Institutional Foundations of Trust: Sociolegal Perspectives

Bases institucionais da confiança: perspectivas sociojurídicas

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Abstract

This article discusses how institutions, including the law, can artificially produce trust between people and between people and organizations through the imposition of standards of behavior, procedures and competencies. Building on the rational choice theory, on institutionalism and constructivism, this study systematizes theoretical and empirical findings in three ideal types. The ideal types have been called "calculative trust", "institutional trust", and "active trust".

Keywords: Trust; Calculative Trust; Institutional Trust; Active Trust; Institutions.

Resumo

Este artigo discute como instituições, incluindo o direito, podem produzir artificialmente confiança entre indivíduos e entre indivíduos e organizações por meio da imposição de parâmetros de comportamento, procedimentos e competências. Partindo da teoria da escolha racional, do institucionalismo e do construtivismo, este estudo sistematiza resultados teóricos e empíricos encontrados na literatura em três tipos ideais. Os tipos ideais são chamados de “confiança como cálculo”, “confiança institucional” e “confiança ativa”.

Palavras-chave: Confiança; Confiança como cálculo; Confiança institucional; Confiança ativa; Instituições.

Introduction[1]

Trust is commonly portrayed as an essential ingredient for social organizations to thrive (BECKERT, 2006; CASSON; GIUSTA, 2006; BACHMANN, 2006). Trust is considered, for example, a fundamental element for the maintenance and development of traditional organizations such as the family, the marriage, and the friendship circles (HONNETH, 2004). Trust is also seen as an essential element for the development of companies, as well as for the development and growth of markets in general (BECKERT, 2006; GRANOVETTER, 1985). Trust is also depicted as an indispensable element for the social and economic development of whole countries (PUTNAM, 2000; FUKUYAMA, 1996; KHODYAKOV, 2007). Both trust in government and in public institutions, as well as trust between citizens, are conceived of as essential requirements for the successful implementation of public policies, for the improvement of the economic performance of a country, and even for the improvement of quality of life in global terms (PUTNAM, 2000; FUKUYAMA, 1996; KHODYAKOV, 2007).

Despite the high level of consensus regarding the positive effects of trust, the hypothesis that trust could be artificially produced by imposing standards of behavior, procedures and competencies remains controversial in the literature. For one strand of the literature, the imposition of the duty to trust, whether by law, contracts or any other cognitive constraint, means nothing more than the verification of total distrust either between individuals or between individuals and organizations (GAMBETTA, 1988; DASGUPTA, 1988). Institutions such as the law would not be able in this sense to provide trust, but rather to create mechanisms to deal with its absence (GAMBETTA, 1988; DASGUPTA, 1988). On the other hand, another strand of the literature explains that institutions such as the law, contracts, governments etc. would be able to provide, or partially provide, trust between individuals and between individuals and organizations (LEVI, 1998; LUHMANN, 1996; ZUCKER, 1986).

The ways in which institutions - and the law more specifically - could function as mediators of trust are, according to this second strand of the literature, described by different authors from the most diverse fields of knowledge. Due to the variety of perspectives on this

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subject-matter, the study of trust does not find adequate systematization in the literature. Taking that into account, this article addresses the following research questions: first, how can trust be theoretically and empirically approached considering the multitude of methodological assumptions emerging from the economics, social and legal sciences? Second, how can institutions - including the law - artificially produce trust between people and between people and organizations through the imposition of standards of behavior, procedures and competencies? By reviewing and systematizing literature on trust and its relations with institutions, this paper aims to provide a scientific contribution to the literature on the subject-matter, which has long been studied by social sciences, but completely ignored by legal science.

This article is divided into three more sections. In the next section, I will discuss the concept of trust, its origins and how it can be approached from different perspectives taking into account different methodological assumptions. Taking into account the similarities found among the different approaches used to investigate empirical manifestations of trust between individuals and between individuals and organizations, I will systematize the results into three categories. The categories have been called: "calculative trust", "institutional trust" and "active trust". Each category explains the manifestations of trust in everyday life in different ways. They also explain how institutions in general, including the law, function as mechanisms to reinforce or weaken the decision to trust. Finally, I will present a brief conclusion and point to new roads in theoretical and empirical research agendas on trust.

1 - What is trust? An ongoing debate.

Traditionally, trust is characterized as an overall expectation that someone or a group of people will behave in a certain way in order to produce a specific future event. More recent definitions of the concept, however, have given it a broader scope and conceived that the object upon which trust can rest can be represented not only by a person or a group of persons, but also by an abstract system, such as an institution. According to Guido Möllering (2006, p. 356), for example, trust can be characterized as a reflexive process of maintaining a state of favorable expectations in relation to the actions and intentions of more or less specific others. By more or less others specific the author includes people, groups of people, organizations and institutions. In the same vein, Jörg Sydow (2006), Anthony Giddens (1991), Niklas Luhmann (1979), Dmitry Khdyakov (2007), Reinhard Bachmann and Andrew Inkpen (2011) stand among many others for whom trust has generic reach and does not discriminate against the entrusted object.

Whether it relies on a person or an institution, trust always leads to a tripartite relationship (ROBBINS, 2016; LEVI, 1998; HARDIN, 1996; FURLONG, 1996). On the one hand, there is one who trusts (trustor) and, on the other hand, that one being trusted (trustee). As a link between the two, there is the expectation that a future event will happen, either through the action of the one in whom one trusts or, then, through the entrusted institution. One might suppose that hypothetical agent A trusts wife (B) that B maintains fidelity over the course of time. It is also possible that the same hypothetical agent A relies on hypothetical company C for C to fix the defect of the product purchased. In one case as in the other, trust depends on a series of factors to be concretized. It depends on a number of psychological and social issues linked to the trustor (LEWIS; WEIGERT, 1985). It also depends on how the object trusted is presented to the hypothetical agent A (BECKERT, 2006). And it depends, finally, on the quality of the expected event and the probability that it occurs (ROBBINS, 2016).

