Journal of Socio-Environmental Law
Dossier "Territorialities and Socio-Environmental Conflicts".
jul./dec. 2025

How to cite this article:

CARVALHO, Ana Maria de; FERREIRA, Adegmar José. Land solution commissions and the structural process: democratic management of collective agrarian conflicts in Brazil. **Journal of Socio-Environmental Law - REDIS,** Morrinhos, Brazil, v. 03, n. 02, jul./dec., 2025, p. 102-127.

Submission date: 06/11/2025

Approval date: 23/11/2025

LAND SOLUTION COMMISSIONS AND THE STRUCTURAL PROCESS: DEMOCRATIC MANAGEMENT OF COLLECTIVE AGRARIAN CONFLICTS IN BRAZIL

COMISSÕES DE SOLUÇÕES FUNDIÁRIAS E O PROCESSO ESTRUTURAL: GESTÃO DEMOCRÁTICA DOS CONFLITOS AGRÁRIOS COLETIVOS NO BRASIL

COMISIONES DE SOLUCIONES AGRARIAS Y EL PROCESO ESTRUCTURAL: GESTIÓN DEMOCRÁTICA DE LOS CONFLICTOS AGRARIOS COLECTIVOS EN BRASIL

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ABSTRACT

The land question in Brazil is, historically, the epicenter of socio-environmental inequalities and conflicts, shaped by a conception of private property that consolidated to the detriment of traditional

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territorialities. This article argues that the root of this structural violence and extreme land concentration lies in the modern juridical mentality, which, according to the critiques of Karl Polanyi and Paolo Grossi, transformed land into a fictitious commodity and an absolute and exclusionary right. It is demonstrated that the traditional adjudicatory model, with its bipolar and formalist logic, is inherently insufficient for resolving collective and polycentric agrarian disputes, which are essentially manifestations of a structural problem rooted in a failed state structure. The central thesis is that the adoption of the Structural Process and the institutionalization of Land Solution Commissions (mandated by the STF in ADPF 828 and regulated by CNJ Resolution n. 510/2023) emerge as the most appropriate jurisdictional technique for social restructuring. These Commissions represent a paradigm shift by mandating institutional dialogue, in loco technical visits, and structured mediation as prior and necessary steps to any collective eviction order, aiming for responsive jurisdiction. The study, grounded in critical, philosophical, and jurisprudential research, confirms that this approach is essential for promoting the social function of land, protecting the territorialities of vulnerable populations (such as indigenous peoples and quilombolas), and realizing agro-environmental justice in Brazil.
Keywords: Collective Agrarian Conflicts. Land solution commissions. Private Property. Social Function of Land. Structural process.

RESUMO

A questão da terra no Brasil é, historicamente, o epicentro de desigualdades e conflitos socioambientais, moldada por uma concepção de propriedade privada que se consolidou em detrimento das territorialidades tradicionais. Este artigo defende que a raiz dessaviolência estrutural e da extrema concentração fundiária reside na mentalidade jurídica da modernidade, que, conforme as críticas de Karl Polanyi e Paolo Grossi, transformou a terra em uma mercadoria fictícia e em um direito absoluto e excludente. Demonstra-se que o modelo adjudicatório tradicional, com sua lógica bipolar e formalista, é inerentemente insuficiente para resolver os litígios agrários coletivos e policêntricos, que são, em sua essência, manifestações de um problema estrutural enraizado em uma estrutura estatal falha. A tese central é que a adoção do Processo Estrutural e a institucionalização das Comissões de Soluções Fundiárias (determinadas pelo STF na ADPF 828 e regulamentadas pelo CNJ na Resolução n. 510/2023) emergem como a técnica jurisdicional mais adequada para a reestruturação social. Essas Comissões representam uma virada paradigmática, ao impor o diálogo institucional, a visita técnica in loco e a mediação estruturada como etapas prévias e necessárias a qualquer ordem de desocupação coletiva, visando a uma jurisdição responsiva. O estudo, alicerçado em pesquisa crítica, filosófica e jurisprudencial, confirma que esta abordagem é essencial para promover a função social da terra, proteger as territorialidades das populações vulneráveis (como indígenas e quilombolas) e efetivar a justiça agroambiental no Brasil.
Palavras-chave: Comissões de Soluções Fundiárias. Conflitos Agrários Coletivos. Função Social da Terra. Processo Estrutural. Propriedade Privada.

RESUMEN

La cuestión de la tierra en Brasil es, históricamente, el epicentro de las desigualdades y los conflictos socioambientales, moldeada por una concepción de la propiedad privada que se consolidó en detrimento de las territorialidades tradicionales. Este artículo sostiene que la raíz de esta violencia estructural y de la extrema concentración de tierras reside en la mentalidad jurídica de la modernidad, que, según las críticas de Karl Polanyi y Paolo Grossi, transformó la tierra en una mercancía ficticia y en un derecho absoluto y excluyente. Se demuestra que el modelo adjudicatorio tradicional, con su lógica bipolar y formalista, es inherentemente insuficiente para resolver los litigios agrarios colectivos

y policéntricos, que son, en esencia, manifestaciones de un problema estructural arraigado en una estructura estatal deficiente. La tesis central es que la adopción del Proceso Estructural y la institucionalización de las Comisiones de Soluciones Agrarias (determinadas por el STF en la ADPF 828 y reglamentadas por el CNJ en la Resolución n. 510/2023) emergen como la técnica jurisdiccional más adecuada para la reestructuración social. Estas Comisiones representan un cambio de paradigma al imponer el diálogo institucional, la visita técnica in loco y la mediación estructurada como etapas previas y necesarias a cualquier orden de desalojo colectivo, buscando una jurisdicción responsiva. El estudio, basado en investigación crítica, filosófica y jurisprudencial, confirma que este enfoque es esencial para promover la función social de la tierra, proteger las territorialidades de las poblaciones vulnerables (como indígenas y quilombolas) y hacer efectiva la justicia agroambiental en Brasil.
Palabras clave: Comisiones de Soluciones Agrarias. Conflictos Agrarios Colectivos. Función Social de la Tierra. Proceso Estructural. Propiedad Privada.

INTRODUCTION

The issue of land in Brazil has historically been an epicenter of inequalities, violence, and socio-environmental conflicts, shaped by a conception of private property that was consolidated to the detriment of social, environmental, and traditional territorial needs.

The private appropriation of land is deeply unequal in its configuration, and this structure not only perpetuates exclusion but acts as a catalyst for collective land conflicts and various forms of rural violence, directly affecting the ways of life, collective memories, and ancestry of populations.

