Jornal of Legal Sciences
Pensar
e-ISSN: 2317-2150
Universidade de Fortaleza
https://doi.org/10.5020/2317-2150.2026.16988

The legal framework of endowment funds in Brazil: an analysis of Law no. 13,800/2019

O arcabouço jurídico dos fundos patrimoniais no Brasil: análise da Lei nº 13.800/2019

El marco jurídico de los fondos patrimoniales en Brasil: análisis de la Ley n.º 13.800/2019

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Editorial

Article History
Received: 05/04/2025
Accepted: 06/21/2025

Thematic Axis 2 – Constitution, Institutions and Democracy in Brazil

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How to cite:
OLYMPIO, Fabiane Melo Carcuchinski; JULIATTO, Dante Luiz. The legal framework of endowment funds in Brazil: an analysis of Law no. 13,800/2019. **Pensar – Journal of Legal Sciences**, Fortaleza, v. 31, e16988, 2026. DOI: https://doi.org/10.5020/2317-2150.2026.16988

Data Availability Statement

Pensar – Journal of Legal Sciences adopts Open Science practices and makes available, alongside this publication, the Data Availability Statement (Pensar Data Form) completed and signed by the authors. The document contains information regarding the nature of the article and the possible existence of supplementary data. It is available as a supplementary file on the journal's website.

Abstract

This article examines the legal framework governing endowment funds in Brazil, with particular emphasis on Law No. 13,800/2019. Adopting a qualitative approach based on a bibliographic and documentary review, the study analyzes the legal foundations for the establishment of endowment funds, the structure and role of managing organizations, governance and transparency mechanisms, and the tax incentives provided under the legislation. The paper also discusses regulatory gaps and practical challenges faced by institutions, particularly within the context of public universities. The findings indicate that, although the legislation represents a significant step forward, its effective implementation depends on complementary regulations, appropriate incentives, and coordination among the various institutional stakeholders involved. The study concludes that strengthening endowment funds requires not only a mature regulatory framework but also the consolidation of a sustainable and collaborative culture of philanthropy and charitable giving.

Keywords: endowment fund; governance; philanthropy; tax incentives; financial sustainability.

Resumo

Este artigo analisa o arcabouço jurídico dos fundos patrimoniais no Brasil, com ênfase na Lei nº 13.800/2019. A pesquisa adota abordagem qualitativa, fundamentada em revisão bibliográfica e documental, com o objetivo de examinar os fundamentos legais da constituição dos fundos, a estrutura e o papel das organizações gestoras, os mecanismos de governança e transparência, bem como os incentivos fiscais previstos. Também são discutidas lacunas normativas e desafios práticos enfrentados por instituições, especialmente no contexto das universidades públicas. Os resultados apontam que, embora a legislação represente um avanço relevante, sua efetiva implementação requer regulamentações complementares, incentivos adequados e articulação entre os diversos atores institucionais. Conclui-se que o fortalecimento dos fundos patrimoniais depende tanto da maturidade normativa quanto da consolidação de uma cultura de doação sustentável e colaborativa.

Palavras-chave: *fundo patrimonial; governança; filantropia; incentivos fiscais; sustentabilidade financeira.*

Resumen

Este artículo analiza el marco jurídico de los fondos patrimoniales en Brasil, con énfasis en la Ley n.º 13.800/2019. La investigación adopta un enfoque cualitativo, fundamentado en una revisión bibliográfica y documental, con el objetivo de examinar los fundamentos legales para la constitución de los fondos, la estructura y el papel de las organizaciones gestoras, los mecanismos de gobernanza y transparencia, así como los incentivos fiscales previstos por la normativa. Asimismo, se discuten las lagunas normativas y los desafíos prácticos enfrentados por las instituciones, especialmente en el contexto de las universidades públicas. Los resultados indican que, si bien la legislación representa un avance significativo, su implementación efectiva requiere regulaciones complementarias, incentivos adecuados y articulación entre los distintos actores institucionales. Se concluye que el fortalecimiento de los fondos patrimoniales depende tanto de la madurez del marco normativo como de la consolidación de una cultura de donación sostenible y colaborativa.

Palabras clave: *fondo patrimonial; gobernanza; filantropía; incentivos fiscales; sostenibilidad financiera.*

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1 Introduction

This study is guided by the following research question: Does Law No. 13,800/2019 provide adequate legal certainty and incentives for the development of endowment funds in Brazil? The main objective of this article is to examine the legal framework governing endowment funds in Brazil through a systematic analysis of Law No. 13,800/2019. More specifically, the study seeks to analyze the legal foundations regulating the establishment of endowment funds, the structure and role of managing organizations, governance and transparency mechanisms, and the tax incentives provided under the legislation, while also identifying potential regulatory gaps and practical challenges associated with its implementation.

