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THE PARADOX OF PIX AMENDMENTS: TRANSPARENCY AND SOCIAL CONTROL FROM THE PERSPECTIVE OF CRITICAL LEGAL THEORY

O PARADOXO DAS EMENDAS DO PIX: TRANSPARÊNCIA E CONTROLE SOCIAL NA PERSPECTIVA DA TEORIA JURÍDICA CRÍTICA

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ABSTRACT

This article examines the paradox of the *PIX Amendments* (special transfers) within the contemporary Brazilian budget, through the lens of Critical Legal Theory. It explores how the discourse of debureaucratization and federative autonomy coexists with risks of opacity and the political appropriation of public resources. The main objective is to critically assess the limits of transparency and social accountability in the *PIX Amendments*, comparing them to the experience of the RP-9 (*Secret Budget*), and to propose legal and institutional guidelines to strengthen public accountability mechanisms. Methodologically, the study employs documentary and jurisprudential analysis—drawing on the 1988 Federal Constitution, Constitutional Amendment No. 105/2019, ADPF 854/2022, and audit court directives—supplemented by a comprehensive literature review. Findings indicate that the lack of specific allocation criteria, combined with decentralized execution and broad discretion, undermines traceability and social oversight, thereby reconfiguring—but not resolving—the tension between federative autonomy and accountability. The article concludes by advancing several policy and legal recommendations: enhanced proactive transparency with standardized open data; implementation of audit trails; establishment of objective

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prioritization criteria; institutional strengthening and autonomy of oversight bodies; and the promotion of fiscal education programs fostering meaningful civic participation.

Keywords: Social Accountability; *PIX Amendments*; Public Budgeting; Critical Legal Theory; Government Transparency.

RESUMO
Este artigo investiga o paradoxo das Emendas PIX (transferências especiais) no orçamento brasileiro contemporâneo, à luz da Teoria Crítica do Direito, evidenciando como a promessa de desburocratização e autonomia federativa convive com riscos de opacidade e uso político do erário. O objetivo geral é analisar criticamente os limites da transparência e do controle social nas Emendas PIX, cotejando-os com a experiência do RP-9 (Orçamento Secreto) e propondo diretrizes para aperfeiçoar a accountability pública. Metodologicamente, realiza-se análise documental e jurisprudencial (CF/88, EC 105/2019, ADPF 854/2022, orientações de Tribunais de Contas), complementada por revisão de literatura. Os resultados indicam que a ausência de finalidade específica, somada à descentralização da execução e à ampla discricionariedade, fragiliza a rastreabilidade e o controle social, e reconfigura, sem eliminar a tensão entre autonomia federativa e accountability. Ao final, apresentam-se proposições jurídico-institucionais: transparência ativa pormenorizada e dados abertos padronizados; trilhas de auditoria; critérios objetivos de priorização; fortalecimento técnico e autonomia dos órgãos de controle; e programas de educação fiscal com participação social qualificada.

Palavras-chave: Controle Social; Emendas PIX; Orçamento Público; Teoria Crítica do Direito; Transparência Pública

1 INTRODUCTION

Transparency and social control are non-negotiable pillars for the health of democratic governance and the legitimacy of the Rule of Law in any nation that seeks probity and efficiency in the management of public affairs. In Brazil, however, budget management has historically been marked by a persistent paradox: while the legal system establishes advanced frameworks that promote publicity and popular participation, administrative practice is often entangled in mechanisms of obscurity, clientelism, and the allocation of resources guided by political interests to the detriment of planning and the common good.

For didactic purposes, it is important to recall that the Brazilian mandatory budget includes three main types of parliamentary amendments: (i) individual amendments, proposed by each legislator (representative or senator); (ii) caucus amendments, allocated collectively by state caucuses; and (iii) general-rapporteur amendments, which gave rise to the so-called Secret Budget (RP 9), known for their

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high degree of discretion. This categorization helps to understand the path that led from the concentration of power in the rapporteur to the emergence of the so-called PIX Amendments.

It is precisely at this point that the central paradox of the debate emerges: while individual and caucus amendments became subject to mandatory execution rules — reinforcing predictability and federative autonomy—rapporteur amendments remained an opaque space marked by strong concentration of power within the Legislative Branch.

This paradox is paradigmatically manifested in the recent experience of the so-called "Secret Budget" (RP 9)[1], the general-rapporteur amendments, whose discretionary execution and lack of identification of the proposing legislators turned them into a symbol of Brazilian budgetary dysfunction. According to Giacomoni (2025), the opaque nature of these transfers mirrors the long history of general-rapporteur amendments which, since the Parliamentary Joint Committee of Inquiry (CPMI) on the Budget in 1993–94, had already been denounced as instruments of power concentration, allowing the rapporteur to make decisions and allocations without the necessary publicity.

In ruling on the Allegation of Violation of a Fundamental Precept (ADPF) No. 854 (2022), the Brazilian Supreme Federal Court (STF) declared unconstitutional the manner in which rapporteur's budgetary amendments (RP 9) had been implemented. This legal milestone reinforced the requirements of publicity, traceability, and accountability, driving the pursuit of greater transparency and social control. However, this decision alone does not eliminate legitimate discretion, nor does it resolve the new challenges inherent in making transparency and accountability truly effective (Brazil, 2024).

It is within this environment of regulatory reform—yet marked by the persistence of practices that strain democratic principles—that the special transfers, popularly known as PIX Amendments, emerged, established by Constitutional Amendment No. 105/2019. These transfers authorize the direct allocation of federal funds to states, the

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[1] The term "Secret Budget" refers, in brief, to the practice of distributing public resources through the *general rapporteur's budgetary amendments*, classified as RP 9 (Primary Result 9) within the federal budget execution process. This mechanism obscured authorship and accountability, undermining democratic oversight and enabling the allocation of funds without proper transparency. It became difficult to identify both the legislators responsible and the final beneficiaries, which led the Brazilian Supreme Federal Court (STF), in ADPF No. 854 (2022), to declare the mechanism unconstitutional for violating the constitutional principles of publicity, impersonality, and administrative morality.

