

FOR USE IN THE LIBRARY ONLY

**" DIPLOMATIC RECOGNITION:
KENYA'S OPERATIONAL CODE; 1964-1992 "**

BY

THIS THESIS HAS BEEN ACCEPTED FOR
THE DEGREE OF
AND A ... MA 1993
... ..

TOBIKO, PERIS PESI

A THESIS SUBMITTED IN PARTIAL FULFILLMENT OF THE REQUIREMENT OF THE
DEGREE OF MASTER OF ARTS, FACULTY OF ARTS, UNIVERSITY OF NAIROBI

DEPARTMENT OF GOVERNMENT
1993

UNIVERSITY OF NAIROBI LIBRARY



0146181 3

Ed 17243

AF

JX

4044

.T6

DECLARATION

This thesis is my original work and has not been presented for a degree in any other university



TOBIKO, PERIS PESI

This thesis has been submitted for examination with my approval as a university supervisor.



Dr. Rohio

Senior Lecturer, Department of Government

TABLE OF CONTENTS

Dedication	iii
Acknowledgements	iv
Research Problems	vi
Abbreviations	vii
Abstract	ix
Chapter layout	x
Chapter One: Introduction	
1.0 Background	1
1.1 Statement of the Problem	5
1.2 Objectives of the Study	6
1.3 Justification of the Study	7
1.4 Literature Review	8
1.5 Theoretical Framework	18
1.6 Hypotheses of the study	25
1.7 Hypotheses Conceptualization	25
1.8 Methodology	26
1.9 Data analysis	27
Endnotes	28
Chapter Two: Principles Underlying the Concept of Diplomatic Recognition	
2.0 Overview	30
2.1 Theories of recognition	34
2.2 De Facto and de jure Recognition	39
2.3 Modes of Recognition	44
2.4 Legal Instruments and legal effects of recognition	49
2.5 Non-recognition, withholding and withdrawal of recognition, and severance of diplomatic relations	54
2.6 Working definition of recognition	58
Endnotes	60

Chapter Three: Factors that Influence and Determine Kenya's Foreign Policy Behaviour in Relation to Her Recognition Position

3.0 Introduction	62
3.1 Independence	65
3.2 Political considerations	68
3.3 External Factors	73
3.4 Internal leadership and personality traits	82
3.5 Collective responsibility	87
3.6 Premises of Kenya's recognition policy	92
3.6.0 Economic motivations	92
3.6.1 Other foreign policy dimensions	96
3.6.2 National interests	98
Endnotes	103

Chapter Four: Operational Trends of Kenya's Foreign Policy Behaviour: Consistency or Inconsistency?

4.0 Introduction	105
4.1 Issue - areas	110
4.1.1 Regional Stability	110
4.1.2 Continental Issues	115
4.1.3 International or global issue-areas	123
4.2 Domestic setting	129
Endnotes	146

Chapter Five: Summary of Conclusions. Generalizations and Recommendations

5.0 Overview	148
5.1 Recognition in general	148
5.2 Foreign policy implications of Kenya's recognition position	157
5.3 Hypotheses and Findings	158
5.4 Logic of realism in the recognition of states	168
5.5 Recommendations and further observations	170
Endnotes	174
Bibliography	175

DEDICATION

Dearest mama, to you I dedicate this thesis.

ACKNOWLEDGMENT:

The successful conceptualization and completion of this thesis is owed to several individuals and institutions. But the views expressed herein are those of the author and not of any institution or individual mentioned.

I am greatly indebted to Dr. Korwa Adar not only for his indispensable supervision and constructive criticism, but also for the moral and paternal boost he provided in my academic ventures. He has been a reliable guide since my undergraduate course; always available for advice and encouragement.

I appreciate the affectionate contribution that my parents made morally and materially to make me the person that I am today. May God generously reward their efforts and sacrifices.

No words can adequately express the special role played by my brother Mr. Keriako Ole Tobiko. He is the guy whose big shoes I have been trying to fit in. His determination and selfless advices have become the inexhaustible source of my social and academic survival. His learned friends especially Lumumba Nyaberi were of great help in this particular study.

I pay tribute to my young family, in particular, my husband Mr. Kishanto Ole Suuji for sharing with me the trying period of this study. The patience exercised was a rewarding and constant utmost source of inspiration for me.

Great thanks to my all-time friend Miss E. Kilai, who made sure that this manuscript benefits from the best of her computer know-how.

I thank Hon. David Ole Sankori, MP for Kajiado Central who initiated and facilitated my meetings with a number of Honourable Members of Parliament who were greatly resourceful in this study.

Special thanks to Dr. Rohio who took over the supervision of this thesis from where Dr. Adar left, and thus ensuring that I get the necessary guidance to successfully complete this document.

Lastly, I would like to acknowledge the University of Nairobi for awarding me the two-year scholarship which enabled me to go through the post-graduate studies.

RESEARCH PROBLEMS

The context and depth of this study will only be understood by the reader in the knowledge of the problems faced by the researcher in the course of undertaking the investigations and gathering of data from which the conclusions and generalizations have been derived.

First although considerable raw data from primary sources like interviewees would have been of great help in this study, such information was not easily forthcoming. There was low response registered in the selected or sampled populations. For instance, a number of personalities who were targeted as respondents in the Ministry of Foreign Affairs sighted the official Secret Act as one binding them not to divulge information or operational policies of the government which are considered to be State Secrets or sensitive information.

Therefore, a number of respondents from such institutions like the Ministry of Foreign Affairs who were willing to give the necessary information preferred anonymity, hence making it extremely difficult for the researcher to justify her sources of information. This however, did not mean that the information given was discarded. In fact our explanations, predictions as well as generalizations and recommendations took into account all the available data as collected and analyzed by the researcher.

Secondly, although our study was based on purposive sampling in the collection of primary data, some of the targeted respondents were not easily available. For instance, a number of officers and heads of departments in the Ministry of Foreign Affairs were out of the country during the time the research was being undertaken. Parliament which was another institution with a number of targeted interviewees went on recession at crucial time of the study' therefore making it a hard task to trace some of the honourable members of parliament. Even when parliament

was on session, some of the MPs made rare appearances to the disadvantage of the researcher. Generally there was noticeable respondent biases especially on the side of politicians who tended not only to be partisan but also nurtured hatred for specific personalities, which thus blurred objective reasoning.

Thirdly, in the collection of secondary data, it was realised that although a lot on the general concept of recognition was available in international law documents, hardly anything was documented on Kenya's recognition practices. In fact we had to depend on what had been given on recognition on an abstract level co-relating and co-varying it with what has been written on Kenya's foreign policy and the practice of recognition by African States in the generality, in order to get the relevant information being sought. These necessitated the usage of a lot of deductive analysis to arrive at the appropriate descriptions, explanations and predictions from which our generalizations, conclusions and recommendations are derived, hence inter-linking variables in a scientifically causal-effect relationship.

ABBREVIATIONS

ED	Edition
EPLF	Eritrean Peoples Liberation Front
IMF	International Monetary Fund
KANU	Kenya African National Union
MPs	Members of Parliament
NAM	Non-Aligned Movement
NFD	Northern Frontier District
OAS	Organization of American States
OAU	Organization of African Unity
PLO	Palestinian Liberation Organization
PTA	Preferential Trade Area
QC	Queens' Council
U.K	United Kingdom
UDI	Unilateral Declaration of Independence
UNCTAD	United Nations Conference for Trade and Development
UNEP	United Nations Environment Programme
UNESCO	United Nations Educational Scientific and Cultural Organization
UNHCR	United Nations High Commission for Refugees
UNICEF	United Nations International Children's Fund
UNO	United Nations organizations
USA	United States of America
WB	World Bank

ABSTRACT

This thesis undertakes an investigation of diplomatic recognition as understood and practiced in Kenya. It is the general purpose of this study to discover the established trend or foreign policy behaviour of this country over the time period of study. It is our basic assumption that Kenya's operational strategy or code of diplomatic behaviour is premised upon her rationalized politics of survival as dictated by her national interests. The perceived national interests and the calculations behind her other declared foreign policy dimensions (principles and policies) are used as the yardstick of understanding her recognition position.

It is also the basic assumption of this study that a number of varying factors have influenced or determined Kenya's recognition position and her established external behaviour. These factors are therefore subjected to a critical review to demonstrate the extent to which each has affected Kenya's conception and practice of diplomatic recognition.

On a linkage level, Kenya's recognition position, the factors influencing that position and her general external behaviour, other issues or variables are correlated in their inter-linkage to facilitate the categorization of Kenya's foreign policy behaviour as consistent and/or inconsistent in specific issue-areas. Such categorization is based on the assumption that both continuity and change have characterized Kenya's foreign policy process.

Throughout the thesis Kenya's foreign policy behaviour is taken to be generally representative of the new, poor and developing states of the international community. Kenya's practice and survival strategies are therefore viewed as a characteristic behaviour of such states in international politics especially their reference to international law to justify their existence and independence.

Synthesized in this study is also the phenomenon of state dominance in international politics and perpetuation of such dominance and existence, by states themselves through their practices as reflected in Kenya's recognition policy and practice. Kenya's emphasis on recognition of states; not governments, is seen as a strategy to safeguard her core values like territorial integrity, national security, which also justify her advocacy of policies like good neighbourliness, non-alignment and principles such as the sovereign equality of states, non-interference in internal affairs of other states or the non-violability of territorial borders as well as her insistence on the principle of self-determination of all peoples. Our argument is that the concept of recognition is crucial in state relations and in maintaining the status quo in the international system.

CHAPTER LAY-OUT

Chapter one entails the conceptual components of the proposed research. Such include the research question which triggered the entire study as expressed in the form of statement of the problem. Justification for the study and its objectives are outlined. The literature reviewed is cited and suitable theoretical framework is also identified. The hypotheses to be investigated and the methodology for collecting and analysing the data are set- out.

Chapter two provides the basic foundation of the study by examining the principles underlying the concept of diplomatic recognition. A working definition of the concept recognition is arrived at, thus providing a pivotal point around which the investigation rotates.

In chapter three, factors or variables which determine and influence Kenya's foreign policy behaviour in relation to the aspect of recognition are identified and critically examined. An attempt to bring out the premises of Kenya's recognition policy is undertaken in the process of analysing the identified variables.

Chapter four provides the linkage level on which the issues, factors raised and examined are correlated in an attempt to identify the operational trend or the established behaviour of Kenya's recognition practice in the time period of study. A categorization of such foreign policy behaviour as "consistency" and/or "inconsistency" is brought to light.

In chapter five, summaries of conclusions and generalizations, which confirm or disconfirm the assumed hypotheses are logically deduced. These conclusions are used as a basis to give predictions and possible relevant recommendations. The policy implications identified and brought forth are hoped to be beneficial to all interested parties; namely career diplomats, other foreign-policy practitioners and scholars alike. Such identified policy implications, above all are expected to open possible grounds for further research.

CHAPTER ONE

INTRODUCTION

1.0 BACKGROUND

Our study of the concept of recognition and the practice of states on the same, taking the case study of Kenya, is an interesting investigation on various dimensions, and it is its unique analysis and assertion which justify its undertaking. Firstly, the analysis of the concept of recognition having been basically the concern of those in the legal profession becomes an integral part of international law. The need to reflect on the concept of recognition as applied by states has been prompted by a seemingly de-emphasis on the same by political scientists. It is our assertion that if the concept of state and the activities of states have been of crucial concern to the political scientists then in fact, we (political scientists) can ill afford to de-emphasize the concept of recognition. This is because as argued by Peter Calvert, "what constitutes a state for the purposes of international behaviour is recognition by other states"¹. Secondly, another unique dimension adopted in this study is the actual analysis of recognition on a realist framework. It is however, felt that the realist paradigm will most suitably operationalise the realities of state practice of recognition in their foreign policies. Although realists do not emphasize international law like their idealist counterparts, it is our assertion that in fact states which are emphasized by realists as unit of analysis in international politics, are the formal creators and beneficiaries of international law. More so, as subjects of international law, only states have had rights, duties and responsibility for a long time. The stand adopted in this study is that in the generality, law and politics are dependent on each other and thus inseparable..Furthermore, as put by Clive Parry and J.P. Grant in the

Encyclopedic Dictionary of International law. "the term recognition in international law is employed primarily to connote the acknowledgment by the government of a state of the existence of a newly emergent state, or of a new government emerging irregularly within an existing state, or of the existence of an insurgent party within a state exercising belligerent rights"² In other words, recognition becomes the acknowledgment of the fact of existence of either of state or government of a state, hence the legitimization process of the survival and legal existence of those entities.

The international society, it has been argued, is based upon and conditioned by the persons composing it. The 'persons' in this case are the states which are the legally recognized and legitimized subjects of international law and which dominate the games played in the international arena. The international community is therefore perceived to constitute an arena, actors and games in form of international affairs. The states are the dominant actors in the international field so much so that other actors operate on the consent of states. In the pursuit of their national interests and power motivations, it is assumed that states subordinate the welfare of the international society to their own. This implies that a statist characteristic is established whereby even when less than "vital interests are at stake, they permeate all international behaviour whose aim is to guarantee the conditions of national primacy over international welfare. Hence, concern for the international welfare exists normally only when it serves national purposes.

The analysis of state relations and interactions in the international society especially on a realist conceptualization has largely been characterized by a perceived anarchic international system under which states basically operate on two levels; that is conflictual and cooperative relations. Whereas there is a lot of truth and relevance in such categorization, it can be regrettably observed that many scholars who claim

to theorize international relations on a realist framework have mostly emphasized the conflictual aspect of state relations which is attributed to the struggle for power and dominance by each state. Competitive politics between states however, can also be appreciated to be inclusive of or characterized by mutualities and reciprocities among states which thus replace confrontations with cooperation. The struggle for power, means and resources as well as status in state relations is thus appreciated on a more positively-oriented approach but which still acknowledges the relevance of state dominance in international politics.

States relations have been viewed by many to be characterized by the use of force, confrontation and undisciplined exercise of behavioral freedom. The pursuit of national interests which is supreme but occasionally tampered by unhindered inequalities between states all create a situation in which states' rivalry and power struggle is assumed. Our study however, adopts the assumption that even in a world society engulfed in a system of power politics, states find it to their benefit, on a basis of reciprocity, to limit the crude play of power and force. This rational calculation of states is reflected in their declarations and practices of recognition policies. This is why state practice of recognition and diplomatic relations is based on mutual consent. Such mutualities and reciprocities check on the disharmony caused by the untrammelled pursuit of national interest, thus bringing about a stable and orderly international society. This implies that a situation under which power politics also entails checks and balances which ensures the survival or continued existence of states is assumed.

It is the assertion of this study that through the practice of recognition policies, states have sought to enhance their full autonomy internationally. This is because as far as their recognition policies are concerned states have acted unilaterally and their continued desire for freedom of action has shaped the entire international system and dominated its institutions. This

is why states, especially the new states like Kenya have continued to emphasize the sovereign equality of all states, even at the face of glaring inequalities between states in their capabilities and varying resource endowments. States have constantly demanded for independence of action and existence and recognition of the same in spite of vast growing interactions and interdependence between members of the International community.

For purposes of this study, the controversial debate on whether recognition is a right or duty is deliberately sidelined. What becomes of major concern is the practice of recognition by the state in question, the factors that have influenced or determined such practice and the established trend or behaviour in the practice of the recognition and foreign policy in general. The study will provide us with a picture of what constitutes international recognition as understood and practiced by Kenya (a new, poor and developing state). The study therefore helps to give focus to the contemporary international society which is characterized by an increasing emergence of new members that have to fight against all odds (the odds as given above) to uphold their independence and existence and to be recognised as such by other members of the international community. Notably, traditional recognition was practiced bilaterally and this especially applies to the practice of the developed world. Recognition as practiced by the present international society reflects the relativity of the so-called unilateral acts of states, as expressed through the many factors that have influenced and even determined states' practice of recognition policies. To a new developing state like Kenya recognition is so vital in the emphasis of its sovereignty and nationalism, to the extent that we can actually argue that there is new vigour in the assertion of recognition practices, contrary to a de-emphasis of conceptualization of the same in the scholarly world.

1.1 STATEMENT OF THE PROBLEM

Kenyan foreign policy at different periods has been described and analysed by scholars, for instance, as what has been termed 'quiet diplomacy'; 'wait and see' period among many other descriptions. However, whereas many issues in Kenya's foreign relations have received considerable academic attention, the aspect of recognition has not only been isolated but has virtually been ignored in the academic realms as it relates to Kenya's foreign policy behaviour. It has been left to politicians to air spontaneously when need arises, what Kenya's position is, as far as her diplomatic recognition is concerned. Such claims by politicians have been full of disguised intentions, biases and irregularities. Here we need not point out the consequential blurring of facts in relation to the theoretical and practical reality in this issue of recognition as interpreted by the politicians.

This study hopes to respond to the question; what constitutes international recognition as far as Kenya is concerned? What factors determine Kenya's diplomatic recognition? The Kenyan case is particularized as a virgin area in the generalised issue of recognition that requires a social scientific attention. The study is therefore intended to systematize scientifically what has largely remained an assortment of assumptions and individual opinions divorced from the rigor of empirical verifications and systematic valuations.

The identified problem is felt to be intriguing, challenging and most relevant in the Kenya of today which is facing sensitive issues over the recognition of governments that have emerged in Kenya's most immediate neighbourhood like Somalia, Ethiopia and many others in the continent. A multiple of relevant questions on Kenya's diplomatic recognition practice will be examined. For instance; does Kenya recognize states or governments

in her foreign relations ? How does Kenya treat states in which extra constitutional changes of government are taking place ? Is Kenya's recognition practice based on certain declared policy ? Or is it based on moral, political or economic considerations? Is there consistency or inconsistency in Kenya's recognition practice? The study hopes to respond to the above questions and also to establish those factors by observing the currently related issues and relate them to the realities surrounding Kenya's diplomatic recognition between 1964 and 1992. This period is hoped to be reflective of the foundations and established trends of Kenya's foreign relations.

The study in the final analysis will bridge the 'gap' that has existed in the available literature and knowledge on the concept of recognition, which has been treated as legal problem hence taking a juristic value in international law thus neglecting the more political aspect of the same. It is therefore intended to correct the distortions and omissions in relation to the aspect of recognition which have characterized the minds of political science students.

1.2 OBJECTIVES OF THE STUDY

The objectives of this study are:-

- 1) To identify the premises of Kenya's policy of recognition and determine whether it is based on declared policy framework.
- 2) To identify and examine the factors that were 'cardinal' in the designation and implementation of Kenya's recognition practice in the first 30 years of independence.
- 3) To investigate the trends in Kenya's recognition practice and ascertain whether there is continuity (consistency) or inconsistency in Kenya's foreign policy behaviour.
- 4) To determine Kenya's recognition practice in relation to other foreign policy dimensions.
- 5) To examine Kenya's diplomatic recognition in relation to her perceived national interests.

1.3 JUSTIFICATION OF THE STUDY

A thorough survey of the relevant available literature about the problem only strengthens the need for an independent and objective research on the particular aspect of diplomatic recognition in Kenya. This is because the literature reflects a knowledge 'gap' which can only be filled by the answers to the questions raised in the identified problem. It is the hope of this study to come up with coherent and comprehensive information to augment the few scattered literature concerning Kenya's diplomatic recognition and to show the basis on which it is premised.

The recognition aspect of Kenya's foreign policy is especially important because modern politics of entrenched global interdependence and Kenya's policy of peaceful co-existence demands that Kenya must apply working arrangements that are flexible and realistic. A successful undertaking of this research will be useful both for the information it imparts and for the guide it is hoped to provide in evaluating Kenya's practice by enhancing its predictive value for the future.

The need for undertaking the proposed study is shown by the everyday problems that face Kenya in our rarely stable continent of Africa in which extra constitutional changes of governments are always taking place. The fact that economic, social and political issues demand that Kenya relate constantly with other states calls for a well defined course of policy-action to be established and followed. And this research is hoped to provide reference not only to scholars but also the practitioners of Kenya's foreign Policy, interested observers, educated public and other interested parties.

The contributions of this study will go along way in establishing whether recognition of a foreign government constitutes approval of that government in the Kenyan case. This is important because the question whether to recognize a new government creates strong emotions, a phenomenon that has risen many times in the history of Africa, and one which is bound to be

repeated in future as many states in Africa experience secessionist attempts, multi-partism and civil strife.

There has been vacillation in policy and confusion over such matters as when the question of recognition arises, under what conditions (if any) it should be granted and what it means once granted. The confusion is reflected in policy statements issued by the Ministry of Foreign Affairs, press accounts and in the reaction of the man in the street. This study does not deny the possible use of the recognition instrument in order to achieve political objectives, but it emphasizes the importance of developing an adequate analytical framework to explain it.

This study would be a useful document not only to students of political science, career diplomats, politicians but also of direct benefit to other members of the international community who will thus be able to get a clear picture of Kenya's diplomatic operational code which has been established over time. This document is especially relevant because unlike the spontaneous claims by practitioners, this study intends to undertake a systematic analysis of Kenya's recognition practice, an undertaking that must follow the accepted social scientific inquiry procedures which demand verifiable and constantly testable empirical generalizations and conclusions of a predictive value.

1.4 LITERATURE REVIEW

Coulombis and Wolfe in the book International Relations: Power and Justice, observed that a state is objectively accepted as a sovereign member of the international community when it possesses territory, population and an autonomous and effective government. In this case the issue of recognition or non-recognition of governments usually arises following revolutions, **coup de tats**, other violent or extra-constitutional forms of sudden governmental change besides the constitutional and non-violent changes of governments. In recognizing new governments, a number

of states apply such subjective (or political) tests or judgmental standards as whether or not a new government reflects the freely expressed will of its people and is willing to fulfill its international obligations under the rule of law.

Coulombis and Wolfe have further argued that recognition is a reversible process. This implies that should a government's capacity to meet the legal standards associated with sovereignty be questioned it may forfeit the recognition of other governments. Also generally there are two conflicting theories of recognition: these are the legal oriented and stricter constitutive theory, and the more politically oriented declarative theory. H. Lauterpacht in his book Recognition in International Law: gives a forceful representation of the constitutive school by asserting that:

..... each government should be conscious of its legal duty of objectivity in its recognizing policies. It should be aware that it was executing a legal duty or function on behalf of the decentralised juridical order, the international community, namely "the creation of a new international person."³

The implications of this assertion are far reaching; legally the rule signifies that in granting or withholding recognition states do not claim and are not entitled to serve exclusively the interests of their national policy and convenience. This further shows that a state cannot on its own refuse to recognise another even if the new entity does not satisfy the necessary conditions leading to recognition.

The declatory school disputes the premises of the constitutive school. The declatory theory divorces the institution of recognition from the question of the objectives of legal criteria of actually existing states. It does not bring into existence a state which does not exist before. A state may exist and is recognised, for instance, Kampuchea, or Zimbabwe before the Lancaster House Conference; and if it does exist in fact, then whether or

not it has been formally recognized by other states it has a right to be treated by them as a state.

Recognition has also been categorised as **de facto** recognition and **de jure** recognition. It is international law which defines the conditions under which a government should be recognized **de jure** or **de facto** and it is a matter of judgement in each particular case whether a regime fulfills the conditions. Lauterpacht indicated that a state in achieving recognition should possess people, territory and effective government, independence and the capacity for international relations. Jones Kiggundu in his L.L.B. Thesis, entitled The Recognition of Governments As Practiced by African States observed that:

One of the most confused aspects of recognition is the distinction between **de jure** and **de facto** recognition. The terms although commonly used, are technically incorrect, **de jure** recognition really means recognition of a **de jure** government. The terms describe the government not the act of government. The terminology implies that a **de facto** government does not have the same sound legal basis as a **de jure** government.⁴

The recognition issue of foreign-policy of nation-states has thus been applied on three levels or dimensions; namely, legal, political and ideological. Coulombis and Wolfe observed that whereas Britain has adopted the legal dimension of recognition, the United States has vacillated between the three levels. Another approach to recognition has emerged with the new states of the developing world. Thomas L. Galloway in his book, Recognizing Foreign Governments: The Practice of the United States, observed that : The developing nations have introduced a new approach, the Estrada Doctrine, that eliminates the recognition of foreign governments from diplomatic practice.⁵ Galloway goes further to argue that: If a state desires to protect national sovereignty, or combat intervention in its internal affairs it may adopt the Estrada Doctrine and reject the political use of recognition entirely.

In the same issue as relating to a state's sovereignty, Yilma Makonnen in his book, International Law and The New States of Africa, was of the opinion that, the succession of a state arising from independence or decolonization is a "new" change of sovereignty which traditional international law has not sufficiently covered.⁶

In short, new developing states of the third world, Kenya being inclusive, felt that the traditional international law did not fully cater for their needs especially in the sensitive issue of protection of sovereignty. Many if not all therefore resolved to adopt that which came to be known as the Estrada Doctrine which was initiated by the Mexican government in 1930. This Doctrine was articulated by the then Mexican Foreign Minister Don Genaro Estrada.

"The Mexican government has (resolved) to issue no declarations in the sense of grants of recognition, since that nation considered that such a course is an insulting practice and one which, in addition to the fact that it offends the sovereignty of other nations, implies that judgment of some sort may be passed upon the internal affairs of those nations by other governments in as much as the latter assume, in effect an attitude of criticism when they decide, favourably or unfavourably, as to the legal qualifications of foreign regimes". Whiteman (1968:15).

This assertion therefore implies that states may avoid the recognition question entirely simply by deciding that a change has been in accordance with domestic law. This normally occurs when an outside state wishes merely to continue relations with the new government or to maintain a low profile for political reasons. By implications, we concur with Jones Kiggundu, The Recognition of Governments as Practiced by African States, L.L.B. Thesis, University of Nairobi, 1980, who argued that: "because approval or non-approval is based on political motives and not upon legal considerations of the change, recognition must be regarded primarily as a political act."⁸

Under the Estrada Doctrine only new states are recognised; when a new government comes to power either through constitutional means or otherwise, its relations with outside states remain unchanged. It can thus be argued that in such a case the recognition of governments that come to power through extra constitutional means is for all practical purposes eliminated from diplomatic practice. Jones Kiggundu (1980:20) noted that: "It is not the practice of the Kenya government to make any formal statements on recognition of new governments as our policy is to recognise states not regimes."⁹

Kenya, it has been observed, is prepared to conduct inter-state business with any government of a state provided the following conditions are fulfilled:

- 1) Such a government must be in effective control over most of her territory and this control must seem to continue.
- 2) There must be a general acceptance by the people of that country of the new order.
- 3) Such a government must display the ability and willingness to discharge its international obligations and honour those obligations entered into by the previous government.

A situation reflecting the much cautiousness that the Kenyan state practices in her entire foreign policy approach and in particular the aspect of recognition was witnessed after the 1971 **coup de tat** in Uganda. In a question raised by Ole Leken in the National Assembly, he asked:

In view of the recent events in Uganda which led to the overthrow of Dr. Milton Obote's government by Major General Idi Amin's Army, what is the government's stand so far as the recognition of the new regime is concerned?¹⁰

Dr. Njoroge Mungai, the then Minister of Foreign Affairs, after expressing the customary sentiments as to the delicate nature of the matter, thus not affording to use inflammatory and emotional statements, said:

"The people of Uganda will have to determine and recognise the kind of government that they want and that is the government we shall have to recognise. We cannot afford to interfere with matters of another state neither would we let anybody else to interfere with matters of our own state."¹¹

The Kenya's case might be a reflection of the position of most African states who sometimes stress national sovereignty and independence of action to an unreasonable degree of emotion. It would be rare if they left such an act with sensitive political effect as recognition to be dictated by legal or fixed principles as propounded by Lauterpacht. Mostly the legal criteria are used to camouflage other factors and intention. This led Jones Kiggundu to argue that: "The legal criteria are not attractive to African states due to their inherent defects. They entail an obligation to recognise once the necessary factors exist."¹² Of the Kenya's case he reasonably observed that:

Kenya government reliance on the legal principle of recognition is motivated by selfish factors. Most paramount is, they fear to antagonise the new rulers in the region or else their extensive commercial interest could be jeopardised since Kenya is the dominant economic unit in the region.¹³

It can therefore be argued that the more pronounced policies and practices in Kenya's international and diplomatic relations, reflect on the more silent aspect of recognition of her foreign relations. The emphasis of cardinal Principles like self- determination, non-alignment, good neighbourliness and what has been referred to, by scholars, as 'quiet diplomacy' or the "wait-and-see" period of Kenya's relations can be used to uncover the reality of the unique position (recognition of states, not governments) that Kenya has adopted in her interactions with other members of the international

community. Hence other policies can be used to explain and predict Kenya's recognition practice.

It is important to note that Kenya's diplomatic recognition did not arise in the period before 1963. This is because before her Independence in 1963, Kenya was an "object" and not a "subject" of International Law. Katete Orwa in his article "Balance of Power Theory and Kenya's Foreign Policy in East Africa" presented to the Historical Association of Kenya's Annual Conference of 1981 (August) asserts that:

Kenya as a sovereign and independent state, has its basic national objectives and goals. At home it is concerned with national unity, economic well being and peace. From its neighbours it demands recognition of its territorial integrity and freedom of participation in the inter-regional trade. Like all states in the international system, Kenya is the sole guardian of its foreign policy which must be framed so as to enhance the national security, political stability, effective participation in the international trade and self-preservation. In an attempt to realise these goals, Kenya appears to have consistently pursued the classical policy of balance of power.¹⁴

Katete admits that for Kenya:

A policy of realism seemed appropriate particularly in East Africa. Colonialism bequeathed to the new state contestable boundaries which had to be jealously guarded lest the territorial integrity of the state be endangered.¹⁵

On a general point of view of the foreign relations of African states, C.M.B. Utete in the book, African International Relations, examines Africa and former colonial powers. He points out that: "the relations between newly independent African states and the former colonial powers have remained remarkably close and generally cordial despite conflicts"¹⁶ (1985:109). He asserts that although some of the African states were characterised by violence during the transition to independence, he observed that most of them have diversified their external relations as a matter of "deliberate policy", their links with the former colonial overlords continue to reflect "a special character". Though an early stage to make any generalization, the

possibility that African states took such course of actions in order to win recognition from their former colonial masters and the rest of the developed world cannot be ruled out.

Utete argues that these relations with the former colonial powers are sharply articulated at the political-diplomatic and broad economic levels. The relations between Kenya and her former colonial master, Britain, can be used to illustrate this point. Utete to illustrate his point cites examples of regular processes influenced by the quest for and the continued presence and dominance of the Western powers - Britain in particular. He argues that Kenya's foreign policy was taken up because of 'dependence' which was later reassessed especially from the mid 1970's to the end of that decade.

As concerns Kenya's diplomatic recognition and foreign relations with other developing countries, an examination of her relations with Uganda may provide a picture close to reality. A study into the relationship of Kenya and the neighbouring countries may be helpful. For instance, Kipyego Cheluget in :*"Kenya and the Search for Peace in the Nile Valley,"* (paper presented at the Seminar for Kenya's Ambassadors and High Commissioners 18th-22nd July 1988) has the following to say about Kenya's foreign relations with Sudan:

For many years, Kenya has maintained a certain air of aloofness in the Sudanese affairs, to the extent that many Kenyans remained ignorant of what has been taking place just across the border.¹⁷

Kipyego Cheluget asserts that of the other neighbouring countries, Uganda is closer to Kenya culturally, economically and socially. This has not however, helped the state of Kenya-Uganda relations, Mahmood Mamndani of Makerere University attributes this state of affairs to external pressure put on Kenya by Britain's Multinational Companies. To him the relations worsened when Britain interests in Uganda were threatened during Amin's regime. This is because of the character of the Kenyan economy, which is (sic) not an independent national economy but a neocolonial economy in which Britain was the leading imperialist for the better part of the 1970's.

To Cheluget, Mamndani's analysis was marxist in orientation and is misleading as far as Kenya-Uganda relations are concerned. They have always been dictated by the leadership change in Kampala, and that Kenya's stand has been consistent, although such observations may be biased. Cheluget asserts that Uganda's attitude towards Kenya has been characterized by two factors; feigned ideology and scapegoatism which he explains in detail in the article " Kenya and the search for peace" in his edition of Kenya's quarter century of diplomatic relations, issues, achievements and prospects.

Korwa Adar in his paper "Kenya's Foreign Relations with the Middle Powers: The Past and Future Foreign Policy Implication", (presented during the July, 1988 Seminar) argues that Kenya's foreign relations with the middle powers are basically conducted in a manner consistent with her national needs. This assumption is based on the fact that since her independence Kenya has continued to diversify her foreign relations as it was indicated earlier. He supports his assumption by examples of new diplomatic relations between Kenya and China, Japan, Belgium and Canada which were established in the last decade. Adar also takes note of the close relations between Kenya and Britain. He viewed the period of 1960's and 1970s in Kenya's foreign relations as the "wait-and-see" period. This he argues is illustrated by the fact that Kenya did not sever diplomatic relations with Britain as called for by the Organisation of African Unity (OAU) after the 1965 UDI in Southern Rhodesia, now Zimbabwe, by Ian Smith. His views are shared by John Okumu in his article "Kenya's Foreign Policy" in the book, The Foreign Policies of African States (ED) by Aluko Olajide. Similar views are expressed by Colin Leys in his book, Underdevelopment in Kenya: The political Economy of Neo-Colonialism.

Timothy Shaw in his article "International Stratification in Africa: Sub-Imperialism in Southern and Eastern Africa", in Journal of Southern African

Affairs 9(2) April, 1977, states that while the Kenya's neighbours, particularly Ethiopia and Somalia, spent most of their resources on military procurement during 1960's and 1970's Kenya embarked on economic development. Kenya's economic might in the region has prompted Timothy Shaw and others to view it as "a sub-imperial state". Thus during the 1977/78 Ethiopia-Somalia conflict in the Horn, Kenya embarked on a wide range of diplomatic campaigns in the West. The Kenyan leaders travelled to the United States and Britain: "to state Kenya's view about the conflict in the Horn of Africa."

Olewe-Nyunya in his paper "Kenya's Relations with the seminar, shares the views of Adar, Makinda and Timothy Shaw over Kenya's military dependence on Britain. He contends that Britain has remained the major arms supplier for Kenya from the colonial through post-colonial period. Olewe-Nyunya also asserts that technology (that is high level manpower) in professional, scientific, technical engineering fields is a vital instrument of economic development. According to him, Kenya like most former colonial African countries, has been largely technologically dependent on her former colonial master, Britain. He further argues that the supply, distribution and benefits of technology have been largely dominated by Western capitalist states. Olewe-Nyunya claims that Kenya's development strategy has been technological diversification. Diversification in terms of types of technology with respect to the various sources of technological co-operation and that technological development must meet the criteria of relevance and national interests. He asserts that Kenya's diplomats who constitute part of the mobile think tank, could play a critical role in establishing technological relationships through diplomatic means. This may involve broadening the meaning of diplomacy and thus giving the Ministry of Foreign Affairs and International Co-operation a greater role in the technological development of Kenya.

