

The Concept of *Maslaha* (Public Interest) in *Shari'ah* as a Panacea to Farmer/Herdsmen Conflicts in Nigeria

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Abstract

Nigeria is a pluralistic and secular nation, right from its emergence in 1914, had passed through many challenges and crisis, to which the country eventually survived and overcame. However, the issue of insecurity of lives and properties due to multifaceted factors is still unachievable. Perhaps the reason for this logjam which ought to be the major responsibility of government is connected to social injustice, mis-governance, systemic problem, ethno-religious and communal conflicts and recently the banditry, Boko-Haram insurgency and conflict between the nomads' herdsmen and farmers. The conflict between the two stakeholders in agricultural system and animal production is indeed an age long crisis. However, the new dimension to the conflict right now, is characterized with some conspiracy theories, politicking and demonization of a particular tribe (Fulani) and religion (Islam). The new trend of the conflict as some stakeholders allegedly claimed, is no longer herdsmen versus farmers conflict, but indeed an attempt by President Muhammad Buhari (A Fulani man and Muslim) to "Fulanized" and "Islamized" the country. Ever since the 1st and 2nd coming of the president in May 29, 2015 up till date, the media, socio-cultural and ethnics groups, Christian Association of Nigeria (CAN), opposition parties have criticized and opposed all measures the government is trying to take to avert the crisis. They even alleged that those measures by the government, is an attempt by a Fulani man to favour his kinsmen and equally to hijack land from rightful owners despite existing Land Use Act of 1978 which gave the State Government prerogative power to own and distribute land. This paper therefore, adopt descriptive/historical method at x-raying the new trends in the conflicts, investigate the role of bandit, kidnappers and cattle rustlers in aggravating the crisis, appraises the causes and effects of the new deadly trends, the conspiracy theories and establish why Islamic concept of "Maslaha" (public interest) will ultimately be a catalyst and panacea to the challenges.

Keywords: Maslaha (Public Interest); Fulani-Herdsmen; Farmers; Banditry; Panacea; Nigeria.

Introduction

Abduction, suicide bombings and attacks on civilian target by Boko Haram persisted. At least 1,200 people died and nearly 200,000 displaced in the northeast in 2018. In June, at least 84 people were killed in double suicide bomb attacks attributed to Boko Haram at a mosque in Mubi, Adamawa state... Decade old communal conflict between nomadic herdsmen and farmers in the Middle belt intensified in 2018 and further exacerbated the security situation in the country. At least 1,600 people were killed and another 300,000 displaced as a result of the violent.¹

The above report by the Human Right Watch is giving us a lucid position of situation in Nigeria. The conflict between the herders and farmers is volatile now to the extent that, some group within the country is calling on the Federal government to proscribe the "herders" just like the way the government proscribed the Indigenous People of Biafra (IPOB) and recently the Islamic Movement in Nigeria (IMN) groups. The new trend to the conflict now is counter reprisal attack between the farmers and the herders on one hand, cattle rustling and banditry in the other, particularly in the north. In his open letter on the 15th of July, 2019, former President Olusegun Obasanjo made the following submissions:

Herdsmen/farmers crises and menace started with the government treating the issue with cuddling glove instead of hammer. It has festered and spread. Today, it has developed into banditry, kidnapping, armed robbery and killing all over the country.²

The Federal government is accused of mismanaging the crisis despite moves and ideas made to find temporary solution to the kerfuffle. It is imperative to note that this conflict is an age long conflict in Nigeria even before her independence in 1960 and after the independence. The first report and solution to the conflict on the issue was on ranching and it was prepared by the Colonial authority in 1951. It is called "Cattle Ranching and Fattening Scheme in the Northern Nigeria". The objective of the scheme was to provide 100 square miles for herds and grazing

control will also be instituted. (Col. Off: 19934/142/B/50 Nigeria: 53504/c.1). Similarly, there was creation of grazing reserve in 1965, establishment of National Commission for Nomadic Education (NCNE) of 1989, the Great Green Wall Agency in 2013 and that of establishment of the National Grazing Bill of 2016 that was not pass by the lawmakers due to stiff opposition from the public. This paper therefore, is aimed at appraising the volatile issue between the herders and the farmers, governments' actions and inactions in handling this crisis. This paper will equally, highlights the new dimension and trends in the conflicts, concisely rationale behind the demonization of the "Fulani" ethnic group under conspiracy theory and highlight how application of *Maslaha* as a concept in Islamic Law vis-à-vis Nigeria Constitution can be use as a panacea to the conflict.