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Federal District, and municipalities, without the need for formal agreements — an apparent debureaucratization strategy that, paradoxically, may increase the risks of opacity, hinder ex post oversight, and weaken monitoring of the effective application of public resources. In other words, the supposed innovation ended up reintroducing old problems: the expansion of discretionary margins, low expenditure traceability, and weaknesses in social control mechanisms.

The absence of a defined purpose at the time of proposal, combined with the decentralization of execution, raises concerns about the potential perpetuation of previous patterns associated with the political and improper use of public funds. In this context, the article seeks to answer two central questions: First, how does the design of the PIX Amendments, given Brazil's historical record of low budgetary transparency and in light of Critical Legal Theory, reshape the challenges of transparency and social control in public administration? Second, what legal and institutional measures can mitigate these risks and promote a more democratic distribution of public resources?

The relevance of this study is multifaceted. Academically, it contributes to advancing the debate in Brazilian Financial and Administrative Law, particularly by filling a gap in the literature that has not yet systematically examined the PIX Amendments through the lens of Critical Legal Theory. Socially, it underscores the urgency of strengthening accountability and integrity in the management of public resources.

This critical perspective reveals the power structures and contradictions underlying transparency regulations, moving beyond a merely formalistic assessment. From a social standpoint, the article is justified by the need to strengthen public trust in democratic institutions, combat clientelism, and ensure that public money is effectively directed toward development and the promotion of social well-being, rather than being used to negotiate personal or political interests.

In this sense, this article seeks to deepen the critical panorama of the evolution of budgetary practices marked by opacity in Brazil, with special attention to the transition from the general-rapporteur amendment model—the so-called *"Secret Budget"*—to the PIX Amendments. From the standpoint of Critical Legal Theory, it aims to demonstrate that, although the PIX Amendments are presented as a formal innovation intended to reduce bureaucracy and enhance federative autonomy, they actually preserve and, in several respects, intensify the historical challenges related to transparency, social control, and accountability.

The critique reveals that, despite normative innovations and judicial interventions aimed at correcting distortions, there remains a structural risk of political instrumentalization of these transfers, with the potential to perpetuate clientelist practices and undermine public trust in budget management. Consequently, this article not only identifies and discusses these challenges but also proposes legal and institutional guidelines for consolidating a more democratic, transparent, and socially accountable system of budgetary governance.

Within this framework, the general objective of this article is to critically analyze the limits of transparency and social control concerning the PIX Amendments, comparing them to the RP-9 (Secret Budget) experience, through the lens of Critical Legal Theory, and proposing guidelines to enhance public accountability.

To that end, the following specific objectives are pursued: (i) To contextualize the historical evolution of budgetary practices characterized by low transparency in Brazil, emphasizing the “Secret Budget” (RP 9), its unconstitutionality, and its persistent institutional consequences; (ii) To examine the legal framework of the PIX Amendments and identify the main challenges they pose to effective oversight and social control over the use of public funds;

It also seeks (iii) to analyze the implications of discretion in the execution of PIX Amendments for administrative probity, public spending efficiency, and the promotion of the public interest; and (iv) To present legal and institutional proposals, grounded in Critical Legal Theory, aimed at enhancing transparency, planning, accountability, and efficiency in Brazilian budget management, while mitigating the risks of misuse of public resources.

The research adopts a qualitative and exploratory methodological approach, based on a bibliographic and documentary review. The analysis encompassed relevant legislation—such as the Federal Constitution (CF/88), the Budget Guidelines Law (LDO), the Annual Budget Law (LOA), Constitutional Amendments, ordinances and resolutions—as well as Federal Supreme Court (STF) rulings, specialized doctrine in Financial, Constitutional, and Administrative Law, and, fundamentally, Critical Legal Theory.

Relevant rulings of the Federal Supreme Court (STF) were examined, particularly those related to parliamentary amendments and budget oversight. This

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approach enables the construction of a consistent theoretical framework and a critical understanding of the subject matter, aiming to unveil the power relations and contradictions that permeate budgetary governance in Brazil.

This research is structured into five chapters: initially, the introduction presents the context, justification, research problem, objectives, and methodology. The second chapter contextualizes the historical evolution of opaque budgetary practices, especially the "Secret Budget" (RP 9). The third chapter critically examines the regulatory framework of the PIX Amendments and identifies the main challenges related to oversight and social control. The fourth chapter explores the implications of discretion in these transfers for administrative probity and the efficiency of public expenditure. Finally, the article proposes legal and institutional guidelines, grounded in Critical Legal Theory, to strengthen transparency and accountability.

2. PUBLIC BUDGETING IN BRAZIL: FROM HISTORICAL OPACITY TO THE SECRET BUDGET (RP 9)

The management of the public budget, by definition, should reflect the collective priorities of a nation, translating public policies aimed at promoting social well-being into numbers and budgetary classifications. However, the trajectory of Brazilian public budgeting has historically been marked by a context of opacity and arbitrariness, in which formal mechanisms of participation and oversight coexist with practices that frequently undermine their effectiveness.

Budget transparency, an essential component of state administration, is consolidated through a robust normative framework that includes the 1988 Federal Constitution, the Fiscal Responsibility Law (Supplementary Law No. 101/2000), Supplementary Law No. 131/2009 (*Transparency Law*), Law No. 12.527/2011 (*Access to Information Law*), and Law No. 4.320/1964, which establishes general financial rules for the preparation and control of public budgets.

These legal frameworks enshrine the principles of legality, publicity, and the right to information. In parallel, the Federal Supreme Court acts to curb constitutional violations, while the Courts of Accounts exercise external oversight and ensure the traceability of public expenditures.

The current context of PIX Amendments requires revisiting the recent experience of the general-rapporteur amendment mechanism (RP 9), which became

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one of the most controversial episodes in Brazilian budget execution. Although not formally provided for in the Constitution, this model was implemented through the discretionary power concentrated in the figure of the rapporteur-general, and it quickly expanded to an extent that undermined the legitimacy and transparency of the budgetary process.

