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Editorial

Maxi Schoeman

Guest Editor

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This article is based on research related to the NIHSS-funded project, 'Seeing the Sea: Promoting BRICS cooperation for development and security in Africa'

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In November 2022 the Ocean Regions Programme (ORP) in the Department of Political Sciences at the University of Pretoria published a special issue of Strategic Review, covering external perspectives of the evolving Indo-Pacific region. Subsequently, the ORP hosted three colloquiums (2022-2024) on African perspectives of ocean governance and maritime issues.¹ This special issue brings together seven articles from a decidedly African perspective, covering some of the topics presented and discussed during these three colloquiums. It also demonstrates the growing interest on the part of African scholars in matters concerning Africa's oceans, ranging from geostrategic concerns to continental and national challenges and developments.

Francois Vreÿ opens the issue with an article focusing on the maritime potential of an expanded BRICS. He points out that BRICS+ and the countries invited to become 'BRICS partners' now covers vast maritime areas across the globe, interconnected by maritime routes spanning the South Atlantic, Indo-Pacific, Red Sea, Mediterranean and the Southern Ocean. Yet, despite these connections and the Group's declared focus on cooperation and collaboration to promote trade and development across the Global South, there is very little evidence of the Group focusing on the potential that these oceanic connections have for the attainment of BRICS goals and objectives. Vreÿ explores the potential opportunities for BRICS+ and partners, either as a bloc or as a dispersed maritime player to strengthen and support the group's long-term objectives.

Samuel Oyewole's article also focuses on opportunities for closer maritime cooperation, but this time around from an African continental perspective, focusing on the Cape Sea Route. Oyewole points out that the conventional approach to the Cape Sea Route is one of perceiving it as an alternative to the traditional East-West trade route through the Red Sea and the Mediterranean during times of crisis. Oyewole brings an Afrocentric lens through which he argues that the Cape Sea Route should not be relegated to an alternative to East-West trade, but should rather be conceived of as holding the potential to make a huge contribution to intra-Africa trade and development. A continental focus on the Cape Sea Route, including issues of governance and institution-building, holds the promise of becoming an African corridor of trade, investment, services and industry.

Ethiopia's (often controversial and contentious) quest for sea access and maritime status is the subject of Lisa Otto's article. This brings to the fore the needs, rights and claims of landlocked (sometimes referred to as land-linked) states vis-à-vis the maritime domain. As Otto points out, the study of landlocked countries is often limited to issues of trade and conflict or disputes over sea access, whilst attention is seldom paid to their broader maritime interests or the strategies that they employ to safeguard these interests. Otto's article aims to address this gap, utilising Ethiopia as an illustrative case to demonstrate how African landlocked countries put their strategies into practice.

A topic of growing interest to Africa's littoral states, is that of the protection, preservation and repatriation of marine and underwater cultural heritage. Ramachela and Bizo's article considers existing international legal frameworks, such as UNESCO's Convention on the Protection of Underwater Cultural Heritage (CUPCH) and point to some of the challenges surrounding the preservation and ownership of marine and underwater cultural heritage sites and artifacts. They frame their discussion through a 'frontier' lens: a spatial, knowledge and an ocean governance frontier, underscoring the importance of African involvement in safeguarding its underwater cultural heritage.

The last three articles in this issue turn to individual African countries and the way in which their maritime environment impact their foreign policies. In her article on the foreign policies of Mauritius and Seychelles, Daniela Marggraff challenges traditional perceptions of small island states as being 'dependent' on major powers, with hardly any agency to determine and pursue their own interests. The author argues that these two African island states in particular are, in fact, 'pioneers'—a foreign policy role conception that demonstrates power and influence in the international system, especially in the domain of global climate issues and politics.

¹ The colloquium reports are available at <https://www.linkedin.com/company/ocean-regions-programme/>.

Oscar Otele identifies the numerous maritime threats experienced by Kenya and discusses the problem of coordination amongst the agencies involved in addressing these threats, and tensions between the Kenyan national government and the coastal counties over the legitimacy of intra-governmental maritime assignments. Otele recommends the development of an integrated national maritime strategy that would address both threats and challenges, as well as the problems of policy legitimisation and coordination. Fred Jonyo and Philip Kaudo address a growing problem in the domain of ocean governance namely, disputes over ocean borders. Such contestations are not surprising: growing interest in and attention to the ‘blue/ocean economy’ drive competition over natural resources and demarcation of the borders between the exclusive economic zones (EEZs) of states are, therefore, important and often the source of conflict. Fred Jonyo and Philip Kaudo, in their qualitative study of the sea border dispute between Kenya and Somalia, explore the principles underlying the subsequent judgment (2021) of the International Court of Justice in this case and argue for compliance with the verdict and for closer maritime security cooperation between the two countries in order to promote regional integration and development.

The issue concludes with four short reviews of books dealing with various aspects of oceans politics and governance.

The support of the National Institute for the Humanities and Social Sciences (NIHSS) to the research project, ‘Seeing the sea: Promoting BRICS maritime cooperation for sustainable development and security in Africa’, is acknowledged.

The Latent Maritime Potential of BRICS+: A Time for Realignment

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This article is based on research related to the NIHSS-funded project, ‘Seeing the Sea: Promoting BRICS cooperation for development and security in Africa’

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Abstract

BRICS+² comprises Brazil, China, India, Russia, South Africa, the United Arab Emirates, Iran, Ethiopia and Egypt. This grouping encompasses vast land and maritime areas rich in human and natural capital across Eurasia, East and South Asia, the Persian Gulf, Africa and the East coast of South America. Despite their geographical dispersion, BRICS+ members are interconnected by maritime routes traversing the South Atlantic, Indo-Pacific, Red Sea, the Southern Ocean and Mediterranean Sea. The link between maritime trade and the global economy, coupled with BRICS+’s declared focus on cooperation, development and trade, underscores the significance of also researching their maritime agendas. However, BRICS+ as a maritime entity remains underexplored, presenting a paradox of a proclaimed economic, trade and development agenda without attending to ocean agendas, maritime economics and maritime security settings. This gap was highlighted during the 2018 BRICS meeting in South Africa, but has since been largely overlooked. This disconnect presents a research opportunity to explore the maritime dimension, potential opportunities and future pathways for BRICS+, either as a block or dispersed maritime player.

Keywords: BRICS+; maritime trade; sea routes; maritime security

1. Introduction

By 2024, all members (bar Ethiopia) of the BRICS+ grouping are littoral states, reside in the Global South grouping of countries, house national maritime interests and have access to the oceans. BRICS+ national maritime interests are vested in their maritime zones, with the oceans linking BRICS+ members along the oft-noted “road that goes everywhere”. Unfortunately, an official or even emergent maritime interests debate within BRICS (and now BRICS+) remains absent except for the explicit reference made to it in the 2018 Johannesburg Declaration:

We recognise the vast potential in cooperation and collaboration in advancing the Oceans Economy amongst BRICS+ countries, which encompasses multiple sectors, including the strategic areas of maritime transport, shipbuilding, offshore oil and exploration, aquaculture, port development, research and technology, conservation and sustainable use of marine resources, marine and coastal tourism, financial and insurance services, as well as coastal industrial zone development. (BRICS 2018)

Other than the Johannesburg Declaration, one must scour available documentation to piece together anecdotal indicators and views on, or references to, maritime themes and related matters (Mudemeli 2023). The 2018 declaration coincides with a second matter that increasingly characterises BRICS declarations—that of a growing security focus (see Bratersky and Kutryrev 2019). As for the latter, the 2024 BRICS+ Summit in Russia was probably the first that explicitly includes security in the summit theme: Strengthening multilateralism for just global development and security (President of Russia 2024).

Overall, the BRICS+ grouping aspires to address common threats collectively. However, cooperation on international security issues remains low-key, mostly declaratory during annual meetings and not overtly embedded in a collective programme. The BRICS+ security concerns dovetail with sectors that make up non-traditional security threats and vulnerabilities, but the declaratory focus remains on cooperative economic relations, international trade and financial matters.

¹ Emeritus Professor, Stellenbosch University and Research Coordinator, Security Institute for Governance and Leadership in Africa (SIGLA).

² In this chapter, BRIC refers to Brazil, Russia, India, China, and BRICS refers to Brazil, Russia, India, China, South Africa. BRICS+ refers to Brazil, Russia, India, China, South Africa and then the new members Egypt, Ethiopia, Iran, with Saudi Arabia (membership pending) and the United Arab Emirates that joined in 2024. Argentina declined the invitation to join, but Indonesia joined in 2025.



The majority of BRICS+ members are coastal states in their respective regions. Their littoral locations offer opportunities to ensure unhindered conduct of, or denial of, maritime trade and use of the oceans as a rising development frontier. In contrast, their potential maritime trade and industry domains together with their security ambitions remain opaque in the broadening security schema of BRICS+ (Panova 2015), amidst a general leaning that marginalises a maritime agenda.

The following discussion aims to underline the importance of maritime economics and security within BRICS+. Given that official BRICS+ statements, literature and programmes on maritime matters are vague, the discussion attempts to infer maritime relevance from BRICS+ statements, geography, the small cluster of literature on BRICS+ maritime aspects and some naval matters. The narrative that follows proceeds along four avenues. First, identifying BRICS+ motivations and stances on its agenda that include references to status improvement, revisionism and soft power. The second section turns to BRICS+ as a maritime entity inclusive of a maritime agenda, alternative outlooks on BRICS+ as a dispersed or block player, and the liberal agenda on maritime governance. Section three argues the case for a blue BRICS+ pointing to opportunities and constraints before concluding.

2. Exploring the BRICS+ Agenda: From Status Improvement and Revisionism to Common Interests

The use of theory helps to explain elements of why countries joined BRICS+. A common stance on peaceful coexistence in its different formats supported by early BRICS members (Brazil, Russia, India, China and South Africa) goes some way in this regard, and ties into the declaratory statements from current BRICS+ fora themes. A more nuanced outlook sprouts from status theory underpinned by policy ambitions for self-esteem, reputation, honour, dignity, fame and sympathy within BRICS+, but also in the world order in general (see, for example, Haans and Thomas 2023). According to Konyshov and Sergunin (2022) status-seeking states turn to mobility strategies to compete with a dominant group through a competition strategy or attempt to achieve ascendance in a different politico-economic domain through a creativity strategy or some combination thereof (TASS News Agency 2024). The latter mobility strategies are difficult to generalise, however, in the section on national agendas (discussed later), some indicators of national pursuits through BRICS membership are outlined. One should also take note of revisionism and power transition theories that are more systemic in kind. However, each BRICS+ member ultimately has its reasons that may or may not align with the agendas of other members, or future members.

As a common pursuit, BRICS+ countries strive to cement or improve their status in the international system while pursuing their national agendas along a pathway that confers most benefit. The interplay between the block and national ambitions becomes visible in the themes of the annual heads of state meetings over the past 16 years, as addressed later. Individually, the annual themes tend to be overly broad to capture the gist of inclusive ambitions and cooperation that BRICS members attempt to master, tie together and benefit from.

BRICS+ aims, objectives, and visions mostly stem from assessments on statements of the pre-2024 BRICS grouping that will likely guide BRICS+ and its growing membership for the immediate future (TASS News Agency 2024). From these statements and declarations, one can infer at least four aspects holding maritime relevance (discussed below), albeit so that no explicit nexus is visible:

The first aspect is that of multipolarity: A drive towards a larger multipolar nature of international relations with the potential of new alliances within the Global South. The BRICS+ alliance, within the context of more partner countries in future, is a harbinger of stronger voices from the South to shape global governance in a way that better suits southern needs and thereby reform the international politico-economic system (Garcia Herrero, 2024: 7-8). With three members in BRICS+ (South Africa, Egypt and Ethiopia, with Nigeria a partner in waiting), Africa is well represented to add its voice and inject African agency. Inherently BRICS+ agendas also account for the maritime dimension on matters such as alliances, cooperation and more consensual voices and pact-building, as well as influence. Within the BRICS+ grouping and its latent members awaiting membership, pathways for different regions from the Global South to influence future ocean debates are opening up. They can shape ongoing deliberations on ocean matters and shift maritime security regimes towards more cooperation to better serve their interests, lower undue competition and build consensus on ocean agendas.

Economic diversification is a second aspect. The five countries called upon in 2024 to join BRICS add economic weight to the BRICS+ group. While China is already the second largest global economy, the BRICS+ membership brings its own economic clout—even if more regional in kind. Saudi Arabia as a latent member and the UAE, for instance, are key players in the global oil market, while Egypt and Iran dominate strategic geopolitical maritime locations, and Ethiopia is one of the fastest-growing economies in Africa (Panchia 2024). The post-2023 grouping harbours 50 per cent of global crude oil production and controls maritime straits and continental economic hubs as depicted by China, Brazil, India and South Africa. Collective economic gravitas, important geopolitical locations, key players in the oil market, and housing future labour and consumer markets call for secure maritime connectivity as maritime trade remains the bedrock of the global economy. This view, however, stands in the shadow of the low-keyed BRICS+ concern with maritime cooperation and trade, ocean debates and the requisite maritime security governance to collectively use the oceans under safe and secure conditions (Schoeman 2023).

The third aspect concerns population factors: BRICS+ members are home to a major portion of the world's population, which can lead to a larger market for trade and investment within the BRICS framework. 45 per cent of the global population reside in BRICS+ and live on or close to the coast, making them both users and beneficiaries of what oceans offer (Cosby and Lebakula 2024). This land-sea connection offers a logical rationale for BRICS+ to link their agendas on cooperation, development and prosperity with ocean agendas on economics, the environment, justice and security to benefit the large, but marginalised communities from the Global South.

Strategic influence is the final aspect: The addition of each post-2023 member has brought more regional influence to BRICS+. For example, Saudi Arabia and the UAE have substantial sway in the Middle East, Egypt controls the Suez Canal, a critical maritime chokepoint, and Ethiopia serves as the diplomatic hub for Africa via the African Union, and houses approximately 97 diplomatic missions. Iran and Saudi Arabia are two dominant Middle Eastern political players, dominating the Strait of Hormuz that controls global oil flows from the Persian Gulf. Unfortunately, Iran is also a major destabiliser in the Middle East. The Iranians are associated with shipping disruptions in the Arabian Sea/Gulf of Oman, and through its Houthi proxy, attacks on shipping in the Red Sea and NW Indian Ocean since December 2023 (Alasar 2024). South Africa is seen as a regional power and gateway to Africa, and holds direct influence over the Cape Sea Route as an alternative flow resource when the Red Sea/Suez Canal is blocked. South Africa is also the member state physically connecting BRICS+ via sea routes through the South Atlantic to Brazil in South America and in future, to Cuba, Nigeria and the Gulf of Guinea.

3. BRICS+ as a Maritime Entity

3.1. *Mapping a maritime agenda: Maritime features, imperatives and alternative outlooks*

As coastal states, BRICS+ members are not only dependent on the surrounding seas that carry the bulk of world trade, the oceans also serve as the common physical and virtual connection for member states. Unfortunately, little maritime work takes place under the BRICS+ banner. This is despite De Vivero and Mateos (2010) delimiting the potential of the BRIC (Brazil, Russia, India, China) grouping's maritime profile when South Africa joined. Although each BRICS+ member has its own national maritime security interests, the litmus test is to integrate or at least align these interests with a common BRICS+ maritime agenda. On 21 October 2024, in a rare reference to maritime interests, Russia's president, Vladimir Putin stressed the importance of transport connectivity for BRICS+ and Russian progress on sea routes, maritime safety and connecting Russian ports with the Persian Gulf and Indian Ocean (The Diplomatic Society 2024). Serving common interests through collaboration offers practical building blocks for entering a maritime agenda while narrow or vital national interests typically slow such progress. It is, however, over-ambitious to expect that all maritime interests of member states can be easily collated under one maritime umbrella and programmes for execution, yet largely ignoring their extensive maritime interests remains a serious void, as depicted in the sea access outline below (World by Map, n.d.)

Table 1: Coastal features of BRICS+ countries³

Member State	Coastal Length	Bi- or Multi Coastal	Oceans Connections
Brazil	7 491 km	N	Southern Atlantic
China	14 500 km	N	Western Pacific
India	7 000 km	Bi	Arabian Sea, Indian Ocean, Bay of Bengal
Iran	2 440 km	Multi	Persian Gulf, Gulf of Oman, Caspian Sea
Russia	37 653 km	Multi	Baltic, Pacific, Black Sea, Caspian Sea
Saudi Arabia*	3 000 km	Bi	Arabian Sea and Red Sea
South Africa	2 798 km	Multi	Indian and Atlantic Oceans, Southern Ocean
United Arab Emirates	1 318 km	N	Persian Gulf
Egypt	2 900 km	Bi	Mediterranean Sea, Red Sea

*Not yet a member

³ Thirteen states became partners at the 2024 BRICS Summit in Kazan Russia: The Littoral Countries in the partner grouping are Cuba (Caribbean Sea), Indonesia (Indian Ocean), Malaysia (Indian Ocean), Nigeria (Gulf of Guinea, Atlantic Ocean), Thailand (Indo-Pacific), Turkey (Mediterranean and Black Seas) and Vietnam (Pacific Ocean).

As a potential politico-economic bloc, BRICS+ harbours the maritime clout to use in constructive or disruptive ways. The constructive outlook relates to how BRICS+ countries employ their access to and use of the oceans' living and non-living resources, as well as its utility as a connectivity medium, and how they embrace multilateralism and cooperation for economic, trade and development purposes. This is also about how constructively or competitively BRICS+ as a block eventually participates in the global agenda on setting rules and norms to extend good governance over the world's oceans and play along in the fields of the blue economy, blue justice, ocean health and maritime security, as argued by Bueger and Mallin (2023). In essence, the question is whether BRICS+ will become a global maritime security provider within the liberal model of security governance based on cooperation and international norms.

The 2018 Johannesburg Declaration (BRICS 2018) advocates on an array of maritime matters to be further developed. However, the sectors listed depend upon cooperation and good order at sea: **maritime transport**; shipbuilding; **offshore oil and exploration**; **aquaculture**; port development; research and technology; **conservation and sustainable use of marine resources**; **marine and coastal tourism**; **financial and insurance services** as well as **coastal industrial zone development**. Unfortunately, the explicit 2018 call for maritime cooperation received little traction, with the Johannesburg II Declaration of 2023 (BRICS 2023) making no further reference to ocean matters.

One set of explanations for this neglected maritime agenda comes from the Ocean Regions Programme at the University of Pretoria (see Schoeman 2023). BRICS+ is too loosely organised, harbouring a broad agenda formulated around matters strongly directed by the annual hosting country. Secondly, not all activities, agendas and collaborations take place under the BRICS+ banner or are explicitly sanctioned as a BRICS+ initiative. Maritime-wise, common interests and security concerns are stated, however, institutionalised cooperation as a BRICS+ pursuit remains absent. As a result, maritime collaboration and agenda setting remain latent. The views from the Oceans Regions Programme largely conform to those raised by Zhihua (2019) on cooperation, governance and the economic sector. As for the institutional profile, both publications note the absence of, and thus the need for, institutionalising maritime cooperation. In not attending to maritime matters, there is a subsequent lack of institutionalisation and so little evidence of a shift from the declaratory to the institutional imperative. Programmes for execution/implementation are therefore largely absent.

The 2023 Heads of State summit (BRICS, 2023) theme allows for cooperation that strongly relates to ocean agendas. Sustainable development, biodiversity (BRICS, 2023) conservation and sustainable use, climate change, climate action in developing countries, disaster risk reduction and resilient communities have a parallel maritime footprint. While the 2023 Johannesburg Summit Declaration (BRICS 2023) emphasises institutional development in order to strengthen the BRICS+ partnership, it is too brief and non-committal to give further content to ideas of BRICS+ maritime cooperation and partnership building. Furthermore, turning to the ocean agendas noted earlier and framed by Bueger and Mallin (2023), the topics noted in the 2023 Heads of State themes, for example, intersect with the paradigms and debates in Bueger and Mallin's framework (2023). However, a BRICS+ interface remains absent.

Assembling all BRICS+ members under a common overarching maritime agenda is ambitious, and one must presently infer shared objectives rather than argue substance. One connection relates to naval matters. Although BRICS+ member countries hold naval exercises, these do not have a declared BRICS+ nexus. At times, naval chiefs use the BRICS banner (Martin 2024b), as found in statements of naval vessels from South Africa destined to visit Egypt (cancelled), Russia (cancelled), and Brazil in 2024. A fully-fledged BRICS+ naval exercise (even unofficial) is yet to materialise, while military cooperation is officially denied by the Russians, who hosted the 2024 Heads of State summit (TASS News Agency, 2024). While China, Russia and South Africa cooperate on naval matters (Ex Mosi 2023), Iran, China and Russia exercise together (Ex Maritime Security Belt 2024), as do China and Russia, in conducting joint exercises (Ex Joint Sea 2022). India, Brazil and South Africa hold separate exercises (Ex Ibsamar), however, with India absent from any Russia-China-Iran naval activities.

Two Iranian naval vessels arrived in South Africa on 4 April 2023 (Jordan 2023), with a Chinese satellite tracking vessel following in their wake (Bloomberg, 2023). South African naval observers attended the 2024 naval exercise 'Maritime Security Belt' in the Gulf of Oman between China, Russia and Iran (defenceWeb, 2024). In a parallel development, Ex Ibsamar VIII (India, Brazil, South Africa) took place in October 2024 (Wingrin 2024). The common denominator is the implicit BRICS+ connection, with 2024 showing a visible BRICS+ profile in South Africa's naval diplomatic activities and more explicit references to the BRICS+ nexus in statements and speeches about these activities. Naval exercises are, unfortunately, too often perceived as institutionalised cooperation, but inferring a BRICS+ connection is not possible. This leaves the impression that maritime cooperation remains mute despite the clear growth of naval cooperation, since this does not occur under an official BRICS+ label.

3.2. *Alternative outlooks: Regional globalism, integration and the liberal approach towards maritime governance*

Viewing BRICS+ as a revisionist or reformist, blocks employing soft power to promote their change agenda holds relevance. A pragmatic interpretation of soft power that includes coercion, or an entity promoting global regionalism given the geographic spread of member states, can be considered (Konyshov and Sergunin 2022). In a sense, reformist and soft power within a regional globalism house partially explains how the BRICS+ grouping of states can set up and execute a common agenda and account for their geographic distribution. Simultaneously, the 21st century's more cooperative international setting is fading with growing competition complicating the BRICS+ agenda setting, their objectives and programmes. It is against this backdrop that preferences for coercive rather than cooperative maritime actions enter into the frame.

War spilling into the Black Sea with naval attacks (Russia attacking Ukraine) is an apex disrupter. Closely following are power competition and naval suasion in the South and East China Sea (China vs the rest), and armed attacks on shipping in the Red Sea and Gulf of Aden, with Iran supporting the Houthis. Interfering with subsea infrastructure in the Baltic (Russia vs Europe) and assaults on shipping in the Arabian Sea (Iran), also lean towards undue coercion. The latter resonates with naval responses from India to interdict a new piracy wave while also issuing a warning to Iran to refrain from further interference with shipping, all of which involves BRICS+ members.

While it is easy to list indicators of more competition, BRICS+ agendas that are on alternative pathways to offset Western dominance and the liberal approach to maritime governance and deal with security, hold mutual interests. Institutionalised international norms, multilateral global governance and the focus on human security sectors that call for the mitigation of illegal actions are thus, according to Perez (2022), areas of common concern. For BRICS+, the choice remains that of using the oceans as deemed fit and necessary (nationalistic or under an aggressive and competitive BRICS+ consensus), or becoming a cooperative authority to co-establish shared rules for responsible international ocean use.

The liberal approach to maritime governance argues for accepting rules to regulate the use of common spaces such as the ocean, and to reduce risks to healthy and productive oceans. Consensus on common rules and a corresponding governance regime reinforced with ethical criteria are catalysts for cooperation as well as understanding the maritime landscape as inter-spatial, transnational and inter-jurisdictional, calling for coexistence, cooperation and institutionalisation (Perez, 2022). Whether playing in the global league or using the liberal approach to direct a BRICS+ maritime agenda to forge a Southern block of responsible maritime actors and so influence the global consensus, the goal must be safer, more secure, productive and sustainable oceans. Institutionalisation and declared common interests within BRICS+ do, however, remain very low-key, if not absent, and leave maritime matters institutionally and geographically scattered.

During the lead-up to the 2010 BRIC, De Vivero and Mateos (2010) stressed the need for institutionalisation as the way for maritime cooperation, and raised the issue of whether BRIC will remain in the old competitive/national security paradigm or shift to the new cooperative and inclusive club for using the oceans. The latter attends to energy security, technology and ocean leadership, rather than national interests, competition and coercion. Furthermore, the resolutions and agreements, such as the 2023 United Nations (UN) agreement on protecting the oceans' biodiversity (signed only by Brazil and China in BRICS+) (United Nations [UN] 2023a), aimed at promoting sustainable ocean spaces, are notable as they cover common ocean spaces where jurisdiction and domain awareness are often weak (UN 2023b). Although not yet fully ratified, the 2023 UN agreement holds much potential as an entry point for BRICS+ to join an international league as a block player, thereby helping map maritime governance in support of safe and secure oceans, and establish itself as an influential and leading maritime security provider from the Global South.

In pursuit of safe and secure oceans and global connectivity, subsea cable infrastructure rapidly moved up the maritime security agenda. However, within BRICS+, only China, South Africa, India, United Arab Emirates and Egypt are members of the International Cable Protection Committee (ICPC). Important players like Russia, Iran, Saudi Arabia (pending) and Ethiopia remain absent. In contrast, the majority of BRICS+ members signed the SOLAS (Safety of Life at Sea) Convention (1974) and Protocols (with the exception of Saudi Arabia / South Africa) on the safety of life at sea, and the IMO (International Maritime Organisation) Convention (1948) to regulate shipping. With regard to Search and Rescue (S&R), Egypt is not a signatory to the S&R Convention of 1979. Regarding the SUA (Suppression of Unlawful Acts) Convention of 1988, all the BRICS+ member countries are signatories, as depicted on the IMO ratification page. By 15 April 2024, BRICS+ countries will have signed the majority of the 58 IMO conventions, protocols and agreements listed for better safety, security and use of the oceans (International Maritime Organisation 2015). BRICS+ is thus not only enmeshed in the international conventions on maritime safety and security premised on the fraternal cooperation of signatories, but also as individual members with the latent potential to influence important decisions should a BRICS+ agenda take shape.

The coercive modes cited earlier refer to using access to strategic ocean landscapes in order to coerce potential opponents. Some examples are ignoring international regimes that regulate shipping transit through maritime chokepoints controlled by BRICS+ countries such as Egypt and Iran, as well as the Southern Cape Route around South Africa, while Russia and China control much of the emerging northern route between the Arctic ice cap and Russia. This could well lead to the militarisation of ocean territories as seen in the North-Western Indian Ocean and the Persian Gulf (Bueger and Stockbruegger, 2022). A recent case in point is the rapidly escalating Houthi armed attacks on commercial shipping in the Southern Red Sea and Gulf of Aden off Yemen that resumed in March 2025. The declared aim is to coerce state actors and even commercial entities, such as civilian shipping lines, to change their behaviour towards the Israel-Gaza conflict. Iran does not stand neutral in the ongoing Houthi attacks, given its long-standing support to its Houthi proxy in Yemen. Iran also actively interferes with commercial vessels passing through the Strait of Hormuz in response to what it deems to be interference and threats to Iranian interests. India, in turn, deploys its navy into the Arabian Sea to counter interference, albeit against criminal elements, but also likely in a suasion mode of naval diplomacy directed at Iran.

The Houthi attacks exemplify threats from armed non-state groups to international shipping, challenging a BRICS+ interest in freedom of navigation and the need for collective security provision against a common threat (Wintour 2024). A further example is the Chinese and Indian naval posturing in the South China Sea and the Indian Ocean to support their respective interests (Khan 2022). Characteristically, China and India view one another with suspicion given their competing stances on the Indian Ocean/Indo-Pacific, and in light of China's ambitions to run their Maritime Silk Road through the Indian Ocean to Africa without competitors interrupting this strategy (Raja Mohan 2022). Neither of these examples demonstrates any official BRICS+ stance on mitigating threats against their common interests in the respective ocean theatres, but instead both function as detractors from expectations of constructive BRICS+ maritime cooperation to promote maritime security.

3.3. *Outlining overlapping BRICS+ agendas*

The World Economic Forum (WEF) distinguishes between a collective BRICS+ agenda and the individual agendas of BRICS+ members that (also) suit their national agendas. Although BRICS+ membership brings to the fore national agendas, common stances and coherent agendas remain ambitious, difficult and troublesome (Pillai and Savio 2024). From a theoretical approach, BRICS+ members have their reasons why their BRICS+ membership is important, but security interests are more difficult and are often last to be subjected to collaborative arrangements (Saran 2017).

Merging or reconciling BRICS+ common and national agendas remains complex, but needs some resolution. How BRICS+ proceeds as a collective entity remains unclear, however, Shapenko *et al.* (2014) suggest four progressive scenarios towards greater integration of their interests and resultant policies and programmes:

- A loosely organised entity: A club of emerging nations discussing global agendas dominated by other actors.
- More cooperation: Forge alliances to influence global agendas by expanding membership and building a political alliance.
- More integration: Fostering integration towards a Union by increasing economic growth and trade, integration and moving towards an economic union.
- More globalist beyond BRICS+: Pursuing economic, political and cultural integration to help address global problems faced by all.

The above scenarios outline alternatives that could become more formalised and politicised in response to developments that accommodate or constrain BRICS+ ambitions. From a dispersed club to an integrated entity, each pathway harbours ways to align national agendas with BRICS+ ambitions. BRICS countries must, however, also rise to modern challenges to remain in step with a changing environment. The idea of a multiplex world offers more room for actor blocks from the Global South seeking more manoeuvring space, acceptance, influence and tolerance for alternative ideas—room not so readily available to older institutions of a similar kind, as argued by Acharya (2017). With BRICS+ professing to be an economic organisation focused on cooperation and development, instruments to align their economic activities and answers to domestic difficulties of members must be part of the agenda to move BRICS+ forward (Shapenko *et al.* 2014). In practice, this approach must also be taken up and executed in the underplayed maritime agenda called for in South Africa in 2018.

4. The Case for a Blue BRICS+

The oceans physically connect BRICS+ member countries and their economies. Simultaneously, significant trade differences characterise BRICS+ countries, but intra-group trade make up a good percentage of goods traded vs international turnover that exceeds the global average (United Nations, 2023:6). South Africa, Ethiopia and Egypt show strong trade profiles with India and China, and much of this is maritime-based. Increasing their international footprint or operationalising their reasons for joining BRICS+ must harness the country's maritime profile, assets and advantages. The latter rests upon collaboration on local and international initiatives that mitigate competitive and destructive ocean-grabbing behaviour. Lowering risks of overexploitation, inequitable distribution of access and failed or wrong adaptation to changing ocean conditions speaks to more sustainable ocean futures. This serves as a viable vision for how states, civil society, local communities, markets, industry and their collective influence on and implementation of rules mediate interaction with the oceans (Haas *et al.* 2022).

Returning to the liberal outlook, security underpinnings that pave the way for optimal ocean use rest upon responsible use and cooperation, not militarising conflicts and competition. Avoiding the latter requires diplomacy and regulation through international institutions and consensus building on norms (Perez 2022). Whether solely between BRICS+ members or through a wider network, frameworks for cooperation are on offer. The latter opportunities, amongst others, now include consensus building on The UN Convention on the Law of the Sea (UNCLOS) stipulations as well as more recent programmes. As for the latter, some opportunities arise from UN Resolution 76/296 Our ocean, our future, our responsibility (2022), UN Resolution 72/249 on the responsible use of marine biological diversity of areas beyond national jurisdiction, as well as cooperation with the ICPC on the protection of subsea infrastructure as a common critical connectivity and communication infrastructure setting.⁴

Despite the continuation of contestations about boundaries, rites of passage, use of resources and territorial claims, the norm proposed is consensus, collective action, and cooperation to serve interests and mitigate common threats. This norm setting permits sustainable ocean use, security of trade and coastal states themselves (Perez 2022). Pursuing the liberal approach, cooperative global maritime security governance becomes more important for actors to collaborate and ensure order at sea by promoting confidence and trust. Pathways for this are embedded in lowering sovereignty claims by balancing the rights argument with that of responsibility, making security referents more inclusive, setting up more amicable interaction contexts by lessening competition and revisionism, and formulating norms and rules collectively to be less intrusive and threatening to national sovereignty. These pointers help to regulate conflict through the UNCLOS dispute settlement mechanism, such as the International Tribunal on the Law of the Sea (Sperling 2022). In addition, promoting the aforementioned matters within BRICS+ can help situate BRICS+ as an influential, albeit dispersed, security provider for maritime security and the use of the oceans.

BRICS and BRICS+ annual meetings saw several themes emerging over the past 12 years since South Africa joined. Inherently, partnerships, inclusiveness, collective action, cooperation and solidarity/mutuality characterise the annual themes. The themes in Table 2 connect in the sense that cooperation, not competition, anchors every annual agenda. While security only features twice in the themes since 2011, and again in 2024 in the Russian-led summit, declaratory ambitions for cooperation, prosperity, solidarity and development ultimately rest upon a secure, stable and predictable politico-security landscape to minimise risk and uncertainty. This declaratory set of annual aspirations must be extended to maritime matters as well to augment the spirit of solidarity underpinned by shared cooperation, mutuality and partnerships.

Table 2: BRICS+ themes for annual Heads of States meetings

Year	Theme
2011	Broad Vision, Shared Prosperity
2012	BRICS+ Partnership for Global Stability, Security and Prosperity
2013	BRICS+ and Africa: Partnership for Development, Integration and Industrialisation
2014	Inclusive Growth: Sustainable Solutions
2015	BRICS+ Partnership – a Powerful Factor of Global Development
2016	Building Responsive, Inclusive and Collective Solutions

⁴ The International Cable Protection Committee's 'Member List' of April 2024, for example, reflects neither Saudi Arabia as a member in waiting, nor Brazil, Russia, and Iran as members of the ICPC.

Year	Theme
2017	BRICS: Stronger Partnership for a Brighter Future
2018	BRICS in Africa: Collaboration for Inclusive Growth and Shared Prosperity in the 4th Industrial Revolution
2019	BRICS: Economic Growth for an Innovative Future
2020	Global Stability, Shared Security and Innovative Growth
2021	BRICS @ 15: Intra-BRICS+ Cooperation for Continuity, Consolidation and Consensus
2022	Strengthen BRICS Solidarity and Cooperation, Respond to New Features and Challenges in International Situation
2023	BRICS and Africa: Partnership for Mutually Accelerated Growth, Sustainable Development, and Inclusive Multilateralism
2024	Strengthening Multilateralism for Just Global Development and Security

Building on the broad and declaratory wording and concepts of the annual heads of states' meetings, national expressions and agendas of BRICS+ members serve as possible building blocks for a blue BRICS architecture. This is premised on the presence of maritime programmes and strategies already declared and, in some cases, further developed by the nine member states of the BRICS+ grouping.

