

THE IMPLICATIONS OF THE
OPEN GRAZING PROHIBITION &
RANCHES ESTABLISHMENT LAW

ON FARMER-HERDER
RELATIONS IN THE MIDDLE
BELT OF NIGERIA

CHRIS M.A. KWAJA AND
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TABLE OF CONTENTS

3	About the Authors
5	About the Forum on Farmer and Herder Relations in Nigeria (FFARN)
7	Executive Summary
9	Background
12	The Open Grazing Prohibition and Ranches Establishment Law: Legal Considerations
12	Issuance and renewal of ranching leases
13	Potential conflicts with federal legislation
14	Reactions to the Law in its First Month of Implementation
15	Disagreement on the appropriateness of the Law:
15	Pro-herder groups differed on their acceptance of the Law:
16	Media commentary stoked ethno-religious stereotypes:
18	Implications of the Open Grazing Prohibition Law for Farmer-Herder Relations
20	Opportunities to Manage Tensions and Build Harmonious Relations between Farmers and Herders
22	References

ABOUT THE FORUM ON FARMER AND HERDER RELATIONS IN NIGERIA (FFARN)

This policy brief is a product of the Forum on Farmer and Herder Relations in Nigeria (FFARN). FFARN is a network of academics and practitioners from governmental and non-governmental institutions who work on peace and conflict/security issues in Nigeria and who have experience responding to farmer–herder conflict at sub-national, national, and/or regional levels. FFARN provides a monthly platform for interdisciplinary exchange and joint identification of areas for additional research and practice to generate strong evidence for multilevel policy influence on farmer–herder conflict in Nigeria.

Members of FFARN represent academic and practitioner institutions including:

- *Abdulsalami Abubakar Institute for Peace and Sustainable Development (AAIPSD), Niger state, Nigeria*
- *Centre for Conflict Management and Peace Studies, University of Jos, Nigeria*
- *Centre for Ethno-Religious and Peace Studies, Federal University Wukari, Taraba State, Nigeria*
- *Centre for Peace and Development Studies, Benue State University, Nigeria*
- *Centre for Peace and Strategic Studies, University of Ilorin, Nigeria*
- *Global Sentinel-Media Partner*
- *Institute for Peace Studies and Social Rehabilitation, University of Abuja, Nigeria*
- *Veritas University, Abuja, Nigeria*
- *Innovative Strategy for Human Development*
- *Institute for Peace and Conflict Resolution (IPCR)*
- *Nigerian Security and Civil Defense Commission (NSCDC)*
- *Plateau State Peacebuilding Agency*
- *Civil Organisations Research Advocacy and Funding Initiatives Development (CORAFID)*
- *Interfaith Mediation Center*
- *Justice Development and Peace Commission (JDPC) Abuja Province*
- *Mercy Corps*
- *Pastoralist Resolve (PARE)*
- *Peace and Security Network*
- *Search for Common Ground*
- *Society for Peace Studies and Practice (SPSP)*
- *United States Institute for Peace (USIP)*

- *Independent Anthropology, Peacebuilding, and Conflict Transformation Experts: Professor Tukur Baba, Dayo Kusa (PhD), Chom Bagu, and Joseph Ochogwu (PhD).*

During its meeting in October 2017, the FFARN members deliberated on the escalation of farmer–herder violence in Plateau State and the increase in demand for local legislation prohibiting open-grazing in Nigeria. The academics and practitioners jointly identified the need to analyze a new law banning open grazing in Benue State, which would begin implementation on November 1, 2017. This was the first state-level legislation of its kind and sparked demands for similar legislation in neighboring states. The FFARN believed that the law had the potential to alter the conflict dynamics within the state and provide important lessons for other areas of the country facing tensions between farmer and herder communities.

Over the month of November, the FFARN mobilized to analyze the legal stature for the law, monitor traditional and social media reactions to the law's implementation, and observe increases or decreases in local tensions as a result. An initial assessment was produced in November 2017, which was then validated in December by a team of technical experts comprised of environmentalists, economists, sociologists, agriculturalists, psychologists, lawmakers, policymakers, security experts, human rights activists, peace and conflict experts, and gender and security experts. These experts were drawn from government ministries, agencies, and departments, as well as academic institutions and non-governmental agencies. This policy paper is the result of this joint monitoring effort.

Search for Common Ground is the convener of FFARN. Search for Common Ground appreciates the contribution and support of all members of FFARN, as well as staff of Search for Common Ground – Nigeria and the Global Affairs and Partnerships (GAP) Team for their contribution to the development of this policy brief. The FFARN and this publication were made possible, in part, by a grant from Carnegie Corporation of New York. However, the statements made and views expressed are solely the responsibility of the authors.

Search for Common Ground

Search for Common Ground (Search) is an international organization committed to conflict transformation. Since 1982, Search has led programs around the world to help societies transform the way they deal with conflicts, away from adversarial approaches and towards collaborative solutions. With more than 600 staff and 1200 partners in 43 countries around the world, our programs reach 4.2 million people each year. Our Common Ground Approach enables us to bring together individuals and organizations with diverse political, socioeconomic, and ethnic backgrounds for lasting change based on common interests. This approach allows individuals and groups to understand their differences, uncover shared interests, and explore potential win-win solutions. We work in many of the world's most difficult conflict environments to prevent and mitigate violence, empower local and national actors to build peace, and support reconciliation. We do this by supporting inclusive dialogue and dispute resolution processes, advancing arts- and media-based approaches that promote facet-based public information and tolerance, and strengthening collective and community actions that solve local challenges.