In practice, funds were distributed without transparent criteria and without the proper identification of the legislators responsible for the allocations, resulting in low traceability and insufficient public clarity. This institutional design encouraged clientelism, weakened federative isonomy, and hindered the assessment of the real effectiveness of public spending. Thus, the model became a powerful instrument of political negotiation and concentration of power (Graton; Bonacim; Sakurai, 2020).

According to the Agência Câmara de Notícias (2024), beginning in 2020, a budgetary arrangement was consolidated that allowed for the allocation of substantial public funds without proper identification of the proposing legislators and, in many cases, lacking objective criteria or transparent disclosure.

These distortions were not limited to clientelism: they also involved the concentration of resources in specific electoral strongholds, thereby exacerbating territorial inequalities and weakening federative isonomy, to the detriment of technical criteria for prioritization.

The resulting institutional paradox is evident: in a context where transparency and social participation are enshrined as republican foundations, a model of budgetary management proliferated that operated beyond the reach of public scrutiny. The difficulty in identifying the authors and beneficiaries of RP 9 amendments severely hindered the work of oversight bodies and the full exercise of accountability, turning the public budget into a currency of political exchange, to the detriment of policy effectiveness and the equitable regional distribution of resources (Zuccolotto & Teixeira, 2014).

This budgetary arrangement, known as RP 9, illustrates how the absence of robust control mechanisms fosters the allocation of funds without clear, objective, and public parameters, compromising both isonomy and strategic policy planning (Bassi, 2023). Without adequate transparency and technical criteria, political interests prevail over collective needs, favoring specific groups and undermining the democratic legitimacy of the budget.

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As previously emphasized in the Introduction, the Federal Supreme Court (STF), in ruling on ADPF 854/DF (2022), declared unconstitutional the implementation of rapporteur-general amendments (RP-9) for violating the principles of publicity, morality, and impersonality (Brazil, 1988). This ruling represented a milestone in efforts to restore credibility to budgetary management and to impose clearer limits on the electoral use of public resources.

As Giacomoni (2025) points out, the decision constituted a critical legal milestone, establishing strict measures such as the requirement to identify the proposers and beneficiaries of amendments, the detailed publication of budget execution data (commitment, settlement, and payment), and the adoption of transparent and objective guidelines for the allocation of funds (Brazil, 2024).

Beyond these determinations, the STF required the submission of detailed work plans and compliance with fiscal rules. Although belated, this intervention represented a decisive step toward restoring constitutional order, reinforcing the integrity of the budgetary process, and enhancing public accountability.

The dynamics of Brazilian budget management have historically been characterized by constant efforts to balance the flexibility required for the execution of public policies with the unavoidable observance of the principles of transparency and social control. In this context, the PIX Amendments—formally designated as special transfers, under Article 166-A of the 1988 Federal Constitution (Brazil, 1988), introduced by Constitutional Amendment No. 105/2019 (Brazil, 2019)—emerge as a new institutional arrangement that demands critical assessment through the lens of Critical Legal Theory and reveals, albeit indirectly, a rupture in the harmony among the branches of government, marked by the Legislature's encroachment upon the Executive's constitutional prerogatives.

The PIX Amendments consist of individual budget amendments executed through special transfers, which allow legislators to allocate resources from their amendments for free use by states, the Federal District, and municipalities. These are mandatory amendments, meaning their execution is legally required, which gives them a substantial impact on budgetary dynamics and on the constitutional distribution of competences among the branches of government.

It is important to emphasize the distinction between the PIX Amendments and the bench (bloc) amendments. Although both possess a mandatory character—with the latter becoming obligatory through Constitutional Amendment No. 100/2019—

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bench amendments must be executed exclusively through transfers with a defined purpose, thus requiring strict linkage to the original object of expenditure, unlike the free-use structure of the PIX Amendments.

Although the official justification for creating special transfers was to accelerate budgetary and financial execution, this reasoning may conceal the intention to expand the Legislature's political influence over budget execution and weaken the Executive's coordinating capacity. This phenomenon reveals, even if indirectly, a breach in the balance among the branches of government, characterized by the Legislature's usurpation of the Executive's constitutional functions. Furthermore, the transfer of federal resources to subnational entities takes place without adequate monitoring of how such funds are applied (Alencar, 2024).

These amendments represent a significant inflection in the traditional model of public fund transfers, as they allow legislators to directly allocate resources to states, the Federal District, and municipalities, regardless of prior linkage to specific programs (Brazil, 2019). Unlike tied transfers, which require the specification of expenditure purposes and the formal signing of agreements or transfer contracts, the PIX Amendments function as a direct transfer mechanism, under a "fund-to-fund" arrangement, with resources immediately credited to the treasuries of subnational governments (Sergipe, 2024).

It should be emphasized that this innovation, although celebrated by many as a step forward in the process of debureaucratization and speeding up resource allocation, simultaneously raises a series of tensions and challenges to the effectiveness of oversight mechanisms and the promotion of transparency (Santos & Reis, 2024). The underlying rationale reflects a pursuit of greater autonomy for subnational entities, allowing public policies to better adapt to local demands. However, it is precisely within this expansion of discretionary power that the central paradox lies: while it enhances federative autonomy, it weakens traceability and social control over the application of resources (Brazil, 2019).

In the assessment of Mascarenhas (2023), one of the key dilemmas surrounding the PIX Amendments concerns the determination of who holds ownership of the funds and, consequently, who has the competence to oversee them. The Federal Constitution, in Article 166-A, §2, II, provides that, upon transfer, the amounts become part of the recipient entity's treasury, thereby shifting oversight authority from the Federal Court of Accounts (TCU) to state and municipal courts of accounts. This

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change affects not only accountability but also standing in reimbursement and administrative improbity actions, which now fall under the jurisdiction of the beneficiary entity.

According to Conti (2024), Constitutional Amendment No. 105/2019, by introducing Article 166-A into the 1988 Constitution, sought to reinforce subnational autonomy through special transfers and transfers with defined purpose. In the former, funds are unconditional and become the property of the recipient upon transfer, which also shifts oversight competence to local courts of accounts. While this arrangement strengthens cooperative federalism and the principle of subsidiarity, it carries the risk of weakened supervision, as subnational control bodies tend to be closer to political actors and sometimes less stringent. The paradox of the PIX Amendments, therefore, lies in reconciling federative autonomy with the need for effective accountability.

