

## FULANI HERDSMEN ATTACKS IN NIGERIA: A CASE OF GENOCIDE IN THE MAKING

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**Abstract:** *Genocide is a heinous crime. It is a crime targeted at destroying a distinct group of people, and is recognized in international law as an ‘international crime’. Closely associated with the crime against humanity, which is perpetrated against a large number of individuals. To take one example, mass killings may constitute genocide and/or crimes against humanity, depending on the intention. This article suggests that these crimes are occurring in Nigeria in recent years in the form of recurrent mass killings of innocent non-Fulani people by Fulani herdsmen. Those killed included women and children. Noteworthy, the Fulani herdsmen belong to a distinct ethnic group in Nigeria who are mainly nomadic cattle herders. This cultural and long-standing practice of cattle grazing did not create any significant problem in the past, but in recent years due to a combination of factors – including population explosion, poverty, and climate change – the grazing activities of the herdsmen have become a source of conflict between them and non-Fulani farmers, who are often the victims of Fulani herdsmen attacks. Whatever may be the reason for the attacks, the truth is that the attacks smack of genocide attempted genocide and/or other international crimes such as crimes against humanity. Yet the crime of genocide and other related international crimes are not yet punishable in Nigeria despite positive obligations on Nigeria under international instruments to provide a necessary legal framework for prosecuting and punishing perpetrators. This article recommends that Nigeria should adopt a short-term measure for ending the attacks by arresting and prosecuting perpetrators for possible domestic offences and a long-term policy measure of cattle ranching. Moreover, Nigeria should domesticate relevant international instruments. Given that genocide is an international crime, it is also recommended that the international community should consider taking appropriate steps jointly or severally, particularly in light of the recent report of the Amnesty International which suggests that the Fulani herdsmen attacks are genocidal.*

**Keywords:** Genocide in Nigeria, Crimes Against Humanity, Fulani Herdsmen, Mass killings

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### 1. INTRODUCTION

Apartheid South Africa was notorious for the terrorism visited on blacks and coloured people by white supremacists. Much the same thing is happening in some parts of Nigeria in the form of recurrent deadly attacks by Fulani herdsmen against non-Fulani people.<sup>1</sup> Specifically, between May 2015 and January 2019 whole villages/communities have been attacked by Fulani herdsmen and several persons including women and children killed in great numbers.<sup>2</sup> To emphasize, the victims are mostly Christians and non-Fulani people. In other words, the herdsmen attacks are targeted at non-Fulani population. As will be shown in this article, Fulani herdsmen belong to a distinct ethnic group in Nigeria called Fulani. They are a nomadic group of cattle herders; i.e. they move from place to place to graze their cattle. This cultural and long-standing practice of cattle grazing did not create any significant problem in the past, but in recent years due to a combination of factors – including population explosion, poverty, and climate change – the grazing activities of the herdsmen have become

a source of conflict between them and farmers (Amnesty International 2018: 11), who are often the victims of Fulani herdsmen attacks.

The so-called farmers-herdsmen conflict is over land use and pastures. Specifically, the farmers claim that their farm crops are damaged and eaten up by cattle, thereby causing them great financial loss and starvation. Hence, they detest cattle grazing on their farms/farmland and insist that cattle rearers should confine their animals on cattle ranches as is the case in many parts of the world where open grazing no longer obtains. On the contrary, the Fulani herdsmen argue that they are entitled to follow grazing routes and insist on respect for what they consider to be their 'grazing right' (Amnesty International 2018: 12). To enforce this nebulous right, they have recently resorted to the use of sophisticated arms such as AK-47 assault rifle (Amnesty International 2018: 35-37). Unquestionably, it is the case that the Fulani herdsmen are the aggressors as a result of their quest to graze their cattle.<sup>3</sup>

Curiously, despite the recurrent deadly attacks by Fulani herdsmen on various communities across Nigeria and 'peace and security' being one of the Five-point Transformation Agenda<sup>4</sup> of President Buhari's administration, the Federal Government of Nigeria – which exclusively controls the security apparatus of the country<sup>5</sup> and has a constitutional duty to protect the people of Nigeria<sup>6</sup> – has not taken decisive actions to checkmate the bloodbath (Ozekhome 2018). Consequently, insecurity currently reigns in many parts of Nigeria (Nwagboso 2018).<sup>7</sup> An article published in a Nigerian influential newspaper *The Guardian* on January 30, 2016 aptly captures and summarizes the situation thus:

Recurring conflicts between herdsmen and their host communities have over the years led to the loss of several lives and property across the country. One of such clashes in recent times was the raiding of four villages: Demsare, Wunamokoh, Dikajam and Taboungo in Adamawa State by...[Fulani] herdsmen...Killed in the attack was the Divisional Police Officer, DPO, in charge of Vunokilang Police Station in Girei Local Council of Adamawa State, who was killed alongside 30 other people ... Several houses and other property in the communities were also burnt in the attack...Before the incident, clashes between the herdsmen and farmers have remained a recurring decimal in the country. Before now, such clashes usually break out in the North-Central and North-East regions, but in recent times it has spread to the South-East, South-South and South-West geopolitical zones of the country ... There is no doubt that...the incessant clash between herdsmen and their host communities across the country appears to be a major security challenge being faced by President Buhari's government. His government's success or failure in tackling it would be determined by approach, commitment and positive outcome (Ezea 2016).

Some commentators have suggested that the attacks tantamount to genocide, attempted genocide and/or crimes against humanity. The main objective of this article is to examine the validity of this claim. The article is divided into five sections, including this introductory section. Section II will provide some historical information on the phenomenon of mass killings and the claim of genocide in Nigeria since the 1960s. Furthermore, it will set out some reported incidents of mass killings in Nigeria between April 2013 and October 2018. This will be followed by a brief historical account of the Fulani people of Nigeria in section III to show their distinctness. In section IV the article will examine the central issue of this article, while the final section will be devoted to concluding remarks.

## 2. GENOCIDE AND THE PHENOMENON OF MASS KILLINGS IN NIGERIA

This section will lay the foundation for the main thrust of this paper. As already indicated, it will do two things. Firstly, it will briefly show how Nigeria came into existence with different ethnic groups and sketch the historical incidents of mass killings in Nigeria which some claim to be genocidal. Secondly, it will outline selected incidents of mass killings by Fulani herdsmen in recent years. This will be done in turn.

### *2.1 Mass Killings and Genocide in Nigeria: An Historical Survey*

The British contraption called Nigeria attained independence from Britain on 1 October 1960. Before the coming of Britain, there was no nation called Nigeria; rather there were different and antagonistic tribes and nations later colonized by Britain. Gradually, without their consent and agreement, Britain brought together the multifarious tribes, nations and ethnic groups with diverse cultures and languages and forcefully made them live together as one nation called Nigeria (Ebeku 2006: 14-18). Hatch (1971: 12-14) summed up this point well when he said:

It must be remembered that no such entity as ‘Nigeria’ existed until 1914. It was the creation of the British government, partly inspired by the desire to save expense. The peoples who inhabited the region now known as Nigeria had always lived in separate and often contentious societies...*In 1914 all these varied societies were declared by Britain to be members of a single state named ‘Nigeria’* (emphasis added).

