

# Reflections and Insights about Cartographic Disputes between Kenya and the Federal Republic of Somalia 1887 – Present.

Philip Kipkemboi Chemelil

Maasai Mara University  
Department of Humanities and Public Administration (HPA)

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## **Abstract**

*From the onset of colonialism, the “Somali Question” has been a big headache to Kenyan administrations. This is because of the issue of Somali ethnic nationalism question; a creation of the European arbitrary partition of Africa during the Berlin Conference of 1884-85. The drawing of boundaries did not take into consideration the political, social and economic realities that existed where the Somali ethnic community occupied the larger part of the Horn of Africa. The colonial powers shared the Horn among themselves scattering the Somali into four states. Since then, Somalis developed a desire to exist in one state popularly known as the “Greater Somalia” through agitations and creation of movements both armed and political. This festered into the post-colonial period where the “Somali Question” was responsible for incessant strained relations between Kenya and the Federal Republic of Somalia (FRS). This reality prompted Kenya to invent strategies of de-puzzling the menace. The study examined the historical dynamics in Kenya- Somali relations with special focus on diplomatic strategies used by both countries to address the issue of border disputes. It was found out that Kenya and FRS pursued similar diplomatic strategies (deterrence, spats and negotiations) in an attempt to resolve their cartographic disputes. A common strategy used by both countries is negotiation while Kenya leveraged on deterrence while Somalia preferred diplomatic spats.*

**Key Words:** *Secession, Shifta, maritime dispute, border, diplomatic spats, deterrence.*

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Date of Submission: 18-01-2025

Date of Acceptance: 28-01-2025

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## **I. Introduction**

Kenya shares the longest border line with Somalia than any of its other four neighbors that include Tanzania, Uganda, South Sudan and Ethiopia. A unique feature about this borderline is its occupation by members of one ethnic group the Somali (Hagmann,2014). The Somali on the Kenyan side occupy the entire Northern Frontier District (NFD) (Later changed to North Eastern Province and at present comprising of Marsabit, Mandera, Wajir, Isiolo, and Tana River Counties after the promulgation of the 2010 constitution)). The Somali population is also present in Ethiopia and Djibouti. In real sense it is a nation that suffered the tragedy of colonial partition of Africa that did not take into consideration the social and physical characteristics when drawing the boundaries of the African nations they were creating during the Berlin Conference. Partitioners did not take into considerations ethnographic, demographic and topographic realities of African people (Okumu, 2014). As a result, most post-colonial interstate conflicts in Africa emanated from these boundaries. The arbitrary drawing of African international boundaries disrupted political and socio-cultural systems of communities that were artificially separated by these boundaries. A large section of the Somali community found themselves in Kenya and Ethiopia while Somali retained majority of members of the Somali nation (Tipis, 2011).

This meant the Somali ethnic group was administered by two different colonizers with different policies (Lewis, 1980:16). At this time, Europeans had very little knowledge of local conditions in Africa evidenced in the words during the Berlin Congress of the British Secretary of State for Foreign, Commonwealth and Development Affairs Robert Gascoyne Cecil who later became a Conservative British Prime Minister that;

We have been engaged in drawing line upon maps where no white man’s feet have ever told, we have been giving away mountains and rivers and lakes to each other, only hindered by small impediment that we never knew exactly where the mountains and rivers and lakes to each other, only hindered by the small impediment that we never knew exactly where the mountains and rivers and lakes were (Grenville, 1964).

This demonstrated a limited knowledge of the geographical conditions of Africa when they were drawing the maps. Somalia was parceled to be administered by three colonial powers France, Italy and Britain.

No other African country experienced this. By 1887, the jurisdiction of the British Protectorate covered the Western bank of Juba River Westwards and to East Africa region bordering the Italian Protectorate to the east. At the time also the British Protectorate included both the NFD and Jubaland that later ceded to the Republic of Somalia. This reality was the source of border disputes not only with Kenya, but with all neighboring countries with Somali ethnic populations mentioned above. In 1958, the All-African People's Conference held in Accra Ghana recommended the desolation of imperialist artificial boundaries that had been imposed on Africa. According to the conference resolution, all people of the same stock that had been separated by European boundaries should be re-united immediately after independence (Okumu, 2014, See Donovan,2010).

Fears by the OAU later on over this suggestion was informed by secessionist movements that emerged signaling signs of possibilities of conflict boomeranging in the whole of Africa. Examples were drawn from Tshombe and the Congo secessionism and what was developing between the regions in Nigeria that later degenerated into the infamous Biafra War (Chime,1969, Turton,2016).

The objectives of the study were; to examine the historical dynamics of border squabbles between the FRS and its neighbor Kenya and to analyze strategies employed by both countries in an attempt to resolve their cartographic disputes.

