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THE STRATEGIC ASPECTS OF KENYA'S MARITIME SECURITY (2008-2020)

Alfred Mwangi Charo

PF NO: 119110

**A research dissertation submitted to the faculty of School of Humanities and
Social Sciences in partial fulfilment for the award of Master of Arts in
Diplomacy, Intelligence and Security**



**The School of Humanities and Social Science
Strathmore University
Nairobi, Kenya**

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DECLARATION AND APPROVAL PAGE

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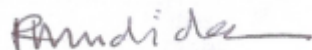


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Director of School of Graduate Studies,



DEDICATION

I dedicate this work to my family, colleagues, and lecturers for their persistent support.



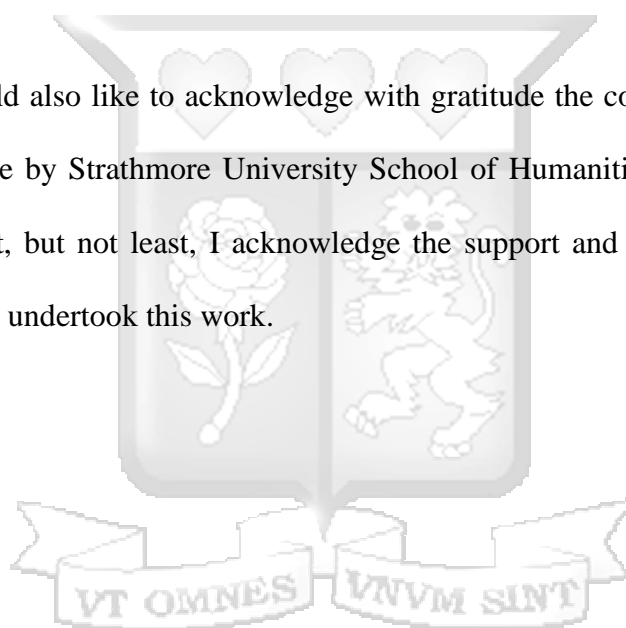
ACKNOWLEDGEMENTS

First and foremost I thank the Almighty God for His love and protection that has enabled me to undertake this project successfully, despite of the persistent and intense programme at the Strathmore University School of Humanities and Social Science.

Secondly, I thank my family for their continuous support and encouragement all through the time of this project that engendered my perpetual absence.

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ABSTRACT

The prospects and aspirations in Kenya's maritime domain are today facing complex and highly dynamic traditional and non-traditional maritime security threats that portend a direct consequence to Kenya's national security. The threats of terrorism and the upsurge of piracy in the Western Indian Ocean region led to the Kenyan government's reaction to the maritime asymmetric threats. These reactions became the onset of Kenya's significant engagement in maritime security issues. The adopted maritime responses were reactive in posture, which engendered the establishment and restructuring of several maritime security organizations and training to deal with the threats manifestation in Kenya's maritime domain. However, the implementation of these maritime security frameworks and responses continue to face challenges, making them tend to be not so much effective in dealing with the maritime threats in Kenya's maritime jurisdiction. This study responded to three research questions: Firstly, is how effective and capable are the current maritime security organizations and frameworks able to deal with the maritime security threats? Secondly, is how are the policies and strategies shaping the maritime threats in Kenya? Thirdly, is how best can the problem be addressed? Primary data was collected through key informant interviews with academics, maritime security experts and government officials; both retired and serving. Secondary data was also sourced from relevant publications and media reports. The data obtained were analyzed using content and thematic analysis techniques. The findings disclosed that numerous maritime security agencies in Kenya that faced several challenges; multifaceted transitional maritime threats, duplication of roles, limited resources, absence of common SOPs and limited cooperation among the maritime security agencies, which hindered the execution of their respective mandates. The study also came up with recommendations on how best the challenges could be addressed to effectively enhance maritime security in Kenya.

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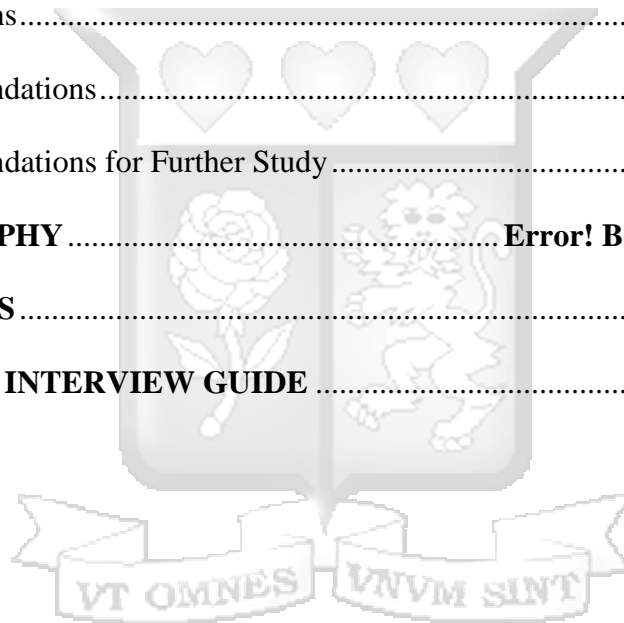
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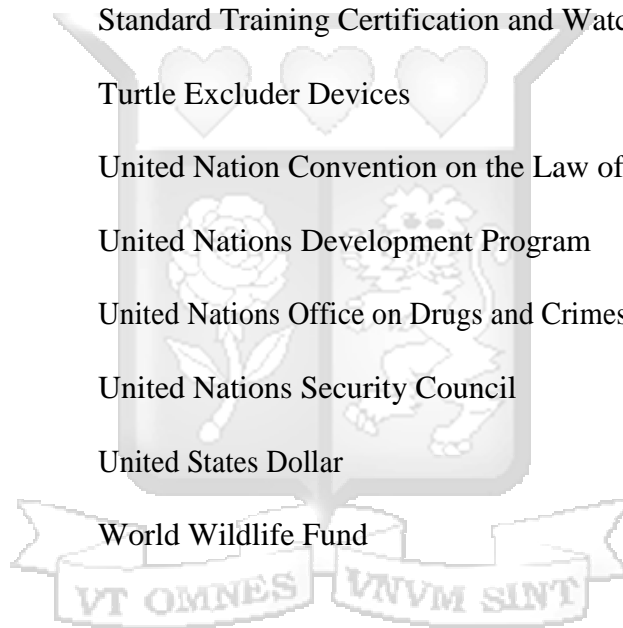


ABBREVIATIONS & ACRONYMS

AfCFTA	African Continental Free Trade Area
AIMS	Africa's Integrated Maritime Security Strategy
AIS	Automatic Identification System
APSA	African Peace and Security Architecture
AU	African Union
BCOCC	Border Control and Operations Coordination Committee
BMC	Border Management Committee
BMU	Beach Management Units
CAP	Chapter
CG	Coast Guard
CRIMARIO	Critical Maritime Route Indian Ocean
DCI	Directorate of Criminal Investigation
DCoC	Djibouti Code of Conduct
DWF	Distant Water Fishing
ECOWAS	Economic Community of West African States
EEZ	Economic Exclusive Zone
FAC	Fast Patrol Crafts
GDP	Gross Domestic Product
HOA	Horn of Africa
HSPD	Homeland Security Presidential Directive
IGAD	Inter-Governmental Authority on Development
IMO	International Maritime Organisation
IOR	Indian Ocean Region
IOTC	Indian Ocean Tuna Commission

ISPS	International Ship and Port Facility Security
IUUF	Illegal Unreported Unregulated Fishing
JOC	Joint Operation Centre
KCGS	Kenya Coast Guard Service
KDF	Kenya Defence Forces
KES	Kenya Shillings
KFS	Kenya Forestry Service
KII	Key Informant Interviews
KMA	Kenya Maritime Authority
KMFRI	Kenya Marine and Fisheries Research Institute
KMPU	Kenya Maritime Police Unit
KN	Kenya Navy
KPA	Kenya Ports Authority
KRA	Kenya Revenue Authority
KWS	Kenya Wildlife Services
LAPSSET	Lamu Port South Sudan and Ethiopia
LCL	Landing Craft Logistics
MASE	Maritime Security Programme
MDA	Maritime Domain Awareness
NEMA	National Environment Management Authority
NGO	Non-Governmental Organisations
NMC	National Maritime Conference
NSC	National Security Council
NIS	National Intelligence Services
OAU	Organization of African Unity

OPV	Offshore Patrol Vessel
POE	Point of Entry
PMC	Private Military Companies
REC	Regional Economic Community
SALW	Small Arms and Light Weapons
SLOCs	Sea Lines of Communications
SOLAS	Safety of Life at Sea
SOPs	Standing Operating Procedures
STCW	Standard Training Certification and Watch keeping
TEDS	Turtle Excluder Devices
UNCLOS	United Nation Convention on the Law of the Sea
UNDP	United Nations Development Program
UNODC	United Nations Office on Drugs and Crimes
UNSC	United Nations Security Council
USD	United States Dollar
WWF	World Wildlife Fund



CHAPTER ONE

INTRODUCTION

1.1 Background of the problem

Oceans, much of which are global commons under no State's jurisdiction, offer all nations, a network of sea-lanes that are of global interest and integral to the national security and economic development. The increase in maritime consciousness has prompted states to innovate numerous maritime security architecture to enhance their maritime security, which is often invisible safeguard to the contemporary way of life.¹ Noticeable attention and efforts have been put on the blue economy concept, which maritime security is key in supporting in a very significant and multiple ways.²

Bueger, states that maritime security has no universal consensus over its definition, but it is a term that draws attention to novel challenges by rallying support to tackle maritime issues.³ In considering the ramification that arises from 'bad order at sea' and its impacts on both developed and developing countries, whom all depend upon secure shipping lanes,⁴ then aspects of innovative diplomacy, the commitment by leaders and increased legal authority need to suffice at all levels when states undertake maritime security.⁵

The terrorist attack of 2001 (9/11) in the United States, led to maritime security gaining unprecedented attention from the United States' National Security Council (NSC). The directives by president George W Bush in 2004; Homeland Security

¹ Africa Center for Strategic Studies, Trends in African Maritime Security, *Spotlight* March 15, 2019

² Michelle Voyer, Clive Schofield, Kamal Azmi, Robin Warner, Alistair McIlgorm & Genevieve Quirk, "Maritime Security and the Blue Economy: intersections and interdependencies in the Indian Ocean," *Journal of the Indian Ocean Region*, Volume 14, NO. 1, 28–48, 2018, pp.43-44

³ Christian Bueger, "What is Maritime Security?" *Marine Policy* 53 pp.159-164, 2015, p.159

⁴ Francois Vreÿ, "African Maritime Security: a time for good order at sea," *Australian Journal of Maritime & Ocean Affairs*, Volume 2, NO.4, 121-132, 2010, .p.121

⁵ Captain Brian Wilson, "Responding to Asymmetric Threats in the Maritime Domain: Diplomacy, Law and Naval Operations, Maritime Affairs," *Journal of the National Maritime Foundation of India*, Volume 5, NO.2, 68-85, 2010, p.69

Presidential Directive – 13 (HSPD-13) and National Security Presidential Directive – 41 (NSPD-41), created a cooperative framework needed to support Maritime Domain Awareness (MDA) by formulating a United States National Strategy for Maritime Security.⁶

The amendments to the International Convention for the Safety of Life at Sea (SOLAS), 1974, led to the adoption of the International Ship and Port Facility Security Code (ISPS code), which became the most far-reaching maritime security framework approved by the International Maritime Organisation (IMO).⁷ ISPS code became the most recognised instrument that enhanced cooperation and implementation of maritime security responses that enshrined exhaustive security-related necessities for shipping companies, port authorities, and governments.

The surge in reported piracy incidents created an interest in having situational overviews that display both the location of all shipping and the probable location of suspected pirates. The institutionalization of cooperative security frameworks that encompass numerous state and non-state actors became a necessity to deal with the scourge of piracy. The 2050 Africa's Integrated Maritime Security Strategy (2050 AIMS), the Djibouti Code of Conduct (DCoC), and the Maritime Security Programme (MASE) became key instruments of wide-scale security projects in the region.⁸

Today African states are positioning themselves to benefit from the exploitation of marine resources by articulating and implementing strategies on continental, regional and national levels. The invention of the African Integrated Maritime Strategy (AIMS 2050) and African Charter on Maritime Security, Safety and Development in Africa/the

⁶ Kathleen Hicks and Andrew Metrick, "Maritime Domain Awareness: Today and Tomorrow," in *Contested Seas MDA in the Northern Europe*, chapter 2, (Washington DC: Rowman & Littlefield 2018) p.13

⁷ IMO maritime security policy, Background paper, EEF.IO/3/08, Vienna, 28- 29 January 2008

⁸ Hamad B Hamad, "Maritime Security Concerns of the East African Community (EAC)," *Western Indian Ocean Journal of Marine Science*, Volume 15, Issue 2, 75-92, 2016, p.75

Lomé Charter of 2016; set out clear maritime strategies that aim at pushing African countries in having a blue economy mind-set and also facilitate the strengthening of maritime security cooperation.⁹

Kenya's development of two strategic documents; Kenya Foreign Policy 2014 and Kenya Defense Policy of 2017 placed Kenya at a strategic position towards its pursuit of national security. The Defense Policy acknowledged the enormous potential of the Indian Ocean and the imperative of maritime security to Kenya's blue economy prospects. It identifies maritime interest as; Maritime Trade and Shipping, Ports and the offshore maritime economic resources.¹⁰ However, with limited maritime policies and absence of a maritime security policy, Kenya's engagement in maritime security is fashioned in an *ad hoc* and reactive posture.¹¹

Kenya, which relays on the international and regional maritime security strategies and projects to fill the existing vacuum of maritime security response, still lacks a long term and holistic maritime security policy and strategy. In most of the issues that have arisen in the maritime domain, the government has responded and addressed the issues on a case by case basis. However, the formation of the Presidential Blue Economy Task Force in 2017 increased Kenya's stakes and prospects in the maritime domain. It has become an important committee that has enhanced international, regional, national and local interventions; aimed at addressing the limited infrastructure, capacity to assure maritime security and prioritize the sustainable use of ocean resources.

The strategic aspect of maritime security is an indisputable reality for Kenya's social-economic development and human security. Human security, which

⁹ Africa Center for Strategic Studies, "The Process of National Maritime Security Strategy Development in Africa" (2016), pp.1-12

¹⁰ GoK, Defence White Paper 2017.pp.15-21.

¹¹ Hamad, "Maritime Security Concerns,"p.80

encompasses physical security, social, cultural, economic, and psychological well-being, and always concerns non-military threats, which are key in enhancing the safety of societies, groups, and individuals.¹² Its actualization comes with a development perspective that comes through improving sustainable exploitation of maritime resources which to a greater extent has a direct impact on the economy of the state.

The core challenge in maritime governance towards achieving the objective associated with maritime security is the coordination of the different governmental agencies towards implementing policies at sea and those societal actors that use the sea.¹³ The launch of Kenya Coast Guard Service in 2018 to augment the existing maritime security agencies, added to the existing challenges in the maritime environment, where maritime security agencies foster independent operational and tactical planning that has led to existing conflict and duplication of roles.

Kenya's national security depends on the secure use of the Indian Ocean. The absence of national maritime security strategy in Kenya has engendered persistent uncoordinated and unintegrated reactive maritime security responses that have enhanced maritime vulnerabilities and wastage of resources. This has prompted ineffective exploitation of the marine resources and all aspects relating to the use of the ocean, which has correspondingly aggravated the dismal situation ashore. Impacts that will continue to be felt due to the challenges that Kenya continues to face in the enforcement of law and order in the Indian Ocean Region (IOR).

¹² Roland Paris, "Human Security: Paradigm Shift or Hot Air?" *International Security*, Volume. 26, No. 2 pp. 87-102, 2001, pp.93-96

¹³ Christian Bueger, "Approaches to maritime governance: Coordination instruments in Seychelles and Kenya," *SAFE SEAS*, 2017

1.2 Statement of the Research Problem

The period between 2008 and 2020, Kenya experienced multiple maritime security threats. Piracy alone led to a significant reduction in cruise liner visits to Kenyan waters from 35 in 2008 to zero visits in 2012, costing Kenya's economy, approximately US\$400 and US\$15 million per annum on shipping and cruise liner tourism respectively.¹⁴ However, with the decline in piracy attacks since 2012, Kenya continues to experience an increase in transnational multifaceted maritime threats.

The persistent manifestation of these maritime threats had the government embrace emerging international and regional maritime security frameworks, which prompted the restructuring of Kenya's maritime security agencies to fit in with the dynamic operational environment. Kenya responded by setting up the Kenya Coast Guard Service (KCGS) in 2018 to enhance maritime governance as a centralized maritime law-enforcement agency. However, Kenya continue to experience maritime security threats.

Today, Kenya has several institutions/agencies tasked with enhancing maritime security, but still, the problems and challenges continue to persevere at the expense of Kenya's national security. Indeed the reactive responses vividly observable within the maritime sector, seems to be a factor that exacerbates these maritime problems. The study examined and analysed the maritime security practice in Kenya, challenges facing the maritime space, the existing legal framework, the existing institutional frameworks, policies, and strategies that guided the execution of maritime security. It responded to the following main question, why is Kenya maritime domain experiencing all these maritime security problems despite government interventions?

¹⁴ Alex Benkenstein, "Prospects for Kenyan Blue Economy," *Southern African Institute of International Affairs*, Policy Insight 62, July 2018.

1.3 The Objectives of the Study

The overall objective is to critically examine the challenges in Kenya's maritime security dispensation and see into it how best the challenges can be addressed to enhance effective maritime governance.

The sub-objectives are to:

1. To examine and analyse the capacities and capabilities of Kenya's maritime security organizations?
2. To examine and analyse how the existing policies and strategies shape the maritime threats in Kenya.
3. To proffer research-based policy recommendations on how best the problem can be addressed.

1.4 The Research Questions

This study is interested in responding to these three sub-research questions;

1. How effective and capable are current Kenya's maritime security organizations and frameworks able to deal with maritime security threats?
2. How are policies and strategies shaping the maritime threats in Kenya?
3. How best can the problem be addressed?

1.5 Justification of the Study

1.5.1 Academic Justification

This study will contribute to debates on issues of maritime security strategies, with the perspectives of a developing state. It will bring out an understanding of Kenya's maritime security strategies and how maritime security has been conceptualized and implemented since Kenya became an independent state. This will be highlighted by

how the maritime security in Kenya is organised and executed, in line with the policy and strategic guidelines. It is a study that has been inspired by the lack of maritime security strategies among most African states.

1.5.2 Policy Justification

The study notes that since the pattern of explicit commitments to secure Kenya offshore assets is a rather recent manifestation, the frameworks in place that identify commonalities and disagreements are key in driving the agenda of maritime security dispensation. Therefore this study aims to contribute to policies that will be influential in providing guidance and action-oriented strategies among the government agencies, private and local communities for effective maritime security at all levels of governance.

The African maritime domain is increasingly gaining strategic importance implying that governments cannot afford to ignore the maritime domain or even display institutional incapacity. The insight gained in this study will, therefore, help shape new policy direction. It is on this perspective that Kenya needs to formulate a “Vision of the Oceans” around which a maritime security strategy can be developed.

1.6 Literature Review

The literature review is organized into four sections related to the study. The first section will be the review of studies that focus on how maritime security has been conceptualized over time and space and provide a theoretical perspective of how best the maritime security issues can be approached, the second section dwelt into understanding the conceptualization of maritime security strategies, the third sections

look as the empirical perspectives of maritime security strategies of France, India, and Africa, and fourth sections highlight the research gap.

1.6.1 Maritime Security

Maritime security has over the years transformed and evolved from the narrow perspective of national naval power projection by state naval actions to having a range of additional roles and functions related to contemporary non-conventional threats and the utilization of soft power instruments towards influencing the strategic operational environment.¹⁵The earlier maritime theories were conceived based on the realist perspective, which denotes the importance of states to compete for power by building a naval force that can rival other states naval capabilities and dominate the maritime space. The conception of maritime security by other scholars contend the presence of both traditional threats and non-traditional threats in the maritime domain.

Mahan acknowledges the significance of the maritime sector in the theory of the sea and national strategy with the *Influence of Sea Power on History, 1660- 1783*, and the *Influence of Sea Power on the French Revolution and Empire, 1793- 1812*, published in 1890 and 1892. He explains the evolution of power on land through the exploitation of the sea by recognizing the strategic significance of naval power in establishing command at sea as primary and equally important to the land strategy. His ideas about sea power were the dominance of the sea through naval superiority that was a necessity to the growth of national strength and prosperity, which was further enhanced by inter-connectedness, maritime commerce and geography configuration of the state. He noted that given the relationship between affluence and maritime

¹⁵ Sam Bateman, "India and Regional Security Activities," in Anit Mukherjee and C. Raja Mohan, editors, *India's Naval Strategy and Asian Security* (New York: Routledge 2016) pp.215-236

commerce, the sea is unavoidably the major dome of rivalry and confluent among nations seeking wealth and power.¹⁶

Corbett's theories of sea power favour Mahan's ideas of command at sea. While Mahan generally observed the command of the sea as an end in its own right, Corbett contended that it means nothing but the control of Sea Lines of Communications (SLOCs), regardless of whether for business or military purposes.¹⁷ In his theoretical treatise, *Some Principles of Maritime Strategy*, he recognizes the utmost focal point of all the naval actions should all be concerned with accomplishing the national objectives of the state.

Till makes a structured approach to the constituent elements of sea power that contradicts what Mahan and Corbett designate as a command at sea. His analysis of sea power concentrates on having good order at sea as central to the prosperity and security of all nations in the twenty-first century, especially with the emergence of an increasingly globalized world trading system. Till's perspectives of good order at sea concern four attributes; the sea as its source of wealth, a medium for trade and communication, and a life-supporting system that faces risks and threats that impact its continued contribution to human development.¹⁸

Vreÿ approves Till's assertions and concedes that the good order at sea approach is the acme of the importance and utility of safe and secure access to what the oceans offer states and the international community at large.¹⁹ Rahman agrees with Till's good order at sea but analyzes maritime security in non-traditional and non-strategic aspects.

¹⁶ Alfred Thayer Mahan 1660-1783, *The Influence of Sea Power Upon History*

¹⁷ Sir Julian Corbett, *Some Principles of Maritime Strategy*, Classics of Sea Power Series. Annapolis, MD: Naval Institute Press, 1988.

¹⁸ Geoffrey Till. *Sea Power: A Guide for the Twenty-First Century*, Chapter 11,(London: Routledge, 2009)

¹⁹ Francois Vreÿ, "African Maritime Security: a Time for Good Order at Sea," *Australian Journal of Maritime & Ocean Affairs*, 2:4, 121-132, 2010, p.122.

He put his perspectives in a concept of five prisms that he identifies and affirm that the practical policy and operational responses by states to their maritime security, will need to incorporate aspects of more than one of these approaches - security of the sea itself, maritime border protection, military activities at sea, ocean governance and security regulation of the maritime transportation system.²⁰

Klein assertions view maritime security as a cadre of activities - legislative, executive, judicial, military, and police actions, which are designed to respond to a collective need for order and protection from internal and external threats which to a great extent corresponds to Rahman approaches. Maritime security to her is rarely defined categorically and instead tends to have a context-specific meaning that tries to identify what is commonly perceived as existing or potential threats to maritime security and the steps that have been, or need to be, taken to address these threats.²¹

Bueger identifies maritime security as a complex matrix of interdependence among several concepts, such as sea power, marine safety, the blue economy, and human security.²² These identifications uphold Klein's assertion that maritime security has no categorical definition. He agrees with Till, and argues that the main objective of maritime security remains good order at sea in allowing - uninterrupted maritime commerce, protecting maritime professionals and the prevention of collisions, sustainable exploitation of ocean-based resources by lawful actors, protection from environmental degradation and climatic changes, and broadly looks into the security of seafarers and the vulnerability of coastal populations to maritime threats.²³

²⁰ Chris Rahman, "A strategic perspective on alternative visions for good order and security at sea, with policy implications for New Zealand," *Concepts of Maritime Security Discussion paper no. 07/09* (New Zealand: The Centre for Strategic Studies Victoria University of Wellington, 2009)

²¹ Natalie Klein, *Maritime Security and the Law of the Sea* (Oxford: Oxford University Press, 2011), p.11

²² Christian Bueger, "What is Maritime Security?" *Marine Policy* 53 pp.159-164, 2015, p.159

²³ Ibid

Rao's concerns of maritime security diverge from not only concentrating on issues emanating at sea alone but need to perceive the maritime sector as a domain that only manifests the symptoms of problems that are interlinked to complex networks of states and non-state actor's activities in the hinterland. He believes effective management of the coasts can only be achieved by adding civilian dimension to maritime security responsibilities through engaging the coastal communities by formulating an inclusive strategy that co-opts several stakeholders widely recognised by the onshore and offshore maritime agencies.²⁴ This he believed can further be enhanced by networking coastal communities and stakeholders into an integrated security regime to ensure a steady and secure maritime domain.

Maritime security at its core is designed to provide a stable and secure environment in which economic development can occur. But the maritime domain itself has increasingly become a platform that offers the greatest scope of non-military maritime concerns which are compelling in nature and only warrant cooperation among the various regional and global powers because most of the insecurity issues in the maritime domain transcend national borders.²⁵ The characteristics and dynamics of maritime threats make maritime security not to be conceptualized as a simple phenomenon that can be guaranteed by a single coastal state or group.²⁶

All these theoretical conceptualizations still confirm that maritime security still exists as a contested concept whose emphasis is dependent on the state or region of the

²⁴ P.V Rao, "Indian Ocean Maritime Security Cooperation: the Employment of Navies and other Maritime Forces," *Journal of the Indian Ocean Region* Volume. 6, No. 1, 129-137, 2010, p.137

²⁵ Lee Cordner, "Rethinking maritime security in the Indian Ocean Region," *Journal of the Indian Ocean Region*, Volume. 6, No.1, 67-85, 2010, pp.68-80

²⁶ P.V. Rao, "Managing Africa's maritime domain: issues and challenges," *Journal of the Indian Ocean Region*, Volume.10, No.1, 113-118, 2014, p.114

world.²⁷ It is also a broad and nebulous concept,²⁸ whose approach makes it insufficient to prioritize threats due to its failure in elaborating how maritime threats are interlinked for the benefit of a universal concerted response to maritime issues. It is these concerns that make maritime security in the contemporary domain to be understood as a concept that involves the amalgamation of policies, regulations, measures, and execution of operations to secure the maritime domain.²⁹

1.6.2 Maritime Security Strategies

The traditional approaches to maritime security strategies; both theories and concepts have for a century been dominated by the work of Mahan and Corbett. The two subsequently move the strategic land-based ideas of Jomini and Clausewitz into the maritime domain, which both respectively used to conceptualize sea power in a domain of naval strategies.

Mahan's ideas of maritime strategy understood that naval strategy and tactics were a war-winning in their own right as they were centred on decisive battles as was with Jomini's perspective of military strategies by land forces. Mahan's concepts of maritime strategies were centred absolutely on the fleet and his ideas of sea power inferred on maintaining naval supremacy with an emphasis on having the largest and most powerful fleet that seek the enemy and destroy its navy and commercial fleet.³⁰

Corbett, whose ideas lie at the heart of British maritime doctrine and strategic principles, refute Mahan's ideas of sea power as one centred on naval strategy. He

²⁷ Edwin Egede, "Maritime Security: Horn of Africa and Implementation of the 2050 AIM Strategy," in Demessie Fantaye, editor, *Maritime Insecurity Dilemmas amidst a new Scramble for the Horn? Horn of Africa Bulletin Volume 30 Issue 2, 2018*, p.7

²⁸ Joseph Busiega, "Harnessing Maritime Security and Resource Exploitation: Role of Maritime Diplomacy in Kenya" Research Project (Nairobi: University of Nairobi, 2016), p.7

²⁹ Basil Germond, "The Geopolitical Dimension of Maritime Security," *Marine Policy* 54, pp. 137-142, 2015, pp.138-139

³⁰ Mahan, *The Influence of Sea Power*

defines maritime strategy as 'the principles which govern a war in which the sea is a substantial factor'. His assertions which are in line with Clausewitz's proclamations that military strategies are controlled by political objectives, believed that maritime strategy was a part of the wider national effort, which posits naval strategy as a part of the state's maritime strategy that is inherently joint due to the unfeasible nature for naval actions to ever become decisive in war.³¹

Strachan approves Corbett's ideas that maritime strategy is not a 'military strategy'. He sees maritime strategy formulation as a complex undertaking that faces acute challenges in its definition. He further recognises the importance of the state's geographical disposition as alluded by both Mahan and Corbett because he found it as a crucial element in providing continuity to the formulated strategies by states. Strachan advocates that the objectives of a maritime strategy need to be explicit and easily understood because for him "if the web and woof of maritime strategy remain closer to policy than to traditional strategy, then this should be recognized for what it is, and not shoved under the carpet."³²

Hattendorf makes an assertion that conforms with both Corbett and Strachan's ideas by identifying maritime strategy as a section of a national grand strategy. He defines maritime strategy as "the direction of all aspects of national power that relates to a nation's interests at sea". He, however, insists that the definition of a maritime strategy is still a complex undertaking that is highly determined by history which alerts to different times, different outlooks, different ideas, different problems, different mindsets, different capabilities, different decision making structures and different technologies.³³

³¹ Corbett, *Some Principle of Maritime Strategy* pp.13-14

³² Hew Strachan, "Maritime Strategy," *The RUSI Journal*, Volume.152, No.1, 29-33, 2007, p.33

³³ John Hattendorf, "What is a Maritime Strategy?" *SOUNDINGS No.1* Sea Power Centre - Australia Department of Defence, 2013

Ahmad's understanding of maritime strategy is based on having the adopted strategy determine the development and management of the elements of sea power, while the naval strategy mainly deals primarily with one element i.e. the naval forces. His ideas which are in line with Hattendorf's definition of maritime strategy denote that the relevant aspects of national power include both civil and military national maritime capabilities.³⁴ Sea power to him is greatly influenced by policies that include inter alia the economic, trade, energy, defence, and foreign policies.

The objective of the maritime strategy is therefore meant to regulate all the elements of sea power despite the difference in means and ways among the states. It is of these concerns that undergird the core principles of maritime strategy which apply to all states with the maritime frontier in regardless of their size and challenges. It is prudent then for states to understand the problem and formulate a proper response that avoids unintended consequences that come with its wider concept of adopting strategic views of the interactive and holistic nature of risks in an increasingly globalized world.³⁵ The effectiveness of maritime security strategy will only be made possible by it being strategic, proactive, flexible, multidimensional, and possessing the capacity to integrate all plans and activities in the maritime environment in a global perspective.

