

THE RECOGNITION OF
GOVERNMENTS AS PRACTISED
BY AFRICAN STATES

A DISSERTATION SUBMITTED
IN PARTIAL FULFILMENT
OF THE REQUIREMENTS FOR
LL.B. DEGREE, UNIVERSITY
OF NAIROBI

BY
PATRICK JONES KIGGUNDU
NAIROBI JULY, 1980

SUPERVISOR - PROF. LUKE T. LEE

(Visiting Professor of Public Law)
A.B. (St John's University Shanghai 1944)
M.A. (Columbia University, 1947)
Ph. D. (Fletcher School of Law and Diplomacy,
Tufts University, 1954)
Cert. International Law (The Hague Academy, 1959)
LL.B. (University of Michigan 1963)

P R E F A C E

Many actors have been of immense help in shaping the contents of this piece of document. It has been an exercise requiring prodigious energy and rare determination prompting me to question the academic desirability of requiring LL.B. Students to have to write Dissertations in addition to the coursework subjects they have to do. To an average soul it is an obligation bordering on mental insanity. This work was motivated by the constant frustration I experienced, to witness many African Countries stand by when Amin's Muderous Regime continued unabated, its red path of Exterminating Ugandans in abid for survival. I come to ask myself whether there were no norms of International behaviour in which any state had to observe at an elementary level. Couldn't states isolate any of its family member who misbehaved beyond reasonable expectations. Should they continue to recognise such a government despite its rejection of all forms of Modern civilised nations. Was there no Machinery to check on such extremes? This ignited me to do International Law and investigate in particular the concept of Recognition as practised by African governments, a study I have to admit I have found frustrating in its applicability.

11

My deep thanks go to Professor Luke T. Lee whose encyclopaedic knowledge of International Law was a constant source of strength. His provocative and stimulating ideas enabled me to dig deeper as far as my limited study could allow. His enthusiasm, encouragement and friendship during our brief association will be a permanent imprint on my memory. Thanks to Dr. S. Awuye my first supervisor whose rigid standards of scholarship sharply awakened me to the task I had to face ahead. To my parents Mr and Mrs Ntate whose enthusiasm for higher Education relentlessly propelled me forward. To Mike Collins Kalamya, Ministry of Foreign Affairs, Kampala, whose sharp intelligent arguments were of practical importance and value. To all members of the United Progressive Association (UPA), and academic association with a high vision. To Harriet Wannyan, a life long friend who had to cut down the pleasure of relaxation after class-work to see me through this work. Her determined resilience and good humour in coping with the extra ordinary task of typing this work was very heartening.

Lastly to the U.N.H.C.R., that most useful body of the U.N., whose financial help enabled me to fully sustain my stay at the University of Nairobi.

Patrick J. Kiggundu

UFUNGAMANO HOUSE

July 1980

ii

My deep thanks go to Professor Luke T. Lee whose encyclopaedic knowledge of International Law was a constant source of strength. His provocative and stimulating ideas enabled me to dig deeper as far as my limited study could allow. His enthusiasm, encouragement and friendship during our brief association will be a permanent imprint on my memory. Thanks to Dr. S. Awuye my first supervisor whose rigid standards of scholarship sharply awakened me to the task I had to face ahead. To my parents Mr and Mrs Ntate whose enthusiasm for higher Education relentlessly propelled me forward. To Mike Collins Kalanya, Ministry of Foreign Affairs, Kampala, whose sharp intelligent arguments were of practical importance and value. To all members of the United Progressive Association (UPA), and academic association with a high vision. To Harriet Wannyana, a life long friend who had to cut down the pleasure of relaxation after class-work to see me through this work. Her determined resilience and good humour in copying with the extra ordinary task of typing this work was very heartening.

Lastly to the U.N.H.C.R., that most useful body of the U.N., whose financial help enabled me to fully sustain my stay at the University of Nairobi.

Patrick J. Kiggundu

UFUNGAMANO HOUSE

July 1980

CONTENTS

PREFACE 1 - 11

INTRODUCTION 1 - 3

CHAPTER I

RECOGNITION AND NON-RECOGNITION IN INTERNATIONAL
LAW AND ITS EFFECTS 4 - 16

CHAPTER II

MAJOR FACTORS INFLUENCING RECOGNITION OF GOVERNMENTS IN
AFRICA 17 - 31

CHAPTER III

A CASE STUDY OF UGANDA 32 - 50

CHAPTER IV

RECOGNITION AS PRACTISED IN SELECTED AFRICAN STATES
OUTSIDE E. AFRICA 51 - 60

CONCLUSION 61

I N T R O D U C T I O N

The identity and a number of states belonging to the international community are by no means fixed and invariable. The march of history produces many changes. Old states disappear or unite with other states to form a new state, or disintegrate and split into several new states or former colonial or vassal territories may by a process of emancipation themselves attain statehood. Then also even in the case of existing states, revolutions occur frequently or military conquests are effected, and the status of new governments becomes a matter of a concern to other states, which formerly had relations with the displaced governments.

These transformations raise problems for the international community of which the paramount one is the matter of recognition of the new state or government or other changes of status involved. At the same time or other, the issue of recognition has to be faced by other states, particularly if diplomatic intercourse must necessarily be maintained with the states or governments to be recognised.

Here we have limited our inquiry to recognition of governments in order to compress and work within the necessary boundaries required. The first chapter deals with the general issue of recognition and the applicable theories. The effect of recognition and non-recognition. Judicial attitudes to recognition is also briefly examined.

Chapter two examines the major factors which influence African states on recognition of other governments. It is pointed out that political considerations are paramount in influencing these countries. Subsidiary factors like economics will also be considered. We shall try to prove that the personality of a Head of states is another emerging factor which is rapidly becoming more significant. Chapter three specifically deals with Uganda as an example in East Africa because it is unique in that it has undergone many changes in the running of state matters since Independence. Uganda has witnessed Democratic, dictatorial or even quasi-fascist governments. A separate and detailed inquiry of how other states have reacted to such changes was necessary in the chapter three touching on the political process in Uganda remotely connected with Recognition are dealt with. This is a matter of personal curiosity because of my nationality connection with that country.

The last chapter examines the recognition problem as it arose in other countries. I deliberately treat Biafra and Angola because of their importance in African Political History. Apart from Congo, the second attempt in Independent Africa to attempt a secession and Angola was the second to fight within themselves after the Colonial power had granted Independence. Both are matters of recognition of states. I lastly deal with Ghana because the overthrow of its first president Osagyefo Kwame Nkrumah was a matter of emotional debate among African countries.

The administration which succeeded him had to face a rough problem of gaining acceptability not only in Africa but in other nations of the world.

Patrick J. Kiggundu

UFUNGAMANO HOUSE

July, 1980

CHAPTER ONE

RECOGNITION AND NON - RECOGNITION

IN INTERNATIONAL LAW AND ITS EFFECTS

The International Community is not a closed or static body. New states come into existence as shown by annual admission of new countries to the United Nations, e.g., Djibouti. Revolutions occur and new governments assert themselves. Territorial changes take place and this entails too the recognition of such change. The members of the International Community have the choice of approving or disapproving. Recognition is where a state acknowledges its approval of the change that has occurred. It takes into consideration various factors. These could be either legal or political, but 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.

Recognition as a term covers a variety of factual situations calling for acknowledgment by foreign states. They include, for example, the appearance of new states. What is a state? It was elaborated in the Montevideo convention¹ (art 1) that a state as a person in international law should possess the following qualifications:-

- (i) a permanent population
- (ii) a defined territory
- (iii) a government
- (iv) and capacity to enter into relations with other governments or states; a change of government outside the constitutional framework too require recognition, so do territorial changes, especially those achieved by force of arms and involving the extinction of states like the Moroccan annexation of Western Sahara. Merger of two or more state is an analogous case in point.

(v) Secession of one part of a state e.g. the Biafra attempt to secede from Nigeria parties to a civil war e.g. when there has been an effective insurgence.

The common factor in all these cases is that certain governmental authorities claim competence over territory and people, and foreign states are faced with the dilemma of either recognising or not recognising that the claim is valid.

When a community pretends to statehood, does its capacity in international law date from the moment when it is recognised by other states? Is it true that a state which is unrecognised by any other nation has no facilities for ordinary exercise of international rights and fulfilment of international obligations? These are some of the questions which have bothered jurists in trying to ascertain what is the real nature and effect of recognition.

One school of thought declares that personality is created not by fact but by recognition. Other states constitute the new state, it is asserted, through their willingness to deal with it as a state. In the absence of such willingness it is not one. This is the constitutive theory.¹ This doctrine is pushed by conceptualists like Lauterpacht,² Anzilotti³ and Kelsen.⁴ By this theory statehood alone does not constitute membership of the family of nations. It becomes an international person only through recognition and as a result it can enter into official intercourse with other states. This is the legal approach to international recognition.

The more practicable view is that the granting of recognition is not 'constitutive', but 'declaratory'. This divorces the institution of recognition from the question of the objective legal criteria of actually existing states. It does not bring into existence a state which does not exist before. A state may exist without being recognized, like Kampuchea or Zimbabwe (before the Lancaster House conference), and if 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, as for example when the constitutional negotiations were being undertaken in London, Bishop Abel Muzorewa had to be treated as a representative of the state of Zimbabwe whatever its legal status. Secondly when emergency food and medical supplies were being shipped to Kampuchea, western countries and other international aid Agencies had to negotiate with the Heng Samrin government, though they didn't recognise it. The declaratory theory tends towards the belief that recognition is essentially a political institution. Thus the declaratory school disputes the premises of the constitutive school.

It contends that the state has capacity in international law as soon as it exists in fact, and is not based on approval, this capacity generating spontaneously from the assertion by the community that is a juridical entity.

