

TIME TO SHOUT OR TIME FOR SELF DEFENSE (An insight into Herdsmen attack on farmers in Nigeria)

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Abstract: *This paper looks at the various ways unguided cattle rearing and movement from one place to another by herdsmen has brought destruction of livestock, food crops and even violent attack on farmers of the affected place who appear harmless and defenseless unlike them who move with different weapons all in the name of protecting their cattle from wild animals and attacks. It opens the view for a more holistic approach which the farmers should take in ensuring such painful incidents never happen again which centers on self-defense against such intrusion into their farms, crop products and killer herdsmen. Many Nigerians have been murdered and several properties worth millions of naira are lost to the brutal killings and activities that are linked to the Fulani Herdsmen. Many families have been destabilized and Nigerians are helpless since the current police powers are insufficient to guarantee the protection of their lives and properties in the wake of these Fulani Herdsmen attacks. This paper critically assessed the history of Fulani herdsmen by looking at how Fulani herdsmen began to settle in Nigeria. Finally, it is suggested that if the Federal Government of Nigeria cannot defend the citizenry against the Fulani attacks, the people should be mobilized to defend themselves under the concept of self-defense, which is constitutionally recognised.*

Key Words: Killings, Herdsmen Violence, Properties and Grazing Security, Resource Conflict.

1. INTRODUCTION:

This article, examines the concurrent incidences of Fulani herdsmen/farmers conflicts over farm land and how the clashes has over time resulted into the destruction of many crop products, lives and properties, resulting into the violation of Fundamental Rights guaranteed in chapter IV of the 1999 Constitution and the African Charter on Human and Peoples' Rights (Ratification and Enforcement) Act. The law of self-defense has rarely produced as much academic or popular heat as it has in the past two decades. Widely publicized trials, such as the Goetz and Menendez cases, have generated deep-seated fears of a law unmoored from principle. Those fears have generated a standard public critique-that the criminal law has become too soft and subjective, too wedded to syndrome science and prone to weak-kneed affection for defendants. The criminal law has lost its "objectivity," so the argument goes. It also undertakes a review of the Open Grazing Prohibition and Ranches Establishment Law. Herdsmen attacks since the 20th century had in most cases been anchored on resource - the fight for use, control and ownership of land and water resources. Thus, the issue is traditionally regarded as a conflict between herders and farmers, or broadly seen as that between herdsmen and farming communities. The rising states of these attacks and the human fatality record have raised questions across various sections of the Nigerian society, and the international community as well. Are these attacks by herdsmen beyond the issue of "fighting for resources use and control"? Many families have been destabilised and Nigerians are helpless since the current police powers are glaringly insufficient to guarantee their lives and properties in the wake of these Fulani Herdsmen attacks. The Fulani herdsmen armed with sophisticated weapons frequently invade their target communities at the time they are utmost susceptible such as mid - on Sundays when they are in their churches or night, killing people comprehensively, looting properties and burning houses. There remain continuing grassroots hostilities in the central and southern states of Nigeria between farming communities and Fulani herdsmen. This is an old age problem; nevertheless it has heightened in the past years and has presumed a very lethal dimension. The clashes ensue when Fulani herders move into non-Fulani native land with their cattle. This customarily leads to the devastation of farmers' crops. Consequently, the herders aggravate their victims to acts of confrontation by thwarting access into farms, killing or stealing cattle, or poisoning fields. In reaction, the herders wage lethal attacks on farming communities.

