

RECONCILING THE ANTI GRAZING LAW OF BENUE STATE OF NIGERIA IN AN ERA OF RESOURCE DEPLETION

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ABSTRACT

The 2015 Global Terrorism Index ranked Nigeria fourth on the list of militant groups. This development was warranted by incessant killings of farmers by herds men of Fulani extraction. The former Military Head of State in Nigeria, Abdul salami Abubakar at the forum organized by the Search for Common Ground, Nigeria, in collaboration with the institute for Peace and Sustainable Development stated that Nigeria loses not less than \$13.7 billion annually as a result of farmers and herdsman clashes in Benue, Kaduna, Nassarawa and Plateau States of Nigeria. The emergence of this challenge has been discussed from security, religious, political, ethnical, communal and economic perspectives. Dearth of grasses with which to feed herds has triggered issues which threaten the nation's fragile peaceful co-existence. In November 2017, the Benue State government of Nigeria banned open grazing. The writer analyses the Benue State Anti-Grazing Law, ascertains the suitability of the law, compares global position on grazing and submits that an effective, timely and adequate address of the environmental issue occasioned by resource depletion will resolve the feud, especially with particular reference to Benue State of Nigeria.

Keywords: Grazing Resource, Resource Depletion.

Introduction

Scholars have acknowledged the fact the natural environment provides all the needs of living things on earth, hence the reason why God created the natural environment before man.¹ The definitions of the natural environment can be said to be as many as there are authors and statutes, but most often than not the fact that land, water and air are part of the natural environment are acknowledged in many of these definitions. Land, water and air are three major media of the environment as well as the most known natural resources without which human race cannot survive. Offiong defined the natural environment as "the natural conditions such as the air, water and land in which people, animals of various types and plants exist."² Atsegbua quoted the Nigerian Federal Environmental Protection Agency Act of 1988 which defined the environment to include "water, air, land and all plants and human beings or animals living therein and the inter-relationships which exists amongst these or any of them."³ No one is left in doubt as to the importance of these three media of the environment to life. To buttress the foregoing, Magaji and Hassan state that "Man might survive weeks without food and days without water, but he

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¹ Holy Bible. King James Version. Genesis 1:1-25

² Offiong John Offiong, "The Dilemma of Implementing Effective Environmental Policies in Nigeria" JORIND (9)1 June, 2011. ISSN 1596-8303 Available at. www.transcampus.org/journals.
www.ajol.info/journals/jorind.>accessed 23 June 2018.

³ Lawrence Atsegbua, Vincent Akpotaire, Folarin Dimowo. *Environmental Law In Nigeria. Theory and Practice* (Ababa press 2004)p150

can only last a few seconds without clean air. An average person breathes over 3,000 gallons of air each day....⁴ Land, which among others is described as “the basis of terrestrial biodiversity by providing the biological habitats and gene reserves for plants, animals and micro-organisms, above and below ground” and also as “a storehouse of raw materials and minerals for human use,”⁵ produces food and herbs for human sustenance, houses natural resources etc while it is equally an obvious fact that mankind cannot survive without water for drinking, in preparation of food and drugs, for personal hygiene among others.

The general impression as has always been presented is that everything was in abundance at creation. Presently the fact that the resource on which humans depend for survival is facing serious depletion is a common knowledge. Various reasons have been attributed as being the causes and effects of resource depletion and in some cases, outright resource scarcity. This ranges from explosion in human population, some ill planned developmental projects which has taken up a sizeable portion of available land, industrialization which has occasioned pollution of land, water, air and Climate Change which has affected agricultural output and every other thing. The fore going has thrown the human race into imbalance in the area of food production, food security, general wellbeing and longevity. This has been the cause of relocations, feuds and even inter ethnical wars. This can also be said to be the cause of the upsurge of killings of farmers by herdsmen in some areas in Nigeria. Sadly this is a new development between people whose relationship used to be cordial.

In the last twenty four months, Nigeria has experienced much of the Fulani herdsmen and farmers clashes. Local communities in Benue, Plateau, Taraba, Adamawa, Oyo, Cross River, Enugu, Zamfara, Imo, Kaduna and Ogun States as states that have favourable climatic condition for grasses and are rich in pastures have been the target of Fulanis onslaught. The issue has been that of accusations and counter accusations. Some days prior to the writing of this piece, twenty five people were murdered in the Kogi villages of Nigeria in one of such clashes between herdsmen and farmers.⁶ The death tolls keeps rising daily. The former Military Head of State in Nigeria, Abdulsalami Abubakar further confirmed that sixty two thousand people were displaced between January 2015 and February 2017, while two thousand five hundred people died nationwide in farmers / herds men conflicts.⁷ The inability of the Nigerian Federal Government to resolve this issue is of grave concern and is indeed an indictment on the good faith of the present administration since it has not taken any decisive step to curb the menace. While some researchers view it as political, economic, religious and tribal issue, the fact remains that there had in the past been peaceful co existence between the herds men and the farmers. This was before environmental conditions occasioned dwindling natural resources which necessitated the

⁴ Magaji, J. Y. Hassan S. M., ‘An Assessment of Air Quality in and around Gwagwalada Abattoir , Gwagwalada, Abuja, F c t’. Available at <<http://www.iiste.org/Journals/index.php/JEES/article/viewFile/18923/19516>> accessed 23 December 2015

⁵ Fao Land And Water Bulletin 2, Planning for sustainable use of land resources; Towards a new approach

⁶ This Day News Paper ,’’25 People Killed as Herdsmen Invade Kogi Villages.’’