From the standpoint of Critical Legal Theory, this mechanism is not merely a technical solution but rather an instrument of power that diverges from the public interest and reproduces patrimonialist practices (Ferraz Júnior, 2003). By transferring ownership of funds to subnational entities without clear requirements for allocation, the PIX Amendments have created opportunities for opaque practices that may favor particularistic interests and undermine the legitimacy of the budgetary process.

It can thus be argued that the constitutional reform, which initially appeared to signal a modernization of budget execution, ultimately reproduced longstanding flaws: weak accountability, the concentration of decision-making power in a limited number of actors, and the erosion of social participation. The absence of a specific project or program at the time of amendment proposal not only hampers monitoring by civil society and oversight institutions, but also shifts the focus of supervision to ex post scrutiny—a domain in which Brazilian institutional weaknesses are most acutely revealed (Sergipe, 2024).

Even though the prevailing narrative claims that such transfers enhance local management, it cannot be overlooked that uneven oversight capacity among federative entities seriously undermines the effectiveness of control mechanisms. Many municipalities—particularly small and resource-constrained ones—lack robust administrative and technical structures to manage and monitor the use of public funds efficiently and transparently. The courts of accounts, though vital to this framework, face the monumental challenge of auditing the dispersed allocation of resources

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across thousands of entities, which inevitably dilutes their capacity for comprehensive oversight.

3.1. LEGAL FOUNDATIONS AND PARTICULARITIES OF EXECUTION

When examining the legal foundations and operational particularities of special transfers, popularly known as PIX Amendments, it becomes evident that the main normative innovation was the waiver of agreements or similar instruments, allowing for the direct transfer of funds to the beneficiary federative entity. This modality introduced detachment from a predefined purpose, authorizing the use of resources within the constitutional areas of competence of the receiving entity (Brazil, 2019).

At the infraconstitutional level, the execution of these transfers has been regulated annually by the Budget Guidelines Law (LDO) and the Annual Budget Law (LOA), which establish deadlines, limits, and transparency requirements. However, in practice, a wide margin of discretion has been granted to local managers—especially after the effective transfer of funds—thus undermining uniformity and predictability in budget execution.

Within this context, Complementary Law No. 210/2024 (Brazil, 2024) was enacted, addressing the proposal and execution of parliamentary amendments under the LOA framework. The law sought to bring greater systematization to the process by establishing additional parameters of transparency and publicity. Among its innovations are: the mandatory registration of amendments in a centralized platform, the linking of execution to the fulfillment of formal requirements, and the definition of clear criteria for resource allocation.

At the same time, Complementary Law No. 210/2024 prohibited the individualization of bench amendments, requiring that they be directed toward structurally relevant investment projects, as defined in the LDO or registered within the National Budgetary System. Furthermore, the law established twenty-one priority sectors for resource allocation, including health, education, sanitation, housing, transportation, public security, science and technology, infrastructure, social assistance, and human rights. The aim was to limit political arbitrariness and enhance expenditure traceability, although gaps remain regarding the practical effectiveness of social oversight (Brazil, 2024).

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While representing a significant normative advancement, Complementary Law No. 210/2024 did not eliminate the practical weaknesses already observed. Persistent challenges include heterogeneous institutional capacities for oversight among federative entities, the risk of political capture of funds, and deficiencies in public policy planning—all of which constrain the effectiveness of transparency and social control.

As a rule, the authorship of parliamentary amendments and the amounts transferred are publicly available information; however, the absence of linkage to specific projects renders the final use of resources less visible, complicating assessments of spending adequacy and managerial accountability. This feature increases the risk of diluting political and administrative responsibility, as well as the loss of traceability concerning concrete and measurable outcomes, to the detriment of the population's actual needs.

3.2. GAPS IN TRANSPARENCY AND THE PERSISTENCE OF CHALLENGES TO SOCIAL CONTROL FROM THE PERSPECTIVE OF CRITICAL LEGAL THEORY

An examination of budgetary transparency through the lens of Critical Legal Theory reveals that the public budget, far from being a mere technical compilation of rules and procedures, constitutes an instrument of power, deeply shaped by the political and social disputes that structure contemporary collective life. As Luís Fernando Coelho (2003) teaches, law cannot be viewed solely as a normative system but as a phenomenon embedded in power relations, capable of transformation when guided by social justice, freedom, and equality.

This approach is expanded by Scremin (2004), who argues that Critical Legal Theory does not confine itself to revising the legal order; rather, it establishes a dynamic relationship between law and politics, oriented toward concrete social change and the implementation of fundamental rights that too often remain merely formal. From this perspective, budget management plays a central role by demonstrating how public resources may serve either to reinforce structures of domination or to promote inclusion and equity. The current design of special transfers shows that, without clear guidelines, such resources can be instrumentalized for electoral purposes, favoring private interests at the expense of collective needs.

Another recurring effect is the concentration of resources in specific electoral strongholds, thereby widening regional inequalities: areas closer to political centers

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receive more investments, while more vulnerable regions remain underfunded. This dynamic distorts the federative principle and deepens territorial disparities.

The critique inspired by Critical Legal Theory exposes the institutional limitations and political barriers that continue to hinder effective oversight and the expansion of social control over the budget. The budget, rather than reflecting purely technical decisions, reveals political preferences and group interests, underscoring the urgency of democratizing its management through participatory and transparent processes.

Habermas (1997) reminds us that democratization requires recognizing law as a cultural construct and transforming the relationship between the State and society. This involves fostering dialogical forms of participation, in which civil society not only monitors but actively influences decisions regarding the use of public resources that affect the common good.

In Brazil, despite normative advances, deep inequalities in access to information persist. Budgetary transparency remains weakened by unclear rules governing resource allocation, and even Supreme Federal Court decisions aimed at enhancing publicity face institutional barriers, revealing the reproduction of opaque practices that challenge the effectiveness of social control mechanisms.

