



UNIVERSITY OF NAIROBI

**DEPARTMENT OF DIPLOMACY AND INTERNATIONAL CONFLICT
MANAGEMENT**

**KENYA-SOMALIA MARITIME DISPUTE AND THE ECONOMIC
DEVELOPMENT IN THE HORN OF AFRICA: A CASE STUDY OF KENYA**

STUDENT'S NAME: BENARD M NDOLO

REG NO: R52/9262/2017

SUPERVISOR: DR. OUMA MARTIN

**A RESEARCH PROJECT SUBMITTED IN PARTIAL FULFILMENT OF THE
REQUIREMENT FOR AWARD OF MASTERS OF ARTS DEGREE IN
INTERNATIONAL CONFLICT MANAGEMENT AT IDIS - UNIVERSITY OF
NAIROBI.**

2023

DECLARATION

I hereby declare that this project is my original work that has solely been composed by me and that it has not been presented or submitted in part or whole, in any previous application for a degree.

Signature 

Date 21/09/2023.....

Benard M Ndolo

Reg No: R52/9262/2017

This Project has been supervised, submitted to me for examination with my approval as a University Supervisor.

Signature 

Date 22/09/2023.....

Dr. Ouma Martin,

Lecturer,

Institute of Diplomacy and International Conflict Management (IDIS)

University of Nairobi

DEDICATION

I dedicate this study to my family who encouraged me to pursue this Master's degree. I also dedicate it to the Almighty God for his abundance strength and the Kenya Defence Forces fraternity for their amicable support.

ACKNOWLEDGEMENT

The journey to the completion of this study has been academically enriching experience, professionally and socially challenging but very exciting. I wish to also sincerely thank my supervisor Dr Martin Ouma for his unlimited support, guidance, and cooperation in the process of writing this paper.

TABLE OF CONTENTS

DECLARATION.....	i
DEDICATION.....	iii
ACKNOWLEDGEMENT.....	iv
LIST OF FIGURES	vii
ABSTARCT.....	viii
ABBREVIATIONS.....	ix
CHAPTER ONE	1
1.1 Background of the study	1
1.2 Problem Statement.	8
1.4 Objectives of the study.....	10
1.5 Literature Review	10
1.5.3 Literature review gap.....	24
1.6 Hypothesis.....	24
1.7 Justification of the study	24
1.7.1 Policy justification.....	24
1.7.2 Academic justification.....	25
1.8 Theoretical framework	26
1.8.1 Functionalist theory	26
1.9 Study Methodology	29
1.9.1 Research Design.....	30
1.9.2 Study Location	30
1.9.3 Target population.....	30
1.9.4 Sample for study.....	31
1.9.5 Sampling procedure.....	31
1.9.6 Sampling size.....	31
1.9.7 Sampling frame.....	33
1.9.8 Methods of Data Collection	33
1.9.9 Validity of the Research Instruments	34
1.9.10 Reliability of the Research Instruments	34
1.9.11 Methods of Data Analysis and Presentation	34

1.10 Ethical considerations.	35
1.11 Limitations of the Study.....	35
1.12 Chapter outline.....	36
CHAPTER TWO	37
2.1 Introduction	37
2.1.1 The Study Demographic Characteristics	37
2.2 Diplomacy	40
2.3 Fishing.....	41
2.4 Insecurity and Piracy.....	42
2.5 Migration of people.....	43
2.6 Trade.....	44
2.7 National Income	45
CHAPTER THREE.....	46
3.1 Introduction	46
3.2 United Nations.....	46
3.3 Intergovernmental Authority on Development (IGAD).....	49
3.4 European Union (EU).....	52
CHAPTER FOUR.....	56
4.1 Introduction	56
4.2 Sovereignty and Self Interest	56
4.3 Severance of Kenya-Somalia Diplomatic Ties	59
4.4 Enforceability of International Law	60
4.5 Prolonged Court Case.....	63
CHAPTER FIVE	66
5.1 Introduction.....	66
5.2 Summary of Key Findings	66
5.3 Conclusion	68
5.4 Recommendations	70

LIST OF FIGURES

Figure 1.1 Target population, sample size and sampling technique	33
Figure 2.1 Gender	37
Figure 2.2 Age Bracket	38
Figure 2.3 Level of Education	39
Figure 2.4 Awareness of the Maritime Dispute	40
Figure 3.1 United Nations.....	49
Figure 3.2 IGAD and AU.....	51
Figure 3.3 European Union.....	54
Figure 4.1 Sovereignty and Self Interest.....	58
Figure 4.2 Severance of Kenya-Somalia diplomatic ties.....	60
Figure 4.3 Enforceability of International Law	63
Figure 4.4 Prolonged Court Case.....	64

ABSTARCT

This study examines the Kenya-Somalia maritime dispute and the economic development in the horn of Africa. The maritime dispute which has existed for several decades has had a lot of effects on the economies and social relations to both Kenya and Somalia. Some of these effects are bad diplomatic relations, loss of income, and poor living standards for fishing communities. Several international organizations have intervened to help solve the dispute. They include United Nations, European Union, and IGAD. There have been challenges that have made it difficult for the various interventions to be successful. The challenges include sovereignty and self-interest, severance of diplomatic ties, enforceability of international law, and prolonged court case.

ABBREVIATIONS

EEZ:	Exclusive Economic Zone
PCA:	Permanent Court of Arbitration
AU:	African Union
ICJ:	International Court of Justice
UNCLOS:	United Nations Convention on the Law of the Sea
UNSC:	United Nations Security Council
UN:	United Nations
MOU:	Memorandum of Understanding
PCA:	Permanent Court of arbitration
KDF:	Kenya Defence Forces
NACOSTI:	National Commission for Science, Technology & Innovation
AMISOM:	African Union Mission in Somalia
UNSCR:	United Nations Security Council Resolutions

CHAPTER ONE

1.1 Background of the study

Humanity has depended on the marine environment for food and other economic activities for thousands of years.¹ It is projected that marine environment will be a defining element for the survival of future generations and the global economy. This narrative has altered the significance of marine space to human life, environment, and economic security. This underpins the rising necessity of securing maritime space leading to competition and disputes over control of oceanic spaces.

States' formation, development, and expansion have necessitated the need to define and uphold maritime territorial boundaries.² Historically, the use of maritime space transformed the world through dominance, exploration and industrialization. The realization that an acre of the sea may be more valuable than an acre of unproductive land, especially when there are important natural resources in the same area, escalated the scramble to control the seas.³

Today, maritime border disputes continue taking center stage in global politics. Even though cases of inter-state territorial claims have declined since the start of the 21st century, there are over 2010 maritime claims today. To start with, the continent of Europe has been plagued with multiple maritime border disputes over the past and even continues to experience the same as today. Tradition shows that European powers like Britain, Spain and France pursued colonization

¹ Hussain, S. T., and F. Riede. "Paleoenvironmental humanities: Challenges and prospects of writing deep environmental histories." *Wiley Interdisciplinary Reviews: Climate Change* 11, no. 5 2020: e667.

² Bax, Narissa, Camilla Novaglio, Kimberley H. Maxwell, Koen Meyers, Joy McCann, Sarah Jennings, Stewart Frusher et al. "Ocean resource use: building the coastal blue economy." *Reviews in Fish Biology and Fisheries* 32, no. 1 (2022): 189–207.

³ Byrne, John, Leigh Glover, and Cecilia Martinez, eds. *Environmental justice: discourses in international political economy*. Vol. 8. Transaction Publishers, 2002.

in the waters as early as the 15th century. These activities, over time, sparked debates regarding the status of oceans and what rights states could have at sea.

Russia and Norway have recently been embroiled in a maritime border dispute for years, but today the issue concerns both states.⁴ Norway had created a maritime Fisheries Protection Zone (EPZ) around the Svalbard region in 1977, but yet avoided the claim of an outright Exclusive Economic Zone (EEZ). Both states reached an amicable solution in 2010 when they reached a binding consensus regarding a maritime border in the Arctic region running from the Eurasian landmass to the North Pole. A similar scenario was created when tensions escalating from the Kerch Strait confrontations between Ukraine and Russia in 2018 threatened to result in interstate war.

The rising maritime border dispute claims in Southeast Asia come in a timely manner when the naval capability of the US is declining. Consequently, China's naval activities in Southeast Asia have restrained its relationship with neighboring states regarding maritime zones resulting in a dozen disputes.⁵ China made several aggressive claims of ownership via its nine-dash. This has worsened the country's relations with Japan, the United States, the Philippines and Vietnam. Furthermore, the state eschewed efforts made by international tribunals attempting to solve its

⁴ Kvalvik, Ingrid. "Assessing the delimitation negotiations between Norway and the Soviet Union/Russia." *Acta Borealia* 21, no. 1 (2004): 55–78.

⁵ Bradford, Lieutenant John F. "The growing prospects for maritime security cooperation in Southeast Asia." *Naval War College Review* 58, no. 3 (2005): 63-86

maritime disputes.⁶ For instance, China failed to take part in its case against the Philippines at the Permanent Court of Arbitration (PCA).

Some political scholars posit that nations sharing contiguous land borders are more vulnerable to new conflicts regarding their maritime and land boundaries. Having said so, the United States and Mexico, sharing a direct boundary and other water masses, are likely to be entangled in diplomatic disputes. Both states have been having border disputes since the US-Mexican war of 1846, which led to the annexation of California and Texas from Mexico.

Countries with overlapping maritime zones will likely compete and make contagious claims to the same area. For instance, both the US and the Canadian governments have multiple overlapping marine environments, like the Beaufort Sea, that act as a source of constant diplomatic conflict between the two nations.⁷ Both states of Russia and Ukraine also have similar jurisdiction claims since they are connected by the same ethnicities, contiguous land border and an internal sea resulting in constant disputes.

Apart from the maritime disputes plaguing the US and its neighbors, the South America Continent cannot be left out. In 1963, the Republic of Argentina and Uruguay were engaged in maritime disputes emanating from contestation over the delimitation of overlapping maritime

⁶ Walker, Jeremy, and Daryanomel. *More heat than life: The tangled roots of ecology, energy, and economics*. Palgrave Macmillan, 2020.

⁷ Brosnan, Ian G., Thomas M. Leschine, and Edward L. Miles. "Cooperation or conflict in a changing Arctic?." *Ocean Development & International Law* 42, no. 1-2 (2011): 173-210.

borders.⁸ However, this dispute was resolved after both parties reached a consensus regarding cooperation in the demarcation process in November 1973.

While maritime border disputes continue to ravage the rest of the world, the African continent has also had its share. Less than half of the world's maritime boundaries have been established, but the figures for the African continent are far lower. African Union (AU) set deadlines for African countries to delimit and demarcate their land and maritime borders in 2010 and 2017.⁹ Maritime boundary disputes in Africa have historically preceded the finding of seabed resources, particularly oil and gas. Still, they have recently been exacerbated by a frenzy of exploration activity off the continent's coasts. The possibility of offshore oil production fueled Eritrea and Yemen's territorial and maritime disputes, which eventually led to arbitration.

The Gulf of Guinea's insecurity results from the region's varied natural resources. Threats to the Gulf's security include poaching, piracy, transnational crime, boundary conflicts, and environmental deterioration.¹⁰ To tackle the security threats in the Guinean gulf, regional governments and the international community need to use a demand-based approach to identify, fund and prioritize MOWCA (an organization that handles maritime issues). This strategy will foster collaboration and fulfill the demands of all stakeholders.

On March 29, 1994, Cameroon submitted a petition to the International Court of Justice (ICJ) asking it to rule the sovereignty dispute between Cameroon and Nigeria about the Bakassi

⁸ Mitchell, Sara McLaughlin. "Clashes at Sea: Explaining the Onset, Militarization, and Resolution of Diplomatic Maritime Claims." *Security Studies* 29, no. 4 (2020): 637–670.

⁹ Khalfaoui, Anna, and Constantinos Yialourides. "Maritime disputes and disputed seabed resources in the African continent." In *Routledge handbook of energy law*, pp. 526-546. Routledge, 2020.

¹⁰ Shafa, Bamidele M. *Maritime Security in the Gulf of Guinea Subregion: Threats, Challenges and Solutions*. Army War Coll Carlisle Barracks Pa, 2011

Peninsula, rich in oil, and a piece of land near Lake Chad.¹¹ Additionally, Cameroon requested that the court define the sea and land borders between the two countries and order the immediate and complete evacuation of Nigerian forces from what it claimed to be Cameroonian territory in the disputed areas. Cameroon cited the declarations provided by the parties per Article 36 (2) of the ICJ Statute as justification for the court's jurisdiction.

Nigeria's seven preliminary objections, which claimed that the Court lacked jurisdiction and that Cameroon's application was inadmissible, were rejected by the Court in its decision of June 11, 1998, but the remaining eighth objection, which related to the parties' maritime boundary, was reserved for consideration at the merits stage. Nigeria was permitted to file some counterclaims according to the Court's ruling of June 30, 1999, and Equatorial Guinea was unanimously permitted to intervene in the case as a nonparty according to the Court's order of October 21, 1999.¹²

On October 10, 2002, the court decided that Cameroon was the rightful owner of the Bakassi Peninsula and the surrounding area of Lake Chad. The Court established the territorial boundary from Lake Chad in the north to the Bakassi Peninsula in the south by a large majority, upholding the legality of the colonial agreements cited by Cameroon. The Court agreed with Nigeria that the equidistant line between the two states created a fair result when determining the section of the maritime boundary between the two states over which it had jurisdiction. The location of the

¹¹ Bekker, Pieter HF. "Land and maritime boundary between Cameroon and Nigeria (Cameroon v. Nigeria; equatorial Guinea intervening)." *American Journal of International Law* 97, no. 2 (2003): 387–398.

¹² Ibid

spot off the coast of Equatorial Guinea, where the maritime border between Cameroon and Nigeria ends, was not specified.¹³

East Africa presents the continent's most recent active maritime border dispute. The Kenya-Somali maritime border location has been disputed since the year 1999. The subject of the dispute has been the oil and the four maritime gas zones situated inside a 100,000-square-kilometer triangle in the Indian Ocean.¹⁴ These two countries claim the outermost 200 nautical miles of the continental shelf as their territory. The border disputes began because of different ways of determining the Indian Ocean's territorial limits. Somalia wants the southern boundary to extend to the country's land border, whereas Kenya wants the border to bend 45 degrees at the coast and run along the latitudinal area. Due to this, Kenya would gain access to most of the maritime zone. Kenya claims it had had unchallenged jurisdiction over the maritime zone since 1979, when it declared its Exclusive Economic Zone (EEZ) by colonial history recognized under the Africa Union Border Program. Both Kenya and Somalia are signatories.¹⁵

After out-of-court settlements failed in 2014, Somalia filed a case in the ICJ. Kenya supports an out-of-court settlement and has requested that the lawsuit filed by Somalia be withdrawn or adjourned so that the African Union-led alternative dispute resolution process can be used.¹⁶ On the other hand, Somalia has rejected Kenya's offer of a peaceful settlement and maintains that it has promised to follow the court's decision. Somalia's President stated that the ICJ's ruling is the only way to reach a durable agreement on the maritime dispute between Kenya and Somalia

¹³ Ibid

¹⁴ Gesami, Brigid, and G. Kasembeli. "The East African Maritime Domain Dispute: The Case of Kenya and Somalia." *Academia Letters* (2021).

¹⁵ Shyam, Manjula R. "The UN Convention on the Law of the Sea and military interests in the Indian Ocean." *Ocean Development & International Law* 15, no. 2 (1985): 147–170.

¹⁶ Ochieng, Okoth Rockeen. "Kenya's Regional Foreign Policy and the Management of Its Border Disputes: A Case Study of Kenya-Somalia Maritime Dispute (2014-2019)." Ph.D. diss., United States International University-Africa, 2019.

countries when he addressed the 74th United Nations General Assembly. Somalia repeated the position of the African Union's (AU) Peace and Security Council that the AU has no authority to intervene in the ICJ issue. The court may conduct a boundary delimitation to decide where the maritime border lies, according to (UNCLOS).

