

# Navigating Stormy Waters: Kenya's Maritime Threats and the Balancing Act of External and Domestic Responses

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## Abstract

This article investigates contemporary threats in Kenya's maritime spaces, the institutional response to these maritime threats, and an assessment of Kenya's maritime security strategy. Persistent external domination of the Western Indian Ocean region, maritime terrorism, piracy, illegal unregulated and unreported (IUU) fishing, illicit trade and maritime territorial disputes continue to pose threats to Kenya's maritime spaces. Although there is a legal framework in response to the threats, different agencies have no clear strategies on maritime affairs. The situation is compounded by a coordination problem between concerned agencies and tensions between the national government and the coastal counties over the legitimacy of intragovernmental maritime assignments. The study recommends that policymakers should reflect critically on maritime domain awareness with the aim of reducing seablindness, thereby enhancing Kenya's sea power and ability to effectively exploit maritime wealth in the quest for a national maritime security strategy.

**Keywords:** Western Indian Ocean; Kenya; maritime spaces; threats

## 1. Introduction

Kenya's maritime domain, which encompasses a vast coastline along the Indian Ocean, is increasingly exposed to a range of contemporary security threats that pose significant challenges to national stability, as well as to regional and global cooperation (Baruah *et al.* 2023; Khalfaooui and Yiallourides 2020; Khan 2024; Lu 2023 Mossik and Pigeon 2022). Situated at the crossroads of East Africa, Kenya's strategic maritime location makes it a critical node in international shipping routes, trade flows and geopolitical dynamics. This article explores the evolving maritime threats that Kenya faces, highlighting both domestic and external factors that contribute to the complexity of its maritime security landscape. With piracy, illegal fishing, human trafficking, drug smuggling and terrorism being just a few of the most pressing threats, Kenya's ability to navigate these dangers requires robust responses both at home and from its international partners. This paper begins by examining the key maritime security challenges that Kenya faces, with a particular focus on the persistent external domination of the Western Indian Ocean region (Baruah *et al.* 2023); maritime terrorism (Khan 2024; Lu 2023), piracy (Mossik and Pigeon 2022), illegal unregulated and unreported (IUU) fishing (Benkenstein 2018), illicit trade (Otieno) and maritime territorial disputes (Khalfaooui and Yiallourides 2020; Vreij 2010); all of which have posed severe risks to shipping lanes and affected international trade. The article assesses the multifaceted nature of these threats as well as the implications for Kenya's national security.

In response to these growing threats, Kenya has developed a range of institutional frameworks and strategic partnerships aimed at enhancing its maritime security capabilities. The role of key government institutions, such as the Kenya Maritime Authority (KMA), Kenya Coast Guard Service (KCGS) and the Kenya Navy, is examined in detail. This paper also provides a critical assessment of Kenya's maritime security strategy, highlighting its strengths as well as areas for improvement. While there have been significant strides in enhancing the country's maritime security capabilities, there remain gaps in terms of coordination between domestic agencies, resource allocation and the implementation of policies. The need for a more integrated and multi-layered approach that combines both national and regional efforts is emphasised, particularly as the threats facing Kenya's maritime spaces are transnational in nature and require coordinated responses. This balancing act—between domestic capacity building and external collaboration—forms the central theme of the paper, reflecting the nuanced challenges that Kenya faces in safeguarding its maritime interests. Ultimately, this paper provides a comprehensive examination of Kenya's maritime security landscape, offering valuable insights into the complexities of responding to contemporary threats. It underscores the importance of a cohesive approach that involves both external partners and domestic institutions in crafting effective responses, while acknowledging the ongoing need for flexibility and adaptation in the face of an ever-evolving security environment.

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## 2. Contemporary Threats in Kenya's Maritime Spaces

Mapping Kenya's maritime security threats is not an easy task, for two main reasons. One, the concept of maritime security is itself problematic as it encompasses different domains and incorporates issues involving national security, environmental safety, marine safety, human security and blue economy. For instance, the piracy off the coast of Somalia borders on protecting national interests through international naval operations, ensuring maritime safety, supporting economic growth by safeguarding and developing fisheries and promoting human security especially for at-risk coastal populations (Edmund and Bueger 2018). The inter-sectorial nature of maritime security thus renders the conceptual boundary elastic.

Two, the trans-boundary nature of maritime security threats erodes the utility of specific national threats. For example, the effects of hijacking the *MV Faina* in 2005 was felt in both Ukraine and Kenya, since the vessel was Ukrainian owned and was manned by Ukrainian crew but contained a cache of arms destined for Kenya. Another example is that, when a ship founders, the effects are likely felt by three separate parties: "the countries whose nationals were aboard the ship and whose flag the ship was flying; the country for which the ship's cargo was destined; and the country in whose jurisdiction the ship foundered" (Wambua 2009b: 46). Considering this, it is safer to discuss Kenya's maritime security threats within the broader geographical context of the Western Indian Ocean region, comprising ten countries, namely Kenya, Somalia, Tanzania, Mozambique, Madagascar, South Africa, Comoros, Mauritius, Seychelles and Reunion (the French overseas territory). The region is a major geopolitical and naval space between states, with the result that a significant amount of global maritime trade transits through this space. The region hosts several security threats closely rooted to state fragility on land, emphasizing both the transitional nature of challenges and their connection to broader development issues (Edmund and Bueger 2018).