An Historical Exposé of the Fulani-Herdsmen

The term Fulani is a name given to a pastoral ethnic group by Hausa people in the northern part of Nigeria. There are relatively different but similar opinions among historians on the origin, location, occupations and faith of ethnic group known in the sub-Saharan and Sahel countries in Africa. They are often referred to as the Fulbe ethnic group in Africa and indeed speaker of local dialect known as Fulfulde and also Hausa.³ The emergence of the tribe is often considered to be from Africa, Persia, and Asia by some historians while other historians linked the origin of the group to Romans, Jews and Arabs.

It is evidently lucid however according to Paramole that, D. Robinson (1987:444) established that, the Fulani ethnic groups are farmers, pastoralist, semi-pastoralist and city dwellers mostly found in Sahelian countries.⁴ Hiskett,⁵ traced the origin of the Fulani ethnic group to the Negro origin springing from the Halpular of the middle Senegambia valley. They were also said to have joined others to form the Sudanic State of Takrur before 390 AH/1000 C.E. however, their nomadic nature led to the migration of some of the group in to the savanna and through intermarriage with the northern Berber pastoralists they can found in almost nook and crannies of west Africa countries and villages.

According to Lustad, the group is predominantly pastoral people who engaged in trade by batter with local farmers in changing harvested crops for their own dairy product.⁶ They he argued are mostly found in western Sudan region of Africa, Senegal to the Central African Republic and had progressively migrated to Cameroon, Nigeria and Chad. It is however common among this group to speak the dominant language of the area they lived. This is why we see so many Fulani people in Ogbomoso in Oyo, Kwara, Osun, Ogun, Ondo and even Ekiti state effectively communicating in Yoruba or the local dialect of their host community.

It is allegedly believed that the group had relatively little attachment with Islam as a way of life and religion. This opinion is connected with the submission of Shaykh Adam ^cAbdullahi al-Ilory (d. 1992) in his book, *al-Islam fi Naijiriyyah* on the origin of Shaykh Uthman Dan Fodio, the revolutionary leader of 1804 Jihad struggled who later founded the Sokoto Islamic Caliphate.⁷ Pertinently, the group are majorly nomads/herders (Bororo, Bororoje, Firian, Kariabe and Bororo'en) while only few settled as farmers preserving their culture, custom, tradition and faith I.A.B. Balogun⁸ submitted. What is significant to note today is that, Fulani as an ethnic group in Nigeria are mostly found in all the northern states and due to their nomadic nature because of their herds they are scattered all over the country.

The Concept of *Maslahah* (Public Interest/Welfare) in Islamic Law

This is an Arabic word taken from trilateral verb "s-l-h" or "saluha" this means "to be good, to repair or to improve".⁹ *Istislah* is a method employed by the Muslim jurists to solve problems that find no clear answer in the Qur'an or Hadith of the Prophet. *Maslahah* at times can be said to mean benefit or interest. *Istislah* involves the acquisition of benefit and rejection of the harm to the public based on the benefit or interest that will be enjoyed by the public in their socio-economical, religious and political challenges.

Jurisprudentially, *Maslahah* is a concept in Shari^cah that is regarded as a basis of law. It forms a part of extended methodological (*Uṣūl al-fiqh*) principles of Islamic jurisprudence, and denotes prohibition or permission of a thing according to necessity and particular circumstances. This is on the basis of whether it serves the public interest of the immediate community, local government, state or the country at large.¹⁰

Imam Ghazali in his *Al-Mustasfa min ilm al-usul*, defined *Maslaha* as a term which means to seek something beneficial or to avoid something harmful.¹¹ It is responsibility of every Muslim to uphold this and equally discourage one another from evil. The Qur'an states as follow: "Help one another in virtue and piety but do not help one another in sin and transgression and fear Allah, verily, Allah is severe in punishment (Qur'an 5:2). Similarly, it is stated unequivocally in another verse that a community of Muslims should be the one that will imbibe the habit of directing people to righteousness and dissuading people from prohibitions of Allah and that of the grand norms of their community:

You are the best of people, evolved for mankind; enjoining what is right, forbidding what is wrong, and believing in Allah. If only the people of the Book have faith, it was best for them among them are some who have faith, but most of them are perverted transgressors (Qur'an 3:110)

