Enforcement by Courts of Auditors Post-LAI: The Role of Translation and Closeness to Citizens

Enforcement pelos Tribunais de Contas Pós-LAI: Papel de Tradução e Aproximação Cidadã *(PT: 167-188)*

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DOI: 10.33167/2184-0644.CPP2019.VVN1/pp.147-165

ABSTRACT
This theoretical-empirical study investigates what has been the role of the Courts of Accounts (TCEs) facing the changes imposed by the Law on Access to Information (LAI) in Brazil, given the scenario of a gradual reduction of the distance between governor and governed. Conciliating Sociolegal approach and Organizational Institutionalism, the research employed interpretative discourse analysis in primary and secondary data of 13 TCEs. It contends that the TCEs have rethought their acting posture, in addition to their constitutional spectrum, because: (a) through a discourse of approximation with social control, they seek to establish partnership with society; (b) aiming at instrumentalizing the citizen for the exercise of social control, they act in the compilation and processing of public data, translating them into the social landscape; and (c) because of the accountability and penalty difficulties outlined by LAI, the regulatory apparatus has adopted alternative – including pedagogical – ways to support enforcement and compliance

Keywords: Law on Access to Information, transparency, enforcement, compliance, discourse

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RESUMO
Este estudo teórico-empírico investiga qual tem sido o papel dos tribunais de contas (TCE) frente às mudanças impostas pela Lei de Acesso à Informação (LAI) no Brasil, ante o cenário de exigência da paulatina redução da distância entre governante e governado. Conciliando abordagem sociolegal e institucionalismo organizacional, a pesquisa empregou análise interpretativa do discurso em dados primários e secundários de 13 TCE. Conclui-se que os TCE têm repensado sua postura de atuação, além de seu espectro constitucional, pois: (a) mediante discurso de aproximação com o controle social, eles procuram angariar parceria com a sociedade; (b) visando instrumentalizar o cidadão para o exercício do controle social, eles atuam na compilação e tratamento de dados públicos, traduzindo-os para o *social landscape*; e, (c) em razão das dificuldades de responsabilização e penalização delineadas pela LAI, o aparato regulatório tem adotado maneiras alternativas – inclusive pedagógicas – para apoiar *enforcement* e *compliance*.

Palavras-chave: Lei de Acesso à Informação, transparência, *enforcement*, *compliance*, discurso

1. Introduction: Regulatory Landmarks, the Culture of Secrecy and Enforcement/Compliance Relations

The constitutional role of the courts of auditors is situated, fundamentally, in the independent oversight of the economy, legality and legitimacy of acts carried out using public funds. Their powers of oversight extend to the legal structure established by the Federal Constitution, supporting the legislative authorities; this is called "external oversight". In essence, the courts of auditors are collegiate administrative bodies, responsible for judging the accounts of directors and other persons responsible for public assets, moneys and funds.

Three regulatory landmarks have had a significant impact on how the courts of auditors operate: the Fiscal Accountability Law (Complementary Law no. 101, 2000), the Transparency Law (Complementary Law no. 131, 2009), and the Law on Access to Information (Law no. 12.527, 2011). We can see the importance of these three legal landmarks from their effect in disciplining and lending transparency to acts of public management, subject to the oversight of the courts of auditors.

In this study, we have given special prominence to the last of these three legislative developments: the Law on Access to Information (LAI). From our standpoint, we see this law not as an isolated act, but as the "outcome of a historical process, which started with the Constitution of 1988". Above all, we wish to draw attention to the ability of the LAI to "shed light on the main problems in the organization of the Brazilian public administrative authorities" (Abrucio, 2012), requiring the reformulation of long-established guidelines and public policies.

Whilst regulation and transparency are tools for improving external oversight, the visibility now afforded now exposes more clearer the actual performance of the courts of auditors and other external oversight organizations. In the wake of

scandals concerning embezzlement of funds, corruption or misuse of public resources, the regulatory bodies will not be held to account for their actions, and for any omissions or gaps in their knowledge. We may therefore ask: what has been the role of the courts of auditors in the face of the paradigm shifts imposed by the Law on Access to Information?

It is evident that the paradigm shifts to which we refer do not extend only to oversight activities, but rather come from a wider context, of a progressive break away from the culture of secrecy (Martins, 2010). There has been a gradual reduction in the distance between governors and the governed, founded on the emergence of the ideals of impartiality and neutrality in public management (Abrucio, 2012). Concomitantly, the legal and social demand for transparency has driven the disclosure of a vast quantity of public data for which criteria, terms of comparison and indicators still need to be developed into to be broadly understood.

These transformations have therefore influenced not only the management of public funds and the accountability of their administrators, but they have also had an impact on the dynamics of the public administrative authorities, especially as regards the relationship between enforcement and compliance. These terms and practices, under study here, are now beginning to be marked out, allowing them to be understood in different ways and from different theoretical standpoints.

Enforcement is understood as the broad range of supervisory mechanisms able to ensure compliance with the law. From a textual point of view, enforcement can therefore be seen as the ability of certain regulatory bodies to transform legislative language into practice rules (Funk & Hirschman, 2014), which are then applied and, effectively, bring about changes in behavior in those subject to their jurisdiction.