EXECUTIVE SUMMARY

Benue State is located in the heart of the Middle Belt region of Nigeria, which is home to fertile cropland, lush livestock grazing pasture, and active corridors for migrating cattle. Over the past decade, escalating tensions between primarily sedentary farmers and nomadic and semi-nomadic herders in the Middle Belt region of Nigeria have resulted in hundreds of deaths and the displacement of tens of thousands in Benue State alone.¹ In response to these rising tensions and cycles of attacks, the Benue State Government passed legislation that banned open grazing on May 22, 2017. The law prohibited the open grazing of livestock, or the practice of allowing cattle to roam freely in search of pasture and water, beginning on November 1, 2017 and called instead for the establishment of ranches within the state. The *Open Grazing Prohibition and Establishment of Ranches Law, 2017* was met with both support and opposition. Those that support the legislation have gone so far as to label it the best antidote for farmer-herder conflict in the state.² Whereas, those that oppose it claim that the law is discriminatory against herders, does not provide or support the production of alternative livelihoods, and effectively evicts herders from the state.³ Despite the conflicting responses, the Open Grazing Prohibition Law went into effect on November 1, 2017.

This report draws on monitoring and analysis completed by Search for Common Ground and the Forum on Farmer and Herder Relations in Nigeria (FFARN) to track new tensions or potential escalations of conflict emanating from the implementation of the Law. This monitoring revealed that there are key risks to economic, socio-cultural, identity, security, and legal considerations that have the potential to escalate tensions in Benue State and the wider Middle Belt Region. This analysis was presented to and verified by a panel of academic, governmental, and non-governmental experts in December 2017. Based on this assessment of the reactions and the legal considerations, this section will discuss the various implications that the continued implementation may have on farmer-herder relations in Benue and the Middle Belt, especially if similar legislation is enacted in neighboring states.

- **Economic Implications:** The prohibition of open grazing has already led to a significant exodus of livestock owners, particularly herders, from the state. As the number of livestock leaving the state rises, the prices of livestock, and cattle in particular, might increase. For owners of livestock that do decide to ranch their livestock, there are significant economic hurdles to overcome, including the economic capital needed to acquire land for a ranch, pay the necessary leasing fees, put the necessary structures in place, and run it as a profitable and sustainable enterprise. This financial capital might be beyond the economic means for most livestock owners.

1 Benue: Death toll from herdsmen, farmers clashes reaches 80. (2018, January 9). *Punch Newspaper*. <http://punchng.com/breaking-death-toll-from-benue-herdsmenfarmers-clashes-reaches-80/>

2 Ochayi, C. & Erunke, J. (2017, October 30). Anti-open grazing law: Inter-religious body lauds Gov Ortom. *Vanguard News*. <https://www.vanguardngr.com/2017/10/anti-open-grazing-law-inter-religious-body-lauds-gov-ortom/>

3 Anti-Open Grazing Law: Herders Appeal for FG's Intervention. (2017, October 29). *Vanguard News*. www.vanguardngr.com/2017/10/anti-open-grazing-law-herders-appeal-fgs-intervention/

- **Identity Implications:** From an identity standpoint, the Law prohibits open grazing, which almost exclusively is done by Fulani herders, and places stringent conditions on non-indigenes (but not indigenes) to apply for ranching leases. The discrepancy between the applications of the law to indigenes versus non-indigenes has heightened the perception that the Law is discriminatory to herders. Media responses have stoked this perception, utilizing incendiary and ethno-religiously based rhetoric with strong potential to fuel already high levels of tensions between the two communities.
- **Socio-Cultural Implications:** The transition from open grazing to ranching necessitates a shift in worldview for the herding community away from their traditional social relations and lifestyle. So far, the Benue State Government has not developed incentive structures to entice herders into ranching or provided the veterinary and feed distribution facilities needed to help herders transition from open grazing to running a ranch.
- **Legal Implications:** The legal implications of the Open Grazing Prohibition Law are twofold – enforcement of the legal specifications and challenges to the constitutionality of the Law. Throughout November 2017, there was inconsistent enforcement of the law outside of Makurdi, the Benue State capital, and the few herders that were arrested were reportedly released without charges. As the law continues in its implementation, the justice system will need to adapt and respond to the demands of implementation. The *Miyetti Allah Kautal Hore* has already brought one lawsuit against the Benue State Government on the grounds that it contradicts the Nigerian Constitution. It is likely that similar lawsuits will emerge that challenge the validity of the legislation (in Benue and in neighboring states) to restrict open grazing.
- **Security Implications:** There are two significant security threats to Benue and the Middle Belt beyond escalating clashes between farmers and herders over resources and revenge attacks. First, when enforcement of the law prevents movement of transhumance into the Benue Trough, especially in the busiest months of December-February, there is a risk for violence, if measures to prevent confrontation are not put in place. Secondly, the increasing price of livestock, from high demand coupled with out-flux of livestock from Benue, is a potential source of increased conflict and criminal activity.

The key recommendations for state and federal government are listed below:

- *The Benue State Government should review the Open Grazing Prohibition and Ranches Establishment Law to amend any actual or potential discriminatory statutes.*
- *The Benue State Government should organize inclusive multi-stakeholder consultations to build trust and plan for realistic implementation of the law.*
- *The Benue State Government should communicate openly about support mechanisms and processes in place for herders to access land for ranching and to obtain grazing permits within the state.*
- *The Federal and State Governments must reconcile the designation of corridors for passage of livestock with provisions prohibiting open grazing.*
- *States considering legislation on farmer-herder relations should do so with caution and with ample*

time for consultation and the development of support mechanisms for affected parties.

- *The Federal, State, and Local Governments should institutionalize and fund mechanisms for peace-building.*
- *The Federal and State Governments should strengthen the administration of the justice system.*
- *The Federal and Benue State Governments should establish and support integrated and sustainable community policing frameworks.*
- *The Federal and State Governments should partner with civil society organizations to build trust and raise awareness of the Law's interpretation.*

BACKGROUND

In Nigeria, the Middle Belt region is considered the “food basket” of the country. The fertile soil and temperate climate offer a favorable environment for farmers and herders to thrive. These two communities have been farming and rearing cattle in Nigeria for centuries, benefiting from mutually beneficial relationships – farmers benefit from cattle manure to fertilize their crops and herders benefit from crop refuse to nutritionally feed their herds. This symbiotic practice tied the wellbeing of the farmer to the wellbeing of the herder and allowed for most disputes between the two groups to be resolved non-violently, through traditional mediation mechanisms.