It is imperative to note that, Imam Malik and Hambali adopted the use of *Istislah*, which means "to seek the good" in their juristic opinions because of public interest and to solve emerging challenges. Imam Maliki was of the opinion that the Companions who formulated numerous legal decisions in the light of the common good while respecting the corpus of the source to justify the fact that "to seek the good" (*Istislah*) is one of the fundamentals of the *Shari'ah* and so is part of it. The Imam Shafihi does not recognize the application of *Maslaha* because he opined that it leads to unrestricted use of human opinions which is often fallible, the Shafihi School adopted a concept corresponding to *Maslaha* which is known as *Istidlal*, induced when it is necessary to avoid the strict application of *Qiyas*.¹²

Imam Ghazali was one of the protagonists of *Maslaha* as he was of the opinion that its specific aims were preservation of five essentials of human well-being: religion, life, intellect, offspring, and property. Although most classical-era jurists recognized *Maslaha* as an important legal principle, they held different views regarding the role it should play in any society. The notion of *maslaha*, as a legal term, has given rise to numerous debates since it was first used, principally by the scholars of the Maliki school, against the firm opposition displayed by the Zahiri school, and in particular by Ibn Hazm. These quarrels were very often ill founded, and it seems that very often it was, more than anything, a question of defining relations to the sources and to the corpus of the *Shari'ah*.

The concept of *Maqasid* (aim or purpose) is comparable in a sense that both connote the ultimate objective and goal of the application of the *Shari'ah*. The concept *Istihsan* means equitable preference for finding solutions to the legal issues. This term is used by the Hanafi School of law, and according to the understanding, it is possible to override the results of *Qiyas* when it is considered harmful or undesirable.¹³

Conspiracy Theory to the Conflict and Demonization of the Fulanis

There is no gainsaying to the fact that, the conflict between the herders and the farmers predates the administrations of President Buhari which started on May 29th, 2015. However, the dimension of the conflict has risen beyond age-long conflict and it has now metamorphosed to different conspiracy theories. For instance; this administration has received an overwhelming criticism from the public over government attitude at responding to attacks allegedly believed to have been orchestrated by the herders. This to some public analyst is connected to the fact that the Presidents are favouring his kinsmen because a cattle breeding is traditional occupation of Fulani people. It was alleged that the situation has worsened because the president is showing favour to the herders as a result of sharing ethnicity and with them.

Invariably, we now have the term "*Fulanization*" and "*Islamization*" as alleged by the former President Olusegun Obasanjo in his open letter to the President Buhari on the state of the nation and the conflict where he stated further that:

The unfortunate criminality is being perceived as a "Fulani" menace unleashed by the Fulani elite in the different part of the country for a number of reasons but even more, unfortunately, many Nigerians and non-Nigerians who are friends of Nigeria attach vicarious responsibility to you as a Fulani elite and the current captain of the Nigeria ship. Perception may be as potent as reality at times. Whatever may be the grievance of Fulanis, if any, they need to put out in the open and their grievances, if legitimate, be

addressed; and if other ethnic groups have grievances, let them also be brought out in the open addressed through debate or dialogue.¹⁴

From the above submissions of Obasanjo, we can deduce that, he did not use the two terms directly, but rather on perceptions of people who allegedly believed any form of attack now is orchestrated by “Fulani demons herders” who are majorly Muslims because they now move around now with guns and fire arms instead of sticks popularly known as “*Sanda*”. Demonizing Fulani tribe for whichever reason is now the order of the day as perceived by Obasanjo and also a former Minister of Aviation Femi Fani Kayode who categorically submitted as follows:

Fulani herdsmen are symbols of bloodshed, terror, mass murder, ethnic cleansing, genocide, carnage, torment, trauma and evil. They represent nothing but credulity, suffering, and land grabbing, church-burning, raping, and pillaging and are instruments of occupation, domination and conquest. They have slaughtered more Nigerians over the last 4 years than Boko Haram have done in 10 (sic)¹⁵

Causes and Effects of the Conflicts

There has never been a conflict without cause or causes as well as effects. The causes of recent incessant conflict between the herders and the farmers are multi-dimensional. According to John Shagaya (Rtd Brigadier-General), the conflict is as a result of desert encroachment connected with the drying of Lake Chad leading to competition between farmers and the herders. Shagaya also identified the aftermath of the event of 1984 in Ghana, Sierra Leone, Republic of Benin and Togo in which Fulani herders were banished from these countries and sent to Nigeria to look for grazing land; this was what led to what is known as trans-human migration within the West African countries.¹⁶ The government policy to reintegrate the herders was mismanaged as a result of poor documentation and divisions among the herders over leadership position whenever they want to interface with the government.

