

## Trust in Legal Institutions: an Empirical Approach from a Social Capital Perspective

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### Abstract

Over the last decades, there is a growing public perception that some of the democratic institutions and frameworks, which were once taken for granted, are now showing their flaws, inefficiencies, increasingly struggling to keep up with society's demands and expectations. This has led to a generalized feeling of uncertainty and disappointment, resulting in a lack of trust institutions. The implications of these circumstances on legal theory cannot be overlooked; this article aims to address the problem from an innovative perspective. A unique tool is presented in this article, which proposes a methodological agenda for approaching trust in legal institutions, from the perspective of the social capital theory. To this end, different variables and social capital dynamics will be identified and discussed in relation to trust in legal institutions. The aim is to, on one hand, provide an innovative methodological contribution to better understand the trust crisis, and in particular, the public perception towards legal institutions, and on the other, expand the analysis of social capital dimensions.

### Key words

Social capital; trust; legal institutions; methodology

### Resumen

Durante las últimas décadas, ha sido posible observar una creciente percepción general de que instituciones y estructuras democráticas que años atrás eran dadas por sentadas, presentan, hoy en día, fallas e ineficiencias que dificultan su capacidad de acompañar las demandas y expectativas de la sociedad. Ello ha llevado a un estado generalizado de incertidumbre y decepción, que resulta en la falta de confianza en las instituciones. Las implicancias de estas circunstancias para la teoría legal no pueden ser subestimadas. Este artículo aborda el problema desde una perspectiva innovadora. Presenta una herramienta única que propone una agenda metodológica para aproximarse a la temática de la confianza en las instituciones

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legales, desde la perspectiva de la teoría del capital social. A este fin, distintas variables y dinámicas del capital social serán indentificadas y discutidas en relación a la confianza en las instituciones legales. El objetivo es proporcionar una contribución metodológica innovativa con los objetivos, por un lado, de mejorar la comprensión de la crisis de la confianza, y en particular, la percepción general hacia las instituciones legales, y por otro, expandir al análisis de las dimensiones del capital social.

**Palabras clave**

Capital social; confianza; instituciones legales; metodología

**Table of contents**

1. Introduction .....	1144
2. The crisis of trust in institutions from a social capital perspective .....	1145
2.1. Social capital, “that glue that holds societies together” (Serageldin 1996, p. 196).....	1145
2.2. A socio-legal approach to trust in legal institutions .....	1147
3. Measuring social capital .....	1148
3.1. International measurement tools .....	1151
3.1.1. The World Bank’s social capital measurement tools .....	1151
3.1.2. Eurobarometer.....	1151
3.1.3. Latinobarómetro .....	1152
3.1.4. World Values Survey.....	1152
3.2. Further social capital dimensions.....	1153
4. An innovative tool to measure social capital and trust in legal institutions ....	1154
4.1. Questionnaire overview .....	1155
4.2. Variables.....	1155
4.2.1. Perceptions on the institutional situation .....	1155
4.2.2. Levels of cooperation and communitarian integration.....	1156
4.2.3. Shared values.....	1156
4.2.4. Trust in institutions. ....	1156
4.2.5. Institutional efficacy .....	1157
4.2.6. Trust in the judicial system: performance and impartiality.....	1157
4.2.7. Trust in the legal system. ....	1157
4.2.8. Respect for the legal system.....	1158
4.2.9. Civic education .....	1158
4.2.10. Validity of republican principles .....	1158
4.2.11. Interpersonal trust .....	1159
4.2.12. Collective actions and social mobilization.....	1159
4.2.13. Access to information.....	1159
4.2.14. Situational awareness .....	1159
4.2.15. Access to law .....	1160
5. Main findings and discussion .....	1160
6. Conclusions.....	1166
References.....	1167

## 1. Introduction

Over the last decades, it has been possible to observe a growing tendency in public perception that some of the institutional frameworks that were once taken for granted are now showing their flaws and inefficiencies, or they just cannot cope with the fast development of modern world. Financial and economic global crises, the crumbling of regimes in Africa and the Middle East, global security threats, among others, have challenged established orders. The welfare state and economic and political systems increasingly struggle to keep up with society's demands and expectations. A growing sense of social inequality lead to additional political unrest. The efficiency and legitimacy of many democratic institutions are put under the spotlight, giving place to a generalized feeling of uncertainty and disappointment, creating a crisis of trust in public institutions. Some recent political events, like the British *Brexit* or the expansion of populist movements in many mature democratic systems, like Spain, France, Austria, Italy or the United States, give us a political projection of this generalized sense of institutional disturbance.

This general malaise affects also legal theory, in particular with regard to expectations and legitimacy. There is a struggle in justifying institutional inefficiencies and the lack of answers to the new demands of societies. The need for an interdisciplinary approach, capable of delving deeper into the complexity of this setting becomes ever pressing. This is both a challenge and an opportunity; the law can benefit from the contributions of other social sciences (Posner 2004).

This paper aims to contribute to the efforts of understanding and addressing this crisis of trust in institutions, with a particular focus on legal institutions. Further, it uses an innovative perspective: through the lens of the social capital theory.

The importance of social capital for the development of different institutional frameworks has been widely accepted. The efforts to push forward the role of social capital have been accompanied by different initiatives to provide robust mechanisms for its empirical measurement.