1.6.3 The Perspective of National Maritime Security

The analysis of various national maritime security approaches takes into considerations the regional and global outlooks of the state's maritime security. It will consider the maritime strategies employed by France, India and the African continent, which has emerged as a new dominant force towards pursuing the blue economy by rallying the African nations towards

³⁴ Azhar Ahmad, "Maritime Power and Strategy," *NDU Journal*, pp. 23-42, 2014, pp. 30-32

³⁵ Lee Cordner, "Risk managing maritime security in the Indian Ocean Region," *Journal of the Indian Ocean Region*, Vol. 10, No. 1, 46-66, 2014, p.48

exploiting the underutilized maritime resources. France is a concern because of the several regions it controls in different maritime spheres, whereas India has continued to project itself as a dominant and formidable force within the Indian Ocean region through continuous cooperative frameworks with African states and likely minded strategic partners.

The France National Strategy for Security of Maritime Areas was formulated to assert France's rights by assuming its rightful duties in ensuring free, safe and sustainable use of seas, through coherent and coordinated actions in line with its maritime power and economic developments through the seas. It affirms the maritime domain as a strategic area that is essential for its national security. The perspectives of this maritime security strategy are based on two concepts; '*state action at sea*' and '*coast guard functions*'. It makes the two concepts very critical in ensuring all government's efforts concentrate on controlling maritime areas, the safety of French nationals and their ships, fighting illegal trafficking at sea, defending economic interests, and promoting a safe international domain.

This strategy is an extension of the Defense Policy and National Security Policy and hence does not concern with issues of military threats, but support the Defense Policy through intelligence. The main security concern in the maritime areas is to offer a coherent national inter-ministerial framework that will improve the fight against maritime insecurity issues that impact France's strategic interest and those of its partners in the short or medium terms.

In strengthening the coherence of the Coast Guard functions, France has a Secretariat General for the sea, who works directly under the Prime Minister and who brings together the executive committee of the Coast Guard function under its chairmanship as depicted by the figure I.

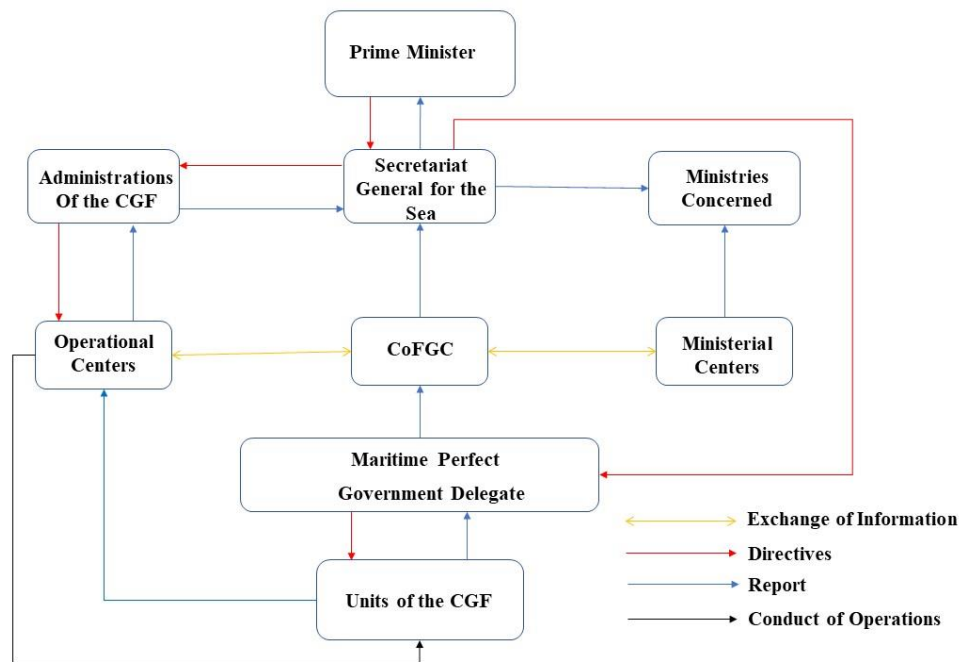


Figure I. The organization Structure of the Coast Guard Function

The strategy has a functional mechanism that ensures that it adapts to the dynamic operational environment by having laid down procedures in keeping up to date to the risks and threats. The steering group under the Secretariat General meet once in a year to make the necessary assessment of the strategy and any proposals made are presented by the Secretary-General every after five years to the national maritime conference and the executive committee of the CG functions before being submitted to the inter-ministerial committee for approval. After validation, the strategy, with the governmental priorities and action plan arising from it, will then be applied by each ministry and maritime zone. The implementation and updating of the strategy will require monitoring and regular updates to the assessment of maritime risks and threats as depicted by figure II.



Figure II. Implement the Maritime Security strategy

The Indian maritime security strategy (2015) that aims at ensuring secure seas envisages a coordinated and cooperative set of actions, shaped and determined by the contemporary multifaceted and unpredictable challenges in the maritime domain. It bestows the Indian Navy as the prime maritime force, but the implementation of the strategy is undertaken by a broader framework that synergies comprehensive maritime actions with other stakeholders that have distinct roles and responsibility in maritime security.

The Indian maritime strategy tenets are more confined to military concepts by encompassing diplomatic, constabulary and warfighting elements. It is, in effect, a combination of five constituent strategies that aim at accomplishing matching maritime security objectives - The strategy for deterrence, the strategy for conflict, Strategy for shaping a favourable and positive maritime environment, the strategy for coastal and offshore security and the strategy for maritime force and capability development.

Africa's Integrated Maritime Strategy 2050, is a regional maritime strategy whose main concern is to foster affluence from Africa's oceans, seas, and inland waterways by developing a vibrant and prosperous maritime economy. It recognizes the common maritime challenges and opportunities among the member states that arise from the vast and potential Africa maritime domain.

The strategy advance for a human-centred approach towards development as it sees it as a fundamental aspect of enhancing human security. It consists of principles that are all-encompassing, determined and coherent with the long-term multi-layered course of actions that are significant in generating and inculcating desirable political will that ensures successful implementation.

The Strategy also stipulates a broader framework in providing protection and sustainability in the exploitation of Africa maritime domain for wealth creation by developing effective measures to address Africa's maritime challenges for sustainable development and competitiveness. With an increase in Africa's population, the strategy affirms that the preservation of Africa's marine environment is vital to growing its GDP, share of global and regional trade, competitiveness, long term growth, and employment.

1.6.4 Research Gaps

The literature review affirmed that maritime security has no universal definition and is an 'essential' contested concept that has scholars define maritime security in a specific context. These then make the conceptualization of maritime security strategies to denote a reality where failure to exercise control over the sea engenders maritime insecurity.

The literature, however, does not come out clear on how best maritime security is to be approached. The research gap is; what is it that makes effective maritime

security? The maritime challenges faced within the maritime jurisdiction is what defines the state's maritime security responses that need to be in line with the intended objectives pursued at the strategic level. However, the maritime space among states has a divergent uniqueness, thus making the posture of their respective maritime security to differ significantly.

These concerns allude to the fact that the adoption of maritime security frameworks and instruments from other places may not effectively solve the problems impacting the state's maritime domain. It then means that states will need to appreciate their strategic operational environment before coming up with the security measures that will ameliorate the vulnerabilities and overcome the maritime challenges.

1.7 Theoretical Framework

This study is based on justifying the importance of maritime security strategy in a competitive operational environment. In doing so, it has adopted a theoretical framework that is drawn from Michael Porter's Five Forces model that identify and analyse the five competitive forces that shape a corporate strategy by helping in determining the weakness and strengths within the industry's structures. The model identifies five undeniable forces that play a part in shaping the operational environment by measuring competition intensity, attractiveness and profitability of a market. The five forces used for this analysis are; the power of supplier, power of buyer, competition in the industry, the potential of new entrants into the industry and threat of substitute products.

Porter's five forces as a framework for analysing the company's competitive environment, had Ugur Yetkin use the model as an investigative tool to comprehensively assess the post-modern navies. He uses this model to analyse the

maritime security environment even though the driving forces are diverse from that of the business industry. Yetkin maritime driving forces are depicted in fig III.

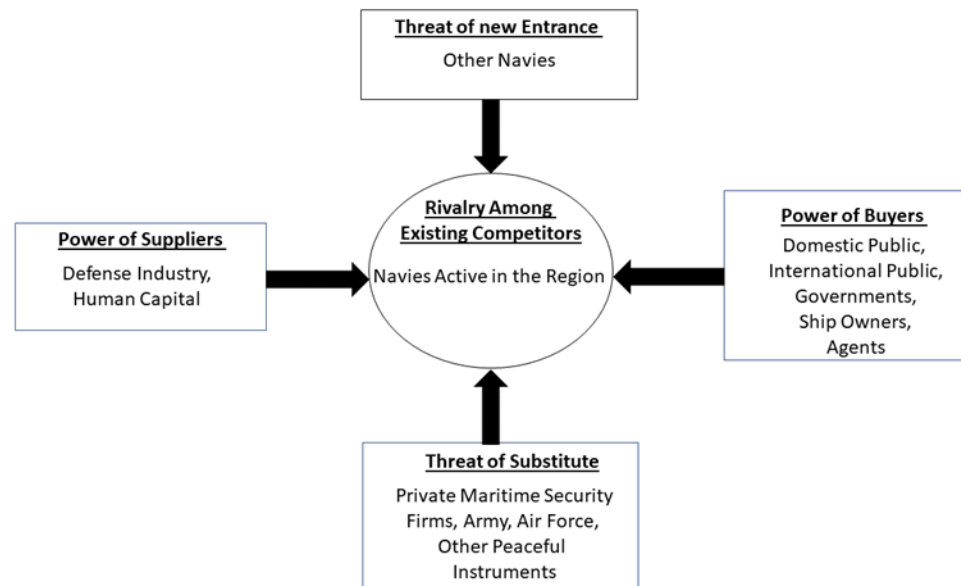


Figure III. Yetkin’s Application of Porter’s Five Forces to the Maritime Security Environment.

He argues that the increase in technological advancement, which has had a great influence on globalisation, have resulted in an increase in the information flow and sea traffic and hence needs a state to implement a maritime security strategy that has a global outlook rather than confined within the state’s territorial jurisdiction.³⁶ Yetkin asserts that the formulation of a maritime security strategy as a strategic initiative needs careful analysis of the problems affecting the maritime domain. It is crucial because it helps those that are engaged in strategic planning to come up with solutions to the problem by effectively understanding the dynamics of the operational environment. The choice of postmodern navies by Yetkin in this analysis comes with their dealing with asymmetrical threats, which demand formulation and implementation of a collaborative

³⁶ Ugur Yetkin, “Revealing the Change in the Maritime Security Environment through Porter’s Five Forces Analysis,” *Defence Studies* Volume 13, No.4, 2013, 458-484, p.460.

maritime security framework that enhances a collective world outlook with an international orientation.

The five forces help strategists to evaluate an operational environment by understanding its dynamics and know which force has a more profound effect on the industry. By understanding these forces, it enables one to understand the power that comes with each driving force and at the same time helps to identify the players that have a role in each of the forces.

According to Yetkin, the power of suppliers in his analysis of the postmodern navies are the defence industries and the human capital, which both can determine how efficient the navy can accomplish the mission (product). The defence industry help to build the navy and also assist in enhancing its operational capabilities through a continuous supply of spares. In the cases of developing countries, with no defence industries in their country, they always depend on importation of spares from these defence industries to enable sustenance and serviceability of their seagoing vessels. In this kind of scenario, the defence industries end up becoming very powerful and as a result, they end up determining the efficiency of these countries' navies. The labour force power comes with the lack of readily available qualified professionals because many fear the intrinsic hardship and working conditions at sea, and with the presence of several numbers of jobs in the private sector, the majority tend to prefer working for the ashore establishment rather than go to work in the navy at sea.

The power of the buyers in the maritime environment is dependent on the product (mission accomplished) by the navy. There are several possible buyers in the maritime domain; the domestic public, ship owners/ agents, the international public and the governments in the different regions. The citizens, who are the beneficiary of the maritime security provided by the navy, are certainly the first buyer. This is because of

their undeniable power to determine the budget allocated to the navy through their representative in the parliament. Even though they do not have any choice for the provider of maritime security, the ability to control the budget determines how efficient the navy can execute their role. In the postmodern navies, the global public is a powerful buyer as a result of media reporting and the invention of social media that made it possible for issues impacting the maritime domain to get the needed attention and response, by having the global public to push their powerful navies to take action. The actions taken are those that involve the protection of the Sea Lanes of Communication (SLOC) to ensure efficient flow of ships in the maritime threats infested areas. In undertaking these actions, the navies enhance the actions of other buyers; ship owners and ship agents through confidence building to continue with their shipping operations. Shipowners and the agents' actions mostly end up determining the cost of shipping, if they opt to change the route as a way of avoiding the high risks area in the maritime domain as was evident with the upsurge of piracy, where their actions led to an unprecedented increase of the insurance premium. Yetkin argues that governments in the different regions have weak buying power and hence they cannot determine response rendered by the international community, which in this they lack the power of choice and they are made to accept the assistance under the terms of the stronger state.

Rivalry among existing competitors, especially with that of other navies, will always determine how maritime security of the state will be implemented by the navy. The contemporary domain has seen an increase in asymmetric threats that are paradigmatic, sticky, transboundary and interdependent, hence demand collaboration among the navies that are engaged in eliminating these non-traditional threats. This result in a positive-sum competition, a condition where navies do not see each other as enemies but allies. However, the navies may choose to cooperate in case of a common

global threat but again end up engaging in a zero-sum competition in other areas where they tend to see each other as enemies. In this regard, countries should understand their strategic operational environment, especially the nature of naval competition within the region before they conceptualize their maritime security strategy.

The threat of entry among the navies determines how a country analyse the operational environment and the dynamics therein. Navies always take into consideration how other navies and the international actors will react before coming up with a maritime security strategy. However, the expansion and the outlook of the navy are dependent on the national policies, which is the main determinant of the kind of force that will be used to respond to a certain incident. The capital requirement needed to support the type of navy a country want will also play a great deal on the type of maritime security strategy it will adopt. A county may opt for land-based airpower, anti-ship missiles on land or deploy naval vessels to take defensive roles, but depending on what it chooses, it will need to align with the national policies which determine the strategic option that will be adopted by the navy in overcoming the challenges brought about by the maritime threats.

The threat of substitutes comes when other security agencies have also the capabilities to provide maritime security. However, the protection of maritime interest in a country is a primary role of the navy, which is directly related to the sovereignty and the survival of the state. Maritime security being the only product that the navy can deliver to the domestic public, many contemporary challenges and threats keep on impacting how the navy accomplish its mission. The contemporary maritime security challenges have had the postmodern navies to incorporate the army and air force to deliver maritime security product. However, in most cases, they are limited in terms of their operations at sea and hence makes it a necessity to always have the navy platforms

present. The private military security forces did provide a substitute during the time of piracy, however, the binding laws at sea and other challenges, led to the ineffective execution of maritime security. Dealing with threats on land before they impact the sea seem to be a good option that needs the economic, political and social measures to be put in place by all actors involved instead of over-reliance on the naval operations.

Yetkin argues that in the maritime domain, complements are factors that need to be evaluated with already existing factors. The army and air force may be a weak substitute, but they can be effectively used as complementary factors to enhance the navy capabilities. The air force can deploy maritime patrols, while the army helps with setting a coastal defence and anti-ship cruise missile ashore. This complementarity makes the contribution of the army and air force to maritime operations pose a high-level entry barrier to adversaries in the modern navy mission. Other military services, government organisations and Non-Governmental Organisations (NGO) while posing as a substitute, as part of peaceful solutions, they have vital complements to the postmodern navy's mission, while appropriate actions by other governmental agencies can be taken to bolster stability in the region.

Military planners while determining long term maritime strategy, they need to find a way to decrease the buyer and supplier powers, to adopt a positive-sum game and overcome the entry barriers in coming up with a competitive strategy that is pragmatic to the strategic operational environment of the state.

1.8 Dependent and Independent Variables

Bueger definition of maritime security as a complex matrix of interdependence with other concepts, such as sea power, marine safety, the blue economy, and human security has been adopted to depict maritime security as a dependent variable and maritime

security strategy as the independent variable. From the literature review, this definition is inclusive of all that concern the traditional and non-traditional maritime security. Maritime security strategy in the context of maritime security becomes the fundamental element in enhancing the aspects of harmonization, planning and coordination among the maritime security agencies. Undermining maritime security strategy will directly impact on the execution of maritime security among the numerous stakeholders, which will have consequently impact on the core dimensions of maritime security - national security, maritime environment, economic development and human security.³⁷

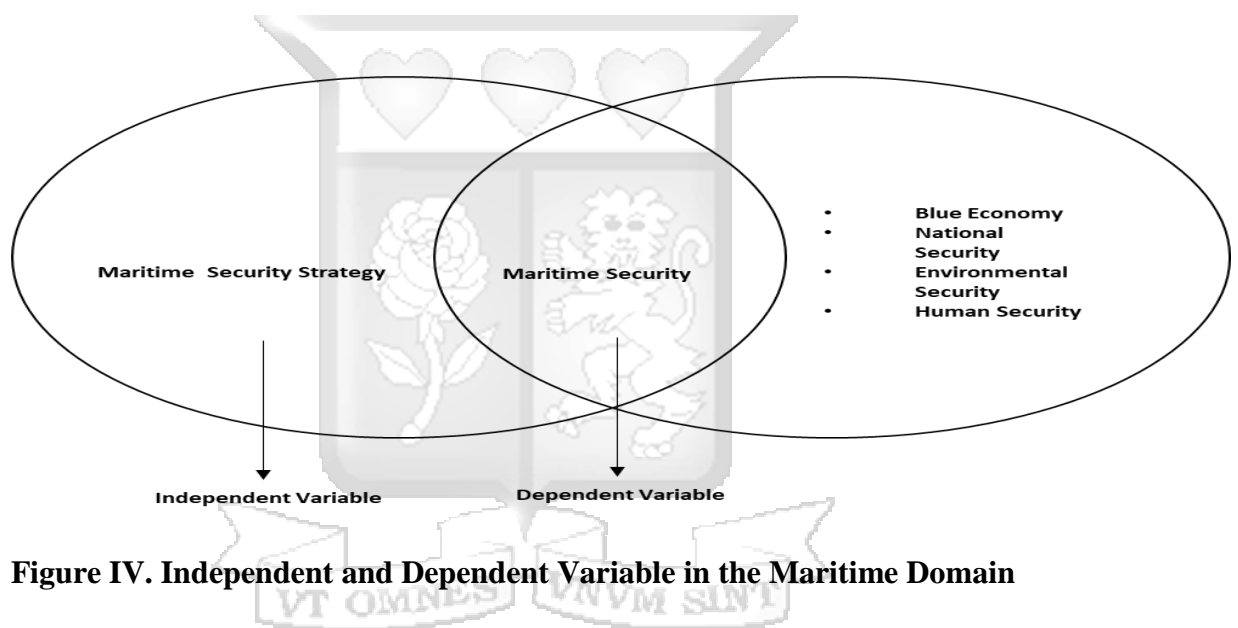


Figure IV. Independent and Dependent Variable in the Maritime Domain

1.8.1 The hypotheses of the Study

1. The effectiveness of maritime security is a function of implementing a strategic and pragmatic maritime security strategy.
2. The containment of the maritime security threats is a function of implementing a strategic and pragmatic maritime security strategy.

³⁷ Christian Bueger and Timothy Edmunds, "Beyond Sea blindness: a New Agenda for Maritime Security Studies," *International Affairs* 93: 6 (2017) 1293–1311, pp-1299-1300.

1.9 Research Design and Methodology

1.9.1 Research Design

This study espoused exploratory research design. These kinds of studies are usually carried out for purposes of establishing patterns and ideas on a study subject. They are not preoccupied with testing hypotheses. Rather, they aim at establishing the hypothesis themselves. Exploratory studies thus establish insights about a subject area for purposes of creating a picture on possible research directions. Once the research issue is understood, exploratory studies go the extra mile to establish the best methods to use in data collection. In this regard, data can be collected from secondary sources through desk-review of extant literature. Data can also be collected from primary sources using interviews and focus group discussions. The findings can be used to explain the extent of the problem.³⁸ The researcher can then suggest the possible cause of action and make possible recommendations. In critically examining the challenges in Kenya's maritime security dispensation and establishing how best the challenges can be addressed to enhance effective maritime governance, this was deemed the best design.

1.9.2 Study Site

The study took place along the Kenyan coastline, Mombasa, Kwale, Kilifi and Lamu. It focused on Kenya's Indian Ocean jurisdiction, covering at least the major maritime governing agencies, policymakers, implementers, and all the stakeholders concerned with maritime security and policy formulation.

³⁸ Bueger and Edmunds, "Beyond Sea blindness"

1.9.3 Target Population

The target population were key stakeholders in maritime security. While the unit of analysis was stakeholders in maritime security, the units of observation were the Kenya Coast Guard Service, Kenya Maritime Authority, Kenya Defence Forces (Kenya Navy), Sea fearers, Kenya Ports Authority, Ministry of Tourism, Dock Workers Union, National Intelligence Service, Fisheries Department, Ministry of Foreign Affair, Kenya Revenue Authority, Kenya Forestry Service, and others stakeholders. From these, the 260 senior and middle-level officers from these agencies will be targeted as shown in Table I.

Table I: Study of Target Population

Department target	Targeted Number
Kenya Coast Guard Service	20
Kenya Maritime Authority	10
Kenya Defence Forces (Kenya Navy)	40
Sea Fearers	10
Kenya Ports Authority	16
Dock Workers Union	12
National Intelligence Service	20
Kenya Wildlife Service	20
Kenya Marine and Fisheries Research Institute	16
Kenya Revenue Authority	12
Fisheries department	12
Ministry of Foreign Affair	8
National Environmental Management Authority	12
Kenya Forestry Department	12
Others	40
Total	260

1.9.4 Sampling Population

This section presents the sample size determination and sampling technique.

1. Sample Size Determination

The study sampled 10% of participants in each category of the target population. The sample size of 10% is guided by Kasomo who said that a sample size of 10% is

representative of the study population.³⁹ When applied to each category of the target population, the sample size as presented in Table 2 will thus be 26, because the concerns of the study was mainly on the strategic aspects of Kenya’s maritime security and desired to collect data from only those key people holding strategic positions in the targeted departments.

Table 2: Sample Size

Department target	Target Population (N)	Sample Size (N= N*10%)
Kenya Coast Guard Service	20	2
Kenya Maritime Authority	10	1
Kenya Defence Forces (Kenya Navy)	40	4
Sea Fearers	10	1
Kenya Ports Authority	16	2
Dock Workers Union	12	1
National Intelligence Service	20	2
Kenya Wildlife Service	20	2
Kenya Marine and Fisheries Research Institute	16	2
Kenya Revenue Authority	12	1
Fisheries department	12	1
Ministry of Foreign Affair	8	1
National Environmental Management Authority	12	1
Kenya Forestry Department	12	1
Others	40	4
Total	260	26

2. Sampling Technique

The study utilized two sampling techniques: proportionate stratified and snowballing sampling techniques. In this regard, the study participants were sampled proportionately (10%) from each stratum (Targeted Department). Besides, the study used the snowballing technique to sample the study participants based on their work,

³⁹ D. Kasomo, *Research Methods*, Egerton University Press, Egerton (2006).

knowledge and experience in the field of maritime security and involvement in the repositioning of the blue economy matters.

1.9.5 Description of Research Instruments

The study used Key Informant Interviews (KIIs) in data collection. These were qualitative in-depth interviews with people who know what was going on in the community or researcher's area of interest. It involved the collection of information personally from the sources that include a wide range of people from different sectors, who held critical positions in their departments. The KIIs contained questions pegged to the study objectives namely: to assess the capacities and capabilities of Kenya's maritime security organisations, examine the existing policy frameworks and strategies, and provide research-based policy recommendations on how best the country could rein in on marine security vulnerabilities to leverage the benefits associated with the Ocean. Follow-up questions were included so as to prod further and obtain extra information from the interviews. The interview protocol used in this study is presented in Appendix I.

Secondary data was collected from published research projects, policies and strategies. This helped to capture what had already been done on maritime security from a global, regional, and national and up to the local level, with information gathered helping to create a deeper understanding on the maritime domain security which is critical in informing policies and strategies.

1.9.6 Data Collection Procedures

Before carrying out the KIIs, appointments were made with the respondents through phone calls and emails where necessary. The interviews were conducted through telephone calls and in-person where circumstances allowed. The responses were written

down with attention taken to ensure that as much information is collected as possible. Secondary data sources were obtained using internet searches as well as from the institutions targeted.

1.9.7 Reliability and Validity

The KII guides were pretested to 5 officers from the agencies targeted. However, they were not included in the final study. The ease with which the respondents were able to respond to the questions presented to them was assessed and all the ambiguous questions were identified and adjusted accordingly to make it easy to comprehend. The guidance of the supervisor was also sought and his input was used to improve the study questions.

1.9.8 Data Analysis Procedures

The collected data was sorted and analysed using the content analysis technique. Content analysis is a form of qualitative research and method of analysing written, verbal or visual communication messages.⁴⁰ In this regard, the findings obtained was described in prose and the meanings arising highlighted and presented in verbatim. The emerging findings were then derived and analyzed against the existing body of knowledge.

1.9.9 Ethical Considerations

Within the process of undertaking this study, the researcher ensured the confidentiality of all the participants. The psychological, as well as the physical safety of each respondent, was also ensured. The participants were required to give their consent

⁴⁰ Haradhan Mohajan, Qualitative Research Methodology in Social Sciences and Related Subjects, Journal of Economic Development, Environment and People, Vol-7, Issue 01, 2018, pp. 23-48. p.15

before participation in the study. Also, all interaction and relationships encountered during the study were conducted professionally and in an ethical manner. The intended purpose of all information collected was also well explained to the respondents before data collection.

1.10 Chapter / Study Outline

The study is organized around five chapters that seek to explore the following:

Chapter 1: Introduction to the Study

This Chapter outlines the problem statement of the study, the research questions, and justification of the study, the literature review, the theoretical framework and the supposed hypotheses of this study. The aforementioned components of chapter one give the background that shapes chapters two, three, four and five.

Chapter 2: Historical Analysis of Kenya's Maritime Security Pre-colonial – 2007.

This chapter outlines the historical analysis of Kenya's maritime security. It discusses the factors that underpin the maritime security approach in Kenya from a historical perspective. It specifically examines and analyses Kenya's maritime security approach transformation, from the pre-independence period to 2007.

Chapter 3: The Strategic Aspects of Kenya's Maritime Security (2008 - 2020).

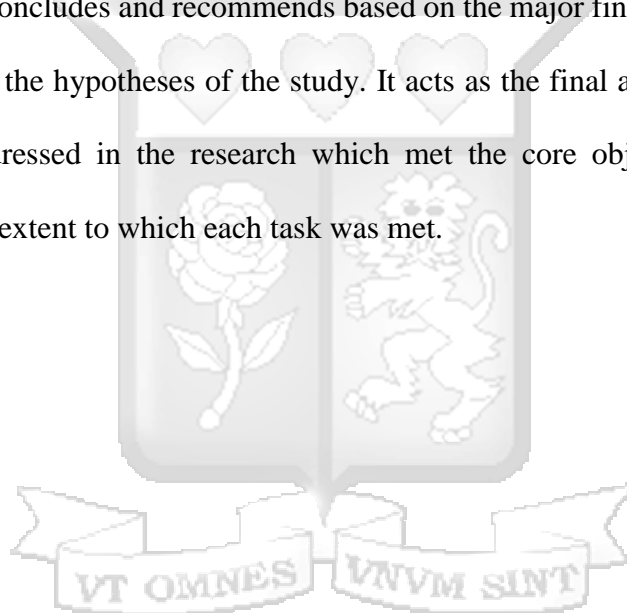
This chapter assesses the strengths and weaknesses, synergies and contradictions of existing maritime security frameworks and responses in Kenya's maritime space. It aims at identifying the components of a distinct Kenya's approach towards enhancing its maritime security.

Chapter 4: Research Findings and Discussion

This chapter presents the findings obtained from the field. This is done in line with the study objectives. The chapter concludes with a section on the discussion. In this regard, the study findings are analysed against the literature reviewed.

Chapter 5: Conclusion & Recommendation

This Chapter concludes and recommends based on the major findings, in regards to the objectives and the hypotheses of the study. It acts as the final and ultimate verdict on the issues addressed in the research which met the core objectives of this study; evaluating the extent to which each task was met.



CHAPTER TWO

HISTORICAL BACKGROUND OF KENYA'S MARITIME SECURITY

2.1 Introduction

In post-colonial Kenya, land-based security challenges have continued to dominate the political and military agenda. This is evident with the continuous increase in the resourcing of the land forces that has resulted in the neglect of the challenges and opportunities presented by the ocean spaces. In conformity with the overtly bureaucratic approaches to governance, the concerns of inadequate and reactive policies and strategies towards Kenya's national security, have led to adverse exploitation of the maritime space by states and a non-state actor. These developments, coupled with other regional and international factors, have influenced the adoption of *ad hoc* national security policies and strategies by the leadership in confinement with what they subjectively perceive and coin as national interests. This chapter outline identifies the leadership variable as the most critical element for a 'new' state that is finding its foothold in the international system, by considering those in charge of the government as rational actors with different personality and worldviews. This chapter is a historical analysis of Kenya's maritime security, from the pre-independence period to 2007, with key emphasis on how maritime security has been perceived during this period under review.

2.2 The National Interests Concept in National Security

The perception of national interest connotes a political slogan that purports to persuade national support to government policies and actions.¹ It is on this basis that the concerns

¹ Chris Rahman, "A strategic perspective on alternative visions for good order and security at sea, with policy implications for New Zealand,"p.7

of the national interest can be linked to issues of national security and has Mwagiru conceive the relationship of national interest and national security as that of twins.² This then confirms the assertion that national interests are what define the contours of the national security policy, and upon which they provide the conceptual framework that guides the decision making process at all levels of security indulgence – strategic, operational and tactical levels.

Realism theory assumptions make an analysis that denotes the international system as anarchic, and on whose basis of interaction is centred on self-interest; defined and pursued in terms of power. The Realists hence, perceive national security concerns, as those that pertain to the state's survival in the anarchic external environment. They assert that the pursuit of self-interest does not advocate for any moral principles, but all concerns by the state should only ensure survival in the strategic operational environment. Morgenthau's classical realism puts survival at the heart of human nature and assumes human being as leaders of states to have inherent 'will power' that engenders competition for power.³ The pursuit for power according to Morgenthau is to effect a balance of power with a rival that is occasioned by anarchy in the international system.

