

ABOUT THE AUTHORS

Dr John Dzimba is the director of Academic Affairs at the Lesotho Institute of Public Administration and Management (LIPAM). Before assuming this position, he was principal consultant and head of the Academic Planning, Research and Consultancy Division of LIPAM. Dr Dzimba holds a BA degree in Philosophy from Urbanianum University, an MA in Political Science from University College Dublin, and a PhD in International Relations from Keele University. He has previously worked as a consultant for the Southern African Development Community (SADC), the Institute of Development Management Lesotho (IDM), and the Lesotho Institute of Public Administration and Management (LIPAM). He is also managing director of Africa 2000 and Beyond Consultancy Group (Pty) Ltd.

Matsolo Matoane is a consultant and acting head of the Academic Planning, Research and Consultancy Division at LIPAM. She manages all research activities and is responsible for coordinating training programmes and consultancy work. She previously worked as a consultant in the Governance and Socio-Economic Development Division of LIPAM. Matsolo holds a BA degree in Public Administration and Political Science from the National University of Lesotho, a BA Honours in Politics from Rhodes University (South Africa), and a Master's in Diplomatic Studies from Keele University. She has also worked for the United Nations Population Fund (UNFPA).

ACKNOWLEDGEMENTS

This report is the final stage of a process that has taken the Lesotho Institute of Public Administration and Management (LIPAM) research team to many parts of the country. In the process numerous people and organisations gave their time and resources to help the team to complete its work.

LIPAM Management would like to express its gratitude to the following people and organisations that contributed to making this study a success:

The former Minister of Home Affairs (the Hon Thomas Motsoahae Thabane) for his support, the Directorate of the Lesotho Mounted Police Service, the Commissioner of the Lesotho Mounted Police Service and her staff for technical and logistical support, district secretaries, principal chiefs, the Director of Public Prosecutions, prosecutors, chief magistrates, magistrates, stockowners, chiefs, headmen, the research field workers who helped collect and enter the data, donors for their financial support, the Institute for Security Studies (ISS), Keith Muloongo, Noria Mashumba, Duxita Mistry and Jemima Njeri Kariri for technical support, Academic Planning Research and Consultancy Division staff for writing the report, Dr John Dzimba, Rets'elisitse Nko, and 'Matsolo Matooane for quality-controlling the report, many Basotho who assisted the field workers with accommodation, and Messieurs Chipoyera and Nyanguru for helping the team with data analysis. A special word of thanks to Miss 'Matsolo Matooane for the dedication and commitment she has demonstrated in managing the project. Thanks also to Michael O'Donovan who drew the maps for the sampling process for this monograph.

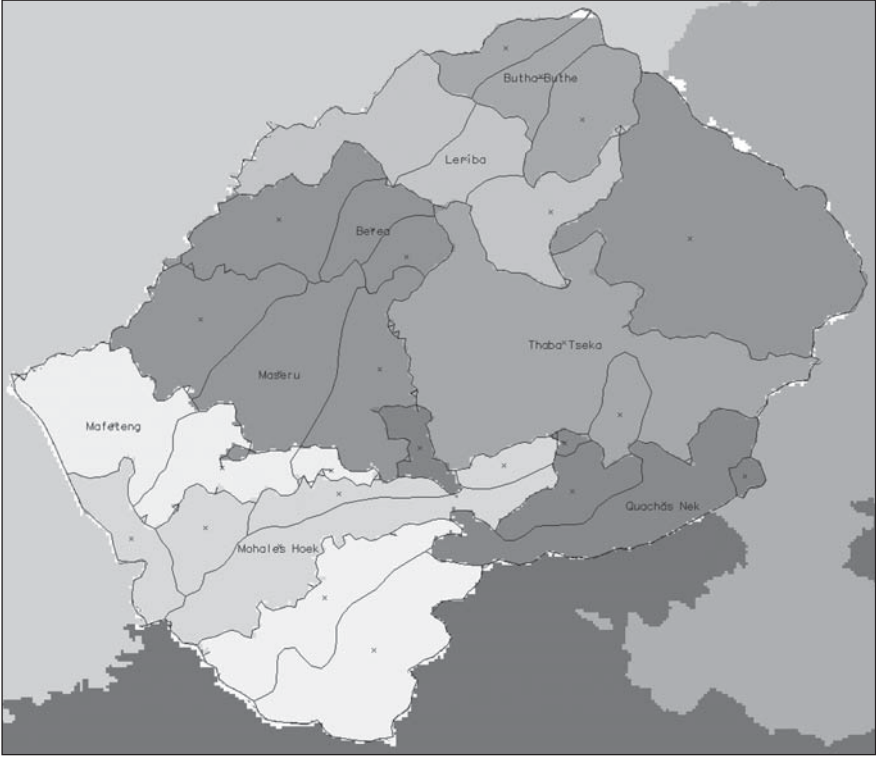
We are also thankful to all those who helped this research project in one way or another, but whose names or organisations have not been mentioned.

We thank you all.

LIST OF ABBREVIATIONS

AIDS	Acquired Immunodeficiency Syndrome
AGOA	Africa Growth and Opportunities Act
CCA	Anti-Crime Associations and Committees
CMA	Common Monetary Area
CSOs	Civil Society Organisations
GDP	Gross Domestic Product
GNI	Gross National Income
ISS	Institute for Security Studies
HIV	Human Immunodeficiency Virus
LEC	Lesotho Evangelical Church
LHWP	Lesotho Highlands Water Project
LIPAM	Lesotho Institute of Public Administration and Management
LMPS	Lesotho Mounted Police Service
LIPMS	Livestock Produce and Marketing Services
NGO	Non-Governmental Organisation
RSA	Republic of South Africa
SACU	Southern African Customs Union
SADC	Southern African Development Community
SIPO	Strategic Indicative Plan for the Organ
SPSS	Statistical Package for Social Sciences
STAs	Stock Theft Associations
STOCKPOL	Stock Policing Unit
VAT	Value Added Tax
ZCC	Zion Christian Church

Map of Lesotho



LIST OF TABLES AND FIGURES

List of tables

- Table 1 Sampling of districts
Table 2 Summary of livestock theft and recovery, 2002–2004
Table 3 Livestock census 2000/01

Appendix 1

- Table 1 Livestock census, 2000/01
Table 2 Summary of livestock theft and recovery, 2000-2004
Table 3 Trend of stock theft by year and district
Table 4 Number of animals stolen during 2000/01
Table 5 Number of animals recovered in 2000/01
Table 6 Number of animals stolen during 2001/02
Table 7 Number of animals recovered during 2001/02
Table 8 Number of animals stolen during 2002/03
Table 9 Number of animals recovered in 2002/03
Table 10 Number of animals stolen in 2003/04
Table 11 Number of animals recovered in 2003/04

List of figures

- Figure 1 Area and levels of vulnerability to stock theft
Figure 2 Levels of property crime by district
Figure 3 Level of livestock theft by district
Figure 4 Levels violent crime by district

- Figure 5 Levels of joint army/police patrols by district
- Figure 6 Length of time on the bench – magistrates
- Figure 7 Challenges in the prosecution of stock theft cases
- Figure 8 Recovery rate of stock by stakeholders
- Figure 9 Areas of vulnerability to stock theft
- Figure 10 Police records on level of violence during stock theft

EXECUTIVE SUMMARY

The Southern African Development Community's conceptual framework on peace and security recognises a new approach to human security which emphasises security of people and non-military dimensions of security. It is about protection of the individual taking preventative measures to reduce vulnerability, insecurity and minimise risk and taking remedial action where prevention fails. It is within this framework that the study on evaluating strategies for combating stock theft in Lesotho takes place.

Stock theft has become a national crisis in Lesotho. According to the National Livestock Development Study Phase 1 report of March 1999, stock theft has reached epidemic proportions throughout Lesotho and appears to be escalating. Stock theft presents a challenge to the consolidation of the fragile democracy in the Kingdom of Lesotho as it impoverishes people and causes conflicts within and between villages that in turn threaten stability. In cases of theft the livestock owner loses all the economic value of livestock and is left destitute. This affects the entire household, the community, and the country.

The purpose of the study was to examine the perceptions and extent of the problem and its impacts on livelihoods through an evaluation of current strategies that inform policy and to provide recommendations for enhancing existing policies, practices and strategies. The rationale of the study is to inform policymakers and implementers on appropriate strategies to manage stock theft. The outcome will be useful in designing mechanisms and systems for stock theft interventions and in monitoring and evaluating them. These interventions will be at community level, in the justice and policing services and in management.

The study was designed to focus on examining the following during interviews with stakeholders that included the police, chiefs, stockowners, magistrates and prosecutors:

- to review current strategies and practices in combating the problem of stock theft, including:

- community policing – communities collaborating with the police
 - stock theft associations
 - border patrols, including the army
 - policing mechanisms
 - the Criminal Justice System
 - The Stock Theft Act and other relevant legislation and policy documents
 - alternative forms of justice;
- to investigate the causes for the lack of confidence displayed by communities in the police and the courts;
 - to undertake docket research and analysis and examine court files and other relevant documents to determine the efficacy of the Criminal Justice System in relation to stock theft; and
 - to suggest recommendations that will regain the confidence of the communities in the police, courts and government.

In terms of the perceptions and extent of the problem, including its impacts on livelihoods, the study found the following:

- Stock theft is on the increase, as is related violence.
- Unemployment is the leading cause of stock theft.
- The marketing channels of stock make it easier to trade in stolen stock.
- Most stolen stock is herded into inhospitable terrain to make it more difficult to track down.
- Current markings of animals are easy to tamper with.
- Religion has an impact on the responses of communities towards crime.
- There is loss of mobility as animals are used for transport.
- The livelihood of households is affected owing to loss of earnings from cattle.
- Loss of lives is high.

- Levels of education are being affected in rural communities.

The study also found that stakeholders encounter the following challenges in the implementation of stock theft interventions:

- The roles of the different stakeholders are not clear with regard to dealing with stock theft issues.
- The mandate of the different stakeholders with regard to dealing with stock theft issues is not clear.
- Lack of resources hinders implementation of the strategies.
- Stock theft associations are rendered ineffective by violence that is perpetrated by thieves.
- Lack of effective means to communicate with police makes reporting stock theft in time impossible. The police are not able to respond immediately.
- Community policing is failing owing to a lack of proper organisation.
- Lack of resources hinders the performance of the police.
- The police are committed to the social protection of the communities they serve but are not motivated.
- The police crime prevention policy has not been implemented.
- Police records are a major weakness in the police procedural system as they are not kept properly.
- The practical application of the Stock Theft Act as it stands is not clear, as there is a wide gap between the legislation and the practical application of the law.
- Case law has developed judicial precedence that lays magistrate's courts as proper courts with jurisdiction to try stock theft cases.
- There is a conflict of laws and this affects the implementation of the Stock Theft Act.

Recommendations are made in the report, which address these findings. These include the following:

- There should be registration and training of anti-stock theft associations.
- Channels and avenues of communication between the police and communities should be improved.
- More resources should be provided for dealing with stock theft, including more off-road vehicles, shortwave radios, camping equipment, computers, and a helicopter.
- There should be a review of the format of data entry on police dockets and the procedural handling of such dockets.
- The number of prosecutors and magistrates specialising in the handling of stock theft cases should be increased.
- A short-term solution for the lack of magistrates and prosecutors could be roving courts that deal exclusively with stock theft cases.
- The micro-chipping of animals should be implemented with immediate effect.¹
- Government should make stock theft a priority in terms of financial support of the strategies and systems that combat stock theft.
- The Stock Theft Act should be reviewed with the full involvement of all stakeholders.

CHAPTER 1

BACKGROUND TO THE SOUTHERN AFRICAN DEVELOPMENT COMMUNITY'S CONCEPTUAL FRAMEWORK ON HUMAN SECURITY

Introduction

It is time that the objectives of security policy go beyond achieving an absence of war to encompass the pursuit of good governance, peace and security of people, crime prevention, protection of fundamental freedoms, sustainable economic development, social justice and protection of human rights and the environment. The use of military force is a legitimate means of defence against external aggression, but it is not an acceptable instrument for conducting foreign policy and settling disputes. It recognises that states can mitigate the security dilemma and promote regional stability by adopting a defensive military doctrine. Threats to security are not limited to military challenges to state sovereignty and territorial integrity; they include the abuse of human rights, economic deprivation, social injustice, and destruction of the environment.

SADC's (Southern African Development Community) conceptual framework on peace and security recognises a new approach to human security that emphasises security of people and non-military dimensions of security. In essence human security means safety for people from both violent and non-violent threats. It is a condition or state characterised by freedom from pervasive threats to people's rights, their safety or even their lives.² It is about protection of the individual by taking preventative measures to reduce vulnerability and insecurity, to minimise risk, and to take remedial action where prevention fails. This model recognises that security of states does not necessarily have the same meaning as security of people. Its philosophy is based on the principle that security is conceived as a holistic phenomenon which is not restricted to military matters, but broadened to incorporate the security of the individual with respect to the satisfaction of the basic needs of life. It encompasses the creation of the social, political, economic, military, environmental and cultural conditions necessary for the survival, livelihood, and dignity of the individual, including the protection of fundamental freedoms, the respect for human rights, good governance, and access to education and healthcare. It is about ensuring that each individual has opportunities and choices to fulfil his or her own potential. Its objects are not confined to states, but extend to different levels of society that include people, geographic region and the global community.

It emphasises that the domestic security policy should pay greater attention to the problem of violence against women and children. Rape, wife battering, child abuse, crime and diverse types of harassment have a traumatic impact on the physical and psychological security of more than half of the population, but are largely ignored by state agencies. This concept of security sets a broad agenda. Defining problems such as poverty, oppression, social injustice, crime, the need for good governance, the uneven distribution of income wealth and power, ethnicity tension, poor health facilities, unemployment, HIV and AIDS prevention, drug trafficking, and the land problem as security issues raises their political profile. These are what governments and societies have to address continuously.

SADC as a community regards these factors as the greatest threats to domestic stability and economic development. All SADC's protocols and terms of reference on a common regional security approach are based on these practical principles of the new approach to human security. The security protocols provide the mechanisms and strategies for a common regional security agenda. They recognise the need for a common security regime that provides a basis for early warning of potential crisis; building military confidence and stability through disarmament and transparency on defence matters; engaging in joint problem-solving and developing collaborative programmes on security issues; negotiating multilateral security agreements; and managing conflict through peaceful means. They also acknowledge that war and insecurity are the enemies of economic progress and social welfare.

Therefore if human development is freedom from want, human security may be understood as the ability to make choices in a safe environment on an equal basis with others. This means that individuals and communities are no longer bystanders and collateral victims of conflicts, but core participants in protection strategies and peace-building. It calls on the state to provide a facilitating environment for equality and individual participation in good governance and a secure environment with commitment to conflict resolution, peace-building, peacekeeping, control of the means of violence (small arms), and controlling organised crime.

Project background

At the SADC Head of States Summit in August 2003 in Dar es Salaam, the Strategic Indicative Plan for the Organ (SIPO) was adopted by member states as a plan to engage civil society organisations (CSOs) in shaping peace and security in the region. SIPO's objectives include the following:

- to engage civil society in conflict resolution;
- to campaign for the raising of public awareness regarding issues that threaten the security of human beings; and
- to establish academic and research institutions fora to deliberate on peace and security matters.

The Lesotho stock theft project is a response to the call by SADC heads of state on civil society, academics and research institutions, and non-governmental organisations (NGOs) to engage in combating matters that threaten peace and human security in their countries. A workshop organised by the Lesotho Institute of Public Administration and Management (LIPAM), and supported by the Institute for Security Studies (ISS), was held in Maseru on 2 and 3 June 2004. At the workshop – which was attended by CSOs, NGOs, academics and research institutions – participants defined HIV/AIDS and stock theft as the greatest threats to human security in Lesotho. The workshop provided consensus that the major threat to human security, peace and democracy in Lesotho comes from high levels of crime, which impact negatively on the country's already fragile economy.³ The workshop acknowledged that a number of strategies have been developed in Lesotho to combat stock theft within and on Lesotho's borders, but with very little success. These strategies and systems include:

- increase in patrols of borders of the hardest hit communities and the border between South Africa and Lesotho;
- introduction of stock theft legislation that favours harsher penalties for stock theft offenders;
- a national system of marking and registering all stock;
- new regulations governing the sale and transportation of stock;
- increased powers of search and seizure for the police;
- the establishment of stock theft associations (STAs) made up of villagers who have mobilised into groups in an effort to defend themselves and recover stolen stock.

There are perceptions that the strategies have not been successful because well-placed police, army and government officials are involved in the

running of stock theft syndicates, and this has led to lack of confidence in the police, the courts and government machinery.

The purpose of the study

The rationale of the study is to influence policymakers and implementers to devise appropriate strategies for managing stock theft. The outcome will be useful in designing mechanisms and systems for stock theft interventions and in monitoring and evaluating them. These interventions will be at community level, in the justice and policing services, and at management level. The purpose of the study was to examine the perceptions and extent of the problem and its impacts on human security through an evaluation of current strategies that inform policy and to provide recommendations for enhancing existing policies, practices and strategies.

The study was designed to focus on the following:

- to review current strategies and practices in combating the problem of stock theft, which include community policing (communities collaborating with the police); STAs that collaborate with the police; border patrols that include the army; the police; the Criminal Justice System; the Stock Theft Act and other relevant legislation and policy documents; and alternative forms of justice;
- to investigate the causes of the lack of confidence displayed by communities in the police and the courts;
- to undertake docket research and analysis, and the examination of court files, etc, to determine the efficacy of the Criminal Justice System in relation to stock theft;
- to suggest recommendations that will regain the confidence of the communities in the police, courts and government; and
- to suggest viable strategies that will curb the problem of stock theft.

