



NATIONAL DEFENCE UNIVERSITY-KENYA

**PARA-DIPLOMACY AND SECURITY: AN EXAMINATION
OF THE INFLUENCE OF BORDER COUNTIES ON KENYA'S
BORDER STABILITY**

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**Research Project submitted in partial fulfilment for the Degree of
Master of Arts in National Security and Strategy**

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Declaration

I, the undersigned, declare that this is my original work and has not been submitted for academic credit to any college, institution, or university other than the National Defence University – Kenya (NDU-K).

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This thesis has been submitted for examination with my approval as the University Supervisor.

Signed: Date:

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Dedication

To Kenya's beauty and diversity

Acknowledgment

Gratitude goes to all those friends, relatives, and colleagues who offered moral and inspirational support throughout the research and in the course of my career. Special recognition goes to Dr. Peterlinus Ouma Odote, my thesis supervisor who ensured that the research remained intellectually stimulating.

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Abstract

This study delves into the realm of Para-Diplomacy and its implications for border security in Kenya, with a specific focus on the role of border counties in Kenya. Utilizing mixed-methods research, including qualitative interviews and quantitative data analysis, the investigation unravelled the underpinnings of border management mechanisms and the significant, yet undefined, role of border counties. The research revealed a gap in the institutional structure that does not explicitly define or harness the potential of counties in enhancing border security. Alongside this, the study explored Track One diplomacy - formal intergovernmental negotiations - and found it to be a positive contributor towards maintaining stability at Kenya's borders. The transformative power of Neofunctionalism theory was also investigated, demonstrating how diplomacy can be leveraged to resolve conflicts and foster regional integration. The study further suggests that Para-diplomacy - subnational regions' involvement in international affairs - could potentially bolster border security by harnessing the contribution of border counties towards regional integration. In conclusion, the research recommends the adoption of frameworks that promote collaboration between the central government and border counties. Such partnerships could enhance the effectiveness of border management mechanisms, thereby strengthening Kenya's border security. This study underscores the need for a paradigm shift in understanding and utilizing the potential of Para-diplomacy in border security management.

Operational Definition of Terms

Term	Operational Definition
Border County	Any of Kenya's 21 counties that straddle Kenya's international boundaries
Commercial diplomacy	Exchange of goods and services or trade relations
Cultural Diplomacy	People to people exchanges through movement of people
Neofunctionalism	Theory of international relations as applied in the research
Para-diplomacy	Relations undertaken by sub-national or regional governments
Public diplomacy	International relations by non-state actors
Traditional diplomacy	International relations are undertaken by government to government which can be bilateral or multilateral

Abbreviations

Acronym	Description
AfCFTA	African Continental Free Trade Area
AMISOM	African Union Mission in Somalia
APRM	African Peer Review Mechanism
APSA	African Union Peace and Security Architecture
ASF	African Standby Force
AU	African Union
AUBP	African Union Border Programme
AUHIP	AU High-Level Implementation Panel for Sudan
CBT	Cross Border Trade
CEC	County Executive Committee
CEWARN	Conflict Early Warning and Response Mechanism
CEWS	Continental Early Warning System
CFA	Cooperative Framework Agreement
CIF	County Intergovernmental Forum
CPA	Comprehensive Peace Agreement
EAC	East African Community
EALASCA	East Africa Local Authorities Cultural Association
EASBRICOM	Eastern Africa Standby Brigade Coordination Mechanism
HOA	Horn of Africa
ICGLR	International Conference on the Great Lakes Region
IGAD	Intergovernmental Authority on Development
IGADD	Intergovernmental Authority on Drought and Desertification

IGASOM	IGAD Peace Support Mission in Somalia
IGASOM	IGAD Peace Support Mission in Somalia
JCC	Joint Commission for Cooperation
JPCC	Joint Permanent Commission for Cooperation
JTC	Joint Technical Committee
KCBMP	Kenya Coordinated Border Management Programme
KIBO	Kenya International Boundaries Office
KICOSCA	Kenya Inter County Sports and Cultural Association
LAPSSET	Lamu-Port-South Sudan-Ethiopia Transport Corridor
MFDA	Ministry of Foreign & Diaspora Affairs
MOFA	Ministry of Foreign Affairs
NEPAD	New Partnership for Africa's Development
OSBP	One-Stop-Border-Posts
PCC	Permanent Commission for Cooperation
PLANELM	Planning element
PSC	Peace and Security Council
PSC	Peace and Security Council
PTA	Preferential Trade Area
PTA	Preferential Trade Area
REC's	Regional Economic Communities
RECs	Regional Economic Communities
RSD	Refugee Status Determination
SALW	Small and Light Weapons
SC	Security Council
SG	Secretary General

SPLM/A	Sudan People's Liberation Movement/Army
SSA	Special Status Agreement
STR	Simplified Trade Regime
TCC	Troop Contributing Country
UN	United Nations
UNSC	United Nations Security Council

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CHAPTER ONE

INTRODUCTION

1.1. Background to the Study

Global politics revolve around states, territory and people. Border security is therefore a critical component of national security and is a major determinant of foreign policy. Many of the states across the world, as well as their borders, are as a result of war or conquests, delineated by judicial processes, as a result of colonization and decolonization, or delineated when a country became independent when a larger central state disintegrated or dissolved. In many of these cases, their boundaries split communities and place them in different states.

Because of the arbitrariness of borders and the communities straddling the borders, many states have gone to war as a result of disagreements over such borders. Contemporary examples include the border related conflicts arising from the disintegration of the United Soviet Socialist Republic (USSR) in 1991 and the resultant conflicts in the Eastern Europe and the Balkans as demonstrated by the subsequent disintegration of Yugoslavia, and the resultant conflicts in Bosnia-Herzegovina and Serbia. In contemporary history, Russia's claim on Crimea, Armenia's claim on *Nagorno-Karabakh*, the conflict between Kyrgyzstan and Tajikistan in April 2021 and the ongoing conflict between Russia and Ukraine stand out as examples. In Africa, the conflict between Morocco and *Polisario Front* over the disputed territory in Western Sahara which has lasted over 45 years is a constant reminder of the challenges of borders.

The armed conflict between Eritrea and Ethiopia over *Badme area* in 1998 to 2000 continued to define relations between the two countries and the stability of the Horn of Africa for the ensuing decades. Another example is the case of Somaliland, a semi-autonomous region, which broke away and declared its independence following the collapse of central authority in Somalia.

For many countries therefore, border security is national security because it touches on sovereignty, territorial integrity and movement of persons.¹ It is no wonder that border security and national security are core preoccupation of a nation's foreign policy and diplomacy.

Historically, states use international law and diplomacy to tackle the issues such as emigration, immigration, border management, mobility of people through the borders, refugees as well as peaceful settlement of disputes among other issues. Case in point, since the first case (United Kingdom and Albania) was submitted to the ICJ on 22 May 1947, a total of 183 cases have been submitted by states, either by one state unilaterally against another, or by special agreement by states. By January 2023 there were 15 pending cases before the ICJ, while the “*dispute over the Status and Use of the Waters of the Silala (Chile v. Bolivia)*” was being heard.² In addition, it is possible for states to create peaceful conditions between border communities, societies and states if nations cooperate with each other through diplomatic means, enhance border cooperation through cooperation frameworks or simply restructure their domestic centre-periphery (community-government) political systems interactions.³

Many economic theories on regional integration, such as functionalism and neo functionalism, contend that cooperation among states on lower-level issues, such as cross border trade, create peaceful conditions among communities and more cooperation in other areas would eventually facilitate regional integration. Such diplomatic relations between and among countries take place in many fronts, official or non-official or simply as people, goods and services move

¹ Mwanzia, Charles M. 2015. “Can Regional and International Operations Secure Kenya's Survival?” Contemporary Security in Africa. Special Issue on Somalia. Vol.3, No.1 78-92.

² ICJ. 2022. Cases. 27 April. Accessed September 03, 2022. <https://www.icj-cij.org>.

³ Henrikson, Alan K. 2000. “Facing across Borders: The Diplomacy of Bon Voisinage.” International Political Science Review. Vol. 21, No. 2 pp. 121-147

across international boundaries. Conceptually, international relations are undertaken by agents of international law, especially by states through various types of diplomacy.⁴

Border security in Kenya is a similarly complex. Although Kenya is relatively considered peaceful, the country faces a myriad of challenges related to international borders, many of which are at the core of state survival. At the very basic level of these challenges are those that have a bearing on sovereignty, territorial integrity and independence. These include border delimitation and demarcation issues, identity issues, ethnic conflicts and migration issues. Intercommunal clashes, which take an ethnic dimension, over resources between the *karamoja* cluster of communities and the challenge over *Migingo* Island punctuate Kenya-Uganda relations. Claimed territories at the *ilemi* triangle remains unresolved between Kenya, South Sudan and Ethiopia. In recent times, Somalia's maritime claim over Kenya's territorial waters, and *Al-Shabaab* terrorist activities in the region, characterise the Kenya-Somalia relations and continue to threaten regional peace and security.⁵

The second set of issues revolves around international trade taking place across the country's borders. Tanzania and Uganda, both of which are members of the EAC and the COMESA, are Kenya's top trading partners. However, there are challenges major non-trade barriers confronting EAC members such as corruption by border officials and the police, delays at weighbridges, exorbitant entrance fee among others. Many at times, some of these trade tensions have turned into diplomatic tussles that threaten regional integration and therefore regional peace and security.⁶

⁴ (Codrean 2017)

⁵ Kiplagat, Bethuel A. 2015. "Security, Defence and Foreign policy Dimensions of a Somali Exit Strategy: A Practitioner's View." *Contemporary Security in Africa*, Vol. 3, Issue No. 1 Pp.27-43

⁶ Mwangiru, Makumi. 2015. "Creation and Coordination of Security Buffer Zones: Kenya's Emerging Post-2010 Security policy in Somalia." *Contemporary Security in Africa. Special Issue on Somalia. Vol.3, No.1, Pp.44-60.*

The third set of issues revolves around access and use of resources. Conflicts over competition for pasture and water for livestock punctuate the Kenya-Ethiopia relations along the 861-long border. Similar conflicts are common between the boundary between Kenya and South Sudan and the 772-long Kenya-Uganda border. All these issues converge to create the fourth set of political and diplomatic issues. The conflicts between Kenya, Somalia, Uganda and South Sudan are matters touching on state survival. In addition, trade issues with Tanzania and Uganda are a constant feature of diplomatic relations with Kenya. The interplay among these four sets of issues is compounded by porous borders with all Kenya's neighbours. These are further accentuated by weak border infrastructure and corruption creating grave danger to Kenya's national security.

Diplomacy has been crucial in addressing most of these kinds of border challenges. International trade across Kenya's international boundaries takes place through sea, air and land. Officially, such movement takes place through twenty-nine (29) out of thirty-five (35) gazetted ports of entry and exit located in nineteen (19) counties.⁷ Six of the gazetted entry/exit points are temporarily closes at the moment.⁸ Unofficial and undocumented cases of movement of persons, and contraband goods are exponential. To mitigate trade concerns from Uganda and Tanzania, on the one hand, and with Ethiopia on the other, Kenya has negotiated deals using bilateral or EAC agreements on programmes such as the One-Stop-Border Points in Busia, Malaba, Namanga and Moyale among others. To mitigate against territorial issues, and guided by the AUBP, a continental programme that assists the AU partner states in all issues relating to the delimitation, demarcation, and management of their borders, Kenya has negotiated bilateral agreements to facilitate border

⁷ DIS.2023. "Gazetted Ports of Entry and Exit and Location." Directorate of Immigration Services. Accessed April 14, 2023. <https://immigration.go.ke/border-management/gazetted-ports-of-entry-and-exit-poes-and-location>

⁸ DIS.2023. "Gazetted Ports of Entry and Exit and Location."

delimitation and demarcation.⁹ Except for Somalia, the implementation of policies on border management with Uganda, Tanzania and South Sudan are underway, with the Kenya-Ethiopia border dedicated to restoration of beacons, since that border was delineated and demarcated in the 1970s.

To manage cross border issues, Kenya has established mechanisms such as the Joint Border Commissioners’/ and Administrators’ Commissions’ which are frameworks to discuss thematic issues under Sub-Committees on Political, Security, Economic and Social sectors. Further, the country participates in regional initiatives such as IGAD’s mechanisms that examine situations which could result to conflicts and avert escalation, especially the CEWARN programmes.¹⁰ Furthermore, through Joint Commissions for Cooperation (JCCs) Kenya engages with all her neighbours in different sectors.¹¹

The participation of county governments in diplomatic efforts has been on the increase since the advent of devolution in 2010. However, their participation is fraught with challenges revolving around power relations between the national government and sub-regional levels of government. This research therefore sought to explore these challenges and experiences by exploring the role of para-diplomacy in border security. Diplomacy by sub-regional units, christened para-diplomacy, may also be official (with mandates from central government authority) or non-official (without mandates from a central government authority/constitution). Para-diplomacy, which refers to the conduct of international relations by sub-national units or

⁹ AUBP. 2013. Creation and Operation of Border Commissions in Africa: The Users' Guide. Addis Ababa: African Union Commission

¹⁰ IGAD CEWARN. Live. Cewarn. Accessed September 6, 2022. <http://www.cewarn.org/>

¹¹ Joint Commission for Cooperation is the framework for bilateral cooperation between two countries on all sectors of cooperation.

governments, has continued to grow across the world as such entities seek to promote trade, investments, cooperation and partnership from foreign sources.¹²

1.2. Research Problem Statement

In addition to the traditional diplomacy under Track One, there are those relations undertaken by sub-national or regional governments or counties, or para-diplomacy. Whereas the contribution of traditional diplomacy in border security may be well understood, the role of sub-national units, such as counties in Kenya aimed at achieving border security remains unexplained, and ununderstood and therefore unexploited. The interplay between border management mechanisms of the central government and devolved functions and the implications of those devolved functions on border security. In other words, there is a wide gap between official foreign policy framework, mandate, expectations and the prevailing cross-border interactions of people, goods and services. The reality becomes even more pronounced when one examines the interaction between the causes of border insecurity and devolved functions such as water resources, pasture, agriculture, cross border trade, culture, infrastructure, agriculture, livestock, and education. The challenge becomes even more pronounced when one considers the distribution of border security functions between the central authorities and devolved units. The first order question puzzling the researcher is this: What is the nature and character of cross border challenges and experiences by county governments in the pursuit of cross border security in Kenya?

The second order question is the extent to which traditional diplomacy, or ‘Track One diplomacy’ has helped to promote border security. Most of the cross-border initiatives are pursued by the central government as mandated in the Constitution (2010). However, because of the cross-

¹²Kuznetsov, Alexander S. 2015. “Theory and Practice of Paradiplomacy. Subnational governments.” *International Affairs* 174.

border nature of such issues, a lot of interactions happen outside the purview of the central government. This reality highlights the important role county governments and local communities play and harnessing of such roles is therefore important. Twenty-one (21) out of the forty-seven (47) counties are border counties, whose boundaries are part of Kenya's international boundary with its neighbours.¹³ There are: "Wajir, Mandera, Garissa, Tana River, Lamu, Mombasa, Kilifi, Taita Taveta, Kwale, Kajiado, Narok, Migori, Homa Bay, Kisumu, Siaya, Busia, Bungoma, Trans Nzoia, West Pokot, Turkana and Marsabit." These are in addition to Nairobi, Isiolo and Uasin Gichu counties hosting international airports but do not share an international boundary with any of Kenya's neighbours, but for the purpose of this research, are deemed as border counties because of the nature of foreign interactions taking place at international airports. The key question is whether Track One diplomacy plays a role in promoting border security.

Thirdly, diplomacy is no longer the preserve of the Ministries of Foreign Affairs or central governments, with numerous state and non-state actors increasingly conducting diplomacy alongside official diplomacy. The third order question that the researcher is interested in is this: What is the nature, extent and motivation of border county governments in their involvement in Kenya's border security? To answer these research questions, the researcher undertook academic research informed by neofunctionalism theory of regional integration whose title is *Para-Diplomacy and Security: An Examination of the Influence of Border Counties on Kenya's Border Stability*".

1.3. Research Objectives

The general goal of the study was to evaluate the contribution of Para-diplomacy in enhancing border security in Kenya.

¹³ See Maps on Annex IV & V.

1.3.1. Specific Study Objectives:

- a. To explore the unique challenges and experiences encountered by border counties situated along Kenya's international boundaries, with a focus on determining whether the counties have control over those challenges.
- b. To assess the role and efficacy of Track One diplomacy in maintaining and enhancing border security in Kenya
- c. To investigate the potential application of Para-diplomacy as a tool for strengthening border security in Kenya.

1.4. Literature Review

The literature on theoretical context, challenges of border security, diplomacy and border security, and para-diplomacy and border Security is discussed in this section.

1.4.1. Theoretical Framework

Para-diplomacy and border security hinges on an interaction of international relations and domestic politics. To understand state behaviour and their place in the international system, three main International Relations theories are important, namely; Realism, Liberalism and Constructivism. Deductive in nature, they enable a researcher to draw conclusions about events or phenomena and shape the understanding of world politics. First, Realism, is associated with scholars such as Hans Morgenthau, Kenneth Waltz and Stephen Walt. It assumes the existence of anarchy in the international system, sovereign states relying on themselves for survival and seeking to maximize their power or security. This means that in a realist world, multilateral institutions do not work, and therefore the international system is characterised by balance of power and

cooperation is based on national interests. As the NATO or any other system of states demonstrates, any cooperation is only temporary.¹⁴

Liberalism was popularised by scholars such as “Ronald Dworkin, Richard Rorty, John Rawls and Francis Fukuyama.”¹⁵ It assumes that the international system is characterised by interdependence of states that have varied interests defined by subnational groups. Three distinguishable strands of liberalism are discernible. One group argues that domestic politics shape how states relate with other states because ideology and political institutions shape state interests. The next group, Economic liberalists, argue that trade shapes state interests while the Institutional Liberalists contend that international institutions, treaties and norms shape state interests.¹⁶ In spite of the differences, all the strands agree that cooperation in the international system is more likely and more enduring.

Constructivism advanced by scholars such as Kathryn Sikkink, Peter Katzenstein and Elizabeth Kier emphasizes the role of ideas and perceptions in international system. Whereas constructivism does not deny the existence of anarchy in the international system, it argues that its existence is because leaders believe it to exist and they consequently take actions based on such beliefs.¹⁷

These theories have evolved in the last century since the emergence of International Relations (IR) as an academic discipline during the interwar period, between the WWI and WWII. The history of the discipline and therefore the development of the theories of IR has taken place over

¹⁴ Holsti, Kalevi J. 1996. *The State, War and the State of War*. Cambridge: Cambridge University press.

¹⁵ Whyte, Alexander. 2012. “Neorealism and neoliberal institutionalism: born of the same approach?” *E-International Relations*. 11 June. Accessed February 22, 2023. <https://www.e-ir.info/2012/06/11/neorealism-and-neoliberal-institutionalism-born-of-the-same-approach>

¹⁶ Keegan, John. 1994. *A History of Warfare*. New York: Alfred A. Knopf Inc.

¹⁷ Lawson, Stephanie. 2015. *Theories of International Relations: Contending Approaches to World Politics*. New York : Wiley

four Great Debates.¹⁸ The present research can be situated within the Third Debate. This debate began in the 1970's and 1980's and has been christened the Inter-paradigm debate between Neo-liberalism, Neo-realism and Neo-Marxism. Kenneth Waltz, for example, attempted to inject methodological rigour in to the study of realism and for the theory to be used to explain structures in the international system. Through scholars such as Robert Cohen and Joseph Nye, Liberalism sought to become precise in describing how international institutions and norms affected international behaviour and complex interdependence especially in foreign policy and sovereignty.

To appreciate para-diplomacy, understanding of political science theories on governance structures such as devolution and federalism is necessary. Federalism is a form of government marked by a vertical distribution of power between central/federal government and regional/sub-national systems. The United States of America, India, Nigeria, Ethiopia and Somalia are examples of federal states. Devolution donates to the statutory delegation of powers from the central government to governments at a regional/sub-national level. The United Kingdom and Kenya are examples in this category. An obvious similarity between the two forms of government is the fact that in both systems, regional governments are allowed to govern policy in limited areas or sectors.¹⁹

Integration is the latest form of cooperation. Regional integration takes place as countries consent to cooperate for the sake of peace, stability and wealth. For instance, in the EU and the EAC, cooperation starts with economic integration and slowly leads to political integration. Mimicking a biological organism, functionalism and neofunctionalism – a theory adopted in the

¹⁸ First debate, between Idealist/Realism; Traditionalism/Behaviourism; Neoliberalism/Neorealism or Inter-paradigm debate and Rationalism/Relativism or Mainstream/New Approaches.

¹⁹ Keating, Michael. 2013. Rescaling the European State. The Making of Territory and the Rise of the Meso. Oxford: Oxford University Press.

present study, contends that through the process of devolution and federalism, sub-national units, over time cooperate and eventually achieve higher levels of regional integration.²⁰

Para-diplomacy donates to the participation of the sub-national units in international affairs.²¹ Through exploring the motives, opportunities and strategies pursued by regional governments, it is conceivable that such state-level changes and multinational levels, and development can take place within regions themselves.²² Furthermore, in the advent of globalization, discernible patterns, along the borders via para-diplomacy research can be seen.²³ The research further improves scholarly appreciation of the present para-diplomacy studies and discoveries missing in earlier research. The research was useful because it assisted the current researcher to explore existing forms of para-diplomacy with efficacy as applied in Europe, America and Asia.

Whereas most of these theories have been used to explain regional integration elsewhere, limited studies have been used in Kenya to explain the significance of subnational governments in border security and in national security by extension. Neofunctionalism appeared to present more prospects for applicability in the current research context and it is for this reason that the researcher adopted the theory to frame the issues for the research.

1.4.2. Challenges of Border Security

There are numerous border challenges facing states across the world. In Kenya, the main security challenges characterizing the Kenya- Somalia border range from porosity of the border, refugees,

²⁰ Mebard-Hill, Joshua. 2017. "Functionalism and Neofunctionalism." *Journal of European Integration History* Pp-145-153.

²¹ Kuznetsov, Alexander S. 2015. "Theory and Practice of Paradiplomacy. Subnational governments

²² Keating, Michael. 2013. *Rescaling the European State. The Making of Territory and the Rise of the Meso*

²³ Purnomo, Fitrisia Munira Margo. 2019. "Dimensions of the Para-Diplomacy of Border Areas in international Relations Studies: A Systematic Literature Review." *International Journal of Innovation, Creativity and Change*, Vol. 10, Issue 3 Pp-89-108

fraudulent acquisition of documents, border conflicts, terrorism to trade in counterfeiters and smuggling. Further, in analyzing counterterrorism strategies pursued in Kenya, the Horn Policy brief identifies challenges relating to management of porous borders and lack of accountability and transparency as some of the major border related security challenges and argue that they present a risks to the national security of the country.²⁴ With focus on development, Amutavy looked at the incentives of County Governments in advancing their interests through para-diplomacy and found out that the underlying factor for County Governments in Kenya in the practice of para-diplomacy was the need for cooperation for development. The study is useful because it examines development aspect of para-diplomacy and recommends ways on how to improve such interactions.²⁵ Border surveillance becomes an important challenge for border security.

Further, Christopher Chumba, *et al* explores the deployment of military instrument of power in support of foreign policy in combating terrorism in Kenya. The research argued that Kenya launched a security-based diplomacy strategy in counterterrorism aimed at securing the its environment.²⁶ By assessing the successfulness of the border surveillance mechanisms in combating transnational terrorism in Kenya and Somalia, the study highlights the prospects for diplomacy as a useful tool in border management in Kenya.²⁷

²⁴IISS. 2017. "Counterterrorism and Security Strategies along Kenya-Somalia Border." Horn Policy Brief, No. 1. Nairobi: Horn International Institute for Strategic Studies, 1 September

²⁵ Amutavy, Sophie Shisanya. 2018. "Paradiplomacy in Kenya: A Case of the Devolved System of Governance." Master's Thesis. USIU-A: (Unpublished), Spring

²⁶ Chumba, Christopher. 2016. "Security-Based Diplomacy Influencing Transnational Terrorism Management between Kenya and Somalia ." PhD Dissertation. Kakamega: (Unpublished), August

²⁷ Chumba, Christopher. 2016. "Security-Based Diplomacy Influencing Transnational Terrorism Management between Kenya and Somalia."