Waltz's *Theory of International Politics* denounces the inherently aggressive nature of human nature realism asserted by Morgenthau. Waltz posits that state survival is only influenced by the structure of the international system and hence makes the state's only aim to be that of survival. Waltz a proponent of defensive realism affirms that the international system structure is what creates incentives for the state to gain

² Makumi Mwagiru, "The Twins of National Interest and National Security" in Mwakumi Mwagiru, author, *The Three Anthems and Other Essays Volume.1* (Nairobi: Three Legs Consortium, 2015), pp.48-54

³ Politics among Nations as cited in John Mearsheimer, "The Tragedy of Great Power Politics" (New York; London: W. W Norton & Company, 2001), p.18

power at their rivals' expense, which is mainly for defensive purposes and not to threaten other states. However, Mearsheimer argues that as much as the structure of the international system determines the behaviour of the state, he believes that states always seek power for offensive use by exploiting available opportunities when the benefit outweighs the costs.⁴

The fall of the Berlin wall had the narrow conception of security as a "synonym for power"⁵ challenged by Constructivist's broadening and widening of the security agenda. Their conceptualization of security was meant to address both traditional and non-traditional security threats that had confounded the whole concept of national security in a new security milieu. The broadening of security concept increased the security sectors – Political, Economic, Environmental, Societal and Military, ⁶and the widening led to an individual identified as the referent object of security. This then contends that issues could be argued and considered as matters of security even if they did not threaten the state's security.⁷

The United Nations Development Program (UNDP) 1994 report on human development, further infuses the concerns of Human Security to the whole concept of national security, hence impacting the Realist connotation of national interests. Human Security concepts perceived an individual as one that is on the receiving end of all security practices by the state, hence the need to guarantee the security of the individual.⁸ The need for safety and security to distributive justice, one's culture,

⁴ John Mearsheimer, "The Tragedy of Great Power Politics" (New York; London: W. W Norton & Company, 2001), p.21

⁵ Barry Buzan, "People, states and fear: an agenda for international security studies in the post-Cold War era" (New York; London: Harvester Wheatsheaf, 1991), p.8.

⁶ Barry Buzan, "New Patterns of Global Security in the Twenty-First Century, *International Affairs*" (*Royal Institute of International Affairs 1944-*), Vol. 67, No. 3, pp. 431-451, 1991, p.433

⁷ Hough P, "Understanding Global Security" 2nd ed, (New York: Routledge Taylor & Francis Group, 2008), p. 20

⁸ Rita Floyd, "Human Security and the Copenhagen School's Securitization Approach: Conceptualizing Human Security as a Securitizing Move" *Human Security Journal*, Volume 5, pp. 38-49, 2007, p. 40

identity, belongingness, self-esteem and self-actualization and freedom affirm the significance of population to state's configuration.⁹ This then means the population, which is one of the fundamental components of a state, informs why considering Human Security is key to state survival and which needs the national security to consider the importance of both the domestic and the external environment.

The changes in the operational environment hence portend the need for the national security policy to ensure a close functional relationship among the three instruments of power for purpose of enhancing security to the state's national interest from both internal and external threats.¹⁰ This functional relationship is a key aspect of influencing and enhancing cooperation among states, which the Liberalist consider as a very important trait in securing states' national interests. The building of a strong relationship with other countries, to the Liberalist, connotes an aspect that ensures the cost of going to war become an expensive adventure.

The United Nations, which is both a state and non-state actor, has rendered cooperation among states very critical and its strategic aspect is to ensure peace and security in the international system. It is now a norm for a state to ensure that the conceptualization of their national security policy, and the aspects they consider as national interests, abide by the international law and the country's Constitution. These render the conception of national interest a legal concern, which needs to be validated by law. Indeed the operationalization of national security policy can only be realized by well-defined national interest.

The Realist school of thought that has dominated the concerns of a state, perceived state's utmost concerns to be those that endeavour to ensure survival in the

⁹ Burton J, "Conflict: Resolution and Prevention," as cited in H. B. Danesh, "Human Needs Theory, Conflict, and Peace" *The Encyclopedia of Peace Psychology*, First Edition. Edited by Daniel J. Christie 2012.

¹⁰ Makumi Mwangi, "Foreign Policy, Diplomacy and National Security in Kenya" in Makumi Mwangi, Author, *The Three Anthems and Other Essays*,(Nairobi, The Three Leg Consortium 2015) pp.5-10

strategic operational environment, which has consistently remained volatile and unpredictable. The concerns for survival are what most states pursued after independence and the need to ensure sovereignty had classical Realist views become attractive to the majority of the leaders in the post-independence era as it guided state's behaviour in an uncertain and unpredictable international security environment.

The concerns of national interests are what states use to establish objectives that stand to be served as the goals for policy and strategy.¹¹ This affirms security as a policy objective and states must conceptualize and formulate a national security policy, which is a crucial and strategic pointer to the type and kind of national interests it seeks to pursue. However, the greatest challenge that encounters the concept of national interest, is the difficulty in defining and agreeing on the type of interests to be pursued. It is without a doubt that national interests have no universal definition,¹² and in most countries, they are identified depending on the dominant political culture in a country. The concerns of national survival hence render the national interest concept central to national politics,¹³ which Alexander Wendt challenged this conception by asserting that national interests pursued by states do not have an objective fact about the strategic operational environment, but a certain social meaning given by states.

Indeed the national security concept has national interests; the basis and the start point of its definition and pointer to the kind of goals a country pursues in the unpredictable operational environment. These then mean that the national security policy and strategy, are the handmaidens of the national interests, which they intend to

¹¹ Alan G. Stolberg, "Crafting National Interests in the 21st Century," in J. Boone Bartholomees, Jr. editor, *The U.S. Army War College Guide to National Security Issues Volume II: National Security Policy and Strategy*. (Strategic Studies Institute, 2010) p.3

¹² Makumi Mwangi, "National Interests: Framework for Analysis" in Makumi Mwangi and Kigen Morumbasi, Editors, *Dimensions of Grand Strategy, essays on theory, practice, institutions and mechanism in Kenya* (Nairobi, Thirty Three Consortium, 2016), p.9

¹³ Makumi Mwangi, "National Interests: Framework for Analysis" p.13

secure and promote within the means and ways at the disposal of the state. It is the national interests that connote the aspirations of the state, which are undergirded by the national values that tend to be critical in providing the legal, moral and philosophical basis of the state's actions.¹⁴

According to Morgenthau, the idea of the national interest, in general, resembles the constitution of a state.¹⁵ It concentrates on the commitments of its people and its government in that state. It is based on the concept of self-help and anarchy, which state is the primary actor. As a concern, it entails two factors; rational demand and demands by the operational environment,¹⁶ and on whose basis they get considered as either eternal or perpetual national interests. Eternal interest being those that transient time and regimes and perpetual interests as those that are promoted by states when they interact in the operational environment;¹⁷ for which they are all conceptualized based on the state's desire for survival.

The need for a state to survive has therefore led to concerns of security described as 'essentially contested concept', but on whose basis it should not be considered by states as a reason not to conceptualize and formulate their security approach.¹⁸ However, as a concept with no common understanding, Arnold Wolfers termed it as an 'ambiguous symbol' that has a potential for misunderstanding when used without any specific concern.¹⁹ It is then imperative that states need to develop their national security concepts that will broadly outline their security policies and strategies.

¹⁴ Makumi Mwangi, "Beyond False Strategizing: The Constitutional Basis of Grand Strategy in Kenya" in Humphrey Njoroge and Makumi Mwangi, editors, *Grand Strategy in Kenya Vol 1: Concepts, Contexts, Process and Ethics* (Nairobi: Three Leg Consortium, 2019) p.36

¹⁵ Hans Morgenthau, "Politics among Nations" (New York; Alfred A Knoff, 1948)

¹⁶ Ken Kiyono (1969) A Study on the Concept of The National Interest of Hans J. Morgenthau: as The Standard of American Foreign Policy 49(3), pp.1-20, p.2. <http://hdl.handle.net/10069/27783>

¹⁷ Makumi Mwangi, "The Twins of National Interest and National Security" pp.48-54

¹⁸ David Baldwin, "The concept of Security" *Review of International Studies* 23, pp. 5-26, 1997, p.12

¹⁹ Arnold Wolfers, "National Security" as an Ambiguous Symbol', *Political Science Quarterly*, Vol. 67, No. 4, 1952, pp. 481-502.

2.3 Leadership and Political Will: A Framework for Analysis of Kenya's Maritime Security

The Indian Ocean is a time tested highway that has seen the Kenyan coast become a crossroads of the Indian Ocean trade networks. It has seen an intermingle of the cultures of southern Arabia, Persian Gulf, India, European and the African mainland through trade that enhanced the sharing of values and ideas. It was a region which the European saw as a route to India and had them establish coastal bases for sustainability.²⁰

In foreign policy, the levels of analysis are considered to be very crucial in understanding the decisions and actions of the state. The concerns of individual, state and system level of analysis are what make it possible to understand the foreign policy decisions of a state. The variable of leadership stands out because states are not simply 'black boxes' seeking to survive and prosper in an anarchic system. They are a configuration of individuals and groups interests who project the interests into the operational environment through a particular kind of government. Kenya like most of the young democracies has always had much of their policy decisions determined by the leadership rather than an objective-based analysis of the national interests.²¹

The leadership variable, which is complemented by the aspect of political will, for this analysis, denotes a concept that concern a leader who envision an outcome that will serve the country's national interest and goes ahead to use his political authority to influence other actors to share their belief by seconding his determination. The concerns of leadership and political will perspectives towards the maritime security in the Indian Ocean has been crucial since the pre-independence period, but the approaches

²⁰ Nazifa Rashid, "British colonialism in East-Africa during nineteenth-century" *IOSR Journal Of Humanities And Social Science*, Volume 19, Issue 3, pp. 8-11, 2014, p.8

²¹ Francis Ogolla, "The Determinants of Kenya's National Security Policy since Independence" A Dissertation Submitted in Partial Fulfilment of the Requirement for the Award of the Degree of Masters of Arts in International Studies, University of Nairobi, June 2014, p.36.

articulated towards it have differed due to the concerns of national interests of each regime in power. The nature of threats to national interests determined how national security was conceived by each regime, but the maritime domain still stood as the most neglected area among the Kenyan leaders despite the shared understanding of the vast economic potential of the maritime domain, but never translate into their calculus.

Leaders of states mostly express their political will in speeches, policies and legislations, and for which they tend to indicate their intentions and motivations.²² However, the real test suffices in their appropriation and consistent actions towards these intentions. These are what makes good leadership necessary in making a formidable political will, which comes in handy in ensuring the leader takes actions that will go into having these actions credited as strong and appropriate. Fundamentally, leadership dotted with instrumental competence and political will is critical for the state's survival.

Maritime security which is inherently part of national security concerns a variety of complex and probable issues that finds leadership and political will as crucial elements in developing capacity in a state. The development of maritime security capacity will always require a very proactive and pragmatic leader with a resolute political will. This will assertively engender actions that respond to opportunities that will pursue to exploit the maritime domain as an important and strategic space as to the land context.²³ By perceiving the maritime space as one of the key spheres of state's security, the leader will then push for the formulation and implementation of policies and strategies to enhance the nexus between continental and maritime domains.

²² Thean Potgieter, "Leadership and political will crucial for maritime security in E. Africa" in Thomas Mandrup, Francois Vrey, Editors, *Towards Good Order at Sea: African Experiences* (AFRICAN SUN MeDIA, 2015), p. 245

²³ Anthony Ammeter et al, "Toward a Political Theory of Leadership" *The Leadership Quarterly* 13, 751–796, 2002, p.760

Leadership and political will in the prefix of maritime security will then remain central and responsible in undertaking collective and coordinated actions that ensure that the national security policy formulated do respond to threats experienced by the state on the trilogy of ideas, physical base, and institution.²⁴ However, both demands individualized construal's of strategic situations to enhance one's vision. It is through one's experiences, values, personalities and other human factors that would ensure the development and orchestrating of diplomatic and military engagement all through the levels of leadership structure and chain of decision making.²⁵ The strategic culture in leaders signifies the ideals that help in developing the way of thinking of a leader about what is important in group collective cognition that will transit across time and space.²⁶

Principally, leadership and political will are what dictate the direction that a country takes under national security. They both influence the kind of choices the state makes, as the principal denominator in securitizing political and social issues, by necessitating the linkage of policy, strategy, structures, and resources, with the actions needed to achieve maritime security objectives. In the African maritime sphere, good leadership can represent a vision of the future, and their role as leaders can end up to be central in enhancing and evolving the capacity of the littoral state towards extraction from the sea. It relates to the importance and advantage of maritime security to the state and communities, and to well-articulated objectives that are achievable within the means and ways available.²⁷

²⁴ Barry Buzan, "People, states and fear" pp. 44-65

²⁵ Gianpaolo Abatecola and Matteo Cristofaro, "Hambrick and Mason's "Upper Echelons Theory": evolution and open avenues" *Journal of Management History*, Vol. 26 No.1, 2020 pp. 116-136

²⁶ David Haglund, "What good is strategic culture? A modest defence of an immodest concept" *International Journal*, 479-502, summer 2004, pp. 482-486.

²⁷ Thean Potgieter, "Leadership and political will crucial for maritime security in E. Africa" p. 243

2.3.1 The Pre-Independence Leadership

Mahan's maritime theory dominated this era of leadership, which was constrained by only having the ships as the strategic mode of transport. Mahan contends establishing command at sea as the most decisive action a coastal state could ensure growth and wealth. His thesis was influential in having Imam Ghassan bin Abdullah, the first Omani ruler to commission a navy that was to ensure control of the Western Indian Ocean with the intent of denying pirates activities.²⁸ However, the coming of Portuguese in an Omani's dominated East African coast drastically changed the traditional patterns of trade and communication.²⁹ The Portuguese who had no intentions to establish colonies,³⁰ engendered naval power projection to forcefully control trade and territory against the Omanis. The decline of Portuguese power in the late eighteenth century,³¹ had the Omanis regain full control of the East African coast by 1840.³²

Mahan's theory appreciates the sea power of a state as one that is conditioned by certain fundamental natural phenomena. The aspects of, the geographical location of a state, the extent of its territory, its physical conformation, the national character, the size of its population, and the character and policy of the government,³³ were key determinants in creating the Omani's sea-based empire in the region. This greatly contributed to the creation of an international mercantile community renowned for its

²⁸ Khamis Aljabri, "Oman Maritime Doctrine," Thesis for the degree of Doctor of Philosophy in Arab and Islamic Studies on 18 June 2012, University of Exeter, p.183

²⁹ Lee Cordner, "Rethinking maritime security in the Indian Ocean Region," *Journal of the Indian Ocean Region*, Volume 6, No.1, 67-85, 201, p.70.

³⁰ Nazifa Rashid, "British Colonialisation in East Africa" p.8.

³¹ Ibid

³² Herman Kiriama, Marie-Pierre Ballarin, Jimbi Katana and Patrick Abungu "The Discovering the Kenyan Coast shared influences and common heritage," 2008 p.55. https://horizon.documentation.ird.fr/exl-doc/pleins_textes/divers18-07/010069912.pdf

³³ P.A. Crowell as cited in Musambayi Katumanga, "Close Spaces, Geo-Politics and the Viability of the State in the Pivotal Triangle"(University of Nairobi, 2013)

wealth, education and high religious authority. Under the Omani's rule (1837-1888), Mombasa gained a status of a cosmopolitan town, and merchants from Europe, India and the Middle East had their dhows anchored in its harbour.³⁴

The English geo-strategists convergence of Mackinder's close space thesis and Mahan's theories postulate the undergirding principles in the establishment of the British Empire at the East African coast, at the time when ships were the only modes of transport. Mackinder's thesis evolved the notion of establishing continental power through controlling of pivot areas, as key in controlling the strategic resources in the hinterland, which makes it critical in assuming control over the world islands of Europe and Africa.³⁵

The arrival of British traders at the coast about 1833, ³⁶found the Omanis building a slave-trading empire, which was incompatible with British pursuit for territorial empire. The desire for empire-building in the region led to the establishment of a British consular in Zanzibar and subsequently the surge in British naval projection along the East African coast in search of slave traders to legitimize the anti-slavery treaty of 1873.³⁷ The need to delegitimize the slavery trade eventually spurred the British increase of naval expedition that enhanced their control and dominance at sea.

The British had erected an enormous global naval infrastructure following the foundations of Captain J.R. Colomb that insinuated British naval priorities as being the defence of Great Britain, protection of British commerce, and occupy India.³⁸

³⁴ Herman Kiriama et al "The Discovering the Kenyan Coast shared influences and common heritage,"

³⁵ Musambayi Katumanga, "Close Spaces, Geo-Politics and the Viability of the State in the Pivotal Triangle" (University of Nairobi, 2013)

³⁶ Geneva Turner, "Colored Rulers: JOMO KENYATTA—President of Kenya" *Negro History Bulletin*, Vol. 28, No. 4, 1965, pp. 89-90, p.89

³⁷ Herman Kiriama et al "The Discovering the Kenyan Coast shared influences and common heritage," pp.41-45

³⁸ Daniel Glaser and Ahmed Rahman, "Ex Tridenti Mercatus? Sea Power and Maritime Trade in the Age of Globalisation," pp.1-46, 2015, p.11

Reinforced with Mahan maritime theory, which holds evolution of power on land as a function of exploitation of the sea, had the British perceive the empire-building at the East African coast as a defensive strategy intended to gain control of the strategic geographical zones along the Indian Ocean region,³⁹ more so to fend off threats to her Indian Raj and a great extent project power within the Indian Ocean interface.⁴⁰

The convergence of Mackinder's thesis and Mahan's ideas symbolized the growth of national strength and prosperity, which inherently led to the establishment of the sphere of influence as not only necessary for their intrinsic economic value, but also as potential stepping stones to more important places because the ocean was the only principal medium of linking these areas. This made the navy become their main tool in establishing a sphere of influence because it was considered by the British as the "pioneers of commerce."⁴¹

The British who believed power projection from the sea conceived the control of geostrategic choke points and straits outlets in the Indian Ocean as core to their power projection along with the Indian Ocean interface.⁴² The British's sea power gain supremacy in the Indian Ocean due to its importance for its economic and defensive strategy. Security dilemma, a situation where one's state strengthening of its security measures is conceived by others as a threat and hence need to strengthen to match the military capabilities, had a great influence on the British naval race, which was derived by the political and strategic reasons rather than trade.

The Berlin conference convenes in 1884 to 1885, had the colonialist set the rules of colonial occupation by partitioning Africa among the European imperial powers. The

³⁹ Jonas Fossli Gjersø The Scramble for East Africa: British Motives Reconsidered, 1884–95, *The Journal of Imperial and Commonwealth History*, 43:5, 831-860, 2015.

⁴⁰ Musambayi Katumanga, "Regional Maritime Domain Spaces as sites for Landward and Maritime Governance" pp.1-20, (Nairobi: University of Nairobi, 2018)

⁴¹ Daniel Glaser and Ahmed Rahman, "Ex Tridenti Mercatus?"

⁴² Musambayi Katumanga, "Regional Maritime Domain Spaces"

erection of artificial boundaries around Kenya thus wrests the diplomatic initiative from Kenyan people. Kenya's boundaries were demarcated without the consultation of Kenya's people⁴³ and the country was declared a British protectorate in 1894. A protectorate whose visualization converged with the British continental strategy that had been derived from its traditional maritime strategy, influenced by Mackinder and Mahan's theories respectively.

In enhancing control of the established territorial empires and the maritime domain, the establishment of the navy became critical for the British as it became a key tool in responding to threats to its national interests, which include protection of their trade and disruption of trade of rival powers. The linkage of the Indian Ocean to the hinterland by the railway line enhanced the British power, as it enabled the integration and consolidation of the ocean and resource endowed hinterland, which boosted its ability to bring forces across the railway line from the sea to their strategic bases in the hinterland, whenever their national interests were threatened.

The development of the railway line, underpin distance decay reduction, which linked the maritime and the continental frameworks by reducing the distance to respond to threats in the hinterland. The railway hence became an impetus in the expansion of the British control in Kenya in a bid to stem the rise of competing empires, to control markets and sources of raw materials.⁴⁴

In an era with no international institutions to enhance cooperation and the need for states to ensure control over infinite resources, Realist views became attractive to the Britons. The Royal Navy played an instrumental role in defending the British empires and protecting the main trading routes, given that Britain was becoming a large

⁴³ Peter Ndege Colonialism and its Legacies in Kenya, Lecture delivered during Fulbright – Hays Group project abroad program (Moi University 2009) p.2

⁴⁴ Darrell Glaser and Ahmed Rahman “Ex Tridenti Mercatus?” p.10

net importer of food. The leadership in Britain certainly recognized the rising importance of their commerce and the need to protect its national interests along the Kenyan coast. After the Second World War, decolonization meant the end of British hegemony in the Indian Ocean and the escalation of superpower rivalry due to the region's strategic importance.⁴⁵

2.3.2 President Jomo Kenyatta's Regime

Jomo Kenyatta ascendency to power as the first indigenous leader of a new state, had him bestowed with responsibilities of transforming Kenya from a colony of the British Empire to an independent state. An anti-colonial activist, who abided to pan Africanism, and pursued the aspirations of Africa against colonialism. He was a leader who was neither an isolationist in his views nor did he ever aspire to a role of dynamic leadership in Africa,⁴⁶ his political concerns were to satisfy Kenya's needs in a multidimensional way as it gains a footing in its new dispensation.

Indeed the integration of Mackinder and Mahan's thesis by the British had proved a success in their power projection in Kenya. This was due to its ability to maximize the Royal Navy as an instrument of external extraction and internal resource consolidation.⁴⁷ Despite Kenya retaining the British administration's structures, President Jomo Kenyatta failed to advance the inherited small but strong navy for state protection and resource extraction at sea. A diverse shift from colonial governmentality, due to Kenya's new state infrastructure that was coming to term with threats inherently with the new dispensation.⁴⁸

⁴⁵ Busiega "Harnessing Maritime Security and Resource Exploitation,"p.33

⁴⁶ Richard Harrtzel, "The Relations of Kenya with its Bordering States" Student Essay US Army College-Carlisle Barracks, Pennsylvania 1976.

⁴⁷ Musambayi Katumanga, "Kenya: Underdeveloped Maritime Domains and the Mutating Geographies of Insecurities"(University of Nairobi, 2014)

⁴⁸ Katumanga, "Regional Maritime Domain Spaces"

The colonial experience that Kenya had endured, influenced President Kenyatta's foreign policy, which was built on three pillars – the eradication of colonialism in Africa, the promotion of African unity and non-alignment that were in line with the principles of the Organization of African Unity (OAU).⁴⁹ Under his leadership, Kenya began perceiving national security in the context of a truncated independent state, and issues like hunger and disease became identified as principal enemies at independence ahead of the military.⁵⁰ This had Kenya drift landward, hence failing to consolidate the sea frontage that the British Empire had effectively exploited.

An ardent adherence to the OAU principles, President Kenyatta's main concerns concentrated much on economic issues and security of the borders, as depicted in his speeches, party manifesto and the sessional paper no. 10 of 1968.⁵¹ However, with the Cold War having the international security system define as Bi-polar, with the United States and the Soviet Union as the only two centres of power that had countries associated with the two in terms of national security advancement.⁵² The existence of an ideological difference between Kenya and its neighbouring states constituted existential threats to Kenya's survival, thus led President Kenyatta, a leader of a new state, conceived the national interests in the context of the Realist perspectives.

Kenya's became independent during the Cold War. At the time, the two protagonists perceived the third world countries as the primary site of the new 'great

⁴⁹ John Tipis, "The Somalia Conflict and Kenya Foreign Policy: A Critical Assessment" A Research Project Submitted in Partial Fulfilment of the Requirement of the Degree of Master of Arts in International Studies, University of Nairobi, 2012, p.40

⁵⁰ Francis Ogolla, "The Determinants of Kenya's Security Policy Since Independence" A Dissertation Submitted in Partial Fulfilment of the Requirements for the Award of the Degree of Masters of Arts in International Studies, University of Nairobi, 2014 p.12

⁵¹ Mwangi O.G. (2016) Continuity and Change in Kenya's Defense and Foreign Policies: The Impact of the New Security Dilemma. In: Kithinji M.M., Koster M.M., Rotich J.P. (eds) Kenya After 50. African Histories and Modernities. Palgrave Macmillan, New York p.250

⁵² Donald M. Snow, National Security for a New Era, Globalization and Geopolitics, (New York: Pearson Longman, 2007), p. 105

game'.⁵³ The advantageous location of the Horn of Africa catapulted the Indian Ocean and coastal states into strategic prominence of the United States–Soviet rivalry. The Soviet's military aid to Somalia made USSR unattractive to Kenya, especially at a time when Somalia military power became its strategic tool in the pursuit of Great Somalia. The shifta war greatly shaped Kenya's foreign policy and the attraction to Western ideology, which became crucial towards countering the Soviet influence in Somalia.

The geostrategic positions of the countries along the East African coast engendered proxy battles between the two protagonists, who conceived the maritime domain as a very critical space to power projection. President Kenyatta's leadership constrained by sea blindness further drifted landward with adequate privileges extended to land-based forces to enhance regime security and power projection on land, hence curtailed the naval capabilities towards containing the seaborne threats that were evolving in Kenya's maritime space without much resistance.⁵⁴

The sea blindness and the continental bias in strategic thinking explained the landward looking,⁵⁵ which put the main role of the Kenya Navy at the time, to be that of supporting the Army, the Air Force, and the civil police as was visible during the shifta campaign.⁵⁶ Indeed Kenya's national security concerns completely lacked maritime appreciation despite having a navy. Its perception of maritime domain security conceived based on threats that did not endanger regime security because operations undertaken at sea would not make any sense if they will not impact on events happening on land.

⁵³ Mohammed Ayoob, "The Security Problematic of the Third World," *World Politics*, Vol.43, No.2 pp 257-283, 1991, p.258.

⁵⁴ Katumanga "Regionalize Maritime Domain Spaces"

⁵⁵ Ibid

⁵⁶ Majeshi Yetu KDF 2017 Volume 10, p.28

In 1964, the OAU in its bid to stem secessions in the continent adopted the Cairo resolution that advocated for maintenance of status quo on issues of state's boundaries inherited at independence. The colonial border inherited by the African states were deemed to be inviolable and the "newly independent African countries had to live with them, and within them, without raising any issues."⁵⁷ However, as early as 1961, Somalia, geostrategic policy for Greater Somalia had become an enduring part of its foreign policy.⁵⁸

Sighting historical, cultural and racial reasons, they claimed parts of the territories of Kenya's North Frontier District, with its effect leading to altering the boundaries of Kenya. Somalia's irredentism threats, coupled with the internal security threats of secession from the coastal region and North Eastern province, advanced President Kenyatta's national interests concerns to be that of containment policy and strategies, aimed at consolidating the country's land boundaries, rather than issues happening in the maritime domain.

Mohammed Ayoob conceives Third World security predicaments to be inextricably linked to the process of state formation and nation-building process,⁵⁹ and hence they all define security in political terms - threats to the state's institutions, boundaries, and political regimes. Security in this context needs to take into account vulnerabilities that have the potential to seriously weaken state structures and as well with the regime in power.⁶⁰ These explain the fragmentation of English strategic visualization of the East African coast as an entity and at the same time the re-

⁵⁷ Makumi Mwangi, "Live and Let Live: From European Territorial Mituma to 21st Century Borders in Africa" Three Legs Consortium *Papers on Diplomacy and International Law*.1. (June 2017)

⁵⁸ Makumi Mwangi, "Introduction: Kenya's Foreign and Security Policy in Somalia" p.1

⁵⁹ Keith Krause, "Theorizing Security, State Formation and the 'Third World' in the Post-Cold War World", *Review of International Studies*, Vol. 24, No. 1, 1998, pp. 125-136, p.126

⁶⁰ Mohammed Ayoob, "The Security Problematic of the Third World," *World Politics*, 43, pp 257-283, 1991, p.259.

orientation of the leadership away from the maritime domain to land base security issues that inclined to regime security and consolidation.

The implementation of *ad hoc* national security policy and strategy, and lack of maritime strategic culture, had Kenya ultimately retreat from driving the aspirations of regional federalism, which supported shared consumption of joint maritime assets left by the British. The concerns of regime consolidation through constitutional amendments to eliminate any oppositional views and enhance control by the government, further diminished the regime's concerns on the maritime domain by investing heavily on issues impacting the land domain. This reinvented perception of the national security policy and strategies having fewer concerns on the maritime domain traded Kenya's maritime security to the strong navies and coast guards, whose operational logic was the extraction of resources for their state's interest.⁶¹

2.3.3 President Daniel Moi's Regime

The transfer of power to Daniel Arap Moi in August 1978 after the death of President Jomo Kenyatta did not alter the deficiency of Kenya's maritime strategic culture and the leadership aspirations in the maritime domain. The hallmark of Moi's leadership was the affirmation of Ayoob's thesis of third world security predicament. His leadership at the onset of his rule was the consolidation of power, which he effectively initiated by getting rid of the largest ethnic patron-client networks that had developed during Kenyatta's reign, by replacing them with his own.⁶² Events that were instigated by the 1982 military coup that made President Moi strengthen his grip on power through presidential decrees and ensure control over the executive, judiciary and legislature.

⁶¹ Katumanga, "Kenya: Underdeveloped Maritime Domains"

⁶² Daniel Branch and Nic Cheeseman, "Democratization , Sequencing, and State Failure in Africa: Lessons from Kenya", African Affairs, Advance Access Publication, 108/430, 1–26, 2008

President Moi's political will was more prevalent on issues that could enhance his reputation and what he perceived to be a national interest. The agitation by Kenyans for a multiparty system, had him justify the use of violence and human rights abuses to ensure regime security. This was also the time when Kenya became captive of governance crisis structured around Alex de Waal model of the political market.⁶³ Phenomena that de Waal connotes a complex political environment that is characterized by multiple actors and pervasive monetized patronage, in the form of exchange of political loyalty or cooperation for payment. These then posits that insecurity dynamics on land had the government focus less on maritime issues and failed to appreciate the changing operational environment that had insecurity at sea directly linked to events ashore and other security problems from other spheres.

The tendency of giving privilege to landward issues over offshore threats and vulnerabilities, cultivated greater threats from the sea, ⁶⁴making Kenya continue experiencing pervasive maritime insecurity due to sea blindness that was inherently within the leadership as a result of the internal issues that had been put into conformity by the colonial rule. The failure of leadership to appreciate and understand threats to the trilogy of ideas, physical base, and institution, had the government to continually sustain the implementation of *ad hoc* national security measures that were less pragmatic to effectively secure the national interests.