The same point was recently re-stated by Ezeani when he noted that ‘before 1914, there was no country in the world known by the name Nigeria’ and that ‘for hundreds of years, there existed within the geographical space known today as Nigeria peoples and nations identified as Yoruba, Igbo, Tiv, Benin, [Hausa/Fulani], [Ekpeye], etc. (Ezeani 2013: 15).

Importantly, this faulty 1914 beginning laid the foundation for ethnic nationalism and bitter civil war in Nigeria fought essentially between the Hausa/Fulani nation and the Igbo nation between 1967 and 1970. The civil war was the fallout of declaration of secession from the federation of Nigeria by the Igbos of the Eastern region of Nigeria.<sup>8</sup> Before the civil war started, Nigeria had come under military rule in 1966 following a military coup d’état on 15 January 1966. Defending the civil war, the Nigerian military authorities claimed that the civil war was declared ‘in order to keep Nigeria one’.<sup>9</sup> On their part, the military authorities of Eastern Nigeria claimed that they were compelled to secede and declare the region as the republic of Biafra as a result of targeted mass killings of Igbos serving in the Nigerian military as well as other Igbos living in Northern Nigeria by the Hausa/Fulani people – especially during and after a second military coup d’état in July 1966.<sup>10</sup>

It is extremely important to emphasize that before the declaration of secession and during the civil war the Igbos living in the northern areas of Nigeria were massacred in great numbers by the Hausa/Fulani people. In fact, the Igbo nation blames the mass killings of their people as the immediate cause of their declaration of secession. They claimed that it was a case of genocide and many scholars agree that the massive killing of Igbo people in the 1960s was genocidal.<sup>11</sup>

Nigeria enjoyed the peace and economic prosperity occasioned by high international oil prices (oil boom) in the 1970s. However, in the period 1980 –1985 the country experienced the Maitatsine ethno religious riots, which claimed many lives in senseless and massive killing of Christians by Moslems in northern Nigeria. In 1980 alone, 4,000 deaths

were recorded in Kano (Isichei 1987; Adesoji 2011). If that was not genocide or attempted genocide, it was certainly ethno religious cleansing and/or crimes against humanity.

Notably, since the mid-1980s there has been relative peace and security around the country notwithstanding isolated incidents of mass killings as a result of communal clashes over land or boundaries. This position changed about a decade ago with the emergence of a deadly terrorist group in north-eastern Nigeria called Boko Haram,<sup>12</sup> which engages in systematic and targeted mass killings in Nigeria never before witnessed in peacetime. Between 2009 and 2015 the killings were virtually daily.<sup>13</sup> Many Churches and other public places were targeted and countless lives lost in ruthless mass killings. To the extent that Christians and Churches were often targeted by the Boko Haram insurgents in their attacks, it has been suggested that the attacks had a genocidal intention, driven by an agenda to Islamize Nigeria.<sup>14</sup>

The federal government has been battling the Boko Haram insurgency since about 2009, and it can be said that between 2016 and the middle of 2018 it succeeded in reducing the frequency of Boko Haram attacks. However, from late 2018 there is a clear resurgence in Boko Haram attacks which has already inflicted heavy casualty on the Nigerian soldiers (Ogundipe 2018). Even so, a more disturbing development since 2015 is the emergence of a deadly group called Fulani herdsmen, who target non-Fulani and Christian farmers/communities in their attacks. In comparison, available evidence shows that killings by Fulani herdsman make those of Boko Haram appear as mere child's play. In fact, the global terror index lists Fulani herdsmen as the fourth deadliest group in the world presently (Buchanan 2015).

Presently, Nigeria is experiencing recurrent mass killings by Fulani herdsmen and this has raised the insecurity status of the country very high. From various sources, many reasons have been suggested as to the cause of mass killings by Fulani herdsmen (Bello 2013; Dasam and Ibe 2018). However, for present purposes, it will suffice to state three reasons. Firstly, some people – including some Fulani herdsmen and their supporters – maintain that the killings occur as a result of defense against cattle rustling/cattle stealing (Olaniya and Yahaya 2016). This may or may not be related to disputes over land rights and pastures. Secondly, some people claim that the killings were a consequence of clashes between farmers and herdsmen over landed rights and pastures. According to one author who subscribes to this view, ‘...Nigeria, in particular, has experienced a considerable increase in natural resource conflict since the beginning of the 1990s. Of particular concern are the clashes between farmers and pastoralists’ (Blench 2004: 7). As earlier stated, in essence, farmers claim rights over their farmlands while herdsmen claim a right of passage over what they regard as grazing routes.

Thirdly, there are those who insist that the killings were based on ethnic grounds and/or are religiously motivated. For example, this is the position of Governor Ortom of Benue State who says that incessant Fulani herdsmen attacks are a continuation of Jihad (so-called holy war) first launched in the early 19<sup>th</sup> century (Tayo 2018). According to him, his view is based on the declarations of the leaders of Fulani herdsmen cultural organizations such as the Fulani Nationality Movement (FUNAM) (FUNAM 2018; Ololade 2018). Furthermore, this is also the narrative of the Christian Association of Nigeria (CAN), which posits that the killings were mostly targeted at Christians (Adegroye, Iorhemen and Nyam 2018).

In the end, it is fair to conclude that all of the foregoing reasons contribute in various degrees to the recurrent mass killings. More importantly, however, there is an indication that

the recurrent mass killings may not easily end and this can be found in the cultural narrative of the Fulani people regarding the crisis. As a leader of the Fulani herdsmen has explained, 'nomadic grazing and cattle rearing are a prominent and permanent socio-cultural and socio-economic means of survival of a Fulani man. To stop this cultural trait and means of survival of centuries old is like bringing the Fulani clan into extinction' (Akinrefon 2015).<sup>15</sup> In other words, the struggle for landed resources for cattle grazing is a life-long assignment of the nomadic Fulani. Based on this perspective, recurring attacks by Fulani herdsmen and the consequent mass killings of non-Fulani people promises to be a chronic source of insecurity in Nigeria. Viewed from this perspective, the crisis deserves the attention of the federal government of Nigeria and the international community.

## *2.2 Some Recent Incidents of Mass Killings by Fulani Herdsmen: 2013-2018*

Isolated incidents of mass killings by Boko Haram are still occurring in Nigeria as of January 2019, especially in the north-eastern states of Nigeria. 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 (Oyeleke 2018). 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 characterized 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 (Gadzama 2018).