1.1. Who are Herdsmen? A History of Herdsmen in Nigeria:

Herdsmen refer to a group of people involved in cattle, goat and sheep herding activities. They are socio economically pastoralist by behavior and occupation. In Nigeria and many parts of West Africa, they are predominantly of Fulani ethnic grouping, hence, the emergence of the phrase "Fulani Herdsmen". According to David

Levinson (1996) “one third of Fulani populations are pastoralist” thus making Fulani the largest herding ethnic group in the world. Herding is a cultural and socio economic part of the Fulani people. Estimated to be between 10 and 15 million in Nigeria, Fula, Fulbe, or Hilani (as they are also called), are culturally bonded by the Fulfulde language and religiously by Islam. Herdsmen (or Fulani) oral history opines that they are a group of people from Egypt, the Middle or Far East. In modern times the Fulani people may be categorized into two groups,⁴⁵ namely, (1) the nomadic/cattlerearing Fulanis; and (2) the sedentary/urbanized Fulanis. Of these two groups, however, the nomadic/cattle rearing or mobile Fulani are closer to the traditional way of life of the Fulani people than the sedentary Fulani who now dwell in cities and engage more in agriculture, trade and politics than in the traditional Fulani nomadic lifestyle. There are different versions of the origin of the Fulani people and this seems to vary from country to country where they are found. However, this is not the place to recount the various versions.⁴⁶ For present purposes, it is sufficient to briefly recount the origin of the Fulani people in Nigeria. According to some authors,⁴⁷ the Fulani people first entered Hausa-land in present day Nigeria in the 15th century and settled in established Hausa city-states such as Kano, Katsina and Zaria; some of them as Islamic clerics. This continued in the 16th and 17th centuries with new arrivals that settled and intermingled with local Hausa people. Through the process of time, most of the nomads became acculturated and increasingly sedentary.

President Buhari is manifestly unwilling to take any decisive security action against the impunity, massive and recurrent killings of innocent Nigerians perpetrated by Fulani herdsmen. He is unwilling to declare Fulani herdsmen as a terrorist group and rejects any suggestion that Fulani herdsmen attacks are a continuation of the Fulani 19th century jihad. Notably, apart from President Buhari’s support, similar support for the Fulani herdsmen abound among other urban/sedentary Fulani people in high political positions and other high offices in Nigeria. Finally, the alliance can also be seen in the fact that the Fulani herdsmen are known to use sophisticated weapons— such as AK47 assault rifles and other weapons of violence and mass destruction—in the various attacks, which they cannot possibly acquire personally given their lack of education and nomadic lifestyle except someone (most likely their sedentary Fulani brothers) helped them to acquire and trained them on the use. Importantly, notwithstanding denials by President Buhari, the Sultan of Sokoto, and some other Muslims’ historical statement by a Fulani man – Alhaji Ahmadu Bello, who was the Saruana of Sokoto and Premier of the Northern Region of Nigeria –coupled with recent declarations of the leadership of Miyetti Allah as noted above, arguably supports the proposition that the Fulani herdsmen are currently engaged in jihad. In the 1962 historical statement, Ahmadu Bello said: ‘When the time comes I will mobilize the people of the region [Northern Nigeria/Muslims/Fulani people] so that they can play their full part in this all-important task which might be likened to a jihad... A jihad is war waged for some sacred interest to protect the faith, life, property, liberty and self-respect [interest]’. Having regards to recurrent mass killings by Fulani herdsmen and the tacit support of President Buhari and other influential and powerful Fulani people, it may be that for the Fulani successors of Ahmadu Bello the time may have come to mobilize Fulani herdsmen and other Muslims for jihad.

2. THE MODERN CONSTRUCTION OF SELF-DEFENSE:

It is widely assumed today that the law of self-defense is quite settled and that the hornbook elements of a self-defense claim are well-established. As a general rule, a defendant makes out a claim of self-defense when he shows that he was confronted by a serious threat of bodily harm or death, the threat was imminent, and his response was both necessary and proportionate.’ This general principle is then qualified by two features that may bar some claims: if the defendant provoked the violence or was the “initial aggressor,” he may lose his right to claim self-defense. More controversially, in a substantial minority of jurisdictions, the defendant will lose a self-defense claim if he fails to retreat in circumstances where it was safe to do so.” To ensure that citizens in Nigeria are free, protected or secured in carrying out their socio-economic and political activities; and are full of happiness in the country, the constitution has provided for a number of rights for the protection of lives of the citizens and their properties against any form of deprivation. These rights indeed, cover the right to life, the right to the dignity of human person, which renders citizens free from torture, inhuman and degrading treatment; the holding of any person in slavery or servitude and the subjection of any person to force and compulsory labour.