In a similar study whose focus was not diplomacy but security, Kamba²⁸ explores surveillance and patrols as strategies applied to secure the Kenya Somalia border in Liboi area. The research found out that the models used in surveillance and patrol are outdated and would require upgrading.²⁹ In addition, Gituanja argues that emerging global trends on border management has impacted on the implementation of border policies in Kenya and to a large extent there are several challenges in effective implementation of border policies and procedures.³⁰ By focusing on emigration and immigration, regional integration and information technology, the research contends that integration has impacted on border management as well as migration.³¹ It identifies Information Technology as a positive driver in the effective management of border policies in Kenya.³² Another similar study evaluated the extent in which the adoption of border management policies were effective in ensuring national security as well as the challenges hindering the success of these policies. The study identifies border management strategy as a major challenge to national security and recommends policies such as adoption of Information Technology and awareness creation as instrumental in securing the country.³³

Similarly, Natariana examines the trends and impact of refugee influx and uses Kenya to depict a picture of the myriad of security challenges in Africa. Significantly, the research identifies the porosity of borders and its management as a major security challenge associated with migration

²⁸ Kamba, Jackson N. 2019. "Border Management Strategies used to curb Insecurity in Liboi Border Post of Kenya from 2007 to 2015." Master's Thesis. KU, Nairobi: (Unpublished)

²⁹ Kamba, Jackson N. 2019. "Border Management Strategies used to curb Insecurity in Liboi Border Post of Kenya from 2007 to 2015."

³⁰ Gituanja, Patricia Nduta. 2013. "Border Management and National Security: An Analysis of the Implementations Border Policies in Kenya." Master's Thesis. UoN, Nairobi: (Unpublished), November

³¹ Gituanja, Patricia Nduta. 2013. "Border Management and National Security: An Analysis of the Implementations Border Policies in Kenya."

³² Ibid

³³ Moragori, Clare Kerubo. 2021. "Assessment of Border Management Policies in National Security in Nairobi County, Kenya." Master's Thesis. Africa Nazarene University, Nairobi: (Unpublished), June

and influx of refugees.³⁴ Moreover, Chepkirui introduces a legal angle to national security and border security by contending that it is about striking a balance between respects of international law and securing national interests.³⁵ Based in Mandera in Kenya, the study recognized cross-border security threats along the Kenya-Somalia border and hinted at possible solutions to mitigate the threats.

There is no single literature source that explores challenges to border security comprehensively. Most of the literature reviewed address specific challenges in different places across the world. Further, those studies that are specific to Kenya have tended to focus largely on the Kenya-Somalia border. The present study has therefore gathered, synthesized and presented the major challenges common or unique to all Kenya's international boundaries.

1.4.3. Diplomacy, Security and Regional Integration

Throughout human history, in many occasions, states have relied on international regimes, international law and cooperation to maximize their respective safety and security. The histories of economics, diplomacy, politics, sociology, science among other subjects tell a story regarding what human society entails and sheds light on the contention that the international system is anarchic.³⁶ For example, a careful examination of Western civilization reveals a prosperous and yet tragic history. While the West made pioneer discoveries of science and improved our understanding of our physical environment, conceived political ideas and theorized about human organization and recognised the value of an individual, it has been unsuccessful in ending world's

³⁴ Natariana, Kilonzo Syombwii. 2017. "Security Challenges in Africa: The Role of Refugees in Kenya." Master's Thesis. UoN, Nairobi: (Unpublished), November

³⁵ Chepkirui, Kitur Sharon. 2016. "Refugees a Threat to National Security: A Case Study Kenya." LLB Project. Strathmore, Nairobi: (Unpublished), March

³⁶ Irwin, Terence. 1995. Plato's Ethics. Oxford: Oxford University Press.

suffering.³⁷ Borne by numbers, is true that the entire number of deaths as a result of war has been declining since 1946. Shortly after the Second World War, millions of people lost their lives due to wars.³⁸ Through study of history and data related to war, it is possible to observe some three marked peaks in war deaths since World War II, namely: “the Korean War (early 1950s), the Vietnam War (around 1970), and the Iran-Iraq and Afghanistan wars (1980s).” Recently death tolls continue to rise emanating from the conflict in the Middle East, especially in “Syria, Iraq and Afghanistan.”³⁹ It is no wonder that, Huval Harari advises that if one were to understand the motivation of people, one must listen to them. He goes further to contend that even if they sound irrational, one must take it seriously.⁴⁰ Generally therefore, in terms of human history, it is clear that despite the anarchic nature of the system, a more peaceful society is emerging.

Moreover, by evaluating the contribution of international regimes and international organizations to world peace, the convergence of the major International Relations theories over anarchy can be seen. International regimes denote to a set of suggested or direct principles, rules and regulations, protocols where actor’s beliefs coincide. The success of a regime depends on the operations of organizations, government among others which share set norms, rules, procedures in a specific area of international action.⁴¹ Examples of regimes are the WTO regime, International Postal services regime and Human Rights regime, among others. In addition, the development of norms and codification in to International Law and cooperation in the international system is an indicator that states indeed regulate the so-called anarchic system. States will follow international

³⁷ Perry, Marvin. 2008. *Western Civilization. A Brief History*. Boston: Wadsworth.

³⁸ Max Roser, et.al. 2016. “War and Peace.” *Our World in Data*. Accessed September 07, 2022. <https://ourworldindata.org/war-and-peace>.

³⁹ Ibid

⁴⁰ Huval Harari in public appearances on media over the Ukraine-Russia war.

⁴¹ Krasner, Stephen D. 1982. “Structural Causes and Regime Consequences: Regimes as Intervening Variables.” *International Organization* 36, no. 2 185-205

law because they see the law as legitimate. Anarchic international society does not necessarily mean states live in a lawless world. In fact, states agree on practical legal systems which guides and control their behaviour as well as safeguard their rights.

International law as we know it today is already exhibiting complex legal rules and institutions. While one may argue about the implementation of International Humanitarian Law for instance, there is no denying that actors in the international system are guided by IHL during armed conflicts. In addition, since 1947 states and organizations have submitted a total of 183 cases to the ICJ⁴², signifying that states believe in the legitimacy of the court. Although some countries may decline to implement the decision of international tribunals and commissions or even courts, as the case would be in the case of the Ethiopia-Eritrea border conflict which the 2002 UN-backed Eritrea-Ethiopia Boundary Commission (EEBC) issued a decision in favour of Eritrea and Ethiopia refused to abide by it and instead resumed war.⁴³ In later years, however, Ethiopia accepted to abide by the decision.

1.4.4. Diplomacy and Border Security

Shrestha Buddhi provides useful definitions of diplomacy and border diplomacy. Defining diplomacy as a tool for undertaking negotiations with a view to collective acceptable solutions to problems in a peaceful manner, suggests that border conflicts can be resolved peacefully.⁴⁴ The research, which focused on the Nepal-India and Nepal-China borders, makes a case for the prospect that border demarcation diplomacy presents for Nepal and recommends several strategies

⁴² ICJ. 2022. Cases. 27 April. Accessed September 03, 2022. <https://www.icj-cij.org>

⁴³ Decision Regarding Delimitation of the Border Between the State of Eritrea and the Federal Democratic Republic of Ethiopia. 2002. Decision 13-4-2002 (Eritrea-Ethiopia Boundary Commission, 13 April)

⁴⁴ Shrestha, Buddhi Narayan. Jan 2021. "Diplomacy in the Perspectives of Boundaries." *Journal of Foreign Affairs*, Vol. 1, No.1 Pp- 37-57

for consideration.⁴⁵ The study is useful as a case study and offers useful lessons for comparative purposes in the Kenyan situation.

Traditional diplomacy has been applied to resolve border challenges across the world. For instance, Chinese version of public diplomacy has been successful in advancing China's diplomacy and space in the world. The version of public diplomacy in China is largely propagandist in nature and is based on providing censored information to the public.⁴⁶ Kibon explored "the role of Track One diplomacy in International Conflict Resolution using the Ilemi Triangle along the Kenya and South Sudan International boundary." The dissertation argues that Track One Diplomacy will continue to have important theoretical and empirical significance in the resolution international boundary disputes.⁴⁷ The study's main value to the present research was in the fact that it focused on one of Kenya's international boundaries, which is the subject of the present study. Besides, since it applied the realist theoretical perspective, it corroborates previous research on the theoretical role of traditional or Track One Diplomacy in resolving border disputes.

Another study explores the usefulness of Track Three diplomacy (People to People) in conflict resolution.⁴⁸ The paper argues that diplomacy remains a powerful tool against modern forms of insecurities among states.⁴⁹ Defining Track Three diplomacy as that form of diplomacy at the grassroots level among ordinary people, it argues that it may make it possible to improve cross-cultural understanding, facilitate more tolerance and gradually assist in creating a peaceful

⁴⁵ Shrestha, Buddhi Narayan. Jan 2021. "Diplomacy in the Perspectives of Boundaries."

⁴⁶ Lejli, Hassarhani Anja. 2021. "Public Diplomacy of the Peoples' Republic of China." Project Paper. Sarajevo: (Unpublished)

⁴⁷ Kibon, James Kiprono. 2019. "Track One Diplomacy and Border Disputes: Theoretical Contextualization of Kenya-Sudan/Kenya-South Sudan Ilemi Triangle Dispute." PhD Dissertation. USIU-A, Nairobi: (Unpublished)

⁴⁸ Wasike, Stella, Pontian Godfrey Okoth, and Edmond Were. 2016. "The Nature of Track Three Diplomacy and its Influence on Cross-Border Security Relations between Kenya and Somalia." *International Journal of Managerial Studies and Research*, Vol. 4, Issue 7 Pp: 1-12

⁴⁹ Wasike, Stella, Pontian Godfrey Okoth, and Edmond Were. 2016. "The Nature of Track Three Diplomacy and its Influence on Cross-Border Security Relations between Kenya and Somalia."

culture among people.⁵⁰ The paper is also useful to the current study because it goes beyond Track Three and its various forms, but explores the contribution of Track One and Two. The study was largely based in the Kenya and Somalia boundary and do not necessarily address the rest of Kenya's boundaries. In yet another similar research, Njoroge argues that despite the significant contribution, traditional diplomacy is no longer enough to meet the 21st Century demands on nations.⁵¹ The research contends that public diplomacy in Kenya fills the gap left due to insufficient strategic communications.⁵²

In summary, existing literature contends that diplomacy is no longer the preserve of diplomats, rather there is an increasing need for public diplomacy.

1.4.5. Para-diplomacy and Border Security

Reviewed literature indicates that research that exclusively focuses on the role of para-diplomacy in border security across the world is limited. Certainly, in literature available in Kenya, there is no single literature focusing exclusively on para-diplomacy and border security. Nevertheless, as the review in the foregoing sections has indicated, literature on challenges of border security or the role of traditional diplomacy is available, albeit disjointed and reveals serious gaps.

The only available academic research material emphasizes the part that county governments play in development with no application on border security. Centring on county governments of Kenya and exploring the role of Subnational Governments in international relations, Njaramba concludes that counties in Kenya have contributed to the realization of Sustainable Development Goals (SDGs) and recommends that a framework for the participation

⁵⁰ *ibid*

⁵¹ Njoroge, Jacinta Wanjiru. 2018. "The Role of Public Diplomacy in Advancing National Security: A Case Study of Kenya." Master's Thesis. UoN, Nairobi: (Unpublished)

⁵² Njoroge, Jacinta Wanjiru. 2018. "The Role of Public Diplomacy in Advancing National Security: A Case Study of Kenya."

of counties in international affairs should be formulated.⁵³ Njaramba's research was further useful in the present study due to its application of neo-functionalism theory to explain the Kenyan context.

Overall, therefore, the literature review has identified the need for further in-depth academic research on the role of county governments in border security and, through triangulation, their role in national security.

1.5. Justification of the Study

The Ministry of Foreign Affairs and Diaspora Affairs, and the Presidency, both of which are the primary foreign policy makers will be informed of the potential of harnessing the contributions of county governments in diplomacy, particularly as it relates to border security, a critical component of national security. Similarly, the findings will help border counties carve out their niche in foreign policy and thereby maximize the overall benefits to border security. Armed with such tools it is hoped that the collaboration of both levels of government in border security will be enhanced.

The research findings further join the growing body of knowledge on border security and the role of subnational units such as counties in Kenya. It therefore adds to the growing literature on para-diplomacy, border security, diplomacy but among the pioneer studies on para-diplomacy and border security in Kenya. Scholars, students and universities who may be interested in similar subjects or approaches in the future may find the research outcome useful. The research also opens avenues for further research on specific borderlines and counties. Furthermore, the findings may help the public to appreciate the roles of county governments in border security and thereby make it easy for them to cooperate and share information with border management authorities.

⁵³ Njaramba, Rosemary Nyambura. 2019. "Role of Subnational Governments in International Relations: A Focus on County Governments of Kenya." Master's Thesis. UoN, Nairobi: (Unpublished)

1.6. Theoretical Framework

The research was informed by the theory of Neofunctionalism in IR. According to Anderson, this theory describes and explains “the process of regional integration in the manner of interaction of growing economic interdependence between nations, organizational capacity to resolve disputes and build international legal regimes and supranational market rules that replace national regulatory regimes.”⁵⁴ First, functionalism was initially advanced in 1930s by David Mitrany in his writings on economic planning and its political consequences.⁵⁵ Functionalism helps to understand how greater cooperation, and therefore peace, could be established between states. The main thesis of functionalism is that instead of focusing on intentions to fashion an international government, states should focus on low level technical cooperation in areas such as water, safety, weather forecasting among others. In a sense, cooperation is easier to achieve in these areas because of their perceived significance in matters dealing with sovereignty and national security concerns of states. Over time, cooperation will be achieved in other more difficult issues and at the same time nationalism and sovereignty issues, two of the major causes of war in Europe at the time, wanes within states.

Second, neofunctionalism was developed in the 1950’s with the original thoughts of Ernst B. Haas.⁵⁶ Its primary tenets encompass those of functionalism but places emphasis on the multiplier effects of such cooperation. He argues that initial cooperation in low level areas will necessitate more cooperation in related sectors and areas. These effects, which he referred to as spill-over, forces or influences cooperation in two related ways, primarily through, expansive

⁵⁴ Anderson, Dorothy. 1998. “David Mitrany (1888-1975): An Appreciation of His Life and Work.” *Review of International Studies* 24, no. 4 577-592

⁵⁵ Anderson, Dorothy. 1998. “David Mitrany (1888-1975): An Appreciation of His Life and Work.”

⁵⁶ Schmitter, Philippe C. 2005. “Ernst B. Haas and the legacy of neofunctionalism.” *Journal of European Public Policy*, 12:2 255-272.

logic, which is cooperation in other sectors, and second, to further deepen cooperation in the same sector.

The research applied the theory of neofunctionalism to explain cooperation between border counties and neighbouring countries in cross border relations. The theory also helped the researcher to infer on how to enhance the role of border counties in border security and regional integration.

1.7. Methodology

This section presents the research's design and methodology. It comprises of the "research design, scope, target population, research sample and sampling technique, procedures on data collection, and data analysis and ethical considerations."

1.7.1. Research Design

The research deployed a pragmatic method by combining both qualitative and quantitative research design and adopted twenty-four (24) border counties as a unit of analysis. Content analysis was used to collect and analyse secondary data from published books, journals, newspapers, online sources and other open sources and findings triangulated with primary data from the field. Primary data was gathered using two sets of questionnaires and an interview guide.

1.7.2. Study Scope

To limit the scope and focus on border security, the study did not focus on official diplomacy conducted by counties on other matters that do not touch on border security.

1.7.3. Research Target Population

The target population comprised of senior level officials of the country governments in border counties and officials from the central government from Ministries, Departments and Agencies

(MDAs) with functions in border management. At the county level, the sample included both present and outgoing governors, deputy governors, speakers and deputies of county assemblies, or relevant county executives who have reasonable knowledge of the activities of the county government in general as it relates to international relations. From the central government, samples were drawn from MDAs with functions or offices in border points which encompasses land, air and maritime borders and listed under the BCOCC, a whole-of-Government approach adopted by the government as per the Security Laws Amendment Act, 2014, Section 75.⁵⁷

1.7.4. Research Sample and Sampling Technique

Purposive Sampling was employed to choose an appropriate sample size from a sample frame of border counties. As Kortari contends, it is possible for a researcher to rely on judgement to select participants with diverse characteristics to ensure maximum reliability within the primary data.⁵⁸

The sample units were therefore the senior policy officials from the counties and national government of Kenya. The sample frame was from all the border counties, Ministry of Foreign Affairs and Diaspora Affairs and representatives from the BCOCC where it identified the following MDAs with offices in entry and exit points: “(a) Ministry of Interior and Coordination of National Government (The National Police Service (NPS), the National Intelligence Service (NIS), the Immigration Department, Kenya Coast Guard Service (KCGS), National Counter Terrorism Centre (NCTC)); (b) Ministry of Transport, Infrastructure Housing, Urban Development and Public Works (Kenya Airports Authority (KAA), Kenya Ports Authority); (c) The National Treasury and Planning (the Kenya Revenue Authority (KRA), Kenya Bureau of

⁵⁷ GoK. 2020. Border Management Secretariat. 01 January. Accessed September 06, 2022. <https://www.bordersecretariat.go.ke/>

⁵⁸ Kothari, C.R. 2004. Research Methodology: Methods and Techniques (Second Revised Edition). New Delhi: New Age International Publishers

Standards (KEBS)); (d) Ministry of Agriculture, Livestock and Fisheries Development (Kenya Plant Health Inspectorate Service (KEPHIS), and the (e) Ministry of Health.”⁵⁹

For the purposes of the research, the sample was drawn from the Ministry of Foreign Affairs and Diaspora Affairs and the five (5) Ministries in addition to another sample drawn from the county governments as tabulated in Table 1 that follows.

Table 1: Study Sample

Officials	Size	Per	Total
	Ministry/	County	Sample
Ministry of Foreign Affairs and Diaspora Affairs	8		28
Ministry of Interior and Coordination of National Government	4		
National Treasury and Planning	4		
Ministry of Transport, Infrastructure Housing, Urban Development and Public Works	4		
Ministry of Agriculture, L & F Development	4		
Ministry of Health	4		
County Governments (2 each from 24 border counties)	48		48
Total	76		76

The data shows that there were 37 responses in total, spanning all MDAs and border counties targeted. The most common responses were related to county government (22.4%), followed by the Ministry of Foreign Affairs (8.6%), MDA (6.9%), and Immigration (3.4%). There were also responses related to specific border counties such as West Pokot, Turkana, Marsabit, Mandera, Garissa, Uasin Gichu, Kisumu, Siaya, Homa Bay, Narok, Kajiado, Kwale, Mombasa, Lamu, Busia, Nairobi, Migori, Wajir, and Trans Nzoia. Additionally, there were responses related to specific units or departments such as Border Police Unit, KDF, and National Police Service.

⁵⁹ GoK. 2020. Border Management Secretariat.

Overall, the responses indicate a range of organizations and government entities that may be relevant to the topic being discussed. This is within the sample size informed by the grounded theory where Creswell recommends 20 to 30 qualitative interviews,⁶⁰ while Morse recommends 30 to 50.⁶¹

1.7.5. Data Collection Method

The study deployed data collection instruments in gathering information from respondents. Desk review was the main method of conducting research from secondary sources. However, primary data was collected by administering questionnaires and using interview guides. Data from high level officials who preferred to be interviewed rather than use a questionnaire was gathered by use of interview guides. Both the questionnaire and the interview guide were structured according to the research questions and comprised of closed and open-ended questions. The first section of the questionnaire and interview guide was used to capture background information.

1.7.6. Analysis and Presentation of Data

The researcher used both quantitative and qualitative data analysis approaches to analyse data collected. The quantitative approach involved descriptive and inferential statistics. Frequencies, percentages, tables and figures were adopted to present the descriptive statistics. SPSS 21 was used to summarize the data into frequencies and percentages. Thematic analysis was used to establish the relationship between para-diplomacy and border security. The open-ended questions in the questionnaire were analysed qualitatively. The qualitative data was organized and presented in a narrative form according to the key objectives of the study.

⁶⁰ Creswell, John W. 1998. *Qualitative inquiry and research design: Choosing among five traditions*. New York: Sage Publications

⁶¹ Morse, Janice M. 1994. "Designing funded qualitative research." In *Handbook of qualitative research*, by N. K. Denzin & Y. S. Lincoln (Eds.), (pp. 220–235). New York : Sage Publications

1.7.7. Ethical Considerations

The researcher considered and adhered to all the ethical principles during the study. All respondents voluntarily engaged in the study and informed consent was adhered to. Further, the researcher obtained all the required research permits. The researcher further requested the NDU-K to make the findings of the research project accessible to the organizations which participated in the study.

1.8. Summary

The Chapter has presented the introduction to the study, reviewed the literature and the methodology deployed to carry out the research. It provided “the background to the research problem, research objectives, theoretical framework, methodology and methodology applied literature review, justification and the scope of the study.”

Chapter Two presents the content analysis and primary data analysis that shall explore the challenges and experiences of Border Counties in border security along Kenya’s international boundaries with her neighbours. The chapter is divided into the following broad themes, namely: border management mechanism, identity issues, migration issues, and trade issues, political and diplomatic issues as well as other issues. Chapter Three delves into the content analysis and primary data analysis assessing how Track One diplomacy has contributed to border security in Kenya. Chapter Four presents an investigation of how Para-diplomacy can be adopted to enhance border security in Kenya. The research’s Summary, Conclusions and Recommendations are contained in Chapter Five.

CHAPTER TWO

CHALLENGES FACING BORDER SECURITY IN KENYA

2.0. Introduction

Chapter Two presents the challenges and experiences of border security of Border Counties along Kenya's international boundaries with her neighbours. The challenges and experiences were analysed from primary data obtained from the perspectives of Border Counties and officials from national government and triangulated through content analysis of available secondary data. The chapter is divided into the following broad themes, namely: Border Management Mechanisms in Kenya; Identity as Challenge to Border Security; Challenges of Migration; Trade Related Challenges; Political and Diplomatic Challenges, and Other Challenges.

2.1. Border Management Mechanisms

This section outlines the structure of the border management mechanisms in Kenya and identifies challenges from the national government perspective.

2.2. Borderline and Ports of Entry

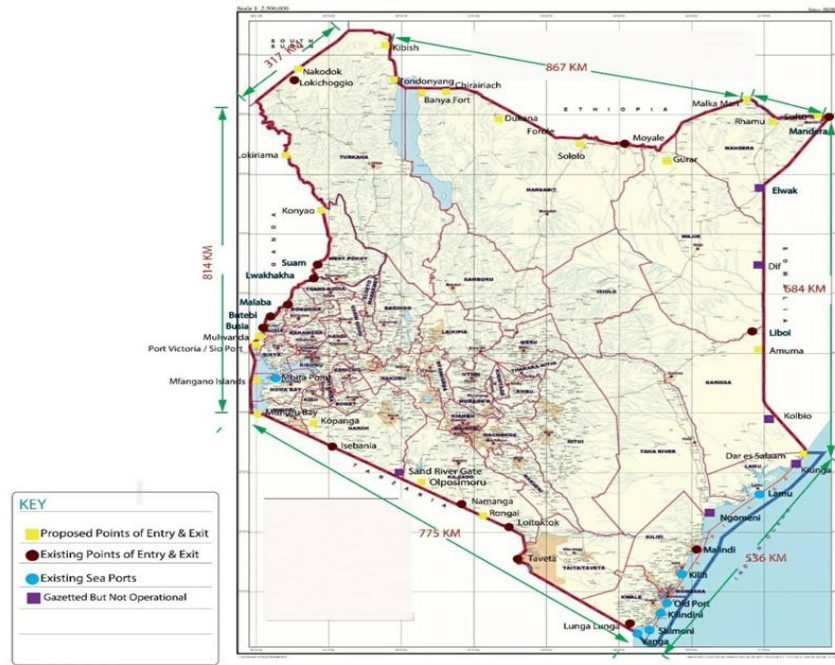
Kenya's borderline stretches for a total of 4,013 KM straddling five countries, namely; Uganda (933 KM), Ethiopia (867 KM), Tanzania (775 KM), Somalia (684 KM) and South Sudan (317KM). In addition, "Kenya has a 536 KM long coastline along the Indian Ocean", and Lake Victoria lakeshore.⁶²

The Ministry of Interior and Coordination of National Government is mandated with the management of borders. In turn, the role is vested in the Border Management Section of the Department of Immigration Services which is deals with the management of entry and exit. The

⁶² Department of Immigration. 2022. Department of Immigration. 29 January. Accessed July 20, 2022. <https://immigration.go.ke>

Ministry runs three types of Ports of Entry (PoEs); “Land Border Controls -16 borders, Airport Border Controls -9 borders and Seaport (and Lake Pier) Border Controls -10 borders.⁶³ The map below denotes the borderlines and PoEs.”