To elaborate further, those who fall in the constitutive school as forcefully represented by Lauterpacht⁵ assert 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. This legal 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. Thus as a result of this approach a state cannot on its own refusal to recognise another even if the new community satisfies the necessary conditions leading to recognition. Which are these conditions?

Lauterpacht's induction is that such a state in achieving recognition should possess people, territory and effective government, independence and the capacity for international relations.⁶

The International Commission of Jurists of American states submitted a draft convention in 1927 which provided that⁷ - a government is to be recognised whenever it fulfils the following conditions:-

- (1) Effective authority with the probability of stability and consolidation; the orders of which as regards taxes and Military services are accepted by the inhabitants.

- (ii) Capacity to discharge pre-existing international obligations, to contract with others and to respect the principles established by international law.

This draft was rejected by states because it did not form the basis of the cardinal principles of non-intervention.

Furthermore a resolution of the American states - Resolution XXVI of the second special Inter-American conference of 1965, described as the "informal procedure on the Recognition of De facto Government" contains some good conditions for recognition. It recommended that member states, immediately after the overthrow of a government and its replacement by a de facto government, should take into account:-

- (1) Whether there was complicity or aid of a foreign government,
- (2) Whether the de facto government proposed to hold elections within a reasonable time and agree to assume international obligations previously assumed by the government.

Herbert W. Briggs in his article perhaps tries to comprehensively list conditions which influence states to recognise new ones. He tabulates the reasons as below:

The freedom of the new state from external control; the stability and effectiveness of government and perhaps an estimate of its performance as indicated by popular or adverse support; the ability and willingness to fulfil its obligations under international law, the extent to which it commands international respect and support; i.e., has it been recognised by states, the extent to which its establishment affronts principles of dynastic or constitutional legitimacy. Whether its recognition would offend an ally or be otherwise premature; whether it would be politically advantageous etc.

On the above conditions and circumstances, it is submitted, that states before they recognise a new entity or government, they should take into consideration the democratic nature of the regime or entity. It's respect for human life. If it possesses the virus of territorialism then recognition should be denied. If such a sanction is used objectively without underlying political considerations by third countries, then it would immensely contribute to the universal ideal of Democracy which is espoused by all in East or West, North or South whatever the real practise.

There are varying degrees in practise by states. The British tend to adopt Lauterpacht's theory. Secretary of state for Foreign Affairs, Mr Morrison said in the House of Commons, - "The question of the recognition of a state or government should be distinguished from the question of entering into diplomatic relations with it, which is entirely discretionary. On the other hand, it is international law which defines the conditions under which a government should be recognised de jure or de facto and it is a matter of judgment in each particular case whether a regime fulfils the conditions." (He goes on to enumerate the conditions as underlined by Lauterpacht). "His majesty's Government consider that recognition should be accorded when the conditions specified by international law are in fact, fulfilled and that recognition should not be given when these conditions are not fulfilled. The recognition of Government de jure or de facto should not depend on whether the character is such to command His Majesty's approval."

The quotation above points to some indicators. Is the British approach more legal than political? Does it make a difference between de jure and de facto government (we shall make a distinction later) or a difference which is becoming practically ignored.

On the other hand, the U.S.A. approach is based mostly on political and national interest considerations. Whiteman's Digest states "It is the view of the U.S. government that international law does not require one government to accord diplomatic recognition to another government. It is our view that the matter of diplomatic recognition is one solely to be determined as the national interest dictates."¹⁰ The U.S.A., in contrast to Britain, often relies on political considerations. For example, before the Peoples Republic of China was recognised by the Carter administration last year, despite the fact that it had long fulfilled the three main reasons for recognition viz - control of specific territory, will of the nation and capacity to fulfil international obligations - the U.S.A., adamantly refused to recognise the communist government in favour of the Republic government of Taiwan. African countries, as we shall prove later, seem to have no consideration to accepted conditions for recognition. The constitutive theory is virtually irrelevant. Recognition is strictly political and is based on the personality of heads of states involved.

SOME JUDICIAL DECISIONS ON RECOGNITION OF
STATES AND GOVERNMENT

Generally courts and other judicial tribunals favour the declaratory theory as opposed to the constitutive one. This is a realistic approach to a basically political issue. Courts regard an executive decision as final. Thus a certificate from the Foreign Ministry on whether the government recognised another state or government is regarded as *Prima facie* conclusive. The two cases below illustrate the bias of courts in favour of the declaratory theory.

In DEUTSCHE CONTINENTAL GAS - GESELLSCHAFT V. POLISH STATE (1929-30) 5 A.D. 11. This case concerned the recognition of states. Here the German-Polish Arbitral Tribunal was called upon to decide whether Poland was comprised among the expression Germany's "enemies", and this involved the determination whether Poland could have existed before the Treaty of Versailles came into operation. The tribunal held that the recognition in Article 87 of the treaty was only declaratory of the state which existed "*parluimeme*". The fact that the former sovereigns of Poland had not recognised her, and the fluid nature of the Polish-Russian border were held to be irrelevant to the question of existence, "according to the opinion rightly admitted by the great majority of righters on international law, the recognition of a state is not constitutive but merely declaratory. The state exists by itself (*parluimeme*) and the recognition is nothing else than a declaration of this existence, recognised by the states from which it emanates".

On recognition of governments TINO CO ARBITRATION - GREAT BRITAIN
V - COSTA RICA (1923) I.R.I.A.A. 369.

In 1917, Tinoco ousted the government of Costa Rica by force. Elections were held and for two years Tinoco and the legislative assembly under him peaceably administered the affairs of the government of Costa Rica. In 1919 Tinoco was ousted in his turn and the new government repudiated certain obligations under taken by the Tinoco government towards British nationals. In the course of ruling upon the claims brought by Great Britain on the basis of these obligations, the arbitrator discussed the question of recognition. Taft C. J. said - "changes in government or the internal policy of a state do not as a rule affect its position in international law, though government may change. The nation remains with rights and obligations unimpaired.

"The principle of the continuity of states has important results. The state is bound by engagements entered into by governments that have ceased to exist: the restored government is generally liable for the acts of the usurper".

DE FACTO AND DE JURE RECOGNITION

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 recognition.

The terminology implies that a de facto government does not have the same sound legal basis as a de jure government.

But it is difficult to find a body of legal rules by which this legal basis can be determined. Revolutionary governments are often described as de facto governments but as we know a successful revolution brings about a change in the constitutional law of the country concerned. Britain is most rampant in using these terms. An example is in HAILE SELASSIE V - CABLE and WIRELESS CO.¹³ Where "His majesty's government continued to recognise the imperial administration of Haile Selassie as a de jure government it had also recognised the Italian invaders as the de facto government.

NON - RECOGNITION

Logically non-recognition implies a refusal to admit the validity of the change. It does not necessarily involve a refusal to admit the consequences of it. When a state refuses to recognise a new state or government, its actions are usually based on a variety of political motives, but the doctrine of non-recognition only applies when the withholding of recognition is expressly designed as a protest against some international illegality e.g., if the government of a state is overthrown by force in the form of foreign intervention, like in Kampuchea and most recently in Afghanistan, Furthermore, if a new state is created and maintained by foreign troops, a declaration of non-recognition is necessary to withhold from the wrong doer the benefits arising acquiescence in, or tacit acceptance of the new situation. Non-recognition could sometimes be applied collectively through the United Nations or the O.A.U. The General Assembly has refused to recognise the new government of Kampuchea and the old government of Pol Pot which was ousted by Vietmanese troops is still recognised as the lawful government and up to now has a seat at the United Nations.

In some instances recognition could be withdrawn from a government. The U.S.A. suspended diplomatic ties with the Amin regime in Uganda in 1973. De facto recognition (which implies some degree of uncertainty as to the future stability of the recognised entity), could be withdrawn if the status of the state or government is once more thrown in doubt. There is a controversy whether de jure recognition could be withdrawn. Legally de jure recognition can't be withdrawn.

EFFECTS OF RECOGNITION OR NON-RECOGNITION

IN INTERNATIONAL LAW¹⁴

Since recognition is practically declaratory, then non-recognition will have little effect on the rights and obligations of the country involved. The effects are mostly legal and theoretical. If there is a collective non-recognition, it may leave the country without agents competent in the eyes of the non-recognising states to give effect to sign treaties. Treaties for example, continue to apply to the state but may be inoperative in the period of non-recognition. Agents of the recognised government have in the eyes of the countries no more status than private individuals. Furthermore the absence of diplomatic relations with unrecognised governments, deprives of nationals who may carry on business in the country governed by the unrecognised authority, the nationals do so at their own risk.

On the other hand, the effect of recognition is that a state or government acquires the capacity to enter into diplomatic relations with other states and as such can make treaties with them. There are some other minor effects like the right to sue in the courts of the recognising state, sovereign immunity, etc.

Recognition or non-recognition leaves untouched the liability and rights of the state itself, though enforcement measures may have to await the appearance of a recognised government.¹⁵

1. ...
 2. ...
 3. ...
 4. ...
 5. ...
 6. ...
 7. ...
 8. ...
 9. ...
 10. ...
 11. ...
 12. ...
 13. ...
 14. ...
 15. ...
 16. ...
 17. ...
 18. ...
 19. ...
 20. ...
 21. ...
 22. ...
 23. ...
 24. ...
 25. ...
 26. ...
 27. ...
 28. ...
 29. ...
 30. ...
 31. ...
 32. ...
 33. ...
 34. ...
 35. ...
 36. ...
 37. ...
 38. ...
 39. ...
 40. ...
 41. ...
 42. ...
 43. ...
 44. ...
 45. ...
 46. ...
 47. ...
 48. ...
 49. ...
 50. ...
 51. ...
 52. ...
 53. ...
 54. ...
 55. ...
 56. ...
 57. ...
 58. ...
 59. ...
 60. ...
 61. ...
 62. ...
 63. ...
 64. ...
 65. ...
 66. ...
 67. ...
 68. ...
 69. ...
 70. ...
 71. ...
 72. ...
 73. ...
 74. ...
 75. ...
 76. ...
 77. ...
 78. ...
 79. ...
 80. ...
 81. ...
 82. ...
 83. ...
 84. ...
 85. ...
 86. ...
 87. ...
 88. ...
 89. ...
 90. ...
 91. ...
 92. ...
 93. ...
 94. ...
 95. ...
 96. ...
 97. ...
 98. ...
 99. ...
 100. ...

