

## Accountability Brief

### Open Grazing Prohibition Laws in Nigeria: Policy Challenges and Alternatives

26<sup>th</sup> November, 2021

Volume No: PB/CS/013

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# OPEN GRAZING PROHIBITION LAWS IN NIGERIA: POLICY CHALLENGES AND ALTERNATIVES



### Executive Summary

Conflict between sedentary farmers and nomadic herders in Nigeria are not recent developments. They have existed for decades, amidst centuries of symbiotic and independent relationships, developed through reciprocity, other exchange and support.

However, its resurgence, especially since 1999 has remained frequent and deadly, reaching a crescendo between 2015 and 2019, and occasioning social dislocation, human displacement, loss of lives and livelihood, resulting in strained and rancorous relationship among hitherto peaceful neighbours. The enactment of laws by some state governments in Nigeria to regulate animal husbandry in their states is part of the strategic responses aimed at addressing the escalating conflict.

However, the implementation of the laws has come with some policy changes that have had implications for public safety and security, national cohesion, and economy.



### Quote

*“The anti-grazing laws are a political response to violent conflicts between pastoralists—communities whose livelihood is based primarily on raising livestock—and farmers.”<sup>1</sup>*

### Background/Context

Conflicts between sedentary farmers and nomadic herders in Nigeria are not recent developments. They have risen for decades, amidst centuries of symbiotic and independent relationships, developed through reciprocity, other exchange and support.<sup>2</sup> However, their resurgence, especially since 1999 have remained frequent and deadly, reaching a crescendo between 2015 and 2019. The conflicts have occasioned social dislocation, human displacement, loss of lives and livelihood, resulting in strained and rancorous relationship between hitherto peaceful neighbours, especially in the Middle Belt region of Nigeria. Although exact figures of human casualties have been difficult to provide due to the frequency, intensity and scope of the conflicts, in 2015, the Global Terrorism Index reported that the conflicts resulted in over 63 and 1,229 deaths in 2013 and 2014 respectively.<sup>3</sup> In October 2015, over 2,000 persons were killed in the Middle Belt region while Nigeria sustained a US\$ 13.7billion yearly economic loss between 2013 and 2015.<sup>4</sup> In 2016, an estimated 2,500 deaths and 62,000 displacements were recorded. In early 2017, over 100 people were killed in Southern Kaduna alone while 549 others died across 14 States in Nigeria. In January 2018 alone, 168 deaths were recorded in Adamawa, Benue, Taraba, Ondo and Kaduna States.<sup>5</sup> In 2019, the conflict extended to Sokoto and Zamfara States, Nigeria’s Northwest zone, with equally high death tolls.<sup>6</sup>

According to a 2020 report by Amnesty International, more than 1,531 people died in inter-communal violence mostly between herdsmen and farming communities, as well as in attacks by bandits, in the North-Central and North-Western regions of Nigeria. With the increasing frequency and death tolls, the conflict has remained as potentially dangerous as the Boko Haram insurgency that has lingered in Nigeria since 2009.

Mainstream security analyses have identified environmental developments in the Sahel and Lake Chad Basin regions, namely, climate change, as the conflict's main causal and sustaining factor. The central thesis of the analyses is that unfavourable climatic conditions and environmental degradation occasioned by climate change compel a southward movement of nomadic herdsmen in the Sahel and Lake Chad Basin regions in search of grazing fields and water across the West African sub-region, particularly in Nigeria's Middle Belt region. Unintendedly, these movements come with

human activities, especially urbanisation. The erasing of these routes by population growth and increase human activities has over the years set the nomadic herdsmen on violent collision course with sedentary farmers across Nigeria and especially the Middle Belt region and the southern part of the country.<sup>8</sup>

There is also the terrorism factor, in which analysts suggest that the conflict is a continuation of the Boko Haram terrorism that is providing a fertile ground for its expansion. Following its "technical defeat" by Nigeria's state security forces, the submission here is that Boko Haram has found hiding places within the civilian population in remote and unguarded villages, from where it has continued its attacks, most of which have passed as farmers-herdsmen conflict.<sup>9</sup>

### ***Open Grazing Prohibition Laws as Strategic Response to Farmer-Herder Conflict***

The enactment of laws that generally regulate animal husbandry in their states is part of the strategic responses by some state governments to address the escalating conflict between sedentary farmers and nomadic herdsmen in Nigeria. For instance, between 2016 and 2018, Benue, Ekiti and

sporadic and episodic violent contestations between the nomadic herdsmen and sedentary farmers over land spaces and water. In Nigeria, for instance, access to pastureland and watering points in the Middle Belt region becomes essential for herdsmen travelling down from the northern part of the country. This has resulted in high death tolls and associated social displacement. Thus, a preponderance of extant literature describes the development either as "climate conflict", "land use conflict" or "resource conflict."<sup>7</sup>

Beside the climate change narrative, other drivers, which have implications for the nature, dynamics and trajectories of the conflict, have been identified to include an age-long cultural practice among the Fulani, and the increasing human population in Nigeria. On the one hand, the narrative is that the conflict is a consequence of an ancient and anachronistic cultural practice of irregular migration among nomadic Fulani herdsmen, along designated grazing routes, which have been obliterated by population growth and increasing Taraba states enacted open grazing prohibition and ranches establishment laws.