It is interesting to note the most common approach, the realist school of thought, that most of these scholars have adopted to explain and expound Kenya's foreign policy in general. For instance Olewe-Nyunya, Korwa Adar, Timothy Shaw, Katete Orwa and Samuel Makinda all accept the importance of Kenya's economic factors in determining her foreign policy. They have also emphasized the idea of national interests as influencing Kenya's foreign relations. The position taken by these scholars and the one adopted in this study in using traditionalist school of the realist as the theoretical framework strengthen and support the appropriateness of the model of analysis chosen.

From the literature reviewed, it can be observed that though all the scholars have contributed immensely to the study of Kenya's foreign policy in general, a gap in relation to Kenya's recognition practice in her foreign relations is all the more visible. Most of the scholars being political scientists have in fact almost entirely ignored the question of recognition: to be given a juristic dimension by those in the legal field, especially International Law and thus rendering it to the political abyss. Those in the field of International Law have only addressed themselves to the legal aspects of recognition globally, narrowing down to continental level and regional level at most. Neither the law scholars nor their counterparts in political science have dealt with the unique specific case of Kenya on the aspect of recognition. Therefore to all intents and purposes, this desperate situation is what this study aims at salvaging.

1.5 THEORETICAL FRAMEWORK

There are a number of theoretical approaches that can be used in the analysis of our research problem. Some of these models of analysis include:

1.5.0 The Idealist School of thought:

Proponents of this approach include pacifists, world federalists, humanitarians legalists and moralists. Some political practitioners and or scholars of the idealist school of thought include Henri de Saint-Simon, Mahatma Gandhi, Woodrow Wilson and Bertrand Russell.

Theodore A. Coulombis and James H. Wolfe in the book, International Relations : Power and Justice, have observed that the idealists advocate the "art of good governance rather than the art of the possible". The idealists basically assume that human nature is good, involving justice and obedience to legitimate rules. They therefore emphasize the abandonment of force in politics and argue for encouragement of learning and the coexistence of societies under the leadership of adequately enlightened rulers. Derived from the assumed good nature of man is the belief among idealist that man strives to uphold international norms in the international system as guided by international law. Coulombis and Wolfe thus come to the conclusion that idealists see it possible to have a world government under which individual nation-states will surrender their sovereignty. This may explain the support and encouragement which idealists like Woodrow Wilson gave to International organization like the League of Nations.

1.5.1 Realism or Power Politics:

This approach in international politics has been associated with scholars such as Edward H. Carr, Hans Morgenthau, Arnold Wolfers and George Kennan. Hans Morgenthau, an ardent supporter of realism, in his book Politics Among Nations, sees politics as "a struggle for power". According to Morgenthau power politics is what defines the fundamental and persistent forces of world politics as embodied in the institution of the nation-state. It was his contention that power is the basic drive which determines the foreign policies of states.

National interest is also a central concept for the realists. It is assumed that political actors (nation-states, decision-makers, and institutions) act rationally to promote their interests in the best way possible. Therefore, acting in pursuit of personal, group and national interests is being eminently political. James E. Dougherty and Robert L. Pfaltzgraff in the book, Contending Theories of International Relations, have observed that realists stressed power and interest rather than ideals in international relations. In their view, "realism is basically conservative, empirical, prudent, suspicious of idealistic principles, and respectful of the lessons of history". Realists criticise the idealists (utopians) for preferring visionary goals to scientific analysis.

It is assumed by realists that the political person is rational, implying that, "the rational political person is in the last analysis, a pragmatist: understandings, bargains and compromises are more likely to prevail than rules, adjudication, and moral righteousness" as observed by Wolfe and Theodore in the book International Relations: Power and Justice. To Niccolo Machiavelli, a political realist who emphasized this survival-oriented behaviour, morality, legalism and ideologies are luxuries. They can only be pursued if they do not endanger the viability and the vital interests of the political collectivity or the government that speaks for the collectivity.

Realism as argued by John Vasquez has three central assumptions: Firstly, it is the conception of realists that nation-states are the most important actors in the international system. Secondly, it is also their contention that there is a sharp distinction between domestic and international politics. Thirdly, it is argued that the focus of international relations is the study of power and peace.

1.5.2 The Dependency School:

Many scholars of African International Relations have adopted the dependency analysis to explain the relations of most African states with the outside world. The proponents of this school of thought focus on the historical origins and the subsequent "development of underdevelopment". D.K. Orwa in the article "Theories of International Relations" in the book, African International Relations, notes that:

"originally a Latin American preserve, seeking to explain why the goals of autonomous capitalist development had eluded policy-makers despite the existence of a substantial indigenous bourgeoisie, dependency theory is now embraced by increasing numbers of Africanist writers. Notable among these are Immanuel Wallerstein, E.A. Alpers, Peter C.W. Gutkind, and Steve Langdon for the West; Walter Rodney, H. Brewster and N. Girvan for the Caribbean; and Samir Amin (Egyptian) and Claude Ake (Nigerian) for African." 19

Colin Leys in the book, Underdevelopment in Kenya: The Political Economy of Neo-Colonialism.1964-1971, emphasizes the influence that multinational corporations have had on Kenya's foreign relations. Dependency analysis has emphasized economic factors as being decisive in shaping the kind of relationship an underdeveloped country might have with an industrialised state. Walter Rodney published How Europe Underdeveloped Africa in this light.

According to the dependency school, a global integration of the capitalist system is assumed. Implied here in is an unequal relations between the state players of the said system, whereby the metropolitan states exploit the peripheral underdeveloped states of the Third World. In fact some of the Third World states, Kenya inclusive, have been regarded by some scholars as the satellites of the metropolis which help to perpetuate the dependency syndrome. All the underdeveloped states have the dependency syndrome. All the underdeveloped states are dependent on the capitalist world for technology, capital, finance and monetary systems and trade. It is believed

this is so because the capitalist world has a virtual monopoly over the 'means of production'.

1.5.3 Structural-functionalism:

This approach has largely been applied in the analysis of politics of integration. Coulombis and Wolfe in the book, International Relations: Power and Justice argue that the structural-functionalist strategy claims that they recommend the employment of realistic means for the attainment of idealistic ends. This strategy urges the development of piece-meal non-political cooperative organizations, which are established most effectively in the economic, technical, scientific, social and cultural sectors. These sectors are referred to collectively as functional sectors. Governments find it difficult to oppose the growth of functional organizations since these non-political bodies are mutually advantageous for the participating states and do not appear to constrict national sovereignty. One of the early proponents of structural functionalism is David Mitrany and the best-known practitioner of the same was the European statesman Jean Monnet. Structural functionalism emphasized the development of transnational institutions or functional sectors in a ramifications or "spill-over" effect of the non-political issues gradually into the political resulting to global unity. Hence eventual political unification is explained using the spil-over concept similar to what economists call the demonstration effect.

Kenya's quest for socio-political and economic development has necessitated her application of varying strategies of the recognition aspect towards the developed and the developing countries. This may explain why Kenya insists on the policy of good neighbourliness and regional cooperation in East Africa. This is reflected by her current attempts in the 1990's to revive the defunct East African Community. The structural realities of the global capitalist economy have influenced Kenya's relation with developed

nation-states such as her former colonial master, Britain, and the capitalist United States of America. Hence the proposition that "You stand where you sit" may be a valid situation of the international structure that influences Kenya's recognition practice.

Among the many models of analysis by the social scientists, some of whose tenets have been outlined, the realist school of thought portrays the most suitable theoretical framework for the analysis of the aspect of recognition in Kenya's foreign policy. The realist approach will be the most helpful in organising empirical data on the attitudes and practices of Kenya as it relates to other members of the international system; and in her observation of international norms as provided by international laws.

From the available literature we realise that Kenya has emphasized the important role of the state as the major actor in the international system. That is why at least theoretically and probably even practically Kenya has maintained the policy of 'recognition of states and not governments' as entailed in the Estrada Doctrine which most if not all of the new independent states of Africa have adopted.

Typical of the realist conception, Kenya is sensitive to the protection of sovereignty of states in the international system. Kenya's foreign policy has therefore entailed such cardinal principles as; the sovereign equality of member states of the international system; non-interference by states in each others internal affairs; respect for state sovereignty and territorial integrity of each member state, which merely represents an elaboration of the concept of state sovereignty. The issue of self-determination and territorial integrity as viewed by Korwa G. Adar in his paper "Merits and Demerits of Foreign Policy Options in The Horn of Africa" defines Kenya's position in the conflictual relations in the Horn of Africa between Kenya and Somali, and Kenya's diplomatic relations with Ethiopia.

The realists, therefore, consider as most important the observed behaviours of governments, which they explain in terms of concepts such as the "balance of power", the pursuit of "national interests", the quest for "world order" and the diplomacy of "prudence", and "equilibrium". Such concepts fundamental to political realism will be relevantly applied to explain the aspect of recognition in Kenya's foreign policy behaviour.

It is important to note that the other theories mentioned in our theoretical framework other than the adopted realist approach attempt to analyse and explain international politics on a wider scope that transcends national boundaries and character. For instance structural-functionalism emphasizes the effect of functional sectors or issues consequently de-emphasizing the state as a dominant player in international politics. The dependency school adopts a metropolis-satellites relationship said to perpetuate the underdevelopment and dependence of the third world nations on the developed states. The utopian or idealistic ideas of good human nature emphasized by the idealist school of thought hardly explains why states act or behave the way they do in the international system. The above cited limitations of the mentioned theories and the observed strengths and viability of the realist theory in explaining state behaviour thus leaves the researcher with no other choice but to reject the former and adopt the latter for a suitable analysis of Kenya's diplomatic recognition and her foreign policy behaviour in general.

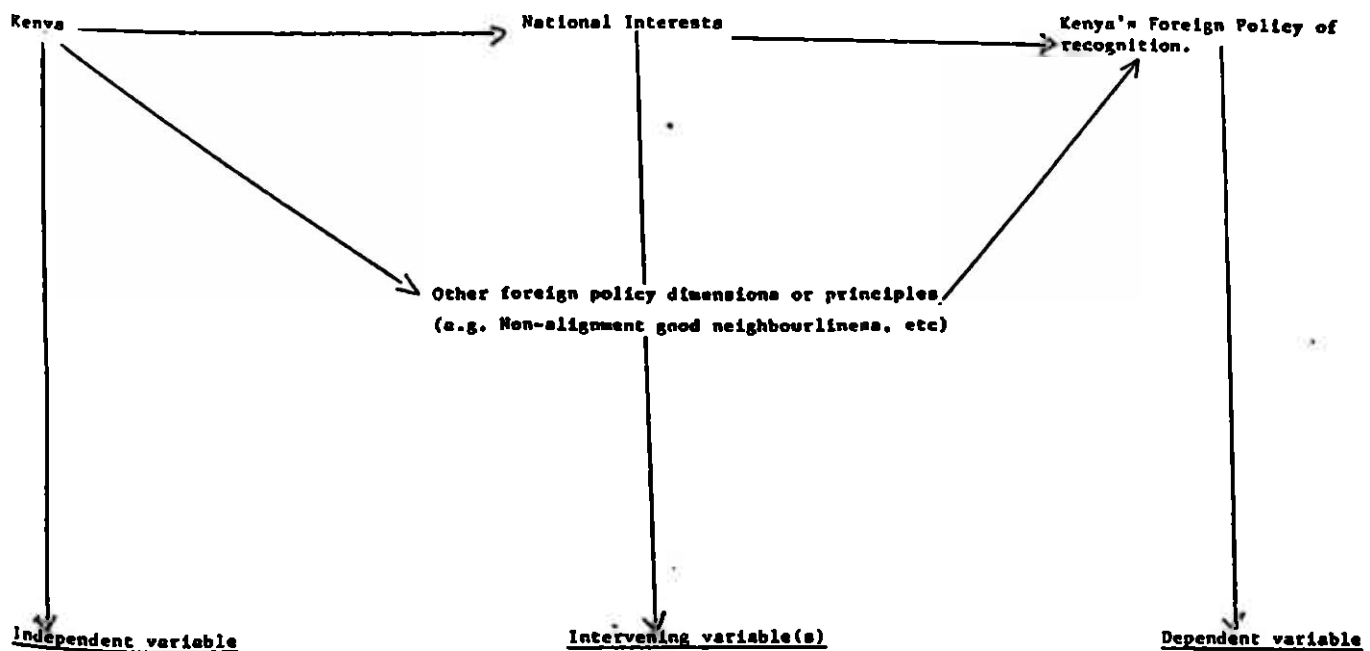
1.6 HYPOTHESES OF THE STUDY

The hypotheses of this study are:-

1. That Kenya's diplomatic recognition is dictated by her national interests as perceived by the policy makers.
2. That Kenya's diplomatic recognition policy is shaped and influenced by her other declared foreign policies.

1.7 HYPOTHESES CONCEPTUALIZATION

Figure 1



Illustrating our hypotheses, this figure simplifies the otherwise complex causal-effect relationship between the independent, intervening and dependent variables. Kenya as a state has a set of priorities perceived by the policy makers as her national interests, she also has guiding principles and policies which she pursues in her external relations and in addition a varying number of other factors like external pressure, collective responsibility, type of internal leadership and personality traits (of

individual policy-makers) which have become typical influences of her diplomatic recognition position and practice as well as determinants of her general foreign policy behaviour. Kenya's diplomatic recognition practice becomes a resultant policy aimed at safeguarding Kenya's existence and coexistence with other states operating in an environment in which the above cited factors are in a state of continuous interplay, hence harmonizing the otherwise contradictory interests of the members of the international society.

The figurative illustration of our hypotheses reflects a situation whereby Kenya's foreign policy of recognition is dictated by her national interests. The foreign policy position adopted is also determined by the advocated principles and policies like the principle of good neighbourliness, non-alignment policy, the right to self-determination, etc. It is therefore assumed that Kenya's foreign behaviour is comprehensible and explainable on the basis of the cited intervening variables.

1.8 METHODOLOGY

This research will involve both secondary and primary sources of data. Each source of information will supplement the other in order to produce adequate and up-to-date data which will answer our research question most effectively.

The study will focus library materials for secondary data. This implies that books, journals, published and unpublished research papers, microfilms on Kenya's foreign policy, newspapers, magazines as well as periodicals will provide the necessary archival data required.

Relevant information is hoped to be derived through discussions and administration of questionnaires to a purposively sampled group of respondents, who are people expected to be well-informed in the area of study.

1.9 DATA ANALYSIS

The collected data shall be recorded and analysed in the scientifically accepted procedures of social science in order to facilitate proper descriptions and explanations. Such descriptions and explanations will enable us to make relevant, conclusions, generalizations and recommendations.

ENDNOTES

1. Calvert, Peter, The Foreign Policy of New States Brighton, Sussex : Wheat sheaf Books Ltd.; 1986. p. 28.
2. Parry, C. and Grant J.P. et al, Encyclopaedic Dictionary of International Law. New York : London : Oceana Publications, Inc. 1986 p. 323.
3. Lauterpacht, H., Recognition in International Law. Cambridge : Cambridge Univ. Press; 1947. p. 396.
4. Kiggundu, Jones, "The Recognition of Governments As Practiced by African States". Unpublished LLB Thesis. Univ. of Nairobi: 1980. p. 12.
5. Galloway, T.L. Recognizing Foreign Governments : The Practice of the United States. Washington D.C. American Enterprise Institute; 1978. p. 2.
6. Makonnen, Yilma. International Law and The New States of Africa. Addis Ababa : UNESCO; 1983. p..83
7. Whiteman, Marjorie M. Digest of International Law Vol. 2. Washington, D.C State Department; 1963.
8. Kiggundu, Jones. Supra; p. 4
9. Kiggundu, Jones. Op.cit; p. 20.
10. Hansard : Vol. XXLL p. 127.
11. Ibid. p.5
12. Kiggundu Jones. Op.cit. p.8
13. Kiggundu Jones. Op.cit p.10
14. Orwa, Katete "Balance of Power Theory and Kenya's Foreign Policy in East Africa". Unpublished Paper presented to the Historical Association of Kenya's Annual Conference; August 1981. p.2
15. Ibid. p.5
16. Ojo, Orwa and Utete. African International Relations. London: Longman, 1985. p.18
17. Cheluget, Kipyego. "The Search for Peace in the Nile Valley" In Cheluget K. (Ed). Kenya's Quarter Century of Diplomatic Relations, Issues, Achievements and Prospects. Nairobi : 1990 p. 12.
18. Doughty, J.E and Pfaltzgraf R.L. Contenting Theories of International Relations. NewYork: Harper and Row Pub: 1990, p.7

19 Orwa, D.K. "Theories of International Relations In Olatunde Ojo; et al
(eds.) African International Relations. London : New York : Lagos :
L o n g m a n ; 1 9 8 5 . p . 5 7 .

CHAPTER TWO

PRINCIPLES UNDERLYING THE CONCEPT OF DIPLOMATIC RECOGNITION

2.0 OVERVIEW:

Chapter two, analyses the principal approaches, modes and doctrines and the legal instruments of diplomatic recognition. It also identifies and discusses the complexities inherent in the concept of recognition a phenomenon characteristic of international relations.

International relations as a field of study is dominantly characterised by the dynamics of the interactions, reactions and counter-reactions of the nation - states in response to the policies and behaviour practised by each in the international system. The study of these processes and activities of nation - states as the dominant actors in the international system besides those of other actors like international organizations (governmental and non-governmental), multinational corporations and individuals becomes a complex undertaking. This is especially because the realities of international relations are not reducible to a simple formula. Many theories have been advanced by the scholars in this field in an attempt to grasp the complexities of international relations, so much so to the extent that a single aspect of international relations like diplomatic recognition has been subjected to two opposing theories.

The general category of recognition reflects many of the complexities of international relations in various ways. For instance, several types, modes, doctrines, facets and theories have been advanced concerning the aspect of recognition. Scholars of foreign policy and specifically those concerned

with recognition have admitted the difficulty involved in the study of recognition as a subject. The problems become prevalent when a scientific and systematic appraisal of the concept is undertaken. This is what could have led Michael Akehurst, author of the book: A Modern Introduction to International Law, to lament that:

Recognition is one of the most difficult topics in international law. It is a confusing mixture of politics, international law and municipal law. The legal and political elements cannot be disentangled.¹

On the same note; Ian Brownlie, on the third edition of: Principles of Public International Law argued that;

There is no such thing as a uniform type of recognition or non-recognition. The terminology of official communication and declarations is not very consistent; there may be **de jure** recognition; **de facto** recognition, full diplomatic recognition, and so on. The term recognition may (even) be absent.²

Reiterating similar observation only in different wording J.G. Starke (Q.C) in the 7th Edition of An Introduction to International Law, saw recognition as a difficult subject, one which "can be presented less as a collection of clearly defined rules or principles than as a body of fluid, inconsistent, and unsystematic state practice."³

When does the question of recognition arise? It is a fact that the international community constantly undergoes changes which shape it in such a way that the identity and number of states and other actors in play are by no means fixed and invariable. Recognition becomes a question of paramount importance owing to the many changes and transformations within and without states and change of status involved. This is so because in the international system old states disappear or unite with other states, or disintegrate and split into several new states, or former colonial or vassal territories may by a process of emancipation themselves attain to statehood. Then also even in the case of existing states, revolutions occur

or military conquests are effected, and the status of the new governments becomes a matter of concern to other states, which formerly had relations with the displaced governments. In other words the problems raised by these transformations demand that the issue of recognition be faced by other states, at some time or other if diplomatic intercourse must necessarily be maintained with the states or governments to be recognised.

There is no clear set of rules in International Law that guides states in their granting or withholding of recognition. Thus, recognition whose practical purpose is to initiate formal relations with the recognising state, has in form and substance continued to remain primarily a unilateral diplomatic act on the part of one or more states. It was in clear knowledge of this discretionary character of recognition, that J.G. Starke (Q.C) in his book An Introduction to International Law 7th (Ed) warned that:

It is important that in considering the International Law and practice as to recognition, due allowance should be made for the exigencies of diplomacy. States have frequently delayed, refused, or eventually accorded recognition to newly-formed states or governments for reasons that lacked strict legal justification⁴.

Once granted, recognition in a sense precludes the recognising state from contesting the qualifications for recognition of the state or government recognised.

In international relations, in the general category of recognition are included; the recognition of governments, recognition of entities as entitled to the rights of belligerency, the recognition of entities entitled to be considered as insurgent governments and the recognition of territorial changes new treaties, and so on. For the purposes of this study we will concern ourselves with the recognition of states and governments. Tentatively and simply we will take recognition to mean the willingness of a state to deal with a new state as a member of the international community, or with the new government as the representative of the state.

The unilateral act of recognition of states takes a predominantly political character. This is reflected in the fact that it is a voluntary expression of state 'Will', and that is why non-recognition may simply be part of a general policy of disapproval and boycott. Ian Brownlie puts a lot of emphasis on the intentions of the recognising state in either granting, withholding (delayed) and withdrawal of recognition or in the absence of recognition in the case of non-recognition. Recognition in the context of voluntary relations may be given on a conditional basis. However, though the granting of recognition, as a public act of state, is an optional and political act which has no legal duty in this regard, it still entails diplomatic considerations as well as legal consequences once granted.

The concept of recognition has been analysed, defined and explained using two principal approaches; namely, the constitutive theory and the declaratory theory. Recognition has also taken several modes including express and implied recognition, others have granted recognition conditionally or delayed it altogether. Whereas in the absence of the term recognition, the act has still been exercised through bilateral treaties, congratulatory messages and by declarations. A lot of confusion and controversy has risen from the distinction of recognition into the categories of **de facto** recognition and **de jure** recognition of regimes. Doctrines of recognition have been advanced as well as those of non-recognition for example in the case of the Stimson doctrine of non-recognition. Several legal instruments such as the Montevideo Convention of the Rights and Duties of States(1983), the United Nations(UN) Charter, the Universal Declaration of Human Rights as well as the various charters of other international organizations like the Organization of African Unity(OAU), Organization of American States(OAS) have loosely served as guidelines for nation states in the granting of recognition and non-

recognition being much more a question of policy than of law. Hence the act is essentially a political decision.

2.1 THEORIES OF RECOGNITION

Two principal theories have been used to explain the nature, function and effect of recognition. These two approaches or theories are the constitutive theory and the declaratory theory. According to Michael Akehurst, the two approaches in their attempt to explain the legal effects of recognition have brought up "one of those theoretical quarrels which have done so much to bring International law into discredit"⁵ The said "theoretical quarrel" has contributed to the controversy as to whether the issue of recognition of states is more political than legal and vice versa in nature. It is this unending theoretical argument that has reflected the non- institutionalised or loosely organized structure of international law hence its weakness.

2.1.0 The Constitutive Theory

According to the constitutive theory, it is the act of recognition alone which creates statehood or which clothes a new document with any authority or status in the international community. This implies that a state or government does not exist for the purposes of international law until it is recognised as observed by Michael Akehurst. In this sense recognition has a constitutive effect in that it is a necessary condition for the creation, establishment or "constitution" of the state or government concerned. It is therefore the conviction of the advocates of the constitutive approach that it is through recognition only and exclusively that a state becomes an international person and a subject of international law. This means the international personality of a state and its government depends on recognition, which becomes a requisite considered for statehood or legitimate government. In this connection, S.O Ochillo in his LLB Thesis 1990 titled 'Recognition of New States and Governments in International

Law: The African Perspective' observed that without recognition even if all such legal attributes for statehood and legitimate government do exist, a state or government does not in the sense of international law.⁶

On similar contribution, Ian Brownlie asserts that;

According to the (constitutive) view, the political act of recognition is a precondition of the existence of legal rights: in its extreme form, this is to say that the very personality of a state depends on the political decision of other states.⁷

Brownlie, however, disagrees with the constitutive theory claiming that,

the result is as a matter of principle impossible to accept: (because) it is clearly established that states cannot by their independent judgement establish any competence of other states which is established by international law and does not depend on agreement or concession.⁸

D.J. Harris in the 2nd edition of Cases and materials on international law analysed the views of Sir Herald Lauterpacht in the work titled Recognition in International Law. Harris observed that;

To recognize a political community as a state is to declare that it fulfils the conditions of statehood as required by international law. If these conditions are present, the existing states are under the duty to grant recognition.⁹

Lauterpacht therefore, adopts the view that recognition is constitutive, but that there is a legal duty to recognize. Many have criticised this standpoint as 'bearing no relation to state practice'. Ian Brownlie in regard to Lauterpachts view, was of the idea that, "the legal duty can only be valid if it is in respect of an entity already bearing the marks of statehood".¹⁰

There is however, a general consensus among many scholars that the constitutive theory does not tally with state practice, especially in the contemporary world. The constitutive theory was more applicable historically, for instance, as noted by Michael Akehurst;

During the nineteenth century, (when) international law was often regarded as applying only between states with a European

civilization; other countries were only admitted to the "club" if they were "elected" by the other "members" - and the election took the form of recognition. There were also occasions (eg. during the period of the Holy Alliance, immediately after 1815) when some states tended to treat revolutionary governments as outlaws, who were likewise excluded from the "club" until they were generally recognised".¹¹

Otherwise, the declaratory or evidentiary theory is supported by the bulk of international practice, against the constitutive approach which as correctly pointed out by Brownlie;

...gains most of its plausibility from the lack of centralised institutions in the system, and it treats this lack not as an accident due to the stage of development which the law has so far reached, but as an essential feature of the system.¹²

2.1.1 Declaratory theory

In contrast to the constitutive approach, the declaratory or evidentiary theory holds that statehood or the authority of a new government exists as such prior to and independently of recognition. The act of recognition is merely a formal acknowledgment of an established situation of fact. This implies that the legal personality of a state or representing government have already been conferred by operation of law, hence denying or limiting to a great extent the legal effects of recognition.

D.J. Harris, editing Cases and Materials on International Law, commented;

...that the granting of recognition to a new state is not of a 'constitutive' but a 'declaratory' act; it does not bring into legal existence a state which did not exist before. A state may exist without being recognised and it does exist in fact, then whether or not it has been formally recognised by other states, it has a right to be treated by them as a state.¹³

Taking the line of the declaratory conception, Article Three of the Convention on Rights and Duties of States, asserts that the political existence of the state is independent of recognition by the other states. It further explains that even before recognition the state has the right to

defend its integrity and independence. The exercise of the rights of a state has no other limitation than the exercise of the rights of other states according to International Law.

Michael Akehurst insists that the declaratory theory appears to correspond more closely to the practice of states. He uses the case of the United States non-recognition of the communist government of China to justify his stand. The United States of America have argued that the Chinese government has persistently violated International Law, hence justifying the United States policy of non-recognition. Akehurst believes that such an accusation implies that an unrecognised government has rights and duties under International Law. And if the constitutive theory were true, the communist government of China would not be bound by International Law in its dealings with the United States of America(USA), and the USA would not be bound by international law in its dealings with the communist government of China.

Those scholars who advocate the declaratory theory, are of the contention that the primary function of recognition is to acknowledge as a fact something which has hitherto been uncertain, namely the independence of the body claiming to be a state, and to declare the recognizing state's readiness to accept the normal consequences of that fact, namely the usual courtesies of international intercourse. D. J. Harris argues that these principles have been accepted by the preponderant practice of states, and that they also represent rules of conduct most consistent with the fundamental requirements of international law conceived as a system of law.

Declaratory theory in most occasions have been upheld by international conventions arbitral decisions and even by the International Court of Justice, declares S. O. Ochillo in his LLB Thesis, 1990. For instance the state of Poland was of the opinion that recognition of a state is not constitutive

but merely declaratory. The recognising state thus only declares recognition of the fact of the recognised state's existence.

Ian Brownlie analysing the incidence and continuity of statehood in the 3rd Ed. of Principles of Public International Law noted that "It is sometimes said that statehood is a question of fact meaning that it is not a question of law." Be that as it is, the criteria of statehood is laid down by the law. If this was not the case, Brownlie argues: "then statehood would produce the same type of structural defect that has been detected in certain types of doctrines concerning nationality. Implied here in is that a state would be able by its own unfettered discretion to contract out of duties owed to another state simply by refusing to characterize the obligee as a state.

As emphasized by Ian Brownlie, recognition depends on the intention of the recognising state. It is also much more of policy than law and thus its political nature makes it a discretionary act of states. Thus in as much as recognition has often been given for political reasons and has tended therefore to be constitutive in character, countries generally seek to give or to refuse it in accordance with legal principles and precedents.* Also recognition has frequently been withheld for political reasons or until such time as it could be given in exchange for some material diplomatic advantage to be conceded by the newly recognised state or government. This clearly indicates that the latter already possessed the requisite attributes of statehood or governmental authority. This was the conclusion that J. G. Starke (Q.C.) arrived at in his work An introduction to international law while Wolfe and Theodore in the book International Relations: Power and Justice also realised that the declaratory theory is more realistic and is probably better suited to explain most governments current practices of recognition.

2.2 DE FACTO AND DE JURE RECOGNITION

Characteristic of recognition a lot of debate has been going on amongst scholars of International law especially, as concerns the issue of **de facto** and **de jure** recognition. To begin with, whereas the recognition of states and recognition of governments has been treated by some as separate and different in several spheres, others have seen recognition of states and recognition of governments to be amounting essentially to recognition of one entity - the state. Treated on such dimensions the issue of **de facto** and **de jure** recognition, has been applied by some in reference to the recognition of regimes (governments) only, while others use it generally in reference of either recognition of states or governments.

No wonder, Ian Brownlie in his work Principles of Public International Law contended that , "the dominance of the category 'recognition' has led to some perverse doctrine.... unfortunately, when the existence of states and governments is an issue, a proper legal perspective seems to be elusive". Arguably to separate government from the state especially in relation to diplomatic recognition is like separating the hands from the body. This is because the existence of an effective and independent government is actually a necessity of statehood, notably therefore, recognition of states may take the form of recognition of government. This is what could have prompted S. O. Ochillo in his LLB Thesis, 1990, to vehemently assert that;

Whenever recognition of a new state occurs it automatically involves recognition of the government of that state. It will be illogical (he argues) to recognise the whole unit without recognition of its operating agency - its government.¹⁴

Ochillo's assertion seems to be an echo of Michael Akehurst's contention that " a state cannot exist for long, at least cannot come into existence, unless it has a government; the state's international rights and obligations are not affected by a change of government".¹⁵. Akehurst justifies his position by citing as examples the post-war governments of West Germany

and Italy that had to pay compensations for the wrongs inflicted by the Nazi and Fascists regimes . But taking a divergent line of thought, J. G. Starke (Q. C.) was of the opinion that, recognition of a Head of State or of a new government " has nothing to do with the recognition of a state itself." He also was echoing the stand taken by one American authority in the case of *Lehigh Valley Railroad V. The State of Russia* (1927):

The granting or refusal of recognition (of a government) has nothing to do with the recognition of the state itself. If a foreign state refuse the recognition of a change in the form of government of an old state, this latter does not thereby lose recognition as an international person. 16.

Settling the matter to rest, however temporarily, Ian Brownlie, in the third edition of, Principles of Public International Law keenly observed that:

Everything depends on the intention of the recognizing government and the relevant circumstances. Although recognition of government and state may be closely related they are not necessarily identical.¹⁷

And on the specific issue of the **de jure** and **de facto** recognition, Ian Brownlie again emphasized that everything depends on the intention of the government concerned and the general context of fact and law. However, as he observes in the same book, " at least it is unlikely that the epithets refer to internal constitutionality".

Examined critically it is the intention and practice of states that draws a distinction between recognition **de jure** and **de facto** recognition. This is where varying political judgments of various states come into play in the International plane, for instance a cautious or even reluctant acceptance of an effective government, which is also lawfully established, as the **de facto** government of a state. Otherwise, it could be true as observed by Ian Brownlie that:

The distinction between '**de jure / de facto** recognition', and '**recognition as the de jure / de facto government**' is insubstantial, more especially the question is one of intention and

the legal consequences thereof in the particular case. If there is a distinction it does not seem to matter legally.¹⁸

According to J. G. Starke (Q. C.) in the seventh edition of, An Introduction to International Law: " recognition **de jure** means that according to the recognising state, the state or government recognised formally fulfils the requirements laid down by International Law for effective participation in the International community."¹⁹. Where as: "recognition **de facto** means that in the opinion of the recognising state, provisionally and temporarily and with all due reservations for the future, the state or government recognised fulfils the requirements (stated) in fact (**de facto**)."²⁰

According to Ian Brownlie general propositions about the distinction between **de jure** and the **de facto** recognitions are to be distrusted. This is because, as observed by a number of scholars, the distinction occurs exclusively in the political context of recognition of governments. It has sometimes been claimed that **de jure** recognition is irrevocable whilst **de facto** recognition can be withdrawn. However, it is Brownlie's idea that recognition of either kind can be withdrawn in the political sense, whereas in the legal sense, it cannot be unless a change of circumstances warrants it. The political influence on the categorization of recognition into **de facto** and **de jure** is, for instance, rifled in the traditional United States recognition policy which is exercised as a mark of approval. Michael Akehurst insists that one cannot base the distinction between **de jure** and **de facto** on the law of the country where the change of government has occurred. In many instances revolutionary governments are often described as **de facto** governments, but a successful revolution brings about a change in constitutional law of the country concerned.

Another ground that is cited as a possible level for making a distinction between **de jure** and **de facto** recognition is based on the idea of legitimacy. Legitimacy in this context is defined in terms of political

ideology, not in terms of law. **De facto** in this sense is used as a mark of disapproval. For instance, although the communist government in Russia had been established in 1921, it was not until 1924 that it was recognised **de jure** in the United Kingdom (UK) and only after the Liberal Conservative Coalition government was replaced by the Labour (Party) government. In such cases the relations between the recognizing state and the **de facto** government are not very cordial.

Michael Akehurst also identifies another area on which the distinction between **de jure** and **de facto** governments is based, that is governments are weighed and categorized in relation to the degree of effectiveness of the control which they exercise. For instance for a government to be recognised **de facto** it has to have effective control over most of the state's territory and the control seems to continue. To be granted **de jure** recognition a government needs not only to be in effective control over most of the state's territory, but also it should in fact be firmly established. This gives an implication that **de facto** recognition is more provisional and is used in unstable situations.

On another level, if International law is taken as the criterion of legality, neither **de jure** governments nor **de facto** governments can claim to be more lawful than the other. For the purposes of International Law, a government so long as it is in effective control of a country, constitutes the government of that country, however revolutionary or undemocratic it may be. This implies that International Law does not require states to adopt any particular form of government.