In the case of Kenya's maritime space, maritime threats are underpinned by structural variables, such as socio-economic inequalities rooted in the historical marginalisation of the coastal communities (Alden and Otele 2022). The major threats include: persistent external domination of Indian Ocean waters; maritime terrorism; piracy; IUU fishing; illicit trade and Kenya-Somalia maritime disputes.

### 2.1. *Persistent external domination of Western Indian Ocean region*

Historically, a lack of African policymakers to conceptualise and utilise maritime domain has resulted in the domination of the Western Indian Ocean region by external powers (Baruah *et al.* 2023). These external powers are classified into two types: traditional powers and emerging powers. The traditional powers, mainly India, the United States (US), France and Britain have dominated Indian Ocean waters since the 15th century and continue to shape Indo-Pacific geopolitics. The emerging powers, mainly China, Russia, Saudi Arabia and Turkey have increased their presence in the Indian Ocean region since the turn of the millennium. However, their individual interests and influence differ.

As traditional powers, India, the US and France increased their presence recently in the maritime spaces through bilateral cooperation. India continues to play a significant role as a resident naval power in the Indian Ocean, and has identified the entire Indian Ocean as its region of influence. Delhi, for example, is perceived as a key contributor to regional security for its partners and allies in the region" (Baruah *et al.* 2023).

This perception by India has been a source of tension in the region as the other traditional powers continue to increase their presence. Nevertheless, India has established a strong bilateral engagement with littoral states across the region, including Kenya, with whom India, as a maritime neighbour, has long historical trade ties. India's engagement with Kenya is contextualised within India's broader maritime security approach towards African countries, underlying which are four avenues of cooperation: training of African naval personnel, defence officers and civilian personnel engaged in maritime administration in Indian institutes; conducting hydrographic surveys and helping African littoral nations develop basic capabilities in hydrography; conducting anti-piracy patrols and port visits; and the development of monitoring stations (Mishra 2019).

Consequently, in 2016, when the Indian Prime Minister, Narendra Modi visited Kenya, he reiterated the importance of maritime cooperation between the two countries (Business Standard 2016; Kidwai, 2023). In a reciprocal state visit to India in 2019, President Uhuru Kenyatta and Prime Minister Modi signed agreements on maritime security aimed at enhancing maritime surveillance, collaborating with regard to information on white shipping, and conducting joint hydrographic surveys (High Commission of India, Kenya 2017). In October 2019, the Indian Navy's First Training Squadron toured the port of Mombasa as part of the regular port visits (Government of India, Ministry of Defence 2019). In September 2023, Kenya and India signed a memorandum of understanding where India's state-owned Goa Shipyard will partner with Kenya Shipyards in ship design, construction and capacity building (The Maritime Executive 2023). In the

same month, on the margin of the 25th International Sea Power Symposium, Kenya's Navy Commander Jimson Mutai held bilateral talks with his Indian Counterpart Hari Kuari "on continued partnership and cooperation in combating maritime security threats within the Indian Ocean" (Ministry of Defence, Kenya 2023a). President William Ruto underscored the importance of maritime cooperation during his state visit to India in December 2023. India and Kenya agreed to:

Ensure a peaceful, prosperous and sustainable Indian Ocean Region...[and] develop a bilateral framework agreement in Blue Economy...agreed on the importance of enhancing maritime domain awareness through cooperation between Kenya's maritime Agencies and India's Information Fusion Centre- Indian Ocean Rim for collective security in the Indian Ocean Region...[and] agreed to enhance cooperation in maritime security and to operationalize the sharing of white shipping information (Republic of Kenya 2023:9).

President Ruto and Prime Minister Modi issued the India-Kenya Joint Vision on maritime cooperation, incorporating maritime trade and industry, maritime security, blue economy, capacity development and information sharing (Ministry of External Affairs, Government of India 2023). Consequently, Kenya participated in the Multilateral Naval Exercise in February 2024 and will continue to participate in maritime events and other exercises in India. The Kenyan Navy also continues to engage in the Indian Ocean Naval Symposium whereby naval professionals from the two countries exchange maritime information to expand their understanding of maritime threats (Mishra 2019).

The US presence in the Indian Ocean became more prominent during the Cold War. Although the US Indo-Pacific strategy excludes the Western Indian Ocean (The Whitehouse, Washington 2022), Kenya is among the littoral states that have strengthened interactions with the US maritime cooperation. The two states held the inaugural Bilateral Strategic Dialogue in Washington DC in May 2019. Among other issues, the US commended Kenya for establishing the KCGS and welcomed Kenya's interest in "hosting a future Cutlass Express regional maritime security exercise and...[broader] strategic cooperation in the Indian Ocean Rim Association" (US Department of State 2019). *The US and Kenya: Strategic Partners-Fact Sheet* indicates that the Department of State will continue to enhance the capacity of the Kenya Defence Force to advance maritime security through the provision of equipment, training and advisory support. Accordingly, the US began funding a two-year US Coast Guard programme in 2021 through the Department of State's Bureau of International Narcotics and Law Enforcement with the aim of training Kenya's Coast Guard Service (US Embassy in Kenya 2021). In November 2021, Kenya and the US held the second session of the Kenya-United States Bilateral Strategic Dialogue in Nairobi. Among other things, both parties "pledged to increase maritime security cooperation to harness the blue economy and safeguard a free, open and prosperous Indian Ocean region, and applauded the 8 February, 2021, visit of US Hershel 'Woody' Williams, an Expeditionary Mobile Base ship, marking the first US naval vessel visit to the Port of Mombasa in over a decade" (Ministry of Foreign Affairs and Diaspora 2021).