Available at <https://www.thisdaylive.com/index.php/2018/03/16/25-people-killed-as-herdsmen-invade-kogi-villages/> accessed 23 June 2018

⁷ Premium Times. October 2017 Nigeria loses \$13.7 billion to herdsmen, farmers clashes – Abdulsalami Abubakar Available at <https://www.premiumtimesng.com/news/more-news/247769-nigeria-loses-13-7-billion-herdsmen-farmers-clashes-abdulsalami-abubakar.html>. accessed 23 June 2018

trespass of the herds men into farms in search of grasses and the resistance by the farmers which further complicated issues.

The Benue State government of Nigeria in November 2017, banned open grazing under the Benue State Anti- Grazing Law, other states in this category who have also banned open grazing are Ekiti State and Taraba State. The Anti Grazing law is significant as a legislative attempt at resolution of environmentally generated conflict of interest which culminated into killings, threat to food security, threat to life and threat to peaceful coexistence. The provisions of the law vis a vis global standard, the state of events and the attendant controversy which trailed the law including the killing of 72 peasant farmers by Fulani herds men in Benue State in January 2018 calls for discussion.

Definition of Terms

Resource Depletion

Natural resources can be classified into renewable and non-renewable resources. Depletion signifies a rapid reduction of materials at a rate that is faster than the rate at which it is being replenished. Natural resources especially in the nature of vegetation are not evenly distributed. While particular areas may, by virtue of climate, have abundance of a particular type of vegetation, other areas may be in dearth of such vegetation. It has been observed that due to environmental conditions, even areas that were known for abundance of particular natural resources are beginning to experience dearth. Thus resource depletion can be viewed as the noticeable decline and shortages of resources.⁸ Depletions in the resources are always occasioned by changes in the condition of natural resources with attendant negative impacts on societies.⁹ The antidote to the fore going is environmental protection and conservation. This can be interpreted to mean deliberate effort to ensure the wellbeing of the media of the environment by way of due observance of environmental laws and environmental foresight. This also involves actions taken to resolve and prevent environmental problems so as to conserve and preserve ecosystems,¹⁰ and the management of resources in a way to ensure continual usage for the present and the future.¹¹

Grazing and Resource Depletion

The most notable grazing resource is grazing land or pasture land. Grazing land is defined as “Any vegetated land that is grazed or has the potential to be grazed by animals (domestic and wild).”¹² On the other hand “Pasture Land” is described as “Land (and the vegetation growing

¹⁰ Robert Nasi et al (2008) Conservation and the use of wild-life-based resources: The bush meat crisis. Secretariat of the convention on Biological Diversity, Montreal, and Center for International Forestry Research, Borgo, Technical Series 33.

¹¹ Ibid., p. 7

¹²V.G. Allen, C. Batello, E.J. Berretta, J. Hodgson, M. Kothmann, X. Li, J. Mclvor, J. Milne, C. Morris, A. Peters and M. Sanderson “An international terminology for grazing lands and grazing animals”

Available at <https://www.crops.org › files › membership › divisions › international-graz...>

accessed 7th, January, 2020

on it) devoted to the production of introduced or indigenous forage for harvest by grazing, cutting, or both.”¹³ In either instances, land is the denominator. To many authors, the definition of land includes the fixtures like trees, plants, hills, mountains etc. A researcher defined land as:

A delineable area of the earth's terrestrial surface, embracing all attributes of the biosphere immediately above or below this surface, including those of the near surface climate, the soil and terrain forms, the surface hydrology including shallow lakes, rivers, marshes and swamps, the near-surface sedimentary layers and associated groundwater and geo hydrological reserves, the plant and animal populations, the human settlement pattern and physical results of past and present human activity (terracing, water storage or drainage structures, roads, buildings, etc.)¹⁴

The Benue State Anti-Open Grazing Law interprets ‘Land’ to mean any ground, soil or earth whatsoever as meadows, pastures, woods, etc and everything annexed to it, whether by nature as trees, water, etc or by the hand of man as crops, building, fences etc. Food security and large part of human wellbeing depend on land. Land as a media of the environment is crucial to the Fulani herds men because of grasses for their herds while it also grows the crop for the farmer. According to Garg ;

Among all the natural resources, Land is the most important one. All agriculture, animal and forestry productions depend on the land productivity. The entire land ecosystem, which composed of soil, water and plant, and soil biodiversity, is used to fulfil the community demand for food, energy, water requirement.¹⁵