Methodology

The study is intended to analyse the strategies used to combat stock theft in Lesotho. Interviews were held with various stakeholders, that is,

chiefs, police, army, and Ministry of Agriculture officials, prosecutors, magistrates, and members of parliament. The interviews were focused on obtaining background information on the state of stock theft in Lesotho. This information was collected with a view to, among other things, identifying villages with a high incidence of stock theft (information from the chiefs); obtaining the relevant statistics on stock theft and recoveries⁴ (from the police); and identifying border patrol areas that are serviced by the army in conjunction with the police and their counterparts in South Africa. Information on the registration and identification of stock, including grazing permits and marketing channels (from the Ministry of Agriculture) was also important. Prosecutors and magistrates provided statistics on court cases lodged, processed and pending, and the police identified hot spots for stock theft and gave their general impressions on the issue of stock theft. This information was augmented through literature review and formed the basis for questionnaire design and development.

Themes for discussion revolved around the roles and competencies of the interviewed stakeholders in combating stock theft; the successes and challenges of countering stock theft; and recommendations for future improvements. The above process occurs within the context of existing strategies to combat stock theft.

Sampling techniques

Because the study was qualitative and quantitative, purposive and biased sampling techniques were used to select areas that best reflect characteristics of stock theft in Lesotho. Subjective information and experts were used to identify the research samples. The experts in this particular study are the Stock Policing (STOCKPOL) Unit of the Lesotho Mounted Police Service (LMPS).

Sampling was done in a manner that is representative of the country and covered three ecological zones, namely highlands, foothills and lowlands in the seven districts involved in the study, including areas around the border.

Relevant information on stock theft was obtained to identify hot spots in these districts. Statistical information on the incidence and recovery of stock was obtained from STOCKPOL and analysed. The districts were ranked according to the extent of stock theft. Sampling of districts was done by selecting two high-, two medium- and three low-incidence districts. This took into account the districts that have a high incidence of cross-border stock theft.

Table 1 Sampling of districts

Level of stock theft incidence	District	Village cluster	Remarks
High	Thaba-Tseka	Sehonghong	Highlands
		Matsoku	Highlands
	Maseru (pre-test district)	Qeme	Lowlands (border)
		Thaba Bosiu	Foothills
	Berea	Mosalemane	Foothills
		Menyameng	Foothills
Medium	Leribe	Mphosong	Foothills
		Maputsoe	Border/lowlands
	Butha-Buthe	Monontsa	Border/highlands
		Tsime	Foothills
	Qacha's Neck	Ramatseliso	Border/highlands
		Matebeng	Highlands
Low	Mohale's Hoek	Ketane	Highlands
		Mpharane	Foothills
	Mafeteng	Van Rooyens	Border/lowlands
		Matelile	Lowlands

Pre-testing of the questionnaires was carried out in Maseru, because it met the requirements of the study in terms of ecology, being a border district and a high-incidence area. The data from Maseru, however, was omitted from the analysis, because the district was a pre-test area, and information from only seven districts was used in writing the report.

A cluster sampling strategy was used to select villages. Cluster sampling refers to subdividing the population into subgroups called clusters, then selecting a sample of clusters, and randomly selecting members of the cluster. The villages were clustered according to groups of villages falling under gazetted chiefs in offices where bewys⁵ are issued.

A sample of two clusters per district was selected. A total of 315 respondents were interviewed in the seven districts, comprising a sample of 210 stockowners (including shepherds and STAs), 42 chiefs (including 14 headmen), 42 police officers, 14 prosecutors, and 7 magistrates. Data was

collected from directly and indirectly affected categories of respondents as follows:

- at least 15 stockowners in a cluster of villages;
- at least two chiefs with offices where bewys are issued (these were in areas serving the above stockowners);
- one headman under these chiefs;
- one station commander and one patrol officer at the police station serving the selected village clusters; and
- two prosecutors and one magistrate at the local court serving the selected village clusters.

Fifteen closed police dockets were also analysed for each of the sampled districts, using a structured docket analysis form.

Data was captured using EPI-Info and analysed using SPSS (Statistical Package for Social Sciences). Subsequently, the relevant stakeholders were invited to a workshop to validate the findings, build consensus, and develop a way forward.

The sources of data and data-collection strategies

Pitsos⁶ were held for stockowners, shepherds, members of community policing and STAs, and closed and open-ended questionnaires were administered. Police posts, army bases, local courts, gazetted chiefs and bewys writers were selected for the administration of questionnaires. Data was collected from highlands, foothills and lowlands, as well as villages around the South African border. Separate questionnaires were developed for each category of interviewee. Most questions were open-ended to allow the respondents to air their views or give additional information. Names of respondents were not included in the questionnaire to enable them to express their views freely.

The questionnaires were designed to assess the impact of existing strategies in alleviating stock theft. These strategies involved the following:

- community policing (working with the police to exchange information);

- STAs (to exchange information with the police on stock theft);
- border patrols that included both the police and the army;
- the Stock Theft Act No 4 of 2000, which contains measures for combating stock theft. These measures include marking and registration, sale and transportation, and increased powers of search and seizure by police. Penalties for stock theft offenders are harsher.

The questionnaires were designed to assess the following:

- the extent to which stock theft has affected the livelihoods of the rural communities;
- the strengths of the existing strategies in combating stock theft;
- the reason why current strategies have not been successful;
- the causes of the lack of confidence in the police and the courts displayed by communities;
- recommendations to regain the confidence of communities in the police, courts and government; and
- strategies that will curb the problem of stock theft.

Profile of interviewees

Stockowners

To analyse the factors that determine the extent or impact of the problem of stock theft, stockowners were used as the first point of contact because they are the primary victims of stock theft and the people most likely to suffer insecurity as a result. Stockowners were interviewed to gather information about their perceptions of the following:

- whether stock theft has become more widespread and/or violent in the last three years;
- whether the marketing channels and uses of livestock make it easier to trade in stolen stock;

- the progress Lesotho has made in developing and implementing sound systems for combating stock theft, focusing on the community infrastructure, technical issues in the policing services and the Criminal Justice System, and institutional arrangements in the police, the community and the courts;
- examining the importance of the rearing of livestock to communities in Lesotho;
- the uses of livestock, how these are affected by stock theft, and how these effects impact on community cooperation, activities and initiatives;
- whether violence has escalated within communities because of stock theft and how this has impacted on community relations and the economic structures within these communities;
- the consequences of escalating stock theft on the processes of social protection and good governance, with particular emphasis on corruption and conflict;
- whether there is any harmony and linking of policy strategies so that human and financial resources are used efficiently and effectively; and
- management and leadership principles that should be emphasised in order to lead to a better partnership among stakeholders.

All these have an impact on the formulation and implementation of strategies to combat stock theft, and understanding these views, opinions and perceptions forms the context for a review of the strategies. For instance, if stock theft has become more violent, then we need to ascertain how this affects strategies such as community policing.

Chiefs

Chiefs form an important part of the governance system. Their responsibility is to maintain peace, law and order in collaboration with the police. With regard to livestock rearing they are authorised to write bewys as official documents for the transfer of ownership of animals from one person to another. They have the power to arrest and hand over to the police any person who disturbs the peace or breaks the law of the land. When members

of the public have apprehended lawbreakers, they hand them to the chief, who in turn passes them on to the police.

Chiefs live in the communities with the people they rule. This makes them the closest people to the communities. Thus, for issues of crime in general and stock theft in particular they become the first authorities that people report to or seek assistance from. They are strategically placed to be effective in assisting their communities, but can be destructive if they are corrupt. They are also important stakeholders in stock rearing.

For these reasons the study devoted time to chiefs as important stakeholders. Because of their intermediary role between the community and the police, chiefs are summoned as state witnesses in most cases of stock theft and other crimes. Thus they interact regularly with the police and are well placed to give an opinion on the police.

Chiefs were interviewed to determine the following:

- the chiefs' perception of their role in combating stock theft;
- the level of crime in their areas. As the first people to whom communities report crime in villages, the chiefs are the first to know what is happening in their communities;
- strategies that communities employ against crime. As the authority that has to know and approve all legal activities in the village, the chief would know what initiatives have been taken by the community to combat crime; and
- the problems and challenges that they face as intermediaries between the police and the communities they rule. Chiefs liaise with the police in that they refer victims of stock theft to the police for assistance.

When the police go to any village or area, their first contact is with the chief, so the questionnaires tried to determine the levels of communication and cooperation between the communities and the police.

The Lesotho Mounted Police Service (LMPS)

The police force is central in eliminating stock theft and protecting the citizens from criminals. In dealing with this problem the police have established a

stock theft unit and implemented strategies to combat the problem. It was crucial to interview them to find out:

- how the police are managing the problem of stock theft, what structures and operations they have implemented to support the strategies, and the constraints they face in implementing these strategies, in order to have an overview of the magnitude of the problem;
- the reasons for the difficulties in reducing the level of crime and stock theft;
- the working relationship between the agencies in the Criminal Justice System and the problems in working together in the process of justice; and
- how the police work with the communities they protect and how the relationship between the police and the communities – in particular the chiefs – impacts on the social protection of these communities, with the emphasis on stock theft.

Prosecutors and magistrates (the Criminal Justice System)

Magistrates, prosecutors and the police have to work together to ensure the efficient and effective administration of the judicial system. Because magistrates work closely with the prosecutors, who in turn work closely with the police, they can easily determine whether prosecutors and police are competent in dealing with stock theft cases – particularly with regard to the preparation of the case, the quality of the evidence presented, their knowledge of the relevant legislation, and their experience.

The magistrates are the neutral third parties appointed by the state on the recommendation of the Judicial Service Commission to decide on matters in the case of a conflict. They arrive at decisions according to the principles of fairness and impartiality, while upholding constitutional and fundamental human rights. They are there to enforce the law and ensure that it is applied strictly. Their primary duty is to enforce decisions they have reached. They also decide on legal issues and protect the judicial services.

Interviews were held to determine the following:

- the problems that hinder the efficient and effective administration of justice, particularly pertaining to stock theft;

- whether the communities' lack of confidence in the courts is justified;
- the reasons for the slow movement of justice in Lesotho's courts, particularly in case handling, the emphasis being on periods of remand of cases.

One of the objectives of the study was to determine the efficiency of the Criminal Justice System in dealing with stock theft. In the process dockets would be researched and analysed to determine whether they are serving their purpose.

Dockets contain the following information/statements: the type of crime committed; the time and place of the crime; background information on victims and perpetrators; and previous convictions of the perpetrators. This information is used as evidence in magistrate's courts.

CHAPTER 2

THE SOCIAL AND ECONOMIC STRUCTURES OF LESOTHO

Socio-economic overview of Lesotho

In order to conceptualise the importance of the study on stock theft and its impact on human security, one has to take cognisance of the social and economic structures of Lesotho.

Lesotho is a predominantly mountainous country, with an average altitude of more than 1,600 metres above sea level. It covers about 30,350 square kilometres and has limited natural resources. One quarter of the land is lowland and the remainder foothills and highlands. Although it remains one of the least developed countries, it achieved a real annual average gross domestic product (GDP) growth rate of 4.2% between 1980 and 2002 and the national economy has now reached M7.5 billion (approximately US\$1 billion).⁷ Lesotho has a population of 2.2 million, which is growing at an average of 2.4% per annum, and the literate but largely unskilled labour force represents the main national resource.⁸ It is entirely landlocked within the territory of the Republic of South Africa (RSA) and its economic development centres on its membership and participation in activities of the Southern African Customs Union (SACU), the Common Monetary Area (CMA) and the Southern African Development Community (SADC).

In the period 1998–2002 the GDP measured at current market prices grew by an annual average of 11.2%. In real terms, the GDP declined by 4.6% in 1998, but there was subsequently a gradual increase in the annual growth rate, from 0.2% in 1999 to 1.3% in 2000, 3.2% in 2001 and a provisional figure of 3.8% in 2002.⁹ In the same period, the gross national income (GNI) increased in nominal terms by an annual average of 10.0%, but in real terms it fell by 1.2% per annum. In nominal terms, the GNI per capita¹⁰ fell to M3,060 in 1998, but rose in each subsequent year, reaching a provisional value of M4,196 in 2002. However, when expressed in US dollars (utilising the annual average exchange rate), there was a dramatic decline from US\$667 in 1997 to only US\$403 in 2002.¹¹ It is not surprising that poverty levels in Lesotho remained high despite the relatively strong GDP growth rate registered during this period.

Lesotho remains heavily dependent on revenue sources, over which it does not have much control. Domestic revenue has grown more slowly than the GDP at market prices (6.2% per annum versus 9.8% per annum), resulting in a steady reduction from 47.6% of GDP in 1997/98 to 40.3% of GDP in 2002/03.¹² However, the establishment of the Lesotho Revenue Authority and the introduction of value added tax (VAT) at 14% in 2003 have helped to broaden the tax base.

Total expenditure and net lending have increased at an average of 9.3% per annum since 1997/98. Recurrent expenditure has grown rapidly and its share of total public expenditure has risen from 62.9% in 1997/98 to 77.4% in 2002/03.¹³ While wages and salaries and subsidies and transfers have only grown by 8.5% per annum, there has been unsustainable growth in purchases of other goods and services (averaging 26.4% per annum) and it now absorbs 28.3% of total expenditure (up from only 13.8% in 1997/98).¹⁴ Interest payments have grown by an average of 19.5% per annum and now absorb 5.9% (up from 3.8%).

The significance of migrant labour for the economy

Lesotho is part of a regional economy that has depended on migrant labour for generations. In the 1970s some 125,000 Basotho worked in the South African mining industry, and it was estimated a further 25,000 were employed in other industries.¹⁵ As a result, almost half of the GNI was generated from remittances. The number of mineworkers remained at that level until 1990, but subsequently there was a sustained decline and there are now only approximately 60,000. This decline in mineworkers had a serious impact on the GNI. Since the end of apartheid, the pattern of migration has changed, so that today not only men from Lesotho work in South Africa, but increasingly women of all ages as well. According to a 2001 Lesotho Demographic Survey, 14% of males and 4% of females over the age of 15 work in South Africa, which is equivalent to approximately 120,000 people.¹⁶ The disadvantage of these people working in South Africa today is that, unlike mineworkers, there are no remittances. The arrangement is not beneficial to Lesotho's economy, because there is no income.

In recent years the private sector has demonstrated that, under the right circumstances, it has the capacity to stimulate economic growth and rapidly expand employment opportunities. With the introduction of the Africa Growth and Opportunities Act (AGOA), for example, industrialists

based in Lesotho have been able to increase production considerably. The greatest growth has been in the garment sub-sector, which now employs more than 50,000 people, most of whom are from poor households with limited education. If favourable conditions prevail, this growth should be sustained for some time. Indeed, many of the existing industrialists are keen to expand production, while new investors are held back only by lack of serviced sites. This has helped somewhat to ease the rate of unemployment.

The unemployment rate is 24.3%¹⁷ and the percentage without any form of waged employment is considerably higher. Because of the strong correlation between unemployment and poverty, poverty in Lesotho is very closely associated with the absence of waged employment and income. This is not surprising, as Lesotho has a harsh and erratic climate with rugged terrain and poor soil, all of which make agriculture a risky enterprise. For generations the most secure form of income for Basotho has been migrant labour on the mines of South Africa, but with the number of miners now less than half of what it once was, rural households are struggling to survive. Most miners bought animals after retrenchment because in Lesotho these are traditionally seen as a sign of wealth. Animals are also used to engage in agriculture and are a tool for accessing other goods and services. For Basotho and other Africans, stock is used for paying for education, as a means of transport, and for paying lobola (bride-price). They also slaughter their animals for traditional feasts. There is a notion that the more stock one has, the wealthier one is, and that creates a source of pride and the recognition one enjoys in the community.

Some households have been able to find work, mostly for younger female members, in the new textile industries. These are, however, concentrated in a few of the urban areas, whereas miners were recruited from all over the country. The availability of waged work makes the urban areas more prosperous, but still the standard of living is declining, as evidenced by the rapid closure of luxury goods stores because of the declining purchasing power of the population; moreover, the influx of job seekers far exceeds the number of positions available. As a result, conditions in the fast-growing peri-urban areas are in decline: services are overstrained and the quality of life is deteriorating.

However, it is clear that people perceive poverty as being associated with broader issues relating to peace, good governance, security and justice, which they see as being basic requirements.

The relationship between agriculture and stock

Lesotho has not been in a position to grow enough food to feed its population for decades. National food self-sufficiency is unattainable, because the country simply does not have the necessary fertile, arable land to feed its growing population. Past interventions, to a certain extent, may have worsened the situation by creating new dependencies.

It is not only government that has been subsidising cereal crop production. Over the years households have subsidised ploughing and planting costs by diverting income from other sources – such as mine remittances – to crop production. Because few households keep proper records, they are not aware that their costs often exceed their returns. However, a cost-benefit analysis of crop production in the lowlands, where there is greater dependency on mechanised traction and purchased inputs, shows that most households are making a loss.¹⁸ In the mountains, where direct costs are lower because people tend to use animal traction, manure and their own seeds, crop production is profitable, but the amounts grown fall far short of the requirements. Indeed, in total, fewer than 5% of households nationwide produce enough cereals to feed their families throughout the year, with the remainder having to purchase part or all of their cereal needs.¹⁹

A combination of factors – including population growth, limited arable land, erosion, degradation of the soil, variability of climate, the decline of stock, mine remittances and HIV/AIDS taking its toll on productive farmers – has had an impact on food production, as far fewer households have the necessary income to invest in the required inputs. These factors have serious impacts on agriculture and food security in the country. For poor households the annual practice of procuring the required inputs for cereal production is almost insurmountable. In the past this would have been overcome through sharecropping with other households, but as the number of people without waged employment grows, the prospects for sharecropping have declined.

