

THE RELATIONSHIP BETWEEN THE DISMANTLING OF BRAZIL'S POLICY ON SOCIAL PARTICIPATION AND ENVIRONMENTAL POLICIES

A RELAÇÃO ENTRE O DESMONTE DA POLÍTICA NACIONAL DE PARTICIPAÇÃO SOCIAL E AS POLÍTICAS AMBIENTAIS

Article received on: 12/05/2022

Article accepted on: 01/26/2024

Renata de Souza

Secretaria de Educação do Estado do Rio de Janeiro (SEE/RJ), Rio de Janeiro/RJ, Brazil

Lattes: <http://lattes.cnpq.br/8549283345966846>

Orcid: <https://orcid.org/0009-0007-6660-0534>

resouza_1985@yahoo.com.br

The author declares no conflict of interest.

Abstract

This article aims to establish relationships between the dismantling of the Política Nacional de Participação Social (PNPS – National Policy for Social Participation) and Brazilian environmental policies. Participation aims to ensure a civil society equity in political decision-making and social control of State. However, with the dismantling of the PNPS, many participating institutions are being limited, including the environmental management councils. This article conducted an institutional analysis within three councils: the Conselho Nacional de Meio Ambiente (CONAMA – National Environmental Council), Conselho Nacional de Recursos Hídricos (CNRH – National Resources Council), and the Conselho Deliberativo

Resumo

Diante do desmonte da política ambiental brasileira realizada no governo do ex-presidente Jair Messias Bolsonaro, este artigo busca estabelecer relações entre os desmantelamentos realizados em outra política pública, a Política Nacional de Participação Social (PNPS). A participação tem como objetivo assegurar à sociedade civil a equidade na decisão das políticas públicas e o controle social do Estado. Com o desmonte da PNPS, muitas instituições participativas foram limitadas, incluindo os conselhos ligados à questão ambiental. Este trabalho realizou uma análise institucional nas normas e documentos que regem três conselhos: o Conselho Nacional de Meio Ambiente (CONAMA) o Conselho Nacional de Recursos Hídricos (CNRH) e o Conselho Deliberativo do Fundo Nacional do



do Fundo Nacional do Meio Ambiente (Deliberative Council of the National Environmental Fund). These councils were changed in 2019, through the Decree n. 9,806/2019, the Decree n. 10,000/2019 and the Decree n. 10.224/2020. The data show that important numerous civil society representations were excluded from CONAMA and CNRH. In the Conselho Deliberativo do Fundo Nacional do Meio Ambiente, civil society representations were completely eliminated. In this context, parity and plurality were suppressed from these councils.

Keywords: councils; environment; participation; participatory institutions.

Meio Ambiente. Esses conselhos foram alterados no ano de 2019, por meio do Decreto n. 9.806/2019, do Decreto n. 10.000/2019 e do Decreto n. 10.224/2020. Os dados demonstraram que ocorreram muitas supressões no número de representantes desses conselhos, principalmente dos representantes da sociedade civil, observados no CONAMA e no CNRH, ao passo que no Conselho Deliberativo do Fundo Nacional do Meio Ambiente a representação da sociedade civil foi extinta em sua totalidade. Assim, tanto a paridade quanto a pluralidade dos conselhos foram suprimidas dessas instituições.

Palavras-chave: conselhos; instituições participativas; meio ambiente; participação.

Introduction

Given the political situation in Brazil, established during the government of former president Jair Messias Bolsonaro, and its uncertainties, studies on participation may be relevant to present new paths and solutions to be adopted in the face of a State that treats participation as an obstacle to representative democracy and an obstacle to the interests of the dominant and ruling classes, culminating in the publication of Decree no. 9,759 of April 11, 2019, which extinguished and established guidelines, rules, and limitations for federal public administration bodies.

However, the Bolsonaro government did not limit itself to viewing only participatory policies as an imbroglio but also policies related to nature conservation, which were considered an obstacle to the country's total economic development.

In this context, the objective of this study is to relate the dismantling of the *Política Nacional de Meio Ambiente* (National Environmental Policy) with the suspension of the *Política Nacional de Participação Social* (PNPS – National Policy on Social Participation), which occurred between 2019 and 2022, by analyzing the institutional design of three councils: the *Conselho Nacional de Meio Ambiente* (CONAMA – National Environmental Council), the *Conselho Deliberativo do Fundo Nacional do Meio Ambiente* (Deliberative Council of the National

Environmental Fund), and the *Conselho Nacional de Recursos Hídricos* (CNRH – National Water Resources Council).

1 Methodology

The institutional design consists of the rules and norms that guide the functioning of participatory institutions (PIs). The analysis of institutional design is carried out through numerous analytical categories, such as the issue of parity, plurality, composition, definition of entities that have access to the council, length of existence of the council, frequency of meetings, existence of an organizational structure, among others (FARIA; RIBEIRO, 2011; VAZ, 2011).

It is worth noting that the institutional design is not always reproduced rigorously in participatory institutions. However, its study is relevant, as the norms, parameters, and rules included in these documents can encourage or limit the action of the groups involved (TATAGIBA, 2004).

Institutional designs are partially developed by groups that have specific intentions and that can lead the participatory process according to their particular interests, being able to transform participatory institutions into spaces for guardianship, manipulation, and maintenance of the *status quo* (LOUREIRO, 2012; LOUREIRO; CUNHA, 2008).

In this study, analysis categories of the institutional designs of CONAMA, the *Conselho Deliberativo do Fundo Nacional do Meio Ambiente*, and the CNRH were parity, plurality, and the entities that have access to these councils. To this end, the following documents were analyzed: the Federal Constitution of 1988, Decree No. 8,243 of May 23, 2014; the PDC No. 1491 of 2014; the PDL No. 147 of 2014; Decree No. 9,759 of April 11, 2019; ADI 6121; Decree No. 9,806 of May 28, 2019; Decree No. 99,274 of June 6, 1990; Decree No. 10,224/2020; Decree No. 6,985 of October 20, 2009; Law No. 7,797 of July 10, 1989; Decree No. 10,000 of September 3, 2019; Decree No. 4,613 of March 11, 2003, and Law No. 9,433 of January 8, 1997.

