

Change and continuity in the role of Kenya's National Assembly in Formulating Kenya's Foreign policy; 1900 – 1978

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ABSTRACT

Globally, parliament's role in influencing policies is immense. In Kenya, the role of the national assembly in determining the direction and results of foreign policies, although, blurred cannot be underestimated. Kenya became a British protectorate in 1895 with a limited representation of Africans in the legislative Council (LegCo). The role of this minority group in influencing foreign policy, though, rarely documented need not be underestimated. The group threw Kenya into the world map and between 1900-1963, major foreign policy debates in the Council revolved around when and how Kenya was to become a self-governing entity. After gaining independence, new members of parliament had a herculean task of dealing with immediate local needs and debating and most importantly influencing important foreign policies including policies on health, education, debt burden, settler issues and representation of minority groups including whites in the House. With a change of guard from a white-dominated to an almost all African-black faces, the national assembly played an important role in ensuring that policies on health, education, security, trade as well as crafting the path on which foreign policy would take. This paper begins by tracing the evolution of parliament in the colonial administration and reviews the role that Kenyan Parliament played in influencing foreign policy from 1900 to 1978. The paper identifies the actors, their roles and the political context within which these actors and structures operated.

Key words: parliamentary Diplomacy, Executive, Legislature, Constitution

AN OVERVIEW OF COLONIAL PARLIAMENT IN KENYA; THE FORMATIVE YEARS

In order to understand the influence of Kenya's national assembly on foreign policy generally, one has to trace its roots in the colonial parliament. The history of parliament in Kenya dates back to the pre-colonial period (1887–1920), during which time the Sultan of Zanzibar ruled the Coastal Strip (Slade, 1972). The visit of the Sultan saw the signing up of a fifty-year lease agreement with the Imperial British East African Company, which in 1890 was converted into a concession, giving the company power to administer the East African Territory which comprised Kenya, Uganda and Tanganyika (Okoth, 1992). In 1895 the British government took over the administration of the territory. The East African Order in Council of 1897 then came into place providing a legislative basis for the exercise of authority in the territory, with subsequent Orders expanding legislative powers (Hornsby, 2013). The Kenya National Assembly was formed during the colonial era as a Legislative Council of Kenya and had its first sitting on 17th August, 1906. The first independent parliament was formed fifty-seven years later on June 11th 1963 when the colonial legislative council was in its Tenth Council

HISTORY OF PARLIAMENT IN KENYA

According to Oloo (1995) the history of parliament in Kenya may be divided into three phases. The first phase was characterized by colonial autocracy, the second phase by liberal democracy

and finally the third phase by executive dominance. During all these three periods of colonial council, there was no representation of the of African people (Gicheru, 1975). The all-white Council consisted of the Governor as the Chairman, and six other members. Four of the members were civil servants, while the other two were non-officials nominated by the Governor (Oloo, 1995). The unicameral legislature at the time (initiated after the promulgation of the 1906 East African Order in Council)¹ was therefore just a representation of British citizens living in Kenya as missionaries, civil servants of the colonial government of Kenya, business persons and settler farmers.

Beginning 1920s, after the Legislative Council Elections Ordinance was enacted in 1919² the situation changed as the Legislative Council which was the equivalent to the National Assembly though dominated by European settler representatives got five Indians and one Arab to represent the interests of their communities (Dilley, 1966). Still no African was appointed or even nominated to represent the interests of the African masses. African natives were considered inferior and as parliament seen as a place where debates superior to the African minds were discussed. To take care of African needs, interestingly, the colonial administrators recommended one Reverend J.W. Arthur. A clergy, and therefore lesser assertive, it was thought, was the best placed to articulate African grievances. To what extent was he best placed to articulate African tribulations and demands? Not surprising therefore, there was constant agitation for direct representation by the local population that led to some gains in political representation. By mid 1940s, therefore there were at least two Africans representatives to the colonial parliament. Even then, their role was limited as they did not in any great way influence how foreign policies were designed, formulated and even implemented not to mention monitoring the evaluating the implications of such policies on the place of Kenya in the global map (Slade,1972). Beginning 1950 the demands by the African masses and recognition from overseas administrators that Africans were not after all daft saw intense debates in parliament. The bone of contention at the time being the nature of African representation in the legislative council. Africans argued that while Africans were in the majority, the council had very limited voice for them. This prompted a change in the existing Lennox-Boyd Constitution replacing it with a more friendlier Macleod constitution which allowed for a bigger representation of Africans in the house. In total out of the 65 seats, 33 were reserved for Africans while the rest went to non-Africans. While it has been argued that the African representatives were not as radical and did not immensely contribute to the international system³ Oloo (1995) rightly notes that African representation in the National Assembly significantly contributed to increased acknowledgement of the needs and aspirations of the African masses and at the same time directly and indirectly saw the Africans thrust in the world of foreign affairs.

