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# Between Deinstitutionalization and Resilience: Institutional Participation in the Bolsonaro Administration\*

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## Resumo

### Entre a Desinstitucionalização e a Resiliência: Participação Institucional no Governo Bolsonaro

Nosso objetivo é caracterizar a desinstitucionalização impulsionada pelo governo Bolsonaro e aferir seus alcances sobre os conselhos. Oferecemos um diagnóstico empírico da situação regulatória de 103 colegiados nacionais, a partir de base de dados original. Argumentamos que as medidas do governo não geram efeitos homogêneos e que variam em função de dois fatores: i) as preferências do governo em relação aos conteúdos das políticas públicas; ii) a resiliência dos conselhos. A resiliência, é resultado da combinação de duas dimensões, para o qual desenvolvemos uma tipologia analítica: o desenho institucional e sua inserção nas respectivas comunidades de políticas. Concluímos que os conselhos mais afetados em seu funcionamento estão relacionados às políticas cuja pauta é contrária àquela do governo Bolsonaro e que possuem menor resiliência, considerada em suas duas dimensões. Proporcionalmente, meio ambiente foi a área mais atingida pela revogação. Já direitos humanos e políticas sociais sofreram mais alterações substantivas. Por sua vez, a área de desenvolvimento econômico e infraestrutura foi a menos afetada, face ao maior alinhamento com as preferências do governo, mesmo contando com colegiados com menor resiliência.

**Palavras-chave:** Mudança Institucional; Desinstitucionalização; Resiliência; Conselhos de Políticas Públicas

## Abstract

### Between Deinstitutionalization and Resilience: Institutional Participation in the Bolsonaro Government

This study aims at characterizing the deinstitutionalization prompted by the Bolsonaro government and assessing its impact over participatory councils. It provides an empirical diagnosis of the regulatory situation of 103 national collegial bodies, based on an original database. It argues that the government measures do not result in homogeneous effects and can vary according to two factors: i) the government's preferences in policy content; ii) the councils' resilience. It proposes an analytical typology of resilience based on the interaction between two dimensions: institutional design and councils' degree of insertion in their respective policy communities. Considering both dimensions, it concludes that councils whose performance was the most affected were the ones related to policies whose agenda is contrary to that of the Bolsonaro's government, and displaying less resilience. In proportion, the environment policy area was the

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most affected by revocations. Human rights and social policies underwent more substantive changes. In turn, the economic development and infrastructure area was less affected, due to its greater alignment to the government's preferences, even though its collegial bodies were less resilient.

**Keywords:** Institutional Change; Deinstitutionalization; Resilience; Public Policy Councils

## **Résumé**

### **Entre la Désinstitutionnalisation et la Résilience : Participation Institutionnelle sous le Gouvernement Bolsonaro**

Notre objectif est de caractériser la désinstitutionnalisation impulsée par le gouvernement Bolsonaro et d'évaluer ses répercussions sur les conseils. Nous offrons un diagnostic empirique de la situation réglementaire de 103 collèges nationaux, à partir d'une base de données originale. Nous soutenons que les mesures du gouvernement n'ont pas des effets homogènes et varient en fonction de deux facteurs : i) les préférences du gouvernement en ce qui concerne les contenus des politiques publiques ; ii) la résilience des conseils. La résilience résulte de la combinaison de deux dimensions, pour lesquelles nous avons développé une typologie analytique : la conception institutionnelle et son insertion dans les communautés respectives de politiques. Nous concluons que les conseils les plus affectés dans leur fonctionnement sont liés aux politiques dont l'agenda est contraire à celui du gouvernement Bolsonaro et qui ont une résilience moindre, considérée dans ses deux dimensions. Proportionnellement, l'environnement a été la zone la plus touchée par la révocation. En revanche, les droits humains et les politiques sociales ont subi des changements plus substantiels. Par ailleurs, le domaine du développement économique et de l'infrastructure a été le moins touché, en raison de son plus grand alignement avec les préférences du gouvernement, même avec des collèges de moindre résilience.

**Mots-clés :** Changement Institutionnel ; Désinstitutionnalisation ; Résilience ; Conseils de Politiques Publiques

## Resumen

### Entre la Desinstitucionalización y la Resiliencia: Participación Institucional en el Gobierno Bolsonaro

Nuestro objetivo es caracterizar la desinstitucionalización impulsada por el gobierno de Bolsonaro y evaluar sus alcances sobre los consejos. Ofrecemos un diagnóstico empírico de la situación regulatoria de 103 colegiados nacionales, a partir de bases de datos originales. Argumentamos que las medidas del gobierno no generan efectos homogéneos y que varían en función de dos factores: i) las preferencias del gobierno en relación con los contenidos de las políticas públicas; ii) la resiliencia de los consejos. La resiliencia, es el resultado de la combinación de dos dimensiones, para lo cual desarrollamos una tipología analítica: el diseño institucional y su inserción en las respectivas comunidades de políticas. Concluimos que los consejos más afectados en su funcionamiento están relacionados a las políticas cuya pauta es contraria a la del gobierno de Bolsonaro y que tienen una menor resiliencia, considerada en sus dos dimensiones. Proporcionalmente, el área de medio ambiente fue la más afectada por la revocación. Por su parte, los derechos humanos y las políticas sociales tuvieron alteraciones más sustantivas. El área de desarrollo económico e infraestructura fue la menos afectada, dado el mayor alineamiento con las preferencias del gobierno, inclusive contando con colegiados con menor resiliencia.

**Palabras clave:** Cambio Institucional; Desinstitucionalización; Resiliencia; Consejos de Políticas Públicas

## Introduction

During the post-transition years, Brazil gained global recognition as a laboratory for participatory innovations, providing the world with models for enhancing social participation in defining, monitoring, and managing policies. Ironically, the country has now become an example again, but this time due to the dismantling of participatory institutions targeted since the rise of the extreme-right wing into power. Participation was identified as a target for dismantling during Jair Bolsonaro's campaign and was explicitly carried out through Decree No. 9,759/2019, issued in March 2019. This decree nullified all collegial bodies in federal public administration established by decree or lower regulations. It wasn't the initial nor the final attempt against participatory institutions.

However, strictly speaking, what did this dismantling mean and how did it impact participatory institutions (PIs)? The aim of this article is to characterize the deinstitutionalization promoted by the Bolsonaro government during its four years and assess its impact on the collegial bodies *sine ira et studio*, establishing facts through systematic empirical research and engagement with the best available knowledge in the field of research on participation and in the realm of institutional change, particularly *policy change* in the tradition of historical new institutionalism. Although deinstitutionalization might result (intentionally or not) from inaction towards a program or policy, we focus on the deinstitutionalization resulting from deliberate governmental actions, that is, measures or formal acts that entail negative changes in the functioning of participatory institutions or revoke them. As the article will demonstrate, there are multiple analytical proposals to characterize negative policy change. Our emphasis is on highlighting that the processes of institutionalizing policies – PIs in this case – play a crucial role in shaping the way and extent to which they are affected by negative changes and, therefore, by deinstitutionalization. Those measures encompass a set of regulations across several hierarchical levels that aimed at restricting or annulling the roles of collegial bodies for their respective policies.

Empirically, we delve into domestic and international literature devoted to documenting and systematizing this government's effects on PIs, taking as research object federal-level collegial bodies involving civil society participation and the changes they underwent following Decree No. 9,759/2019. We additionally establish facts grounded in systemic evidence to illuminate the characteristics and conditions that render PIs within a

specific policy area more resilient, employing a two-dimensional typology. Theoretically, we draw connections between institutionalization and deinstitutionalization, simultaneously assessing the significance of key proposals that articulate existing knowledge on policy change arising from shifts in the preferences of new governments. This evaluation is particularly rooted in literatures on *retrenchment* and *policy dismantling*.

With this dual objective in mind, we aim to address two gaps on the literature concerning the policies of the Bolsonaro's government, specifically those related to participation: i) the brief detailed understanding of deinstitutionalization measures, which often overlooks variations in their scopes; and ii) the disconnect between empirical diagnosis, understandably driven by political urgency, and consolidated theoretical propositions concerning policy changes associated with retrenchment. Regarding the first issue, the literature struggles to elucidate variations in the outcomes of decisions to dismantle PIs. This challenge arises from overly broad diagnoses, either attributing the failure to Brazil's participation model or declaring the end of the Republic established by the 1988 constitutional pact. Concerning the second matter, the literature proposes extraordinary categories to accommodate the novelty of the Bolsonaro administration due the lack of engagement between two distinct bodies of literature. On the one hand, there are diagnoses of the strategies and maneuvers employed by the Bolsonaro government; on the other, there exists literature on the institutionalization of participation and a set of well-established theoretical propositions within the literature concerning the ways, circumstances, and degrees of institutional policy change. Some of these empirical diagnoses have played a timely and politically committed role by raising complaints to highlight the detrimental consequences of government measures for participation. However, our endeavor is to make progress by developing an accurate and procedural understanding of the impacts of deinstitutionalizing PIs.

We argue that the measures taken by Bolsonaro government's and their effects on national collegial bodies are not homogeneous. Understanding this variation requires an approach that is both analytically and empirically attuned to the logics of institutional change in policy subsystems vis-à-vis change in politics. Specifically, we argue that the effects of Bolsonaro administration's measures against collegial bodies vary based on two factors: i) the government's **preferences** in policy content; and ii) the **resilience** of collegial bodies.