Section 20 of the 1999 Constitution of Federal Republic of Nigeria makes it one of the objective of the Nigerian State to improve and protect the air, land, water, forest and wild life of Nigeria.¹⁶ In a further bid to specifically protect land against desertification, land degradation and drought, Nigeria developed such policies as National Policy on Environment, National Action Programme (NAP) to Combat Desertification and Mitigate the Effects of Drought, National Drought and Desertification Policy, National Drought Preparedness Plan, National Strategic Action Plan for the Implementation of the Great Green Wall for the Sahara and the Sahel Initiative, Nigeria

¹³ V.G. Allen, C. Batello, E.J. Berretta, J. Hodgson, M. Kothmann, X. Li, J. Mclvor, J. Milne, C. Morris, A. Peters and M. Sanderson “An international terminology for grazing lands and grazing animals” Available at <https://www.crops.org › files › membership › divisions › international-graz...>

accessed 7th, January, 2020

¹⁴Definitional Glossary of Agricultural Terms, available at <https://books.google.com.ng/books?isbn=8190675737> > accessed on ⁴July, 2018

¹⁵ Shivani Garg ,”Impact of Overpopulation on Land Use Pattern” available at https://www.researchgate.net/publication/312011595_Impact_of_Overpopulation_on_Land_Use_Pattern> accessed on July 4, 2018

¹⁶ The 1999 Constitution of the Federal Republic of Nigeria. Ironically, this provision is regarded as a mere objective in the constitution in respect of which the government is not in any way saddled with any compulsion to observe. In other words the protection and improvement of air though realized to be fundamental and desirable in that no one can avoid breathing air , the Nigerian Government is not committed to and cannot be compelled to ensure same.

Climate Change Policy and Response Strategy, National Adaptation Strategy and Plan of Action for Climate Change; National Forest Action Plan, National Conservation Strategy, National Biodiversity Strategy and Action Plan, National Resources Conservation Action Plan, National Policy on Agriculture, National Water Resources Master Plan, National Energy Policy, Nigeria National Environmental Action Plan (NEAP) and States Environmental Action Plan (SEAPs).¹⁷

At present there are still many environmental factors affecting adequacy of land in Nigeria, many reasons account for the reduction in land available for cultivation and pasturing, Muhammed, Ismaila and Bibi attribute it to ‘the increase in population, drying of waterholes, shifting in rainfall pattern leading to drought as a result of the changing climate which affects both pastoralists and farmers.’¹⁸ Writers like Ubelejit who admitted that the Fulani/ Farmers conflicts took place in places like Benue, Nasarawa, Plateau, Taraba, Kaduna, Adamawa, Zamfara, Oyo, Imo, Cross-River and Enugu, limited the factor affecting reduction in land available for use strictly to climate change.¹⁹ He observed;

The most fundamental reason why Fulani Herdsmen migrate to other areas is because of desert encroachment (desertification) of the Sahel region caused by climate change. Climate change destroys and depletes natural resources. A lot of communities are heavily dependent on natural resources and it is also very crucial for individual wellbeing. Climate change significantly undermines individual livelihoods and community growth thereby undermining the capacity of state to provide social services and economic opportunities requisite for state development and stability. The lack of opportunities to sustain livelihood makes indigenes of such communities very susceptible to conflicts²⁰

Other causes of inadequacy of land include urbanization and growth of industrial activities, indiscriminate use of chemicals, ill planned housing schemes, population explosion and ignorance to mention but a few. The competition for the available resources has thrown up a great challenge leading to killings and many security, political, economic, ethnic and religious issue.

The Benue State Anti- Grazing Law.

The land that the Nigerian cattle herders frequent with their cattle belongs to individuals and families, though by virtue of the Land Use Act, much of these land is vested in the States Governors, it follows that the land is not free for indiscriminate grazing. While small land

¹⁷ Enviro news Nigeria, Jibril, World Day to Combat Desertification: Why Nigeria must rise up to challenge.’ Available at <http://www.environewsigeria.com/world-day-combat-desertification-nigeria-must-rise-challenge-jibril/> accessed on 4July, 2018

¹⁸ 1, Ibrahim Muhammed,2, Abdurrahman Beel Ismaila, 3, Umar Muhammed Bibi International Journal of Engineering Science Invention ISSN (Online): 2319 – 6734, ISSN (Print): 2319 – 6726 www.ijesi.org ||Volume 4 Issue 7|| July 2015 || PP.23-33

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Ibrahim Muhammed,2, Abdurrahman Beel Ismaila, 3, Umar Muhammed Bibi ,’An assessment of farmer-pastoralist conflict in Nigeria using GIS’> accessed on 4July, 2018

¹⁹ Nte Timothy Ubelejit , ‘Fulani Herdsmen and Communal Conflicts: Climate Change as Precipitator’ Journal of Political Science and Leadership Research Vol. 2 No.1 2016 www.iiardpub.org> accessed on July 4, 2018