Kenya grappled with the concerns of maritime domain despite it not considered a key determinant of the national security, had the government establish the Bandari College; a strategic maritime institution that was central to offering maritime and shipping related courses. It was crucial in having the Kenyan Seamen undertake

⁶³ Katumanga, "Regional Maritime Domains"

⁶⁴ Francois Very, "Turning the Tide: Revisiting African Maritime Security" *Scientia Militaria, South African Journal of Military Studies*, Vol 41, No. 2, pp. 1-23, 2013, p.2

seafarers' courses that were key in giving them formal training that adhered to the standards sets by the International Maritime Organisation (IMO).⁶⁵ This was purposefully undertaken to enhance awareness among the seamen so that they could avoid exposure to sea-related hazards.

The United Nations Convention on the Law of the Sea (UNCLOS) conference held between 1973 and 1982, resulted in the formulation of an international legal framework that was to govern state's maritime rights and activities.⁶⁶ The conference adopted the 200 nautical miles Economic Exclusive Zone (EEZ); a concept that had its origins from Kenya.⁶⁷ The stipulation of 12 nautical miles of territorial waters and 200 nautical miles EEZ delivered sovereign rights in respect to living and non-living resources and for which, it precipitated an increase of attention, interest, and response by states to the economic opportunities that were provided by oceans and its resources.

This claim of maximum jurisdiction allowed by UNCLOS became significant to both economic and security threats and was very influential in the conduct of maritime security activities that forced Kenya into paying much attention to its maritime jurisdiction. This led to the acquisition of maritime strategic assets for the Kenya Navy, which engendered long-endurance capability and sealift that was vital towards influencing Kenya's maritime space. The acquisition of Fast Patrol Crafts (FAC) and Landing Craft Logistics (LCL) vessels in 1986 and 1993, ⁶⁸depicted government's concerns on issues of the maritime domain. This modernisation complemented the Maritime Surveillance Radar Stations (MASURA) established in 1991, which had position Kenya's maritime jurisdiction under systematic and

⁶⁵ Francis Mwaka, "Bandari College to Train Seamen," Daily Nation, 7 July 1999

⁶⁶ Michelle Voyer et al, "Maritime Security and the Blue Economy," p.31

⁶⁷ Michelle Voyer et al, "Maritime Security and the Blue Economy," p.31

⁶⁸ Majeshi Yetu KDF 2017 Volume 10, p.28

continuous surveillance system. These developments had the maritime domain linked to the capacity of the naval functions that were primarily in addressing national security.

President Moi's tenure saw the end of the Cold War that brought in lots of insecurity challenges due to change in threat dynamics. The end of the Cold War encouraged and opened new opportunities for the process of globalization,⁶⁹ which had a dire consequence on the conceptualization of states' national security policies. The theories of globalization posit national security of states to be internationalized and coupled with the technological advancement, events happening in other countries have tended to be inextricably linked to the national security dimensions of the state. This has led to an increase in complexity in the conceptualization of national security due to the increase in non-traditional threats.

The increase in non-traditional threats and internal conflicts coincided with the fall of President Siad Bare's government in Somalia, which enhanced maritime insecurity due to an increase in non-state actors. The loss of Somalia's ability to impose maritime security equally led to an increase in refugees' movement via the sea into Kenya. The lawlessness at sea had Kenya Navy deployed to counter the influx, but the challenges infused by the expansive maritime domain and the limited maritime assets, had it fail to effectively impose command and control of the sea.

The absence of maritime strategic culture in Kenya did not deter the leadership in making some strides in the maritime domain. The leadership of President Moi's had the Kenya Navy start local training to its naval officers instead of going abroad. This was a landmark undertaking because it was key in enhancing the development of maritime capacity in quick succession, and at the same time lowering the cost of

⁶⁹ White House, National Security Strategy of the United States of America, (Washington DC: White House, 2002) Preface. P.14

training. The training which required the calling into foreign ports gave the naval cadets officers long navigation experiences and ship handling, augmented the practice of naval diplomacy in line with the strategic objectives of Kenya's foreign policy. Navy rather than be a tool to engage in war, it had turned to be a tool of power projection and play a diplomatic role in the maintenance of good order at sea.⁷⁰

The Kenya naval vessels hence became one of the strategic tools for the government to influence its strategic operations environment and furtherance of national interests. Naval diplomacy as a diplomatic strategy, confound the naval forces in this domain due to the tendency of they being a statecraft instrument, both in terms of national policy and maritime power projection.⁷¹ It inhabited an exclusive position in the pantheon of a state's diplomatic arsenal, involving the actual use of the naval forces to affect another actor's policy through the show of force capability through calling in at their home port.

Kenya, which had identified itself with the United States during the Cold War, by providing a naval facility for its Rapid Deployment Force in 1980s,⁷² saw it become more vulnerable to the threats of terrorism. Terrorism operatives, effectively exploited the vulnerabilities within Kenya's maritime space, hence resulting to increase in terrorist activities in towns along the Kenyan coastline. However, Kenya's security policies and strategies were inadequate in addressing the complex and dynamic maritime issues that the state faced.

⁷⁰ Thean Potgieter, "Maritime security in the Indian Ocean: strategic setting and features" Institute for Security Studies Paper No. 236, August 2012

⁷¹ Kim Beazley, "Navies, Diplomacy and Power Projection" in Andrew Forbes, editor, *Naval Diplomacy and Maritime Power Projection, Proceedings of the Royal Australian Navy Sea Power Conference 2013* (Australia: Sea Power Centre, 2013) p.95

⁷² Samuel Makinda, "From Quiet Diplomacy to Cold War Politics: Kenya's Foreign Policy" *Third World Quarterly*, Vol. 5, No. 2, Africa: Tensions and Contentions, pp. 300-319, 1983, p.312

The lack of knowledge on events taking place in the maritime domain made it difficult to effectively ensure adherence to the policy cycle that would have ensured consistency and pragmatism in policy formulation towards achieving proactive policies rather than the reactive policy outcome.⁷³ The systematic reactive posture in both the adopted responses and measures at this time were not effective, neither did the government consistently put any aggressive efforts to map out a pragmatic maritime security strategy that pursued long term solutions to these kinds of threats.

2.3.4 President Mwai Kibaki's Regime

The ascendancy of President Mwai Kibaki to power saw a tremendous change in maritime security organizations, responses and approaches towards enhancing security and the viability of the maritime domain prospects. His main priority was economic recovery because the economy had faced a myriad of problems, mainly stemming from years of mismanagement, corruption, weak macro-economic performance, inefficient public sector and poor governance.⁷⁴

Kenya economic growth before President Kibaki coming into power had sustained a persistent growth slowdown as from the early 1980s, occasioned by the structural reforms to liberalise the economy, global recession and political succession.⁷⁵ By 2000, Kenya's GDP had slumped to -0.5 per cent,⁷⁶ and was at 0.6 per cent when President Kibaki took over the presidency in 2002.⁷⁷ It was during Kibaki's presidency that the government economic agenda began to seriously consider the

⁷³ Christoph Knill/Jale Tosun, "Policy Making" in Daniele Caramani (editor), *Comparative Politics*. Oxford: Oxford University Press, 2008, pp. 495-519.

⁷⁴ Africa Economic Outlook, OECD/AfDB 2002, pp. 167-178

⁷⁵ O'Connell et al as cited by Mwangi S, Francis M and NJuguna S in "The African Lions: Kenya country case study" 2016, pp. 1-32, p.2

⁷⁶ Africa Economic Outlook p.169

⁷⁷ David Mugwe, "Kibaki's Legacy on Economic performance after 10 years in office", *Business Daily*, 3 January 2013

maritime sector as a strategic and important environment, whose prospects could make Kenya achieve its economic development.

President Kibaki reins in power were at the beginning of the 21st century, which was characterized by competition and perhaps a scramble for energy and natural resources in the region.⁷⁸ He increasingly pushed for the formations of new allies and cooperation among states with similar concerns due to the increase of states and non-state actors, who threatened the maritime domain's activities, which were closely associated with the State's economic and commercial wealth improvement.⁷⁹ His Liberalist views, had him pursue cooperation and bilateral trade agreements to enhance Kenya's economic development.

The war on terror; a new macro-securitized security issue by the United States, engendered a new security order for President Kibaki's government. Macro-securitized security implies the framing of a security issue at a system basis level, where the threats and referent objects become a universal construct.⁸⁰ The war on terror engendered by the interaction of cultural, social, and personal identity conformations between the Western and Islamic civilizations, begun gaining a foothold within the Eastern part of Africa at the time when the United States was at war in Afghanistan and Iraq.⁸¹ The presence of terror groups in the region attracted the attention of the United States to the region, which led to an increase of the geostrategic and geo-economics importance of the Indian Ocean region. This to some extent influenced the unprecedented sharp increase in global security interest by various states in the region.

⁷⁸ Thean Potgieter, "Leadership and political will crucial for maritime security in E. Africa" p. 239

⁷⁹ Ibid

⁸⁰ Barry Buzan, cited in Marianne STONE "Security According to Buzan: A Comprehensive Security Analysis" SECURITY DISCUSSION PAPERS SERIES 1, 2009, Columbia University, School of International and Public Affairs – New York, USA

⁸¹ Seth J. Schwartz, Curtis S. Dunkel & Alan S. Waterman, "Terrorism: An Identity Theory Perspective, Studies in Conflict & Terrorism" *Studies in Conflict & Terrorism*, 32:537–559, 2009

The Horn of Africa, known for its complex sub-regional geopolitical and geostrategic associations, and the complexity inferred by the advent of terrorism threats, had the government of Kenya consent on having the United States set up a naval military camp in Lamu-Magogoni. The naval base provided a platform for the United States to launch anti-terror operations in the region and also as a training base that ushered in new training doctrine to Kenyan security agencies, which was critical in enhancing their capabilities towards engaging the complex and dynamic asymmetric threats. The tenets of the training provided were Maritime Operations (MAROPS), which emphasized on multiagency in undertaking constabulary security measures and responses.

MAROPS was mainly informed by the complex and fragile Kenya's strategic operational environment that had attracted terrorist organisations who were in pursuit of their strategic objective of a caliphate; an Islamic state under the leadership of an Islamic steward. The absence of governance in Somalia had threats on land to have a far-reaching consequence on Somalia's maritime domain that led to having a direct impact on Kenya's maritime security. The maritime threats dynamism and lethality became a cause of concerns for the policymakers, hence making the restructuring of Kenya's maritime security agencies inevitable. Kenya took advantage of the war on terror to advance its maritime security capabilities through the assistance of the United States and other international partners.

The maritime security training by the United States entrenched a multiagency training among the security forces, and for which it was geared towards fighting maritime asymmetric threats that were increasingly taking shape in the maritime domain. The incorporation of special boats in the Kenya Navy became a new concept, which the United States ensured it plays a key role in conducting interdiction missions

in shallow and littoral areas that limited the naval vessels. The complex asymmetric threats influenced the change in Kenya Navy's doctrine, albeit in an *ad hoc* manner. Due to the complexity and multitude of contemporary maritime threats and involvement of non-state actors in the maritime domain, Kenya adopted the American style of approach to maritime security. That entails Visit, Board, Search and Seizure as the main tenets of maritime security responses that were critical in dealing with countering illicit trade and activities.

As Kenya's security advanced and adapted to the nature of threats, the policymakers and decision-makers' understanding of the maritime domain was enhanced while its strategic culture reinforced in comparison with the previous regime. Although uptake was initially slow, great appreciations emerged and maritime security issues became a major national, regional security considerations in Kenya. President Kibaki's approach to security was strengthened by coherent legislation and institutions that effectively enhanced security by regulating the fishing industry. This saw the establishment of the Kenya Maritime Authority in 2004, which was tasked to supervise, control and organize the country's maritime activities.⁸²

It was during this term that President Kibaki realised the importance of maritime security and its association with sustainable economic development and a key prospect to enhance the promotion of maritime concerns by creating incentives that were key in persuading other role players to support Kenya's maritime security initiatives that encompassed maritime trade and industrial development.

The density of shipping along the Kenyan coast implied that the government could barely afford to ignore maritime threats and institutional incapacity displayed at the time. A concern that had President Kibaki's strategic vision to trigger a start to the

⁸² Omondi, "Improving maritime surveillance in Kenya" p.32

formulation of Kenya's Vision 2030 in October 2006, as a strategic economic and development blueprint for Kenya's economic empowerment. The concerns were to get Kenya on a developmental path towards achieving economic growth by utilizing its maritime domain. His strategic vision envisaged the opening up of the Northern part of Kenya; a region that had been neglected for a long time since Kenya gained its independence by instituting a plan to construct a new port on the Northern Coast of Kenya. The Lamu Port South Sudan and Ethiopia (LAPSSET), as a strategic port for the country, which was intended to ensure infrastructural development along the corridor that was to link the Indian Ocean Lamu port and the Atlantic Ocean Douala port in Cameroon.

The tent of the Vision 2030 elaborates the realization by the government that the country continued development and economic growth was intimately connected to the Ocean. The Indian Ocean posit a very critical domain for Kenya's quest of becoming a middle-income country by 2030, by offering opportunities for the opening of new markets and investment. Kenya's maritime security under this strategic vision saw an expansion of Kenya's maritime prospects, which engendered the need to enhance the capacity and capabilities of the existing maritime security agencies as paramount to addressing the complex and dynamic asymmetric threats.⁸³

The absence of maritime governance in Somalia gave an impetus to Somalia-based piracy, whose activities at the Horn of Africa (HOA) and in the Western Indian Ocean region had far-reaching consequences in Kenya.⁸⁴ This prevalence of piracy in the Western Indian Ocean illustrated weakness in Kenya's maritime security and at the same time made Kenya realize the value of its vast maritime interests, which both

⁸³ Kenya Vision 2030 Sector Progress & Project Updates (June 2018)

⁸⁴ Busiega, "Harnessing Maritime Security and Resource Exploitation," p.29

stimulated a political and security actions towards cooperation with other regional and international actors.

The greatest appreciation of the maritime interests was the strategic importance of the Indian Ocean that was linked to economic development, prosperity, political success and stability over a medium and long term. This had the Kenyan government to emphasize on securing and developing the maritime sector through the increase in cooperation in spheres of economy and trade among the East Africa countries and the Indian Ocean littoral states. These concerns over the ocean required that each country extend effective rule over its territorial waters and ensure collaboration with the international society to maintain order at the high sea.⁸⁵

2.4 Conclusion

Kenya's interaction with the strategic operational environment during the tenure of the three regimes seems to have been an *ad hoc* basis due to the absence of national security policy and strategy. The absence of these strategic documents explained the lack of a shared understanding and identification of securitized national interests that need to be promoted, secured and projected.⁸⁶ The consistency in failure in identifying the strategic imperatives that needed protection and promotion of Kenya's national interests in the Indian Ocean derailed the state's potential for social and economic development through the maritime sector.⁸⁷

⁸⁵ Busiega, "Harnessing Maritime Security and Resource Exploitation," p.5

⁸⁶ Musambayi Katumanga, "Leadership and the National Security Policy in Kenya" in Humphrey Njoroge and Makumi Mwagiru, editors, *Grand Strategy in Kenya Vol 1: Concepts, Contexts, Process and Ethics* (Nairobi: Three Leg Consortium, 2019) p.102

⁸⁷ Busiega, "Harnessing Maritime Security and Resource Exploitation," p.40

CHAPTER THREE

THE STRATEGIC ASPECTS OF KENYA'S MARITIME SECURITY (2008-2020)

3.1 Introduction

The increasing importance of maritime space in Kenya's economic transformation under President Kibaki had the Indian Ocean become a substantial factor towards influencing the formulation and implementation of Kenya's national security policies and strategies. This placed maritime security at the heart of Kenya's national interests. However, significant maritime security challenges continue to impact on Kenya's maritime space, despite the government's efforts in instituting maritime security frameworks and responses that incorporate global, regional and national agenda. This chapter assesses the efficacy of the maritime security responses in Kenya.

The chapter is divided into five sections; section one conceptualizes the maritime security, section two outline Kenya's maritime jurisdiction, section three highlight the maritime threats in Kenya, section four is the maritime security responses and frameworks adopted, section five is the problems and challenges arising and finally the conclusion.

3.2 Conceptualizing Maritime Security

The contemporary maritime security domain entails maritime threats that are increasingly interdependent, transnational, cross-jurisdictional and not limited to the maritime environment alone.¹ This then contemplates maritime security concepts to

¹ Christian Bueger and Timothy Edmunds, "Beyond Sea Blindness: a New Agenda for Maritime Security Studies" *International Affairs* 93: 6 (2017) 1293–1311, pp.1300-1301.

equally respond, not only to find a solution to the problems but needs to go beyond the solution and into critical stance based on the constituents of good order at sea.² Today, the increase in technological advancement and globalization has had maritime security issues to be of great importance in the modern-day age, especially in an environment that has seen the State's dependent on the maritime domain.³

Globalization has seen an increase in the interconnectedness of the world's economies which relies heavily on the ocean and adjoining littoral areas for fishing, access to natural resources and movement of the world's commerce.⁴ The complex interdependence attestation comes with having 90 per cent of the international trade and two-thirds of energy supplies carried by sea,⁵ hence making maritime security a very critical component of national security for the ocean economy states. It is a complex responsibility whose concerns affirm the need for states to enhance their maritime governance through innovative diplomacy, regional collaboration, dedicated leadership, and increased legal authority.⁶

International Maritime Organization (IMO) perceive maritime security in a global and comprehensive regime. It provides support and guidance to the shipping industry, by providing compulsory and non-compulsory measures to states, ports and shipping companies.⁷ It is concerned with ensuring good order at sea by allowing

² Francois Very, "Turning the Tide: Revisiting African Maritime Security." *Scientia Militaria, South African Journal of Military Studies*, Vol 41, No. 2 1-23, 2013.p.2

³ Africa Center for Strategic Studies, "Trends in African Maritime Security," March 15, 2019. <https://africacenter.org/spotlight/trends-in-african-maritime-security>

⁴ Rupert Herbert-Burns (2012), Countering Piracy, Trafficking and Terrorism Domain: Ensuring Maritime Security in the Indian Ocean in David Michel and Russell Sticklor, editors, Indian Ocean Rising: Maritime Security and Policy Challenges (Washington, DC) p.23

⁵ Africa Integrated Maritime Strategy 2050. p. 8

⁶ Captain Brian Wilson (2010) Responding to Asymmetric Threats in the Maritime Domain: Diplomacy, Law and Naval Operations, *Maritime Affairs: Journal of the National Maritime Foundation of India*, 5:2, 68-85. p.69.

⁷ http://www.imo.org/en/OurWork/Security/Guide_to_Maritime_Security/Pages/Default.aspx

uninterrupted maritime commerce through adherence to certain regulations by all parties who venture into the maritime domain activities.

Maritime security at its core is designed to provide a stable and secure environment in which development transformation can occur. However, the maritime domain is increasingly becoming a platform that offers the greatest scope of non-military maritime concerns which are compelling in nature and only warrant cooperation among the various regional and global powers, because most of the insecurity issues in the maritime domain are transboundary in nature.⁸The characteristics and dynamics of the maritime threats make maritime security not to be conceptualized as just a simple phenomenon that can be guaranteed by a single coastal state or group, but one that needs to entreat collective responsibility.⁹

In conceptualizing and formulating a maritime security response, there is a need for the country to comprehend and understand the issues that impact their maritime domain, before coming up with a proper maritime security response. These ensure minimizations of unintended consequences that may come with adopting a wider conception that may lead to an increase in state's vulnerabilities, as a result of the interactive and holistic nature of the risks that come with increasingly complex interdependency.¹⁰ Indeed state's engagement in maritime security is fundamental for both economic and strategic standing¹¹ and a key consideration to the conduct of their international relations at any given time of their development.

⁸ Lee Cordner, "Rethinking maritime security in the Indian Ocean Region," *Journal of the Indian Ocean Region*, Volume. 6, No.1, 67-85, 2010, pp.68-80

⁹ P.V. Rao, "Managing Africa's maritime domain: issues and challenges," *Journal of the Indian Ocean Region*, Volume.10, No.1, 113-118, 2014, p.114

¹⁰ Lee Cordner (2014) Risk managing maritime security in the Indian Ocean Region, *Journal of the Indian Ocean Region*, 10:1, 46-66. p.48

¹¹ Thean Potgieter "The Maritime Security Quandary in the Horn of Africa Region: Causes, Consequences and Responses" East African Human Security Forum Discussion Paper January 2008, Hanns Seidel Foundation Kenya P.2

The 21st century has seen an upsurge of multifaceted asymmetric threats, which continue to impact the maritime domain and hence states need to devise broad maritime security approach that is derived from a comprehensive maritime policy that establishes mutually reinforcing link between maritime domains and onshore activities. As a ‘contestable’ concept, it needs to be conceptualized in a manner that will deal with issues that are significant in guaranteeing the state's stability and prosperity in the strategic operational environment. It should also consider taking into account the geopolitical and geo-economic interests in a region, by underpinning security to the strategic infrastructures that are key in enhancing interconnectivity and integration of previously distanced spaces from maritime threats.¹² This means the conceived maritime security response will need to support the profoundly intercontinental, interrelated and systemic realities of the oceans.¹³

The contemporary security domain has had states conceive the maritime threats in a non-traditional and non-strategic perspective.¹⁴ In an environment where the line between state and non-state action is imprecise, understanding the cross-cutting maritime security core dimensions in a non-traditional sense is critical for a state.¹⁵ Rahman brings out an understanding of the differences and commonalities of security terms in an environment where good order at sea has been perceived by Geoffrey Till as having a direct impact on human development. The essence of good order at sea requires uninterrupted execution of maritime activities that secure the four attributes of the sea – as a resource, means of transportation, information, and dominion.¹⁶

¹² Potgieter “The Maritime Security Quandary in the Horn of Africa Region” P.2

¹³ Cordner, “Risk managing maritime security in the Indian Ocean Region,” p.48

¹⁴ Rahman, “A strategic perspective on alternative visions for good order and security at sea,”

¹⁵ Bueger and Edmunds, “Beyond Sea Blindness”, pp.1299-1300.

¹⁶ Geoffrey Till, *Sea Power: A Guide for the Twenty-First Century*

The conception of non- traditional and non-strategic perspectives by Rahman guide the analysis of Kenya maritime security frameworks and initiatives in a perspective of five prisms of maritime security - Security of the sea itself, ocean governance, maritime border protection, military activities at sea and security regulations of the maritime transportation systems.¹⁷

3.3 Contextualizing the National Maritime Strategy

In pursuit of the state's national maritime interests, the concept of national maritime strategy inherently become a very key concept for the state. The realities of a national maritime strategy are realized when the state interact with the strategic operational environment, which is consistently volatile and unpredictable. However, the overriding theme for the state's actions in the strategic operational environment remains to project, promote and protect these national maritime interests. This, therefore, means issues concerning the maritime space, the national maritime strategy will always be a very fundamental instrument towards the conduct of the state in the strategic operational environment. However, the concerns of a national maritime strategy are part of a section of the national grand strategy, which is concerned with the state's overall national security.¹⁸ The concepts of a grand strategy are similar to the viewpoints of military campaigns, which pertains to the coordination of capabilities and resources in a war. But for the state's perspective, the grand strategy is the highest and most critical form of statecraft that represents an integrated scheme of interests, threats, resources and policies.¹⁹ It takes key interest in state's securitized national interest. It is a discipline of trade-offs, which intend to use its source of national power whenever these

¹⁷ Rahman, "A strategic perspective on alternative visions for good order and security at sea" pp. 31-41

¹⁸ Hew Strachan, "Maritime Strategy," The RUSI Journal, Volume.152, No.1, 29-33, 2007

¹⁹ Hal Brands, What Good is Grand Strategy? Power and Purpose in American Statecraft from Harry S. Truman to George W. Bush. (New York: 2014) pp.1-3

securitized national interests are threatened in the strategic operational external environment.²⁰ Key to state's effective grand strategizing is to ensure the adopted national maritime strategy determines the development and management of the elements of sea power, which to a great extent need to be influenced by policies that include inter alia the economic, trade, energy, defence, and foreign policies.²¹ The objective of the maritime strategy is therefore meant to regulate all the elements of sea power despite the difference in means and ways among the states. It directs all aspects of national power that relates to a nation's interests at sea.²² It is of these concerns that undergird the core principles of maritime strategy which apply to all states with the maritime frontier in regardless of their size and challenges. It is prudent then for states to understand the problem and formulate a proper response that avoids unintended consequences that come with its wider concept of adopting strategic views of the interactive and holistic nature of risks in an increasingly globalized world. The effectiveness of maritime security strategy will only be made possible by it being strategic, proactive, flexible, multidimensional, and possessing the capacity to integrate all plans and activities in the maritime environment in a global perspective.

3.4 Kenya Maritime Jurisdiction

In the maritime domain, issues and concerns that arise are always closely interlinked and interrelated, having them considered mostly from a global perspective and approached as a common interest rather than a common threat. United Nations Convention Law of the Sea (UNCLOS) recognize coastal State's sovereignty, as one that extends, beyond its land territory and internal waters, which includes the air space

²⁰ Hal Brands, *What Good is Grand Strategy?* p.6

²¹ Azhar Ahmad, "Maritime Power and Strategy," *NDU Journal*, pp. 23-42, 2014, pp. 30-32

²² John Hattendorf, "What is a Maritime Strategy?" *SOUNDINGS No.1 Sea Power Centre - Australia Department of Defence*, 2013

over the territorial sea and that of its bed and subsoil. In exercising the sovereign right over its territorial sea, States need to ensure they do so under UNCLOS and other rules of international law, which are important in contributing to peace, justice, and progress.²³

Kenya with a relatively long coastline of 614km and an Exclusive Economic Zone (EEZ) of 143,000Km² ²⁴has its maritime boundaries extend from Somalia in the North to Tanzania in the South. Kenya's maritime frontier forms part of the Western Indian Ocean region that serves as a critical Sea Line of Communication (SLOC) within the region. The potential of Kenya's substantial maritime domain is the ability to contribute to higher and faster Growth Domestic Product (GDP), which has had Kenya to undertake a comprehensive approach towards exploitation of the maritime sector.

Kenya claims several maritime zones under the UNCLOS proclamation that provides the legal framework for oceans management and sets out the principles and norms that apply to state parties.²⁵ UNCLOS avers an additional 103,000-kilometre square, bringing a total ocean cover of 350 nautical miles and 245,000-kilometer square which makes about 42 per cent of Kenya's total land area.²⁶ The outer limits of all these zones are measured seaward from the baselines or low tide elevations along the coast.

The Maritime Zones Act Cap 371 domesticated the UNCLOS into Kenya law as provided by the Kenya Constitution 2010 Article 2(6). The constitution declared the maritime zone to be a national geographical area and does not exclusively belong to any country in part or whole, and hence legitimize Kenyan courts to deal with offences

²³ Alan O. Sykes & Eric Posner, "Economic Foundations of the Law of the Sea" (John M. Olin Program in Law and Economics Working Paper No. 504, 2009)

²⁴ Omondi, John Churchill (2017), "Improving maritime surveillance in Kenya's remote coastal islands: application of renewable energy solutions". World Maritime University Dissertations. 569. pp.37-39

²⁵ Kenya is a State Party to UNCLOS after ratifying it on 02 March, 1989

²⁶ The RV Mtafiti: Marine Research towards Food Security and Economic Development for Kenya. (Eds) Njiru JM, Ruwa RK, Kimani EN, Ong'anda HO, Okemwa GM and Osore MK. Kenya Marine and Fisheries Research Institute, (KMFRI, 2018) Mombasa, Kenya. 102pp

that are committed in Kenya's maritime space.²⁷It specifies the Kenya maritime zone include;

1. The Territorial Sea area

The territorial sea does not exceed 12 nautical miles, measured from the baseline. It is an area in which a state's sovereignty extends and is an inherent part of the territory, hence Kenya does not need to proclaim this area. Despite the country's full sovereignty of the area, vessels of all states, have the right of innocent passage, which should not be prejudicial to peace and good order, or security of the coastal state.

2. The Contiguous Zone

It is a zone that extends from the outer limit of the territorial sea, which may not extend beyond 24 nautical miles measured from the baseline. It is an area where States exercise the control necessary to: prevent infringement of its customs, fiscal, immigration or sanitary laws and regulations within its territory or territorial sea and punish infringement of the above laws and regulations committed within this zone.

3. The Economic Exclusive Zone (EEZ)

It is a zone that should not extend beyond 200 nautical miles from the outer limit of the territorial sea measured from the baseline. A country enjoys the sovereign rights to explore and exploit, conserving and managing the marine natural resources, whether living or non-living, and concerning other economic activities inter alia production of energy from water, currents and winds, and even jurisdiction about the establishment

²⁷ Renison Ruwa, "Policy and Governance Assessment of Coastal and Marine Resources Sectors in Kenya in the Framework of Large Marine Ecosystems" Report to the ASCLME Policy and Governance Coordinator, ASCLME Project; Grahamstown, South Africa, 2011.

and use of artificial islands, installations and structures; marine scientific research; and protection and preservation of the marine environment; and other rights and duties provided for in part V of UNCLOS. In 2006, Kenya declaration of the EEZ was published in UN table of claims after proclaiming in 2005 in according to article 58.²⁸

4. Extended Continental Shelf

The definition of the extended continental shelf and the criteria for establishing the outer limits are stipulated in Article 76 of the UNCLOS. UNCLOS define the continental shelf as the extension beyond the territorial waters throughout the natural prolongation of its land territory to the outer edge of the continental margin of a coastal state that consists of the seabed and subsoil of the submarine areas. It is an area beyond 200 nautical miles but within the physical continental shelf that a country has the right for extraction of all the living and non-living resources of the shelf.²⁹

3.5 Threat Manifestation and Vulnerability in Kenya's Maritime Domain

Fantaye asserts that manifestation of maritime insecurity issues is a reflection of the deep underlying structural dynamics that are mutually reinforcing to the extent of making it impossible to delineate the causes of their manifestation.³⁰ However, maritime insecurity issues in Kenya are correlated to the fragile neighbourhood, which has for a very long time had Somalia dominated by anarchy, and during this time; it had no government and the whole of Somalia's territory was under the control of various warlords who fashioned a haven for non-state actors.