Map: Kenya’s Borderline Map



Source: <https://immigration.go.ke/border-management/kenya-borders-map>

Authorised entry and exit of persons into/out of Kenya officially takes place through gazetted Border Points, Airports and Sea Ports which include: “Airports (Jomo Kenyatta International Airport, Moi International Airport, Kisumu; International Airport, Eldoret; International Airport Wajir Airport; Lokichoggio Airport, Wilson Airport and Malindi Airport; Sea Ports (Shimoni, Kilindini, Old Port, Lamu, Kiunga, Mbita Point, Kisumu Pier, Vanga); Land borders (Busia,

⁶³ Ibid

Malaba, Lwakhakha, Suam, Namanga, Taita Taveta, Isebania, Lunga Lunga, Mandera, Moyale, Nadapal, Loitoktok, Garissa, Muhuru bay, Ijara and Liboi).”⁶⁴

To facilitate trade, the EAC has agreed on the concept of OSBP and has operationalised such posts in Taveta, Lungalunga, Namanga, Isebania, Busia, Malaba and Moyale.⁶⁵ The department has developed standard operating procedures for management of departure and arrivals that comply with international standards.

2.3. Border Governance Structure

Other than the Department of Immigration Services, there are other government Ministries, Departments and Agencies that execute their mandates through maintaining the presence of officials from those MDAs at PoEs. These include security agencies “(National Intelligence Service (NIS), National Police Service (NPS)); Port Health; Kenya Revenue Authority (KRA); Airport and Sea ports Authorities (Kenya Airports Authority (KAA), Kenya Ports Authority (KPA) and Kenya Maritime Authority (KMA); Kenya Bureau of Standards (KBS); Kenya Plant Health Inspectorate Services (KEPHIS)” among other agencies co-opted on need basis. The department heads of the institutions involved at the PoEs form the BCOCC, an inter-agency coordination team established through Security Laws (Amendment) Act 2014 Section 75.⁶⁶ Operationally, three structures operating under the BCOCC include the Border Management Secretariat (BMS), Border Management Committees (BMCs) and Joint Operation Centers (JOCs).⁶⁷ The BCOCC reports to the National Security Advisory Council (NSAC).⁶⁸

⁶⁴ Department of Immigration. 2022. Department of Immigration. 29 January. Accessed July 20, 2022. <https://immigration.go.ke>

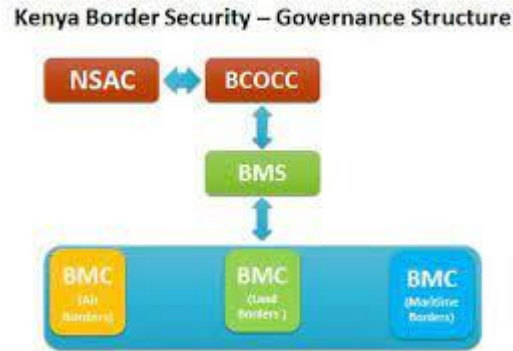
⁶⁵ Department of Immigration. 2022. Department of Immigration

⁶⁶ Security Laws (Amendment) Act 2014 Section 75

⁶⁷ Muteshi, Alexander Imbenzi. 2019. “Border Security Experience: The Kenyan Experience.” Identifying and understanding the latest and evolving Threats and Challenges for Border Agencies. Casablanca: Department of Immigration. 1-23

⁶⁸ Muteshi, Alexander Imbenzi. 2019. “Border Security Experience: The Kenyan Experience”

That operational relationship is schematically depicted below.



Source: Muteshi, Alexander Imbenzi. 2019. “Border Security Experience: The Kenyan Experience”

2.4. Boundary Delineation and Demarcation

International Boundary delimitation and demarcation is a multi-agency program and it is coordinated by the Kenya International Boundaries Office (KIBO). “The Ministries of Lands, Public Works, Housing and Urban Development, Ministry of Defence, Ministry of Foreign Affairs and Diaspora Affairs, State Law Office, Ministry of Interior and Coordination of National Government and the Executive Office of the President.” The process of delimitation and demarcation of Kenya’s international boundaries is at various stages with each of the five neighbouring countries.

There are no demonstrable structures that indicate that Counties play a role in Kenya’s border management mechanisms and yet they do. The next section will delve into the challenges of border management and demonstrate how they play out in the counties.

The status of each of the boundaries and respective challenges is tabulated in Table 2.

Table 2: Status of Kenya's International Boundaries as at 31 January 2023

Country	Length (KM)	Status	Challenge and Action
Ethiopia	867	<ul style="list-style-type: none"> • Delimitation and Demarcation undertaken in 1960's • Restoration of beacons ongoing 	The demarcation of the stretch east of Lake Turkana is pending because the Tri-Point between Kenya, South Sudan and Ethiopia is yet to be determined
Uganda	933	<ul style="list-style-type: none"> • Delimitation completed • Demarcation is ongoing 	The stretch in Lake Victoria remains to be demarcated causing challenges related to Migingo Island
Tanzania	775	<ul style="list-style-type: none"> • Delimitation completed • Demarcation is on going 	No major reported challenges
South Sudan	317	<ul style="list-style-type: none"> • Delimitation and Demarcation is yet to begin • MoU on International Boundary Delimitation and Demarcation signed and preparatory steps ongoing 	The status of Ilemi triangle remains undetermined
Somalia	684	<ul style="list-style-type: none"> • Delimitation completed • Demarcation is not done • MoU on International Boundary Demarcation signed but not implemented 	Conflict in Somalia and Somalia's claim on part of Kenya's maritime waters remains a challenge

2.5. Identity Frame as a Challenge to Border Security

This section analyses the question of identity frame (Us Vs Them) from all perspectives including ethnic, religion, age, culture, gender among others and how it relates to border security. In this context identity implies the notions of kinship or historical family relations. This includes families, clans, ethnic groups, tribes or communities and their collective cultural beliefs. Religion refers to Christian, Muslim, Hindu, traditional or any other religious groupings in Kenya and among its neighbours. Demographic variables such as gender and age are also important determinants of identity and therefore is a complex consideration in border security.

Ethnicity is a major variable that influences the identity of the Kenyan people. The number of ethnic communities (or tribes) and their respective sub-groups are diverse. However, a total

number of 47 ethnic communities may be inferred from official records of the government of Kenya. The first of these records is the 2009 Population and Housing Census which lists 42 ethnic communities in Kenya.⁶⁹ Subsequently, the NCIC adopted the list of 42 ethnic communities in its “*Ethnic and Diversity Audit of Commissions in Kenya.*”⁷⁰ The origin of the classification and use of the 42 ethnic communities is traced to the 1969 Population and Housing Census, the first after independence.⁷¹ By 2016 therefore, as these sources indicate, the list of the 42 ethnic communities in Kenya comprised of the: “Suba, Embu, Kamba, Kikuyu, Kisii, Kuria, Luo, Maasai, Mbeere, Meru, Nubi, Samburu, Taita, Taveta, Teso, Turkana, Tharaka, Luhya, Kalenjin, Mijikenda, Swahili, Kenya, Somali, Ilchamus, Njemps, Borana, Burji, Dasanech, Gabra, Galla, Gosha, Konso, Orma, Rendille, Sakuye, Waat, Galjeel, Kenyan Arabs, Kenyan Asians, Kenyan Europeans, Kenyan Americans, Isaak and Leysan.”⁷² The Luhya, Kalenjin, Mijikenda, Swahili, and Kenyan Somali each has several sub-groups, which are listed under the main ethnic community.⁷³

Furthermore, between 2017 and 2019, Kenya granted Citizenship to stateless persons and re-categorized ethnic communities thereby varying the number from 42 to 45. First, Kenya granted citizenship to Makonde community in 2017.⁷⁴ Subsequently, the 2019 Kenya Population and Housing Census recognizes 45 ethnic communities in Kenya, including the Makonde.⁷⁵ The 45 ethnic communities are listed as follows: “Aweer/Waata, Bajuni, Borana, Burji, Dahalo, Dasenach

⁶⁹ KNBS. 2011. 2009 Kenya Population and Housing Census. Census, Nairobi: Kenya National Bureau of Statistics

⁷⁰ NCIC. 2016. *Ethnic and Diversity Audit of Commissions in Kenya*, Comm, Vol. 1. Ethnic and Diversity Audit, Nairobi: National Cohesion and Integration Commission

⁷¹ KNBS. 2022. "Kenya Population and Housing Census, 1969." Kenya National Data Archive (KeNADA). September 14. Accessed February 2, 2023. <https://statistics.knbs.or.ke/nada/index.php/catalog/72>

⁷² NCIC. 2016. *Ethnic and Diversity Audit of Commissions in Kenya*, Comm, Vol. 1. Ethnic and Diversity Audit, Nairobi: National Cohesion and Integration Commission

⁷³ *ibid*

⁷⁴ 2017. *Rais Kenyatta awapa Wamakonde 5000 vitambulisho*. Directed by Citizen TV. Performed by Uhuru Kenyatta

⁷⁵ KNBS. 2019. 2019 Kenya Population and Housing Census. Census, Nairobi: Kenya National Bureau of Statistics.

(Dasenach and Merile), Dorobo, El Molo, Embu, Gabra, Gosha, Ilchamus/Njemps, Kalenjin (17 sub-groups), Kamba, Kenyan Somali (9 sub-groups), Kikuyu, Kisii, Konso, Kuria, Luhya (18 sub-groups), Luo, Masai, Makonde, Mbeere, Meru, Mijikenda (9 sub-groups), Nubi, Pokomo, Orma (2 sub-groups), Rendile, Sakuye, Samburu, Suba, Swahili (19 sub-groups), Taita, Taveta, Teso, Tharaka, Turkana, Walwana/Malakote, Wayyu, Kenyan Asians, Kenyan American, Kenyan Arab and Kenyan European.”⁷⁶

An analysis of the 2009 and the 2019 Population and Housing Censuses indicated that some ethnic communities, which were hitherto listed in 2009 were re-categorized as belonging to sub-groups, other sub-groups were elevated to ethnic communities, others merged into a single community, while one community was reclassified as stateless. First, the Isaak and Leysan were re-categorized as sub-groups of the Kenyan Somali ethnic community. Second, the Dorobo and El Molo, as well as Bajuni and Dahalo, who were previously categorized as sub-groups of the Kalenjin and the Mijikenda respectively were re-categorized as ethnic communities. Third, the Ilchamus and Njemps were categorized as one and the same ethnic community and listed as Ilchamus/Njemps. Finally, the Galjeel which was previously listed in 2009 as No.39 was reclassified as stateless. Furthermore, the 2019 Census identified a total of 6272 stateless persons from Galjeel, Shona, Wapemba and Pare, among others.

In the recent past, on 12 December 2020, the government granted citizenship to 1,670 persons from the Shona community and 1,300 stateless persons of Rwandese descent who have been living in Kenya as stateless people.⁷⁷ This implies that, in addition to the 45 ethnic communities listed in the 2019 Census as discussed in the foregoing, ethnic communities in Kenya

⁷⁶ KNBS. 2019. 2019 Kenya Population and Housing Census

⁷⁷ 2020. President Kenyatta granted citizenship to 1 670 members of the Shona community who migrated to Kenya in the 1960s. Directed by NTV. Performed by Fred Matiang'i

are now 47. Moreover, on 12 December 2022, President William Ruto hinted at an ongoing process of consideration to grant citizenship to stateless persons of Pemba origin.⁷⁸ Several of these communities reside in border counties and straddle the Kenya’s international boundaries.

Several ethnic communities straddle Kenya’s international boundaries with all five neighbours and with it comes complex challenges as illustrated in the following table.

Table 3: Complexity of Cross-Border Identity Issues

Neighbour	Complexity of Identity	Challenge and Opportunity
Tanzania	<p>a) Migori, Narok, Kajiado, Taita Taveta and Kwale are the border counties with the following communities straddling the border:</p> <ul style="list-style-type: none"> • Luo around Migori county • Maasai in Narok and Kajiado Counties • Digo, Taita, Taveta, Duruma communities in Kwale county straddle the border <p>b) Lunga Lunga and Namanga are the busiest PoEs between Kenya and Tanzania and determine trade relations between the two countries</p>	<ul style="list-style-type: none"> • There is limited reported tensions related to ethnicity among border communities with limited cases of completion over resources • Trade relations predominate diplomatic relations between Kenya and Tanzania
Uganda	<p>a) Busia, Bungoma, Trans Nzoia, West pokot and Turkana Counties border Uganda with the following communities straddling the border:</p> <ul style="list-style-type: none"> • For convenience, Karamoja cluster including Turkana, Pokot, Daasanach, Toposa straddle the border in Turkana and West Pokot counties • Luhya, Kalenjin, Luo communities straddle the border in Trans Nzoia, Bungoma and Busia Counties • Luo communities straddle the border around Lake Victoria in Kisumu, Siaya, Homabay and Migori <p>b) Busia and Malaba border posts in Busia and Bungoma respectively are the busiest</p>	<ul style="list-style-type: none"> • Intra-Clan affiliation but very hostile inter-clan relationships often resulting in conflicts over limited resources among the Karamoja cluster in Turkana and West Pokot • Cross Border tensions over shared resources often times spills over and mutate into full diplomatic tussle between Kenya and Uganda • Migingo Island conflict punctuates relations

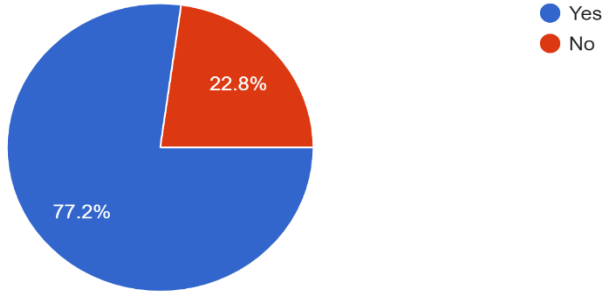
⁷⁸ 2022. President William Ruto's speech during 59th Jamhuri Day celebrations at Nyayo Stadium. Directed by Citizen TV. Performed by President William Ruto

	border posts and the gateway to Uganda and trade relations between Kenya and Uganda is a major concern	<p>between Kenya and Uganda</p> <ul style="list-style-type: none"> • Trade issues dominate Kenya-Uganda diplomatic relations
South Sudan	<p>a) Turkana County is the Border County with, Karamoja cluster including Turkana, Pokot, Daasanach, Toposa straddling the border</p> <p>b) The delay in undertaking border demarcation continue to cause tensions among the communities and politicians in Turkana</p> <p>c) The status of ilemi triangle predominate cross border communities</p> <p>d) Proliferation of Small Arms and Light Weapons is a common challenge along the border</p>	<ul style="list-style-type: none"> • Intra-Clan affiliation but very hostile inter-clan relationships often resulting in conflicts over limited resources among the Karamoja cluster in Turkana • Cross Border tensions over shared resources often times spills over and mutate into full diplomatic tussle between Kenya and South Sudan
Somalia	<p>a) Border Counties are Mandera, Wajir and Garissa. Three (3) Main clans straddle this border:</p> <ul style="list-style-type: none"> • Garre communities mainly live in parts of Mandera and presence in Kenya, Ethiopia and Somalia • Degodia communities mainly live in Wajir with presence in Ethiopia and Somalia • Ogaden live mainly in Garissa with presence in Somalia and is the largest Somali speaking clan in Ethiopia <p>b) Islam is the predominant religion among the border communities</p> <p>c) Pastoralist communities with little farming</p> <p>d) Proliferation of Small Arms and Light Weapons is a common challenge along the border, terrorism, and trafficking is a major concern along the border</p>	<ul style="list-style-type: none"> • Intra-Clan and religious affiliation but very hostile inter-clan relationships often resulting in conflicts over limited resources • Hotly contested political power play and acrimonious elections at the County and sub-county levels • Cross border conflicts sometimes cause diplomatic tensions between Kenya and Somalia
Ethiopia	<p>a) Border Counties are Turkana, Marsabit, Wajir and Mandera with the following communities straddling the border:</p> <ul style="list-style-type: none"> • Ogaden, Garre and Degodia in Mandera and Wajir • Mursi, Nyangatom, Daasanach (Merille) and Turkana in Turkana 	<ul style="list-style-type: none"> • Intra-Clan or Ethnic affiliation is strong but Inter-Clan rivalry is a constant cause of conflict over completion for resources • Hotly contested elections with perceptions of

	<p>County and Lower Omo region of Ethiopia</p> <ul style="list-style-type: none"> Borana, Oromo and Gabra communities in Marsabit and Ethiopia <p>b) Proliferation of Small Arms and Light Weapons is a common challenge along the border</p>	<p>marginalization of smaller communities within the County administration and electoral positions</p> <ul style="list-style-type: none"> Cross Border conflicts often cause diplomatic tensions between Kenya and Ethiopia
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2.5.1. Experiences of Border Counties on Identity Frame (Us vs Them)

Out of the respondents, 77.6% answered yes to the question of whether they face challenges and experiences as a result of the international boundary between their county and another country in relation to identity issues such as ethnicity, religion, age, culture, and gender, among others. This indicates that several people and counties are impacted by Identity Frame-related challenges and experiences due to the international boundary.



Most communities along the border areas have their families, clans and tribes occupying two or more countries as a result of the creation of border lines. It therefore becomes difficult at times to distinguish their citizenry and this causes challenges of dual loyalty, use of amenities and complicates security. Even in a county like Uasin Gishu, which is not a border county, faces similar challenges because the county hosts externally displaced refugees from South Sudan. Furthermore, respondents who have worked at points of entry such as JKIA, Eldoret and Isiolo, indicated that

some communities arriving at the POEs sometimes identify themselves as Kenyan nationals. The second identity issue raised by respondents is resource-based conflicts among border communities.

Further, cultural differences such as those of the Maasai and Kuria communities provide an opportunity for peacebuilding among cross border communities. The third identity related issue identified by respondents is the role of identity politics and its effects on elections. Ethnic tensions rise among cross border communities during elections periods. These challenges and experiences appear to confirm the findings made by Patricia Nduta Gituanja where integration and migration are identified as major challenges of border security in Kenya.⁷⁹ From a national government perspective Gituanja examines the challenges related to emigration and immigration, regional integration and information technology.

2.6. Challenges of Migration

This section analyses the question of migration including refugees, returnees, Internally Displaced Persons, Asylum seekers, statelessness and multiculturalism how it relates to border security.

According to UNHCR, as at April 2022, Kenya is home to an estimated 18,500 stateless people and 550,817 refugees spread across the country, with the majority in camps located in Kakuma, Turkana County and Daadab, in Garissa County.⁸⁰ Since 1963, Kenya has been a host for refugees from Uganda, Burundi, Rwanda, Congo, Ethiopia and Somalia. Due to the long-drawn-out conflicts especially in Somalia and South Sudan, two of Kenya's neighbours, there has been repeated influx of refugees and illegal immigrants into Kenya. What is worse is the porosity of Kenya's borders and the nuisance of global human trafficking networks which have made

⁷⁹ Gituanja, Patricia Nduta. 2013. "Border Management and National Security: An Analysis of the Implementations Border Policies in Kenya." Masters Thesis. UoN, Nairobi: (Unpublished), November

⁸⁰ UNHCR. 2022. United Nations High Commissioner for Refugees. Accessed December 20, 2022. <https://www.unhcr.org/ke/figures-at-a-glance>

Kenya a transit country for human trafficking. The complexity of this problem can only be seen on the overloaded Refugee Status Determination (RSD) process, available social amenities in urban centres, and adverse effects on the property market among many other costs in Kenya. Many of the illegal migrants have fraudulently acquired Kenya's identification documents such as passports and Identification cards threatening to redefine national identity in Kenya.

Refugees in Kenya are concentrated in Daadab (North-Eastern), Kakuma (Northern) and urban areas, especially in Nairobi, Mombasa, Kisumu, Eldoret and Nakuru. During the 2009 and 2019 population census in Kenya, the birth rates in those areas could not be explained. In fact, the 2009 Census was disputed over the numbers related to a certain community in north-eastern Kenya with the High Court and the Court of Appeal requested to make a determination. The specific sub-counties affected included; "Lagdera, Mandera East, Mandera Central, Mandera West, Wajir East, Turkana North, Turkana South and Turkana Central." These sub-counties are the immediate neighbourhood of Daadab and Kakuma refugee camps and as such flag the significance of border counties of Mandera and Turkana in border security.

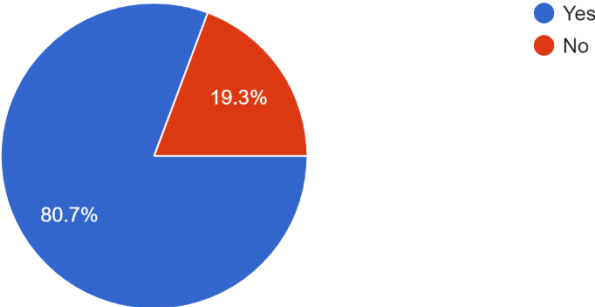
The refugee situation has created a complex web of socio-political and security challenges and exerted strain on government resources. For instance, long term camps in these areas have had an adverse effect on environment particularly in the over-extraction of natural resources including underground water resources and vegetation. It is reported that, before where only 50 metres was required to drill a borehole, it now requires over 400 metres threatening the future survival of the host community. Furthermore, over-exploitation of the already scarce resources and acute environmental degradation in the refugee hosting areas, exacerbates competition for resources between the host communities and the refugees and thereby exacerbating conflicts. Besides, economic migration is on the increase, causing strain on local amenities and services.

In a sense, international migration has worsened the status of international peace. With contemporary cross border criminality and transnational menace such as terrorism, human and counterfeit trafficking and drug trafficking on the rise, the role of border counties become critically essential. Diplomatic relations between Kenya, Somalia and Ethiopia have been affected in different periods due to government action or inaction on illegal immigrants.

The management of migration related issues is vested solely on the national government and yet counties interact with the challenge of illegal migration and refugees with severe consequences to local communities.

2.6.1. Experiences of Border Counties on Migration Issues

Eighty-one percent (81%) of respondents answered YES to the question of whether they face challenges and experiences related to migration issues as a result of the international boundary between their county and another country. These challenges may include managing refugee populations, accommodating returnees and internally displaced persons, addressing issues of statelessness, and navigating multiculturalism. Nineteen percent (19%) of respondents answered NO to this question.



This result indicates that the presence of refugees in their counties and related challenges of such as resource-based conflicts and overuse of social amenities is a major challenge and experience of border counties. Other challenges enumerated include demographic pressures and criminal activities. Secondly, due to common cross border identities, or transhumance, it poses challenges to the management of border entry and exit because documentation and identification becomes an arduous task.

Porosity of the borders makes it difficult to police and effectively manage entry and exit. Respondents identified human traffic as another challenge that was on the rise, particularly Ethiopian illegal immigrants on transit to South Africa. For example, Uasin Gishu county continues to receive and host large numbers of refugees from many countries from the sub-region including Rwanda, Somalia, Ethiopia and Eritrea. According to the respondents from that county, their presence is attributed to ‘slippage’ from refugee camps located in northern part of the country, particularly Kakuma in Turkana County. Further, some respondents provided the connection between refugees and statelessness of certain communities, particularly the Garjeel. This view is supported by the Census of 2009 and 2019 where that community was counted as part of Kenya’s ethnic community in 2009 and was later reclassified in 2019 as stateless.

Some respondents from Wajir, Garissa, Mandera and Isiolo identified the challenge they face due in accessing services such as education, health, housing among others, as a result of politics surrounding refugees. For example, the control of tropical diseases such as tuberculosis and other diseases such as polio is often hampered as influx of refugees disrupts control and vaccination programmes respectively. Furthermore, this situation has complicated life for the Kenyan Somali ethnic communities for it has become difficult for them to acquire personal Identification Cards and Passports due to a more stringent processing systems applied by the

Government, which is corruption prone. In addition, some respondents faulted the policy of encampment because it was difficult to police as refugees slip out of the camps thereby complicating the local community-refugee relationships. All of these experiences of the counties are in line with findings from secondary sources, particularly those identified by Gituanja.⁸¹

Furthermore, Kenya has adopted *laissez-faire*, Residency and Encampment policies to address refugee issues. Since independence, Kenya has adopted a *laissez-faire*, residency and later encampment policies to deal with refugees. Granting of residency to selected refugees was also implemented. Between 1963 and 1991, Kenya pursued a policy of *Laissez-Faire* with refugees from Uganda, Ethiopia and Somalia rising from 5000 to 20,000 during the period.⁸² Although the Immigration Act was passed in 1967 but *de facto*, refugees were free to move and work freely but with no protection rights.⁸³ In 1991 the country adopted the policy of encampment, and in 2006 the management of Refugees moved from Government to UNHCR following the passage of the Refugee Act. From 2013 to date, the policy of encampment continued with attempts to voluntarily repatriate and return refugees failing to produce the desired goals.⁸⁴ By 2021 only 23,500 had returned to Somalia (10,000), Ethiopia (5,000), South Sudan (5,000) and Burundi (3,500) with the government granting 25,000 EAC citizens residency.⁸⁵ In other words, the policy on encampment is perhaps the greatest threat to national identity and cohesion. The fact that many illegal immigrants have infiltrated into the society, fraudulently acquired identification documents,

⁸¹ Gituanja, Patricia Nduta. 2013. "Border Management and National Security: An Analysis of the Implementations Border Policies in Kenya." Masters Thesis. UoN, Nairobi: (Unpublished), November.