Kenya feels that Somalia's decision to send the issue to the International Court of Justice (ICJ) is in poor taste and reflects a lack of respect for Kenya's commitment to post-war reconstruction and peace-building efforts in Somalia.¹⁷ Kenya's response to Somalia's intention to take the matter to the ICJ is appropriate in its larger political environment. However, according to International Relations Theory, notably realism theory, a state will prioritize its interests. The presence of natural resources in the contested region diminishes Kenya's support for Somalia during its chaotic period of conflict.

Since Mogadishu cut diplomatic ties and accused Nairobi of meddling in its internal affairs, Kenya and Somalia have had difficult relations. Kenyan President Uhuru Kenyatta met with the authorities of Somaliland, a breakaway area of Somalia that the central government does not recognize.¹⁸ Somalia's President Mohamed Abdullahi Mohamed Farmaajo has summoned his ambassador to Mogadishu, replacing Kenya's envoy. Kenya has consistently denied any intervention, arguing that Farmaajo uses it as a scapegoat to gain political points in Somalia. This past dispute has ruined the relationship between Somalia and Kenya, accelerating the maritime dispute.

¹⁷ Gesami, Brigid, and G. Kasembeli. "The East African Maritime Domain Dispute: The Case of Kenya and Somalia." *Academia Letters* (2021).

¹⁸ Turton, Edmond R. "Somali resistance to colonial rule and the development of Somali political activity in Kenya 1893–1960." *The Journal of African History* 13, no. 1 (1972): 119–143.

The court decided how the disputed area would be settled on October 12, 2021. While the court awarded Somalia the majority of the disputed territory, it relocated a portion of the border north, as Kenya requested.¹⁹ As has been the case with other nations over other boundary issues, Kenya has mainly rejected this verdict. Kenya has joined the US, the UK, and other countries in contesting the International Court of Justice (ICJ) judgments.

1.2 Problem Statement.

There has been tensions between Somalia and Kenya since the colonial era when the maritime problem threatened a smooth flow of economic development in the Horn of Africa. The seriousness of the disputes took charge in 2014 when Somalia laid the case with the International Criminal Court (ICJ) and blamed Kenya for breaching the sea territorial boundary. The area under dispute is an offshore distance of about 100,000 km squared. Kenya has gathered claim over the maritime section due to a 1979 declaration. Somalia is out to see that the international court of justice is according to the United Nations Convention on the Law of the Sea.

The dispute between the two countries has significantly impacted the economic situation in the Horn of Africa and Africa at large. Shipping lines plying the Kenya-Somalia coastline continue to avoid the contentious zone. This is because the zone is mostly unpoliced, making it vulnerable to instability and piracy. Ships and Fishing vessels with fishing licenses must stay 100 nautical

¹⁹ Okumu, Wafula. "Resources and border disputes in Eastern Africa." *Journal of Eastern African Studies* 4, no. 2 (2010): 279–297.

miles north of the disputed area while approaching the Kenyan seas for security concerns. As a result, there is a tremendous economic loss as the ships take longer to arrive in Kenya.²⁰

Oil, gas, and marine life, especially tuna, are among the resources present in the disputed area. While small-scale fishing will continue supporting coastal communities' livelihoods, large-scale commercial endeavors will not occur in such a stressful and uncertain environment. Even worse, neither of the two countries will exploit the gas or oil reserves. This means that both countries have to forego a very important source of income due to the dispute.

Tensions and uncertainty on the maritime border between the two countries have severely damaged the diplomatic relations between the two countries. The average trade between the two countries has suffered, particularly in the miraa industry and air transport. This is because Somalia has been one of the biggest markets for Kenyan miraa, leading to a loss of income. Due to the bad diplomatic relations, Kenya, at some point, threatened to close down one of the biggest refugee camps, which mainly consists of Somalian refugees. This decision would have affected a large number of refugees.

After the conflict started, some measures were put into place to come to a conclusion, one of which was filing a case at the International Court of Justice (ICJ). This was, however, faced with a challenge as Kenya preferred the issue to be settled out of court. Somalia, however, ruled out the possibility of an out-of-court solution. Kenya also argued that the decision from the court would have been biased due to the participation of Judge Abdulqawi Yusuf, a citizen of Somalia. This process, in the end, bore no fruits as Kenya declined to honor the decision made by the court.

²⁰ Gathoni, Mary. "Use of Social Media for Fundraising by Non-Governmental Wildlife Conservation Organizations in Karen." Ph.D. diss., Daystar University, School of Communication, 2020.

Therefore, there is a need for empirical research on the impact of Kenya Somalia maritime dispute on economic development, which provides both opportunities and challenges for developing African economies.

1.3 Research Questions

1. What are the social economic implications of Kenya-Somalia Maritime dispute on Kenya?
2. What is the international community's role in addressing the Kenya-Somalia maritime dispute?
3. What are the key challenges faced in addressing the key challenges faced in addressing the Kenya-Somalia Maritime dispute?

1.4 Objectives of the study

1. To investigate the social economic implications of Kenya-Somalia Maritime dispute on Kenya`s socio-economic development.
2. To identify and examine the contribution of the international community' towards addressing the Kenya-Somalia maritime dispute
3. To investigate the key challenges faced in addressing the Kenya-Somalia Maritime dispute.

1.5 Literature Review

This section reviews the relevant literature used in supporting the study. This comprises both the theoretical and relevant empirical literature.

1.5.1 Theoretical Literature review

Many theories and concepts have been put out to shed light on the nature of disputes and methods for managing them. There are numerous theories that describe the nature of conflict and different methods for managing or resolving it. This study however makes use of the conflict transformation theory. The theory has been promoted by John Paul and Johan Galtung, and its main goal is to transform the negative conflict energy into good change in all sectors that are affected. It aims to address the social, economic, and political roots of conflict.²¹

This thesis establishes that modern disputes shouldn't be evaluated just in terms of identifying win-win resolution scenarios. Instead, it is crucial to see the current conflict as having complex and multiple structures and relationships that go beyond the conflict itself. The main objective of such a strategy is to move warring parties away from a protracted and harmful relationship and toward "constructive accommodation" amongst or among them. The aim of this theory is to analyze and comprehend a conflict from all angles, to alter the frameworks and structures that promote inequality and injustice, to rebuild and establish lasting relationships between the parties, and to develop systems, rules, and procedures aimed at ensuring the sustainability of peace and cooperation.

Both structural-behavioral and subjective-attitude properties are present in transformation. From a structural perspective, the change involves modifications in a variety of behaviors along with focus to mutual dependency.²² Subjectively, the parties' attitudes and beliefs shift as they move toward mutual acceptance. The theory makes the assumption that conflict is always the result of conflicting social, cultural, and economic issues. The denial of fundamental necessities, security,

²¹ Lederach, J. P., & Appleby, R. S. (2010). Strategic peacebuilding: An overview. *Strategies of peace: Transforming conflict in a violent world*, pp 44.

²² Conroy-Krutz, Jeffrey. "Information and ethnic politics in Africa." *British Journal of Political Science* 43, no. 2 (2013): 345

economic growth, and governance causes a conflict to prolong. This theory also places a strong emphasis on a conflict's dynamic analysis in terms of structure and relationships. It therefore suggests that modern conflicts may extend, widen, or worsen. The dispute expands to include new problems, widens to include new sides, and intensifies to include more victims. As a result, there are newer structures, characters, circumstances, alliances, and partnerships.

The Kenya and Somalia maritime dispute started out as simply a territorial dispute but over the years many problems have emerged due to the dispute. The pirate problem at the coast of Somalia which is a major zone for shipping activities is a major concern. This is mainly as a result of the disputed maritime zone being unpoliced as neither of the two countries has control over the region. This security issue also extends to the interior of both countries as criminals use the disputed area as a pathway for illegal guns which later end up in both countries causing a lot of security concerns. The resolution of the dispute is therefore very essential and should be properly analyzed and all the contributing factors considered in order to ensure that the dispute is permanently resolved.

1.5.2 Empirical Literature Review

1.5.2.1 Social economic implications of Maritime dispute

Many maritime boundary disputes have been experienced around the world. Some of the conflicts have been resolved, but some are still unresolved up to date. Territorial disputes have historically been the primary reasons for conflicts among nations. Asia has had more maritime and territorial disputes since 1945 than any other continent.

In 2010, Russia and Norway settled on a boundary in the Arctic that would run from the Eurasian mainland toward the North Pole. The new 1087-mile border concerning the countries was

heralded as a harbinger of a fresh 'period' in Russia-Norway ties and Arctic administration. Pundits however were quick to conclude that the availability of gas and oil riches was the fundamental motive for the boundary agreement.²³

However, a decade later, it is improbable that Russia and Norway would be able to reach a settlement. 'There must be confidence between the negotiation partners,' said the former Norwegian foreign minister while outlining some aspects that led to the accord. Following Russia's takeover of Ukraine in 2014, bilateral ties had deteriorated to the point that they resembled those of the Cold War when both countries were on conflicting sides in the greater 'East West' struggle.

Japan has had three long-running maritime and territorial claims with its nearest neighbors, Korea, China, and the Russian Federation. The three conflicts have separate beginnings and have nothing to do with one another. The disputes are over relatively modest swaths of land and ocean. In the last ten years, disagreements have become increasingly linked to the disputants' economic progress and national interests. As a result, they are harmful and must be treated. The maritime delimitation of the East China Sea and the legal title to the Senkaku islands are at the heart of the dispute between China and Japan. A separate controversy involves the validity of Okinotoshirima, a Japanese island in the Pacific Ocean.²⁴

²³ Østhagen, Andreas. "Maritime boundary disputes: What are they and why do they matter?." *Marine Policy* 120 (2020): 104118.

²⁴ Schoenbaum, Thomas J., ed. *Peace in Northeast Asia: resolving Japan's territorial and maritime disputes with China, Korea, and the Russian Federation*. Edward Elgar Publishing, 2008.

Because China and Japan are two of the world's most significant oil and gas users, the substantial oil and gas resources in the contested area would benefit both countries economically, allowing them to stop importing items from other countries. However, there are simply economic and logistical reasons why China's oil and gas reserves are more valuable than Japan's. In the case of gas, which appears to be the most abundant resource in the contested area, Japan imports gas solely from liquefied natural gas, necessitating the construction of a sizeable land-based gasification plant.

This would need the construction of a pipeline, which would be uneconomical since it would have to run nearly 2000 kilometers from the gas sources to reach Japan's major cities. In the case of oil, sentiments are more divided because produced oil could have been transported more easily into tankers. However, using the existing Chinese pipeline structure to the mainland would be less expensive.

China's activities in the East China Sea have backfired, jeopardizing relations with a crucial ally. First, as previously said, China's actions have affected its image in the eyes of the Japanese. Although China's popularity rose to 26.3 percent in 2011, it has since fallen to 18 percent, the lowest level in decades. Despite this, Chinese leaders have made an increasingly impossible effort to maintain a steady, non-hostile relationship with Japan. Japanese support for the US rose from 78.9 percent in 2009 to 84.5 percent, the highest level ever recorded. The US and Japan upgraded their strategies to protect the islands against attack in March 2013.

Due to its colonial and post-colonial history, several territorial disputes over land and maritime boundaries have been experienced in Africa. Socioeconomic benefits have encouraged African countries to exploit natural resources in marine overlap zones. Unresolved disputes mark Africa's

maritime borders. The government's ability to exploit natural resources may be compromised due to the time and money required to resolve these concerns. For example, the maritime dispute between Somalia and Kenya, prosecuted at the ICJ, shows the continent's commitment to a nonviolent agreement.

The June 1975 Maroua Declaration, which Cameroon identified as one of three international legal documents outlining the first part of the maritime boundary between both nations, was not considered by the court in Nigeria's defense. The Declaration was recognized as a legally binding international agreement that traced a line subject to international law by the ICJ. The Law of Treaties discussed in the Vienna Convention of 1969 determined that the expressed declaration qualified as a treaty.

The court held that the existence of Sao Tome and Principe and Equatorial Guinea in the Gulf of Guinea does not prevent them from controlling the maritime boundary between Nigeria and Cameroon. On the other hand, Cameroon's claims were dismissed as they would impair the rights of Sao Tome and Principe and Equatorial Guinea. The court's ultimate verdict brings joy and pain because it enriches some people's lives while jeopardizing others. This explains the intense outbursts of Nigerians from all walks of life, including government officials.

The biggest cause of conflict between Somalia and Kenya is the Maritime Borderline. Kenya argued that the boundary should run in a latitudinal line and make a 45-degree turn on the shoreline, while Somalia argued that the border should run parallel to the land.²⁵ Natural riches in the disputed area are at the heart of Kenya's maritime conflict with Somalia. Oil, gas, and marine

²⁵ Sabala, Kizito. "Kenya v. Somalia Maritime Dispute: ICJ Judgement and Implications for Kenya-Somalia Relations."

life, notable tuna, are among them. The region is a very important location for the expansion of shipping activities. Small-scale fishing continued to provide a living for coastal communities but large-scale commercial endeavors could not happen in such a hostile and uncertain environment. And to make matters worse, neither of the two nations would use the oil or gas deposits. This means that both Kenya and Somalia had to miss out on an important source of income due to the dispute.

Diplomatic ties between Kenya and Somalia also worsened due to the maritime dispute. Since Mogadishu severed diplomatic ties with Nairobi and accused Nairobi of interfering in its domestic affairs, relations between the two countries have been tight. The politicians of Somaliland, a breakaway territory of Somalia that is not acknowledged by the central government, have met with Kenyan President Uhuru Kenyatta. Somalia's president summoned his own ambassador in place of Kenya's representative in Mogadishu. Kenya has consistently denied meddling, claiming Somalia's president is making it the scapegoat in order to score domestic political points.²⁶

The relationship deteriorated further after the ICJ's decision in their maritime dispute. However, neither Somalia nor Kenya pledged to expel their ambassadors or sever diplomatic ties after the court's decision. However, both parties are anticipated to react once the reality of the judgment has set in and the implications have been considered. Meanwhile, the absence of these steps suggests that a post-verdict conversation is possible. However, bringing them to the negotiating table will be more complicated if the two countries choose to cut ties.²⁷

²⁶ *ibid*

²⁷ *ibid*

1.5.2.2 The Role of International Community in Addressing Maritime Dispute

Nicaragua initiated legal proceedings against Colombia in 2001 in order to establish the sovereignty over the Providencia, San Andrés, and Santa Catalina islands. Additionally, it asked the ICJ to identify the location of a single maritime line that would divide Colombia's and Nicaragua's continental shelf from their exclusive economic zones. The International Court of Justice (ICJ) was formed as the judicial arm of the United Nations Security Council (UNSC) and began operations in April 1946. The court made a decision on December 13th, 2007, that affirmed its authority to resolve the conflict.²⁸

Following open hearings, a new judgment was made on 19th November 2012 finally deciding the arguments raised in 2001. It overwhelmingly endorsed Colombia's sovereignty over all the islands, designated Nicaragua as the beneficiary of the single maritime boundary, and rejected Nicaragua's claim to the extended continental shelf. The world community is very interested in this long-awaited verdict because of its topic and its geographical implications. Following the 2012 ruling, Nicaragua filed a fresh lawsuit against Colombia just before that country officially renounced the Pact of Bogota.²⁹

The ICJ handed down its final ruling on the marine and land boundary disagreement between Nigeria and Cameroon over the Bakassi Peninsula on October 10, 2002, in The Hague.³⁰ Cameroon filed the case on March 29, 1994, which lasted eight years. The ICJ drew the border

²⁸ Tassin, Virginie JM. "Territorial and Maritime Dispute (Nicaragua v. Colombia), 2001." In *Latin America and the International Court of Justice*, pp. 247-258. Routledge, 2016.

