

# Policy change, dismantling and environmental protection in Brazil

## *Mudança, desmonte de políticas e defesa do meio ambiente no Brasil*

Estela Maria Souza Costa Neves <sup>1</sup>

<sup>1</sup> Doctor in Social Sciences, Researcher, Postgraduate Program in Public Policies Strategies and Development / PPED; National Institute of Science and Technology for Public Policies, Strategies and Development / INCT-PPED, Brazil  
E-mail: estela.neves@terra.com.br

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### ABSTRACT

This article investigates recent changes in the field of Brazilian environmental policy, exploring contributions from the international literature on policy dismantling as applicable to the Brazilian case. Federal environmental policy is analysed over four decades (1981-2021) in light of the structural characteristics of environmental policy from the perspective of dismantling as a process involving relative change, focusing on the trajectory of a specific policy. The systematic direction of the changes made to paralyse key activities and environmental legal enforcement, jeopardising areas and topics across the agenda during the 2016-2022 period, allows the characterisation of that ongoing process as the dismantling of environmental policy, extending to the entire environmental stewardship framework. There is a need to deepen investigations to understand the still-undetermined effects of this dismantling, such as their impact, the permanence of its effects in the medium term, and the spread of consequences beyond the environmental area, as well as its possible long-term impact on the democratic regime.

**Keywords:** Environmental policy. Policy dismantling. Brazil. Environmental stewardship.

### RESUMO

*Este artigo explora as mudanças ocorridas recentemente no campo da política ambiental no Brasil, testando contribuições da literatura internacional do desmonte de políticas ao caso brasileiro. A política ambiental, na esfera federal, é analisada ao longo de quatro décadas (1981-2021), à luz de características estruturantes do campo da política ambiental e, segundo a perspectiva do desmonte como um processo de mudança relativo, será analisada diante da trajetória de uma determinada política. A direção uníssona das mudanças e a paralisação de atividade-chave e do poder de polícia ambiental, que atingiu todas as áreas e temas da agenda no período 2016-2022, permitem a caracterização do processo como desmonte da política ambiental em curso, estendido a todo o campo da política ambiental. Há necessidade de aprofundamento da investigação para conhecer efeitos ainda indeterminados do desmonte, tais como permanência de efeitos em horizonte*

*temporal de médio prazo e irradiação de consequências para além da área ambiental, assim como suas relações com o regime democrático.*

*Palavras-chave: Política ambiental. Desmonte de políticas. Brasil. Controle ambiental.*

## 1 INTRODUCTION

Throughout the 21st century, political changes motivated by economic crises and political inflexions in democratic regimes have revitalised the interest of researchers from different disciplines on policy change. One of the lines of research sought support in the literature on dismantling public policies, in which Bauer and Knill (2012) are one of the primary references.

In Brazil, several policy areas have been reconfigured by changes since 2010, driven by a complex combination of factors. In Brazil, several policy areas have been reconfigured by changes since 2010, driven by a complex combination of factors. This article aims to advance knowledge on recent changes in environmental policy by exploring contributions from the international literature on policy dismantling that may apply to the Brazilian case. To what extent do the changes that have occurred in Brazil's recent trajectory of environmental policy fit into the definitions of international academic literature on policy dismantling? What are their implications for environmental policies?

To answer these questions, we examined the structural characteristics of the environmental agenda, selected representative indicators of variations of these characteristics over time, and reviewed the trajectory of Brazilian environmental policy from 1981 to 2022.

We present the results in three sections in addition to this introduction. The second section reviews concepts and theoretical references from the international literature on policy dismantling, with an emphasis on the environmental area, and discusses specificities of the field of environmental policy that condition the qualification of policy changes. The third section presents the methodology used in the research. An analysis of the trajectory of the construction of environmental institutions and policy in Brazil is summarised in the fourth section. The fifth section presents an overview of these changes in light of the analytical categories related to the literature on policy dismantling and the variables adopted, conclusions and suggestions for further investigation.

## 2 THEORETICAL REFERENCES

### 2.1 DISMANTLING OF PUBLIC POLICIES AND ENVIRONMENTAL POLICY

According to Bauer and Knill (2012, 2014), *policy dismantling* corresponds to a particular type of change in the government's commitment to a specific policy sector, causing its reduction rather than expansion. To identify policy dismantling, it is necessary to consider wide sectors and the field as a whole of a specific policy, understood as the universe of legal and administrative activities related to a specific field of policy (BAUER; KNILL, 2014).

