

An Overview of the Benue State Open Grazing Prohibition and Ranches Establishment Law, 2017

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Abstract

The seemingly simple search for water and fodder by herdsmen has seriously become bloodstained in Nigeria. All over the country, killings, destruction of property, and displacement of many people by Fulani herdsmen abound thereby threatening food security. To curb this menace, the Benue State Government enacted the Open Grazing Prohibition and Ranches Establishment Law, 2017 to prevent clashes between nomadic livestock herders and crop farmers and to prevent the destruction of crop farms, environmental degradation and the spread of diseases caused by open rearing and grazing of livestock. This article employing doctrinal research methodology in evaluating the Benue State Open Grazing Prohibition Law found that the Law has achieved some measure of success in reducing farmers/herdsmen clashes in the State despite stiff opposition by herdsmen and the unwillingness of the federally controlled security agencies in the implementation of the Law. It is also found that the Law does not have adequate provisions for identification and traceability of livestock. The lack of armed wielding security agency willing to implement the Law against the heavily armed herdsmen gives credence to policing. Also, an amendment of the Law is apposite to make provisions for identification of livestock for the purpose of traceability, tracking diseases outbreaks, ensure the integrity of beef production, identifying owners of straying cattle and preventing cattle rustling. Also, the education of herdsmen to instil

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the understanding that animal husbandry is a business and not a culture will help eliminate resort to brute force and killings in the search for fodder.

Key words: Cattle Colonies, Farmers/Herdsman Conflicts, Open Grazing Prohibition, Ranches, Ruga Settlement,

1. INTRODUCTION

The Benue State Open Grazing Prohibition and Ranches Establishment Law, 2017 was passed by the Benue State House of Assembly and assented to by the Governor of Benue State on the 22nd day of May 2017. The commencement date of the Law was however postponed by the Governor to the 1st November, 2017 -a period of six (6) months to enable owners of livestock adequate time to adjust to the new normal. The objectives of the Law are state to be (a) to prevent the destruction of crop farms, community ponds, settlements and property by open rearing and grazing of livestock; (b) to prevent clashes between nomadic livestock herders and crop farmers. (c) to protect the environment from degradation and pollution caused by open rearing and over grazing of livestock; (d) to optimise the use of land resources in the face of overstretched land and increasing population; (e) to 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; and (f) to create a conducive environment for large scale crop production.¹

To achieve the objectives, the Law provides for the establishment of ranches which is considered as the international best practice on animal husbandry. However, the enactment of the law was stoutly opposed and criticised by Fulani herdsman -who are owners of a significant number of transitory livestock in the state. The Fulani herdsman in protest lodged several attacks on many Benue communities, killed many persons and destroyed properties worth billions of naira. The Federal Government of Nigeria also

¹ Open Grazing Prohibition and Ranches Establishment Law of Benue State, 2017, s3

joined in the unwholesome criticism of the law, blaming the killings of persons by the herdsmen to the enactment of the Law and calling for its repeal. The Federal Ministry of Agriculture even proposed a counter policy, involving the establishment of cattle colonies, and later ruga settlements as substitutes for ranches² in violation of the Open Grazing Prohibition Law 2017.

It is now over three years since the enactment, implementation and opposition of the Law. This article makes an overview of the Benue State Open Grazing Prohibition and Ranches Establishment Law, 2017. For clarity, the article is segmented into eight parts beside the introduction. The first part conceptualised key terms used in the paper; the facts necessitating the Open Grazing Prohibition Law is outlined in the second part; the third part discussed the legality of states prohibiting open grazing of livestock in Nigeria; an appraisal of Benue State Open Grazing Prohibition and Ranches Establishment Law, 2017 is made in the fourth part; the fifth part discussed the enforcement of the Open Grazing Prohibition Law, 2017; while the sixth, seventh and eighth parts are concerned with findings, recommendations and conclusion respectively.

2. **CONCEPTUAL CLARIFICATION**

For ease of understanding, the concept of ‘open grazing’ or ‘open rearing,’ ‘ranches,’ ‘Benue State,’ ‘ruga settlement,’ and ‘cattle colony’ as used in this paper require some clarification, and fortunately, the Open Grazing Prohibition Law, 2017 attempts a definition of them all except ‘ruga settlement,’ and ‘cattle colony.’ According to section 2 of the Law, open grazing is defined to mean the act of pasturing livestock to feed on dry grass, growing grass, shrubs, herbage, farm crops, etc, in open fields without any form of restriction. ‘Open Rearing’ is defined in the same fashion by the same section to ‘means the unfettered breeding and raising of animals.’ Section 2 also defined ‘Ranch’ to ‘means a secured tract of land used as animal nurturing farm, particularly for the grazing and rearing of cattle, sheep, goat, pigs or horse and any other animal for

² Olusegun Adeniyi, ‘The Problem with Ruga Settlement’ *Thisday Newspaper* (Lagos, 4 July, 2019) <<https://www.thisdylive.com/index.php/2019/07/04/the-problem-with-ruga-settlement/>> accessed on 19th August, 2021

the purpose of this Law.’ ‘Ranches’ is the plural for ‘ranch’. The Law referred to Benue State as Benue State of Nigeria.³ Benue State is one of the 36 states making up the Federal Republic of Nigeria.⁴ The concepts ‘ruga settlement’ and ‘cattle colony’ have the same meaning. They are used to connote large expanse of land which the Federal Government of Nigeria sought to take over or acquire in each State of the Federation as settlement cattle grazing land for Fulani herdsmen.

3. FACTS NECESSITATING THE OPEN GRAZING PROHIBITION LAW

The seemingly simple search for water and fodder by herdsmen has become seriously bloodstained in Nigeria. All over the country, there are killings and destruction of property by herdsmen, some of such recent attacks include the 5th June, 2021 Igangan attack in Oyo State⁵ and the 13th June, 2021 attack in Plateau State⁶ where not fewer than 11 and 17 persons respectively were killed and several properties destroyed. In Benue State, because of the frequency of the attack, it no longer makes news. Within the month of June, 2021 alone, several attacks by armed Fulani herdsmen were carried out in Makurdi, Otukpo, Katsina-Ala, Agatu, Gwer-West and Guma Local Government Areas of Benue State. The attacks in Otukpo and Katsina-Ala on 3rd June, 2021 claimed not fewer than 13 lives.⁷ While in the attacks in Agatu on Sunday, the 6th day of June, 2021 10 people were killed and many wounded.⁸ This crime by

³ *Ibid*, s2

⁴ Constitution of the Federal Republic of Nigeria (CFRN) 1999 (as amended) s3 and part I of the First Schedule

⁵ Adejumo Kabir, ‘Igangan Attack: Police Confirm 11 People Killed in Oyo Community’ (Premium Times 7 June, 2021) <<https://www.premiumtimesng.com/news/headlines/466053-Igangan-Attack-Police-Confirm-11-People-Killed-in-Oyo-Community.html>> accessed on 6 June, 2021

⁶ Isa Abdulsalami Ahovi, ‘17 People Killed in Freshh Plateau Attack’ *Guardian Newspaper* (Jos, June 15, 2021)

⁷ Garda World, ‘Nigeria: Deadly Attacks in Benue State June 3’ <www.garda.com/crisis24/news-alerts/125001/nigeria-deadly-attacks-in-benue-state-june-3> accessed on 11 July, 2021.