China is the leading country that explicitly prioritised the oceans for its economic progress. One indicator is the series of five-year plans with the *13th Five-year plan* (2016-2020) premised upon maritime-based economic development (Martinson 2016). In addition, debates on the Maritime Silk Road are better known for its landing points across the Indo-Pacific and in Africa, more particularly. Russia also underlines the comprehensive management of the oceans with its *Marine Board* to manage and integrate maritime affairs (Bo 2020). South Africa launched 'Operation Phakisa' in 2014 to harness South Africa's ocean economy with the idea of boosting development, supporting the National Development Plan and increasing job creation (Findlay 2018). India plans for a Maritime India and houses the *Maritime Agenda 2010-2020*, with maritime connectivity being a major focus to leverage ocean wealth (Rao 2019). In turn, Brazil pursues *The Blue Amazon Paradigm* directed at ocean and river spaces and their preservation and sustainable use (Barros-Platau and Barros 2022). All five of these earlier BRICS+ members thus hold developmental ambitions with maritime underpinnings irrespective of how successfully these programmes are executed and yield deliverables to optimise their use of the oceans.

Regarding the post-2023, they also have ocean programmes. Egypt is formulating its *National Strategy for the Blue Economy* with the National Blue Economy Research and Innovation Centre seemingly the lead agency offering a roadmap under the auspices of the Ministry of the Environment (Egypt Business Directory 2024). Iran declared a maritime development strategy to develop its coast and expand economic ties with neighbours, however, little information on progress is forthcoming (Rubin 2024). The UAE launched its *Sustainable Blue Economy Strategy 2023* to position its blue economy as a pillar for growing its GDP and protecting the marine environment (Gulf News Report 2022). Saudi Arabia's *Vision 2030* targets the blue economy inclusive of harnessing the potential of the Red Sea and Persian Gulf (World Economic Forum 2024). Although not a littoral country, Ethiopia houses maritime ambitions towards the blue economy, logistics and resources through the *Ethiopian Maritime Authority*. National ambition is also visible in Ethiopia's attempts to lease territory around Berbera, a port of Somaliland, and so gain a sea outlet and become a maritime player in a strategic maritime chokepoint (Santos 2023). These strategies and programmes suggest BRICS+ member states are expressing their maritime interests through strategies and programmes but have not yet been taken up in a common BRICS+ declaration or block stance on maritime matters.

4.1. *A maritime BRICS+: Opportunities and constraints*

The persistent emphasis on collaboration expressed in almost every BRICS+ annual theme also ties into the practices of maritime cooperation. In contrast, as Zhihua (2019) points out, policy preferences of member states play a mediating role, but not always in an energetic manner, and this slows the move to multilateral action. Fortunately, the national maritime programmes of BRICS+ members offer attractive national clusters of interests premised upon the use of the oceans and in effect, echo the constituent elements of the 2018 Johannesburg Declaration as the primary call for BRICS+ to pursue maritime cooperation.

Zhongxiu and Qingxin (2020) briefly referred to BRICS investment cooperation to advance the ocean economy. The authors used the 2018 Johannesburg Declaration to demarcate designated maritime sectors and to promote the idea of 'new sector investments' to bring member states into step with the maritime economic agenda. Although BRICS+ does not reflect geographic proximity, but globally dispersed regions, the theory of Global Regionalism informed by principles of functionality, networks, identity, multi-actorness and multifactor spans becomes relevant (Konyshv and Segunin 2022:110). Dispersed regionalism theory offers ideas for more dispersed agenda

setting and its pursuit as opposed to a BRICS+ common maritime block strategy. In addition, Bo (2020) outlines important domains where maritime powers ought to place their efforts. Although Bo (2020) wrote with China in mind, BRICS+ also enters the equation. Within the expanded BRICS+, this is an imperative given potential membership proliferation, their diversity in terms of geographic setting, economic development, maritime standing and dealing with the wider ocean agendas demanding maritime security, in addition to the updated paradigms expressed by Bueger and Malin (2023):

- The blue economy: Expanding economic growth and marine resources within a sustainable development paradigm.
- Ocean health: Ecological consequences of human interactions and to protect and restore aquatic life and marine environments.
- Blue justice: Equitability and fair distribution of maritime risks, revenues, access and control.

Management expertise regarding the use of the oceans is crucial. In addition, the pursuit of a maritime economic agenda turns the attention to BRICS+ as a rising player that must remain in step with current maritime paradigms. These paradigms refer to maritime security, maritime economy, the environment and matters of blue justice with a focus on governance, multilateral action, cooperation and institutionalisation (Zhihua 2019). In doing so, national leaders and decision-makers must compete and cooperate to serve national and common BRICS+ interests with the following some suggested competitive and cooperative roles outlined below.

For BRICS+ member countries, a functional governance structure or high-level oversight body at the national level to align policies and strategies must be considered. Governance and oversight promote consolidation of existing maritime departments to limit over-bureaucratisation and improve efficiency. This consolidation or optimal alignment of maritime partners implies better national adherence of individual states as national maritime architectures tend to vary significantly, and thus, the suggestion to be positioned and aligned in order to support a future BRICS+ maritime agenda. Science and technology are, for example, driving forces, and their maritime relevance or iterations are critically important and thus, a common field of note. Both require investments, competitive industries and world-class maritime equipment for the marine industry.

Furthermore, the expansion and control of maritime spaces and then using these spaces in an optimal fashion is controversial and holds much competitive potential (Bo, 2020). In practice, this expansionist trend for more ocean access requires that jurisdictional seas be delimited and disputes be settled peacefully. According to Bo (2020), the development of and active participation in the regulated use of the high seas, as well as cooperation with actors to access and govern distant maritime spaces as prescribed by UNCLOS and mutual agreements, is a further, albeit difficult, future scenario. Notwithstanding the difficulties, BRICS+ must be part of the debate if it wants to promote its interests or that of member states.

Turning the attention more fully to a BRICS+ maritime agenda, Zhihua (2019) identified ways to take the then BRICS maritime economic debate from political statements to policy and institutional programmes. Zhihua (2019) avers that as a growing politico-economic block, BRICS members must grow their role and influence in maritime security governance rule-making and become a leading voice for the Global South through maritime economic cooperation. BRICS also serves as a mobilising entity to bring other countries from the South into the maritime governance debate with three major Southern powers (China, India, Russia) alongside members from South America, Africa and the Middle East (since 2024) in the lead (Zhihua 2019). In pursuit of maritime economic cooperation, several priorities are put forward and read together with arguments from Bo (2020). The following are possible trajectories.

BRICS+ countries must use their existing national programmes to promote the maritime agenda. Economic pathways only make sense if they are in step with maritime security initiatives such as disaster risk management, environmental security programmes, those offering physical security against threats to shipping, and programmes that foster responsible behaviour in harvesting and extracting living and non-living marine resources. Extending blue justice based on fairness and equitability is a further imperative given the perceived and de facto lack thereof experienced in the Global South.

Collectively, the above offers a normative environment for progressing with maritime industry aspects, such as maritime infrastructure, transforming maritime industries and developing modern maritime service industries (Zhihua 2019). The opportunities are reinforced by the BRICS+ partnership to build consensus based upon existing platforms housed within the BRICS+ cluster of states and their geopolitical and geoeconomic clout. In practice, Track 1, 2 and 3 diplomacies are engine rooms for progress. Tracks 2 and 3 help to operationalise what Track 1 government-to-government diplomacy has set out in, for example, the 2023 Johannesburg Declaration (Muresan 2023). Given the official activities for BRICS+ 2024 in Kazan, Russia, the extensive array of fora, conferences and meetings are impressive and possibly plug-in entities, but unfortunately still include only one oceans-related stream dedicated to polar research cooperation driven by Russia (Roscongress, 2024). One caveat here is that the latter stream expressed the desire for joint research in ocean sciences that seems to reach

more widely than polar research while Putin noted inclusion of the Persian Gulf, Red Sea and Caspian Seas in his official statement at the BRICS Business Forum in 2023 (. (Sputnik Africa, 2024; The International Affairs, 2023).

Zhihua (2019) also notes obstacles that offset the optimism of turning to the latent potential of the ocean's economy. First, BRICS+ countries do not make up the rules for global maritime governance and must cooperate within BRICS+ to forge a more benign global maritime governance regime (Zhihua, 2019). Second, maritime economic cooperation must be institutionalised and supported as economics and security houses a remarkably close interdependence. BRICS+ members are, thus, in the position to add BRICS-agency to information, investment, resource allocation, dispute management and business opportunities. Third, BRICS+ must consider adding value to global maritime governance and its regulatory frameworks that remain the setting for international rules that BRICS+ must heed as well. This underlines the imperative for BRICS+ as a block or as countries to be a player in setting up the rules.

The block approach must also be considered given possible new applications with the following littoral states requesting BRICS affiliations: Algeria (Strait of Gibraltar), Bangladesh (Indian Ocean), Cuba (Caribbean), Ecuador (Pacific), Indonesia (Malacca Strait), Nicaragua (Caribbean/Pacific), Nigeria (Gulf of Guinea), Pakistan, (Arabian Sea), Senegal (Atlantic Ocean/Gulf of Guinea), Sri Lanka (Indian Ocean), Sudan (Red Sea), Thailand (Indo-Pacific), Türkiye (Bosporus, Mediterranean and Black Sea), Uruguay (Southern Atlantic) and Venezuela (Southern Atlantic) (Devonshire-Ellis and Bonesh 2023). Continued membership growth increases influence as a block or a dispersed entity pursuing a common BRICS+ maritime agenda.

If BRICS+ aspires to become a block player operating as a dispersed global maritime security provider, maritime security cannot be left aside. Turning to maritime security, BRICS+ countries and the ambition of leveraging the blue economy to propel BRICS+ countries into an upward developmental trajectory, must contend with traditional and non-traditional maritime security threats. Their amicable mitigation remains key to ensuring the security platform upon which productive global maritime economic cooperation within BRICS+ will flourish (Zhihua 2019).

5. Conclusion

BRICS+ includes a dispersed grouping of strategically located coastal states on different continents located astride or adjacent to important maritime trade routes. The BRICS+ members rally around a declared agenda of trade, development and cooperation to build an alternative politico-economic block of emerging countries in the international system. In its pursuit, they vie for national and global power, influence and an adjustment of the rules that govern the system to be more beneficial to their interests. In all these politico-economic and diplomatic manoeuvres, the maritime agenda remains neglected except for annual naval exercises amongst BRICS+ members, but not under a BRICS+ label.

Pre-2024, BRICS members at their 2018 Heads of State meeting in Johannesburg, South Africa, undertook to leverage maritime economics. The Johannesburg Declaration (BRICS 2018) mapped out areas to further develop and build upon to make greater use of the maritime economic potential on offer to help BRICS lift their economic growth curves. Unfortunately, the 2018 declaration found no further expression in the work of BRICS working committees responsible for shifting the annual declaratory commitments from political statements to policy objectives to BRICS+ programmes. Inherently, BRICS+ thus remains a powerful player with latent, but unused maritime influence at the diplomatic, economic and security levels.

Although literature and institutional work on harnessing the maritime influence of BRICS+ remain limited, the potential lingers. With common ambitions of influencing global governance, rulemaking and institutional changes for a more just international setting, a BRICS+ maritime agenda cannot be left off the change agenda. Some pathways to bring its underlying maritime leverage to fruition are the following. First, the chosen concepts that populate the themes of annual Heads of State meetings have maritime relevance in terms of geography, ambitions and outcomes. Second, the oft-declared BRICS+ economic, trade and development goals co-depend on a global maritime system embedded in a safe, sustainable and secure operating environment. Third, the determination to adjust the rules-based international system within which BRICS+ must function includes a maritime domain where BRICS+ can help to adjust the regulatory environment in its favour, or towards more fairness. Fourth, any drive to elevate the maritime focus in BRICS requires institution building to direct and execute selected programmes, and is therefore dependent on what model BRICS+ aspires to follow:

- A loosely organised entity: As a club of emerging nations discussing global agendas dominated by other actors, maritime agendas must be included.
- More cooperation: Allying to influence global agendas by expanding membership and building a political alliance. In this case,

the ocean's agenda must be a focus, and as a political alliance, their focus must include participation in agenda setting that accounts for the ever-expanding maritime security agenda.

- More integration: Fostering integration towards a Union by increasing economic growth and trade, integration and moving towards an economic union. An integration pathway calls for a maritime agenda. The essence here is that a BRICS+ economic union shall be maritime-dependent given the maritime core of the global economy and that all BRICS+ member states (except Ethiopia) are coastal countries.
- More globalist beyond BRICS+: Pursuing economic, political and cultural integration to help address global problems faced by all. In this case, BRICS+ must participate within the liberal cooperative maritime security paradigm as a block or regionally dispersed body that promotes progress towards a global consensus on the responsible use of the oceans.

Imagining a blue BRICS+ ultimately raises the question of how BRICS+ can integrate the ocean's agenda into its pursuits, given that the maritime domain, its security and product delivery are premised upon BRICS+' regional and international hierarchies of cooperation. Politically and declaratory-wise, the scene is set. It is now incumbent upon the fora of BRICS+ as collective engine rooms to shift the annual political declarations of intent to strategy and programmes and so institutionalise ways to promote a maritime BRICS+ agenda.

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Challenging Eurocentrism: An Afrocentric Appraisal of the Cape Sea Route

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Abstract

The Cape Sea Route is often presented in policy, academic and media discourses as an alternative to the preferred, but always troubled, Red/Mediterranean Sea Route. Deeply rooted in the history of Europe-Asia/Africa relations, this Eurocentric perspective prioritises foreign interests above those of Africa along the route. It underestimated the strategic importance of the Cape as a primary route for the immediate locations (South Africa, Southern Africa and the continent) and their relations with some other parts of the world, thereby undermining Africa's initiatives to maximise opportunities and address challenges along this and other complementary trade corridors. From an Afrocentric perspective, and with priority given to the immediate locations, this article examines the strategic importance, opportunities and challenges along the Cape Sea Route. It assesses the viability of this trade route for different parts of Africa and other continents and categorises them into primary and secondary users. The article argues that the prospect of intra-African trade is key to a reliable, consistent and sustainable Cape Sea Route strategy. Beyond trade, it is a promising African corridor for maritime investment and services, including ship-building, repairing, operations, insurance and related employment. To fully exploit such opportunities, however, the political, economic and security challenges along this and other African trade corridors must be addressed with improved institutional capacity for good governance, political stability, onshore and offshore law enforcement, socioeconomic transformation, human development, regional cooperation and global partnership.

Keywords: Cape Sea Route; Africa; South Africa; trade; maritime security; development

1. Introduction

The strategic importance, prospects and viability of the Cape Sea Route have been historically, knowingly or unknowingly and intentionally or unintentionally premised and connected to the fortunes and misfortunes of the Mediterranean/Red Sea Route in academic, media and policy debates and considerations. From the European sailing and exploration around Africa in the 15th century to the frequent rerouting around the continent in the 20th and 21st centuries, the Cape Sea Route is mostly considered an alternative to the often-troubled Red/Mediterranean Sea Route (Bendall 2010; Boucher 1974; Reader 1999; Martínez-Zarzoso 2013; Oyewole 2017, 2024a; Yap and Yang 2024). Similarly, many observers have proposed or forecasted the Northern Sea Route as a secure and shorter alternative to, or possible replacement for, the troubled Red Sea and the longer Cape Sea Route in the future (Blair 2024; Guo et al. 2022). These and related hegemonic narratives are premised on the Eurocentric notion that the Cape Sea Route primarily served foreign interests, while the African interests and perspectives are secondary, irrelevant, inconsequential or merely complementary at best (Boucher 1974; Dorning 1979; Meyer 1988).

Within the framework of prevailing global narratives on the externally driven strategic importance of the Cape Sea Route, national (primarily South African) and sub-regional (other coastal Southern African countries) perspectives have emerged on the opportunities and challenges of occasional surges in Cape Sea Route traffic (Dorning 1979; Walker 2024). According to Walker (2024a), "South Africa needs to take advantage of the Cape Sea Route's resurgence in the wake of Red Sea route instability". Accordingly, these perspectives rarely challenge the prevailing global narratives, but rather fall victim to the notion that the Cape Sea Route becomes relevant primarily because of foreign interests and as an alternative to the troubled Red Sea Route. These perspectives deny Africa and particularly the countries along this route, the motivations and initiatives to own and drive the opportunities, reliably and consistently assess the strategic importance, collectively plan and implement proactive strategies to exploit potential benefits and address the challenges along the Cape Sea Route. Amid these, however, there are some limited reflections on local and subregional importance and opportunities of the Route (Boshoff and

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Fourie 2010; Santos and Santos 2024). More importantly, Notteboom (2012) assesses the global prospects of the Cape Sea and Red Sea Routes based on the distance between major ports and shows some of their most viable scenarios.

Against this background, the current article explores an Afrocentric perspective on the national (South Africa), subregional (Southern Africa), continental, intercontinental and global dimensions of the strategic importance, opportunities and challenges of the Cape Sea Route. The article reflects on the following questions: What are the interests, opportunities and challenges along the Cape Sea Route? Whose interests, opportunities and challenges? Without prejudice to other interests, the article prioritises African interests, opportunities and challenges along the Route. Hence, it avoids narratives that reduce two major African Seas to mutually exclusive Routes in opportunities, while exploring the unique strategic importance of the often-marginalised Cape Sea Route in its own rights, in addition to its complementary values to the Red Sea. In this manner, this article seeks to reevaluate the strategic importance of the Cape Sea Route and facilitate a better understanding of its strategic opportunities and challenges for South Africa, Southern Africa, the African continent, and other parts of the world. Accordingly, this article is further divided into four sections: the evolution of prevailing perspectives on the Cape Sea Route; the Afrocentric perspective on its strategic importance; the opportunities and challenges of the Route; and concluding reflections.

2. Eurocentrism and the Evolution of the Prevailing Narratives on the Cape Sea Route

The strategic importance of the Cape Sea Route at the global level has always been tied to the search for an alternative to the preferred, however, often troubled Mediterranean/Red Sea Route. This prevailing narrative of the strategic importance of the Cape Sea Route is historically rooted in the Eurocentric worldview, which is conceived to advance the interests of Europeans. Starting from Prince Henry's pioneered expedition around West Africa and Bartolomeu Dias's first Cape expedition and Africa's round trip to Vasco da Gama's sailing through the Cape Sea Route to India, the search for an alternative route to connect Europe with Asia (Indies) and East Africa (Ethiopia) other than the Mediterranean and Red Seas was one of the primary reasons for the European Southward exploration of Africa in the 15th century (Hall 2005; Reader 1999).

The Mediterranean Sea has a long history of geopolitical tension, war, piracy and slave raid/trade. Piracy in the Mediterranean Sea has been documented since the 13th century BCE, with its prevalence fluctuating throughout history and enduring threats persisting up to the 19th century (Mark 2019; Tinniswood 2010; White 2018). Since the Battles of Alashiya (1210-1205 BCE), the first recorded naval warfare in human history, the Mediterranean Sea has been a theatre of geopolitical tension and wars among states and empires of the Egyptians, Greeks, Persians, Phoenicians, Romans, Carthaginians, Europeans, Arabs and the Ottomans across history, a trend that has endured to date (Gilbert 2008; Hall 2005; Mahan 1889; Oyewole and Duyile 2021; Russell 2021; Theotokis and Yildız 2018; Thucydides 1928). It is, therefore, not surprising that the search for an alternative trade route to the Mediterranean Sea was one of the primary motivations for European exploration around Africa and the Cape coastline in the 15th century. Around the time of European exploration and navigation around the continent of Africa, the Mediterranean Sea was marked by geopolitical tension between Christian Europe and Muslim Arab and North Africa, following centuries of religious wars (Coffin and Stancy 2005; Reader 1999). Equally, the Barbary pirates of North Africa threatened shipping in the Mediterranean Sea between the 16th and 19th centuries (Tinniswood 2010; White 2017).

The enduring threats along the Mediterranean/Red Seas have not only reinforced the Eurocentric view of the Cape Sea as an alternative route, but also globalised this perspective in recent history. In the first half of the 20th century, the involvement of the Ottoman Empire in World War I and Italy in World War II made the Mediterranean Sea a major theatre of these deadly wars (Ball 2009; Ehlers 2015; Halpern 2012). After the World Wars, new geopolitical competition and wars emerged along the Mediterranean and Red Seas, with the Cold War and the decolonisation of Africa and Asia. These included the Arab-Israel wars, the French war in Algeria, the French and British-supported Israeli invasion of Egypt over the Suez Canal, the Libyan conflict with the West and the Greco-Turkish conflict over Cyprus, among others. All these conflicts undermined the viability of the Mediterranean/Red Sea Route and forced many ships to reroute around Africa. Amid these, the Arab-Israel conflicts between the 1950s and 1970s had the most disruptive effects on ship traffic along the Red Sea and Suez Canal, as many vessels were rerouted around the Cape (Dorning 1979; Meyer 1988). Hence, the enduring Palestinian question in Arab-Israel relations remains a source of frequent threats to shipping along the Red Sea and Suez Canal, even in 2025.

Between 2023 and 2025, the Yemen-based Houthi movement launched a campaign of terror against vessels that are connected to Israel, the USA and their allies, with attendant collateral targets in and around the Red Sea (Oyewole 2024a; Raydan and Nadimi 2025). The campaign was designed as a form of solidarity for Hamas, which is a fellow member of the so-called Iranian-linked 'axis of resistance', and the support of the Palestinians, who paid heavily for the Israeli military operations in Gaza, following the October 2023 militant

attacks against Israel. This rebellious maritime campaign raised the risk and cost of shipping and disrupted the global supply chain along the Red Sea, an important trade route that connects Asia with Europe and some parts of Africa. Between December 2023 and January 2024, this crisis caused a 42 per cent decrease in shipping traffic along the Suez Canal, which accounted for 12 to 15 per cent of the total global trade in 2023 (UNCTAD 2024b). Consequently, many ships diverted their course from the Red Sea toward the Cape Sea Route and around Africa (Notteboom et al. 2024; Yap and Yang 2024). This development inspired much sensational news and debates around what was presented as a newly found or renewed strategic importance of the Cape Sea Route (Walker 2024b).

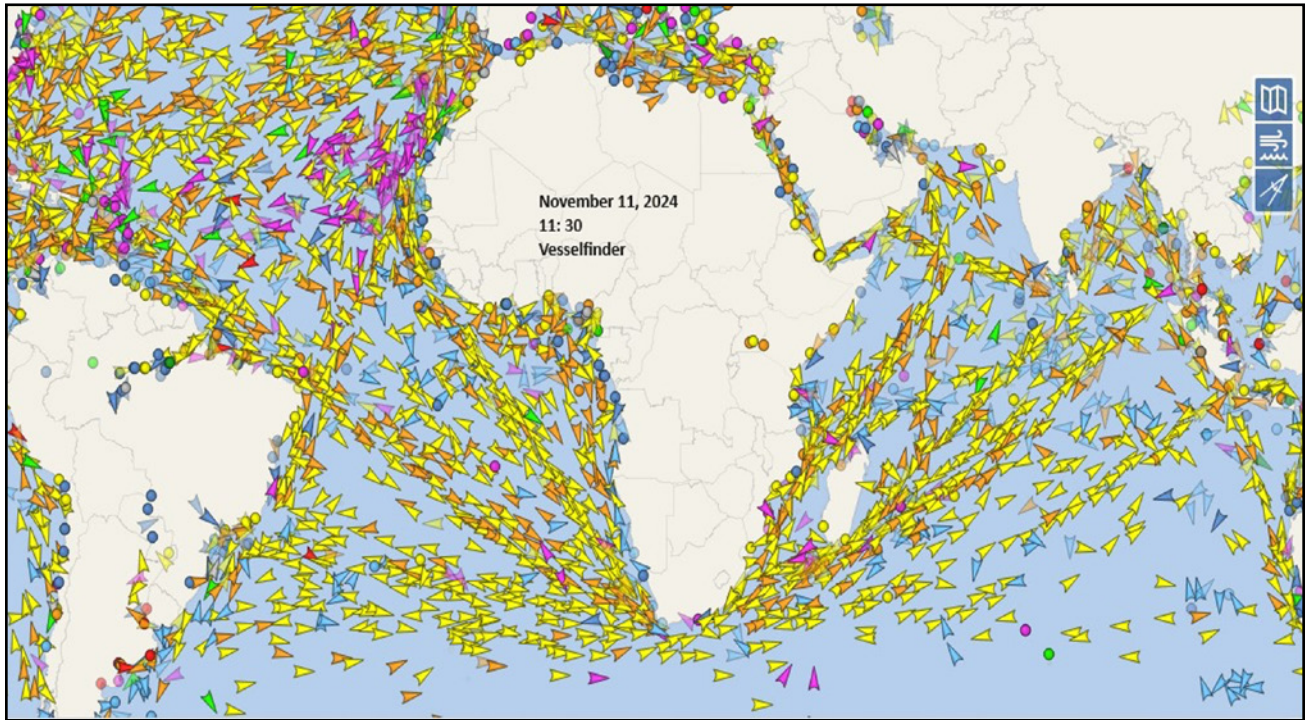
The recent development with Houthis is not the first time that the Cape Sea Route is at the centre of global sensational news with newly found strategic importance in the 21st century. Between 2007 and 2013, when Somali piracy was at its peak in and around the Red Sea, many ships chose to reroute along the Cape Sea Route (Bendall 2010; Martínez-Zarzoso 2013; Onuoha 2009). Incidents of Somali piracy rose from 141 out of 4 855 globally between 1993 and 2006, to 939 out of 3 093 globally between 2007 and 2016 (Oyewole 2017). It was estimated that merchant ships sailing through the Red Sea spent US\$290 million on re-routing along the Cape Sea Route in 2012, US\$6 million as hazard pay for seafarers transiting the risky areas, and US\$185.7 million on piracy-related insurance in 2013 (Ocean Beyond Piracy 2014). Despite the relative decline of Somali piracy since it peaked in 2011, the threat has endured (Oyewole 2017, 2024a). These, among other factors, account for the prevailing, but Eurocentric, narratives of the strategic importance of the Cape Sea (Africa-round) Route, as an alternative to the Mediterranean/Red Sea Route in Europe-Asia trade relations. This equally explains why many observers consider the Northern Sea Route as an alternative and possible replacement for both the Red- and Cape Sea Routes (Blair 2024; Guo et al. 2022).

Against this background, the prevailing Eurocentric narratives of the Cape Sea Route deny, ignore, downplay and underestimate the African and other interests and utilities of the route as well as their strategic importance. This tends to present the route as unviable, worthless or less useful when European trade has safe passage in the Red Sea. Accordingly, the route is often assessed or judged for its complementary role rather than its primary role to the continent, and based on the extent of satisfaction derived by Europeans rather than Africans. As the next section shows, however, the Cape Sea Route is also strategic in its own right, as a primary and the most economically viable route for many countries in Africa and beyond, with all its attendant opportunities and challenges.

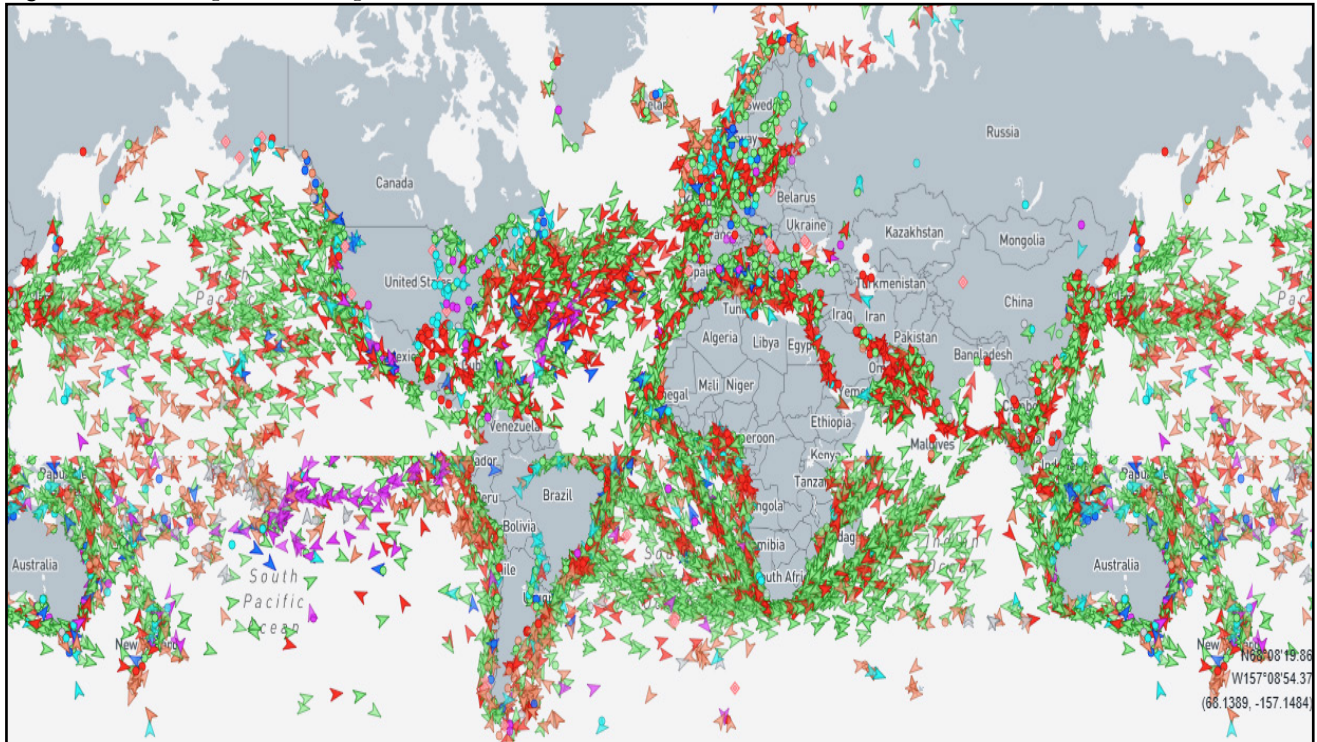
3. Afrocentric Perspective on the Cape Sea Route and its Strategic Importance

Afrocentrism is a perspective that places Africa at the centre of analysis, serving as a counter to the marginalisation of the continent in global knowledge production and the hegemonic position of Eurocentric views in understanding African affairs (Ogunnubi and Oyewole 2020). It is an intellectual perspective that prioritises location in defining what constitutes primary and secondary interests and contexts of a subject. This means the quality of location is essential in the analysis of African history, geography, politics, culture and other subjects (Adeleke 2009). In this case, the Cape Sea Route is primarily located in Africa, and the continent's interests and contexts should be prioritised in defining its strategic importance, opportunities and challenges. Moreover, Afrocentrism involves ontological engagement with the African existence in relevant contexts, epistemological understanding of how to approach it and axiological examination of various underlying interests and values (King and Swartz 2015). This perspective, therefore, allows for a better understanding of African interests, contexts and approaches to the Cape Sea Route.

The Cape Sea Route is not an occasional route of choice as many sensational news outlets often depict it every time a crisis incident or situation occurs in the Red Sea. As Figures 1 and 2 indicate, the route does not conform to the unwanted and unworthy images that are intentionally or accidentally constructed and promoted by sensational news media. It is the primary route that connects the Atlantic and Indian Oceans around Southern Africa and a key lane to sub/regional trade. Moreover, it is a viable route for Central and Western Africa's trading with Eastern and Southern Africa. Similarly, it is a viable route for North Africa's trade with some Southern African partners, and Asia's trade with Southern and Western African partners. Besides Europe-Asia trade rerouting, the Figures show several vessels en route to the Cape from the West Coast of Latin America, and vice versa. The route is viable for Latin America's trade with South and East Africa as well as South and some parts of West Asia. It is also relevant in European and North American trade with Southern Africa. With or without crisis in the Red Sea, therefore, the Cape Sea Route holds varying degrees of strategic importance to different countries across the world, from its immediate location, that is, South Africa, Southern Africa and the continent of Africa, to major economies, such as Europe, China, India, Japan, the USA, Australia and Latin America. The stakeholders include seafarers, shipping firms, international businesses and insurance companies.

Figure 1: Ship traffic around Africa on November 11, 2024

Source: VesselFinder's Ship and Container Tracker on November 11, 2024 (11:30 South African Time)

Figure 2: Global ship traffic on April 10, 2025

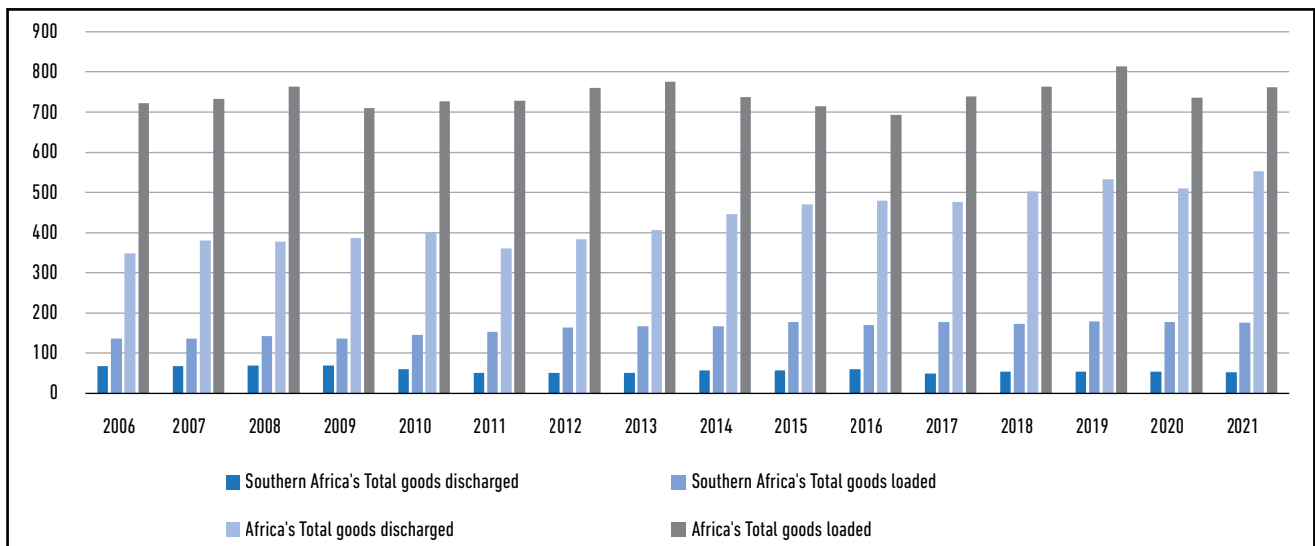
Source: MarineTraffic Tracker on April 10, 2025 (09:00 South African Time)

On one hand, a sea route is arguably as important as the economies of the immediate regions around it. For instance, the global strategic importance of the Red Sea revolves around its oil and gas-rich economies in the Middle East and their supplies to Europe and the West Coast of North America; and on the other hand, in connecting South and East Asia with Europe on the other (Dorning 1979; Meyer 1988; Oyewole 2017, 2024a). At the core of the strategic importance of the Cape Sea Route is South Africa, the continent's largest economy. For an economy of US\$377.952 billion, South Africa's merchandise imports were US\$130.747 billion, while merchandise exports were

US\$110.855 billion in 2023 (UNCTAD 2025). Between 2015 and 2021, South Africa accounted for between 13 and 14 per cent of intra-African imports and between 27 and 35 per cent of intra-African exports (African Union [AU] 2023). This indicates the strategic importance of trade to South Africa's economy and the country's indispensable role in intra-African trade relations and economy. Amid these, the Cape Sea Route is primary to South Africa's trade relations and economic survival.