Critical Legal Theory helps reveal that such practices are not merely administrative deviations but rather manifestations of entrenched power structures resistant to institutional transformation. This reality illustrates how challenging it remains to establish a budgetary model that is transparent and open to social participation.

This persistence reinforces the perception that the budget serves primarily as a forum for interest negotiation, where institutional obstacles restrict—or even preclude—effective popular participation. As Flores (2009) observes, transforming this logic requires deep cultural and institutional changes capable of fostering more qualified and participatory social oversight.

From a critical standpoint, it becomes clear that transparency and accountability mechanisms must be strengthened to ensure that resource allocation is understandable and verifiable by civil society. Although the Supreme Federal Court and Complementary Law No. 210/2024 represent meaningful progress, the effective transformation of the budget into an instrument of social justice remains an unfinished challenge.

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This need to strengthen transparency is illustrated by the magnitude of resources mobilized at the subnational level. In the State of Sergipe, which comprises 75 municipalities, the volume of mandatory state-level parliamentary amendments executed in 2024 reached approximately R$ 50 million, distributed across 163 amendments benefiting 61 municipalities (Sergipe, 2024).

The phenomenon of the high budgetary impact of mandatory amendments is replicated in other federative spheres. In Aracaju, the Municipal Council approved 529 mandatory amendments for 2024, totaling more than R$ 60 million (Aracaju, 2024). These figures, though derived from a municipal legal framework, illustrate the broad scope of the mandatory amendment principle, which grants legislators at all levels significant decision-making authority over revenue allocation, thereby amplifying the paradox between political discretion and accountability.

The relevance of these decentralized amounts underscores the tangible impact of this instrument on federative balance and highlights the urgency of improving oversight and publicity mechanisms. Overcoming such weaknesses requires more than formal adjustments: it demands clear traceability tools, incentives for qualified civic participation, and the strengthening of the technical capacity of oversight institutions. Only through such measures can the PIX Amendments avoid political capture and become a legitimate instrument for promoting the public interest and deepening democracy.

To systematize the analysis, the following presents a comparative table between the Secret Budget (RP 9) and the PIX Amendments, highlighting their convergences, divergences, and implications for transparency, oversight, and the integrity of budget management.

Table COMPARATIVE ANALYSIS: SECRET BUDGET VS. PIX AMENDMENTS

Aspects	**Secret Budget (RP 9)**	**PIX Amendments (Special Transfers)**
Legal Origin	Not expressly provided for in the 1988 Federal Constitution; implemented through rapporteur-general amendments (RP 9).	Established by Constitutional Amendment No. 105/2019, which added Article 166-A to the 1988 Constitution, allowing special transfers resulting from individual amendments.
Purpose	Allocation of public funds through rapporteur-general amendments, without clear identification of the final beneficiaries and with broad political discretion.	Direct transfer from the Federal Government to States, the Federal District, and Municipalities, without the need for formal agreements or similar instruments, provided that the

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Aspects	**Secret Budget (RP 9)**	**PIX Amendments (Special Transfers)**
		conditions of Article 166-A of the 1988 Constitution are met.
Transparency	**Very low** — absence of identification of amendment authors and undefined criteria for resource distribution, hindering traceability of funds.	**Moderate** — authors are identified, but gaps persist regarding destination, purpose, and the lack of real-time disclosure on a unified platform, which limits full transparency.
Social Oversight	**Fragile** — lack of transparency made popular and institutional oversight unfeasible.	**Limited and Unequal** — although authors are identified, municipalities with low technical capacity face additional difficulties in monitoring and reporting, undermining effective social control.
Risk of Clientelism	**High** — partisan use of amendments as an electoral strengthening tool, compromising equity in resource allocation.	**Persistent** — without strict criteria, it continues to allow room for clientelistic and politically motivated practices.
Supreme Court Intervention	Declared unconstitutional in **ADPF 854 (2022)** for violating the principles of publicity, morality, and administrative impersonality.	Considered constitutional, but subject to improvements in transparency and oversight to ensure the legality and effectiveness of transfers.
Oversight	**Deficient** — lack of transparent and integrated tracking mechanisms, hindering the performance of control bodies and accountability of public managers.	**Ex post and fragmented**, conducted by local Courts of Accounts and the Federal Court of Accounts (TCU), without full federative integration, which limits the effectiveness of oversight.
Institutional Impacts	**Erosion of social trust** — weakens democratic governance (public confidence in institutions) and compromises fair resource distribution, reinforcing a patrimonialist perception of the public budget.	May expand federative autonomy and strengthen local public policies but still presents vulnerabilities to misuse and poor management of funds.
Improvement Proposals	The Supreme Federal Court determined greater publicity and traceability of amendments, identification of authors and beneficiaries, as well as disclosure of transfer rules.	Strengthening of active transparency, expansion of social participation, and inter-federative cooperation among oversight bodies to ensure lawful and effective transfers.

Source: Prepared by the authors, 2025.

As observed in the comparative table presented, although the *Secret Budget* (RP 9) and the *PIX* Amendments have distinct origins, both reveal structural challenges related to transparency and social control. The former was declared unconstitutional by the Federal Supreme Court (STF) due to serious violations of republican and

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democratic principles; the latter, while recognized as constitutional, still requires normative and institutional improvements capable of ensuring that it truly fulfills the democratic function to which it aspires.

From the perspective of Critical Legal Theory, such problems cannot be regarded merely as isolated technical or administrative shortcomings. They reflect the persistence of power structures that employ mitigated transparency as a tool to limit social participation and preserve political privileges. Overcoming this framework demands far more than formal adjustments—it requires profound institutional transformations capable of creating genuine spaces for effective democracy and for broader, more qualified social control.

4 IMPACTS AND IMPLICATIONS OF DISCRETION IN PIX AMENDMENTS

In theory, administrative discretion represents the legal latitude granted to public managers to select, within statutory limits, the course of action that best serves the public interest. In practice, however, when such discretion is not accompanied by clear oversight mechanisms, it becomes a concrete risk to integrity, efficiency, and public trust. It is important to emphasize that this discretion does not extend to the Legislative Branch, whose constitutional role is confined to lawmaking and oversight, and which lacks competence to intervene directly in budget execution.