²⁹ *ibid*

³⁰ Baye, Francis. "Implications of the Bakassi conflict resolution for Cameroon." *African Journal on Conflict Resolution* 10, no. 1 (2010).

between Cameroon and Nigeria, from Lake Chad to the ocean, and commanded each side to remove all governmental, armed forces, and law enforcement personnel from the other party's control areas.³¹

The ICJ also drew the border between Cameroon and Nigeria. The border between the two countries' territories was defined by treaties signed during the colonial era, and this decision supported the validity of those agreements. It also rejected Nigeria's historical consolidation theory and, as a result, refused to consider Nigeria's effectivits. It was decided that these effectivits could not triumph over Cameroon's traditional titles without Cameroon's consent.

The international community, including the United Nations (UN), has closely monitored the ongoing "maritime dispute between Somalia and Kenya." In 2008, following a request by the Somali government, the UNSC Permanent Representatives meeting met with representatives of the two countries on March 1st regarding the dispute surrounding their common territorial waters³². This was followed by another meeting in April 2012 in Geneva. Again, Somalia requested the UNSC to hear their side of the story. At the same time, Kenya demanded that Somali assertions be dismissed as they were both simply asking for recognition of their respective rights.

Despite a Memorandum of Understanding (MOU) governing their operations in the disputed area, Kenya was sued by Somalia for infringing on its maritime jurisdiction in 2014. Somalia ruled out the possibility of an out-of-court solution, despite Kenya's objections to using the International Court of Justice (ICJ) to settle the dispute. In addition, Somalia filed a claim with

³¹ Udombana, Nsongurua J. "The Ghost of Berlin Still Haunts Africa! The ICJ Judgment on the Land and Maritime Boundary Dispute between Cameroon and Nigeria." *The ICJ judgment on the land and maritime boundary dispute between Cameroon and Nigeria* (2002): 13.

³² Ibid

the Court for damages against Kenya, alleging that the latter's activities in the area violated its territorial integrity and sovereignty. According to Somalia, the direction of the two nations' shared boundary should be considered while determining the line of measurement for maritime areas. On the other hand, Kenya asserts that the marine border measuring line should be drawn horizontally and not in accordance with the direction of the two nations' shared land border.

On October 12, 2021, a 14-member panel in The Hague handed down a judgment after seven years since Somalia presented the case to the ICJ for resolution.³³ This was after failed bilateral talks between both governments to resolve the conflict. According to the Court's decision, the boundary would not be defined as a parallel line of latitude but on a line of equidistance.³⁴ The old maritime border, which followed a line of parallel latitude eastward, included a substantial portion of the territory that Kenya claimed under that boundary, which must now follow a line of equidistance. In essence, the ruling splits the contested area almost evenly between the territorial claims of the two parties. If this verdict is implemented, Kenya will lose its control over this region, which it has possessed for years. Kenyan fishermen, marine biologists, sailors, and mariners can operate freely in this area. Additionally, it suggests that the ports of Lamu and Mombasa would become less desirable to foreign ships. The decision will have far-reaching security, socioeconomic, and political implications for regional and international relations.³⁵

The judgment was mainly in Somalia's favor. In essence, the decision says that, following a presidential decree, Kenya will give up a section of the ocean under dispute that it has been

³³ Dugard, Jackie, Bruce Porter, Daniela Ikawa, and Lilian Chenwi, eds. *Research Handbook on Economic, social and cultural rights as human rights*. Edward Elgar Publishing, 2020.

³⁴ Sabala, Kizito. "Kenya v. Somalia Maritime Dispute: ICJ Judgement and Implications for Kenya-Somalia Relations."

³⁵ Hyde-Price, A. (2012). *The Future of the European Security System*. *Studia Diplomatica*, 65(1), 127-139.

controlling since 1979. This is precisely why Kenya unequivocally indicated that it will not comply with the verdict. Kenya noted that the ruling directly favored one nation over the other, leading to regional unrest.³⁶

1.5.2.3 Challenges faced in addressing maritime dispute

China's naval activities in Southeast Asia has restrained its relationship with neighboring states regarding maritime zones resulting to a dozen of disputes.³⁷ China made several aggressive claims of ownership via its nine-dash. This has worsened the country's relations with Japan, the United States, Philippines and Vietnam. Furthermore, the state eschewed efforts made by international tribunals attempting to solve its maritime disputes.³⁸ For instance, China failed to take part in its case against Philippines at the Permanent Court of arbitration (PCA). China's self-interests have been a big hindrance towards resolving the maritime disputes with its neighbors. Since China believes it should have control over the dispute areas it occasionally fails to support all efforts made to resolve the disputes.

On March 29, 1994, Cameroon submitted a petition to the International Court of Justice (ICJ) asking it to rule the sovereignty dispute between Cameroon and Nigeria about the Bakassi Peninsula, rich in oil, and a piece of land near Lake Chad.³⁹ Additionally, Cameroon requested that the court define the sea and land borders between the two countries and order the immediate

³⁶ Kadagi, Nelly Isigi, Ifesinachi Okafor-Yarwood, Sarah Glaser, and Zachary Lien. "Joint management of shared resources as an alternative approach for addressing maritime boundary disputes: the Kenya-Somalia maritime boundary dispute." *Journal of the Indian Ocean Region* 16, no. 3 (2020): 348-370.

³⁷ Bradford, Lieutenant John F. "The growing prospects for maritime security cooperation in Southeast Asia." *Naval War College Review* 58, no. 3 (2005): 63-86

³⁸ Walker, Jeremy, and Daryanmel. *More heat than life: The tangled roots of ecology, energy, and economics*. Palgrave Macmillan, 2020.

³⁹ Bekker, Pieter HF. "Land and maritime boundary between Cameroon and Nigeria (Cameroon v. Nigeria; equatorial Guinea intervening)." *American Journal of International Law* 97, no. 2 (2003): 387-398.

and complete evacuation of Nigerian forces from what it claimed to be Cameroonian territory in the disputed areas.

On October 10, 2002, the court decided that Cameroon was the rightful owner of the Bakassi Peninsula and the surrounding area of Lake Chad. The Court established the territorial boundary from Lake Chad in the north to the Bakassi Peninsula in the south by a large majority, upholding the legality of the colonial agreements cited by Cameroon. The Court agreed with Nigeria that the equidistant line between the two states created a fair result when determining the section of the maritime boundary between the two states over which it had jurisdiction. The location of the spot off the coast of Equatorial Guinea, where the maritime border between Cameroon and Nigeria ends, was not specified.⁴⁰The court process took 8 years which is a very long time for a country to forego important resources due to a dispute. This is because both Cameroon and Nigeria could not utilize the resources present in the disputed area as the case was ongoing and this clearly shows that the prolonged court case was a problem.

Somalia launched a lawsuit in the International Court of Justice (ICJ) against Kenya on August 28, 2014, over a marine space delimitation conflict that the two nations contend exists in the Indian Ocean. The lawsuit of the ICJ marked the conclusion of Kenya's and Somalia's failed diplomatic attempts.⁴¹ During the negotiations leading up to the complaint filing, each government accused the other of acting in bad faith and with ulterior purposes. Somalia claimed Kenya was to blame for the failure in talks to settle the dispute amicably, while Kenya claimed Somalia had broken the MOU. Kenya stated that Somalia presented gas and oil blocks within the

⁴⁰ Ibid

⁴¹ Pamba, Edmond J. "The Kenya-Somalia Maritime Boundary Dispute Threatens Kenya's Regional Transport and Logistics Hub Ambitions." (2019).

disputed maritime space for auction during the London Oil and Gas Auction on February 16, 2019.

The International Court of Justice (ICJ) was formed as the judicial arm of the United Nations Security Council (UNSC) and began operations in April 1946.⁴² During the hearing, the ICJ dismissed Kenya's assertion that they had agreed on a maritime boundary with Somalia, instead proposing a line that would divide the contested territory in two. On October 12, 2021, a 14-member panel in The Hague (the Netherlands) handed down a judgment after seven years since Somalia presented the case to the ICJ for resolution. This was after failed bilateral talks between both governments to resolve the conflict. According to the court's decision, the boundary would not be defined as a parallel line of latitude but as a line of equidistance. The old maritime border, which followed a line of parallel latitude eastward, included a substantial portion of the territory that Kenya claimed under that boundary, which must now follow a line of equidistance.⁴³

In essence, the ruling splinted the contested area almost evenly between the territorial claims of the two parties. If this verdict is implemented, Kenya will lose control over this region, which it has possessed for years. Kenyan fishermen, marine biologists, sailors, and mariners can operate freely in this area.⁴⁴ Additionally, the ports of Lamu and Mombasa would become less desirable to foreign ships. The decision will have far-reaching security, socioeconomic, and political implications for regional and international relations.

⁴² Fendi, Pasar Abdulkareem. "Role of the United Nation Security Council in Resolving International Disputes." *Turkish Journal of Computer and Mathematics Education (TURCOMAT)* 12, no. 2 (2021): 269-278.

⁴³ Prescott, Victor, and Gillian D. Triggs. *International frontiers and boundaries: Law, politics, and geography*. Brill, 2008.

⁴⁴ Gillott, Roger. "The Principle of Non-Encroachment: Implications for the Beaufort Sea." *Canadian Yearbook of International Law/Annuaire canadien de droit international* 32 (1995): 259-278.

The judgment was mainly in Somalia's favor. In essence, the decision says that, following a presidential decree, Kenya will give up a section of the ocean under dispute it has controlled since 1979.⁴⁵ This is precisely why Kenya indicated unequivocally that it will not comply with the verdict. Kenya noted that the ruling directly favored one nation, leading to regional unrest.⁴⁶ The judgment does not exclude the two countries from discussing and reaching an agreement. Suppose the status quo persists, as seen by Kenya's and Somalia's reactions to the verdict. In that case, it will be easier to harness these resources with a mutually approved agreement and an understanding between the governments. It indicates that the 1999 maritime boundary delimitation debate will linger indefinitely, with severe strategic repercussions.

In the end, the International Court of Justice's decision would be enforceable only if both parties respect and agree to abide by it. Kenya's refusal to comply could result in a restart of the situation. The only body with the authority to utilize coercive diplomacy to uphold court rulings in this situation is the United Nations Security Council.⁴⁷ Given Kenya's withdrawal from the complaint, there are limited chances that the Security Council will step in. Kenya stressed that although its case has clear grounds, procedural injustice has raised questions about whether natural justice will be served. Kenya affirms that Somalia shouldn't be criminally charged because of its neighbor's expansionist policies.⁴⁸

⁴⁵ Tipis, John. "The Somali conflict and Kenya's foreign policy: a critical assessment." Ph.D. diss., University of Nairobi, Kenya, 2012.

⁴⁶ Kadagi, Nelly Isigi, Ifesinachi Okafor-Yarwood, Sarah Glaser, and Zachary Lien. "Joint management of shared resources as an alternative approach for addressing maritime boundary disputes: the Kenya-Somalia maritime boundary dispute." *Journal of the Indian Ocean Region* 16, no. 3 (2020): 348-370.

⁴⁷ Von Einsiedel, Sebastian, David M. Malone, and Bruno Stagno Ugarte. "The UN Security Council in an age of Great power Rivalry." Tokyo: United Nations University Working Paper 4 (2015).

⁴⁸ Chan, Kai-chieh. "The ICJ's Judgement in Somalia v. Kenya and Its Implications for the Law of the Sea." *Utrecht J. Int'l & Eur. L.* 34 (2018): 195.

1.5.3 Literature review gap

From the above review, the empirical evidence that Kenya- Somalia Maritime has a significant impact on Africa's economic development both positively and negatively to the Horn of Africa, the conflict is further complicated by the self-interest of nation states both regionally and internationally.⁴⁹ The few studies reviewed have identified positive and negative impacts depending on which side of the divide they represent or support. However, other scholars have not adequately addressed the economic impact emerging from the maritime conflict. On the other hand, the challenges experienced in resolving the root causes of the maritime dispute are yet to be explored in totality as the conflict continues to persist; this study will seek to cover the gap in the literature.

1.6 Hypothesis

This study must test the following hypothesis.

1. There is a significant impact on the social and economic implications of the Kenya-Somalia Maritime dispute in Kenya.
2. There is no significant impact of the social economic implications of Kenya-Somalia Maritime dispute on Kenya.

1.7 Justification of the study

1.7.1 Policy justification

The African continent has not developed a consistent and coherent strategy under which to tackle the colonial maritime boundaries, and nation-states have been driven by self-interest when such disputes occur. The lack of harmonized policies in resolving colonial boundary disputes has left

⁴⁹ Marsai, Viktor, and Máté Szalai. "The "Borderlandization" of the Horn of Africa in Relation to the Gulf Region, and the Effects on Somalia." *Journal of Borderlands Studies* (2021): 1-20.

nation-states exposed to long protracted disputes that adversely affect the diplomatic relations of nation-states and, in turn, impact the region's economic development.

For this reason, Kenya and Somalia have been criticized for selfish motives that put their economic interests ahead of the continent's economic development priorities. Therefore, the two neighboring countries must develop sound policies, reform existing agreements, and clear strategies for the rule of engagements and cooperation. With clear policies in place, it will enable policymakers from Kenya and Somalia to make clear decisions in resolving the maritime dispute and guide their investors on what key and priority areas to invest in to spur economic development for the region.

This study informs the two countries on the importance of good diplomatic relations when resolving disputes. The study also informs on the importance of dialogue as a way of reaching an agreeable conclusion that puts an end to the conflict permanently.

1.7.2 Academic justification

The recent Kenya- Somalia relations that have led to the worsening of diplomatic ties of the African nation states in the recent past have caused a much-heated debate and have drawn a lot of attention amidst mixed reactions from both the academic and media platforms. Some scholars believe that external interest by some first world countries is a key driver of maritime disputes as they seek to promote their interest in exploiting African natural resources without any significant benefits to Africa, undermining Africa's potential to industrialize and threatening the future capacity and sustainability of African development.⁵⁰ However, some argue that the future of

⁵⁰ (Alden, C. (2005). China in Africa. *Survival*, 47(3), 147-164).

Africa's economic development lies with the African continent's ability to seek local conflict resolution mechanisms in a bid to enhance cooperation and intra-African trade.

As a result of this divergent opinion, scholars and researchers have no settled opinion on the solutions to colonial boundary disputes. Therefore, there is a need for scholars and researchers to pay more attention to this engagement, with more focus on economic development agendas and policies in order to add to the limited literature review as well as form a basis for further related research.

1.8 Theoretical framework

This section presents the theory upon which this study has been premised as outlined below.

1.8.1 Functionalist theory

This study adopts functionalist theory, which advocates that everything is functional and cannot be dispensable.⁵¹ The functionalist theory aims to clarify the factors that enable a civilization to thrive over time. The basis of this theory is that all cultures desire peace and stability. Because instability and confusion would interfere with their daily lives, society does not want them. Therefore, order and some kind of discipline are a necessity in all communities. These are the ways to bring about social stability.⁵²

The functionalists see society as a complex organism made up of several elements. These components function together as a unit and are integrated into the whole. The human body is a multi-part creature with many sophisticated elements. Although each of these pieces is distinct, together they make up an integrated unit. Similar to how various components have distinct roles

⁵¹ Kalu, Kalu N. A functional theory of government, law, and institutions. Rowman & Littlefield, 2019.