FOOTNOTES

1. December 3-26th 1933 9th International Congerence of American States.
2. 1947 Recognition in International Law.
3. 1929 Cours de droit international
4. 1941 25 A.J.I.L. Recognition in Internatinal Law: Theoretical Observations.
5. Supra.
6. See Oppuchheim's International Law. (8th Edition, 1958)
7. 1968. By C. G. Fenwick Quoted from "Recognition of De facto governments: Old Guidelines and New Thoughts" 63 A.J. 98
8. 1949 A.J. 43 p.113 "Recognition of states: Some Refrections on Doctrine and Pratise."
9. March, 21 1951 Hansard, H.C. vol. 485 Col. 2410 - 2411
Mr. Morrison
10. Whiteman (2) Digest of International Law p. 105 - 106
11. A.D. (1929-30) Case No. 5 - 11
12. For a detailed discussion see Lauterpacht Recognition in International Law p. 74
13. 1939 Chapter 182
14. See Lauterpacht - Supra - Ch. IV
15. See the Tinoco Arbitration Case - Supra

CHAPTER TWO

MAJOR FACTORS INFLUENCING

RECOGNITION OF GOVERNMENTS IN AFRICA

States in the family of Nations are influenced by differing factors to extent recognition as determined by each individual state. Africa is the second biggest continent after Asia in the world and has forty-six independent states constituting almost a third of the United Nations Members. This was due to the policy of systematic balkanization of Africa into small dependent states by the former colonial powers. But now as independent states they have a right to exercise their sovereign rights and duties as members of the international community on an equal footing with the far more powerful states of other continents.

The recognition of African states with full sovereign rights does not present hurdles because by an act of independence granted by the colonial barons, states become automatically recognised except in a few extreme instances like Angola. Very few have had independence solely by an effective revolution or a successful liberation war at home. Most liberation war or movements were finally accompanied by the colonial country accepting the inevitability of independence.

With the granting of Independence constitutionalism was introduced in the African system of government. But progressively there has been marked decline in constitutional government. There have been many illegal changes in government, mostly by the Army, assuming direct control of state administration. Most of such changes have been repulsively violent and quite bloody. A question is then posed - should other African states, especially those which have still retained constitutionalism, recognise such new regimes which have usurped executive and legislative power,

silenced the machinery of democracy and sometimes contemptuously and persistently flout human rights and individual freedoms.

African countries react haphazardly when the recognition issue comes up and this has sharply varied from state to state. They have based their recognition policy mainly on politico-ideological lines personality of heads of governments, and to a certain extent, economic and least of all if not at all legal factors. In recognition of governments, we must from the outset realise that any state whatever the change will not lose its character as an International person.

The Court in LEHIGH VALLEY RAILROAD CO. V. THE STATE OF RUSSIA¹ said "the granting or refusal of recognition (of a government) has nothing to do with the recognition of the state itself. If a foreign state refuses the recognition of a change in the form of a government of an old state, this latter does not thereby lose its recognition as an International person".

African states which follow the legal criterion in recognising new regimes are hard to pin-point. Lauterpacht's prescription,² however ideal, has not been followed to the letter even by the most democratically advanced countries. He says - "A government which enjoys the habitual obedience of the bulk of the population with a reasonable expectation of permanance can be said to represent a state in Question and as such to be entitled to recognition".³

"The preponderent practise of states at least that of U.K. and U.S.A. in the matter of the recognition of governments is based on the principle of effectiveness thus conceived. As a rule the new government must be supported by the will of the nation, subst. antially declared."⁴

This assertion is quite defective as has been proved by the practise of many countries. It calls for an objective standard and for African states who sometimes stretch National sovereignty and Independence of action to an unreasonable degree of emotion; it would be rare if they left such an act of 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.

Kenya, apart from being conservative in political outlook as opposed to most African states, is probably one of the most cautious as far as political developments affecting other countries are concerned, has sometimes flirted to this approach, though as I have indicated above it is used to hide the actual intentions behind.

In 1971 - on a question raised by Mr. Olelekein in the National Assembly⁵ - 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?" Dr. Njoroge Mungai the Foreign Minister 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 interfere with matters of our own state."

In pursuing this question in the past, the Kenya government policy on recognition has always been consistent and is based on objective criteria.

It is not the practise of the Kenya government to make any formal statements on recognition of new governments as our policy is to recognise states not regimes. Kenya government is always prepared to conduct normal 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 states in that territory and this control must be seen to continue.
- (2) There must be a general acceptance of 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.⁵

He continued that the government was still studying the condition in Uganda and once the people accept the government, Kenya will have no option except to recognise. This policy stand was further repeated by Dr. Waiyaki,⁶ then Foreign Minister, when referring to Uganda after the overthrow of Idi Amin's diabolical regime. This is a direct restatement of Lauterpacht's legal approach (except the insertions on the fulfilment of international obligations).

Though this is the policy of many states, Kenya's government reliance on it 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.

It should be noted 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. Lauterpacht says

"In the absence of an international organ competent to ascertain and authoritatively to declare the presence of requirements of full international personality, states fulfil that function in their capacity as organs of international law. In thus acting they administer the law of nations. This rule signifies in that in granting or withholding recognition, states do not claim and are not entitled to serve exclusively the principles of international law in the matter?". Such a policy would undermine independence of action which is highly prized by African states and other non-aligned countries. To require them to recognise another government against their will, merely because it fulfils principles of international law, would be demanding the impossible.

So since states cannot be mandated to voluntarily recognise others, it is argued that a universal machinery be set up to make a collective decision on behalf of all states. This could preferably be adequately done by the United Nations as a representative of the whole international community rather than by variable and arbitrary decisions of individual countries. Sincerely this would be an ideal step, but as Kato submits "such faith in the ability and capacity of such an amorphous organisation as the U.N. authoritatively to pronounce on such issues is grossly misplaced because as it is well known recognition is a highly political act, thus the U.N. as presently constituted is not able to discharge such a responsibility since it lacks a homogeneous political ideology to provide the guide lines.¹⁸"

On this we hasten to add that the U.N. will be handicapped like individual states in that political-ideological alignment and the emergence of bloc voting e.g., third world countries voting mostly in Unison as a result the impartiality sought will be lacking for example the invasion

of Afaghanistan by the Soviet Union rightly called for unanimous condemnation as it nakedly violated basic international rules among states. When a uniting for peace resolution was tabled by some members of the third world calling for the withdrawal of foreign forces from Afaghnistan virtually only marxist states with the exception of Yugoslavia and Rumania voted against it.

Due to the above it is submitted that the legal criteria for recognition are hardly used by African states. Lip service would be paid to it in announcements when justifying underlying political, personal and economic factors. The legal criteria have been eliminated ^{thus} as an influence on the act of recognition. We therefore consider three major factors which influence in a considerable degree African governments. Those are political, economic and personal preferences.

Even in most countries, including the U.K., U.S.S.R., political considerations far outweigh all other factors in determining whether a new government will be recognised or not. As such African states are still in the state of infancy as sovereigns are no exception. It is submitted that African governments over rely on political issues than other states. Issues of ideological orientation, political alliance, regional pragmatism are paramount.

Firstly, we look at U.S.A. practise to illustrate that not even the most democratic nation is ^{not} insulated from political considerations in effecting recognition.

W. O'Brien and Goebel say "the U.S. recognition policy in particular abounds with examples of the use of recognition and non-recognition as a means to further some higher purpose. Presidents and Secretaries of state, often with popular support have accorded or withheld recognition as

a means of supporting the good, the democratic, the constitutional, or the the anti-communist. and of punishing or combating the evil, the totalitarian, the unconstitutional, or the communistic. Thus a high degree of subjectivity has characterised much of modern U.S. recognition policy in contrast to the tolerant objectivity enjoined by the original Jeffersonian theory of recognition. Thus, for example, it is possible to envisage a two pronged criticism of U.S. non-recognition of Red China by, on the one hand, Lauterpachtians who might say that U.S. is not acting objectively in the name of the decentralized juridical order, and on the other by straight forward advocates of power-politics who might contend that the U.S. is unrealistically neglecting a power political need to come to terms with Red China to indulge instead in a hopeless moralistic punishment of evil doers and to express a desire to avoid their company".⁹

Greig¹⁰ also argues that U.S. practise has repeatedly paid regard to the question of whether a government now shows its readiness to assume international obligations, while the U.K. looks upon ability to fulfil such obligations as a test of the governments and capacity to represent the state or (government) concerned.

The African nations as indicated earlier have fallen prey¹¹ this attractive notion of using political factors in order to grant recognition. If we look at the problem from an ideological stand point the submission is confirmed. Senegal, Ivory Coast and other countries still refuse to recognise the Angolan M.P.L.A. government because its of parallel approach to their ideological orientation. Leopold Sengher in a Newsweek interview expressly admitted that we refuse to recognise the marxist government in Angola as it was not a government of national unity and had set itself a course of subverting other states especially in Zaire.¹¹

When the O.A.U. conference convened to resolve the Angolan Civil war, took place in Addis Ababa in Oct 1975 a call for a National Unity government collapsed because support to guerilla groups disintegrated on ideological lines.