In the context of PIX Amendments, this issue is exacerbated by the absence of linkage to specific projects and the frequent lack of prior planning. This facilitates the political use of public funds to the detriment of collective priorities, perpetuates clientelistic practices, and heightens the opacity surrounding public expenditures (Zuccolotto & Teixeira, 2017).

From the perspective of Critical Legal Theory, the excessive discretionary authority exercised by Parliament—an institution lacking constitutional competence to perform executive functions—tends to be captured by particularistic interests. It sustains entrenched power structures and conceals private interests beneath the rhetoric of the public good. Habermas’s (1997) analysis of the instrumentalization of power elucidates how institutional practices may perpetuate inequality and restrict meaningful social participation.

What should serve as a flexible mechanism to address local needs instead becomes fertile ground for political manipulation, undermining the integrity of the budgetary process, compromising transparency, and weakening social accountability. Another important implication concerns the efficiency of public spending. The lack of prior planning, measurable goals, and objective indicators opens the door to the allocation of resources for low-impact initiatives, unnecessary works, or actions disconnected from the population's real needs.

Ferreira (2024) observes that the Brazilian budget has evolved from being viewed as a mere "fictional document" to becoming, through Constitutional Amendments 86/2015, 100/2019, and 102/2019, an impositive budget. This shift, grounded in Article 165, §10 of the 1988 Constitution, imposes a legal duty upon the Executive to execute budgetary programs, enhancing fiscal credibility and reinforcing popular sovereignty in public resource allocation. This paradigm calls for cooperative engagement between the Executive and Legislative branches throughout the entire budget cycle, ensuring fiscal responsibility, spending quality, and policy effectiveness.

The lack of transparency in early decision-making impedes cost–benefit analysis, hinders waste detection, and compromises rational public finance management. Scholarly literature shows that parliamentary amendments, in general, function as instruments of political bargaining, and in the case of PIX Amendments, this dynamic is magnified, shifting priorities from technical rationality to political expediency (Linhares Neto, 2023).

Faria (2023) further demonstrates that Brazil's budgetary dynamics have shifted from executive dominance to legislative dominance, particularly after the mandatory execution of individual and caucus amendments and the rise of rapporteur amendments. The latter, however, remain discretionary, reinforcing concerns over opacity and weak oversight mechanisms.

This normative reconfiguration has reduced executive discretion while raising governance costs, simultaneously reinforcing particularistic practices and fostering the emergence of the so-called Secret Budget (RP 9), which repositions the Legislative Branch from its supervisory function to the role of a direct executor of public resources. From a societal standpoint, the consequences are equally profound. When citizens cannot clearly track how public funds are spent, distrust grows, weakening state legitimacy, eroding the relationship between government and citizens, and diminishing civic engagement—elements essential to democratic maturity.

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The cycle of opacity and political manipulation holds budgetary governance hostage to patrimonialistic and clientelistic practices (Brazil, 2000). The issue, therefore, extends beyond the misuse of resources to strike at the very heart of democratic legitimacy.

Ultimately, discretionary authority in PIX Amendments, when unaccompanied by transparency and social accountability mechanisms, ceases to function as a technical instrument and becomes a threat to administrative probity, fiscal efficiency, and mutual trust between State and society—an indispensable pillar for building a substantive and participatory democracy.

5 PROPOSALS FOR STRENGTHENING TRANSPARENCY AND SOCIAL ACCOUNTABILITY IN THE MANAGEMENT OF PIX AMENDMENTS

The analysis developed thus far shows that, even with legal advances and judicial decisions, Brazilian budgetary management—particularly regarding PIX Amendments—still faces significant obstacles to the full promotion of transparency and social accountability. Critical Legal Theory, by unveiling the power dynamics embedded in legal formalities, makes it possible to understand that the problem is not merely technical; it reflects structural power relations that restrict social participation and perpetuate institutional opacity.

For the public budget to genuinely serve as an instrument of social justice, an integrated perspective is required. This entails combining strong oversight institutions with an attentive and engaged civic culture. The proposals presented below outline practical ways to achieve this objective, transforming the dilemma of discretion into an opportunity to strengthen democratic governance.

Recent experiences also offer relevant insights. The Federal Court of Accounts (TCU) identified three central bottlenecks: (i) lack of real-time transparency; (ii) insufficient inter-federative integration; and (iii) difficulties in ensuring accountability and responsibility. As solutions, it recommended the creation of a centralized, publicly accessible data platform (art. 48, §1º, II, Fiscal Responsibility Law); cooperation among federal and local oversight bodies on a non-hierarchical basis; and the prohibition of transfers to entities that fail to comply with prerequisites.

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These recommendations already find a parallel, for example, in the State of Mato Grosso do Sul, which established the Manual for PIX Amendments through State Attorney General's Office Resolution No. 457/2024 (Mato Grosso do Sul, 2024), aimed at ensuring the correct and transparent application of such amendments. The state also developed the Technical Budget Manual (Mato Grosso do Sul, 2025) to standardize the state budget cycle and, in coordination with the State Comptroller General's Office (CGE-MS), reinforced the role of internal control in budgetary and financial execution.

Similarly, the Court of Accounts of the State of Sergipe issued Technical Guidance No. 01/2024 – DITEC/GP, establishing guidelines for the use, management, and oversight of parliamentary amendment resources—including mandatory individual amendments via special transfers (PIX amendments). Among other measures, it requires the opening of a specific bank account for each amendment, standardized recording of revenues and expenditures, detailed disclosure on transparency portals, and the prohibition of using such funds for personnel expenses or debt service, in accordance with art. 166-A of the 1988 Federal Constitution and the guidance stemming from ADPF 854 of the Supreme Federal Court.

These measures underscore the importance of a robust infraconstitutional regulatory framework capable of aligning different levels of government and ensuring effective oversight—an understanding consistent with the reflections of Mascarenhas (2023).

Conti (2019) warns that taking Financial Law seriously means fully respecting planning, transparency, and fiscal responsibility norms. Persistent noncompliance undermines budgetary credibility and weakens federative autonomy, making States and Municipalities excessively dependent on federal transfers, which distorts the balance of cooperative federalism.