Pertinently, it is imperative to note that the conflict is caused by challenges such as: climate change leading to global warming, struggle and competition over grazing land and scarce resources, desert encroachment, increase proliferation of small arms and light weapons which is connected to the fall of Khadafy in Libya and the soldiers of fortune, increase urbanization and industrialization, and depleting arable land for farming as a result of population increase.¹⁷ According to Ugwumba Egbuta, Nigerian population as at 1960 was estimated at 35 million but now the estimation is over 180 millions.

The adverse effects of these led to conflict and competitions over scarce resources leading to thousands of deaths, displacement of people, destruction of public and private property, incessant bloodbath, kidnappings, proliferation of arms and banditry. The new trend of the conflict is the increase in banditry and kidnapping. The bandits are now fuelling the crisis and states such as Zamfara, Kastina and Nasarawa were worst affected by the frequent bandit attack. For instance, the Human Rights Watch report of 2018 submits as follows:

Uncoordinated and inadequate responses by the state and federal authorities deepened mistrust and perception of authorities bias and complicity in violence. In May, at least 45 people were killed in attack by bandit in Gwaska village Kaduna state. Zamfara state was perhaps the worst affected by frequent bandit attack, which killed at least 400 people and displaced over 38,000 in 2018.¹⁸

Summarily, the causes of the conflicts are highlighted as follows, causes;

- i. Struggle and competition over grazing and scarce resources
- ii. Increase in Urbanization and Industrialization
- iii. Fake news and false media reporting
- iv. Trans-human migration of the Fulani herders back to Nigeria in 1984 from sub-Saharan and Sahel African countries
- v. Unemployment and joblessness fuelling banditry and kidnappings
- vi. Politics of do or die
- vii. Porous borders
- viii. Proliferation of small fire arms

- ix. Depleting arable land for farming
- x. Climate change/Global warning which is affecting Lake Chad

Government's Strategic Responses

Nigeria Government from time immemorial had tried to find solution to the lingering conflicts between the herders and the farmers. For instances, the creation of Grazing Reserve in 1965, National Commission for Nomadic Education (NCNE) in 1989, 2103 Great Green Wall Agency and the National Grazing Reserve Bill of 2016 that was not pass by the legislature. There are other government responses in terms idea or policy the government of the day plan to introduce but was always oppose widely among which are;

i. Cattle Colony

This is one of the policies mentioned by the Federal government to curb the farmers/herders' debacle and it has received serious remonstrations and objections from stakeholders in the country among which includes; the socio-cultural ethnic groups, Christian Association of Nigeria and also opposition parties. Meanwhile, it is imperative to note that this system or policy is alien to Nigeria as country but a note Indian community. Cattle colony is found in the neighbourhoods of Bin Qasim community of Karachi, Sindh, Pakistan.¹⁹ This neighbourhood of Karachi is the centre of cattle and meat trade in Karachi. The Cattle Colony is the dairy products shopping and supply centre of Karachi. There are also many abattoirs and meat warehouses located in the Cattle Colony. Demographically, the ethnic groups in Cattle Colony include Sindhis, Muhajir, Punjabis, Kashmiris, Seraikis, Balochs, Brahuis and Memons to mention but a few.²⁰

Cattle colony is entirely a Pakistani/India idea for its local cattle and beef market economy, it is not a strategy for grazing cattle but a centre for cattle and beef product sales. The challenges of conflicts between the herdsmen and farmers has little or nothing to do with milk and beef production but grazing in a limited land which is meant for farming. It suffices to say this is the reason why the policy was vigorously rejected by people. According to Luke Onyekayah,²¹ the idea of cattle colony as presented by the then Minister of Agriculture Chief Audu Ogbe is worrisome and indeed equally shows ineptitude and maladroitness on the part of the coordinating minister and the federal government. Onyekayah however, argued that ranching is the best solution to the conflict as he opined as follows:

Cattle colony is like a shopping complex where cattle and meat trade are carried out. The colony has nothing to do with rearing/grazing cattle and other livestock. It is out of place for the minister to be talking of establishing facilities to take care of the herdsmen and their cattle in a cattle colony. This can only be done in a ranch. Any herdsman or cattle in a cattle colony is there for trading and slaughtering of the cattle and not for grazing.²²

ii. Ranching

From "ranch" according to the Encyclopedia Britannica is said to be a farm, usually devoted to the breeding and raising of cattle, sheep or horses on rangeland. The word "ranching also known as ranch farming system originated in the imposition of European livestock farming techniques on to the vast open grassland.²³ As of 19th century, ranching as farming system had become common among the North Americans. It was used for progressive clearing and cultivation of grazing lands and pastures for the grazing animals.