Dismantling is achieved through cuts, reduction, and removal of existing policy arrangements, as well as manipulation of implementation and supervisory capacities. (BAUER; KNILL, 2014; JORDAN *et al.*, 2013). Bauer and Knill (2012) identify four dismantling strategies: passive dismantling by inertia (by default), dismantling by symbolic action, arena shifting, and active dismantling. With regard to metrics, policy dismantling can be measured, according to these authors, through a reduction in the number of policy actions and instruments and a reduction in their substantial intensity, measured by policy output indicators.

Gravey and Jordan (2016) emphasise the importance of contextualising the study of dismantling a particular policy within a specific time perspective as a relative category in light of the trajectory of the policy and its possible directions: reduction, expansion, or continuation of the status quo.

Originating from the context of changes determined by economic and austerity political crises, only recently have studies on dismantling processes focused on those provoked by authoritarian dynamics (SÁ; SILVA, 2021). Bauer, Peters, and Pierre (2021) bring to the reflection on the bureaucratic systems of democratic regimes the emergence of illiberal populism and its radical reforms, offering a taxonomy of strategies for illiberal attacks on administration - structural transformations, resource redistribution, “purging” of personnel, passing illiberal legislation, and dismantling of accountability - and emphasising the importance of state capabilities, both from the perspectives of dismantling and of its resistance.

Environmental policy studies on policy dismantling can be found in international literature since around 2010. These studies address changes in the US under the Reagan and Bush Administrations associated with fiscal austerity and economic crises in the European Union or its members (KNILL *et al.*, 2009; KNILL *et al.*, 2011, 2012; KORTE and JORGENS, 2010) - sometimes focusing on a specific country or arrangement (in the case of GRAVEY and JORDAN, 2016, the European Union), or developing comparative studies involving several countries (such as in KNILL *et al.*, 2014).

The international literature on environmental policy dismantling highlights the importance of the regulatory nature of this policy and its vulnerability to change under circumstances where their benefits are difficult to quantify and diffuse to appropriate, facing off with vested groups with significant pressure power and an interest in reducing quality standards. Analyses were made of processes where the dismantling trend occurs through stasis and civil society organisations’ role in resisting environmental dismantling (BURNS *et al.*, 2019; KNILL *et al.*, 2016).

Pollex and Lenschow (2020) point out the possibility that environmental dismantling may occur even without changing regulations through biased or apathetic enforcement of established regulations, hiding the dismantling initiative from public view.

Regarding the metrics of environmental policy dismantling, relevant contributions include Knill *et al.* (2012) and Steinebach and Knill (2016), who propose a hierarchy of variables for analysing environmental policy dismantling, consisting of policy items, policy instruments, and policy settings. These authors reinforce the argument, already present in Bauer and Knill (2012), that analysis of environmental dismantling processes should cover the entire field of the policy or at least large sub-fields, as dismantling initiatives can occur simultaneously with both expansion and contraction movements.

## 2.2 ENVIRONMENTAL POLICY IN BRAZIL: CHARACTERISTICS

The particularities of environmental policy have been scrutinised in international literature since the 1990s, accompanying the worldwide expansion of this new policy established throughout the 1960s-1970s.

Environmental policy has several structuring characteristics<sup>1</sup>. Amongst these, the variables with the most significant potential for trajectory analysis are the principles of environmental law as operationalised in policy instruments; the number of actors; the role of scientific knowledge and complexity; the environmental bureaucracy; the environmental agenda; and environmental control.

As an object of state protection, the environment is understood as a transindividual good, which corresponds to a new generation of rights (SILVA-SANCHEZ, 2000), bringing internationally-adopted

ordering principles, including the principles of sustainability, precaution, prevention, environmental damage, participation, polluter-pays, and non-regression or prohibition of retrogression (MACHADO, 2022). In particular, the prohibition of retrogression, considered a general principle of Environmental Law, is pertinent in evaluating the legality of legislative initiatives aimed at reducing the scope of environmental protection, especially of essential ecological processes, fragile ecosystems, and endangered species (BENJAMIN, 2012).

The actors involved in environmental policy are manifold and distinct according to the agenda theme, requiring the construction of participatory instances for designing and implementing environmental policies (CONNELY; SMITH, 2003; LAFFERTY; MEADOWCROFT, 1996).

Complexity and uncertainty are inherent characteristics of environmental processes (LAFFERTY; MEADOWCROFT, 1996) that highlight the role of accurate scientific knowledge and environmental bureaucracy. Environmental bureaucracy comprises the public officials responsible for formulating and implementing programs, projects, and environmental control. In addition to the ever-present complexity of administrative activities, several additional factors require environmental staff to develop diversified skills. The indeterminacy of environmental laws (AZUELA DE LA CUEVA, 2006) needs sophisticated capabilities for interpreting the norms and implementing decisions, content, and routines. Thus, environmental bureaucracy is responsible for analysing the content of a rule in each concrete circumstance (KRELL, 2004), highlighting critical discretionary powers to perform (among others) environmental risk assessment, expert appraisal, and applying the law to specific cases. Environmental policy depends on a qualified bureaucracy for its operationalisation.