Although **de facto** recognition is predominantly portrayed as a non-committal formula whereby the recognizing state acknowledges that there is a legal government which ought to possess the powers of sovereignty, though at the time it might be deprived of them, but that there is a **de facto** government which is really in possession of them, although the

possession may be wrongful or precarious it is improper to regard it always as such or as tentative and revocable. This is because in many instances it is simply a convenient prelude to the more formal and more permanent type of recognition. This can be well illustrated by the British practice towards the communist Soviet government. On 16, March 1921, the Soviet government was granted **de facto** recognition, only to be recognised **de jure** in February 1924. And although the terminology **de facto** implies that the government referred to does not have the same sound legal basis as a **de jure** government, and whatever other basis of distinction, the two types of recognition are much the same. In fact the legal and political elements of caution in the epithet **de facto** in either context are rarely regarded as significant, thus courts both national and International accord the same strength to **de facto** recognition as evidence of an effective government as they do to **de jure** recognition. For instance British practice in the matter of **de jure** recognition has been guided by a reasonably consistent policy based on precedent, and **de facto** recognition by her is as conclusively binding, while it lasts, upon an English court as **de jure** recognition.

Furthermore, whereas **de jure** recognition once given is irrevocable, **de facto** recognition also secures considerable economic advantages to the recognizing state. It enables it to protect the interests of its citizens in the territory of that state or government. When the future of the new state or new regime is assured and the need for reservations no longer exists **de jure** recognition is formally given.

It is important to note that the act of recognition **de facto** has retroactive operation exactly as in the case of recognition **de jure**. J. G. Starke (Q. C.) believes that: "recognition operates retroactively not to invalidate the acts of a former government, but to validate the acts of a **de facto** government which has become the new **de jure** government.". Using the example of the Great Britain again it may suffice to mention that

transactions between a British subject and the government of a foreign state which has received **de facto** recognition from Britain, are binding on that foreign state and cannot be repudiated by a subsequent government which has overthrown its predecessor by force. However, as noted by J. G. Starke (Q. C.): "one material difference is that it is not the practice of the British Crown to receive as properly accredited diplomatic envoys, representatives of states which have not been recognised **de jure**." But an English Court of Law in a case in which a conflict of authority between a displaced **de jure** government and a newly recognised **de facto** government has arose; upholds the rights and status of the **de facto** government.

The foregoing argument on both **de facto** recognition and **de jure** recognition especially the analysis of propositions that have been advanced in relation to the aspect of their distinction, generally reflect a mere difference in terminology and provision but not any significant difference as far as their legal consequences are concerned. Michael Akehurst, therefore, was right or close to the truth when he argued that: "the expressions "**de jure** recognition" and "**de facto** recognition," although commonly used, are technically incorrect; "**de jure** recognition" really means recognition of a **de jure** government, the words **de jure** or **de facto**" describe the government, not the act of recognition." 22. Hence "**de facto**" recognition actually means recognition of a **de facto** government.

2.3 MODES OF RECOGNITION

There are several modes of recognition as practised by the world's nation-states. Included in this category are implied recognition, express recognition, conditional recognition, recognition by treaty or declaration, delayed recognition all of which constitute the intention of the state, a process which is aided by certain customary rules or presumptions. States as international legal persons have the capacity to make claims in respect

of breaches of international law, they have the capacity to treaties, and agreements valid on the international plane. States also are entitled to the enjoyment of privileges and immunities from national jurisdictions. Many scholars do not emphasize the mode of recognition as they do the types and theoretical basis of the same. J. G. Starke (Q. C.) declared that:

The manner of recognition is not material, provided that it unequivocally indicates the intention of the recognising state. There are no rules of International Law restrictive of the form or manner in which recognition may be accorded. 23.

Recognition of states or governments is mostly express. Express recognition is by formal declaration. This can take the form of a diplomatic note, verbal, personal message by the Head of State or Minister of Foreign Affairs, parliamentary declaration or treaty. Entry into diplomatic relations clearly implies recognition, as normally does the making of bilateral treaty arranging for commercial or other relations. A joint declaration by a group of states can be a form of express collective recognition. For instance it has been argued that the admission to the League and the United Nations entailed recognition by operation of law by all other members, whether or not they voted against admission. This position supported by principle and state practice would seem to indicate that admission to membership is prima facie evidence of statehood.

Although, normally, when a state recognizes another state or government it says so expressly, in some circumstances recognition can be implied from conduct. However, it is important to note that recognition cannot be implied from a state's conduct unless the state intends that it should be implied. This being the case, does not however, rule out the possibility of the law deducing intentions from behaviour which are different from a state's real intentions. According to Ian Brownlie, the practice of states has shown that no recognition is implied from various forms of recognition or the establishment of unofficial representation. Neither can it be implied from

the conclusion of a multilateral treaty to which the unrecognized entity is also a party, nor from the admission to an international organization (in respect to those opposing admission). He further adds that recognition is not necessarily implied by the presence or participation of an unrecognized entity at an international conference. It was his view that terminology generalizations on the subject can be sources of confusion. For example, he argues, an authority with which only informal and limited contacts have been undertaken may be accorded sovereign immunity by national courts.

Just like participation in multilateral international conferences cannot be used to infer implied recognition, so is common membership of international organizations. Such membership does not constitute implied recognition. A good example is the case of the Arab states' and Israel's common membership of the United Nations.

As noted by Michael Akehurst, it is true that recognition is not so readily implied nowadays as it used to be. He was of the opinion that entry into diplomatic relations still constitutes implied recognition, but the exchange of trade missions (even permanent trade missions) does not, nor does presentation of an international claim, or payment of compensation. In fact it is the signing of a treaty that probably only constitutes implied recognition if the treaty is bilateral and subject to ratification. It is therefore, a recurrent nightmare for diplomats to inadvertently recognize an unrecognized government. This is why the United States (U.S.) during the second world war was shocked to learn of a gorilla from French Equatorial Africa sent by De Gaulle as a present to President Roosevelt. Because the USA had not at that time recognized De Gaulle's government in exile, accepting the gift might have constituted implied recognition. The gorilla, as observed by Michael Akehurst in the book A Modern Introduction to International Law: "who was evidently a born diplomat, solved the problem by dying when half way across the Atlantic". Implied recognition is

therefore, a matter of inference from certain relations between the recognising state and the new state or new government.

On the issue of implied recognition, J. G. Starke (Q.C.) in his book An Introduction to International Law was of the contention that, in practice, the only legitimate occasions for conclusively implying recognition *de jure* are:

1. The formal signature of a bilateral treaty by the recognized and recognizing states.
2. The formal initiation of diplomatic relations between the recognized and recognizing states.
3. The issue of a consular executor by the admitting state for a consul of an unrecognized state.

He further argues, and I quote in extensia:

In certain exceptional circumstances, but not otherwise, recognition has been inferred from the following circumstances:

(a) Common participation in a multilateral treaty. However, states such as Great Britain and the United States have, sometimes, when signing a convention, declared that their signature was not to be construed as the recognition of a signatory or adhering power not recognized by them.

(b) Participation in an international conference

(c) Initiations of negotiations between a recognizing and a recognized "state".²⁴

Besides recognition being express or implied, sometimes it is conditional or restricted. Recognition often becomes conditional when a state agrees to recognise a foreign government only if the foreign government is prepared to make certain promises about its future behaviour. Many states have thus used recognition as an instrument of policy by withholding recognition from states or governments which they did not like.

A good example of conditional recognition is the one granted to Serbia under the 1878 Treaty of Berlin. The high contracting parties took upon themselves to recognize the independence of the principality of Serbia, but subject to conditions set forth in articles 34 and 35; which stated:

In Serbia the difference of religious creeds and confessions shall not be alleged against any person as a ground for exclusion or incapacity in matters relating to the enjoyment of civil and political rights, admission to public employment, functions and honours, or the exercise of the various professions and industries in any locality whatsoever.

It was stated further that:

The freedom and outward exercise of all forms of worship shall be assured to all persons belonging to Serbia, as well as to the hierarchical organization of the different communions or to their relations with their spiritual chiefs 25.

The condition that most states are subjected to is an obligation that they undertake to fulfil. If such obligation is not fulfilled, the recognized state may be guilty of a breach of international law, and this might prompt the recognizing state to sever diplomatic relations as a form of sanction. Although the status obtained by the recognised state cannot be retracted, Starke, J. G. (Q. C.) asserts that;

... the conditional recognition of states or governments which are just in process of emerging is probably revocable. Thus the recognition in 1919 by Great Britain of the Esthonian National Council "for the time being provisionally and with all necessary reservations as to the future" was no doubt revocable in the sense that it did not constitute an undertaking to continue the recognition if conditions altered 26.

The conditional or restricted recognition practice is consistent with the predominantly political character of the unilateral act of recognition. This is why in practice states have repeatedly exacted from states or governments to be recognised some guarantee or undertaking or stipulation for example, respect for private property as in the case of the United States recognition in 1937 of the new Bolivian Government. But J. G. Starke (Q. C.) was strongly convinced that, "if recognition should under international law become purely and simply the cognitive act of registering the existence of statehood or of governmental capacity, logically it could not be subject to any such extrinsic term or condition". 27

Recognition by treaty or declaration, of one state by another for instance in a bilateral arrangement between states is a direct or express mode of recognition. Delayed recognition falls under condition or restricted form of recognition because the recognizing state may have given conditionalities to be met by the state seeking recognition before it is officially recognized as a member of the Family of Nations.

2.4 LEGAL INSTRUMENTS AND LEGAL EFFECTS OF RECOGNITION

Nation-states have an established legal personality as far as International Law is concerned, hence take primacy as subjects of the law. There are other legal persons besides states and these may include international organizations, "political entities legally proximate to states", agencies of states, agencies of organizations and others which Ian Brownlie prefers to call "special type of personality". In this category are included non-self-governing peoples, states in **Statu nascendi**, legal constructions, belligerent and insurgent communities and entities **sui generis**. The legal personality of states is by far the most important category of international law, but possession of the same is not by itself a sufficient mark of statehood because as shown there are other types of legal persons so recognised. Therefore a state is only a state in the eyes of International Law if it has capacity to enter into international relations.

The legal significance of recognition stems from the fact that the criteria of statehood are laid down by law. The Montevideo Convention on the Rights and Duties of States of 1933 is a very important instrument which provides the qualifications that a state as a person of international law must possess. Article 1 of the Montevideo Convention outlines that a state must satisfy three conditions:

Firstly, a state must have territory: Absolute certainty about a state's frontiers is not necessarily required. This is especially because many states have long standing frontier disputes with their neighbours.

Secondly, a state must have a population: In Oppenheim's words, "an aggregate of individuals of both sexes who live together as a community".

Thirdly, a state must have a government: The government will enable the state to maintain effective control over its territory, and of conducting international relations with other states. But as Akehurst argues, this requirement is not always applied strictly; thus a state does not cease to exist when it is temporarily deprived of an effective government as a result of civil war or similar upheavals.

Another important legal instrument that influences the recognition policies of nation-states is the United Nations (UN) Charter. For instance Article 2(5) of the Charter provides that; " All members shall give the UN every assistance in any action which it takes in accordance with the present charter, and shall refrain from giving assistance to any state against which the UN is taking preventive or enforcement action." Hence giving recognition to an unrecognized regime which the UN is trying to bring down must surely be regarded as "assistance" to that regime. For instance, in November 1965, the Security Council urged member states not to recognize the Smith regime in Rhodesia, but the resolutions in question were drafted as recommendations, not as orders. However, these recommendations were later followed by a Security Council order to member states to impose economic sanctions against the Smith regime and recognition in this circumstances would probably be a violation of the spirit of the above stated article 2(5) of the United Nations Charter. The UN Charter therefore, has become the legal instrument which entails the basic constitutional principles of international law. It in fact, empowers members of the organization to ensure that non-member states act in accordance to the

principles enunciated therein, through imposition of economic sanctions e.g the case of South Africa in the apartheid era.

Most documents of international law emphasize on the preservation of international peace and security, which directly or indirectly the recognition of one state by another promotes and safeguards. The Universal Declaration of Human Rights tallies well with the principles of self-determination and recognition of all peoples. In one way or another the international legal instruments like the 1970 Declaration on principles of International Law, the Charter of Organization of African Unity (OAU), the Geneva conventions of 1949, the 1977 Protocols, the International Convention on Civil and Political Rights and the International Convention on Economic, Social and Cultural Rights contribute favourably to the recognition (as acknowledgement of existence) of one people by another or one state by another and their governments.

The mentioned legal instruments of recognition, and other international conventions constitute international law, establishing rules, agreements or covenants recognized by the contesting states of the international system. They foster positive international morality under which states or governments consent to follow specified rules of conduct on a voluntary basis which maintains the international system, even in time of war. For instance, the 1949 Geneva convention emphasized on the protection of civilian persons in time of war by urging military command to refrain from imposing collective penalties. The 1977 Protocols sought to control the use of inhumane weapons, by banning military or other hostile use of techniques to change weather or climate patterns or ecological balance.

The 1948 Universal Declaration of Human Rights emphasized the right to life, security, freedom of thought, speech, freedom of assembly and religion , etc. The International Convention on Civil, Social and Cultural Rights underlined the right to work, to protection against unemployment and to join

trade unions; the right to a standard of living, adequate for health and well-being, the right to education, etc. The OAU's charter just like the 1970 Declaration on Principles of International Law underlines the importance of self-determination of a people or state and the principle of equality of treatment of member states.

According to Ian Brownlie, the typical act of recognition has two legal functions, stated thus;

First, the determination of statehood a question of law: such individual determination may have evidential effect before a tribunal.

Secondly, the act is a condition of the establishment of formal, optional and bilateral relations, including diplomatic relations and conclusion of treaties. ²⁸

Whether that is a duty to grant recognition or not has become a bone of contention amongst scholars of International Law and those of foreign policy alike. In this controversial issue Ian Brownlie was of the opinion that;

... if an entity bears the marks of statehood, other states put themselves at risk legally if they ignore the basic obligations of state relations ...

... there is a duty to accept and apply certain fundamental rules of International Law: there is a legal duty to 'recognize' for certain purposes at least, but no duty to make an express, public and political determination of the question or to declare readiness to enter into diplomatic relations by means of recognition. ²⁹

Recognition being a unilateral act of states and the arbitrariness of state Practice on the same, shows that there are no rigid rules of International Law that govern recognition policies of states. We might therefore be justified to say that there is no clear-cut legal duty to recognize. However, this does not imply that recognition has no legal effects. In fact states have generally treated recognition as a legal act. They endeavour, as far as possible, to give recognition according to legal principles and precedents, to the extent that at least that although they may withhold recognition for

political reasons, when they grant it they generally make sure the state or government to be recognized at least possesses the requisite legal qualifications. Although there are limits between international law and municipal law, recognition still confers the recognized state or government a status under both International Law and municipal law. Recognition consequently, affects the rights, powers and privileges of the recognized state or government both at International Law and under the municipal law of states which have given it recognition.

Generally, a recognized state or government has sovereign immunity. For instance, in English courts such a state cannot be sued without its consent. Immunity from suit can be claimed in regard to the recognized state's property and its diplomatic representatives. A recognized state also acquires the right to sue in the courts of Law of the recognizing state. This becomes so because, otherwise, an unrecognized state or government which is of course regarded as non-existent by the courts of the unrecognized country, cannot sue in the latter's courts or enter into any kind of legal transaction.

A recognized state also becomes entitled to demand and receive possession of or to dispose of property situate within the jurisdiction of a recognizing state which formerly belonged to a preceding government. In the case of an unrecognized government, it cannot claim any of the rights of the state concerned, hence for instance, if money is owed to the state under contract, the unrecognized government cannot recover it. This implies that property due to such a state whose government is unrecognized may actually be recovered by the representatives of the regime which has been overthrown.

A newly recognized state or government may have effect given by the courts of the recognizing state to its legislative and executive acts both past and future. And according to the English rules of private International

Law English courts are frequently directed to apply foreign law. In such cases they can only apply the law of a recognized country, enacted by recognized regime.

On the issues of recognition before national courts, Ian Brownlie in the 3rd Edition of Principles of Public International Law felt that: "the attitude to questions of recognition adopted by municipal courts may thus reflect the policies of a particular state". He observed that local courts are obliged to follow the advice of the executive. It was also his contention that the issue of recognition appears in relation to the special problems or private International Law which he also refers to as "conflict of laws".

Examining the issue of the legal effects of recognition at the international level, J.G. Starke (Q.C.) asserted that;

At International Law, the status of a recognized state or government carries with it the full privileges of membership of the international community. Thus it acquires the capacity to enter into diplomatic relations with other states and to conclude treaties with them. Also such other states become subject to various obligations under International Law in relation to the newly recognized state or government, which in its turn incurs similar reciprocal obligations. Upon it therefore as from the date of recognition, fall both the burden and bounty of International Law. 30

2.5 NON-RECOGNITION (WITHHOLDING AND WITHDRAWAL OF RECOGNITION) OR SEVERANCE OF DIPLOMATIC RELATIONS

Non-recognition policies of states or a delay or even withdrawal of recognition reflects most the political nature or discretionary character of the recognition aspect of states' foreign relations. This is demonstrated by the fact that an absence of recognition may not necessarily be on any legal basis at all, there being no attempt to pass on the legal question of statehood as such. In fact non-recognition may simply be part of a general policy of disapproval and boycott. In practice therefore, non-recognition does not always imply that the existence of the unrecognized state is a

matter of doubt. In reality states have discovered that the granting or withholding of recognition can be used to further a national policy. It can thus be deduced that although attitudes of non-recognition may depend on the relevance to general International Law of the criteria employed in a given case, it is equally true that attitudes of non-recognition may depend on the political prejudices of individual members of the family of nations.

Michael Akehurst while examining several doctrines of recognition like the Lauterpacht doctrine, and those of non-recognition, had this to say about the Stimson Doctrine of Non-recognition; "Non-recognition may prevent the aggressor from acquiring a good title, but it will not deprive him of the tangible benefits of aggression unless it is accompanied by more forceful action. "32

Just like we can talk of collective recognition in terms of membership of organizations, similarly there is also a form of collective non-recognition evident in a resolution or decision of an organization of United Nations or League of Nations stature, based on a determination that an illegal act has occurred. Such collective duty of non-recognition may be associated with measures recommended or commanded by an organ of the United Nations as a form of sanction or enforcement against a wrong doer. An appropriate example in this case is the 1965 and 1966 Security Council resolutions that characterized Smith regime in Rhodesia as unlawful in terms of the UN Charter and which called upon all states not to recognize the illegal regime. In this case, assuming that Rhodesia satisfied the normal criteria of statehood, particular matters of fact and law provide a basis for a duty of non-recognition.

Non-recognition applies to both states and governments, although the "non-recognition of governments seems more political than that of states", as observed by Ian Brownlie. He argued that non-recognition of a government may have two legal facets: "that it is not a government in terms of

independence and effectiveness" or that: "the non-recognizing state is unwilling to have normal relations with the state concerned, Justice Sir Taft in the Tinoco case involving British companies against Costa Rica government, was of the opinion that;

The non-recognition by other nations of a government claiming to be a national personality, is usually appropriate evidence that it has not attained the independence and control entitling it by International Law to be classed as such. But when recognition of a government is by such nations determined by inquiry not into its **de facto** sovereignty and complete governmental control, but into its illegitimacy or irregularity of origin, their non-recognition loses something of evidential weight on the issue with which those applying the rules of International Law are alone concerned. 33

Delayed (withholding) recognition, just like premature recognition or withdrawal of recognition can be an embarrassing political gesture. This is what may have prompted Ian Brownlie to emphasize that: "when a state makes a late acceptance of the existence of a state then , in the field of basic rights and duties of existence this recognition hypothesis cannot be 'retroactive' because in a special sense it is superfluous".³⁴ In the same tone Michael Akehurst observed that: "states have used (or abused) recognition as a means of showing support for one side or other in civil wars of a secessionary character"³⁵. Akehurst must have had in mind cases like the 1968 Biafra "saga" in which "Biafra" was recognized as a state by five African States namely Tanzania, Gabon, Zambia, Ivory Coast and Cameroon after it seceded from Nigeria. But when the tide of war began to turn against "Biafra" recognition was camouflaged as a "sign of sympathy".

It is important to note, that non-recognition of a new state or new government does not mean non-intercourse with non-recognizing states, just as non-intercourse does not necessarily signify non-recognition. Illustratively, the British government has in practice never declined to have talks or to transact necessary business with the agents or Ministers of

unrecognised states or governments, as witness the discussion with the Rhodesian government after its Unilateral Declaration of Independence, although it had been made plain that such informal relations or non-committal exchanges did not in any sense amount to formal diplomatic intercourse.

Recognition to a large extent entails open diplomatic relations, so much so that sometimes a refusal to recognise is virtually equivalent to a state of severance of diplomatic relations. This of course does not imply that of necessity severance of diplomatic ties constitutes withdrawal of recognition. Hence, absence of diplomatic relations is not in itself non-recognition of the state. The issue of recognition in diplomatic dealings is a sensitive one, diplomats usually deal with caution with an unrecognised state. On the other hand states like Great Britain do not receive as properly accredited diplomatic envoys, representatives of states which have not been recognised **de jure**. The question of recognition in most states is determined by the Executive or Department of Political Affairs which advises the courts of Law accordingly. The principle adopted must act in unison with the "will of the national sovereignty" which is expressed in external affairs (foreign relations) through the Executive alone.

Finally, withholding and withdrawal of recognition it can be argued, are acts of non-recognition, however temporarily. They are dependent upon the political prejudices of individual states. severance of diplomatic relations is a policy action of a state to demonstrate, protest or disapprove particular actions of another state towards her. A good example is Kenya's severance of diplomatic ties with Norway in 1990, to protest what Kenya viewed as Norway's interference in Kenya's internal affairs. Such diplomatic ties are only reinstated when they aggrieved party feels the relations have normalised, and the threat or aggression on her internal affairs has ceased.

2.6 WORKING DEFINITION OF RECOGNITION

As stated earlier two views have dominated the attempts to define and grasp the concept of recognition; those entailed in the constitutive and the declaratory theories. The Constitutive view treats recognition as a condition which besides other conditions has to be satisfied before a state exists for the purposes of International Law. Whereas the declaratory view holds that recognition is a "mere declaration or acknowledgement of an existing state of law and fact".

Recognition of a new entity as an international person shows acceptance to full membership of the new entity in the Family of Nations. Such membership grants the state an assurance of equal treatment with other independent states in the character of an independent political organism in the society of nations. The act of recognition be it constitutive or declaratory further connotes the character and scope (**de facto** or **de jure**) of the relations between the governments of the recognising and recognised state.

Defining recognition, Hackworth asserted that;

Recognition may be of new states or of new governments. It is evidence in the case of a new state or government by an act officially acknowledging the existence of such state or government and indicating a readiness on the part of the recognising state to enter into formal relations with it. ³⁴

The law of nations is applied as a guideline on the reciprocal obligations between the recognising and the recognised entities. Recognition in this sense entails benefits, privileges, rights and duties of the newly recognised entity to be enjoyed and observed vis-a-vis the existing states.

In this connection Schwarzenberger notes that;

The purpose of recognition is to endow the new entity with capacity vis-a-vis the recognising state to be a bearer of rights and duties under International Law and participate in international relations on the footing of International Law. ³⁵

Just like many scholars who have favoured the declaratory view to the constitutive idea of recognition, S.O. Ochillo in his LLB (Bachelor of Laws) thesis in 1990 argued that;

Recognition may be defined as the acknowledgement by the independent states of the International community that the new entity recognised possesses the attributes of statehood or legitimate government to warrant it have a place amongst them in all respects appertaining to such status. 36

From the foregoing definitions, we will be justified to say that tallying with the practice of most nation-states recognition is declaratory in the sense of acknowledgement of the existence of a new entity into the international community by other states. Recognition is also to a large extent a yardstick of measuring the dimension and depth of states' diplomatic relations in terms of the states' duties, rights and privileges vis-a-vis the recognising and the recognised state.

ENDNOTES

1. Akehurst, M. A Modern Introduction to International Law. London: George Allen and Wnwin Ltd; 2nd ED. 1971. p.77.
2. Brownlie, Ian. Principles of Public International Law. (3rd Ed.)Oxford. Clarendon Press; 1979. p.93.
3. Starke, J.G. An Introduction to International Law.London: Butterworths and Company Publishers Ltd; (7th ED), 1972, p.140.
4. Starke, J.G. Ibid. , p.141.
5. Akehurst, M. Supra. p.78.
6. Ochillo, S.O. Recognition of New States and Governments in International Law: The African Perspective. Unpublished LLB Thesis; University of Nairobi, 1990. P.3.
7. Brownlie, Ian Op.cit., p.92.
8. Brownlie, Ian Ibid. p.92.
9. Harris, D.J. Cases and Materials on International Law. London: Sweetand Maxwell; (2nd ED), 1979. p.144.
10. Brownlie, Ian Op.cit. p.94
11. Akehurst, M. Supra. p.78.
12. Brownlie, Ian Op.cit. p.93.
13. Harris, D.J. Supra. p.143.
14. Ochillo, S.O. Supra. P.2.
15. Akehurst, M. Supra. p.76.
16. Starke, J.G. Supra. p.150.
17. Brownlie, Ian Supra. p.95.
18. Brownlie, Ian Ibid. p.96.
19. Starke, J.G. Op.cit. p.153.
20. Starke, J.G. Ibid., p.153.
21. Starke, J.G. Ibid. p.156.
22. Starke, J.G. Ibid., p.165.
23. Akehurst, M. Supra. p.83.
24. Starke, J.G. Op.cit.,p.143.
25. Starke, J.G. Ibid. p.147-148.

26. O'Connell, D.P. *International Law*. 1965, Vol.1; pp.185-198.
27. Starke, J.G. Op.Cit., p.148.
28. Starke, J.G. Ibid., p.149.
29. Brownlie, Ian Supra. p.93.
30. Brownlie, Ian Ibid. p.93.
31. Starke, J.G. Supra. p.161.
32. Briggs, H.W. The Law of Nations, Cases, Documents and Notes.(2nd ED). 1953; p.847.
33. United Nations Reports of International Arbitral Awards. (1923). p.76.
34. Brownlie, Ian Supra. p.98.
35. Akehurst, M. Supra. p.81.
36. Hackworth in Ochillo, S.O. Supra. p.6.
37. Schwazenberger in Ochillo, S.O. Supra. p.8.

CHAPTER THREE

FACTORS THAT INFLUENCE AND DETERMINE KENYA'S FOREIGN POLICY BEHAVIOR IN RELATION TO HER RECOGNITION POSITION

3.0 INTRODUCTION

When one is analyzing an entity's behavior, he or she is basically concerned about the decisional processes of that particular entity. Entailed here in are the factors that come into play in these decisional processes. In this chapter our concern is not only the premises or foundations of Kenya's recognition policy but also the factors which influence and shape the designation and implementation of the policy formulations in her foreign affairs. It might suffice to note that in the delicately balanced and perilous world of today, foreign affairs is one of the principal concerns of all states. For a small state like Kenya the problem may involve no more than the basic issue of survival. For the larger states there are usually a variety of positive objectives that each hopes to attain. At the end of the day, each state's task in the global arena is unique, but they all consider foreign policy a matter of high priority and major importance.

States, small or big, developed or developing all apply the politics of realism in the international arena. Power politics is the order of the day in the international system, hence the definition of politics by Hans Morgenthau as a "power struggle" in his book Politics Among Nations. States act purposely in world politics and an essential part of the process of foreign policy is making and implementing decisions.

The politics of realism, whereby a state which is also the sole important actor is expected to operate at the maximum level of effectiveness, is best

reflected when it comes to the issue of recognition in the foreign policy of states. This is especially because as argued by B. Sen in his book A Diplomats Handbook of International Law and Practice:

The question of granting or withholding recognition is a matter of absolute discretion for each individual state under international law and a state is not answerable for its decision to any authority¹.

The implication of the above statement is that state's practice on the issue of recognition is not bogged-down by the legalities of international law. It also implies that state's practice is unilateral and recognition must depend on the subjective satisfaction of the state which is called upon to give recognition. This gives room for state manoeuvre, political considerations and finally gives chance to attempts to make recognition an objective bargain.

The policy-makers of every state strive to maximize values in each given situation, hence the resultant policy-decision being in the best interest of the collective whole. This is to say that each nation-state especially in the contemporary world seeks to give recognition either on conditionalities for the state seeking recognition or generally the recognizing state takes a recognition position be it **de facto** or **de jure** that will best serve her interests as perceived by the policy-makers. Hence the argument by C.O. Lerche in the book Concepts of international politics in global perspective, where he argues that the values maximized by the state in foreign policy are varied in origin and substance. Officials charged with policy making shape this broad spectrum of needs and wants into some semblance of integrity and apply the resulting value synthesis to international politics. The policy-maker may compromise among competing values, accepting some at the cost of rejecting others, or he may find other rationalising device. Policy-makers cannot however, avoid the necessity of building their approaches to world affairs on a foundation of value choices.

Reflected in the suitable application of realistic politics or rational-actor model in the issue of recognition in the foreign policies of states is the fact that in the final analysis, states are free to pursue their value purposes as far as their wishes and strength will permit; they are normally checked by the strength of other states and only occasionally by institutional mechanisms. Hence the emphasis of the unlimited nature of state actions as far as recognition is concerned. The national interests of every nation-state which is supposed to be served by the varied recognition policies adopted by them are in no way identical. This is because the national interests of every nation state are rooted in the social consciousness and cultural identity of a people as perceived by their policy-makers. When a state chooses to grant or withhold recognition, or when it gives recognition prematurely or delays the same, or when a state adopts **de facto** versus **de jure** recognition towards another, whatever position taken either implied or expressed by an official declaration must first and foremost have calculated and weighed that position against the national interest of the recognizing state. The decisional process of the recognition policies of states and all other related mechanisms gives emphasis of the state as the most important actor in the international system, hence justifying our choice the realist paradigm in the analysis of the same.

Factors that have influenced Kenya's recognition policy and which have eventually determined the premises or policy foundations are diverse and varied. These factors are not unique only to the recognition policy that Kenya has adopted towards other states and governments but also applies majorly to all other foreign policy-positions, principles or policies that Kenya advocates. In this list are included factors like external considerations, economic issues, independence, collective responsibility, international leadership, domestic politics and personality traits of

individual policy-makers, besides national interest considerations on a general spectrum.

3.1 INDEPENDENCE

The factors mentioned above do not rule out the established criteria of granting recognition. The criteria for a state to fulfil all conditions of statehood before any state can grant it recognition holds more than ever before, because states have become cautious in the attempt to avoid premature recognition. Thus the above factors are of supplementary considerations for Kenya and for any other state in relation to the fulfillment of all conditions of statehood, this being basic to any nation-state. The above factors will only come into play after the basic condition (statehood) has already been taken into consideration. Independence of a state which is seeking to be recognized thus becomes a primary factor besides all others already mentioned. This is because once, a state is declared independent it implies that it is sovereign and relates equally to other states at international level. This is why during the 1960's when most Asian and African states were granted their independence by the colonial masters many existing states almost immediately granted them recognition. Independence is not only a self-determination of a people but also ensures that a state gains personality in regards of international law of which it becomes a subject. An independent state can claim international obligations, privileges and immunities hence a capacity to enter into international relations.

At independence a state not only lays claims to a defined territory, but also has a population to call its own and a stable government to run it. An independent state therefore fulfills all the conditions of statehood and is entitled to recognition by other existing states. Whether recognized or not

an independent state has the right to defend and protect its integrity and territorial sovereignty.

According to B.Sen in the book, A Diplomats Handbook of International Law and Practice:

Only independent states which are recognized are entitled to the right of legation-(legation denotes the capacity of a state in Law to receive and accredit diplomatic envoys) competent in this respect...When a state proposes to open diplomatic relations with another, the first test it has to fulfil is that it is an independent state, and secondly that it is recognized as such by the other state. Its government has similarly to be recognized before any diplomatic relations can be opened².

However as far as the right of legation is concerned it should not be mistaken to imply obligatory diplomatic representation. This is because diplomatic missions are opened by mutual consent of the states concerned. Recognition of a state does not therefore mean that all states recognizing the new state are bound to open diplomatic relations with it. This therefore implies that, it is not obligatory that a state should be diplomatically represented in every country it recognizes nor is it necessary that it should consent to receive envoys from all such states.

Kenya like many new developing states of the Third World have come to uphold the Estrada Doctrine which was initiated in 1930 by the Mexican government. This doctrine deemed it fit or resolved to issue no declarations in the sense of granting recognition. This move was meant to safeguard the sovereignty of the state to be recognized and not to pass judgment on the internal affairs of such nation by governments of other nations. Kenya therefore , makes no official declaration on the issue of recognition and thus her position is implied from her actions. For instance in the most recent case of Eritrea's independence, although Kenya did not announce its recognition towards the Eritrean state, it actively participated in celebrating Eritrea's independence by sending a Cabinet Minister, Mr. Darius Mbela, to attend the occasion. Kenya has also received high_powered

delegations from Eritrea in the previous year and made an attempt to identify areas where Kenya and Eritrea could establish mutual co-operation. By the day of Eritrea's independence an approximate thirty states had already declared their recognition of the Eritrea state and government.

Kenya in the handling of the Eritrean issue like in many others has been very cautious not to jeopardize the parent state of Ethiopia as well as not to deny the right to self-determination of the Eritrean peoples. In the attempt to be cordial and accommodative to both sides Kenya was in essence trying to ensure the future security of her national interests as far as the two states are concerned. The occasion of Eritrea's independence in which Kenya participated was also attended by the Head of State of Ethiopia, Meles Zenawi. On the Eritrean issue Kenya has had close consultations with both mainland Ethiopia and the Eritrean Peoples Liberation Front [E P L F].

As noted by Thomas L.Galloway in the book, Recognizing Foreign Governments: The Practice of the United States:

The Estrada Doctrine embraces the principle of unfettered national sovereignty and rejects interference with the domestic affairs of one state by another through granting or withholding recognition. States that have adopted the Estrada Doctrine often say they recognize states not governments; however, as a practical matter, many states depart from the doctrine whenever they perceive a major political advantage in using the recognition instrument.³

Therefore, Kenya's position of recognizing states, not governments is an adoption of the Estrada Doctrine. This doctrine is pragmatic and takes into consideration the policy of prudence where states interact on equal footing in the international sphere of influence. Through the Estrada Doctrine small developing states like Kenya, not only safeguard their national interests but also their own territorial integrity by the advocacy of non-interference in internal affairs of other states and the right to self-determination of all Peoples as their recognition position are concerned.