Political considerations can further be deduced from the situation in Western Sahara. Morocco and the POLISARIO are wrestling for control of this territory, each with her own justifications. Though no country except Zaire has acknowledged Morocco's unilateral annexation with giving the people a chance of self determination, it cannot however be submitted that there is justification for some African States to recognise the POLISARIO as the sole representative of the Saharan people since it does not satisfy principles and tests before recognition is effected. It has no effectual control of the territory, no stable government and it can't be claimed that the bulk of the Saharan people support POLISARIO. But Tanzania, Algeria, Burundi have all recognised the POLISARIO. The plausible reason is probably since the organisation is left-leaning it concides with the ideological orientation of these states.

Lastly looking at Smith's and Muzorewa's Rhodesia¹² - all African countries except South Africa refused to recognise them. Apart from support of the majority of the population (which is doubtful) - there was an effective administration, assemblance of a state government despite the continuous liberation war. But this could be explained that at this particular time Rhodesia was an international outcast. Firstly because of rebellion and refusal to accede to majority rule and worse, its racist structure. The same applies to South Africa as far as African countries are concerned.

The economic factors influencing recognition are interrelated with the political ones above. The political orientation of a state determines its economic policy. Kenya's stubborn refusal to sanction the Amin Regime even during the war of liberation (November 1978 - 1979) could be explained to the fact that Amin's continued existence worked well for Kenya's economy. Since most of Uganda's cash crops had to be sold here at very low prices. Politicians, and businessmen had a lucrative profit margin as middlemen especially the Coffee boom. Most of them became millionaires in a fortnight.

In a reciprocal process many Kenyan Industrial goods were sold to Uganda to replace the gap left by other countries due to the ^{embargo.} There was a genuine ^{fear} though very detestable, in terms of human rights that if Amin was overthrown most of this trade would cease as Kenya would not be the only exclusive market. As a result Kenya ^{in contrast to other nations in the region ready} to deal with the murderer on the pretext of non-interference since Kenya's economic interests were maximized. Kenya took long to acknowledge the emergence of the new government in Kampala in order to gauge its reaction.

The most important factor which determines recognition in most instances is personalities of Heads of governments involved. Preference of one leader to the other is very crucial in African Politics. When Dr. Milton Obote was overthrown in Uganda by Major - Gen. Amin the coup was initially very popular with the masses. Obote's government had increasingly become dictatorial, and arbitrary arrests had accelerated.

The new regime satisfied all requirements for recognition and many nations especially in W. Europe rushed to recognise it due to Obote's militancy at this time, especially his vehement opposition to resumed sale of Military weapons to South Africa by the Heath government in Britain. But in contrast, most African countries refused to recognise the new Head of state. Nyerere and Kaunda stubbornly regarded him as the legal President of Uganda until Amin was overthrown. The new government had to undertake intense diplomatic effort in neighbouring countries before Uganda could be accepted as having had a change in government. Kenya didn't take a non-cooperation stance in Uganda due to overriding economic factors. Relationship between Kenya and Uganda was at that time deteriorating because Obote was becoming more left oriented, more friendly to Tanzania and rather chilly to Kenya.

A further illustration was when Ben Bella of Algeria was overthrown by a military coup on June 19th, 1965. Colonel Hourri Boumediene, who was then Vice Premier and Minister for Defence, assumed power. Many countries initially reacted with hostility. Ben Bella had come to be regarded as a symbol of anti colonial and third world struggle against Western Countries. As such he came to be admired by many African countries. Nasser of Egypt after publicly praising him offered him a sylum.

President Nyerere had this to say for withholding recognition for sometime - "Frankly we need time to understand the meaning of the change. When such a change takes place in a country, with which Tanzania has had extremely friendly relations and especially when its former leader has been particularly responsible for the creation of these relations,

it is natural for us to wait and see so that we may, understand what has taken place.¹³"

Kenya's foreign Minister Joseph Murumbi said when Kenya declined to attend the Afro-Asian conference of Heads of State scheduled in Algiers soon after Ben Bella's fall, "Domestic reasons given by the special envoys of the new Algerian government for still holding the conference were not altogether acceptable. We think the situation is fluid. There has been a revolution which has caught us by surprise. It is a mere fight for power. Ben Bella is very popular with African states, I must say."

Sekoutoure of Guinea regarded Dr. Nkrumah of Ghana till his death as the President of Ghana and never recognised the coup of 1966. All the factors indicate that unlike most countries, African states rely mostly on personal relationship of Heads of State and other varying Political reasons before recognition is granted. It should interestingly be noted that when Chiang Kai-Shek was still the President of Taiwan, U.S. support was total due to Chiang's personality with the U.S. body politic.

The trend now is that most African countries for fear of antagonising the new government, altogether refrain from making any statement. They just become indifferent to changes elsewhere. The degree of violence and bloodshed which frequently accompanies such a change is ignored. This is done by justifying it under ^{the} U.A.U. Charter (article III), in which member states affirm and declare their adherence to the principles inter alia of sovereign equality of member states and non-interference in the internal affairs of member states.

This strategy of hiding under the O.A.U. Charter has led to lack of knowledge on recognition in Africa. Its development has been retarded. This behaviour could be traced from the so called Estrada Doctrine. The Mexican Foreign Minister Don. Genaro Estrada on 27th September, 1930 issued a statement that some governments have the audacity of passing on judgement on the legality or illegality, legitimacy or illegitimacy of other governments thus subordinating a government to foreign opinion and interfering in the internal affairs of other countries under the pretence of the act of recognition. The Minister advised that third states should keep silent whenever there a revolutionary change of government of another country and that such states should resort to withdrawal of diplomatic missions if they have them, rather than pass judgment on a purely internal affair of the country.¹⁵

This doctrine is apparently followed in some instances in Africa. States who disagree with a violent change in other states sever diplomatic ties rather than withdrawing recognition.

During Amin's regime the U.S.A., U.K. and other countries withdrew their Embassy staff. After Amin's overthrow Nigeria withdrew its Embassy from Kampala to protest Tanzania's direct intervention. Libya expectedly also withdrew. Uganda in 1979, September, withdrew its Embassy from Bokassa's Central African Rep. to protest gross human rights violations after the Bangui Massacre of Children.

It is reasoned that recognition will not change the status quo as it is merely 'declaratory', but from observation it carries some benefits.

Firstly, most new regimes in thirst for respectability would like to be recognised because it is a matter of prestige.¹⁶ Furthermore by recognition a new regime would be assured that no unwarranted interference in the internal affairs or subversion would occur. For example Tanzania's felt free to encourage Ugandans to organise in guerrilla forces to undermine and subvert the Amin Regime since she didn't recognise the regime.

Recognition would further encourage resumption of trade and credits between the two states concern. When Nigeria disapproved of "Rawlings" coup in Ghana on June 4, 1979 - they cut off all credits including oil advances.¹⁷

FOOT NOTES

1. (1927) 21F (2nd) 396
2. See Lauterpacht H. - Recognition in International Law.
3. Note the Mandatory nature of underlined words. It is known that recognition is a political act. It is the prerogative of the executive organ and is used solely on its own discretion.
4. Sir H. Lauterpacht. See OPPENHEIM'S International Law (8th Edition) p. 131 (Longmans, Green & Co. 1958) plus to Hansard (National Assembly Debates) Vol. XLII p. 127. the May issue of the Nairobi Times 1979
- 5.
6. Ibid p. 6.
7. (Edited by W.V. O'Brien, Stevens & Sons, 1965) In an article "U.S. Recognition Policy Toward New Nations" in the Law of Nations in International Law and Diplomacy (ed. by O'Brien, Stevens & Sons, 1965).
8. The Law of Nations in International Law. The argument on Red China though no longer relevant as the Carter Administration recognised the Peoples Republic and Exchanged Ambassadors on January 1, 1979, is a good illustration because it took 30 years for U.S.A. to recognise reality.
- 9.
10. International Law - (2nd Edition, Butterwoths, 1976)
11. Of May 1978 - Note this was a period when the Shaba invasion in Zaire had been invaded by Katangese from Angola.
12. At the time of writing Zimbabwe had just got its independence on April 18, 1980. The situation has now changed.
13. The standard, Tanzania June 26, 1965
14. The Standard Tanzania, June, 1965
15. P. Jessup "The Estrada Doctrine" 25 A.J.I.L. 719 and 805

- ✓ 13. The Standard, Tanzania June 26, 1965
- ✓ 14. The Standard Tanzania, June, 1965
- ✓ 15. See P. Jessup "The Estrada Doctrine" 25 A.J.I.L. 719 and 805.
16. The Regime of Master Sergeant Samuel Doe in Liberia which overthrew William Tolbert has been sending envoys to many countries to convince them to recognise him after initial embarrassing setbacks. Sgt. Doe was refused to participate in the O.A.U. economic summit of May 1980 and the E.C.O.W.A.S. summit Meeting the following month.
17. ^{KATO} ~~V.A.T.O.~~ L.L, "Recognition in International Law, Some Thoughts on Traditional Theory, Attitudes of and Practise by African States (1970 I.J. I L. p. 190)" He elucidates these issues in detail.
18. (1970) Indian J. of International Law 190.

CHAPTER THREEA CASE STUDY OF UGANDA

Uganda once described by Winston Churchill as the "Pearl of Africa" is strategically situated in the heart of Africa, virtually as an intersection between North and Southern Africa. It's no surprise that its political developments have been closely watched not only by other countries in the region but by other^{far} removed countries for geopolitical, economic and other factors. It achieved independence from British Colonialism on October 9, 1962. As Guklina aptly puts it, "the struggle for independence was due when all Uganda Politicians spoke highly of Justice, freedom, liberty, equality, unity, Brotherhood and anti-authoritarianism. They were opposed to anything contrary to democratic principles."¹

Since independence however, political events in Uganda have led to the development and consolidation of Political systems and structures totally removed from what was expected by the majority of the citizens, proving to be too costly in terms of human suffering, human rights and objective Democratic principles.