⁵² Farooqi, Saif R. "Unit-5 Functionalism."

in a society. If we consider society as a whole, we will find that each of these elements has a function in maintaining the stability of the whole. In other words, they aid in societal integration. We discover, for instance, that people engage in a variety of jobs and interests.⁵³

Doctors, attorneys, educators, employees, business owners, farmers, weavers, etc. are among the professions. Even though these activities vary, they are all necessary for society to function. They can therefore be seen as different components that operate together to integrate the society. Therefore, it is clear that the functionalist perspective believes that each part of the social structure has a specific purpose that is essential for preserving the stability of that society. The survival of the society depends on these activities. As a result, a society's stratification structure is essential for its stability and integration.⁵⁴

The Kenya-Somalia conflict bears indispensable realities because the outcome is essential due to the many impacts the dispute has had on both countries that are economically and socially. Security of social and economic dynamism has given states of Africa room to explore natural resources across maritime overlaps. However, according to Kadagi et al., the maritime boundaries of Africa have characteristics of disputed claims yet to reach a resolution.⁵⁵ There have been tensions between Somalia and Kenya since the colonial era when the maritime problem posed a threat to a smooth flow of economic development in the Horn of Africa. The seriousness of the disputes took charge in 2014 when Somalia laid the case with the International Criminal Court (ICC) and blamed Kenya for breaching the sea territorial boundary. The area under dispute is an offshore distance of about 100,000 km squared. The situation was based on

⁵³ *ibid*

⁵⁴ *ibid*

⁵⁵ Kadagi, Nelly Isigi, Ifesinachi Okafor-Yarwood, Sarah Glaser, and Zachary Lien. "Joint management of shared resources as an alternative approach for addressing maritime boundary disputes: the Kenya-Somalia maritime boundary dispute." *Journal of the Indian Ocean Region* 16, no. 3 (2020): 348–370.

the foundation that the two countries would recognize the obligation of the international court regarding clause declarations.⁵⁶ Kenya has gathered claim over the maritime section due to a 1979 declaration. Somalia is out to see that the international court of justice is according to the United Nations Convention on the Law of the Sea.

The dispute between the two countries has significantly impacted the economic situation in the Horn of Africa and Africa at large. Expert opinions have been matched with a review of sources documenting disputes and maritime areas.⁵⁷ Results have indicated the possibility of piracy along the Somalia coastline because of the continuous dispute combined with the failure of Somalia as a government.

The Somali government has been unstable for about thirty years due to an internal war for leadership, which has increased the maritime territory's vulnerability and the surrounding for piracy and water-related wars and theft.⁵⁸ Sources indicate that the stretch between 2007 and 2012 saw the piracy levels in Somalia rise to their peak by registering 237 attacks. Most of it occurred across the Gulf of Aden, the Red Sea, and the Arabian Sea every day. The possibility of Kenya losing the maritime territory to the government of Somalia after a positive ICJ judgment combined with the wanting state of security preparedness is likely to negatively impact the security apparatus. The conflicting situation is also pooled with other transnational crimes from organized groups within the maritime territory. Somalia is also located at a strategic place within the trade route that oversees about 40% of worldwide trade.⁵⁹ Further, Somalia's economy is free

⁵⁶ Gunawan, Yordan, Andi Agus Salim, Ewaldo Asirwadana, and Satya Bayu Prasetyo. "Perspective of International Law On Maritime Dispute: Case Between Kenya And Somalia." *Jurnal Hukum* 37, no. 2 (2021): 69-84.

⁵⁷ Gathoni, Mary. "Use of Social Media for Fundraising by Non-Governmental Wildlife Conservation Organizations in Karen." Ph.D. diss., Daystar University, School of Communication, 2020.

⁵⁸ Reveron, Derek S., and Kathleen A. Mahoney-Norris. *Human and national security: Understanding transnational challenges*. Routledge, 2018.

⁵⁹ Panneerselvam, Prakash. "Maritime Security of Japan: Energy and Trade Route in Indian Ocean." *POLITICO*: 73.

and liberal, and there is no regulation of the flow of money because the country lacks a central bank. Some influential nations and individuals protect pirates and probably sponsor them. In addition, the capital city, Mogadishu, cannot control the entire country because of inadequate equipment to carry out the task.⁶⁰

In conclusion, resolving the maritime conflict between Kenya and Somalia has been time-consuming. Further, it is expensive, and spending on it might undermine the state's ability to successfully exploit natural resources.⁶¹ The case held by the ICJ gives an international outlook and commitment to finding a peaceful answer to the problem. Reframing the maritime dispute between the two countries gives a resolution process that may spill to fisheries management and diplomacy relations. For functionalism's sake, sharing the resources might be a possible solution to the overstretching problem between Kenya and Somalia maritime concern.⁶² It is possible to argue that the resolution of boundary disputes, as is the case of Kenya and Somalia's maritime situation, lies in the ability of Africa to consider settlements by motivating its countries to sustainably utilize natural resources.⁶³

1.9 Study Methodology

This section presents the methodology of the study that covers the research design, sources of data, population/sampling process, methods of data collection, methods of data analysis and data presentation.

⁶⁰ Ahmed, Abdoulaziz D. *Al-Shabaab's Reign of Terror in Somalia: Understanding Factors Contributing to the Group's Long-Term Survival in Somalia Since 2006*. US Army Command and General Staff College, 2020.

⁶¹ Kadagi, Nelly Isigi, Ifesinachi Okafor-Yarwood, Sarah Glaser, and Zachary Lien. "Joint management of shared resources as an alternative approach for addressing maritime boundary disputes: the Kenya-Somalia maritime boundary dispute." *Journal of the Indian Ocean Region* 16, no. 3 (2020): 348–370.

⁶² Ibid

⁶³ Mahajan, Roli. "Exploring Maritime Border Disputes using the Issues Approach: Comparative analysis of Ghana-Ivory Coast and Kenya-Somalia." 2021.

1.9.1 Research Design

The research design employed in the study is the field survey design.⁶⁴ Quantitative and qualitative research approaches were also used to meet the research's goals. These methods provided sufficient primary and secondary data from a substantial population and other authoritative quantitative and qualitative analysis sources. The study further utilized the applied research, employing an empirical approach to interrogate the interrelationship between the application of Kenya Somalia maritime dispute and economic development. A mixed method was used, necessitating the analysis of quantitative and qualitative data.

1.9.2 Study Location

Study location refers to a geography for which data is analyzed in a report or study.⁶⁵ The study was conducted at various points along the Kenya-Somalia borderline, especially in Kenya Defence Forces (KDF) camps. This is because the officers in those camps have been deployed in Somalia, especially along the coast and therefore provided very essential information about the maritime dispute and its impacts.

1.9.3 Target population

The target population can be defined as the total group of persons from which the study samples might be drawn.⁶⁶ These are the target research population that the researcher focused on in getting the primary data. They included KDF officers, residents bordering Somalia due to their

⁶⁴ Salkind, Neil J., ed. *Encyclopedia of research design*. Vol. 1. sage, 2010.

⁶⁵ Denzin, Norman K., and Yvonna S. Lincoln. 2017. *The Sage handbook of qualitative research*. https://nls.ldls.org.uk/welcome.html?ark:/81055/vdc_100045173335.0x000001.

⁶⁶ Daniel, Johnnie. 2012. *Sampling essentials: practical guidelines for making sampling choices*. Los Angeles: Sage.

exposure and knowledge of contemporary topics, and Kenya and Somalia embassy officials who will provide relevant information.

1.9.4 Sample for study

The sample for the study narrowed down to Kenya Defence Forces officers, Kenya and Somalia embassy officials, Kenya national bureau of statistics officers in order to capture the official data, and the Kenya Maritime Authority chamber of commerce, who provided accurate information in assessing the impacts of Kenya –Somalia Maritime dispute.

1.9.5 Sampling procedure

Simple random sampling was used for the staff from the ministry of industry, trade and cooperatives, and each member had an equal probability of being chosen. On the other hand, a simple random sample was meant to be an unbiased representation. Purposive sampling was appropriate for Somalia embassy staff and Kenya bureau of statistics staff because it made it possible to reach a targeted sample quickly, such as the chamber of commerce staff at the embassy. Convenience sampling was used for the academicians because the subjects were selected due to convenient accessibility and proximity to the researcher.

1.9.6 Sampling size

The sample size was calculated using the Fischer's formula as shown below.

$$n = Z^2 P (1-P) / I^2$$

Where:

n = Sample size [where population >10000]

Z = Normal deviation at the desired confidence interval. In this case it will be taken at 95%, **Z** value is therefore 1.96

P = Proportion of the population with the desired characteristic. In this case it will be taken as 50%.

I = Degree of precision; will be taken as 5%

$$\begin{aligned}n &= Z^2 P (1-P) / I^2 \\ &= 1.96^2 * 0.5[1 - 0.5] / 0.05^2 \\ &= 384.16\end{aligned}$$

Since the target population was < 10000, the sample was adjusted using the following formula:

$$nf = n / 1 + (n) / (N)$$

Where:

nf = The desired sample size for the population < 10000

n = the calculated sample size

N = the total population

$$nf = \frac{384}{1 + \frac{384}{1500}}$$

$$= \frac{384}{1 + 0.256}$$

$$= \frac{384}{1.256}$$

$$= 305.73 = 306$$

1.9.7 Sampling frame

Target group	Population	Sample size	Sampling technique
KDF officers	750	150	Simple random
Embassy officials	300	60	Purposive sampling
Kenya Maritime Authority officials	200	50	Convenience sampling
Kenya National bureau of statistics	250	46	Purpose sampling
Total	1500	306	

Figure 1.1 Target population, sample size and sampling technique

Source: Researcher, 2022.

1.9.8 Methods of Data Collection

The study's data collection methods covered document analysis and field methods. Document analysis was used to obtain data from secondary sources such as books, journals, newspapers, unpublished materials and the internet. The archival and library search methods of document analysis were utilized. This enabled the researcher to obtain adequate literature on the application of external debt to economic development and reach defensible conclusions as required concerning the research questions and objectives.

The field method was used to collect data from primary sources through unstructured interviews as well as the use of a questionnaire. Interviews were conducted among KDF officers through face-to-face encounters as they were easily accessible. The data was collected using written notes and also video and audio recording devices. They were conducted through face-to-face discussion to ascertain the opinions and assertions of resource persons. Information from Kenya

Maritime Officials was gathered through telephone as most of the respondents were inaccessible due to their locations in areas too far to reach. The data from the telephone was collected using written notes and audio recording devices. Questionnaires were administered to the embassy and the Kenya National Bureau of Statistics officials. The questionnaires contained closed and open-ended questions to further enrich the study. After the respondents completed filling the questionnaires they were collected for analysis. This was to ensure the reliability and validity of the study.

1.9.9 Validity of the Research Instruments

A validity test is an analysis that helps the researcher assess the research tools' accuracy and the truth of the results obtained. In this study, both content and face validity was used. Content validity involved consultations with the supervisors and research experts. Face validity involved checking for clarity of the questions to enhance the research instruments.

1.9.10 Reliability of the Research Instruments

The reliability of a research tool was characterized by its ability to consistently bring forth consistency of the findings over a prolonged period. The test and retest formula was utilized on the questionnaires to determine their reliability and consistency. To attain this, Cronbach coefficient alpha statistic with a cutline mark of 0.6 was administered. This coefficient of 0.6 has been considered reliable by scholars such as Best and Kahn.

1.9.11 Methods of Data Analysis and Presentation

The data collected during the study was analyzed qualitatively and quantitatively. Qualitative data from interviews were analyzed using content analysis to arrive at deductions that formed the

basis for the recommendations. Quantitative data was analyzed with percentages and the Statistical Package for the Social Sciences (SPSS).

The data for this study is presented in descriptive form. This is done with the aid of tables, graphs, charts, pictures, and appendices for clarity. In addition, information was presented sequentially in appendices leading to conclusions and recommendations.

1.10 Ethical considerations.

Ethics are important in research because they spell norms that guide any research activity, particularly how researchers gain authorization to collect data and the behavior expected from them in the field. Accordingly, the researcher acquired clearance letters from the National Commission for Science, Technology & Innovation (NACOSTI) and the University of Nairobi. During the data collection process, informed consent was the mainstream criterion of each respondent participating in the study. In addition, the researcher ensured that the respondents and the organizations were protected by keeping their identities and the information gathered confidential.

1.11 Limitations of the Study

The research was limited by the dearth of current data on the ongoing Kenya-Somalia maritime dispute due to the sensitivity of the diplomatic disquiet. This was solved through extensive interviews and discussions with resource persons. In this regard, information obtained through interviews and the administration of a questionnaire was utilized, as those interviewed had the statutory responsibility to have up-to-date information. In addition, the researcher faced the problem of reluctance to divulge information by some of the contractors interviewed. They feared the possibility of intimidation by government officials who might feel their lapses were

being exposed. This limitation was overcome by making the questionnaire anonymous and reassuring the respondents about confidentiality.

1.12 Chapter outline

Chapter One: This was an introductory chapter. Here, the background to the study, statement of the research problem, research questions and research objectives, the justification for the study, literature review, as well as identifying the gaps in the literature, the theoretical framework, hypotheses and research methodologies

Chapter Two: Looked into objective number 1 of the study: Investigating the social economic implications of Kenya-Somalia Maritime dispute on Kenya

Chapter Three: Was guided by objective number 2: To identify and examine the role of the international community in addressing the Kenya-Somalia maritime dispute

Chapter Four: Was anchored by objective number 3: To investigate the key challenges faced in addressing the key challenges faced in addressing the Kenya-Somalia Maritime dispute.

Chapter Five: This was the last chapter of the study. It contained a summary of findings, conclusion and recommendations.

CHAPTER TWO

SOCIAL ECONOMIC IMPLICATIONS OF MARITIME DISPUTE

2.1 Introduction

This chapter discusses the social and economic implications of the Kenya-Somalia maritime dispute. It focuses mainly on trade, diplomacy, fishing activities, national income, insecurity and piracy and the migration of people. The chapter starts by examining the demographic characteristics of the study.

2.1.1 The Study Demographic Characteristics

Vogt & Johnson in Connelly et al. describes demography as a field of study in which the researcher analyses the quantifiable statistics of a particular population.⁶⁷ This information is very important in this research because it describes the composition of the targeted population in terms of factors such as age and gender.

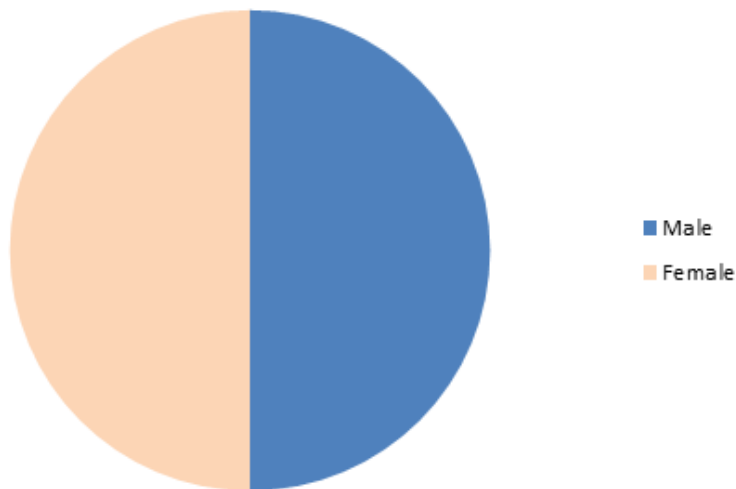


Figure 2.1 Gender

Source: Field Data 2022

⁶⁷ Connelly, Lynne. "Demographic data in research studies." MLA 8th edition. MedSurg nursing, 2013. Gale academic one file.

The study involved the participation of different genders from the targeted population so that the researcher can understand how different gender groups are affected differently by the social and economic issues associated with the maritime dispute. The researcher gave both male and female respondents equal opportunities to have conclusive information on how either gender is affected. There was a selection of an equal number of males and females to avoid bias. From figure 2.1 above, 50% of the respondents were male, while 50% were female.