⁸ Adam Abu-Bashal, Nigeria: Gunmen Kill 10 Villagers in Benue State’ <<https://www.aa.com.tr/en/africa/nigeria-gunmen-kill-10-villagers-in-benue-state/1877043>> accessed on 11 July, 2021.

armed Fulani herdsmen in Nigeria is styled the herdsmen/farmers conflict and is seemingly immune from investigation and prosecution.

The herdsmen/farmers conflict in Nigeria is not recent. It is traced to the twentieth century with the movement of herdsmen in search for pasture.⁹ Fulani herdsmen in their quest for grazing land has invaded communities gruesomely murdered several people with properties destroyed across African countries including Nigeria, Mali, Mauritania, Niger, Ghana, Ivory Coast, Senegal, and Congo but Nigeria remains the worst-hit by the marauding herdsmen.¹⁰ Research reveals that at the time Fulani herdsmen entered Nigeria, they remained in the semi-arid land in northern Nigeria. Their southward movement was initially consigned to slaughterhouses and trading purposes.¹¹ However, with the introduction of affordable veterinary drugs which allowed herdsmen to increase the health of their cattle; climate change and the desire to evade the much hated cattle tax (*jangali*) imposed by the British colonial government in the northern region, Fulani herdsmen started migrating from the semi-arid area across the middle belt to the southern parts of Nigeria in search for pasture.¹²

The movement of Fulani herdsmen tended to follow a set pattern and was seasonal. They were received as visitors during the dry season and after harvest in the year, and they leave during the wet or planting season. However trouble emanated when herders insisted on staying throughout the year; damaging crops without apology or compensation and failing to control their animals thereby causing huge losses to farmers.¹³ Also, the herdsmen began to rape women at isolated farms and kill complaining farmers and sometimes buried their victims at the farms.

⁹ Vearumun V Tarhule and Yangien Ornguga and Alfred M Tijah, 'Farmer/Herdsmen Conflicts in Nigeria: The Human Rights Implication' in Vearumun Vitalis Tarhule and Akaa Imbwaseh (eds), *Professor John Ngwo Samba: A Festschrift* (DonAfrique Publishers, 2019), 584

¹⁰ *Ibid*, 590

¹¹ *Ibid*, 585

¹² *Ibid*.

¹³ *Ibid*.

A 2017 Global Terrorism Index (GTI) report reveals that between 2010 and 2016, deaths from Fulani herdsmen resulted in more than 3,000 deaths across four countries, with 92% of fatalities taking place in Nigeria.¹⁴ The middle belt region in Nigeria is the most affected. Benue, Plateau, Kaduna, Taraba and Nasarawa States are the hardest hit.¹⁵ In Benue State alone between February, 2013 and 13th May 2017 not fewer than 1,541 lives were wasted by Fulani herders in 46 different attacks in various communities in the State. 15 out of the 23 Local Governments of the State were affected by these attacks which have left several people dead, others displaced, properties destroyed and farms disserted. The Benue State Governemnt in a bid to curb the situation enacted the Open Grazing Prohibition and Ranches Establishment Law, 2017 after serious debates at public hearings held across the three (3) Senatorial Districts of the State and in Makurdi the State Capital.

4. THE LEGALITY OF STATES PROHIBITING OPEN GRAZING OF LIVESTOCK IN NIGERIA

The authority of states to prohibit open grazing and particularly the constitutionality or legality of the Open Grazing Prohibition and Ranches Establishment Law of Benue State, 2017 has been tested in at least three cases. In the case of *AG Benue State & Ors v IGP & Ors*¹⁶ the first out of the three questions for determination in the originating summons before the court was ‘whether the Open Grazing Prohibition and Ranches Establishment Law was validly enacted by Benue State Government pursuant to its legislative powers under section 4(6) and (7) of the 1999 Constitution.’ The plaintiffs citing some authorities¹⁷ contended that the control, use, planning and development of land in Nigeria is vested exclusively in the states. The defendants on their part though opposed the grant of the prayers sought did not challenge the constitutionality of the Law. The court in granting all the prayers of

¹⁴ *Ibid.*

¹⁵ *Ibid.*

¹⁶ MHC/395/2018 (Benue State High Court 25 January, 2019)

¹⁷ *AG Lagos State v AG Federation* (2003) 12 NWLR (pt. 833) 24; *Borno Urban Planning and Development Board v Bams Invst (Nig) Ltd* (2017) LPELR-43290 (CA) 31 paras A-D

the plaintiffs held that the Open Grazing Prohibition Law was validly enacted by the Benue State House of Assembly pursuant to her legislative powers within the gamut of section 4(6) and (7) of the Constitution of the Federal Republic of Nigeria 1999 (as amended). In the case of *Aliyu Ahmed & Anor v National Assemble & 13 Ors*¹⁸ where the plaintiffs as herdsmen challenged the constitutionality of the Open Grazing Prohibition Law of Benue State, the Federal High Court wasted no time in dismissing the suit *in limine* and held that the Benue State House of Assemble, lawfully enacted the Open Grazing Prohibition and Ranches Establishment Law 2017; and the Law was duly assented by the Governor of the State.

In *Attorney General of Benue State & Anor v Attorney General of the Federation & 2 Ors*¹⁹ the plaintiffs rather filed the suit challenging the competence of the Federal Government to compulsorily acquire land in Benue State for the purpose of rearing and grazing any livestock contrary to the Open Grazing Prohibition Law and the Land Use Act. The facts as established by the plaintiffs were that, due to the incessant crises between farmers and herdsmen, while the Government of Benue State enacted the Open Grazing Prohibition Law, which prohibited open rearing and grazing of livestock in Benue, the Federal Government of Nigeria on the other hand, proposed to establish ruga settlement in Nigeria, including Benue State, to enable herdsmen graze their livestock, in disregard to the Open Grazing Prohibition Law of Benue State. The plaintiff then filed the suit claiming *inter alia* a declaration that the Federal Government's policy or proclamation to establish ruga settlements or cattle colonies in all the states of the federation and in Benue State in particular is unwarranted, unlawful and unconstitutional; and an order of perpetual injunction restraining the Federal Government and its agents/agencies from making any attempt to hold, administer, use or allocate land comprise in the territory of Benue State for ruga settlements or cattle colonies or any other purpose contrary to the powers conferred on the Livestock Department of the Benue State Ministry of Agriculture and Natural Resources.

