIV/AIDS virus.
4. The persistence of levirate depends on the Luo definition and understanding of the institution of marriage.
5. Levirate can be modified to suit modern development needs.

CHAPTER THREE

3.0 RESEARCH SITE AND METHODOLOGY

3.1 SELECTION OF RESEARCH SITE

Ukwala Division of Siaya District was the selected site for the research of this study. Siaya District was established in 1966 following the sub-division of Central Nyanza into Kisumu and Siaya Districts (see Fig.1). At the time of the study, Ukwala Division was one of the ten divisions that formed Siaya District. The other divisions were Uranga, Ugunja, Borom Yalam Wagai, Bondo, Usigu, Rarieda and Madiany. However, immediately after the completion of the field research, a new district, Bondo, was hived from the larger Siaya District and comprised of four divisions namely Usigu, Bondo, Rarieda and Madiany. Siaya District remained with six divisions namely Ugunja, Boro, Urangam Yala, Wagai and the research site, Ukwala.

The selection of Ukwala Division as the research site of this study was done through simple random sampling whereby the 'lottery method' was used. In this method, all the ten divisions in Siaya District were listed in separate discs which were then mixed and one of them randomly selected.

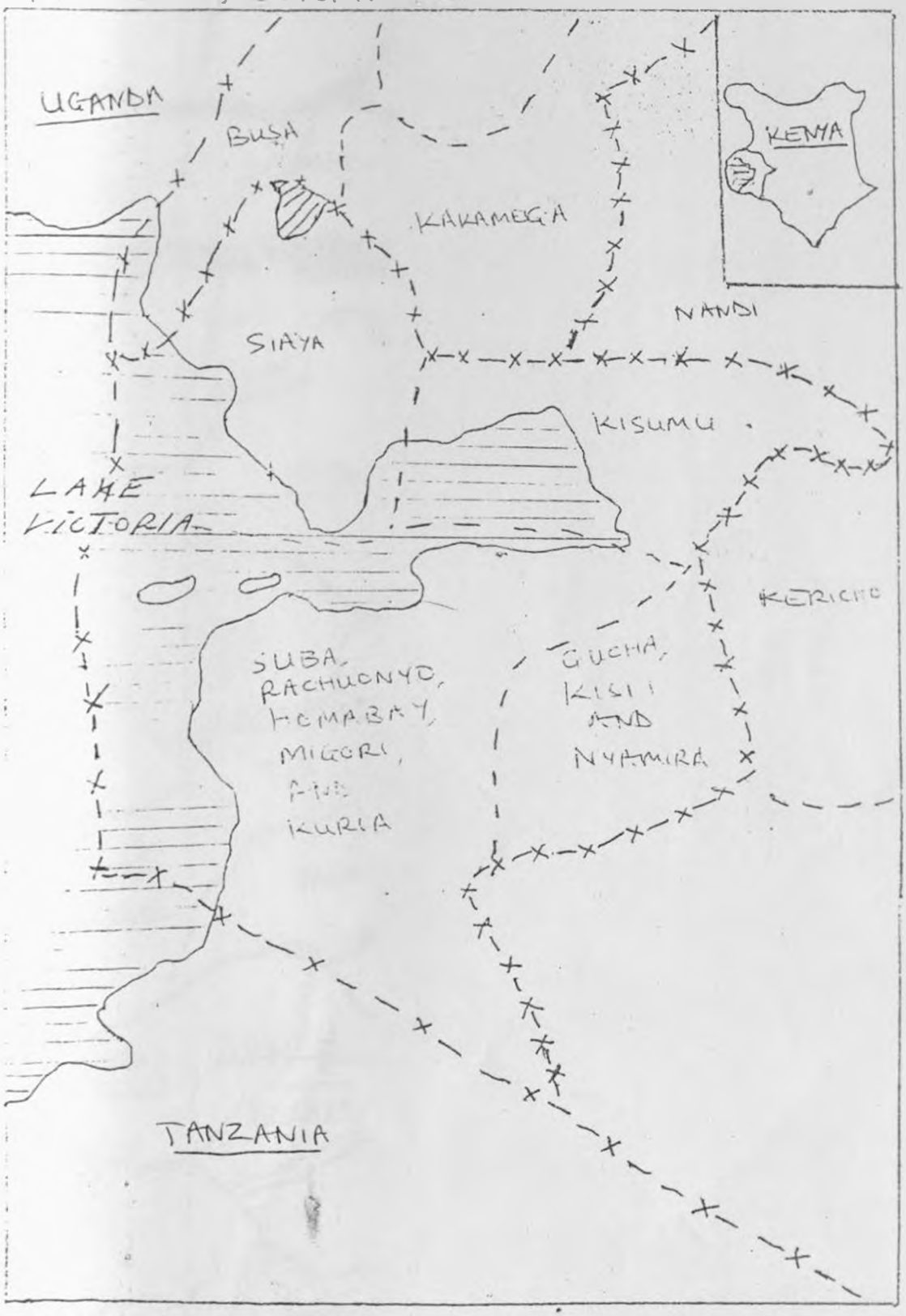
On the other hand, the choice of Siaya District was based on the fact that it had very few projects aimed at controlling the spread of HIV/AIDS virus compared to other districts in Nyanza Province occupied by the luo, and where the relatively rapid spread of the virus is believed to be a result of the practice of levirate.

Ukwala Division is situated to the northern part of Siaya District and borders Busia District both to the north and west, Bungoma District to the north-east, Kakamega District to the east, and Uranga Division to the south. It has six locations namely West

FIGURE 1

MAP NO 1

MAP OF WESTERN KENYA



Legend

—x—x— International boundaries

—x—x—x— Provincial boundaries

— — — — District boundaries

FIGURE 2

SIAYA DIS

UKWALA DIVISIC

SCALE - 1:100,000

REFERENCE

BUSIA DISTRICT

International/ Provincial Boundary

District Boundary

Constituency Boundary

Division Boundary and name — BORO

Location Boundary and name — GEM

Sub-Location Boundary and name — HONO

Property Boundary

Sub-Divided Properties — S

Municipality, Townships & Markets — Annotated

Roads

Ugenya, and North-West Ugenya, North Ugenya, Ukwala Division, East Ugenya, and North-East Ugenya. The headquarter of Ukwala Division is Ukwala Town. The division has an area of approximately 323 square kilometres.

Topographically, the division lies in a high potential zone of the district with two rainy seasons – about 1,800 – 2,000mm annualy. It has a rough terrain and hills which rise up to about 1,430 metres above sea-level. Demographically, Ukwala Division has a population of about 111,719 people with a population density of about 346 persons per square kilometre. Economically the imperfectly drained dark to brown mottled acrisols and ferralsols allow the production of maize, cassava, sorghum, tobacco and cotton as the major crops, with the last two being the principle cash crops. The main livestock in the division are cattle, poultry, goats and sheep, which are kept on a subsistence level. There is also trade and commerce.

3.2 SAMPLING PROCEDURES

In order to obtain the sample for this study, both probabilistic and non-probabilistic sampling procedures were used. The study intended to obtain information from 174 people for a period of about eight weeks. However, it was not possible to trace eight of the respondents earmarked for interview thereby making the researcher to be content with a sample of 166 respondents. Of these, 112 respondents were selected using probabilistic techniques of sampling while the rest were selected using non-probabilistic procedures.

In probabilistic sampling, the techniques employed were multi-stage area sampling, simple random sampling and systematic

sampling. Multi-stage area sampling was used to select sub-locations and villages from which respondents were obtained. As already stated, Ukwala Division has six locations. From each of the six locations one sub-location was selected. As total of six villages were selected.

The six sub-locations were selected using simple random sampling whereby all the sub-locations in every location were listed in separate discs which were mixed and one selected randomly. In Ukwala Location wich has seven sub-locations, Yenga was selected from amongst six others namely Siranga, Doho West, Doho East, Simur, Kondiek and Simur East Sub-location. In North Ugenya Location,where there are four sub-location was located namely Uyundo, Nyalenya, Sega and Kagonya, Sega Sub-Location was selected. Ndenga Sub-Location was selected in North-West Ugenya Location which has three sub-locations namely Karadolo East, Karadolo west and Ndenga. In West Ugenya Location where there are four sub-location namely Sifuyo East, Sifuyo West, Masat East and Masat West, Sifuyo East Sub-Location was selected. Anyiko South Sub-Locations namely Jera, Naymsenda, Anyilo North, Ligala North, Ligala South and Ramunde. And lastly, in East Ugenya Location where there are three sub-locations namely Kathieno A, Kathieno B and Muruba, Kathieno A Sub-Location was selected.

For the six villages selected, the procedure used for the selection of the sub-locations, that is, 'lottery method', was applied. In Yenga Sub-Location, Ulid Village was selected while in Sega Sub-Location, Mkwero Village was selected. Ndenga Village was selected in Ndenga Sub-Location while Ratado Village was selected in Sigula Village was selected while in Kathieno A Sub-Location,

Masiro Village was selected. It was from from these six villages that all the respondents, informants, and discussants were obtained.

In order to conduct survey research, respondents were obtained through systematic sampling. As previously stated, the division has a population of about 111,719 people. It was determined, just before the commencement of the fieldwork that each of the 28 sub-locations in the division has an averages of about five (5) villages. It was further determined that each of the villages had an average of about 121 homesteads, and that in each homestead there were approximately five(5) people above 18 years of age. Since the sampling unit was the homestead, 20 homesteads in each of the six villages sampled were selected using systematic sampling. In each of the sampled homestead, one adult member was earmarked for interview. If in one homestead a woman was interviewed, in the next a man was selected for interview. However, eight individuals earmarked for interview could not be traced even after revisit. As such a total of 112 respondents were interviewed in survey research. Save for a few cases of absenteesm, four people interviewed everyday from Monday to Friday for six weeks.

In the systematic sampling procedure used for selected respondents, the sampling fraction was 1/5 while the random start was4. The random start (the first individuals selected) was determined using simple random sampling after which respondents were selected according to the predetermined sampling fraction. Systematic sampling was used because it was easy to apply (more practical).

Non-probabilistic sampling was used to select discussants in focus groups, key informants and other respondents with whom in-depth interviews were conducted such as elderly people who

narrated their marital histories. The procedure used in non-probabilistic sampling was focused sampling. According to Hakim (1987:147), focus sampling is the selective study of particular persons, groups or institutions that are expected to offer especially illuminating examples or to provide especially good base for propositions of abroad nature.

In non-probabilistic sampling, twelve respondents were selected as key informants, while five elderly men and five elderly women were interviewed about their marital histories. There were also four sessions of focused group discussions. The twelve respondents selected as key informants included six village headmen (from each of the six villages selected), two assistant chiefs (from Anyiko South and Yenga Sub-Location), and two health officers – the district medical officer of health and the district hospital superintendant. All these plus the ten elderly men and women who narrated their marital histories were revisited. The revisits were necessitated by the need to authenticate the information obtained during the first visit. This took a period of about two weeks. For group discussions, their were four groups of elderly men, elderly women, middle-aged married men, and middle-aged married women. Each of the four groups has eight discussants.

3.3 METHODS OF DATA COLLECTION

As already mentioned, the research was mainly qualitative in nature. This is because as Honigmann (1976) has reliably indicated, qualitative approaches rank high in humanistic interest as well as readability. This is possible because it offers richly descriptive reports of individuals perceptions, attitudes, beliefs, views and feelings concerning social phenomena (Odak, 1996b). Although

qualitative research is about people as the central unit of account it is not about particular individuals per se. As such reports focus on various patterns, or clusters of attitudes and related behaviour that emerged from the interviews. Because of its unstructured and exploratory character, qualitative research merges easily into other types of study such as surveys. As such the data obtained are accompanied by some quantitative evidence to support the conclusions. Generally, information was obtained through in-depth interviews, focused group discussions, key informant interviewing, survey research, and documentary materials

3.31 IN-DEPTH INTERVIEW

This is unstructured interview in that there is no questionnaire used. This technique was used because it enabled not only probes to be made but also the generation of richly qualitative information. Although the interviewer guided the discussion enough to focus on the topic of interest, the respondents also had freedom to steer the conversation, for example, to bring in all sorts of tangential matters which for them had a bearing on the main subject. The interviews were of variable lengths but some took up to three hours. Some were extended into repeat interviews at later dates. This was aimed at ascertaining the reliability of the information obtained during the first visit.

3.32 FOCUSED GROUP DISCUSSION

There were four focused group sessions. The method used for selecting discussants was 'purposive' or 'convenience' sampling. Here, the researcher selected those members of the community whom he thought would provide him with the best information. Since the researcher was not familiar with the community, he consulted local leaders and other members of the community that he had access to so as to determine those who had some knowledge or influence on the problem. This was made easy by the fact that FGDs were organised after conducting the survey. ~~were used~~. All those invited to participate in the FGDs were those who had not enabled the discussants to talk more freely. Some of the factors considered in selecting the group members were educational background, sex, age and marital status. There were eight discussants in each of the four groups. The number was suitable in that it enabled each of the discussants to participate.

3.33 KEY INFORMANT INTERVIEWING

Un-focused in-depth interviews were carried out with elder members of the community as well as administrative officials and health personnel in the area of study. Interviewing them helped in generating information which was useful in understanding how local people perceive levirate and label AIDS. The informants also gave invaluable information on the perceived causes of AIDS.

3.34 SURVEY RESEARCH

The type of survey research that was employed in the study was face-to-face or personal interview. The targets of survey were elderly men and women, middle-aged married adults as well as the unmarried youth. In the interviews, questionnaires were used. They comprised both fixed-alternative and open-ended questions. This enabled respondents to have a choice of alternatives and as well permitted free answer responses. Survey research was accompanied by informal interviews. For example, to develop rapport aimed at encouraging the respondents to answer questions, brief and casual introductory remarks were made.

3.35 DOCUMENTARY MATERIALS

Written materials about marriage, levirate, as well as sexually transmitted infections - especially AIDS, were reviewed. They included newspapers, books, journals and articles. It was from these written materials and popular literature that the research problem was identified.

3.4 DATA PROCESSING AND ANALYSIS

Data obtained in the study were analysed both qualitatively and quantitatively. Non-computerised was used to analyse qualitative data. A code sheet was created following the focus group guide and data were coded. Then a master sheet analysis was done, giving all the responses from focus groups and in-depth interviews. Responses

were interpreted by looking at the patterns in the responses and formulating ideas which could account for those patterns. Methods used included the personal approach and the semiotic approach.

In what Honigman (1976) calls the personal approach, the researcher, relying heavily on intuition, sensitivity, depth of thought and intellectual flexibility, constructed synchronic and diachronic patterns drawn from descriptions of a number of singular events. Except in instances where some pattern was provided by informants, the researcher identified patterns from a series of individual artefacts or inferences. Patterns communicated by informants were also approached tentatively in case they were contradicted by the same or other informants, or if they contradicted overt behaviour which the researcher had observed. In this analytic approach, explanation was also sought for differences in behaviour.

In semiotic approach, the researcher selected and abstacted only relevant parts of sentences given by respondents while he disregarded other aspects which served other non-signifying functions. The use of semiotics in this study was necessary because as Hawkes (1977) , Hrushovski (1981) and Steiner (1981) have indicated, signs rarely appear in isolation and are not floating ideas; they appear in various objects in the world, which in this particular case were both verbal and non-verbal responses.

Like in qualitative analysis, quantitative data were classified into smaller number of categories (coding schemes or variable levels) so as to simplify the description and analysis of data. The codes were assigned variable values which were then cross-tabulated. The cross-tabulations were interpreted and the emerging

patterns compaired with patterns obtained through qualitative analysis. Likewise, explanations were advanced for inconsistencies.

3.5 PROBLEMS EXPERIENCED IN THE FIELD

A major problem experienced was that of hostility from some selected respondents who were reluctant to be interviewed. However, the researcher managed to convince them as to the importance of yielding information. Another problem was that of transport. The research site, being a rural area, was not wholly easily accessible. Another serious problem experienced in the field was that of absenteeism on the part of some respondents selected for interview. This problem was controlled through revisits at later dates. Nevertheless, eight individuals selected for interview could not be traced even after such revisits.

3.6 OPERATIONAL DEFINITION OF VARIABLES

1. Levirate: This is the practice where a man forms a marital union with the widow of his deceased brother.

2. Perception of levirate: This is how people define levirate; why and how they think it should be practised.

3. Socio-economic position: This refers to an individual's status in the community. It was measured by such factors as level of education, wealth, marital status, leadership position and the like.

4. Engagement in a leviratic union: This is the act of joining someone in a new union after the death of a husband.

5. Persistence of levirate: Is the continued practice of levirate despite the threat this poses to the health and general well-being of community members.

6. Definition and understanding of the institution of marriage: This refers to what the concept of marriage means to the people and what it entails, including the rights and obligations of the concerned parties.

7. Modification of levirate: This refers to identification and adoption of new ways of practising levirate which do not put the lives of the leviratic partners at the risk of infection by the HIV/AIDS virus.

8. Development need: This refers to the necessity of having a situation where the probability of infection by the HIV/AIDS virus (in a leviratic union) is low. It is assumed that the practice of safe sex would significantly reduce chances of infection. This in turn would ensure a relatively good physical and mental health which is necessary if an individual is to be productive.

CHAPTER FOUR

4.0 PREVALENCE AND PERCEPTION OF LEVIRATE

4.1 PREVALENCE OF LEVIRATE

The study of AIDS and levirate in Ukwala Division of Siaya District had as its main hypothesis the assumption that levirate perpetuates the spread of AIDS in the division. However, it wouldn't have been logical enough to test this hypothesis without first assessing the extent to which levirate is practised in the area.

Levirate as an institution is discrete. Unlike marriage it does not take place in church, at the District Commissioner's Office or in some elaborate communal ceremony. Unlike marriage, it is not a requirement for every individual because it only happens when a husband has died and left a widow. When a wife dies and leaves a widower, there is no levirate. Rather, there is either remarriage or sororate. Being understood as a continuation of marriage, levirate is something that goes on without any ceremony and, therefore, only individuals who have, directly or indirectly, some vested interest in any particular instance of levirate, take note of its practice.

Levirate, or *lako* as it is called by the Luo who inhabit the study site, is not uncommon in Ukwala Division of Siaya District. For instance, popular view among discussants in the focused group session had it that almost every widow has to, in one way or another, enter into a leviratic union. It is only the nature that it takes which differs, as will be shown later in this chapter. The discussants said that: "A widow is our wife so we have to keep her in the

lineage by providing a brother-in-law" and "Always widows have to be in leviratic unions".