²⁸ Nchonganyi Christantus, "Challenges of Maritime Security and Policy Development in the East African Community: the Cases of Kenya and Tanzania" 2019, p.26

²⁹ Robert Kibiwot, "Towards the Formulation of Kenya's Integrated Ocean Management Policy Including Institutional Framework" (2009). P.39

³⁰ Demessie Fantaye, "Regional Approaches to Maritime Security in the Horn of Africa"(Addis Ababa, Friedrich-Ebert-Stiftung, 2014) p.12

The inability for the Somalia Federal Government (SFG) to exert control and dominance in areas that it governs, coupled with Somalia's expansive coastline and very weak maritime jurisdictions; tend to provide Al-Shabaab and other non-state actors a favourable environment to thrive. The increase in non-state actors' activities ashore has continued to exacerbate maritime insecurity issues, which have ended up spilling over into Kenya's jurisdiction as a result of the transboundary and interdependent character of the maritime terrain. The outcome infused maritime security consciousness among Kenya's leadership, leading to the country's disengagement from the historical land-centric security approach and incorporated the concerns of the maritime security into the purview of national security.³¹

In most of the coastal States, maritime security crimes have occurred within and outside the territorial waters of the sovereign States, which have constituted more than 85 per cent of the contemporary maritime insecurity acts.³² Wambua's assertions consider these conceptions as a result of having compounding political, social and economic issues happening ashore that goes into influencing the land base activities that have a direct consequence on events at sea. This linkage of onshore activities to the maritime domain threats exposes Kenya to maritime terrorism, piracy, illegal migrants, drug trafficking, arms trafficking, Illegal Unregulated Unreported Fishing (IUUF), maritime border dispute, and pollution of the sea waters occasioned by the dumping of condemned goods.³³

³¹ Robert McCabe, "Policing the Seas: Building Constabulary Maritime Governance in the Horn of Africa – The Case of Djibouti and Kenya, *African Security*" *African Security*, pp. 1-26, 2019

³² Paul Wambua, "Kenya's Role in Counter-Piracy and the Contact Group" Working Paper of the Lessons Learned Project of the Contact Group on Piracy off the Coast of Somalia (CGPCS), Cardiff University, 2015.

³³ Joseph Mbugua and Said Mwachinalo (2017), *An Assessment of Maritime Insecurity in the Kenya Maritime Domain*, Occasional paper Series 8, No.1, IPSTC Nairobi Kenya. p.20

3.6 Transnational maritime crimes

The notable mutation of maritime security threats in the Western Indian Ocean region is the convergence of the terror networks in the region and the transnational maritime crimes; piracy, drugs, human and arms trafficking. Crimes that are non-traditional in nature and all do share networks that are enhanced by institutional vulnerabilities impacted by regional state's security crisis. Underlying this development is the organised crimes networks ability to infiltrate the body of the politic of state's institutions and corrode their competency by undermining their effectiveness in ending the transnational networks, both on land and at sea.³⁴

3.5.1 Piracy

The international attention placed on piracy against ships in the Horn of Africa was as a result of piracy posing a threat to the strategic SLOC along the Indian Ocean region; especially the transit point at the Gulf of Aden which has over 20,000 ships a year using the Suez Canal.³⁵ Piracy in the Western Indian Ocean region are activities spearheaded by individuals operating at the shores of Somalia coast, who launch attacks in the high seas by targeting ships. According to the International Maritime Bureau 2008 Annual report,³⁶ the region saw a sharp rise in incidents of pirate attacks from 44 ships in 2007 to 111 in 2008, with a total of 13 vessels and 242 crew taken hostage by 31 December 2008.

At the height of piracy in the Horn of Africa, ships traffic went down due to re-routing aimed at avoiding the Gulf of Aden, which had ships take 4 days to reach the

³⁴ Katumanaga "Kenya: Underdeveloped Maritime Domains and Mutating Geographies of Insecurities"

³⁵ Bill Varner, "Chasing Pirates Onto Somalia Territory Gets Approval From UN", Bloomberg.com, 16 December 2008

³⁶ ICC International Maritime Bureau, *Piracy and Armed Robbery Against Ships: Annual Report, 1 January - 31 December 2008* (London: ICC IMB, 1 January 2009)

Middle East from the Port of Mombasa, for the route through the Cape of Good Hope, which took 11 days. This affected the turn-around time for ships, which increased additional cost of shipping, reduced food security preparedness and the decline in revenues,³⁷ which was occasioned by the rise in insurance premium from USD 500 per trip in 2008 to USD 20,000 per trip in 2009. This had a very unprecedented impact on the socio-economic activities in Kenya because 95 per cent of Kenya's international trade is heavily dependent on shipping.³⁸

Piracy, a crime that UNCLOS affirm to occur only in the high seas; is known to thrive in an environment where there is a host of other illegal activity like trafficking, smuggling and IUUF.³⁹ The scourge of piracy in the India Ocean region had Kenya become cognizant of its maritime security issues and their impact on the national security. The piracy activities had a massive influence on Kenya's perceptions towards maritime security, leading to Kenya's active role and participation in cooperative maritime security frameworks against piracy that had been instituted at the international and regional levels. Kenya's involvement was made possible by the availability of resources to countries that were ready to provide support to the international community commitments towards piracy.⁴⁰

The militaristic approaches by the international communities led to pirate's change of tactics and increased in potency as they adapted to the kinetic operational environment that saw an increase of naval activities from several countries. It made the pirates enhance their capabilities and expanded from a single skiff to a group of

³⁷ Joseph Mbugua and Said Mwachinalo, "An Assessment of Maritime Insecurity in the Kenya Maritime Domain"

³⁸ Integrated Ocean Management Policy, June 2009

³⁹ Christian Bueger, "Learning from piracy: future challenges of maritime security governance", *Global Affairs*, 1:1, 33-42, 2015, p.35.

⁴⁰ Fantaye, "Regional Approaches to Maritime Security in the Horn of Africa" p.20

cooperative skiffs and eventually, to skiffs serviced by motherships at sea.⁴¹ An operational capability that led to targeting of ships within Kenya's jurisdiction, with the most daring attack being one staged against a Kenya Navy Medium Landing Craft Logistic vessel on patrol off Kilifi.⁴²

3.5.2 Maritime Terrorism

Piracy activities went unhindered due to their close and reputable cooperation with Al-Shabaab that entailed the smuggling of members of Al-Qaida into Somalia.⁴³ The dominant control by Al-Shabaab on land activities ensured control on all the ports; a nexus that meant offering protection to pirates at a fee. This affirms an appreciation that converges piracy with maritime organised crimes within the Al-Qaida's broad strategy of actualizing the caliphate project, by use of maritime terrorism to achieve these objectives. Maritime terrorism being the activities of terrorists in the maritime domain, ranging from attacks on ships, attacks on offshore establishments, launching of terrorist attacks from the sea and even the acts of infiltration and extricating of terrorist members into and out of Somalia.

Kenya susceptibility to maritime terrorism is a result of its geostrategic position within the Horn of Africa that has endured many inter-state and intra-state armed conflicts, which are mutually reinforced by the economic underdevelopment, ethnicity, social structures and nature of political systems.⁴⁴ The increase of Al-Shabaab terror activities in Kenya led to Kenya Defence Forces incursions into Somalia in 2011. The incursion enhanced Al-Shabaab resolve to establish a close working relationship with

⁴¹ Raymond Gilpan, "Examining Maritime Security in East Africa" Soundings, Sea power Center, Australia 2016

⁴² Ishaq Jumbe "Face –to- Face with Ruthless Pirates who Rule High Seas" Standard 03 November 2019

⁴³ Hamad Hamad, "Maritime terrorism: Why the East African Community is the Next Potential Target of Maritime Terrorism" Research on Humanities and Social Sciences, Vol.6, No.6, pp.126-133, 2016.

⁴⁴ Fantaye, "Regional Approaches to Maritime Security in the Horn of Africa" p.8

the local coastal community and recruited the indigenous, whom a majority are experienced youths on issues of maritime activities.⁴⁵ Despite terrorist attacks happening on land, the sea line of operations within Kenya's territorial waters continue to be exploited by Al-Shabaab in transporting supplies, recruits, operatives, and weapons to and from Somalia.

The sea forms a strategic enabler to Al-Shabaab and their activities inside Kenya, as it provides a suitable platform in augmenting the terror activities without much resistance as it is on land. Al-Shabaab exploitation of this maritime terrain led to the launch of the most daring maritime terror activities within Lamu County, in which two separate attacks were executed without any hindrance. The seaborne operation at Kiwayu Safari Village in September 2011 that led to fatality of a British tourist, David Tebbut and the kidnapping of the wife Judith Tebbut, while the one in October of the same year at Manda Island, led to the kidnapping of a French citizen, Mrs Marie Dedieu. The two separate incidents had the terrorists request for ransom, which was paid to have Mrs Judith Tebbut released but Mrs Marie Dedieu died while in captivity.

3.5.3 Illicit Traffics

East Africa has emerged as a maritime space that continues to tie together the acts of terror networks and illicit traffics – drug, human and arms. The factors converging this linkage is the porous frontier inland and maritime domain, the dynamics of a collapsed state of Somalia, internal institutional weakness and extreme level of poverty within the region.⁴⁶ Maritime vulnerabilities are made worse by lack of regional maritime security strategy, poor cooperation among the East African countries, which are faced with some

⁴⁵ Hamad, "Maritime terrorism: Why the East African Community is the Next Potential Target of Maritime Terrorism"

⁴⁶ Katumanga, "Kenya: Underdeveloped Maritime Domains"

challenges that range from lack of maritime skills, competency and high cost of running and maintaining the maritime assets.

The illicit traffic in Kenya has drug trafficking as the most prominent illicit trade along the East African coast of Kenya and Tanzania. Kenya with a long and poorly monitored coastline has continued to be vulnerable to international traffickers, who have opted for the southern sea route, which offers favourable environment due to lack of effective law enforcement activity along this corridor.⁴⁷ The United Nations Office on Drugs and Crimes (UNODC) Baseline Assessment report 2016, on Afghan Opiate Trade and Africa, highlighted East Africa's increasing importance as a transit point for Afghan heroin. It identified Kenya as a major landing point for heroin shipped from Afghanistan via the Indian Ocean. Underpinning this attraction of Kenya is the strategic location and well-developed transport system that connect to the rest of the world via the sea, air, and land.

Despite drug trafficking posing a multifaceted challenge to health, an impediment to the rule of law and socio-economic development; Mombasa, a known drug trafficking hub, with 3.5 per cent of its population already addicted to heroin, continue to see cargo vessels ferrying heroin from Afghanistan through Pakistan calling at the port for onward transit to other destinations.⁴⁸ Dhows and small-fibre boats also are ideal means for drug traffickers because both can avoid detection, and the latter has the advantage of speed and agility to manoeuvre in shallow waters. The presence of luxury yacht in most of these small ports also provide a good cover as it was with Baby

⁴⁷ United Nations Office on Drugs and Crime (2016) The Afghan Opiate Trade and Africa - A Baseline Assessment 2016 Vienna: United Nations Office on Drugs and Crime. p.25

⁴⁸ Johanna Loock, "Mombasa, Kenya identified as Narcotics Trafficking Hub" Maritime Security Review Oct 2019

Iris, a yacht seized while at anchor in Kilifi port with heroin worth KES 22 million.⁴⁹ Likewise, in 2014, Kenya recorded one of the biggest seizure of heroin at the port of Mombasa when Kenya Navy intercepted a ship MV Darya, christened Al-Noor with heroin worth KES 1.3 Billion destined for Zanzibar.⁵⁰

Kenya continues to struggle with the scourge of illicit Small Arms and Light Weapons (SALW) smuggled through its vast largely unmanned borders.⁵¹ SALW has caused plenty of challenges to Kenya's national security. The maritime domain has continued to provide a favourable platform to arms traffickers, who collude with terrorist organizations to effectively ship weapons into Kenya through the ineffectively monitored shores in the area of Lamu or through Kenya's EEZ. Al-Shabaab has utilized the sea by having most of their weapons shipped to the inland ports of Lamu, Ng'omeni, Malindi, Kilifi and even Mombasa for terror-related activities.

Human trafficking, even though it is not prominent in the maritime domain, it is still a very lucrative business that has led the agents on land to effectively use their connections in government to have these activities ongoing without detection. However, most of the illegal migration and human trafficking has only occurred and reported as transit along with Kenya's maritime space, as most of those trafficked are immigrants moving from Eritrea, Ethiopia and Somalia, heading to South Africa.

3.5.4 Kenya Somalia Maritime Border Dispute

Maritime border delimitation issues continue to be a potential source of tension between coastal states and non-state actors, as more exploration and discoveries of mineral oil

⁴⁹ Jared Too, Luxury Yacht Destroyed by Kenya Navy for Ferrying Sh22 Million Heroin was owned by a Kenyan, 31 March 2017. <https://www.kenyans.co.ke/news/luxury-yacht-destroyed-kenya-navy-ferrying-sh22-million-heroin-was-owned-kenyan-17885>

⁵⁰ Joseph Akwiri "Kenya Seize 341 Kg Heroin Haul on Ship in Mombasa" Reuter, 15 July 2014

⁵¹ Ghassan Schbley and William Rosenau, Piracy, Illegal Fishing, and Maritime Insecurity in Somalia, Kenya, and Tanzania, 2013.

deposits are made in the maritime space.⁵² They add complexity to the state's maritime security engagements, by inhibiting cooperation with their neighbouring states due to the uncertainty imposed by the disputed boundary, which is a potential for regional instability.⁵³

Rao postulates fragile States are incapable of ensuring coastal peace and in most instances, they tend to be the cause of maritime insecurity through contested maritime claims.⁵⁴ This has turned out to be true in the case of Somalia and Kenya, where the two are contesting for a maritime space of about 100,000 square Kilometers suspected to have a large deposit of oil and gas. This has created diplomatic standoffs, with the dispute failing to achieve a diplomatic consensus on who has the sovereign right over the maritime space. The genesis of the dispute is a result of Kenya's decision to award oil and gas prospecting licenses to the oil companies of Total and Eni.⁵⁵ The failure in regional initiatives to solve the dispute had Somalia sue Kenya at the International Court of Justice at The Hague in 2014. An outcome that has complicated Kenya's maritime governance, as it hinders Kenya's access to the marine resources and capacity to exploit the opportunities in the disputed area.

3.5.5 Illegal Unreported Unregulated Fishing (IUUF)

The ocean has been a valuable source of protein, income and employment among the coastal community, whom about 80 per cent depends for socio-economic activities. This posits the ocean to having an immense implication on human security for the coastal states in Africa. The fishing grounds in Kenya are today enduring unsustainable

⁵² Vrey, "African Maritime Security: A Time for a Good Order at Sea"

⁵³ Robert McCabe, "Policing the Seas: Building Constabulary Maritime Governance in the Horn of Africa" Africa Security, pp. 1-26, 2019

⁵⁴ Rao, "Managing Africa's Maritime Domain" p.114

⁵⁵ Rateng' as cited in Joseph Mbugua and Said Mwachinalo, "An Assessment of Maritime Insecurity in the Kenya Maritime Domain"

pressure as a result of illegal unlicensed Distant Water Fishing (DWF) nations' vessels and the effects caused by the construction of the port of Lamu, which has had an impact on the fishing grounds for subsistence fishing due to the increase in the destruction of the fishing breeding areas.

Kenya produces 5 per cent of the potential 174,000 metric tons of fishing and over KES 10 billion is lost due to the IUU fishing.⁵⁶ The estimated cost of IUU fishing in Kenya's EEZ is at a tune of USD 111.4 million per year.⁵⁷ However, Kenya still collects about KES 350 million from the licensing of foreign fishing vessels, but with improved monitoring and enforcement, the revenue can reach up to about KES 4 billion from licensing.⁵⁸ Further, the revenue accrued from penalties, fish catches, and the fish-value-chain effect is estimated to be in the area of KES 30-50 billion.⁵⁹ Despite IUU fishing having an impact on the ecological balance that has led to the extinction of certain species, the value of the protection fines is yet to have any credible deterrent.

Kenya's EEZ is within the richest tuna belt of the Western Indian Ocean that continue to be exploited by unlicensed DWF nations. A situation that has confirmed the ineffectiveness of the Indian Ocean Tuna Commission (IOTC) in curbing illegal, unreported and unregulated fishing in the region.⁶⁰ IUU fishing catch is half of the total yearly harvest in the Indian Ocean with the most targeted fish being the Tuna because of its high value.⁶¹ This led the government of Kenya to approve the country's first five-

⁵⁶ WWF Kenya Losing Billions to Illegal Fishing by Foreign vessels, 28 Jan 2014

⁵⁷ Razafandrianana, 2014, cited in Hamad "Maritime Security Concerns of the East African Community (EAC)" p.80

⁵⁸ Joseph Mbugua and Said Mwachinalo, "An Assessment of Maritime Insecurity in the Kenya Maritime Domain"

⁵⁹ Ibid.

⁶⁰ Sam Bateman & Anthony Bergin, "New challenges for maritime security in the Indian Ocean – an Australian perspective", *Journal of the Indian Ocean Region*, 7:1, 117-125, p.120

⁶¹ Ghassan Schbley and William Rosenau, "Piracy, Illegal Fishing and Maritime Insecurity in Somalia, Kenya and Tanzania" Center for Naval Analysis, Washington, D.C.

year Tuna fisheries development and management strategy in August 2013 to grow the undeveloped tuna supply chain.⁶²

3.5.6 Marine Environment

Sustainable use of marine resources, consider maritime security a key component in enhancing benefits to the state's national security. The maritime space in Kenya, constitute a very critical environment that provides an important life support system to the local communities' livelihood and economic development. It has a rich diversity of marine and ecosystems that include wetland, mangrove, estuaries, sandy beaches, coral reef, coastal forest, and seagrass,⁶³ which today are at high risk from pollution, overexploitation and degradation habits by human's activities through sand and mangrove harvesting, improper discharge of domestic and industrial waste.

Kenya's environmental impacts on its maritime space have notably involved incidents of pollution, which have resulted from operational pollutions from ships, shipping accidents and environmental impacts of port activities,⁶⁴ which includes dumping of confiscated goods at sea without any environmental impact assessments. The occurrence of oil spill reported at the port of Mombasa was occasioned by the Kenya Generating company oil terminal spillage⁶⁵ and another that was suspected to be from a ship or illegal siphoning at the old port of Mombasa.⁶⁶

⁶² WWF Kenya Losing Billions

⁶³ Arthur Tuda and Mohamed Omar, "Marine Environment" Protection of Marine Area in Kenya, The George Wright Forum Vol. 29, 2012, pp.43-50

⁶⁴ Celliers, L. and L. Jackson, "Maritime activities", in *Regional State of the Coast Report: Western Indian Ocean*, pp. 326 – 340, 15 March 2016, pp.317-332, UN, New York.

⁶⁵ Mathias Ringa "Oil spill Threaten Marine Life", Daily Nation 30 January 2012

⁶⁶ Phillip Mwakio, Panic after Massive Oil Spill at Mombasa Beach, Standard News Paper 31 Jan 2013

3.7 The Maritime Security Frameworks

The maritime security responses and measures that are undertaken in Kenya consist of frameworks that had both regional and global outlook, as occasioned by the distinguished characteristic of the maritime environment.

3.7.1 Global Maritime Security Initiatives

The United Nations is the main global organization that is concerned with initiating maritime security frameworks through multilateral agreements. The United Nations Convention on the Law of the Sea (UNCLOS) of 1982 provides the legal framework for managing maritime security issues from a global perspective. The International Maritime Organization (IMO), a UN regulatory body established in 1959, has a mandate to facilitate international maritime safety and environmental protection through cooperation among the member States to enhance maintenance of standards, ship transport, and legal administration.⁶⁷

The securitization of piracy at the Horn of Africa, had the United Nations Security Council (UNSC) pass several resolutions that were influenced by the advancement of Africa maritime security themes and context-specific requirements that allowed regional states and multilateral actors to undertake a host of measures against piracy.⁶⁸ The significant adoption of Resolution 1816 in June 2008, which allowed naval operations in Somalia territorial waters, and several others like UNSCR, No. 1838, 1846 and 1851, which were also consistent with allowing necessary means to counter the threats of piracy - utilization of aerial assets, naval operations in Somalia territorial waters and authorized land-based operations respectively.

⁶⁷ See IMO maritime security policy, Background paper, 23 January 2008

⁶⁸ Joseph Mbugua and Said Mwachinalo, "An Assessment of Maritime Insecurity in the Kenya Maritime Domain"

UNSCR 1851 of 2009, established a coordinated anti-piracy response effort off the coast of Somalia; the Contact Group on Piracy off the Coast of Somalia (CGPCS). A concerted international coalition of the willing consisting of a multilateral naval response against piracy that brought together several stakeholders that include multiple countries, maritime industry, seafarer's organizations, and non-governmental organizations.⁶⁹ It was formed of international navies, Private Military Companies (PMC) and prosecution.⁷⁰

The challenges that came in dealing with piracy in the Western Indian Ocean, especially with the employment of naval powers; the international community military initiatives face an uphill task against piracy. Over time, piracy adapted to the prevailing situation by increasing their potency and range, which enhanced their ability to utilize the expansive maritime domain through execution of attacks miles away from Somalia maritime jurisdiction. This forced the international community to devise ways that went into building the local maritime capabilities through developing and implementing comprehensive strategies, legislative harmonization and regulatory arrangements that were key in improving interagency and regional coordination.⁷¹ The main tenets of the global maritime initiatives were; global prosecution programme, security sector reforms and infrastructure projects.⁷²

1. The United States Navy Africa Partnership Station

A maritime security cooperation programme initiated by the United States, with the help of other international partners and governments. It was a programme that aimed at

⁶⁹ Paul Wambua "Kenya's Role in Counter-Piracy"

⁷⁰ CGPCS (2014) report as cited in Joseph Mbugua and Said Mwachinalo, "An Assessment of Maritime Insecurity in the Kenya Maritime Domain"

⁷¹ Raymond Gilpin, "Examining Maritime Insecurity in East Africa"

⁷² Bueger, "Learning from Piracy", p. 37.

improving the United States' African partner states to be self-sustaining towards maintaining national maritime security. As a long term project, it had its operational objectives aligned towards enhancing maritime safety and security among the African naval organizations, whereas its strategic objective was to render several African coastal states to be self-sufficient through capacity building by increasing maritime awareness, response and infrastructural capabilities.⁷³

2. Critical Maritime Routes Programme

European Union-sponsored project implemented in 40 countries in the Gulf of Guinea, Western Indian Ocean and wider Indian Ocean to address the challenges of maritime security and safety in these regions.⁷⁴ The programme meant to promote maritime situational awareness in the Indian Ocean and the Gulf of Guinea by reducing maritime risks through information sharing along the routes considered crucial to maritime trade, transport, fishing and other essential maritime activities. It aimed at helping control maritime security problems developing around the waters under national sovereignty and international waters through inter-administration coordination and regional cooperation. It achieves this by creating a regional Automatic Identification System (AIS) network and training for capacity building towards Kenya's ability to implement its national AIS network.⁷⁵ Critical Maritime Route Indian Ocean (CRIMARIO) that started in 2015 will elapse in 2023.

⁷³ (2008) The Africa Partnership Station, Strategic Comments, 14:6, 1-2,

⁷⁴ <https://www.crimario.eu/en/>

⁷⁵ David Nattrass, "Kenya Specialists Trained on PELAGUS Software," Information sharing Project News, EU CRIMARIO, 17 November 2017.

3.7.2 Regional Maritime Security Initiatives

The immense influence by the African Peace and Security Architecture (APSA) established in 2002, had the African Union (AU) formulate and implement a broad spectrum of initiatives to improve Africa security management. The complexity and the interlinkages of this African state's primary national security concerns led to the AU establishment of a working relationship with the Regional Economic Community (RECs) that pushed for successful implementation of APSA and unanimous adoption of the Africa Integrated Maritime Strategy 2050 (AIMS 2050), in 2009 that spelt out an AU maritime security strategy within APSA framework.⁷⁶

AIMS 2050 a significant and strategic decision by AU, aimed at providing a holistic and comprehensive approach to maritime security dimensions: economic, human security, environmental and other securitized sectors. The comprehensive framework adopted intends to foster security and economic development under its strategic philosophy of linking landlocked states and inland waters to the blue economy concepts, by bringing all the regional and international community towards enhancing maritime security.⁷⁷ However, the lack of requisite technical capacity and maritime force projection capabilities have limited coastal states from asserting a consistent and formidable maritime presence over their maritime domain.⁷⁸

The Djibouti conference that was sponsored by IMO, arose the Djibouti Code of Conduct that brought together several states from the East African maritime domain; a region that spans from South Africa to the Gulf of Aden and the Red Sea into Egypt.⁷⁹

⁷⁶ Barry Buzan, "Regional Security Complex Theory in the Post-Cold War World," In Söderbaum F., Shaw T.M. (Editors) *Theories of New Regionalism*. International Political Economy Series. Palgrave Macmillan, London, 2003.

⁷⁷ African Union. (2012). *2050 Africa's Integrated Maritime Strategy (2050 AIM Strategy)*. Addis Ababa, Ethiopia

⁷⁸ Fantaye, "Regional Approaches to Maritime Security in the Horn of Africa" p.27

⁷⁹ Francois Vreÿ, "Turning the Tide: Revisiting African Maritime Security" *Scientia Militaria: South African Journal of Military Studies*, 41(2), 1-23, 2013.

The Code was a long term strategy aimed at defeating piracy and armed robbery against ships by mainly influencing extensive participation from across the region through encouraging states to include provisions in their legislation to criminalize piracy. Despite this regional collaborative platform, Kenya and Tanzania, the only two East Africa Community littoral States, are yet to share any information concerning maritime security issues.⁸⁰

In 2017 the adoption of Jeddah Amendments by the Djibouti Code States extended the cooperative regime to the full spectrum of maritime crimes. The MASE Program funded by the European Union continues to help in bringing the Indian Ocean Island states and East African coastal states together, by suggesting an architecture similar to the Gulf of Guinea:⁸¹ the Yaoundé Code of Conduct. A Code that brings cooperation among the Western African countries and the Central African countries by creating a very clear cascading set of institutions that covers not only the coastal States of the two regions but even the landlocked States.⁸²

3.7.3 The Western Indian Ocean Region

The Western region of the Indian Ocean comprises of the Eastern and Southern African maritime domain, which spans from South Africa to Somalia, and is inclusive of the Islands of Comoros, Reunion, Mauritius, Seychelles and Madagascar.⁸³ By 2011, countries along the East African region had all experienced the wrath of pirate attacks, leading to several regional measures to be effected in response to the Somali piracy by

⁸⁰ Hamad, "Maritime Security Concerns of the East African Community (EAC)"

⁸¹ Africa Center for Strategic Studies, "Trends in African Maritime Security," *Spotlight*, March 15, 2019.

⁸² Ibid

⁸³ Akunga Momanyi, "Governance: Legal and Institutional Frameworks" in Jose Paula, Editor, *The Regional State of the Coast Report: Western Indian Ocean, UNEP-Nairobi Convention and WIOMSA (2015)*, p.445.

the African Union and the Inter-Governmental Authority on Development (IGAD), with assistance from international partners; both State and non-state actors.

1. IGAD's Integrated Maritime Safety and Security Strategy (2030) that is built on African Union's integrated maritime strategy with a specific action plan to enhance maritime security by focusing on improving governance, transportation, law enforcement, fisheries, search and rescue, training, and economic development.⁸⁴ It a maritime security strategy built from a regional perspective aimed at reducing duplications and optimize spending.

2. The IGAD peace and Security strategy (IPSS) was the only comprehensive approach to maritime security issues that emphasized more on initiatives that concentrated and focused on onshore activities by taking into account broader political, social and economic dynamics on what led to the emergence of piracy.⁸⁵ It was an approach that departed from the securitized and punitive response to piracy. Its fundamental argument was on state reconstruction, but it was never implemented due to a lack of resources.

3.8 National Security Response and Frameworks

The national security response and frameworks that Kenya adopted during and after piracy to enhance its maritime security, is traced to the benefit that came with the multilateral global response to strategic and geopolitical interest in the time of piracy.⁸⁶ These responses engendered Kenya's maritime security capacity building through assistance, partnerships, and investments, which greatly influenced Kenya's strategic shift towards the ocean, by focusing on the dangers and opportunities that were

⁸⁴ Fantaye, "Editor's Note," in Demessie Fantaye, editor, *Maritime Insecurity Dilemmas amidst a new Scramble for the Horn? Horn of Africa Bulletin Volume 30 Issue 2, 2018*, pp. 3-4

⁸⁵ Fantaye, "Regional Approaches to Maritime Security in the Horn of Africa" p.29

⁸⁶ McCabe "Policing the Seas: Building Constabulary Maritime Governance in the Horn of Africa" p.2

associated with the sea. Since 2008, Kenya's maritime security response and initiatives can be contextualized within the frameworks of the global and regional maritime declarations and practices.

3.8.1. Accession to Relevant International Convention

In terms of accession to the relevant international conventions on maritime security progress, Kenya ratified a total of 315 maritime-related conventions and 12 treaties, which form part of Kenyan Law under Article 2(6) of the Kenyan constitution. In a bid to enhance ocean governance in Kenya, the followings statutes were enacted: Environmental Management and Coordination Act No.11 of 1999, Wildlife Conservation and Management Act No.47 of 2013, The Merchant Shipping Act 389, Fisheries Management and Development Act No.35 of 2016, 2012, Kenya Maritime Authority Act, CAP 370 of 2006/2012, The Shipping Operations (Marine Pollution) Act, 2013, Kenya Maritime Zone Act, CAP 371, Climate Change Act No. 11 of 2016, and National Security Act, 2015.

3.8.2 Naval Actions

Piracy events in Kenyan waters and especially the attack on one of the naval vessel within Kenya's maritime jurisdiction had Kenya to actively engage in bilateral and multilateral agreements with several international partners towards its naval expansion and maritime capacity-building through the acquisition of new naval platforms, advance naval training and effecting serviceability status through a timely refit. The acquisition of KNS JASIRI in 2012, an Offshore Patrol Vessel (OPV) attest to government's commitment towards maritime security by guaranteeing the existence of effective naval power of compatible dimension within the region.

Operation Linda Nchi, a joint Kenyan operation launched in October 2011 by the Kenya Defence Forces in the Southern part of Somalia, had the naval component engender the displacement of Al-Shabaab from the port of Kismayu; a bedrock of Somali piracy.⁸⁷ The acme of Kenyan military operation was the effective exploitation of the maritime domain by the Kenyan forces in launching an amphibious landing, which dislodged Al-Shabaab at the port. An event that had the KDF control the port of Kismayu and other small ports south of Kismayu, hence grounding all the sea-going activities within these ports. The control of the seaport had a great impact on dismantling piracy and Al-Shabaab networks that had been active in the Southern maritime region of Somalia, and whose effect was being felt in Kenya's maritime jurisdiction.