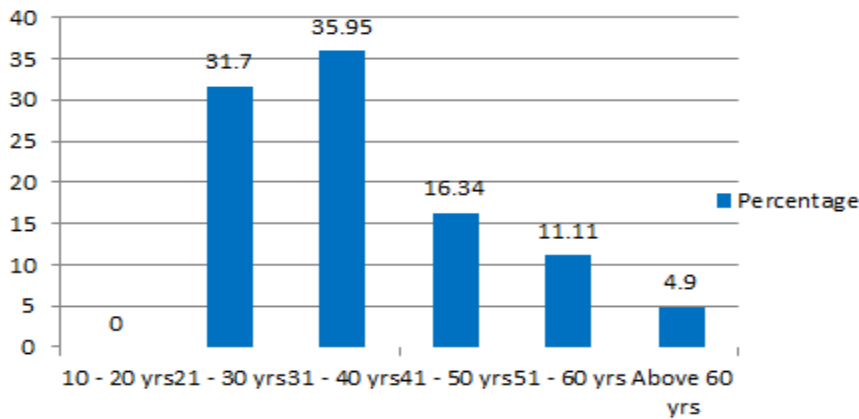


Figure 2.2 Age Bracket

Source: Field Data 2022

The analysis of the age bracket in this study was captured because the researcher could tell how different age groups are affected socially and economically by the maritime dispute. As a result, the study observed that most respondents were between the ages 31 years to 40 years hence 35.95% of the respondents. 31.7% were between the age of 21-30 years; 16.34 % were aged 41 - 50 years, 11.11% were between 51-60 years, and finally, 4.9% were above 60 years.

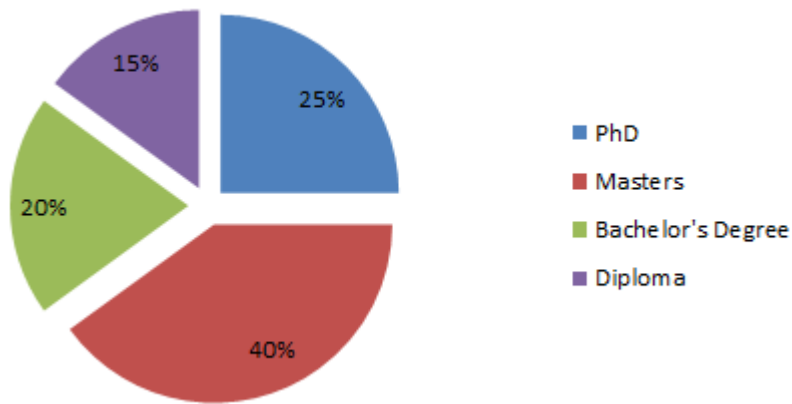


Figure 2.3 Level of Education

Source: Field Data 2022

This study comprised people who hold various awards such as a Ph.D. (25%), Master's (40%), Bachelor's Degree (20%), and Diploma (15%). Most respondents (40%) had a master's degree. The rationale for this choice was that such respondents possessed sufficient knowledge about our topic under research and because they were easily accessible.

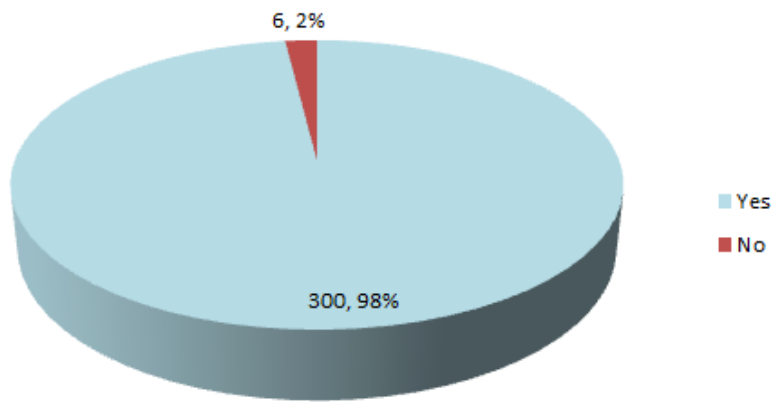


Figure 2.4 Awareness of the Maritime Dispute

Source: Field Data 2022

2.2 Diplomacy

Recent years have seen a deterioration in the two nations' diplomatic ties. Things got worse when each nation's ambassador was called in June 2021, when Kenya reopened its Mogadishu embassy. Diplomatic ties between Kenya and Somalia deteriorated further after the ICJ's decision in their maritime dispute. Neither Somalia nor Kenya pledged to expel their ambassadors or sever diplomatic ties after the court decision. Both parties are anticipated to react once the reality of the judgment has set in and the implications have been considered. Meanwhile, the absence of these steps suggests that a post-verdict conversation is possible. However, bringing them to the negotiating table will be more complicated if the two countries choose to cut ties.⁶⁸ Kenya's participation and role in African Union Mission in Somalia (AMISOM) could be jeopardized as the case against Somalia is lost. Kenya does, however,

⁶⁸ Sabala, Kizito. "Kenya v. Somalia Maritime Dispute: ICJ Judgement and Implications for Kenya-Somalia Relations."

accept technical and financial assistance from the international community, primarily the United States, to carry out its military operations in Somalia.⁶⁹ As a result, it's unclear if it possesses the capability and/or military strength to carry out such missions without outside assistance. During the research, 78% of the respondents cited that the diplomatic relationship between the two countries has not been good, which is evident by the occasional recalling of the ambassadors by each country and the various allegations made by each country towards the other, for example When the politicians of Somaliland, a breakaway territory of Somalia that the central government does not acknowledge met with Kenyan President Uhuru Kenyatta, Somalia accused Kenya of interfering in its domestic affairs. Kenya also alleged that Somalia presented gas and oil blocks within the disputed maritime space for auction during the London Oil and Gas Auction on February 16, 2019.

2.3 Fishing

Natural riches in the disputed area are at the heart of Kenya's maritime conflict with Somalia. Oil, gas, and marine life, notably tuna, are among them. The region is a very important location for the expansion of shipping activities. Small-scale fishing provides a living for coastal communities, and the disputed area would be a good source of fish for food and sale, ensuring that the communities living around can make ends meet. The issue of the area being prone to pirates makes it inaccessible, and therefore an important fishing ground is not exploited. Large-scale commercial endeavors won't happen in such a hostile and uncertain environment, and the money is lost. 69% of the respondents cited that the dispute greatly affected the coastal

⁶⁹ Sabala, Kizito. "Kenya v. Somalia Maritime Dispute: ICJ Judgement and Implications for Kenya-Somalia Relations."

communities as they could no longer fish in the disputed territory. This has contributed to low income and low living standards among the communities.

2.4 Insecurity and Piracy

Shipping lines plying the Kenya-Somalia coastline continue to avoid the contentious zone. The area is primarily unpoliced, making it vulnerable to instability. Furthermore, the international community has told shipping lines that the border between Kenya and Somalia does not exist. As a result of the situation, communication between the Regional Maritime Rescue Coordination Centre and Somalia has become unstable, making it challenging to reduce response time, acknowledge distress calls, relay distress messages, assist in search and rescue mission coordination, and monitor distress frequencies.⁷⁰ The risk of pirates exploiting this gap in authority and assaulting ships passing through the disputed area is accurate.

Fishing vessels with fishing licenses must stay 100 nautical miles north of the disputed area while approaching the Kenyan seas for security concerns. As a result, those coming to the south will only travel 12 nautical miles, resulting in a tremendous economic loss. As a result, the ships take longer to arrive in Kenya. Piracy remains profitable due to circumnavigating the disputed zone, while fishing vessels suffer significant losses. While at sea, rising costs and the possibility of piracy losses are projected to be persistent because there is no protection. According to Gathoni (2021), piracy is highly likely to escalate, further jeopardizing Kenya's national security. Somalia is not in a position to protect the high seas from criminal networks. Therefore, the arming of shipping lines and circumnavigating of the disputed zone continues.⁷¹ When doing research, 72% of the respondents cited that the insecurity situation in the disputed area has led to

⁷⁰ Gathoni, Ida. "Implications of Piracy on the Kenya-Somalia Maritime Dispute."

⁷¹ Gathoni, Emmah. "Current Kenya Regime And Regional Integration." *European Journal of Historical Research* 1, no. 1 (2021): 12–23.

the loss of goods during transport, higher cost of transportation and delays, and this affects the trade activities as the goods transported by sea are slightly more expensive than they should be. This is major because of the extra cost incurred during transport.

2.5 Migration of people

It takes a lot of resources to handle a big number of persons who arrive through erroneous channels in a humane and suitable manner. These difficulties that nations encounter while recalling unauthorized immigrants can be made worse if the governments of those nations refuse to welcome people who are being sent back. The difficulty that affects the coexistence of countries of origin and countries of destination in irregular migration situations is the refusal by the respective governments to accept those being repatriated as a result of resolving irregular migration. Disputes between the two governments frequently result from this posture, and these conflicts would not have occurred if destination countries had not tried to address irregular migration.⁷²

For instance, the diplomatic ties between Kenya and Somalia have deteriorated due to Kenya's expulsion of illegal migrants from Somalia in the past. Kenya's mandatory stopover in Wajir for planes departing from Mogadishu, along with other immigration controls intended to further control irregular migration, exacerbated the conflict. Kenya's maritime dispute with Somalia at the International Court of Justice can be traced back to any attempts Kenya has made to forcefully return migrants from Somalia.⁷³

Kenyan and Somali communities maintain transboundary social and cultural relations through participating in informal cross-border trade (ICBT). According to Umulqer (2020), the exchanges and interactions along this border determine the stability and sustainability of people's

⁷² Maina, Jan. "The Challenges Facing the Origin, transit and destination countries in addressing irregular migration." *International Studies* (2007): 3.

⁷³ Ibid

lives.⁷⁴ ICBT has social repercussions and positive macroeconomics, such as income production and greater food security, especially for rural people who would otherwise be socially excluded. Although it offers money to roughly 43% of the population of Africa, Informal cross-border trade is commonly seen as illicit commercialization of cross-border activities. Informal cross-border trade may improve people's lives near borders, but it also has significant economic and security consequences for states.

Furthermore, cross-border clashes throughout the years have damaged the Kenya-Somalia border, culminating in forced migrations, with Somalis constituting most of those displaced in refugee camps like Dadaab. Following a string of terrorist activities in Kenya between 2013 and 2015, the Kenyan government vowed to shut down the camp in 2015. 65% of the respondents cited that the expulsion of illegal migrants from Somalia by Kenya has affected the informal cross-border trade, which has several benefits, for example, income production and greater food security for the local communities.

2.6 Trade

Tensions and uncertainty on the maritime border between the two countries will severely damage the domain and reverse any advances made thus far. Furthermore, if relations between Kenya and Somalia deteriorate, average trade between the two countries will suffer, particularly in the Miraa industry and air transport. Somalia is a very big market for miraa, and therefore if they decide to withdraw from the trade, the industry will suffer a huge blow. During the research, 74% of the respondents cited that when Somalia banned Kenyan khat the farmers were greatly affected as their biggest market for the product was no longer available.

⁷⁴ Umulqer, Adam. "An Analysis of Informal Cross Border Trade and the Effect on Kenya's Security: A Case Study of the Kenya-Somalia Border 1991-2018." Ph.D. diss., United States International University-Africa, 2020.

2.7 National Income

The disputed area is very rich in minerals and fish, especially tuna. Unfortunately, due to the conflict, neither Kenya or Somalia can exploit these resources; therefore, a very important source of income is foregone. After the dispute began, Somalia accused Kenya of illegally awarding multinational firms Total and Eni exploration rights to minerals in its waters. Kenya also alleged that Somalia presented gas and oil blocks within the disputed maritime space for auction during the London Oil and Gas Auction on February 16, 2019. Somalia dismissed Kenya's allegation of an auction but did not rule out including the disputed marine space on maps shown during the London sale. This also further worsened the diplomatic relations between the two countries.

During the research, 80% of the respondents cited that both countries are an important source of income as fish and minerals such as gas, and neither country can exploit oil.

Summary of the chapter's key findings

This chapter looked into the social and economic implications of the maritime dispute. Some of the areas that this chapter focused on include: diplomacy, migration of people, fishing activities, insecurity and piracy, trade, and national income. Diplomatic ties have deteriorated between the two countries due to the maritime dispute. Fishing activities in the disputed area have stopped, and therefore the communities living nearby cannot use the fish-rich zone. Apart from the fish, the area is also rich in other natural resources, such as oil and gas. Due to the dispute, both countries have to forego this important source of national income. The disputed area is also highly unpoliced, and therefore it is prone to piracy and other insecurity issues, making it very difficult for shipping activities. The state of diplomatic relations between Kenya and Somalia also hinders trading activities between the two countries. This leads to a loss of foreign exchange for both countries.

CHAPTER THREE

ROLE OF THE INTERNATIONAL COMMUNITY IN ADDRESSING THE MARITIME DISPUTE

3.1 Introduction

This chapter examines how various international organizations have tried to intervene in the maritime dispute to try and make it come to an agreeable end. Using the primary and secondary data, this study assessed the interventions done by the communities and whether the efforts they put in place bore any fruits.

3.2 United Nations

Despite a Memorandum of Understanding (MOU) governing their operations in the disputed area, Somalia sued Kenya for infringing on its maritime jurisdiction in 2014. Despite Kenya's objections to using the International Court of Justice (ICJ) to settle the dispute, Somalia ruled out the possibility of an out-of-court solution. In addition, Somalia filed a claim with the court for damages against Kenya, alleging that the latter's activities in the area violated its territorial integrity and sovereignty. According to Somalia, the direction of the two nations' shared boundary should be considered while determining the line of measurement for maritime areas. On the other hand, Kenya asserted that the marine border measuring line should be drawn horizontally and not by the direction of the two nations' shared land border.

The International Court of Justice (ICJ) was formed as the judicial arm of the United Nations Security Council (UNSC) and began operations in April 1946. During the hearing, the ICJ dismissed Kenya's assertion that they had agreed on a maritime boundary with Somalia, instead proposing a line that would divide the contested territory in two. Kenya withdrew from the Hague-based Court on September 24, 2021, in response to the ICJ's statement that it would issue its ruling on October 12, 2021, citing prejudice, a lack of impartiality, and an unfair

process. It's unclear if Kenya formally informed the court of its intention to withdraw. According to Kenya, the ICJ lacked the authority to hear the issue. The arbitration was biased compared to pseudo-judicial procedures intended to undermine the nation's territorial integrity.⁷⁵

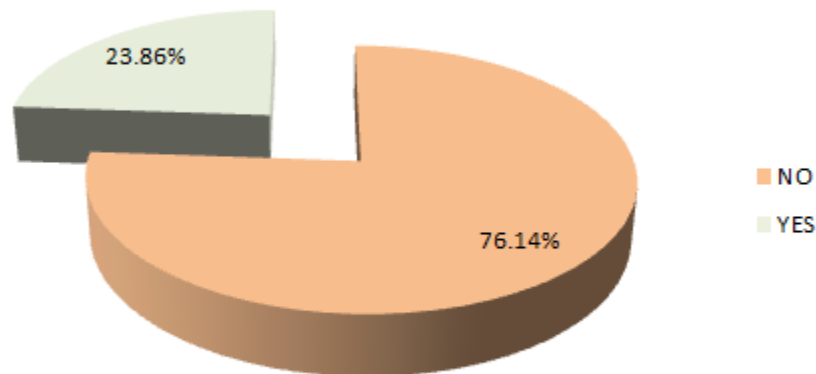
In a forceful statement, Kenya said the ruling would not bind it and would neither respect nor comply with the court's directions. In the end, only if both parties to the conflict agree to abide by the International Court of Justice decision would it be enforceable. Kenya's refusal to comply could result in a restart of the situation. The only body with the authority to utilize coercive diplomacy to uphold court rulings in this situation is the United Nations Security Council. Kenya stressed that although its case has clear grounds, procedural injustice had raised questions about whether natural justice will be served. Kenya affirms that Somalia shouldn't be criminally charged because of its neighbor's expansionist policies. Judge Abdulqawi Yusuf, a Somali national was present during the trial and this furthered Kenya's discriminatory bias towards the ICJ. Additionally, the nation insisted that the ICJ was involved in an unfair legal procedure that disrespected its authority.