We examined the first factor before delving into the second. The broad diagnoses of a dismantlement of participation *in totum* disregards, on the one hand, that the institutionalization of participation did not exhibit the same density across all areas in the years following Brazil's democratic transition, especially when the Workers' Party (Partido dos Trabalhadores – PT) led the federal government. We recognize that Decree No. 9,759/2019 reflects a stance against participation in specific policy areas that pose challenges to the government's programmatic and political stakes. It is crucial to acknowledge that the Bolsonaro government was organized in direct opposition to the actors and agendas prioritized by the social governability of PT governments (Bezerra, 2022). This opposition has resulted in uneven effects of deinstitutionalization on policy areas and their respective collegial bodies. Therefore, as a first step, we analyze the decree's effects considering distinctions among macro policy areas: economic development and infrastructure, social policies; human rights and minority rights; and environment and sustainable development. Considering a history of lower investment in participatory spaces in areas such as economic development and infrastructure during PT governments (Abers, Almeida, 2019), and their alignment to Bolsonaro's political proposals, we anticipate that this area is likely to be less affected by deinstitutionalization measures. Long standing policy direction has maintained varying degrees of affinity with different administrations, and policy institutionalization fluctuates based on the relationship established between administrations and the social agents which have historically disputed the respective policy (Gurza Lavalle et al., 2019). It is expected that differences among areas and, consequently, the relationship between social agents and certain governments will shift with significant electoral changes. Rather than anticipating that the strategy of the Bolsonaro government with regards to the participation is doctrinaire – against participation itself – we comprehend it as a political strategy that varies depending on the agents and areas prioritized. Despite the president's rhetoric against activism and the common portrayal of his government as “anti-participatory” – given the measures taken against agents who once had policy influence –, Bolsonaro's administration actively involves and encourages the engagement of agents and social movements aligned to its political project. These actors work towards the institutionalization of their worldview into policies (Almeida, 2021). Indeed, Bolsonaro urged for the active participation of his political base, yet he also encourages other forms of participation that do not align with our analytical framework (Scerb, 2021).

Concerning the second factor, the **resilience** of collegial bodies stems from the amalgamation of two dimensions: their **institutional design**, ranging from stronger to weaker – based on the hierarchic level of the regulations governing each collegial body and its responsibilities – and their level of embeddedness in their respective **policy communities** (Almeida, 2020; Almeida, Martelli, Coelho, 2021). This perspective assumes that the impacts of deinstitutionalization can be more comprehensively understood in the light of the process through which each respective policy was institutionalized (Gurza Lavalle et al., 2019). Resilience is linked to the “institutional work” of civil society agents and, in more specific terms, the policy community engaging with a PI as an important domain of action, influence, and deliberation regarding the trajectories of their respective policy, as well as the innovation and adaptation to the new adverse context (Almeida, 2020). By combining both dimensions, a typology is formed that enhances the concept of resilience proposed elsewhere (Almeida, 2020). It categorizes the impacts of deinstitutionalization along a *continuum* between vulnerability and resilience, aligning, to some extent, with the distribution of effects of deinstitutionalization on the national collegial bodies examined.

In summary, the analysis leads to the conclusion that the functioning of collegial bodies most significantly affected are those situated in policy areas whose agendas run counter to the political agenda of the Bolsonaro government and are less resilient, considering both its dimensions. Proportionally, the environmental area witnessed the most substantial impact from the revocation: 4 out of 14 (28%) revoked collegial bodies belonged to this domain. Additionally, among the 29 bodies undergoing more substantial changes, eleven bodies were from the human rights area, and ten from social policy (72.41% combined). An analysis of the content of these areas reveals that the collegial bodies with robust institutional design and a high degree of embeddedness in their policy communities – such as health and social services – were comparatively less affected than those in areas like culture and labor policies, which have a weaker institutional design. Finally, as expected, the economic development and infrastructure area, despite its lower resilience, experienced less overall impact, accounting for 31.43% of the collegial bodies that remained unchanged and active. This can be attributed to its closer alignment with the government’s political preferences in policy content.

The results lie in a systematic survey designed to comprehend all federal-level collegial bodies involving non-governmental actors – and therefore excluding those solely governmental. A comprehensive database



containing standardized information on 103 national collegial bodies was created, documenting all changes in laws, decrees, and lower regulations during the Bolsonaro administration (2019–2022).

In addition to this introduction, the article is organized in six additional sections and a conclusion. In the second section, we provide context for attacks against PIs, specifically addressing Decree No. 9,759/2019, which mandated the revocation of hundreds of collegial bodies. We also examine the diagnoses offered by the literature in this regard. Subsequently, in the third section, we delve into the literature on policy change that, in the tradition of historical new institutionalism, has been reflecting about negative change, and focus on the role of mechanisms that inhibit or weaken dismantlement. Moving on to the fourth section, we bridge these mechanisms with the literature about PIs and introduce our analytical framework concerning the deinstitutionalization and resilience of collegial bodies. In the fifth section, we detail our methodological choices and the results of the analysis of the effects of deinstitutionalization measures on the 103 collegial bodies. Then we examine these effects in terms of activity and inactivity, legal change, and revocations, considering policy areas. Afterwards, we explore the four possibilities of the typology derived from our analytical framework, offering a detailed description of selected collegial bodies. The final considerations synthesize the findings and point to their most relevant implications.

## **Social participation: from consensus to contestation and its diagnoses**

Despite being a subject of contention, participation played a pivotal role in the reconstruction of democracy in the country as a constitutional principle (Dagnino, 2002); a principle gradually found expression in various institutional forms, out of which the policy council stands out. Established by Law No. 8,142/1990, which addresses community participation in the management of Brazil's Unified Health System (Sistema Único de Saúde – SUS), the design of a collegial body that brings together representatives from government and civil society across three levels of government has served as a model for various policy areas. The creation and/or maintenance of national collegial bodies have been a feature of governments with distinct political and ideological orientations throughout Brazil's democratic transition. Notably, the two presidents who created the most national collegial bodies were, respectively, Luiz Inácio Lula da Silva (PT), with 41, and Fer-

nando Henrique Cardoso, from Brazilian Social Democracy Party (Partido da Social Democracia Brasileira – PSDB), with 19 (Bezerra, 2020). Although the peak happened during PT administrations, it is worth highlighting that all governments consistently expanded these bodies, demonstrating a shared commitment with the issue throughout the entire democratic era, with a notable inflection occurring only in 2016. This pattern of continuous expansion also extends to the subnational level, where a genuine federative architecture of councils exists (Gurza Lavalle, 2011).

The new cycle, marked by the contentious nature of PIs, began in the end of Dilma Rousseff’s first term: her conflict with Congress over a bill providing for a “National Participation System”, which became particularly evident within the executive branch during the president’s impeachment process (Avritzer *et al.*, 2022). Under Michel Temer’s presidency, even before the impeachment was concluded, ministries were abolished, their budgets were cut, and the composition and expenditures of collegial bodies underwent revision (Avelino *et al.*, 2017). Decree No. 9,076/2017 removed the National Council of Cities (Conselho Nacional das Cidades – ConCidades) from the responsibility of convening the sector’s national conference, leading to a three-year postponement. The composition of certain collegial bodies was also changed through presidential intervention, as in the case of the National Youth Council and the National Education Forum. The Board of Trustees of the Brazil Communication Company, in turn, was completely extinguished (Lima, 2020). An abrupt reduction in the number of national conferences was also observed: only seven were held between 2016 and 2018, compared to 72 under Lula’s administration and 42 under Dilma’s (Lima, 2020). In instances in which civil society independently organized conferences, these forums evolved into spaces of opposition to the new government (Pogrebinschi, Tanscheit, 2017).

The ascent of Jair Messias Bolsonaro to power, becoming the country’s first popular extreme-right president (Nicolau, 2020), not only heightened an already unfolding shift in direction, but also solidified the most important political inflection in the country since the enactment of the Constitution. The political consensus enshrined by the Constitution, especially the State’s commitment to social, environmental, and human rights policies, inclusion, and democratic order — including the role of participation — garnered diminishing consensus among politicians and became contentious in itself. In addition to the extensive alteration of governmental structures, involving the abolition or merging of ministries (Law No. 13,844/2019), participation or, more precisely, PIs, became a

target. On the first day of his term, Bolsonaro issued Provisional Presidential Decree No. 870, amending the Organic Law on Food and Nutrition Security (Law No. 11,346/2006), and effectively ceasing the operations of the National Council for Food Security and Nutrition (Conselho Nacional de Segurança Alimentar e Nutricional – CONSEA).

Three months later, the president decided to seal the fate of all national collegial bodies through a single initiative: Decree no. 9,759, of April 11, 2019. This decree employed the broadest possible terms to abolish all collegial bodies in direct federal public administration, including all councils, committees, commissions, groups, boards, teams, tables, forums, rooms and “any other denomination given to the collegial body”. Thus, unless these bodies submitted a justification for their existence to the Office of the President’s Chief of Staff by June 28 of that year, all national collegial bodies established by decree or by administrative rule would be revoked. The Office of the President’s Chief of Staff, directly subordinated to the president, was granted the authority to approve or deny such requests.

However, before the deadline set by the decree expired, the Federal Supreme Court (Supremo Tribunal Federal – STF) issued a preliminary injunction, later confirmed in the trial of the Direct Action for the Declaration of Unconstitutionality (Ação Direta de Inconstitucionalidade – ADI) no. 6121, filed by the Workers’ Party (Partido dos Trabalhadores – PT). This injunction restricted the scope of the decree, safeguarding each and every national collegial body mentioned by law, even if they were regulated by lower regulations. At the ADI trial, the STF also emphasized the need for a clear definition of which collegial bodies were to be revoked.

This setback prompted the president to alter the means, but not his ends. The assault against the agendas of the collegial bodies which challenged the government’s programmatic and political goals persisted. However, it took a more subtle form, employing institutional changes aimed at constraining the functioning of collegial bodies, guided by the principles laid out in Decree No. 9759/2019. These measures involved restricting the composition, the number of meetings, and the resources for those bodies, while also changing rules for selecting members and presidents etc. Furthermore, the government issued new decrees which explicitly revoking some collegial bodies (Bezerra, Rodrigues, Romão, 2022). Nevertheless, an initial survey focused on the decree’s effects shows that 446 collegial bodies were revoked, including those without civil society representation (Farranha, Bataglia, de Paula, 2021).