In keeping with the spirit of textual negotiation identified in the preceding concept, compliance can be seen as the whole "social process that evolves over time as organizations seek to adapt the law to fit their own interests" (Edelman, 1992:1534-1535). It should be noted that, in adopting this definition, the arithmetic idea is extracted that compliance is only the act of strict compliance with the law. It is also possible to see the relationship between enforcement and compliance as a process of dialogue, negotiations, adjustments and concessions over time. Likewise set aside is the understanding that the "law is formulated and defined outside of organizations and... [their] domains" (Edelman & Talesh, 2011:103).

Empirically ratifying this concept, we may see, for example, how far what are called "declarations of adjustment" have been used in relations between regulatory and external supervisory bodies and those subject to their jurisdiction. It may be observed that the latter, when not complying with the law, are not immediately subject to penalties, in view of their express willingness to resolve the disagree-

ments. See Resolution no. 59 (2017) of the Court of Auditors of the State of Paraná (TCE-PR), Brazil, which defines declarations of adjustment as follows:

> Article 2. A Declaration of Management Adjustment is considered to be the oversight instrument designed to achieve voluntary regularization of administrative acts and procedures subject to the Court's oversight, by setting a reasonable period for the person responsible to take steps to comply strictly with the law, the principles governing public administration and the non-definitive rulings of this Court (Resolution no. 59, 2017).

What emerges from this initial discussion, provided by way of example, is the break with the old dichotomy of compliance and non-compliance (Edelman & Talesh, 2011), requiring in turn a repositioning of the role of enforcement. The challenge is to make an adjustment between a cold reading of the powers of external oversight conferred in the constitution, and the heat of legal and social changes that have occurred since the 1980s, pointing to a demand for transparency and to the vast scale of the public data which it is now mandatory to disclose.

In this study, the question raised is answered through analysis of discourse, using both primary and secondary empirical data, in order to arrive at an understanding of: (a) efforts towards coordination in the regulatory apparatus; (b) changes brought about in enforcement as a result of the transparency of public data; and, (c) the condition of closeness between citizens and the public administrative authorities. At the same time, we take as our starting point acknowledgement of the challenge of "effectively modernizing and extending the model of compliance oversight to the auditing of outcomes, as happens in the major developed nations (Court of Auditors of the State of São Paulo, 2014:3).

In mapping out this relationship between transparency and social development, a contribution is made to research focusing on relations between the law, society and organizations: Organizational Institutionalism combined with a Socio-legal approach offers a theoretical understanding of that dynamic, including on issues that involve enforcement and compliance. Above all, the institutionalist literature also offers us multiple viewpoints on this issue, including on issues of compliance models, and organizational choices of this or that model of legal compliance (Greenwood, Oliver, Suddaby, & Sahlin-Andersson, 2017).

We accordingly start off from a less orthodox structuring of the theoretical content and guiding concepts for this study – as well as those described here, in this introductory section – to go on to apply them to the interpretation of the empirical matter collected, abductively, whilst the analyses advance, thus proceeding as we see fit during the presentation, culminating in final conclusions that return to and form a dialogue with them. Our aim is therefore to present a discussion

with multiple focuses on the changes, taking a recursive view of the relations between organizations, regulators and society, against a backdrop of the law and language.

2. Methodological Procedures

In this study, which takes a qualitative approach, primary and secondary empirical materials have been used, both submitted to the discourse analysis method. We present the procedures adopted for the stages of apprehending and analyzing the empirical material.

Collecting the Empirical Material

The secondary empirical materials used was obtained from the websites of Brazilian courts of auditors (state and municipal), and also from that of the Brazilian Association of Courts of Auditors (ATRICON), during the months of October and November 2017. On the basis of the information provided on the "Good Practice in Courts of Auditors" website[1], drawn up by ATRICON, 13 courts were selected to make up the sample of empirical material to be researched. Attention was focused primarily on the organizational initiatives and projects of courts in various states which have gained recognition from ATRICON. Of these projects, we chose those which had a connection with the topics of "social control", "Law on Access to Information" or "citizen".

Having chosen the courts of auditors for study, fragments of the respective websites were collected dealing with the topics in question, providing a total of 32 webpages. These fragments then underwent classification and analysis, as will be detailed in the next subsection.

For our primary empirical material, we opted to use selected passages from 8 (eight) semi-structured interviews conducted by one of the authors in a one-shot form, which dealt with the actions of regulatory bodies in relation to the LAI. Conducted between August and December 2016[2], the interviews provided a total of 7h25min of recordings which were then transcribed, resulting in 217 (two hundred and seventeen) pages drawn up in word processing software[3]. Table 1 summarizes the group of interviews and shows that they were dominated by representatives of the regulatory sector, in particular the TCE-PR, and social control organizations in the State of Paraná.