The scope of this paper is to present a methodological proposal to approach the issue of trust in legal institutions, from a social capital theory perspective. In this sense, building on existing social capital measurement methods, a specific tool was designed within the framework of the author's PhD research, with the aim of contributing to literature with a methodology to better understand the relationships between of social capital dynamics and trust in legal institutions. Though the tool was implemented in year 2011, in the city of Buenos Aires. The main focus of this paper is not the issue of trust in institutions and social capital in a given city – in this case, Buenos Aires, in a given historical moment, but rather it is to present a methodological tool and analyze its potential utility.

The concept of social capital generally captivates experts and scholars in such a way that they cannot remain still afterwards. Due to the social value involved in social capital research and measurement, it would be easy to get involved in further and deeper discussions on politics and development. Though fascinating, it is not the aim of this work to delve into policy discussions over social capital and trust in legal institutions in the city of Buenos Aires, where the tool was first tested. The aim is, from the outputs of the implementation, to provide a contribution to a methodological agenda on trust in legal institutions, profiting from the social capital theory. However, reference will be made to the results, during the discussion, as exemplifications of the variables and dynamics to be explored.

Section 2 presents the theoretical framework to address the declining trend of trust in legal institutions from a social capital theory approach. Sections 3 goes a step further from the theoretical discussion and will focus on social capital measurement and existing tools, and their potential for empirical research on trust in legal institutions. Section 4 presents a unique questionnaire designed to measure social capital with the particular dimension of trust in legal institutions. Section 5 discusses

main findings obtained from a first test of the described tool, in relation to social capital dynamics and trust in legal institutions. Section 6 provides the conclusions of the paper. The objective is to provide a contribution to methodological approaches made towards better understanding and addressing the crisis of trust in institutions.

## 2. The crisis of trust in institutions from a social capital perspective

Different efforts have been undertaken to offer explanations, solutions or approaches to face the declining levels of trust in public institutions. The approaches adopted presently are constantly challenged by the great alteration in the traditional relationships between institutions and society.

Until some decades ago, most western societies were governed by stable States, powerful enough to intervene in the economy and successfully achieve the objectives of social justice and redistribution. However, in modern times, these societies find themselves struggling within more modest agendas that better overcome the consequences of a true economic and social crisis. Societies demand a State that acts more as a facilitator, striving to govern without as much resources as before, via the coordination and the involvement of all social actors.

This setting requires a new social balance, a new type of governance with features still to be extricated and identified. So, how can political and institutional frameworks capable of managing the new dimensions of this new social complexity and the uncertainty and distrust from citizens be articulated? How can we better understand the relationships between the society and public organizations, and identify the gaps, needs and opportunities for improving their interaction? How can the feeling that the choices that governments make are inspired by political decisions, based on previous deliberation and acknowledging the possible consequences of choices be transmitted effectively? Policy dialogue inevitably requires to involve in the discussion the different stakeholders. In the context of globalization in which information and communication technologies revolutionize the political arena, civil society, more than ever, calls for a new, more active role in a setting where new and different networks define and frame new scenarios. This setting calls for innovative theoretical and methodological approaches to societal challenges, and one of these is the concept and theory of "social capital".

### 2.1. Social capital, "that glue that holds societies together" (Serageldin 1996, p. 196)

Most scholars agree that social capital is an important phenomenon; however, there is still disagreement on how to define it. It is not the scope of this paper to go into depth into the social capital theory, but rather to build from it. Social capital means different things to different people. Some identify social capital with features of social organizations such as trust (Stickel *et al.* 2009), others with social networks, and others with a combination of all these (Bartkus and Davis 2009b). However, they all share the enthusiasm of applying the concept to all the informal engagements that are used in daily life. The concept of social capital inevitably leads us to think multi and interdisciplinary. Even though these concepts are not new to social sciences, it has been only recently that economy, political science, anthropology and sociology have begun to explore these concepts through the lens of other disciplines.

According to the sociologist James Coleman (1990, p. 302):

Social capital is defined by its function. It is not a single entity, but a variety of different entities having two characteristics in common: they consist of some aspect of social structure, and they facilitate certain actions of individuals who are within the structure.

The phenomenon of social capital includes the different types of networks of individuals that allow them to connect with each other and achieve, together, things that individually would be not possible, or would be more onerous. Following this line,

Robert D. Putnam *et al.* (1993, p. 169) have defined social capital as “features of social organization, such as trust, norms, and networks, that can improve the efficiency of society by facilitating coordinated action”.

In this sense, Putnam *et al.* go further than the individual sphere and includes society as well.

The expression “social capital”, then, refers to the group of informal institutions, relationships, networks, social norms, attitudes and values that determine and structure social interactions, both in quantity and quality. Social capital theory introduces trustworthiness, reciprocity, networks and social norms as essential factors in human actions, challenging the neoclassical economic theory of rational choice. In this sense, for instance, the social capital theory suggests that beneath cooperation underlies trust: a belief about the others’ intrinsic motivation (North 1990, Zuleta Ferrari 2016). In addition, networks and norms in which individuals are embedded, strengthen cooperative actions by changing the pay-offs for certain actions (Bartkus and Davis 2009b).

Social capital is the factor that facilitates the coordination and cooperation processes in the horizontal and vertical associations between individuals. It is directly linked to social cohesion since it has been considered as a key factor in the quality of the social fabric and the sustainability of social and economic development processes. Despite the discussion around its definition, most scholars agree on the fact that the interaction of the members of groups and networks is what maintains and reproduces social capital (Lin 2001, p. 8). In addition, it is possible to identify some basic categorizations and distinctions in the types of social capital based on the features of the networks involved.