### **Research Gap**

All available literature gravitates towards focus on how international community attempted to resolve the long standing Somali Civil War. Other attempts are studies conducted to analyze Somali foreign policy, Somalia and the OAU, Somalia in the Cold War, Somalia and the Middle East and how other countries that include neighbors and Great Powers attempted to formulate policies towards resolving the Somali conflict and humanitarian challenges that incessantly confronted the Horn of Africa region. This study therefore attempted a historical reflection on Kenya's diplomatic responses and tactics aimed at containing the Federal Republic of Somalia's cartographic demands and ambitions since 1963 keeping in mind that the later was the only country in Africa to reject Article III Paragraph 3 of the OAU Charter that directed all independent countries to maintain and respect the colonial boundaries.

## **II. Methodology**

To answer questions in this study, historical investigations were conducted to examine dynamics that played out in the shaping of Kenya –FRS relations during colonial period and thereafter. Thematic analysis was used to identify patterns gleaned from a plethora of sources. The sources included newspaper reports, opinions and commentaries, books, journals, editorials, internet resources (YouTube, and pdf), government documents including treaties and joint communiqué, unpublished theses and dissertations and memoirs. Information presented in the Article was actualized by triangulation of sources and careful filtering of qualitative data that showed consistency. Ex post facto research design or after the fact was applied.

### **Unique Contribution to Theory, Practice and Policy:**

Deterrence theory has extensively been explored in the studies of the Cold War politics. Not much has been applied in the study of diplomatic relations between African states and more between the FRS and Kenya. This study adds to the application of the theory in a special context of African ethnic identity and solidarity contrary to its conventional applications on arms race, resource and ideological competition. The study exposes regular patterns the two countries have consistently applied in an attempt to solve their cartographic impasses.

### **Historical Roots of Kenyan Somali Secessionist Demands**

The Somali ethnic group on the Kenya-Somali borderlands was administered by the British Colonial Governors from 1887 to 1924 the year they engaged in a secret treaty with the Italians dubbed the Anglo-Italian Boundary Treaty. The Treaty was signed in London where the British accepted to cede the Jubaland Province to the Italians. This was a reward to the Italians for joining the allies in the just concluded Great War. As this was happening, the Somali people were not aware. The border demarcation was later realized through an Anglo-Italian Commission that redefined it from Juba River and almost straight line into the Indian Ocean (Lewis, 1980:106).In 1926, the British colonial administration in Kenya declared the NFD a closed district. This was after Somalis from Jubaland had crossed into Kenya because of drought going back thereafter when the rains started; the government was not amused. It resorted into creating tribal grazing zones known as the Somali Galla Line which was supposed to contain Somali movements into the interior in search of pasture. The Somali resisted but the administration tightened sanctions further by imposing restrictions to their movement by deploying the military. This further entrenched a feeling among them that they did not share any common colonial experience with the rest of the Kenyan population in the British Protectorate (Kromm, 1967, Abdullahi, 1990).

In addition, Somalis whenever they were travelling to places like Nairobi would describe their trips as travelling to Kenya because of pass requirements and constant checks and the colonial administration finding it uneconomical to develop the NFD because the population was too small to warrant any attention. It preferred to develop other densely populated areas like central Kenya and Nairobi and used it (NFD) as buffer zone against the Italian Colony in Somalia. Between 1941 and 1950, (during WW2), 90% of Somali territories were brought under the British colonial authority including Jubaland, NFD and the Ogaden in Ethiopia. This occurrence would later be a real headache to the newly independent Kenyan and Ethiopian governments. With the unification of all the Somali groups in Somalia, calls became louder for the creation of a Somali nation with all Somali ethnicities in it (Kromm, 1967). The British Colony supported the idea suggesting the creation of a Somali Nation within the Horn of Africa.

In 1946, Britain tabled a proposal which recommended that the best way for the wondering Somali pastoral nomads to survive in the marginal environment of Somalia was to let the country unite and remain under British administration. However, their proposal known as the Bevin Plan was swiftly rejected by Ethiopia as well as by the other three big powers (France, USA and USSR) because they were suspicious of the British intentions (Mohamoud, 2001). The other colonial powers viewed the above suggestion as a strategic ploy to expand its sphere of influence in the Horn of Africa. The Bevin Plan continued to spark Somali identity unification to date. The rejection of the plan paved way for the handing over of Jubaland Province back to the Italians as a United Nations trusteeship for a period of ten years as the country was being prepared for self-rule that was granted in 1960 (Hambro, 1949).

In Kenya, the British faced a big dilemma in an attempt to control the Somali ethnic groups that incessantly resisted foreign rule. It was later realized that Somalis were not homogenous but governed themselves through traditional segmentary system where the clan was the basic unit of administration. As a result, they immediately engaged a system of divide and rule by negotiating and making treaties with individual clan leaders (Abdullahi,1990). In these negotiations they convinced them to enter into agreements where in each, the preamble read "For the maintenance of our independence, the preservation of order and other good and sufficient reasons... this treaty recognizes each clan area as separate territory (Turton, 2006:123). But later it became apparent that the British intentions were not for the retention of status quo of the Somali political and social structures but to use friendly clans to raid other hostile clans for it to rule over them effectively (Njeri,2015).