Many factors are attributable to making Uganda unique in terms of political controversy, recurrent domestic problems, etc. Not all can be enumerated here, but the major factors were, firstly intense tribalism and sectionalism. Though tribalism is an incessant problem in African states, its degree is much higher in Uganda due to the virtual domination of one tribe in terms of economic means, population and education, political participation and in most other social interactions. Among the East African states, Uganda had much earlier been exposed to Western education, so much so that the degree of political agitation was quite pitched even before parties in other states e.g. Tanganyika could make a start.

David B Apter² observes that there were five political parties in Uganda prior to independence. Furthermore, more than any other East African region, Uganda has had sharp ideological divisions among its polity leading in most cases to irreconcilable issues on national matters. This has also had an impact on executive leadership in that every ideological camp feels it can do better and as a result power struggle always ensues with the inevitable impact on the nature of Democracy inter-state cooperation, etc.

We must also note that before the break up of the East African Community in 1977 Uganda was a sister state of E. A. economic cooperation which was seen as a model of economic union in Africa, so any political change in Uganda had a direct bearing on Kenya, Tanzania and other countries.

The first significant change to democracy and constitutionalism touching on the international plane was on February 22, 1966 when Dr. Milton Obote was Prime Minister. In anticipation of a revolt against him he seized power, scrapped the federal constitution which had allowed traditional leaders some measure of authority. Though it was quite bloody it didn't attract much international fuss because it was interpreted as an internal struggle against feudalism. With the predictable exception of Emperor Haille Selassie of Ethiopia who was reported to have been gravely concerned by the ouster of his friend King Freddie Mutesa II the Kabaka of Buganda, most countries in the Region restricted themselves to mild comments wishing a speedy stabilization of events so that inter-regional activities would resume normally.

The most important change in Uganda's political climate directly relating to the question of recognition occurred on January 25, 1971 and on April 11, 1978. We shall deal with the two events separately.

In January, 1971 Dr. Milton Obote then President of Uganda was overthrown by a military coup d'tat led by Major - Gen. Idi Amin Dada, then Commander and Chief of Staff of the Uganda Army. A number of factors led to Obote's fate and we should examine them as they weighed directly or indirectly on the reaction of other states as far as recognition was concerned of the new regime.

Borrowing Professor Ali A. Mazrui's description of Kwame Nkrumah after his overthrow, 'Dr. Obote was a good African but a bad Ugandan.' Though he was a status symbol to many Africans for his strong nationalist cause and staunch stand against South Africa, his domestic record was outrageously scandalous. As he consolidated power, he progressively isolated himself from the main stream citizen as we shall observe below. The main grievances against him were adequately summarized by the so called 18 points outlined by the soldiers when they seized power.

Most important was that Obote was progressively becoming less democratic, more despotic and less sensitive to the wishes of the masses. Since independence there was a failure to hold elections. Obote used pretexts to postpone them at every opportunity justifying it on national unity and security.

Political detentions had trebled rather tremendously in his last years. Any form of opposition was suppressed at most ^{accompanied with} violence. The 'General Service Unit' which acted as an Intelligence Organisation to fish out troublemakers was known for its crude tactics in dealing with the opponents of the regime.

Furthermore a failure to reconcile with the Baganda, the most dominant tribe, especially after forcing their King (Kabaka) into exile, created an almost a permanent atmosphere of tension, as Mazrui argues: "Complete national reconciliation was inconceivable while the Baganda remained alienated.

M. Obote had won a place in history by ending the Old order. But the task of creating a new order had only just begun, and the Baganda has to be full and wilful participants in any new order³ Despite the fact that National Unity was his catchword he had miserably failed to achieve it as by the time of his overthrow he had antagonised more tribes than he could mobilise on his side for national reconciliation.

More alarming of all on the domestic plane was Obote's desire to create a one party state. As we have observed above Ugandans have been politically active for quite along time, so this was seen as an attempt to rule the country indefinitely. Chain reactions from different political groups who were being affected by the move led to an extensive erosion of his power base. The most alarming development which directly concerned other countries was a determined conviction to lead Uganda on a socialist path. Indeed as Gingyera Pincywa says - "Obote will long be remembered or villified in Uganda and abroad for his new ideological directions".⁴

Though he was a late starter on socialism he advocated it with exceptional zeal. He called^v in many Government pronouncements as a move-to-the-left. As Tertit Asland describes it in his introductory remarks "The move-to-the-left in Uganda was an effort on the part of the U.P.C. at ideological rearmament and policy changes of a radical content".⁵ He authored the "Common Man's Charter"⁶ in which he attempted to outline the major features of socialism as it was to apply to Uganda. Partial nationalizations of the commanding heights of the economy was carried out especially in 1970. Africanisation programmes were initiated through indigenization schemes. As a result this unleashed the anger of Britain who had extensive economic interests in Uganda, and also most

of its citizens were working in Uganda so Africanization moves primarily affected them. It should be remembered that at this time the United Kingdom had reverted to a Conservative *administration under the premiership* of Edward Heath. Kenya was also ^{having} private companies who had business interests in Uganda. In fact relationship with Kenya had been eroding much earlier for many factors.

Also through Obote's "militant Africanism", he had alienated many advanced West European governments. By a combination of rare rhetorical capabilities, youth and crisis effectiveness, he was dubbed by many as the new Nkrumah. He forcefully criticised West European states especially United Kingdom at every opportunity of their treacherous association with the racist South African regime. The period immediately preceding the coup, he led most commonwealth countries in denouncing the British government for its proposed sale of arms to South Africa. As Mazrui says, "Obote in Singapore had been passionately critical of British intentions. The world limelight had focused on him and he had been interviewed for a variety of Newspaper television stations serving populations from London to Melbourne. There was no doubt that following the Singapore denunciations, the British government was more alienated from Obote than ever".⁸

From the above, it appears that despite Obote's domestic problems and mistakes, he was a hero on the continent for his militant stand against imperialism and for his new socialist trend which was rather quite attractive to many African nations in the beginning of the 1970's. So ironically whereas some Ugandans were rejoicing at his fall in Kampala streets many African countries expressed sorrowful bitterness to the military who had terminated his career. Just as Ghanaians were celebrating in Accra for Nkrumah's downfall, many Africans were distressed.

How did the countries react after the coup? We have examined in the previous chapter that African countries are mostly influenced by political-ideological factors and in a subsidiary form, personalities and economic interests.

Firstly the reaction of Tanzania encompasses most of these factors. Dr. Obote and Dr. Nyerere shared the same political ideology. They both espoused socialism as a vehicle for national development. In the course of time they had become close personal friends and they frequently took the same policy line on African issues. So it was utter bitterness when Obote was overthrown. They were both at Singapore attending the Commonwealth leaders conference. On his return Nyerere categorically declared that there was no way in which Tanzania would recognise the new regime in Uganda and that we would continue to regard Dr. Obote as the legal President of Uganda. And when the Ugandan Foreign Minister, Wanume Kibedi, said that he was willing to lead a delegation to Dar-es-Salaam to explain the causes of the coup and that by refusing to recognise the military regime, Dr. Nyerere was acting like a biased judge who condemned a prisoner after hearing only the prosecution case, the Tanzanian Foreign Minister, Mr. I Elinewingu, is quoted to have retorted back saying - "We don't know this man. We only know Sam Odaka as the Foreign Minister. The delegation could come, but as tourists. We have room for tourists, but we will not recognise any Ugandan Minister unless led by Odaka."¹⁰

Zambia also reacted in rather similar terms saying that they couldn't recognise a U supper. It should be understood that Uganda, Tanzania and Zambia were united in a brotherly platform which was known as the "Mulungushi Club", when they vowed to lead their nations on socialist principles.

Ambivalence to Amin's coup was not limited to these two countries. Sudan bitterly condemned the takeover and there were countercharges of border violations and fighting.¹² Somalia issued a statement saying "Revolutionary Somalia firmly believes that this takeover may be the opening of a new front of aggression in Eastern Africa designed to be the next targets after imperialist atrocities in Southern Africa, South East Asia and the Middle East." In Nairobi, President Said Barre said that "the takeover in Uganda was neither in the interests of Uganda nor does it serve the cause of Africa."

Algeria, Guinea, Egypt and other African countries issued statements deploring the takeover as an imperialist plot to ^{retard} the African liberation process. The reaction of African countries was rather ironical considering the effectiveness of the regime at home. Crowds were thronging in the streets of Kampala. Countrywide the nation was calm. Thus they had no legal basis for denying recognition. As we had earlier observed that this was due to the fact of Obote's political stand in Africa and his towering personality.

Britain was the first country to recognise the regime after ten days of its taking place in a statement read by the British under Secretary for Foreign Affairs, Mr. Kershaw. Her Majesty's government instructed the British High Commissioner in Uganda, Sir Richard Slater, to convey the message to Major General Amin.¹⁴ It was an agonising decision for Britain because though they were delighted by Obote's ouster, they didn't want to be the only country to recognise the regime. So they hopefully waited in vain. They then had to act anyway for fear of alienating General Amin. It has also been widely reported that Britain knew in advance that the coup was going to take place but kept a discreet silence.

The British position was predictable due to the political ideological stand of the Obote government.

One of the other countries to have welcomed the takeover was Israel. On the political objectives Mazui summarizes it this way: "It is in Israel's strategical interest to keep the third largest army in the Arab world busy with an internal civil war in the South of Sudan. The paramount interests of Israel are not obtaining autonomy or independence of South Sudan but in maintaining a state of affairs serious enough to tie down a substantial part of the Sudanese army to a civil war in the South. There was also the calculation that this diversion of the Sudanese army to a Southern war might in turn necessitate the diversion of part of the Egyptian army to Northern Sudan. This is precisely what did in fact happen. Thousands of Egyptian troops moved to Northern Sudan as thousands of Northern Sudanese troops fought in the South".¹⁵

It should also be noted that Dr. Obote had become increasingly uneasy with his close links with Israel, thus resulting in his gradual rethinking of his Middle East policy. Israel was surprised when Uganda whom she considered a friend voted in the U.N. General Assembly demanding Israel's withdraw from Arab territory. After the incident Obote was asked to explain why Uganda voted the way she did. Israel was apprehensive that her strategy in Sudan where Uganda was used as a base to supply Anyanya guerrillas with arms to fight the Sudanese government would be sabotaged. Amin who had ethnic affinity with the Anyanya was considered a safe lap dog to execute this grand plan. In fact after the coup, of all

foreigners in Uganda, they were the ones who displayed public presence with the new rulers. The Collosal public gathering immediately after the coup, a token Israel presence was noticed. Furthermore Amin praised them publicly later for being very good friends. Also Amin's first trip abroad was to Israel and Britain in July 1971.

