**Chapter 1**

* 1. **INTRODUCTION AND BACKGROUND STUDY**

In Nigeria, the practice of reserving land for extensive use by livestock existed prior to the colonial times. Allocation of grazing ground to pastoralist around towns and village for use particularly during the dry season were socially and institutionally allowed [[1]](#footnote-2).

However, since there was no legal and institutional instrument to prevent encroachment by crop farmers, such reserved areas were soon encroached upon or subsumed by the inexhaustible community land requirements due to increase in population and cropping intensity.

The above phenomenon was mostly visible in the sub humid zone of Northern Nigeria where pastoralists from semi-arid zone traditionally moved their herds down south during the dry season to feed on the abundant flora and water resources in the middle belt region of Northern Nigeria.

The intensity of migration from the semi-arid zone was further aggravated by yearly detrimental change in weather and reduction in available feeding resources in the area, coupled with an increase in production of herds due to improved veterinary services that control the destructive and debilitative activities of tsetse fly, resulting in increasing multiplication of herds, without resources to feed them [[2]](#footnote-3).

The cultivators, among whom pastoralist then abode with were traditionally subsistence farmers with extensive agricultural practice. They kept little or few livestock, mostly small trypano-tolerant breeds of goats and sheep. The unfortunate consequence of this situation is that most of the fertile land in the zone had been conceded to the agrarian family that which limits the exclusive traditional reserved land for the use of the new and foreign pastoralist.

Consequently, over a period of time the pastoralist had to resolve into borrowing or traditional leasing of land from local farmers; an arrangement usually unsustainable.

These range from zero payment to the situation where bookings are made by pastoralist with farmers well in advance of harvest and payment of cash or kind deposit to ensure access [[3]](#footnote-4).

Whether on or off the grazing reserve, the pastoralist, do not generate enough crop residues to feed their cattle’s. Nevertheless, after the advent intervention of the European Nations and in particular the British colonialist in the 17th and 18th century within the political affairs of West Africa and Nigeria to be specific; the policy towards the cattle industry, influenced by the French inclusive policy of assimilation in francophone colonies were mainly economic in considerations rather than developmental oriented goals.

The differential association of the French and British influence over cultures and law which governs people of same language, culture and pre-colonial law were seen as having made the ever-migrating Nomadic pastoral tribe trapped between two different economic and administrative set up [[4]](#footnote-5).

The British colonialist regime only interest was in the immediate income tax on cattle and thereby embark on a compulsory tax on each head of cattle[[5]](#footnote-6) in exchange for better security against cattle rustling and provision of veterinary services to all nooks and crannies of the Northern Nigeria, while encouraging the movement of cattle from the Northern protectorate to the Southern protectorate between the years 1900-1902 of which over 15,000 heads of cattle passed through Ilesha and Shaki route to Lagos[[6]](#footnote-7).

In November 1906, Thomas Baker the Secretary of the Liverpool chamber of commerce wrote a letter to the then Governor of Northern Nigeria noting the promising future of the cattle trade in the emirate and the intention of their African Trade section to collaboratively develop the trade if the protectorate Government will facilitate with information and guidance.

In furtherance to the above, the annual report from Sokoto province between 1908-1909 showed a high proceed would be made from the sale of cattle if a properly developed industry is actualized. But the report was down played perhaps because the trade within the emirate does not seem to have excited the elites in government or a ploy to truncate the industry[[7]](#footnote-8).

actualized. But the report was down played perhaps because the trade within the emirate does not seem to have excited the elites in government or a ploy to truncate the industry [[8]](#footnote-9).

The general picture of the colonial attitude on cattle culture precluded by serious innovation for expansion of cattle trade with an effort made towards settling the large nomadic group of herders tribe dominated by the Fulani on well carved out and managed grazing reserves, statutorily regulated ranching industry, subjecting drovers with Southern (Lagos) destined cattle, trekking fifty to sixty days due to long distance and local travel challenges before they arrive Lagos after attendant imminent conflicts of economic and social welfare throughout the path of drovers. This situation continued until 1965 when the then Northern Region government gave a legal status for the establishment in the region of a grazing reserve, supported by funding facility from the World Bank through the National livestock project department (NLPD) which oversees a total of 115,000 hectares of Grazing Reserve at Kachia, Gujba, Udobo and Garkia across the state of Kaduna, Borno, Bauchi and Adamawa respectively [[9]](#footnote-10).

The federal and State Government over time were handling the issue of grazing reserve with less seriousness till mid 1990’s when the federal Government through the Petroleum Tax Fund (PTF) made selected interventions to improve some grazing reserves across Northern states. This was in order to eliminate open cattle grazing culture which by then had obtained notoriety in causing conflict between pastoralist and farmer for a period consistently more than two decades.

The prevailing culture of open grazing of cattle can be inferred from the social and cultural nature of the pastoralist, mostly the Fulani’s who had started the culture of migration from the Futa Jalon empire of the current Republic of Guinea to Northern Nigeria in the 15th century.