Faced with such a political turnaround, some initial analyses attempted to characterize the Bolsonaro government, raising awareness about the attacks and their detrimental consequences under a generic doctrinaire framework. Frequently, these early diagnoses adopted a tone of denunciation, in line with the aim of warning about the dismantling underway (Bravo, Pelaez, Menezes, 2020; Fontes, 2019; Koupak *et al.*, 2021; Quadros, Mussoi, 2021; Soyer, Barbosa Jr., 2020). The denunciation efforts portrayed the extreme-right or ultraconservative ideology of the president – or more accurately, the coalition of interests he represented – as a key factor, giving the deinstitutionalization of participation a doctrinaire character, while also apparently explaining it based on its inherent antagonism to the core features of Bolsonarism.

Another set of diagnoses takes a contrasting view, suggesting a failure of PIs. This perspective gained traction during and after the wave of protests known as the 2013 June Journeys. They propose that this expression of conflict outside institutions implies that “[institutionalized] participation became an end in itself” and only fostered a “restricted expansion” of democracy, reproducing several biases and growing distant from broad sectors of society (Bringel, 2013). Similarly, this failure could also be explained by the lack of authorization and *accountability* mechanisms in PIs and, consequently, by the replication of flaws typical of traditional political representation, resulting in unequal participation (Miguel, 2017). For Goldfrank and Esquivel (2020), the Brazilian participatory system failed similarly to the Venezuelan one because it could not promote policy implementation and inclusion. The reasons for the Brazilian failure, as they argue, lie in its collective and macro participation dynamics, which are disconnected from grassroots movements and the population, and its low effectiveness.

Recent case studies in the literature, in turn, focus on collegial bodies in the areas of human rights and the defense of minorities, social policies, and the environment and sustainable development. They provided detailed insights into the deinstitutionalization measures promoted by the government, either aimed at weakening collegial bodies or altering their composition and functioning in favor of individuals holding government positions. The defense of policy communities is less observed; and it is a common tendency to attribute the rationality of the decrees on collegial bodies to the Bolsonaro administration’s doctrinaire traits, often characterized as “ideological hatred against participation” (da Costa Oliveira, 2022).

Those arguments fall short of properly explaining the deinstitutionalization process promoted during the Bolsonaro government. Firstly, while the inflection is evident and uncontroversial, its effects are mediated by several factors, which differ in distinct areas of politics and policy, as shown by recent case studies (Cardoso, Silva, Pereira, 2022; De Almeida, Rosa, 2022; Mussoi, Quadros, 2022). Secondly, the characterization of Bolsonaro administration's nature and political orientation is also unable to account for the variation in the effects of deinstitutionalization, since it disregards both the political selectivity of deinstitutionalization initiatives against participation and the historical process of institutionalization of policies, as well as the actions and strategies of agents who are defensively and offensively disputing the future of PIs. Finally, meaningful characterizations of the failure of the Brazilian "participatory system" appear insensitive to the variation present in the very object they aim to diagnose. Taking the case of collegial bodies, the most numerous and widespread PIs in the country, Bolsonaro's dismantling measures occur at the national level and does not directly affect their operation at sub-national levels. The potential indirect effects are still relatively unknown, and tens of thousands of municipal collegial bodies are in operation. At national level, as discussed in the fourth section, a series of empirical works challenge diagnoses of failure and wasteland.

## **Policy changes and deinstitutionalization**

The literature on institutional change offers various perspectives to understand deinstitutionalization, considering explanatory factors and effects on institutions and policies. In this article, our focus is on analyzing the specific institutional changes resulting from major transformation in the ruling coalition, introducing marked shifts in policy priority and focus. This distinction is relevant because, as demonstrated below, the literature addressing institutional change and its endogenous and incremental mechanisms provides limited insights into relevant aspects of *policy change*, as examined in this article<sup>1</sup>. In fact, "with some notable exceptions (...) the precise direction and magnitude of policy change tends not to be systematically considered, let alone measured" (Bauer, Green-Pedersen, Turnpenny, 2012:5).

However, it is not the first time elections give place to major political-ideological reorientation of great magnitude. Among the analysis investigating negative policy change, those rooted in the literature on *retrenchment* and *policy dismantling* stand out. In the 1990s, the literature on *retrenchment*

delved into the decade when neoliberal structural adjustment policies were at their peak, beginning with the Thatcher and Reagan governments, and diagnosed that state retrenchment reforms had not lived up to their intentions and discourse (Pierson, 1994). Regardless of the accuracy of the diagnosis on the resilience of welfare state policies, which has been widely debated in terms of conceptual assumptions and methodological choices (Bauer, Green-Pedersen, Turnpenney, 2012; Green-Pedersen, 2002; Starke, 2006), this literature illustrates that the extent of changes is not unobstructed. Instead, it is constrained by costs, benefits, and the operation of known mechanisms of institutional change that often differ from those that operated in the phase of (“positive”) expansion of the policy. Despite potential differences, we argue that the processes through which policy is institutionalized shed light on their deinstitutionalization, especially when it comes to understanding its resilience. Thus, to analyze deinstitutionalization, one must consider that the choice or selectivity of political agents in defining the direction and intensity of policy change does not take place in an institutional and political vacuum.

Two sets of mechanisms are central to the literature on the retraction of public policies: those with reinforcing effects (*policy feedback mechanisms*), in which the legacies, characteristics, and benefits of policies raise agents’ interest in its preservation; and *institutional strength mechanisms*, in which institutional constraints restrict the space for potential change and affect the costs of carrying it out. The idea of *policy feedback mechanisms* suggests that, depending on the path followed, a policy can generate positive *feedback* that increases the cost of returning to a previously available option, or negative *feedback*, facilitating the course of change (Pierson, 1996). Although changes in government coalitions lead to policy reorientations, *policy legacies* impact the behavior of agents and the possibility of institutional and policy dismantling (Belánd, 2010). Therefore, it is necessary to consider first, alongside the choice and selectivity of agents, the type of policy and the individual characteristics of each program, project, or policy, including time, target audiences and different formal institutional structures responsible for their implementation, which may or may not be conducive to its durability (Pierson, 1994).

Considering that *policies shape politics*, they can create organized groups, new consumers or beneficiaries, new providers, all of which with concentrated interests that impose political costs on the agents committed to holding them back (Pierson, 1994, 1996). The costs of change would lead to the adoption of political strategies to avoid guilt or to relinquish

responsibility (*blame avoidance*), making the political logic behind the expansion of the welfare state distinct from that of its retraction (*new welfare politics*). This is the central argument of Pierson's seminal work.

The argument about policy mechanisms with reinforcing effects remains valid, and the most recent developments in the literature on policy dismantling have advanced by expanding the scope of policies studied beyond social and redistributive initiatives. This provides a more sophisticated understanding of the strategies used to avoid political costs and characterizes the circumstances that lead politicians to choose to dismantle policies (Bauer *et al.*, 2012). The circumstances involve complex games of costs and benefits estimated by those in charge of the dismantling – and the optional or forced nature of this choice –, the outcome of which determines which political strategy is the most convenient. Despite the importance of these mechanisms, it is worth remembering that Hacker and Pierson (2019) show that, in contexts of broad political polarization (such as Brazil), political agents use the strategy of branding proposals as products of specific parties to trigger automatic animosity and make it easier to change their content, even when they are beneficial and attract a broad mass of supporters.

Institutional strength mechanisms are crucial in determining the possibilities for institutional change, particularly the dismantling of policies. Institutional constraints – encompassing rules and the extent to which one can interpret them –, along with the presence of defenders of the *status quo*, with greater or lesser veto power, play a significant role in explaining the types of institutional change and the uneven results of the anticipated policy reforms (Mahoney, Thelen, 2009; Immergut, 1992; Bauer, Jordan, Green-Pedersen e Heritier, 2012). Institutional strength mechanisms also take into account the preferences of the agents and their calculations of costs and benefits, inherently embedded in dynamic contexts and specific institutional settings, as factors that explain different dismantling strategies (Bauer, Knill, 2012).

It is worth noting that the unfolding of the literature on dismantling and its contributions concerning endogenous incremental change mechanisms – as well as the types of agents promoting it – offers limited information on the factors associated to the unequal resilience of policies of the same type once decision to dismantle them has been taken and implemented. Thus, our interest aligns more closely with Pierson's seminal contributions on policy mechanisms with reinforcing effects and institutional strength mechanisms.

Currently, the rise of extreme right-wing governments in several democracies has renewed the interest in negative change, and the policy literature has inaugurated a research agenda focused on the impacts of populist governments on public management and its bureaucracies, as well as their reaction to the new policies and their implementation strategies (Bauer *et al.*, 2021). For obvious reasons, Brazilian works shares this interest, and the first systematic studies have already begun to circulate: analyzing dismantling strategies, Gomide, Sá e Silva and Leopoldi (2023) highlight policy features and show that, the more the responsibility for defining and overseeing policies is shared, the harder it is for the executive branch to promote these changes on its own. In turn, Lotta *et al.* (2022) examine the effects of Bolsonaro administration's control over the bureaucracy of the different ministries, diagnose, and define the mechanisms of oppression. The studies about PIs, of course, are no exception and also share the interest in analyzing the effects of negative policy changes.

## **Participatory institutions, deinstitutionalization, and resilience**

The aim of this article is not to categorize types of change or the agents attempting to implement them. Instead, we aim to elucidate the effects of the decree – and of the subsequent measures related to it – on federal collegial bodies in terms of their deinstitutionalization and their greater or lesser resilience. First, the effects of the deinstitutionalization measures must be understood under the light of the policy area or the policy itself. From the relational perspective we have adopted, the legacies of policies and the stances and resources of agents interested in defending a particular collegial body – and in a position to do so – are an expression of the process of institutionalization of the respective policy; in other words, of the processes of state-society interaction which eventually defined the relevant features of the policy – including the role of collegial bodies and other arrangements within it (Gurza Lavalle *et al.*, 2019). Social agents not only rise in defense of policies but are a constitutive part of their development. Understanding how deinstitutionalization has affected different areas requires an understanding of state-society interaction in the development of these policies. Likewise, institutionalization defines the relationship between the policy and the projects disputing it in each policy community (Abers, Almeida, 2019; Dagnino, 2002). Thus, deinstitutionalization and institutionalization are linked: the latter determines the way the former takes place. Secondly, the question posed by institutional



resilience is different from the one raised by institutional change, which is directly connected to the negative sense (deinstitutionalization) of the observed phenomenon. We start from the definition of institutional resilience presented by Almeida (2020), which emphasizes the ‘institutional work’ of civil society agents not to *change*, but to *preserve* PIs as an arena for action, influence, and deliberation on the direction of policy, as well as for innovation and adaptation to the new adverse context.