Again the British did not take a keen interest in administering the Somali population in the borderlands. With Nairobi being more than 400 miles away and the communication challenge at the time, the Somali population inevitably faced isolation from government services. Due to the above difficulties coupled with distance, finances and resistance, the government contemplated separating the Somalis in NFD. Thompson vividly captured the intent by saying that;

If it were possible to detach the districts inhabited by Somalis, it would be an excellent thing to form them into a separate government, as they are different in population, economic, land and physical conditions from the other provinces, but unfortunately they are too small to form separate administration and the adjoining Somali territories are not British (Turton, 2011).

The colonial policies as seen above cemented their identity as a people different from other Africans within the territory. During the colonial period also, the British colonial administration demanded identification cards or pass from Africans but demanded tax receipts from the Somali ethnic group. It is this isolation that cemented the development of Somali identity and consciousness. The government later declared the NFD as a closed District just like other arid and semi-arid districts in the country. This reality conditioned the Somali population to feel isolated and neglected entrenching their demands to be part of the FRS and not Kenya (Ringquist,2011). This led to what was popularly known as the Shifta or Bandit War as will be discussed later.

### **Pan- Somalism: Pursuit of "Greater Somalia"**

The concept of Pan – Somalism was conceived in 1943 when the Somali Youth League (SYL) was formed ironically with the assistance of Jomo Kenyatta (Kenyatta, 1968). The main agenda of this group was to bind together all the people of Somali extraction in the Horn of Africa. Its activities were later declared dangerous in 1948 by the British colonial administration in Kenya and its officials exiled. The party was not allowed to reconvene until 1960 when newly independent states of Somalia and British Somaliland had United with the Republic of Somalia to form the Federal Republic of Somalia (Castagro, 1968). A blow to the above ambition was witnessed at the OAU General Assembly when member states agreed in 1963 that the colonial borders will be maintained to avert conflicts that might arise by trying to demarcate the borders again. It was in the wisdom of the Assembly that such an attempt will result in unending conflicts and untold anarchy. It went ahead to ratify the OAU Charter in which the border issue was dealt with in Article 111, paragraph 3 by stating that member states should "respect sovereignty and territorial integrity of each state and for its inalienable integrity and right to independent existence" (Chima, 1969).

Somali Republic was the only state in Africa to reject the Article paving the way for cartographic conflicts with its neighbors. The Somali ethnic community in the NFD was highly motivated by the symbolic support shown by the Somali Republic in their quest for secession from Kenya. The symbols included the enactment of Article VI Section 4 in the constitution and the inclusion of a star in the middle of the national flag which displayed a five pointed star to represent all the five Somali ethnic regions in the Horn of Africa (Ringquist, 2011). They were determined that in case of an occurrence of a secessionist war with Kenya, the Somali Republic will come to their aid (See, George, 1991). The Somali Republic refused to recognize the OAU resolution on the maintenance of colonial borders and its subsequent decisions by entrenching in its constitution a desire to unite all Somalis under the Greater Somalia forming a basis for cartographic conflict with Kenya. Again the colonial referendum in 1962 which the NFD voted unanimously to join Somalia Republic was still fresh in their minds and they wanted it revisited (Denovan, 2010).

Kenya was not ready in any way to allow the Somali ethnic group in NFD to secede to Somalia. On realizing that their secessionist agenda will not be allowed and the confidence that the Somali Republic will come to their aid, they initiated insurgent attacks on government installations. This prompted the newly established black government of Kenya to declare a state of emergency in the NFD. What followed was a protracted conflict between the government and Somali insurgents that took four years (1963-1967) and was named the Shifta or the Bandits War resulting in the latter's suppression. The Government of Kenya imposed additional restrictions against Somali populations that included among others curtailment of movement in and out of NFD and vetting to prove citizenship (Ringquist, 2011).

The main aim of the Somali Republic in supporting the insurgents was to achieve its constitutional obligation for eventual creation of "Greater Somalia" and the moral obligation to support their own brothers and sisters under the umbrella of ethnic identity (Ibid). Pan-Somalism was often viewed by Somali agitators as part of Pan-Africanism. They argued that unification of all Somalis will pave way for its participation in African affairs as a regional entity. This argument looked pragmatic at least on a face value but with time, it revealed that Somalis considered the Republic of Somalia as a Muslim country and gravitated towards Arab countries for cultural bonding and disregard for black Africans (Hoskyns, 1969).