Similarly, in a report published on 26 July 2018 the International Crisis Group (ICG) asserts that Fulani herdsmen have killed more people in Nigeria in recent times than Boko Haram insurgents. In its words:

The conflict between herders and farmers in Nigeria, centred in the Middle Belt [also known as north central states, consisting of Benue, Kwara, Kogi, Niger, Nasarawa, and Plateau States and the Federal Capital Territory Abuja] but spreading south-ward has escalated sharply. Since September 2017, at least 1,500 people have been killed, over 1,300 of them from January to June 2018, roughly six times the number of civilians killed by Boko Haram over the same period. The first half of 2018 has seen more than 100 incidents of violence and more fatalities than any previous six-month period since the conflict started worsening in 2014. The surge of violence is concentrated in Plateau, Benue and Nasarawa States in the North Central geopolitical zone and in the adjoining Adamawa and Taraba States in the North-East zone (ICG 2018: 1). [In the North-West zone, Zamfara State is also a major victim of the violence].

As will be seen, most of the attacks occurred in the night and this reminds one of the world-acclaimed Poem *Night Fall in Soweto*, written by a South African Poet Oswald Mbuyiseni Mtshali, during the apartheid era based on his experience in Soweto. In fact, the Poem aptly captures the present experience of Nigerians in some parts of the country:

## NIGHTFALL IN SOWETO

Nightfall comes like  
a dreaded disease  
seeping through the pores  
of a healthy body  
and ravaging it beyond repair

A murderer's hand,  
lurking in the shadows,  
clasping the dagger,  
strikes down the helpless victim.

I am the victim.

I am slaughtered  
every night in the streets.  
I am cornered by the fear  
gnawing at my timid heart;  
in my helplessness I languish.

Man has ceased to be man  
Man has become beast  
Man has become prey.

I am the prey;  
I am the quarry to be run down  
by the marauding beast  
let loose by cruel nightfall  
from his cage of death.

Where is my refuge?  
Where am I safe?  
Not in my matchbox house  
Where I barricade myself against nightfall.

I tremble at his crunching footsteps,  
I quake at his deafening knock at the door.  
"Open up!" he barks like a rabid dog  
thirsty for my blood.

Nightfall! Nightfall!  
You are my mortal enemy.  
But why were you ever created?  
Why can't it be daytime?  
Daytime forever more?

For purposes of this paper, it is sufficient to outline some incidents of mass killings perpetrated by Fulani herdsmen to illustrate the gory picture of the problem. As earlier stated, the killings are mostly targeted at people of non-Fulani ethnic group and Christians. The Figure below contains selected incidents of mass killings between 2013 and 2018:

**Figure 1:** Statistics of Mass Killings and Destructions in Nigeria by Fulani Herdsmen: 2013-2018

- 23 April 2013: 10 farmers were killed in an attack on Mbasenge community in Guma local government area of Benue State by Fulani herdsmen.<sup>16</sup>
- 14 May 2013: Over 200 herdsmen surrounded Ekwo-Okpanchenyi, Agatu LGA of Benue State and killed 40 indigenes.
- 5 July 2013: 20 people were killed in a clash between Tiv farmers and Fulani herdsmen at Nzorov, Guma local government area of Benue state.
- 6 July 2013: Fulani herdsmen invade 2 villages in Agatu local government area of Benue State and killed 8 villagers. They claimed this to be in retaliation for the killing of 112 cows.
- 20 January 2014: Fulani herdsmen attacked Agatu local government area of Benue State and killed 5 soldiers on duty and other 7 persons.
- 20-21 February 2014: In a two-day onslaught, Fulani herdsmen attacked Gwer-West local government area of Benue State; killed 35 persons, displaced 80,000 persons who became internally displaced persons (IDP), and sacked 6 Council Wards.
- 12 March 2014: Fulani herdsmen raided Ukpam village of Mbabaai in Guma local government are of Benue State; killed 28 persons and burnt farms and yam barns.

- 23 March 2014: In Gbajimba, Guma local government area of Benue State, Fulani herdsmen killed 25 persons and injured over 50, using sophisticated weapons.
- 29 March 2014: Fulani herdsmen attacked 4 villages in Agatu local government area of Benue state; killed 19 persons and abducted 15 others.
- 27 January 2015: 17 persons killed in attacks by Fulani herdsmen on Abugbe, Okoklo, Ogwule and Ocholoyan in Agatulocal government area of Benue State.
- 30 January 2015: Over 100 attackers stormed 5 villages in Logo local government area of Benue State, killing 9 persons in the attack.
- 15 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.
- 27 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.
- 11 May 2015: Ikyoawen community in Turan Kwande local government area of Benue State invaded by Fulani herdsmen; 5 persons killed and 8 others wounded.
- 14 May 2015: 100 were killed in an attack by Fulani herdsmen in villages and refugee camps at Ukura, Gafa, Per and Tse-Gusa, Logo local government area of Benue State.
- 7 July 2015: 1 person was killed and several others injured following an attack on mourners in Imande Bebeshi in Kwande local government area of Benue State.
- 5 November 2015: 12 persons were killed and 25 others injured in Buruku local government area of Benue State following an attack by Fulani herdsmen.
- 8 February 2016: 10 persons killed and over 300 persons displaced in clash between herdsmen and farmers at Tor-Anyiin and Tor-Ataan in Buruku local government area of Benue State.
- 21-24 February 2016: Over 500 locals 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.
- 29 February 2016: 11 persons killed in Edugbeho, Agatu local government area of Benue State including a police inspector.
- 5 March 2016: Houses burnt in Agatu local government area of Benue State.
- 9 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.
- 10 March 2016: Two persons were killed in attack on Obagaji, Agatu local government area of Benue State.
- 13 March 2016: 6 people were killed by Fulani herdsmen in an attack on Tarka local government area of Benue State.
- 24 January 2017: 15 persons were killed by rampaging Fulani herdsmen, who attacked farmers in Ifiga village in Ohimini local government area of Benue State.
- 2 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.
- 8 May 2017: Three persons were confirmed killed by Fulani herdsmen in Tse-Akaa village, Ugondo Mbamar District of Logo local government area of Benue State.

