

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.