Distribution of livestock

In developing programmes to assist the poor, cognisance must be taken that the proportion of households that own livestock is declining (between 1993 and 1999 cattle ownership fell from 48% to 39% while ownership of sheep and goats fell from 32% to 26%).²⁰ The average number owned is low (1.43 for cattle and 3.96 for small stock) with very limited variation across income quintiles. However, a small percentage of rich households own large herds.

These wealthier members of the community are able to benefit more from the communal resource than those who do not own any livestock. In the early 1990s an attempt was made to introduce locally managed grazing fees, which would have resulted in livestock owners effectively paying their communities something for the use of range land, but this failed owing to lack of popular support and the absence of proper implementation structures. The issue of unequal access to natural resources remains and it is necessary to work towards consensus with the various stakeholders about the way forward.

CHAPTER 3

STOCK THEFT AS A THREAT TO HUMAN SECURITY IN LESOTHO

Stock theft nationally and regionally

The incidence of stock theft is serious in Lesotho and the rest of the SADC sub-region. In 1999 this led the Council of Ministers to agree that all member states should embark on sound livestock identification, trace-back and information systems. Subsequently Lesotho conducted a feasibility study on the National Livestock Registration, Marking and Information systems. Lesotho is at a disadvantage compared with South Africa, Botswana, Namibia and Zimbabwe, which have already developed and implemented systems for combating stock theft.

Lesotho is currently implementing a livestock registration, marking and information system with a view to curbing and managing stock theft within and across its borders. The Ministry of Agriculture is currently procuring equipment and supplies as a follow-up to the Stock Theft Act of 2000. The provisions of the Act are being implemented as the registration comes into effect. It is hoped that there will be a significant reduction in theft, increased recoveries, arrests, and sentencing of offenders.

Stock theft has become a national crisis in Lesotho. The Bureau of Statistics²¹ estimated that there were 580,000 cattle, 1,132,000 sheep, 749,000 goats, 98,000 horses and 163,000 donkeys in Lesotho in 1998/99. Cattle numbers have remained stable, while sheep have declined significantly in Lesotho and South Africa in the same period. The primary reason for the decline of livestock was given as stock theft. This has also adversely affected the wool yields from 2.9 kg to 2.4 kg per sheep as stockowners disinvest in the livestock sector.²²

According to the National Livestock Development Study Phase 1 report of March 1999, stock theft has reached epidemic proportions throughout Lesotho. However, there has been a decline in stock theft since 2000. Table 2 represents the incidence of stock theft and recoveries between 2000 and 2004. The average recovery of livestock is 38%. This table clearly depicts the problematic nature of stock theft. However, there has been a decline in stock theft and increasing recovery up to 50%.

Table 2 Summary of livestock theft and recovery for 2000–2004²²

	Number of animals stolen	Number of animals recovered	% Recovery
2000/01	33,950	11,150	33
2001/02	30,105	11,074	36
2002/03	26,678	13,369	50
2003/04	18,442	7,847	43
TOTAL	109,268	41,862	38

According to the study conducted by Kynoch et al²⁴ the fundamental cause of stock theft is poverty. The distribution of income is biased against most of the population in rural areas. This situation has been aggravated by the reduction in agricultural productivity and high unemployment. The rate of unemployment has been increased by the retrenchment of Basotho mineworkers in RSA. While the Lesotho government hoped that the Lesotho Highlands Water Project (LHWP) would offset the retrenchment of mineworkers, Phase II of the project – which employed a lot of manual labour from the ranks of the retrenched mineworkers – has been scrapped. This in essence means that agriculture remains the primary means of livelihood for rural communities in Lesotho.

It is for these reasons, among others, that the escalating stock theft presents such a challenge to the consolidation of the fragile democracy in the kingdom. Stock theft impoverishes people and causes conflicts within and between villages, which in turn threatens stability and efforts to achieve the long-term National Vision 2020.²⁵

Magnitude of the problem of stock theft

In a study of 147 respondents in ten villages in southern Lesotho, Kynoch et al²⁶ found that the following features characterise stock theft:

- Stock theft is not new in that border zone. It became more widespread, organised and violent in the 1990s. Some 71% of the Basotho stockowners have reported having had stock stolen since 1990, many more than once. Over 40% of non-stockowners say they do not have animals because of stock theft.
- Since 1990, 85% of stockowners in the border villages have lost animals to thieves compared with 49% from non-border villages. Shepherds

from border villages reported a higher rate of victimisation (83%) than those further removed from the border (50%).

- Most cattle and sheep are stolen from cattle posts where only shepherds guard them. Stock is also taken from kraals, and on occasion whole villages have been attacked and all livestock driven away.
- Cattle are stolen more frequently than other animals, but this is because more people own them. Sheep are stolen in greater numbers, probably a result of the larger numbers of sheep owned. In 40% of thefts cattle were stolen. Theft of sheep occurred in 30% of thefts, goats in 13%, horses in 13%, and donkeys in 4%.
- The study identified seasonal variations in stock theft. It was found, for example, that this situation obtained for two villages where cross-border accessibility was largely determined by the level of the Senqu River. These villages reported that theft was much worse in winter, when the river was low.

Consumption patterns of stock

It is estimated that household slaughtering accounts for 2%, 5%, and 4% for cattle, sheep and goats respectively, which explains the varying decline in the levels of cattle, sheep and goats.²⁷ Current slaughter trends are likely to vary, but do indicate higher percentages owing to increasing deaths from the HIV/AIDS pandemic. This is because of the traditional practice of slaughtering animals in the event of deaths or funeral ceremonies. The increase in HIV/AIDS-related deaths also puts pressure on poor families who cannot afford to buy animals for slaughtering and end up stealing from more affluent families. Furthermore, cattle are used for lobola (payment for a bride), payment of school fees, and festive celebrations. Stockowners sell their stock to meet these obligations. For an ordinary Mosotho, stock is his or her finance bank.

Livestock production contributes to the economic development in Lesotho in many ways. Animals are:

- a source of barter for other commodities;
- a source of food;
- a source of household fuel, particularly in the rural areas;

- a source of draught power and transport; and
- a readily marketable asset for meeting household financial needs.

The formal marketing channels, which were supported extensively, are in the process of being privatised. Livestock owners sell directly to traders, butchers and individual buyers. Currently 15 auction sites are organised by Livestock Produce and Marketing Services (LPMS). These auctions are experiencing less and less support from buyers and sellers in favour of informal channels.²⁸ Most stockowners are not commercial operators. Animals on the hoof are regarded as live wealth with which owners are loath to part. Stockowners do not plan their sales and only sell when there is an urgent need for cash, such as paying school fees. Recently, informal channels have seemed to attract stock thieves, as owners are willing to part with stock urgently and readily accept the buyers' price.

Socio-economic aspects

Livestock production is one of the economically viable and sustainable sectors in the agricultural industry. This is primarily because of the favourable topography and climate, which renders Lesotho free of major diseases. According to livestock census figures published in 2002 there were 3,050,522 animals in Lesotho in 2000/01.

In cases of theft the livestock owner loses all these economic values of livestock and is left destitute. This affects the entire household, the community, and the country. In Lesotho syndicates from both sides of the border often steal the animals at gunpoint, thus the risk of keeping livestock has become unacceptably high. In addition, there is an increasing attraction in exchanging stolen livestock for guns, vehicles and drugs.³⁰ This form of barter system has detrimental effects on the socio-economic development of the nation. There is increasing suspicion and mistrust among stockowners. Also, violence has escalated within villages because community members do not know who the thieves are, who harbours thieves, and who are informants for thieves.³¹ Bribery and corruption impede justice and the recovery of stolen animals.

Cross-border relations

Cross-border stock theft has resulted in high levels of violence, causing injuries and death. The Kroon Report³² equates the situation with a regional disaster. Shepherds experience high levels of victimisation, particularly

Table 3 Livestock census 2000/01 ²⁸

District	Cattle	Sheep	Goats	Pigs	Horses		TOTAL
Butha-Buthe	39,065	59,945	41,645	5,140	4,325	11,510	161,630
LERIBE	129,875	108,450	119,500	21,625	16,625	30,750	426,825
Berea	86,625	60,250	37,875	29,250	5,625	26,250	245,875
Maseru	128,125	153,700	88,875	35,000	16,875	28,250	450,825
Mafeteng	79,894	138,564	55,938	14,750	6,313	22,688	318,147
Mohale's Hoek	55,750	86,645	150,750	14,125	10,125	17,375	334,770
Quthing	43,500	99,375	96,125	8,250	6,750	7,625	261,625
Qacha's Neck	22,675	52,200	14,800	2,800	3,975	4,500	100,950
Mokhotlong	43,875	165,125	72,250	0	8,875	11,000	301,125
Thaba-Tseka	80,500	192,375	152,500	4,125	17,250	2,000	448,750
TOTAL	709,884	1,116,629	830,258	135,065	96,738	161,948	3,050,522

in cattle posts. Thieves often cannot distinguish stockowners from non-stockowners and terrorise the whole village. They steal animals, rape women, loot homes, and kill villagers indiscriminately. This has resulted in a number of villages being abandoned.³³

Inter-village relations

There is also suspicion and mistrust among villagers. One village suspects that the other village helps thieves to steal animals. People are no longer free to visit other villages. Any unknown person is regarded with suspicion.³⁴

Donkeys and horses are no longer readily lent for transportation to those who do not have animals. Furthermore, some farmers who do not have animals are unable to plough their fields. Women generally prefer to sell stock to secure scarce resources and meet their basic needs rather than keep the animals for thieves and invite possible injuries or death. Spouses engage in serious conflicts over the sale and retention of stock.

Cow dung is used for fuel in the rural areas and stock theft has resulted in households resorting to wood for fire. It is not uncommon for women to spend up to six hours a day collecting firewood, in addition to other duties. Deforestation has caused major soil erosion problems.

Most of the above studies indicate that the economic status of about 90% of households in rural areas has been negatively affected by stock theft. There are reports of the entire wealth and livelihood of a household being wiped out in one stock theft operation. This has resulted in loss of income from the sale of milk, animals, wool, mohair and hides.

Grazing patterns have been affected by stock theft. Animals have been removed from grazing areas around the borders to the hinterland, where high stock densities have resulted in the poor condition of animals and severe land degradation.

Intra-village relations

Stock theft has affected relations within villages on a number of different levels. The level of mistrust among villagers has reportedly increased. This mistrust is not targeted at any neighbour in particular, but manifests itself in underlying tensions among villagers.³⁵ People are afraid to quarrel with neighbours because of the fear that if quarrels break out, animals may be lost. Neighbours are discouraged from having visits from strangers, as they are viewed with suspicion.

Economic and social impacts of stock theft

Stock theft, which the communities perceive as a significant cause of poverty, is limiting the growth of herds. Although this allows some recovery of range lands in certain places, this is little consolation to those households that have lost their livelihoods overnight. Some members of communities demonstrate how they have been thrown into poverty and hunger through stock theft. Descriptions of the thefts suggest high levels of organisation, implying that the thieves are fully resourced with sound financial and asset backing (in some cases trucks were involved in moving the animals). Moreover, there is a strong perception that some police, chiefs, officials and businessmen are involved in these criminal networks. In border areas there are clear indications of international dimensions to stock theft that will need to be addressed if any progress is to be made.³⁶

- Stock raiding has major negative impacts on households, communities and cross-border interaction. These impacts extend to the national economy. In the Qacha's Neck and Quthing districts, production of wool and mohair has fallen significantly in the last five years. Livestock

holdings have dropped and the number of stockless households has increased. The negative impact of stock theft on the income of households and the government has reduced stockowners to a poverty level that places strain on the economy.

- Farmers are reluctant to invest in breeding cattle and households debate the merits of getting rid of their cattle.
- Escalating stock theft and related violence have profound social consequences, bringing fear and insecurity to ordinary people. People are abandoning their villages and migrating to towns and to South Africa to look for work.
- Community relations have become fraught with tension and suspicion. Nearly half of the stockowners interviewed suspected that certain individuals in their villages were involved in the theft of animals – acting either as informants or as thieves. It is the poor who are fingered and stigmatised. Lending for ploughing and Mafisa³⁷ is in steep decline, as are cultural activities and celebrations that involve the slaughter of animals.
- Cross-border cooperation, activities and initiatives have collapsed and there is considerable animosity and hatred between the communities on either side of the border. Even casual visiting and shopping have all but ceased.

Current trends in stock theft

Stock theft has become more violent and organised. Studies conducted by Kynoch et al indicate that stock theft syndicates transport animals from one village to another and eventually to local butcheries and market outlets in South Africa.³⁸ Stolen animals can be transported easily within Lesotho's rugged terrain and readily exchanged for cash, dagga and guns. This renders stock theft a lucrative venture.

The inability of the police, prosecutors and magistrates to apprehend and convict thieves aggravates the problem of stock theft. Some sources even indicate that police and justice officials are partially responsible for the raids and counter-raids across the border between Lesotho and South Africa. Some community members have expressed concern over the granting of bail to stock thieves by courts of law, as thieves subsequently continue to steal animals.

There is a perception of preferential treatment by chiefs for rich owners rather than the poor. The chief sends his representative to accompany men in search of stolen animals only for wealthy stockowners. Poor villagers search for their animals on their own.

Some Basotho graze their stock in South Africa. This has resulted in South Africans capturing Basotho stock along the border. A series of raids and counter-raids of stock theft and murder have been reported. The escalating cross-border conflicts have become a regional concern that calls for joint initiatives between the South African and Lesotho governments.

Border villages are more prone to stock theft than villages in interior parts of the country. Studies have shown that 85% of stockowners in border villages had their animals stolen, compared with 49% of stockowners in non-border villages.³⁹ Cattle are stolen more frequently than other animals, because more people own cattle. Sheep are stolen in larger numbers because they are owned in larger numbers than any other stock.⁴⁰ Most animals are stolen from cattle posts where only shepherds guard them.

However, some stock are also stolen from village kraals. Most stock thieves are armed with guns; therefore in most cases attempts by stockowners to trace and recover animals on their own have been risky and futile.

Corruption

There are perceptions that police and the army orchestrate stock theft operations and that they are involved in registering, transporting and marketing stolen animals. Some farmers across the border hire thieves and buy stolen animals. Unemployed youth and retrenched miners are often used for this purpose. Some chiefs contribute to the problem in various ways, from turning a blind eye to stolen animals in their villages to protecting and harbouring thieves and providing false documentation for stolen stock.

Slow prosecution

Closely related to the issue of corruption is the tedious and slow prosecution process. The police are experiencing serious problems and cannot respond promptly to crimes. They take too long to investigate thoroughly and consequently there is a delay in handing dockets over for prosecution. There

are huge backlogs and suspects either have to remain in custody for a long time before they start serving their prison term or are acquitted. This worsens the problem of prison overcrowding. Many suspects lose their means of livelihood and are more likely to turn to serious crime. Thus families are negatively affected psychologically, economically and socially.

Inefficiency of the courts in attending to stock theft cases

Most cases of stock theft require great expertise. This pool of expertise can be harnessed from High Court judges, but the fundamental problem with the distribution of judicial services in Lesotho is that the High Court is centralised and that there are not enough judges to attend to cases timeously. Most of their time is spent reviewing cases that have already been heard in the lower courts. On the other hand, the lower courts are subject to hierarchy, are understaffed, or lack expertise. In addition, offices and courts are inadequate, so that there is no time to address judicial matters properly. More often than not, the courts lack facilities for the safe storage of exhibits, and valuable evidence is lost or misplaced. There is no modern case record management mechanism in place and cases often drag on for years. Quite often witnesses, victims, perpetrators and their relatives have to attend court for lengthy periods of time, which affects their productivity. People want speedy delivery of justice: if they have to wait too long for this to happen, they lose confidence in the judicial system. Often they take the law into their own hands. This has led to feuds, killings and destruction of property, leaving countless families destitute.

Current interventions on stock theft

A number of strategies and systems have been developed in Lesotho to combat stock theft, but with very little success. The most important of these strategies fall under the “Local partnership: A practical guide to crime prevention”, which was developed and spearheaded by police authorities. It is a guide that incorporated approaches for dealing with crime in communities.

The interventions are set against the background that it is not the sole responsibility of the police to tackle crime, because crime affects all, at individual and community level. ‘Current interventions on stock theft’ identifies the need for the public to help authorities to combat crime, and indeed, a working partnership can reduce fear of crime and improve community safety, thereby producing excellent results.

These initiatives date as far back as 1993 with the establishment of crime prevention committees. The general interventions document describes what works in crime prevention and how to make it work by operating in partnership. This is followed by approaches to crime prevention in general and is specifically targeted to orient those who are to promote a partnership approach to crime prevention in the community.

Current partnership approaches and interventions include:

- review of the legislation and introduction of the Stock Theft Act 2000, as amended;
- community-police cooperation through establishment of crime prevention committees; and
- patrols by the army or the police and joint patrols

The vigorous role set for communities in the intervention strategies discussed below demonstrates that the role of state has been widened to include all of society, not only the policymakers. A secure environment is not created by the state through security officers, but the duty is also vested in the members of the community to assist authorities. Current intervening units have a tripartite nature involving the state (policies), community members and the state authorities (the courts of law, army officials or police officers).