In this scenario, this article argues that understanding and overcoming Brazilian territorial disputes require a radical critique of the modern conception of property and the establishment of an ethic of care towards the land. It is argued that the commodification and instrumentalization of soil rupture territorial resonance relationships and are social pathologies that undermine the effectiveness of justice.

To this end, the study develops along three interconnected axes: first, a critique of the modern project concerning private property will be undertaken, seeking to (re)construct mentalities that transcend the logic of territorial domination; next, the social function of land and the protection of vulnerable populations will be analyzed as a social protection countermovement; finally, the urgency of a responsive jurisdiction that addresses collective territorial disputes as structural problems will be addressed.

And it is within this third axis that the central thesis of the intervention resides: the insufficiency of traditional legal approaches, based on a bipolar logic, is glaring in the face of the polycentric complexity of conflicts. In this step, this study points to Structural Litigation (or the Structural Process) as a necessary legal technique for social restructuring.

In this line, the recent institutional movement within the Brazilian Judiciary is highlighted, which resulted in the creation of specialized structures aimed at the democratic and consensual management of collective land conflicts. These structures represent an institutional effort to promote dialogue, on-site visits, and pacification, overcoming the traditional adjudicatory model and advancing towards a more responsive jurisdiction.

An analysis of specialized literature in Agrarian Law, Philosophy, Sociology, and History was conducted. This included fundamental works addressing the transformation of land into private property, the critique of economic liberalism and the concept of fictitious commodities (land, labor, and money), as well as discussions on the social function of possession and property, along with documentary, normative, and jurisprudential research on the core of the structural problem and the respective innovations in procedural treatment.

The focus, however, lies in the institutionalization of the Land Solution Commissions as a proposed structural technique aimed at a democratic and participatory perspective. The objective is to identify paths for the effectiveness of agro-environmental justice in Brazil, demonstrating the inseparability between philosophical/sociological critique and innovation in procedural technique.

To this end, a dialectical-argumentative methodology and bibliographic and jurisprudential research techniques are employed. It should be emphasized that the methodological design is not merely descriptive but rather a critical application of the theoretical framework. The critique of modern property and the denaturalization of land as a fictitious commodity serve as theoretical lenses to analyze the structural failure that results in collective agrarian conflicts.

In this sense, the analysis of jurisdictional innovations is carried out under the premise that the technique of the Structural Process is not merely a procedural alternative, but the necessary legal manifestation of a social protection countermovement, which seeks to safeguard the human and natural substance of society. This, in practical terms, translates into the requirement for bureaucratic and dialogic reorganization as a condition for realizing the social function of land and protecting vulnerable populations.

1 CRITIQUE OF THE MODERNITY PROJECT AND THE (RE)CONSTRUCTION OF MENTALITIES

The modern conception of private property is a pillar of the modernity project, emerging with mercantilism and capitalism, based on an absolute and exclusive character (Marés, 2003; Grossi, 2006). For jurists, property is often interpreted as power over a thing, built upon historically consolidated values, and often disconnected from social reality (Grossi, 2006).

Carlos Frederico Marés discusses its social perspective and relevance to rights-holders, pointing out that "the creation of modern property places on one side a person, who is the holder of the right, called a subject of rights, an individual. On the other side, the object of this right, an asset, a thing, which composes the individual patrimony" (Marés, 2003).

Initially, these assets were material and, later, even reached the abstraction and patrimonialization of rights (as also mentioned by Paolo Grossi). In this sense, "everything that was collective and could not be understood as public use would have no legal relevance. Everything that could not be materialized into patrimony and could not have a symbolic value was also outside the Law" (Marés, 2003). Private property is seen as a contract, because "the praise of the free worker transforms into the legal presumption of contractual freedom" (Marés, 2003).

Marés points out that the process of transforming land into private property was "theoretical, ideological, contrary to reality, to society, and to the interests of people in general, of human groups and peoples, because all depend on land to live" (Marés, 2003).

In turn, Paolo Grossi emphasizes that property is a verbal artifice reflecting variable historical solutions, and not a singular and immutable entity. The Western tendency to interpret all property under an individualistic and formalistic lens generated a Manichean legal discourse that elevated the interests of specific classes to an absolute status (Grossi, 2006).

Paolo Grossi adds that, in collective structures, the idea of the "legal mine" (private property) becomes devoid of meaning, making it possible to even question the legitimacy of a single receptacle for the so-called "property" (Grossi, 2006).

It is evident that land has a specific condition, but capital exerts pressure on land ownership and distorts it, aiming to transform it into capital, into mere property, absolutized. From this analytical perspective, for the historian, property is a verbal artifice indicating the historical solution that a legal system attributes to the problem of the most intense legal relationship between a subject and an asset (Grossi, 2006).

We speak of mentalities regarding the conception of land as property, endowed with generality and abstraction, and in the teachings of Paolo Grossi, who discusses this asset from a social perspective and its relevance to subjects of rights, not only for providing means of subsistence but also for evidencing the civilizing process to humans.

Grossi's premise is that, in the relationship between history and the legal dimension, it is imperative to perceive law and legal institutions as a mentality of "how subjects and phenomena interact, a mentality of the force and the role attributed to one and the other in the vision of the whole" and, also, as a "system resulting from the set of forms of belonging measured within the complex of

all organizational forms of the economic reality, which for the medievalist will be reduced to organizational forms of cultivation and agrarian production." (Grossi, 2006). Finally, mentality is that which:

> [...] complexo de valores circulantes em uma área espacial e temporal capaz, pela sua vitalidade, de superar a diáspora de fatos e episódios espalhados e de constituir o tecido conectivo escondido e constante daquela área, e deve portanto ser colhido como realidade unitiva, o seu terreno é sem dúvida congenial e familiar ao jurista, um intelectual dominado, devido sua natureza (porque ajusta sempre as contas com o nível de valores), por uma íntima tensão à sincronia e ao sistema, isto é, a unificação orgânica de dados. Com o olhar prevalentemente sincrônico, já que os valores tendem a permear a globalidade da experiência, com atitude prevalentemente sistemática, já que os valores tendem a permanecer e a cristalizar-se, o jurista se sente à vontade - quase em casa, dir-se-ia - no terreno das mentalidades; é aí que o jurídico tem suas raízes" (Grossi, 2006, p. 30).

Modern property seeks simplicity as an essential quality, understood as "an extreme purification of the relationship" (Grossi, 2006), that is, "an agile, concise, highly functional instrument, characterized by simplicity and abstraction" (Grossi, 2006), freeing itself from diverse contents and defining itself as power.