According to Mr. Simani, the Director of Political Affairs in Kenya's Ministry of Foreign Affairs, the factor of "independence ranks highest in the list of those factors cardinal in the designation and implementation of Kenya's recognition policy between 1964 and 1992"⁴. He argues that especially in the immediate post independence years, this factor was dominant as far as Kenya's recognition policy was concerned. He however admits that other factors have over the years emerged and became equally important. Among these other factors he mentions global peace, regional stability, political motivations and ideology, economic considerations and socio-cultural affairs.

According to Dr. Munyua Waiyaki, a former minister in the Ministry of Foreign affairs, in the subsequent years after her independence Kenya like most other states was confronted by the issue of recognizing other newly independent states which were emerging one by one especially in Africa.

3.2 POLITICAL CONSIDERATIONS

As already noted in chapters one and two of this work, recognition is more of a political decision than legal for any state, although recognition once granted entails legal consequences. Recognition of one state by another is based on political understanding and diplomatic relations established between the states by mutual consent of the states concerned.

According to B.Sen, the complexities surrounding the question of recognition are as a result of its political nature. Says he, "the question of recognition of states and governments is one of the vexed problems of International Law as political considerations play a dominant part in determining such issues"⁵. The diplomat posted at the foreign office, argues Sen, may at times be called upon to advise the minister on problems of recognition, and in arriving at a decision he may well find the past precedents, and especially the rationale behind such cases of political value.

On granting recognition to a particular state, some states sometimes ignore the issue of independence of such a state and also might overlook the fact whether the entity in question has fulfilled the conditions of statehood as required in International law. These rare and interesting cases, have arisen from time to time in the international arena. For instance a new state which has declared its independence and recognized as such by the parent state might be confronted by other states in the international system which are unwilling to recognize it. Such a situation has confronted Israel in the Middle East among reluctant Arab states that are unwilling to recognize it. Such unwillingness of the Arab states to recognize Israel having especially been perpetuated by political considerations like the issue of Palestinian refugees, has culminated into an Arab- Israel conflict that has been one of the most prolonged world- order disputes of the contemporary international system. No wonder the question of recognition has been viewed by many scholars as influencing world peace and order. The Arab states refuse to recognize Israel in spite of the fact that it has come into being by reason of a resolution of the United Nations and it was recognized by Britain, the Mandatory power. The attitude of the Arab states has created a problem for other States since the view point of a group of states in the same part of the world cannot be ignored. At this juncture one comes to appreciate the political considerations behind Kenya's behavior in her foreign affairs dealings and in relation to recognition in particular. For instance, the fact that Kenya does not expressly or officially declare recognition but leaves it to be implied can be understood from the light of political considerations. Kenya now does not face an accusing finger from either Israel or Arab states and Kenya has comfortably established diplomatic relations with both Israel and the Arab states as well.

On the other side of the coin, it is political considerations that prompt some states to grant premature recognition to entities attempting

secession. It is political motivations that were behind the decision of the five African states; Tanzania , Gabon, Ivory Coast, Zambia and Cameroon to give premature recognition to Biafra in the 1960's when it unsuccessfully tried to secede from Nigeria. Such premature recognition is not only influenced by political decisions but also entails political implications. Nigeria or any other state would not have taken kindly such actions by other states, and this can be interpreted as interference in the internal affairs of a state, a thing that Kenya has been consistently against. Kenya in her declared foreign policies and principles which have become the guiding framework of her international behaviour has always been vehemently against interference in the internal affairs of other states, and by implication against premature recognition. This also shows to a large extent the realist politics that Kenya seeks to practice in relation to other states and especially in the question of recognition. Kenya emphasizes the sovereign equality of all states and capacity of every state in the international system to determine the destiny of her peoples and the capability of each state to protect her territorial integrity Kenya therefore respects the rationality behind every state's actions in determining the future of its people and in protecting their frontiers. This is why Kenya supported the course and the efforts of the multinational forces to stop Iraq from annexing Kuwait's territory in 1991. It will be interesting to see how Kenya has dealt with the Palestinian question in view of its cautionary attitude in foreign affairs as well as the politics of realism that she portrays. The Palestinian question will however be treated under global factors which have influenced Kenya's foreign policy, in particular the issue of recognition. The Palestinian issue is especially treated as a global or external factor because the researcher is completely convinced that the Palestinian question has put so many other states in a dilemma just as it has put Kenya.

True to the observation of many scholars, B. Sen is of the opinion that recognition can be regarded as a matter of international law in as much as the question whether in a given situation a new state can be said to have come into existence is to be decided by certain objective tests which have been accepted in the practice of states. But that the politics or political considerations, however, enter the field at the stage when a state is called upon to apply these tests to a specific case. For instance, the determination of the question as whether the government of the new community is actually independent or not must depend on the ascertainment of facts. In many a situation, therefore, it may be possible to take more than one view, and it is in such cases that political considerations will hold the balance.

Another political factor that states take into considerations while granting recognition is internal stability of the state to be recognized. Thus whether states admit or not, directly or indirectly they are confronted by a necessary closer scrutiny of the permanence of the entity claiming recognition and its operating agency, the government. This implies that Kenya or any other state has to ensure before granting recognition that a government of the state seeking recognition is representative and effective, that is whether the government has been enjoying the actual obedience of the bulk of the population. The rationale behind realism under which Kenya's politics of recognition operates, requires that the core [government] decision-makers be representative and effective in order to be able to take appropriate options or choices for the best or good of the whole. This in essence implies that the core must enjoy the confidence and the good will of the whole. It must thus acquire a reasonable degree of permanency.

An officer in the Research Department of Kenya's Ministry of Foreign Affairs who preferred anonymity, argued that: "Kenya recognizes states, but deals with whatever government is in power". The officer echoed the opinion of many in the Ministry that Kenya although recognizing states, works with

the government of the day. This opinion was also shared by Miss. E. Tolle, the head of International Organizations and Conferences, and Mr. Alex Chepsiror, an officer in the Legal Department of Kenya's Ministry of Foreign Affairs. Kenya's preference to work with "the government of the day" implies that Kenya is ready to recognize states and accept governments chosen by the people and thus enjoy the good will of the people and considerable permanence.

According to the same officer in the Research Department of Kenya's Ministry of Foreign Affairs, in the immediate post-independence years, Kenya like many other states was confronted by the question of recognition more than at any other time. This is because besides granting recognition to those states emerging independent from colonialism, she also had to recognize the already existing members of the international community that were already recognized entities. Owing to political considerations Kenya at the same time gave a lot of weight to liberation movements, because of her own experience of the liberation struggle. The officer argues that in fact Kenya went to an extent of granting some of the liberation movements full diplomatic status.

It was the opinion of the same officer that although Kenya's recognition behavior is influenced by political considerations, some decisions are also sometimes influenced by morality. For instance, it was her opinion that: Kenya's "abhorrence of apartheid in South Africa has been the basis of the lack of recognition of the present South African government". This is why the South African state does not enjoy full diplomatic status in Kenya although by 1992 a diplomatic mission that co-ordinates other areas of co-operation like trade with Kenya has been established. Dr. Munyua Waiyaki, a former Foreign Minister in Kenya's Ministry of Foreign Affairs, was of the opinion that Kenya's recognition behavior was based on political morality as opposed to religious morality.

3.3 EXTERNAL FACTORS

Foreign policy of any state in general is a reaction to the interactions of the state in question with other states in the international system. Foreign policy of states is therefore unidimensional and aims at maximization of a state's value synthesis. World politics thus becomes a contest in that once in the global scene a state encounters other states and actors each seeking accomplishment of its own value-derived goals. Although each state seeks to meet its national interest in the best way possible, the fact remains that states are endowed with different capabilities and resources. There are the big and small states, there are developed vis-a-vis developing states, the rich versus the poor although all claim sovereign equality in the international scene.

Kenya thus as a small, developing and poor state struggles against many odds in the competitive international atmosphere to meet her national interests as perceived by the policy-makers. Kenya like any other state, is involved in a bargaining process in an independent environment under which national decisions and international outcomes are at play. This therefore implies that the outcome of one state's choices are as much a function of the actions of others as its own.

In essence this interdependent environment under which states operate emphasize the importance of external factors or issues in influencing a state's foreign policy and recognition in particular. There are a number of cases of recognition that have been "internationalized" or that have taken a global dimension to an extent of prompting Kenya to act outside its traditional norms of recognition. A case in point is the recognition of The Peoples Republic of China [Beijing] versus the Republic of China [Taiwan]. One can argue that Kenya was forced by global circumstances or international public interest to declare its support or recognition of one Chinese government against another, whereas it is not Kenya's tradition in

her recognition practices to recognize governments neither is it her tradition to declare expressly recognition for a state. Kenya whose position is 'recognition of states and not governments' would not in normal circumstances declare recognition for governments. A similar circumstance is when Kenya had to let it known her stand regarding The Peoples Republic of Korea [North] as opposed to South Korea. True as Dr. Munyua Waiyaki puts it, Kenya was under pressure to choose one and not the other and chose Beijing [Communist] as against Taipei [Taiwan-Capitalist] ;and Seoul [Capitalist] as opposed to P'yong yang [communist] Thus Kenya chose according to her self- interest. She also kept in touch with the other two "neglected" countries at official level and their representatives "unofficially" visited Kenya ("unofficially" meaning without trumpeting arrival).

Munyua Waiyaki observing the characteristically- realist Kenyan recognition behavior further argues that: "Kenya has always tended to be pragmatic, but political factors are essential to consider alongside the economic ones. When we recognize Beijing rather than Taipei, there were those who would rather we took the latter for political reasons since although we were non- aligned we could not very well pose as such in this case of Beijing. On the other hand it would be clearly impolitic to have taken that preference."⁶

The pragmatism in Kenya's behavior comes into play because as Munyua Waiyaki puts it, in his own words: " to ignore Beijing and accept Taipei would have lacked good and sincere recognition of who constituted the bulk of the Chinese people which obviously was mainland China". He adds: "to ignore them would have been lack of proper judgement on human and grounds of truth cum reality. Countries and nation-states are after all based on the existence of people, they are the nation and the state and not just the land mass". Waiyaki's views and realist way of conceptualization are given a lot

of weight because having held the portfolio of Minister of Foreign Affairs in the Kenyan government between 1969 and 1983, he directly represented and expressed position of the Kenyan state. In his individual capacity as one of the earliest policy-makers of the Kenyan state after independence, Waiyaki's perceptions pervaded Kenya's initial foreign policies on which Kenya's behavior on the international arena has been built over the years.

As argued by C.O. Lerche in the book Concepts of International Politics in Global Perspective, Foreign Ministers in most states have a peculiarly taxing role. They must be specialists and technicians concerned with the innumerable complexities of day-to-day decisions. They must also have appreciation of larger internal and external political problems with which their respective chiefs are faced. Simultaneously they must be administrators, policy-makers, and advisors. They also have the task of high level negotiations. The foreign office of each state constitutes the primary grouping of expertise on international matters within the government. Foreign policy bureaucrats, therefore, by defining alternatives and selecting data materially influence the ultimate decisions⁷.

Kenya's attitude towards recognition or non-recognition of Palestine is one more case that can be treated as an exceptional externally-influenced issue. The fate of the Palestinian people and state has been internationally publicized to such an extent that hardly any state can down play it as far as recognition is concerned. The question whether Palestine can be fully considered as a state based on the conditionalities for statehood that are categorized in international law has become a subject of debate among scholars of international law and political analysts as well. For Kenya to grant Palestine **de facto** or **de jure** recognition she has to grapple with several complexities:

- 1) Kenya must take into account the conditions for statehood as laid down in international law.

2) Kenya must take into consideration the question of Palestinian Independence.

3) Kenya must take into account her position of recognition of states, not governments.

4) Kenya must be careful on considering :

a) The right to self-determination of the Palestinian Peoples.

b) Her relations with Israel and her policy of non- interference in the internal affairs of other states.

We look into the Palestinian question in extensia because it will not only reveal the dependence of recognition on the subjective satisfaction of the state which is called upon to give recognition but also it will show the extent to which the external factors or global issues [circumstances] affect the recognition behavior of a state like Kenya. The state being the unit of analysis in the realist model of analysis on which our study is operationalized, is emphasized as the sole determinant of her own behavior as well as a factor to reckon with in the actions of others. Recognition insists on the discretionary character of the state as a unit of analysis through and through. This is why the key concept in the operations of recognition policies of states is the maximization of the position taken by the recognizing state. It is the rationalized reason behind an application of almost double- standards on the Palestinian case by Kenya and any other state in the objective circumstances. Double standards in that whereas Kenya has to protect her national interests in Israel and safeguard her cordial diplomatic relations with her, she also does not want to be seen as if she is down playing the Palestinian right to self-determination. This is why Kenya has granted the Palestinian Liberation Organization [P L O] diplomatic status just like the African National Congress [A N C].

Another important aspect that has to be considered is what basis shall the Kenyan government use in recognizing the proclaimed Palestinian state? First and foremost will this act of recognizing the Palestinian state be political or legal? It must be noted that because the tendency for approval or non-approval is based on political motives and not upon considerations of legal statutes, recognition must be regarded as primarily a political act. The political nature of recognition allows states and decision-makers room for manipulation in the action-reaction process of foreign policy to the best of their advantage. Kenya might therefore give greater weight to political considerations in the recognition of a Palestinian state. The Palestinian state, it can be argued, has tried to some extent to fulfil the crucial conditions in international law of statehood. For instance one can wonder whether the proclaimed Palestinian state has a stable population and clearly defined territories. But it can also be argued that states have varying populations ranging from over one billion inhabitants of the Republic of China to the less than one million of Swaziland or Seychelles. Furthermore many countries like many East African states, namely Kenya, Tanzania, and Ethiopia, and Somalia at the Horn of Africa have wandering tribes and this factor does not make them unrecognized in the international plane. Palestine can boast of a population of at least two million people and is thus eligible to be a subject of international law.

Does the proclaimed Palestinian state have defined territory? This is another crucial question that Kenya needs to address. Arguably, Palestinian territory can be easily understood although the boundaries have not been accurately completely delimited. By speaking of the West Bank and the Gaza Strip, means the fabric of the Palestine society can be delimited roughly. And in support of this, we can say that the state of Israel had been recognized by a majority of members of United Nations when it was admitted to membership in 1949, though the final delimitation of its

boundaries had not yet been settled. Furthermore as noted by one legal scholar, M.H. Arsanjani, "Israel has not officially advanced any claims of territorial sovereignty over the West Bank and the Gaza Strip"⁸.

Indeed in the Camp David Accord, a legal instrument relating to the disputed territories to which Israel was a party, the West Bank and the Gaza Strip have been treated as territories over which no government claims sovereignty. The Accord read;

Egypt, Israel, Jordan and the representatives of the Palestinian People should participate in negotiations on the resolution of the Palestinian problems in all aspects⁹.

Thus there appears to be no indication by Israel in the Camp David Accords which would be interpreted as a claim to territorial sovereignty over the West Bank and the Gaza Strip.

The absence of government authorities does not necessarily deprive an existing state its right to be considered as a state. This is because history bears witness of states that have frequently survived protracted periods of non- government, civil war, anarchy and hostile occupation. For instance, Kenya's neighbor, Somalia, has now for one year running remained under civil war and anarchy and with no clear government or rebel group to be identified as the ruling regime. Kenya has however continued to recognize the Somalia state. But in order for a territory, which has not already achieved that status of an existing state, such as Palestine, to be considered a state, it must have a government of its own, and not to be subjected to the control of another state. Although Palestine may have no government capable of acting on its behalf, in order for its claim to be a state to succeed, it must be accepted as capable of entering relations with other states. But the appearance of a new entity as Palestine and the ability of it to prolong or perpetuate its existence, will depend on political factors, perhaps the most important being the approval by the existing states and

their rational calculations towards this end as deemed by the realist approach to global politics.

In as so far as the absence of recognition is a sign of disapproval, or on the other hand taking the constitutive view of recognition in so far as recognition helps to determine the existence of a state, then it would be difficult in the present International situation, for a new entity to establish and maintain its separate identity without being recognized. Several examples even in the continent of Africa can be cited, of how the international community by maintaining a state of non-recognition can complicate a situation and deny recognition to an entity that has otherwise fulfilled the international law conditions for statehood. For instance in July, 1960 Belgium granted independence to its former Congolese territories, but within a few days there was a complete breakdown in internal law and order. Encouraged, it was alleged, by Belgium troops, and supported by Belgian mining interests, the province of Katanga purported to secede from the Congolese Republic. Its attempt to establish itself as a separate state failed because no member of the international community was willing to accord recognition to Katanga, and as a last resort, the Security Council of the United Nations was prepared to authorize the use of force to bring an end to the civil war. Hence even if there is a state which has fulfilled all other conditions of statehood, its capability of entering into relations with other states depends on those other states. External factors or influence, or global circumstances therefore sometimes play a great role in the decisional process of states foreign policy as concerns recognition. The assumption whether Kenya could afford to take a solitary stand in either of these internationalized cases of recognition like the Chinese case, the Palestinian issue is very much doubtful.

Rhodesia is another country that suffered a denial of recognition in the hands of the international society. Rhodesia had achieved complete control

over its internal administration, including its armed forces long before the Unilateral Declaration of Independence [U D I] of November, 1965. Although even after this Rhodesia was still an independent territory, it was not considered as a state to join the international community and was not recognized by any other state other than South Africa.

In fact one can therefore submit that, a landmark point was reached on the fulfillment of the Palestinian right to self-determination in November 15, 1988 when the Palestinian Liberation Organization [P L O] Parliament [P N C] proclaimed an independent Palestinian state in their homeland in Israel-occupied areas of West Bank and the Gaza Strip with Jerusalem as its capital. Indeed this is one form of doing away with Israel alien control. The Palestinian People in the proclamation of their state sought their own separate and independent existence. It is at this point that the right of the Palestinian people to participate in the decision making machinery in their state came in to fore. No wonder then that when the chairman of PLO, Yasser Arafat, read the independence Declaration before the Palestine National Council [P N C] he stated that;

....the new Palestinian state would be governed by a democratic parliamentary system based on freedom of opinion, multiple parties, freedom of worship and equality between men and women¹⁰.

However, by not recognizing Palestine as a separate and independent state, Kenya and the rest of the Family of Nations would justify their position by arguing that Palestine has not fulfilled the conditions of statehood as laid down in the legal instrument of Montevideo Convention in 1933. It is by the fulfillment of these conditions that Palestine or any other entity claiming recognition from the international society, will become eligible to join the international community thereby becoming a subject of international law.

Dr. Mukhisa Kituyi a member of parliament in the opposition side of Kenya's legislature in an interview vehemently argues that Kenya's foreign

policy behavior in relation to recognition has been too much influenced especially by Whitehall and Washington. In fact he was of the opinion that: "for all the line up to 1990, Kenya's foreign policy was a regional extension of British foreign policy [Kenya's former colonial master]. He laments that now 1992-1993 a period of multipartism: "we are tottering in the void" with no clear foreign policy format.

In a discussion with Dr. Muniya Waiyaki, a former Minister of Foreign Affairs of the Kenyan state in the immediate post independent years, and who is now a significant figure in the opposition, the issue of external influence in Kenya's recognition policy again came to the surface. He reiterated the view of many scholars of Third World politics that:

One factor that was always close to the minds of governments despite the choice of their own reasoning, was the external pressures that we used to experience from the Superpowers and others in the era of the cold war. Even voting at the United Nations, O A U, or Non- Aligned Movement involved recognition issues and many countries, ours included, went through agonizing moments whenever controversial issues affecting West- East interests were debated. Small countries are always liable to unnecessary pushing especially from superpowers, and the case of bilateral donors or bodies controlled by them such as the IMF and World Bank, is well known. Achievement of liberal democracy might become a measure of a country's recognizability or not in the future.¹¹

As argued by Waiyaki, the cold war is one of the external factors that have influenced, restricted or strained the recognition relations of states, and Kenya was no exception. Although Kenya was a non- aligned state which at most a times was expected to maintain neutrality in the East- West antagonism, in the long run she found herself with no option but to lean more on one side than the other. Kenya because of her capitalist orientation and because of the influence from her parent state, Britain, threw most of her weight to the Western block. Probably this is why Mukhisa Kituyi attributes most external influence on Kenya's recognition position to Whitehall and Washington.

3.4 INTERNAL LEADERSHIP AND PERSONALITY TRAITS

Scholars of foreign policy have noticeably come to a consensus that the foreign policy of nation-states is greatly influenced by the perceptions, belief systems and other idiosyncratic inputs of various individuals and or personalities in power. Other scholars like Ardono and colleagues as described by Lyod Jensen in his book Explaining Foreign Policy . categorized personality traits. These were grouped as authoritarian personalities, the self-actualizers and close-minded personalities as viewed by Abraham Maslow and Milton Rokeach. These different groups influence and handle foreign policy issues differently.

Summarily, the authoritarian personality as conceptualized by Ardono, has a tendency to dominate subordinates, have deference towards superiors and high sensitivity towards power relationships. This group sees a need to perceive the world in a highly structured fashion, and excessively use stereotypes. They also adhere to whatever values are conventional in their own setting and are highly nationalistic and ethnocentric. Such individuals have a preference for clear-cut choices. Milton Rokeach's close-minded personality is dogmatic in character with high levels of anxiety and are concerned with source rather than content of information . Such personality is also unable to synthesize new information that contradicts their belief systems, they therefore have difficulty in making effective and rational policy choices, hence are unlikely to examine a wide range of alternatives thus precluding possibility of taking the best choice. This group of personalities perceive conspiracies and rush to form stereotypic notions of "the enemy", and are less likely to tolerate ambiguity, thus they are less patient in international dealings. Such individuals are less likely to condone the use of force. On the other hand Abraham Maslow's self-actualizer is positively portrayed in Jensen's book as one who develops with a sense of belongingness and has a sense of self-esteem. Such characteristics are seen

3.4 INTERNAL LEADERSHIP AND PERSONALITY TRAITS

Scholars of foreign policy have noticeably come to a consensus that the foreign policy of nation-states is greatly influenced by the perceptions, belief systems and other idiosyncratic inputs of various individuals and or personalities in power. Other scholars like Ardono and colleagues as described by Lyod Jensen in his book Explaining Foreign Policy . categorized personality traits. These were grouped as authoritarian personalities, the self-actualizers and close-minded personalities as viewed by Abraham Maslow and Milton Rokeach. These different groups influence and handle foreign policy issues differently.

Summarily, the authoritarian personality as conceptualized by Ardono, has a tendency to dominate subordinates, have deference towards superiors and high sensitivity towards power relationships. This group sees a need to perceive the world in a highly structured fashion, and excessively use stereotypes. They also adhere to whatever values are conventional in their own setting and are highly nationalistic and ethnocentric. Such individuals have a preference for clear-cut choices. Milton Rokeach's close-minded personality is dogmatic in character with high levels of anxiety and are concerned with source rather than content of information . Such personality is also unable to synthesize new information that contradicts their belief systems, they therefore have difficulty in making effective and rational policy choices, hence are unlikely to examine a wide range of alternatives thus precluding possibility of taking the best choice. This group of personalities perceive conspiracies and rush to form stereotypic notions of "the enemy", and are less likely to tolerate ambiguity, thus they are less patient in international dealings. Such individuals are less likely to condone the use of force. On the other hand Abraham Maslow's self-actualizer is positively portrayed in Jensen's book as one who develops with a sense of belongingness and has a sense of self-esteem. Such characteristics are seen

as highly desirable for effective decision-making because they not only create trust in one's own world but also because of the sense of trust, negotiations and reaching of International agreements are facilitated. Certainly, such characteristics are conducive in the promotion of peace in the world order, and for them to be developed from infancy, certain basic needs must be met. These include; physiological needs like sufficient shelter, safety or security, affection and belongingness and self-esteem.

For most of African or even Third World leadership, Kenya included, it might be grossly unfair to categorize them as close-minded, but also too optimistic to say that most of them are self-actualizers. The most fitting category for African leadership at least until the second half of the Twentieth Century is the category of authoritarian personality.

As suitably conceptualized in our theoretical framework, [realism], Kenya a small, poor and developing state, practices politics of survival of which the internal leadership attaches a lot of sensitivity to power relationships. Those at the core of decision-making process therefore play a dominant role and are most influential in the foreign policies of the state. Kenyan leadership both in the late Kenyatta's and President Moi's regimes, characteristic of authoritarian regimes have been highly nationalistic and ethnocentric. Those at the epic of the power structure in Kenya's internal leadership have tended to dominate subordinates and thus emerging very influential and assertive in foreign policy matters. It is a small clique around the presidency [Chief Executive] and the person of the president who run the show of Kenya's foreign relations and more so matters of recognition which are quite political in nature. It is these core of decision-makers who rationally calculate and adopt and implement what they perceive as the best alternative which will most effectively serve Kenya's national interest. The President consults those closely around him [the core] for necessary advice in issues that he considers crucial for n:

survival. Lloyd Jensen in the book, Explaining Foreign Policy, argued that; "A leader may purposefully seek to hold in check basic psychological predispositions if he or she perceives an issue to be an important one involving national survival".¹²

The arguments of Lloyd Jensen on self-esteem and the self-actualizer personality traits rule out the possibility of Kenyan leadership either in the Kenyatta's or President Moi's regimes as of having portrayed such characteristics. However one can appreciate the character of Kenya's leadership or of any Third World State in their foreign relations on the light of the poor background that the populations of such states emerge from. Our background is below international standards of the poverty line, so much so that it is a strain to get access to the basic necessities that are crucial in the development of individuals with high esteem. According to Lloyd Jensen;

Lack of esteem in the individual decision-maker can also lead to problems in the making of foreign policy. Social-psychological research has shown that individuals with a negative self-concept tend to bargain more competitively than those with a positive view of themselves¹³.

He further notes that;

Although low self-esteem generally tends to have a negative impact as far as more peaceful and cooperative foreign policy is concerned, it has also been hypothesised that people with high self-esteem will be less operative. The problem lies in the fact that such individuals tend to take advantage of and exploit the situations in which they find themselves. Those with high self-esteem are also more likely to take risks¹⁴.

Derived from Lloyd Jensen's argument are the assumptions that although low self-esteem has been viewed perjoratively in foreign policy analysis, high self-esteem also can have its shortcomings like the taking of risks. Kenya's internal leadership which directly influences Kenya's recognition position can be conceptualized as one whose level of self-esteem has not only helped the state to bargain competitively in the international arena but has also been one of caution hence the "wait and see" kind of diplomacy that

Kenya has been seen to practice. Such character of Kenya's leadership has helped Kenya to take advantage of her foreign - policy principles and policies like Non-Alignment, Non- interference in the internal affairs of states to the maximization of her national values by a process of rational calculation.

As agreed by many of those interviewed on Kenya's policy of recognition, Kenya's foreign policy behavior has not experienced a drastic change in President Moi's regime as compared to the late Kenyatta's era. This being the case, the consistency in Kenya's foreign policy behavior can be attributed to the similar background orientations of both President Moi and the late first head of State, Kenyatta. For many, Waiyaki's assertion that, "President Moi pretty well took Kenyatta's diplomatic preferences", suitably explains the consistency of Kenya's foreign policy behavior. One can actually argue that both President Moi and the late Kenyatta were a product of the nationalist movements that propelled Kenya to independence, hence their high sense of nationalism. President Moi has also served as the late Kenyatta's vice- President for twelve years, an enough period of time for him to study and adopt the late Kenyatta's rational strategies in the competitive foreign politics. President Moi and the late Kenyatta both had favorable leanings towards the West especially with Britain. It is therefore understandable that Kenya's recognition position of recognizing states and not governments which was sown during Kenyatta's era has germinated and fully blossomed in Moi's time.

However, it might also suffice to note that President Moi undoubtedly has been more assertive in his foreign policy orientations than the late Kenyatta. This is why Kenya's recognition stand has gained more permanence during President Moi's era. Besides President Moi's many visits to foreign capitals, many have observed that Kenya has also had an increased number of missions abroad. E. K. Kaiga, an officer in the Political Division of Kenya's

Ministry of Foreign Affairs, in an interview with the researcher, was of the opinion that, there has been no significant changes between the eras [Kenyatta,s and Moi's], though there have been an increased number of Kenya's missions abroad during Moi's era, thereby widening the scope of diplomatic representation abroad¹⁵.

Other key figures who have not only influenced but also nurtured Kenya's foreign policy behavior towards the dimension it is taking today, are the various foreign ministers notably among them are Dr. Munyua Waiyaki and Dr. Robert Ouko. Dr. Robert Ouko who was murdered in mysterious circumstances in February 1990 has been referred by many as a "born diplomat", among them Kenya's leading scholars in foreign policy who include Dr. K. Cheluget the editor of the book, Kenya's quarter Century of Diplomatic Relations. Issues Achievement and Prospects. This book which is dedicated to Dr. Ouko is the epitome of the high regard that Kenyans had for Dr. Ouko as an articulate representative of Kenya's foreign policy behavior and the embodiment of what Kenyans stand for in foreign policy issues like recognition. Munyua Waiyaki can be credited for the established recognition position that Kenya has adopted over the years. This is because so much on Kenya's recognition policy came to test during the turbulent years after independence when Kenya was still in search to give herself an image and identity in the international community. No scholar can fully analyze Kenya's recognition policy and position without bringing in the name of Waiyaki and his arguments then, that have until today stood the test of time. The role and influence of foreign ministers, however, does not surpass that of their masters, the subsequent heads of the state [Kenyatta and Moi] as they nurtured and developed our foreign policy behavior to give it the consistent outlook that is portrayed today. True to the words of C. O Lerche;

The head of government - president, prime minister, or dictator- is the key figure in all foreign policy decisions. According to international practice, the head of government alone officially

speaks out for the state in international relationships. As the political leader of the people, the head of government exercises ultimate authority in the area of foreign policy. No institutional arrangement can eliminate or blur this responsibility¹⁶

We can thus conclude that, internal leadership and personality traits in the person of the President [head of government] have a peculiar function that lies in the provision of political leadership. The rational linkage comes into operation in the sense that whatever the controlling internal dynamics may be, the head of government must somehow translate the prevailing value pattern and operative consensus of mass public opinion into foreign policy terms. Whether a dictator or a popularly chosen leader, the task of the head of government as the visible symbol of national unity is to formulate national purposes and give them expression in form of concrete objectives. Here as conceptualized in our theoretical framework of realism, the individual in the name of the state is theorized as the unit of analysis as he [individual] influences the state's foreign policy position.

3.5 COLLECTIVE RESPONSIBILITY

Kenya's recognition behavior is undoubtedly influenced not only by her internal unilateral decisions but also takes into account her position and image in various multilateral organizations that she is a member. Kenya, first and foremost is a member of the United Nations Organization [U N O], she is also a member of the Commonwealth Association of Nations, she is part and parcel of the Non- Aligned Movement [N A M] on the International level. On continental basis, Kenya is an active member of the Organization of African Unity [O A U] and on regional level a member of a number of economically oriented organizations like the Preferential Trade Area [P T A].

In each of the organizations mentioned above, there is a Charter and or a Constitution that guides the relations of the member states. The Charters,

Constitutions and set of objectives or goals of each organization outline the responsibilities of each state to each other. It also gives a breakdown of the rights and privileges of one state in respect of the others. States adopt these constitutions, charters in the establishment of their behavioural norms towards each other. This therefore implies that although every state sets out its guiding principles and policies in her foreign relations, such principles and policies must encompass or be harmonized with those of the wider whole of the various organizations.

The implication entailed therein is that although every state seeks to achieve her national interest in the best way possible with the maximization of values being the key concept, both national and collective interests at various levels of linkages have to be harmonized. A clear example of the theorized linkages of national and collective interests is the principles and policies that Kenya advocates and practices in her foreign relations. Kenya advocates the sovereign equality of states as a principle and consequently seeks an atmosphere of non- interference in the internal affairs of other states, she advocates the rights of every state to safeguard her territorial integrity and the peaceful co- existence of states by maintaining a policy of good neighbourliness. Such principles form the main conceptual framework of the United Nations Charter and are given emphasis in the OAU's Charter.

The named principles and the positive policies that Kenya advocates not only benefit Kenya in her individual- state capacity but also are to the advantage of every state that has membership in the said multilateral bodies. For instance whereas the policy of good neighborliness creates a conducive atmosphere for Kenya's national interests to be advanced and realized in the form of socio- political and economic co- operations with the neighbouring states, the regional stability that such policies promote is not only for the good of the states in that region but positively contributes

in the promotion and maintenance of peace and security in the world order. Kenya does not therefore hold idealistic or utopian ideas about good and peaceful human nature, because Kenyan decision-makers appreciate the level of real politics in the world in which the politics of power and struggle usually are conflictual, anarchic and antagonizing to the weak. Kenya thus advocates recognition of every state, small or big, hence creating a peaceful world order through the emphasis of the nuclear-unit, "the state" which thus becomes the unit of analysis in our conceptual framework. The state is emphasized, the state is promoted, the state is respected and above all the state is recognized. Every human being as an individual or in a collectivity yearns recognition and Kenya seeks to realize these in the recognition of all states be they socialist, communist or capitalist. Kenya recognizes states in whatever shapes or shades they take.

Owing to its respect for collective responsibility, Kenya, argues Mr. Simani in an interview by the researcher, has the UN Charter providing the basic premises of its policy of diplomatic recognition. He was of the opinion that Kenya's recognition policy is based on the premises of reciprocation, that is, she recognizes states and expects to be recognized in return. He also argues that Kenya's recognition policy is based on her national interests thus favours those states who are supportive to Kenya in international forums. He also underlines "caution" as one basis of Kenya's recognition framework and policy in general.

The Commonwealth States though united by a common allegiance to the British Crown are sovereign or autonomous communities that are equal in status and are in no way subordinate to one another. The 1931 Statute of Westminster was passed to give legal recognition to this status. Hence the British Crown is accepted as the symbol of free association of the independent member nations and as such the head of commonwealth. The Commonwealth States besides their obligatory relations, rights and

privileges, above all recognize each other as independent, separate sovereign entities and treat each other as such.

The practice today is such that almost all the countries of the Commonwealth receive and accredit envoys and exchange among themselves representatives known as High Commissioners. The countries of the Commonwealth since the Statute of 1931 are fully independent states both internally and externally, and the fact that some of them recognize the same institution as their common Head of State due to historical or sentimental reasons makes no difference to the position. They are fully sovereign states and as such the right of legation possessed and exercised by them is in keeping with the general principles of international law that sovereign states possess this right, as argued by B. Sen in the book Diplomats Handbook of International Law and Practice. He vehemently warns that it would not be correct to regard the states of the Commonwealth as species of semi-sovereign states which possess the right of legation.