It is clear that regardless of the configuration of the incentives through which the trust relationship materializes, it always emerges from a context of uncertainty. If it were possible to foresee what will happen in the future and the precise chance that the expected event takes place, little or no space would exist for trust (Gambetta, 1988). Despite that, the decision to trust is not entirely random nor, as it is popularly said in the Portuguese language, "a shot in the dark". The act of trusting involves a certain degree of familiarity with the object entrusted (LEWIS; WEIGERT, 1985). According to Lewis and Weigert (1985), this measure varies between total ignorance of the object and total knowledge of it. Trust in conditions of total ignorance is not trust, but rather gambling (LEWIS; WEIGERT, 1985, p.970). On the other hand, trust that is established under conditions of total knowledge is not just trust, but rather certainty (LEWIS; WEIGERT, 1985).

Luhmann (1979, 1988) attributes a central role to familiarity as a constituent element of the decision to trust. According to the author, familiarity, which can also be understood as experience, knowledge of the past, memory, etc., is an essential prerequisite for facing the complexity of the world and the state of uncertainty inherent in it (LUHMANN, 1979, p. 27). Based on what is familiar, that is, what is within the experienced world, in the knowledge of the past, the individual is able to reduce social complexity to meaningful guidelines that serve as background for the materialization of trust. Following this reasoning, trust is distinguished from a mere feeling of hope or blind trust. According to the author, those who trust always have good reasons to trust. The subject who places his trust in someone or in an institution can always justify it socially even knowing the contingency and the risk of trusting.

Based on the degree of familiarity that a person has with the object that can be potentially entrusted, the literature distinguishes at least three types of trust. The first of these is trust between people linked by strong social ties (thick interpersonal trust). This type of trust usually emerges from contexts in which the degree of familiarity among those involved is high. The second is thin interpersonal trust, which arises from contexts in which the degree of familiarity between the affected parties is considered low and the uncertainty is therefore high. And the third and the last, trust in abstract systems or in institutions (system trust or trust in institutions), which arises from absolutely impersonal contexts in which the degree of familiarity between subject and object is further reduced. All three forms of trust, understood in the literature as ideal types in the Weberian sense, are structurally identical, yet slightly distinguished by having different qualities and intensities. Each of these is briefly described below.

a) Thick interpersonal trust

Trust between people who are linked by strong social ties is the most intense form of trust and the least likely to dissolve. According to Dmitry Khodyakov (2007), this is the first form of trust that people develop in life. It represents a stage of the process of personal development without which the individual loses the capacity to construct a positive attitude towards the other and to society in general (HONNETH, 2003; GIDDENS, 1991). Thick

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interpersonal trust usually arises within smaller social spheres that are delimited by physical, psychological, and/or affective bonds between members. It is also commonly observed in less complex societies shaped by tradition, where the certainty of the past overlaps with the uncertainty of the present and the future (LUHMANN, 1979). According to Luhmann (1979), the family background that characterizes the relation between the trusting subject and the entity that is trusted is responsible for overcoming the uncertainty inherent in social relations and for making trust a less risky enterprise. According to Lewis and Weigert (1985), thick interpersonal trust has normally high emotional motivation that makes it less likely to dissolve. Because of that this type of trust generates intense frustration in the case of broken expectations.

b) Thin interpersonal trust.

Thin interpersonal trust is less resistant to threats and can, at the slightest sign of frustration, be undone (KHODYAKOV, 2007). Trust of this kind usually involves strangers and does not have as background lived experience, similarity or any affective bond. Its concretization stems from the need that human beings have, in the midst of high social complexity, to seek access to scarce resources that could not be supplied through the acquaintances of the most intimate spheres. The latent background to the formation of thin interpersonal trust is, therefore, so uninformative about the object that the investment in its materialization becomes a risky venture. According to Luhmann (1979), in circumstances where social complexity and uncertainty are high, the individual, in order to trust, needs to seek a new relationship that is equally stabilizing, but not based exclusively on the experienced world. Decisions about the act of trust are thus based on generalizations of experiences. The individual who trusts extends the generalizations reached to cases similar to those already lived and thus stabilizes expectations according to the possibilities of variation.

Given the circumstances, the relationship of trust that is eventually built has much more cognitive contours than affective and emotional ones. According to Khodyakov (2007), the individual, in the face of uncertainty and the untested, selects cognitively the options that appear to him as an object of trust, taking into account the probability that the entrusted agent will behave ethically or otherwise in some way that is pragmatically in her interest. Although trust in this context is less likely to materialize, two factors directly contribute to its establishment: the first relates to the image of the intermediaries who help the agent who trusts to get information about the trusted agent. The second concerns institutions that give support to the trusted object. In both cases, the quality of the available information is increased and, therefore, it is easier to overcome the total lack of knowledge concerning the object.

In Luhmannian theory, generalized means of communication are used in order to address the same issue. According to Luhmann (1979), generalized means of communication consist of abstract systems whose function is to provide the individual with concrete conditions to effect, in a hyper-complex world, the transposition of familiar experience into generalization. Money, for Luhmann (1979), is one of these means of communication. Money communicates to the individual certain possibilities of action, which are more or less homogeneous over time. This facilitates, the reduction of complexity and, consequently, the process of generalization and application of trust to cases similar to those already experienced. In order for this process of mutual support and affirmation of trust to take place, however, it is necessary that the communication system itself be reliable (LUHMANN, 1979).

c) Trust in abstract systems or in institutions (system trust or trust in institutions).