In the context of stock theft and related crimes, partnerships are forged and a crime profile drawn up to devise an operational plan for addressing the areas of greatest need. The validity of the programme spells out how actions are implemented and evaluated for success and failure. This recognises that the partnership approach is a consulting agency that reviews policies and practices and evaluates the situation in the identified areas. The steps are:

- considering the operational plan;
- prioritising the problem of stock theft;
- developing options for dealing with the matter;
- appraising options to choose the most suitable;
- preparing an operational plan based on the selected option; and

- having the task force implement the plan.

At the end of every year since the implementation, an evaluation committee has reviewed the programme and pinpointed strengths and weaknesses, if any, as well as the need for work plan adjustments. This initiative recognises that stock theft is not limited to theft of property. Its philosophy is that theft is not restricted to crime involving moveable property, but includes crime that threatens the security of individuals, including threats to their social and economic wellbeing, their health and safety, and their fundamental freedoms and self-determination. Government and security officials should therefore pay great attention to the implementation of these interventions. The issue of interventions in stock theft sets the pace in addressing the administration of justice to promoting peace and security of individuals in communities.

Community policing

Some members of the community hold regular meetings to develop strategies for combating crime. They patrol their villages at night. The idea of community policing stems from the concept of social crime prevention. It is a strategy that focuses on combating and preventing crime through the Criminal Justice System as well as community agencies. Community policing is a response to a social need for the protection of lives while reducing the incidence of crime. Ascription and membership are built by community chiefs who nominate teams of trustees to join these programmes. Professionalism is guaranteed through training provided by police officers. Activities in community policing aim at reducing, deterring or preventing the occurrence of specific crimes. The LMPS influences this line of thinking by prioritising crime prevention through targeted visible policing, enhancing cooperation with external roleplayers such as local authorities and crime prevention committees, and building partnerships that will address the root causes of stock theft.

The government has a major stake in this endeavour and is focusing on:

- researching and developing accessible sources of information;
- developing policies and programmes for social crime prevention;
- coordinating the delivery of social crime prevention programmes;
- developing programmes based on research that tries to deal with the economic causes of stock theft as a crime; and

- monitoring the effectiveness of social crime prevention programmes.

This initiative is approached in a manner permissible enough to set joint crime prevention priorities while agreeing on strategies to ensure their implementation. It identifies flashpoints, crime patterns and community anti-crime priorities and communicates these to the police with the due participation of the local authorities in problem-solving activities. Local government structures effect government policies that are already in place through the mobilisation of resources and organisation of community campaigns to make sure that approaches to stock theft prevention are understood. Conventionally, the most effective way of dealing with crime is through the Criminal Justice System, which focuses on punishing and rehabilitating the offender. Using many different ways ultimately requires the involvement of the community and multiple stakeholders in order to think and work creatively. In community policing the role of the police officer is that of a peace officer rather than a law enforcement officer on crime patrol. In community policing the police not only enforce the law, but also prevent crime, promote public order, resolve conflict, enhance police community relations and render general assistance to the public. This improves communication and helps to combat crime in partnership with those who are greatly affected.

Stock theft associations / crime prevention committees

The primary tasks of these associations are to search for stolen animals and to investigate issues related to stock theft, and hand over thieves to the police. They also hold regular meetings to discuss strategies for reducing stock theft and patrol villages at night to guard against theft. Membership fees are used to defray expenses incurred in their operations. This study shows that collaboration of stock theft associations from neighbouring villages increases the recovery of stolen animals. However, they are sometimes rendered ineffective by thieves who join these associations. In some instances stock theft associations cease to operate because of clashes with police and murder of members by armed thieves.

However, the main intention of this sort of association is to promote community policing in general. Community policing is an initiative recommended by the police services and involves guarding the community against attack or theft or crime, thereby promoting public order and protecting the community against any threat. This kind of policing is carried out by community members and coordinated by a chief, who consults with

police officers. It is based on a few strategies, the principal one being crime prevention. These strategies include:

- monitoring crime and crime patterns;
- disseminating information to authorities on criminal behaviour and crime;
- promoting public awareness through organised public gatherings;
- promoting active participation by the public in crime prevention strategies;
- combating crime and criminal behaviour through referrals to the relevant authorities;
- restoring social security and the safety of the community; and
- enforcing law and order.

Lately, the status of stock theft associations has been reduced to that of crime prevention committees, since they have been infiltrated by perpetrators. Members of these forums are trained in protecting, policing and combating crime syndicates.

The police authorities initiated this project to encourage communities to establish community kraals closer to grazing posts. This is intended to group members of the community together so that an army officer or police official can be deployed at each grazing post or community kraal to protect them. The process of implementing these approaches to crime prevention is under way. The primary role of these committees is to report to the authorities where they suspect offences are imminent. As per Section 26 of the Criminal Procedure and Evidence Act of 1981, like all other citizens, members of these committees are empowered to arrest and apprehend suspects, with immediate follow-up action to be taken by the police authorities.

Police patrols

Police patrols are based on the Police Act, which prescribes the primary role of the police authorities as protecting the property and lives of all citizens.

Stock theft is property theft and citizens must be protected. The Stock Theft Unit of the LMPS is responsible for managing and reducing stock theft. However, patrols are not carried out regularly, possibly because of a lack of human and material resources.

The police often reach the crime scene long after the thieves have gone. Stock theft from cattle posts are reported to the villages and subsequently to the police. Distances and poor communication prohibit timely response. The credibility of the Lesotho police is weakened by their inability to deal effectively with South African raiders. The police are sometimes out-gunned by thieves from South Africa. Patrols attempt to reduce crime related to stock theft, including robbery, murder, and rape. They are visible at all points of the beat area, especially in giving directions to passers-by. Primarily they demonstrate the importance the authorities have attached to community policing and forge good relations with the community.

Police patrols work in consultation with community policing structures in the beat areas. This usually necessitates arrest and apprehension of suspects and offenders.

The intervention of police patrols has a substantial impact on the trends of stock theft and related crimes, negative and positive.

- At one end of the spectrum, transport shortages hit these initiatives negatively. This is witnessed on rainy days or when patrols need to be carried out in areas inaccessible by road. But the services need to go on as offenders usually take advantage of the situation.
- Lack of communication aids such as portable radios means that helpful information is received late or patrols are late in reaching the scene of the crime. The patrols therefore seem to be unprofessional.
- Lack of arms and ammunition has a serious impact on patrols, especially where serious crimes have been committed. Police personnel are unable to apply self-defence and safety precautions.

Despite these difficulties, patrols on beat areas are usually carried out for 24 hours with armed men in uniform deployed at each strategic area. Each point is given a portable radio to facilitate communication. All things being equal, the beat crew are supposed to be regularly checked by a sergeant on patrol, but in some cases this is impossible owing to the above constraints.

Army patrols

The purpose and importance in police patrols also applies to army patrols. Army patrols are responsible for controlling illegal cross-border movements. In most cases they play a key role in protecting communities from cross-border attacks. Villagers have applauded their presence because they are a deterrent to raiders. The distinguishing factor in the two patrols above is that the army has always had an image that brought fear to the perpetrators; hence army patrols sometimes appear to be more successful than the police. When they do not achieve their objective, it is primarily because members of the community who have inside information alert the offenders that patrols will be undertaken.

Courts

Courts are responsible for the administration of justice; however, their role may sometimes be challenged by the lack of human and material resources. In most districts there are only two prosecutors and one magistrate. When one considers the incidence of stock theft, it becomes clear that three administrators of justice will find it difficult to handle the resultant workload. Thus understaffing is a major concern.

Certain other factors influence the performance of the courts, including the judicial structure and the line of responsibility of the courts.

Current legislation designates subordinate courts / magistrate's courts as the courts of first instance in the handling of stock theft matters. However, owing to the way in which investigating authorities handle the cases, stock theft cases are often dismissed on the grounds of insufficient evidence. Investigating authorities often use methods of investigation that are not acceptable, and as a result the evidence is usually discarded in the formal courts of law as circumstantial. Traditional courts, on the other hand, accept circumstantial evidence, so stock theft cases may ultimately be heard in these courts. Thus traditional courts have become the preferred forum for dealing with stock theft matters, although they do not have statutory authority to hear these cases.

Stock Theft Act No 4 of 2000

The purpose of the Act is to combat the theft of stock. It provides for compulsory national registration and marking of stock to curb theft. It encourages farmers to invest in livestock, improve the quality of their herds,

and implement national livestock tracking numbers for better range-land management and animal health planning programmes.

The definitions in the Act subsume the wrongful taking, retention, and disposition of the property of another with the intention of depriving the owner of it permanently. If this is accompanied by violence or use of force, it becomes robbery. The practical interpretation of these definitions seems to be that receiving stock in the knowledge that it has been stolen constitutes theft; similarly accepting the meat of animals that the recipient knows to have been stolen constitutes wrongful conduct.

The above interpretation clearly constitutes ordinary theft.⁴¹ But punishments in Section 8 read in conjunction with Section 13 are disproportionate to the jurisdiction to try matters placed in the magistrate's courts. According to Section 16 of the Laws of Lerotoli,⁴² the actions that are related to stock theft are treated as common theft. Nowadays disposition, retention and permanent deprivation connotes intention to steal, and this applies to the related offence of stock theft, though certain elements may vary slightly. For these variations, the Stock Theft Act of 2000 places the jurisdiction to hear such matters in the magistrate's courts, but these are far from the remote areas where this crime seems to be high, and only traditional authorities exist there. A lot of petty decision work has to be administered by magistrates, although traditional courts could handle these matters. The Criminal Justice System has therefore become overloaded with stock theft cases from the hinterland.

Stock theft is defined as violations of Section 8 and Section 13, which include

- making a false statement in a bewys;
- disposal without a bewys or with a bewys that does not state the particulars of stock;
- inciting, hiring, abetting, directing, tampering with, altering, forging and making additions to a bewys;
- falsely declaring stock or produce;
- conveying without a bewys;
- conveying, delivering or accepting stock at night; and
- threatening or using violence to take stock.

Current trends in the implementation of this law show that borrowing without the intention of retaining permanently does not constitute theft (*Makalakaqa vs Ramatseku JC 54*).

It is difficult to establish the truth of the matter, however. In addition, when stock stray and attempts to restore them to the rightful owner are unsuccessful, this constitutes a strict liability case. From this perspective apparent stock theft can be defended if it can be proved, for example, that one was the agent of someone else. The court may impose a fine or imprisonment or both.

The Act itself prescribes a scale of fines and periods of imprisonment for offences under Section 13. If the prosecution cannot dispute that stock was lost and kept without the intention of restoring the animals to their rightful owner, this constitutes misappropriation, which is an offence; but if it is reported, it may be restored to the rightful owner without imprisonment or fine. The Act was intended to punish stock theft and related crimes stringently, but seems to be sabotaged by procedural inconsistencies and inapplicability in practice. The penalties prescribed in Section 13 cannot be operational as this theft occurs among ordinary people. It is also strange that we administer this legislation together with the traditional laws of punishment, thus confusing the law enforcers.

However, the stock theft legislation under which the accused is normally charged prescribes minimum penalties that exceed the magistrate's penal jurisdiction. In many cases, magistrates decide to invoke the provisions of Section 293 (1) of the Criminal Law and Evidence Act No 7 of 1981, which commit such case to the High Court for sentencing. The penalties prescribed in the Stock Theft Act indicate that magistrate's courts do not have the necessary penal jurisdiction and consequently do not have sufficient power to try stock theft cases. Stock theft matters are therefore reviewed in the High Court. In protection of humanity, magistrate courts give proportionate sentences that compensate for the lack of legal training and invest the courts with the necessary institutional legitimacy. The sentences spelt out by the Stock Theft Act are outrageous to the ordinary Mosotho and are likely to evoke public scorn and anger and bring the administration of justice into disrepute. It appears that the increased penal jurisdiction of central and local courts is not tenable. But stock theft cases must be heard and determined. As stated, the penalties prescribed under Section 13 are grossly disproportionate, with no regard for the ability to pay the fines. A period of 25 years is excessive, even for a crime of violence. Penalties laid down by Section 13 therefore conflict with the provisions of Section 8 (1) of the constitution. The Act thus is at variance with other legal instruments in stipulating what is appropriate

for enforcing the law. Human rights must be considered but the enjoyment of these rights should not prejudice other rights and freedoms. Section 13 is likely to nullify most of the trials in stock theft and proceedings will be set aside.

Acquisition of stock and produce

The Act stipulates the procedure for acquiring stock or stock produce, the conditions under which a bewys could be provided, and those under which delivery, conveyance or acceptance of stock or stock produce could be made.

Registration of stock

Stockowners should register the stock with their chief within seven days of taking possession of it. The chief, on request of the owner, will verify ownership and will register such stock concurrently in the stock register and in the master stock register.

Marking of stock

A person who owns stock shall mark his stock for identification in the presence of his chief, who shall enter the identification mark in the stock register concurrently with the master stock register. The chief should ensure that there is a difference in the brand used, and anyone who receives stock bearing an identification mark should not mark the stock. Offspring should be earmarked within three months of their birth. Earmarking in the form of stamps shall no longer be used as identification marks.

Tampering with stock or produce

A person who tampers or helps to tamper with an earmark is committing an offence.

Bewys

A bewys writer shall, upon request by the owner and having verified owners of stock, issue bewys for the stock.

Authority to convey stock

A person shall not convey stock from one area to another unless that person has bewys for the stock.

Night conveyance, delivery or acceptance of stock

No conveyance or delivery of stock is allowed between sunset and sunrise. The powers of police officers have been enhanced to enable them to make arrests and confiscate animals regardless of their rank. A person who contravenes provisions of the law or makes false statements is committing an offence.

Costs, compensation and restitution

The court may award compensation to a person who has suffered damage, but not exceeding the market value of the lost stock.

Offences and penalties

Harsher penalties for stock theft offences range from fines of M7,000 to M40,000, or from three to twenty years' imprisonment.

CHAPTER 4

FINDINGS OF THE STUDY

SECTION A: STOCKOWNER INTERVIEW RESULTS

Background: Socio-economic profiling of stockowners

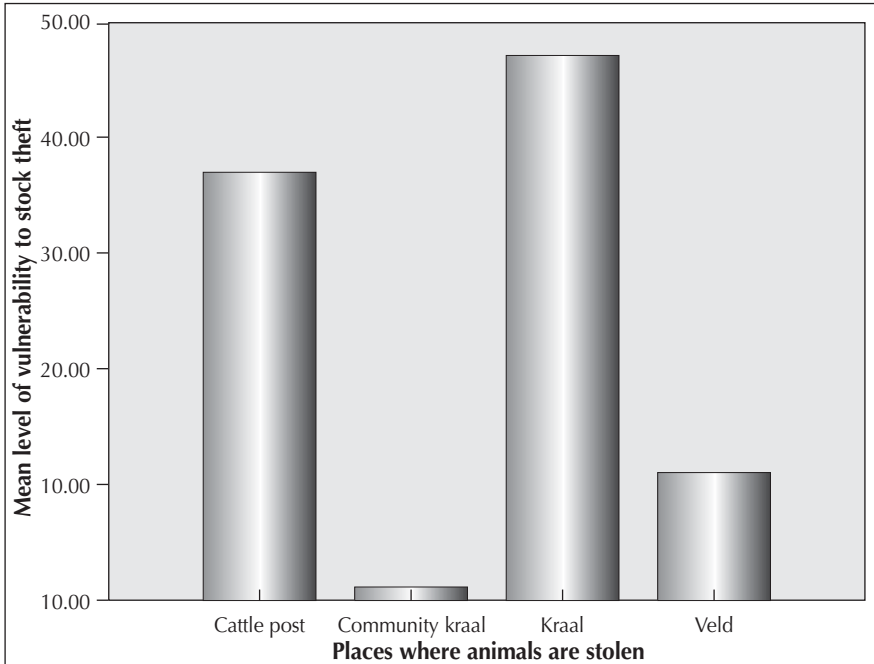
The study found that 92.9% of stockowners resided in rural areas, while only 7.1% were urban dwellers. A total of 92.9% owned cattle in the last two years, while 7.1% did not, a situation that can be attributed to stock theft. Stockowners are mostly rural dwellers, which means that any strategies that are implemented must be targeted at rural community infrastructure. In addition, 92% of the stockowners had lived in the areas for more than 20 years and 97.5% owned property.

The study revealed that all respondents had houses. The main materials used to build houses varied, with over half of the respondents building their homes with traditional materials (mud, unburnt bricks, cow dung, etc). However, more than a third (37.4%) of the homes were permanent houses, built with burnt bricks, stones or blocks. A few were permanent shacks built from corrugated iron, timber, etc. The most commonly used roofing material was traditional (grass thatch), which was used by 56.1% of the respondents; and 41.9% of the respondents used permanent roofing (corrugated iron sheets and tiles). These results are significant in determining the migration patterns of stockowners and verifying the economic losses that are incurred in abandoning homesteads due to violence.

When asked what kind of transport they used, only nine out of 198 (4.5%) reported that they owned a car in working condition. Six other respondents owned a van/truck/minibus and two owned bicycles. Most respondents (29.7%) used horses as their primary means of transportation, 16.5% used public transportation, followed by those who walked at 6.1% or used scotch carts (6.0%). Cattle, donkeys or horses are used to pull the scotch carts.

