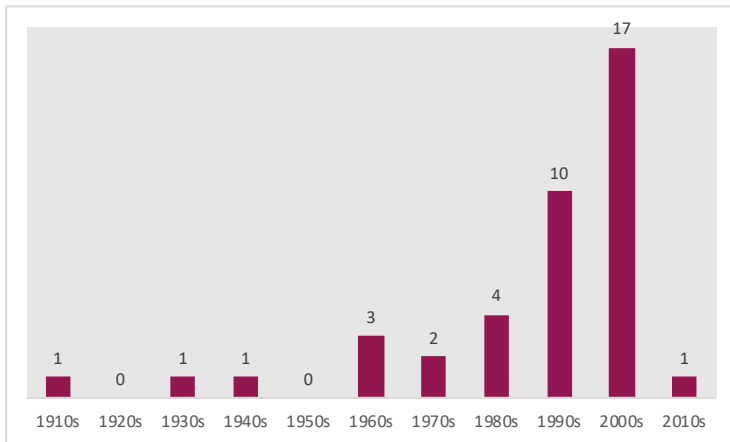


THE NATIONAL COUNCILS AND SOCIAL PARTICIPATION'S RETREAT IN BRAZIL

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The public policy councils are considered a successful example of social control in the Brazilian public administration. The origins of these participatory institutions date back to the first decades of the 20th century. An education council is mentioned in Decree 8.659, in 1911, and a health council is referred to in Law 378, in 1937. Since then, several national councils have been created in different public policy areas ranging from the environment to racial equality; from social assistance to aquaculture and fisheries; from sports to culture. In 2016 there were at least 40 working national councils and commissions, most of which were created after 1988, when a new democratic constitution allowed for expanding social participation in public policies (see graph 1). In addition to the national level, its counterparts at the state and municipal levels multiplied, reaching, in 1999, more than 39,000 councils in the Brazilian federation (Ipea 2005).



Graph 1: Years of national councils and commissions creation (1911–2016)

Source: Avelino et al. 2017

The national councils are public administration bodies, and their members (councilors) represent government and civil society institutions (NGOs, social movements, associations, unions and business representatives, among others). Each council has its own bylaws, including ones for how representatives are elected or appointed. The councils are considered “shared” when composed of 50 percent government members and 50% civil society members.

They are “deliberative” when their decisions have a direct impact on the public policies management (such as budget allocation, sector funds management or law enforcement decisions) and are “advisory” when their role is only for government advice.

From a theoretical point of view, the councils combine social participation, deliberation and new forms of political representation (Lüchmann 2007). Such representation is linked not to electoral legitimacy but to forms of advocacy and affinity (Avritzer 2008). As socio-state interface bodies (Pires and Vaz 2012), the national councils present some important results: increasing government transparency, political inclusion of minorities and marginalized groups (Alencar 2013), and the strengthening of state capacities in areas where the Brazilian state is historically inefficient (Abers and Keck 2009).

Despite their tradition and their impacts, the national councils are facing a troubled political context. The relations of several councils with the federal government deteriorated after Dilma Rousseff’s impeachment in 2016 and, especially, after the presidency of Jair Bolsonaro in 2019. Ignoring technical and historical criteria, the Bolsonaro administration considers these councils to be structures inspired by the Soviet communist model filled by left-wing party affiliates, in particular by the Workers’ Party (PT, in Brazilian acronym). Chief of Staff Onyx Lorenzoni said that the councils represent distorted views of what should be the representation and political participation of society. In addition, the Bolsonaro administration believes that the councils add red tape to public policies, unnecessarily increasing the time needed for decision making and consuming public resources during economic crises.

In April 2019 the Bolsonaro administration issued Decree 9.759, which “extinguishes and establishes guidelines, rules and limitations for collegiate of the federal public administration, autarchic and foundational.” All national councils were affected by this decree. The national councils that were not created by law were automatically terminated. This included several councils linked to minorities, such as the Council for the Rights of Persons with Disabilities, the LGBT National Council and the National Council for Racial Equality.



Even the councils created by law can be affected by Decree 9.759. By a matter of legal hierarchy, a decree cannot extinguish a council created by law. Nonetheless, many of the councils created by law have decrees and other instruments that regulate their institutional design, that is, their composition and rules of operation. Accordingly, Decree 9.759 may change the composition and form of operation of a large number of national councils created by law. This decree even stipulates that council meetings should be carried out entirely by videoconference, with no budgetary provision to cover the travel of civil society representatives to the meetings in Brasília. In practice, the councils lose spaces for face-to-face dialogue and for proposals and solutions created between government and civil society, which is incompatible with the good deliberation principles (Cohen 1989; Calhoun 1996). In addition, new rules can change how civil society councilors are elected or appointed, making room for councils to be “colonized” by representatives and civil society organizations ideologically linked to the Bolsonaro administration.

In short, in the near future, some councils will be maintained, and others may be re-created depending on the political will of the Bolsonaro government. However, it is clear that such participatory and deliberative institutions are being severely attacked by the current administration, causing these institutions to possibly weaken and the participatory and deliberative framework to revert back to the democratic constitution of 1988.

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Notes

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[i] https://www.correiobraziliense.com.br/app/noticia/politica/2019/04/11/interna_politica,748933/bolsonaro-assina-revogaco-e-decreto-para-extinguir-conselhos-federais.shtml

[ii] http://www.in.gov.br/materia/-/asset_publisher/Kujrw0TZC2Mb/content/id/71137350

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