The context of budgetary constraints and the growing demand for alternative funding sources for public-interest institutions, particularly in higher education, has intensified the debate surrounding endowment funds (Fabiani, 2012; Pinheiro; Scaff; Pereira, 2023). These funds constitute long-term financial instruments formed through private or institutional donations, designed to generate income for activities of collective interest while preserving the principal capital (Lerner; Schoar; Wang, 2008). International literature recognizes the central role of endowment funds in sustaining academic excellence, especially in American universities, where they serve as a fundamental pillar of institutional autonomy and financial sustainability (Hansmann, 1990; Lerner; Schoar; Wang, 2008).

In Brazil, experience with endowment funds is relatively recent, with the enactment of Law No. 13,800 on January 4, 2019, representing a major regulatory milestone. Although some isolated initiatives had previously established endowment funds, this legislation was the first to create a specific legal framework governing their establishment, management, governance, and allocation of resources (Brasil, 2019; Schimidt, 2023). Nevertheless, questions remain regarding the law's regulatory effectiveness, particularly concerning the qualification and compensation of investment managers, the requirement to hire investment managers registered with the Brazilian Securities and Exchange Commission (Comissão de Valores Mobiliários – CVM), the limited tax incentives available to promote a culture of philanthropy and charitable giving, and the absence of a centralized regulatory authority for endowment funds in Brazil (Pinheiro; Scaff; Pereira, 2023; Schimidt, 2023).

This article therefore seeks to examine the legal foundations governing the establishment, structure, and operation of endowment funds as well as the role of managing organizations, governance and transparency mechanisms, and the tax incentives provided under the current legal framework. It also aims to identify regulatory shortcomings and operational challenges that affect the implementation of this instrument.

The relevance of this study lies in the need to deepen the legal understanding of a mechanism that has shown considerable potential for supporting the sustainability of both public and private nonprofit institutions, including universities, research centers, and cultural organizations. In a context marked by budget cuts and increasing financial pressures, endowment funds emerge as a strategic alternative for ensuring the continuity of medium- and long-term initiatives in education, science, culture, health care, and environmental protection (Brasil, 2019; Demétrio, 2021; Schimidt, 2023).

From a methodological perspective, the study adopts a qualitative legal research approach based on bibliographic and documentary analysis. The investigation focuses on the interpretation of Law No. 13,800/2019, complemented by specialized legal scholarship, related regulations, and institutional documents, with the aim of identifying advances, limitations, and opportunities for improving the current legal framework.

The article is organized into five sections. Following this introduction, the second section presents the conceptual and legal foundations of endowment funds. The third section examines the principal provisions of Law No. 13,800/2019. The fourth section discusses practical experiences and implementation challenges associated with the legislation. Finally, the fifth section offers concluding remarks and recommendations for improving the legal framework under analysis.

2 Endowment funds: conceptual and legal foundations

The institutionalization of endowment funds in Brazil is directly linked to the need to secure stable, continuous, and sustainable sources of funding for public policies and initiatives serving the public interest. Historically, particularly after 2015, worsening fiscal constraints led Federal Higher Education Institutions (Instituições Federais de Ensino Superior – IFES), museums, research institutes, and third-sector organizations to face severe budgetary restrictions.

This scenario prompted the search for alternative mechanisms capable of diversifying revenue sources and reducing dependence on government funding (Costa; Marques, 2022).

Within this context, endowment funds emerged as a solution inspired by well-established international models, such as those adopted by Harvard, Yale, and Oxford Universities. Harvard and Yale, in particular, are notable examples of the successful application of this model, having accumulated billions of dollars in endowment assets that support financial autonomy, innovation, and cutting-edge research (Queiroz, 2021). The Harvard Endowment Fund, for example, is among the largest in the world, with assets exceeding US$50 billion. This model has inspired numerous institutions worldwide to adopt similar strategies to ensure their long-term sustainability and development (Instituto para o Desenvolvimento do Investimento Social [IDIS], 2023).