2 Evolution of participatory policies in Brazil

Participatory institutions are places (physical or abstract) that allow civil society to participate in public policies. In Brazil, these institutions began to expand in the 1990s, with the re-democratization and promulgation of the 1988 Federal Constitution (FC). Management councils, forums, participatory budgets,

conferences, commissions, and public hearings are examples of participatory institutions in Brazil (AVRITZER, 2016).

Participation is seen by authors such as Bordenave (1985), Demo (1988), and Loureiro (2012) as a way of deepening democracy, as it encourages co-responsibility, the alliance of groups with common interests, the establishment of a horizontal dialogue, negotiation between different groups, social control by the State and the sharing of decisions between public authorities and civil society.

However, the concept of participation is heterogeneous. Its understanding is not agreed upon by all the authors who define it or the social agents who claim participation as a political practice. This can be evoked both by groups that seek forms of radicalization of democracy, making public policies a means of co-responsibility between civil society and political society, and by groups that aim only to maintain their hegemony by steering and dominating other groups (DEMO, 1988; LOUREIRO, 2012).

Dagnino (2004) and Dagnino, Olvera, and Panfichi (2006) report three political projects that have disputed or are disputing space for power in the delimitation of participatory policies.

The authoritarian project, defined from the 1960s onwards, during the military dictatorship, created few channels of participation to steer and manipulate some social groups “of beneficiaries, clients, and petitioners, all dispersed and disjointed among themselves”. Instances of participation, if they exist, are restricted to formal consultations, legitimizing spectacles without substance” (DAGNINO; OLVERA; PANFICHI, 2006, p. 47; our translation).

The participatory democratic project, on the other hand, arises from re-democratization (with the publication of the 1988 Federal Constitution as a symbolic milestone), with the aim of including civil society in public policy decisions and social control of the State (DAGNINO, 2004; DAGNINO; OLVERA; PANFICHI, 2006).

On the prowl for the participatory democratic project, the neoliberal project emerged in Brazil in the early 1990s, which arrived using the same discourse as the participatory democratic project in search of legitimization and consolidation. The neoliberal project also carries out discourses on participation, civil society, and citizenship. However, in the latter, the understanding of participation comes into play to transfer the duties attributed to the State to civil society (DAGNINO, 2004; DAGNINO; OLVERA; PANFICHI, 2006).

Therefore, the discussion around participation in Brazil is complex and is associated with an intricate network of elements and conditions, from historical

and cultural factors internal to the country to the international historical context (such as the rise of neoliberalism).

Gohn (2011) identifies two stages in the process of implementing participatory institutions in Brazil: the first, characteristic of the 1990s, a period in which struggles for the establishment of participation channels intensified, and the second, which took place in the 2000s and is characterized by an increase in the number of participatory institutions.

In the first moment, observed in the 1990s, the diffusion of participatory institutions occurred locally and regionally in compliance with constitutional definitions and also driven by the entry of municipal managers from the Workers' Party (PT). In the 2000s, with the arrival of the PT in the federal government, the proliferation of participatory institutions also occurred at the national level, with a significant increase in the number of national councils, forums, and conferences (AVRITZER, 2016). According to Teixeira (2013), 41% of councils and 70% of national conferences were established during the government of Luís Inácio "Lula" da Silva. The author also argues that these spaces became more plural during the PT administration and increased the incorporation of representatives of social movements.

If, on the one hand, the rise of PT was decisive for the proliferation of participatory institutions, the limits of the PT political project were observed precisely in the context of the environmental issue, in which the most poignant conflicts related to participation during the PT management were established (AVRITZER, 2016).

Two central moments marked the PT policy in nature management. The first signals the inclination to establish commitments with the demarcation of extractive and Indigenous reserves, originating from the struggles of socio-environmental movements, which resulted in the demarcation of the Raposa do Sol Indigenous Reserve in April 2005 (AVRITZER, 2016) and the creation of a series of Conservation Units (BARROS-PLATIAU, 2011).

The second moment is marked, according to Avritzer (2016), by the construction of the Belo Monte Hydroelectric Plant and other works related to the *Programa de Aceleração do Crescimento* (PAC – Growth Acceleration Program), which caused numerous conflicts with Indigenous and riverside populations, mainly in the course of public hearings. Eletronorte coordinated four public hearing meetings with little involvement from Indigenous populations, and the majority of the quorum was formed by local political groups.

Despite the countless contradictions of the PT government, the most

significant setbacks in participatory nature management occurred from 2019 onwards, under the Bolsonaro administration, due to the publication of Decree No. 9,759 of April 11, 2019, which extinguished and established guidelines, rules, and limitations for federal public administration collegiate bodies.

3 Política Nacional de Participação Social: from rapid rise to premature fall

In 2014, then president Dilma Rousseff signed Decree No. 8,243 of May 23, 2014, which established the PNPS and the *Sistema Nacional de Participação Social* (SNPS – National System of Social Participation) (BRAZIL, 2014a). The Decree mentioned above emerged surrounded by controversies, mainly stimulated by some media and political agents (such as federal representatives and senators) under the allegation that this would be an obstacle to representative democracy—as can be seen in the articles in the newspapers *Estadão* and *O Globo* (MUDANÇA..., 2014, NOBLAT, 2014):

President Dilma Rousseff wants to change the Brazilian system of government. She gave up on political reform – an idea born suddenly after the demonstrations last June and which fortunately did not even emerge from the cocoon – and is now trying by Decree to change the constitutional order. Decree 8,243, of May 23, 2014, which creates the *Política Nacional de Participação Social* (PNPS) and the *Sistema Nacional de Participação Social* (SNPS), is a set of legal blunders, even though it may sound, on an inattentive reading, as a response to the diffuse desires of the streets (MUDANÇA..., 2014, p. 1; our translation).

