



# CSSN Briefing

## CSSN Position Paper 2021:3 Dismantling the Environmental State: Actors, Strategies and Discourses Behind the Bolsonaro Attack on the National Environmental Regulation

Since his inauguration in January 2019, Brazilian President Jair Bolsonaro's administration has dismantled many of the structures and mechanisms for environmental protection that had been constructed over the last several decades. These protections were built thanks to individual and collective efforts by civil society organizations, scientists, indigenous peoples, traditional communities, activist networks, politicians and key institutional actors in the aftermath of the military dictatorship. But through a series of announcements, executive orders and administrative decisions, Bolsonaro's government has sought to facilitate the expansion of frontiers of both the agribusiness and the mineral sectors deep into fragile biomes like the Amazon forest, the Pantanal and the Cerrado (the Brazilian savanna). These efforts have grave potential impacts on national and regional sustainable development, and global climate change. Behind these actions are a strong and emboldened coalition of agribusinesses and the mining sector. While they gut environmental laws and agencies at home, they risk their standing in global markets, where environmental concern and advocacy has the potential to influence their behavior inside Brazil. This CSSN Position Paper provides some background, a brief history of recent measures under Bolsonaro, and looks ahead at some possible future directions.

### Background

The attack against the environment is not new in Brazilian politics, where protections have always been fragile, and efforts inconsistent. Ministers, secretaries of state, high-level public officials dealing with environmental protection have long been guided by an anachronistic and short-term developmentalist vision. Brazil's leaders have frequently ignored basic principles of social justice, ecological prudence and precaution that should guide contemporary notions of political responsibility.<sup>1</sup> Policymakers have frequently used their positions to remove what they consider as environmental obstacles to economic growth. With few exceptions, decisionmakers have considered socio-environmental impacts as necessary negative externalities, seeing the country's development only as economic growth and international revenue generation. In the last decades, particularly after the drafting and adoption of the 1988 Constitution and more intensely within periods of resumption of

<sup>1</sup> F. Donadelli, Environmental policy integration in Brazil: an analysis of climate and biodiversity policies. *Revista de Administração Pública* 51 (5), 734-766 (2017).

P. M. Fernside, Environmental policy in Brazilian Amazonia: lessons from recent history. *Novos Cadernos NAEA* 19 (1), 27-46 (2016).

economic growth, socio-environmental sustainability has been inconsistently attended to. This has been true especially under conservative administrations, but also under relatively progressive governments, depending upon how their political coalitions aligned with the demands of national and international economic sectors. Some were more dependent upon “ruralista” political power based in huge agribusinesses such as soy, meat and sugarcane; others found voters and financial supporters in cities in the country’s wealthier Southeast. What is astonishing and new is the aggressive and explicit way in which this dismantling of environmental regulation and public agencies in charge of environmental protection has been conducted, under the command of the Minister of the Environment, with the approval of the President of the Republic and under the complacent aegis of civilian and military sectors that either work with or support Bolsonaro’s government.<sup>2</sup>

## A Brief History of Recent Measures

Bolsonaro’s strategy has been based on four pillars:

- (i) The institutional weakening of federal environmental agencies such as ICMBio and IBAMA, including a reduction or simply the non-execution of their budgets;**
- (ii) The government’s decision to discontinue social participation and pluralistic dialogues in bodies like the National Environment Council (CONAMA), which had its composition reduced from 96 to 23 members;**
- (iii) The control and centralization of federal environmental agencies’ management by an increasing number of military and members of the police forces in command positions; and**
- (iv) The misuse of instruments at the disposal of the Executive Branch, that take effect immediately before (or even without) passing through the scrutiny of the National Congress. These include provisional measures (which are similar to executive orders in the U.S.), decrees, normative instructions, among others, in order to accelerate changes proposed by the current government in addressing environmental issues.**

In September, 2020 the 135th ordinary meeting of CONAMA<sup>3</sup> showed that these tactics are part and parcel of a broader strategy of radical transformation of environmental conservation and protection policies adopted by the Brazilian State over the past three decades. There were certainly contradictions in previous governments, but the Bolsonaro administration broke with the trajectory of pluralist debates that were at least minimally guided by socio-environmental protection tenets, such as transparency, participation, preventive monitoring and control. The CONAMA session on September 28, 2020 was yet another step within a wide-range and stealthful movement of using infra-legal loopholes to extinguish participatory and environmental conservation mechanisms. Through Decree No. 9,759 of April 11, 2019,<sup>4</sup> several representative bodies were extinguished or reformulated, drastically reducing the participation of civil society in the formulation of public policies. In some sectors, the extinct boards represented the only space available for civil society to speak up

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<sup>2</sup> Available at:

[https://noticias.uol.com.br/meio-ambiente/ultimas-noticias/redacao/2020/10/16/bolsonaro-exalta-fiscalizacao-ambiental-mais-branda-ministerio-que-ajuda.htm?utm\\_source=akna&utm\\_medium=email&utm\\_campaign=19102020-ClimateInfo-Newsletter](https://noticias.uol.com.br/meio-ambiente/ultimas-noticias/redacao/2020/10/16/bolsonaro-exalta-fiscalizacao-ambiental-mais-branda-ministerio-que-ajuda.htm?utm_source=akna&utm_medium=email&utm_campaign=19102020-ClimateInfo-Newsletter).