Kenya at regional level has adhered to the principle advocated by the OAU's Charter. Kenya has actively participated in the OAU's multilateral conferences that have discussed a variety of problems that affect African states with the objective of giving sound resolutions and sometimes undertaking firm actions as a collectivity. Issues of recognition have arisen in the OAU's conferences and significant among these are the Angolan crisis of 1975/76. In January 1976, a collective decision by the OAU member states gave recognition to the Angolan State officially under President Agostino Neto of the MPLA. OAU's Secretary-general Eteki cabled Neto informing him of the decision, which made Angola the 47th member state of the OAU. The action of the OAU, however caused much diplomatic fuss from a few member states that had been most opposed to the government of President Neto. Zaire, for example, branded it illegal, claiming that the OAU could only recognize a government which controlled all its national

territories. But this argument , which was echoed by Kenya's Daily nation [newspaper] again disregarded the distinction, however fine, between state and government. The then Kenya's Minister for Foreign Affairs Dr. Munyua Waiyaki, spoke in the same vein as the government of Zaire. So did the government of Zambia. Senegal called the recognition premature, while the Ivory Coast found fault in the manner in which it had been done, arguing that it is the OAU's Council of Ministers, not its administrative Secretariat, which should have approved "the admission to membership" of the MPLA-ruled state. Political analysts point out, however, that;

It was incorrect to say the Secretariat had done the recognizing. It was more correct to say the Secretariat had done its duty of informing Luanda only after it had become clear to the Secretariat that the required simple majority had done the recognizing¹⁷.

Kenya's policy of recognizing states, not governments, tallies well with the neutrality character that she is supposed to maintain as a non-aligned state. This policy of recognizing states also serves Kenya's national interests well because of the permanency of states as compared to governments. Hence more stable relationships between states are developed through the policy of recognition of states. This is why many scholars have appreciated Kenya's contribution to regional stability in the Horn of Africa and in the East and Central Africa. In the East and Central Africa trade cooperation in the form of regional organizations like PTA, SADCC and others have fostered good neighborliness which positively influence global peace and security.

Kenya's politics of realism are self evident in her active participation in the regional multilateral organizations like PTA. Kenya seeks not only to maintain a balance of power in the region but is keen to have a leading role in such organizations, hence becoming a power to reckon with in the region.

It is worth noting that Kenya's participation and membership in international organizations and groups is to her own benefit, first and

foremost besides the interests accrued by the collective whole. Most of the non-aligned states are Third World states who felt the need of coming together especially in the cold war era when their survival was most threatened. It is also Third World states, which have adopted the Estrada Doctrine a position which is most protective to their survival as concerns recognition. It is the Estrada Doctrine that Kenya adopts in her recognition stand because it best serves her national interests and survival in the international community.

3.6 PREMISES OF KENYA'S RECOGNITION POLICY

3.6.0 Economic Motivations

Economic factors and considerations as influences on Kenya's policy of recognition are part and parcel of her national interests. National interests actually are the totality or the encompassing framework of all the socio-political and economic factors which Kenya must take account of and safeguard to ensure her survival as a state . As already mentioned economically Kenya rationally accepts the fact that she is a poor, small and developing state which will only survive and prosper in the international system through the application of the most effective and sound strategies both politically and economically.

For instance, for Kenya to survive economically she depends on Foreign Aid to meet her debt deficits and for balance of payment servicing. The Foreign Aid comes from more powerful and rich states. Such states are mostly powers like America, Britain, France and Germany. These states sometimes in International issues or forums need at least the moral and numerical support of the small and weaker states. It is therefore such support that Kenya sometimes uses as a cheap bargain to earn her favorable aid considerations. These conditions were most prevalent during the Cold-War era when the East and West blocks sought to rally small states behind

themselves. As far as recognition is concerned Kenya automatically recognized all the existing states of the international community when she emerged independent in 1963. Thus there was no much pull in this area in her relations with the developed states because they already existed before Kenya's existence was registered and recognized in the international field. However when it came to the recognition of other states which gained their independence before Kenya, it mattered to the developed countries which position Kenya and others would take because the states seeking recognition will add to the line up of either bloc, East or West. Hence Kenya's economic considerations of each case of recognition was much in play during the cold-war.

Even at the disintegration of the communist bloc because of the collapse of the Union of Soviet Socialist Republics [USSR], Kenya takes into considerations economic favours from the developed world in her foreign policy. For instance in November 1991, a number of donor countries reviewed their aid contributions to Kenya in an attempt to pressurize Kenya to undertake some political and economic reforms. Consequently the biggest world money-lenders, that is, the World Bank and the International Monetary Fund froze aid disbursement to Kenya for quite sometime till 1993 when a resumption of aid was promised to Kenya. It can therefore be argued that Kenya's foreign policy inclusive of her recognition position takes into account her economic capability and needs which are basic for the continued survival of Kenya as a state.

In 1991 during the Gulf Crisis, Kenya's position of unwavering recognition of Kuwait as a state and her support for the allied forces to recapture Kuwait from Iraqi's annexation can be explained from various dimensions. First and foremost Kenya continued to uphold the existence of Kuwait as a state because of her traditional recognition practice of recognizing states and not governments. Secondly, Kenya supported the allied forces because

they posed as a United Nations force undertaking a United Nations directive to safeguard peace at the Gulf, in spite of the American leadership of the allied forces. Thirdly, Kenya also could have supported the allied forces under American leadership so as to win some economic favours from the USA. Just like the US presence at the Gulf could be attributed not so much to a genuine concern for the interests of the Kuwaiti people but as a safeguard of the America's national interests and economic issues for that matter, Kenya's moral support could be seen in the same light. It is clear that every state's national interests are greatly dominated by economic interests.

Other scholars like Colin Leys, Cherry Gertzel, Walter Rodney and Andre Gunder Frank agree that economic motivations influence Kenya's foreign policy behavior. According to most of these scholars who are dependency theorists, Kenya's economy is a satellite economy that not only reflects those of the Metropolitan States but also generally serves the interests of the same. Kenya is one African country that helps to perpetuate the interests of the Metropolis through politics of neocolonialism. In other words, such scholars agree with people like Mukhisa Kituyi who laments that Kenya's foreign policy is an extension of the British foreign policy. Inherent in their argument is the assumption that Kenya's economy is externally oriented.

The implication entailed here is that Kenya's economy and subsequently foreign Policy is greatly affected by globally-oriented issues like the world recession. Such negative occurrences in the global market economy put untold pressure on Kenya's foreign policy and decisions which may be to the detriment of the majority of Kenyans. We can therefore, conclude that the external-orientation of Kenya's economy adversely affects Kenya's foreign policy and Kenya's national interests as a whole.

Another economic dimension that influences Kenya's foreign policy and hence its premises is the capabilities or the resources of the country. Kenya

is an agriculturally-endowed country and thus climatic conditions are very significant in the development of a sound economy. Unfortunately Kenya has generally in most parts unfavourable climatic conditions leading to dismal foreign earnings in the agricultural sector. Kenya has few minerals and significantly missing is oil, and that's why constant explorations for possibilities of some amount of oil have persistently been undertaken. The Arab World can hold Kenya at ransom because of oil just as the West can hold the life of Kenyans at stake through denial of foreign aid. We can thus assert that Kenya is one of the most vulnerable and poor states in the international community and in this light it can be appreciated why Kenya must apply realist politics of maximizing her value synthesis in a survival-oriented bid. No wonder Julian Friedman in her book, East African Diplomacy, asserts that: "for Kenya, Tanzania and Uganda the world around them is in part a world inside of them." For instance Munyua Waiyaki observes that, due to her economic interests some people have been known to regard Kenya's behavior as money-motivated. There was a time when Kenya was accused of having a "man eat man " society by her African sister countries that were left-leaning and socialist in their orientation, policies and declarations. Her closeness to the West was suspect to them although described by the West as moderate¹⁸.

On the other hand, economic motivations though underlying considerable diplomatic relations between states, cannot be treated in isolation or independent of the generality of the national interests of a state in the issue of recognition. This is essentially because a lot of economic relations or trade cooperations can go on between two states which may not necessarily have recognized each other. That is why although most African countries have not given South Africa full diplomatic representation, because of the racist regime considerable trade dealings have been going on between those African countries and South Africa. Theorized as such we can

assert that economic motivations can only be conceptualized as an influence on Kenya's recognition policy on the basis of its vitality to a state's survival and also on the general rational calculation of the state's national interests in totality.

3.6.1 Other Foreign Policy Dimensions

As already noted, other principles and policies that Kenya practices in her foreign relations have become the conceptual foundations of her recognition position. Such principles or advocated policies are theorized to be also linked to the many international organizations like UN, OAU, and the Non-Aligned Movement [NAM] of which Kenya is a member state.

The conceptual linkage is reflected when the principles that are entailed in the Charters and Constitutions of the multilateral organizations are the same principles used by Kenya as a guiding framework on which her recognition policy is premised. The principle of sovereignty equality of states calls for the non-interference in the internal affairs of states and this prompts Kenya's policy of recognition of states which is the best position to emphasize state sovereignty. The linkage thus emerges when one policy and state practice like good neighbourliness are derivative of those principles. Hence the scientific causative laws come into play. The level as well as unit of analysis in this rationalist framework is conceptualized and given emphasis as the state.

Another conceptualized linkage can be detected in Kenya's advocacy of neutrality as a Non-Aligned State. Such neutrality is what leads Kenya in practicing implied recognition and not expressly declared recognition. Whether Kenya recognizes a state or government **de facto** or **de jure**, it does not declare officially, and arguably this is a more cautious approach in global politics. The state gets room enough for manipulation and escapes blame in case the recognition turns out to be premature and things take a

different dimension. For instance in case of civil strife and attempts of secession. That's why Kenya did not join the rush to recognize Biafra which eventually backfired.

Express recognition which demands that a state makes an official declaration may prove either irreversible or embarrassing in case a state deems it necessary to withdraw the already declared recognition. But implied recognition not only saves Kenya or any other state from such an embarrassing situation but also gives chance for either withdrawing or withholding recognition when circumstances demand.

By advocating and adhering to the policy of self-determination of every state, Kenya again through a rationally conceptualized foreign policy puts emphasis on the state as the most important actor in the international system. Also the policy of self-determination brings to light the distinction between domestic or internal politics and foreign or international politics, hence take a realist approach in the analysis of state practices. Kenya upholds these difference of domestic and international politics, that's why she insists on self-determination of every sovereign state as far as internal affairs are concerned. Kenya's recognition policy advances this position by emphasizing on the recognition of states and not governments. This is why as observed by many, Kenya works with the "government of the day" of every state because it is the choice and self-determination of the Populace of that state.

Mr. Simani, the Director of Political Affairs in Kenya's Ministry of Foreign Affairs, was of the opinion that Kenya's recognition is founded on the UN Charter, because her recognition position is a culmination of all the principles that are outlined in the UN Charter and of which Kenya has adopted wholesomely. But Mr. Simani argues that whatever the recognition position, one cannot distinctly separate recognition of the state from inclusively recognizing its government. He argues that the government being

the operating agency of the state is necessarily recognized once a state is granted recognition. Therefore although Kenya relates to states, she works with the government of the day. Such state relations does not imply approval of that particular government nor even recognition of that state. This is because states do relate even before granting recognition. The statement of recognizing states and not governments is therefore more fictitious than real. This is because when granting recognition to a state by implication or by extension the government of that state is also recognized. Furthermore a state is not considered to have achieved full statehood if it does not have an effective government. Munyua Waiyaki observes that;

In recognizing a state you accept and honour a country's independence and separate existence as well as its sovereignty. Acceptance of governments means a certain amount of taking sides in the choice of who should rule a country which should be the sole preserve of that country's citizenry. You show preference for one or the other group or party and therefore are tempted to speak for your preferred party -which amounts to interference in the internal affairs of a given country¹⁹.

Waiyaki's statement testifies the fact that Kenya's recognition position is premised on the other advocated policies in Kenya's foreign policy relation. For instance as he mentions the principle of non-interference in the internal affairs of a country actually necessitates the recognition of states and not governments because recognition of the latter will encourage biases and lack of neutrality.

3.6.2 National Interests

National interests could be one of the most overused and distorted concepts in the theorization of international relations. It is difficult to give a definition of the concept, national interest. The term national interest embraces all there is in a state pursuits in the international arena. The content of national interest, its value roots and the process of its synthesis are peculiar to the history and institutional make-up of any given society.

National interest is therefore uniquely state-oriented. Its functions can, however, be given explicitly. This is because the overriding purpose governing the state's relations with the outside world, national interest serves two purposes as observed by C.O Lerche;

1. It gives policy a general orientation toward the external environment, and
2. More importantly, it serves as the controlling criterion of choice in immediate situations²⁰.

We can therefore argue that national interest is the general, long-term and continuing purpose which the state, the nation and the government themselves are serving. National interest is rooted in the social consciousness and cultural identity of a people. In practice it is synthesized and given form by the official policy makers themselves. As C.O Lerche observes;

National interest... manifest itself as an application of a state's values to its place in world politics. It is within the terms of its social origin, relatively slow to change.... National interest provides the necessary measure of consistency to national policy²¹.

Lerche's statement gives an implication that a state which consciously adheres to its national interest in a rapidly changing situation is more likely to maintain its balance and continue to progress towards its goal than it would if it changed its interest in adapting each new situation.

Kenya's national interest dictates her recognition position and other policy dimensions that she advocates and practices in her foreign relations. As already observed although many of the principles that Kenya advocates are derived from the Charters and Constitutions of the International organizations of which she is a member, these principles serve her individual national interest as well as those of the collective membership of those organizations. This implies that there is a harmonious linkage between Kenya's national interest and collective interest of the whole

[organizations]. For instance global peace that is promoted by such principles is beneficial to all actors in the international system.

Kenya's national interest prompt her to seek regional stability for instance in East and Central Africa or in the Horn of Africa. It is thus for the good of Kenya that the Preferential Trade Area association becomes successful. Kenya also participates actively in the OAU Conferences and Council of Ministers because a stable Africa will ensure a balance of power amongst African states, trade cooperation and competitive leadership in the continent or regionally an area which Kenya has always been known to seek the limelight.

National interest is therefore one of the basic premises of Kenya's recognition policy. By emphasizing on the recognition of states Kenya is not only acknowledging the existence of the recognized state but is also directly or indirectly asserting her existence and sovereignty. A policy of recognition of states rather than attitude of non-recognition is thus advantageous to Kenya's own course. That's why many have seen Kenya's recognition policy as one of a reciprocal nature. By recognizing others, Kenya is seeking to be recognized by them and by the whole world as a separate and independent state. This implies that Kenya recognizes in order to be recognized.

In handling many issues of recognition that arise to the level of international concern, Kenya first and foremost takes into account the security of her national interests. For instance in cases of secession, Kenya has been very careful in an attempt to avoid granting premature recognition and also not to make the mistake of delaying recognition both of which can be costly in terms of diplomatic relations. In the Ethiopia-Eritrean issue, Kenya has made sure that she doesn't antagonize the mainland Ethiopia at the same time recognized the rights of the Eritrean peoples to self-determination. Handling this delicate situation, Kenya has succeeded through

a series of consultations with both Ethiopia and the Eritrean Peoples Liberation Front [EPLF]. This is because Kenya and Ethiopia are strong military allies and such military interests could not be overlooked. Kenya also appreciate Eritrea as an opening for new trade cooperations, and this too had to be taken care of.

In the Palestinian question Kenya has had a lot at stake. This is why special diplomatic status has been granted to PLO here in Kenya. A negative attitude by Kenya on the Palestinian question can result to untold sour relations not only with a future Palestinian State but also with the entire Arab World. But premature recognition of a Palestinian state can also adversely affect Kenya's interests in Israel.

It is in a rational calculation of the security of her national interests that Kenya sometimes takes a stern action against another state, for instance, the severing of diplomatic relations with Norway in 1990. E.K. Kaiga, an officer in the Political Division of Kenya's Ministry of Foreign Affairs, was of the opinion that, "Kenya can severe diplomatic relations with any country suspected of interfering with her internal affairs"²². Munyua Waiyaki was of the view that severance of diplomatic ties can arise in the case of a major quarrel or war between Kenya and another state. It can perhaps occur too in the case of revulsion against unbearable behavior such as genocide of its own people, perpetrated by rulers of a country if unacceptable. Kenya for instance might hate what is happening in Bosnia-Herzegovina. Although described by the Bosnian Serbs as civil war but not a religious war against Bosnian Muslims, many people now running governments of the world will find it very difficult to accept the emerging Bosnian Serbia and may not recognize it²³.

An officer in the Research Department of the Ministry of Foreign Affairs who sought anonymity, argued that Kenya severs her diplomatic ties with

another state in situations whereby the other state violates the principles of guiding our foreign policy orientations.

Many officers in the Ministry of Foreign Affairs observe that Kenya's diplomatic recognition has an operational framework which seeks to safeguard her national interests. Kenya's foreign policy behavior is guided by the operational framework of three Ps; that is the motto to "Project, Promote and Protect". All those involved in the decisional process that is in the designation and implementation of our foreign policy strive to project, promote and protect Kenya's national interests and image. F. Njeru, also an officer in the Political Division of the Ministry of Foreign Affairs, asserts that the "Project, Promote and Protect" motto is the guiding framework for all involved in Kenya's foreign policy even the representatives in our missions abroad. The motto to "Project, Promote and Protect" seeks to safeguard and realize Kenya's interests abroad²⁴.

The factors already mentioned have influenced Kenya's foreign policy behavior especially in the aspect of recognition, together with the asserted premises of the same, have shaped and helped to establish Kenya's recognition position of recognizing states. The state thus becomes the theorized unit and level of analysis it is conceptualized as being rational, pragmatist independent and plays a decisive role in international politics. These factors and premises will be taken into account in the attempt to establish the operational trend of Kenya's foreign policy behavior in the next chapter.

ENDNOTES:

1. Sen, B.A. Diplomat's Handbook of International Law and Practice. The Hague: Martinus Nijhoff; 1965. p.414.
2. Sen, B. Ibid., p.9
3. Galloway, T.L. Recognizing Foreign Governments: The Practice of the United States. Washington D.C. American Enterprise Inst;1978. p.9
4. Simani. Director of Political Affairs.Kenya's Ministry of Foreign Affairs. Nairobi. Interview.
5. Sen, B. Op.cit., p.12
6. Munyua Waiyaki: Former Foreign Minister in Kenya's Ministry of Foreign Affairs. 1964-1969. Interview
7. Lerche C.O., Supra., p.42
8. Arsanjani M.H. International Comparative Law Quarterly. Vol.31 p.431.
9. United Nations competence in the West Bank and Gaza Strip.
10. Daily Nation Newspaper, 16th November 1988.
11. Munyua Waiyaki., Supra.
2. Jensen, Llyod. Explaining Foreign Policy. New Jersey:Prentice-Hall; Year-1979. p.16
3. Jensen Llyod., Ibid., p.28
4. Jensen Llyod., Ibid., p.29

15. Kaiga E.K., Officer, Political Division Kenya's Ministry of Foreign Affairs. Nairobi.
16. Lerche, C.O., Supra. p.14.
17. Weekly Review, February 23rd,1976.
18. Munyua Waiyaki., Supra.
19. Munyua Waiyaki., Ibid.
20. Lerche, C.O., Supra. p.27
21. Lerche, C.O., Ibid. p.27
22. Kaiga, E.K. Officer, Kenya's Ministry of Foreign Affairs and International Cooperation: Political Division. Interview.
23. Munyua, Waiyaki. Op cit. Interview
24. Njeru, F., Kenya's Ministry of Foreign Affairs and International Cooperation: Political Division. Interview

CHAPTER 4

OPERATIONAL TRENDS OF KENYA'S RECOGNITION FOREIGN POLICY BEHAVIOUR: CONSISTENCY OR INCONSISTENCY ?

4.1.0 INTRODUCTION

In the short span of the life of many African states as sovereign independent states, the external policies of some of them have swung from one end to another and back in both declaratory and operational aspects of foreign policies. There are often yawning gaps between what an African leader says and what he actually does about this external environment. But, this does not make his government's external behaviour totally incomprehensible.¹

There is no better wording which would have suitably introduced this chapter for us than the above quotation, the words of Dr. Aluko Olajide in his analysis of "The determinants of the Foreign Policies of African States" in the book The Foreign Policies of African States. Kenya like many of her counterparts, the newly independent states of the Third World, has been attempting to identify and establish a recognisable foreign policy position which will best serve the interests of all Kenyans as a common entity. In the process however, she has wavered from one direction to another in search of solid ground to build her foreign policy behaviour. Many scholars of foreign policy would therefore concur with Aluko that the external policies of some of the sovereign African states have sometimes been based on "shifting sands" both in declaratory and operational aspects of foreign policies.

The consistency or inconsistency of Kenya's foreign policy behaviour can be scrutinised in the critical analysis of various issue areas which have been subject to considerable influence from both the internal and external environment. The situational changes of these issue areas have necessitated continuity or consistency and change or inconsistency in Kenya's approach

and intensity of handling these issues in different time periods. This chapter is, therefore, closely linked to chapter three which identifies and analyses factors influencing Kenya's recognition policy. A number of these factors provide the issue areas on which the consequential operational trend of the said policy position is examined. This therefore implies that a cause - effect relationship between the said factors and recognition position is analyzed to establish resultant operational trend of Kenya's foreign policy behaviour. Kenya's recognition behaviour however cannot be adequately examined in isolation from the general foreign policy behaviour of the Kenyan state. This chapter will thus identify Kenya's operational or practised recognition behaviour as part and parcel or as an aspect of the general established foreign policy behaviour of the Kenyan state. Kenya's behaviour in the international system is characteristic of the other African states who face an almost identical operational environment under which their main interest, as argued by Aluko, are with unity, stability, independence and development at home and abroad. The basic rationale therefore is "survival" which becomes the key concept in theoretical emphasis. However it cannot be denied that Kenya's position and established trend entails its own unique aspects and approach as influenced by the elitist perceptions of the decision-makers. This is why a change of style can be recognised on the approach used by various policy-makers for instance in the two successive regimes of the late Kenyatta and of President Moi which operated in the period of our study, 1964 - 1992.

Another important aspect which leads to varying responses by states to their internal and external environment, thus resulting to specific behaviour by each state, is the different capabilities of states in terms of tangible and intangible power variables and resources. This implies that the intensity of impact and the subsequent response of states to even common issue areas, for instance the cold war, will vary hence resulting in diverse

external behaviour of the state actors in the international arena. Joseph Frankel was thus right to assert that;

....theoretically the environment of foreign policy decisions, is limitless, it embraces the whole universe. In practice, however, the environment is circumscribed ... by the range of interests and the limitations of every single state.²

The internal settings of different states influences differently their external behaviour. Most African states for instance could be poor economically but the different political pressures, colonial heritage, and ideology of the governing elite will affect differently the external behaviour of these states, hence establishment of consistent or inconsistent trends in their international behaviour. The geographical location of a state will also influence externally the state's behaviour and thus although Kenya and Uganda might share a lot in common for instance economically and politically, taking into account their former colonial master (Britain) , their geographical locations can be a cause of their different approaches to foreign relations. In relation to this, Prof Arndt Wolfers was of the opinion that:

...the psychology of the actors in the international arena instead of operating in limitless space, is confined in its impact on policy by the limitation that external conditions, the distribution of power, geographic location, demography and economic conditions place on the choices open to governments in the conduct of foreign relations.³

It is thus realistic to argue that Kenya's policy makers in foreign relations as those of other countries in the world have no absolute control over their foreign policy options. The external constraints and the domestic ones could thus serve to explain what might appear to be a surprise foreign policy posture of some of our leaders, hence the consistency and/or inconsistency in Kenya's external behaviour over the period of our study, 1964 to 1992. Many factors, issues and idiosyncrasies have come into play to shape Kenya's foreign policy posture over the thirty years of her

independence. But interestingly all said and done a particular pattern uniquely Kenyan has been established over time. It is the argument of the researcher that Kenya's recognition position of "recognising states, not governments" is accumulation of the rational calculations of the Kenyan policy makers who have all along adopted the policy of realism and framed their policy positions around Kenya's national interests. It is because of this approach that Kenya's policy makers have practised that Kenya's recognition behaviour has been consistent and has successfully stood the test of time and controversial international circumstances. It is because of the same approach geared to the basic survival of the Kenyan state and maximisation of her value synthesis that the general foreign policy behaviour is identifiable, explainable and comprehensible.

The above argument should not be interpreted to mean that Kenya's foreign policy behaviour has been consistent. However, the core of the argument is that Kenya's foreign policy behaviour has an identifiable direction, and any consistency or inconsistency in any issue area were all geared towards one goal, that is the survival of the Kenyan state by adopting any position that will best serve the interest of Kenya and ensure continuous progress in development and nation-building and the improvement of the living conditions of the Kenyan people. Implied herein, is the fact that at one time or another inconsistencies in Kenya's foreign policy might have been unavoidable in the attempt to be consistent and ensuring continued survival of the Kenyan state which is to be recognised as such by other states. This is why Kenya's recognition stand rotates around "reciprocation". Kenya recognises states in order to be recognised as independent and sovereign.

Vincent Khapoya might therefore be right in his assertion that; Kenya has been one of the most consistent African states in its foreign policy behaviour right from the time of its independence. Her founding president, Jomo Kenyatta, and his colleagues were committed from the very beginning to simply building Kenya upon

the institutional structures and political values inherited from the British.⁴

The key concepts in this chapter in the operationalisation of recognition are consistency and inconsistency. One is the converse of the other. Consistency in our analysis is taken to mean continuity in the traditional pattern of behaviour. For instance, Kenya has constantly advocated for a peaceful settlement of disputes and has been known to practice these peaceful approach as a mediator in conflicts between African states. Consistency is therefore taken to imply an undisturbed pattern of behaviour, that is, no abrupt changes in policy positions.

Inconsistency on the other hand is taken to mean changes in the traditional behavioral pattern known of the state. For instance Kenya which has always been known to advocate and practice policies towards regional stability abandons this position and is reported to be an aggressor for instance in the Somalia-Kenya border dispute. Inconsistency in another dimension can be argued to be behaviour that does not tally in practice with what a state advocates or declares to be her stand. For instance, does Kenya practice "recognition of states not governments" as she advocates or are there instances that Kenya has been known to recognise a government or a particular regime instead of the state?. For instance now that Somalia has no one particular effective government, has Kenya stopped recognising the Somalia state?, has Kenya claimed Somalia territory as one belonging to no sovereign state?. Has Kenya severed her diplomatic relations with the Somalia state on the pretext that there is no government to deal with?.

The two concepts of consistency and inconsistency are therefore used to examine Kenya's behavioral trend in her foreign relations in the said period of time (1964 - 1992), all in linkage with her recognition position.

4.1 ISSUE - AREAS

4.1.1 REGIONAL STABILITY

Kenya in the last thirty years of her independence has gone into history as a champion of regional stability in the Eastern Africa region. Kenya's emphasis on regional issues has been based on the principles of territorial integrity and sovereignty. She has adopted the policy of good neighbourliness an approach that has successfully promoted peace and stability in this region, and contained conflict at the lowest ebb. Of course, there has been sensitive border disputes in the Eastern Africa region which have turned the Horn of Africa: "potentially one of the most explosive areas in Africa"⁵ as observed by Korwa Adar. Kenya's handling of regional issues moderately is one area on which consistency in Kenya's foreign policy behaviour is most reflected.

Kenya as any other state, was expected to employ its foreign policy to attain certain internal and external objectives. This therefore implies that Kenya had her own designations and motives in a stable Eastern African region. Kenya's pursuance of a peaceful approach in the region was aimed at maximisation of opportunities and exploitation of the available resources in the interest of Kenya. In the realist nature of Kenyan politics, a balance of power had to be maintained in the East African region, a balance which was in favour of the Kenyan position. Firstly, Kenya sought to secure and consolidate her national borders. Kenya emphasised the inviolability of the territorial borders inherited at independence. The major threat to Kenya's border security was Somalia which claimed Kenya's North Eastern province (the former Northern Frontier District - NFD). The Somali leadership had a vision of a "Greater Somalia" in which all the people of Somali origin living in Ethiopia, Djibouti and Kenya would be united. Another threat to Kenya's territorial integrity emerged from Uganda during Idi Amin's rule. Amin diverting attention from internal problems in Uganda claimed the Western part of Kenya deep into the interior as far as Naivasha. Such border threats would have jeopardised Kenya's territorial integrity and underrated her

sovereignty as a state. This would therefore have led to the questioning of Kenya's statehood and her existence, hence leading to the destruction of the recognition that other states have granted Kenya.

According to Korwa Adar, the African states acceptance of the artificial boundaries is largely based on what might be called a "domino effect". He observed that allowing changes of boundaries of a state or states through conflicts or otherwise, no matter how legitimate such claims might be would lead to similar demands among other contested boundaries. Kenya has thus had to defend her territory in the 1967 - 1969 Kenya- Somalia conflict and has had to suppress an upsurge of "shifita" uprisings or wars severally, particularly in 1981.

To intensify her border security Kenya has had to undertake realistic measures characteristic of the rational approach towards international politics. In spite of ideological differences Kenya rationally forged close military and security arrangements with Ethiopia. Somalia was a common enemy to both Kenya and Ethiopia having also claimed the Ogaden region of Ethiopia. The military might of the Ethiopian forces was going to be of great advantage to Kenya and the alternative taken served best the interests of Kenya in the realist interpretation. Kenya's foreign policy behaviour portrays a lot of consistency in this issue because the alliance that was forged by Kenyatta with Haile Selassie in 1964 was not abandoned after Haile Selassie was overthrown. The Kenyan policy makers were realistic enough to continue it, in the nature of a mutual defense pact in 1979, even with the avowedly Marxist government under Mengistu Haile Mariam. The determined continuity of Kenya's foreign policy behaviour is even more appreciated in the realisation that the same security arrangement with Ethiopia was adopted and enhanced during President Moi's era after the death of Kenyatta in 1978. Korwa Adar observes that;

Kenya and Ethiopia have consistently pursued policies in the horn based on respect for the principles of sovereignty and territorial integrity of neighbouring states..".⁶

Although Somalia has been a pain in the neck to both Kenya and Ethiopia, the foreign policy options suggested by Korwa Adar, especially the alternative of pursuing cordial relations with the countries of the African Horn, strengthens the policy of recognition of states which in the final analysis aims at the states' respect for each other and thus an enhancement of a peaceful world order. For all intents and purposes Kenyas' approach in her relations with the neighbouring states can be justifiably termed consistently rational and peaceful. In none of the territorial conflicts concerning Kenya's border security can Kenya be viewed as the aggressor. Kipyego Chelugat in his edition of Kenya's Quarter Century of Diplomatic Relations: Issues, Achievements and Prospects, could not help but assert that in Kenya - Uganda relations;

..the relations have always been dictated by the leadership in Uganda. Kenya's stand has been consistent throughout the years, Kenya's policy of good neighbourliness has survived despite harsh trials put to it by the Ugandan leadership.⁷

Kenya has also been promoting regional stability in East Africa because the neighbouring states like Uganda and Tanzania provided a ready market for her goods as far as economic development is concerned. It is obvious that the peace that Kenya sought at regional level and the moderation at which Kenya handled regional issues was for the benefit of Kenya. Kenya was putting her interest first, and knew her priorities well in the region, she could therefore not afford to take a radical stand in regional issues. For instance when Idi Amin was making claims over some part of the Kenyan territory, Kenya only threatened to close the border. Kenya has kept a "deaf ear" to insults and name tarnishing expressions from her neighbours and her reactions have mostly been verbally levelled. Kenya was diplomatically promoting her economic interests in East Africa and it was the end that justified the means in the Kenyan approach.

Kenya's main external goals especially at regional level have been self preservation, national security and trade. Kenya like any other state has been the guarantor of her own security. For many years after independence, Kenya has sought to maintain a balanced power relationship in the East African region. But as argued by Van Dyke, a balance of power policy seeks a state of equilibrium in the international system where no nation or group of nations is able to dominate others. The main aim of the policy is to create a desired power relationship which may, under certain conditions, fall short of the perceived equilibrium or go beyond it to a "favourable balance" yet still maintain the **status quo**. This is the kind of balance of power that Kenya wanted to see maintained in East Africa. According to Katete Orwa;

Kenya upon assuming statehood sought to adhere to the classical balance of power practice. Its policy makers recognised early that the states vital interests lay in East Africa. They further understood correctly that during the 1960's many African statesmen expressed very strong views on external interference in intra - African affairs.⁸

Katete Orwa used the Kenya - Ethiopia military arrangement and Kenya's relations with Uganda under Amin to justify his argument. He was of the contention that Kenya has maintained a diplomatic and economic link with Uganda, and has persistently remained silent on internal affairs of Uganda except when Kenya citizens were involved. It is further observed that Kenya has stood aloof on Uganda - Tanzania conflict, for such a conflict puts Kenya in an awkward position whereby she might have to side with one neighbour against the other. It was only when Tanzanian troops entered Uganda that Kenya reacted fearing that Tanzania intended to establish a socialist regime in Uganda. As required by **status quo** politics, after Obote took over power, Kenya extended a hand of friendship.

Kenya guards her foreign policy in such a way that her actions and reactions demand recognition from her neighbours and the world at large, through defending her territorial integrity and freedom of participation in

the intra - regional trade. For instance Kenya has been as active participant of the Preferential Trade Area (PTA) which she had signed a commercial treaty of membership in 1982. Kenya's approach has been a realist calculation of maximization of values in the economic sphere. Kenya has emphasised more on economic might regionally than on military might. Some neighbouring states like Ethiopia and Somalia have concentrated on building their military forces at the expense of their economies. The moderate Kenyan approach in regional politics has preferred and sought to maintain status quo in economic leadership at regional level.

Kenya's moderation in regional politics when analyzed under the rational - actor model serves well her recognition policy of "recognition of states, not governments" which in the final analysis is for the best interest of the Kenyan state. The successive Kenyan leadership under the late Jomo Kenyatta and President Moi have not only continued to recognise the East African states but have constantly encouraged co-operation between them especially in the economic sphere. For instance, there have been attempts in the 1990's to revive the defunct East African Community which collapsed in 1977. Most of the initiative has been from President Daniel arap Moi.

Kenya has shown a lot of maturity in regional politics by down playing ideological rhetoric and differences with the rest of the neighbouring states. She has become a peacemaker in the region recognising and respecting others. The Kenyan leadership has tried to bring warring parties of the neighbouring states to the dialogue table and has been diplomatic in the handling of the Ethiopian - Eritrean issue. She respected the sovereignty of Ethiopia but also recognised the right to self - determination of the Eritrean peoples, to an extent that Eritrea has gotten her independence without Kenya being accused of antagonising any side. Kenya has given homage to hundreds of thousands of Somali refugees as a show of respect

and recognition of the state of Somalia. This is why Kenya supports the United Nations efforts to restore and normalise life in the Somalian state.

