

CASE STUDY

Brazil: Land, Rights, and Judicial Procedure Navigating Agrarian Conflict

OVERVIEW

Submitting Organization	Ministério do Meio Ambiente, Brazil (Ministry of the Environment, Brazil) MMA,
Type of Grievance Mechanism	State-Based Judicial
Level of Operation	National, Regional, and Municipal
Geographic Scope	Brazil – State of Pernambuco (Municipality of Moreno, Engenho Buscaú)

SYNOPSIS

The Pernambuco case shows how agrarian disputes in Brazil can remain unresolved for decades when conciliation fails. Originating in 1998, the conflict over Engenho Buscaú—between rural families seeking land access and a landowner defending property rights—reveals how procedural complexity and slow judicial proceedings can stall the implementation of agrarian reform. The case points to key procedural and structural constraints within Brazil’s land governance framework. The lack of statutory deadlines for judicial rulings, among other gaps, calls for improved institutional coordination and the introduction of clear timelines to accelerate decisions and reinforce confidence in juridical processes.

BACKGROUND

The Pernambuco case centers on a long-standing agrarian dispute that illustrates the challenges of implementing Brazil’s land reform and conflict-resolution framework through judicial processes. The dispute began in 1998, when the National Institute of Colonization and Agrarian Reform (INCRA) initiated expropriation proceedings against a privately owned productive property located in *Engenho Buscaú*, in the municipality of Moreno (Pernambuco State). The action was part of INCRA’s broader effort to address rural land inequality by redistributing land to landless or small-scale farmers.

Approximately 100 families of rural workers and squatters had occupied the area, claiming that their livelihoods depended on continued access to the land. The owner contested the expropriation, arguing that the property was productive and therefore ineligible for agrarian reform under constitutional rules. The courts subsequently barred the expropriation, and while INCRA appealed, the process has remained unresolved for over two decades. Possession was reinstated to the landowner, leaving the status of the resident families in limbo.

Enduring Obstacles to Conflict Resolution in Engenho Buscaú

Three key challenges define the trajectory of this conflict:

Absence of a final judicial ruling – Despite more than two decades of proceedings, no conclusive decision has been issued, prolonging legal uncertainty for all parties.

Continued occupation of the land – Families and informal occupants have remained on the property even after a repossession order was granted to the landowner.

Recurrence of tension and intimidation – Periodic armed incidents and sustained pressure from the landowner to remove remaining residents have perpetuated insecurity and hindered conflict resolution.

The case mobilized a wide range of institutions across local, state, and federal levels. Actors included the affected families and landowners, the State Judiciary, the Public Prosecutor's Office at municipal and state levels, the Federal Judiciary through the 7th Federal Court of Pernambuco, and state mediation bodies such as the Agrarian Prosecutor's Office, linked to the Public Prosecutor's Office of Pernambuco. INCRA's role as the federal agency responsible for expropriation and settlement placed it at the center of both the administrative and judicial dimensions of the case.

These institutions worked within the framework established by Brazil's Federal Constitution and agrarian reform legislation. Central to the dispute is Article 186 of the Brazilian Constitution, which defines the social function of rural property, stipulating that land ownership must serve collective as well as private purposes by ensuring productive use, environmental protection, and respect for labor rights. The families and their representatives invoked this principle to argue that the denial of land access violated broader human rights obligations related to livelihood and dignity.

PROCESS

In Brazil, land disputes are addressed through the state-based judicial system, complemented by administrative and extrajudicial mechanisms that promote mediation and conciliation. Agrarian conflicts may be resolved either through dialogue and settlement or through formal court proceedings, reflecting the coexistence of preventive and corrective approaches within Brazil's land governance framework.

At a Glance: Pathways for Land Dispute Resolution in Brazil

Land-related conflicts in Brazil can be managed through a combination of preventive and corrective approaches.

Mediation and conciliation – Led by INCRA and the Agrarian Prosecutor's Office, these mechanisms aim to reach agreement between parties before cases enter litigation.