The idea of simplicity aims to separate belonging from the conditioning of the complexity of things, internalizing dominion in the subject. Alongside it, the second typifying trait of property is abstraction, a pure relationship, not marked by facts, although available to them, in which dominion is embraced as will, as intent, and not as use.

That is to say: "simple as is the subject, a unilinear unity upon which it is modeled and from which it is like a shadow in the realm of goods; abstract like the individual liberated by the new culture, of which it wants to be both a manifestation and a most valid means of defense and offense" (Grossi, 2006).

This view finds a parallel in Karl Polanyi's critique of the "myth of the self-regulating market" and the transformation of land, labor, and money into fictitious commodities (Polanyi, 2000).

Thus, the premise that items bought and sold are always produced for that purpose is unreal concerning them, because they are not, in fact, commodities, and describing them as such is something entirely fictitious. This is because what is called labor is the human activity that accompanies life, which is not necessarily produced for sale. In turn, "land is merely another name for nature, which is not produced by man," and finally, "money is merely a token of purchasing power" (Polanyi, 2000).

Polanyi argues that subordinating the fate of human beings and nature to the laws of the market would annihilate them, turning society into a satanic mill. The mobilization of land, from this

perspective, meant the liquidation of organic forms of existence, resulting in the disintegration of cultural and social environments (Polanyi, 2000). And thus reflects the author:

> Aquilo que chamamos terra é um elemento da natureza inexplicavelmente entrelaçado com as instituições do homem. Isolá-la e com ela formar um mercado foi talvez o empreendimento mais fantástico dos nossos ancestrais. Tradicionalmente, a terra e o trabalho não são separados: o trabalho é parte da vida, a terra continua sendo parte da natureza, a vida e a natureza formam um todo articulado. A terra se liga, assim, às organizações de parentesco, vizinhança, profissão e credo - como a tribo e o templo, a aldeia, a guilda e a igreja. Por outro lado, Um Grande Mercado é uma combinação de vida econômica que inclui mercados para os fatores da produção. Uma vez que esses fatores não se distingam dos elementos das instituições humanas, homem e natureza, pode-se ver claramente que a economia de mercado envolve uma sociedade cujas instituições estão subordinadas às exigências do mecanismo de mercado. O pressuposto é tão utópico em relação à terra como em relação ao trabalho. A função econômica é apenas uma entre as muitas funções vitais da terra. Esta dá estabilidade à vida do homem; é o local da sua habitação, é a condição da sua segurança física, é a paisagem e as estações do ano. Imaginar a vida do homem sem a terra é o mesmo que imaginá-lo nascendo sem mãos e pés. E no entanto, separar a terra homem e organizar a sociedade de forma tal a satisfazer as exigências de um mercado imobiliário foi parte vital do conceito utópico de uma economia de mercado (Polanyi, 2000).

It must not be forgotten that "labor and land are nothing but the human beings themselves that every society is made of, and the natural environment in which it exists. To include them in the market mechanism means to subordinate the substance of society itself to the laws of the market" (Polanyi, 2000).

And what Paolo Grossi terms as mentality – for private and individual property – is also seen when perceiving land, taken as a commodity as fiction and as a mode of organization of modern society, for Polanyi.

There is an implicit, imposed, and naturalized agreement that creates obstacles to other positions or understandings regarding land, as they may hinder the functioning of market mechanisms, which follows the lines of the fiction of the commodity/mentality of the legal 'mine'.

The reconstruction of mentalities therefore involves a relativization and pluralization of the concept of property, recognizing the profound discontinuity of history (Grossi, 2006). This requires that jurists – in particular – transcend mere dogmatism and legal formalism, incorporating a critical, historical, and teleological analysis of law that considers the specificities of the social context (Grossi, 2006; Marés, 2003).

Legal absolutism, a product of the bourgeois era and economic liberalism, by linking law to the State and reducing the role of the jurist to a mere executor of norms, ultimately uprooted it from the richness of society and culture. It is necessary to overcome legal idolatry and the belief in the infallibility of the legislator so that law can fulfill its social and transformative role (Grossi, 2006).

And it was precisely in the construction of such a modality of private property that, also in Brazil, land, hegemonical, ceased to belong to all and became, hegemonical, a right of individual and exclusive property. This has made the problem of land concentration and the consequent collective land conflicts evident.

The seriousness of transforming land into absolute private property, which emerged with mercantilism and capitalism and is based on an exclusive character often detached from social reality, is thus perceived, as such mentality compromises the existence of those whose ways of being, doing, and living involve the land.

Furthermore, the productivity of land as a permanent process is even compromised, as there is no productivity when resource exhaustion occurs, which is undoubtedly caused by a capitalist logic that distorts land, turning it into mere capital and distancing it from its human and social dimension.

In fact, as will be seen next, according to constitutional provision, property – and land – must fulfill its social function, which remains a fundamental right and an unamendable clause to be respected. In other words, even in capitalist legal systems, collective rights prevail over individual ones in this specific scenario.

In summary, the transformation of land into a mere fictitious commodity and capital, disconnected from its social and ecological dimension, has generated the disintegration of social structures and the concentration of power and wealth, as evidenced in the Brazilian land context. Therefore, the critique of the absolutist conception of private property is fundamental for the (re)construction of mentalities that recognize the plurality of property and the role of law as an instrument of social organization, and for seeking concrete paths towards the realization of agri-environmental justice.

2 CONFLITOS AGRÁRIOS COLETIVOS, FUNÇÃO SOCIAL DA TERRA E PROTEÇÃO DE VULNERÁVEIS

Returning to Paolo Grossi (2006), when speaking about property and its individualization – the idea of the "legal mine" – it is recalled that the aforementioned author cites the phenomena of universality and abstraction. And, along the same lines, Pierre Bourdieu (2014) discusses how market unification prohibits the social reproduction of peasants.

This is because the State brings with it universalizing integration and alienating integration, as conditions for domination, submission, and dispossession. And market unification has as its

counterpart a dispossession, through the imposition of a unified market, the recognized domination of a mode of production or a product (Bourdieu, 2014).

Pierre Bourdieu also highlights that agrarian policy aimed to transform undivided property into individual assets, which contributed to disaggregating traditional social units and breaking an economic balance whose best protection was the property of tribes and clans. At the same time, it facilitated the appropriation of the best lands by European settlers through auctions and imprudent sales procedures.

The great agrarian laws had the manifest objective of establishing favorable conditions for the development of a modern economy based on private enterprise and individual property, assuming that legal integration was the indispensable basis for economic transformation. But the true aim of this policy was different.