In Benue, for instance, among other main objectives, the law was enacted to achieve the following:

- a) Prevent the destruction of crop farms, community ponds, settlements and property by open rearing and grazing of livestock;
- b) Prevent clashes between nomadic livestock herdsmen and crop farmers;
- c) Protect the environment from degradation and pollution caused by open rearing and over grazing of livestock;
- d) Optimize the use of land resources in the face of overstretched land and increasing population;
- e) Prevent, control and manage the spread of diseases as well as ease the implementation of policies that enhance the production of high quality and healthy livestock for local and international markets;
- f) Create a conducive environment for large scale crop production.<sup>10</sup>

Despite these laws, the conflict has continued to escalate across the country. Consequently, the Southern Governor's Forum, an assemblage of

Governors of the 17 states in southern Nigeria, on 11<sup>th</sup> May 2021, met in Asaba, Delta state, to review the security situation in the country, particularly, the practice of open grazing by nomadic herders, and the conflict it has generated over the years. The Forum resolved to ban open grazing and the movement of cattle by foot across southern Nigeria, to curb clashes between farmers and herders in the region. Outlining the decision taken as part of efforts to improve security in the region, the Forum observed that, “the incursion of armed herders, criminals and bandits in the southern part of the country has created a severe security challenge, such that citizens are not able to live their normal lives, including pursuing various productive activities, leading to threats to food supply and general security.”<sup>11</sup>

On 5<sup>th</sup> July 2021, the Forum met again in Lagos state on the same issue, and resolved that, states in the southern part of Nigeria should by 1<sup>st</sup> September 2021, enact laws that would regulate open grazing. Currently, laws enjoining ban on open grazing are in place in 13 out of 17 states in southern part of Nigeria. Although it is not likely that the Governors of Anambra, Cross River, Edo, and Imo states will assent to the Bills when passed by their respective State Houses of Assembly for political reasons, however, there is evident indication that the regulation of open grazing and animal husbandry through a legislative process has gained ground in southern Nigeria, complementing the efforts in Benue and Taraba states where similar laws already subsist.

In a reaction to the enactment of the laws, the Attorney-General of the Federation and Minister of Justice, Abubakar Malami, and the leadership of the Miyetti Allah Cattle Breeders Association of Nigeria (MACBAN) challenged the constitutionality of the laws. They noted that the laws do not align with the provisions of the 1999 Constitution of the Federal Republic of Nigeria (as amended), which guarantees certain freedoms to Nigerians, especially the right to reside and carry out legitimate businesses in any part of the country. According to Malami, “it is about constitutionality within the context of the freedoms expressed in our Constitution. Can you deny the rights of a Nigerian?” However, the Minister’s position is in conflict with the judgement of the Federal High

Court, Abuja, which on 20<sup>th</sup> May 2021, affirmed the right of state governments to enact and implement open grazing prohibition laws in their various domains.

However, the 20<sup>th</sup> May 2021 judgement delivered by the Federal High Court, Abuja, affirms the legality of the law, especially within the context of a federal system of government as is the case in Nigeria. Although security agencies are under legal obligations by the High Court judgement to enforce the laws, the practicability of the enforcement of the law has remained a challenge. As some observers have noted, “the armed forces, police and security agencies may not respond positively to this agenda. If anything, there are countless reports indicative of their staunch protectiveness and support for the perpetrators of open grazing.”<sup>12</sup> Already, a source at the Force Headquarters in Abuja was quoted as saying that “Policemen are careful over these new state laws. That is all I can say” and that any policeman that enforces that law might earn the wrath of the Federal Government.<sup>13</sup>

While some states have expressed optimism that security agencies will enforce the laws, others, especially Benue and Taraba, have severally accused the security agencies of sabotaging the implementation of the laws. To ensure effective enforcement of the laws, some states have constituted some form of task forces comprising local vigilante groups, as is the case in Benue where the government constituted the Livestock Guard, and across the South West region, where Amotekun has been saddled with the enforcement of the laws. Other states are, however, working out modalities in which all the enforcement agencies will collaboratively enforce the law. However, it remains to be seen, under these arrangements, how erring pastoralists could be arrested and/or prosecuted.