⁸² Department of Immigration. 2022. Department of Immigration. January 29. Accessed July 20, 2022. <https://immigration.go.ke>

⁸³ Department of Immigration. 2022. Department of Immigration

⁸⁴ MFA. 2021. "Aide Memoire on Closure of Daadab and Kakuma Refugee Camps." Aide Memoire. Nairobi: Unpublished, March

⁸⁵ MFA. 2021. "Aide Memoire on Closure of Daadab and Kakuma Refugee Camps."

altered demographics in certain rural and urban centres are examples of how national identity concerns needs to be addressed with urgency.

2.7. Trade Related Challenges

This section analyses cross border trade challenges and its implications to border security. It identifies challenges relating to non-tariff barriers and infrastructure linkages, devolution and border counties, and informal cross border trade.

CBT in goods and services donates to trade between residents and non-residents.⁸⁶ This implies that such products need to be processed through customs and applicable payments depends on existing trade arrangements between the countries concerned. Kenya applies two main trade regimes to trade with the five neighbours. The East African Community protocols applies when trading with Uganda, Tanzania and South Sudan whereas the COMESA protocols apply when trading with Ethiopia and Somalia. The Ministry for EAC, Arid and Semi-Arid and Regional Development is responsible for managing the trade issues within EAC while the Ministry of Trade, Investment and Industry is responsible for international trade. The study revealed a number of challenges that are experienced by counties and national government in relation to cross border trade as follows:

2.7.1. Non-Tariff Barriers and Infrastructure Linkages

For instance, the major non-tariff barriers impeding trade between Kenya and Tanzania include different working hours, exorbitant entrance fee, delays at weighbridges, among other challenges all complicated by corrupt borer officials.⁸⁷ In addition to similar non-tariff barriers experienced

⁸⁶ Kantox. 2022. Cross Border Trade (CBT). Accessed December 24, 2022. <http://www.kantox.com>

⁸⁷ Shah, Vruti. 2021. "Kenya: Free Trade in EAC: Focus on Trade between Kenya, Uganda and Tanzania." Bowmans. 30 November. Accessed December 20, 2022. <http://www.bowmanslaw.com>

by traders between Kenya and Tanzania, traders between Kenya and Uganda complained of other challenges such as poor infrastructure, high clearance fees among others.⁸⁸

2.7.2. Devolution and Border Counties

In the devolved governance system in Kenya, trade development and regulation is a devolved function. Whereas implementation of these functions may appear straight forward within Kenya, it is observable that some complications may arise when one considers the interaction between border counties and neighbouring countries in the implementation of these devolved functions.

For instance, inadequate understanding of key issues about devolution is creating mistrust between stakeholders with some, assuming that the national government is aimed at bringing down devolution.⁸⁹ For example, some counties criticised transfer of functions that happened at the beginning of the devolution process, arguing that all powers provided in Schedule Four of the Constitution are transferred at once and commensurate resources are also transferred.⁹⁰ This was largely attributed to the belief held by county governments that officials of the national government remain indignant of the perceived invasion of the previous spaces they held in power.⁹¹ Laituba posit that, “While this may be true, the reality on the ground is that many county governments, if not all, lack the capacity to absorb all such powers within such a short term.”⁹²

⁸⁸ Shah, Vruti. 2021. “Kenya: Free Trade in EAC: Focus on Trade between Kenya, Uganda and Tanzania.”

⁸⁹ Laibuta, Mugambi. 2013. “Implementing Devolution in Kenya: Challenges and Opportunities Two Months On.” Constitutionnet. 11 June. Accessed March 10, 2023. <https://constitutionnet.org/news/implementing-devolution-kenya-challenges-and-opportunities-two-months>

⁹⁰ Laibuta, Mugambi. 2013. “Implementing Devolution in Kenya: Challenges and Opportunities Two Months On.”

⁹¹ *ibid*

⁹² *ibid*

2.7.3. Informal Cross-Border Trade

Informal CBT encompasses trade between two neighbouring countries conducted by vulnerable, small scale and unregistered traders.⁹³ In most cases, communities living in border towns or centres in the neighbouring countries see themselves as from the same neighbourhood and are not bothered with the imaginary boundary between them. Their informality or unregistered description should not be confused with illegality. These are communities who are often times not captured by official public records.

The main commodities traded among cross-border communities in border counties in Kenya include: “Livestock and livestock products (Ethiopia, Somalia, South Sudan) Maize and Maize flour (Ethiopia, Southern Somalia, South Sudan, Uganda and Tanzania); Beans, Wheat and Wheat flour (South Sudan, Tanzania and Uganda); Sorghum and Sorghum flour (South Sudan and Somalia) and Sesame especially in Ethiopia.”⁹⁴

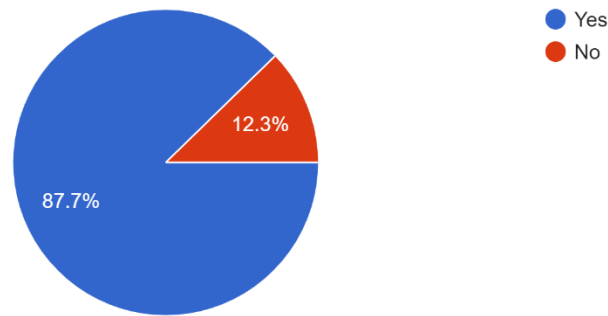
The two main challenges identified include the issues around gender-based vulnerability of the most of the cross-border traders and the applicability of multiple overlapping trade arrangements. In addressing some of these challenges, and with the assistance of COMESA, EAC and IGAD, several Border Trade Protocols have been negotiated and concluded which identifies a list of products to be traded by the small-scale traders under the COMESA STR. The border trade protocol defines and limits the radius of distance from which a trader should be coming from to qualify as a cross border trader. However, the challenge lies in the categorization of list of items to be traded and how countries consider some of the products as part of the strategic food reserves.

⁹³ UNCTAD. 2022. “Informal Cross-Border Trade for Empowerment of Women, Economic Development and Regional Integration in East and Southern Africa.” United Nations Conference on Trade and Development. 18 July. Accessed December 25, 2022. <http://www.unctad.org>.

⁹⁴ FEWS/NET FAO/WFP. 2022. “Joint Cross Border Market and Trade Monitoring Initiative.” East Africa Cross Border Trade Bulletin, July: 1-9

2.7.4. Experiences of Border Counties

More than 85 % of the respondents considered trade related issues as a challenge to border security as shown on the chart below. The data provided pertains to the challenges and issues faced in trade at border areas in Kenya. The responses were collected from a survey and categorized into 55 different sub-categories. Some of the major challenges mentioned include illegal trade practices, smuggling, counterfeit products, tax evasion, and porous borders. The need for one-stop border points and the impact of closed borders on trade were also highlighted. It's imperative to respond to these challenges to promote legal and efficient trade practices in border areas.



This implies that cross border trade is a major area where counties interacted with neighbouring countries was in cross border trade. Several of them argued that border areas are often associated with illegal trade practices which include trade in counterfeited goods, smuggling of illegal substances, smuggling especially food items and pharmaceuticals and herbal medicines. Majority of the respondents underscored the usefulness of One Stop Border Posts (OSBP) in facilitating cross border trade. However, many noted that there was still unregulated trade taking place through ungazetted points.

These findings are in line with available literature on cross-border trade such as those made by FAO or Trademark East Africa.⁹⁵ Integration in the EAC region is advanced due to significant steps taken progressively toward full integration including through trade agreements that are aimed at advancing multilateral trade within a multilateral trading system of free and equitable trade.⁹⁶ The WTO commissioned the TFA with an aim of lowering the bureaucratic red tape which are involved in cross border trade. The TFA is aimed at speeding up movement, allowing free movement and clearance of goods, as well as allow cordial working relationship between the custom officials.

2.8. Political and Diplomatic Challenges

This section analyses political and diplomatic challenges relating to border security including issues such as public participation among border communities, participation in politics and elections by border communities, cross border shared resources, and representation among other related issues.

2.8.1. Local Politics, Foreign Relations and Security

There is a thin line between domestic politics and international affairs. This is particularly severe when the subject matter under consideration touches on border communities. For instance, the refugee question in Kenya determines local politics in the counties where the refugees are settled. For example, in Mandera, Garrissa and Wajir, the presence of Daadab refugee camp in Liboi and the attendant challenges already discussed in the previous section, influences and challenges

⁹⁵ FEWS/NET FAO/WFP. 2022. "Joint Cross Border Market and Trade Monitoring Initiative." East Africa Cross Border Trade Bulletin, July: 1-9

⁹⁶ Olubandwa, Beryl. 2022. "WTO Trade Facilitation Adoption Challenges in East African Trade Region during COVID-19 Crisis." Scientific Research. December. Accessed March 12, 2023. <https://www.scirp.org/journal/paperinformation.aspx?paperid=121834>

Kenya's foreign policy towards Somalia. While Kenya's foreign policy during the course of the conflict in Somalia has been to enhance regional and international cooperation in the stabilisation of Somalia including state formation, state structures capacity building, disarmament efforts and resettling refugees, some local political players in Kenya make conflicting public utterances and even engagements for political expediency. The study revealed similar patterns in the relations between South Sudan and local politics in Turkana County.

2.8.2. Management of Shared Trans-Boundary Resources

The management of TBNR is a major challenge affecting border communities and with political and diplomatic consequences. These shared resources range from mundane community issues such as pasture for livestock, water resources for domestic and livestock use, wildlife resources to serious issues that attract geopolitical attention including mineral and oil deposits or water as a national interest issue.

The use of River Nile by riparian countries and Egypt remains such a challenge. The root of the challenge lies in the 1929 to 1959 colonial agreements over the utilization of the Nile, which restricted use of the River Nile by Riparian countries and granted Egypt full powers over the decision for allocation and future Nile projects. In 1999 the Riparian countries of the Nile launched a dialogue process named the NBI. In 2010 several riparian countries signed a Cooperative Framework Agreement (CFA) seeking more use of the Nile. The CFA continues to oppose the agreement with tensions rising when Ethiopia constructed a massive dam along the Blue Nile. All Kenya's neighbours except one are riparian countries of the Nile.

Between Kenya and Ethiopia, the Turkana/Omo River basin continues to remain a political and diplomatic challenge. Whereas the two countries have initiated the development of a mechanism for joint management of shared water resources of this basin, negotiations on the draft

Cooperative Agreement Framework for joint management was never concluded. During the 34th Session of the JCC between Kenya and Ethiopia, Ethiopia appeared to move away from the draft to an existing MoU is on the Joint Study and Development of their shared water resources signed in 1979. Nevertheless, the two countries agreed to strengthen a broader cooperation between the two sides in the field of water resources development by establishing a Joint Technical Committee (JTC). The JTC was mandated to coordinate hydro-meteorological and other studies on rivers and lakes along and across the common border and recommend frameworks for cooperation. At the wake of Ethiopia's construction of Gibe III hydroelectric power station along Omo River in 2015, environmentalists and ecological experts warned that Lake Turkana, which receives 90 per cent of its water from River Omo, would lose between 20 to 30 % of its water.⁹⁷ Such warnings caused a huge outcry among the people of Turkana and Marsabit and the issue of Kenya-Ethiopia relations became a subject of local politics in the two counties, thereby challenging pursuit of foreign policy by the National Government.

The second example relates to the relations between South Sudan and Kenya over development of shared resources in the *ilemi* triangle, particularly the construction of the Eldoret -Kitale-Lodwar-Nadapal-Nakodok--Kapoeta-Juba Road corridor which is supposed to provide the second tarmac road corridor linking Juba to the outside world. While the entire stretch on the Kenyan side was completed in 2019, the 30km section from Nadapal to Nakodok has not been constructed due to fears and tension along that stretch over the delay in delimitation of the international boundary. Apart from denying the two countries and the region economic benefits, the local communities around the border suffer the most due to transportation challenges.

⁹⁷ RVI. 2015. Lake Turkana and Development of Projects on the Lower Omo River. May. Accessed December 12, 2022. <https://riftvalley.net/events/lake-turkana-and-development-projects-lower-omo-river>

The third example relates to the Kenya-Somalia maritime boundary. Despite the two countries having lived peacefully even when Somalia was in deep civil war and statelessness, Somalia claims close to 100,000 square kilometres, an area rich with oil deposits. The dispute is the major cause of diplomatic tensions between Kenya and Somalia over the last five years.

2.8.3. Voting, Conflict, Sovereignty and Territorial Integrity

The borderline communities in Turkana, Marsabit, Mandera, Wajir and Garissa towns have experienced intermittent fighting among cross border communities for years. These conflicts appear to escalate during electioneering period in Kenya and any of the respective countries of South Sudan, Ethiopia and Somalia. For instance, at the height of electioneering period for the 2022 General Elections in Kenya, approximately 40 people died in Marsabit county, livelihoods were disrupted and others destroyed and thousands of families were displaced due to ethnic skirmishes in several parts of the county.⁹⁸ Although no proper investigations were conducted and results made public, the speculation among the residents indicate that these conflicts are politically motivated with politicians creating illegal settlements with the aim of increasing voter numbers during the 2022 elections.⁹⁹

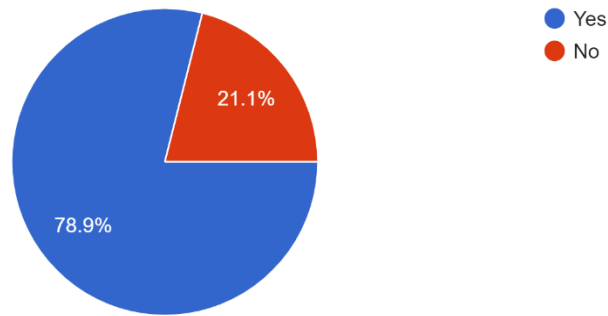
The situation even gets more complex when considered that Kenya's Constitution allows for diaspora voting as many cross-border communities have fraudulently acquired identification documents for more than one country. An election outcome can be flipped by foreigners voting as citizens, which in turn challenges the sovereignty of a nation.

⁹⁸ ReliefWeb. 2019. Kenyans Sacrificed for Territory and Votes in Marsabit County. 8 July. Accessed December 11, 2022. <https://reliefweb.int/report/kenya/kenyans-sacrificed-territory-and-votes-marsabit-county>

⁹⁹ ReliefWeb. 2019. Kenyans Sacrificed for Territory and Votes in Marsabit County

2.8.4. Experiences of Border Counties on Political Issues

More than 78% of the respondents reported that political issues were a challenge to border security in their respective counties as shown on the chart.



The responses in this category relate to political and diplomatic issues in border regions. Some common themes include conflicts over shared resources, political tensions during elections, and cross-border communities interfering with each other's local politics. There are also concerns about terrorism and the lack of diplomatic ties with neighbouring countries. Some respondents mentioned the importance of following signed international agreements and protocols, while others highlight the challenges of balancing national interests with regional cooperation. Overall, the responses suggest that political and diplomatic issues in border regions are complex and multifaceted.

The most glaring challenge in relation to politics is the capacity of cross border communities to influence local political choices of leadership and opinions. Due to sensitivity of the matter the government is reluctant or sometimes unable to take any action. This leaves the situation to the local political discourse, which in most cases ends up as a political issue during elections with local political rivals in elections campaign trading accusations of facilitating voting

cross border communities. This was specially emphasized for Wajir where alleged Somali citizens who live across the border have acquired Kenyan identification documents and as such take part in elections. Failure to address local grievances especially those of political nature continue to simmer to a point where they become diplomatic issues affecting Kenya's relations with its neighbours. In addition, Conflicts related to maritime, lake and river boundaries or trade issues are felt by cross border communities who live in constant tensions. Furthermore, Kenya's entry into Somalia heightened tensions and insecurity in the border areas between Kenya and Somalia.

Respondents raised concerns about lack of information on available mechanisms to address complaints of harassment across the border and communities are left to take care of themselves. Marginalization of certain ethnic communities have forced some of them to feel much more welcomed and served in some neighbouring countries more than they would in Kenya. Some respondents specifically mentioned the Pokot who due to difficulties in obtaining Kenyan identification documents have consider Uganda as their home.

These findings are supported by available secondary data such as those of Reliefweb discussed in the preceding sections above.¹⁰⁰

2.9. Other Challenges

This section analyses other issues that will have been identified by respondents and which may not fit in the categories above. Some respondents appreciated Uganda for hosting members of the community who were forced to flee Kenya during 2008/2009 POV. Further, some respondents highlighted challenges and shared their experiences regarding Terrorism, public health emergencies such as COVID-19 and Ebola, climate change issues, corruption, poor state of infrastructure, cattle rustling, inequalities in development. The most repeated issue raised by many

¹⁰⁰ ReliefWeb. 2019. Kenyans Sacrificed for Territory and Votes in Marsabit County

respondents is the desire for security and a yearning to live in peace with cross border communities. These responses are supported by a wide range of findings such as those made by Chumba et al¹⁰¹ and Handa as discussed in previous sections.¹⁰²

2.10. Summary

The Chapter has explored the challenges and experiences of border security faced by border counties along Kenya's international boundaries. It set the stage for the exposure by outlining Kenya's Border Management Mechanisms which includes borderline and Points of Entry, border governance structures and boundary delineation and demarcation. It revealed that there are no demonstrable structures that indicate that Counties play a role in Kenya's border management mechanisms and yet in practice the counties play a role.

The Chapter thereafter has presented the challenges of border management and demonstrate how they play out in the counties. In terms of identity, it identified several ethnic communities that straddle Kenya's international boundaries with all five neighbouring countries and demonstrated how complex the resultant challenges appear. In relation to migration, the study revealed that international migration has perhaps worsened the status of international peace. With contemporary cross border criminality and transnational menace such as terrorism, human and counterfeit trafficking and drug trafficking on the rise, the role of border counties become critically essential. Diplomatic relations between Kenya, Somalia and Ethiopia have been affected in different periods due to government action or inaction on illegal immigrants. It was further revealed that the management of migration related issues is vested solely on the national

¹⁰¹ Christopher Chumba, Pontian Godfrey Okoth, Edward Were. 2016. "Effectiveness of Border Surveillance Strategies in the Management of Transnational Terrorism in Kenya and Somalia." *International journal of political Science*, Vol. 2, Issue 2 Pp- 39-59

¹⁰² Handa, Stephen. 2015. "Contextualizing Radicalization and Terrorism in Kenya." *Contemporary Security in Africa*, Vol.3, Issue No.1 Pp. 93-115.

government and yet border counties interact with the challenge of illegal migration and refugees with severe consequences to local communities. In addition, the Chapter identified non-tariff barriers, infrastructure linkages, complexity of devolution mandates against national government functions, and informal border trade as the major trade related challenges. Significantly, gender-based vulnerability of the most of the cross-border traders and the applicability of multiple overlapping trade arrangements impede border trade and affects the livelihoods of border communities. Furthermore, the Chapter analyses political and diplomatic challenges relating to border security including issues such as public participation among border communities, participation in politics and elections by border communities, management of cross border shared resources, and representation among other related issues. Apart from direct costs to the local communities, even election outcomes can be flipped by foreigners voting as citizens, which in turn challenges the sovereignty, territorial integrity and security of a nation.

In relation to identity, respondents identified several ethnic communities that straddle Kenya's international boundaries with all five neighbouring countries and demonstrated how complex the resultant challenges appear. Respondents confirmed that border counties face challenges and experiences as a result of the international boundary between their county and another country in relation to identity issues such as ethnicity, religion, age, culture, and gender, among others. Most communities along the border areas have their families, clans, and tribes occupying two or more countries as a result of the creation of border lines. It, therefore, becomes difficult at times to distinguish their citizenry and this causes challenges of dual loyalty, use of amenities, and complicates security. Even counties like Uasin Gichu, Isiolo, and Eldoret, by virtue of their hosting international airports, respondents informed that they face challenges with communities arriving at the POEs sometimes identifying themselves as Kenyan nationals.

Furthermore, respondents identified those resource-based conflicts among border communities were a major concern. Further, respondents identified cultural differences such as those of the Maasai and Kuria communities provided an opportunity for peacebuilding among cross-border communities. In addition, respondents were of the view that identity politics have serious effects on local elections as tensions rise among cross-border communities during election periods.

In relation to migration, respondents revealed that international migration has perhaps worsened the status of international peace. Border counties face challenges and expressed experiences related to migration issues as a result of the international boundary between their county and another country. These challenges may include managing refugee populations, accommodating returnees and internally displaced persons, addressing issues of statelessness, and navigating multiculturalism. The presence of refugees in their counties and related challenges such as resource-based conflicts and overuse of social amenities is a major challenge and experience of border counties. Other challenges highlighted by respondents included demographic pressures and criminal activities. These challenges are complicated by common cross-border identities, or transhumance, which is a major challenge to the management of PoEs as documentation and identification become an arduous task. Further, the porosity of the borders makes it difficult to police and effectively manage entry and exit. In addition, border counties identified human trafficking as another challenge that was on the rise, particularly Ethiopian illegal immigrants in transit to South Africa. For example, Uasin Gishu county continues to receive and host large numbers of refugees from many countries in the sub-region including Rwanda, Somalia, Ethiopia, and Eritrea. This has been attributed to ‘slippage’ from refugee camps in the northern part of the country, particularly Kakuma in Turkana County. Respondents though there was a connection between refugees and the statelessness of certain communities, particularly the Garjeel.

The border counties of Wajir, Garissa, Mandera, and Isiolo identified the challenge they face in accessing public services such as education, health, and housing among others, as a result of politics surrounding refugees. For example, the control of tropical diseases such as tuberculosis and other diseases such as polio is often hampered as an influx of refugees disrupts control and vaccination programmes respectively. Furthermore, this situation has complicated life for the Kenyan Somali ethnic communities for it has become difficult for them to acquire personal Identification Cards and Passports due to a more stringent processing system applied by the Government, which is corruption prone. Some respondents faulted the policy of encampment as it was not easy to administer because refugees continue to slip out of the camps thereby complicating the local community-refugee relationships. Furthermore, respondents hinted that diplomatic relations between Kenya, Somalia and Ethiopia have been affected in different periods due to government action or inaction on illegal immigrants. Respondents further revealed that the management of migration related issues is vested solely on the national government and yet border counties interact with the challenge of illegal migration and refugees with severe consequences to local communities.

With contemporary cross-border criminality and transnational menace such as terrorism, human and counterfeit trafficking and drug trafficking on the rise, the role of border counties become critically essential. Border counties interacted the most with neighbouring countries in the process of undertaking cross-border trade. According to most respondents, the most significant challenge relating to cross-border trade was in relation to illegal trade practices which include trade in counterfeited goods, smuggling of illegal substances, smuggling especially food items and pharmaceuticals and herbal medicines. Border counties nevertheless underscored the usefulness of One-Stop Border Posts (OSBP) in facilitating cross-border trade but border countries continue

to experience unregulated trade taking place through ungazetted points. In addition, the research identified non-tariff barriers, infrastructure linkages, complexity of devolution mandates against national government functions, and informal border trade as the major trade related challenges. Significantly, gender-based vulnerability of the most of the cross-border traders and the applicability of multiple overlapping trade arrangements impede border trade and affects the livelihoods of border communities.

Furthermore, political and diplomatic challenges relating to border security were complex and multifaceted and they include issues such as public participation among border communities, participation in politics and elections by border communities, management of cross border shared resources, and representation among other related issues were revealed as important concerns for border counties. Apart from direct costs to the local communities, even election outcomes can be flipped by foreigners voting as citizens, which in turn challenge the sovereignty, territorial integrity and security of a nation. Some common themes include conflicts over shared resources, political tensions during elections, and cross-border communities interfering with each other's local politics. There are also concerns about terrorism and the lack of diplomatic ties with neighbouring countries. Some border counties identified the need to investigate the implementation of existing international agreements and protocols and to balance national interests with regional cooperation.

The most glaring challenge in relation to politics is the capacity of cross-border communities to influence local political choices of leadership and opinions. Due to the sensitivity of the matter the government is reluctant or sometimes unable to take any action. This leaves the situation to the local political discourse, which in most cases ends up as a political issue during elections with local political rivals in elections campaign trading accusations of facilitating voting cross border communities. This was especially emphasized for Wajir where alleged Somali

citizens who live across the border have acquired Kenyan identification documents and as such take part in elections. Failure to address local grievances, especially those of political nature continues to simmer to a point where they become diplomatic issues affecting Kenya's relations with its neighbours. In addition, Conflicts related to maritime, lake, and river boundaries or trade issues are felt by cross-border communities that live in constant tension. Furthermore, Kenya's entry into Somalia heightened tensions and insecurity in the border areas between Kenya and Somalia.

Finally, the respondents revealed other challenges that border counties saw as important for consideration for border security. Concerns about the lack of information on available mechanisms to address complaints of harassment across the border and communities being left to take care of themselves major experiences of border counties. Marginalization of certain ethnic communities has forced some of them to feel much more welcomed and served in some neighbouring countries than they would in Kenya. Some respondents specifically mentioned the Pokot who due to difficulties in obtaining Kenyan identification documents have considered Uganda as their home.