In Africa only Ghana followed Britain's lead to recognise Amin. It did so on February 8th. This is not surprising because at that time Ghana was under the Premiership of Dr. Kofi Busia known for his ultra conservatism and his closeness to Britain. He was not at good terms with socialist oriented African states. Ghana's move provoked "The Nationalist" Q TANU newspaper in Tanzania to say in an editorial that "Ghana has become the only country in Africa to join Britain's band wagon in recognising the Amin Junta in Uganda, shows just how far those who rule Ghana today have gone in selling out the interests of our continent".¹⁶

Ghana later followed by Dr. Kamuzu Banda of Malawi who said in Nairobi on transit from Britain, that he was not opposed to the new rulers in Uganda and would make a statement recognising them soon." The situation in Uganda, he said was "the business of the people of Uganda and no one from outside, be it central, east or west Africa should interfere. Let Ugandans solve the problem in the way they feel fit and best".¹⁷

Another country to make a formal statement was Australia. The Foreign Office on February 16th said "we are carrying on normal business with Uganda and that is in effect recognition".

The Kenya position was rather ambiguous. They kept silent on the situation, though they didn't hide their distrust for Dr. Obote.

David Martin¹⁸ says that when he arrived at Nairobi Airport from Singapore after the coup, he was coolly treated. He was whisked away under heavy security to Pan Afric Hotel where telephone links were cut off that he couldn't communicate with anyone. He had to eventually leave for Dar-es-Salaam, They hated his socialist policy because it directly threatened Kenyan based companies. Obote's closeness to Dr. Nyerere instead of Kenya was also looked upon with suspicion. It is submitted that Kenya secretly supported the takeover. Later when the government was pressed by members of parliament to declare Kenya's stand, the Minister of Foreign Affairs read a statement in Parliament¹⁹ saying everything depended on the people of Uganda. But the paramount reason for Kenya's refusal to join other African countries in condemning the takeover was mainly economic. Many Kenyan manufactured goods are sold on the Ugandan market, so any adverse statement would threaten this lucrative market.

In conclusion we have seen that the Amin coup failed to receive recognition by most African countries due to Obote's political and personal qualities despite the fact that the coup was effective at home, whereas other countries especially Britain, Israel and Kenya for differing political and economic reasons welcomed the change and directly or indirectly encouraged it to take root.

Lastly we look at the 1979 change when Amin was overthrown. The causes of the coup against Amin are so many that no one can effectively put them down. However an attempt will be made as directly related to our limited enquiry. We have seen from above that Amin came to power riding the crest of popularity at home (though not all the populace agreed to his assuming of high office); he was however not acceptable on the continent by other states.

It was after a long period that he had to establish a semblance of legitimacy to the other leaders though Dr. Nyerere and Kaunda up to the very last moment refused to recognise him.

Not long after Amin squandered even the little legitimacy he had secured by his bizarre unpredictable acts which left his few friends embarrassed, domestic popularity was worn thin so much so that when he was eventually overthrown apart from a tiny minority, everyone was happy. His new successors enjoyed almost instant legitimacy from other states, recognition was virtually instant and domestic mass support far superseded that of Amin.²⁰ What brought about all this? What made Uganda as some writers call it a "tragic laboratory" in power and an international rejection only now equalled by the Kampuchean puppet regime heading to social chaos and suffering? Dr. Mugenyi says that, "Uganda under Amin exemplifies a combination of ignorance and power mediated by comprehensive insecurity to generate excesses in policy judgment and execution leading to social catastrophe". He continues that Ugandans disaster could be attributed to Amin's personality - "Amin was characterised by arrogance, insensitiveness and ignorance".²¹ Southal says of Amin - "he dominates by mere physical size and energy, coupled with extraovert, charm and simplicity, shrewdness, carriage and ruthlessness. He could be informal and flexible. He participates with boundless enthusiasm on diplomatic occasions, at meeting of elders, churchmen, businessmen or farmers, in the activities of his soldiers or in the dances which celebrates his visits round the country. He offers advice to Heads of State around the world. He ^{says} that he fears only God. He could be taken for an unschooled simpleton, a bull in China shop, a brutal bumped up sergeant."²² All these qualities of

the man naturally adds up to a fellow totally divorced from the management of a complex modern state. Sincerely other countries wouldn't just look up with disinterest. He had clearly established himself as an embarrassing maverick intruding on Uganda's political scene.

The rise of such an illiterate and mediocre led to a total lack of analytical and operational abilities expected of everyone in a position of responsibility. The effect of Amin's illiteracy led to multiplier effects. Men of comparable credentials with Amin rose to power - illiterate, too inexperienced in civilian administration, impatient and unknowledgeable in bureaucratic business, insensitive to state complexities, unschooled in diplomatic etiquette, incapable of comprehending the workings of an economic system, incapable of managing public finances, morally unrestrained, insensitive to the value of human life, unable to grasp intricacies of international interactions and collectively cocooned in a crisis of retarded social vision.

With incredible simplicity and theatrical spontaneity, drastic decisions were made and implemented. Often they were decisions that deeply affected the physical and spiritual life of the country. His human rights record was one of the worst in contemporary times. It is estimated that about 300,000 people were killed in cold blood and an equally bigger number was forced into exile. His bizarre behaviour manifested itself quite early.

In August 1972 Asians were grossly expelled and given only 90 days to have left. For a callous treatment of a race who had lived here for more than 70 years, this was indeed grotesque. He embarked on a systematic elimination of members of the intelligentsia across the country.

He undertook a genocidal massacre of particular tribes especially the Acholi and Langi of Northern Uganda. Christians were harrassed culminating in the brutal assassination of the Archbishop of the Anglican Church J. Luwum on February 17th, 1977. It was soon followed by the banning of 27 Cristian Churches in September 1977 - apparantly being a part of theatrical policy to Islamize a nation which has over 90% of her population subscribing to the Christian faith. Unmitigated terror was institutionalized as a strategy of political control and regime insurance. Certainly the list of human rights violations is much longer.

Press freedom was thoroughly ^{uprooted}, four local English news papers and all foreign newspapers and Magazines were banned as early as November 1973. The country was left with only one Government newspaper "The Voice of Uganda". A situation had arisen where publication of anything in Uganda had become virtually impossible.

On the international scene the Amin Regime was simply scandalous. Being always conscious of minimal respectability and acceptability within the international community, shown by his failure to register diplomalitic recognition, to bolster his regime s.g., it took ten days for the first country, Britain, to recognise the regime since then signals of international acceptability did not flush brightly until his eventual fall. His erratic quarrels with various actors on the international scene made him look simply a clown. For example following the coup against Dr. Obote, the O.A.U. which was due to meet in Kampala decided to change venue back to Addis Ababa. When Amin sent his delegation to Addis Ababa to represent Uganda, the delegation's credentials were hotly challenged. Obote in fact sent his own deligation to represent Uganda which had enough support to block the Amin delegation from sitting.

More recently Amin was barred to attend the Commonwealth Leaders Conference in London in early 1977 though he was legally supposed to be there.

Furthermore his looseness with language made him a buffoon. This considerably lessened or eroded his international standing. For example he said that if Nyerere didn't have gray hair he would have married him for a woman; sent a telegram to Nixon during the Watergate scandal that he wished him a quick recovery and during the 'Yom Kipur' war between Israel and the Arab States saying that he would send a commando Unit to Jerusalem to pull up Golda Meir's panties.

Amin's neighbour relations were the worst. Uganda is bound to Kenya and Tanzania by matter of History, Geography, Economics, Social Interaction and Infrastructure. But relations were not particularly warm. Tanzania expressly refused to recognise the regime and actively campaigned against it whenever an opportunity arose. Kenya who flattered with the regime were jolted when Amin woke up one morning and mused with the idea of territory within 20 miles of Nairobi. Kenya which had cut the capacity of strangling the regime economically sealed the border and cut off oil supplies from the Mombasa refinery. This temporarily disciplined the fellow. However relations warmed later for economic reasons mainly.

Other landlocked countries like Rwanda, Burundi and Zaire had a checkered career with the Regime. Borders were intermittently closed and transportation vehicles taking vital supplies frequently impounded for various charges.

Amin totally ignored the welfare of his subjects. Drastic Military budgets at the expense of social programmes like Education, Health and other sectors of the National economy magnified the social catastrophe. He was so obsessed with the military, ^{that} he had a penchant thirst for inflated military titles. He was a V.C., D.S.O., M.C., C.B.E., etc., whether this was an indication of inferiority complex, it can't be adequately explained.

The worst evil to the world over was his human rights record, incredible brutalities were dished out to Ugandans in various ways. He exceeded all conventional norms of morality. Having a girlfriend who happens to be liked by a state operative would invite an impulsive executioner on your heels. Indeed Amin's strategy of terror involved a traumatizing leap beyond the bounds of morality.

So when news broke of Kampala's fall on April 11, 1979 the whole world was electrified. The bully had fled. The next day Tanzania recognised the new U.N.L.F. government, led by Professor YUSUFU LULE, a distinguished academic. Zambia and Mozambique followed suit, on April 13th.