The most common distinction is between “bonding” and “bridging” social capital, which refers to the strength of the social ties. Bonding, or exclusive social capital (Putnam 2000, p. 22) tends to group together specific identities within a homogenous group of people. Examples of bonding social capital are family groups, organizations based on ethnic origin, and church or religious based groups. Bridging, or inclusive social capital (Putnam 2000, p. 22), tends to group people coming from different social groups. Examples of bridging social capital are civil rights movements, youth service groups, ecumenical religious organizations (Putnam 2000, p. 22). Bonding and bridging social capital are not mutually exclusive, they meet different needs. Bonding social capital is good for promoting reciprocity and solidarity, and for maintaining strong loyalty within the group and reinforcing a common identity. Bridging networks, however, are constructed on weaker ties, connecting people who belong to different backgrounds (Sabatini 2009, p. 272-275, Briggs 2003). Bridging and bonding social capital are necessary for social groups to form and interact with each other (Woolcock and Narayan 2000, p. 226). Bonding social capital tends to emerge easily, since it based on natural networks. Bridging, social capital, however, requires a specific effort to be build, since it is based on weaker ties (Woolcock and Narayan 2000, p. 226).

It is possible to make a further categorization into “structural” and “cognitive” social capital, which takes the nature of the components of social capital into consideration. According Grootaert and van Bastelaer (2002a, p. 3) structural social capital refers to “relatively objective and externally observable social structures, such as networks, associations and institutions, and the rules and procedures they embody” and cognitive social capital relates to “more subjective and intangible elements such as perceptions, observations, generally accepted attitudes and norms of behavior, shared values, reciprocity and trust” (Grootaert and van Bastelaer 2002a, p. 3).

In summary, the social capital theory stresses the value of relationships, networks, and shared norms. These represent an important resource for individuals and groups of individuals to obtain certain benefits that would be difficult to obtain on their own, or would only be possible with an extra cost. The richness of the social capital theory

allows linking social behavior at different levels. It is important to stress, however, that being societies a complex and dynamic reality, the social capital theory cannot be taken as the sole explanation to social interaction. It is necessary to provide a multidisciplinary approach in order to get closer to the better understanding of society.

### *2.2. A socio-legal approach to trust in legal institutions*

According to Sztompka (1999, p. 1), recently, there has been a twist from the “hard” and systemic views of society towards a “soft” image of the social fabric: “hard” variables, such as status, economic situation and technological developments, have slowly started to give way to “softer” variables, such as norms and values. The idea that an individual is not only moved by rational choice, but also by values, bonds and emotions, has gained an ever-growing weight. Even though this can be traced back to Alexis de Tocqueville, it has been during modern sociology that scholars started to pay a better attention to this approach. And the development of the social capital theory is an outcome of this line of research.

The social capital theory introduces to the analysis of social interaction the underlying ideas of reciprocity, trust, civic engagement, and formal and informal institutions, underestimated by traditional theories. The social capital theory considers essential these factors, sometimes as causes and sometimes as outcomes<sup>1</sup>, broadening the universe of analysis without dismissing the insights from early theories.

There is a vast literature on the effects and interactions of social capital with other disciplines, such as workplace productivity, economic development, education, governance, psychology, network analysis, management theory and normative and trust research, among others (Serageldin and Grootaert 2000, p. 46, Bartkus and Davis 2009c). However, there has been no direct focus on the relation of social capital and law, and in particular, legal institutions.

The concept of social capital is appealing to governments and development agencies since it provides useful insights into decision making in terms of efficiency and possibility of successful outcomes, especially in development initiatives (Uphoff 2000, p. 215-249). High levels of social capital have been generally associated to positive developments in areas such as welfare and well-being, education, safety, economic development and democracy (Stickel *et al.* 2009, p. 304, UN Habitat 2008). In addition, high levels of social capital have also been related to more efficient and effective organizations, communities and governments (Putnam *et al.* 1993, Putnam 2000). However, again, little has been said about social capital and law.

Why proposing the social capital theory to address the issue of trust in legal institutions? The existence of social and legal norms that foster certain behaviors is necessary for the generation of trust. Legal and formal institutions provide a framework for social behaviors to happen and be consolidated. At their turn, communities and intermediate social structures contribute to legitimating and supporting local and national institutions. The key to success in the interaction between both levels is cooperation, shared norms and trustworthiness. The performance of institutions affects the level of trustworthiness; the institutional design and the effective implementation and enforcement of laws are essential for generating trust among all the stakeholders involved. A solid institutional framework fosters predictability and positive expectations from individuals. If institutions repeatedly disappoint expectations, individuals would not know what to expect, or worse, would know that whatever the outcome, their trust would be deceived. When social capital networks based on mistrust are created, giving place to alternative informal systems to get by, the macro level is consequently discredited.

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<sup>1</sup> Some authors criticize a possible circular reasoning on social capital definitions, see, for instance, Portes (2000), Lin (2001).

In addition, for example, in some emerging democracies, the judicial branch has assumed a political role, which has become evident: social conflicts have been “judicialized”, litigiousness has increased, and the judiciary have assumed a leading role. In a context of institutional gaps and perceived failure, societies have tended to deposit on the judiciary new expectations and demands, which, sometimes, exceed the natural competencies and possibilities of judges. Thus, these new claims and demands require complex solutions, which slowly create a breakpoint in the feeling of trust between the individuals and the legal system, generating different and diverse expectations and perceptions. What are the values underlying such reactions? Common sense suggests that supporting the rule of law necessarily means, for instance, trusting public institutions and the government. However, this cannot be assumed. Other preconditions, values and motivations might be lying underneath.