The next - Chapter Three, presents the findings on the assessment of the role that Track One diplomacy plays in border security.

CHAPTER THREE

THE ROLE OF TRACK ONE DIPLOMACY IN BORDER SECURITY IN KENYA

3.0. Introduction

This chapter assesses the role of Track One diplomacy in border security in Kenya. It begins by locating the foreign policy orientation on border security before delving into formal bilateral frameworks for cooperation known as the Joint Commission for Cooperation, sometimes elevated to a Joint Permanent Commission for Cooperation. Similarly, the chapter assesses the role of the Joint Border Commissions, as another formal framework for cooperation in cross border management. It then evaluates the role of global and regional multilateral frameworks deployed by Kenya which include the UN and its Agencies, the APSA, the IGAD mechanisms, EAC and COMESA frameworks, ICGLR and other mechanisms deployed.

3.1. Foreign Policy on Border Security

The management of Kenya's foreign relations is vested on the Ministry of Foreign Affairs and Diaspora Affairs.¹⁰³ The Organization from the top diplomat – the President of the Republic to all diplomatic agents, envisions “a peaceful, prosperous and globally competitive Kenya”. Embodying a strong value system, it strives “to project, promote, and protect Kenya's interests and image globally through innovative diplomacy, and contribute towards a just, peaceful and equitable world”. Based on connected pillars of “economic diplomacy, environmental diplomacy, cultural diplomacy, diaspora diplomacy and peace diplomacy”, Kenya's foreign policy contributes significantly to the survival of the state and the prosperity of the Kenyan people. Kenya's relations with its neighbours are at the core of the country's foreign policy.

¹⁰³ Gok. 2010. “Constitution of Kenya, 2010.” Constitution. Nairobi: Government Printers, 27 August

From a foreign policy standpoint, Kenya's border security rests on peace diplomacy pillar. Peace diplomacy stems from a belief that lasting peace and sustainable development can only be achieved when Kenya is at peace with itself and living in peace with its neighbours. In a sense, the survival of the Kenyan state and prosperity of the nation, is inextricably linked to that of a peaceful neighbourhood. It is from this pedestal that Kenya's peace diplomacy is older than Kenya itself. In addition to pursuing peace efforts globally, like in the case of Mozambique, Namibia, Angola, East Timor among others, Kenya has played a pivotal role in promoting peace in the Horn of Africa, a region of complexity and diversity.

Kenya has led intervention, through mediation and other peace processes that are credited for the stability of four of its five neighbours. Kenya remained a friend to Ethiopia during all crisis moments that country faced, especially during the civil war between Ethiopia and the Derg regime between 1974 and 1991, which resulted in the independence of Eritrea and the emergence of Meles Zenawi's regime, a regime that is credited for building the developmental states that Ethiopia is today. Kenya's peaceful efforts to resolve the Ugandan Bush War, Civil War or Resistance War between 1980 and 1986 was critical in Yoweri Museveni's administration that has peacefully ruled Uganda. Under the facilitation of IGAD, Kenya hosted and mediated the Somalia Peace talks between 2002 and 2004, that established Transitional Federal Institutions in Somalia, which in turn are the basic foundation for the three successful transitions in that country. In 2003 to 2005, Kenya facilitated and mediated the 2005 CPA for the Sudan, provisions of which led to the independence of South Sudan. Throughout the 1960s and 1990s Kenya's foreign policy with its neighbours was based on the principles of good neighbourliness, respect for sovereignty and territorial integrity of its neighbours. Even in times of provocation, such as during the *shifita* war with Somalia (1963-1967), or tensions with Idi Amin of Uganda (1976), Kenya always settled for

peaceful means to reach mutually amicable diplomatic solutions with its neighbours and played an active role in mediating conflicts within or among its neighbours.

3.2. Bilateral Frameworks

Kenya deploys two bilateral frameworks in the conduct of its diplomacy on border security. These include the Joint Commission for Cooperation and the Joint Border Commissions.

3.2.1. JCC framework

The Joint Commission for Cooperation (JCC) is the formal framework with which all bilateral relations between two countries are managed. These frameworks are mainly headed by the Ministers of Foreign Affairs of the participating countries. Nevertheless, depending on the strength of the relations, countries have often elevated these Commissions to the Heads of State level. Except for South Sudan, where the conflict in that country has prevented the holding of the Inaugural JCC, Kenya has elevated bilateral relations with all neighbours to Heads of State Level, in Kenya christened, the PCC or the Joint Permanent Commission for Cooperation (JPCC).

The JCC/PCC/JPCCs are organised around all the sectors that the two countries are engaged and broadly categorised into several committees. The common committees for Kenya and her neighbours include; Security and Foreign Affairs, Economic Sector, and Social Sector. The engagement with each country is at different stages, face different challenges and address different issues, including border security.

3.2.1.1. PCC with Ethiopia

The JCC with Ethiopia was upgraded to a PCC in 2012 (or the Joint Permanent Commission) where the Special Status Agreement (SSA) on trade, investment, infrastructure and food security and sustainable livelihoods was signed between the two countries.

The PCC between Kenya and Ethiopia is organised under three thematic clusters including Political Affairs, Economic Affairs and Social Affairs. The most important areas of concern in the Political Affairs cluster include commitments to implement the Protocol on Regular Political Consultations and the Nile Basin Cooperative Framework Agreement as well as the need for joint measures on the peace processes in South Sudan, The Sudan and Somalia. The cluster also coordinates the commitment of both countries in the implementation of security arrangements and the recommendations of the Joint Border Commissioners/Administrators. Further, the Economic Affairs cluster undertakes and manages negotiations for cooperation in trade, investment and customs; energy; road transport and railways; water and irrigation; agriculture, livestock and fisheries and cooperative development. In addition, the potential for cooperation in areas such as sports; youth affairs; health; culture; gender and social development and education, science and technology are deliberated in the Social Affairs cluster.

It is observable that majority of these issues fall within the domain of devolved functions and therefore points to the need to involve county governments in these deliberations.

3.2.1.2. PCC with Uganda

On 28 March 2019 Kenya and Uganda upgraded the JCC to a JPC as bilateral relations registered improvements particularly in the area of trade.¹⁰⁴ The JPC addresses a complex web of issues such as devising new areas where Kenya and UG could work together, manage the meetings of the JPC as well as ascertain timely implementation of all consented areas. Further, the JPC aims at boosting cooperation between Kenya and Uganda in areas such as Education and Technical skills

¹⁰⁴ Trademarkea. 2019. Uganda and Kenya have concluded an Inaugural Joint Permanent Commission for Cooperation (JPCC). On 28 March. Accessed December 23, 2022. <http://www.trademarkea.com>

development, Health, Transport, and Agriculture as well as in Trade and Investment.¹⁰⁵ Over the last 10 years, Kenya and Uganda have focused on removing non-tariff barriers particularly improvement of infrastructure linkages, thereby reducing travel time from Mombasa to Kampala.¹⁰⁶

Because the two countries are member of the East African Community, bilateral relations benefit from several cooperation frameworks that have informed the integration efforts of the EAC. Kenya -Uganda relations are further buttressed by the successful implementation of the Northern Corridor Integration projects as well as partnerships in other regional, continental and multilateral engagements.¹⁰⁷ These frameworks have helped the two countries to greatly advance the welfare of their people and to maintain peace and stability in the region.

3.2.1.3. PCC with Tanzania

In August 2021, the 4th Kenya-Tanzania JCC was held where a total of 64 trade challenges were identified, out of which, 34 were to be addressed by December 2021. Notable among these are “customs clearance on soft drinks, removal of inspection fees on proceeds products with a standardization mark and preferential treatment for Tanzanian cement and Kenyan juice and wheat flour.”¹⁰⁸

The main areas of cooperation as contained in the JCC between Kenya and Tanzania are “trade and investment, agriculture and livestock, transport and infrastructure development, tourism, defence and security, political and diplomatic consultation, ICT, art and culture, health,

¹⁰⁵ Mofa-Uganda. 2019. Ministry of Foreign Affairs of the Republic of Uganda. 22 March. Accessed March 10, 2023. <https://mofa.go.ug/>

¹⁰⁶ Shah, Vruti. 2021. “Kenya: Free Trade in EAC: Focus on Trade between Kenya, Uganda and Tanzania.”

¹⁰⁷ Mofa-Uganda. 2019. Ministry of Foreign Affairs of the Republic of Uganda. 22 March.

¹⁰⁸ Shah, Vruti. 2021. “Kenya: Free Trade in EAC: Focus on Trade between Kenya, Uganda and Tanzania.”

education, immigration, climate change and environmental issues among others.”¹⁰⁹ Through regular bilateral consultations, the two nations address bilateral and regional issues aimed at consolidating regional integration.¹¹⁰ In addition, such efforts are aimed at advancing integration within the EAC and Africa.

3.2.1.4. JCC with South Sudan

The inaugural JCC between Kenya and South Sudan was launched in June 2019. South Sudan lunged into civil war in 2013, barely two years following independence and the country has since not recovered from the conflict. Consequently, between 2011 and 2019 bilateral relations were undertaken in an ad hoc manner since the inaugural Joint Commission for Cooperation, which was scheduled to take place in 2013, was postponed indefinitely.

The key outcomes of the 2019 JCC included “Kenya’s decision to allocate land for a dry port to South Sudan at the Naivasha Special Economic Zone and for a logistics hub near the new Lamu Port, set up a Joint Border Commission, a reassurance by Kenya to fast track the completion of the LAPSSET projects, including transnational highways, such as the Lamu-Garissa-Isiolo-Lokichar-Lodwar-Nadapal-Kapoeta-Torit-Juba.¹¹¹ As well as the Oil Pipeline and the Lamu Port, among others, to link the two countries. Furthermore, Kenya committed to completing transnational highways including Eldoret-Lokichoggio-Nadapal-Kapoeta-Torit-Juba Road.”

In addition, the session reviewed efforts that are aimed devising solutions to emerging conflicts over the shared border while taking note of the MOU on sharing of common borders.¹¹²

¹⁰⁹ MFA. 2019. Ministry of Foreign Affairs of the Republic of Kenya. 2 July. Accessed October 23, 2022. <https://mfa.go.ke/>

¹¹⁰ MFA. 2019. Ministry of Foreign Affairs of the Republic of Kenya.

¹¹¹ MFA. 2019. Ministry of Foreign Affairs of the Republic of Kenya. 2 July. Accessed October 23, 2022. <https://mfa.go.ke/>

¹¹² MFA. 2019. Ministry of Foreign Affairs of the Republic of Kenya

The MOU provides the required rules and regulations on issues of border management. In July 2019, the two countries held a Joint Consultative Meeting held between the leaders of Turkana County of Kenya and Kapoeta State of South Sudan in Nairobi Kenya.¹¹³ These consultations were followed by the first Sensitization meeting which took place in Kapoeta State, South Sudan and the Second Sensitization meeting being held in Narus and Nadapal.¹¹⁴ Further, in December 2019, the Joint Kenya-Uganda-South Sudan Technical Boundary meeting was held in Mombasa, Kenya to agree on the modalities for determining the tri-point between the three countries. However, due to COVID-19 pandemic, the programme of work for the Technical Boundary Committee aimed at initiating demarcation was delayed.

3.2.1.5. JCC with Somalia

The JCC between Kenya and Somalia is dormant. There is no formal JCC that has taken place since 2005 due to the conflict in Somalia, however, an Experts Meeting was convened in 2015 but the JCC which was scheduled for that period was postponed. However, on 15 July 2022, during the meeting between the head of state in Kenya and Somalia, it was agreed that the borders between the two countries will be reopened and that the next JCC shall be held in due course.

For border security, the most relevant framework for cooperation is the Joint Border Commissions, the subject of the next section.

3.2.2. Joint Border Commissions

Joint Border Commissions are bilateral inter-governmental frameworks aimed at bringing together the different agencies from two countries to streamline and harmonize cross border operations such as cross border security, border demarcation, border management, cross border trade, cross

¹¹³ Ibid

¹¹⁴ Ibid

border resources among other issues of common concern. Kenya deploys these frameworks with all the five neighbouring countries. Each Border Commission is structured according to the issues common to two countries involved. The status of Border Commissions for each country is presented in the ensuing section.

3.2.2.1. Ethiopia

The border commission with Ethiopia is officially designated as the ‘Joint Border Commissioners’/Administrators’ Meeting’ to correctly represent the nomenclature of the offices responsible for border security in the respective countries. In Kenya, they are described as Commissioners, from Regional to Sub-County Commissioners while in Ethiopia they are designated as Administrators.

Three broad boundary issues disrupt Kenya-Ethiopia border relations. The two countries share a long boundary which has been characterized by cases of insecurity due to cattle rustling and resource-based conflicts among the border communities. Through the JBC the two countries seek to address border issues with a view to facilitating peaceful co-existence between border communities, border security, sharing of resources and facilities, cross-border trade, amongst other pertinent issues. The two countries usually agree on several practical mechanisms to address several of these issues including border inspection and restoration of pillars that have been destroyed or are missing. Secondly, the development of hydro power generation plants by Ethiopia along the Omo River, the major tributary into Lake Turkana and utilization of Daua River waters could represent significant environmental and shared water resource issues. The two countries have not agreed on a joint cooperative framework agreement on their usage. Thirdly, illegal immigration of Ethiopian nationals into Kenya and through Kenya to other destinations remains a perennial issue under the purview of the JBC.

3.2.2.2. Uganda

The ethnic clashes and cattle rustling among the communities in the Karamoja cluster, cross border trade restrictions and non-tariff barriers and border demarcation and antecedent challenges such as Migingo Island are the main cross border challenges facing Kenya and Uganda. The Joint Border Commissioners meeting between the two countries have assisted to dissipate these challenges.

For instance, the peace and stability of the Karamoja cluster is taken as a matter of national importance by both Kenya and Uganda.¹¹⁵ That is why President Uhuru Kenyatta and President Yoweri Museveni on 13 September 2019 witnessed the signing of a peace deal in form of a MOU which was to oversee a programme for long-term peace and stability along the Karamoja cluster. Furthermore, the communities along the common border have cooperated well with the Joint Border Committees who are currently undertaking border demarcation exercises.

3.2.2.3. Tanzania

The major cross-border challenge under the purview of the Kenya-Tanzania Border Commission is cross border trade, tourism and in the recent past, management of COVID-19 pandemic. Like Uganda, the existence of the EAC structures and deployment of other bilateral diplomatic engagements have assisted to dissipate cross-border tensions between Kenya and Tanzania.

There are numerous exchanges between the two countries to try and dissipate any tensions in their common border. For instance, in April 2022, “the Parliamentary Committee on Land, Natural Resources and Tourism from the Tanzanian Parliament visited the Serengeti and Maasai Mara ecosystem to inspect the demarcation progress following misunderstandings among tour

¹¹⁵ UN. 2019. Cross Border Programme Launched in Karamoja Region. 13 September. Accessed December 24, 2022. <https://kenya.un.org>

operators from both Tanzania and Kenya over the actual border line.”¹¹⁶ This is because both the Serengeti and Maasai Mara park is shared between Tanzania and Kenya, and often times is a cause of tensions and misunderstanding.

3.2.2.4. South Sudan and Somalia

As alluded to in the preceding section on JCC, the Border Commissions for Somalia and South Sudan are dormant. South Sudan lunged into civil war in 2013, barely two years following independence and the country has since not recovered from the conflict. Consequently, bilateral relations with Kenya have been undertaken in an ad hoc manner since the inaugural Joint Commission for Cooperation, which was scheduled to take place in 2013, was postponed indefinitely. With respect to Somalia, no formal Border Commissions have taken place throughout the three decades that Somalia has been in conflict and experiencing state failure. However, on 15 July 2022, during the meeting between the President of Kenya and the President of Somalia, it was agreed that the borders between the two countries will be reopened and that the next JCC shall be held in due course.

It appears that Border Commissions have assisted to foster cross-border peace and security among the cross-border communities in “Kenya and Tanzania, Uganda and Ethiopia.” In spite of the many challenges identified, the mechanisms established within the Border Commissions have assisted to foster harmonious relationships among cross border communities. Although there is no formal Border Commission between South Sudan and Kenya, the presence of South Sudan in the EAC has helped to ease tensions because other existing diplomatic structures have been deployed.

¹¹⁶ Tairo, Apolinari. 2022. “Kenya, Tanzania mapping experts meet over border demarcation.” *The East African*. 15 April. Accessed March 10, 2023. <https://www.theeastafrican.co.ke/tea/news/east-africa/kenya-tanzania-mapping-experts-meeting-border-demarcation-3783190>

Somalia is the only country where Kenya has closed its border for the longest time, and it's perhaps an indicator of the need for mechanisms within the Border Commissions.

3.3. Multilateral Mechanisms

Kenya deploys multilateral diplomatic tools to manage border security from a strategic position. These regional institutions and mechanism include: the UN and its organs/offices; AU; IGAD; EAC, Summit on the Northern Corridor Integration Projects, COMESA, and ICGLR, among other global mechanisms.

3.3.1. United Nations and Its Agencies

The United Nations (UN) was set up to maintain international peace and security. The Security Council (UNSC), is the premier agency for this purpose. The GA and the SG play complementary role together with other UN organs and offices. Kenya was a non-permanent member of the UNSC for 2021-2022 and in 1997-98. Apart from leveraging her presence to advance international peace and security in general, the country paid attention to Kenya's neighbourhood, especially Somalia, South Sudan, Ethiopia and Congo

In addition to leveraging the UN and its Agencies directly, Kenya has also tapped into the "provisions of Chapter VIII of the UN Charter" which provides the legal basis for the engagement of regional organizations, as complimentary mechanisms to deal with peace and security matters. The import of this Chapter provisions is that any regional organization may engage in action but with authorization of the SC. The only exception to this rule is "any measures against any enemy state, as defined in paragraph 2 of Article 107." In many occasions, Kenya has rallied the HOA region into tapping into the complementarity principle with the UN.

3.3.2. The African Union Peace and Security Architecture (APSA)

Since the transformation of the OAU to the AU in 2004, the organization is now strategically positioned to effectively adapt to the new pattern of threats to peace and security in Africa. To this end, the AU has developed wide-ranging instruments and normative frameworks and initiatives to address most of these threats. Consequently, the AU manages continental peace and security challenges through the APSA.¹¹⁷ The APSA constitutes the framework for crisis management on the African continent and works with RECS.¹¹⁸ It also plays a crucial role in resolving conflicts peacefully in Africa.¹¹⁹ Its core organs include; “the AU Peace and Security Council (PSC); The African Standby Force (ASF); the Panel of the Wise; the Special Peace Fund as well as the Continental Early Warning System (CEWS), and the Office of the Chairperson of the African Union.”¹²⁰

Among all the APSA organs and as it may be expected, the PSC which is the most advanced and active among them, has provided leadership in the design of policies that are aimed at reinforcing the other components. While most of APSA’s components are undergoing their normative and implementation stages, the Horn of Africa region has benefitted from the existence of these mechanisms.

Kenya has been a strong supporter of APSA through its Permanent Mission to the African Union. To illustrate how Kenya’s diplomacy has used these mechanisms to ensure the integrity of borders, five of these mechanisms were studied.

¹¹⁷ Peaceau. 2012. African Peace and Security Architecture (APSA). 2 October. Accessed December 23, 2022. <https://www.peaceau.org/en/topic/the-african-peace-and-security-architecture-apsa>

¹¹⁸ Peaceau. 2012. African Peace and Security Architecture (APSA)

¹¹⁹ Ibid

¹²⁰ Ibid

3.3.2.1. Peace and Security Council (PSC) and the Chairperson of the AU Commission

The PSC is “a collective security and early warning arrangement intended to facilitate timely and efficient responses to conflict and crisis situations in Africa.” The PSC works closely with the Chairperson of the Commission, another organ of the AU mandated to pursue peace and security on behalf of the Union.

Since 1963, the Kenya-Sudan border and later since 2011, the South Sudan- Kenya border constituted a threat to border security as already identified in the preceding chapter. This was mainly due to influx of refugees, proliferation of SALWs, and delayed demarcation of the border, Kenya took a long-term view and fashioned its diplomatic machine to comprehensively address the conflict in the Sudan. The CPA was signed by Sudan and the SPLM/A on 9 January 2005 in Kenya.¹²¹ The CPA put a stop to more than 20 years of civil conflict in the Sudan. The peace negotiations preceding the CPA were mediated by Kenya facilitated by IGAD, with the support of the United Kingdom, Norway, United States, and Italy – the so called IGAD Partners Forum. The implementation of the CPA was fraught with challenges that were threatening both South Sudan and Sudan to disintegrate. Consequently, on 29 October 2009, the PSC mandated the AUHIP to examine the situation in Darfur and was later reviewed to include helping Sudan and independent South Sudan to navigate the unresolved issues of the CPA, and more importantly, arising out of the separation of the two states. The panel’s mandate was added three more years by the PSC. It was later renamed to AUHIP Implementation Panel for Sudan and South Sudan and its role was to oversee implementation of the AUHIP on Darfur. While the AUHIP, or popularly known as the Mbeki panel has received criticism in some areas, in a general sense, it has achieved in aiding the two countries move away from state fragility. Most of the follow up of the implementation of the

¹²¹ IGAD. 2005. “Comprehensive Peace Agreement between the Government of The Sudan and the Sudan's Peoples' Liberation Movement.” Peace Agreement. Nairobi: IGAD, 9 January

CPA was done during Kenya's membership to the AU-PSC in 2004-2008, 2010-2013 and 2019-2022.

3.3.2.2. The African Standby Force (ASF)

The main aim of the ASF is to ascertain that trained formations and troops are readily available when needed by the AU in different operations. The standby brigades initiated by Regional Organizations/Regions, namely Eastern, Central, Northern, Western and Southern Regions.¹²² The brigades, when fully formed, are expected to be utilised as units in TCC. Most of the Horn of Africa countries fall under the EASF and the EASBRICOM as its supporting secretariat.¹²³ The brigade headquarters and logistics base are based in Addis Ababa and the PLANELM is located in Nairobi.

In addition to its formative stage, and therefore its ineffectiveness, ASF is faced with several institutional, political and logistical challenges. From unsatisfactory legal and binding instruments with Member States to disjointed and multiple memberships of countries to standby arrangements, the usefulness of the ASF is minimal.

3.3.2.3. African Peer Review Mechanism (APRM)

The APRM was created in 2003 by the AU through NEPAD framework.¹²⁴ It was later transformed into a Specialized Agency of the AU. The APRM is “a mutually agreed instrument voluntarily acceded to by the Member States of the African Union (AU) as an African self-monitoring mechanism. Kenya acceded to the APRM soon after the AU launched it in 2003.” The APR Forum,

¹²² Peaceau. 2019. The African Standby Force (ASF). 26 February. Accessed December 23, 2022.

<https://www.peaceau.org/en/page/82-african-standby-force-asf-amani-africa-1>

¹²³ Oluoch, Ligawa William. 2015. “The Challenges Facing the Eastern African Community in Conflict Intervention: A Study of the East African Standby Force (EASF).” MA Thesis, KU. Nairobi: Unpublished, March

¹²⁴ NEPAD. Live. Nepad. Accessed September 6, 2022. <https://www.nepad.org/>

which comprises of “a committee of participating Heads of State and Government of the Member States of the African Union who have voluntarily chosen to accede to the APRM is the highest decision-making body.” Both Presidents Mwai Kibaki and Uhuru Kenyatta have served in the APR Bureau. When Kenya was first reviewed in 2009, the key issues identified in the 1st review were adopted as the pillars of Agenda 4 Reforms as agreed upon by the National Dialogue and Reconciliation team in 2008 after the 2007 post-election violence, and also heavily informed the Constitution of Kenya (2010), which led to initiation of devolved units of government. In a sense, the APRM process solidified Kenya’s democratic development and preserved territorial integrity and sovereignty.

3.3.2.4. African Union Border Programme (AUBP)

Established in 2007, the AUBP main purpose was fostering continental peace and security through cooperation and capacity building in delimitation and demarcation of borders, with an overall objective of strengthening structural conflict prevention capacities of member states.¹²⁵ Kenya is a signatory of the Niamey Convention and is an ardent supporter of the AUBP. In July 2011, AU Assembly consented on management of African inter-state borders by 2017 and later extended to 2022.¹²⁶

The principle guiding the AU on inter-state boundaries is the ‘*uti possidetis*’ or ‘intangibility’ principle. As enshrined in Article 2 of Resolution 16 of the OAU, all boundaries

¹²⁵ Peaceau. 2021. African Union Border Programme (AUBP). 24 September. Accessed December 13, 2022. <https://www.peaceau.org/>

¹²⁶ Peacau. 2016. Declaration on the AU Border Programme and Measures for its Consolidation. 10 October. Accessed December 12, 2022. <https://www.peaceau.org>

between states in Africa are to be respected as they were at independence.¹²⁷ Kenya subscribes to this principle in its boundary delimitation and demarcation with all her neighbours.