1. Accessed at <https://boaspraticas.atricon.org.br/>.
2. These interviews comprise the fieldwork stage of an MA dissertation in Administration concluded in 2017 which is neither cited nor referenced here in keeping with the double blind peer review process used by this scientific periodical.
3. This study made use only of passages from transcriptions that related to enforcement issues.

TABLE 1. Actors Interviewed

SOCIAL SEGMENT	FUNCTION ASSIGNED TO SOCIAL SEGMENT	BODY IN WHICH ACTOR WORKS/ REPRESENTS	INTERVIEWEE	POSITION/DUTIES PERFORMED	OTHER INFORMATION ON INTERVIEWEE
Public Manager (PM)	Law enforcement segment	Londrina Municipal Authority	GP1	Londrina Municipal Ombudsman	Career municipal employee, works in the Ombudsman's Office, department responsible for passive transparency in the municipality. Sits on Municipal Transparency Board and on internal committees for regulations to implement the law and classification of information.
			GP2	Londrina Municipality Controller	Head of the Control Office, department responsible for active transparency in the municipality. First employee to hold the post of Municipal Controller-General as the result of a selection process conducted by the Municipal Transparency and Social Control Board.
			GP3	Former Londrina Municipality Controller	Municipal controller in the period 2011 to 2015, when the LAI was approved Career public servant, still on the staff of the Municipal Controller-General's Office.
External Control Bodies (EC)	Legal oversight segment	Paraná State Public Prosecution Service	CE1	Former Attorney-General of Justice for Institutional Planning Affairs (SUBPLAN)	Attorney responsible for conducting "Transparency in Municipalities" Project, an initiative viewed as strategic at SUBPLAN and intended to standardize the websites of all municipalities and city halls in Paraná, by providing a single standard portal, developed by Companhia de Tecnologia de Informação e Comunicação do Paraná (CELEPAR), on the basis of the Public Management Control Network.
		Union Controller-General's Office (CGU)	CE2	Head of Paraná subsection of CGU	Most senior CGU representative in the State, with a PhD in Public Policy from UFPR. The CGU runs local programs such as "Keeping an eye on Public Funds" and "Stronger Management"
		Union Court of Auditors (TCU)	CE3	Former TCU Secretary for External Control in Paraná	Career TCU auditor, it was under his management that the TCU analyzed the transparency websites of the municipalities, developing an assessment methodology.
		Paraná State Court of Auditors	CE4	Coordinator of LAI Social project	Member of team that worked on the social audit methodology, in partnership with universities in the State of Paraná, this public servant coordinated the LAI Social project that assessed 72 municipalities using specific methodology developed in the course of the project
		Paraná State Court of Auditors	CE5	Member of committee that developed regulations for LAI at TCE-PR	TCE-PR employee who took part in developing regulations for implementing Law in organization. Author of book on access to information. Representative of TCE-PR on topic working party between courts of auditors, for discussion of case law.
Organized Civil Society (CS)	Segment benefiting from law and exercising social control.	Londrina Social Observatory	SC1	Chairman of Londrina Social Observatory	Journalist, political reported for Folha de Londrina newspaper He was one of the founders of the observatory, and a member since its inception. Has also chaired the Municipal Transparency and Social Control Board
		Londrina Municipal Transparency and Social Control Board	SC2	Chair of Londrina Municipal Transparency and Social Control Board	Lecturer (PhD) at Londrina State University (UEL), participant in LAI Social Project, public policy is one of her research interests. Was previously involved with the workings of a social observatory at UEL, called the Interdisciplinary Public Policies Observatory

3. Processing and Analysis of Empirical Material

The empirical material underwent the concomitant methodological procedures of classification and analysis. In view of its capacity to highlight discourse as an element able to construct organizational reality, priority was given to analysis of discourse on an interpretive basis (Heracleous & Hendry, 2000). Because of the visceral relationship between discourse and reality, language is not seen only as an analytical tool (Putnam & Fairhurst, 2001), but as the essence and matter of meaning (Phillips & Hardy, 2002).

The discourse analysis undertaken centers on questions of intertextuality. The text is seen here as a web which, in turn, is the constitutive component of the formation of the discourse (Phillips & Malhotra, 2017). The method used centers on questions of text and intertext, in staged detailed below:

Primary and secondary materials underwent classification, generating categories based on text and intertext relations (Putnam & Fairhurst, 2001). Each fragment was placed manually in analytical categories which were delineated *a priori* on the basis of a prior reading, namely: (a) organizational programs for proximity to citizens; (b) conversion of public data to open data format; (c) provision of indicators and interactive tables; (d) relaxation of enforcement; (e) lack of coordination in oversight actions; and, (f) joint action by controlling bodies.

The next stage addressed lexis and consisted of drawing up a list of terms and possible synonyms found in the transcriptions and fragments, which made it possible to characterize mentions/references that indicate the presence of elements that argue, speak and deliberate about matters addressed by the five analytical categories identified. As well as helping to provide evidence of intertextualities, these groups of words resulted in italics in the tables contained in section 3 of this study.

Following through the question of intertextuality, and considering that the interweaving and coherence between the texts allows for the formation of discourse (Maguire & Hardy, 2009), the group of research findings was structured, in other words, the convergence between (a) speak/speak, and between (b) speak/text, presenting itself as a research finding, and altering the previous categories for the findings which will be presented in section 3.