²⁰Nte Timothy Ubelejit , ‘Fulani Herdsmen and Communal Conflicts: Climate Change as Precipitator’ Journal of Political Science and Leadership Research Vol. 2 No.1 2016 www.iiardpub.org> accessed on July 4, 2018

owners may continue to occupy and use the land once claimed by their ancestors, commercial herders can only have access to quantity of land needed with the consent of the State Governors . Herders hardly do any of these things rather caution is thrown to the winds in the bid to promote their economic interest by shepherding their cattle to good pastures not minding the economic interests of the crop farmers and their farmlands on which the heeders cattle feed on indiscriminately. Naturally too, farmers resent the impunity that appears to characterize the action of the herdsmen. They are resentful because it appears to them that herders are subject to no law or to different codes which protect them from justice. The Benue State Anti- Grazing Law therefore is an attempt by the Benue State government to achieve lasting solution to open grazing of livestock which has been causing fights between herdsmen and farmers in Benue State. The Benue Anti-Open Grazing Laws which is a law to prohibit open rearing and grazing of livestock and provide for the establishment of ranches and livestock administration, regulation and control and for other matters connected there with and which is herein after referred to as the Law , came into force on 1st day of November, 2017. The law which may be cited as Open Grazing Prohibition and Ranches Establishment Law 2017 ,repealed the Grazing Reserves Law Cap 72, Laws of Benue State 2004 and provided that all instruments made there under that affect grazing of livestock are to be modified in line with the provisions of the Law.²¹

The Law has six main objectives and these are :

- (a). prevention of the destruction of crop farms, community, ponds, settlements and property by open rearing and grazing of livestock;
- (b) prevention of clashes between nomadic livestock headers and crop farmers;
- (c) protection of the environment from degradation and pollution caused by open rearing and overgrazing of livestock;
- (d) optimization of the use of land resources in the face of overstretched land and increasing population;
- (e) prevention, control and management of the spread of diseases as well as to ease the implementation of policies that enhance the production of high quality and livestock for local and international markets;
- (f) create conducive environment for large scale crop production.²²

The law vests the Livestock Department of the Ministry of Agriculture and Natural resources of the State with powers to administer, regulate and control livestock in the State.²³ This also includes power to issue or cause to be issued permits to Benue Citizens, Residents, and other livestock owners who are entitled by virtue of the Department of the Ministry of Agriculture and Natural resources rule and regulations to set up a ranch and have obtained the Governor's approval upon payment of permit fees to graze livestock on ranches.²⁴

The other conditions governing the issuance of the permits are that :

1. Ranching permits are only to be issued to citizens of Nigeria who have the authority to conduct business under the laws of the Federal Republic of Nigeria with special preference to those within or near a district who are land owners interested in livestock business.

²¹ Section 36 of the Law.

²² Section 3 of the Law.

²³ Section 4 of the Law. The other powers are as elaborated in sections 13 and 14 of the Law.

²⁴ Section 5 of the Law . Other duties of the Department is as set out in Section 18 of the Law includes:

2. Ranching permit to be for a period of not more than a year and the renewal to be at the discretion the Department.²⁵

A Rancher is mandated to apply in writing and secure the consent of the owner of the parcel of land which he intends to acquire for a one year lease ranching. Apart from the owner, stake holders like family head, community leaders, kindred head and Local Government Traditional Council Chairman, are to be involved in deliberation towards consent.²⁶ The said consent must accompany the Ranchers written application for ranching permit to the Department.²⁷ The Department is to undertake or engage Professionals to undertake Environmental Impact Assessment of the land in issue.²⁸ The result of the Environmental Impact Assessment is to be made available to all concern for their consideration and for the purpose of making informed contribution at the joint meeting to be convened by the Department within 90 days.²⁹ A favorable consideration of a suitable Environmental Impact Assessment report by the stake holders entitles the rancher to recommendation from the stake holders to the Department to issue ranching permit to the Rancher.³⁰ The Commissioner shall in turn write a report on the recommendation from the Department and the recommendation from the stake holders to the Governor who may approve the issuance of a ranching permit to the Rancher if satisfied that the best interest of the State will be served. This culminates into actually issuance of the Ranching permit by the Department within 30 days of such approval by the Governor,³¹ after which the Rancher may pay the fee for the one year lease of the land to the stake holders.³² Note that section 10 of the law exempts any citizen of Benue State who wants to use his own land for personal ranch from provisions of sections 5, 6, 7, 8 of the Law to the land owner.³³

While absolute sale of such land to Rancher and his agent for ranching ,residence and other related purposes is strictly prohibited,³⁴the law further provides that neither the lease nor the permission creates any right, title, interest or estate in the said land which by virtue of the Land Use Act remains vested in the Governor who may grant approval to the Department to revoke a ranching permit without payment of compensation for the following reasons :

- a. where there is breach of State security,
- b. in the interest of peace,
- c. for breach of any term or conditions of the leasehold ,
- d. or for overriding public interest.³⁵

There are also provisions on mandatory fencing of a ranch,³⁶ eligibility of persons who can enter a ranch,³⁷ alienation of right affecting any land in a ranch,³⁸ construction of temporary structures

²⁵ Section 5c of the Law.