### **Kenya Somalia Cartographic Disputes**

During the peak of the Mau Mau rebellion in Kenya, the British colonial government decided to grant independence. But before that could happen, Kenyans and the colonial administration had to agree on transition management. The colonial administration wanted the involvement of all Kenyan tribes not just Kikuyus and Luos who were frontline agitators for African self-rule. The administration organized a series of negotiation meetings held in Britain popularly known as the Lancaster Conference. The Somali being one of the Kenyan tribes, was invited with its delegates strongly expressing desire to join the FRS. The British did not oppose the request but decided to form a Commission that considered and ascertained the desire of the Somali population in Kenya concerning its future. A referendum was conducted by the Commission and overwhelming majority of Somalis in of all the six administrative units where five voted for secession to FRS (Abdullahi, 1990). The Kenya Somalis were not happy when Kenya got its independent in 1963 with the NFD being part of its territory. They wanted to be in a country with people they shared a common identity and heritage.

The Somalia Republic leaders were in the frontline of fanning Somali unification in terms of emotions and attempts at intimidating Ethiopia and Kenya to surrender Somali ethnic populations. A good example was when the Somalia Republic leaders expressed sentiments that showed their aspirations;

Our misfortune is that our neighboring countries... are not our neighbors. Our neighbors are our Somali Kinsmen whose citizenship has been falsified by indiscriminate boundary arrangement". They have to move across an artificial boarder to their pasture lands. They occupy the same terrain and pursue the same pastoral economy as ourselves. We speak the same language. We share the same creed, the same culture and the same traditions. How can we regard our brothers as foreigners?" (Mohamoud, 2001).

This can be regarded as diplomatic intimidation to both Kenya and Ethiopia that held large populations of people of Somali descendance. The main agenda here was the creation of a "Greater Somalia" under the Somali Republic. This was also an indication that the Somali Republic was ready to tamper with the international borders drawn during the Berlin Conference and the Anglo-Italian Agreements thereafter. As discussed earlier, Kenya had border disputes with Somalia since colonial times. But these disputes were not overt as Somalia did not publicly claim the Northern Frontier District but instead preferred to sponsor and support the Somali ethnic group demand of secession to Somalia (Chime, 1969). Several years later in 2009, a maritime incongruity between Kenya and Somalia surfaced when the FRS Parliament rejected a Memorandum of Understanding (MoU) the two countries had agreed on to delimit their maritime boundary by negotiations. In the MoU Kenya had negotiated and drew a border line into the Indian Ocean that was similar to its own Southern border with Tanzania. It was understandable that FRS was at war with the Al-Qaida affiliated terror

group Al-Shabaab and could not prevent Kenya from doing so (See. Abbyssinia, 2024). Again Kenya was giving it assistance in terms of military assistance and hosting of thousands of Somali refugees. The FRS Parliament insisted that the borderline should be consistent with the international standard practice. Legislators complained of foreigners including Kenya's for taking advantage of instability to encroach into its territorial waters in the Indian Ocean to dump waste, overfish, and steal resources using tricks to demarcate the boundary as was the case with Kenya (*Daily Post*, 2021).

In 2014 FRS took Kenya to the international Court of Justice (ICJ) accusing it of encroaching on its Indian Ocean territory. The disputed area is approximately 100,000km<sup>2</sup>. FRS wanted the dispute resolved by the ICJ in accordance with the United Nations Convention on the Law of the Sea (UNCLOS) and other international laws governing maritime disputes. Kenya told the Court that an (MoU) had been signed mutually by the two countries in 1979 giving it jurisdiction over the disputed areas and was therefore perturbed by FRS's action. A year later, Kenya presented two objections targeting the jurisdiction of the Court and presence of an MoU that had been signed mutually by the two countries over the matter. In 2019, an alarm was raised by Kenya over a decision made by FRS to auction the disputed area for oil-prospecting rights at an economic forum held in London. FRS had presented a map depicting the disputed area as its territory (Mutua,2024).

Kenya demanded that Somalia respect the 1979 MoU and to inform the London prospecting investors that the auctioned area was not under its territory. Keeping in mind the history of instability after independence in Somalia, Kenya knew very well that it had no capacity to initiate a conflict that involved military action. The ICJ gave the weak Somalia a leeway to achieve its interest in the dispute without having to incur the burden of military conflict. Somalia preferred the ICJ route because of four advantages, first that the ICJ will preside over a peaceful settlement by ameliorating situations that were likely to damage peaceful coexistence among states, the ICJ was bale to create and maintain conditions that bring a feeling of security among UN member states, the ICJ is able to invoke various measures that are able to suppress and prevent any injury to international peace, and confidence that the ICJ will give a fair judgement keeping in mind the Cameroonian success story with ICJ on the Bekasi Peninsula dispute with Nigeria (See, Al-Jazeera,2021,Tipis,2011). This precedent gave FRS buoyancy for a triumph over Kenya. The Court ruled in its favor (See ICJ, 1994).