¹⁸ FHC/ABJ/CS/527/2017 (Federal High Court Abuja 4 July 2019).

¹⁹ FHC/MKD/CS/56/2019 (Federal High Court, Makurdi Judicial Division 3 February, 2020).

The defendants in opposing the reliefs sought by the plaintiffs contended *inter alia* that the Grazing Reserve Law 1965 of Northern Nigeria empowers the Minister of Agriculture and Rural Development (3rd Defendant) to designate any land in Northern Nigeria, including Benue State as grazing reserve as he deems it fit; and the Grazing Reserve Law 1965 being a regional law, overrides the Open Grazing Prohibition Law by dint of section 4(5) of the CFRN 1999 which provides that if any Law enacted by the House of Assembly of a State is inconsistent with any law validly made by the National Assembly, the law made by the National Assembly shall prevail, and that other Law shall, to the extent of the inconsistency be void. In discountenancing the argument of the Defendants and granting all the prayers of the plaintiff as relating to Benue State alone, the court held that:

Even where the land originally belongs to the Federal Government, the use to put the land to, the control and management of the land has to be managed by the State Government. The LUA has therefore annulled the power of the Minister of Agriculture to allocate lands within the federation for grazing purpose. I find and hold in the circumstance that Benue Open Grazing Prohibition Law is not and cannot be inferior to the Grazing Reserve Law of 1965 which is an obsolete law.

As held in the case of *AG Lagos v AG Federation* (supra) the states have the power of legislating over the use, the planning and development of their land such power does not reside with the Federal Government, save for the Federal Capital Territory, it follows therefore that the enactment of the Open Grazing Prohibition and Ranches Establishment Law 2017, by the Benue State House of Assembly, is within the powers conferred upon the State by the Constitution as same has legal force.²⁰

The court also held that for whatever project the Federal Government may have, even when it comes to using its own land in a state, the Federal Government must respect the planning laws and regulations in a State or at least act in consultation with the appropriate authorities or agencies with a view to achieving mutual

²⁰ *Ibid.*

accommodation for the project intended.²¹ This entails that even land already occupied by the Federal Government cannot be converted into colonies or ruga settlements or even ranches, except in conformity with the Open Grazing Prohibition Law.

5. **BENUE STATE OPEN GRAZING PROHIBITION LAW, 2017**

The Open Grazing Prohibition and Ranches Establishment Law of Benue State, 2017 is a law made with the aim of engendering peace and security in the agricultural sector of Benue State and Nigeria at large. The law has 36 sections and though not segmented into parts has its main provisions pertaining to the establishment of ranches; offences and penalties including prohibition of open grazing, animal rustling, land grabbing and so on; it also makes provisions for regulatory institutions to administer the provisions of the Law; and provisions relating to the enforcement and jurisdiction of courts. The long title of the law captures this succinctly describing it as ‘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 therewith.’

5.1 *The Establishment of Ranches*

To establish a ranch in Benue State, a rancher is generally required to obtain a ranching permit. Ranching permits under the Benue State Open Grazing Prohibition Law can only be for a period not exceeding one year subject to renewal and it can only be issued to citizens of Nigeria who are authorised by law to conduct business under Nigerian law.²² There are basically two categories of persons who can establish ranches in Benue State. They are livestock owners seeking for ranching land and land owners who wish to establish a ranch on their land.²³

The procedure for obtaining a ranching permit for the purpose of setting up and running a ranch by a livestock owner who does not already have land is provided for under sections 6-9 of the Open

²¹ *Ibid.*

²² Open Grazing Prohibition Law, s5(a) and (b)

²³ *Ibid.*, s5

Grazing Prohibition Law. According to section 6, such intending rancher must first obtain the written consent of the owner of the land which he intends to site his ranch and then make an application for the issuance of ranching permit to the Livestock Department of the Ministry of Agriculture and Natural Resources of Benue State (the Department). The application must be accompanied by a written consent of the land owner and the family head of the landowner whose land the rancher intends to site his ranch. The said written consent must be made in consultation with community leaders and endorsed by the Kindred head and Chairman of the Local Government Traditional Council where the land is situated.²⁴

The Department upon receipt of the application shall undertake or cause to be undertaken by professionals an ‘environmental impact assessment’ of the Land applied for by the rancher to ascertain the suitability of the land for ranching. A copy of the report shall be forward to the landowner, family head and Kindred Head to make their views known at a joint meeting convened by the Department within 90 days.²⁵ Where the land is found suitable, the owner of the land, family head, Kindred Head and the community within which the land is situated, shall recommend to the Department to issue ranching permit to the rancher.²⁶ The department shall then make recommendations to the Commissioner for Agriculture and Natural Resources of Benue State who shall in turn forward same to the Governor of Benue State. The Governor if satisfied that the best interest of the State will be served, will approve the issuance of a ranching permit to the rancher.²⁷

Upon approval by the Governor, the Department shall, within thirty (30) days, issue a ranching permit to the rancher alongside the regulations for fencing and other activities in accordance with the Law.²⁸ The Department shall cause notice of the permit to be published in the official Gazette of Benue State Government, specifying as clearly as possible the location and limits of the land,

²⁴ *Ibid*, s6(1), (2) and (3)

²⁵ *Ibid*, s6(4) and (5)

²⁶ *Ibid*, s6(6)

²⁷ *Ibid*, s7(1)

²⁸ *Ibid* s7(2)

the privileges conceded in respect of the Land and any special conditions intended to govern the ranch.²⁹ It shall also cause the particulars of the land upon which ranching permit is issued to be made known in the community in which the land is located by causing a notice thereof to be read and interpreted in the local language of the community and also cause a notice in writing to the communities or persons residing on or claiming interest in such Land.³⁰ Whenever any Land has been approved for use as ranch, the rancher shall pay for lease of the land to the owner of the land, family head and Kindred Head and community whose interest in the land has been affected.³¹

Indigenes of Benue State who are landowners are exempted from seeking the Governor's approval or obtaining ranching licence or permit before establishing a ranch on their own land in Benue State. According to section 10 of the Open Grazing Prohibition Law any indigene of Benue State who wishes to set up a personal ranch on his own land is exempted from the necessity of obtaining ranching lease or ranching permit as stipulated under sections 5, 6, 7, 8 and 9 of the Law. The provisions of section 10 of the law has been criticised by some writers³² as been discriminatory against indigenes of other Nigerian states for employing the phrase 'indigene of Benue State.' The law is however not discriminatory since it is open to all Nigerians seeking to establish ranches in Benue State. The phrase indigene of Benue State is simply used in relation to those who are existing owners of land and who desire to establish ranches on their land in Benue State. This is further buttress from the fact that the Law does not prohibit non-indigenes who are existing landowners of land before the enactment of the law from establishing ranches on their land. The intendment of the law is to prevent land grabbers from taking existing landowners' property without their consent for the purpose of grazing livestock. The use of the word indigene under

²⁹ *Ibid*, s9(1)

³⁰ *Ibid*, s9(2)

³¹ *Ibid*, s8(1)

³² Anthony Nkemjika Onyewuchi and Patricia C Arinze-Umobi, 'A Critique of the Benue State Open Grazing Prohibition Law as a Legal Response to Conflict Caused by Open Grazing in Nigeria' (2017) (13) UNIZIK Law Journal 7

section 10 is superfluous and the law can operate effectively without it.