Given the impacts analyzed in this section—which show significant limits to accountability and institutional trust—it is worth noting that Complementary Law No. 210/2024 regulated the proposal and execution of parliamentary amendments within the Annual Budget Law, imposing additional transparency requirements, although still insufficient to address the structural weaknesses of oversight (Brazil, 2024).

The following section outlines six axes of proposed reforms:

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5.1 PROMOTION OF ACTIVE TRANSPARENCY AND INFORMATION ACCESSIBILITY

Transparency cannot be limited to the formal publication of data. Information must be clear, accessible, and useful to the general public. This requires digital platforms for active transparency that display, in real time, the flow of resources—particularly for PIX Amendments—using user-friendly and interactive visualizations such as maps, infographics, and dashboards. This means going beyond the formal compliance required by the Transparency Law (Brazil, 2009) and the Access to Information Law (Brazil, 2011), which already impose these obligations.

With such tools, it becomes possible to track the entire process—from the proposal of an amendment to its final execution—thus integrating systems and avoiding data fragmentation. In this way, active transparency ceases to be merely a legal obligation and becomes a practice of democratic citizenship.

In a concise manner, the specific budgetary process for the PIX Amendments (Emendas PIX), highlighting its critical points regarding transparency and oversight, is as follows: 1. Proposition of the Parliamentary Amendment; 2. Approval of the Amendment within the Federal Budget; 3. Release of Funds by the Federal Government; 4. Direct Transfer to States, the Federal District, and Municipalities; 5. Application of Resources without the need for a formal agreement (convênio); 6. Oversight by the Federal Court of Accounts (TCU), State Courts of Accounts (TCEs), Municipal Courts of Accounts (TCMs), and Public Prosecutors' Offices; 7. Accountability and Rendering of Accounts (Prestação de Contas) by Subnational Entities.

The visualization of the stages of the budgetary process for PIX Amendments, as systematized above, highlights the critical points of compromised transparency, especially with respect to the application of resources and subsequent oversight. Accordingly, the operation of active transparency platforms must be strategically aligned with each of these stages, ensuring that the flow of information is continuous, detailed, and easily accessible.

Integration between budgetary information systems and oversight tools is essential to ensure the traceability of transfers, preventing data fragmentation and strengthening public governance. To achieve this, it is crucial that such platforms be able to:

- Provide detailed information, in open formats, enabling identification of the origin, amount, proposing parliamentarian, and—whenever possible—the final destination of the resources, allowing such data to be reused and verified by third parties;
- Offer user-friendly and interactive visualizations, using dashboards, infographics, and maps that translate the complexity of budgetary data into clear and accessible information;
- Ensure effective traceability, enabling the monitoring of fund flows from proposal to execution, through system integration among the various levels of government and oversight bodies;
- Establish standardized and mandatory expenditure records among recipient entities, in order to harmonize reporting practices and facilitate the comparison and monitoring of spending.

Thus, the implementation of these measures will significantly contribute to consolidating transparency and social accountability in the management of PIX Amendments, promoting a more efficient and participatory public administration aligned with the democratic principles of publicity, efficiency, and responsibility.

5.2. EDUCATION FOR SOCIAL ACCOUNTABILITY: THE KEY TO DEMOCRATIC PARTICIPATION

The technical language of budget reports, combined with the inherent complexity of the Brazilian budgetary cycle, becomes a substantial barrier to the exercise of social accountability. Brazilian experience shows that the effectiveness of such accountability does not depend solely on formal oversight structures but, above all, on the civic education required to understand and monitor the budgetary process.

Rather than proposing that civil society assume the task of performing audits—which could conflict with the institutional responsibilities of the Courts of Accounts—this article argues for the promotion of education for social accountability as an essential strategy, which may be implemented through:

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- Comprehensive fiscal education programs that prepare the population—from basic education to continuing education—to understand the structure and importance of the public budget, as well as the existing institutional mechanisms of oversight;
- Simplification of language in public portals and reports, translating legal and economic jargon into accessible terms to encourage comprehension and public appropriation of budgetary data;
- Training of community leaders and local actors to become multipliers of knowledge on the public budget and social accountability, creating a capillarized network of civic oversight in coordination with public agencies. The aim is for society not only to receive information but to interpret it and act upon it.

In this way, the role of the Courts of Accounts and other oversight bodies is reaffirmed as specialized technical institutions, while the capacity of society to exercise critical oversight and qualified participation is expanded—without implying any overlap of functions or the creation of parallel audit structures that could weaken the legitimacy of official oversight institutions.

5.3. STRENGTHENING INTERNAL AND EXTERNAL OVERSIGHT BODIES

No transparency policy can be sustained without strong and independent oversight institutions. It is therefore essential to invest in the structure, autonomy, and technical capacity of the Courts of Accounts and internal control bodies.
The effectiveness of monitoring PIX Amendments depends, above all, on the robustness and autonomy of the bodies responsible for internal and external oversight. These institutions must ensure the integrity of budgetary management and act to prevent and combat potential irregularities. To this end, the following measures are necessary:

- **Institutional restructuring and continuous training:** investment in enhancing the structures of the Courts of Accounts (TCU, TCEs, TCMs) and internal control bodies (CGU, state and municipal comptroller offices), with specialized training in data auditing, risk analysis, and investigation of irregularities;

- **Guaranteeing functional and budgetary autonomy** for these institutions, protecting them from political pressures that could undermine independence and effectiveness;
- **Expanding cooperation among institutions**—sharing data, methods, and diagnostic tools—to avoid duplication of efforts and enable integrated oversight among control bodies, Public Prosecutor's Offices, and other entities. Only through such an articulated network will it be possible to face the complexity inherent to PIX Amendments.

5.4 ADOPTION OF TECHNICAL AND OBJECTIVE CRITERIA FOR ALLOCATING RESOURCES

As noted, the Federal Supreme Court (STF), in adjudicating ADPF 854, required the submission of detailed work plans as a condition for execution, precisely to ensure minimum technical criteria and mitigate opacity in the allocation of resources, preventing the mere reproduction of political bargaining.