The literature on PIs provides specific formulations about mechanisms of institutional strength and policies with reinforcing effects which mediate the relationship between deinstitutionalization/institutionalization and resilience at different levels. These formulations give concrete form to policy mechanisms through rich descriptions of the embeddedness of collegial bodies in their respective communities, while institutional strength mechanisms are approached by evaluating aspects of their design.

Concerning *policy mechanisms*, the embeddedness of collegial bodies in their respective policy communities has been highlighted as a factor affecting resilience. Indeed, if it were for the costs associated with electoral *constituencies* – which are important for the literature on *retrenchment* (Brooks, Manza, 2006) – it would have been much easier to revoke PIs. This is due to the low electoral cost of abolishing a participatory model better known by civil society and social movements than by the population. Additionally, the potentially indirect effects of the consequences of its deinstitutionalization on people’s well-being are challenging to track. Nonetheless, sectoral bureaucracy and other institutional agents (notably the judiciary), civil society organizations, and other collective agents could invest in their defense – and indeed, they did so (Almeida, 2020; Bezerra, Rodrigues, Romão, 2022; Direito, 2021; Martelli, Almeida, Coelho, 2022).

Studies show that, in certain areas, communities have struggled over the years to set up policy systems with their own PIs, sharing certain common notions about the role of participation (Côrtes, 2006, 2015; Gutierrez, 2019). They also show a varying level of consensus on the principles and projects that guide the policy changes among different communities (Abers, Almeida, 2019; Romão, Gurza Lavalle, Zaremberg, 2017). However, in cases of strong consensus, such as in health, these communities have managed to define policies’ institutional frameworks in a long-lasting manner, transcending different government coalitions (Dowbor, 2018), and have adopted the council as a mechanism of control over the operation of the policy itself (Almeida, 2020). As shown by Martelli, Almeida, Coelho (2022:66): “the

ongoing changes [dismantling] stem from the significance of the role of PIs in the strategies of their respective policy communities”. Furthermore, communities may also view this threatening context as a political opportunity to promote agendas, introducing a less predictable and linear dimension to the deinstitutionalization process (Abers, Rossi, Von Bülow, 2021).

In the realm of national and international literature, institutional design has consistently emerged as a pivotal factor in comprehending PIs (and less formalized participation spaces), especially in terms of how institutionally strong, how institutionalized, and how effective they are (Faria, 2007; Fung, Wright, 2003; Mayka, 2019). Although PIs are not usually typically associated with robust institutional design or considered exemplars of ‘institutional strength’, the variability in the resilience of collegial bodies suggests that the ongoing changes are not simply a case of ‘institutional weakness’ in which institutions established by constituent processes and preceding governments are replaced in a package or in a serial manner (Levitsky, Murillo, 2013). Rather, more nuanced mechanisms of institutional change come into play. Current research indicates that there has been no uniform solution or mass extinction of collegial bodies by Decree No. 9,759/2019 (Bezerra, Rodrigues, Romão, 2022). They highlight design elements that appear to impact the resilience of PIs: the deliberative or advisory nature of collegial bodies (Morais, Silva, Frota, 2021); specific budget allocation; technical support team with exclusive staff (Avelino, Alencar, Costa, 2017), or, in other words, financial and administrative autonomy (Almeida, 2020); institutional specification or definition of clear prerogatives as to its authority, range of influence on policies and provision for sanctions in the case of non-compliance (Martelli, Almeida, Coelho, 2022; Gurza Lavalle, Guicheney, Vello, 2021); character of the presidency, whether elected or appointed, and the parity or over-representation of civil society, along with the rules allowing control of the agenda (Almeida, 2020).

Drawing on the insights from scholarly work, we developed an analytical model to assess the variation in the effects of deinstitutionalization on participatory bodies. The first factor we considered is the political selectivity of dismantling, taking into account the government’s **preferences** in public policy agendas. The contents of sectoral policies and rights policies exhibit greater or lesser affinity with different governments and the relationships between these administrations and the agents who have historically built these agendas and the collegial bodies themselves as instances of institutionalizing their influence on these policies (Gurza Lavalle et al., 2019). Thus, the institutionalization of participation did not

occur in all areas, nor with equal density in the post-transition years, especially during PT administrations. In the transition and post-transition years, specific projects were defined in various policy areas: in health, SUS, its principles and the centrality of primary care; in social assistance, the transformation of services into public policy along the lines of a universal system called Unified Social Assistance System (*Sistema Único de Assistência Social* – SUAS); in the environment, the protection and preservation of ecosystems and biodiversity. Notably, economic policy and the infrastructure area remained largely immune to the influence of citizen participation (Pires, Vaz, 2014; Abers, Almeida, 2019). This policy area, as seen below, was least affected by the Bolsonaro government's measures.

Beyond ideological alignment, the expansion of participatory mechanisms in PT governments also represents a deliberate political choice embedded in a broader strategy of social governability (Bezerra, 2022). Governability requires – in different combinations and through different strategies, depending on the government – garnering support from the legislative branch, coordinating with entities in the federative pact (states and municipalities), building consensus among citizens groups (society), and aligning with organized groups (civil society) (Bezerra, 2022). The PT adopted participatory governance as a means to maintain its ties with civil society agents who shared historical political affinities in the struggles for democratization and, in post-transition years, in policy-making processes. Particularly noteworthy is the PT's expansion and establishment of PIs in areas dedicated to advocating for the rights of marginalized groups and under-represented minorities (gender, race, LGBTQI+), which are often associated with collective agents advocating for environmental and redistributive agendas in urban policy, food security, agroecology, solidarity economy, etc. The social sector has also been strengthened and had its mechanisms, such as the thematic conferences, expanded.

In the opposite direction, the de-institutionalization carried out by the Bolsonaro government, despite its clumsy implementation, is grounded in a clear political understanding of the role of PIs in the social governability of PT governments. This is particularly evident concerning civil society agents whose policy projects – reinforced by PIs – conflict with the government's agendas and programmatic priorities (Gurza Lavalle, Bezerra, 2021).

As a second factor, we propose categorizing a collegial body's potential **resilience** according to two dimensions. The first one is its **institutional design**, which can be either weak or strong. Conceptually, the variation

depends on whether the collegial body is well-integrated into the regular functioning of the policy of the area it concerns (Gurza Lavalle, Guicheney, Bezerra, 2022). Collegial bodies established by law, with clearly defined attributions and the management of budget resources, exemplify participatory institutions with a strong institutional design. On the other hand, collegial bodies provided only by decrees and without well-defined attributions (or defined only in lower regulations) are examples of PIs with a weak institutional design. For this analysis, covering more than a hundred collegial bodies, we operationalized the institutional design in variables on the normative hierarchy of the legal and lower regulation instruments that create and regulate their powers and functioning.

The chosen approach comes with both limitations and advantages: it lacks information to characterize other significant aspects or dimensions of the institutional design for the 103 national collegial bodies examined, but the normative hierarchy of the instruments used to create and regulate them is clearly relevant to assessing the effects of the decree. Two legal principles broadly apply in this context: first is the regulation hierarchy, according to which a lower regulation cannot change a higher regulation. Second is the prevalence of special law over general law. The hierarchy of norms establishes that the Constitution supersedes laws, which, in turn, supersede decrees. The latter are unilaterally issued by the head of the executive branch and cannot change a law that has undergone discussion and voting in Congress. In turn, with regard to specialty, Decree No. 9,759 is a generic regulation, as it is ostensibly applicable to an indefinite number of collegial bodies. Decrees directed at specific collegial bodies are considered specific.

The second dimension of resilience concerns bodies' **embeddedness in policy communities**. Here we understand the concept of a policy community in the most classic sense: a limited and relatively stable set of members who interact intensely with each other and share the same values and views of what the results of sectoral policies should be (Rhodes, 2006). In this sense, policy communities are more than policy networks, since they share values and coordinate actions. There might be policy networks without established communities or sectors with more than one policy community. Communities can include, in varying combinations, state agents (bureaucracies), market agents, and civil society agents. The importance of a collegial body for a given community in a given public policy sector refers to two aspects: 1) the role of the collegial body in the institutionalization of the policy by state and society; 2) its prioritization by civil society agents given the existing alternatives for institutional and

extra-institutional action. These agents receive special attention in this study. If they assign greater importance to a collegial body, there will be stronger competition around it, which will increase its resilience, enabling it to remain active. Yet when the collegial body is not seen as a relevant space for dispute, it will be likely be marginalized in a politically hostile environment, reducing its resilience. There is limited knowledge characterizing the various aspects or dimensions that facilitate an understanding of the role of collegial bodies for certain policy communities. In fact, most of the 103 national collegial bodies have not even been thoroughly researched by the specialized literature. However, in a policy's institutionalization by state and society, we assume that the importance of a given body arises when it is crucial for the interests and agendas of community actors and it occupies a place in their strategies to navigate the contingencies of the policy and to face the strategies of other actors in the policy network who are not part of this community. Thus, defining whether or not a collegial body is central to a community is crucial for predicting the willingness of agents to act defensively against deinstitutionalization measures. In this context, the definition is based on the literature and a qualitative analysis of selected cases. The position of collegial bodies in policy communities is defined in procedural or historical terms.

Hence, it is feasible to present comprehensive and systematic results for the first dimension of resilience, whereas for the second one we offer compelling evidence that echoes this dimension in extensively studied cases. Both dimensions yield a spectrum of more or less resilient possibilities, encompassing four conceptual types which are distinct but exhibit some variation along a *continuum*. Here we apply this typology to national collegial bodies, but theoretically, it can be extended to other PIs:

- A. **Vulnerable** (*weak institutional design + low embeddedness in policy community*) we expect this type to include collegial bodies which have been revoked by Decree No. 9,759/2019 or remained inactive. In both cases there is low embeddedness into the political community, which we assume leads to fewer disputes concerning their tasks and roles, or that these disputes over relevant interests take place elsewhere.
- B. **Resilient** (*strong institutional design + high embeddedness in policy community*): we expect this category to contain collegial bodies which have not been affected by Decree No. 9,759/2019 nor by other deinstitutionalization measures, which have remained active and without any legal change.