Every ranch is required to have a fence as prescribed by the Department.³³ The lease and ranching permit granted is only a privilege and does not transfer title to land.³⁴ This implies that the rancher is accorded only possessory rights without the transfer of ownership. The law expressly prohibits the sale of any leased land to the rancher for any purpose whatsoever.³⁵ Also, a ranching permit may be revoked by the Department at any time subject to the approval of the Governor without the payment of compensation to the rancher for:

- (a) breach of State Security;
- (b) interest of peace;
- (c) breach of any term or condition of the leasehold; or
- (d) overriding public interest as stipulated by the Land Use Act;

5.2 *Offences and Penalties*

The law creates a number of offences including the Prohibition of open nomadic livestock rearing and grazing; Prohibition of movement of Livestock on foot; Prohibition of animal rustling; prohibition of unauthorised entry or trespass into ranches; Prohibition of sale of leased land; and criminalising land grabbing. The law makes reference to other offences like culpable homicide punishable under the Penal Code, and possession of firearms by rancher punishable under the Robbery and Firearms (special provision) Act, *etcetera*.

Section 19 of the Law prohibits open nomadic livestock herding or grazing in Benue State outside the permitted ranches. An offender convicted for violating this provision is liable to five years imprisonment or a fine of N1,000,000.00 (one million naira) or both imprisonment and fine. He/she may also be liable to pay the prevailing value of monetary compensation of the farm, crops or property so damaged, to the owner, and where any person is injured, be liable upon conviction to 2 years imprisonment in addition to

³³ Open Grazing Prohibition Law, s14

³⁴ *Ibid*, s11(1)

³⁵ *Ibid*, s11(2)

footing the medical bill of the victim and paying relevant compensation as the Court may determine.³⁶ Section 16(1) of the Law also provides that If any livestock strays into any other person's land other than a ranch and causes destruction to agricultural crops and/or contaminates any source of water supply, the owner or manger of such livestock shall be liable to pay damages or compensation to the owner or community with proprietary interest in the land or source of water as may be determined by a proper valuation ordered to be done by the Department.

Movement of livestock on foot outside ranches attracts a punishment of a year imprisonment or fine of N500,000.00 (five hundred thousand naira) or both imprisonment and fine for first offenders. A second offender is liable to three years imprisonment or a fine of N1,000,000.00 (one million naira) or to both imprisonment and fine.³⁷ The law does not however provide for a different punishment for subsequent offenders other than first and second offenders.

Any livestock found grazing, wandering, herding in an area not designated as a ranch is required by the Law to be impounded by the Department or any other person authorized by the Department in that behalf.³⁸ The Department or any other person so authorised may release the livestock impounded to the owner or manager of a ranch upon showing good cause and after paying the prescribed fine and expenses as may be determined by the Department.³⁹ And any livestock impounded under the Law which is not claimed within seven (7) days of such impoundment is required to be sold on auction to the public; while the proceeds of such sale is to be deposited in the Consolidated Revenue Account of the State.⁴⁰

The law prohibits the possession of firearms on the ranch or outside the ranch by Livestock owners, managers and ranchers whether licensed or unlicensed.⁴¹ All ranch operators instead of wielding personal firearms are required by the Law if they so wish to

³⁶ *Ibid*, s19(1)(2) and (3)

³⁷ *Ibid*, s19(4) and (5)

³⁸ *Ibid*, s21

³⁹ *Ibid*, s22

⁴⁰ *Ibid*, s23

⁴¹ *Ibid*, s19(6)

rather engage the services of registered security guards for the protection of their ranches.⁴² The Law reference the prosecution of firearms as defined by the Law to the Robbery and Firearms (Special Provision) Act.⁴³ However, it must be noted that possession of licensed firearm which is prohibited under section 19(6) of the Law is not prohibited under the Robbery and Firearms (Special Provision) Act. The Law did not however stipulate punishment for the possession of firearms, this is understandable since arms, ammunition and explosives are under the exclusive legislative list⁴⁴ and thus outside the powers of the Benue State House to legislate on.

The law also prohibits land grabbing.⁴⁵ Land Grabbing is defined under section 2 of the law to means any illegal, forceful and violent takeover of traditional or State land in the urban or rural area by an individual, group or association. Where land grabbing results in death, the Law makes reference to prosecution for the offence of culpable homicide as stipulated under the Penal Code. Where grievous injury is caused, the offender is liable on conviction under the Law to imprisonment for a term not less than ten (10) years without an option of fine. And where the dependants of the land grabber are found on such land, they shall be evicted⁴⁶

Animal rustling is also an offence with severe punishment under the Law. ‘Rustling’ is defined by section 2 of the Law to means the act of stealing or moving away farm animals without the consent of the owner. An offender found guilty of animal rustling is liable to imprisonment for a term of not less than three (3) years or one hundred thousand (N100,000.00) naira per animal or both.⁴⁷ Where the activities of a rustler causes injuries, he shall on conviction be liable to five (5) years imprisonment or a fine of five hundred thousand (N500,000.00) naira only or both; and where death occurs, he shall be guilty of an offence of culpable homicide

⁴² *Ibid*, s19(9)

⁴³ Cap F11 Laws of the Federation (LFN), 2004

⁴⁴ Constitution of the Federal Republic of Nigeria 1999 (as amended), 2nd Schedule, part 1, item 2

⁴⁵ Open Grazing Prohibition Law, s19(8)

⁴⁶ *Ibid*, s19(8)

⁴⁷ *Ibid*, s20(1)

punishable under the penal code.⁴⁸ And a person convicted of cattle rustling may, in addition pay compensation to the victim or owner as the court may direct.⁴⁹

Despite the prohibition of unauthorised entry or trespass into ranches; Prohibition of Sale of leased land to ranchers; and the mandatory requirement for obtaining ranching permit before establishment or acquisition of ranches under sections 5-9 of the law,⁵⁰ the law does not provide any penalty against anyone who sales a leased land to the rancher or establishes a ranch without permit. This may lead to unauthorised persons acquiring or establishment of a ranch without repercussions under the Benue State Open Grazing Prohibition Law, 2017.