Under the Global Maritime Crime Programme, the KCGS received a Search and Seizure Simulator from the US government in March 2022. According to an officer at the Bandari Maritime Academy in Mombasa, the facility has "enhanced the training in safety and security for the maritime sector, not only in Kenya but also in the region. It has enhanced the region's capability to disrupt and respond to maritime crime threats" (Instructor, Personal Communication 2023). In January 2023, the 5th Fleet of the US Navy and Kenya Navy launched a five-day relationship mission at the Central Partnership Station in Mombasa. The training focused on small boat repair, dive operations, public health, tactical combat casualty care and mass casualty response (US Naval Forces Central Command 2023). In April 2023, the two states held the third iteration of the US-Kenya Bilateral Strategic Dialogue in Washington DC, renewing "their commitment to implement instruments signed during the 2022 Bilateral Defence Forum, including a five-year security cooperation plan to enhance Kenya's capabilities to counter violent extremist organizations, promote regional security, advance maritime surveillance, and bolster Kenyan military academic institutions" (US Department of State 2023). In September 2023, Kenya's Navy Commander Jimson Mutai participated in an International Sea Power Symposium at the Naval War College in Newport, Rhode Island, United States. The conference explored challenges and opportunities facing the maritime sector, as well as ways to strengthen the maritime security cooperation and partnership (Ministry of Defence, Kenya 2023a). When Kenya's Defence Minister, Aden Duale, met the US Secretary of Defence, Lloyd Austin III, in February 2024, maritime talks dominated the talks between the two defence chiefs (Ministry of Defence 2024).

French presence in the Western Indian Ocean region dates back to the 17th century. Kenya and France have enhanced their maritime security cooperation by signing two regional maritime security agreements at the International Conference on Sustainable Blue Economy held in Nairobi in November 2018. These agreements encompassed Comoros, Djibouti, Madagascar and Seychelles (French Embassy in Nairobi 2018). While one of the agreements committed to the setting up of a regional information exchange and sharing mechanism, the second was on regional coordination of operations at sea to develop a modern, efficient and secure base in the Western Indian Ocean. In

2019, Kenya and France agreed to cooperate in maritime environments in the provision of joint protection for fragile coastline ecosystems, particularly the Kenyan mangrove swamp. This initiative was spearheaded by two French research institutes, the Centre for the International Cooperation in Agricultural Research for Development and the Research Institute for Development (Mwakio 2017). In 2022, Expertise France, in partnership with the United Nations Office on Drugs and Crime, launched the maritime security Go Blue Programme aimed at strengthening the capacity of the KCGS and other agencies engaged in maritime security. This aim was achieved through collaboration in the exchange of information and activities such as the development of a phone application designed to enhance the safety of fishermen and support search and rescue (SAR) operations across the coastal counties (Go Blue 2022). In conjunction with the Bandari Maritime Academy, Expertise France developed the first interagency curriculum on Maritime Security Governance to improve cooperation and interoperability between Kenya's maritime security agencies (Instructor, Personal Communication 2023). In December 2023, the Kenyan Defence Secretary, Adan Duale, held bilateral talks with the French Ambassador to Kenya, Arnaud Suquet. Duale put forward that Kenya was seeking to strengthen its engagement with France in maritime security, counterterrorism and counter-violent extremism, as well as the defence industries (Ministry of Defence 2023b). Subsequently, in the same month, Kenya and France signed a maritime cooperation agreement at the KCGS witnessed by the French Secretary of the State for the Sea, Hervé Berville (Africa Intelligence 2024). During the bilateral talks held in Nairobi between the Prime Cabinet Secretary and Foreign Affairs and Diaspora Affairs Cabinet Secretary, Musalia Mudavadi, and the Minister for Europe and Foreign Affairs of the French Republic, Stéphane Séjourné, in April 2024, Kenya and France underscored the existential threat of climate change, noting the need for a joint effort to address climate-related challenges. Both parties agreed to work together towards the protection of 30 per cent of terrestrial and marine ecosystems, both at bilateral and multilateral levels, in line with the Kunming Montreal global biodiversity framework (Kalekye 2024).

China's engagement in the Western Indian Ocean Region can be understood within its broader vision of maritime cooperation under the Belt and Road Initiative. In 2017, China undertook to:

Promote the concept of common maritime security for mutual benefits. Cooperation in maritime public services, marine management, maritime search and rescue, marine disaster prevention and mitigation and maritime law enforcement...to enhance capacities for minimizing risks and safeguarding maritime security. Strengthening cooperation in maritime public services. China proposes an initiative for jointly developing and sharing maritime public services along the road, encouraging countries to jointly build ocean observation and monitoring networks, sharing the results of marine environmental surveys and providing assistance to developing countries in this area (The People's Republic of China, The State Council, 2017).