The third form of trust found in the literature, that is, trust in systems, also referred to by the term “trust in institutions”, is qualitatively distinct from trust between people. According to Dmitry Khodyakov (2007), it is due to the absolutely impersonal character of the trust relationship in institutions that it is difficult to establish and maintain. According to the author, it is more complicated to rely on an abstract system of rules and procedures that expresses no feeling than on a person whose reactions and behaviors are observable in everyday life. In spite of this, trust in institutions, once triggered, has the capacity to produce the voluntary consent of the one who relies on them in relation to their determinations and actions. Because of the impersonal features that mark the relationship between trusting agent and trusted institution, this third type of trust is eminently cognitive in nature. The decision to trust a system or an institution is the result of a cognitive balancing that rationally evaluates the legitimacy of those same systems and institutions, their technical competence, and also their ability to fulfill their duties and promises efficiently.

2 - How is trust formed and what is the role of institutions in the consolidation of this process?

Despite the above-mentioned conclusions, they are limited to clarifying how trust, whether in a person or in a system, is forged. In addition, they have little scope to explain how the trust persists in the face of the natural vicissitudes of time and social transformation, and also the role of law and institutions in this process. Jens Beckert (2006) identifies at least six forms of trust facilitators. According to the author, tradition, reputation, systems of power and hierarchy, norms, institutions, and cost-benefit calculations play an important role in this context. Each facilitator, according to Beckert (2006), has been studied by a number of great authors, some of whom will be considered in this chapter.

Instead, however, to focus on each facilitator and test its applicability to the research question, this work aims to investigate them from three perspectives of analysis identified in the literature. The perspectives of analysis were called "calculative trust", "institutional trust" and "active trust". Each perspective of analysis builds on different methodological assumptions for the analysis of trust. For this reason, each perspective conceives of trust as emerging out of three different ways. In each of these ways, institutions, including the law, play different roles. Next, each of these perspectives is presented separately.

2.1 - Calculative trust

Only recently has the topic of trust become the subject of deep and systematic debate in economics. The attention that was directed to the subject results in great part from the questions raised by the New Institutional Economics. According to this economic approach, individuals, contrary to what neoclassical theory argues, are not able to create perfect markets on the basis of complete information (AKERLOF, 1970; COASE, 1937; WILLIAMSON, 1981; STIGLER, 1992; MILGROM; ROBERTS, 1988). On the contrary, New Institutional Economics upholds the idea that, given the bounded rationality of the human being, as well as opportunism on markets and asset specificity, perfect markets have never been close to being achieved. Between the individuals and the formation of perfect markets, there are always what are called transaction costs (COASE, 1937; WILLIAMSON, 1981, NORTH, 1990). For Douglas North (1990), transaction costs basically divide between costs of obtaining information on the markets, and costs of protecting rights and monitoring contracts. Due to transaction costs, roughly understood as the contingency factors that hinder the execution of an exchange, the formation of perfect markets has always faced insuperable obstacles (WILLIAMSON, 1981).

The discovery of transaction costs in the economy led to a redefinition of the economic research agenda. Aware that not only the equilibrium of the forces of supply and demand would contribute directly to the formation of markets, the contemporary economist, in order to understand market formation, should also take into account the main aspects that influence the increase or reduction of transaction costs to understand markets (STIGLER, 1992). Much of the research agenda, influenced by the work of Ronald Coase and Oliver Williamson, began to see the internal organizational structure of the firms, as well as institutions in general, as an important vector of these analyses. However, after a few years, New Institutional Economy began to realize that, contrary to what was initially recommended, it was observed that, although the transaction cost of certain market operations was extremely high, individuals defied under certain circumstances the risk imposed by transaction costs and create markets that were unlikely to exist theoretically.

According to Dominic Furlong (1996), the main explanation for this lies in the perception that an important element of the composition of economic transactions was simply ignored by the studies of the time. This element basically relates to trust. According to Jens Beckert (2006), not only are the supply of tradable products in the market and the institutional organization on which markets are formed necessary factors for effecting trade, but also trust that the agent will not be exploited constitutes an essential element for market formation. As an independent variable that acts on the formation of markets, trust can,

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according to Furlong (1996), play an important role despite the high transaction costs related to the operation. In this sense, trust would represent a kind of friction-lubricating mechanism. If the agent trusts that she can take advantage of the economic relationship, then it is possible for her, on the basis of that perception, to overcome the high transaction costs and to invest in the materialization of the exchange. All this happens, Furlong (1996) reiterates, despite the risk, the uncertainty and the difficulties that arise during the process.

Despite the appearance of irrationality around the decision to trust, the formation of trust in that scenario is directly associated with the individual perception of the risks related to the decision of trusting. The individual, according to Oliver Williamson (1993), calculates probabilistically the effects of placing trust in a commercial partner and only then makes the final decision. Williamson (1993) defines as competent calculation the mental process according to which the agent (1) is aware of the range of possibilities that can emerge from her individual actions; (2) is aware of the possibilities of using risk-reducing and benefit-maximizing mechanisms; (3) can project the net gains of her actions and (4) can anticipate the gains and losses of engaging in contractual relationships with alternative partners. If the individual, in this sense, can foresee all these possibilities and make up her mind that the gains associated with trusting are the greatest of all the options available, the individual then assigns trust and enters the contract.