- C. Frail embedded** (*weak institutional design + high embeddedness in policy community*): this type must consist of collegial bodies which have a weak institutional design and are often provided for by decrees or lower regulations but are deeply inserted into one or more policy communities. Also, they have remained active despite changes. In this case, policy communities tend to dispute collegial bodies even if only to challenge the legitimacy of changes in its composition and functioning.
- D. Inert formal** (*strong institutional design + low embeddedness in policy community*): in this category we expect to find inactive collegial bodies which, although provided for by law – and therefore were not affected by Decree No. 9,579/2019 –, do not have close ties with a policy community. In this case, communities may not exist or may have prioritized other forms of advocacy for their respective policies over history (for instance, by having positions in corresponding state departments or other bodies of indirect federal public administration).

There is more than one reason why a collegial body might be less embedded in policy communities: notably, the main agents in these communities may have been displaced from the collegial body; or these agents prefer to invest their energy in other work fronts rather than the body; or there is no proper community corresponding to this policy. Whichever hypothesis is correct, since the agents engaged with a policy typically assign collegial bodies a secondary role, it is not a space for advocacy, nor is it a disputed arena. This makes subtler deinstitutionalization measures – that is, those following the decree – unnecessary.

**Table 1**  
PI resilience typology

	<b>Low community embeddedness</b>	<b>High community embeddedness</b>
<b>Weak institutional design</b>	Vulnerable	Frail embedded
<b>Strong institutional design</b>	Inert formal	Resilient

Source: the authors.

This typology has a conceptually logical or deductive nature. This typology differs from descriptive or frequentist typologies in that it is based on conceptual covariations, indicating that both analytical

dimensions covary, and the types organize the combination of the relevant logical possibilities of variation. This typology proposal, therefore, is a heuristic resource which prioritizes theory or the analytical statement of logical relations. However, it does not exhaust all potential empirical explanations of vulnerability or resilience in each case of national collegial bodies undergoing deinstitutionalization measures. Neither does it exhaust all potential mechanisms behind the production of other variations or more nuanced effects of those measures. Moreover, it is essential to highlight that both institutional design and policy community embeddedness are multidimensional. We only consider the former in its more formal aspects, so as to provide a quantitative description of collegial bodies – provided for and regulated by law or by lower regulations – whereas other elements of institutional design, such as composition, parity, elections, and financial and administrative resources, are useful for our qualitative analysis. As for the second factor, we only consider one aspect of agents' agency, represented by the core role played by collegial bodies in their corresponding policy communities. This reduction strategy enables the handling of a high number of cases (103 bodies) and the presentation of an empirical diagnosis which is both comprehensive and analytically directed at deinstitutionalization measures, at the variation in their reach, and at collegial bodies' resilience possibilities.

Finally, we must emphasize our understanding of collegial body deinstitutionalization measures, which go beyond Decree No. 9,759. This decree was the first and only general or comprehensive attack perpetrated by Bolsonaro's government, aimed at dissolving over 700 bodies – according to the official numbers used as justification for the decree. As mentioned in the previous section, the STF issued a preliminary injunction restricting the decree's revocatory effects. As a consequence, the executive branch recurrently used decrees and administrative rules to introduce administrative changes, restricting collegial bodies' working conditions, representation, composition, and meeting frequency. Therefore, despite the abrupt measures promoted by the decree, the real changes in collegial bodies were incremental and gradual, except for those revoked; i.e., the deinstitutionalization strategy deployed mechanisms described by the literature on incremental and endogenous institutional change (Mahoney, Thelen, 2009). Thus, deinstitutionalization measures include the set of hierarchically diverse regulations aimed at restricting or annulling the role of collegial bodies for their respective policies.

## **Deinstitutionalization: between resilience and vulnerability**

### **Methodological Choices**

For our empirical analysis, we have built a legislation database, systematizing official legal information on different policy areas with the purpose of capturing information which might indicate institutional and legal boundaries: distinguishing law-based from decree-based regulations, identifying when those changes were introduced, and understanding the relationship between the legal changes detected and the general guidelines provided by the decree.

This database built upon previous surveys (Bezerra, 2020; Brasil, 2014), expanding the number of collegial bodies under analysis, providing details on kinds of norm (law or decree) and their changes, and highlighting those promoted between 2019 and 2022. The evaluation considered whether these changes affected themes, tasks, composition – total number of members and government/civil society ration –, and officially prescribed meeting frequency of the bodies. The restrictions to composition and meeting frequency were initially established in a generic way by the decree and later replicated by decrees specifically directed at certain bodies. Finally, the database included a survey of the meetings that were actually held by these bodies, based on existing records and minutes covering the years from 2019 to 2022. Data collection in these cases relied on the following sources: the Federal Official Journal (Diário Oficial da União – DOU), administrative rules, laws, and decrees; governmental websites; the STF's website including the full content of its sentences; and information requests submitted through the Access to Information Act system.

The criteria used to define whether a collegial body was included in the database were as follows: 1) the presence of civil society representatives, here broadly understood as representation from organizations which are not a part of federal, subnational governments, or international bodies; 2) its permanent – and thus non-temporary – nature; 3) its being the primary collegial body, i.e., we have not included bodies connected to hierarchically superior bodies; 4) its not being characterized as an executive or jurisdictional appeal body, autonomous agency, or a public administration body which contains the words council, commission, or committee in its name.



Collegial bodies' specific names are not defined by norms, and there does not seem to be any relevant feature associated with the array of terms used to refer to them. Therefore, the survey encompasses mainly councils (62), as well as commissions (25), committees (15), and working groups (1), taking into consideration each and every term officially used to name collegial bodies, excluding those purely governmental.

This database presents standardized information on all 103 bodies under study, including the law or decree that establishes their creation and legal changes made during the four years of Bolsonaro's presidential term (2019-2022). This information was used to generate different variables of interest: policy area, activity status, and recent legal changes. The proper crossing and sorting of these different pieces of information provided a systematic view of the ways these bodies have undergone changes, especially under Bolsonaro. We remark, however, that, since dependent variables were based on official documents (meeting minutes, administrative rules, decrees, etc.), the database lacks details about the internal functioning of collegial bodies or the roles played by specific agents. As a result, it is unable to capture the effects of deinstitutionalization on qualitative aspects of their operation. Neither does it provide information about policy communities or enable an operationalization of the degree to which collegial bodies are central to their strategies. Generating such information would require a different methodological approach. Our quantitative analysis, thus, privileges one facet of the resilience typology – institutional design – and prioritizes a qualitative account of the cases selected while drawing on existing literature to extract elements related to the second aspect – their embeddedness in the community of their corresponding policy.

This information led to the creation of four status classifications:

- 1. Normative status:** Classification based on the occurrence of substantial normative change, according to the following parameters – **CHANGED:** for cases in which new specific regulations (decrees or administrative rules) have altered a body's composition, reducing or excluding spaces for civil society representation, or significantly changed a body's jurisdiction or theme, among other potential restrictions to its functioning; **UNCHANGED:** for cases in which there have not been formal changes to functioning, either because new specific regulations were not approved or because, when they were,

they caused no significant restriction to the collegial body as far as its operating rules are concerned<sup>2</sup>; REVOKED: for cases in which the body was expressly revoked by decree.

The construction of this classification involved the creation of a filter to analyze whether or not new regulation (laws, decrees, administrative rulings) on the body had been passed between 2019 and 2022, as a yes/no variable. Later, confirmed cases had their aspects of composition, jurisdiction, and theme area analyzed, so as to identify substantial changes.

2. **Activity status:** indicates whether or not the collegial body held any meeting between 2019 and 2022. Those which had held only one meeting and those for which no activity records could be found for the period were classified as “INACTIVE”. If they had records of more than one meeting in the period, they were described as “ACTIVE”. This criterion is more demanding of inactivity, and there might be cases in which low-activity bodies were classified as active. This criterion, however, was considered safer due to the existence of collegial bodies which only one or two yearly meetings are provided for.
3. **Activity intensity:** a criterion was developed in order to measure activity intensity in the period, so as to refine our analysis of active bodies. It included the following criteria: LOW activity for those holding between one and four meeting in the period considered, with a maximum average of up to one meeting per year; MEDIUM activity for those holding between five and sixteen meetings, with a maximum average of up to four meetings per year; HIGH activity for those which held over sixteen meeting during the four years considered.
4. **Macro-area:** indicates the classification of collegial bodies according to their macro policy area into the following categories: economic development and infrastructure (ED); human rights and rights defense (HR); social policy (SP); environment and sustainable development (ES); transparency and information (TR); safety and justice (SJ); others (OT). Since the last three groupings (TR, SJ, and OT) had a very low number of cases compared to other areas, they were all grouped under “others” for the purposes of our analysis. This classification was based on the proposal of Pires and Vaz (2014) and adjusted based on the degree of its adherence to empirical cases.

## Results

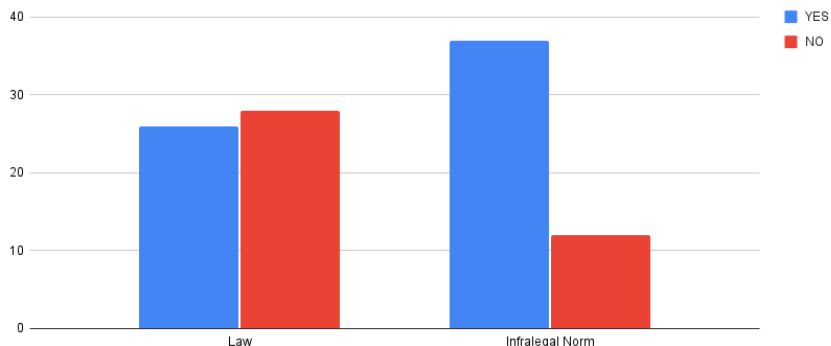
Among the collegial bodies which had undergone legal changes, those established by law and thus unable to be unilaterally changed by the president, were the least changed. Figure 1 shows that 28 out of the 54 bodies provided for by law were not affected by the introduction of new regulation. On the other hand, among the 49 provided for by decree, only 12 escaped changes brought by new decrees or administrative rules. This indicates that it is generally more straightforward to modify bodies not established by law.