Lastly, a semantic analysis was conducted with a view to reciprocal influences between text and context. This is a condition in which the "act of referring to the reality depends on a context, its effects are practical, as they are the discursive effect that they produce" (Araújo, 2004:10). In this, at the same as the text reflect a given socio-political context, the context is the result of the discursive action. This means that particular importance can be ascribed not only to the context in which a given utterance occurs, but also to the way that this utterance has an impact on the context.

The result of applying these methodological procedures is described in the following section, which presents the three research findings that shape our understanding of changes in the role played by the courts of auditors.

4. Empirical Evidence and Results

The Function of Compiling and Translating Public Data

This section is based on three central arguments to which we will address ourselves: (a) the difficulty of understanding and handling public data and the desire for open data; (b) the process of translation which data must undergo for effective exercise of external control and social control; and, (c) recognition, by courts of auditors, of their capacity to organize and compile data.

With the advent of the LAI (Law no. 12.527, 2011), the bodies of the executive, legislative and judicial branch are not required to provide data on their management, in the format established in law. The roll call of legal requirements is not limited to the non-exhaustive listing of expenses, payments and contracts, but also applies to the terms facilitating the handling of these data, such as:

> § 3. The websites referred to in § 2 must meet the following requirements, in the form established in the regulations:
> I - they must contain a content search tool allowing access to the information in an objective, transparent and clear way, in language which is easy to understand;
> II - they must allow reports to be downloaded in various digital formats, including open and non-proprietary formats, such as spreadsheets and text, in order to facilitate analysis of the information;
> III - they must allow for automated access by external systems in open, structured and machine-readable formats;
> IV - they must disclose in detail the formats used to structure the information;
> V - they must guarantee the authenticity and integrity of the information available for access;
> VI - they must keep up to date the information available for access; (Law no. 12.527, 2011).

The recognition that public data must not only be accessible, but must also be organized and easy to access and handle places a high value on the concept and eagerness for what is called 'open data', which was defined by the Ministry for Transparency, Oversight and the Union Controller-General's Office (2016:33) as follows:

> Open data: data freely available for use and redistribution by any interested party, without any restriction in the form of licenses, patents or controlling mechanisms. In practice, the open data philosophy entails a number of technological restrictions son that the data are machine-readable. The openness of all public data is an "aspiration".

It may be observed that the concept considered involves an underlying assumption that public data are not, at present, fully ready to be offered as 'open'. The word "vocation" clarifies the ideal pursued by transparency, but which is not yet materialized in the standard structuring of the websites currently available.

We may see that the structuring of open data is one of the roads to permitting the setting of criteria, benchmarks and indicators, broadening the critical sense of external control and social control. According to the Federal Government, the need to work on the data is crucial for progress on the idea of open data, as it has stated:

> Open Data means the publication and dissemination of public data and information on the internet, in accordance with certain criteria which allow it to be reused and for applications to be developed for society as a whole... Provision of online data is not a recent government practice, but with the open data policy, the government has given a sign that it wishes to standardize and leverage the dissemination of public data by all authorities. The open data paradigm is based on the observation that data, when shared openly, is of greater value and can be put to wider use. With this measure, the government wishes to develop an ecosystem of data and information to benefit society (Office of Logistics and Information Technology [SLTI]; Ministry of Budgetary Planning and Management [MP], n.d., emphasis added).

In Table 2 below, a number of fragments from the leaflets and websites of Brazilian courts of auditors are used as examples to show how these regulatory bodies acknowledge the need to organize, handle and compile data so as to allow external and social control to be exercised.

This shows some of the textual characteristics that we will demarcate. The first, which is grammatical and syntactical in nature, refers to construction of subordinate clauses in which the court of auditors shows that it is doing a particular thing with a given aim, in a causal relationship. The second has to do with lexical congruence, which is highlighted in bold in the column headed 'Transcription" in Table 1.

This process of data conversion shall be seen, at that moment, from a translation perspective. Firstly, it must be understood that the concept of translation resides in the observation that information and ideas are produced in a context. There is only translation when consideration is given to social usage, considering institutions, ideals, models, rules and pattern of a given environment – social landscape (Wedlin & Sahlin, 2017). Accordingly, public data make a transition from the organizational environment, which is restricted, to citizens' homes, news desks, academic panel discussions and other destinations. Consequently, in mak-

ing this journey, there are changes in the patterns, models, institutions and ideas surrounding them.