Representative democracy is a priority target of political authoritarianism. It involves choosing society's representatives by direct vote and establishing independence between Powers. The dismantling of the representative regime usually begins with creating "direct democracy" mechanisms to reduce Congress's weight in running the country (NOBLAT, 2014, p.1).

In light of media and parliamentary protests regarding the PNPS, on May 30, 2014, a Draft Legislative Decree for Suspension of Normative Acts of the Executive Branch, PDC No. 1491/2014, was presented to the Chamber of Representatives, authored by Mendonça Filho and Ronaldo Caiado, under the justification of:

A detailed analysis of the matter shows the ostensive and blatant unconstitutionality of the normative act that is now being challenged. The presidential Decree corrodes the innards of the representative regime, one of the pillars of the democratic rule of law, legitimately adopted in the 1988 Federal Constitution (BRAZIL, 2014c, p. 1; our translation).

The matter was approved in the Chamber of Representatives under an urgent procedure on October 28, 2014, and forwarded to the Senate as a Legislative Decree Project, PDL No. 147/2014, which ended up being filed at the end of the legislature in the Senate (BRAZIL, 2014b).

However, it is worth clarifying here that Decree No. 8,243 of May 23, 2014, did not differ from the 1988 Constitution, as it guaranteed the exercise of participation in a series of articles: Art. 1; Art. 14, I, II, III; Art. 27, § 4; Art. 29, XII, XIII; Art. 49, XV; Art. 61, § 2; Art. 77, § 3 (BRAZIL, 1988).

Furthermore, councils, conferences, forums, and ombudsman offices, among other participatory management instruments, have spread widely in Brazil since the beginning of the 1990s in response to the 1988 Constitution and progressively increased with the arrival of the PT to the federal government (TEIXEIRA, 2013; AVRITZER, 2016).

Instead of impeding representative democracy, society's participation in public spaces can provide greater transparency to public policies. According to Alencar and Ribeiro (2014):

In fact, the text of the Decree does not organize participatory institutions, as its defenders say. Nor does it mean any threat to the work of our traditional representative institutions. If that were the case, this would already have happened because, after all, participatory spaces have been in operation for more than twenty years (ALENCAR; RIBEIRO, 2014, p. 27).

According to Art. 1, the Decree's objective is to "strengthen and articulate the mechanisms and democratic instances of dialogue and joint action between the federal public administration and civil society" (BRAZIL, 2014a). In this sense, the innovations before the 1988 Constitution are pretty simple.

There are mainly three updates determined by Decree No. 8,243 of May 23, 2014: The first is established precisely in the joint action between federal public administration and civil society, which, despite being a novelty, had already been established in Brazilian territory since the 1990s and expanded in the 2000s.

Another innovation is included in Art. 5 of Decree No. 8,243/2014, which constitutes the preparation of an annual report by bodies and entities of the federal public administration describing the implementation of the PNPS.

Finally, Art. 9 of Decree No. 8,243/2014 establishes the *Comitê Governamental de Participação Social* (CGPS – Government Committee on Social Participation), a body responsible for advising and monitoring the implementation of the PNPS and the SPNPS.

However, disapproval of Decree No. 8,243/2014 by some political groups

did not cease. Faced with this scenario, President Jair Messias Bolsonaro published Decree No. 9,759 on April 11, 2019. The Decree that became known as *revogação* (or “the great repeal”) in its Art. 1, “extinguishes and establishes guidelines, rules, and limitations for collegiate bodies of direct, autonomous and foundational federal public administration” (BRAZIL, 2019a; our translation); this meant any collegiate body—i.e., councils, commissions, groups, boards, teams, tables, forums, rooms—created by infra-legal acts are subject to extinction or limitation in the number of members.

Decree No. 9,759/2019 also revoked Decree No. 8,243 of May 23, 2014, which had been published by former president Dilma Rousseff establishing the creation of the PNPS and the institution of the SNPS (BRAZIL, 2019a).

Decree No. 9,759/2019 was published in line with many federal representatives and senators who considered the PNPS an obstacle to representative democracy. According to Rodrigues (2020), the then federal government’s justification for excluding and limiting federal collegiate bodies was the de-bureaucratization of the State and the because of the ideological bias that these institutions would carry with them since they were created under the management of the Workers’ Party.

However, participation is a constitutional principle observed in Art. 1: “All power emanates from the people, who exercise it through elected representatives or directly, under the terms of this Constitution” (BRAZIL, 1988; our translation). Given the violation of this principle and the violation of the principle of legal certainty and the principle of environmental non-regression, among other formal and material unconstitutionality, the PT filed the Direct Unconstitutionality Action 6121 – ADI 6121 (BRAZIL, 2019d).

In June 2019, the STF partially approved ADI 6121 which stated that, if there was no definitive statement, it determined the dismissal of the “possibility of having the extinction, by an act unilaterally issued by the Chief Executive, of a collegiate body whose existence find mention in law in a formal sense” (BRAZIL, 2019d, p. 15; our translation).

However, many participatory bodies had their number of members limited, especially concerning civil society representations. In this context, some councils related to environmental issues had their action limited. This occurred in a series of formal and material violations, mainly related to the principle of environmental non-regression, prevention, participation, cooperation between people, and an ecologically balanced environment as a fundamental right of the human person.