The prevalence of levirate in the area of study was not only expressed in the focused group discussions but also by other respondents such as key informants as well as in survey. For instance, out of 112 respondents surveyed 96 (85%) stated that death of a male partner does not mark the end of a marriage. They further argued that marriage continues through levirate, where the brother of the deceased, real or classificatory, forms a marital union with the widow. A small number of the respondents (15 or 13%), however, said that death of a partner signified the end of a marriage relationship and that the widow or the widower was free to form another union which has no relationship with the former one.

In order to determine whether this small group of respondents who said that death of a partner marks the end of affinal relationships constituted an identifiable group in the community, the response was cross-tabulated with several independent variables such as sex, income, marital status and educational level. The cross-classifications revealed that of the 15 respondents who said that death marks the end of a marriage relationship, 73% were women who were less than 36 years old. This group asserted that levirate was not only an outdated practice but also denies women freedom to shape their own lives. They further argued that they were free to control their lives. The data also revealed that all of these respondents had completed at least eight years in school, a factor which shows that their views had been partly influenced by either what they had read or those with whom they had interacted in life. Some of these respondents also said that they were saved. To this

group, levirate was an evil practice that went contrary to the Christian teachings about marriage. Therefore, it is clear that those who responded in the affirmative to the question as to whether death marks the end of marriage formed an identifiable group in the community. The majority of them were women who had some education and were also staunch members of the Christian Religion.

By claiming that death of a partner does not mark the end of a marriage, the majority of the respondents were implying that marriage is permanent. In fact 68% of the 112 respondents said that a woman, upon the death of her husband has to join a brother-in-law in a leviratic union while 30% said that she can either enter into such a union or remain single but continue representing the former union. Only 2% said that a widow could remarry. The cross-classifications revealed that these respondents (2%) were not only women who had completed between nine and twelve years in school but were also yet to be married. Asked further whether they knew of individuals in leviratic unions in the area of study, all the respondents said that they knew of at least an individual in a leviratic union in their lineages.

The foregoing analysis shows that leviratic unions are not uncommon in the area of study. It is, therefore, safe to say that levirate is prevalent in Ukwala Division of Siaya District in Western Kenya, and that an analysis of the relationship between the custom and the spread of AIDS in the area is worthwhile.

4.2 SOCIO-ECONOMIC FACTORS AND PERCEPTION OF LEVIRATE

One of the specific hypotheses of this study was that people's perception of levirate is influenced by their socio-economic positions. Implicit in the hypothesis is the assumption that people whose statuses are high in the community perceive levirate differently from those whose statuses are low. To test this hypothesis it was imperative that independent variables such as sex, age, marital status, education, wealth, mobility and religious affiliation be cross-classified with all the variables which measure perception of levirate.

Table 1 below shows reasons that men and women gave as the ones responsible for the practice of levirate.

Table 1 REASONS FOR THE PRACTICE OF LEVIRATE

Reasons for levirate	Men		Women		Total	
	(%)	(f)	(%)	(f)	(%)	(f)
Care for widow and children	21.5		11.5		33.0	(37)
Satisfy the customary requirements	20.4		26.0		46.4	(52)
Wife married to lineage / keep name of the deceased	8.0		5.4		13.4	(15)
Individual's wish / inherit property	0		7.1		7.1	(8)
Total	50	(56)	50	(56)	100	(112)

From table 1, it is evident that almost half of the respondents (46%) believed that people enter into leviratic unions in order to fulfil the customary requirements pertaining to their lives as widows and brothers-in-law. About 56% of those who gave this reason were women. They said that entering into a leviratic union is an important customary requirement as it "opens the way" for one's children and grandchildren. It "opens the way" because it leaves the

children free to engage in other equally important rituals in the community. Non-practice of levirate presupposes that "all the ways have been closed" - it implies a self-imposed sanction that militate against participation in any communal function.

Data obtained through in-depth interviews and focused group discussions revealed that the most important reason behind the practice of levirate is the need for a widow to perform all the rituals pertaining to the death of her husband (*Tieko msiro (*or *Tieko Kwer) mar dichwo)*. This custom requires that a widow engages in a ritual sexual intercourse with a brother (real or classificatory) of her deceased husband. The first sexual intercourse is important in the lives of both the brother-in-law and the widow. It is important because improper practice, it is believed, can spell doom for both partners as well as their families of procreation (This issue will be revisited later in the chapter). However, proper practice means that the "way is open" for the widow and her children and she can freely engage in the social activities of the community. The first intercourse determines a lot because, unlike other casual intimate relationships, this is a controlled one where the partners in the leviratic union engage in intercourse only once. The strict practice of the norm demands that the initial sexual union on the material day only involve a "mono-intimacy". Double or more rounds of sex is a taboo and is believed to automatically result in *chira. Chira* is characterized by wasting away of the body as a result of breaking a taboo either by the affected individual or by his or her parents and even grandparents. It is believed by some people to be AIDS, especially because the symptoms of AIDS and those of *chira* are more or less the same. Those respondents who believed that this

kind of *chira* is AIDS validated their claims by arguing that such cases (of *chira)* were present even before *Ayaki* (AIDS) was heard of. Therefore, it is clear that related to levirate are two kinds of *chira,* both of which affect the partners as well as their families of procreation. The first kind of *chira* is one which results from non-practice of levirate while the second one is that which occurs as a result of improper practice of levirate.

The need to care for the widow and the children was also cited as a major reason for levirate among the Luo of Ukwala Division. As indicated in table 1 above, of the 33% of the respondents who gave this reason as a cause of the practice of levirate, about 65% were men while the remaining 35% were women. As is evident, relatively fewer women as compared to men said that they would enter into a leviratic union in order to be cared for or to be assisted in caring for their children. They argued that brothers-in-law rarely offer any meaningful economic support to widows. Such support, if any, is usually there only in the first few weeks of the union. Later, the brothers-in-law either lose interest or simply reduce the frequency of their visits to the widows place (deceased brother's place). Asked why the brothers-in-law often lose interest, most female respondents said that it is usually due to stiff opposition from their wives who do everything possible to dissuade their husbands from sticking in such unions.

In the in-depth interviews as well as the focused group discussions, it was possible to discern the reasons behind the opposition from the wives. The popular view was that even though leviratic unions were common, the majority were characterized by

temporariness. The major reason given for the opposition by wives of brothers-in-law was that they were not only jealous but were also concerned about the welfare of their children. The belief is that in case children are born in a leviratic union and they are brought up well and become successful in life, then the brother-in-law's family (their genitor's family) is most likely to be destroyed - children are most likely to become social misfits. The discussants added that this was one of the major reasons why traditionally only well established men past their middle ages were the ones who could form leviratic unions with widows. They were well established because they were married men (in most cases polygynous) and had many children as well as grandchildren.

Children born in leviratic unions among the Luo are referred to as Ochola or Achola (for boys and girls respectively). It is believed that their success in life can also spell doom for the children of the deceased. This is an open secret and is often alluded to in relevant communal discourses. The very fact that they have a potential to "destroy" their siblings often makes them to be resented by their fellow siblings, especially if they (the "Ocholas") become successful in life - successful at the expense of their siblings. Success here is often measured in terms of the number of children, especially boys born and the degree of their sense of responsibility. All the respondents interviewed could not give a case where both the two groups of children had ever succeeded in life, that is, the children whose genitor is the deceased and those whose genitor is the brother-in-law. Of course both groups of children have a common pater, the deceased, through whom they inherit and trace descent.

Most of the female respondents who said that the main reason for levirate is to care for widows and children happened to be those who had very few children (two or less) and tended to be those who were illiterate or semi-literate. It can be safely claimed that this group of respondents highly value the traditional definition of a family where absence of a male head means an incomplete family.

The majority of the respondents who said that levirate helps in caring for widows and children were men. They argued that there are some roles that only men can perform such as "changing" the house (building a new house for the widow or *loko ot*) and, of course catering for the procreative needs of the widow. This entails "keeping" her so that she does not "walk outside" (*wuotho oko mar*) the marriage relationship. It was difficult to tell why the reason of levirate being necessary in order to care for widows and children was given by a significantly greater number of men than women. However, a possible explanation is that most men believe that women and children cannot run a family without the guidance of a man. They also believe that if a brother-in-law does not enter with a widow into a leviratic union then chances are high that some "alien seed" (*koth nyithindo magalagala*) can be brought into the lineage by the widow.

Other low frequency reasons given as being responsible for the practice of levirate by the Luo of Ukwala Division included the need to keep the widow in the lineage and to keep the name of the deceased alive (13%) and the desire to inherit the deceased's property (7%). In-depth interviews revealed that keeping the name

of the deceased alive is very important for the Luo as it puts one in a state of personal immortality. As long as the deceased is still remembered he is immortal. This immortality is externalised in the physical continuation of the individual through procreation. By saying that the widow is married to a lineage, the respondents were implying that the widow should form a leviratic union with a brother of her deceased husband who will keep her in the lineage - unlike if she were to be married to a person of her own choice outside the lineage. These two reasons given as being responsible for levirate (that is, the need to keep the name of the deceased alive and the fact that a widow is married to a lineage) were given by slightly more men than women. A possible explanation for this difference is that some women, especially those with some formal education, strongly believe that their marriage relationship is only limited to their husbands and does not extend to other relatives, especially in as far as conjugal rights are concerned.

The desire to inherit the deceased's property was also given as a reason for levirate. The respondents stated that practising levirate was an individual's own wish as he/she cannot be forced into it. The respondents who gave this reason were mainly women. They further asserted that some men enter into leviratic unions in order to lay claim to the property of the deceased and that some brothers-in-law do scramble among themselves in order to join widows in leviratic unions so that they can have access to the property left by their deceased brothers. Such property, in most cases, is land, but at times if the widow is self-reliant - especially if she is engaged in salaried employment, brothers-in-law tend to out-do each other in their quest for the widow. This reason which

portrays the brother-in-law as an opportunist was given by women who think that levirate is an outdated practice. Most of these respondents had completed at least nine years in school. Because they tended to be economically self-reliant, they thought that levirate is a practice whose significance had been overtaken by events. No male respondent said that some men practise levirate to inherit the property of the deceased. This is probably because either they do not want to reveal the evil intentions, if any, of some of the members of their gender or that such cases, if any, are few and far-in-between and, therefore, of little significance.

In order to know whether age also affects an individual's perception of levirate, it became necessary to assess whether the variable determines an individual's tendency to engage in levirate. Table 2 below shows the cross-tabulations.

Table 2 AGE AND TENDENCY TO PRACTICE LEVIRATE (even if it makes one vulnerable to infection)

Age group	Not at all		May be		Very much		Total	
	%	(f)	%	(f)	%	(f)	%	(f)
21-35	21.4		10.7		4.5		36.6	(41)
35 - 45	14 3		18 7		11.6		44.6	(50)
46 - 55	1 8		1.8		6.2		9.8	(11)
> 56	0.9		2.7		5.4		8.9	(10)
Total	38.4	(43)	33.9	(38)	27.7	(31)	100	(112)

From the table, it is discernible that over 60% of respondents who are 56 years and above said that they can practice levirate even if it were to be proved to them that the custom can make one contract HIV/AIDS virus. The fact that the majority of the respondents in this category were aware that it makes them vulnerable to infection by HIV/AIDS virus shows how difficult it

might be to change the attitudes of older people concerning their customs. To them levirate is germain to the survival of the community and non-practice can only spell doom. The few people in this category who said that they could not practise levirate were those who said that they were saved and believed that customs such as levirate which are contrary to the teachings of their religion have no place in their lives.

Among those in the age group of between 46 and 55 years, only 18% said with confidence that they would not engage in levirate if it were to be proved to them that the custom spreads AIDS. At the same time, over 63% of the respondents in the same age-group said that they would very much practise levirate even if it spreads AIDS. Once again, like for those who were over 56 years old, it is evident that a life-long tradition cannot be simply discarded because of a threat that might be having several alternative explanations.

We can also see from the table (table 2) that only 26% of those respondents in the 36-45 years age-group and only 12% of those in the 21-35 years age-group said that they would enter into leviratic unions even with the knowledge that levirate can spread AIDS. At the same time, 32% and 58% of respondents in the two groups respectively would not practise the custom if it were proved to them that it could make them vulnerable to HIV/AIDS virus infection. From the figures, it is clear that an individual's health in these two age groups (21-35 and 36-45 years) is most likely to override other considerations, such as, the importance attached to the practice of levirate. Alternatively, it can be argued that because they have not lived long within that particular culture (compared to

respondents in the 46-55 and over 56 years age groups) they do not understand the significance of such practices as levirate and, therefore, are most unlikely to practice the custom if they perceive it to be a threat to their health.

From the foregoing analysis, it can be safely claimed that perception and / or tendency to practice a custom is to some extent influenced by a person's age and, by extension, social standing in the society. One can further argue that the more the number of years one has experienced a custom being practised the greater the chances of him or her engaging in the practice of that custom. It is also logical to claim that the greater the degree of external influence on an individual's life the lesser the degree to which he or she is tied to his or her community's traditional customs. External influence in this context include such variables as education and interpersonal interaction with people form different cultural backgrounds. It is the researcher's contention that relatively younger people (those in the 21-35 and 36 - 45 years age-groups) have come into contact with more people from different cultural backgrounds (for instance, in school) as well as literature on different people's lifeways than those who are relatively older (those in the 46 - 55 and over 56 years age groups). Granted that this contention to a large extent holds, it can then be argued that the external influence makes the younger individuals to value some practices different form those provided by their traditional cultures (The term "traditional" in this context refers to longevity in the history of the people). This seems to be the main reason why the majority of the respondents in this group (21 - 35 and 36 -45 years age-groups) who were the main target of this research, said that they could not enter into leviratic unions if

they were to be convinced that doing so would make them vulnerable to infection by the deadly HIV/AIDS virus.

Education level of the respondents, as an independent variable, was also cross-tabulated with the variables that measure perception of levirate. Table 3 below shows the general nature of all the other cross-classifications involving education.

Table 3 EDUCATION LEVEL AND PERCEPTION OF REASONS FOR PRACTICE OF LEVIRATE

Education level in years	Reasons for practice of levirate								Total	
	Care for widow and children		Satisfy the customary requirements		Wife married to lineage / keep name of deceased alive		Individuals wish / inherit property			
	%	(f)	%	(f)	%	(f)	%	(f)	%	(f)
None	8		6.3		8		0		22.3	(25)
< 4	6.3		7.1		2.7		0		16.1	(18)
5 - 8	15.2		17.8		0.9		0.9		34.8	(39)
9 - 12	3.6		15.2		0.9		3.6		23.2	(26)
> 12	0		0		0.9		2.7		3.6	(4)
Total	**33.0**	**(37)**	**46.4**	**(52)**	**13.4**	**(8)**	**7.1**	**(8)**	**100**	**(112)**

From the table above, it is observable that 75% of the respondents who have over twelve years of education believed that people, especially men, enter into liviratic unions because they so wish or are interested in inheriting the property left by the deceased. In the same category of respondents (those having over twelve years of education) only 25% said that leviratic unions are formed either to keep the name of the deceased alive (through the children born) or because the wife is married to the lineage and so has to remain there even after the death of her husband by cohabiting with a brother-in-law who stands in for the deceased. The widow in such a relationship does not and cannot make a new marital relationship to the brother-in-law because her marriage to her deceased husband is seen as continuing. The levirate as a custom, therefore, is seen as continuing her original marriage.

It is important to note that the majority of the respondents in the sample with over twelve years of education (post secondary school) were women. No reason could be given for the disparity because the selection was random. In this category no respondent said that levirate is necessary in order to care for the widow and children or that it is done to fulfil the traditional customs. The views of this group of respondents can best be explained not only in terms of education but also economic well-being. Because they have "good" education, and probably relatively good monthly income, they think that brothers-in-law would probably want to join them in leviratic unions because of perceived good life. It should be remembered that it is this group of respondents who also said that brothers-in-law rarely help widows economically. However, because they know that it might be difficult to get marriage partners

in a bid to remarry, possibly because of advanced age, some of them believed that levirate is there to keep the widow within the lineage because as a wife she is married to the lineage. This group of respondents does not see the need to fulfil the traditional customs as a reason behind the practice of levirate. This can be explained by the fact that their education has exposed them to some other cultures which have influenced their views about traditional customs. They perhaps do not attach any significance to the popular belief that non-practice of levirate is tantamount to breaking a taboo for which ultimate punishment is death.

For the majority of the respondents (68%) who have secondary school qualification (9-12 years in school) levirate seem to be underpinned by the need to fulfil traditional customs. Only 15% of respondents in the group say that its main purpose is to care for widows and children. An equal percentage is accounted for by the response that some people enter into leviratic unions in order to inherit property of the deceased. Evident among this group of respondents is the view that levirate is a routine - the fulfilment of customs. They see non-practice as being contrary to the norms and perhaps punishable by some supernatural beings.

For those respondents who completed between five and eight years in school (upper primary school education), the overwhelming majority, 51% and 43%, said that levirate is underpinned by the need to fulfil the customs and to care for the widows and children respectively. The same case applied for those who have less than four years in school (lower primary school education) where only 17% attribute levirate to the need to keep the name of the deceased alive and the fact that since the wife is

married to the lineage she has to stay there throughout her life by entering into a leviratic union with a brother-in-law in a leviratic union. The remaining percentage is almost equally shared between the need to care for both widow and the children (39%). For those who have no formal education no clear pattern is evident. However, it is discernible from the table that none of them believed that leviratic unions are formed so that the brothers-in-law can inherit the property of the deceased, as was claimed by the majority of those having post-secondary school education.

From the foregoing analysis, one can safely state that education seems to influence an individual's perception of levirate in Ukwala Division of Siaya District in Western Kenya. The majority of those who have post-secondary school education believed that leviratic unions are formed with intent to inherit the property of the deceased. This, they claim, is what drives brothers-in-law in joining widows in leviratic unions. At the same time they argued that for widows,. forming entering into a leviratic union is their wish as they cannot be forced into such unions. On the other hand, those who have secondary school education, as well as those who have upper primary school education, tended to believe that leviratic unions are formed as a customary requirement whose non-practice is not only contrary to community members' expectations but is also tantamount to breaking a taboo. These two groups also believed that levirate is practised so as to care for widows and children. Also, it is clear that none of those who have no education, as well as those who have lower primary school education, believed that levirate is practised in order to inherit the property of a deceased brother.

Data obtained from focused group discussions confirmed the views held by those who have both upper primary and secondary school education, that the major reasons for levirate are to fulfil the customs (perform the rituals associated with the death of a married man who has left a widow and children (*jadipo*) and to care for the widow and the children. The latter reason, as already stated, involves standing in for the deceased by his brother (real or classificatory) in all the communal and family functions, as well as catering for the procreative needs of the widow.