Regarding the environmental agenda, the content of State action in the environmental defence could be more precise: the objects under its responsibility are not immediately identifiable. In Brazil, the definition of the environment as the object of State tutelage, formalised in 1981, refers to “the set of conditions, laws, influences, and interactions of physical, chemical, and biological nature that allows shelters and regulates life in all its forms” (Law 6938/1981, art. 3, I). In this formulation, the *relationships* factor is qualified as essential in its constitution, and as Silva (2009) points out: the object of State protection in the environmental field is the *quality* of the environment - understood as relations between environmental assets, sectoral elements, and systemic processes that determine the quality of life. This definition corresponds to a broad institutional agenda that, until the 1960s-1970s, involved only the preservation of untouched areas, conservation, and protection of natural resources.

From then on, the environmental agenda began to incorporate new themes, such as controlling air, water and soil pollution, regulating industrial activities, and establishing energy production and consumption standards. In the 1980s, control of potentially harmful activities was included in the legal framework. In the early 1990s, the so-called global environmental problems were enshrined in the second United Nations Conference on Environment and Development. At the same time, old themes were reconfigured, including sanitation and urban regulation (MEADOWCROFT, 2012). Currently, the environmental agenda is broader than ever, encompassing action in health and safety, energy, transportation, agriculture, food production, hazardous and radioactive waste, genetic heritage, the safeguard of ecological, geochemical, and geophysical systems responsible for providing ecosystemic services, patterns of production and consumption, and the multiple connections between local, national, and global issues - amongst which the protection of the ozone layer, climatic change, conservation of biodiversity, desertification control, biosafety, and protection of genetic heritage (VIG; KRAFT, 2019).

This broad collection of topics has at least one aspect in common: it is the responsibility of the State to establish the necessary conditions for environmental protection and management through public policies supported by legal enforcement. Environmental police power is defined as

the public administration activity that limits or disciplines rights, interests or freedoms, in sight of the public interest as regards the health of the population, the conservation of ecosystems, the regulation of economic production and trade, the enforcement of economic activities, and others activities dependent on concession, authorisation, permission or license from the Public Power for activities from which pollution or aggression of nature may ensue (MACHADO, 2022, p. 398).

Its enforcement comprises a broad and interconnected set of procedures known as “environmental control” which includes requirements, bans, limiting and sanctioning regulations, police orders and oversight, inspection, and sanctions.

The best-known environmental control activities are environmental licensing and oversight, established in Brazil in the 1980s. However, it is not limited to these activities. The enforcement of environmental policing requires several additional instruments, including registries of potentially harmful companies and activities and their controlling parties; the definition of environmental standards; the elaboration and publication of environmental impact assessment; the monitoring of environmental processes and assets; supervisory oversight – both for licensing and otherwise – the application of administrative sanctions, and the publication and divulging of this information. Environmental police power is needed in all policy strategies for control, inspection, and administrative sanctioning. (MACHADO, 2022).

The competent environmental authority carries out licensing in a process that includes several licenses corresponding to phases in a project, dependent on case-by-case assessments of the environmental impacts, the public divulgation of these reports (Rimas – *Relatório de Impacto Ambiental*, Environmental Impact Reports), and the holding of open public hearings. Environmental licenses are, by definition, temporary and regularly renewed. Benchmarks and requirement levels are established for the implementation and operation of projects, which requires the building of State capacities to provide such monitoring, parameter-compliance enforcement, and levying of sanctions (MACHADO, 2022).

Environmental quality standards are established in resolutions issued by the National Council for the Environment (Conama – *Conselho Nacional do Meio Ambiente*), which regulates acceptable emission levels of pollutants and contaminants in the atmosphere, soil, and bodies of water employing emission standards (which establish values for the maximum allowed discharge levels), quality standards (which define conditions for an environment’s normality), and performance standards.

The first mandatory registration of impactful activities, created in 1981, was the Federal Technical Register of Activities, under the responsibility of the Brazilian Institute for the Environment and Renewable Natural Resources (Ibama – *Instituto Brasileiro de Meio Ambiente e Recursos Naturais Renováveis*). Currently, there are other types of registry and licensing, such as the Rural Environmental Registry (CAR – *Cadastro Ambiental Rural*), which is considered a key instrument for controlling and monitoring forestry resources (PIRES, 2014).

Disciplinary or compensatory penalties for non-compliance with these measures aim to regulate and ensure the enforcement of the established environmental protection standards. Where impacts cannot be mitigated, compensatory measures aim to repair environmental damages.