On October 12, 2021, a 14-member panel in The Hague handed down a judgment after seven years since Somalia presented the case to the ICJ for resolution. This was after failed bilateral talks between both governments to resolve the conflict. According to the court's decision, the boundary would not be defined as a parallel line of latitude but as a line of

⁷⁵ Sabala, Kizito. "Kenya v. Somalia Maritime Dispute: ICJ Judgement and Implications for Kenya-Somalia Relations."

equidistance.⁷⁶ The old maritime border, which followed a line of parallel latitude eastward, included a substantial portion of the territory that Kenya claimed under that boundary, which must now follow a line of equidistance. The ruling divided the contested area almost evenly between the territorial claims of the two parties. If this verdict was implemented, Kenya would lose control over this region, which it had possessed for years. Kenyan fishermen, marine biologists, sailors, and mariners could operate freely. Additionally, it suggested that the ports of Lamu and Mombasa would become less desirable to foreign ships. The decision had far-reaching security, socioeconomic, and political implications for regional and international relations.

The judgment was mainly in Somalia's favor. In essence, the decision said that, following a presidential decree, Kenya would give up a section of the ocean under dispute it has controlled since 1979. This is precisely why Kenya unequivocally indicated that it will not comply with the verdict. Kenya noted that the ruling directly favored one nation, leading to regional unrest.



⁷⁶ Sabala, Kizito. "Kenya v. Somalia Maritime Dispute: ICJ Judgement and Implications for Kenya-Somalia Relations."

Figure 3.1 United Nations

Source: Field Data 2022

According to Figure 3.1 above, 23.86% of the respondents acknowledged the intervention of the United Nations (UN) in the maritime dispute and the various ways the organization tried to resolve the dispute. This percentage of the respondents also believed that resolving the dispute through the ruling made by the ICJ was a proper way to end the dispute. They said the UN did everything possible to help resolve the dispute. 76.14% of the respondents, however, believed that the UN failed to resolve the dispute as even after the ruling made by the ICJ, the dispute is far from over. This is mainly because Kenya, one of the parties involved, rejected the ruling citing bias from the court. According to them, therefore, the United Nations' intervention bore no fruit.

3.3 Intergovernmental Authority on Development (IGAD)

As a result of the diplomatic rift caused by Somalia's accusation of Kenya of meddling in its internal affairs in December 2020, both countries decided to recall their respective ambassadors. That month, the IGAD conference approved an investigative mission headed by Djibouti to examine the claims made by Somalia. The mission determined that the charges made by Somalia were unsubstantiated.

Somalia rejected the conclusions of the expedition because Djibouti had been influenced by Kenya, making them unreliable. This charge led to yet another diplomatic dispute in the area between Djibouti and Somalia. Additionally, Somalia threatened to quit IGAD if the judgment wasn't overturned.⁷⁷

⁷⁷ Ibid

Due to their heavy schedule, the Somalia-Kenya conflict may not have been a top priority for IGAD heads of state. In December 2020, Kenya gave the president of self-declared Somaliland a red-carpet welcome, which irritated Somalia even more. Due to this, Somalia broke off diplomatic relations with Kenya and complained to IGAD.

When Somalia rejected the IGAD fact-finding mission's decision that there wasn't enough proof that Kenya meddled in Somalia's domestic affairs, Djibouti was drawn into the conflict. It claimed that Djibouti was supporting Kenya. The tension between the two countries rose due to the back and forth between Somalia and Djibouti as the latter defended its stance. Tense relations between Somalia, Kenya, and Djibouti undermined cooperation in the Horn and within IGAD. Due to the potential for conflict between neighboring governments, the situation could further polarize the region.

In the region, Somalia has active allies thanks to a trilateral pact. Although neither government confirmed that Eritrea was training over 3 000 Somalian soldiers, Ethiopia and Kenya had different interests in Somalia than Eritrea. Following receipt of the fact-finding mission's report, the matter is now being handled by IGAD. However, due to their heavy schedule, the conflict between Somalia and Kenya may not have been a top priority for IGAD heads of state. For instance, the conflict in Tigray diverted Ethiopia's attention from IGAD issues. The border dispute between Sudan and Ethiopia and the deteriorating ties between the neighbors placed additional restrictions on the IGAD Secretariat.⁷⁸

Despite participating in the most recent crisis, IGAD may not be able to handle the issue by itself. The African Union (AU) and IGAD must take solid cooperative action in response to

⁷⁸ Ibid

the crisis, breaking from their customary AU-IGAD interaction. The AU should expand its influence and create specific plans and initiatives to prevent an impending catastrophe in the Horn.⁷⁹

The already tricky humanitarian and insecurity situation might drastically worsen if tensions between Somalia and Kenya are unresolved. The AU must take more decisive action in the area, starting with creating collaborative conflict response structures with IGAD. Now is the moment to put words into action because the Horn of Africa was one of the main topics during the 2020 AU Peace and Security Council deliberations. Stability in the area is more important than ever and a strong AU-IGAD partnership might strengthen it.

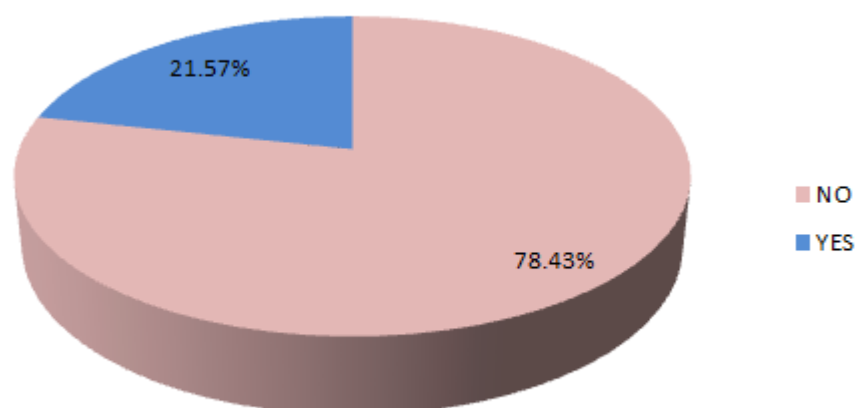


Figure 3.2 IGAD and AU

⁷⁹ Selam, Demissie." Somalia-Kenya dispute threatens the embattled Horn of Africa , "Reliefweb. Horn of Africa Security Analysis, March 16,

2021,<https://reliefweb.int/report/somalia/kenya-somalia-dispute-threatens-embattled-horn-africa>.

Source: Field Data 2022

From the above figure, 21.57% of the people interviewed during the research said that IGAD did its best to try and end the maritime dispute. They seemed to blame the disputing parties for not having confidence in the methods used by IGAD and therefore rendering them fruitless. 78.43% of the respondents believe that IGAD should have used a better approach to the situation, and maybe good results would have been achieved. They, therefore, said that the intervention by IGAD bore no fruits, and it even worsened the relationship between Djibouti and Somalia and added to the list of accusations Somalia has made against Kenya thus making their relationship even sourer.

3.4 European Union (EU)

The EU established a civilian mission that helps host nations build autonomous capability for enhancing maritime security (EUCAP Nestor) in July 2012. EUCAP Nestor's initial mission called for it to operate throughout the Western Indian Ocean and the Horn of Africa. At the end of 2015, activities were entirely focused on Somalia, with the Mission Head office currently situated in Mogadishu, resulting from a strategic review of the mission.⁸⁰

The political goals of the EU included preventing and discouraging pirates from interfering with international marine trade and helping to find a lasting solution to piracy by enhancing the ability of the countries in the region, especially Somalia, to deal with piracy.⁸¹ In compliance with pertinent International Maritime Security and United Nations Security Council Resolutions (UNSCR), the European Union (EU) deployed European Naval Force Somalia -

⁸⁰ Casarini, Nicola. "Maritime Security and Freedom of Navigation from the South China Sea and Indian Ocean to the Mediterranean: Potential and Limits of EU-India Cooperation." *Istituto Affari Internazionali* (2016): 1-22.

⁸¹ Feldt, Lutz, Peter Roell, and Ralph D. Thiele. "Maritime security—Perspectives for a comprehensive approach." *ISPSW Strategy Series: Focus on Defense and International Security 2* (2013).

Operation ATALANTA (EU NAVFOR - ATALANTA) in December 2008. The EU was worried about the ongoing effects of armed robbery and piracy off the coast of Somalia on regional economic activity and security and international maritime security. Additionally, Operation ATALANTA helped oversee fishing operations off the coast of Somalia.

EU NAVFOR ATALANTA has been functioning in an area that ranges from the Western Indian Ocean, the Gulf of Aden, and the southern Red Sea, including Seychelles, to achieve this. The coastline of Somalia and its internal and external waters were included in the operational area. The European Union has also been assisting Somalia's economic and social growth, focusing on three areas of governance, cooperation, the productive sectors, and education to address the underlying causes of piracy. By empowering Somali capacities, the EU increases security in Somalia. The EU Training Mission trains Somali soldiers in Uganda to help strengthen the institutions of Somalia and the Transitional Federal Government.

Additionally, the EU provided the African Union's military effort in Somalia with significant financial and technical support. To facilitate reconciliation and dialogue and protect essential infrastructures, such as the Mogadishu International Airport and governmental buildings, the EU supported mission allowances, medical treatment, housing, fuel, communication equipment, etc.

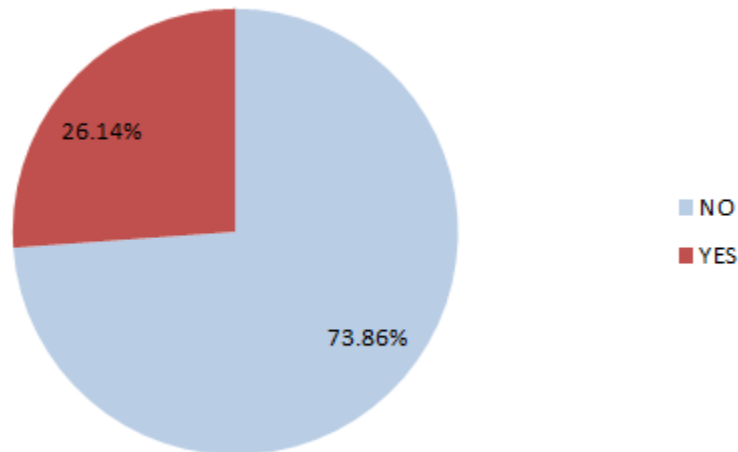


Figure 3.3 European Union

Source: Field Data 2022

From the figure above, 26.14% of the respondents recognized that the European Union had made efforts towards resolving the maritime dispute and dealing with the various impacts of the dispute, one of them being the piracy and insecurity issues along the East African coastline. Although the efforts did not end the dispute, its intervention was felt more as compared to the other international organizations, according to the research results. 73.86% of the respondents said that since the efforts made by the European Union did not bring to an end the maritime dispute, they were not fruitful. They also argued that the European Union only intervened for its selfish interests and did not have the parties' interests at heart.

Summary of the Chapter's key findings

This chapter looked at the various interventions made by international organizations in addressing the maritime dispute. The United Nations intervened through the ICJ, formed by the United Nations Security Council. The court listened and ruled on the case filed by Somalia pertaining to the maritime dispute. IGAD, during a conference, approved an investigative

mission headed by Djibouti to examine the claims made by Somalia. Somalia had claimed that Kenya was meddling in its political affairs after Kenya gave the president of self-declared Somaliland a red-carpet welcome, which irritated Somalia. Due to this, Somalia broke off diplomatic relations with Kenya and complained to IGAD. The European Union also intervened by deploying European Naval Force Somalia in operation ATLANTA. The EU was worried about the ongoing effects of armed robbery and piracy off the coast of Somalia on regional economic activity and security and international maritime security. Additionally, Operation ATALANTA helped oversee fishing operations off the coast of Somalia.

CHAPTER FOUR

CHALLENGES FACED IN ADDRESSING THE MARITIME DISPUTE

4.1 Introduction

This chapter focuses on the various hindrances that were present during the process of solving the maritime dispute. Some of the challenges even made some of the efforts made by various countries and organizations fruitless. Using the data collected during research, the various challenges were analyzed.

4.2 Sovereignty and Self Interest

Since 1979, Kenya had pushed for a negotiated resolution and argued that a maritime border agreement had always taken precedence. 2014 saw the failure of out-of-court settlements; thus, Somalia took Kenya to the International Court of Justice (ICJ).⁸² Kenya and Somalia could not resolve their dispute through negotiation. In that case, the International Court of Justice (ICJ) is allowed to carry out a boundary delimitation to establish the location of the maritime border per the United Nations Convention on the Law of the Sea (UNCLOS).⁸³

The Indian Ocean is central to the territorial dispute between Kenya and Somalia. Fish, oil, and gas are abundant in this region. It is crucial to understand delimitations concerning maritime disputes or determining maritime boundaries. Delimitation, or maritime boundary determination, determines territorial limits or powers between two countries at sea. The significance of maritime claims is related to concerns of safety, access, and management of marine resources, as well as striking a balance between the rights and obligations of the relevant state.⁸⁴

⁸² Chan, Kai-chieh. "The ICJ's Judgement in Somalia v. Kenya and Its Implications for the Law of the Sea." *Utrecht J. Int'l & Eur. L.* 34 (2018): 195.

⁸³ Ibid

⁸⁴ Gunawan, Iqlima Qorinabila. "The Role Of International Law In The Maritime Disputes Of Kenya And Somalia."

The Kenyan government claimed that the conflict worsened in February 2019 after Somalia decided to put oil prospecting rights in the center of the disputed area up for auction.⁸⁵ As a result, Kenya demanded that Somalia remove a map showing the disputed triangle as part of Somalia, which was displayed at an economic summit in London. Somalia was required to inform potential investors that they do not own the disputed oil blocks within the disputed area. As a result, they are not authorized to negotiate agreements with them.

Kenya believes the International Court of Justice's legal proceedings would only be partially impartial due to potential bias.⁸⁶ Kenya said Somalis would inevitably support Somalia because they perceived a bias in the panelists, including some Somali citizens. The ICJ Africa head, Abdulqawi Ahmed Yusuf, a Somali national who invariably sides with Somalia, was the target of the claim of injustice. The trial that the ICJ conducted proceeded despite Kenya's absence. Since the trial only featured oral testimony from Somalia, the trial's duration was shorter.⁸⁷

A maritime border issue brought on the disagreement between the two African nations. Kenya and Somalia asserted claims to the marine region, including the Indian Ocean's waters. The area has abundant resources, including fish and perhaps oil and gas. Somalia first charged Kenya with giving the multinational firms Total and Eni permission to explore for resources in disputed waters. Mogadishu lobbied for extending its maritime boundary with Kenya along a

⁸⁵ Ochieng, Okoth Rockeen. "Kenya's Regional Foreign Policy and the Management of Its Border Disputes: A Case Study of Kenya-Somalia Maritime Dispute (2014-2019)." Ph.D. diss., United States International University-Africa, 2019.

⁸⁶ Dancy, Geoff, Yvonne Marie Dutton, Tessa Alleblas, and Eamon Aloyo. "What determines perceptions of bias toward the International Criminal Court? Evidence from Kenya." *Journal of Conflict Resolution* 64, no. 7-8 (2020): 1443-1469.

⁸⁷ Kadagi, Nelly Isigi, Ifesinachi Okafor-Yarwood, Sarah Glaser, and Zachary Lien. "Joint management of shared resources as an alternative approach for addressing maritime boundary disputes: the Kenya-Somalia maritime boundary dispute." *Journal of the Indian Ocean Region* 16, no. 3 (2020): 348-370.

southeasterly axis. Nairobi, meanwhile, asserted that it should be directed straight east.⁸⁸ After Somalia in the Horn of Africa allegedly auctioned off mineral, oil, and gas blocks inside Kenyan territory, Kenya declared Somalia an enemy state. Abdirizak Mohamed, a member of the Somali Parliament, claimed that Kenya's action was a preventative measure to compel the Somali government to start talks on maritime conflicts.