This vision was elaborated on further in the China-Africa Cooperation Vision 2035 launched at the 8th Forum on the China-Africa Cooperation Ministerial Conference in 2021 in Senegal, where cooperation in blue economy is viewed as enhancing and supporting the sustainable use of marine resources.

Coastal infrastructure projects funded and built by the Chinese government play a key role in the blue economy. A good example is the Lamu Port-South Sudan-Ethiopia Transport project, a flagship project in Kenya's Vision 2030, the country's long-term development plan built by a Chinese company (Otele 2020; Otele and Guguyu 2023). This study's fieldwork in Mombasa in September 2023 established that China's support in software components of maritime security is yet to take shape (Officers at Kenya Ports Authority 2023; officers at KMA, Personal Communication 2023). At the Ministerial Roundtable of the Global Public Security Cooperation Forum in Lianyungang China in September 2023, Mr Raymond Omollo, Principal Secretary of Internal Security and National Administration, asserted that Kenya will seek China's technical assistance, training and capacity building for KCGS in order to bolster border and maritime security (Kenya News Agency 2023). Following the rescue of four stranded Kenyan fishermen by a Chinese vessel in the high seas in December 2023, the KCGS Director General Bruno Shioso called for more cooperation with China in maritime matters since there is a need for technological transfer and people-to-people cooperation (The Star 2024). The growing presence of China in the Indian Ocean region has placed it on a collision path with the traditional players, especially India. Although the bilateral cooperation is often framed as mutual interest, the agreements are instruments of continued domination by the traditional powers.

The limited capacity of Kenya in the maritime domain renders it vulnerable to manipulation by the external partners through cleverly crafted maritime bilateral cooperation agreements. A retired navy officer observed that:

There is limited knowledge and technology transfer in the sales deals. Furthermore, operational coordination remains in the hands of senior officials from external powers like the US, France, the UK and a host of EU nations. There is also little transfer of senior leadership skills needed to operationalize information and knowledge derived from situational awareness technologies (Retired Navy Officer, Personal Communication 2024).

## 2.2. *Maritime terrorism*

Maritime terrorism includes terrorist acts and activities i) within the maritime environment; ii) using or against vessels or fixed platforms at sea or in port, or against any one of their passengers or personnel; iii) against coastal facilities or settlements, including tourist resorts, ports and port towns or cities (Quentin 2003). According to the 2017 Defence White Paper, Kenya's strategic position within the Horn of Africa and Great Lakes region as well as its proximity to Somalia have exposed it to terrorism (Ministry of Defence, Kenya, 2017). Terrorist groups including *Al Shabaab*, *Al Qaeda*, and Islamic States in the Levant in Somalia, *Ablu Sunna Wa Jamaa* in Mozambique and the Houthis in Yemen continue to threaten security in the Eastern African littoral regions (Khan 2024). In the wake of Kenya's military offensive operation dubbed *Operation Linda Nchi* (Operation Protect the Country) in October 2011, Kenya witnessed a heightened frequency in attacks from *Al Shabaab* along the coastal region. A 2017 assessment of maritime insecurity in the Kenya Maritime Domain by the International Peace Support Training Centre in Nairobi identified terrorism as a top threat to maritime security. For example, from November 2022 to March 2023, the Houthis attacked almost 70 vessels in the Red Sea (Lu 2023), while *Al Shabaab* and *Ablu Sunna Wa Jamaa* have increasingly exploited "maritime space for tactical support, targeting and seizing assets and resources at seas, engaging in the trafficking of goods and trade, and resorting to taxation and extortion" (Khan 2024: 3). The rise of *Al Shabaab* has been exacerbated by the inability of the Somali government to safeguard its territorial waters and Exclusive Economic Zone. Aside from posing threats to ships and ports, *Al Shabaab* is also engaged in smuggling operations to finance its operations (Bueger and Stockbruegger 2022).

## 2.3. *Piracy*

According to the United Nations Convention on the Law of the Sea, as defined in Article 101, piracy is any illegal act of violence, detention, or any act of depredation, committed for private ends by the crew or the passengers of a private ship or a private aircraft, and directed on the high seas, against another ship or aircraft, or against persons or property on board such ship or aircraft. The perception is that the number of piracies has reduced (ICC Commercial Crime Services 2022) as only a few cases have been reported in recent years. For example, between 2017 and 2020, the port of Mombasa experienced only two instances of robbery and attempted robbery at port and anchorage (Mossik and Pigeon 2022). Despite this reduction in the number of piracies, however, structural causes of piracy such as socioeconomic inequalities and insecurity on the land remain largely unaddressed (Alden and Otele 2022). In line with concerns regarding the causes of piracy, a representative of the civil society organisation observed that "poverty and unemployment remain foundational threats to maritime security. How can we achieve maritime security in a context where the local communities are poor and unemployed?" (Legal Officer, Kituo Cha Sheria, Personal Communication 2023).