3. A Brief Account of Herdsmen Attacks in Nigeria:

The rising state of herdsmen attacks, and the destruction caused, including human displacement and fatality record, poses huge security challenges to the Nigerian state. Since the turn of the first decade of the 21st century, violent attacks by herdsmen have been on the increase. In 2013 Herdsmen were responsible for the death of over 80 people, and in 2014, an estimated 1,200 persons died as a result of herdsmen attacks. Their largest attack in 2014 witnessed the death of about 200 persons in Zamfara state, while in 2015, Global Terrorism Index (GTI) ranked herdsmen as the world’s fourth deadliest militant group for having been responsible for about 1,229 human fatality in 2014. However, as already noted, the most worrisome, nation-wide and recurrent source of mass killings in Nigeria in recent years is the violent campaign of armed/militant Fulani herdsmen. This point was well-made by Gadzama, a

former Director-General of State Security Service, thus: Attacks by herdsmen without doubt have become the most potent threat to national security in the last couple of years. What makes the attacks by herdsmen very disturbing are, the frequency, the level of destruction and sheer brutality. The development in almost all cases is characterised by high casualty rate and massive displacement of communities. One can say with certainty that never has the country experienced this level of destruction and social dislocation. What however is so disturbing with the development is how the attacks in almost all cases took place under the eyes of security agencies.

Here are some statistics of herdsmen killing over the years so far;

January 2015, 17 persons killed in attacks by Fulani herdsmen on Abugbe, Okoklo, Ogwule and Ocholoyan in Agatu local government area of Benue State. January 2015, Over 100 attackers stormed 5 villages in Logo local government area of Benue State, killing 9 persons in the attack. March 2015, Egba village in Agatu local government area of Benue State was sacked by herdsmen and over 90 local people, including women and children, were killed. April 2015, 28 persons were killed by Fulani herdsmen in attack on 3 villages at Mbadwem, Guma local government area of Benue State; additionally, houses and farmlands were razed. May 2015, Ikyoawen community in TuranKwandelocal government area of Benue State invaded by Fulani herdsmen; 5 persons were killed and 8 others wounded. May 2015, 100 persons were killed in an attack by Fulani herdsmen in villages and refugee camps at Ukura, Gafa, Per and TseGusa, Logo local government area of Benue State. July 2015, 1 person was killed and several others injured following an attack on mourners in ImandeBebeshi in Kwandelocal government area of Benue State. November 2015, 12 persons were killed and 25 others injured in Buruku local government area of Benue State following an attack by Fulani herdsmen. February 2016. 10 persons were killed and over 300 persons displaced in clash between herdsmen and farmers at Tor-Anyiin and TorAtaan in Burukulocal government area of Benue State.

February 2016, Over 500 locals were killed and 7000 displaced in an attack on Agatu local government area of Benue State by Fulani herdsmen. Moreover, over 7 villages were razed during the attack. February 2016, 11 persons were killed in EdugbehoAgatulocal government area of Benue State, including a police inspector. March 2016, Houses burnt in Agatu local government area of Benue State. March 2016, 8 residents killed by Fulani herdsmen in attacks on Ngorukgan, Tse Chia, Deghkia and Nhumbe in Logo local government area of Benue State.

