The London School of Economics and Political Science

Negotiating Governance:
Kenyan contestation, cooperation, passivity toward the Chinese.

Maddalena Procopio

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Abstract

The scholarship on Sino-African relations has been too pre-occupied with China's behaviour and impact on Africa and paid little attention to the role played by African actors, contexts and processes of governance. This thesis addresses this deficiency through an examination of the interaction between Kenyan state and non-state actors in the relationship with China. In doing so, it focuses on how such interactive relation is mobilised and negotiated through Kenyan 'agency', and how it constitutes a means of building national capacity in domestic as well as foreign policy, paving the way for a less dependent and more sustainable developmental nation.

The thesis adopts a state-society approach which combines macro (national)-, meso (sectoral)- and micro-(issue-specific) level dynamics within a single country case study. Such complex and differentiated design helps to reach a nuanced understanding of actor agendas and mobilisation strategies within specific systems of governance. The cases are grouped into three main sectors, i.e. trade, healthcare and education, cutting across trade and aid type of engagements between a variety of Chinese and Kenyan actors.

Negotiations are mainly characterised by strategies of contestation and cooperation domestically and with the Chinese. Passivity, contrary to the mainstream literature, is more rarely observed. The thesis demonstrates that the factors that contribute to Kenya's control of the relations with China should not be identified in the state's aggregate power, or the sum of state's resources, but rather are situated within the context and the structure of the specific negotiations. The ability to safeguard interests is then determined by the ability of Kenyan actors to guarantee conformity of specific negotiation processes to the prevailing system of norms and practices as understood and legitimised by Kenyans.

Selected List of Acronyms

ACA – Anti-Counterfeits Agency
ACFTU - All-China Federation of Trade Unions
ADB – African Development Bank
API - Active Pharmaceutical Ingredients
CBA - Contract Bargaining Agreement
CBD - Central Business District
CCCMHPIE - China Chamber of Commerce for Medicines and Health Products'
       Imports and Exports
CCK - Communications Commission of Kenya
CCP – Chinese Communist Party
CKRC - Constitution of Kenya Review Commission
CMT - Chinese Medical Teams
CNOOC - China National Offshore Oil Company
COFEK - Consumers Federation of Kenya
COMESA - Common Market for Eastern and Southern Africa
COTU – Central Organisation of Trade Unions
CRBC - China Road and Bridge Corporation
CSO – Civil Society Organisation
CSR – Corporate Social Responsibility
DFID – (UK) Department For International Development
EAC - East Africa Community
FKE - Federation of Kenya Employers
FOCAC – Forum on China-Africa Cooperation
GFATM - Global Fund to Fight AIDS, Tuberculosis and Malaria
HAC - Harmonization, Alignment and Coordination Group
HRH - Human Resources for Health
ICC – International Criminal Court
IISS - International Institute for Strategic Studies
ILO - International Labour Organisation
IP – Intellectual Property
IRT – International Relations Theory
ITUC-Africa - International Trade Unions Confederation-Africa
JICA – Japan International Cooperation Agency
KAM – Kenya Association of Manufacturers
KANU – Kenya African National Union
KEBS - Kenya Bureau of Standards
KEMRI – Kenya Medical Research Institute
KEMSA - Kenya Medical Supplies Agency
KESSP - Kenya Education Sector Support Programme
KFRTU - Kenya Federation of Registered Trade Unions
KHF - Kenya Healthcare Federation
KIPPRA – Kenya Institute for Public Policy Research and Analysis
KNCCI - Kenya National Chamber of Commerce and Industry
KU – Kenyatta University
MDG - Millennium Development Goals
MOU – Memorandum of Understanding
NARC – National Rainbow Coalition
NASCOP - National AIDS & STI Control Programme

NATHEPA - National Health Practitioners Association
NCPD - National Council for Population and Development
NPI - Natural Products Initiative
ODA - Overseas Development Assistance
ODI – Overseas Development Institute
OECD-DAC - Organisation for Economic Co-operation and Development - Development Assistance Committee
PCK - People's Commission of Kenya
PEPFAR - President's Emergency Plan for AIDS Relief
PRC – People's Republic of China
SoE – State-owned Enterprise
SSA – Sub-Saharan Africa
SSC – South-South Cooperation
SWAp - Sector Wide Approach
TU – Trade Union
TUK – Technical University of Kenya
TVET - Technical and Vocational Education and Training
UNCTAD - United Nations Conference on Trade and Development
UNDP - United Nations Development Programme
UON – University of Nairobi
USAID – United States Agency for International Development
WB – World Bank
WHO - World Health Organisation
WTO – World Trade Organisation

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CHAPTER 1
Research Introduction and Design

1.1 Introduction

China's vastly increased involvement in Africa is one of the most significant developments in the region since the early 2000s. The scholarly focus on the topic has, more often than not, been on *China*'s foreign policy's influence, impact, priorities, achievements and difficulties in Africa. Less attention has been paid to analysing the African side of the equation: beliefs, interests, resources and structures that determine the motivations and modalities of action in dealing with the opportunities and challenges that China is presenting.

This shortcoming does not come as a surprise if one looks at how Africa has been portrayed in the international relations literature: *Africans' leverage in negotiating with external forces has chronically been neglected, depicting the continent as dependent and powerless*. Similarly, Africa's relations with China have been understood as heavily asymmetrical due to China's economic and political overall strengths, leading to assume that little negotiation willingness or ability was left to Africans. Even when Africans 'were attributed' decisional power, it has often been believed that if they could choose between Western[1] normative approaches and China's no-strings-attached win-win promises, they would undoubtedly opt for the latter, based on ideological affinity and the possibility of quick returns. While these conditions contain elements of truth, it is about time that the African side of the equation is analysed not by studying the 'consequences for Africa' of China's arrival, but the *reasons and modalities of Africans' action*.

In a way, the thesis is an attempt to simply change the standing point for observing real world dynamics, to invert the logic to ask 'What is the influence African contexts and people have on Sino-African relations?' rather than continue asking only 'What is the influence China has?'. The aim is thus that to explore whether Africans have the willingness and ability to safeguard their interests in the relational dynamics with external forces, what are their reasons and modalities,

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[1] For a good account of the conceptualization of the West in international relations, see J. O'Hagan, *Conceptualizing the West in International Relations: From Spengler to Said*, Palgrave, Houndmills, 2002.

how the interactive relation between state and non-state actors is mobilised and negotiated, and how it constitutes a strength in building national capacity in domestic as well as foreign policy. The willingness and ability to safeguard their interests, i.e. 'agency', is articulated as the definition and determination of governance processes vis-à-vis the same processes being defined and determined by external actors. By studying these processes, the thesis aims at contributing to the existing literature on Africa in international relations, and more specifically Sino-African relations, through empirical findings.

To gather a full picture of these dynamics, this thesis transcends the disciplinary boundaries that often adopt single levels of analysis. While the literature on Sino-African relations has mostly understood the African engagements with China through a dichotomous lens, i.e. state or non-state action, in this thesis the author uses a combined state-society approach, believing that the governance of particular issues, domestically and with external actors, cannot be so easily circumscribed within such boundaries. As Mohan and Lampert suggest "Chinese relations with many African countries are maturing and moving beyond state-to-state deals, implicating many more actors. So, the need to move beyond statist, elite dialogues is not simply a theoretical exercise, but one made more pressing by this growing 'embeddedness' of mutual political and economic ties"[2].

Moreover, the asymmetries identified between China and African countries, which presumably void the win-win discourse of its meaning, are often compared within a single sector without taking into consideration the wider context. To overcome this problem, this thesis combines reasoning about *macro-*, *meso-* and *micro-*level dynamics, national, sectoral and issue-specific. It is argued that using such three-layered approach and paying attention to the specific and broader contexts simultaneously, leverages the strengths and weaknesses that a country-system adopts vis-à-vis external forces. This is helpful for at least two reasons.

First, perpetuating the discussion about 'Africa' and China, often adopted in studies of multiple countries, may be producing inaccurate depictions of real world dynamics that are instead always, inevitably, context-dependent. While it is explained, in the next chapter, the inevitability of talking of 'Africa' as a collective presence, mainly because the literature, historically, refers to it as such, the aim of

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[2] G. Mohan and B. Lampert, 'Negotiating China: Reinserting African Agency into China-Africa Relations', *African Affairs,* vol. 112, no. 446, 2014, p. 100.

the thesis is to select one single country and dig deep into its processes of decision-making.

Second, by looking at broader national contexts, in conjunction with the sector and issue-specific contexts, it may be possible to note that despite not winning in the same 'discipline' as China, African countries do gain from the relation. While some sectors suffer from increased relations with China, others may benefit. Kalu in his doctoral dissertation suggests that "Nigerians are willing to experience a continued trade deficit with China in order to achieve other important objectives"[3]. This also relates to the need of breaking down national contexts and move beyond the widespread belief that African countries practice a single type of governance, according to which "states and public services operate in *clientelist* mode, the general model is *neopatrimonial* in nature and most practices fall into what is called the *informal* realm"[4]. Doing so does not aim at suggesting that these types of governance mechanisms are disappearing, but rather at establishing whether they are still largely representative of actual governance dynamics.

Finally, the thesis establishes that the processes of governance, negotiated across the state and non-state realms, are a crucial site for determining power distribution between Africans and external actors. The willingness and ability of domestic actors to safeguard their interests in the relations with external forces is the result of these processes of governance that are, in turn, shaped not by linear relations, but by a complex and non-static blend of beliefs, interests, resources negotiated within specific systems of governance.

1.2   Literature Overview

By locating this thesis in the field of International Relations, the main problem concerns, first and foremost, a necessary disambiguation about the fundamental

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[3] N.E. Kalu, 'Understanding Africa's China Policy: A Test of Dependency Theory and a Study of African Motivations in Increasing Engagement with China', PhD thesis, University of Nebraska-Lincoln, 2012, p. 1.
[4] J.P. Olivier de Sardan, 'Researching the Practical Norms of Real Governance in Africa', Africa Powers and Politics Programme Discussion Paper, no. 5, Overseas Development Institute, December 2008, p. 1.

units of the discipline. The literature on the African State[5] and African Civil Society[6] has mainly focused on the *appropriateness* of applying western concepts to non-western realities and how such concepts have been readapted/rejected by African states and peoples, in the face of both internal issues and external forces. In other words, it has been questioned whether the institutions of the state and civil society in Africa exist at all given that the original forms of associational space existent in Africa before the advent of colonisers were significantly different in structure to the western division of powers between the state and other societal actors.

As a consequence of these debates about the units of analysis, the role of African agents in international relations has often been underestimated. Cornelissen, Cheru and Shaw assert that "Africa is generally under-represented in the mainstream IR scholarship emanating from the North Atlantic world and is mostly left out of the theoretical debates that have animated this scholarship"[7]. This is grounded in a widespread belief, in the real world and the scholarship on Africa, that Africa is marginal, irrelevant, powerless in the world's global processes. The predominance of informal governance in Africa, consequential to the absence of a proper division between formal state apparatuses and social formations has led to believe that African states "might be rather different from the states that typically inhabit at least 'traditional' IR theory"[8] (IRT) and because of this, they could hardly fit IRT[9]. This normative understanding of political dynamics overlooked the historical trajectories and the complexities of empirical statehood without realising, as Williams claims, that "African states help to provide some of what we might call the

[5] J.F. Bayart, *The State in Africa. The Politics of the Belly*, Longman, New York, 1993; J.F. Bayart, 'Africa in the World: A History of Extraversion', *African Affairs*, vol. 99, no. 395, 2000; C. Young, 'The End of the Post-Colonial State in Africa? Reflections on Changing African Political Dynamics', *African Affairs*, vol. 103, no. 410, 2004; L. J. Diamond, J. Linz & S. M. Lipset eds., *Democracy in Developing Countries,* Lynne Rienner, Boulder, 1988; D.S. Rothchild and N. Chazan, *The Precarious Balance. State and Society in Africa,* Westview Press, Boulder, 1988; A. Mbembe, *On the Postcolony*, University of California Press, Berkeley, 2001; M. Meredith, *The State of Africa : A History of the Continent since Independence*, Simon & Schuster, London, 2011.
[6] D. Lewis, *Civil Society in Non-Western Contexts: Reflections on the 'usefulness' of a Concept,* Centre for Civil Society, London School of Economics and Political Science, London, 2001; P. Chabal and J.P. Daloz, *Africa Works: Disorder as Political Instrument,* International African Institute in association with James Currey, Oxford, 1999; J.M. Makumbe, 'Is there a Civil Society in Africa ?', *International Affairs*, vol. 74, no. 2, April, 1998; S. Orvis, 'Civil Society in Africa or African Civil Society?', *Journal of Asian and African Studies*, vol. 36, no. 1, 2001; M. Bratton, *Civil Society and Political Transition in Africa,* Institute for Development Research Report Series, vol.11, no.6, Institute for Development Research, 1994; M. Edwards, 'The Challenges of Civil Society in Africa', lecture given at TrustAfrica [lecture notes online], 12 February 2009.
[7] S. Cornelissen, F. Cheru and T.M. Shaw, 'Introduction: Africa and International Relations in the 21st Century: Still Challenging Theory?', in S. Cornelissen, F. Cheru and T.M. Shaw eds., *Africa and International Relations in the 21st Century*, Palgrave Macmillan, Houndsmill, 2012, p. 2.
[8] D. Williams, 'Agency, African States and IR Theory', paper presented to the BISA Annual Conference, Manchester, 27-29 April 2011, p. 3.
[9] W. Brown, 'Africa and International Relations: a comment on IR theory, anarchy and statehood', *Review of International Studies*, vol. 32, no. 1, 2006; D. Lemke, 'African lessons for International Relations research', *World Politics,* vol. 56, no. 1, 2003; D. Lemke, 'Intra-national IR in Africa', *Review of International Studies*, vol. 37, 2011; C. Clapham, 'Degrees of statehood', *Review of International Studies*, vol. 24, 1998; Williams, op. cit.

'limit cases' but the broad issues that emerge are ones that can be applied to thinking about state agency in general"[10].

To include the range of actors and political formations that constitute politics, it is necessary to break down assumptions about 'difference'. Hence, the governance of domestic affairs in this thesis is defined as the power relations between the governing and the governed, devoid of normative attachments. It is not about 'good' governance, but rather about 'real' governance[11]. Aspects of 'poor' governance such as corruption, ethnic allegiance, clientelism, are considered in this study as relevant as aspects of 'good' governance, such as accountability, participation, the rule of law. Real governance, as state by Olivier de Sardan, "is composed of multiple dimensions, some convergent and others contradictory; it is also the product of local, sectoral and individual microdynamics; and lastly, it faces on every front a pluralism of forms of action"[12]. Therefore, it is important to look at state-society relations in Africa not "as a promised agenda for change"[13] but as Mamdani suggests, in their "actual formation"[14]. This means that in defining state-society relations, the focus should be on the broad range of collective activity and norms, be they democratic or not, that constitute actual society[15].

1.2.1 Sino-African Relations Literature

Similar to the treatment of Africa in the broader field of IR, the literature on Sino-African relations has been less concerned with Africa than it has been with China. The debate on Sino-African relations has attracted scholarly attention since the Cold War period. Snow, Filesi and Duyvendak focused on the historical ties between China and the African continent[16]; others such as Yu, Larkin, Hevi and Hutchison have instead focused on China's foreign policy in Africa since the end of the Second World War to the late 1970s, with a view to the ideological underpinnings that still feature in nowadays relations[17]. However, it is only since the late 1990s that

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[10] Williams, op. cit., p. 3.
[11] Olivier de Sardan, op. cit.
[12] Olivier de Sardan, op. cit., p. 4.
[13] M. Mamdani, *Citizen and subject: contemporary Africa and the legacy of late colonialism*, Princeton University Press, Princeton, 2006, p. 19.
[14] *Ibid.*
[15] Orvis, op. cit., p.18.
[16] See P. Snow, *The Star Raft: China's Encounter with Africa*, Weidenfeld and Nicolson, London, 1988; T. Filesi, *China and Africa in the Middle Ages*, trans. David L. Morison, Frank Cass, London, 1972; J. J. L. Duyvendak, *China's Discovery of Africa*, Arthur Probsthain, London, 1949.
[17] See G. Yu, 'Peking Versus Taipei in the World Arena: Chinese Competition in Africa', *Asian Survey*, vol. 3, no.9, 1963, pp. 439-453; G. Yu, 'China's Failure in Africa', *Asian Survey*, vol. 6, no. 8, 1966, pp. 461-468; E.Hevi, *The Chinese Communists and Africa*, Praeger, New York, 1966; B. D. Larkin, *China and Africa 1940-1970: The Foreign Policy of the People's Republic of China* University of California Press, Berkeley, 1971; A. Hutchison, *China's Africa Revolution*, Hutchinson, London, 1975.

scholarly attention intensified, initially characterised by conventional views about the scope and role of the Chinese presence in Africa. Especially in the first years of engagement (ca 2000-2008), the debates broadly relied on journalistic accounts, exacerbating a dichotomous understanding[18]: Western media tended to view the development with scepticism and wariness[19], while the Chinese perspective, observed in official Chinese sources, was often characterised by unbounded optimism. In other words, the relations were polarised as either dangerously neo-colonial or optimistically beneficial for African countries.

As Alden suggests "we seem unable to escape our singular focus on competing discourses claiming colonial intent or benign purpose on the part of China in Africa"[20]. This inability seems to be due to an urge "to capture ongoing global transformations and their manifestations" while they are in the process of taking shape. An inability that is also characterised by "our own biases and assumptions, including the ideology of difference that causes some Western scholars in particular to exoticize this relationship, or the ideology of sameness that causes some Chinese scholars to familiarize it"[21].

Either way, the depiction of the role played by Africans within the relations was minimal, mostly characterised by Africans being acted on. This understanding was bound by, especially in the first decade of intensified Sino-African studies (2000-2010), a disproportionate propensity to understand China-Africa relations in realist terms, focusing on strong/weak power asymmetries revolving around the Chinese extraction of African natural resources. In effect, the narrow scholarly focus reflected the limited initial approach between China and African countries, characterised by state-to-state engagements and driven, first and foremost, by a Chinese appetite for natural resources, claimed to be satisfied unquestioningly by Africans. In this initial phase, despite the Chinese proclaimed win-win discourse, fierce criticism was raised against China's involvement with states of all political orientations, including authoritarian ones, and concerns were voiced regarding the benefits the relations would bring to African societies, as opposed to African elites. In other words, the win-win symbolism seemed to be relevant, if at all, at state-to-

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[18] Also see China Aid Data to understand the role of the media as the first source of knowledge upon which many academic studies draw their data: China Aid Data, 'Methodology', *China Aid Data* [website], <http://china.aiddata.org/content/methodology>.

[19] S. T. Freeman ed., *China, Africa and the African Diaspora: Perspectives,* AASBEA Publishers, Washington DC, 2009.

[20] C. Alden, 'In Search of Gravity's Rainbow. Theoretical Approaches and China-Africa scholarship', paper presented at the Making Sense of the China-Africa Relationship: Theoretical Approaches and the Politics of Knowledge conference, Yale University, 18-19 November 2013.

[21] *Ibid.*

state level but not in relation to society. Based on a few studies of, mainly, authoritarian African countries, generalisations about elites' behaviour across Africa assumed that these last would unquestioningly welcome China's no-strings-attached approach, as opposed to more critical perceptions rising from society. African elites were often portrayed as passive watchers of Chinese abuses, i.e. disrespect for local rules and exploitation of local resources, even in cases where society's uneasiness towards the Chinese was voiced.

With time, academic debates around the presumably exploitative attitude of the Chinese and assumed passivity of African elites started to be acknowledged. Alden, Large and Soares de Oliveria in 2008 asserted that Beijing was, more and more, finding itself "at odds with an emerging consensus on the necessity of good governance within Africa itself" and that "the voices arguing for improvements in accountability, transparency and democracy were not just civil society activists but some of the top leaders of the continent, like Nigeria's former President Olusegum Obasanjo and South Africa's Thabo Mbeki"[22].

The seemingly consistent Chinese foreign policy discourse on win-win cooperation started being questioned by Africans as the practices of a diverse range of Chinese actors, not only state actors, further exacerbated the discussion, among societal groups as well as international organisations, concerning the exploitative nature of Chinese activities. At the same time, Chinese leaders begun to show signs of awareness concerning the importance of accounting for *African internal perceptions* as well as *African governance dynamics* for the success of their initiatives, thus paying attention not only to formal institutions but also informal ones, not only to state organs but also to non-state entities, not only to the pragmatic aspects of the engagement but also to the image of China and its reception in African contexts.

Since the early 2010s, the literature has tried to make up for its biases, providing more attention to engagements beyond natural resources extraction and, if limitedly, to the role played by African people and contexts[23] in Sino-African relations. This diversification did not aim at diminishing the importance that natural resources play in Sino-African relations or the prominence of China. However, the actual engagements, increasingly more complex and diversified, were signalling the need to expand the focus and include units of analysis that had been, until then, neglected.

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[22] C. Alden, D. Large and R. Soares de Oliveira eds., *China returns to Africa. A rising power and a continent embrace,* Hurst Publishers, London, 2008. p. 21.
[23] Kalu, op. cit.; Mohan & Lampert, op. cit.

Studies on the African elaboration of the Chinese arrival started focusing on *either* African elites' responses to the Chinese *or* civil society's behaviour. The content and modalities of the relations *between* the elites and societies, in light of the generally new engagement with China, was not problematized, but merely described as polar with the first having a positive attitude towards the Chinese, welcoming them without many conditions[24], and the latter holding a negative and cynical view of China's presence.

1.3   Unpacking the Research questions

The analyses of China-Africa engagements in the international relations field are, more often than not, framed as analyses of *Chinese* foreign policy. As noted above, African actors and contexts involved in the relations with China are often overlooked or deemed *passive*, *unable* and *irrelevant* to the outcome of the interaction. The relations are often characterised as asymmetrical with the preponderance of power residing in the hands of Chinese actors and structures. An increasing body of literature has started paying attention to 'African' agency[25] in the recent years, suggesting that it should deserve more attention than it had so far received. This body is only limitedly addressing specific Sino-African relations while enquiring more generally about African agency in international relations[26]. As a consequence, the subject still needs a systematic investigation to be grounded on empirical observations so to build a more substantial body of literature.

Aiming at contributing to filling this gap, this thesis studies African agency as the *indigenous/African ownership* of governance processes within Sino-African relations and asks: *what are the degree, the motivations and modalities through which African ownership of governance processes is exerted in Sino-African relations?* The processes of governance are a crucial site for determining power distribution

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[24] Africa and Asia Departments at Georgetown University, *Africa and China: Issues and Insights*, Conference Report, Georgetown University, 7 November 2008.
[25] W. Brown, 'A question of agency: Africa in international politics', *Third World Quarterly*, vol. 33, no. 10, 2012; W. Brown and S. Harman eds., *African Agency and International Relations*, Routledge, Abingdon, 2013; D. Neubert and C. Scherer eds., *Agency and Changing World Views in Africa*, Lit Verlag, Berlin, 2014; T. Shaw, 'African Agency? Africa, South Africa and the BRICS', *International Politics*, no. 52, 2015; L. Whitfield and A, Fraser, 'Negotiating Aid: The Structural Conditions Shaping the Negotiating Strategies of African Governments', *International Negotiation*, no, 15, 2010; P. Murray-Evans, 'Regionalism and African agency: negotiating an Economic Partnership Agreement between the European Union and SADC-Minus', *Third World Quarterly*, vol. 36, no. 10, 2015.
[26] A recent exception is the edited volume: A. Gadzala ed., *Africa and China: how Africans and their governments are shaping relations with China,* Rowman and Littlefield, London, 2015.

between Africans and external actors. To delineate what agency-as-ownership means, it is first necessary to explain how governance is conceived.

Governance

According to Rosenau [27], the concept of governance is more inclusive than government as it embraces "governmental institutions and informal, non government mechanisms whereby needs and wants are fulfilled". He asserts that governance is a system of rules accepted by the majority[28]. This broadening of the focus to the concept of governance – instead of the narrower idea of government – is necessary to provide an accurate portray of actual Sino-African relations. In fact, the *willingness* and *ability* to exert control in processes of negotiation with external actors, depend on the existence of a range of actors, on their ideas, interests, and on the way power and resources are distributed and shared among them domestically, which can be accentuated in the relations with external actors.

To account for such diverse elements of governance, this thesis does not adopt a single theoretical paradigm. It rather asserts that to capture the complexity of governance processes unfolding across the domestic and international environments, a combination of theoretical approaches is required. In Chapter 2, the aspects that are deemed relevant, for this thesis, of the realist, institutionalist, constructivist and pluralist theoretical approaches will be presented. Though aware that uniting them will inevitably decrease their particular explanatory power, it is believed that together they can provide a more accurate depiction of *actual* governance dynamics. By means of introduction, by pulling together relevant elements of each of these theoretical approaches, the thesis presents a conceptualization of governance that does not place the full explanatory power on individuals or structures, but rather on a complex intertwining of the two. This conceptualization:

- Identifies the diversity of actors in Sino-African relations. In doing so, the author recognises the importance of the State but understands it as acting through human agents, in a non-unitary fashion, subjected to social and market forces whose interests are negotiated through processes of

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[27] J. Rosenau, 'Governance, Order and Change in World Politics', in J.N. Rosenau & E.O. Czempiel eds., *Governance without Government: Order and Change in World Politics*, Cambridge University Press, Cambridge, 1992, p. 4.
[28] *Ibid.*

competition and cooperation, based on the asymmetrical availability of resources.

- Recognises that agents identify their interests not only based on rational decisions but also based on social constructs, i.e. ideas and perceptions.

- Assigns particular relevance to institutions, in particular in relation to their dependence on historical paths.

- Recognises that governance is far from being merely state-determined, within one country's boundaries, but is rather increasingly the consequence of the inclusion in the decision-making of social and market forces, including multilateral organisations.

- Finally, all this is subjected to change over time. Even though path dependence finds significant space in this conceptualization, change is also an important element of Sino-African relations, determined by heuristic approaches to interaction, and of Africa's relations with other external forces.

Resulting from this is an idea of governance that is dynamic, encompassing a wide range of actors who have asymmetrical access to resources and power and whose interests are negotiated across sub-national, national and international platforms. A governance that is constituted by a multitude of relationships that have historically determined the formal and informal norms, procedures, conventions of interaction; that is ideationally subjectively constructed, and that is subject to change. It is a multi-level type of governance according to which decision-making norms and institutions are forged at specific levels and negotiated then with tiers above and below[29]. These interactions occur as competing "economic and political forces seek the most favourable conditions for insertion into a changing international order"[30].

Ownership

Ownership of these complex governance processes in international relations is contrasted with these processes being *defined and dominated* by external actors, hence the idea of agency-as-ownership. In other words, it means the safeguarding of African interests (vis-à-vis the interests of external actors) through the protection of the decision-making process. Africa remains a region whose formal and informal

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[29] N. Brenner, New State Spaces, Oxford University Press, Oxford, 2004.
[30] B. Jessop, 'The Crisis of the National Spatiotemporal Fix and the Ecological Dominance of Globalising Capitalism',
International Journal of Urban and Regional Research, Vol.24, No.2, 2000, p.343.

structures, institutions and norms have been shaped, re-shaped, contested and challenged by external actors to an unprecedented degree. Considering China's relatively new arrival in Africa and its proclaimed non-interference policy, it remains fundamental to understand how domestic capacities and international configurations of power interact.

As Whitfield and Fraser suggest in their study of aid negotiations between external actors as donors and African recipients, looking at African 'ownership' of governance processes in an international relations context means exploring "how a realm of decision-making can be protected from external influence, defending spaces in which African agents can struggle amongst themselves over the nature of appropriate political and economic processes"[31]. By ownership, they mean the 'control' over the *content* and *modalities* of governance, as opposed to these being decided upon by external actors, advancing the idea that "loss of control [...] has had a malign effect"[32]. They continue by stating that, to one extreme, "the defense of ownership is in effect a defense of the sovereign rights of African states"[33].

It is assumed that *if the domestic system of governance is safeguarded, then the interests of African actors are also protected since the domestic system of governance, which regulates how power and resources are shared among actors, serves as a point of leverage over acts of narrow self-interest.* It is, in other words, the product of (continuous) negotiations over what is deemed legitimate and thus accepted by indigenous stakeholders[34]. This does not, however, imply that the system of governance is, normatively speaking, a morally correct one or that procedures are bound by legality and formality. This thesis is about 'real' governance, not 'good' governance. As a consequence, the content and modalities of action to be safeguarded can be more or less morally justifiable, pertaining to the formal as well as informal worlds.

Moreover, safeguarding the system does not necessarily mean maintaining it. It can also mean revisiting it to make sure it is suitable to face emerging opportunities

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[31] Whitfield and Fraser, op. cit., p. 343.
[32] *Ibid.*
[33] *Ibid.*
[34] For an interesting overview of the literature on the concept of 'stakeholder' and the birth of 'stakeholder analysis' as a research method, see R. Brugha & Z. Varvasovszky, 'Stakeholder analysis: a review', *Health Policy and Planning*, vol.15, no.3, pp.239-246. The paper suggests that stakeholder analysis as a method stemmed out of the organisational and management literature of the 1970s and 1980s. According to the authors, the method considers 'policy actors [...] not only as interest groups but also as active or passive players on the policy scene who are also affected by the policy'. The 'policy scene' - called 'arena' in this thesis - is not narrowly associated with the government but more broadly with all those actors that, directly or indirectly, affect the policy and are affected by it. The thesis will use the term 'stakeholder' to refer to actors affected by the policy-issue under study, and will be used interchangeably with the term 'actor/agent'.

and challenges. The focus on the system of governance is deemed extremely important in a study of relations with external actors as it is considered the synthesis of the structure-agency interplay within a country, one that is historically rooted in ideas, interests, relationships, and so forth, and thus an unavoidable aspect of the relations with external forces. As Long notes, "all forms of external intervention necessarily enter the existing life-worlds of the individuals and social groups affected, and in this way are mediated and transformed by these same actors and structures"[35].

Negotiating governance

The act of negotiation is the struggle among groups about the most suitable pattern for governing a shared space, i.e. the arena. This struggle is what is most commonly referred to as politics, i.e. what Harold Lasswell defined 'who gets what, when and how'[36].

The first step of this approach to the negotiation of governance is the identification of interests (for a comprehensive discussion of interests see Chapter 2, section 2.3.2), the second step is the acknowledgement of whether existing systems are suitable to negotiate these interests to the benefit of involved African stakeholders, the third and last step is the enactment of strategies to either bring the negotiation inside the accepted system of governance or transform the latter to guarantee that the negotiation successfully safeguards interests. Three scenarios are presented.

In the first case, if the interests that emerge in the relations with China can be pursued through negotiations within an existing system of governance ('rooted governance'), then ownership is expressed through the preservation of the procedural norms (conformity) that are entrenched in the existing system. In other words, China is required to abide by existing norms of conduct. This procedural success vis-à-vis the external actor may be, however, the result of numerous acts of negotiation/struggle among domestic stakeholders within the specific system of governance. This is because systems of governance are, first and foremost, sites of negotiation/struggle among domestic actors and only at a second stage they are sites of negotiation with external actors.

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[35] N. Long, 'From paradigm lost to paradigm regained?', in N. Long and A. Long eds., *Battlefields of Knowledge: The interlocking of theory and practice in social research and development*, Routledge, London, 1992, p. 20.
[36] H.D. Lasswell, *Politics: Who Gets What, When, How,* New York, 1936.

In the second case, if the interests that emerge in the relations with China cannot be pursued through existing systems of governance, then ownership is expressed through the identification of the shortcomings and transformation of the system (governance in-the-making). In other words, China's presence has highlighted gaps in the system of governance to the point that this latter, through its entrenched processes, does not guarantee the safeguard of domestic interests. The transformation can be spurred by contestation or by rational-choice. The presence of China is not only perceived as negative, and thus something to re-act against, but can also be used as leverage to achieve emerging interests, thus spurring cooperation-seeking. It is worth to point out that 'in-the-making' refers to processes that can also take years to perfect the system of governance.

On top of these first two cases, it is also expected to find cases where political expediency is used to bypass existing systems of governance or where a specific system of governance does not exist. This is one of the main arguments in Sino-African relations, according to which political and economic asymmetries between the Chinese and African actors often lead the latter to bypass systems of governance to strike quicker deals with the Chinese, which presumably favour elites. Alternatively, African actors are believed not to have a strategy or structure to negotiate in their best interests.

One of the main aims of this thesis is to understand how frequent these three strategies are in processes of negotiation and how often they have an impact on the outcome. Hagmann and Péclard defined the first type of governance, i.e. rooted, as "dominated by longstanding conventions on how and by whom statehood is defined"[37], the last type of governance, i.e. absent, is instead defined as "lack[ing] predefined or commonly recognised procedural modalities for decision making"[38], and finally, in the middle, is governance in-the-making which is a combination of the two where a governance system either does not exist and is under construction, or does exist but was acknowledged as inappropriate, hence needing restructuring.

When external actors - themselves carriers of interests, norms, institutions and structures - enter/join African processes of governance, the domestically negotiated interests and modi operandi may be altered to the point that not only the processes

[37] T. Hagmann and D. Péclard, 'Negotiating Statehood: Dynamics of Power and Domination in Africa', *Development and Change*, vol. 41, no. 4, 2010, p. 550.
[38] *Ibid.*

do not unfold following the habitual route, but also the nature of broader systems of governance within which they take place is transformed. Studying the processes helps thus understand why, how and the extent to which systems of governance are preserved, transformed or circumvented. In this respect, it is worth remembering that the outcomes are studied as an end, in this thesis. They are indicative of the degree of safeguarding of interests achieved through negotiations conducted by African actors rather than as a means to achieve further objectives such as "economic development, poverty reduction or democratic governance"[39]. Although these further objectives are identified by stakeholders, and often form the basis of motivations to act, they are not assessed per se. This is because "the defense of a national realm protected to a large extent from external influence is a necessary but not sufficient pre-condition for such developments" [40].

1.4   Methodology

As outlined in previous sections, studies on China-Africa relations more often than not have focused on *China*'s influence, motivations, modalities in engaging with African realities, while lesser attention has been paid to the African side of the equation to understand the influence *African* practices and systems of governance may have on the outcome of the relations with China as an external actor. To study the African side of the equation, reveal the details of negotiations, and avoid ungrounded generalisations on China-Africa relations, the author decided to study a single country while selecting different sectors of engagement with China. In other words, she decided to move the "comparison from one sector to another while keeping the nation constant"[41]. This approach is expected to provide more space for in-depth analysis of the influence that the domestic context has on the overall relations with China.

1.4.1 The sectoral approach

The choice of focusing on one single country allows for an in-depth study of the tensions between structures and agencies while presumably controlling the

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[39] Whitfield and Fraser, op. cit., p. 343.
[40] *Ibid.*
[41] D. Levi-Faur, 'A Question of Size? A Heuristics for Stepwise Comparative Research Design' in B. Rihoux & H. Grimm eds., *Innovative Comparative Methods for Policy Analysis: Beyond the Quantitative-Qualitative Divide*, Springer, New York, 2006, p. 47.

national context. The choice of focusing on more than one sector within a single country is to better understand the tension between national and sectoral/issue-specific interests. Looking beyond a unitary understanding of the national interest represents a contribution to the current scholarship on Sino-African relations. African agency in international relations is often framed as the ability of African *states* to 'hold up their national interests'[42]. This is problematic because agency does not only mean *state* agency. While at the international level the role of the state is still predominant (more elaboration on this in the following chapter), when it comes to specific domestic policy areas, in Africa, as elsewhere, the state becomes one of many actors. Even more, within the state, bureaucracies compete, not always for a unified 'national' interest. While current accounts of African agency in relation to China revolve around state-to-state relations, which often assume the relationship is asymmetrical, if the engagement is approached from a sectoral perspective, this asymmetry may be less dramatic (the preponderance of power residing with local actors and their use of governance methods through formal/informal regulatory regimes).

As highlighted by Levi-Faur, the assumption behind this design is that "sectoral variations are important"[43], i.e. difference within a country, and they can be as important as national variations, i.e. differences between countries. This approach "emphasises the autonomous political characteristics of distinct policy sectors, hence the multiplicity of political patterns in any one country. Sectors are expected to be embodied in policy communities and policy networks organised domestically in a regulatory regime"[44]. The idea to develop a sectoral analysis is situated within a body of literature that recognises that "actual modern states encompass dozens of institutionally distinct policy sectors with highly diverse organisational architectures"[45], thus aggregating patterns of institutions and practices is not helpful to explain the balance of power and interaction between state and society, and/or between domestic and international actors. By disaggregating the state and social structures in defined policy areas, not only vertical diversity is emphasised (not all state-society relations are the same) but also horizontal heterogeneity emerges (state bureaucracies differ, so as societal groups). This body of literature is,

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[42] A. Fraser, 'Emerging Agents of Change: African and International Negotiations', paper presented to the seminar Emerging Agents of Change? Africa in International Negotiations, Chatham House, London, 2 February 2011.
[43] Levi-Faur, op. cit., p. 47.
[44] *Ibid.*
[45] J.M. Sellers, 'State-Society relations', in M. Bevir ed., *The SAGE Handbook of Governance*, SAGE Publications, London, 2011, p. 5.

however, still in-the-making and studies adopting 'one-country many-sectors' approaches are still relatively few. Sellers reminds that "cross-national comparative studies have tended to focus on a single domain of policy within different countries [...] As a result, the consistent consequences in policy sectors for state-society relations, and the relations between sectoral and national institutional differences for state-society relationships remain underexamined and undertheorized"[46].

There are not comprehensive studies of this kind in the Sino-Africa scholarship. Taylor argues that "it is commonplace in the literature on external engagement with Africa to talk of "China" or "France," and while heuristically this may make sense, it does have the potential effect of obfuscating what processes are unfolding and why. Ontologically, such labels are problematic and it is not plausible to speak of states as monolithic entities"[47]. Similarly, Alden recognises that "speaking about 'China–Africa' at this stage in the relationship obscures as much as it illuminates". He stresses the importance for future scholars to "pursue an agenda formed by the seeking of a heightened understanding of bilateral relations, a closer reading of cross-country sectoral studies, and deeper insights into communities. Digging deeper will expose this complexity, enrich our understanding of multi-variant ties and relationships, and ultimately move us away from the simple binaries that have characterised China–Africa studies to date"[48]. The adoption of a sectoral approach thus contributes to the body of scholarship. It assumes that the 'game' consists of the recognition from both sides of the existence of overlapping and differentiated interests, which are at times clearly evident, at other times less. It is this push and pull bargaining exercise that leads to negotiating a "win-set"[49] where both parties gain. It is indeed necessary to acknowledge that the push and pull bargaining exercise takes place well beyond the national level. It is at the sectoral/issue-specific level that the process is re-negotiated, through consultation and implementation, by the local social environment that mediates interests and modalities of action[50].

It is due to remind that 'sectors' are difficult to define fully within set boundaries. There is a range of actors and institutions at the national, sub-national and international level that influence sectoral processes and outcomes. The scope of

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[46] Ibid., p. 28.
[47] I. Taylor, *The International Relations of sub-Saharan Africa*, Continuum, New York, 2010, p. 19.
[48] C. Alden, 'China and Africa: The Relationship Matures', *Strategic Analysis*, vol. 36, no. 5, 2012, p. 706.
[49] R.D. Putnam, 'Diplomacy and domestic politics: the logic of two-level games', *International Organisation*, vol. 42, no. 3, 1988, pp. 427-460.
[50] W.M. Habeeb, *Power and Tactics in International Negotiation: How Weak Nations Bargain with Strong Nations*, Johns Hopkins University Press, Baltimore, 1988.

sectors can also vary due to the fact that "boundaries are determined by variables as diverse as domestic policy priorities, international interest and influence, and local and national alliances"[51].

Case Selection

It is important to specify what is meant by 'case' in this thesis. Is Kenya *the* case of this study? Alternatively, is it rather the sectors? Or the specific issues presented under each sector? In this stands the complexity of this project, which is not a typical single-country study where the comparative dimension often disappears.

The cases under study are the issues presented under each sector. Although one in-depth case-study per sector might have probably provided more analytical depth, it would not have fully served the purpose of this thesis, which is to provide a comparison of various governance behaviours within a single country. Levi-Faur attempts to explain how to merge the case-oriented approach with comparative designs, referring, in particular, to the problem of increasing the number of cases in a case-oriented approach. In King, Keohane and Verba's *Designing Social Inquiry*[52], a number of techniques are presented concerning the way to increase the number of cases. *This thesis adopts the one-country many-sectors design according to which the main subject under study remains governance processes vis-à-vis the Chinese and the comparison is carried out by studying motivations and modalities of adherence in different cases, i.e. issue-areas.* This is done bearing in mind Ragin's definition of a case, namely "a particular configuration of attributes"[53]. He continues: "the logic of case study is fundamentally configurational. Different parts of the whole are understood in relation to one another and in terms of the total picture or package that they form. The central goal is usually to show how different 'parts' of a case interconnect […] What matters most is that the investigator makes sense of multiple aspects of the case in an encompassing manner, using his or her theory as a guide"[54]. Hence, the usage of different issue-areas – instead of a single one – to provide a more articulate picture of the 'whole', i.e. the national context. It is argued that increasing the number of issue-areas under study provides a more nuanced understanding of how different parts interconnect.

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[51] J. Moncrieffe and C. Luttrell, *An Analytical Framework for Understanding the Political Economy of Sectors and Policy Arenas*, Overseas Development Institute, London, 2005, p. 13.

[52] G. King, R.O. Keohane and S. Verba, *Designing Social Inquiry: Scientific Inference in Qualitative Research*, Princeton University Press, Princeton, 1994.

[53] C.C. Ragin, *Fuzzy Set Social Science*, University of Chicago Press, Chicago, 2000, p. 66.

[54] *Ibid.*, p. 68.

Levi-Faur reflects that the 'encompassing manner' means that "the purpose of the inquiry is not necessarily generalisation across cases"[55]. In fact, this study did eventually end up presenting methodological dilemmas concerning the tension between plurality and the necessity to generalise beyond individual cases. By studying different sectors, and cases within each sector, the approach inevitably exposes itself to "important implications for the degree of control and the nature and scope of the generalisation that could be produced"[56]. Being the literature quite scarce in this field, the discovery of these implications came, predominantly, through the author's own efforts. The effort to show diversity was made particularly difficult by the lack of available or accurate accounts of Kenyan domestic debates and actions towards China-related activities. Therefore, this thesis is strongly grounded in empirical research according to which the selection of the issues under study mostly emerged from fieldwork findings and not from pre-determined decisions. This is mainly due, as better explained below, to the fact that the absence of relevant data did require a preliminary effort of scoping the subject on the ground before being able to formulate a strategy of research.

Grounded research is valuable to minimise selection biases, but also problematic as the cases are not necessarily selected following a specific methodological logic of most-similar/most-different. In other words, the content of the relationship as well as the outcome were not clear before having conducted a full investigation. The cases could thus not be chosen based on their similarities or differences as these were the very subjects of investigation in the first place. Consequently, the research had to be conducted to answer first *what*-type questions, i.e. basic facts defining a case, and only later to answer *how* and *why* questions. While methodologically, and logically, these steps can be divided, the difficulty of fieldwork research does not always allow for this neat separation, and it forces the researcher to investigate the potential relevance of a case while already addressing more 'serious' questions. More details about the selection of specific issue-areas and sectors can be found in Chapter 3 (section 3.4.3).

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[55] Levi-Faur, op. cit., p. 54.
[56] *Ibid.*, p. 46.

1.4.2 Kenya

Kenya was selected as the country under study. The choice of the country occurred following three main types of rationale, the elaboration of which was based on the information available when the research started (in 2011): 1) the level of governance-sharing within the country; 2) the involvement in relations with China of different types of actors, i.e. state, non-state, private sector and so forth; 3) the lack of natural resources in the country. This study focuses on the period 2002 – 2014, representing "democratic Kenya"[57] under President Mwai Kibaki and, since March 2013, under President Uhuru Kenyatta. This period also coincides with the creation, in 2000, of the Forum on China-Africa Cooperation that institutionalised the engagement between China and African countries.

Governance-sharing

Given that the aim of the study is that to understand motivations and modalities of engagement with China leading to ownership of governance processes, and in order to move beyond a state-defined idea of agency toward external actors, it was deemed necessary selecting a country that provided spaces for non-state actors to enter the public debate. Since the study is based on a single country, it was believed ideal to select one where such non-state participation in public affairs is average, rather than particularly strong or weak. Kenya ranks near the middle of relevant indexes of good governance, of which the level of public participation is an indicator, making it a suitable case[58].

Studying the domestic configuration of power and how different groups react to external forces is timely in the Sino-African literature, which has tended to dichotomize the approach to China: elites are favouring and benefiting from the Chinese presence, while the masses are resenting and suffering from it[59]. This focus has led scholars to conclude that the behaviour of African actors towards China changes according to the role they occupy in society[60]. Elites are believed to accommodate China's interests, mainly as a consequence of the fact that China

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[57] H. Patroba, 'China in Kenya: Addressing Counterfeit Goods and Construction Sector Imbalances', China in Africa Project Occasional Paper n.110, South African Institute of International Affairs, March, 2012, p. 6.

[58] According to the Ibrahim Index of Good Governance, 2010.

[59] See D. M. Tull, 'China's Engagement in Africa: Scope, Significance and Consequences', *Journal of Modern African Studies*, vol. 44, no. 3, 2006, pp. 459–479; C. Alden, & C. Hughes, 'Harmony and Discord in China's Africa Strategy: Some Implications for Foreign Policy', *The China Quarterly*, vol. 199, September, 2009, pp. 563-584; I. Taylor, 'Sino-African Relations and the Problem of Human Rights', *African Affairs*, vol. 107, no. 426, 2008, pp. 63-87; G. Mohan & M. Power, 'Africa, China and the 'new' economic geography of development', Singapore Journal of Tropical Geography, vol.30, no.1, 2009, pp. 24-28.

[60] See C. Alden and Y.J. Park, 'Upstairs and downstairs dimensions of China and the Chinese in South Africa', in U. Pillay et al. eds., *State of the nation: South Africa 2012-2013*, HSRC, Pretoria, 2013.

seemingly offers aid without preconditions, thus providing African leaders with a valid alternative to Western aid, which is instead tied to normative conceptions of development [61]. Alden and Hughes also suggest that African elites see their interaction with the Chinese "as an opportunity to exert a new kind of international leverage over the industrialized countries"[62]. Common people, on the other hand, were initially thought to be holding negative perceptions towards the Chinese, mainly due to poor human rights[63] and labour standards on the workplace, job competition, poor quality of products resulting in damage to consumers. However, Mohan and Lampert suggest that "just as many African governments have consciously turned to China as a potential partner in national development and regime legitimacy, African citizens have increasingly reached out to China as a source of useful resources for personal and business progression"[64]. Even more, generalised conclusions concerning the elites and society's responses to China may not hold true in cases of countries where the relations between state and society are more cooperative.

Participation in the relations with China

A further decisive step in the process of selection took place after a preliminary investigation on the countries involved in Sino-African meetings, especially meetings labelled as 'peoples'. Participation in these meetings was a condition deemed important as a sign of wider (than the state) participation in Sino-African relations. The selection was based on a survey of meetings' attendance[65] which showed that Kenyan actors' participation was the most diversified and active (as organisers)[66] together with South Africans. South Africa was excluded as a suitable case for the study because it did not meet the first requirement, as it ranks very high in indexes of good governance[67] in Africa. While it would have still been valuable to study South African motivations and modalities of engagement with the Chinese, the

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[61] Tull, op.cit.
[62] Alden and Hughes, op.cit.
[63] Taylor, 2008, op.cit.
[64] Mohan and Lampert, op. cit., p. 100.
[65] The meetings considered were: China-Africa Civil Society Meeting, 2007, Shanghai; China-African Civil Society Dialogue, 2008, Nairobi; China-Africa Civil Society Forum on Peace and Development, June 2010, Beijing; China-Africa People's Forum, August 2011, Nairobi; First China-Africa Think Tank Forum (CATTF 1), October 2011, Hangzhou; China-Africa People's Forum, 2011, Nairobi; China-Africa Think Tank Forum (CATTF 2), 2012, Addis Ababa; China-Africa People's Forum, 2012, Suzhou.
[66] Meetings' internal reports were consulted and the following countries appeared to be involved: Angola, Benin, Botswana, Cameroon, Chad, Congo-Brazzaville, DRC, Ethiopia, Ghana, Kenya, Morocco, Mozambique, Namibia, Nigeria, Senegal, Somalia, South Africa, Sudan, Tanzania, Uganda, Zambia, Zimbabwe.
[67] Also according to the Ibrahim Index of Good Governance, 2010.

case was expected to potentially provide less of a puzzle in the study of dynamics between governmental and societal agency or between agency and structures.

Fieldwork demonstrated, however, that relying on participation to the meetings as an indicator of engagement does not provide an accurate description of actual engagements. This was not only because actual engagements are broader in scope than those that are officialised through formal meetings, but also because there is a gap in how the Chinese and Kenyans understand the role and meaning of these meetings. All the meetings/forums/symposiums, from the most high-visibility, i.e. FOCAC, to those less so (such as peoples' forums, trade unions symposiums, cultural forums and so forth), are strategically worked out by the Chinese for specific purposes that relate to Chinese national or sectoral agendas. Kenyan actors are *participants* to these meetings, at times organisers, never initiators. Their understanding of these events is more arbitrary than structurally defined and part of a continuum.

Absence of natural resources

Sino-African relations, especially in the first decade, were generally understood as revolving around interests in natural resources with little recognition of other sectors of involvement, including those heavily reliant on Chinese soft power objectives, such as the media and education. Studying a country like Kenya also serves the purpose of shifting the focus from a presumably skewed Chinese interest in engaging with African resource-rich countries – which are often associated with authoritarian regimes – to one where Chinese interests appear more diversified.

Considering the fact that Africa can, by no means, be taken as a single unitary block, the choice of Kenya to explain the role of domestic politics within the China-Africa discourse does not aim to be representative of the whole continent. However, the dynamics presented in the following chapters may shed light onto behaviours between the state and non-state actors that could as well facilitate the understanding of Sino-African dynamics in other countries.

1.4.3 Design and Data Collection

Due to the relative lack of studies on Kenya-China relations based on in-depth empirical research, this study adopted a highly flexible design, which generally evolves during data collection [68] and heavily relies on data collected during fieldwork. It is a theoretically informed empirical research based on a qualitative design. The decision to use a qualitative design was consequential to the nature of the enquiry, namely an interest in understanding[69] what lied behind the processes of engagement between Africans and the Chinese, the ideas, meanings, motivations upon which the behaviour and decisions of actors depended. The author was not interested in mere outcomes, but rather in procedural dynamics. Hence the use of a qualitative approach appeared to be more fit[70].

Robson suggests that the *social constructivist* and *interpretivist* approaches to research focus on how the social world is interpreted by those involved in it. As a consequence, "in principle there are as many realities as there are participants – as well as that of the researcher"[71]. To acquire these multiple perspectives, researchers tend to use research methods such as interviews and participant observation.

Access to relevant data has been a significant challenge inherent in the research. This is not specific to Kenya-China relations but more generally applicable to China-Africa relations as a whole[72]. Trying to track down what happens on the ground was not a small deal. FOCAC commitments are general, and bilateral agreements are not always reported and made public. The data concerning China's involvement in individual countries is not easily accessible; it is scattered and difficult to retrieve. Gathering data was not, in other words, a quick type of endeavour. In the case of Kenya, there is no systematic collection and presentation of the Chinese involvement in the country. As a consequence, the sectoral breakdown was a good start to be able to provide an accurate picture vis-à-vis more general national statistics.

Many scholars have been reduced to using media sources, and more specifically *Xinhua* reports as a source of information[73]. Due to the contemporaneity of the dynamics under study, the author also often had to rely on these. In the absence of

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[68] Robson, op. cit., p. 75.
[69] C. Robson, *Real World Research*, John Wiley & Sons ltd, Chichester, 2011, p. 24.
[70] See Robson, op. cit., 2011, pp.24-25; Schwandt, 2007.
[71] Robson, op. cit., p. 24.
[72] D. Bräutigam, *Deborah Bräutigam discusses doing research on China-Africa relations*. Interviewed by The China Africa Project [online], 10 March 2013.
[73] While Xinhua is an important media agency, it is under China's media censorship and often reports news according to the official government's line.

academic studies, information from the media was necessary to acknowledge what was happening, but it was never taken as a reliable source of data, rather always triangulated with interviews or other type of evidence. This was due, mainly, to the fact that media reports tended to exaggerate figures or events, probably to serve journalistic ends, i.e. an appetite for breaking news.

Access to relevant data is not, however, only a media problem. Moreover, it is important to mention that if it were not for the news reported by the media, a lot of what is known would have remained obscure to academic audiences and more. The heavy reliance on the media is exacerbated by a lack of transparency in the release of official statistics and reports by both Chinese and Kenyan governments. In the case of Kenya, the availability of data depended largely on the sector and the case under analysis. In some cases, statistics are gathered and updated by the government and/or non-state bodies, in some others they are not. In some cases, disclosing data is routine, in some others it is not. For this reason, conducting fieldwork, especially under the form of interviews but also through the gathering of unpublished material, was fundamental for the construction of the thesis and to bridge the many theoretical and empirical aspects that awaited clarification.

The collection of data mainly occurred through interviews, collection of unpublished documents, open resources, and so forth. Though mostly qualitative, quantitative data were used, whenever possible. The author conducted semi-structured interviews which allowed to ask *specific* questions while leaving space for further investigation during the interviewing process. This was crucial given that, at times, the interview served as a moment to first clarify the details of the engagement and only then investigate motivations and modalities. Therefore, a fully structured interview would have reduced the scope of the investigation, which indeed took shape *in itinere*. Similarly, conducting fully flexible interviews was not appropriate as the author was not looking for a flow of conscience but rather for specific answers.

Initially, people or organisations involved in the relations under investigation were identified. The author identified actors from different sides so to triangulate the findings as much as possible and she used the expertise and contacts of initial interviewees to get in touch with more people. At times the author specifically asked interviewees to help her get in touch with other contacts, at others, the interviewees suggested agents that the author had not imagined could have a stake in the issue

under study. Interviewing very different sources on the same subject was the first means of triangulation. The interviews were supported, as much as it was possible, by written documents. These were at times freely available online or in archives, at others, their consultation had to be formally requested.

For this type of research, it would have been appropriate to conduct focus groups, so to bring to light interaction dynamics among different groupings. However, realistically, this was not feasible. Especially elite interviewees often had to be chased down corridors, even after having set up an appointment. Maybe a way to attract them to attend a focus group could have been to provide them with a rather sizeable incentive to attend, but this act resided outside the author's ethical standards.

It was the author's decision, early during fieldwork, not to record the interviews. During the first few interviews conducted she asked permission to record but realised that interviewees were uncomfortable. The topic of this thesis was often considered sensitive, especially by elite contacts. As a consequence, she preferred giving up the recording, rather putting the effort in establishing trust and gathering data. Notes were taken to record, as faithfully as possible, expressions used by the interviewees.

The data was then analysed in two phases. An initial one, during fieldwork: themes were identified that allowed to expand and deepen the investigation. And a second phase, after fieldwork, when a more complete picture of the data was available. The data was analysed according to the main categories identified in the theoretical elaboration of agency: actors, interests, modalities. The analysis in the next few chapters does not always clearly separate these categories, which is a compromise that had to be accepted to tell the story as smoothly as possible.

1.4.4 Fieldwork

This thesis is based on extensive fieldwork in Kenya. A total of nine months was spent on the field. The work conducted in Kenya provided a necessary ground upon which to build an original understanding of the issues under study through the collection of a sizeable body of original data. The length of the stay was consequential to a difficult research environment where closure toward investigation made approaching the interviewees, especially government officials, extremely slow. The time spent in Kenya not only was necessary to collect data but

also key to identify new meanings associated with a body of existing literature on African states, societies and their relations with each other and with external actors, which would have not otherwise been easily discovered. In other words, the stay in Kenya allowed the author to immerse herself in a process of local production of meaning that is not only significant per se but is also relevant inasmuch as it represents a departure from the main bodies of literature on the subject and the theoretical understanding linked to them. By 'local production of meaning' is meant the ways in which individuals (Africans/Kenyans in this thesis) construct and make sense of the events around them. This 'meaning' directly emerged from in-depth interviews with Kenyans, seen as crucial participants in what Robson calls the 'construction of reality'. He suggests that "research participants are viewed as helping to construct the 'reality' with the researchers. Values of the researcher and others are assumed to exist and subjectivity is an integral part of the research"[74]. In this case, the researcher, a Western PhD candidate from a UK university but evidently not British, enquiring about Kenya's relations with China, often raised doubts. Many were the instance in which the author was asked whether she was part of intelligence organisations.

Moreover, throughout the period of fieldwork, Kenya was in the midst of a tense international atmosphere with the President, Uhuru Kenyatta, and the Vice-President, William Ruto, under trial at the International Criminal Court. The West (which the ICC was representing) and China, were seen as opposed: the former interfering with Kenya's internal affairs, and the latter supporting the country's sovereignty. Consequently, asking about Kenya's relations with China was always initially associated with the ongoing ICC trial and the consequential West/East divide. The author, due to her origin, was often associated with a pro-Western approach. This presented not few challenges throughout different phases, i.e. approaching the contacts, setting up appointments, the interview, following up when necessary. One of the most important, and challenging, moments was the beginning of the interview when the author had to establish trust, which was necessary to make the interviewees comfortable and gain their attention.

The interviewees were informed, at the beginning of the interview, that they would remain anonimous unless they would allow their names to be used in the final thesis. Although the topic of this thesis is not among the most sensitive in the social

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[74] Robson, op. cit., p. 24.

sciences, the historical period (President and Vice-President under trial) and the dichotomy mentioned above between pro-China and pro-West made it necessary for the author to be extra cautious, especially in regards to some groups, like trade unions. Interview were conducted by the author who hired a local assistant to be helped in contacting local figures that were difficult to get in touch with. While the importance of considering national and subnational manifestations of power-sharing is acknowledged, the cases selected to be studied are mainly set in the Nairobi area in Kenya. This is due, on the one hand, to the fact that Ministries, as well as headquarters of companies and major CSOs, are based in Nairobi, and on the other hand, due to feasibility limitations. In the first case, it is also important to mention that a number of projects, developed in cooperation with China in the three sectors studied, were purposely carried out around Nairobi due to the much higher presence of services and infrastructure than in other areas of the country. Regarding feasibility limitations, when specific cases were identified outside the Nairobi area and deemed important for data collection, interviews were arranged either via phone/email or in person. Other cases outside the Nairobi area that were dismissed were either not considered critical for the development of the thesis or the time and resources that the author would have had to dedicate to arranging travels were not deemed logical in terms of cost-benefit analysis.

Kenya cannot be reduced to the urban dynamics of a vibrant city like Nairobi. Hence it would be worth, in future research, to focus on a single sector and compare governance dynamics in urban and rural settings.

The argument in this thesis is based on contemporary facts with an eye to processes that unfolded mainly in the past decade. Therefore, it may, at times, not fully show what only the study of long processes allows to observe. It is nonetheless of value to present a snapshot, in the hope that with time more context and understanding will build around it. Where the variables are many, and the body of data is significantly sizeable thus making the study not as elegant or essential as many other theoretical works, the hope is that the richness of details will be considered valuable enough to even out the gap.

1.5   Chapters' Outline

The thesis is divided into three parts. Part I comprise the research design (this Chapter) and the positioning within theoretical debates, including an initial conceptualization of agency (Chapter 2). In Chapter 2 a detailed theoretical approach placing the study in the context of Africa's interactions with external forces is presented.

Part II of the thesis consists of the sectoral analysis and is developed in Chapters 3 to 6. Chapter 3 stands as a *trait d'union* between theory and grounded research. The literature on agency, and the tension between domestic and external interests, is here discussed with reference to the Kenyan case. This broad country study is essential for situating more specific sectoral analyses in context. The chapter concentrates on how historical legacies, including processes of change, and structural features interact with actors and the institutions they form. To do so, a number of factors must be taken into consideration [75] : historical legacies, institutions (formal and informal), processes of change, structural features, power, and ideologies and values.

After presenting the broad country study, the following three chapters are dedicated to a more fine-grained analysis, specific to the sector. Each sector is unpacked following the conceptualization of agency presented in Chapter 2. The analysis focuses on actors, their belief systems and the resources they can rely on to safeguard their interests in the relations with China, within specific systems of governance. The analysis combines reasoning about macro(national)-, meso (sectoral)- and micro-(issue-specific) level dynamics. The chapters identify the motivations and modalities through which a wide range of domestic actors exert control over the relations with China.

Chapter 4 focuses on some of the most salient issues in Sino-African relations, namely trade-related disputes. The rhetoric of solidarity, mutual benefit, friendship that the Chinese tend to instil in Africans' hearts and minds through official discourses may also be a way to counterbalance the negative perception that has grown in African contexts especially in relation to problems associated with China's non-adherence to trade norms. The chapter moves beyond known analyses of these relations, that often focus on the Chinese misdoings, to unpack the Kenyan 'side' through three cases identified by Kenyans as the most important: 1) the negotiation

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[75] Moncrieffe and Luttrell, op. cit.

of labour disputes between trade unions and Chinese companies in infrastructure; 2) the establishment of the Anti-Counterfeits Agency in response to the threat posed by Chinese products to Kenyan intellectual property rights; 3) the negotiation of competing interests between Kenyan wholesalers and retailers in relation to their respective engagements with China, including the resolution of the protest that occurred in August 2012 against Chinese small shop owners in Nairobi.

Chapter 5 focuses on Kenyan responses to the Chinese involvement in Healthcare. Healthcare is a crucial sector for China's public diplomacy, and increasingly for the commercial links revolving around the distribution of cheap medical products to Africa. The chapter explores the motivations and modalities of Kenyan actors in inserting China in a complex scenario regulated by international institutions and populated by traditional partners and India. Three cases were identified as relevant to unpack the sector comprehensively: 1) public and private trade in health products; 2) the negotiations revolving around the development of infrastructure for healthcare by the Chinese; 3) the use of China as a model to develop traditional medicine policy and practice.

Chapter 6 focuses on Kenyan responses to the Chinese involvement in Education and Training. Similar to Healthcare, Education is an important aspect of China's public diplomacy in Africa. The chapter unpacks the motivations and modalities according to which Kenyan actors explore new areas for the development of the sector, through the engagement with China. Kenyans identified three cases as particularly relevant: 1) the development of Technical and Vocational Education and Training through a partnership with China; 2) the filtering of Chinese offers of assistance for the development of human resources for healthcare; 3) the management of the set-up of Confucius Institutes in higher education institutions.

In Part III the author will present and compare the findings of empirical research while relating them to the research questions. She will highlight the relevance of such findings to established theoretical scholarships. Chapter 7 reviews and compares the empirical findings presented in Part II. It summarises and compares the factors that, in the Kenyan case, were the variables that produced different responses to the engagement with China. Finally, Chapter 8 draws the conclusions.

CHAPTER 2

'African' Agency: the State, Society and the International

2.1   Introduction

This chapter looks at the literature more in depth than the previous chapter and explains the theoretical lens through which the study is developed. Laying the theoretical foundations serves the purpose of explaining how Africa has been interacting with the broader international context and how the literature has understood and theorised dynamics of engagement. The author is aware of the problem of speaking of Africa undiscerningly. Real world events [76] and the scholarship produced around them often refer to Africa as a whole. While this thesis attempts to move beyond generalisations through a detailed study of Kenya, it is not possible to isolate the study from broader approaches to Africa and the literature emerging from them. There are, across Africa, popular discourses, policies and trajectories of development shaped both from within and from outside the continent. Harrison suggests that there are "at least three senses in which speaking of 'Africa' as a whole might be justified in this context" [77]: as a collection of states with a shared history; as a collective international actor; and as a discursive category, used, in international politics and policy, by Africans and outsiders both negatively "through processes of 'othering'", and positively "through assertions of value against imperial derogations"[78]. Locating this thesis within the broad body of literature on Africa's long history of engagements with external presences is a starting point to analyse empirical findings concerning the more recent relations with China. The latter have been challenging scholars of different disciplines in the past few years, especially those in search for grand theories that could explain China-Africa engagements[79].

The structure-agency dichotomy typical of international relations' theoretical approaches is considered a solid framework to understand the tension between structural limitations weighting on African systems and the dynamic emergence of

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[76] For instance, in the case of China-Africa, the Forum on China Africa cooperation is an example of how Chinese policies towards the continent are general and not country specific.
[77] In Brown, 2012(b), op. cit.
[78] G. Harrison, *Neoliberal Africa. The impact of global social engineering*, Zed Books, London & New York, 2010, pp. 14-16.
[79] Alden, 2013, op. cit., p. 3.

a diverse range of actors in Sino-African relations. The Sino-African relations' literature has paid enormous attention to structural asymmetries between China and African countries, which some argue are the cause of China's exploitation of the continent and/or the cause of Africa's submission to China. Notwithstanding the fact that in aggregate terms (i.e. national statistics) China has more power vis-à-vis African states, paying attention to the *actual* dynamics of engagement, and *agency* in particular, achieves the aim of shedding light on the existence of African capabilities, modalities and logics of engagement with China and the international system [80]. It is expected that the national structural asymmetry becomes less significant while the role of Africans in determining the outcome of relations more so. According to Taylor "critically analysing the modalities of governance in large parts of [Sub-Saharan Africa] SSA and how they combine with external processes is essential if we wish to comprehend diplomatic practices, global interactions and broad international relations of Africa's elites *and* ordinary citizens" [81]. Alden suggests that:

Any examination of the China-Africa relationship would be better served if it were at least guided by the same strictures that already are evident in other relationships—say, scholarship that studies France-Africa or Brazil-Africa. In this regard, the centering on the state and the continent is understood to be merely a 'high politics' depiction of an ever-broadening set of stories cascading down from the state to sub-state to societal levels, transcending sovereign boundaries, and spiralling outward to expose the texture of contacts between individuals and communities[82].

The inclusion of domestic-level explanations such as the diversity of state and non-state actors and their interdependence is what this research aims at studying, intending to contribute not only to Sino-African relations but also to the understanding of African countries' role in a changing scenario of international relations. Acknowledging the capabilities of African actors in international relations is not done "by stressing a voluntaristic, panglossian view of agency, shorn of structural constraints and historical specificity, but by requiring an account of the

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[80] Habeeb, op.cit.
[81] Taylor, op. cit., p. 2.
[82] Alden, 2013, op. cit., p. 2.

mutually-constituting and changing relationship between agency and structure"[83]. This takes the analysis to acknowledge that *governance* is what links structure and agency. Governance is defined as social coordination and is concerned with the "nature of all patterns of rule"[84].