While majority refers to the Fulanis as herders, they were known as the cowboy, ranchers or horseback, who are found of moving from one camp to other grazing cattle on an unfenced public range. By the 2nd quarter of the 20th century, nearly all livestock farming in the USA was sedentary. It is imperative however, to note that open-range ranching has remained a significance economic activity in Australia and New Zealand and in the part of Africa. Ranching is seen not as an ordinary farming system but indeed a business venture for potential investors. This is why the Homestead Act of 1862 in United State of America generated the establishment of many grassland farms that were expand in to huge western ranches of the late 19th century.²⁴

The government came up with the idea of ranching system but it is obscure to the public and some stakeholder considering the existence of land use act of 1978. It is not clear whether the federal government, who has no land at her disposal will spearhead this policy, coerce the State government to provide land for that purpose. This is why the idea is still generating huge public debate. While some sees it as a way out from the conflict between the herders and the farmers, others see it as a form of hijacking land from the state government to which there is stiff opposition. For instance, among the state governor who rejected the ideal was, Governor Okezie Ikpeazu of Abia State who submitted that:

Herdsmen will not be part of any security arrangement in Abia State. Such a strategy could work elsewhere, but not in Abia State. We have our own plans which we will be willing to share with other people if they are interested.²⁵

The Miyetti Allah Cattle Breeders Association of Nigeria (MACBAN) is the umbrella body of Cattle breeders in Nigeria. On several occasions they have issued threat as well as way out to the incessant crisis, unfortunately it has not satisfied other stakeholders most especially the South East and South-South region and their governors. All suggestions always come to fruition. For instance, the MACBAN was of the opinion at the heat of the crisis that, they will set up vigilante groups in all the state herders are, this is to the dismay of the South Eastern Governors'. The Chairman of the Forum and Governor of Ebonyi State, Chief David Umahi, in a statement released by his Chief Press Secretary, Emmanuel Uzor, described reports that the governors would allow MACBAN to form vigilance groups as strange.

I find it extremely strange for anybody to think that non-locals in any part of the country, including the South-East, could be allowed to form vigilante outfit. The Miyetti Allah group may have made that suggestion, which I believe will never mean to form a vigilante in South-East. Whichever is the meaning, no governor will allow that. South-East governors have their local vigilantes working with security agencies. Any such demand by Miyetti group is a joke and not acceptable. Governors of South-East are doing their best and we have no problems receiving insults from our people. It is the price for leadership. The important thing to us is the safety and well-being of our people. There will be no Miyetti vigilante, no cattle ranch or colony in South-East. But we must live peacefully with herdsmen that do not destroy our farmland, especially those that were born here and have lived peacefully with us. All South-East governors are together in this position.²⁶

iii. Ruga Settlement

The presidency released a statement on Sunday, June 30, 2019 to assure the public that they now have another policy which will eliminate the conflicts between the herders and the farmers. This to the federal government is to create a rural grazing settlement area which is famously known as Ruga settlement. The government believed that this policy is quite different from the issue cattle colony and ranching because the idea is to stop roaming of cattle herders which often lead to clashes with farmers.

A majority of the attacks were blamed on the roaming herders, tagged invaders, who are usually, but not exclusively, of the Fulani extraction. On June 25, 2019, the Permanent Secretary of the Federal Ministry of Agriculture and Rural Development, Mohammed Umar, announced the commencement of the policy and less than four weeks after the government suspended the policy due to stiff opposition from the public including the governors from south-east and south-south state. The Ruga settlement as explained by the government is more suffice because it is more or less herders house and will equally provide water for animals, pasture, schools for the children of herders, security, agro-rangers. The Presidency similarly disclosed on Sunday that animal farmers, not just cattle herders, will be settled in Ruga settlements with provision of necessary and adequate basic amenities such as schools, hospitals, road networks, vet clinics, markets and manufacturing entities that will process and add value to meats and animal products. It is to the benefit of everyone in animal husbandry and not just Fulani herders as widely reported in public discussions. It was initially claimed to be part of National Livestock Transformation Plan (NLTP). The government before the suspension of the policy sees it as huge and far-reaching impact on public safety and national security. NLTP is said to be N179 billion ten-year initiatives (2018-2027) that champions