²⁶ Section 6 (1) (2) of the Law.

²⁷ Section 6 (3) of the Law.

²⁸ Section 6(4) of the Law.

²⁹ Section 6 (5) of the Law.

³⁰ Section 6(6) of the Law.

³¹ Section 7 of the Law. No provision as to who pays for the Environmental Impact Assessment.

³² Section 8 of the Law.

³³ This means if the report on Environmental impact Assessment is not even suitable, an indigene of Benue State can go on to run a ranch.

³⁴ Section 12 of the Law.

³⁵ Section 11 of the Law.

and other improvements for the management of permitted livestock, compensation for improvement constructed and owned by prior occupant,³⁹ payment of damages or compensation by the owner of any livestock that strays into another person's land and destroys agricultural crops and or contaminates any source of water supply to the owner or community with the proprietary interest in the land or source of water ,⁴⁰penalty for cattle rustling,⁴¹ treatment of any livestock found grazing , wandering or herding in areas not designated as a ranch and the liability of the owner,⁴²creation of the Livestock Special Task Force to enforce the Law,⁴³the composition and the remuneration of the Livestock Special Task Force and the mode of operation of the Livestock Special Task Force.⁴⁴

Section 32 of the Law creates the Local Government Advisory Committee for each Local Government Area in Benue State, with a view to enable the Department to have the benefit of the full information and advice concerning the physical, economic and local conditions in the ranches in the State⁴⁵.

Section 33 of the law states the composition of the Local Government Advisory Committee which shall offer advice and recommendations concerning rules and regulations for the administration of the law, the establishment of ranches, the modification of the boundaries thereof and any other matter affecting the administration of the law within the area,⁴⁶ however no member of the committee is permitted to participate in any advice or recommendation concerning a permit or an application in which he is directly or indirectly interested.⁴⁷

Section 35 vests jurisdiction to try offences under the law in the Magistrate and Upper Area Court with appeal as of right to the High Court but where the courts do have jurisdiction, such offences shall be taken to the High Court.

A major aspect of the Law however is Section 19 thereof which prescribed sanctions for any individual or group for engaging in open nomadic livestock herding or grazing outside permitted ranches in the State after the commencement of the Law.

The section 19 (2) of the Law prescribed five years imprisonment or one million Naira (N1,000,000.00) fine or both as penalty for any one or group found guilty of engaging in open nomadic livestock herding or grazing outside permitted ranches in the State after the commencement of the Law. Where the prohibited open nomadic livestock herding or grazing outside permitted ranches occasions damage to farm, crops or property of any person the owner or Manager of such livestock after evaluation by the Department of the Damage, shall pay the

³⁶ Section 14 of the Law.

³⁷ Section 13 and section 15 (1) of the Law.

³⁸ Section 15 (2) of the Law.

³⁹ Section 17 of the Law.

⁴⁰ Section 16 of the Law

⁴¹Section 20 of the Law.

⁴²Section 21, 22 and 23 of the Law.

⁴⁴ Section 25 to 31 of the Law

⁴⁵ Section 32(1) of the Law.

⁴⁶ Section 32(4) of the Law.

⁴⁷ Section 32(3) of the Law.

prevailing value of monetary compensation of the farm, crop or property so damaged to the owner.⁴⁸ Where the act results in injury to any person within the State, the Law provides that the owner or manager of such livestock shall be guilty of an offence and upon conviction be liable to 2 years imprisonment in addition to funding the medical bill of the victim and paying relevant compensation as the court may determine,⁴⁹ and where death of any person within the state results there from the owner or manager of such livestock shall be guilty of an offence of culpable homicide punishable under the Penal Code law.⁵⁰

Movement of livestock from one destination to another in the State otherwise than by rail, wagon, truck or pick-up wagon is also prohibited and offenders in this regard are categorized into first offender to be liable on conviction to payment of five hundred thousand Naira (N500,000.00) fine or 1 year imprisonment or both,⁵¹ and second offender to be liable to payment of one million Naira (N1, 000,000.00) fine or three years imprisonment or both.⁵²

While ranch operators are permitted to engage the services of registered security guards for the protection of their ranches,⁵³ possession of firearms by livestock owners, managers and ranchers whether licensed or unlicensed whether on the ranch or outside the ranch is strictly prohibited⁵⁴ and any livestock owner, rancher or his agent who runs foul of this provision shall be prosecuted under the Robbery and Firearms (Special Provision) Act.⁵⁵ Land grabbing for any purpose connected to residence grazing or ranching an offence⁵⁶ where the act causes grievous injury, the grabber shall be prosecuted, and if convicted shall be sentenced to prison for a term of not less than ten (10) years without an option of fine,⁵⁷ but where loss of life occurs, the offender shall be arrested and prosecuted for culpable homicide as stipulated under the Penal Code.⁵⁸

Inadequacy and Criticisms of the Law.