5.2 *Regulatory Institutions*

There are at least six offices and institutions responsible for administering the Benue State Open Grazing Prohibition Law, 2017 they are the Governor of Benue State, the Commissioner for Agriculture and Natural Resources of Benue State; the Livestock Department in the Ministry of Agriculture and Natural Resources and the Special Livestock Open Grazing prohibition Task Force or Livestock Guards. Others include the Nigerian Police responsible for prosecuting violators of the Law in court⁵¹ and the Local Government Advisory Committee for each Local Government Area whose functions are simply to offer advice or make 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.⁵²

- i. ***The Governor:*** The responsibility of the Governor of Benue State under the law is principally to approve recommendations made through the Commissioner by the Department. Such approvals include, approving the issuance of ranching permit

⁴⁸ *Ibid*, s20(2)

⁴⁹ *Ibid*, s20(30)

⁵⁰ Except for those exempted under section 10 of the Benue State Open Grazing Prohibition Law, 2017.

⁵¹ Open Grazing Prohibition Law, s29(1)

⁵² *Ibid* s32

to any rancher;⁵³ approving the revocation of a ranching permit without the payment of compensation;⁵⁴ and approving the regulations made for the proper implementation and administration of the Open grazing Prohibition Law;⁵⁵

Other functions of the Governor include to give or withhold consent for the alienation of any land in a ranch which has been established in accordance with the law;⁵⁶ determination of the stipends to be paid to the Task Force or Livestock Guard;⁵⁷ enlarging the meaning of the word 'livestock' as used by the law if necessary by adding the name of any animal to the list of animals referred to as livestock and declaring in the Benue State Gazette the animal as being livestock in addition to poultry, pigs, cattle, goat, sheep, already defined by the law as livestock.⁵⁸

- ii. *The Commissioner:*** The duties of the Commissioner for Agriculture and Natural Resources of Benue State under the law are very straightforward. He is to forward the recommendations of the Department to the Governor⁵⁹ and render annual reports to the House of Assembly.⁶⁰ The Annual Report to be submitted by the Commissioner to the House of Assembly annually is required to contain the following details:
- a) a statement of income and expenditure of the Department during the previous year;
 - b) a statement of Assets and liabilities of the Department;
 - c) the financial status of the Department;
 - d) any other matter relating to livestock administration, regulation and control; and
 - e) progress report on the implementation of this Law.⁶¹

⁵³ *Ibid* s5 and 7(1)

⁵⁴ *Ibid*, s11(1)

⁵⁵ *Ibid*, s18(p)

⁵⁶ *Ibid*, s15(2)

⁵⁷ *Ibid*, s28

⁵⁸ *Ibid*, s2

⁵⁹ *Ibid*, s7(1) and 18(p)

⁶⁰ *Ibid*, s31

⁶¹ *Ibid*.

iii. The Livestock Department: The Livestock Department in the Ministry of Agriculture and Natural Resources of Benue State is directly vested by section 4 of the Law with the powers to administer, regulate and control livestock in the State. The Livestock Department is responsible for the issuance of ranching permits after approval from the Governor,⁶² and from time to time, determine the eligibility of persons to be allowed to enter the ranches.⁶³ Also, ranching permit may be revoked by the Livestock Department at any time subject to the approval of the Governor without the payment of compensation to the rancher for reasons of breach of State Security; the interest of peace; breach of any term or condition of the leasehold; or for overriding public interest as stipulated by the Land Use Act.⁶⁴

The Livestock Department also has the powers to prescribe from time to time the annual permit fee payable by ranchers.⁶⁵ It has the powers to prescribe the nature of fence to be constructed at a ranch.⁶⁶ Where any livestock strays into any other person's land other than a ranch and causes destruction to agricultural crops and/or contaminates any source of water supply, the owner or manger of such livestock shall be made to pay damages or compensation to the owner or community with proprietary interest in the land or source of water and the Livestock Department is responsible for determining the proper valuation of the damage and amount to be paid.⁶⁷ The Livestock Department also has the powers to impound livestock straying or grazing in an area not designated as a ranch,⁶⁸ and then to release upon the showing of good cause and after paying the prescribed fine and expenses.⁶⁹

⁶² *Ibid*, s7(2)

⁶³ *Ibid*, s13

⁶⁴ *Ibid*, s11(2)(a)-(d)

⁶⁵ *Ibid*, s5

⁶⁶ *Ibid*, s14

⁶⁷ *Ibid*, s16 and 19(3)(a)

⁶⁸ *Ibid*, s21

⁶⁹ *Ibid*, s22

The Livestock Department is also responsible for making regulations and guidelines for the structure, command, control and operations as well as payment of stipends to the Special Livestock Task Force.⁷⁰ Besides providing for the powers of the Livestock Department, the Law under section 18 provides that the functions of the Livestock Department include to:

- (a) promote cooperation among those interested in the use of the ranches, such as livestock owners, state land officials and other officials of State, Federal and International Agencies engaged in the conservation or propagation of livestock and wildlife.
- (b) create awareness among the general public through seminars, symposia and advertisement on the commercial viability of livestock production;
- (c) develop and maintain a feasible and sustainable livestock production industry in the State;
- (d) develop an integrated modern livestock development and production plan and strategy for the State;
- (e) develop guidelines for the implementation of an integrated livestock production policy and make appropriate recommendations to the Governor;
- (f) initiate, design, co-ordinate, evaluate and monitor all programs aimed at integrating or boosting livestock production and rearing in the State;
- (g) organise training and support programs aimed at improving livestock agriculture;
- (h) engage or liaise with key stakeholders Local and International in livestock production to increase access to education and training in animal husbandry;
- (i) perform or implement any other policy initiative as may be determined by the Governor;
- (j) liaise with the Livestock Department at the Local Government Areas;
- (k) carry out or cause to be carried out any investigation that it deems necessary;

⁷⁰ *Ibid*, s27

- (l) consider such recommendations, suggestions and requests concerning the production of livestock, operation of ranches as it may receive from any source;
- (m) conduct or cause to be conducted such research as it deems necessary;
- (n) liaise with Local Government Areas of the State having common border with other States to establish inspection posts to ensure entry of healthy livestock into the State;
- (o) encourage the promotion of livestock holding in every household in the State;
- (p) after consultation with the Commissioner, make regulations regarding any ancillary or incidental administrative or procedural matter that is necessary to prescribe for the proper implementation and administration of this Law subject to the approval of the Governor.⁷¹