First, Africa's position in international relations and International Relations Theory (IRT) is discussed by providing a brief overview of theoretical and empirical problems facing Africa's role in IR through the lens of the structure-agency tension, with a particular focus on state-society relations. Then the connection between agency and structure is presented through an analysis of theoretical debates in the international relations discipline and applied to the debates on Sino-African relations. In doing so, actors, interests and systems of governance across domestic and international contexts are unpacked to account for the "mutually-constituting and changing relationship between agency and structure". This brings to light the importance of focusing not only on realist accounts of international relations according to which explanations reside in the system-level and states are treated as unitary actors exempted from domestic influences. Rather, the necessity to look at a more sociological understanding of agency is acknowledged. As Mohan and Lampert suggest "Chinese relations with many African countries are maturing and moving beyond state-to-state deals, implicating many more actors. So, the need to move beyond statist, elite dialogues is not simply a theoretical exercise, but one made more pressing by this growing 'embeddedness' of mutual political and economic ties"[85]. As a consequence, the aspects introduced in Chapter 1 of the institutionalist, constructivist and pluralist theoretical approaches are embedded in the conceptualization of governance, which is fully unpacked below.

2.2   Africa in IR

Since the 1950s, when the first sub-Saharan African states gained independence, "many texts have focused on Africa and the global system, but fewer have focused on the African element of this relationship or on the intra-African dimension to foreign policy"[86]. Even more recently "studies have largely focused on the actions

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[83] Brown, 2012(a), op. cit., p. 1890.
[84] M. Bevir, 'Governance as Theory, Practice, and Dilemma', in M. Bevir ed., *The SAGE Handbook of Governance*, SAGE Publications, London, 2011.
[85] Mohan and Lampert, op. cit., p. 100.
[86] S. Wright, 'The Changing Context of African Foreign Policies', in S. Wright ed., *African Foreign Policies*, Westview Press, Boulder, 1999, p. 1.

and strategies of external actors, thus overlooking African agencies and the ways they may co-shape new global relations"[87].

The main reason for the neglect of African dynamics in IRT has been the portray of African states as "fallen prey to an array of destructive forces in the aftermath of the Cold War"[88] and of the African continent as hopelessly disconnected from the globalised rest of the world. According to this view, Africans' lack of political initiative and the structural asymmetries between African countries and external actors have allowed the latter to shape Africa's domestic as well as international relations. The predominance of informal governance in Africa, consequential to the absence of a proper division between formal state apparatuses and social formations has led to believe that African states "might be rather different from the states that typically inhabit at least 'traditional' IR theory"[89] and because of this, they could hardly fit IRT [90]. This normative understanding of political dynamics overlooked the historical trajectories and the complexities of empirical statehood without realising, as Williams claims, that "African states help to provide some of what we might call the 'limit cases' but the broad issues that emerge are ones that can be applied to thinking about state agency in general"[91].

However, even when this convergence between African cases and the general (Western-produced and oriented[92]) literature is acknowledged, it is necessary to situate the agency of African states and societies within history to pin down its abstract meanings and directly link them to the structural dimensions it is permeated with and that it constitutes. According to Bayart, "the roots of the relative specificity of African societies on which so much stress is laid in much writing about Africa undoubtedly lie in history" [93]. Talking about agency from a less geographically-determined point of view, Emirbayer and Mische claim that it is "informed by the past (in its habitual aspect), but also oriented toward the future (as a capacity to imagine alternative possibilities) and toward the present (as a capacity to contextualize past habits and future projects within the contingencies of

[87] T. Dietz et. al. eds., 'African Engagements: on Whose Terms? Africa Negotiating an Emerging Multipolar World', in T. Dietz et. al. eds., *African Engagements*, Brill, Leiden-Boston, 2011, p. 6.
[88] Hagmann and Péclard, op.cit., p. 540.
[89] Williams, op. cit., p. 3.
[90] Brown, 2006, op cit.; Lemke, 2003, op. cit.; Lemke, 2011, op. cit.; Clapham, 1998, op. cit.; Williams, op. cit.
[91] Williams, op. cit., p. 3.
[92] J. Hill, 'Beyond the Other? A Postcolonial Critique of the Failed State Thesis', *African Identities*, vol. 3, no. 2, 2005, p. 38.
[93] J.F. Bayart, 'The State', translated by A.M. Berret from 'L'Etat', in C. Coulon & D.C. Martin eds., *Les Afriques Politiques*, Editions La Découverte, 1991, retrieved in T. Young ed., *Readings in African Politics*, The International African Institute, London, 2003, p. 40.

the moment)"[94]. In other words, agency is not only a "structurally embedded but also temporally-embedded process"[95]. It is thus necessary to explain the historical trajectories of African domestic and international processes to then understand the continent's more recent relations with China.

While IR theories place great emphasis on the role of the state, I argue that the analysis of state institutions must be embedded in a broader understanding of state-society relations, one where different forms of agency are identified, such as state versus non-state, leader-dominated versus bureaucracy-dominated, and different relationships between particular agencies and structures are acknowledged[96]. This necessity is not a consequence of the "particular 'nature' of the state in Africa, making it ontologically different from the state elsewhere"[97] but rather of an understanding of international relations as constituted by and embedded in the domestic. Brown suggests that focusing on various forms of agency to explain Africa's role in international relations "is in part an attempt to challenge narratives of Africa that present the entire continent as perpetual victim and lacking political initiative and engage seriously with the more fine-grain detail"[98].

2.2.1 Domestically - State and Society

To study processes of governance, it is necessary to understand the relation between the governing and the governed, and their interaction with structures and institutions. The problems in studying African processes of governance have both been theoretical and empirical. In theoretical terms, it has been questioned whether the institutions of the state and civil society in Africa exist at all given that the original forms of associational space existent on the continent before the advent of colonisers were significantly different in structure to the western division of powers between the state and other societal actors. In empirical terms, the presence of informality in contexts of governance has led to consider African dynamics as failed, rather than as different from the western blueprint upon which much of the literature rests. Hill suggests that it is the European experience of State, the normative attributes stemmed out of this experience, and the reliance of theoretical

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[94] M. Emirbayer and A. Mische, 'What is Agency?', *American Journal of Sociology*, vol. 103, no. 4, 1998, p. 963.
[95] Brown, 2012(b), op. cit., p. 13.
[96] W. Brown, 'African agency in international politics: scope, analysis and theory', paper presented at the ESRC African agency in international politics seminar New Directions in the study of Africa's IR: perspectives from southern Africa, Wallenberg Research Centre, Stellenbosch University, 2-3 November 2011, p. 13.
[97] Hagmann and Péclard, op. cit., p. 558.
[98] Brown, 2012(b), op. cit., p. 17.

prepositions on this particular experience that has caused other experiences to appear as inappropriate. African states are "identified as failed not by what they are, but by what they are not, namely, successful in comparison to Western states"[99].

Even though Africa "has no great State tradition like that provided by States in the West, Central Asia or the Far East" [100], African pre-colonial societies still presented systems of shared governance between the governing and the governed. Different indigenous forms of social, political, economic and legal institutions were based upon a variety of philosophies and cultures. Goody suggests that "even political formations [...] lacking any consolidated form of the state reveal 'some space for manoeuvre between the personal and the public'"[101]. Notwithstanding this, it is impossible to deny the strong influence that colonialism has had on the balance of power sharing between different indigenous forces. Africa's trajectory of political formation is then, as Bayart suggests, a "hybridization between indigenous repertoires of politics and repertories imported from outside – a phenomenon that is necessarily part and parcel of the construction of the State in the 'Third World' – [and that] is occurring in Africa in unique conditions"[102]. He continues arguing that "the contemporary State in Black Africa has a historicity of its own. Many features of political life in Africa south of the Sahara attest not to its lack of adaptation, as is too facilely said, but, on the contrary, to its rootedness in local societies"[103]. In other words, "statehood in Africa should thus be understood as the emanation of particular historic types of African modes of governing" [104]. Understanding governance relations in contemporary non-western contexts means understanding "the relationship between social formations, the associations that represent them and the state"[105] and it means including a range of groupings so to "gain a wider understanding of particular societies and their relationship to their states"[106].

The historical and cultural aspects that underpin state-society relations are even more evident through an examination of how such relations are accomplished. Karlstrom brings to light the fact that "African sociocultural arrangements provide their own logic of sovereign accountability, their own public spheres, their own

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[99] Hill, op.cit., p. 148.
[100] *Ibid.*
[101] C. M. Hann and E. Dunn eds., *Civil Society. Challenging Western Models*, Routledge, London, 1996, p. 20.
[102] Bayart, 2003, op.cit., p. 40.
[103] *Ibid.*
[104] Hagmann and Péclard, op. cit., p. 542.
[105] N. Kasfir, 'The Conventional Notion of Civil Society: A Critique', *Commonwealth & Comparative Politics*, vol. 36, no. 2, 1998, p. 1.
[106] *Ibid.*, p. 3.

forms of nongovernmental organisation and association" [107]. Therefore, it is important to look at state-society relations in Africa not "as a promised agenda for change"[108] but as Mamdani suggests, in their "actual formation" [109]. This means that in defining state-society relations, the focus should be on the broad range of collective activity and norms, be they democratic or not, that constitute actual society[110].

The necessity to broaden the scenario to include not only formal but also informal state-society relations, with the aim of better explaining African dynamics, led Chabal and Daloz to argue that "a proper understanding of the informalization of politics must be grounded in a more resolutely sociological approach. From this viewpoint, the modern state is the outcome of a process by which the realm of politics is gradually emancipated from society and constituted into increasingly autonomous political institutions"[111]. However, they continue, "the state in Africa was never properly institutionalised because it was never significantly emancipated from society"[112].

In order to fully appreciate and understand what 'state' and 'society' mean in real governance, Migdal suggests to "break down the undifferentiated concepts of the state – and also of society – to understand how different elements in each pull in different directions, leading to unanticipated patterns of domination and transformation" [113]. Ideology, policy formulation and implementation are continuously challenged by routine formal and informal contacts between the top and the bottom. In fact, "while the image of the state implies a singular morality, one standard way, indeed *right* way, of doing things, practices denote multiple types of performance and, possibly, some contention over what is *the* right way to act"[114]. Migdal also suggests looking at a specific dimension of the state: "the formulation and transformation of its goals. As the state organisation comes into contact with various social groups, it clashes with and accommodates to different moral orders. These engagements, which occur at numerous junctures, change the social bases

[107] M. Karlstrom, 'Civil society and its presuppositions: lessons from Uganda', in J.L. Comaroff & J. Comaroff eds., *Civil society and the critical imagination in Africa: critical perspectives*, University of Chicago Press, Chicago, 1999, p. 27.
[108] Mamdani, op.cit.., p. 19.
[109] *Ibid.*
[110] Orvis, op. cit., p. 18.
[111] Chabal and Daloz, op. cit., p. 5.
[112] *Ibid.*, p. 4.
[113] J.S. Migdal, 'The state in society: an approach to struggles for domination' in J. S. Migdal, A. Kohli and V. Shue eds., *State Power and Social Forces. Domination and Transformation in the Third World*, Cambridge University Press, New York, 1994, p. 8.
[114] *Ibid.*, p. 19.

and the aims of the state. The state is not a fixed ideological entity. Rather, it embodies an ongoing dynamic, a changing set of goals, as it engages other social groups"[115].

While this approach assigns great importance to the domestic variables of agency, it is also necessary to consider the effect that external actors may have on the dynamic nature of state-society relations. There is seemingly no other continent whose formal and informal institutions have been shaped, re-shaped, contested and challenged by external actors than Africa. Consequently, the issue of how national capacities and international configurations of power interact remains a central question in how African agency is understood.

2.2.2 Internationally - Agency and dependence

Globalisation and the increasing interdependence between domestic, international and transnational actors continue to cause the foreign policies of African states to be "shaped by rapidly changing international and domestic environments to the extent that it is difficult to isolate purely 'foreign' policies"[116]. History assigns a significant role to African structures and agency in the context of politics, not only as a consequence of colonialism but more generally, as the outcome of Africa's centuries-long negotiations with the outside world. Bayart suggests that "the price of this singular historical trajectory was undoubtedly to make the sub-continent, or at least parts of it, dependent, from a very early date, on civilizations that were materially more powerful: those of Mediterranean Antiquity, then later the Arab-Muslim world, and later western Europe as it gradually asserted supremacy from the fifteenth century onwards" [117]. This was often linked to the imposition, by external actors, of visions of governance that had mostly grown out of realities external and extraneous to African contexts, mainly Western ones.

Authors like Mbembe claimed that these peculiarities fed an inability to act on the international stage and left Africa *out* of the world[118], marginalised by global economic flows and political dynamics. On the other hand, Bayart sustained that Africa was always an active participant on the world stage, *in* the world, and that "Africans have participated in the processes which have led to the insertion of their societies as a dependent partner in the world economy and, in the last resort, in the

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[115] *Ibid.*
[116] Wright, op.cit, p. 1.
[117] *Ibid.*
[118] Mbembe, op. cit., p. 173.

process of colonisation"[119]. Chabal and Daloz[120] suggest that "Africans, through a dialectic of structural pressures and their own political agency, have continually interacted with the world in ways that encompass notions of progress, order and justice although these concepts are defined in ways that do not necessarily resonate with dominant liberal approaches"[121].

Indeed, not only Africans have always interacted with the world, but as Bayart argues[122], Africa has been an active agent of extraversion strategies, extraversion being "the creation and the capture of a rent generated by dependency and which functions as a historical matrix of inequality, political centralization and social struggle"[123]. He argues that "the discourse on Africa's marginality is a nonsense"[124]. Africans are seen as agents and contributors to the continent's domestic and international histories of development and dominance rather than as "incapable of cultural development and totally dependent upon external influences (from the West, the Near East and Asia)"[125]. They have participated by appropriating the state introduced by the colonial powers not only "to the best of what they thought to be their interests" but the state was also "interpreted by them in the light of their own cultural representations"[126].

Before World War II, the scope of the colonial state's authority was striking[127]. Only after World War II, when there occurred a transfer of powers from colonial elites to local ones, the voice of African representatives effectively became recognised, political organisation tolerated and free expression accepted[128]. A new local administrative class started emerging, and educated Africans started claiming back political power and independence from colonisers. Rising national criticism throughout Africa against the predator state and an increasingly hostile international environment pushed for the urgent expansion of social infrastructure. This is the time when, in order to continue justifying colonisation, a new discourse of power management emerged: development. Colonisers supported the development of large investment projects so that educational facilities as well as

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[119] Bayart, 2000, op. cit., p. 220.
[120] Chabal and Daloz, op. cit.
[121] *Ibid.*
[122] Bayart, 2000, op. cit. p. 222.
[123] *Ibid.*
[124] *Ibid.*, p. 267.
[125] Dietz et. al., op.cit., p. 7.
[126] Bayart, 2003, op.cit., p. 40.
[127] Young, op. cit., p. 26.
[128] *Ibid.*, p. 27.

roads, hospitals, etc. multiplied[129]. Young Africans who began to stand out in secondary schools and later in universities started demanding for more power and government service was the natural end object of education[130]. The 1960s were the years of independence of African states from colonisation. The state became an increasingly strong institution, controlling the economy and social life. Throughout the following decade, the new generation of Africans aimed at state expansion and Africanization, especially in light of the fact that when sub-Saharan Africans fought for independence in the 1960s and 1970s, they kept their masters' political structures with a microscopic understanding of how these structures functioned.

It is fundamental to bear in mind the importance of the legacy of the colonial state while analysing the characteristics of the post-colonial one, as the former defines the latter in a number of ways. As mentioned above, a strong state is the one emerging from independence movements in the 1960s. It is a sovereign state characterised by single-party systems, nepotism, accumulation of resources and personality cult. Political sovereignty was achieved through anti-colonial mobilisation and throughout Africa an assault on alien dominance took shape in the form of nationalisation and indigenization politics in the late '60s, early '70s. This was also the apogee period of the Cold War: new states became a strategic battleground upon which the United States and the USSR competed. Their way of gaining spheres of influence in Africa consisted of providing economic and military aid.

However, after 1973, when the oil crisis occurred, the African state started getting into debt and facing international hostility. In the 1980s world leaders started demanding a restoration of debts and African states were called in to deal with their own finances. A paradigm shift occurred in development economics, with the 'Washington Consensus' and the birth of Structural Adjustment Plans in the 1980s. In fact, "the fundamental nature of post-colonial arrangements was challenged economically and politically, through demands – external and internal – for market liberalization and democratization"[131]. This period was characterised by a profound crisis of state structures. States were asked to reform their economic policies by decreasing the state control upon the economy. African states started reducing their control functions, and that is when the creation of a privatised state

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[129] *Ibid.*
[130] *Ibid.*, p. 28.
[131] *Ibid.*, p. 25.

occurred, where private actors occupied public space that the state itself had no longer the capacity to control.

In the 1990s "Africa's relations with the outside world were privatised [...] through the displacement of traditional state-to-state relations as a result of the processes of globalisation" [132]. Such privatisation eroded the primary role of the state institution "in the Weberian sense of the routine capacity to exercise ultimate authority within the territorial domain of sovereignty" and "opened space for a multitude of actors"[133]. New figures of power emerged such as "informal traders, smugglers, warlords, arms traffickers, youth militia, local associations ('civil society'), women's organisations, religious groups, refugees" [134]. These groups increasingly operated with varying degrees of autonomy, interacting with state agents, international agencies, donor representatives and the non-governmental sector[135]. Foreign donors started by-passing the state to provide support to civil society organisations directly. However, the latter soon became a state manipulation so to obtain external resources and circumvent the limits imposed by western donors.

As Khadiagala and Lyons claim, "the process of the deinstitutionalisation of the state and the related privatisation of diplomacy has placed African foreign policies in a profound crisis of consistency and direction. Realist assumptions of state-centeredness are shamed by the spectre of the African state weighed down by various internal actors and increasingly unable to compete with internal challengers in the foreign policy arena" [136]. Moreover, "the problematique of aid conditionality has accelerated the process of creating dual structures of power. [...] African political societies are duplicated between, on the one hand, a *pays legal*, a legal structure which is the focus of attention for multilateral donors and Western states, and on the other hand, a *pays reel* where real power is wielded"[137]. Informal politics and parallel economies became part of the processes of globalisation. As a consequence, "it is no longer a question of whether foreign policy is the preserve of the president or the foreign minister but of whether any organised body is in charge"[138].

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[132] C. Clapham, *Africa and the International System,* Cambridge University Press, Cambridge, 1996, p. 256.
[133] *Ibid.*
[134] *Ibid.*
[135] *Ibid.*
[136] G.M. Khadiagala and T. Lyons eds., 'Conclusion: African Foreign Policy Making at the Millennium', in G.M. Khadiagala & T. Lyons eds., *African Foreign Policies: Power and Process*, Lynne Rienner Publishers, Boulder, 2001, p. 213.
[137] Bayart, 2000, op. cit., pp. 229-230.
[138] *Ibid.*

Understanding the complexities of African state and non-state actors' interaction with each other and with the external world has profound implications for China-Africa relations. China's initial state-centric focus did not seem to acknowledge the importance of more complex domestic systems in which power is not the domain of one but a diversity of actors.

2.2.3 The emergence of the South

The introduction of new players in Africa's international relations since the 2000s has raised issues concerning geopolitical, economic, and normative aspects of Africa's relations with the world. Emerging powers have created a parallel system of international relations, in which regional and international institutions have been created, and new forms of negotiation patterns successfully entered the world stage, without the need for Western *intermediaries* that have controlled the international arena until now. Far from stating that Western countries play a limited role in Africa's economic, social and political spheres, the fast-paced entry of Southern actors has symbolised a change in the West's role as intermediary and, even more importantly, has started representing an alternative for African players.

In fact, "with the end of the Cold War, the world seemed to move from a bipolar system to a unipolar world in which the neoliberal West globally imposes its laws. However, during the last decade, it has been acknowledged that other actors, such as China, India and Brazil, have become increasingly influential, creating multipolarity at the global level"[139]. The BRICS (Brazil, Russia, India, China and South Africa) group of emerging economies and the IBSA (India, Brazil and South Africa) group of emerging democracies represent two of the most increasingly influential groups of states, emerging in global economic and political affairs. Their idea of world exchanges is based on "a rapid deepening of interconnectivity within the developing world—in flows of goods, money, people and ideas—that is surprisingly autonomous from Western control, resulting in the development of a new, parallel international system, with its own distinctive set of rules, institutions and currencies of power"[140].

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[139] Dietz et al., op.cit., p. 2; see also: DIE, 'Unstable multipolarity? China's and India's challenges for global governance', DIE Briefing Paper, German Development Institute, Bonn, 2006; D. Dollar, 'Asian century or multi-polar century?', World Bank Policy Research Working Paper 4174, The World Bank, Washington, 2007; J. Clegg, *China's global strategy. Toward a multipolar world*, Pluto Press, London, 2009.
[140] N. Barma, E. Ratner and S. Weber, 'A World Without the West', *The National Interest*, no. 90, July/August, 2007, p. 27.

This increasing multi-polarity of international relations – consequence of a changing world order – has heightened the perception that Africa has renewed theoretical utility to scholars of International Relations Theory (IRT). Some still see Africa as subdued and explain the continent's new engagement with its Southern partners as "extractive and exploitative" where the "new actors (more so in the case of China considered as the 'yellow peril' in Western academic discourse) are the 'new imperial' powers and [...] such engagement merely perpetuates the continent as a primary exporter of renewable and non-renewable resources"[141]. Others argue that it is necessary to set aside the belief that "Africa is just a space in which external forces operate" because this inevitably "obscures the intricacies and differences of expressions of power in international negotiation and political processes, and places too deterministic an emphasis on structural forces"[142]. This focus in turn "binds Africa's international relations into a narrow and predetermined position as the recipient of international affairs rather than an active player"[143].

The change in the international context with a shift to multipolarity and the emergence of southern powers is a significant historical element that has arguably made space for African actors to be more assertive in their relations with the outside world at both bilateral and multilateral level. Zondi argues that "the growth of multilateralism in an increasingly multipolar world with the rise of China and India to challenge the north-Atlantic axis has had a positive effect on Africa's participation in global affairs" [144]. According to other studies on aid-receiving African governments, the impact of the global shift has also been felt on bilateral aid relations, enhancing the scope for African bargaining, enabling some states to take much tougher stances towards Western donors[145].

China

Among Southern actors, China has undoubtedly received unchallenged attention by the media and scholarly debates. A widening trend of arguments supports the idea that China and the West are now competing against each other in Africa, ending

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[141] R. Modi ed., *South South Cooperation. Africa on the Centre Stage,* Palgrave McMillan, Houndmills, 2011, p. 12.

[142] S. Harman and W. Brown, 'In From the Margins? The Changing Place of Africa in International Relations', *International Affairs*, vol. 89, no.1, 2013, p. 86.

[143] *Ibid.*

[144] Brown, 2012(b); see also: S. Zondi, S, 'Africa in Multilateral Negotiations: A Critique of African Common Positions', paper presented to the seminar Emerging Agents of Change? Africa in International Negotiations, Chatham House, London, 3 February 2011.

[145] S. Grimm et al. eds., *Coordinating China and DAC Development Partners: Challenges to the Aid Architecture in Rwanda*, German Development Institute, Bonn, 2010; L. Whitfield ed., *The Politics of Aid. African Strategies for Dealing with Donors*, Oxford University Press, Oxford, 2008.

the decades-long Western supremacy. This competition, it is argued, it is first and foremost for natural resources [146]. However, while "Western investment is concentrated in African countries with better property rights and rule of law, Chinese [outbound foreign direct investment] ODI is indifferent to the property rights/rule of law environment"[147]. Besides natural resources' extraction, Western and Chinese activities often tend to complement rather that compete in terms of investment as well as development projects. Where the West mainly has aimed at promoting good governance, human rights, the rule of law, Chinese activities have focused on the development of infrastructure and business links, aiming at non-interfering in other countries' internal affairs. The western 'civilizing-mission' approach characterised by conditions-based cooperation activities is confronted by a Chinese win-win business strategy built upon, seemingly, no-condition pillars and 'mutuality'. These approaches stem from opposing views of one's own role in international relations and as such seem to be perceived by Africans. With time, however, the seemingly consistent foreign policy discourse on win-win cooperation started being questioned by Africans as the practices of a diverse range of Chinese actors further exacerbated the discussion among societal actors, bureaucrats as well as international organisations, concerning the exploitative nature of Chinese activities, often deemed either disrespectful of local rules or not particularly advantageous for local needs.

Despite the preponderance of a material and power-based foreign policy, China's belief that no standard values should be applied to different socio-cultural contexts is the very foundation upon which China's foreign policy approach is based. This approach finds its roots in the five principles of peaceful coexistence outlined during the 1955 Bandung Conference. These principles (equality, trust, sovereignty, mutual benefit and non-interference) have been elaborated in response to China's colonial past and its developing country status. In fact, China is still a recipient country of aid, and as such, it argues it is better positioned to know how to meet development goals, namely through the elaboration of a system that suits each context specifically. More recently, Chinese President Hu Jintao revived the concepts of "harmonious society" and "harmonious world", which are based on Confucian values. Confucianism's core values highlighted the importance of harmony and order established through

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[147] W. Chen, D. Dollar and H. Tang, 'How Similar Is Chinese Investment in Africa to the West's?', *Order from Chaos: Foreign Policy in a Troubles World* [blog post], The Brookings Institution, 18 August 2015.

rigorous superior-subordinate relationships according to which social power was mainly placed "in the hands of the older, more conservative segments of the population"[148].

With the advent of Maoism, "the [Chinese Communist Party] CCP spent its first three decades in power trying to extirpate every root and branch of Confucianism that it regarded as a feudal and reactionary worldview hindering progress"[149]. A major shift occurred, with the State becoming more and more willing to "penetrate society and re-create it in its own image"[150]. Revolutionary ideology played a very significant role in this period. However, as the post-Mao period came, the role of ideology notably receded in everyday life as well as in the government's work. Yet, certain ideological elements remain and exert influence on political rhetoric and policy-making. This has been referred to, in political science vocabulary, as informal ideology, mainly meaning political thought with a cultural dimension[151]. The use and elevation of the importance of traditional values intend to "soften the social impact of economic development on the citizenry at large"[152].

These aspects of China's history contribute to the intricacy of Chinese domestic as well as foreign policy. In particular, "the revitalization of the great Sage and his teaching occurred at a juncture when China was entering a new phase in its development. The reiteration of harmony (and order)—the essence of Confucianism—constitutes a policy revision with regard to the direction of China's economic reforms, begun more than a quarter of a century ago"[153]. There are several advantages for the government to promote Confucian values: "domestically, the affirmation of harmony is meant to reflect the ruling party's concern for all classes […] it is an implicit recognition that things are not so harmonious; but unlike Maoist days, the conflicts must be resolved peacefully, not through violent class conflict. Internationally the call for peace and harmony is meant to disarm fears about China's rise"[154]. This, in particular, helps the government to orchestrate the search for morality within society. Rather than allowing the moral vacuum to be "filled by Christian sects, Falun Gong, and extreme forms of nationalism" which are

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[148] *Ibid.*, p. 8.
[149] D. Bell, *China's New Confucianism: politics and everyday life in a changing society,* Princeton University Press, Princeton, 2008, p. 10.
[150] Y. Huang and D.L. Yang, 'Bureaucratic Capacity and State-Society Relations in China', *Journal of Chinese Political Science*, vol. 7, issue 1, March, 2002, p. 19.
[151] X. Guo 'Repackaging Confucius: PRC Public Diplomacy and the Rise of Soft Power', Asia Paper, Institute for Security and Development Policy, January 2008, p. 8.
[152] *Ibid.*
[153] *Ibid.*, p. 12.
[154] Bell, op.cit., p. 9.

considered threats to "the hard-won peace and stability that underpins the country's development", the government has encouraged "the revival of China's most venerable political tradition: Confucianism. Like most ideologies, however, Confucianism can be a double-edged sword"[155]. The current lack of meritocracy and the corruption scandals involving the CCP shed light on the much-needed transformation that the political system in China should face.

"Reform and opening", as well as the information revolution have decreased state control over society. This environment "has contributed to the growth of non-governmental organisations (NGOs) in China [...] Of course, Chinese NGOs continue to operate under severe political restrictions. Organisations such as religious groups and free labour unions are banned. Registration and approval processes are unduly burdensome. However, despite these adverse conditions, China has seen the growth of (underground) religious groups and small independent labour unions"[156]. Not being unitary, the state structure is also increasingly exposed to the changes mentioned above. As a consequence, "the national state administration is no longer tightly disciplined. Local officials negotiate their relations with the higher authorities and, at times, with the citizenry as well"[157].

This domestic "softening" has led China "to accept political diversity from a baseline of not overtly dictating to others", in contrast to "the Maoist impulse to export world revolution"[158]. The White Paper on China's Africa Policy, issued in 2006, "provides the moral basis of its expressions of power in Africa by asserting that Chinese foreign policy will, unlike the West, be guided by principles that ensure that the relationship will not devolve into one of exploitation"[159]. The paradigm promotes home-made remedies rather than a standard set of prescriptions. It is founded upon the following cornerstones: sincerity, equality, mutual benefit, solidarity and joint development. Notwithstanding this, as Armony and Strauss note "beneath the polite construct of formal relations, China is rife with principal-agent problems, bureaucratic infighting, and 'national' state-owned enterprises in

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[155] *Ibid.*, p. 8.
[156] M. Pei, 'Changing State-Society Relations in China', paper presented to the Euro China Forum, China Europe International Business School, <http://www.ceibs.edu/ase/Documents/EuroChinaForum/minxin.htm>.
[157] K. Lieberthal, *Governing China: from Revolution Through Reform*, W.W. Norton & Company, New York, 2004, p. 300.
[158] C. Alden and D. Large, 'China's Exceptionalism and the Challenges of Delivering Difference in Africa', *Journal of Contemporary China*, vol. 20, no. 68, 2011, p. 28.
[159] *Ibid.*, p. 29.

untrammelled pursuit of profit and influence often to the detriment of China's wider reputation"[160].

Gurtov suggests that "We should understand China's developing world policies in essentially domestic terms – that is to say, as a source of support for China's sovereignty and internal security"[161]. Chinese leaders "have conducted foreign policy in ways that seek to maintain control over the pace, methods, and strategy of economic development and political change. The foreign policy dimension of that determination has consistently been to avoid dependence and [...] protect and promote China's socialist development and thus its security and recognition of its important place in the world"[162].

China has, however, been experiencing a learning curve in relation to its engagement with Africa, even when it comes to the application of principles as rooted and dear as those mentioned above. In 2004 China signed the UN High-Level Panel on Threats, Challenges, and Change that released an influential policy report entitled *A More Secure World: Our Shared Responsibility*, which endorsed the Responsibility to Protect (R2P) concept. While 'pre-2004 non-interference' was quite rigid, 'post-2004 non-interference' became more flexible[163]. Bell argues that "if China affects the rest of the world, how can it ask the rest of the world not to interfere with its own internal affairs? Faced with such concerns, China has begun to play a more responsible and cooperative role in international affairs"[164].

Few studies have seriously looked at the contribution of Africans and African contexts in the change China is experiencing[165].

2.3   Conceptualizing Agency

Conceptualizing 'agency-as-ownership' is an effort deemed necessary as a theoretical exercise but even more as a starting point for empirical demonstrations.

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[160] A.C. Armony and J.C. Strauss 'From Going Out (zou chuqu) to Arriving In (desembarco): Constructing a New Field of Inquiry in China-Latin America Interactions' in J.C. Strauss & A.C. Armony eds., *From the Great Wall to the New World: China and Latin America in the 21st Century*, The China Quarterly Special Issues, New Series, no 11, Cambridge University Press, 2012, p. 4.
[161] M. Gurtov, 'Changing Perspectives and Policies', in L. Dittmer and G.T. Yu eds., *China, the Developing World, and the New Global Dynamic*, Lynne Rienner Publishers, Boulder, 2010, p. 24.
[162] *Ibid*., pp. 14-15.
[163] Z. Pang, 'Playing by 'The Rules': Is China a Partner or Ward?', *Spiegel Online International*, 17 October 2008. http://www.spiegel.de/international/world/playing-by-the-rules-is-china-a-partner-or-ward-a-584758.html
[164] Bell, op.cit., p. 22.
[165] See L. Corkin, *Uncovering African Agency: Angola's Management of China's Credit Lines*, Ashgate Publishing, Surrey, UK, 2013; Gadzala, 2015, op.cit.

In the previous chapter the concept of ownership was introduced, characterising it as the definition and domination of governance processes, in other words, the safeguarding of the systems of governance of a country.

Blending theories

To conceptualise agency in governance processes, as mentioned in Chapter 1, it is fundamental to ascertain what 'governance' is about. The approach here used is not to rely on a single theoretical account of governance, but rather pull together elements from a few theoretical approaches. This is done with the belief that to capture real world events, the discipline of IR does not provide ready-made all-encompassing theoretical solutions, but rather needs a blending of multiple theories. IR as a discipline is, historically, derivative and multidisciplinary[166], it is thus upon this basis that the blending approach used in this thesis is built.

The realist approach contributes to an understanding of governance by emphasising the centrality of the state and the importance of self-interest in international relations. It is a starting point in the scholarship to conceptualise agency in asymmetrical conditions. However, it does not leave space for ideas, civil society, institutions and transnational forces. The theory is particularly relevant in Sino-African relations. These, as explained in Chapter 1, were initially broadly structured and understood as state-to-state affairs. According to this approach, the asymmetry between China and African countries places the former in a position of prevalence over the latter. However, as explained above, this method, while still significant to explain the importance of sovereignty and, presumably, the non-interference approach promoted by China and commended by African countries, is not sufficient to understand processes of governance that increasingly include actors beyond the state.

The institutionalist approach theorises how "formal or informal procedures, routines, norms and conventions embedded in the organisational structure or political economy"[167] define behaviour. According to them, institutions represent the "principal factor structuring collective behaviour and generating distinctive outcomes"[168]. Institutionalism emphasises path dependence according to which

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[166] For a historical account see J.M. Hobson, 'Comparative Politics and International Relations', in T. Landman & N. Robinson eds., *The SAGE Handbook of Comparative Politics*, SAGE Publications, London, 2009.
[167] P.A. Hall and R. Taylor, 'Political Science and the Three New Institutionalisms', *Political Studies*, vol. 44, no. 5, 1996, p. 936.
168 *Ibid.,* p. 937.

"the contextual features of a given situation often inherited from the past" [169] mediate the effects of other variables at play. Institutions are the most significant of these contextual features[170]. This paradigm suggests that global interactions are legitimised through institutions, which are not only formal but also informal sets of interdependent relations between states, societies, markets, transnational forces and so forth[171]. This paradigm is very relevant to this thesis, although its main limitation is an inability to account for change, as reliant as it is on path dependence, and to provide proper space to individual agents.

Constructivism, on the other hand, provides a subjective dimension to governance, focusing on the social construction of identities, ideas and interests (see the section below on Repertoires). This is of particular importance as the theory acknowledges that interests and actions gain meaning and value, in other words, they become relevant, only as a consequence of social constructs[172]. This element is a key one in Sino-African relations. On the one hand, discourses such as mutuality, solidarity, equality are grounded in a perception of shared historical paths and ideas of international relations. On the other hand, real world dynamics have shed light on relatively different social, political and economic cultures.

Finally, the pluralist approach moves beyond state-centred[173] conceptualizations of governance to include civil society, market agents, transnational social movements[174], and it breaks down the state into multiple bureaucracies. O'Brien et. al. [175] talk of *complex multilateralism* to explain how transnational groups increasingly shape governance by defining global institutions[176]. This is, again, particularly relevant in this thesis for at least two main reasons: Sino-African relations, though often portrayed as isolated from other global dynamics, are necessarily deeply entrenched to them. Secondly, China and African countries have increasingly acknowledged that a wider range of actors contributes to Sino-African relations. These interactions, often out of the state control, have given impetus to

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169 *Ibid.,* p. 939.
170 *Ibid.*
171 see: R. Keohane and J. Nye, 'Realism and Complex Interdependence', *International Organisation*, vol. 41, no. 4, 2000; F. Biermann,'Earth System Governance: The Challenge for Social Science', The Global Governance Project, Amsterdam, 2002.
172 A. Wendt, 'Anarchy is what States Make of it: The Social Construction of Power Politics', *International Organisations*, vol. 46, no. 2, 1992, pp. 391-425.
173 K. Ohmae, *The End of the Nation-State: the Rise of Regional Economies*, Simon and Schuster Inc., New York, 1995.
174 Turner, S., 'Global civil society, anarchy and governance: assessing an emerging paradigm', *Journal of Peace Research*, vol. 35, 1998.
175 R. O'Brien, A.M. Goetz, J.A. Scholte and M. Williams, *Contesting Global Governance: Multilateral Economic Institutions and Global Social Movements*, Cambridge University Press, Cambridge, 2000.
176 For an overview of the concept of 'institution' see G.M Hodgson, 'What are institutions?', *Journal of Economic Issues*, vol. XL, no. 1, March 2006.

processes of adaptation, re-organisation, rejection on both Chinese and African sides, challenging existing beliefs, norms, institutions.

By pulling together relevant elements of each of these theoretical approaches presented above, the author presents a conceptualization of agency that does not place the full explanatory power on individuals or structures, but rather on a complex intertwining of the two. This conceptualization:

- Identifies the actors in Sino-African relations. In doing so, the author recognises the importance of the State in Sino-African relations but she understands it as acting through human agents, in a non-unitary fashion, subjected to social and market forces whose interests are negotiated through processes of competition and cooperation, based on the asymmetrical availability of resources.

- Recognises that governance is far from being merely state-determined, within one country's boundaries, but is rather increasingly the consequence of the inclusion in the decision-making of social and market forces, including multilateral organisations.

- Recognises that agents identify their interests not only based on rational decisions but also based on social constructs, i.e. repertoires and perceptions.

- Assigns particular relevance to institutions, especially in relation to their dependence on historical paths. These institutions constitute the systems of governance that inform mobilisation strategies.

- Finally, all this is subjected to change over time. Despite the fact that path dependence finds significant space in this conceptualization, change is also an important element of Sino-African relations, as determined by heuristic approaches to interaction, and of Africa's relations with other external forces.

The actual processes of governance are a synthesis of these theoretical approaches where the share of theoretical preponderance changes in relation to specific issues, at specific times. According to these elements, agency-as-ownership of the governance processes with the Chinese is constituted by the *willingness* and *ability* to safeguard African interests. The *willingness* to exert control, i.e. safeguard interests, in the negotiations with China, in other words, the *motivation* to do so, is strictly related to the *interests* that any given actor perceives to be affected in its relations with China. Actors are, however, conceptualised not limitedly as bundles

of interests and capacities, but also as constituted by the ideas and memories of the communities from which they emerge[177], which in turn contribute to shaping their interests.

These interests can be consistent among a range of national actors vis-à-vis external forces, but they can also be divergent giving rise to domestic confrontation. The willingness to safeguard the domestic system of governance, is, in other words, negotiated domestically across state and non-state entities as well as across state bureaucracies. Studying the willingness of African actors to define and determine the relations with China is important given the widespread belief in the literature that 'China acts, Africa follows'.

The *ability* of agents to exert control in the relations with China is, in turn, dependent on the *resources* they have at their disposal (human, financial) as well as the suitability of the structures and institutions that regulate any given policy-area, i.e. whether the *system of governance* is suitable to guarantee the safeguard of the specific interests that emerge in the relations with China. As with the willingness, the ability of African actors in negotiating with China has often been considered reduced, mainly as a consequence of financial and organisational asymmetry.

According to this conceptualization, *the governance process is a function of the interplay between ideas, interests, resources and structures, institutions, norms within which they engage/operate.* As mentioned in the previous chapter, the system of governance is the synthesis of the structure-agency interplay within a country, one that defines and is defined by ideas, interests, relationships, but also structures, institutions, norms, and thus an unavoidable aspect of the relations with external forces.

This conceptualization of agency allows to "circumvent the crude individualist/structuralist dichotomy"[178]. In other words, the focus is neither fully on individuals, nor on the structures within which they operate. It is rather understood as a continuous interplay between the two. The elements of agency unpacked below aim to respond to the main research questions, namely what are the motivations and modalities through which African agents exert ownership in the interaction with the Chinese. Unpacking these two aspects provides a basis to understand the degree of ownership that is exerted. In fact, it is not a quantitative

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[177] Whitfield and Fraser, op. cit., p. 344.
[178] C. Wight, 'They Shoot Dead Horses Don't They? Locating Agency in the Agent–Structure Problematique', *European Journal of International Relations*, vol. 5, no. 1, 1999, p. 134.

approach to the relationships that enlightens the outcome but rather a qualitative one that digs into the motivations and modalities of action, i.e. processes. Similarly to what Alden and Ammon say with respect to FPA, focusing on the process, rather than the outcomes, means accepting that "closer scrutiny of the actors, their motivations, the structures of decision making and the broader context within which foreign policy choices are formulated would provide greater analytical purchase"[179].

To understand motivations, what is looked at are the beliefs/repertoires upon which agents rely to articulate their interests, and the interests themselves, understood as layered across different levels, namely national, sectoral, and issue-specific. To understand modalities, on the other hand, what is looked at are the resources available to actors and how these are mobilised according to existing systems of governance. This depiction of ownership assumes that the system of governance that regulates how interests and resources are negotiated among actors serves as a point of leverage over acts of narrow self-interest. It does not, however, imply that the system of governance is, normatively speaking, a morally correct one or that procedures are bound by legality and formality. Domestic actors move along national and international environments to negotiate preferred outcomes. These preferred outcomes are not intended to be, normatively speaking, good or emancipatory. They can also be aimed at perpetuating existing dependency, criminal behaviour and so forth[180].

The sections below first conceptualize 'actors', then move to explain the three steps introduced in the previous chapter that are necessary to study agency-as-ownership, namely the *identification of interests*, the *acknowledgement of whether existing systems of governance are suitable to negotiate these interests to the benefit of involved African stakeholders*, and the *enactment of strategies to bring the negotiation inside the accepted system of governance, transform the latter to guarantee that the negotiation successfully safeguards interests, or not safeguard interests at all.*

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[179] C. Alden and A. Ammon, *Foreign policy analysis: new approaches*, Routledge, Abingdon, 2012, p. 1.
[180] Murray-Evans, op.cit.

2.3.1 Actors

Barry Buzan suggests that the agential dimension of agents is the "faculty or state of acting or exerting power"[181]. Wight, in providing a critique of Buzan's definition, suggests that his definition is more valid for the natural sciences than the social sciences. He continues by asserting that "what sets the limits of the boundaries between the social world and the natural world are the dual notions of meaning and intentionality" and both are "properties best reserved for agents"[182].

Wight argues that agency has a 'tripartite character'. The first dimension, *agency$_1$*, is characterised by a deeply individual, 'self' dimension of human agents. It is "in the 'freedom of subjectivity' that agency is located [...] This recognition of 'self' does not mean a denial of the role played by social and cultural factors in determining behaviour [...] But even as I acknowledge my own dependency on a social universe which always presents itself in conceptualized form, this conceptualization is dependent on a subject capable of reflecting upon, and constantly renegotiating, the forces of construction"[183]. This first dimension, in other words, is characterised by the "human qualities of reflexivity and creativity". The notions of meaning and intentionality are not sufficient to explain agency "for social agents are always differentially empowered to act in terms of their social positioning"[184]. This second character of agency, *agency$_2$*, takes into consideration the socio-cultural background within which agents are born. In a way, *agency$_2$* precedes *agency$_1$*, as the social groups one is born into deeply affect the potential of one's own ability to act. The third dimension, *agency$_3$*, refers to the 'roles' agents inhabit in any specific context of agency$_2$. The three dimensions are co-constituted, and Wight argues that they allow to "circumvent the crude individualist/structuralist dichotomy"[185]. As Brown suggests, this approach suggests that "there are neither simply free individuals, nor script-defined role performance, but both roles and subjectivity shaped in extent and content by, and operating within, a specific social context"[186]. This is probably the most important aspect of the thesis, i.e. the emphasis on the social context and the realisation that agents do not act, as individuals and role-players, independently of the context (the context is better defined below as *arena*).

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[181] B. Buzan, C. Jones and R. Little eds., *The Logic of Anarchy: Neorealism to Structural Realism,* Columbia University Press, New York, 1993, p. 103.
[182] Wight, op. cit., p. 126.
[183] *Ibid.,* p. 130.
[184] *Ibid.,* p. 132.
[185] *Ibid.,* p. 134.
[186] Brown, 2012(a), p. 1895.

The main problem with Wight's tripartite approach is his understanding of political action as a domain of official statehood. Despite the initial focus on state-to-state relations, Sino-African engagements have been expanding their scope and increasing attention is granted to the effects of encounters beyond the state level. *For this reason it is important to use a theoretical framework of analysis that allows the inclusion of not only state actors, their interests and the structures of, presumably, formal interaction, but also non-state actors, their interests and structures of negotiation that, at times, move beyond formality to include informal spaces and processes. The author argues that the interests that emerge are constituted by both the beliefs held by actors and the position occupied in society.*

State and non-state agencies

Hagmann and Péclard's framework, better explained below, helps to move beyond the state so to include a *variety of actors*, many of whom reside outside formal political structures, and to understand "how local, national and transnational actors forge and remake the state through processes of negotiation, contestation and bricolage" [187]. Acknowledging this social diversity in socio-political and economic negotiations is important in a study such as this, of multi-layered domestic interaction with external actors. As Long notes, "all forms of external intervention necessarily enter the existing life-worlds of the individuals and social groups affected, and in this way are mediated and transformed by these same actors and structures" [188]. This is especially relevant in the study of Sino-African relations where, by often not taking into consideration African actors and contexts, it is assumed that the Chinese side of the equation embodies the entire explanatory realm and that the interaction with Africans does not transform it.

Despite the attention to multi-level phenomena and a wider understanding of agency, Hagmann and Péclard's 'analytic of statehood' still focuses on 'state domination' [189]. After all, discussing agency in international relations means discussing, first and foremost, the role of the state. This is mainly related to the importance of *sovereignty* in international relations. Although undeniably, agency is exercised at multiple levels, it would be reductionist to assert that state agents

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[187] Hagmann and Péclard, op. cit., p. 544.
[188] Long, op. cit., p. 20.
[189] Hagmann and Péclard, op. cit., p. 544.

and non-state actors have the same kind of power in international relations. Maintaining the importance of the state, Brown suggests that:

> it is international processes of mutual recognition of sovereignty that define the membership of the international 'club' of states in the first place and as a result the very rights to attendance and participation in the varied multilateral forums and bilateral relations [...] Indeed, it is as recognised leaders (and hence 'representative') of the state, that leaders are able to claim a right to speak for and on behalf of a particular country. And sovereign authority confers on state agents an ability to recognise or not, give legitimacy or not, to other actors[190].

He continues by concluding that "states are different and they matter in a different way from non-state agencies. Not that the latter are unimportant, but appeals to the importance of civil society actors whether in peace-building or in international negotiations cannot obscure the centrality of state-based agencies in the political realm". [191] Notwithstanding this, "sovereignty itself is inherently relational in both its internal and external aspects, meaning that state actors are never divorced in a substantive sense from non-state actors".[192] An even bigger problem concerns how far states can be said to 'act'. This is by no means unique to Africa although Williams argues that what is different about African state agency is the extent to which state agency is subjected to greater external scrutiny than other states in the international system [193]. Wendt suggests that states cannot be considered 'persons'[194], as "it is not the state which acts: it is always specific sets of politicians and state officials located in specific parts of the state system" [195]. According to Brown then states "only enact their agency in the sense of acting through human agents"[196].

The literature on Foreign Policy Analysis (FPA) provides a good approach for understanding the interconnectedness of diverse agency types and their mutually constituting relevance at the domestic and international level. This branch of IR investigates the decision-making process, individual decision makers and

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[190] Brown., 2011, op. cit., p. 13.
[191] *Ibid.,* p. 14
[192] Brown, 2012(b), op. cit., p. 17.
[193] Williams, op. cit., p. 18.
[194] A. Wendt., 'The Agent-Structure Problem in International Relations Theory', *International Organisation*, vol. 41, no. 3, 1987, p. 359.
[195] B. Jessop, *State Theory: Putting Capitalist States in their Place*, Polity Press, Cambridge, 1990, p. 367.
[196] Brown, 2012(b), op. cit., p. 8.

conditions that affect the outcomes of foreign policies. Alden and Ammon note that "by adopting this approach, FPA is necessarily concerned not only with the actors involved in the state's formal decision-making apparatus, but also with the variety of sub-national sources of influence upon state foreign policy. Moreover, in seeking to provide a fuller explanation for foreign policy choice, scholars have had to take account of the boundaries between the state's internal or domestic environment and the external environment"[197].

Acknowledging that a *range of actors exercise agency in processes of governance* means understanding the relational concept of power sharing between the governing and the governed. In other words, it is necessary to look at state-society relations as well as "the intrinsic characteristics of government bureaucracies and how these relate to other forms of power"[198]. State-society approaches mostly understand patterns of domination and social change as deriving from the interactive effects of state and social structures. The approach rejects perspectives that understand patterns of domination and change as fuelled mainly by government policies and structure or, on the other hand, those that see such patterns as dictated by certain social formations. In other words, it acknowledges that the substance of politics is "to be found in the myriad networks which link the various levels of power, from top to bottom"[199]. According to Migdal states are deeply embedded in social forces[200] and Bierschenk and Olivier de Sardan highlight how multiple "power poles"[201] have substituted a narrow focus on formal state actors and institutions. A wide range of actors, state officials and non-state actors are involved in 'doing the state'[202], both in cooperation and in competition with the state[203].

Such diversity gives rise to ever-changing competing interests. In fact, "while the image of the state implies a singular morality, one standard way, indeed *right* way, of doing things, practices denote multiple types of performance and, possibly, some contention over what is *the* right way to act"[204]. Migdal suggests a focus on the

[197] Alden & Ammon, op. cit., p. 1.
[198] Hagmann and Péclard, op. cit., p. 545.
[199] *Ibid.*, p. 2.
[200] J.S. Migdal, *Strong Societies and Weak States: State-Society Relations and State Capabilities in the Third World*, Princeton University Press, Princeton, 1998.
[201] K. Arnaut & C.K. Højbjerg, 'Gouvernance et ethnographie en temps de crise: De l'étude des ordres émergents dans l'Afrique entre guerre et paix' *Politique africaine*, vol. 111, 2008, p.20.
[202] J. S. Migdal and K. Schlichte, 'Rethinking the State', in K. Schlichte ed., *The Dynamics of States - The Formation and Crises of State Domination*, Ashgate, Aldershot-Burlington, 2005, pp.14-15.
[203] Hagmann and Péclard, op. cit., p. 543.
[204] J.S. Migdal, *State in Society: Studying how States and Societies constitute one another,* Cambridge University Press, Cambridge, 2001, p. 19.

dynamic nature of state-society relations, underlining how "as the state organisation comes into contact with various social groups, it clashes with and accommodates to different moral orders. These engagements, which occur at numerous junctures, change the social bases and the aims of the state. As a consequence, it is not useful to conceive the state as a fixed ideological entity, rather, it embodies an ongoing dynamic, a changing set of goals, as it engages other social groups"[205]. In analysing state and society as empirical subjects, "we find tremendous variation in ideas about good government, virtue and responsibility"[206].

Actors can then be categorised as national states (executives), state-based actors (the bureaucracies), and non-state actors, ranging from the private sector to professional associations, trade unions, educational institutions and much more. Hagmann and Péclard importantly bring into the discussion about 'actors' the "resources that individuals and organised interest groups have at their disposal and the competing repertoires that they mobilise in their interactions"[207]. Resources are material assets whereas repertoires are symbolic elements, such as norms, discourses and ideas used to further interests. They are at the basis of the ability and motivation to negotiate domestically and internationally. Internationally, however, the literature on Africa, as explained above, has questioned the willingness and ability of African actors to mobilise ideas and resources to fulfil their interests through specific systems of governance. It is then particularly important to acknowledge that domestic preferences are not important because they are objective facts, but because they have social meanings attributed by specific actors to specific circumstances[208]. These meanings originate from a complex blend of history, ideas, norms[209].

Repertoires

Agents do not identify their preferences simply with reference to their interests or through rational calculation, based on the resources from which they can draw upon. They mostly rely on ideas and memories[210], based on history, identity and discourse[211] which in turn create individual spheres of decision making that can

[205] *Ibid.*
[206] Hann and Dunn eds., op.cit., p. 20.
[207] Hagmann and Péclard, op. cit., p. 547.
[208] A. Wendt, *Social Theory of International Politics*, Cambridge University Press, Cambridge, 1999.
[209] *Ibid.*
[210] Whitfield and Fraser, op. cit., p. 344.
[211] D.J. Galbreath, A. Lasas and J.W. Lamoreaux, *Continuity and Change in the Baltic Sea Region: Comparing Foreign Policies (On the Boundary of Two Worlds),* Rodopi, Amsterdam-New York, 2008. p.16.

impact the broader context within which they act[212]. Hagmann and Péclard call this mix of ideas and memories, repertoires. Actors "master symbolic repertoires to further their interests, to mobilise popular support, and to give meaning to their actions"[213]. Repertoires are used to "defend and to challenge existing types of statehood and power relations"[214].

This symbolic realm in Africa involves references to 'good governance', 'democracy' as well as anti-western ideologies, ethno-politically defined types of citizenship, and so forth. With the arrival of China, the range of repertoires has widened. The repertoires that emerge in Sino-African relations are generally twofold: one consists in framing the relations under the South-South cooperation label, defining them through concepts of mutuality, equality, solidarity, non-interference, economic development. The other is the opposite, framing the relations with China as damaging for locals and counter-productive, mainly disrespectful of social and economic rights, drawing on the discontent of populations towards the Chinese presence.

Especially in a study like this one where social, political and economic cultures meet, it is crucial to give space to the different symbolic repertoires upon which norms of conduct are based, to better capture the relations. Sino-African relations have particularly struggled to figure out whether different repertoires such as the 'economic development' pushed forward by China and the 'democratic governance' pushed forward by Western countries can co-exist and be blended in African contexts.

Resources

The study of resources is an important one in Sino-African relations where the economic asymmetry between China and most African countries is often perceived as a reason for asymmetrical outcomes. Resources refer to "the material bases of collective action; they include tangible and intangible assets such as bureaucratic capacities, organisational skills, finance and ability to mobilise funding, knowledge and technical expertise"[215] etc. At least two aspects need to be considered: resources change with time and not all actors have equal resources leading thus to competition

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[212] Alden&Ammon, op. cit., p. 65.
[213] Hagmann and Péclard. p. 547.
[214] *Ibid.*
[215] *Ibid.*

(between the state and society[216], but also internally to each of them[217]). These aspects apply to both the domestic context, and the international dimension. In other words, resource allocation and availability vary domestically based on differing priorities (i.e. national, sectoral, sub-sectoral, personal), but they also vary depending on the specific relations with external partners. They vary based on preferences, which are subjected to temporal, spatial and political variations[218].

Domestically, it is important to acknowledge that not all actors have equal resources at their disposal. Resources form the major basis of power and, as Olivier de Sardan put it, there are at least two kinds of power, "the power everybody has and the power only some people have"[219]. The executive and high-level bureaucrats have access to a wider pool of resources than lower level bureaucrats or societal groups, thus creating a power imbalance. However, in most cases, the mobilisation of the resources available to the former is scrutinised by complex systems of governance that reduce the power asymmetry between the top and the bottom. This is truer "in environments of peace and stability than in conflictive regions, where the foreign policy elite tends to exclude domestic interests for the sake of the survival of the state"[220].

However, looking at financial capabilities should not be the only way to look at resources. An analysis of human resources often lacks in Sino-African relations where studies focus, more often than not, on structural and financial resources. Nonetheless, focusing on human resources may reveal specific capacities that emerge in negotiations, and that contribute to the shaping of outcomes.

2.3.2 Layered interests

When discussing agency in Sino-African relations, often the question revolves around the ability of a *State* to pursue its national interests. Not surprisingly, with time, it has become clear that Sino-African relations are populated by a multiplicity of interests, well beyond those officially advanced, as diverse as the range of actors that embody them. Interests are shaped by Wight's tripartite agents, i.e. agents that have a personality and 'freedom of subjectivity', which is shaped by the social context in which they were born and raised, and which is bound by the position the

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[216] M. Bratton, 'Beyond the State: Civil Society and Associational Life in Africa', *World Politics*, vol. 41, no.3, 1989, p. 408.
[217] Hagmann and Péclard, op. cit., p. 545.
[218] *Ibid.*
[219] Olivier de Sardan, op. cit., p. 186.
[220] D. Flemes and S.E. Lobell, 'Contested leadership in international relation', *International Politics*, vol. 52, 2015, p. 143.

agent occupies in society[221]. One of the purposes of the sectoral approach adopted in this study is the understanding of competing interests within the national context. These are expected to vary depending not only on the context of the specific issue under study, and thus specific actors involved, but also on the positions that these actors occupy in that context, and the relations among each other.

Sino-African debates rest upon a general critique that African countries have 'turned East' adopting country-wide approaches toward China thanks to its proclaimed non-interference policy and lack of political conditions[222]. This type of critique is linked to the fear that the unconditional support of China for African economic development has compromised the democratic journey of many African countries. However, assuming that interests are unitary and that they emerge out of state agents only, wipes out the complexities of country-systems and does not take into account the profoundly different priorities that different issue-areas occupy within the national context and in relation to external presences. In actual governance, macro policy orientations (for instance, the Look East policy in Kenya) meet microcosmos where they do not necessarily result as appealing as they do at the national level. In other words, while it is important to recognise the existence of national agendas, it is also necessary to acknowledge that they break down into multiple agendas at sectoral and issue-specific levels. This acknowledgement leads to talk of *layered interests*: the national, the sectoral and the issue-specific. Through a study of how these interests are connected and safeguarded it is possible to determine whether the African countries' engagement with China is part of broader national developmental frameworks or rather responds to isolated, narrow interests. This is, in turn, a key moment in the study of agency-as-ownership, as it allows to assess whether the systems of governance guarantee to leverage the achievement of narrow self-interests to the benefit of broader national interests. Sectoral interests are important as a link between the national and issue-specific levels as they help identify how different sectors occupy priorities within a single national system. In the relations with external forces, sectoral interests are the ones that help identify whether issue-specific interests are in line with development agendas or are rather randomly expressed.

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[221] Wight, op. cit., pp. 126-134.
[222] See Mohan & Power, 2009, op.cit.; M. Tan-Mullins, G. Mohan, M. Power, 'Redefining 'Aid' in the China–Africa Context', *Development and Change*, vol.41, no. 5, 2010.

Beyond the domestic level, China's interests in Africa have often been framed in sectoral terms. FOCAC documents contain commitments to develop education, healthcare, political relations and so forth. Sectoral patterns have been identified that generally focus on broad commitments by the Chinese to contribute to Africa's development in that specific sector. However, because China's commitments are generally Africa-wide rather than country-specific, it remains to be seen whether Chinese sectoral preferences align with Kenyan sectoral priorities.

Layered interests apply to African contexts, as much as they apply to the Chinese. It is important to acknowledge this, in Sino-African relations, as it reinforces the recent turn in the Sino-African scholarship toward comprehensive studies of the complexity of Chinese foreign policy management, i.e. the fact that despite the willingness to state-control the relations, implementation proves to be much more diversified. Studies of Chinese practices in Africa have revealed discrepancies between the national rhetorical discourse of mutuality, win-win and so forth, and the implementation practices of SOEs, private actors, migrants, whose interests do not always align with China's discourses.

The following chapters are fully aimed at exposing this. Chapter 3 focuses on Kenyan national interests, rooted in a long historical journey toward constitutional democracy, and linked to regional and global integration efforts. These interests constitute the bedrock against which sectoral agendas take shape and against which specific issues are negotiated domestically and internationally (Chapters 4, 5 and 6).

2.3.3 Systems of Governance – Negotiation Arenas

The systems of governance are a key element of this thesis as they are the synthesis of the structure-agency blend. Hagman and Péclard call them negotiation arenas, i.e. the "political space in which relations of power and authority are vested"[223]. Negotiation arenas "have spatial, social and temporal dimensions [...] which need to be traced empirically on a case by case basis"[224]. Different actors and stakeholders contribute to the creation and consolidation of norms, institutions and structures that form an arena, which is *historically determined,* path dependent. 'Negotiation arenas' and 'negotiation tables' (more fully described below) are the places where negotiation processes are observed. Negotiation arenas host "a

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[223] Hagmann and Péclard, op. cit., p. 551.
[224] *Ibid.,* p. 550.

varying number of actors, some of which are recognised as participants of formal decision making at the negotiation table (typically 'big men', politicians, businessmen, diplomats, but also religious leaders, NGO representatives, military commanders, etc.) and others who have been denied access to the negotiation table (typically minority groups, women, groups with a lower socio-economic status)"[225].

The definition of arenas, in other words, refers to the norms, institutions and structures through which governance takes place. Through the study of modalities of governance (unpacked below), it is possible to identify whether the relations with China occur within existing systems of governance, if they do outside of them, when African actors deem the systems adequate to negotiate with China and when they deem them non-fit. This thesis, in a way, tests whether the argument put forward by Clapham in 2006 holds. He asserted that "China's appearance [in Africa], however dramatic, fits into patterns that have been long-established, and that Africans have historically absorbed and adapted. There is, I believe, every prospect that China will conform to those patterns, rather than transforming them"[226]. Importantly, the patterns Clapham refers to are highly influenced by external actors and structures. Especially in particular sectors the existence of international institutions and structures has been, especially in Africa, a major element determining how national governance takes place.

In a sectoral study like this, it is of particular importance to highlight that negotiating arenas and tables vary significantly domestically depending on the sector or issue-area under study. As previously mentioned negotiation arenas "have spatial, social and temporal dimensions [...] which need to be traced empirically on a case by case basis"[227]. Mainly, the concern in the following chapters is that to identify what are the existing arenas/tables of negotiation and whether the relations with the Chinese are enacted within existing patterns or outside of them.

2.3.4 Modalities

According to the conceptualization put forward so far, the modalities of action vis-à-vis the Chinese are expected to depend on the suitability of the arenas to safeguard interests. There is a general tone in the literature on Sino-African relations according to which having 'agency' means being able to reject Chinese

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[225] *Ibid.*, p. 551.
[226] C. Clapham, 'Fitting China In', Brenthurst Discussion Paper no. 8, The Brenhurst Foundation, 2006, p. 2.
[227] Hagmann and Péclard, op. cit., p. 550.

terms and conditions[228], as if all Chinese initiatives in Africa were about conflicts of interest and rejecting them was, normatively speaking, the right thing to do. This idea was often consequential to an understanding of Sino-African relations as mainly conducted by the elites to the detriment of populations, portrayed as impotent. Therefore, rejecting the Chinese equalled to using agential power to reject authoritarian approaches to development[229]. In this study, I adopt a more nuanced approach according to which having agency does not equal to rejecting the Chinese, assuming that their arrival is synonymous with exploitation, challenges, and so forth. Rather, agency is here seen as the ability to shape and maintain preferences at the negotiation table, be they in line or not with the Chinese priorities. This agency, as better explained below, is not only in the form of contestation by social groups against elites but also cooperation with each other and with the Chinese. To emphasise this, the section below suggests focusing, in empirical analyses, on the initiator of the relations, which is not expected only to be acting in re-action mode, but also pro-action and passive modes. In a recent article exploring trade negotiations, Murray-Evans also suggests that:

> The conflation of agency (an ontological presupposition) with resistance (empirical claims) potentially obscures the variety of different positions taken up by African agents in international trade negotiations and other interactions with the outside world. If we can only observe African agency when it is expressed as opposition to external forces, we may miss, for example, those instances when African agents agree with or contribute to dominant ideas or cooperate with other international actors[230].

Initiator

To identify and explain mobilisation strategies, it is important to put emphasis on the distinctiveness, and yet connectedness, of the national agenda, sectoral and issue-specific interests. This tension is particularly relevant when the interests of domestic state organs and social structures are not particularly aligned and what is

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[228] See Murray-Evans, op. cit.; Mohan and Lampert, 2014, op.cit.; B. Lampert & G. Mohan, 'Making Space for African Agency in China-Africa Engagements: Ghanaian and Nigerian Patrons Shaping Chinese Enterprise', in A. W. Gadzala (ed.), *Africa and China: How Africans and Their Governments are Shaping Relations with China,* Rowman & Littlefield, Lanham, 2015.
[229] See E. Mawdsley, 'China and Africa: Emerging Challenges to the Geographies of Power', Geography Compass, vol. 1, no. 3, 2007.
[230] Murray-Evans, op. cit., p. 1847.

observed is a constant adaptation to fulfil both the national and international interests. One way to look at how these three groups of interests interplay is to look at the motivations according to which actors *initiate* the relation with China, and compare it to broader sectoral and national interests. The types of behaviour expected are: contestation, cooperation, passivity.

Contestation is a *re-action*, expected in cases where Chinese actors/activities challenge Kenyan existing interests/values, norms or frameworks of operation and provoke a reaction to control such change. Flemes and Wehner suggest that "strategies of contestation can be driven by historical experiences of conflict, and also by their legacies"[231]. Cooperation is a *pro-active* behaviour. Even when apparent tensions are not observed with China and between the government and society, it is interesting to study the domestic conformation in such contexts to compare it to cases contestation. Pro-active behaviour emerges in cases where a calculated choice is made by the actors involved in the issue at stake to include Chinese actors for the implementation of specific policies or projects. Finally, *passivity* is a behaviour according to which no particular agency/control over the relationship with China is shown. Neither the content of the relations nor the modality are actively defined to safeguard Kenyan interests. China is left to operate unchallenged.

Negotiation Tables

The negotiation table represents "a formalized setting where contending social groups decide upon key aspects of statehood over a given period of time. A wide range of negotiation tables exists, from diplomatic conferences involving heads of states, through donor consultations between international financial institutions and local NGOs, to meetings by customary chiefs under the village tree"[232]. 'Negotiation tables' vary significantly from case to case so that the range of actors that can potentially sit around them is vast. In other words, they are the settings where the actual negotiations take place, characterised by the inclusion or exclusion of stakeholders, at times according to existing systems of governance, at times irrespective of them. While arenas are harder to alter, tables of negotiation can, more easily, be subjected to short-term interests and politicisation.

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[231] D. Flemes & L. Wehner, 'Drivers of strategic contestation: The case of South America', *International Politics*, vol. 52, no. 2, 2015, p.166.
[232] Hagmann and Péclard, op. cit., p. 551.

Sino-African relations are imbued with concerns that the economic and power asymmetry between African countries and the Chinese lead the executives of the former to bypass domestic systems of governance in order to strike deals with the latter. This can be measured by contrasting announced developmental agendas and actual project development. The assumption is that agendas are broadly negotiated across arenas, and thus take into consideration different stakeholders' needs. Project development, on the other hand, may be more subjected to one-off needs.

The study of tables of negotiation and their conformity to the broader negotiation arena is significant to understand whether established norms and procedures are maintained or bypassed. It is also important as it helps to understand whether these behaviours are sector-defined or rather sector-irrelevant.