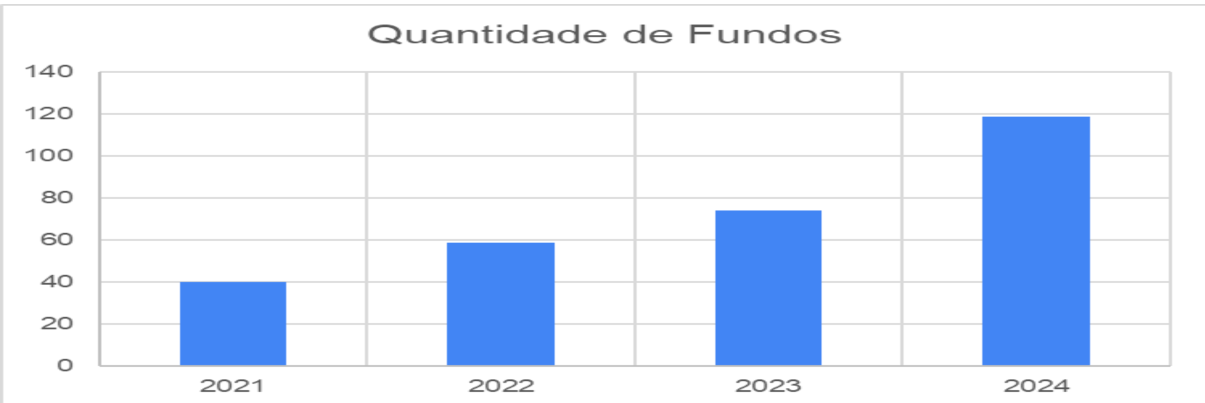
These institutions have established permanent financial reserves funded by donations from individuals and corporations, with investment returns allocated to specific long-term purposes. By preserving the principal while utilizing only the generated income, this model provides institutional security and long-term financial predictability, both of which are highly desirable characteristics for financing strategic initiatives (Viana; Frugoni, 2021).

Although isolated experiences with endowment funds existed in Brazil prior to specific regulation, such as the Fundo Patrimonial Amigos da Poli at the Polytechnic School of the University of São Paulo (USP), the absence of a dedicated legal framework hindered the broader expansion of this model. In many cases, donations became absorbed into institutional budgets, creating uncertainty for both donors and administrators (Schimidt, 2023).

The enactment of Law No. 13,800 on January 4, 2019, marked the beginning of a specific regulatory framework governing the establishment and operation of endowment funds dedicated to supporting public-interest causes. According to Levisky (2019), this legislation created a legal structure that enables the incorporation of sound financial governance practices inspired by successful international experiences. As a result, institutions gained access to a new mechanism for promoting investments in research, innovation, infrastructure, and academic excellence.

Law No. 13,800/2019 established a legal framework providing clear guidelines for the creation, governance, and transparency of endowment funds while encouraging the mobilization of private resources to support nonprofit institutions. Since its enactment, the adoption of endowment funds in Brazil has grown steadily. As illustrated in Figure 1, the number of endowment funds increased from 40 in 2021 to 59 in 2022, 74 in 2023, and reached 119 in 2024, with reported aggregate assets exceeding BRL 157 billion, according to data from the IDIS Endowment Funds Monitor (IDIS, 2023).

Graph 1 – Number of endowment funds



Source: Prepared by the author (2025).

Although these figures demonstrate significant growth compared with the period preceding legal regulation, both the authors of the survey and sector specialists acknowledge that the development of endowment funds in Brazil could be considerably greater under a more favorable tax environment (IDIS, 2023).

One of the most visible consequences of the absence of tax incentives is the limited adoption of endowment funds by IFES. According to Regis (2024), only five of Brazil's 69 federal universities have formally established endowment funds. This finding highlights the difficulty of mobilizing donors in a context where donations are not fully deductible for income tax purposes and where Endowment Fund Management Organizations (Organizações

Gestoras de Fundos Patrimoniais – OGFPs) do not automatically benefit from tax-exempt status, even when operating in support of public-interest causes.

This challenge is compounded by the historical decline in public investment in higher education. Federal investments in IFES decreased from BRL 5.8 billion in 2011 to only BRL 0.8 billion in 2022, adjusted for inflation using the IPCA index (Controladoria Geral da União [CGU], 2022). In this context, endowment funds emerge as a promising alternative for ensuring the financial sustainability of federal universities. However, their full effectiveness is constrained by the absence of fiscal incentives capable of stimulating large-scale philanthropic giving.

International comparisons reinforce this argument. In the United States, where tax incentives for philanthropy are well established, it is estimated that every US$1 in forgone tax revenue generates approximately US$6 in charitable donations (Hirata; Grazzioli; Donnini, 2019). In Brazil, a study conducted by FONIF found that each BRL 1 exempted from taxation generates BRL 5.92 in social returns. These figures support the view that fiscal policies not only foster a culture of giving but also produce substantial social benefits.

During the legislative process of Provisional Measure No. 851/2018, which ultimately became Law No. 13,800/2019, the Coalition for Philanthropic Endowment Funds repeatedly advocated for the inclusion of tax incentives in the final legislation (Hirata; Grazzioli; Donnini, 2019). However, proposals such as income tax deductions for both individuals and corporations were vetoed, frustrating sector expectations and limiting the law's effectiveness as a mechanism for encouraging private donations.