With the inauguration of the current president, Luiz Inácio “Lula” da Silva,

the Decree No. 9,759/2019 was entirely revoked following the publication of Decree No. 11,371 on January 1, 2023. There was also the recreation and reactivation of some councils related to the environmental agenda, such as the *Conselho Nacional de Segurança Alimentar* (CONSEA – National Food Safety Council), the *Conselho Nacional dos Povos e Comunidades Tradicionais* (National Council of Traditional Peoples and Communities), and the *Conselho Nacional de Desenvolvimento Rural Sustentável* (CONDRAF – National Council of Sustainable Rural Development).

4 Relationships between the revocation of the PNPS and environmental policies

Decree No. 9,759 of April 11, 2019, despite the partial approval of ADI 6121 and the determination by the STF that it was impossible to extinguish participatory institutions until the final manifestation of this body, resulted in the limitation of some councils linked to environmental policies, essential for the protection of biodiversity and socio-diversity.

Decree No. 9,806 was published on May 28, 2019, amending Decree No. 99,274 of June 6, 1990, to set the composition and functioning of the *Conselho Nacional de Meio Ambiente* (CONAMA – National Environmental Council). Among the revocations and changes instituted by Decree No. 9,806/19, the amendment of Art. 5 was one of the most controversial, as it reduced the number of members of the CONAMA plenary from 96 to 23 (BRAZIL, 2019b, art. 5°), with civil society being the most affected representation. In the previous one, Decree No. 99,274 of June 6, 1990, civil society representatives (including NGOs, social movements, and traditional populations) numbered at 22. According to Art. 5, VII, of Decree No. 9,806/2019, civil society advisors were reduced to four representatives:

At least one year ago, four representatives of national environmental entities registered in the *Cadastro Nacional de Entidades Ambientais* (CNEA – National Registry of Environmental Entities), using a registered letter or registered with CONAMA (BRAZIL, 2019b; our translation).

Given this situation, many representations of civil society that are important for environmental debates were left out, such as representatives of traditional populations, representatives of Indigenous communities, representatives of the scientific community, representatives of the *Fundação Brasileira para a Conservação da Natureza* (FBCN – Brazilian Foundation of Nature Conservation), representative

of a national environmental entity, representatives of worker entities, representative of each geographic region of the country, representatives of environmental entities from each geographic region of the country (10 in total), representatives of associations for the defense of natural resources, representative of rural workers, representative of national professional entities operating in the environmental and sanitation area, and representative of workers appointed by trade unions and confederations in the urban area.

It is worth noting that Decree No. 9,806/2019 was revoked on February 16, 2023, by Decree No. 11,417, which restructured the segments of civil society that had lost representation in CONAMA. In May 2023, the Federal Supreme Court judged the Claim of Non-Compliance with Fundamental Precept 623 (ADPF/623) in plenary, declaring Decree No. 9,806/2019 unconstitutional.

Another council limited by Decree published by the then head of the Executive Branch, Jair Bolsonaro, was the *Conselho Deliberativo do Fundo Nacional do Meio Ambiente* (Deliberative Council of the National Environmental Fund). On February 5, 2020, Decree No. 10,224 was published, excluding civil society from participating in the *Conselho Deliberativo do Fundo Nacional do Meio Ambiente* (BRAZIL, 2020). This fund, per Art. 1 of its creation law, Law No. 7,797 of July 10, 1989, has the objective of “developing projects that aim at the rational and sustainable use of natural resources, including the maintenance, improvement, or recovery of environmental quality to increase the quality of life of the Brazilian population” (BRAZIL, 1989; our translation).

Decree No. 10,224/2020 revoked Decree No. 6,985 of October 20, 2009, its predecessor in regulating Law No. 7,797 of July 10, 1989, and in defining the composition of the *Conselho Deliberativo do Fundo Nacional do Meio Ambiente*. The council, which had a parity structure so far, formed by nine representatives from political society and eight representatives from civil society, completely lost its parity and plurality due to the exclusion of all members of civil society.

Thus, the management of resources and their application as a priority in Conservation Units, research and technological development, environmental education, forest management and extension, institutional development, environmental control, rational and sustainable economic use of native flora and fauna, and recovery of areas degraded by accidents or environmental disasters becomes the exclusive competence of bodies and agencies of the federal government, namely: the Ministry of State for the Environment, the Civil House of the Presidency of the Republic, the Ministry of Economy, the Ministry of the Environment, the Brazilian Institute for the Environment and Renewable Natural Resources, and

the Chico Mendes Institute for Biodiversity Conservation (BRAZIL, 2020).

Civil society associations lost representation in the council, such as the National Water Agency, the Brazilian Association of Environmental Entities, the National Association of Municipalities and the Environment, the Brazilian Forum of NGOs and Social Movements for the Environment and Development, the Brazilian Society for the Progress of Science, a representative of civil society appointed by CONAMA, and representatives of each geographic region of the country from environmental NGOs (BRAZIL, 2009).

However, in April 2022, the Federal Supreme Court (STF) declared the unconstitutionality of Art. 5 of Decree No. 10,224/2020, which terminated the participation of civil society in the *Conselho Deliberativo do Fundo Nacional do Meio Ambiente*, reestablishing the previous composition of said council, defined by Decree No. 6,985/2009. The declaration of unconstitutionality occurred due to the judgment of the Claim of Non-Compliance with Fundamental Precept 651 (APDF/651), filed by Rede Sustentabilidade in 2020 (BRAZIL, 2022).

There were also significant changes to the *Conselho Nacional de Recursos Hídricos* (CNRH – National Water Resources Council), as Decree No. 10,000 of September 3, 2019, reduced the number of seats on this council from 57 to 37 (BRAZIL, 2019c). The most affected representations were civil society organizations, which were already limited to only six members due to the previous Decree, Decree No. 4,613 of March 11, 2003. Decree No. 10,000/2019 reduced the number of advisors of civil society organizations by half, with currently three members. Representatives of the water resources user sector were also reduced by half, going from 12 to 6 active advisors.