In considering the suitability of the Benue Anti-Open Grazing Laws, due regard must be had to the circumstances which warranted the promulgation of the law and the global standard. The Law mainly seeks to curb the incessant incursion of herders into farmlands in search of grasses and the destruction of farm products, or properties and lives that attend open rearing of cattle. In this wise, the law can be said to have the prospect of achieving this aim if effectively enforced, however some contradictions and fundamental flaws are noticeable.

For instance, the difference between personal ranch and ranch in the definition section is superfluous and is really of no consequence. Section 6(4) of the law did not make provision as to who to be financially responsible for the environmental impact assessment to be carried out on the land and also the law did not state the sanction where the rancher does not obey the

⁴⁸Section 19 (3) (a) of the Law.

⁴⁹ Section 19 (3) (b) of the Law

⁵⁰Section 19 (3) (c) of the Law.

⁵¹ Section 19(5)(a) of the Law.

⁵² Section 19 (5)(b) of the Law.

⁵³ Section 19(9) of the Law.

⁵⁴ Section 19(6) of the Law.

⁵⁵ Section 19(7) of the Law.

⁵⁶ Section 19 (8) of the Law.

⁵⁷Section 19 (8) (b) of the Law .

⁵⁸ Section 19 (8) (a) of the Law.

regulation for fencing. Section 10 of the law exempts any indigene of Benue who wants to set up a personal ranch on his land from the impact assessment and from obtaining permit to run a ranch. The impact assessment, the purpose of which is to ensure that no venture constitutes environmental pollution is in this case made of no relevance in the bid to give preferential treatment to indigenes. Even where the running of a ranch is environmentally negative in such an area, an indigene of Benue is allowed to run a ranch, the indigene is also exempted from obtaining a permit. This warrants the question, at what stage does a ranch cease to be a personal ranch? The definition of a personal ranch according to the law is an enclosed area used by the owner of such area to contain domesticated animals, especially goat, pig, sheep, cattle etc. The implication of this definition is that there is no limit to the size of a personal ranch, there is no designated area where a ranch shall not be cited and there is no limit to the nature and number of domesticated animals that may be there in. It means a personal ranch can be of any size, can have any number and type of domesticated animals and can be cited anywhere within the State. An owner since he is an indigene of Benue State is only to ensure that the area is enclosed even if the siting of a ranch in the area will occasion environmental pollution. A close observation of Section 11(2) of the Law reveals that a permit is revocable on other grounds except for breach of any of the conditions of its issuance. Another noticeable omission is observed in section 18 (o) which mandates the Department of Livestock in the Ministry of Agriculture and Natural Resources or any other Ministry charged with the responsibility of administering, regulating, producing and controlling livestock in the State to ‘encourage the promotion of livestock holding in every house hold in the State.’Livestock owners, ranchers, managers and agents are prohibited from possessing firearms whether licensed or not any who possess not withstanding that he is licensed to possesses such fire arms shall be prosecuted under the Robbery And Firearms(Special Provisions) Act yet by virtue of section 19 (9) livestock owners, ranchers, managers and agents are permitted to engage the services of registered security guards on their ranches. ⁵⁹ Section 24 of the Law established a Special Livestock Open Grazing Prohibition Task Force for the State with units in each Local Government Areas of the State. ⁶⁰The duty of the Task Force is the enforcement of the Law and the guidelines and the Regulations of the Department regulating and controlling livestock in the State. ⁶¹ The composition of the Task Force is as provided in section 26 of the Law, for a Task Force whose duty is enforcement of the Law, there is no representative of the Attorney General and that of the ministry of Environment on the Task Force. The representative of the Ministry of Environment is equally not included on the Local Government Advisory Committee created for each Local Government Area whose duty is to offer advice or make recommendations concerning rules and regulation for the administration of this Law, the establishment of ranches, the modification of the boundaries thereof and any other matter affecting the Administration of this Law within the area. Other lapses observed is that there is no provisions for a foreigner who had purchased land in Benue before the commencement of the Law and decides to use his personal land for ranching, there are no specifically designated areas for setting up ranches

⁵⁹ Section 19(6)(7)(9) of the Law.

⁶⁰ Although it is sad to note that there is no stable arrangement on the remuneration of the said Task force. The Law provides that the task force shall be paid a stipend from contributions from the State and Local Governments as the Governor may determine and from public spirited individuals and organizations. Where the task force will depend partially on the goodwill of public spirited individuals and organizations could lead to a siyuatio**** where resort could be made to demand for bribe from ranch owners.

⁶¹ Section 25 of the Law.

which means ranches can be set up anywhere, no provisions as to the minimum quantum of land to be used to set up a ranch and no provision for private investigation and guarantor ship of applicants for ranching permits. More over no provision as to how feeds for the livestock will be sourced. No provision on improvement of soil yield to provide grasses for the livestock. It should not be forgotten that if there had been enough grasses there would not have been trespass into farms in the first place.