As emphasized by Hirata, Grazzioli, and Donnini (2019), one of the primary obstacles to expanding the donor base of endowment funds is the absence of meaningful tax incentives. This significantly weakens fundraising efforts, particularly among major donors and corporate contributors. The rationale is straightforward: without attractive fiscal benefits, philanthropic giving becomes less competitive among alternative uses of private capital.

Pinheiro, Scaff, and Pereira (2023) argue that the foundations of endowment funds in Brazil rest upon three key pillars: the crisis of public funding, the need for legal certainty in long-term donations, and the professionalization of asset management for socially oriented purposes. These pillars are closely aligned with international legal frameworks but also require adaptation to Brazil's institutional realities (Viana; Frugoni, 2021).

More than a regulatory framework, the development of endowment funds in Brazil requires the strengthening of a philanthropic culture that extends beyond occasional donations and promotes sustained civic engagement in high-impact initiatives. Building such an institutional environment requires cooperation among government agencies, universities, foundations, and civil society organizations in order to ensure the permanence and legitimacy of endowment funds as instruments serving the public interest (Schimidt, 2023).

Therefore, for endowment funds to fully achieve their potential in strengthening public policies and social organizations, it is necessary to establish tax incentives capable of expanding their ability to mobilize private resources. Without such incentives, an important opportunity to transform Brazilian philanthropy into a sustainable engine of development may be lost.

3 Main provisions of Law No. 13,800/2019

The enactment of Law No. 13,800 on January 4, 2019, represented Brazil's first systematic regulatory effort to govern the establishment, management, and operation of endowment funds dedicated to supporting public-interest causes (Lima, 2020). The legislation emerged in response to the need to institutionalize and provide legal certainty for permanent donations intended to support the long-term sustainability of projects in education, culture, science, technology, environmental protection, and human rights (Brasil, 2019).

The law established the legal parameters governing the creation, structure, and operation of endowment funds in Brazil, consolidating a long-term financing model and overcoming the previous context of legal uncertainty and the absence of specific regulation (Schimidt, 2023). It therefore represents a significant milestone in strengthening philanthropic initiatives aimed at advancing public-interest objectives.

The legislation permits the establishment of endowment funds through three distinct legal structures: associations, foundations, and support foundations accredited under Law No. 8,958/1994 (Brasil, 2019; Schimidt, 2023). The law is optional in nature and applies to nonprofit private entities that choose to establish this type of fund for the purposes specified therein (Pinheiro; Scaff; Pereira, 2023). However, when a public university and its support foundation decide to establish an endowment fund, its management must comply with Law No. 13,800/2019, which provides the legal basis for ensuring asset segregation, transparency, and legal certainty for donations (Brasil, 2019; Schimidt, 2023).

Article 1 of Law No. 13,800/2019 states that endowment funds are intended for the "establishment of an endowment fund aimed at raising, managing, and allocating donations from private individuals and legal entities to programs, projects, and other purposes serving the public interest" (Brasil, 2019, art. 1). The law identifies three central actors within its institutional structure: the supported institution, the OGFP, and the implementing organization (Brasil, 2019).

OGFP constitutes the core institutional entity within the legal framework. Article 2, section II, defines an Endowment Fund Management Organization as "a private, nonprofit legal entity established for the purpose of administering and managing an endowment fund, as well as raising donations for such fund, in accordance with this Law" (Brasil, 2019, art. 2, sec. II[1]). Accordingly, civil associations and private foundations may perform this role, provided that they are nonprofit entities, have the exclusive purpose of managing an endowment fund, and include in their governing documents the governance requirements established by law, such as the creation of a board of directors, a fiscal council, an investment committee, and policies ensuring transparency and accountability (Brasil, 2019).

Furthermore, the sole paragraph of Article 2 provides that support foundations established under Law No. 8,958/1994 may be recognized as OGFPs, provided they comply with the requirements established by Law No. 13,800/2019. Specifically, it states that: "The support foundation referred to in Law No. 8,958 of December 20, 1994, may be treated as an endowment fund management organization, provided that the provisions of this Law are observed" (Brasil, 2019, art. 2).

Support foundations affiliated with IFES and established pursuant to Law No. 8,958/1994 were therefore authorized to serve as OGFPs (Brasil, 2019). Nevertheless, research conducted by Costa and Marques (2022, p. 4) among foundations affiliated with the National Council of Support Foundations for Higher Education and Scientific and Technological Research Institutions (CONFIES) found that endowment fund management "remains a reality for only a limited number of institutions," and that only one foundation had amended its bylaws to comply with Law No. 13,800/2019.