Slightly more than a third of the respondents (35.9%) were Roman Catholic, 27.3% belonged to the Lesotho Evangelical Church (LEC), and 6.6% were members of the Anglican Church. The rest were members of churches

Figure 1 Area and levels of vulnerability to stock theft

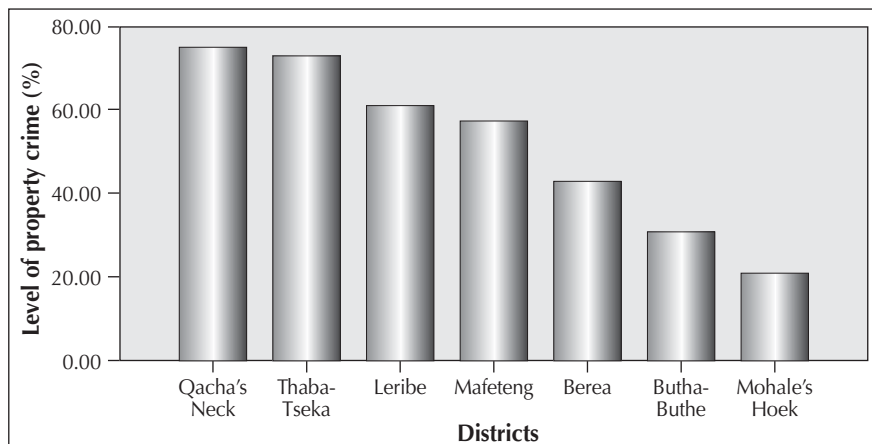


such as Methodist, Apostolic, Baptist, and Zion Christian Church (ZCC). Religious beliefs affect views, opinions and perceptions. When respondents were asked about the most important measure they had taken to protect themselves against crime and violence, 12.6% said prayer and 56.1% said they had not taken any measures to protect themselves and could only hope and believe that God would protect them.

Individual and community views and responses to crime

The study tried to ascertain where the theft occurred in order to determine the vulnerable areas.

The highest numbers of cattle are stolen from kraals, followed by cattle posts, then the veld. Community kraals are the safest place for animals. What is disturbing is that criminals are not afraid go into villages and steal stock from a kraal outside the homes of stockowners. This causes a lot of insecurity among villagers, who are unprotected against armed stock thieves.

Figure 2 Levels of property crime by district

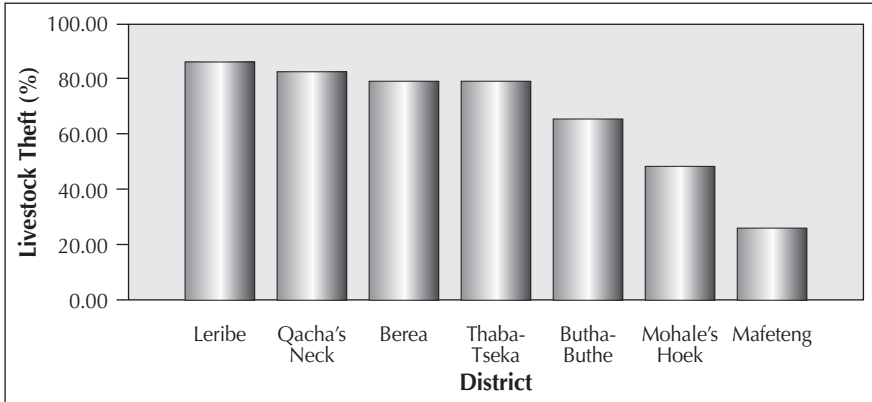
Stock is also stolen from cattle posts. This is because shepherds are young boys who are a long way from villages where they could get help in the event of attack by thieves. Some stockowners reported that they now look after their own stock and keep them close to their homes because herdboys are reluctant to live in cattle posts.⁴³

Violence and stock theft

When asked what type of crime occurs most in their area/village, 64.6% of the respondents said livestock theft. When asked which crime they were most afraid of, the majority (53%) said stock theft. This is evidenced in the increase of stock theft in the country.

The data shows that overall property crime is on the increase but that this does not necessarily translate into an increase in stock theft. For instance, Mafeteng has the lowest incidence of stock theft but has a high level of property crime. The conclusion is that the reduction in stock theft in Mafeteng is not necessarily due to better social protection strategies and systems, but to environmental and ecological factors and smaller numbers of animals.

Stockowners reported that they were vulnerable and could not protect themselves against armed thieves. This vulnerability is conducive to vigilantism and is the primary reason for increased violent conflict in villages. For instance, when asked what the government could do to make their villages safer, respondents gave answers that ranged from "Allow us to

Figure 3 Levels of livestock theft by district

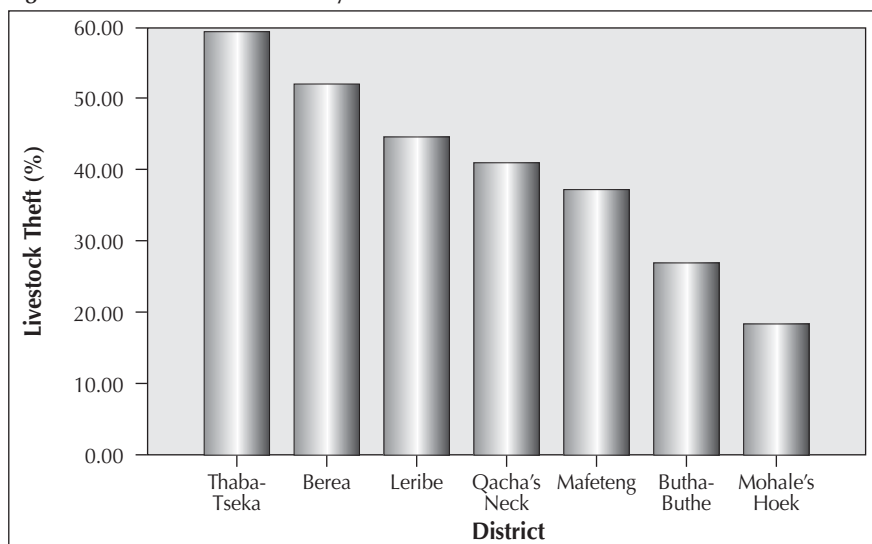
kill thieves” and “Give us authority to kill perpetrators” to “We should be given guns”. These are all signs of the desperation of people whose lives are threatened every day.

Of the respondents, 30.8% feel that the youth are most likely to commit crime, 25.8% that people living in their areas were the ones who committed crimes, and 16% that Basotho from outside their villages committed crimes. Only 0.5% of the respondents are of the opinion that police and chiefs are involved in crime and only 7.6% feel that the perpetrators are organised crime syndicates. However, the respondents do feel that “the youths are usually led by older men who organise them”.

The majority of the respondents (82.3%) do not feel that poverty is the motivating factor for committing crime. They consider the motivating factors to be unemployment (21.7%), jealousy (19.7%) and drugs (5.6%), among others.

Magnitude of the problem

Respondents were asked whether any of their livestock had been stolen between January 2000 and December 2002, and between January 2003 and January 2005. This was to determine whether there had been an increase or decrease in the number of stock thefts in those two periods. The investigation included the type of livestock stolen, such as cattle, sheep, goats, horses, donkeys, mules, pigs, domesticated ostrich and poultry.

Figure 4 Levels of violent crime by district

The results show that there was a decrease of 3.6% in cattle theft, from 33.1% to 29.5%. There was also a decrease in the theft of donkeys, from 10.1% to 5.1%. There was no difference in the number of sheep stolen. This supports statistics that show that cattle numbers have remained stable in Lesotho, while the number of sheep has declined significantly.

There has been a decline in stolen cattle, which could be because cattle are harder to sell and buyers do not have ready cash of between R1,200 (US\$200) and R5,000 (US\$ 840) (the going price of cattle). This makes it difficult for the thieves to dispose of cattle quickly. Sheep are a much better deal for stock thieves, as they are found in larger numbers and are easier to sell informally at lower prices of around R250 to R400.

Government intervention

There seems to be general apathy among communities regarding government intervention in the problem. When asked what the government could do to make their villages safer, 28.3% of the respondents said “nothing”, while 25.3% believed that the government has no way of dealing with this issue other than to give them the means to make their own communities safer. They suggested the following ways:

- allow them to kill thieves;
- give them the power to arrest thieves;
- give them guns
- give them means of communicating with the police, such as cellphones and walkie-talkies;
- help them to start stock theft associations and arm them; and
- train their neighbourhood watch groups.

The next largest group of respondents (22.2%) said that the government should increase visible police units in these areas.

Community policing

It seems that communities are taking responsibility for their own protection and becoming involved in neighbourhood watches and anti-crime associations and committees (ACCs). A total of 61.6% of the respondents said that an organisation or a group other than the police provided protection against crime in their communities. Of these, 54.5% said the organisation was a volunteer group and 36.9% admitted to paying a fee for their services.

A total of 48% of respondents said that there were stock theft associations in their villages and 29.3% said that there were anti-crime committees. Therefore some villages have both a stock theft association and an anti-crime committee, while other villages have only a stock theft association. Of the respondents who have a stock theft association or an anti-crime committee in their village, 75.5% participated in the activities of the group.

When asked about the task of the stock theft associations and/or anti-crime committees, only 29.2% said they searched for stolen animals and/or recovered stolen animals. A total of 7.5% of the respondents said that the groups assisted with police/community communication and 6.1% said the associations/committees held meetings to discuss stock theft reduction. Only 4.5% of the respondents said the groups were 'helping' the police to deal with crime.

While the tasks of the stock theft associations and anti-crime committees were seen as, first, searching for and recovering stolen animals (29.3%);

second, protecting the community (20.7%); and third, arresting thieves and handing them over to the police (14.1%), only 31.8% of the respondents had witnessed a suspect being apprehended by these groups.

Stock theft associations and anti-crime committees

On the whole, stock theft associations and anti-crime committees are considered very effective: 70.1% of the respondents who have such groups in their villages consider them effective. The 29.9% who consider them ineffective gave the following reasons:

- corruption – members are bribed by thieves to be informants;
- lack of community commitment – members are not paid, so fail to commit;
- mistrust – the respondents do not believe that some of the members are genuine and think they are informants for thieves;
- safety issues – members are afraid of being shot by armed thieves; and
- poor organisation.

To make these groups more effective, the respondents feel that members of these groups should have a way of communicating with police and other members using cellphones and shortwave radios when they need it. They also feel that they should be given firearms to protect themselves. Respondents support the idea that members should be registered and then fully trained so that they can be recognised as part of the formal protection services sector. They indicated that they should be given the power to shoot and be given protection under the law should they kill thieves. Formalising these groups would allow members to be paid for the work they do, hence advancing their effectiveness.

Perceptions and opinions of the protection services

It is the view of 52% of the respondents that the police are doing a relatively good job. They feel that the police are committed (53%); respond on time (25%); come to the scene of the crime (10%); are trustworthy (8%); and patrol high-activity areas (4%). The 39.9% who feel that police are doing a

poor job say the police are corrupt (20.5%); never respond on time (18.1%); are lazy (12%); cooperate with thieves (10.8%); do not come to the scene and release criminals early (9.6% respectively); and are harsh towards victims and never recover goods (6% respectively).

These results are based on the service that the police have given to the respondents at one time or another. To ascertain whether their opinions were based on actual experience, respondents were asked if they had ever been to their police stations, to which 91.7% answered yes. Of these, 59.4% said their opinion of the police had been positively affected, while the opinion of 26.9% had been negatively affected.

Joint army/police patrols

In the last five years there has been a marked increase in joint army/police patrols in Lesotho, and 46% of the respondents indicated that there had been joint patrols in their villages. Of these, 98.9% indicated that the patrol had been in the last 1-5 years. According to the respondents joint patrols in Berea are the most visible, with 82.1% of respondents in this district confirming that there had been joint patrols in their areas. The least visible patrols district is Thaba-Tseka, with only 17.9% of the respondents indicating that they were aware of joint police/army patrols in their villages.

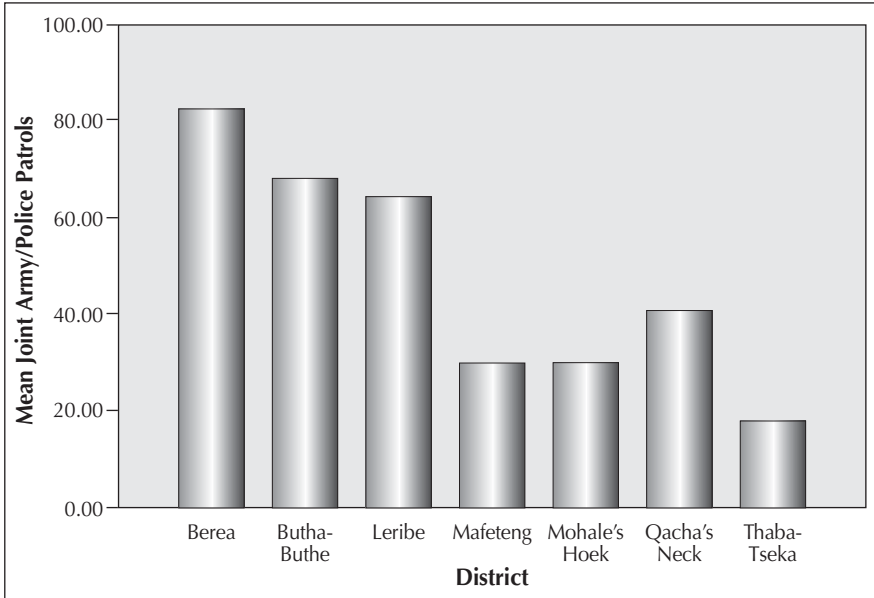
Of the respondents who had had army patrols in their areas, 79% indicated that joint patrols had reduced crime in their area. Their comments included:

- Reports of crimes go down while patrols are taking place (73.4%).
- People stop moving around at night during these patrols (10.9%).
- People know that the army/police are serious about cracking down on crime (7.8%).
- Stolen stock is recovered during these patrols (2%).

The 20.5% who felt that army/police patrols have not reduced crime in their areas gave the following reasons:

- Crime is still on the increase (54.2%).
- The operations happen only once in a while (20.8%).

Figure 5 Levels of joint army/police patrols by district



Army patrols, although considered effective, do not have any real impact. For instance, Berea has had numerous joint army/police patrols, but still has the highest incidence of stock theft. This is an indication that there is no correlation between joint army/police patrols and incidences of stock theft. The strategy may be worth exploring, but only if operations take place more often than they do at present.

Perceptions and opinions of the judicial system

When asked whether they had ever been to court, 62.1% of the respondents answered in the affirmative and 37.9% indicated that they had not. The respondents went to court as parties to cases (65.8%), as witnesses (20.5%) and just to attend court (12.8%). A single respondent went to court to complain about cases being postponed. Most of the respondents (73.7%) seemed to know the location of the magistrate's courts that serve their areas. However, since some had not been there personally, only 69.9% of the respondents could suggest how long it would take them to get to the magistrate's court – 45% said it took three hours or more. This data is significant when one examines the time it takes to complete a case and the

distance the stockowners would need to travel to attend court proceedings. Because this sometimes takes a day, more and more stockowners are taking cases of stock theft to traditional courts, which do not have the jurisdiction to handle these cases effectively. They do not have the power to impose fines of more than M1,000.00 or jail sentences, meaning that the most victims can hope for is that the perpetrator will be beaten or told to return the stolen animals.

A total of 47.9% respondents thought that the courts generally performed their duties adequately because they made fair decisions, were hard on criminals, were impartial, and were not corrupt. Another 33.3% were of the opinion that courts were not performing adequately because they took too long to complete cases; were lenient towards criminals; lacked resources; were inconsistent in their handling of cases; showed favouritism; and did not supply information to the parties involved in a case. The rest of the respondents could not comment as they said they did not have direct knowledge of how the courts worked.

With regard to sentencing, 61.1% of the respondents were happy with the sentences handed down by courts, citing that they were fair in handling cases, gave punishments that fitted the crime, and were efficient. The 38.9% of respondents who were not happy with sentencing cited corruption in the courts, the length of time it takes to complete a case, the short notice given of hearings, leniency towards criminals, and the release of criminals on bail as reasons for their unhappiness.

SECTION B: INTERVIEW RESULTS OF THE CHIEFS

Economic standing of chiefs

Most chiefs have the economic standing of an average Mosotho with their livestock ranging from one to twenty herds of cattle, one to two horses, and five to fifty sheep. In addition to rearing animals, gazetted chiefs receive a salary from the government. According to the study most chiefs use horses and oxen-drawn trailers as means of transport. Only one chief out of those interviewed owned a car in working condition. With regard to religion, 35% of the chiefs are Roman Catholic, 14% belong to the LEC, and 14% belong to the Anglican Church, while members of other denominations make up the rest.

Most chiefs use stones and thatch grass to construct their houses, while some use block bricks and corrugated iron. Like any Mosotho homestead,

a typical chief's homestead consists of grass-thatched stone-huts and a flat corrugated-iron-roofed two- to three-roomed house. Only one of the 36 chiefs interviewed had water piped into his house, 14 got water from community taps, and 15 obtained drinking water from wells/springs. A total of 68% used pit latrines, while 22% did not have any toilet facilities. They used the bush or dongas for ablutions.

While some chiefs, like the ordinary Basotho, cannot afford toilets, the presence or absence of a toilet is not a reliable measure of economic standing in rural Lesotho, because many people do not attach much significance to them.

The level of crime in communities

Forty three per cent of the chiefs believed that the level of crime in general had increased in their areas in recent years, while 46% thought it had decreased. Despite mixed responses to crime in general, stock theft remains one of the most feared crimes in the rural communities. This is corroborated by 54% of the chiefs, although 16% of them argue that assault occurs more. A total of 66.6% of the chiefs know of local residents who earn a living from crime or supplement their income by committing crime. They attribute the rampant crime to unemployment and lack of skills development centres to absorb high-school leavers.

In relation to government intervention, 32% would like government to increase armed police patrols, while 14% feel that if government created employment, crime would automatically be reduced. Other suggestions include control of drug consumption, increased efficiency of the police, and payment for STA members.