Presently, there has not been a deep interest on the role of legal culture, institutions and law in social capital theory. It is evident, however, based on current experiences on development processes, that the legal culture, values, principles, rules, institutions, law analysis and argumentative tools do matter. The possible, though controversial (Holmes 2009, p. 57)<sup>2</sup>, debate on social capital and law supposes a link between values on one side, and the capacity of association and compliance to law by citizens. As Rosenfeld (2009, p. 69) explains, though there might be trust in law, law is not based on trust. Trust is based on faith and solidarity, whereas law is a matter of rational expectations, based on the internalization of legal norms. The crisis of trust in institutions has further put the legal system under social evaluation, allowing a deeper analysis of the strengths, weaknesses, progresses and back steps in the realm of the rule of law. Hence, the interest, in this paper, to address the dynamics between social capital, trust and legal institutions.

Governments have understood that it is necessary to strengthen trust and reciprocity networks with the society to foster cohesion and cooperation. The levels of social capital might determine the levels of acceptance and responsiveness of a given society to laws, norms and values. The existence of efficient law enforcement institutions provides people with the ground for settling agreements with another party, reducing transaction and opportunity costs. However, if the parties do not trust law enforcement institutions, they will invest in additional measures to enforce the agreement or otherwise, reduce the resources that they were about to invest (Bergman 2009, p. 87). Law becomes the bridge that links individuals who would like to cooperate in a specific way, but do not trust the other’s motivations. The conflict arises when the individuals do not trust even the legal and institutional framework.

To better unpick and assess mechanisms that will support re-establishing and enhancing trust in legal institutions it is necessary to address different analytical levels: macro and micro levels. All of these components are in continuous interaction, creating both vicious and virtuous cycles. The threshold in which informal institutions can replace rules, laws and tribunals is very thin. The macro level is still to be hold responsible for providing a clear, transparent and coherent framework. Institutions at the macro level are the ones to provide the proper context for institutions at the micro level to flourish and develop. In their turn, the micro level supports regional and national institutions and provide them stability. In addition, the key to success in social interaction depends on the capacity of societies to foster that their members -both individuals and natural intermediate associations- share values, procedures and norms, and that these, in their turn, generate mutual relationships of trust.

### 3. Measuring social capital

Empirical research on social capital is relatively recent. Although the current conceptualization could be traced to the first half of the 20th century, it is only during

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<sup>2</sup> Holmes (2009) explains that according to some theories on culture, people obey the law when they are prone to obey the law, therefore at first sight, this could be considered a tautology.



the last decades that empirical research has been carried out. The fact that social capital theory is still undergoing an explanatory phase, the lack of a universal definition of social capital, in combination with its “multidisciplinary appeal” (Grootaert and van Bastelaer 2002a, p. 2), has given space to different approaches in social capital measurement<sup>3</sup>. Despite strong efforts current research still follows different patterns and there is no consensus on the categories, tools and procedures to be used.

The next section will describe the most relevant approaches to the empirical study of social capital. Afterwards, it will present a state-of-the-art social capital measurement, underlining the main features of the methodological approaches proposed, mainly, at international level.

Social capital is the factor that can interweave different social organizations within a certain community. The multidimensional nature of social capital makes the task extremely challenging for empirical research. Moreover, the objects of analysis are also complex in themselves. Concepts such as trust and networks are by nature problematic due to their argued ambiguity and diffuse connotations. In addition, the fact that social capital measurement is still undergoing an exploring phase has lead researchers to work sometimes with proxy indicators, identified from already existing data (Putnam 2000, p. 26).

There is still a considerable way to go before it will be possible to come up with one, universal and widespread method –if this is possible at all. However, in the meantime, considerable important efforts have been made towards fine tuning a combination of different techniques for social capital empirical research and measurement. Different perspectives of different nature - from local and national household surveys, to historical records and field experiments, from case studies, to qualified interviews and ethnographic investigations-, have enlarged the reach and fields of empirical data available on social capital, providing a better understanding of the nature and extent of social relations and its consequences along different spheres.

As research on the subject expands, further dimensions to be analyzed are added, making social capital measurement increase in complexity (Krishna and Schrader 2002, p. 19-23, Krishna and Shrader 1999). For instance, some studies focus on horizontal and vertical structures. In his work on the Italian regions, Putnam *et al.* (1993) argued that it was the existence of horizontal networks what fostered social capital, whereas vertical networks inhibited it. However, this point of view has been later challenged, since it was demonstrated that strong density of horizontal networks not necessarily shows higher levels of social capital (Krishna and Schrader 2002). Other studies focus on the heterogeneity or homogeneity of networks, supporting the idea that their composition matters for both social capital and other effects, such as economic developments. However, other scholars have upheld the opposite, stating that homogeneous networks tend to be more effective (Krishna and Schrader 2002).

Some scholars propose a methodology consisting of more a direct or an indirect approach. On one hand, according to Bartkus and Davis (2009a, p. 347), the former focuses on the number and strength of relationships within a collective and several variables, and then analyses their effects on other variables (such as the per capita gross domestic product (GDP) growth or household wealth). This approach, however, requires at least a basic universal conceptualization of social capital. On the other

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<sup>3</sup> According to Grootaert and van Bastelaer (2002a, p. 2): “Not surprisingly, the lack of an agreed-upon and established definition of social capital, combined with its multidisciplinary appeal, has led to the spontaneous growth of different interpretations of the concept. The resulting definitions, which fortunately are more often complementary than contradictory, have been used in a growing number of research projects and field activities to try to capture the essence and development potential of the concept. It is perhaps a testimony to the seriousness of these activities that the lack of agreement on a precise definition of social capital has not inhibited empirical and applied work. By clearly delineating the concept they are using and developing methodologies adapted to it, most researchers have shown that solid and replicable results regarding the impact of social capital on development can be produced without a prerequisite fieldwide agreement on a specific definition”.

hand, the indirect approach identifies some of the characteristics of social capital and then correlates these to effects. This method also analyses the positive and negative externalities that social capital can cause in order to infer its existence (Bartkus and Davis 2009a, p. 347).