4.1.2 CONTINENTAL ISSUES

Kenya has undoubtedly played an active role in issues affecting the African continent as a whole or parts of the African continent. Kenya's active participation in both continental and global issues has been viewed by various scholars of foreign policy as a "radical posture" abroad in comparison to her "moderate stand" or cautious handling of regional politics. Dr. John Howell is one scholar who has clearly contrasted these different postures that Kenya has portrayed in her foreign policy behaviour. He attributed such behaviour to Kenya's desire to unify all the diverse tribes in the country as well as meet the demands of both militant and conservative opinions within it. But, as rightly observed by Denis Austin, it is agreeable to many scholars of African politics that the relations existing between African states is mostly influenced by their colonial heritage and history. The argument of the above scholars is clearly stated in Aluko's edition of the Foreign Policies of African States. For instance keen observation of Kenya's foreign relations reveals that Kenya relates more, be it politically, socially or in economic cooperation, with the Anglophone states than the Francophone ones or any other African states. This is because, as argued by Vincent Khapoya, at independence Kenya adopted a format of foreign relations and development strategy as laid down by the British masters. It is therefore a clear fact that Kenya's relations with fellow African states and her role and perception in various issue - areas is externally influenced. Viewed from that perspective, we thus concur with Prof James Rosenau in his assertion that in virtually all societies external forces predominate in the making of foreign policy this he observes in his book International Politics and Foreign Policy. True to John Okumu's suggestion, in his article

"Kenya's Foreign Policy" in Aluko's edition of The Foreign Policies of African States, foreign policies of African states are largely the product of their colonial past. It should thus be realised that as argued by F.S. Northhedge, in his book The International Political System, much of what happens between or among African states seems to be the product of internal and external environmental factors.

Arguably, therefore, Kenya's consistently radical posture in continental issues undergoes considerable external pressures, Katete Orwa observed in his article "Balance of Power Theory and Kenya's Foreign Policy in East Africa" that:

..during the 1960's Kenya took a very radical stand on African matters, a radicalism that led the US in 1965 to contemplate withdrawing US economic aid to Kenya because of Kenya's reaction to US - Belgian intervention in the Congo (Zaire) in November 1964.⁹

Julian Friedman in her book East African Diplomacy, confirms Katete's observation when she argued that, the flow of persons, ideas and goods link the outside world to the domestic affairs of East African nations. And though Friedman was of the contention that East African British relations are characterised by three trends namely; "discontinuity, continuity and innovation", in the Kenyan case a consistent British presence and influence can be detected in Kenya's foreign policy behaviour. In fact Kenya like Britain claims "recognition of states, not Governments" as a guide to her recognition policy behaviour. Kenya like most other African states is vulnerable to a lot of external influence. Her development towards full modernisation depends in a large measure on the conduct of her foreign relations.

For example although Kenya was one of the African states which consistently argued in favour of the one party political system as the most suitable for the African peoples, and states, pressure from external sources

especially the United States made her succumb to multi - partyism in 1992 which saw her hold the first multi - party general elections in December 1992. The multi-party wave has now swept across Africa, influencing not only internal policies of states but also their external relations. Quick disbursements of Foreign Aid to Kenya was frozen in 1991 after a Paris Club meeting of donor countries, a move which was effectively exercised by their commercial agents, the world financial bodies, that is, the World Bank and the International Monetary Fund. We therefore realise that although Kenya adopted her recognition policy of recognising states because it suited her national interests, the fact that the powers like Britain and the United states, that were influential in her foreign policy direction, had no quarrel with it or it did not contradict their own positions might serve as an explanation for the consistency that now characterises Kenya's recognition behaviour.

Kenya has been vocal and consistent in leaders' perceptions and reactions to some continental issues like the total eradication of colonialism and the fight against racism and apartheid in South Africa. Kenya has persistently demanded and supported efforts aimed towards the total liberation of Africa. Kenya's position in this was clearly asserted by the founding father the late Jomo Kenyatta, who pledged at the time of independence that;

My country pledges to assert itself to join with other independent states of Africa in the struggle for the total liberation of the whole of Africa. We can not be truly free when Southern Rhodesia, Angola, Mozambique, South West Africa, and the protectorates continue to be under foreign rule and European domination. Respect for the African states and the impact which Africa needs to make on international affairs including the contribution that we must make, will not be fully achieved as long as any part of Africa remains under colonial rule. Our efforts to free the remaining parts of Africa is therefore part of our mission to give final meaning to our own freedom and the greatness of Africa. (own emphasis)¹⁰

From Kenyatta's own words as quoted by Cherry Gertzel in her book Government and Politics in Kenya a lot about Kenya's foreign policy

behaviour especially in relation to recognition can be deduced. Firstly, it is clear that Kenya supported the process of decolonisation in Africa because it was in Kenya's interest to do so. Hence from the onset Kenya applied realist measures in her foreign policy outlook. She rationalised that colonial presence in any part of Africa was a threat to Kenya's independence and existence as a state and a threat to the survival of the whole of Africa. She thus felt obligated to support the struggle for independence in the African regions that were still under colonial rule and consequently she was ready to recognise the statehood of the liberated areas of Africa in the process strengthening her recognition by others in the numerical sense. Secondly, the independence of the rest of African states would widen the scope for Kenya's diplomatic relations, diversifying her diplomatic deals back at home (in Africa) as a safeguard against any manoeuvres by the developed world. Reciprocal recognition was consistently emphasised and strengthened amongst the African and other third world states which mostly adopted "recognition of States not governments" in accordance to the Estrada Doctrine of 1930.

It is pertinent to note that one of the purposes of the Organisation of African Unity (OAU) of which Kenya is an active member, is to eradicate all forms of colonialism from Africa. Colonialism is one issue that has had profound impact on the foreign policies of the African states. Professor Vernon McKay is quoted to have said that;..."anti-colonialism is the most obvious and consistent and all embracing common denominator of African foreign policies."¹¹

African states, Kenya inclusive, are most suspicious of any colonial presence in Africa probably because of the bitter experience that the majority of them had undergone in the form of classical colonialism. The first President of Tanzania, Julius Nyerere is quoted by V. McKay to have vehemently asserted that "no citizen of Africa can live in the comfort of his

own self-respect while other African citizens are suffering discrimination and humiliation for being born what they are". His strong convictions against racism made Nyerere to be an outstanding African figure in the fight against apartheid in South Africa. Although Kenya can to large extent be said to have been consistent in the contribution against apartheid in South Africa, her record over the years of our study period (1964 to 1992) is tainted at one point or another by laxity which can be interpreted to mean a certain degree of inconsistency.

In the immediate past independence years, Kenya's rejection of apartheid and racial discrimination was clearly evident in her foreign policy and behaviour. For instance on the 10th of December 1963 the government of Kenya by Legal Notice Number Seventy - Four, banned all trade to and from South Africa and Portugal. This action, Gertzel observed in her book Government and Politics in Kenya, resulted in a trade loss of some two million pounds a year and made it difficult for the government to find new markets. The loss was however considered a necessary sacrifice in the fight against apartheid.

It was also in the immediate post independence years that the Kenyan government ordered the South African consulate closed immediately and the South African Consulate General was subsequently expelled from the country. Furthermore, the government of Kenya withdrew landing and flying rights previously enjoyed by the South African Airways in the Kenya territory and air space.

The above measures could have contributed to Cherry Gertzel's comment in the same book Government and Politics in Kenya that;

Kenya has consistently taken a firm stand on apartheid in all conferences or meetings such as the OAU, Commonwealth, UN's Specialised Agencies Conferences, and the 1964 London Conference on economic sanctions against South Africa.¹²

African states as their primary aim in foreign policy, that is, elimination of colonial and white supremacist regimes, have applied four major ways, as analysed by Aluko Olajide in his book, The Foreign Policies of African States. One of the ways is provision of bilateral assistance to the freedom fighters, second is providing aid to them through the OAU Liberation Committee, thirdly they have made attempts to isolate these white minority regimes from various international organisations and lastly, by putting pressure on the Western trade partners of these colonial and racist regimes to stop trading with them especially in arms. Kenya has especially been consistent in her contributions to the OAU and the United Nations for the course of the liberation movements like the ANC. She has also sought for the isolation of South Africa in various international organizations.

Although Kenya is not entirely to blame for ambivalence towards the South African racist regimes in the 1980's and the 1990's, most of her ambivalence can be attributed to a global trend of leniency to the South African regime especially during President Frederick de Klerk's era when the dismantling of apartheid commenced. But how would we interpret Kenya's rush to normalise relations with South Africa, other than viewing her as opportunistic and anxious to accrue economic benefits from the South Africa relations but under the disguise of the global trend?. We are left to conclude that Kenya might not have been as vocal as Tanzania in the stand against the racist regime of South Africa especially in trying to discourage Western trade partners of South Africa in their activities because Kenya in her Western - oriented capitalism and being a host state of many Multinational Companies also based in South Africa has had trade links with South Africa albeit underground over the years. In the 1990's Kenya has come into the open in her cordial relations with South Africa despite persistent calls by black South Africans of Nelson Mandela's calibre that the sanctions against apartheid be maintained because the pillars of the same

are still in place. Besides the Kenya Airways airline commencement of flights to South Africa, South Africa now has a diplomatic mission in Kenya. Kenya has revived trade and diplomatic relations with South Africa which she had once banned in the immediate years of independence. Kenya's realist approach emphasizing her own survival and interests at the expense of the black South Africans who are yet to be free of white minority domination, in this instance, has jeopardised what Munyua Waiyaki had termed political morality in Kenya's recognition behaviour. Kenya is seemingly recognising a South Africa governed by a racist regime, if only to meet her own national interests.

Kenya as a member of OAU has been actively and consistently involved in the peace - keeping process in Africa. Kenya has severally been called upon to provide troops either under the United Nations umbrella or that of the OAU to help bring peace in African states that were besieged by internal strife. President Kenyatta as an elder African Statesman had been involved in mediation of the three liberation movements in Angola. He also provided Kenyan forces to be part of the peace - keeping forces of the OAU in Chad and monitoring the activities of the transition period in Zimbabwe. President Moi also has chaired the OAU in two consecutive terms in 1981 and 1982. This time saw a high powered delegation of African Heads of States hold the OAU's annual conference in Nairobi, Kenya. In 1990 Kenya was called upon by the United Nations to provide forces for a peace - keeping mission in Namibia until Namibia was successfully declared and recognised as an independent state and acquired legal status as a member of the international community.

In the final analysis, it can be observed that Kenya has generally insisted on the unity of African states; and has used OAU forums to express these views. She has however, either been radical or conservative in her approach to continental problems depending on specific issue areas as influenced by

the perceptions of the Kenyan leadership about her national interests and the stakes involved in each issue area. The latest Kenyan position as far as the OAU is concerned is that she objects to the setting up of a permanent peace - keeping force by the OAU. President Moi said this in the twenty - ninth OAU summit of Heads of States and Governments that was held in Cairo on June 1993. President Moi was fearful that the setting up of such a force would be faced with administrative difficulties.

On the established trend of Kenya's foreign policy behaviour as far as issues or problems affecting the African continent is concerned Vincent Khapoya, was of the opinion that;

On issues close to the African States' heart, such as the liberation of South Africa, Kenya has acted conservatively, making appropriate speeches, meeting financial obligations assessed at the OAU and the UN, and in the main cultivating a favourable image of a pragmatic and moderate country.¹³

Kenya's conservatism and moderation in her foreign relations behaviour is in line with her recognition position of recognising states which takes a state - centric approach. The states are "personified" and emphasized. In this state - centric (realist) view in both systematic and subsystemic level of analysis the empirical referents remain the same, the state. In such phenomena as the creation and dissolution of coalitions, the frequency and stability of specific power configurations and the impact of these on various parts, which are all objects of system analysis, cannot be discussed meaningfully without reference to the state.

Kenya's foreign policy behaviour therefore takes the nature of power politics characterised by a lot of cautiousness towards the most dominant actor in the international system, the state. Kenya's recognition behaviour has thus constantly taken into full consideration the state as the most dominant legal person of the international system and recognition of the state is recognition and emphasis on the practical reality of international

life. The state in Kenya's practice of foreign relations constantly remains the unit of analysis and the key concepts are the survival of the state and maximisation of values for the interest of Kenya as a state.

4.1.3 INTERNATIONAL OR GLOBAL ISSUE - AREAS

Kenya's foreign policy behaviour in the 1960's and 1970's has been accurately referred to as "quiet diplomacy" or the "wait - and - see" period by many scholars of foreign policy. This time period when most African states were gaining their independence, is also the time when they were faced with a world cleft into antagonistic power blocs - the East and the West, a phenomenon which has gone into world history as the Cold War. The power and influence of both superpowers was of a global nature such that the two sought to have the newly independent states in either of the two camps. Most African countries that by the time of their independence were strategically and economically within the orbit of the Western bloc were thrown into a dilemma on what policies to adopt to ensure their survival and protect their independence. To remove itself out of the predicament of either allaying itself to the West or the East, Kenya like most other Third World States opted to adopt the policy of non-alignment.

On Madaraka day in 1965, Kenyatta clarified Kenya's firm and resolute commitment in what he called "her declared stand of positive non-alignment". He expressed Kenya's determination to make non-alignment a practical and working policy and not a slogan, a policy on which Kenya's goals of bringing her people food, education, medicine and a better standard of life will be pursued. Kenyatta argued thus;

We have definite views on Rhodesia, Angola, South Africa, Vietnam, Malaysia and disarmament. We do not hesitate to express these views when the situation demands... . We shall not exchange one master for a new master. We intend to remain our own masters forever. Let every nation in the East or West take heed of this warning today.¹⁴

The non-alignment position became Kenya's guiding policy in international affairs. The same year (1963) that the OAU included non-alignment as one of its principles, the KANU manifesto, which was Kenya's operational framework, adopted the same principle as a foreign policy. Most non-aligned states saw this as an opportunity to diversify their political, commercial, cultural and military links with the great powers. Since their traditional relationships were with the West, the efforts at diversifying their external links have meant striking new links with the socialist countries of Eastern Europe and China. In essence, most African leaders chose not to be tied to either of the power blocs.

Kenya's practice of the non-alignment policy portrays an interesting picture to analyze. Her declarations of being non-aligned have not changed throughout the period of study. However, generally all members of the non-aligned movement have had to re-vitalise the doctrine by changing its emphasis. This can be attributed to the "detente" between East and West which eventually brought the Cold War to an end after the collapse of the USSR and consequent disintegration of the communist bloc. Since the Lusaka conference of the non-aligned powers in September, 1970, the main emphasis of the non-aligned countries is now on; total decolonisation, closer economic cooperation among member states especially on a regional basis, securing better terms of trade for their commodities, and the need to be consulted on, if not participate actively in matters of world peace.

In practice Kenya's developmental strategy especially her economic orientations have been closely associated to the West, to the extent that many scholars feel that Kenya has compromised her non-alignment position in her external relations. However, generally, as Julian Friedman observes;

So much of the external relations of the developing nations takes place within them and constitutes cross - cultural transfers that a study of their diplomacy is a study of their national development or nation building.¹⁵

The above observation is very true of the Kenyan case. This is because although Kenya is a declared non-aligned state, the politics of development and nation - building especially in her realist orientation where maximization of values and interests is emphasised, have necessitated closer cooperation with the West than the socialist East, in the attempt to safeguard and promote her economic values which are capitalist in orientation. But in the generality we can realise that the enunciation of non-alignment by the Kenyan government as a foreign policy, has been consistent with the OAU's definition of non-alignment. Kenya wanted to let it be known that she was not going to take sides in the Cold War, then at its zenith, between the Soviets and the Americans; that her position on issues was going to be governed by her own interests rather than other countries and determined by the merits of the issues themselves. Such stand would have given Kenya a leeway to maintain acceptable contacts with both the East and the West. However, this was not the case for the Kenyan leadership sought to put a clear demarcation between what was East-orientated and that which was West-oriented, this was to the extent that domestic debates and quarrels increasingly reflected proxy conflicts. And because the British (a strong power in the Western camp) had ensured they recruited into leadership individuals whose preferences and interests were unequivocally Western in style any socialist tendencies that emerged were immediately stamped out as radical. Vincent Khapoya asserted that;

The development strategy adopted (by Kenya) was one advised by the British. It conformed to capitalistic values and ideas. All kinds of Aid was sought from the Western countries and relations with the west strengthened. Even domestic power struggles in the early years of independence took on the form of proxy battles between the East and West.¹⁶

It can thus be observed that inspite of her advocacy of non-alignment Kenya is firmly in the Western Camp in its political ideals and economic development strategies. Kenya on the other hand had let the United States to

position her military facilities in Mombasa, an action which many interpreted to be pro-west. Moi had signed the agreement in 1980 thus granting the US access to Mombasa as part of the Rapid Deployment Force. President Moi did not also hesitate to join the boycott of the Olympic games in Moscow in 1980. Actually the sides taken by Kenya as a pro - Western state became more evident during President Moi's era whose activism style has been quite pronounced. The United States, according to a number of scholars is using Kenya as a satellite in exchange for economic support and military aid. Now that the Cold War is over, Kenya together with other African states have been left in the cold as the West directs its attention to Eastern Europe. Even before then, Olewe Nyunya observes a general trend of fluctuations and low keyed levels of interactions have characterised Kenya - Soviet relations. This was in his analysis of Kenya's relations with the superpowers since independence in Cheluget's edition of Kenya's Quarter Century of Diplomatic Relations: Issues, Achievements and Prospects

Hence, we can justifiably argue that Kenya's consistency in her non-alignment declarations has not tallied well with her practical experience. However, Kenya's behaviour can be interpreted in terms of Morgenthau's analysis in his book Politics Among Nations in which rational calculation of "normal" diplomacy for smaller states may be much more a function of resources than may appear to larger states.

For instance Kenya's support of the multi-allied forces in the Gulf war in 1990 can be interpreted to be based on several factors. The multi-allied forces were led by the US, a traditional ally of the Kenyan state which Kenya because of her interests still wished to identify herself with. As had become the tradition the US would reward Kenya and other pawns which added her numerical support thus legitimised her action as a world policeman. Thus Kenya expected economic benefits in return for her support and approval of US actions at the Gulf. Kenya also could have supported the

multi-allied forces at the Gulf war as a member of the United Nations under whose umbrella the forces were operating. Kenya's behaviour in the Gulf issue can also be attributed to her recognition policy which has consistently maintained the advocacy of "recognition of states" in this case, Kenya sympathised with Kuwait whose territorial integrity was violated by Iraq; hence adversely affecting her independence, a basic requirement for statehood and consequently recognition.

According to Kenya, Iraq had interfered in the internal affairs of Kuwait by trying to impose foreign leadership on the people of Kuwait, hence denying them the right to self-determination. Whatever the reason for Kenya's support of the America's "operation desert-storm" of 1991 and other American global endeavours, she now has to contend with the perception among her neighbours that she is an appendage of the US.

Kenya like most African countries has viewed the UN as a body which might significantly contribute to their socio-economic development. High in the list of Africa's concerns is economic issues which they have put in the forefront of their diplomatic activities both in the UN and in other fora. For the bulk of African states international economic relations literally pertain to matters of life and death. This is especially because the dismal performance of the African economies contributes in no small measure to political instability and the fragility of regimes in the continent. Kenya's hopes towards the UN like those of other African states is based on the proclaimed principles of the UN which are enunciated in the UN charter, e.g, article 1(3) proclaims: "To achieve international cooperation in solving International problems of an Economic, Social, cultural or humanitarian character and in promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language or to religion.". Kenya and Africa as a whole has thus pursued objectives that are consistent with the organisation's broad purpose. In fact Kenya's

foreign policy behaviour is guided by principles and policies which are also majorly enshrined in the UN Charter and that of the OAU; namely, principle of territorial integrity of states, principle of self-determination of all peoples and peaceful settlement of disputes. While discussing Kenya's consistency in her pursuance of regional stability in the Eastern African region we came to appreciate Kenya's successful application of the above mentioned principles and which have reflected great consistency in her recognition position of "recognition of states, not governments". Owing to Kenya's persistent practice of good neighbourliness and peaceful settlement of disputes, the UN, like the OAU, has severally called upon Kenya to provide forces to form part of UN peace-keeping missions in several troubled areas of the African continent and beyond Africa. In 1975, Kenya's forces were involved in Mozambique under the UN umbrella, Zimbabwe in 1980, Namibia in 1990 and currently in 1992/93 Kenya has sent forces as part of the UN peace-keeping forces in the former Yugoslavian state. Because of Kenya's commendable record as a UN member, a number of UN agencies like UNEP and UNESCO have their headquarters in Nairobi and a greater number are undertaking regional operations from their bases in Kenya, such include UNHCR (i.e the United Nations High Commission for Refugees) which is currently handling the hundred thousands of Somali refugees in Kenya and others from Ethiopia and Sudan; UNICEF is also operating in Kenya, UNCTAD etc. Kenya's consistency in her foreign policy behaviour, political stability and her unwavering recognition of states which constitute such organisations like the UN, the OAU, PTA and others has given it a creditable name in the International arena and won her reciprocal recognition and respectability from all members of the Family of Nations.

By insisting on the self-determination of the oppressed people of the world and upholding the principle of respect for territorial integrity of other states and non-interference in the internal affairs of other states,

Kenya was facilitating and safeguarding her own security of territorial boundaries, independence and recognition as an international legal person with a right of legation.

On the international level Kenya is also a member of the Commonwealth of Nations. This is an association of former British Colonies that are otherwise independent but recognise the British crown as the head of the association. Kenya's membership in the Commonwealth has been beneficial to her people hence it is in accordance to her national interests. There are special preferences enjoyed by the people of the member states of the Commonwealth at each others' territories. For example exemption on Visa requirements. The diplomatic missions of the Commonwealth members on each others territories are referred to as High Commissions headed by High Commissioners.

4.1.4 DOMESTIC SETTING

In an attempt to operationalise the domestic environment as one shaping and contributing to the established trend of the foreign policy behaviours of African states, the reality can only be fully grasped if we take into account the impact of their unique colonial experience of the pre-independence years. For instance, the institutions, structures and policy practices built by the British in "preparation" of the Kenyan people for independence have not only attained a level of permanence in the life of an independent Kenya but more so have established tangible and intangible links with the metropolitan powers in such high degree, never thought possible by the embittered African nationalists. Kenya like any other African countries will never be able to shake-off memories of the colonial master whose links are permanently and deeply rooted in the nature of common language, currency zones, common administrative, educational and legal systems. Notably, is the acceptance by the independent African countries of all the treaties

previously negotiated by the colonial powers on behalf of the colonial peoples with foreign powers, hence mapping out lines of future contacts for the new states. This implies that the possibility of the colonial masters having signed treaties of recognition on behalf of their colonies or states-to-be, can not be ruled out. Furthermore, they contributed in the designation of the institutional structures. For example law making organs like like parliament which became responsible for the making of foreign policies, that of recognition inclusive. Scholars like Andre Gunther Frank, Samir Amin, Walter Rodney who use the dependancy school of thought to explain the political economies of the developing states in the articles " The development of underdevelopment", "Underdevelopment and dependence in black Africa: origin and contemporary forms" and book How Europe Underdeveloped Africa respectively would emphasise in the Kenyan case the harmony in formal linkage of the metropolitan elite and the local ruling elite in commercial endeavours which have perpetuated the state of neocolonialism in Kenya. Other intangible links include such things as the rule of law, democratic institutions, communication of professional bodies of the newly independent state and those of the metropolitan powers, and other former colonies ruled by the same colonial master.¹⁷

In fact in East Africa it seems like the British purposefully orientated the Kenyan state to fit in the British type of political and economic system so much so that there is a constant reflection of British-like behaviour in every aspect of Kenya's life as a state even thirty years after independence. Kenya has over the years continued to be a close ally of Britain. Britain has thus remained a major donor of foreign aid, technical assistance and military aid to Kenya. Many British Multinationals are hosted by Kenya. Kenya's parliamentary system is modelled on the British Westminster style. Culturally, in the field of education many Kenyan students have continued to receive scholarships and undertaken learning in British

institutions . Therefore, there is a continuity of British influence on Kenya politically, economically and in socio-cultural life which is outwardly reflected in Kenya's foreign policy behaviour and in her recognition policy orientation. It is the British socialization that which has deeply entrenched Kenya into the Western camp. Olewe - Nyunya in his analysis of Kenya's relations with the superpowers in Cheluget's edition of Kenya's Quarter Century of Diplomacy: Issues, Achievements and Prospects notes that Britain has remained the major arms supplier for Kenya from colonial through post - colonial period, to the extend that Kenya has remained Britain's single major military aid recipient in Africa.¹⁸

British economic and political manipulation of the Kenyan state has been a source of concern in academic quarters especially to those scholars of African politics as expressed in T.M Shaw and Aluko Olajide in their edition of Political Economy of African Foreign Policy.like David Williams who admitted that the main cause of disunity in Africa is colonial heritage. Professor Mahmood Mamdani of Makerere University concurs with David Williams when he attributes the state of Kenya-Uganda relations to external pressure put on Kenya by Britain's multinational companies. He was of the opinion that Kenya-Uganda relations worsened when British interests in Uganda were threatened during Amin's regime. The reason behind this, is attributed to the character of the Kenyan economy, "Which is not an independent national economy but a neocolonial economy in which Britain was the leading imperialist for the better part of the 1970's. Kenya interests with a solid Uganda connection were for the most part Kenya based British interests"¹⁹ as noted by Vincent Khapoya in his article "Kenya" In T.M. Shaw and Aluko Olajide edition of Political Economy of African Foreign Policy. Hence according to Mamdami Kenya was used as a conduit for the supply of British goods to Uganda.

In the African continent, colonial influence can be seen in Kenya's external relations with other African states. Kenya for instance has more trading links with the Anglophone states as compared to her economic, political and social associations with the Francophone states and others that have been under other colonial masters like the Portuguese, Germans and Italians. For instance it is the British who dominated the Eastern Africa region hence most of Kenya's neighbours like Uganda, part of Somalia, Sudan and Tanzania (though Tanzania had also been ruled by the Germans) had been ruled by the British. Kenya has co-operated with these states economically, and socially. PTA is a regional organization born out of such cooperations. As agreed by Aluke Olajide in his edition of Political Economy of African Foreign Policy it is rational that the African states found it easier to mix and work closely with people whose language and educational, legal and administrative systems were similar to their own, and Kenya's recognition policy is oriented on similar premises.

However, it should be understood that the African countries have long realised the predicament they are in and many African leaders past and present like; Kwameh Nkrumah, Yakubu Gowon, Hamani Diori, Julius Nyerere and Daniel T. arap Moi have attempted to bridge the gap between Anglophone and Francophone Africa. There has been a Pan - Africanist movement seeking to unite all black people of Africa. These leaders have constantly advocated for unity and greater inter-state cooperation amongst African states. But because of considerable external influence in the foreign policies of individual African states, it is really doubtful whether a United States of Africa as wanted by the African leadership will ever be achieved. Furthermore, such unity will not be for the interests of the powerful external forces and their mechanizations are designed taking into consideration the possibility of such occurrences and hence prevent it from being realised. Divisive politics characteristic of the colonial era are still

practised by the Americans and Europeans towards Africa. Most of the conflicts in Africa like the civil strifes that have gripped the continent are externally perpetuated especially through the supply of arms by these Western powers, e.g., the 1990's have been ushered in by protracted civil wars in African countries like Liberia and Somalia leaving terrible devastation in terms of life and property in those countries.

Besides colonial heritage, another variable which has considerably influenced Kenya's foreign policy behaviour is her capitalist economy. As already mentioned the British had recruited into leadership an elitist class of a capitalist orientation who would protect British interests in order to ensure their own survival in the corridors of political power and economically. There was thus cooperation of the local petty - bourgeoisie from which the leadership was derived and the metropolitan elite. An analysis of Kenya's foreign policy behaviour as influenced and determined by the economic variable, brings into view Johan Galtung systemic analysis in the mode of the actor - oriented approach as brought out in his article "Foreign policy options as function of social position". This is because as Immanuel Wallerstein would argue in the edition of The Political Economy of Contemporary Africa, the Kenyan economy has been linked to the global capitalist economy in which Kenya's economy becomes a satellite of the metropolitan economies. Such linkage is brought about by what Johan Galtung termed as a harmonious relationship between the "core of the Periphery and the core of the centre." This therefore implies there is a reciprocal exchange within the international system because of the common values and interests shared by the elitist groups of the developed world and those of the developing states hence the reciprocal recognition than policy position that Kenya advocates. Johan Galtung analysis is suitable for the Kenyan case which takes the actor - oriented approach because the elite decision makers have common interests with the elites of the Metropolis

who sustain them in power through the global money economy. In the actual sense the national interests are the interests of the state as perceived by the core decision makers and which also conform with their individual interests. Hence actor - oriented linkages in which the elite decision-makers represent the state is developed. Kenya's Foreign policy behaviour has been characterised by actor - oriented linkages which the state as a common entity is emphasised and her values and interests are sought to be maximised by the policy - makers of the day in the name of state survival which is emphasised through what Hans Morgenthau refers to as "power politics" in the day- to-day allocation of resources.

The Kenyan economy which Colin Leys in his book Underdevelopment in Kenya: the Political Economy of Neocolonialism would prefer to call a neocolonial economy, exhibits attributes of dependency. In these dependency phenomena, Kenya's economy has been gradually incorporated into the international capitalist system to the extent that questions can be raised as to whether or not Kenyan leaders can act independently in foreign policy matters or in anyway that may jeopardise the interests of the Western perpetrators. For instance Olewe-Nyunya in his article " Kenya's relations with the superpowers since independence" laments that like many African states Kenya is largely technologically dependent. This is because the supply, distribution and benefits of technology have been largely dominated by the Western money economies. He was of the opinion that this dependence creates technological backwardness which further contributes to more technological dependence.²⁰

The economic disabilities of the African states, Kenya inclusive, have been interpreted by Aluko Olajide in the edition of Political Economy of African Foreign Policy to imply that, without a strong economic base none of the African countries can afford to pursue really vigorous or adventurous policies abroad for long. No wonder Kenya's foreign policy

behaviour is so much characterised by a lot of caution, conservatism and moderation best reflected in her recognition policy position. It is Kenya's economic and military weakness that made her to check on her radicalism in African matters in the 1960's lest the US withdrew her economic aid to Kenya.

Noting Kenya's consistency in her application of moderate politics which were designed to take into account her cordial relations with the West Vincent Khapoya asserted that;

... the kind of activism that might displease her traditional friends or in any way disrupt economic activities in Kenya or place undue hardship on Kenya was assiduously eschewed. Examples of such patterns of behaviour are provided by her verbal support for freedom fighters in Southern Africa while at the same time refusing to allow the presence of guerillas in Kenya or even to permit the liberation leaders to open offices in Nairobi for the purpose of canvassing for help as they have done in Tanzania, Zambia, Algeria and elsewhere. Kenya has supported some form of international sanctions against South Africa but allowed planes destined for South Africa to refuel at Nairobi and Mombasa contrary to OAU resolutions.²¹

Kenya's foreign policy behaviour has been greatly shaped by her consistently capitalist development strategy, which was laid down after independence in Sessional Paper Number 10 of 1965. Although this document was cloaked with rhetoric of African Socialism, the content was neither African nor Socialist. It emphasised a mixed economy and cautious diplomacy. Kenya was to relate to other states cordially so as not to hinder her economic plans which were to heavily depend on foreign aid for successful implementation. This implied therefore that Kenya was also to adopt suitable recognition policies which will protect her economic interests through maximization of external opportunities, hence ensuring the ultimate survival of the state politically and economically both at home and internationally. It can therefore be observed that, Kenya's domestic and international economic policies were of a realist nature, always aimed at

best choices by the rulers maximising values and opportunities for the common interest of the Kenyan state. All other foreign policy behaviour inclusive of Kenya's recognition of other states had to take the same format, taking into account the same considerations.

Another variable in the domestic setting that should be taken into consideration in the analysis of the established trend of Kenya's foreign policy behaviour is the internal leadership. It is a fact that in the duration of our study period of 1964 to 1992, Kenya has been under two regimes, viz; Kenyatta's era which lasted from 1963 to 1978 and Moi's regime that succeeded Kenyatta from 1978 and continued to 1992. Although President Moi's regime has been extended into Kenya's multi-party period which was ushered in by the December 1992 General Elections, 1993 and beyond is not the concern of this study.

True to the word "Nyayoism" (Nyayo meaning footprints or steps in the already determined direction), President Moi's policies in Kenya's external relations have been majorly a follow-up or a continuation of those policies adopted during Kenyatta's era in Kenya's foreign policy behaviour. Any changes in Kenya's foreign policy behaviour in Moi's regime as compared to Kenyatta's time are largely due to a change and variations in global circumstances, hence situational determinants coming into play in Kenya's foreign policy behaviour. Any other inconsistencies can be attributed to change of style and not necessarily a change in substance of Kenya's foreign policies and the established behaviour practices. This therefore implies that a lot in Kenya's foreign policy behaviour has achieved a level of continuity or consistency in its basic form, characteristic of this consistency is Kenya's advocacy of recognition of states.

For instance, generally Kenya's external behaviour is guided and shaped by a recognition policy of "recognizing states, not governments", a policy of good neighbourliness, a policy of non-alignment all in conjunction with the

principles of territorial integrity, non- interference in the internal affairs of other states and respect for the self-determination of all peoples. However, all these policies and principles are not only affected by a change in global circumstances but more so by idiosyncratic factors in the perceptions of individual policy makers of all states.

The way President Moi perceived Kenya's role in the international arena is different and unique from what the late Jomo Kenyatta believed is Kenya's position in global politics, and on the other hand, quite different from the role that the current leadership of the opposition would allocate Kenya in her external relations. In fact, even amongst the opposition, different leaders, say Oginga Odinga, Matiba, or Mwai Kibaki, would view and assert Kenya's role in the international arena differently from each other. Hence individual idiosyncrasies of the leaders in the way they perceive the external environment of the state influence differently the foreign behaviour of the state.

Many officers in the Ministry of Foreign Affairs in discussions held with the researcher were of the opinion that there has been no substantial change in Kenya's foreign policy behaviour in President Moi's time when compared to Kenyatta's era, least of all in her recognition policy orientation. Miss E. Tolle, the head of the International Organisation Conferences in the Foreign Affairs Ministry, expressed that besides changes in approach and emphasis that have been brought about by change in global circumstances, Kenya's foreign policy behaviour in the two successive regimes has been quite consistent in the declaration and operations of the policies and principles advocated by the Kenyan government.