### 3 METHODOLOGICAL REFERENCES

The approach adopted in the present research is qualitative and exploratory. The focus of the investigation is the evolution of environmental policy in Brazil at the federal government level in the 1981-2022 period.

Information was collected through a bibliographic review of international academic literature on policy dismantling, a normative summary of Brazilian environmental regulation, and a review of documents produced by government agencies and think tanks of civil society organisations on changes in Brazilian environmental policy.

The environmental policy's trajectory was analysed through the federal regulations established over the period - considering that regulations are representative of policy outputs. Constitution articles, complementary constitutional laws, ordinary laws, and administrative acts (decrees, ordinances, and resolutions) were examined. The regulations were classified as *systemic* regulations, which deal with the environment as an object of State protection, and *sectoral* regulations, which affect Federal environmental protection organisations, environmental components, activities that affect the environment, and environmental policy instruments. The systems and organisations considered in detail were the National Environmental System (Sisnama – *Sistema Nacional de Meio Ambiente*), the Federal District Attorney (MPF – *Ministério Público Federal*), the Brazilian Institute of Environment and Renewable Natural Resources (Ibama – *Instituto Brasileiro de Meio Ambiente e Recursos Naturais Renováveis*), the Ministry of the Environment (MMA – *Ministério do Meio Ambiente*), and its agencies, in particular the Brazilian Forest Service (SFB – *Serviço Florestal Brasileiro*), the National Council for the Environment (Conama – *Conselho Nacional de Meio Ambiente*), the National Water Resources Council (CNRH – *Conselho Nacional de Recursos Hídricos*), the Deliberative Council of the National Environment Fund (FNMA – *Fundo Nacional do Meio Ambiente*), the Chico Mendes Institute for Biodiversity Conservation (ICMBio – *Instituto Chico Mendes de Conservação da Biodiversidade*), and the National Water Agency (ANA – *Agência Nacional de Águas*).

Regarding the environmental components, activities, and policy instruments, the examined regulations comprised those for the protection and management of forests, air, and water, protection of biomes, water resources, cities, dam safety, pesticide use, mining, the national system of conservation units, coastal zones, energy, environmental impact prior studies, environmental licensing, environmental zoning, administrative violations, civil liability and damage remedies, environmental crime, pollution control, and oversight of potentially impactful activities.

The regulations were manually sorted into three analytical profiles. The first are the constitutional and infra-constitutional provisions, considered structural– providing the framework of Federal environmental stewardship policy and governing institutional arrangements - and sectoral provisions. The second profile included regulations representing milestones in policy trajectory, whether advancing and consolidating a particular direction or representing a turning point, as per Gravey and Jordan (2016), who propose analysing dismantling processes through inflexions in policy trajectories (expansions, continuations, or contractions). In the third profile, changes were organised according to seven variables corresponding to structural characteristics in the environmental policy. These are: (i) policy principles and objectives, in particular the prohibition of retrogression; (ii) federal organisations, as indicators of the status of institutional arrangements; (iii) social participation and transparency instruments, as indicators of public participation and adequate information publication; (iv) status of the environmental bureaucracy, a sensitive variable when exercising environmental control and defining dismantling (JORDAN *et al.*, 2013); (v) implementation instruments, focusing on environmental control; (vi) legal instruments, and (vii) policy financing, a variable here treated exploratorily.

It was assumed in this study that the *environmental* control variable represents the ability to enforce environmental law simultaneously across all thematic areas. Thus, environmental control variations were considered to affect the field of environmental policy as a whole to analyse changes.

## 4 RESULTS: ENVIRONMENTAL POLICY IN BRAZIL, FROM EXPANSION TO DISMANTLING

### 4.1 INSTITUTIONS AND THE EXPANSION OF ENVIRONMENTAL POLICY

In Brazil, institutional factors have combined to generate a unique profile in the field of environmental policy as an area for State action. Among these factors are the ordering principles of environmental law, understood as structuring norms within a system of norms (SILVA, 2009). Within a short period, over the 1980s, three essential qualifications were established for delimiting the state's role in environmental protection, formalising environmental assets as public goods, and therefore subject to State action and protection. These are the qualifications of the environment being a *common good of the people*, a *public heritage*, and a *diffuse interest asset*, establishing the foundations for protecting the environment as a *stricto sensu* object of State protection (NEVES, 2015).