Trust, understood as a calculative trust in the sense described, would resemble a market risk assessment. Williamson (1993) says that the term trust is poorly used in economics. Where it trust is often used, one must understand, according to the author, “risk”. What the individual calculates, according to Williamson (1993), would not therefore be trust itself, but the risk of engaging in the contractual relationships. The term trust should then be used only in very specific contexts such as within the family, within which affective relations prevail and within which the calculating and strategic orientation of the actors are suspended, albeit not totally. In this context, trust, referred to by Williamson (1993) by the term “personal trust”, would truly correspond to what he understands as trust, that is, the passionate, not rational, attitude of believing in someone or something. Taking into account the distinction of the terms above, Williamson (1993) states that while the opposite of personal trust would correspond to betrayal, the opposite of calculative trust would correspond to contract breaching.

In the same vein, while accentuating the relevance of the term trust in the economic sciences, Russell Hardin (1996) agrees that trust consists of a rational deliberation that takes into account the calculation on whether the depositary of trust is able to act according to a positive way for the interests of the trustor. According to Hardin (1996), trust is seen essentially as a rational expectation that falls on the actions and intentions of others. Focusing on the behavior of the trusted party leads Hardin (1996) to understand that, as important as, or even more important than the study of trust, is the study of trustworthiness. It is the perception of trustworthiness, that is, of the probability that the trustee acts in such a way as to pursue the interests of the trustor that contributes directly to the formation of trust. Two factors, Hardin (1996) explains, are directly related to such calculations. The first of these concerns the incentives that the trustee receives to act in such a way. The second is the quality of the information that the trustee makes available to the trustor.

For many economists, including Partha Dasgupta (1988), the formation of trust is also seen as a matter of incentives. It is known that, because of the opportunistic nature of the human being, it is not possible to predict whether her actions will always have the rectitude announced (DASGUPTA, 1998). Because of the latent possibility of deviance, the trustor always assesses, before taking any action, whether the incentives that the trustee receives are lined up to force her to take the expected actions. If the incentives, both internal and external, are properly aligned, then the trustor sees good reasons for trusting. An example of internal incentive for Dasgupta (1988) concerns the commitment of the trustee to act in the manner announced (often done in the form of a promise). Another incentive could be the reputation of the trustee (DASGUPTA, 1988). External incentives, in turn, refer to, among other things, mechanisms for enforcing promises, such as legal sanctions (DASGUPTA, 1988). Both the presence of internal and external incentives are elements that contribute to seeing person X or institution Y as trustworthy according to Dasgupta (1988).

Hardin (1996) and Williamson (1993) give examples of which incentives directly affect the individual's decision to trust or refrain from trusting. For Hardin (1996), for example, mechanisms associated with trusting are composed of personal, social and institutional aspects. Personal factors, while relevant in the process of trust building, are not generally discussed by economists. Therefore, the author concentrates his analysis on social and institutional factors. The latter includes the law, as well as the institutions of law in a broad sense. All legal forms, according to Hardin (1996), represent a guarantee for the trustor that, if trust is violated by the trustee, she still has the possibility of forcing the trustee to act in the expected way or, to compensate for any loss suffered. Hardin (1996) refers to the contract, whose possibility of judicial enforcement with increased fines acts as a stimulus for the trustee to keep her promises. Among the social incentives, on the other hand, the author points to social conventions, which have the power to coordinate behavior and, thus, to induce trust by providing predictability to the social agents (HARDIN, 1996).

Williamson (1993) goes on to detail several factors associated with the incentives (or, symmetrically, to disincentives) to trust. For the author, not only law and social conventions act generally on the level of trust that people place in each other and in abstract systems. Culture, more generally understood, can do so, as does politics (depending on the rulers), as well as public and private regulation (WILLIAMSON 1993: 477-8). In addition, Williamson (1993) points out as a specific trigger factor of trust professionalization, understood in the sense of respect for professional codes of conduct. Finally, corporate culture, in the case of institutions, is shaped by institutional rules and procedures or by the organization's routine (WILLIAMSON, 1993). The corporate culture factor, or governance in more current terms, is very important to Williamson insofar as it acts as a mechanism for maintaining the integrity and cohesion of the institution, which, in the author's view, contributes to increasing credibility and therefore its reliability (WILLIAMSON, 1993).

However, as already pointed out, not only do the nature and the objective set of incentives influence the formation of trust according to the individualistic perspective that has been outlined so far. The nature of the information available represents also a determining factor for the decision to trust (HARDIN, 1996; DASGUPTA, 1988). It is ultimately based on information available that the trustor effectively makes the final decision. All the incentives, objectively considered, as well as the pieces of information that can serve as substrate to the decision to trust, are perceived by the trustor as “signs” (BECKERT, 2006). According to Bacharach and Gambetta (2001), the signs perceived by the agent represent only the amount of information available from which the subject in question can make her decision. In addition to the perceived signs, there is still information that does not belong to the decision-making process. Among these pieces of information are some that, even though knowable, go unnoticed by the agent. Others may even be noticeable, because they are deliberately hidden by the subject or the organization that seeks to be trusted (BACHARACH; GAMBETTA, 2001).

In addition, the interpretation of the information received is also determinant to the process of assessing the decision to trust. Whatever the sign perceived by the cognizant subject is, it always passes through the filter of the human mind. Given this subjectivity, it can never be said that the same sign necessarily has the same end effect on two or more agents (Becker, 2006). In a study on trust in foreign investment in Brazil, Anna Lygia Costa Rego (2010) identified how individuals use heuristics to decide on which asset to invest in and when to invest, and how this assessment changes from social group to social group and from individual to individual. Also defined by the author as “pocket rules” or as “decision shortcuts”, heuristics represent true deviations from the ideal rational decision process. They end up creating biases and compromising the judgment of the investor (REGO, 2010). In this sense, one can even say that any calculation, especially that of trust, which always has uncertainty as its background, never comprehends its object in a complete way. There is always inherent limitation to the very activity of calculation.