2.4   Conclusions

All the elements of agency just briefly introduced have gained an increasing significance in Sino-African relations as a testimony of the importance that agency has come to occupy in these engagements. The actors involved have increased in number and type, internationally as well as domestically (in China and African countries), ranging from traders, to athletes, from doctors to peace-keepers, from ministerial bureaucrats in charge of specific Sino-Africa programmes to academics and so forth. The repertoires used, i.e. discourses, have been fine-tuned as the relations evolved. An example is the increased use of soft power by China in African contexts or the 'Look East' discourse employed by Kenyan state leaders since the early 2000s. The resources at their disposal have experienced processes of change, as the importance of some issues increased while that of others decreased. Systems of governance, i.e. arenas, have been challenged, domestically and internationally, not without uproars in many instances, that have, in turn, caused a diversification of modalities of action. As Mosley et al. pointed out negotiation strategies and logics are "bound to change significantly, not least as a result of the fact that after years of experience both sides of the bargaining table figure out ways to neutralize each other's strategies" [233]. Sino-African relations, despite their fast-paced nature, still

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[233]Whitfield and Fraser, op. cit., p. 345; see also: Referring to the following work: P. Mosley, J. Harrigan and J. Toye, *Aid and Power: The World Bank and Policy-Based Lending*, vol. 1, Routledge, London, 1991.

seem to require time for each side to study and understand the other. The following chapters are an attempt to put the elements of agency in context.

CHAPTER 3

Kenya: domestic politics and the international dimension since 2002

3.1   Introduction

This chapter stands as a *trait d'union* between general theoretical elaborations of agency and grounded research. It represents the first step of the analytical framework and aims to provide a broad country-study before undertaking the second step, i.e. sectoral analyses. An extensive country-study is essential for situating specific sectoral analyses in context, i.e. identifying what is the level of importance/priority each sector has vis-à-vis the others, within the national context.

Referring back to the elements of agency presented in Chapter 2, this section introduces the actors (including an overview of the resources and repertoires they draw upon), the interests at stake, domestically and in relation to external actors, the arena (the broad national system of governance) and tables of negotiation (i.e. negotiation forums, meetings, etc.). It does so by concentrating first on how historical legacies, including processes of change, and structural features have interacted with the actors and the institutions they form[234], through a domestic and international lens. Fifty years after independence from British rule, Kenya's relations with external actors still play a vital role not only in the country's foreign policy but also in the domestic arena. Notwithstanding this, the relation between the state and social forces should first be considered not as a colonial creation but as one emerging out of an existing group of people with specific societal characteristics[235] that have led a country with 42 ethnic groups to conceive and adopt, in 2010, one of the most forward people-centered constitutions in Africa.

Second, it concentrates on how China has been inserted into the picture, diplomatically, economically and socially. The engagement of China in Kenya increased considerably in the past few years, making Kenya not only a major base for Chinese operations in Africa but arguably one of the most important in terms of

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[234] Moncrieffe and Luttrell, op. cit.
[235] C. Hornsby, *Kenya. A History Since Independence*, I.B. Tauris, London, 2012, p. 1.

strategic, diplomatic presence[236]. Although corruption is identified as a risk, Kenya is also viewed as a politically and economically stable country, where human resources are comparatively more available and skilled than in many other African countries and where the service sector is developed enough to provide Chinese businesses and activities with the necessary support to establish themselves and grow[237]. Kenya is also deemed a haven within the politically unstable Horn of Africa and thus strategic for security operations[238].

Despite the fast-paced expansion of Chinese activities in the country since President Kibaki was elected in 2002, the Chinese presence in the 'darling of the West' - diplomatically, socially and economically – is still marginal when compared to the long-standing Western one. The Kibaki government significantly reduced dependence on Western donor aid, with the country being increasingly funded by internally generated resources such as increased tax revenue collection and new ties with China[239]. However, the rooted Western presence and India remain an essential element: 1) in Kenya, 2) in the analysis of Kenya's engagement with China, 3) and in the analysis of China's interests in engaging with the country. While the sections below provide a general *historical* background, the focus is on 'democratic' Kenya, since the Kibaki government took seat in 2002, and through the first year of Uhuru Kenyatta's rule.

3.2   Domestically: between the state and society

3.2.1 Background

Kenya, vis-à-vis most countries in Africa, managed to "avoid military rule, social instability, warlordism, mass murder or social collapse" due to a number of reasons including "inherited social and economic structures" as well as direct external influence and the absence of "strategic minerals"[240]. The territory that now forms Kenya was home, well before colonial rule, to at least 42 separate ethnic groups for which, "beyond a certain state of linguistic and cultural affinity, [...] no further ethnic

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[236] Nairobi hosts Africa's regional headquarters of the main Chinese media houses for print, TV and radio. The country is second only to South Africa for the number of Confucius Institutes established. Nairobi also hosts the headquarters of major regional and international organisations (UN), as well as civil society and the private sector.
[237] United Nations Conference on Trade and Development (UNCTAD), *An investment guide to Kenya Opportunities and Conditions 2012*, United Nations, New York, 2012. p. iii.
[238] *Ibid.*
[239] J. Ng'etich, 'Was Uhuru's trip to China a coded message to the 'cold' West?', *Standard Digital*, 25 August 2013.
[240] Hornsby, op. cit., p. 5.

identification can be expected"[241]. Nonetheless, traditionally "almost all of Kenya's ethnic groups were characterised by what has become known as 'egalitarian-segmentarian' structures in contrast to more hierarchical forms of social and political organisation"[242]. This entrenched and peculiar feature of ethnicity in Kenya, in conjunction with the absence of any predominant groups, may have contributed to laying the foundations for social democracy and, mostly, peaceful coexistence. While "ethnic identities are not incompatible with a 'national' one referring to the wider and international setting, the mobilisation of these sentiments is, however, a situational one and depends on the patterns of competition in the overall politico-economic context"[243].

While it is beyond the scope of this thesis to fully explore the links between ethnicity, politics and the economy, it is important to provide a brief overview as these linkages come to matter also in the relations with China. The fragmented ethnic composition of the country has led to competition in the appropriation and control of resources via economic, social and political strives, where the state and society have learnt to engage each other through contestation but seldom violent conflict. The post-election crisis in 2008, however, challenged the image of Kenya internally and internationally as an "icon, a bastion of political stability and economic prosperity in Africa. It surprised many that this icon would go up in flames so fast"[244]. Kanyinga suggests that "analyses of what went wrong with Kenya tend to gloss over the land question and ethnicity as factors behind the violence. Yet ethnicity and the manner in which the land question in the former white highlands and especially in the Rift Valley region has been addressed throughout the post-colonial period played an important role in the post-2007 election violence"[245].

Right after independence "two major political parties were formed along ethno-regional lines: [Kenya African National Union] KANU represented numerically large Kikuyu and Luo communities, while [Kenya African Democratic Union] KADU represented numerically smaller groups who were worried that the large groups would dominate them after independence"[246]. Jomo Kenyatta, leader of

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[241] D. Berg-Schlosser, 'Ethnicity, Social Classes and the Political Process in Kenya', in W.O. Oyugi ed., *Politics and Administration in East Africa*, East African Educational Publishers, Nairobi, 1994, p. 248.

[242] *Ibid.*, p. 249.

[243] Berg-Schlosser, op. cit., p. 254.

[244] K. Kanyinga, 'The legacy of the white highlands: Land rights, ethnicity and the post-2007 election violence in Kenya', *Journal of Contemporary African Studies*, vol. 27, no. 3, 2009, p. 325.

[245] *Ibid.*

[246] D. Booth et al., *East African prospects: an update on the political economy of Kenya, Rwanda, Tanzania and Uganda*, Overseas Development Institute, London, 2014, p. 13.

KANU and first president of Kenya, inherited the British administrative boundaries, and the crisis associated with the white highlands[247]. Instead of settling the crisis, Kenyatta "skewed the system further under an imperial presidency"[248]. In rewarding his Kikuyu ethnic group to consolidate power "the ruling party [...] enticed the opposition with material interests – land. This enabled the Kenyatta government to begin centralisation of power with limited opposition. In time, the government began to amend the constitution to provide for a centralised executive"[249]. This exacerbated inequality between the Kikuyu and other ethnic groups[250], especially in the Rift Valley area, originally controlled by Kalenjin and Maasai ethnic groups. The Kikuyu remained 'outsiders' and as such were perceived during the 2007-2008 post-election violence[251].

Moi, a Kalenjin, took power in 1978, arguably "diverting socio-economic entitlements such as infrastructure development (roads, education and healthcare provision) to his Rift Valley region"[252]. The links between business and political elites started changing, with the Kikuyu being excluded and the Kalenjin intensifying relations with Kenyan Asians, altering the structure of economic and political power[253]. Opposition rose against the slogan 'It is our turn to eat'[254], and repression started against any critics. In the 1990s "internal and external pressure to reform led to the reintroduction of multiparty elections" and in 2002 "opposition parties united under one presidential candidate, Mwai Kibaki, who was "overwhelmingly elected on a platform to correct the horizontal inequalities between ethnic groups, reduce the powers of the president, address historical injustices, including land injustices, punish large-scale corruption and improve the economy"[255].

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[247] The crisis concerned the ownership of an area of Kenya that was called, during the colonial period, 'white' highlands (so defined because a considerable number of white colons settled there thanks to favorable climate and soil). The land was divided by colonisers upon arrival and expropriated from indigenous groups, i.e. Kalenjin and Masaai. This redefinition of land ownership was not only never redressed but was also exacerbated in the post-colonial period by ruling parties, and it is argued to be one of the causes of the 2007 post-election violence. See Kanyinga, 2007, op.cit; J.O. Oucho, 'Undercurrents of Post-Election Violence in Kenya: Issues in the Long-Term Agenda', in K. Kanyinga and D. Okello eds., *Tensions and Reversals in democratic transitions: the Kenya 2007 general elections,* Society for International Development (SID) and Institute for Development Studies (IDS), University of Nairobi, 2010, p. 498.

[248] E. Njoki Wamai, 'Mediating Kenya's Post-Election Violence: From a Peace-Making to a Constitutional Moment', in G.R. Murunga, D. Okello and A. Sjögren eds., *Kenya: The Struggle for a New Constitutional Order*, Zed Books and The Nordic Africa Institute, London and Sweden, 2014, p. 68.

[249] Booth et al., op. cit., p. 13.

[250] Njoki Wamai, op. cit., p. 68; also see: D. Okello and M.J. Gitau, *Readings on Inequality: Sectoral dynamics and perspectives*, Society for International Development, Nairobi, 2007; F. Stewart, 'Horizontal inequalities in Kenya and the political disturbances of 2008: some implications for aid policy', *Journal of Conflict, Security and Development*, 2010, vol. 10, no. 1.

[251] *Ibid.*

[252] *Ibid.,* p. 69; also see: R. Ajulu, 'Politicised ethnicity, competitive politics and conflict in Kenya: a historical perspective', *African Studies*, 2002, vol. 61, no. 2.

[253] Booth et al., op. cit., p. 14.

[254] Njoki Wamai, op. cit., p. 69.

[255] *Ibid.*

With Kibaki "some significant reordering of relationships began to occur"[256]. Kibaki's focus was, in domestic and foreign policies, revolving around the recovery of the economy, and while he succeeded in increasing the growth rate of GDP, from 0.6 per cent to 7 per cent between 2003 and 2007[257], he "failed to respond to the political aspirations of Kenyans, such as delivering a new constitutional order that would punish large-scale corruption, limit presidential powers and reduce ethnic and regional inequalities"[258]. As a consequence, "political leaders from outside the president's Kikuyu community felt excluded" [259]. However, his laissez-faire approach for economic development provided "space for people to engage in economic activities without major restrictions. The government also began to undertake major infrastructural programmes, such as building new roads and rehabilitating existing ones. The recovery of the economy provided an opportunity for all: 'even those without political connection and influence got a share of the expanding economy because Kibaki's approach opened the market to everyone'"[260]. Kibaki had received support from the West that "backed his campaign on account of the promise to fight corruption". However, when corruption scandals emerged and "the donors questioned the track record of the government in fighting corruption", relations with the West deteriorated and the government started looking at China and India for grants and loans[261]. While a more accurate account of the 'Look East' approach is presented below, by means of introduction it is important to mention that the 'Look East' shift was not only a political decision but also one directly related to the interests of business groups supporting the Kibaki government. This relationship was profoundly challenged after 2008, when Kibaki signed, after the Annan-led international mediation following the post-election violence, a sharing power agreement with Raila Odinga, leader of the Orange Democratic Movement (ODM). Each leader had links with different segments of the business community but "power sharing imposed certain constraints on linkage between politics and business"[262].

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[256] Booth et al., op. cit., p. 13.
[257] Government of the Republic of Kenya, *Kenya Vision 2030: A globally competitive and prosperous Kenya*, Government of the Republic of Kenya, Nairobi, 2007, p. 3.
[258] Njoki Wamai, op. cit., p. 69; also see: G.R. Murunga and S. W. Nasong'o, 'Bent on self-destruction: the Kibaki regime in Kenya', *Journal of Contemporary African Studies*, vol. 24, no.1, 2006; G. Prunier, 'Kenya: roots of crisis', *openDemocracy*, 7 January 2008.
[259] Booth et al., op. cit., p. 14.
[260] *Ibid.,* p. 17.
[261] *Ibid.,* p. 18.
[262] *Ibid.,* p. 19.

The post-election violence, and the subsequent mediation and negotiation between Kibaki together with his Party of National Unity (PNU), and Odinga together with his Orange Democratic Movement (ODM) provided a "transitional moment" and "a constitutional moment for antagonists to reorder the governance structures through the introduction of a new constitution"[263]. According to Njoki Wamai, a "constitutional moment arises when all previous forces against the constitution-making process converge to deliver a constitution"[264]. In Kenya, the mediation led by the former UN Secretary General Kofi Annan, "orchestrated a constitutional moment by ensuring that Kenyan political leaders accepted a constitutional amendment that allowed for power-sharing, guaranteeing support for a new constitution"[265]. The Kenyan mediation process was a uniquely successful story of international mediation [266] which led to the promulgation of a new constitution in August 2010. This constitution addressed the root causes of the conflict that culminated in the 2007/2008 post-election violence. It did so "by introducing affirmative action in resource distribution to address ethnic, gender and geographic inequality; by enhancing the rule of law by reducing the powers of the executive and strengthening accountability institutions such as parliament and the judiciary; and by reducing the powers of the president and the central government by introducing devolution and encouraging public participation in governance"[267]. Although there have been setbacks against it since its promulgation, mainly due to the "absence of mechanisms to ensure full compliance with the provisions of the promulgated constitution"[268], the transformation that started during the mediation led by Annan was a turning point in Kenya's journey of development, including the management of ethnic disparities, which became even more evident in the following years with the election of Uhuru Kenyatta and William Ruto.

With the election of the Jubilee alliance in March 2013, the two leaders, Kenyatta and Ruto, were under the obligation to compose the cabinet and appoint principal secretaries according to the requirements of the new constitution, which had been passed in 2010. Because of these requirements and for "wanting to be seen as different from the coalition government of Kibaki and Raila, they took charge of interviewing candidates for the posts of Cabinet Secretaries in person. In a clear

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[263] Njoki Wamai, op. cit., p. 66.
[264] *Ibid.,* p. 75.
[265] *Ibid.,* p. 76.
[266] For a comprehensive account, see Murunga, Okello and Sjögren, op. cit.
[267] Njoki Wamai, op. cit., p. 67.
[268] *Ibid.,* p. 76.

break with tradition, they briefed the media on the progress made with interviews" [269]. The Public Service Commission dealt with the recruitment of Principal Secretaries and the Parliament "also had to vet them before the president could make appointments"[270]. This, however, does not suggest that "there was no political patronage influencing these new appointments"[271]. However, internal unity between Uhuru and Ruto, which was consequential, among other things, to the ability of leaders to show the people respect for accountability, was crucial for two leaders that were facing indictment at the International Criminal Court.

Even though the "intermingling of political and economic power in Kenya has always been intense", the Jubilee government may currently be going through a relative shift. According to the ODI report "by Kenyan standards, the president and his deputy do not have many people to whom they owe financial loyalty. This is not to imply that they are free of obligations to the leaders of different communities of interest that supported their campaigns" but rather that the "government is able to approach the business community from a relatively independent point of view". One of the reasons may be that Uhuru Kenyatta's campaign was heavily financed by his family, rather than business elites, and "he does not owe thanks to anyone"[272]. Evidence of the relatively new approach of the executive toward business elites may also be the "proportion on 'new faces' in business forums", of a younger generation compared to those around Kibaki's two terms of government[273]. The Jubilee alliance, so far, despite being a coalition within which the interests of each leader respond to different ethnic and business audiences, "has shown signs of unusual coherence, partly on grounds of expediency, thanks to the International Criminal Court (ICC) indictments"[274] (more on the ICC trial is explained below).

The alliance has been, for the first two years and a half of mandate[275], sharing power equally. This has had to do, first and foremost, with the need to fight against the ICC indictments using a joint approach. While the new government seems to be business friendly, it has not been working with an equal commitment to improving governance.

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[269] Booth et al., op. cit., p. 21
[270] *Ibid.*
[271] *Ibid.*
[272]*Ibid.*, p. 25 referring to an interview with an investigative journalist.
[273] *Ibid.*, p. 25.
[274] *Ibid.*, p. viii.
[275]At the time when the thesis was submitted.

Social participation: the road to constitutional reform

The non-governmental sector in Kenya has played a major role in the socio-economic development of the country since the colonial period. Lind and Howell suggest that "Kenyan civil society was shaped greatly by state building processes begun during colonialism and continuing in the period of industrialisation after independence in 1963. These processes led to the formation of modern forms of civil society such as trade unions, NGOs and professional societies, setting the stage for external engagement with civil society"[276]. Gaps in the ability of the Kenyan state to effectively manage issues ranging from healthcare to education have resulted in civil society, often supported by external actors, becoming increasingly active in filling the void left by the state. Lind and Howell argue that "the Kenyan experience demonstrates that the NGO sector has since the 1980s emerged as a major player in the design and implementation of projects as well as the actual provision of basic needs services to the disadvantaged groups both in the rural and urban areas"[277].

Since the early 1990s, civil society groups played a critical role[278] in the path towards the new constitution that was adopted via a referendum in August 2010. Despite the Moi regime being extremely oppressive towards critics, civil society continued carving out spaces within the political realm, and in 1999 the Parliament enacted the Constitution of Kenya Review Act, which established the Constitution of Kenya Review Commission (CKRC), appointed to gather views from Kenyans and provide recommendations to parliament. The leading CSOs active on the constitutional reform front voiced concerns about the Parliament-led review and the lack of provisions for broader participation. They argued that the parliament "was not representative of all the voices of Kenya, and they demanded an all-inclusive process to culminate in a national conference. Their mantra was a 'people-driven' constitutional review process"[279]. The People's Commission of Kenya (PCK) was created by the Catholic, Hindu, Muslim and Protestant clergy, thus initiating a "parallel constitutional review process"[280]. When the CKRC and the PCK were finally

[276] J. Lind and J. Howell, 'Aid, Civil Society and the State in Kenya since 9/11', LSE Non-Governmental Public Action Programme Working Paper, no. 21, 5 June 2008.

[277] *Ibid.*, p. 6.

[278] Nasong'o, 2014, op. cit., p. 100. Also see: P. Kennedy and L. Bieniek, *Moving Forward with Constitutional Reform in Kenya: A Report of the CSIS Africa Program*, Centre for Strategic and International Studies (CSIS), Washington, 2010; G. Maingi, 'The Kenyan constitutional reform process: a case study of FIDA Kenya in securing women's rights', *Feminist Africa*, 2012, vol. 15; M. Vliet, W. Wahiu and A. Magolowondo, *Constitutional Reform Processes and Political Parties: Principles for practice*, Centre for Multiparty Democracy and Centre for African Studies, Leiden, 2012.

[279] Nasong'o, 2014, op. cit., p. 105.

[280] *Ibid.*

merged under the chairing of Professor Yash Pal Ghai, the constitutional review process started, in 2000.

The intertwining of state-society took a new shape as the 2002 general elections approached, and even more with the National Rainbow Coalition (NARC) coming to power[281]. Civil society strongly supported KANU's opposition in the run up to the 2002 elections. Kanyinga suggests that "the defeat of the KANU in the 2002 elections can be attributed to the inputs and work by civil society organisations"[282]. The election marked the "consolidation of democratic processes stretching back over a decade [...] The democratic triumphalism of 2002 marked the opening of political space and a shift in relations between the state and civil society"[283]. However, while this, on the one hand, was good to end repression and open up the political arena, on the other it was considered counterproductive: the close links between CSOs and the opposition, once the latter took power, turned the former into weaker actors, especially in their watchdog role[284]. In fact, after the 2002 NARC election, leaders of civil society organisations increasingly assumed governmental positions, even "occupying powerful positions" in the newly elected NARC government[285].

However, as previously discussed at the theoretical level, Kenyan civil society, not differently from civil society elsewhere, is the realm of 'contradictory possibilities'[286], characterised by a 'bifurcated nature'[287], presenting 'two faces'[288]. In other words, "Kenyan civil society is replete with actors of varied persuasions and multiple motivations. Whereas many actors within civil society were genuinely committed to the political reform agenda for the sake of advancing democracy and good governance, quite a number of others saw political activism for reform as a gateway to power, wealth and privilege"[289]. While the 'two faces' of civil society in Kenya are still present, with "some well-endowed CSOs [that] choose to remain politically obtuse, thereby debunking the optimistic scholarly perspective that CSOs

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[281] For an overview of the shifting role of state-society relations in the late 1990s, early 2000s – particularly in relation to aid – see J. Lind & J. Howell, 'Counter-terrorism and the politics of aid: civil society responses in Kenya', *Development and Change*, vol. 41, no. 2, 2010.

[282] K. Kanyinga, 'Civil Society Formations in Kenya: A Growing Role in Development and Democracy', in D. Okello ed., *Civil Society in the Third Republic*, The National Council of NGOs, Nairobi, 2004, p. 23.

[283] Lind and Howell, op. cit., 2008, p. 2.

[284] Nasong'o, 2014, op. cit., p. 106.

[285] Booth et al., op. cit., p. 15.

[286] Nasong'o, 2014, op. cit., p. 109. Also see: M. Mamdani, 'A critique of the state and civil society paradigm in Africanist studies', in M. Mamdani and E. Wamba-dia-Wamba eds., *African Studies in Social Movements and Democracy*, CODESRIA, Dakar, 1995.

[287] Nasong'o, 2014, op. cit., p. 109.

[288] *Ibid.*, pp. 109-110. Also see: S.N. Ndegwa, *The Two Faces of Civil Society: NGOs and politics in Africa*, Kumarian Press, West Hartford, 1996.

[289] Nasong'o, 2014, op. cit., pp. 109-110. Also see: Murunga and Nasong'o, op. cit; S.W. Nasong'o, 'Constitutional reform and the crisis of democratization in Kenya' in D. Branch, N. Cheeseman and L. Gardner eds., *Our Turn to Eat: Politics in Kenya since 1950*, Verlag, Berlin, 2010, p. 231.

constitute an unmitigated bastion of liberty and are steadfast crusaders for political reform and democratisation [...] even CSOs that commit themselves to the struggle for political reform display contradictory tendencies with regard to the interests and motivations of actors therein"[290]. However, while civil society in the 1990s "reflected a narrow, relatively elite network based primarily in Nairobi", thanks to the developments of the 2000s and the energy gained after the 2007-2008 post-election violence, the new cohort of civil society advocates "is transforming what was once focused on the elite into a more representative and extended civil society. Although largely dependent on international support and funding, Kenyan CSOs act as an important alternative power within the space between local communities and government"[291].

According to Kanyinga as of now "civil society in Kenya includes development Non-Governmental Organisations (NGOs), Community Based Organisations (CBOs), women groups, self-help groups, religious groups, trade unions, professional trade associations, as well as social economic or market-based associations. The concept also includes human rights advocacy groups, social-cultural organisations and a vast array of social movements"[292]. The way these groups operate is significantly diversified[293]. Major distinctions include: local versus national scope; registered under specific laws, or as trusts and foundations or still with the Provincial Administration of the Department of Culture and Social Services; formal (structurally organised) versus informal (smaller groups regulated by rules and practices); their scope can range from service delivery to the articulation of members' interests. This associational life is all the more present now, in a country, whose economy "no longer relies on the state; the multi party democracy is here to stay and presidential demands provoke as much resistance as obedience"[294].

In terms of political presence, even if institutionalised political parties are lacking, the Parliament "seems to exert pressure on other organs of government. Sometimes this is in a manner suggestive of Parliament being a force for change"[295]. However, even where committees[296] conduct investigations concerning public bodies and recommend prosecutions, "there are no known instances of anyone being

[290] Nasong'o, 2014, op. cit., pp. 109-110.
[291] Ibid., p. 112.
[292] Kanyinga, op. cit., p. 9.
[293] Lind and Howell, op. cit.
[294] Hornsby, op. cit., p. 7.
[295] Booth et al., op. cit., p. 27.
[296] Parliamentary groups, of which some have specific mandates to monitor public accounts.

prosecuted successfully on account of the recommendations of the committee. The executive has the final word on such prosecutions and therefore nothing really happens"[297]. With the new constitution, however, this trend may be bound to invert trajectory as the work of committees is increasingly met by a more independent judiciary. In fact, especially after the new constitution was passed, setbacks against it have been met "with vigorous resistance from Kenyans, resistance that confirmed that the many years spent negotiating the new constitution had introduced into the Kenyan body politic a fresh civic sensitivity against rule by presidential fiat"[298].

The new Constitution

The issue of where rights reside: "individuals in the liberal democratic citizenship model, as the state formally espoused, or ethnic communities or collectives"[299] is a fundamental constant in Kenya's socio-political evolution. This rights-based discourse has come even more to light since the early 2000s with the first democratic elections and later with the approval of the new Constitution in 2010, which has a far-reaching bill of rights. Within the new Constitution, the devolution of government powers has come into effect. Counties can make their decisions on issues that concern them directly. The county assembly represents a type of county-parliament, which has its government that is directly accountable to the people. According to the Constitution, "the devolved government is primarily geared towards achieving two main objectives: involve the people in governance and allow better supervision and implementation of policies at the grassroots level. The devolved government consists of 47 counties. Every county government shall further decentralize its services and coordinate its functions in order to efficiently serve the interests of the people of Kenya at the local levels"[300].

In other words, the new constitution provides for enhanced public participation in governance and stronger checks and balances. It replaced the 1969 Constitution, which in turn had replaced the 1963 Independence Constitution. Since 2010, "Kenyans have been looking to the new constitution as a key to improving governance. The constitution has created several new centres of power in the quest to reduce the powers of the executive. One is the judiciary"[301]. The Chief Justice and

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[297] Booth et al., op. cit., pp. 27-28.
[298] Murunga et al., op. cit., p. ix.
[299] *Ibid.*, p. 8.
[300] Government of the Republic of Kenya, *Constitution of Kenya*, Government of the Republic of Kenya, Nairobi, August 2010.
[301] Booth et al, op. cit., p. 28.

new judges were recruited through open processes, increasing public confidence in the institution and in some cases "the judiciary started by making judgements that demonstrated independence from the executive"[302]. As with most other public bodies – and private organisations too – the judiciary is not unilaterally acting constitutionally. The desire for constitutionalism varies, imbuing the change process with "a persisting struggle between the status quo and progressive elements"[303]. This applies to the bureaucracy as well as to civil society.

Development: the Economic Recovery Strategy and Kenya Vision 2030

Since the democratic elections of 2002, development plans have played a significant role in the country's growth. The government's blueprint for the 2003-2007 period, the Economic Recovery Strategy for Wealth and Employment Creation, was in line with the NARC's party manifesto. Similarly, Kenya Vision 2030 was launched by the coalition government in 2008 and is being continued, through the Medium-Term Plan II (2013-2017), by the Jubilee government whose manifesto has three pillars: Unity, Economy and Openness.

Kenya Vision 2030 is "a national long-term development blueprint […] that aims to transform Kenya into a newly industrializing, middle-income country providing a high quality of life to all its citizens by 2030 in a clean and secure environment", developed through "an all-inclusive and participatory stakeholder consultative process, involving Kenyans from all parts of the country"[304]. According to the pledges made in 2008 for Kenya Vision 2030, priority areas include:

1. <u>Economic Pillar</u>: "six priority sectors that make up the larger part of Kenya's GDP (57%) and provide for nearly half of the country's total formal employment: tourism, agriculture, wholesale and retail trade, manufacturing IT enabled services (previously known as business process off-shoring), financial services"[305] and infrastructure[306].

2. <u>Social Pillar</u>: "a cross-section of human and social welfare projects and programmes, specifically: education and training, health, environment, housing and urbanisation, gender, children and social development, youth and sports"[307]

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[302] *Ibid.*
[303] *Ibid.*
[304] Government of the Republic of Kenya, 'Kenya Vision 2030, The Vision', *Kenya Vision 2030*, [website].
[305] Government of the Republic of Kenya, 'Kenya Vision 2030, Economic Pillar', *Kenya Vision 2030*, [website].
[306] *Ibid.*
[307] Government of the Republic of Kenya, 'Kenya Vision 2030, Social Pillar', *Kenya Vision 2030*, [website].

with the aim of "investing in the people of Kenya in order to improve the quality of life for all Kenyans"

3. <u>Political Pillar</u>: "transformation of Kenya's political governance across five strategic areas: the rule of law – the Kenya Constitution 2010; electoral and political processes; democracy and public service delivery; transparency and accountability; security, peace building and conflict management" with the aim of "moving to the future as one nation envision[ing] a democratic system that is issue based, people centred, results oriented and is accountable to the public".

Most issues, from economic to governance, find a priority plan outlined in the blueprint documents. This is particularly important in the study of Kenya-China relations because relations with China, across Africa, are often believed to be established to benefit the elites' interests to the detriment of the population. As most cases will show in the sectoral analyses carried out in the next three chapters, the initiatives undertaken with China in the sectors analysed are part of pre-established development plans. These development plans have not been the prerogative of the executive (hence the importance of a layered interests approach to study specific issues). An interviewee commented on the implementation of Kenya Vision 2030 by highlighting the importance of the private sector and Non-State Actors (NSAs) for agenda setting and implementation. He states that "75% of Kenya Vision 2030 comes from the private sector and NSAs. We have a Public Private Partnership (PPP) bill that provides a way of engaging. If you go to rural constituencies, most of the government work is done by NSAs, often faith-based. The government should definitely overlook and ensure quality but implementation is done by NSAs. NSAs are seen as partners in development"[308]. In particular, the PPP initiative is a major step in the government's recognition of significant shortcomings in its ability to provide citizens with basic public infrastructure (including power, roads, rail, sea and airports) and services (including water, health and sanitation)[309]. The involvement of NSAs, i.e. investors, domestic and international, was considered a way to bypass the financial constraints that the government had experienced as the primary provider of such infrastructure and services[310].

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[308] Interview with an executive at Kenya Vision 2030, Nairobi, 2014-03-12.
[309] Public Private Partnership Unit, 'Legal & Regulatory Framework', *Public Private Partnership Unit*, [website].
[310] *Ibid.*

Kenya, like many other countries, while still heavily reliant, especially in sectors like healthcare, on Overseas Development Assistance (ODA), has also been increasingly relying on domestic resource mobilisation to fund its developmental path[311]. This may become even more significant in the years to come as the country crossed the threshold, in 2014, from a Low-Income-Country to a (Lower) Middle-Income-Country[312].

3.3   International

While domestic dynamics played a key role in Kenyan post-colonial journey, these have been, more so than not, deeply connected with the international.

3.3.1   Background

Hornsby writes that "history records that it has been the culture of Kenyans to resist domination, oppression and exploitation"[313]. The forms of this resistance have ranged from non-violent constitutional forms to violent armed struggle. While the former has been the most embraced option, the latter is most strikingly exemplified in the Mau Mau War of Independence – among Africa's most violent. Coming to terms with its colonial legacy "was one of the major tasks" facing the newly independent government of Kenya[314]. Gordon argues that Kenya responded to its colonial legacy via a "reorganisational model" rather than accommodation or transformation. Reorganisation "recognises and accepts structural dependence on the global economy; at the same time, it involves attempts to reform both domestic structures and diversify and improve one's position in the international order. This approach views continuing participation in the international order as opening up possibilities for improving bargaining power within it"[315]. In political terms, the legacies of colonial rule and narrowly defined regional issues dominated the agenda of Kenya's foreign policy in the years between independence and the mid-1970s[316].

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[311] S. Lewis and L. Kerr, *Who Pays for Progress? The Role of Domestic Resource Mobilisation and Development Assistance in Financing Health. A Case Study from Kenya*, RESULTS UK, 2015, p. 9.
[312] World Bank, 'Kenya: A Bigger, Better Economy', *The World Bank* [website], 30 September 2014,
<http://www.worldbank.org/en/news/feature/2014/09/30/kenya-a-bigger-better-economy>.
[313] W. Mutunga, *Constitution-Making from the Middle: Civil Society and Transition Politics in Kenya, 1992-1997*, Sareat and Mwengo, Nairobi and Harare, 1999, p. 1.
[314] D.F. Gordon, 'Foreign Relations Dilemmas of Independence and Development', in J.D.Barkan ed., *Politics and Public Policy in Kenya and Tanzania*, Praeger Publishers, New York, 1984, p. 301.
[315] *Ibid.*
[316] *Ibid.*, p. 297.

Kenya's foreign policy during that period "has been described as one of 'quiet diplomacy', cautious and pragmatic in its articulation"[317]. At independence Kenya's economy was dominated by "non-Africans – European farmers, Asian traders, foreign companies, and local European businessmen". The external economy, including trade and foreign assistance, was "closely intertwined with the former colonial power, Great Britain"[318].

A number of external influences have been ever present in Kenya's political economy since the colonial era and "the external forces that have had most impact on the country's economic and political structures include bilateral and multilateral donor agencies and states, as well as foreign investors"[319]. Hornsby argues that "there was always a strong relationship between Kenya and foreign governments, and the British played the role of patron and guardian uncle to Kenya for the first decade of its independence. As the influence of the UK diminished in the 1970s, it was replaced by the United States as a more powerful but less reliable patron [...] By the mid-1990s, the debate over Kenya's dependence on foreign interests had shifted to the 'tyranny' of the international financial institutions"[320]. The patron-client relation [321] that characterised Kenya's engagement with external actors during and after colonial times started taking new shape when, as a result of the general collapse of the state system in Africa, donor agencies started, in the 1990s, bypassing African states, while channelling funds for development to NGOs. It is against this scenario that Kenyan *modern* civil society boomed, "shaped greatly by state building processes begun during colonialism and continuing in the period of industrialisation after independence in 1963. These processes led to the formation of modern forms of civil society such as trade unions, NGOs and professional societies, setting the stage for external engagement with civil society"[322].

Historically "Kenya has been in a dependent relationship with Western governments and international institutions: militarily, financially, economically, technologically and culturally. The hand of Western powers, donors and NGOs can be seen in every aspect of Kenya's politics, economics and society, encouraging some types of change and discouraging others"[323]. More recently, however, the "Kibaki

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[317] *Ibid.*
[318] *Ibid.*, p. 301.
[319] W.O. Oyugi ed., *Politics and Administration in East Africa,* East African Educational Publishers, Nairobi, 1994, p. 429.
[320] Hornsby, op.cit., p. 11.
[321] *Ibid.*, p. 810.
[322] Lind and Howell, op.cit., p. 6.
[323] Hornsby, op.cit., p. 809.

government demonstrated a new will to reduce Kenya's dependency on Western aid […] A pro-capitalist Kikuyu-led government proved more hostile to foreign funds and interventions and more willing to challenge the unfettered market than the skeptical Moi"[324]. President Kibaki's regime significantly reduced dependence on Western donor aid, with the country being increasingly funded by internally generated resources such as increased tax revenue collection and new ties with China.[325]

Mwai Kibaki: 'Look East'

During President Kibaki's government, Kenya's foreign policy underwent a major shift. As mentioned above, the Kibaki government turned to China[326] and India when western donors – who supported NARC in the run-up to the elections – started questioning the government's seriousness to address corruption. As the ODI report highlights, two groups of politicians, highly intertwined with business elites, "had a hand in the move towards the East"[327]. The Hurlingham group, formed of politicians coming from the Mount Kenya region - Kibaki's home and electoral bedrock – and business elites, urged the President "'to look [e]ast and get support from China on [the] argument that China would give grants and loans without strings attached and without criticising the government over governance issues'[328]". At the same time, moving to China was a strategy to undermine the power of the Muthaiga group that, instead, "had grown by trading with companies in the West. They had invested in multinational corporations and were therefore keen to preserve government relations with the West"[329]. The two groups, whose members were equally close to Kibaki, were rival in "influencing business or economic decisions"[330].

However, when in 2008 Kibaki signed the agreement to establish a coalition government with Raila Odinga – who became Prime Minister – the linkages with business elites were altered. Business elites around Raila "were not as well entrenched in business as those around Kibaki" and were interested in beginning

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[324] *Ibid.*, p. 810.
[325] Ng'etich, op. cit.
[326] This time coincided with China's 'Go Out strategy' initiated in the late 1990s and continued under the Hu Jintao-Wen Jiabao leadership. China joined the World Trade Organisation in 2001, and later started to actively and consistently promote engagement with the outside world, at governmental as well as business level through the encouragement of Chinese investments overseas.
[327] Booth et al., op. cit., referring to the interview with an investigative journalist working with one of the daily papers (Oct 2013), p. 18.
[328] *Ibid.*
[329] *Ibid.*
[330] *Ibid.*

investments rather than already being solid investors. However, beyond the support from non-Kikuyu business leaders, Raila also received backing from powerful Kenyan Asians. Kenyan Asians seemingly "prefer a non-Kikuyu president because Kikuyu business elites are their competitors in various sectors"[331]. Similarly, because of Kenyan Asians' strong connections with India (for sourcing, manufacturing etc.), they may be not in favour of the involvement of Chinese businesses, seen as competitors. This is particularly evident in the analyses of some issues in the next chapters, especially in infrastructure and pharmaceuticals.

Within this scenario, corruption scandals involving business groups as well as political figures siding with either Kibaki or Raila, emerged showing an ever more complex network of business-politics linkages. The benefits of patronage became more scattered as the government lacked internal cohesion leading, at times, to policy gridlock. At the same time, corruption scandals weakened some groups, and with Kibaki's interests to China and infrastructural projects, new business elites and new sectors started emerging[332].

Uhuru Kenyatta: the ICC trial

Uhuru Kenyatta is arguably following in the footsteps of Kibaki in 'looking East'[333]. However, the role that China has had, for him, is more personally significant, due to his indictment by the International Criminal Court, where he was being prosecuted for alleged crimes committed during the 2007-2008 election/post-election violence. The 2013 elections were preceded by threat-like announcements by Western countries concerning the potential effects for the country as a whole if Kenyatta and Ruto, at the time prosecuted, were to be elected. This exacerbated the difficulties that Kenya had already started having with the West, its traditional trading partner, to the point that the strengthening of the 'Look East' policy is considered "in part a reaction to the international support for the ICC"[334].

Soon after the elections in March 2013, the tensions with western countries surrounding President Kenyatta and Vice-President Ruto were heightened by two episodes: Obama's visit to Africa, during which Kenya was bypassed, and the cold reception by the British prime minister of Kenyatta at the Somalia Conference in May. These two events "were seen as humiliating and those around the president

[331] *Ibid.*, p. 20.
[332] *Ibid.,* p. 19.
[333] Ng'etich, op. cit.
[334] Booth et al., op. cit., p. 33.

quickly crafted a new agenda to intensify contacts with the East"[335]. In August 2013, Kenyatta made state visits to Russia and China. In China, his delegation signed a number of agreements amounting to $5 billion in investments in a number of sectors. However, while these occurrences were partly politically-motivated, the Kenyatta-Ruto government seemed, since the beginning, intentioned to steer Kenya to greater independence at the global diplomatic arena"[336], partnering with whoever was willing to work with Kenyans to generate economic opportunities[337]. An official at a Ministry summarised this by stating that "there is a lot of politics between the East and the West. Kenya mainly got support from the West after independence. Now it's non-aligned but it has a clear position. What matters is the country's interests rather than aligning with someone. The interest is not whether we look east or west, but rather how we look at ourselves. We don't care where we get support from, whether it's from China, Russia, the US or Britain, provided it's in our interests."[338]

3.4   Kenya-China: actors, stakes and negotiations?

Kenya-China relations must be contextualised not only in relation to Kenya's historical links with the West, but also within China-Africa relations. Research on Kenya-China relations has been relatively limited, especially when compared to research conducted on China's relations with resource-rich countries. Being Kenya a resource-poor country "China's economic interests [...] so far have been predominantly outside the much-hyped area of its voracious appetite for African natural resources"[339], says Chege, UNDP advisor to Kenya's Ministry of Planning and National Development. Although explorations of oil wells were conducted by China National Offshore Oil Company (CNOOC), no positive results were achieved and the company quit in 2010[340]. This notwithstanding, it is worth pointing out that the significant involvement of China in infrastructural development projects in Kenya should be connected to the necessity of providing routes to resources. Opinions on China's presumed long-term interests in Kenya range from considering its interests

[335] *Ibid.*, p. 23.
[336] Kenya Yearbook Editorial Board, *Kenya Yearbook 2013/2014, Celebrating Kenya's 50 Years of Independence*, Kenya Yearbook Editorial Board, Nairobi, 2014, p. 568.
[337] Booth et al., op. cit., p. 23.
[338] Interview with an executive at the Ministry of Health, Human Resources Development Department, Nairobi. 2014-11-18.
[339] M. Chege, *Economic Relations Between China and Kenya, 1963-2007*, Centre for Strategic and International Studies, Washington, 2008, p. 35.
[340] *Ibid.*

"no different from those of its Western and African competitors"[341], focusing mainly on the development of trade links, the investment in construction, and tourism, to more strategic insights according to which China is trying to get access to Kenya well knowing that Kenya has been for decades the "darling" of the West, proposing itself as an option not only in economic terms, but also socio-culturally and politically. Chinese public and private, big, medium and small enterprises have invested in a number of, seemingly, resource-unrelated projects [342] spread across multiple sectors ranging from infrastructure to trade – particularly in the manufacturing sector – tourism, health, education, IT services, financial services and the media[343].

Although the focus of this study is on Kenyan agency, it is necessary to at least mention that the Chinese community is diversified and less cohesive than often assumed. Fieldwork reveals that, similarly to cases in other African countries, competition among the Chinese is fierce, accompanied by distrust toward each other and fear of being cheated by other Chinese. As a consequence, Chinese nationals tend to avoid interaction with each other. This disaggregation is identified as counterproductive by the Economic and Commercial Counsellor Office of the PRC because it inhibits companies, especially State-Owned Enterprises (SOEs), from responding in a coherent way to local criticism concerning labour standards, rules within their sector of operation and so forth [344]. Therefore, the Economic and Commercial Counsellor Office has requested SOEs in the infrastructure sector to create an association, the Kenya-China Economic and Trade Association, to share concerns about similar issues and show a joint approach to Kenyan counterparts. There are also associations of non-SOEs enterprises aimed at providing mediation support ranging from organising events with local institutions so to help Chinese nationals better understand the local context, to providing legal support for Chinese nationals etc. (see Chapter 4 for more on these associations).

Kenyan leaders consider the relations with China as particularly beneficial for the fulfilment of Kenya Vision 2030 goals, especially in relation to the so-called infrastructure 'enablers', projects without which further developments could not

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[341] *Ibid.*

[342] In the case of infrastructure, it is frequently argued that the infrastructure projects China invests in are necessary for the transport of extracted raw materials/natural resources to easier points of access, i.e. ports.

[343] Data retrieval on past and present projects is particularly challenging despite the recent creation of a database, AidData China, which gathers a good deal of information regarding projects undertaken by China over the world. The methodology used to create the database – mainly newspaper sources – has been highly criticised and it leads to treat the source as partially reliable. See D. Brautigam, 'AidData: Why it is not Wikipedia', China in Africa: The Real Story [blog post], 2 May 2013.

[344] Interview with an officer at the Chinese Economic and Commercial Counsellor's Office, Nairobi, 2013-11-18.

take place. Interviewees have confirmed that while the Ministry of Foreign Affairs and International Trade, and the Ministry of Finance have a centralized command of the country's engagement with China at the high-levels, i.e. steering national priorities, they heavily rely on sectoral stakeholders, from ministries to the private sector, who are in charge of formulating and implementing policies. In May 2014, during the visit of Chinese Premier Li Keqiang to Kenya, President Uhuru Kenyatta stressed the need to set up a Bilateral Advisory Council (BAC), aimed at acting as the institution in charge of centralising the implementation, monitoring and evaluation of the projects/initiatives agreed upon so far. In his speech, he stated: "we agreed on the urgency of convening a Bilateral Advisory Council. When adopted, the council will provide an ideal forum for constant and fruitful engagement at every level – most especially in the implementation, monitoring and evaluation of the various initiatives and agreements we have concluded so far."[345]

On top of high-level engagements, the Sino-African discourse on people-centeredness has found a vibrant ground in Kenya. Nairobi has become the hub of Chinese diplomacy on the continent, with Africa's only Xinhua regional office, the first ever CCTV news production centre outside China and the establishment, in 2005, of the very first Confucius Institute (CI) set up in Africa – followed by other three Institutes that make Kenya second only to South Africa for the number of CIs per country on the continent. Despite this involvement of non-state actors, points of view concerning the impact that the Chinese modus operandi could have on Kenya's democratizing process are quite diversified, ranging from fears that domestic corruption and lack of transparency in governance will worsen, to confidence that China's backwardness in state-society relations can not drag back a country such as Kenya, where freedoms have been fought and negotiated among groups at all levels for such an extended period[346].

Below a breakdown of the relations, divided into three main sections: 1) diplomacy and ideology, 2) social interaction, 3) trade, aid and investment. This background is fundamental for providing a context to the specific sectoral analyses presented in the following chapters. By means of introduction, the following sections present how Kenya's interests are framed in light of Chinese and other

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[345] U. Kenyatta, 'President Kenyatta SPEECH on the Visit by Chinese Premier Li Keqiang', *Kenya Today*, 10 May 2014.
[346] Murunga et al., op. cit., p. ix.

foreign actors' interests. The sectoral analyses instead will move beyond the national level to look more closely at actors, interests and negotiation dynamics.

3.4.1 Diplomacy and ideology

China-Kenya diplomatic relations started in 1963. Contrary to many other African countries whose relations with China have been based on mutual friendship since the years of independence, especially in relation to common ideological revolutionary struggles against the West, Kenya's relation with China took a different trajectory. When in 1964 Chinese premier Zhou Enlai praised the "excellent revolutionary situation in Africa", the Kenyatta's government promptly replied that "the Chinese premier's expectations did not apply to Kenya, as it had already completed its anticolonial revolution in the previous decade"[347]. In 1965 "Kenya adopted *Sessional Paper No. 10* of 1965 on African Socialism that influenced a 'Look West' policy and a capitalist path of development. And the Chinese dream was itself still mired in the post-1949 Communist Revolution politics"[348]. In 1966-1967 relations between the two deteriorated and went into a stalemate for about a decade, the reasons being not only KANU's right wing resistance to a leftist inclination towards China's revolutionary agenda, but also "machinations from Western intelligence operatives in Nairobi"[349]. Relations between China and Kenya started re-opening up with the first visit to China by President Moi in 1980, only after both Mao Zedong and Jomo Kenyatta had exited the scene. It is indeed "in the wake of Deng Xiaoping's 'four modernizations' that hostility gradually mutated into a fruitful phase of interaction between China and Kenya"[350].

However, like most African countries, the relations with China became diplomatically, economically and socially more relevant in the early 2000s. This period also coincides with the creation, in 2000, of the Forum on China-Africa Cooperation that institutionalised the engagement between China and African countries. As soon as Kibaki was elected in 2002, "he expressed to hold great account of the relations with China, willing to further deepen and expand the friendly cooperation between the two countries"[351]. As mentioned above, the 'Look East' policy was the fruit of internal machinations but also of a general urge to

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[347] Chege, op. cit., p. 21.
[348] P. Kagwanja, 'Why China's 'soft power' approach appeals to Kenya', *Daily Nation,* 10 May 2014.
[349] Chege, op. cit., p. 20.
[350] *Ibid.*, p. 19.
[351] J. Onjala, *A Scoping Study on China-Africa Economic Relations: The Case of Kenya*, Institute for Development Studies, University of Nairobi, 2008, p. 4.

revamp the economy and of the need to become less diplomatically dependent on the West. The Kenya Yearbook 2014 reports that "never since the early years of Kenya's Independence was Nairobi's diplomatic circuit lively and full of public and private intricate diplomatic wooing and courtship drama and dance between the Western-bloc envoys and the Chinese diplomats, officials, economic-cum-business leaders as was witnessed between 2003-2007"[352].

Even more, the election of Uhuru Kenyatta, seen as disadvantageous from the West, mainly due to the pending criminal investigation at the ICC, has raised the issue of Kenya being courted by East and West alike. Mr Fraser, former United States Assistant Secretary of State for African Affairs commented that "the geo-strategic environment has changed entirely and particularly (in favour of) China. The Chinese have changed the playing field (and) if the US, the UK and Europeans don't want to deal with Uhuru Kenyatta, he has another option"[353]. A Member of the UK Parliament also expressed concerns during a special session on Kenya held in 2012: "the presence of China in Kenya is obvious. They are active everywhere in the country, and they are in every country in Africa. They are a major influence in the continent, and we do not want to lose our influence in any part of Africa, especially not in Kenya, to other countries"[354].

Social interaction: the 'peoples'

When it started becoming clear that the social effects of China's increased presence in Africa had to be tackled to avoid social unrest – feared to impact upon the implementation of projects/initiatives and consequentially the fulfilment of interests – Kenya was among the first countries on the continent to be actively involved, considered an important base for the development of Chinese soft power on the continent. While people's forums started being institutionalised, the social interaction in Kenya between Kenyan and Chinese actors is more complex than the issue-areas covered in the forums as the following chapters will show. There are then two distinct approaches through which social groups from the two countries interact. One revolves around day to day engagements which impact the real governance of an issue between Kenyan and Chinese stakeholders. The other revolves around strategized encounters that are part of a symbolic type of

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[352] Kenya Yearbook 2014, op. cit., p. 581.
[353] J. Kamau, 'China Threat Forces UK Rethink of Kenya Policy', *Business Daily Africa*, Politics and Policy, 21 March 2013.
[354] UK Parliament, Government Policy on Kenya, 20 March 2013.

governance, one that is institutionalised, that received funds for the set up of associations or meetings and serves the purpose of guaranteeing a space, albeit government-controlled, to the peoples, in Sino-African relations.

Kenyan trade unions, business associations, schools, traditional medicine practitioners, and more, engage with Chinese actors navigating through existing domestic governance systems to guarantee social participation in Kenya-China affairs. However, these forms of peoples' involvement in Kenya-China relations are only partially recognised by Chinese stakeholders, depending on their interest in doing so, and their ability to deal with social groups. Symbolic people-to-people interactions, on the other hand, reports a Chinese diplomat, "are initiated by the government and the funds come from the government, but the organisations that carry out the plan is universities, local institutions, NGOs"[355]. Interviewees have reported that these interactions are not necessarily in areas that are deemed relevant by Kenyan social stakeholders in their engagement with Chinese ones but are identified as salient by the Chinese government.

It seems that there are thus two types of peoples' engagements. One from above, orchestrated by the Chinese government and officially recognised, controlled and strategic, and one from below, governed by the myriad social groups that engage with China on a daily basis and with whom Chinese companies, traders, etc. are requested to deal with. In the first case the relations are people-to-people, meaning social groups from the Chinese and African side interact. These interactions are generally financially supported by the Chinese government and aim at providing opportunities for social groups to meet. These objectives are, however, profoundly disconnected from the second type of peoples' engagement, from below. This is, in fact, a non-orchestrated kind of dynamic, often emerging out of problems encountered by African social groups in engaging with Chinese actors. These groups range from trade unions to human rights associations, from security organisations to educational bodies, they often have less financial resources than the former and their ability to negotiate with the Chinese depends on domestic governance systems more than anything else.

In a sense, while the former type aims at increasing the legitimacy of Chinese operations in Africa, the latter forms the much wider grounds from which such aims

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[355]Interview with an officer at the Embassy of the PRC, Culture Department, Nairobi, 2013-10-08.

originate. While the next three chapters are dedicated to unpacking 'real' relations, those from below, the next section introduces the relations orchestrated from above.

The peoples' forums

A number of 'peoples' forums[356] were held since 2007 when the first China-Africa Civil Society Meeting was held in Shanghai. Before 2011 these meetings were welcomed with caution by the Chinese government and were mostly organised by think-tanks and non-governmental organisations although there was also generally a significant attendance by government officers. A central theme of FOCAC 2009 was the strengthening of civil society links between China and Africa, to parallel the governmental and business connections already made. The 2009 FOCAC meeting showed that Beijing was aware of the importance of the civil society dimension to the China-Africa engagement, and realised that a truly 'win-win' relationship must be people-centred. However, in 2009, the International Institute for Strategic Studies (IISS) reported that "while the need for greater direct engagement has been recognised at the higher levels of officialdom, change on the ground is still at a very early stage"[357]. The strong presence of governmental actors during people-to-people forums raised concerns about the real purpose of these meetings, and the grievances arising from actual encounters seemed to show a disconnect between formal tables of negotiation and real ones.

These forums, it is necessary to point out, were only marginally representative of *actual* interactions among social groups, which were already more diversified and complex. The forums were tackling issues that China perceived as relevant[358]. Labour issues for instance (see Chapter 4), were still not a priority at the high levels despite already being an important matter on the ground. In the 2009 FOCAC Implementation Plan it is reported that: "with the encouragement and support of both sides, the sub-forums under the framework of FOCAC[359] have made enormous progress. Sub-forums on agriculture, science and technology, law, financing, culture,

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[356] Heinrich Böll Stiftung-East & Horn of Africa, *China-Africa Civil Society Dialogue*, Heinrich Böll Stiftung, Nairobi, 2008; Civil Society Meeting, Nairobi, 2009; *China Africa Civil Society Forum on Peace and Development*, Beijing, 2-4 June 2010; CODESRIA-FOCAC Meeting, Nairobi, 2011; China-Africa People's Forum, Nairobi, 2011; China-Africa Think Tank Forum, Hangzhou, 2011; Tackling Insecurity in the Horn of Africa, Nairobi, 2012.
[357] S. Raine, *China's African Challenges*, Routledge for The International Institute for Strategic Studies, London, 2009, p. 172.
[358] Interview with major representatives of CSOs in Kenya.
[359] China-Africa Youth Festival, Namibia, 2009; FOCAC Women's Forum, Cairo and FOCAC Women's Forum Declaration, 2009; 3rd China-Africa Youth Festival, Beijing, 2009; The China-Africa Scientific and Technological Cooperation Roundtable, Egypt, 2009; 3rd Conference of Chinese and African Entrepreneurs, 2009; The China-Africa Agricultural Cooperation Forum, Beijing, 2010; China-Africa People's Forum, Nairobi, 2011; FOCAC Think tanks Forum, Hangzhou, 2011; 2nd China-Africa People's Forum, Suzhou, 2012; 4th Conference of Chinese and African Entrepreneurs, 2012; FOCAC Cultural Ministers' Forum, 2012; FOCAC Culture Forum; FOCAC Science and Technology Forum; China-Africa Cultural Heritage Preservation Roundtable; 3rd China-Africa People's Forum, Khartoum, 2014.

think tanks, youth, people-to-people exchanges and women have been set up, some of which have been institutionalised. These sub-forums have broadened the scope, enriched the substance, and enhanced the vigour of China-Africa cooperation."[360] As put by an interviewee at the Chinese Embassy in Nairobi, these initiatives "are initiated by the government and the funds come from the government, but the organisations that carry out the plan is universities, local institutions, NGOs"[361]. In other words, the 'peoples' have the opportunity to decide how to conduct the relations but not what relations to prioritise. As a consequence of the control over funding, a number of initiatives proposed by China are not appreciated by Kenyans who do not see any value attached. In other words, while Kenyans have been active in raising concerns through domestic channels (at times echoed by international organisations), they have not, broadly speaking, been active in suggesting the creation of international platforms to discuss issues concerning their involvement with the Chinese. Not, at least, in the same way the Chinese do, via tailor-made forums. At the same time, as fieldwork showed, these people-to-people interactions, albeit controlled, are an effort to foster dialogue, an initiative that, if it were not for the funds of the Chinese government, would not easily take shape.

The first officially recognised China-Africa People's Forum was held in Nairobi in 2011. This, compared to previous ones, was more important as it symbolised an official acknowledgement, at the high-levels in China and African countries, of the importance of the 'peoples' to the relationships, not only in specific sectors, but as a whole. Many, in Africa and the West had seen the non-participation of civil society to Sino-African engagements as a frightening aspect of the relationship, potentially impacting upon decades-long democratisation efforts. Importantly, interviews with major civil society representatives involved in the first peoples' forums pointed out that the requests to run these forums always came from China. There was, in other words, limited effort on the African side, to pro-actively engage with China[362]. This did not mean that social uneasiness[363] toward the presence of China was lacking or that it was not demonstrated across the continent. But rather that it did not manifest itself in an organised form neither nationally or continentally. Little is known about these meetings and the role they play for governmental agenda setting and implementation activities, if any. These events seem to be more relevant at the

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[360] Implementation of FOCAC 2009.
[361] Interview with an officer at the Embassy of the PRC, Culture Department, Nairobi, 2013-10-08.
[362] Interview with major representative of CSOs in Kenya.
[363] I refer to 'social uneasiness' because these forums were initially created to *respond* to existing discontent.

symbolic level than as platforms of real governance. The events are also generally aimed at addressing issues at the continental level, which may be a problem given the extreme diversity of contexts and levels of development. For instance, one of the latest addition to the list of people's forums was, in 2014, the China-Africa Trade Unions High Level Symposium, which 'was attended by representatives and experts of Chinese and African trade unions, enterprises, governments as well as the UN's International Labour Organisation, in an attempt to brainstorm, share experiences, and find the best implementation plan'[364]. While labour relations, in particular the treatment of workers by Chinese companies in Africa, was one of the earliest (since the beginning of the 2000s) major points of friction between China and African countries, the issue had not benefited from direct high-level attention. Soft power instruments have been increasingly used to soften negative sentiments, also – and maybe foremost – in relation to labour issues, but no meetings had been convened under the China-Africa forums' heading. Labour issues are explored in the next chapter and show, among other aspects, the disconnect between the priorities identified by the people and those identified by high-politics.

As far as it concerns Kenya, during the first official China-Africa People's Forum, held in Nairobi, in August 2011, attended by governmental actors as much as non-governmental ones, Kalonzo Musyoka, then Vice-President of the Republic of Kenya, emphasised the importance that accountability and transparency have gained for Kenyans. His opening speech[365] showed a duality of discourses used: on the one side, the formal language that characterises Sino-African discourses has been used, stressing the fact that "China is a true friend of Africa", Kenya is adopting the "very principled position to support the One China Policy" and finally remarking that the "forum will make a significant contribution to a true and mutually beneficial friendship between China and Africa". However, on the other side, H.E. Musyoka also talked of the Kenyan "government commitment to ensure healthy and vibrant civil society that is able to mobilise citizens' participation in all aspects of development", a commitment that is based on Kenya's recognition of "civil society as partners in national development, partner to the delivery of the [Millennium Development Goals] MDGs and Kenya's Vision 2030". He continued by underlying that a legal framework regulates this commitment, and that Kenya's constitution "grants

[364] All-China Federation of Trade Unions, 'China-Africa Trade Unions High Level Seminar', tr. Maddalena Procopio, *The China Africa Project*, 27 May 2014.
[365] S.K. Musyoka, Speech included in the *Report on China-Kenya NGOs Forum*, *Draft*, Rapporteur's Report, Kenya NGOs Coordination Board, Nairobi, August 2011.

elaborate civil liberties and freedoms that provide civil society with unique opportunities to make contributions to national development". He concluded by stating that it is "imperative that in the exercise and the enjoyment of individual rights and freedoms we also recognise and respect other people's freedoms. Civil liberties do not preclude us from our responsibility to observe other laws as well as remain accountable to each other".

This supports not only the idea of Kenya being aware of the availability of different options but also of its renewed confidence in expressing views that are often deemed contrasting in the literature and by the media, namely the coexistence of socio-political and economic rights and freedoms with the China-led fast paced development of economic relations. In the words of former Kenyan Prime Minister Odinga, pronounced right after the Fifth FOCAC held in Beijing in 2012, "China is not exploiting Africa but assisting Africa's transformation, which is creating a win-win situation and will not block cooperation between Africa and other countries"[366]. Denise Kodhe, Head of the pan-African think tank Institute for Democracy and Leadership in Africa suggests that it's not a matter of "replicat[ing] the Chinese model as whole in Africa", but to adopt its method to "learn from Europe, Japan and Malaysia and pick lessons that are good and are applicable in the continent"[367].

3.4.2 Aid, trade, investment

The engagement of Kenya with China in aid, trade and investment is scattered across sectors: infrastructure, healthcare, education, trade, tourism, culture and more. The United Nations Conference on Trade and Development (UNCTAD) identifies six main reasons for investors to consider Kenya[368], and interviews with the Chinese Economic and Commercial Counsellor's Office as well as Chinese enterprises confirm that these are the main advantages identified for investing in the country, sometimes vis-à-vis others in the region: 1) Diversified and established economy with strong business sector; 2) Opportunities in agriculture and horticulture, tourism, mining, power generation, Information and Communications Technologies (ICTs), manufacturing and acquisition of state-owned enterprises; 3) Economic centre of the East Africa Community comprising 138 million people and a GDP of US$ 138 million; 4) International air and sea gateway to the region; 5) Strong

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[366] 'Africa-China cooperation not exclusive but win-win, says Kenya's PM', Embassy of the People's Republic of China in the Republic of Kenya via Xinhua, 23 July 2012.
[367] 'China political system offers lessons for Africa', *Xinhua* via ChinaDaily, 24 April 2013.
[368] UNCTAD, 2012, op. cit., p. iii.

reform gains to encourage investment: coherent vision for economic development, regular meetings between government leaders and investors, new framework for public-private partnerships, reinforced investment authority; 6) New constitution with greater separation of powers to maintain broad-based political stability.

There are differences, however, in how aid, trade and investment activities are conceived and carried out by Kenyans and by external actors. Within this context, a clarification is due concerning the understanding and definition of development by China and the West. For China, development is based upon economic drivers and the belief that economic rights come before other social and political rights. This translates in great financial commitments, characterised by a relatively scant attention to issues such as the environment, labour rights, transparency and so forth. On the other hand, Western ideas of development have become increasingly characterised by less copious financial commitments, while placing particular emphasis on 'good' governance, for long seen as a pre-requisite to economic development. In this context, "the loans that China is advancing to Kenya are more expensive than those the West has been giving. Moreover 'the West has been giving grants for development of various sectors and this is not replaceable with the loans from China'"[369].

While FOCAC commitments boast a high number of projects being undertaken throughout Africa, breaking down this block of information was a complex challenge. Not only it is hard to retrieve information on the actors involved and the issues at stake but also on the processes of negotiation. A thorough study of China-Kenya relations was published in 2008 by the Centre for Strategic and International Studies. The study was conducted for the Centre by UNDP advisor to Kenya's Ministry of Planning and National Development to examine the perceptions and impact of China's engagement in Kenya. The report argues that the Chinese-Kenyan relationship has, by-and-large, been mutually beneficial contrary to a widespread belief that "often depicts African economies under threat of malevolent Chinese investment strategies and a flood of cheap manufactured goods"[370]. Chege argues that "Kenya's competent technocratic cadre and business sector have thus far been able to manage the relationship to Kenya's benefit"[371]. He brings to light "the power of agency, demonstrating that African states are indeed capable of making choices

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[369] *Ibid.*
[370] Chege, op. cit.
[371] *Ibid.*

that benefit them in the intensified phase of trade and investment in cooperation with China"[372]. While the 'flooding' of cheap manufactured goods from China has not exempted Kenya (see Chapter 4), this thesis reveals that Kenyan actors have indeed been capable of making choices.

Aid

According to the World Health Organisation (WHO) the fact that since 2008/2009 Kenya has been experiencing an increase in aid assistance, which had previously been inconsistent, is "not just a result of resumption of support from existing partners, but also a reflection of increasing support from non-traditional sources of aid, such as China, and other emerging economies"[373].

A clarification is due concerning the concept of aid/assistance. The "absence of common definitions and consistent data has led many analysts to draw […] 'apples-to-dragon fruits' comparisons between Western and non-Western 'aid'"[374]. Dreher et. al. differentiate between Overseas Development Assistance (ODA), i.e. 'aid' in the strictest sense of the term, which is generally "more concessional than other types of official financing", thus expected to be used to "buy political influence abroad", and Other Official Flows (OOF) which are "less concessional forms of official support […] provided on closer-to-market-terms" and thus expected to "primarily advance the economic interests of state sponsors"[375]. They claim that the first type is not "predominantly motivated by natural resource acquisition interests. Nor does China seem to take into account the institutional quality or regime type of potential aid recipient countries when allocating its ODA budget"[376] thus supporting the Chinese government claim that it does not interfere in other nations' internal affairs. The authors continue by stating that the findings suggest that "Chinese aid allocation practices are not too dissimilar from those of Western donors"[377]. By contrast, they point out that OOFs are associated with natural resource interests and that they should not be associated with 'aid'. Due to the lack of transparency from China concerning the release of data about its overseas development activities, any comparison and account of Kenya's receipt of assistance will have to be taken with

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[372] *Ibid.,* p. 19.
[373] World Health Organisation, *Country Cooperation Strategy at a glance*, World Health Organisation, Geneva, 2014, p. 1.
[374] A. Dreher et al., 'Apples and Dragon Fruits: The Determinants of Aid and Other Forms of State Financing from China to Africa', Working paper no. 15, AidData, 2015, p. 6.
[375] *Ibid.*
[376] *Ibid.,* p. 19.
[377] *Ibid.*

caution, and with the awareness that the inferences drawn may be only partially correct.

Chege reminds that "Kenya is not as aid-dependent as most of its African neighbours, the government is still determined to increase both the volume of concessional development aid and its absorptive capacity for it, to supplement local investment, and FDI"[378]. However, assistance remains significant in some sectors, healthcare being one, with development partners funding a substantial proportion of resources for activities such as HIV/AIDS, education, and water supply[379]. A number of mechanisms have been put in place since the early 2000s for the coordination of assistance efforts, following, in particular, the Rome and Paris Declarations on aid effectiveness and the Accra Agenda for Action (2008). With the aim of enhancing Kenyan ownership of aid coordination, harmonising Kenyan and donors' aid delivery procedures, eliminating duplication and enhancing cost effectiveness, in 2004 the Harmonization, Alignment and Coordination Group (HAC) was established under UNDP management, soon reaching a membership of 17 donors. One of the major initiatives of the group was the creation of the Kenya Joint Assistance Strategy 2007-2012, aimed at replacing individual donor assistance strategies[380].