According to Hornsby (2013), clearly between 1895 and 1960, the colonial state was an overseas extension of metropolitan Britain, run by a small number of British administrators. In essence, therefore, the nature of foreign policy that was debated in parliament at this time was only to benefit British interests. Consequently, it would thus be safe to conclude that if there was any influence by the legislature to influence foreign policy it was for the benefit of the colonial power. The interests of the Kenyan populace were thus only discoursed and

¹ For details on the same see Kirui Kipkemoi and Murkomen Kipchumba (2011) *The Legislature: Bi-Cameralism Under the New Constitution*

² At the time eleven Europeans were elected to represent the eleven Kenyan constituencies that had been created by the Queen. for a detailed understanding see *ibid* p2.

³ See Otondi Sekou Toure (2014) unpublished thesis *Shifting International Balance of Power in Africa: An Analysis of Kenya's Relations with China and the United States of America*

appreciated in so far as they had a bearing on those of the Western powers. Indeed, even the African representatives hardly appreciated anything that did not hinge on the domestic demands for land, abolition of forced labor, reduction and/or abolition of taxes and increased representation in the legislative Council. Goldsworth (1971) observes that, to suppress such demands the British government in Kenya employed crude tactics included but not limited to detention without trial, threats and intimidation, confinement into villages as well as use of local administrators. Rather than build a strong parliament with a strong influence on foreign policy formulation, design and implementation the colonial state did not lay a strong foundation for the development of the modern African state. Indeed, there basically existed no formal foreign policy document guidelines. Its foreign policy goals were to maintain law, and order, to foster obedience and loyalty to the colonial authorities and to defend and promote the political and economic interests of the British. As it will be discussed later in this work, most of the mechanism that were used by Kenyatta and Moi were adopted from such colonial style of leadership (Hornsby, 2013).

The Lancaster House conference of 1960 bore a new constitution. This constitution was to come into operation after the general-election of February 1961. Even then, the drafters of the constitution provided little or no formal framework through which foreign policy would operate (Kyle,1997). Consequently, Oloo (1995) observes that, in the 1961 elections nearly all-open seats were won by the African candidates. KANU won a majority of the seats but refused to form the government before Jomo Kenyatta was released from restriction. Accordingly, (Sanger& Nottingham, 1964) points out that KADU the next largest political party was asked to form a government. KADU accepted and its leader, Ronald Ngala, became the Leader of Government Business. Later, Kenyatta was released from prison in 1961. Thereafter there were negotiations and a compromise were eventually reached on the framework of a new constitution to cater for internal self-government. The rest of 1962 and the early part of 1963 were taken up by the drafting of the constitution and the preparation for elections. The constitution was officially published in April 1963 (Okoth-Ogendo, 1972).

GENESIS OF KENYA'S FOREIGN RELATIONS; ROLE OF COLONIAL PARLIAMENT

Ahmed (2016) notes that Kenya's foreign relations can splendidly be traced back to its independence. However, before then with declaration of East Africa as a protectorate, relations between Kenya and the rest of the world had already began. At this time, however, Kenya's foreign policy was an appendage of the British foreign policy (Ochieng, 1989). During this period, the colonial parliament and the first representatives to the LegCo played various roles as discussed below;

Endear Britain and her colonies to the outside world.

The role of the colonial parliament was thus to endear Britain and her colonies to the outside world. With a majority white representation, Britain and her colonies were protected, through parliament and prevented from ridicule for dominating, segregating and mistreating African natives. The only policies that were debated in the colonial parliament were policies on how to govern the locals through divide and rule and hardly were foreign issues presented for discussion (Goldsworth,1971). Even when such issues were brought to the table, parliament was simply to rubber stamp the wishes of the Queen and her representatives either in Kenya or abroad. In essence therefore, parliament's role in influencing foreign policies was limited to ensuring that Britain retained her colonies and approved the nature of governance and administration of her overseas colonies (Wylie,1977).

African 'Parliamentarians' call for independence

From 1920-1965, however, the situation changed with the entrance of African representatives to the LegCo. Though a minority, African 'parliamentarians' began to articulate the frustrations of African masses under foreign domination. Albeit in muted voices, the Africans wrote and articulated their need for sovereignty. They encouraged the masses to use demonstrations, strikes, boycotts as well as public gatherings to agitate for independence (Throup,1985). And while some African legislators in the Council advocated for open agitation, others called on the Africans to take up arms against the British. Those who encouraged open dissent against the colonizers, however, only did so in muted voices to avoid incarceration by colonial administrators. Whether overtly or in covertly the grievances and actions by African representatives at the LegCo and the African masses, Kenya, a settler economy prominently featured in international issues that were of importance to the world (Bennet,2013). The attainment of Independence of the Kenyan nation must be seen in this context. This is however, not also ignoring the role of regional actors in the fight for independence.