A further discussion refers to the structure of the organizations to be addressed, whether to include only those formally organized or, in addition, also the ones informally organized - "are strong associational ties better than weak ones, or vice versa?"- (Krishna and Schrader 2002, p. 21). A further focus is based on structural and cognitive social capital. The structural elements of social capital have to be assessed separately from cognitive elements. While structural elements promote the environment for cognitive elements to develop, cognitive ones predispose individuals to collective action (Krishna and Schrader 2002, p. 19-23, Krishna and Schrader 1999).

From the analyses made on the different approaches, it is possible to understand that it is not a matter of confronting dimensions, but rather, integrating them, in order to provide a sufficient context analyses.

According to Grootaert and Bastelaer (2002a, p. 4) social capital measurement should, ideally, combine macro and micro levels and structural and cognitive factors. In this sense, the macro level should be analyzed in terms of the formal structures and relationships such as legal frameworks, the rule of law, the political regime, and in relation to decentralization and level of participation in policy processes. In turn, the micro level should be analyzed in terms of local institutions and horizontal and social networks and in relation to trust, local norms and values.

In any case, whichever the technique or the variables, indicators or proxies chosen, following Jones and Woolcock (2009, p. 380) indication:

[social capital researchers] are strongly advised to undertake the hard work of judiciously adapting the various components of already designed social capital measuring tools to suit the questions and situations at hand.

There is an "appropriate social capital" (Serageldin and Grootaert 2000, p. 54) for a specific country at a specific moment in time. There is a dynamic combination of social capital with other forms of capital available in that given community (human, natural, economic, etc.). These need to be combined with information on micro and informal institutions, and investigate the interaction of these with other organizations and governmental organizations and determine which processes are affected and how, as well as taking into consideration the cultural context. In addition,

the fact that social capital effects have occurred in areas as disparate as democracy and governance, economic development, education and labor economics suggests that further insights will likely arise by building bridges and conversations among researchers across social sciences (Bartkus and Davis 2009b, p. 11).

This contextualizing exercise does not mean that research can be opened wide to innumerable and disassociated measurement tools. The core elements of social capital need to remain constant even if the context varies from case to case (Krishna and Schrader 1999). As Krishna and Schrader (1999, p. 7) express,

while the scale of social capital may have to be constructed separately for each different context, instruments can be devised that will assist in the construction of such a scale among each of these different contexts.

Flexibility should be essential for these tools, however, these should be "tight on the essential concepts" (Krishna and Schrader 2002, p. 19)<sup>4</sup>, and their analysis, rigorous.

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<sup>4</sup> The authors explain that though the tool needs to be adapted to the cultural environment, it needs "provide a common conceptual framework that helps unify the different dimensions of social capital". In addition, they refer to Peters and Waterman (1982), in relation to what these authors call, even if in another context, the "loose-tight' framework: loose, or flexible, in the details but tight on the essential concepts".

### 3.1. International measurement tools

Social capital allows itself to be addressed through a mixed-method research approach. This provides the researchers with the possibility of analyzing the different links between the different dimensions of social capital, as well as better depicting the existing structures, perceptions and processes of social capital in a given community. This sub-section summarizes the state of the art of existing tools for measuring the levels of social capital, and related topics, underlining the features of the methodological approaches taken mainly by international organizations and initiatives. The scope is to, starting from the analysis of different methodological strategies related to the empirical study of social capital and legal culture, identify possible approaches to the analysis of social capital dynamics into that of trust in institutions.

#### 3.1.1. The World Bank's social capital measurement tools<sup>5</sup>

The World Bank (WB) has identified the concept of social capital as essential for enhancing the quality, effectiveness and sustainability of its projects and operations, particularly those which are community based. To this end, the WB developed and produced numerous initiatives to provide a framework for social capital research and a practical incorporation in its activities. As a first step towards the development of a uniform measure of the different dimensions of social capital, the WB designed the Social Capital Assessment Tool (SOCAT) and the Social Capital Integrated Questionnaire (SC-IQ). Both tools successfully integrate qualitative and quantitative measures and techniques, remain valid and reliable across a wide range of community, household and institutional contexts, and are applicable at all levels of project design.

The data collected through the SOCAT can be analyzed by its own, if the aim is to examine the existing levels of social capital, to map distribution of social capital among different social areas, or as part of a wider study. This tool includes both structures questionnaires as well as open-ended participatory methods.

The SC-IQ aims at obtaining quantitative data on various dimensions of social capital, as part of a larger household survey. The SC-IQ reflects both structural and cognitive social capital, the ways in which social capital operates, and the major areas of outcomes: groups and networks, trust and solidarity, collective action and cooperation, information and communication, social cohesion and inclusion, empowerment and political action. This tool has been pilot-tested in different countries in relation to the WB's projects. The questions are designed to address the multi-dimension feature of social capital. It explores the existing types of groups and networks and the contribution to these, the respondent's perceptions of the trustworthiness of others and key institutions, as well as the strength of norms of cooperation and reciprocity. The questionnaire also addresses the distinction between bonding and bridging social capital.

Both the SOCAT and the SC-IQ are prototype tools which can be implemented at national or local level, and that require adaptation to the local context before their application.