In 1981, the institution of the National Environmental Policy (PNMA – *Política Nacional de Meio Ambiente*) - Law 6938/1981 - inaugurated this new policy area. The environment was recognised as a *diffuse interest* asset under the protection of the Public Ministry (public prosecution service) in 1985 (the Public Civil Action Law 7347/1985), these norms being raised to Constitutional articles in the 1988 Federal Constitution (in articles 23, 24, 30, 129, 149 and 225). The control of polluting and potentially damaging activities is structured in a system that integrates oversight and inspection, application of administrative sanctions, and the registry and licensing of potentially polluting activities. Conama regulates environmental policy instruments, including the licensing system for all potentially harmful activities and setting air quality standards and freshwater classification levels.

In this new public policy field, the systemic environmental norms that began being created in the 1980s were articulated with prior legal structures that focus on environmental assets, individually considered, corresponding to different political and philosophical frameworks, such as the Freshwater Code (1934) and the second Forestry Code (1965, substituted in 2012). Thus, a unique combination of legal and institutional regimes was built for the several environmental assets within the new policy field.

In the late 1980s, Ibama was created to enforce environmental law, and finally, the Ministry of the Environment was established in 1992. In the following decade, Ibama would be subdivided into two more environmental agencies, SFB, responsible for public forestry, and ICMBio, to run conservation units and oversee policies for the sustainable use of renewable natural resources.

Throughout the 1990s and 2000s, environmental policy expanded, consolidating the environmental licensing system and expanding its agenda through the establishment of the freshwater resource management system (1997), the regulation of environmental infractions in the penal code (1998), and the systematisation of categories of protected areas under the National System of Conservation Units (Snuc) in 2000. In the first decade of the 21st century, the arsenal of environmental policy instruments was strengthened by the Statute of the Cities (Law 10.257/2001), and successful strategies such as those consolidated in the Plan for Prevention and Control of Deforestation in the Amazon (PPCDAm) in 2004. The public forest management policy regulated private concessions for economic production in 2006. Conservation units were created and biome protection instruments implemented - Atlantic Rainforest and the Amazon - and initiatives to depollute and revitalise river basins multiplied. The provisions in international conventions which Brazil joined, such as climate conventions (2009), desertification prevention, and biodiversity conservations (2015), were enshrined in national law.

More pronouncedly, from 2010 onwards, vested interests in the National Congress started to interfere with this expansion trajectory, promoting initiatives to destabilise the institutional architecture through the reform of environmental regulations (NEVES, 2016). Examples of this reaction, which would

become notably more robust in the following years, were the revocation of the 1965 Forestry Code in 2012, the weakening of the PPCDAm after 2013, the construction of the Belo Monte Hydroelectric Plant, and Amendment PEC proposal 65/2012 (sponsored by senator Acir Gurgacz, PDT-RO) the first initiative in environmental licensing dismantling at the constitutional level.

In 2015, the package of measures known as *Agenda Brazil* proposed to simplify environmental licensing and expedite the issuance of licenses through the flexibilisation of environmental regulations, and Senate bill PLS 654/2015 (authored by former senator Romero Jucá (PMDB-RR)) proposed flexibilisation through the creation of a ‘special environmental licensing’ for projects considered strategic (BARCELOS, 2020).

## 4.2 ENVIRONMENTAL POLICY 2016-2021: THE DECONSTRUCTION OF ENVIRONMENTAL INSTITUTIONALISM AS A GOVERNMENT POLICY<sup>2</sup>

From 2016 onwards, the destabilisation of the environmental area was deepened through the reduction of federal spending, especially on environmental control, the abandonment of the PPCDAm, and the advancement of proposals to loosen even further the environmental licensing system. In 2017 two provisional measures strove to reduce conservation areas, presidential executive orders MP 756 and 758. Several other initiatives were articulated in the National Congress to allow resource exploitation and mining on indigenous lands, which are essential protected areas. Proposals for weakening environmental licensing gained traction in the Legislative. In 2018, candidate Jair Bolsonaro included the deconstruction of environmental policy among his campaign promises.

In January 2019, President Bolsonaro made the environmental policy a top priority following his electoral promises, promoting drastic changes from the first days of the new Administration.

The organisational arrangement for the environment was disfigured by eliminating several federal agencies and transferring attributes and duties to unrelated departments, effectively reducing the operational competencies of the environmental area. In the Ministry of the Environment, administrative units responsible for promoting environmental education and fighting deforestation, such as the Secretary for Climate Change and Forests, were eliminated. The entire freshwater resource management system was also lost - including ANA, CNRH, and the National Secretary for Freshwater Resources and Water Quality (SRHQ), reassigned to the Ministry of Regional Development (MDR). At the Ministry of Foreign Affairs (MRE), the instance responsible for climate policy was eliminated. The Brazilian Forestry Service (SFB) and the Rural Environmental Registry (CAR) were reassigned to the agricultural sector, losing the duty to manage public forests. The National Environment Council (Conama) had its composition and size reduced<sup>3</sup>. In May 2020, Ibama’s enforcement actions in the Amazon started being coordinated by the Ministry of Defense.