To date China, together with "emerging non-OECD bilateral partners, vertical funds, foundations, and international NGOs" is working independently of this framework[381]. According to King, "China is not at ease with the discourse of aid, or of being seen as a member of the donor club; it much prefers to present itself as the largest developing country helping the continent with the largest number of developing countries, to the best of its ability, in South–South cooperation. It is, therefore, hesitant about being drawn into donor coordination and harmonisation activities"[382]. However, King also points out that China's "shift from 'cooperation' to 'aid' reflects a sense of moving from being 'first among equals' in the non-aligned states and in the earlier period of opening up, to being now an emergent

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[378] Chege, op. cit. p. 29

[379] Government of the Republic of Kenya, *Kenya Joint Assistance Strategy 2007-2012*, Government of the Republic of Kenya, Nairobi, 2007, p. 16.

[380] F. Mwega, 'A Case Study of Aid Effectiveness in Kenya: Volatility and Fragmentation of Foreign Aid, with a Focus on Health', The Brookings Global Economy and Development, Working Paper no. 8, January, 2009, p. 24.

[381] Government of Kenya, op. cit. 2007(a), p. 17; Interview with an executive at Kenya Vision 2030, Social Pillar Department, Nairobi, 2014-10-06.

[382] K. King, 'China's cooperation in education and training with Kenya: A different model?', *International Journal of Educational Development*, vol. 30, no. 5, September, 2010, pp. 488-496. p. 490.

superpower"[383]. This is also linked to China's claims to be providing assistance in response mode as if the type and modality were to be largely decided upon by recipient countries. Interviewees in Kenya suggested on multiple occasions that China's emphasis on the provision of assistance in response mode is only a partial truth[384]. As Dreher et. al. suggest in their recent piece, China has demonstrated that it uses assistance according to two main objectives: commercial and political, both responding to specific Chinese needs.

Infrastructure is the sector to which China allocates the largest share of assistance[385], both concessional loans and grant aid, and at the same time, it has been an area of limited intervention by traditional partners in Kenya. Due to transparency shortcomings concerning China's – and Kenya's – release of data, it is hard to estimate the exact share or amount of aid allocated to different sectors disbursed annually and even less how much of that is destined to Kenya. In 2009 it was estimated that China "probably disbursed aid of about \$3.1 billion (gross), with Africa receiving 45.7 percent or about \$1.4 billion"[386]. In 2014 China released a White Paper on aid and stated that between 2010-2012 \$14.41 billion of aid was disbursed globally of which Africa received 51,8%[387].

Within this scenario, Chege reminds that China has offered various development aid to Kenya including package deals projects and humanitarian aid [388]. Most recently, during the famine that struck the larger Horn of Africa, China donated foodstuff worth KES 2 billion to Kenya [389]. According to Patroba "Chinese development aid to Kenya supports infrastructure development; improvement of education standards, both academic and technical; human relief and tariff exemptions. Other areas of assistance include the modernisation of power distribution; rural electrification, water; renovation of sports facilities; provision of anti-malaria drugs; construction of a malaria research centre and the modernisation of international airports in Kenya[390]."[391]

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[383] K. King, *China's Aid and Soft Power in Africa: The Case of the Education and Training,* Boydell & Brewer, Rochester, 2013. p. 7.
[384] Interviews with stakeholders negotiating aid from China.
[385] D. Brautigam, 'U.S. and Chinese efforts in Africa in Global Health and Foreign Aid: Objectives, Impact and Potential Conflicts of Interest', in Centre for Strategic and International Studies, *China's Emerging Global Health and Foreign Engagement in Africa*, Centre for Strategic and International Studies, Washington, 2011, p. 3.
[386] *Ibid.*
[387] Government of the People's Republic of China, *China's Foreign Aid*, Government of the People's Republic of China, Beijing, 2014.
[388] Chege, op. cit., pp. 29-31.
[389] P. Magara, 'Yes, thank China for food aid, but learn from her', *The Standard Online*, 12 September 2011.
[390] Onjala, op. cit.
[391] Patroba, op. cit., p. 12.

China's aid scenario also includes what a source at the Economic and Commercial Counsellor of the People's Republic of China (PRC) to Kenya defines "privatisation of aid". More accurately this type of assistance comes in the form of Corporate Social Responsibility (CSR) projects carried out by Chinese companies – often and mostly state-owned enterprises – with partial financial support from the Chinese state[392]. For instance, the projects undertaken by state-owned infrastructure companies have tended to be small in nature and range from the construction of schools, like the one in Mathare Slum, just off Thika Highway[393], to the provision of humanitarian assistance such as food during the 2008 famine in northern Kenya[394]. Other companies like pharmaceutical Beijing Holley-Cotec and telecommunications Huawei have engaged in CSR projects in Kenya investing considerable amounts. For instance, Holley-Cotec in 2006 provided Ksh 3.5 million worth of scholarships to the College of Health Sciences, University of Nairobi. This was the first donation done by the company outside China, which pledged to continue the donation for at least a period of five years[395].

Trade

The trade balance between Kenya and China in 2013 was significantly skewed towards China with Kenya importing $3.22 billion from China, equivalent to 20% of its total imports but only exporting $50.6 million, equal to 0.97% of its total exports[396]. The main origin of imported products is Asian, taking up more than 50% (India 25%, China 20%, Japan 5.6%) while the main export destination for Kenya is Africa, where it exports $2.17 billion, almost 40% of its total exports, with the East African region receiving more than 30% of Kenya's total exports[397]. The second export destination for Kenya is Europe, where it exports $1.7 billion, followed by Asia, $850 million and North America, $464 million[398].

Between 1980 and 1993 the imbalance between the two countries was much less significant. It was after 1995 that imports from China started skyrocketing. In 1995

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[392] Interviews.

[393] The re-habilitation of the school was a way to give 'something back' to a community whose life had been disrupted by the development of Thika Highway. It was meant to be a gesture to improve the image of the Chinese. However, the re-hab project was very limited and it did not seem to have a particularly positive impact on locals – who were expecting a more comprehensive type of re-habilitation (such as the creation of public toilets) rather than the mere provision of brick walls to the school.

[394] Interviews with Chinese companies involved.

[395] University of Nairobi, 'World Class Excellence: Our Inspiration, UoN Receives Scholarships', *Varsity Focus*, University of Nairobi, December 2006, pp. 21-22.

[396] A.J.G. Simoes and C.A. Hidalgo, 'Kenya Country Profile', *The Observatory of Economic Complexity* [website], <http://atlas.media.mit.edu/en/profile/country/ken/>.

[397] *Ibid.*

[398] *Ibid.*

"imports from China amounted to five-fold their 1989 value"[399]. According to Chege the rapid increase in Kenya's imports from China (or elsewhere) in the second half of the 1990s "did not originate from rising incomes in Kenya"[400]. It was the consequence of a confluence of Kenya's domestic economic liberalization in 1994, supported by the World Bank and International Monetary Fund, and China's industrial modernization. The first "made it possible for Kenyan firms and citizens to purchase foreign currency to import goods at lower real prices than before because the reform program had also reduced external tariffs, substantially", whereas the second provided "products that Kenyans (and Kenyan industries) desired at more competitive prices than other suppliers, including those based in Kenya"[401]. Kenya's imports from China started diversifying and "for the first time, Kenyan firms and individual traders began travelling to Dubai and then eastward to Hong Kong and mainland China to obtain products directly rather than through intermediaries like the old state trading corporations"[402]. Currently, Kenya imports from China machines (23% of all imports from China) such as telephones, electric tools, batteries, computers; textiles (19%); metals (13%); plastics and rubbers (9.1%); transportation (6.4%), such as motorcycles, vehicle parts etc.: chemical products (5.7%) such as drugs[403].

Two of the most important aspects of trade between Kenya and China are: 1) the influx of counterfeit products since the mid-1990s and the measures adopted to contrast the phenomenon; 2) the perceived negative impact that the arrival of Chinese goods has caused not only among manufacturers but also wholesalers and retailers. These issues are explored in Chapter 4.

FDI

Between the late 1990s and mid-2000s, most of the investment that drove the economic growth attributed to Kibaki's economic reform programme was domestic[404]. Chege suggests that "foreign direct investment (FDI) inflows, though growing exponentially by 2007, were modest in comparison to local capital formation"[405]. Statistics are not readily available as Kenya started compiling surveys

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[399] Chege, op. cit., p. 24.
[400] *Ibid.,* p. 25.
[401] *Ibid.*
[402] *Ibid.*
[403] Simoes and Hidalgo, op. cit.
[404] Chege, op. cit., p. 26.
[405] *Ibid.*

providing capital flows information only in the late 2000s, starting with a reference period of 2007-2008. Since 2013 the Foreign Investment Survey has been compiled annually.

In 2012, "countries within the EU accounted for the bulk of FDI inflows followed by countries from the Far East contributing 36.0 per cent and 31.9 per cent of the total FDI inflows"[406]. In 2013, however, "there was a reverse in the trend with Far East countries contributing the bulk of the flows followed by EU with a share of 38.6 per cent and 16.6 per cent of the total FDI inflows, respectively"[407]. This was presumably also linked to problems such as the financial crisis in Europe and the climate of instability in Kenya after the terrorist attack at the Westgate Shopping Mall in Nairobi where more than a 150 people died.

The Kenya Investment Authority (KenInvest) reports that there is "no domination of Foreign Direct Investment [in Kenya] from the Chinese". The authority says that it is pursuing amendments to existing legislation that would allow for greater vetting of investors in the country while protecting certain industries from foreigners. KenInvest Managing Director states that: "through the reviews we are proposing to develop a negative list that will preclude some investment areas for local investors only"[408]. In Chapter 4, the link between small traders and investors in tackled shedding light on how the Kenya Investment Authority has acknowledged that the arrival of China has exacerbated the inadequacy of the existing system of governance to safeguarding Kenyan interests.

3.4.3 The sectors of analysis

As mentioned in Chapter 2, domestic preferences are not important because they are objective facts, but because they have social meanings attributed by specific actors to specific circumstances[409]. As a consequence, the 'relevance' of a sector, sub-sector, issue-area is such because it is perceived so by actors at a specific point in time. The idea to develop a sectoral analysis is well situated within a body of literature that recognises that "actual modern states encompass dozens of institutionally distinct policy sectors with highly diverse organisational architectures"[410] and thus aggregating patterns of institutions and practices is not

[406] Kenya National Bureau of Statistics, *Foreign Investment Survey 2015,* Kenya National Bureau of Statistics, Nairobi, 2015, p. 16.
[407] *Ibid.*
[408] M. Muthoki, 'Economic ties with Africa top agenda of China's new president', *Africa Review*, 24 March 2013.
[409] Wendt, 1999, op. cit.
[410] Sellers, op. cit., p. 129.

helpful to explain the balance of power and interaction between domestic and international stakeholders. By disaggregating the state and social structures in defined policy areas, not only vertical diversity is emphasised but also horizontal heterogeneity emerges. Practices of governance have changed in Kenya as a consequence of democratic reform and constitutional changes (devolution, more openness towards associational life, etc.), and externally, as a result of political tensions (the Kibaki era, 'Look East' policy, crowned by the ICC trials), giving rise to shifting patterns of power sharing between state and society. Bureaucratic apparatuses are different in terms of objectives, autonomy and the scope of policy tools, and as consequence their capacity to respond to foreign-triggered pressures. Focusing on sectors also serves the purpose of identifying differences for state-society relations across sectoral and national institutions[411].

The relevance of the sector, for Kenya, is measured based on policy frameworks, in particular Kenya Vision 2030. These provide the national context within which interests are prioritised. However, in an attempt to study 'real' governance, the sub-sectors chosen to be studied do not only respond to national but also issue-specific interests. Similarly, they do reflect not only *state* preferences, but also the preferences of other stakeholders such as civil society groups and the private sector. Hence the importance of a *layered interests approach*, as conceptualised in Chapter 2.

Although infrastructure was not selected as a stand-alone sector, aspects linked to it are unpacked through the three chosen sectors. In Chapter 4 (Trade), aspects associated with the development of infrastructure are looked at from a labour rights perspective through the analysis of the interaction between Kenyan domestic institutions (trade unions, the Ministry of Labour and the Judiciary) and Chinese companies. In Chapter 5 (Healthcare) it is looked at from the perspective of loans/grants' negotiation and management for the construction of infrastructure for health, namely hospitals and the Malaria Centre. Finally, in Chapter 6 (Education) it is touched upon from the perspective of the education and training of human resources mainly in the context of industrial production development.

The cases were not identified only as a consequence of their relevance in policy documents/for stakeholders. Some cases were deemed important by the researcher, mostly because the Kenyan context/dynamics did not seem to fit general China-

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411 *Ibid.,* p. 136.

Africa patterns. It was thus deemed interesting to reveal if, in reality, Kenya did not fit, and if so, why and how.

CHAPTER 4

Kenya-China trade practices: labour issues and 'unfair' competition

4.1   The context

Trade-related problems triggered by the Chinese increased/expanded activities in Africa have been among the most discussed topics on China-Africa relations. Perceptions of Chinese companies exploiting the local work force and Chinese entrepreneurs stealing business to locals have fuelled debates in the media, academia as well as among stakeholders sometimes leading to protests and killings in countries as different as Zambia, Namibia[412], Lesotho[413], Kenya[414] and more. In turn, the rhetoric of solidarity, mutual benefit, friendship that the Chinese government has gradually started promoting from the 'bottom', through people-to-people engagements and soft power instruments, has been seen as a way to counterbalance the negative perception that has grown in African contexts, especially in relation to labour-related and trade-related issues. These re-actions to the Chinese presence have led to generalisations concerning the inability of African states to safeguard their domestic space and their people's interests in the relations with the Chinese. As Giese points out, especially in media reports "it is power differentials, competition, tension and conflict between disempowered African locals and (at least economically) powerful Chinese – the latter as exoticized as alien "others" – that are often the focus of attention"[415].

Studies have mostly focused on capturing the 'perceptions' of Africans[416], rather than understanding their motivations and modalities of action to safeguard their interests in the relations with the Chinese. It is undeniable that the arrival of Chinese companies and the entrance of Chinese products in Kenya, like in most other African countries, has been pro-actively carried out by Chinese actors – at least in the first phases – who were encouraged by the Chinese Go Out policy to invest abroad.

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[412] A. Yaw Baah and H. Jauch eds., *Chinese Investments in Africa: A Labour Perspective*, African Labour Research Network, May 2009.
[413] 'Lesotho: Anti-Chinese resentment flares', *IRIN*, 24 January 2008.
[414] Interviews.
[415] K. Giese, 'Perceptions, Practices and Adaptations: Understanding Chinese–African Interactions in Africa', *Journal of Current Chinese Affairs,* vol. 43, no. 1, 2014, p. 3.
[416] Giese, 2014.

However, this should not be automatically associated with an unwillingness or inability on the Kenyan side, to negotiate the relations to protect their interests.

The aim of the chapter is to use trade trends as a starting point to analyse Kenyan motivations and modalities in negotiating the, relatively new, entrance of Chinese investors, entrepreneurs and products. The analysis of this process implies understanding the meaning that Chinese goods/activities have taken on for different Kenyan stakeholders (in particular, in relations to their interests) and the rationale behind the actions taken. In Kenya, the presence of China in trade is distributed along the socio-economic ladder, ranging from mega-infrastructural projects brokered by the executive, to middle-sized businesses importing from China for wholesale distribution, to small shops retailing Chinese products. As a consequence, *the interests at stake are likely to vary considerably within the country, giving rise to competition among national actors even before that with the Chinese.* The layered-interests approach conceptualised in Chapter 2 then becomes a crucial tool to unpack the relations.

This chapter focuses on revealing the processes of interaction between state and non-state actors when it comes to negotiating and safeguarding Kenyan interests in the context of commercial engagements with the Chinese. The analysis looks at the environment within which these relational processes unfold so to contextualise the arrival of the Chinese better. Compared to the next two chapters, this one is harder to fit in a specific sectoral box. *The three cases selected represent the most common opportunities and challenges Kenyan actors are facing in the commercial engagement with China, where China is seen as a force hindering development but also a partner in development.* The cases concern: labour disputes negotiated between Kenyan trade unions and Chinese companies; the identification of gaps in the system protecting Kenyan intellectual property rights, increasingly damaged by the import of counterfeit items made in China; the negotiation of competing interests between Kenyan wholesalers and retailers in relation to their respective engagements with China, including the resolution of the protest that occurred in August 2012 against Chinese small shop owners in Nairobi.

4.1.1 China-Africa labour issues and 'unfair' competition

Reactions to Chinese trade and investment activities in Africa have been diversified with some groups highly valuing the new(er) set of actors while others strongly opposing them. Studies on these reactions have focused on how Chinese companies have exploited the local (African) labour force and how they have tended to employ Chinese workers vis-à-vis local ones[417]. Similarly, in the case of trade of fast-moving goods, the studies have focused on how the entry of Chinese products in national/local contexts has caused economic damage to local manufacturers and traders.

However, these specific issues have only marginally been tackled on broader official platforms. For instance, the China-Africa Trade Unions High-Level Symposium was held for the first time in 2014. It was organised by the All-China Federation of Trade Unions whose General Secretary commented: "this Seminar is a new attempt for Chinese trade unions to conform to the new requirements and expectations by African trade unions, and to serve the Chinese enterprises "going out" strategy. It is also about Chinese and African trade unions enriching the cooperation content and innovating the forms of cooperation to promote the overall friendly relations between China and Africa"[418]. The officialization of the trade unions' engagement was an adjustment to fill a gap concerning labour issues.

In the case of trade of fast-moving goods, which have given rise to debates about unfair competition by the Chinese, institutionalised meetings have mostly revolved around the economic dimension of these relations rather than the social consequences associated with them or the strategies of interaction devised by African actors. As mentioned in the previous chapter, the conscious creation, by the Chinese government, of people-to-people events has been consequential, to a great extent, to the discontent that Chinese trade practices have caused in Africa. As previously pointed out, these events are not conceived to find pathways to improve 'actual' dynamics of engagement but are rather, largely, public relations platforms[419].

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[417] Yaw Baah and Jauch eds., op. cit.
[418] All-China Federation of Trade Unions, op. cit.
[419] This is not too dissimilar from the practices of the ACFTU within China, where the Federation has not managed to successfully tackle the challenges that rapid economic reforms have raised (thanks to Prof. Howell and Dr. Large for advising me to consider the domestic and international similaries of ACFTU's practices).

4.1.2 Kenya-China relations

In Kenya Vision 2030's first five-year plan, "the trade sector was identified as one of the key engines of the economy due to its immense contribution to Kenya's GDP and employment creation through trade (exports and imports) and investments"[420]. China is seen as a key partner in the achievement of Kenya Vision 2030, in particular for the development of enablers such as infrastructure, mainly roads, railways, ports[421]. As showed in the previous chapter, in the past ten years China has invested in Kenya both in terms of FDI and trade flow. However, while Chinese initiatives have provided opportunities, they have also created challenges for Kenyan state and non-state actors to exercise or strengthen control over the modalities and motivations of engagement. The arrival of China's products and companies has given rise to a wide variety of interests on the Kenyan side. Therefore, it is crucial to study the relations, by differentiating actors' interests and the systems of governance within which they are negotiated.

4.2 Kenya's responses

The interaction between Kenyan stakeholders in the commercial sector vis-à-vis China mainly revolves around *re-acting* to the new player within a national context that is largely *defined* and *legitimised* by Kenyan stakeholders. In other words, Kenyan formal and informal behaviour constitutes a system of governance characterised by significant interactions with foreign actors, and yet *strong domestic control over such interactions*. This is set against a changing economic landscape, which has been trotting since the mid-1990s, and even more since the 2000s, toward industrial development. The interaction between the Kenyan state and society in the trade and investment sector mainly revolves around *tackling challenges* raised by the entry of China in Kenya under different forms. Sometimes these challenges are pro-actively 'caused' by segments of the Kenyan population, such as Kenyan traders importing counterfeit items made in China, thus enhancing a national division of interests in relation to the external actor. In other cases, however, the challenges are mainly 'brought in' by Chinese actors.

The cases selected reveal that the engagement with China cannot easily be labelled as beneficial or detrimental as such conclusions largely depend on the actor

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[420] Government of the Republic of Kenya, *Kenya Vision 2030, Second Medium Term Plan 2013-2017*, Government of the Republic of Kenya, Nairobi, 2013, p. 54.
[421] Interview with an executive at Kenya Vision 2030, Nairobi, 2014-03-12.

at stake. In this sector, more than in the next two, domestic variations in the understanding of China's arrival are significant. China is thus seen as a partner in development but also a force hindering development. The instances where such tension between benefits and disadvantages have been identified as most significant by the stakeholders involved are:

1. The problems encountered by Kenyan trade unions as well as employers' federations and state structures in making Chinese companies comply with the law. The study mainly looks at the interaction between trade unions, the Federation of Kenya Employers, the Ministry of Labour as well as the judiciary (embodied, in this case, by the Industrial Court).

2. Products made in China imported to Kenya and their quality. In particular, the focus is on counterfeit goods and the measures adopted to curb the phenomenon. Such actions have given birth to a brand new law and a brand new agency in charge of dealing with counterfeits. The actors involved were mainly the Kenya Association of Manufacturers, the Parliament, a number of state institutions that later formed the Anti-Counterfeits Agency and the Presidency.

3. The competition between Kenyan and Chinese small traders in Nairobi. The study focuses on the Kenya Association of Manufacturers, the Kenya Export Promotion Council and their interaction with local authorities such as the City Council and Chinese state and non-state actors.

The aim of the chapter is to reveal the actors involved, and study their behaviour, if the interaction between them matters to the solution of the perceived problem, and if so, how. As an interviewee reminded, referring to the challenge posed by counterfeit goods in Kenya, "our focus is on the process, not the source"[422]. The process referred to the interaction of a number of Kenyan stakeholders to make sure the entry and diffusion of counterfeits are curbed while the source referred to China, i.e. the country of origin of most counterfeit goods entering Kenya (see section 2.2 below). Similarly, in the other cases, this chapter analyses different types of *interaction dynamics* – processes – in relation to issues that are perceived consequential to the *Chinese entry in the sector* – source – focusing on how the process is dealt with rather than on the origin of the problem. The breakdown that

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[422] Kenya Institute for Public Policy Research and Analysis (KIPPRA), *Kenya Economic Report 2013: Creating an Enabling Environment for Stimulating Investment for Competitive and Sustainable Counties*, Nairobi, 2013.

follows shows how Kenyan actors move across formal and informal structures for the achievement of interests and negotiate tailor-made solutions, some more generalisable than others.

4.2.1 Labour relations/disputes

The choice to focus on labour relations was dictated by the need to understand in depth an aspect of Sino-African relations that is often under the spotlight: the unlawful treatment of workers by Chinese companies in Africa. Complaints by locals are no exception in Kenya where Chinese companies, especially in the infrastructure sector, have become predominant in the past 5-10 years. In line with the general argument of the thesis, the analysis below focuses on how Kenyan actors deal with such complaints – rather than investigating how Chinese companies treat workers. It is important to remind that Chinese companies are not the only ones breaching the law in Kenya – other domestic and foreign companies are found guilty too. However, it is explained below in what areas Chinese companies have been singled out by Kenyan stakeholders and why.

Trade Unionism in Kenya

Kenya's trade unionism is of early date, and as put by the Central Organisation of Trade Unions, it is "a child of economic, social and political strives"[423]. It originated in the 1940s out of grievances concerning the discrimination of Africans based on unequal treatment compared to the whites. By the late 1940s a number of trade unions had been formed, and in 1952 the first national federation of trade unions was set up: the Kenya Federation of Registered Trade Unions (KFRTU). It was not a trade union itself but an umbrella organisation affiliated with the International Confederation of Free Trade Unions. In the same year, 1952, one of Africa's bloodiest struggles against colonial rule unfolded in Kenya: the Mau Mau rebellion, also called Kenya Emergency. A number of trade unions' leaders were arrested during the Emergency and Tom Mboya, charismatic leader and key figure in the struggle against colonialism as well as in the formation of the Kenyan Africa National Union (KANU), became the General Secretary of the KFRTU. In the 1950s and 1960s, trade unions contributed significantly to the fight for freedom thus becoming advocates

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[423] Central Organisation of Trade Unions (COTU)-Kenya, 'Historical Background of the Trade Union Movement in Kenya', *COTU* [website], <http://www.cotu-kenya.org/site-page/historical-background>.

not only for the rights of workers but also for the fight against colonialism and the inequalities linked to it. In 1955 KFRTU changed its name to Kenya Federation of Labour, which was de-registered in 1965 after conflicts took place with a splinter umbrella union, the Kenya African Workers Congress, leading to the death of three trade unionists and a high number of injured. These two bodies were replaced by the Central Organisation of Trade Unions (COTU), which now represents, through the affiliate unions, about 1.5 million workers in Kenya[424]. Since then "trade unions have continued to be strong institutions influencing various government policies through social dialogue. As agents of social justice, COTU(K) continued to champion for the rights of not only workers but Kenyans as a whole, and this was evident when COTU(K) was part and parcel of the change process that ushered in the NARC Coalition Government in 2002"[425].

Studies on trade unions in Kenya do not seem to be diffused, exception made for those on the period of the 1950s-1960s, it is thus hard to ascertain the level of independence they enjoy from the government, especially the Ministry of Labour. What is evident is that the 2010 Constitution provides for more space for trade unions, in particular Section 41.2 (c-d) states that: "Every worker has the right to form, join or participate in the activities and programmes of a trade union, and to go on strike" and Section 41.5 "Every trade union, employers' organisation and employer has the right to engage in collective bargaining", rights that were not granted before. This change "has led to a fresh vibrancy in trade unionism" as can be observed by the unprecedented series of strikes and other forms of industrial action by disgruntled employees in different sectors that took place in 2012[426].

Contemporary disputes with the government mainly revolve around wages and, to a lesser extent, around the registration of unions or negotiations for Contract Bargaining Agreements (CBAs). The Central Organisation of Trade Unions is the umbrella body under which most Kenyan trade unions are registered. As an umbrella organisation, it does not negotiate directly with companies but rather pivots between trade unions on one side and the government on the other.

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[424] Kenya Yearbook 2014, op. cit., p. 542.
[425] COTU, op. cit.
[426] Kenya Yearbook 2014, op. cit., p. 542.

Kenya-China Official Relations

Kenya-China trade unions have had links since the 1990s[427]. These relations have mainly taken place between umbrella organisations, namely Kenya's Central Organisation of Trade Unions and China's All-China Federation of Trade Unions (ACFTU). According to a senior officer at COTU, relations with the Chinese started increasing after "2005 when they were trying to get into ILO and were looking for votes"[428]. According to COTU, in that period formal relations between Kenya and China increased, in the form of "high-level meetings aimed at establishing relations". The exchanges were mainly between COTU and ACFTU and although the Chinese government started sponsoring, on a yearly basis since 2005, representatives of five Kenyan trade unions to go to China for workshops and training, COTU suggests that "it is not the trade unions that go but rather members of the Board of COTU and general secretaries"[429] of trade unions, who merely cover an institutional role. In other words, the actual interaction does not take place between operative trade unionists, but rather among high-level officers and umbrella organisations.

According to sources once the delegates arrive in China "there's one or two days of meetings on China and then we visit factories and they show how they operate. To us it is not very useful, they have a controlled economy, collective bargaining is a state function. But they invite us and pay the costs."[430] Despite Kenyan trade unionism being more sophisticated than the Chinese, interviewees report that "we are interested in understanding the way they operate. Here trade unions are very powerful, they create investments in hotels. When they go there they come back with ideas and then the info is passed to the trade union leadership. They report how they do things back there, their laws, their collective bargaining and we compare whether Chinese companies here are doing the same"[431].

Beyond the visits to China, ACFTU has provided COTU with tools to increase capacity building of trade unions in Kenya. For instance, in 2003 the All-China Federation of Trade Unions donated a batch of computers to COTU to help the latter improve its capacity in information technology[432]. Secretary General of COTU, Francis Atwoli, stated that the computers donated by ACFTU together with COTU's contribution of two computers would be used to launch a computer training centre

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[427] Interview with an executive at the Central Organisation of Trade Unions, Nairobi, 2014-01-27.
[428] *Ibid.*
[429] Interview with an executive at the Central Organisation of Trade Unions, Nairobi, 2014-09-17.
[430] *Ibid.*
[431] *Ibid.*
[432] 'China, Kenya Trade Unions Enhance Ties', *People Daily*, 8 January 2003.

at the Tom Mboya Labour College in Kenya's western city of Kisumu to train labour movement personnel. In 2012 ACFTU donated USD 100,000 to COTU towards COTU and its affiliated trade unions' capacity building programme. The donation was aimed at Kenya's top trade union leaders. Through a capacity building programme at Tom Mboya Labour College, the leaders would equip themselves with "the necessary tools to confront both employers and government with facts as far as the plight of workers is concerned"[433]. According to a senior officer at COTU, "COTU asked for the donation. We designed our own programme with it, and we train leaders in capacity building, governance". The programme, however, does not seem to be designed to learn about specific challenges posed by Chinese companies in Kenya. A COTU senior officer suggests that due to the Chinese involvement in 'anti-social behaviour' in Kenya, such as poaching, "donating is a way for them of attracting looking East rather than West". However, Kenyan trade unions are generally not aware of/engaged in COTU-ACFTU relations. Consequently, they are unable to relate the donations of computers (used at COTU headquarters) or the capacity building programme to China's soft power strategy. This helps to understand the gap between *formal* relations and *actual* relations: COTU is perceived to advance high political interests while operative trade unions promote the interests of workers.

The focus of the following section is on analysing the interaction between an operative trade union and COTU, Chinese firms and the Ministry of Labour. The trade union selected is involved in protecting workers in the infrastructure sector. It will be referred to as Trade Union (TU)[434]. The decision to focus on disputes in the infrastructure sector is due to their relevance not only to Kenya-China relations but also, more broadly, to Sino-African relations. The Chinese presence, especially in the building and construction sector in Kenya has significantly increased in the past ten years and has become predominant not only in the development of mega-projects but also in real estate and smaller infrastructural projects. Trade unions in building and construction are the ones whose members have been most affected by the Chinese presence[435].

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[433] Interview with an executive at the Central Organisation of Trade Unions, Nairobi, 2014-09-17.
[434] The ethical logic behind the decision to anonymise the union can be found in Chapter 1, Methodology section.
[435] Interview with an executive at the Central Organisation of Trade Unions, Nairobi, 2014-09-17.

Labour Disputes and Negotiations

According to TU and COTU, the main problems for trade unions (in building and construction) in negotiating with Chinese companies concern the lack of willingness by Chinese companies to *recognise* labour unions and the lack of willingness to *sign Contract Bargaining Agreements* (CBAs). This stance originates mainly from differences in employment environments[436] in Kenya and China. While in Kenya industrial relations are oriented towards workers' rights and welfare, unions are vocal and legally protected, in China they are a function of the state, geared towards production and delivery, at the expense of freedom and rights.

Recognition

TU at the end of 2014 had 13 cases open with Chinese companies over recognition issues[437]. The recognition agreement stipulated between a trade union and a company is compulsory by law when 50+1% employees of the given company are members of a union. It is common habit for local and foreign companies working in building and construction to register with one of the three employers' associations present in Kenya. As a consequence, they automatically recognise the legal environment, including the need to negotiate a CBA with a trade union, implying in turn recognition of the latter. Even when the companies do not register with employers' associations, there is a widespread understanding by foreign companies, let alone local ones, of the norms regulating the sector: the role of the unions is not questioned (the enforcement of CBAs is less straightforward and will be addressed in the following section). However, Chinese companies have not registered with any employers' association, and "they say they are not bound by that recognition agreement"[438]. Registering with an association is voluntary, not compulsory, but the Ministry of Labour advises both local and foreign contractors to join one as the associations provide more protection. Employers' associations (in building and construction), argue that they are "chasing the Chinese contractors"[439] to register, as this can only make Chinese companies feel increasingly integrated into the local environment and aware of rules and regulations, but instead, "they have their own association of contractors in Kenya"[440], i.e. the Kenya-China Economic and Trade

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[436] See also Chapter 6, TVET case.
[437] Interview with an officer at a Trade Union, Nairobi, 2014-11-13.
[438] *Ibid.*
[439] Interview with an executive at the Kenya Association of Building and Engineering Consultants (KABCEC), Nairobi, 2014-09-14.
[440] Interview with the Roads and Civil Engineering Contractors Association (RACECA), Nairobi, 2014-09-16.

Association. The Association was set up by major Chinese infrastructure State Owned Enterprises in Kenya, following a request of the Chinese Economic and Commercial Counsellor's Office of the PRC. The aim of the association was to guarantee more cohesion among Chinese large infrastructure companies, especially in their relations with Kenyan institutions, and to increase corporate social responsibility, which was seen, in turn, as fundamental to improve the reputation of the companies within the local communities[441]. Large Chinese infrastructure companies are, reportedly, fiercely competing against each other in Kenya, rather than against local or other foreign companies. As a consequence, the creation of an association was also seen as a measure to boost cooperation and decrease competitiveness among them. However, senior officers from the companies suggest that amalgamation is tough, both internally among the companies, and externally with Kenyan authorities and institutions[442]. The Association is wholly independent of Kenyan institutions and has no relations with the Federation of Kenya Employers (FKE) or the three sectoral (infrastructure) federations.

This lack of internal cohesiveness and adaptability to the local environment is reflected in the relations with trade unions. Some Chinese companies have started recognising trade unions, while others are still struggling. According to TU, "not all of them create problems, it depends on the company"[443]. The seven recognition agreements that TU has achieved to sign with major Chinese companies (out of at least 20 open disputes), have come only after strikes, reconciliation attempts by the Ministry of Labour, and an order issued by the Industrial Court. These steps are part of the standard procedure, but they are generally taken to force a company to *sign* a CBA or *enforce* it, not to force it to *recognise* the unions. According to TU, asking a company to sign for recognition means "going back. Our aim as a trade union is a CBA" but with the Chinese "asking them to sign for recognition is what we do to be safe. If they do not sign, we go to the Industrial Court"[444].

TU, the Ministry of Labour and COTU believe that the Chinese behaviour originates from a different labour relations environment in China, where unions are not particularly significant, and the rights of workers are less important than productivity. Despite acknowledging the differences in national contexts, Kenyan actors do not justify the Chinese misbehaviour in their country and reflect that

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[441] Interview with an officer at the Chinese Economic and Commercial Counsellor's Office, Nairobi, 2013-11-18.
[442] Interviews with senior officers at big Chinese infrastructure companies in Kenya.
[443] Interview with an officer at a Trade Union, Nairobi, 2014-11-13.
[444] *Ibid.*

"when you go to somebody's house, the prudent thing to do would be to know what's expected"[445]. On top of this, despite the existence in Kenya of legal instruments for the protection of workers' rights, interviewees reported a number of obstacles encountered throughout the process of negotiation. These barriers originated not only from the Chinese lack of willingness to abide by the rules but also *from within the Kenyan bureaucracy.*

For instance, in the case of Synohydro, the company was uncooperative and did not wish to recognise the union. TU organised strikes in 2010[446] mobilising workers working for Sinohydro in 5/6 projects across the country. The strike lasted for five days after which TU filed the case to the Industrial Court, and the judge ordered a referendum. Even though 73% of Sinohydro employees were members of TU, thus legitimising recognition, the judge ruled against the case. According to a source, this was because the Chinese company allegedly bribed the judge, already known for his lack of integrity. TU filed another case, which was ruled by a different judge and the company was eventually ordered to recognise the union.

A peculiar case, as defined by TU, concerning recognition is that with China Road and Bridge Corporation (CRBC). The company is among the best performing in terms of CBA enforcement. Even though recognition, CBA signing and enforcement were all achieved after protracted court battles, the company was one of the first to sign recognition, agree on CBAs, renew and enforce them. A number of CBAs have been signed between TU and CRBC in the past since the mid-2000s. However, when the company started the Nairobi-Mombasa Standard Gauge Railway project, the management refused to recognise TU. According to TU, the reason the company opposed to recognising the union was that a different CRBC management group was in charge of the project and argued not to have links with the management that had been running CRBC projects in the country before then. This led the union to ask the allegedly new management to sign a new recognition agreement, which was eventually achieved through strikes and dialogue, rather than court battles, as the union felt that "for the benefit of the workers, we decided that it was not worth to go to court just to say they are one single company"[447]. However, this implied that the parties had to sign a new CBA. According to TU, this was a strategic move from the Chinese. The then running CBA (CBA1a) was due to expire after a few months.

[445]Interview with an executive and officers at the Ministry of Labour, Industrial Relations Office, Nairobi, 2014-11-19.
[446] 'Kenya : China SINOHYDRO Corp. ordered by court to negotiate CBA with Kenya Building Union', Building and Wood Workers International [website], 8 October 2010, <http://www.bwint.org/default.asp?index=3002>.
[447] Interview with an officer at a Trade Union, Nairobi, 2014-11-13.

Generally, when a CBA is renewed (CBA1b), the minimum wage rate is increased. By signing a brand-new CBA (CBA2), the minimum wage agreed upon resulted higher than that agreed upon in the old CBA (CBA1a), but lower than the one that would have been negotiated in the renewal of the CBA (CBA1b). Other Chinese companies used this method of negotiation, and it was reportedly something that had never happened in Kenya.

While, on the one hand, an existing legal framework channels the type of interaction between the union, Chinese companies and the Ministry of Labour, obstacles in the implementation of the framework arise from both Kenyan and Chinese contexts. To understand the relations more comprehensively, below a breakdown of the negotiation processes for the agreement of CBAs.

Contract Bargaining Agreements

All the companies operating in Kenya are expected to be signing CBAs with trade unions, which are agreements regulating the relation between the employer and the employees concerning wages, working hours, health and safety, and so forth. They are structured in accordance with Kenya's law and negotiations take place between the Kenya Federation of Employers, or sectoral employers' federations, and the trade unions. Once the CBA is signed, it becomes law, and it is registered at the Ministry of Labour.

The signing of such agreement is common practice in Kenya by local and foreign firms. Although Chinese infrastructure companies mainly arrived in Kenya after Kibaki's shift to the East, in the early/mid-2000s, most CBAs were signed by Chinese companies only after 2010. While this coincides with the adoption of the new constitution in Kenya, and with increased guarantees for civil society, legal frameworks protecting workers' rights and the right to bargain collectively pre-dated the 2010 constitution. The Chinese lack of compliance with the law both regarding signing the CBA and the content of labour relations (equal pay, minimum wage, health and safety, etc.), has fuelled labour rights advocates' criticism against Chinese companies. This is not uncommon in the rest of Africa. In fact, when the International Trade Unions Confederation-Africa (ITUC-Africa) pushed African trade union leaders to carry out a study in 10 countries, it was to show trends in Chinese companies' behaviour in labour negotiations. According to COTU "the outcome awakened the Chinese. The report demonstrated how they mistreat local

workers. For instance, in Malawi, they used the excuse of the language barrier for not signing CBAs, so they started translating labour laws in Chinese"[448].

In Kenya, issues with Chinese companies concerning CBAs revolve around wage disparity between Chinese and local employees, minimum wage, health and safety, overtime, medical protection [449]. Similarly to issues of recognition, Chinese companies have tended not to sign a CBA unless they are forced to do so. In a number of cases, after the negotiation process was initiated, the hostility of the company to interact led to not only orders being issued by the Industrial Court but also to the arrest of the company's managing director, who was then forcibly conducted to court by the police to agree on the CBA. As with 'recognition', the significance of CBAs is virtually meaningless to Chinese companies. They attempt to bypass the law, and, by doing so, they devise tactics that fall beyond commonly shared norms of conduct. For instance, Jiangxi International, after court battles with TU, signed a recognition agreement. However, in negotiating a CBA, the company requested to negotiate CBAs based on specific projects rather than understanding that a CBA is generally agreed at the company level, and lays general conditions that apply to all projects carried out by that company. Negotiating specific projects is not common practice in Kenya, so after a number of negotiation attempts through which TU asked the company to sign a CBA covering *all* projects, the union filed a complaint with the Industrial Court.

Signing a CBA is, however, only a first step to improving labour relations as formal compliance often does not equal to implementation compliance. TU stated that the enforcement of CBAs has proved to be difficult to achieve even with some local, and a few foreign, companies, though among Chinese companies it has been widespread. In comparison, local companies are "small time companies. They are one man companies. They do not obey out of ignorance or because they did not receive good legal advice. But the Chinese companies are multinationals"[450].

The Chinese lack of adaptation to the local environment has been fought against but also defended by Kenyan actors. There have been instances of threats towards trade unions visiting construction sites by police officers and security forces engaged by the company, or accompanying local government officials. A source at TU declared that "even when meetings were taking place, instead of meeting the

[448] Interview with an executive at the Central Organisation of Trade Unions, Nairobi, 2014-01-27.
[449] Interview with an officer at a Trade Union, Nairobi, 2014-03-21.
[450] Interview with an officer at a Trade Union, Nairobi, 2014-11-13.

managers of the company, there were Kenyan government people. This never happened before. There were the district officer and district commissioner to negotiate with us"[451]. The Ministry of Labour commented by specifying that *labour officers* must be the third party in the negotiation process (together with companies or employers' associations representing them, and the trade union), not *county or district commissioners/officers[452]*, who in turn represent the national government. Even more, the presence of accompanying police officers, aimed at intimidating the Union, was strongly rejected by the latter. TU reports: "I was addressing the workers telling them they had rights and the OCPD whispers not to incite people. So I said to him 'Im telling people they must be paid'. Then we said we do not want people of the administration in our meetings and we left. We went back the following day, and they didn't come"[453]. According to TU, this behaviour by Kenyan administrators, especially when it comes to Chinese-run projects "is very common. Now with the railway especially"[454].

Bypassing negotiation tables, safeguarding the system of governance

While the lack of understanding of the local environment by the Chinese and the difficulties in communicating with them are highlighted by TU and the Ministry of Labour, what is most perceived as unacceptable by both is the interference of the Kenyan government in the negotiation process. On the one hand, the Ministry of Labour suggests that the situation in the counties is still chaotic after devolution came into effect. Therefore, there are only 32 district labour officers for 47 counties[455]. Because of this "admin people are the first ones to go. At the same time, because of ignorance the police go, they do not know what is happening and take advantage"[456]. However, they add that "the unions are not the most civil actors often"[457]. On the other hand, the TU suggests that the tight links between the Kenyan and Chinese executives are so far-reaching – down to the local governments - that commissioners under the Office of the President tend to defend Chinese companies.

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[451] *Ibid.*
[452] The national/county hierarchy is complex and creates "confusion which gives space to interference" (Interview with an officer at the Kenya Building Construction Timber Furniture & Trade's Employees Union, Nairobi, 2014-11-13). The country has the Ministry of Labour at the national level where the Labour Commissioner sits. There are then 47 counties and for each county there is a County Labour Officer. Each county has a varying number of districts, coordinated, at the county level, by the District Labour Officer. Each district has a Labour Officer. At the district level, there is a District Commissioner, who is the central government representative and is in charge of administering various ministry representatives at the district level, including the District Labour Officer.
[453] Interview with an officer at a Trade Union, Nairobi, 2014-11-13.
[454] *Ibid.*
[455] Interview with an executive and officers at the Ministry of Labour, Industrial Relations Office, Nairobi, 2014-11-19.
[456] *Ibid.*
[457] *Ibid.*

The Ministry of Labour also states that the interference by government officials seems to suggest the willingness to "try to keep the face of the government"[458]. This is perceived as linked to the bilateral nature of infrastructure agreements. The negotiations for these agreements often exclude TU and the Ministry of Labour as they take place at the executive level. According to the Ministry of Labour, "when the government negotiates, labour issues are not given prominence […] they tend to increase the costs if not addressed immediately […] the negotiations should be all inclusive in the initial stages"[459]. TU reports that the workers' perception of the local government has led to protests with workers shouting at commissioners "you have eaten [taken bribes], go away"[460]. These dynamics emphasise how disaggregated the interests can be within the Kenyan government (i.e. Ministry of Labour at the local and national levels, the Office of the President, etc.) and across the policy arena.

When asked whether China's strong relations with the Kenyan government could pose a threat to the existence or the functioning of trade unions in Kenya, the unions responded that that is not possible because "in Kenya, there is an established strong law. On issues of rights, Kenyans are more educated. For the Chinese, it is not easy to deny Kenyans rights and keep them quiet". This is reflected in the fact that Chinese companies are now increasingly signing CBAs[461]. Of all the various Chinese companies in the building and construction sector, according to TU, CRBC is "starting to behave better"[462], a CBA was signed, and it is being implemented. However, thinking that other Chinese companies may emulate this behaviour is quite unrealistic, as they are competitors[463]. On top of this, strategic actions by Chinese companies, such as claiming to have different branches operating distinctively, have pushed TU to negotiate second best options, i.e. *new* CBAs. This is, in turn, linked to a more general understanding of the meaning of labour laws and rights, and feeds into a broader debate concerning the impact a state-centric country such as China may have in a country like Kenya whose liberal approach is still consolidating. The Ministry of Labour suggested: "we have more progressive labour laws, but we have to change to meet the level of production that this country wants

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[458] *Ibid.*
[459] *Ibid.*
[460] Interview with an officer at a Trade Union, Nairobi, 2014-11-13.
[461] Interview with an executive at the Central Organisation of Trade Unions, Nairobi, 2014-01-27.
[462] Interview with an officer at a Trade Union, Nairobi, 2014-11-13.
[463] *Ibid.*

to achieve under Vision 2030. Without, though, going below the minimum like the Chinese try to do"[464].

The issues raised by Chinese companies concerning recognition and CBAs are regulated by the law, and are solved with the law between Kenyan actors, according to the official system of governance regulating labour disputes. Nonetheless, two deviations bring the relations with the Chinese *temporarily* outside of the system. First, the Chinese are not taking part in the associational life formalised by the arena, providing thus a moment of escape from the locally determined norms of conduct. Second, Kenyan unofficial, parallel governance dynamics, i.e. the bypassing of legitimate negotiation tables through the interference of government officials in negotiations, also play a role, and impact, if partially, the outcome of negotiations. While corruption shows individuals' greediness, a more articulate scenario is presented by the unofficial interference of government officials in negotiation processes. This seems to suggest that there is an interest, at the higher levels, to mediate between the interests put forward by the unions and the requests of Chinese companies. This may be a consequence of the belief that national interests (in this case the development of infrastructure as an enabler for the achievement of Kenya Vision 2030 goals) would be compromised if either side, the union and/or the Chinese companies, achieved a level of discontent such as to hinder the work of the companies.

4.2.2 Counterfeits

In Kenya Vision 2030 there is an emphasis on innovation and how it can drive economic growth. One of the factors inhibiting innovation in the country is the entry of counterfeits. This case's timeline stretches beyond that used in this thesis (2003-2014). Nonetheless, it is considered highly relevant to show the dynamics between the state apparatus and organised civil society in Kenya. Not least important is that the main structural changes occurred after 2004 (well within the time frame of the thesis) and the legitimation of a process that lasted over 20 years occurred, finally, in 2008 with the passing of the Anti-Counterfeits Act by Parliament and the establishment of the Anti-Counterfeits Agency. The purpose of the analysis that follows (as a reflection of the entire thesis) is not to elaborate on the extent to which

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[464] Interview with an executive and officers at the Ministry of Labour, Industrial Relations Office, Nairobi, 2014-11-19.

the creation of an Anti-Counterfeits Agency is effective to curb the counterfeiting phenomenon in Kenya, but rather how the state apparatus and civil society recognised and tackled the problem and interacted to negotiate, so to craft outcomes to the satisfaction of various stakeholders' interests. The focus is thus on the process more than the outcome or the effectiveness of such outcome. Having said this, following the creation of the Agency, the challenges posed by counterfeit products did not end. As a result, the section that follows will also provide evidence and comment on different initiatives initiated by various stakeholders.

The creation of ACA

In 1986, Sessional Paper N.1 'Economic Management for Renewed Growth'[465], indicated that the Kenyan government was going to liberalise the economy. Kenya signed its first Structural Adjustment Loan with the World Bank in 1980, which was based upon the pledge that the country would adopt "more liberal trade and interest regimes as well as a more outward-oriented industrial policy"[466]. The country had experienced a decade of closure, starting in the early 1970s, in response to "a balance of payment crisis in 1970-1971, which was exacerbated by the first oil shock two years later"[467]. This period allowed Kenya to diversify the development of industrial sectors, such as plastics, pharmaceuticals, vehicles, but left the country isolated from global trade, with both imports and exports steadily shrinking[468]. In the 1990s the economy finally became liberalised and while it brought advantages it also "created a lot of problems for the country. Now that the economy was liberalised, anyone could bring in stuff"[469]. The imported products' origin was mainly Far Eastern and some of the goods that were brought in were counterfeits. The trading pattern that was observed between Kenya and the Far East was: Kenyans going to China with a sample of a product and then returning to Kenya bringing in goods and distributing them through hawkers[470]. There was an increase in street traders and hawkers, mostly of Kenyan origin[471]. Competition increased especially because the prices of imported goods were much lower than made in

[465] Government of the Republic of Kenya, 'Economic Management for Renewed Growth', Sessional Paper no.1, Nairobi, 1986.
[466] G. Gertz, 'Kenya's Trade Liberalization of the 1980s and 1990s: Policies, Impacts, and Implications', background paper for this report: E. Zepeda et.al., 'The Impact of the Doha Round on Kenya', Carnegie Endowment for International Peace, Washington, 2009, p.3.
[467] *ibid.*, p.2.
[468] *ibid.*, p.3.
[469] Interview with an executive at the Anti-Counterfeits Agency, Nairobi, 2014-02-26.
[470] *Ibid.*
[471] *Ibid.*

Kenya ones and the reason for this price difference was that the imported goods were substandard and counterfeit[472]. The number of seizures increased significantly and as figures for local manufacturers started going down, they started complaining about unfair competition due to sub-standards and counterfeits. The Kenya Association of Manufacturers [473] raised the flag: "people didn't know about counterfeits, they were just complaining that the market was being eroded by something. We didn't know what animal was eroding. Our members found products on the market that they couldn't trace to the manufacturer"[474].

Customs oversaw checking goods at ports of entry, and the Kenya Bureau of Standards was responsible of regulating. An ACA senior officer mentioned that "it became more and more evident that the regulations in place were no more adequate and, as a consequence, the other bodies charged with control authority were not effective in carrying out their duties. For instance, Customs at that time were more concerned with the collection of revenue rather than control of goods. An Act of Parliament was necessary"[475]. According to KAM, "multiple enforcement agencies filed a case to the court to say that it was counterfeits. But the judge ruled that they were not mandated to enforce against counterfeits. The Revenue Authority and KEBS lost the case."[476]

The government and other stakeholders came together to discuss how to stop the entry of counterfeits and sub-standards, and an interim measure was agreed upon, namely to go through the existing Kenyan law so to find the gaps and identify the sections that could be modified to suit the actual situation. The laws examined were: Weights and measure Act, Trade Descriptions Act, Standards Act, Custom and exercise Act.

The Trade Descriptions Act turned out to be the most appropriate as in its provisions there was a section on trademarks and the fact that their misuse leads to consumers' deceit. This was the closest legal mention to the protection against counterfeits. While a national committee was being set up to look at a new law, the Trade Descriptions Act was used extensively for the enforcement of anti-counterfeiting.

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[472] Such as in the case of ball pen company Haco Tiger that was imitated and copies were brought into Kenya.
[473] A business membership association.
[474] Interview with an officer at the Kenya Association of Manufacturers, Anti-Counterfeits Division, Nairobi, 2014-09-19.
[475] Interview with an executive at the Anti-Counterfeits Agency, Nairobi, 2014-02-26.
[476] Interview with an officer at the Kenya Association of Manufacturers, Anti-Counterfeits Division, Nairobi, 2014-09-19.

The national committee was composed of highly placed people mostly from the government but also from non-state organisations:

1   Anti-dumping Standing Committee
2   Kenya Association of Manufacturers (KAM)
3   Kenya Bureau of Standards (KEBS)
4   Kenya Industrial Property Institute (KIPI)
5   Federation of Kenya Employers (FKE)
6   Kenya National Chamber of Commerce and Industry (KNCCI)
7   Commissioner of Customs (currently under Kenya Revenue Authority)
8   Director of Industries
9   Director of Internal Trade (Ministry of Trade)
10 Director of External Trade (Ministry of Trade)
11 Director of Weights and Measures (Ministry of Trade)

The government recognised that the lack of an anti-counterfeits law was damaging stakeholders like manufacturers inasmuch as "IP owners and holders were losing, and there was damage in investment in IP rights and goodwill and trust in their brands" [477]. Therefore, the National Committee formed a Legal sub-committee in 2001 whose purpose was to come up with how to combat counterfeits and how to make Kenya compliant with WTO regulations on enforcement of IP rights. The first step involved the amendment of the Trade Descriptions Act so to strengthen the law while waiting for the Act of Parliament.

According to ACA "the sub-committee went through every law dealing with trade. They then took the Trade Descriptions Act and recommended amendments, through the Statute Law, Miscellaneous Amendments, N. 2 of 2002, so to strengthen the law while waiting for the act of Parliament"[478]. An ACA senior official states that "the amendment of the Trade Descriptions Act made sure that manufacturers were protected by law but more was needed: a new law. And this was a new phenomenon for the country" [479]. The committee came up with drafting instructions for the *Counterfeits Goods Bill 2004* aimed at outlawing counterfeits. Stakeholders' workshops were held in the summer of 2004, and the legal sub-committee held other forums including one for members of parliament, trying to build consensus.

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[477] Interview with an executive at the Anti-Counterfeits Agency, Nairobi, 2014-02-26.
[478] *Ibid.*
[479] *Ibid.*

Then the final drafting of the proposed Counterfeit Goods Bill 2004 was handed in to the parliament, "the wording was borrowed from the South African law, but you know each country wants to have indigenous things, so they renamed it Anti-Counterfeits Bill 2004"[480].

From 2004, when the Bill was handed over to authorities, to 2008 when the Bill became law, "a number of obstacles got in the way including political issues"[481]. KAM suggests that the Parliament, specifically, represented a challenge. Counterfeiters "have a lot of money. They can also fund or sponsor members of parliament, so they have influence"[482]. As a consequence, it was necessary to strategize so to make parliamentarians understand how affected they can be "even if they are up there in the social arena"[483]. Finally, in 2008 "it was clear that everybody was a victim, not only manufacturers but also consumers. Most counterfeits were fast moving products and we brought up the issue of health and safety of consumers [...]We pushed this health and safety aspect at the Kenyan parliament and the committee of anti-counterfeits that was previously created"[484]. In November, the Bill was passed by the Parliament into law and President Kibaki signed it on December 24, 2008. It came into force on July 7, 2009. Before becoming effective, in March 2009, the Permanent Secretary of the Ministry of Industrialization set up a Working Committee to operationalize the Act. This was particularly in response to the fact that the National Committee rejected the idea of letting existing institutions take over but rather asked for the appointment of a brand-new body dealing only with counterfeits.

The Working Committee was responsible of translating the act into reality. It had to: develop a work plan for the operationalization of the act; prepare a budget proposal, a scheme of service for members of staff; advise the Ministry on the appropriate classification of the agency for recommendation to the State Corporation Advisory Committee[485], on the nomination and gazettement of the Board of Directors, on the commencement of the Act, and any other issues. The work of the Working Committee started in June 2009, up till September 2009 when it handed everything to the permanent secretary of the Ministry of Industrialization.

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[480] *Ibid.*
[481] *Ibid.*
[482] Interview with an officer at the Kenya Association of Manufacturers, Anti-Counterfeits Division, Nairobi, 2014-09-19.
[483] *Ibid.*
[484] *Ibid.*
[485] They look at functions of new agencies and categorise them, apply a class: A, B, C, etc.). ACA was categorized as class C, as an enforcement agency.

The legal sub-committee also finished its work, and a secretariat was formed out of the working committee. The secretariat, with the names received from the various organisations, on 9 November 2009 two private sectors members were gazetted as Board Members (Gazette Notice 12354 of 20/11/2009). The two members were an IP expert and a consumer protection expert. The other members of the Board were from the government, so there was no need to gazette their position. More specifically they were from the institutions forming the national committee. On 2 December 2009, the Board of Directors was inaugurated by the Ministry of Industrialization. The chairman was appointed a bit later, in February 2010, and he is an advocate of the High Court of Kenya. The permanent secretary handed over the duties to the Board of Directors, and the Chairman started calling meetings.

In the meanwhile, in January 2010, an induction workshop was organised for Board members some of whom were not familiar with the issues concerning counterfeits, with the aim to instruct every institution about the importance of protecting IP rights, pay attention to border entry points and the need to create awareness among Kenyans.

The creation of the agency surely highlights a link between popular concern, the effective engagement of the government by organised civil society and a responsive government that introduced legislation in reaction to the issue. The creation of the agency, which is, per se, manifestation of the state apparatus and society's capability to engage each other in democratic processes, is not the solution to the problem as the challenges posed by implementation show, but it was an important first step to regulate a phenomenon that involves a high number of institutions and affects potentially every aspect of socio-economic development.

Counterfeiting after the creation of ACA

The situation concerning counterfeits in Kenya is still quite alarming, even after the establishment of ACA. The snapshot provided below is not aimed at criticising how ineffective the Act is but rather at showing that the struggle against counterfeits continues to involve state and social forces in a complex domestic environment that impacts the way relations with Chinese actors take shape. According to the Kenya Association of Manufacturers' 2007 position paper 'Position paper on

counterfeits'[486], China in 2007 was the country of origin of the highest number of counterfeits imported to Kenya. According to ACA, seized goods listed as items from 2010 till 2014 amount to almost 3 million (2.998.639) items, almost worth KES 352 million (KES 351.886.212)[487]. These are both locally and externally produced counterfeits. Locals mainly contribute with spirits/alcohol, condiments and seasoning, paints. They contribute "in the sense that they often collect genuine packaging materials, package [non-original] commodities and deceive"[488]. As for imported counterfeits, "while before it was Kenyans introducing counterfeits, now it is also the Chinese themselves". Imported counterfeits were and still are "almost only from China". Products include: consumer chemical products; cosmetics; motor spare parts; soaps and detergents; alcohol and spirits; electrical goods; toners (especially HP); dry cell batteries ("dry cell batteries were popular in the early years but not in the past three years"[489]); ball point pens; mobile phones (Nokia and Samsung); medicines.

Despite the legal framework being in place, and notwithstanding the fact that the Anti-Counterfeits Act – as innovative as it is in Eastern Africa – still has room for improvement, the real problem is twofold: the source of the problem, namely the low purchasing power of the Kenyan/East African population, and the lack of enforcement capacity. These are complemented by other relevant issues such as lack of harmonisation in East Africa on counterfeits laws[490], causing the Kenyan framework to be working in a vacuum, the absence of strict control measures in China, and the lack of redress mechanisms for consumers in Kenya.

Kenya's purchasing power

KAM points out that Kenya's low purchasing power is the country's vulnerability[491]. As a source from KIPPRA noticed "there are two players: the Chinese looking for a market and Kenyans looking for a product. We do not know whether it is demand driven or supply driven. We do not know the share"[492]. If the counterfeits phenomenon is demand-driven due to poor financial capacity, then the

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[486] KAM Standards and Regulatory Committee, 'Position paper on counterfeits', presented to the Finance, Trade and Planning Parliamentary Committee in August 2007
[487] Data provided by ACA. Unfortunately, no break down was provided.
[488] Interview with an executive at the Anti-Counterfeits Agency, Nairobi, 2014-02-26.
[489] *Ibid.*
[490] KIPPRA Report 2013, op. cit., p. 86.
[491] Interview with an officer at the Kenya Association of Manufacturers, Anti-Counterfeits Division, Nairobi, 2014-09-19.
[492] Interview with an officer at the Kenya Institute for Public Policy Research and Analysis, Counterfeits Division, Nairobi, 2014-03-28.

legal framework that ACAct sanctions is part of a formal sphere of governance that is detached from the informal one, within which counterfeits will continue being requested and distributed. As a colleague has put it, "copyrights are for the developed society"[493] for the simple reason that when cash fluidity is unavailable, "consumers unknowingly demand counterfeits because counterfeits are cheap"[494]. KAM acknowledged that "we are blaming the Chinese, but it is consumers who are driving this. So, there is the need to create awareness about the fact that they need genuine products"[495]. The Consumers Federation of Kenya (COFEK) also agrees that "China is a symptom. China is not the cause"[496]. There is obviously a distinction between the demand, by common people, of cheap products and the demand, by retailers, of counterfeits. As advanced by COFEK "no Kenyan would take poison knowing it is poison"[497]. However, the lack of border control, post-market surveillance, and political goodwill do not allow the two to be detached effectively. Moreover, while the law protects IP holders, it does not protect consumers. COFEK is a relatively new body, registered in March 2010, just a few months before the new constitution was adopted. The Consumers Protection Act, in turn, was passed in 2012. While the legal framework – through the Constitution and the Consumers Protection Act, among others – "provides high thresholds for consumer protection in all spheres and for both private and public sectors"[498], implementation is still problematic mainly due to lack of awareness[499].

Enforcement capacity

According to ACA, in 2014, counterfeits had become less, compared to the 1990s up to the time of passing the Act. Customs do more controls but "counterfeits can not be curbed altogether. It is an area that involved cartels, what we do is try to control. People are still bringing in counterfeits; sometimes they declare something and it is something else, you cannot stop all containers. And the port of Mombasa serves Uganda, Burundi, Sudan, South Sudan, DRC"[500]. Borders' control is a problem, worsened, as mentioned above, by the lack of a harmonised legal framework in the

[493] Skype discussion with F. Congolo, 22 May 2014.
[494] Interview with an officer at the Kenya Association of Manufacturers, Anti-Counterfeits Division, Nairobi, 2014-09-19.
[495] *Ibid.*
[496] Interview with an executive at the Consumers Federation of Kenya, Nairobi, 2014-10-07.
[497] *Ibid.*
[498] Consumer Federation of Kenya (COFEK), 'About us', *Consumer Federation of Kenya* [website], 20 May 2013.
[499] Interview with an executive at the Consumers Federation of Kenya, Nairobi, 2014-10-07.
[500] Interview with an executive at the Anti-Counterfeits Agency, Nairobi, 2014-02-26.

East African region. The deficiencies in borders' controls are aggravated by weaknesses in the Kenyan post-market surveillance system.

To establish whether a product is a counterfeit, the product needs to undergo an examination that establishes whether it meets quality standard specifications. However, as the Kenya Bureau of Standards (KEBS) argues, "many products have no standards, and even if we use international standards we have no capacity to determine the performance" [501]. In other words, "if there is a complaint about a product that didn't meet expectations, but there is no standard and no testing, there isn't much that can be done. We have now 8.000 developed standards but the British Standards Institution, for instance, has 20.000. We continue to develop, and the most important products have standards, those that have an impact on consumers' health and safety"[502]. Regulatory bodies are underfunded, "ACA should have 100 inspectors, they only have 10. The lack of capacity makes no sense for everything else."[503]

Chinese involvement

The involvement of Chinese authorities in providing controls of goods before export is, reportedly, "not enough" [504]. Although the Chinese government has sponsored a number of programmes for import countries on inspection, "they take you around in circles, they are not forthcoming with info. They say they do not support their business people who do bad things; they say these people are messing with the image of China. But they know the port used by counterfeiters, and they do not do a crackdown"[505]. KEBS collaborates with a number of partners around the world to inspect goods before they are loaded onto containers. In the case of China, it collaborates mainly with the China Certification and Inspection Group. Reportedly "if they do not verify the quality before issuing a certificate of conformity, we penalise them". However, at times these certificates are bypassed and products shipped. These products at times meet the quality standards, at times do not. Although there is a penalty if products on the Pre-Verification of Conformity (PVoC) list – mainly products that affect health and safety – are not inspected and provided with a certificate, "it is not possible to inspect 100% at the port of entry"[506].

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[501] Interview with an executive at the Kenya Bureau of Standards (KEBS), Nairobi, 2014-11-11.
[502] *Ibid.*
[503] Interview with an executive at the Consumers Federation of Kenya, Nairobi, 2014-10-07.
[504] Interview with an executive at the Kenya Bureau of Standards (KEBS), Nairobi, 2014-11-11.
[505] *Ibid.*
[506] *Ibid.*

Governance in-the-making, through collaboration.

Besides the legal aspects of counterfeiting that brought together a wide range of institutions, awareness campaigns and specific initiatives between the public and the private sector are being carried out in coordination. ACA's Assistant Director headed the main campaign and given the novelty of the Act a number of bodies "needed to be made aware, informed and trained". Seminars were held, five officers went to England for benchmarking, and there are, for instance, agricultural shows where original and fake products are shown and information provided on how to avoid counterfeits. Administrators of local areas are engaged, and collaboration is taking place under the umbrella of Joint Campaign against Counterfeits (JCAC), an awareness organisation that gathers people directly affected by counterfeits. Financial support is provided by the American Embassy (USAID provides funding for awareness) and from the British Commission.

A number of initiatives mobilising the public and the private sector have taken place since the creation of ACA. For instance, in 2012 mobile operators and the Communications Commission of Kenya (CCK) came together and decided to switch off mobile phones whose handset ID number could not be recognised. The action was taken in an attempt "to protect consumers from substandard phones, safeguard mobile payment systems and prevent crime"[507]. The switching-off provoked strong reactions by consumers and small businesses who claim to have bought the phones at full price not knowing they were counterfeit and blamed the government for not being able to stop the influx. Disputes over compensation between the government and consumers are still ongoing, and KIPPRA raised the concern that anti-counterfeit laws do not protect consumers enough – vis-à-vis IP owners. Similarly, the Kenya Plant Health Inspectorate (KEPHIS), a governmental agency, started an initiative involving consumers. Their mandate is to look into products that deal with plants, seeds, fertilisers. They initiated the idea of providing each product with a barcode (digits) so that customers can verify with the factory the originality of the product before purchasing it. The input of manufacturers, however, in these campaigns, is irregular and the relations with them delicate: "they do not want to show that their products may be counterfeited by someone as this shows

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[507] W.W. Chebusiri, 'Kenya's battle to switch off fake phones', *BBC News Africa*, 5 October 2012.

vulnerability and may induce consumers to avoid buying the product fearing it is counterfeit"[508].

The creation of the Act and the Agency represented an important moment of democratic governance with a revision of legal frameworks that were perceived to be no more suited to Kenya's socio-economic development. This case is particularly interesting as it was generally framed, by interviewees, as a case of acknowledged inadequacy of Kenyan laws, and, later, of implementation capacity, rather than as a case of China-blaming. Although the actions taken towards the issue represented a re-action towards Chinese imports, the problem was always framed as domestically more than externally-led. The case highlights how the country's legal, socio-economic and political environment can leave space to democratic governance to take place. However, understanding the relatively new co-existence of democratic governance and rapid economic development is key to explaining the inconsistency in implementation efforts and results.