The governance structure required by the legislation is often considered complex, creating barriers to implementation. According to Scaff, Pereira, and Pinheiro (2021), legal requirements such as investment committees, independent audits, and formal accountability procedures impose significant challenges, particularly for smaller institutions or those with limited technical capacity.

Another key aspect concerns asset segregation. Article 4 establishes that the assets comprising an endowment fund must remain legally and financially separate from the assets of the OGFP, the supported institution, and the implementing organization, thereby ensuring their legal and financial protection (Brasil, 2019). Article 5 sets forth the minimum requirements for the OGFP's bylaws, including a clear definition of the public-interest purpose, the composition of governance bodies, rules governing the use of resources, investment policies, and audit and transparency procedures (Brasil, 2019).

Together, these provisions seek to align endowment funds with principles of good governance and efficient stewardship of donated assets. As noted by Schimidt (2023), Brazilian legislation drew inspiration from international models, particularly those of the United States, while adapting them to the requirements of Brazilian law, with particular emphasis on legal protection of assets and the binding of donations to declared public-interest purposes.

Despite representing a significant institutional advance, Law No. 13,800/2019 still contains regulatory gaps and faces practical implementation challenges. Authors such as Pinheiro, Scaff, and Pereira (2023) and Schimidt (2023) highlight issues including the absence of a dedicated regulatory authority, uncertainty regarding the tax treatment of donations, and the complexity involved in establishing and operating an OGFP.

Consequently, the legal foundations governing the establishment of endowment funds in Brazil are structured around principles such as legal certainty, public purpose, asset segregation, and transparent governance. While these principles provide a solid framework, additional regulatory and institutional developments remain necessary for endowment funds to become fully established as long-term philanthropic financing mechanisms (Fabiani; Wolffenbüttel, 2019). Furthermore, by vetoing provisions that would have granted tax incentives to donors, lawmakers ultimately

[1] All direct quotations from the original sources have been translated into English for the purposes of this article.

failed to incorporate one of the most important mechanisms for encouraging participation and philanthropic giving (Schimidt, 2023).

3.1 Governance, transparency, incentives, and omissions

The institutional governance of endowment funds constitutes one of the pillars of Law No. 13,800/2019, which requires OGFPs to adopt structures for oversight, planning, and accountability. The objective is to ensure security, professionalization, and transparency in the management of donated resources, thereby strengthening the confidence of donors and beneficiaries (Brasil, 2019; Regis, 2024).

Under Article 5 of the law, the bylaws of an OGFP must provide for the establishment of three essential collegiate bodies: a Board of Directors, with deliberative and strategic functions; an Investment Committee, responsible for proposing and monitoring the investment policy for the fund’s financial assets; and a Fiscal Council, charged with overseeing the entity’s accounting and financial management practices (Brasil, 2019).

Article 8 reinforces these requirements by determining that OGFPs must publish periodic activity reports, audited financial statements, and investment policies, all of which must be made available to the general public. In addition, OGFPs must engage independent auditors to ensure the reliability of the information disclosed, in accordance with the principles of integrity and transparency (Brasil, 2019).

According to Pinheiro, Scaff, and Pereira (2023), these requirements are essential to ensuring the democratic and technical governance of endowment funds. However, the authors warn that “the complexity and cost of the minimum structure required by Law No. 13,800/2019 may represent a significant challenge, especially for smaller foundations or those with limited technical capacity” (Pinheiro; Scaff; Pereira, 2023, p. 10).

This reality requires institutional adaptations by support foundations, many of which still do not provide in their bylaws for the creation of investment committees or structured investment policies, as shown in a recent study by Costa and Marques (2022). According to Lerner, Schoar, and Wang (2008), endowment funds with active investment committees and comprehensive policies tend to outperform other endowment funds.

Article 10 of Law No. 13,800/2019 provides that members of the Investment Committee may be compensated but does not establish a specific remuneration ceiling (Brasil, 2019). However, normative interpretations, particularly in contexts involving public universities, suggest the application of limits tied to the public-sector remuneration ceiling, such as the salary of a university rector, when there is direct institutional linkage with public entities (Schimidt, 2023).

Such linkage conflicts with the principle of autonomy of OGFPs, which, despite pursuing public-interest purposes, are private-law legal entities (Schimidt, 2023). Algranti (2019) argues that imposing remuneration limits on an OGFP without express legal provision constitutes undue state interference in private management and undermines its freedom to define policies compatible with the financial market. From an operational standpoint, remuneration restrictions create a mismatch between the desired profile of Investment Committee members and the realities of the financial market.