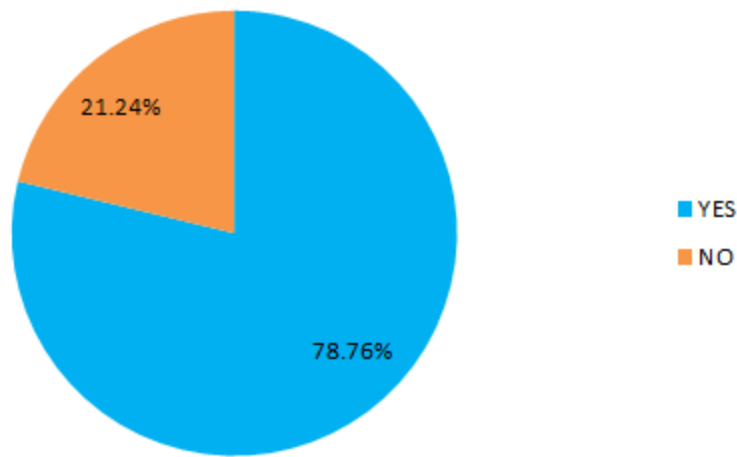


Figure 4.1 Sovereignty and Self Interest

Source: Field Data 2022

According to the above figure, 78.76% of the respondents said that the sovereignty and self-interest of the parties involved in the maritime dispute largely hindered all the attempts to solve the dispute. This is because, as a sovereign state, every country is very territorial and also because having control over the disputed region has a lot of benefits for the country in control. This is because the region is very rich in minerals and fish. 21.24% of the respondents said that self-interest and sovereignty were not challenging the conflict resolution process.

⁸⁸ Olorundami, F., 2018. The Kenya/Somalia maritime boundary delimitation dispute. In *Ethiopian Yearbook of International Law 2017* (pp. 173-185). Springer, Cham.

4.3 Severance of Kenya-Somalia Diplomatic Ties

The dwindling diplomatic ties pose a challenge to the tackling of the maritime conflict between Kenya and Somalia. Somalia accuses Nairobi of interfering in its political affairs "repeatedly." The government of Mogadishu decided to implement this policy as it gears up for the much-anticipated elections set for early 2021 in reaction to Kenya's persistent political abuses and overt interference with Somalia's state sovereignty.⁸⁹

Diplomatic ties between Kenya and Somalia deteriorated further after the ICJ's decision in their maritime dispute. Recent years have seen a deterioration in the two nations' diplomatic ties. When Kenya reopened its Mogadishu embassy, things worsened when each nation's ambassador was called in June 2021.⁹⁰ Neither Somalia nor Kenya pledged to expel their ambassadors or sever diplomatic ties since the decision. Both parties are anticipated to react once the reality of the judgment has set in, and the implications have been considered. Meanwhile, the absence of these steps suggests that a post-verdict conversation is possible. However, bringing them to the negotiating table will be more complicated if the two countries choose to cut ties.⁹¹

⁸⁹ Onguny, Philip. "Why the Kenya-Somalia Maritime Dispute is far from over, regardless of the international court of justice ruling." *Africa Policy Journal* (2020): 41-51.

⁹⁰ Too, Judy Chelimo. "Maritime dispute and its implication on Kenya-Somalia relations." Ph.D. diss., Moi University, 2021.

⁹¹ Sabala, Kizito. "Kenya v. Somalia Maritime Dispute: ICJ Judgement and Implications for Kenya-Somalia Relations."

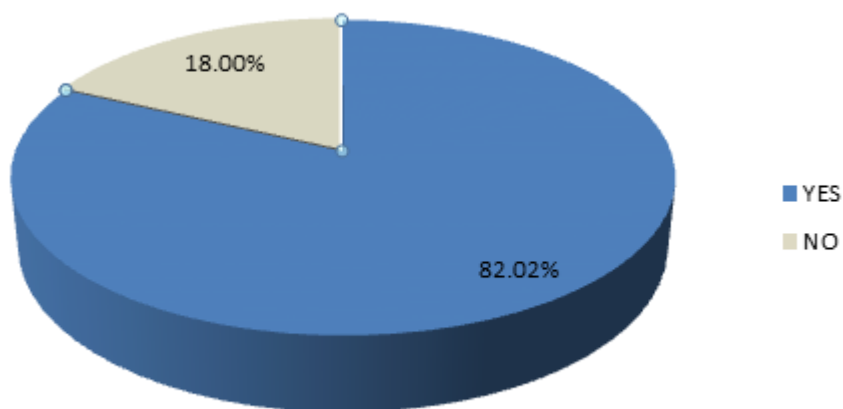


Figure 4.2 Severance of Kenya-Somalia diplomatic ties

Source: Field Data 2022

The above figure shows that 82.02% of the respondents alleged that the poor diplomatic relations between the two parties affected proper dispute resolution. This is because negotiations which are one of the ways to resolve the dispute were made impossible, and both parties could not handle a sit-down and have a discussion to help end the dispute. However, 18.00% of the target population argued that poor diplomatic relations did not hinder conflict resolution since there were other ways to solve the dispute.

4.4 Enforceability of International Law

Somalia launched a lawsuit in the International Court of Justice (ICJ) against Kenya on August 28, 2014, over a marine space delimitation conflict that the two nations contend exists in the Indian Ocean. The lawsuit of the ICJ marked the conclusion of Kenya's and Somalia's failed diplomatic attempts.⁹² During the negotiations leading up to the complaint filing, each government accused the other of acting in bad faith and with ulterior purposes. Somalia claimed

⁹² Pamba, Edmond J. "The Kenya-Somalia Maritime Boundary Dispute Threatens Kenya's Regional Transport and Logistics Hub Ambitions." (2019).

Kenya was to blame for the failure in talks to settle the dispute amicably, while Kenya claimed Somalia had broken the MOU. Kenya stated that Somalia presented gas and oil blocks within the disputed maritime space for auction during the London Oil and Gas Auction on February 16, 2019.

The International Court of Justice (ICJ) was formed as the judicial arm of the United Nations Security Council (UNSC) and began operations in April 1946.⁹³ During the hearing, the ICJ dismissed Kenya's assertion that they had agreed on a maritime boundary with Somalia, instead proposing a line that would divide the contested territory in two. On October 12, 2021, a 14-member panel in The Hague (the Netherlands) handed down a judgment after seven years since Somalia presented the case to the ICJ for resolution. This was after failed bilateral talks between both governments to resolve the conflict. According to the court's decision, the boundary would not be defined as a parallel line of latitude but as a line of equidistance. The old maritime border, which followed a line of parallel latitude eastward, included a substantial portion of the territory that Kenya claimed under that boundary, which must now follow a line of equidistance.⁹⁴

In essence, the ruling splinted the contested area almost evenly between the territorial claims of the two parties. If this verdict is implemented, Kenya will lose control over this region, which it has possessed for years. Kenyan fishermen, marine biologists, sailors, and mariners can operate freely in this area.⁹⁵ Additionally, the ports of Lamu and Mombasa would become less desirable

⁹³ Fendi, Pasar Abdulkareem. "Role of the United Nation Security Council in Resolving International Disputes." *Turkish Journal of Computer and Mathematics Education (TURCOMAT)* 12, no. 2 (2021): 269-278.

⁹⁴ Prescott, Victor, and Gillian D. Triggs. *International frontiers and boundaries: Law, politics, and geography*. Brill, 2008.

⁹⁵ Gillott, Roger. "The Principle of Non-Encroachment: Implications for the Beaufort Sea." *Canadian Yearbook of International Law/Annuaire canadien de droit international* 32 (1995): 259-278.

to foreign ships. The decision will have far-reaching security, socioeconomic, and political implications for regional and international relations.

The judgment was mainly in Somalia's favor. In essence, the decision says that, following a presidential decree, Kenya will give up a section of the ocean under dispute it has controlled since 1979.⁹⁶ This is precisely why Kenya indicated unequivocally that it will not comply with the verdict. Kenya noted that the ruling directly favored one nation, leading to regional unrest.⁹⁷

The judgment does not exclude the two countries from discussing and reaching an agreement. Suppose the status quo persists, as seen by Kenya's and Somalia's reactions to the verdict. In that case, it will be easier to harness these resources with a mutually approved agreement and an understanding between the governments. It indicates that the 1999 maritime boundary delimitation debate will linger indefinitely, with severe strategic repercussions.

In the end, the International Court of Justice's decision would be enforceable only if both parties respect and agree to abide by it. Kenya's refusal to comply could result in a restart of the situation. The only body with the authority to utilize coercive diplomacy to uphold court rulings in this situation is the United Nations Security Council.⁹⁸ Given Kenya's withdrawal from the complaint, there are limited chances that the Security Council will step in. Kenya stressed that although its case has clear grounds, procedural injustice has raised questions about whether

⁹⁶ Tipis, John. "The Somali conflict and Kenya's foreign policy: a critical assessment." Ph.D. diss., University of Nairobi, Kenya, 2012.

⁹⁷ Kadagi, Nelly Isigi, Ifesinachi Okafor-Yarwood, Sarah Glaser, and Zachary Lien. "Joint management of shared resources as an alternative approach for addressing maritime boundary disputes: the Kenya-Somalia maritime boundary dispute." *Journal of the Indian Ocean Region* 16, no. 3 (2020): 348-370.

⁹⁸ Von Einsiedel, Sebastian, David M. Malone, and Bruno Stagno Ugarte. "The UN Security Council in an age of Great power Rivalry." Tokyo: United Nations University Working Paper 4 (2015).

natural justice will be served. Kenya affirms that Somalia shouldn't be criminally charged because of its neighbor's expansionist policies.⁹⁹

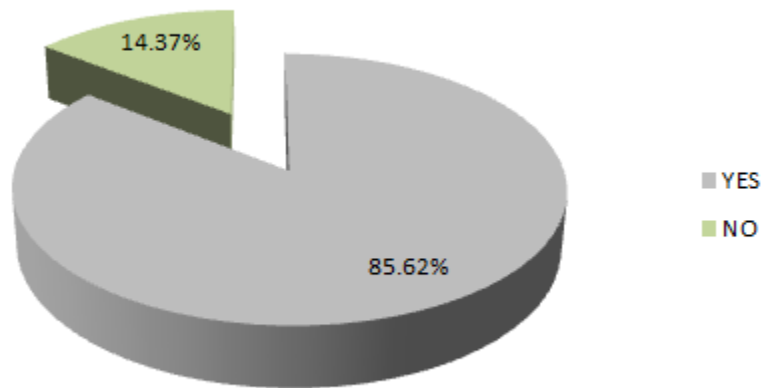


Figure 4.3 Enforceability of International Law

Source: Field Data 2022

According to the figure above, 85.62% of the respondents argued that if the ICJ ruling had been properly enforced, the dispute would have ended completely. They said that if both parties involved in the dispute respected the court's decision, the dispute would be no more, but since Kenya, one of the parties, refused to comply with the ruling, the conflict is far from over. 14.37% of the respondents believed that the court process resulted from the failure of bilateral talks and, therefore, if both parties were to go back to talks, the issue would still be solved.

4.5 Prolonged Court Case

In August 2014, Somalia brought a case before The Hague's International Court of Justice (ICJ) concerning establishing a maritime boundary between Kenya and Somalia in the

⁹⁹ Chan, Kai-chieh. "The ICJ's Judgement in Somalia v. Kenya and Its Implications for the Law of the Sea." *Utrecht J. Int'l & Eur. L.* 34 (2018): 195.

Indian Ocean. The oral proceedings were adjourned in response to the COVID-19 pandemic, and the hearings were pushed.

The Court decided to continue the hearings as planned, beginning on March 15, 2021, in a hybrid format, with some judges present in person in the Great Hall of Justice and others participating remotely by video link and with the representatives of the Parties to the case present in person or via video link.

This global pandemic and the various allegations made by Kenya during the case resolution process halted the proceedings for some time, and therefore more time was consumed. On October 12, 2021, a 14-member panel in The Hague handed down a judgment seven years after Somalia presented the case to the ICJ for resolution. The lengthy trial led to extra costs for both parties.

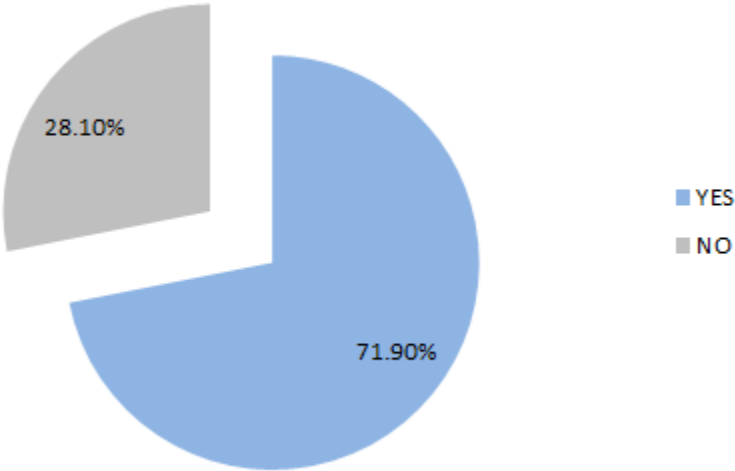


Figure 4.4 Prolonged Court Case

Source: Field Data 2022

As shown in the figure above, 71.90% of the people interviewed said that the court proceedings taking a long time were a setback to solving the dispute. This is because the parties incurred more costs and spent time following up on the case. The fact that both parties could not use the

disputed maritime zone during the court case means that the countries have to forego an important source of income. 28.10% of the respondents, however, acknowledged the efforts made by the ICJ to resolve the dispute and argued that the court did its best and performed its duty.

Summary of the Chapter's key findings

There are numerous challenges in addressing the Kenya-Somalia Maritime Dispute. They range from broken diplomatic ties, the enforceability of international law, lack of political goodwill, and a biased international community based on self-interest. These issues must be addressed to resolve the maritime conflict. Kenya and Somalia should work on amending their political ties as the commencement of tackling the maritime dispute with a win-win strategy for the general socio-economic development of the two states. This will be the most fruitful approach to solving the dispute.

CHAPTER FIVE

FINDINGS, CONCLUSIONS AND RECOMMENDATIONS

5.1 Introduction

The study sought to address the maritime dispute between Kenya and Somalia by examining its social and economic implications, challenges faced resolving the dispute. This chapter discusses every objective of the research in terms of the key findings, conclusions and recommendations that would help in solving the maritime dispute.

5.2 Summary of Key Findings

Based on objective one of this study, which was to examine the social and economic impacts of the maritime dispute, the study has established that diplomatic ties have deteriorated between the two countries due to the maritime dispute. At some point the respective countries called back their ambassadors and also cancelled all diplomatic relations. The state of diplomatic relations between Kenya and Somalia also hinders trading activities between the two countries. This leads to a loss of foreign exchange for both countries. Fishing activities in the disputed area have stopped, and therefore the communities living nearby cannot use the fish-rich zone. The communities living near the disputed area are therefore left with no source of income and therefore leading to poor living standards. Apart from the fish, the area is also rich in other natural resources, such as oil and gas. Due to the dispute, both countries have to forego this important source of national income. The disputed area is also highly unpoliced, and therefore it is prone to piracy and other insecurity issues, making it very difficult for shipping activities. Due to the disputed area being a major zone for shipping activities, shipping companies spend more money as they have to hire security for their ships.

As per objective two of this study which was to analyze the role of the international community in addressing the maritime dispute, this study looked at the various interventions made by international organizations in addressing the dispute. The United Nations intervened through the ICJ which was formed by the United Nations Security Council. The court listened and ruled on the case filed by Somalia pertaining to the maritime dispute. IGAD, during a conference, approved an investigative mission headed by Djibouti to examine the claims made by Somalia. Somalia had claimed that Kenya was meddling in its political affairs after Kenya gave the president of self-declared Somaliland a red-carpet welcome, which irritated Somalia. Due to this, Somalia broke off diplomatic relations with Kenya and complained to IGAD. The European Union also intervened by deploying European Naval Force Somalia in operation ATLANTA. The EU was worried about the ongoing effects of armed robbery and piracy off the coast of Somalia on regional economic activity and security and international maritime security. Additionally, Operation ATALANTA helped oversee fishing operations off the coast of Somalia.