Regional debates on promotion of African unity

Another way in which Kenya's representative in the assembly influenced foreign policy was in regional debates on promotion of African unity. To-date Kenya's presence in regional meetings is based on her need to foster such unity as well as to advance her international interests. In the 1950s, with many African countries writhing under the yoke of colonialism, African leaders through parliament or otherwise initiated a discussion around the need to unite their people (Nkrumah, Arrigoni, & Napolitano, (1963). Colonial masters had successfully divided Africans into spheres of influence. Africans, however, realized and appreciated the need for fighting a common enemy and in the founding President Jomo Kenyatta, though not a member of the LegCo was one of the delegates of the famous Pan-African conference in Manchester in 1945, alongside other heroes of the Pan-Africanist movement, including Kwame Nkrumah, W.E.B. Du Bois, George Padmore and Hastings Banda (Mabera, 2016). It is therefore evident that tones of Pan-Africanism were featured in the foreign policies of a majority of African states including Kenya at these early times. Kenya had been resolute in its promotion of regional and continental integration, underpinned by a firm belief in African solidarity. This spirit still informs her engagement in international security, political and social issues.

MZEE KENYATTA, PARLIAMENT AND FOREIGN POLICY; DEALING WITH COLONIAL HANGOVERS

After 1963 under the new constitution, provisions were made for the creation of a National Assembly to replace the earlier largely colonial Legislative Council. The Assembly consisted of two houses namely the Senate and House of Representatives. The constitution further provided that, "parliament unless sooner dissolved, shall continue for five years from the date when the two houses of National Assembly first meet, after any dissolution and shall then stand dissolved" (Constitution of Kenya 1963, Section 65). Generally, Parliament had powers to have significant influence on Kenya's foreign policy. The House of Representatives and the Senate shared the legislative power of the national government in all but one respect: while all bills required the approval of both houses, financial matters were exclusively reserved for the House of Representatives. However, the above constitutional structure did not last long as Parliament faced constitutional restrictions on their right to introduce foreign relations legislation. Only the president could initiate a foreign policy and its implementation needed to be approved by the executive. Oloo (1995) explains that Kenyatta was disdainful of power-sharing with the legislative and judiciary and he abandoned the decentralized structure his regime had inherited at independence. This was done through the promulgation of the 'republican government' in December 1964 which came through an "Amendment Act" No. 28 of 1964 that established the Republic of Kenya. The amendment radically altered the position of

the executive, providing for a president who is both the Head of State and Head of Government. Executive authority in the Republic of Kenya was from then vested in the President and parliament had no legal powers to amend foreign policy legislation (Ojwang, 2002). And because the constitution provided for executive veto authority that required an extraordinary majority to be overridden by parliament (Orwa, 1994), By exercising a veto, the president challenged legislative choices including that on foreign affairs matters. Consequently, in the period between 1963 to 1970 Parliament did not have considerable foreign relations power guaranteed by the constitution. The conduct of foreign policy was at the peril of the President with the Parliament having no real powers to influence Kenya's foreign policy (Hornsby, 2013).

To be able to succeed in this Ojwang (2000) rightly notes that, between 1966 and 1969 a series of enactments were made that had an influence on the way foreign policy was formulated and enacted. These enactments exemplified a determined effort to centralize state authority in the executive branch aimed at weakening the influence of the legislature. For instance, Kenyatta's regime became oppressive after the assassination of Pio Gama Pinto in 1965, the muzzling of the opposition in parliament after the formation of the KPU and politicization of the civil service that placed it at the pleasure of the president. Through a 1966 amendment to the Constitution, the Senate, which was initially established as a guardian of regional autonomy, was also eliminated and its members were merged into what became a unicameral National Assembly (Constitution of Kenya (Amendment) (No. 4) Act No. 40, 1966). But, while the constitutional amendments somehow, gave members of parliament autonomy in shaping foreign policies unlike in the previous years where power concerning legislations was limited to some section of the government Mueller (1984) notes that the June/July 1966 amendment that gave the Minister of Home Affairs powers to detain individuals without detention made both members of the legislature and the Kenyan masses desist from questioning any activity and/or bills suggested or approved by the executive for action. The amendment weakened parliamentary debates and most importantly discouraged executive oversight by the legislature. It also defined the circumstances under which a member of either House could lose his parliamentary seat. This automatically created fear in members of Parliament. Such fear had far-reaching implications on the vibrancy of the national assembly in all debates including designing policies or advocating for foreign policies not sanctioned by the executive (Mueller,1984). Parliamentary diplomacy is, to a large extent dependent on how secure its members are and two whether members of an assembly are to use subtle or hard diplomacy to influence international issues is dependent on how free they feel to debate such an issue. But, when the executive stifles the freedom of an assembly the resultant effect is a weak and almost toothless parliament. That was the case for Kenya's national assembly after the amendment strengthening the presidency in Kenya.