Being provided by law is a significant safeguard against revocation, as this would also require the enactment of new law. In only two cases were bodies provided for by law revoked: the Economic and Social Development Council and the National Council for the Integration of Transport Policies, eliminated from their corresponding laws through Provisional Presidential Decree No. 870, later voted into Law No. 13,844/2019. We found no cases of Congress passing laws to alter a collegial body.

While being established by law offers better protection against such changes, this alone cannot prevent them from happening. This is because laws often provide for collegial bodies, but their composition, membership, and meetings are defined by decrees of administrative rules. This allows bodies provided by law to have their operations affected by decree. Thus, it can be asserted that the institutional design of bodies, analyzed here according to the hierarchy of regulations providing and regulating them, is a significant institutional constraint to deinstitutionalization attempts.

**Figure 1**

Legal changes, by regulation hierarchy



Source: The authors, based on the Database of National Councils.

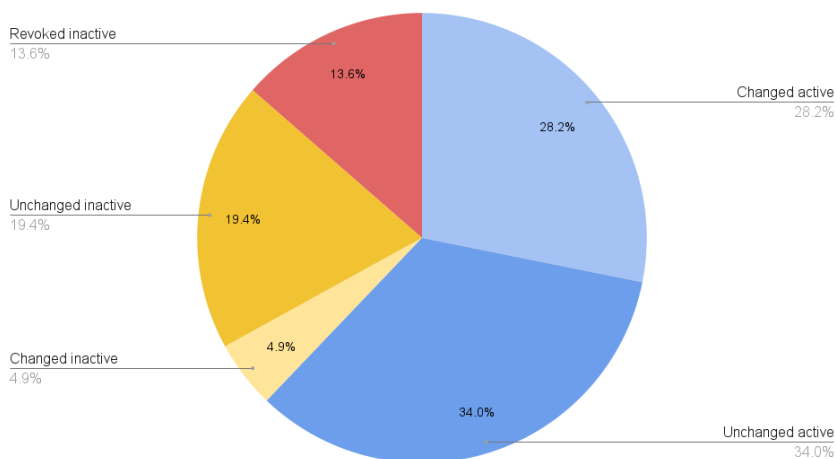
The graph with the distribution of the 103 collegial bodies under study (Figure 2) show the results obtained by combining categories related to activity status (active/inactive) and normative status (changed, unchanged, or revoked). This has led to five groups: changed active; unchanged active; changed inactive; unchanged inactive; and revoked inactive.

As far as activity is concerned, only 64 bodies (62%) were classified as active. The 39 remaining bodies (38%) were inactive – either for having been expressly revoked without subsequent recreation (14 cases) or because they did not generate records of activity during the considered period. As for active bodies, 42 out of 64 (i.e., 65%) present a medium to low activity level, with up to four meetings per year.

In terms of normative changes, only 34% of the 103 existing bodies did not undergo formal alteration in their operations during Bolsonaro’s term; constituting the “unchanged active” group. All other bodies were affected either by direct revocation or by legal changes leading to a less intense functioning, which means that 66% of bodies were somehow affected.

**Figure 2**

Distribution of councils by crossing activity status and normative status



Source: The authors, based on the Database of National Councils.

The following sections provide detailed descriptions of each category to elucidate the content encompassed by each.

## Inactive collegial bodies

- *Unchanged*

This category comprises 20 cases, the majority of which were already inactive prior to 2019. Although our selection criteria only referred to an absence of meetings in the 2019-2022 period, it is challenging to find evidence of activity for most collegial bodies in this group over a more extensive time span. Therefore, it remains unclear whether these cases were affected by Bolsonaro's government. Inactivity then might be related to specific sectorial policy processes. However, two bodies had been provided for by laws passed between 2019 and 2021 but were not actually formed: the National Irrigation Council and the National Council for Promotion and Collaboration, provided for by Law No. 13,019, the Civil Framework for Civil Society Organizations. To collect this information, we used searches on official websites, on the Federal Official Journal, and requests submitted through the Access to Information Act system. However, in most cases bodies themselves will inform on the absence of meetings for long periods of time.

- *Changed*

There are five collegial bodies in this category, and in this case, one may assert that the government was interested in their inactivity, since the government itself orchestrated all changes to their regulations, ensured their inactivity and prevented the appointment of new members. The case of the Deliberative Council of the National Environment Fund (FNMA) is quite emblematic: civil society was removed and it became a strictly governmental council with only five members – 12 fewer than the 17 originally provided for, when civil society had more seats than the government. Bolsonaro targeted FNMA since the beginning of his term. Until late 2021, none of the resources already approved by the plan since 2019 had been implemented in end activities. The few resources which were implemented were assigned to bodies to comply with the Fiscal Responsibility Law and the Spending Cap Law.

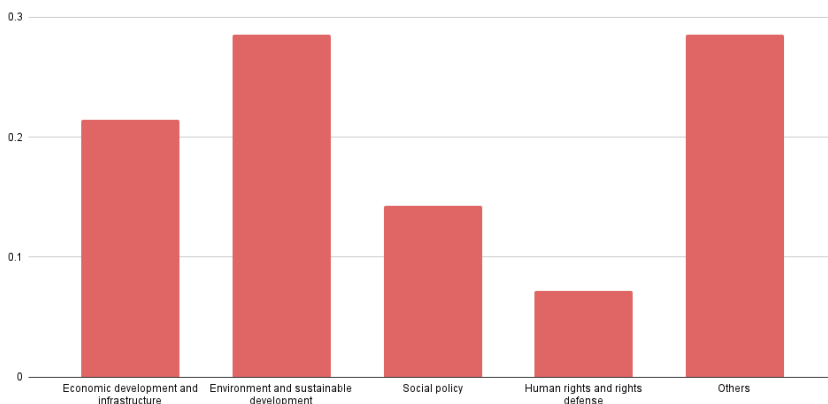
- *Revoked*

This category more directly reveals governmental activity aimed at dismantling certain policies, particularly impacting bodies that are weaker in terms of institutional design or whose political agenda is sharper conflict with the governmental agenda.

In terms of policy areas, all have been affected, but the environment was disproportionately impacted by revocation. Four of the area's seventeen bodies were revoked. It corresponds to 28.5% of all 14 revoked councils considered in this study. The residual area grouped as "others" was also quite affected due to being a set of diverse bodies from areas which are little conducive to participation and, therefore, not very institutionalized. It encompasses collegial bodies as different as the Council of Representatives of Brazil Abroad and the Federal Liaison Committee. In this case, the proportional number of revocations seems to be more related to institutional frailty and dispersion than to political agendas.

**Figure 3**

Revoked collegial bodies by policy area



Source: The authors, based on the Database of National Councils.

## Active Collegial Bodies

- *Changed*

In this category, governmental attempts at deinstitutionalization are clearer and changes happen to active collegial bodies (Figure 4). Most new specific decrees follow the guidelines provided by Decree No. 9,759/2019 and, in general, led to:

- a. Decreases and restrictions to collegial bodies' numbers of members** (article 6, item V: 7 members maximum).
- b. Restrictions to meetings:** videoconferencing for members from outside the Federal District (art. 6, items II-III), limited to two hours (art. 4, sole paragraph), with a decrease in the number of meetings held;

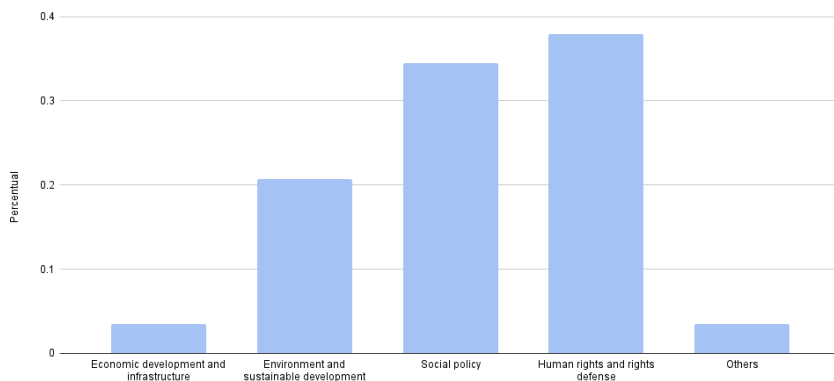
**c. Restrictions to the creation of sub-bodies** (working groups, commissions, panels): a fixed maximum number of sub-bodies, which are always temporary.

Human rights and social policy collegial bodies underwent the most changes, with 11 and 10 bodies, respectively. These two areas comprise 72% of the 29 bodies which underwent substantial changes. According to Bezerra, Rodrigues, and Romão (2022), these changes ostensibly aimed at standardizing the regulations of collegial bodies, eventually weakened their functioning, because they reduced diversity from civil society, restricted meetings in person – and privileged online ones –, and decreased the number of theme groups. As a result, the potential for plural and in-depth debates on any agenda is drastically threatened.

In the human rights area, the composition of most bodies was drastically reduced, including extreme cases such as the National Council for Fighting Discrimination and Promoting LGBT Rights, whose composition was shrunk from thirty to only seven members – four from the government and three from civil society. Also, changes were made to its jurisdiction and name, which became the Council for Fighting Discrimination, erasing any mention to LGBT themes. That means both the council’s representation and its agenda have been voided. In the social policy realm, the bodies most affected were those related to culture and work – both agendas related to ministries abolished by the government.