- 11 March 2017: Seven persons were killed when Fulani herdsmen attacked a Tiv community, Mkgovur village, in Buruku local government area of Benue State.
- 13 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.
- 24 December 2017: A farmer identified simply as Atuanya was killed by Fulani herdsmen in Anaku in Ayamelum local government area of Anambra State.<sup>17</sup>
- 8 March 2018: Armed Fulani herdsmen killed five persons in Miango District of Plateau State and another six in Ganda Village in Bokkos local government area of Plateau State.<sup>18</sup>
- 12 March 2018: Fulani terrorists killed 25 persons, including three children and two women in Dundu Village of Kwall District in Bassa local 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.<sup>19</sup>
- 16 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 Odiguite Ovia North-East local government area of Edo State. Besides the dead, 12 persons sustained various injuries during the attack.<sup>20</sup>
- 14-15 April 2018: Fulani herdsmen killed 32 persons of Tiv ethnic group in various communities in Nasarawa State.<sup>21</sup>
- 18 April 2018: Fulani herdsmen killed four persons while they were collecting sand for construction at Jebbu-Miango Village, Bassa local government area of Plateau State, but were repelled by troops while they were moving to attack Taraba State on the same day.<sup>22</sup>
- 2 May 2018: Fifteen persons were killed and four communities completely burnt down by Fulani herdsmen who attacked Numan local government area of Adamawa State.<sup>23</sup>
- 23 June 2018: Over 150 persons were killed in the night and within 48 hours in about 5 villages of Gashish District of Barkin Ladi local government area of Plateau State.<sup>24</sup>
- 9 July 2018: Herdsmen attacked communities in Rabah local government area of Sokoto State, killing over 30 persons.<sup>25</sup>
- 2 October 2018: At least 14 persons were killed by Fulani herdsmen in the night of Tuesday 2 October 2018 in an attack in Jol village, Rivom local government area of Plateau State.<sup>26</sup>
- 3 October 2018: 19 persons were confirmed killed in yet another fresh attack by Fulani herdsmen on 3 October 2018 in Ariri village of Bassa local government area of Plateau State.<sup>27</sup>

From Figure 1 above, it is clear that Fulani herdsmen had been killing innocent Nigerians since 2013;<sup>28</sup> that is, two years before President Buhari came into office on May 29, 2015. However, at the time President Buhari came into office the major insecurity problem in Nigeria was occasioned by the activities of a terrorist group called Boko Haram. This fact is indisputable, and is recognized in the following extract from the inaugural speech of President Buhari shortly after his inauguration on May 29, 2015 (Buhari 2015). Addressing the issue of security challenges at the time, he said:



*The most immediate is Boko Haram's insurgency... But we cannot claim to have defeated Boko Haram without rescuing the Chibok girls and all other innocent persons held hostage by insurgents... This government will do all it can to rescue them alive... Boko Haram became a terrifying force taking tens of thousands of lives and capturing several towns and villages covering swathes of Nigerian sovereign territory... For now, the Armed Forces will be fully charged with prosecuting the fight against Boko Haram. We shall overhaul the rules of engagement to avoid human rights violations in operations... Boko Haram is not only the security issue bedeviling our country. The spate of kidnappings, armed robberies, herdsmen/farmers clashes, cattle rustlings all help to add to the general air of insecurity in our land. We are going to erect and maintain an efficient, disciplined people-friendly and well-compensated security forces within an over-all security architecture... As ever, I am ready to listen to grievances of my fellow Nigerians. I extend my hand of fellowship to them so that we can bring peace and build prosperity for our people (emphasis added).*

In fact, one of the key electoral promises of President Buhari was ending insecurity in Nigeria. However, a few months to the end of his 4-year tenure insecurity in Nigeria is increasing instead of ending. 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, in order to establish their separate identity in Nigeria. Accordingly, the next section will briefly trace the historical origins of the Fulani people of Nigeria.

### **3. THE FULANI PEOPLE OF NIGERIA: A BRIEF HISTORY**

According to the historical account, the Fulani people constitute a distinct ethnic group in Nigeria.<sup>29</sup> They are also found in several other African countries – including The Gambia, Mali, Sierra Leone, Benin, Burkina Faso, Cameroon, Côte d'Ivoire (Ivory Coast), Niger, Togo, the Central African Republic, Ghana, Liberia, and Sudan. In general, they are minorities in the countries they are found. In terms of language, they speak Fulɓe. It should be noted that the popular name 'Fulani' is a corruption of the local name of the people which is 'Fula' (also spelt 'Foulah' or 'Fulah'). Etymologically, the name 'Fulani' was partly borrowed from Hausa language and from Manding language.

In modern times the Fulani people may be categorized into two groups,<sup>30</sup> namely: (1) the nomadic/cattle-rearing 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 dwells in cities and engages 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.<sup>31</sup> For present purposes, it is sufficient to briefly recount the origin of the Fulani people in Nigeria. According to some authors,<sup>32</sup> the Fulani people first entered Hausaland in present-day Nigeria in the 15<sup>th</sup> century and settled in established Hausa city-states such as Kano, Katsina and Zaria; some of them as Islamic clerics. This continued in the 16<sup>th</sup> and 17<sup>th</sup> centuries with new arrivals who settled and intermingled with local Hausa people. Through the process of time, most of the nomads became acculturated and increasingly sedentary. According to Anter (2011):

The urban culture of the Hausa was attractive to many Fulani. These Town or Settled Fulani became clerics, teachers, settlers, and judges—and in many

other ways filled elite positions within the Hausa states. Soon they adopted the Hausa language, many forgetting their own Fulfulde language. Although Hausa customs exerted an influence on the Town Fulani, they did not lose touch with the cattle or bush Fulani.

It should be noted that this development was to lay the foundation for the future spread and political domination of the Fulani people in Nigeria. It should also be noted that about 99% of Fulani people are Muslims. In fact, it can be said that cultural or religious identity of Fulani people is Islam. As time proceeded in the 18<sup>th</sup> and 19<sup>th</sup> centuries, the Fulani people began to resent being ruled by their host Kings who were regarded as infidels (imperfect Muslims). In 1804, that resentment snowballed into jihad (religious or so-called holy war) launched and led by a Fulani cleric, Usman Dan Fodio, to overthrow the Hausa Kings. The jihad was successful, as most Hausa states were conquered and a new powerful state called Sokoto Caliphate established. To this day the Caliphate exists as the centre of Islamic leadership in Nigeria under an Emir/Caliph.

Anter rightly notes that the ties between the nomadic/cattle rearing Fulani (also called pastoral Fulani) and the sedentary/urban Fulani became helpful during the 19<sup>th</sup> century jihad when the latter joined the jihad. In his words, ‘they tied their grievances to those of their pastoral relatives. The cattle Fulani resented what they considered to be an unfair cattle tax, one levied by imperfect Muslims’.<sup>33</sup> In contemporary times, the Fulani people resent and oppose the anti-grazing laws enacted in Benue State, Taraba State, Plateau State, and some other States in Nigeria to check the frequent clashes between non-Fulani farmers and Fulani herdsmen. As the International Crisis Group (ICG) points out, some of the attacks and mass killings in recent years are traceable to this resentment (ICG 2018:8).