4.2.3 Small traders

The trade balance between Kenya and China is currently[509] significantly skewed towards China with Kenya importing $3.22 billion from China, equivalent to 20% of its total imports but only exporting $50.6 million, equal to 0.97% of its total exports[510]. The influx of fast-moving goods, as seen above in the case of counterfeits, has involved a very diverse range of products. India remains the top country of origin of imports for Kenya in 2013 (25% of Kenya's total imports). However, 60% of imports from India are in refined petroleum. China, on the other hand, the second country of origin of imported goods in 2013, exports to Kenya fast-moving goods: machines (23% of all imports from China) such as telephones, electric tools, batteries, computers; textiles (19%); metals (13%); plastics and rubbers (9.1%); transportation (6.4%), such as motorcycles, vehicle parts etc.; chemical products (5.7%) such as drugs[511].

While there is a widespread awareness in Kenya that Chinese products "cover the whole range, from high quality to low"[512], the local environment mostly demands cheap products, which are not locally available due to limited industrial

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[508] Interview with an executive at the Anti-Counterfeits Agency, Nairobi, 2014-02-26.
[509] Statistics can be found at: Simoes and Hidalgo, op. cit.
[510] *Ibid*.
[511] *Ibid.*
[512] Interview with an officer at the National Economic and Social Council, Nairobi, 2014-01-24.

development (Kenya manufactures medium quality products for export, the prices of which are not generally particularly low), and are not easily sourced from abroad, except from India. Interviewees advanced a general claim that Kenyans prefer products from countries like Britain, Italy, Germany "in their home because they last. They are aware that the fancy ones from China break"[513]. However, most products imported from these countries are too expensive for the majority while the ones from China are affordable.

These products, whose quality varies considerably, have penetrated the formal and informal, wholesale and retail sectors. As in other parts of Africa, and the world, this influx of products has challenged Kenyan existing systems of production, procurement and distribution. While the influx of cheap products has, arguably, damaged manufacturers in a number of sectors, the focus of this section is not on the competition in manufacturing between Kenyan and Chinese firms. Rather, the focus is on the contest between Kenyan retailers and wholesalers in their attempts to devise strategies to protect their interests, even if to the detriment of the other. Understanding the local context and system of governance is key to contextualise the resentment toward the Chinese, here considered a proxy for more complex domestic relational dynamics.

In 2012 the Nairobi Central Business District (CBD) became the stage of a protest of small local traders against Chinese retail shop owners. The section below aims at understanding the reasons behind the protest and uses the event to understand, more broadly, the agency of Kenyan retailers and wholesalers vis-à-vis the Chinese, namely the actors involved and their logic of action.

Foreign investors versus petty traders

According to a study conducted by KIPPRA in 2013, "the wholesale and retail trade accounted for 196,000 jobs and 4.4 million in the formal and informal sectors in 2007, respectively. Employment in the wholesale and retail trade increased to 238,000 (formal) and 4.5 million (informal) in 2011"[514]. While the formal retail sector is growing, with supermarket chains standing tall above other types of retail activities, the informal one is still the backbone of Kenya's economy. In particular, in Nairobi the size of informal activities is comparatively more significant than in other

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[513] *Ibid.*
[514] KIPPRA Report 2013, op. cit., p. 88.

parts of the country. The two are often intertwined, and it is not possible to talk of retail and wholesale sectors without considering the connectedness between formal and informal activities. King argues that "in Kenya, and particularly in Nairobi, the sheer dynamism and activity of the informal (*jua kali*) sector is such that it might prove difficult for outsiders to find a foothold"[515]. The domestic control over the penetration of the sector by foreigners is not just exerted through the policies on migration and FDI but also through the vibrancy and competitiveness, especially of the informal sector[516]. One of the main problems affecting the sector is the lack of proper laws to register foreign investors. Such shortcoming has proved to be particularly problematic in the relations with the Chinese as the absence of regulations has caused the instalment of Chinese petty traders that have claimed to be entering the country as investors but rather ended up competing with Kenyan small traders[517].

According to the Kenya Investment Authority, the law does not require all investors to register with KenIvest, although, by law, they should all register with the Registrar of Companies. However, "even if a company is registered, it is not sure if then they have operations as at the Registrar they do not even have the basic info such as phone and email"[518]. The main issue for authorities is to get a complete picture of foreign investment projects that take place in the country. In particular, KenInvest highlights that "when they [the Chinese] come and do petty trade, this is not good. It should be left to Kenyans, but we do not know much, and there is very little data to prove this empirically"[519]. The Director continues: "We have been pushing on bureaucracy – we have been setting up a one-stop shop for investors, and there should be a legal change to make it mandatory for investors to be compelled to submit info to us. We do not want to limit their [the Chinese] coming to Kenya, but we need to control how they come, that is how we can avoid petty trade"[520]. Also, the Consumers Federation of Kenya suggested that "China is a symptom, they find a lot of loopholes and then they can extend. China is not the cause. We have issues with borders, surveillance, political goodwill"[521].

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[515] King, 2013, op. cit., p. 122.
[516] *Ibid.*
[517] This is a problem that Kenya had previously faced with Indian small traders. However, that occurred at a historical time when Kenya was just becoming a sovereign country and is a problem that has been absorbed to become part of the economic structure of the country. The relations with China are significantly more recent and enter a scenario that Kenyans themselves grew to control.
[518] Interview with an executive at the Kenya Investment Authority, Nairobi, 2014-01-31.
[519] *Ibid.*
[520] *Ibid.*
[521] Interview with an executive at the Consumers Federation of Kenya, Nairobi, 2014-10-07.

The presence of Chinese small traders seems to be quite limited in Nairobi although knowing the exact numbers is a difficult task. According to the Nairobi City Council, there has not been "a big increment of the Chinese community [in small businesses]. They are here for big contracts; they are not coming for individual businesses"[522]. There are a few Chinese restaurants, there is a China centre, which is situated next to the Economic and Commercial Counsellor of the PRC. It was created to host Chinese shops, but it failed because people simply did not go to buy products, and now hosts a Chinese supermarket, a Chinese restaurant and a few Kenyan-run shops selling Chinese items - clothes, jewellery, travel agency, and so forth. Beyond this centre, there were a few Chinese shops, mainly on two streets in the Nairobi Central Business District but after the demonstrations that occurred in August 2012, most Chinese owners left the country.

August 2012 protests

In August 2012 Kenyan retail traders flamed up in protests in the Nairobi central business district against Chinese small businesses' competition. Unlike other countries in Africa[523], Kenya had not witnessed any street protests against the Chinese before then, and no particular episodes of anti-Chinese sentiments had occurred. Even during the 2012 protests, the sentiments were not directed at the Chinese in general - who are numerous in Kenya in a variety of sectors such as construction, services, education, restaurants, supermarkets - but rather at a small portion of retail shop owners selling textiles and mobile phones[524]. According to an interviewee at the Ministry of Trade "[the Chinese] were hawking on the streets, they come with tourist visas. Hawking is allowed to some extent with permission by the City Council. But the permit is usually not for foreigners. That is foreign investment"[525]. Beyond hawking, and more specific to the case of the 2012 August protests, the Chinese were accused of not paying "duty, rent, city council certificate, and they buy cheap from China, whereas Kenyans need to pay rent, need to fly to China to buy goods and they can not compete"[526].

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[522]Interview with an officer at the Nairobi City Council, Nairobi, 2014-11-28.

[523] See the cases of Zambia at 'Zambian miners kill Chinese manager during pay protest', *BBC News Africa*, 5 August 2012; 'Lesotho: Anti-Chinese resentment flares', *IRIN*, 24 January 2008; 'Malawi's new law targeting Chinese traders in rural areas draws criticism', *The Guardian, Trade and Development*, 9 August 2012;

[524] Interview with an executive at the Overseas Chinese Association, Nairobi, 2013-12-11.

[525] Interview with an officer at the Ministry of Foreign Affairs and International Trade, Department of External Trade, Nairobi, 2013-11-13.

[526] Interview with an executive at the Overseas Chinese Association, Nairobi, 2013-12-11.

With weak Kenyan laws regulating the FDI sector, some Chinese entered the country as small retail traders rather than investors competing with Kenyan small traders. According to interviewees reports, given the presence of such Chinese small traders, Chinese wholesalers started bypassing Kenyans to sell directly to the Chinese. This provoked resentment among Kenyan wholesalers who believe they were being depredated of their middlemen status, i.e. buying from the Chinese wholesalers and selling to Kenyan retailers. According to sources, these wholesalers pushed Kenyan small traders to protest against Chinese small traders, so to drive them out of the country.

Consultations soon started among a number of different actors, including The Kenya Overseas Chinese Association, which is a Kenya-registered non-governmental association led by a Chinese national in Nairobi, the Kenya-China Import-Export Promotion Association and the Chinese Embassy. The Kenya Overseas Chinese Association and the Chinese Embassy "put a lot of effort into this issue because it can affect people's minds and how they see the Chinese. We did communication with our people and with the Kenyan side", including not only organisations protecting Kenyan traders, but also the Chamber of Commerce[527]. Therefore, according to interviewees, the Chinese have realised that they can own the manufacturing, the wholesale, but they should leave aside the retail. In other words, the Chinese are 'allowed' to benefit from production, importation, wholesaling, but retail should remain the prerogative of Kenyans.

However, as negotiations started being held, it soon became apparent that the Chinese were not as guilty as they had been portrayed. As a source highly involved in the negotiations reported, out of the 20/30 black-listed Chinese who were asked to provide the registration license, tax pay, work permit, National Social Security Fund certificate, a certificate from the City Council, most of them had all in order. According to sources, the protest rather shed light on the fact that the Chinese were bringing into the market a new type of business *strategy*, which eroded the Kenyan control of the competition within the sector.

Rooted informal governance

Anti-Chinese sentiments stemmed out of a feeling of threat to the control of a sector that is vital for Kenyan small and medium businesses: retail. However, the

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[527] *Ibid.*

lack of formal regulations, in this case, is not synonymous with lack of ownership and control over the governance of the issue at stake. Informal governance, though not formally and legally regulated, is nonetheless largely based on a system of governance constituted of accepted norms of conduct, legitimised by both informal sector stakeholders as well as formal and state actors. The influx of Chinese cheap products has challenged the system of production and wholesale procurement and distribution in Kenya. In a context of near absence of state forms of control, where the *jua kali*, i.e. the informal sector, produces and manages governance, the emergence of new challenges brought in by external actors is informally regulated.

In other words, despite the Chinese often too deterministic faith in the state authority, in the case of the August 2012 protest, it was necessary for Chinese actors to recognise the major role played by the informal sector and the lack of a framework for the state to intervene. In fact, legally, Chinese retailers were, mostly, abiding by the law. Therefore, it is interesting to acknowledge the active behaviour adopted by official Chinese actors such as the Embassy to control Chinese citizens. This was an action taken in the name of 'peaceful coexistence' in a country for China too strategic to let a minor issue such as that of retail jeopardise the overall economic relations.

Kenyan agency in this context is not so much state agency or collaborative agency across the state and non-state environments but rather informal agency carried out by informal sector leaders, but also more mischievously by businessmen. Given the high clientelistic nature of the informal sector, and the potential social consequences, i.e. upheavals, the Chinese Embassy also played a major role, interfering with Chinese small entrepreneurs' settlement, as it identified the retail sector as a no-go area. At the same time, this issue has shed light on the Kenyan acknowledgement that gaps in the system exist and that the country's journey toward industrialisation needs increased guarantees that crucial areas of the Kenyan economy are not compromised by the encounter with an increasingly free and open economy.

4.3   Sectoral dynamics

The presumed exploitation of the African labour force and the impact of Chinese products for manufacturers, wholesalers and retailers has probably been the most discussed topic in the analysis of Sino-African relations. Due to the widespread

impact at many social levels, these dynamics became widely acknowledged, studied and speculated upon. Analysing the actions taken by Kenyan actors vis-à-vis the Chinese in the trade sector seems to reveal not only a wide range of actors, Kenyan and Chinese but also a range of circumstances under which action is deemed necessary. Contrary to the next two sectors, this is a case where *re-action* toward the Chinese is most predominant, vis-à-vis pro-active or passive behaviour. When the Chinese actions are perceived negatively by Kenyans, as in damaging Kenyans' interests, re-actions have risen at formal and informal levels. The re-actions have rotated around discourses ranging from rights, as in the case of trade unions and counterfeiting (intellectual property), to business competition.

The systems of governance through which actors navigate and which they constitute are very diverse in the three cases analysed. In the case of the unions, the system is highly formalised (rooted) and the presence of trade unions is historically significant within the country. In the second case, the system of governance was identified as weak and was fully restructured (in-the-making). It still presents major problems of enforcement not only due to resource shortage but also to the socio-economic formation of the country. Finally, in the last case, the governance system is rooted, though divided between informality and formality. While the presence of a strong informal framework guarantees the exclusion of the Chinese from an economic environment that is vital for Kenyans, the problem is part of a broader issue concerning the regulation of investments in the country, which lacks proper legal attention.

Despite their diversity, the perception of threat was generally consequential, across cases, to the Chinese non-adherence to existing systems of governance and negotiation tables, i.e. attempting to change the norms of conduct. In all these cases, agency as the willingness and ability to take appropriate action was key to the outcome of the issue and the management of change. This shows that despite the obvious financial asymmetry between Kenya and China, where the former is disadvantaged compared to the latter, the outcome of the relational dynamics does not merely depend on that. The Kenyan availability of human resources that were able, and willing, to navigate through known frameworks, presumably less known by the Chinese, has proved to be crucial to bringing the engagements with the Chinese back to settings of negotiation that would adhere to broader systems of

governance where Kenyans would be advantaged. Importantly, once more, these systems are not always synonym with legal and official regulation.

Table 1: Sectoral comparison of interests, actors and arenas/tables of negotiation – Trade

		Trade unions	Counterfeits	Small traders
Interests	**Type of relation**	Commercial	Commercial	Commercial
	Issue at stake	Treatment of workers by Chinese companies	Entry of counterfeit products from China (mainly by Kenyan traders) + lack of legal framework	Chinese retailers occupying spaces of trade
	Kenyans' issue-specific interests	Make Chinese companies abide by domestic legal frameworks	Control the damage at two levels: consumers' rights (limited), manufactures (main argument) > hindering national development	Make Chinese wholesalers and retailers abide by the informal norms of business
	Overall objective toward China	Reject Chinese activities /behaviour	Reject Chinese activities /behaviour	Reject Chinese activities /behaviour
Actors	**Initiator**	Grassroots trade unions	Kenya Association of manufacturers	Small traders
	Other domestic actors	Ministry of Labour, Industrial Court	Ministry of Industrialization, private sector associations	City Council, The Kenya Overseas Chinese Association, Kenya-China Import-Export Promotion Association, The Chinese Embassy
	Resources	Chinese companies financially more powerful than Kenyan trade unions. But Kenyan trade unions, in terms of human resources, were more prepared to engage the dispute mechanisms	Kenyan professional human resources crucial to alter the system of governance to safeguard K interests: intellectual property rights.	Despite the potential financial advantage of Chinese wholesalers, at the retail level the presence of close-knit and deeply rooted informal network of small traders (human resources) with their accepted norms and practices acts a safeguard to Kenyan interests vis-à-vis the Chinese
Arenas and tables of negotiation	**ARENA 'the problem' contextualized in the Kenyan domestic context** (historical legacies and current policy preferences)	ROOTED: Highly regulated (policy and legal); historical significance + 2010 constitution	IN-THE-MAKING: Acknowledged gap in the legal system in 2004, legal recognition in 2008 with creation of ACA	ROOTED: Existence of strong informal system of governance sided by lack of specific laws to regulate foreign investment (especially the minimum end of the range) with recent acknowledgement by KenInvest.
	Mobilization framework	Existing legal framework > strong link between framework and implementation. Informal actions along the bureaucratic ladder attempt bypassing the framework with not much success.	Weak institutional framework > official instruments used to trigger democratic processes of policy and legal change.	Informal with political dynamics. Chinese very receptive of social discontent, requested withdrawal of retailers. Kenyans used the means known, i.e. protest, even if outside official regulatory frameworks.
	Mode of addressing the issue with the Chinese	Re-active	Re-active	Re-active
	Table of negotiation	Light alteration	Conformity	Light alteration

Source: Author's findings

CHAPTER 5

Kenyan responses to healthcare cooperation and trade with China

5.1   The context

The increasing Chinese presence in healthcare development, far from being as visible and controversial as that presented in the previous chapter, represents one of the most important cases of so-called South-South cooperation according to which the engagement is moved by solidarity and mutuality motives in spheres that relate not only to development assistance but also trade in health products and devices. It is also, together with education, one of the most important aspects of people-to-people engagements as reported in Sino-African documents such as FOCAC declarations. From trade in health products and devices to the construction of hospitals, passing through capacity building and development of traditional medicine, Kenyan actors have recently experienced the entry of China in a national environment (the arena) that is mainly dominated by Western companies, traditional development partners, India, and to a smaller extent local manufacturers, yet regionally significant.

For Kenya, the development of healthcare, together with education, is one of the most important issue-area of the Social Pillar under the Kenya Vision 2030 framework. It is worth emphasising that the system of governance for health care in Kenya is a complex one, "a mixed story of progress and inequality. While in some areas there has been good progress, in others there still remains much to be done […] Overall it is estimated that for at least 25% of the population there is an unmet need for most forms of health care"[528]. Consequential to this, it is not surprising that the specific issues unpacked in this chapter (which reflect the areas in which China mostly commits itself in Africa) present lots of variance in the structural dimensions of governance as well as in the ability of agents to work through them. In particular, the heavy involvement of traditional donors in the provision of most forms of health care is a significant aspect of the analysis of Kenya-China expanding relations in the sector.

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[528] Lewis and Kerr, op. cit., p. 4.

China has been seen as an important partner for the achievement of development goals for three main reasons: for the trade in cheap quality drugs, for its infrastructure development capacity and the involvement in capacity building. For China, the involvement in health-related activities in Kenya has been historically rooted in South-South cooperation motives. Assistance provision for capacity building (through the dispatch of Chinese Medical Teams) has been the main form of cooperation with Africa since the 1960s [529]. However, since the 2000s, the relations are fast expanding beyond capacity building to commercial activities, with the Chinese hoping to gain a foothold in markets such as the Kenyan one, i.e. relatively advanced and a hub to other East African regions. China's role in the sector, however, is still minimal compared to traditional partners and enjoys limited visibility, despite having expanded quickly in the past ten years. This applies in particular to areas where traditional development partners have not ventured such as the development of mega-infrastructure for health care vis-à-vis involvement in community-level projects, or the involvement in researching and developing traditional medicine.

Available English-language studies on China-Africa, let alone Kenya-China, health-related assistance and trade, are scarce. They tend to concentrate on China's motivations for providing assistance to African countries, rather than concentrating on an analysis of how Chinese assistance meets the needs of receiving countries/communities, and are strongly framed as South-South cooperation initiatives – only more recently starting to focus on the commercial side of the relations[530]. One of the most studied aspects is the dispatch of Chinese medical teams to Africa, as an example of historically rooted solidarity[531]. However, no studies are focusing on if and how these engagements are framed within African contexts or how they meet African development agendas. Despite the extreme importance increasingly attributed to healthcare cooperation by China's top levels, especially in FOCAC documents, relations with Kenya, as the cases below show, appear limited if compared to other sectors or Kenya's engagement with other partners. The selection of the aspects under analysis, then, was not consequential to

[529] See A. Li, 'Chinese Medical Cooperation in Africa', Discussion Paper, no. 52, Nordiska Afrikainstitutet, Uppsala, 2011; X. Wang, J. Zhu, and D. Zhang, 'China's foreign aid on human resources for health: Experience and implications', Journal of African Studies and Development, vol. 5, no. 5, September, 2013; Y. Huang, 'Pursuing Health as Foreign Policy: The Case of China', *Indiana Journal of Global Legal Studies,* vol. 17, no. 1, 2010;
[530] see Bräutigam, 2011, op. cit.
[531] See Li, 2011, op. cit.; Wang, Zhu, Zhang, op. cit.; Huang, 2010, op. cit.; D.H. Shinn, 'Africa, China and Health Care', *Inside AISA*, nos. 3 and 4, October/December 2006.

observations of increased involvement but rather reflected the need to understand what characteristics of the Kenyan environment distanced the country from the discourses and alleged continental expanding practices of healthcare cooperation with China.

This chapter focuses on understanding the decision-making process in Kenya when it comes to prioritising and negotiating health-related assistance projects and commercial activities for the development of the health system. The chapter unpacks the study of the system(s) of governance and the processes of engagement between actors, namely their interests and the modalities through which they negotiate, to contextualise China's assistance and commercial presence. The three cases selected to be explored represent three major types of engagement in healthcare cooperation between China and African countries, namely the development of trade in health products and devices, infrastructure for health, and traditional medicine. They embody very different forms of cooperation and assistance provision by China to Kenya. They also shed light on extremely different bureaucratic structures within the Kenyan health sector. The focus is not only on the Kenyan decision-making process to understand the rationale behind the choice of partners in healthcare assistance for development as well as in trade, but also - and most importantly for this sector - on how structures define actions.

Finally, this sector provides an opportunity to study complex dynamics belonging to both commercial and development assistance spheres of engagement. While the previous chapter focused mostly on trade, and the following chapter focuses mostly on development assistance, this one presents a mix of the two.

5.1.1 China-Africa healthcare cooperation

The chapter first looks at how healthcare cooperation is framed in China-Africa relations. Healthcare cooperation between China and African countries is set against a very articulate international context that involves "26 multilateral agencies, more than 40 bilateral donors, and 20 global and regional funds"[532]. Despite the long-term engagement between China and African countries in healthcare cooperation dating back to the 1960s, the relation was formalised, institutionalised and accelerated with the advent of the Forum on China-Africa Cooperation in 2000 and the

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[532] H. Feldbaum, K. Lee and J. Michaud, 'Global Health and Foreign Policy', *Epidemiologic Reviews*, vol. 32, no. 1, 2010, p. 83.

establishment of parallel forums[533]. These forums have been the platform for China to announce its commitments towards Africa (more so than vice versa, indeed normally "the two sides agree" but it is only the Chinese government that "offers") and to evaluate their progress. Far from meaning that all the projects carried out between China and any given African country are part of FOCAC, the Forum and its documents nonetheless provide an idea of what is being done, albeit general and rarely country-specific.

Though still mainly carried out at the state-to-state level these relations have begun to expand to people-to-people exchanges. The people-centred rhetoric is also the focus of the Ministerial Forum on China-Africa Health Development, held in Beijing in August 2013, defined by Li Anshan a "milestone" in China-Africa relations[534]. Li claims that this first ever meeting between Chinese and African health ministers demonstrates "commitment at the highest levels to jointly address health challenges". The Beijing Declaration, originated from the deliberations during the same Forum, states: "Under the theme of 'Priorities of China-Africa Health Cooperation in the New Era', we have recognised health as a central element of China-Africa cooperation, and its important role in developing China-Africa relations and in promoting friendship among our peoples"[535]. Li suggests that this recognition is a sign of "an ongoing evolution of China and Africa's joint efforts to be more strategic and sustainable"[536].

'More strategic and sustainable' seems to mean that increased attention is paid to working in close collaboration with African agents to make sure the engagements are beneficial to the specific needs of the country in question, rather than a one-size-fits-all approach from China. It also means that the relations need to move toward the inclusion of actors beyond the state-level in contributing to the provision/request of assistance (through CSR projects as explained in the section below on Development Assistance) as well as the development of commercial relations (to move from assistance to trade as explained in the section below on Trade). Whether this increased attention is consequential to the experiences the

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[533] China-Africa Forum on Traditional Medicine and adoption of the Plan of Action for the Cooperation of Traditional Medicine between China and African Countries, 2002; 2nd International Roundtable on China-Africa Health Cooperation, 2009; 3rd International Roundtable on China-Africa Health Cooperation, 2011; China- Africa Trade and Cooperation on Pharmaceuticals and Medical devices, 2012; 4th International Roundtable on China-Africa Health Cooperation, 2013; Ministerial Forum of China-Africa Health Development (part of FOCAC), 2013.
[534] A. Li, 'Milestone meeting charts a shared future in China-Africa health cooperation', *Thomson Reuters Foundation*, 16 August 2013.
[535] National Health and Family Planning Commission of the People's Republic of China, *Beijing Declaration*, China-Africa Ministerial Forum on Health Development, 16th August 2013.
[536] Li, 2013, op. cit.

Chinese government and companies had in Africa, is still not clear. It is important to mention that studies on the *African logics of inclusion* (i.e. the thinking behind the decision to 'add' China - or 'fit it in', à la Clapham - to the 'list' of donors from which to receive assistance, and to the list of partners with which to strike commercial deals) of China's assistance efforts and commercial penetration of drugs and devices are lacking. To better understand dynamics of assistance and trade, the two aspects are separated in the analysis below.

Development Assistance

The recognition of health as a priority in the development of China-Africa relations and in fostering friendship among the peoples is part of a broader discourse of South-South cooperation as well as, more recently, a strategy of Chinese soft power[537]. Despite China emphasizing the importance of *cooperation* while rejecting the donor-recipient approach of DAC-OECD members, as King points out, there seem to have been slight changes in China's discourses on cooperation and assistance, namely "an acknowledgement that in addition to the discourse of South-South cooperation which China maintains, it is also operating as a major aid agency"[538]. King suggests that "the shift from 'cooperation' to 'aid' reflects a sense of moving from being 'first among equals' in the non-aligned states and in the earlier period of opening up, to being now an emergent superpower"[539].

Since the first FOCAC in 2000, development assistance for health has continued to appear in the documents in the form of pledges related to social development. The focus of the assistance became, with time, more articulate. From an almost exclusive focus on Chinese Medical Teams, the engagement expanded its scope to the anti-malaria campaign, training African medical personnel, China-supported medications, facilities and hospitals in Africa, and Chinese medical cooperation with WHO and other international institutions[540] but also cooperation in the development of traditional medicine, anti-HIV/AIDS and other communicable diseases treatments as well as maternal and child health, and emergency response.

The dispatch of Chinese Medical Teams is considered one of the most effective forms of Chinese healthcare assistance to Africa[541]. Li Anshan reports that Chinese

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[537] Bräutigam, 2011, op. cit., p .8.
[538] King, 2013, op. cit., p. 7.
[539] *Ibid.*
[540] Li, op. cit., 2011, p. 7.
[541] Shinn, op.cit., p.15.

medical teams have treated 240 million patients around the world including in 44 African countries from 1963 to 2009, all but Egypt, Ivory Coast, *Kenya*, Mauritius, Nigeria, South Africa and Swaziland. Chinese Medical Teams have treated the most diverse diseases not just through modern medicine but also through Chinese traditional medical treatment, "especially acupuncture"[542]. Despite the fact that, as just mentioned, Kenya never requested/received a CMT, the issue is still worth of attention due to the nature of the cooperation, namely educational. It will, however, be addressed in Chapter 6 in the context of a more detailed elaboration of assistance towards human resources development.

Infrastructure is the area to which China allocates the largest share of aid[543]. However, due to transparency issues concerning China's release of data, it is hard to estimate the exact share or amount of aid allocated annually to infrastructure for healthcare. According to Bräutigam, up to 2009, China "had financed the building (and often equipping) of more than 100 hospitals and clinics worldwide, including 54 in Africa"[544]. The number probably included the 2006 FOCAC pledges to build 30 hospitals and 30 malaria centres. According to the White Paper on Aid issued by China in 2014[545], from 2010 to 2012 out of 580 construction projects built by China overseas – amounting to 52,4% of total aid disbursed - 80 hospitals were built.

Finally, in terms of medicines and medical equipment donations, China has provided a number of African countries with free medicines to fight malaria, cholera, tuberculosis, meningitis among others[546], equipment such as mosquito nets[547] and reproductive health medical equipment[548]. The single most important type of donation is that of the anti-malaria drug, Cotexin, developed in 1993 by the Chinese pharmaceutical company Beijing Holley-Cotec, later approved by the WHO and used, since 1996, by all Chinese medical teams – as per request from the Chinese Ministry of Health[549]. China's leaders visiting Africa have often offered Cotexin as a state gift[550]. Since 2006 another Chinese anti-malaria drug entered the scene, the Guilin

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[542] Li, 2011, op. cit., p. 18.
[543] Bräutigam, 2011, op. cit., p. 3.
[544] *Ibid.*, p. 4.
[545] Government of the PRC, 2014, op. cit.
[546] Shinn, op. cit., p.15
[547] Shinn, 2006, p.15
[548] E. Little, 'China's Smart Power in Reproductive Health: Reaching out to Uganda', in C. McGiffert ed., *Chinese Soft Power and Its Implications for the United States*, Centre for Strategic & International Studies, Washington, 2009, pp. 35-36.
[549] Li, 2011, op. cit.
[550] *Ibid.*, p. 16.

Pharmaceutical Company's Artesunate injection, approved by WHO and considered the most effective in the emergency treatment of malaria[551].

The need to find more sustainable solutions for the disbursement of assistance and the need to counter-balance negative perceptions in other sectors[552] may have led China to evolve its development paradigm from a state-led to one that includes private companies and non-governmental organisations in the disbursement of funds for assistance projects. In Kenya, for instance, CSR projects (from emergency response to poverty reduction/development) carried out by private or state-owned enterprises, are increasingly encouraged by the Chinese Commercial and Economic Counsellor's Office[553]. This was reportedly done so that the companies that are engaged on the ground would not only be associated with big projects but also with community-level developments. At the same time, the Chinese Red Cross has been collaborating with the Kenyan Red Cross on a few projects including the provision of humanitarian aid to drought-affected areas in 2011[554].

Trade

Healthcare cooperation among countries and multi-lateral agencies does involve not only development assistance but also trade in health-related products and services that is distinct from, but also intertwined with the provision of assistance. Bräutigam points out that "services that were formerly free would gradually be changed into jointly run hospitals, pharmaceutical factories, and other kinds of 'mutually beneficial cooperation,' in order to promote the export of China's pharmaceutical products and medical services"[555]. China's pharmaceutical companies have become competitive internationally and have started exporting, making the country "the market with the best comprehensive advantages and greatest potential for the future development"[556].

The China-Africa Trade and Cooperation on Pharmaceuticals and Medical devices, held in September 2012, was convened under the auspices of the East Africa Community and China Chamber of Commerce for Import and Export of Medicines and Health Products (CCCMHPIE) with the aim to "facilitate exchange of information

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[551] *Ibid*, p. 17.
[552] Such as infrastructure development.
[553] Interview with an officer at the Chinese Economic and Commercial Counsellor's Office, Nairobi, 2013-11-18.
[554] 'China's food aid to Africa and Agricultural Cooperation with African Continent', Government of the PRC via Reliefweb, Beijing, 23 August 2011.
[555] Bräutigam, 2011, op. cit., p. 8. Also see D. Bräutigam, *The dragon's gift: the real story of China in Africa,* Oxford University Press, Oxford, 2009, p. 118-119.
[556] B. Ochieng, 'Africa Focus: Kenya hails China's assistance in health sector', *Xinhua*, 19 July 2012.

on the potentials for expanded cooperation between China and EAC countries related to manufacture, technology exchange and trade in pharmaceuticals and medical devices"[557]. The CCCMHPIE Vice-President Meng Dongping pointed out that "along with the trade and cultural exchange, the healthcare cooperation between China and Africa has shown great potential with the trade volume maintaining an annual growth rate of 40 percent on average"[558]. Cao Gang, director of the CCCMHPIE, stated that "China is changing the historical lack of medicine"[559] in Africa mainly thanks to the "low prices and good quality of China's medical products"[560]. In fact, "Africa has become the largest export market for medicine made by China and one of the fastest-growing markets for Chinese medical products [...] The growth rate of exports to Africa was higher than that for European and North American markets in the same period"[561]. In terms of production, China still mainly produces in China, though a number of pharmaceutical factories were set up in countries such as Mali, Tanzania, Ethiopia and since the 1990s, "some Chinese-built pharmaceutical factories in Africa were privatized, and Chinese companies took equity participation as joint ventures"[562].

The major issue concerning the trade of pharmaceuticals revolves around the existence of counterfeit products. The Chinese authorities, in 2007 "closed more than 9000 unlicensed pharmaceutical factories, terminated nearly 400 counterfeiting operations and executed the head of China's State Food and Drug Administration for corruption. However, significant weaknesses remain in the regulation of pharmaceutical production in China"[563]. The fight against counterfeits involves governments as well as private companies and consumers in China and African countries (see the previous chapter for details).

5.1.2   Kenya-China relations

This section briefly introduces the system of governance regulating the health sector as a whole (while more detailed accounts are provided for each case below), explaining how external actors interact with domestic actors within the system.

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[557] *Ibid.*
[558] *Ibid.*
[559] Y. Wang ed., 'Africa becomes largest Chinese medicine export market', *Xinhua* via Embassy of the People's Republic of China in the Republic of Kenya, 4 November 2012.
[560] *Ibid.*
[561] *Ibid.*
[562] Bräutigam, 2011, op. cit., p. 4.
[563] *Ibid.*, p. 9.

The relations between Kenya and China in health care date back to the 1980s[564]. As in most cases, the engagement flourished in the 2000s with the provision of assistance by China and increased trade in medical products and devices. The emergence of Chinese services and products must be contextualised not only within Kenya's domestic system of governance but also in comparison to the rest of the continent. While the Kenyan healthcare system of governance presents shortcomings in terms of effective planning and delivery, it is, nonetheless, the most advanced in the East African region in policy terms as well as legislative, regulatory and institutional, occupying the 17th position, out of 52 countries[565] in the Health cluster of the Ibrahim Index of Good Governance (2013).

The public expenditure[566] in 2014 was 61.25% of the total health expenditure[567] whereas out-of-pocket expenditure was 26.1%[568]. External resources[569] for health amounted to 27.5%[570] of the total expenditure. The share of the government's total budget allocated to healthcare was 4%[571] of the total government budget, far behind the threshold of 15% of the total budget which was set as a target to be met by 2015 by African Governments in the Abuja Declaration in 2001. The government of Kenya is strongly supported and complemented, in policy-making and implementation, by development partners (at both bilateral and multilateral level) and implementing partners such as faith-based organisations, the private sector and civil society more broadly. As reported by Business Monitor International the Ministry of Health operates approximately 50% of health facilities, with the remainder run by the private sector, missionary organisations or the Ministry of Local Government[572]. For instance, the Catholic Church "operates nearly 30 percent of all healthcare facilities

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[564] Interview with an executive at the Ministry of Health, Medical Services, Nairobi, 2014-09-29.
[565] Rank over 52 countries where 1 is the best and 52 the worst.
[566] Public health expenditure consists of recurrent and capital spending from government (central and local) budgets, external borrowings and grants (including donations from international agencies and nongovernmental organizations), and social (or compulsory) health insurance funds. Total health expenditure is the sum of public and private health expenditure. It covers the provision of health services (preventive and curative), family planning activities, nutrition activities, and emergency aid designated for health but does not include provision of water and sanitation.
[567] World Bank statistics, 2014. http://www.indexmundi.com/facts/kenya/health-expenditure.
[568] As defined by the World Health Organisation "This is a core indicator of health financing systems. This indicator contributes to understanding the relative weight of private entities in total expenditure on health. It includes expenditure from pooled resources with no government control, such as voluntary health insurance, and the direct payments for health by corporations (profit, non-for-profit and NGOs) and households. As a financing agent classification, it includes all sources of funding passing through these entities, including any donor (funding) they use to pay for health". Available at: http://apps.who.int/gho/indicatorregistry/App_Main/view_indicator.aspx?iid=119.
[569] As defined by the World Health Organisation: "an indicator which refers to the origin of the resources used to purchase health services. Some of these external sources will be channelled through the government's budget, some through insurance agencies, some through the private or NGO sectors. As such, these funds cannot simply be added to those reported in the earlier breakdowns". Available at:
http://apps.who.int/gho/indicatorregistry/App_Main/view_indicator.aspx?iid=91
[570] World Bank statistics, 2014,
[571] World Bank statistics, 2014. http://www.indexmundi.com/facts/kenya/health-expenditure.
[572] Business Monitor International, *Kenya Pharmaceuticals and Healthcare Report*, Q4, Business Monitor International, 2014, p. 56.

which includes, but is not limited to 54 hospitals, 83 health centres and 311 dispensaries"[573].

In 2007 the Kenya Health Sector Wide Approach (SWAp) was introduced by the government of Kenya to guarantee that development partners' objectives were in line with the government agenda and to avoid duplication of efforts. Only the major partners adhered to the Code of Conduct, namely the US, UK, Denmark, Germany, Japan, the EU as well as representatives of multilateral agencies, while others including China have not, to date. The SWAp agreement emphasises:

> The need for donor agencies to align their health-related commitments with the Government of Kenya's development agenda. At the same time, it envisions that the government, NGOs and donor agencies will develop and employ common methodologies for planning, disbursement of funds, procuring commodities and reporting on program outcomes. The SWAp Code of Conduct also underscores the need for donors in Kenya to provide reliable commitments of aid over a multi-year framework in order to facilitate the Ministry of Health's planning process.[574]

China has not adhered to the SWAp [575] or registered with associations of manufacturers and service providers, such as the Kenya Healthcare Federation[576], thus detaching itself from the local institutional and associational environment. Notwithstanding this, the country is seen as an important partner for the achievement of development goals for three main reasons: for the trade in cheap quality drugs, for its infrastructure development capacity and the involvement in capacity building. On top of this, China is also seen as an important partner for its involvement in researching and developing traditional medicine. Although this latter form of engagement is only emerging, it is a potentially influencing source of soft power that draws upon Africa's historical dependence on traditional medicine and China's willingness to push for global recognition of TCM at the policy and legislative levels. Despite the relevance of traditional medicine for both African and Chinese contexts, the issue has been overlooked by Western regulatory institutions.

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[573] E. Otuki, 'Devolved health institutions to get subsidised drugs' *Business Daily*, 5 August 2013.
[574] Centre for Strategic and International Studies, 'Kenya: The big picture on health', *Smart Global Health* [website].
[575] Kenya has a preference of negotiating donors' support for health through the Sector Wide Approach, since 2007. It is a preference, not an obligation. This preference was identified as best practice to avoid duplication of efforts by development partners. The implications of such preference for China, which is not part of SWAp, are that Kenyan actors might not be willing to bypass the existing system of governance in order to negotiate with China. Their unwillingness might be rooted in the fact that for the actors involved, SWAp is the most meaningful approach.
[576] Branch of Kenya Private Sector Association (KEPSA) for healthcare.

The interest in promoting change internationally is accompanied by economic interests in creating a market for Chinese companies.

5.2   Kenya's responses

The interaction between Kenyan stakeholders in the healthcare sector vis-à-vis China mainly revolves around inserting a new player in a scenario well populated by long-present development partners and commercial actors. This implies learning about the way to match domestic needs with the Chinese offer of development assistance and trade linkages. It also means identifying what aspects of the system of governance should be preserved and what aspects could be improved through the engagement with China. The improvement of the health care system has emerged as a priority for Kenya since the 2000s. While some objectives were achieved, such as the curbing of the HIV-AIDS crisis, many others remain and represent challenges that have an impact on the industrialisation process the country is experiencing.

This section looks at how and why different Kenyan agents have made sense of their interaction with Chinese actors and how they have justified their actions domestically. In other words, it looks at the interplay between the interests emerging with the arrival of China and the existing systems of governance. Existing systems of governance are scrutinised to evaluate whether they are suitable to guarantee the safeguard of Kenyan actors' interests, be these old or new. *Opposite to the cases of the previous chapter where Kenyan actors' motivations to engage with the Chinese were triggered by social discontent, associated with an unwanted change in the systems of governance caused by the Chinese products/activities, in the case of healthcare the motivations to engage with China revolve around a less confrontational relation with the Chinese.*

The cases analysed below concern:

1. The entrance of Chinese health products and technologies in the public and private sectors. The study mainly looks at the different penetration rate of Chinese goods in the public and private sectors, which reflects the structural limitations that characterise the Kenyan system of governance and the significant role historically played by international organisations.

2. The negotiation and management by Kenyan actors of the infrastructural assistance provided by China, including equipment. This issue is relevant to evaluate how China's offers are contextualised within the Kenyan existing system of governance, highly dominated by multi-lateral institutions.

3. The engagement/cooperation in the development of the Natural Products Industry initiative. The study of this issue attempts to evaluate how Kenyan actors acknowledge the unsuitability of the system of governance to safeguard emerging interests and how they engage with China to improve it.

5.2.1 Trade in Health products and technologies

The main goal of Kenya Vision 2030, Social pillar, health care delivery is that to provide "equitable and affordable health care at the highest affordable standard to all citizens." [577] Chinese products are considered key to achieving Vision 2030's goals thanks to their extremely affordable prices and good quality. However, their entrance is subjected not only to market dynamics but also to a highly regulated system of governance, which, in conjunction with China's own limitations (China is only starting to emerge, internationally, as a producer of drugs and medical devices), acts as a force hindering, for now, deeper Kenya-China relations. This case sheds light on how the current domestic structuring of the sector (heavily reliant on international institutions) interferes with China's FOCAC pledges of providing medicines to African countries. This case is particularly interesting as it shows how important it is to account for sub-sectoral characteristics to understand the relations and the way the structure of a specific policy area can influence domestic and international agential relations.

Domestic and international regulatory institutions

Kenya is currently the largest producer of pharmaceutical products in the Common Market for Eastern and Southern Africa (COMESA) region. Of the region's estimated 50 recognised pharmaceutical manufacturers, 30 are based in Kenya and, together with circa other 12 local manufacturers, they produce a broad range of products for both the local and international markets (primarily essential generic medicines). Local manufacturing has capacity to produce formulations – mostly generic drugs – and package finished products. Manufacturers are, however, highly

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[577] Government of the Republic of Kenya, 'Kenya Vision 2030, The Vision', *Kenya Vision 2030* [website].

reliant on imports of Active Pharmaceutical Ingredients (API), "with local availability limited to 5% of the total industrial requirements"[578]. APIs, which are necessary to manufacture medicines, are imported from India, and increasingly from China[579]. Directly competing with local products are, historically, Indian products. Low prices and good quality are the main incentives for this long-lasting relationship. Indian companies produce in India mainly because APIs are available there. Generic medicines from India have been procured for decades by Kenya's public and private sectors. APIs are also procured from India, though China is increasingly entering the market.

Beyond generic medicines, Kenya is highly reliant on donors' assistance for the provision of drugs for communicable diseases such as HIV, malaria, TB. Especially in the case of HIV, according to the National AIDS & STI Control Programme (NASCOP), the situation improved substantially since 1999 to the point that "HIV is one of the Millenium Development Goals that we, in Kenya, achieved"[580]. In 1999 Kenya declared HIV/AIDS a national disaster. According to NASCOP "the government was looking for all sorts of partners", major ones becoming the US President's Emergency Plan for AIDS Relief (PEPFAR) and the Global Fund since 2003. JICA also provided significant assistance between 2006-2013, but the grant was not renewed[581]. In fact, the interviewee at NASCOP continues, "we need more partners, funding from traditional donors is reducing. We need to continue with the work and thus need to consider new partners, through the Ministry of Foreign Affairs. China will also be considered". Drugs procured through donor funding and NGOs are free of charge and must be WHO pre-qualified. The main diseases that fall under this category are HIV/AIDS, malaria, TB and reproductive health, *the same categories China pledges support for*. However, even though China has linked its aid to the United Nations summits on financing the Millennium Development Goals (MDGs), there seems to be a disconnect on how the country cooperates with international institutions in the context of Kenya. As a consequence, despite the fact that China's pledges well align with Kenyan needs, *China's lack of compliance with international mechanisms excludes it from the Kenyan market. In other words, Kenyan actors decide and choose to follow pre-set routes of multilateral cooperation rather than negotiating with China independently*.

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[578] Business Monitor International, op. cit., p. 71.
[579] Interview with an executive at the Pharmacy and Poisons Board, Registrar Division, Nairobi, 2014-02-07.
[580] Interview with an executive at the National AIDS & STI Control Programme (NASCOP), Nairobi, 2014-10-08.
[581] *Ibid.*

The entrance of Chinese products: procurement and distribution

As briefly outlined above, the option and choice to procure Chinese health products and technologies, as new as they are in the Kenyan context, vary according to a number of factors including international requirements to which Kenya subscribes, the capacity of manufacturing firms, and price and quality. Consequently, the entrance of Chinese products is very highly dependent on the existing governance system of procurement and distribution. While in other cases presented in this thesis, there are occurrences where existing governance systems are challenged by either the Chinese or Kenyan actors (in response to the Chinese presence), in the case of pharmaceuticals' trade, the system remains unvaried.

Local manufacturing covers ca 30% of Kenyan needs, the remaining is imported mainly from India, though Chinese products are increasing[582]. Kenya is the top one destination for Chinese products in East Africa (and sixth largest in terms of bilateral trade)[583]. CCCMHPIE Vice-President Meng Dongping stated that "in the past few years, trade between China and East Africa has maintained an annual growth of 20 percent amounting to 145 million dollars whereby in 2011 the bilateral trade between China and Kenya reached 78.87 million dollars, up by 21.5 percent year on year, making Kenya the largest market for China in East Africa."[584] Kenya, and in particular Nairobi, also act as a hub through which transit products for export to neighbouring countries.

Chinese firms produce in China, export to Kenya and distribute through *local* agents except for a couple of companies that distribute directly, mainly thanks to their size, the type of product exported and international recognition. Chinese manufacturing plants are not present in Kenya at the time of writing although they were set up in other African countries. Some believe that "if they set up their factory plants here then they win" by beating the costs India faces by producing in India and exporting to Kenya[585]. As a fact, "there was a Sino-Kenya government to government agreement that never entered into production"[586] though the reasons are unclear. Chinese products entering Kenya are mainly antibiotics and anti-malaria drugs but cover a broad range of medicines, including painkillers[587]. The only WHO pre-

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[582] Interview with an executive at the Ministry of Health, Pharmacy Department, Nairobi. 2014-09-30.
[583] Ochieng, op.cit.
[584] *Ibid.*
[585] Interview with an executive at the Kenya Pharmaceutical Association, Nairobi, 2014-01-31.
[586] Interview with an executive at the Pharmacy and Poisons Board, Registrar Division, Nairobi, 2014-02-07.
[587] *Ibid.*

qualified Chinese drug that is allowed on the Kenyan market is a medicine for severe malaria that became WHO recommended in 2012, time after which Kenya adopted the WHO regulation[588]. It is important to state that despite the impressive growth of China's pharma sector, the country's role in API production and supply[589] reminds that "the country's pharmaceutical industry remains positioned at the lower-end of the global value chain"[590]. Other foreign companies, from Europe and the US, provide donor-funded drugs mainly for reproductive health. Kenya also imports from them branded products primarily for tourists.

Below, a break-down of the systems of governance for drugs' registration, procurement and distribution.

Registration and quality control

The PPB asserts that Chinese drugs do not present particular problems during the registration phase. The only problem observed is due to language barriers. The PPB states: "we reject if we do not understand the language, not because of the quality but if you cannot put together a decent application then we doubt about everything else."[591] Those that do not register directly do outsourcing (this will be further expanded in the section below on manufacturing, procurement and distribution). Despite the existence of a relatively strong regulatory framework for the entrance of domestic and foreign drugs onto the market, according to a major actor in the private pharmaceutical sector, "the regulatory framework we have is good, but it could be stronger. The PPB's capacity is still weak in inspection and control. It needs to be strengthened so we can separate the good from the bad. The controls must not only be at entry but as a continuous monitoring process."[592] It is enough to say that the PPB has only started in 2013 to move away from the manual recording of registered drugs and use an online portal for registration, renewal, payment of operational licenses[593]. While the PPB affirms that there are thousands of Chinese companies applying for registration[594], there are no digital records of the medicines that have been approved and those that haven't. These weaknesses, in turn, leave space for sub-standard drugs to come in un-registered or for registered

[588] Interview with an officer at the Ministry of Health, Malaria Control Division, Nairobi, 2014-10-06.
[589] Y. Huang, 'Chinese Pharma: A Global Health Game Changer?', *Council on Foreign Relations* [website], 31 March 2015.
[590] *Ibid.*
[591] Interview with an officer at the Pharmacy and Poisons Board, Pharmacovigilance Division, Nairobi, 2014-10-07.
[592] Interview with an executive, Kenya Healthcare Federation, Nairobi, 2014-10-08.
[593] Business Monitor International, op. cit., p. 68; Interview with an officer at the Pharmacy and Poisons Board, Pharmacovigilance Division, Nairobi, 2014-10-07.
[594] Interview with an executive at the Pharmacy and Poisons Board, Registrar Division, Nairobi, 2014-02-07.

drugs to potentially not maintain standard levels of quality. However, it is difficult to ascertain whether the belief that "Chinese counterfeits have not entered the market"[595] is based on objective facts or a rule of thumb. Mostly, however, it is believed that counterfeit drugs come from India[596]. The problem with counterfeiting of pharmaceutical products was at the centre of a major dispute between pharma manufacturers/agents and the policy-making bodies during the drafting of the Anti-Counterfeit Act to the point that the section of the Act referring to medicines had to be suspended[597]. Even the PPB believes that, to a certain extent, the problem with counterfeits is more political than real: "Chinese and Indian drugs are so demonised. Some manufacturing companies produce the same drug for different pharma brands, it is the same drug, the same company and yet one brand is well received and the other demonised."[598]

The main problem concerning sub-standard drugs is the inefficiency of regulations' implementation, in particular, in follow-up phases. In 2009 the PPB introduced pharmacovigilance guidelines because, as affirmed by PPB "it was best practice. Pharmacovigilance is carried out throughout the world. We decided to adhere." [599] Pharmaco-vigilance mostly consists of clinical trials, studies of the medicine before it is registered, rather than follow up once the medicine is already in circulation. This is done for only a portion of drugs that undergo clinical trials in Kenya or for drugs that give adverse reactions. The PPB says that they "do re-active pharmacovigilance, rather than pro-active"[600]. So, even if checks are done during registration and all requisites are satisfied, when the medicine is shipped it could be anything else [601], and the mechanisms in place to control are undermined by implementation constraints including lack of personnel and corruption.

Procurement and distribution: Public sector and programme items

The procurement of pharmaceutical products is mainly divided into[602]: APIs, essential drugs (first line treatment, i.e. stock items in hospitals), programme items (drugs targeting specific diseases such as malaria, TB, HIV and reproductive health),

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[595] Interview with an executive at the Kenya Pharmaceutical Association, Nairobi, 2014-01-31.
[596] *Ibid.*
[597] Interview with an executive at the Pharmacy and Poisons Board, Registrar Division, Nairobi, 2014-02-07.
[598] *Ibid.*
[599] Interview with an officer at the Pharmacy and Poisons Board, Pharmacovigilance Division, Nairobi, 2014-10-07.
[600] *Ibid.*
[601] Interview with an executive at the Ministry of Health, Pharmacy Department, Nairobi. 2014-09-30.
[602] Interview with an officer at the Kenya Medical Supplies Agency (KEMSA), Procurement-Donor Funded Projects Division, Nairobi, 2014-09-17.

medical supplies (dressings, nursing care, etc.). The public sector does not procure APIs but only finished products, whereas the private sector imports ca 90% of APIs for distribution to Kenyan manufacturers and finished products. The Kenya Medical Supplies Agency (KEMSA) is a semi-autonomous institution responsible for supplying drugs to public facilities. It does so through an open tender system financed by the Ministry of Health. KEMSA competes with other distributors, the main one being MEDS in the private market[603].

The procurement pattern in the public sector varies according to the type of drug, whether essential, programme items or medical supplies. Regarding essential drugs, they are 70% locally manufactured and 30% imported. The locally manufactured include Kenyan and Kenyan-Indian, but also multi-nationals such as GSK. Programme items (must be WHO qualified) are close to 100% imported from India with a small percentage coming from Europe and the US for reproductive health. According to KEMSA Chinese companies rarely win the bids for this type of drugs, except from one single case for which the pre-qualified drug only comes from China and it is a medicine to cure severe malaria produced by a major Chinese pharmaceutical company[604], which, as mentioned above, was adopted by WHO as first-line treatment in 2012. In terms of medical supplies, the scenario changes as 70% are imported with only 30% locally manufactured. Of the imported goods, 70% comes from China and the rest from India and other countries, with "only a small portion from the developed world"[605]. The relations KEMSA maintains with Chinese companies are limited and, so far, not consistent in terms of procurement, which, the agency stresses, "takes place through competitive bidding". The statistics provided, however, are an indication of an increased presence in the past few years.

Still part of the public governance system but following a different trajectory are the donations of medicines. According to KEMSA "usually we do not request them, but they come out of bilateral discussions"[606]. In 2003 the Chinese government donated a batch of malaria drugs to the government of Kenya. The donation was administered by KEMSA and was channelled through the Global Fund[607]. An MOU was signed by the Treasury and the Chinese government in the presence of the

[603] Business Monitor International, op. cit., p. 68.
[604] Interview with an officer at the Ministry of Health, Malaria Control Division, Nairobi, 2014-10-06.
[605] Interview with an officer at the Kenya Medical Supplies Agency (KEMSA), Procurement-Donor Funded Projects Division, Nairobi, 2014-09-17.
[606] Interview with an executive at the Ministry of Health, Medical Services, Nairobi, 2014-09-29.
[607] Interview with an executive at the Ministry of Health, Pharmacy Department, Nairobi, 2014-09-30.

Ministry of Health[608]. In 2007/2008 there was another donation but, according to KEMSA, the anti-malaria drug donated was not in line with the approved treatment and had to be donated to neighbouring countries except from a share of it that, after being approved by the Director of Medical Services, was used in selected geographic areas where main commodities had run out. According to other sources, the main problem with the donation was that despite being a registered product its shelf-life was short[609]. In 2010-2011 the Chinese government gifted another batch of duocotexin and injection artemisin through the Medical Services and Public Health Division. On top of conventional medicines, in 2011/2012 the government of China also donated herbal medicines, through the Ministry of Health, for the treatment of HIV.

The PPB's guidelines for donations mainly restrict the expiry date and the quality although donations, if the drug is registered in the country, are not subjected to follow-up mechanisms. In the forms attached to the donation, donors must justify why that product cannot be sourced locally, then sign the agreement. According to the PPB, "our focus is on avoiding the dumping of low-quality products. Some donations come, and you see in the box that some tablets have been used already."[610] These occurrences, however, are not unique to donations from China.

Procurement and distribution: Private sector

MEDS is the equivalent of KEMSA for the private sector. According to sources interviewed at the institution, MEDS has no substantial experience in procuring products from China. The private sector rather procures from China mainly through agents. The sector's institutional environment is organised and vocal. The Kenya Healthcare Federation (KHF) is the umbrella body that gathers corporate members as well as institutional and professional associations ranging from small to large hospitals and clinics, from doctors' associations to pharmaceutical manufacturing ones and so forth. The Federation is comprehensive enough that analysing its relation – through reports of members' behaviour – with China, is here considered sufficient to generalise for the sector.

According to KHF no Chinese company requested membership, probably because they are not directly present in the country, but are rather represented by agents.

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[608] *Ibid.*
[609] Interview with an officer at the Pharmacy and Poisons Board, Pharmacovigilance Division, Nairobi, 2014-10-07.
[610] *Ibid.*

However, "most Chinese products on the market are represented by one or more of our member companies"[611]. KHF believes that Chinese companies, especially those that are operating in Kenya directly (i.e. without intermediaries), should stop avoiding the institutional environment, and join the network. KHF suggests that "it would be good for them to join us as we provide networking and it would be good for them to get integrated into the Kenyan system rather than just acting on their own"[612].

The private sector trade with China mainly revolves around equipment and, more significantly, active pharmaceutical ingredients. All 42 Kenyan pharma manufacturing companies use imported APIs, and imports from China compete with those from India. Between India and China, they cover ca 90% of the market[613] where India covers 30% and China 70%[614]. Until 2011/2012 the private sector was highly dominated by Indian products for the pharma side, and by European and American products for medical products and devices. While in pharmaceuticals' trade Chinese companies have not explored the market – they rather act through local agents – in the trade of medical products and devices "quite a share of the market is taken by Chinese products"[615]. One of the reasons believed to be keeping Chinese companies away from investing directly is that "the sector is dominated by a number of forces and the cost of investment is too high, 25 million USD is the starting point. That is why the Chinese are not penetrating too much"[616].

Beyond this complex domestic system of governance which obstructs the penetration of Chinese products, the negative perception associated with the quality of products coming from China also has a significant impact on the possibility for the Chinese to get a share of the market. Particularly regarding medical devices, the fact that Kenyan facilities are historically accustomed to products from Europe and the US makes it difficult to open to Chinese goods, which are currently mostly distributed to level 2 or 3 clinics/hospitals in the private sector. These are smaller facilities, not the top end of the private. According to sources, the reason why they serve these hospitals is that they are cheaper. A number of agents noted that the

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[611] Interview with an executive, Kenya Healthcare Federation, Nairobi, 2014-10-08.
[612] *Ibid.*
[613] *Ibid.*
[614] Interview with an executive at a Kenyan-Indian company distributing medical products and devices, Nairobi, 2014-10-15.
[615] Interview with an executive, Kenya Healthcare Federation, Nairobi, 2014-10-08.
[616] Interview with an executive at a Kenyan-Indian company distributing medical products and devices, Nairobi, 2014-10-15.

lower costs of Chinese products sometimes equals to low quality but often does not. This variation is found also in products from other countries.

Structurally-defined governance

This case shows how the entry of Chinese products in the Kenyan market is subjected to a highly regulated system of governance, both in private and the public sectors. The interests at stake are diversified, ranging from national interests to curb the cost of health care, thus looking at China as an opportunity, to the more specific interests of stakeholders such as private sector manufacturers, distributors, who look at China through a lens of market competition, to technical officers in public institutions, who look at China through a lens of abidance to procedural standards. This system is highly intertwined to the international environment, dependent upon international institutions for its survival. Within this international context, China is not, yet, a particularly strong player (China is only starting to emerge, internationally, as a producer of drugs and medical devices), and Kenyans' evaluation of the benefits of engaging with China are informed by the Chinese relative weakness in the sector. As a result of these structural conditions, the Chinese official rhetoric, according to which China is changing the historical lack of medicines in Africa, is only limitedly catching on in Kenya.

In the public sector, while the lack of resources may give rise to asymmetrical dynamics with Chinese actors, the presence of a strong system of governance mostly prevents this from occurring. The presence of international institutions is the main factor interfering with trade dynamics. Procurement takes place through competitive bidding and, especially because of international institutions, it is difficult to bypass it. Because of these international institutions, the procurement process does not favour Chinese products, which are mostly non-WHO prequalified.

In the private sector, dynamics are subjected to the existence of a strong structure where a few companies have historically dominated the stage, mainly Indian/Kenyan-Indian. The lack of government intervention to regulate the sector has provided space for purely free market dynamics where Chinese products are only partially gaining prominence, mainly in the area of medical devices, rather than pharma finished goods, where the Kenyan manufacturing ability is limited, and the products from Europe/US are significantly more expensive.

In other words, both in the public and private sector, Chinese products are used to fill a gap in the system rather than used to change a system that is broadly accepted as *suitable* to safeguard the interests of different stakeholders. This is a story of resilience to safeguard interests through existing governance systems.

5.2.2 Infrastructure for healthcare

In Kenya Vision 2030 and the Kenya Health Policy 2012-2030 there is particular emphasis on the need to develop "adequate and appropriate health infrastructure". The presence of China in infrastructure development for healthcare is new in Kenya and less wide-spread compared to older traditional partners', but the magnitude of the projects developed is comparatively more impressive, i.e. major hospitals rather than community-level dispensaries. The importance of studying this aspect of the relation is to shed light on the negotiation process between Kenyan stakeholders so to understand the motivations behind the selection of the Chinese partners (or the acceptance of Chinese offers of assistance) and the definition of contract details. The presence of China, as in the case presented above, is relatively new and enters a system of governance that is highly regulated by multilateral institutions.

Kenya-China Infrastructure for healthcare

The presence of China in providing infrastructure for health is relatively recent in Kenya. The number of projects developed is relatively small, but significant in terms of visibility given they are major hospitals, vis-à-vis smaller projects carried out by traditional development partners[617]. The Chinese have engaged in the construction of hospitals as big as Mama Lucy or Kenyatta Teaching and Referral Hospital. Before 2006, when the negotiations for the building of Mama Lucy Hospital started, Japan was the major donor in infrastructure for health, together with the UK. Since then, however, China's involvement increased to the point of delivering the construction and equipping of Kenyatta Teaching and Referral Hospital. Under Kenya Vision 2030, one of the priorities is "improving the nation's health infrastructure, particularly in rural and severely deprived areas and communities."[618] As shown below, the construction of major infrastructure by China

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[617] Interview with an officer at the Ministry of Health, Infrastructure Development Division, Nairobi, 2014-09-30.
[618] Government of the Republic of Kenya, Kenya Vision 2030, *First Medium Term Plan 2008-2012*, Government of the Republic of Kenya, Nairobi, 2008, p. 104.

is not exactly in "rural and severely deprived areas and communities" but rather orbiting around, mainly, the city of Nairobi.

While the main projects regarding healthcare infrastructure outlined below are hospitals, it is important to mention that Kenya also received a donation from China in 2009 to set up a malaria centre and has approached China to fund the mobile clinics' project. At the time fieldwork was conducted the Ministry of Health had submitted a proposal to the Treasury asking to engage the Chinese government in funding the mobile clinics project aimed at nomadic populations who do not have easy access to healthcare facilities. The initiative originated from the Ministry of Health and was elaborated to take form through a loan from China. Further investigation will be needed to follow up on the realisation of the initiative.

China has provided Kenya with both *grants* and *loans* for the construction of infrastructure for healthcare. The type of provision, i.e. grant versus loan, is at times suggested by China, at other times it is negotiated at the Ministerial level in Kenya and put forward as a request to China. The support provided by China in the case of Gatundu and Mama Lucy hospitals is in both cases in the form of a grant, in which case:

> The Chinese are given the leeway to appoint a contractor from China. They appoint a contractor who can undertake the magnitude of that work. Once agreed it is a grant, with the letter of economic engagement they are allowed to choose their own companies in China to come and implement the project in the country. They only bring in their technical people, but general labour should come from the local area of the country. The Chinese benefit for their technical people, but Kenya benefits as the project benefits locals and the labour force comes from the country[619].

However, if it is a loan, "it is not mandatory that you use a Chinese company. Then it is open to all. But if combining a loan and a grant, the condition may be set as the Chinese are given preference"[620]. There are generally no other conditions attached by the Chinese, except the fact that the land must be made available, the Kenyan government must be responsible for facilitating the exemption of taxation for imported material and where there is no exemption, VAT and development levy

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[619] Interview with an officer at the Ministry of Health, Infrastructure Development Division, Nairobi, 2014-09-30.
[620] *Ibid.*

should be paid by the beneficiary, that is, in this case, the Ministry of Health. Alternatively, if not paid in the first place by the Ministry, a refund should be provided. On top of this, the Kenyan government must facilitate the work permits for the Chinese entering the country to work for the project and ensure the safety in the areas where the project takes place[621].

In the cases presented below, Kenyan actors' behaviour is mainly pro-active (meaning Kenya engaging China) though set within a more general Chinese agenda of healthcare diplomacy and economic interests. In other words, in all the cases of the four major hospitals funded by China, of which two as grants and two as loans, the idea to ask for funds to China originated at Ministerial level in Kenya (either at the Ministry of Health or Treasury). The only case when the Chinese directly approached the management suggesting their availability to sponsor the construction was the case of Kenyatta Teaching and Referral Hospital.

Malaria Centre

As for the malaria centre, it deserves separate attention in light of the fact that it is one of the flagship projects promoted by the Chinese in FOCAC documents as part of their health diplomacy. The centre was not requested; it was rather a spontaneous donation by the Chinese government. According to sources "[the Chinese] originally started the Malaria Centre. They wanted to set it up in a hospital on Mbagathi Road, but there was no space. We suggested another hospital, Mama Lucy, but it was too far for them. And then they came here; it is only a room, a small centre" set up at Kenyatta Hospital[622]. Beyond equipping the centre with microscopes, a PCR reader and fridges, under the Public Health Laboratory, China also provided training for staff on malaria and, more recently, a bus[623]. It is apparently the Chinese Embassy that fosters relations although it is not clear under which Chinese Ministry this is done.

China does not, however, figure as one of the main partners of the Kenyan Malaria Control Division, the main ones being, in order of share: USAID, Global Fund, DFID[624]. According to Kenyan sources, despite the donation, the lack of previous connections with China and the consequent inability to judge "how they work" is an important reason why the engagement is not developed vis-à-vis that with partners like DFID

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[621] *Ibid.*
[622] Interview with an officer at the Ministry of Health, Malaria Control Division, Nairobi, 2014-10-06.
[623] *Ibid.*
[624] *Ibid.*

that have "been here since time immemorial and we know how they operate."[625] The other essential element is that the Malaria Control Division - under the Ministry of Health – while leaning on the strengths of multi-lateral cooperation (it "thrives for partnerships"), is bound by the existing system of governance. This means that it cannot single out a partner as coordination is at multi-lateral level. This is an important aspect of the relation with China that repeats itself in different contexts, underlining, potentially, the importance of weighted decision-making on the part of Kenya, and structural limitations. In other words, Kenya is structurally dependent on multilateralism and not willing to shift to bilateral negotiations.

Mama Lucy Kibaki Hospital

Below the case of the construction of Mama Lucy Kibaki Hospital is presented, at times comparing it with the cases of Gatundu, Moi and Kenyatta Teaching and Referral hospitals. Mama Lucy Hospital is one of the major four hospitals whose (re/)construction was funded by the Chinese government in the past ten years through either grants or loans. The others being: Gatundu (grant), Moi Teaching and Referral Hospital (loan requested but not given), Kenyatta Teaching and Referral Hospital (loan). The reason why Mama Lucy was chosen as a full case is that the project was completed and is running. The others were either partly running or still in negotiation/construction at the time of fieldwork, and it resulted being tough to get in touch with the management in charge of overseeing the project. This presented research complexities mainly because the only actors that could be interviewed were at ministerial level. The aim is, on the other hand, to show how different Kenyan actors engaged Chinese actors in the initiation phase and partly in implementation.

In 2006 the Ministry of Health suggested that the area of Kayole in Nairobi had no hospital and needed one to cater for circa two million people. At the same time, then President Kibaki went on an official trip to China, and through bilateral talks, he secured a grant of Sh544 million from the Chinese government to build the hospital. Once the Treasury signed the deal, the Ministry of Health engaged the constructor and signed an agreement for implementation[626]. The agreement was contemporary to the third FOCAC Action Plan (2006) in which, quantifiable

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[625] *Ibid.*
[626] Interview with an officer at the Ministry of Health, Infrastructure Development Division, Nairobi, 2014-09-30.

initiatives were announced, including the commitment to build more than 30 hospitals across Africa. Mama Lucy was one of them.

The hospital was a donation whose contract included building and equipment (including CT scan, theatre equipment, generators). The Kenyan government contributed with land, water, security, consumables and other equipment, and human resources [627]. Through the Kenyan government, circa 15 hospital staff members were trained in China for three months, including bio-medics, nurses, physiotherapists, lab technicians, administrators[628]. Chinese experts in the above fields were never sent to Mama Lucy Hospital, a trend that is observed in Kenya where Chinese (modern medicine) doctors are extremely few, especially in the public sector[629]. The human resources aspect will be dealt with in more detail in the Education chapter.