In order to further assess the relationship between social status and perception of levirate, the respondents' marital statuses were cross-tabulated with their views on residence rules and patterns that are followed once a leviratic union is formed. The table below shows the nature of the cross-tabulations.

Table 4 MARITAL STATUS AND PERCEIVED IDEAL RESIDENCE PATTERNS IN LEVIRATIC UNIONS

Marital status	Residence patterns in levirate unions										Total	
	Virilocal		Viribrolocal		Neolocal or viribrolocal		Continuous-separate		Neolocal			
	%	(f)	%	(f)	%	(f)	%	(f)	%	(f)	%	(f)
Single	2.7		4.5		2.7		0.9		0.9		11.6	(13)
Married (monogamous)	2.7		5.3		6.2		34.8		3.6		52.7	(59)
Married (polygamous)	1.8		3.6		7.1		14.2		1.8		28.6	(32)
Widow	0.9		0		4.5		0.9		0		6.2	(7)
Widower	0		0		0		0.9		0		0.9	(1)
Total	**8.0**	**(9)**	**13.4**	**(15)**	**20.5**	**(23)**	**51.8**	**(58)**	**6.2**	**(7)**	**100**	**(112**

Residence rules are norms which govern where people should live and are that part of the conceptual system of the culture which deals with appropriate residence behaviour. Actual patterns of residence sometimes go contrary to these norms. As is shown in table 4, more than 50% of the respondents believed that both the partners in a leviratic union (the widow and the brother-in-law) can continue sticking to their previous residences but can only occasionally meet (referred to in the table as continuous-separate residence). The in-depth interviews showed that it is customary for the brother-in-law to pay a visit to the widow and then go back to his home. A major deviation in response is, however, seen in the response obtained from those respondents who were still single, the majority of whom (61%) said that the partners in a leviratic union can either reside at the man's (brother-in-law's) place or at the deceased's place. Their deviation in response can be accounted for by the fact that they have not been relatively as active in participation in the cultural milieu as are the other groups of respondents. They are only exposed to the commonsensical or shallow aspects of their culture. Because they are single, they are still believed to be young, hence of a relatively lower status. they cannot be contacted for advice and, therefore, are also excluded from the crucial aspects of their culture.

The other responses seem not to be significant save for the fact that the partners can reside either at a new place (neolocal) or at the deceased's place ("viribrolocal"). "Vribrolocal", which in this context means man's brother's place, is a term coined by the researcher to refer to a situation whereby the brother-in-law moves to the widow's place of residence, which is the deceased's home. On

the other hand, neolocal residence in this context refers to a new home established for the widow by her partner in the leviratic union. The brother-in-law may not necessarily reside there permanently but can frequent it just like his own home.

Generally, from the picture depicted by the data, one can safely conclude that the way a married member of the community perceives levirate is somehow different from the way an unmarried person understands the practice. Once again this is a clear indication of the influence of an individual's social position in a community on his or her perception of a cultural practice.

Like marital status, monthly income was also seen as a strong indicator of an individual's position in the community. The table below shows a cross-classification involving monthly income and perceived reasons for the practice of levirate.

Table 5 MONTHLY INCOME AND PERCEIVED REASONS FOR PRACTICE OF LEVIRATE

Monthly income (in Ksh)	Reasons for practice of levirate								Total	
	Care for widow and children		Satisfy the customary requirements		Wife married to lineage / keep name of deceased alive		Individuals wish / inherit property			
	%	(f)	%	(f)	%	(f)	%	(f)	%	(f)
< 3000	29 4		34.8		10.7		1.8		76.8	(86)
3,001 - 6.000	3.6		11.6		1.8		2.7		19.6	(22)
6.001 - 10,000	0		0		0.9		2 7		3.6	(4)
Total	**33.0**	**(37)**	**46.4**	**(52)**	**13.4**	**(15)**	**7.1**	**(8)**	**100**	**(112)**

Monthly income for the respondents surveyed was directly proportional to education level. Only those who had post-secondary education said their monthly income ranged between 6,000 - 10,000 shillings. As is evident in table 5, almost all of them (those who earn between 6,000 and 10,000 shillings) said that some people enter into leviratic unions so as to inherit property of the deceased. The majority of respondents (77%) said that their monthly income was less than 3,000 shillings. Most of them said that levirate is practised as part of customary requirements or as a way of caring for widows and children (35% and 29% respectively). However, the majority of those whose monthly incomes are between 3,000 to 6,000 shillings strongly believed that levirate is underpinned by the desire to fulfil traditional customs.

The variability in perception of reasons for the practice of levirate vis-à-vis monthly income strongly points to the assumption that an individual's social and economic position in Ukwala Division of Siaya District is most likely to determine his or her perception of a cultural practice such as levirate. Even holding a leadership position in the community influences perception as is evident in table 6 below.

Table 6 LEADERSHIP POSITION AND REASONS FOR THE PRACTICE OF LEVIRATE,, IF ONE IS AWARE THAT IT CAN LEAD TO INFECTION BY HIV/AIDS VIRUS

Leadership	Why practice levirate if it can spread AIDS								Total	
	Satisfy the customary requirements		Fear of punishment from the deceased		Will practice appropriately		Catching AIDS is like an accident			
	%	(f)	%	(f)	%	(f)	%	(f)	%	(f)
Leader	24.6		8.7		2.9		0		36.2	(25)
Not a leader	27.5		11.6		13.0		11.6		63.8	(44)
Total	**52.1**	**(36)**	**20.3**	**(14)**	**15.9**	**(11)**	**11.6**	**(8)**	**100**	**(69)**

An individual's position as a leader in church, village, school, welfare group or any other communal group to some extent influences his or her perception of levirate. For instance, when asked why they thought they could practise levirate even if it spreads AIDS, none of the respondents who held some leadership position said that they could do so because contracting HIV/AIDS virus is like an accident, a response given by over 18% of those respondents who held no leadership positions in the community. However, for the remaining three responses, that is, the need to fulfil the customary requirements, fear of punishment from the deceased, and confidence in one's ability to practice levirate appropriately (for those who believe AIDS is a result of breaking a taboo), there is no significant variability in response between those who held leadership positions and those who did not.

That the socio-economic position of an individual influences his or her perception of levirate in Ukwala Division of Siaya District in Western Kenya is no secret, as is brought out in the foregoing analysis. However, it is important to note that the influence is not unidirectional for all the respondents. Individuals who are educated (up to post-secondary level) and those who have high monthly income (between 6,000 and 10,000 shillings) may be safely considered as holding a higher socio-economic position compared to those who have no education and whose monthly income is very low. Nevertheless, the former's perception of levirate may not necessarily be similar to those of aged people who may also be considered as holding a higher status compared to the relatively young people. Whereas the aged may see levirate as necessary in order to keep the name of the deceased alive and the widow within

the lineage by offering a brother-in-law to care for her, the educated and those whose monthly incomes are high hold that entering into a leviratic union is simply an individual's wish and that some people form enter into such unions in order to benefit economically by inheriting the property of the deceased or by channelling the proceeds from the deceased's assets to their (brother-in-law's) own families. This, they believe is done at the expense of the deceased's family, which might in the end be left poorer.

CHAPTER FIVE

5.0 Leviratic unions and vulnerability to HIV infection

The major reason for this research was to determine the relationship between the practice of levirate and vulnerability to infection by HIV/AIDS virus. As such, one of the hypotheses to be tested was that the engagement in a leviratic union tends to increase the chances of an individual contracting the HIV/AIDS virus. First it was imperative to know whether the two, that is, leviratic practice and AIDS were known to the population of interest. The researcher, therefore, surveyed a representative sample with a view to determining not only the prevalence of the practice but also the awareness of the respondents as to the presence of the dreaded disease - AIDS. As already indicated, the practice of levirate is not uncommon in Ukwala Division as almost every widow has, in one way or another, been involved in a leviratic union.

On the other hand, all the discussants in the four focused group discussions as well as all the key informants interviewed said that most people in Ukwala Division, if not all, knew of the presence of a disease called AIDS. For instance, they said: "Everybody, including young children, know of the presence of *Ayaki* (AIDS)." And, of the 112 respondents surveyed 111 (99%) said that they had heard of AIDS, which is given several descriptive names in Luo language. Such names include *nyarano* (that which wastes away the body), *ayaki* (that which takes away flesh from the owner), *tel-ta-luwi* (lead the way (die) I shall follow you - in reference to those in intimate relationships), *cham-ringo-iwena-choke* (eat the meat and leave for me the bones), *ayomb gok* (one

which makes the shoulders taller), and the like. The only respondent who said that she had not heard of AIDS was an old lady who claimed that what she knew was that people nowadays either do not know or disregard their customs, thereby breaking many taboos, a factor which she said contributed to the presence of *chiche* (plural for *chira*) which were killing many people.

At the same time, almost all the respondents (99%) knew that AIDS was a deadly disease, arguing that "all diseases are serious and can kill". Asked when they first heard of AIDS, 94% of the respondents said that they first heard of AIDS between two and seven years ago. Only 1% said that AIDS has been there since his childhood. This individual believed that AIDS is *chira*. Likewise, only 5% of the respondents said that they first heard of AIDS about a year ago. Further survey revealed that the majority first heard of the dreaded disease from a friend, a neighbour, a family member or a relative (48%) or over the radio (39%). The other low frequency means through which the respondents first heard of the disease were in chiefs' barazas (5%), church (5%), newspapers (5%), hospital (2%) and in school (1%).

The fact that the majority of the respondents had heard of AIDS and knew that the disease was deadly shows that most people in the study site knew of the disease and the dangers it posed. Granted that levirate is prevalent in Ukwala Division of Siaya District, and that most of the people in the division know about AIDS and how dangerous it is, an attempt to determine the relationship between levirate and vulnerability of its practitioners to infection by HIV/ AIDS virus is, therefore, justified.

As already indicated, levirate in Ukwala Division is associated with the performance by the widow of all the rituals pertaining to the death of her husband (*Tieko msich dichwo).* This custom requires that a widow engages in a ritual sex with a brother-in-law. This ritual intercourse is important for "cutting the banana fibres" *(chodo okola* or *chodo kode).* When a married man dies the widow is presumed to have *okola.* Traditionally the tying of banana fibres around the waist used to be real but nowadays it is simply assumed that the death of a husband "leaves the widow with *okola*". A widow who has *okola* cannot freely interact with certain categories of people. *Okola* can only be "removed" through ritual sexual intercourse - which for the widow, is the first sexual intercourse after the death of her husband. As previously mentioned, *chodo okola* ("cutting the fibres") is a tricky affair as it involves what may be called "mono-intimacy" (or only one round of sex). "Multi-intimacy" as may be practised during the ordinary intimate meetings is forbidden during *lako* as it is believed to result in *chira.* All the discussants, as well as all the respondents interviewed, said that sexual intercourse is a must in levirate - otherwise it is not levirate.

Granted that levirate is prevalent in the division and that unprotected sexual intercourse is mandatory in it, it is not in any way far-fetched to assume that the custom is a risk as far as contracting HIV/AIDS virus is concerned.

From the focused group discussions and in-depth interviews, it was evident that most people knew of promiscuity (*chode*) as the major cause of HIV infection. For instance, one of the discussants

said: "Those who are not promiscuous do not catch AIDS". And among the respondents interviewed, the majority (70%) said that they were aware that AIDS is a sexually transmitted disease. Only 20% believed otherwise, while a smaller number (10%) were not sure. Other perceived causes of AIDS were that it is a punishment from God (3%), a result of breaking a taboo (8%), a result of witchcraft (1%), a result of sharing food and clothes as well as shaking hands (2%), transmitted through condoms and vaccination (2%) and through the use of dirty needles and blood transfusion (4%).

To determine vulnerability to HIV infection, the tendency to practise levirate despite knowledge that it involves sex through which HIV is contracted was cross-tabulated with the belief as to whether levirate perpetuates spread of AIDS or not.

Table 7 TENDENCY TO PRACTISE LEVIRATE EVEN IF IT SPREADS AIDS

Levirate spreads AIDS	Can practice levirate even if it spreads AIDS						Total	
	Not at all		May be		Very much			
	%	(f)	%	(f)	%	(f)	%	(f)
Very much	35.7		28.6		16.1		80.4	(90)
Not at all	1.8		1.8		8.0		11.6	(13)
Not sure	0.9		3.6		3.6		8.0	(9)
Total	**38.4**	**(43)**	**33.9**	**(38)**	**27.7**	**(31)**	**100**	**(112)**

From table 7 above, it can be noted that only 40% of those who know that levirate can spread AIDS can, in fact, not practise the custom. It is also clear that of those who are not sure that AIDS

can be spread through levirate, only 11% cannot practise it if it is proved to them that the custom can spread the disease. The remaining 89% can practise levirate even if they were to be convinced that it can spread AIDS. Given that over 80% of the respondents felt that levirate can spread AIDS through sex, the inherent contradiction between knowledge of the risk involved in levirate and the tendency to practice it can only be explained in terms of other intervening factors. First, among the Luo, as among other ethnic groups in Africa, the social situation to a large extent, defines a person's behaviour. Essentially, this social situation is actually a multiplicity of interacting factors which determine an individual's action. In the case of AIDS and levirate, the knowledge that multiple sex partners can lead to HIV/AIDS virus contraction does not stop an individual from being involved in levirate.

Data obtained from focused group discussions revealed that in one way or another, every widow engages in levirate, although the nature of the engagement differs. The discussants, especially in groups of elderly men and women, argued that it was common knowledge that having multiple sex partners could make one contract HIV, but that alone cannot prevent someone from engaging in levirate. They argued that contracting HIV is like an accident and that God has plans for all people. They said: "If he (God) planned that one will die of AIDS then whether he or she avoids levirate he/she will catch it through some other way". The discussants further stated that those who are said to have died of AIDS have never practised levirate. They said, "People are brought here from outside (towns) when they are already suffering from AIDS - they just come here to die." The popular view among the discussants

was that sick people suffering from AIDS are often brought back home "to 'try' traditional medicine because hospitals have failed to cure them" - they end up dying.

The fact that most of the respondents did not know of any one who has died of AIDS after being in a leviratic union can also explain why they would practice levirate even with the knowledge that sex (which is what entails levirate) can make one contract the disease. Even though 72% of the respondents interviewed said that they at least knew of a person who had died after entering into a leviratic union, they denied that they died of AIDS. Among those interviewed 25% did not know of any one who had died after being in a leviratic union. The remaining 3% were not sure. Of those who had died, over 96% died after sickness. However, they did not die immediately or soon after. The table below shows when those who had died of sickness after being in leviratic unions fell sick.

Table 8 SHOWING WHEN WHOSE WHO HAD DIED OF ILLNESS AFTER FORMING LEVIRATIC UNIONS FELL SICK

When they fell sick	f	%
Less than one month	1	1.3
One year after levirate	6	7.7
1 - 5 years after levirate	11	14.1
Over 5 years after levirate	60	76.9
Total	**78**	**100**

As indicated in the table above, about 77% of those who died after sickness contracted illness after staying in the leviratic unions for a period of over five years, while about 14% became sick

after staying in the unions for a period of between one and five years. Only 9% fell sick within a period of less than one year. In fact in-depth interviews and probes showed that most of the illnesses were ordinary and that most of those who died were either old and thus died of what might be called natural death or some other more convincing reasons were advanced to explain their deaths. Nearly all the respondents denied with a high level of confidence - in fact, almost with absolute certainty - that those who died after being in leviratic unions died of AIDS. This was because, according to them, AIDS cases that they knew of were not similar to the illnesses that resulted in those deaths. They asserted that those were deaths which were easily explained and that the illnesses were with characteristics which were not uncommon.

In order to determine why personal health seemed not to be given priority, the respondents were asked why they would still practise levirate even if they could be convinced that they could contract HIV/AIDS virus through it. The response given by the majority, as shown in the table below, was connected with the need to satisfy customary requirements pertaining to the death of a husband.

Table 9 REASONS BEHIND PRACTICE OF LEVIRATE EVEN IF IT SPREADS AIDS.

Reasons for practice of levirate even if it can spread AIDS	Men		Women		Total	
	%	(f)	%	(f)	%	(f)
Satisfy customary requirements	33.3		18.8		52.2	(36)
Fear of punishment from the deceased	8 7		11.6		20.3	(14)
Practice levirate appropriately	15 9		0		15.9	(11)
Catching AIDS is like an accident	8.7		2 9		11.6	(8)
Total	66.7	(46)	33.3	(23)	100	(69)

From table 9, it is discernible that most of the respondents who said that they would practise levirate so as to fulfil the traditional customs even though the practice might make them contract the HIV/AIDS virus were men, while most of those who would practise it because of fear of punishment from the deceased were women. From the in-depth interviews it was found that it was not customary for brothers-in-law to let widows "loiter around" - it is their obligation to keep them within the lineage. Likewise, widows fear punishment from their deceased husbands and, as such, they have to practise levirate. They stated that "dead people have eyes and they see". They further said that it is not uncommon for some women to "loiter around" and even "remarry" but, at the end, they go back to their original marriages. They stated that even if a widow who had "counted several husbands" (casually cohabited with several non-lineage men) dies, the corpse is taken back for burial at her original husband's place. On the other hand, men who knew that levirate entails having multiple sex partners but still would practise it because they fear punishment from the deceased stated that the dead brothers are only dead physically but are alive

spiritually, and can punish the living for letting their families disintegrate. The family can disintegrate if the widow is not kept within the lineage through a leviratic union.

On the contrary, those who believed that AIDS is *chira* said that an AIDS case can result only if levirate is not practised appropriately. In this case appropriate practice of levirate include such things as "mono-intimacy" when "cutting the banana fibres" and not entering into a leviratic union with a widow if the deceased was "older" than the brother-in-law. It is important to note that all respondents who said that they would practise levirate appropriately were men, who also formed the majority of those who said that AIDS is *chira*. So for them, they can practise it even if it spreads AIDS because they can do it appropriately.

Another section of the respondents, mainly men, insisted that any claim that engagement in a leviratic union can make one contract HIV/AIDS virus cannot stop them from practising it because to them catching AIDS is like an accident - it is something that cannot be prevented Some of them were reluctant to accept that AIDS exists. They said, "It is only men whose "tongues are heavy" who say that there are diseases like AIDS and *ebola* " The "tongues are heavy" because they do not know how to seduce women. This group of respondents see polypartnerism as a virtue.