In the context of capacity building, the navy opted for modernization programme that was engaged through bilateral agreements with some of its strategic partners, which had the Kenya Navy granted by the United States 10 Metal Shark boats worth USD 500 million to bolster its capacity in combating maritime terrorism.⁸⁸ Likewise, Denmark installed a Simulator at the naval training college, which provided simulation training to enhance the level of preparedness within the Kenya Navy. Today, simulation is done at the navy, and has an impact on the internal and external capacity building within Kenya's maritime sector, as personnel from different agencies do take part in search and rescue, simulations and Training of Trainers.

⁸⁷ Robert McCabe "Lift for Maritime Sector in Kenya and Djibouti after fall in Piracy" The Conversation 15 December 2019

⁸⁸ See the US deliver final boats to Kenya Navy to bolster Maritime patrols, Joseph Muraya, Capital News 28 February 2018

3.8.3. The Blue Economy Initiatives

The adoption of the rational model of maritime policymaking by Kenya, as an effective approach in positioning the country's blue economy sector as a driver to economic transformation, led to the formulation of the Integrated Ocean Management Policy of June 2009. This choice engendered by having assessed Kenya's maritime space and gained perfect information, saw the decision-makers pursue an effective approach towards maximization of Kenya's maritime space potential to realize the country's development agenda.⁸⁹ Kenya continues to initiate several initiatives to ensure it addresses the maritime security threats through building robust maritime security sector, improving ocean health and ensure sustainable exploitation of the maritime space. The initiatives towards the blue economy that Kenya pursue are:

1. The Blue Economy Implementation Committee

In 2017, President Uhuru Kenyatta instituted an inter-agency implementation committee on Blue Economy to be headed by the Chief of Kenya's Defense Forces General Samson Mwachethe. The main aim of the interagency committee was to spearhead the coordination of maritime investments while also advising the administration on appropriate policies and strategies to boost earnings from the sustainable use of resources in the maritime domain.⁹⁰ It is a committee that encompasses various stakeholders including KMA, KMFRI, KCGS, and KPA amongst others.

⁸⁹ Adam A. Anyebe, "An Overview of Approaches to the Study of Public Policy." *International Journal of Political Science (IJPS)*, vol 4, no.1, 2017, pp.08-17.pp.15-16

⁹⁰ George Omondi, "KDF Chief Heads Team to Effect Key Maritime Projects at Uhuru Office," *Business Daily Africa*, January 17, 2017.

2. Kenya Coast Guard Service (KCGS)

A proposal by the Blue Economy Implementation Committee led to the establishment and operationalization of KCGS in 2018 as was envisaged in 2009.⁹¹ The formation of KCGS was informed by the absence of a maritime law enforcement agency, which for a very long time had the navy involved in policing the Kenyan maritime space. The launch of KCGS was to provide a strategic platform that will enable the government to enhance maritime governance, through enforcing maritime security and safety, pollution control and sanitation measures as well as the arrest and prosecution of offenders within the country's ocean territory for purpose of ensuring Kenya benefit from its marine resource.⁹² Likewise, as a centralized maritime law-enforcement agency, KCGS was to effect multiagency organization towards improving surveillance and security along the Kenyan coastline and EEZ.

3. Global Conference on Sustainable Blue Economy

The hosting of the first-ever global conference on sustainable blue economy in 2018, position Kenya on course towards exploiting the maritime space. The conference brought in together around 16,320 participants from 184 countries under the theme 'Blue Economy and the 2030 Agenda on Sustainable Development'.⁹³ These global conferences enable Kenya to showcase what measures it was implemented to ensure sustainable exploitation of the marine resource as it seeks for partnership in accelerating economic growth, job creation and poverty alleviation, and sustainability; climate change and controlling pollution to achieve safe and secure seas.

⁹¹ Integrated Ocean Management Policy of 2009 p.52

⁹² Robert McCabe, "Lift for Maritime Sector in Kenya and Djibouti after fall in Piracy" The Conversation 15 December 2019

⁹³ Technical Documentation Review Committee Report on the Global Sustainable Blue Economy Conference held from 26th to 28th November 2018 Nairobi, Kenya, December 5th – 9th 2018.

4. Research Vessel Mtafiti (RV Mtafiti)

RV Mtafiti, a 56 metre Offshore Patrol Vessel (OPV) donated by the Belgian government came into service after commissioning by President Kenyatta in January 2014 at the port of Mombasa.⁹⁴ The Kenya Marine and Research Institute's vessel was to be used for marine studies on the entire East Africa region, in areas of fisheries research and conservations of marine life in line with the Ocean policy of 2009. Besides carrying out fisheries stock assessment, the vessel was also to undertake physical, chemical, geographical and biological research to establish suitable means for the exploitation of marine fisheries. This proved Kenya utilization of scientific approach towards marine activities, which forms a crucial undertaking towards enhancing policy decision making that need to be informed by the available scientific data of the natural, social and economic process that affect ocean/coastal environment.

5. Commissioning of Bandari Maritime Academy

Training is a very important pillar for State's capacity building towards its development agenda. This had the government to find it prudent to engage the citizens and ensure they took advantage of the training programmes advanced by the government as a means of securing Kenya's maritime sector. The commissioning of the Bandari Maritime Academy by the president, in line with the Ocean policy projections of investing in national marine capacity development, through the creation of a platform that will particularly enhance human resource development towards attaining a critical mass of trained manpower with the requisite skills and know-how. This was to boost the country's competitiveness for favourable employment opportunities available all

⁹⁴ See President Kenyatta Commissions Marine Research Vessel in Mombasa by PSU in Daily Nation 27 January 2014

over the world. The commissioning was informed with the prospects of the blue economy, which has the potential to create 52,000 jobs in the next 10 years if the requisite skills can be acquired among the Kenyan youth. The vision of the government is to ensure Kenya become a top supplier of world-class seafarers for shipping lines all over the world.

The training at the academy will see to it that the government builds a pool of professionalism in the maritime domain, which will go into enhancing their knowledge as one way of mitigating maritime insecurity; through helping in raising security awareness. This comes with ensuring all the seafarers receive Standard Training Certification and Watchkeeping (STCW), which is the basic minimum training on ships' safety and security that they need to attain to be employed on foreign ships.

6. Kenya Navy Slipway

In pursuit of the value chain in the maritime transport, the government of Kenya awarded a Damen Shipyards Group, a Dutch firm the contract to build a shipyard facility at the Kenya Navy Mtongwe base, Mombasa County.⁹⁵ The company with a reputation of designing and building more than 5000 ships, will have the Kenya Navy Slipway, as one of its kind facility in the East Africa region with a capacity to repair the naval vessels within the country, as well as building indigenous ships in and around the East African region. The construction of the slipway is geared towards country's establishing a foothold in shipbuilding, compete with a similar facility in South Africa and Djibouti, and at the same time help reduce the cost that the governments have incurred in repairing naval vessels. In the commercialization of the maritime transport by building a national shipyard with a capacity to develop, maintain, upgrade and

⁹⁵ Phillip Mwakio, Kenya putting up Shipbuilding, repair facility, Starndard Newspaper 16 Apr 2019

strengthening ship repair, forms a strategic decision that will ensure a high degree of transport safety and environmental protection.⁹⁶

7. Ultra-Modern Cruise Ship Terminal

In Kenya, tourism contributes 10.5% to the Country's GDP, which is very critical to the economy of the country with the potential to create over 500,000 jobs in the country. Kenya in search of becoming the second major destination for cruise ships in Africa after Egypt opted to construct a world-class cruise ship terminal at the port of Mombasa.⁹⁷ The Port of Mombasa, a unique and attractive destination, had it register the highest number of cruise liners with 5 vessels having called at the Port in 2015, bringing over 5,000 passengers. It was a major come back after piracy setbacks that had discouraged cruise lines from the port of Mombasa for about five years; 2010 to 2014. The Mombasa port has an enormous potential of easily attracting over 140,000 passengers especially in a consistent stable and secure maritime environment over a span of 5 – 10 years.

8. The Lamu Port -South Sudan-Ethiopia (LAPSSET) Project

One of the strategic projects envisage in Vision 2030, was the LAPSSET project that was launched in 2011 by the three States as a regional transport and logistics infrastructure to connect the Eastern African Countries of Kenya, Ethiopia, and South Sudan.⁹⁸ The port which is a vital transport and economic development corridor for the region, had it incorporated in January 2020 as an AU project and an important corridor to the realization of the African Continental Free Trade Area (AfCFTA) that had lagged

⁹⁶ Integrated Ocean Management Policy of 2009 p.29

⁹⁷ Winnie Atieno, Kenya to be cruise ship hub with new terminal, Business Daily May 14, 2019

⁹⁸ LAPSSET Corridor Development Authority, Brief on LAPSSET Corridor Project, July 2016, p.2.

behind due to trade and policy restrictions that were confronted by lack of connectivity among African states.

9. The Revival of Kenya National Shipping Line (KNSL)

KNSL, a national carrier established in 1987 to handle Kenya's containerized export and import freight cargo, had failed to achieve its intended vision. The revival of KNSL in July 2019, aimed at having Kenya benefit from the regional and global maritime transport value chain. This saw the signing of a new shareholding agreement between KNSL, Kenya Ports Authority and the Mediterranean Shipping Company (MSC). MSC, the second-largest shipping line in the world, and a strategic partner with KNSL was to assist in re-engineering the state corporation into a world-class shipping company over a period of 10 years.⁹⁹ The revival of KNSL was in line with Kenya's blue economy objectives, due to its potential to contribute to the exchequer a substantial amount of annual income and at the same time create employment opportunities to cope with the increasing population that builds on the unemployment status.

3.8.4 The Kenya Maritime Authority (KMA)

The establishment of the Kenya Maritime Authority engendered effective ocean governance in Kenya. It was one of the first main maritime institutions that initiated the creation of the necessary structures for maritime governance through the formulation of the Kenya Maritime Act (2009), which contributed immensely towards shaping Kenya's maritime policy. The Kenya Maritime Act has effected issues relating to Ocean governance - registration of ships, the safety of navigation and prevention from the

⁹⁹ PSCU, "Boost For Blue Economy As President Kenyatta Commissions Bandari Maritime Academy", July 8, 2019. <https://www.president.go.ke/2019/07/08/boost-for-blue-economy-as-president-kenyatta-commissions-bandari-maritime-academy/>

collision, liability for maritime claims, proprietary rights in ships, carriage of cargo including grain and dangerous goods, enforcement and legal proceedings. With the setup of the Mombasa information centre, KMA coordinate information sharing that enables seafarers to solicit for assistance in cases of distress at the sea.

3.8.5 The Non-Governmental Organizations (NGOs)

The NGOs have played a key role in enhancing maritime security within Kenya's maritime space. Their role in engaging directly with the communities has initiated frameworks that have created platforms that have seen close cooperation between the coastal communities and the government.

The World Wildlife Fund (WWF) has been the main contributor towards supporting anti-poaching programmes, which have mainly dwelt with the progressive actions towards saving the turtles from extinction through capacity building done by conducting community training and funding of groups of youth that are at the forefront in tackling issues that concern environmental protection.

3.8.6. County Governments Initiatives

The county government of Mombasa continues to provide support to the fishermen in the Counties through the acquisition of boats that have enabled and enhanced expansive reach into the maritime space. In November 2016, Mombasa County with the assist of a loan from the KCB bank gave the Mombasa fishermen a 10-tonne modern deep-sea fishing vessel christened MV Mombasa 001.¹⁰⁰The county investment in the marine sector was purely strategic for economic growth because the boat was to effectively

¹⁰⁰ Mwakera Mwachefa, Country, locals to gain from Sh 20m fishing boat, Daily Nation 25 November 2016

exploit the EEZ by increasing the range out at sea and subsequently increase the amount of harvest to about 40,000 metric tons per annum.

The Mombasa County also had 28 new high-density fibreglass boats distributed to the 14 Beach Management Units (BMU), which were equipped with bigger nets, four diving suits each, radio and other fishing gear.¹⁰¹ The boats were to enable the local fishermen to achieve a range of 5 nautical miles from the less than 3 nautical miles that they manage with their small canoes. The Kilifi County government put into perspective an initiative to construct a boat-building factory by planning to allocate KES 26 million that was to go into producing tailor-made boats of fibre boards that were to be availed to local fishermen to enhance fish harvesting.¹⁰² These initiatives by the County governments were to enhance employment and reduce cases of crimes within the Counties.

3.8.7 Maritime Domain Awareness (MDA)

The United States who were the first to come up with this initiative that later was adopted by the IMO, define MDA as a concept intended to ensure the understanding of events and activities occurring in the transnational maritime domain that could impact the economy, security, environment or safety of the United States.¹⁰³ The concept is key in anchoring state's ability to comprehensively understand the maritime environment - physical/material and immaterial aspects such as the state's maritime jurisdiction, geostrategic importance, legal jurisdictions, maritime traffic and the potential of its blue economy.

¹⁰¹ Brian Otieno, Mombasa to Triple fish catch with new boats, The Star 27 October 2019

¹⁰² KNA, "Kilifi County sets aside Sh26m for Boat-Making Factory", People Daily December 6th, 2019.

¹⁰³ United States National Plan to Achieve Maritime Domain Awareness for the National Strategy for Maritime Security October 2005

The need to have a maritime situational picture at the time of increased piracy attacks in the Indian Ocean led to the establishment of the Regional Maritime Rescue Coordination Center in 2008.¹⁰⁴ This created a platform to enhance Kenya MDA, despite having it rated as low due to limited tracking capacity and challenges related to having many small boats and canoes operating along the Kenyan Coast.¹⁰⁵ Today, KMA Automatic Identification System (AIS) base station is centralized with Kenya Navy Radar Station,¹⁰⁶ and the Joint Operation Centre (JOC) at the port of Mombasa has control over the coastal AIS Network that has a capability to integrating existing national AIS and other data sources in future.¹⁰⁷ Beach Management Units (BMU), a community base management initiative, also provides another layer of MDA through engaging in managing fishing landing sites and in providing data of fish catch. However, with the low MDA, it leads to a low appreciation of the value of the maritime resources among policymakers due to unawareness,¹⁰⁸ hence impacts the formulation of policies and strategies with its effects inhibiting the criticality of the maritime domain to the national security of Kenya. This also is likely to hinder Kenya's resource prioritization and allocation towards the blue economy venture and aspirations. The reality is that limited MDA enhances sea blindness that goes into constraining the State's knowledge and the importance of maritime security, both at government and the general public.¹⁰⁹

¹⁰⁴ McCabe, "Policing the sea" p.17

¹⁰⁵ Mbugua and Mwachinalo, "An Assessment of Maritime Insecurity in the Kenya" p.28

¹⁰⁶ McCabe, "Policing the sea" p.14

¹⁰⁷ Isabelle Gachie Vinson, "Kenya coastal AIS network equipped by European Union CRIMARIO project", Events Information sharing Project news, EU CRIMARIO

¹⁰⁸ Mbugua and Mwachinalo, "An Assessment of Maritime Insecurity in the Kenya" p.28

¹⁰⁹ Demessie Fantaye, "Editor's note", Demessie Fantaye, Editor, "Maritime Insecurity Dilemmas amidst a new scramble for the Horn? "Horn of Africa Bulletin, March-April 2018, Volume 30 Issue 2, p.3

3.9 Challenges in Kenya Maritime Security Frameworks

Kenya's security engagements had for a very long time concentrate on land base security threats that had a bearing in limiting the country's maritime governance, making it struggle with capacity issues relating to enforcing and implementing maritime security.¹¹⁰ Hamad attributes Kenya's susceptibility to maritime security threats to be as a result of legal and jurisdiction weakness, insecure base areas, geographical proximity to conflict neighbourhood of Somalia, inadequate security, inadequate state support and the lack of maritime skills.¹¹¹ This corresponds to a study done in 2017, which assessed maritime insecurity in Kenya's maritime domain and confirmed the absence of sustainable maritime security capacity, presence of an expansive area of maritime responsibility and institutional weaknesses as key concerns that exacerbated maritime insecurity in Kenya.¹¹²

3.9.1 The Absence of a Maritime Security Strategy

States need to practice sovereignty on its maritime space to ensure they benefit from the tranquillity at sea.¹¹³ In this regard, it will have to demonstrate that they are in charge of their respective maritime space through the formulation and implementation of a maritime security strategy, which Kenya currently lacks.¹¹⁴ At the present day, Kenya maintains maritime security engagements responsibilities through a few maritime policies, which none has had a great impact on enhancing and enabling the country's

¹¹⁰ McCabe, "Policing the Seas: Building Constabulary Maritime Governance in the Horn of Africa" p.2

¹¹¹ Hamad, H. B. (2016). Maritime Terrorism: Why the East African Community is the next Potential Target. Vol.6, No.6, 2016, Research on Humanities and Social Sciences, pp.125-133

¹¹² Joseph Mbugua and Said Mwachinalo (2017), "An Assessment of Maritime Insecurity in the Kenya"

¹¹³ The Maritime Security Quandary in the Horn of Africa Region: Causes, Consequences and Responses. Eastern Africa Security Forum Discussion paper 2008. Authored by Thean Potgieter University of Stellenbosch Germany, p.1-21.p.8

¹¹⁴ Joseph Mbugua and Said Mwachinalo, "An Assessment of Maritime Insecurity in the Kenya Maritime Domain," p.34

maritime governance.¹¹⁵ The implementation of the integrated Ocean management policy of 2009, seems to have found its footing under the Blue Economy Implementation Committee.

The absence of a maritime security strategy as crucial and strategic guidance to the conduct of maritime security has proved to be a key challenge to Kenya's effectiveness in planning and coordinating maritime security measures due to the *ad hoc* approach which limits the country's proactiveness towards the handling of maritime security threats. Further to this, it has also impacted on the shared understanding of some core issues pertaining to maritime security, hence leading to poor utilization of maritime resources among the security agencies, which has been reflected in their conduct of maritime security roles. It is of great concern for all to understand that maritime security is a complex and cross-cutting policy issue.¹¹⁶

3.9.2 Over Dependence on International and Regional Maritime Security Initiatives

The Western Indian Ocean region is an area that has seen several maritime security innovations put to test, but many have had their sustainability and ownership turn out to be a great challenge to these states.¹¹⁷ Kenya maritime security initiatives still depend on inter-regional and international maritime security strategies and projects, which it has adopted to fill the vacuum through ratification and domestication of several important regional and international maritime conventions per article 2(6) of the Kenya constitution 2010.

¹¹⁵ Hamad B Hamad (2016) Maritime Security Concerns of the East African Community (EAC), Western Indian Ocean Journal of Marine Science Volume 15-issue 2. p.80

¹¹⁶ Demessie Fantaye, "Editor's note", Demessie Fantaye, Editor, "Maritime Insecurity Dilemmas amidst a new scramble for the Horn? "Horn of Africa Bulletin, March-April 2018, Volume 30 Issue 2, p.3

¹¹⁷ McCabe, "Policing the Seas: Building Constabulary Maritime Governance in the Horn of Africa" p.16

The over dependency of these maritime security projects has led to Kenya adopting these initiatives as its first line of defence against common maritime security threats, which have gone to strengthen Kenya's maritime security governance.¹¹⁸ However, these projects are devised and determined in line with the strategic interest pursued by the sponsoring State or organization, hence making them unreliable in pursuit of Kenya's maritime interest. These adopted projects have put Kenya in a situation that it has failed to make many efforts in formulating long term and holistic maritime security strategy, which to a great extent hinders East Africa's regional cooperation for effective maritime governance. The DCoC is one example of a maritime security framework supported by trust funds, which none of the recipients of this initiative contributes in spite of DCoC having a long term strategy to their maritime security issues.

3.9.3 Expansive Coastline

Kenya maritime domain covers a total of 245,000-kilometres square when it integrates the claimed EEZ of 150 nautical miles. This makes the maritime space by 42 per cent of Kenya's total land area, a wide and complex domain that poses a great challenge to Kenya's maritime security agencies. The sheer size of Kenya's EEZ, the limited naval assets, manpower, and inadequate technology advancement has rendered the security agencies find it difficult to effectively control and dominate the maritime domain.

A survey conducted in 2013 by Kenya Maritime Authority (KMA) on watercraft and baseline along the coastline, confirmed the presence of 206 fish landing sites along Kenya's Coastline which some were under private control. A total of 16,805 watercraft were surveyed, and a total of 1894 were reportedly anchored and operated on privately

¹¹⁸ Hamad B. Hamad Maritime Security Concerns of the East African Community (EAC) p.75

owned sites.¹¹⁹ This study affirms why Kenyan coastline and ports continue to be dominated with small boats and yachts, which make entry and exit without detection nor with many hindrances, hence posing risks of illicit trade and other transnational threats to thrive in Kenya's maritime space. Coupled with insufficient investment in monitoring and surveillance platforms,¹²⁰ Kenya is limited in its tracking capacity and hence making it difficult to identify whether the numerous dhows and canoes plying along the coast are terrorist operatives, traffickers or genuine fishermen.

3.9.4 The Duplication of Roles among the Maritime Security Agency

Kenya's maritime governance is made up of several maritime security agencies under different ministries and departments, who engage in their respective mandates without proper coordination and interlinkages with one another.¹²¹ In the execution of their mandates, the agencies always have individual policies, strategies, and Standard Operating Procedures (SOPs) that enhance how they take upon their roles. In the absence of effective coordination and cooperation, there exists a potential for duplication and jurisdictional clashes.

Maritime security organizations all at different levels of development and hierarchies, which give them a sense of existence and dominance over others tend to create a silo mentality among the agencies. This silo mentality among the maritime departments has had a great influence on the conduct of their mandate that has led to creating an environment that makes the agencies unable to harmonize their respective mandate towards maritime governance, hence leading to duplication of efforts and overlapping legislations among the security agencies.

¹¹⁹ KMA survey report cited by Omondi, "Improving Maritime Surveillance in Kenya"

¹²⁰ McCabe, "Policing the Seas: Building Constabulary Maritime Governance in the Horn of Africa" p.2

¹²¹ Nchonganyi Christantus, "Challenges of Maritime Security and Policy Development in the East African Community: the Cases of Kenya and Tanzania" 2019, pp.34-35

3.9.5 *Ad hoc* Multiagency Approach

The presence of a Maritime Security Committee (MSC), has created a platform for multiagency approach at the County level that consists of a committee made up of Kenya Ports Authority (KPA), County government, Navy, Police, Kenya Maritime Authority (KMA), Ministry of Fisheries, Kenya Shipping Agents Association and the Department of Immigration. The MSC engagements are in an *ad hoc* manner and have no formal structures of coordination, but they do meet every quarter to discuss maritime security issues.¹²²

The culture of meeting to discuss maritime security issues is evidence that there is an element of planning and coordination among the security agencies. However, cases of agencies protecting their turfs have led to a tendency of unrealistic exclusion of good advice and ideas perceived to be from outside of their turf.¹²³ With the absence of a formal structure, then it makes it difficult to have seamless coordination among the agencies. This then leads to information sharing taking place among the agencies be done, but in an *ad hoc* basis and not through formalized institutional structures' and approaches.

3.9.6 Funding

There is a low appreciation of the value of marine resources among the legislators due to a lack of awareness that is compounded by the inherent sea blindness. Maritime security undertaking is a very expensive engagement that needs unduly support from the legislative arm of governments. It is very expensive to maintain vessels and some legislators may not understand maritime security technicalities and may be reluctant to

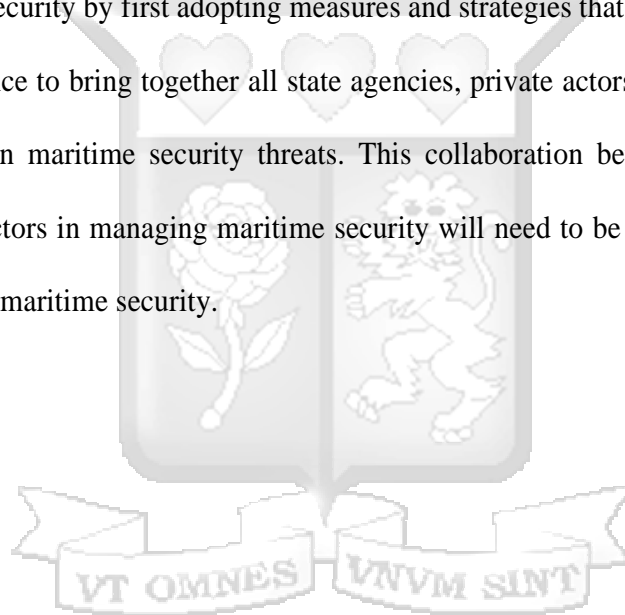
¹²² Joseph Mbugua and Said Mwachinalo, "An Assessment of Maritime Insecurity in the Kenya"p.24.

¹²³ Ibid p.24.

provide adequate funding. This situation is also made complex by lack of interest and understanding among the decision-makers, both in the executive and legislative arm of government, hence leading to ineffective decisive action on maritime security issues.

3.9 Conclusion

The inadequacy at which maritime security is engaged as compared with land-based security threats can be largely attested to budgetary allocations to the land forces in comparison with maritime forces. Kenya needs to step up its maritime security approaches as it does with issues of land security by first adopting measures and strategies that will incorporate holistic ocean governance to bring together all state agencies, private actors and local communities against common maritime security threats. This collaboration between both private and public sector actors in managing maritime security will need to be strengthened to achieve comprehensive maritime security.



CHAPTER FOUR

DATA ANALYSIS AND INTERPRETATION

4.1 Introduction

In this chapter, the findings of the study are presented. These findings are presented in line with the study objectives which were to examine and analyze the capacity and capabilities of the maritime security organizations; to examine and analyze how the existing policies and strategies shape the maritime threats in Kenya and; to proffer research-based policy options on how best the problem can be addressed. Data was collected using interviews and document analysis and the findings in this chapter are divided into six sections: the response rate by the interviewees; the capacities of maritime security organs; the policies and strategies shaping the maritime threats; research base policy options; hypothesis testing and finally discussion of the findings.

4.2 Response Rate

Out of the 26 interviewees targeted, 21 participated. This makes a response rate of 81 per cent; which was considered enough to represent the study. These findings are presented in Table 4.1.

Table II Study of Target Population

Department target	Number of Interviewers	Responded
Kenya Coast Guard Service	2	1
Kenya Maritime Authority	1	1
Kenya Defence Forces (Kenya Navy)	4	4
Sea Fearers	1	0
Kenya Ports Authority	2	4
Dock Workers Union	1	0
National Intelligence Service	2	2
Fisheries department	1	1
Kenya Wildlife Service	2	1
KMFRI	2	0
NEMA	1	2
Ministry of Foreign Affair	1	0
Kenya Forestry Department	1	1
Kenya Revenue Authority	1	1
Others	4	3
Total	26	21

4.3 The Capacity and Capabilities of Maritime Security Organizations

The first objective of the study was “to examine and analyse the capacity and capabilities of maritime security organizations.” Data were collected from primary and secondary sources. The findings are presented below.

4.3.1 The Capacity and Capability of Kenya’s Maritime Security Organisations

The study sought to identify the existent maritime security organizations in Kenya, their capacity and capability in fulfilling the stipulated mandates. This was made possible by having the respondents answer the following question; “What are likely limitations towards your organization’s objectives?”

1. Kenya Maritime Authority (KMA)

The finding shows that there are various Maritime Security Agencies in the country. One of these includes the Kenya Maritime Authority (KMA), which was incorporated in June 2004 vide Kenya Gazette Notice No. 79 to take charge and oversee the maritime

affairs in the country. It operates under the State Department of Transport in the Ministry of Transport, Infrastructure, Housing, and Urban Development whose major role is to oversight the Kenya maritime industry.

The Kenya Maritime Act 2006, section 4, gave legal mandate and powers to the Authority to regulate, coordinate and oversee Kenya's maritime affairs through the performance of various functions as specified under Kenya Maritime Authority Act, Section 5, one of which is to "implement and undertake coordination in maritime security". The said coordination is viewed in the context of KMA's specific maritime security functions as prescribed in the Merchant Shipping Act, 2009, which has transposed into national legislation various international and regional treaties relating to maritime security.

Under the Merchant Shipping Act, 2009, KMA is the designated Competent Authority for implementation of various international treaties relating to maritime security in Kenya. As Kenya's maritime administration responsible for the regulation of maritime transport and shipping; KMA functions include implementing national, regional and international measures to prevent ships while in Kenya's maritime domain from engaging in transnational organized crime such as trafficking in arms; trafficking in narcotics and psychotropic substances; illegal trade in wildlife and other items in contravention of the Convention on International Trade in Endangered Species of Wild Fauna and Flora; piracy and armed robbery against ships; crude oil theft; illegal oil bunkering; human trafficking; human smuggling; and marine pollution.

From the foregoing, KMA's principal objectives of regulating, coordinating and overseeing Kenya's maritime affairs include implementing policy and legal measures relating to maritime security that are preventive in nature. These measures aim to protect people, ships and their cargo, port facilities and the marine environment. The

interviewee was asked to state his opinion on the capabilities of the KMA. The respondent pointed out that the agency is limited in its ability to execute its mandate due to, overlapping mandates, poverty and ignorance, social-economic challenges, and degradation/decline of marine ecosystems and resources. In this regard, the interviewee said: *“It is not possible for KMA to optimally achieve its objectives. The consistent budgetary rationalization and constraints have limited the organization’s activities towards the conduct of the stipulated mandates in the KMA Act and the Merchant Shipping Act.”*¹

He further alluded to challenges in overseeing “the implementation of policies relating to maritime affairs integration” as enshrined in its mandate. This was because there is no common policy that informs all organization tasked with maritime security. In most cases, each organization has its strategies and way of doing things. There were no legally binding coordination frameworks, with issues arising being dealt with through specially formulated *ad hoc* committees. Furthermore, poor cooperation with Tanzania and the absence of an effective maritime force in Somalia means; joint implementation of international conventions has been a tall order because states ratify different maritime conventions for their convenience and interest. This was evidenced in his sentiments that; *“The presence of fragmented ocean governance and coastal management policies and practices has led to the absence of unified coordination among the maritime security agencies. As a result, each organization has its way of doing things leading to insufficient coordination and cooperation mechanisms.”*²

KMA is also faced by poor institutional capacity due to staffing and training gaps, due to the long and expensive professional training that is undertaken outside the

¹ KII with an officer of the Kenya Maritime Authority on April 29, 2020, Mombasa.