ranching as the way forward for cattle rearing in the country. The polity recommended that cattle herders are expected to be registered with cooperatives for the purpose of the ranching scheme. The cooperative societies will then be able to get rental agreements for land from state governments and also benefit from ranch resources on several terms including loans, grants, and subsidies. The funding of the plan from the federal government and state governments is expected to last for the first three years in the pilot phase for a total of N70 billion while private sector interests and investments between the third and 10th year is expected to be in excess of N100 billion.

According to the Ministry of Agriculture and Rural Development, Sokoto, Adamawa, Nasarawa, Kaduna, Kogi, Taraba, Katsina, Plateau, Kebbi, Zamfara and Niger have shown interest in the Ruga initiative. The Bauchi State government also announced its intention to sign up on Monday, July 1. However, Benue State, which was initially listed as a pilot state, despite its objections, has rejected the implementation of the initiative on its lands. The socio-cultural organization in Nigeria, like the Afenifere and the Ohaneze also rejected the plan by the government to introduce this policy and this has led to its suspension by the government of the day. For instance, the spokesmen of the two organizations on behalf of the groups addressed the media and equally ask the government to suspend the plan. Firstly, the spokesman of the Afenifere Yoruba cultural group made the following submissions:

This is just about conquest domination, land grabbing and forceful takeover of territory, go back to history, the entire Hausa land today, Bero and Ilorin, they never have emirs, there is no town in Hausa land today that the Fulani built but go everywhere; go to Zamfara, they have emirs everywhere. How do they do it? They used religion then take over the territory, now they want to use cattle to take over the rest of the territory of Nigeria.²⁷

Also, Uche Opaga-Achi, the Publicity Secretary of Ohaneze, on behalf of the group, told the media that:

Nigeria is already on fire, and what was remaining is disintegration, which the action of these people is leading to. They are mongering for war, the country is on fire, and there is distress everywhere. It is turning to criminality and absurdity that people will stay in the comfort of their homes and dictate what happens in another. Our argument is this; the land in the north is by far much larger than the one in the east or in south. Why is it that it is the east and south that they are making emphasis of enforcing Ruga? (sic). Our argument is that you have Sambisa forest that can contain all the cows in Africa and the insurgents are coming in through the axis. Let them go and develop and bring all the cows in Africa and put there. They will be free from all forms of destruction, distraction or problems here and there: there will be no farmers there to clash with.²⁸

The Concept of *Maslaha* (Public Interest) in as a Panacea to the Conflict

It is imperative to note that, one of the major responsibilities of any government is the security of lives and properties. The clashes between the herders and the farmers is making this more tasking and all necessary plan or policy the government is trying to introduce always face stiff oppositions from different quarters. The concept of *Maslaha* is often used in law and social ethics and its purpose and meaning is for the common social group or welfare. The opposite is "*Mafsada*" which is often interpreted as what constitute harm. The Qur'an states: "And Allah knows him who means mischief from who means good" (Qur'an 2:220). The aim of *Maslaha* in Islamic law (*Maqasid*) which can often be extended to the constitution of the Federal Republic of Nigeria is the preservation of the rules established in both the Qur'an and Hadith which protect the fundamental rights of all. Whatever protects the rights of all without infringing on the right of others are *Maslaha* and an occasion where there is conflict of interests, the rights of individual will be suppressed for the rights of majority, at the same time such individual will have to be compensated. This argument was also recognized in the 1999 constitution and was supported by the Attorney-General of the Federation Abubakar Malami on the 26th of July, 2019 when he appeared before the Senate for screening. The AGF made the following submissions:

I concede that I have a responsibility as AGF to protect individual right but looking at the provision of section 174 of the constitution, I want to state further that the office of the AGF is meant to protect public interest and where the individual interest conflicts with the public interests of 180million Nigerians that are interested in having this country integrated must naturally prevail and I think that position has been

stated by the apex court in the case of Asari Dokubo versus Federal Republic of Nigeria that when an individual interest conflicts with public interest, the public interest will naturally prevail.