## 2.4. *Illegal Unregulated and Unreported fishing*

IUU fishing costs Kenya approximately US\$100 million annually in its Exclusive Economic Zone (Benkenstein 2018; Mwakio 2017). IUU directly affects food security by reducing fish availability. It destroys the local fishing industry, affecting related jobs and economic activity. Despite its slow impact, protein deprivation resulting from IUU fishing is an attack on a state's population. Officials from KMA reported that vessels from countries like Spain, France and China exploit tuna, yellow fish and skipjack, however, Chinese vessels are the most notorious since they are sophisticated (Officials, KMA, Personal Communication 2023). Representatives from the local communities reported that the upsurge of IUU is due to "unpoliced fishing landing sites and use of dynamite explosives by migratory fishermen indiscriminately killing fish" (Representatives of Community Based Organizations, Personal Communication 2023). It is not clear how many vessels have been licensed to engage in fishing. For example, Kenya's State of the Coast report showed that there were 19 active licences in 2008, and 34 in 2010. The Sea Around Project reported 116 licences in 2015. The establishment of the KCGS in 2018 has reduced IUU fishing, leading to several arrests. In June 2018, for example, 109 Tanzanian fishermen were arrested for illegally fishing in Kenyan waters around Shimoni (Business Daily 2018). Six months later, another 26 Tanzanian and 13 Kenyan fishermen were arrested for illegal fishing (Otieno 2018).

## 2.5. *Illicit trade*

Illicit substances such as methamphetamines and cocaine are increasingly trafficked through ports and informal landing sites along the East African coast. In 2016, a haul of cocaine was confiscated from a container at the Port of Mombasa (Otieno 2018). In 2021, the French Navy confiscated 1 600 kilograms of narcotics in the Indian Ocean (US Central Command, French Navy 2021). Illegal wildlife products especially that of the 'Big Three'—elephants, rhinoceroses and tigers—destined for markets in China and Thailand, have passed through

the port of Mombasa. Illicit trade networks, it is argued, will utilize maritime routes in ways that risk destabilizing legitimate commercial activities, compromising civilian safety, and exacerbate the marginalization of already vulnerable populations (US Central Command, French Navy 2021).

## 2.6. *Kenya-Somalia maritime disputes*

Territorial and jurisdictional challenges in the maritime domain remain a critical potential source of conflict for countries in Africa (Vreġ 2010). Maritime boundary disputes in Africa typically occurred before the discovery of seabed resources, especially oil and gas, but has been heightened by a recent surge in offshore exploration activities (Khalfaooui and Yiallourides 2020). The dispute between Kenya and Somalia demonstrates that both countries refused to cede the authority to govern maritime activities beyond the continental shelf (Mkuti 2022) (for more detail see Jonyo and Kaudo's article in the current special issue). Failure by both parties to resolve the claims led to the involvement of the International Court of Justice (ICJ). Somalia claimed that the boundary should follow the path of the land boundary as it extends and continues in a straight line into the sea, while Kenya claimed that the boundary followed the line of latitude as defined by relevant laws and proclamations, with the argument that Somalia had implicitly agreed to this arrangement by not raising any strong objections. (Walker and Gaas 2021). On 12 October 2021, the ICJ ruled in favour of Somalia. However, Kenya rejected the ruling, arguing that the court lacked jurisdiction to arbitrate bilateral matters. Kenya's rejection of the ICJ declaration on this maritime boundary dispute demonstrates that it is difficult to resolve such issues legally or diplomatically.

## 3. Institutional Response to Maritime Threats

In the light of the contemporary maritime threats along the coastal region, this section discusses institutional response from the Kenyan perspective.

### 3.1. *The legal framework*

Broadly, Kenya's response to the maritime threats is defined by several international instruments, including the 1973 Convention on International Trade in Endangered Species; the 1982 United Nations Convention on the Law of the Sea; the 1985 Convention for the Protection, Management and Development of the Marine and Coastal Environment of the Western Indian Ocean; the 1998 Indian Ocean Memorandum of Understanding on Port State Control; the 2006 Maritime Labour Convention; the 2006 Southern Indian Ocean Fisheries Agreement; and the 2009 Djibouti Code of Conduct. Kenya also has a comprehensive legal framework governing the maritime sector, defined by the 2010 Constitution of Kenya and operationalised by several laws, such as the Environmental Management and Coordination Act, 2013; Wildlife Conservation and Management Act, 2013; Fisheries Management and Development Act, 2016; Kenya Maritime Authority Act, 2006/2012; the Merchant Shipping Act, 2009; the Shipping Operations (Marine Pollution) Act, 2013, and National Security Act, 2015. The corollary of these multiple items of legislation is the contradictory directives on the same issues that frequently fail to align with real-world environmental conditions and socio-economic realities (Edmund and Bueger, 2018). The National Environment Management Authority (NEMA) observed that the management of Kenya's coastal and marine resources has historically been characterized by fragmented, sector-specific approaches implemented by multiple institutions, frequently operating under overlapping or conflicting legal frameworks. This lack of coordination has resulted in ineffective governance, leading to resource overexploitation and significant environmental degradation (Republic of Kenya 2009). The situation has been compounded by tension between the national government and devolved units with regard to who has the rights over certain maritime matters, especially the registration and licensing of small boats operating within the brown water. Indeed, the Fourth Schedule of the Kenya Constitution empowers devolved units (coastal counties), among other functions, to license trade and regulate ferries and harbours. According to a representative of a civil society organization in Mombasa, "the apparent tension between the national government and devolved units, is a function of the former wanting to continue controlling resources in the coastal regions" (Legal Officer, Kituo Cha Sheria 2023). Consequently, the tension over the legitimacy of intragovernmental functional assignments has led to intermittent disputes over perceived encroachment of the national government into county government's functional mandates in fisheries, aquaculture, local tourism and local transport, resulting in flaws in the mechanisms for intragovernmental coordination, thereby reducing effective control of the legislation designed to protect marine interests.