Furthermore, as the immediate regions of the Cape Sea Route, Figure 3 shows the maritime trade worth of Southern Africa and Africa between 2006 and 2021. The total goods discharged by Southern Africa were between 60 and 70 million metric tons from 2006 to 2010, which then dropped to below 60 million metric tons from 2011 to 2021. Amid these, the lowest goods discharged for the subregion were 49.3 million in 2017, and the highest were 69.44 million in 2009. At the same time, the total goods loaded in Southern Africa for export were between 135 and 153.2 million metric tons from 2006 to 2011, before jumping to above 163 million from 2012 and 170 million metric tons since 2015. Similarly, the total goods discharged in Africa, which were between 349 million metric tons and 400.8 million metric tons from 2006 to 2012, rose to between 406 million and 480 million metric tons from 2013 to 2017, and above 500 million metric tons from 2018 to 2021. At the same time, the total goods loaded in Africa were between 710 million and 776 million metric tons from 2006 to 2021, except for 693.7 million in 2016 and 814 million metric tons in 2019. Although not all these goods pass through the Cape Sea Route, a considerable number do, as subsequent analysis tends to show.

Figure 3: Southern African and African seaboard trade (metric tons in millions)



Source: Author's own, with data extracted from UNCTAD's (2024g) dataset on *World seaborne trade by types of cargo and by group of economies, annual*

Figure 4 provides better insight into the viability of the Cape Sea Route in intra-African trade. Using the port-to-port distance from the Ports (2024), it shows three economically viable intra-African trading routes that feature the Cape Sea Route. At the average speed of 10 knots, a ship's round trip around Africa, which is calculated to be 14 702 nautical miles (NM) or 27 228 kilometres (km), will last for 61.2 days. In the light of these, the Cape Sea Route is more viable than the Red Sea for shipping from the farthest African port in the North of the Atlantic, that is, the Moroccan Port of Tangier, to the Southernmost African ports in the Indian Ocean, including the South African Port of Durban up to the Mozambican Port of Maputo (see the grey line around Africa in Figure 4 below). Tangier to Durban is 6 804 NM and could be covered in 28.4 days at an average speed of 10 knots. From Northern to Southern Africa, this trade corridor connects the Ports of 23 littoral and island African countries, including five of the ten largest African economies, that is, Morocco, the Ivory Coast, Nigeria, Angola and South Africa.

Figure 4: The Cape Sea Route in the Intra-African trade corridors

Source: Author's own design with a map extracted from Google Maps and port-to-port data extracted from Port (2024)

As evident from the deep pink line around Africa in Figure 4, the Cape Sea Route is more viable than the Red Sea for shipping from the Gambian Banjul Port, one of the farthest Ports in West Africa, to the Kenyan Port of Mombasa in East Africa, as the 7 015 NM journey takes 29.2 days on average. This shows the most viable route for most East African trade with Central African countries and most Southern and Western African countries. From Western to Eastern Africa, this trade corridor connects the Ports of 24 littoral and island African countries, including six of the 10 largest African economies, that is, the Ivory Coast, Nigeria, Angola, South Africa, Tanzania and Kenya. The orange line around Africa in Figure 4 also shows the viability of the Cape Sea Route from the Egyptian Port of Alexandria in the Mediterranean Sea through the Red Sea and Indian Ocean to Walvis Bay in Namibia on the Atlantic side of the continent. From Southern to Northern Africa, this trade corridor connects the ports of 12 African littoral and island states, including four of the continent's ten largest economies, that is, South Africa, Tanzania, Kenya and Egypt. These, among other things, show the strategic importance of the Cape Sea Route to the continent of Africa.

Beyond intra-African trade relations, the Cape Sea Route also serves African interests as a viable corridor in trade relations with the rest of the world. Notably, 88.5 percent of Africa's trade was with the rest of the world in 2023 (UNCTAD 2024a). Asia, Europe and America are Africa's largest trading partners by region, since they accounted for 47.5 percent, 28.3 percent and 8.5 percent, respectively, of the continent's external trade relations in 2021 (AU 2023). Amid this, the Cape Sea Route plays a limited role in Africa-Europe trade. Its viability is mainly in connecting South Africa and perhaps Namibia through the Indian Ocean-Red Sea-Mediterranean Sea Route, and Mozambique and Madagascar through the Atlantic to Europe. The Cape Sea Route, however, is not viable for other African states' trade with Europe, except for the East Coast of Africa during the peak of the Red Sea crisis.

The Cape Sea Route is strategically important to many African countries and their partners in the continent's largest trade relations with Asia. Notably, China and India are Africa's largest trading partners by country, since they accounted for 17.8 per cent and 6.2 per cent, respectively, of the continent's external trade in 2021 (AU 2023). As evident in Figure 5, the yellow line shows that the Red/Mediterranean Sea Route is the most viable trading route between Africa, from Liberia in West Africa to North Africa, and East Asia, including China, Japan and South Korea. This trade corridor connects leading African economies, including Egypt, Algeria, Morocco and the Ivory Coast,

to East Asia. Equally, the Cape Sea Route is the most viable trading route between Africa, from Liberia in West Africa to Central and Southern Africa, and East Asia. This trade corridor connects leading African economies, including South Africa, Angola, the DR Congo and Nigeria. For instance, sailing from the Apapa Port of Lagos, Nigeria, to the Port of Shanghai, China (and vice versa) through the Red Sea is 13 890 NM, and will take 57.9 days at an average of 10 knots. The same journey is 12 164 NM through the Cape Sea Route and could be covered in 50.6 days at 10 knots. Beyond China, the viability of these routes also applies to other leading African trade partners in East Asia, including Japan (the 13th largest trading partner), Singapore (18th-), South Korea (19th-), Indonesia (20th-), Malaysia (22nd-), Thailand (23rd-), Hong Kong (26th-), Vietnam (27th-) and Taiwan (34th-) (AU 2023).

Figure 5: Cape/Red Sea Route in Africa's trade relations with Asia



Source: Author's own with a map extracted from Google Maps and port-to-port data extracted from Port (2024)

As evident in Figure 5, the red line shows that the Red/Mediterranean Sea Route is the most viable trading route between Africa, from Ghana in West Africa to North Africa, and India in South Asia. The Cape Sea Route, however, is the most viable trading route between Africa, from Ghana in West Africa to Central and Southern Africa, and India in South Asia. For instance, from the Port of Mumbai, India, to the Port of Lagos (Apapa), Nigeria is 8 460 NM, a journey of 35.2 days through the Cape Sea Route at an average speed of 10 knots. The same journey will take 37.8 days on the Mediterranean/Red Sea Route of 9 065 NM. These provide relevant insights into the viability of the Cape Sea Route in trade relations between African states on the South-Western Coast of the Atlantic, on one hand, and South Asia and the Persian Gulf on the other. Besides India, South Asia and the Persian Gulf are home to other leading African trading partners, such as the United Arab Emirates (UAE) (6th), Saudi Arabia (12th), Pakistan (32nd), Oman (33rd), and Kuwait (39th) (AU 2023).

The Cape Sea Route is also relevant in connecting the East Coast of Africa with America, and most importantly, South America. While most coastal African countries in the Indian Ocean are better connected with the North American and Caribbean countries through the Mediterranean/Red Sea Route, the Cape Sea Route is viable for those in the Southernmost part, such as South Africa, Mozambique and Madagascar. North America is home to the USA, Africa's third largest trading partner, as well as Canada (24th) and Mexico (43rd) (AU 2023). However, leading African trading partners in South America, including Brazil (14th), Argentina (30th) and Chile (52nd), are better connected to the East Coast of Africa through the Cape Sea Route. Moreover, the West Coast of Africa is better connected to major regional trading partners in Oceania, including Australia (29th) and New Zealand (54th), through the Cape Sea Route. Furthermore, the Cape Sea Route is a considerable route around Africa for trade relations between the West Coast of South America and some parts of Asia. Against the Eurocentric reductionism of the Cape Sea Route as an alternative to the Red/Mediterranean Sea Route, all these cases reflect the viability and strategic importance of the Cape in trade relations of South Africa, Southern Africa, Africa and the rest of the world.

4. The Strategic Opportunities of the Cape Sea Route

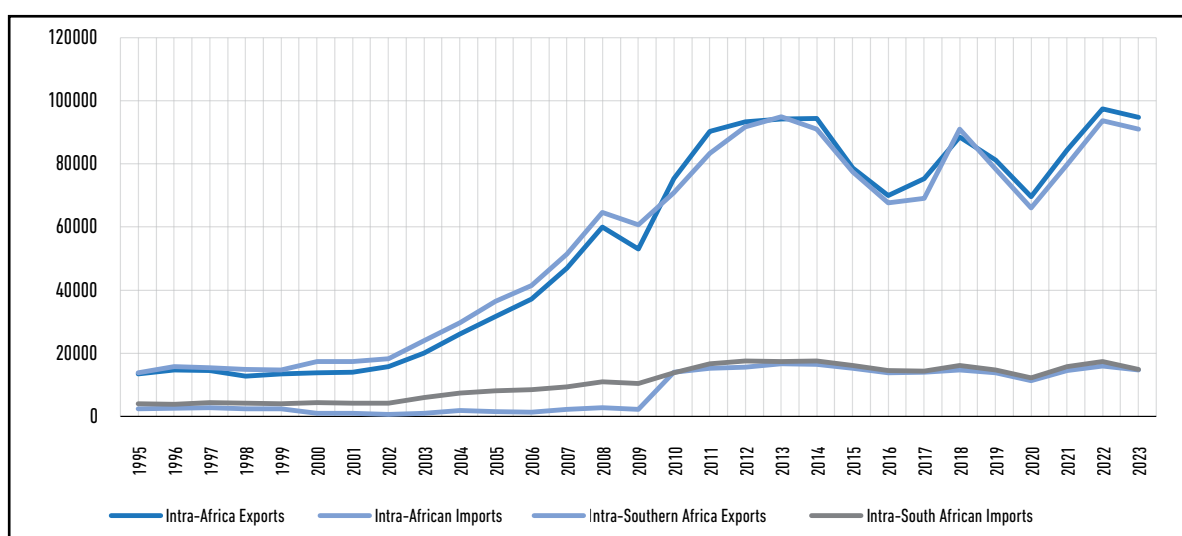
As identified in the previous section, the Cape Sea Route presents varying degrees of trade opportunities to different countries worldwide. In addition to trade, however, it also offers opportunities in the areas of maritime investment, manufacturing and services, including employment, which are relevant to poverty alleviation, especially in Africa. In line with Afrocentrism, any discussion of strategic opportunities of the Cape Sea Route must prioritise the immediate location, South Africa, Southern Africa and the continent ahead of other regions of the world. In contrast, most existing academic and media analyses of the Route have prioritised foreign interests and relevant opportunities for Europe and the rest of the world along the Cape.

In trade, the Cape Sea Route provides opportunities for both primary and secondary users. The primary users are the countries that are best connected through the route, or where the route is the most viable sea route for their trade relations. However, the secondary users are those countries that are better connected through other routes but rerouted through the Cape to avoid or minimise risk. The previous section of this article has mapped out countries and regions that fall under the two groups. Leastways, a consistent and sustainable Cape Sea Route strategy should prioritise the interests and opportunities for the primary users. The earlier section provided insights into South Africa's trade profile and the merchandise trade relations of Southern Africa and the continent. Building on earlier discussions of the Cape in African trade corridors, one of the most strategic opportunities this route offers is in advancing intra-African trade. For South Africa, Southern Africa and many other African countries, the Cape Sea Route is not an alternative or option, it is an opportunity to realise the pan-Africanist dream in trade and to connect with the world.

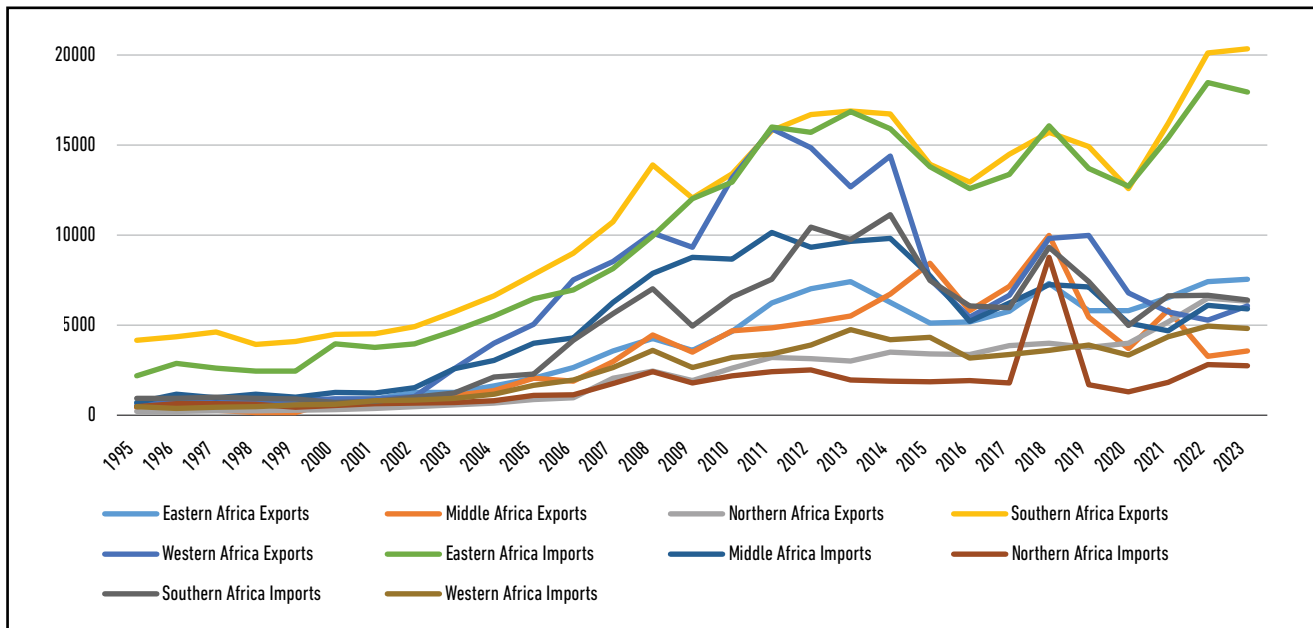
Figures 6 and 7 show the dynamics of intra-African trade relations and the potential opportunities of the Cape Sea Route as a strategic corridor. As evident in Figure 6, intra-African exports were between US\$13 billion and US\$20 billion between 1995 and 2003, but jumped above US\$90 billion between 2011 and 2014, as well as between 2022 and 2023. Similarly, intra-African imports were above US\$90 billion between 2012 and 2014, in 2018, and from 2022 to 2023. Amid these, intra-Southern Africa's exports of between US\$625 million and US\$2.67 billion between 1995 and 2009 rose to between US\$11.2 billion and US\$16.7 billion between 2010 and 2023.

Furthermore, Figure 7 shows the trade relations between different African sub-regions and the rest of the continent. Notably, Southern Africa's exports and Eastern Africa's imports have dominated the trend since 2011, when Western Africa's exports started to decline from their peak. Between 2022 and 2023, Southern Africa's exports to the rest of Africa were over US\$20 billion, while Eastern Africa's imports from the rest of the continent were between US\$17.9 billion and US\$18.5 billion. In 2023, Northern and Western Africa's exports to the rest of the continent were over US\$6 billion, while those of Eastern and Middle Africa were US\$7.6 billion and US\$3.6 billion, respectively. Between 2021 and 2023, Middle Africa's imports from the rest of the continent were between US\$4.7 billion and US\$6.2 billion, while those of Southern and Western Africa were above US\$6 billion and over US\$4 billion, respectively. While Eastern Africa's imports from the rest of the continent were the highest since 1995 being between US\$15.4 billion and US\$18.5 billion from 2021 to 2023, those of Northern Africa were the lowest since their decline from over US\$8.8 billion in 2018 to between US\$1.3 billion and US\$2.9 billion.

Figure 6: Intra-Southern Africa and Intra-Africa exports and imports (in current US\$ million)



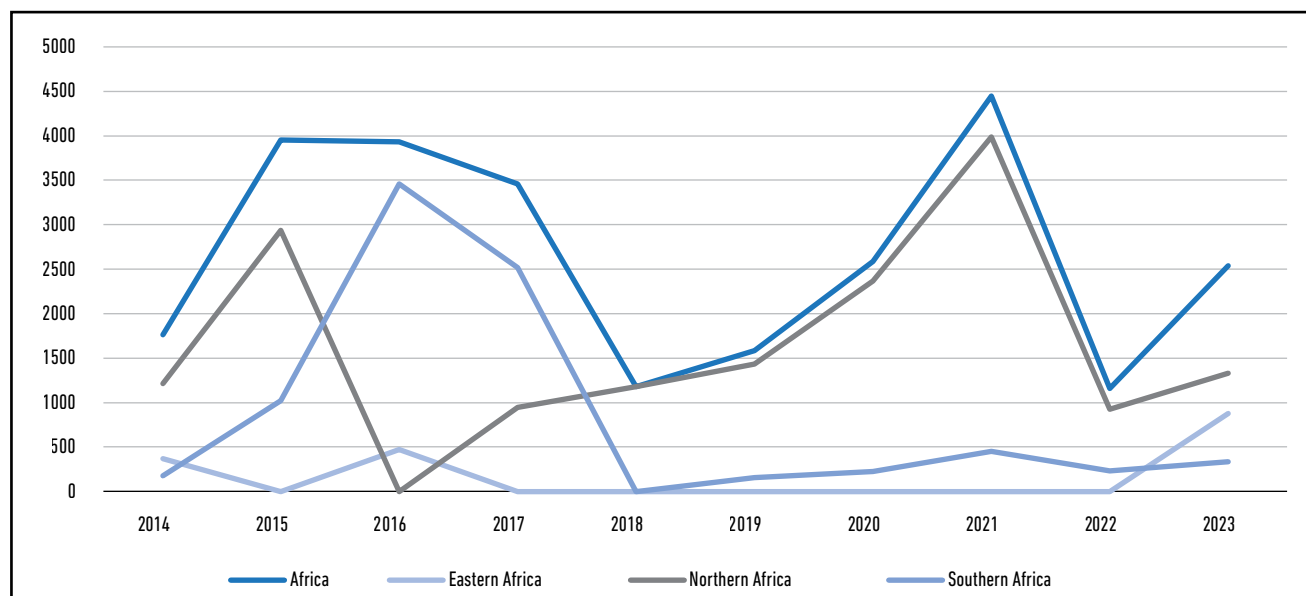
Source: Author's own, with data extracted from UNCTAD (2024a)

Figure 7: African sub-regions, their imports and exports to the rest of the continent (in current US\$ million)

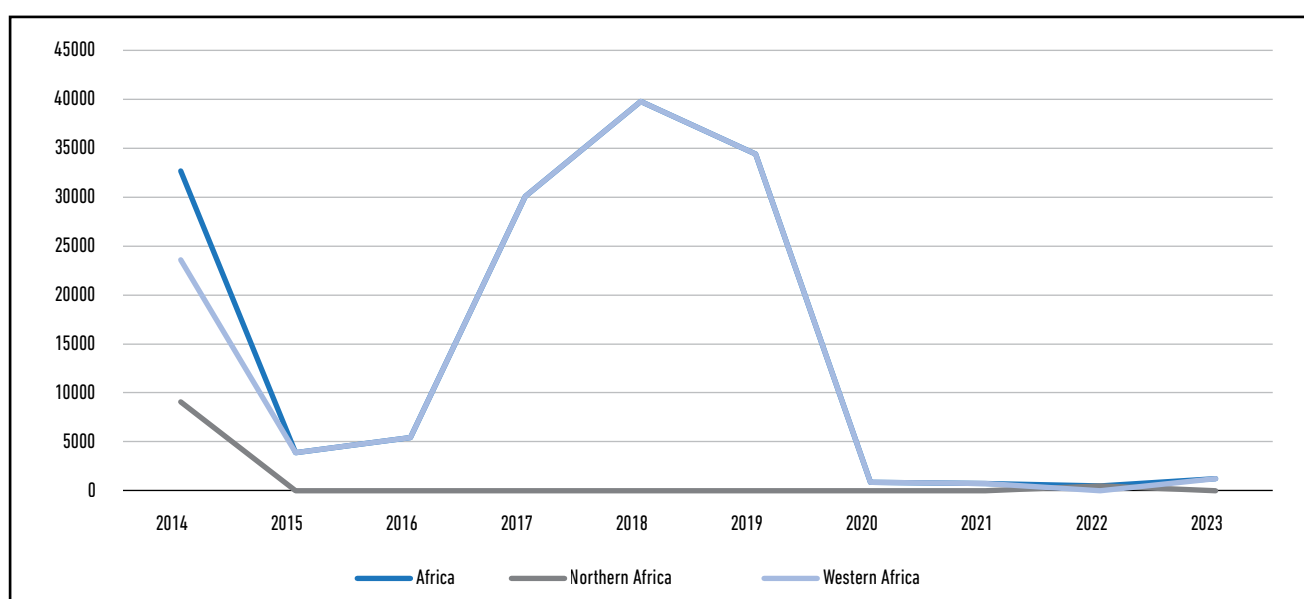
Source: Author's own, with data extracted from UNCTAD (2024a)

These data provide insightful trend analysis on trade opportunities (and challenges examined in the latter section) around Africa, from which one can partly gain some insights into the strategic relevance of the Cape Sea Route to different African subregions. They also indicate the traffic and trade opportunities that commitments to the intra-African trade and implementation of the African Continental Free Trade Area (AfCFTA) will bring along the Cape Sea Route. In addition, this is also a primary route connecting many African countries to Asia, South America and Oceania. Based on these understandable opportunities, a sustainable economy could be developed with a reliable projection and a long-term strategic plan around the Cape Sea Route by South Africa, Southern Africa, the continent of Africa and their major trading partners with shared benefits.

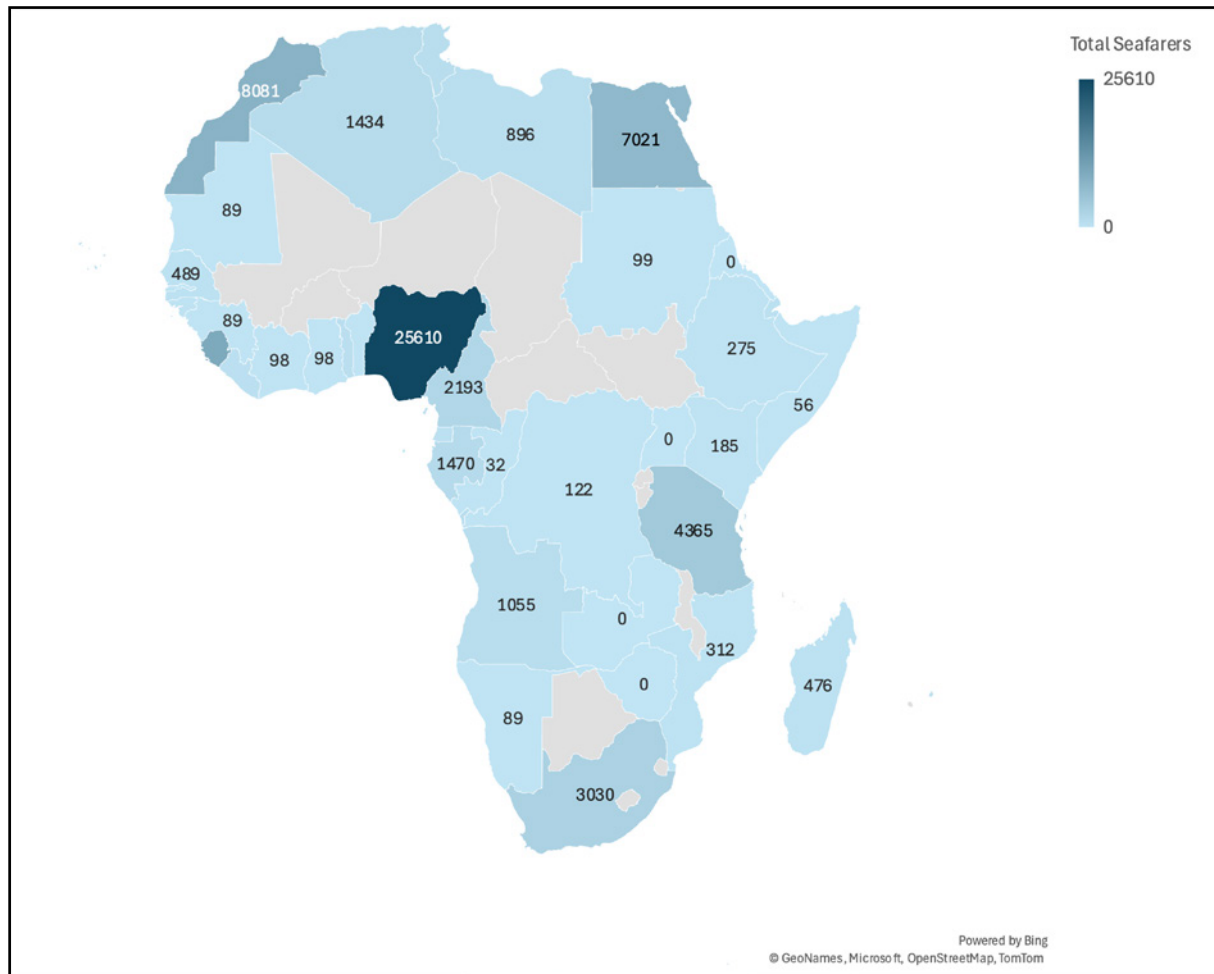
Beyond trade, policy commitment to intra-African trade and investment has the potential to boost maritime investment, as well as production and services along different trade corridors of the continent, including those that involve the Cape Sea Route. As such, ship-building, recycling and maintenance industries are prominent among maritime investments that could be boosted through policy commitments to intra-African trade along the Cape and other corridors. As evident in Figure 8, out of the total 26 601 gross tonnages of ships built in Africa between 2014 and 2023, 1 719 were in Eastern Africa, 16 308 were in North Africa and 8 574 were in South Africa. Amid these, South Africa, Egypt and Mauritius accounted for the total production of Southern Africa, Northern Africa and Eastern Africa, respectively. Figure 9 also shows the ship recycling capacity of Nigeria in West Africa and Egypt in North Africa, as they respectively accounted for 139 976 tonnages and 9 582 tonnages of recycled ships between 2014 and 2023. Development and commitment to an African-led strategy on trade and investment, especially along the Cape Sea Route, will benefit the existing shipbuilding hubs and encourage more investment in this sector in these and other countries along these trade corridors. There are also implications for African ship ownership and related maritime services.

Figure 8: Ship building in Africa by gross tonnage

Source: Author's own, with data extracted from UNCTAD (2024d)

Figure 9: Ship recycling in Africa by gross tonnages

Source: Author's own with data extracted from UNCTAD (2024e)

Figure 10: African seafarers by country

Source: Designed by author with data extracted from the UNCTAD (2024f)

With necessary policy commitment, the Cape Sea Route has the potential to boost ship ownership and seafarer supply in South Africa, Southern Africa and the continent. In 2023, South Africa had 110 ships with 546 thousand deadweight tonnage (TDWT) under its national flag, and owned ships with 834 TDWT (UNCTAD 2025). At the same time, South Africa had 3 030 seafarers. Afrocentric trade and maritime strategies, including along the Cape Sea Route, have the potential to encourage more African ship ownership and seafarers. As evident in Figure 10, Africa had a total of 73 875 seafarers in 2021, with most coming from Nigeria, Sierra Leone, Morocco, Egypt, Tanzania and South Africa. As such, improved commitment to economic transformation and intra-African trade, without undermining the continent's external trade relations, has the potential to boost maritime services and employment along the Cape and other trade corridors. This potential further includes the opportunity for investment in maritime freight insurance and risk management.

5. The Strategic Challenges of the Cape Sea Route

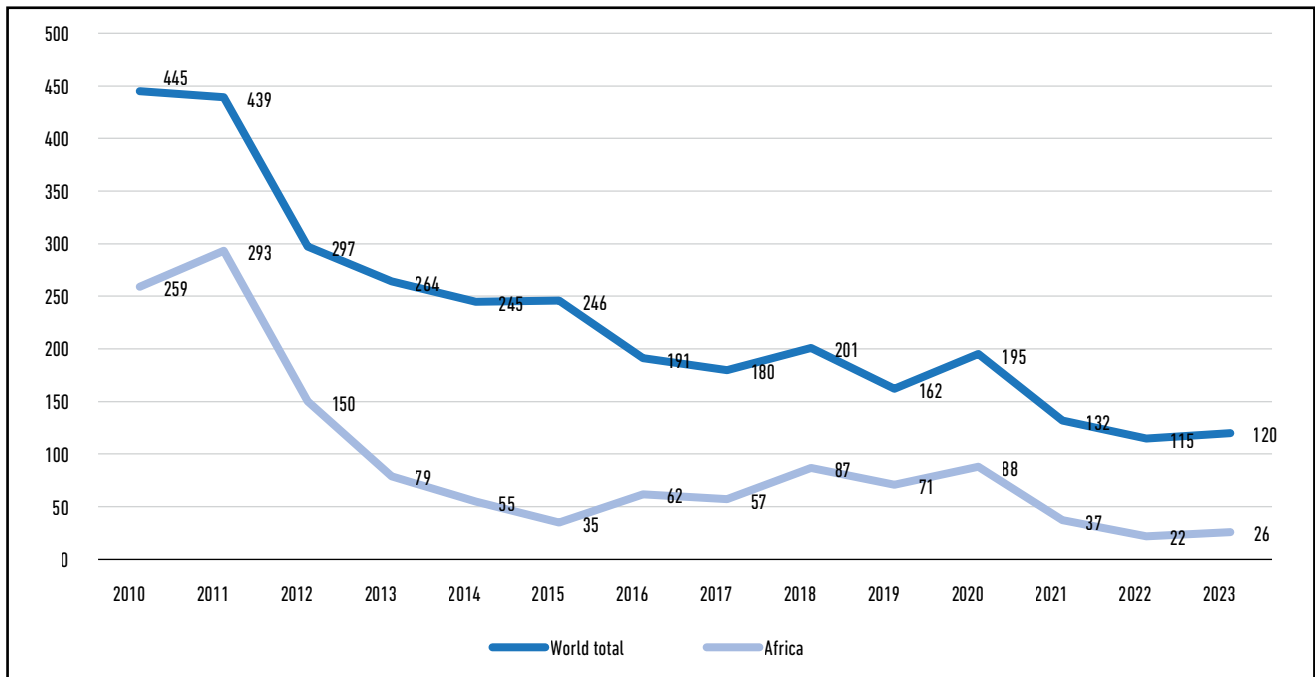
Despite the opportunities for maritime trade and investment (in production and services) along the Cape Sea Route in South Africa, Southern Africa and Africa, many challenges have limited the potential benefits of this and other corridors around the continent. Most of the challenges revolve around three broad themes: politics; economy and security. Stemming from the inherent colonial legacy, post-colonial African states are bedevilled by challenging institutional capacity that has undermined political stability, socioeconomic development and security (Clapham 1996; Meredith 2005; Oyewole and Amusan 2020). This accounted for inadequate and inconsistent policy commitments to industrialisation, socioeconomic transformation, human development and regional cooperation. Hence, these interconnected challenges have limited African abilities to fully exploit the relevant opportunities presented by their human and natural resources and geographical advantages. Amid these, South Africa and the continent, especially other countries along the East and West Coasts of Africa, are yet to fully maximise the maritime trade and investment benefits and opportunities of the Cape and other corridors.

Africa only accounted for 5.28 per cent of the global economy and 2.7 per cent of global trade in 2023 (World Bank 2025). These marginal economic positions often undermine Africa's capacities to take strategic initiatives in defining and pursuing its interests, especially when they compete with those of major economic powers. This challenge extends to the idea and pursuit of Afrocentric trade and investment initiatives, including those that benefit the Cape and other maritime corridors and related narratives. This explains the popularity of the Eurocentric perspective that premised the viability of the Cape Sea Route on foreign interests, which are inconsistently tied to the ups and downs of the Red/Mediterranean Sea Route and unsustainably linked to the North Sea Route.

Another economically related strategic challenge of the Cape Sea Route and other trade corridors around Africa is that the continent has limited say in deciding what is viable or not. Of the 35 countries with 93.9 per cent of the global share of flag registration of ships by deadweight tons in 2023, there were only three African countries. In the first position globally was Liberia with 17.3 per cent of the total, while Cameroon and Nigeria were in 27th and 33rd positions, respectively, with 0.3 per cent each (UNCTAD 2024c). The positions of Liberia and Cameroon, however, are the product of the flag of convenience, a practice of registering a ship outside the country of its ownership to avoid taxes and regulations. Hence, decision-making on such registered ships is done by owners from their states, and stricter regulation by the flag states could be avoided by switching flags. At 0.4 per cent and in 32nd position, Nigeria is the only African country among 35 countries with 94.2 per cent of the global share of ship ownership by deadweight tons in 2023 (UNCTAD 2024c). Moreover, Africa only accounted for 3.9 per cent of the global seafarers (UNCTAD 2024f). Furthermore, most ship and freight insurance coverage globally is provided outside the continent. Consequently, major decisions on shipping, their routes and viable global trade corridors are not made in Africa, given the continent's limited share of such assets and services.

Some of the African options to turn the challenging situation around are also marked by challenges. For instance, Africa can build or recycle more ships to increase ownership and boost maritime investment in production and services. However, the continent is currently limited in production capacity. With 2 541 total tons of ships built and 1 252 total tons of ships recycled in Africa in 2023, the continent only accounted for 0.00392 per cent and 0.01675 per cent of the global total, respectively (UNCTAD, 2024d, 2024e). Moreover, Africa has more opportunities for ownership and control of relevant decisions on investment, shipping services, routes and their viability in the context of intra-African trade than global trade in the immediate and intermediate terms. Intra-African trade, however, only accounted for 14.57 per cent of the continent's total trade in 2023 (UNCTAD 2024a). Despite the lofty ideas behind AfCFTA and other initiatives to promote intra-African trade and investment, the colonial legacy, neocolonialism, nationalism and protectionism have undermined regionalism, which is necessary for economies of scale, growth and transformation that the continent needed to boost human development (Adenuga et al. 2024; Boysen 2024).