Historically, it was alleged that Umar bn Khatab the second orthodox caliph of was the first caliph that applied this concept after the demise of the Prophet. He applied this principle to pursue policies for public interest and welfare for common good. This was after the conquest of Iraq and beyond as regard the issue of *Ghanimah* (war booty). Despite a standing law and custom of the Prophet, Umar ruled that, in the case of the rich alluvial land in the southern Iraq between river Tigris and Euphrates, the land should remain under the control of the state to serve as a source of tax income (Encyclopedia of Islam and the Muslim World:2019). The way Umar managed the challenges then can also be employed by the government in formulating policies that will reduce the conflict if not eliminated in totality. The government will only make sure they incorporate all socio-cultural organizations, the thirty-six State government, Local governments, Traditional rulers, and all faction leaders among the farmers and cattle/livestock breeders' associations.

In principle, *Maslaha* become imperative in cases that are not regulated by the sources of Islamic law.i.e. Qur'an, Hadith and *Qiyas* (analogy). The concept is acknowledged and used by the four school of jurisprudence in Islam to solve different challenges that occurred and no direct provisions is seen in the Qur'an or the Hadith. The application of the concept in the modern times cannot be over emphasized due to contemporary challenges. The 1999 constitution of Federal Republic of Nigeria despite countless amendment is still characterized by many loopholes among which are the incessant conflicts between the farmer and the herders. Global concept of cattle ranching/colonies in any name the state government want to tag it is the answer provided it will be Public/Private Partnerships (PPP). The federal government should hand off and allows each state government to come up with policy which will be suitable for their respective states and local government. The state government as well as local government will make it a legitimate source of increasing internally generated revenue (IGR) from tenement rates, utility bills, cow tax, personal income tax, value added tax etc.

It is good to think of global possible practices and policies but it is better to act locally because Nigeria is a multi-ethnic and religious nation. Our pluralistic nature should always be put in to consideration when formulating any policy before pushing it to the public; this is the purpose (*Maqasid*) of *Maslaha* in Islamic law. The Federal Government through National Orientation Agency and other government ministries will formulate policy that will strengthen citizen's patriotism, national consciousness, unity and integrity. The Federal Government should also make sure that, any policy that each state government will implement must be for the common interest of the people. This is the essence of a democratic system of governance where the majority always has the way but the opinions of the minorities are equally respected.

Conclusions

An attempt has been made in this paper to establish how continuous conflicts between the herders and farmer is destabilizing the country and has led to the loss of lives and properties. The causes of this conflict include, the competition for scarce land for farming and grazing, desert encroachment from Sahara toward desert, the climate change and global warming which is affecting the Lake Chad and also the proliferation of fire arms in the country to mention but a few. The effects of this skirmish are breakdown of law and order, destructions of lives and property and indeed displacement of people in their homeland was also discussed. The concept of *Maslaha* as basis of law in Islam and its historical influence on the decision of Umar bn Khatab was discussed. The scholastic opinions on the permissibility or otherwise of the concept was concisely highlighted. This paper also, discusses ways by which this concept which is purely meant for public interest and welfare can be employed towards formulating policies that will satisfy all and sundry and will also reduce the incessant conflict between the herders and the farmers.

Recommendations

There are recommendations for the Federal, state and local government as well as other stakeholders in the country:

- i. Any policy the government wants to introduce must be for the common interest of the people and must be Public-Private Partnership inclined. Government should provide incentives to the herders through establishing policy which will increase their output and equally increase internally generated revenue for

- state government. Compensating victims of cattle rustling and farmers whose farm is destroyed by the herds
- ii. There is need for citizen to tolerate and accommodate one another knowing the fact that we are a pluralistic nation. There is also need for community policing among local community within local government and state.
 - iii. Objective Media Reporting of event will always play a pivotal role towards reducing the conflicts. Not all killings are orchestrated by the Fulani, herders, or Muslims. There is no country that is free of challenges and thus our challenges must be reported as a common challenge and not an individual challenge. Demonizing a group for the evil actions of few is subjective.
 - iv. Government should formulate a policy that will censor social media; this will eradicate fake news in its entirety.
 - v. There is need of synergy among law enforcement agencies and the military. The military should be well funded in order for them to maintain stiff borders policing.
 - vi. Creating Grazing Rout in each state and criminalizing open grazing on illegal rout.

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