### 3.2. *Towards a multi-agency approach in the maritime sector*

The above legislations established several national agencies to manage Kenya's maritime space. It was anticipated that the agencies would operate under the leadership of the Kenya Maritime Authority (KMA) - the lead agency regulating and overseeing maritime affairs. These agencies include NEMA, Kenya Defence Forces (KDF), Kenya Ports Authority (KPA), the National Police Service, Kenya Wildlife Service, the Coastal Development Authority, State Department of Fisheries, State Department of Shipping, and Kenya Marine Fisheries Research Institute. This multiplicity of agencies, however, has created an overlap and duplicity of roles. For instance, wildlife officers and NEMA officials are authorized to monitor marine ports and other coastal areas to support conservation and management objectives (Wambua 2009a).

Adding to this, there is overlap "between NEMA and the KMA relating to marine pollution regulation, where the 2015 KMA draft marine pollution regulations were deemed by the State Law Office a duplication of what NEMA and other agencies do and subsequently were not approved" (Edmund and Bueger, 2018,4). Nonetheless, efforts have been made to coordinate some of the agencies. For example, in line with the Djibouti Code of Conduct/Jeddah Amendment (DCoC/JA) Information Sharing Network Strategy framework, Kenya has adopted a multiagency approach through the National Maritime Information Sharing Centre (NMISC) that comprises 12 government agencies. The main function of the NMISC is targeting, analysing and disseminating maritime safety and security information to various stakeholders that focus on these issues at a national level. According to one source in Mombasa, "this will contribute to alleviating seablindness amongst the government agencies by achieving a robust maritime domain awareness" (Retired Navy Officer, Personal Communication 2024). The NMISC has also been instrumental in developing a culture of trust amongst government agencies involved in maritime safety and security. Consequently, "this has alleviated the silo mentality as information is shared horizontally across agencies at the tactical, operational and strategic levels" (Retired Navy Officer, Personal Communication 2024). It is envisaged that a strong national capacity in information sharing and coordination of operations at sea is a precursor to a stronger regional maritime safety and security framework. In line with the DCoC/JA framework that focuses on the repression of piracy, mitigation of armed robbery against ships, elimination of IUU fishing and the mitigation of transnational organised crime in the maritime domain, Kenya's NMISC also plays a key role in regional information sharing and coordination of operations at sea under the DCoC/JA Agreement and the Maritime Security programme.

The 2015 National Security Act (Amendment) established a Border Control and Operations Coordination Committee to "coordinate the exchange of information between the respective agencies responsible for security and management of the borders" (Republic of Kenya 2015: 235), where collective responses to some maritime issues were put in place. Kenya's SAR missions are coordinated by the KMA and the Mombasa-based Regional Maritime Rescue Coordination Centre. The centre is domiciled at KMA's Maritime Safety Department and coordinates SAR operations in Kenya, Tanzania, Seychelles and Somalia. There is also Kenya's National Marine Spills Response Contingency Plan coordinated by KMA, Oil Spill Mutual Aid Group, KPA, Regional Maritime Rescue Coordination Centre and oil companies to strengthen Kenya's capacity for addressing marine pollution (Republic of Kenya 2017:). In 2017, President Uhuru Kenyatta established the Blue Economy Committee comprising diverse stakeholders: KDF, KMA, the Kenya Marine Fisheries Research Institute, the Kenya Maritime Police Unit and KPA under the leadership of the then Chief of the KDF, Samson Mwathethe. The committee oversees marine-related investments and provides policy guidance to the government to enhance revenue from blue economy activities (Business Daily 2017). One of the major achievements of the committee was the recommendation to establish the KCGS. The KCGS is a multiagency national security organ established in 2018 to conduct maritime law enforcement activities within Kenya's territorial waters (Republic of Kenya 2018). Due to the myriad diverse maritime security challenges, the field specialists from various ministries, departments and state agencies that form the KCGS has been a key enabler in ensuring the KCGS efficiently discharges its organisational mandate. The service is mandated to perform a range of functions, including: enforcement of maritime security and safety; prevention of trafficking of narcotic drugs, prohibited plants and psychotropic substances; prevention of trade in illegal goods, illegal firearms and ammunitions; and prosecution of maritime offenders. It also performs search and rescue operations (Republic of Kenya 2018). The KCGS has officers deployed from the Department of Immigration Services whose key function is to ensure legitimate movement of persons across the transnational boundaries within the maritime space.