<sup>3</sup> Available at:

[http://www2.mma.gov.br/port/conama/reuniao/dir1923/Transcricao-135a%20RO\\_CONAMA-28\\_09\\_2020.pdf](http://www2.mma.gov.br/port/conama/reuniao/dir1923/Transcricao-135a%20RO_CONAMA-28_09_2020.pdf)

<sup>4</sup> Available at: [http://www.planalto.gov.br/ccivil\\_03/\\_ato2019-2022/2019/decreto/D9759.htm](http://www.planalto.gov.br/ccivil_03/_ato2019-2022/2019/decreto/D9759.htm)

about topics of public interest. Although CONAMA was not touched by the aforementioned decree, its composition was reduced and drastically altered by Decree No. 9,806 / 2019 of May 28, 2019<sup>5</sup> with only four civil society representatives remaining. Those were selected by drawing lots. With the new CONAMA configuration, the path was open for the approval, within the Council, of any matter of interest to the current government and its support coalition, all of which reveals a well-articulated strategy.

This set the stage for the repeal of Resolutions 302 and 303 dealing with the parameters, definitions and limits of Permanent Preservation Areas at the 135th ordinary meeting of CONAMA on 28 September 2020. The CONAMA reorganization aimed at changing the composition of the Council to ensure a “friendly” membership and allowing the revocation of earlier Council’s resolutions that endangered specific economic interests who were part of Bolsonaro’s political coalition.

The posture adopted by the current government reveals its deep political world-view: this administration would phase out possibilities of democratic debate about the relevance of the environment in development projects in Brazil. Just as the COVID pandemic was gripping the nation, in the infamous ministerial meeting on April 22, 2020 now seen around the world, Environment Minister Ricardo Salles declared:

***“We currently have the possibility, now that the media’s attention is turned exclusively ... almost exclusively to COVID ... The opportunity that we have, now that the media outlets are...giving us a little relief on other issues, is to move faster with the infra-legal reforms of deregulation, simplification, all reforms ...***

***... So you need to make an effort now while we are going through this moment of tranquility in terms of press coverage, because the media only talks about COVID and now we can do all this in two shakes (of a lamb’s tail) and change all the rules and simplify rules ...***

***... And let the AGU<sup>6</sup> stand by for each fight you have, because there will be many fights... So for that we have to have the AGU artillery prepared for each line that we advance ...***

***... We don't need the Congress. Because something that needs the congress too, in this, in this matter, in the current context of confusion we will not be able to ... approve... Now there are many things that only depend on an expert or technical opinion, then our signature. Without this technical opinion, there is also no signature, because giving our signature without technical opinion is jail ...<sup>7</sup>***

***... it's really worth it. We have a huge space to move on ...”***

## **Worrying Effects and Future Prospects**

The suggestions Salles made during the 22 April meeting shows just how fragile environmental protections and mechanisms are in Brazil. Many are based on non-legislative mechanisms; when laws exist they delegate to the administrative branch decisions that can profoundly transform their impact. Not only are civil society organizations entirely excluded from this process, the Congress itself is

<sup>5</sup> Available at: [http://www.planalto.gov.br/ccivil\\_03/\\_ato2019-2022/2019/decreto/D9806.htm](http://www.planalto.gov.br/ccivil_03/_ato2019-2022/2019/decreto/D9806.htm)

<sup>6</sup> AGU - The Advocacy General of the Union is the public institution responsible for the legal representation, inspection and control of the Union and the Federative Republic of Brazil, as well as for the protection of public assets against third parties or against the Government’s incumbent officers. Its director is nominated by the president and presents an official ranking as minister.

<sup>7</sup> Here the Environment Minister refers to infra-legal orders and administrative decisions.

excluded from these administrative decisions. The attack on and aversion to democratic debate takes place not only in these practices, but also in the persecution against environmental leaders and groups seeking to resist and denounce them.

2021 begins with important changes at the international and national levels. On the one hand, the Bolsonaro government expects less resistance in the National Congress thanks to the election of the new presidents of the Chamber of Deputies and of the Federal Senate who are aligned with the Executive power. Resistance continues and comes from opposition parties, civil society and from the Supreme Federal Court, which has already taken decisions to protect the environmental state from the Bolsonaro administration (e.g. with the suspension of CONAMA Resolution 500/2020, which revoked the aforementioned rules that dealt with the limits of Permanent Preservation Areas). On the other hand, the inauguration of the Biden administration takes away one of Bolsonaro's greatest allies, and its disinterest in Brazil's environmental and social protections. Despite these conjunctural changes, as a society, we cannot allow a government--one that is averse to the conservation of the national natural heritage, committed to anti-scientific views, and driven by short-term economic objectives-- to circumvent democratic public debate and the National Congress.

What we seek to highlight here is the need to rethink the mechanisms of public administration of the Brazilian State, so that long-term goals related to environmental protection do not become easy hostages to reactionary governments who wish to avoid democratic debate on these issues. In this sense, it is essential and urgent that Brazil's democratic forces--especially those that act in the Legislative and Judiciary branches of the State, and the countless institutions, organizations and associations representing civil society--defend and fight for reestablishing mechanisms for environmental protection. Together with them, scientists like us need to analyze what kinds of protective mechanisms within the Brazilian State could be set up to avoid future attacks, and fight against tactics that are not committed to the precautionary principle and responsibility towards future generations.

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