In December, 1966, both Houses resolved to amend the constitution to merge Senate and House of Representatives into one House. With the merging of the two houses, an additional 41 new constituencies were created. These new constituencies were to be represented by the 41 existing senators. The new National Assembly sat for the first time on 15th February 1967 and it went on until 1969. But rather than the merger strengthening the House, debates became even weaker as the executive further consolidated power around its cronies while at the same time effectively reducing the powers of the legislature as a policy-making institution (Throup, 1993).

Neocolonialism refers to the continuing dependence of former colonies on foreign countries. The control of Kenya by the British through indirect means, at independence involved the control of the economy, politics, education system as well as cultural issues. It is in policies and

most importantly the way in which Britain continued to manipulate Kenya's foreign policies through the national assembly immediately after independence that impacted greatly on the role of parliament in influencing foreign policy in Kenya (Mabera,2016). As earlier noted, Kenya's colonial parliament was largely composed of British technocrats, farmers and businessmen. At independence it was expected that this state of affairs would change and the new national assembly would chart a new path aimed at designing, formulating and even oversighting foreign policies that would be of interest to the common African masses. The influence of Parliament on foreign policy it was thought would be strengthened. Far from it, the new parliament again comprising of moderate Kenyan elites continued to borrow largely from their predecessors (Howell,1968). Foreign policy interests continued to be hinged on the colonizers interest. Importantly, rather than the national assembly acting on its own behalf and that of the people, the nature of parliamentary diplomacy at the time was controlled by the executive, as had been during the colonial era. It may be for this reason that parliamentary diplomacy immediately after independence took time to develop largely as a result of friction between the executive and the legislature. In addition, the national assembly was challenged due to limited recognition given to the role of Parliament as an actor in international relations and especially because of the neo-colonialism that was perpetuated by the elites who took over. (Raunio, 2009). According to Noulas (2011) parliamentary diplomacy is based on the activities carried out by parliaments in international relations, both within the limits of institutional competence and as a central factor of internal political scene. Parliaments are, therefore, not only engaged in the processes of foreign policy, but they are also directly active as participants in international relations. Their independence in exercising their mandate is thus paramount. In the case of Kenya this independence was not a given during this time.

Kenyatta regime gave little resistance to the pressures of foreign capital interests. After independence, the need for political and economic development as well as national security drove Kenya's foreign policy. (Government of Kenya, 2014). Yet, owing to the control of capital by foreigners, Kenya could not pursue a radical foreign policy like that of Tanzania. Despite Kenya's independence, much of its wealth continued to be owned by foreigners (Ogot & Ochieng,1995). Large investment and foreign aid for development at the time could only come from Britain and Kenya could thus not pursue an 'irresponsible' foreign policy if it were to maintain and attract the much-needed foreign capital. Kenyatta thus smartly continued to endear and protect the interests of foreign investors and in fact unlike other countries where settlers were disallowed from forming part of the government, Kenya still retained some of her British friends in parliament. Other business moguls had their interests protected as the state sought foreign aid for development. The impact of this on parliamentary diplomacy was two-fold. To begin with, if the interests of foreigners were to be protected then parliament had to dance to the tune of the masters. They were helping Kenya develop economically and it was therefore only prudent that even as parliament debated foreign policies they would only do so with the interests of the foreigners at heart. Secondly, parliament could only approve what the executive had allowed. Yet the executive was at the mercy of the British. Thus, even if parliament played a role in influencing foreign policies, it only did so to please both the executive and the former colonial masters. The lack of independence of the national assembly only weakened its role in determining the path that foreign policies were crafted and enacted. Branch (2011) observes that the pro-West foreign policy found resonance in considerations of national economic development and the need for foreign capital made Kenya to hold relatively moderate views on international events. Kenya's cautious approach, it may be argued was directly related to its desire to attract foreign investment. It is this caution that appears to have permeated into the legislature such that any endeavor that discouraged foreign investment was shunned directly or indirectly through parliament. For example, the then minister for foreign affairs Dr. Munyua Waiyaki, a darling of the West constantly safeguarded the economic

interests of Britain in the country when he served under Kenyatta's government in the period 1960s-1978. Munene (2018) in a news article reported that, Dr. Munyua stood out as the most trusted minister of Jomo Kenyatta, whom he not only trusted with his health but also matters foreign affairs. "If Munyua could treat sick people, Kenyatta had quipped, he could also handle countries for there was no substantial difference between people and states (Munene,2018)."

Howell (1968) adds that sub-regional, regional and international political concerns which were domestic concerns heavily influenced the way Kenya behaved internationally. For instance, policies that were formulated and implemented by Parliament entrenched foreign capital interests in the country (Kalsi, 1972). Rather than championing domestic capital interests. Jomo Kenyatta, it has been argued seems to have abandoned the pan-African cause in favor of a more capitalist policy which had to please the West.