² KII with an officer of the Kenya Maritime Authority on April 29, 2020, Mombasa.

country. This finding is in line with the findings of Mbugua and Mwachinalo in “Assessment of Maritime Insecurity in the Kenya Maritime Domain,” which further explain why KMA falls short in enforcing the maritime regulations that have indirectly hampered its ability to make independent decisions due to inadequacy in training among the employees and the continuous supervisions by IMO. The maritime sector which for a very long time has been undermined by numerous suboptimal policies developed without consultation, led to duplication and wastage of resources among the agencies, hence resulting to having a great impact on these maritime security agencies’ capabilities. This was evidenced by his concerns which denoted that; *“Apart from poor coordination and insufficient technical human resources; the legal framework to the sector is wanting basically from the lack of a coherent and focused policy on the industry.”*³

2. Kenya Navy (KN)

Established by Kenya constitution 2010, Article 241 (2). It is organized and administered by the Kenya Defence Forces Act No.25 of 2012. It is primarily responsible for the defence of Kenya from all armed threats from the sea. The KN’s mandate is attained through roles that partake in protecting Kenya Sea Lines of Communication (SLOC), defend onshore establishment by destroying forces before they reach ashore, and protect the vital offshore economic activities, resources and installation against seaborne aggression. The navy in the traditional sense is a significant strategic instrument for implementing foreign policy; to project, promote and protect Kenya’s national interests.

³ KII with an officer of the Kenya Maritime Authority on April 29, 2020, Mombasa.

In the Kenyan context, just like most African navies, foreign policy as a ‘navy’ function has been demonstrated by deploying ships overseas on diplomatic missions – port visits, exercises, training etc. These represent only a small fraction of what the navy can meet. However, a larger part of the KN’s mission is coast guard in nature and relates to constabulary roles - environmental protection, prevent IUUF and maritime safety obligations that occur in Kenya’s territorial waters and the Exclusive Economic Zone (EEZ). However, the formation of KCGS entails the secondary roles previously performed by the KN is now KCGS’s functions and the navy can only execute this coast guard functions outside Kenya’s territorial waters.

The KN faces numerous challenges as depicted by the interviewees. To begin with, the KN could not often dominate the vast sea territory. The absence of a maritime capable force in Somalia expose Kenya to all kinds of transnational threats, hence makes it difficult and challenging for the KN to secure the volatile northern maritime frontier. One of the interviewees mentioned: *“The maritime jurisdiction is quite expansive and requires massive investments in surveillance and interdiction platforms to enable control and dominance of the entire maritime territory. This limitation renders the Kenya Navy’s capacity and capability inadequate to effectively secure the expanse of the Ocean. Adding to the instability in Somalia and lack of proper coordination and cooperation with Tanzania, then KN has to contend with utilizing the few maritime platforms to protect Kenya’s maritime territorial integrity without tangible collaborative support from other regional navies.”*⁴

Terror threats on maritime interest, both ashore and offshore within the coastal region puts Kenya Navy’s operational activities under the guidance of the intelligence provided. The reliance upon intelligence to conduct maritime operations has on some

⁴ KII with an officer of the Kenya Navy on April 13, 2020, Mombasa.

occasions had the navy's capacity and capability overstretched, resulting in having the issues of maritime security under continuous doubt by the consumers of maritime security. This assertion was made by one interviewee who affirms: *"Kenya's geostrategic location has made the country susceptible to all types of maritime threats. Today, dominant non-traditional maritime threats are what informs the primary and secondary roles of the KN. The threats of terrorism have made the navy to quickly adapt to the challenges of asymmetric threats through which it engages in intelligence-led operations within Kenya's maritime jurisdiction. This puts the navy's activities towards these asymmetric threats at the mercy of credible intelligence to enable it to thwart the complex and unpredictable asymmetric threats that have to continue to exploit the vulnerabilities; both ashore and at sea. The navy currently faces a very fluid and expansive environment, and the challenges that come with maritime intelligence has gone into impacting the execution of various maritime operations."*⁵

Trafficking and illicit trade have also continued unabated. In one instance, the Kenya government destroyed seaworthy drug-laden vessels off its Mombasa harbour. This shows that it is often possible to smuggle goods into Kenya, some of which include Small and Light Weapons (SALW). Some of these weapons eventually end up in the hands of terrorists and other armed bandits. Kenya is unable to independently restraint the complex transnational logistical support of the terrorist groups in the Horn of Africa; who rely on the vast ocean for sustenance. The recruits from Kenya have often defeated the maritime surveillance to cross into Somalia. This and other security risk vulnerabilities show that the maritime domain has overwhelming challenges beyond the control of the Kenya Navy. These findings were echoed by one of the interviewees who allude: *"It is very difficult to control any kind of smuggling in Kenya without*

⁵ KII with an officer of the Kenya Navy on April 12, 2020, Mombasa.

effective cooperation among the States, region and international maritime agencies and stakeholders. Unga (Colloquial Kiswahili for hard drugs) continues to imperil the lives of young persons in coastal towns. This was evident with the destruction of a very serviceable and sea-worthy drug-laden ship and boat by the Kenyan government. People are also trafficked to join terrorist organizations in Somalia. Others from the larger Eastern Africa region and elsewhere have also been trafficked to South Africa through Kenya's maritime space. Huge cache of arms and explosives have also been discovered in Boni forest and at safe houses in areas as far as Likoni, having been infiltrated from Somalia. Some end up in the hands of criminals and armed bandits.”⁶

When asked to list some of the limitations facing the Kenya Navy, one of the interviewees pointed out that the agency was facing challenges such as personnel retention, lack of sufficient assets, limited interagency cooperation, bureaucratic politics, and limited funding among other challenges. This was evident from the respondent who said: *“The issue of personnel retention and the concerns of advanced technology has had a great impact on the navy. This is due to the diversification of jobs ashore; both within the country and abroad, which have continued to recruit employees with a military background. The concerns of the increasing dynamism in technology development in the maritime domain have rendered it difficult for the navy to keep pace in quick succession with the change in technology, which is a very expensive venture for a developing state. Another limitation comes with the limited maritime Platforms/ Assets due to the acquisition and maintenance cost, and the impacts related to inter-agency cooperation, which is marred with aspects of push and pull that comes with the bureaucratic views and standpoints, where a majority of the entities feel that the*

⁶ KII with an officer of the Kenya Navy on April 13, 2020, Mombasa.

success or contribution achieved through a multi-agency effort is difficult to be owned or reflected in the organization's achievements/scorecards.”⁷

The respondents also pointed out that the Kenya Navy has Standard Operating Procedures (SOPs). In this regard, the respondents were presented with the statement: “Does your organization have Standard Operating Procedures (SOPs)? How do they enhance your relationship with other organizations in the conduct of your maritime security duties?” However, the SOPs were divergent which limited the efficacy of multiagency cooperation. Although success was at times realized despite divergent multiagency approach, poor coordination and interlinkages. A problem Christinus argues to be a result of maritime institutions having a different level of development and hierarchies. However, the increase in disjointed response continues to be witnessed in the maritime sector. A respondent remarked; “*Yes, we do have SOPs that for a long time have sustained the conduct of operations within our organization, which has been helpful towards the ended mission. However, our SOPs are different from what other organizations have and hence makes it difficult to all aspect of compatibility among us and other agencies, which renders working in a multiagency set up become difficult in some situations. Not all situations do we need compatibility but the essence of thinking in the same line is critical to enhance the team achieve the intended objective. There have been some situations where multiagency has worked so effectively despite the difference in SOPs e.g. the MV Alnoor, the boat seized with drugs at sea by Kenya Navy and several teams came in handy to ensure proper handling of the situation. The incident where a vehicle plunged into the sea at the ferry in December 2019, is one incident that points to the need of unified SOPs that goes into putting down explicitly*

^{7 7} KII with an officer of the Kenya Navy on April 15, 2020, Mombasa.

the procedures of exactly who will do what, where and when during the time of such incident.”⁸

3. Kenya Coast Guard Service (KCGS)

The Kenya Coast Guard Service (KCGS) is another important agency tasked with maritime security in Kenya. It is a maritime law enforcement agency formed in 2018 vide Kenya Gazette Notice No. 11 and authorized to deploy in territorial waters to enforce maritime security and safety, pollution control, prevent illegal trafficking of drugs, goods, firearms, and ammunition. It also has the authority to prosecute maritime offenders, port and coastal security, search and rescue and protect maritime resources that include fisheries and archaeological or historical objects or sites. Interviews conducted confirmed KCGS is facing challenges as a new unit that is positioning itself in an environment that has for a very long time lacked a fully dedicated and an effective maritime law enforcement agency.

The challenges include duplication of roles, limited resources, incompatible organization culture among the numerous security agencies brought together to form the service, intelligence lapses, and inability to deal with international syndicates. The interviewee observed that; *“The KCGS is still at the infancy stage and has to contend with the limited personnel and platforms in the execution of its mandate. The challenges that come with the expansive maritime jurisdiction and increased maritime threats prove to be a great challenge to the agency in dealing with tactical and operational demands. As a new agency on issues of maritime security, some of the KCGS functions*

⁸ KII with an officer of the Kenya Navy on April 12, 2020, Mombasa.

are also reflected in other agencies' mandates that were in existence before the creation of KCGS.”⁹

When the respondents were asked “Do you see any duplication of roles among the maritime security agencies? What is the impact of this?” The respondents were keen to observe duplication of roles as a key challenge amongst the maritime security organizations. Duplication of duties was reiterated by one of the respondents who said: *“The Kenya Coast Guard Service (KCGS) was established as a part strategy cure to this duplication. However, it does not help that KCGS Act Section 58 provides that the State agencies shall continue to undertake their law enforcement functions. Therefore, the jury is still out on the success of KCGS as a cure to the overlapping and duplication.”¹⁰*

The issue of overlapping and duplication of roles also emerged on issues touching on the jurisdiction of KCGS, which under KCGS sections 8 and 9, is limited to territorial waters (24 nautical miles) when in an actual sense most maritime crime occurs in the EEZ. Before the establishment of KCGS, KDF (Kenya Navy) maintained maritime security in the entire maritime domain, including law enforcement as was stipulated under Section 18 of the Kenya Fisheries Management and Development Act, 2015, that an officer of the Kenya Navy may be appointed to enforce fisheries laws. Hence, there is potential for overlapping and duplication of KCGS and Kenya Navy functions should KCGS undertake maritime security roles and law enforcement functions beyond its operational jurisdiction.

⁹ KII with an officer of the Kenya Coast Guard Service on April 17, 2020, Mombasa.

¹⁰ KII with an officer of the Kenya Maritime Authority on April 29, 2020, Mombasa.

4. Kenya Ports Authority (KPA)

Another major marine organization is the Kenya Ports Authority (KPA). The Authority was set up by an Act of Parliament in January 1978, and today its main responsibilities concern the operation, maintenance, improvement, and regulation of all sea, Inland Waterways and Inland Container Depots. Core activities include Stevedoring, Shore Handling Pilotage, Towage, Mooring, Dry Docking, Navigational Aids and Maintenance of the Channel. The port being a critical infrastructure, it needs situational awareness of the Kenyan waters to manage all seaports and inland waterways. This has the port to embrace the Maritime Domain Awareness (MDA) on issues regarding maritime security and safety arrangements. In this regard, one of the interviewees said: *“KPA ensures that it establishes the vessels that call into the port of Mombasa as early as possible by having the vessels make an advance 14 days’ notice, with details of the manifest, estimated time of departure and arrival. Secondly, the Authority directs vessels passing through the Kenyan Waters by the installed buoys along the Kenyan Coastline.”*¹¹

The interviewees pointed out that as far as maritime security was concerned KPA faced some pertinent challenges. Some of these included inability to deter spoofing of vessels, lack of sufficient equipment to handle issues of vessels not broadcasting an automated identification signal and corruption. This was affirmed by one interviewee who mentioned; *“The main challenges that are experienced by the KPA include; Dark targets, Spoofing of vessels, Switching off of AIS, Illegal fishing, Smuggling of drugs and Smuggling of human beings in small ports. The issues of corruptions have made the port of Mombasa a highly susceptible asset, hence renders*

¹¹ KII with an officer of the Kenya Ports Authority on April 19, 2020, Mombasa.

it inevitable for other crimes to persist. That is why drugs and other illicit cargo that can threaten the security of Kenya get into the country.”¹²

5. Kenya Wildlife Services (KWS)

The Kenya Wildlife Services (KWS) is also tasked with marine security. The KWS was established by an Act of Parliament, the Wildlife Conservation and Management Act (CAP 376) No. 16 of 1989, with a mandate largely to conserve and manage wildlife in Kenya, now repealed to Wildlife Conservation and Management Act, No. 47 of 2013. It has law enforcement capabilities on issues concerning the Marine Protected Areas (MPAs) and the terrestrial parks and reserves in the country.

The challenges of conservation were evident when the respondent affirms that: *“Poaching of the precious and endangered species like turtles continue to be reported in the northern coastal towns of Kiunga and Ishakani, villages. The transboundary maritime activities within the border towns entail unhindered illegal maritime activities due to absence of maritime authorities in the Somalia side and lack of awareness among the locals on the importance of conservation. The inability for the KWS to patrol at the border point has made the illegal poachers exploit the vulnerabilities and challenges facing the KWS.”¹³*

It was also a concern that the KWS has not been able to stop the illegal trade in animal trophies and other marine wildlife. Illegal exploitation of the marine reserves, illegal fishing and each year, elephant tusks, rhinoceros horns, leopard skins, and other contraband game materials continue to be exported by sea to markets, mostly in Asian countries such as China. One of the interviewees alluded: *“Illegal fishing has depleted*

¹² KII with an officer of the Kenya Ports Authority on April 21, 2020, Mombasa.

¹³ KII with an officer of the Kenya Wildlife Service on April 30, 2020, Lamu.

some protected fish species off the East African coast, and with limited capacity as a hindrance to KWS execution of its function, the organization has been viewed as if it is unable to do anything much about this activities. Especially when cases of endangered species and body parts worth millions of shillings are smuggled to international markets at the port undetected due to some unscrupulous dealings and partaking by rogue officers within the agencies working at the port of Mombasa.”¹⁴

The study findings show that it has been a tall order for KWS to protect marine resources. The overwhelming challenges are beyond the control of the organization and the presence of accomplices working with international illegal smuggling syndicates mean the problem is a global issue. These means the maritime security organizations need to work towards a multilateral approach in dealing with the threats that may continue to cause a loss of maritime wealth.

6. Kenya Revenue Authority (KRA)

The Kenya Revenue Authority (KRA) through the Customs and Border Control Department (CBCD) does conduct border control of exports and imports, travellers and border patrols and surveillance. The maritime domain is a key factor of concern for KRA. The port of Mombasa is a major point of entry into the country for goods through the seas from and to other continents, which forms the largest share of customs revenue for the country. KRA sees the maritime security as critical to the protection of society and environment through the enforcement of prohibitions and restrictions by barring international trade in illegal substances and materials: - narcotics substances, arms and ammunitions, endangered animal species, counterfeit or sub-standard goods. However, the presence of some rogue KRA officials at the maritime POE has tainted the organizations with issues

¹⁴ KII with an officer of the Kenya Ports Authority on April 26, 2020, Mombasa.

of complicity in tax evasions and clearance of illegal goods into the country. These threaten maritime security since some of the goods often end up in the local market.

Substandard goods from China and other Asian markets have posed unhealthy competition to local industries; often snuffing the life out of some of them. This is evidenced by the remarks by one of the interviewee: *“KRA has time and again sustained unhealthy competition in Kenya. Depending on whom you know, it is possible to evade duty. This means that some traders’ gets leverage over those who pay the real taxes. Consequently, some businesses just die off. Cheap and substandard goods have also been imported due to corruption which encourages the laxity in law enforcement at the port. This has engendered struggling and even collapse of the local industry. In other cases, KRA has been blamed for allowing contaminated foodstuffs into the country.”*¹⁵

7. Kenya Fisheries Service

The department, hereinafter also referred to as the fisheries department by the respondent, is responsible for the managing, developing and conservation of fishery resources. This is done through fisheries policy, fisheries marketing policy, fishing licensing, development of fisheries, fish quality assurance, coordination of development of policy, legal, the regulatory and institutional framework for the fisheries industry and the blue economy, enhancement of technical cooperation with partner states, coordinating maritime spatial planning and integrated coastal zone management, protection and regulation of maritime ecosystems, management and licensing of local and foreign fishing trawlers in Kenya waters, protection of the maritime resources in EEZ, overall policy for exploitation of agro-based maritime

¹⁵ KII with a retired officer of the Kenya Revenue Authority on April 16, 2020, Kilifi.

resources, policy on the development of fishing ports and associated infrastructure and capacity building for sustainable exploitation of agro-based maritime resources.

Although the State Department for Fisheries, Aquaculture and the Blue Economy has a presence in various parts of Kenya, its ability to secure the marine resources in Kenya has also been put to question. As shown by some of the interviews that depicted, illegal fishing as a problem that continued almost unabated along with the Kenyan maritime jurisdiction. In many instances, the DWF nations' sea-going vessels have trawled into the Kenyan waters, ravaging the fishing industry. The establishment of Beach Management Units (BMU) as a structure that would enhance community-driven co-management of fisheries along the Kenyan coast, is yet to end IUUF. Inadequate budget, lack of modern equipment and general management of the BMUs mean that the department is facing challenges in protecting the fragile coastal ecosystems.

IUUF, destruction of fish breeding areas and pollution has a direct consequence on the sustainability of the blue economy in Kenya. To this end, one of the respondents allude to; *“Limited resources have persistently impacted on the fisheries department, which has had a direct consequence on issues of maritime security within the vast Indian Ocean waters. Illegal fishing and issues of limited capacity to regulate the fishing industry means that endangered marine species are threatened. Even with the incorporation of BMUs to support the sustainable development of the fisheries sector, the BMU management activities on the aquatic environment is mostly restricted at the beach fish-landing station.”*¹⁶

¹⁶ KII with an officer of the Kenya Fisheries Service on April 22, 2020, Mombasa.

8. Kenya Marine and Fisheries Research Institute (KMFRI)

KMFRI was established in 1979 by the Science and Technology Act, Cap 250 of the Laws of Kenya, which has since been repealed by the Science, Technology, and Innovation Act No. 28 of 2013. It recognized KMFRI as a national research institution under section 56, fourth schedule. It is a state corporation responsible for researching all aspects of aquaculture, marine and freshwater fisheries, environmental and ecological fishing technology, and fish processing. The marine research includes physical and chemical oceanography, which involves the providence of scientific data and information for sustainable exploitation, management, and conservation of Kenya's fisheries and other aquatic resources. When asked about the capacity and capabilities of the KMFRI, the respondent pointed on limited resources, inadequate personnel and political interference to some of the recommendations provided by the organization. There was also evidence of having lots of research undertaken under KMFRI, but the findings end up not being considered in decision making.

In this regard, the interviewee noted that *“There are limited vessels to aid maritime research and those few that are there have proved how difficult it is to maintain and sustain a platform at sea. However, despite the challenges of conducting the research work, the implementation of some research work has continued to face some political interference that has led to unsustainable exploitation.”*¹⁷

9. National Environment Management Authority (NEMA)

NEMA established under “the Environment Management and Co-ordination Act (EMCA) No. 8 of 1999,” but became operational on 1 July 2002. NEMA mandate on blue economy and Ocean governance is founded upon the assessment and

¹⁷ KII with an officer of the Kenya Fisheries Service on April 22, 2020, Mombasa.

incorporation; Blue Economy conceptualizes oceans and seas as development spaces where spatial planning integrates conservation, sustainable use of living resources, oil and mineral wealth extraction, bio-prospecting, sustainable energy production and marine transport. It enhances partnership and collaboration with key agencies and coordination through Integrated Coastal Zone Management (ICZM). This comes as a result of NEMA's mandate in coordinating, formulating of a legal framework, implementation and monitoring about the management of Kenya's coastal and marine resources.

The lack of resources and legal instrument, limited maritime security framework, lack of skills, lack of capacity and technology to enhance maritime security, and uncoordinated and ineffective enforcement within the institution and among other agencies were some of the challenges that the organization faced towards fulfilling the undersigned mandate. One of the respondents pointed out that, *“Issue of limited resources in pursuit of a clear and achievable objective, limitation in developing effective policies for maritime security, single-sector regulatory framework approach that has led to multiple regulations and conflicting mandates over identical issues that are often not in tandem with the actual physical environment and socio-economic dynamics limited the organization capability and capacity in undertaking its mandate.”*¹⁸

Indeed, one of the respondents pointed out that the major challenge facing NEMA was lack of coordination among the maritime security organization. In this regard, one interviewee said: *“The lack of institutional coordination framework and failure by sectoral efforts to recognize the interdependence and interconnectedness of*

¹⁸ KII with an officer of the National Environment Management Authority on April 30, 2020, Mombasa.

the coastal environment has resulted in poor planning, conflicting policies and duplication of efforts, more so between the national and county government”¹⁹

10. The Kenya Forest Service (KFS)

KFS is a corporate body established under the Forest Conservation and Management Act no 34 of 2016, which came into operation on 3rd of March 2017. It gave effect to Article 69 of the Constitution concerning forest resources, which is to ensure sustainable exploitation, management and conservation of all forest resources for the socio-economic development of the country. The responsibilities to conserve, protect and manage of all public forests includes the mangrove forests. When asked about the capacity and capability of the Forestry department to ensure the protection of the mangrove forests, the interviewee responded by alluding: *“Today, the main challenge in our department is lack of insufficient equipment to effectively deal with overexploitation of the mangrove forest that is also compounded by the absence of inadequate personnel. The department has limited platforms to conduct patrols in areas where this deforestation take place and at the same time threats that come with Al-Shabaab activities in Lamu County, has made it difficult for the department to equally affect law enforcement activities concerning the mangroves but rather have a substantive number of troop’s stationed in areas with Al-Shabaab threats.”²⁰*

The forest department is also not immune to high levels of political interference and corruption. Politicians have been on the forefront in challenging government’s agendas towards restoring the mangrove forests, especially when a ban was imposed on mangrove in Lamu. However, rogue and corrupt individuals have often colluded

¹⁹ KII with an officer of the National Environment Management Authority on April 27, 2020, Mombasa.

²⁰ KII with an officer of the Kenya Forest Service on April 26, 2020, Lamu.

with departmental officials to unscrupulously obtain permits for exploiting forest resources. This was evident from the respondent assertions that were of the view that: *“When the government imposed a mangrove ban in Lamu County in 2018, it was meant to increase the county's mangrove cover and curb illegal logging that had massively destroyed the fish breeding grounds. However, the local politicians were first to come out and denounce the ban arguing that a substantial number of the local community solely dependent on mangrove trade for survival. This created bad blood between the community and the forest rangers who live amongst the communities.”*²¹

The issues of corruptions were alluded by a respondent who said: *“Corruption means that permit to harvest mangrove resources are pegged to whom one knows; as a result, mangrove forests can be exploited with abandon”*²²

11. The Immigration Department

The immigration department under the Kenya Immigration and Citizenship Act, 2010 and Kenya Citizenship and Immigration Regulation, 2012, is in charge of border control and the prevention of illegal immigrants. The study findings show that it is a great challenge to ensure effective border control, especially with countries that do not have competent border control agencies. This has tended to overstretch the existing limited resources; both financial and personnel. In some instances, people legally enter the country and decide to stay, thus putting into question the capacity and capability of the organization in stumping out illegal residents out of the country. This sentiments also infers to the existence of illegal smuggling of protected species in and out of the country, and especially through the extensive and unpoliced maritime domain. In this

²¹ Ibid

²² KII with an officer of the National Intelligence Service on April 12, 2020, Mombasa.

regard, one of the respondents said: *“The immigration department has often been riddled with cases of corruption due to some crooks that do not abide by the organization ethics. This has ended on impacting the functions of our organization; ability to effectively enhance border security. The presence of ready markets to illegal items like elephant tusks has had the transnational organized smugglers to easily exploit Kenya’s maritime challenges by using all means possible to ensure contraband goods get into and out of our borders.”*²³

12. National Intelligence Services (NIS)

The National Intelligence Service (NIS) established by the Constitution of Kenya 2010, Article 242 (1), has its functions and organization administered under the National Intelligence Service Act, 2012. The NIS is tasked with ensuring intelligence security and conducting counterintelligence through detecting and identifying any threat or potential threat to the security of Kenya. This informs NIS engagement on maritime issues, which includes activities that concern piracy and terrorism within Kenya’s maritime domain. The respondents pointed out that the NIS has for a very long time faced challenges related to the increased complexity of crimes, continue political interferences, and limited collaborative capacities to deal with highly dynamic transnational maritime threats. In the absence of uniform SOPs that are crucial towards enhancing the good working relationship with other players in the maritime sector; denotes a situation where the interagency cooperation is highly challenged. This resulted in poor coordination in the fight against crime in the maritime environment. This was attested by the words of one of the respondents who said: *“Duplication of roles does exist leading to sibling rivalry and competition for resources. This*

²³ KII with an officer of the Kenya Immigration Service on April 28, 2020, Mombasa.

duplication of roles has further created confusion for stakeholders wishing to get services.”²⁴

13. Bandari Maritime Academy (BMA)

BMA is a very critical institution that aims at ensuring sustainability and development of the most critical assets in maritime security responses: the human resource. The change of name from Bandari College to BMA was a strategic decision that insinuated the formation of a new and independent state corporation delinked from the control of the KPA. This fundamental decision was anchored on the need to have an institution that was going to implement government policy on maritime education and training, by focusing on providing labour needed for sustainable growth of the blue economy. To highlight the critical role of BMA the interviewee responded that: *“Interests of the nation surpass that of the organization. The need to ensure a strategic and selective approach to Kenya’s blue economy venture informed the delinking of KPA from BMA. BMA is now a regional centre for maritime excellence with a new mandate of providing a competent and skilled workforce to the country, region and global maritime sector.”*²⁵

The institution with a region-centric outlook is keen on having a proactive approach and appreciation of the local, regional and global market needs. This implies that it will be pursuing to fill the shortage of seafarers in the sector that has seen a decline in the supply of maritime labour from the developed countries and the Asian region like the Philippines. Underlining the importance of training the interviewee said; *“In 2019, IMO review on its white list saw more than 70 countries at a verge of being delisted for non-compliance with requirements of the 1978 Standards of Training,*

²⁴ KII with an officer of the National Intelligence Service on April 12, 2020, Mombasa.

²⁵ KII with an officer of the Bandari Maritime Academy on April 27, 2020, Mombasa.

Certification and Watch-keeping for Seafarers (STCW) Convention. However, IMO has embarked on a two-year process of reviewing countries for non-compliance, which allows us to reinforce our white list status and at the same time brand our self as the preferred centre for maritime education, training and certification within the African region.”²⁶

4.4 Existing Policies and Strategies Shaping the Maritime Threats in Kenya

The second objective of the study was to analyze how the existing policies and strategies are shaping the maritime threats in Kenya. The respondents were presented with numerous questions on this subject.

4.4.1 Policymakers Appreciation of the Maritime Space

To begin with, the respondents were presented with the question: “How do the decision-makers; the policymakers and legislators appreciate the maritime sector and how do their decision-making undermine or enhance the roles of your organizations?” The responses obtained indicated how for a very long time majority of the policymakers had been oblivious of the overall importance of the maritime environment and the resources therein. However, the narrative changed in March 2015 during the National Maritime Conference (NMC 2015) which was attended by Kenya’s President and the Secretary-General of the IMO. During the conference, there was a rallying call for a renewed focus in the maritime domain following NMC 2015, and it was made clear that there exist in the “Blue Economy” living and non-living resources which present a new frontier for the country’s economic development. There were also urgent calls to protect and secure these resources. This was confirmed by one of the respondents who said:

²⁶ Ibid

“The decision-makers are yet to fully appreciate the critical role that maritime security plays. For a very long time, the focus had been largely on revenue collection at the Port of Mombasa. However, the current regime has made some critical policies such as the establishment of Kenya Coast Guards to enhance maritime security”²⁷

The appreciation and perspective of the maritime space have been varied based on the experience, knowledge and field of specialization of the individual. However, the concerns of resource allocation and legislation had a part in influencing the formulation of maritime policies and strategies. The resultant decisions by legislators consequently impacted on the functions of various maritime security organizations. To this, one of the interviewees confirm that: *“It is evident that most of the members in the legislative house and the executive do not know what exactly happens in the maritime domain. How then can they be effective in legislating and policymaking? Just look at how resources are allocated among the security agencies. More funds are apportioned to the land forces than is to the forces at sea. The same is replicated with the difference in numbers that make up these forces. However, things are changing but still, there is a need to inculcate maritime culture among the decision-makers because without it, then the maritime domain will continue to receive the least attention than it deserves.”²⁸*

The findings show that the maritime sector was challenged by inadequate policymaking and legislation, as a result of having the government institutions authoritatively making decisions that were not consistent and appreciative of the dynamic strategic operational environment. An institutional approach that forced Kenya to adapt to the nature of threats by forming new maritime agencies; evident with KCGS. This to some extent has resulted in the duplication of roles among the maritime

²⁷ KII with an officer of the National Intelligence Service on April 29, 2020, Mombasa.

²⁸ KII with a Senior Lecturer in the University of Nairobi on April 4, 2020, Mombasa.

agencies, which has gone into limiting the implementation of the various mandates by Kenyan maritime security organizations. It is a factor that is attributable to inadequacy in harmonization and rationalization of the various functions of these organizations. In this regard, an interviewee said: *“There is very little effort put towards protecting maritime space while at the same time allowing for proper use of its resources. The KCGS was meant to marshal resources and end this duplication. However, some agencies are still clinging on their initial enforcement mandates leading to wastage of resources allocated to enforce.”*²⁹

It is also noted that during policy formulation of the marine aspect; for the holistic decision-making process, all key agencies are involved through the task force and steering committees, as an approach to deal with the issues holistically and address foreseen opportunities and threats related to coastal and ocean regimes. This is a multidimensional and interlinked that strengthen stakeholder’s relationship.

4.4.2 Sea blindness

The interviewees were presented with the question: “What is sea blindness? How can you contextualize to Kenya’s maritime prospects?” The responses obtained show that indeed there were serious challenges related to sea blindness in Kenya. It was evident that until 2015, the successive regimes after Kenya’s independence were less considerate of Kenya’s blue economy, hence the reason for inconsistent and minimal development of the maritime domain. Sea blindness in Kenya’s case, therefore, was both in economic and security dimension, with the piecemeal economic development of Kenya’s ocean space as was evident by most of the developments that took place along the coastline of Kenya.

²⁹ KII with an officer of the Kenya Ports Authority on April 19, 2020, Mombasa.