TABLE 2. The Role of Data Compilation

COURT	TRANSCRIPTION	BREAKDOWN
TCE-SP	Creating end indicators for analyses of the processes used by those subject to the authorities' jurisdiction is a task that has called on the efforts of political agents and staff at the São Paulo Court of Auditors in order to contribute to a fairer society	ACTION: create end indicators AIM: to contribute to a fairer society
TCE-RS	The TCE-RS has produced interactive tables for presenting a set of municipal indicators in graphic form. The aim is to show clearly the situation of each municipality, as well as to permit comparisons.	ACTION: produce interactive tables and set of indicators AIM: show clearly and permit comparisons
TCE-PB	As part of its institutional mission and also with educational aims, the Court of Auditors of the State of Paraíba has developed and distributed this leaflet in order to provide citizens in the state with guidance on the end indicators to be used in the Municipal Management Effectiveness Index.	ACTION: develop and distribute leaflet and provide guidance on end indicators. AIM: exercise of institutional missions and educational function
TCE-PE	The data shares can be freely used by citizens in developing applications, executing automated searches or any other technological resource promoting social control.	ACTION: freely execute automated searches AIM: to promote social control
TCE-ES	Disclosure of open data means making it possible for any citizen to access, understand and use them as he or she may wish, fostering active transparency and social control.	ACTION: disclose open data, with free access AIM: foster active transparency and social control

For this reason, translation is centered on "creating something that is appropriate and desired in a given time and place" (Wedlin & Sahlin, 2017:106-107). It is therefore necessary to ascertain and "define which processes require local solutions and to shape plans to be complied with" (Wedlin & Sahlin, 2017:107). The definition of that social landscape is fundamental for us to observe, in conclusion, that malleability in data use is crucial to translation, as this is what makes it possible to adapt data to local issues and interests, in different states, municipalities and social segments. This malleability is in turn favored by the structuring of data in an open format, which is the intention expressed in the legislative text.

In short, we can sum up our conclusions at this stage as follows: the use of indicators and tables and easy data access and handling is what permits the applied

use of public information – hence the importance of, and desire for, the use of open data. Courts of auditors, which hold the data from various municipal and state organizations, are aware of their position, and have moved to process and compile those data, seeking to allow public data to generate real social control and educational progress; in this, they have taken on a new role in enforcement. By acting in this way, the courts have set about translating public data so that they can serve as open data and thereby be put to social use, in other words, by being flexibly adapted to different places, interests and purposes.

5. The Ideal of Closeness to Citizens

At this stage, the ideal of closeness will be visible in the process (under way) of transition from secrecy to transparency, assessing the effects of the LAI on the *modus operandi* of courts of auditors, seen here as representatives of enforcement.

Firstly, it is important to turn back to the socio-cultural dimension that characterizes what we have called the transition from secrecy to transparency. It should once again be stressed that the theoretical discussion presented here does not set out to consider this process as finite or completed, but rather to understand how this transition is evinced by the law, texts and practices. We accordingly focus our efforts on the secondary dimension of the law (Ross, 2001), particularly on aspects that depend on its "recognition, interpretation, change and adjudication" (Ross, 2001:61).

According to Martins (2010:155), what Brazilian society has been experiencing is the "conflict between openness and secrecy". This conflict has grown out of the gradual erosion of the closed-doors model of public administration. Starting with the landmark Citizen's Constitution of 1988, the Brazilian legal system has defended access to information, the accountability of public officials, mandatory publication of acts and governance on the basis of the principles of impartiality, morality, efficiency, etc. The approval of laws enshrining these values has received international backing. When the LAI was being drafted, pressure was brought to bear – especially by organizations such as the UN and UNESCO – for the process to come before the National Senate, revealing a relationship between the desire for social development and transparency in public management (United Nations Brazil, 2010).

The international pressure cited, for example, the experience of several developed nations which had experienced progress through access to information. Unlike in other countries[4], where these rules had existed for centuries and are well

4. In Sweden, for example, where public access has the longest tradition, mentions of access to information can be found in legal rules dating from 1766.

established in the social fabric, the task in Brazil was more arduous, especially in the practical advances that the law would bring. In this regard, the challenge facing Brazil was to "understand the webs of meaning behind each of these words (in the law)", making it possible to "decipher the new cultural paradigm" (Alves, 2012:120).

This prognosis is particularly interesting for this study because the idea of words and meaning overlaps with discourse analysis and allows us to delve into the socio-cultural process through words, texts and interpretations. We accordingly return to our aim of demonstrating how the courts of auditors give meaning to the LAI, looking directly at the discourse and social elements that frame enforcement actions. We will now analyze the fragments transcribed in Table 3.

Our initial focus in analyzing the discourse is on the temporal question in the textual constructions that serve to support perception of the transition process from a perspective of continuity. Attention should be drawn to the implicit presence of two moments, which are: (a) a moment in the past, when enforcement concentrates on "assessing compliance with budget execution and spending rules"; and, (b) a subsequent moment, which is taking shape, in which "dialogue and the possibilities of interaction with citizens" is broadened. We may see that moment (b) is still seen by the courts of auditors as a projection, as evinced in the text by the recurrent use of clauses in the future tense, such as "will measure" or "will serve".

In contrast to the temporal idea - perception of which is latent -, the ideal of closeness to citizens is declared and manifest, and points to the sense of collectivity and society, highlighting the secondary facet of the law (Ross, 2001). In view of this, the courts of auditors take up a firmer position in the social relations between the law and society, by proposing the joint pursuit of the "common good", claiming for themselves the role of fostering and stimulating social control In so doing, the courts recognize the relationship between the LAI and social development.