In order to further determine the chances of an individual in a leviratic union contracting the HIV/AIDS virus the respondents were asked how they protect themselves or how they can protect themselves while they engage in polypartnerism. A variety of responses were obtained such as use of condoms, being faithful to

spouse(s), prayer and appropriate practice of levirate (observance of taboos). Some respondents said that they do nothing to protect themselves. The table below shows the responses.

Table 10 PROTECTIVE MEASURES AGAINST AIDS

Individual protection in polypartnerism	Can practice levirate even if it spreads AIDS						Total	
	Not at all		May be		Very much			
	%	(f)	%	(f)	%	(f)	%	(f)
Condoms	0		1.8		0		1.8	(2)
Prayer	0		1.8		0		1.8	(2)
Faithfulness	28.6		14.2		6.2		49.1	(55)
Observe taboos	0		0		2.7		2.7	(3)
Nothing	9.8		16.1		18.8		44.6	(50)
Total	38.4	(43)	33.9	(38)	27.7	(31)	100	(112)

Before going further, it is perhaps important at this point to take note of the fact that in levirate, the act of "cutting banana fibres (*chodo okola)*" where "mono-intimacy" is the norm, a condom cannot be used. Use of a condom would presumably mean that the widow is still "having *okola*".

From table 10 above, it appears that the major protection measure resorted to by many respondents is faithfulness to spouse(s) (49%). However, it is worth noting that 58% of those who said that they are faithful to their spouses are also the ones who claimed that if it is proved to them that engagement in a leviratic union can make one become seropositive, then they would not practise it. Once again, it is worth remembering that popular view among most respondents, especially in focused group discussions, was that almost every widow practises levirate. Discussants cited examples of widows who refused to enter into leviratic unions with their

brothers-in-law claiming that they were saved and preferred to live the rest of their lives single but ended up being pregnant.

From the same table, it can be noted that 42% of the respondents who resort to faithfulness as a protection measure say that they cannot rule out practising levirate even if doing so is risky in as far as infection by the HIV/AIDS virus is concerned. It is therefore, logical to say that if at least one of the partners in most of the leviratic unions were to be seropositive then many people would die. This is because the majority of those who enter into leviratic unions with widows are married, and in most cases, polygynous. However, most discussants argued that those who die of AIDS in Ukwala Division are either men who live in urban areas and come back when already infected or women whose past lives have been characterized by promiscuity or have worked as barmaids. To them, there are other causes of the spread of AIDS in the division.

In Ukwala Division, it seems that most people do absolutely nothing to protect themselves form catching the virus. As can be observed in table 10 above, a significant percentage (44.6%) of the respondents do absolutely nothing to protect themselves. In fact the majority of respondents in this category also said that nothing, not even AIDS threat, can deter them from practising levirate. Also evident in the table is the fact that 22% of those respondents who do nothing to protect themselves said that they cannot practise levirate if doing so can expose them to infection by the HIV/AIDS virus.

Therefore, it is not in any way far fetched to claim that if the majority of widows are seropositive then the probability of their partners catching the virus is well above 0.6 - a fact that can be

interpreted to mean that levirate will soon significantly reduce the rate of population growth in Ukwala Division. However, it cannot be said with any significant level of confidence that the majority of widows are seropositive. And even if one of the partners in a leviratic union dies, it is difficult to point a finger because it might have been the man who was seropositive before the union. In such a situation then chances of an individual in a leviratic union catching HIV/AIDS virus are not in any way greater than those of individuals engaging in other practices which sanction sexual intercourse. Nevertheless, engagement in a leviratic union makes one vulnerable to infection by the virus.

Prayers and observance of taboos were also given by some respondents as means of protection against infection. Less than 2% of the respondents said that they resort to prayers to protect themselves. These were respondents who claimed that they were staunch Christians but were not sure whether they could practise levirate. Also, a further 1.8% said that they observe taboos so as not to catch the virus. These were the respondents who felt that AIDS is *chira* and results from breaking a taboo. According to them, observing taboos through appropriate practice of levirate would ensure enough protection form AIDS. Since these latter reasons, that is prayers and observance of taboos, cannot in any way assure protection from AIDS, the percentage of those vulnerable to infection is further increased.

In order to further determine whether levirate can perpetuate the spread of AIDS, the respondents were interviewed as to whether they would like to have children in the unions or not. Their responses are tabulated below.

Table 11 INDIVIDUALS WHO WOULD LIKE TO HAVE CHILDREN IN LEVIRATIC UNIONS

Would like to have children in leviratic union	Men		Women		Total	
	%	(f)	%	(f)	%	(f)
Yes	17.0		7.1		24.1	(27)
May be	17.0		17.0		34.0	(38)
No	16.0		25.9		41.9	(47)
Total	50	(56)	50	(56)	100	(112)

The cross-classifications in table 11 show that only 24% of the respondents would want to have children in leviratic unions, while 34% are not sure whether they would want to have children or not. A big number (42%) wouldn't like to have children in the unions. The implication of having children in leviratic unions is that if one of the partners is seropositive then chances are high that more than one person will be infected, that is, the partner and the children. From the table it is clear that more than twice as many men as are women would want to have children in leviratic unions. Most women said that they wouldn't want to have children because that would mean additional burden in terms of upbringing. Most of the women who said that they wouldn't mind having children in leviratic unions were relatively young ones who stated that if the late husband left them with no children, or if they had only one child at the death of their husbands, then there would be no harm in having more in leviratic unions.

Granted that having children in a leviratic union if one of the partners is seropositive would mean infection for at least two individuals, it is to some extent logical to say that the custom can perpetuate the spread of AIDS in the division. However, since having children in a leviratic union is not mandatory, and since a

significant number of respondents wouldn't want to have children in leviratic unions, it is safe to say that chances of levirate spreading AIDS through children born are not very high. Nevertheless, that possibility cannot be ruled out.

Table 12 TENDENCY OF THOSE WHO CAN PRACTISE LEVIRATE EVEN IF IT SPREADS AIDS TO HAVE CHILDREN

Prefer having children in a leviratic union	Can practise levirate even if it spreads AIDS						Total	
	Not at all		May be		Very much			
	%	(f)	%	(f)	%	(f)	%	(f)
Yes	0		6.2		17.9		24.1	(27)
May be	0		25.9		8.0		34.0	(38)
No	38 4		1.8		1.8		41.9	(47)
Total	38.4	(43)	33.9	(38)	27.7	(31)	100	(112)

In table 12 it is shown that all those respondents who said that they wouldn't practise levirate if it can make them become seropositive (38.4) also said that they wouldn't like to have children in leviratic unions. At the same time, the majority (66.2%) of those who would very much practise levirate even if it increases their chances of contracting HIV/AIDS virus also said that they would like to have children in those unions. This shows that perhaps the motive behind having children in leviratic unions for some people is to increase the number of their own offsprings. It is worth noting that sometimes leviratic unions turn into "widow inheritance" - especially if the wife moves to the man's place.

By and large, if one of the partners in a leviratic union is seropositive and he or she is interested in having children in that union, then one can safely conclude that engagement in a leviratic union can significantly perpetuate the spread of AIDS in Ukwala

Division. If it is the widow who is seropositive and she is still young, then any act on her side to satisfy her procreative needs, be it remarriage or living single (characterized by casual intimate relationships) is not in any way safer than entering into a leviratic union.

The danger of infection by HIV/AIDS virus is not so much in levirate itself but rather in the modern way of its practice. In both the in-depth interviews and focused group discussions, the true picture of levirate as is currently practised in Ukwala Division was portrayed. Traditionally, levirate was left for the elderly and those who were well established. They were well established because they had not only married and had children but had also established their own homes. Chances of any bad behaviour - behaviour contrary to the norms of the community - interfering with their families were very slim. Thus levirate, being a tricky affair, was left for the elderly as they stood to lose little if by chance anything went wrong such as if a taboo was broken. They were the ones who were supposed to practise levirate because they were also believed to be well versed in the customary requirements of the community and, therefore, knew how to practise levirate without causing much damage either to themselves or to their deceased brothers' families.

The leviratic custom, as it is currently practised by most people in Ukwala Division, is risky as far as vulnerability to HIV infection is concerned. As repeatedly mentioned, the core of levirate, that is, "cutting the banana fibres" (*chodo okola*) and by extension building a new house for the widow (*loko ot*) is feared. Because of the risk involved, brothers-in-law are reluctant to do it. As such, some mentally retarded people or social misfits are often

paid to "cut the fibres" before a brother-in-law can step in. In almost all the villages, such *jolako* ("fibre-cutters") are very few but well known. When a person dies, it is not unusual to hear people saying that a specific *jalako* should be brought to "change the house" (build a new house for the widow). Because there is a growing tendency on the part of widows to kick out *jolako* soon after the construction of a new house, they (*jolako*) nowadays "change the house slowly" so as to increase the number of days spent with the widow. They do this partly because they are not well established, so that finding a place to eat is a problem. To them, therefore, the widow is not only an intimate partner but also a reliable food provider. However, they are eventually "divorced" or move to another place to "cut the fibres". It is also not uncommon to find *jolako* entering into leviratic unions with two or more widows at the same time. It is, nevertheless, important to note that not all widows do pass through the "fibre-cutters".

After the "fibre-cutter" has been "divorced", a brother-in-law steps in to form a socially recognised though ritually insignificant leviratic union with the widow. The very fact that the "fibre-cutters" are always on the move from one widow to another makes it difficult not to suspect any claim that they are not seropositive. Assuming that the majority of the "fibre-cutters" are seropositive and assuming further that they perform the ritual for at least half of the widows who practice levirate (as most discussants seemed to suspect), it becomes somehow logical to say that the practice of levirate increases the chances of an individual contracting the HIV/AIDS virus.

The responses obtained as to the causes of AIDS also show that quite a number of people in the division are vulnerable to infection. See table 13 below.

Table 13 PERCEIVED CAUSES OF AIDS

Perceived causes of AIDS	Men		Women		Total	
	%	(f)	%	(f)	%	(f)
Multiple sex partners	27.7		41.0		68.7	(74)
Chira (Breaking a taboo)	11.6		3.6		15.2	(17)
Dirty needles and blood transfusion	2.7		0.9		3.6	(4)
Punishment from God	1.8		0.9		2.7	(3)
Condoms and vaccination	1.8		0		1.8	(2)
Food, clothes and shaking hands	1.8		0		1.8	(2)
Witchcraft	0.9		0		0.9	(1)
Do not know	3.6		1.8		5.4	(6)
Total	50	(56)	50	(56)	100	(112)

As indicated in table 13 above, a significant number of respondents (15%) believed that AIDS is *chira.* This implies that chances are high that 15% of the population who feel that they are well versed in the customs of the community will practice levirate indiscriminately - oblivious of the fact that HIV/AIDS virus is sexually transmitted. As if that is not enough, an additional 8% believed that HIV can only be contracted through injection by dirty needles, through blood transfusion, through vaccination or through the use of condoms. To this lot unprotected sex seems to be safe. The views of this group of respondents were represented in one of the focused group discussions where discussants denied that AIDS was *nyach* (STI - sexually transmitted infection). They argued that

nyaye (STIs) do affect only one part of the body - the reproductive organs - and can be cured. They said that, "This disease which "eats" the whole body is not *nyach*". The belief that AIDS is a result of witchcraft (*ndagla)* was also held by 1% of the respondents. This group is also most likely to continue with its sexual behaviour which may not be very safe - thus increases chances of HIV infection.

In spite of the fact that some people saw no relationship between polypartnerism and infection by HIV/AIDS virus, an overwhelming majority of the respondents (69%) knew that having sex with an HIV positive person was the major cause of the spread of AIDS. They said that having multiple sex partners was risky as it is through sexual intercourse that HIV/AIDS virus is transmitted. To this can be added the group of respondents (2%) who said that any contact with a seropositive individual such as sharing clothes,, food and shaking hands can make one contract HIV/AIDS virus. It is a fact that their claim is not true - save for cases where there is some form of bleeding and, therefore, blood contact. However, the very fact that they fear interacting with the seropositive individuals can to some extent reduce their chances of being infected. It must be noted, though, that this group is not in any way safer as they have to wait for full-blown cases of AIDS. Since the incubation period for HIV in some people can be as long as over five years, this group is vulnerable as they can engage in unprotected sex with healthy-looking HIV-positive people. Granted that an individual can be seropositive and still look healthy, the respondents who hold the view that HIV is contracted through non-intimate physical contact

with an AIDS patient are as vulnerable as those who involve themselves in unprotected sex.

Generally, given the picture portrayed in the foregoing analysis, it is logical to conclude that levirate, to some extent, can increase the spread of AIDS in Ukwala Division. This is especially so if it is remembered that those who form leviratic unions (brothers-in-law) also have other sexual partners (who include their wives) and that children who are seropositive can be born in such unions.

CHAPTER SIX

6.0 PERSISTENCE OF LEVIRATE AND THE CHANGING DEVELOPMENT NEEDS

6.1 THE INSTITUTION OF MARRIAGE AND PERSISTENCE OF LEVIRATE

Before looking at the relationship between the Luo definition and understanding of marriage as an institution on the one hand and the persistence of levirate in Ukwala Division on the other, it is perhaps necessary to first find out what marriage means to them. Among the Luo in general and those of Ukwala Division in particular, marriage seems not to be an individual but a communal affair, that is, it has to be endorsed by the community. For marriage to be recognised as normatively prescribed by the society it has to involve the relationship between at least two persons who are engaged in a socially definable economic and sexual rights, besides other duties that they owe each other or others. Marriage provides the primary mechanism through which offsprings are recognised as legitimate and accorded full status as normal members of the society, and is presumed permanent.

In three of the four focused group discussions held in the field, popular view among discussants was that marriage is a relationship between groups rather than between individuals. They emphasized this by stating that the contract established by marriage does not necessarily end with the death or withdrawal (for instance, through divorce) of either partner. And this is why, according to them, there are marriage related practices such as levirate, sororate, widow inheritance and others in a community. Since marriage

contract involves the group, the group replaces the member who dies.

Marriage among the Luo of Ukwala Division is seen as entailing not only a sexual relationship but also a form of exchange involving a transfer of rights and obligations between the contracting parties. A man and his lineage gains economic rights over a woman's labour when he marries her. He reciprocates by giving the woman's lineage gifts in form of bridewealth. Through bridewealth, the husband and his lineage secures in a socially recognized way his wife and any other children they may have. Bridewealth therefore marks the transition of rights from one group to the other. As is the case in Ukwala Division, bridewealth also establishes genetrical rights, that is, the rights a man has in the children born by his wife. This is why most respondents said that in the few occasions where divorce is allowed (for instance due to witchcraft), the bridewealth returned is measured in terms of the number of children (especially boys) born. The greater the number of children the smaller the amount of bridewealth returned. Nonetheless, the undesirability of divorce and, therefore, remarriage, was expressed by the respondents who argued that it is not in order to "take cows twice to a girl's village". It is "taking cows twice" because cows are the standard form of bridewealth and remarriage presupposes that the woman's lineage has to receive bridewealth form the new husband's lineage. The respondents said that the permanence, and, therefore, the continuation of marriage (even at the death of a husband) is determined by the fact that bridewealth had been given out by the husband's lineage and not received back, and by the fact that a widow is cared for by a

brother-in-law who cohabits with her in a leviratic union. The definition of marriage as a basic mechanism for reproduction also attest to the fact that widows cannot remarry since this means separation from children.

It was the assumption of the researcher that the persistence of levirate in Ukwala Division is to a large extent dependent on the Luo definition and understanding of the institution of marriage. Perhaps the question to answer is whether levirate has persisted or not.

As previously mentioned, over 85% of the respondents surveyed said that death of a male partner in a marriage does not mark the end of a marriage relationship. The popular view in discussion groups was that levirate has persisted and is widely practised. Traditionally, the Luo, who are patrilineal, legally allowed a woman two choices upon the death of her husband. She may remain in her deceased husband's homestead in a leviratic union or she may return to her patrilineal home to remarry, provided the bridewealth is given back. Even though the second option is legally possible, most discussants stated that it is not realistic. They said that returning bridewealth was not only difficult and inconvenient but also undesirable. Nowadays some few widows opt to remain single and live in the home of the deceased without entering into a leviratic union.

As indicated in table one (page 45), the need to care for widows and children account for 33% of the reasons responsible for levirate. This shows that the children belong to the man's lineage and the widow, even if she were to go and remarry, would leave her

children in the deceased's lineage. However, since such separation would be against the interest of children, the lineage provides a replacement for the deceased husband and father to the children and ensures that the widow stays and cares for the children. Likewise, about 13% of the respondents said that since a wife is married to the lineage, the death of her husband does not necessarily mean the end of the marriage and, as such, she has to remain in the lineage, which keeps her by providing a replacement for her deceased husband. The replacement is a brother-in-law who enters into a leviratic union with the widow.

In-depth interviews revealed that the above reasons are closely associated in the minds of the respondents. Some male respondents argued that a widow was like any of their wives and could thus not be left to "loiter around". They said; "She is our wife (*chiwa)*, we have to care for her", and "we could be a laughing-stock if we left our widows to wander".

In the survey conducted, 83% of the respondents interviewed said that those whom they knew to have entered into leviratic unions had children in those unions. Only 17% said that those they knew had no children in the unions. Asked why those individuals had no children the respondents said that the partners in the unions were either too old or were affected by *chira.* The table below shows the distribution of the responses.

Table 14 REASONS FOR LACK OF CHILDREN IN LEVIRATIC UNIONS

Why no children in leviratic unions	f	%
Too old	5	26.3
Chira (breaking of a taboo)	2	10.5
Do not know	12	63.2
Total	**19**	**100**

The fact that the majority of the respondents knew of people who had children in leviratic unions shows that great importance is given to the need to keep the name of the deceased alive. One of the functions of marriage, as shown in in-depth interviews, as well as focused group discussions, is to ensure that a person has children who will keep his / her name alive when he/she is dead. As long as one is thus remembered, he or she is in a state of personal immortality. If the dead are soon forgotten, it means that they are cast out of the community and are in effect excommunicated. Their personal immortality is destroyed and they are turned into a state of non-existence. The Luo of Ukwala Division believe that this is one of the worst possible punishments for anyone, and everybody does what he/she can when still alive to avoid it.

The respondents said that in some cases where a man is impotent he can talk to his brother to "father" children for him. They said, "One can ask a brother to cut wood for him." In fact this is where controlled polypartnerism is allowed. It is controlled because the wife can only engage in intimate relationships with those to whom she refers to as " *kayuoche"* (her brothers-in-law). Even in such cases, the number of her intimate partners should be as low as small as possible. This is all done so that she can bear children for her husband. And all this is an attempt on the part of

the husband to ensure that when he dies, there are people to remember him. In fact if the woman is barren then polygyny comes into play.