According to Alex Chepsiror, also an officer in the Legal Division of the Ministry, Kenya has consistently pursued the policy of recognition of states, not governments, from Kenyatta's time through to President Moi's era. He, therefore, felt that Kenya's recognition behaviour has been continuous over

time. Njeni, in the Political Division similarly argued that Kenya's foreign policy behaviour has continuously been guided by the framework of 3Ps which stood for "project", "promote", and "protect". According to this policy framework we can realise the consistency in the Kenya's practice of all the policies declared. For instance in the recognition of states whereby Kenya advocates and more so puts practical emphasis on the recognition of states. The rationalism of the realist approach is also given meaning in the Kenyan practice whereby the state as the dominant actor is not only "projected" in the actor-oriented manner, but is also "promoted" in the maximization of values and "protected" in terms of national interest ensuring its survival, hence state's dominance as an actor in international affairs. Other actors, individuals or groups of individuals, international organizations act in the consent of the state. The state therefore becomes the most determining actor in the international atmosphere according to the Kenyan practice of recognition of states, not governments.

Many in the same ministry have rationalised the Kenyan insistence on 'recognition of states, not governments' to be the rational policy dimension to take because states are more permanent than governments in international politics. They argued that this recognition position also reflected the conservatism and continuity in Kenya's foreign policy behaviour. E.K. Kaiga, an officer in this Ministry, argued that Kenya recognises states even those that have experienced extra-constitutional changes, e.g., coups, secession and civil strife. He says that Kenya has even worked with the governments of such states, for instance Nigeria, Uganda and Somalia even when they change hands. E.K. Kaiga was also of the opinion that there has been no significant changes between Kenyatta's and Moi's regimes, although there has been an increased number of Kenya's missions abroad during Moi's era, thereby widening the scope of diplomatic representation abroad.

An officer in the Research Department of the same Ministry asserted that there has been consistency in Kenya's foreign policy behaviour because the practice of the declared policies and principles that underlay our foreign policy options has ensured that consistency and continuity is established in our external relations. Dr. Munyua Waiyaki observes that:

....the belief systems and political orientation of individual personalities were a factor in the case of Beijing versus Taipei (recognition question of China). It cannot be honestly said that one can wholly ignore the individual thinking and convictions of a diplomat although his or her perceptions and beliefs are not expected to be uppermost or even the determinant of his diplomatic behaviour and actions. 22

According to Munyua Waiyaki, President Moi took on Kenyatta's diplomatic preferences. But on the general trend of Kenya's foreign policy behaviour Waiyaki felt inconsistency might be a more suitable description than consistency. In a surprisingly lone position in relation to many other respondents who mostly agree that Kenya's foreign policy behaviour has been consistent, Waiyaki argued thus;

There has not been consistency. At the outset Kenya emerged from the Mau Mau war, and at independence was inclined to accept socialism as a creed. Subsequent to quarrels and upheavals within the government which led to the removal of the then Vice-President Jaramogi Oginga Odinga, the policy of the Kenyan government started to veer towards capitalism via the stage of a mixed economy, which we are busy dismantling presently in order to replace it with a liberal economy and the "magic of the marketplace". All this influenced our political stances and foreign relations. 23

Waiyaki's assertions cannot go unchallenged or unsupported. This is because where foreign policy is evident, the general and most prevalent characterization of Kenya's external behaviour is consistency or continuity. In fact many scholars, some already cited, have observed that any socialism that Kenya attempted to portray at the time of independence was mere rhetoric in the name of African socialism which withered away in the early

years of independence. We therefore realise that any claims of socialism were capitalism in disguise. Kenya's welfare statism or mixed economy has therefore persisted over the thirty years of her independent life as was intended by the British masters in the "preparation" of the Kenya peoples for their independence.

However, it is interesting to note that though Kenya's economy has been consistently capitalist, it has undergone significant changes especially in the 1990s to warrant Waiyaki's description of our foreign policy behaviour in this field as inconsistent. In the 1990s Kenya is faced with political and economic conditions which accompanied the so-called process of democratisation. This process of democratisation is doubtfully stated because it was majorly externally-oriented, and the political and economic reforms were imposed by western powers which were also the foreign aid donors to Kenya. The initiative for democratisation therefore stemmed from within and without, and the same case applied to the reforms. The economic reforms were especially imposed to Kenya in the form of Structural Adjustment Programmes (SAP) by the International Monetary Fund (IMF) and these conditionalities were effected through an aid embargo to Kenya by the IMF and World Bank (WB) supported by the Donor Nations.

In the attempt to implement the harsh economic reforms to complement the steps taken by the Kenya government in the political field where the single party political system was replaced by a multi-party system, freedom of the press and political rallies in preparation for the December 1992, General Elections; the cost to the Kenyan government and the people were high. The Kenyan shilling was devalued by as much as 60% and these resulted in high increases in consumer prices of the basic foods and other facilities. The political campaigns had already cost the Kenyan government a fortune. All these harsh conditions coupled up with corruption and mismanagement of the economy, Kenya has never been worse before at least

economically than it was in the early 1990s. President Moi and his government having been thrown into a tight corner took drastic measures which were what we are now calling policy inconsistency in the economic sector which adversely affected Kenya's image abroad and blemished her previously well articulated foreign policy behaviour. President Moi called off the Structural Adjustment Programme accusing the IMF and WB of not having lived to their terms of contract. The IMF and WB were to support and service Kenya's balance of payment and their contribution for the success of the liberalisation of the Kenyan economy. Although these drastic changes and others like the re-introduction of retentive accounts after their sudden demise occurred in the early part of 1993, their explanation and policy implications for Kenya's future foreign policy implications have roots in the 1992 political and economic reforms, and the spill-over of these reforms into 1993 must have been kept at bay by the overriding political factor of the December 1992 first multi-party General Elections in the country.

The experimentation and later rejection of the economic reforms by President Moi's government has been viewed by political analysts and journalists as a policy inconsistency.²⁴ Problems were not only with the retentive accounts or the whole issue of exchange controls, but the unpopular N.H.I.F. (National Hospital Insurance Fund) reviewed conditions and fees²⁵, the two hundred percent rise on motor insurance²⁶ were all unwelcome. In fact the worst part of every intended policy was their introduction and later postponement. These showed poorly on Kenya's domestic setting and the policy ramifications adversely affecting her foreign policy behaviour. For instance, the shaky domestic economic policies build on what we earlier termed in this chapter as "shifting sands" had immediate repercussions on Kenya's external image; the foreign donors and foreign investors who have been the backbone of the capitalist Kenyan economy were thrown into uncertainties. In fact the early 1990s in Kenya's

foreign policy behaviour replayed or ushered in another "wait and see" period especially for the outside observers, but the Kenyans themselves were left in no better predictive state.

In a nutshell therefore, we can justifiably argue that the early 1990s in Kenya's external behaviour, like the 1980s as argued by Mukhisa Kituyi²⁷, was a time of uncertainties but not in her recognition policy. This is unlike the 1960s and the 1970s which has been referred to accurately as 'quite diplomacy'. Vincent Khapoya justifying the description of Kenya's external behaviour in the 1960s as 'quiet diplomacy' argued in his article "Kenya" In Shaw T.M and Alukoo's edition of Political Economy of African Foreign Policy. that this was very much in keeping with her emphasis on economic development and most probably a consequence of her dependence on Western capital.

Analyzing Kenya's consistency and/or inconsistency in her external behaviour on the level of the internal leadership variable, we can thus realise that because the 1960s and most of the 1970s represent Kenyatta's era, and the 1980s and the early 1990s represent Moi's rule; the picture derived is that the established trend of Kenya's foreign relations in Kenyatta's time is more comprehensible and consistent than the latter which is rather characterized by uncertainties and policy inconsistencies. As earlier stated, the differences and changes can be attributed to unique individual perceptions and level of emphasis of different issue areas. The changes more so can be attributed to varying situational factors in the dynamic global arena. It is however, surprising that Kenya's foreign policy behaviour should be more comprehensible and consistent during Kenyatta's time than during President Moi's era, yet evidently the latter was more assertive in Kenya's foreign relations than the former.

Interestingly, Vincent Khapoya's earlier prediction that:

...the activism shown by President Moi in taking (sides)... is likely to create new problems...(and that) Moi's timing to assert Kenya's pro-Western loyalty may not have been a propitious one.²⁸

We thus can argue that President Moi's pro-Western activism in Kenya's external relations came at the wrong time. The United States of the superpowers no longer need the smaller weaker nations as pawns, as was the case during the Cold War stalemate. Hence economic aid as a reward for the support of the smaller states has subsided to the lowest level. Furthermore, much of the economic aid from the West is now being directed to the Eastern European countries after the collapse of the Communist bloc. Western economic aid to the developing world must have also inevitably been affected by the global recession. In the final analysis, we realise that Western policy toward the developing world has thus changed, taking a different dimension. In the newly adopted policy, the West is insisting on economic liberalisation and political democratisation of the developing world. The economic liberalisation will definitely benefit the Western economies and political democratisation and insistence on human rights is a new dimension of political domination of the developing world by the West. This is because, if critically examined, the West might be having no better human rights record than the developing world and more so the process of political democratisation might have taken them a longer period than it has taken the developing world, most of which (especially Africa) have only had an average of thirty years of independence from foreign domination.

However, despite all this situational factors which contribute to the change of policy dimensions and emphasis in Kenya and any other African states, the fact remains that the nature and ideology of the governing elites, especially the person of the President as argued by Olajide Aluko, contributes a lot to the shaping of a country's external behaviour. In Africa, it has become an established phenomenon that foreign affairs is often

regarded as the special preserve of the President. Aluko in his book The Foreign Policies of African States, cites the example of Malawi where he claims that the President acts as his own Foreign Minister. Personality behaviour of those in leadership should therefore be understood and perhaps predicted for the better analysis of the foreign policy behaviour of the African states. This is because in some African countries the personality variable has largely created a situation whereby changes in governments implied changes in a countries external behaviour.

Kenya's foreign policy as determined by a number of variables can be classified as consistent and or inconsistent. The persistence of a certain behavioral trend is determined by the importance attached to a certain issue. The emphasis given rotates around the projection, promotion and protection of Kenya's national interests. Safeguarding the national interests and the consequent survival of the state becomes the key concepts in Kenya's external behaviour.

The implication entailed herein is that the day-to-day value judgements made by our policy-makers are levelled against the national interests of the common entity, the state. This therefore means our foreign policy and the options adopted by the governing elite are purposeful at any one period of time. What is perceived as national interest by the few decision-makers who act on behalf of the majority is thus what determines Kenya's general behaviour or orientation in the external environment and Kenya's recognition policy is attributed to the same. However, it is important to note that as the Sprouts inferred from their work Towards a Politics of the Planet Earth would argue, the perceptions of the policy-makers will stem from their social milieu and professional background as modified by the peculiar institutional setting of the state. Finally, it can thus be deduced that national interest becomes the linkage level of the various variables in play

and of the phenomena of consistency and inconsistency in Kenya's behavioral trend in the external setting.

Emerging from the argument of many scholars is the fact that Kenya's national interest first and foremost is her survival or existence as a state. Kenya's survival is determined by the security of her borders, economic and political stability internally. But most importantly Kenya's survival and existence becomes meaningful when her independence is guaranteed, and is recognized as such by the other states which constitute the Family of Nations. Our assumption, therefore, is that all the variables determining and influencing Kenya's foreign behaviour, the declared and operationalized principles and policies all linked in the name of national interests culminate to give meaning to Kenya's recognition by other states. Hence Kenya's consistent recognition behavioral practice of recognizing other states is rational and justified. Kenya's reciprocal recognition behaviour becomes the epitome of the general continuity of her national interest and persistency of a comprehensible mannerism in International Affairs.

State survival is emphasized in the Kenyan case because the self - in the state is extremely vital in foreign policy goals of the state and in the options taken externally. The self in the state which includes the national territory and the people is what is emphasized in the realist model in terms of the actor-rationalization; and Kenya as a state becomes the dominant actor and architect of her own foreign policy.

ENDNOTES

1. Aluko, Olejide (ed) The foreign policies of african states. London: Hodder and Staughton, 1977. p.1.
2. Frankel, Joseph. The making of foreign policy. London: Oxford University Press.1963, p.9.
3. Wolfers, Arnold. Discord and collaboration. Baltimore: Johns Hopkins university Press. 1962: p.44.
4. Khapoya, Vincent. "Kenya" In shaw T.M and Aluko Olajide (Ed) Political Economy of African Foreign Policy. Aldershot Hants: Gower: 1984. P.7.
5. Korwa, Adar. "Merits and demerits of foreign policy options in the Horn of Africa" in Chelugat K (ed), Kenya's quarter century of diplomatic relations: Issues, achievements and prospects. Nairobi: Ministry of Foreign Affairs and International Cooperation, 1990. p. 19.
6. Korwa, Adar. Op.Cit., p.20.
7. Chelugat, Kipyego(ed) Kenya's quarter century of diplomatic relations: issues, achievements and prospects. Nairobi: Ministry of Foreign Affairs and International Cooperation, 1990. p.12.
8. Orwa, Katete. "Balance of power theory and Kenya's foreign policy in East Africa". Unpublished paper presented to the Historical Association of Kenya, 1981. p.11.
9. Orwa, Katete. Ibid., p.11.
10. Gertzel, Cherry J. Government and politics in Kenya. Nairobi: East Africa Publishing House, 1972. p.57.
11. Mckay, Vernon. Conflicts in Africa. London: Adelphi Papers No.93 1972, p.20.
12. Gertzel, Cherry J. Op.Cit., p.518.
13. Khapoya, Vincent. Supra., p.157.
14. Gertzel, Cherry J. Op.Cit. p.579.
15. Freidman, Julian R. East African Diplomacy. Philadelphia: African Studies Association. 1965. p.4.
16. Khapoya, Vincent. Supra., p.7.
17. Aluko, Olajide. Supra. p.7.
18. Olewe-Nyunya. "Kenya's relations with the superpowers since independence". In Chelugat, K. (ed) Supra. p.66.

19. Khapoya, Vincent. Supra. p.152.
20. Olewe- Nyunya, Op cit. P. 67.
21. Khapoya, Vincent. Supra. p. 149.
22. Munyua, Waiyaki., Former minister in the Kenya's Ministry of Foreign Affairs 1964-1969, Interview.
23. Munyua, Waiyaki. Ibid. Interview.
24. Nation Newspaper: May 25, 1993. Business Week. p.3.
25. Nation Newspaper: June 18, 1993 p.1 and 2.
26. Nation Newspapers: June 30, 1993. p.1.
27. Mukhisa Kituyi: Member of Parliament for Kimilili. Kenya National Assembly 7th House. Ford Kenya's Chief Whip. Interview.
28. Khapoya, Vincent. Supra. p.157.

CHAPTER FIVE

SUMMARY OF CONCLUSIONS, GENERALIZATIONS AND RECOMMENDATIONS

5.0 OVERVIEW:

All said and done in the foregoing chapters on the question of diplomatic recognition in Kenya, a number of observations in the generality of the aspects and variables involved can be made. As had been pledged in the onset of this study, there was a knowledge gap that this study intended to bridge and omissions and distortions to correct. This study has therefore attempted to bring to light the more political aspect of the concept of recognition which has mostly been neglected in the academic realms.

Such neglect has necessitated the recognition concept to be treated more as a legal problem thus taking a juristic value. This study has also attempted to systematize and empirically verify what had largely remained an assortment of assumptions and individual opinions on the issue of Kenya's diplomatic recognition.

5.1 RECOGNITION IN GENERAL

From the facts brought out in this study, the nature of the inter-play of variables that influence and determine a country's recognition position and behaviour, it is realised that the concept of recognition is as political as those other concepts like "power", "authority", "sovereignty" which political scientists have tended to emphasise. The issue of recognition should thus be studied and treated in the political science discipline like any other political concept. Furthermore, the fact that recognition is an aspect of international law is enough to warrant it serious valuation in the political science discipline. This is because law itself is a product of politics and

thus can be studied as a subject or sub-discipline in political science. Law is intended to perform in its own peculiar manner the maintenance of social order which politics is intended to perform in its peculiar way. Law is therefore dependent upon politics, in which political processes evaluates and adjudges social issues, social interests and social behaviour. The result of these processes is embodied in law, implying that politics must precede law. It should suffice to mention that in fact the creation of law is a political act despite whoever is performing it, that is be it the legislature, the judiciary or any other body defining law. The establishment of law in fact follows the determined conditions of social existence of men. Law and politics should thus be viewed as determining each other, and that their interaction exists because regularity and predictability in the political processes is an indispensable part of social order, hence a function of law.¹ We can thus assert that though recognition has been majorly treated as legal and given a juristic value, political scientists especially students of foreign policy should not shy away from studying it because it is as political as it is legal. Furthermore, international law has a practical relevance in diplomatic relations which lies in the fact that international law does in fact influence governments to provide standards of international behaviour which they acknowledge as being the ideal, even though they may not always live up to them.²

As brought out in chapter three, one of the variables that determine and influence Kenya's foreign policy behaviour or even in general all states is political considerations. Being a unilateral act of states on which the recognising state and the recognised state operate on the basis of mutual consent, we come to the conclusion that recognition in general though it takes a legal perspective is a political decision. This is the more reason why political scientists should be deeply involved in the analysis and

valuation of the acts of recognition undertaken by states and the policy implications entailed therein.

From our research findings and analysis it can be deduced that the question of recognition for both states and governments arises in case of a fundamental change either in the character of the state or government. In fact in the case of the state, it may change territorially, or disappear altogether or a new state or states may emerge as a result of secession, amalgamation, federation, secession or sub-division. For instance in the recent past, the Union of Soviet Socialist Republics (USSR) disintegrated into small autonomous states like Serbia, Ukraine, Russia just to mention three out of the fifteen.

Also the former Yugoslavia which is now the battle field of a major conflict in Bosnia-Herzegovina might provide the world with a controversial situation for recognition, e.g., of an emerging Bosnian Serbia. Closer home, Kenya's neighbour Ethiopia which has battled an Eritrean secession for over 30yrs has eventually accepted to grant independence to the Eritrean state by granting it recognition hence giving it a legal status in the international system. In the case of governments, they are also capable of radical and unconstitutional change, e.g., **coup de' tats**, civil strife, etc, but recognition of a new government in such circumstances is usually granted provided that it is in effective control of much of the greater part of the state territory and has the obedience of the mass of the population and that its control has a reasonable prospect of permanency. A change of governments is an experience that most African states have had to accommodate especially because military intervention in politics is a frequent occurrence in this continent. For instance Nigeria and Uganda are some of the African states under which military rule has almost constantly alternated with civilian rule. However because Kenya's recognition policy is

'recognition of states, not governments' our position and behaviour towards those states has remained consistent.

As shown by the time period under study, the concern of this research was majorly recognition as practiced in the contemporary international society taking Kenya as a case study. One other salient feature of the recognition that can be deduced from our findings and analysis, is that although sometimes some states have attempted to impose various conditionalities in granting recognition, the established trend by most states of the world is that as long as a state fulfils the basic conditions of statehood, that is, has a territory, population and an effective government then it is usually granted recognition. In other words the state must be independent, separate and self-administering to qualify for recognition. This implies that cases of non- recognition are rare, and when they do exist the controversy takes a global dimension and thus not particularised to individual states. For instance we are yet to come across a state that Kenya alone denied recognition. This is especially because Kenya's recognition policy is positively oriented in its attitude and treatment to states. The same can be said of many states in the world, to the extent that we can conclude 'recognition of states, not governments' as practised by Kenya is becoming a global trend. This of course does not imply that states that recognise governments in their policy orientations do not exist. Far from it. This is especially because as already mentioned recognition is a unilateral act of states, hence takes a discretionary character in international politics. In fact there is no rule in international law that guides the recognition policies of states. For instance, the United States of America uses the granting of recognition to a state or government as a "mark of approval", whereas the British practice follows the constitutive approach (the constitutive approach is as earlier described in chapter one and two of this

study). It can therefore be concluded that the general world practice of recognition is positively oriented or skewed towards recognition of states.

Argued thus, we realise that the dominance of the state as a unit of analysis in the issue of recognition is prevalent at both the sub-systematic and at the systematic levels of analysis. These augurs well with the realistic orientation of the Kenyan politics under which the state "survival" is emphasized. Hence "survival", "national interest" and "maximization" of values become the key concepts in the analysis of Kenya's recognition practice in her foreign relations. However, before particularising the issue of recognition to the Kenyan practise, it is worth noting that this is the general trend adopted by most world states. We are therefore treated to a pictorial scenario under which world politics is analysed on a "State-as-actor" characteristic of international politics. International politics is thus harmonized on the basis of state or national interests in what Hans Morgenthau thoughtfully sums as a "Struggle for Power" in his monumental work Politics Among Nations. It is the power potential or state capabilities that determines which state is to get what, when and how. We thus can realise that as argued by Levi Werner:

Power is exhaustively possessed and exercised by states, an arrangement which the law sanctions through sovereignty. There is no authority above the states either for limiting their power potential or for regulation are matters of agreement among states and enforceable only by each individually.³

Such is the practical power exercised by states in their recognition Policies towards other states and governments.

From the study we can also derive another feature constituting recognition as practised by states. We realise that although some states Proclaim a recognition of states, not governments, the difference is only on the emphasis and statement of the positions taken by the states. This is because, from this study, especially from the response of various

interviewees on whether there is a difference in recognition of states and *recognition of governments* it can be deduced that many are convinced that there is little difference if any, substantially. The logic behind their arguments is that, at the end of the day, governments are only operating agencies of states recognising governments implies that in essence one recognises or acknowledges the existence of the state governed by that government. For, how can one possibly separate somebody's hands or legs from the rest of the body in terms of acknowledging or recognising their existence without recognising the being of that person. Our argument is that, recognition of governments boils down to recognition of the state and thus it can be validly asserted that, what there is in the practice of recognition by states is recognition of states. Argued thus, we realise that the phenomenon of non-recognition among states is rare occurrence and always a position that each state would like to avoid. Furthermore recognition is mutually beneficial in state relations. In fact this is why states would rather grant *de facto* recognition pending *de jure* recognition in situations whereby it is not clear which government is in operation. It is also the same reason why states are generally reluctant to place themselves in embarrassing situations by granting premature recognition to self-proclaimed independent territories emerging because of secession or civil strife, however genuine they might appear. In many situations states will comfortably grant recognition to an emerging independent state once the parent state has accepted and recognised its independence. The Eritrean independence is a clear manifestation of this almost silent agreement between world states; because Ethiopia recognised and participated in the inauguration of the new independent Eritrean state, by the 24th of May 1993 the official day of her independence, around thirty states had already declared their recognition of the new state. Many more like Kenya participated in the occasion thus implying recognition of Eritreia, by

sending dignitaries like government ministers and other personalities to witness the raising up of the Eritrean flag. It has also come out clearly from the analysis of our research findings that most world states take recognition to imply the acknowledgement of the fact of existence of another state or of an independent political entity that occupies an identifiable territory and with a specified population. This view therefore asserts that recognition is merely the formal acceptance of an established fact. Many states hence hold and practice the declaratory notion of recognition. A few like Britain view and practice recognition as an action or condition that besides others, constitute the state. The British thus accept the constitutive school of thought in international law which takes a more legal perspective than declaratory notion of recognition. We can thus conclude that recognition is in fact more political than legal because of the declaratory perspective of the same that most world states accept and practice. Implied in the declaratory perspective is the power building and power politics which preoccupy state relations as a significant and in some cases vital guarantee of their "Survival" or very existence. As already observed, recognition is an important determinant of state relations or in fact, is the commencement of diplomatic dealings. It thus might not surface in the day to day operation of foreign policy, but it is so significant not only as the start but also as the culmination of diplomatic relations. The significance of recognition in state relations is reflected in the fact that states would rather exercise **de facto** recognition, which enables governments to exercise the normal international functions of a sovereign state with reciprocal responsibilities in international law; should circumstances hinder the granting of **de jure** recognition. Hence **de facto** recognition is generally accepted as an indication that recognition **de jure** will, if all goes well, be accorded in due time. **De facto** recognition also helps to normalize state relations and is a safeguard against the adverse

consequences of delayed recognition. In the final analysis we can therefore validly conclude that as asserted in chapter two of this study the difference between **de facto** and **de jure** recognition could only be existing in the terminology, because the legal implications of the two are the same; that is the **de facto** recognition is given the same weight or have similar legal effects with **de Jure** recognition. It's worth noting that **de facto** recognition and **de Jure** recognition are actually applied to regimes and not the states. Finally we can assert that the nature of diplomatic ties or relations between states are determined by their recognition policies. However, if states that recognised each other were to sever diplomatic ties, recognition nevertheless is not withdrawn. Severing of diplomatic ties thus serves as a protest and not a threat on recognition. As such its effect is limited and usually disproportionate to the inconvenience that it causes to all concerned. Implied herein is that recognition of governments or international dealings on a governmental level are more shaky than a constant reference to the state.

However recognition of a state will not necessarily imply approval of its government policies, hence the possibility of severing diplomatic ties. Thus severing diplomatic ties or withdrawing a foreign mission is just a deliberate act of foreign policy of the state concerned. In the final analysis, it can be concluded that recognition legitimates the existence of states and gives them a legal status internationally. These conferment of membership of an independent entity in the international system is essential to the extent that a denial of the same " represents an attempt either to exclude the political community in question from the international political system, or brand the government as an outlaw, unqualified to speak for its community in dealings with other members of the society of nations."4 States in their interactions thus, take into account the mutual benefits of reciprocal recognition for their harmonious survival. We thus concur with

the assertion of Olatunde Ojo, Katete Orwa and C.M.B. Utete in the book African international relations that;

Recognition... is the acid test of legitimacy and the formal mode of acquiring status in the international system. It is the practical test to decide who the actors are. The practical reality is that only those units so recognised participate in high politics and function in such global and regional international fora as the United Nations and Organization of African Unity.⁵

We can thus validly conclude, while considering the features that characterize recognition as practised by states, that states recognise other states not only to protect the acknowledgement of their own existence but also in order to enhance the power potential of states and their positions as the dominant actors in international relations. Recognition as practised by states takes a realistic nature, whereby the interests of the dominant actor (the state) are emphasized, it is thus rationally oriented for the better survival of states as international actors. Its conceptual relevance lies on the fact that it operationalises the 'core values of states as put by Ole Holsti in his book International Politics: a Framework for Analysis. It touches on national security, national interests, territorial integrity, effective governance, the citizenry (population); in essence it puts into the weighing scale the very existence of the state.

It can also be deduced from the study that the cited legal instruments e.g the United Nations Charter and the various international declarations and conventions have perpetuated the recognition of states as international legal persons. Consequently these legal instruments have become the guiding frameworks of state's operations internationally, hence legitimizing their existence and pursuits.

On the aspect of non-recognition (withheld or withdrawn recognition) and severance of diplomatic ties it is established that they are actions of states to further their national policy especially as a mark of disapproval. The non-recognition may not necessarily be on the issue of existence of a

particular state but not its policy behaviour which does not augur well with the national interests of the protesting state.

The study also establishes the fact that the various modes of recognition characterize the intentions of the recognizing state. The most exercised modes of recognition are the implied and express forms of recognition. Kenya practices implied recognition to her own convenience.

5.2 FOREIGN POLICY IMPLICATIONS OF KENYA'S RECOGNITION POSITION.

Through this study we have been able to establish that Kenya's declared and practised recognition position is the policy of 'recognition of states, not governments'. It is our contention that Kenya's practice of recognition of states has been consistent in the time period under study. Although Kenya's foreign policy behaviour can be generalised as consistent or continuous, this observation can especially be particularised to her recognition position. Kenya has advocated the recognition of states and cases like that of China can be cited where Kenya showed her firm stand in the recognition of states. Kenya had opted to recognise Beijing because it represented the People's Republic of China as a state against Taiwan, despite the fact that Beijing was communist and Taipei or Taiwan was capitalist. In the case of Korea, Kenya recognised the People's Republic of Korea (North) as opposed to South Korea because she felt the People's Republic of Korea legitimately represented the Korean Peoples. Kenya's consistency in her recognition of states was also manifested during the Nigerian Civil War whereby Tanzania, Ivory Coast, Gabon and Zambia rushed to grant Biafra recognition, and Kenya stood firm against such premature recognition attempts which will jeopardise the unity of the Nigerian state, by giving moral support and legitimising a secessionist movement. Kenya's foreign policy behaviour which has been characterised by caution, conservatism and consistency is

again reflected in her recognition behaviour in external relations. Indisputably, Kenya's recognition behaviour can be said to be implied as opposed to express recognition. This is because Kenya does not make official declarations in form of diplomatic note or otherwise to any individual state. She advocates and declares 'recognition of states, not governments in the generality. This position of implied recognition is thus subject to individual interpretations and gives room for manipulation in the best interest of the recognising state. We can thus conclude that from the onset of her independence, Kenya established the necessary framework for her for active participation in the international system, in the form of a consistent recognition policy of recognising states, not governments. Implied in this position is not only a non- complex process for Kenya to pursue and promote her national interests but also a position that serves well to safeguard the general existence and dominance of states in the international politics. In fact Kenya interacted with other states on the basis of sovereign equality which the recognition of states enhances. The principle of sovereign equality and recognition of states ensured the survival of weak states like Kenya in the face of international politics involving unequal players. Hence in the final analysis it can be argued that Kenya actually chose a recognition position that best suited her identified national interests in the management of her relations with other states. It was therefore true as observed by Katete Orwa in the 1963-1988 Kenya Official Hand Book, that Kenya formulated foreign policy and developed a foreign officers corps to promote Kenya's interest abroad in addition to creating a defence service to protect those interests.⁶

5.3 HYPOTHESES AND FINDINGS

In view of the 1st hypothesis this study was set out to test, that is; that Kenya's diplomatic recognition is dictated by her national interests as /

again reflected in her recognition behaviour in external relations. Indisputably, Kenya's recognition behaviour can be said to be implied as opposed to express recognition. This is because Kenya does not make official declarations in form of diplomatic note or otherwise to any individual state. She advocates and declares 'recognition of states, not governments in the generality. This position of implied recognition is thus subject to individual interpretations and gives room for manipulation in the best interest of the recognising state. We can thus conclude that from the onset of her independence, Kenya established the necessary framework for her for active participation in the international system, in the form of a consistent recognition policy of recognising states, not governments. Implied in this position is not only a non- complex process for Kenya to pursue and promote her national interests but also a position that serves well to safeguard the general existence and dominance of states in the international politics. In fact Kenya interacted with other states on the basis of sovereign equality which the recognition of states enhances. The principle of sovereign equality and recognition of states ensured the survival of weak states like Kenya in the face of international politics involving unequal players. Hence in the final analysis it can be argued that Kenya actually chose a recognition position that best suited her identified national interests in the management of her relations with other states. It was therefore true as observed by Katete Orwa in the 1963-1988 Kenya Official Hand Book, that Kenya formulated foreign policy and developed a foreign officers corps to promote Kenya's interest abroad in addition to creating a defence service to protect those interests.⁶

5.3 HYPOTHESES AND FINDINGS

In view of the 1st hypothesis this study was set out to test, that is; that Kenya's diplomatic recognition is dictated by her national interests as

perceived by the foreign policy makers, we realise that in fact Kenya's recognition behaviour so much revolves around her perceived national interests to the extent that national interests *per se* have become the yardstick of framing and measuring her relations with other states. Kenya's recognition position reflects what Kenya policy makers perceive as vital for the survival or continued existence of the Kenyan state. This is why Kenya's recognition policy of recognising states becomes the epic of Kenya's attempt to safeguard her co-values like territorial integrity in her insistence of the inviolability of the present recognised borders of each state in Africa, as adopted by the OAU. Kenya in her foreign relations has all along emphasized her national security and the self-determination of her own people and others in Africa. Kenya's first President Jomo Kenyatta had bluntly expressed that Kenya will support liberation movements in Africa in order to give real meaning to Kenya's own independence from foreign domination.

Kenya's recognition position therefore was an enhancing and protective shield of Kenya as a state. Kenya thus recognised state as a gesture for other states to recognise Kenya in reciprocation. It was actually the opinion of many officers in the Ministry of Foreign Affairs in discussions and interviews held with the researcher that Kenya's recognition behaviour was reciprocal in nature. It is worth noting that it was for Kenya's interest especially as a weak and developing state to insist on the recognition of states. Kenya's recognition practice being a dictate of her perceived national interests, is characteristic of a general state orientation in the international society whereby as observed by Levi Werner;

No common international interest subordinates or consistently coordinates the national interests. Each state takes care of its own interests and must possess the means to do so. This necessity exists even in the case of collective goods and "the common heritage of mankind". The handling of such matters imposes severe limitations upon national action and forces states to cooperate.

But the conception in the minds of governments remains that such cooperation represents an international pursuit of national interests.⁷

Kenya's recognition policy behaviour, viewed from the above perspective taken by Levi Werner is a pursuit of her national interest in form of cooperation with other states.

In a related assertion, R.G. Feltham in the fifth edition of the book Diplomatic Handbook, was of the opinion that;

.....the main objective of any state in its relations with other states is to direct and influence these relations for its own maximum advantage; but at the same time, and if only in self-interest, it has the responsibility of formulating its policies towards other states and managing its relations in the interests of world harmony, thus helping to prevent wars and the waste of wealth.⁸

Kenya's diplomatic recognition is therefore rationalized on the basis of her national interests as perceived by the policy-makers of the day. Kenya has thus maintained relations with foreign states on the basis of equality and respect for national sovereignty, recognized states in order to be recognised and established friendship with those willing to reciprocate this cordial gesture. It is Kenya's realism in her foreign policy orientation that made her chose cooperative relations instead of aggressive politics in regional, continental and global undertakings. From the onset Kenya was out to implement policies which projected, promoted and protected her national interests. For instance, the 1960 KANU Constitution, provided that an independent Kenyan government would have to, "vigilantly safeguard the national interests" of Kenya. And the 1963 KANU Election Manifesto declared that the KANU government would, "take the necessary measures to protect the security of the people and to preserve the national integrity within our present borders". Kenya has also rationally recognised the independence and interdependence of the states in the Eastern African region. Her recognition behaviour towards the neighbouring states

reflected her awareness that her vital national interests fall mainly within the Eastern African region. She has therefore underscored inter-state relations in the region as of greatest importance. Kenya's policy position has therefore sought to preserve and expand the existing regional economic and commercial relations through her respect and recognition of the neighbouring states because it was her rational calculation that regional economic and commercial relations are significant to domestic economic and social development. It is because of her national interests that Kenya, as reflected in the initiative taken by President Moi has attempted to revive the defunct East African Community in the 1990s.