Judicial proceedings – When conciliation fails, disputes move to formal litigation in the federal courts, under the supervision of agrarian and federal judicial authorities.

Legal foundation – The Federal Constitution and agrarian legislation on expropriation, mediation, and the social function of property provide the overarching framework for dispute resolution.

In this case, the Agrarian Prosecutor's Office, in coordination with INCRA, convened a conciliation hearing to pursue an amicable resolution. Although all stakeholders—families, landowners, and state authorities—participated in the dialogue, the lack of consensus made litigation unavoidable. The matter therefore proceeded to the judicial phase, under the jurisdiction of the 7th Federal Court of Pernambuco, which continues to oversee the proceedings.

The case is governed by clearly defined administrative and constitutional rules. The residents and rural workers grounded their claims in the social function of land and human rights principles, arguing that access to land is essential for realizing the rights to work, food, housing, and livelihood. They further called for land regularization, invoking their long-standing residence and productive use of the area as justification for tenure recognition. The landowners, in turn, asserted their constitutional right to private

property, maintaining that the estate met the productivity requirements that exempt it from expropriation under agrarian reform law.

Throughout the process, the Public Prosecutor's Office and other state agencies have played facilitative and supervisory roles, ensuring that proceedings comply with constitutional norms. From a procedural perspective, litigation costs—court fees, attorneys, and related expenses—are borne directly by the parties. There are no provisions for cost-sharing or exemptions for low-income litigants such as the local residents, which may limit their capacity to engage effectively in protracted legal processes. Furthermore, no statutory time limits exist for the resolution of such disputes, and after more than twenty years, the process remains incomplete. While extrajudicial conciliation remains legally available, it has proven ineffective in this instance, leaving the case dependent on the slow-moving judicial process for resolution.

Judicialization of the Engenho Buscaú Conflict

The Engenho Buscaú conflict generated an extensive series of judicial actions across civil, administrative, and criminal jurisdictions. More than a dozen proceedings were filed by both the landowner and community representatives, assisted by *Terra de Direitos* and other legal advocates. These included actions for the **annulment of expropriation procedures, declarations of property productivity, possession claims, requests for legal assistance, and criminal complaints** related to threats and property damage. Institutions such as the **Agrarian Prosecutor's Office, INCRA, the Federal Labor Prosecutor, and the Civil Police** were drawn into the proceedings, illustrating how a single dispute can engage multiple branches of the state. This web of litigation demonstrates the high degree of **judicialization** typical of complex agrarian conflicts in Brazil. Once conciliation fails, disputes often become fragmented into parallel legal actions handled by different courts and agencies, extending the time and resources required for resolution.

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OUTCOMES AND LESSONS LEARNED

After more than two decades, the agrarian land dispute remains unresolved. The reinstatement of possession to the landowner was executed, but no judicial ruling has been issued on the broader questions of expropriation and land regularization. Conciliation efforts failed to produce an agreement, and the courts have yet to issue a final decision.

Resolution of agrarian land disputes in Brazil is often constrained by procedural complexity and the absence of time limits for judicial decisions. While mediation and conciliation mechanisms are widely available, their effectiveness depends on mutual willingness to reach agreement. When consensus fails, disputes enter the judicial system, where lengthy proceedings can extend uncertainty for all parties.

The coexistence of different legal principles shapes the governance of land and tenure relations. The human right to land—as a basis for access to work, food, housing, and other essential rights—must be balanced with the constitutional right to private property, which safeguards ownership and productive use. Ensuring that these principles are applied consistently requires clear rules, transparent procedures, and decisions delivered within reasonable timeframes.

Improved coordination between agrarian, prosecutorial, and judicial institutions is critical for a more effective and equitable resolution process. Strengthening the capacity for mediation at the administrative level and expediting judicial rulings when litigation is necessary could reduce delays and enhance trust in existing avenues for addressing agrarian disputes.