3.3.3. Intergovernmental Authority on Development (IGAD)

The IGAD was created in 1996, and replaced IGADD whose main function was to avert the implications of incessant severe droughts as well as other natural disasters which culminated to widespread famine, environmental degradation, death among others in Africa.¹²⁸ It was formed in 1986 with membership of “Djibouti, Ethiopia, Kenya, Somalia, Sudan and Uganda. Eritrea and South Sudan” were admitted as the 7th and 8th members in 1993 and 2011 respectively.¹²⁹ Through its Vision 2050, “IGAD hopes to transform the region into upper middle-income economy and an industrialized region to serve as a continental beacon of regional peace, stability, and security through regional peace and security; macroeconomic stability; equitable distribution of resources and wealth creation for all citizens; infrastructure; energy; science, technology, and innovation (STI); climate change mitigation; and efficient utilization of environment and natural resources.”

To drive this vision, the organization has developed specialized institutions which include: “CEWARN, a specialized unit for regular cooperation on conflict prevention using data-based early warning from member countries; Climate Prediction and Application Centre (CPAC) to provide climate services, early warnings and earth observation for Sustainable Development; Foreign Service Institute (FSI) for training and capacity building of diplomats on current regional affairs; Centre for Pastoral Areas and Livestock Development (CPALD) for sustainability and generation of wealth and employment through livestock and complementary livelihood resources

¹²⁷ AUBP. 2013. Creation and Operation of Border Commissions in Africa: The Users' Guide. Addis Ababa: African Union Commission

¹²⁸ IGAD. Live. IGAD. Accessed September 6, 2022. <https://igad.int/>

¹²⁹ IGAD. Live. IGAD

development in arid and semi-arid areas; Centre of Excellence for Preventing and Countering Violent Extremism (CEPCVE) for preventing and countering Violent Extremism Centre of Excellence and the Sheikh Technical Veterinary School (STVS) to facilitate training and research for sustainable use of resources in arid and semi-arid areas.”¹³⁰

The study revealed that all these programmes represent a comprehensive regional approach to integration and development, and to support member states to achieve higher levels of development and stability, and in turn secure border security. This approach appears to produce results as envisaged by neofunctionalism.

To demonstrate how Kenya’s diplomacy has played out to secure the country’s borders, two of these mechanisms were analysed:

3.3.3.1. IGAD Summitry

Through its three-apex decision making structures; “the summitry, comprising of the Assembly of Heads of State and Government, the Council of Ministers of Foreign Affairs and the Committee of Ambassadors”, IGAD has helped many countries from slipping into fragility and aided others to come out of state fragility. The case of Somalia helps to illustrate the point and how the mechanisms at the regional, continental and global level interact. Somalia plunged into civil war in 1991; central authority collapsed and was to remain as a failed state for two decades. A peace process in Kenya resulted in the formation of Transitional Institutions in 2004.¹³¹ The Transitional Government of Somalia was to remain ineffective due to a complex security and political situation prevailing in that country, precipitating global fatigue and regional impatience. In an effort to support stabilizing Somalia, IGAD suggested and referred to the AU and the UNSC for

¹³⁰ IGAD. Live. IGAD. Accessed September 6, 2022. <https://igad.int>

¹³¹ IGAD. 2004. “The Transitional Federal Charter of the Somali Republic (TFC).” Peace Agreement. Nairobi: IGAD, February

deployment of IGASOM in 2006.¹³² This was to delay until IGAD requested the AU to take over the force. On 14th September 2006, the PSC authorized the conversion of IGASOM to the AMISOM, and subsequently the authorized AMISOM via UNSC Res 1744 on 20 February 2007.¹³³ The mandate, strength and capacity of the Mission has been renewed and varied since then and there is evidence that Somalia may be slowly moving out of the failed state label.

Throughout most of this period, Kenya was either the Chair or later the Rapporteur of IGAD and deployed all its diplomatic efforts in Nairobi and Addis Ababa. Arguably, Kenya's border with Somalia is safer with a stable and peaceful Somalia. Although, border challenges emanating with that specific border, particularly the refugee related problems persist, the situation has improved. Albeit in small numbers, at least some refugees have voluntarily returned to Somalia, signifying a semblance of peace and stability.

3.3.3.2. IGAD Conflict Early Warning and Response Mechanism (CEWARN)

The IGAD CEWARN supports IGAD countries and promotes peaceful management of conflicts especially on border issues.¹³⁴ With countries of the IGAD region sharing 8,382 km - long border between themselves and an external border extending to 6,910 km, cross border conflicts are common place in the region. As if taking cue from neofunctionalism model, through CEWARN, IGAD countries take advantage of such conflicts and transform them into opportunities for integration through peace building and conflict management.

¹³² IGAD. 2006. "Communiqué issued by the Extra-Ordinary Summit of IGAD Heads of State and Government on Somalia." IGAD Communiqué. Djibouti: IGAD Secretariat, 5 September

¹³³ UNSC. 2007. "UNSC. 2006. " Resolution 1744 (2007) adopted by the Security Council at its 5579th meeting on 20 Feb 2007 (S/RES/1744)." UN Document. New York: UNSC, 21 February

¹³⁴ IGAD CEWARN. Live. Cewarn. Accessed September 6, 2022. <http://www.cewarn.org/>

3.3.3.3. EAC and COMESA Peace and Security Committees

All the IGAD countries partner states of the COMESA whose membership currently stands at 19 while “Kenya, Uganda and South Sudan” are partner states to the EAC.¹³⁵ COMESA was initiated in 1994 to succeed the 1981 PTA. Although the organization is primary involved in regional integration on issues of trade and natural resource exploitation, COMESA Treaty acknowledges, under “Article 163 on Scope of Cooperation”, that peace and security are paramount in realization of growth and development as well as in attainment of regional economic integration goals of the Common Market.

Mandated by the COMESA the Heads of State and Government Summit in 1999, held meeting yearly to discuss peace and security issues. Similarly, Article 124 of the EAC Treaty acknowledges the importance of peace and security within the EAC region. Since launch in 1999, the EAC has formulated a framework and structures that will help in responding to Peace and Security issues.¹³⁶ A recent example is the June 2022 Conclave of the EAC Heads of State decision to launch a political and military tracks process in Congo on strategies to steer peace, security and economic growth in the country as well as the entire region.

3.3.4. EAC, COMESA and AfCFTA Trade Facilitation

The introduction of One-Stop-Border-Posts (OSBP) in the EAC and at Moyale between Kenya and Ethiopia has helped to foster cross border trade and minimised trade related conflicts among the EAC countries particularly Uganda, Tanzania and South Sudan.

With the assistance of the EAC, IGAD and COMESA, some challenges relating to Cross-Border Trade have been addressed through formations of Cross Border Trade Associations and

¹³⁵ COMESA. Live. COMESA. Accessed September 6, 2022. <https://www.comesa.int/>

¹³⁶ EAC. Live. EAC. Accessed September 6, 2022. <https://www.eac.int>

Joint Cross Border Trade meetings. These mechanisms, helps in capacity building of the association members, trade facilitation, particularly in monitoring and reporting emerging Non-Tariff Barriers (NTBs). It is envisaged that once both sides form Cross Border Trade Associations then, Joint Cross Border Trade meetings can take place which will enhance cross border trade facilitation and address trade related issues. The UNCTAD estimates that non-tariff barriers are three times more restrictive than regular tariffs and it is assisting the AfCFTA to mitigate against the challenges.¹³⁷

In addition, since 2016, when Kenya hosted the inaugural session of the Summit of the Northern Corridor integration Projects, a total of 14 summits have been held with numerous projects undertaken that have reduced non-tariff barriers and eased the cost of doing business among the participating countries.¹³⁸

3.3.5. The International Conference on the Great Lakes Region (ICGLR)

The ICGLR is “an inter-governmental organization comprising of 12 countries in the Great Lakes Region in Africa.” Four of the IGAD countries – “Kenya, Uganda, South Sudan and Sudan” partner states to ICGLR.¹³⁹ It was initiated to acknowledgement on the implications of the regionalisation of the conflicts in these countries and this called for holistic efforts to ensure long term peace and development. Its usefulness lies in efforts to resolve issues in the great lakes, which has spillover effects into the Horn of Africa.

¹³⁷ Shah, Vruti. 2021. “Kenya: Free Trade in EAC: Focus on Trade between Kenya, Uganda and Tanzania.”

¹³⁸ Mwai, Collins. 2018. 14th Summit on Northern Corridor Projects. 27 June. Accessed December 20, 2022. <https://www.tralac.org>

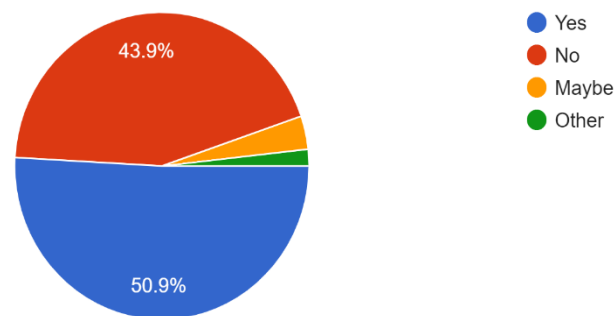
¹³⁹ ICGLR. Live. ICGLR. Accessed September 5, 2022. <https://icglr.org/>

3.3.6. Other Mechanisms

Other mechanisms include exchange programmes with development partners across several sectors pursued in bilateral or multilateral settings by the individual countries. The EU, the USA, the State of Israel, Japan among others, have assisted in support of several cross-border projects and programmes, either directly through the Government of Kenya or through Non-Governmental Organizations. Further, Non-Governmental agencies such as Trade Mark East Africa have been instrumental in helping member states of EAC and COMESA to address several trade related challenges.

3.3.7. Participation of Border Counties in Bilateral and Multilateral Initiatives

Only 51% of the respondents confirmed their participation in bilateral or multilateral initiatives with less than 5% indicating that they were not sure whether the activities they participated in were part of the issues of concern in the research as shown in the chart.



The most common response to the question of whether counties are involved in diplomatic initiatives with neighbouring countries is "Yes", with only 50% of respondents selecting this option. Many of these respondents named multiple countries, with Uganda being the most commonly mentioned country (mentioned by 5 respondents). Other countries mentioned include

Tanzania, Ethiopia, Somalia, and South Sudan. However, 44.8% of respondents selected "No" to this question, indicating that many counties are not involved in diplomatic initiatives with neighbouring countries.

The issues discussed during cross-border peace and security initiatives are diverse and range from trade and sharing of information vital to peaceful co-existence to agriculture, cattle rustling, and banditry. Infrastructure linkages with Ethiopia, smuggling of goods across the border, transit goods diversion, and under-size fishing were also discussed. Additionally, the initiatives focused on sharing transboundary resources with Somalia and Ethiopia, including water and pasture during drought. Other topics included border security, illegal entry into the country, COVID-19 control, immigration and customs issues, and illegal small and light weapons trafficking control. The discussions focused on working collaboratively towards healthy, productive, and globally competitive relationships between the countries. However, there were some challenges such as political issues, economic disparities, and cross-border conflicts, which were addressed during the initiatives. Overall, the initiatives fostered regional cohesion through sports and cultural exchange activities and wide-ranging bilateral issues, including economic and trade, political cooperation, training, security matters, tourism, and diplomatic relations.

This finding is in line with the conjecture made by Wasike et al which demonstrated how Track Three was useful in fostering security along the Kenya and Somalia border.¹⁴⁰ The paper argues that “Track Three diplomacy (people to people diplomacy), as diplomacy at the grassroots level, brings about better understanding of the other, promotes tolerance and feeds a culture of peace among citizens. Using the Kenya-Somalia case study, the paper demonstrates the role the

¹⁴⁰ Wasike, Stella, Pontian Godfrey Okoth, and Edmond Were. 2016. “The Nature of Track Three Diplomacy and its Influence on Cross-Border Security Relations between Kenya and Somalia.” *International Journal of Managerial Studies and Research*, Vol. 4, Issue 7 Pp: 1-12.

different forms of Track Three diplomacy have contributed to the management of the insecurity between Kenya and Somalia.” In doing so, it suggests for implementation as it has proved successful due to engagement of the local community.

Among the issues discussed in the fora, meetings or activities organized by the national government where counties participated include the following.

- i. Use of transboundary resources among Kenya, Somalia and Ethiopia, particularly water resources from River Daua, pasture along Kenya-Somalia, Kenya-Ethiopia and Kenya-South Sudan, Kenya-Tanzania borders, and fisheries.
- ii. How to fast-track the implementation of infrastructure linkages with Ethiopia, particularly the LAPSSET.
- iii. Public participation in border security matters such as border demarcation, spread of SALW, trafficking in arms, and cattle rustling.
- iv. Cultural exchanges and sporting events.
- v. During Joint Border Commissions discussions were held on how to strengthen cooperation on economic, trade, training, security matters, tourism, diaspora among other issues.
- vi. Trade issues including trade in contraband goods.

3.4. Summary

The Chapter assessed the role that Track One diplomacy has played and its contribution to border security in Kenya. It began by locating the foreign policy orientation on border security and identifies peace diplomacy as the guiding pillar for Kenya’s border security. It argues that, when faced with a challenge with its neighbour, Kenya has always settled for peaceful means to reach mutually amicable diplomatic solutions and played an active role in mediating conflicts within or among its neighbours. The Chapter then delves into formal bilateral frameworks for cooperation,

including the Joint Commission for Cooperation and Joint Border Commission (JCC). The study revealed that the JCC frameworks, which sometimes are referred to as Joint Permanent Commission for Cooperation (JPCC), are at different stages with each country, face different challenges and address different issues but the most common is border security. Similarly, the Chapter assessed the role of the Joint Border Commissions, as another formal framework for cooperation in cross border management. It appears that Border Commissions have assisted to foster cross-border peace and security among the cross-border communities in Kenya and Tanzania, Uganda and Ethiopia. Although there is no formal Border Commission between South Sudan and Kenya, the presence of South Sudan in the East African Community has helped to ease tensions because other existing diplomatic structures have been deployed. Somalia is the only country where Kenya has closed its border for the longest time, and it's perhaps an indicator of the need for mechanisms within the Border Commissions.

In addition to the bilateral frameworks, Kenya deploys several multilateral frameworks to foster border security, directly or indirectly. The study evaluated the role of global and regional multilateral frameworks which include the UN and its Agencies, the APSA, the IGAD mechanisms, EAC and COMESA frameworks, Summit on the Northern Corridor Integration Projects, and the ICGLR and other mechanisms deployed. The study revealed that all such programmes represent a comprehensive regional approach to integration and development aimed at supporting member states to achieve higher levels of development and stability, which in turn secures the border. What is more, the approach appears to produce results as envisaged by neofunctionalism where countries take advantage of conflicts and transform them into opportunities for integration through peace building, and conflict resolution.

Respondents informed about the range of issues discussed during cross-border peace and security initiatives, which in their very nature are diverse and range from trade and sharing of information vital to peaceful co-existence to agriculture, cattle rustling, and banditry. Other issues include infrastructure linkages with neighbouring countries, smuggling of goods across the border, diversion of goods, and under-size fishing. Additionally, the respondents informed that such initiatives focused on sharing transboundary resources, particularly between Kenya, Somalia, and Ethiopia, including water and pasture during drought. Other topics included border security, illegal entry into the country, COVID-19 control, immigration and customs issues, and illegal small and light weapons trafficking control. According to many respondents, the discussions focused on working collaboratively towards healthy, productive, and globally competitive relationships between the countries. The respondents further informed that other challenges such as political issues, economic disparities, and cross-border conflicts, were also addressed during the initiatives. Overall, the initiatives helped to foster regional cohesion through sports and cultural exchange activities and wide-ranging bilateral issues, including economic and trade, political cooperation, training, security matters, tourism, and diplomatic relations.

Chapter Four, which follows, presents the outcome of the investigation into how para-diplomacy can be exploited to enhance border security in Kenya.

CHAPTER FOUR

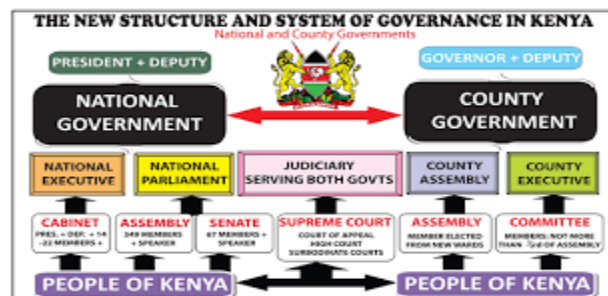
THE ROLE OF PARA-DIPLOMACY IN BORDER SECURITY IN KENYA

4.0. Introduction

This chapter explores the role border counties can play in border security in Kenya. It begins by exploring the cross-border nature of devolved functions of counties and the existing mechanisms for the involvement of border counties in border management. It then explores Para-diplomacy and the role Border Counties play in regional integration and the value of neofunctionalism.

4.1. Nature of Role of County Governments in Cross-Border Security

The Constitution (2010) describes devolution as “a system of governance in Kenya that consists of two distinct and interdependent levels of government that are required to work in cooperation and consultation.” The National Government is composed of “the National Executive, Parliament and the Judiciary while the County Government comprises of the County Executive and County Assembly.” The two levels are expected to operate on the basis of consultation and co-operation as depicted in the diagram below:



Source: Lumbasi, Alexis Savage and Linda. 2016. The Impact of Decentralization in Kenya. Dublin. P.3

The constitution assigns roles and powers to each level of government. Some of the roles are exclusive to either the national or county government. Nevertheless, some roles are concurrent with the two governments holding the same roles at different levels. Article 184 of the Constitution (2010) provides “the modalities through which a function or power of government at one level may be transferred to another if it is established that the other level of government will perform it more effectively provided that it is allowed by legislation.”

The Constitution (2010), Fourth Schedule, Part II outlines 14 functions assigned to County Governments. These functions include; “agriculture, country health services, control of pollution, cultural activities, county transport, animal control and welfare, trade development and regulation, county planning and development, pre-primary education and village polytechnics, conservation, county public works, fire and disaster management, control of drugs and pornography and ensuring the participation of local communities in the respective localities.”¹⁴¹

The role and powers of the National Government are immense. However, for the purposes of the present research, a few functions and powers with implications for Border Counties are selected. These include: “Foreign Affairs, Foreign Policy and International Trade; Use of International Waters and Water Resources; Immigration and Citizenship; Relationship between Religion and State; Police Services; Protection of Environment and Resources to establish a durable and sustainable system of development especially in fishing, wildlife, water and energy resources, and Tourism.”¹⁴² To illustrate the difference between these specific functions and the rest of the functions, one example shall be used. For instance, a function such as Public Finance assigned to the National Treasury, as well as National Defence Services and their Use, assigned to the Ministry of Defence, the present study did not find a strong linkage as to blur the distinction

¹⁴¹ Gok. 2010. “Constitution of Kenya, 2010.”

¹⁴² Ibid

between a role of the County Government and National Government. It is possible for the National Government to implement these functions fully without collaborating with County Governments.

It is the thesis of the present research that in execution of their respective devolved functions, Border Counties, inadvertently undertake some of the functions which fall in the realm of the National Government. The same relates to the selected National Government functions. The research found out that this reality is significant to the promotion of border security in Kenya. This relatedness is summarised in the table below which shows the respective MDA responsible for the relevant National Government function as a prelude to the next section that explores the existing mechanisms for the interaction between the National Government and County Government.

Table 4: Summary of the Relatedness between MDA and Function

Function/Power	Responsible MDA
Foreign affairs, foreign policy and international trade	a. Ministry of Foreign Affairs & Diaspora Affairs b. Ministry of Investments, Trade and Industry c. Ministry of East African Community (EAC), The ASALS and Regional Development
Use of international waters and water resources	a. Ministry of Environment, Climate Change and Forestry b. Ministry of Water, Sanitation and Irrigation
Immigration and citizenship	a. Ministry of Interior and National Administration
Relationship between religion and state	a. Presidency
Police services	a. Ministry of Interior and National Administration
Protection of environment and resources	a. Ministry of Environment, Climate Change and Forestry

	<ul style="list-style-type: none"> b. Ministry of Mining, Blue Economy and Maritime Affairs c. Ministry of Agriculture and Livestock Development d. Ministry of Tourism, Wildlife and Heritage
Tourism	<ul style="list-style-type: none"> a. Ministry of Tourism, Wildlife and Heritage

In addition to these, all other MDAs charged with the overall policy formulation for devolved functions such as health, education and sports among others collaborate and cooperate with Counties through established mechanisms which are the subject of the next section.

4.2. Mechanisms for County Government Participation

Article 174 of the Constitution (2010) in what is referred to as the general mandate, expects both the national and county governments to ensure the “well-being of citizen through the equitable and accountable provision of services.”¹⁴³ In the execution of their mandates, the constitution expects both to adhere to their inter-dependency, consultation and collaboration. This is especially emphasised in execution of concurrent functions in sectors in which both levels share responsibilities.

Consequently, there are several mechanisms that have been established for collaboration between the National Government and County Government.

4.2.1. County Intergovernmental Forum

The CIF is initiated in every County.¹⁴⁴ It is led by the Governor, and in absence of the governor and Deputy Governor the member of the CEC takes over as authorised by the Governor.¹⁴⁵ The forum involves; “the heads of all departments of the National government providing services in the County, the County Executive Committee members or their nominees who have been

¹⁴³ Gok. 2010. “Constitution of Kenya, 2010.”
¹⁴⁴ Kenyalaw . 2012. The Intergovernmental Relations Act, No.2 of 2012. Nairobi
¹⁴⁵ Kenyalaw . 2012. The Intergovernmental Relations Act, No.2 of 2012

appointed by them in writing.”¹⁴⁶ Its main role is to harmonise the county’s services and other activities.

4.2.2. Inter-governmental Relations Forum

The interaction between the National Government and County Governments is stipulated for by the Intergovernmental Act No. 12 of 2012.¹⁴⁷ The act establishes three structures, namely; “the National and County Government Coordination Summit, the Council of County Government Forum and the intergovernmental relations technical committee.”

Primarily, the National and County Government Coordination Summit is the main body for managing relations between the two levels.¹⁴⁸ It comprises of the President or in the absence of “the President, the Deputy President, and the Governors of the 47 Counties.”¹⁴⁹ The Summit is expected to hold meetings two times a year and has a raft of functions to undertake, all of which are aimed at effective coordination and collaboration between the two levels of government in the pursuit of national cohesion and unity of the country.¹⁵⁰ Secondly, the Council of County Governors assembles all the Governors from the 47 Counties, with its chair and deputy elected from among its members.¹⁵¹ Through their biannual meetings, the Council is expected to improve consultation among the County Governments.¹⁵² Thirdly, there is an established secretariat to serve both the Summit and the Council referred to as the Intergovernmental Relations Technical Committee.¹⁵³ The Committee comprises of “a chairperson and not more than eight members, competitively recruited and appointed by the Summit and the Principal Secretary of the State

¹⁴⁶ *ibid*

¹⁴⁷ Kenyalaw. 2012. The Intergovernmental Relations Act, No.2 of 2012. Nairobi

¹⁴⁸ *ibid*

¹⁴⁹ *ibid*

¹⁵⁰ *ibid*

¹⁵¹ *ibid*

¹⁵² *ibid*

¹⁵³ *ibid*

department responsible for matters relating to devolution.” Since the promulgation of the Constitution (2010), the Ministry of Devolution has been the relevant state department performing this role. However, in the prevailing reorganization of government, the responsible state department is the Ministry of Interior and National Administration.

4.3. Enhancing the Role of Border Counties in Para-Diplomacy

The most common responses to ways/initiatives that the County can involve the Ministry of Foreign Affairs in include cross-border initiatives such as security meetings, sports, trade fairs, and cultural events. Peacebuilding and conflict resolution, as well as regular meetings among elders and border communities, were also mentioned. The involvement of the Ministry in committees and stakeholder consultations, as well as its support in capacity development for county governments, were also suggested. Sensitization and sharing of intelligence on cross-border movement were other proposals. Some respondents noted that counties with international borders should seek technical support from the Ministry of Foreign and Diaspora Affairs, while others suggested involving the Ministry in regular border patrol teams. Overall, there is a strong emphasis on the need for collaboration between the County and the Ministry of Foreign and Diaspora Affairs to address various issues along the borders.

Respondents identified several ways in which border counties could be involved in border security. They include:

- i. Enhancing the participation of counties in Bilateral Frameworks. For instance, the respective County Governors to co-chair Joint Border Commissions. Furthermore, border counties to be part of the delegation and preparation of country's position paper on relevant bilateral issues.