Regarding instances of Civil Society participation, and public transparency, the “great revocation” started in April 2019 affected all federal public administration advisory boards, restructured or eliminated over half of the 22 national advisory boards associated with socio-environmental policies (IMAFLOA *et al.*, 2021). In May 2019, Conama was restructured, reducing the number of civil society representatives<sup>4</sup>. Civil society representatives were excluded from CNRH, the National Biodiversity Commission (Conabio), and the Deliberative Council of the National Environment Fund (FNMA).

Transparency of information on the status of the environment and government action was eliminated: information on programs and projects was removed from the MMA website; censorship was imposed on the institutional communication by Ibama and ICMBio<sup>5</sup>. Pressure to interfere with environmental information disclosure, such as the traditional publication of deforestation rates by the National Institute for Space Research (Inpe), increased. In 2020, the government centralised communication from environmental agencies and decreed that all processes were henceforth confidential. This



strategy combining censorship, intimidation, and discrediting, initially focused on environmental authorities, civil society organisations, and subsequently, the mainstream media.

Regarding implementing activities, environmental controls were drastically reduced by inhibiting oversight inspections, stopping the collection of fines by creating a ‘conciliation’ instance, and disorganising the environmental bureaucracy with the competence to enforce the law. The fines levied for crimes against the flora applied by Ibama in the Amazon in 2019 (2,534) was the lowest in two decades - a 40% drop from 2017-2018. Environmental fines applied after October 2019 stopped being collected after an executive order mandated the so-called “conciliation” of fines (OBSERVATÓRIO DO CLIMA, 2022). Ibama and ICMBio were practically paralysed across the country from the new Administration’s first year: State superintendencies were kept vacant, as were agency director positions; oversight inspection teams were decimated; managers lacking any technical qualifications whatsoever or previous experience in the area, such as military staff.

The remaining environmental bureaucracy responsible for critical activities, including licensing, and monitoring programs such as deforestation control and conservation unit management, fell victim to harassment and intimidation. Proposed reforms were put forward to nullify the environmental licensing system (Bill 3729/2004 and its appendices and substitutes). According to both researchers and civil organisation experts, this bill annihilates the current licensing system by dispensing licenses for several impactful projects indiscriminately; delegating regulation to subnational entities - including dispensing with licensing inspections to enable simple self-disclosure in license applications; limitations on environmental requirements, exemptions from compliance with subnational legislation, restrictions on the application of freshwater resource regulations; elimination of impact assessments on Indigenous lands that were still not fully demarcated and *Quilombola* lands that were still not fully titled, and in Conservation Units; elimination of Impact Analyses on human health; elimination of Strategic Environmental Assessments, amongst others (OBSERVATÓRIO DO CLIMA *et al.*, 2021).

The allocation of expenses and management of resources for the environmental sector deepened the paralysis of environmental control and environmental planning activities. From 2019 to 2021, expenses for personnel and “on-the-ground” direct discretionary spending were reduced. In 2021, personnel expenses in the environment sector summed R\$ 1.99 billion, representing 71% of the total executed (compared to 65% in 2019), while direct discretionary spending was around R\$ 620 million, only 25% of the allocable (INESC, 2022)<sup>6</sup>. In 2021, the executed budget for the environment represented less than 25% of the total allocated funds in the so-called Congress “Secret Budget” (INESC, 2022). International funding, such as from the Amazon Fund, was paralysed due to the extinction of the Amazon Fund Steering Committee (Cofa – *Comitê Orientador do Fundo Amazônia*) and the Amazon Fund Technical Committee (CTFA, *Comitê Técnico do Fundo Amazônia*) in April 2019. The National Fund for Climate Change steering committee was also dissolved in the so-called “great revocation” of 2019.

As for the legal instruments used to effect these changes, during the first two years of the Administration, the relaxation of norms and standards for the environmental policy was promoted through infra-legal orders issued by the Executive coupled with the disruption of programs and suspension of funds, such as in the climatic area (the Climate Fund and the Amazon Fund). In 2021, an alliance between the Executive and the Congress Speaker exponentiated the promotion of these changes through law bills, giving new impetus to even more disruptive change beyond the already ongoing process of licensing deregulation. That year, deregulation advanced on Permanent Preservation Areas (APPs) in urban areas, allowing municipal executives to dispose of APPs in sensitive areas, including riverbanks, hilltops, sandbanks, and mangroves in urban areas<sup>7</sup>.