Negotiation

The main issue concerning this case revolves around establishing and honouring the terms and conditions not for the building of the infrastructure but rather for the structure's equipment provision. The negotiation can be divided into two phases. The initial phase was characterised by the agreement signed between heads of state. It did not follow standard procedures as the contract was never fully commented upon by technical officers. The hospital at that stage was non-existent, there was no management and all the decisions were taken at the Ministerial level or above. The monopoly of the negotiation was in the hands of "the big bosses" and technical experts "couldn't say much"[630]. The second phase, on the other hand, shows a shift in the negotiation process. By then the hospital was running, and the management was in place. The existence of this latter guaranteed more transparency as it contributed to outlining the specifications of the equipment and to selecting it.

In the first phase, the equipment supplied was new, but its technology was old, its durability limited and had to be replaced partly with hospital funds, partly with a grant from the Kenyan government[631]. The age of the equipment was not the only problem; there were also issues with the power supply rating, different from that of Kenya, and with after sale service and support which was difficult to obtain. The

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[627] Interview with an executive at Mama Lucy Kibaki Hospital, Nairobi, 2014-10-14.
[628] *Ibid.*
[629] Interview with an executive at the Medical Practitioners and Dentists Board, Nairobi, 2014-12-5.
[630] Interview with an officer at the Ministry of Health, Medical Engineering Division, Nairobi, 2014-11-18.
[631] Interview with an executive at Mama Lucy Kibaki Hospital, Nairobi, 2014-10-14.

hospital's management is clear in expressing that the problem was on the Kenyan side rather than the Chinese inasmuch as it was the duty of the Ministry to set the specifics for the equipment provision. According to an interviewee at the hospital, "it was a failure from our side. The Chinese are clear and consistent; they want to assist and want to have a foothold in the Kenyan market." [632] The lack of communication between the hospital and the Ministry does not only exist in relation to Chinese-supported projects but with other donors too. For instance, the Ministry signed a contract with the World Bank for the provision of equipment while the hospital points out that immediate needs do not concern equipment such as MRIs but rather human resources and extra building space. In the second phase, however, the negotiation was less concentrated, and the management of the hospital was included in the decisions concerning the outlining of the equipment specifications. Consequently, the machines received turned out to be not only appropriate to the hospital's actual needs but also of excellent quality.

It is important to emphasise that the Ministry of Health needs not be studied as a unitary bloc. Technical officers at the Ministry mentioned that "there are guidelines by the Ministry of Health on equipment, but they are difficult to implement for donations."[633] Except for the equipment classified as high risk, the rest is difficult not to accept when it is a donation. This is the reason why the Ministry of Health prefers to ask for loans rather than grants, "with loans it is easier to abide by the law. However a lot of the equipment by China comes through a grant, so there are problems"[634] mainly because, due to the nature of the funding, i.e. a grant rather than a loan, there is no open bidding and at the Ministry of Health sources in technical departments report that only when the Chinese have selected the company for the provision of equipment the Ministry can then choose among available products, adding that "since you are given it for free, you don't speak too much, even if it's not very good." [635] Another problem seems to have been concerning the language: "once policy makers signed the papers, bureaucrats have language problems when it comes to specifications of equipment and supplies. This leaves leeway to the discretion of the supplier."[636]

[632] *Ibid.*
[633] Interview with an officer at the Ministry of Health, Medical Engineering Division, Nairobi, 2014-11-18.
[634] *Ibid.*
[635] *Ibid.*
[636] Interview with an executive at Mama Lucy Kibaki Hospital, Nairobi, 2014-10-14.

Evolving governance patterns

This case is characterised by the presence of a rooted system of governance, historically dependent on multilateral international institutions as well as foreign funds. The Ministry of Health is a relatively weak ministry in Kenya due to its high fragmentation and to the heavy reliance on multilateral donors. It is important to remember that even though Kenya is much less dependent on ODA than the majority of African countries, the health care sector is the exception. Given the volatility of aid provision, the strengthening of domestic capacity has been inconsistent[637].

China thus enters a system where actors are accustomed to negotiating with traditional partners within multilateral settings, while less institutionally strong to negotiate bilaterally. Kenya is partly unable, partly unwilling to negotiate at the bilateral level. Both aspects are consequential to the country's strong dependence on international donors. *Inability* is due to the fact that volatility in donors' funding has exacerbated inconsistent training and thus availability of well-prepared human resources. While these resources have gathered experience (albeit limited) in negotiating at the multilateral level, they have not done so at the bilateral level. Even more, while they have gained experience in negotiating with traditional partners, they lack experience in dealing with China. *Unwillingness* is instead due to the fact that Kenya has identified multi-stakeholder cooperation as a best practice, vis-à-vis bilateral cooperation.

The ability of Kenyan actors to act to safeguard their interests is subjected to fluctuation. While on the one hand the provision of Chinese assistance (sometimes as grants, sometimes as loans) has been welcomed by Kenyans on the whole, the interference of the political elites, including high-level bureaucrats in the negotiation of the contracts has been resented by the technocrats who were unable to leverage their recommendations and guarantee the safeguard of procedural standards in the contracts.

This applied to both the content and the modality of interaction. In terms of content, the absence of technical staff during the negotiation of contracts has resulted in the provision of infrastructure that was selected by the Chinese and not suitable for Kenyan standards. In terms of modality, China's non-adherence to multi-lateral frameworks exacerbated the inconsistency in negotiations where high-politics fill the many gaps existing in the governance framework. Particularly in

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[637] See Mwega, 2009, op.cit.

relations to infrastructure, including technological infrastructure, much needed in the country, the asymmetrical relations with China (and with most external partners) lead the bureaucracy to an inability to control the negotiation process.

The construction of Mama Lucy Hospital was the first important work of infrastructure assistance in health provided by China to Kenya. The unfamiliarity in negotiating with the Chinese and the consequential learning curve seems to have played a role in shifting strategy and setting stricter rules for the negotiation of the second phase of equipment provision. However, a bigger problem seems to persist between the Ministry and the hospital, not because of the Chinese presence, but because of lack of communication concerning priorities setting. While the inability to coordinate across the national bureaucracy impacts negotiations with all donors, not only China, the lack of experience with the latter further exacerbates the problem.

5.2.3 Traditional Medicine

Since the early 2000s traditional medicine has been gaining momentum worldwide and in Kenya. In 2002 the WHO launched its first traditional medicine strategy. In the same year, the first China-Africa Forum on Traditional Medicine was held in Beijing. The Chinese system was already one of the most advanced for traditional medicine research and policy development. The diffusion of traditional medicine abroad had been part of China's healthcare diplomacy, through the dispatch of Chinese Medical Teams, since the 1960s[638], as forms of South-South cooperation. The engagement with African countries became institutionalised in 2000 with the first FOCAC action plan in which the promotion of cooperation in the use of traditional medicine and pharmacy was pledged. In Africa, up to 80% of the population uses traditional medicine to help meet health care needs, whereas in China 40% of all healthcare delivered comes from traditional medicine[639].

The aim of studying this case is to shed light on how a new aspect of development is identified, pushed forward in policy and legislative circles and the choice of partners made to achieve desired outcomes. Like in the other cases presented in this chapter, the relation with the Chinese is not studied because of the challenges caused to Kenya (some, but limited), but because of the choice of Kenyans to

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[638] The first Chinese Medical Team in Africa was dispatched to Algeria in 1964.
[639] World Bank, 'Traditional Healer Services', *The World Bank* [website].

establish a relation with China for the improvement of the system of governance. The case under study is that of the Natural Products Industry initiative, and the purpose of the analysis is to explain: 1) how the decision-making process was articulated across platforms and by a number of different stakeholders; 2) the extent to which Chinese expertise was purposely sought and used to develop a domestic industry.

While the fragmented domestic governance environment has led different stakeholders to engage each other with caution, the nature of the issue at stake, i.e. the development of the sector through the Natural Products Initiative, has also seen them work in collaboration. The development of the NPI initiative did not originate in a vacuum. It is thus important to briefly outline the social constraints as well as the policy and legislative domestic and international imperatives out of which such initiative was born. This is particularly relevant as China has shown interest in using traditional medicine as a tool of soft power not only to attract African governments and people but also to use their support to increase the profile of TCM on global platforms such as the WHO, where traditional medicine has been for long overlooked.

In other words, the analysis below looks at how the actors involved in the system of governance have recognised its unsuitability to safeguard emerging interests and have used the relationship with China to improve the system of governance.

The Witchcraft Act 1925

In 1925, the British government enacted the Witchcraft Act, Cap.67, Laws of Kenya, which was later revised in 1962 and 1981 but never repealed to this day. Anything relating to traditional medicine was associated with witchcraft as part of a broader demonization of African traditions. Modern health services were introduced, and they replaced what was seen by colonial authorities as primitive practices [640]. The practice survived but only underground and it started being accepted as not illegal only towards the end of the 1970s, more precisely in the 1979-83 Development Plan, although the "legislation continued to abstain from the regulation of traditional medicine"[641].

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[640] P. Ongugo et. al, *Protecting Traditional Health Knowledge in Kenya: The role of Customary Laws and Practices*, International Institute for Environment and Development, London, 2012, p. 9
[641] *Ibid.*

According to the National Health Practitioners Association (NATHEPA[642]), this lack or gap in the legal and policy frameworks opened the door to foreigners. It was somewhat easier for foreigners to practice than for locals, "there was segregation, and this put Africans last"[643]. The government started providing "licenses to healers from China and India to open traditional health-care practices"[644]. At the same time, especially Asians, i.e. Indians, had been in Kenya for decades and kept practising. The 1980s and 1990s were years of opening up and officialization of traditional medicine, uplifting it from the negative connotation that had characterised the practice since the colonial period. With the 2000s, as the international environment started paying increased attention to matters revolving around traditional medicine, Kenya too advanced more rapidly. Multi-stakeholder workshops and other activities were held to formulate a policy to sustain and develop the practice[645]. In the process of sector's restructuring, China represented a governance system to emulate.

Traditional Medicine developments in the 2000s-2010s

Since the early 2000s traditional medicine has been gaining momentum worldwide and in Kenya. In 2002 the WHO launched its first traditional medicine strategy, and the Kenyan government signed the international agreement that pledged to put regulatory mechanisms in order. In Kenya, "stakeholders in traditional medicine and medicinal plants have been holding workshops and other activities to come up with a policy to sustain and develop the practice"[646]. After two national conferences in 2001 and 2003 organised by the Ministry of Health aimed at producing a Bill of practice in traditional medicine, and the creation of a committee and sub-committees led by the National Council for Population and Development (NCPD) in the Ministry of Planning and National Development, a policy named 'Traditional Medicine and Medicinal Practice' was drafted in 2005. According to stakeholders, the policy was "not the best policy" [647] but provided a much-needed guideline to emerge out of a vacuum that was not guaranteeing the proper protection of the products and practice. Next to it in 2009 the 'National Policy

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[642] NATHEPA is an association of traditional medicine practitioners, that the Ministry of Culture decided to create with the intent of uniting practitioners so they could have more leverage in negotiating their interests.

[643] Interview with a professor of pharmacy and traditional medicine at Kenyatta University, 2014-11-04.

[644] Export Processing Zones Authority, *Kenya's Pharmaceutical Industry 2005*, Export Processing Zones Authority, Nairobi, 2005, p. 4.

[645] Ministry of Sports, Culture and the Arts, 'Draft of the National Policy on Traditional Medicine and Medicinal Plants', Ministry of Sports, Culture and the Arts, Nairobi, September 2005, p.6

[646] *Ibid.*

[647] Interview with an executive at the Ministry of Culture, Traditional Medicine Department, Nairobi, 2014-10-10.

on Culture and Heritage' came into existence officially strengthening the value of traditional medicine and the steps the government should have taken to integrate it into the national health care system.

The 2010 Constitution acknowledged the importance of traditional medicine and included a note on the duty of the state to "protect and enhance intellectual property in, and indigenous knowledge of, biodiversity and the genetic resources of the communities"[648]. Researchers noted that "TM was becoming much more recognised by politicians and policy-makers. People were coming out to put products on the market"[649]. In the same period the 'Traditional Medicine and Medicinal Plants Bill 2010' was drafted and presented to Parliament for discussion. The Bill made provisions for the establishment of a Council to spearhead the management of traditional medicine and to regulate traditional medicine practitioners. At that point also the PPB realised that the products had to be registered and issued the 2010 guidelines for the 'Registration of Herbal and Complementary Products'. The guidelines targeted the products only, not the practice although "separating them is very difficult. This is what the policy is trying to do"[650]. In 2013 when the II Medium Term Plan of Kenya Vision 2030 was launched, a pledge was added highlighting the importance of "Develop[ing] policies and guidelines to embrace research on alternative medicines (natural products) underpinned in the legal and institutional framework"[651] and the Natural Products Initiative became a flagship project under the economic pillar with an emphasis on research and manufacturing based on "locally derived natural health products"[652].

The year 2014 was marked by the publication of two important documents for traditional medicine, namely: the Traditional Health Practitioners Bill 2014 and the Health Bill 2014 which included a full section (Part VIII) on traditional and complementary medicines that, albeit still vague, provided for the establishment of a regulatory body, the documentation and mapping as well as standardization of traditional medicine, and the development of policy guidelines for integrating conventional and traditional medicine systems. The Ministry of Health, despite not being the main responsible for traditional medicine (nonetheless having a division for traditional medicine), has shown interest in the budgetary aspects relating to the

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[648] Government of the Republic of Kenya, *Constitution of Kenya,* op. cit. Part II, Art 69 (1) (c).
[649] Interview with an executive at the Kenya Medical Research Institute (KEMRI), Nairobi, 2014-11-05.
[650] *Ibid.*
[651] Government of the Republic of Kenya, *Kenya Vision 2030, Second Medium Term Plan 2013-2017*, op. cit., p. 81.
[652] *Ibid.*

inclusion of the use of traditional medicine in the national framework of health provision. By being cheap and locally available, traditional medicine would be an asset for the Ministry to cut costs on drugs' expenditure. Once the Health Bill 2014 becomes an Act, it will provide traditional medicine with proper recognition and other documents will then be able to be formalised and implemented. For instance, the Traditional Health Practitioners Bill 2014 would provide IP protection to practitioners once they declare what their medicines are made of[653]. This issue is in turn linked to two major aspects that need to be considered: the domestic context, in particular the organisational structure of practitioners, and the international context that does not easily reconcile traditional medicine with intellectual property laws.

Practitioners: indigenous and foreign

The organisational structure of practitioners is problematic and immature. Interviewees in the sector point out that "practitioners are still organising themselves. There is fear of competition and personality issues"[654]. The fear of competition also stems from the fact that the practice and the products are not protected and that if "stolen" no redress mechanism is in place. For this reason, the NPI prioritised the definition of how property rights can be applied to traditional medicine and indigenous knowledge: the Kenya Industrial Property Institute and the Kenya Copyright Board are working on it. Also, in the Office of the Administrator General, mandated to administer copyrights, the issue of traditional knowledge and cultural expressions is gaining prominence. Besides this legal matter, which will be further expanded below in relation to the international context, the above-mentioned lack of structural organisation by traditional healers, according to KEMRI leaves space to foreigners to operate almost with no control. Apparently due to fragmentation of the associational life of traditional healers, the Ministry of Culture initiated NATHEPA with the aim of making sure traditional healers had representatives, and the association could act as the national point of contact for foreign practitioners operating in Kenya. It is not compulsory to register with the association and given its lack of organisation practitioners are not incentivized to do so.

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[653] Interview with an executive at the Ministry of Health, Pharmacy Department, Nairobi. 2014-09-30.
[654] Interview with an executive at the National Museums of Kenya, Nairobi, 2014-10-17.

Chinese practitioners, for instance, tend to go to the Ministry of Health that provides them with a license to set up clinics. For the registration of products, the PPB receives applications and "lists" products. The lack of harmonisation is currently being tackled by the Ministry of Health's Division of traditional medicine which is trying to synchronise different policies[655]. Despite this lack of structured control, at the Ministry of Health (traditional medicine division), a source reported that generally the documents provided by the Chinese abide by the law and are presented by qualified personnel. At the same time, the source also points out: "There are elements for which we have question marks, concerning the practice and the qualifications but we have no way to assess them"[656].

International legal shortcomings

One of the main problems, perceived by traditional healers, which leads them to operate in isolation, is the fact that the law does not provide guarantees for their inventions. The law on copyrights draws from Western laws which are claimed, by Kenyans, not to be comprehensive in the definition of a "patentable thing", if conceived in relation to indigenous knowledge. The problem resides in the fact that indigenous knowledge and products are not novel per se – pre-requisite for something to be patentable – as they have been in tradition, passed down orally, and kept secret for as much as man has existed. What can be novel about them is the fact that they are revealed, and their potential industrial applicability[657].

The problem of intellectual property rights and indigenous knowledge does not apply to Kenya alone. Sources involved in policy-making affirm that: "the world is crippling on how to categorise indigenous knowledge and see how it is patentable. This needs a *sui generis* approach. There's no moving away from the reality that this knowledge is a source of new innovation"[658]. Workshops organised by the Chinese often highlight the issue by discussing how to make TCM more acceptable internationally, in terms of regulations, safety and quality control.[659]

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[655] Interview with an executive at the Kenya Medical Research Institute (KEMRI), Nairobi, 2014-11-05.
[656] Interview with an officer at the Ministry of Health, Traditional Medicine Division, Nairobi, 2014-11-17.
[657] Interview with an executive at the National Museums of Kenya, Nairobi, 2014-10-17.
[658] *Ibid.*
[659] *Ibid.*

The Natural Products Industry initiative

The primary driver for establishing a proper framework is the potential to contribute to national development, but the threat from outside is the secondary driver: "because Kenya did not have such a programme, despite having wealth in traditional resources, that void attracted foreign companies to exploit such resources. Chinese and other foreigners visit Kenya, they go and talk to communities and take away indigenous knowledge"[660]. Nonetheless, the problem identified in relation to China's presence in the market is relatively small. Kenyan practitioners do not perceive competition due to the fact that Chinese products are more advanced in terms of packaging and are scientifically-produced[661]. According to an interviewee at the Ministry of Culture "there are no Kenyan companies packaging traditional medicines […] Traditional healers have their clinics where they also have medicines"[662]. The need to emphasise the value of proper packaging resulted in the creation, in 2008, of the Natural Products Industry Initiative.

For the development of the initiative, China was identified as one of the "experienced countries" [663], together, mainly, with India, from which Kenya aimed to learn. While collaboration initiatives have been put in place, KEMRI suggests[664] that most research projects were aimed at studying *Chinese* products and the feasibility of their commercialization in Kenya/Africa, rather than studying how *indigenous* Kenyan products could be developed. It became evident that in order to operate, a proper regulatory framework had to be put in place. The development of the NPI became a key reason to regulate the sector but also to push for the promotion of research on, and manufacturing of, Kenyan products. The Convention on Biological Diversity was domesticated to create the Natural Products Industry Policy 2014.

The development of this collaboration is premised on a number of national and mutual interests that are just gaining prominence and are yet promising to become a major area of national and international development. *Kenya's interest in establishing a relation with China is mainly twofold: learn from the Chinese expertise through training and capacity building programmes, and partner to develop a scientifically-based commerce-oriented industry*. While the partnership with China is

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[660] *Ibid.*
[661] Interview with an executive at the Ministry of Culture, Traditional Medicine Department, Nairobi, 2014-10-10.
[662] *Ibid.*
[663] Interview with an officer at the Ministry of Health, Traditional Medicine Division, Nairobi, 2014-11-17.
[664] Interview with an executive at the Kenya Medical Research Institute (KEMRI), Nairobi, 2014-11-05.

not the only one, India also playing a major role, according to the Ministry of Culture, China is the most important bilateral partner [665]. The programme started in 2008/2009, and since then *a very wide range of actors participated in its development. The multi-stakeholder approach was fundamental because "by its nature, this project needs different skills" including the knowledge of communities, the department of culture, natural resources managers, scientific experts (for plants, animals, etc.), experts of product development (pharma, personal care, nutritionists), marketing and so forth.*

Although partnerships are not in place yet with research institutes and companies in China, the aim of the NPI is that to forge strategic alliances[666]. A more detailed account of this aspect, i.e. education and training, is provided in Chapter 6. However, by means of introduction it is important to mention that one of the key motivations to choose China as a partner for the NPI was the possibility to increase, through training provided by Chinese institutions, capacity building not only in medical training but also in management, including the syncing of conventional and traditional medicine usage in the national healthcare system. NPI leaders suggested that "one way of ensuring that we do not have to go through unnecessary expenses is to come up with a team that learns from the procedures and the practices of China as well as the legal mechanisms that make that practice possible"[667]. The possibility to learn from a country that was challenged by a Western idea of healthcare delivery, and yet perfected a conventional-traditional blended version of healthcare delivery, resonated with the Kenyan experience and proved to be a key factor in wanting to partner with China.

The aim of the project was also that to protect the Kenyan industry from non-indigenous traditional products and practitioners entering the country. An interviewee pointed out: "even if the Chinese can do better than us at the moment, we understand our own medicine. Chinese traditional medicine is foreign to us; it is traditional to China"[668]. To protect the industry, the intention is that to use modern science and business expertise to help practitioners add value to traditional medicine like the Chinese have done, for instance, with Artemisin (a drug for malaria recognised by the WHO) which is a direct consequence of TCM. Artemisia has been

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[665] Interview with an executive at the Ministry of Culture, Traditional Medicine Department, Nairobi, 2014-10-10.
[666] Interview with an executive at the National Museums of Kenya, Nairobi, 2014-10-17.
[667] *Parliamentary Debates,* National Assembly, 9 December 2009, (A), (Mwiria, Assistant Minister for Higher Education, Science and Technology), p.34.
[668] Interview with an officer at the Ministry of Health, Traditional Medicine Division, Nairobi, 2014-11-17.

used in China for centuries to manage malaria to the point when researchers studied what, in the plant, controls malaria and made modern medicine, tested and recognised by the WHO for universal use[669].

Part of the NPI was an initiative in 2014 between the Chinese government and a number of Kenyan stakeholders. The idea of a collaboration started when a Chinese governmental "high-level" delegation visited Kenya and, in an attempt "to find how to alleviate health problems" while commercialising a Chinese product, advised KEMRI to develop a concept note outlining how they thought the cooperation with the Chinese government could benefit them. KEMRI and the National Museums of Kenya, together with the Ministry of Health (Natural Products division), then started collaborating on a concept "articulated around the possibility of setting up a small industry, within the Institute or through the Kenyan government" [670]. More specifically the aim outlined in the concept was that to "develop a small manufacturing industry, to manufacture HIV products which are registered in the country and bring Africans and the Chinese to collaborate and do some research on the industry"[671].

Governance in-the-making

The case of the NPI sheds light on how a problem is identified and acted upon by a number of governmental and social stakeholders to drive policy change/creation. It is important on both the domestic and international levels. The state pivots between a local dimension characterised by the need for deep structural reforms and the international context from which it aims to learn. It is a case of governance in-the-making, where the ideological and practical reliance on China plays a key role.

Domestically, the historical demonization of traditional medicine has created a vacuum in the social and governmental structures of governance, leaving space for an anarchical domestic organisation of the sector and the penetration of foreigners. The relations between governmental organs and social groups, including practitioners and manufacturers, are highly disjoint due to lack of trust by the latter in the guarantees of protection provided by the former. Internationally, the revival of traditional medicine is perceived as a reparation against the imposition of

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[669] Interview with an executive at the National Museums of Kenya, Nairobi, 2014-10-17.
[670] Interview with an executive at the Kenya Medical Research Institute (KEMRI), Nairobi, 2014-11-05.
[671] *Ibid.*

Western values and the limits placed upon the world by Western-led international institutions.

Within this context, the presence of China is neither the cause nor the consequence of the domestic change, but rather an example of successful development with which Kenyan stakeholders engage for the achievement of a stated goal. In other words, the Chinese presence is not here important as a trigger for change but rather as a chosen facilitator for such change. Stakeholders, however, remind that the Chinese government as well as private companies have specific diplomatic and commercial interests in getting a foothold in Kenya. Chinese interests have tended to overlook Kenyan domestic needs, such as the development of Kenyan traditional medicine rather than the development of Chinese medicine for Kenyan audiences. The weakness of the domestic system of governance, in this sense, could provide spaces to the Chinese to penetrate the sector further. However, there are at least two elements that suggest this will not happen: at the top levels there is an interest in developing Kenyan traditional medicine as it is believed to contribute to the reduction of costs in the provision and delivery of health care. This is true for *Kenyan* traditional medicine, rather than traditional medicine of other countries, as it is locally sourced. Therefore, it is likely that both bureaucratic and research circles will negotiate to safeguard this interest. At the same time, when it comes to consumers, though Chinese traditional medicine has been gaining a foothold in Kenya, this has happened on a relatively small scale. This is mainly because the world of beliefs which surrounds the usage of traditional medicine is directly linked to specific local/indigenous traditions which have historical and collective meaning. Such meaning cannot thus easily be detached from the territory and imported from abroad.

5.3   Sectoral dynamics

As mentioned above, China's provision of healthcare assistance and trade in health-related products is not new to Africa, but it is quite so to Kenya. The relationship with traditional partners (both in trade and development assistance) is a key feature of the discussions concerning the relatively new presence of China. All three cases highlight how international standards have become embedded in Kenyan systems of governance. As mentioned in the introduction, healthcare in

Kenya is a highly diversified sector, which presents "a mixed story of progress and inequality"[672]. Particularly relevant to understanding this diversification is the acknowledgement that the heavy involvement of donors and international organisations in the provision of most forms of health care has made domestic institutions less independent from broader systems of governance. The large bureaucracy of the Ministry of Health and the strong, albeit uneven, interference of international institutions in the management of aid, has caused Kenyan actors' decreased negotiating power vis-à-vis China.

As opposed to the cases presented in the previous chapter, the cases in this chapter do not revolve around a particular problem with which Kenyan actors identify the Chinese arrival. On the contrary, the cases have in common a lack of contestation and a nuanced and calculated approach to the external actor. This nuanced type of relation, in a sense less confrontational compared to that presented in the previous chapter, between state and social forces but also between each of them and Chinese actors, appears to be informed by both a cautious approach towards a new partner in development and structural limitations.

The systems of governance and actors involved are quite different in the three cases. The first two cases present a system of governance that is historically rooted where Kenyan interests are broadly safeguarded through the system. The content and modality of the Chinese engagement with Kenyans are negotiated domestically in a way that tends to preserve the existing systems. In these two cases of modern medicine, the historical dependence upon donors for the development of the sector seems to have created a system where such dependence is not challenged but rather sought. With the decrease of aid provision from traditional partners, the next logical step identified is that to look for new partners, rather than strengthen the sector from the inside. This is consequential to the acknowledgement that local resources – human and financial – are insufficient. The third case, however, is one where governance is being restructured, and China is perceived as a key contributor to such restructuring. The lack of organisation within Kenya resulting in the absence of formal engagement between the state and social forces is the focus of a government initiative aimed at, among other things, changing to protect and boost local knowledge. The presence of China is so far not detrimental but rather a key example during a delicate phase of policy and legislative formulation.

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[672] Lewis and Kerr, op. cit., p. 4.

Kenyan behaviour is largely *pro-active*, namely a conduct of engagement dictated by an increasing awareness that China is providing *complementary* options to those of traditional partners at times more suitable to fulfil Kenyan emerging objectives. However, in comparison to other partners, China is identified as only relatively significant for the achievement of such objectives. This is due to the fact that the Chinese interests in engaging with Kenyan actors are not equally relevant to Kenyans. However, even more, it is due to the fact that China's non-adherence to the modalities of interaction among foreign and local stakeholders, as 'prescribed' by the system of governance, contributes to its isolation.

Table 2: Sectoral comparison of interests, actors, and arenas/tables of negotiation - Health

		Mama Lucy Hospital	Trade in medical products and devices	Natural Products Initiative
Interests	**Type of relation**	Aid	Commercial	Commercial-aid
	Issue at stake	Lack of infrastructure and equipment in hospital	Need of cheap products intertwined to mismatch between what china pledges to provide and what can be provided to K according to domestic and international norms	Neglect of Kenyan traditional medicine, increase of Chinese traditional medicine
	Kenyans' issue-specific interests	Use Chinese company to achieve domestic development plan.	Source cheap Chinese products	Use Chinese expertise (companies and education) to achieve domestic development plan. In the process of sector's restructuring, China represented a governance system to emulate.
	Overall objective toward China	Fitting China in	Engaging China as a partner in development	Engaging China as a partner in development
Actors	**Initiator**	Ministry of health - Minister's office (very large bureaucracy)	Grassroots - wholesalers	National Museums of Kenya
	Other domestic actors	Hospital management	Pharmacy and Poison Board	Ministry of Culture, Ministry of Health (including PPB), KEMRI (research institute)
	Resources	Economic asymmetry leveraged by the presence of professional human resources able to safeguard the system of governance		Kenyan professional human resources crucial to alter the system of governance to safeguard Kenyan interests: introduction of traditional medicine in the healthcare delivery system
Arenas and tables of negotiation	**ARENA 'the problem' contextualized in the Kenyan domestic context** (historical legacies and current policy preferences)	ROOTED: High donor assistance. Foreign aid negotiation regulated, esp. since 2004/2007 to increase Kenyan ownership, but presence of donors undermined the state of institutional capacity.	ROOTED: Regulated by both domestic and international institutions (very intertwined due to the developing status of K). Trade Sector dominated by private actors and associations operating side by side with Aid providers. No change in policy or legal preferences foreseen.	IN-THE-MAKING: Newly significant issue-area, triggered by awareness of benefits for healthcare budget, and the increase of foreign practitioners. Witchcraft act, unregulated sector. Recent acknowledgement of the need of policy and legal transformation to include TM in healthcare provision. Recent policy changes (2005, 2009, 2010, 2013, 2014)
	Mobilization framework	Weak framework for donations, easily bypassed by high-level officials in order to secure funding (and high politics) > Re-orientation of strategy with hospital's involvement	Strong wholesalers groups, operating within formal domestic and international frameworks	Mainly horizontal, between ministries. still at drafting stage. little involvement of NATHEPA (which is fractioned on its own, within)
	Mode of addressing the issue with the Chinese	Passive and re-active	Pro-active	Pro-active
	Table of negotiation	Light alteration	Conformity	Light alteration

Source: Author's findings

CHAPTER 6

Engagement in the Education Sector

6.1   The context

Typically an area of people-to-people cooperation under the FOCAC framework and Chinese aid policy, education cooperation and development assistance between Kenya and China is an increasingly dynamic area of engagement. This cooperation involves government-to-government deals as well as agreements between schools and the private sector or civil society organisations, which are crucial actors in implementing and re-defining governments' plans. Current projects range from establishing Confucius Institutes to sending students on exchange programs and again to training human resources in several professional fields.

For Kenya, the development of education and training, together with health-related development, is the most important issue-area of the Social Pillar under the Kenya Vision 2030 framework. Kenya aims at providing "a globally competitive and quality education, training and research" and to be "a regional centre of research and development in new technologies". The focus of Kenya Vision 2030 on higher education and research is consequential to major policy changes occurred within the sector – and the country – since the NARC government was elected in 2002, the most relevant of which was the shift from a primary to a secondary education focus. The arrival of China has, on the one hand, opened up space to explore areas of education that had been neglected, in particular higher education, such as Technical and Vocational Education and Training (TVET) or traditional medicine. On the other hand, however, it has shown how the Western footprint is deep in a country where there is a general mentality according to which "if I'm Chinese-trained, I'm not associated with good training"[673], vis-à-vis training carried out in Europe or the US. While this belief does not seem to be fully confirmed by those who engage directly with China, it is indicative of the general atmosphere.

For China, engaging in educational cooperation and assistance has become an important aspect of foreign policy, an instrument devised to move beyond high-level rhetoric, used to address negative perceptions and social discontent often caused by

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[673] Interview with a Kenyan executive at a Confucius Institute, 2013-10-31.

the presence of Chinese activities, products and agents. In other words, fierce critiques against the Chinese at the grassroots levels in Africa have spurred the Chinese willingness to step in, to control relational processes through the pro-active buildup of positive images. While the provision of assistance is one reason for China's involvement, more recent research suggests that motivations also concern the development of Chinese firms' industrial capacity in Africa, and the penetration of markets through the provision of equipment and training on it. In other words, the motivations behind the provision/negotiation of educational cooperation and assistance are increasingly expanding from public diplomacy to market seeking.

Available studies on educational cooperation and assistance, exception made for the Confucius Institutes, are few. They tend to concentrate on China's motivations for engaging Africa's students and technical staff while there is almost no attention in the literature in understanding if and how these engagements are framed within African domestic agendas of development[674]. This chapter focuses on understanding the decision-making process in Kenya when it comes to prioritising and negotiating educational projects for the development of the education and training system, studying the environment and the processes of engagement between actors to contextualise China's assistance and cooperation. The three cases selected to be explored represent three major types of engagement in educational cooperation between China and African countries, namely the development of: technical cooperation, human resources for health, and Chinese language through Confucius Institutes. They embody very different forms of cooperation and assistance provision by China to Kenya. They also shed light on extremely different bureaucratic structures within the Kenyan educational sector.

6.1.1 China-Africa Educational Cooperation and Assistance

Educational cooperation between China and African countries has boomed with the establishment of the Forum on China-Africa Cooperation in 2000, and more specifically after FOCAC 2006 as the range of cooperation activities expanded[675]. The cooperation between China and African countries, however, dates back to well before the 2000s and expands beyond FOCAC commitments to bilateral agreements. Drawing upon South-South cooperation principles of mutual support and benefit,

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[674] W. Benjekkoun, 'China-Africa Co-operation: Capacity Building and Social Responsibility of Investments', Policy Insights no. 24, South African Institute of International Affairs, August, 2015.
[675] For a more detailed account see King, 2013, op. cit., pp. 34-35, and FOCAC Action Plans 2003, 2006, 2009.

the formal training of African technicians, managers, skilled labour, students has been part of China's foreign policy since the 1950s when the first educational exchanges took place (between Egypt and China)[676]. They increased in the 1990s when university partnerships between Chinese and African universities started, in support of science laboratories, and took a new flavour in the 2000s as Chinese migration to Africa intensified, often causing clashes between migrants and local populations, thus elevating educational cooperation to priority foreign policy status.

Despite the focus on *cooperation* principles, which are nested in the belief that the two sides are equal, the relations between China and African countries have often been framed as the provision of experts *from* China *to* Africa[677]. While this, on the one hand, seems to remind of North-South asymmetric relations in education and training, on the other, King suggests that "reciprocity should not be equated with exact symmetry […] reciprocity could involve looking across [FOCAC] commitments as a whole and making a judgement about win-win economic and social cooperation"[678].

Predominantly led by China's interests to develop its soft power, the engagements with the African continent range from the set-up of Confucius Institutes, to the training of human resources in several professional fields, the provision of scholarships to study/train in China, the construction of schools, including China-Africa friendships schools (FOCAC 2009), cultural exchanges, university linkages, and more specific projects such as 'Cultures in Focus', the 'China-Africa Think Tanks 10+10 Partnership Plan' or the '20+20 Cooperation Plan'[679]. Differently from other development partners such as Korea International Cooperation Agency (KOICA, South Korea), Japan International Cooperation Agency (JICA, Japan) and the Department for International Development (DFID, UK), King reminds that China "does not produce glossy accounts of its education development projects […] Nor does it produce regular sector policy statements about education"[680]. FOCAC documents and the White Papers on *China's Foreign Aid* (2011 and 2014) as well as the 2013 White Paper on *China-Africa Economic and Trade Cooperation* outline China's commitments but the lack of more detailed statistical

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[676] King, 2013, op. cit., p. 34.

[677] See FOCAC declarations and action plans (2000, 2003, 2006, 2009, 2012, 2015); White Paper on China's African Policy (2006); White Paper on China-Africa Economic and Trade Cooperation (2013).

[678] King, 2013, op. cit., p. 31.

[679] See FOCAC declarations and action plans (2000, 2003, 2006, 2009, 2012). Annex II provides a summary of commitments.

[680] K. King, 'China's Higher Education Engagement with Africa: A Different Partnership and Cooperation Model?', in *Education, Learning, Training : Critical Issues for Development*, International Development Policy series no. 5, Graduate Institute Publications and Brill-Nijhoff, Geneva and Boston, 2014, p. 2.

data makes it tough to identify what share – both in terms of type and quantity – goes to specific countries (see Annex II).

6.1.2 Kenya-China Educational Cooperation and Assistance

The connections between Egerton University in Kenya and Nanjing Agricultural University in China started in the 1990s. Together with a few scholarships and short-term training support to study in China provided since the 1980s, these were the first forms of educational cooperation between Kenya and China. In other words, the cooperation between the two countries before the 2000s was minimal[681]. A major shift occurred in the early 2000s. According to King, "the FOCAC process, from late 2003, produced a dramatic change in short-term training numbers, from just a handful a year to over 100 annually"[682]. Similarly, long-term scholarships "which had been running at just some ten a year from 1982, went up to some 40 annually from 2007"[683]. Concomitantly, in 2005, the first Confucius Institute *in Africa* was set up at the University of Nairobi. Since then a high number of students have been awarded scholarships and awards to study in China. This period of change coincided with a broader shift taking place in Kenya – and in Africa – since the election of the NARC government in 2002, and since a shift in global development cooperation (with the adoption of the Rome, Paris and Accra declarations in 2003, 2005, 2008 respectively) which acknowledged the need for donors to align their agendas with local objectives. The historical absence and the relatively recent arrival of China must be understood within this context of domestic efforts and international shifts in aid provision to education.

Kenya: domestic and international frameworks

Since independence, and before the NARC government election in 2002, the education sector had received uneven national and international attention. Domestically, the struggle concerned the provision of free and universal education for all, set against ever-present governmental financial constraints and regional disparities in resource allocation[684]. Internationally, the focus of donors changed significantly over time, shifting from basic education to skills development, mostly

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[681] King, 2010, op. cit., p. 490.
[682] *Ibid.*
[683] *Ibid.*, p. 491.
[684] C. Colclough and A. Webb, 'The Impact of Aid on Education Policy in Kenya', RECOUP Working Paper no. 36, University of Cambridge, 2010, p. 7.

depending on the "interests and expertise of the bilateral agencies"[685] rather than recipients' needs.

However, as mentioned above, a major shift occurred in the early to mid-2000s at both domestic and international level. The NARC government came to power in 2002, making education a fundamental aspect of the electoral manifesto. Concomitantly, a new phase of improved relations with donors started, based on increased trust in the democratically-run government and on sounder planning in education, and in other sectors[686]. This is the period when not only the number of OECD-DAC donors increased ("from 17 in the 1990s to 34 by 2008"[687]), but also non-OECD donors started emerging, most notably China[688]. In 2005, thanks to the technical support of the World Bank, the Kenya Education Sector Support Programme (KESSP) was launched, in alignment with the country's Economic Recovery Strategy[689]. According to a DFID report, recalling the Ministry of Education Science and Technology, "explicit also was the aim of establishing strong and coordinated relationships with donors, whilst maintaining ownership of the policies being implemented at the national and local levels"[690]. In the same period, the Rome (2003), Paris (2005) and Accra (2008) declarations were adopted marking a substantial change in global development cooperation, which emphasised the need for donors to align their agendas with local objectives while also encouraging increased local ownership of the policy agenda and implementation systems. Nevertheless, in Kenya, 'local ownership' was only partially successful due to at least a couple of factors: first, donors were sceptical about the ability of executive officers in Kenya's ministries to operate efficiently and accountably thus ending up requiring Kenya to follow donors' procedures instead of its own[691]. Secondly, the differences between donors' budget agendas and those of Kenya influenced Kenyan objectives. As a consequence, primary education – favoured by most development partners vis-à-vis secondary education – remained the focus of Kenya's development agenda in the 2000s[692]. Although "the development of both TVET and

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[685] *Ibid.*, p. 12.
[686] *Ibid.,* p. 9.
[687] *Ibid.*, p. 11.
[688] *Ibid.,* p. 11; also see King, 2010, op. cit.
[689] Colclough and Webb, op. cit., p. 15.
[690] *Ibid.*, p. 16.
[691] *Ibid.*, p. 22.
[692] African Development Fund, '*Support to the Enhancement of Quality and Relevance in Higher Education, Science and Technology Project*', African Development Fund, 2012, p .3.

tertiary education[693] were included amongst the priorities of KESSP, [...] planning for them was weak, and they did not find favour with donors who contributed to the pool" [694]. Therefore, while the objectives concerning the delivery of primary education to all were met, secondary education still needed, throughout the 2000s up to the early 2010s, serious policy and implementation attention[695].

While "the government remains the main financier of higher education"[696], the allocation of resources is insufficient to meet the rise in enrolment in higher education facilities[697] – consequential to an improved primary education system, as well as a "changing economic landscape in Africa, which requires specialized skills in critical numbers"[698]. While the major education development partners – DFID, CIDA, USAID – "continue to support basic education primarily"[699], a few others have started engaging in higher education development. The AFB, China and the Netherlands have been supporting TVET institutions, the French Development Agency is "supporting studies on private sector engagement in higher education and university education financing mechanisms, while the German Academic Exchange Service will continue with capacity-building activities in higher education"[700]. Most development partners adhere to aid effectiveness principles, specifically with regards to country ownership, and have developed agendas in line with KESSP and Vision 2030. China's engagement in educational cooperation and assistance is not comparable to other agencies' modalities, namely sector-wide approaches.

The entrance of China

China is acting according to agendas often detached from multi-lateral paradigms, mainly providing unsystematic assistance rather than adopting "large-scale project approaches"[701]. King reports that China's cooperation with the formal education sector in Kenya involves "provision of school buildings, university links projects, Chinese language training in formal settings like Nairobi, Kenyatta and Egerton Universities, or the provision of short- and long-term training"[702]. However, the

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[693] According to the World Bank, tertiary education includes: universities, colleges, technical training institutes, community colleges, nursing schools, research laboratories, centers of excellence, distance learning centers. Available at: World Bank, 'Tertiary Education (Higher Education)', The World Bank [website], <www.worldbank.org/education/tertiary>.
[694] Colclough and Webb, op. cit., p. 26.
[695] Interviews.
[696] African Development Fund, op. cit., p. 3.
[697] *Ibid.*
[698] *Ibid.,* p. 2.
[699] *Ibid.*, p. 3.
[700] *Ibid.,* pp. 3-4.
[701] King, 2013, op. cit., p. ix.
[702] King, 2010, op. cit., p. 489.

support to human resource development does not only involve government-to-government projects. There are increasing privately provided language training centres, as well as a "very wide range of enterprise-based training associated with the spectrum of Chinese companies, which span the range from the high-tech Huawei, in information technology, to China Road and Bridge Corporation, to a large pharmaceutical like Holley Cotec, to vehicle assemblers like DFM, Focin and King Bird, and to a multiplicity of much smaller firms"[703]. The training provided by these companies generally fulfils the companies' direct needs and is not part of broader, coordinated development programs.

This diversified scenario provides for a range of Chinese interests behind education and training cooperation and assistance with Kenya, namely the promotion of its image (through soft power instruments like Confucius Institutes and scholarships), the increase of Chinese companies' sales and production (through the training of local human resources and exposure to Chinese products) and to a smaller extent cooperation in scientific research and exchanges. These interests are framed as part of the South-South rhetoric which relies on concepts such as equality and mutuality. However, despite the commonly held belief that China provides assistance to Africa in the 'response mode' rather than prescribing for Africa[704], the cases below show that the response mode is rarely the approach adopted. The 'response mode' is intended as the provision of assistance by the Chinese upon *request* of the local environment. Quite inversely, there are often specific Chinese interests behind these actions, informed by agendas that range from industrial development to soft power. These interests often presume a pro-active Chinese approach so to achieve the (Chinese) stakeholders' objectives. While these may overlap with local needs in terms of content, the modality of provision may distance itself from what Kenya has come to identify as a best practice, i.e. coordination.

Bearing in mind the main research question the section below looks at how and why different Kenyan agents have made sense of their interaction with Chinese actors and how they have justified their actions domestically.

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[703] *Ibid.,*
[704] King, 2013, op. cit., p. xi.

6.2   Kenyan Responses

The interaction between Kenyan stakeholders in the education sector vis-à-vis China mainly revolves around inserting a new player in a scenario well populated by long-present development partners. This implies learning about the way to match domestic needs with Chinese offers of educational cooperation and assistance. It also implies acknowledging that the economic landscape in Kenya, and in Africa more generally, is changing: industrialization has become a key policy area that rests upon fundamental social developments to be enacted, the most important of which is the development of human resources to cater for the country's emerging needs. For instance, the improvement of healthcare professionals' training and working environments is considered key to guaranteeing a healthy population, in turn able to work and produce; the training and development of technical experts is crucial for the country to engage actively with the construction boom and other emerging sectors.

Despite the widespread emphasis put on China's role, the collaboration with China, at times requested, at other times speculatively received (in line with the tension mentioned above between assistance and business), is made sense of within a pre-existing domestic agenda according to which the collaboration is adapted. The dynamics between state and societal organs concerning the opening up to the new partner are interesting to study for the way change is perceived and acted upon, not only at the organisational level but also at the level of individuals. The mere fact that China is a new(er) partner provides for interesting processes of decision-making within which deliberations are made as to what added value is provided compared to other partners and to what is the priority for Kenya vis-à-vis potential clashing Chinese priorities.

The areas identified as salient are:

1. Starting partnerships between technical and vocational universities and colleges and Chinese companies. In particular, understanding the readiness and flexibility of Kenyan actors to both adapt to the Chinese modus operandi and, at the same time, dictate the rules of ownership and cooperation. The study mainly looks at the interaction between the Technical University of Kenya, a number of colleges, the Ministry of Education, AVIC International.

2. Education and training in healthcare. The study looks at two aspects of the cooperation: the management of Chinese-offered training *in Kenya* and the management of Chinese-offered scholarships to study/train *in China*. The section aims at unveiling the mechanisms and synergies between state and social organisations and the sectoral structure that have restrained the arrival of Chinese medical teams and limited the number of Kenyan students from undertaking medical training in China. The stakeholders under consideration are the Ministry of Health, the Ministry of Culture, Kenya Medical Research Institute and a few private companies.

3. The case of Confucius Institutes. The focus is on the role of Kenyan stakeholders, their deliberations and motivations to set up Confucius Institutes in three (at the time of research) Universities. This is a particular case as the issue of CIs has received extraordinary journalistic and academic attention in the past decade. Kenya is home to the first Confucius Institute in Africa, set up in 2005 at the University of Nairobi. Most available studies focus on China's motivations behind this educational initiative, with little emphasis placed on the role of the local context[705]. The aim of the analysis below is to contribute to the debate by presenting how different universities in Kenya have received and blended the Chinese initiative into local contexts.

6.2.1 Technical and Vocational Education and Training

Criticism toward China's limited employment of local human resources, especially in the infrastructure sector, is often contrasted by Chinese companies' claims that Africans are not adequately qualified to cover managerial or technical roles. While knowledge transfer and support for the development of the Technical and Vocational Education and Training (TVET) sector in African countries is pledged for in FOCAC documents, there is a paucity of studies that focus on understanding how the development is contextualised within African domestic agendas. The TVET issue was singled out by the Kenyan Ministry of Education when asked in what areas Kenya mostly cooperates with China.

For Kenya, the development of TVET has become one of the main objectives of the development blueprint document, Kenya Vision 2030, launched in 2008. In turn,

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[705] See M. Procopio, 'The effectiveness of Confucius Institutes as a Tool of Soft Power in South Africa', *African East-Asian Affairs/The China Monitor*, Issue 1-2, June, 2015.

for China the development of local human resources for technical jobs in Kenya is reportedly fundamental to be able to rely more consistently on local labour, reduce the negative perceptions of China's presence by involving the local workforce, and expose future experts to Chinese industrial machineries/products (through the provision of industrial[706] machines for training purposes). The choice to focus on this issue stemmed from the need to understand how Kenyan stakeholders have blended China's commitments to offer training and other interests into a changing domestic governance environment. The changing environment refers both to the booming industrial development in Kenya and to the recognition of higher education as a key sector.

Studying the cooperation in TVET is fascinating, especially because the encounter occurs between cultures that have different understandings of the relation between education and labour. Fieldwork research led to finding out that the problem perceived by China concerning the lack of trained human resources is consequential to a Kenyan domestic context characterised by a culture of separation between technical and vocational education and its applicability in real scenarios, vis-à-vis the Chinese system where factories and colleges are more integrated. Even when TVET is linked to production, in Kenya, it is often a matter of small scale production rather than industrial[707]. According to a leading Kenyan employers' association in the construction sector, "the training was not a necessity before as construction was small, there was no demand. Now there is a construction boom in the whole region", and there is the need for more systematic training[708].

While education and training of human resources by the Chinese in Kenya often takes place at the company level[709] with varied commitment and results, the Ministry of Education-TVET Directorate has started to lead projects in collaboration with educational institutions in the country, with the aim to start developing the sector more consistently and comprehensively. The largest project led by the Ministry has been supported by the Chinese state-owned aerospace and defence company, AVIC International, through a concessional loan, and has been developed at the Technical University of Kenya and other higher education colleges.

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[706] These machines have industrial capacity. In other words, they are not designed for training but for industrial production.
[707] J. Simiyu, *Entrepreneurship Education as a Tool to Support Self-Employment in Kenya*, TVET Best Practice Clearinghouse, issue 2, UNESCO-UNEVOC, Bonn, 2010.
[708] Interview with an executive at the Kenya Association of Building and Engineering Consultants (KABCEC), Nairobi, 2104-09-14.
[709] See King, 2013, op. cit. for a comprehensive account.

The analysis below mainly focuses on the relation between the Ministry of Education-TVET Directorate, the Technical University of Kenya (TUK), a public body, and their engagement with AVIC International.

TVET and Kenya Vision 2030

While the TVET sector has experienced moderate growth over the past 40 years, with Vision 2030 it has become "the leading engine that the economy must essentially rely upon to produce adequate levels of the middle level manpower needed to drive the economy towards the attainment of the vision"[710] and as "the vehicle for socio-economic and technological transformation"[711].

In 2010, Sessional Paper No.5 mentioned the need to revamp technical education[712]. According to different sources, the main challenge for technical education was the lack of equipment and infrastructure. Because of these shortcomings, "a proposal was done to seek support from foreign partners"[713], and a number of MOUs were signed with ADB, the Netherlands and China, through an agreement between the Ministry and the Embassy of China[714]. At the same time, the awareness that appropriate training needed to be provided grew, and in 2011 the University-Industry Partnership was created. Before this initiative was born the relation between educational institutions and industries only revolved around coordinating industrial attachments rather than critically looking at the challenges and needs of the industry so to address them at the university level[715]. In a sense, according to sources, there was a failure in communication between educational institutions and the industry as the skills of students graduating from universities or colleges were not necessarily those requested by the industry.

The significance of the sector continued to grow, and the TVET Act 2013 was passed on 4th June 2014 with the aim of regulating the operation of TVET institutions. The Act requested the creation of the Technical and Vocational Education and Training Authority (TVETA), the creation of the Curriculum Development Accreditation Certifying Council (CDACC) that was inaugurated in November 2014,

[710] Ministry of Education Science and Technology, 'Draft Technical and Vocational Education and Training (TVET) Policy', *Ministry of Education Science and Technology*, Government of the Republic of Kenya, March 2014, p. 11.
[711] United Nations Educational, Science and Cultural Organisation (UNESCO),'World TVET Database - Country Profiles Kenya', *International Centre for Technical and Vocational Education and Training* (UNEVOC) [website].
[712] Interview with an executive, Ministry of Education, Technical and Vocational Education and Training Division, Nairobi, 2014-11-19.
[713] *Ibid.*
[714] *Ibid.*
[715] Interview with professors of engineering at the Technical University of Kenya, Nairobi, 2014-11-05.

and the creation of a TVET fund, a source for resource mobilisation. The purpose of the creation of these bodies was regulating TVET training and re-organising the TVET sector to meet Vision 2030's goal of industrialisation[716] that "places great emphasis on science, technology and innovation in general and TVET in particular"[717]. According to an interviewee, "we want to get industrialised and to do that we need sound TVET training so people can start changing raw materials into finished products. The government took the effort."[718] While orchestrated from the top, at the Ministerial level, the development of TVET and its links with the industry are strictly reliant on educational institutions and the industrial sector, public and private. In fact, TVET in Kenya is delivered by both government and private providers, which include for-profit and non-profit NGOs and church-based institutions[719]. As mentioned above, the ADB and the Netherlands have also participated to providing external funding for the development of the sector. However, interviewees suggested that the engagement with China is the largest and most comprehensive.

Chinese equipment and training

The areas that mostly needed to be tackled for developing the sector were thus equipment, infrastructure and training. In 2010, after acknowledging the need to seek support from foreign partners, mainly due to the fact that domestic stakeholders were not used to supporting major educational projects, the Ministry of Education signed a Memorandum of Understanding (MOU) with the Chinese Embassy and later entered a contract with AVIC International for the supply of equipment, capacity building and civil work, namely building workshops, for all technical training institutions, to be completed within 5 years. A year later the project was deemed too vast and reduced in size to provide equipment and capacity building to 10 institutions only[720], selected by the Ministry of Education with a vision to strengthen TVET.

The Technical University of Kenya was selected by the Ministry to lead the project, and it was provided with the full range of equipment, i.e. mechanical, electrical and electronic, rapid prototyping, while the other nine institutions received one type of

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[716] *Ibid.*
[717] UNESCO, op. cit.
[718] Interview with professors of engineering at the Technical University of Kenya, Nairobi, 2014-11-05.
[719] Ministry of Education Science and Technology, op. cit., p. 13.
[720] Interview with an executive, Ministry of Education, Technical and Vocational Education and Training Division, Nairobi, 2014-11-19.

equipment only. The equipment was negotiated between the Ministry and the institutions that were requested to suggest the kind of equipment they could benefit from based on their traditional areas of training[721]. According to sources, however, the Ministry already had in mind the fact that the equipment had to benefit the development of TVET. At TUK, the equipment available before the batch from AVIC Int'l arrived was "from the 1970s, it was old but functional, it was European-made, in Britain, Germany, Italy. It is now still in use but on other campuses"[722]. The new equipment is very advanced, and it is believed to have improved the university's capacity in mechanical and electrical engineering although it is not all in use due to power shortage[723]. The equipment provided by AVIC Int'l has industrial capacity, not mere training capacity. This aspect is considered significant by educational stakeholders for how the relation between education and industry can develop. The availability of machines capable of producing for the industry is seen as an incentive to produce, and production leads towards industrialisation, i.e. Kenya Vision 2030's ultimate goal. This provision is, however, accompanied by an awareness that "the Chinese are interested in business […] This project is for showcasing what they can do. This is a way of marketing in Africa"[724]. According to a source "the fact that the Chinese may donate and then want to have returns is not only a Chinese problem. Anyone who donates something has a reason to donate equipment. Then students are more familiar with this equipment, and when they have to suggest to procurement departments where to buy, they suggest buying this equipment […] I'm not surprised if the Chinese have an agenda in doing this"[725]. While other partners, such as a group from the Netherlands, one from Belgium and ADB, more recently provided equipment, the project with AVIC Int'l is deemed the largest project in the education sector.

The provision of equipment was contracted together with the provision of training for learning how to use it. A cascade approach was adopted where each of the ten institutions sent two teachers to China for a 3-month training in 2012, and the teachers, upon return, trained more teachers and students. What proved to be significant in this context of cooperation at the level of higher education was to be

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[721] Interview with professors of engineering at the Technical University of Kenya, Nairobi, 2014-11-05.
[722] Interview with an executive at the Technical University of Kenya, Nairobi, 2014-11-04.
[723] *Ibid.*
[724] Interview with professors of engineering at the Technical University of Kenya, Nairobi, 2014-11-05.
[725] Interview with an executive at the Technical University of Kenya, Nairobi, 2014-11-04.

able to calibrate what the Chinese offered to what the institutions needed, and more generally what the country aimed to as a whole.

While the training associated with the provision of equipment by AVIC Int'l has been highly considered thanks to its blending with the desired trajectory of TVET development, in the case of another major college in the country, the absence of a complementary agenda between the Chinese and Kenyan stakeholders led to the rejection of Chinese training offers. A Chinese group offered to set up a Chinese-run training centre within the College, which trains teachers in Kenya. According to the offer, a Chinese firm would have sponsored the establishment of an *ad hoc* training centre within the institution, running it on its own terms while offering a different programme from what was part of the curriculum, which, according to the Institute, was aimed at enhancing "competence based training, to provide people with practical skills so when students leave they are ready for the job market"[726]. While the competency-based training would have matched the need to develop TVET, it did not match the institute's training mandate, focused on teachers' training rather than skills development, and was rejected not only by the Institute but also by the Ministry of Education that "felt uncomfortable" mainly because it perceived the Chinese offer as aimed at "supporting Chinese companies in Kenya"[727].

The Ministry also pointed out that the provision of funding to start a training centre should not have misled the Institute to accept it as "there are a lot of programmes out there that do not work because they are not framed for us […] You need involvement from the stakeholders to make these programmes sustainable"[728]. This involvement is what the cooperation with AVIC Int'l provided a basis for. In a way, the provision of equipment provided the grounds for intensifying relations with the industry through the involvement of societal stakeholders as exemplified below.

'Africa Tech Challenge' linking schools to factories

The equipment requested to AVIC was not meant to satisfy training needs only but, thanks to its industrial capacity, it was intended to lead the institutions using it towards production[729]. This was a departure from previous practices as production

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[726] Interview with an executive and an officer at the Kenya Technical Trainers College, Nairobi, 2014-10-10.
[727] Interview with an executive, Ministry of Education, Technical and Vocational Education and Training Division, Nairobi, 2014-11-19.
[728] *Ibid.*
[729] *Ibid.*

had mostly been limited to training purposes or to help the "immediate community"[730] through small scale simple production of items such as machines to cut the grass for cows.

With the long-term aim of changing this pattern of limited interaction between educational institutions and factories, and of enhancing technical training to support small factory development[731], the Ministry of Education, TVET Directorate generated a competition named the Africa Tech Challenge that took place, for the first time, in summer 2014, aimed at producing a spare part that could be used in industrial environments. Africa Tech Challenge saw the participation of 18 institutes including universities, each composed of a team of three people. An initial training period of 6 weeks was provided, after which the competition started with a preliminary phase and a final phase in which six teams competed to win. The training was hosted by TUK and the machines used were those provided by AVIC. However, of all the institutes participating, not all were beneficiaries of AVIC equipment meaning that for a number of students the training of Africa Tech Challenge provided the first chance to work on very advanced machines.

AVIC International, which was already partnering with the Ministry for the equipment supply to TUK and other colleges, was the first to be approached by the Ministry and was asked to sponsor the competition. AVIC agreed by providing trainers and guaranteeing that the winning products would be bought by the company or its affiliates to be used in the heavy machinery industry. The contracts foresee the production of three types of spare parts, two of which are then going to be shipped to China and one, produced through a collaboration with the Kenya National Youth Service, is going to be used in Kenya in the heavy machinery industry.

The idea of linking educational institutions to factories was not new, but it was now possible to intensify it thanks to the widespread presence of advanced equipment and thanks to the idea of using the institutions' premises and machines to produce items to be used in real contexts of production. However, at the Ministry, an interviewee pointed out that linking the factories and educational institutions is still at an early stage of concept development and turning to production on a regular and consistent basis will take a long time[732]. In order to facilitate this process and guarantee its sustainability, after the success of the first round of Africa Tech

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[730] *Ibid.*
[731] *Ibid.*
[732] *Ibid.*

Challenge, the Ministry of Education invited a number of Kenyan organisations whose members are highly impacted by the level and quality of human resources' training, such as the Kenya Association of Manufacturers, the Kenya Private Sector Alliance and the Federation of Kenyan Employers, to join the sponsoring of Africa Tech Challenge and to make their members aware that there are a number of institutions across the country that have human and machine capacity to support their development[733]. According to sources, a number of local institutions agreed to join the initiative by providing employment attachments[734].

As a source at an educational institution pointed out "now we have the best equipment, some of which is not even available in the industries. It is now a challenge for us to use the facilities to train students and workers to use the machines."[735] According to interviewees in the sector, the availability of advanced machinery could be a way to revolutionise the whole idea behind production, learning from countries like Germany where the industries rely on training institutions and the state-of-the-art machinery available there to spearhead products before fully developing them[736]. While Kenya currently "follows the industry" by looking at "what industries do and train people to do that"[737] the aim is to reach such a collaborative level of interaction according to which the industry makes use of training institutions' intellectual as well as machinery's capacity to develop better products and "when they see that it becomes profitable, they may acquire facilities."[738]

Collaborative governance, in-the-making

This case is one of governance in-the-making where domestic actors identified the unsuitability of existing systems of governance to achieve emerging objectives. Because of this perceived deficiency, a collaborative type of governance was devised to draw upon public and private resources. The presence of Chinese companies in Kenya was not identified as the cause of change, but as an element that emphasised the need to restructure the system. The case focuses on the initiatives conceived by Kenyan actors to create the conditions to fill the gap systematically, in higher

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[733] *Ibid.*
[734] Non-state actors were included in the second round of the competition, including Kenyan Gearbox software and iHub. For more information, refer to www.avicatc.org.
[735] Interview with professors of engineering at the Technical University of Kenya, Nairobi, 2014-11-05.
[736] *Ibid.*
[737] *Ibid.*
[738] *Ibid.*

education facilities rather than in factories, as part of a long-term project of educational development, while discouraging the issue to be addressed on a need-basis by individual Chinese companies.

The example of China's relations between education and the industry is well valued. However, it is not singled out, other countries' approaches are equally appreciated. Notwithstanding this, while other development partners had engaged in capacity building, China's AVIC International did not merely provide training but was also willing to provide much-needed equipment that was perceived, by Kenyans, to be the missing link for the development of more comprehensive relations between education and the industry. While AVIC International's engagement was widely praised, an interviewee at TUK suggested that "a huge number of people in Kenya are educated in the West. It will take a long time for Kenyans to place people with a degree from a Chinese university. These are roots from the colonial era"[739].

In fact, despite the fundamental and positive role played by AVIC Int'l for the start of the Africa Tech Challenge project, the TVET Directorate of the Ministry of Education encouraged the participation of different *domestic* associations with the aim of tackling the problem at the source, namely guaranteeing a more direct link between *domestic* factories and educational institutions. Collaborative governance, though still in-the-making, seems to be characterising the relationship between state and non-state actors. The way the collaboration with Chinese actors was processed, and Kenyan and Chinese agendas compared, shows that confrontation, rather than accommodation, took place, to guarantee that the Chinese offer of assistance would well match local needs. The opening up to include a number of other domestic organisations and the adhesion of these organisations to the project is symptomatic of a responsive and collaborative environment where not only the state bureaucracy but also the private sector is willing to participate in what is perceived as a process of change and a cornerstone to achieving the Vision 2030's goal of industrialization.

6.2.2 Human resources for healthcare

In the case just above, Chinese and Kenyan actors identified a problem that impacted stakeholders on either side (Chinese and Kenyan) - namely the lack of locally available technically-trained human resources leading Chinese companies to

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[739] Interview with an executive at the Technical University of Kenya, Nairobi, 2014-11-04.

rely on *Chinese* technical personnel rather than Kenyan - and negotiated a way to overcome it. Contrary to that, in the case of Human Resources for Health (HRH) [740], the problem is not identified by the stakeholders involved. It rather emerges from a comparison of China's commitments towards healthcare development in Africa (see Annex I) and the specific case of Kenya. Despite the Chinese commitments to provide education and training assistance to African countries, and despite the dire need for Kenya to develop its human resources for healthcare, the engagement between the two has been limited both in terms of Chinese personnel working/visiting Kenya, for instance Medical Teams, and in terms of Kenyan students and staff studying/training in China. Research conducted in Kenya has revealed a *mismatch between the type of assistance China pledges to offer and the kind that Kenyan stakeholders find to be appropriate to the local needs, in line with the existing system of governance*.

The Chinese involvement in education and training for healthcare has been framed for decades under the South-South cooperation umbrella with the dispatch of Chinese Medical Teams (CMTs) to Africa since the 1950s and the use of traditional Chinese medicine[741]. More recently CMTs have also been identified as instruments to increase China's soft power in Africa. However, as Fan points out discussing the Beijing Declaration of the first Ministerial Forum on China-Africa Health Development, the risk China incurs is that of focusing "on providing 'things' – sending medical teams, drugs, prefabricated clinics" [742] not focusing on the sustainability of the projects or on whether they align with the recipient country's specific needs. As a consequence, taking the case of Kenya, the soft power China attempts to exercise remains limited in its potential effectiveness as the analysis below demonstrates.

An increasingly emerging rationale behind China's involvement in the education and training of HRH, similarly to what was found out for TVET, is that to expose Kenyan healthcare professionals, from technicians to doctors, to Chinese products, through training. In other words, the idea is that to use public diplomacy to create a market. This allows professionals to familiarise with the products the Chinese offer

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[740] "Human resources for health (HRH) include public and private sector doctors, nurses, midwives, pharmacists, technicians and other paraprofessional personnel, as well as untrained and informal-sector health workers, such as practitioners of traditional medicine, community health workers, and volunteers", World Health Organisation, *The world health report 2006– Working together for health*, World Health Organisation, Geneva, 2006.
[741] Li, 2011, op.cit.
[742] V. Fan, 'China-Africa Health Cooperation: A New Era?', *Centre for Global Development* (CGD) [website], 23 August 2013.

and, presumably, increases chances of commercial exchange[743] vis-à-vis others, such as Western or Indian products (which are still, however, dominant as showed in the previous chapter).

For Kenya, in turn, the engagement with China in education and training is very new, it is not yet developed and remains marginal in the overall picture of the development of human resources for health. The question is then how and the extent to which the Kenyan government and social stakeholders filter the provision of assistance and steer it towards what is needed rather than merely accept what is offered. As mentioned above, despite the Chinese emphasis on the 'response-mode', in the case of Kenya, assistance is mostly provided in line with China's *African* commitments (namely the dispatch of Chinese Medical Teams, the set-up of Malaria centers and the training of personnel in both conventional and traditional medicine), rather than based on *local* governance systems and necessities.

Cooperation in education and training in healthcare is not (yet) structured between the two countries, it rather takes place through the Chinese provision of unsystematic assistance, often not part of longer-term projects. In collaborating with Kenya, China enters an environment that is already highly populated by international and multilateral organisations. However, the system of governance presents itself as fragmented, "with several ministries and government departments taking different roles and responsibilities. The greatest challenge has been the lack of coordination among the various training agencies, resulting in inefficiency, duplication of effort and wastage of resources (Ministries of medical services and public health and sanitation, 2009)"[744]. As demonstrated in the previous chapter, the health sector, not only HRH, is one where there is considerable variance in the successful agenda design and implementation. In particular, the presence of development partners and international institutions has weakened the indigenous public management of resources as showed in the previous chapter (case of infrastructure development). Therefore, public bodies are too heavily reliant on international institutions and are thus unaccustomed to negotiate beyond known boundaries and methodologies. China non-adherence to international mechanisms makes the processes of negotiation even more unusual.