Through non-binding multilateral agreements like the DCoC/JA, the KCGS is part of a robust information sharing mechanism comprising 21 countries in the Western and Southern Indian Oceans, the Red Sea, Gulf of Aden and the Arabian Sea. The KCGS forms part of the implementing agencies in the Maritime Security programme that focuses on information sharing and coordination of operations at sea amongst six member states (Djibouti, Ethiopia, Kenya, Mauritius, Seychelles and Tanzania) in the Western Indian Ocean.

The KCGS also collaborates with various international organisations and partners who share a common interest in maritime security. At a national level, the KCGS has diversified its modus operandi in the execution of its mandate by collaborating with other national maritime stakeholders. Apart from other government entities, the KCGS works with the Beach Management Units which manage the artisanal fisher folk communities, the Community Sea Survival Organisations which are key in SAR operations, private boat owners, sea anglers and beach resorts/hotels and private companies along Kenya's coastline. This offers "a robust network of first hand response in case of an emergency as well as an efficient platform for information sharing whenever an anomalous activity is observed within Kenya's maritime space" (Retired Navy Officer, Personal Communication 2024).

#### 4. An Assessment of Kenya's Maritime Security Strategy

From the discussion in the previous section it is clear that the different agencies involved have no clear single strategy on maritime affairs. Thus, Kenya has a disjointed strategy or lacks a coherent national maritime strategy. According to Bateman (2016), however, effective implementation of maritime security and safety policies requires effective maritime security governance. Underscoring this need, since 2022, the Kenyan government has made some efforts towards developing a national maritime security strategy. In partnership with the International Maritime Organisation, the KMA facilitated a Whole Government approach workshop in 2022 which led to the establishment of the National Maritime Security Committee (NMSC) and the National Maritime Risk Register. The NMSC oversees the development of the National Maritime Security Strategy. The NMSC is key to the creation of a coordinated maritime security governance framework bringing all the components of relevant national policies and actors together to form a cohesive, responsive decision-making architecture to support cooperation and timely responses against current and emerging maritime safety and security threats. According to the International Maritime Organisation (one of the key drivers behind Kenya's maritime strategy), a sound strategy rests on four elements: "the effective understanding of anything associated with the maritime domain that could impact security, safety, the economy or the marine environment of a state; no seablindness; appropriate seapower; and effective exploitation of maritime wealth" (The International Maritime Organisation 2018). Shortcomings in any of these four elements would demonstrate a serious problem with the strategy. This understanding is anchored on the following assumptions of realism (Till 2013). One, security is an outcome of power, yet power requires strategy for its production and execution in times of both war and peace. Power and wealth are mutually dependent. Consequently, a problematic strategy will pave the way for insecurity. Two, readiness to compete or cooperate in an anarchic world is illustrative of a sound strategy. Three, a maritime security strategy must acknowledge the maritime domain as a strategic domain—an arena that will clearly differentiate between allies and enemies. Four, operations in the maritime domain require a high level of maritime domain awareness.

To assess Kenya's journey towards a national maritime strategy, first, we note that Kenya has limited opportunities related to maritime subsistence. A retired navy officer observed that "Kenyan citizens do not really value the seas, besides only regarding them as fishing grounds. In Mombasa, Kilifi and Kwale, the exploitation of marine resources is associated with coastal communities. Communities from upcountry (non-coastal communities immigrants) do not associate with marine exploitation" (Retired Navy Officer, Personal Communication 2024). Still, "some conservative opinions in Kenya associate coastal city (Mombasa) and towns (Malindi, Kwale) with unholy activities. There is a lot of propaganda peddled about the coastal region which have been heightened by dearth of research on maritime domain" (Retired Navy Officer, Personal Communication 2024). The situation is compounded by inadequate knowledge of maritime domains, consequently affecting Maritime Domain Awareness (MDA). According to a KMA officer "MDA issues in Kenya are ranked low in government's priority, with implication for resource allocation in the maritime sector" (Personal Communication 2023). Technologies to explore and exploit Africa's maritime domain remain largely in foreign hands (non-African states), wielded by those who have persistently dominated the Indian Ocean waters as previously discussed.

In addition, the lack of conceptual clarity of maritime security is evident in most of the documents on this issue. "There is limited holistic capture of the complex relations between phenomena in the maritime domain and national life" (Retired Navy Officer, Personal Communication 2024). A study on the assessment of maritime security by a Nairobi-based organisation listed pirates, IUU fishing, armed robbers at sea, traffickers and oil smugglers as some of the main maritime threats. Indeed, most existing literature on Africa's maritime security itemises similar threats, namely, IUU fishing and piracy in the Gulf of Guinea, piracy in East Africa and oil bunkering in the Niger Delta (Kraska and Wilson 2009; Okafor-Yarwood 2020; Onuoha 2013; Vrej 2012).

Although situational awareness (a core component of MDA) has improved through the acquisition of radar surveillance, use of CCTV cameras, perimeter intrusive detection systems and long-range information tracking (International Peace Support Training Centre 2017), a retired navy officer reported:

The technology is largely imported (some old, second-hand equipment) with complex maintenance contracts prohibiting maximum exploitation. There is limited knowledge and technology transfer in the sales deals. Furthermore, operational coordination remains in the hands of senior officials from external powers like US, France, UK and a host of EU nations. African navy officers are involved much lower in the command chain. There is also little transfer of senior leadership skills needed to operationalize information and knowledge derived from situational awareness technologies (Retired Navy Officer, Personal Communication 2024).