It should be noted that several courts of auditors have set up citizen-oriented programs, such as, "Citizen's space" (TCE-MT), "Information for all portal" (TCE-PR), "Citizen's Portal" (TCE SP e TCE-TO) "Citizen-centered TCE" (TCE-PA and TCE-SE) and "Citizen Control" (TCE-CE). There is clear lexical convergence between the names chosen for these programs and portals, in keeping with the lexical intertextuality that we proposed in our methodological approach. In general, the titles seek to highlight the term "citizen", inflected so as to offer tools for the citizen (such as "oversee" or "control") or with a stress on the *locus* created for the claims of citizens (such as "Citizen's Space", "Citizen-centered TCE"). Intertextuality also exists in relation the actual text of the law, to the effect of promoting unrestricted access, such as in "Information for all portal".

TABLE 3. The role of Closeness to Citizens

TCE-SP	Oversight of governments requires the supervisory bodies to do much more that gauge compliance with rules on budget execution and spending procedures. Citizens today demand - legitimately - access to information that enables them to assess the results of the work of public managers and how far they fulfil the commitments made to society.	Time 1: assessment of rules of compliance with budget execution and spending rules. Time 2: citizens demands access to access public actions and this demand highlights the duty of State courts of auditors to strengthen their commitment to society.
TCE-RJ	The outcome achieved through its application will serve society, through transparent disclosure of the standard of municipal management assessed from the standpoint of the organizational structure, systems and processes in place, in comparison with practices that would ensure delivery of services and efficient, effective and efficacious solutions for Brazilian society.	Time 1: the outcome achieved did not always have a direct application to society. Time 2: Practices that ensure efficient, effective and efficacious solutions and services for Brazilian society.
TCE-PE	The Court of Auditors of Pernambuco will not spare any effort to foster and contribute to creating a society which is increasingly citizen-centered, fair and committed to the public good.	Time 1: the commitment to a citizen-centered society was not prioritized. Time 2: no effort is spared to form a fairer and more citizen-centered society.
TCE-PB	The importance of the issue derives from the requirement imposed by society demanding access to information that allows it to assess the results of the work of public managers and how far they fulfil the commitments made, as effectively as possible.	Time 1: there was no social requirement of access to the information needed to assess public management. Time 2: a demand arises for the court to return to its commitments more effectively.
TCE-SC	The aim is to broaden dialogue and create new opportunities for interaction with citizens, in order to promote higher standards of performance in the services provided by TCE/SC and by the bodies subject to its oversight, to the common good. This is a contribution to [enabling] society to exercise social control of public management.	Time 1: interaction and dialogue with citizens is more limited. Time 2: broadening of this dialogue is the State court of auditors' contribution to the exercise of social control.

In short, the ideal of closeness to citizens is supported by the regulatory landmarks that exert a recursive influence on the process of social transition from secrecy to transparency. In their projects and communications, the courts of auditors manifest, through meanings and lexis, a discourse of closeness to citizens, from a temporal perspective. We have therefore observed a stance of adaptation and projection of enforcement, as well as a path towards social integration which is to be broadened with the declaration of the common purpose of social development.

6. Recognition of the Need to Coordinate Enforcement Efforts

We shall start with some theoretical questions concerning enforcement and its relations with the law and society, in order to strengthen the collective and social understanding of the oversight authorities.

(a) Recognition that the law does not always reflect social habits, and that nations are not always ready for a given piece of legislation, the idea of control and oversight gains strength. The law should therefore not be seen as self-enforcing (Edelman, Uggen, & Erlanger, 1999:407);

(b) When there is uncertainty concerning the power of enforcement (Hawkins, 1984 as cited in Edelman, 1992), the level of social construction of the law is affected;

(c) Consequently, it is possible assume a relationship of counterweights (balance) between enforcement and compliance, in which the more incisive the enforcement, the less amplitude exists for compliance (Edelman, 1992). In other words, weakened enforcement may multiply the forms, models and periods of time for compliance with the law.

(d) For Hart, in primary law (text), enforcement derives from the force of penalties and the power of the enforcement system (Ross, 2001);

(e) In the secondary phase of the law (social recognition), on which we focus here, the pressure to exert enforcement is on the authority itself, in the face of growing social claims for justice or for enforcement of the law (Ross, 2001).

In posing these theoretical questions, the need arises to verify three things: (a) the degree of incisiveness of enforcement; (b) the relative high standing of enforcement agents [considering the assertions contained in items (d) and €]; and, (c) how far the oversight authorities, in particular the courts of auditors, recognize or coordinate their oversight actions, in the light of the new LAI rules. In this sector, we will argue that certain factors in the enforcement/compliance dynamic are fundamental to an understanding of these points, illustrated with empirical evidence in Table 4:

(a) The pressure for compliance comes fundamentally from organized civil society, in view of the reactive nature of oversight authorities;

(b) The activities of the regulatory system are not aligned, resulting in a lack of coordination in efforts;

(c) Some oversight and audit activities require monitoring and continuity, requiring supervisory authorities to adopt a different stance in view of the ongoing process proposed by the legal system;

(d) Delays in and the lack of effectiveness in judicial proceedings, as well as over-judicialization, undermine the penalties that can be applied;

(e) These factors are recognized by the interviewees, who understand the lack of coordination in enforcement, as revealed by discourse analysis.