One of the functions of the Livestock Department is to develop guidelines and regulations.⁷² There is however no regulation on the identification of livestock. In the United Kingdom (UK), for proper identification for traceability, to track diseases outbreaks and ensure the integrity of British beef, there is the Cattle Identification (Wales) Regulations 2007 which makes provisions relating to the notification of cattle holdings, ear tagging, passports and regulation of cattle, and the subsequent record keeping requirements. The UK Regulation requires that all cattle must be identified with a pair of approved ear tags within 36 hours of birth and issued with a passport; also cattle born before the making of the Regulation are also required to be tagged and issued with a cattle passport.⁷³ A cattle passport is a Government-issued document that states the animal's date of birth, official ear tag number, ear tag number of the dam, breed and sex. It is like a birth certificate. The Regulation makes it an offence for failure to apply an ear tag within the period specified or to deface⁷⁴ or alter any information in a cattle passport or use a cattle passport

⁷¹ *Ibid*, s18(a)-(p)

⁷² *Ibid*, s7(2) and s18(e)

⁷³ Cattle Identification (Wales) Regulations 2007, article 4

⁷⁴ *Ibid*, article 4 and 1st schedule, para. 1(4).

for any animal other than the animal for which it was granted.⁷⁵ This identity and documentation must stay with the beast throughout its life, from birth to death, and must include all movements, changes of ownership, passages through cattle markets, *etcetera*. Such regulation is also necessary in Benue State and Nigeria in general even for the purpose of identifying the owners of straying cattle. It can also go a long way in preventing cattle rustling.

iv. The Special Livestock Open Grazing Prohibition Task Force

The Special Livestock Open Grazing prohibition Task Force also referred to as the Livestock Special Task Force or popularly referred to as the Livestock Guards is a security outfit constituted for the purpose of enforcing the provisions of the Open Grazing Prohibition Law.⁷⁶ The Livestock Guards is established pursuant to section 24 of the Open Grazing Prohibition and Ranches Establishment Law 2017 and has units in each Local Government Area of Benue State.

The Livestock Guards is saddled with the responsibility pursuant to section 25 of the Law to enforce the provisions of the Open Grazing Prohibition Law and the guidelines and regulations of the Department regulating and controlling livestock in the Benue State. It has the powers with or without the assistance of the Nigerian Police or any security agencies to arrest and detain any person or group of persons engaged in open grazing, cattle rustling and other acts prohibited by the provisions of Open Grazing Prohibition Law. Person(s) arrested by the Livestock Guards are required by the Law to be handed over to the Police or other security agencies immediately,⁷⁷ or not later than forty-eight (48) hours after their arrest.⁷⁸

6. ENFORCEMENT OF THE BENUE STATE OPEN GRAZING PROHIBITION LAW, 2017

A law no matter how well enacted if not implementation or enforced is nothing more than a worthless piece of paper. The

⁷⁵ *Ibid*, article 4 and 1st schedule, para. 4(5); article 6 and 3rd schedule, para. 8.

⁷⁶ Open Grazing Prohibition Law, s2

⁷⁷ *Ibid*, s29(1)

⁷⁸ *Ibid*, s39(2)

enforcement of the Open Grazing Prohibition Law is faced with a number of challenges. Firstly, there is no zeal on the part of the federal security agencies to ensure that the Law is obeyed. In fact, the enforcement of the Law was frontally opposed by the Nigerian Police through an attempt to disband the Livestock Guards. This prompted the Benue State Government to approach the court in the case of *AG Benue State & Ors v IGP & Ors*.⁷⁹ In the case *AG Benue State*⁸⁰ the facts as revealed by evidence were that on the 2nd day of November, 2018, the then Commissioner of Police (COP), Benue State on the instruction of the Inspector General of Police (IGP) issued a directive via a police wireless message to its officers to dismantle and close down all offices, and as well prohibit all officers of the Benue State Livestock Guards from operating. The plaintiff then approached the court seeking *inter alia* a declaration that the directive from the IGP to the COP is unconstitutional, *ultra vires*, null and void; an order quashing the directive; and an order restraining the Police from doing any act or acting in any manner capable of undermining the existence, operation and functions of the Livestock Guards. The Police opposed the grant of the prayers. The court however in granting all the prayers sought held that the ‘Livestock Guards established under sections 24- 30 of the Open Grazing Prohibition Law 2017 is not a quasi-illegal security outfit to be dismantled and prohibited from operating by a mere wireless message’ since it was duly established by a law validly made by the Benue State House of Assembly.

Secondly, the Livestock Guard which is the main security outfit responsible to enforce the provisions of the Law does not wield firearms. On the other hand the violators of the Law especially rustlers and the marauding herdsmen are usually armed to the teeth. This is a serious problem as the Livestock Guards cannot confront the violators of the Law without grave risk to their lives. Many Livestock Guards have been injured or killed at their duty post.⁸¹ For

⁷⁹ MHC/395/2018 (Benue State High Court 25 January, 2019)

⁸⁰ *Ibid.*

⁸¹ John Charles, ‘Herdsmen Kill Two Benue Livestock Guards Over Seized Cows’ (Punch 8 July, 2020) <www.google.com/amp/s/punchng.com/herdsmen-kill-two-benue-livestock-guards-over-siezed-cows/%3famp> accessed on 6 June, 2021; Premium Times, ‘Benue Killings: Shot Livestock Guard Says Four Wives, 18

instance on July 6, 2020, suspected Fulani herdsmen killed two Livestock Guards in Logo Local Government Area of Benue State while attempting to arrest some herdsmen whose cattle were grazing in violation of the Open Grazing Prohibition Law.⁸² The Benue State Government cannot help the situation by equipping the Livestock Guards except with the request for licence since arms and ammunitions are within the exclusive preserve of the federal government.⁸³

Thirdly, Fulani herdsmen have vehemently refused to obey the Open Grazing Prohibition Law but continue to kill and terrorise people in Benue State. The mission of the Fulani herdsmen is considered to be a deliberate instigation of violence to take over the Benue Valley and not just access to water and fodder. This mission is attributed to the openly lay claim and falsely argue that, they were the original inhabitants of the Benue Valley.⁸⁴ This deliberate falsehood was stated by, Miyetti Allah Kautal Hore- a Fulani socio-cultural group at a press conference in Abuja⁸⁵ and also by one Umar Labdo Muhammad, a Fulani professor in the Faculty of Humanities, North West University, Kano, who in a Facebook post stated that ‘Benue State belongs to the Fulani people by right of conquest because half of the State is part of the Bauchi Emirate and the other half is part of the Adamawa Emirate. Benue is therefore part and parcel of the Sokoto Caliphate.’⁸⁶

Children Still Missing’ (Premium Times 10 January, 2018) <<https://www.premiumtimesng.com/regional/north-central/255111-benue-killings-shot-livestock-guard-says-four-wives-18-children-still-missing.html>> accessed on 6 June, 2021; HA Emmanuel, ‘Gunmen Kill Livestock Guard in Benue’ available at <www.dailytrust.com/gunmen-kill-livestock-guard-in-benue> accessed on 6 June, 2021;

⁸² John Charles (n81)

⁸³ Constitution of the Federal Republic of Nigeria 1999 (as amended), 2nd Schedule, part 1, item 2

⁸⁴ The Nation, ‘Fulani Herdsmen Crisis: Struggle for Natural Resource- Association’ *The Nation* (Abuja, May 31 2017) 41.