Thus, expropriation was favored by establishing a legal system that presupposed an economic attitude, and more precisely, an attitude regarding time that was completely foreign to the spirit of peasant society. The consequence was the disaggregation of traditional units that had been the soul of resistance against colonization; it was supposed to be a natural consequence of the destruction of the economic bases of their integration. And indeed, this is what happened (Bourdieu, 2017).

Bourdieu's critique of the transformation of undivided property into individual assets and the disaggregation of traditional social units can be read as a process of rupturing communal and social relations with the territory, in favor of a market logic that accelerates exploitation and exclusion.

This reasoning can be transposed to what occurred in Brazil, where the private appropriation of land began with territorial invasion, continued through the Empire-Colony-Republic periods, and worsened with the 1850 Land Law. At that moment, private property began to have state backing to support its legitimacy, consolidating large estates and unproductive latifundia through the land-grabbing process (Smith, 2008).

Currently, the situation of land concentration in the country remains, and considering the Gini index/coefficient of Gini,[3] According to IBGE data, concerning inequalities in land distribution, it is perceived that the agrarian structure presents a high degree of concentration. According to the

[3] The Gini index is a coefficient that measures inequality in a given territory, ranging from 0 to 1, where 0 corresponds to income equality and 1 to maximum inequality. The closer to 1, the more unequal the distribution.

2017 Agricultural Census, the Gini index – an indicator of inequality in the countryside – recorded 0.867 points, the highest level compared to data from previous surveys, demonstrating the extreme concentration of land in Brazil (IBGE, 2017).

Historically, inequality is related to land concentration, a structure that catalyzes land conflicts, especially collective ones, and various forms of rural violence. State action, which even has constitutional provision, is therefore relevant.

In this scenario, all those involved in collective agrarian conflicts – here, a parenthesis is opened to point out that this is a plural group, including indigenous peoples, quilombolas, traditional communities, riverine populations, squatters, small farmers, among others – are vulnerable people, victims of State action over time and of market logic.

In this context, promoting an ethic of care towards the land implies recognizing its social function as a legal principle distinct from property, emphasizing its role in meeting the common needs of human beings (Fachin, 1988; Marés, 2003).

The Federal Constitution of 1988 (Brazil, 1988) establishes clear requirements for fulfilling the social function of rural property, encompassing rational use, environmental preservation, observance of labor relations, and the well-being of owners and workers (Marés, 2003).

Furthermore, Carlos Frederico Marés argues that capitalist logic, however, has distorted land, turning it into mere capital, distancing it from its human and social dimension. The author adds that the transformation of land into private property was an ideological process, contrary to societal reality and the interests of those who depend on the land to live (Marés, 2003). He also highlights that "in reality, what fulfills a social function is not property, which is a concept, an abstraction, but the land [...] Therefore, the social function is relative to the asset and its use, and not to the right" (Marés, 2003).

That said, attention is called to distinct conceptions, such as the perspectives of biocentric and ecocentric ethics, which postulate that all life has intrinsic value, with dignity based on existence, and reject anthropocentrism (Beckert, 2003). In this sense, humans, as a species capable of evaluation and creators of culture, have the responsibility to maintain nature in its most original form. Moreover, overcoming speciesist prejudice and the anthropocentric view is fundamental for a holistic understanding of nature (Beckert, 2003).

The protection of vulnerable populations, such as indigenous peoples and peasants, among others, is intrinsic to this ethic. Historically, the modern conception of property disregarded the collective possession of lands by indigenous peoples, forcing them into an individualistic model

(Marés, 2003). Small squatters and "intruders" were precursors of peasant smallholding, constantly fighting against large estates (Guimarães, 1981).

And, as already mentioned, the 1850 Land Law, although ostensibly regulatory, contributed to the formation of a massive workforce for large farms, limiting land access for poor immigrants (Silva, 1996). It is opportune to highlight that Polanyi mentioned the emergence of a social protection countermovement as a reaction to the social disarticulation caused by the market, aiming to safeguard the human and natural substance of society (Polanyi, 2000).

This movement involved the need for collective and state interventions to protect man, nature, and the very productive organization from the destructive forces of the market (Polanyi, 2000). This thinking, once again, draws attention to the consideration of different mentalities, in a proposal for a dialogued understanding of the land that goes beyond its capitalized value, recognizing the interdependence of all ecosystems and the inherent dignity of life (Beckert, 2003).

The protection of vulnerable populations, whose ways of life are intrinsically linked to the land, is a clear example of how to preserve and restore resonance relationships threatened by modern acceleration and domination. The social protection countermovement (Polanyi, 2000) can be interpreted as a social quest to restore forms of resonance against the destructive forces of the market.

And, as mentioned in the previous topic, one of the reasons for agrarian conflicts are the different conceptions of property. In such a scenario, collective agrarian conflicts result from a flawed state structure and an unregulated process of occupation and distribution, dating back to the beginnings of colonization.

Precisely for this reason, the hegemonic thinking of the State, whether in public policies or in resolving problems brought before the courts, does not achieve effective solutions, as the rigid logic does not encompass them. Thus, it is necessary to care for this segment of the population, adopting new conflict resolution techniques that are not merely imposed, but participatory and democratic.

Modernity, by idealizing the bourgeois man as autonomous, entrepreneurial, and competitive (Konder, 2000), generated a type of autonomy that, paradoxically, leads to external conflicts and a deep internalization of violence (Konder, 2000; Han, 2017).

Author Byung-Chul Han describes the topological change of violence in modernity, which becomes increasingly internalized and psychologized, culminating in self-aggression and burnout in the performance society (Han, 2017). Although the critique initially targets the individual and urban sphere, it also finds a deep causal link with the pressure for land ownership in the Brazilian countryside.

The absolutist logic of property, reinforced by the 1850 Land Law, imposed a model of land performance that demands from individuals the constant competitive effort to maintain the "legal mine" (GROSSI, 2006), even in the face of structural illegality. Social suffering and the internalization of violence occur when communities, living in dissonance with land as a commodity, are forced into the bipolar logic of individualized possession disputes.

In turn, symbolic violence naturalizes land concentration by making the defense of collective possession, essential for social reproduction (Bourdieu, 2017), be seen by the traditional judicial system as a mere individualized infraction. Symbolic violence, which naturalizes oppression and maintains relations of domination without physical coercion, is a subtle manifestation of this dynamic (Han, 2017). Leandro Konder points out that the bourgeois man, with his contradictions between vices and virtues, perpetuates social and economic inequalities, often naturalized (Konder, 2000).

Although focused on individual violence, this perspective can be correlated with agrarian conflicts by indicating a social environment where the pressure for performance and possession, exacerbated by capitalist logic over land, generates tensions and suffering, both for those who are marginalized and for those involved in perpetuating the system.