### ***Overview of Open Grazing Prohibition Laws***

Across Nigeria, open grazing prohibition laws subsist in 15 states, namely, Abia, Akwa Ibom, Bayelsa, Benue, Delta, Ebonyi, Ekiti, Enugu, Lagos, Ogun, Ondo, Osun, Oyo, Rivers, and Taraba. The fundamental purpose for the enactment of the laws

are the same across the state; address the recurrent conflict between sedentary framers and nomadic herder in Nigeria, including the attendant insecurity that it has generated. Notably, all the laws, have banned the practice of open grazing by nomadic herders in any part of the states, as a measure to address the conflict. This view is also expressed by Tade Oludayo who noted that the aim of the law is to prevent clashes between farmers and herders, halt destruction of farms and the environment, prevent the spread of diseases caused by animals and create an enduring environment for large scale crop production.<sup>14</sup> Generally, therefore, the laws were made as frameworks for the management of the conflict.

However, the expressed objectives of the laws, have not changed the perception by some individual, including state actors, especially at the federal government, and members of the pastoralist communities that the laws are detrimental to the management of the conflict.

Although supporters of the laws say they are needed to help protect the livelihoods of farmers already struggling with recurring drought, resistance against the laws by some individuals including state actors, especially at the Federal level, stems from the negative perception about the laws and the erroneous labelling of the laws as “**anti-open grazing laws.**” (Emphasis added). The perception that the laws are anti-open grazing connotes hostility and antagonism against the pastoralist community. However, the objectives of the laws, as clearly stated, and the procedures for the establishment of ranches, as outlined, contradict the perceptions held by some members of the pastoralist community across the country that the laws, as enacted, are targeted solely against the nomadic livestock herders.

However, in contents and provisions, there are some significant differences in the laws across the state. The first difference in the laws between the north and the south is the enactment processes. In Benue and across the south, the legislative processes were not inclusive. While the participation of the Miyetti Allah Cattle Breeders Association of Nigeria other stakeholders in the legislative process, in Benue state was limited to the

townhall meetings, in the south, the general public, including Miyetti Allah and other civil society actors did not participate in the process. This limited participation by critical stakeholders in the legislative process is one of the fundamental factors informing the resistance against the law.

The second difference is the application of the laws. In Benue and Taraba states, the laws apply generally to all forms of animal husbandry. In Taraba state, for instance, it is hoped that the prohibition of open grazing will “promote and enhance the production of high and healthier breeds for **cattle, sheep, goats,** etc.,” thereby making it unlawful for anyone to openly graze farm animals. (Emphasis added). In the south, however, except for Ekiti state, the laws apply exclusively to cattle rearing. In Lagos state, for instance, the prohibits “**open cattle grazing and trespass of cattle on land.**” (Emphasis added). This points to the discriminatory tendencies of the laws against cattle breeders in southern Nigeria. Expanding the laws to include every form of animal husbandry, as is the case in Benue and Taraba states, would have made for broad-based and more inclusive legal frameworks.

The third difference is that while the laws in Benue and Taraba states provide for the establishment of ranches, as alternatives to open grazing, the laws in the south do not. In Benue state, for instance, citizens, residents, and other livestock owners, are entitled under the rules and regulations of the Department of Livestock in the Ministry of Agriculture and Natural Resources, to set up ranches, upon the annual payment of a permit fee. The Department is mandated by the law to issue or cause to be issued permits, subject to the Governor’s approval, to graze livestock on such ranches.<sup>15</sup> Thus, the laws, as enacted in Benue and Taraba states, provide for a compulsory ranching of all livestock, not just of cattle, and a prohibition of open grazing by livestock. The intention is to ensure some level of sanity in animal husbandry within the states. That is why the law in Benue state, for instance, has been translated into several languages to ensure publicity and to accommodate all ethnic

nationalities in the state.<sup>16</sup> This, however, is not the case across the states in the south. A more nuanced legal framework would, of necessity provide alternatives to the prohibition of open grazing to allay the fears and concerns of those affected by the prohibition.

### *Implications*

Despite the differences in the contents and provisions of the laws in the northern and southern parts of the country, the laws as enacted have implications for public safety and security, national cohesion, inclusivity, and the national economy.

First, resistance against the laws, especially by state actors at the federal level, as previously noted, and by the Miyetti Allah Cattle Breeders Association of Nigeria, has resulted in the non-enforcement of the laws by security agencies in states where the laws operate. The consequence has been the continued escalation of the conflict across the country, despite the laws. The resistance has been more pronounced in states where authorities have created statutory bodies to enforce the laws, as is the case in Benue<sup>17</sup> and across the South West zone.<sup>18</sup> Across the country, the implementation of the law has become a major issue in the conflict rather than serving as a framework for the management of the conflict.