- ii. Coordination and Collaboration between County and National governments. Some respondents wished that there should be continuous engagement through a structured framework between the national and county governments on the management of international boundaries. They underscored the need for all activities on Kenya's bilateral relations with neighbouring countries should be coordinated through the Ministry of Foreign Affairs. Further, some respondents identified the need for enhanced information sharing through digital platforms. Furthermore, the need for enhanced multi-agency border committees involving counties was emphasized by many respondents.
- iii. Public participation and public diplomacy locally and abroad. Some respondents indicated the need for organized visits by the diplomats of the neighbouring countries to border counties and the need for Kenyan citizens abroad and the respective embassies to undertake border visits. This was considered as important to enhance cross-border understanding.
- iv. The Ministry of Foreign Affairs should participate in sporting and cultural activities organized in the counties and draws participation of neighbouring countries. Specifically, some respondents mentioned the KICOSCA Games and EALASCA Games.
- v. Enhance the participation of community elders in cross-border peace talks.
- vi. Civic education, basic training and capacity building on negotiation for community elders and representatives on border security should be enhanced. Other trainings such as protocol, foreign policy, national interests should be considered. Border counties should seek technical support of the Ministry of Foreign Affairs to enable them constructively engage with in the international system.

4.4. Foreign Affairs and Para-Diplomacy

While all the MDA's listed in the preceding sections have officials posted in counties, and therefore participate in the County Intergovernmental Forum, the Ministry of Foreign and Diaspora Affairs does not. The only avenue for official interaction with Counties is through the Council of Governors and its secretariat, but through the State Department responsible for Devolution. Internally, within the Ministry of Foreign Affairs and Diaspora Affairs, there is an established Department for Liaison and Parliamentary Affairs whose mandate it is to coordinate with County Governments and Parliament.

Specifically, the department performs functions such as; facilitating: official foreign travel for Parliament and County officials; official engagement between Parliament and County Governments with the visiting foreign officials and Diplomatic Corps; engagement between Parliament and County government and the Diplomatic Corps, as well as coordinate engagement between diplomatic core and National and county government officials. The study revealed that these structures are riddled with bureaucratic officialdom so much so that in practice, County governments are left out of important decisions which, either affect the operations of their respective counties, or they could contribute positively to the advancement of relations between Kenya and her neighbours.

Many respondents took the view that the participation of foreign affairs in county activities such as trade fairs, industrial parks, multi-agency frameworks in counties, POEs should be enhanced. Further, all activities including communication from Country governments to any foreign government must be processed through the Ministry of Foreign Affairs. Moreover, the coordination and collaboration should be consistent.

4.5. Para-Diplomacy and Regional Integration

Participation of Border Counties in Border Security is inadvertent. Even when they are involved, it is as an afterthought. Furthermore, when there are structures such as the County Intergovernmental Forum, the participation of counties in such matters is bedevilled with bureaucratic challenges. The first challenge springs from the failure of MDAs involved in border security to comprehensively examine the functions of the state from a holistic view point during the analysis stage of the policy process. Ahraf Ghani and Clare Lochhart identify ten critical functions of a state which include: “the rule of law, a monopoly on the legitimate means of violence, administrative control, sound management of public resources, investment in human capital, creation of citizenship rights, provision of infrastructure services, formation of a market, management of public assets and effective public borrowing.”¹⁵⁴ None of these roles can be performed effectively by a single government agency. The National Government should harness the capabilities of all levels of government and take advantage of the multiplier effects accruing from comparative advantage of each level of government. As neofunctionalism posits, the cross-border nature of the functions assigned to counties could provide useful multiplier effects to solidify regional integration.

The second challenge spirals from the inability of MDAs to overcome the notion of ‘Group Think’ and seamlessly manoeuvre through the levels of strategy. The notion of ‘Group Think’ is a state of organizational mind-set which occurs when a group or an organization reach a consensus about a matter without critical thinking or assessment of the significances or options. Group Think makes it difficult for multiagency units to navigate through the various levels of decision making. Historian and author Yuval Noah Harari, in his book, *“Sapiens: A brief History of Humankind,”*

¹⁵⁴ Ashraf Ghani, Clare Lockhart. 2008. Fixing Failed States. A framework for Building a Fractured World. New York: Oxford University Press

explores an interesting perspective to this challenge as he advances his theme about humans as storytelling animals with the capacity to cooperate in large numbers.¹⁵⁵ By creating and telling ‘stories’, ‘fictions’ or collective narratives whose power is derived from their reality in our collective imaginations, humans are able to create alternative realities.¹⁵⁶ In his other writing “*Homo Deus: A Brief History of Tomorrow*,” Harari argues that, historically, as bureaucracies become powerful, they become ‘immune’ to their own mistakes.¹⁵⁷ This situation appeared to cloud the judgements of National Government officials at the advent of devolution in Kenya, especially on the debate around the future of the then provincial administration. This mentality appears to have pervaded the national administration officials throughout the history of devolution in Kenya.

The third difficulty relates to the reluctance to cede departmental independence and mandates. For multiagency methodologies to work, the responsible agencies would have to appreciate that coordination is an interactive process of gradually, progressively building trust, understanding and working relationships where each agency commits a reasonable number of resources and surrenders some degree of control over outcomes.¹⁵⁸ This is usually difficult to overcome as officials fall back on their mandates and independence when faced with serious issues of national security concern. Despite the establishment of the National Development Implementation and Communication Cabinet Committee to supervise the programmes and projects of the national government development, lapses continued to be witnessed across government in Kenya.

¹⁵⁵ Harari, Yuval Noah. 2011. *Sapiens: A Brief History of Humankind*. London: Penguin Random House

¹⁵⁶ Harari, Yuval Noah. 2011. *Sapiens: A Brief History of Humankind*

¹⁵⁷ Harari, Yuval Noah. 2016. *Homo Deus: A Brief History of Tomorrow*. London: Penguin Random House

¹⁵⁸ Scioto Analysis. 2021. “The ‘Policy Wheel’ Model of Policy Process.” *Scioto Analysis Economics and Public Policy*. 8 March. Accessed September 24, 2022. <https://www.sciotoanalysis.com/news/2021/3/8/the-policy-wheel-model-of-the-policy-process>

To transcend the challenges of policy and strategy, there is need for frameworks that maximizes the strengths and minimizes the weaknesses of the individual MDAs and County Governments. Overcoming the challenge of group think and making it easier for departments to cede departmental independence, entails the adoption of models that allow departmental flexibility. Instead of focusing on singular goals and outcomes, national security goals are examined through combined efforts and cohesiveness of different groups and their progress toward achieving collective goals.

4.6. Summary

This chapter explored the role border counties can play in border security in Kenya. It examined the cross-border nature of devolved functions of counties and the existing mechanism for the engagement of border counties in border management. It then explored the role of regional integration and the value of neofunctionalism in situating the role of border counties.

The most common responses to ways/initiatives that the County can involve the Ministry of Foreign Affairs in include cross-border initiatives such as security meetings, sports, trade fairs, and cultural events. Peacebuilding and conflict resolution, as well as regular meetings among elders and border communities, were also mentioned. The involvement of the Ministry in committees and stakeholder consultations, as well as its support in capacity development for county governments, were also suggested. Sensitization and sharing of intelligence on cross-border movement were other proposals. Some respondents noted that counties with international borders should seek technical support from the Ministry of Foreign and Diaspora Affairs, while others suggested involving the Ministry in regular border patrol teams. Overall, there is a strong emphasis on the need for collaboration between the County and the Ministry of Foreign and Diaspora Affairs to address various issues along the borders.

Respondents identified several ways in which border counties could be involved in border security. For instance, there was the need to enhance the participation of counties in Bilateral Frameworks. For instance, the respective County Governors to co-chair Joint Border Commissions. Furthermore, border counties to be part of the delegation and preparation of country's position paper on relevant bilateral issues. Further, coordination and collaboration between County and National governments need to be strengthened. Some respondents wished that there should be continuous engagement through a structured framework between the national and county governments on the management of international boundaries. They underscored the need for all activities on Kenya's bilateral relations with neighbouring countries should be coordinated through the Ministry of Foreign Affairs. Furthermore, some respondents identified the need for enhanced information sharing through digital platforms. Furthermore, the need for enhanced multi-agency border committees involving counties was emphasized by many respondents.

Some respondents called for a more meaningful public participation and public diplomacy both locally and abroad, including enhancing the role of community leaders in peace talks. Some respondents indicated the need for organized visits by the diplomats of the neighbouring countries to border counties and the need for Kenyan citizens abroad and the respective embassies to undertake border visits. This was considered as important to enhance cross-border understanding. In addition, the Ministry of Foreign and Diaspora Affairs should participate in sporting and cultural activities organized in the counties and draws participation of neighbouring countries such as KICOSCA/EALASCA games. Importantly, respondents called for more civic education, basic training and capacity building on negotiation for community elders and representatives on border security should be enhanced. Other trainings such as protocol, foreign policy, national interests

should be considered. Border counties should seek technical support of the Ministry of Foreign and Diaspora Affairs to enable them constructively engage with in the international system.

The cross-border nature of devolved functions in Counties is immense. The chapter argues that in execution of their respective devolved functions, Border Counties, inadvertently undertake some of the functions which fall in the realm of the National Government and vice versa. The research found out that this reality is significant in the promotion of border security in Kenya. Although there are several mechanisms that have been established for collaboration between the National and County Government, the participation of Border Counties in Border Security is inadvertent. Even when counties are involved, it is as an afterthought. Furthermore, when there are structures such as the County Intergovernmental Forum, the participation of counties in such matters is bedevilled by bureaucratic challenges, especially the notion of ‘Group Think’ and failure of departments to cede departmental independence.

Respondents revealed that these structures were riddled with bureaucratic officialdom so much so that in practice, County governments are left out of important decisions which, either affect the operations of their respective counties, or they could contribute positively to the advancement of relations between Kenya and her neighbours. Many respondents took the view that the participation of foreign affairs in county activities such as trade fairs, industrial parks, multi-agency frameworks in counties, POEs should be enhanced. Respondents also expressed the need for all activities including communication from County governments to any foreign governments to be processed through the Ministry of Foreign and Diaspora Affairs with coordination and collaboration being streamlined for consistency.

To transcend the many challenges of policy and strategy, respondents suggested that there was need for frameworks that maximizes the strengths and minimizes the weaknesses of the

individual MDAs and Border Counties. Overcoming the challenge of group think and making it easier for departments to cede departmental independence, entails the adoption of models that allow departmental flexibility. The research further found out that none of the departmental roles, be they devolved or not, can be performed effectively by a single government agency. Therefore, the National Government should harness the capabilities of all levels of government and take advantage of the multiplier effects accruing from comparative advantage. As neofunctionalism posits, if the cross-border nature of the functions assigned to counties could provide useful multiplier effects to solidify regional integration. It is the initial cooperation in low level areas such as devolved functions, that will necessitate more cooperation in related sectors and areas. As Ernst B. Haas argued, these effects, which he referred to as spill-over, forces or influences cooperation in other sectors as well as deepening cooperation in the same sector.

CHAPTER FIVE

SUMMARY, CONCLUSION AND RECOMMENDATIONS

5.0. Introduction

This section presents the summary of the research findings, conclusion and recommendations.

5.1. Summary

The research is titled “Para-diplomacy and Security: An Examination of the Influence of Border Counties on Kenya’s Border Stability” It investigated the role border counties play in border security in Kenya. Whereas the contribution of traditional diplomacy in border security may be well understood, the role of counties in Kenya remains unexplained, and understood and therefore unexploited. The research employed a pragmatic methodology combining both content analysis and collection of primary data. The target population comprised of senior level officials of the county governments in border counties and officials from the central government with functions in border management, specifically from the BCOCC, as well as the Ministry of Foreign and Diaspora Affairs and Diaspora Affairs. By applying purposive sampling technique, the research selected a sample of 76 individuals from 23 border counties and 6 national government departments. Questionnaires and interview guides were adopted to gather primary data and both qualitative and quantitative methods of analysis were employed.

The study revealed that there are no demonstrable structures that indicate that Counties play a role in Kenya’s border management mechanisms and yet in practice the counties play a role. Secondly, it assessed how Track One diplomacy has contributed to border security in Kenya and found out that diplomacy appears to produce positive results as envisaged by Neofunctionalism by transforming conflicts into opportunities for integration through peace building, and conflict management. Thirdly, the research sought to investigate how Para-diplomacy can be adopted to

enhance border security in Kenya and found out that border country counties play a significant role in foreign relations and border security, thereby fostering regional integration as posited by Neofunctionalism theory.

5.1.1. Challenges and Experiences of Border Security in Border Counties

The research explored the challenges and experiences of border security faced by border counties along Kenya's international boundaries. It set the stage for the exposure by outlining Kenya's Border Management Mechanisms which includes borderline and Points of Entry, border governance structures and boundary delineation and demarcation. It revealed that there are no demonstrable structures that indicate that Counties play a role in Kenya's border management mechanisms and yet in practice the counties play a role. The research explored the challenges of border management and demonstrated how they play out in the counties.

In terms of identity, it identified several ethnic communities that straddle Kenya's international boundaries with all five neighbouring countries and demonstrated how complex the resultant challenges appear. Border counties face challenges and experiences as a result of the international boundary between their county and another country in relation to identity issues such as ethnicity, religion, age, culture, and gender, among others. Most communities along the border areas have their families, clans, and tribes occupying two or more countries as a result of the creation of border lines. It, therefore, becomes difficult at times to distinguish their citizenry and this causes challenges of dual loyalty, use of amenities, and complicates security. Even counties like Uasin Gichu, Isiolo, and Eldoret, by virtue of their hosting international airports, face challenges with communities arriving at the POEs sometimes identifying themselves as Kenyan nationals. Furthermore, resource-based conflicts among border communities were a major concern. Further, cultural differences such as those of the Maasai and Kuria communities provided

an opportunity for peacebuilding among cross-border communities. In addition, identity politics have serious effects on local elections as tensions rise among cross-border communities during election periods.

In relation to migration, the study revealed that international migration has perhaps worsened the status of international peace. Border counties face challenges and expressed experiences related to migration issues as a result of the international boundary between their county and another country. These challenges may include managing refugee populations, accommodating returnees and internally displaced persons, addressing issues of statelessness, and navigating multiculturalism. The presence of refugees in their counties and related challenges such as resource-based conflicts and overuse of social amenities is a major challenge and experience of border counties. Other challenges included demographic pressures and criminal activities. These challenges are complicated by common cross-border identities, or transhumance, which is a major challenge to the management of PoEs as documentation and identification become an arduous task. Further, the porosity of the borders makes it difficult to police and effectively manage entry and exit. In addition, border counties identified human trafficking as another challenge that was on the rise, particularly Ethiopian illegal immigrants in transit to South Africa. For example, Uasin Gishu county continues to receive and host large numbers of refugees from many countries in the sub-region including Rwanda, Somalia, Ethiopia, and Eritrea. This has been attributed to ‘slippage’ from refugee camps in the northern part of the country, particularly Kakuma in Turkana County. There was a connection between refugees and the statelessness of certain communities, particularly the Garjeel. The border counties of Wajir, Garissa, Mandera, and Isiolo identified the challenge they face in accessing public services such as education, health, and housing among others, as a result of politics surrounding refugees. For example, the control

of tropical diseases such as tuberculosis and other diseases such as polio is often hampered as an influx of refugees disrupts control and vaccination programmes respectively.

Furthermore, this situation has complicated life for the Kenyan Somali ethnic communities for it has become difficult for them to acquire personal Identification Cards and Passports due to a more stringent processing system applied by the Government, which is corruption prone. These findings fault the policy of encampment as it was not easy to administer because refugees continue to slip out of the camps thereby complicating the local community-refugee relationships. Furthermore, diplomatic relations between Kenya, Somalia and Ethiopia have been affected in different periods due to government action or inaction on illegal immigrants. It was further revealed that the management of migration related issues is vested solely on the national government and yet border counties interact with the challenge of illegal migration and refugees with severe consequences to local communities.

With contemporary cross-border criminality and transnational menace such as terrorism, human and counterfeit trafficking and drug trafficking on the rise, the role of border counties become critically essential. Border counties interacted the most with neighbouring countries in the process of undertaking cross-border trade. The most significant challenge relating to cross-border trade was in relation to illegal trade practices which include trade in counterfeited goods, smuggling of illegal substances, smuggling especially food items and pharmaceuticals and herbal medicines. border counties nevertheless underscored the usefulness of One-Stop Border Posts (OSBP) in facilitating cross-border trade but border countries continue to experience unregulated trade taking place through ungazetted points. In addition, the research identified non-tariff barriers, infrastructure linkages, complexity of devolution mandates against national government functions, and informal border trade as the major trade related challenges. Significantly, gender-based

vulnerability of the most of the traders operating across the borders and the applicability of multiple overlapping trade arrangements impede border trade and affects the livelihoods of border communities.

Furthermore, political and diplomatic challenges relating to border security were complex and multifaceted and they include issues such as public participation among border communities, participation in politics and elections by border communities, management of cross border shared resources, and representation among other related issues were revealed as important concerns for border counties. Apart from direct costs to the local communities, even election outcomes can be flipped by foreigners voting as citizens, which in turn challenge the sovereignty, territorial integrity and security of a nation. Some common themes include conflicts over shared resources, political tensions during elections, and cross-border communities interfering with each other's local politics. There are also concerns about terrorism and the lack of diplomatic ties with neighbouring countries. Some border counties identified the need to oversee the implementation of existing international agreements and protocols and to balance national interests with regional cooperation.

The most glaring challenge in relation to politics is the capacity of cross-border communities to influence local political choices of leadership and opinions. Due to the sensitivity of the matter the government is reluctant or sometimes unable to take any action. This leaves the situation to the local political discourse, which in most cases ends up as a political issue during elections with local political rivals in elections campaign trading accusations of facilitating voting cross border communities. This was especially emphasized for Wajir where alleged Somali citizens who live across the border have acquired Kenyan identification documents and as such take part in elections. Failure to address local grievances, especially those of political nature continues to simmer to a point where they become diplomatic issues affecting Kenya's relations

with its neighbours. In addition, Conflicts related to maritime, lake, and river boundaries or trade issues are felt by cross-border communities that live in constant tension. Furthermore, Kenya's entry into Somalia heightened tensions and insecurity in the border areas between Kenya and Somalia.

Finally, the research revealed other challenges that border counties identified as important for consideration for border security. Concerns about the lack of information on available mechanisms to address complaints of harassment across the border and communities being left to take care of themselves major experiences of border counties. Marginalization of certain ethnic communities has forced some of them to feel much more welcomed and served in some neighbouring countries than they would in Kenya. Some respondents specifically mentioned the Pokot who due to difficulties in obtaining Kenyan identification documents have considered Uganda as their home.

5.1.2. Role of Track One Diplomacy in Border Security

The research assessed the role that Track One diplomacy has played and its contribution to border security in Kenya. It began by locating the foreign policy orientation on border security and identifies peace diplomacy as the guiding pillar for Kenya's border security. It argues that, when faced with a challenge with its neighbour, Kenya has always settled for peaceful means to reach mutually amicable diplomatic solutions and played an active role in mediating conflicts within or among its neighbours. It further explored the formal bilateral frameworks for cooperation, including the Joint Commission for Cooperation and Joint Border Commission (JCC). The study revealed that the JCC frameworks, which sometimes are referred to as Joint Permanent Commission for Cooperation (JPCC), are at different stages with each country, face different challenges and address different issues but the most common is border security. Similarly, the

Chapter assessed the role of the Joint Border Commissions, as another formal framework for cooperation in cross border management. It appears that Border Commissions have assisted to foster cross-border peace and security among the cross-border communities in Kenya and Tanzania, Uganda and Ethiopia. Although there is no formal Border Commission between South Sudan and Kenya, the presence of South Sudan in the East African Community has helped to ease tensions because other existing diplomatic structures have been deployed. Somalia is the only country where Kenya has closed its border for the longest time, and it's perhaps an indicator of the need for mechanisms within the Border Commissions.

In addition to the bilateral frameworks, Kenya deploys several multilateral frameworks to foster border security, directly or indirectly. The study evaluated the role of global and regional multilateral frameworks which include the UN and its Agencies, the APSA, the IGAD mechanisms, EAC and COMESA frameworks, Summit on the Northern Corridor Integration Projects, and the ICGLR and other mechanisms deployed. The study revealed that all such programmes represent a comprehensive regional approach to integration and development aimed at supporting member states to achieve higher levels of development and stability, which in turn secures the border. What is more, the approach appears to produce results as envisaged by neofunctionalism where countries take advantage of conflicts and transform them into opportunities for integration through peace building, conflict management.

Although only 51 % of the respondents confirmed to have been involved/participated in official cross-border discussions between Kenya and the five neighbouring countries, the research revealed the range of issues discussed during cross-border peace and security initiatives, which in their very nature are diverse. The issues range from trade and sharing of information vital to peaceful co-existence to agriculture, cattle rustling, and banditry. Other issues include

infrastructure linkages with neighbouring countries, smuggling of goods across the border, diversion of goods, and under-size fishing. Additionally, the respondents informed that such initiatives focused on sharing transboundary resources, particularly between Kenya, Somalia, and Ethiopia, including water and pasture during drought. Other topics included border security, illegal entry into the country, COVID-19 control, immigration and customs issues, and illegal small and light weapons trafficking control. The research alluded to discussions that focused on working collaboratively towards healthy, productive, and globally competitive relationships between the countries. Research also revealed that discussions revolved around challenges such as political issues, economic disparities, and cross-border conflicts, and efforts to address them. Overall, the initiatives helped to foster regional cohesion through sports and cultural exchange activities and wide-ranging bilateral issues, including economic and trade, political cooperation, training, security matters, tourism, and diplomatic relations.

Specifically, some of the issues that were given prominence during activities organized by the national government where counties participated include the following.

- vii. Use of transboundary resources among Kenya, Somalia and Ethiopia, particularly water resources from River Daua, pasture along Kenya-Somalia, Kenya-Ethiopia and Kenya-South Sudan, Kenya-Tanzania borders, and fisheries.
- viii. How to fast-track the implementation of infrastructure linkages with Ethiopia, particularly the LAPSSET.
- ix. Public participation in border security matters such as border demarcation spread of SALW, trafficking in arms, and cattle rustling.
- x. Cultural exchanges and sporting events.

- xi. During Joint Border Commissions discussions were held on how to strengthen cooperation on economic, trade, training, security matters, tourism, diaspora among other issues.
- xii. Trade issues including trade in contraband goods.

5.1.3. The Role of Border Counties in Border Security

The research explored the role border counties can play in border security in Kenya. It examined the cross-border nature of devolved functions of counties and the existing mechanism for the engagement of border counties in border management. It then explored the role of regional integration and the value of neofunctionalism in situating the role of border counties.

The research identified several ways in which border counties could be involved in border security. For instance, there was the need to enhance the participation of counties in Bilateral Frameworks. For instance, the respective County Governors to co-chair Joint Border Commissions. Furthermore, border counties to be part of the delegation and preparation of country's position paper on relevant bilateral issues. Further, coordination and collaboration between County and National governments need to be strengthened. The research hinted at the need for continuous engagement through a structured framework between the national and county governments on the management of international boundaries. It therefore underscored the need for all activities on Kenya's bilateral relations with neighbouring countries should be coordinated through the Ministry of Foreign Affairs. Furthermore, the research identified the need for enhanced information sharing through digital platforms. Furthermore, the need for enhanced multi-agency border committees involving counties was emphasized.

The research called for a more meaningful public participation and public diplomacy both locally and abroad, including enhancing the role of community leaders in peace talks. What is more, the research indicated the need for organized visits by the diplomats of the neighbouring

countries to border counties and the need for Kenyan citizens abroad and the respective embassies to undertake border visits. This was considered as important to enhance cross-border understanding. In addition, the Ministry of Foreign and Diaspora Affairs should participate in sporting and cultural activities organized in the counties and draws participation of neighbouring countries such as KICOSCA/EALASCA games. Importantly, the research called for more civic education, basic training and capacity building on negotiation for community elders and representatives on border security should be enhanced. Other trainings such as protocol, foreign policy, national interests should be considered. Border counties should seek technical support of the Ministry of Foreign and Diaspora Affairs to enable them constructively engage with in the international system.

The research revealed that government structures were riddled with bureaucratic officialdom so much so that in practice, County governments are left out of important decisions which, either affect the operations of their respective counties, or they could contribute positively to the advancement of relations between Kenya and her neighbours. The research hinted that the participation of foreign affairs in county activities such as trade fairs, industrial parks, multi-agency frameworks in counties, POEs should be enhanced. The research revealed the need for all activities including communication from County governments to any foreign governments to be processed through the Ministry of Foreign and Diaspora Affairs with coordination and collaboration being streamlined for consistency.