The largest portion of Kenya's post-independence period was spent in the cold war era. Kenya played the delicate balance of remaining a capitalistic state while at the same time engaged the Eastern bloc for developmental projects. The adoption of Sessional Paper 10 of 1965 which put Kenya on a capitalistic path while at the same time receiving funds for building hospitals such as the one in Nyanza (Coan & Kugler, 2008) In addition, underlying the much-vaunted policy of non-alignment was an ideological contestation within the ruling party (KANU), which pitted President Jomo Kenyatta's West-leaning majority faction against Vice-President Oginga Odinga's East-leaning minority faction. The East-West rivalry that marked the Cold War was played out in the domestic politics of newly independent Kenya with ministerial delegations dispatched to various countries that suited their ideological leanings (Mabera, 2016).

By the time the economic policy paper on African Socialism and its application to planning in Kenya was adopted in 1965, it was apparent that, in spite of the non-alignment rhetoric, the direction of foreign policy was decidedly West-leaning(Branch, 2011). At independence, Kenyatta apparently had already made up his mind about Kenya's path in foreign affairs. Subsequent policy documents such as KANU manifesto and the Sessional paper no. 10 of 1965 clearly spelt out Kenyatta 's wishes. His idea was that Kenya would be built along the lines of free enterprise or market economy, tied to the west, and that the accumulation of foreign capital would be necessary for economic growth. This automatically led to the Foreign Investment Protection Act 1964 (Kalsi, 1972). Not surprising therefore in 1964, the Kenyan government signed an agreement with the British government for the Royal Air Force to establish the Kenya Air Force. Furthermore, during the Shifta war of 1963-1968, an insurgency initiated by Kenyan Somalis who had irredentist claims to the northeastern province of Kenya, the British provided significant logistical and technical support for the Kenyan anti-Shifta offensive (Branch, 2011).

But while it may appear that Kenya's foreign policy was always leaning towards the West, an element of positive nonalignment seems to permeate into all its operations. According to Sessional Paper Number 10 of 1965, the government asserted that the nature of African socialism that the country espoused had to rest on a satellite relationship with other countries (Arbetman & Kugler, 1997). The government, therefore, made agreements with the major world powers and received economic and military assistance from them. Positive nonalignment was seen as a means of maintaining the country's political independence and also as an opportunity for economic development.

In some instances, though, Kenya's foreign policy deviated from the Western influence. A good example was the Congo Crisis of 1964. While seen to be harsh, the rhetoric therein, however, was framed in a way not to harm any substantial foreign policy interests. And while referring

to some radical elements, Mwai Kibaki, the then Minister for Commerce, stated that Kenya would not follow irresponsible policies. In essence it was, therefore, inconceivable to expect Kenya to take a completely independent foreign policy which was labeled as radical and irresponsible by some Kenyan leaders in light of the conditions prevailing international system (Orwa, 1994).

DEALING WITH A WEAKENED LEGISLATURE; 1966 – 1970: WHAT WAY FOREIGN POLICY?

While expectations of independence were high and celebrated nationally, the country has to deal with the unfinished question of land. In regard to this, Branch (2014) point out that the land question, security in the north eastern Kenya (northern Frontier Province), the Kenyatta succession, unresolved assassinations, national cohesion, and intra Kikuyu conflicts informed some of the challenges that precipitated changes in the constitution soon after by 1964. As a result, the combinations of these factors, among other variables, lead to at least twelve constitutional amendments that weakened the influence of the legislature and increased consolidation of power at the executive from 1966 to 1975. In 1966, the security, political, and economic crises associated with the devaluation of both USA dollar and the British pound convinced Kenyatta of a centralized system of government and weakening of other arms of government (Oloo, 1995).

The weakening the influence of the legislature during the period 1966 and 1969 can be partly explained by the lack of institutions and hence the emergence of personal rule in the country and Africa as a whole. In the context of foreign policy, it is evident that most important policy formulation institution remained the presidency, often supported by the respective ministries of foreign affairs. For example, this period (1967 – 1970) saw the emergence of cabinet ministers and top state bureaucrats that became increasingly independent and occasionally defiant of the National Assembly (Leys, 1969).

Under his regime, Kenyatta also often used the law to intimidate parliamentarians into silence or into obeying illegal commands, largely because of the absence of accountability mechanisms. The law did not restrict the President's ability to formulate and implement foreign policy without involving the Parliament. A good example is when Parliament failed to institutionalize codes of conduct functions as a license for legislators to breach conflict of interest rules with impunity. The state secrecy laws also equipped the president with powers to bypass the Parliament in formulating foreign policy, such as the Official Secrets Act 3 ensured that the Parliament have little or no information about the activities of executive. Invariably, the Parliament only learns of abuses of power by the executive long after they have occurred (Gicheru, 1975).

As earlier noted during this period (1966 – 1978), the life of parliament depended on the whims of the President. The President had power to prorogue parliament or call for elections any time. Under the old constitution, the President determined the life of parliament, set up its calendar and influenced its decisions. President Jomo Kenyatta abused the constitutional provisions that granted him power to control the legislative branch (Throup & Hornsby, 1998). The Presidency became the primary source of legitimization for proposed foreign policy. Constitutional amendments and changes during the Kenyatta regime over the years consolidated presidential power against parliamentary discussion. This was not only regarding issues of foreign interest but also those of local but with a direct or indirect implication on foreign policy.