Objective three of this study discussed the key challenges faced in addressing the Kenya-Somalia Maritime dispute. Broken diplomatic ties have hindered dialogue and negotiations between the two countries and therefore resolving the dispute is more difficult. The enforceability of international law is also a key challenge because despite the ICJ ruling on the case filed by Somalia, the dispute was not resolved. The lack of political goodwill is also a major hindrance as both the countries have made numerous accusations against each other which ends up fueling the dispute.

5.3 Conclusion

The maritime dispute between Kenya and Somalia which has been going on for decades is far from over. Despite the interventions by various international organizations, the dispute has not been resolved. The United Nations intervened through the International Court of Justice (ICJ) was formed as the judicial arm of the United Nations Security Council (UNSC) and began operations in April 1946. Kenya withdrew from the Hague-based Court on September 24, 2021, in response to the ICJ's statement that it would issue its ruling on October 12, 2021, citing prejudice, a lack of impartiality, and an unfair process.

On October 12, 2021, a 14-member panel in The Hague handed down a judgment after seven years since Somalia presented the case to the ICJ for resolution. This was after failed bilateral talks between both governments to resolve the conflict. In a forceful statement, Kenya said the ruling would not bind it and would neither respect nor comply with the court's directions. In the end, only if both parties to the conflict agree to abide by the International Court of Justice decision would it be enforceable. This therefore means that despite all the efforts by the United Nations, the dispute was not resolved.

IGAD approved an investigative mission headed by Djibouti to examine the claims made by Somalia. Somalia's accusation of Kenya of meddling in its internal affairs and both countries decided to recall their respective ambassadors. The mission determined that the charges made by Somalia were unsubstantiated. Somalia rejected the conclusions of the expedition because Djibouti had been influenced by Kenya, making them unreliable. This charge led to yet another diplomatic dispute in the area between Djibouti and Somalia. Additionally, Somalia threatened to quit IGAD if the judgment wasn't overturned. Eventually all the efforts made by IGAD to try and help the situation were unfruitful.

The European Union also intervened by deploying European Naval Force Somalia in operation ATLANTA. The EU was worried about the ongoing effects of armed robbery and piracy off the coast of Somalia on regional economic activity and security and international maritime security. The insecurity was largely caused by the region being highly unpoliced as no country had control over the region as a result of the dispute. Operation ATALANTA also helped oversee fishing operations off the coast of Somalia.

Broken diplomatic ties, the enforceability of international law, lack of political goodwill, and a biased international community based on self-interest are some of the challenges that have hindered proper resolution of the maritime dispute. These issues must be addressed to resolve the maritime conflict which has a lot of impacts socially and economically to both Kenya and Somalia.

Diplomatic ties have deteriorated between the two countries due to the maritime dispute. Fishing activities in the disputed area have stopped, and therefore the communities living near the disputed cannot use the fish-rich zone. They therefore end up with no source of income therefore making it hard for them to survive. Apart from the fish, the area is also rich in other natural resources, such as oil and gas. Due to the dispute, both countries have to forego this important source of national income. The disputed area is also highly unpoliced, and therefore it is prone to piracy and other insecurity issues, making it very difficult for shipping activities. The insecurity also increases the cost of shipping as the shipping companies have to hire security personnel. The state of diplomatic relations between Kenya and Somalia also hinders trading activities between the two countries. This leads to a loss of foreign exchange for both countries.

These very serious impacts of the dispute can only be addressed if the dispute itself is finally resolved. It is high time the two disputing countries look for other means of dispute resolution as the previous efforts have been unfruitful. Furthermore it would be in their best interests since there is no benefits from the dispute.

5.4 Recommendations

Despite participating in the maritime dispute, the Intergovernmental Authority on Development (IGAD) was not be able to handle the issue by itself. The African Union (AU) and IGAD must take solid cooperative action in response to the dispute, breaking from their customary AU-IGAD interaction. The AU must take more decisive action in the area, starting with creating collaborative conflict response structures with IGAD. Now is the moment to put words into action because the Horn of Africa was the topic of 54% of the 2020 AU Peace and Security Council deliberations. Stability in the area is more important than ever and a strong AU-IGAD partnership might strengthen it.

Both Kenya and Somalia seem to underestimate the effects of the maritime dispute and therefore neither of them seems to work towards quicker resolution methods. Kenya and Somalia should work on amending their political ties as the commencement of tackling the maritime dispute with a win-win strategy for the general socio-economic development of the two states. This will be the most fruitful approach to solving the dispute. Now that a lot of approaches including court cases and various interventions by international organizations have failed, negotiations are the only way that could work only if both countries set aside their self-interests and work towards resolving the conflict.

Despite the ICJ having the mandate to handle the maritime dispute, its decision was not enforceable. This is because both parties did not respect and agree to abide by it. Kenya's refusal to comply with the court judgement rendered the whole process useless. The only body with the authority to utilize coercive diplomacy to uphold court rulings in this situation is the United Nations Security Council.¹⁰⁰ Given Kenya's withdrawal from the complaint, there are limited chances that the Security Council will step in. Kenya stressed that although its case has clear grounds, procedural injustice had raised questions about whether natural justice was served.

¹⁰⁰ Von Einsiedel, Sebastian, David M. Malone, and Bruno Stagno Ugarte. "The UN Security Council in an age of Great power Rivalry." Tokyo: United Nations University Working Paper 4 (2015).

References

- Agaba, Edgar, and Nigel Shipman. "Public procurement reform in developing countries: The Ugandan experience." *Advancing public procurement: Practices, innovation and knowledge-sharing* 2, no. 4 (2007): 373–391.
- Ahmed, Abdoulaziz D. *Al-Shabaab's Reign of Terror in Somalia: Understanding Factors Contributing to the Group's Long-Term Survival in Somalia Since 2006*. US Army Command and General Staff College, 2020.
- Ayilu, Raymond K., Michael Fabinyi, and Kate Barclay. "Small-scale fisheries in the blue economy: Review of scholarly papers and multilateral documents." *Ocean & Coastal Management* 216 (2022): 105982.
- Bekker, Pieter HF. "Land and maritime boundary between Cameroon and Nigeria (Cameroon v. Nigeria; equatorial Guinea intervening)." *American Journal of International Law* 97, no. 2 (2003): 387–398.
- Briggs, Philip. *Somaliland: with the overland route from Addis Ababa via eastern Ethiopia*. Bradt Travel Guides, 2019.
- Bueger, Christian, and Jan Stockbruegger. "Maritime security and the Western Indian Ocean's militarisation dilemma." *African Security Review* (2022): 1-16.
- Casarini, Nicola. "Maritime Security and Freedom of Navigation from the South China Sea and Indian Ocean to the Mediterranean: Potential and Limits of EU-India Cooperation." *Istituto Affari Internazionali* (2016): 1-22.
- Chan, Kai-chieh. "The ICJ's Judgement in Somalia v. Kenya and Its Implications for the Law of the Sea." *Utrecht J. Int'l & Eur. L.* 34 (2018): 195.
- Connelly, Lynne. "Demographic data in research studies." MLA 8th edition. *MedSurg nursing*, 2013. Gale academic one file.
- Dancy, Geoff, Yvonne Marie Dutton, Tessa Alleblas, and Eamon Aloyo. "What determines perceptions of bias toward the International Criminal Court? Evidence from Kenya." *Journal of Conflict Resolution* 64, no. 7-8 (2020): 1443-1469.
- Daniel, Johnnie. 2012. *Sampling essentials: practical guidelines for making sampling choices*. Los Angeles: Sage.
- Dawud, Dawud Muhammad, and Tukur Abdulkadir. "Police and the Control of Firearms in Africa." In *The Palgrave Handbook of Small Arms and Conflicts in Africa*, pp. 473-499. Palgrave Macmillan, Cham, 2021.
- Denzin, Norman K., and Yvonna S. Lincoln. 2017. *The Sage handbook of qualitative research*. https://nls.ldls.org.uk/welcome.html?ark:/81055/vdc_100045173335.0x000001.

- Devlin, Colleen, Sarah M. Glaser, Joshua E. Lambert, and Ciera Villegas. "The causes and consequences of fisheries conflict around the Horn of Africa." *Journal of Peace Research* (2021):
- Dinbabo, Mulugeta F., and Adeyemi S. Badewa. "Monitoring migration policy frameworks, treaties and conventions for development in Africa." *Journal of African Union Studies* 9, no. 1 (2020): 23-49.
- Dua, Jatin. "Captured at Sea." In *Captured at Sea*. The University of California Press, 2019.
- Feldt, Lutz, Peter Roell, and Ralph D. Thiele. "Maritime security—Perspectives for a comprehensive approach." *ISPSW Strategy Series: Focus on Defense and International Security* 2 (2013).
- Fendi, Pasar Abdulkareem. "Role of the United Nation Security Council in Resolving International Disputes." *Turkish Journal of Computer and Mathematics Education (TURCOMAT)* 12, no. 2 (2021): 269-278.
- Gathoni, Emmah. "Current Kenya Regime And Regional Integration." *European Journal of Historical Research* 1, no. 1 (2021): 12–23.
- Gathoni, Ida. "Implications of Piracy on the Kenya-Somalia Maritime Dispute." 2021 pg 23
- Gathoni, Mary. "Use of Social Media for Fundraising by Non-Governmental Wildlife Conservation Organizations in Karen." Ph.D. diss., Daystar University, School of Communication, 2020.
- Gesami, Brigid, and G. Kasembeli. "The East African Maritime Domain Dispute: The Case of Kenya and Somalia." *Academia Letters* (2021).
- Gillott, Roger. "The Principle of Non-Encroachment: Implications for the Beaufort Sea." *Canadian Yearbook of International Law/Annuaire canadien de droit international* 32 (1995): 259-278.
- Gunawan, Iqlima Qorinabila. "The Role Of International Law In The Maritime Disputes Of Kenya And Somalia."
- Gunawan, Yordan, Andi Agus Salim, Ewaldo Asirwadana, and Satya Bayu Prasetyo. "Perspective Of International Law On Maritime Dispute: Case Between Kenya And Somalia." *Jurnal Hukum* 37, no. 2 (2021): 69-84.
- Hamza, Farah Robleh, and Jean-Philippe Priotti. "Maritime trade and piracy in the Gulf of Aden and the Indian Ocean (1994–2017)." *Journal of transportation security* 13, no. 3 (2020): 141–158.
- Kadagi, Nelly Isigi, Ifesinachi Okafor-Yarwood, Sarah Glaser, and Zachary Lien. "Joint management of shared resources as an alternative approach for addressing maritime boundary disputes: the Kenya-Somalia maritime boundary dispute." *Journal of the Indian Ocean Region* 16, no. 3 (2020): 348–370.
- Kalu, Kalu N. *A functional theory of government, law, and institutions*. Rowman & Littlefield, 2019.

- Maara, Nellius Wambui. "The Spillover Effect of Somalia's Internal Conflict on Kenya's Socio-Economic Development: Case Study of Mandera County." Ph.D. diss., United States International University-Africa, 2020.
- MacArthur, Julie. "Decolonizing sovereignty: States of exception along the Kenya-Somali frontier." *The American Historical Review* 124, no. 1 (2019): 108–143.
- Mahajan, Roli. "Exploring Maritime Border Disputes using the Issues Approach: Comparative analysis of Ghana-Ivory Coast and Kenya-Somalia." 2021.
- Maina, Jan. "The Challenges Facing the Origin, transit and destination countries in addressing irregular migration." *International Conflict Management* (2007): 3.
- Majid, Nisar, Marika Theros, and Khalif Abdirahman. "Finding peace in Somalia: the Galkaio 'local' peace agreement." (2020).
- Maritim, Mercy Cherotich. "Emerging Implication of Porous Border Securitization in Kenya: A Case Study of Mandera (2013-2019)." Ph.D. diss., United States International University-Africa, 2019.
- Marsai, Viktor, and Máté Szalai. "The "Borderlandization" of the Horn of Africa in Relation to the Gulf Region, and the Effects on Somalia." *Journal of Borderlands Studies* (2021): 1-20.
- Menzel, Anja, and Lisa Otto. "Connecting the dots: Implications of the intertwined global challenges to maritime security." In *Global Challenges in Maritime Security*, pp. 229-243. Springer, Cham, 2020.
- Mugenda, Olive Mwhiki, and Abel Gitau Mugenda. 2003. *Research methods quantitative & qualitative approaches*.
- Ochieng, Okoth Rockeen. "Kenya's Regional Foreign Policy and the Management of Its Border Disputes: A Case Study of Kenya-Somalia Maritime Dispute (2014-2019)." Ph.D. diss., United States International University-Africa, 2019.
- Oluoch, Ken. "Kenya's National Security and International Refugee Law in the Dynamic World Order." *Contemporary Africa and the Foreseeable World Order* (2019): 311.
- Onguny, Philip. "Why the Kenya-Somalia Maritime Dispute is far from over, regardless of the international court of justice ruling." *Africa Policy Journal* (2020): 41-51.
- Pamba, Edmond J. "The Kenya-Somalia Maritime Boundary Dispute Threatens Kenya's Regional Transport and Logistics Hub Ambitions." (2019).
- Panneerselvam, Prakash. "Maritime Security of Japan: Energy and Trade Route in Indian Ocean." *POLITICO*: 73.
- Potgieter, Thean. "Oceans economy, blue economy, and security: notes on the South African potential and developments." *Journal of the Indian Ocean Region* 14, no. 1 (2018): 49–70.
- Prescott, Victor, and Gillian D. Triggs. *International frontiers and boundaries: Law, politics, and geography*. Brill, 2008.

- Reveron, Derek S., and Kathleen A. Mahoney-Norris. *Human and national security: Understanding transnational challenges*. Routledge, 2018.
- Rubin, Aviad, and Ehud Eiran. "Regional maritime security in the eastern Mediterranean: expectations and reality." *International Affairs* 95, no. 5 (2019): 979-997.
- Sabala, Kizito. "Kenya v. Somalia Maritime Dispute: ICJ Judgement and Implications for Kenya-Somalia Relations."
- Salkind, Neil J., ed. *Encyclopedia of research design*. Vol. 1. sage, 2010.
- Scharrer, Tabea. "Ambiguous citizens": Kenyan Somalis and the question of belonging." *Journal of Eastern African Studies* 12, no. 3 (2018): 494–513.
- Selam, Demissie." Kenya-Somalia dispute threatens the embattled Horn of Africa, "Reliefweb. Horn of Africa Security Analysis, March 16, 1, <https://reliefweb.int/report/somalia/kenya-somalia-dispute-threatens-embattled-horn-africa>.
- Silvestri, Simonetta. "The forgotten Somalia: a key factor for peace and stability in the horn of Africa." *Epiphany. Journal of Transdisciplinary Studies* 12, no. 1 (2019): 7-16.
- Tipis, John. "The Somali conflict and Kenya's foreign policy: a critical assessment." Ph.D. diss., University of Nairobi, Kenya, 2012.
- Too, Judy Chelimo. "Maritime dispute and its implication on Kenya-Somalia relations." Ph.D. diss., Moi University, 2021.
- Umulqer, Adam. "An Analysis of Informal Cross Border Trade and the Effect on Kenya's Security: A Case Study of the Kenya-Somalia Border 1991-2018." Ph.D. diss., United States International University-Africa, 2020.
- Vaughan, Sarah. "Ethiopia, Somalia, and the Ogaden: still a running sore at the heart of the horn of Africa." In *Secessionism in African Politics*, 91–123. Palgrave Macmillan, Cham, 2019.
- Von Einsiedel, Sebastian, David M. Malone, and Bruno Stagno Ugarte. "The UN Security Council in an age of Great power Rivalry." Tokyo: United Nations University Working Paper 4 (2015).