In the political arena, the Fulani people of Nigeria occupy high political offices since the time of their victory in the 19<sup>th</sup> century jihad. Before the formation of Nigeria, the Caliph of the Sokoto Caliphate was the highest religious and political leader of the Hausa/Fulani Kingdoms. This pre-eminent leadership position continued after the formation of Nigeria and up to the present day, with Fulani people occupying the highest political office of the land and several other high-ranking political offices. Specifically, at independence on 1 October 1960 Alhaji Tafawa Balewa (a Fulani man) became the first Prime Minister of Nigeria and served till 15 January 1966 when he was killed in a military coup. In more recent years, it is noteworthy that President Umaru Musa Yar’Adua (2007-2010) was a Fulani man, and the sitting President of Nigeria, Mohammad Buhari, is also a Fulani man.<sup>34</sup>

To sum up, there are indications to suggest that there is an alliance between the nomadic/cattle rearing ‘killer’ Fulanis (herdsmen) and the urban/sedentary Fulanis who control the coercive force of government. Firstly, President Buhari (urban/sedentary Fulani man) owns cattle which are herded by Fulani herdsmen and he is a patron of *Miyetti Allah* (an association of Fulani herdsmen). Secondly, President Buhari is manifestly unwilling to take any decisive security action against the ‘killer’ Fulani herdsmen who are emboldened to operate with impunity (Orsu24 News Team 2018). Thirdly, the Federal Government under the leadership of President Buhari flatly refused to declare Fulani herdsmen as a terrorist group and rejects any suggestion that Fulani herdsmen attacks are continuation of the Fulani 19<sup>th</sup> 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.<sup>35</sup> Finally, the alliance can also be seen in the fact that the Fulani herdsmen are known to use sophisticated weapons – such as AK47 rifles and other weapons of violence and mass destruction – in their various attacks, which they cannot possibly acquire personally given their lack of education and nomadic lifestyle. In other

words, someone (most likely their sedentary Fulani brothers) helped them to acquire the arms and trained them on the use.

Importantly, notwithstanding denials by President Buhari, the Sultan of Sokoto, and some other Muslim faithful a historical statement by a Fulani man – Alhaji Ahmadu Bello, who was the Sarduana 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] (Quoted in Ebeku 2012: 95-96).

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 Fulani Muslims for jihad. In any case, the next section will consider the proposition that recurrent and vicious Fulani herdsmen attacks in Nigeria are genocidal.

#### **4. GENOCIDE AND CRIMES AGAINST HUMANITY IN NIGERIA**

Some commentators have described the recurrent and massive killings of innocent people (mostly indigenous Christians/non-Fulani people) by Fulani herdsmen as genocide. For example, this is the position of a former governor of Plateau State, Jonah Jang. According to him, the killings of over 200 persons of Berom ethnic group perpetrated by ‘Fulani militias [herdsmen]’ is a ‘heinous crime against [my] people, genocide, and any attempt to forcefully take over and occupy the ancestral land of the Berom nation’ (Adinoyi 2018). Similarly, the Berom Educational and Cultural Organization (BECO) says that ‘the Fulani have driven out the Beroms from over 10 of their villages and farms, and are now forcefully occupying them’ (Adinoyi 2018).

Furthermore, the Christian Association of Nigeria (CAN) condemns the ‘unholy act of systematic genocide... [and] deliberate attempt to destroy the cultural heritage of the Plateau people, in particular, the most affected areas’ (Adinoyi 2018). The association restated this position in a wider perspective in a later press statement:<sup>36</sup>

We are particularly worried at the widespread insecurity in the country where wanton attacks and killings by armed Fulani herdsmen, bandits and terrorists have been taking place on a daily basis in our communities unchallenged despite huge investments in the security agencies. The perpetrators are being deliberately allowed to go scot free. It is even more worrisome that... over 6000 deaths in 2018 alone have been recorded in various attacks, especially in the northern and middle belt states...and other states when the country is not in a state of war...There is no doubt that the sole purpose of these attacks is aimed at ethnic cleansing, land grabbing and forceful ejection of the Christian natives from their ancestral land and heritage... *What is happening in Plateau state and other select states in Nigeria is pure genocide and must be stopped immediately* (emphasis added) (See also Zaimov 2018).

Of all, the most authoritative claim of genocide can be found in the Resolution of Nigeria’s Federal House of Representatives made on July 3, 2018, describing the killings in

Plateau State as genocide. The Resolution demanded that ‘the masterminds and perpetrators of the attacks and massacres be arrested and prosecuted, adding that there should be a coroner’s inquest and forensic examination of the weapons and ammunition used to determine the cause of deaths, calibre and source of the weapons used’ (Emejo and Iroegbu 2018).

In international law, genocide is recognized as a crime and is defined in Article II of the Convention for the Prevention and Punishment of the Offence of Genocide 1948 as meaning, among others, ‘any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such: (a) Killing members of the group; and (b) Causing serious bodily or mental harm to members of the group’. A similar definition can be found in Article 6 of the Rome Statute of the International Criminal Court (ICC) 1998. Noteworthy, under Article I of the 1948 Genocide Convention the crime of genocide may be committed in time of peace or in time of war.

In contrast, crimes against humanity is defined in the ICC statute as meaning an act ‘when committed as part of a widespread or systematic attack directed against any civilian population, with knowledge of the attack’ – including murder, persecution against any identifiable group or collectivity on political, racial, national, ethnic, cultural, religious, gender or other grounds that are universally recognized as impermissible under international law, and other inhumane acts of a similar character intentionally causing great suffering, or serious injury to body or to mental or physical health (Article 7).

Interestingly, the two concepts were developed differently in the early 1940s by two men who attended the same law school – part of an ancient university which is older than the University of Harvard in the US – located in present-day Ukraine (Coalson 2013). More importantly, while the two concepts are closely related genocide differs from crimes against humanity in one significant way. Essentially, ‘genocide’ protects a group while ‘crimes against humanity’ protects individuals. This point was well-made by Philippe Sands in an interview he granted Robert Coalson of the Radio Free Europe in 2013, thus:

Crimes against humanity and genocide are two distinct concepts. They became part of international law in the mid-1940s, after the end of World War II, and really around the time of the Nuremburg trials. They were new concepts – they are relatively recent in that sense... The basic difference between crimes against humanity and genocide is as follows: Crimes against humanity focuses on the killing of large numbers of individuals. The systematic, mass killing of a very large number of individuals will constitute a crime against humanity. Genocide has a different focus. Genocide focuses not on the killing of individuals, but on the destruction of groups. In other words, a large number of individuals who form part of a single group. And the two concepts in this way have different objectives. One aims at protecting the individual; the other aims at protecting the group (Coalson 2013).

Crucially, notwithstanding their conceptual difference the ‘international crimes’ of ‘genocide’ and ‘crimes against humanity’ are subject to universal jurisdiction – meaning that they are triable anywhere in the world regardless of where the crime was committed. Moreover, prosecution and punishment for the crime of genocide and crimes against humanity do not admit of exceptions or immunities. According to Article IV of the 1948 Genocide Convention, ‘persons committing genocide or any of the other acts enumerated in article III shall be punished, whether they are constitutionally responsible rulers, public officials or private individuals.’ In other words, constitutional or diplomatic immunities cannot avail any accused person. Hence, even a serving Head of State may be prosecuted in a

foreign land. An example is the case of Omar Al-Bashir who was wanted by the ICC while he was serving as the President of Sudan, for prosecution for alleged crimes against humanity and war crimes he allegedly committed during the Sudanese wars.