Due to inadequate institutional capacity, many African states, especially along the East and West coasts of Africa, have become sources of threats to maritime security along the Cape Sea Route and other corridors around the continent. Due to failure or inadequate capacity in promoting welfare, human security and good governance, many African countries have witnessed an increase in criminal activities and political violence that have extended to the seas, to the detriment of maritime trade along different trade corridors, including those that connected the Cape Sea Route. The threats of piracy, terrorism, insurgency, illegal, unreported and unregulated (IUU) fishing, smuggling and trafficking of humans, drugs and weapons are notable in Africa. Amid these, piracy and armed robbers off the East and West Coasts of Africa are among the biggest threats to the Cape and other African sea routes in the 21st century (Onuoha 2009; Siebels 2019; Vreĳ 2009). As evident in Figure 11, Africa accounted for 41 per cent of the global record of piracy between 2010 and 2023. Despite these challenges, many African states have limited capacities and capabilities in maritime security law enforcement and governance (One Earth Future 2018; Oyewole 2016, 2024b). Despite their willingness and commitments to African solutions to African problems, the African regional powers are limited in their capacity for regional hegemonic stability, leaving the continent up for grabs by competing great and medium foreign powers (Amusan and Oyewole 2017; Clapham et al. 2006; Isike and Schoeman 2023; Ogunnubi 2014; Oyewole 2020).

Figure 11: Incidents of piracy and armed robbery against ships, 2010-2023

Source: Author's own, with data extracted from ICC (2024)

While the involvement of foreign powers in African maritime affairs has contributed to security, it has also complicated it. Military deployment and operations by the USA, UK, France, China, India, Iran and others off the East Coast of Africa contributed significantly to the decline of piracy in the region (Oyewole 2017; Siebels 2019). Weapons transfer, training and joint military exercises with African countries have also boosted their capabilities to respond to onshore and offshore security threats. Nevertheless, some of these activities have militarised African maritime security, with negative implications for governance, human development, conflict resolution and regional stability. Moreover, the enduring Arab-Israel conflict and the roles of the USA and its allies in the Arabian Peninsula have inspired popular and sometimes unpopular grievances, terrorism and insurgency that have extended offshore in the Western Indian Ocean. This explains the Houthis' maritime campaign against ships since 2023 (Oyewole 2024a; Raydan and Nadimi 2025). Furthermore, the geopolitical competition that involves China, India, Iran, the USA and its allies is threatening to turn African seas, especially the Indian Ocean, into a conflict theatre. These, among other factors, are notable strategic challenges for the viability of the Cape Sea Route.

6. Conclusion

This article challenged the Eurocentric perspective on the strategic importance of the Cape Sea Route, which prioritises foreign interests, initiatives and approaches above those of Africa along this trade corridor. It rejected the historical construct of the Cape Sea Route as an alternative to the Red/Mediterranean Sea Route and an avoidable route with the growing viability of the Northern Sea Route. In contrast, this article provides an Afrocentric re-evaluation of the Cape Sea Route, prioritising the immediate locations, namely South Africa, Southern Africa and Africa, in assessment of its strategic importance, opportunities and challenges. Beyond its primary importance for South Africa, the route is strategic for intra-Southern African trade and viable for intra-African (East and West coasts) trade connections. The route's viability is further notable in critical Afro-Asian trade relations, and to some extent, in connecting Europe, America and Oceania with the Southernmost parts of Africa. The route is also relevant in connecting America with some parts of Asia. These, among others, have challenged the Eurocentric reductionism of the strategic importance of the Cape Sea Route to an unwanted and inconsistent route tied to the Red/Mediterranean Sea Route crisis. In addition to trade, the route offers various opportunities in maritime investment and services, including shipbuilding, recycling, repairing, servicing, operations, insurance and related employment.

Despite the opportunities offered by the Cape Sea Route and connected trade corridors, issues of limited state institutional capacity in industrialisation, economic transformation, human welfare, development and law enforcement are notable challenges that have undermined their potential benefits. With its limited share of global production, trade, economy, ship ownership and related services, Africa's capacity is inadequate to influence the viability of international shipping routes. However, inconsistent policy commitments

to regional integration, investment, trade and development undermine the prospect of shaping regional trade routes in Africa. These have denied Africa the initiative to fully exploit the opportunities from the Cape and other trade corridors. Again, the viability of the Cape and other African sea routes has been threatened by maritime piracy, armed robbery, terrorism, insurgency, IUU fishing, smuggling and trafficking in drugs, humans and weapons. Despite these challenges, many African countries, including the regional powers, lack the capacity and capabilities for maritime law enforcement and security around the continent, thereby leaving their troubled waters up for grabs to competing foreign powers.

To achieve a predictable outcome, such as a sustainable economy around the Cape Sea Route, the people and governments in the immediate locations must articulate, align and pursue their national, subregional and regional interests. This requires a consistent policy commitment to an Afrocentric strategy in trade and investment to boost intra-African trade for long-term capacity to fully maximise the opportunities around the Cape Sea Route and other trade corridors around the continent. Moreover, policy commitments to relevant institutional capacity building to promote human welfare, political stability, good governance, onshore and offshore law enforcement, security and regional cooperation are important to address maritime security challenges and boost the viability of the Cape Sea Route and other trade corridors that are key to Africa's socioeconomic transformation. All domains and the whole of government approaches are required nationally, with regional cooperation and capacity building as well as global partnership to address maritime security and governance challenges and boost prosperity along the Cape and other African Sea Routes.

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The Rights, Interests, and Strategic Approaches of Landlocked States in the Maritime Domain: The Case of Ethiopia

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Abstract

Literature pertaining to maritime security often focuses on the interests and concerns of coastal states, while those of landlocked states are either overlooked or treated as secondary. When scholars do consider the interests of landlocked states, the studies tend to explore their role primarily in the context of trade and conflict or disputes over sea access, while limited attention is paid to their broader maritime interests or the strategies employed to safeguard these interests. This article seeks to address this gap by providing a more comprehensive analysis of the rights and interests of landlocked states in maritime contexts and looks to Africa to draw examples. It begins with an exploration of the rights afforded to landlocked states under international law, particularly via the United Nations Convention on the Law of the Sea. The article then examines the various maritime interests of these states and posits several strategies that landlocked states employ to assert their rights and protect their interests. Finally, it utilises Ethiopia as an illustrative case to demonstrate how these strategies are put into practice.

Key words: landlocked states; maritime domain; maritime interests; UNCLOS; Africa; Ethiopia

1. Introduction

Landlocked states (LLS) are defined under Article 124 of the United Nations Convention on the Law of the Sea [UNCLOS] 1982) as “a state which has no sea-coast”. The African Union’s Integrated Maritime Strategy (African Union [AU] 2012) does not use the language of lack but rather refers to “landly connected... states”. LLS are often absent in maritime literature, despite there being some 44 LLS, equivalent to one-fifth of all the countries of the world (Anand 2021). Likewise, there are often calls from the ocean politics and maritime security epistemic communities indicating a need for more work to position LLS, vis-a-vis the maritime domain. Indeed, as Nezingu (2023: 3) points out, while LLS are often “physically distant from the maritime domain in reality, they are also theoretically isolated from maritime discourse as most maritime literature is concerned solely with littoral states”. Where the literature does deal with LLS, it does so primarily relevant to two main themes: one, legal debates around LLS’ rights in the maritime domain and issues in the enforcement of those rights (Childs 1972; Bowen 1986; Tuerk 2007), including the logistics surrounding sea access via trade corridors, for example; and two, how not having direct access to the sea presents as a development challenge (Snow *et al.* 2003; Faye *et al.* 2004), compounded by the limited power these states have in relation to the coastal states on which they depend for the import and export of goods (Caflich 1978; Mishra and Singh 2008). Mishra and Singh (2008: 55) elaborate that LLS face “permanent inferiority” because of their lack of direct access to the sea, which poses challenges to their development trajectories.

Both themes ultimately speak to a single issue: trade. This is undoubtedly an important concern of any state, and while their landlocked status necessarily places LLS in a unique position regarding how they manage their political economy, they must nonetheless continue to have interests in the maritime domain, as all states do, that go beyond trade routes and access to them. Moreover, as their geographic nature is unchangeable outside of the acquisition of new territory, LLS must navigate these circumstances, which undoubtedly shape their national interest, domestic- and foreign policy, and the way in which they engage in the global system especially in reference to the sea. How, then, do these states manage their legal rights? What are their maritime interests? And what strategies do they implement to safeguard these interests? This article explores these questions and does so by first reviewing the legal rights afforded to LLS under the United Nations Convention on the Law of the Sea (UNCLOS) and other international legal instruments, then evaluating the interests of LLS in the maritime domain, and finally, proffering several strategies employed by LLS to navigate their landlocked status and protect their maritime interests. It provides examples from Africa to illustrate the maritime interests of LLS and how they protect them, utilising Ethiopia as a case.

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2. Theoretical Framing

LLS have traditionally occupied a peripheral position in International Relations and Maritime Security Studies, often treated as geopolitical anomalies within a world order, which, from a realist perspective, is shaped by maritime access. Existing scholarship and international legal frameworks focus predominantly on how LLS can overcome their spatial limitations for the sake of trade and development, raising questions around how re-examining the position of LLS within the maritime domain necessarily requires reconsideration of the structural, spatial and normative dimensions of their engagement within it.

Using critical geopolitics as a lens allows the interrogation of how space is constructed in International Relations, notably how geography holds power, as has been clarified by scholars like Mahan (1890). Ó Tuathail (1996) argues that space is not a neutral container, but is actively produced and ordered by geopolitical discourses, with spatial ordering being a key mechanism of power. From this perspective, LLS are not merely victims of unfortunate geography, but are located within systems of spatial ordering that privilege certain types of access and mobility over others. Critiquing Agnew's (1994) assumption that the world is naturally divided into sovereign, bounded, fixed units in the form of states, it can be deduced from Ó Tuathail's (1996) reasoning that maritime space is not just a physical domain, but a politically constructed and controlled space where power is projected, exercised and denied.

Indeed, LLS are often excluded from this spatial imaginary because of dominant discourses that frame maritime power as inherently coastal. Their maritime interests are routinely subordinated to those of coastal or island states, whose territorial and legal claims are more straightforwardly connected to the sea. This has implications for how LLS are imagined and positioned in international fora, particularly those governing maritime issues, trade and environmental regulation. Critical geopolitics invites us to interrogate how the language of 'access' and 'dependency' used in relation to LLS is not value-neutral but reinforces a hierarchised geography of power.

International legal regimes increasingly treat vast areas of the ocean as part of the global commons² (Abhold et al. 2019). Within the existing legal architecture, detailed below, LLS are nominally granted equal rights to participate in the governance and benefit-sharing of these commons. However, the extent to which this formal inclusion translates into meaningful participation is contestable.

Theoretical discussions around the governance of the global commons are a useful consideration here, since they tend to draw attention to the tensions between universal access to the sea and differentiated capacity within it (Bosselmann 2015; DeSombre 2009). LLS often lack the naval capacity, scientific infrastructure or diplomatic leverage to participate on an equal footing with maritime powers in exploiting or protecting common oceanic resources. As a result, their access to marine genetic resources, ability to conduct marine scientific research, or involvement in area-based management tools such as marine protected areas can be severely limited, despite the legal provisions that entitle them to such participation (Casal and Selamé 2015).

This gap between legal entitlements and practical capacity raises important questions about equity in the governance of the global commons (International Seabed Authority 2021). LLS, particularly from the Global South, have often lobbied for redistributive mechanisms and technology transfers as a condition for participating in high seas governance. Their presence in negotiations on biodiversity beyond national jurisdiction³ illustrates how they have attempted to reframe the narrative from one of exclusion to inclusion, arguing that shared ocean resources require shared governance regardless of geographical location (High Seas Alliance 2024).

Structural power theory emphasises how systems of rules, norms and institutions can produce and reproduce asymmetric relationships between states (Pustovitovskij and Klemmer 2011). Applying this lens to LLS reveals how their maritime vulnerabilities are not just geographic, but are embedded in broader systems of economic and political dependency. LLS typically depend on one or more transit state(s) for access to the sea, leaving them vulnerable to shifts in the domestic politics, foreign policy or infrastructural conditions of those states. This dependency often translates into significant economic costs, diplomatic concessions or vulnerability to coercive bargaining (Casal and Selamé 2015). Even when formal agreements exist to secure transit rights, the structural imbalance between LLS and their coastal neighbours can tilt outcomes in favour of the latter.

2 The global commons are understood as "areas and natural resources that are not subject to the national jurisdiction of a particular state but are shared by other states, if not the international community as a whole" (Schrijver 2016: 1252-1253).

3 It is useful here to briefly reference the maritime zones delimited under UNCLOS. These include: a territorial sea extending 12 nautical miles from the country's baseline in which it has full jurisdiction; a contiguous zone up to 24 nautical miles from the baseline, allowing the country to enforce certain laws; an exclusive economic zone extending up to 200 nautical miles in which the state has sovereign rights for the exploration and exploitation of marine resources; and the high seas, in which no single state has sovereignty, but to which is open to all states (UNCLOS 1982), forming part of the global commons.

Moreover, structural power shapes the international maritime order itself, where norms around port access, maritime security and environmental compliance are often set by powerful coastal states (Schandorf 2024). LLS must operate within this norm-setting environment, leveraging their structural power to their advantage. Their engagement in international fora pertaining to the sea is thus, not only a matter of legal entitlement, but also of negotiating space within a hierarchy of influence.

Together, these theoretical approaches help move the analysis of LLS beyond a technical or legalistic framing toward one that situates the states within broader systems of power and governance, and this thinking underpins the discussion that follows.

3. Rights of Landlocked States under International Law

UNCLOS, being the main framework for the governance of the world's maritime domain, speaks directly to the rights of LLS.⁴ These primarily fall into two categories. The first is access rights. Under Article 125 (UNCLOS 1982), landlocked states enjoy the freedom of transit, however, the terms of this must be agreed with the transit states via bilateral, sub-regional or regional agreements and ultimately, transit states may exercise sovereignty over their territory and protect their rights within it, which may in turn be detrimental to LLS. Anand (2021: 264) notes that the provision requiring LLS and coastal states to enter into transit agreements can “in some circumstances, disadvantage the landlocked states, especially if the transit state wished to maximise its interests through the agreement thereby rendering the landlocked country more dependent on the transit state”.

Further, under Article 131, a LLS is entitled to enjoy equal treatment in the use of maritime ports of transit states, with the Article specifying that ships flying the flags of landlocked states should not face discrimination when accessing foreign ports, ensuring parity in port fees, services, and facilities (UNCLOS 1982). Indeed, LLS are permitted under Article 90 to operate vessels under their national flag even if they have no coastline, and these vessels are granted the right to sail the high seas flying the flag of the LLS (UNCLOS 1982). Several LLS do operate shipping registries, including Eswatini, Bolivia, Mongolia and San Marino. These have, however, raised some concerns around so-called Flags of Convenience—when vessel owners register under a certain flag due to more lenient taxation and regulation—given that an LLS would have limited capacity to inspect vessels and monitor their standards. Many open registries, where vessel owners are able to register their ships under a country's flag without having a genuine link to it, are in fact located in an LLS (Griffiths and Jenks 2012).

The second category of rights pertains to the various maritime zones, with LLS having the right of innocent passage through a state's territorial sea, the freedom of navigation and overflight, including the laying of submarine cables or pipes, and other such lawful use in the exclusive economic zone, and the same rights afforded to all states on the high seas. Article 63 (UNCLOS 1982) allows an LLS to exploit living resources in the exclusive economic zones of coastal states subject to several provisions, including that this is conducted on an equitable basis bearing the economic realities of the coastal state in question in mind. Further, the LLS must also ensure the duties of coastal states pertaining to the conservation of those resources are performed (Swanepoel 2020). Moreover, under UNCLOS Part XI (1982), an LLS is entitled to benefit from the exploration and exploitation of resources in the seabed, which is designated as the common heritage of mankind. UNCLOS also encourages the participation of an LLS in the sea beyond the limits of national jurisdiction, bearing their particular vulnerabilities in mind. The Agreement on Marine Biodiversity of Areas beyond National Jurisdiction (referred to as the BBNJ Agreement or High Seas Treaty) also extends rights in this regard, specifically around the benefit from marine resources and participation in ocean activities (UN 2024).

Furthermore, many regional policies also underscore existing international law and recognise the needs of LLS pertaining to the sea. For example, the African Union's Revised African Maritime Transport Charter (AU 2014) highlights the rights of African LLS to free transit.

Finally, an LLS has the right to participate in global and regional frameworks governing maritime law and policy, such as the International Maritime Organization (2024) and the International Seabed Authority (2021). Via their participation in these fora, these organisations can influence decisions on issues such as marine environmental protection, trade routes and the sustainable use of marine resources, thereby protecting the rights ascribed to them under law.

⁴ There are number of other legal instruments that have catered for LLS, notably prior to UNCLOS coming into force. These include: the 1921 Convention and Statute on Freedom of Transit; the 1958 Convention on the High Seas; and the 1965 Convention on Transit Trade of Landlocked States (Glassner 1973; Grosdidier de Matons 2014). Post 1982, there is also the Convention on the Law of Non-Navigational Uses of International Watercourses, which enables an LLS to utilise international rivers or waterways that flow through transit states to access the sea (McCaffrey 2008).

The quagmire faced by LLS, however, is often this: while they are entitled to freely access the sea, no coastal state is necessarily obliged to enter into any agreement to permit that access, and access is as such entirely contingent upon the coastal state. Moreover, access is also often costly, and issues around speed and efficiency, the quality of infrastructure, and governance of the logistics network are ultimately outside of the control of the LLS (Casal and Selamé 2015), marking a defining characteristic of ‘landlockedness’.

4. Maritime Interests of Landlocked States

LLS have multiple maritime interests, beyond the obvious access to trade. This section outlines these.

4.1. *International trade*

As much of the literature already indicates, a key interest of LLS in the maritime domain is their access to sea lines of communication⁵ (SLOCs) for the purpose of international trade. LLS are entirely reliant upon neighbouring coastal states for access to sea ports from whence exports can depart and imports can be received.

The provision of this access has, at times, caused tension and even conflict between states because access to the sea is crucial for the financial well-being of states. There are indeed a few examples of cases where access has been restricted or denied. In 2015 India imposed an informal blockade on Nepal due to diplomatic dispute over the perceived marginalisation of Madhesi groups, limiting Nepal’s access to fuel, medicines and other trade flows, disrupting Nepal’s economy (Aryal 2019). Further, Ethiopia’s access to the sea was closed off by Eritrea when the countries went to war in 1998. Ethiopia had to reroute most of its trade via Djibouti, a decision that shaped its trade dynamics ever since (De Waal 2023).

Faye *et al.* (2004: 52) explain the impact of landlocked status for trade:

For the most part, these countries have lower... external trade compared with their maritime neighbours. In explaining the reasons for these lower outcomes on average, we stressed the nature of dependence on transit neighbours for trade and how this dependence can fall under four categories: dependence on infrastructure, dependence on sound political relations, dependence on neighbours’ peace and stability, and dependence on administrative practices.

4.2. *Supply chain disruptions*

Relevant to access to SLOCs and trade, LLS are particularly vulnerable to supply chain disruptions due to their reliance on transit states, which amplifies the impact of any external disruptions and limits their ability to mitigate risks effectively. This can manifest due to a variety of different challenges. For example, geopolitical tensions and conflicts in regions surrounding critical SLOCs or ports can have far-reaching consequences for all states, but especially LLS via the introduction of blockades or sanctions which may see trade access restricted or the diversion of shipping. This has been demonstrated recently with Houthi activity in the Red Sea seeing shipping traffic divert along the Cape of Good Hope, resulting in longer, costlier journeys, especially for LLS whose goods must first travel by land before beginning their journeys by sea (Karamperidis 2024). LLS, thus, depend on the political stability of transit states as conflict in or near these states can directly impact the flow of goods and services.

In turn, LLS rely on the ability of transit states to effectively manage their maritime security responsibilities (Khanal 2017). This includes, but is not limited to, adequate maritime domain awareness, an ability to respond to threats in its maritime domain, and sound port management practices in keeping with the International Ship and Port Facility Security Code. When LLS must rely on a third party, such as private security firms, to protect their incoming or outgoing cargo, this adds a significant cost that ultimately bears an economic impact in the form of reduced returns (UNCTAD 2013).

Supply chain disruptions can also deter foreign investment given the barriers this imposes on opportunities for economic growth and development, which can lead investors to deem the LLS a high-risk environment for their investment. This perception can be further exacerbated if the disruptions become chronic or are linked to long-standing geopolitical instability (Arvis *et al.* 2007).

⁵ Sea lines of communication are “are major maritime routes between ports around the world and are used for trade, military/naval, logistics and other purposes” (Ahmed 2024)

4.3. *Food and health security*

In addition, where countries may rely on imports for key food stuffs, any disruptions to imports travelling by sea may negatively impact their food security. Many LLS rely on imported food supplies, and delays or interruptions in shipments can lead to shortages and inflation, with devastating effects on vulnerable populations. For example, Demont (2013: 179) note that Burkina Faso, which is landlocked, “imports 60% of its rice consumption needs from Pakistan, India, Thailand and Vietnam via the ports of Côte d’Ivoire, Ghana and Togo”. While not the dominant staple food, rice consumption has increased in recent years making it a central element of the population’s diet (Milling Middle East and Africa Magazine 2023).

Food security may also be impacted by the ability to import fertiliser and other agricultural goods. Any disruptions in maritime supply chains delay shipments, thereby reducing the availability of key commodities, driving up prices, or even threatening the viability of domestic crops, in turn worsening the state’s food security. Delays at ports or during overland transit can also lead to the spoilage of perishable goods, potentially exacerbating food shortages or resulting in financial losses (Masoura 2024).

Further, as is indicated by the earlier example of Nepal, a country’s health security may be negatively impacted by reduced access to medicines that may be a result from a disrupted or restricted access to the sea or supply chain disruptions.

4.4. *Environmental interests*

Next, LLS also have environmental interests at sea in that they are likely to experience the transboundary impacts of environmental changes on their territories. Of course, as is an issue of increasing importance on the global stage, climate change is a key contemporary challenge, and the sea is a theatre in which this will play out in large part.

Often the management of freshwater systems that connect LLS to the maritime domain—and as a result the practices that harm the maritime environment—can have severe consequences for water quality and ecosystems upstream and vice versa. There are several examples where invasive species have been introduced into lake systems via the ballast water of vessels that have travelled to inland waters (Robinson 2015). While this is not an immediate concern for African LLS given many rivers in the hinterland are not navigable (African Development Bank 2010), it nonetheless demonstrates the link between the sea and the interests of LLS.

Saltwater intrusion can be another environmental concern for LLS. The encroachment of seawater into fresh groundwater, be it due to over-pumping of fresh water resources or sea-level rise, poses multiples challenges, including: a reduction of drinking water, causing corrosion to essential infrastructure, ecosystem degradation, reduced agricultural activity, and changes in crop type (Moore and Joye 2021; US Department of Agriculture n.d.). This will only affect LLS that are geographically near to the coast (Future Water 2025), but has the potential to become more problematic as sea-levels rise.

Further, many LLS actively support international frameworks and agreements aimed at reducing marine pollution and promoting sustainable maritime practices (Maurer 2012) due to a recognition of the adverse impacts of pollution to water systems more generally.

4.5. *Global governance*

Finally, landlocked states often advocate for equitable participation in the global governance of maritime resources (Sebuliba 2024). Indeed, the negotiations for the Biodiversity Beyond National Jurisdiction agreement, saw strong LLS engagement. Kanu (2023) notes the African Group played a particularly important role “applying unorthodox pressure to bring the negotiations to a close”, adding that:

The insistence of the African Group to have the principle of the Common Heritage of [Hu]mankind... reflected in the BBNJ Treaty without derogation, and the compromised reference to the ‘freedom of marine scientific research, together with other freedoms of the high seas’ will significantly impact the implementation of the treaty and international law development on the law of the sea.

As Sebuliba (2024: 7) notes, LLS “hold a unique position due to their developmental needs, understanding of other developing nations’ needs, and limited capacity to access economic benefits in these areas... [which] allows them to present balanced views on ocean development, while exercising caution regarding environmental impacts” in areas beyond national jurisdiction. The High Seas Treaty thus allows LLS to benefit from the sustainable exploitation of marine genetic resources, contribute to decisions that impact the maritime domain via area-based management tools, such as marine protected areas and be involved in capacity building and transfer of marine

technology (De Santo *et al.* 2020). LLS' involvement underscores the shared responsibility of all nations—coastal and landlocked alike—in preserving the health of the planet's oceans, especially given their status as a global common.

5. Strategic Approaches

Karki and Shumsher Thapa (2023: 79) argue that LLS can struggle to separate politics and economics in the context of their need to access sea-based trade routes, suggesting that these states orient their foreign policies in specific ways to account for this. They will either: align themselves to maritime neighbours, offering concessions to them; advance “multi-directional” policies to spread their partnership base; or secure transport “as a priority concern in the broader scheme”. Further to this, if LLS, particularly developing countries, “abandon their neutral foreign policies, then there are chances they may face the most uncomfortable interferences from their strong neighbours” (Mishra and Singh 2008: 56).

As such, LLS must employ a variety of strategies to protect and advance their maritime interests. This article identifies four keyways in which this takes place, with several of these strategies showing an inter-relationship.

5.1. *Infrastructure development*

Infrastructure development is one strategy used by LLS to mitigate the disadvantages of their geography to ensure reliable access to global markets, while reducing their dependency on transit states and strengthening their economic resilience. This may entail investing railways, roads, pipelines and ports to ensure access, while also securing favourable economic terms (Morgan *et al.* 2019). They may also develop dry ports⁶ and logistics hubs to facilitate trade and reduce congestion at coastal ports. These efforts may be encapsulated in broader trade corridor initiatives, which will be discussed further below.

For example, Zambia has plans to establish a dry port at Kapiri Mposhi which is intended to act as a logistics and industrial hub, enabling the country to better integrate more effectively into global supply chains, while also improving regional market access (Transport & Logistics Zambia 2021).

Their investments may also include energy infrastructure such as oil pipelines, to reduce dependence on expensive and/or insecure transport routes. For example, Uganda has invested in oil pipeline projects to link it to coastal export terminals, such as the East African Crude Oil Pipeline to Tanzania (Petroleum Authority of Uganda n.d.). This type of initiative not only ensures stable energy supplies, but facilitates resource exports, thus, strengthening its economic sovereignty.

Having said this, it must be said that infrastructure investment may not necessarily improve the bargaining power of LLS. Because bargaining power is contingent on a broader set of factors, if, despite the infrastructure investment, a state remains dependent on a single transit state, they are likely to remain subordinate to that state in terms of their power relations. Infrastructure investment should thus, focus on multiple corridors, if possible, while states should employ this alongside other strategies.

5.2. *Trade corridors and regional integration*

Indeed, trade corridors and regional integration can enable improved access to the sea by providing formal conduits to seaports, effectively reducing transit times and transportation costs, thereby improving the economic competitiveness of LLS (African Development Bank 2019). These corridors also help LLS to diversify their maritime access, reducing dependence on a single port or transit country.

At a regional level, there are many examples of agreements to facilitate trade corridors for LLS, for example, alternative routes are provided for Botswana and Zimbabwe to access the port at Walvis Bay via the Trans-Kalahari, Trans-Caprivi, Trans-Cunene and Trans-Oranje Corridors (South African Institute of International Affairs 2012), while the Central Corridor Transit Transport Facilitation Agency (2023) enables Rwanda, Burundi, Uganda and the DRC to access the port of Dar es Salaam in Tanzania.

Beyond physical infrastructure, regional integration through economic blocs like the African Continental Free Trade Area and the East African Community can promote trade facilitation, while also harmonising customs procedures, and improving cross-border cooperation (African Development Bank 2019). By participating in regional trade agreements, LLS gain negotiating power, improving their relative power vis-a-vis transit states, and can thus, work to ensure fair transit policies and equitable treatment in terms of port access.

⁶ Dry ports act as inland extensions of seaports, enabling efficient customs clearance, warehousing and cargo handling closer to manufacturing and trade centres (Rodrigue and Notteboom 2022)

It is worth noting that not all states that do not have a coastline or direct access to one are necessarily ‘locked out’. Some states consider themselves land-linked, and scholars like Casal and Selamé (2015) explain that landlocked countries in the European Union, for example, are well connected to the sea by virtue of a high degree of regional integration. This aids such countries in offsetting some of the developmental challenges that might otherwise be associated with their landlocked status.

5.3. *Participation in international frameworks*

LLS often also actively participate in international frameworks pertaining to the sea, being signatories of treaties and conventions such as UNCLOS and maintaining memberships of organisations like the International Maritime Organization. LLS’ involvement in these frameworks enables them to advocate for equitable access to maritime resources, improve transit agreements, and influence regulations that affect issues such as global trade and maritime security (Abhold *et al.* 2019; Psaraftis and Kontovas 2020;).

In addition, LLS’ interests are also represented by the United Nations Office of the High Representative for the Least Developed Countries, Landlocked Developing Countries and Small Island Developing States. This body advocates for policies that reduce the trade disadvantages faced by LLS by encouraging investment in transit infrastructure, as well as streamlined customs procedures and fairer trade agreements, among other things (United Nations n.d. (a)). Through this platform, LLS have successfully influenced global trade policies, keeping maritime issues of interest to them on the international agenda (United Nations, n.d. (a)).

Another key area of participation is the protection of LLS’ interests in marine genetic resources and the sustainable use of oceanic biodiversity, as detailed earlier herein with reference to the BBNJ Agreement.

5.4. *Global governance*

Lastly, LLS also often cooperate in measures to address transnational maritime crime, with their participation being motivated by economic, security and environmental concerns, as illegal activities may impact on them by, for example, disrupting seaborne trade flows. One of the primary ways this cooperation takes place is via regional communities, many of which have maritime components (Gulf of Guinea Maritime Institute 2020). The Economic Community of West African States is one such case; its maritime strategy takes an integrated approach, ensuring LLS can contribute to and benefit from the bloc’s collective maritime security endeavours (ECOWAS Commission n.d.).

Further to this, LLS may also participate in international maritime security initiatives such as Interpol’s Maritime Security Programme, which includes LLS in intelligence-sharing on transnational crimes such as fisheries crime (Interpol 2021) and drug trafficking. They may also be involved in United Nations Office on Drugs and Crime programmes.

Moreover, LLS can play a role in combating financial crimes associated with maritime crime networks. Money laundering and illicit financial flows from maritime crimes may pass through financial systems in landlocked countries and as such, strengthen financial regulations and cooperation with coastal states help to disrupt these networks (Otto 2011).

6. **The Case of Ethiopia**

Ethiopia offers an interesting case of an LLS in Africa that works to assert its maritime interests. Having historically had a coastline with ports at Assab and Massawa, Ethiopia maintained a modest navy during the imperial and Derg eras, which had been established in 1955 (Abbink, 1998; Holbert 2022). Ethiopia became landlocked when Eritrea gained independence in 1993, and it subsequently disbanded its navy (Abbink 1998). Following Eritrea cutting off access to the sea during the 1998 conflict between the two countries (De Waal 2023), Ethiopia implemented strategies to address this adjustment in its circumstances. Ethiopia invested most of its energy in this regard in participating in trade corridors and investing the development of infrastructure thereof.

Ethiopia relies on Djibouti for around 95 per cent of its maritime trade (Demissie 2021), which explains its involvement in the Djibouti Corridor, intended to expand and protect its transport links to this coastal state. Addis Ababa has invested significantly in several of the components of the Corridor to enhance trade efficiency and reduce logistical bottlenecks.

- It has co-financed the *Addis Ababa-Djibouti Railway*, which stretches between Ethiopia’s capital and Djibouti’s port at Doraleh (Choruma 2020). The railway became operational in 2018 and has dramatically reduced transit times—goods can now travel this distance in 12 hours, whereas this journey time was previously three days (Ho 2019). Furthermore, the railway is managed

by an Ethiopian state-owned firm, Ethiopian Shipping and Logistics Services Enterprise (Xinhua 2024).

- It has established the *Modjo Dry Port*, located around 70km from Addis Ababa, to serve as an inland logistics hub for cargo incoming from Djibouti. The dry port offers warehousing and multimodal transport operations, while also dealing with customs clearances to reduce congestion at port (Bekele 2019). Ethiopia also has additional dry ports to serve this Corridor, including Dire Dawa and Semera (Thomas 2022).
- Ethiopia has also invested in upgrading the *road networks* that connect it to Djibouti, including the Ethio-Djibouti Highway (Takele and Tolcha 2020). This provides an alternative transport route in case of railway disruptions.

Beyond this, Ethiopia has worked to foster strong diplomatic and economic ties with Djibouti, evidenced by long-term port access agreements and energy- and water cooperation deals under which Ethiopia supplies hydroelectric power to Djibouti (Stockholm International Water Institute 2022; Mutambo 2024).

Moreover, because Ethiopia is so heavily reliant on Djibouti for its trade, it is also working towards securing the corridor of security threats. To this end, Ethiopia has supported regional anti-piracy efforts in the Gulf of Aden, notably via the Djibouti Code of Conduct (defenceWeb 2024) and collaborates with Djibouti on modernising customs and logistics systems to improve trade flow and prevent illegal trafficking (Tsegaye 2024).

To diversify its maritime access and reduce its dependency on Djibouti, Ethiopia has also partnered with Somaliland to secure use of the Berbera Port (Bakonyi 2024). The Berbera Corridor connects Addis Ababa to Berbera and is expected to become a major regional trade and logistics hub; projections suggest trade via this route will increase six-fold by 2050 (Cities Alliance 2024). Significant infrastructure investments have been made along the Corridor, including: expansion of the port, with a US\$442 million deal being struck with DP World to develop and operate the port (Port Technology 2017); and the Abu Dhabi Fund for Development and the UK's Department of International Development funding the upgrade of the road that connects Berbera with Wajaale on the Ethiopian border (APO Group 2021).

As a means of supporting this economic relationship, Ethiopia signed a pact with Somaliland in 2024, in which it signalled readiness to recognise its independence from Somalia in exchange for access to Somaliland's coastline for commercial and naval use (Reuters 2024).

Ethiopia has also joined the LAPSET Corridor Project, which is intended to connect Kenya, Ethiopia and South Sudan—this will provide Ethiopia access to the Lamu Port in Kenya (Rift Valley Institute 2013). Access to Lamu serves to diversify its maritime trade routes and reduce dependence on Djibouti, while also stimulating economic activities by opening new markets and attracting investment. Under the Project, Ethiopia and Kenya have agreed to build the Standard Gauge Railway to link Addis Ababa to Nairobi, with construction expected to begin in 2025. The Project envisions a road network between Lamu and Isiolo in Kenya, and Moyale at the Ethiopian border (Preston 2023). An oil pipeline is also included, aiming to cover a similar route between Lamu to Addis Ababa via Isiolo and Moyale (Mutambo 2018).

Coming to Ethiopia's participation in international frameworks, it is a member of the International Maritime Organisation and has actively engaged with the body to provide training to improve officials' understanding of maritime security, particularly regarding flag state control and compliance (International Maritime Organization 2024). Ethiopia has also been a signatory of several international agreements pertaining to the sea, including the 2006 Maritime Labour Convention, which is a key component of the maritime sector's regulatory framework (International Labour Organization, 2019). Further, the country plays an active role in regional security initiatives, including counter-piracy as already mentioned, as well as its contribution to the African Union Mission in Somalia (AMISOM 2014).