Symbolic violence, in turn, is crucial to understanding how oppression and relations of domination are maintained without evident physical coercion, naturalizing inequalities. In the Brazilian agrarian context, this symbolic violence manifests itself in the consolidation of large estates and unproductive latifundia, which marginalize plural groups such as indigenous peoples, quilombolas, traditional communities, and small farmers. The aforementioned 1850 Land Law, for example, gave state backing to this legitimation, perpetuating land concentration and inequalities.

By transforming land into a fictitious commodity (Polanyi, 2000), abstract and individualized (Grossi, 2006), the Brazilian legal and political system, since the 1850 Land Law, has aggravated land concentration. This logic, besides promoting symbolic violence and the disaggregation of social units (Bourdieu, 2014; 2017), compromises the very livelihood of vulnerable groups whose ways of being, doing, and living are intrinsically linked to the territory.

This violence is naturalized and becomes one of the pillars supporting collective agrarian conflicts in Brazil, which are, in essence, structural litigations, resulting from a flawed state structure and a historically unregulated process of land occupation and distribution. Traditional procedural tools, with their bipolar logic focused on individual litigations, are insufficient for resolving these complex issues, as will be seen next.

3 STRUCTURAL LITIGATION AND THE INADEQUACY OF BIPOLAR LOGIC IN COLLECTIVE AGRARIAN CONFLICTS

Considering the reflections already made, attention is drawn to the fact that the Justice system, based on the traditional adjudicatory model, reveals a profound insufficiency in the face of the complexity of contemporary litigations.

The justice system, grounded in the traditional adjudicatory model, reveals a profound inadequacy in the face of the complexity of contemporary litigations. Its logic is inherently bipolar, seeking unequivocal remedies and operating with rigid structures, which becomes unsuitable for contemporary complexity. This systemic inadequacy manifests in the inability to handle complex, polycentric, and mass litigations that require multifaceted solutions.

In this sense, it is pointed out that a "collective litigation is a conflict of interests that involves a group of people, more or less extensive, where these people are treated by the opposing party as a set" (Vitorelli, 2020). And they are structural when they stem "from the way a bureaucratic structure, usually of a public nature, operates. It is the functioning of the structure that causes, allows, or perpetuates the violation that gives rise to the collective litigation" (Vitorelli, 2020).

That is to say, structural litigations are defined by the convergence of characteristics that exceed the resolution capacity of the traditional model: polycentricity (involving multiple subjects with diverse and interrelated interests), complexity (requiring multiple plausible solutions, whose efficacy is not beforehand or easily clear), structural nature (their origin lies in bureaucratic or institutional structures that cause persistent rights violations).

And whether because it was structured incorrectly or because it did not adapt to new social demands, it is evident that land concentration in Brazil and the consequent collective agrarian conflicts are a structural litigation/problem. Thus, the mere removal of the violation solves the problem only apparently, "without empirically significant results, or temporarily, repeating itself in the future" (Vitorelli, 2018).

It is added that a structural problem is defined by "the existence of a state of structured nonconformity" (Didier, 2020). The state of nonconformity is a "situation of structural disorganization, a break with normality or the ideal state of things, which requires a (re)structuring intervention. This disorganization may, or may not, be a consequence of a set of illicit acts or conducts" (Didier, 2020).

It is in this context that structural litigation emerges as an innovative and effective approach. Characterized by procedural flexibility, dialogic nature, fragmented decision-making, and negotiated solutions, structural litigation goes beyond the mere removal of specific illegalities, aiming for lasting institutional reforms (Vitorelli, 2020).

From this perspective, land concentration as a structural problem, and the consequent collective agrarian conflicts, allow the issue to be positioned as a structural litigation amenable to treatment through structural litigation techniques, seeking to restructure a state of nonconformity to cease the rights violation.

Structural collective litigations, in many cases, can receive more adequate and effective treatment in light of structural litigation techniques, which emerge not from theory but from practice (a practicalist phenomenon), through a new way of considering normativity. In short, the starting point is a critical perspective on the traditional conception of property as an essential backdrop to demonstrate the need for structural litigation.

Consequently, and delving deeper into the issue, it is recalled that the first leading case with the adoption of structural techniques on record is the case of Brown vs. Board of Education in 1954, in which the U.S. Supreme Court declared the unconstitutionality of segregationist practices in schools, ordering the enrollment of Black students in schools previously intended exclusively for white people, in an attempt to change the state of nonconformity of things through structural injunctions, management, and handling ability of the jurisdictional remedy.

In Brazil, since the 1990s, there have been cases that were structural, progressive, and incremental, in an unofficial manner – that is, without naming the technique, used intuitively – and, officially, the first action managed with structural techniques was related to dam inspection services, by the Federal Public Ministry, in Minas Gerais-MG, in 2019.

As an academic study, structural litigation arrived in Brazil in the second decade of the 2000s and has been consolidating as a jurisdictional response to situations of persistent, massive, and systemic violations of fundamental rights, aiming at prevention, reparation, and promotion of their effectiveness. On this point, a parenthesis is opened to highlight that, despite the similarities, it is not correct to state that Brazilian practice was not directly inspired by the North American experience, although a similar movement occurred.

Just as in the United States (USA) Owen Fiss (a reference in structural litigation) developed his idea of "civil rights injunctions" by observing what judges were doing in implementing school desegregation measures, Brazilian authors described practices that already existed, using the North American theoretical matrix and terminology, thereby fitting them into the categorization developed

in that country. However, regardless of the nomenclature, structural litigation would have continued to exist, perhaps under another name, but the empirical phenomenon would be exactly the same (FISS, 2025).

Although the 2015 Brazilian Code of Civil Procedure (CPC/2015) brings a more flexible view of jurisdictional procedure, with mechanisms that allow some adaptability, such as atypical procedural agreements (art. 190), atypical judicial cooperation (arts. 68 and 69), atypical enforcement measures (arts. 139, IV, and 536, § 1º), in addition to the fragmentation of decisions (art. 356), structural litigation techniques go further. They present advantages such as a dialogic and collaborative character, greater production of information, subsidizing higher quality decisions, equitable implementations, and better handling of side effects (Vitorelli, 2020, p. 473).

On the issue, Recommendation No. 163/2025 was issued by the National Council of Justice (CNJ), which establishes guidelines for identifying and conducting structural proceedings. It points out that the structural nature of the litigation or proceeding can be identified by elements such as multipolarity; social impact; prospectivity; incremental and lasting nature of necessary interventions; complexity; existence of a serious situation of continuous and permanent irregularity, by action or omission; and intervention in the mode of operation of a public or private institution.