#### 3.1.2. Eurobarometer<sup>6</sup>

Since 1973 the Public Opinion Analysis sector of the European Commission (EC) (2015) has been carrying out a series of surveys to monitor the evolution of public opinion in the Member States with the aim of assisting in the preparation of texts, decision-making and the evaluation of the EC's work. The studies have addressed the major topics related to European citizenship, including, among others, issues such as the enlargement of the EU, the social situation, health, culture, information

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<sup>5</sup> For further information on the World Bank's social capital measurement tools, refer to The World Bank (s.d.), Krishna and Shrader (1999), Grootaert and van Bastelaer (2002b), Grootaert *et al.* (2004).

<sup>6</sup> Visit European Commission. Eurobarometer (s.d.).

technology, the environment, the Euro, defense and social capital (European Commission) (Eurostat 2013). In 2004 the Directorate General Employment and Social Affairs, coordinated by Directorate General Press and Communication of the European Commission, carried out the "Special Eurobarometer n°223"<sup>7</sup> in order to measure the level of social capital networks in the European Union and in two candidate countries at that moment, Bulgaria and Romania. The study responded to the awareness of European institutions of the importance of developing and strengthening social capital networks in order to assure social cohesion and eliminate social exclusion (European Commission 2005). The incorporation of new member states brought about new challenges concerning integration for which the development of the social capital was considered as something important to take into consideration.

In addition, further Eurobarometer surveys were carried out on aspects that complement the analyses of trust and legal institutions, e.g., the EU Special Eurobarometer Surveys on citizenship and sense of belonging, values of the European, attitudes and perceptions of Europeans towards corruption, the role of the EU in justice, freedom and security policy areas, and trust in European institutions<sup>8</sup>.

### 3.1.3. Latinobarómetro<sup>9</sup>

Latinobarómetro is a non-profit organization which carries out an annual public opinion survey. The study is comprised of approximately 19,000 interviews along 18 Latin American countries, representing more than 400 million inhabitants. The scope of Latinobarómetro is to carry out research on the development of democracy and economies, together with societies, through the analysis of citizens' attitudes, behavior and values. Latinobarómetro is a measurement tool used by local social and political actors, public institutions and international organizations.

The survey does not address the issue of social capital specifically. However, it approaches issues that are in direct relation. In this sense, the survey comprises questions regarding life satisfaction, interpersonal trust, trust in public institutions, civic culture and politics, and in a majority, attitudes towards democracy. In addition, the survey provides questions which comprise issues regarding the support of democracy and rule of law: respect for the law, respect for democratic institutions and law enforcement. Latinobarómetro provides an online data analysis section, in which it is possible to browse question indexes and have access to question texts, frequencies for each answer, and crosstabs of each question by country or by any other variable, with the possibility of creating graphics.

### 3.1.4. World Values Survey<sup>10</sup>

The World Values Survey (WVS) is a worldwide investigation on sociocultural and political change. It is carried out by a network of social scientist from leading universities all around the world. The WSV was launched by the European Values Survey, which targeted the European region. This initiative aimed to be carried out globally.

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<sup>7</sup> The "Special Eurobarometer" concerns specific in-depth thematic studies regarding the services of the European Commission or other EU Institutions, and it is integrated in Standard Eurobarometer's polling waves. Between 22nd November and 19th December 2004, the TNS Opinion & Social, a consortium created between Taylor Nelson Sofres and EOS Gallup Europe, carried out wave 62.2 of the EUROBAROMETER, on request of the EUROPEAN COMMISSION, Directorate-General Press and Communication, Opinion Polls. The SPECIAL EUROBAROMETER N°223 is part of wave 62.2 and covers the population of the respective nationalities of the European Union member States, resident in each of the Member States and aged 15 years and over. The basic sample design applied in all Member States is a multi-stage, random (probability) one. In each EU country, a number of sampling points was drawn with probability proportional to population size (for a total coverage of the country) and to population density.

<sup>8</sup> For further Eurobarometer studies refer to European Commission. Eurobarometer (s.d.).

<sup>9</sup> For further information visit Latinobarómetro (s.d.).

<sup>10</sup> For further information visit World Values Survey (s.d.).

The data provided by the WVS has been widely used for academic research and for institutional purposes. The first wave of the values survey was collected from 1981 to 1984, and further waves were collected until 2014. More than 80 independent countries have been surveyed in at least one wave of this investigation. The WVS database makes it possible to examine cross-level linkages, such as that between public values and economic growth; or between environmental pollution and mass attitudes toward environmental protection; or that between political culture and democratic institutions.

The variables that the WVS addresses comprise the following dimensions: perceptions of life, the environment, work, family, politics and society, trust to social and political institutions, social capital, religion and morale, and national identity. The WVS provides an online data analysis section, in which it is possible to navigate through different variables, access the questions posed, the percentage of results, create crosstabs and graphics.

### 3.2. Further social capital dimensions

This sub-section presents further dimensions included in social capital measurement. For instance, Putnam, in *Bowling Alone*, states that social capital is related to “civic virtue”, but a “civic virtue that needs to be embedded in a network of reciprocal social relations. Isolated virtuous individuals are not necessary rich in social capital” (Putnam 2000, p. 19). During his research, Putnam studied the relationships between civic engagement, institutional performance and social capital. Some of the indicators he addressed were: associational life, newspaper readership, electoral turnout, and preference voting patterns, cabinet stability, budget promptness, statistical and information services, reform legislation, legislative innovation, day care centers, housing and urban development, bureaucratic responsiveness, political participation, civic participation, religious participation, connections in the workplace, informal social connections, altruism, volunteering, and philanthropy, reciprocity, honesty, and trust. Still, the social capital dynamics for trust in legal institutions were missing<sup>11</sup>.

