



# SAVING THEM FROM THEM: EXPLAINING DELAYS IN RESOLVING LAND BOUNDARY DISPUTES IN KENYA

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## KEY MESSAGES

This policy brief explores the complexities that contribute to government delays in resolving land boundary disputes, focusing on the case of Sondu along the Kericho-Kisumu border in Kenya. It delves into historical, cultural, political, and procedural factors that stall these resolutions, ultimately hindering social cohesion and economic development. By analysing the Sondu case study, the brief proposes recommendations for policymakers to streamline dispute resolution processes and promote lasting peace in affected communities, including:



The National Cohesion and Integration Commission should encourage politicians to tone down their political rhetoric and urge them to ensure broader community participation by supporting peacebuilding efforts.



The Independent Electoral and Boundaries Commission should hasten the boundary delimitation exercise as it will permanently resolve the Sondu border boundary dispute.



Civil Society Organizations such as Local Capacities for Peace should work closely with government institutions, including the local administration, to pacify communities when conflicts over land arise.

By implementing these recommendations, policymakers can expedite land boundary resolutions, fostering peace, stability, and development in conflict-affected Sondu Kenya.



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## BACKGROUND AND CONTEXT

Land boundary disputes are sensitive issues with significant implications for communities, often resulting in conflicts and social instability. The scramble for land as a resource has ignited tensions among neighbouring communities, leading to disputes over resources worldwide (Anthonia et al., 2021). These conflicts, rooted in historical, cultural, and economic factors, have exacerbated existing social divisions and strained community relationships. Onguny (2019) reports that in Kenya, land and boundary conflicts have led to enormous human suffering and produced some of the most devastating consequences, including a key instigator of the 2007-08 post-election violence.

Article 67 of the Constitution establishes the National Land Commission, which is mandated to manage public land, initiate an investigation into historical land injustices and recommend redress. The Constitution also calls for Parliament to establish a framework for resolving land disputes. The Land Act (2012) also outlines options for settling land disputes out of court, including establishing a land tribunal at the county level to handle land disputes. The National Land Policy (2009) further encourages public participation in land management and dispute resolution processes. While Kenya is full of land and boundary implementation and enforcement policies, challenges remain in implementing them and ensuring consistent enforcement across the country. As a result, Sondu, like other parts of the country, experiences perennial conflict that has had devastating effects.

## Methodology

Focusing on the Sondu Region<sup>1</sup> at the border of Kisumu and Kericho counties of Kenya, this study adopted the qualitative approach through in-depth interviews and focus group discussions (FGD) to unravel the reasons for the delay in pronouncing the land boundary in the Sondu region. Government officials, legal experts, and community leaders were interviewed, and three focus group discussions of 12 community members directly affected by boundary conflicts were conducted. A total of 12 interviews were conducted, allowing for flexibility and an in-depth exploration of participants' perspectives.

## Complexity of Land Ownership

The complexity of land ownership, particularly in Sondu and the surrounding regions, is attributed to historical, administrative, and socio-political factors. Participants highlighted the historical complexity of land ownership and traditional land-use practices as the primary reason for the delay in land demarcation. Furthermore, the intricacies of customary land tenure systems and a lack of comprehensive historical documentation make it challenging for government authorities to establish clear and universally accepted boundaries that both the Luo and Kalenjin communities would recognise.

<sup>1</sup> Over time, the counties of Kericho and Kisumu have been marred by unending and unresolved ethnic discord and hatred, often leading to clashes. These inter-ethnic clashes, coupled with long-standing rivalry, have often been instigated by, inter alia, land issues, particularly unclear inter-county boundaries, youth radicalisation, especially during circumcision, as well as revenge attacks. Additionally, heated political issues, election incitement and ethnic fragmentation based on political affiliations have also affected the two communities, forming part of the drivers of conflicts between the two counties. The lack of a precise resolution mechanism has only fuelled the perpetuation of this dispute, hindered social cohesion and impeded the communities' collective progress.