Noteworthy, the famous case of Augusto Pinochet clearly illustrates the concept of universal jurisdiction and the non-availability of immunity to accused persons.<sup>37</sup> In brief, Augusto Pinochet was the Head of State of Chile who ruled his country with terror. Under his rule, many people were tortured, killed and many disappeared. When his reign eventually ended, he became a life senator and enjoyed immunity from prosecution in Chile by virtue of exit laws he had signed. In 1997 he travelled to London to seek medical attention. While there, two Spanish Stipendiary Magistrates issued two separate arrest warrant and request for extradition to Spain to face charges of torture, murder and other crimes against humanity.<sup>38</sup> Following that, he was refused exit from the UK while extradition hearings were ongoing. His lawyers raised the issue of immunity, arguing that as former Head of State he was immune from prosecution for acts committed during his time in office. Ultimately, the House of Lords rejected the defence arguments and held that immunity does not apply to suspected perpetrators of crimes against humanity and so Pinochet could be extradited to Spain for trial (Bianchi 1999).

Interestingly, after his ordeal in London and he was eventually allowed to return to Chile on grounds of ill-health he was to face prosecutions at home as the courts nullified the immunity law he signed. All of this show that persons who perpetrate genocide, crimes against humanity or allied crimes may eventually be held accountable in their home country or in a foreign country before a domestic court or international tribunal such as the ICC which has jurisdiction to try and punish for the crime of genocide, crimes against humanity, war crimes, etc. (Rome Statute, Article 5).

Noteworthy, Nigeria is a State Party to the above-stated international instruments.<sup>39</sup> Under Article I of the Genocide Convention 1948 the Contracting Parties ‘confirm that genocide, whether committed in time of peace or in time of war is a crime under international law’ and ‘undertake to prevent and to punish’ perpetrators of the crime. Moreover, under Article V of the Convention, ‘the Contracting Parties undertake to enact, in accordance with their respective Constitutions, the necessary legislation to give effect to the provisions of the present Convention’. Furthermore, they undertake to ‘provide effective penalties’ for persons guilty of genocide, conspiracy to commit genocide, direct and indirect incitement to commit genocide, attempts to commit genocide and complicity in genocide (enumerated in Article III).

To date, however, Nigeria is yet to fulfill her obligation under the Convention by domesticating its provisions in accordance with section 12(1) of the Constitution of Nigeria 1999 (as amended).<sup>40</sup> Even so, her obligations remain binding on her and her citizens under international law and so it is possible for the perpetrators of genocide in Nigeria to face prosecution in other jurisdictions worldwide. This is in line with Article VI of the Genocide Convention 1948 which provides:

Persons charged with genocide or any of the other acts enumerated in article III shall be tried by a competent tribunal of the State in the territory of which the act was committed, or by such international penal tribunal as may have jurisdiction with respect to those Contracting Parties which shall have accepted its jurisdiction.

Specifically, perpetrators may be tried by the ICC as its jurisdiction is complementary to national criminal jurisdictions;<sup>41</sup> or by other national criminal courts under the concept of

universal jurisdiction. As has been seen above, Spanish domestic courts asserted jurisdiction to try Augusto Pinochet of Chile on charges of crimes against humanity committed in Chile, and he would have been tried in Spain had he been extradited to Spain from the UK as requested.

As in Nigeria, similar incidents of mass killing recently occurred in Myanmar. Crucially, in a recent report by a UN-backed Independent International Fact-finding Mission the experts concluded that targeted killings of Rohingya Muslim minorities by the military smack of commission of genocide, clearly stating that the ‘Myanmar’s military, known locally as the *Tatmadaw*, had demonstrated ‘genocidal intent,’ and that ‘the *Tatmadaw*’s contempt for human life... and for international law, should be a cause of concern for the entire population of Myanmar and for the international community’.<sup>42</sup> The experts rejected the defence of the *Tatmadaw* which seeks to justify the killings on grounds of security and self-defence:

Military necessity would never justify killing indiscriminately, gang-raping women, assaulting children, and burning entire villages. The *Tatmadaw*’s tactics are consistently and grossly disproportionate to actual security threats...<sup>43</sup>

Importantly, much the same thing can rightly be said regarding the recurrent killing of Christians and burning of houses and Churches by rampaging Muslim Fulani herdsmen in Nigeria. Specifically, it can be said that the pursuit of cattle grazing rights would never justify indiscriminate mass killing, assaulting women and children, raping women, and burning entire villages/communities. Interestingly, apart from being Christians, the victims belong to other ethnic groups in the country other than the Fulani ethnic group and this perfectly fits into the *Myanmar* situation.

In the *Myanmar* case, following the publication of the UN-backed report the ICC said that ‘it has jurisdiction to probe the forced expulsion of Rohingya as a possible crime against humanity’ (Barron 2018a). This may well be the experience of Nigeria in the future regarding mass killing by Fulani herdsmen. Noteworthy, the perpetrators remain potentially and perpetually liable to investigation and prosecution as the passage of time is immaterial to prosecution under the Rome Statute which recognizes no time limit for the investigation and prosecution of crimes within the jurisdiction of the court.

On the whole, having regards to the foregoing exposition – particularly the conventional definition of genocide and crimes against humanity, the recurrent killings of non-Fulani people by Fulani herdsmen, and the illustrative cases of Augusto Pinochet, Omar Al-Bashir and the Rohingya Muslims – it is axiomatic to say that there is a strong indication that genocide and/or crimes against humanity are occurring in Nigeria; at least, they are in the making.

## **5. CONCLUDING REMARKS**

The security of life, property and general welfare of the people is the central purpose of governments all over the world. In fact, section 14(2)(b) of the Constitution of Nigeria 1999 (as amended) expressly provides that ‘the security and welfare of the people shall be the primary purpose of government’. Where a government is discharging its duties efficiently, recurrent killings cannot occur with unmitigated impunity as is the case presently in Nigeria. Hence, it can be asserted without trepidation that recurrent killings of non-Fulani people by Fulani herdsmen indicate that the Federal Government of Nigeria, which exclusively controls the security apparatus of the country, has failed in its constitutional responsibilities. Importantly, the regularity, targeted and systematic approach of mass killings of non-Fulanis in Nigeria clearly suggests genocidal intent on the part of Fulani herdsmen and their

benefactors. Unfortunately, the people of Nigeria cannot legally compel their government to discharge the constitutionally-ordained 'primary purpose' of government. This is due to the ouster clause in section 6(6)(c) of the Nigerian Constitution, which forbids inquiry into any alleged breach of section 14(2)(b).<sup>44</sup> Furthermore, the political remedy of impeachment<sup>45</sup> or rejection at the next general election is but a cold comfort, given the well-known docile nature of the Nigerian National Assembly/Parliament and the notorious fact that the people's votes hardly count in Nigerian elections.