Zambia issued a statement saying "The government and people of Zambia warmly welcome the new developments in Uganda and pledge their recognition of the new government of Uganda and pledge their Militant support and solidarity. The ousting of Idi Amin and formation of a new Administration in Uganda constitutes a great victory for the people of Uganda and is a singular triumph for freedom, justice and human dignity."

Ethiopia recognised Uganda on April 15th. Britain who had rushed to recognise Amin turned around and too recognised the new government on February 16th. She sent a special envoy Richard Posnett to Kampala to congratulate the new government. Britain had withdrawn her Embassy from Uganda following the Murder of Dola Bloch, an Israel, British Passport holder when terrorists hijacked an Air France Airbus in 1976.

The U.S.A. on April 17th announced its intention to normalise her relationship with Uganda and open the Embassy closed in 1973.

State Dept. Spokesman Tim Reston announced that the U.S.A. was sending diplomats to check on the situation under the new provisional government and said that since the U.S. had not formally broken off ties with Uganda the question of recognition did not arise.²⁴ Later a delegation led by Mr. Robert Keeley, the Deputy Assistant Secretary of State for African Affairs, arrived in Uganda.

A host of other countries rushed to recognise the new government. The question is why was there an enthusiasm to recognise the new government in contrast to the Amin coup in 1971 which struggled for minimal acceptability at home though both changes were followed by effectiveness at home. In fact the 1979 change was less effective since it took over two months for the whole country to be liberated. Another factor is that in overthrowing Amin the principle of territorial integrity was thrown overboard. Tanzanian soldiers did the invasion to oust the dictator and helped instal the new government. This leads to a theory that in recognition or non-recognition the international community of states recognise the issue of human rights. The Amin regime had exceeded all reasonable limits. It had become an Embarrasment to all nations.²⁵ Also Obote's towering personality on African politics helped to considerably diminish Amin's

impact on the world. This is the Human Rights argument for Recognition whose validity is indicated by the refusal of West African Heads of state to deal with the new government of Master Sgt. Samuel Doe of Liberia for his disregard for human rights in executing top officials of the former Tubman Administration.

FOOTNOTES

1. Gukiina P.M.
(1972) UGANDA: A CASE STUDY IN AFRICAN POLITICAL DEVELOPMENT
University of Notre Dame Press. pp 1.
2. Prof. David E. Apter
THE POLITICAL KINGDOM IN BUGANDA: a study of Bureaucratic Nationalism.
2nd Edition - Princenton University Press
1967 See pp. 387.
3. Prof. Ali A. Mazrui
SOLDIERS AND KINGSMEN IN UGANDA: THE MAKING OF A MILITARY ETHNOCRACY. Sage Publications 1975
pp.29
4. Dr. A.G.G.Ginayera - Pincywa
POLITICAL DEVELOPMENT AND IDEOLOGICAL VOID: Uganda under Milton Obote pp.1 Paper preserved on the third International congress of Africanists (Addis Ababa - December 9 - 19, 1973)
5. T. AAsland
RESEARCH REPORT NO. 26 ON THE MOVE ? TO - THE LEFT IN UGANDA 1969 - 1971 (The Scandinavian Insitute of African studies Uppsal 1974)
The U.P.C. (Uganda Peoples Congress) was the ruling party in Uganda.
6. Consolidated Printers Kampala 1969.
7. Heath is well known for his ultra reactionary Foreign Policy, e.g., his willingness to resume arms sales to South Africa in order to counter Soviet moves in the Indian Ocean was the most obvious foreign policy moves which despite Worldwide condemnation he was determined to execute.
8. In an article - "Is the Nile Valley emerging as a new political system?" E.A. Social Science Council Conference 1971 V. 2. pp. 42
9. See Daily Nation, February 1, 1971.
10. See Daily Nation, February 9, 1971.
Odaka was the Foreign Minister during the Obote administration.

11. A declaration was signed in Mulungushi
Zambian town to that effect.
12. It should be remembered that the President
of Sudan, Gaffer Nimery, espoused Socialism
at that time before his turnabout.
13. Daily Nation, February 2, 1971
14. See Daily Nation, February 6, 1971
15. Ali Al'amin Mazrui "Is the Nile Valley Emerging As a New Political
System? E.A. Social Science Council 1971 V. 2.
16. Daily Nation, February 10, 1971
17. Daily Nation, February 13, 1971
18. In the book GENERAL AMIN
19. Detailed in the previous chapter.
20. The writer, himself from Uganda, remembers quite
vividly, when DAILY NATION published a special
Edition on the afternoon of April 11th breaking
the news of Kampala's fall - every one in the
city went crazy. People drank to the next mornir
21. In an article, - "THE POLITICAL CHEMISTRY OF,
IGNORANCE AND POWER - UGANDA (cyclosty led Reserv
Dr. Meddi Mugenyi AS A TRAGIC LABARATORY Dept. of Government 1978
22. Idan Southall "AMIN'S MILITARY COUP IN UGANDA: A great Man
of Historical Inecitability" University of
Wisconsin at Madison - Paper presented at the
third international congress of Africarists
Addis Ababa (December 9 - 19, 1973).
23. The Standard of 14th 1979, (April)
24. The Standard of 18th April 1979.
25. But this has not applied to Kampuchea (Cambodia)
Even the U.N. does not recognise th Heng Samrin
government installed after the Vietnamese
invasion. It still recognises the Khmer Rouge
government though as Carter called it was the
worst violator of Human rights inthe world.
This can be explained probably that it involves
superpower politics.

CHAPTER FOUR
RECOGNITION AS PRACTISED IN SELECTED
AFRICAN STATES OUTSIDE E. AFRICA

As we have already observed, recognition is used as a co-option of a new state or government into the international family of Nations, though in practise non-recognition does not mean that a state or government doesn't exist. Generally African countries have gone through bitter struggles before achieving independence and we have witnessed that legally constituted governments have been violently overthrown. Most commonly by military coups. Coups are almost endemic in Africa. The most recent was the overthrow of the Liberian government of William Tolbert who was brutally assassinated on April 11th, 1980.

In this chapter we shall look at methods in which Recognition is commonly employed, e.g., recognition of states and recognition of governments. On recognition of a new state we shall examine Biafra and Angola and on government - Ghana after Nkrumah's fall. Nigeria after independence was a loosely federated nation based on tribal affiliation. Tribal hatred among her largest tribes - the ^{HANSA - FULANIS} ~~HAUSA - FULANIS~~, Yorubas and Ibos reached alarming proportions which culminated in the Massacres of Ibos in the Northern Region. Due to the anxiety which was generated by such a development, Major-General Ojukwu, Military administrator of the Eastern Region, declared the predominantly Ibo region independent and baptised the new nation as Biafra. For humanitarian considerations their secession was understandable because though the Ibos were being eliminated in other parts of Nigeria, the Federal Government didn't seem to take concrete measures to defuse the situation. It looked as if they had been rejected as part of the nation. African states were faced with a dilemma whether to grant Recognition or not. A civil war erupted between the Federal Government led by

Gen. Yakubu Gowon and the Biafran Government of Major Gen. Ojukwu.

As indicated in Chapter two, recognition or non-recognition depends on three major factors: Political and in a subsidiary form, 'Economic' and 'Personality' of the Heads of state and Governments involved. Political factors weighed heavily with African governments on the issue of the Biafran Recognition. Many African countries are plagued with the problem of tribalism and minority discontent. This is an outgrowth of Colonialism which demarcated borders simply on geographical and administrative convenience without taking into consideration ethnic affiliations, and as a result a tribe would find itself being divided into two demarcated states. e.g., Somalis in North-East Kenya would be more at home if they were part of Somalia. Furthermore due to the fact that Africa was over-balkanized by the Colonial Masters, most African countries are wary of sanctioning further divisions or secession as it would easily spark off a chain reaction of demands for secession in most countries.

Due to the above the bulk of African states rejected Biafra's claim to be an independent sovereign whatever its genuine justifications. The merits of the case were not considered. As a result most African countries supported the Federal Government in its bid to stop the rebellion and re-establish central authority. The O.A.U. charter was repeatedly cited for this policy stand. But due to the humanitarian factors involved, e.g., avoidance of genocide, most countries strongly recommended a cease fire and immediate commencement of negotiations to end the conflict. However this call was ignored by the parties involved in the fighting.

Only four African countries recognised the Biafran states: Tanzania, Zambia, Ivory Coast and Gabon, Why? They are evenly divided according to ideological orientation. Tanzania's Minister of Foreign Affairs, Mr. Ngonja, announced

on 13th April, 1968 that his Government now gave official recognition to the state of Biafra as it was convinced that there was no longer any basis for Unity between the 12 million Ibo people and the remaining people of Nigeria, that the Federal state had failed to provide for the safety of the Ibo people and when a whole people was rejected by a majority of the state in which they live, they must have a right to live under a different arrangement.¹

The Nigerian Government reacted sharply by breaking off immediately diplomatic relations with Tanzania. In a government statement it said "The Nigerian government regarded this as a hostile act by a country it had regarded as a friend. In Tanzania's hour of need when the Tanzanian Army mutinied against the Nyerere regime, Nigerian readily responded to President Nyerere's desperate appeal for Nigerian troops to save and restore law and order and preserve the territorial integrity of Tanzania."²

According to Nyerere Tanzania was motivated by purely humanitarian factors; a reason hardly advanced for recognition or non recognition of a government. In a long letter written in The Observer of April 28, 1968³ he said "The leaders of Tanzania have probably talked more about the need for unity than those of any country. Giving formal recognition to greater disunity in Africa was every difficult decision to make. Our reluctance to do so was compounded by our understanding of the problems of disunity.

But unity can only be based on the general consent of the people involved. The people must feel that the state or union is theirs and they must be willing to have their quarrels in that context. For states and governments exist for the citizens protection, welfare and for the future well-being of their children. There is no other justification for states and governments except man.