The aforementioned measures expressed the abandonment, by the then ongoing federal Administration, of the principles and objectives of the environmental policy until then systematically established in the constitutional sphere. In response, numerous actions questioning the Breach of

Fundamental Precept (ADPF) were sued in the Federal Supreme Court (STF) (such as ADPF # 651, 708, and 760) and direct Actions of Unconstitutionality by Omission (ADO) (such as ADO # 54 and 59).

## 5 CONCLUSIONS AND EXPLORATORY CLUES

The research analysed the trajectory of Brazilian environmental policy to test the contribution of analytical categories from the literature on dismantling policies to the Brazilian case. The results presented in the previous section reveal that the theoretical contributions of the literature on dismantling, including dismantling in the environmental field, are useful for interpreting the process experienced in Brazil.

The trajectory of expansion of the environmental policy and consolidation of its instruments and programs thrived unabated for three decades until the beginning of the 2010s. From then on, changes promoted the destabilisation of important sectors of the environmental policy agenda and institutional framework, paving the way for the drastic inflections that occurred from 2019 on, which imposed a rupture in the identifiable trajectory.

The environmental policy dismantling process is expressed in the coordinated direction of changes to reduce and extinguish policies and capacities, withdrawing from the State the guardianship of the environment. The same sense of reduction and extinction is found in all seven environmental policy variables analysed. The principles and objectives of policy were disregarded, particularly the principles of non-regression, public participation, and information transparency. State organisations were destabilised. Social participation was inhibited by the exclusion of civil organisations from advisory committees. The environmental control sector was distorted: some regulations were simply disregarded, while others were interpreted deviantly in opposition to the constitutional provisions regarding the environment. Harassment of environmental officers and bureaucratic organisations has at least partially inhibited the enforcement of regulations by remaining staff, directly affecting policing capabilities. The suspension of funding deepened the challenges of maintaining operational environmental policy enforcement.

According to Gravey and Jordan (2016), understanding policy dismantling as a process, part of the undertaken actions effectively corresponded to neutralising State guardianship of most areas of the environmental agenda, at least temporarily, including climate change and biodiversity protection. Other actions significantly reduced the scope of protection and disorganised State action, however without achieving its definitive extinction in this period.

At least two factors are outstanding among the causes of the government's failure to annihilate the instruments of environmental defense. The first is the systemic character of the institutional architecture of environmental policy in Brazil, grounded in the Federal Constitution, which allows the intervention of the Federal Supreme Court. The second factor is the crucial role played by civil society organisations, which played an invaluable role in resisting harmful changes to environmental protection, acting on several fronts, such as registration and documentation of the dismantling, public civil actions against the damage resulting from the dismantling, mobilisation of national and international public opinion.

Not all aspects of the process experienced in Brazilian environmental policy find references in the international literature on policy dismantling. The process experienced in Brazilian environmental policy has singularities that distinguish it from some theoretical propositions in the international literature, such as the hypothesis that dismantling in the environmental area would occur disguisedly (POLLEX, LENSCHOW, 2020). During the Bolsonaro Administration, dismantling was widely publicised as a political objective, corresponding to the government's intention, as repeatedly expressed: to deregulate, weaken, and eliminate policy instruments; to reduce the scope and competencies of

environmental policy. Additional theoretical contributions are necessary to analyse the motivations of environmental dismantling in environments of reactionary populism and authoritarianism, considering the hypothesis that the dismantling of the environmental area can be associated with the erosion of democracy, as studied by Britto *et al.* (2022) among others.

The frontal disregard for constitutional provisions regarding the environment reveals an unprecedented pattern of behavior by the federal Executive, expressed in initiatives tentatively grouped into three categories: the perverted enforcement of environmental duty; incentive of perverse behavior; and dissemination of misinformation to justify environmental misrule. Under the scope of this research, it was only possible to exploratory recognise and describe this pattern, whose systematic study should be developed in further detail in future studies.

The first aspect, the perverted enforcement of environmental duty, can be exemplified by the intentional reduction of inspection and oversight activities and the cessation of the collection of levied fines. On the legislative level, this aspect was expressed as executive order MP 1040/2021, which authorised automatic permits for medium-risk enterprises, and the order that changed the composition of the Deliberative Council of the National Environment Fund (FNMA) - both declared unconstitutional by the Supreme Court in 2022.

The second aspect, the encouragement of perverse behavior, is evident in statements of vocal support for the invasion of Indigenous Lands and the practice of mining in protected areas, publicly disavowing environmental officers attempting to perform their duties, such as lead oversight inspectors being fired after operations against gold mining on indigenous lands in Pará that resulted in the destruction of scores of units of heavy equipment used by criminals. Within the State apparatus, this attitude caused fatigue among the oversight bodies. Among the population, this behavior undermined trust in environmental law and environmental enforcement agents and officers, fostering disrespect for these agents and institutions, incentivising environmental crime by third parties, and approaching incitement to crime.