Furthermore, it recommends the adoption of measures to broaden adversarial proceedings, create opportunities for agreements, schedule hearings for participatory procedure conduct, develop a structural action plan with a diagnosis of the litigation, goals, monitoring and evaluation indicators, an implementation schedule for planned measures, and the inclusion of people with recognized expertise to collaborate in the construction, improvement, and monitoring of the structural action plan, with the production of technical reports that support decision-making in the proceeding, among others (CNJ, 2025).

In the same sense, the National Council of the Public Ministry (CNMP) issued Recommendation No. 05/2025, which recommends the adoption of good practices for action in structural proceedings, aiming at institutional improvement and the effectiveness of the protection of rights and social interests by the Public Ministry.

Its text expressly provides for the structural action cycle, composed of the following stages: diagnosis of the structural problem; structural plan; execution; monitoring; review; and closure. It also encourages the participation of institutional subjects and the community and prioritizes structural self-composition (CNMP, 2025).

Opportunely, and given its relevance, it is highlighted that Bill No. 3 of 2025 is currently being processed, which aims to regulate structural litigation, based on the shared construction of

solutions, the expansion of the principle of adversarial proceedings with greater participation of impacted groups, and a gradual, prospective, and lasting judicial action.

The draft defines structural problems as those that, due to their multipolarity, effective social impact, prospectivity, lasting nature of interventions, complexity, and need for intervention in public and private bureaucracies, cannot be adequately resolved by classical procedural techniques.

It points to the following as fundamental norms of structural litigation (Brazil, 2025 a):

> [...] I - prevenção e resolução consensual dos litígios estruturais, judicial ou extrajudicialmente;
> II - primazia de técnicas que compatibilizem a tutela efetiva do direito com as capacidades institucionais e as atribuições dos poderes e dos agentes tomadores de decisão;
> III - diálogo entre o juiz, as partes e os demais interessados, inclusive os potencialmente impactados pela decisão, para a construção de um contraditório efetivo na busca da solução plural e adequada;
> IV - participação dos grupos impactados, mediante a realização de consultas e audiências públicas e outras formas de participação direta e indireta;
> V - ampla publicidade e transparência;
> VI - consideração dos regramentos e dos impactos orçamentários e financeiros decorrentes das medidas estruturais;
> VII - flexibilidade do procedimento e das providências de estruturação, observado o contraditório efetivo, nos termos dos artigos 9º e 10, da Lei nº 13.105, de 16 de março de 2015 (Código de Processo Civil);
> VIII - tratamento isonômico dos indivíduos pertencentes aos grupos impactados;
> IX - ênfase em medidas prospectivas, mediante elaboração de planos com objeto, metas, indicadores e cronogramas definidos, com implementação em prazo razoável;
> X - oralidade e instrumentalidade das formas; e
> XI - boa-fé e cooperação.

The guiding principles include a preference for consensually, the adaptation of judicial protection to the institutional capacities of the powers involved, permanent dialogue among procedural subjects, and broad publicity and transparency of the measures adopted. Furthermore, the proposal stipulates that the plaintiff must indicate the structural nature of the litigation in the initial petition and that the judge must ensure the correction or integration of the passive party to include all truly interested parties or those responsible for the intended structural action (BRAZIL, 2025a).

It also provides that a structural proceeding will not be dismissed for lack of passive legitimacy without allowing for the correction or integration of the passive party to include all interested subjects who may bear responsibility in the sought structural action. This provision aligns with the Inter-American Court of Human Rights' Advisory Opinion on the Climate Emergency (OC-32/2025), which reinforces the obligation of courts to overcome formalisms and examine the merits of actions to protect threatened human rights, such as the right to a stable climate (IACHR, 2025).

Thus, Structural Litigation also embodies the Pro Actione principle, offering complex and dialogic solutions to systemic failures, overcoming the binary "win-lose" logic of the traditional model and utilizing its flexibility to protect human rights.

Obviously, there are no guarantees it will be approved by the Legislative Branch, with or without amendments. However, its processing demonstrates that structural litigation is a reality in Brazil, and moreover, that it already develops without specific legislation. Nevertheless, given its relevance, its regulation is currently being studied.

Given these considerations, it is certain that the essence of structural problems/litigations lies in the need to reorganize a deficient bureaucratic structure, as the mere removal of a specific illegality is insufficient to solve the root causes of the problem, which would tend to recur.

Therefore, structural litigations demand structural responses, endowed with procedural flexibility, dialogic nature, fragmented decision-making, negotiated solutions, and atypical execution. Precisely for this reason, a strict and delimited definition is not of interest; instead, postures aimed at institutional reform, prospectivity, spontaneity, pragmatism, creativity, dynamism, and the construction of measures aimed at an effective decision are key.

Such adaptations can be made *ex officio* by the judge (art. 139, item VI, CPC/2015) or by the parties, by mutual agreement, via procedural legal acts (art. 190, CPC/2015), privileging consensually. Sérgio Arenhart teaches that structural litigation "should resemble a broad arena for debate, where the various positions and interests can be heard and can interfere in the formation of the jurisdictional solution," serving as a democratic environment for participation (Arenhart, 2021).

And to speak of a democratic environment, issues brought before the Judiciary must be treated from a perspective that sees land – and the collective and/or structural issues arising from it – beyond mere capitalized property.

There is also talk of adequacy, with respect to the choice of those interested, aiming to avoid the perpetuation of violations affecting society's fundamental rights. Ideally, their restructuring should occur independently of Judicial Branch action, through the Executive or Legislative Branch, but in the face of possible omissions or insufficiency, it can occur through structural litigation.

Structural proceedings can be judicial or extrajudicial, and the Judiciary has the duty to perform case management (management of the caseload), with the purpose of avoiding lack or deficiency of the justice system in cases where its intervention is necessary to resolve conflicts, but also avoiding excess by the Judiciary, always guided by principles such as the procedural duty of dialogue, which results from the combination of the principles of adversarial proceedings and

cooperation with the legal rules enshrined in arts. 10, 138, 489, §1º, 493, sole paragraph, 927, §2º, 983, §1º and 1,038, item II, all of the Code of Civil Procedure.

Basically, structural litigation contributes by offering a theoretical and practical framework for the Judiciary to stop merely responding punctually to demands and become a catalyst for profound institutional and social transformations, a stance especially relevant to the intrinsic complexity of collective agrarian conflicts in Brazil. Such conduct allows an approach that sees the problem not as an isolated fact but as a symptom of a flawed structure that needs to be readjusted to ensure the effective protection of rights.