The legislation also allows associations, foundations, and support foundations to hire investment managers registered with the CVM. Failure to hire duly registered professionals may expose entities to administrative proceedings, fines of up to BRL 50 million, and suspension from operating in the market for up to 20 years for managing investments without proper registration (Brasil, 2021; Schimidt, 2023). This reveals an interpretative and operational gap: OGFPs may fail to hire properly qualified managers, thereby placing the fund in an unlawful position before the CVM, even while formally complying with Law No. 13,800/2019.

Another recurring criticism concerns the absence of specific tax incentives for donations made to endowment funds (Regis, 2024). The original bill included tax exemption and deduction mechanisms similar to those established under cultural and sports incentive laws. However, these provisions were vetoed by the Presidency on the grounds that they would entail revenue losses without an accompanying estimate of budgetary impact (Pinheiro; Scaff; Pereira, 2023).

Although Bill No. 2,440/2023 is currently under consideration in the Federal Senate, no concrete progress has yet been achieved. The absence of effective tax exemptions for donors remains one of the main obstacles to strengthening endowment funds in Brazil (Bragança; Biselli, 2019; Levisky, 2019; Pannunzio, 2019; Pasqualin, 2019).

Pannunzio (2019) also highlights the rigid aspects introduced by the legislation, which require legislative refinement. One example concerns the restriction on the withdrawal of real investment returns. According to the author, the rule governing the withdrawal of real returns could be made more flexible in order to accommodate the various types of funds that may exist. In this regard, Pannunzio (2019) suggests that the legislation should allow each fund, considering its purpose and specific characteristics, to define its own criteria for authorizing withdrawals and the use of resources.

Additionally, the author criticizes the mandatory supervision of foundations by the Public Prosecutor's Office. In his view, this requirement imposes complexities that indirectly encourage the adoption of the association model rather than the foundation model as a way of avoiding the bureaucracy associated with the Public Prosecutor's Office. Many institutions therefore choose to operate as associations rather than foundations in order to avoid such bureaucracy and oversight (Pannunzio, 2019). To address this issue, he proposes that the Civil Code be revised to make this supervision optional, which could reduce barriers to the creation of new endowment funds.

Pinheiro, Scaff, and Pereira (2023) and Schimidt (2023) also identify the absence of a centralized regulatory authority for endowment funds in Brazil as a relevant gap. This absence generates legal uncertainty, hinders the standardization of practices, and limits the full development of this instrument. As noted by Pinheiro, Scaff, and Pereira (2023), the current fragmented regulatory framework, distributed among the Public Prosecutor's Office, Courts of Accounts, and other bodies, compromises the effectiveness of governance and the confidence of potential donors. The creation of a specialized regulatory body could standardize guidelines, ensure greater transparency, and promote a safer environment for raising and managing long-term resources, thereby fostering a culture of giving (Schimidt, 2023).

Despite the advances introduced by Law No. 13,800/2019 in terms of legal certainty and governance for endowment funds, the legal text contains significant omissions, particularly regarding the remuneration of Investment Committee members, the qualification of investment managers, the structure of tax incentives, the policy for withdrawing real investment returns, and the absence of a centralized regulatory authority (Brasil, 2019; Schimidt, 2023). As a result, although the legislation establishes the legal instruments necessary for the creation and operation of endowment funds, it does not provide tax benefits capable of encouraging private-sector participation, especially among major donors. Schimidt (2023) notes that this gap undermines the attractiveness of the model, particularly in a country where the culture of giving remains underdeveloped.

As Pinheiro, Scaff, and Pereira (2023, p. 12) observe, "although technically consistent, the law fails to address the main obstacles to its implementation by not offering sufficient tax incentives or an institutionalized regulatory environment." In summary, the absence of complementary regulation and fiscal incentives compromises the effectiveness of the legal framework, making its normative improvement essential if it is to align with the strategic sustainability objectives of the supported institutions.