This culminated into the overthrow of the traditional Hausa authority starting from Funtai (King) of Sokoto by the Othman Dan Fodio Jihadist of early 16th Century.

This paved the way for a sort of legitimate claim by the new Fulani Lords and Serfs over the land in most part of Northern Nigeria and Upper Yoruba towns of Ilorin and environs. This legitimized their herds grazing over native land to be superior to the rights of the natives.

This idiosyncrasy and perception coupled with an increase in pressure on grazing resources caused by ever changing weather, drought, depreciating soil quality, large human population and poor interpersonal and communal understanding led to serious destruction of lives and property in the quest for personal gratification.

In the word of Mafindi Damburam, chairman of North East Zone of Miyetti Allah Cattle Breeders Association of Nigeria (MACBAN):

open grazing is our culture and you cannot wake-up one day and stop me from practicing my culture. Cattle colony is not our culture. We have our culture and tradition and we want to maintain it.[[10]](#footnote-11)

The seemingly hopelessness can further be revealed by the report of the international panel on climate change (IPCC) and other regional bodies which stated that:

climate change represents a major threat to sustainable growth and development in Africa. The declining fertility of soil affects agriculture in Sahel region in Africa, reducing cereal production of 80%”.

While the World Bank stated that between 2010 and 2011 alone, pastoralist in the region lost over two million heads of cattle (2m) while over 20 million migrated from the Sahel to the Southern part of the region.

Coordinated military style attacks ravaged 15 communities in some local government areas of Plateau state from 23rd - 24th June, 2018, which resulted to the death of 233 persons with many others injured and several properties destroyed while thousands of villagers were displaced.

Below is the list of districts, communities and people killed in the attack; [[11]](#footnote-12).

This unfortunate state of existence led to the proposal in some governmental quarters for the introduction of a bill for an act to establish the National Cattle Reserve Commission for the

facilitation of the creation of a federally controlled cattle colony in all the States of the Federation[[12]](#footnote-13).

* 1. **STATEMENT OF RESEARCH**

It is not a formal fallacy to adjudge the practice of open grazing of cattle as a great disaster to the Nation by the antecedent loss of lives and properties, excluding the psychological effect it has had on the citizen’s psyche as regard the role the Nation, Government and neighbours play in their survival [[13]](#footnote-14).

The introduction of the unified law to create an institutional legal framework in eliminating the open grazing of cattle is surely a contentious adventure as opposed to the constitutionality, the issue of Federalism and separation of power, rule of law, private property rights and the issue of locus standi [[14]](#footnote-15).

The introduction of the Bill is reasonably seen by many to be a ploy to galvanize and enthrone ethnic, religious and clannish occupation of ancestral land of minorities by acts of expropriation from the majority [[15]](#footnote-16).

The introduction of the cattle colony as a modified ranching manner executed and established by law in conformance under the relevant laws and in consultation with the people may nevertheless be appropriate.

* 1. **RESAERCH OBJECTIVE**

The Research Objectives are as follows:

1. To contribute to the development of the knowledge in jurisprudence of law as it relates to distribution of power between the Federal and State Government.
2. Recommend a viable and valid legal framework for the creation of cattle colony.
3. Enumerate and identify the statutory provision that are relevant in an attempt to create a national grazing reserve and how it will affect the constitutional right of the states.
4. Identify the extent to which the establishment of grazing reserve may affect the right of the citizen to properties.
5. Expose the extent of the socio economic laws which open grazing of cattle has caused the Nation

**1.4. RESEARCH QUESTIONS**

1. Is the cattle colony part of our Law in Nigeria?
2. Does the Constitution empower the Federal Government to create a federal control cattle grazing reserve in Nigeria?
3. Is there an alternative provision in law that can be utilized to accommodate a federally controlled grazing reserve in Nigeria?
4. Will the establishment of a grazing reserve infringe on property rights of the citizens?
5. What’s the difference between cattle ranching and cattle colony as provided in Land Use Act?
6. What are the legal implications of cattle colony (coined ranching) on the rights and privileges of the citizens in a state?
7. Does cattle colony constitute breach to property rights?

**1.5. SIGNIFICANCE OF STUDY**

It is very important at this age and stage of Nigeria, when compared to other countries of the same status to have evolved a traditional culture of conflict resolution by way of rightful application of the laws rather than aggravating crisis by wrongful application of law due to poor analytical or logical approach to its purpose.

This study is significant at this time when great lives and properties have been lost due to herdsmen violent incursion into farmer’s territory with absolute impunity, breaking down law and order, and the Government seemingly dumbfounded or hypnotized; not having a grain of idea on how to tackle the problem.

The project will provide open and fair recommendations based on the analysis of law in conjunction with public policy in an effort to procure a durable solution to the recurring problems.