Another dimension to Ethiopia's seaward approach is its desire to re-establish its navy. The drive to rebuild Ethiopia's navy gained momentum under Prime Minister Abiy Ahmed in 2018, having initiated sweeping military reforms that explicitly included naval reconstitution as a goal (Berekebteab 2024). Arrangements are now in place for Ethiopia's naval forces to be based in Djibouti (Holbert 2022). This appears to be motivated by two central factors: Ethiopia's ambition for regional hegemony, which is central to its identity and national pride; and the ability to secure its strategic and security interests by, in part, protecting its maritime interests.

7. Conclusion

Foregrounding LLS' trade concerns, vis-a-vis their position in maritime affairs, oversimplifies both their interests and the way in which these countries engage with the maritime domain. Rather than simply being constrained by their geography, LLS navigate wide-ranging challenges to assert their maritime interests.

One key analytical point that emerges from this discussion is the tension between legal entitlements and practical enforcement. While UNCLOS and other international treaties formally recognise LLS' rights to transit and equitable access to maritime resources, these rights are ultimately mediated by coastal states. As demonstrated in Ethiopia's case, negotiations over access to ports and SLOCs are shaped by political and economic leverage, rather than the guarantees provided under international law. This points to the limitations of international legal frameworks in securing access for LLS, suggesting that their effectiveness is contingent on the geopolitical and economic realities of transit corridors.

Another significant issue is the extent to which LLS can mitigate their reliance on transit states. Infrastructure investments, such as Ethiopia's engagement in trade corridors, illustrate a strategic effort to diversify access points and reduce the vulnerability brought on by relying on a single state or port for its trade. However, these efforts are not merely economic—they reflect an awareness that maritime access is inseparable from broader geopolitical positioning. Ethiopia's recent decision to rebuild a navy, for instance, points to an attempt to shape Red Sea security dynamics, despite it lacking a coastline. This points to questions of whether LLS can successfully assert influence in maritime governance beyond their legal rights, using regional power dynamics, diplomacy and security partnerships.

Furthermore, the involvement of LLS in climate governance and maritime security complicates the assumption that maritime issues are inherently the domain of coastal states. The case of LLS' engaging in the BBNJ negotiations as well as regional anti-piracy efforts provide examples of how they actively participate in shaping maritime governance. The framing of climate change as a maritime issue does not preclude LLS from playing a role, especially given the transboundary nature of environmental challenges. This suggests that discussions on maritime governance need to move beyond a rigid land-sea dichotomy to consider how states without direct sea access are nevertheless implicated in and contribute to maritime policymaking.

From a policy perspective, Casal and Selamé (2015) suggest that including sea-access in the sustainable development goals could be one way of overcoming some of the challenges associated with negotiating and enforcing access, positively linking sea-access to development trajectories and thus, proving a reasonable, feasible and cheap goal to achieve. This approach reframes engagement in the maritime domain as an economic necessity, rather than a geopolitical concession. Ergo, if maritime access were positioned as a development right, rather than an issue of bilateral negotiation or a coastal state's magnanimity, it could shift the dynamics of how LLS secure and sustain access to global trade routes.

Ultimately, this article attempts to demonstrate that LLS are not necessarily passive recipients of maritime policies nor always solely constrained by their geography. Instead, they actively engage in a variety of strategies to shape their own maritime futures despite normative and structural constraints. Understanding this engagement requires moving beyond simplistic notions of dependence to recognise LLS as having the potential to be assertive actors in maritime affairs. Future scholarship and policy discussions should further explore how LLS can leverage international norms, regional alliances and economic strategies to redefine their position in the maritime domain. Indeed, the dynamic engagement of LLS in maritime affairs calls for a reassessment of their role in global ocean politics.

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The Protection, Preservation and Repatriation of Marine and Underwater Cultural Heritage: Lessons and Opportunities for Africa

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Abstract

Marine and Underwater Cultural Heritage (MUCH) is potentially an integral part of the cultural heritage of humanity. Protecting MUCH is, therefore, crucial for preserving and enriching one's understanding of history and safeguarding knowledge for future generations. However, despite the existence of international legal frameworks, namely the Law of the Sea (UNCLOS), and UNESCO's Convention on the Protection of Underwater Cultural Heritage (CPUCH), there remain several challenges surrounding the preservation and ownership of marine and underwater cultural heritage sites and artefacts. This article argues that issues related to the ownership and management of MUCH remain highly contested, particularly in the context of the evolving dynamics between European and African countries. It frames MUCH as a 'frontier' which manifests in three dimensions: a spatial frontier reflecting emerging disputes over marine resource management; a knowledge frontier highlighting the role of maritime archaeology and an ocean governance frontier influencing international legislation and economic activities. By critically evaluating the international legal regimes' responses to MUCH, this article underscores the importance of African involvement in safeguarding its own underwater cultural heritage.

Keywords: Marine and underwater cultural heritage; maritime archaeology; legal frameworks and regimes; protection, preservation and repatriation

1. Introduction

The advent of sophisticated marine technological capabilities and archaeological tools present both challenges and opportunities for broader marine cultural heritage governance. On the one hand, marine and underwater cultural heritage (MUCH) offers a unique chance to preserve and share the stories of maritime societies, trade routes and global cultural exchanges, thus, enriching our understanding of human history. Additionally, efforts to protect MUCH can also serve to align with broader environmental and sustainability goals, such as safeguarding fragile marine ecosystems intertwined with cultural sites. On the other hand, many of these underwater sites are threatened by environmental degradation and commercial exploitation, as well as by piracy, looting and modern-day treasure hunts, which often include the unauthorised salvage and looting of tangible artefacts. More recently, these threats have translated into broader 'ocean politics', whereby there has been an increase in disputes between countries over title to sunken vessels, and in extreme cases, several countries now see the exploitation of MUCH as a means for claiming sovereignty over disputed territory (Sarid 2017).

For Africa, the issue of MUCH is of particular importance considering that the continent's maritime history is awash with archaeological symbols, including treasures looted from ancient civilisations and items of craftsmanship. The world's oceans and seas are replete with objects originating from the African continent. Similarly, in and around Africa's continental waters, there are a plethora of cultural heritage sites and artefacts that reveal a complex web of actors and narratives on ancient societies, their ways of life, subsistence and belief systems. Duarte (2012), for example, highlights that the East African coast is a rich domain for underwater cultural heritage, with recent archaeological remains starting to reveal the extent of indigenous nautical technology, regional and international social contacts and far-reaching maritime trade routes which have been navigated for millennia (Duarte 2012: 63).

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The World Heritage Convention (WHC) which was adopted by UNESCO in 1972 is underpinned by the idea that heritage which displays ‘outstanding and universal values for humankind’ must be the shared responsibility of the world community. Since its adoption, the WHC has been ratified by close to two hundred countries, and over a thousand heritage sites, which reflect Outstanding Universal Value for humankind, have been placed onto the World Heritage Register. The WHC makes provision for countries to call upon UNESCO and the World Heritage Fund for assistance in meeting their obligations to protect and manage globally relevant sites. According to Parthesius (2020: 1), “a belief in shared responsibility for the identification and protection of world heritage makes the WHC a significant globalising power, especially when intent, resources and actions are aligned”. Weinert (2017) further suggests that framing local forms of cultural heritage in the internationalist terms of duty and responsibility, and by universalising human values and identity, the importance which the international community and UNESCO have ascribed to cultural heritage is demonstrated; so that UNESCO’s various cultural heritage conventions² related to the preservation, conservation, safeguarding and promotion of cultural heritage, “produces, re-produces and deepens an understanding of the world as partly a shared socio-cultural space that transcends national patrimonies” (Weinert 2017: 420).

It may indeed be suggested that UNESCO’s cultural heritage conventions have served to shift the cultural heritage ‘protection discourse’ towards international responsibilities and stewardship. This has ostensibly been achieved by couching the conventions in the universal terms of representativeness and ‘outstanding value’. Similarly to the WHC, UNESCO’s Convention on the Protection of Underwater Cultural Heritage (UNESCO CUPCH 2001) considers underwater heritage as, “an integral part of the cultural heritage of humanity” and as a common heritage which has the potential to connect people and countries. According to Lehman (2018: 292), “marine cultural heritage both names a historical and enduring relationship between human society and the ocean and recognises the value of the physical traces of this relationship”. What is peculiar, however, is that despite the ostensibly universalising qualities inherent in UNESCO CUPCH, the Convention has subsequently only been ratified by 78 countries, of which 22 are African.

The central proposition of this article is that despite the presence of international legal regimes such as the United Nations Convention on the Law of the Sea (UNCLOS) (1982) and UNESCO CUPCH (2001), which aim to protect and govern MUCH, questions continue to arise in respect of what sites and artefacts have cultural and historical relevance, who owns submerged heritage, who is responsible for preserving it, and how the potential commercial benefits accrued from it should be distributed. The article, therefore, interrogates the universalising potential of MUCH, to show that as it stands, when it comes to the issue areas of the preservation, ownership and repatriation of MUCH, the domain remains contested and divisive. This article, therefore, concurs with Lehman’s (2018) contention that the dynamics surrounding MUCH are much better understood as a frontier which manifests in many ways. As a spatial or resource frontier, MUCH reflects an emerging set of sites and objects which have become associated with evolving contestation over management, ownership and access in the marine environment. As a knowledge frontier, MUCH emphasises the historical connection between humanity and the sea, whilst concurrently being co-created with emerging disciplines such as maritime archaeology and new sets of knowledge practices, analyses and literatures. Finally, as a frontier for ocean governance, MUCH represents an object of international concern, however, at the same time it potentially serves as a productive catalyst for the development of new intergovernmental legislation which has implications for territorial control, organising frameworks and economic activities (Lehman 2018).

The objective of this article is to shed light on MUCH as the representative of this frontier and its attendant manifestations. It assesses the relevance which international legal regimes are attaching to MUCH, by focusing on the specific matters of ownership, regulation and the responsibility to protect MUCH from prevailing threats. The article begins by exploring MUCH as a knowledge frontier with a particular focus on how maritime archaeology is serving to investigate, preserve and interpret the sites and artefacts which make up MUCH. Thereafter, the focus shifts to highlighting the prevailing threats to MUCH as well as the international legal frameworks which have been implemented to protect and preserve underwater archaeological sites. From this, the article then problematises issues of legality and ownership, characterising these as both zones of contestation and of potential cooperation between predominantly European and African countries. It concludes in advocating for enhanced African agency in safeguarding the continent’s MUCH.

2. Overview of Maritime Archaeology and Marine and Underwater Cultural Heritage

Lehman (2018: 295) defines maritime archaeology as “the academic and professional field largely tasked with investigating, preserving and interpreting the sites and artefacts that comprise marine cultural heritage. The discipline is occupied both with the particulars of specific sites and artefacts, and with what they might reveal about the societies to which they relate”.

² These include the 1954 Hague Convention; the 1970 Convention on the illicit transfer of cultural property; the 1972 World and Natural Heritage Convention; the 2001 declaration on cultural diversity; the 2001, underwater cultural heritage Convention; the 2003 Convention on intangible cultural heritage; the 2005 Convention on the diversity of cultural expressions.

Whilst archaeology has long been recognised as a scientific discipline, maritime archaeology is a relatively new area that emerged as a subdiscipline within archaeology in the late 1960s (McKinnon *et al.* 2014). The use of the term maritime archaeology as opposed to marine archaeology, facilitates a broadened analysis of the field, beyond environmental-ecological factors. It enables a critical interpretation of historic, socio-cultural and ethnographic components of maritime cultures, landscapes and communities. Henderson (2019: 3), however, suggests that despite early pioneering efforts to enhance maritime archaeology's status beyond being a distant cousin to archaeology carried out on land, it is still widely regarded as an exotic add-on to mainstream terrestrial research, so that, "archaeologists continue to be labelled 'underwater' or 'maritime' archaeologists if their research involves work in the sea....something glamorous and adventurous but not fundamental to the discipline, something not to be taken too seriously".

As a result, and despite recent advancements in the field, maritime archaeology faces criticism, especially in respect of its scientific rigour. For example, where stratigraphy is one of the core principles of terrestrial archaeology since it allows one to study the layering of deposits that helps to date artefacts and to establish their historical sequences, underwater environments are often lacking in stable stratigraphy because of water currents, sediment shifts and site disturbance—thus, making chronological analysis more challenging. There is also the criticism that maritime archaeological projects focus too heavily on the recovery of artefacts—especially shipwrecked treasures—as opposed to studying their broader historical and cultural context. Additionally, the relationship between maritime archaeology and commercial salvage operations—where artefacts are recovered and sold, rather than studied and preserved—has led to criticism that this association risks undermining the discipline's integrity by prioritising financial gain over scholarly inquiry. Finally, maritime archaeology's reliance on sonar mapping, remote sensing, and robotic exploration has led some to question whether maritime archaeology is more of a technical field than a scientific discipline.

Certainly, maritime archaeology has traditionally been best known for its focus on shipwrecks. In the last century alone, swathes of wreckage have been found. Hydrographical marine surveys have also aided in the discovery of cargo vessels and submarines long thought lost to history. There is the argument, however, that maritime archaeology's propensity to associate MUCH with 'shipwrecks' means that the latter are usually inaccessible without specialist training and equipment, and that shipwrecks are normally accidentally present by their nature, so that they may not always be perceived as the heritage of the country in which they are situated (Parthesius 2020). There are also those scholars who caution that suspicions might arise when shipwrecks are classified as cultural heritage *resources* since this implies that they are things to profit from, things to exploit, things to commodify (Rich *et al.* 2022). Rich *et al.* (2022) instead prefer to speak of cultural heritage *sources*—of community, of biodiversity, of nutrients, of toxicity, of hazardous waste, of contemplation, of knowledge—so that maritime archaeology should become better placed to intervene where it is needed, as opposed to the perception that MUCH is a passive underwater landscape for the plucking.

Green (2004) notes though that since the late 1990s, maritime archaeology as a discipline, has become increasingly involved in broader cultural resources management. The National Oceanic and Atmospheric Administration Office for National Marine Science (2023) now describes maritime archaeology as the study of everything related to seafaring and maritime culture including technological, socio-economic, political and religious aspects.

No doubt, humans have a long and deep connection to the maritime domain, as seafarers, traders, explorers, coastal dwellers and fishers, and maritime archaeology (despite its critics) can be said to be enhancing the study of this history and humanity's connection to the maritime domain. Advances in Remotely Operated Vehicle and Autonomous Underwater Vehicle technology now allow maritime archaeologists to explore deeper waters with unprecedented precision. High-resolution 3D modelling techniques are revolutionising how underwater sites are recorded and analysed. These tools allow researchers to create detailed digital reconstructions of wrecks and submerged settlements without the need for direct human contact. DNA extraction techniques are being used to study shipwreck contents, including cargo remains, human remains, and even microbial life that interacts with submerged artefacts. This has broadened the understanding of ancient trade networks, diets and population movements. The field is also starting to shift beyond shipwreck-centric studies to examine how entire maritime landscapes functioned in the past, incorporating submerged prehistoric settlements, harbour structures, and ancient sea routes. Maritime archaeology is also increasingly intersecting with climate science, oceanography, and even artificial intelligence to better analyse and protect submerged heritage sites, particularly those at risk from climate change and rising sea levels.

It is important to note, however, that in the African context, maritime archaeology is very much in its infancy. Lane (2007) attributes this to the factors of cost and inadequate training, but more specifically to a general lack of appreciation of the research potential of maritime environments and the importance which the sea has for many African societies (Lane 2007). Within the African context, maritime archaeology earns less attention compared to maritime security issues, such as piracy, illegal fishing, waste dumping and smuggling. Suffice

to say that advances in marine technological capabilities, and developments within the field of maritime archaeology, are now potentially enhancing international legal debates and prompting the need for national policies regarding the ownership, conservation and exploitation of underwater archaeological finds.

3. Threats to Marine and Underwater Cultural Heritage

Underwater archaeological sites are rarely monitored and as a result, threats that are human-induced as well as naturally occurring, persist relatively unmanaged. Lane (2007) confirms and notes the difficulty in controlling and preventing damage to underwater archaeological sites, particularly where they occur as a result of natural processes. Chief among the threats is environmental degradation, commercial exploitation and even looting of maritime archaeological sites.

3.1. *Environmental degradation and commercial exploitation disturbing archaeological sites*

For years, climate scientists have warned that climate change is destroying archaeological sites faster than they can be studied. The presence of salt water tends to intensify the process of corrosion and degradation (Maarleveld 2020). The rate at which damage is done to underwater sites and artefacts depends on a range of factors. By and large, environmental degradation, including but not limited to, issues such as ocean acidification and pollution are major risks to underwater archaeological sites. The risk is not only to sites in the deep sea, but also to those in and around coastal areas. According to Erlandson (2012), coastal archaeological sites have invaluable data about ancient coastal societies, fisheries and ecosystems. Both Erlandson (2012) and Rowland (1999) stress the potential adverse effects of global warming on coastal archaeological sites. Phenomena such as rapid coastal erosion, rising sea levels and more frequent mega-storms are bound to cause destruction to maritime archaeological sites (Gregory *et al.* 2022; Reeder-Myers and McCoy 2019). In the past, major climate events have indeed caused catastrophic damage to archaeological sites. Hurricane Katrina, for example, resulted in the destruction of roughly 1000 archaeological sites in the low-lying and vulnerable deltaic coastline in the Gulf of Mexico (Erlandson 2012). Like coastal erosion, the rapid coastal development coupled with growing coastal populations, the inevitable strain on marine resources and climate change has adverse effects on coastal archaeological sites (Breen 2013). Erlandson (2012) highlights that it is not only archaeological sites that are at risk, but also other historical and paleontological sites located along the island and littoral areas. These warnings have largely been disregarded by the broader maritime community, as other issues, among them piracy, offshore maritime terrorism and illegal fishing to name a few, have been assigned greater priority.

In addition to environmental threats, another risk is the destruction of artefacts as a result of human activity, specifically the commercial exploitation of marine resources. Activities such as laying pipelines, drilling and seabed mining operations are beneficial economically speaking, however, risky where MUCH and archaeological objects are concerned. Similarly, the modern-day fishing practices of industrial trawlers, which prioritise profit and efficiency over sustainability, jeopardise the integrity of MUCH sites. According to Jarvis *et al.* (2023), bottom trawling poses a major risk to archaeological and historical heritage in the maritime domain. The authors note that for centuries, fishery scientists and ecologists have been concerned with bottom trawling and dredging. Much like bottom trawling, deep seabed mining carries significant risks for maritime archaeological sites and artefacts (Jarvis *et al.* 2023). Presently, the International Seabed Authority (ISA) exploration and exploitation draft regulations do not adequately protect underwater cultural heritage.³ Both bottom trawling and deep seabed mining can cause serious damage to archaeological material, small artefacts and even shipwrecks can be dislodged and altogether irreparably destroyed. Artefacts that are destroyed or dislodged from the seabed, can be swept up and carried oceans away making it difficult to determine the regional origin of said objects. This may subsequently affect efforts to study the artefacts and even repatriate them.

3.2. *Piracy, looting and modern-day treasure hunts*

Whilst naturally occurring incidents are a major concern; another issue is the actions of nefarious actors. Despite being a crime punishable under the law in numerous countries, looting and modern-day treasure hunts of underwater artefacts continue to the present day. This is not a new phenomenon. Since the golden age of piracy, pirates and privateers have looted the stores of sunken vessels in search of treasures, such as gold from the New World, and other valuable artefacts (Soulat and De Bry 2019), sometimes under the guise of scientific marine research (see, e.g., M/V Louisa International Law Report 2012).

³ ISA, an intergovernmental organisation comprising 167 member states and the European Union, was established in 1994 upon the entry into force of UNCLOS. ISA is responsible for ensuring the effective protection of the marine environment from the harmful effects of deep-sea mining and other related activities (International Seabed Authority 2025).

According to Campbell (2016), some commercial operators, working legally to salvage vessels, often supplement their business by illegally retrieving artefacts. Upon arriving in “culturally rich areas”, such as the site of naval battles, these salvage vessels turn off their automatic identification system to evade detection whilst they perpetrate the theft of archaeological objects (Campbell 2016: 18). Like other regions around the world, Africa’s maritime domain, in particular its MUCH, is not immune to these threats. According to Lane (2007), treasure hunting disguised as maritime archaeology is present in the Western Indian Ocean region. The author cites instances of theft having occurred off the coast of Zanzibar (Tanzania), Mauritius, Madagascar and Mozambique (Lane 2007). In the same vein, Mahumane (2020) explores the prevalence of modern-day treasure hunting in the waters surrounding the Island of Mozambique, pointing out that many of the archaeological sites in the area are unprotected and threatened by both human activity and environmental factors.

The theft of archaeological artefacts creates a two-fold threat: Looted artefacts can be trafficked and sold on the black market, bartered for other goods and used as a form of payment for services. In some exceptional cases, looted underwater artefacts may be used to fund terrorist activities (Financial Action Task Force 2023). There is a direct link between illicit trafficking of antiquities and terrorist financing (Pineda 2018). Embedded in this network are non-state actors such as modern-day pirates, armed groups and criminal syndicates. In exchanging stolen artefacts, traders employ a variety of methods including smuggling routes to transport looted objects and even falsifying the provenance of artefacts (Pineda 2018), in essence committing fraud. In cases where stolen artefacts had not yet been discovered or logged whilst at the bottom of the sea, tracking their location once traded can be difficult, primarily because their existence is unknown.

4. Legal Frameworks for the Protection of Underwater Cultural Heritage

The cumulative risks to maritime archaeological sites have prompted the establishment of legal frameworks to ensure their protection. This speaks to a broader trend towards marine cultural heritage governance. The most prominent regimes include Articles 149 and 303 of UNCLOS, and the 2001 UNESCO CPUCH.

4.1. Articles 149 and 303 of the Law of the Seas (UNCLOS)

UNCLOS encompasses several provisions regulating the discovery of historical artefacts at sea; these stipulations have been long in the making. The prevailing UNCLOS was preceded by two other reports, namely UNCLOS I from 1958 and UNCLOS II from 1960. At the time of the negotiations, the protection and preservation of MUCH was not given much attention. In the prefatory report of UNCLOS I, Article 68 on coastal states’ sovereign rights to exploit natural resources within their territory, excluded rights to archaeological finds. The commentary on Article 68 established that said rights do not include “objects such as wrecked ships and their cargoes (including bullion) lying on the seabed or covered by the sand of the subsoil” (International Law Commission 2005: 297-298).

The topic of MUCH was raised once again at the third UNCLOS (III) conference, held between 1973 and 1982 (Derudder 2019: 10). Pursuant to the negotiations, two provisions on MUCH were introduced under Articles 149 and 303. Article 149 of the UNCLOS on *Archaeological and Historical Objects* states that:

All objects of an archaeological and historical nature found in the Area shall be preserved or disposed of for the benefit of mankind as a whole; particular regard being paid to the preferential rights of the State or country of origin, or the State of cultural origin, or the State of historical and archaeological origin (UNCLOS 1982).

Derudder (2019) makes a keen observation regarding the linguistic framing of the article. The first issue is that Article 149 refers to objects of an archaeological and historical *nature* as opposed to *interest*. This framing leaves much to interpretation, since it can be applied to a large number of objects, without specifying the importance of particular objects. The second issue stems from the stipulation that archaeological finds should be used for the ‘benefit of mankind as a whole’, however, falling short of specifying how this should be done.

Practitioners of maritime law, other legal scholars and academics, among them Derudder (2019), have pointed out the ambiguity and impreciseness of Article 149 as related to its practical application. Much like Article 149, Article 303 on *Archaeological and Historical Objects Found at Sea* leaves room for interpretation. Ferri (2012) states that the scope of Article 303 is far broader than that of Article 149. Under Article 303, states have the “duty to protect objects of an archaeological and historical nature found at sea and shall cooperate for this purpose” (UNCLOS 1982). Derudder (2019: 12) states that Article 303(1) does not clarify which states, littoral or landlocked, are obliged to the “duty to protect”. The author further notes that the so-called duty to protect can be loosely interpreted, with states determining what said protection should entail. Another aspect which Article 303 fails to address is the matter of cooperation between states, particularly over jurisdictional issues as well as cooperation between states and non-state actors, namely salvage teams, vis-a-vis the

application of the law of salvage. According to Merialdi (2022), the law of salvage is not necessarily antithetical to the obligation to protect MUCH for the broader public good. Recognising the difficulty in assigning responsibility, UNESCO drafted the 2001 CPUCH to bridge some of these gaps.

4.2. UNESCO CPUCH

In November 2001, at the 31st General Conference of UNESCO, the CPUCH was adopted. Presently, the UNESCO Convention is the only legal international framework that is wholly dedicated to the protection and preservation of MUCH. The Convention constitutes a regime of international cooperation, which establishes a common framework prescribing the rules and principles for managing marine archaeological sites, in various maritime zones. Its primary purpose is to regulate the protection of MUCH beyond territorial state jurisdiction. The Convention urges States to take all appropriate measures to protect and preserve underwater heritage. The Convention defines underwater cultural heritage as all traces of human existence having a cultural, historical or archaeological character which have been partially or totally under water, periodically or continuously, for at least 100 years such as:

- sites, structures, buildings, artefacts and human remains, together with their archaeological and natural context;
- vessels, aircraft, other vehicles or any part thereof, their cargo or other contents, together with their archaeological and natural context and
- objects of prehistoric character.

Consistent with state practice and international law, the UNESCO Convention cannot be “interpreted as modifying the rules of international law and state practice pertaining to sovereign immunities” (UNESCO 2001: 4). The Convention stipulates that acts taken under it cannot “constitute grounds for claiming, contending or disputing any claim to nations sovereignty or jurisdiction” (UNESCO 2001: 4).

Even with the overarching international regimes regulating the conduct of state and non-state actors, vis-à-vis maritime archaeological finds, it is ultimately the prerogative of states to prescribe or enact laws governing archaeological finds at sea. Resultant of the open interpretation, issues have emerged, key among these is the matter of ownership, particularly in relation to salvage law. According to Article 4 of the UNESCO Convention, activities related to MUCH are not subjected to the law of salvage primarily because it is not considered a suitable instrument for protecting MUCH (UNESCO 2001). The UNESCO Convention, however, permits the application of the law of salvage where three conditions are fulfilled, (1) where salvage “is authorised by the competent authorities, (2) is in full conformity with the Convention, and (3) ensures that any recovery of the underwater cultural heritage achieves its maximum protection”. In accordance with the law of salvage, where a salvaged object belongs to an entity other than the salvor, the latter is entitled to compensation, however, they have no ownership of the property. This, however, does not prevent salvage companies from making claims to recovered objects. An apt example which demonstrates this is the case between the Republic of South Africa and a private entity, Argentum Exploration Ltd.:

In 2017, the wreck of a commercial vessel, the *SS Tilawa* was recovered by British-owned Argentum Exploration Ltd, and raised from the Indian Ocean seabed, 930 nautical miles northeast of Seychelles (Brown 2020). The vessel is said to have been sunk after it was torpedoed by a Japanese submarine in November 1942 during World War Two (Breen 2024). Sailing from Mumbai (then Bombay), India to Durban, South Africa, the vessel was carrying 732 passengers, 222 crew and 6472 tons of cargo, including 2364 bars of silver bullion (The Maritime Executive 2024). The silver was sold by the Indian government to South Africa, where the silver was intended to be used for coinage. For years, the wreck was believed to be unsalvageable. However, in 2017 when Argentum Exploration Ltd recovered the bars of silver worth more than 37 million British Pounds, from a depth of 2,5 kilometres, issues of ownership of the silver arose.

The salvage of the wreck gave rise to a *maritime lien*,⁴ that is, “a privileged claim ... over a thing belonging to another ... to be carried into effect by legal process ... and a subtraction from the absolute property of the owner in the thing (United Kingdom Supreme Court 2024: 20). In 2018, the South African government claimed ownership of the silver and applied to “strike out Agentum’s claim for salvage on the basis that it is immune from the jurisdiction of the UK under the State Immunity Act 1978” (United Kingdom Supreme Court 2024: 2). Thus, the UK Supreme Court declared it would “rule on whether state immunity applied when the cargo was ‘in use or intended use for commercial purposes’ - an exception under the act” (United Kingdom Supreme Court 2024: 4). In May 2024, the United Kingdom Supreme Court ruled in favour of South Africa regarding the US\$43 million dollars of silver discovered in the *SS Tilawa*.

⁴ A maritime lien arises by operation of law, resulting from a maritime claim and/or under circumstances in which a vessel has been damaged. Once created, it is enforceable against purchasers of the property, irrespective of their notice, and it takes priority over all other claims (Lawrence 2019: 97).

The case of the *SS Tilawa* is a notable example of the complexities of ownership, particularly in the context of an African country, in this case, South Africa. Firstly, despite the vessel and its cargo having been salvaged by a private entity, Argentum Exploration Ltd, the company had no legal right to claim the items it salvaged. Secondly, though the wreckage was discovered near Seychelles' territorial water, it too had no right to claim the wreck or its contents. Thirdly, although India was a colony of Great Britain at the time the silver was purchased by the Union of South Africa, neither India nor the UK had a basis to claim the silver that was recovered. In this case, the court ruled that South Africa had the rightful claim since the silver was "a non-commercial cargo owned by a state and entitled, at the time of salvage operations, to sovereign immunity under generally recognised principles of international law" (United Kingdom Supreme Court 2024: 44).

5. Legality: Who Owns What and According to Whom

As it stands, the Law of the Sea does not make clear the rights of ownership. This dilemma is left to the relevant parties to contest and deliberate. The law of maritime archaeology is the law of a particular state regarding the conduct of underwater archaeology and the resultant property interests in any objects that are found (Oxman 1987). The question of who (which party) has the rightful ownership claim to objects and artefacts found at sea, remains a perplexing one. There have been several cases where objects have been found and various competing claims of ownership followed. These claims often cite several reasons as to why ownership should be granted or artefacts be returned, ranging from the wreck's location and cargo to the actors responsible for salvaging the objects.

A critical point worth pondering is whether states use archaeological artefacts as bargaining chips, in a manner similar to the practice of hostage diplomacy. In basic terms, when a state refuses to repatriate an artefact to the rightful owner unless it receives something in return. A similar noteworthy question is whether states intentionally suppress the discovery of archaeological objects in order to retain possession of them? Alternatively, what is the probability of a state concealing the discovery of a particular artefact which denotes their complicity in controversial historical events or exonerates another party? Another question is whether a state can deny access to an archaeological site in its territorial waters, regardless of the origin of the discovered objects and whom they belong to?

Oxman (1987: 353-354) raises three questions about the duties of states and jurisdiction over archaeological finds at sea:

- What is the power of a state to determine the title to and disposition of objects of archaeological interest found at sea?
- What are the duties of a state regarding the disposition of objects of archaeological interest found at sea?
- What is the power of a state to regulate the conduct of marine archaeology?

The first question is two-pronged; on the one hand, it is about a state's power over objects discovered within its territorial waters. Article 303 of the Law of the Sea stipulates that "coastal states may, in applying Article 33,⁵ presume that the removal of archaeological objects from the seabed in their contiguous zone without its approval would result in an infringement within its territory or territorial sea of the laws and regulations referred to in that article." (UNCLOS 1982: 138). In such cases, anyone invoking the removal of archaeological objects must prove that the object does not originate on a particular state's territory in order to evade the jurisdiction of said state (Forrest 2010). On the other hand, while states have exclusive rights to regulate activities related to MUCH in their territorial waters, they have less authority over objects found beyond their maritime zones in international waters. A case of this nature occurred in 2005, when French customs officials in Mayotte seized a container consisting of elephant tusks, bronze cannons and other objects looted from an unknown site in the Western Indian Ocean (Zamora 2008). At the centre of this case was known French treasure hunter Francois Clavel, who was found to be working on a vessel registered under a South African tourist company. Clavel claimed that the objects were retrieved from an unknown site which lay outside national territorial waters. Ultimately, Clavel and his team were permitted to leave the island of Mayotte; however, the objects were left in Madagascar and the precise coordinates of the wreck remained undisclosed.

This case demonstrates the difficulty in assigning responsibility and holding perpetrators accountable, particularly where perpetrators are varied, and the archaeological objects are salvaged from areas beyond national jurisdiction. Moreover, the undisclosed or unknown location of the wreck, make the management, preservation and protection of the site almost impossible.

⁵ Article 33 on the Contiguous Zone stipulates that: In a zone contiguous to its territorial sea, described as the contiguous zone, the coastal State may exercise the control necessary to: (a) prevent infringement of its customs, fiscal, immigration or sanitary laws and regulations within its territory or territorial sea; (b) punish infringement of the above laws and regulations committed within its territory or territorial sea. The contiguous zone may not extend beyond 24 nautical miles from the baselines from which the breadth of the territorial sea is measured (UNCLOS 1982: 35).

The challenge here is overtly evident where archaeological sites lie far beyond coastal limits, and Article 303 does not sufficiently cover this. Article 303 stipulates that it does not affect “the rights of identifiable owners, the law of salvage or other rules of admiralty, or laws and practices with respect to cultural exchanges” (UNCLOS 1982: 138). In this case, cooperation between the relevant parties is required. The UNESCO Convention has an established mechanism for international cooperation on MUCH, mainly applicable to areas outside a state’s exclusive economic zone and continental shelf. The framework is based on information sharing, consultation between states and joint protection efforts. Finally, Article 303 asserts that it is “without prejudice to other international agreements and rules of international law regarding the protection of objects of an archaeological and historical nature”. The question is to what extent does this provision apply to meso- and micro-level non-international agreements and frameworks, such as those of the African Union and African sub-regional organisations? The framing of this clause suggests that Article 303 does not supersede or diminish existing agreements on archaeological objects. However, there is an ill-defined component, namely the omission of non-international, that is, continental, regional and/or bilateral agreements on MUCH. This oversight requires redress, lest it spur misinterpretations and legal loopholes.

6. Prospective Lessons and Opportunities for Africa: Confronting the Inadequacies of the Existing Regimes

The advent of international regimes has been a consequence of humankind endeavouring to find pragmatic solutions to genuinely global problems, representing “a reaction to increasing complexity, coupled with an accelerating rate of change, which has threatened to overwhelm humankind’s capacity to respond to new economic, social and political conditions” (Evans and Wilson 1992: 330). To this end, the logic underpinning international regime formation has been premised on collectively ‘managing’ change on behalf of our ‘only one earth’. Yet, as highlighted earlier, only 22 African states have ratified UNESCO’s CPUCH (UNESCO 2025).⁶ In the African context, it is also surprising that there is no overarching continental framework aimed specifically at MUCH. Nowhere in the African Union’s 2050 African Integrated Maritime Strategy nor in its Blue Economy Strategy, is there a mention of MUCH and archaeological objects. The African Union’s Agenda 2063 Framework Document only briefly mentions “reclaiming Africa’s maritime heritage” (African Union Commission 2015: 106). The African Union has, however, more recently drafted a Model Law on the Protection of Cultural Heritage which makes provisions for protecting undiscovered underwater heritage, but it has yet to be adopted (African Union 2021).