Economists know this characteristic of the human being as bounded rationality. Although individuals strive to be rational, they are only limitedly so (WILLIAMSON, 1981). Their cognitive ability to calculate, compute, and strategically plan is always biased (HART, 1990). Nevertheless, economists who fit within this strand of thinking agree that individual decisions don’t lose their rational contours only because of that. In spite of the inherent limitation of the rationality of men, calculation, strategy, and maximization of utility still make individual decision taking part of a rational enterprise. That process, as outlined, has as a locus in the human mind and is cognitively based.

2.2 – Institutional-based trust

As a reaction to the first theoretical formulations engendered by economists on trust, a new stream of thought arose within sociology, which was devoted to questioning the way the individual trusts. Criticism was made on the conception of *homo economicus* as a presupposition to understand human behavior and, more precisely, the process of trust-building. In general, sociologists began to question the idealized idea of the individual according to which she, although only boundedly, makes rational choices and behaves in a completely utilitarian manner, pursuing the maximum satisfaction of her pleasures (HALL; TAYLOR, 2003). New critics also questioned the idea that an actor's behavior is determined by absolutely strategic calculations that are operationalized taking into account the possible behavior of other actors and institutions and not by impersonal historical forces instead.

For those sociologists, the individual cannot be reduced to a mere performer of mathematical calculations whose choices are only contingentially influenced by the external incentives that institutions provide. On the contrary, for this group of scholars, the human being consists of a product of social interactions and has her conduct and her preferences constitutively defined by the institutions that mediate her relation with the world. According to Michel Aglietta and André Orlean (1990), the study of the individual and how she relates to the economic process necessarily presupposes the analysis of the way in which institutions, including money, give shape and form to human choices. According to the same authors, no individual and no economy can exist outside a set of institutions (AGLIETTA; ORLEAN, 1990).

Since the relationship between institutions and human behavior is more than a mere relationship mediated by incentives, but also by structural organization, then the study of trust could not be performed without the analysis of the nature and configuration of institutions more suitable for its flourishing. Once again, the debate is now shifting from the initial questioning whether abstract institutions or systems could be trusted, and toward asking how institutions could constitutionally affect choices of granting or denial of trust. In other words, it seeks to know how the individual or collective actors project their trust in the face of specific institutional designs (BACHMAN; INKPEN, 2011). Unlike the view of the economy that sees institutions as providing incentives or disincentives to the trusting decision, the sociological view emphasizes the role institutions play as a producer of social expectations that are gradually incorporated into everyday life without the social actors even realizing it (MÖLLERING, 2006).

One of the most relevant works on the relationship between institutions and trust belongs to Lynne Zucker (1986), for whom the level of trust in society is directly related to the capacity of the formal and informal institutions to generate - through the fixation rules, social roles and routines - common understandings and shared expectations regarding the behaviors of social agents. According to Zucker (1986), institutions can, through the dissemination of social meanings and expectations, produce what she, building on Garfinkel's ideas, calls the natural attitude. The natural attitude is the spreading of the general expectation through society that members of a community take things as they usually are (things as usual) or take for granted a certain state of affairs of the social order (Zucker, 1986). Based on such expectations, which allow individuals to assume a certain state of affairs in relation to the future, trust emerges not only at the individual level but also at the level of social groups.

Institutionalization represents, in Lynne Zucker's view (1986), the most effective mechanism for producing trust in contemporary society. By institutionalization, Zucker (1986) understands a process of intersubjective reconstruction and objectification of social meanings as structuring components of the external world and not just as part of the personal convictions of the trusting agents. Only when such meanings reach objectivity in the external world, usually by their fixation on rules, procedures, and any other form of cognitive constraint on behavior, do they get generalized to the whole economy, and not just to a set of specific relationships. Therefore, they turn into knowledge and social expectations that serve as a condition of possibility for the formation of trust in the sense sketched above (ZUCKER, 1986). Law, regulation and contract play decisive roles on this process. Through the establishment of rules, procedures and cognitive constraints of all kinds, legal institutions begin to generate understandings and expectations that guide the behavior of agents, thus giving rise to the creation of a fertile environment for trust (ZUCKER, 1986). Also, through unofficial mechanisms such as the internal routine and the governance of organizations such as banks, stock exchanges, and insurance companies, can the same process take place.

According to Luhmann (1979), the role of institutions in the production of social trust goes far beyond allowing the agent a simple calculation about the potential advantages and disadvantages of investing in an economic relation. For Luhmann, institutions play a fundamental role in the production of trust, insofar as they disseminate technical, economic, social, and cultural knowledge among the people involved in everyday relations, and thereby produce patterns of behavior that can be expected by all agents. Institutions, including law, enable the spreading of background knowledge and latent expectations without having to mobilize their technical standards. In this case, sanction for deviation need not even be applied to generate such a context of trusting. The role legal and informal institutions play in the production of societal trust is much more related to the dissemination of tacit knowledge that guides the conduct of the agents than with the positive or negative incentives that they disseminate.

Reinhard Bachman and Andrew Inkpen (2011) suggest at least three ways in which institutions can raise or lower the level of trust individuals place in each other or in institutions or organizations. First, institutions can influence the decision to trust because they attribute meanings to the social circumstances before the social agents even experience them. Bachman and Inkpen (2011) illustrate this possibility with the example of the job applicant. If the applicant demonstrates educational and professional skills attested by excellent teaching institutions, then the potential employer may attach meaning to that applicant's experience before even meeting her personally. In this case, one has the attribution of meaning to a social circumstance through the influence of institutions with recognition and reputation.