Kenyatta quite often went out of his way to abuse his executive power by calling for snap elections to deal with perceived enemies in Parliament. For example, Kenyatta used this in

1969 when he called for a snap general election to get rid of elements sympathetic to Odinga Odinga, who had broken up with him. Odinga had left the ruling party KANU in a huff and founded an opposition party (KPU), after openly disagreeing with Kenyatta. In the snap elections, Kenyatta succeeded in rigging out all Odinga's supporters in Parliament. Kenyatta also purged the cabinet and civil service of all members and civil servants suspected to be sympathetic to Odinga (Throup & Hornsby, 1998).

MPs were equally divided on whether foreign relations power was one of the constitutional powers of the Parliament under the Kenyatta regime. Some argued that in the period 1963-1978 Parliament did not utilize its legislative mandate in ensuring Kenya had a solid foreign policy. This is however an exaggeration since during this period 22 motions relating to foreign affairs were debated out of which fourteen (14) were approved and eight (8) rejected by the house. In any case, it was a new assembly and this was expected. In addition, the very concepts of international relations and foreign policy were new and most MPs may have not been conversant with foreign policy design, formulating and implementation processes.

In any case while the significant role of parliament need not be understated, in most jurisdictions, Parliaments play a peripheral role when it comes to conduct of foreign policy, for instance, of ratifying treaties and conventions in the form negotiated by the executive. This is only in the cases where law of the land provides as such. In some jurisdictions, Parliament is excluded from the ratification process. In the post-independence period the role of the National Assembly has generally been restricted to creating the legal framework, allocating funds and exercising oversight on the conduct of foreign relations (Gicheru, 1975). This may thus explain why parliament during the Kenyatta regime appears to have been a weak vessel in debates relating to design and ratification of international instruments.

PARLIAMENT APPROACH TO FOREIGN POLICY: 1970 - 1975

After almost seven years of Kenyatta's presidency a newly elected Assembly held its first session on 6th February 1970. Earlier, President Kenyatta had to fight ignorance, poverty and disease as he had constantly insisted in his philosophy. While he may not have totally succeeded in achieving all of these, Kenya was slowly recording slight achievements in economic growth. A coffee boom coupled with improved infrastructure made the country appear headed to the right direction economically. In addition, a *nouvelle riche* and a vibrant educated class of parliamentarian, it was thought would bring a new brand of debate in parliament. With their experience outside, where many of the new elite had received their education, it was expected that newer and more independent policies devoid of the executive's influence were to be debated and implemented. In foreign policy, parliamentarians needed to exert more pressure so as to ensure that their role in charting a new direction for Kenya and her relations with the outside world were a priority. Far from this, however, as Okumu (1973) observes, national issues such as the secessionist politics interacted with systemic issues of International concern to shape Kenya's foreign policy. Again, adopting a radical and ambitious foreign policy and a vibrant push by parliament to that effect was discouraged. For instance, during a debate in parliament pitting Kenya against Somalia, Kenya adhered to the doctrine of territorial integrity and her own sovereignty, in a way ignoring international concerns. According to Adar (1994) national security issues continued to inform and condition debates in parliament and by extension her foreign policy stand. The influence on the national assembly on foreign issues thus only went in so far as they affected Kenya's sovereignty and interests. In analyzing major issues that shaped parliaments role in shaping foreign policy debate and practice, three major issues stand out thus;

According to Okoth (1999), foreign policies in Kenya since independence, have been shaped by national interests of the country as well as the interests of those in positions of power. During Kenyatta's regime, factors such as; regional territorial geo-politics, politics of succession, the presence of overlapping ethnic community across borders among others shaped the role of parliamentary diplomacy and foreign policy in Kenya in the period 1976-1978 as discussed here in.