At the national level though, several African states now have laws regulating the discovery, preservation and management of underwater archaeological sites. Some key examples include Egypt’s Antiquities’ Protection Law which extends to MUCH (Abd-el-Maguid 2012), and Namibia’s National Heritage Act 27 of 2004 which recognises any remains of “fifty or more years found on or beneath the surface of land or the sea” (Aribeb 2010: 2). Presently, South African legislation provides blanket protection for underwater cultural heritage older than sixty years (Parliamentary Monitoring Group 2008). South Africa’s National Heritage Resource Act 25 of 1999 stipulates that a permit is required before an individual is legally allowed to remove, damage or destroy an archaeological artefact. Failure to comply with the stipulated regulations may result in fines, imprisonment or both. Kenya’s National Museums and Heritage Act provides a legal framework for the protection, conservation, management and research of the country’s cultural heritage (Bita 2015). The Act extends to shipwrecks in Kenya’s inland water bodies, the seabed and its territorial waters (Republic of Kenya 2012). Like Namibia, Kenya’s National Museums and Heritage Act dictates that “any shipwreck more than fifty years old” (Republic of Kenya 2012: 8) is declared a national monument and granted automatic protection. This is at variance with the 2001 UNESCO CPUCH which provides protection for objects submerged for longer than a century. One may argue that Namibia and Kenya’s recognition of objects submerged longer than five decades and the designation of these as MUCH, is not only proactive, but also offers greater protection and enhances preservation efforts.

Considering the expense, as well as the highly advanced and technical tools used by maritime archaeologists, it stands to reason that many countries, especially those in Africa, lack sufficient resources to excavate underwater sites and recover artefacts. As a result, by and large, private entities, whether for accreditation or driven by altruistic motivations, continue to do the heavy lifting. Adding to this complexity, are the discoveries made by foreign private companies, who have far less incentive to return artefacts to their rightful owners. Herein lies the danger of a ‘finders keepers’ mentality, also perpetuated by some antiquities collectors and individuals who stumble across artefacts whilst scuba diving. The ability to effectively manage and protect underwater cultural heritage also varies between countries, therefore, it might be assumed that countries with well-established systems for managing cultural heritage may find it easier to implement UNESCO CPUCH, thus, influencing their ratification decisions. Also, as shown in this article, disputes between postcolonial territories and post-colonial powers over title to sunken vessels mean that historical relationships often influence countries’ perspectives in respect of ratifying

⁶ The African countries that have ratified the 2001 Convention include: Algeria, Benin, Cabo Verde, Democratic Republic of Congo, Egypt, Gabon, Gambia, Ghana, Guinea-Bissau, Guinea, Libya, Madagascar, Malawi, Mali, Mauritania, Morocco, Namibia, Nigeria, Senegal, South Africa, Togo and Tunisia.

the 2001 Convention. Additionally, many countries might perceive UNESCO CPOCH to be incompatible with UNCLOS, thus, they feel that their immediate national interests are better served by the latter.

Sarid (2017), however, contends that UNESCO CPOCH is still well suited to address the current challenges to international underwater cultural heritage governance because:

- the Convention's breadth is wide, it defines MUCH, and it regulates activities that are not only directed at underwater cultural heritage, but also those that incidentally affect it;
- the Convention regulates all maritime zones including those unaccounted for in UNCLOS;
- the Convention creates a framework for international co-operation between member states regarding the protection of underwater cultural heritage (Sarid 2017: 225).

However, Sarid (2017) also points out that the apparatus is not perfect and that it is potentially ill-equipped to deal with future threats to underwater cultural heritage, in particular, how changes in sea levels might one day submerge existing terrestrial heritage sites, or conversely, how some existing submerged cultural heritage sites may one day surface and dry out.

Parthesius (2020) also concurs that UNESCO CPOCH is the best option for MUCH engagement and management in states where legislation is absent or ambiguous. Parthesius (2020) contends, however, that there is still a contradiction in the wording and implementation of UNESCO CPOCH. The author points out that the Convention's origin was a response to the increased looting of shipwreck sites and the need to act against treasure hunters and the loss of cultural material. As a result, the drafters of the Convention needed to strike a balance between this specific challenge and the broader imperative of justifying MUCH's global nature in terms of its universal values. According to Parthesius (2020), where the Convention defines MUCH as a shared and common heritage, it does this based on time, that is, tangible underwater heritage only becomes significant after 100 years, as opposed to a collective significance being attached to the 'outstanding universal values' of this heritage; an aspect to some extent covered by the Namibian and Kenyan provisions mentioned earlier.

Several other weaknesses in the Convention pertain particularly to post-colonial and global South states and situations. Hence, for instance, the Convention is inherently rooted in the need to protect and manage mainly European shipwreck sites, so that it seems inconceivable that non-European states would be incentivised to manage shipwrecks on behalf of foreign states just because European shipwrecks exist in their waters. Therefore, rather than promoting the potential universalism of MUCH, the latter is often perceived by non-European states as inherently particularistic, and as an effort to 'universalise' European culture (Parthesius 2020). A further drawback of UNESCO CPOCH is that it does not include the consideration of indigenous communities. This issue is closely related to the Convention's inability to provide adequate protection for intangible aquatic cultural heritage. Perez-Alvaro (2023) argues that currently, many submerged paleo-landscapes are in fact places where the ancestors of contemporary indigenous cultures inhabited and used these areas and where they are interred. Ironically, today, many of these submerged lands and waters are the "territorial seas" and "exclusive economic zones" of the colonisers (Perez-Alvaro 2023: 2).

Closely related to the above is the fact that neither UNCLOS nor UNESCO CPOCH (UNESCO 2001) grant special preferential rights to "states of cultural, historical and archaeological origin" (UNCLOS 1982: 74), and does not include any mention of the heritage of indigenous peoples. Perez-Alvaro (2023: 5), therefore, correctly asserts that the concepts "state of cultural origin" and "state of historical origin" are not easily applicable to civilisations which existed prior to colonialism since indigenous communities, together with their cultural heritage, are in fact abiding civilisations which have survived state succession—albeit that they have lost the material expressions of their cultures. Additionally, it can be argued that because these two international legal instruments prioritise states, indigenous communities (in the absence of formal statehood) need a state to represent their interests and even then, assuming the interests of the indigenous community and the interests of the 'rest of the state' in which they 'exist' are aligned.

Regarding intangible aquatic cultural heritage, UNESCO's CPOCH only covers tangible objects such as sites, structures, buildings and vessels, thus, precluding intangible artefacts. Nonetheless, UNESCO's Convention for the Safeguarding of Intangible Cultural Heritage goes some way in addressing this by defining intangible heritage as,

the practices, representations, expressions, knowledge, skills—as well as the instruments, objects, artefacts and cultural spaces associated therewith—that communities, groups and, in some cases, individuals recognise as part of their cultural heritage... This intangible cultural heritage provides them with a sense of identity and continuity, thus promoting respect for cultural diversity and human creativity (UNESCO 2003: 5).

Rule 5 of the Annex of UNESCO CPUCH (UNESCO 2001) does now refer to the term ‘venerated sites’ which are loosely defined as sites having spiritual meaning for certain people, however, to be clear, there is still a very clear distinction between underwater cultural heritage and intangible cultural heritage within UNESCOs legal instruments—since the 2001 Convention does not fully integrate the 2003 Convention into its framework. Overall, the inadequacies of UNESCO CPUCH regarding indigenous communities and intangible cultural heritage, perpetuate the notion that the management of MUCH is characterised by Eurocentric bias and colonial legacies.

Regarding the earlier observation that UNESCO CPUCH is ill-equipped to deal with future threats to underwater cultural heritage, perhaps the insights of Henderson (2019) are instructive. The author makes the point that the long-term cultural importance of the marine environment remains largely unrecognised. Henderson (2019: 1) highlights that the 2030 Agenda for Sustainable Development (SDGs), and especially SDG 14, Life Below Water, is committed to “conserving and sustainably using the oceans, seas and marine resources for sustainable development”: Testament to this is that “cultural heritage” is only referred to twice in the text accompanying the 17 development goals and their 169 targets (Henderson 2019: 2). Practically, this oversight is compounded by the fact that within UNESCO, underwater and terrestrial heritage comprise different departments, so that the artificial separation between the two permeates its bureaucracy. As a result, one of the unintended consequences of this separation is that underwater heritage has, in fact, been diminished with respect to the wider heritage discourse (Henderson 2019).

7. Conclusion

Within Africa’s vast maritime domain, several artefacts have been found, others remain submerged and unsalvageable, whilst many more have yet to be discovered. It is likely that underwater archaeological sites, and the access and control of these areas, will continue to constitute a source of contention. Some African countries now have laws in place to protect MUCH sites and artefacts; even so, there remains room for reinforcement and scope for Africa —through individual states in terms of domestic measures and through regional organisations —to address the weaknesses in existing international conventions and governance frameworks.

The status quo remains woefully inadequate, particularly towards protecting weaker interested parties. The uneven powers of parties in legal cases, particularly between erstwhile colonial powers and previously colonised, conquered and/or occupied countries, remains a dilemma. At the continental level, the African Union should draft a suitable framework to regulate and oversee the protection of MUCH and the management and preservation of these sites. This endeavour would not constitute a new initiative or reinvention of the wheel, rather it would build upon an existing foundation of international regulations. The revitalised legislation should focus on five key aspects: protection, preservation, management, repatriation and ownership; the latter two aspects are key to reclaiming Africa’s history and archaeological objects on display in museums around the world and those held in private collections. Beyond this, African governments must develop a framework or system for effective policing dedicated to mitigating the loss of maritime archaeological sites and investigating crimes related to the destruction and theft of Africa’s MUCH sites and artefacts. Such an initiative may be further strengthened by various working groups or projects committed to scientific and academic research on Africa’s MUCH.

One reading of international legal regimes suggests that the rules and norms which underpin them are ‘attitudinal phenomena’ so that actors attach meaning to what they consider to be moral and appropriate behaviour. To this extent, as a knowledge frontier, MUCH has the potential to re-frame the meanings which arise from newly discovered underwater heritage sites. This is inherently an ethical pursuit and the field of maritime archaeology can potentially serve to signal a broader recognition that maritime heritage is not just a resource to be extracted, but a shared cultural and historical legacy that must be preserved with care.

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Seychelles and Mauritius as Pioneers: The Case for a Refined Conceptualisation of Small State Foreign Policy

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Abstract

In traditional small state literature, small states are often relegated to the periphery. They are characterised as 'rule-takers' rather than 'rule-makers', lacking the resources to be proactive on the global stage and perpetually defined by a power deficit. Consequently, small state foreign policy behaviour is presumed to be driven by an enduring sense of dependence, with such states consistently aligning their policies with those of major players. This article challenges such assertions, arguing they reflect an outdated understanding of small state behaviour and power. By examining the cases of Seychelles and Mauritius, two Small Island Developing States in the South-West Indian Ocean, this article demonstrates that they defy these traditional notions. Through a thematic analysis of official government speeches from 2017 to 2024 and drawing on Holsti's conception of role theory, the article argues that these two islands are actively enacting the role of 'pioneers', directly contrasting with dependency-based foreign policy frameworks. Beyond expanding on the foreign policy of small states to include an 'interdependent foreign policy' (IFP) orientation, this article also shows that the role of 'pioneer' carries its own form of power, offering an alternative perspective on how small, oceanic states can assert influence in international relations.

Keywords: Small Island Developing States (SIDS); Western Indian Ocean; role conceptions; foreign policy

1. Introduction

In the last few decades, a growing body of literature on African agency (see Beswick and Hammerstad 2013; Brown 2012; Chipaika and Knowledge 2018; Ettang 2021; Taylor 2010) has emerged, repositioning Africa away from its longstanding portrayal as a 'hopeless continent' or a 'perpetual victim'. However, this scholarship has focused mainly on continental or mainland Africa, often highlighting the archetypal states of South Africa, Nigeria, Rwanda, Ethiopia, inter alia (Brown 2012). Noticeably omitted from this analytical gaze are the islands off the coast of Africa, which have demonstrated remarkable initiative in the international arena. The marginalisation of islands is also reflected in the dominant discourse surrounding the Indo-Pacific. Scholars such as Medcalf (2019) suggest that the narratives about the Indo-Pacific are based on the interests of the major actors which include the United States (US), India, Japan and China, as well as middle powers such as Australia and South Korea (Medcalf 2019). Similarly, analyses by Tuan (2020) and Berkosky and Miracola (2019) focus on the Indo-Pacific strategies of Australia, India the European Union, Japan, Russia and the US.

Common to all these analyses is the conspicuously overlooked role of Small Island Developing States (SIDS), as though they may, and do not, also have an interest in the future of the region. This marginalisation reflects a broader tendency to categorise small states as 'rule-takers' and not 'rule-makers', perpetuating the notion that they lack the necessary resources to be proactive in the international arena. Indeed, Wright (2023) asserts that in the field of international relations, islands are rarely considered and rather relegated to the margins. They are, de facto, seen as states with a necessary 'power deficit', which seemingly justifies their omission. Defined by this 'power-deficit', these states are said to have a foreign policy that is characterised by a sense of dependence; that is, they can pursue either a compliant or counter-dependent foreign policy. By analysing the cases of Seychelles and Mauritius, two SIDS in the South-West Indian Ocean, this article demonstrates why the traditional conceptualisation of small state foreign policy needs refinement. In doing so, it presents an alternative foreign policy orientation, namely an 'interdependent foreign policy' (IFP), that highlights their agency and power in the international arena.

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2. Tracing Small States in The Literature: From Traditional Narratives to Emerging Agency

Small states have not always been portrayed as weak. During ancient Greek times, small states were viewed favourably, with philosophers such as Plato and Jean-Jacques Rousseau praising small states as they were considered a necessary condition of the good life (Liska 1957). This theme was also prominent during the 18th and part of the 19th centuries, when small states were attractive since they contrasted the absolutism and centralisation inherent in big states (Amstrup 1965). In the latter years of the 19th and early 20th century, however, such a sentiment underwent revision, with scholars attributing war, misfortune and internal turmoil to the existence of small states (Von Rochau 1853). Indeed, this period was marked by changing global dynamics, including imperialism, the two world wars, and the Cold War. During the Nazi era, small states were explicitly devalued, with some suggesting that small states should be destroyed or pushed to the very periphery (Whittlesey 1942).

Consequently, descriptions started arising surrounding small states, with Schwarzenberger (1964: 109) suggesting they have “ridiculously little” of the currency that shapes the environment in which they exist. According to Väyrynen (1971) and Handel (1990), small states are solely preoccupied with survival. Rothstein (1968) asserts that these states must always rely on others to obtain security, while Väyrynen (1974) elaborated that small states are deeply dependent on other countries, have severely constrained independent decision-making abilities, and are fundamentally defined by a lack of autonomy. Keohane (1969: 296) goes so far as to suggest that these states could best be labelled as “system-ineffectual” states since they are unable to influence the system. This narrative persisted into the beginning of the 21st century, with Knudsen (2002) arguing that small states are ineffective in advancing their interests in the international arena, and Insanally (2013: 99) noting that small states lack the “strategic clout” necessary to obtain any significant concessions from larger states. Finally, Maass (2017) reinforced this view, arguing that the structure of the system continues to exist and develop regardless of the involvement and existence of small states.

Considering this, small states are often perceived as having a limited range of foreign policy orientations. Liska (1957: 41), for example, suggests that small states involved in war can either side with the anti-hegemonic powers or with the “unbalancer”. Other scholars have noted that small states can either bandwagon or balance against a threat (Karsh 1988; Reiter 1994) or adopt a stance of neutrality and non-alignment (Rothstein 1968). In this instance, neutrality is not necessarily aimed at impartiality, but rather a reflection of the desperate efforts of small states to avoid entanglement in future wars. Espindola (1987), extends this argument to Third World states, suggesting they can either remain neutral or seek non-alignment, while Mouritzen (1991) reasons they can pursue a strategy of non-commitment. Richardson (1978) offers a bargaining model to explain the foreign policy of these states, which proffers that small states will comply with the foreign policies of larger states in exchange for military or economic aid, whereas Carney (1989) has put forward the patron-client relationship model, where the foreign policy of a small state is characterised by compliance.

Perhaps most recently, Breuning (2007), building on the work of Hey (1993), suggests that small states can pursue one of four foreign policy orientations, namely: (i) consensus-oriented; (ii) compliant; (iii) counter-dependent and (iv) compensation. A consensus-oriented foreign policy occurs when a small state voluntarily aligns its foreign policy with a more powerful state, whereas, in the case of compliant foreign policy, this comes only after external pressure has been applied by larger states. When a small state does not align its foreign policy (either through a consensus or compliant orientation), it can be described as pursuing a counter-dependent foreign policy. Adopting this orientation, small states, frustrated with their dependent stance, will try to lessen their dependence and adopt an anti-core foreign policy (Hey 1993). The compensation orientation is similar to the counter-dependent stance in the sense that both reject major powers and attempt to lessen dependence. In the case of the latter, however, the distinguishing factor is that the motivation behind this orientation lies in the need to appease domestic audiences (Hey 1993). At the core of these four orientations is a common theme: small states’ foreign policy is always defined by a sense of dependence, whether it is an acceptance or rejection of this.

The emergence of a new strain of thought, however, questions the relevance of such a framework, as well as the traditional assumptions of small state foreign policy, discussed earlier. Malik (2020) argues that small states actually play a pivotal role, since their support (or lack thereof) determines the success or failure of great powers. In other words, for major players such as the US to be successful in articulating their visions of the Indo-Pacific, they are reliant on enlisting the support of small islands. Bueger and Wivel (2018) also touch on the importance of small states, suggesting that small states have issue-specific capabilities that they can utilise to exert niche influence. Otto (2022) demonstrates how Seychelles was able to carve out a crucial role for itself as a pivotal player during the heydays of piracy off the coast of Somalia in 2008.

There are other instances where islands have expressed creativity and agency, with Tuvalu renting out its '.tv' internet domain to a US media company, generating 8.5 per cent of its domestic revenue annually (Hawksley and Georgeou 2023). Tuvalu has creatively monetised aspects of its sovereignty. Vanuatu has innovatively used its sovereignty to generate income by selling its citizenship to wealthy people. Beyond these economic strategies, scholars such as Hume et al. (2021) and Morgan (2022) have made the case that SIDS are exerting agency by pushing for a new classification system, reconceptualising themselves from small island states to large ocean states. Such arguments question the conventional knowledge, calling into question whether they truly have “ridiculously little” of the currency. Schwarzenberger (1964) speaks of whether they are as ineffective in advancing their interests in the international arena as Knudson (2002) suggests. Furthermore, this emerging strain in the literature calls into question whether small states, and specifically SIDS, should still be confined to the paradigm where they are described as system-ineffectual and only have foreign policy options that are dependent.

3. Analytical Framework

Breuning's (2007) theory on small states provides a valuable framework for understanding how small states behave, which is subsequently adopted by this article as a foundation. However, in operationalising Breuning's framework, this article consolidates the four proposed orientations into two primary categories: compliant and counter-dependent foreign policy orientations. This adjustment is justified on the basis that it is practically nearly impossible to distinguish compliant from consensus-oriented and counter-dependent from compensation without intimate knowledge of the decision-making process, which is not typically disclosed in speeches. It thus falls outside the purview of this article.

Importantly, this condensation does not diminish Breuning's framework since it still captures the two fundamental positions of small states. The two foreign policy orientations are defined as compliant foreign policy orientation and counter-dependent foreign policy orientation. If it can be illustrated that a state demonstrated policy alignment with a major player, then that state can be said to be pursuing a compliant foreign policy. Alignment refers to any actions taken by a state that demonstrates explicit support for another state. If it can be demonstrated that a state is adopting an anti-core or anti-major power sentiment towards another state, then it can be suggested that this state is pursuing a counter-dependent foreign policy. Importantly, there must be a clear anti-core or hostile position towards a major player. This analytical framework, which enables a more practical application of Breuning's framework while retaining its conceptual integrity, is illustrated in Table 1.

Finally, Holsti's 1970 article on 'National Role Conceptions in the Study of Foreign Policy' is used alongside Breuning's framework to interpret the roles that states adopt in the international arena. Through an analysis of state speeches, Holsti (1970) identifies 17 distinct role conceptions that states can enact. This article embodies Holsti's (1970) approach by systematically examining speeches, identifying key phrases that signal a state's position or orientation within Breuning's framework, and translating these into specific role conceptions.

Table 1: Analytical framework for small state foreign policy orientations

Foreign Policy Orientation	Definition	Key Indicators	Policy Outcome
Compliant	A state aligns its foreign policy with major players.	Any actions that illustrate clear support for the policies or positions of major players.	Pro-core: Foreign policy reflects the interests of major powers and not the national government.
Counterdependent	A state adopts an anti-core stance, showing hostility towards a major player.	Any actions that demonstrate clear resistance or critique of the policies of major players, which include hostile rhetoric or actions.	Anti-core: Foreign policy reflects attempts to lessen dependence on major players or even reject them.

4. Methodology

Situated within a qualitative research approach, this article adopts thematic analysis as a research design. The thematic analysis is guided by the analytical framework that was operationalised in the previous section and based on the work of Breuning (2007). Breuning's (2007) framework provided the guiding questions for the thematic analysis, while Holsti's (1970) national role conception approach was applied alongside it to assess whether a state was positioning itself in alignment with or in opposition to major powers. Government speeches from Seychelles and Mauritius delivered between 2017 and 2024 were manually coded by the researcher. Only speeches that related to a state's foreign policy and addressed to the external environment (as opposed to its domestic environment) were considered. Speeches were selected

on the basis that they represent an articulation of a country's position on a matter (Modelske 1962) and can, therefore, be used to gain insight into the views of a state's foreign affairs (Shlapentokh 2009). As Shlapentokh (2009) further reasons, as a rule, speeches should be taken as relatively authentic reflections of a government's position.

Themes that could answer the question of whether the selected states align its foreign policy with a major player or rejects major players were identified. The reliability of the speeches was ensured through two measures: first, providing as many direct quotations as possible, thereby increasing transparency and second, clearly listing all speeches used in the bibliography with a direct link to the speech so that the reader can independently verify the speeches.

The selection of states and the timeframe was deliberate. While there are six SIDS in Africa, Seychelles was chosen specifically, because it has played a prominent role in the fight against piracy and established itself as a leader in the blue economy, while Mauritius was chosen because it has garnered significant attention from two competing major players, namely China and India, and is thus, an interesting case to observe, especially in terms of its alignment of foreign policy (or lack thereof). The year 2017 was chosen as the starting date since it represents a significant juncture: the release of the US' first Indo-Pacific strategy and the revival of the Quadrilateral Security Dialogue (the US, India, Japan and Australia). This year signifies a pivotal year in which the term 'Indo-Pacific' gained significant currency.

5. Pioneer Foreign Policy Orientation

5.1. *The case of Seychelles*

Seychelles, a high-income archipelago with a population of less than 100 000 people, is located in the Western Indian Ocean (Cabestan 2021). It is the smallest African country if land area and population are considered (CIA Factbook 2025). Seychelles acute vulnerability to climate change and natural disasters, coupled with its unique vulnerabilities of an undiversified, marine-dependent economy, position it as the quintessential SIDS.

The thematic analysis of 40 relevant public speeches by Seychellois government officials demonstrated two important findings (for all speeches directly quoted, see the References). Firstly, Seychelles does not align its foreign policy with major players, and therefore, cannot be said to be pursuing a compliant foreign policy. At a press meeting in 2022, the Seychellois President, Ramkalawan, fervently announced that Seychelles would continue to position itself as a non-aligned sovereign nation, vis-à-vis the Russia-Ukraine conflict (Seychelles News Agency 25 March 2022). This non-alignment with a major power was further emphasised when Ramkalawan noted that Seychelles strongly supports the position of the African Union on matters such as this aforementioned conflict and reform of the United Nations Security Council, demonstrating a prioritisation of African solidarity over alignment with major players (Faure 2018b; Ramkalawan 2022b). Shortly after that statement, Ramkalawan articulated that: "We speak to everyone, we talk to everyone, but we say to them we are non-aligned we are not aligned, keep your geopolitics to yourself [sic]" (Ramkalawan 2022a). Evidently, Seychelles' foreign policy does not reflect the preferences of the major players, who are concerned with geopolitics. In fact, Seychelles has underscored its resistance to major power geopolitics by stating that it is "trying not to get caught in the crossfire", while reminding powers "that geopolitics will not supersede human rights and international law" (Ramkalawan 2024b). In this sense, human rights and international law are prioritised, superseding the geopolitical agendas of major players. Ramkalawan (2020) has reiterated that Seychelles' sovereignty is sacred and that under his watch there would never be a foreign military base on the island. Seychelles' foreign policy, therefore, demonstrates a resistance to reflecting the geopolitics-driven agenda of major powers, suggesting that it eschews a compliant foreign policy.

Secondly, despite not aligning its foreign policy, Seychelles does not reject the major players and therefore, it would be inaccurate to suggest it is pursuing a counterdependent foreign policy. Seychelles has not disengaged from major nations. In the past, Seychelles was one of the early participants in the UK-led Global Ocean Alliance, while concurrently engaging in South-South, North-South and Triangular cooperation (Faure 2020a). The nation has also reaffirmed its approach of multiple engagement by receiving military training for their forces from both the US and India, while patrol boats have been received from China and India (Ramkalawan 2022a). In an interview with a Seychellois government official, the official summarised this approach, suggesting that: "Seychelles has always been pushing this line of friends to everyone and enemies to none [...] We are friendly with China, we are friendly with India, we are friendly with the United States and Europe and Russia" (personal communication, 23 February 2024c). Rather than resisting major players, Seychelles engages with them on multiple fronts to pursue its national interests.

The thematic analysis further revealed that Seychelles adopted a role that stood in opposition to the foreign policy orientations proposed by Breuning (2007). Seychelles positioned itself as, what this study coins, a ‘pioneer’. This was encapsulated in numerous speeches, with the country asserting that “we want to be a leader in the Indian Ocean [...] We want to be a spokesperson” (Radegonde 2023). In another instance, the government stated that “Seychelles will remain at the forefront of the discourse on climate change [...] Seychelles has challenged the established model of donor-recipient relationship through innovative financing” (Faure 2020c). Ramkalawan boldly asserted that “no island is too small to be a part of this endeavour, no country too large to claim a monopoly of ideas” (2021a). Noteworthy, Seychelles was the first state to introduce a Debt Swap for Ocean Conservation and Climate Adaption² as well as issue Blue Bonds³ (Faure 2017). Other pioneering initiatives and activities include: Seychelles as the first country to designate a marine protected area in the Western Indian Ocean (Faure 2020b), Seychelles was the first African state to ratify the Biological Diversity Beyond National Jurisdiction Agreement (Ramkalawan 2024b), and achieving its 30 by 30 Marine Spatial Plan milestone 10 years before the global deadline (Ramkalawan 2024a) (an initiative that it pioneered alongside other states).

In another domain, Seychelles expressed their desire to be a leader in the shipbuilding industry, with Faure announcing that “we will make land available for all ship owners in Africa, and act as a hub for all activities related to the shipping and maritime sectors” (2018a). This pioneering role is not limited to occasional rhetoric; Seychelles has overtly committed to its role, stating, “Seychelles remains committed to its pioneering role in marine conservation” (Ramkalawan 2023).

Essentially, Seychelles is pursuing a foreign policy orientation that does not neatly fit into the categories prescribed by Breuning (2007) of either adopting alignment or stark resistance. Rather, the orientation enacted by Seychelles transcends these binary categorisations, demonstrating agency by pioneering, a role not typically expected by traditional small state literature.

5.2. *The case of Mauritius*

Mauritius is an archipelago situated in the Southwest Indian Ocean (Republic of Mauritius 2020). Significantly larger than Seychelles, it has a territory of 1 864 square kilometres and a population of over 1.27 million. However, in comparison to most states, it still has a small population and land area, and considering its vulnerability to economic shocks, it is considered a SIDS (United Nations n.d.).

The thematic analysis of 24 speeches by the Mauritian government, reveals that like Seychelles, Mauritius does not clearly align its foreign policy with the interests of major players. One example of this is the stance taken on the Russia-Ukraine war, where, apart from advocating for a peaceful resolution to the conflict, the main point emphasised was that “we should be seriously thinking of saving our planet” and not only about war (Jugnauth 2022c). Notably, the emphasis was on saving the planet, which signals a departure from the stance taken by the major powers where geopolitical conflict is the central preoccupation. For Mauritius, climate change supersedes geopolitical conflicts. In other instances, it goes so far as to challenge major powers, where for example, in 2022c Prime Minister Jugnauth stated, “it ill behoves to the UK to call on Mauritius and other African countries to respond to other allegations of illegal occupation when it illegally occupies a part of Africa”. Furthermore, as with Seychelles, Mauritius closely aligns itself with the African continent as opposed to major players and reinforces its commitment to African solidarity over the preferences of major players (Jugnauth 2017; Jugnauth 2022c; Jugnauth 2024). These instances demonstrate that Mauritius does not pursue a compliant foreign policy, since it prioritises non-alignment with major players, reflects its own interests of climate change over geopolitics and challenges major players while remaining closely aligned with the African continent.

Despite this non-alignment, Mauritius does not reject major powers nor adopt an anti-core sentiment. For example, although differing on its position on Russia-Ukraine with the US, Mauritius does not reject the US. Mauritius still supports the US military presence on Diego Garcia and has expressed their desire to “build on the legacy of the excellent bilateral ties that unite Mauritius and the USA” (Jugnauth 2021d). Furthermore, Mauritius maintains relations with numerous partners. The former Mauritian Prime Minister pointed out the multiple trade agreements Mauritius had, which ranged from partnerships with China to the UK to India (Jugnauth 2021a). This demonstrates that Mauritius has a multiple-actor engagement approach as opposed to distancing itself from major players. In this sense, Mauritius does not neatly fit the prescription of pursuing a counter-dependent foreign policy.

2 A debt for ocean conservation deal refers to the process whereby money that would have gone to debt repayment is redirected to support ocean planning projects that foster marine conservation (Michel 2023).

3 Blue bonds are financial instruments that, combining public and private investment, aim to fund ocean conservation initiatives, such as expanding marine protected areas, improving governance of fisheries and developing a state’s blue economy (World Bank Group 2018).

Much like Seychelles, Mauritius emerges as a pioneer in foreign policy orientations. In fact, Mauritius frequently utilises the word ‘spearheading’, stating that “Mauritius has taken the lead in the western Indian Ocean region in combating piracy” (Jugnauth 2018), “continues to spearhead the fight against drug trafficking and other maritime crimes”, and “The Bank of Mauritius has set up the Climate Change Centre in 2021, to spearhead efforts in measuring, analysing, managing, and mitigating climate risk” (Jugnauth 2022a). Mauritius has also frequently emphasised the need for a new financing structure through the (now adopted) Multidimensional Vulnerability Index (MVI), which is a novel framework to conceptualise vulnerability. In the past, it also advocated for the G20 Debt Service Suspension Initiative to be extended to include middle-income countries and SIDS (Jugnauth 2021c).

Once again, the pioneering role of Mauritius suggests that its foreign policy is neither purely compliant nor counterdependent. Rather, Mauritius seems to challenge the prevailing notion that small states are merely rule-takers of rules in the international arena and cannot impact their external environment or advance their interests. The role of pioneer contrasts Breuning’s (2007) assertion that small states such as SIDS, can only either pursue a compliant or counter-dependent foreign policy.

6. Rethinking SIDS

To fully account for the foreign policy orientation of small states, it is necessary to expand Breuning’s (2007) framework and incorporate an additional foreign policy orientation, namely that of pursuing an ‘IFP’. When there is an assumption (as in the traditional literature) that small states exist purely in a dependent relationship with major players, then it follows that they have a marginal position with severely constrained foreign policy orientations. However, when small states—and in this case SIDS—are understood as existing not in a dependent relationship, but rather an interdependent relationship, then it is possible to explore how they may have other foreign policy orientations—options that may reflect a sense of power.

But what reasons are there for suggesting that SIDS do indeed exist in an interdependent relationship? The primary rationale for suggesting this is based on the thematic analysis, where the theme arose of Seychelles and Mauritius enacting a pioneer role. According to the Merriam-Webster Dictionary, a pioneer is someone who opens a new line of thought or method that opens up the path for others to follow. Dependence, on the other hand, is defined as the state of being influenced or controlled by another. Following this, pioneer seemingly stands in contrast to dependence. In fact, by very definition, a pioneer tends to lead, not follow. Therefore, pioneering can be said to negate the passive nature of dependence. In this sense, the foreign policy of SIDS is defined, not by a sense of dependence, but rather interdependence. Importantly, ‘interdependence’ is deliberately chosen instead of ‘independence’, since SIDS still rely on major players in some ways and engage with them. Therefore, they do not pursue pure ‘independence’, but rather ‘interdependence’, which is defined by Nye (2007: 210) as “situations in which actors or events in different parts of a system affect each other”. Interdependence implies mutual dependence (Nye 2007).

The pivotal aspect of suggesting that SIDS exist in an interdependent relationship with major players, is that it permits the understanding that SIDS are dynamic participants who may have the ability to assert power. This stems from the work of Baldwin (1983: 19) who specifically writes that interdependence always “implies potential power of some kind”. On the one hand, therefore, it could be accepted that by virtue of this interdependent relationship, SIDS have potential power. However, on the other hand, this article goes one step further to suggest that inherent in the pioneer role conception is already a form of power; that is, the pioneer role is a manifestation of power. By enacting the role of pioneer, Seychelles and Mauritius demonstrate their ability to change their environment, which is taken as a form of power in this article, since power is defined as the ability to change the behaviour of others and change the distribution of results (or essentially, changing one’s environment) (Rothgeb 1993).

For example, Seychelles has strategically leveraged its position as a pioneer in the environmental domain, specifically in climate financing. As mentioned earlier, Seychelles became the first country to introduce a debt-for-ocean-conservation-swap and pioneered the issuance of blue bonds. Through these initiatives, Seychelles was not only able to accumulate specialised knowledge in the ocean conservation field, it was also able to influence international financial mechanisms. The nation was able to reform the viewing of debt repayment through a solely terra-centric lens and rather advocated for the inclusion of an ocean-centric perspective, which suits its reality as an island state. Essentially, Seychelles was able to change its environment to ensure that maritime dimensions are incorporated into debt negotiations. The state redefined the parameters of environmental financing, creating frameworks for other states to follow. In 2021, Belize adopted a similar debt-for-nature swap deal (Michel 2023), while in May 2023, Indonesia issued its Blue Bond in the Japanese debt capital market (UNDP 2023). These actions exemplify how Seychelles has reshaped its environment and influenced others, a tangible manifestation of power.