Another problem concerning sharing decisions is the possibility of issuing acts *ad referendum* by the president of this council (the Minister of State for Regional Development), as determined by Art. 6, § 5, of Decree No. 10,000/2019 that allows the approval of agendas and decisions, which will only be assessed after the act is published, without the participation of the collegiate body.

The CNRH has several responsibilities of significant relevance in water management, defined by Law No. 9,433 of January 8, 1997, which establishes the *Política Nacional de Recursos Hídricos* (National Policy on Water Resources) and creates the *Sistema Nacional de Gerenciamento de Recursos Hídricos* (Management Systems for Water Resources). Among the responsibilities mentioned above, some are the following: establish criteria for charging for water use and grant the right to use, appreciate and approve proposals for the implementation of *Comitês de Bacia Hidrográfica* (River Basin Committee), analyze proposals to change legislation

relating to water management, establish complementary guidelines for the implementation of the national policy and the management system of water resources, among others (BRAZIL, 1997).

In addition, according to the *Política Nacional de Recursos Hídricos*, water is a public asset, and its management must be carried out by the public authorities, together with the participation of users and communities (BRAZIL, 1997).

It is worth mentioning that water is a necessary commodity for humans, non-human animals, plants, and other living beings to stay alive. The 1988 Constitution, in its Art. 5, declares that: “everyone is equal before the law, without distinction of any kind, guaranteeing Brazilians and foreigners residing in the country the inviolability of the right to life, liberty, equality, security, property [...]” (BRAZIL, 1988; our translation). In this sense, as water is essential for human survival, we can defend it as a fundamental right of the individuals.

Furthermore, the 1988 Federal Constitution, in its Art. 225, also emphasizes that “everyone has the right to an ecologically balanced environment, a common asset for the people and essential to a healthy quality of life, imposing on the Public Power and the community the duty to defend and preserve it for the present and future generations” (BRAZIL, 1988; our translation), reaffirming the fundamental right to water and natural resources for common use. In this sense, the participatory management of such an essential asset must be a priority element in public policies.

Notwithstanding the declarations of unconstitutionality resulting from the judgments of the Claims of Non-Compliance with Fundamental Precept ADPF/651 and ADPF/623, the government change, and the publication of Decree No. 11,371/2013, which revokes Decree No. 9,759/2019, recreating and reactivating a series of participatory institutions, to date, Decree No. 10,000/2019 remains the legal standard that provides for the structure of the CNRH. Therefore, the number of members of civil society and the user sector remains small.

In the three cases analyzed, it is possible to observe that there were limitations of participatory institutions in terms of plurality and parity. The exclusions occurred mainly in the civil society representations of the collegiate bodies.

The principle of parity was established by political struggles in the context of re-democratization (TATAGIBA, 2002). However, there is a distinction between quantitative and qualitative parity. The quantitative parity defined by internal regulations and ordinances is not necessarily observed qualitatively due to the heterogeneity of civil society, which becomes infinity of interests expressed in each group represented in the spaces of participatory institutions (TATAGIBA, 2002; LÜCHMANN, 2009).

Parity does not define that all groups represented in a participatory institution have equity in proposing projects and demands, deliberations, social control of public policies, and access to public goods, i.e., parity is not synonymous with deliberative effectiveness (VAZ, 2011). However, the division between the two types of parity is not watertight. For there to be qualitative parity, it is initially necessary to have quantitative parity, with the principle of quantitative parity being extremely relevant.

Tatagiba (2004) demonstrates that the institutional design of participatory institutions can encourage or limit the action of civil society groups. In this sense, the decrees amending these three councils carried out during the Bolsonaro government were developed partially per the specific interests of the federal management and the groups with which it relates, thus structuring the councils so that the individual interests from some social groups may stand out.

The participation of civil society in participatory institutions, according to Demo (1988), aims at citizenship, self-promotion, control of power and bureaucracy, and equity in negotiation and decision-making. In the context of the exclusion of members of civil society in the three councils, there is a loss of parity in these councils, which limits the action of civil society and promotes a highly unequal power relationship between members of political society and civil society within the councils.

Civil society tutelage, manipulation, and little autonomy are present in this scenario. Furthermore, the three councils became less plural with the changes in 2019 and 2020 due to the sudden decrease in seats in these participatory institutions.

The concept of plurality complements the concept of parity, as it does not end in opposition to public power and civil society but focuses on the internal divisions between civil society and public administration. Civil society is heterogeneous; therefore, the more groups participating in the councils, the more plurality and opinions are included in the discussions.

Reducing the number of members of these councils based on the rhetoric of reducing bureaucracy is fallacious and biased. For Tatagiba (2002, p. 54; our translation), “plurality in composition, instead of an obstacle—as some studies have suggested—is, on the contrary, the element that accounts for the public and democratic nature of these new deliberative arrangements”.

At this point, the political project imposed by the Bolsonaro government is more similar to the project described as authoritarian by Dagnino (2004) and Dagnino, Olvera, and Panfichi (2006) than to the neoliberal project, as in the

authoritarian project participation is limited mainly so that civil society does not exert influence on public policies. In the military dictatorship, for example, participation was restricted to clientelistic forms of listening and helping the poorest groups since, in this political project, it is essential to disarticulate civil society so that there is demobilization and, consequently, tutelage and manipulation of different groups in society.

The neoliberal project focuses on transferring responsibilities from the State to civil society, which is why the rhetoric of participation is critical for this project to claim the promotion of an active and participatory society. The neoliberal project widely requires the concept of social participation (DAGNINO, 2004). Gohn (2011) states that this understanding of participation is increasingly merging with the third sector and NGOs, which are beginning to act in gaps in public policies not carried out by the State.

For this reason, the dismantling of the PNPS and the limitations of management councils are related to the authoritarian project.