In 2016, the Court heard Kenya's objections. On the first objection, it ruled that the 1979 MoU was insignificant on three grounds, first the it did not have any commitment or requirements on how to resolve conflict whenever they arise, secondly Kenya would not have engaged in an MoU with the FRS if it thought that delimitation was to come after delineation and thirdly that paragraph six of the MoU did not have a provision on the role of dispute resolution as claimed by Kenya (ICJ,2016). Kenya objected the Court's ruling knowing very well about faultiness that exist in regard to the Court's inability to enforce decisions or lack of instruments to command obedience. In theory judgements should be final and without appeal demanding compliance by the concerned parties. In cases where a State does not comply, the Security Council (SC) may if it deems necessary make recommendations or decide upon measures to be taken to give effect to the judgements (Hombro, 1949). This can prove difficult because an individual State (a member of the SC) interest can play out and veto vote used to bring the Court's decision to a dead end. History has shown that no case has ever been referred to the SC for enforcement. The question then is what will happen in future keeping in mind Kenya's refusal to recognize the Court's ruling? There are two possibilities, first as FRS continues to stabilize by annihilating the Al-Shabaab terror group and its economy recovered, it might decide to engage in a military confrontation with Kenya by relying on ICJ ruling. Technically speaking, the FRS will benefit from international support and secondly Kenya will engage in strengthening its military capabilities as deterrence to FRS's cartographic demands.

This was evidenced by Kenya's decision to establish a strategic naval base at the Manda Bay Forward Operations Base (FOB) in Lamu near its border with the FRS in Lamu County. The Kenyan President Uhuru Kenyatta officially opened it in September 2021. The Manda Bay had played a critical role in the capture of Kismayu by the Kenya Defense Forces. FOB was strategic in planning during the Operation *Linda Nchi*, an offensive against the Al-Shabaab terror group that had made Kismayu its headquarters. The terror group had made a habit of crossing the border into Kenya to launch attacks and abduct tourists (See, Watman *et al*, 1995). The President informed the country that the strategic naval base was to secure Kenya's territorial water and to protect the Lamu - South Sudan – Ethiopia Transport (LAPSET) corridor project. The President went further to say that the Kenya government was determined to “protect Kenya's territory and the base will play a key role in achieving that” (*Daily Nation*, 2021). This was also echoed by the KDF Spokesperson Esther Wanjiru who said;

The establishment of the military bases in the county has been ongoing and that all efforts are meant to ensure national borders are secured from any external threats. We continue to secure all our borders as we have been doing. For the first time, some things that citizens are not used to seeing carried out in the open by the military, such as tanks patrolling, military bases establishments among other issues are now done transparently. Those are normal military postures. There is nothing out of the ordinary. (*Daily Nation*, 2021).

The above actions by Kenya was a show of might it wanted FRS to understand.

This could be perceived as strategic communication to FRS that Kenya is ready to defend the disputed area by use of military. The President went ahead to state that “The purpose of the base was to provide logistic support to Kenya Defense Forces units stationed in Northern Kenya and other security agencies in the country. By elevating this FOB into a base, we hope to secure more of our maritime waters” (Ibid). The above excerpt is a clear indication that Kenya was engaging in deterrence as a consequence of the ICJ’s ruling over the disputed 100km<sup>2</sup> Indian Ocean water. Moreover, since its inception in 2010, the base has been used to fight back terrorist groups (Al-Shabaab and Al Qaeda) that had engaged itself in piracy in the FRS waters by capturing ships in the international waters stealing cargo and demanding ransom. Some of the features of the base include linkman jetty that allows vessels to load and discharge military equipment and vehicles, an all-weather airstrip that enables night landing capability, a 1.3km runway, hangers, helipad and ability to handle fixed – wing cargo aircraft including C-130 Hercules, a sickbay and trauma center to provide medical attention to the military personnel. The base is also used to host Multi-Agency Command Center (MACC) (Abyssinia, 2024).

Since 2014 the Base hosts the US government operating location under operational control of the Joint Task Force Horn of Africa (JTFHA) in Djibouti. The base was established in 1992 and upgraded in 1995 at Magogoni in Manda Bay Lamu County. Initially it operated as (FOB) with the aim of providing logistical assistance to the Kenyan military operating in Northern Kenya and Kismayu. To affirm the above argument, US President Donald Trump administration eager to strengthen deeper bilateral economic engagements with Kenya, showed support for Kenya’s maritime claim. Most likely the US position over the Kenya- Somalia maritime dispute will not change because of its economic interest and additional interest of using Kenya as a launching pad for its economic interest in East and Central Africa. Kenya’s leading role in the East African Community is seen by the United States as an opportunity to leverage to access a huge market and resources that the Community is offering (*Al-Jazeera*, 2021).

#### **Kenya’s Application of Deterrence to secure its Border with FRS**

Deterrence theory is a practice in which a State invokes to show force or threats to convince another party to refrain from actualizing an action that the affected States feel to be a threat to its security or territorial integrity. This theory gained a lot of prominence during the Cold War where the main result was the advancement of nuclear race. The main aim of deterrence is to maintain status quo and is achieved when the prospective attacker is made to believe that the probability of success is limited and engagement will be costly (See Watman, *et al*, 1995).

