

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.