Second, the extent to which Kenya suitably perceives the maritime domain as an arena of war or competition is useful to understanding how practical the strategy would be. As discussed earlier, external powers continue to dominate and shape maritime discourse in the Western Indian Ocean region. In other words, international actors play most of the maritime domain awareness functions in the region. For example, Manda Bay with the US 'base within a base' has been utilised by the US troops for many years. Whereas the base has heightened maritime surveillance, according to one source, the operations are largely in the US interests (Kazungu 2024; Okafur 2024). Territorial and jurisdictional challenges in the maritime domain remain a critical potential source of conflict in Africa's maritime domain (Vreġ 2010), with Kenya and Somalia having a long-standing maritime dispute (Jonjo and Kaudo's article in the current special issue). Kenya's rejection of the ICJ declaration on the maritime boundary dispute between Kenya and Somalia demonstrates difficulty in resolving such issues legally or diplomatically.

Third, we look at whether Kenya possess adequate sea power to pursue a maritime strategy for sustainable security. It is a fact that "no African state has the naval capability to prevent its domination by a major or great power in or from the maritime domain" (Lekunze, 2022: 2859). A retired Kenya navy officer observed:

The naval power has been declining because of poor investment and [because] everything Kenya is undertaking is experimental. It is not guaranteed that whatever is undertaken will yield the expected results. It is a wait-and-see situation. As you may be aware, without naval power, nothing flourishes. There is no political will to spend on new equipment and technology. Poor-quality equipment, skill shortages, corruption and heavy bureaucratic procurement practices on foreign-procured equipment drive up inefficiencies, thus affecting all operations. Logistics remain significantly underdeveloped. Global commercial shipping power is controlled by a few corporations from the West. Kenya controls minuscule commercial shipping power (Retired Navy Officer, Personal Communication 2024).

A local security expert identified six challenges facing the Kenya Navy:

First, the Kenya Navy has financial needs, yet the resources allocated to it inadequately cater for all its needs. This naturally hinders its ability to efficiently acquire, maintain and operate a desired naval fleet effectively. Second, militaries train regularly to maintain their readiness and effectiveness in the face of evolving global threats and technological advancements. The Kenya Navy equally provides training and professional development opportunities for its personnel, but it may not be sufficient resulting from financial constraints faced by Kenya. Third, political tensions, territorial disputes and conflicts in the region pose challenges for the Kenya Navy in maintaining maritime security and stability. This minimally stretches Kenya Navy's capability and capacity to undertake its core mandate of protecting and defending Kenya's maritime strategy. Fourth, the Kenya Navy lacks desired naval bases, shipyards, and logistical support infrastructure, which constrains its operational capabilities. Fifth, keeping up with advances in maritime technology, such as surveillance and communication systems, is a significant challenge to the Kenya Navy which has limited access to the constantly evolving cutting-edge technology. Sixth, the Kenya Navy faces challenges in coordinating and cooperating with other maritime forces, both domestically and internationally to address common security threats and challenges (Local Security Expert, Personal Communication 2024).

Although the number of pirates has reduced (ICC Commercial Crime Services 2022), the presence of maritime terrorists and illicit trade demonstrate the poor quality of Kenyan sea power. Kenya is also facing rising sea levels because the port of Mombasa serves landlocked states in East and Central Africa like Burundi, Rwanda, Uganda, Democratic Republic of Congo, Ethiopia and South Sudan. The coastline has low-lying areas exposed to "increased flooding, landward saltwater intrusion and shoreline erosion. Significant parts of Mombasa is a low-lying coastal zone (LLCZ) and there is no evidence that Kenya has put in place adequate measures to control the rising sea level" (Retired Navy Officer, Personal Communication 2024), thus, casting doubt on efforts towards a national maritime strategy. Finally, pertaining to the extent to which Kenya can effectively exploit maritime wealth, some of the maritime threats discussed point to challenges that constrain Kenya from exploiting such wealth. The persistence of these challenges may still cast doubt on the strategy.

## 5. Conclusion

This article has explored contemporary threats in Kenya's maritime spaces, considered institutional responses, and provided an assessment of the journey towards a national maritime security strategy. Persistent external domination of Indian Ocean waters, maritime terrorism, piracy, IUU fishing, illicit trade and Kenya-Somalia maritime disputes confront Kenya as it seeks to address maritime security. Although a comprehensive legal framework in response to the threats exists, inadequate coordination between concerned agencies as well as disputes between the national government and the coastal counties over the legitimacy of intergovernmental functional assignments continue to compound these threats.

The discussion in this paper suggests that Kenyan policymakers have a limited understanding of the maritime strategic environment. As Lekunze (2022: 2862) aptly observed, the danger of the "limited and threat-specific view of the maritime domain creates tunnel vision in maritime strategy development, resulting in strategies chasing itemized and ignoring systemic causes and implications". As policymakers design maritime security strategy, they should reflect on structural variables like socio-economic inequalities that have resulted in the marginalisation of coastal communities. Whereas it may not be easy to eliminate external actors in a maritime domain, in an anarchical international system, Kenya should strive towards strengthening state capacity in the maritime sector.

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