⁸⁵ *Ibid.*

⁸⁶ Seun Opejobi, ‘Benue Belongs to Fulani Herdsmen by Right of Conquest- Prof Muhammed’ *Daily Post* (Lagos, January 18, 2018) <<https://www.google.cm/amp/s/dailypost.ng/2018/01/18/benue-belongs-fulani-herdsmen-right-conquest-prof-muhammed/%3famp>> accessed on 16 June, 2021

The above leaves one without any iota of doubt that the terror and killings by Fulani Herdsmen is a land grabbing attempt or a conquest agenda. Fulani herdsmen consider the Open Grazing Prohibition Law as preventing them from achieving their murderous agenda and barely a week after the Open Grazing Prohibition Law was assented to by the Governor of Benue State, and precisely on 30th May, 2017, the leadership of Miyetti Allah Kautal Hore addressed a press conference in Abuja and vowed to mobilise their members world over to resist the implementation of the Law which they describe as a ‘wicked legislation ever contemplated in the history of our nation.’⁸⁷ The President of Miyetti Allah Kautal Hore, Alh. Abdullahi Bello stated at the conference that:

Our association view the current attempt by the Benue State Government to criminalise our means of economic livelihood of cattle rearing through the enactment of an obnoxious anti-open grazing law as the most wicked act any government can do to us and our economic interest... the associating vowed to mobilise herdsmen in the country to resist the law as it was a deliberate attempt to enslave our members through the wicked legislation ever contemplated in the history of our nation.⁸⁸

On his part the National Secretary of the Association, Engr. Saleh Alhasan stated that:

The Nigerian state must recognise that the Fulani pastoralist exists and as a socio-cultural group that has a right to the shared resources. We must be allocated land to do our cattle grazing, which systematically we can settle our families, change the breed of cattle they need and improve on the technology of cattle rearing⁸⁹

The vow to mobilise and opposed the Law was kept and its vicious execution began two months after the commencement of implementation of the Law, with the first vicious attack between the 31st December, 2017 to 4th January, 2018 when Fulani herdsmen

⁸⁷ This Day Newspaper Ltd, ‘Benue State Open Grazing Prohibition Law 2017 Has Achieved Its Purpose’ (This Day 17 November, 2020) <<https://www.thisdaylive.com/index.php/2020/11/17/benue-state-open-grazing-prohibition-law-2017-has-achieved-its-purpose/amp/>> accessed on 8 June, 2021; see also the Nation Newspaper of Wednesday, May 31, 2017, page 41; Blueprint Newspaper of Thursday, 1 June 2017, page 18.

⁸⁸ The Nation, ‘Fulani Herdsmen Crisis: Struggle for Natural Resource- Association’ *The Nation* (Abuja, May 31 2017) 41.

⁸⁹ *Ibid*

carried out at least 6 attacks in Guma and Logo Local Government Areas of the State,⁹⁰ killing not fewer than 119 people including 4 security personnel.⁹¹ Governor Samuel Ortom of Benue State on 11th January, 2018 organised a state burial for 73 bodies of the victims which could be conveyed to Makurdi the Benue State capital. And barely 48 hours after the mass burial, the National Vice President of Miyetti Allah Cattle Herders Association, Husaini Yusuf Bosso, openly and with impunity threatened that ‘more blood will be shed in the State if the anti-grazing law introduced by Governor Ortom is not completely scrapped.’⁹² Despite all these, not even one of the leadership of the Fulani herdsmen organisation has been invited even for questioning by the Nigerian security agencies.

The Fulani herdsmen have also tried to undo the Open Grazing Prohibition Law in the case of *Aliyu Ahmed & Anor v National Assemble & 13 Ors*⁹³ where two members of Miyetti Allah Kautal Hore Social-Cultural Association challenged the legality of the Law seeking mandatory injunction against the Benue State Government from implementing the Law. The Federal High Court Abuja in dismissing the suit *in limine* held that the 4th defendant, the Benue State House of Assembly, lawfully enacted the Open Grazing Prohibition and Ranches Establishment Law 2017 and further held that the Law was duly assented by the Governor of the State. Despite losing the legal battle, the herdsmen have not stopped the killing of people, destruction of properties and violation of the Open Grazing Prohibition Law. A report of the Nigerian Police Benue State Criminal Investigation Department Makurdi, states that between the 1st day of November, 2017 which is the commencement date of Law to 29th April, 2019 not fewer than 356 persons including 24 Police officers and 3 officers of the Nigerian Securities and Civil Defence

⁹⁰ The communities attacked include Ayilamo, Tse-Agbo-Uke Azege Village and Anyiin Village in Logo Local Government (LGA) and Akor Village, Torkula Village and Yogbo Village in Guma LGA of Benue State.

⁹¹ Deputy Commissioner of Police, Criminal Investigation Department (CID) Makurdi: Details on Herdsmen/Farmers Clashes from December, 2017 to Date.

⁹² Chioma Igbokwe, ‘Expect More Bloodshed in Benue, Bosso, Miyetti Allah Leader Warns’ *Daily Sun* (January 13, 2018)

⁹³ FHC/ABJ/CS/527/2017 (Federal High Court Abuja 4 July 2019).

Corps (NSCDC) have been killed as a direct result of the herdsmen and farmers conflict in the State.⁹⁴

Sadly, the Federal Government of Nigeria is neither willing nor ready to support the Benue State Government in the enforcement of the Law. This is heart-rending and has worsened the situation even though the central government controls all security apparatus in the country from the Nigerian Army down to NSCDC and other arm wielding security agencies. This underscores the need for state policing to enforce valid laws within a state especially in situations where the violators of the laws are armed to the teeth like the marauding herdsmen in Nigeria. The insensitivity of the Federal Government is not restricted to unwillingness to enforce the law, it extend to the worst case of outright opposition and the call for the repeal of the law; including failure to support displaced persons, and failure to ensure the resettlement of the displaced persons in the State.

The Federal government has played a deceptive game with the situation as can be exemplified in two circumstances. The first was in 2018 when despite the killings of over seventy (70) persons by herdsmen on or about the 2018 new year's day, the Federal Government in instead of frontally addressing the crime, rather engaged the military in what was referred to as '*Exercise Ayem Akpatuma*' to train for forty-four days in Benue, Taraba and Nasarawa without combat engagement of the armed herdsmen. And during the period of the exercise, the herdsmen continued their killing spree undisturbed.⁹⁵ Secondly, in May, 2018 the Vice President of Nigeria, Prof. Yemi Osibanjo visited the Abagena, Gbajimba and Anyii internally displaced persons (IDP) camps in Benue and stated that President Buhari approved a total of N10 billion for the rehabilitation of the communities affected by the violent attacks.⁹⁶ However up June, 2021, the time of writing this

⁹⁴ Deputy Commissioner of Police, Criminal Investigation Department (CID) Makurdi: Details on Herdsmen/Farmers Clashes from December, 2017 to Date.