Regional territorial geo-politics

Kenya lies along the shore of the Indian Ocean. Geopolitically, her role in exerting influence on the relations with her landlocked neighbors calling for appropriate responses and adjustments as far as the relations are concerned need not be overstated. For instance, between 1975 and 1978, regional geo-politics, especially on Uganda and Somalia was getting worse as a result of cold war politics. As such, relations between Nairobi and Kampala, for instance, were changing especially when in February 1976, Uganda's Idi Amin advanced territorial claims on Kenya (Bamuturaki, 2011). President Amin asserted that the colonial British administrators had given away some of Uganda's territory, which included the whole of the Rift Valley Province (up to within 32 km from Nairobi) and parts of northwestern Kenya. Kenyatta responded by deploying armed troops and personnel carriers along the Kenya-Uganda border (Sunday Nation, 2003). Mutiga (2011) notes that, during the Kenya Uganda standoff, the then foreign affairs minister Dr. Munyua Waiyaki was at the forefront trying to defuse the tension that had emanated between the two states. Dr. Munyua travelled to several foreign capitals and the OAU headquarters urging the regional players into backing Amin down. Following the developments, heads of states from DRC, Ethiopia, Rwanda, Burundi and Zambia formed a committee that would look into the invasion plans of Amin. The end of the Kenya-Uganda encounter seemed to end after the assemblance of restoration of ties between Uganda and Kampala as well as Tanzania since the relations between Nyerere and Amin had also worsened (Mutiga, 2011). The same year in July Kenya covertly supported the Israeli commando raid on Entebbe Airport to rescue Jewish passengers on a hijacked Air France plane by granting Israel full use of its airport facilities for the rescue. In their mission, the Israeli commandos destroyed a third of Uganda's air force, something which incensed Amin, who turned his rage on Kenya for allowing Israeli planes to refuel in Nairobi (Okoth, 1992). Adar (1986), adds that, such differences could be due to Kenya's foreign policy that was based on the doctrine of territorial integrity whereby the national interest defined her foreign policies. Such developments in the restoration of regional relations may have shaped the future relations between Kenya and Uganda. Okoth (1992) further adds that the witnessed domestic upheavals can only be an indication that even in the future, Uganda and Kenya cannot avoid frictions because the regional interests of the two states are divergent. In addition, the character of their relations especially in trade is to the advantage of Kenya to a large extent since Uganda is susceptible to economic backslide. Therefore, if the domestic environment of Uganda is unsteady, her foreign policy towards Kenya is affected negatively. However, the influence of the national assembly on such developments depends on the leaders in power in both states (Mutiga, 2011).

Economic and ideological tensions

Orwa (1994) observes that, economic diplomacy also stood out as a key factor that influenced Kenya's foreign policy in the period 1970-1978. Trade is a major component for the growth and development of any nation. As such, economic diplomacy is an example of how states achieve domestic policy objectives. During the final years of Mzee Jomo Kenyatta's regime, economic diplomacy between Kenya and her neighbors in East Africa and the outside world were generally shaky especially following the collapse of the EAC after many years of deep-seated personal, political and economic tensions around trade policies and ideological inclinations (Gachie, 2012). The above triggered regional insecurity and uncertainty. Moreover,

the closure of the Kenya–Tanzania border between 1977 forced Kenya to seek markets in other parts of Africa and the Middle East (Makinda, 1983). In explaining the differences in above ideologies, Adar (1986) observes that Kenya's foreign policy is rooted in the realism theory which is conservative and the theory of idealism which appears radical. Regionally, Kenya's foreign policy under the period of discussion were rooted in realism while internationally the policies were guided by idealism. The different variables seemed to contradict and subsequently Kenya's perception of Kenya's relations international and continental issues (Adar,1986).

Coupled with such ideological question was the economy which was slowly dwindling owing to the international economic depression. In Kenya in 1975, for instance, the government made an announcement that the prices of fuel would shoot up (Rono,2002). In addition, following the crash of stock market globally, stock exchange value in Nairobi was low as the value of the dollar declined. Due to the economic crisis, there were recommendations that the country should import less since oil was becoming expensive. As such, the cabinet under the government had an agreement of protecting local manufacturers through restricting the importation of goods that resembled those manufactured in Kenya. In addition, parliamentary diplomacy in matters foreign policies was evidence through the passing of the compensation Act of 1974(Low, 1982). The above act allowed for reimbursement mechanisms for exporters for duties levied on imported intermediate inputs.

Succession Politics

Before his death in August 1978, Kenyatta's role in regional affairs diminished increasingly as he lost interest in matters beyond his country's borders. Widner (1992) thus rightly refers to the period from 1976-1978 as the transitional period whose central concern was to address the succession question that was already taking shape in the context of the Rift Valley and GEMA politics. The plethora of politically motivated assassinations, restrictions in political life, rise of populist coalitions within KANU, demand for redistributive justice and uncertainty over the future political trajectory amid Kenyatta's failing health created factionalism and serious political rifts within KANU among conservatives and populists.

Throup & Hornsby (1998) observe that, succession politics during Jomo Kenyatta's era were characterized by deep struggles between the supporters of the then vice president Daniel Moi and the Kikuyu elites. During this period, Jomo Kenyatta had distanced himself from political issues due to his failing health and as such his supporters were at the forefront figuring out his succession. Members of parliament therefore were eager to a leadership that would favor their political interests and protect the wealth amassed during this period. Despite Moi appearing as a qualified candidate then, the supporters of Jomo still treated him with suspicion as they were unsure whether he would safeguard their interests yet he was from another community (Wanyande, Oyugi & Odhiambo-Mbai, 2003). Such developments saw the powerful leaders of the GEMA community together with some relatives of the then ailing Jomo Kenyatta, establish a movement for change of constitution to hinder the vice president from taking over automatically after the death of Jomo Kenyatta. The debates around succession politics also saw many leading figures, including the foreign minister Dr. Njoroge Mungai lose their seats (Mwaura, 1997). The developments above on politics of succession led to matters concerning foreign affairs being given less attention as gears shifted to local succession politics. For example, during Jomo Kenyatta's final years, a major development took place in EAC when Tanzania withdrew from the EAC monetary system. The government of Kenya response to a policy that would strengthen her economy during this time was weak as local politicking too the center stage. This is because the parliament was divided into groups according to ethnic political parties that saw the KANU Parliamentary Group vow to go against the motions if they