The third aspect, the dissemination of misinformation, may be illustrated by the president's statements about threats to national sovereignty in the Amazon region, initiatives to discredit INPE, and physicist Ricardo Galvão its director, responsible for monitoring and publishing deforestation data, stating that the agency was "serving some NGO" (OBSERVATÓRIO DO CLIMA, 2020), and also promoting biased indicators to justify forestry policy decisions (RAJÃO *et al.*, 2021); vocally disparaging and disqualifying scientific knowledge, qualified technicians, and experts of recognised international expertise.

Noting the environmental dismantling process raises several questions about its implications, which are becoming increasingly important in the research agenda. To what extent has environmental policy been dismantled? At what stage in the dismantling process do environmental institutions find themselves? Which parties benefited most from these dismantling initiatives? What was the importance of resistance processes in this environmental dismantling? How are the actors who support the environmental dismantling project organised? What are the conditions for a change toward reconstruction? Are all negative changes reversible? Were there any irreversible changes? What are the effects and costs of this dismantling? Research on the Brazilian case will provide valuable contributions to these questions.

The impact of the dismantling initiatives implemented to date is yet to be quantified, even though some consequences are already clearly observable and easily quantifiable. Little is as yet known about the duration of the impacts of dismantling. Even if the new Administration inaugurated in January 2023 suspends the dismantling process and dedicates itself entirely to the reconstruction of environmental policy, there are consequences of this period capable of reverberating beyond when the dismantling experience was in effect. By intentionally transgressing the constitutional boundaries that underpin policy, trying to delegitimise the environmental constitutional order and its infra-constitutional

architecture, that government behavior - temporarily qualified in this research as a perverse pattern of exercise of duty/power - seems to have harmed the democratic regime itself, eroding the credibility of State action in the environment among the population. The erosion of credibility with the population and the recovery of its confidence in the normative power deserve a thorough investigation of effects, mechanisms, and prospects.

The behavior of certain protagonists deserves in-depth analysis. From one aspect, the environmental bureaucracy (exponents in the scientific community and organised civil society) played an invaluable role in resisting dismantling. From another perspective, without parliamentary support, it would be impossible to destabilise and change the regulations enshrined in federal laws, as was the case as regards the use of hazardous pesticides. A coalition intent on environmental dismantling is well structured in Congress - and intends to continue to actively participate in the environmental arena.

Finally, it is essential to investigate the role of subnational administrations in the process of dismantling and resistance, an aspect not addressed in this research. It should be noted that, according to the federative structure and constitutional attributions, the actions of subnational administrations are relevant and indispensable; they certainly played an important role in resisting dismantling, at least in some areas of the environmental agenda, such as climate change.

## NOTES

1| The characterisation of environmental policy uses contributions by Azuela de la Cueva (2006), Connelly e Smith (2003), Dobson (1996), Downs (1978), Durant (2004), Fiorino (1995), Frey (2000), Janicke (1996), Kraft (2001), Ostrom (1994), Paehlke (1996, 2002, 2004), Steel, Clinton and Lovrich (2003), Sterner (2003), Vig and Kraft (2003).

2| This section elaborates on the bibliography from academia, and civil organisation think tanks, which performed extraordinary work to monitor environmental actions during the period studied. Worthy on note was the work by Araújo (2020); Araújo and Herschman (2021); Capelari (2020); Greenpeace, Brazil (2021); Greenpeace, Brazil (2022); Imaflora, Article 19 and Socio-Environmental Institute (2021); Institute of Socioeconomic Studies - Inesc (2021 and 2022); Greenpeace, Democracy and Sustainability Institute and Society Institute, Population and Nature (2020); Minc, C. *et al.* (2021); Observatório do Clima (2020, 2021, 2022); SOS Mata Atlântica, WWF Brazil (2021); Talanoa Institute (2022); Observatory of the Forest Code and Institute for Research on the Amazon - Ipam (2021).

3| This measure, promoted by Decree 9759 of 11/04/2019, was later reversed by the Supreme Court.

4| In December 2021, the Supreme Court suspended this measure, within the scope of the ADPF 623, valid until the STF plenary of 2022.

5| Executive Order 560/2020 determined that any contact with the press needs to be mediated by the communication advisory and that the leads needed to report any attempt to contact journalists directly.

6| Values corrected by the IPCA December 2021.

7| Preservation Areas (APPs) in urban areas, allowing municipal executives to dispose of APPs in sensitive areas, including riverbanks, hilltops, sandbanks, and mangroves in urban areas

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