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[743] Bräutigam, 2011, op. cit., p. 8; Bräutigam, 2009, op. cit., p. 118-119.
[744] H. Kiambati, C. Kiio and J. Toweett, 'Understanding The Labour Market of Human Resources for Health in Kenya', *World Health Organisation*, Working Paper, November 2013, p. 7.

Education and training for health: national and international frameworks

Several factors have inhibited Kenya's ability to provide adequate health care for its citizens. The most important is underfunding of the health sector which has an impact on human resources availability and distribution that, in turn, influence the provision of adequate healthcare. The WHO has flagged Kenya as "facing an acute shortage of health workers. Universities and training facilities are only producing 40 percent of the needed health workforce, and poor distribution and retention is a serious concern particularly in rural areas where the need is greatest"[745]. The Kenya Medical Training College trains the largest number of health workers in Kenya[746]. Data is tough to gather, and only the Nursing Council provides statistics related to the training of nurses. The Council suggests that "the public and mission-sponsored institutions train the largest number of nurses. The proportion of the public sector increased from 60% in 2005 to 75% in 2009. On average, the public trains about 70%, whereas the missions train about 20%. This implies that most of the nurse training relies on public sector resources"[747]. Due to poor pay and poor working conditions "over the years, Kenya has experienced a brain drain of health workers [...] many ending up in Western countries" mainly the UK followed by the US, Canada and Australia[748]. Since 2009, however, "the number of health workers seeking new job opportunities [abroad] has declined because of improved working condition and remuneration in Kenya in both the public and private sectors"[749]. The country has made significant progress in the recruitment of health professionals also "through a collaborative effort with development partners such as the United States Agency for International Development (USAID), Danish International Development Agency (DANIDA) and the Global Fund to Fight AIDS, Tuberculosis and Malaria (GFATM) who have funded the recruitment of health workers on short-term contracts for both public and faith-based organisations."[750] This collaboration with development partners was also consequential to requests put forward by the Kenyan government to "any country to provide help so to guarantee reaching the threshold set by the WHO of health workers per person"[751]. To tackle the issue, two were the crucial

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[745] USAID, 'USAID Kenya Health Systems Strengthening', *USAID*, September 2013.
[746] Kiambati, Kiio and Toweett, op. cit., p. 7.
[747] *Ibid.*
[748] Business Monitor International, op. cit.
[749] Kiambati, Kiio and Toweett, op. cit., p. 7.
[750] Kenya Ministry of State for the Development of Northern Kenya and other Arid Lands and IntraHealth International, *Human Resources for Health (HRH) Assessment Report for Northern Kenya: Overview of Health Workforce Distribution across 10 Counties*, May 2013, p. 72.
[751] Interview with an executive at the Ministry of Health, Human Resources Development Department, Nairobi, 2014-11-18.

aspects: increase the number of health care students, and retain them in the country after graduation.

China's entrance

When in the 1970s "the number of CMTs in Africa greatly increased" with the "advent of CMTs in 22 countries"[752], Kenya and China were still facing a stalemate in their diplomatic relations, situation under which CMTs are usually withdrawn or not dispatched[753]. However, since the establishment of FOCAC in 2000 – and with the advent of Kibaki's Look East Policy – the two countries have deepened relations in a number of fields, including the medical one. FOCAC commitments concerning human resources for health mainly revolve around the dispatch of Chinese Medical Teams, the set up of Malaria centres, the training of personnel in both conventional and traditional medicine (see Annex I). Chinese Medical Teams have treated the most different diseases not just through modern medicine but also through "Chinese traditional medical treatment, especially acupuncture"[754]. Given CMTs are reportedly dispatched upon request, the attention of this analysis focuses on the Kenyan system and attempts to find the reasons why requests were never put forward, or if so, if they were rejected by the Chinese. Similarly, while anti-malaria training provision by China has been widespread across Africa[755], again Kenya benefited only limitedly.

Education and training cooperation and assistance between the two countries is very recent, and although this study presents a snapshot of the situation up to early 2014, the relations keep evolving. For instance, at the Ministerial Forum on China-Africa Health Development, held in Beijing in August 2013, China's commitments made reference to new areas of cooperation such as "cooperation between academic and research institutions in China and Africa" as well as the establishment of "joint research laboratories and ethical conduct in the medical field" and the opening up to "invite young scientists from Africa to China to carry out academic research and vice versa". Finally, the declaration also includes a commitment to "facilitate communication and cooperation between non-government organisations in the health sector", particularly through the "China-Africa friendly civil partnership plan"[756].

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[752] Li, 2011, op.cit., p. 9.
[753] *Ibid.*
[754] *Ibid.*, p. 18.
[755] *Ibid.*, p. 15.
[756] Ministerial Forum on China-Africa Health Development, Beijing, August 2013.

Chinese education and training in Kenya

Despite the lack of human resources for health and the ratio of doctor/patient still being extremely inadequate in the country, Chinese Medical Teams were never requested by Kenya. CMTs are demand-driven, like, arguably, most assistance provided by China. Interviewees in Kenya confirmed that permits were never issued to Chinese healthcare professionals to operate in Kenya except from a brief period in 2010 when the Chinese navy hospital ship, Peace Ark, docked at Mombasa port between 13 and 18 October. According to the Medical Practitioners and Dentists Board, the body in charge of issuing permits for foreign Health Care Professionals (HCPs) to operate in Kenya, the doctors were licensed to work temporarily in Kenya, "they stayed less than a month, and that is unusual. Doctors at mission hospitals usually stay longer."[757] The Human Resources division of the Ministry of Health suggests that the reason why Kenya never turned to China is "historical, during the Cold War, Kenya was more aligned with the West, it never intended to get support from the East until the other day, in the 1990s, when the West started imposing sanctions"[758]. On the one hand, the country has been accustomed to the Western provision of doctors on a voluntary basis, and of training through Western organisations, never considering the Chinese. On the other hand, the preference of the country has been on providing training to *Kenyan* human resources rather than giving space to foreign human resources to operate in the country. Foreign HCPs are mainly "volunteers at mission hospitals. There are circa 700 foreigners in the country, mostly from the US, UK, Sweden, Netherlands, South Africa (few), India"[759]. The problem mainly seems to concern the existence of strong historical linkages with Western institutions, including faith-based organisations providing healthcare and accepting foreign doctors to work for them, rather than with a deliberate action to oppose the entry of Chinese physicians. In fact, responses like this were frequent: "if they came, the Chinese, they would be helpful. I have interacted with them, they are easy, they have minimal demands"[760].

Beyond CMTs, China has committed to focusing on providing training to African countries as part of government assistance on malaria management, HIV-AIDS and other communicable diseases (see Annex I). In 2003, Li Anshan reports that "six

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[757] Interview with an executive at the Medical Practitioners and Dentists Board, Nairobi, 2014-10-07.
[758] Interview with an executive at the Ministry of Health, Human Resources Development Department, Nairobi, 2014-11-18.
[759] Interview with an executive at the Medical Practitioners and Dentists Board, Nairobi, 2014-10-07.
[760] Interview with an executive at Mama Lucy Kibaki Hospital, Nairobi, 2014-10-14.

Chinese experts and 28 African participants from 14 countries attended [a malaria-management] one-week training course, which was highly praised by African participants as well as the Kenyan Minister of Health and the Chinese ambassador"[761]. Again, in 2007-2008 Chinese personnel was in Kenya to deliver training[762] in malaria management and in 2014 the Chinese government sponsored a training in China to which experts from the Malaria Control Division and the Ministry of Health participated[763]. However, as mentioned in the previous chapter, the sector's reliance on multilateral cooperation makes it difficult for Kenyan stakeholders to allow China to carry out training and initiatives disjoint from the existing system of governance. As a consequence, the provision of this training seems to be an end in itself, where the Chinese are not contributing to the Kenyan management of the disease but continue, nonetheless, to provide training that is defined, in content and modality, by what is recognised as important flagship initiatives of *Chinese* healthcare diplomacy.

As far as it concerns the involvement of non-state actors in the provision of education and training, Beijing Holley-Cotec in 2006 has donated Ksh 3.5 million worth of scholarships to the College of Health Sciences, University of Nairobi, for needy and outstanding students[764]. However, the Healthcare Federation of Kenya, branch of the Kenya Private Sector Alliance, suggested that despite the dire need of training, Chinese pharmaceutical companies have not supported any. Explanations provided by the Federation revolve around "a language problem, a cultural problem and a sense of comfort that we do not have with the Chinese. We get general requests for the provision of training by Germany, the Netherlands, not the Chinese. I would be interested in getting in touch with the China Healthcare Federation, our counterpart. And if Chinese pharma companies do provide training, then maybe their awareness is weak as we do not know about that"[765]. This is one more case in which Chinese actors are not part of the associational environment that constitutes a share of the sectoral system of governance.

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[761] Li, 2013, op. cit., p. 67.
[762] Interview with an officer at the Ministry of Health, Malaria Control Division, Nairobi, 2014-10-06.
[763] *Ibid.*
[764] University of Nairobi, *Varsity Focus*, op. cit., pp. 21-22.
[765] Interview with an executive, Kenya Healthcare Federation, Nairobi, 2014-10-08.

Beyond the private sector, there have not been other Chinese non-state actors involved in the sector, except the Chinese Red Cross through which Chinese companies' donations (CSR) have been channelled on a couple of occasions[766].

Chinese education and training in China

The cooperation in education and training does not only take place *in Kenya* but also through the opportunities created for students and professionals to train *in China*. China is providing scholarships for training health personnel from two weeks to master level. It is providing the highest number of short courses and has surpassed Japan that was previously the leader through JICA[767]. Long courses, instead, are mainly provided by Commonwealth countries such as Britain, India, Australia. China mainly provides courses in service delivery and critical areas whereas Germany is the leader in management with Japan providing both[768]. While the scholarships can be offered to different departments at both the Ministry of Education and the Ministry of Health, generally it is the Human Resources Development Division at the Ministry of Health that assigns postgraduate and in-service scholarships *through a needs assessment* while the Ministry of Education assigns those for undergraduate studies[769]. According to the Ministry of Health, the support from China has been increasing, and Kenyan stakeholders decide which type of professional figures should receive training opportunities. The issues around which the training revolve are, however, often established by China and involve: malaria, HIV, health system management, community health, laboratory. The Ministry of Health, for instance, sent "not less than a hundred people/personnel to short training in China since 2011. In 2013, 30 people went to get training and deepen the understanding of the healthcare system"[770]. As far as it concerns undergraduate training, for instance that undertaken by medical students, the Kenya Medical and Dentists Board suggests that students returning from medical studies in China often seem not to pass the exams in Kenya due to the fact that the curriculum studied in China is different compared to that in Kenya[771]. However, due to the relatively new nature of the relations, no specific actions have been taken, yet,

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[766] 'Donation to Kenya Red Cross Society by the Chinese Community in Kenya', *Embassy of the People's Republic of China in the Republic of Kenya*, 6 January 2008; L. Hou, 'Chinese communities donate to victims' families after Kenya attacks', *China Daily*, 08 April 2015.

[767] Interview with an executive at the Ministry of Health, Human Resources Development Department, Nairobi, 2014-11-18.

[768] *Ibid.*

[769] Interview with an executive at the Ministry of Health, Human Resources Development Department, Nairobi, 2014-11-18.

[770] Interview with an executive at the Ministry of Health, Medical Services, Nairobi, 2014-09-29.

[771] Interview with an executive at the Medical Practitioners and Dentists Board, Nairobi, 2014-10-07.

to improve the partnership to ensure that the teaching content and quality standards of the two countries align.

An interesting aspect concerning health-related training in China is that of perceptions. Kenyans are yet to establish trust toward the Chinese in health products and practices. Most interviewees reported that it is general belief that the West offers better training than China but that since it is limited, it is worth taking advantage of the Chinese offers too. Perceptions play a significant role in the understanding of the medical profession as carried out by Chinese nationals in Kenya or of training organised in China. This perception is often compared to one concerning the West's provision of education and training, largely deemed better than the Chinese. Ministry's bureaucrats and healthcare professionals at the directorate level in various structures are aware of this widespread perception and often stand in the middle reporting that "those trained in China feel it wasn't good" [772], and "come back with good stories for sightseeing" [773], leading to a generalised perception that Chinese training is not serious. However, this depiction is balanced with the acknowledgement that there are, as per experience, brilliant Chinese doctors and training can be top level. So far, however, the quality of the training has not been systematically assessed [774]. Mostly, students and professionals go to China to undertake training on *conventional* medicine although *traditional* medicine is also gaining momentum.

Traditional medicine education and training

The attention to training in traditional medicine is set against a maturing domestic environment that recognises the potential importance of traditional medicine to reducing the costs of health care provision. For traditional medicine to have an impact, however, Kenyan actors have identified the need to improve and formalise education and training significantly. China's dominant role, internationally, in the development and use of traditional medicine in health care provision, was recognised as a determining factor to intensify links.

Although it is not the only initiative undertaken in collaboration with China, the Natural Products Industry Initiative (explained in Chapter 5) sheds light on two key Kenyan motivations for choosing China as a partner in education. The first concerns

[772] Interview with an executive at Mama Lucy Kibaki Hospital, Nairobi, 2014-10-14.
[773] Interview with an officer at the Ministry of Health, Medical Engineering Division, Nairobi, 2014-11-18.
[774] Interview with an executive at the Ministry of Health, Human Resources Development Department, Nairobi, 2014-11-18.

the possibility to increase, through the training provided by Chinese institutions, capacity building not only in medical training or product development but also in management, including the syncing of conventional and traditional medicine usage in the national healthcare system. The possibility to learn from a country that perfected a conventional-traditional blended version of healthcare delivery proved to be a key factor in wanting to partner with China. The second motivation concerns the fact that the presence of China symbolises more than a mere partner in development. It symbolises the possibility of unearthing indigenous traditions for long buried under colonialism and post-colonialism.

As described in the previous chapter, the institutional environment surrounding the development of traditional medicine is weak, under major revision by concerned governmental and non-governmental stakeholders in Kenya. Because of the fragmented and unofficial environment, education and training are not regularised, even less formalised by institutions of higher learning. While traditional healers in China are formally recognised[775], in Kenya they are not. According to the Ministry of Culture (Traditional Medicine section), "there are no courses or degrees, but we are in the process [of creating educational opportunities] [...] working on a formula to develop a college with certificate diploma and degree"[776]. At Kenyatta University, for instance, the curriculum of the Faculty of Pharmacy is still based on the Commonwealth curriculum. While some staff has been trained in China in traditional medicine, to integrate the knowledge into the actual teaching is proving quite difficult. The legal framework needs reform, i.e. repealing the 1925 Act, for traditional medicine use and practice to be legalised and thus appeal students, staff and the general public.

Regarding research, according to the Kenya Medical Research Institute, Traditional Medicine Division, "there is no collaboration. The Japanese who built this Institute were the first collaborators. We were doing research for *our* products, and they funded a lot. The Chinese as collaborators, they want to develop *their own* products as the industry comes up" [777]. This is not well received and, as a consequence, partnerships have not taken off. One of the challenges to these partnerships, beyond the Chinese focus on Chinese product development, is identified in the secrecy that surrounds the practice and use of traditional medicines

[775] World Bank, 'Traditional Healer Services', op. cit.
[776] Interview with an executive at the Ministry of Culture, Traditional Medicine Department, Nairobi, 2014-10-10.
[777] Interview with an executive at the Kenya Medical Research Institute (KEMRI), Nairobi, 2014-11-05.

in both countries. Some researchers have mentioned that even during their visits in China their understanding of compositions was very limited due to limited exposure by the Chinese.

The only type of interaction between KEMRI and the Chinese revolves around the provision of scholarships for students and researchers to visit China. In China, training revolves around the *Chinese* experience rather than exploring commonalities across traditional medicine cultures more broadly[778]. This applies to both the research and policy environments. According to the leading group of the NPI, in 2011 the Chinese Embassy invited them to attend a workshop in Beijing for about a month. An interviewee reported "They frame it: we want to help you develop your capacity. That is appealing to Africa and even to us. We cannot afford primary care for citizens"[779]. The training revolved around traditional Chinese medicine, "how that now contributes to national development, how to integrate it into the medical system, their legislative framework, how they managed to create a business becoming very important. Their focus was to discuss how to make TCM more acceptable internationally, regulations and safety and quality control"[780]. Similarly, according to an interviewee from the Ministry of Health, Traditional Medicine Division, "when they invite African people to go to Africa, they show acupuncture and the basics of Chinese traditional medicine"[781]. Even though the training in China is in *Chinese* traditional medicine, according to an interviewee the training "was useful, it empowered me, I know where we need to take our medicine, to which level. We need scientific evidence"[782].

In addition to the engagements in higher education and with state organs, the relations between Kenyan and Chinese stakeholders in traditional medicine education and training also involve practitioners as well as producers. In Kenya, despite the presence of settled Chinese practitioners the interaction between them and Kenyan traditional medicine practitioners is very limited due to a secretive mentality on both sides. The Ministry of Culture suggests that on a few instances Chinese practitioners visited the country, "when they come we organise seminars/workshops, we can build capacity. Mostly the training is in the area of packaging but also for the use of medicine"[783]. Members of associations, such as

[778] Interview with an officer at the Pharmacy and Poisons Board, Pharmacovigilance Division, Nairobi, 2014-10-07.
[779] Interview with an executive at the National Museums of Kenya, 2014-10-17.
[780] *Ibid.*
[781] Interview with an officer at the Ministry of Health, Traditional Medicine Division, Nairobi, 2014-11-17.
[782] *Ibid.*
[783] Interview with an executive at the Ministry of Culture, Traditional Medicine Department, Nairobi, 2014-10-10.

NATHEPA, and traditional medicine centres, have also travelled to China on scholarships provided by the Chinese Embassy[784]. Chinese private companies selling traditional medicines in Kenya also provide training, which is specific to the use of their products. For instance, a company producing herbal products "invited doctors from Nairobi Hospital to go to China to visit the factory, the plants we use, the packaging, the whole process. So that when they write a prescription, they have a more self-confident approach to prescribing it. It is not just about smashing plants"[785].

The training provided by China is deemed beneficial by Kenyan actors for both policy development and product development. There is, however, an increasing awareness of the Chinese interests behind such benevolent actions, namely an interest to gain a foothold in the Kenyan market. While Kenyans have shown an interest in developing *Kenyan* products, they are still working out a system of governance suitable to protect such interests.

Rooted governance, partially in-the-making

From the study, what emerges is that the management of education and training for conventional and traditional medicine differs.

Similarly to the cases presented in Chapter 5, China's assistance for conventional medicine encounters an articulate system of governance, populated by a high number of governmental and non-governmental actors, domestic and international, which cooperate with the Ministry of Health and the Ministry of Education in long-term assistance projects, often coordinated at multi-lateral level. These make it difficult for a new partner to penetrate the system, especially when the latter's provision of assistance is independent of such system. China's assistance, mostly short term and often one-off, is not decisive in a sectoral context that is historically populated by traditional development partners and products. The Chinese provision of medical teams, or experts in malaria centres, despite being considered 'flagship' projects by the Chinese in FOCAC documents, is temporary, it is not contextualised in long-term development programs and does not speak directly to Kenya's needs in healthcare professionals' development. At the same time, the fact that the training provided by China is often considered sub-standard sheds light on the absence of

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[784] *Ibid.*
[785] Interview with an executive at a Chinese company manufacturing traditional medicines, Nairobi, 2014-02-06.

Kenyan action to guarantee that the teaching content and quality provided outside the country is suitable to Kenyan standards and needs.

In the case of traditional medicine, the system of governance is identified as fully unsuitable for safeguarding emerging interests, i.e. the development of traditional medicine policies and products to contribute to the delivery of a more affordable and widespread health care provision system. Chinese-provided training is thus useful to gain knowledge so to develop a more suitable system of governance. Despite the Chinese focus on the Chinese experience and Chinese products, Kenyan actors have identified the need to re-adapt the lessons to the Kenyan system, thus excluding Chinese offers of research partnerships to develop Chinese products. In other words, even though the system of governance is weak and under full restructuring, single negotiations are showing the Kenyan willingness and ability to use the Chinese involvement to their benefit.

This case then suggests the co-existence of two types of systems of governance: one that is rooted (conventional HRH education) though it presents deficiencies, and the other that is in-the-making (traditional HRH education). In the case of traditional medicine education, though the system of governance is still being structured and although the Chinese have attempted to act in ways that would benefit their products' expansion in Kenya, thus non-conforming to the Kenyans' priority of developing the Kenyan system, Kenyan actors have demonstrated an ability – though still limited and, presumably, non-comprehensive – to bring back the relation with China to fulfil Kenyan priorities. In the case of conventional HRH education, however, what is observed is a heterogeneous set of behaviour, most likely consequential to the fragmented nature of the system of governance. Hence, while Chinese Medical Teams have not set foot in the country, conforming to the preference to train locals rather than welcoming foreigners, the system faces a stalemate when it comes to guaranteeing that the training provided by China is in line, in terms of teaching content and quality, with Kenyan standards. The absence of specific actions to tackle the problem leads to believe that Kenyan actors are more passively than actively, addressing the issue.

6.2.3 Confucius Institutes

Confucius Institutes are a peculiar form of educational assistance provided by the Chinese government to higher education institutions all over the world. They are a Chinese invention that does not find equals in other development partners' forms of educational cooperation. At times compared to the British Council, the Alliance Française, the Goethe Institute and the Instituto Cervantes[786], they differ from these mainly because of their set up *within* foreign universities, which implies a formula of cost-sharing as well as curriculum negotiation[787]. According to King, "as to locating the Confucius Institute as a particular aid modality, there are clearly problems with identifying it as a form of official development assistance, as more than 50 percent of the support from China is going to Confucius Institutes and Confucius Classrooms in so-called developed countries"[788].

They have received much more attention by the media and academia than any other form of educational cooperation and assistance by China in the past few years. This is mainly because the involvement of the Chinese government, and the – debatable – use of Confucius Institutes as official tools of soft power, may impact freedom of expression in host universities[789]. This applies to CIs worldwide though Africa has been targeted as a particular context for the projection of this form of Chinese soft power[790]. The expansion of CIs in Africa is often considered more peculiar than in other regions due to the absence of Chinese language centres prior to the establishment of CIs[791] and due to the arguably enhanced power asymmetry between any given African country and China[792].

For Kenya, the hosting of CIs must be contextualised in a broader environment of rapid internationalisation of higher education. Though foreign language teaching is not identified as a primary need in most policy documents, the development of policy and practice of tertiary education, thus including language learning, has become fundamental to the country as a consequence of an increment of students' enrollment since the early 2010s. The first Confucius Institute in Kenya (also the

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[786] See F.Hartig, 'Confucius Institutes and the Rise of China', *Journal of Chinese Political Science*, vol.17, 2012, p.57.
[787] King, 2010, op.cit.
[788] King, 2014, op. cit., p. 8.
[789] For debates around the issue of 'soft power' in relation to Confucius Institutes see: King, 2013, op.cit., pp.173-175; Hartig, 2012, op.cit.; Guo, 2008, op.cit.; S. Ding, *The Dragon's Hidden Wings: How China Rises with Its Soft Power*, Lexington Books, New York, 2008; F. Hartig, 'Soft Power Push or Conspiracy: A Case Study of Confucius Institutes in Germany', Asian Studies Association of Australia, 18th Biennial Conference, Adelaide, Australia, 5-8 July 2010; R.S. Zaharna, J. Hubbert and F. Hartig, 'Confucius Institutes and the Globalisation of China's Soft Power', Figueroa Press, Los Angeles, 2014.
[790] See Procopio, op.cit.
[791] F. Hartig, 'The Globalisation of Chinese Soft Power: Confucius Institutes in South Africa', in Zaharna, Hubbert and Hartig, 2014, op.cit, pp.53-54.
[792] Procopio, op. cit., p. 101; see also King, 2013, op. cit. for an account of the relations between hard and soft power.

first in Africa) was set up at the University of Nairobi in 2005. It was followed by the CI at Kenyatta University established in 2008, and the CI at Egerton University launched in 2013. A fourth CI was established in early 2015 at Moi University but the timing falls beyond the timeframe of this thesis and the analysis below does not thus include it. It is important to emphasise that the institutions hosting the three Confucius Institutes under study present very different environments. Modalities of action within the university, the interaction with Chinese stakeholders, the integration of the CI to the local teaching system all differ significantly. This is seemingly due to the type of institution and the degree to which the teaching of a foreign language such as Chinese is contextualised, but also to the Chinese interests in setting up links with that specific institution.

While *Chinese* motivations and modalities of action behind the establishment of CIs have been studied at length, they are only briefly touched upon in this analysis, which rather focuses on the *Kenyan* motivations and modalities of engagement.

Foreign language and culture teaching in the 2000s

In a context of increasingly high enrolment rates in universities and higher education institutions, foreign languages in Kenya are seen as "tools of global commerce and thus of growing importance to the country and to university graduates"[793]. The internationalisation of higher education through the collaboration between local and foreign institutions is seen as a mechanism used to improve access[794]. Universities – especially leading ones such as Nairobi, Moi, Kenyatta – are increasingly under pressure to "offer courses that are in tandem with market needs", so to "expand their student registers"[795]. China is then only one of the various countries that are attempting to gain a share of the students' population. Languages such as French and German, but also Arabic, are becoming more important in a context of rapid regional integration and expansion. French, for instance, is deemed by investors a key language to support expanding Kenyan interests "in Rwanda and Burundi – two French-speaking countries seen as growth frontiers by Kenyan companies keen to expand their business horizons beyond the national borders"[796]. Arabic "is also gaining ground as more Kenyans head to Dubai

[793] G. Nganga, 'Kenya: Cashing in on foreign language learning', *University World News*, 4 July 2010.
[794] D. Alusa 'Internationalization of Higher Education: The Case of Kenya', United States International University-Africa, Nairobi, 2015.
[795] Nganga, op. cit.
[796] *Ibid.*

and Saudi Arabia to work, as well as to Sudan for emerging business opportunities"[797].

While the teaching of languages such as French, German, Arabic, is historically rooted in Kenya, the teaching of Mandarin is much more recent. While the former are generally fully integrated within university systems, the latter is provided through Confucius Institutes that are jointly managed by the local university and a partner university in China. Because of this modality of engagement, the teaching of Mandarin resembles more an academic partnership than a local university initiative. This has consequences for the management of the teaching. In fact, while the teaching of languages integrated within any specific university system is subjected to the rules that ensure quality assurance at that particular institution, the teaching of Mandarin is subjected to the rules of the Hanban (the Chinese body under the Ministry of Education regulating the teaching of Chinese language overseas), which also provides funds to the CIs for their set up and running. Despite the increasing importance of higher education development, according to Alusa "there is no specialized agent for accreditation of collaboration activities in higher education in Kenya"[798]. This is confirmed by interviews conducted with a relevant officer at the Ministry of Education, Higher Education Department[799]. The absence of a proper system of governance leaves space for interpretation by both domestic and foreign actors.

Confucius Institute, a 'response-mode' assistance?

Even though Confucius Institutes are labelled as 'demand-driven' forms of assistance, the cases in Kenya do not readily support the statement. The only university in Kenya that had previous links with Chinese universities before the set-up, in 2005, of the first Confucius Institute, was Egerton University. Egerton University started a partnership with Nanjing Agricultural University in 1997. From 1998 to 2003 the university received volunteer Chinese teachers teaching the language. Importantly, the university also established research links with the Chinese counterpart and trained students in agro-production. Then, in 2012, according to a source from the University, "we decided to do an administrative change and set up a Confucius Institute. The main drive for this was to improve our

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[797] *Ibid.*
[798] Alusa, op. cit.
[799] Interview with an officer at the Ministry of Education, Higher Education Division, Nairobi, 2014-11-19.

own research environment and students' training. Many of us are increasingly studying in China"[800].

Apart from the case of Egerton University, in all other cases, the decision to set up the institutes was not driven by students or staff demand but was rather an executive strategy. This strategy was formulated, first and foremost, by the Chinese. A Chinese CI executive stated that Kenya was *chosen* to set up the first CI in Africa. He continued: "The reason why Kenya was chosen as the first location to set up an Institute is, to my advice, the fact that Kenya is in a good geographic position, it is a smooth country, with no much problem and that developed well. UON is also the best University in East Africa. And Nairobi provides a good context, with the UN offices, etc."[801]. On the other side, Kenyan CI executives stated that the idea of introducing the Chinese language was not like for other languages where there was integration in one department. In the case of the Chinese language, "there was the need to cater for one institute"[802].

Similarly, with the students, the use of tactics by the Confucius Institute to attract them leads Kenyan interviewees to believe that the interest in learning the language is more rooted in the financial support received than in the Chinese language and culture. At the launch of one of the institutes, the students of the CI were paid to be the audience. The event had to be attended by Chinese high-level political figures, on a visit from China. Similarly, in another institution, the students are provided with fee waivers to study Chinese if they are good at singing and willing to join the CI choir, which is an important instrument for CIs to show the cultural embrace between China and Kenya, at international and political events.

A Kenyan administrator at a Confucius Institute also suggests that students largely learn the language not because of pure interest in it or Chinese culture, but because through the Institute they have an opportunity, to travel, to experience. The fact that the Institute provides scholarships to travel to China "is a big chance for students here. If you promise to take students abroad, it helps attract them. The Chinese also host many events, competitions, students' activities – and they give students incentives to participate, including financial incentives"[803]. Similarly with teachers, a Chinese executive suggests that "if we *offer* the course they come, if we

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[800] Interview with a Kenyan executive at a Confucius Institute, 2013-11-22.
[801] Interview with a Chinese executive at a Confucius Institute, 2013-10-03.
[802] Interview with Kenyan and Chinese executives at a Confucius Institute, 2014-11-14.
[803] Interview with a Kenyan executive at a Confucius Institute, 2013-10-31.

do not offer it they do not come"[804], emphasising the importance that financial aspects play in the relations.

While these cases do not aim at concluding that in Kenya there is no interest in learning the Chinese language and culture – or that if it were not for the Chinese strategies to recruit students, no one would study Chinese – they do nonetheless suggest that the Chinese interest in the existence of the Institutes is more than a mere 'response'. On the Kenyan side, however, it is important to understand whether financial assistance is filtered and conditionally accepted, i.e. based on the universities' quality standards, or is rather undiscerningly received.

Administrative vs. Academic autonomy

The fact that Confucius Institutes are used as Chinese foreign policy tools has triggered criticism around the world concerning the degree of academic autonomy foreign institutions could maintain over the teaching of the Chinese language and culture. The issue concerns the amount of control that the host university can exert over, mainly, teaching content and human resource management. This ability to control the relations must be contextualised in a relationship where economic asymmetry is significant. For instance, the Chinese Hanban has provided funding not only for the set-up of the Institute, the Director, teachers, textbooks and activities linked to the Institute but, in some cases, it has also linked the Confucius Institute to other deals, such as the provision of infrastructure to the university, i.e. equipment and construction of classrooms. A Kenyan interviewee commented:

the facilities [at the Confucius Institute] are so different, so good. If you enter a Chinese class, it's not Kenya. Equipment is from China, computers are available, whatever material is always available, there's no risk for students to run out of textbooks, whatever the level. The reading material is given for free, sometimes also writing pens. There was a time in which we entered a class, there were about 300 students, they all had a special pen for reading the pronunciation. They are very strategic; they put in a lot of investment[805].

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[804] Interview with a Chinese executive at a Confucius Institute, 2013-10-03.
[805] Interview with a Kenyan executive at a Confucius Institute, 2013-10-31.

The Chinese contribution, in a context like that of Kenyan universities where funds are hard to gather, does seem to make a difference. The Chinese provision of significant funds is a sign of the Confucius Institutes' high importance for the Chinese government. Because of this, Kenyan stakeholders expressed the idea that sometimes they felt they had lost control[806]. A Kenyan interviewee from one of the Institutes suggests that "they [the Chinese] are powerful beyond the department and university. For instance, if there is a complaint about a member of staff, it is a question that should be dealt with at the Faculty level. But instead, the Chinese Embassy goes to the Vice-Chancellor although the Vice-Chancellor does not know anything about the issue"[807]. In other words, the Chinese bypass the governance systems and are supported from the inside of the university system by a figure that is highly political: the Vice-Chancellor. This permissiveness is also consequential to a lack of control at the governmental level, where the Ministry of Education is fully unresponsive.

These relations have led to questioning the extent to which Kenyans maintain freedom in choosing the teaching content and modalities. The main problem identified is that of who decides the curriculum and how quality is ensured. In all the cases, the curriculum development is mediated by the host university. In one case, representative of the others, a Kenyan CI executive mentioned that "they [the Chinese at the CI] develop the programme but here at the university people have a lot of say. The programme goes through the Department, the Faculty, the College and Senate. We argued that a big part should be language. Then the programme was moderated"[808].

However, although the universities, through the structures in place to guarantee quality, attempt to exert control, Kenyan interviewees suggested that it is not easy to do so. This is linked to the issue of human resources: most human resources, from the director to teachers, are dependent upon, and selected by, the Hanban. Similarly, the exam that students are asked to take to evaluate their progress (HSK) is also administered by the Hanban. Consequently, when it comes to testing the quality of teaching, there is no independent assessor. Only recently Kenyan graduates in Chinese are starting to go back to Kenya to teach. This is perceived to be the main avenue to increase transparency of the teaching content and quality, and

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[806] *Ibid.*
[807] *Ibid.*
[808] *Ibid.*

sustainability of the project. Confucius Institutes in Kenya are, in fact, fully reliant on the Hanban with no intent, to date, to move toward a sustainable version of Chinese language teaching, i.e. funding independent courses.

Passive governance and non-conformity

This is a case where the system of governance is very weak. The interests emerging in the cooperation with China (i.e. language teaching/learning) are relatively new, and there has not been a full acknowledgement, yet, by Kenyan actors, of the significance this carries for the country. While this applies to all languages, not only Mandarin, the case of Confucius Institutes is peculiar given its presence directly inside foreign institutions. The existing regulatory framework does not specifically regulate the presence of foreign organisations within Kenyan educational institutions. Although the structures to ensure quality assurance within universities are used to filter this Chinese form of educational assistance, the same structures were also bypassed – at the moment of setup and later in specific circumstances – to serve higher political aims. For the Chinese, these aims concerned the establishment of the Institutes as tools from which to launch soft power initiatives, while for Kenyans the 'higher' aims included the receipt of funds. In fact, the significant deployment of Chinese financial and human resources, consequential to the Chinese state interests in using Confucius Institutes as tools of soft power, exacerbates a dynamic of dependence upon foreign resources. The justification behind the reliance upon dependence seems to be that the provision of Chinese language teaching for free is more important to the development of the country than the safeguard of academic independence (from the Chinese government) and the strict control of the quality of education.

Similar to the case of conventional HRH, the absence of specific actions to tackle the problem of quality assurance leads to believe that Kenyan actors are more passively than actively, addressing the issue, though somehow consciously doing so to perpetuate financial dependence.

6.3   Sectoral dynamics

As introduced above, the interaction between Kenyan stakeholders in the education sector vis-à-vis China mainly revolves around inserting a new player in a

scenario well populated by long-present development partners. This implies learning about the way to match domestic needs with Chinese offers of educational cooperation and assistance, learning about different values, such as production versus rights, and understanding how and if these novelties find space in Kenyan contexts. Importantly, the way ownership is understood and exercised cannot be separated from the interests of *Chinese* stakeholders and their capacity to achieve objectives. For instance, Confucius Institutes are an established and comprehensive policy initiative, with financial and diplomatic capacity, whereas in the case of TVET, the Chinese initiative is not as highly regulated, the actor is one and the resources available, though significant, are more limited than those for CIs. These resources are, in fact, dependent on a private company's willingness to expand its CSR portfolio – and bring production to Africa – rather than on the government's funds and willingness to achieve visibility for soft power aims.

The system of TVET, highly controlled and regulated by the Ministry and higher education institutions, has promptly engaged the Chinese and is aiming to develop an inclusive governance approach. In the case of human resources for health the relations with China are of two kinds: 1) the engagement in conventional HRH is characterised by extremely limited and circumscribed relations, mainly short-term training, which is arguably providing only limited benefits due to the fact that teaching content and quality does not align with Kenyan standards; 2) the engagement in traditional HRH is instead characterised by relations that revolve around knowledge-transfer for the re-structuring of the system of governance. While the first case shows conformity to the existing system of governance, a partial acknowledgement of its deficiencies but no action to tackle them, the second case shows that, despite the fact that the system of governance is weak and under full restructuring, single negotiations are showing the Kenyan willingness and ability to use the Chinese involvement to their benefit.

Similarly to the case of conventional HRH, the case of Confucius Institutes presents a type of Kenyan ownership that is extremely limited. However, while the former conforms to a system of governance that despite being rooted is significantly fragmented reducing the ability to judge the suitability of the Chinese engagement to Kenyan needs, the latter bypasses known tables of negotiation – through the direct links established between the Chinese Embassy and the higher ranks of the Universities – with no particular action taken to transform the system.

Finally, in the cases of TVET and traditional HRH, the involved Kenyan actors highly valued legal and institutional frameworks, feeling protected by their existence. Even in cases where these frameworks were not adequate and thus needed restructuring, the first step of the change process was that to identify how the frameworks could be improved. However, in the case of Confucius Institutes, and partially in the case of conventional HRH, the legal and institutional frameworks seem to be virtually meaningless. In the first case, this is due to the convenience of depending on foreign resources without constraints, in the second case instead, it is a more nuanced type of disregard of the system, mainly consequential to its very fragmented and disorganised nature.

Table 3: Sectoral comparison of interests, actors, and arenas/tables of governance - Education

		Technical and Vocational Education and Training	Human resources for healthcare	Confucius Institutes
Interests	**Type of relation**	Commercial-aid(CSR)	Aid (with some commercial returns)	Aid
	Issue at stake	Lack of Kenyan skilled workforce for the industries, with the Chinese, arguably, taking over the jobs and training Kenyans only for specific purposes. Need to develop the sector comprehensively and strategically.	Lack of health professionals, with China pledging to provide help to overcome the problem as part of its south-south cooperation, but focusing on *African* commitments rather than Kenyan specific needs.	Regulating the operations of the Confucius Institutes within universities, and language teaching
	Kenyans' issue-specific interests	Use Chinese company to achieve domestic development plan, i.e. training and development of technical experts able to actively engage with the construction boom and other emerging sectors.	Use Chinese aid to achieve domestic development plan, i.e. training of human resources for health, necessary to guarantee proper health care delivery and thus a healthy population able to work. Learn from the Chinese for traditional medicine training.	Use Chinese aid to develop language courses and links with China.
	Overall objective toward China	Engaging China as a partner in development	Fitting China in (conventional), engaging China as a partner in development (traditional)	Fitting China in
Actors	**Initiator**	Ministry of Education – TVET (small office)	Ministry of Health - Human Resources office, Ministry of Culture	Universities (Nairobi, Kenyatta, Moi, Egerton)
	Other domestic actors	Educational institutions, Private sector associations	Ministry of Education, NATHEPA	Ministry of Education
	Resources	Kenyan human resources crucial to alter the system of governance to safeguard Kenyan interests: increased relations between schools and factories to improve the industrialization process		Asymmetry in financial and human resources seems to not provide guarantees for the safeguarding of academic independence
Arenas and tables of negotiation	**ARENA 'the problem' contextualized in the Kenyan domestic context** (historical legacies and current policy preferences)	IN-THE-MAKING: New significant policy-area, whose relevance is triggered by increased industrialization and recognition of secondary education as crucial for the country's growth. Recent institutionalization (2014), previously not significant.	ROOTED > Conventional: significant lack of HRH, reliance on external actors. Fragmented system of governance, lack of coordination at domestic level. IN-THE-MAKING > Traditional: weak institutional environment, education and training is not regularized, nor formalized by higher education institutions	NON-EXISTING: Recent internationalization of higher education to fulfil increasing demand and market needs. Weak system of governance to regulate internationalization and even more lack of a specific system of governance to regulate the presence of a foreign institution within local universities.
	Mobilization framework	New framework of engagement spearheaded by Africa Tech Challenge (Ministry of Education). Still weak link between framework and implementation, but Kenyan ownership maintained.	Weak framework to negotiate bilaterally, heavy reliance on multilateral institutions	Weak framework that allows financial assistance to be undiscerningly received by the Cis, with the tacit consent of university management (at times) and unresponsive behaviour by the Ministry of Education
	Mode of addressing the issue with the Chinese	Pro-active	Passive (conventional), pro-active (traditional)	Passive
	Table of negotiation	Conformity	Conformity (conventional) + light alteration (traditional)	Non conformity

Source: Author's findings

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CHAPTER 7

Negotiating Governance: Contestation, Cooperation and Passivity

7.1   Overview

This Chapter looks at the findings presented in Chapters 4, 5 and 6 discussing them in relation to the conceptualization of agency presented in Chapter 2. In the previous chapters, the author has scrutinised governance in the sub-national sectoral settings where it most often occurs[809]. This approach has helped reveal "previously unexamined sources of agency"[810] in Sino-African relations. These sources have raised issues concerning the role of individuals, their belief systems, the systems of governance including institutions and norms, and finally, the way preferences are safeguarded. Through the comparative study of the interplay between *interests* and *arenas*, this chapter attempts to identify trends in behaviour, the implicit and explicit negotiating strategies that Kenyan actors adopt[811] and the way they guarantee the safeguard of their interests.

However, before moving to the analysis, it is important to remember that this study is about real governance, which according to Olivier de Sardan "is composed of multiple dimensions, some convergent and others contradictory; it is also the product of local, sectoral and individual microdynamics; and lastly, it faces on every front a pluralism of forms of action"[812]. Therefore, it is not surprising that the empirical work highlighted two challenges for the identification of *patterns*: the diversity of organisational architectures across sectors and sub-sectors and the changing nature of such architectures. Recalling Habeeb[813], this thesis suggests that the *factors* that contribute to Kenya's *control* of the relations with China should not be identified in the state's aggregate power, or the sum of state's resources, but rather in the context and the structure of the specific negotiations. In a country that has undergone, in the past twelve years, incredible changes in governance, first with the opening up, albeit in a controlled fashion, to multi-party democracy, and then

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[809] Sellers, op. cit., p. 135.
[810] *Ibid.*
[811] Whitfield and Fraser, op. cit., p.342.
[812] Olivier de Sardan, op. cit., p.4.
[813] Habeeb, op.cit.

with a major constitutional reform in 2010, domestic governance is entirely in flux. This does not mean that the country is totally destabilised, but rather that the constitutional changes required a dynamic updating of bureaucratic structures, thus putting the country in a transition era. This transition occurs at varying speed depending on the actors' ability and willingness to respond to constitutionalism. Underlying this is the acknowledgement that Kenya as a country has changed since the early 2000s, the economy "no longer relies on the state; the multi-party democracy is here to stay and presidential demands provoke as much resistance as obedience"[814].

As Alden and Ammon highlight in their work on FPA, the focus "on the foreign policy process as opposed to foreign policy outcomes, is predicated on the belief that closer scrutiny of the actors, their motivations, the structures of decision making and the broader context within which foreign policy choices are formulated would provide greater analytical purchase"[815]. The previous chapters aimed to unpack exactly these processes by defining the actors involved, their motivations to engage with China individually or to seek collaboration with other domestic actors, the structures of decision making in different sectors that have limited or facilitated the interests to be fulfilled and so on. Although the ultimate outcomes of these processes may all seem similar, namely that Kenyan actors, more often than not, act to assert ownership (though to different degrees), studying the processes allows to ascertain that there is not one single way of negotiating governance. This is particularly important in a study of relations with external actors. Knowledge of the governance systems within which external actors attempt to insert themselves in pursuit of their interests seems more important, from the analysis of the previous chapters, than China has accounted for, especially in the initial phases of its relations with Kenya.

In the sections below a comparison of the interests involved in Kenya-China relations is presented, of whether the systems of governance have been considered suitable to guarantee the safeguard of such interests and finally the strategies used to either bring the relations with China within existing systems or to alter the systems in order to make them better suited to safeguard the specific interests that emerged in the relations with China. In the analysis that follows what is emphasised

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[814] Hornsby, op. cit., p. 7.
[815] Alden & Ammon, op. cit., p. 1.

is the diversity of approaches, more than the variety of outcomes which, as noted above, generally resulted in Kenyan actors asserting ownership.

7.2   Actors

As introduced in Chapter 1, the *willingness* to exert control in the negotiations with China, in other words, the motivation to do so, is strictly related to the interests that any given actor perceives to be affected in its relations with China. Actors are not, however, a mere concentrate of interests, as they are first constituted by the ideas and memories of the communities from which they emerge [816] (Wight's agency2, comes before agency1 and agency3[817]) and the resources available to them, generally depending upon the position they occupy in society. The sections below comparatively discuss the repertoires and the resources that contribute to shaping the interests that are found behind Kenyans' actions toward the Chinese.

Before moving to the analysis, a specification is necessary. The previous three chapters have shown that the types of actors engaged in negotiating Kenya-China relations are quite diverse. Contrary to the belief that only state actors, such as government officials, define the relations, they are also forged by a number of agents that are not part of the politico-administrative structure. There are those that have arguably turned to China for personal and business reasons. And there is also a wider range of actors, from upper to lower level bureaucrats, professional associations, trade unions, private sector representatives, informal sector leaders and so forth, that have experienced China due to the role they cover in society rather than for direct personal interests.

Despite the fact that the literature[818] tends to put forward an idea of Sino-African relations as broadly divided between an elite understanding of the relations as positive, and the wider masses' understanding as negative, presumably consequential to the degree of interests' fulfilment, the cases presented in the previous three chapters do not readily confirm this. Rather than focusing exclusively on this functional distinction (agency3, namely the role occupied in society, i.e. the agent's function), to better understand agents' behaviour, one needs to turn to "the competing *repertoires* that [agents] mobilise in their interactions"[819], and then to the

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[816] Whitfield and Fraser, op. cit., p. 344.
[817] Wight, op. cit.
[818] see Alden and Park, op.cit.
[819] Hagmann and Péclard, op. cit., p. 547.

"*resources* that individuals and organised interest groups have at their disposal"[820]. In other words, the first step to understanding the agents' willingness and ability to negotiate their interests is to recognise that they have a *personal understanding* of Kenya's relations with China, which is partly consequential to the position they occupy, defined by the resources they have at their disposal, but also equally, if not more, consequential to their own beliefs, originating from ideas that are rooted in the socio-political and economic context from which they come.

7.2.1 Repertoires

As mentioned in Chapter 2, repertoires are used to "defend and to challenge existing types of statehood and power relations"[821]. The repertoires that emerge in Sino-African relations are mostly twofold: one consists in framing the relations under the South-South cooperation label, defining them through concepts of mutuality, equality, solidarity, non-interference, economic development. The other is the opposite, framing the relations with China as damaging for locals and counter-productive, mainly disrespectful of social and economic rights. In Kenya too this dichotomous understanding of the relations with China was observed. Especially the Look East policy and the trials of Uhuru Kenyatta and William Ruto at the ICC have created a basis for challenging existing developmental discourses and the country's relations with external actors. From a reliance on Western partners and their focus on socio-economic rights, Kenya has started shifting the focus of its developmental path to economic development, following in the footsteps of China and India. It would, however, be inaccurate to depict the country as fully focusing on economic development, dismissing the importance of constitutional rights and duties. This is even more evident when one looks at the specific cases analysed in the previous chapters. Across all the cases a common thread is the perceived necessity, by concerned stakeholders, to have a legal and regulatory framework that guarantees the safeguard of interests in a just manner. This highlights that Kenyan actors do keep in great consideration the rule of law, despite acknowledging that its implementation is difficult and unequally guaranteed.

Probably the most significant aspect of the analysis of repertoires is that Kenyan actors' understanding of China was *always* in reference to their understanding of

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[820] *Ibid.*
[821] *Ibid.*

traditional partners' behaviour. For some agents, negotiating with Western partners or Japan signified 'serious' negotiations, where quality (from training to products) and the general good of Kenyans was safeguarded. These agents compared this view with one where the engagement with China was characterised by superficial public relations rather than professional, absence of quality, Chinese interests safeguarded rather than Kenyans'. Other agents expressed opposite perceptions, according to which China represented the best partner thanks to their hands-on pragmatism, convenient deals and non-normative approach, rather working to fulfil what Kenyans identify as their priority. The argument for appreciating China was in most cases in opposition to not appreciating the West. An extreme example was an interviewee that compared the relation Kenya has with China and the West to medical methods: "even in medicine sometimes we introduce a disease to kick out another disease. The same with the Chinese and the West, we introduced the Chinese to kick out the West" [822] . Between these two extremes, some agents identified pros and cons in dealing with either traditional or Chinese partners. Mostly, this last category of agents acknowledged the need to mediate either approach. Ideals of good governance, democracy, and so forth, remain important pillars of Kenya's national priorities as demonstrated by the Constitution, and by the many grassroots actions that attempt to conform to them. However, prolonged exposure to and engagement with Western partners has clearly evidenced the West's self-interests behind seemingly benevolent actions. This is an important lesson that Kenyans learnt, which is transferred to the relations with China, creating a sense of awareness as to what lies behind the proclaimed benign nature of the engagement. An interviewee suggested that "we don't look either East or West, we look forward, drawing from whichever side support comes from". This support is, however, rarely blindly received; it mostly must fulfil existing priorities.

Consequential to this, a mix of positive and negative beliefs and perceptions toward the newcomer, i.e. China, are found *at all levels*: ranking higher up in the bureaucracy or lower down in civil society groups was not an indication of how agents understood China. Kibaki's Look East Policy, and the Kenyatta-Ruto's continuation of such policy, is firmly grounded in personal needs which can form an important motivational basis for the direction the country takes in foreign policy.

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[822] Interview with a professor of pharmacy and traditional medicine at Kenyatta University, 2014-11-04.

These personal needs have been exacerbated by the trials at the International Criminal Court, framed as trials by the West against Africa, in which China played the positive role of alternative power, non-interfering in national governance. However, beyond the executive, which has powers that are, more or less, limited according to the policy sector under consideration, the role occupied on the social ladder was not directly proportional to the degree of appreciation toward China.

Thus, it is possible to find small traders that praise Chinese products and businessmen that provide them with goods to sell, but also small traders that condemn the Chinese for stealing their jobs or putting them out of business. There are officials in ministries that open up to negotiations with China because it is 'faster, less prescriptive, more convenient' than with traditional partners, and those that reject Chinese proposals because not in line with the division's interests, regardless of how much money could flow. These points of view fluctuate throughout bureaucracies as well as social groupings. *Because functional attributes, namely the role occupied in society, do not guarantee cohesive approaches, intra-group tensions emerge*. The tensions are at times articulated on the basis of personal beliefs – 'the Chinese are exploiting Kenya' or 'the Chinese are giving Kenya a chance to develop' – at times on the basis of professional beliefs – the quality of products, training, contract development is not adequate to Kenyan/sectoral standards, versus not only it is adequate in terms of quality but also affordable. Especially in this last sphere of professional judgement, in a number of cases it was emphasised that the relations with China are not perfect, i.e. China is not the best provider in terms of quality of services/goods, but they suit Kenya's current needs, hence making China the most appropriate provider. This leads to the next section that addresses the resources available to Kenyan actors to assess the relations with China and steer them toward the protection of Kenyan interests.

7.2.2 Resources

As mentioned in Chapter 2, it is important to acknowledge that not all actors have equal resources at their disposal. Resources form the major basis of power and as Olivier de Sardan put it there are at least two kinds of power, "the power everybody has and the power only some people have" [823]. The executive and high-level bureaucrats have access to a wider pool of financial resources than lower level

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[823] Olivier de Sardan, op. cit., p. 186.

bureaucrats or some societal groups (not always true in the case of the private sector), thus creating a power imbalance across the system of governance, which they all are part of. However, in most of the cases analysed in the previous chapters, the mobilisation of the resources available to the executive and high-level bureaucrats is circumscribed by complex systems of governance that reduce the power asymmetry between the top and the bottom. This is consequential to the fact that in most cases the expertise resides with the lower bureaucratic levels and social groups such as professional organisations, trade unions, educational institutions and so forth. In other words, while the politicized high-levels of the bureaucracy potentially have more power to strike direct deals with external actors, and more financial power than the lower levels, it is generally the lower level bureaucrats and social groups that, by being in charge of implementing the deals, manage to leverage the decisions taken at the top. It is thus important to look not only at financial, but also human resources available to Kenyans in the negotiation process.

An analysis of human resources often lacks in Sino-African relations where studies focus, more often than not, on structural and financial resources. By looking at negotiating agents in Kenya, the profile that emerges is that of actors with a very good knowledge of the sectors within which they operate. From trade unionists to technical universities' directors, from officers at the Ministry of Education to those in the National Economic and Social Council, from manufacturers associations' leaders to private sector representatives in the pharma industry, all these actors have demonstrated a very comprehensive set of skills in negotiating with the Chinese. These have included: full knowledge of the legal, institutional and regulatory environment within which they operate, good knowledge of the gaps (or lack thereof) that the Chinese aimed at filling, a relative understanding of the Chinese strategies.

For instance, in the case of trade unions, Chinese companies were financially stronger than Kenyan trade unions. However, in terms of human resources, Kenyan trade unions were significantly more prepared to engage the dispute mechanism, despite the interference from bureaucrats interested in preserving the relations with the Chinese. Their skills would have, however, been almost meaningless if not supported by a legal and institutional system regulating labour disputes. Similarly, in the case of counterfeits as well as traditional medicine and TVET, Kenyan human and financial resources were necessary to alter the existing system of governance to

benefit Kenya as a whole (i.e. protection of intellectual property rights, introduction of traditional medicine in the healthcare delivery system, increased relations between schools and factories to improve the industrialization process).

In cases of dependence upon assistance/aid, the issue of resource asymmetry is more salient as it is assumed that the economic asymmetry leads to an impossibility of safeguarding Kenyan interests. For instance, in the case of Confucius Institutes, the economic asymmetry seems not to provide guarantees for the safeguarding of academic independence. However, in the healthcare sector, also highly dependent on donors, while the Chinese offers of aid are welcome on some levels, China's non-adherence to Sector Wide Approaches has acted as an obstacle to the implementation of projects. This is seen as an act of agency based on the use of professional human resources, vis-à-vis the politicised top levels, to leverage financial asymmetry. The acceptance of offers beyond SWAPs, such as the setup of a Malaria Centre, followed a rationale according to which the offers were a free surplus, and they would not alter the existing system of governance.

These skills are a *necessary* element to obtain positive outcomes in the negotiations though they are not *sufficient*. The quantity and distribution of human resources, together with financial resources are indispensable and often lacking, if not at the decision-making level, at the implementation one. Kenyans' lack of resources is most evident in implementation/enforcing scenarios rather than in decision-making or agenda-setting. In fact, while the ability to *identify* the 'right' set of legal, institutional and regulatory tools for governing specific issues is often demonstrated, when it comes to *implementation* there are often gaps that reduce the ability to control the outcomes. This is not unique to the engagements with China, although in some cases China was identified as the main problem, or its efforts to penetrate that sector served as a catalyst for action. The development of the Public Private Partnership initiative (legalised by an Act of Parliament and Presidential Assent in 2013)[824] is one way deemed relevant to potentially solve this resource shortage in the long run, by merging public and private financial and human capacities.

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[824] Public Private Partnership Unit, op. cit.

7.3   Layered interests

As mentioned in Chapter 2, studying interests is crucial as they emphasise the importance and relevance that the engagement with China has for different stakeholders. Hufty suggests that "in any given situation, what is at stake may be completely different for each actor"[825]. The interests can be consistent among a range of national actors vis-à-vis external forces, but they can also be divergent giving rise to domestic confrontation. It is the very confrontational dynamics between domestic players, as they attempt to safeguard their interests, that emphasise the suitability of a system of governance to safeguard broader domestic interests. As a reminder, *domestic interests are assumed to be best safeguarded through the systems of governance that leverage acts of narrow self-interest.*

Sino-African debates rest upon a general critique that African countries have 'turned East' adopting country-wide approaches toward China thanks to its proclaimed non-interference policy and lack of political conditions. Even in Kenya, the adoption of the Look East Policy has often led commentators to sustain that Kenya is pro-China and that the country's interests align with the Eastern power's. However, as demonstrated in the sectors studied, assuming that interests are unitary and that they emerge out of state agents only, wipes out the complexities of country-systems and does not take into account the profoundly different priorities that different sectors and specific issues occupy within the national context and in relation to external presences.

In Chapter 2 the importance of focusing on *layered interests* was emphasised: the national, the sectoral and the issue-specific. In all three empirical chapters, the analysis starts with the identification of macro-level approaches to the sector to understand the emphasis put on it in Sino-African discourses. By then exploring specific cases, the interests become more specific, at times aligning, at times clashing with macro-orientations.

At the national level, two broad categories of interests are identified: the first concerns economic development, the second the safeguard of constitutional rights and the democratic journey. In Sino-Africa relations it is often argued that the Chinese contribution to the former has deeply compromised the latter. These national interests are incorporated in Kenya's development blueprints and are

[825] M. Hufty, 'Investigating policy processes: The governance analytical framework (GAF)', in U. Wiesmann, H. Hurni eds., with an international group of co-editors, *Research for Sustainable Development: Foundations, Experiences, and Perspectives,* Perspectives of the Swiss National Centre of Competence in Research (NCCR) North-South, University of Bern, vol. 6, Geographica Bernensia, Bern, 2011, p. 408.

absorbed by implementing actors, who, at times, favour one over the other, though most often recognise the value of both. In particular, Kenya Vision 2030 can be considered a synthesis of the country's willingness to move toward industrialisation, i.e. economic development, while preserving constitutional rights, clearly evidenced by the focus on collaborative governance to achieve economic and social development. The very development of Kenya Vision 2030 was consequential to a long consultative process with social groups at large, including the private sector, and thus a variety of stakeholders, not only state actors, generally identify with it. The involvement of China in the national context is deemed key to developing Kenya Vision 2030: China is seen as a contributor to the economic development of the country. However, China's emphasis (at least initially) on state-to-state relations did not align with the other national interest, i.e. inclusive development. The Kenyan government did, in a few cases, attempt to side with China, bypassing other relevant domestic actors, in the name of rapid development. This has occurred mainly because of direct personal interests from the executive or business elites, but also as a result of the Chinese corrupting strategic Kenyan actors, such as judges.

While the national policy has surely provided incentives to engage with China (and India) increasingly, the sectoral and issue-specific analyses seem to suggest that, at these levels, this is not happening with the same enthusiasm and promptness. In fact, as mentioned above, the Look East policy is one among many foreign policy approaches, a relatively new one, whose existence has not phased out existing preferences altogether. The interests behind the sectors emerge out of complex dynamics of domestic governance. While the priority level that a sector occupies within national policies can be upgraded or downgraded by the government, the actual change also depends on how the interests of a variety of stakeholders (national and international) within the sector are affected.

Even more evidently, when the specific issue under the sectoral umbrella is unpacked, the *perceived complementarity* of Kenyan and Chinese national agendas does not always find a fit. This is to say that even if Kenyan and Chinese interests in developing a sector are complementary from a broad point of view, these interests may become void if contextualised within specific policy and implementation environments. Rhetorical interests, which imbue national and sectoral approaches, may be dismissed at the issue-specific level where actors become more concerned with the practicalities of the engagement. For instance, while healthcare as a whole

is a key sector for Kenya 2030, some elements of it are more important in the priority ladder than others. To add complexity, while China as a whole has its priority objectives, namely ideologically-charged notions of assistance to Africa through the trade in cheap products, equipment and infrastructure, when it comes to specific sectoral cases China's broad general direction is challenged and renegotiated by implementing actors and their specific priorities.

7.4 Arenas

As mentioned in Chapter 2, arenas represent the "political space in which relations of power and authority are vested"[826]. The analyses carried out in the previous three chapters found that negotiation arenas vary significantly domestically depending not only on the sector but also the policy area under study. This, in turn, makes it difficult to talk about a 'Kenyan' approach to China in safeguarding domestic interests. *Very different arenas were presented in the previous three chapters, some fully domestically defined, others mostly defined by the international environment, some bureaucracy-led, others socially-orchestrated, some regulated, others lacking defined modes of conduct*. In other words, arenas can be formalised systems of governance within which actors interplay, but also informal or a mix of the two. According to the issue at stake, they can span across local, national, international contexts (see the role of multilateral international institutions in sectors such as healthcare and education). Different actors and stakeholders contribute to the norms, laws and interests that form an arena, which is *historically determined*. As anticipated in Chapter 1, some of these patterns/systems have been "dominated by longstanding conventions on how and by whom statehood is defined", i.e. *rooted governance*; others were defined as "lack[ing] predefined or commonly recognised procedural modalities for decision making"[827], i.e. absence of governance system; and finally a third type which is a combination of the first two, i.e. governance *in-the-making*, where a governance system either did not exist and is under construction, or did exist but was acknowledged as inappropriate, hence needing restructuring.

As mentioned in Chapter 2, systems of governance leverage narrow acts of self-interest. In the case of Kenya, this is particularly relevant given the direct personal

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[826] Hagmann and Péclard, op. cit., p. 551.
[827] *Ibid.,* p. 550

importance China played for Presidents Kibaki and, even more, Kenyatta. Presidents Kibaki and Kenyatta have had personal interests in the development of the country's relations with China. The political environment and the relations with external sources of economic and political power (emphasising the East/West divide especially around the elections in 2002 and 2007 for Kibaki and Raila, and with the ICC trials for Kenyatta and Ruto) have allowed the presidents to occupy a relevant position in foreign policy and steer its impact on the domestic environment. Notwithstanding this, as exemplified in the various cases presented, understanding *real/actual governance* in Kenya-China relations requires an effort to consider "big men" as the tip of an iceberg that is constructed upon broader bases of socio-political and economic governance frameworks.

7.4.1 Rooted governance and governance-in-the-making

As mentioned in Chapter 2, negotiation arenas "have spatial, social and temporal dimensions [...] which need to be traced empirically on a case by case basis"[828]. This is what has been done in the previous three chapters, identifying the way governance is negotiated and establishing whether the relations with the Chinese are enacted in conformity with existing systems of governance or rather lead to their alteration. Arenas were at times identified as adequate by stakeholders to face new challenges and opportunities, at times not. The systems of governance that China has encountered are, broadly speaking: *rooted*, and *in-the-making*. These can, in turn, be formally or informally acted upon.

Table 4: Types of systems of governance

	Rooted system of governance		System of governance in-the-making	
	Formal	**Informal**	**Formal**	**Informal**
Domestically shaped	Trade unions	Small traders	Counterfeits	
Internationally shaped	Trade of health products; Infrastructure for health; Conventional HRH		Traditional medicine; traditional HRH; TVET	Confucius Institutes

Source: Author's findings.

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[828] *Ibid.*

What has been found is that Kenyans' relations with China mostly unfold in contexts where governance frameworks (formal or informal) are in place, rooted, legitimised by concerned stakeholders. Rooted governance is characterised by highly regulated patterns of rule though it is important to emphasise that these patterns can be very different depending on the specific issue-area. They can be formal (as showed in the cases of trade unions, trade of health products, infrastructure for healthcare, human resources for healthcare) or informal (small traders). They can be domestically determined (trade unions and small traders) but also deeply shaped by international structures (health and education related issues) and by the presence of traditional external actors in specific social and economic sectors. The fact that governance is rooted does not equal to stating that the actual behaviour conforms to established norms of conduct. This aspect will be better looked at below when the modalities of interaction are explored.

Governance in-the-making is, in turn, characterised by a system of rule that is in the course of either being revisited or created. Because of its changing nature, it is not fully defined, and negotiations were still taking place at the time of research (the cases of counterfeits, traditional medicine, TVET, Confucius Institutes are examples). The cases presented show different bases upon which change occurs. In the three cases under formal governance, the gaps in the legal system were recognised to be the main problem, although institution-building was also a major factor in the decision to restructure the system. In the case of Confucius Institutes, the system of governance is fragile. The regulatory framework does not specifically address foreign language teaching within educational institutions or the presence of foreign organisations within Kenyan educational institutions. On top of this, the significant deployment of Chinese financial and human resources, consequential to the Chinese state interests in using Confucius Institutes as tools of soft power, exacerbates a dynamic of dependence upon foreign resources. The belief behind the reliance upon dependence seems to be that the provision of Chinese language teaching for free is more important to the development of the country than safeguarding academic independence (from the Chinese government) and the strict control of the quality of education (see Table below: Sub-sectoral systems of governance).

In these cases of governance in-the-making, although the systems are found inadequate for safeguarding Kenyan interests, often the cases analysed emphasised the acknowledged inadequacy by Kenyans of their legal and institutional systems,

Table 5: Sub-sectoral systems of governance

	Rooted	In-the-making	Absent
Trade unions	Highly regulated (policy and legal); historical significance + 2010 constitution		
Counterfeits		Acknowledged gap in the legal system in 2004, legal recognition in 2008 with creation of ACA	
Small traders	Lack of specific laws to regulate foreign investment (especially the minimum end of the range) with recent acknowledgement by KenInvest.		
Mama Lucy Hospital	High donor assistance. Foreign aid negotiation regulated, esp. since 2004/2007 to increase Kenyan ownership, but presence of donors undermined the state of institutional capacity.		
Trade in Medical Products and Devices	Regulated by both domestic and international institutions (very intertwined due to the developing status of K). Trade Sector dominated by private actors and associations operating side by side with Aid providers. No change in policy or legal preferences foreseen.		
Natural Products Initiative		Acknowledged gap in the legal system: existence of the witchcraft act. And recent acknowledgement of the need of policy and legal transformation to include TM in healthcare provision. Recent policy changes (2005, 2009, 2010, 2013, 2014)	
Technical and Vocational Education and Training		Acknowledged lack of institutionalization, which occurred in 2014. Before recent years, this policy-area was not particularlt significant. Recently its relevance was triggered by increased industrialization and recognition of secondary education as crucial for the country's growth.	
Human Resources for Health	Conventional medicine: significant reliance on external actors to guarantee HRH. Fragmented system of governance, lack of coordination at domestic level, yet rooted in dependence on foreign actors.	Traditional medicine: weak institutional environment, education and training is not regularized, nor formalized by higher education institutions, hence the need to change the governance system.	
Confucius Institutes			The system of governance is not in place for the specific issue, though there are accepted norms of behavior. Recent internationalization of higher education to fulfil increasing demand and market needs. Weak system of governance to regulate internationalization and even more lack of a specific system of governance to regulate the presence of a foreign institution within local universities.