were not given a chance of knowing the government business (Oloo,1995). The debates in parliament on passing motions were an indication that parliament and the executive suffered mistrust with the government only willing to approve debates that were viewed important to national interest and those that favored the different emerging political ideologies. As such, passing of policies in parliament became more political and locally instigated as the emerging groups sought to outdo each other with an aim of succeeding the ailing Jomo. Matters of parliamentary diplomacy and foreign relations during this period to a large extent therefore took a back stage as local politics of succession took over. However, key foreign affairs motions such as the international relations bills were passed during this period with four obtaining parliamentary approvals (Oloo,1995). The above developments imply that despite the emerging political rifts, the parliament still minimally played a crucial role in influencing foreign policies.

HOW AND WHY A WEAKENED LEGISLATURE? A RECAP

Diverse explanations are given on why the legislature seems to have had insignificant influence on foreign policy. To begin with, the lack of institutions and systems saw African presidents rely on a respective ministry of foreign affairs. For example, between 1966 and 1969 strong cabinet ministers and top state bureaucrats became increasingly independent and occasionally defiant of the National Assembly (Dowse & Leys, 1969). Supported by the presidency, they constantly championed foreign interests of the executive without due regard to the role of parliament.

In addition, Kenyatta often used the law to intimidate parliamentarians into silence or into obeying illegal commands, largely because of the absence of accountability mechanisms. The law did not restrict the President's ability to formulate and implement foreign policy without involving the Parliament. A good example is when the Parliament failed to institutionalize codes of conduct functions as a license for legislators to breach conflict of interest rules with impunity. The state secrecy laws also equipped the president with powers to bypass the Parliament in formulating foreign policy, such as the Official Secrets Act 3 ensured that Parliament had little or no information about the activities of the executive. Invariably, Parliament only learns of abuses of power by the executive long after they had occurred (Gicheru, 1975).

In addition, in the period 1963 to 1978 under the old constitution, the President determined the life of parliament, set up its calendar and influenced its decisions. President Jomo Kenyatta abused the constitutional provisions that granted him power to control the legislative branch (Throup & Hornsby, 1998). The Presidency became the primary source of legitimization for proposed foreign policy. Constitutional amendments and changes during the Kenyatta regime over the years consolidated presidential power against parliamentary initiatives. Interestingly, since parliament life depended on the whims of the President, he had power to prologue parliament or call for elections any time. For example, Kenyatta used this in 1969 when he called for a snap general election to get rid of elements sympathetic to Odinga Odinga. Odinga had left the ruling party KANU in a huff and founded an opposition party (KPU), after openly disagreeing with Kenyatta. In the snap elections, Kenyatta succeeded in rigging out all Odinga's supporters in Parliament. Kenyatta also purged the cabinet and civil service of all members and civil servants suspected to be sympathetic to Odinga (Throup & Hornsby, 1998).

Moreover, foreign relations power of the parliament was always usurped by the executive through the use of "party whip", "veto", and executive interference with or without the act of the legislative functions. Whipping of members of a House of Parliament to agree with the wishes of the Executive was the hallmark Kenyatta's regimes. At the time executive

interference with the legislature was possible because their systems inordinately empowered the Executive over the other arms of government. In addition, in some jurisdictions, parliament is excluded from the ratification process of protocols, treaties and/or conventions. In the post-independence period, the role of the National Assembly has generally been restricted to creating the legal framework, allocating funds and exercising oversight on the conduct of foreign relations rather than in the exercise of ratification (Gicheru, 1975).

CONCLUSION

In documenting the influence of Kenya's national Assembly on foreign policy between 1895-1978, this paper has noted how constitutional amendments were used to weaken the legislature. It has also been argued that rather than change its path towards real Africanization of foreign policy and subsequent independence of parliament, Kenyatta largely borrowed and continued to marshal the power of the legislature. Parliament's role in influence in foreign policy was thus limited to rubber stamping what the executive demanded. In particular, since Kenyatta could not resist the influence by the West and its foreign aid, much of what was done by parliament including in regard to foreign policy was hinged on British interests rather than domestic demands.

From 1970 to 1975, while there were official institutions mandated with foreign policy making including parliament and the Ministry of Foreign Affairs, Kenya's foreign policy-making process was still in its neonatal stage and the capacity for the process to shape-up still not developed. The role of the executive in formulating foreign policy was thus still a reserve of the president together with his Minister for Foreign Affairs who in reality only advanced what the executive wished (Ahmed, 2016)

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