Since 2000, this interdependence has increasingly deteriorated due to changing demography, climate variability, shrinking natural resources, and socio-political manipulation. As a result, violent confrontations have become a major defining feature of their interactions.⁴ Combined with country-wide challenges including poverty, unemployment, and reduced livelihood opportunities, competition between farmers and herders for limited resources has isolated and deeply polarized the two groups. Political conflicts in the 2000s, such as in Jos, Plateau State, spread religious and ethnic-based fear throughout the region – isolating groups based on ethnicity and/or religion. Herders are predominantly Muslim and from the Fulani ethnic group, and farmers are predominantly Christian. The political and social underpinnings have instilled a deeply-seeded hostility, fear, and reproach towards perceived aggressors. So, when conflict is triggered between the two groups – e.g. cattle damage crops or cultivated farm lands block grazing routes – the resulting tensions often descend into cycles of revenge attacks based on ethno-religious identity.

The Middle Belt is home to some of the largest and most frequented international transhumance routes in West Africa and the Sahel, playing host to the migration of thousands of pastoralists who follow seasonal patterns along traditional and statutory migration routes. Benue state lies at the intersection of international transhumance routes, semi-nomadic pastoralism, and cultivated croplands. Most herders in Nigeria practice

4 Muhammed, I., Ismaila, B.A., Bibi, M.U (2015) An assessment of farmer-pastoralist conflict in Nigeria using GIS, *International Journal of Engineering Science Invention*, Vol.4, Issue 7, pp. 23-33.

a nomadic or semi-nomadic manner of pastoralism – often referred to as “open grazing.” This means that a herder will travel across large swathes of land to nourish their livestock. While the Middle Belt is a major food production and pastoralist hub, many farmers and herders maintain their livelihood on a subsistence basis. As conflicts increase, any threat to their crops or cattle are a direct threat to their source of survival, forcing both groups to vehemently protect their own sources of livelihood. Search for Common Ground identifies and analyzes these drivers more thoroughly in the report [Past is Prologue: Criminality and Reprisal Attacks in Nigeria’s Middle Belt](#).⁵



FIGURE ONE: Map of the Middle Belt region of Nigeria

Benue State has been one of the most hardly hit states from violence emerging from conflicts between farmers and herders. Located towards the southern boundaries of the Middle Belt, it is home to over 4 million people.⁶ The majority of the population are members of the Tiv and Idoma ethnic groups, both of which are predominantly Christian farmers and considered *indigenes*, while most of the herders are in the minority

5 Bagu, Chom and Katie Smith. (2017). [Past is Prologue: Criminality and Reprisal Violence in Nigeria’s Middle Belt](#), 1st ed. Washington DC: Search for Common Ground.

6 National Bureau of Statistics. (2014). Annual Abstract of Statistics, 2012. *Federal Republic of Nigeria*. http://www.nigerianstat.gov.ng/pdfuploads/annual_abstract_2012.pdf

Fulani ethnic group, who are predominantly Muslim and considered *non-indigenes*.⁷ Over the past decade, violent confrontations between the predominantly Christian farmers and the predominantly Muslim herders have killed hundreds of people and displaced more than 80,000 people from the state.⁸

Both the federal and state governments have developed a variety of responses to the ongoing violence between farmers and herders in the Middle Belt, including the recent law passed by the state government in Benue. In May 2017, the Benue State Government enacted the *Open Grazing Prohibition and Ranches Establishment Law, 2017* (commonly referred to as the Open Grazing Prohibition Law) banning open grazing of livestock in the state of Benue. The Benue State Government presented the Open Grazing Prohibition Law as a tool to prevent clashes between herders and farmers by limiting the unrestricted grazing of cattle and instead called for cattle to be reared in ranches. This legislation is the first of its kind in Nigeria and implementation began on 1st November 2017. Since the implementation of the law began, there have been a number of repercussions, including several attacks, such as the New Year's Day attack in Benue where unidentified gunmen killed dozens of people, to growing interest in nearby states of Plateau and Taraba to enact similar legislation as a response to conflicts between farmers and herders. Several civil society groups in Plateau State have called for the Plateau State Government to replicate the Benue State model.⁹ In Taraba State, the Governor has already signed the *Open Grazing Prohibition and Ranches Establishment Bill, 2017* into law, which took effect on 24th January, 2018.¹⁰

In light of the growing demand for legislative solutions to the farmer-herder conflict in Nigeria, this policy brief examines the implications of the Benue State Open Grazing Prohibition Law on relations between farmers and herders and its effects for neighboring states. First, the brief analyzed the provisions of the law, identifying areas that could lead to new tensions. Then, provided an analysis of traditional and social media reactions to the implementation of the Open Grazing Prohibition Law completed by Search for Common Ground during the month of November 2017 and highlighted implications for farmer-herder relations in the Middle Belt. Finally, it offered recommendations based on this analysis on ways to mitigate tensions in Benue State during implementation and guide other states considering similar legislation.

7 An indigene is considered to be a person who belongs to a community, either by birth or ancestry; whereas, non-indigene is considered to be someone who leaves their place of normal residence to 'settle' in a new area. Issues of indigeneity, or ancestral heritage, are prominent across Nigeria.