It is also possible that institutions guide the actions of social actors in a more direct way (BACHMAN, INKPEN, 2011). They can do this by creating patterns of behavior that serve as a mirror and model for the parties' performance during the period of social interaction. In this sense, institutions interfere in the process of trust formation by generating reciprocal expectations that those involved that the other party will behave in a more or less expected way. Taking into consideration the applicant example, Bachman and Inkpen (2011) suggest that the employer would rely on the competence of the applicant for the fact that she has gone through all the rules and procedures established by the ritual of admission. Finally, the authors suggest a third way through which institutions influence the decisions of individuals.

According to this hypothesis, individuals rely so heavily on the institutions that mediate the relations between them and the potential object of trust that the same agents would tend not to expect to the trustee behaving differently than programmed by institutions. Although this is a less likely possibility, it is also feasible from both the theoretical and the empirical point of view according to Bachman and Inkpen.

Bachman (2001) clarifies that, whether from the perspective of Zucker's institutionalism, from Luhmann's theory of trust or from his own conception, trust that originates in the context of a relationship between individuals and institutions is always constitutively based on a fuzzy logic of beliefs and expectations spread by these same institutions. Where institutions exist, say Bachman and Inkpen, the parties involved in a relationship are guided by implicit or explicit reference to institutional safeguards that fit the context and thereby generate the tendency to a trusting relation. As already discussed, such safeguards do not necessarily represent mechanisms of enforcement. They act much more on trust by representing systems of rules that construct meanings in common that define, in turn, expectations, social roles and culturally accepted modes of behavior (BACHMAN, INKPEN, 2011; MÖLLERING, 2006).

The safeguards to which Bachman and Inkpen refer concern, among other things, formal instruments of law such as statutes, regulations and contracts. The authors understand that these legal tools constitute the most effective instruments of production of trust in a market society (BACHMAN, INKPEN, 2011). In Bachman and Inkpen's view, statutes, regulations and contracts generate a drastic reduction in the risks of celebration and maintenance of business at any stage of the relationship between economic agents (even before any quarrel takes place and before any sanction has to be applied). Like Zucker (1986) and Luhmann (1979), both authors explain that the mere existence of valid law is already capable of producing trust by generating expectations regarding the behavior of the actors and with respect to the assumptions made by both parties to the economic and social relationship.

However, in spite of the relevance of the law and the formal mechanisms mentioned, Bachman and Inkpen explain that not only these instruments are capable of generating such consequences. The concept of institutions to which the authors refer is not restricted to formal and official coercive legal mechanisms. Bachman and Inkpen also refer to informal behavioral mechanisms such as institutional governance, community norms (such as those that are often established by Internet users to discipline e-commerce and the provision of specialized services), technical standards, structures techniques, routines and procedures. Unlike official legal institutions, however, informal institutions do not get materialized in explicit rules of behavior coupled with sanctions for deviance. Informal institutional mechanisms of trust production are much more based on implicit practices and routines. Despite that, they create patterns of behavior that serve as a reference and meaning for social action.

Like law and legal institutions in general, informal institutional mechanisms are also capable of arousing social trust insofar as they generate meanings to the behavior of social actors and thereby create patterns of behavior and social expectations that increase predictability. Although law and official legal institutions have achieved predominance in the literature as the main institutional precursors of social trust, Bachman and Inkpen (2011) recognize the growing role of informal institutions as mechanisms for generating the same result. In some cases, they even speak in their total protagonism as coordinating mechanisms of social activities and producers of trust.

2.3 - Active trust

Up to this point, it has been seen that the debate on how trust is formed revolves around conceptions that either see the individual as the sole agent responsible for the decision of trusting, or the institutions as structural mechanisms of achieving the same result. Jörg Sydow (2006) contrasts both kinds of theories, referring to the former as undersocialized theories and to the latter as oversocialized ones. The problem with undersocialized theories, Sydow explains (2006), is that they are only partially realistic. The theories of this strand forget to explain that the individual is not always able to make strategic choices on which there is no constraint of structural and historical order. In Sydow's view, individuals' choices, including that of trust, are constitutively determined by impersonal factors that lie outside the human intellect. Among these factors, institutional organization might represent a relevant variable in this process.

But if undersocialized theories tend to neglect structural factors as constituents of the rational decision-making process, oversocialized theories, on the other hand, tend to overestimate the role of impersonal structures as triggering components of the same judgment. According to Sydow (2006), by choosing institutional constraints as the only viable basis, or at least the most important basis for trust building, oversocialized theories prove to be as one-sided as undersocialized theories. The overvaluation of institutions tends to lose sight of the individual and calculating element which economists have so much focused on and which can also be empirically observed. Moreover, the overvaluation of the institutional factors promotes a unilateralist view of the practical effects achieved by the institutions. According to the sociological view presented, institutions act on individual choice only as cognitive constraints that would induce human behavior into single directions. However, institutions should not only be seen as monolithic and homogeneous blocks of meanings and expectations. They may undergo reconfigurations which affect the formation of trust in an ongoing process.

Taking that into account, a third conception of trust emerged in the most recent literature on the subject matter. According to Sydow (2006), it appears to be more realistic. Within that conception, agency and structure play equally relevant roles, albeit with different nuances, in the production of interpersonal trust and in the production of trust between individuals and institutions. When viewed simultaneously as conditions of possibility of the emergence of trust or, symmetrically, of distrust, agency and structure give rise to the understanding that trust is produced not only as a result of instantaneous individual deliberation, but also as an immediate result of an inducement promoted by institutional context. Jointly considered, agency and structure lead to the understanding that trust is built gradually according to a process of continuous reflection that mixes critical engagement of the individual and institutional learning.