4 ADPF 828 AND THE JUDICIAL GOVERNANCE OF LAND CONFLICTS: THE LAND SOLUTION COMMISSIONS

ADPF 828, driven by the COVID-19 health crisis, represents a turning point in the Brazilian model of jurisdictional treatment of collective land conflicts. The intervention of the Federal Supreme Court (STF) was not limited to a specific protective act but used the technique of structural litigation to impose new judicial governance, requiring the reorganization of bureaucratic structures and the search for collective and complex solutions.

The context of the COVID-19 pandemic dramatically exposed social vulnerabilities, with the Zero Eviction Campaign warning of the risk of a humanitarian crisis resulting from the simultaneous execution of thousands of eviction orders. The Judiciary, which historically prioritized a proprietary and patrimonialism logic, was confronted with the need to reconcile the right to property with the rights to housing, life, and health.

On June 3, 2021, Minister Luís Roberto Barroso issued the first preliminary injunction in ADPF 828, later ratified by the Plenary. The decision initially suspended, for six months, administrative or judicial measures resulting in evictions, vacate orders, or repossessions of a collective nature in properties serving as housing or productive areas for vulnerable populations, provided the occupations occurred before March 20, 2020 (the start of the state of public calamity) (STF, 2021).

For occupations after the pandemic's temporal marker, the State could act to prevent their consolidation, provided it ensured that removed persons were taken to public shelters or were otherwise guaranteed adequate housing.

This initial suspension was successively extended by the rapporteur in four injunctions ratified by the Plenary. In one of these extensions, the STF acted in a counter-majoritarian manner,

extending protection to rural occupations, which had been excluded by Law No. 14,216/2021, in respect of the principle of equality and to correct an unreasonable distinction. These decisions allowed for the suspension of forced removals of thousands of vulnerable families (STF, 2021).

However, ADPF 828 was not limited to granting provisional relief but consolidated as an instrument of structural litigation. The STF, in dealing with the eviction crisis, confronted the systematic violation of rights caused by the functioning of a bureaucratic structure. This is because the decision imposed a complex obligation to act (structural injunction), requiring the institutional reorganization of the Judiciary and the Executive Branch.

Thus, it is perceived that the STF promoted a paradigmatic shift, abandoning the traditional view that treats conflict as a univocal issue (legal/illegal) and the act of occupation as the zero point. Instead, the Court began to center its analysis on the vulnerability of the occupants and the consequences of removal.

This structural intervention manifested by imposing state involvement, requiring Public Authorities to participate in constructing alternative or cumulative solutions to removal, not just in providing police support for order enforcement. Furthermore, it established conditionality and action plans, compiling proposals that functioned as conditions for resuming evictions, such as the need for removal to be an exceptional measure, the prior elaboration of an eviction plan, and the guarantee of resettlement or adequate housing.

Moreover, it required dialogue and flexibility, as the structural decision requires procedural flexibility and the establishment of participatory and dialogic adversarial proceedings. In the case of ADPF 828, this was instrumentalized by mandating the creation of specialized bodies (such as the Land Solution Commissions).

On October 31 and November 2, 2022, the STF issued the Fourth Provisional Incidental Relief and its ratification, recognizing the easing of the health crisis and the lack of need for maintaining the total suspension. Instead of simply terminating the intervention (closure of the traditional bipolar process), the STF adopted a transition regime, an essential technique of structural litigation. This regime aimed to ensure the resumption of repossessions in a responsible, cautious, and gradual manner, avoiding the feared social upheaval (STF, 2022).

The core of this transition was the order for the immediate creation of Land Conflict Commissions in the Courts of Justice and Federal Regional Courts, established as auxiliary bodies to the judge. Their attributions include mediating collective conflicts (rural or urban), conducting technical visits and judicial inspections at the litigation site as a prior and necessary step before any

collective eviction order, and proposing a strategy for the gradual and phased resumption of the execution of suspended decisions.

That is to say: the STF's decision was a catalyst for change in the treatment of evictions, acting as a jurisdictional response to a socio-legal crisis by establishing a transition regime and imposing the immediate creation of Land Solution Commissions in the courts, consolidating a kind of judicial public policy in Brazil, which is a concrete manifestation of adopting structural litigation techniques.

Among the functions of the Land Solution Commissions is mediating collective evictions before a judicial decision, establishing rules to reduce housing and humanitarian impacts in case of collective evictions, with structures capable of observing technical, political, social, and legal aspects in potential consensual agreements (STF, 2022).

Following the decision in ADPF 828, the National Council of Justice (CNJ) issued CNJ Resolution No. 510/2023, which "reflects the need to promote adequate case management and court management structures, in a new approach to the principle of efficiency" (Prazeres, 2023).

The cited resolution precisely regulates the creation, within the scope of the CNJ and the Courts respectively, of the National Land Solution Commission and the Regional Land Solution Commissions. It also establishes guidelines for conducting technical visits to areas subject to possessory litigation and sets protocols for handling actions involving evictions or repossessions in properties serving as collective housing or productive areas for vulnerable populations (CNJ, 2023).

By instituting guidelines for conducting technical visits and establishing protocols for handling actions involving evictions or repossessions in properties serving as collective housing or productive areas for vulnerable populations, CNJ Resolution No. 510/2023 concretizes the need for more active and humane management of conflicts, reflecting a new approach to the principle of judicial efficiency.

It should be added that the Land Solution Commission does not have jurisdictional authority, nor any power to influence the processing of the case. Its mission is:

> [...] aprimorar a cognição do juiz sem pretender exercer influência em seu convencimento, contribuindo para adequar a prestação jurisdicional à complexidade das demandas que envolvem conflitos fundiários coletivos", o que não se limita ao processo, ou seja, à judicialização, pois "em demandas complexas e policêntricas, exige-se do julgador visão mais abrangente da natureza e das implicações do conflito (Prazeres, 2023).

This comprehensive vision has levels of appreciation and interpretation, and in the present proposal, it is believed that the root of collective agrarian litigations – and, generally, structural ones – is the structural problem, so that there is a need to study this cause-and-effect relationship.

And this is, undoubtedly, the same perception contained in ADPF 828, when establishing the aforementioned transition regime for the resumption of eviction and repossession orders. It is emphasized that the Supreme Court ordered the creation of Land Solution Commissions as an "auxiliary body to the judge of the case, who remains – as it must be – with decisional competence, and may, if so desired, accompany the carrying out of the diligences" (STF, 2022).

And it so determined upon ascertaining that acts such as mediation hearings and site visits "allow procedural actors to have an exact notion of the dimension of the problem" (STF, 2022), helping the judge "understand the scope and degree of planning necessary to implement structuring measures (aimed at land regularization, for example) or removal of things and persons" (STF, 2022), with conflict management (case management) (Prazeres, 2023).