The departed resent to be suddenly forgotten and the living do everything to avoid it as it is feared that it would bring illness and misfortunes to those who forget their departed relatives. The in-depth interviews showed that this is the major reason why children are named after the departed - to keep their names alive. Emphasizing their belief that the departed can cause illness if suddenly forgotten, the respondents gave as example cases where a child can cry continuously until he/she is given a name of a certain departed individual. They believe that it is the departed individual who causes the child to cry because he/she wants the child to be named after himself/herself.

The other reasons given for levirate, such as the desire to inherit property of the deceased, account for only 7% of the responses. Because these responses depict some self-centredness they seem not to accord with the Luo definition and understanding of marriage.

In the focused group sessions, it was revealed that the major reason for the continued practice of levirate is the need to ritualise a husband's death and to fulfil the customary requirements. Likewise, in the surveys, the major reason given for levirate was the need to fulfil traditional customs related to the death of a husband. This reason accounted for 46% of the responses obtained. There were two versions of this response. Those who were not particularly active participants in the culture (especially those who were

relatively young, that is, less than 35 years old) said that levirate is being practised because it is just a custom that everybody who is a member of the community has to practice. However, the relatively older respondents said that levirate is practised because it entails performing the rituals associated with the death of a married man. They argued that the widow has to complete all the rituals related to her dead husband so that she can "free" not only herself but also her children. They said, "She has to enter into a leviratic union so as to open the way for her children."

In the in-depth interviews it was found that levirate is necessary for a new house to be built for the widow, and if she is still in her father-in-law's home, then a new home is eventually established for her. Levirate "opens the way" for her children in that if by chance any of them practices levirate in future, then he or she is not negatively affected. The belief is that if a child practices levirate whereas her/his mother did not "perform all the rituals pertaining to her husband's death", then that amounts to breaking a taboo (*chira)* for which the ultimate punishment is death. Because nobody wants to break this taboo, especially because of the fear that it might in future affect one's offsprings, widows enter into, leviratic unions with their brothers-in-law. Most respondents in survey, as well as discussants in focused groups, argued that it is the sanctions that go with non-practice of levirate that make most people (especially widows) to enter into leviratic unions.

The need to fulfil the customs, which is the major reason for levirate in Ukwala Division, is not very much related to the Luo definition and understanding of marriage. As is indicated in table 1 (page 45 *), the reasons for levirate which are related to the Luo

definition and understanding of marriage together account for only slightly more than 46% of the reasons for its practice. These are the need to care for widows and children (33%) and to keep the name of the deceased alive besides the fact that a wife is married to a lineage (13.4%)

As already stated, the reasons given for levirate concerning the fulfilment of traditional customs (46%), and an individual's wish or desire to inherit property of the deceased (7%) are not very much related to Luo understanding of marriage. Together, the two reasons account for 53%. The former reason also found a strong backing in the data from focused group discussions.

Therefore, given the findings of the study, it is safe to say that the persistence of levirate in Ukwala Division does not entirely depend on the Luo definition and understanding of the institution of marriage. Their understanding of marriage is a necessary but not a sufficient reason for the persistence of the custom. The practice of levirate in the division is, to a large extent, influenced by the significance attached to adherence to customs found in the community. Non-practice of levirate is tantamount to breaking of a taboo. Its practice and, therefore, persistence finds support in the threat of supernatural retaliation for violation.

6.2 LEVIRATE AND THE CHANGING DEVELOPMENT NEEDS

One of the specific objectives of this study was to establish whether or not levirate contributes to the spread of AIDS and thereby determine how it can be modified to suit modern

development needs of the local population. It was hypothesized that levirate can be modified to suit modern development needs of the Luo of Ukwala Division in Siaya District. The data obtained from the field have shown that levirate can play some role in spreading AIDS in the division. However, before we ask ourselves a question as to whether it is possible to modify levirate to suit the development needs of the community, it is perhaps imperative to explain what is meant by those needs.

As previously indicated, development involves qualitative improvement in people's lives. These improvements should not only be physical but also social and psychological. The implication is that the mere absence of medically diagnosticable disease in a body does not necessarily mean a healthy body. This is especially so because any interference with a single aspect of the cultural milieu that is perceived to be responsible for the spread of a given disease may in itself be counter-productive. In this context then development should be holistic. An individual should feel threatened neither psychologically nor physically. Also, for it to be a holistic development, an individual should not feel robbed of his or her identity.

Before we determine whether levirate can be modified, it is perhaps necessary to know whether the custom has been modified in any way in the past few decades. In the focused group discussions all the discussants arrived at a consensus that levirate had greatly changed. And in the survey, most respondents said that many changes had taken place in the custom. Only a few individuals said that little change had taken place. In order to determine whether their response was influenced by membership in any identifiable

group, the responses were cross-tabulated with several independent variables. The table below represents the general nature of the cross-classifications.

Table 15 THE RELATIONSHIP BETWEEN AGE AND PERCEPTION OF CHANGE IN LEVIRATE

Age in years	Change in levirate						Total	
	Very much		A little		Do not know			
	%	(f)	%	(f)	%	(f)	%	(f)
21 - 35	22 3		2.7		11.6		36.6	(41)
36 - 45	35 7		2.7		6.2		44.6	(50
46 - 55	9 8		0		0		9.8	(11)
>56	8 9		0		0		8.9	(10)
Total	76.8	(86)	5.4	(66)	17.8	(20)	100	(112)

From table 15, it is discernible that it is only the relatively young who said that either they did not know whether levirate has changed, or that the changes which have taken place in the custom are minimal. All the respondents over 46 years of age said that levirate has changed much. In-depth interviews showed that levirate has changed both in practice and in significance.

In the focused group discussions, it was revealed that in the old days when a married man died, elders sat down and proposed who was best placed to enter into a leviratic union with the widow. In most cases those chosen complied. However, if the nominee turned down the offer, another individual was chosen. Refusal to comply with the elders' decision was not punishable in any way and was not associated with any misfortune (unless it was the deceased who had suggested prior to his death that the said individual

entering into a leviratic union with his widow). For instance, a man could refuse to enter into a leviratic union with a widow because he had not fulfilled all the customary requirements that go with marriage. Such requirements include "eating *ugali* at his father-in-law's house (*ngwenyo kuon ka ore)*.

For a man to qualify as a possible partner in a leviratic union, he had to be an "elder" brother to the deceased. A "younger" brother could not join an elder brother's widow in a leviratic union. To be an elder or a younger brother was (is) not determined by age alone. For instance, a younger brother (agewise) may be considered the eldest son by virtue of him being the eldest son in the first wife's house. Nowadays, the cases seem to be different as even young people enter into leviratic unions with widows of their elder brothers.

Another change is seen in the fact that there has emerged a class of ritual performers (banana fibre cutter" or *jolako*). Traditionally, these professional *jolako* used only to perform the ritual with corpses. And even so, such cases were very few. In a case where a widow died before practising levirate, a social misfit or some alien such as a herdsman from a neighbouring community could be paid to perform the ritual with the corpse. The importance of this, as previously mentioned, was that it "opened the way" for the children of the deceased. Non-performance of the ritual acted as a sanction for the children of the deceased. Any of her children who by design or default practised the custom died as it entailed breaking a taboo. Nowadays, "ritual performers" have become commonplace and they are not confined to sleeping with the corpses as it used to be.

Another change is that nowadays entering into a leviratic union with a widow is despised and looked down upon. This accounts for the relatively high number of "ritual performers " or "fibre-cutters". Normal members of the society who perform the ritual with widows are significantly few. It is not very clear why the practice is so lowly regarded. However, a possible explanation is that, like for children born out of wedlock, it is believed that success for children born in a leviratic union means failure for one's own children in the socially recognised family. There is no direct relationship between the said success and the corresponding failure, but it is a belief held by almost all the respondents interviewed.

Despite the fact that men who perform the actual ritual that is central to levirate are looked down upon, the custom is still emphasized. A man who joins a widow in a leviratic union is praised for his brave action of "keeping his brother's house intact." However, those who praise him are reluctant to enter into such unions.

In the focused group sessions,, it was revealed that unlike in the olden days, nowadays a widow can "divorce" and engage several leviratic union partners almost at will. There was a case of a widow who had "divorced" four such partners and was living with the fifth one. The reason given for this was that she was " a difficult woman to live with." Even those who are being "bought" to perform the ritual of "cutting the banana fibres" are charging dearly - a minimum of a cow - approximately ten thousand shillings.

Many respondents (both in survey and focused groups) stated that nowadays, most young widows do not fulfil all the customary requirements pertaining to the deaths of their husbands - they do not perform the rituals as is normatively required. This, according to them, has resulted in several deaths. In-depth interviews showed that when a young husband dies in town and the body is taken home (rural area) for burial, the widow is required to "complete all the rituals for the late husband" before leaving the home to go back to town or some other place. These include practices such as shaving and levirate. However, the respondents said that most widows, especially the young ones, do not wait to enter into leviratic unions as is normatively required. Instead, they go back to towns and pose as "young unmarried ladies". The majority of them engage in businesses which, in most cases, tend to include commercial sex (prostitution). As such, they perform the ritual of "cutting the fibres" with unsuspecting men. Because they are unaware of what the women are up to, the norm of "mono-intimacy" is flouted and *chira* results. Further, because the men are ignorant of the causes of their illnesses, inappropriate *manyasi* (medicinal herbal concoctions for cleansing) are administered while their health deteriorates and, eventually results into death.

The changes mentioned above are those that occur at the level of an individual and by design or default - they are not planned changes. At this point then, it is perhaps reasonable to determine whether levirate can be modified to suit development needs of the people of Ukwala Division in Siaya District.

Popular view in focused group sessions was that AIDS is mainly spread through sex. This view was also held by all the key

informants interviewed. And in survey, of the 112 respondents interviewed, the overwhelming majority (80.4%) believed that the engagement in a leviratic union was risky in this era of AIDS. It was further determined that sex (unprotected sex) was mandatory in levirate as over 99% of the respondents said that without sex there is no levirate. It was, therefore, clear that meaningful modification of levirate, if any, should be on sexual behaviour.

In the in-depth interviews and focused group discussions, the possibility of modifying levirate in as far as sex was concerned was ruled out They said; "Without sex, it is not levirate". And in the survey, when the respondents were asked how they thought the custom could be modified to make it safe, the majority (80.3% said that they did not know of any possible way of modifying levirate as sex was an essential part of the practice. The remaining respondents said with absolute certainty that there was no way in which the custom could be modified. The respondents were further asked whether every widow expected to enter into leviratic union with a brother-in-law in a leviratic union. The following table shows their response.

Table 16 SHOWING WHETHER EVERY WIDOW EXPECTS LEVIRATE

Every widow expect levir..	Men %	(f)	Women %	(f)	Total %	(f)
Yes	34.8		21.4		56.2	(63)
Some	14.3		11.9		32.1	(36)
No	0.9		10.7		11.6	(13)
Total	**50**	**(56)**	**50**	**(56)**	**100**	**(112)**

As is evident in the table above, the majority of the respondents believed that every widow expects to enter into a leviratic union. Only 11.6% of the respondents, the majority of whom were women, said that not every widow wishes to practise levirate. Asked why a widow would not want to enter into a leviratic union, most of them (76%) cited salvation as the major reason. Other low-frequency responses included education (7%), self-reliance (11%), old age (3%), youthful age (2%) and individual's wish (1%). They argued that if a widow was well educated and economically independent, she might be reluctant to practise levirate. At the same time if she is too old or too young, she might see no sense in practising levirate. The latter is most likely to remarry.

Given that the respondents did not know of any way in which the practice could be modified, it became imperative to find out what, if any, could be a possible alternative to the custom. The popular view among discussants was that there was no alternative to the custom as no institution could adequately perform the functions of levirate. Likewise in the survey, an overwhelming majority (74%) could not tell of any possible alternative as can be seen in the table below.

Table 17 POSSIBLE ALTERNATIVES TO LEVIRATE

Alternatives to levirate	f	%
Remarriage	19	17.0
Salvation	7	6.2
Nothing	3	2.7
Do not know	83	74.1
Total	112	100

Remarriage after the death of a husband was given by some respondents (17%) as a possible alternative to levirate. However, the discussants in three of the four focused groups felt that remarriage would only be a possible alternative if marriage were to be redefined. This, they argued, was because the current understanding of marriage is such that a widow is considered married even though her husband has died as she is the wife of the lineage. The continuation of marriage is not only determined by the fact that children have been born in the marriage and should not be separated from their mother but also by the fact that bridewealth had been paid out by the husband's lineage and not received back. If there were to be some possibility of redefining marriage, perhaps for it to mean individual rather than communal affair, probably remarriage would be possible. But still there would be the problem of children and inheritance - whether the children should go with their mother or not, and if not, who should care for them. Most discussants felt that remarriage is not only unnecessary but also unviable.

Another possible alternative given by some respondents was *warruuok* ("salvation") (6.2%). This seemed to be a little bit far-fetched because in spite of the fact that all the respondents were Christians, the concept of "salvation" meant little to them. Arguing that there was no difference between the "saved" and the unsaved in as far as manifest behaviour was concerned, the majority of the respondents claimed that "salvation" cannot prevent *chira* from affecting an individual and so it ("salvation") was seen as impracticable.

From the foregoing, one can logically conclude that there is no possible alternative to levirate as it is practised in Ukwala Division of Siaya District in Western Kenya.

The importance attached to levirate could further be seen in the fact that in spite of many respondents (80%) knowing that levirate, because of the inherent aspect of polypartnerism, can make one contract the HIV/AIDS virus, still said that they could practise it. A possible explanation for this is that the importance of levirate by far outweighs the risk of contracting the deadly virus. Some respondents argued that; "AIDS can only kill me but non-practice of levirate can result in the deaths of all my family members." The belief among most respondents was not only that the practice of levirate cannot easily disappear but also that there is nothing which can adequately take its place.

Although there is no possibility of banning a traditional custom such as levirate, the study also focused on the views of the respondents about the idea of banning levirate. Most key

informants stated that levirate is not like marriage which is official and in most cases registered. Levirate is unofficial and, therefore, cannot be banned. And even if it were to be banned, the ban cannot be executed. The nature of levirate is such that a brother-in-law visits the widow at night and during day time he is at his home. Some respondents (22%) said that banning levirate would be unfair because it plays an important role in the lives of the participants. It ensures that children are cared for and widows given a sense of identity. Most respondents (54%) simply said that it would be unfair because people have lived with it for long and that it wouldn't be good to just stop it as such. The impression one gets is that despite the fact that the majority of the respondents see a possible relationship between the spread of AIDS and levirate, there is a strong will to continue practising the custom as it is currently done. The supernatural forces that come into play when a taboo is violated seem to be the major reason behind the practice.

Respondents who believed that banning levirate would be fair were very few (24%). The major reason that they gave was that levirate can perpetuate the spread of AIDS. The other reasons were that it is an evil practice, is outdated and that it denies women freedom to pair with people they like. However their views seemed not to be very popular. In fact most of them were women who had acquired some education - most of them had post-secondary education. This is clearly shown in tables 18 and 19 below.

Table 18 REASONS WHY BANNING LEVIRATE WOULD BE UNFAIR

Why banning levirate would be unfair	Men %	(f)	Women %	(f)	Total %	(f)
Plays an important role	15.2		7.1		22.3	(25)
People have lived with it for long	29.5		24.1		53.6	(60)
Not applicable*	5.3		18 8		24.1	(27)
Total	**50**	**(56)**	**50**	**(56)**	**100**	**(112)**

* Not applicable refers to those who did not believe that banning levirate would be unfair.

Table 19 EDUCATIONAL LEVEL OF THOSE WHO BELIEVED THAT BANNING LEVIRATE WOULD BE FAIR

Why banning levirate can be fair	Education level (in years spent in school)											
	<4		5 - 8		9 - 12		Men		Women		Total	
	%	(f)	%	(f)	%	(f)	%	(f)	%	(f)	%	(f)
Perpetuates the spread of AIDS	1.8		3.6		7.1		1.8		0.9		15.2	(7)
Evil practice	0		1.8		4.5		0		0		6.2	(7)
Outdated practice	0		0		.9		0.9		0		1.8	(2)
Denies women freedom	0		0		0		0.9		0		0.9	(1)
Not applicable*	14.3		29 5		10.7		0		21.4		75 9	(85)
Total	**16.1**	**(18)**	**34.8**	**(39)**	**23.2**	**(26)**	**3.6**	**(4)**	**22.3**	**(25)**	**100**	**(112)**

* Not applicable refer to those who believed that banning levirate would be unfair.

From the foregoing analysis, it is apparent that levirate will continue being practised in Ukwala Division of Siaya District and that there is no way in which the practice can be modified to make it safe insofar as vulnerability to HIV/AIDS virus infection is concerned. However, this does not mean that nothing can be done to control the risk inherent in the practice as will be shown later.

CHAPTER SEVEN

7.0 DISEASE IN A CULTURAL MILIEU: A CRITICAL APPRAISAL

We now turn to the original question posed: Is the spread of AIDS in Ukwala Division a result of levirate? That is, is the extent to which levirate is practised in the division significant in the spread of AIDS? To proceed with a reply to this question we shall assess the anthropological literature dealing with levirate to see if there is sufficient reflection on the nature, meaning and role of the custom as it is practised in Ukwala Division. We shall also show the interrelationship between the institution of marriage, especially in patrilineal societies, and levirate. We shall show that the continuous practice of levirate is only to some extent based on the Luo definition of marriage and that to a large extent it is based on a complex system of taboos. We shall further attempt to interrelate the anthropological literature on levirate with the research findings in order to show the relationship between the custom and the spread of AIDS. And finally, we shall show that the concept of adaptation as understood by biological determinists is not operative in the case at hand and that the popular view of the custom as expressed in popular literature, especially journalistic writings, does not rest on any serious evaluation of the custom as it is practised by the Luo.

7.1 ANTHROPOLOGICAL LITERATURE AND THE PLACE OF LEVIRATE IN A MARRIAGE RELATIONSHIP

Anthropological literature shows several types of adjustments possible to a woman on the death of her husband. However, of relevance to our topic are two types namely levirate and widow-inheritance. Widow inheritance is depicted as the practice where a widow becomes the legal wife of her new partner. Evans-Pritchard (1951) refers to this man as the "inheritor". He says that the relationship between the widow and the inheritor can be either "simple" or "complex". It is simple if the marriage is monogamous and complex if it is polygynous. The children of this union inherit through the new husband who is their father.