8 Benue: Death toll from herdsmen, farmers clashes reaches 80. (2018, January 9). *Punch Newspaper*. <http://punchng.com/breaking-death-toll-from-benue-herdsmenfarmers-clashes-reaches-80/>

9 The Plateau Youth G17 Peace and Progressive Forum has designed a draft Open Grazing Prohibition Bill, which would be presented to the Plateau State House of Assembly. See Nanlong, M.T. (2017, December 6). Plateau Speaker assures on open grazing ban, as youths present bill. *Vanguard News*. <https://www.vanguardngr.com/2017/12/plateau-speaker-assures-open-grazing-ban-youths-present-bill/>

10 Warami, U. (2017, July 24). Gov. Ishaku signs anti-open grazing bill into law. *Vanguard News*. <https://www.vanguardngr.com/2017/07/gov-ishaku-signs-anti-open-grazing-bill-law/amp/>

THE OPEN GRAZING PROHIBITION AND RANCHES ESTABLISHMENT LAW: LEGAL CONSIDERATIONS

In response to growing violence in Benue State and the wider Middle Belt region, the Benue State Government passed the Open Grazing Prohibition and Ranches Establishment Law, 2017. The Law prohibits open rearing and grazing of livestock and calls for the establishment of ranches and livestock administration, regulation, and control. This section will discuss what the law entails, prohibits, and establishes; and the potential legal and social implications for the Law's implementation.

As stated in the legislation, the overall purpose of the Law was to achieve six goals: (i) prevent the destruction of crop farms... by open grazing; (ii) prevent clashes between nomadic livestock herders and crop farmers; (iii) protect the environment from degradation and pollution caused by open rearing and over grazing of livestock; (iv) optimize the use of land resources in the face of overstretched land and increasing population; (v) prevent, control, and manage the spread of disease and... enhance the production of high quality and healthy livestock for local and international markets; and, (vi) create a conducive environment for large scale crop production.¹¹ In order to achieve this agenda, the Law restricts the free movement of cattle and requires that livestock be bred in ranches. The Law vests authority for its implementation in the Livestock Department of the Benue State Ministry of Agriculture and Natural Resources. The Livestock Department, acting under the Commissioner of the Ministry and on behalf of the Governor, has the authority to issue ranching permits, withdraw permits, provide guidance and regulations for enforcement by the Livestock Special Task Force,¹² as well as coordinate actions of the Advisory Committee.¹³

The Law does leave some ambiguity on certain key issues, primarily surrounding the issuance/renewal of ranching leases and the potential conflict of interest with federal legislation, including the Nigerian Constitution and the Land Use Act of 1978:

Issuance and renewal of ranching leases

The issue of indigeneity is particularly important in the case of the Open Grazing Prohibition and Ranches Establishment Law, as it imposes conditions upon potential ranchers based on their status as 'indigene' or 'non-indigene.' For instance, potential ranchers who do not qualify as indigenes of Benue State must submit applications, which require an environmental impact assessment and multiple layers of assessment and approval by the landowner, head of the family, kindred head (otherwise known as the designated heads of family

11 Open Grazing Prohibition and Ranches Establishment Law, 2017 (Benue State).

12 The Benue state government constituted a special livestock task force, the Livestock and Community Volunteer Guards (LCVG), to enforce the implementation of the open grazing prohibition law. The LCVG is a voluntary group responsible with enforcing the instructions of the Law, that reports to local police.

13 The Law provides that the lease and permission granted is a privilege and shall not create any right, title, interest or estate to the land as the land shall remain vested in the Governor in accordance with the Act (Section 11[1]). The Grazing Reserves Law Cap. 72, Laws of Benue State, 2004 is repealed by Section 35 of the Law, which also provides for modification of all instruments to ensure that they are in line with the provisions of the Law.

clans), and the Chairman of Traditional Council in the relevant Local Government Area (LGA).¹⁴ In the case that a potential application receives consent from all of the above, the application is then subjected to the approval of the Governor.¹⁵ Once the lease is granted the applicant must then pay concessions to the landowner, family head, and kindred head, whose consent to establish a ranch is valid for one year and must be renewed annually. A secondary process of approval is also needed for the construction of fencing to secure the ranch.

These conditions are only applicable for persons classified as non-indigenes of Benue State. Indigenes who wish to establish a ranch upon their own land are exempt from compliance with these conditions. As stated above, the majority of herders who are non-indigenes of Benue State would have to comply with the application process to procure a ranching lease. The tedious application process, the need to renew the lease annually, and the uncertainty of retaining a permit once granted may be an adequate disincentive for compliance.¹⁶

Potential conflicts with federal legislation

The disparity in the application of the law based on indigeneity has also raised potential conflicts of interest with federal legislation. For instance, some provisions of the Law may compromise or contradict the Constitution of Nigeria as it relates to the right of citizens to move, settle, and own property wherever they desire within the country based on their indigeneity status.¹⁷ The Nigerian Constitution provides that “every citizen of Nigeria is entitled to move freely throughout Nigeria and to reside in any part thereof.”¹⁸ The *Miyetti Allah Kautal Hore*, a Fulani socio-cultural association, has initiated a lawsuit against the Benue State Government on these grounds that the Open Grazing Prohibition Law contradicts the constitutional provision for freedom of movement. However, the Attorney General of Benue State has countered that the Law did not violate the Constitution because it only restricts the movement of livestock and not human beings.¹⁹ The lawsuit is still ongoing, but the ruling will have important precedence for neighboring states considering legislative solutions to issues with open grazing.



Nigeria's National Land Use Act of 1978

The enactment of the Land Use Act of 1978 changed the way citizens and their government address matters related to land and its administration within Nigeria.²⁰

The Act endows the authority over land administration and management, not with

14 Section 6[1-6] and Section 5a.

15 Section 7-9.

16 This lack of compensation runs contrary to the provisions of the Land Use Act, which recognizes a need to pay some compensation to all persons, regardless of whether they are indigenes or not, within the terms agreed by the Land Use and Allocation Committee.

17 A status of ‘indigene’ provides certain privileges and access to political, economic, and communal resources. Section 10.