**Figure 4**

Changed collegial bodies by policy area



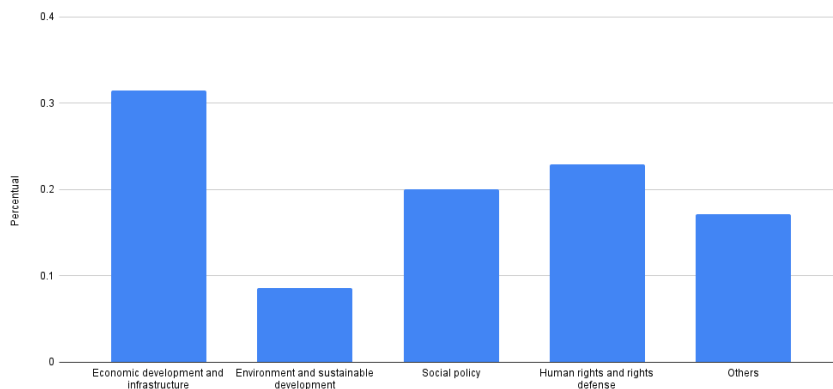
Source: The authors, based on the Database of National Councils.

- *Unchanged*

This group gathers active collegial bodies which have not undergone substantial changes in their composition, themes, or jurisdiction, even where new regulation was approved (Figure 5). It includes an outstandingly large number of bodies related to development and infrastructure (11), six of which experienced regulation changes without, however, undergoing substantial alterations in composition, theme, or jurisdiction. In other words, these changes were merely directed at complying with the formal requirements of Decree No. 9,759/2019 and did not result in practical changes in bodies' operation.

**Figure 5**

Percentage of unchanged active bodies by policy area



Source: The authors, based on the Database of National Councils.

In summary, the analysis indicates that the most significant impacts on the functioning of collegial bodies were observed in policy areas whose community's agenda goes against Bolsonaro's government, as well as in less resilient bodies. Human rights, social policies, and the environment were the most affected policy areas, aligning with the findings of Farranha, Bataglia, and de Paula's (2021). The opposition of some bodies' agendas to the government's ones, coupled with factors related to resilience, provides an explanation for the varying intensity of the impact across different policy areas.



## **Resilience Typology Applied to National Collegial Bodies**

To explore the heuristic potential of this resilience typology, we analyzed some national collegial bodies related to policy areas directly affected by deinstitutionalization measures, highlighting the way they are positioned on a *continuum* between resilience and vulnerability.

### **Resilient: National Human Rights Council**

The data analyzed reveal that collegial bodies which inform subsystems less vulnerable to political circumstances experienced fewer impacts. Considering both institutional design and policy communities as dimensions, the National Health Council (Conselho Nacional de Saúde – CNS) and the National Social Assistance Council (Conselho Nacional de Assistência Social – CNAS) are mentioned as resilient cases. These bodies have consistently served as arenas for civil society activity aimed at shifting the course of decisions made by governmental agents (Almeida, 2020; Martelli, Almeida, Coelho, 2022; Direito, 2021).

We have selected the National Human Rights Council (Conselho Nacional dos Direitos Humanos – CNDH) to illustrate the suitability of the dimensions underlying our resilience typology. Although it belongs to the most affected policy area (human rights and rights defense), it stands out as a typical case of an unchanged active council. CNDH as a body is provided for by Law No. 12,986, of June 2nd, 2014, but its roots trace back to the Council for the Defense of the Rights of the Human Person, founded in 1964. The Council is a product of a social and state-driven process of institutionalizing participation in the field, and the strength of its institutional design cannot be grasped without considering the struggle of the political community, which comprises governmental, civil society, and university agents. This community was actively engaged in the creation of three National Human Rights Plans between 1996 and 2009, as well as in the adaptation of the council to international regulations and agreements about the protection of human rights and to the constitutional provisions concerning civil society participation. It was also part of the discussion and passing of bill No. 4,715/1994, which two decades later would establish CNDH by law (Fonseca, Avelino, 2019). The changes proposed during these two decades contributed to an institutional design that allows for the election of civil organizations, ensuring representation parity between civil society and government (22 in total). There was also

an expansion of the council's role concerning actions for preventing, protecting, repairing, or sanctioning conducts or situations involving threats or violations against human rights. Its by-laws outline provisions for an elected executive board, as well as gender parity among its members and in permanent and temporary commissions (Resolution 09/06/2015). Its institutional design restraints include the absence of a fund of its own and restrictions in administrative support in terms of civil servants and resource allocation. It is worth noting that the council and its policy area were strengthened by PT's rise into federal government. The creation of the Special Secretariat for Human Rights in 2003 strongly favored that. In 2010, it became a ministry and its executive general coordination was linked to the ministerial cabinet (Fonseca, Avelino, 2019).

The political crisis leading to the impeachment severely affected this area. During Dilma's government, in 2015, three secretariats (Human Rights, Policies for Women, and Racial Equality) were merged into a single ministry. Later, in Bolsonaro's government, human rights was revamped and became a secretariat under the new Ministry of Women, Family and Human Rights (Ministério da Mulher, da Família e dos Direitos Humanos – MMFDH), headed by pastor Damares Alves.

Since then, the council has displayed resilience both in preserving its role in the country's deliberation cycles about human rights and in being creative and innovative in its action strategies. CNDH was first affected by the replacement of its executive secretariat and the appointment of a civil servant connected to minister Damares; by budget cuts; and by the appointment – by attorney general Augusto Aras – of prosecutor Ailton Benedito, a conservative politician and well-known right-wing digital activist, to take the place of prosecutor Debora Duprat. Agents in CNDH claimed that the appointment violated gender parity and the principle of electing people rather than institutions, provided by the by-laws, and that, therefore, replacement should be found through elections (Campos *et al.*, 2020). This process mobilized the policy community, which published a joint statement signed by 176 human rights networks, social movements, and organizations and connected to the opposition in the Legislative Branch to prevent the government's appointee from taking office and electing public defender Sotto Mayor, a professional with a history in human rights.

Second, due to its legal protection and endorsement by international agreements, CNDH has had an outstanding role in supporting to the functioning of less institutionalized bodies (Bezerra, Rodrigues, Romão,

2022). It created the Special Commission on Social Participation with the purpose of connecting initiatives aimed at enforcing the right to participation and welcoming collegial bodies for the defense of rights affected by the decree and corresponding measures. In 2019, it also produced a report systematizing the attacks suffered by a set of collegial bodies from that area; and, in 2022, with CNS, it published a report denouncing human rights violations during the management of the Covid-19 pandemic. Finally, the council became more active. In 2019, for instance, it issued 85 acts<sup>3</sup>, including recommendations, reports, public notices, and missions, preserving its position and denouncing the deinstitutionalization of policies and participation to the judiciary system, national, and international bodies.

## **Frail embedded: National Council for the Rights of the Elderly**

The type *frail embedded* includes collegial bodies that remained active but underwent operational changes, such as the National Council for the Rights of Persons with Disabilities (Conselho Nacional dos Direitos da Pessoa com Deficiência – CONADE) – which had its mandates cancelled and was transferred to MMFDH – and the National Council for the Rights of the Elderly (Conselho Nacional dos Direitos do Idoso – CNDI). The National Policy for the Elderly (Política Nacional do Idoso – PNI), from 1994, provided for CNDI, but the council was only established in 2002 by decree and only in 2004 did it have its jurisdiction defined – also by decree – and it became a deliberative body under the Ministry for Social Security and Assistance. Organizations which provide services, represent certain professional categories, and NGOs stand out among the civil-society agents most present in the policy community and in the composition of CNDH. They include the Brazilian Confederation of Retirees and Pensioners, the National Association of Gerontology, and the Pastoral of the Elderly, which is linked to the National Conference of Bishops of Brazil. The first two are considered leaders in the movement for the rights of the elderly in Brazil and in the creation of the National Policy for the Elderly (Souza, Machado, 2018). Besides, governmental agents from several ministries (such as Health, Social Development, and Social Security) and the justice system (Prosecution Office, public defenders, and the Brazilian Bar Association) had a central role in policy design during PT governments. The institutional design provided for composition parity, electoral process, and the alternation of government and civil society in the roles of pres-

ident and vice-president. An analysis of its decisions up to 2016 reveals attempts to directly impact the political agenda, as well as advocacy for the enforcement of laws for the protection of the elderly within several areas of the Executive, the Judiciary, and the Legislative Branch (Souza, Machado, 2018). One of the achievements of CNDI in the period was the proposal of the Fund for the Elderly at the National Congress, which was widely discussed by councils in the three levels of federative power and finally passed as Law No. 12,213/2010 (Rozendo, Justo, 2012).

Under the effects of Decree No. 9,759/2019, the government also removed the elected president of the CNDI. After Decree No. 9,893/2019, representation shrank from 28 to a mere 6 members, and the three governmental representatives are members of the Ministry of Human Rights. The new decree (No. 10,643/2021) expanded the composition to 12 members in March 2021. This reduction, the ban on working groups and subcommissions, and the government's permanent occupation of the presidency led decisions about the management of the fund's resources to be in practice concentrated under the figure of CNDI's president (Bezerra, Rodrigues, Romão, 2022). The policy community, which includes agents which lost their seats in the council, remained active. Among the actions which are evidence of the importance assigned to the council by this community, we can highlight the organization of state conferences – despite the cancelling of the National Conference in 2019 –, the issuing of statements of disapproval, the proposal of a Legislative Decree (No. 454/19) at Congress to annul the effects of Decree No. 9,893/2019, the participation in public hearings at the National Congress in defense of PIs, and the organization of videoconferences with other collegial bodies to warn them about the dismantling of councils.

## **Inert formal: National Council for Women's Rights**

The category *inert formal* comprehends both inactive bodies, provided for by law but not operational – some even before Decree No. 9,759/2019 – and active bodies, notably due to the legal weight of the regulation providing for them, which have ceased to be disputed by policy communities, thus preventing them from resisting Bolsonaro's government's attacks against participation. Among inactive bodies, ConCidades stands out. Despite being provided for by law, there have been no meeting records since 2017, when Decree No. 9,076/2017, issued by Michel Temer, reassigned the council's duties to the Ministry of Cities. They included the call for the national conference, in which new representatives were to be elected (Penna, Serafim, Trindade, 2022).