In contrast to the participatory democratic project, the neoliberal project establishes a perverse confluence, i.e., the concomitance of two projects with different intentions but using the same assumptions to achieve them: society's participation and autonomy. The participatory democratic project aims to include society in public policies, and the neoliberal project aims to reduce the State's attributions (DAGNINO, 2004).

During the government administration of 2019 and 2022, one can glimpse the attempt to reorganize the authoritarian project, thus including another variable in the perverse confluence equation.

Final considerations

In 2014, a series of conflicts between various political and media agents were observed with the publication of the PNPS. Many of its critics, particularly federal representatives, argued that the national policy on participation would harm representative democracy. However, the PNPS does not make any innovation regarding the topic of participation, only regulating the participation determined by the 1988 Federal Constitution.

Five years after the first clashes, then-president Jair Messias Bolsonaro published Decree No. 9,759 of April 11, 2019, which revoked the PNPS and extinguished/limited a series of participatory institutions, constituting a worrying setback in the consolidation of participatory policies.

These setbacks were also evident in policies related to the Environment. Joint management of nature between civil society and political society was limited by Decree No. 9,806/2019, Decree No. 10,000/2019, and Decree No. 10,224/2020. The three councils regulated by these decrees—the CONAMA, the CNRH, and the *Conselho Deliberativo do Fundo Nacional do Meio Ambiente*—had limited civil society activities (like CONAMA and of the CNRH) and even completely excluded, as in the case of the *Conselho Deliberativo do Fundo Nacional do Meio Ambiente*.

Given this situation, the administration of resources managed by the *Conselho Deliberativo do Fundo Nacional do Meio Ambiente* becomes the responsibility of political society alone. Furthermore, the parity relationship in CONAMA and CNRH is widely affected, making power relations between political society and civil society asymmetrical.

All the councils studied also lost their plurality, significantly reducing members, particularly civil society representatives. Groups highly impacted by environmental policies, such as traditional and Indigenous communities, rural populations, and environmental movements, have lost the right to deliberate on issues that affect their lives. Similarly, NGOs and the scientific community have lost the right to discuss and cooperate on matters for which they have specialized technical competence.

Given these changes in the structures of participatory institutions, the hypothesis that emerges in this study is that these participatory institutions, previously contested mainly by democratic-participatory and neoliberal projects, were remodeled to meet the interests and ideals of the authoritarian political project, including another political project in the dispute over the management of participatory institutions.

In the last year, while the authoritarian political project taken over by Bolsonaro groups has lost its hegemony and changes towards the recreation and reestablishment of participatory institutions have been observed, some of the limitations on the councils have been maintained, as observed in the case of the CNRH. Therefore, analyzing this transition between political projects is also relevant for understanding the directions the PT government will take.

References

ALENCAR, J. L. O.; RIBEIRO, U. C. O decreto sobre a participação social no Governo Federal e a “polêmica bendita”. *Boletim de Análise Política Institucional*, n. 6. Brasília, DF: Instituto de Pesquisa Econômica Aplicada (Ipea), 2014. Available from: <http://repositorio.ipea.gov.br/bit->

stream/11058/5935/1/BAPI_n06_p23-27_RD_Decreto-participacao-social_Diest_2014-jun-nov.pdf. Access on: Aug. 09, 2021.

AVRITZER, L. *Impasses da democracia no Brasil*. Rio de Janeiro: Civilização Brasileira, 2016.

BARROS-PLATIAU, A. F. *O Brasil na governança das grandes questões ambientais contemporâneas*. Brasília, DF: Instituto de Pesquisa Econômica Aplicada (IPEA), 2011. Available from: http://www.ipea.gov.br/portal/images/stories/PDFs/TDs/td_1618.pdf. Access on: Feb. 12, 2019.

BORDENAVE, J. E. D. *O que é participação*. São Paulo: Brasiliense, 1985.

BRAZIL. [Constituição (1988)]. *Constituição da República Federativa do Brasil de 1988*. Brasília, DF: Presidência da República, [2016]. Available from: http://www.planalto.gov.br/ccivil_03/constitucao/constitucao.htm. Access on: June 23, 2021.

BRAZIL. Lei n. 7.797, de 10 de julho de 1989. Cria o Fundo Nacional de Meio Ambiente e dá outras providências. *Diário Oficial da União*: seção 1, Brasília, DF, p. 11378, 11 jul. 1989. Available from: http://www.planalto.gov.br/ccivil_03/leis/l7797.htm. Access on: June 23, 2021.

BRAZIL. Decreto n. 99.274, de 6 de junho de 1990. Regulamenta a Lei n. 6.902, de 27 de abril de 1981, e a Lei n. 6.938, de 31 de agosto de 1981, que dispõem, respectivamente sobre a criação de Estações Ecológicas e Áreas de Proteção Ambiental e sobre a Política do Meio Ambiente, e dá outras providências. *Diário Oficial da União*: seção 1, Brasília, DF, p. 10887, 7 jun. 1990. Available from: http://www.planalto.gov.br/ccivil_03/decreto/antigos/d99274.htm. Access on: July 02, 2021.

BRAZIL. Lei n. 9.433, de 8 de janeiro de 1997. Institui a Política Nacional de Recursos Hídricos, cria o Sistema Nacional de Gerenciamento de Recursos Hídricos, regulamenta o inciso XIX do art. 21 da Constituição Federal, e altera o art. 1º da Lei n. 8.001, de 13 de março de 1990, que modificou a Lei n. 7.990, de 28 de dezembro de 1989. *Diário Oficial da União*: seção 1, Brasília, DF, p. 470, 9 jan. 1997. Available from: http://www.planalto.gov.br/ccivil_03/leis/l9433.htm. Access on: June 29, 2021.