Global Best Practices and Lessons From Other Nations

Grazing, with its associated problems, is not peculiar to the Nigerian State. In fact, it is a global phenomenon. As Asner et al remarked, grazing activities cover the land surface of the earth more than any other activity.⁶² While the FAO states that about 45% of the global land surface is covered by grazing activities,⁶³ Dettenmaier puts it at about 60%⁶⁴. Reid, Galvin and Kruska give more precise land use percentages across continents. They aver that in Europe, 18% of the land is taken up by grazing activities, in Asia, the percentage is 49%, 61% in Africa and 77% in Australia.⁶⁵

For centuries, pastoralists, with their livestock, have wandered from place to place to graze their animals. However, with global warming and the greenhouse effect leading to environmental degradation, available space on the earth surface has shrank and the depletion of available resources, especially with rapid deforestation and desertification, pressure has to be put on pastoralists to check uncontrolled grazing in the interest of all land users. Population explosion and the need to expand crop farming activities to cater for the growing population of peoples, which has resulted into about 50% of former grazing lands being taken over for crop farming, has also compounded the problem⁶⁶. So in the face of continuous resource depletion and the pressure for more land for other purposes, how has governments dealt with the problem of uncontrolled grazing? The Australian, American, Botswana, Chadian and Nigerien experience will provide great insights.

Despite the fact that 77% of Australia is ideal for grazing activities, yet in the early 1800s, there was a big crisis between pastoralists and other land users. Prior to the 1800, the various land users had co-existed peacefully but with the high demand for sheep's wool, there was a sharp increase in pastoralist activities leading to increased usage of land for grazing activities. Uncontrolled grazing started affecting other land users adversely and to prevent anarchy, various Land Use Acts including the Early Land Acts, the 1962 Commission & Land Act, the Native Title Act of 1993, the 1995 Environmental Protection Act and the Vegetation Management Acts of 1999 and 2004 were enacted⁶⁷. While this study will not specifically analyze the provisions of

⁶² Asner et al (2004) Grazing systems, ecosystem responses, and global change. *Annual Rev. Environ. Resource.*

⁶³ Robin S. Reid, Kathleen A. Galvin & Russell S. Kruska (2005) Global significance of extensive grazing lands and pastoral societies: An introduction. In Kathleen A. Galvin, Robin S. Reid, Roy H. Behnke & N. Thompson Hobbs (Eds.) *Fragmentation in semi-arid and arid landscapes: Consequences for human and natural systems.* Springer .

⁶⁴ Seth J. Dettenmaier et al (2017) Effects of livestock grazing on rangeland biodiversity: A meta-analysis of grouse populations. *Ecology and Evolution*, 1-9.

⁶⁵ Robin S. Reid, Kathleen A. Galvin & Russell S. Kruska (2005) *op cit.*

⁶⁶ *Ibid.*

⁶⁷ Chris J. Stokes, Ryan R. J. McAllister, Andrew J. Ash & John E. Gross (2005) Changing patterns of land use and tenure in the Dalrymple Shire, Australia. In Kathleen A. Galvin, Robin S. Reid, Roy H. Behnke & N. Thompson Hobbs (Eds.) *Fragmentation in semi-arid and arid landscapes: Consequences for human and natural systems.*

the Acts, it is pertinent to state that the main essence of the Acts was to curb unbridled and uncontrolled grazing as any form of grazing that is not controlled can only be an invitation to anarchy as such will be resisted, often by violence, by other land users. To this end, various Australian governments leant towards the granting of grazing leases to pastoralists, and land management usages including the granting of the ownership of private ranches to individuals who can afford them and the encouragement of managed cooperative ranches called 'Agistments' whereby several pastoralists pool resources together to create a chain of grazing reserves for their herds⁶⁸.

The Australian experience, in terms of pastoralists and farmers face-offs, also played out in the United States of America in the 19th century and controlled grazing through the encouragement of the establishment of ranches and paddocks was the solution to the problem. This experience was also enacted in other places including China and Mongolia⁶⁹.

It is however in Africa that uncontrolled grazing poses the greatest problem in the world. This is because Africa has the greatest concentration of nomadic pastoralists in the world. While about 55% of the world's pastoralists are to be found in Africa which has about 61% of its land surface fit for grazing activities, only 10% of the world's pastoralists enjoy the 77% of Australia's land surface with 20% of the world's pastoralists located on 49% of Asia's land surface⁷⁰. This high concentration of pastoralists in Africa has dire consequences for the continent. For example, uncontrolled grazing in Botswana led to serious issues of environmental degradation which was only ameliorated through managed grazing in commercial ranches⁷¹. Chad and the Niger Republic also present interesting case studies in their handlings of the problem of uncontrolled grazing vis-à-vis other land users. The 1959 law regulating the mobility of livestock in Chad dictates that before livestock is moved from one place to another, their owners must submit detailed itinerary of their movements to the appropriate authorities who will ensure that unnecessary conflicts do not arise on the routes to be taken by the pastoralists⁷². The 1993 Code Rural in the Niger Republic also dictates that while pastoralists have priority rights over the land in their home areas, their movements in other areas must be well controlled and regulated⁷³.