Similarly, both Seychelles and Mauritius have been able to shape their environment by being part of the pioneering force advocating for the MVI. Traditionally, vulnerability has been determined solely by Gross National Income, which is problematic for states such as Mauritius and Seychelles which are no longer low-income countries and are, therefore, excluded from development assistance (Ramkalawan 2021b). SIDS have advocated for the introduction of the MVI which includes considering the structural vulnerabilities of SIDS beyond the Gross National Income (Wilkinson and Pandwar 2023). With the adoption of the MVI in 2024, Seychelles and Mauritius have demonstrated their ability to shape their environment so that it is more responsive to their realities. That is, vulnerability has been reconceptualised to include the agendas of SIDS. As aptly stated by the President of Seychelles, “the MVI resolution adopted here last month also represents a triumph of the multilateral system to consider new approaches to complex and evolving issues” (Ramkalawan 2024b).

Having established that the role of pioneer carries with it a form of power, there are two final elements that require further elaboration. First, there is a need to interrogate what the sources of power are for SIDS. Second, it is important to consider how this understanding of power inaugurates a broadened framework of foreign policy orientations for small states. This dual inquiry is important for understanding the mechanisms that SIDS utilise to exercise power and how this redefines foreign policy orientations beyond traditional dependency frameworks.

6.1. *Sources of power*

The primary source of power for SIDS lies in their geographic location, which ought to be understood in two ways: in the ideological sense and in a material sense. In the case of the former, major players are vying for the attention of the island states, since securing their support ensures that the values and visions of the major players are upheld and promoted. In this context, the contestation over these islands extends beyond physical territory to include ideological influence. Western players promote values like democracy and human rights, while China advances visions of development. SIDS are aware that offering their support by showcasing the objectives and values of major players, can endow them with a valuable bargaining chip (Wright 2023). Additionally, for major players, gaining the ideological support of SIDS can be important, considering that, when collaborating with other islands, these islands make up a considerable voice in international organisations, therefore holding significant diplomatic weight. For example, the Alliance of Small Island States comprises 20 per cent of the votes at the United Nations, which makes them an important ‘voting bloc’ that can influence the agenda (Morgan 2022). The increasing understanding of the importance of these islands is evident by the intensifying of diplomatic activity in the region. For example, in June 2023, the US reopened its embassy in Seychelles, after a 27-year hiatus (Blinken 2023).

In the case of the latter, the islands have a high strategic importance due to their material position. These SIDS are located along important sea lines of communication and offer major players the ability to project military power. As noted by a Seychellois government official, “if you have Seychelles, then you can control all of the space” and “till nowadays, all the powers want to be friendly with Seychelles, because when you are in Seychelles, basically you are in the middle of the Indian Ocean” (personal communication 2024a). Another official noted that Seychelles “welcome[s] the interest because it means you can use it to your advantage” (personal communication 2024b). A strategic location constitutes power, since it enables these islands to leverage the geopolitical rivalry to their advantage. For example, Seychelles has used its position to engage with a plethora of actors, ranging from Western to non-Western players. Essentially, their location allows them to not only take rules, but to make rules on their own terms—if major players want to engage with these islands, they must respond to the needs of SIDS, which allows these SIDS to shape their external environment in a way that aligns with their needs.

Closely linked to strategic positioning is power derived from possessing the object of value, or highly sought-after resources. One Seychellois government official explained that “if I have something you do not have, then I am powerful” (personal communication 2024b). Decades ago, Thibaut and Kelley (1959: 124) asserted that “an individual’s power over another derives from the latter’s being dependent upon him”. In this specific context, SIDS derive power from the fact that, whereas SIDS can look elsewhere for support (as evident in their multiple engagement approach), major players cannot do this. Major players are dependent on the strategic position of SIDS, however, SIDS are not dependent on major players in the same way. As Blau (1964: 124) explains, “power depends on people’s needs for the benefits those in power have to offer”. In this instance, ocean states negate the power of the major player because they are not dependent on the benefits of the major players, while major players affirm the power of the ocean states because they require the benefits which the SIDS have to offer, namely their strategic location.

A final source of power is moral power, which is fundamentally ideational since it is linked to norms and legitimacy. This can be identified as a source of power, specifically because the issues that SIDS advocate for, are not confined to technical or economic concerns, but are inherently deeply moral. Issues such as environmental matters, are difficult for major players to simply ignore. Building on

DeSombre's (2009) concept of environmental power, which refers to the power a state has from threatening to undermine environmental protection, it can be suggested that SIDS exert influence by not undermining environmental protection, but rather actively promoting it. Major players must align with SIDS to maintain their 'green credibility' and avoid reputational damage, since domination requires a continual reinforcement. As noted by the Principle Secretary for the Blue Economy in Seychelles, Seychelles is fortunate in a sense that it has "sort of like a positive public image when we are working for the blue economy. Green is the most attractive deal out there. So our partners from abroad, are quite keen to support the transition towards renewable sustainable development [...] For them it is getting to tick the box, but for us it is a bit more" (personal communication 2024c). Former Seychellois President, James Alix Michel (2016: 55), similarly asserts that "little wonder, too that I spend much of my time talking to international leaders about its [the Blue Economy] potential, not just for island states but for the world. Because of this we have a place on the world stage. We punch well above our weight. That is because we have a message that people want to hear". This demonstrates how SIDS leverage the moral dimension of the issues they advocate for, utilising them as a source of power and influence.

In summary, SIDS leverage a diverse array of power sources—ideological, strategic, resource-based and moral—that allow them to shape the international environment on their own terms. Rather than being mere passive recipients of power, SIDS actively engage major players, turning the contemporary geopolitical competition into opportunities for strategic manoeuvring. SIDS ability to balance relations with a variety of actors, extract concessions and shape global agendas—such as on climate changes issues—demonstrates that power rests not only with major players. By drawing on these alternative bases of power, SIDS challenge traditional foreign policy orientations prescribed to them.

6.2. *An interdependent foreign policy*

The aim of this article is to propose an expanded framework for understanding small state foreign policy. While Breuning (2007) proposes four types of foreign policy orientations for small states that are grouped under the label 'dependent' foreign policy, this article proposes an additional label, namely 'IFP' to more accurately reflect the evolving dynamics of small state engagement with major players. The framework's central proposition rests on two key premises. First, small state foreign policy is not defined by 'dependence' or 'independence', but rather 'interdependence', where SIDS exist in a complex interdependent world—small states are not only dependent on larger states, but larger states are also dependent on smaller states. Second, power should be understood through an alternative metric, where power is not purely traditional military or economic resources, but extends to incorporate intangible and tangible elements. Both these premises rely on the fact that SIDS and small states, for that matter, do not exist in pure isolation, however, they operate in a complex network of reciprocal dependencies.

Building on these premises, there are three key strategies that are used by these states in their engagement. Firstly, SIDS manipulate the interdependent relationship with larger states. However, more than just manipulating the fact that larger states are also reliant on them, there is also an understanding that their interdependence extends to factors such as norms and laws. That is, independence is reinforced by adherence to norms and laws. SIDS can leverage their moral power to influence states' actions, especially where reputation and credibility are at risk. For example, the moral imperative that undergirds environmental protection can compel major players to respond to the needs of SIDS. Secondly, SIDS utilise fluid partnerships, where they switch between those partners that can provide them with the best support. The thematic analysis illustrated that SIDS neither align with major players nor reject them, but rather pursue multiple engagements. In the military domain, for example, Seychelles has engaged with the US, China and India, while stating that it is friendly with diverse actors, ranging from the US, Europe and Russia.

Thirdly, SIDS rely on issue-specific engagement implying that instead of relying on one player for support in all areas, they can engage with actors in specific domains, which allows them to interact with various partners simultaneously. Mauritius, for example, has engaged with Japan in terms of space technologies and disaster management (Jugnauth 2019; Jugnauth 2021b); engaged with India in terms of social and economic development initiatives, including, for example, traditional medicines (Jugnauth 2022b) and engaged with the US for a security arrangement on the Chagos Archipelago (Jugnauth 2021c). Additionally, Mauritius is also an important member of the Indian Ocean Commission, which respectively engages with other partners such as the European Union on maritime security in the South-West Indian Ocean through the Programme for the Promotion of Maritime Safety (MASE Programme) (NewsGov 2024).

The third component of the IFP relates to the tools of influence available to SIDS. This is directly linked to the sources of power discussed earlier. According to the IFP, SIDS derive power from three key sources. First, their strategic position—both ideologically and materially—their critical location along important sea lines of communication and important regions makes them sought after by major

players which allows them leverage. Second, they possess that which is valued by others—their location is currently highly prized and their attention and support much desired by major players. Third, SIDS advocate for inherently moral issues that major players cannot ignore without risking reputational damage.

Finally, the last component of the framework refers to the modes of engagement adopted by SIDS. Seychelles and Mauritius in this case, position themselves as pioneers and engage as pioneers, which transcend the traditional portrayal of small states in the traditional literature. They can often be found to be acting as norm entrepreneurs, especially in the environmental domain, pushing for reform of existing mechanisms such as how debt is repaid. As the thematic analysis illustrated, Mauritius and Seychelles are innovators and thought leaders in the environmental domain often challenging the status quo. Their innovation becomes an expression of power. Essentially, the mode of engagement pursued by Seychelles and Mauritius reflects an intentional decision to assert their agency in the global system as pioneers. This framework is illustrated in Table 2 below:

Table 2: IFP Analytical Framework

Component	Description	Example
Core Premise	- Small State foreign policy is characterised by interdependence, where both ‘smaller’ and ‘larger’ states are dependent on one another. - Power is reconceptualised as constituting both tangible and intangible elements.	- The US relies on the strategic positioning of Mauritius (and the Chagos specifically) to provide security and maintain an open and free Indo-Pacific, while Mauritius relies on the US for trade. - Power can be derived from a strategic location that holds both material and immaterial value. Materially, such a location serves as a critical military base; while immaterially, it fosters ideological alignment with major global players.
Key Strategies	- Manipulating interdependence – SIDS navigate the international arena by manipulating the dependence that exists between major players and ‘smaller states’ as well as the dependence of major players on norms and laws. - Fluid partnerships – SIDS switch and choose between partners that can provide them with the best support, and they often engage with multiple partners at the same time. - Issue-specific engagement – SIDS refrain from relying on a single major player and rather engage with a plethora of actors in specific fields.	- Seychelles is aware that major players must maintain a certain reputation and can, therefore, play on this to achieve their interests. - Seychelles has partnerships with various actors, such as in the military domain where it has received support from the US, China and India. - Mauritius has multiple partners, such as Japan, India and the US that assist in differing fields.
Tools of Influence	- Strategic Positioning – SIDS utilise their geopolitical and ideological significance. - Valued Resources – SIDS draw on the fact that they hold that which is valued. - Moral Advocacy – SIDS engage with issues that have ethical imperatives, since these are issues that major players cannot afford to dismiss.	- Mauritius’ Agalega Island is strategically located and is currently being developed by India as an air and naval staging point for surveillance. - SIDS occupy the space that is sought after by major players to maintain a free and open Indo-Pacific. - Climate Change and Climate Financing Justice.
Modes of Engagement	Pioneers – SIDS enact the role of pioneers, where they act as norm entrepreneurs in the environmental domain and position themselves as innovators and thought-leaders.	Mauritius has often referred to itself as a leader or wanting to ‘spearhead’ various initiatives. Both Seychelles and Mauritius have pioneered various environmental initiatives, including the MVI.

7. Concluding Remarks: Three Key Considerations

This article began with problematising the premise that small states, and SIDS, are often relegated to the global periphery, where they are positioned as ‘rule-takers’ and not ‘rule-makers’. These states are seen as perpetually defined by a power deficit and consequently their foreign policy is characterised by an enduring sense of dependence on major players. This article has made the argument that such thought needs urgent rethinking, and based on the analysis presented, offers three key concluding points.

First, there are clear indications that Breuning’s (2007) framework must be expanded to incorporate a foreign policy orientation that is not purely based on unilateral dependence, but rather interdependence. It is not only the small states that are dependent on the major players, but also the major players that are dependent on the small states. This is since the behaviour displayed by both Seychelles and Mauritius (through a thematic analysis of their official government speeches) does not suggest that they are completely aligning their

foreign policy on the one hand, or on the other hand, completely rejecting major powers. This is most apparent in their enactment of the role of pioneer, which is where a state seeks an innovative way to pursue its interests as opposed to pursuing interests through alignment with major powers. This article proposed an IFP, known as the IFP orientation, to account for the behaviour of SIDS in the Indian Ocean.

Second, SIDS, as a type of small state, should not be pigeonholed as merely being rule-takers. The IFP orientation demonstrates how SIDS may in fact be rule-makers. By (1) drawing on diverse, non-traditional forms of power, (2) utilising three key strategies of manipulating interdependence, utilising fluid partnerships, and engaging in issue-specific engagement and (3) pursuing the role of ‘pioneer’ as a mode of engagement, SIDS are strategically able to shape their environment and rethink, reform and reconceptualise existing rules. The example of Seychelles and the debt-for-ocean-conservation deal, as well as the issuing of blue bonds and Mauritius’ involvement in the adoptions of the MVI demonstrate the ability of SIDS to reform rules and make them more responsive to their needs and realities.

Thirdly, within the context of SIDS, power must be understood differently from the traditional understanding of resource- and material-based conceptions of power. SIDS do not derive their power from their size, but rather from their unique, and highly strategic geographic location that serves a material and ideological purpose for major players and endows SIDS with a unique value. Their strategic location often serves as hubs for trade, shipping routes and naval operations providing major players with outposts of influence. The geographical advantage, or strategic location of SIDS situates them as indispensable partners, with a bargaining leverage that transcends their material size. Furthermore, SIDS do not derive their power from military might, but rather from the moral weight of the issues they champion. SIDS engage with issues that are inherently moral and must be addressed by major players if they want to maintain a certain reputation. Ignoring the plight of SIDS may tarnish the image of major players.

In closing, it is worth pointing out that this article makes a hybrid contribution to the field of International Relations. On the one hand, it makes an academic contribution, in the sense that it contributes to the academic debate regarding small state foreign policy and provides an additional analytical framework that can be used by scholars to conceptualise and understand the foreign policy of SIDS. On the other hand, there are also practical contributions of this article. For example, this article outlines alternative sources of power for SIDS. While this is derived from studying the behaviour of SIDS, it is not necessarily the case that these SIDS are always conscious that they are using power in this way. As such, practitioners can consider how their states may more effectively utilise moral power to advance their interests and navigate geopolitical contestation. In this sense, the contribution of this article serves as a point of reflection for practitioners. Lastly, having hypothesised an alternative framework, this article invites further empirical testing encompassing as many islands as possible in both the Indian Ocean and beyond, to continue refining and adapting the framework.

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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; Khalfaoui 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 (Khalifaoui 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 (Vreĳ 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 (Khalfouli 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 Jonjo 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 (Jonyo 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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The Maritime Question on the Kenya–Somali Border

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Abstract

Globally, there are increasing concerns regarding maritime conflicts arising from competition over resources and territorial claims. These conflicts continue to derail efforts for regional integration and the implementation of maritime security strategies aimed at addressing escalating maritime security threats, including human trafficking, arms smuggling, terrorism, organised crime and piracy. Using a case study of the Kenya–Somalia border contestation over the exclusive economic zone (EEZ), this article discusses the genesis of the Kenya–Somalia maritime question. It views the maritime issue as a product of colonial construct. The qualitative study considers the Kenya–Somalia border dispute from two perspectives; firstly, the dispute is a maritime security risk that threatens to worsen the already precarious and vulnerable security situation in the region. Secondly, the dispute is caused by both countries’ efforts to protect their territorial integrity and preserve economic resources, including hydrocarbons found in the disputed area. The findings acknowledged that the decision by the International Court of Justice (ICJ) to integrate the equidistance principle into the delimitation of the contested boundary was effective, given that it embraced the principle of equal access and that no reliable evidence exists to ascertain earlier agreements of demarcation, since existing maritime agreements provided by Kenya were not binding. The article concludes by acknowledging the need for both parties to comply with the ICJ ruling and other international frameworks guiding maritime issues, and the need for both Kenya and Somalia to embrace good neighbourly policies. This article recommends that neither country engages in retaliatory actions, but should instead engage in joint security operations and joint public diplomacy on the necessity of maritime security, sign binding maritime security cooperation agreements, and strengthen their economic and diplomatic interactions, including trade and cultural exchanges.

Keywords: Maritime Security; inter-state relations; maritime issues; ICJ adjudication; Kenya–Somalia tensions

1. Introduction

Maritime issues have remained ubiquitous concerns globally, prompting scholars to refer to the 21st era as a maritime century. One of the paradigm shifts in academic discourse has involved an increase in studies aimed at assessing and establishing the drivers for the escalating maritime contests between neighbouring states and communities over control of both renewable and non-renewable resources. Studies have also focused on finding solutions to these maritime concerns. Kenya has historically experienced several maritime conflicts with other East African member nations, including the maritime tussle between Kenya and Uganda over Migingo, a rocky and resourceful island on Lake Victoria, and the Kenya–Somalia tussle over control of the EEZ in the Indian Ocean. Given that maritime sources are increasingly becoming a priority in formulating development strategies and in addressing the issues of climate change, maritime-related conflicts are expected to escalate, hence, the need to conduct research on maritime contestations as part of strategies to address Kenya’s maritime security threats.

The Kenya–Somalia dispute presents diverse implications for Kenya and Somalia’s maritime security and curtails both countries’ economic benefits of the region, including extraction of resources and trading activities. According to a study by Ida Gathoni (2021) titled *Implications of Piracy on Kenya - Somalia Maritime Border Dispute*, the dispute threatens to worsen the already precarious security status at the borderline. Given the political instability in Somalia and the prevalence of organised gangs in coastal towns, Kenya views the occupation of the coastline by Somalia as a key maritime security threat to national security and trade interests.

According to Venkataraman (2016) and Mbugua and Mwachinalo (2017), between 2007 and 2012 the Somali piracy crisis was at its peak with more than 237 attacks across the Arabian Sea, the Gulf of Eden and the Red Sea. These attacks were abetted by the fact that Somalia was politically unstable, yet is in a strategic location for over 40 per cent of world trade. Somalia is also a free economy with no strong financial system and is characterised by many warlords who offer protection to the pirates and coordinate their activities. Kenya is concerned about the prospect of losing control of the economic zone that harbours the growth and dominance of pirates on the Kenyan coast.

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The security dynamics linked to Kenya losing effective control of the disputed area also lie in the fact that this area facilitates the flow of small arms and light weapons. The International Ship Owners Association considers the disputed coastline, including the contested area, a high-risk area. This is justified by the increasing number of piracy attacks and the proliferation of small arms and light weapons from Somalia and other regions. Kenya fears that the continuation of arms trafficking within the disputed area is enabled by the weak security architecture of the Somali regime. The proliferation of small arms and light weapons in the region presents a possibility of these weapons getting into the hands of local and international criminals and vigilante groups, both on land and at sea, thereby compromising the country's national security. Therefore, Kenya views its control of the protected regions as a strategy to enhance its monitoring and surveillance of the coastline in order to prevent the smuggling of illegal products, and regards the loss of the contested regions as increasing the likelihood of piracy and illegal activities escalating due to the inadequate capacity of Somalia to protect its water bodies from criminal enterprises.

Both countries view losing control of the disputed regions as presenting spillover effects on their domestic economies. For instance, Onuoha (2009) found that Kenya's loss of the maritime boundary not only makes the region susceptible to piracy and armed robbery, but also unregulated fishing and toxic waste dumping. Subsequently, the border conflict has the potential to harbour the existence of 'ungoverned spaces' in the region which may facilitate terror activities and other practices that are against the provisions of international law.

Given what is at stake, the geostrategic importance of the disputed region also fuels the conflict between Somalia and Kenya. This region is resource-rich as a result of its possession of high-value hydrocarbons, including oil and gas, which both countries focus on exploiting. Both countries also fear losing their fishing rights in the disputed region as this would have a detrimental effect on their livelihoods. Essentially, both Kenya and Somalia consider that insecurity at the coastline hinders their ability to secure the trade routes and protect or harness the benefits of their blue economy. Both countries realise their mandate of not only protecting, but also providing socio-economic development for coastal communities. The dispute may provide leeway for the re-emergence of criminal enterprises engaging in extraction activities along the coastline and relying on the profit gains to sustain their illegal activities in the coastal region.

The contextual analysis of this study is premised on the fact that the Kenya–Somalia maritime dispute may result in ungoverned spaces in the disputed area, thereby harbouring the rise of maritime security threats. Subsequently, given the availability of hydrocarbons including oil and gas, and the fishing activities in the region, the study also explores how competition for resources can degenerate into conflict through a case analysis of the Kenya–Somalia border conflict. The study addresses the Kenya–Somalia maritime question by responding to two overall research questions: Is the Kenya–Somalia border dispute a maritime security threat? Does the exploitation of resources play any role in exacerbating the maritime border conflict?

This research adopted qualitative research approaches. Twenty-five purposively sampled respondents drawn from local communities domiciled in the contested region, including jurists, security actors and key stakeholders on maritime issues were telephonically or physically interviewed to answer questions relating to this study. Through key informant interviews, the use of an interview guide was integrated to facilitate the process of data collection. The primary sources of information were triangulated by a review of secondary literature from different contributors on maritime contestations. Both the primary and secondary data were thematically analysed to generate key themes that informed the findings.

2. Historical Context of the Kenya–Somalia Maritime Dispute

According to Rossi (2019) and Yoon (2009), the Kenya–Somalia maritime dispute began during the colonial era in East Africa in the 19th century, indicating that both authors view the Kenya–Somalia maritime contestations as a product of colonial constructs. According to Hersi (2018), during the colonial period, the colonial powers delimited/partitioned Somalia into five territories, including Italian Somaliland (Somalia), British Somaliland (Somaliland), French Somaliland (Djibouti) and Somalia enclaves in the Ethiopian Ogaden region and the North Eastern Province of Kenya. This is corroborated in the works of the International Court of Justice (ICJ) (2021), which highlighted that on 15 July 1924, Italy and Britain concluded a treaty that demarcated their boundaries in the East African region, including what Somalia describes as the Somalian colony in Juba land, located in current Somalia and the British colony of Kenya. In the period between 1925 and 1927, a British–Italian Commission led by different representatives surveyed the border regions and demarcated the borders. The agreements of 1925 and 17th December 1927 that redefined the boundaries were formally confirmed by an 'Exchange of Notes' on 22 November 1933, between the Italian and the British Governments.

Given that these colonial boundaries were drawn without taking the interests of local communities into cognizance, since they largely served colonial interests, Somalia sought to unite the five colonial territories into one Greater Somalia, a move that caused strife between Somalia and its neighbours, including Kenya. Somalia not only made attempts to reclaim Kenya's Northern Frontier region, but also parts of the Indian Ocean, with the aims of tapping the region's economic resources and bringing together all people of Somali descent under one territory.

Since the colonial boundaries were artificial and arbitrary and were imposed on unwilling and nonparticipating Kenyans and Somalians, the government of Somalia formally made its first declaration on the currently contested territorial area to a stretch of 200 nautical miles in 1972. The Somali government declared exclusive control of the EEZ. In a rejoinder to this claim, the then President of Kenya, through a presidential Proclamation of 1979 stated that, notwithstanding any rule of law or any practice which may hitherto have been observed about Kenya or the waters beyond or adjacent to the territorial Sea of Kenya, the EEZ of the Republic of Kenya extend[s] across the sea to a distance of two hundred nautical miles, starting from the appropriate baseline from which the territorial sea is measured, as indicated in the map annexed to the Proclamation.

Through the presidential proclamation of 1979, the president committed to protect Kenya's territorial integrity and affirmed Kenya's position that its northern territorial waters boundary with the Somali Republic is on the Eastern Latitude South of Diua Damascisca Island, being latitude 1 degrees 30' South. On 19 July 1979, Kenya's government transmitted the Presidential Proclamation of 1979 to the Secretary-General to the Permanent Missions of the Member States of the United Nations. To legalise the presidential proclamation of 1979, the government of Kenya enacted the 1989 Maritime Zones Act that re-emphasised the integration of a parallel line approach in boundary delimitations. Somalia has continually protested Kenya's presidential proclamation, asserting that it is not binding and contravenes Somalia's territorial integrity and jurisprudence.

To leverage the use of diplomatic mechanisms to settle their border contestations, both Kenya and Somalia signed the United Nations Convention on the Law of the Sea on 10 December 1982, and were ratified on 2 March 1989 and 24 July 1989, respectively. The convention provisions were affected for the two countries on 16 November 1994. Given their membership to the United Nations Convention on the Law of the Sea (UNCLOS), both countries have filed submissions to the convention to obtain UNCLOS recommendations on matters related to the delimitation of the outer limits of the continental shelves beyond the 200 nautical mile, as outlined in Article 76 Paragraph 8 of UNCLOS which stipulates that 'the limits of the shelf established by a coastal State on the basis of these recommendations [by the CLCS] shall be final and binding.' As Kadagi *et al.* (2020) assert, Somali submission to UNCLOS has been premised on Articles 15, 74 and 83 of UNCLOS, which asserts that "...maritime delimitation should be based on the three-step process which includes a straight line from the states' land boundary and extending to the territorial sea, EEZ, and [the] continental shelf".

With the failure to solve the matter through UNCLOS, both Kenya and Somalia attempted to integrate a bilateral/negotiations approach to settle the matter. In 2009, both Kenya and Somalia signed a Memorandum of Understanding, through which they agreed to delimit their borders through negotiations rather than a legal approach. The Somalia government, through its parliament, noted Kenya's lack of commitment to the negotiations, and so later rejected the provisions of the memorandum (Ioannides and Yiallourides 2021). The government of Kenya's action in 2012 to award exploration licenses for eight offshore blocks within the Indian Ocean to foreign companies, including Total, Eni Company Limited and USA-based Anadarko Petroleum, escalated the maritime issue between the two countries. Somalia considered Kenya's action to be in contravention of Somalia's Law No. 37 which defines Somalia's maritime borders, including its continental shelf and Maritime Economic Zones. The Somalia government also interpreted Kenya's decision to award exploration rights to foreign firms as a blatant violation of the provisions of the 2009 Memorandum of Understanding (MoU), signed by both Kenya and Somalia.

Following the failure of bilateral agreements between Kenya and Somalia and the reluctance of UNCLOS to provide suitable recommendations to resolve the maritime issues, Somalia opted to formally sue Kenya at the ICJ in August 2014. The government of Kenya formally objected to the application, since it raised preliminary objections on the ICJ jurisdiction to handle the case. The government of Kenya argued that the 2009 signed MoU and the 1979 Presidential Proclamation were binding. The court threw out the question of the ICJ's jurisdiction to handle the Kenya–Somalia maritime border dispute by asserting that the ICJ had original jurisdiction to settle the issue between the parties amicably.

3. Theoretical Framework

The Kenya–Somalia border dispute can best be contextualised through idealism. The critical proponents of idealism include John Locke, Jean Jacques Rousseau and Immanuel Kant, among others. Idealism philosophy was based largely on the ideas of human progress and enlightenment in the achievement of global peace and stability (Guyer, & Horstmann, 2023). Idealists contend that international peace and cooperation are feasible in international relations. As a result, they attach importance to moral values and respect for fundamental human rights and freedoms. While considering nation-states as rational actors, idealism opines that human progress is possible when states embrace peaceful coexistence and have a fundamental respect for individual freedoms. While acknowledging that states pursue national interests that may be conflictual, idealists contend that long-lasting peace is achievable through international law and international organisations.

Supranational structures are critical in the international system since they regulate the behaviour of states and foster the establishment of common interests on global and national issues. Post World War I, idealism gained prominence, and its philosophical underpinnings informed the establishment of the League of Nations, from which the United Nations later arose. Through its advocacy for a free market economy, idealism has informed the development of several international regimes, including the World Trade Organisation. Idealists therefore believe that international organisations and their associated regimes such as international laws, can foster the establishment of a peaceful society.

Idealism is the best fit for this study given its emphasis on international organisations, international laws, and moral values. Through the lens of idealism, the study assesses the effectiveness of international law and institutions such as the ICJ as tools for settling competing national interests among member states, including Kenya and Somalia. In the Kenya–Somalia maritime question, the member countries adopted idealism on several accounts, including bilateral agreements and even multilateralism, as evidenced by the petitioning of the maritime dispute at the ICJ. In the same vein, both countries are members of international regimes including UNCLOS, with both countries ratifying the convention in 1989. Therefore, the integration of idealism is critical in testing the utility of international agreements such as UNCLOS as benchmarks for solving global disputes and enhancing compliance among member states.

4. Geo-Strategic Significance of the Maritime Domain (EEZ)

According to Okoli and Ngwu (2019), boundary disputes are largely associated with territorial struggles motivated by the pursuit of control of geostrategic and economic resources on the affected borderlines and frontiers. The contentious maritime triangle in this case measures 100 000 square kilometres. The region is said to be resource-rich due to it having high-value hydrocarbons, including oil and gas. The two countries expect to auction oil blocks in the disputed areas in order to maximise profits from these resources. The utility of oil reserves in the region is exemplified by the fact that by 2019, at least 15 international oil companies had shown keen interest in exploring and exploiting Kenya and Somalia's offshore oil reserves within the disputed area. Some of the companies that have already expressed exclusive interest in exploiting the oil and gas reserves in the EEZ include French-based Total Company and Italy-based Eni Company, both of which have sought to acquire 25 per cent participating rights from three oil blocks in the EEZ.

The EEZ is also of geostrategic importance because of its fish economy. The 100 000 square kilometre region is projected to potentially produce between 150,000 - 300 000 metric tons of fish annually (Standard Newspaper, 2022). For this reason, a shift in the maritime borders would mean a loss of livelihoods for the fishing communities, especially those in Lamu County and communities domiciled along the Northern parts of Kenya's coast.

The maritime region is also of importance to the country's maritime security. Both countries as well as external actors consider control of the 100 000 square kilometres of the EEZ as a way to address the maritime security issues that threaten peaceful coexistence and economic development in the region. Some of these issues that plague the maritime borders between Kenya and Somalia include terrorism, the proliferation of small arms and light weapons, piracy, and child and drug trafficking. Both countries, therefore, view their control of the region as strategic to exerting their authority and implementing their security strategies, including patrols and surveillance within the region without the intervention of the other party. Control over the marine environment increases both countries' leverage in monitoring maritime regions and ensuring peace and tranquillity.

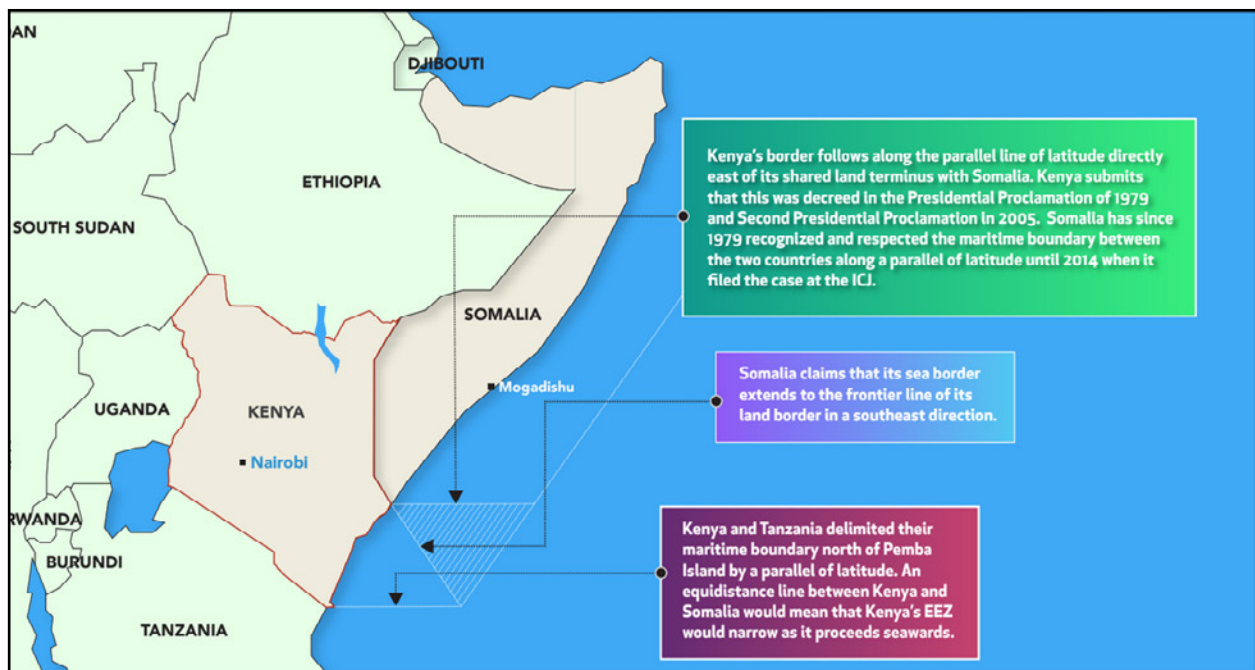
The Indian Ocean also presents a military advantage for the governments of both Kenya and Somalia. The Indian Ocean at large is of strategic interest to Kenya, given that it serves as a tactical training ground for its naval power—the Kenyan navy. As a result, Kenya relies on the Indian Ocean to undertake joint military exercises, including patrols aimed at countering the proliferation of small arms and light weapons, illicit drugs and pirates. Kenya's autonomy in the Indian Ocean is therefore critical to facilitating its naval operations within the ocean.

4.1. Cross-cutting issues on border contestations at the ICJ

The main contestation between both Kenya and Somalia remains how to delimit the borderline. As the ICJ (2021) pointed out, the two countries adopted fundamentally different approaches or mechanisms to delimit the maritime areas. Both parties are largely focused on expanding their naval power within the ocean and widening their economic leverage within the region by accessing and controlling larger economic blocks. While Kenya held the view that the Presidential Proclamation of 1979 and the 2009 signed MoU were binding legal documents, Somalia informed the court that no mutually acceptable maritime boundary agreement exists between the two countries. Following from this argument, Somalia requested that the ICJ plot a boundary line using the special circumstance method or even equidistance principle approach for the delimitation of the maritime areas, and the equidistance/relevant circumstances method for delimiting the maritime areas beyond the territorial areas. Somalia posited that the application of an unadjusted equidistance line throughout the equidistance areas achieves the equidistance result that is required in international law (ICJ 2021). Therefore, Somalia maintains that its maritime boundary with Kenya should run on a diagonal basis, extending from its land border and not from the parallel of the line of latitude as suggested by Kenya.

Somalia's position on the integration of the special circumstance method/equidistance principal approach for delimitation of contested coastlines gained attraction and support from foreign entities, and eventually informed the ICJ ruling. This was largely informed by the fact that the approach was regarded as providing an equitable solution to the disputed territory. This was also necessitated by the fact that no legally binding provision existed which clearly demarcated the boundaries between Kenya and Somalia.