In another aspect, Grootaert *et al.* (2004) organized the vast literature on social capital and conceptualized social capital as a household or community variable with six, non-exclusive, different dimensions or proxies for social capital<sup>12</sup>. These reflect the features of the group membership and their perceptions in relation to trust and norms which are most commonly associated with social capital, i.e.:

- groups and networks: participation in social organizations, community activities and informal networks, diversity of a group’s membership, selection of leaders and involvement over time;
- trust and solidarity: trust among neighbours, strangers and key service providers, and perceptions over time;
- collective action and cooperation: how members have worked with others in joint projects or responses to crisis, consequences of violating community expectations;
- information and communication: means of receiving information on market conditions and public services, access to communication infrastructure;
- social cohesion and inclusion: nature and extent of differences, inclusion, conflicts resolution and sociability;
- empowerment and political action: members’ sense of happiness, personal efficacy and capacity to influence local events and broader political outcomes.

<sup>11</sup> Putman *et al.* (1993) and Putman (2000) use a list of indicators to measure civic engagement, institutional performance and social capital measurement.

<sup>12</sup> These dimensions are the ones adopted by the World Bank social capital measurement tools.

This last group of dimensions provides a sufficient identification of social capital perspectives and indicators to be considered, addressing micro and macro units, and micro and macro levels.

#### **4. An innovative tool to measure social capital and trust in legal institutions**

Networks and associations require trust and adherence to norms in order to work effectively, and likewise, trust is fostered by effective networks and associations. The dynamics of bonding and bridging social capital, the dimensions of cognitive and structural social capital, as well as personal perceptions and attitudes and norms of reciprocity and solidarity could also be applied in the relationships between individuals and other units of analysis, such as legal institutions. But what types of networks, relationships are the ones that matter for building trust in legal institutions? What indicators should be considered to analyze the breeding ground for trust in legal institutions? Up to what extent is a disappointed person on the institutional context active and collaborative to promote changes? What is the relationship between trust in legal institutions and the correct knowledge about them? Is it worth respecting the laws? These are just a couple of examples of the concerns that had triggered the elaboration of a tool to analyze the concern on trust in legal institutions from the perspectives and dynamics provided by the social capital theory.

Building on the social capital dimensions and measurement tools identified and described in the previous section, a specific questionnaire was designed in order to address the analyses of trust in legal institutions from a social capital perspective. In addition to general social capital questions, a set of additional questions on perceptions and attitudes towards legal institutions were introduced.

The questionnaire addresses different dimensions: bonding and bridging relationships as well as structural and cognitive social capital. These are addressed at macro and micro analytical levels. The macro level comprises the perceptions towards the institutional context in which social relationships take place, that is to say, the type of government, the legal system, the participation in organizations and political processes. The sections of the questionnaire address the social dynamics that constitute social capital with an additional legal perspective. The rational reconstruction of the concept of social capital, based on social norms and networks, is complemented by inquiring over other dynamics around trust in legal institutions, such as perception and evaluation processes, opinion and attitudes of support, adhesion or rejecting to values, norms, proceedings, and different types of institutions.

The institutions selected for analysis included political institutions and other types of institutions (formal and informal) that could relate to law or the legal system. This choice took into consideration the meaning of the term "institution" provided by Ferrari (2006, p. 39): "a group of norms of any kind that structures in a durable way social behavior". The value of this definition lies on the fact that it does not limit the concept to those actions that have been crystallized in social organizations. It also includes those social actions that, though less formal, are more frequent, and are, indeed, more influential on preferences, choices and decision making, both individually and collectively. In this sense, the proposed concept of "institutions" would include natural forms of sociability, such as family, marriage, collective transactions, ruled by legal norms, and other institutions, such as universities, schools, the parliament, the town council, the judiciary and law practitioners. As Ferrari expresses, institutions are, at the same time, a stimulus, a means and a product of social action (Ferrari 2006).

This specific tool aims to analyze and identify values, perceptions, evaluations and tendencies in behavior, both emotional and cognitive, of a concrete society, and in

relation to its particular culture on law<sup>13</sup>. In addition the questionnaire aims at identifying the features of the factors involved in the processes of building and maintaining the trust in the institutions that constitute the legal system.

#### 4.1. Questionnaire overview

The questionnaire was structured in seven thematic sections, partly based on those proposed by Grootaert *et al.* (2004) (presented already in section 3), which address different perceptions related to social capital, interpersonal trust, networks, cooperation, and trust in legal institutions:

1. **Social cohesion:** integration in different issues of communitarian life, such as the society in which the interviewee lives, the neighborhood of origin, community of origin, country of origin, groups of friends and acquaintances.
2. **Trust in institutions:** level of trust in the capabilities of judicial, law and order, political, legal and civil society institutions, for assuming and solving efficiently people's demands.
3. **Trust in the legal system:** trust in the effective force of the legal system, laws in general and in particular, the judicial system, the performance of judges, the respect for the law and legal institutions. The section explores aspects of legal culture.
4. **Trust and solidarity:** trust in strangers, trust in different social groups, and willingness of others to help in case of need.
5. **Collective action and cooperation:** likelihood of people in the neighborhood getting together to solve a common problem, and participation in public issues and community activities.
6. **Information and communication:** main sources of information and characteristics of the specific society.
7. **Access to law:** guarantees of personal freedoms and rights, basic needs, access to justice, equal opportunities, no discrimination, and protects from violence and insecurity.