To overcome the logic of politically driven and clientelistic allocation of PIX Amendments, it is essential to adopt clear parameters guiding their distribution, ensuring that public funds genuinely serve the collective interest. Recommended measures include:

- **Creation of indicators of need and impact:** clear and objective parameters to guide the proposal and distribution of PIX Amendments, prioritizing municipalities with greater social vulnerability, infrastructure deficiencies, or specific demands in essential sectors such as health and education;
- **Regionalized and strategic planning:** aligning the proposal and execution of PIX Amendments with regional development plans and long-term strategies, based on technical criteria and regionalized indicators, as prescribed in arts. 1, §1 and 4, §1 of the Fiscal Responsibility Law (Brazil, 2000);
- **Mechanisms for evaluating results:** enabling measurement of the real impact of amendments on the population's well-being; with such feedback, it becomes possible to adjust strategies and ensure that the budget fulfills its purpose of promoting the common good.

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5.5 CRITICAL LEGAL THEORY AS A TRANSFORMATIVE FRAMEWORK

Throughout this study, Critical Legal Theory has demonstrated that the challenges to transparency and budget oversight in Brazil are not merely technical but deeply rooted in exclusionary power structures. This theoretical framework denaturalizes the legal system by revealing how the persistence of opaque budgetary practices—even in the face of STF decisions—reflects a political project that restricts social oversight and perpetuates the concentration of power.

In this context, the proposals presented in this article go beyond mere improvements to institutional instruments; they represent a path toward redistributing political power, broadening and strengthening the role of civil society. By shifting the focus away from purely procedural solutions and toward the transformation of the relations of domination embedded in the budgetary process, Critical Legal Theory offers a framework for constructing truly democratic and emancipatory social accountability.

This involves pursuing an authentic public sphere in which information ceases to be a privilege and becomes a fundamental right—one capable of transforming the citizen into a critical and participatory agent. From this perspective, the citizen does not assume the role of an auditor, but rather that of a protagonist in promoting a more ethical, transparent, and public-interest-oriented administration.

5.6 IMPACTS AND IMPLICATIONS OF DISCRETION IN PIX AMENDMENTS

The Federal Court of Accounts (TCU) has addressed the matter in recent decisions (Acórdãos 518/2023 and 1758/2023), recognizing that primary oversight of expenditure lies with local control bodies, although it has attempted to impose constitutional conditions through the +Brazil Platform. Some scholarly critiques warn, however, that by claiming the authority to invalidate transfers or hold subnational entities accountable, the TCU may be undermining the command of art. 166-A of the Constitution and contradicting STF jurisprudence on the limits of external oversight (Mascarenhas, 2023).

This tension between the need for greater transparency and the preservation of constitutional competences reinforces the central discussion proposed in this article: that budgetary governance cannot be viewed solely from a formal perspective. It must

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consider the risks of power concentration, weakening of the federal pact, and limiting of social accountability—issues that Critical Legal Theory helps illuminate.

Thus, the proposals presented here are not merely procedural adjustments but pathways to redistribute power, strengthen citizenship, and build a more authentic public sphere.

6 FINAL CONSIDERATIONS

This research achieved its central purpose of analyzing, through the lens of Critical Legal Theory, the limits of transparency and social oversight surrounding PIX Amendments. It also fulfilled its specific objectives of (i) contextualizing the experience of the Secret Budget (RP-9), (ii) examining the framework of special transfers, (iii) analyzing the effects of discretion in their execution, and (iv) proposing legal-institutional guidelines to improve budgetary governance. From this trajectory, the following conclusions emerge.

The analyses indicate that, although PIX Amendments have been presented as a mechanism for debureaucratization and federative autonomy, they in practice reproduce—and in some respects deepen—historical weaknesses of Brazilian budgetary management. The absence of a specific purpose, combined with the broad margin of action afforded to the National Congress, reduces transparency, weakens oversight, and creates room for political uses of public resources, with direct implications for democratic legitimacy and the balance among the branches of government.

In light of Critical Legal Theory, it becomes evident that such weaknesses do not stem solely from technical or normative shortcomings; rather, they reflect the persistence of power arrangements that operate within a context marked by deficits in transparency and limited social participation. Addressing this scenario therefore requires institutional reforms capable of recentralizing civil society within the budgetary cycle and ensuring that resource management effectively serves the collective interest.

In essence, both the Secret Budget (RP-9) and the PIX Amendments—although different in form—reveal the same pattern: the budget can be instrumentalized as a tool of political bargaining. The former was declared unconstitutional; the latter remains

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in force and mobilizes considerable financial resources, which demands continuous and qualified scrutiny by society and oversight institutions.

In this regard, the main contribution of this research was the proposal of guidelines aimed at strengthening the democratic governance of the budget, including: (i) implementing proactive transparency in open and accessible formats; (ii) promoting fiscal education and mechanisms for participation and social control; (iii)continually training citizens and community leaders; (iv) strengthening and restructuring oversight bodies, ensuring autonomy and technical capacity; and (v) adopting technical and objective criteria for the allocation and prioritization of resources, with public justifications and performance metrics, thereby reinforcing public accountability.

These propositions are not isolated solutions; they form an articulated effort to transform structural weaknesses into opportunities for institutional improvement. If implemented consistently, they may help restore social trust and consolidate the budget as an instrument of social justice.

Ultimately, the trajectory of transparency in Brazil remains an unfinished odyssey, marked by advances and setbacks. PIX Amendments, when analyzed through a critical lens, reveal the paradox of a budget that seeks modernization while still carrying legacies of clientelism and opacity.

By unveiling the paradox of PIX Amendments through the perspective of Critical Legal Theory, this research does not aim to close the debate but rather to offer a permanent invitation to civic vigilance and active transformation. May the pages woven here serve as a guiding light for scholars and practitioners of Law and Public Administration, illuminating the path toward a budget that genuinely reflects the popular will and acts as an active vector of social justice.

May the propensity of power toward arbitrariness yield to the unrestricted validity of democratic principles, and may the utopia of transparent public management materialize in the lived experience of a truly sovereign and emancipated nation.

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