Figure 1: Kenya–Somalia maritime boundary claims



Source: *Horn of Africa Bulletin* 2019

On its part, Kenya contends that, based on the 1979 Presidential Proclamation, a boundary agreement exists between them and Somalia. Kenya, in its written statements, argued that Somalia did not protest legally or forcefully against the 1979 Proclamation, a clear indication that it was binding. Kenya's written submission to the ICJ further avers that, following Somalia's failure to respond effectively to the 2005 Proclamation on the maritime boundary and the 2009 Kenya's Submission on the Continental Shelf beyond 200 nautical miles deposited with the Commission of the Limits of Continental Shelf on 6 May 2009, Somalia has acquiesced to Kenya's claim that the maritime boundary should follow the parallel of latitude approach (Gaver 2002). Kenya further argues that in both 2007 and 2008, Somalia did not react or submit any protest to two Notes Verbales in which it informed Somalia that it had drawn the boundaries with Somalia using the parallel of latitude approach, and requested Somalia to confirm its agreement to the boundaries. Kenya reaffirmed its commitment to the use of the parallel line approach, holding the view that the approach provides for equitable delimitation on both a geographical context and in terms of regional considerations.

As highlighted in the ICJ written submissions, Kenya asserted that:

even if the Court were to conclude that there is no maritime boundary in place, it should delimit the maritime areas following the parallel of latitude, and that, even if the Court were to employ the delimitation methodology suggested by Somalia, the outcome, following adjustment to reach an equitable result, would be a delimitation that follows the parallel of latitude (ICJ 2021).

Kenya further asserted that its activities in the maritime area, including naval patrols, maritime scientific research, interceptions and offshore oil exploration blocks among others have been consistent with Kenya's maritime claim and therefore not an act of violation of the sovereignty of Somalia. The government of Kenya, therefore, opined that the non-committal nature of Somalia in response to the maritime claims signified Somalia's acceptance of the parallel line approach to handling the maritime issue. Kenya also, through written submissions, opined that the maps and reports that Somalia presented to the ICJ were irrelevant as they did not clearly show the position of both parties (Gaver 2022).

Somalia's response to Kenyan claims has largely been premised on the provisions of Articles 15, 74 and 83 of UNCLOS. The government of Somalia argued that based on UNCLOS provisions, the delimitation of maritime boundaries is to be affected or addressed through agreement. Somalia held that Kenya's position on the delimitation approach has been a unilateral act and has, therefore, not involved Somalia's government at all.

The government of Somalia, through written submissions, further noted that the lack of response to Kenya's proclamations and submissions by Somalia cannot be interpreted legally as an act of agreement to the unilateral acts proposed by Kenya. Contrary to Kenya's stance, Somalia maintains that historically, there has never been any binding agreement between Kenya and Somalia on the maritime border. Somalia therefore sought the intervention of the ICJ to facilitate legal delimitation of the boundary. The Somali government also submitted that prior to 2007, it was war-ravaged and lacked a functional government, so could not be assertive in international politics, hence its lack of response to Kenya's unilateral acts within the disputed maritime border.

Somalia, therefore, requested the court to invoke the provisions of Article 15 of UNCLOS which asserts that:

Where the coasts of two States are opposite or adjacent to each other, neither of the two States is entitled, failing agreement between them to the contrary, to extend its territorial sea beyond the median line every point of which is equidistant from the nearest points on the baselines from which the breadth of the territorial seas of each of the two States is measured. The above provision does not apply, however where it is necessary because of historic title or other special circumstances to delimit the territorial seas of the two States in a way which is at variance therewith (UNCLOS 1982).

4.2. *Court decision*

Based on the petition and the provided background, it is evident that the ICJ's ruling was dependent on its application and interpretation of critical cross-cutting issues and questions that were raised. Firstly, the court had the responsibility to ascertain whether there had been a binding maritime boundary between Kenya and Somalia based on acquiescence by Somalia, as claimed by Kenya. Secondly, the court was required to ascertain the legality and the applicability of both the 1997 Presidential Proclamation and the 2009 MoU, particularly with regard to their clarity and how binding they were. This meant that the court had to determine whether there had been a tacit agreement between Kenya and Somalia on the EEZ.

In case no tacit agreement had been effective, the court then had the primary responsibility to set the basis of delimitation; either the parallel of latitude approach as claimed by Kenya or the delimitation to be premised under Article 15 of the UNCLOS convention, as quoted above. In contrast to Kenya's interpretation of Article 15, Somalia maintained that a median line should constitute the maritime boundary between the two parties contesting the maritime boundary.

The ICJ also had a principal responsibility to determine the base points for the borderline, as Somalia maintained that the identification of the maritime boundary primarily begins with the identification of the land boundary terminus which is located at 1° 39' 44.07" S and 41° 33' 34.57" E. The land boundary located in Somalia slightly contradicted the land coordinates provided by Kenya which located the boundary terminus at 1° 39' 44.0" S and 41° 33' 34.4" E (Gaver 2022). At the request of Somalia, the ICJ was tasked to determine whether Kenya's actions within the contested region contravened Somalia's sovereignty rights and territorial integrity principles.

With Kenya failing to participate in the hearing, the ICJ largely relied on Kenya's written submissions and historical records to decide on the contested area between Kenya and Somalia. Kenya cited the ICJ's perceived 'biases and unwillingness' as critical reasons for boycotting the hearings. Kenya had initially petitioned the ICJ for the need to delay the hearing following the COVID-19 pandemic, a request that was overruled by the jurists. The hearings of the case adopted a hybrid format and took place between 15 and 18 March, with the ruling given on 12 October 2021.

4.3. *Existence of a tacit boundary*

The ruling by the ICJ began by first addressing Kenya's claim of the existence of a tacit agreement between the two countries. Through written records, Kenya argued that the tacit agreements, subject to the 1997 and 2005 Presidential Proclamations, the Note Verbal of 2007 and 2008, and the 2009 MoU signed by both parties as well as the lack of protest by Somalia in response to Kenya's actions, outline the course of maritime boundaries between Kenya and Somalia, especially the EEZ and the Continental Shelf within 200 nautical miles. In other words, Kenya argued that the lack of protest from Somalia on Kenya's claims signified Somalia's acquiescence on the maritime border dispute. The court, however, ruled that the lack of protest by Somalia on Kenya's actions and processes on the maritime border claim cannot be considered as a manifestation of acquiescence.

The ICJ termed the term maritime border contestations as "a matter of grave importance" (ICJ 2021) and therefore, a high evidentiary threshold is needed to prove or show a case that a maritime border or boundary has been established based on tacit agreement or acquiescence.

While referring to the historical case of Ghana vs Cote d'Ivoire and Nicaragua vs Honduras, evidence of an existing tacit agreement must be compelling. The court, therefore, ruled that based on the written records and written submissions submitted, Kenya failed to legally demonstrate to the court that the conduct of Somalia indicated clearly that Somalia had acquiesced to the maritime boundary claims and accepted that the borderline should be delimited on a parallel of latitude methodology as proposed by Kenya. The court, therefore, overruled the request by Kenya of the existence of a tacit agreement between the two parties on the maritime boundary. While acknowledging the existence of bilateral negotiations and even the presidential proclamations, the court concluded this cross-cutting issue by asserting that there was no tacit agreement on a de facto maritime boundary.

4.4. *Delimitation of the maritime boundary*

The two parties presented diverse claims on the methodology that should be applied to delimit the boundary. While Kenya claimed that the maritime borderline ought to run on a parallel of latitude approach, Somalia requested that the court invoke the provisions of UNCLOS Articles 15, 74 and 83, on the basis of which the maritime boundary would be delimited in terms of the three steps process, thereby including a straight line from the states land boundary and extending to the EEZ, Continental Shelf and to the territorial sea (Gaver 2022). In other words, following Somalia's declaration that there was no clear and binding agreement on the maritime border claim, the Somali government requested the court to demarcate its sea territory with Kenya by a line that runs Southeast of its land border. Somalia argued for an unadjusted equidistant line through all maritime areas.

As Gilblom (2012) asserted, Kenya claimed that the border should take a roughly 45-degree turn at the shoreline and run a latitudinal line that grants Kenya more access to the maritime area. Based on these divergent contestations, the court was obliged to refer to the criteria it had identified in earlier cases to delimit contested boundaries and to examine whether compelling evidence exists that Kenya's claim on the maritime boundary at the parallel of latitude was consistently maintained. The court also took into consideration whether or not Somalia had accepted the claim based on the tacit agreement as claimed by Kenya. In response to this maritime delimitation claim, the arguments of both parties largely referred to the 1979 Presidential Proclamation, the 2009 Submissions to the Commission on the Limits of the Continental Shelf, the 2005 Presidential Proclamation, and their Domestic Laws. Both Kenya and Somalia also made references to their conduct in the maritime area in the period between 1979 and 2014.

Upon reviewing the presented case, the ICJ determined that Kenya had not consistently maintained its claim that a parallel of latitude constitutes its borderline with Somalia. Based on the court ruling, Kenya's claim contradicted its 1989 Maritime Zone Act of 1989, Territorial Waters Act of 1972, and its 2009 Submission to the Commission on the Limits of the Continental Shelf. The court maintained that, despite the 1979 and 2005 Proclamations, the claim that a parallel of latitude determined the borderline, Kenya's domestic laws, and other submissions were inconsistent with this argument. For instance, the ICJ established that, based on written submissions and available records, Kenya's Territorial Waters Act of 172 as revised in 1977, Subsection 4, stipulated that "on the coastline adjacent to neighboring

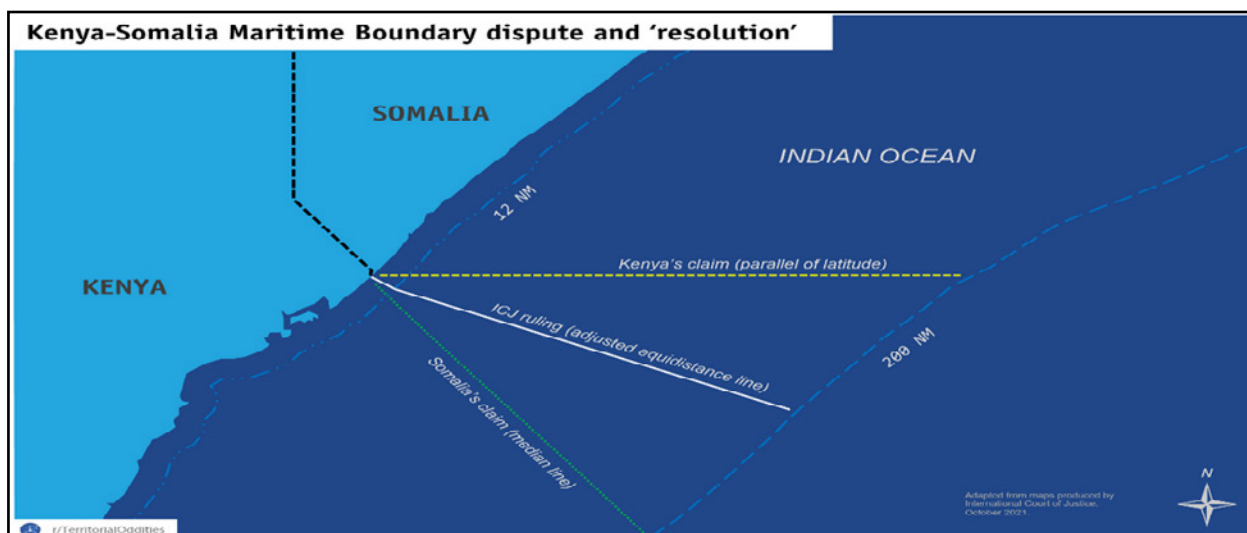
(*sic*) states, the breadth of the territorial sea shall extend to a median line” (ICJ 2021). This contradicted the Presidential Proclamation of 1979 which asserted that the delimitation of the boundary would be based on a parallel of latitude methodology. Similarly, the provisions of Kenya’s Maritime Zone Act of 1989 further contradicted the provisions of the Kenya Territorial Waters Act of 1972 and the Presidential Proclamation. Section 4, Subsection 4 of the Maritime Zone Act regarding the EEZ provided that “The northern boundary of the EEZ with Somalia shall be delimited by notice in the Gazette by the Minister under an agreement between Kenya and Somalia based on international law”. This implies that Kenya noted that the delimitation of its Northern boundaries with Somalia on the EEZ would be based on mutual agreement with Somalia. These words contrast with both the Presidential Proclamation of 1979 and Maritime Waters Act of 1972 that delimited Kenya’s maritime areas on the basis of the parallel of latitude methodology.

The provisions of the Maritime Act of 1989 also implied that, by stating that maritime borders must be addressed through agreement, Kenya acknowledged that there was no formal or tacit agreement between the two countries on the maritime area. The court also observed that the Note Verbales written by Kenya to Somalia did not specify that the maritime boundary had been delimited through an agreement, but instead informed Somalia that they should confirm their agreement with Kenya’s unilateral decision. The court further observed that Kenya’s submission to the Commission on the Limits of the Continental Shelf in 2009 contradicted its earlier position on the maritime issue. The ICJ observed that in the 2009 submission, both parties acknowledged the existence of a maritime dispute which remains ‘unresolved’ and that the issue would need to be resolved by agreement between the two coastal states as provided in international law.

On 26 and 27 March 2014, on the invitation of Kenya, both Somalia and Kenya met in Nairobi to negotiate on Kenya–Somalia border contestations. The fact that these negotiations took place clearly indicates that there was no contractual or tacit agreement between Kenya and Somalia on the maritime issue. In a joint report released at the end of the meeting, both parties acknowledged that they had pursued several options for border delimitations, including parallel of latitude, median, perpendicular and bisector approaches. However, they could not arrive at an agreed methodology on which to base the borderline. The report in no way acknowledged that there was already an existing agreement on the methodology of border delimitation by either party. The ICJ (2021) therefore concluded that there was no compelling evidence that the claim by Kenya of the existence of an agreement to delimit the maritime boundary based on the parallel of latitude methodology and its related conducts, was consistently maintained.

Given the lack of a tacit agreement between Kenya and Somalia on the delimitation methodology, the ICJ applied its standard delimitation methodology in a desire to maintain consistency in its maritime case laws and to ensure equal gains by both parties. The court delimited the territorial boundary by integrating the median line special circumstance rule. The ICJ (2021) argued that “The delimitation methodology is based on the geography of the coasts of the two States concerned, and that a median or equidistance line is constructed using base points appropriate to that geography.” While the court acknowledged that the application of the equidistant principle was not mandatory, it found no compelling reasons to depart from its ‘usual’ practice of applying the equidistance principle in contexts in which no agreement exists on the border lines between the two contesting parties. The demarcation process, as determined by the ICJ, involved drawing the most appropriate base points on the coasts of the parties based on geographically objective methodologies. The equidistance principal approach also established whether any relevant circumstances existed, including geographical and non-geographical factors to be considered while establishing the borderline. Based on the court ruling, the two countries’ borderline appears as outlined in Figure 2:

Figure 2: Kenya and Somalia maritime claims and ICJ boundary delimitation



Source: *Horn of Africa Bulletin* 2019

4.5. Implications of the ruling

Kenya has strongly refuted the ICJ ruling on the territorial conflicts with Somalia. The Kenyan government has affirmed its commitment to protect not only water bodies, but also its territorial integrity. Before the 2021 ruling, in February 2019, Kenya recalled its ambassador to Somalia and effectively expelled the Somali envoy in Nairobi. In June of the same year, Kenya closed its border with Somalia in Lamu, citing security concerns. Subsequently, in May 2021, Kenya suspended direct flights to Somalia.

The government of Somalia responded in a reciprocal fashion by declaring that its envoys would no longer attend meetings in Nairobi. Given these circumstances, a court ruling that was not in favour of Kenya was likely to exacerbate the tension between the two neighbouring states. With limited activities currently taking place in the contested areas, the court ruling has heightened the diplomatic feud between the two countries, particularly in light of the fact that the maritime conflict between Kenya and Somalia could be argued to be more political than legal.

Given the ungoverned spaces that define Somalia and its porous borders with Kenya, continued Somalia–Kenya maritime contestation is worsening the security situation in the coastal regions. The terrorist groups have more leeway to take advantage of the antipathy of Kenya towards Somalia in order to frustrate maritime security architectures integrated within the contested region and its borders. The *Al Shabaab* can leverage the contestations over the ruling to conduct mass recruitment and mobilisation campaigns which may jeopardise the region's security system. Subsequently, Kenya's rejection of the ICJ ruling, with a further promise to use all means to protect its territorial integrity and sovereignty rights, jeopardises oil and gas exploration in the contested region, as exploration of the hydrocarbons and oil requires clear boundaries and effective maritime security.

5. Recommendations

Considering the above analysis, the following recommendations are made with a view to promoting and embracing peaceful coexistence among the disputing parties:

- Given that the ruling was premised on the equidistance principle which implied an equal share of the disputed region, Kenya should acknowledge and accept the ICJ ruling.
- Kenya and Somalia are members of international frameworks, including UNCLOS, as well as regional frameworks, and both parties should, therefore, commit to preserving the obligations that define these frameworks. Such obligations include protecting and preserving the territorial integrity rights and sovereignty rights of both parties.
- Both countries must conduct relevant public diplomacy and outreach programmes in the coastal region so that the communities can learn to appreciate the need for good neighbourliness and also understand the implications of the court ruling.

- In the spirit of good neighbourliness, Kenya and Somalia must sign binding maritime cooperation agreements to augment the ICJ ruling. The cooperation agreements should detail joint management of maritime resources and fishing rights, and combat cross-border security threats, including arms smuggling, drug trafficking, terrorism, cyber security threats and illegal migration.
- Both Kenya and Somalia must adopt a workable joint resource exploration and management programme to help build cooperation and to share risks and benefits, including enhanced monitoring of the maritime area.
- Both countries must strengthen confidence-building measures, including embracing transparency and accountability, openness and regular communication on maritime issues to address the challenge of mistrust and suspicion of maritime actors operating in the maritime area.
- Both Kenya and Somalia must recognise the importance of regional stability and should, therefore, accommodate or embrace peaceful or non-militant approaches to conflict resolutions.
- Kenya and Somalia should strengthen their economic ties through trade and other tools of economic interaction such as cultural exchanges. Economic ties have the potential to neutralise the political feuds between the two countries.
- Both Kenya and Somalia must prioritise maritime security and the development of a mutually beneficial prospectus for a blue economy.
- Kenya and Somalia should avoid any retaliatory and escalatory actions including military actions, as such actions could essentially jeopardise the larger interests and national security interests of Kenya. Therefore, compliance with the ICJ ruling could be a potential option to permanently delimitate the boundaries.
- Kenya and Somalia must establish a joint commission for joint management and exploration of resources. Through a joint commission, both countries can develop common interests and goals, and jointly respond to security concerns in the region.

6. Conclusion

This research finds that the Kenya–Somalia maritime question is a product of a colonial legacy that not only requires a legal settlement approach, but a political settlement approach. The findings of this study show that, before Somalia petitioned the case at the ICJ, there had been concerted attempts by both parties to settle the matter internally through diplomacy or the involvement of a third party, including the Prime Minister of Ethiopia. These attempted initiatives stalled due to a lack of political will and perceived mistrust by both parties. Kenya then failed to present its case in person at the ICJ on the basis that the ICJ court was not neutral given the presence of a Somali judge. This article has also reiterated the argument by Somalia that, prior to the ICJ ruling, no tacit agreement was in place. This prompted the ICJ to integrate the standard delimitation principle to delimit the maritime borderline between the two countries.

Based on the findings of this qualitative study, the ICJ’s ruling on this case, especially its application of the equidistance principle to the delimitation of boundaries, has implications for the contested region. An immediate implication was that Kenya rejected the ruling and affirmed its commitment to protecting its territorial integrity. However, given that Kenya and Somalia share problems including global terrorism and the prevalence of organised gangs, it is crucial that the two countries normalise their relationship. This will be best achieved if both parties comply with the provisions of the ICJ. Both Kenya and Somalia must work collaboratively to enhance maritime security in the water bodies and their own contours. This will only be possible if they engage in maritime cooperation agreements that focus on countering the maritime security threats in the coastal region.

It should be noted that, since the ICJ determination of the Kenya–Somalia maritime border dispute, there has not been much activity in the contested zone since Kenya has not undertaken any retaliatory missions in the zone and Somalia appears to be engrossed in addressing internal issues. Neither country has proffered reactions to the contested region, maybe signalling efforts towards normalising relations between them. It is, therefore, a matter of necessity that both member states continue to respect international institutions and norms designed to maintain sustainable borders.

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Book Reviews

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In this section, the Ocean Regions Team in the Department of Political Sciences at the University of Pretoria offers short reviews of four books covering aspects related to ocean politics.

The Sea and International Relations,

edited by Benjamin de Carvalho and Halvard Leira

(Manchester University Press 2022).

Books on the international politics of oceans are few and far between: in fact, a mere eight years ago, scholars like Bueger and Edwards (2017:1293) complained about “seablindness” and Colás, one of the contributors to the present volume comments that since the inception of International Relations as an academic discipline, only a handful of scholars have addressed the ‘place of the sea’ in international relations. The editors of this volume set out to correct this lacuna in the discipline, acknowledging that it was geographers like Steinberg and Peters who have brought the importance of the sea (after all, 70 per cent of earth’s surface is covered by water) to the attention of international relations scholars.

Contributors to this volume, in the words of the editors, ‘are not writing the International Relations (IR) *of the Sea* but give perspectives on how the sea matters *to* International Relations’, by exploring oceans and ocean politics through the tropes of ‘taming or mastering the sea’, ‘traversing the waters’ and ‘controlling maritime resources’. Following the introduction which provides a deep reflection on why ‘the sea matters’ in international relations, Colás’ chapter introduces the concept of terraqueous relations and linkages between sea and land, setting the scene for the remaining eight chapters dealing with such aspects as the extent to which the sea is intertwined in the construction of collective identities (Mälksoo) and of gender and race (Leira and De Carvalho); the former reminiscent of the writings of Kenyan author Yvonne Owuor and the latter specifically addressing how ‘sea writing’ has largely privileged white and male perspectives. Shirk’s chapter on the early modern colonial Atlantic (*Boundaries in the sea*) in a way follows on Leira and De Carvalho’s chapter, however, the focus is more specifically on the making of political space/the production of political space at sea and much more than simplistic perspectives of the sea as merely something to be crossed to get from one land mass to another. The chapter also provides context to the seaborne empires of the age of imperialism and how these differed from land-based empires: the former, Shirk says, were built on ‘networks of commerce and exchange’; the latter on military might. The focus of the chapter, though, remains on the history of the concept of ‘open seas’, a concept brought into sharp relief by former Japanese Prime Minister Abe’s 2016 insistence on a ‘free and open Indo-Pacific’ (FOIP).

Of particular interest and importance is Braarud’s chapter on obligations *erga omnes* in relation to the concept of the common heritage of mankind under the Law of the Sea Convention, at present one of the most contentious issues in international law. The legal principle of *ubi jus ibi remedium*—every right necessitates a remedy—is at stake here: If the high seas (the Area as it is phrased in UNCLOS) ‘belongs’ to all of humankind, should humankind (i.e. states, as these have primacy in public international law) also be responsible for, or, more positively phrased, have the right “to take legal action against unlawful appropriation or harm” (p201)?

Running as a golden thread throughout the volume, is the way in and extent to which ‘landed politics embedded within maps and navigational tools’ are ‘taken to sea’ in efforts to ‘tame the sea within our innately landed IR imaginations’ (see Simonds’ chapter), thereby often creating insecure spaces, and policies and approaches that do not necessarily transfer easily or efficiently to oceans and oceans governance. Nevertheless, at a theoretical level the book is rather thin on engaging with the challenge of thinking ‘terraqueously’. The editors suggest a materialist approach to theorising IR ‘at sea’ as materialist theories assume that the material—the ‘real’—ocean structures human interaction with the sea. Although such an approach does not infuse all the contributions explicitly, it does offer at the very least the basis of a research agenda.

If one had to explain the rise of ocean politics within the discipline of International Relations, three interrelated aspects and trends in our contemporary era stand out: Firstly, the growing battle for influence and power projection over and access to ocean spaces as part of the return of geopolitical contestation—here the rise of China stands at the centre. Anyone following maritime and naval news knows how much attention is increasingly paid to (re-) building naval forces and the projection of naval power. Secondly, technological innovation going hand in hand with the rise of the so-called blue economy—the scramble for resources at sea that drives so much of the competition

for ocean predominance. Technology here is like a double-edged sword: it both makes exploration and extraction in previously inhospitable areas (the high seas) possible and it also requires access to certain resources (mainly energy and critical minerals) to be found in the ocean. Thirdly, the role of climate change as a driver for ‘ocean attention’ cannot be denied and it is especially in the sphere of international law of the sea and debates about and attempts to legislate through treaty development that we see a growing interest in the politics of the sea. This book, rather heavily Anglocentric in its approach (although conscious of this bias, as is shown in the concluding chapter by Guillaume and Costa López), does touch on these three aspects, opening up areas for further research, especially from a global South perspective.

Ocean Governance (Beyond) Borders

edited by Kimberley Peters and Jennifer Turner

(Palgrave Macmillan, 2025, Open Access)

This volume focuses on borders/bordering of ocean spaces, utilising multidisciplinary perspectives to examine and critique oceanic bordering practices. Drawing lines and dividing parcels of space/s by means of such lines are ways through which governance practices and frameworks are created, in this case in terms of 70 per cent of the world’s surface area: the oceans. In the words of the editors (p4), “borders ... in the ocean, work to locate and allocate spaces for specific uses for specific people (and not others), through a spatial politics of enclosure”, and in the 12 chapters of this volume, the authors explore these spatial politics of (oceanic) enclosure. They also, implicitly or explicitly, ask the question whether it is possible to think *beyond* borders as a mode of oceanic management, reminding this reader of the work of Elisabeth Mann Borgese (1998), *Oceanic Circle*, who grappled with the idea of the oceans as a borderless world and how managing such a world could provide possibilities for different *terrestrial* ways of governance.

In his chapter on governing the ocean in ‘time, matter and rhythm’, McAteer builds an argument that to better theorise the ocean, it is necessary to also take temporality and materiality, and not only space, into consideration. For McAteer, it is about process and complexity rather than borders and containers. This leads to a critique of the 2023 BBNJ Treaty before the author considers the ontological questions surrounding the dimensions of ocean space, using the JEROS programme as an example of an experimental relational approach to ocean governance. McAteer’s chapter works within a kind of anthropogenic consciousness, as does several of the other chapters that deal with what one can term a growing interest in what ‘the sea’ has to offer in terms of resources-for-profit. Couling’s chapter is a good example and provides much food for thought around attempts to contain ocean space through exclusive economic zones (EEZs)—what the author refers to as a form of a “radical new state space” (p46). This is a fascinating exploration of the meaning/s of borders and bordering and ‘layers of borders’—a must-read for students of border studies and oceans governance processes. Couling uses these different types of border-making to provide a type of counter-mapping of the Norwegian Sea—an exercise that could be replicated around Africa’s seas to, as it were, open one’s eyes to the actual properties and dimensions of ‘our’ oceans and inform our studies of ocean governance.

Issues around exploitation versus protection/conservation and the way in which bordering practices play into these often contradictory impulses are explored and reflected upon by using the case of fisheries in the chapter by Po-Yi Hung. Other chapters dealing with the exploitation/extraction-protection/conservation dichotomy are those that address issues around marine protected areas (MPAs) and here Kunz’s chapter is particularly interesting. It specifically questions the extent to which MPAs as an area-based global policy to protect marine eco-systems can and do actually support the problems inherent to climate change. The author concludes that MPA governance “itself has to adapt” (p149; emphasis in the original), moving beyond material borders as “simple matters of fact” (p152). Throughout most of these chapters the idea of power, and the question of ‘cui bono?’ are brought into the equation, showing the extent to which ocean border-making is in essence, a (geo)political act.

Overall, this volume opens up questions of how (ocean) borders work. The authors reflect on alternatives, but, as conceded by the editors in the concluding chapter, ‘borders are here to stay’ (p272). This is not a fatalistic acceptance—rather, it leaves us with a research agenda into both (ocean) border-making, chartering the consequences, and thinking through ways of addressing the challenges. It might not be possible to move *beyond* borders, but there is knowledge and insight to be gained from studying borders and developing responses to the implications of drawing lines in the water.

The Rise and Return of the Indo-Pacific

by Timothy Doyle and Dennis Rumley

(Oxford University Press 2019)

Although perhaps somewhat dated, Doyle and Rumley's monograph succeeds in putting the construct, Indo-Pacific, at the centre of ocean and maritime studies in the region that, one could argue, 'logically' succeeded Asia Pacific as a new geopolitical and geo-economic focus point. By discussing this mega ocean region in the context of three theoretical frameworks—a non-realist interpretation that posits a 'shared oceanic neighbourhood'; a realist construction that establishes essentialist relationships between the states in the region and, thirdly, a universalist interpretation of ocean space that "resists territorialization" (p1), the authors present a holistic picture of the Indo-Pacific as both a geographically-determined space overlaid and infused by contemporary geopolitical contestation, and a social construct dating back many centuries. This latter aspect, though—the Indo-Pacific as (also) a *place* of communities, cultures and civilisations—does not receive much attention, except to the extent that the authors explain how *narratives* about (shared) culture and the evolution of community in this vast ocean space especially those embedded in history (and legend!) underlie much of the justification of state interest in this region. In summary, this is a book about the politics of region-building, power projection and competing ideologies in which shared history/histories serve the political ambitions and interests of particular states.

Three topics covered in this book are of particular interest and importance. The first is the discussion of maritime regional theories (the last section of Chapter one and also Chapter two, but serving as a thread throughout the book) and the construction of 'Indo-Pacific' as measured against eight regionalisation principles (p9)—a discussion that brings one to the Indo-Pacific as an example of oceanic regionalism, yet still considered, at least by the US, as 'the dominant international waterway of the 21st century', much as the Mediterranean in the ancient world and the Atlantic during the 20th century (p10). This is an observation by the authors that inadvertently implies a rather western focus: one cannot but wonder about centuries, if not millennia, during and following in the wake of Mediterranean 'regionalisation' when the Indian Ocean and the South China Sea were as prominent in international trade and interaction. Chapter three to some extent, continues the region/regionalism/regionalisation argument, now focused very specifically on how the revival of certain paradigms and concepts shape the 'national lenses' through which great and middle powers in and around the Indo-Pacific attempt to build their visions of this region-in-the-making.

A second topic is that of the continued relevance of Cold War strategic thinking/logic for the present day politics of the Indo-Pacific (Chapter four). This chapter goes a long way in explaining continued (and re-emerging) tensions and conflict in the region and forms the context for the following topic dealt with in detail in Chapters five to eight, namely the role and position of how a number of great powers (the USA, India and China) and the middle powers of the Indo-Pacific construct this region, define their interests and perceive and interact with other powers, whether 'big', 'middle' or 'small'.

The third topic concerns the idea of institution building in the Indo-Pacific. This is an aspect that receives rather scant attention and only so in the concluding chapter, sharing space, so to speak, with the authors' reiteration of a number of key issues discussed in earlier chapters, most prominent of which is the importance they attach to the continued salience of Chinese-US relations. It is this relationship, they conclude, "which will largely determine the geopolitics of the Indo-Pacific region in the twenty first century and beyond" (p162). The authors then proceed to offer some thoughts on a regional architecture for the Indo-Pacific, arguing that the Indian Ocean Rim Association (IORA) offers the most viable instrument for "implementing a shared vision of the region" (p167). This section sits rather uneasily in a book that is largely focused on the strategic interests and supporting political-ideological manoeuvrings of big powers (and middle powers), yet it does bring an element of non-realist and even liberal understanding the region as a 'neighbourhood' that could be drawn together by a shared vision of building a sustainable future.

For anyone wanting to understand the 'rise and return' of the Indo-Pacific, Doyle and Rumley's monograph is essential. They wrote the book during the era of the first Trump administration. Given the rise and return of Trump, the book remains relevant.

Cross Currents: The New Geopolitics of the Indian Ocean,

edited by David Brewster, Samuel Bashfield and Justin Burke

(ANU: National Security College Press, 2025)

Brewster et al.'s edited volume brings together perspective from across the Indian Ocean region to reflect on the future of the region as part of the Indo-Pacific construct. As the editors say in their introduction, the Indian Ocean is becoming a 'much more complex, congested and contested strategic space'.

The book is structured around three focus areas: firstly, the changing balance of power amongst the major powers in the region (the US, India and China); secondly, the greater presence of the region's 'resident' middle powers—Australia, France and South Africa—as well as Indonesia as an emerging regional middle power, and thirdly, the ways in which smaller island states, such as Sri Lanka and some of the Indian Ocean island states are forging their own agency whilst mitigating the adverse impact of major power contestation. The attention to the region's island states (three chapters are devoted to these states) is especially welcome, as small island states are often ignored in the literature, even though their influence has been steadily rising. The involvement of extra-regional powers such as Japan, the United Kingdom and Russia is also considered. It was, after all, Japan's Abe who (re)introduced the Indo-Pacific concept to the world stage in 2007; the UK has retained a presence in the region despite recently handing sovereignty over the Chagos Islands to Mauritius (it retains control over Diego Garcia) and Russia is pursuing closer relations with Pakistan and seeking to establish a naval base, most probably in Port Sudan.

In addressing major power competition, the book dedicates at least three chapters to a consideration of air and space power in addition to naval strategy and power, and the 'naval balance', as well as a chapter on the significance of the littoral seam in terms of the importance of amphibious capabilities in the region. The argument put forward in the introductory chapter, namely that in the Indian Ocean the great power competition will play out largely between India and China, is convincing (as opposed to between China and the USA in the Pacific), resonating in several chapters.

In the concluding chapter Brewster and Medcalf draw together the various strands in this volume and interrogate the strategic future of the Indian Ocean as part of the Indo-Pacific. Based on insights from the contributors to the volume, one is not surprised that the authors emphasise that despite the usefulness of the Indo-Pacific construct to understand development in the Indian Ocean, there are "important differences between the Indian Ocean and the Pacific that will contribute to a different and unique form of multipolarity within the Indian Ocean" (p271).

Unfortunately, the volume does not cover a perspective from Africa's littoral states along the continent's Eastern seaboard. South Africa, however, is covered in an interesting chapter by Vreġ who emphasises the huge limitations and constraints on the South African Navy to play a role in the region commensurate with the country's middle power status, but Kenya and Tanzania are increasingly getting involved in Indian Ocean politics and governance. Ethiopia, though a landlocked state has expressed its maritime aspirations and determination to become a naval power and Egypt of course has the largest navy in Africa (and the Middle East). In fact, two issues that are somewhat neglected in this volume are, firstly and as mentioned, the lack of attention to African perspectives. Secondly, the potential impact of an expanded BRICS on developments in the Indian Ocean deserved more attention. This is especially so since Egypt, Ethiopia and the UAE had joined the group since the start of 2024. Vreġ is the only author to pay any attention to BRICS. These criticisms notwithstanding, *Cross Currents* makes a welcome and important contribution to perspectives and knowledge-building in the field of Strategic Studies from within the Indian Ocean. A short review cannot do justice to the high quality of the various chapters and the book is strongly recommended to students interested in and researching the politics of the Indian Ocean region within the bigger context of the evolving Indo-Pacific.

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