18 Constitution of the Federal Republic of Nigeria, 1979. Sec 4 (41)

19 Silas, D. (2017, November 8). Herdsmen in Benue are comfortable with anti-open grazing law - Attorney General, Gusa. *Daily Post*. <http://dailypost.ng/2017/11/08/herdsmen-benue-comfortable-anti-open-grazing-law-attorney-general-gusa/>

20 The Land Use Act was promulgated in 1978 following the report of a panel that was set up by the Federal Military Government to provide an advisory on land policy in Nigeria.

the federal government, but with the state governors.²¹ This means that the State Governor reserves the right to impose legal authority over the designation of land rights within his or her state. The Act also empowered Local Government Areas (LGAs) to grant rights of occupancy to individuals and organizations for agricultural, residential, and other purposes. Within this provision is the right to allocate up to 5,000 hectares (12,355 acres) for grazing purposes.²² In the event that the right of occupancy is revoked, the Land Use Act grants a citizen the right to compensation determined by the state-run Land Use and Allocation Committee, who are appointed by the State Governor.²³

The Open Grazing Prohibition and Ranches Establishment Law is also closely linked to Nigeria's Land Use Act of 1978, which vested authority of land administration within the state governors. The authorities structure and the legal precedence of this legislation has served as the legal precedence for the Open Grazing Prohibition Law and for similar potential legislation elsewhere in Nigeria. While the Land Use Act of 1978 provided the legal precedence for state governors to establish laws dictating how land is distributed within their states, it also provides that there must be means of recourse for the revocation of land rights by the state.²⁴ However, according to the Open Grazing Prohibition Law the ranching lease and permissions granted may be revoked without the payment of compensation to the leasee.²⁵ Further, while the Livestock Department is responsible for issuing and approving ranching permits, the State Governor has the ability to withdraw ranching rights for a variety of reasons, including "overriding public interest."²⁶ It is unclear what this clause entails or how it will be interpreted in practice, but ambiguity in the definition of what this mean combined with lack of restitution could be a source of conflict during implementation.

REACTIONS TO THE LAW IN ITS FIRST MONTH OF IMPLEMENTATION

Beginning on November 1, 2017, Search for Common Ground monitored over four hundred social media posts and comments on Facebook and Twitter as well traditional media reports on television and in newspapers to capture the response to the implementation of the Open Grazing Prohibition Law. In addition, Search visited LGAs in Nasarawa State that bordered Benue to consult with communities on the implementation

21 The Act defined land to include not only the bare ground, minerals, mineral oils, and natural gas that can be found in, under, or upon any land in the country, but also natural resources that are in, under, or upon Nigeria's territorial waters. The Act also distinguishes between land that is located in an urban area and land that is located in a non-urban area.

22 (Section 6 [1b-2]).

23 Section 29[1-6], and Section 30[1]

24 Land Use Act of 1978. Section 29[1-6], and Section 30[1]

25 Section 11[1-2]

26 Open Grazing Prohibition and Ranches Establishment Law, 2017 (Benue State).

of the Law, advise preparations for potential influx of herders into Nasarawa, and gather reactions and information from community leaders. Search assessed the reports and comments to spot potential flashpoints for violence and summarize responses to the Law's implementation. From this process, Search observed key observations and reactions captured below.

Disagreement on the appropriateness of the Law:

Discussions on both sides feared that the implementation of the law and the departure of many herders from Benue into neighboring states would spark renewed violence in neighboring states and increase the likelihood of confrontations, especially since many crops were yet to be harvested. However, reactions to the appropriateness of the legislation have been split. About 70% of the comments assessed via the media platforms expressed considerable support for the law.²⁷ The commenters often proposed that the law be replicated in all states experiencing farmer-herder conflict, especially in nearby Plateau State.

Of those that opposed the legislation, they primarily argued on three lines: (i) it was a deliberate attempt to evict and ostracize a portion of the population from Benue State; (ii) it contradicts the constitutional provision of the freedom of movement; and (iii) the process lacked effective consultation and input of herders before the passage of the bill into law. Many of the comments opposing the legislation were concerned with the economic inability for most herders to establish their own ranch, which is beyond the economic means of most herders in the state. While the law proposed ranches as an alternative to open grazing, the timeframe between passage and implementation did not leave enough time for the state government to make provisions for the herders to overcome the social and economic barriers.

Pro-herder groups differed on their acceptance of the Law:

The Miyetti Allah Cattle Breeders Association of Nigeria (MACBAN) and the Miyetti Allah Kautal Hore, the two most prominent Fulani and herder socio-cultural associations, have expressed different public positions on the Open Grazing Prohibition Law. On the one side, the MACBAN expressed its willingness to obey the law, but requested that the implementation date be shifted to allow sufficient time for sensitization of herders on alternatives to open grazing.²⁸ On the other, as mentioned previously, the Miyetti Allah Kautal Hore openly opposed the law and threatened to prevent its implementation on the grounds that it contradicts the constitutional provision for freedom of movement.²⁹ The group views the law as discriminatory and counterproductive to peaceful coexistence of the herders with the other citizens and called it "obnoxious and a

27 The reports and comments to it are accessed from social media platforms such as facebook and twitter and traditional media such as newspapers and television. However, the demographic information of the commenters could not be ascertained but trend of the comments suggests many could be non-Fulanis. Social media comments were predominately from people, who claimed to have been affected by the conflict in Benue and neighboring states; though some of these comments have come from the southern part of the country to as far away as northern Ghana.