BRAZIL. Decreto n. 4.613, de 11 de março de 2003. Regulamenta o Conselho Nacional de Recursos Hídricos, e dá outras providências. *Diário Oficial da União*: seção 1, Brasília, DF, p. 2, 12 mar. 2003. Available from: http://www.planalto.gov.br/ccivil_03/decreto/2003/d4613.htm. Access on: June 29, 2021.

BRAZIL. Decreto n. 6.985, de 20 de outubro de 2009. Dá nova redação ao art. 4º do Decreto n. 3.524, de 26 de junho de 2000, que regulamenta a Lei n. 7.797, de 10 de julho de 1989, que cria o Fundo Nacional do Meio Ambiente. *Diário Oficial da União*: seção 1, Brasília, DF, p. 1, 20 out. 2009. Available from: http://www.planalto.gov.br/ccivil_03/_ato2007-2010/2009/decreto/D6985.htm. Access on: July 07, 2021.

BRAZIL. Decreto n. 8.243, de 23 de maio de 2014. Institui a Política Nacional de Participação Social – PNPS e o Sistema Nacional de Participação Social – SNPS, e dá outras providências. *Diário Oficial da União*: seção 1 Brasília, DF, p. 6, 26 maio 2014a. Available from: http://www.planalto.gov.br/ccivil_03/_ato2011-2014/2014/decreto/d8243.htm. Access on: July 02, 2021.

BRAZIL. Senado Federal. *Projeto de Decreto Legislativo n. 147, de 2014*. Susta a aplicação do Decreto n. 8.243, de 23 de maio de 2014, que institui a Política Nacional de Participação Social – PNPS e o Sistema Nacional de Participação Social – SNPS, e dá outras providências. Brasília, DF: Senado Federal, [2014b]. Available from: <https://legis.senado.leg.br/sdleg-getter/documento?dm=4774997&ts=1594017756880&disposition=inline>. Access on: June 21, 2021.

BRAZIL. Câmara dos Deputados. *Projeto de Decreto Legislativo n. 1491, de 2014*. Susta a aplicação do Decreto n. 8.243, de 23 de maio de 2014, que institui a Política Nacional de Participação Social – PNPS e o Sistema Nacional de Participação Social – SNPS, e dá outras providências. Brasília, DF: Câmara dos Deputados, [2014c]. Available from: <https://www.camara.leg.br/proposicoesWeb/>

prop_mostrarintegra;jsessionid=node03qj20cmvshfg1w1eeuwsq2flw13376886.node0?cod-teor=1258271&filename=PDC+1491/2014. Access on: June 21, 2021.

BRAZIL. Decreto n. 9.759, de 11 de abril de 2019. Extingue e estabelece diretrizes, regras e limitações para colegiados da administração pública federal. *Diário Oficial da União*: seção 1, Brasília, DF, p. 5, 11 abr. 2019a. Available from: http://www.planalto.gov.br/ccivil_03/_ato2019-2022/2019/decreto/D9759.htm. Access on: July 07, 2021.

BRAZIL. Decreto n. 9.806, de 28 de maio de 2019. Altera o Decreto n. 99.274, de 6 de junho de 1990, para dispor sobre a composição e o funcionamento do Conselho Nacional de Meio Ambiente – CONAMA. *Diário Oficial da União*: seção 1, Brasília, DF, p. 1, 29 maio 2019b. Available from: http://www.planalto.gov.br/ccivil_03/_ato2019-2022/2019/decreto/D9806.htm. Access on: July 11, 2021.

BRAZIL. Decreto n. 10.000, de 3 de setembro de 2019. Dispõe sobre o Conselho Nacional de Recursos Hídricos. *Diário Oficial da União*: seção 1, Brasília, DF, p. 1, 4 set. 2019c. Available from: http://www.planalto.gov.br/ccivil_03/_Ato2019-2022/2019/Decreto/D10000.htm. Access on: June 29, 2021.

BRAZIL. Supremo Tribunal Federal. *Ação Direta de Inconstitucionalidade 6.121 Distrito Federal*. Relator: Min. Marco Aurélio, 09 de dezembro de 2019, [2019d]. Available from: <https://portal.stf.jus.br/processos/detalhe.asp?incidente=5678906>. Access on: June 23, 2021.

BRAZIL. Decreto n. 10.224, de 5 de fevereiro de 2020. Regulamenta a Lei n. 7.797, de 10 de julho de 1989, que cria o Fundo Nacional do Meio Ambiente. *Diário Oficial da União*: seção 1, Brasília, DF, p. 21, 6 fev. 2020. Available from: http://www.planalto.gov.br/ccivil_03/_ato2019-2022/2020/decreto/D10224.htm. Access on: July 07, 2021.

BRAZIL. Supremo Tribunal Federal. *Arguição de Descumprimento de Preceito Fundamental 651 Distrito Federal*. Direito Constitucional Ambiental. Medida Cautelar. Decreto Presidencial n. 10.224, de 5.2.2020. Exclusão da sociedade civil do conselho deliberativo do Fundo Nacional do Meio Ambiente. Decreto Presidencial n. 10.239, de 11.2.2020. Exclusão dos governadores do Conselho Nacional da Amazônia. Decreto Presidencial n. 10.223, de 5.2.2020. Extinção do Comitê Orientador do Fundo Amazônia. Alegada afronta à proteção ao meio ambiente e proibição ao retrocesso ambiental. Arguição de Descumprimento de Preceito Fundamental julgada precedente. Acórdão em Arguição de Descumprimento de Preceito Fundamental, n. 651. Relatora: Min. Cármen Lúcia, 28 de agosto de 2022. Available from <https://portal.stf.jus.br/processos/detalhe.asp?incidente=5853176>. Access on: Dec. 05, 2022.