Up to this point, trust has been portrayed as a static phenomenon, either as a result of the rationalistic calculation of the individual, or as a result of institutional arrangement. The final decision to trust, whether taken through one path or another, is always seen as the end line of a process that occurs prior to this outcome. Once trust is established, a state of unquestionability of the object is reached. Economists call this state of affairs “rational choice”, and some sociologists, among them Lynne Zucker, write of a “natural attitude”. Both rational choice and natural attitude refer to the precise moment in which the object of trust, although still a source of uncertainty, no longer raises reasonable doubts in the trustor or, similarly, in the agent who abstained from giving trust. At this last point, there is no longer room, according to the literature examined, for reconsiderations and analysis of possible objections (WRIGHT; EHNERT, 2010).

That moment of unquestionability would be quite representative of the general picture of trust formation if the relation between subject and object ended at that moment. However, according to Lewicki and Bunker (1996), trust almost never reaches a final result. It is, in fact, dynamic and constantly changes over time. This period of time to which the authors refer does not necessarily lead to a single result. It begins with the rapprochement between subject and object. Soon after this, subject and object can, albeit superficially, formulate, based on the low degree of familiarity that surrounds them, the first decisions concerning trust. According to Lewicki and Bunker (1996), if the first formed expectations are met, then the actors involved move on to a second stage of trust building in which the decision is no longer based on mere impressions but rather on the reputation the object has. To put it in another way, trust reaches a new status and a new intensity.

On the other hand, if the initial expectations are frustrated, then the following moment is no longer fertile ground for the development of trust, although this does not necessarily imply mistrust. The subject, faced with a breach of expectations, no longer trusts the object strongly. He can do it in a more superficial way, though, until a future event restores its initial impetus. The individual can strategically evaluate the gains and losses of the continuity of the relationship and can, nonetheless, invest in risk. She can also bet on the continuity of the relationship simply taking into account that, from that moment on, things will change in order to bring the relationship to a new context for example. This leads one to believe that with the extending of relations over time, trust becomes susceptible to reconfigurations of character and intensity. According to Guido Möllering (2006), the individual is not imprisoned in her initial decisions. The individual is able to respond constructively to the situation when encouraged by experience.

This process of continuous reflection, Anthony Giddens (1991) has called active trust. According to him, any relationship of trust is established having as background the possibility of the new and the contingent. In this context of openness, trust does not come fully formed. It needs to be constantly worked upon. Building trust consists in the gathering of objective elements of the context that may indicate reliability in the object, but, in addition, it also consists of a pragmatic individual attitude of suspending latent uncertainty and vulnerability. With this mixture between context and decision, structure and agency, the foundations of traditional theories about trust are called into question and explained in a very particular way.

According to the constructivist theory of trust, the individual seeks in that moment of openness and intense communication to refer their behavior to social structures that function as catalysts of trust. According to Jörg Sydow (2006: 379), these social structures concern, first and foremost, rules of meaning, which consist of shared visions, images and social understandings. Second, social structures concern rules of legitimation, such as the universal virtues of justice, honesty, equity, etc. And, finally, they also concern rules of domination, which consist of criteria of authority, such as law. If the individual, although unconsciously, can match the situation experienced with one or more described structures, then she finds relevant stimuli to trust or, symmetrically, not to trust. Differently from the neoinstitutionalist perspective, such social structures, among them the law, do not fall on individuals only as a set of cognitive rules that direct individual and collective mind in a linear manner. Throughout the process of referencing social structures, individuals do not only reproduce them passively (SYDOW, 2006). Rather, in the midst of the interactions, individuals do that interpretively, appropriating the latent knowledge generated by those same structures, organizing it and transforming it according to the circumstances.

In a similar vein, looking deeper into institutional theory, Fuglsang and Jagd (2015) propose to explain how institutional elements more specifically combine with individual rationality to generate the decision of trusting. According to the authors, the formative force of institutions does not depend merely on their objective existence, as has been understood up to this point. Its influence on the behavior of social actors results from an active interpretive process of sensemaking that takes place amidst conflicts, contradictions, surprises, and frustrations. For this reason, institutions do not allow themselves to be identified with a monolithic, static and homogeneous set of cognitive constraints (FUGLSANG; JAGD, 2015). Sensemaking emphasizes the volatile, mutant, and even contradictory character of social institutions as they come to be seen metaphorically as the result of a work of improvisation and bricolage (FUGLSANG; JAGD, 2015).

Klaus Weber and Mary Ann Glynn (2006) deeply analyze how institutions relate to this active sensemaking. Based on the work of Karl Weick, the authors argue that institutional elements penetrate the process of sensemaking in three different ways (Weber and Glynn, 2006, p.1644). First, institutions provide a general idea of social roles, frames, and scripts. Social roles refer to the actors to whom expectations are applied, such as the employee or employer in an employment relationship. The frames, in turn, concern the context to which the standards of behavior are expected to apply, such as the employment relationship. And finally, the scripts relate to behavioral expectations that emerge from the context, such as the roles played by the employee and the employer in the labor relationship.

Second, institutions provide social cues for the formation of action (WEBER; GLYNN, 2006). The clues relate to the way in which the social roles, structures, and scripts previously defined are expected to take place in situations of ordinary life. As the categories generically presented by institutions are unfinished, they do not indicate in a linear and straightforward way the path from cognition to action. Moreover, the need to adapt quickly to the guidelines formulated by the institutions in certain cases constantly provokes divergences between the abstract conception of the institution in focus and the practice of social actors (WEBER; GLYNN, 2006). In this case, the lack of full adherence to institutional determinations does not necessarily cause a break with them. It may only cause a superficial modification of its content through *post hoc* justifications. This implies that institutions are also retrospectively constructed and not only prospectively designed (WEBER; GLYNN, 2006).