⁹⁵ Vearumun V Tarhule and Yangien Ornguga and Alfred M Tijah, (n9) 589

⁹⁶ Dirisu Yakubu, 'Osibanjo's Benue Visit, Political- PDP Deputy Scribe' (Vanguard 16 May, 2018)
<<https://www.google.com/amp/s/www.vanguardngr.com/2018/05/osibanjos-benue-visit-political-pdp-deputy-scribe/amp/>> accessed on 6 June, 2021

paper, that money has not been released to assuage the sufferings of the over one million and five hundred thousand (1,500,000) IDPs in Benue State, despite the call by some civil society organisations for its release.⁹⁷ This is emotional torture in addition to killings and other rights violation suffered by the Benue people under the herdsmen.

Despite the challenges in the enforcement of the Benue State Open Grazing Prohibition and Ranches Enforcement Law, 2017, the State has achieved some measure of success. Within the first three years of the enforcement of the law that is from 1st November, 2017, the commencement date of the enforcement of the law to 31st October, 2020, not fewer than 400 herdsmen were arrested.⁹⁸ Out of this number, 261 persons were convicted, 21 persons discharged, 36 cases still pending while investigation is ongoing on the other cases. 5 rustlers all of whom were of Fulani extraction who confessed to the offence were also convicted.⁹⁹ The enforcement of the Law also led to the impoundment of over 7,629 cows, 210 sheep and other livestock.

The implementation or enforcement of the Open Grazing Prohibition and Ranches Enforcement Law, 2017 in Benue has significantly reduced the killings and destruction of properties in the State. It has reduced the rapidity and number of attacks on communities by suspected herdsmen when compared with the period before the enactment of the Law. For instance between April 2013 and July 2016 not fewer than 1,269 lives were wasted by armed

⁹⁷ Daily Trust, 'Benue Group Urges FG to Redeem N10bn IDPs Resettlement Pledge' (Daily Trust 27 November, 2020) <<https://www.dailytrust.com.ng/benue-group-urges-fg-to-redeem-n10bn-idps-resettlement-pledge>> accessed on 6 June, 2021; Daily Trust (Abuja), 'Nigeria: Benue Group Urges FG to Redeem N10bn IDPs Resettlement Pledge' (27 November, 2020) <<https://allafrica.com/stories/202011270645.html>> accessed on 6 June, 2021

⁹⁸ Peter Duru, 'Nigeria: Over 400 Herdsmen Arrested for Violating Benue Grazing Law-Ortom' (8 November, 2020) <<https://allafrica.com/stories/202011080208.html#:~:text=No%20fewer%20than%20400%20herdsmen,Ranches%20Establishment%20Law%20of%202017>> accessed on 6 June, 2021; Peter Duru, 'Over 400 Herdsmen Arrested for Violating Benue Grazing Law- Ortom' (Vanguard 8 November, 2020) <<https://www.vanguardngr.com/2020/11/over-400-herdsmen-arrested-for-violating-benue-grazing-law-%E2%80%95-ortom/>> accessed on 6 June, 2021

⁹⁹ Personal Knowledge as the Attorney-General and Commissioner for Justice, Benue State

Fulani herders in about 41 different attacks in various communities in Benue State.¹⁰⁰

7. FINDINGS

From the above overview of the Benue State Open Grazing Prohibition and Ranches Establishment Law 2017, it is found that:

- 1 Contrary to the argument by some writers, section 10 of the Law is not discriminatory since the Law is open to all Nigerians seeking to establish ranches in Benue State. The phrase ‘indigene of Benue State’ is simply used in relation to those who are existing owners of land and who desire to establish ranches on their land in Benue State. The Law does not prohibit non-indigenes who are existing landowners before the enactment of the law from establishing ranches on their land.
- 2 Despite the prohibition of unauthorised entry or trespass into ranches; Prohibition of Sale of leased land to ranchers; and the mandatory requirement for obtaining ranching permit before establishment or acquisition of ranches under sections 5-9 of the law, the law does not provide any penalty against anyone who sales a leased land to the rancher or establishes a ranch without permit.
- 3 Livestock Guard which is the main security outfit responsible to enforce the provisions of the Law does not wield firearms. They are unable to confront the heavily armed herdsmen and cattle rustlers.
- 4 The Federal Government of Nigeria is neither willing nor ready to support the Benue State Government in the enforcement of the Law. There is no zeal on the part of the federal security agencies to ensure obedience of the Law.
- 5 Herdsmen have vehemently refused to obey the Law and have continued to kill people and terrorise communities in Benue State.
- 6 Despite the challenges in the enforcement of the Benue State Open Grazing Prohibition and Ranches Enforcement Law,

¹⁰⁰ Vearumun V Tarhule and Yangien Ornguga and Alfred M Tijah, (n9) 591

2017, the State has achieved some measure of success. Though more is still needed to be done.

8. **RECOMMENDATIONS**

Consequent upon the above findings, the following recommendations are made. First, Regulation on the identification of livestock should be made in Benue State for the purpose of traceability, to track diseases outbreaks, ensure the integrity of beef production, identifying owners of straying cattle and prevent cattle rustling *etcetera*. Also, the Law should be amended to provide penalties for violation of prohibited acts like unauthorised entry or trespass into ranches; the sale of leased land to ranchers; and the establishment or acquisition of ranches under sections 5-9 of the law without ranching permit *etcetera*. Section 19(4) and (5) should also be amended to provide punishment for subsequent offenders other than 1st and 2nd offenders who violate the offence of movement of livestock on foot outside ranches. Additionally, firearms should be licensed for use by Livestock Guards for efficiency in the performance of their duties. The Constitution of Nigeria should also be amended to accommodate state police. It is further recommended that the Federal Government and herdsmen should truly embrace ranching and desist from further opposition of the Open Grazing Prohibition Law since ranching is the international best practice in animal husbandry. The central government should also assist in the implementation of the law. Finally, herdsmen should learn to invest in their business rather than resort to brute force and killings as business strategy. They should not impose their perceived culture on other peoples' property as their rights does not extend to the incursion into other peoples' rights.

9. **CONCLUSION**

The above recommendations if implemented will totally eliminate or reduce to the bare- minimum the attack on farming communities or conflict between herdsmen and farmers; prevent cattle rustling; and ensure and assure food security in Nigeria.