The concept was used by the US and the Soviet Union effectively during the Cold War. A nuclear crisis between the two counties / superpowers made the Soviets conservative in their engagements. The Soviets became so cautious to an extent that were it not for US nuclear preponderance, the Soviets would have made very different decisions were it purely a conventional engagement (See, Arquilla, 1992, George, 1991). In the Kenya- FRS situation, the presence of JTFHA under the US is a deterrent machinery that is working for Kenya. This sends a message to Somalia that the United States can be available to Kenya’s aid in case of an emergency and that the US forces can be deployed rapidly if need arises keeping in mind Kenya’s military cooperation with the US in locations near its borders. During the Shifta conflict, Kenya sought support from the British to deter Somalia from supporting the secessionist elements in NFD which was estimated at 2000. This act of deterrence worked effectively making Somalia cautious not to engage in Shifta War because of its awareness of the British might and possible damage (Ringquist, 2011).

Between 1965-1967, the Somali Republic organized insurgent groups in Ethiopia and Kenya that constantly harassed the two countries in their demands to secede to Somalia. The affected regions included Ogaden in Ethiopia and NFD. The Kenyan and Ethiopian governments adopted deterrence policies against the FRS and guerilla forces by closing their border with Somalia and blocking of Somalia’s nomadic clans from grazing lands and water within their territories. This forced the Somali government to adopt détente policies towards its neighbors but revived its irredentist claims by waging a full scale war with Ethiopia (Hagmann, 2014). This was clearly manifested when Nairobi seized an Egyptian plane transporting arms to the FRS forces. The act triggered strained relations between Kenya and Arab nations. On realizing that the Pan-Somalism project was heading nowhere, the then Somali Prime Minister Mohamoud H. Ibrahim Egal decided to ease tensions with Kenya by use of diplomacy (Donovan, 2010, See Kromm, 1967). This was viewed to be the result of both Kenya and Ethiopia’s deterrent strategies discussed above coupled with Somali economic stagnation, internal complaints by the populace and political stalemates. The Prime Minister offered Kenya the FRS’s government willingness to solve the NFD issue by peaceful discussions. This was viewed by commentators as the onset of Kenya- Somali practice of solving their disputes by use of diplomacy (Laitin, 1976).

It is argued here that the motivation behind FRS demand of the 100km<sup>2</sup> Indian Ocean territory was purely internal political dynamics. Since the collapse of Said Bare regime in 1991, the country entered into a

Civil War that created many political factions based on clans (Tipis, 2011). After the establishment of a working government, every regime was constantly under some threats when elections were in the offing. Whenever such situations arose the political class preferred to divert attention to avert threats of removal from power (*Al Jazeera*, 2021). Leaderships found it necessary to enter into international crises in a desperate effort to ameliorate their domestic crises. FRS's action to claim the 100km<sup>2</sup> Indian Ocean territory is not new in International politics. A regime that is weak by virtue of lack of legitimacy may opt to invoke diversionary tactics to evade domestic criticism. Some of the classic examples include Mao ze Tung's instruction for the intervention in the Korea War in 1950, the case of Jamal Abdul Nasser in 1956 and Jawahar Nehru's actions that led to the Sino-Indian War in 1962 (Arquilla, 1992). This behavior is currently common in Third World Countries.

### **Diplomatic Spats**

Negotiations and talks have always been idolized as effective tools of resolving international disputes. But in real sense diplomatic spats have been an effective tool deployed by States to discourage politically reprehensible acts. Spats have proved to be of strategic value in communicating strong feelings of dissatisfaction and disappointment to an act committed by the aggressor. Spats sometimes forces the leader of the aggrieved State to issue a statement explaining reasons that informed the decision (George, 1991, Kareithi, 2023)). This was true when the FRS government severed relations with Kenya. The President explained that Kenya was attempting to interfere with Somali territorial integrity by inviting and holding talks with Somaliland leader by the Kenyan President Uhuru Kenyatta in Nairobi. FRS was embroiled in a dispute with Somaliland over its declaration of independence. FRS considers Somaliland as its semi-autonomous territory and not independent. Sometimes diplomatic spats are used by governments to consolidate public support. As argued above, the DRC government expelled the Rwandan Ambassador to quench the thirst of demonstrators who had turned up in Kinshasa demanding the severing of diplomatic relations. This earned the DRC government some approval from the citizenry (*Al Jazeera*, 2022).

One of the components of diplomatic spats apart from revocation of commercial engagements is the expulsion of ambassadors. This act is recognized in the UN Charter Article 41 that reads.

The Security Council may decide what measures not involving the use of armed force are to be employed to give effect to its decisions and it may call upon the member of the United Nations to apply such measures. These may include complete or partial interruption of economic relations and of rail, sea, air, postal, telegraphic, radio and other means of communication and the withdrawal of diplomatic relations.