Finally, the project is significant because it’s probably the first and only assessment of the subject matter at this level and in this particular time and it will be a reference source of information to future research.

**1.6. Definition of Terms**

**Constitution**: the basic principles and laws of a nation, state, or social group that

determine the powers and duties of the government and guarantee certain rights to the people in it[[16]](#footnote-17).

**Cattle ranch**: farm consisting of a large tract of land along with facilities needed to raise livestock (especially cattle)[[17]](#footnote-18)

**Legislative Competence**: The skill, knowledge, qualification, capacity or authority to make,

give or enact rules with binding force upon a population or jurisdiction[[18]](#footnote-19).

**Policy**: A plan or course of action, especially one of an organization or government[[19]](#footnote-20).

**Land right** : right or obligation connected with occupation of or property in land[[20]](#footnote-21).

**Federalism:** the distribution of power in an organization (such as a government) between a

central authority and the constituent[[21]](#footnote-22).

**Covering the field**: The doctrine of covering the field, is essentially that where the main, principal or superior law has covered a given field or area, any other subsidiary law made in that area or field, cannot operate side by side with the main, principal or superior law. If the inferior law is inconsistent with the principal law, it has to be declared void to the extent of its inconsistency[[22]](#footnote-23).

**Legitimacy**: the quality of being legal the fact of being allowed by law or done according to the rules of an organization or activity[[23]](#footnote-24).

**Chapter 2**

**2.1. Federalism and National Grazing Route Reserve Bill**

A federalism or federal principle denotes the division of law making authorities in a federal setup between the central authority of the federation and the authority of the components or units of government and the vesting of autonomy to each of these different governmental authority in such a way that none can interfere with the legislative authority of the other.

The term federation originated from a Latin expression pronounced “*faedus*” which refers to a covenant[[24]](#footnote-25). Federation as a concept is traceable to the ancient twelve tribes of Israel and League of Greek city states[[25]](#footnote-26).

Federation as a political arrangement has faced serious crisis of conceptualization. This is because in the word of Elazar[[26]](#footnote-27). There have been several varieties of political arrangement to which the term has been applied. Among the inherent challenges of conceptualization of a federation according to Richar is that[[27]](#footnote-28):

The meaning of the word has been thoroughly confused by dramatic changes in the institutions to which it refers. Hence, a word that originally referred to institutions with emphasis on self-government has come to connote also domination by a gigantic interpersonal concentration of force.

However, most scholars of federalism have accepted Wheare’s[[28]](#footnote-29) conceptualization of the subject matter as a point of convergence. Wheare’s definition[[29]](#footnote-30) of the federal concept emphasized on an explicit division of powers and function between a central government and some decentralized unit of government in such a manner that no government can encroach on the power and functions of the other. This governmental division must be exercised by means of a rigid and written constitution that provides for an independent arbiter as well as financial autonomy for the respective governments. Thus, a comprehensive postulate of federalism is predicated on the existence of a constitutional division of powers of the federation between the central government and the unit’s government as well as a provision in the constitution for an independent arbiter for the purpose of settling constitutional disputes that might arise between the various governmental components of the federation; such a constitution being supreme providing and guaranteeing autonomy of the units and binding among all the members of the federation.

According to the Committee of experts on public administration concerning the distribution of powers between central governments and sub-national governments, it was said that the distribution of responsibilities between national and sub-national government has been a subject of enduring debate among practitioners and scholars alike in the world of public administration and beyond.

United States of America

The Constitution of the United State of America makes provisions that the federal government has certain enumerated powers, which are spelled out in the Constitution, including the right to levy taxes, declare war, and regulate interstate and foreign commerce. In addition, the Constitution gives the federal government the implied power to pass any law "necessary and proper" for the execution of its express powers. The powers delegated to the federal government were significantly expanded by the Supreme Court decision in McCulloch v. Maryland (1819),

amendments to the Constitution following the Civil War, and by some later amendments—as well as the overall claim of the Civil War, that the states were legally subject to the final dictates of the federal government.

The state government is responsible for property law, education, estate and inheritance law, commerce laws of ownership and exchange, banking and credit laws, labour law and professional licensure, insurance laws, family laws, public health and quarantine laws, public works laws, including eminent domain, building codes, corporations law, land use laws, water and mineral resource laws, judiciary and criminal procedure laws, electoral laws, including parties, civil service laws.

The local government is responsible for the adaptation and implementation of state law to local conditions, public works, contracts for public works, licensing of public accommodations, assessable improvements, and basic public services.

Russia

The Russian Federation is one of the most quickly developed federations in the world. For rather a short period of time since 1990`s, the world has witnessed several models of the Russian federalism. The Russian federal relations model, originally based on the practice of other countries, evolved over the past two decades. It has experienced some difficulties during this transitional period. The Russian Constitution of December 12,

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3. Powell 1986 [↑](#footnote-ref-4)
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