Kenya's realism in the pursuit of her national interest has been expressed by several scholars of foreign policy and African politics. Kenya has sought to maintain a favourable balance of power in the East African region both economically and politically, but through pragmatic and rationally calculated manoeuvres and not aggressiveness or violence. Her dominance in the East African region and especially her cordial relations with the West is probably what prompted Timothy Shaw to describe Kenya as a sub-imperial power in this region, in his article "Kenya and South Africa: Sub-imperialist states". As appropriately observed by Katete Orwa, Kenya's policy position in her external relations has mostly been guided by what he termed as a "coincidence of interests" setting a picture of "equidistance" with the distance determined by the national interests of Kenya only".⁹

It is our contention that Kenya's national interests as perceived by the policy-makers dictate her recognition policy or in fact any other foreign policy position because the particular predispositions of these decision-makers will always be essential variables in their dealings with similar authorities in other states. Generally their personal value preferences, temperament, and rationality will be important in deciding the 'state interests', the priorities among those interests and the level of energy and

available resources to be devoted to the pursuit of these interests. We thus can assert or deduce that human interests, human actors or human perceptions are not precluded in our analysis of Kenya's recognition position despite the fact that the level of analysis adopted is the sub-systemic which denotes the state as the dominant actor, hence the state becomes the unit of analysis. As expressed by Olatunde Ojo, Katete Orwa and C.M.B Utete in the book African International Relations, international politics should be understood in terms of "the behaviour of states as organised bodies and of human beings upon whose psychological reactions the behaviour credited to states ultimately rests".¹⁰ In the final analysis we realise that the core decision-makers talk and decide on behalf of the entire populace of a state, and state interests are the results of aggregated human interests as perceived by the decision-makers. Arnold Wolfers was right in his assertion that, "a sufficient number of men, identify themselves with their state or nation to justify or render possible governmental action in the name of state interests".¹¹

From the systematised analysis of the concept of recognition and empirical verification of Kenya's recognition policy we can thus infer from the deductions made above that Kenya's diplomatic recognition is a response or consequence of her national interests as perceived by the policy-makers. Kenya's diplomatic behaviour on recognition is determined or dependent upon the conceptualised national interests. Argued thus, the original hypothesis; that Kenya's diplomatic recognition is dictated by her national interests as perceived by the foreign policy makers, is confirmed and consequently the null hypothesis that the converse of the first hypothesis is true, is disconfirmed and rejected.

The hypothesis that Kenya's diplomatic recognition is dictated by her national interests as perceived by the foreign policy makers, is confirmed or accepted not because other factors, issues or variables are less

important but because this same factors e.g external influence or pressure, global aspects, regional stability and domestic setting are all interpreted, weighed and policy choice made by the policy-makers, who will have subjected the same issues and factors to their perceptions beliefs and idiosyncrasies before making final decision which will thus be adopted as policy. For instance a perceived external threat or adverse action by another state is viewed through the double lense of national interest as "fitted" or understood by the policy-makers hence their perceptions vis-a vis Kenya's survival as a state whatever perpetuates Kenya's survival as a state by meeting

meeting her "needs" is accommodated and whatever threatens the same is rejected. Hence the interests lets say of Western powers or their perpetrators are accommodated and even enhanced in the neocolonial context, because the policy-makers have perceived them as mutually beneficial and not a threat to Kenya's survival as a state e.g continued foreign aid and technological dependence, regardless of the Western influence.

The 2nd hypothesis that this study was set to test asserts; that Kenya's diplomatic recognition policy is shaped and influenced by her other declared foreign policies. Chapter three of this study gives an in-depth analysis of the variables or factors which have determined and influenced Kenya's foreign policy behaviour in relation to the aspect of recognition. Chapter four was an attempt to systematize scientifically the influence of such variables in view of establishing the trend of Kenya's recognition behaviour. From the research findings we generalise the trend of Kenya's recognition behaviour as mainly consistent although there are issue areas on which traces of inconsistency could be identified.

It is our contention that Kenya has other foreign policy dimensions (policies and principles) which have had significant impact on her

recognition position. For instance Kenya advocates the principles of self-determination and respect for territorial integrity. This is why Kenya supports liberation movements in Africa and even outside like the PLO. Kenya provides moral and material support to liberation movements in Africa through her financial contributions to the OAU's Liberation Fund. She also provides space in terms of office facilities to such groups. Self-determination in essence is the struggle for independence of a people. A successful struggle for self-determination like the recent Eritrean case brings independence which is a necessary condition for statehood and finally for recognition which Kenya grants to states, legitimising them as members of the international community.

In her emphasis of respect for territorial integrity, Kenya finds it necessary for a state to have an identifiable territory and permanent borders as a qualification for statehood and consequently recognition. She abhors an interference in internal affairs of other states which she views as sovereign and equal, thus treating them as such in her recognition policy of 'recognising states, not governments'. It is as result of such policies and her belief in the peaceful co-existence of states, that Kenya has continued to treat Somalia refugees as respectable citizens of the Somalia state. Kenya recognises Somalia even in this time of turmoil and civil strife in Somalia.

Kenya's policy of good neighbourliness which promotes the peaceful co-existence of states has also helped to shape Kenya's recognition position of states. Her position of cordial relations or corporative politics with her neighbours has made possible for Kenya to prosper economically and achieve coveted political stability in the Horn of Africa which has for long remained as a potentially explosive portion of Africa. Her consistency in the recognition of states has been made easier and workable by such positively-oriented policies like the practice of good neighbourliness and

the principle of non-interference in the internal affairs of other states. For a continued respect for other states, Kenya has adopted peaceful negotiations as the best approach to solving inter-state disputes. She has also encouraged regional summits especially since 1980 to promote regional co-operation.

Accelerating the positive recognition behaviour of the country, was the adoption of Pan- Africanism and Non- Alignment movements by the Kenyan policy makers. Pan-Africanism focused policy on Inter-African affairs with the ultimate goal of promoting African Unity. Her non- alignment practice embodied Kenya's neutralism in an antagonistic global division into the East and West blocs. Kenya rejected such division which threatened international peace and security. Her neutralism therefore enabled Kenya to maintain a positive attitude towards states recognition. Kenya's practice of non- alignment was a successful strategy that enabled her to preserve her independence and sovereignty, while also permitting her active participation in global issues which promoted international peace, security and cooperation within the framework of the United Nations. Kenya's recognition of states was made possible through such forums of equitable interactions and where the recognition of states was epitomised.

Kenya's practise of down-playing ideological considerations has contributed to the success of her policy of recognition of states. In the process she has been able to expand her diplomatic, commercial, economic and political relations. Such pragmatic diplomacy has enabled Kenya to co-exist with her neighbours which were mostly socialist in orientation. For instance Kenya has been able to sustain the defence pact that was signed with Ethiopia in the early years of independence through both the Kenyatta and Moi's regimes into the era of multi-partism. Kenya has been able to practice diverse political relations by successfully maintaining friendship with both Western bloc and the Eastern bloc. President Moi who has been

very assertive in foreign relations visited the Peoples' Republic of China and Yugoslavia in 1980. He has also been able to maintain Kenya's relations with the West and ensured a resumption of foreign aid to the country by Western donors after a one year aid embargo started in 1991.

A realism in Kenya's foreign policy practices has enhanced her recognition of states. This is because the rationality behind realist politics emphasizes the dominance of states as actors in international politics. Kenya has thus adopted policy options that guarantee her competence and which build her power potential in the anarchic international system. For instance Kenya's political stability in an area characterised by political turmoil can be credited as a powerful and beneficial position. Kenya's recognition behaviour takes a realist perspective because it is underlaid by the assumption that states are key actors in international relations. Kenya's recognition position therefore becomes the epic of all her other adopted foreign policy orientations. It gives a meaningful linkage to these foreign policy dimensions, hence becoming the overall framework of Kenya's foreign policy behaviour.

In the final analysis we realise that Kenya's recognition policy was a rationally calculated measure to safeguard her own survival or existence as a state. As pointed out severally, Kenya's recognition behaviour revolves around state survival and that is why it is framed on the core values like territorial integrity, national security and national interests. Survival therefore becomes the key concept in our analysis of Kenya's recognition policy of 'recognition of states, not governments' is the backbone of Kenya's foreign policy framework. This is because all other foreign policy orientations like good neighbourliness or peaceful co-existence of states, self determination and respect for territorial integrity, sovereign equality and non- interference in internal affairs of states which are focused 'on the common good of the state as an entity be it Kenya or any other; are all

harmonized in the policy of recognition of states as practised by Kenya. This implies that Kenya's recognition position becomes the final linkage level of her foreign policy behaviour. Our contention is that each of the mentioned policies as practised in Kenya's external relations, if critically analysed is focused on the recognition of states when viewed as the acknowledgement of the existence of states.

From the deductions inferred in our analysis we can conclude that Kenya's recognition policy is positively influenced by other declared foreign policy dimensions. It is therefore our assertion that the second hypothesis that this study was set out to test; that Kenya's diplomatic recognition is shaped and influenced by her other declared foreign policies is confirmed by our research findings. This therefore implies that there is a co-relation between Kenya's diplomatic policy of recognition and her other declared foreign policies. Consequently our null hypothesis that the converse could be true is disconfirmed and rejected. In the final analysis we assert that the consistency of Kenya's recognition behaviour is the basis of Kenya's foreign policy orientation.

Having established the factors which influence Kenya's practise of diplomatic recognition as including;- political motivations, independence, economic considerations, personality traits and internal leadership as outlined and described in chapter three of this study; we can thus justifiably conclude that the recognition behaviour of states is a political decision and therefore more of a political phenomenon than legal. This is because politically oriented phenomena are usually subject to a lot of manipulations and influence than those that are set out on the basis of the rigid rules of law. Law or rules of law are as a result of social conditions of existence which have majorly stood the test of time and thus focused to ensure that justice is promoted in the best way possible.

Having also examined not only the basic underlying principles of the concept of recognition and the factors mentioned above that have influenced Kenya's recognition behaviour to be basically consistent, we can thus conclude that international recognition as conceptualised in the Kenyan experience constitutes an acknowledgement of the fact of existence of states. This implies that generally the Kenya's practise of recognition is declaratory in orientation as compared to the legally oriented constitutive approach. We assert that most world states have adopted the declaratory approach toward recognition. Contemporary recognition practise therefore becomes a mere acknowledgement of the fact of states existence, hence a legitimization process of members of the international community. This implies that the practise of recognition as a basic condition that a state must fulfil to achieve statehood as entailed in the constitutive approach is becoming a practise of the past.

5.4 LOGIC OF REALISM IN THE RECOGNITION OF STATES

Evident in the entire study is the emphasis of the state as the unit of analysis in the conceptualization of the aspect of recognition in international politics. We therefore realise that for any state like Kenya which practises the policy of recognition of states, the most suitable theoretical framework for analysis is the rational-actor model or realism because it is statist in approach and so is the concept of recognition. As already observed in our study even for those states who use recognition as a "mark of approval" like the United States of America and those that recognise governments in their practice, in the long run do recognise the states but accept a particular regime as the legitimate governing agency of that state. This being the case we can justifiably conclude that recognition of states as a policy, conceptualizes the state-as-actor in international politics. Implied in our assertion is that, the practice of recognizing states

is statist in orientation. It is therefore appreciated that Kenya's policy of recognition rotates around her definition of national interests. In other words, Kenya maximizes on opportunities created by her positive relations with other states. Finally, her role in the said relations is aimed at ensuring her prosperity and 'survival'. Other foreign policy dimensions practised by Kenya are bracketed in these rational calculation which ensures that Kenya accrues the best it can in international politics so as to strengthen herself domestically.

The state-centric approach taken in the recognition policy claims relevance on the grounds that other actors in the international system are regulated by and operate within the confines of state laws. In fact other international actors remain subject to state authority and jurisdiction. Such actors like the intergovernmental organizations like the United Nations and Organization of African Unity operate according to the will of states which are its sole members. The state as actor model therefore which is adopted in the recognition policy conforms not only to the legal but also to the practical reality. International legal status is endowed on states and inter-state actors thus enabling them to participate in high politics with a capability to resolve issues of war and peace. This therefore implies that non-governmental organizations, individuals and other groups participate in such international fora like the UN, OAU and NAM as observers.

As argued by Snyder, Bruck and Sapin the state is still the significant unit of political action and is going to remain so for many years to come, and that strategies of action and commitment of resources continue to be decided at the national level.¹² The replacement of the state as the most dominant actor in international politics remains a speculation yet to be realised. Furthermore, as observed by Oran Young; ...'the modern state can not be superseded with ease even under comparatively favourable circumstances'.¹³ He cites the experience of relatively successful ventures

like the European Community as being counter checked or challenged by statist experiences like nationalism which he claimed to be still on the rise in places like Africa.

The suitability of adopting realism or the rational - actor model in the analysis of inter-state relations as conceptualised in the recognition policy of states is summed up for us by Olatunde, Orwa and Utete when they argued that;

It is the state- centric view alone which permits both a comprehensive understanding of the international system as a whole and a comprehension of its parts. For in both the systemic and sub-systemic levels of analysis the empirical referents remain the same _ the state.¹⁴

5.5 RECOMMENDATIONS AND FURTHER OBSERVATIONS

This study has brought to light various aspects of Kenya's recognition practise over the 30 years of her independence. It has especially provided a critical analysis of the factors which have affected and shaped her recognition position of 'recognition of states, not governments'. We came to the conclusion that Kenya's practise in diplomatic recognition has been consistent in her recognition behaviour over the period of study. From the analysis and confirmation of the hypotheses it becomes clear that Kenya's national interests are given supreme consideration in whatever foreign policy position that the state adopts. It also logically follows that Kenya's recognition policy is influenced by such considerations in the day- to- day diplomatic undertakings.

From this study it becomes clear that the general framework of Kenya's foreign policy behaviour which is the "projection", "promotion" and "protection" of her national interests has in a realist perception served the country well. It is thus important that career diplomats, students of African politics and foreign policy scholars should appreciate Kenya's recognition

practise and her politics of survival from this dimension. Kenya like any other state strives to constantly assert her existence and independence.

A keen scrutiny of facts that have been brought to light by this study brings us to the realisation of other intriguing aspects of recognition that have emerged in the course of our study and which provide possible grounds for further research. Ranking high in the list is the realisation that although states claim complete discretion or unilateral action in the recognition policies they adopt their independence of action seems to be relative. This is because their recognition policies are shaped and influenced by a variety of factors to the extent that the position taken becomes a result of a lot of bargaining and compromise. This may imply that their freedom of action even in recognition is after-all limited.

Furthermore, even political sovereignty or independence of states in the contemporary society if analysed critically, might prove to be increasingly murky. This is because interactions and interdependence between states have developed to heights never thought possible. The case for recognition as independent, separate states, capable of surviving as such becomes even more incomprehensible for new, poor, developing states like Kenya. For instance, a state is said to be politically sovereign when it is capable of managing its own affairs and when there is no higher authority directing its behaviour. It will be interesting to investigate the authenticity of claims for political sovereignty and demand for recognition by states in the category mentioned herein. This is especially while taking into consideration such trends like the democratisation wave that has swept the world in the twentieth century, positioning the West, America in particular, as the world referee or policeman. Consequently, the category of states in question have been reduced to a 'kneeling' or even begging status whereby political as well as economic internal reforms are dictated externally. This situation shows a growing irony or is a total contrast of the

claims by these states of the sovereign equality (overlooking inequalities) of states and their demand to be granted and to grant recognition to others. It will be interesting to investigate, the viability of recognition under the circumstances cited above

Whereas those in the scholarly world should investigate the above situations which are actually threatening to the survival of the newly emergent members of the family of nations; the policy makers and career diplomats of those countries like Kenya should be more cautious in their formulation and implementation of policies so as not to pull the rug under their states. They should ensure as conceptualised by realists that the policy options adopted are sound and the best available of all choices, that are rationally calculated for state survival and independence. The demand for such states to be recognised and to grant recognition will thus remain valid and will endure the hard test of survival for the fittest.

From our study we have established that power considerations are of immense importance in state relations. The ability of each state to use its power in self-defense will determine its sovereignty and effective participation in the international system.

This implies that all states regardless of their status in the international system have to strive to rely on their own power in dealing with other sovereign states. This being the case, we realise that the states (developing) in question have been operating on a compromising position, that is dependent on the developed world for economic support, military aid technological assistance and still hope to remain independent. It is therefore the suggestion of this researcher that for the independence and recognition of the states in question to be meaningful, they should strive to be self-reliant economically, socially and politically. Let the said states develop their own resources and design their own ways of survival by starting to de-link themselves from the foreign masters (donors)

The foregoing study has helped us to realise that a state's foreign behaviour is a result of a myriad of factors (or variables) which affect the behaviour of diplomats and other policy-makers. These variables range from climatic conditions, geographic location, population density, literacy rates, historical and cultural traditions, economic conditions and commercial interests, religious and ideological maxims, historical myths as well as the capricious quirks of national leaders. From this perspective it is recommended that the objectives and interests that a state seeks to promote or safeguard as it interacts with other states be viewed against the background of its internal social structure and the configuration of political power within it.

Taking the above into account we thus recommend that for the category of states in question to pass the test of recognition (that is to be able to recognize, and also be recognized) it is of paramount importance that they mobilize their resources, improve their social structures and institutions, exploit their cultural endowments in order to achieve self reliance. Self reliance is translated into power for self defence to determine own sovereignty and acquire status in the international system. Hence passing the 'acid test of legitimacy' which is recognition.

ENDNOTES

1. Werner, Levi. Law and politics in the international society. London: BervelyHills: Sage Publications; 1976. P.32
- 2 Feltham, R. G (5th Ed) Diplomatic Handbook. London and NewYork: Longman; 1988. P.113.
3. Werner, Levi. Op. cit., P. 52.
- 4.Sprout, H. and Sprout M. Towards a politics of the planet earth. New York: D.Van Mostrand Co. 1971. P.70
5. Olatunde, J.C.B Ojo, et al: African international relations. London: NewYork: Lagos ; Longman; 1985. P.28.
6. Katete, Orwa. Foreign relations and international cooperation. IN(ED) Kenya:An official handbook. 1963-1988 25th Independence Anniversary. Nairobi: Ministry of Information and Broadcasting; 1988. P.308.
- 7.Werner, Levi. Op.cit. P.51.
8. Feltham, R.G. Op. cit., P.1
9. Katete Orwa, Op.cit.. P.311
10. Olatunde, J. C. B. Ojo, et al. Supra. P.23
11. Wolfers, Arnold. Discord and collaboration. Deltimore: The Johns Hopkins: University Press; 1962. P.6
12. Snyder, Richard; Bruck HW and Sapin, Burton. Foreign policy decision making. NewYork: The free Press: 1962. P.62
13. Young, Oran. The actors in world politics. IN James Rosenau, Vincent D. and Maurice A.G; (ED) The Analysis of International politics. NewYork. NewYork: The free Press; 1972. P.135
14. Olatunde, J.C.B OJo, et al. Op.cit. P. 27.

BIBLIOGRAPHY

- Abi-Saab, G. The United Nations operation in the Congo 1960-1964. London: Oxford Univ. Press; 1978.
- Adar, G.K. "Merits and demerits of foreign policy options in the Horn of Africa" In Chelugat K. (ED) Kenya's quarter century of diplomatic relations. issues achievements and prospects. Nairobi; Ministry of Foreign Affairs and International Cooperation; 1990.
- Adelman, Keneth L. African realities. NewYork:Crane Russak and Co.Inc; 1980.
- Africa Year Book and who is who 1977. published by African Journal Limited, 1977.
- Akehurst, Michael. (ED) A modern introduction to international law. London: George Allen and Unwin Ltd. 1971.
- Aluko, Olajide. (ed) The foreign policies of African States. London: Hodder and Stoughton; 1977.
- Anand, R.P. New States and international law. Delhi. Bombay. Bangalore. Vikas Pub. house; 1972.
- Bacharach, Samuel B. Bargaining. power, tactics and outcome. San Francisco. London: Jossey- Bass Pub. 1988.
- Bodin, Jean. The six bookes of a commmon-weale, 1576 (translated by Richard Knolles, 1606). Cambridge: Harvard Univ. Press; 1968.
- Bloomfield, Lincoln P. The foreign policy process: a modern primer. Englewood cliffs. New Jersey: Prentice-Hall Inc. 1982.
- Brownlie, Ian. (ed) Principles of public international law. Oxford: Clarendon Press; 1979.
- Calvert, P. The foreign policy of New States. Bughton, Sussex: Wheatsheat Books Ltd.
- Chelugut, K. (ed) Kenya's Quater Century of diplomatic relations. issues, achievements and prospects. Nairobi: Ministry of Foreign Affairs and International Cooperation; 1990.
- Couloumbis, T.A and Wolfe, J.H (Ed) Introduction to International relations: power and justice. New-Delhi: Prentice Hall Of India Private Ltd; 1986.

- Denza, Eileen. Diplomatic law. Doddes Ferry, NewYork: Oceana Publications Inc; 1976.
- Deutsch, Karl. The analysis of international relations. NewYork: Eanglewood Clíkpts; 1978.
- Deutsch, Karl. Politics and government: how people decide their fate? Boston: Houghton Mifflin. 19-?
- Dougherty, J.E and Pfaltzgraff, R.L. (ed) Contenting theories of international relations. NewYork: Harper and Row Pub. 1990
- Elias, Taslin O. Africa and the development of international law, edited by Akinjide Richard. Dordrecht. Boston London: Martinus Nijhoff Pub. 1988.
- Feltham, R. G. (ed) Diplomatic handbook. London and NewYork: Oxford Univ. Press; 1988.
- Frank, Andre Gunder. "The Development of Underdevelopment" In James D Cockcroft et al Dependence and Underdevelopment: Latin america's political economy. New York: Anchor Books; 1972.
- Friedman, J.R. East African Diplomacy. Philadelphia: African Studies Association; 1965.
- Galloway, L.T Recognising foreign governments: the practice of the United States. Washington D.C American Enterprise Institute; 1978.
- Galtung, Johan. (ed) "Foreign policy options as function of social position" In International Politics and Foreign Policy. NewYork: the Free Press, 1969.
- Gertzel, Cherry. Government and politics in Kenya. Nairobi: East African Publishing House; 1972.
- Good, R.C & Hillsman, R. (ed) National Interest and moral theory: the debate among contemporary political theorists in foreign policy in the sixties: the issues and the instruments. Baltimore and London: Johns Hopkins Univ. Press: 1965.
- Haas, E.B " The study of regional intergration: reflections on the joy and anguish of pre-theorizing" In Regional Intergation: Theory and Practice. Cambridge: Univ.Press; 1971.
- Harris, D. J (ed) Cases and materials on international law. London: Sweet and Maxwell; 1979.

- Hartman, F.H. (ed) The relations of nations. New York. London: Macmillan Pub;1978
- Henkin, L et al. (ed) International law: cases and materials. St. Paul, Minn: West Pub. Co; 1987.
- Herz, J.H " The territorial state revisited: reflections on the future of the Nation State" In J.N Rosenau, International politics and foreign policy. New York:1969.
- Hoffman, Stanley " International systems and international law" In the international system: theoretical essays. Princeton; Princeton Univ. Press: 1961.
- Hoffman Stanley. Primary or World order: American Foreign policy since the cold war. New York: McGraw-Hill Book Co., 1978.
- Holsti, J.K Ole. International politics: a framework for analysis. Englewood Cliffs and London: Prentice-Hall, 1983.
- Ibingira, G. S. African Upheaval since independence. Colorado: Westview Press, 1980.
- Ionescu, Ghita. Between sovereignty and intergration. London: GroomHelm ltd, 1974.
- Jankowitsch O. et al. The third world without superpowers: the collected documents of the non- aligned countries. Vol. IV. Dobbles Ferry. New York: Oceana Publications Inc., 1978.
- Jensen, Lyod. Explaining foreign policy. New Jersey: Prentice-Hall: -?Johns, David. " Diplomatic exchange and state inequality in Africa. IN Shaw and Kenneth A.H (ed) The Politics of Africa: Dependence and Development. New York: African Pub. Co; 1979.
- Joynt, Carey B. Theory and reality in world politics. London: Macmillan Press; 1978.
- Kegley, Charles; et al (ed) International events and the comparative analysis of foreign policy. Columbia: Univ. of South Carolina Press; 1975.
- Kelman, Herbert C. International behaviour: A social psychological analysis. New York. Chicago. San Francisco. Toronto. London: Holt, Rinehart and Winston; 1965.
- Khapoya, Vincent. "Kenya" IN Shaw T.M and Aluko Olajide Political economy of African Foreign Policy. Aldershot Hants- England: Gower:1984.

- Lansing, Robert. Notes on sovereignty. Washington. Endowment; 1921. Lauterpacht, E; (Q.C) (ed) International law reports. Vol.70. Cambridge. Grotius publications ltd; 1986.
- Lauterpacht, H. Recognition in international law. Cambridge: Cambridge Univ. Press; 1947.
- Lawrence, T.J Documents illustrative of international law. London: Macmillan and Co. Ltd. 1914.
- Leguru, Colin and Lee, Bill. Conflict in the horn of Africa. NewYork: African Publications; 1977.
- Lerche, C.O et al. Concepts of international politics in global perspective. New Jersey: Prentice Hall Inc. 1979.
- Levi; Werner Law and politics in the international society. Beverly Hills, London: Sage publications; 1976.
- Leys, Colin Underdevelopment in Kenya: the political economy of Neo-colonialism 1964- 1971. Berkeley Calif: Univ. of California Press; 1975.
- Light M. and Groom AJR. International relations. a Handbook of current theory. London: Pinter Pub.1985.
- Makinda, Samuel. "From quiet diplomacy to cold war politics: Kenya's foreign policy". In third world quarterly. Vol.5 No.2 April 1983.
- Makinda, Samuel. "Conflict and the superpowers in the horn of Africa." IN Third World Quarterly Vol.4 1982.
- Makonnen, Yilma. International law and the New States of Africa. Adis Ababa. New York: UNESCO; 1983.
- Mazrui, Ali A. African International relations: the diplomacy of dependency and change. London: Heinmann; 1977.
- Mazrui, Ali A. The Indian Ocean and the Nile Valley: the view from East Africa in Yashpal Tandon and D. Chandrana (eds) Horizons of African Diplomacy: Nairobi: East African Bureau: 1974.
- Moi, D.T Kenya African Nationalism: Nyayo philosophy and principles. Nairobi. Macmillan; 1986.
- Morgenthau, Hans. Politics among nations: the struggle for power and peace. New-Delhi- Ludhiana: Kalyani Publishers; 1985.

- Mordin, T. Law, Morality and the relations of states. Princeton and Guildford: Princeton Univ. Press; 1983.
- Northedge, F.S The international political system. London: Faber and Faber: 1976.
- O'Connell, D.P (ed) International Law. Vol. 2. London: Stevens and sons; 1970.
- Ojo, Orwa and Utete. African International relations. London. Longma;1985.
- Okumu, J.J. "Kenya's foreign policy" In Aluko (ed) The Foreign Policies of African States. London: 1967.
- Okumu, J.J. " The place of African states in international relations" IN Schou A and Brundtland A.O (eds) Small States in International Relations. Stockholm: Almquist and Wiksell; 1971.
- Okumu, J.J. " Foreign relations: Dilemmas of independence and development" In Barkan with J.J. Okumu (eds) Politics and Public Policy in Kenya and Tanzania. NewYork: 1979.
- Olewe-Myunya, J. " Kenya's relations with the superpowers since independence".In Cheluget, K (ed) Kenya's Quarter Century of Diplomatic Relations, issues, achievements and prospects. Nairobi: Ministry of Foreign Affairs and international cooperation; 1990.
- Orwa, D.K " Diplomacy in international relations" In Ochieng W.R (ed) Themes in Kenyan History. Nairobi:1990.
- Orwa, D.K "Foreign relations and international cooperation". In Kenya: An official Handbook 1963- 1988 25th Independence Anniversary. Nairobi: Ministry of Information and Broadcasting, 1988.
- Papp, Daniels. (ed) Contemporary International Relations: Framework for understanding. NewYork: Toronto: Macmillan Pub. 1991.
- Parry, Clive (ed) A British Digest of International Law. London: Stevens and Sons; 1965.
- Parry, C and Grant J.P Encyclopaedic dictionary of international Law. New York: London: Rome: Oceana publications, Inc;1986.
- Parry, C. and Hopkins,J.A. Commonwealth International law cases Vol. 10. Dobbes Ferry, NewYork: Oceana Publications, Inc. 1978.
- Rosenau, N.J. Domestic sources of foreign policy. NewYork: The Free Press; 1967.

- Rosenau, N.J. International politics and foreign policy. New York. The Free Press; 1969.
- Reychler, L. Patterns of diplomatic thinking. New York: London; Sydney Toronto: Praeger Publishers; 1979.
- Satow, E. Satow's guide to diplomatic practice. edited by Lord Gore-Booth. London. New York: Longman 1979.
- Sen, B. A Diplomat's handbook of international law and practice. The Hague: Martinus Nijhoff:
- Snyder, R. , Bruck, H.W. , Sapin B. Foreign policy decision making. New York: The Free Press; 1962.
- Starke, J.G (QC) (ed) An introduction to international law. London: Butterworths and Co. Pub.; 1972.
- Sprout, H and Sprout, M. Towards a politics of the planet earth. New York. D.Van Nostrand Co; 1971.
- Tandon, Yashpal. (ed) Reading in African International relations (2 Vols). Nairobi: East Africa Literature Bureau; 1974.
- Thiaru, Doudou. The foreign policy of African States: New York: 1965.
- Tucker, R.W. The inequality of Nations. New York: Basic Books and Oxford Martin Robertson; 1977.
- Wallerstein, Immanuel. " The three stages of African involvement in the world economy". In Peter C.W Gutkind and Immanuel Walterstein (eds) The political economy of contemporary Africa. Beverly Hills; Sage Pub; 1976.
- Walters, Robert. Inter-African Boundary dispute. In Card Gosta Widstrand (ed) Africa boundary problems. Uppsala: the Scandinavian Institute of African Studies. 1969.
- Wheaton (ed) Elements of inter-law. Boston: 1955.
- Whiteman, Marjorie M. Digest of International Law. Vol. 2 Washington D.C State Dept; 1963.
- Widstrand, C.G. (ed) African Boundary problems. Uppsala: Scandinevian Institute of African Studies; 1969.
- Willets, P. The non-aligned movement: the origins of a third world Alliance. London: Frances Pinter Ltd; 1978.

- Wolfers, Arnold. Discord and collaboration: Essays in international politics. Baltimore; Johns Hopkins Univ. Press; 1966.
- Young, Oran The actors in world politics. In James Rosenau, Vincent D. and Maurice A.E (eds) The analysis of international politics. NewYork: The Free Press; 1972.
- Zartman, William I. Social and political trends in Africa in the 1980's. In Colin Legum et al , Africa in the 1980's. NewYork: Mcgraw-Hill:1979.
- Zartman, William I. National Interest and ideology. In Vernon Mckay (ed) African Diplomacy. NewYork: Fredrick Praegar; 1966.

JOURNALS AND ARTICLES:

- Abir, Mordechai. The contentious Horn of Africa. Conflict Studies (24)
- Amin,Samir Underdevelopment and dependence in black Africa: Origin and contemporary forms. Journal of Modern African Studies, X(4)
- Armstrong A 'Political Consequences of economic dependence' Journal of Conflict Resolution 25 (3) 1981.
- Jennings R.Y. State contracts in international law. B.Y. B. 1961.
- Jinbergen D and Hinger A. J. Reshaping the international order. A Report to the club of Rome. Hutchinson and Co. Pub. London: 1976.
- Lauterpacht, H. The problem of Jurisdictional Immunity of Foreign States. B.Y.B 28, 1951.
- Olympio, Sylvanus. "African Problems and the Cold War." In Foreign Affairs Journal Vol. XXXL 1961
- Orwa, D.K "Balance of power theory and Kenya's foreign policy in East Africa."Unpublished paper presented to the Historical Association of Kenya. 1981.
- Shaw, T.M. Discontinuities and inequalities in African International politics In International Journal 30(3)
- Shaw, T. M "Kenya and South Africa: Sub-imperialist states". Orbis Vol 21, No.2 Summer 1977

Sinha, S. Prakash. The perspective of Newly indepent states on the binding nature of the international law. 1965(4) International and comparative law quartely.

Wriggins, Howard. " Political outcomes of foreign assistance: influence, involvement or intervention?" In Journal of international affairs (Columbia), Vol. XX11, No. 2, 1968.

Zartman, I.W. " Intervention Among Developing States" In Journal of International Affairs (Columbia), Vol. XX11, NO.2, 1968.

MAGAZINES AND NEWSPAPERS

Weekly Review, 24 Nov. 1975 - The departure of Portugal from Angola has forced most member States of the OAU to take clear positions with regard to the Angolan factions.

Weekly Review, 15 Dec. 1975 - The OAU and Angola - An OAU Summit of Heads of State on Angola is now certain. Whcih alternative will it vote for the MPLA or a Union government.

Weekly Review, 16 Feb. 1976 - OAU recognizes the MPLA government in Angola.

Weekly Review, 23 Feb. 1976 - Is Amin Bluffing? Amin of Uganda claims a huge chunk of Kenya's territory and provokes a clamour of official and unofficial protest from Kenya.

Weekly Review, 8 Feb. 1980 - Moi's New Stand in Foreign Policy.

Weekly Review, 9 October 1981 - Moi calls for sanctions against South Africa at the Commonwealth meeting in Australia.

Daily Nation, December 29th, 1992 - Polls day for Kenya's first multi-party general elections.

Daily Nation, March 23, 1993 - Government goes back to forex controls.

- Kenya rejects all IMF rules.
- Retention Accounts cancelled.

Daily Nation, May 14, 1993 - NHIF Medical Bills cover cut to 10 days only.

Daily Nation, May 25, 1993 - Eritrea becomes free after long struggle.

Daily Nation, June 18, 1993 - Motor Insurance Fees up by 200 per cent.

Daily Nation, June 30, 1993 - 200 per cent Motor Insurance fees rise on hold.

UNPUBLISHED RESEARCH THESES

- Kigundu, Jones. The recognition of Governments as Practiced by African States. LLB Thesis. University of Nairobi, 1980.
- Kuria, J.N. International Law and Iraq Annexation of Kuwait. LLB Thesis. Univ. of Nairobi, 1991.
- Le Naola, I. The Legal Limits to Diplomatic Activities in a Sovereign State. LLB Thesis, Univ. of Nairobi, 1990.
- Muhoho, Rosemary W. The Concepts State. Government and Nation in Kenyan Experience. LLB Thesis. Univ. of Nairobi, 1986.
- Njunguna, P.K. The Concepts of Sovereignty in International Law. The Kenyan perspective. LLB Thesis; Univ. of Nairobi, 1991.
- Ochillo, S.O Recognition of New States and Governments in International Law. The African Perspective. LLB Thesis; Univ. of Nairobi, 1990.
- Owour, Aduma J. The Conflict Between Public International Law and Municipal Law. The Practice in Kenya. LLB Thesis; Univ. of Nairobi, 1990.
- Suleiman, Abdilatiff M.S Is Palestine a State under International Law? LLB Thesis; Univ. of Nairobi, 1991.