In March 2016, Two persons were killed in attack on ObagajiAgatu local government area of Benue State. March 2016, 6 people were killed by Fulani herdsmen in an attack on Tarkalocal government area of Benue State. January 2017, 15 persons were killed by rampaging Fulani herdsmen, who attacked farmers in Ipiga village in Ohiminilocal government area of Benue State. March 2017, About 10 persons were killed in a renewed hostility between Fulani herdsmen and farmers in Mbahimin community, Gwer-East local government area of Benue State. May 2017, Three persons were confirmed killed by Fulani herdsmen in Tse-Akaa village, UgondoMbamar District of Logo local government area of Benue State. March 2017, 7 persons were killed when Fulani herdsmen attacked a Tiv community, Mkgovur village, in Buruku local government area of Benue State. May 2017, Less than one week after many persons were killed by Fulani herdsmen in three communities of Logo local government area of Benue State, armed Fulani herdsmen struck again on 13 May 2017 killing eight more people. December 2017, A farmer identified simply as Atuanya was killed by Fulani herdsmen in Anaku in Ayamelum local government area of Anambra State. March 2018, Armed Fulani herdsmen killed five persons in Miango District of Plateau State and another six in Ganda Village in Bokkoslocal government area of Plateau State. March 2018, Fulani terrorists killed 25 persons, including three children and two women in Dundu Village of Kwall District in Bassalocal government area of Plateau State. An injured girl later died in the hospital. This incident occurred about 7pm on a day several persons who were earlier killed in Bassa local government area of Plateau State were given mass burial. March 2018, 5 persons, including a University undergraduate, were killed about 7.30pm by Fulani herdsmen who attacked Ugboha, Esan South-East local government area and OdigueteOvia North-East local government area of Edo State. Besides the dead, 12 persons sustained various injuries during the attack. In April 2018, Suspected Fulani herdsmen killed 32 persons of Tiv ethnic group in various communities in Nasarawa State. April 2018, Fulani herdsmen killed four persons while they were collecting sand for construction at Jebbu-Miango Village, Bassalocal government area of Plateau State, but were repelled by troops while they were moving to attack Taraba State on the same day. In 2019, suspected herdsmen killed 51 people and abducted about 24 others in Numan, Adamawa state. In 2020, suspected herdsmen killed 19 people during attacks at Zangon Kataf LGA in Kaduna State.

In fact, one of the key electoral promises of President Buhari was ending insecurity in Nigeria. However, few months to the end of his first 4-year tenure, insecurity in Nigeria increased instead of decreasing. The reality is that Boko Haram insurgency has not ended and Fulani herdsmen attacks have escalated under his watch. The people of Nigeria are currently insecure and have no peace. This leads us to inquire about the Fulani people, especially as this will further help in the legal analysis that follows. Accordingly, the next section will briefly trace the historical origins and disposition of the Fulani people of Nigeria.

4. A CALL FOR PRIVATE PROTECTION FROM VICTIMS:

The foregoing has engendered structured retribution as some communities in the middle belt and south of the country form self-resistant vigilante groups. An instance of this was in March 2014, when a Tiv academic and opinion leader, Leonard Karshima Shilgba, warned that inactivity of the federal government against the attacks would mean that “the Tiv people would also demonstrate that they equally have the right and also the capacity to raise a standing army of thousands from each ward and kindred”. After an attack on Nimbo, Enugu (south-east of the country) in April, 2016, the nationalist Movement for Actualization of the Sovereign State of Biafra (MASSOB) ordered “*Fulani herdsmen to leave Biafra land or ... face [their] wrath*” (MASSOB, 2016). Likewise, in May 2016, Governor Ayodele Fayose of Ekiti state alerted the Fulani herdsmen of possible assault if they continued in predatory activities towards the natives. Also, Reverend Ayokunle who is the president of Christian Association of Nigeria warned that “*if the government fails to stop the provocation by the Fulani (herdsmen), they should be prepared for war. No ethnic group has a monopoly of violence and no ethnic group should be a monster to others*”. Till present time, none of these threats against the herdsmen has been executed; however, the signs of execution are imminent. The interaction of these attacks on farmers and confrontations from tribal and Christian elders down south in Nigeria has the potential of provoking even more violence. The acceleration of discord across the geopolitical zones could possibly put more pressure on the country's military and security agencies, hence, constituting a distraction of resources and personnel from the war against the north east's Boko Haram, the Niger Delta's militants as well as other security problems