Moving on to language analysis, the use of the first person plural points to the perception of the need for supervisory authorities and organized civil society to combine forces; phrases begin with the personal pronoun "we". On the question of the lack of coordination, the word "standard" was uttered recurrently. Whilst the need for combined action is recognized, a degree of frustration (subtle, but present) can be noted at the lack of integration, causing interviewees to express doubt about the effectiveness and validity of the law.

According to La Torre (2010), legal validity is often interpreted on the same terms as its effectiveness, especially in analyses that connect linguistic questions to legal causes or effects. We can therefore see that uncertainty emerges as to the actual effectiveness of the law, as well as disappointment at the difficulties of holding offenders accountable and punishing them. In particular, the State Public Prosecution Service reveals the breadth of this sentiment, as it points to the bankruptcy of the current model (as a whole, not exclusively the service in that state), and is looking for alternatives to enforcement of the LAI. The example given of these alternatives was the model of the signing of Adjustment Declarations with municipal officials, which reflects a more collaborative, and not merely punitive, approach.

The underlying reality that can be observed is the overthrow of the punitive model, and the rise of an educational and consensus-based approach. In view of the difficulties of punishing and holding offenders to account, the interviewees highlight alternative forms of action (such as adjustment declarations), regarded as more effective, indicating that controlling actions are being repositioned and recognition of the urgent need for coordination.

The convergence between the content of the utterance points to the perception that oversight bodies do not talk to each other or act with the necessary effectiveness, which has undermined the validity of the law and, consequently, its effectiveness and compliance. This leads to the observation that enforcement measures are not sufficiently articulated and coordinated, and need to be repositioned.

TABLE 4. The Role of Enforcement Coordination

INTERVIEWEE	UTTERANCE
CIVIL SOCIETY PRESSURE FOR COMPLIANCE AND REACTIVITY	
SC2	"The Public Prosecution Service only picks up when they have a claim represented"
	"I think it all comes down to someone being provocative "
GP1	"He (the public manager) is held to account, to a small extent, but by the Observatory."
CE1	"Until now, the Public Prosecution Service took action in the administrative field when driven to do so by whistle-blowing in the press or online"
CE1	"The model of waiting for the Court of Auditors to close the account, rule whether they are correct or incorrect, and then, years later, for it to be reported to the Public Prosecution Service has been more than proven to be bankrupt"
GP1	"I can't recall ever having received an oversight body (in the Londrina Municipal Authority)"
SC2	"They (oversight bodies) are very remote"
	"Things will only really improve when the Control Office does its job, the Public Prosecution Service plays its part, when public servants do their job and society also plays its role"
GP1	"And we (regulatory system) get nowhere. So we're investing in social control, so that [...] society itself demands change"
LACK OF ALIGNMENT AND COORDINATION IN THE REGULATORY SYSTEM	
CE1	"Each body was making demands, some more than others, but then we determined that it was necessary to have a minimum standard (for the collaborative Transparency in Municipalities project)"
GP2	"I'm sure it's not fixed [...] there's no standard"
GP2	"There are demands here [...] we had a first Public Prosecution Service audit, then there was another audit and now, not long afterwards, providing new reports"
	"There's no standard, no convergence"
CE3	"There's no coordination between us, the supervisory bodies, to deal adequately with this"
CE3	"If we had done this better (coordination between supervisory bodies) we would be at a different level"
CE4	"So, as we don't talk properly, it doesn't happen: municipality, TCE, TCU, etc. We should be better coordinated"
SC1	"The only supervisory body that existed was the Public Prosecution Service"
LACK OF MONITORING AND CONTINUITY	
CE5	"Another thing that didn't happen was the monitoring of this project (Social LAI, TCE-PR), for reasons of continuity this ended up by not happening"
CE3	"I think the municipalities suffer a lot from this (problems of continuity in oversight and public management)"
DELAYS AND INEFFECTIVENESS IN JUDICIAL PROCEEDINGS	
CE1	"The TAC[5] is a way of resolving this without going to court". Justice "is extremely ineffective, except for punishing the public official for wrongdoing, but rather than being punished, the public would rather have corrected the problem ascribed to him"
CE1	"Let them bring proceedings, then I'll correct it, because I'm an administrator"
SC1	"It's hard to hold the manager to account for the information"
SC1	"TAC is the Public Prosecution Service's way of realizing we have to go one step at a time and perhaps the outcome will be better than if it just brings prosecution after prosecution"
SC2	"It takes a really long time for the (judicial) process to get going"
CE3	"Everything is judicialized [...] everything, anything, impeachment is judicialized, health [...] often the law gets distorted on the way"

Source: Prepared by the authors.