"Widow inheritance" is distinguished from another type of marital adjustment referred to as levirate. As already indicated elsewhere in this work, in levirate the man is merely a substitute husband and any children born of the union are considered the children of the deceased husband (Radcliffe-Brown 1950; Evans-Pritchard 1951). However, this distinction between the terms widow inheritance and levirate is not made by other social scientists such as Westermack (1922) and Mair (1953). Like in current popular literature, they use the term widow inheritance in a generic sense that includes levirate, and do not reserve it for the custom where the widow becomes the legal wife of the "inheritor". Whereas one can say with confidence that the current use of the term "widow inheritance" in popular discourses is to a large extent a function of ignorance, it can't be said with certainty whether early anthropologists like Westermack and Mair were aware of the

distinction. It is, therefore, imperative that when reading anthropological literature, one should assess the meaning of the term "widow-inheritance" as it can refer to two different customs.

Anthropological literature also depicts terminological imprecision in the description of the status of the leviratic partners. Most anthropologists agree that the relationship between a brother-in-law and a widow in a leviratic union is such that the brother-in-law does not become the legal husband (Radcliffe-Brown 1950; Evans Pritchard 1951; Vivelo 1978). The brother-in-law is described as a "surrogate" or a "proxy" or a "substitute" to the dead man. Evident in these descriptions is a deliberate avoidance of identifying the relationship between the widow and her leviratic partner as marriage. Nonetheless, as with the term widow-inheritance, there is no consistent application of terminology on this matter by anthropologists. For example, Ocholla-Ayayo (1989) uses the phrase "leviratic marriage" which according to him means that a widow remains symbolically married to the deceased but in fact cohabits with a kinsman of the deceased. Evans-Pritchard (1965) also uses the same phrase. According to him, among the Nuer people, this custom can be referred to as a variety of a legal marriage - but only to the extent that the brother has the status of a legal representative of the husband in that he not only can demand compensation if anyone "commits adultery" with the widow but can also "divorce" her under special circumstances.

From the findings of this study, it appears that the description of African leviratic union as marriage, which also includes the Luo leviratic custom, is not only inaccurate but also misleading. The widow in such a union is not expected to make a

new marital commitment to her leviratic partner because her marriage to her deceased husband is seen as continuing. Lucy Mair (1953) says that the leviratic union is often regarded as a continuation of the previous marriage requiring no new ceremony. On a more theoretical level, anthropologists reason that among patrilineal people, where marriage secures children to perpetuate the father's group and marriage involves lineage groups rather than individuals, the leviratic union can be seen as part of the network preserving the perpetuity of the lineage groups and the security of each individual in them.

Therefore, there is a great deal of evidence supporting the claim that the Luo leviratic custom in particular and the African leviratic union in general is not marriage in any ordinary sense of the term and should not be described as such. As Kirwen (1974) has observed, the leviratic union is a marital adjustment in a continuing marriage.

The leviratic custom, to some extent, arises only in the context of certain presuppositions about the nature and function of marriage in a society. The first presupposition is that marriage is a group oriented set up (Adam 1960; Fortes 1965; Fried 1968; Clignet 1970). As such, the wife is seen as both the wife of her husband and the wife of the lineage. The bridewealth paid to her father's lineage comes from the joint effort of her husband's lineage. The maintenance of the family, the socialization of the children, the continued fertility of the wife and the place of the husband and his family in the lineage are implicitly guaranteed by all male relatives of the husband's lineage as part of the marriage alliance. Levirate is, therefore, an answer to the question of how marriages involving

patrilineal corporate kin groups can continue to function once the husbands are dead.

Another presupposition underlying the leviratic custom is that the perpetuation of the father's lineage through his children is essential to the marriage. Hence, children born of the marriage belong to the lineage of the father and the mother's control over them is limited even though the father is dead. This control (by the lineage) is possible because the husband and his lineage have rights over the procreative powers of the wife. The leviratic custom in this respect, therefore, enables the widow to remain with her children while ensuring her continuing fertility.

One of the issues raised by the data concern the major reason behind the practice of levirate. It has been argued by some scholars that levirate in African communities is underpinned by the African definition and understanding of marriage (Wilson 1950; Phillips, 1953; Fox, 1967; Fortes, 1971; Kirwen, 1974). The argument is that the contract established by marriage does not necessarily end with the death or withdrawal of either partner. And this is why there are marriage related practices such as levirate, serorate and widow inheritance. However, our data indicate that the major reason behind the continued practice of levirate in Ukwala Division is the need to fulfil all the customs associated with the death of a husband so as to avert punishment from the supernatural beings.

That the persistence of levirate in Ukwala Division is mainly a result of fear of punishment by supernatural beings and not as hitherto believed to be underpinned by the Luo definition and

understanding of marriage needs some critical appraisal. Two factors which have traditionally ensured permanence of marriage in many African communities are the bridewealth and children. While the latter still continue holding many marriages intact, the former is gradually losing its role, as the data collected in the field seem to suggest. Some respondents claimed that bridewealth was only systematically paid in the olden days when go-betweens were necessary in identifying marriage partners for their kins. They said that nowadays, the identification of a partner is almost exclusively an individual's affair and that if there are go-betweens then such "go-betweens" tend to be an individual's own peers. They (the go-betweens) have almost ceased to be relatives in the first or second ascending generation. The nature of bridewealth is also changing. Traditionally it used to be animals, especially cattle and goats, but nowadays it is mainly general purpose money. Also, most marriages seem to precede giving of bridewealth whereas traditionally it used to be the other way round. The emergent scenario is that of a diminishing importance of bridewealth. And, consequently, to say that permanence of marriage is based on the fact that bridewealth was paid and not returned , as Kirwen (1979) seems to assert, is a little bit far-fetched. As repeatedly stated, permanence of marriage among the Luo, as is seen after the death of a husband, is mainly due to the beliefs held by the community members and by the fact that children have already been born and have to be cared for.

The beliefs have continued to influence the practice of levirate because, as Foster (1962) says, it is difficult to change the non-material aspects of a people's culture. The beliefs centre not

only on the fear of *chira* but also on the perceived desire to remain immortal after physical death.

If we start with the latter, it is perhaps important to note that remaining immortal is contingent upon having children. As Mbiti (1969) has indicated, death is a process that gradually removes a person from the *sasa* to the *zamani* period. After the physical death the individual continues to exist in the *sasa* and does not immediately disappear from it. He/she is remembered by relatives who knew him/her in this life and who have survived him/her. Among those who have survived him/her are his/her children who keep him/her longest in the state of personal immortality. They recall him/her by name though not necessarily mentioning it. This recognition may continue for up to four or five generations, so long as someone is alive who once knew the departed personally and by name. When, however, the last person who knew the departed also dies then the former passes out of the horizon of the *sasa* period and, in effect, he/she now becomes completely dead as far as family ties are concerned - he/she has sunk into the *zamani* period. Mbiti says that so long as the departed is remembered by name he/she is the living-dead and is in the state of personal immortality.

An individual's personal immortality is externalised in physical continuation through procreation. The survivors express it in several ways. Traditionally it used to be externalised in acts like "giving" food to the departed, pouring out libation, and carrying out instructions given by them (the departed) either while they lived or when they appear. Nowadays it is mainly expressed through carrying out instructions given by the departed and fulfilling the perceived wishes of any departed - such as naming a child after

him/her. If the living dead are suddenly forgotten, it means that their personal immortality is destroyed and they are turned into a state of non-existence. This is believed to be the worst possible punishment for anyone. It is believed that the departed resent it and as such, the living do all they can to avoid it as it is feared that it would bring not only illness but also death to those who forget their departed relatives. This is where levirate comes in and especially why children born in a leviratic union are considered to be children of the deceased - to keep him in a state of personal immortality.

Turning to *chira*, we find a complicated issue that even an insider cannot tell with absolute certainty the total number of *chiche* that exist in the community. The latter (*chiche*) vary in their degree of gravity and, as such, the types of *manyasi* administered also vary. There are some for which there is no *manyasi* and whose ultimate punishment is death. To this category falls one of the *chiche* that are associated with levirate and which results from practising levirate if one's mother (who was widowed) never practised it. The other *chira* associated with levirate results from improper practice which can be treated if detected early and relevant *manyasi* administered.

It is difficult to tell whether levirate in other communities elsewhere in Africa and the world is also associated with such taboos as is found among the Luo. This is because few, if any, relevant anthropological studies on levirate have been conducted. The non-anthropological studies (if they qualify to be called studies) have only concentrated on the presumed "outdatedness" of levirate and the assumption that it denies women (widows) freedom of choice. The fact that widows now have freedom to choose whom to

enter into leviratic unions with and that they can "divorce" their partners and engage new ones almost at will clearly negate the essence of such claims. Because there are no holistic studies of levirate in other communities, it is difficult to tell whether their continued practice in those communities is underpinned by their definition and understanding of marriage, as early anthropologists like Westermack (1922) and Evans-Pritchard (1951) seemed to assert.

Anthropological literature on taboos and rituals seem to suggest that they (taboos and rituals) are very much closely interrelated. As previously stated, a taboo means a prohibition whose contravention can at times be punishable by death. As Ayisi (1972) has observed, breaking a taboo calls for ritual purification. In some other works (Durkheim 1915; Frazer 1922; Turner 1964), what we might call a taboo is referred to as a ritual prohibition. In these works, a ritual is referred to as a rule of behaviour which restricts the freedom of a person within certain social fields vis-à-vis contact with an object or person. These rules seem to have religious implications and people who overlook them feel a sense of guilt and seek ritual restoration. Ayisi (1972) observes that the concept of ritual prohibition presumes that an individual has a ritual value and that any act of omission or commission deprives the individual of his or her status and value, and the qualities which maintain his/her well-being are then endangered. When this happens the individual is desecrated and he/she becomes a source of danger to himself/herself and society.

Though ritual practices may seem simple and sometimes be regarded as sociologically dysfunctional, their metaphysical

plausibility is demonstrated by the psychological value of the practice to the people. In most African societies the world of the living and that of the dead are intricately and inexorably dovetailed. The dead members of the lineage influence the lives of the living and thus provide an important mechanism for social control. Contact with the spiritual world, either to supplicate for beneficence, or to atone for sins committed, is established by following certain prescribed rules. These rules are hedged about by myths in order to give them some validity ,and universal acceptance amongst the people. Rituals are, therefore, some of the means through which the profane world is brought into contact with the sacred. They serve as institutional intermediaries or sanctifying agents. And as Loseva (1993) has observed they are double-sided phenomena. On the one hand they differentiate between "we" and "they" and on the other, the rituals fix the accumulated experience and reproduce the ideal programme of human life activity. Rituals express a form of collective life that the individual has learned by assimilating the ideals elaborated by society.

Ritualisation of a phenomenon, therefore, has some motivational basis. Melford E. Spiro (1966) observes that the motivational basis for the practice of a behaviour pattern is not merely the intention of satisfying a need, but the expectation that its performance will in fact achieve this end. It follows that if a ritual persists because of its gratification of desires, then explanations for the bases of its practice must be found in psychological and especially motivational variables. And, as Malinowski (1925) has noted, rituals not only counteract the centrifugal forces of fear, dismay and demoralisation, but also provide the most powerful

means of reintegration for a community's shaken solidarity, and of re-establishment following the polluting effect of death. In Ukwala Division, rituals associated with levirate seem to provide moral basis for its practice.

Another issue that is discernible from the data is the role of levirate in the life-cycle of a widow. Given the nature of levirate and the reasons behind its practice, one wonders whether it is a rite of passage for widows or not. According to Van Gennep (1960), a rite of passage is a means by which an individual is eased through the difficulties of transition from one social role to another, or from one state to another state. He argued that the ceremonies associated with such a rite are divided into three consecutive elements namely, separation, adjustment or transition, and reintegration. The individual is first severed from his or her old status, experiences adjustment to the new during a period of transition, and finally becomes established in the new position. These three stages are often clearly seen in symbolic dramatization. The period of transition may be brief or months long. During this time, the individual's relationship with the rest of society is not those of his or her old status and not as yet that of the new.

Rites of passage are also referred to as crisis rites (Norbeck, 1961). Outstanding among crisis rites are ceremonials connected with important critical, but normally expectable events in the life cycle of an individual, the so called biological crises of life-birth, sexual maturity, reproduction and death. As such there are associated ceremonies such as naming, initiation into adulthood, marriage and funeral ceremonies. Another stage which perhaps faces many individuals is widowhood. According to Kariuki

(1989), the widowed individual acquires a new status, widow or widower, instead of wife or husband. Socially, the survivor is now a widow or a widower. Apart from the direct personal impact of such changes, they (the changes) also influence the way survivors are viewed and treated socially. The bereaved person has to develop a new private and public self that enables him or her to live in a changed world. For the Luo, widows have to enter into leviratic union. Because a widow who has not practised levirate is considered unclean and her movements are, restricted, it becomes safe to claim that widowhood is a life crisis and that levirate is a rite of passage - at least among the Luo of Ukwala Division in Siaya District. At the death of a husband, a widow's normal relations with other members of the society are severed and this can be said to mark the separation stage. The performance of rituals associated with death of a husband constitute the transition or adjustment period. The reintegration stage is when the widow has entered into a leviratic union with a brother-in-law and the leviratic union and the normal relations with other members of the society are resumed. It is important to note, though, that the issue of whether levirate is a rite of passage or not is debatable.

7.2 CULTURAL COGNITION AND AIDS

The perception of health problems in cross-cultural perspective is particularly not easy. As Chambers (1983) has observed, it is not easy for those who are neither rural nor poor to know the priorities of those who are both. Levirate, as it is practised by the Luo, has repeatedly been criticised as being not only "outdated" but also a risk practice. Our data have shown that because of its longevity in the history of the Luo, the custom is jealously guarded. It has neither an alternative nor a plausible way in which it can be modified - at least to check its contribution to the spread of AIDS in Ukwala Division given that it entails having multiple sex partners.

One of the issues emerging from the data is the conscious disregard for the risk involved in practising levirate. Such disregard can only be explained in terms of the whole situation set in which the participants find themselves. Signs and symptoms of AIDS are conceptualised within the social situations in which they emerge. It appears that the situational meaning of levirate far much outweigh the health risk that may be evident. Also at stake are the participants' identity and their commitment to traditional practices. In this case the participants are faced with a complex situation whereby even though they perceive themselves as vulnerable to infection, they are at the same time faced with major "barriers" in terms of cost and embarrassment which impede taking the required action - that is, not entering into leviratic unions.

The AIDS pandemic appears to have led some scholars such as De Bruyn (1992), Kline *et al* (1992) and Wanjiku (1995) into a

belief that there is need for transition from "traditionalism" to "modernity". This raises the issue of the relationship between traditionalism and modernity. Is traditionalism synonymous with outdatedness? Oruka (1989) has indicated that the distinction between tradition and modernity in any given culture is not a distinction between the outdated and the novel. It is a distinction between what is part of the long history of the people and what is recent or innovative to that history. So the question as to which of the two (tradition or modernity) is good or desirable must be left open.

Nevertheless, the issue of whether an attempt to understand a traditional practice such as levirate requires emic or etic approach needs discussion. Emicity pertains to the attempt to understand patterns of belief and behaviour from the native perspective and to interpret cultural data in a way that is meaningful to members of the society being studied, while etic approach pertains to the attempt to understand the patterns in terms that are meaningful to the outside observer and to interpret the data according to some system of analysis that is independent of and external to the native system. One can argue that the approach used to a large extent depends on the objectives of, and the rationale behind the study. It is further arguable that if the study aims at contributing to development in a particular community then perhaps the emic approach is preferable as it allows for holism. This is based on the assumption that there is no development unless it is holistic. The etic approach may be more appropriate if the aim is to attain some form of standardization cross-culturally.

Another issue that featured prominently in the study relates to the victims of AIDS. According to the respondents, those who are said to have die of AIDS have never practised levirate. The claim was that most of the victims go to the rural areas as AIDS patients and end up dying. Records at the district hospital were not of much help as they indicated that only one third of HIV/AIDS cases reach hospitals. Some of the explanations given for this under-reporting were that: the district has only two hospitals with the capacity to screen blood samples; some cases emanating from the district may be reported elsewhere especially Kisumu and Busia Towns where there are better medical facilities; irregular supply of laboratory reagents for detecting the virus; frequent breakdown of the equipment; and the widespread belief that AIDS is caused by some taboos (*chiche*) or witchcraft (*nawi*) makes some patients not to opt for any form of treatment.

Figures in the table below show that screening of AIDS patients is to a large extent contingent upon the patients' accessibility to screening facilities.