Strategies for dealing with crime

Communities deal with crime through such strategies as establishing crime prevention committees and stock theft associations (STAs), and building communal kraals. STAs are not formally registered in terms of the Law of Associations. Their main purpose is to prevent stock theft through neighbourhood patrols and to search for stolen stock.

Seventy six per cent of the chiefs indicate that they have a form of STA or community protection organisation in their areas. Most of the associations were formed with the assistance and encouragement of the police, together

with chiefs. They do not usually mete out punishment to the suspects but apprehend them and hand them over to the chiefs for transmission to the police. Statistics show that 50% of the chiefs participate in the activities of the STAs. In response to a question relating to the effectiveness of STAs, 84.2% of the chiefs pointed out that they are effective, while 15.7% thought they are not effective. Their main reason is that the STAs have to deal with armed thieves, whereas they (STA members) are not armed. Besides, most of the members are unemployed and despondent, so motivation is a serious issue, even before they join STAs. Some cite lack of commitment from community members as a source of ineffectiveness. This is reflected in their desire to be paid for their STA activities even though this is for their own safety and security.

The strategy of building communal kraals and having cattle posts in close proximity has not been very successful, particularly because in most villages kraals are still under construction. In others there is reluctance from individual stockowners because they are closely attached to their livestock. Persuading them to let their animals go to community kraals is an on-going process.

Chiefs' perception of the police

Most chiefs believe that the police are doing a good job in reducing stock theft, and 63.8% of the chiefs are satisfied with the performance of the police. However, 27.7% of the respondents feel that the police are performing poorly in their areas. The main source of unhappiness is that the police do not respond to community calls on time. They all feel that the police could improve their service delivery if they had adequate resources. Respondents pointed out that more police stations are needed, because people still walk long distances to get to a police station.

According to the chiefs, joint patrols between the army and the police are a resounding success. These patrols usually discover more illegal firearms that are used by perpetrators of stock theft and more stolen animals are recovered during these operations. Stock thieves regard the police differently during combined patrols with the army, who are allowed to use force. Their only complaint is that the patrols are carried out so seldom.

Performance of the courts

Most chiefs believe that there is a huge backlog of stock theft cases at the courts of law. They feel that bail makes the police despair because they keep

chasing the same perpetrators. Moreover, communities become agitated when perpetrators return to the villages shortly after they have been arrested. Consequently some members of the public take the law into their own hands and kill the perpetrators. A total of 58.3% are satisfied with the performance of the courts, but 33.3% think that the courts are not performing adequately. Those who are satisfied believe that the courts are impartial, give fair judgments, and are hard on criminals.

The respondents who are not happy with the performance of the courts point out that the courts are inconsistent in the way in which they handle cases, they take too long to complete a case, and court authorities show favouritism towards people they know. A total of 76% of the interviewed chiefs go to court frequently as witnesses or as parties to cases, while 22% have never been to a magistrate's court.

Chiefs' experience of stock theft

Most chiefs own livestock in the categories of cattle, sheep and goats. Like other members of the public, they experience stock theft. In 2003 most chiefs were victims of stock theft: about 58% were personally affected by it.

The recovery rate of stolen animals is very low. Animals are mostly recovered by the police, and in some instances STAs are instrumental in the recovery. The percentage of cases involving chiefs that go to court is very low and does not indicate preferential treatment for chiefs.

SECTION C: INTERVIEW RESULTS OF THE POLICE

Profile of the Lesotho Mounted Police Service

The police force is structured in a bottom-heavy way. The entrance point is at the level of trooper. This level forms 52.4% of the service. The next larger percentage is at sergeant level (21.4%). The higher echelon of the service constitutes a very small percentage. The stock theft unit forms 54.8% of the service and the general unit 40.5%.

These percentages show that the larger portion of the service is engaged in the prevention of stock theft. The rural deployment is 54.8% compared with 42.9% urban deployment. This means that most members of the service are deployed in rural areas, where stock theft is most problematic.

Most members of the police (26.2%) have worked in the force for between one and five years. A relatively smaller number (23.8%) have worked for 21 years or more. Generally 47.6% of the service deal with the stock theft problem and they have worked in this unit for between one and five years. Stock theft is caused mainly by unemployment because of retrenchment. This is illustrated by the 42.9% of the police who cite reasons for stock theft as being drought causing lack of food and laziness, while others do not know the best way to make a living. Another 21.4% trace the problem to poverty and hunger as poor people provide a market for cheap stolen stock even when they are not directly involved in theft.

Causes of stock theft

Fifty seven per cent of police members interviewed believed there has been a decrease in stock theft in the last five years, while 43% argue that it has increased. Both groups justify their argument with reduced or increased numbers of reports of stolen animals, and 76% attest that Basotho men are the perpetrators of stock theft.

Those who argue that stock theft has increased attribute this to the proliferation of illegal firearms in rural communities, among other reasons. They indicate a correlation between the increase in stock theft, the increase in illegal weapons, and dagga trafficking.

In 2002/03–2003/04 there has been a decline in stock theft. This is confirmed by 57.1% of the police, despite 43% observing that the problem is escalating. Most police believe that police patrols have contributed to the decline in the number of cases. This is confirmed by 61.9% of the police, although 31% believe that the problem is increasing, citing an increase in reported cases to substantiate their argument.

Strategies to reduce the incidence of stock theft vary from STA/community policing – which 35.7% of the police view as effective – to awareness campaigns (26.2%), while 21.4% argue that police raids, patrols and arrests contribute to preventing incidents.

Stock theft prevention strategies

Joint patrols between the army and the police have proved very successful: 76% of the police believe that these patrols have been very successful,

although 24% feel that they are not very successful. These patrols are not regular and are conducted for various crimes. The patrols are important for various reasons, such as deterring potential perpetrators and holding meetings to advise communities. In addition, the army is not as restrained as the police in the use of force when dealing with criminals.

Other crime prevention strategies include community policing, stock theft associations, and communal kraals. The statistics show that most communities responded very positively to the suggestion by the police that they form STAs to engage in community protection and search for stolen stock. Of the STAs, 57% were established by the villagers with the assistance of the police, while 19% were formed by chiefs together with villagers. Most of the associations were formed in 2000. Everyone in the village usually becomes a member. However, in a few cases only stockowners could become members.

The data indicates that STAs are relatively effective: 76% of police respondents believe that they are effective. However, in some areas they have become dormant and ineffective after the initial enthusiasm. The establishment of communal kraals is intended to make it easy for STAs to guard them against theft. The associations also report theft and suspicious-looking people to the police. They hold successful raids, arrest and hand perpetrators over to the police, but they need to be monitored closely, as at times they have been infiltrated by thieves. Police meet monthly with STAs to discuss methods of reducing crime.

Forty three per cent of the police indicate that the most critical constraint is shortage of resources: clothing, storage units, food when going on patrol, helicopters, bullet-proof vests, sleeping bags and vehicles. For example, 73% said their police stations did not have a secure exhibit storage room/cupboard, as opposed to 26% who said they did. Seventy per cent say they did not have 4 x 4 vehicles, while 30% say they did. There are plenty of horses: 85% indicate that they have horses and they are mostly used in the mountainous areas.

Other constraints are armed criminals, delay by victims in reporting stolen stock, problems of tracking stolen animals due to the issuing of bail to suspects, and suspects fleeing to South Africa. These constraints can be overcome by accessing the resources listed above. The government should devote more resources to addressing the problem of stock theft through mobile police stations and give the public telephone numbers so they can inform the police about crimes as soon as possible. The constraints can be

overcome by applying several options, such as forcing people by law to report cases, following up where they receive tips, and encouraging people to give evidence.

Eighty one per cent of the police interviewed said that they have good relations with the chiefs; 98% indicated that they consult chiefs regarding strategies to prevent stock theft. This relationship is crucial, because the police and the chiefs are important stakeholders in the fight against stock theft. The chiefs are closer to the communities and are trusted, they invite the police to public gatherings to motivate the STAs, they share information that helps to combat the problem, and they call public gatherings to discuss crime in general. Most headmen are open to new ideas and hold pitsos about rearing animals legally. They play an important role in the prevention of stock theft by arresting criminals together with STAs. The chiefs are the first to be consulted when new legislation is to be introduced. That is why they are role models in demonstrating the marking of stock. In all the districts, the chiefs were au fait with the Stock Theft Act, particularly regarding the compulsory marking of stock. Chiefs are responsible for keeping the master stock register and showing the community how to mark and register stock. As primary agents of the national government, they are officers of law by duty and guardians of the community by right.

Police perception of the criminal justice system

The police rate prosecutors' and magistrates' handling of stock theft cases positively: 60.0% in Berea and in Leribe, 62.2% in Mohale's Hoek, 100% in Qacha's Neck, and 57.1% in Thaba-Tseka. Butha-Buthe and Mafeteng are rated at 16.7% and 25% respectively. This means that according to the police, magistrates and prosecutors in these districts handle stock theft cases poorly.

With regard to severity in dealing with stock theft cases the police rate prosecutors and magistrates positively in only two districts, namely Berea (100%) and Qacha's Neck (80%). The rest are rated negatively: Butha-Buthe 25%, Leribe 40%, Mafeteng – unrated, Mohale's Hoek 25%, and Thaba-Tseka 42.9%.

In relation to the quality of cases presented, Qacha's Neck rated 80%, Mohale's Hoek 80% Butha-Buthe 66.7%, Berea and Leribe 50%, Thaba-Tseka 16.7%, and Mafeteng 33.3%. Mafeteng is consistently negative in the three variables. This is cause for concern for the judicial authorities.

Fifty two per cent of the police interviewed believed that the sentences handed down to perpetrators of stock theft were too lenient, while 21% considered them fair. Their reasons included the suspension of some sections of the Stock Theft Act by the Chief Justice because they were in conflict with the constitution in the penalties they were prescribing. This leaves a gap in terms of standard penalties. Moreover, some police suspect that the court authorities are offered bribes.

Legislation

All the police respondents were aware of the legislation that compels stockowners to mark their livestock. They indicated that chiefs mark their own livestock. Of the respondents, 97% said they examined the master stock register regularly; 36% indicated that the master stock register kept by the chief is not always up to date, and 55% said that the master register is up to date every time they check it.

Some stockowners do not abide by the time limitations in the legislation for transporting livestock. This was revealed in the 42% of police who indicated that stockowners do not abide by the law, although 58% indicated that stockowners did so.

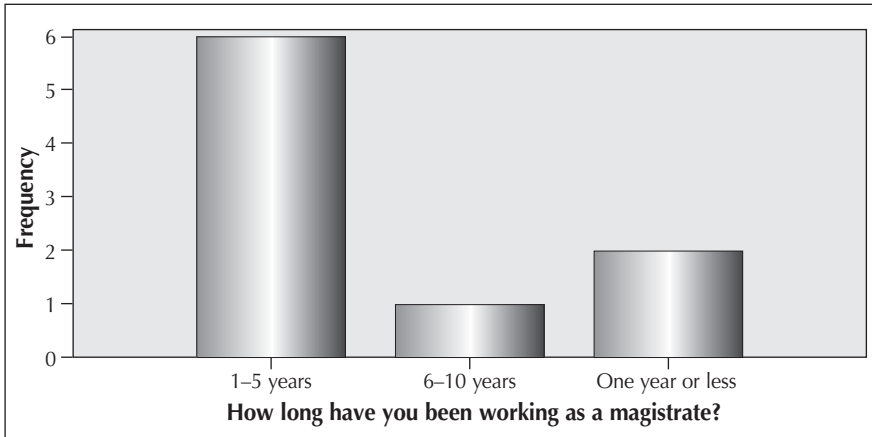
With regard to selling and buying stolen livestock, 74% of the interviewees believed that stolen animals were bought and sold in their areas. Shooting usually ensues if the perpetrator comes into contact with the owner during the theft.

SECTION D: INTERVIEW RESULTS OF MAGISTRATES AND PROSECUTORS

The experience of magistrates with regard to the handling of stock theft cases

Lesotho has three chief magistrates and ten magistrates (one per district). Magistrates are overloaded with work, because they preside over hundreds of cases per year while having to deal with different types of crime in the vast areas under their jurisdiction. In addition, most magistrates are not very experienced, which creates its own problems. Data indicates that three of the magistrates have 1-5 years' working experience, one has 6-10 years, and two have one year or less.

Figure 6 Length of time on the bench – magistrates



Four magistrates said they deal with fewer than five cases of stock theft per month, one magistrate said he deals with 15-20 cases per month, and one magistrate deals with 6-10 stock theft cases monthly. These results show that stock theft cases are given less attention by the magistrate's courts.

Two of the magistrate's courts take more than a month to finalise stock theft cases, one takes up to a month, and one takes between one and five days. But many reported stock theft cases have to be dealt with and most of them are left unattended. Having one magistrate to deal with all the criminal cases in a district impacts negatively on the quality of services provided.

Adherence to the sentences for stock theft prescribed in the legislation

Three magistrates indicated that they do not adhere to the sentences prescribed in the Stock Theft Act of 2000, for various reasons. One said that sentences imposed in the Act are too harsh; one said the Act is no longer constitutional; another is of the opinion that the law prescribes sentences beyond one's sentencing powers; and the remaining one was frustrated by the constitutional law changes.

According to two of the magistrates they are adhering to the Act; one indicated that if the court fails to adhere to the Act, the perpetrator or the suspect could appeal against unjust treatment in the higher courts. One magistrate said that he adheres to the law because it is mandatory, so that

the prosecutor does not have discretionary power to decide which cases are taken to court.

Fines and sentences

Different magistrates approach the imposition of a fine from different angles. One tries to determine how rife the crime is in the area it was committed, and another indicates that he looks at the seriousness of the offence. One looks at what the suspect earns and other mitigating factors, another considers whether the stock was found, whether force was used, and whether the correct number of animals had been returned to the owner.

The sentences handed down to stock theft perpetrators must discourage them from being convicted again for the same kind of offence. But in most cases, perpetrators continue to steal livestock, regardless of the possible sentence. Four magistrates said that stock theft perpetrators are sentenced to three and more years in prison; one magistrate said they are sentenced to imprisonment without the option of a fine, and the other magistrate attested to perpetrators being fined.

The sentence depends on the discretion of the judge. For instance, a perpetrator may have to pay M5,000.00 for stealing a goat as prescribed by the Act. This is attested to by 70% of the prosecutors.

Five of the magistrates said that they adhered to the sentence prescribed in the Stock Theft (Amendment) Act of 2003. The remaining magistrate believed that a constitutional court judgment precluded sentences prescribed in the Act, as they are considered unconstitutional. The magistrates were also asked whether sentences handed down by courts deter perpetrators of stock theft – to which four magistrates disagreed and two agreed. Of those who disagreed, one said that perpetrators think about punishment before committing a crime but continue to commit stock theft. Another believed that the sentences would not deter people as long as current economic conditions prevail.

Causes of stock theft

Two of the respondents felt that one of the major causes of stock theft was poverty, one respondent thought that poor people resorted to stock theft because they want to get rich quickly, and another indicated that pride and jealousy were the causes of stock theft. Two of the respondents cited

unemployment, greed and poverty, especially when one had to perform social and cultural ceremonies that required an animal to be slaughtered.

Perceptions of the way prosecutors handle stock theft cases

According to four of the magistrates, prosecutors are doing relatively satisfactory work in presenting their cases, that is, their presentations are neither good nor bad. Two of the magistrates thought that prosecutors are good at presenting their cases, while one magistrate felt that the quality of cases presented by the prosecutors is bad.

The respondents were of the opinion that the kind of evidence the prosecutors bring before the court is credible, they present their cases well and try their best. Prosecutors also familiarise themselves with information in police dockets and the law before going to court.

Prosecutors make an effort to get to know their witnesses, which helps witnesses to give proper evidence and testimony before the court.

Perceptions of prosecutors' knowledge of the relevant legislation

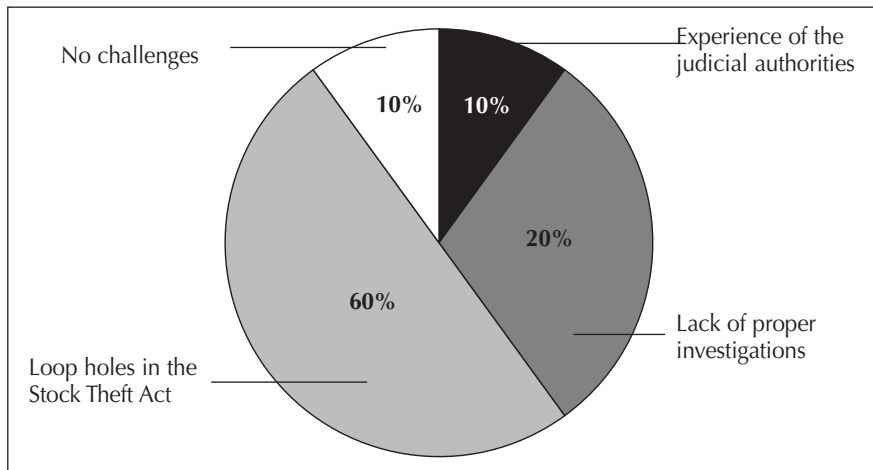
Most of the prosecutors are relatively conversant with the legislation pertaining to the cases they present in court. Lack of training and facilities was blamed for prosecutors who are not abreast of the legislation.

Perceptions of the way police handle stock theft cases

Magistrates believe that the police present their cases well in court and rarely send cases to court that cannot be won. Most have been involved in police matters for more than five years. One magistrate said that the more police are exposed to stock theft cases, the more skills they acquire for handling such cases.