4.1. Impacts of Open Grazing:

- **Violence:** Moments of violence are as perceptual distortions in the flow of time, vision, sound, and sense of self, an altered state of violent consciousness that is the tunnel of violence (Collins, 2012). Collins (2013) made it clear that there are many different kinds of physical abuse, but they must go through a crucial micro-sociological moment when an attacker confronts a target. According to Collins, there are four different types of violence or four ways in which people carry out brutality. In the definitions of abuse, The first advocates a limited description. It pointed to the etymology of violence. This etymology of violence is a passionate and uncontrolled force. The second is the emphasis on infringement which argued that violence is a norm that graduates from youth.
- **Insecurity:** No country can achieve development without security as security is the fundamental for every development be it political, economic and socio-cultural. Insecurity means the absence of security, peace and the presence of tension and fear in a country, and their continuous presence due to impacts of organized crime and terrorism, which can lead to political instability, social degradation, therefore undermining the existence of such a country as such development can result into a state failure.
- **Encroachment:** Encroachment is directly occupying spaces that do not belong to the people occupying it illegally or forcefully (Ballard, 2015). In attempting to survive, ordinary people had to defy the official plan for urban areas by improvising and inventing livelihoods, homes, and neighborhoods (Ballard, 2015). Such people who defy the official plan for urban areas occupy land illegally, construct houses, and link themselves to infrastructure and services. These actions are to shift the locus of control away from planners and stakes and towards those at the margins. People may have their right forcibly taken, or the quality of their land may decline such that subsistence or market production is impossible or the people may lose the protection of state or community, forcing them to change their livelihood strategies in ways that cast their future on the land into doubt The encroachment over farmlands and the destruction of food and cash crops by the cattle owned by the Fulani has ignited conflict repeatedly.

4.2. Some Legal Implications of Mass Killings by Fulani Herdsmen:

From the foregoing incidents of mass killings and destruction of property as well as the brief historical account of the Fulani people, it is clear that some legal issues are intertwined. For purposes of analytical presentation, the issues will be discussed under the following headings: fundamental human right to life and the crime of murder; other criminal offences other than murder (such as assaults, arson, and terrorism); genocide and crimes against humanity; and trespass to land and to the person. For lack of space, these are the only legal issues that will be examined below, and in turn. There is no question that the victims of the Fulani herdsmen killings have a right to life under the above legal provisions. However, the critical question is whether the killings were a violation of their right to life. Clearly, the various killings did not occur in any of the circumstances set out under section 33(2)(a), (b) and (c) of the Nigerian Constitution nor can they be justified under the provisions of any of the relevant instruments. However, it would appear from the first possible reason/ground of the attacks stated above that the Fulani herdsmen seek to justify the massive killings as reasonably necessary for the defense of their property (i.e. cattle). Even so, not a few people will dispute the validity of this claim. A proper interpretation of the relevant provisions will require that the defense of

property and the killing must be contemporaneous. But, from all indications, most killings were not done contemporaneously.

5. CONCLUSION:

The Farmers-Herders conflict is as old as the first meeting of the two groups. That farmers cultivate food crops and herder rare herbivores animals makes it almost impossible that at some points or the other, red lines would not be crossed. In the past these issues were largely ignored or settled by the use of traditional conflict resolution mechanisms. Self-defense as well as our image of the problem of battered women. The law of self-defense, if I am right, is far from as settled or coherent as it is assumed to be; its meaning and theory remain, in my view, largely unresolved. What seems so objective-the status quo-turns out to be a good deal more complex and contingent than has been assumed. Indeed, it is even possible that the law, through imminence, contradicts itself.

6. RECOMMENDATION:

In order to convince the Fulani herders to embrace the modern scientific approach to the rearing of cattle, the state must embark on a prolonged programme that gives orientation and education to the herders on how to abandon their traditional mode of rearing livestock to the modern and scientific approach, where livestock are reared in ranches. The state must begin to acquire veterinary and modern ways of supply of feeds for the livestock that are ranches, as it is done in developed countries and some countries in Africa. The state government should encourage a cluster system of settlement among farmers so that security can be provided to them. The farmers should also be assured of their security and the security of their crops and lives so as to reduce their fear over herdsman attack until further approval for self-defense.

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