4 Experiences and practical challenges in the implementation of Law No. 13,800/2019

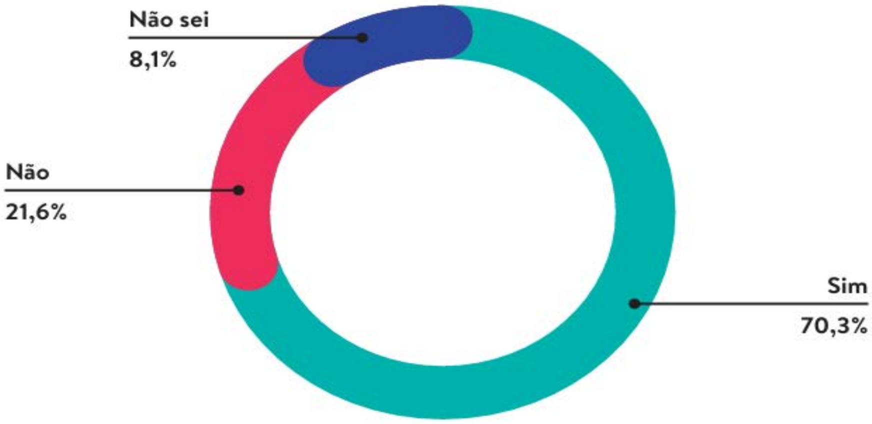
Although the landscape of endowment funds in Brazil remains incipient when compared with international models, it includes notable experiences that may serve as references for future initiatives (Lima, 2020). Among the most emblematic examples is the Fundo Amigos da Poli, linked to the Polytechnic School of the University of São Paulo (USP), which stands out for its mobilization of alumni, professionalized resource management, and transparency in the allocation of investment returns (Regis, 2024). The operation of this fund illustrates how alumni engagement can strengthen the financial autonomy of public institutions.

Other prominent initiatives, although outside the scope of IFES, include Fundação Estudar and Instituto Serrapilheira. Fundação Estudar was created by business leaders to support the development of young Brazilian talents, while Serrapilheira is dedicated to promoting basic science and scientific communication. Both apply principles of financial sustainability based on endowment funds, with efficient management and rigorous governance mechanisms (Fabiani; Wolffenbüttel, 2019).

Despite these good practices, the data indicate that adoption remains limited. According to Regis (2024), among the 57 endowment funds identified in Brazil up to 2022, only 17 were linked to higher education, and only three supported IFES. This gap highlights the need for broader dissemination of the model among IFES and greater institutional support for its implementation.

One of the main barriers to the expansion of this model is the absence of a structured culture of giving in Brazil (Fabiani; Wolffenbüttel, 2019). This challenge is compounded by the scarcity of tax incentives capable of encouraging private-sector engagement, especially among major donors (Schimidt, 2023). Figure 2 shows that most management organizations among the 74 funds participating in the survey were either tax-immune or tax-exempt. This condition represents an obstacle to adherence to Law No. 13,800/2019, as it demonstrates that management organizations are not necessarily covered by the legislation and that there is no legal guarantee that OGFPs may enjoy the same tax benefits as the institutions they support (IDIS, 2023).

Graph 2 – Is the management organization tax-immune or tax-exempt?



Source: IDIS (2023)

Therefore, successful experiences provide important lessons, but they are not sufficient to drive structural transformation. The consolidation of endowment funds in Brazil requires not only good practices but also cultural, normative, and institutional changes (Regis, 2024).

4.1 The role of support foundations for IFES

Support foundations are central actors in the structuring of endowment funds within IFES. Regulated by Law No. 8,958/1994, these entities are responsible for supporting teaching, research, extension, and institutional development projects, functioning as bridges between universities and external funders (Brasil, 1994). With the enactment of Law No. 13,800/2019, these foundations were authorized to act as Endowment Fund Management Organizations, provided that they comply with the legal requirements (Brasil, 2019).

Despite this legal provision, many foundations still face difficulties in adapting to the requirements of the new legislation. The requirement of an exclusive purpose in managing endowment funds, the need for asset segregation, and the establishment of specialized committees impose organizational and bylaw-related challenges (Costa; Marques, 2022). In many cases, foundations must amend their bylaws, engage independent auditors, and establish more complex governance structures (Schimidt, 2023).

Studies involving foundations affiliated with CONFIES reveal that few are fully adapted to Law No. 13,800/2019. This resistance or slow pace of adaptation may be attributed to the lack of clear regulatory guidance, the scarcity of technical and human resources, and insufficient coordination with the IFES they support (Costa; Marques, 2022).

Another critical aspect is the existence of divergent interpretations by oversight bodies, such as the Public Prosecutor's Office and Courts of Accounts, regarding the nature of the resources and accountability requirements. This generates legal uncertainty and discourages foundations from acting as OGFPs (Demétrio, 2021; Schimidt, 2023).

Even so, these entities are regarded as the most suitable institutions to manage endowment funds within IFES, given their history of institutional collaboration and experience in fundraising (Regis, 2024). With adequate regulatory support and capacity-building, they may become pillars for sustaining endowment funds in the public sector (Schimidt, 2023).

4.2 Feasibility and challenges in the implementation of endowment funds

Schimidt (2023) provides an in-depth analysis of the obstacles to implementing endowment funds in Brazil. The author demonstrates that, although Law No. 13,800/2019 represents an important regulatory advance, its application faces legal, cultural, and institutional barriers. The study emphasizes that the culture of giving remains fragile in the country and that the absence of meaningful tax incentives limits private-sector participation (Schimidt, 2023). This assessment is supported by Fabiani and Wolffenbüttel (2019), who argue that the Brazilian philanthropic environment still lacks adequate incentives, particularly with regard to legal predictability and donor confidence in the use of resources.