5. Conduct Adjustment Declaration.

7. Conclusion

We started from the premise that the set of rules subsequent to the Federal Constitution of 1988 has brought about a challenging stance of turning away from secrecy and towards transparency (Abrucio, 2012; Martins, 2010), making the citizen the protagonist in public management. But this challenge is not faced by municipal authorities, State departments and other executive bodies. The regulatory system is also searching for a new position, on pain of being "the last to know". The scenario of accountability and flexibility, shared oversight and different forms of compliance, such as adjustment declarations, require changes to the merely punitive approach and adopting a broader educational and social approach, combined with a strict requirement of celerity.

Our analysis has therefore demonstrated that Brazilian courts of accounts have rethought their approach to their work. In the first place, we have noted that the State courts of auditors have published texts on their websites which preach the ideals of closeness to citizens and public engagement. From the intertextuality between these fragments and organizational practices (in this case, projects and programs), the discourse that emerges is of closeness to social control, calling for a partnership with society, with a view to promoting transparency.

The second point we noted was the recruitment of citizens to exercise social control. Aware of the scarcity of public data, the courts have provided indicators, interactive tables and other data compilation models, moving towards what is called the "aspiration to open data". In compiling and processing data, these organizations have set about translating public data, finding ways of adjusting them for use in the social landscape (Wedlin & Sahlin, 2017). This concept is important, because it highlights the contextualized social use of data and points to the widely felt need to adapt them to the purposes of the public administrative authorities.

The third and last point we have noted is the recognition that enforcement activities need to be coordinated. In a deeper analysis, we saw that the law imposes difficulties in holding public officials to account and applying penalties, which has prompted the regulatory system to adopt alternative ways of supporting different compliance models. So in proposing other forms of enforcement, other forms of compliance come to light, and the role of immediate enforcement is converted into a situation of monitoring of transparency actions.

In short, these findings combined to show that the courts of auditors have a new role in the scenario of greater demand for transparency. The study of the organization of institutions points to how these practices and discourses can be analyzed, in particular from the standpoint that focuses on the legal environment. The study of negotiations and bargaining in the enforcement/compliance relationship that has served as a reference for use is not a new field in the institutionalist

perspective, and was central in the writings of Hawkins (1983; 1984, as cited in Edelman, 1992). However, what has been increasingly noticeable in recent decades is the broadening of the concept of compliance, which is increasingly plural, but also more tenuous and controversial (Edelman & Talesh, 2011).

Above all, we may note a change in the timing of the attainment of the purposes of legal provisions: compliance is not defined on publication of the law, but rather in the interactive relations between the law, society and organizations. Research has therefore retreated from literal analysis of the text of the law and turned instead to the requirements for social sanctioning of the law, and to its secondary aspects (Ross, 2001), where the content of the law and the extent of its changes are revealed only in practical application of the law in society, and not in the mere promulgation of the legal text.

At the core of these relationships, we find that language is a protagonist, which is because some of these bonds – agreements and disagreements – arise in discursive form. For this reason, this study has presented declarations, fragments and transcriptions that evince an inclination towards a new role of the Courts of Auditors, that points to the potential change in direction away from merely punitive and strictly constitutional action.

In conclusion, it must be considered that this change in discourse does not occur in isolation and therefore that it involves multiple organizations and environmental dimensions. Further research could accordingly address internal and organizational viewpoints, such as possibility of decoupling by taking on new enforcement roles (Boxenbaum & Jonsson, 2017), prioritizing the satisfaction of institutional expectations (Deephouse, 1996) rather than measures geared to efficiency. Other studies could shed light on the impacts and motivations behind these changes, in a theoretical perspective that attaches value to innovation and to the central and peripheral actors which are the driving force in this process (Compagni, Mele, & Ravassi, 2015). It is also possible to envisage that subsequent research which addresses the natural contexts of oversight bodies such as the courts of auditors considered here could also be fruitful by looking deep into their experiences in order to learn about the actual practices, processes and mechanisms whereby the new (social and institutional) roles indicated as the conclusions of this research have been exercised, in those public organizations (Smets, Aristidou, & Whittington, 2017).

Because we chose to focus on the discourse emitted by the courts of auditors under study, especially with regard to their potential for promoting and strengthening educational enforcement, we have disregarded, at this stage, studies based on their effectiveness, in terms of budget vs. revenues from fines applied, However, considering that fines can also play an educational role, in parallel to other

approaches, insofar as the amounts involved are sometimes small, future research could be centered on the issue of traditional/constitutional/punitive enforcement and its relationship with measures of an instructive nature, indicating how they are synchronized and used in combination with each other.

Environmental viewpoints could break down the (supposedly) hermetic boundaries between organizational fields and legal environments, attaching value to multiple aspects of socio-legal interactions. There is also room for socio-legal and institutionalist research with a linguistic focus on the how legal authorities, case law, rulings and compendia continue the process of interpreting and reassigning meanings to legal contents. These interpretations and meanings may be uncovered by looking carefully at social control and the power exerted by social segments over the regulatory system. Lastly, it is our hope that effective mechanisms will be developed through a critical approach that will allow us to enjoy the benefits of open data, and the progress this will bring.