From this, an operational framework for effectiveness is extracted, based on the combined identification of the problem's dimensions, the scope, and the degree of planning to implement structuring measures. On this issue, recall what Vitorelli names as the cycles of the structural process: first, the "characterization of the litigation"; after, the "definition of a strategy to conduct the reform"; then, the "elaboration of a plan to restructure the institution"; subsequently, the "implementation of the plan"; and finally, "the re-elaboration of the plan or closure of the case" (Vitorelli, 2025).

These Commissions therefore represent the instrumentalization of the structural technique for managing land conflicts, aiming at the reorganization of the Judiciary's action. The STF's decision required a structural approach to understanding the scope and degree of planning necessary to implement structuring measures, such as land regularization. The Court abandoned the logic of conflict resolution by mere subsumption (zero point: occupation, end point: removal) and adopted a structural perspective, focused on the vulnerability of occupants.

It seeks, then, an effective protection of rights and the transformative capacity of the Judiciary. This approach reaffirms the importance of social connections and seeks a balance with individual autonomy, promoting social justice and the democratization of access to land. It becomes evident that the conflict resolution model introduced by the Land Solution Commissions emerges as a promising and necessary approach, capable of mitigating the inherent violence in collective agrarian conflicts by prioritizing institutional dialogue and mediation before the summary execution of evictions.

However, it is not believed that this is a path without adjustments and challenges, as the Commissions depend on institutional cooperation and overcoming serious structural obstacles. It is believed that the success of the Commissions intrinsically depends on institutional dialogue and cooperation. On this point, besides the participation of the involved parties, the Public Defender's Office and the Public Ministry are relevant as essential actors, with their summoning being mandatory in collective litigations.

On the other hand, the participation of Executive Branch agencies (responsible for agrarian and urban policy) is fundamental, as without their involvement in offering public policies, the Commission's intervention is limited. Furthermore, if the belief in removal as a priority solution persists, the new model could be reduced to mere formalism.

The distortion of the institute could merely prolong possessory insecurity or legitimize the violation of fundamental rights. Precisely for this reason, it is relevant that the Judiciary, especially in the final judgment of ADPF 828, not only declare the Land Solution Commissions as permanent structures but also reinforce the exceptional nature of forced removals. To overcome these limits, the Commissions must focus on the materially effective protection of rights, not just the fulfillment of formal procedural rites.

5 FINAL CONSIDERATIONS

here is relevance in dialogued and managerial discussions regarding the right to land, the right to housing, social function, and human dignity. The Judiciary must use new forms of action in the face of highly complex litigations involving public policies, employing structural mechanisms to guarantee fundamental rights, and with a better understanding of the dispute by knowing different perspectives.

It is perceived that when speaking of the adoption of structural litigation techniques within the scope of the Land Solution Commissions, one thinks of a reconstruction of mentality, which also involves the relativization and pluralization of the concept of property, recognizing the profound discontinuity of history, considering that a large part of conflicts involve a collectivity and, more than that, people who do not see land merely as private property.

This requires that jurists transcend mere dogmatism and legal formalism, incorporating a critical, historical, and teleological analysis of law that considers the specificities of the social context. As already pointed out, legal absolutism, a product of the bourgeois era and economic liberalism, by

linking law to the State and reducing the role of the jurist to a mere executor of norms, ended up uprooting it from the richness of society and culture.

As Grossi suggests, it is necessary to free legal culture from a purely romanistic vision and prejudices, allowing an analysis that contemplates effectiveness and reality, beyond ideal and cultural models. Legal idolatry and the belief in the infallibility of the legislator must be overcome so that law can fulfill its social and transformative role.

In summary, the idealization of the bourgeois man and his pursuit of individualistic autonomy, combined with the absolutist conception of private property, generate the conditions for agrarian conflicts, especially collective ones. Violence, both internalized and symbolic, contributes to the naturalization and perpetuation of land inequalities, making collective conflicts a manifestation of a social and legal structure that refuses to recognize the plurality of property and the social function of land.

Along this intellectual line, the analytical journey traversed in this article confirmed that the genesis of collective agrarian conflicts in Brazil is not merely a matter of individual possession disputes but rather a structural problem rooted in the legal mentality of modernity. The absolutist conception of property, unveiled by the critique of Polanyi and Grossi, transformed land into a fictitious and abstract commodity, promoting territorial dis-resonance and the historical exclusion of populations that depend on collective use and a relationship of belonging with the soil.

The first premise was reinforced: overcoming land inequality requires a (re)construction of legal mentalities, aligned with the social function of land as an active and biocentric principle (not just as a constitutional abstraction), as an ethical foundation for recognizing the territorialities and identities of traditional communities, with the protection of these vulnerable groups being the legitimate social countermovement.

Secondly, it was demonstrated that the polycentric and structural nature of these litigations makes the traditional adjudicatory model inherently insufficient. The bipolar and rigid logic of common proceedings is not capable of addressing the complexity, the multiplicity of actors, and the need to restructure the system that generated the rights violation.

In this sense, the Land Solution Commissions, established by the STF in ADPF 828 and regulated by CNJ Resolution No. 510/2023, emerge as a promising example of this jurisdictional turn. By imposing on-site technical visits, institutional dialogue, and structured mediation as prior and necessary steps to collective eviction orders, these Commissions constitute a structural technique that breaks with judicial passivity, seeking effective conflict management (case management).

However, for Structural Litigation to be, in fact, a catalyst for transformations and not be reduced to mere formalism or temporary crisis management, it is crucial to evaluate its practical indicators of success.

According to the guidelines for conducting structural proceedings established by CNJ Recommendation No. 163/2025, the Judiciary must adopt objective indicators to ensure the effectiveness of decisions, such as evaluating the percentage of litigations that culminated in land regularization in contrast to those resolved only by removals; monitoring the number of removed families that were effectively resettled in adequate housing or had their productive area guaranteed; assessing the frequency and quality of the mandatory participation of the Executive Branch in offering and executing the public policies required by the structural plan; and quantifying the inclusion of actors with expertise (civil society, technicians) in hearings and the work of the Commissions, ensuring the shared construction of solutions.

In summary, the effectiveness of the Social Function of Land and the pacification of conflicts depend on a responsive jurisdiction willing to reform its mentality and its tools. The Commissions and Structural Litigation are not just procedural alternatives; they are strategies of democratic and collaborative resistance, essential for the Judiciary to actively contribute to overcoming the social pathologies of modernity and achieving agro-environmental justice in the Brazilian countryside.

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This version was originally presented in Portuguese and translated into Spanish with the assistance of Artificial Intelligence.

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