Magistrates felt that the police's knowledge of the relevant legislation is good, with only one magistrate disagreeing. They said that police often have to explain the reasons for their arrest to suspects, as well as the type of crime that has been committed. The police are well read and can quote the relevant sections of the law. They know the law and charge suspects with the section of the law that has been contravened.

Figure 7 Challenges in the prosecution of stock theft cases



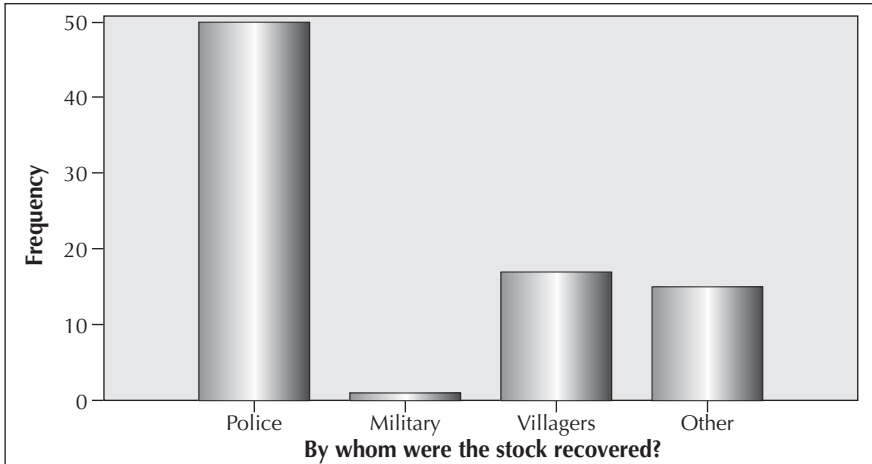
What the police are doing to reduce incidences of stock theft

One of the magistrates indicated that the police must be equipped with helicopters, vehicles and cellphones in order to do their work as quickly as possible. One of the respondents said the police should hold public gatherings in their communities. Another suggested that police should investigate thoroughly and arrest suspects, bringing them before the court. Another suggested that police should be given more vehicles and more training. One of the respondents said the only way the police could reduce the incidence of stock theft was to talk to stakeholders and hold public gatherings to discuss strategy. Another suggested that the police should work with the communities and guide stockowners on how to protect their stock.

SECTION E: DOCKETS

The socio-economic profiling of perpetrators of stock theft

A total of 73.1% of stock theft offenders are males; only 1% are females. The gender of 5.8% of offenders was not recorded and the gender of the rest of the offenders is unknown. Most of the thieves were between 16 and 25 years, followed by the group between the ages of 26 and 35 and those between 36 and 45 years. Most of the stock thieves are unemployed, or are stockowners who steal from other stockowners. Some are shepherds. Basically, the stock

Figure 8 Recovery rate of stock by stakeholders

thieves are unemployed and steal from their fellow villagers. Some of the thieves form syndicates or gangs to enhance their 'effectiveness'.

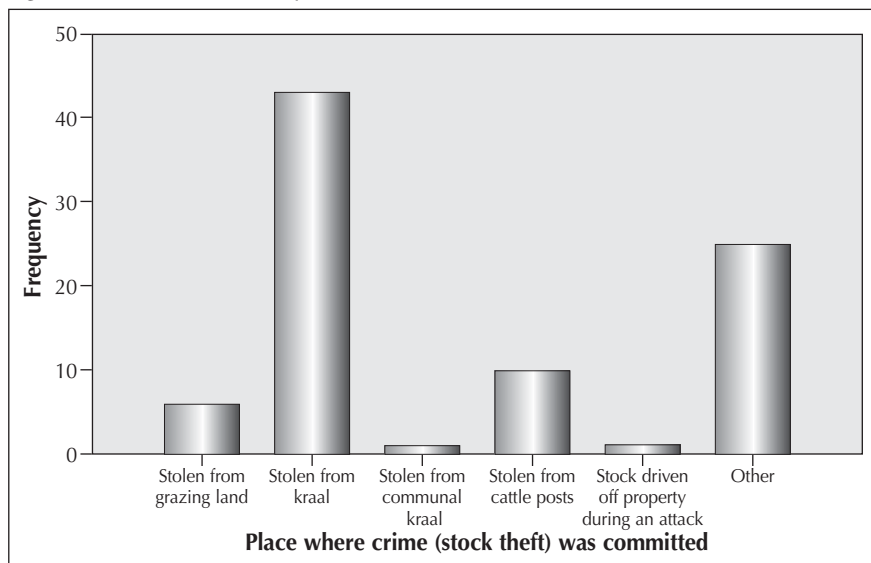
Recovery of stolen stock

Although the police lack human and material resources to do their work efficiently, the rate at which they manage to recover stock under these conditions is amazing: 48.1% of the stock was recovered by the police, 16.3% by the villagers themselves, 1.2% by the army, and the remaining 14.4% by people whose status was not mentioned. Most of the stolen stock was found in the village where the theft had occurred.

Reliability of docket

Docket analysis revealed that a lot of information is omitted from dockets. For instance, the time of day or night when the crime was committed is not systematically recorded, and in 52.9% of the dockets the time that the crime was committed was omitted.

A previous study by Kynoch showed that most animals are stolen from cattle posts where they are guarded by shepherds. However, the present study showed that this is not the case as 50% of stock is stolen from kraals outside

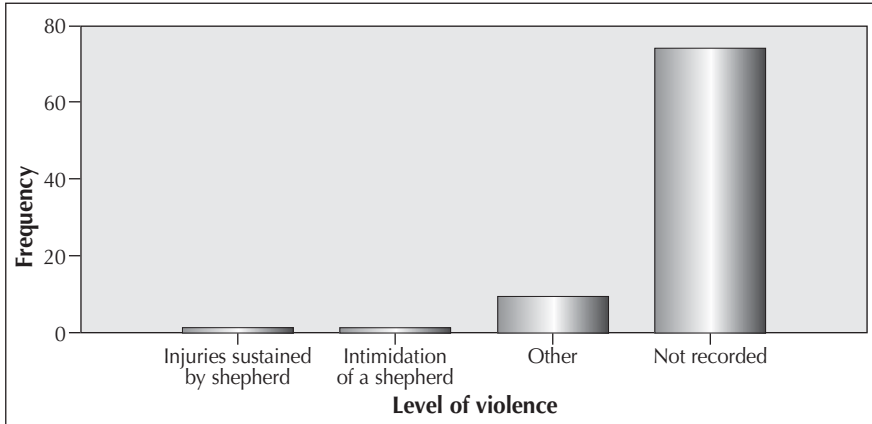
Figure 9 Areas of vulnerability to stock theft

the home, 11.6% from cattle posts, 7% from grazing land, and 1.2% from the communal kraal, while 1.2% is driven off property during attacks. (The remaining statistics on where animals were stolen is not recorded, hence the category "Other".)

This is a clear indication that stock theft perpetrators are no longer targeting cattle posts and are not afraid to go into villages to steal from kraals. The results also show that the communal kraal is an effective strategy used by stockowners to combat stock theft.

Levels of violence

Most stock thieves are armed with guns, and in some incidents stockowners are killed by thieves. One would expect the police to look at the level of violence during stock theft, but the findings indicate that the police do not record whether violence was involved when stock are stolen. For example, 87.1% of the dockets that were analysed did not reflect whether violence was used; 1.2% showed that shepherds sustained injuries and 8.7% of the shepherds were intimidated when the stock were stolen. Less than 5% of

Figure 10 Police records on level of violence during stock theft

dockets reflected the use of guns and knives in stock theft even though stock theft is said to be synonymous with violence.

The courts

Although most stock theft offenders are arrested, they are given bail and affordable fines. The findings also indicate the following:

- 69.2% of the thieves were arrested, while 25% were not – it was not recorded whether the other 5.8% were arrested;
- 62.5% of stock theft cases proceed to court, while 31.7% fail to proceed to court, for various reasons;
- in 9.6% of cases the prosecutor declined to prosecute;
- 8.7% of cases could not be tried because of insufficient evidence;
- 2.9% of prosecutions failed because the suspect escaped;
- 3.8% of prosecutions failed because the victim agreed to be compensated by the suspect for the stolen stock; and
- the remaining 2.9% of cases were withdrawn by the accused.

In addition, the findings indicate:

- There is poor handling of stock theft reports by the police.
- Courts are confronted with the problem of trying cases which lack sufficient evidence for conviction.
- Prosecuting authorities fail to inspire confidence in handling stock theft cases.

The failure to administer justice in these cases makes victims lose confidence in the judicial system.

CHAPTER 5

CONCLUSIONS

Dynamics of stock theft

- *Stock theft is on the increase, and so is related violence:* Violence related to stock theft is perpetrated not only by thieves, but by community members against suspected thieves. Violence is bound to increase as more community members call for arms in order to defend themselves.
- *Unemployment is the leading cause of stock theft:* Stock theft is committed by unemployed young men, not because they are poor and have nothing to eat, but because they do not have much to do. Their pride as the traditional providers for their families is being eroded as they are not able to obtain jobs and the number of animals that was traditionally used as a measure of their status is on the decline. Consequently they try to regain their status through stock theft.
- *The marketing channels of stock make it easier to trade in stolen stock:* Most of the stock in Lesotho is sold to individuals for use in funerals, wedding celebrations, and other communal celebrations. It is customary to buy animals to be butchered informally. With the increase in demand engendered by funerals, more stock for butchering is bought without the necessary documentation and stolen stock is cheaper. Documentation is only required when the animals are to be kept.
- *Most stolen stock is herded into inhospitable terrain to make it more difficult to track:* Stock in Lesotho is primarily herded, and the inhospitable terrain makes it impossible for police to track animals, even with off-road vehicles.
- *Religious beliefs have an impact on the responses of communities to crime:* Most stockowners seem to depend on prayer when it comes to crime.

Socio-economic impact of stock theft

- *Loss of mobility as animals are used for transport:* Over 70% of the respondents rely on animals for transport, either for pulling carts or for riding. Community members are unable to travel any distance when their main form of transport is taken away from them. Lack of road infrastructure means animals remain the most important form of transport for the Basotho. Animals are also the cheapest form of transport for disadvantaged communities.
- *Loss of earnings:* Sheep and goats are stolen in larger numbers. These animals provide earnings not only when they are sold, but also from sales of wool and mohair. Cattle are stolen most frequently, and this entails a huge loss of earnings for stockowners. Cattle sell for between M1,200 and M5,000. Even when the cattle are used by the family, money can be earned from the sale of the leather.
- *Loss of lives:* The escalating violence related to stock theft is causing more deaths; usually of young men, who are not only the primary providers for their families, but also the protectors.
- *Decreasing levels of education:* More and more children are leaving school early because parents are unable to pay for their schooling.

Stock theft interventions

- *The roles of the different stakeholders are not clear with regard to stock theft issues:* The roles of the police and the chiefs are not adequately defined. For instance, the chief writes a letter of introduction to the police for a victim of stock theft, who then goes to the police with the letter, only to be given a letter from the police to the chief that says the stockowner is given permission to search for his or her own animals (this letter serves as an introduction in villages that the stockowner visits to search for his or her stolen stock). The officer then investigates, after which he questions the victim. The chief then believes his role is only to write letters and the police are of the view that their role is to take down statements and, where possible, help search for stolen stock. (A lack of resources hinders the ability of the police to engage in prolonged searches for stolen animals.)
- *The mandate of the various stakeholders in dealing with stock theft issues is not clear:* Because the roles are not defined, the mandates of

the stakeholders are not clear either. For instance, the STAs think that their mandate is to search for stolen stock, catch the perpetrators, and hand them over to the police. The police think their mandate is to take statements, fill in dockets and act as witnesses in court. Prosecutors view their role as going to court with a docket that has been completed by the police. The stakeholders have carved niches for themselves and do not try to address the problem in its entirety.

- *The lack of resources hinders implementation of the strategies:* STAs and police patrols do not have the money to conduct extended operational searches for stolen animals. They lack essential equipment such as flashlights, bullet-proof vests, dry rations and shortwave radios.
- *STAs are rendered ineffective by violence:* STAs are ceasing to exist as members fail to patrol at night because they are afraid of stock thieves. Also, the inability of members to defend themselves against armed stock thieves means that even when they patrol, they can do nothing to prevent thieves from taking stock.
- *Lack of means of communicating with police makes it impossible to report stock theft in time for the police to respond:* For communities that are far from police stations, it is impossible to report crime in time for an effective response from the police. Reporting crime is at an all-time low as villagers feel it is futile.
- *Community policing is failing because of a lack of organisation:* Because of the lack of formalised structures and remuneration, communities cannot agree on responsibilities.

The Lesotho Mounted Police Service (LMPS)

- *The lack of resources hinders performance:* The police need off-road vehicles to deal effectively with stock theft. They also need a helicopter for regions that are impenetrable, except on foot. The lack of weapons, bulletproof vests, dry rations, tents and cold weather clothing makes their job difficult. The only resources they have in abundance are horses, but these are inadequate long-distance search operations.
- *The police are committed to the social protection of the communities they serve:* The reason that the police are not doing stellar work is not because they are lazy or lack commitment, but because they are not

motivated. The relationship between the police and the communities they serve is very good, showing that they make an effort to be involved in the communities they serve.

- *The police crime prevention policy has not been implemented:* There is no problem identification, or prioritising of areas that need urgent attention or operational planning. This means the already limited resources are not used efficiently. For example, district headquarter stations have off-road vehicles, while the stations where they are needed, in rural areas, do not.
- *Police records are a major weakness in the police procedural system:* Police dockets do not contain the information that prosecutors need for convictions. The procedures and processes followed in opening and maintaining records are inadequate. For instance, dockets are not assigned to particular officers – everyone in the department may deal with cases as and when he or she pleases. Even if officers are assigned cases, any officer in the station can open, change or add to the case docket if the officer in charge of that case is not available.
- *Police are vulnerable to corruption:* That the police do not have the requisite tools for their work makes them vulnerable to corruption. In most cases when they go on patrol or on a mission, no sleeping arrangements are made for them, nor are they provided with food. Once they are hungry and desperate it becomes easy to accept bribes from thieves. If basic resources are provided, the police should be able to improve delivery and their vulnerability to corruption reduced tremendously.

The Criminal Justice System of Lesotho

- *The practical application of the law as it stands is not clear:* The Stock Theft Act places jurisdiction to try cases in the magistrate's courts. However, the question of proper jurisdiction is regularly disputed, because the penalties in the Act are either minimal or are outside the jurisdiction of the magistrate's courts. This attracts referrals of stock theft cases to the High Court. Confidence is lost in the Criminal Justice System simply because it is difficult to establish through Sections 8 and 13 where the statute places the power to try and confer penalties in the related offences.
- *Case law has developed judicial precedence that gives magistrate's courts jurisdiction to try stock theft cases (Fatane and Others v Rex cc*

03/2004): There has been a significant shift from the severe punishments prescribed in the statutes to more humane and enlightening sentencing policies. For instance, one cannot comprehend why a person who fails to mark livestock timeously could be sent to prison for 25 years or pay a fine of M25,000, as the Stock Theft Act provides. Even a person suspected of this is required to pay bail of M20,000. The objective of the Stock Theft Act is made ineffective by this anomaly.

- *Conflict of laws*: The Criminal Procedure and Evidence Act No 7 of 1981 gives magistrate's courts the power to impose penalties in stock theft cases. This conflicts with the Subordinate Courts Order of 1988, which indicates that magistrate's courts cannot try cases with penalties exceeding M20,000. This leaves the High Court as the court of jurisdiction to try stock theft cases. The conflict of these statutes creates another problem of constitutional and fundamental human rights as per the provisions of Section 12(2) of the constitution. For instance, the Stock Theft Act gives powers to the authorities to apprehend suspects without a warrant when no reasonable cause is shown. This is contradictory to the provision in the constitution, which demands a warrant of apprehension when an arrest is made.
- Central or Basotho courts do not even administer an oath. This is spelt out in Rule 17(2) of the Basotho Courts and Procedure Rules, which provides that "oaths shall not be administered to witnesses in the Basotho courts". If this law is enforced, then perjury in matters such as lying under oath cannot be punished, which brings about a conflict in the application of the laws.

CHAPTER 6

RECOMMENDATIONS

Communities

- STAs and ACCs should be registered by the Ministry of Home Affairs as part of the protection services with inclusive benefits from July 2005 to December 2005.
- Training should be provided to STAs and ACCs. The police can do this after the associations have been registered and operational planning for this can be done using the register as a map. Training can start in April 2006 as it is budgeted for in the next financial year.
- More formalised avenues of communication should be opened between communities and the police.
- The communities should be included in any operational plans that are made by the police, as they can be of great assistance.
- Stock theft associations should be renamed anti-stock theft associations or another name that reflects that they are intended to combat stock theft.
- An incentive should be provided to communities to make STAs more effective. A standardised fee for services should be investigated by the Ministry of Home Affairs by the end of 2006.
- The Ministry of Home Affairs, through the police, should include plans for combating stock theft through communities in their annual work plan.

Police

- Even a single helicopter for the police would be invaluable. The Ministry of Home Affairs, the Ministry of Justice and the Ministry of Defence could investigate whether they could buy a helicopter for joint use.

- Establish many police stations to cut the distance people walk to report crime.
- Undertake joint patrols and missions between the army and the police more often throughout the country.
- Increase the number of vehicles available to the Stock Theft Unit.
- Increase trucks in each district to confiscate and transport stock.
- Buy motorcycles and horse trailers.
- Stock Theft Unit members should have dry rations for long pursuits.
- A special allowance should be provided for Stock Theft Unit members.
- More training should be provided for Stock Theft Unit members. This could include comprehensive docket entry.
- The Stock Theft Unit should be headed by an Assistant Commissioner for Stock Theft to give the problem a higher profile.
- Office space and remuneration (including a risk allowance and a subsistence allowance) should be reviewed to ensure that the police are motivated to service this difficult area with enthusiasm and to reduce corruption.
- To fast-forward the process of implementing micro-chipping, computers should be allotted to the Stock Theft Unit to keep track of all stock. The micro-chips should be made available to stockowners at a subsidised rate.⁴⁴
- Review the format of data entry on dockets.