Table 20 REPORTED CAES OF AIDS IN SIAYA DISTRICT BY DIVISION

Division(s)	1989	1990	1991	1992	1993	Total
Boro / Uranga	39	58	50	66	31	244
Ugunja	11	14	8	11	1	45
Yala / Wagai	12	7	11	16	7	53
Usigu	3	2	2	9	3	19
Ranieda	4	3	2	6	3	18
Bondo	13	10	9	10	7	49
Madiany	3	4	9	4	7	27
Ukwala	4	2	—	4	1	11
Not Known	24	30	44	29	24	151
Total	**112**	**130**	**135**	**155**	**84**	**617**

Source: Medical officer of Health National AIDS Control Programme

FIGURE 3

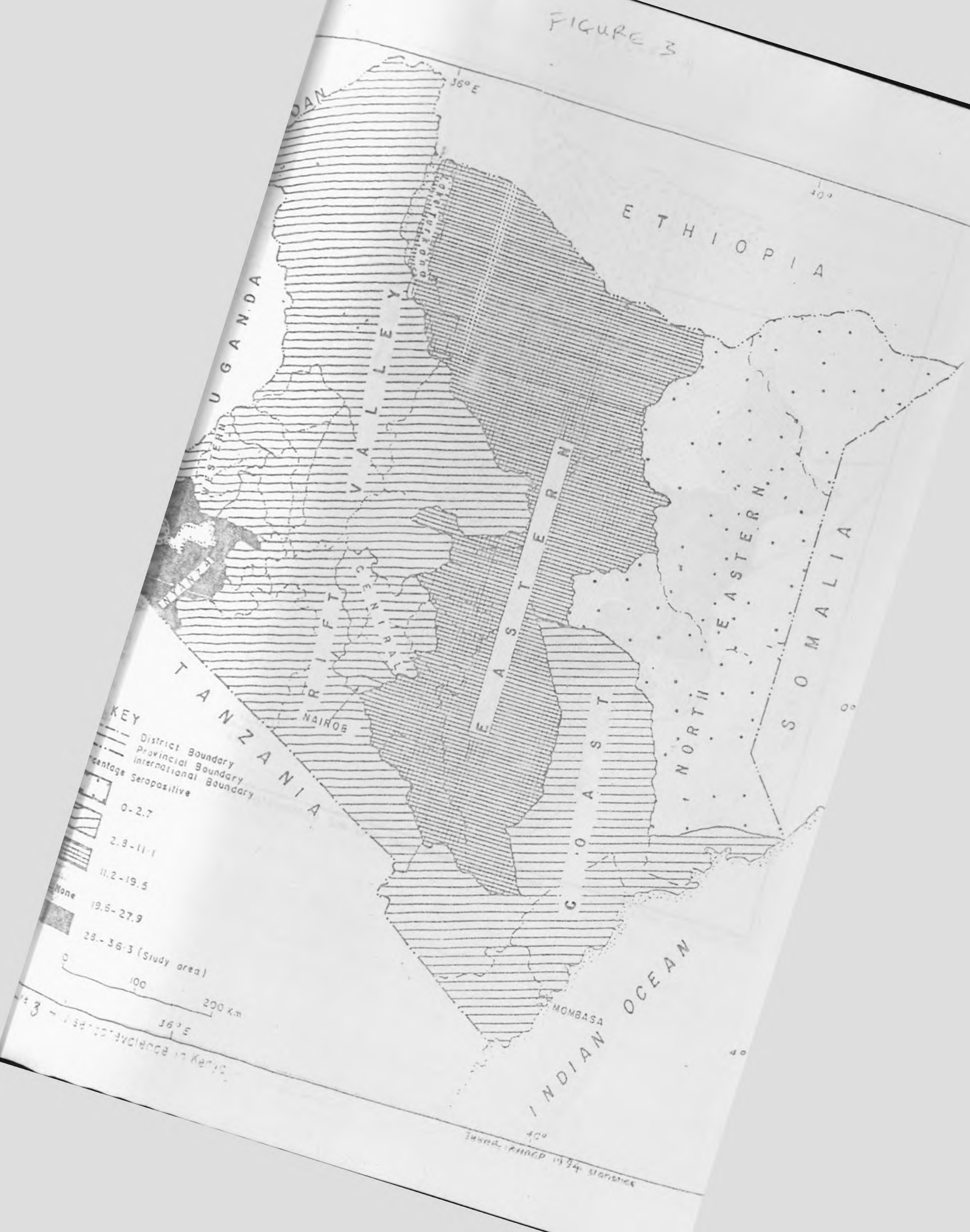
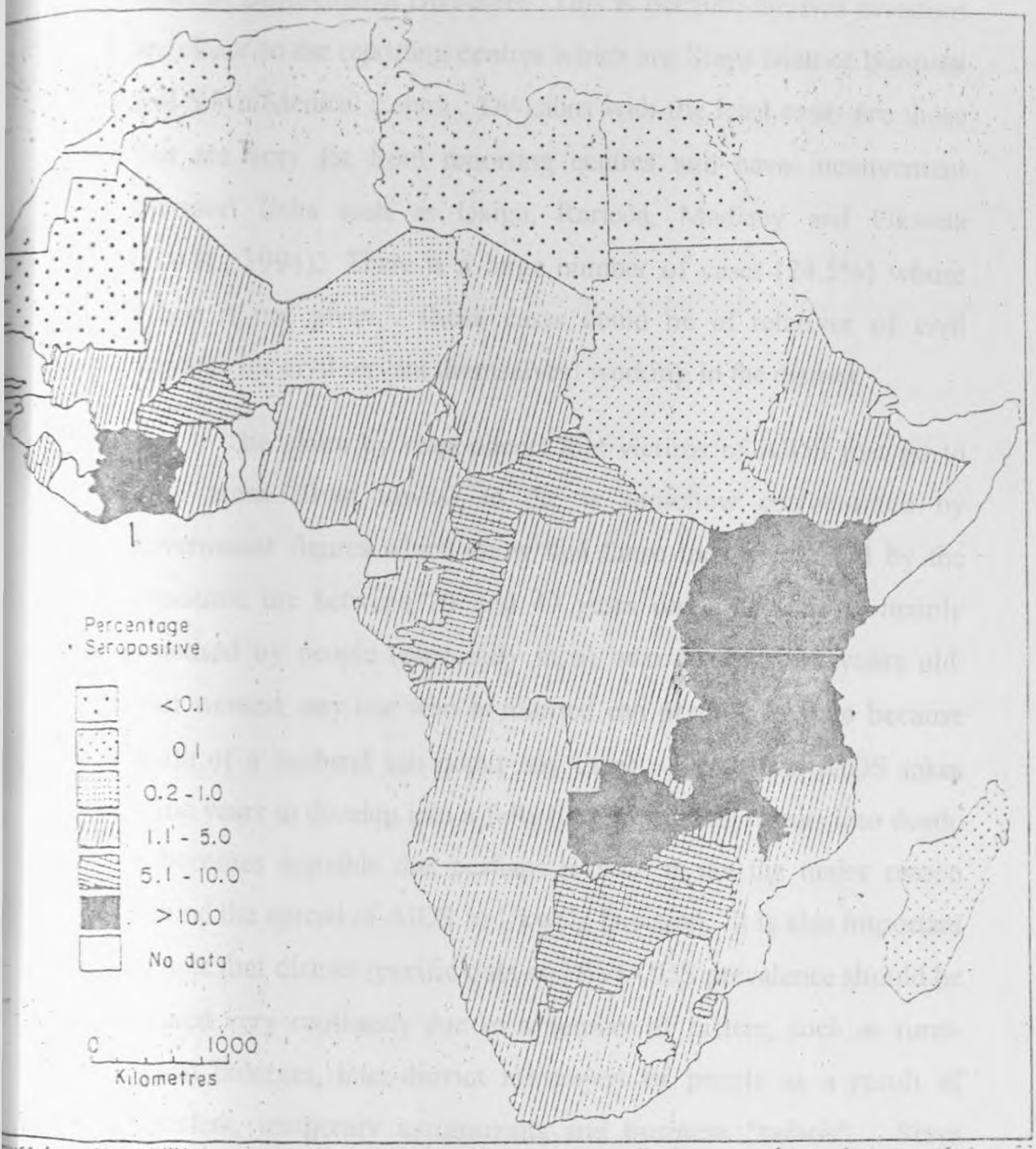


Fig 3 - Distribution of Rabies in Kenya

FIGURE 4



ure 4 Africa HIV-1 seroprevalence [illegible] Source: Caldwell and Caldwell, 1988

The table indicates that there is a higher number of reported cases in Boro/Uranga Divisions. This is because the two divisions are closer to the reporting centres which are Siaya District Hospital and Siaya Medical Centre. Divisions with the least cases are those that are very far from reporting centres and have inconvenient transport links such as Usigu, Rarieda, Madiany and Ukwala (G.o.K., 1994). There is a large number of cases (24.5%) whose origin is not given. These cases could be of relatives of civil servants (or civil servant themselves) working in the district.

The claim by respondents that victims of AIDS just go to rural areas (from towns) to die is somehow corroborated by government figures which show that those mostly affected by the pandemic are between 20 and 49 years old. Levirate is mainly practised by people (especially men) who are over 40 years old. (For women, any one who is married can practise levirate because death of a husband can occur any time). Given that AIDS takes some years to develop into a fully blown case that results into death, it becomes arguable that perhaps levirate is not the major reason behind the spread of AIDS in Ukwala Division. It is also important to note that district specific data on HIV/AIDS prevalence should be treated very cautiously due to a number of factors, such as rural-urban linkages, inter-district movement of people as a result of transfers, temporary assignments and business "safaris". Siaya District Medical Officer of Health, for instance, estimates that about 50% of the AIDS patients in the district get infection outside the district after which they are referred to the district hospital for terminal care because it is nearest to their homes.

The study also shows that most people in the research site do absolutely nothing to protect themselves from sexually transmitted infections such as AIDS. The use of condoms, though relatively safe, is not only expensive but also not practical, partly because ritual sexual intercourse is supposed to be unprotected.

Generally, for men polypartnerism is seen as a virtue. This perhaps stems from the notion that men should be "conquering" and that a man's seed should be spread as much as possible.

Sexual behaviour either ritually or casually also featured prominently in the research. The data revealed that among the Luo, sex is not only for procreation or pleasure but also ritual purposes. For instance, before planting or harvesting the owner of the home must perform some ritualistic sexual intercourse with the eldest (first) wife.

It was also found that apart from levirate, there are several other practices which sanction polypartnerism, most of which appear to be related to the spread of AIDS in Ukwala Division. These practices include commercial sex (prostitution), polygyny (including sororal polygyny), sororate, widow inheritance, serial monogamy, premarital and extra-marital sex, religious practices and beliefs, as well as alcoholism and drugs. Ukwala Division is traversed by the main Kisumu-Busia Road. Along this road are several trading centres each of which has bars and lodging facilities. Most truck drivers stop at these places, especially at Ligega, Got-Nanga and Sega. Because they have money, they are known to be popular with bar maids. There are also some other popular centres such as Jera, Yenga and Ukwala. It is the general belief that most, if

not all bar maids are seropositive (Gordon and Klouda, 1988; Kline *et al* 1992; Agot 1996). Because they also have local intimate friends, they are thought to be some of the major contributors to the spread of AIDS in the area. Closely associated with this is alcoholism and drug abuse. Most people after getting drunk, engage in sex without taking precautions.

Polygyny, being polypartneristic, can also contribute to the spread of AIDS. Polygynous marriages are commonplace in the division. Because not so many people have acquired post-primary school education, having many wives is still seen as something prestigious. However, because most men tend to stay in towns or plantations where they work and only occasionally go upcountry, there is a tendency for infidelity to take place. This (infidelity) creates room for the spread of HIV/AIDS virus. Likewise in sororal polygyny if one person in a marriage relationship is seropositive, then at least two sisters can die of AIDS. This is because of the pool factor whereby the number of people infected by HIV in any particular area increases at a high rate as a result of concentration of the virus within that area. And, like sororal polygyny and levirate, sororate can also lead to rapid spread of AIDS in the area as those infected are residents of one area. Widow inheritance, though uncommon, can also have the same effect as levirate because both involve forming a marital union with a widow. However, unlike in levirate, in widow inheritance the widow cannot "divorce" her new partner and engage another. In short, chances of a widow who has been "inherited" having many partners serially are significantly low.

A practice that is gaining root in Ukwala Division and whose nature is more or less like commercial sex (though no

payment is involved) is serial monogamy. To say that marriages are becoming increasingly unstable, as one respondent put it, is to understate the gravity of the situation. Serial monogamy, according to Vivelo (1978) is the practice of marrying several spouses in succession, but not simultaneously. This applies to both men and women. In Ukwala Division, it is not uncommon for a man to "try" three or more women before settling with the last one. For women, the term used is *odhi-oduogo*, that is, one who has "gone" (been married) and come back. Such cases are so common that one cannot fail to identify them as contributors to the spread of AIDS in Ukwala Division.

Some other practices which could be contributing to the spread of AIDS in Ukwala Division are prenatal and post - natal practices. Among the Luo, when a woman's pregnancy has reached an advanced stage, sexual intercourse is discouraged. The husbands are expected to abstain from sex, something which few of them, if any, do. Instead, they resort to extramarital sex.

Apart form extramarital sexual practices, there is also premarital sex which also plays some role in the spread of AIDS in the division. The data indicate that indiscriminate premarital sex among school pupils and students is so common that it is almost seen as normal. After the banning of discos in the villages by the provincial administration, funeral gatherings, especially at night, have become the centres for meeting. The respondents said that when such gatherings are common, especially in December when

there is more money in circulation (because workers in town go upcountry) cases of pre-marital pregnancies significantly increase. The occurrence of such pregnancies show that unprotected sex is prevalent. This gives room for sexually transmitted infections such as AIDS.

As previously mentioned, religious practices and beliefs which view AIDS as resulting form the breaking of a taboo can also perpetuate the spread of the disease as they mystify its cause. Some Christian religious sects, especially those which encourage night meetings, can also perpetuate the spread of AIDS as faithfuls can be tempted to indulge in sex.

Generally, there are many practices which contribute to the spread of AIDS in Ukwala Division. Perhaps the question that should be asked is why there is no hue and cry over such practices as commercial sex. Is it because those who criticize levirate think that it has no function? Could it be that by according a practice such as prostitution a more "respectable" name - commercial sex - it is being sanctioned, while traditional practices such as levirate are being branded degrading to women and outdated?

Levirate, as the data have shown, plays some important role in the lives of the Luo of Ukwala Division in Siaya District. It may be perpetuating the spread of AIDS in the division, but, its contribution to the spread is not significant. Promiscuity, both in urban and rural areas, and fornication among the youth, by far outweigh levirate in their contribution to the spread of AIDS in the division. The claim that the custom is the major reason for the spread of AIDS in Luoland, if left to stand, can only mystify the

situation as all the factors responsible for its spread may not be identified and, if possible, eliminated. However, this is not to say that the custom should be encouraged. There is need for some form of adaptation which can ensure that the number of partners with whom a widow forms marital unions is significantly reduced. Nevertheless, adaptation as defined by biological determinists cannot work as it would require the people of Ukwala Division to avoid anything that can interfere with their physical health. The practice of levirate appears to be more crucial both for the physical and spiritual well-being of the people of Ukwala Division.

CHAPTER EIGHT

8.0 CONCLUSIONS AND RECOMMENDATIONS

8.1 CONCLUSIONS

The HIV/AIDS pandemic has become more than just a health problem as it encompasses economic, social and cultural dimensions. Statistics show that about 75% of the world's nearly 16 million people infected with HIV live in Africa (World Bank, 1993). In sub-Saharan Africa, health expenditure has increased due to HIV infection (Agot, 1996). In Kenya, by 1993 the National AIDS and STD Control Programme (NASCOP) reported a cumulative total of over 39,000 cases of full-blown AIDS (G.o.K, 1997). This figure rose to 63,179 by 1995, indicating an alarming expansion of infected population. Given that many cases go unreported, it is believed that the actual population of AIDS sufferers was 190,000 by 1995 while the HIV positive population was over one million. Nearly half of the public expenditure for health care will be spent on AIDS patients by the year 2005 (G.o.K, 1997).

Kenya has been ranked third in AIDS prevalence in Africa since 1992, with the Luo ethnic group serving as the national epicentre since 1988 (KNACP, 1994). This has been attributed to several factors such as polygyny, non-circumcision of males, "widow inheritance", and misconception about the aetiology of the disease (G.o.K. 1994). Levirate (popularly known as widow inheritance) has been subjected to greater criticism than any other practice.

Levirate, as the data have shown, is prevalent in Ukwala Division of Siaya District, as almost every widow practises it. Its persistence is possible because most widows fear the sanctions that follow non-practice. It is feared that the contravention of the sanctions that follow non-practice of levirate can result into a visitation of death upon the victim by some impersonal being. Implicit in this finding is the idea that non-practice of levirate is just as risky as practice of levirate. Nevertheless, it is arguable that to an ordinary illiterate or semi-literate rural dweller, non-practice of levirate is more grave because the probability of not being affected by *chira* is nil. They are most likely to disregard the risk of infection by HIV/AIDS virus because there is some chance that a partner in a leviratic union could be HIV negative. This means that a lot need to be done than simply telling those who practise levirate that it is a risky practice in as far as HIV/AIDS virus infection is concerned. This is especially necessary because cultural practices such as beliefs and health issues are intricately and inexorably dove-tailed.

The study shows that perception of levirate is very much dependent on an individual's social status in the community. This influence is, however, not unidirectional for all the respondents. It is to a large extent determined by the nature of any particular indicator of status. For instance, education for women is most likely to make a widow to view levirate as a risky practice in this era of AIDS. Chances are, therefore, high that such educated widows might be reluctant to practise levirate. As Foster (1962) has observed, a society's proneness to advancement is the result of its members'

exposure to the tools, techniques, and ideals of other groups, their readiness to recognise advantages in ways and forms not their own, and their opportunity to accept these ways and forms. It, therefore, follows that selective exchange of ideas between members of different societies can, with time, lead to positive culture change. It becomes positive only if it contributes to the well-being of the members of that particular culture. This study of AIDS and levirate in Ukwala Division shows that the majority of the respondents knew of the existence of AIDS and that it is a killer disease. However, as already indicated, this does not stop them from practising levirate, which they said must involve unprotected sex. Hence, practising levirate is risky. The risk involved is further compounded by the fact that there are "roving fibre-cutters" or "professional inheritors" (Agot, 1996).

It would be expected that AIDS would compel people to reconsider this custom since no cultural practice should hurt its practitioners. The claim that levirate has not resulted into any AIDS-related death does not necessarily mean that the situation will continue being so or that nobody has, in fact, died of AIDS contracted in a leviratic union. What it shows is that the contribution of levirate to the spread of AIDS is still somehow insignificant as compared to other practices such as commercial sex (prostitution), extramarital and premarital sex.

It can be argued that even though levirate can accelerate the spread of AIDS, it also serves as a very effective check on possible promiscuity by the widow. Agot (1996) says that a promiscuous

widow is a risk to society because if she remains single but promiscuous the victims of her escapades can be many.

In this study, the data have revealed not only that levirate cannot be modified in any meaningful way that can check its contribution to the spread of AIDS, but also that there are no possible alternatives to the practice. This scenario makes one believe that levirate will continue spreading AIDS unchecked. However, that may not necessarily be the case. Given that those who are well-informed — those who have acquired functional literacy — are most likely to take precautions, education, especially for women, should be encouraged. This is because, to a large extent, it is widows who determine whether they are to practise levirate or not. An educated woman might practise levirate but can insist that it involve safe sex. And that could mark some important phase in the transformation of the Luo leviratic custom. As one key informant put it, churches, funeral gatherings and *barazas* can be used as platforms for teaching the community members about the dangers of AIDS. Since cinemas are popular with the youth, some AIDS episodes can be flashed in between the movies to teach and warn them about the dangers of having indiscriminate sex.

Another step should be to demystify AIDS. Some key informants who are also administrative officials, said that in their death registers they are not allowed to indicate that an individual has died of AIDS. Obvious cases of AIDS are not stated, but are referred to as either cancer, tetanus, pneumonia, cerebral malaria or tuberculosis - nobody dies of AIDS but any of the diseases named above. Such cases can only mislead people into believing that their potential partners (widows) are not seropositive and, therefore, can

"safely" engage with them in unprotected sex. Such official "mystification" no doubt augurs badly for attempts to check the spread of AIDS. As Scheper Hughes (1995) has indicated, the mystification of diseases in any given area can only make them endemic and unmanageable. And, if it is remembered that human beings can tolerate extraordinary hardships only when inspired by deeply rooted cultural values that give meaning to their efforts, development energies should be guided into more human and culturally satisfying channels (Kipkorir 1980; Mathus 1993).