According to Schimidt (2023), overcoming these challenges requires the integration of different legal frameworks through a proposed regulatory triple-helix approach, which articulates Law No. 13,800/2019, the Civil Code, and Law No. 8,958/1994. This approach seeks to integrate existing legal norms, thereby creating a more coherent and secure environment for the operation of management organizations. However, both Schimidt and Fabiani and Wolffenbüttel (2019) emphasize that the absence of a central regulatory authority responsible for guiding, monitoring, and standardizing the application of the legislation undermines the effectiveness of the model and increases the risk of divergent interpretations by different oversight bodies.

The need for professionalization of OGFPs is emphasized by Schimidt (2023), who advocates the formation of teams trained in financial management, governance, and accountability. In his view, only through a robust institutional structure and transparent governance is it possible to earn donor trust and ensure the long-term preservation of resources.

Similarly, Fabiani and Wolffenbüttel (2019, p. 81) state that "the professionalization of management and the institutionalization of governance are determining factors for ensuring the integrity and longevity of endowment funds." However noble the cause defended by an institution may be, the existence of a regular and sustainable flow of donations depends directly on investment in qualified staff, structured planning, and consistent execution of fundraising strategies (Kisil, 2019).

At the institutional level, the lack of coordination among IFES, support foundations, and potential funders prevents the formation of sustainable support networks (Schimidt, 2023). Fabiani and Wolffenbüttel (2019) reinforce this idea by indicating that the consolidation of endowment funds requires a collaborative and synergistic ecosystem based on partnerships among the public sector, the private sector, and civil society, with clear goals, defined responsibilities, and long-term commitments.

Finally, Schimidt concludes that the viability of endowment funds in Brazil depends not only on improving the legal framework but also on building a new institutional mindset based on trust, autonomy, and social commitment (Schimidt, 2023). As Fabiani and Wolffenbüttel (2019) emphasize, beyond legal norms, it is necessary to cultivate shared values and lasting relationships among donors, managers, and beneficiaries, with the purpose of promoting the common good through strategic philanthropy.

5 Final considerations

The analysis conducted in this study demonstrated that Law No. 13,800/2019 constitutes an important milestone in the Brazilian legal framework by regulating the establishment and management of endowment funds dedicated to public-interest purposes. However, relevant limitations were also identified, including the absence of tax incentives for individuals and legal entities, the lack of a regulatory authority, and normative gaps that hinder the practical implementation of the law. These factors compromise the attractiveness of the model, particularly in the context of public universities and their support foundations.

Although the legal framework provides the formal basis for the development of endowment funds in Brazil, the consolidation of this model depends on normative, institutional, and cultural advances that promote philanthropy and cooperation among the state, the private sector, and civil society. Since the enactment of Law No. 13,800/2019, no decrees, resolutions, or administrative ordinances have been issued to clarify pending regulatory matters, which contributes to legal uncertainty.

Bill No. 2,440/2023 is currently under consideration in the Federal Senate and proposes improvements to the existing legislation by establishing that OGFPs should be taxed according to the nature of the public-interest cause they support. If approved, the measure would ensure income tax exemption on financial investments and expand deduction possibilities for individual and corporate donors. These changes are expected to correct distortions and strengthen the capacity of the philanthropic sector to mobilize resources.

In this context, improving the legislation through the creation of tax incentives for donations becomes particularly important when aligned with international practices, such as those adopted by North American universities, which are distinguished by their consolidated endowment fund structures and their contribution to institutional sustainability.

In addition, simplifying the procedures for establishing OGFPs is recommended, including the development of standardized bylaw templates, technical guidelines, and institutional support, especially for public institutions. Such measures would facilitate the expansion of the model by helping institutions better understand the steps required to establish endowment funds, thereby reducing the administrative barriers currently faced by many organizations.

Another important point concerns investment in the structuring of fundraising teams, both within OGFPs and within supported institutions. Training professionals specialized in philanthropy, communication, and donor relations is essential to ensuring effective and sustainable campaigns. At the same time, programs should be developed to train investment managers with a focus on endowments, thereby ensuring qualified management aligned with international best practices. Qualification courses in these areas could be developed in response to growing demand.

Additionally, the institutional support of universities and other beneficiary organizations is essential in building fundraising campaigns, as is the creation of strategies to mobilize anchor donors capable of leveraging the establishment of new endowment funds. Finally, the creation of a regulatory body or national technical authority is recommended to serve as a normative, supervisory, and advisory reference for OGFPs, promoting standardization, transparency, and legal certainty.

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