Strengthening crime prevention and reducing the high crime rate is the best means of addressing the impacts of stock theft on communities. Priority should therefore be given to the strengthening of crime prevention strategies in the following ways:

- Crime prevention committees (equipped with two-way radios) should be established at community level. These committees should be based on guidelines and mutual support mechanisms involving police-public

partnerships (models for this exist in Morija, Pitseng, Mapholaneng, Ha Mofoka and Matelile), which will be evaluated before up-scaling.

- Livestock registration and marking should be expanded to curb the high rate of livestock theft and to sensitise communities along both sides of the border to cross-border crime and stock theft. The micro-chips should also be made available to the stock owners at a subsidised rate
- Strategic locations should be identified where there is a need for police stations and appropriate facilities should be provided.
- Facilities at existing police stations should be improved.

Magistrates

- The number of magistrates in districts must be increased to enhance the effectiveness and efficiency of the judicial system.
- Magistrates should specialise, so that they are equipped to deal with the particular challenges that are inherent in the society. For instance, magistrates should head specialised courts that deal with different matters.
- Increase offices and court space for magistrates.

While these systems are being put into place, three roving courts could be established (one south, one north and one central in the country) and magistrates together with specialised prosecutors should try stock theft cases in these courts.

Prosecutors

- Prosecutors should undertake specialisations in aspects of the law to deal with cases in their field of speciality.
- A special programme should be set up to familiarise prosecutors with the communities they serve and help them understand the challenges faced by the witnesses and victims that they deal with.
- Prosecutors should be more accessible to the police. Better information sharing between the police and prosecutors and a closer working relationship should be developed.

- Prosecutors should be provided with gazettes through a library. The library should also contain judgments on cases of stock theft so that there can be uniformity of knowledge.

The steps that are recommended for prosecutors and magistrates are ultimately intended to improve case management. This is essential to maintain human rights and promote confidence in the judicial system. Specific actions to be implemented are:

- Develop a case management policy and implement the Speedy Trials Act.
- Train police to compile dockets properly and to transfer these dockets effectively to the prosecution office.
- Improve the existing registers tracing movement of dockets and establish complaint mechanisms to deal with unsatisfactory cases.
- Develop an effective case-tracking system that is transparent to all key stakeholders.
- Maintain staff motivation and curb turnover by improving working conditions.

Government

- Government should change the marking of animals to include livestock with particular symbols in addition to earmarking and branding (perhaps enhance micro-chipping).
- Government needs to consider the seriousness of stock theft and accord it priority on its agenda.
- The Stock Theft Act should be reviewed in terms of the sentences and fines handed down.

The primary responsibility of government is to establish a restorative judicial and rehabilitation system. The emphasis of such a 'pro-poor system' should not be on punishment, but on compensating victims for their losses and ensuring that offenders are rehabilitated and returned to society armed with skills and an understanding of what they can contribute. This requires radical reforms that will take many years. Steps to consider include:

- establishing an inclusive task force to define restorative justice;
- orienting and training legal practitioners and other stakeholders in the effective implementation of a restorative judicial system;
- reconstructing and improving the central prison and constructing two more open camp prisons;
- training inmates to acquire functional literacy and numeric skills, as well as vocational skills;
- implementing alternative post-sentence measures to custody and release eligible inmates on parole where possible; and
- establishing community-based structures for restorative justice.

APPENDIX

LESOTHO STOCK THEFT STATISTICS

Table 1 Livestock census, 2000/01

District	Cattle	Sheep	Goats	Pigs	Horses	Donkeys	TOTAL
Butha-Buthe	39,065	59,945	41,645	5,140	4,325	11,510	161,630
Leribe	129,875	108,450	119,500	21,625	16,625	30,750	426,825
Berea	86,625	60,250	37,875	29,250	5,625	26,250	245,875
Maseru	128,125	153,700	88,875	35,000	16,875	28,250	450,825
Mafeteng	79,894	138,564	55,938	14,750	6,313	22,688	318,147
Mohale's Hoek	55,750	86,645	150,750	14,125	10,125	17,375	334,770
Quthing	43,500	99,375	96,125	8,250	6,750	7,625	261,625
Qacha's Neck	22,675	52,200	14,800	2,800	3,975	4,500	100,950
Mokhotlong	43,875	165,125	72,250	0	8,875	11,000	301,125
Thaba-Tseka	80,500	192,375	152,500	4,125	17,250	2,000	448,750
TOTAL	709,884	1,116,629	830,258	135,065	96,738	161,948	3,050,522

Table 2 Summary of livestock theft and recovery, 2000–2004

	Number of animals stolen	Number of animals recovered	% Recovery
2000/01	33,950	11,150	33
2001/02	30,105	11,074	36
2002/03	26,678	13,369	50
2003/04	18,442	7,847	43
TOTAL	109,268	41,862	38

Table 3 Trend of stock theft by year and district

District	2000/01	2001/02	2002/03	2003/04	TOTAL	RANK
BB	2,239	2,169	1,458	1,005	6,871	7
LR	2,179	1,562	3,577	1,739	9,057	5
BR	3,117	3,382	4,318	2,215	13,032	4
MSU	4,785	6,469	6,329	3,877	21,460	2
MFT	1,342	1,033	1,222	1,087	4,684	8
MH	476	287	811	390	1,964	10
QT	546	565	516	727	2,354	9

District	2000/01	2001/02	2002/03	2003/04	TOTAL	RANK
QNEK	3,332	1,639	1,586	1,850	8,407	6
MKG	7,231	4,949	2,280	2,889	17,349	3
TT	8,703	8,050	4,581	2,663	23,997	1
TOTAL	33,950	30,105	26,678	18,442	109,175	

Table 4 Number of animals stolen during 2000/01

District	Cattle	Horses	Donkeys	Sheep	Goats	Pigs	Mules	TOTAL
BB	611	107	75	944	499	3	0	2,239
LR	1,023	88	69	607	390	2	0	2,179
BR	1,240	108	136	1,089	544	0	0	3,117
MSU	1,812	246	175	1,508	1,036	8	0	4,785
MFT	332	37	27	775	171	0	0	1,342
MH	139	16	2	141	177	1	0	476
QT	202	102	47	172	222	2	1	546
QNEK	704	340	90	1,475	722	0	1	3,332
MKG	1,196	641	217	4,509	665	0	3	7,231
TT	1,533	567	237	5,125	1,241	0	0	8,703
TOTAL	8,792	2,252	1,075	16,345	5,667	16	5	33,950

Table 5 Number of animals recovered in 2000/01

District	Cattle	Horses	Donkeys	Sheep	Goats	Pigs	Mules	TOTAL	% Recovery
BB	102	28	7	162	28	1	0	328	15
LR	534	23	45	805	596	1	1	2,005	92
BR	513	51	22	143	65	0	0	794	25
MSU	788	97	43	437	211	2	0	1,578	33
MFT	33	5	5	85	12	2	0	142	11
MH	100	10	2	63	80	0	0	255	54
QT	287	49	31	89	96	0	0	552	101
QNEK	560	177	44	1,246	66	0	1	2,094	63
MKG	509	155	85	223	124	0	2	1,098	15
TT	446	222	87	1,083	466	0	0	2,304	26
TOTAL	3,872	817	371	4,336	1,744	6	4	11,150	
% Recovery	44	36	35	27	41	25	80		33

Table 6 Number of animals stolen during 2001/02

District	Cattle	Horses	Donkeys	Sheep	Goats	Pigs	Mules	TOTAL
BB	560	56	107	903	543	0	0	2,169
LR	680	70	44	546	219	3	0	1,562

District	Cattle	Horses	Donkeys	Sheep	Goats	Pigs	Mules	TOTAL
BR	1,597	143	129	1,155	356	2	0	3,382
MSU	2,594	335	237	2,186	1,108	9	0	6,469
MFT	214	25	17	644	129	4	0	1,033
MH	65	12	1	163	46	0	0	287
QT	181	53	52	153	125	1	0	565
QNEK	557	243	49	466	324	0	0	1,639
MKG	840	598	120	3,138	250	0	3	4,949
TT	1,561	608	226	4,893	761	0	1	8,050
TOTAL	8,849	2,143	982	14,247	3,861	19	4	30,105

Table 7 Number of animals recovered during 2001/02

District	Cattle	Horses	Donkeys	Sheep	Goats	Pigs	Mules	TOTAL	% Recovery
BB	176	12	21	110	110	1	0	430	20
LR	222	34	16	173	117	1	0	563	36
BR	342	42	12	189	38	1	0	624	18
MSU	1,062	131	99	923	349	2	0	2,566	40
MFT	9	2	0	83	21	0	0	115	11
MH	55	11	3	125	14	0	0	208	72
QT	364	73	83	56	158	0	0	734	130
QNEK	377	102	27	162	214	0	0	882	54
MKG	889	282	71	1,423	131	0	4	2,800	57
TT	565	101	86	1,170	230	0	0	2,152	27
TOTAL	4,061	790	418	4,414	1,382	5	4	11,074	
% Recovery	45	36	43	31	36	25	100		36

Table 8 Number of animals stolen during 2002/03

District	Cattle	Horses	Donkeys	Sheep	Goats	Pigs	Mules	TOTAL
BB	464	77	94	600	220	1	2	1,458
LR	1,509	129	112	1,238	585	3	1	3,577
BR	2,155	85	127	1,339	608	4	0	4,318
MSU	2,790	220	226	2,856	231	6	0	6,329
MFT	218	17	19	785	182	1	0	1,222
MH	198	47	27	339	200	0	0	811
QT	198	49	50	144	74	1	0	516
QNEK	448	216	43	596	282	1	0	1,586
MKG	528	298	72	1,231	151	0	0	2,280
TT	1,319	407	113	2,150	591	0	1	4,581
TOTAL	9,827	1,545	883	11,278	3,124	17	4	26,678

Table 9 Number of animals recovered in 2002/03

District	Cattle	Horses	Donkeys	Sheep	Goats	Pigs	Mules	TOTAL	% Recovery
BB	278	40	23	235	4	1	0	581	40
LR	849	79	59	338	543	2	0	1,840	51
BR	600	38	30	392	62	0	0	1,132	26
MSU	914	78	70	2,207	612	1	0	3,880	61
MFT	30	11	8	231	82	1	0	363	30
MH	83	62	6	166	86	0	0	403	50
QT	340	48	55	113	112	0	0	668	132
QNEK	491	112	41	24	151	2	1	822	52
MKG	653	141	72	985	344	0	4	2,095	92
TT	490	183	85	484	218	0	0	1,370	30
TOTAL	4,728	792	449	5,175	2,214	7	5	13,369	
% Recovery	48	51	51	46	71	41	125		50

Table 10 Number of animals stolen in 2003/04

District	Cattle	Horses	Donkeys	Sheep	Goats	Pigs	Mules	TOTAL
BB	402	24	50	322	204	1	2	1,005
LR	686	43	69	564	361	15	1	1,739
BR	1,138	78	86	624	285	3	1	2,215
MSU	1,325	180	126	1,623	617	6	0	3,877
MFT	149	28	19	811	80	0	0	1,087
MH	77	13	5	224	71	0	0	390
QT	206	83	90	225	123	0	0	727
QNEK	340	219	79	831	372	0	9	1,850
MKG	616	304	90	1,655	224	0	0	2,889
TT	690	169	121	1,373	309	1	0	2,663
TOTAL	5,629	1,141	735	8,252	2,646	26	13	18,442

Table 11 Number of animals recovered in 2003/04

District	Cattle	Horses	Donkeys	Sheep	Goats	Pigs	Mules	TOTAL	% Recovery
BB	219	21	19	181	52	0	1	493	49
LR	433	19	25	140	153	0	2	772	44
BR	492	42	44	102	99	2	0	781	35
MSU	446	49	13	416	218	4	0	1149	30
MFT	38	26	7	145	56	0	0	172	16
MH	73	9	2	60	27	0	0	169	43
QT	239	83	60	144	178	0	0	704	97

District	Cattle	Horses	Donkeys	Sheep	Goats	Pigs	Mules	TOTAL	% Recovery
QNEK	502	229	71	333	249	0	0	1,384	76
MKG	371	91	71	760	177	0	0	1,470	51
TT	169	37	20	325	99	3	0	653	25
TOTAL	2,982	606	332	2,606	1,308	9	4	7,847	
% Recovery	53	53	45	31	49	35	31		42

NOTES

- 1 See report on micro-chipping project in Qacha's Neck and Mokhotlong districts as part of livestock identification systems in prepared by Lesotho Justice Sector Development Programme written by Camelot (Pty) Ltd, June 2005. This report indicates that the two areas of Lesotho that have the highest rate of stock theft, namely Mokhotlong and Qacha's Neck, were selected for a pilot study of the use of micro-chips as a means of identifying animals. The Stock Theft Act specifically provides for the use of micro-chips and the pilot study was intended to provide government with an opportunity to assess their value. A total of 4,000 animals in 20 villages were tagged in the early part of October 2004. Research instruments were used during the micro-chipping process to determine the views of the members of the public. The results were analysed during January and a full report was presented to the Ministry of Agriculture and Ministry of Home Affairs in March 2005. While the problems of stock theft have continued elsewhere in the four months ending January 2005, it is interesting to note that only five micro-chipped animals have been stolen in the Qacha's Neck District and none in Mokhotlong. The Lesotho Mounted Police Service has been provided with mobile scanners to identify animals that have been micro-chipped. The use of micro-chips should therefore be advanced as a means of preventing stock theft.
- 2 Human Development Report of the UN Development Programme, 1994.
- 3 J Dzimba & M Matookane, Workshop report on engaging civil society organisations in matters of peace and security in Lesotho, Maseru, 2004, p 6.
- 4 See appended tables 2, 4, 5, 6, 7, 8, 9 and 10.
- 5 Bewys are documents issued by chiefs to transfer animals from one individual to another.
- 6 A pitso is a gathering of elders to discuss matters that concern the people.
- 7 Kingdom of Lesotho: *Poverty Reduction Strategy Paper, 2004/2005 – 2006/2007*, Government of Lesotho
- 8 Government of Lesotho, *Pathway out of poverty: An action plan for Lesotho*, Ministry of Finance and Economic Planning, 1996 (with support from the World Bank, USAID and the EU).
- 9 Ibid.

- 10 GNI per capita is a more accurate indicator of household income than GDP per capita, as it includes factor income from abroad.
- 11 Kingdom of Lesotho, *Country economic memorandum*, World Bank, June 2003.
- 12 Parliament of the Kingdom of Lesotho, Budget Speech to Parliament for the 2003/2004 fiscal year.
- 13 Ibid.
- 14 Ibid.
- 15 Bureau of Statistics, *2001 Lesotho Demographic Survey, Volume 1*, Bureau of Statistics, Maseru, 2003.
- 16 Ibid.
- 17 J Gay and D Hall, *Poverty in Lesotho: More than a mapping exercise*, Sechaba Consultants, Maseru, 2000.
- 18 Costs were computed on the basis of all reported expenditure on inputs; benefits were the computed sum total value of the household's harvest, excluding the crop residue.
- 19 Gay and Hall, op cit. National cereal production is around 27 kg per person, far below the FAO standard of 180 kg.
- 20 National Livestock Registration, Marking and Information Project – feasibility study, Government of Lesotho, Department of Livestock Services, November 1999, p 10.
- 21 Bureau of Statistics, Estimated livestock numbers and distribution 1998/99.
- 22 National Livestock Registration, Marking and Information Project, op cit, p 5.
- 23 Obtained from the Stock Theft Unit headquarters in Maseru, November 2004.
- 24 Gay and Hall, op cit, p 8.
- 25 By the year 2020, Lesotho shall be a stable democracy, a united and prosperous nation at peace with itself and its neighbours. It shall have a healthy and well-developed human resource base. Its economy will be strong, its environment well managed and its technology well established.
- 26 Kynoch et al, op cit.
- 27 National Livestock Development Study, Government of Lesotho, Department of Livestock Services, March 1999, p 2.
- 28 National Livestock Development Study, op cit, p 4.
- 29 Ibid.
- 30 Cross-border raiding and community conflict in the Lesotho-South African

- border zone, *Migration Policy Series 21*, p 11.
- 31 Kynoch et al, op cit, p 23.
- 32 Report of the Commission to Inquire into the Tsolo Violence and Related Matters (Kroon Report), October 1995, Section 111, p 5.
- 33 Kynoch et al, op cit, pp 20-21.
- 34 Ibid, p 23.
- 35 Ibid, p 24.
- 36 Kynoch et al, op cit.
- 37 Mafisa is a cultural system of lending animals to friends or relatives in kind for a long term with the intension of getting them back.
- 38 Kynoch et al, op cit, p 39.
- 39 Kynoch et al, op cit, p 14.
- 40 See appended tables 1, 2, 4 and 10.
- 41 Common theft, which traditionally was only a delict and often compensated with two cows as reparation plus two cows for the trouble caused to the court and the owner. This still appears to be the practice in stock theft crimes.
- 42 Anyone who is caught at night in a kraal and is attempting to steal could be killed: "a thief is a dog; they must pay with their head" (Laws of Lerotholi).
- 43 Kynoch et al found similar results in their study.
- 44 See note 2.