Even though there have been some gains on MDA among the Kenyan decision-makers, collectively the appreciation is rated as average in comparison with states like Seychelles and Mauritius. In this regard, a respondent reported that: *“It is the lack of exploitation of the sea resources and opportunities availed by the sea. Kenya’s maritime prospects have leapt in the recent years but it is still myopic. It has not been approached in a holistic manner capable of unlocking its full potential. Out of the eighteen economic clusters of the blue economy, Kenya has only scratched the ground of about seven clusters. The remaining eleven clusters have not been thought about. Also, the investment in the blue economy has not been prioritized as it is urgently required. It needs to be supported by the top leadership and prioritized for the sector to yield substantial benefits.”*³⁰

The Legislation is equally impacted by the issue of sea blindness and which it has a bearing on the implementation of the divergent mandates by respective maritime security organizations. The effects of sea blindness prevented decision-makers from allocating enough financial resources for the exploitation of the ocean space. This sea blindness also caused them to ignore the need for modernizing the Kenya Navy through hiring and training personnel and acquiring equipment and ships. This was alluded by one of the interviewees affirm: *“In Kenya, this has been a problem which stems from inadequate legislation towards maritime security and subsequent poor funding and inadequate personnel to the maritime sector. The problem is aggravated by short-sighted politicians who view maritime security from a local perspective as opposed to the international level. The result is poor funding and ineffective legislation to the maritime sector.”*³¹

³⁰ KII with an officer of the Kenya Navy on April 12, 2020, Mombasa.

³¹ KII with an officer of the National Intelligence Service on April 29, 2020, Mombasa.

In the same accord, one interviewee argued that issues of sea blindness were a real challenge facing the country. It affected policy formulation since the absence of knowledge to what is at stake affects such processes. Sea blindness is a problem that cut across from the strategic to the local level, hence the respondent supported his argument by asserting: *“Kenya’s populous is no exception with sea blindness, and the majority do not realize how maritime issues affect their daily life. A lot of sensitization should be done to deal with misinformation and myths.”*³²

In this context, there was a need to put in place concerted efforts and mechanisms aimed at creating maritime domain awareness that emphasize on reducing the consistent sea blindness that continues to have a bearing on policy deliberations and legislation on issues of maritime security. It is a problem that Kenya needs to adopt an incremental approach to reduce the risks and uncertainty in a slow but progressive manner because if it is not eliminated, it will go into impacting maritime security engagements from the strategic level to the tactical level.

4.4.3 Best Approaches to Enhance Kenya’s Maritime Security

The respondents were presented with the statement: “What is the best approach toward enhancing Kenya's maritime security?” The responses obtained show that this could be achieved through a national security policy. A security policy that envisages multinational cooperation to address pertinent maritime security issues at the national, regional and global dimensions because the maritime domain is one that is shared by all humanity. This then means with national security policy in place, it will go into informing the country’s maritime security strategy that is crucial in creating a platform that can push for a regional maritime security strategy. This will eventually enhance

³² KII with an officer of the Kenya Immigration Service on April 28, 2020, Mombasa.

and strengthen the regional commitment towards common maritime interests. This is evidenced in the words of one of the respondents who said: *“First and foremost Kenya needs a national security policy to enhance Kenya’s long term strategic approach to issues of national security. The national security policy will be decisive in identifying threats to the national interests and key towards informing the adopted strategies. Significantly, the strategies adopted needs to engender region-centric approach by first building strong collaborative frameworks with other countries within the East African region.”*³³

In emphasizing the importance of maritime security, one interviewee was of the view that *“Kenya needs to formulate a National Integrated Maritime Policy to address the various sub-sectors, including their challenges and opportunities. Following the Policy, there should be drafted sector-specific strategies, for instance, the National Maritime Security Strategy which will then be followed by enacting relevant legislation and perhaps amending existing laws.”*³⁴

Other respondents saw the best way towards enhancing maritime security is through a multi-agency approach. This was affirmed by one of the interviewees who said that: *“Multi-agency approach is the best approach to tackle most of the existing maritime threats and security challenges. It is very expensive to equip every agency to full capacity capable of effectively operating independently. In this respect, multi-agency is a necessitated approach to bring about the needed synergy using the limited available resources.”*³⁵

Inter-agency cooperation and coordination were reiterated by a majority of the respondents as the best approach towards enhancing Kenya’s maritime security, this

³³ KII with a Senior Lecturer in the University of Nairobi on April 4, 2020, Mombasa.

³⁴ KII with an officer of the Kenya Maritime Authority on April 29, 2020, Mombasa.

³⁵ KII with an officer of the Kenya Navy on April 15, 2020, Mombasa.

includes the need to develop a Standard Operating Procedures (SOPs) for the interagency operations, to ensure its binding and strengthen loopholes from every agency for effective and efficient monitoring. However, other interviewees posit that as much as multi-agency collaboration is the way to go, legislations need to be in place to ensure its effectiveness. The assertions were reinforced by these sentiments that: *“There is a need for a maritime security strategy to merges all SOPs that guide the maritime security agencies. The Multi-agency concept should be put into law so that various agencies are tied to it as opposed to the current scenario where they operate on goodwill.”*³⁶

In this context, it is evident that one of the best ways in which Kenya’s maritime security could be achieved was through the enactment of a national security policy to inform the maritime security strategy. In the context of a sector-specific approach, the formulation of a National Integrated Maritime Policy to address the maritime sector challenges and opportunities will suffice. This will go into improving the already existing *ad hoc* multi-agency approach. Is to ensure it brings into perspectives all the concerns of maritime security from the national, regional and local levels, to effect concerted efforts among all stakeholders.

4.4.4 Multiagency Approach towards Maritime Security Engagement

The respondents were presented with the questions: “Do you understand the concept of a multiagency approach? Does the maritime security agencies undertake this approach and how best can it be approached in the maritime sector?” It was evident that Kenya’s maritime domain has many State and non-State actors involved in various activities including the exploitation of marine living and non-living resources; maritime

³⁶ KII with an officer of the National Intelligence Service on April 29, 2020, Mombasa.

commercial activities; defence and security; conservation and management of the marine resources; and enforcement of customs, fiscal, immigration, shipping, and sanitary laws. This was evident by one respondent who said; *“Multi-agency approach is a current technique used by the government and private agencies in managing marine resources and towards addressing the overlaps and gaps. It is a multidimensional approach involving many forms of partnerships and multi-sector, which involves a multiplicity of agencies in the conduct of maritime security operations.”*³⁷

It is one of the most current approaches used by most national security agencies towards enhancing effective governance of resources within the maritime domain. The Kenya Coast Guard Service (KCGS) established in 2018 is conceptualized as a multi-agency approach to MDA, maritime security, maritime law enforcement. KCGS is pooling the limited resources and capacity, creating synergy, and enhancing interoperability of the State actors. KCGS impact will enhance Kenya’s maritime safety and security, as it tries to apply this approach with key maritime agencies through the formulation of an inter-agency memorandum of understandings.

The findings show there was multiagency cooperation. The adoption of the multiagency approach by the government has yielded a lot and different maritime security agencies are today reading from the same script and breaking away from the silo mentality. This has been achieved through timely sharing of information, pooling of resources and integration of systems at the Joint Operations Centre. In this end, one of the interviewees elaborated this by asserting: *“The Security Amendment Act 2014, Sec.75 saw the establishment of the Border Control and Operations Coordination Committee (BCOCC). The Act gave a provision for establishment of sub-committees Border Management Committee (BMC) along the Kenyan borders to implement on its*

³⁷ KII with an officer of the National Environment Management Authority on April 27, 2020, Mombasa.

directives. As a pilot stage, Joint Operation Centers (JOC) were established in three locations; air, land and sea borders to support the operations of the BMCs that hold their meetings fortnightly. By August 2016, the concept of JOC was introduced following a resolution by the BCOCC to maximize coordination between agencies, improve understanding, increase information and intelligence sharing and strengthen and streamline the border operations and enforcement process at the Mombasa Point of Entry (POE). The JOC which is located at the port of Mombasa incorporates agencies directly involved in the border operations/enforcement process as well as those agencies that serve in a support capacity which are vital to the success of these activities, functions and procedures. JOC is a one-stop collection, research, compilation and dissemination entity designed to enhance operations, security and information /intelligence sharing at and in-between the ports of entry/exit. All the maritime law enforcement agencies by their Act, have their presence in the BMC and hence coordination of any operation at the sea, becomes easier especially where different agencies have diverse capabilities and mandate at the sea.”³⁸

Multiagency approach among the concerned agencies is not effectively implemented especially in managing the broader concept of maritime security. To achieve a harmonized cooperation, there should be a legal framework to guide these maritime security organizations. This was reiterated by one of the respondents who affirm that: *“If given the support it deserves, it would enhance and facilitate maritime security engagements within the maritime sector. The Multi-agency approach as much as it produces very good results, there is a need to expand its security scope and come up with ways on how best Kenya can effectively utilize its maritime sector. This will*

³⁸ KII with an officer of the Kenya Ports Authority on April 26, 2020, Mombasa.

*need broadening the concept of maritime security that continue to inform the scope of the maritime multi-agency approach.*³⁹

From the findings, it is evident that there were gaps in the existing policies and strategies, were compared to countries like France and India, who have national security policies that inform the national maritime strategies. This has had a direct consequence on the maritime threats in Kenya. The main challenge was the lack of national security policy, which is a requirement to provide a strategic intention of the country in the aspects of national security. In this regard, the country often relied on *ad hoc* national security policy that is limited to issues that concern the maritime sector. This then put the country in a reactive posture instead of engendering proactive posture to the maritime security issues that arise in the country. It was evident that there is no uniform SOPs that guides the conduct of maritime security. As a result, each organization has its modus operandi. The multiagency cooperation seems to be effective in responding to issues concerning the border but limited in other maritime security dimensions. However, the scope of the multiagency responses needs to be expanded and at the same time legalize to ensure various stakeholders are incorporated and tied to it as opposed to the *ad hoc* practices. The inherent sea blindness among the policymakers and legislators has also had an input in the conduct of maritime security. Failure to acknowledge the critical role of maritime security towards the national security and its relationship to economic prosperity puts the country's maritime security engagements under limited strategic approaches that continue to be incapacitated by the inadequacy in legislation.

³⁹ KII with an officer of the National Intelligence Service on April 12, 2020, Mombasa

4.5 Research-Based Policy Options towards Enhancing Maritime Security

The last objective of the study was “to proffer research-based policy options on how best the problem can be addressed.” Various policy-based options were suggested by the respondents. To this end, the study suggests numerous options. These include the framework for funding and training, as well as the integration of all stakeholders to collaborate in dealing with maritime security issues.

4.5.1 Capacity Enhancement Policy Options

There was also a need to put in place effective policies and strategies aimed at reining in the limitations in surveillance and collection of intelligence in the maritime space due to the complex and unpredictable asymmetric threats. KMA as the custodian of the Kenya Ships Register confirmed that by the last count in 2013, there were 15,000 small vessels (of 24 metres in length and less) operating in coastal and inland waters. This has made it difficult for KMA to keep up with the rigorous registration process which includes verification of various details concerning ship ownership and operations, which demands consistent KMA vessel inspectors visiting many remote areas to conduct the required inspections prior to licensing. This can be attested by one of the interviewees said: *“Kenya's maritime domain is wide and expansive. The presence of numerous private fibre boats, canoes and dhows is in itself a threat to Kenya's maritime security due to the challenges that have made it difficult for the government to effectively control and monitor the vibrant artisanal fishing industry. Under these circumstances, the government needs to come up with a strategy that will fully support the fishing industry to compliment the few national maritime security platforms especially now that Kenya eyes the shipbuilding industry. There is a need to provide a fully government-sponsored training and furnishing programme to the local fishing*

industry to ensure effective government control and guidance to build a more vibrant and professional fishing industry that will have the fishing community recognized as actors .”⁴⁰

Efforts aimed at enhancing MDA was recommended to ensure timely and accurate situation awareness of the maritime domain to enhance decision making. This was put by one interviewee that Kenya; *“Needs to unpackaged MDA in framework formulation by putting more emphasis on major thematic areas such: monitoring activities at sea, fusing information provided by different agencies and analyzing this data to identify patterns, trends, anomalies and suspicious activities.”⁴¹*

4.5.2 Most Critical Maritime Security Strategic Gaps

The respondents were presented with the question: “If a government is to formulate a maritime security strategy, what do you consider the most critical thing that it needs to address?” The findings show that the government needs to conceptualize a maritime security strategy that will go into addressing the challenges that are related to the collaborative maritime security frameworks among all the maritime stakeholders for efficacy. This will be crucial towards enhancing integrated approach to maritime security measures and maritime law enforcement in Kenya. As a concern to maritime security, one of the interviewees responded; *“The cure to overlapping and duplication of functions is through effective cooperation and coordination from the highest to the lowest levels. Hence it should address disjointedness and overlaps of mandates by reviewing the statutory documents and anchoring the multi-agency approach as a doctrine to be practised by all the stakeholders.”⁴²*

⁴⁰ KII with an officer of the Kenya Navy on April 13, 2020, Mombasa.

⁴¹ KII with an officer of the National Environment Management Authority on April 27, 2020, Mombasa.

⁴² KII with an officer of the Kenya Navy on April 15, 2020, Mombasa.

Other respondents were concerned with the maritime border dispute with Somalia as an existential threat to Kenya's national interests and the national security at large as it is with the provision of Article 238 (1) of Kenya's Constitution. This was a great concern, which was categorically stated by one of the interviewees who said that: *"There is need of ensuring that Kenya's maritime borders are demarcated and reaffirmed to avoid endless disputes with its neighbours. This will only be possible by first resolving the maritime disputes with Somalia through whichever channel is appropriate"*⁴³

4.6 Hypothesis Testing

The study was guided by two hypotheses. The first hypothesis was: the effectiveness of maritime security is a function of implementing pragmatic maritime security strategy. These hypothesis were accepted since as you can see from the findings obtained, it is evident that most of the maritime security organisations were as a result of the policy adopted to as a reaction to a problem impacting the maritime domain. However, this has led to the formation of numerous organisations with distinct functions that have ended up to duplication of tasks and also having each organisation implementing their departmental strategy.

The second hypothesis was: the containment of the maritime security threats is a function of implementing pragmatic maritime security strategy. This hypothesis was also accepted. This emanates from the fact that there is the duplication of roles among most maritime security organizations; a function of legislation that has led to unhealthy competition, mistrust and acrimony. The reactive maritime responses that have been consistently glaring, especially with the way the maritime security agencies dealing with the crisis depicts lack of strategic response that is well conceptualized to inform

⁴³ KII with an officer of the National Intelligence Service on April 12, 2020, Mombasa.

proactive responses in dealing with maritime security issues. It was further elaborated that the scope of the multi-agency approach towards maritime security was narrow as it dealt with maritime border security. This has rendered limited interagency coordination frameworks within the broader view of maritime security, which has gone into contributing to failure in dealing with divergent security risks, vulnerabilities and threats.

4.7 Discussion of Findings

This section discusses the findings obtained from the field study and the existing body of literature.

4.7.1 Capabilities of Maritime Security Organizations

The first objective of the study was “to *examine and analyse the capacities and capabilities of the maritime security organizations.*” Data were collected from primary and secondary sources. The findings show that there are various maritime security agencies in the country. Most of the agencies were faced with challenges such as duplication of roles, limited resources and absence of a common SOPs that is key in unifying the conduct of maritime security. There were some elements of coordination, particularly on border security. However, some issues of maritime security were dealt with through special *ad hoc* committees. These findings agree with Nchonganyi Christantus who points out that “Kenya's maritime governance is made up of several maritime security agencies under different ministries and departments, who engage in

their respective mandates without proper coordination and interlinkages with one another.”⁴⁴

There were also challenges related to poor institutional capacities and capabilities as argued by Mbugua and Mwachinalo.⁴⁵ Most of the security agencies, such as the KN and KCGS could not adequately sustain patrol in the vast maritime territory, which has remained un-policed due to lack of proper surveillance mechanism and inability to conduct patrols.⁴⁶ Kenya’s Northern maritime frontier is susceptible to wanton maritime insecurity issues as the KN lacks a competent maritime security organization to enhance a collaborative framework with Somalia. Poor cooperation on maritime security with neighbouring Tanzania means that joint interstates cooperation has been limited.

The establishment of a working relationship between Al-Shabaab and the local community’s sympathizers has further increased the complexity and nature of maritime threats within Kenya’s maritime domain. Furthermore, Kenya continued to encounter challenges related to multifaceted illicit trade, which have continued unabated in Kenya’s high seas,⁴⁷ due to lack of effective multinational response to the transnational crimes. This shows gaps in sea surveillance and human intelligence, which are often challenged by limited capacities and capabilities to eliminate dark targets, spoofing of vessels, and switching off of AIS.

Maritime security organizations also faced challenges related to personnel retention, bureaucratic politics, and lack of sufficient funding among other challenges.

Although organizations such as the Kenya Navy had Standard Operating Procedures

⁴⁴Christantus, “Challenges of Maritime Security and Policy Development in the East African Community”, pp.34-35

⁴⁵ Mbugua and Mwachinalo, “An Assessment of Maritime Insecurity in the Kenya” pp.29-30

⁴⁶ B Hamad, Maritime Security Concerns of the East African Community , p.80

⁴⁷ United Nations Office on Drugs and Crime (2016) The Afghan Opiate Trade and Africa - A Baseline Assessment 2016 Vienna: United Nations Office on Drugs and Crime. p.25

(SOPs), each maritime organization had its own divergent SOPs; which to some extent limited the efficacy of multiagency cooperation. This agrees with Christantus who points out that the numerous maritime security agencies in Kenya do engage in developing their respective budgets, policies, strategies, and SOPs without proper coordination and interlinkages with one another, thus enhancing the conduct of individual roles.⁴⁸ This implores the absence of harmonization and collaboration, which hinders the existing capacities and capabilities among the security organizations.

Ready markets in Asian pacific countries meant that prized game trophies such as ivory, rhino horns, and other animal artefacts continued to find their way out of the country. This happened even though there were frameworks in place to ameliorate vulnerabilities at the POE. This was due to organising crimes ability to infiltrate the State's institutions and corrode their competencies as asserted by Katumanga.⁴⁹

4.7.2 Existing Policies and Strategies Shaping Maritime Threats in Kenya

The second objective of the study was to “*analyze how the existing policies and strategies shape the maritime threats in Kenya*”. The respondents were presented with numerous questions on this subject. The study confirmed that the Kenyan constitution under article 10 has ensured that policymaking and implementation adhere to the national values; participation of the people and transparency. It has further made policy formulation to be in two folds; at the national level and county levels. This makes the ministry of devolution and planning to play a key role in policymaking and planning for both the national and county governments. In the maritime domain, the study shows that Kenya has an Integrated Ocean Policy that informs the strategic aspects of Kenya

⁴⁸ Nchonganyi Christantus, “Challenges of Maritime Security and Policy Development in the East African Community: the Cases of Kenya and Tanzania” 2019, pp.34-35

⁴⁹ Katumanga, “Kenya: Underdeveloped Maritime Domains”

on issues of maritime decision making.⁵⁰ It also confirmed that the majority of the policymakers and legislators seemed not to know what was happening in the maritime environment. It was a difficult situation because their input is what has led to the maritime environment to take shape but in a slower manner. Subsequently, this limited knowledge of what happened at sea affect policy and strategy formulation.

Policy formulation in Kenya also challenged by poor appreciation among the policymakers and legislators' reluctance in providing adequate resources.⁵¹ This indicates little effort to protect the maritime environment as evidenced by poor capacities among the maritime organizations to implement their mandate; a factor that is attributable to limited legislative decisions and policies. In this context, there was a need to put in place mechanisms aimed at enhancing MDA from the tactical to the strategic level, and at the same time expound the scope of the multiagency approach to other maritime security challenges. There was also a need to strengthen the multiagency approach by legally constituting a formal structure of coordination to enhance the existing *ad hoc* maritime security committee with clear guidelines on how the agencies involved will conduct themselves.⁵²

Best approaches to enhance Kenya's maritime security were also suggested. In this regard, a strategic approach towards enhancing maritime security; needs the country to formulate a national security policy that recognizes the importance of strengthened bilateral, regional and multilateral engagement.⁵³ A national policy that informs a region-centric national maritime security strategy will garner the support of the neighbouring countries towards the governance of the shared maritime resources.

⁵⁰ Integrated Ocean Management Policy of 2009

⁵¹ Mbugua and Mwachinalo, "An Assessment of Maritime Insecurity" p.28-31

⁵² Mbugua and Mwachinalo, "An Assessment of Maritime Insecurity" p.24

⁵³ Kenya Foreign Policy November 2014, pp.29-32

This will create a platform that may trigger the pursuit of an East African Maritime Strategy to strengthen regional support and implementation of the national security policy frameworks.⁵⁴

Kenya's maritime security could also be strengthened through national and regional policies aimed at enhancing inter-agency cooperation and coordination. In this context, it is evident that one of the best ways in which Kenya's maritime security could be achieved was through the enactment of policies that appreciate the importance of maritime security from a region-centric approach through coming with a collective security mechanism as envisaged by Cordner in "Rethinking maritime security in the Indian Ocean Region."⁵⁵

4.7.3 Research-Based Policy Options for Enhancing Maritime Security

The last objective of the study was *"to proffer research-based policy options on how best the problem can be addressed."* Various policy-based options were suggested by the respondents. It was suggested that there was a need for a framework for funding and training as well as the integration of community collaboration by involving all the maritime stakeholders, local fishermen and the local communities in maritime security responses.⁵⁶

There was a need to strengthen local capacities to deal with maritime security vulnerabilities. These include partnerships with local communities and especially the fishermen, who need more training and assistance to enhance maritime security system. There was also a need to put in place pragmatic policies aimed at reining on the limitation in surveillance and human intelligence in the maritime space that hinders

⁵⁴ Hamad, "Maritime Security Concerns of the East African Community (EAC)," p.75

⁵⁵ Cordner, "Rethinking maritime security in the Indian Ocean Region," pp.68-80

⁵⁶ Rao, "Indian Ocean Maritime Cooperation," p. 137

effective execution of maritime security functions.⁵⁷ Efforts aimed at enhancing MDA among the decision-makers, addressing disjointedness in the conduct of maritime security and of importance was to ensure Kenya maritime borders are demarcated for Kenya to pursue the blue economy vision.

4.8 Limitations of the Study

The findings may not relate to the challenges anticipated in other maritime resources within Kenya, especially those with similar dynamics such as the shared waters of Lake Victoria and Lake Turkana. Also, it may be hard to understand the level to which the findings of the study relate to inland water bodies because some of which are not closely monitored by the maritime organizations under investigation in this current study due to their limited jurisdictions and capacities.

The study was also limited to some extent in collecting data from the strategic leadership views due to the COVID-19 pandemic that made it difficult to conduct an interview with those who are key in handling strategic issues in the maritime domain. In some of the cases, the senior leadership directed me to their juniors, who took part in my study, but some of them were limited in understanding issues concerning the strategic leadership levels. However, some of the strategic key issues were from secondary data.

The findings of this study are also cross-sectional in nature and relate to the state of affairs as of 2020. They may not thus cast light on the ever-changing dynamics of the maritime environment. Longitudinal studies may thus avail different findings.

⁵⁷ McCabe, "Policing the Seas: Building Constabulary Maritime Governance in the Horn of Africa" p.2

CHAPTER FIVE

FINDINGS, CONCLUSION AND RECOMMENDATIONS

5.1 Introduction

This chapter provides a summary of the findings. It also presents the study's conclusions. Lastly, recommendations are presented. Areas for further study are also identified and presented.

5.2 Summary of the Findings

The study operationalized Michael Porter's Five Forces model that was advanced by Ugur Yetkin in his assessment of the post-modern navies. Yetkin's model on Kenya, was to assess the maritime security domain; capacities and capabilities of the maritime security organizations, analyze how the existing policies and strategies are shaping the maritime threats, and lastly to proffer research-based policy options on how best the problem can be addressed.

Maritime security agencies were faced with challenges such as multifaceted transnational maritime threats, duplication of roles, limited resources, absence of a common SOPs that is key in unifying the conduct of Kenya's maritime security, and also limiting the cooperation among the East African countries. There were some elements of coordination, particularly on border security, but some issues of maritime security were dealt with through special *ad hoc* committees. The multi-agency approach adopted aim at reducing the rivalry among the existing maritime security organizations by enhancing collaboration that goes into reducing the threat of substitute by consenting on complementarity on the capacity and capabilities. Following Yetkin assertion, complementarity is a factor rather than a force that engenders a State's evaluation of the existing maritime security agencies and identifying the inherent limitations.

Maritime security organizations in Kenya have realized that their limitations in capacity and capabilities can be utilized as a complementary factor, hence the adoption of the multiagency concept that seems to be at the infancy level with the creation of KCGS.

The second objective of the study shows that the majority of the policymakers and legislators have limited knowledge of what happens in the maritime environment. The lack of knowledge has a far-reaching consequence on policy formulation and legislation. This impairs the critical and needed support to the maritime security organizations and also in appreciating the importance of the blue economy. The factor attributed to limited legislative and policies decisions denotes how powerful the 'buyers' are to the maritime security organization in Kenya. In this circumstance, there was a need to put in place mechanisms aimed at enhancing MDA as a key platform of inculcating maritime culture and maritime security sensitization from the tactical to the strategic level. This will enhance maritime situation awareness, which is key to institutionalization and expansion of the multiagency approach through the formulation of a national maritime security strategy that is region-centric in its approach for purpose of garnering the support of neighbouring countries in the governance of shared maritime resources.

The last objective of the study saw various policy-based options suggested by the respondents. It is worth noting that Kenya maritime strategies aim at reducing the power of suppliers, which was visible with the building of the slipway and commissioning of Bandari Maritime Academy, which is to ensure the building of competent manpower to the maritime sector. However, there is need for Kenya to analyze the threat of entry into institutionalizing a maritime security strategy, which the study identified to be that of limited capacity, inadequate regional cooperation and minimal integration of community collaboration by involving all the maritime

stakeholders. The key to entry is to first formulate a national security policy with a strategic worldview on issues of national security that goes into identifying the threats to national interests and at the same time guide the strategic engagements in maritime security issues, especially the maritime border dispute with Somalia and enhancing human intelligence at sea.

5.3 Conclusions

The study responded to all three objectives. Though there were various maritime security agencies in the country, most of them are limited in undertaking their stipulated mandates. This can be attested to the limitation of resources due to budgetary allocation and inadequate policymaking. Despite having a multiagency engagement, the scope of multiagency is narrow and undertaken in an *ad hoc* manner. The absence of a strategic national security policy and a national maritime security strategy puts the national interests at stake and under consistent threats that engenders reactive responses among the national security agencies. This has also impacted on regional maritime security cooperation resulting in limited coordination towards common maritime interests, hence an enabler to the multifaceted maritime threats and crimes that went on unabated. There is need to identify the gaps in capacity and centre on strengthening local mechanisms in dealing with maritime security by ameliorating the vulnerabilities, which comes by formulating pragmatic policies and strategy that engenders bilateral, regional and multilateral engagement as key in the maritime governance.

5.4 Recommendations

The study has shown clearly that Kenya needs a strategic national security policy and a maritime security strategy based on the conclusion.

The first recommendation is that Kenya should conduct a thorough appraisal of the maritime strategic operational environment and the existing maritime security agencies by evaluating their respective functions. This demands an independent evaluation and auditing of the current maritime security agencies to readjust their mandates to fit into the contemporary security environment and eliminate the aspects of duplications. This was evident in the United States, where the adoption of the national strategy for maritime security in 2005, was mainly to formulate a comprehensive maritime strategy that will better integrate and synchronize the various departmental strategies that were not effectively addressing the maritime threats. It is through the formulation of a maritime strategy in Kenya that will help in restructuring and harmonizing the maritime security organizations in line with the contemporary maritime security needs. As indicated in chapter three, it is also important for the government to inculcate a holistic understanding of the maritime security concept to all the maritime security organizations. This is critical in overcoming the complexity illustrated by the challenges and weaknesses in maritime security engagements, which demands a coherent and holistic response to issues of maritime security.

Secondly, while Kenya embarks on infrastructural development as a platform to the blue economy aspirations, decision-makers must understand that Kenya's strategic location brings both risks and opportunities in the maritime domain. It is clear that with Kenya's fragile core strategic operational environment that has seen an influx of foreign States and non-state actors; an indication of a likely increase in threat dynamics and intensity in the foreseeable future. The distinguishing characteristic of the maritime environment; interconnectedness, liminality, transnational and cross-jurisdictional in nature, demands the need for shared responsibility due to common interests. This needs Kenya's defence policy and foreign policy to give greater attention

to the Indian Ocean due to the increased non-traditional threats and strategic uncertainties, increased maritime transport that makes 92 per cent of Kenya's international trade and the fact that the government is also undertaking vital strategic blue economy infrastructural developments. This can emulate Indian maritime security strategy that puts the Indian Navy as the leading agency in ensuring secure seas.

Thirdly, Limitations that comes with budgetary constraints, duplication of functions, limited staffing, which none of Kenya's maritime security agency has enough to manage the maritime security. This needs Kenya to formalize a multi-agency management system that will go into laying down the structure and organization of multi-agency maritime security set up that will need to incorporate all the stakeholders to work together in a smooth and well-coordinated structure. The formal multi-agency management system will integrated maritime security organizational structure to match the complexity and demands of the maritime environment without hindrance by organizational functions and respective responsibility, as it considers internal flexibility as a component in dealing with maritime threats.

Fourth, Marine resource exploitation is very significant to Kenya's economy. The maritime border demarcation is vital and national interest to Kenya's existence and also venture into the blue economy aspirations, which need to be solved amicably and at the right time.

5.5 Recommendations for Further Study

This study was focused on "The Strategic Aspects of Kenya's Maritime Security (2008-2020)." There is a need for similar studies focused on each of the maritime organizations in Kenya. Comparative studies focused on other HOA countries and the East Africa region such as Tanzania or Djibouti would also be interesting.

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APPENDICES

APPENDIX I INTERVIEW GUIDE

Research project on 'The Strategic Aspects of Kenya's Maritime Security (2008-2020)'

- i. What are likely limitations towards your organization's objectives?
- ii. Does your organization have Standing Operating Procedures (SOPs)? How do they enhance your relationship with other organizations in the conduct of maritime security?
- iii. Do you see any duplication of roles among the maritime security agencies? What is the impact of this?
- iv. Do you understand the concept of a multiagency approach? Does the maritime security agencies undertake this approach and how best can it be approached in the maritime sector?
- v. How do the decision-makers; the policymakers and legislators appreciate the maritime sector and how does it undermine or enhance the roles of your organizations?
- vi. What is sea blindness? How can you contextualize to Kenya's maritime prospects?
- vii. What is the best approach toward enhancing Kenya's maritime security?
- viii. If a government is to formulate a maritime security strategy, what do you consider the most critical thing that it needs to address?