28 Anti Open Grazing Law: Herders Appeal for FG's Intervention. (2017, October 29). *Vanguard News*. www.vanguardngr.com/2017/10/anti-open-grazing-law-herders-appeal-fgs-intervention/

29 Silas, D. (2017, November 8). Herdsmen in Benue are comfortable with anti-open grazing law - Attorney General, Gusa. *Daily Post*. <http://dailypost.ng/2017/11/08/herdsmen-benue-comfortable-anti-open-grazing-law-attorney-general-gusa/>

recipe for anarchy.”³⁰ The Miyetti Allah Kautal Hore initiated a lawsuit against the Benue State Government to contest the enactment of the law, which is still pending in court. The MACBAN and the Miyetti Allah Kautal Hore dominated discussions on behalf of Fulanis and herders in traditional and social media. However, it is difficult to determine how representative these official positions are of Fulanis and herders outside the groups, as ordinary voices were largely absent from social and traditional media platforms during this timeframe. Understanding the positions of ordinary herders, especially those who do not adhere to herders’ associations, and educating them on alternatives to open grazing in a socio-cultural-sensitive way will be an important aspect of implementing the Law going forward.

Media commentary stoked ethno-religious stereotypes:

About 80% of comments captured in November 2017 characterized farmer-herder conflict along ethno-religious lines. Most of the comments reflected the ‘us’ versus ‘them’ mentality and a ‘perpetrator’ and ‘victim’ division promoted on both sides. Many of the comments contained opinions on the validity (or invalidity) of the legislation or incendiary rhetoric with high potential to further stoke conflict between the two communities. There was limited reflection on the opportunities for farmer and herders to coexist peacefully or work together to improve the shortcomings of the legislation.



About 80% of social media comments captured in November 2017 characterized farmer-herder conflict along ethno-religious lines.

In addition, the Law has prompted many reports revealed to be unsubstantiated and false, but have incited ethno-religious tensions. For instance, on November 12, several news outlets reported that a herder committed suicide over the death of two hundred cows from his herd.³¹ However, while the story ran on multiple outlets, upon follow-up, no evidence was found to substantiate this story. Other traditional news outlets reported heightened tensions and reprisal attacks on members of the Tiv ethnic group in Nasarawa state, but this was also not substantiated.³² Reports of killings by herders in Benue, Cross River, and Plateau States drew headlines, but these attacks have not been verifiably linked to ousted herders from Benue State.³³

LEGISLATION HAS STARTED RIPPLE EFFECTS IN NEIGHBORING STATES:

Many of the traditional news outlets reported increased movement of herders out of Benue State from the last week in October until the first week in November. No official figure was released on the numbers of herders

- 30 Jimoh, A. (2017, May 30). Benue Anti-Open Grazing Law recipe for anarchy - Miyetti Allah. *Daily Trust*. <http://www.dailytrust.com.ng/news/general/benue-anti-grazing-law-recipe-for-anarchy-miyetti-allah/199866.html> Agande, B. (2017, November 14). Anti-open grazing law, a time bomb - Miyetti Allah. *Vanguard News*. <https://www.google.co.uk/amp/s/www.vanguardngr.com/2017/11/anti-open-grazing-law-time-bomb-miyetti-allah/amp/>
- 31 Charles, J. (2017, November 12). Benue herdsman commits suicide over death of 200 cows. *Punch Newspapers*. <http://punchng.com/benue-herdsman-commits-suicide-over-death-of-200-cows/>
- 32 Ukumba, E. (2018, January, 3) Benue Anti-grazing Law: Tension in Nasarawa as Thousands of Farmers Desert Abodes. *This Day*. <https://www.thisdaylive.com/index.php/2018/01/03/benue-anti-grazing-law-tension-in-nasarawa-as-thousands-of-farmers-desert-abodes/>
- 33 Odey, I. (2017, November 6) Benue Open Grazing Ban Having ‘Havoc Effect’ On Cross River - Ayade. *Channels TV*. <https://www.channelstv.com/2017/11/06/benue-open-grazing-ban-having-havoc-effect-on-cross-river-ayade/>

and animals that left Benue state, but Nasarawa State stated they received the highest influx of herders and cattle into border communities in Awe, Doma, Keana, and Obi LGAs.³⁴ Other herders moved into Kachia and Zango Kataf LGAs of Kaduna State, Wase and Shedam LGAs in Plateau, Ibi and Takum LGAs in Taraba, and also into Cross River and Bayelsa states in southern part of Nigeria.³⁵ In these LGAs that neighbor Benue, many social media commenters expressed fears that the influx of herders from Benue would spark tensions between farmers and the new herders, as well as those herders that had previously resided in their state. While heightened tensions between farmers and herders was reported by residents of communities in Awe and Keana LGAs, for instance, the Nasarawa State Government mobilized to these communities to prevent the expected outbreak of violence.³⁶



The Nasarawa State Government was very proactive in addressing tensions and mobilized to prevent potential flashpoints of violence in border LGAs. The State Government sought to protect backlash on members of the Tiv ethnic group residing in Nasarawa, as they feared the Open Grazing Prohibition Law may be interpreted as a law that protects the Tivs, as the majority ethnic group, at the expense of Fulanis or herders. Some Tiv farmers and fishermen currently residing in Giza, Kwara, and Kadrako communities of Doma LGA, Nasarawa State were reportedly threatened by herders to vacate the communities and move back to Benue in reaction to the ban on open grazing. In response to these threats, the Nasarawa State Government facilitated security meetings and inter-ethnic dialogues to manage tensions around the influx and promote peaceful coexistence and understanding among the groups. Other states were also able to accommodate the herders and herds without violent incidents.