As of January 2019, the federal government only occasionally arrest suspected Fulani herdsmen but has never prosecuted any of the perpetrators of the heinous crimes for any of the possible crimes triable under Nigerian domestic law (such as murder, contrary to the Criminal/Penal Code of Nigeria).<sup>46</sup> This can be explained based on the alliance between Fulani herdsmen (nomadic Fulani) and the urban/sedentary Fulani who wield powerful political and economic positions in Nigeria (including President Buhari). This alliance goes back to the 19<sup>th</sup> century. Basically, Fulani people bond together and display a penchant for conquest and occupation of the lands of indigenous people wherever they go. It is this bond that fuels impunity by the perpetrators of the prevalent targeted mass killings.

To date, genocide and crimes against humanity are not yet triable within Nigerian criminal jurisdictions because the federal government – controlled by sedentary Fulani elites – has not domesticated the relevant international instruments (i.e. the Genocide Convention 1948 and the ICC Statute 1998) which Nigeria had since ratified. Undoubtedly, this constitutes a breach of Nigeria's obligations under these instruments and therefore a breach of international law. Nevertheless, genocide and crimes against humanity committed in Nigeria remain potentially triable by international tribunals such as the ICC or by foreign domestic courts. Targeted and systematic mass killings of an ethnic or religious group certainly violate relevant international instruments which outlaw genocide, crimes against humanity and related offences. This is the current situation in Nigeria, which should not be ignored before it degenerates to another civil war. To checkmate the situation, it is strongly recommended that the Federal Government of Nigeria should adopt short-term and long-term measures. In the short term, she should discharge her primary constitutional responsibility to the people by, *inter alia*, arresting and prosecuting the Fulani herdsmen who perpetrate the attacks, for various possible crimes under the Nigerian law such as murder, assaults, and terrorism. Furthermore, the government should domesticate the Genocide Convention 1948 and the ICC Statute 1998 without further delay to provide a legal framework for the domestic prosecution and punishment of the perpetrators of the international crimes therein created. Noteworthy, criminal prosecutions would help to curb recurrent Fulani herdsmen attacks. In the long term, the federal government must adopt critical policy decision (s) in collaboration with all the states of the federation and other critical stakeholders that could permanently end recurrent mass killings and other criminalities. Suggested options include ranching or cattle colony (Dasam and Ibe 2018: 229-231). Of these two, ranching is preferable because, *inter alia*, it will be less controversial and more widely acceptable to the federating states and other stakeholders (Duru 2019).<sup>47</sup>

On the whole, while some may deny that recurrent Fulani herdsmen attacks in Nigeria against non-Fulani people are genocidal it is difficult to deny the attempt to commit genocide which is also an international crime. In fact, this article has shown that Fulani herdsmen attacks in Nigeria may qualify as the international crimes of genocide, conspiracy to commit genocide, attempts to commit genocide and/or crimes against humanity. This finding is in agreement with the recent findings and report of Amnesty International on the attacks (Amnesty International 2018). In any case, it can be concluded that prevalent and recurring

Fulani herdsmen attacks on non-Fulani population smack of genocide in the making in Nigeria. This alone should attract international actions in accordance with relevant instruments of which Nigeria is a contracting party, and particularly because the relevant international crimes are not yet triable in Nigeria. As a starting point, it is strongly recommended that relevant agencies of the UN, the ICC and the international community should consider the recently published independent fact-findings of Amnesty International on the Fulani herdsmen attacks in Nigeria and take appropriate actions in line with Article VIII of the 1948 Genocide Convention which states:

Any Contracting Party may call upon the competent organs of the United Nations to take such action under the Charter of the United Nations as they consider appropriate for the prevention and suppression of acts of genocide or any of the other acts enumerated in article III.

## **6. EPILOGUE: LIMITATION OF THIS STUDY**

It is important to note that this article does not pretend to be an in-depth legal study of the international crime of genocide and/or crimes against humanity in Nigeria. On the contrary, it merely seeks to generate debate on what is a serious and simmering security issue in the country. Future legal studies would need to study, *inter alia*, the relevant jurisprudence of the International Criminal Court (ICC) as well as other international criminal tribunals (such as the International Criminal Tribunal for Rwanda (ICTR)) and analyze the facts presented in this study accordingly.

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## **NOTES:**

<sup>1</sup> The reality of incessant killings in Nigeria is evident in daily reports in Nigerian and foreign newspapers.

<sup>2</sup> It is well-known that the attacks were perpetrated by Fulani herdsmen, although some reports say that the attacks were perpetrated by ‘suspected’ Fulani herdsmen. Before 2015, Boko Haram was the notorious killing group in Nigeria (Ebeku 2011).

<sup>3</sup> For patterns of migration, see Iro (2018).

<sup>4</sup> The other four are electoral legitimacy, government political stability, rule of law and anti-corruption.

<sup>5</sup> By constitutional provisions, the federal government of Nigeria exclusively controls the Police and the Armed Forces (Army, Navy and Air Force) in the country. See Sections 214-215 and 217-219 respectively of the Constitution of Nigeria 1999 (as amended). Nigeria has a centralized Police Force, unlike the US and the UK for example. Prevailing insecurity in the country questions the propriety of this position and has led to ongoing debate on the establishment of State Police. See Ozekhome (2018). Cf. Ehindero (2012); Umeh (2015).

<sup>6</sup> See Nigerian Constitution 1999 (as amended), section 14(2)(b).



<sup>7</sup> See also Ozokhome (2018).

<sup>8</sup> Other regions then were the Northern Nigeria, Western Nigeria, and the Mid-Western Nigeria.

<sup>9</sup> The declaration of secession was made on 30 May 1967 by Lieutenant-Colonel Chukwuemeka Odumegwu Ojukwu, who was then Military Governor of Eastern Nigeria.

<sup>10</sup> The first military coup d'état was executed on 15 January 1966. The Hausa/Fulani officers of the Nigerian military took the view that the coup was executed by the Igbos to kill Hausa/Fulani officers. The second coup was executed as a revenge. For a good account of the first coup, see *Ezeani* (2013, Chapter 2).

<sup>11</sup> See, for example, *Ezeani* (2013: Chapter 9) and sources cited therein.

<sup>12</sup> For a discussion of the Boko Haram insurgency, see Ebeku (2011).

<sup>13</sup> The US and Nigeria classify Boko Haram as a terrorist organization. But, curiously, the Fulani herdsmen are yet to be so classified. The federal government of Nigeria insists that the herdsmen are mere criminals, not terrorists. Yet the same government was quick to classify the Indigenous People of Biafra (IPOB) – a self-determination organization – as a terrorist group, notwithstanding that the group had not unlawfully killed even one person nor damaged any kind of property.

<sup>14</sup> See generally *Ebeku* (2011).

<sup>15</sup> See also Awogbade, Olaniyan and Faleye (2016).