From the above excerpt, the UN may request one or several states to withdraw their ambassadors in order to escalate pressure on delinquent nation. Revocation of an ambassador is also intended to cast the affected State in bad light among members of the international community. The main intention here is to delegitimize the affected State of its international presence as a cognitive part of signal sending among States (Okumu, 2014). The advantage of a diplomatic spat as a tool is that it does not permanently sever relations between states. The Kenya – FRS spat in 2020 lasted for six months only. Again, diplomatic tiffs are preferred by States in most of the cases because they are cheap and effective. They don't require financial or military support. Some of the disadvantages diplomatic spats and sending away of an ambassador are intelligence and information deficiencies as a result of reduced channels of communication between the warring states. Good examples include the cases of the United States and Afghanistan. the US was not able to gather sufficient intelligence reports and was forced to rely on third parties like the United Nations and Western Journalists and in 2009, the United States and Iran were not able to access up to date information on protests because of diplomatic deficiencies and instead embarrassingly relied on social media (Tipis, 2011).

### **Diplomatic Spats in Africa**

Diplomatic spats in Africa have consistently centered around meddling with internal affairs of the aggrieved party as the case of Kenya and Somalia. The Democratic Republic of the Congo (DRC) for example, has incessantly engaged with its neighbors in diplomatic spats especially Uganda and Rwanda. In 2022 for example, it accused Rwanda of supporting the M23 rebel group operating in the Eastern region. The DRC summoned the Rwandese Ambassador based in Kinshasa and suspended flights from Kigali with immediate effect. This was after anti-Rwanda protests took place in Kinshasa organized by Civil Society Organizations, citizens and youth groups. Participants were demanding that their government sever diplomatic relations with Rwanda by taking strong decisions against it. In response, the Rwandan government accused the DRC of firing rockets to its territory and abducting two of its soldiers on border patrols. Diplomatic spats between the two countries began in 1994 when Rwandese military entered the DRC in pursuit of the Banyamulenge militants who had pitched camp in the Eastern part of the country. The DRC complained of foreign troops entering its territory without permission (*Al-Jazeera*, 2022).

As Kenya engages Somalia in diplomatic spats, the later has a bigger share against the former. The question then is, in diplomatic circles, what is or are the main objective(s) of spats? According to (Arquilla,1992), diplomatic spats are sometimes inevitable. Spats in most cases allow concerned parties to understand each other better and trigger an urge to engage in talks to sort out the misunderstanding. This leads to moments of reflection by the other party, listening to their opinion and the back-story and the best way of dealing with a spat is to apologies when necessary and insistence on the common goal. Diplomatic spats allow parties to understand each other better and eventually give room to the attainment of the change they are seeking (See *Al Jazeera*,2022).

Diplomatic spats between Kenya and Somalia began in 1962 when Jomo Kenyatta the then Kenyan Prime Minister had travelled to Somalia to meet his counterpart Omar Abdirashid Ali Shermake hoping that it was an opportunity to resolve the issue of Somali speaking people in the Kenyan NFD. During the visit Kenya and Somalia were able to identify key areas of cooperation. After the perfunctory farewell speeches were over and Kenyatta was waiting for the parade out to the aeroplane then without any warning, at all the Somali PM, sheaves foolscap papers in his hand, climbed upon a nearby rostrum and delivered impassioned address” (Kareithi,2023) In the speech, the PM affirmed Somalia’s commitments to the concept of five-pointed star to redeem all Somali people into one country including those in Kenya. Kenyatta then demanded to be given an opportunity to rebut but was not allowed. He later told the people of Somalia that not an inch of Kenya will be surrendered to any alien cause. Kenyatta learnt later that the Somali Parliament had agreed to help Somalis in NFD to secede. This incident caused an escalation of hostilities climaxing in warfare between the government and secessionists. Spats with Somalia have historically been detrimental to Kenya due to balance of trade that favor it (Wrights,1981).

In 2019, FRS complained of Kenya’s act of deporting two of its legislators and a Cabinet Minister at the Jomo Kenyatta International Airport. In 2020, FRS banned Khat imports from Kenya citing threats posed by corona virus but continued importing it form Ethiopia. In the same year, Kenya complained of boarder attacks in Mandera where heavy fighting took place between its armed forces with a group of militants that Kenya claimed were FRS Army personnel. In December, the diplomatic spat escalated further when Somali cut diplomatic ties with Kenya and recalled its Ambassador from Nairobi accusing Kenya of meddling in its internal affairs. Kenya diplomats in Mogadishu were also ordered to vacate the country. The move was as a result of Kenya hosting Musa Bihi Abdi the leader of Somaliland that had declared its independence from FRS in 1991 (*Daily Nation*,2021). Kenyan authorities argued that FRS was using Somaliland issue as scapegoat for its own internal political challenges. The two countries resumed diplomatic ties after six months. This was after an intervention by the Quarter government. In a joint statement by the two heads of state, they acknowledged efforts made by Emi Sheikh Tarum bin Hammad Al Than.