Since the law was enacted in Benue State, citizens, civil society groups, and legislators in neighboring states have called for similar legislation that restricts open grazing in their own states. Taraba State has already enacted a similar law in July 2017 that will go into implementation at the end of February 2018. In Plateau State, civil society groups are pushing to introduce similar legislation in the Plateau State Assembly, though they have been met with resistance from the State Government.³⁷

34 Joseph, D. (2017, November 18). Benue's Anti-open Grazing Law Chokes Nasarawa With Cattle, Herders. *Leadership Nigeria*. <http://leadership.ng/2017/11/18/benues-anti-open-grazing-law-chokes-nasarawa-cattle-herders/>

35 Odey, I. (2017, November 6) Benue Open Grazing Ban Having 'Havoc Effect' On Cross River - Ayade. *Channels TV*. <https://www.channelstv.com/2017/11/06/benue-open-grazing-ban-having-havoc-effect-on-cross-river-ayade/>

36 Ibrahim, H. (2017, November 5). Exodus of herders, cattle sparks fears in Nasarawa. *Daily Trust*. <https://www.dailytrust.com.ng/exodus-of-herders-cattle-sparks-fears-in-nasarawa.html>

37 Taraba state shares border with Benue state and have similar history of violent between its farming communities and herders.

IMPLICATIONS OF THE OPEN GRAZING PROHIBITION LAW FOR FARMER-HERDER RELATIONS

The previous section captured the reactions and comments regarding the implementation of the Open Grazing Prohibition Law in November 2017. The initial reactions and concerns expressed via traditional and social media have illustrated some of the underlying rifts girding the implementation of the Law. Based on this assessment of the reactions and the legal considerations, this section will discuss the various implications that the continued implementation may have on farmer-herder relations in Benue and the Middle Belt, especially if similar legislation is enacted in neighboring states.

Economic Implications: The prohibition of open grazing and the continued transfer of the herders out of Benue State will have economic consequences for the state economy. Many people in Benue rely on livestock for food and industrial uses. As the number of herders leaving the state rises, the prices of livestock will continue to increase. For those herders that do decide to ranch their herds, there are significant economic hurdles to overcome, including the economic capital needed to acquire land for a ranch, pay the necessary leasing fees, put the necessary structures in place, and run it as a profitable and sustainable enterprise. This financial capital is beyond the economic means for most herders. The Benue State Government has proposed to fill the economic gap through the development of a new agricultural value chain that produces grass for ranchers that will offer employment and revenue opportunities in the state. So far, this benefit has yet to be realized.³⁸ Also, heightened tension as a consequence of the law could disrupt farming activities in Benue state, which could negatively affect the capacity of farmers to cultivate and harvest crops. The symbiotic relationship farmers and herders in which cattle feed on farming residue and then manure the farm with dropping may also be altered in the long run.

Identity Implications: From an identity standpoint, the Law prohibits open grazing, which almost exclusively is done by Fulani herders, and places stringent conditions on non-indigenes to apply for ranching leases. The discrepancy in terms of how the law applies to indigenes and non-indigenes has heightened the perception that the Law is discriminatory to persons that are not indigenous to Benue State. Media responses to the law have included a lot of incendiary and ethno-religiously based rhetoric with strong potential to fuel already high levels of tensions between the two communities. Attacks and displacements have already been occurring in Benue that escalates the culture of fear and vengeance, with high potential for violence along identity lines.

Socio-Cultural Implications: The transition from open grazing to ranching necessitates a shift in worldview for the herding community away from their traditional social relations and lifestyle. Some herders, particularly Fulani herders, see open grazing as part of their culture and heritage dating back to antiquity and

38 Daily Post Staff. (2017, November 1). Terver Akase: As Benue open grazing prohibition law goes into effect. *Daily Post*. <http://dailypost.ng/2017/11/01/terver-akase%E2%80%8B-benue-open-grazing-prohibition-law-goes-effect/>

want it to remain a part of their day-to-day lives.³⁹ Migration is utilized as a coping strategy in combating climate variability, which enables them to move in search of water, pasture, and to escape seasonal diseases. In previous attempts to entice herders to ranching, the federal government had instituted nomadic education initiatives to socialize sedentary cattle rearing, but lack of progress, largely due to inadequate funding by the governments at all levels, have limited the herders' ability to fully accept and integrate into a ranching or sedentary livelihood on a large scale. The Benue State Government has also not developed incentive structures to entice herders into ranching or provided the veterinary and feed distribution facilities needed to help herders transition from open grazing to running a ranch.

Legal Implications: The legal implications of the Open Grazing Prohibition Law are twofold – enforcement of the legal specifications and challenges to the constitutionality of the Law. Throughout November 2017, there was inconsistent enforcement of the law outside of Makurdi, the Benue State capital. The few herders that were arrested were reportedly released without charges and herders in LGAs outside the capital reportedly continued to graze their cattle with little or no restriction. As the law continues in its implementation, the justice system will need to adapt and respond to the demands of implementation. The *Miyetti Allah Kautal Hore* has already brought one lawsuit against the Benue State Government on the grounds that it contradicts the Nigerian Constitution. It is likely that similar lawsuits will emerge that challenge the validity of the legislation (in Benue and in neighboring states) to restrict open grazing. For instance, the Benue Trough lies within the recognized international grazing route, which implies that the implementation of the Open Grazing Prohibition Law will be at odds with the ECOWAS Transhumance policy that provides for freedom of transhumance in member states.⁴⁰

Security Implications: First, the Benue Trough is a popular destination for both transhumant and Nigerian herders migrating within the country. As the Open Grazing Prohibition Law is implemented, it proposes that migratory access for these herders along this corridor will be denied. Movement into the Benue Trough is busiest between December and February when water resides significantly in other grazing hubs like the Bogoro-Azare axis in Bauchi state. When enforcement of the law prevents movement of herders to the Benue Trough, there is a risk for violence especially in the short-term, if measures to prevent confrontation are not put in place.