Source: Author's findings

and, later, of implementation capacity, rather than focusing on China-blaming. Even though the presence of China may have highlighted the need for change, the problem was always framed as a domestic issue more than an externally-driven one. It is particularly interesting to observe, during an assessment of agency-as-ownership, the cases of governance in-the-making. These are occurring at a time when Kenya is fully on the way toward the implementation of constitutional democracy. While the values associated with democratic development are kept in high consideration during the formulation of ideal systems of governance, the reality of economic (under)development represents an obstacle, or at least a point of separation between the official realm of policy-making and the actual possibilities of governance. For instance, in the case of counterfeits, despite the exemplary democratic process through which the governance system was restructured, the fact that much of the population still requests cheap products, irrespective of the level of quality, is a major obstacle to the actual successful implementation of the system.

For foreigners, inserting themselves in such different systems of governance requires understanding the rules of the game. However, even in cases where governance is rooted, the Chinese have tended to either ignore, i.e. not be aware of the norms regulating the sector, or to feel not bound by existing norms, thus acting beyond them [829]. The Chinese non-abidance to locally accepted frameworks, domestically or internationally defined (i.e. reliance on multilateral cooperation), is often reduced by requesting the Chinese to abide by the laws and institutions, if they exist, or by creating more appropriate legal and institutional frameworks.

There is no indication that in cases of rooted governance actors end up being more successful in negotiating with the Chinese than in cases of governance in-the-making. However, what is important to note is that in all cases, except that of Confucius Institutes and partially the case of conventional HRH, the actors involved highly valued legal and institutional frameworks, feeling protected by their existence. Even in cases where these frameworks are not adequate and thus need restructuring, the first step of the change process is that to identify how the frameworks can be improved. This does not mean that through actual governance practices all actors fully and always adhere, but rather that the country as a whole increasingly believes in the value of the law to protect inclusive processes of governance. It is by looking

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[829] '10 things Chinese people should know about doing business in Africa', translated by Olander, *The China Africa Project*, 29 December 2015, <http://www.chinaafricaproject.com/translation-10-things-chinese-people-should-know-about-doing-business-in-africa/>.

at the modalities of engagement that one understands how these frameworks are valued, when they are bypassed and why.

7.5   Modalities

Depending on the suitability of the arenas to safeguard interests, the modalities of action by Kenyan actors vis-à-vis the Chinese change. First, actions are unpacked by looking at the initiator, then actual mobilisation practices are analysed to establish whether they conform to existing patterns. This is done by studying the tables of negotiation, which, as specified in Chapter 2, are "a formalized setting where contending social groups decide upon key aspects of statehood over a given period of time"[830]. While arenas, i.e. systems of governance, are harder to alter, tables of negotiation can, more easily, be subjected to short-term interests and politicisation. Sino-African relations are imbued with concerns that the economic and power asymmetry between African countries and the Chinese lead the executives of the former to bypass domestic systems of governance to strike deals with the latter. This can be measured by contrasting announced developmental agendas and actual project development. The assumption is that agendas are broadly negotiated across arenas, and thus take into consideration different stakeholders' needs. Project development, on the other hand, may be more subjected to one-off needs.

This tension between arenas and tables, which translates into a tension between agendas and actual development, is an important point not only for Kenya-China relations but Sino-African relations in their entirety. The presence of China, despite its non-interference discourse, has been feared to have an impact on existing systems of governance, especially democratic processes of development in Africa, through the alteration of procedural standards of negotiation. Also, even though Sino-African relations have their platforms of engagement, such as FOCAC and people-to-people meetings, while these may act as springboards for advancing bilateral engagements, they do not seem to play a particular role in the actual negotiations between the Kenyans and the Chinese. The fact that China often acts outside multilateral systems of governance has been demonstrated in previous chapters. This is found to be the main reason why Kenyans find it difficult to engage

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[830] Hagmann and Péclard, op. cit., p. 551.

with the Chinese. Indeed, more than the content of the engagement (that often is complementary to Kenya's needs), what prevents Kenyans from fully engaging with China is the modality of the engagement. In fact, *what seems to be relevant to the ultimate control/ownership of the negotiation with the Chinese is the conformity of negotiation processes to the general system of norms and practices as understood and legitimised by Kenyans.*

The following sections look at modalities of action, dismissing the idea that Africans only engage in contestation with the Chinese, meaning that the circumstances of engagement are not only threat-related circumstances but also cooperation-seeking, where Kenyan agency is pro-active.

7.5.1 Initiator

Focusing on the initiator helps identify under what type of circumstances Kenyan actors engage with China. Focusing on actors, especially on who initially identifies the engagement with the Chinese as salient, and who then contributes to the governance of the relations, is fundamental to acknowledge power relations domestically and internationally. Based on the main assumptions in the literature, the findings show that *it is not only Chinese actors initiating the relation with Kenyan actors but also vice versa*. This is an essential element to ascertain the degree of ownership in engagement dynamics. Studying the initiator's actions in specific cases provides insights on the motivations for engagement, which in turn are necessary to understand how Kenyan actors perceive the presence of China and their engagement with it. In order, however, to understand internal dynamics of interaction it is not sufficient to focus exclusively on the initiator but it is also necessary to pay attention to the other actors with which the initiator interacts within specific frameworks of governance, at negotiation tables (presented below).

Re-active behaviour/Contestation

The re-action is more intense not when the interests with the Chinese clash but when the interests between different Kenyan groups, responsible of 'governing' the specific issue, diverge. The more a threat is perceived, the more a re-action is expected. This behaviour is particularly evident in the analysis of the trade sector where the arrival of Chinese products and businesses is perceived as a threat by local associations, traders and manufacturers. In the case of traders, the threat

concerns the Chinese occupation of business spaces traditionally belonging to Kenyans and the challenge of existing frameworks of business governance between wholesalers and retailers. In the case of counterfeits, the entry of counterfeits was perceived as a threat to innovation and national development. In both cases, the initiator was a non-state actor: small traders in one instance and the Kenya Association of Manufacturers in the other. As for trade unions, the threat was the lack of respect of laws and the subtle relations between Kenyan governmental officials and Chinese companies. In these three cases, the challenges provided by the Chinese are novel in the sector.

In cases of dependence on China's resources, like certain cases in healthcare and education show, contestation is less likely to occur. Dependence here refers to the narrow concept of dependence on aid rather than the broader concept of less direct economic dependence such as in trade. The issue then becomes whether the donor-recipient relation interferes with the decision-making to the advantage of China (or any other external actor) or the mechanisms available in the country regulate donations/assistance to the point of guaranteeing Kenyan ownership despite the possible limited contestation behaviour. A case such as that of the construction and equipping of Mama Lucy hospital, case in which a donation from the Chinese government was provided, shows how the management can step up controls over the development of the project even if economic asymmetry (especially in cases of donations) constrains the freedom to oppose resistance. This case is also important as it shows how re-active behaviour not only can be in place even in cases of free assistance but also how the relationships are not static and the elaboration of strategic behaviour can occur at different stages of the engagement. Sectors like healthcare and education, as opposed to trade, are historically more externally-influenced. As such, China's arrival is not perceived as a threat but rather as one more presence that needs to be "fit in".

Economic elites also play a major role, and in Kenya they are often extremely intertwined with political bureaucracies[831]. Despite not always openly contesting Chinese activities, if China pursues "self-serving economic strategies that negatively affect influential domestic coalitions"[832] then the government – often in response to more or less openly vocal domestic pressures – may develop counter-policies or

[831] Booth et al., op. cit.
[832] Flemes & Wehner, op. cit.

strategies like in the case of the creation of ACA, case in which manufacturers' groups advocated for the creation of national institutions to halt the spread of counterfeits from China.

Pro-active behaviour/Cooperation

In these cases, it is interesting to understand how Kenyan actors articulate their motivations to engage the Chinese vis-à-vis other, often better known and long-present, partners. The situation, as opposed to the re-active mode, is a 'non-confrontational' situation although the entry of China in the country may have spurred the actions to change. Pro-active behaviour is characterised by the recognition by Kenyan actors of specific needs in each sector/area, followed by the identification of Chinese resources as useful for the achievement of desired outcomes. The actors involved in the issue at stake thus initiate a transformation of the system to include Chinese actors for the implementation of specific policies or projects. The cases that exemplify this behaviour are: trade in medical products and devices, TVET and NPI. While in the first instance the initiator is a non-state actor, namely wholesalers, in the other two cases the initiator is a state actor, i.e. the Ministry of Education, TVET Directorate and the National Museums of Kenya, under the Ministry of Culture. All the cases are, however, characterised by an inclusive approach to governance where both state and non-state actors are deemed key to achieving success.

In these cases, China is sought to fill a gap, mainly in terms of resource provision, while domestic actors tend to maintain full control of the governance dynamics. In the case of trade of health products, the motivation for wholesalers to engage with Chinese firms was the sourcing of cheap products. Kenyan-Indian manufacturers and distributors have limited the penetration of Chinese goods by favouring trade with India while the government has not been able to favour Chinese products despite their advantageous price. In both the cases of TVET and the case of the Natural Products Industry, knowledge of the country's structural limitations has pushed state organs to re-organise internally and seek support externally not in a 'full dependence' approach but rather through trade and support to training. In these occurrences, it is interesting to study how the motivation to approach China was articulated because it shows control not only over the domestic scenario but also over what exactly is needed from the external actor. In the case of TVET, the

motivation included the praise of the pragmatic approach of the Chinese to linking education and production, together with AVIC International availability to provide training resources and education. Whereas in the case of the NPI, the motivation included a practical aspect, namely learning from the expertise that China has gained globally in the development of traditional medicine and an ideological aspect, namely partnering to free Kenya from the negative connotation that British colonial rulers had placed upon traditional medicine.

Passive behaviour/Passivity

While the cases above have dismissed the general belief that Africans are unwilling and unable to negotiate to their benefit, it is also necessary to acknowledge that there are cases in which the behaviour of Kenyan actors has been passive, and no agency/control over the relationship with China was shown. There can be various reasons why a passive-type of behaviour occurs: perception of complete domination/inability to act, the issue is not perceived as significant or relevant, and/or the potential threat is not yet perceived. In the cases analysed in this thesis the types of passivity that are observed vary. It is worth noting that passivity can be a normal behaviour if limited in time. It becomes chronic, potentially assuming negative connotations, when it is protracted in time.

Minor cases of passive behaviour are found in the healthcare and education sector. Only one major case of passive behaviour was identified in the Confucius Institutes case. The establishment of Confucius Institutes is consequential to high levels of interest by China (the institutes used as a soft power tool) encountering relatively uncritical acceptance by Kenyans. This lack of control concerns both the management of the Institute and the content of teaching. Both the Ministry and Universities have minimal control over the administration of the Institutes. While the reason could be, as mentioned above, the fact that education is a sector historically influenced by external actors and highly fragmented in the delivery of education and training, this specific case also highlights how university leaders uncritically accept financial dependence, potentially to the detriment of the quality of education. Similar cases are found in the management of China's offers of assistance in infrastructure for healthcare (see the initial negotiation for Mama Lucy Hospital) and in cases of China's assistance in conventional HRH.

In all cases, the system of governance is a weak one, reliant on external financial resources and not institutionally fit to avoid the fulfilment of narrow self-interests, mostly determined by high-political motivations. The lack of domestic negotiations, mostly due to the weakness of the system of governance, leads the national context to become irrelevant to the outcome of the relation with China.

Table 6: Initiator's behaviour (by sub-sector)

	Trade unions	Counterfeits	Small traders	Mama Lucy Hospital	Trade in medical products and devices	Natural Products Initiative	Technical and Vocational Education and Training	Human resources for healthcare	Confucius Institutes
Kenyans' motivation to engage with the issue	Make Chinese companies abide by domestic legal frameworks	Control the damage at two levels: consumers' rights (limited), manufactures (main argument) > hindering national development	Make Chinese wholesalers and retailers abide by the informal norms of business	Use Chinese company to achieve domestic development plan.	source cheap Chinese products	Use Chinese expertise (companies and education) to achieve domestic development plan. In the process of sector's restructuring, China represented a governance system to emulate.	Use Chinese company to achieve domestic development plan, i.e. training and development of technical experts able to actively engage with the construction boom and other emerging sectors.	Use Chinese aid to achieve domestic development plan, i.e. training of human resources for health, necessary to guarantee proper health care delivery and thus a healthy population able to work. Learn from the Chinese for traditional medicine training.	Use Chinese aid to develop language courses and links with China.
Kenyan Initiator	Grassroots trade unions	Kenya Association of manufacturers	Small traders	Ministry of health - Minister's office (very large bureaucracy)	Grassroots - wholesalers	National Museums of Kenya	Ministry of Education – TVET (small office)	Ministry of Health - Human Resources office, Ministry of Culture	Universities (Nairobi, Kenyatta, Moi, Egerton)
Other domestic actors	Ministry of Labour, Industrial Court	Ministry of Industrialization, private sector associations	City Council, The Kenya Overseas Chinese Association, Kenya-China Import-Export Promotion Association, The Chinese Embassy	Hospital management	Pharmacy and Poisons Board	Ministry of Culture, Ministry of Health (including PPB), KEMRI (research institute)	Educational institutions, Private sector associations	Ministry of Education, NATHEPA	Ministry of Education
Mode of addressing the issue with the Chinese	Re-active	Re-active	Re-active	Passive and re-active	Pro-active	Pro-active	Pro-active	Passive (conventional), pro-active (traditional)	Passive
overall objective toward China	Rejecting Chinese activities /behaviour	Rejecting Chinese activities /behaviour	Rejecting Chinese activities /behaviour	Fitting China in	Engaging China as a partner in development	Engaging China as a partner in development	Engaging China as a partner in development	Fitting China in (conventional), engaging China as a partner in development (traditional)	Fitting China in

Source: Author's findings.

7.5.2 Tables of negotiation

As mentioned in Chapter 2, the study of negotiation tables and their conformity to the broader negotiation arena is significant to understand whether established norms and procedures are maintained or bypassed. It is also important as it helps to understand whether these behaviours are sector-defined or rather sector-irrelevant. Negotiation tables have increased as new issues emerged between Kenya and China. In the cases analysed in this thesis, negotiation tables with China have at times conformed with what was envisioned in the system of governance to which they belong, while at times they have been subjected to alterations, the extreme of which was full non-conformity. Conformity refers to both domestic actors' conformity and external actors' conformity to existing procedural norms.

In four cases the table of negotiation with the Chinese conformed with existing norms and practices. However, in five cases an alteration was observed. Of these, 4 cases presented a light alteration, while one case (Confucius Institutes) presented full non-conformity.

Table 7: Conformity to tables of negotiation (by sub-sector)

Rooted Governance			Governance in-the-making		
Conformity	**Light alteration**	**Non-conformity**	**Conformity**	**Light alteration**	**Non-conformity**
Trade of health products	Trade unions		Counterfeits	Traditional medicine	Confucius Institutes
HRH conventional	Infrastructure for health		TVET	Traditional HRH	
	Small traders				

Source: Author's findings.

In the cases of light alteration, this depended on very different factors. In the case of trade unions, despite the existence of a strong system of governance for dispute resolution, the government interference was based on broader interests in infrastructure development, from which originated the need to maintain good relations with the Chinese. The governance system provides for a negotiation table populated by three types of actors, namely the trade union, the Ministry of Labour, and the company or the employers' association on its behalf. On top of these, the negotiation also involves the Judiciary, i.e. the Industrial Court, for cases where

stakeholders do not manage to settle disputes. The arena is legally and institutionally defined, though recently challenged by devolution processes of implementation. It is, however, generally legitimised within the country. The tables of negotiation with the Chinese, i.e. the *actual* negotiation, shows, however, an alteration of the norms and practices deemed legitimate in the domestic arena. This alteration is mostly related to the Chinese presence, rather than *foreign* presence. It entails alleged corruption, as well as improper government interference.

In the case of infrastructure for health, a similar scenario was observed (note that both cases revolve around infrastructure development) but, contrary to the case of trade unions, the relations with China showed a gap in the governance system. In other words, the heavy reliance of the Ministry of Health on international institutions has weakened the institutional ability to negotiate. This becomes particularly evident when the Ministry negotiates with an actor that does not adhere to the international institutions' system. However, it is deemed a 'light' alteration because the relational process with the Chinese has shown a learning curve based on which the role played by high-level bureaucrats was downplayed by the professionals involved in the negotiation.

In the case of traders, the scenario differs as the governance system is mainly informal, though heavily supported by business elites, often linked to political constituencies. The alteration, in this case, consists in the acknowledgement, by formal authorities, that the informal system of governance, while balanced domestically, is vulnerable to inputs from foreign actors. Despite the ability of the informal sector to control the entry of Chinese traders, this was not based on formally recognised instruments. The Kenya Investment Authority recognised that the Chinese exposed a major gap in the country's system of governance of foreign investment, namely the lack of a proper regulatory regime. While traders are not necessarily investors, the fact that they are allowed to enter the country and set up small activities is perceived as such. This 'allowance' is mainly consequential to the fact that investment limits are not regulated. The Chinese have had to come to terms with the fact that their activities must not only comply with formal, legally regulated norms, but also with informal norms, not legally regulated but nonetheless highly regulated, not state-led but often approved – if not directly supported – by government agents.

These cases of 'light' alteration present a temporary inability of Kenyan actors to

guarantee negotiation tables conform to the broad system of governance. The temporary nature of these occurrences is shaped by the ability of Kenyan actors to identify the weaknesses that the relations with the Chinese have emphasised and act to resolve them. As Mosley et al. pointed out, "any negotiating game is bound to change significantly, not least as a result of the fact that after years of experience both sides of the bargaining table figure out ways to neutralize each other's strategies."[833]

The only case of non-conformity is the case of Confucius Institutes where the governance system is still at the initial stages of a substantial restructuring. The Confucius Institutes, peculiar and unique as they are at global level, have thus entered a system that is not well articulated to safeguard Kenyan interests (perceived to be academic independence over dependence on external financial resources). The fact that the negotiations occur mainly between the Chinese Embassy and the Vice-Chancellors of the educational institutions where the CIs are set up is not well received but it cannot easily be contested either, given the lack of regulatory frameworks. At the same time, the passivity of educational institutions and the Ministry of Education in attempting to create stricter procedural norms of conduct is understood as an act of convenience which exacerbates financial dependence, accommodating Chinese interests.

7.6   Conclusions

Actors move across regulated and unregulated spheres of action for the achievement of their interests. The patterns observed in the cases studied here combine everything from elements of the democratic model – constitutionally grounded since 2010 in Kenya – to informal clientelism. The frequent lack of adherence of China to existing governance frameworks has been received with a diversity of reactions, ranging from exclusion to accommodation. While the Chinese, knowingly or unknowingly, often bypass existing governance frameworks, the instances in which Kenyan agents and structures bring governance back to existing/legitimised patterns are more than the instances in which the opposite occurs. This occurs across sectors and also across modalities of interaction, i.e. trade versus aid, for example. The fact that Kenyans are more likely to bring governance

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[833] Mosley, Harrigan and Toyle, 1991, cited by Whitfield and Fraser, op. cit., p. 345.

back to existing, institutionalised patterns, rather than being dominated by external frameworks, is important not only in the context of international relations, but also in a domestic scenario where democratization is not merely constitutional jargon, but a de facto moment occurring through myriad of actions carried forward by bureaucrats and society alike.

Interestingly, it is found that more often the *modality*, rather than the *content* of the negotiation, represents the point of fracture between Chinese and Kenyan agents. In other words, most cases studied show that Kenyans are not against the relations with China because they believe they would not be beneficial, but because the Chinese do not adhere to existing *modi operandi*. This lack of alignment with norms of conduct is at times exacerbated by Kenyans, at times it is recognised as a product of weak domestic procedural norms. Eventually what seems to be relevant to the ultimate control/ownership of the negotiation with the Chinese is the conformity of negotiation processes to the general system of norms and practices as understood and legitimised by Kenyans.

CHAPTER 8

Conclusions

8.1 Overview

One of the problems of the literature within which this thesis rests is the impulse to provide a 'grand' meaning to China-Africa relations, an impulse that has been difficult to fulfil entirely. First, this expectation was based on an assumption that China had one coherent set of interests across African countries, which are well planned in Beijing to be exported to Africa. Second, it was believed that the reception in Africa would not vary extensively across 54 countries. While the first aspect started being unpacked by scholars and policy makers with thriving interest, i.e. breaking down 'China' into the multiplicity of interests and structures it is made of, the second aspect remains highly un-problematized, i.e. Africa largely remains a *collective* discourse, a 'receiving', 'unsuspecting'[834] continent acted upon by the last-comer in a long list of external presences that had normatively advised and pragmatically exploited elites and peoples south of the Sahara.

Hence the need to fill this gap and pay attention to Africans and their contexts, unpacking the multidimensional aspects of *specific* African social, economic and political realities to achieve a more accurate and representative understanding of relations. This led the author to select one country, rather than multiple countries, which proved to be an important method for a particularised study of the arguably asymmetrical relations between Africans and external actors, and of the 'win-win' discourse between China and African countries. Transcending the disciplinary boundaries that often adopt single levels of analysis, this thesis combines reasoning about *macro-*, *meso-* and *micro*-level dynamics, i.e. national, sectoral and issue-specific. It studies Kenya-China relations by moving beyond the limitations of 'one sector' comparisons, where the broader context rarely plays a role. It is crucial to recognise that countries do not necessarily have similar priorities when it comes to specific issues, sectors, even national interests. Therefore, using such three-layered approach and paying attention to the specific and broader contexts *simultaneously*, leverages the strengths and weaknesses that a country-system adopts vis-à-vis

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[834] Gadzala, 2015, op. cit.

external forces, allowing analysts to balance conclusions concerning the asymmetrical relations of power, which have long been characterising the scholarly debates around Africa in international relations.

Although Africa cannot be taken as a unitary single block, and the choice of Kenya to explain the role of domestic politics within the China-Africa discourse does not aim to be representative of the whole continent, the method used (layered interests) and the relational dynamics that were observed domestically and in relation to China, are likely to facilitate the understanding of Sino-African dynamics in other countries. Indeed, what is unique in the findings are not the relations between Kenya and China, but rather the standing-point from which these relations were observed.

This dissertation changed the standing-point from which Sino-African relations have largely been observed, giving Africa a more prominent position. In this context, it questions whether known concepts and norms of international relations can or should be applied to Sino-African relations. Starting with the issue of whether African countries can have theoretical utility in International Relations Theory, to challenging the widely held positions that Africans are unwilling and unable agents in international relations, the analysis of the relations between Kenya and China provides a basis to think about how the discourses and practices that have been widely generalised should be reviewed with caution.

The approach adopted in the thesis was a critique of International Relations Theory in its (non) engagement with Africa. The findings tend to reveal that IR theories, when applied to African scenarios, can indeed have explanatory power leading to believe that IR theorists should engage seriously with Africa, rather than keeping it at the limits of the discipline. At the same time, however, the findings – both theoretical and empirical – suggest that other theoretical bodies of scholarship could well explain these real-world dynamics, maybe in conjunction with IRT.

For instance, the thesis brings to light units of analysis that are typical of the International Political Economy (IPE) discipline, such as sources of finance, regionalism, transnational governance. By bringing African dynamics to the foreground, this thesis demonstrates how an African country inserts itself into the international political economy of specific sectors, not as a passive agent, but through active strategies of engagement, mainly of contestation and cooperation. Passivity, instead, is more rarely observed. Similarly, a focus on theories of institutional change could have shed more light on the distinction between formal

and informal institutions[835] and their impact on Kenya's relations with external forces. It could have also helped to explain the conditions under which institutions stop functioning and institutional change is likely to occur; and the role of actors in determining the rules of the game[836].

Despite the absence of these theoretical bodies in this thesis, the sections below highlight some of the main findings with the hope that they can be the starting point to develop the Sino-African literature in further unexplored directions.

8.2   Agency-as-ownership of the governance process.

A new wave of scholarly attention on African agency in international relations has started emerging in the early 2010s. However, available studies on African agency have not provided yet a comprehensive account of the elements that contribute to it. That is what this thesis has attempted to do, not merely by focusing on agency as actors' decisions, but more broadly on *agency as the ownership of the governance process*, which is constituted by the interaction of beliefs, interests, resources and systems of governance. This type of agency is contingent on historical, political, cultural, economic realities and does not thus allow to talk of 'African' agency easily. As the cases in this thesis demonstrate, it is hard to talk about 'agency' in unitary terms even within a single country, let alone across a continent.

The conceptualization of agency that is presented in this thesis puts forward a few propositions. First, above all, the thesis adopts a state-society approach to understanding agency. This decision was grounded in the belief that the governance of domestic or foreign affairs cannot be circumscribed within 'state' and 'non-state' boundaries. In other words, the thesis does not treat agency toward external actors as an affair of *either* the state *or* society, but rather as the inevitable relational process between the two. It is in the very transcendental nature of this conceptualization of agency that the core of Kenyan agency is found. While cases of strained relations between the state and non-state actors exist, so do cases of cooperation. Though the conceptualization of agency is here applied to a country where governance-sharing is increasingly valued and has become constitutionally-protected, the elements of agency identified in the conceptualization can be used to

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[835] G. Helmke and S. Levitsky, 'Informal institutions and comparative politics: A research agenda', *Perspectives on Politics*, vol. 2, no. 4, 2004, p. 727.

[836] K.A. Shepsle, 'Rational choice institutionalism', in S. Binder, R. Rhodes and B. Rockman eds., *Oxford Handbook of Political Institutions*, Oxford University Press, Oxford, 2008, p. 25.

analyse agency elsewhere. The content of the analysis is expected to differ across countries, as much as it differs within Kenya, across sectors.

In fact, the relations between Kenya and China are found to be as complex as, and a reflection of, domestic politics. To understand this, one must not look beyond national boundaries as *the complexity is to be found, first and foremost, in how the domestic context conceives foreign presences, strategizing them to achieve domestic and foreign aims*. In other words, while the presence of China may be peculiar in terms of specific Kenyan perceptions and interests that come into play, it is conceived domestically as nothing more nor less than *an* external actor. The cases presented suggest that the outcomes of the relations with China are highly dependent upon Kenyans' willingness and ability to either use existing governance systems or create more suitable ones, to face the opportunities and challenges China has brought to the country. In other words, the explanatory realm is found within Kenya, more than outside.

The focus of this study on local governance, and the relevance of state-society interdependence, consciously departs from the dichotomy that is often found in Sino-African studies between state-to-state and people-to-people interactions, of limited utility to understand the complexity of the engagements. To capture the complexity and the fast-paced shifts of Sino-African relations it was urgent to identify more fine-grained units of analysis than the state and pay closer attention to micro-level dynamics. This does not aim at diminishing the importance and the power of the state. The dichotomy was used to understand African elites' relations with China as revolving around the safeguarding of patrimonial linkages within national boundaries, to the detriment of the population. However, the cases analysed show that, while patrimonial linkages are present at some level (see the business elites during the Kibaki era, Chapter 3), they are not excessively evident in all instances and in such a way that ends up benefiting few at the expense of others. Especially with the Kenyatta-Ruto leadership, patronage relationships have diluted, mainly due to the split nature of governance.

Stringent political reasons have remained relevant in Kenya-China relations including essential elements of interdependence where Kenya needs China but China also needs Kenya (see the case of Uhuru Kenyatta and William Ruto's trials at the International Criminal Court, and the 'use' of China to leverage the Western influence). However, beyond high politics, the activities in which Kenyan state and

social groups engage with China are generally part of broader plans of development, national or sectoral, public or private. This means that in everyday activities, the engagement of Kenyan actors with the Chinese is not as exceptional as often believed. The layered interests approach helps understand that while national interests are rhetorically framed around mutual benefit etc. sectoral and issue-based interests are often revisited to fit existing meanings and patterns of engagement.

This also sheds light on the fact that state and social groups in Kenya do not set their motivations, and do not act much differently from what is expected from the literature in IR. To gather a more representative picture of empirical dynamics, though, it was necessary to acknowledge the derivative and multidisciplinary nature of IR, not thus using a single approach but rather combining features drawn from a range of approaches.

8.3   Democracy or economic development? Blended governance instead.

An important question that arises from the analyses carried out throughout the thesis concerns whether the governance-in-flux that has been described is symptomatic of a particular moment in the history of Kenya, one characterised by the arrival of China, or is rather a continuation of a pre-existing trajectory. Contemporary discourses have been suggesting that a national break with the past has been taking shape, with the country's domestic policies Looking East. However, how quickly are grassroots sectoral interests adjusting to this international shift? Having China as a partner-option for development does not mean choosing the country over others. The rationale behind the selection of China as a partner, where applicable, is often calculated to draw benefits that are more complex than mere 'economic advantage without conditions'. First, the myth that China does not attach conditions is soon dispelled by actors involved in the negotiations[837]. Second, the conditions are generally negotiated, rarely accepted in their original format[838]. The

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[837] See the cases of: infrastructure for health, where contracts with the Chinese involve purchase of Chinese products, or the case of the Malaria Centre, where Chinese conditions are non-negotiable and end up not fitting into the existing framework of procurement/project development; the case of Confucius Institutes, where the establishment of the institutes is mainly decided and developed according to Chinese actors' agendas (rather than providing the service in response-mode as stated); the case of TVET, where the Chinese wanted to establish a school under their conditions within an existing institute; the case of trade unions, where the Chinese created a new company in order to avoid raising the minimum wage of the CBA. It is normal that Chinese actors set conditions, it is not normal to expect that they do not do so.
[838] See all the cases presented in the note above, and how Kenyan actors negotiated with the Chinese.

contacts with China are in fact also used as strategic means to negotiate with the West when this latter is considered to offer better options.

One of the main questions revolving around Sino-African relations is that of whether China's presence in Africa will contribute to the continent's emergence and development or will rather throw it back into a phase of colonial rule. Linked to this is the question of whether China's lack of attention to democracy and good governance, i.e. transparency, accountability, etc., will spoil decades of efforts, from the West and African countries to put Africa on the 'right path' to *democratic* development, in order to favour *economic* development. Inherent in this concern is the belief that the two approaches, one heralded by the West, the other by China, would not be easily reconciled. It was often assumed that African countries have been standing at a juncture since the arrival of China, asked to choose between one direction or the other, i.e. the Western liberal approach or the Eastern economic development model. The general idea that either one or the other approach must be chosen seems to reflect an ideologically-charged idea of Africa trapped between the East/West divide.

In fact, as demonstrated in this dissertation, what appears to emerge more strongly from the analysis of actual contexts is the idea of a *blended type of governance* where the constitutional democratic model starts being absorbed, and the economic development model is catching on at significant speed. The argument I put forward based on the cases analysed in this thesis is that Kenyans are working to unite these paths, presumably parallel, into a governance model that makes sense domestically. Inevitably each 'original' paradigm is bound to lose something on the way, but the emerging model, freed of normative prescriptions and economic lessons, may eventually be more suited to the country's current specific needs. An interviewee commented the construction of a road by the Chinese: "there were complaints about standards, but compared to what was there before... this is not about perfection" [839]. This highlights a tension between an understanding of development as *comprehensive* development vis-à-vis *possible* development, i.e. based on actual available resources and capacities.

A senior officer at the Kenya National Highways Authority (the institution in charge of managing infrastructural mega-projects in Kenya, highly involved with

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[839] Interview with an officer at the National Economic and Social Council, Nairobi, 2014-01-24.

Chinese construction companies)[840], in his own words, expressed the advantages and disadvantages of the two models for Kenya:

> The World Bank introduces all those rules on governance which are a thing. They want the strengthening of capacity etc. When the project is over, in 10/15 years this is what is going to stay. They pushed us to set up the National Transport Safety, though it is still a baby institution, and they are now working to check the use of alcohol on the streets, etc. These things have a long term impact. Their contracts are well structured, and things are done properly. But the Chinese provide us with fast delivery. And for me, there is a way for both. We need the Chinese now, to move on [i.e. keep the pace of infrastructural and economic development], and we need institutions like the WB to help us set those long term goals that are necessary for Kenya's future. But we need to remember we also need space for the local industry. At the airport now, they [the Chinese] stay[841] behind offices, in economic accommodation, but things will change. Now they can do that, but over time it is human nature to want more. There will come a time when their prices will not be competitive anymore. Even in China now wages are increasing. It is good for now while it lasts, but we need to build up our local capacities.

While the Chinese model of development, i.e. economic development before social and political rights, is currently advantageous for Kenya, it would be short-sighted not to see its limits. Similarly, while the Western emphasis on comprehensive contracts, where workers' rights are safeguarded, is important to build a better social texture, the inability to pay comfortably for those services cannot be ignored.

Hence the idea of a blend which emerges from a very specific national environment where constitutionalism is being absorbed, and economic development is being valued and promoted. Although it is undeniable that in Kenya development has often been linked to clientelistic legitimacy, the picture that was

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[840] Interview with an officer at the Kenya National Highways Authority, Nairobi, 2014-02-19.
[841] Chinese technicians and workers working for construction companies are often accommodated on the construction site, in modest accommodation units, with few comforts. This, in turn, lowers the project's costs, making Chinese projects more affordable than Western ones. The argument of the interviewee is that sooner or later (expected to be sooner rather than later according to the increase of minimum wages in China) even Chinese technicians and workers will start rejecting such living conditions and will demand better accommodation – and maybe better pay. In turn, Chinese projects will not be as affordable as they currently are.

observed was also one of bureaucrats and common people who believed in the country's development and acted professionally to achieve the objective, not motivated by allegiance to a leader, but by their personal and professional ethics. In other words, while corruption and clientelism are part of the story, so are transparency and competence. This occurs in a country where governance is in flux, where the economy "no longer relies on the state; the multi-party democracy is here to stay and presidential demands provoke as much resistance as obedience"[842]. Especially after the new constitution was passed, setbacks against it have been met "with vigorous resistance from Kenyans, resistance that confirmed that the many years spent negotiating the new constitution had introduced into the Kenyan body politic a fresh civic sensitivity against rule by presidential fiat"[843].

Consequentially, the state that emerges in the Kenyan context is not only one that would merely perpetuate clientelistic networks, but also one that is dependent upon societal forces including the private sector. At the same time, civil society is not only composed of actors embodying the normative good reflected in much of the literature on civil society, but also narrow-purposed groups, business networks, etc. far from being exemplary organisations acting for the good of the majority. This argument goes hand in hand with the idea that Sino-African relations are welcomed by the elites and despised by the population. The picture is less neat than this, more blurred, confused, and yet more balanced. Both the state and non-state realms are filled with actors of diverse beliefs and motivations. This is why looking at beliefs, perceptions, ideologies (toward China, and other external actors) is crucial. Unpacking them allows one to observe how they are less role-determined and more person-determined than previously thought.

8.4   Dependence for sustainability

Another important aspect concerns the dependence upon external forces and if/how the arrival of China is perpetuating this behaviour. It is not an option, but a condition, that Kenya relies on external forces to continue on its journey of development. In a way, it is possible to state that Kenya's pre-existing extraversion strategies continue with the Chinese. However, a number of other elements seem to

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[842] Hornsby, op.cit., p.7
[843] Murunga, Okello and Sjögren, op. cit., p. ix.

suggest that dependence on external powers is bound to diminish in the years ahead. The sheer dynamism of the country's growing middle class, the nation and sector-wide commitment to industrialization, the increased awareness that democracy is "here to stay", the purposive detachment from Western aid and the adoption of aid provision declarations such as the Paris and Accra ones that focus on the host country's elaboration of priorities. All these elements suggest that Kenyans are more interested in taking ownership of the development path, 'from inside'. After all, the relations with China and the recent financial crisis have emphasised, once more, that the foreign provision of assistance does not last forever, and that it is subjected and vulnerable to alterations occurring in donor countries. Not only, there is also a growing segment of the population, i.e. the youth, that is increasingly educated, digitalized and dynamic enough to strategically use domestic and international resources to create new spaces of development within the country, rather than outside of it.

Consequentially, while dependence implies an asymmetrical relationship, what seems to emerge from the analysis is that *sustainability* in development is increasingly becoming an established concept, guiding Kenyan approaches to external actors. This does not eliminate dependence on foreign financial and human resources, but it suggests that the country is gearing up to make use of these resources for long-term developments rather than use them as one-off free grants. Part of this picture is the recognition that Kenya does not merely 'receive' Chinese trade, investments, assistance, but also 'requests' them. For long in the literature, it was believed that if anything, African countries were struggling to fit the Chinese into contexts where they imposed themselves. However, it was clarified that focusing on Africa as the *recipient* provides a *partial* portray of actual engagements. Pro-active behaviour is also observed according to which Kenyan actors *identify and choose* China as a partner in trade, development and more.

8.5 Time for social change

Finally, international relations theories do not easily contribute to accounting for *variations through time*. This study emphasises the importance of accounting for the dynamic nature of processes, how agents modify them *in itinere* and how these processes modify agents. Understanding the relatively new co-existence of

democratic governance and rapid economic development requires awareness concerning the fact that uncertainty surrounds implementation efforts and results. Kenyan and Chinese actors are still studying each other although the intensification of social, political and economic activities has exposed them to one another more often and more comprehensively.

Nonetheless, beyond the policies on paper, social change takes time to happen. One interviewee suggested that "it will take a long time for Kenyans to place people with a degree from a Chinese university"[844] mainly because studying in China is not, yet, synonymous with high quality and social status. Similarly, another interviewee pointed out that "the Chinese work for long hours but Africans do not think they have outstanding intelligence, vis-à-vis the West. It is their brain power that should impact Africa, but it has not. They are not admired for how they think. They come for their skills but not for outstanding thinking."[845]

Understanding that the relative *newness* of the Chinese in Kenya is a variable influencing perceptions, ideas and potentially the outcomes of the relations is crucial. China is often defined as new, extraneous and, therefore, requiring Kenyans to be alert. Even in cases where actors are positive about the engagement with China, a sense of unfamiliarity is emphasised, especially in comparison to traditional external actors. A number of agents claim they lack understanding of the Chinese behaviour and thus learn and re-learn mainly by engaging with them. This highlights the heuristic aspect of the relations, according to which perceived successes and failures in the engagement reorient preferences and thus strategies for the next round.

Although the focus of the thesis has been on Kenyan contexts, inevitably the analyses have also revealed a variety of Chinese agents, interests, structures. As Corkin suggests "China´s foreign policy towards Africa is far from the "grand strategy" concept espoused by Pehnelt and Abel[846]. Instead, it is developed incrementally, largely on a trial and error basis"[847]. The Chinese became increasingly aware of the context within which they operate, namely the weaknesses and strengths of Kenyan governance systems. While in some cases

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[844] Interview with an executive at the Technical University of Kenya, Nairobi, 2014-11-04.
[845] Interview with a Kenyan executive at a Confucius Institute, 2013-10-31.
[846] G. Pehnelt & M. Abel, 'China's Development Policy in Africa', Report no.1, The South African Institute of International Affairs, Johannesburg, 2007, p. 9.
[847] L. Corkin., 'African agency in the context of China-Africa relations', Forum Issue 1 and 2, African East-Asian Affairs/The China Monitor, Centre for Chinese Studies, Stellenbosch University, 2015.

better knowledge of the governance system was used to bypass it more easily, in other cases it was a catalyst for a change toward greater adherence to Kenyan rules. In a way, the exposure to Kenyan norms of conduct has contributed to the Chinese socialisation to a more inclusive system of governance.

Considering the rapidity of the relations, the cases analysed do show a range of promptness in addressing change. Actors use known logics to engage the Chinese, with some more promptly responding to the newcomer and some less. Broadly speaking Kenyans seem quite aware of China's presence, and are learning, by doing or observing, what the consequences of these new engagements may mean. Eventually, this is, probably more than anything else, a story of a country where a relatively sudden migration of foreigners has shaken social, economic and political bases. However, while the interaction may show distinctive features, it is a story of adaptation and re-adaptation between the local environment and *a* foreign presence.

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Annex I – FOCAC commitments for health

	Declaration	Action plan	Achievement after 3 years
FOCAC 2000 - Beijing	The last of a 10 point declaration: "10. We decide to vigorously promote further China-Africa co-operation in the economic, trade, financial, agricultural, medical care and public health, scientific and technological, cultural, educational, human resources development, transportation, environmental, tourism and other areas on the basis of the principles enshrined in this declaration and the Program for China-Africa Co-operation in economic and social Development adopted at the Forum so as to promote the common development of China and Africa."	14.1 - the African Ministers welcome the commitment made by the Chinese side to send more medical teams to African countries and they promise to create suitable working and living conditions for these teams.	China has continued to dispatch medical teams to Africa. In the past three years, 53 protocols have been concluded or renewed for this purpose;
		14.2 - the chinese commit to continue providing african countries with medical equipment, facilities, medicine and more training to local medical personnel, and promote co-operation in the use of traditional medicine and pharmacy.	convocation in 2002 of the China-Africa Forum on Traditional Medicine and adoption of the Plan of Action for the Cooperation of Traditional Medicine between China and African Countries;
		14.3 - conduct co-operation in such areas as reducing infant and maternal mortality rates, and preventing and treating HIV/AIDS, malaria, tropical and other diseases.	China has signed or renewed protocols with 40 African countries on dispatching Chinese medical teams, pledging continued provision free of charge of pharmaceutics, medical equipment and other hospital materials, and cooperation with Africa in the prevention and treatment of HIV/AIDS, malaria and tuberculosis.
FOCAC 2003 - Addis Ababa	under section 5 Social Development: 5.1 Human Resources Development and Educational Cooperation, 5.2 - Cooperation in Medical Care and Public Health, 5.3 Cultural Exchange and Cooperation, and 5.4 People-to-People Exchange	5.2.3 - China will continue to send medical teams to Africa. China will endeavor to address African countries' request about the composition of the teams. . China will continue to provide African countries with some free medicine, medical instruments or materials. It will step up the training of local medical workers.	
		5.3.4 - enhance their traditional medicine R&D cooperation, experience-sharing and technical exchanges, in particular, in the prevention and control of HIV/AIDS, malaria, tuberculosis, SARS and Ebola, take the training of specialized health care personnel as a priority of their cooperation on human resources development.	the Chinese Government has adopted effective measures to provide timely assistance to African countries in the prevention and treatment of malaria, HIV/AIDS and avian influenza.

FOCAC 2006	under section 5 Cooperation in Social Development: 5.1 Development Assistance and Debt Relief, 5.2 Human Resources Development, 5.3 Culture, 5.4 Education, 5.5 Medical Care and Public Health, 5.6 Environmental Protection, 5.7 Tourism, 5.8 News Media, 5.9 People-to-People, Youth and Women Exchanges	5.5.2 to increase exchanges and cooperation in the prevention and treatment of HIV/AIDS, malaria, tuberculosis, Ebola, Chikungunya, avian influenza and other communicable diseases and in the fields of quarantine and public health emergency response mechanism.	
		5.5.3 build 30 hospitals, RMB300 million of grant for providing anti-malaria drugs, build 30 demonstration centres prevention and treatment of malaria, send Chinese Medical Teams, provide medicines and medical supplies, help establish and improve medical facilities and train medical workers	construction has been started on 26 of the hospitals and will start by the end of this year for another 2; 30 malaria prevention and treatment centers and provided anti-malaria medicine to 36 African countries for three consecutive years; 1,200 medical workers to 42 African countries and regions, including four medical teams sent to Chad, Senegal, Angola and Malawi; medical equipment to Mauritius and Niger
		5.9.3 (people-to-people exchanges) 300 young volunteers to African countries to work in medical, health, sports, agriculture, education and other fields, as part of PEOPLES-TO-PEOPLES exchanges	
FOCAC 2009 - since FOCAC 2009 the Declaration and Action Plan were complemented by a third document Implementation of FOCAC 2006 (the previous FOCAC)	Section 5 Cooperation in the field of development: 5.1 Assistance and Debt Relief; 5.2 Human resources development; 5.3 Education; 5.4 Cooperation in Science and Technology and Technology Transfer; 5.5 Cooperation in Poverty Reduction; 5.6 Medical Care and Public Health; 5.7 Climate Change and Environmental Protection; 5.8 Disaster Reduction and Relief; 5.9 Tourism	5.2.3 US$1.5 million contribution to support NEPAD's projects to train nurses and maternity assistants in Africa; 5.6.4 RMB500 million yuan worth of medical equipment and malaria-fighting materials to 30 hospitals and 30 malaria prevention and treatment centers built by China; China will invite African professionals working in malaria prevention and treatment centers to training programs in China in an effort to ensure sustainable development of the project; train a total of 3,000 doctors, nurses and administrative personnel; send medical teams	the cash aid for the training of nurses and midwives for NEPAD's projects is being channelled in several instalments. China has dispatched 42 medical teams to African countries. There are 1,067 Chinese medical personnel in Africa now. China has provided medical equipment, materials and medicines to 30 hospitals and 30 malaria prevention centers in Africa and has sent 13 malaria prevention teams to 27 African countries; China has trained 24,000 [this is a big number and the mention below is only for 7,500 people. What about the other 16,500?] African professionals in various fields, including 1,500 headmasters and teachers, 3,000 agricultural experts and 3,000 doctors and nurses.
FOCAC 2012	Section 5 Cooperation in the field of development: 5.1 Assistance; 5.2 Human resources development; 5.3 Science and Technology Cooperation and Knowledge Sharing; 5.4 Cooperation in Poverty Reduction; 5.5 Medical Care and Public Health; 5.6 Climate Change and Environmental Protection		

		5.5.3 expand their exchanges and cooperation in the prevention, treatment and port control of HIV/AIDS, malaria, tuberculosis and other major communicable diseases, health personnel training, maternal and child health, health system building and public health policies.	
		5.5.4 China will continue to provide support to the medical facilities it has built in Africa to ensure their sustainable development and upgrade the modernization level of the hospitals and laboratories.	
		5.5.5 China will continue to train doctors, nurses, public health workers and administrative personnel for African countries.	
		5.5.6 China will conduct the "Brightness Action" campaign in Africa to provide free treatment for cataract patients.	
		5.5.7 send 1,500 medical workers to Africa in the next three years.	

Source: FOCAC declarations, action plans and follow-up documents.

Annex II – FOCAC commitments for education

	Declaration	Action plan	Achievement after 3 years
FOCAC 2000 - Beijing	the last of a 10 point declaration: "10. We decide to vigorously promote further China-Africa co-operation in the economic, trade, financial, agricultural, medical care and public health, scientific and technological, cultural, educational, human resources development, transportation, environmental, tourism and other areas on the basis of the principles enshrined in this declaration and the Program for China-Africa Co-operation in economic and social Development adopted at the Forum so as to promote the common development of China and Africa."	15.1 - expand cooperation through: 15.1.1 grant more scholarships to African students to study in China, continue to send teachers to Africa to help local institutions of higher learning improve their disciplines and specialties, and set up channels of communications between universities of the two sides for the study of the Chinese and African civilizations, 15.1.2 - establish an African Human Resources Development Fund and gradually increase financial contribution to the Fund for the training of professionals of different disciplines for African countries.	China has set up an African Human Resources Development Fund exclusively for African personnel training. Over the past three years, China has organized training courses or programmes of diverse forms for Africa under this special fund.
		15.2 - work out country-specific training plans through appropriate channels, identify specific co-operation projects and facilitate their implementation.	
FOCAC 2003 - Addis Ababa	under section 5 Social Development: 5.1 Human Resources Development and Educational Cooperation, 5.2 - Cooperation in Medical Care and Public Health, 5.3 Cultural Exchange and Cooperation, and 5.4 People-to-People Exchange	5.1.3 China will further increase its financial contribution to the African Human Resources Development Fund for the training of up to 10,000 African personnel in different fields.	2006 5.2.1 China has trained over 10,000 African professionals in various fields under the African Human Resources Development Fund (AHRDF).
		5.1.4. cooperation is mainly bilateral but in order to make the cooperation on a multilateral basis more effective, Ethiopia, in cooperation with the African diplomatic corps in Beijing, will serve as a coordinator responsible for communicating with China on African countries' requests, proposals and specific arrangements concerning human resources development in the next three years.	
		5.1.5 exchange teachers and new scholarships and set-up channels of communication for exchange of ideas between their institutions of higher learning and Technical and Vocational Education and Training (TVET).	
FOCAC 2006	under section 5 Cooperation in Social Development: 5.1 Development Assistance and Debt Relief, 5.2 Human Resources Development, 5.3 Culture, 5.4 Education, 5.5 Medical Care and Public Health, 5.6 Environmental Protection, 5.7 Tourism, 5.8 News Media, 5.9 People-to-	5.2.2 based on AHRDF, to train 15,000 professionals for African countries in the next three years. The African side undertook to provide necessary support and assistance in terms of selecting trainees and providing logistical services.	

People, Youth and Women Exchanges		
	5.3.2 actively implement the bilateral government exchange programs and support and promote cultural exchanges as well as art exhibitions and performances at the local level and between the peoples. Set up the African Cultural Visitors Program to enhance cultural exchanges between the two sides.	15 African governmental cultural delegations have visited China; chinese cultural centres were set up in Egypt, Mauritius, Benin; 734 members of Chinese artistic troupes from 20 provinces and cities have visited Africa to stage performance and take part in 27 art festivals and celebrations held by African countries. The Chinese side has invited a total of 370 artists from 21 African countries to perform in China and participate in international art festivals hosted by China; "Culture in Focus" activities In October 2008, the activity "African Culture in Focus 2008" was successfully held in Shenzhen. From April to October 2009, China staged the "Chinese Culture in Focus 2009" in more than 20 African countries; Since 2007, the African Cultural Visitors Program launched by China's Ministry of Culture has been further substantiated. A total of 61 African cultural officials and personages have been invited to China in six groups to participate in activities like the Roundtable Conference on Cultural Policy, the Africa Guest Painters Visit China Project, and Museum Professionals on Work Replacement and Research, thus deepening the cultural exchanges between China and Africa; In 2009, the monthly magazine Africa was launched by the Chinese-African People's Friendship Association
	5.4.2 hold the the China-Africa Forum of Ministers of Education on a regular basis	
	5.4.3 more exchanges and closer cooperation between institutions of higher learning of the two sides, ensure the effectiveness of the bilateral student exchange programs, carry out consultation on concluding agreements on mutual accreditation of academic degrees.	

		5.4.4 set up 100 rural schools, scholarships (chinese government) from current 2,000 per year to 4,000 per year by 2009, annual training for a number of educational officials as well as heads and leading teachers of universities, primary, secondary and vocational schools in Africa; establish Confucius Institutes, encourage the teaching of African languages in relevant Chinese universities and colleges.	teaching equipment for the 30 schools has been delivered and the construction of 91 out of the 96 schools has started, of which 66 have been completed; scholarships were 2000 in 2006, +700 = 2700 in 2007, + 700 = 3400 in 2008, +600 = 4000 in 2009; China trained over 15,000 professionals in business, education, health, science and technology, culture, agriculture, poverty reduction, customs, quality inspection, telecommunications, environmental protection, maritime affairs and media; the Chinese side held two MPA (master of public administration) programs for developing countries in Peking University and Tsinghua University with the participation of 42 students from 16 African countries. China also worked vigorously to help African countries train professionals and technicians. A vocational school built by China and the Ethiopian Government jointly was opened in September this year; 23 Confucius Institutes or classrooms have been opened in 16 African countries including Egypt, Benin, Botswana, Togo, Zimbabwe, Cameroon, Kenya, Liberia and Rwanda
		5.9.3 (people-to-people exchanges) 300 young volunteers to African countries to work in medical, health, sports, agriculture, education and other fields, as part of PEOPLES-TO-PEOPLES exchanges	total of 281 young Chinese volunteers have been to such African countries as Ethiopia, Zimbabwe, the Seychelles, Tunisia, Mauritius, Eritrea, Liberia and Ghana, to provide medical, health, sports, agricultural, educational and other services
FOCAC 2009 - since FOCAC 2009 the Declaration and Action Plan were complemented by a third document Implementation of FOCAC 2006 (the previous FOCAC)	Section 5 Cooperation in the field of development: 5.1 Assistance and Debt Relief; 5.2 Human resources development; 5.3 Education; 5.4 Cooperation in Science and Technology and Technology Transfer; 5.5 Cooperation in Poverty Reduction; 5.6 Medical Care and Public Health; 5.7 Climate Change and Environmental Protection; 5.8 Disaster Reduction and Relief; 5.9 Tourism AND Section 6 Cultural and People-to-People Exchanges and Cooperation: 6.1 Culture; 6.2. Press; 6.3 Exchanges Between Academia and Think Tanks; 6.4 People-to-People, Youth and Women Exchanges; 6.5 Sports; 6.6 World Expo		Over the past three years, together with NGOs from South Africa, Zimbabwe, Malawi and Mozambique, China launched public welfare campaigns such as cataract treatment, HIV/AIDS prevention and treatment and in-kind donations. Chinese enterprises and expatriates have also been actively involved in Africa's social and public welfare programs, playing a positive role in Africa's educational development, medical service, social relief and disaster prevention and control.

	5.2 Human resources development;	5.2 train a total of 20,000 people in various sectors for African countries in the next three years, US$1.5 million contribution to support NEPAD's projects to train nurses and maternity assistants in Africa; train a total of 3,000 doctors, nurses and administrative personnel;	trained 24,000 African professionals in various fields, including 1,500 headmasters and teachers, 3,000 agricultural experts and 3,000 doctors and nurses.
	5.3 Education;	5.3 build 50 China-Africa friendship schools; Propose implementation of the 20+20 Cooperation Plan for Chinese and African Institutions of Higher Education; Admit 200 middle and high level African administrative personnel to MPA programs in China; increase number of scholarships to 5,500; train teachers for primary, secondary and vocational schools in Africa, and help African countries train 1,500 school headmasters and teachers; Continue to promote the development of Confucius institutes, increase the number of scholarships offered to Chinese language teachers to help them study in China, and double efforts to raise capacity of local African teachers to teach the Chinese language.	built 19 new schools in Africa and provided equipment to 42 schools; The China-Africa Universities 20+20 Cooperation Program was launched, and 20 pairs of Chinese and African universities conducted cooperation projects; in 2010 China provided 5,710, in 2011 6,316 scholarships; 4 new Confucius Institutes, there are now 29 Confucius Institutes or Confucius Classrooms in 22 African countries;
	6.1 Culture	6.1.2 hold FOCAC Culture Forum; promote "Cultures in Focus" events; strengthen exchanges and cooperation between cultural and art authorities and professionals; Strengthen cooperation and build more Chinese cultural centers in Africa; Promote cultures of the two sides through new technologies such as the internet;	During the "2011 Chinese Culture in Focus", more than 130 projects were conducted in over 30 African countries; 21 exchanges of ministerial-level cultural delegations and China has signed cultural agreements or implementation plans with 15 African countries; the FOCAC Cultural Ministers' Forum marked the establishment of the China-Africa cultural strategic dialogue mechanism;
	6.3 Exchanges between Academia and Think Tanks	6.3.2 to implement a China-Africa joint research and exchange plan through a variety of ways, such as seminars, mutual academic visits, and joint research projects.	China conducted 88 joint research and demonstration projects with African countries. China received 42 African post-doctoral students and donated research equipment to returning African researchers who have concluded their joint research tasks in China. China has actively implemented the China-Africa Joint Research and Exchange Program. 14 international seminars, sponsored more than 500 Chinese and African scholars for field trips and academic exchanges, and supported 28research projects.

	Section 5 Cooperation in the field of development: 5.1 Assistance; 5.2 Human resources development; 5.3 Science and Technology Cooperation and Knowledge Sharing; 5.4 Cooperation in Poverty Reduction; 5.5 Medical Care and Public Health; 5.6 Climate Change and Environmental Protection AND Section 6 Cultural and People-to-People Exchanges and Cooperation: 6.1. Culture, 6.2 Education, 6.3 Press, Publishing and Media, 6.4 Exchanges between Academia and Think Tanks, 6.5 People-to-People, Youth and Women Exchanges, 6.6 Sports		
FOCAC 2012 - Beijing		5.2.2 "African Talents Program". In the next three years, China will train 30,000 African professionals in various sectors, offer 18,000 government scholarships and take measures to improve the content and quality of the training programs.	
		5.2.3 China will provide assistance for Africa's vocational skills training facilities, train professionals and technical personnel for African countries and, in particular, help African young people and women enhance their job skills.	
		5.3.2 China will launch the science and technology for a better life campaign	
	6.1 Culture	Maintain the momentum of high-level inter-governmental mutual visits and dialogue in the cultural field and continue to follow through on the implementation plan of the China-Africa bilateral government cultural agreements; Propose to implement a "China-Africa Cultural Cooperation Partnership Program" and promote the building of long-term paired cooperation between 100 Chinese cultural institutions and 100 African cultural institution; Raise the profile of the "Cultures in Focus" events in China-Africa cultural exchanges; Continue to implement the program of China-Africa mutual visits between cultural personnel, and strengthen exchanges and cooperation between the administrative personnel and professionals of the cultural and art communities; Speed up the building of Chinese cultural centers in Africa and African cultural centers in China; strengthen exchanges and cooperation in the preservation of cultural heritage and hold the "China-	

		Africa Cultural Heritage Preservation Roundtable"; China will provide assistance for the development of Africa's cultural facilities.	
	6.2 Education	6.2.2 continue to implement the 20+20 Cooperation Plan for Chinese and African Institutions of Higher Education	
		6.2.3 The two sides will continue to promote the establishment and development of the Confucius Institute and Confucius Classrooms in Africa. China will extend active support in terms of teaching staff, personnel training and teaching materials and equipment.	how can it become sustainable if china is increasing the provision of resources?
		6.2.4 US$2 million annually under the framework of the UNESCO trust fund to support education development programs in Africa, in particular higher education	
		6.2.5 China will continue to help African countries build educational and training facilities and provide more opportunities for short, medium and long-term training and scholarships.	
	6.4 Echanges between academia and think tanks	6.4.1 Sponsor 100 programs by academic institutions and scholars covering topical research, international symposiums, mutual visits of scholars and publication of works; Propose to implement the "China-Africa Think Tanks 10+10 Partnership Plan" to select 10 Chinese think tanks and 10 think tanks from African countries; Encourage and support scholars of the two sides to conduct joint research and publish the results of their joint research in international academic journals and other publications.	
		6.4.2 institutionalize the FOCAC think tanks forum	
		6.4.3 The two sides welcome and encourage more enterprises, financial institutions and academic institutions to provide support for academic interactions and people-to-people and cultural exchanges between China and Africa. CSR?	

6.5 People-to-people, youth and women exchanges		6.5.2 The two sides will launch the China-Africa people-to-people friendship action, and encourage and support exchanges and cooperation between non-governmental organizations, women and young people of the two sides by jointly undertaking small and micro social programs and promoting mutual visits between people's organizations of the two sides.	
		6.5.3 institutionalize the China-Africa People's Forum	
		6.5.4 institutionalize the China-Africa Young Leaders Forum	
		6.5.5 send young volunteers to Africa	
		6.5.6 China invites young people in Africa to visit China for study tours by such means as holding workshops for young leaders of political parties of African countries.	
		6.5.7 continue women exchanges	

Source: FOCAC declarations, action plans and follow-up documents.

Annex III – List of Interviews

1. 2013-10-03, Interview with a Chinese executive at a Confucius Institute.
2. 2013-10-08, Interview with an officer at the Embassy of the PRC, Culture Department, Nairobi.
3. 2013-10-11, Interview with an executive at EcoBuild Africa, Nairobi.
4. 2013-10-29, Interview with an executive and an officer at the Management Sciences for Health - Civil Society Portal for Healthcare, Nairobi.
5. 2013-10-31, Interview with a Kenyan executive at a Confucius Institute.
6. 2013-11-11, Interview with an executive at the Inter Region Economic Network, Nairobi.
7. 2013-11-13, Interview with an officer at the Ministry of Foreign Affairs and International Trade, Department of External Trade, Nairobi.
8. 2013-11-15, Interview with an officer at the Ministry of Finance, Treasury, Nairobi.
9. 2013-11-18, Interview with an officer at the Chinese Economic and Commercial Counsellor's Office, Nairobi.
10. 2013-11-22, Interview with a Chinese executive at a Confucius Institute.
11. 2013-11-22, Interview with a Kenyan executive at a Confucius Institute.
12. 2013-11-27, Interview with an officer at the Ministry of Foreign Affairs and International Trade, East African Community Division, Nairobi.
13. 2013-11-28, Interview with an officer at the Kenya China Friendship Association, Nairobi.
14. 2013-12-02, Interview with an officer at the Institute of Economic Affairs, Economic Regulation and Competition Policy Division, Nairobi.
15. 2013-12-02, Interview with an officer at the Kenya Association of Manufacturers, Export Division, Nairobi.
16. 2013-12-05, Interview with an executive at the Kenya Medical Research Institute (KEMRI), Nairobi.
17. 2013-12-05, Interview with an executive at the Kenya Medical Research Institute (KEMRI), Nairobi.
18. 2013-12-11, Interview with an executive at the Overseas Chinese Association, Nairobi.
19. 2014-01-24, Interview with an officer at the National Economic and Social Council, Nairobi.
20. 2014-01-24, Interview with an officer at a Kenyan infrastructure development company, Nairobi.
21. 2014-01-27, Interview with an executive at the Central Organisation of Trade Unions, Nairobi.
22. 2014-01-31, Interview with an executive at the Kenya Investment Authority, Nairobi.
23. 2014-01-31, Interview with an executive at the Kenya Pharmaceutical Association, Nairobi.
24. 2014-02-06, Interview with an executive at a Chinese company manufacturing traditional medicines, Nairobi.
25. 2014-02-07, Interview with an executive at the Pharmacy and Poisons Board, Registrar Division, Nairobi.
26. 2014-02-12, Interview with an officer at the Chinese Economic and Commercial Counsellor's Office, Nairobi.
27. 2014-02-12, Interview with an officer at Huawei, Nairobi.

28. 2014-02-13, Interview with an executive at China WuYi, Nairobi.
29. 2014-02-16, Interview with an officer at China Road and Bridge, Nairobi.
30. 2014-02-19, Interview with an officer at the Kenya National Highways Authority, Nairobi.
31. 2014-02-25, Interview with an executive at MCEDO-Beijing School, Mathare, Nairobi.
32. 2014-02-26, Interview with an executive at the Anti-Counterfeits Agency, Nairobi.
33. 2014-02-28, Interview with an officer at the Kenya Institute for Public Policy Research and Analysis, Trade and Foreign Policy Division, Nairobi.
34. 2014-03-19, Interview with an executive at the Mission for Essential Drugs and Supplies (MEDS), Operations Division.
35. 2014-03-21, Interview with an officer at a Trade Union [anonymity requested], Nairobi.
36. 2014-03-26, Interview with an executive at the Kenya Chemical and Allied Workers Union, Nairobi.
37. 2014-03-28, Interview with an officer at the Federation of Kenya Employers, Nairobi.
38. 2014-03-28, Interview with an executive at the National Construction Authority, Nairobi.
39. 2014-03-28, Interview with an officer at the Kenya Institute for Public Policy Research and Analysis, Counterfeits Division, Nairobi.
40. 2014-03-12, Interview with an executive at Kenya Vision 2030, Nairobi.
41. 2014-09-14, Interview with an executive at the Kenya Association of Building And Engineering Consultants (KABCEC), Nairobi.
42. 2014-09-16, Interview with the Roads and Civil Engineering Contractors Association (RACECA), Nairobi.
43. 2014-09-17, Interview with an officer at the Central Organisation of Trade Unions, Nairobi.
44. 2014-09-17, Interview with an officer at the Kenya Medical Supplies Agency (KEMSA), Procurement-Donor Funded Projects Division, Nairobi.
45. 2014-09-19, Interview with an officer at the Kenya Association of Manufacturers, Anti-Counterfeits Division, Nairobi.
46. 2014-09-23, Interview with an executive at the National Construction Authority, Nairobi.
47. 2014-09-25, Interview with an executive at the Kenya Federation of Master Builders, Nairobi.
48. 2014-09-29, Interview with an executive at the Ministry of Health, Medical Services, Nairobi.
49. 2014-09-30, Interview with an executive at the Ministry of Health, Pharmacy Department, Nairobi.
50. 2014-09-30, Interview with an officer at the Ministry of Health, Infrastructure Development Division, Nairobi.
51. 2014-10-06, Interview with an officer at the Ministry of Health, Malaria Control Division, Nairobi.
52. 2014-10-06, Interview with an executive at Kenya Vision 2030, Social Pillar Department, Nairobi.
53. 2014-10-07, Interview with an executive at the Consumers Federation of Kenya, Nairobi.
54. 2014-10-07, Interview with an executive at the Medical Practitioners and Dentists Board, Nairobi.

55. 2014-10-07, Interview with an officer at the Pharmacy and Poisons Board, Pharmacovigilance Division, Nairobi.
56. 2014-10-07, Interview with an officer at the Pharmacy and Poisons Board, Registrar Division, Nairobi.
57. 2014-10-08, Interview with an executive at the National AIDS & STI Control Programme (NASCOP), Nairobi.
58. 2014-10-08, Interview with an executive, Kenya Healthcare Federation, Nairobi.
59. 2014-10-10, Interview with an executive and an officer at the Kenya Technical Trainers College, Nairobi.
60. 2014-10-10, Interview with an executive at the Ministry of Culture, Traditional Medicine Department, Nairobi.
61. 2014-10-14, Interview with a professor of traditional medicine at Kenyatta University.
62. 2014-10-14, Interview with an executive at Mama Lucy Kibaki Hospital, Nairobi.
63. 2014-10-15, Interview with an executive at a Kenyan-Indian company distributing medical products and devices.
64. 2014-10-17, Interview with an executive at the National Museums of Kenya.
65. 2014-10-22, Interview with an executive at Kenyatta University.
66. 2014-11-04, Interview with a professor of pharmacy and traditional medicine at Kenyatta University.
67. 2014-11-04, Interview with an executive at the Technical University of Kenya, Nairobi.
68. 2014-11-05, Interview with an executive at the Kenya Medical Research Institute (KEMRI), Nairobi.
69. 2014-11-05, Interview with professors of engineering at the Technical University of Kenya, Nairobi.
70. 2014-11-10, Interview with an executive at the Ministry of Health, Standards Division, Nairobi.
71. 2014-11-11, Interview with an executive at the Kenya Bureau of Standards (KEBS), Nairobi.
72. 2014-11-13, Interview with an officer at the Kenya Building Construction Timber Furniture & Trade's Employees Union, Nairobi.
73. 2014-11-14, Interview with Kenyan and Chinese executives at a Confucius Institute.
74. 2014-11-17, Interview with an officer at the Ministry of Health, Traditional Medicine Division, Nairobi.
75. 2014-11-18, Interview with an officer at the Ministry of Health, Medical Engineering Division, Nairobi.
76. 2014-11-18, Interview with an executive at the Ministry of Health, Human Resources Development Department, Nairobi.
77. 2014-11-19, Interview with an executive and officers at the Ministry of Labour, Industrial Relations Office, Nairobi.
78. 2014-11-19, Interview with an executive, Ministry of Education, Technical and Vocational Education and Training Division, Nairobi.
79. 2014-11-19, Interview with an officer at the Ministry of Education, Higher Education Division, Nairobi.
80. 2014-11-20, Interview with an officer at the Export Promotion Council, Nairobi.
81. 2014-11-28, Interview with an officer at the Nairobi City Council, Nairobi.
82. 2014-12-01, Interview with an officer at the Ministry of Finance, Treasury E-commerce Division, Nairobi.

83. 2014-12-05, Interview with an executive at the Medical Practitioners and Dentists Board, Nairobi.