### **Negotiations**

It is known that since the 1960’s when the two countries attained independence, relations can be described as strained and belligerent. As argued earlier, several factors were responsible for this. They included FRS’s claim of the NFD, Kenya’s support for Ethiopia during the Somali – Ethiopia War over Ogaden region and the seizing of an Egyptian plane carrying weapons headed to Mogadishu (Tipis,2011). However, during the Moi regime a new diplomatic tact was employed by Kenya in an effort to tame the Somali Question. In 1983, President Moi sent some envoys to FRS to find ways in which his government could initiate friendly talks. Some of the issues discussed and negotiated on included possibilities of establishing mutual understanding on border claims, trade cooperation and good neighborliness. This culminated in an unprecedented visit to FRS by the Kenyan Head of State in July 1984. The talks between Presidents Said Barre and Daniel Moi for the first time improved relations between the two countries (Donovan, 2010).

From the talks, President Bare declared that the FRS did not harbor any intention of claiming part of Kenya anymore because the country had other pressing issues that needed attention. He is recorded to have said that FRS will “pursue friendly relations with Kenya and respect its territorial integrity” (Ghalib,1995). The challenges President Bare was referring to included insurrection in the South, insurgency in the North, drought and famine, economic downturn and poverty. FRS had also spent most of its time fighting and funding separatist groups in neighboring countries at the detriment of its weak economy. President Moi offered to broker peace between FRS and Ethiopia over the Ogaden. The talks between the two heads of state also culminated in the signing of an agreement also known as the Border Security Agreement. In 1985 in response to the negotiations that had taken place between Kenya and FRS, the adamant remnants of the Shifta group that had fled back responded to the second amnesty offered by the Government of Kenya marking the official end of the 30years Shifta War (Ringquist,2011).

In October 2021 despite the ICJ’s ruling recommending the adjusting of the border giving Somalia rights to most of an oil-rich part of the Indian Ocean rejected by Kenya, went ahead to convince FRS authorities to consider an amicable resolution of the Maritime dispute out of court (*Al Jazeera*,2021). This development



showed how Kenya was able to use negotiation as a strategy to achieve its interests in dealing with FRS. When Hassan Sheikh Mohammad won the FRS's elections in 2022 defeating Farmajoo, Kenya swung into action by inviting him for bilateral talks in Nairobi. It should be noted that the President Farmajoo who initiated a diplomatic spat with Kenya in 2021 was defeated by Hassan Sheikh Mohamud. During the talks the following were agreed upon; emphasis was placed on the importance of bilateral relations heritage and shared history and destiny that existed between the people of the two countries, respect for sovereignty and territorial integrity of the two countries, common fight against terrorism, common effort to mitigate the effect of drought by involving International Humanitarian Agencies, review of Bilateral Air Service (BASA) and resumption of scheduled flights by Kenya Airways to Mogadishu, promotion of trade and economic cooperation, resumption of trade in Khat (*Miraa*), market access for fish from Somalia to Kenya, opening of borders and hastened processing of visas for holders of ordinary passports among other issues ( Republic of Kenya,2022).

A keen look at the above memorandum, one will be able to see how Kenya was using negotiations through bilateral talks to achieve its national strategic interest with the FRS. The bilateral agreement cited above gave Kenya an assurance that the newly elected FRS government was friendly and was ready to pursue peaceful means in solving disputes especially the maritime border dispute. Questions then are, will Kenya be relying on friendly FRS regimes for its interest especially the maritime questions? what will happen if a hostile regime is elected in future and disowns any agreement over the Indian Ocean border? Sometimes Kenya's push for negotiations with FRS has hit a dead end. For example, immediately FRS presented a case before the ICJ, Kenya made several attempts to convince it to accept out of court settlement. Kenya attempted to involve several intermediaries in vain. The country struggled to use the AU to help negotiate an out of court settlement but FRS remained adamant. In 2019 the Peace and Security Council invited both parties but FRS rejected the offer arguing that it would not be party to a discussion that undermines an active case before an international court. However, FRS sent its Foreign Minister Abdulkadir Ahmed Kheir to the second AU meeting where the two countries were urged to refrain from any action that may jeopardize good neighborliness (*The Standard*, 2022).

### III. Conclusion

Colonial boundary demarcation was the source cartographic disputes between FRS and Kenya triggering Somali nationalism that degenerated into secessionist demands. Colonial indecisiveness was another catalyst in the border dispute. Moreover, the two countries consistently employed three diplomatic strategies i.e. negotiations, deterrence and spats. The FRS's internal conflicts and the involvement of terrorist groups such as A Qaeda and Al Shabaab and the superpowers complicated matters. It was also observed that once FRS stabilizes after subduing insurgency coupled with economic recovery, it will challenge Kenya especially militarily in an attempt to resolve the Indian Ocean maritime cartographic dispute.

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