Secondly, the increasing price of cattle, from high demand coupled with out-flux of livestock from Benue, is a potential source of increased conflict and criminal activity. Skyrocketing prices for livestock over the past two decades have increased the profitability on vast stolen cattle syndicates across Nigeria and the Sahel.⁴¹

39 Bivan, N. (2016, March 26). 'We Fulani are nomadic by nature, will remain so'. *Daily Trust*. <https://www.dailytrust.com.ng/news/feature/-we-fulani-are-nomadic-by-nature-will-remain-so/139573.html>

40 The cross-border transhumance in West Africa Proposal for Action Plan. (2012, June). *Food and Agricultural Organization of the United Nations in collaboration with Economic Community of West African States*. <http://ecpf.ecowas.int/wp-content/uploads/2016/01/CrossBorder-Transhumance-WA-Final-Report-1.pdf>

41 Bagu, Chom and Katie Smith. (2017). *Past is Prologue: Criminality and Reprisal Violence in Nigeria's Middle Belt*, 1st ed. Washington DC: Search for Common Ground.

OPPORTUNITIES TO MANAGE TENSIONS AND BUILD HARMONIOUS RELATIONS BETWEEN FARMERS AND HERDERS

While legislation can be a useful tool to address drivers of conflict, it should not be used as a panacea to address farmer-herder conflict across the country. As other states consider legislation to address farmer-herder tensions, they should be conflict-sensitive in the development and implementation of legislation and prioritize the incorporation of citizen-perspectives into the development, implementation, and enforcement of farmer-herder laws in the country. Legislation should be complemented, and often preceded by, a holistic approach that directly addresses the drivers of violence and puts citizens at the center of their security.

Governments at all levels in Benue and Nigeria need to demonstrate the desired interest and commitment towards addressing the areas of tension and perceived discrimination fueling resistance to the Law. Here are some opportunities for civil society, government, and the international community to work together to manage tensions around implementation and address the lingering conflicts between farmers and herders, which has become a major human and national security challenge.

- ***The Benue State Government should review the Open Grazing Prohibition Law to amend any actual or potential discriminatory statutes.*** There is a clear distinction between indigenes and non-indigenes of Benue when it comes to the procedure and mechanism for land acquisition, ranching leases, and restitution. The Benue State Government should review and amend the procedures for land acquisition in order to remove clauses that are discriminatory in the law.
- ***The Benue State Government should organize inclusive multi-stakeholder consultations to build trust and plan for realistic implementation of the law.*** The enactment and implementation of the Open Grazing Prohibition Law deepened divisions between farmers and herders in the state. The state government needs to counter the narrative that the Law is to evict herders, facilitate a platform to address the concerns of herders, and lastly ensure farmers, herders, and relevant experts jointly develop inclusive and gradual implementation plans for the Law. The multi-stakeholder engagements should also be platforms for the parties to highlight aspects of the Law that could be interpreted as discriminatory and recommend possible amendments of such aspects.
- ***The Benue State Government should communicate openly about support mechanisms and processes put in place for herders to access land for ranching and to obtain grazing permits within the state.*** The state government should identify alternatives and incentives that entice herders to gradually embrace ranching in line with the Law. The state government can look to engage investors to invest in industrial ranching and can develop incentives to stimulate ordinary herders to establish subsistence and community-based ranches in the short, medium, and long term.
- ***The Federal and State Governments must reconcile the designation of corridors for passage of livestock with provisions prohibiting open grazing.*** One of the primary sources of confrontations between farmers and herders in Benue state, before the implementation of the Law, has been encroachment on grazing reserves

by farmlands and the destruction of crops by migrating herds. As population and farmlands expand, the room for grazing reserves and migration corridors has decreased. Benue is an important artery for migration for both national and international herds. The federal and state governments should incorporate community-level consultative processes where traditional leaders, farming, and herding communities are involved in carving out corridors for the passage of livestock.

- ***States considering legislation on farmer-herder relations should do so with caution and with ample time for consultation and the development of support mechanisms for affected parties.*** Legislation on land and movement issues should not be used in lieu of a holistic strategy to address conflict between farmers and herders, but rather as a tool within a larger framework to address underlying drivers of conflict in affected states. Any legislation that is developed on this issue should be inclusive, transparent, and iterative.
- ***The Federal, State, and Local Governments should institutionalize and fund mechanisms for peacebuilding.*** The federal and some state governments have attempted to institutionalize mechanisms for peacebuilding through the establishment of the Institute for Peace and Conflict Resolution (IPCR), the Peacebuilding Agency in Plateau State, and Peace Commission in Kaduna State. In the light of the current tensions between farmers and herders, the Benue State Government should also institutionalize mechanisms for peacebuilding that would foster inter-group relations and deepen understanding and trust between divided communities.
- ***The Federal and State Governments should strengthen the administration of the justice system.*** Beyond the fact that violators of the Law have not been prosecuted, there is a broader challenge with the criminal justice system. The criminal justice system is characterized by slowness in prosecution, corruption within law enforcement, as well as the costly nature to adjudicate cases. A major consequence of this is that impunity thrives, making it difficult for victims of crimes - either farmers or herders - to get justice when crimes are committed. Key law enforcement institutions of the state (police, judiciary, and prisons) need to work in a way that gives citizens confidence. These institutions should incorporate transparency in the arrest, arraignment, and trial of offenders and support mechanisms to build trust with local communities.
- ***The Federal and Benue State Governments should establish and support integrated and sustainable community policing frameworks.*** Sustainable community policing frameworks can be an important vehicle for improving security for both farming and herding communities in Benue State and beyond. Systems that link civil society, government, and security forces to use each group's unique position and skills can better identify and respond to emerging security threats in a conflict-sensitive and context-specific manner.
- ***The Federal and State Governments should partner with civil society organizations to build trust and raise awareness of the Law's interpretation.*** Benue State Government and its LGAs should partner with non-governmental organizations and community-based organizations in facilitating trust building among herders and farmers at the community level as means to promote social cohesion. This partnership is also key for building awareness on the provision of the Law to reduce misinterpretation and misapplication at local level. Community-based organizations and NGOs should be engaged to monitor the implementation of the Law, train media partners on conflict-sensitive reporting, and support government to ensure the implementation is conflict sensitive and not further divide groups in the state.

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