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*“We have been in this market for ages, with us exchanging milk and maize, with omena and fish. In most cases, we live very well until an election year where politician A comes and says so and so does not belong here and should therefore go back to their homes! Really? Of course such statements have brought untold suffering here. We have had innocent lives lost and a lot of our property destroyed! People keep saying the government is taking too long to pronounce where the boundary is, but in my view, they should take longer. Because tell me, if today the government came and said this land belongs to the other community, where will my children eat from? How will they go to school? What would become of my family? My family and many others know no other source of livelihood” (Focus Group Discussant).*

## Administrative Inefficiencies and Bureaucratic Processes

Administrative inefficiencies within governmental bodies responsible for land demarcation and adjudication also contribute to delays. Land demarcation and adjudication processes involve many steps and require navigating multiple departments. The study illuminates instances of missing paperwork and errors in the application process, which are overwhelming and lead to delays.

## Political Sensitivities

Notably, the political sensitivities surrounding land issues, especially in regions with a history of intercommunity conflicts such as Sondu, hinder decisive governmental action. Authorities are hesitant to make pronouncements that could be perceived as favouring one community over another, potentially exacerbating existing tensions. Moreover, authorities opined that several families depend on the Sondu market for livelihood, and such pronouncements would destabilise them. In the words of one of the market dwellers:

## Legal and procedural complexities

Overlapping land ownership claims, especially in situations such as Sondu with unclear historical records or customary land rights, stall the demarcation process. FGD discussants posit that communities endure limited public awareness of land ownership rights and legal procedures that make them vulnerable to manipulation and exploitation, further hindering demarcation.

## Recommendations

### Hasten Boundary Delimitation Exercise

The Independent Electoral and Boundaries Commission should hasten the boundary delimitation exercise as it will permanently resolve the Sondu border boundary dispute.

### Strengthen Political Will and Leadership

Political leaders have considerable power and influence over the conflicting communities in Sondu. Their commitment to peacebuilding in the region lends legitimacy and credibility to peacebuilding efforts. The National Cohesion and Integration



Commission should encourage politicians to tone down their political rhetoric, embolden broader community participation of the conflicting parties and allocate the necessary resources to support peacebuilding initiatives, paving the way for long-term solutions and a more secure future for the region.

### **Fostering Community Engagement and Mediation**

To achieve lasting peace in Sondu, peace-building organisations, including civil society, should foster community engagement and mediation strategies by creating platforms for open dialogue and building trust between the Luo and Kalenjin communities. Alternative Dispute Resolution (ADR) mechanisms appropriate for the said communities should be employed in disputes. It is imperative to involve communities in the peace process to foster a sense of ownership and shared responsibility for maintaining a peaceful Sondu.

### **Employing and Prioritizing Early Warning and Early Response Mechanisms**

Appropriate Early Warning and Early Response (EWER) Systems should be employed to put in place and prioritised. The security, CSOs and local

administration officers should set up channels for community members to report potential triggers, such as increased resource competition or inflammatory rhetoric remarks likely to spark violence. With the availability of real-time information, authorities should implement targeted de-escalation strategies, such as mediation efforts or increased security presence in vulnerable areas, including the Sondu market.

Focusing on potential flashpoints reduces the risk of loss of lives, livelihoods, and property damage, paving the way for a more peaceful Sondu.

**Capacity Building for National and County Actors**  
There is a need to strengthen the capacity of government actors at both national and local levels, including the National Government Administration Officers (NGAOs), security personnel, local CSOs, District Peace Committee members, community leaders, influencers, and gatekeepers. Strengthening the collaboration between local and national institutions will also improve synergy and encourage a more unified and coordinated approach to resolving conflict in Sondu.

## **ACTION PLAN**

### **Capacity Building**

Government institutions need to partner with community-based organisations to train community members in handling complex land ownership issues such as the Sondu case. As the government monitors the sensitivities in resolving border disputes, communities should invest in alternative dispute resolution mechanisms to ensure harmonious coexistence.

### **Strategic Partnerships**

Establish strategic partnerships with key state institutions, including the Independent Electoral and Boundaries Commission, the National Land Commission, the National Cohesion and Integration Commission, the Ministry of Interior and National Administration, the Department of Survey and Civil Society Organizations to synergise in permanently resolving the border dispute in Sondu region.



## REFERENCES AND APPENDICES

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