<sup>16</sup> Of all, it has been suggested that Benue State is probably the single most frequently attacked state by the Fulani herdsmen. See Godwin (2018), where the Benue State Government catalogued 46 illustrative incidents of Fulani herdsmen attacks on various communities of the state between February 2013 and May 2017. Most of the incidents noted here were taken from this official document. The situation is virtually the same in other parts of Nigeria, particularly in the northern states. Note that discussants on TVC television programme on 27/7/18 maintained that Zamfara State (not Benue State) is the most frequently attacked State. This may well be so. However, for the present author it is better to say that Benue, Plateau and Zamfara States are probably the most frequently and viciously attacked states in the country. For other catalogue of attacks, especially between 2016 and 2018, see *Amnesty International* (2018: 16-34).

<sup>17</sup> See Ujumadu (2017).

<sup>18</sup> See 'Herdsmen kill at least 5 persons in Plateau'. *Vanguard*. March 11, 2018 <<https://www.vanguardngr.com/2018/03/herdsmen-kill-least-5-persons-plateau/>> (Retrieved November 14, 2018).

<sup>19</sup> See Olorok (2018),

<sup>20</sup> See Ebegbulem (2018).

<sup>21</sup> See Odama (2018).

<sup>22</sup> See Omonobi & Nanlong (2018),

<sup>23</sup> See Godwin (2018a).

<sup>24</sup> See Pam (2018). See also Olorok (2018a).

<sup>25</sup> See News Agency of Nigeria (NAN) (2018).

<sup>26</sup> See Audu (2018).

<sup>27</sup> See Odunsi (2018).

<sup>28</sup> Note that Fulani herdsmen attacks could be traced much more backward, but they were not so deadly as in recent years.

<sup>29</sup> See, by example, *Nwagboso* (2018: 26). For an interesting early study of the Fulani people and their lifestyle, see *Stenning* (1957).

<sup>30</sup> For other possible classification, see *Stenning* (1957:57).

<sup>31</sup> For some information on the various versions, see Anter (2011).

<sup>32</sup> See, by example, *Stenning* (1957:7).

<sup>33</sup> Anter (2011).

<sup>34</sup> President Muhammadu Buhari entered office on 29 May 2015. His first presidential term of 4 years ended on 29 May 2019. On October 7, 2018 he was affirmed the presidential candidate of his political party, the All Progressives Congress (APC), for the February 2019 general elections, which he won. Presently, he is serving a second term in office. He had previously served as Military Head of State of Nigeria (1983-1985). Had he lost the February presidential election, it would have been to Atiku Abubakar (a Fulani man), who was the presidential candidate of the Peoples Democratic Party (PDP). Another Fulani man who served as President of Nigeria was Alhaji Shehu Shagari (1979-1983). These cases are only illustrative of Fulani dominance of political and economic leadership of Nigeria.

<sup>35</sup> Nigerian newspapers are awash with reports of high-level political solidarity with the Fulani herdsmen by their kinsmen.

<sup>36</sup> See 'Press Release By Church Denomination Heads In Plateau and Christian Association of Nigeria (CAN) Plateau State Chapter Over the Renewed Armed Fulani Herdsmen Attacks And Killings Targeted At Christians Across The Country on 28-06-2018' *Christian Solidarity Worldwide (CSW)* (Surrey, 29 June 2018) < <https://www.csw.org.uk/2018/06/29/news/4017/article.htm> > (Retrieved October 10, 2018).

<sup>37</sup> The case was first heard at the High Court, Queens Bench Division, and by the House of Lords on appeal. For the High Court case, see *In the Matter of an Application for a Writ of Habeas Corpus ad Subjicendum. Re: Augusto Pinochet Duarte*, 28 October, 1998; reproduced in 38 ILM (1999) 68. The appeal to the House of Lords was uniquely heard by two different panels, as the decision of the first panel was set aside by the House of Lords on the ground that Lord Hoffman who cast the deciding vote in the decision of the first panel had a tie with Amnesty International which was admitted in the proceedings as an intervener and he did not disclose that. The first appeal report is reported as *Regina v. Bartle and the Commissioner of Police for the Metropolis and Others (Appellants), Ex Parte Pinochet (Respondent) (on Appeal from a Divisional Court of the Queen's Bench Division)*; *Regina v. Evans and Another and the Commissioner of Police for the Metropolis and Others (Appellants), Ex Parte Pinochet (Respondent) (on Appeal from a Divisional Court of the Queen's Bench Division)*. Judgment of 25 November 1998, 37 ILM (1998) 1302. For interesting comment, see Fox, Warbrick and McGoldrick (1999: 207). The second appeal panel decision is *R v. Bow Street Stipendiary Magistrate and others, ex parte Pinochet Ugarte (Amnesty International and others intervening) (No. 3)* [1999] 2 All E.R. 97. For a comment, see Bianchi (1999: 237, at 243-249).

<sup>38</sup> The first warrant was issued on October 16, 1998, alleging the murder of Spanish citizens in Chile during his reign. The second arrest warrant alleged more offences, including conspiracy to commit acts of torture, hostage-taking as well as conspiracy to murder.

<sup>39</sup> UN Convention on the Prevention and Punishment of the Crime of Genocide; ratified by Nigeria on July 27, 2009; Rome Statute of the International Criminal Court; ratified by Nigeria on September 27, 2001.

<sup>40</sup> See Usman (2018). For an interesting overview of the ICC Statute, See Ladan (2013).

<sup>41</sup> See ICC/Rome Statute, Article 1.

<sup>42</sup> See Report of the Independent International Fact-finding Mission on Myanmar (A/HRC/39/64), backed by the UN. For summary of the Report, see Barron (2018). See also 'Myanmar Military chiefs should face genocide case for Muslim Rohingya killings, UN report says' *ABC News*, August 28, 2018 > <https://www.abc.net.au/news/2018-08->

28/myanmar-military-chiefs-should-face-genocide-case-un-says/10170916 > (Retrieved October 11, 2018).

<sup>43</sup> *UN-backed Report on Myanmar Killings*.

<sup>44</sup> The section provides that ‘the judicial powers vested in accordance with the foregoing provisions of this section shall not, except as otherwise provided by this Constitution, extend to any issue or question as to whether any act or omission by any authority or person... is in conformity with the Fundamental Objectives and Directive Principles of State Policy set out in Chapter II of this Constitution’. Section 14(2)(b) is part of the provisions under Chapter II of the Constitution.

<sup>45</sup> For removal of a President from office during his tenure (impeachment), see the Nigerian Constitution 1999 (as amended), section 143.

<sup>46</sup> Some suspects were arrested from time to time but as yet there has been no prosecution, even when confessional statements had been made.

<sup>47</sup> See also Punch Editorial (2019). RUGA Controversy and Buhari’s Place in History. *Punch*, July 19 < <https://punchng.com/ruga-controversy-and-buharis-place-in-history/> > (Retrieved October 13, 2019).

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