BRAZIL. Decreto n. 11.417, de 16 de fevereiro de 2023. Altera o Decreto n. 99.274, de 6 de junho de 1990, para dispor sobre a composição e o funcionamento do Conselho Nacional de Meio Ambiente – Conama. *Diário Oficial da União*: seção 1, Brasília, DF, p. 5, 17 fev. 2023. Available from: https://www.planalto.gov.br/ccivil_03/_Ato2023-2026/2023/Decreto/D11417.htm#art2. Access on: Dec. 18, 2023.

DAGNINO, E. Sociedade civil, participação e cidadania: de que estamos falando? In: MATO, D. (org.). *Políticas de cidadania y sociedad civil em tiempos de globalizacion*. Caracas: FACES/Universidad Central de Venezuela, 2004. p. 95-110.

DAGNINO, E.; OLVERA, A. J.; PANFICHI, A. Para uma outra leitura da disputa pela construção democrática na América Latina. In: DAGNINO, E.; OLVERA, A. J.; PANFICHI, A. (org.). *A disputa pela construção democrática na América Latina*. São Paulo: Paz e Terra; Campinas: Unicamp, 2006. p. 13-91.

DEMO, P. *Participação é conquista*. São Paulo: Cortez, 1988.

FARIA, C. F.; RIBEIRO, U. C. Desenho institucional: variáveis relevantes e seus efeitos sobre o

processo participativo. In: PIRES, R.R.C. (org.). *Efetividade das instituições participativas no Brasil: estratégias de avaliação*. Brasília, DF: Ipea, 2011. p. 125-135.

GOHN, M. G. *Conselhos gestores e participação sociopolítica*. São Paulo: Cortez, 2011.

LOUREIRO, C. F. B. *Sustentabilidade e educação: um olhar da ecologia política*. São Paulo: Cortez, 2012.

LOUREIRO, C. F. B.; CUNHA, C. C. Educação ambiental e gestão participativa de unidades de conservação: elementos para se pensar a sustentabilidade democrática. *Ambiente & Sociedade*, São Paulo, v. 11, n. 2, p. 237-253, 2008.

LÜCHMANN, L. H. H. O desenho institucional dos Conselhos Gestores. In: LYRA, R. P. (org.). *Participação e segurança pública no Brasil: teoria e prática*. João Pessoa: Editora UFPB, 2009. p. 45-65.

MUDANÇA de regime por decreto. *Estadão*, São Paulo, 29 maio, 2014. Available from: <https://opinio.estadao.com.br/noticias/geral,mudanca-de-regime-por-decreto-imp-,1173217>. Access on: Oct. 30, 2018.

NOBLAT, R. Decreto agride democracia representativa. *O Globo*, Brasília, DF, 31 maio 2014. Available from: <https://oglobo.globo.com/brasil/noblat/posts/2014/05/31/decreto-agride-democracia-representativa-editorial-537806.asp>. Access on: Oct. 30, 2018.

RODRIGUES, L. S. Instituições participativas em crise: uma análise da democracia brasileira após a vigência do Decreto n. 9.759/2019. In: SEMINÁRIO DISCENTE DE CIÊNCIAS POLÍTICAS (SDCP), 1., 2020, Curitiba. *Anais [...]*. Curitiba: UFPR, 2020. Available from: https://web.archive.org/web/20201016064011id_/https://eventos.ufpr.br/SDCP/SDCP2020/paper/viewFile/3120/924. Access on: June 29, 2021.

TATAGIBA, L. Os conselhos gestores e a democratização das políticas públicas no Brasil. In: DAGNINO, E. (org.). *Sociedade civil e espaços públicos no Brasil*. São Paulo: Paz e Terra/UNICAMP, 2002. p. 47-103.

TATAGIBA, L. A institucionalização da participação: os conselhos municipais de políticas públicas na cidade de São Paulo. In: AVRITZER, L. *A participação em São Paulo*. São Paulo: Editora da UNESP, 2004. p. 232-370.

TEIXEIRA, A. C. C. *Para além do voto: uma narrativa sobre a democracia participativa no Brasil (1975-2010)*. 2013. Tese (Doutorado em Ciências Sociais) – Instituto de Filosofia e Ciências Humanas, Universidade Estadual de Campinas, Campinas, 2013. Available from: <https://repositorio.unicamp.br/acervo/detalhe/910954>. Access on: Dec. 2023.

VAZ, A. C. N. Da participação à qualidade da deliberação em fóruns públicos: o itinerário da literatura sobre conselhos no Brasil. In: PIRES, R.R.C. (org.). *Efetividade das instituições participativas no Brasil: estratégias de avaliação*. Brasília, DF: Ipea, 2011. p. 91-107.

ABOUT THE AUTHOR

Renata de Souza

Ph.D. in Environmental Sciences and Conservation from the Universidade Federal do Rio de Janeiro (UFRJ), Rio de Janeiro/RJ, Brazil. Master in Community Psychosociology and Social Ecology from the Programa de Pós-graduação EICOS of UFRJ. Specialist in Quaternary Geology at the Museu Nacional of UFRJ. Graduated in Biological Sciences (Degree and Bachelor) from the Universidade Federal Fluminense (UFF), Niterói/RJ, Brazil. Effective teacher at the Department of Education of the State of Rio de Janeiro (SEE/RJ), Rio de Janeiro/RJ, Brazil. Substitute professor at the Instituto Federal de Educação, Ciência e Tecnologia of Rio de Janeiro (IFRJ), Rio de Janeiro/RJ, Brazil.

Author participation

The author participated in all stages of the preparation of this article.

How to cite this article (ABNT):

SOUZA, R. The relationship between the dismantling of Brazil's policy on social participation and environmental policies. *Veredas do Direito*, Belo Horizonte, v. 21, e212473, 2024. Available on: <http://www.domhelder.edu.br/revista/index.php/veredas/article/view/2473>. Access on: Month day, year.