The cross-border nature of devolved functions in Counties is immense. The research argued that in execution of their respective devolved functions, Border Counties, inadvertently undertake some of the functions which fall in the realm of the National Government. The research found out that this reality is so important to the promotion of border security in Kenya. Although

there are several mechanisms that have been established for collaboration between the National and County Government, the participation of Border Counties in Border Security is inadvertent. Even when they are involved, it is as an afterthought. Furthermore, when there are structures such as the County Intergovernmental Forum, the participation of counties in such matters is bedevilled by bureaucratic challenges, especially the notion of ‘Group Think’ and failure of departments to cede departmental independence. In order to enhance border security therefore, there is need for border counties to play a more effective role. The next section proffers some recommendations for consideration by both the county governments and national government.

5.2. Conclusion

In order to facilitate border counties to play a greater role in border security through para-diplomacy, this calls for the national and county governments need for frameworks that maximizes the strengths and minimizes the weaknesses of the individual MDAs and counties and that can overcome the challenge of group think. Therefore, the National Government should harness the capabilities of all levels of government and take advantage of the multiplier effects accruing from comparative advantage. As neofunctionalism posits, the cross-border nature of the functions assigned to counties could provide useful multiplier effects to solidify regional integration. It is the initial cooperation in low level areas such as devolved functions, that will necessitate more cooperation in related sectors and areas. As Ernst B. Haas argued, these effects, which he referred to as spill-over, forces or influences cooperation in other sectors further deepen cooperation in the same sector.

The research findings will help both levels of government to adopt frameworks that harnesses the contribution of border counties in border security. Besides, it will be useful

information to the academia and to the public. The major findings of the research are summarised below.

5.3. Recommendations

Specifically, the following recommendations are proffered for the Ministry of Foreign & Diaspora Affairs, County Governments, Academia and the general Public:

5.3.1. Ministry of Foreign & Diaspora Affairs

First, the Ministry should strengthen Coordination and Collaboration between County and National government, especially the Ministry of Foreign & Diaspora Affairs through:

- i. Develop a policy and the relevant Standard Operating Procedures (SOPs) that elaborates a structured framework of engagement between the national and county governments on the management of international boundaries.
- ii. All activities on Kenya's bilateral relations with neighbouring countries should be coordinated through the Ministry of Foreign Affairs.
- iii. Enhance information sharing through digital platforms.
- iv. Participation at the KICOSCA Games and EALASCA Games.

Second, the National Government should involve counties in relevant bilateral and multilateral frameworks through a structured arrangement. Specifically:

- i. Involve all relevant border counties in a JCCs and JBCs with Uganda, Tanzania, Ethiopia, South Sudan and Somalia.
- ii. In coordination and consultation with the Ministry of Interior and National Administration, enhance existing multi-agency border committees by involving border counties.

- iii. Enhance public participation and public diplomacy locally and abroad through exchange/organised visits to the border areas by diplomats of the neighbouring countries, Kenyan citizens abroad and the respective Kenyan embassies aimed at enhancing cross-border understanding.

Third, the Ministry of Foreign and Diaspora Affairs should progressively establish liaison offices/post officials in border counties, prioritizing Mombasa, Eldoret, Kisumu and Isiolo, because of the existence of international airports. In the second phase, progressively establish liaison offices/post officials to all PoEs.

5.3.2. County Governments

Border County Governors and their Executives, Members of County Assembly and key officials of the border counties should regularly be appraised on basic skills of diplomacy including protocol and negotiation.

5.3.3. Academia

The findings in this research should inspire the academia to do undertake further research on para-diplomacy, particularly in the East African and HOA sub-regions.

5.3.4. General Public

The general public should take a keen interest in public decisions because their perspectives can inform policy decision making process and increase the prospects for deeper regional integration.

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Annextures

Annex I: Questionnaire I (a)



NATIONAL DEFENCE COLLEGE - KENYA

MA in National Security and Strategy

PARA-DIPLOMACY AND BORDER SECURITY IN KENYA

Declaration: I am a student at the National Defence University –Kenya undertaking a research on Para-diplomacy and National Security in Kenya. The information obtained will be confidential and used for academic purposes only. Kindly take a few minutes to answer the questions therein.

Section A: Background Information

1. Name of the Organization/County/MDA _____

2. Work experience

a) 1 year and below []

b) 2-5 years []

c) 6-10 years []

d) 11 years and above []

3. Which County/Counties do you work or have you worked in before? **(Tick in the spaces provided below)**

Mandera []

Wajir []

Garissa []

Tana River []

- | | | | |
|------------------|-----------------|----------------|-----------------|
| Lamu [] | Kilifi [] | Kwale [] | Mombasa [] |
| Taita Taveta [] | Kajiado [] | Narok [] | Migori [] |
| Homa Bay [] | Kisumu [] | Siaya [] | Busia [] |
| Bungoma [] | Trans Nzoia [] | West Pokot [] | Turkana [] |
| Marsabit [] | Nairobi [] | Isiolo [] | Uasin Gichu [] |

4. Which Neighbouring Country does your County border?

- a. Ethiopia []
- b. Somalia []
- c. Tanzania []
- d. Uganda []
- e. South Sudan []
- f. Indian Ocean []

Section B: The questions in this section are aimed at obtaining the challenges and experiences of Border Counties in border security along Kenya’s international boundaries with her neighbours.

5. Please look at the list below and answer YES or NO if it explains any of the challenges and experiences you face/ county faces as a result of the international boundary between your county and another country.

i. **Identity issues** (perspectives including ethnic, religion, age, culture, gender, etc)

Yes (___) No (___)

ii. **Migration Issues** (including refugees, returnees, Internally Displaced Persons, Asylum seekers, statelessness and multiculturalism, etc)

Yes (___) No (___)

iii. **Trade Issues** (for example prices, transport, customs, import, export, movement of goods, subsidies, standardization, tariffs, quotas, and licenses etc)

Yes (___) No (___)

- iv. Political/Diplomatic Issues (For instance issues of public participation among border communities, participation in politics and elections by border communities, cross border shared resources, and representation among other related issues)

Yes (___)

No (___)

6. Please explain your answers in 'c' above.

- i. Identity issues

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- ii. Migration Issues

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- iii. Trade Issues

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- iv. Political/Diplomatic Issues

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7. In addition to the challenges listed in 'd' above, are there any other challenges you wish to list **(anything not listed above, but you feel is important)**?

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Section C: The questions in this section are aimed at obtaining your opinion/view of how the National Government, especially the Ministry of Foreign Affairs and Diaspora Affairs , has contributed to border security in counties bordering neighbouring countries.

8. Do you participate/ involve counties in diplomatic initiatives with neighbouring countries?
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9. If yes, Name the countries
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10. List the issues/subject of discussions during the initiatives listed in B (b) above.
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Section D: The questions in this section is aimed at giving you the opportunity to share your views/suggestions on how Border Counties help to enhance border security in Kenya.

11. Which other ways/initiatives can the Ministry of Foreign Affairs and Diaspora Affairs involve counties?
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12. Which other ways/initiatives undertaken by the County can you invite/involve the Ministry of Foreign Affairs and Diaspora Affairs ?
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Annex II: Questionnaire I (b)



NATIONAL DEFENCE COLLEGE - KENYA

MA in National Security and Strategy

PARA-DIPLOMACY AND BORDER SECURITY IN KENYA

Declaration: I am a student at the National Defence University –Kenya undertaking research on Para-diplomacy and National Security in Kenya. The information obtained will be confidential and used for academic purposes only. Kindly take a few minutes to answer the questions therein.

Section A: Background Information

1. Name of the Organization/County/MDA _____

2. Work experience

a) 1 year and below []

b) 2-5 years []

c) 6-10 years []

d) 11 years and above []

3. Which County/Counties do you work or have you worked in before? **(Tick in the spaces provided below)**

Mandera [] Wajir [] Garissa [] Tana River []

Lamu [] Kilifi [] Kwale [] Mombasa []

Taita Taveta [] Kajiado [] Narok [] Migori []

Homa Bay [] Kisumu [] Siaya [] Busia []

- Bungoma [] Trans Nzoia [] West Pokot [] Turkana []
 Marsabit [] Nairobi [] Isiolo [] Uasin Gichu []

4. Which Neighbouring Country does your county border?

- i. Ethiopia []
- ii. Somalia []
- iii. Tanzania []
- iv. Uganda []
- v. South Sudan []
- vi. Indian Ocean []

Section B: The questions in this section are aimed at obtaining the challenges and experiences of Border Counties in border security along Kenya’s international boundaries with her neighbours.

5. Please look at the list below and answer YES or NO if it explains any of the challenges and experiences you face/ county faces as a result of the international boundary between your county and another country.

- i. **Identity issues** (perspectives including ethnic, religion, age, culture, gender, etc)

Yes (___) No (___)

- ii. **Migration Issues** (including refugees, returnees, Internally Displaced Persons, Asylum seekers, statelessness and multiculturalism, etc)

Yes (___) No (___)

- iii. **Trade Issues** (for example prices, transport, customs, import, export, movement of goods, subsidies, standardization, tariffs, quotas, and licenses etc)

Yes (___)

No (___)

- iv. Political/Diplomatic Issues (For instance issues of public participation among border communities, participation in politics and elections by border communities, cross border shared resources, and representation among other related issues)

Yes (___)

No (___)

6. Please explain your answers in 'c' above.

- i. Identity issues

.....

- ii. Migration Issues

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- iii. Trade Issues

.....

- iv. Political/Diplomatic Issues

.....

7. In addition to the challenges listed in 'd' above, are there any other challenges you wish to list (anything not listed above, but you feel is important)?

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Section C: The questions in this section are aimed at obtaining your opinion/view of how the National Government, especially the Ministry of Foreign Affairs and Diaspora Affairs , has contributed to border security in counties bordering neighbouring countries.

8. Do you involve counties in foreign policy initiatives with neighbouring countries?

.....

9. If yes, Name the countries

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10. List the issues/subject of discussions during the initiatives listed in B (b) above.

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Section D: The questions in this section is aimed at giving you the opportunity to share your views/suggestions on how Border Counties help to enhance border security in Kenya.

11. Which other ways/initiatives can the Ministry of Foreign Affairs and Diaspora Affairs involve counties?

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12. Which other ways/initiatives undertaken by the County can you invite/involve the Ministry of Foreign Affairs and Diaspora Affairs ?

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Annex III: Interview Guide



NATIONAL DEFENCE COLLEGE - KENYA

MA in National Security and Strategy

PARA-DIPLOMACY AND BORDER SECURITY IN KENYA

Declaration: I am a student at the National Defence University –Kenya undertaking research on Para-diplomacy and National Security in Kenya. The information obtained will be confidential and used for academic purposes only. Kindly take a few minutes to answer the questions therein.

Section A: Background Information

1. Name of the Organization/County/MDA _____

2. Work experience

a) 1 year and below []

b) 2-5 years []

c) 6-10 years []

d) 11 years and above []

3. Which County/Counties do you work or have you worked in before? **(Tick in the spaces provided below)**

Mandera [] Wajir [] Garissa [] Tana River []

Lamu [] Kilifi [] Kwale [] Mombasa []

Taita Taveta [] Kajiado [] Narok [] Migori []

- | | | | |
|--------------|-----------------|----------------|-----------------|
| Homa Bay [] | Kisumu [] | Siaya [] | Busia [] |
| Bungoma [] | Trans Nzoia [] | West Pokot [] | Turkana [] |
| Marsabit [] | Nairobi [] | Isiolo [] | Uasin Gichu [] |

4. Which Neighbouring Country does your County border?

- i. Ethiopia []
- ii. Somalia []
- iii. Tanzania []
- iv. Uganda []
- v. South Sudan []
- vi. Indian Ocean []

Section B: The questions in this section are aimed at obtaining the challenges and experiences of Border Counties in border security along Kenya’s international boundaries with her neighbours.

5. Please look at the list below and answer YES or NO if it explains any of the challenges and experiences you face/ county faces as a result of the international boundary between your county and another country.

i. **Identity issues** (perspectives including ethnic, religion, age, culture, gender, etc)

Yes (___) No (___)

ii. **Migration Issues** (including refugees, returnees, Internally Displaced Persons, Asylum seekers, statelessness and multiculturalism, etc)

Yes (___) No (___)

iii. **Trade Issues** (for example prices, transport, customs, import, export, movement of goods, subsidies, standardization, tariffs, quotas, and licenses etc)

Yes (___) No (___)

iv. **Political/Diplomatic Issues** (For instance issues of public participation among border communities, participation in politics and elections by border communities, cross border shared resources, and representation among other related issues)

Yes (___)

No (___)

6. Please explain your answers in 'c' above.

i. Identity issues

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ii. Migration Issues

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iii. Trade Issues

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iv. Political/Diplomatic Issues

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7. In addition to the challenges listed in 'd' above, are there any other challenges you wish to list **(anything not listed above, but you feel is important)**?

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Section C: The questions in this section are aimed at obtaining your opinion/view of how the National Government, especially the Ministry of Foreign Affairs and Diaspora Affairs , has contributed to border security in counties bordering neighbouring countries.

8. Do you participate/ involve counties in diplomatic initiatives with neighbouring countries?
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9. If yes, Name the countries
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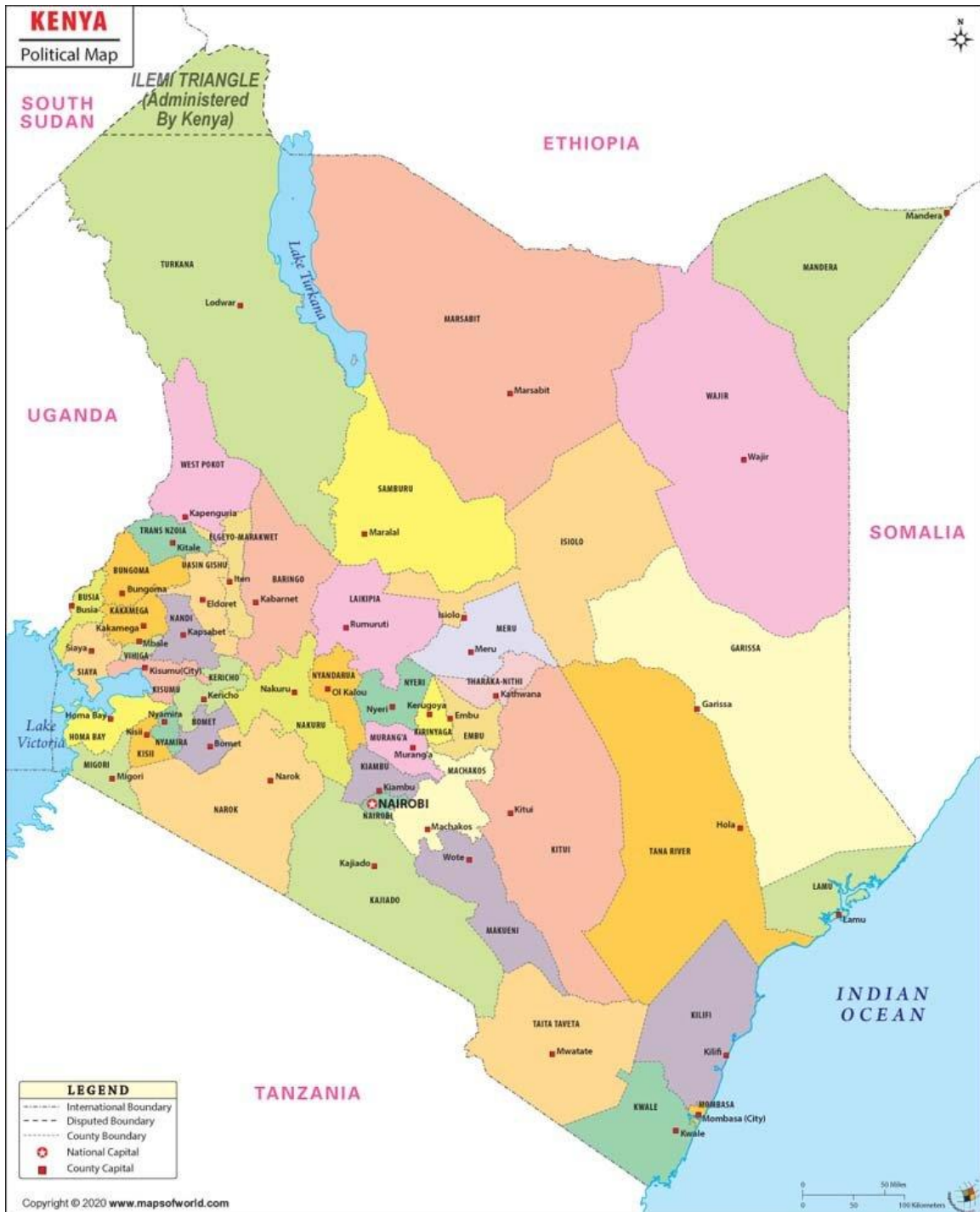
10. List the issues/subject of discussions during the initiatives listed in B (b) above.
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Section D: The questions in this section is aimed at giving you the opportunity to share your views/suggestions on how Border Counties help to enhance border security in Kenya.

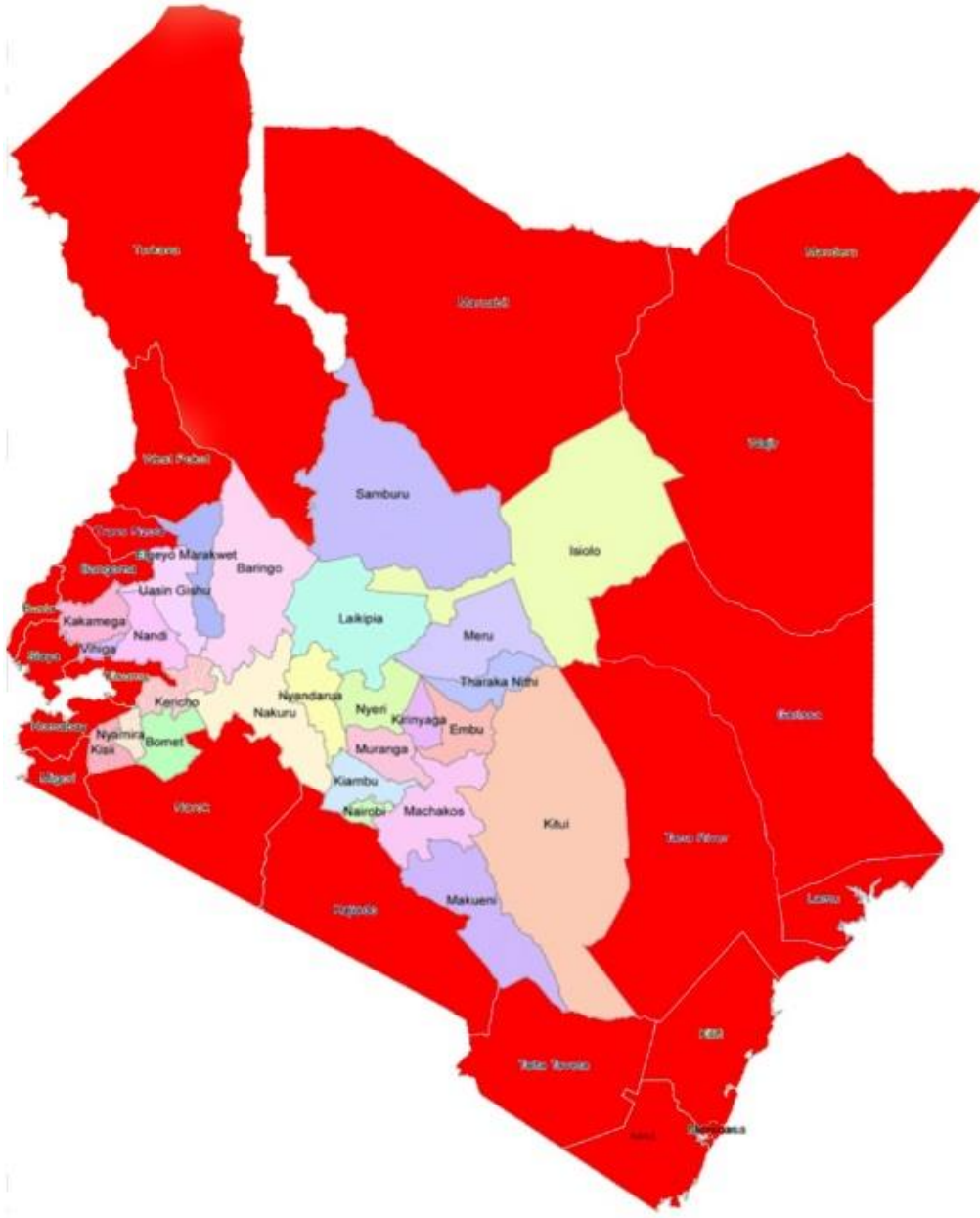
11. Which other ways/initiatives can the Ministry of Foreign Affairs and Diaspora Affairs involve counties?
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Thank You for your cooperation

Annex IV: Kenya County Map



Annex V: Kenya Border County Map



Annex VI: Operational Timelines

Dates	NDU-K Milestones
Saturday, 23 & Sunday, 24 July 2022	Research Project Consultation and allocation of final topics to Participants by panel
Thursday, 08 September 2022	Thesis proposal (Chapter 1) Presentations to individual supervisors
Monday, 03 October & Tuesday, 04 October 2022 (1440 – 1610 hrs)	1 st follow up discussions with sponsor SDS
Friday 28 October 2022	Submission of chapter 2 to Research Project supervisor
Monday, 03 November & Tuesday, 08 November 2022 (1440 –1610 hrs)	2 nd follow up discussions with Sponsor SDS
Monday, 30 November 2022	Submission of chapter 3 to the Supervisor
Thursday, 06 January 2023	Submission of chapter 4 to the supervisor
Monday, 06 February 2023	Submission of chapter 5 to the supervisor
Friday, 10 March 2023	Handing in of final drafts to the supervisor

Friday, 24 March 2023	Submission of Research Project in duplicate to Head of Programme and NDU-K through the Supervisor
Monday, 27 March 2023	All Research Projects submitted to Commandant NDC and subsequently to NDU-K
Monday, 31 March 2023	All Research Projects deposited/ riposted at NDU-K repository and NDC College Library

Note: The college revised the deadlines by a month

Annex VII: Budget

F	Budget Item	Unit Cost (Ksh)	Sub-Total (Ksh)
1.	Research Assistants		
	Research stipend		50,000.00
	Data Coding and Analysis		5,000.00
	<i>Research Sub-total</i>		<i>55,000.00</i>
2.	Documentation		
	Printing, copying, filing		10,000.00
	<i>Documentation Sub-total</i>		<i>10,000.00</i>
3.	Travel Expenses		
	Road transport		100,000.00
	Air Transport		200,000.00
	Accommodation		300,000.00
	Subsistence		100,000.00
	<i>Travel Expenses Sub-total</i>		<i>700,000.00</i>
4.	Sub-Total Costs		765,000.00
	Contingency Expenses	10%	76,000.00
5.	Total Costs		841,500.00

Annex VIII: Research Authorization (a) Letter from NDC -K

RESTRICTED

Telephone: 254-2-884036
Fax: 254-2-884036
E-mail: ndc@ndc.go.ke



National Defence College
Warai North Road
P.O Box 24381
Karen - Nairobi
Kenya

When replying please quote:

Ref: NDC/A/141

10 November 2022

TO WHOM IT MAY CONCERN

FACILITATION FOR MR GILBERT K NG'ENO ADM No. ND601/0041/2022

The above Senior Officer is a course participant at the National Defence College and has been admitted for Masters of Arts in National Security and Strategy, under the National Defence University- Kenya Programme.

As part of academic requirements, Mr Gilbert K NG'ENO is required to undertake a research project in partial fulfillment of MA degree programme he is enrolled in. His approved research topic is **"Para-Diplomacy and Border Security in Kenya"**.






The purpose of this letter is to kindly request your office to facilitate the Officer as he conducts his research project.

Submitted for your kind consideration and facilitation.

A blue ink signature of Mr. F M Mabeya, written over a circular stamp.

Mr F M MABEYA
Head of Programme
for Commandant

Annex IX: Research Authorization (b) Permit from NACOSTI

 <p>REPUBLIC OF KENYA</p>	 <p>NATIONAL COMMISSION FOR SCIENCE, TECHNOLOGY & INNOVATION</p>
Ref No: 348126	Date of Issue: 20/February/2023
RESEARCH LICENSE	
	
<p>This is to Certify that Mr.. Gilbert Kipyegon Ng'eno of National Defense University, has been licensed to conduct research as per the provision of the Science, Technology and Innovation Act, 2013 (Rev.2014) in Bungoma, Busia, Elgeyo-Marakwet, Garissa, Homabay, Isiolo, Kajiado, Kilifi, Kisumu, Kwale, Lamu, Mandera, Marsabit, Migori, Mombasa, Nairobi, Narok, Siaya, Taita-Taveta, Tanariver, Turkana, Uasin-Gishu, Wajir, Westpokot on the topic: Para-diplomacy and Border Security in Kenya for the period ending : 20/February/2024.</p>	
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