Attempts had also been made at various times in the Nigerian State to curb uncontrolled grazing. For example, the 1965 Grazing Reserve Law had as its main objective the establishments of Grazing Reserves in Northern Nigeria where herdsmen, who are mainly from Northern Nigeria, will be settled. Though an attempt was made in 1988 to put the law into effect, it is however yet to be implemented. Many apologists of pastoral activities may also want to point to the Land Use Act of 1978 which mandates State Governors to set land apart in each state for grazing purposes but a careful consideration of the Act will reveal that the land set apart is not meant to

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⁶⁸ Robin S. Reid, Kathleen A. Galvin & Russell S. Kruska (2005) op cit.

⁶⁹ Ibid.

⁷⁰ Ibid.

⁷¹ Kgosikoma, O. E., Mojeremane, W. & Harvis, B. A. (2013) Grazing management systems and their effects on savannah ecosystem dynamics: A review. *Journal of Ecology and the Natural Environment*, 5 (6), 88-94.

⁷² Nat Dyer (2008) Securing pastoralism in East and West Africa: Protecting and promoting livestock mobility.

⁷³ Ibid.

accommodate pastoralists and their livestock but only for the growing of fodder for the livestock⁷⁴.

Conclusion

The theme of the eco violence theorists argument is that reduction in available natural resources causes conflict. In the course of the events which culminated in to the law, terms and words like grazing routes, grazing reserves, cattle colony, livestock pathways have emerged but there is no doubt what the Fulani herds men need is grasses for their herds as the source of their livelihood. The grasses are no longer in abundance and in some cases are not available due to environmental reasons. The desperation, struggle and search for grasses which is essentially a natural resource has necessitated trespass into farmlands which is the source of livelihood for the farmers and agrarian communities on whom the nation depend for food. The ensuing and attendant confrontation is the cause of wanton destruction of lives, insurgency, general state of insecurity, loss of revenue and division along ethnic and tribal lines. The complexity of the situation is further heightened by the claims of the Fulanis to grazing routes through the whole of the Nation and the perceived insensitivity on the part of the Federal Government of Nigeria to seek a lasting solution to the problem. The Nigerian Constitution grants every Nigerian citizen freedom to move about freely and to reside in any part of the Country but the same Constitution grants a right to property, though the Fulanis cannot be restricted to their region but trespass into peoples farm is unconstitutional. It is common knowledge that Nigeria is experiencing serious environmental problems. The vision 2020 committee wrote about Nigeria;

the country is faced with many environmental problems such as the continuous exploitation of marginal lands, drought and desertification in the north, severe gully erosion in eastern and northern states, uncontrolled logging with inherent problems of the destruction of bio-diversity, inappropriate agricultural practices, destruction of watershed, destruction of vast agricultural lands, creation of burrow pits due to bad mining practices and road works, oil pollution from spillage and gas flaring, urban decay and squatter settlements, industrial pollution and municipal waste generation, climate change and ozone depletion among others. The same report noted that these problems have existed for years and have continued to escalate due to rapid expansion of population and continued exploitation of the environment as well as climate change. In response, Nigeria has enacted many rules and regulations; and created many agencies to ensure mitigation of the problem, yet the problems still persist.

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The writer contends that Nigeria lags behind in the enforcement and observation of environmental laws. Simple observance of environmental laws in ensuring a pollution free land, observance of other environmental laws on protection and conservation of natural resources would not only have ensured adequate supply of grasses, it will equally have saved the nation the colossal calamity being experienced.

⁷⁴ Ibid.

⁷⁵Nabegu1, *AB Mustapha2 and Naibbi AI, Environmental Regulations in Nigeria: A Mini Review. International journal of Environmental Sciences and Natural Resources . Mini Review Volume 1, Issue 5.March 2017.

Recommendations

For the law to be of any meaningful impact, the environmental point of view must be comprehensively addressed. If there is no reasonable effort at ensuring continuous availability of pastures for cattle by enforcing laws on land pollution and other environmental factors that reduce the potentiality of land yield and land availability, the Fulani Herds men will continue to clash with farmers. Thus, this study calls on governments to:

- i. Collaborate with farmers, stake holders, national and international research centres and nongovernmental organizations to develop best farming practices for land conservation.
- ii. Enforce strictly all laws on land pollution, erosion, drought, desertification, etc. This will ensure sufficient grasses for herdsmen and will drastically reduce to the barest minimum the trespass of Fulani herdsmen into farms to source replenishment for their herds.
- iii. Develop Environmentally sound farming practices and technology that improve crop yields, maintain land quality, recycle nutrients, conserve water and energy, and control pests and weeds;
- iv. Help farmers share expertise in conserving expertise in conserving land, water, and forest resources, making the most efficient use of chemicals and reducing or re- using farm waste.
- v. Give both men and women incentives in areas such as access to credit, technology, farm supplies and training.