Finally, institutions project themselves on the production of meaning (and consequently on the formation of trust) in a diachronic, rather than synchronic, way (WEBER; GLYNN, 2006). Unlike the neoinstitutionalist view that sought to understand the impact of institutions in the production of meaning and expectations in a static, linear and synchronous way, the theory of sensemaking proposes that this movement does not necessarily follow this path. On the contrary, the influence of institutions on the production of meaning is deferred in time and has no logical relationship with the past (WEBER; GLYNN, 2006). The abrupt interruptions of meaning caused by practical experience exemplify this phenomenon. When faced with an interruption of meaning, such as fraud or any other type of deviance, for example, the irregularity itself impacts the production of meaning as much as the ideal institutional goals. In the face of a deviance in behavior, the actors usually reexamine the content of the institutions and appeal to new meanings of social roles, the structure of the relationship and scripts (WEBER; GLYNN, 2006). Since the deviance is considered irrelevant and small, the actors can appeal to a new meaning for institutional determinations and not consider, for example, that the deviance should be punished. This may even lead to the practice of normalizing what was previously considered unacceptable. In any case, this dynamic does not occur in a progressive and linear way. In each situation, the actors are called upon to reflect on the institutional practice and to reexamine its determinations. This implies that institutions are also retrospectively built and not just prospectively designed.

The way in which institutions affect the production of meaning ultimately serves to elucidate how they influence trust formation (FUGLSANG; JAGD, 2015). The analysis of how institutions drive the production of meaning and, consequently, the subsequent decision reveals that its elements are not materialized in an objective, ready and finished way as was previously believed. Unlike the neoinstitutionalist theory that conceives of institutions as homogeneous blocks of meanings and expectations, both constructivism and sensemaking theory believe that institutional elements are reflexively appropriated, questioned and transformed by individuals. This perception automatically leads to a more fluid, dynamic, open concept of institution, rooted in context and culture and which does not identify its role as a structuring mechanism of society only, but, moreover, as a mechanism of socially structured control. From this interpretative process of construction and reconstruction of the institution, the decisions taken at the institutional level also originate in a constructive way the decision of trust.

The intertwining net of trust: the need of an interdisciplinary approach.

The literature review outlined in this paper indicated that trust can be systematized in at least three different ways: the first one sustains that the process of trust building resembles an individual calculation whose operationalization takes into account the gains and losses of granting or, symmetrically, denying trust. The second, based on diametrically opposed theoretical assumptions, understands that the formation of trust is a direct and immediate result of the interaction of individuals with the institutions that mediate their relationship with the world. And the third, the constructivist perspective and the sensemaking, which do not attribute predominance to the individual decision-making, nor to the set of constitutive structures of social reality, as triggering factors of the decision on trust.

Within all of them, the topic of institutions - and of the law more particularly - receive special treatment. In the first case, institutions, whether formal or informal, legal or not, are seen as incentives or, symmetrically, as disincentives to the calculus-based decision of trusting. In the second case, institutions, also considered as formal and informal, legal and non-legal, function as generators of monolithic blocks of objective meanings and social expectations. And, finally, institutions are seen, according to the third perspective found in the literature, as the initial kick-off of an individual interpretive process of sensemaking. In this latter case specifically, institutions are represented not so much by their formal or informal, legal or social nature, but by their almost indistinctiveness with culture.

The categorization obtained above indicates that the concept of trust departs from distinct and almost incommunicable methodological assumptions. The contours that one category outlines regarding trust are practically nonexistent in the other two categories and vice versa. However, recent studies on trust have been explaining how the categories found above can, even if they lack conceptual rigidity, intertwine and interpenetrate. One of the first works to present a theoretical perspective that breaks with the unilateralization of the categories regarding trust is the study carried out by Lewicki and Bunker (1996) that investigates simultaneous traces of calculation and at the same time of stimuli of background knowledge for the formation of trust. In that same sense, Meier-Han (2014) draws simultaneously on the rational choice approach and the institutional-based approach to understand how compliance with informal conventions generates trust between technicians who work at internet providers in Europe to stablish the basis for the internet governance in an environment with a regulatory void.

More recently in Brazil, Cunha Filho (2020) investigated how trust in Bitcoin contains unambiguous features of the three categories presented above and how formal and informal institutions (including the law and regulation) play multiple, variable and even contradictory roles in building trust in the virtual currency. From these analyzes, it follows that trust may not be fully explained taking into account the unilateralization and compartmentalization of the methodological stances. A comprehensive analysis of trust may possibly be carried out taken into account private calculations of cost and benefit, shared attribution of meanings, and appropriations and transformations of meanings in the face of context and culture.

Concluding remarks

This article discussed how institutions, including the law, can artificially produce trust between people and between people and organizations. Building on the rational choice theory, on institutionalism and constructivism, this study systematized theoretical and empirical findings in three ideal types. The ideal types have been called "calculative trust", "institutional trust", and "active trust". Each ideal type explains trust departing from different and diametrically opposed theoretical assumptions. The diversity of theoretical assumptions is responsible for variation in concepts and variation in ways trust in institutions is explained. Despite the variation in concepts and perspectives on trust, there are traces of a currently exhaustion of the ideal types to explain it more comprehensively. Recent studies have been calling for a more interdisciplinary approach, which can lead to a more comprehensive reconceptualization of trust and the way formal and informal institutions can produce it.

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