Here we examine the case of the National Council for Women's Rights (Conselho Nacional de Direitos da Mulher – CNDM), which is active and formally unchanged, since it combines relatively strong institutional design from a regulatory point of view – provided by Law No. 7,353/1985 – with a shift of civil society disputes into arenas out of the council's scope. It is worth saying that the policy community includes governmental agents, universities, and civil society – the latter comprising diverse women's and feminist organizations and movements, besides activists. Since the creation of the Special Secretariat for Women's Policy (Secretaria Especial de Política para as Mulheres – SPM) in 2023 and the consequential widening of the openness to the influence of these agents, CNDM became stronger and expanded its prerogatives over programs and projects for women's rights. It also increased the inclusion of social agents which have over 60% of its composition. The area gained momentum with the realization of conferences and the expansion of policy organisms and councils at state and city level (Brasil, 2016). However, it is an advisory council chaired by a minister or government representative.

If, however, we consider the set of civil organizations and agents which not only share the same values and perspectives about the policy but also chose CNDM as their advocacy arena at different times, we can state that a good share of them<sup>4</sup> chose to resign from the council during the 2016 impeachment process. These organizations were present at its onset, at the renovation of its institutional design, and at the institutionalization of policy, and they comprise the main links in a powerful network of the country's feminist movement (Zarembeg, Almeida, 2022). Currently, these organizations act based on an array of institutional and extrainstitutional repertoires, assigning the council a peripheral role *compared to other strategies*. One must note that the intensity of the dispute over CNDM by movements and organizations depends on the coalition in power and its history of social-governmental interaction (Almeida, 2020). Thus, CNDM was central to the constituent process, but when this arena lost its financial and administrative autonomy during Fernando Collor de Mello's government, agents resigned from their seats for the first time and would only return in 2003, after PT governments reactivated it.

Civil society's majority in representation and legal prerogatives have guaranteed its functioning and its electoral process. However, since the resignation, it is possible to notice a divide in the part of civil society which belongs to the policy community, since some organization decided to stay in the council – such as the Brazilian Women's Union (União Brasileira de Mulheres) and the

Feminist Health Network (Rede Feminista de Saúde). In the first two years of Bolsonaro's government, their activity involved the issuing of resolutions, notices, and motions<sup>5</sup>, denouncing political measures opposed to women's rights and the risks of freezing councils at different levels. Nevertheless, the sorting of CNDM as inert formal – instead of resilient – is due to its limited ability to propose policies, the exit of core organizations, the restraints to activity by the remaining community. The latter, inserted in a ministry under investigation for its inability to spend the resources then available, especially in areas which used to be central in SPM, such as combating violence.

## Vulnerable: National Council for Sustainable Rural Development

Finally, the *vulnerable* group covers collegial bodies which do not rely on strong institutional design, nor on well-established or PI-defending policy communities. Under this category, highlights include collegial bodies revoked by the decree; most of them from the social and environmental area, such as the National Commission for Agroecology and Organic Production (Comissão Nacional de Agroecologia e Produção Orgânica – CNAPO) and the National Council for Sustainable Rural Development (Conselho Nacional de Desenvolvimento Rural Sustentável – CONDRAF).

CONDRAF was revoked by Decree No. 9,784, in the wake of Decree No. 9,759/2019. It was created through Presidential Order No. 4,854/2003 as a part of the basic structure of the Ministry of Rural Development (Ministério do Desenvolvimento Agrário – MDA). The council comprised delegates from the main rural movements, unions, and organizations linked to family farming, *quilombolas* communities, rural workers, extractive, and indigenous communities. It was informed by a decade-long process of interaction between state and society and of access to institutions such as the National Institute for Colonization and Agrarian Reform (Grisa, Schneider, 2014; Penna, Rosa, 2015). Government and civil society have representation parity in CONDRAF's 44 seats, a council which used meet regularly to propose guidelines for policy design and implementation focused on rural development under a sustainability and solidarity perspective, agrarian reform, and family farming.

The National Program to Strengthen Family Farming (Programa Nacional de Fortalecimento da Agricultura Familiar – PRONAF), created in 1995, was an important step towards institutionalizing policy and participation, since it provided for the creation of city-level councils for rural develop-

ment. The arrival of PT at the federal government and the party's historic interaction with rural movements increased access to the state, especially by taking up positions in the MDA and expanding institutionalized participation in areas related to hunger and food security, such as CONSEA and CONDRAF. This was the place where several rural development policies targeted at family farmers and diverse groups were debated and designed, such the nationalization of PRONAF and the creation of the Food Acquisition Plan (Plano de Aquisição de Alimentos – PAA). However, this path towards institutionalization was marked by tension, especially due to the weight of the agribusiness sector for the economy and for the governmental coalition, which led movements to evaluate its results as negative.

The deinstitutionalization and the displacement of CONDRAF's policy community started in the beginning of the Temer government, which, in 2016, dissolved MDA and shattered PAA. Under Bolsonaro, rural development policies were dismantled (Medeiros, 2020). When CONDRAF was dissolved, existing repertoires for interacting with the Executive Branch and the Council, whose institutional design was weak, were no longer as important for civil society, which could rely on vast networks and arrays of repertoire, such as marches, food distribution campaigns, supporters from the left and from state-level Legislative and Executive Branches (Medeiros, 2020).

**Table 2**  
Resilience Typology Applied to National Collegial Bodies

	<b>Low community embeddedness</b>	<b>High community embeddedness</b>
	<i>Vulnerable</i>	<i>Frail embedded</i>
<b>Weak institutional design (Decree)</b>	Revoked Collegial Bodies or Changed inactive  E.g.: CONDRAF, CNAPO	Changed active collegial bodies  E.g.: CONADE, CNDI
	<i>Inert formal</i>	<i>Resilient</i>
<b>Strong institutional design (Law)</b>	Inactive or unchanged active councils  E.g.: CNDM*, ConCidades	Active unchanged councils  E.g.: CNS, CNAS, CNDH

Source: the author.

## Conclusions

The results presented contribute to an understanding of both the deinstitutionalization of participation during the Bolsonaro government, expressed in Decree No. 9,759/2019 and its corresponding measures, and the resilience of national collegial bodies – a variation in the effects of such deinstitutionalization. Based on an original database, we provided an empirical diagnosis which is at once comprehensive and nuanced, analyzing the situation of 103 collegial bodies and the changes undergone by them in the period 2019-2022, along with a set of cases examined in isolation. We have corrected hasty interpretations which had portrayed this context as a scenario of generalized destruction or even a failure by PIs. Also, we have connected this diagnosis to well-established concepts from the literature on negative institutional change and to the best knowledge acquired by the area of research about participation in Brazil, finally proposing a typology of collegial-body resilience.

The decree marked a definitive turning point towards deinstitutionalization – which only 34% of bodies preserving their functioning without significant changes. However, the reach of the Decree varied according to each body's macro policy area and its resilience capacity. Thus, we demonstrated the political selectivity of deinstitutionalization. Despite the generic and abrupt nature of the decree and the disdain of Bolsonaro's government for institutionalized participation, the latter's attacks against bodies were not doctrinaire – against participation itself –, but rather political, aimed at removing obstacles and dissolving arenas where its agenda may face vetoes. The policy areas which represent a more radical challenge to this government's programmatic agenda were the most affected. The environmental area was proportionally more impacted by revocation, whereas human rights and social policy bodies, in turn, underwent more substantial changes. In turn, the economic development and infrastructure area was less affected due to its greater alignment to the government's preferences, even though its collegial bodies were less resilient.

Results show that a large group of bodies (64 of 103) remained active, albeit with significant changes. Moreover, some bodies continue to influence decision-making, although serving as a space for opposition – or even as *veto players*. How to explain variation? In theory, the study's contribution indicates two directions. First, it underscores the importance of social and governmental institutionalization processes as factors contributing to resilience against deinstitutionalization – an influence confirmed by examining the selected cases. Second, it sheds light on the role of mech-



anisms that constrain changes (institutional force and *policy feedback* mechanisms), as suggested by the literature on retrenchment and its seminal studies, while also emphasizes the areas where the literature on dismantling and incremental institutional change falls short of explaining, namely, the factors leading to varying levels of resilience to retrenchment within similar policy domains.

On an empirical analytical level, these mechanisms were integrated into a twofold resilience typology based on the literature from the field of participation studies. By amalgamating the strength of bodies' institutional design with their level of embeddedness in their corresponding policy communities, four categories emerged: vulnerable, frail embedded, inert formal, and resilient. This revealed the restraints imposed on policy deinstitutionalization by the institutional design of collegial bodies. The analysis of the cases further reveals that bodies intricately linked to the strategies of civil-society agents in these communities are more resilient. These communities have disputed policy institutionalization – including the role of collegial bodies in this context – and made national bodies a core arena to advance their projects, reacting defensively and creatively against attempts at deinstitutionalization.

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## Notes

1. The literature on institutional change approaches *policy change*, among other things. These, in turn, are covered by a diverse set of approaches, including punctuated equilibrium, defense coalition, policy diffusion, disruptive innovation, and multilevel governance (Cerna, 2013).
2. The decrease in meeting frequency, despite being considered an element which affects the regular operations of a collegial body, was not take as a criterion due to the high number of cases in which this piece of information is missing, that is, information about the bodies' meeting frequency in the years before 2019, when this was not required by law. Only with Decree No. 9,759/2019 does it become mandatory to establish a meeting frequency and record it in a body's rules.
3. Survey conducted by El País. Retrieved from <<https://brasil.elpais.com/brasil/2020-02-13/damares-e-procurador-geral-se-aliou-para-blindar-bolsonaro-em-conselho-de-direitos-humanos.html>>.
4. The Brazilian Women's Articulation (Articulação de Mulheres Brasileiras – AMB); the Articulation of Brazilian Black Women's Organizations (Articulação de Organizações de Mulheres Negras Brasileiras – AMNB); the World March of Women (Marcha Mundial das Mulheres – MMM); the Women and Media Network (Rede Mulher e Mídia – RMM); or Intervezes.
5. Cf.: <<https://www.gov.br/participamaisbrasil/cndm>>.

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