Although a former Commissioner of Police, Benue State Police Command, had noted that the enactment of the law in the state has resulted in the de-escalation of the conflict,<sup>19</sup> evidences suggest the contrary, especially when compared to what obtains in Taraba and states in the south. However, while the laws may have succeeded in curbing open grazing in Benue and Taraba states, they, have not been successful in curbing recurrent conflict either in Benue and Taraba states or in any other states across the southern parts of the country. Thus, the non-enforcement of the laws have continued to have implications for public safety and security both for sedentary farmers and nomadic herders.<sup>20</sup>

Secondly, the laws also have implications for national cohesion. The enactment of the laws has created the feelings, rightly or otherwise, especially among nomadic herders, represented by MACBAN, of discrimination and segregation by state authorities in southern Nigeria. Although there are

no evidences to buttress this, some of the reasons that have informed the mounting resistance against the laws by nomadic herders is that the laws are “targeted at the existence, culture and means of the livelihood” of members of the nomadic community.<sup>21</sup>

Most fundamentally, the laws, especially in Benue and Taraba states, have adverse implications for women and economy. The laws provide for mandatory establishment of ranches for all categories of animal production. The conditions for securing the lands including the financial cost are not favourable to women who in all cases do not have the wherewithal to secure lands for animal rearing, which are usually in small quantities. This is expected to negatively impact on the production of dairy products, which nomadic women are usually responsible for and serves as a source of livelihood. Secondly, by the laws, women are also prohibited from keeping goats, sheep, and other livestock that serve as source of income and livelihood.

### *Key Findings*

**From the study, the following findings were made:**

1. Across the states, the laws represent a political response to violent conflicts between nomadic pastoralists, communities whose livelihood is based primarily on raising livestock, and sedentary farmers. In other words, the laws are legal frameworks for managing the conflict.
2. Apart from Taraba state, the legislative processes that resulted in the enactment of the laws were not broad-based, consultative and inclusive. Some critical stakeholders who are now affected by the laws, especially the pastoralist communities, were not involved in the processes. This has led to recurrent resistance against the laws.
3. Although the laws in Benue and Taraba states provide for a process through which land can be acquired for establishment of the ranches, however, the processes are stringent, rigorous, and convoluted, especially for non-indigenes of the states.

4. The laws are generally perceived as discriminatory and targeted against pastoralists, leading to their resistance by state actors at the federal level, and the deliberate refusal of federal security agencies to implement them. This has had

implications for public safety and security, national cohesion, and economy, among others.

5. They do not address the root causes of the conflict. While the laws focus on prohibition of open grazing and encourage the establishment of ranches, they make no effort to address the challenges posed by rising population and increased human activities that also bring pressure on land-use resources. They also make no efforts in the management of the environment, especially in the rural spaces, where the conflicts have been most prevalent.

### *Recommendations*

In light of the foregoing, the following recommendations are proffered:

- i. Across the states, the laws prohibiting open grazing need to be reviewed with a view to making the legislative process broad-based and inclusive. State authorities would need to ensure the involvement and participation of all stakeholders in the process.
- ii. To ensure effective implementation of the laws, state authorities should bring on board local traditional and religious institutions as well as community vigilante and neighbourhood watch groups, whose roles in conflict management have become more pronounced in the face of escalating insecurity and state failure.
- iii. The laws in the south should be expanded to include every form of animal husbandry rather than its strict limitation to cattle rearing.
- iv. The laws in Benue and Taraba states should simplify the processes and conditions for land acquisition for building ranches, while the laws in southern Nigeria should provide for processes of land acquisition for ranches establishment.
- v. The laws should address the root causes of the conflicts, especially challenges posed by

- vi. rising population and increased human activities that bring pressure on land and other resources, and environmental management, especially in the rural communities, where state presence is increasingly weaning<sup>22</sup>.

### *Conclusion*

The enactment of laws that regulate animal husbandry through mandatory establishment of ranches is in line with evolutionary processes in human society. When a given societal practice becomes a threat to the existence of the society, laws are of necessity enacted to regulate the practice and preserve the society. However, the laws must seek a balance of contending interests as well as address the fundamental causes of the contentions. Against this background, open grazing prohibition laws in Nigeria should seek to balance the interests of both sedentary farmers and nomadic herders by addressing the root causes of the conflicts. For instance, while the laws focus on prohibition of open grazing and encourage the establishment of ranches, they should also make efforts to address the challenges posed by rising population and increased human activities that bring pressure on land-use resources.

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