In Nigeria this consciousness of common citizenship was destroyed by the events of 1966 and in particular by the pogroms in which 30,000 Eastern Nigerians were murdered and many more injured and about 2 million forced to flee from the North of their country and the apparent inability or unwillingness of the authorities to protect the victims which underlies the Easterners' conviction that they have been rejected by other Nigerians and abandoned by the Federal Government. "They will not be convinced by being shot. Nor will their acceptance as part of the Federation be demonstrated by the use of Federal power to bomb schools and hospitals in the areas to which people fled from persecution."

This was a strong humanitarian stand for the recognition of Biafra. Naturally Nigeria was alarmed and there were fears that Nyerere's step would be followed by others thus peace moves were tried though it continued to elude the warring factions. Zambia too followed Tanzania's lead by recognising Biafra on May 20th, 1968, citing same humanitarian reasons.

Gabon recognised Biafra on May 8th and Ivory Coast on May 10th. Their reasons were somehow ambiguous. Although they too cited humanitarian reasons, it's believed that they were following France's instructions since De Gaulle was one of the staunchest supporters of Biafra mainly for economic and religious reasons. This conflict in Nigeria produced a strange balance of alliances on both sides. The Biafrans whose leadership was strongly pro Western and imbued with the values of a private enterprise system had on its side France and its two ultra-conservative Francophone African allies, Ivory Coast and Gabon, as well as two militant African countries, Tanzania and Zambia, and also the Peoples Republic of China, (The Chinese had no affinity with Biafra other than that Russia was on the other side).

President De Gaulle has his own political and economic reasons why he favoured Biafra. He was taken up by the fantasy of the need for smaller states in Africa. No doubt as he had envisaged the break-up of the Congo Democratic Republic (Zaire) into ten or twelve small states, so he saw a similar possibility for Nigeria. Portugal which also recognised Biafra clearly had no special interest in the Biafrans; their policy was merely opportunistic and probably calculated to improve their own defence position by assisting the break up of Nigeria. (It should be remembered that at this time Portugal was fighting three independence wars).

Zambia and Tanzania adopted a moral attitude, which strongly conflicted with the O.A.U. charter as well as their own earlier attitudes on the political dangers of African balkanization.

Why did most countries not recognise Biafra? Nigeria as the legitimately recognised government could count on the support of those members of O.A.U. and also the Commonwealth though Canada showed some uneasiness. The U.S.A. and most other European countries were inclined to follow the British policy of dealing with Nigeria only, though the Scandinavian countries, Belgium, Switzerland, Israel and Ireland had been far from easy about supporting the Federalists exclusively. The main reason was political, e.g., the O.A.U. with its charter provisions strongly condemning secessionist movements within the established frontiers of its member states could not be counted on Biafra's side. The Commonwealth favoured Nigeria for fraternal factors and as a result joint non-recognition by the O.A.U. and the Commonwealth strongly influenced the rest of the international community.

ANGOLA:

Angola is a unique example on the recognition of states. The achievement of its independence was the most volatile and bloody surpassing the Algerian Civil War. It involved a group of actors from the rest of the world.

Angola's independence was officially proclaimed on November 10th, 1975 by ^dAmiral Leonel Cardoso, the Portuguese High Commissioner, in one of the most unusual acts of decolonisation ever witnessed in Africa. He said that "In the name of the Portuguese President ~~for~~ he was transferring Sovereignty to the Angolan people. The Angolan people must now decide how they are going to exercise their own sovereignty". There was no legally constituted authority in Angola to hand over to. There were simply 3 liberation movements with different ideologies; the MPLA (Marxist) and UNITA and FNLA (Western oriented). The country drifted into a civil war with the MPLA emerging as the victor with considerable help in manpower and equipment from Cuba financed by the Soviet Union, and its client states of Eastern Europe.

As a result of this, initially only leftist governments recognised the MPLA government. The conservative Western oriented ones shunned off the new nation saying that it did not represent a government of national unity and that it had excluded the majority of its people from the machinery of power. So it did not qualify for international recognition. Africa was almost evenly divided for and against the recognition of the MPLA government. Twenty five African states had recognised the Peoples Republic of Angola, as Christened by MPLA by 21st January 1976. This constituted a formal majority of the O.A.U.'s member states thus obliging the organisation to admit the Peoples Republic of Angola formally to membership on 10th February, 1976.

The E.E.C. granted recognition on 19th - 18th February and Portugal followed suit on 22nd February. By then over seventy states had recognised the MPLA regime.

Other countries backed the two rival factions. For example Zaire and China recognised FNLA, Zambia initially backed UNITA but later changed. Most countries recognised none, calling for a government of National Unity. Amin who was then the Chairman of the O.A.U. not only denounced MPLA's unilateral seizure of power but threatened to break diplomatic relations with Russia unless he got an explanation of its involvement in Angola and also detested the behaviour of its Ambassador in Uganda for pressuVizing him to recognise the soviet backed MPLA. Up to now some countries do not recognise Angola led by MPLA e.g., Senegal, Ivory Coast, Gabon, etc. Even the U.S.A. has not yet extended recognition to the marxist led government though commercial corporations especially of oil exploration continue to do brisk business with Angola.

GHANA:

Lastly we deal with Ghana, the first African country to get independence in 1957. It was led by Dr. Kwame Nkrumah, one of Africa's most intelligent and forceful leader in its post-independence history. He was overthrown on 24th February, 1966 in a coup. led by Lt. Colonel E.K. Kotoka. Nkrumah had been variously called as Africa's redeemer. Great Messiah and The Christ of our day. He was by then on a state visit to China to ostensibly negotiate peace in Vietnam.

The new National Liberation Council (NLC) government was headed by Lt. General Ankrah⁴ who had been earlier retired by Nkrumah. The charges against Nkrumah were that he had severely curbed freedom which

had developed almost from the start until the coup. Large scale detention of opponents of his regime and senseless harassment of the opposition thus forcing many to go in exile.

Nkrumah being one of the foremost leaders in Africa, many countries were put in a dilemma either to recognise the new regime or not since it seemed to enjoy the overwhelming support of most Ghanaians. On a state banquet in Peking, China still referred to him as Mr. President and radio broadcasts didn't mention the coup at all. Guinean President condemned the coup in strongest terms and offered political asylum to the deposed leader whom Sekoutoure declared later at a mass rally as co-president of Guinea. Algeria, another leftist government, denounced the military takeover though it was itself under military rule led by Colnel H. Boumediene. The government daily "Elmoudjahid" on February 27, 1966 described the Ghana coup as an indication of an upsurge of imperialism in the non-aligned world. It claimed that foreign powers were behind the coup.

Mali offered actual asylum and hospitality and it declared two days as solidarity days in sympathy with the people of Ghana. Congo (Brazaville) also denounced the coup on same reasons. The communique of Mali's political bureau said "we are in combative solidarity with President Nkrumah and we assure him our unswerving support and total hospitality".⁶ Congo (Brazaville's) ruling party described the coup as "a vast offensive unleashed by imperialism against rising African forces and genuine independence".

Nyerere offered a asylum to Nkrumah if he saw needs. He said that recent coups in Africa had hindered what he described as "a true revolution in Africa",⁷ and advised that Africa's enemies are busy rejoicing.

The real test came at the O.A.U. ministerial conference held at Addis Ababa, Ethiopia. The conference was divided on ideological lines whether to admit the new Ghanaian delegation or not. Mali, Guinea, Tanzania, and Congo had spearheaded an unsuccessful attack on the credentials of the Ghanaian delegation on the ground that it did not represent its country. However many delegates accepted Ethiopia's Foreign Minister's view, the newly elected chairman, who pointed out that the presence of any delegation on the council's deliberations did not involve recognition or non-recognition by member states of that delegations government. Mali's Foreign Minister Ousmane Baprompthy resigned his post of First Vice-Chairman to which he had been elected only two hours earlier.⁸

Guinea took the issue further by according a state welcome to Nkrumah and emotionally declaring him co-president on March 2nd. He later threatened to march on Ghana via Ivory Coast to crash the rebels. The next day on March 3rd it marked a climax. In the O.A.U. conference Tanzania, Guinea, Mali, U.A.R., Somalia, Algeria and the Congo walked out of the ministerial council meeting in protest against the presence of the Ghanaian delegation. These represecuted the most radical states on the continent at that time.

Despite the violent dislike for the new regime time showed the futility of the non-recognition doctrine. On March 17th Russia recognised the new military regime in a note handed to the Chairman of the N.L.C. Nigeria recognised the new government much earlier on March 6th. China too resumed relationship in April. By the end of March over 90 states had recognised the new administration.

FOOT NOTES

1. Notes on Tanzania's Recognition of Biafra is from AFRICA CONTEMPORARY RECORD 1968/1969 pp. 555 - 6
2. Supra
3. Entitled "WHY WE RECOGNISED BIAFRA?"
4. He was executed in June 1979 by a Military Tribunal together with other former Heads of State, Fred Akuffo and Ignatius Acheampong after a military Coup led by Flight Lieutenant Jerry Rawlings.
5. See The Standard February 26, 1966.
6. See The E.A. Standard February 29, 1966.
7. The E.A. Standard March, 3, 1966.

CONCLUSION

In the preceding pages we have indicated that recognition of governments is primarily a political act differing from recognition of a state only in the nature of the entity being recognised. A government is merely an operative agency of ^{a state}, but it is that part of the state which undertakes the actions, which are attributable to the state, are subject to regulation by the application of the principles and rules of international law.

We have tried to show that the problems involved in the recognition of governments in Africa mostly appear when a change in the form of government takes place. Another government might deteste the unconstitutional or otherwise irregular transfer from one group to another; whereas another government would simply dislike the person who has taken over or usurped power.

In conclusion it should be remembered that changes in the form of a government or in its personnel do not affect the continuing existence of the state involved. It remains a legal entity in international law.

Patrick J. Kiggundu