In recognition of some of the facts mentioned above, the Government Policy Framework Paper on AIDS and STD Control Programme spells out the strategies and policies that it intends to pursue to reduce the spread of HIV (G.o.K. 1994, 1997). At the national level, one of the policy guidelines is to conduct research and provide training for the personnel involved in the fight against AIDS. It also emphasizes the need for cultural re-education which includes sensitization of the community on the dignity and virtue of safe sex. Because of the need for a multi-sectoral approach to AIDS prevention and control, the government underscores the need for effective mobilisation and co-ordination of activities and resources of various actors, such as non-governmental organisations, churches and communal groups. The government, through the Ministry of Health, also intends to establish a National AIDS Council to expedite AIDS control activities (G.o.K., 1997).

8.2 IMPLICATIONS AND RECOMMENDATIONS

One of the objectives of this study was to find out how different people perceive levirate. It was hypothesized that an individual's perception of levirate is influenced by his or her socio-economic position in the community. As indicated above, the influence of social status is not unidirectional. A significant indicator of social status was found to be level of education. An individual's education level can make him or her less rigid in his or her approach to variable issues. This implies that if the majority of the inhabitants of Ukwala Division remain illiterate or semi-literate, then chances of them holding on to their traditional practices, which are less useful, are significantly high. It also implies that they might see no need of taking precautions while engaging in polypartnerism.

It is, therefore, recommended that education for the people of Ukwala Division should be intensified. It is suggested that leaders in the community, be they church leaders, women group leaders, or administrative officials, should be trained to teach people about the dangers of engaging in unprotected sex. At the same time, formal education, especially for women, should be encouraged and supported.

The need to investigate the relationship between levirate and the spread of AIDS in Ukwala Division was also an objective of this study. The hypothesis that the engagement in a leviratic union tends to increase the chances of an individual catching the HIV/AIDS virus was thus formulated. The data confirmed this hypothesis though the custom could not wholly be blamed for the relatively rapid spread of AIDS among the Luo compared to other

communities in Kenya. The implication of this finding is that other factors are responsible for the rapid spread of the scourge in the division in particular and Luo Nyanza in general.

This study recommends that first, efforts should be made to demystify AIDS - a case of AIDS should be labelled so; it should not be referred to as tuberculosis or pneumonia, as this can only encourage promiscuity. Secondly, holistic studies should be conducted in order to identify the main causes of the rapid spread of AIDS among the Luo. This will be useful in identifying better approaches of combating the scourge. Thirdly, given that levirate can perpetuate the spread of AIDS, the people should be sensitised on the need to be accustomed to the safe ways of practising levirate. That is, they should be persuaded to consider the possibility of practising levirate through protected sex.

Another objective of this study was to establish the factors that contribute to the persistence of levirate. It was, therefore, hypothesized that the persistence of the custom is largely dependent upon the Luo definition and understanding of the institution of marriage. The data only partially confirmed this hypothesis. It's persistence was found to be largely dependent upon the people's fear of the consequences of non-practice of levirate, that is, visitation of death upon the victim by some impersonal being. This implies that any attempt to modify or discourage the practice of the custom must first and foremost appeal to the people psychologically. It underscores the need of involving not only medico-economic concerns but also socio-cultural factors.

It is, therefore, recommended that any educational or sensitisation programme intended to achieve some form of change in behaviour should include felt needs of the people. Because the people's needs are mainly psychological, such programmes should not dwell only on biological variables that influence physical health.

Finally, this study also aimed at establishing whether or not levirate contributes to the spread of AIDS in the division and to determine how it can be modified to suit the development needs of the local population. Accordingly, the hypothesis that levirate can be modified to suit the development needs of the people was advanced. Although the study confirmed that levirate can contribute to the spread of AIDS, the data revealed that the custom cannot be modified in any meaningful way that can check its contribution to the spread of AIDS. The implication of this is that there is need to identify some other means of checking the custom's contribution to the spread of AIDS.

Because it is mainly widows who currently determine whether and with whom they are to enter into leviratic unions, this study recommends that education for girls should be supported, since an educated woman might consider insisting on having safe sex in a leviratic union. It also recommends that there should be sensitization of the youth in general on the danger not only of unprotected sex but also polypartnerism which is inherent in levirate.

The policy implications of the findings of this study are clear: education about the risk of infection is necessary but currently not sufficient. The disjunctures that exist between theory and

practice as concerns knowledge about AIDS and HIV transmission imply that the importance of knowledge alone in reducing the risk of HIV infection seems to decrease over time. Therefore, while it may be true that knowledge about AIDS is important in reducing risk of infection, it is at the same time clear that knowledge alone cannot overcome barriers to behaviour change. The implication of this for planning education and intervention programmes is that emphasis should now be on programmes that will teach about how to accomplish risk reduction and programmes that make such changes possible. AIDS educators must now realise that AIDS control programmes must move beyond teaching facts of AIDS if AIDS prevention is to be achieved.

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APPENDIX I

QUESTIONNAIRE

BACKGROUND INFORMATION

Name of respondent _____

Division _____ Location _____

Sub-location _____ Village _____

Ethnic group (1) Luo (2) Non-Luo ☐

Clan _____ Lineage _____

Sex (1) Male (2) Female _____ ☐

Age (1) < 20 years (2) 21-35 Years (3) 36-45 Years (4) 46-55 Years (5) >56 Years ☐

SOCIO-ECONOMIC BACKGROUND

1. What is your marital status?

   (1) Single (2) Married (monogamous) (3) Married (polygynous)

   (4) Separated (5) Widow (6) Widower (7) Other ☐

2. (a) Do you have children? (1) Yes (2) No ☐

   (b) If yes, how many children do you have?

   (i) Boys _____ Ages _____

   (ii) Girls _____ Ages _____

3. (a) Do they go to school? (1) Yes (2) No

(b) If no why? _____

4. (a) Have you ever attended a formal school?

(1) Yes (2) No

(b) If yes, how many years did you spend in school? (1) <4 years

(2) 5-8 Years (3) 9-12 Years (4) >12 years

5. Which languages do you speak? (1) Luo (2) Luo and Kiswahili (3) Luo and English (4) Luo, Kiswahili and English (5) Other (specify) _____

6. (a) Have you ever been employed? (1) Yes (2) No

(b) If yes, are you still employed or retired? (1) Still employed

(2) Retired

(c) If still employed, what is your occupation? _____

7. What is your average monthly income? (1) <Ksh 3,000 (2) 3,000-6,000 (3) 6,000 - 10,000 (4) >10,000

8. (a) Do you have other sources of income? _____

(1) Yes (2) No

(b) If yes, which are your other sources of income?

9. (a) Do you own land? (1) Yes (2) No

(b) What kind of house do you live in? (1) Permanent (specify)

(Semi permanent (3) Temporary (specify) (4) Other (specify)

(c) Do you own any of the following?

(1) Landed property (e.g. business premises) (2) Car (3) Bicycle

(4) T.V. (5) Radio (6) Fridge (7) Cooker (8) Stove / jiko (9) Water tank (10) Sofa set (11) Wooden chairs

10. What is your access to water?
    (1) Borehole (2) Piped water (3) Rain water (4) River (5) Spring
    (6) Other (specify) ☐

11. (a) Do you hold any leadership position in the community?
    (1) Yes (2) No ☐
    (b) If yes, which position do you hold? _____
    (c) For how long have you been in this position? _____

12. (a) Do you belong to any religion? (1) Yes (2) No ☐
    (b) If yes, which one? (1) Christianity (2) Islam (3) Traditional religion (4) Any other (specify) ☐

13. If you are a Christian, which is you denomination? (1) Catholic
    (2)Anglican (C.P.K.) (3) Pentecost (4) Legio Maria
    (5) Other (specify) ☐

14. If you are a Muslim or a Traditionalist, do you belong to any sect?
    (Please specify) _____ ☐

PERCEPTION OF AIDS

15. (a) Have you ever heard of a disease called AIDS?
    (1) Yes (2) No ☐
    (b) If yes, when did you first hear of AIDS? (1) A few months ago
    (2) About a year ago (3) A couple of years ago (4) Since my childhood ☐
    (c) What were / are your sources of information? (1) Family member / relative (2) Friend / colleague / neighbour (3) Teacher
    (4) Clinic / hospital (5) Church / priest (6) Public lecture / chief's

baraza (7) T.V. / radio (8) Newspaper/ magazine (9) Textbook (10) Posters (11) Any other (specify) _____ ☐

16. How is AIDS labelled (named) in your community?

_____ ☐

17. Has AIDS been there for a long time or it appeared recently? (1) It appeared recently (2) It has been here for quite some time (3) It has been here for a long time. ☐

18. What do you think causes AIDS? _____

_____

19. What have you heard other people say causes AIDS? _____

_____

20. Has AIDS always been a killer disease?
(1) Yes (2) No (3) To some extent (4) Do not know ☐

21. Have you ever witnessed a person suffer from AIDS? (1) Yes (2) No (3) Not sure ☐

22. How do you think it is managed? _____

_____

23. Would you be interested in learning some (other) ways of controlling the disease? (1) Yes (2) No ☐

24. Have you ever heard about what some people do to avoid catching AIDS? (1) Yes (2) No ☐

25. On your part, what do you do to avoid catching AIDS? _____

_____

26. When you think about AIDS, how serious do you think it is?
(1) Deadly (2) Moderate (3) Not very serious
(4) Not serious at all

27. How do you view those suffering from AIDS? (1) Indifferent
(2) Not very hostile (3) Do not care (4) Sympathetic

28. Do you think they are responsible for their illness? (1) Not at all
(2) A little (3) Moderately (4) Very much

29. What would you say is the attitude of your community towards those suffering from AIDS? (1) Hostile (2) Indifferent (3) Sympathetic

30. (a) Which is the nearest health facility from your home? _____

_____

(b) How far is it from your home? (1) <0.5 km (2) 0.5 - 1 km
(3) 2 - 3 km (4) >3 km

31. (a) Have you ever been sick in the last one year? (1) Yes (2) No
(b) If yes, how serious was the sickness? (1) Very serious
(2) Serious (3) Moderate (4) Not serious at all

32. (a) Did you go to hospital? (1) Yes (2) No
(b) If not, why? _____

33. Do you use traditional medicine?
(1) Yes (2) No

34. Between modern medicine and traditional medicine, which one do you use most when you fell unwell? (1) Modern medicine
(2) Traditional medicine (3) Both of them (4) Neither of them

35. What is your response to the following statements and questions?

	Not at all	A little	Moderately	Very much
Most of what happens to our health is a matter of chance	11	12	13	14
There are many things that one can do to be healthy and avoid illness	11	12	13	14
In the early stages, one can be seriously ill without being aware of it	11	12	13	14
How much does it concern you that you may develop AIDS?	11	12	13	14
Are you concerned about your life that you have made any changes in your way of life?	11	12	13	14
If you developed AIDS, how much do you think your daily routine or lifestyle would change?	11	12	13	14

LEVIRATE AND AIDS

36. As a member of this community, would you say that death of a partner marks the end of a marriage? (Please explain) _____

_____

37. What becomes of a wife after the death of a husband? _____

_____

38. (a) (For men) Have you entered into a leviratic union?

(1) Yes (2) No ☐

(b) If yes, how long ago? (1) < 1 year ago (2) 1 - 3 years ago

(3) 4 - 6 years ago (4) > 6 years ago. ☐

39. (a) (For widows) Have you ever been engaged in a leviratic union?

(1) Yes (2) No ☐

(b) If no, why? _____

40. Why did you engage in the leviratic union? _____

_____

41. Have you ever had any children in that union? _____

42. Do you know of any other person(s) who has / have been engaged in a leviratic union? (1) Yes (2) No ☐

43. If yes, do they have children in that union? (1) Yes (2) No ☐

44. What do you think are the reasons which underlie the practice of levirate? _____

_____

45. Of the reasons you have mentioned, which one do you think is the most important one ? _____

_____

46. Do you think levirate has changed in any way since the time of your grandparents ? (1) Very much (2) Moderately (3) A little
(4) Not at all (5) Do not know ☐

47. Are there occasions when at the death of a husband a specific individual is generally expected by the community members to enter into a leviratic union with a widow? (1) Yes (2) No
(3) Do not know ☐

48. If yes, are such occasions frequent? (1) Yes (2) No ☐

49. Supposing one does not join a widow in a leviratic union when he is the person expected to do so, do you think he can be affected in any way? (Please explain) _____

_____

50. Do you think every widow expects to enter into a leviratic union?
(1) Yes (2) No ☐

51. If yes, why do you think they do so? _____
_____

52. If no, why? _____

53. (a) Supposing you entered into a leviratic union, would you want to have children in that union? (1) Yes (2) No (3) Maybe ☐
(b) If yes, why? _____
(c) If no, why? _____

54. In your view, must a leviratic union involve sex?
(1) Yes (2) No ☐

55. If yes, why? _____

56. If no, why? _____

57. (From question 54) If no, which form(s) can it take? _____
_____

58. Are widows who are cohabiting with their brothers-in-law also taken care of just as the wives? (1) Yes (2) A little
(3) Not at all ☐

59. Generally what is your understanding of a leviratic union?
_____
_____

60. Does the practice of levirate involve some taboos?
(1) Yes (2) No ☐

61. If yes, please explain _____

_____

62. Do you know of any person who has died after entering into a leviratic union? (1) Yes (2) No [ ]

63. If yes, was he/she sick before dying?
(1) Yes (2) No (3) Do not know [ ]

64. If yes, how long did the illness take? (1) < 1 month (2) About one year (3) 1 - 3 years (4) > 3 years [ ]

65. What was the nature of the illness? _____

_____

66. How was the illness labelled? _____

_____

67. How was it managed? _____

_____

68. How was the death explained? _____

_____

69. Do you think leviratic unions can result in the spread of AIDS?
(1) Very much (2) Moderately (3) A little (4) Not at all
(5) Not sure [ ]

70. Some people say AIDS is one of the sexually transmitted diseases (STDs), do you think this is true? (1) Very much (2) Moderately (3) A little (4) Not at all (5) Not sure [ ]

71. Supposing AIDS is a sexually transmitted disease and it kills, would you encourage the practice of levirate? (1) Very much (2) In some cases (3) Not at all (4) Not sure [ ]

72. Supposing the practice of levirate helps in the spread of AIDS, would you still practice it? (1) Not at all (2) May be (3) Very much [ ]

73. If you would still practice it, why? _____

_____

74. Assuming that the practice of levirate can result in AIDS, in which way(s) do you think it can be modified? _____

_____

75. Generally, what do you think is the future of the institution of levirate in your community? _____

_____

76. For each of the following statements, tell me whether (1) You agree very much (2) Agree (3) Disagree (4) Strongly disagree, and (5) Not applicable

	Strongly Agree	Agree	Disagree	Strongly Disagree	Not applicable
It is better to stick to traditional practices rather than change to unknown new ones even though the new ones may seem to be better	24	23	22	21	20
If a person is prepared to survive, he/she must be prepared to take chances	24	23	22	21	20
The way our people have lived is better than any way any other person can tell me.	24	23	22	21	20
New ways of life are only suitable for urban people but not for rural people	24	23	22	21	20
A healthy life is more dependent on God's will than on the efforts of human beings.	24	23	22	21	20

77. How do you traditionally caution/advice your children against the risk of contracting sexually transmitted infections? _____

_____

78. Do you know whether there are any attempts by the government to control the spread of AIDS? (1) Yes (2) No ☐

79. If yes, which attempt(s) do you know? _____

_____

80. Where did you get information about them? (1) Family member / relative (2)Friends / neighbour / colleague (3) Teacher (4) clinic / hospital / (5) Church / priest (6) Public lecture / chief's baraza (7) T.V. / radio (8) Newspaper / magazine (9) Textbook (10) Posters (11) Any other (specify) _____

☐

81. Are you in a position to practise as per the advice?
(1) Yes (2) No ☐

82. If no, why? _____

83. Do you attend barazas? (1) Yes (2) No ☐

84. If no, why? _____

85. If yes, how frequently do you attend barazas? (1) Every time there is a meeting (2) Quite often (3) Seldom ☐

86. What sort of people attend those meetings? _____

_____

87. Supposing levirate were to be banned by the government, what do you think would adequately take its place? _____

_____

88. Would you say it would be unfair to ban the practice?
(1) Yes (2) No

89. If yes, why? _____

90. If no, why? _____

APPENDIX II

QUESTIONNAIRE FOR ADMINISTRATIVE OFFICIALS

1. Name _____

2. Official grade _____

3. Age _____

4. Ethnic group _____

5. Sex _____

6. Where do you come from? _____

_____

7. Where do you live? (Mention whether it is in the sub-location, location or division) _____

8. Do you speak the local language? (1) Very well (2) Moderately (3) A little (4) Not at all ☐

9. How do you communicate with your people? (1) By visiting them (2) They visit or contact you (3) In barazas (4) Through church groups / schools (5) Any other (specify) _____ ☐

10. How frequently do you contact them? _____

11. It is possible that people sometimes do not heed advice given to them, what do you think are some of the important reasons why they sometimes fail to follow recommendations? _____

_____

12. What action do you take to ensure that they practise what you advise? _____

_____

13. Are you usually successful? _____

_____

14. If not, why? _____

_____

APPENDIX III

FOCUS GROUP DISCUSSIONS (FACILITATOR GUIDE)

1. Prevalence of levirate.

   - Is levirate widely practised in the community ?
   - Must all widows enter into a leviratic union ?

2. Perception of levirate.

   - What are the reasons for the practice of levirate ?
   - What does the practice of levirate entail ?
   - Is perception of levirate uniform in the community ?

3. Levirate and the spread of HIV/AIDS virus.

   - Can the practice of levirate lead to the spread of HIV/AIDS virus ?
   - Is levirate the major reason for the spread of HIV/AIDS virus in this area ?

4. Persistence of levirate.

   - Does death of a partner mark the end of a marriage ?
   - What are the reasons for the continued practise of levirate ?
   - Is the practice of levirate associated with some sanctions ?

5. Modification of levirate.

- Can levirate be practised in some less risky way ?
- What can be done to reduce the spread of HIV/AIDS virus through levirate by :

  (a) An individual ?

  (b) The community ?

  (c) The government ?