#### 4.2. Variables<sup>14</sup>

This sub-section presents the different variables addressed in the tool, followed by the exemplification of the questions on which the former were constructed (see Annex A for original questionnaire and technical specifications). As previously explained, it was tested during March 2011 in the Autonomous City of Buenos Aires, Argentina, therefore, the questions are asked in relation to the particular case study.

##### 4.2.1. Perceptions on the institutional situation

Q1: "Generally speaking, what is your opinion on the institutional situation in our country, and in the city of Buenos Aires?"

Q2: "Generally speaking, do you think the situation will get better, remain the same or get worse in the following years?"

These items aim at identifying the positive and negative perceptions towards the institutional situation, under the assumption that these are affected by the current conditions of the particular context to be studied. The incorporation of this external variable responds to the hypothesis that positive perceptions and attitudes towards the social and institutional context affect openness, optimism and trust towards the

<sup>13</sup> The term "culture" is used in a similar sense as the one used by Ferrari (2006, p. 43): the group of conceptions, ideas, norms and values that inspire a society in its daily life, and includes, therefore, both the symbolic and physical exchanges. In a similar sense, broadly speaking, it is possible to define "culture" as "the group of attitudes, opinions, and convictions that feature a particular social group and assure, in the particular context, the attribution of shared meanings", (Febbrajo 2009, p. 50).

<sup>14</sup> The questions were originally designed and afterwards, asked, in Spanish. They have been translated to English by the author for the scope of this paper.

others, whereas, the opposite, negative perceptions and attitudes foster defensiveness, pessimism, mistrust and hostility towards the others, institutions, and the current rules of the game existing in a society. Levels of trust on institutions is very often a consequence of the assessment of the institutional context. The perception of a negative context generally generates defensive attitudes and hostility.

#### 4.2.2. Levels of cooperation and communitarian integration.

Q3: "Personally speaking, do you feel integrated in the following aspects of communitarian life?"

Social capital describes relationships which can regard, among a vast number, family, group of friends, neighbors, the community and even macro institutions. This question addresses the sphere of socialization in different aspects of communitarian life, in particular: the society in which the interviewee is living, the neighborhood of origin, the current neighborhood, the community of origin of family, the country of origin of family, childhood friends, school friends, colleagues from work. One of the manifestations of positive levels of social capital is the occurrence of frequent social interactions (Grootaert *et al.* 2004). The analysis of the feelings of belonging in communitarian life, and the feeling of effective social inclusion within immediate social circles is one of the internal variables to be taken into consideration. In the concrete case of the city of Buenos Aires, this factor was worth exploring, if we consider that the majority of the population descends from immigrants. In addition, many of the people living in the city of Buenos Aires is not originally from there. Most people move from provincial areas looking for better job, education and life opportunities.

#### 4.2.3. Shared values.

Q4: "Do you believe Argentines are, generally speaking, a society which shares common ethical, fundamental or cultural values?"

This item inquires on an important dimension: shared values. This is a controversial aspect. The political discourse often emphasizes the importance of reaching a consensus, though, at the same time, overcoming the differences, in order to generate trust among the different sectors and stimulate agreements between social and political spheres. It is interesting to analyze, in the case of the city of Buenos Aires, the existence of shared values in a society which is ethnically homogeneous, but unequal in other aspects.

#### 4.2.4. Trust in institutions.

Q5: "How much do you trust the following institutions in terms of ability to respond and resolve citizens' problems?"

The level of trust in institutions is one of the most important dimensions for the study of social capital. Trust is the foundation or corner stone of social capital, and in general, of interpersonal relationships (Bergman and Rosenkratz 2009, p. 11). The predisposition of individuals to participate in interpersonal horizontal exchanges strengthens the level of cooperation and generates, in its turn, an openness to explore new and deeper alternatives for learning, working and being engaged together. Inversely, the lack of these types of bonds generally underlies processes of recession and defensiveness. Law and institutions strengthen and foster these types of predispositions. Efficient institutions facilitate expectations and the prediction of behaviors and provide security to our own responses. In addition, in the case, of Argentina, the public debate on the representativeness of certain institutions has its roots on severe economic and financial, and consequent, social crisis. Due to this crisis, the civil society gained a dominant role in the channeling of efforts, filling gaps and shaping of the social agenda.



The interviewees were asked to express their levels of trust taking into consideration the capacity of a vast number of institutions to provide effective solutions to the citizens. The institutions were grouped in different categories:

- A. Judicial and law enforcement institutions: judges and prosecutors, the judicial system of the City of Buenos Aires, the federal justice system, the supreme court of justice, the provincial judges, the ministry of security, the penitentiary system and law schools<sup>15</sup>.
- B. Political institutions: the executive power, the congress, the government of the city of Buenos Aires, the legislative power of the city of Buenos Aires, provincial governors, the trade unions, political parties, private sector organizations.
- C. Societal institutions: NGOs, environmental groups, the Catholic church, churches in general, the public school, public universities, private universities, national newspapers, the TV, the radio, consumer organizations, journalists, economists, international organizations (such as the World Bank and the Inter-American Development Bank).
- D. Legal practice and rights protection institutions: e.g. justice, lawyers, notaries, human rights organizations, the Council of the Magistrates, the Ombudsman.

#### 4.2.5. Institutional efficacy

Q6: "How much do you trust the following laws and legal procedures, in terms of their ability to solve current problems?"

This question inquires on certain legal institutions which generally concentrate social expectations and demands: laws in general, the procedures to designate, control and remove judges, the criminal procedure codes, the electoral system, public statistics, the regulation and control of public services, public and private corruption control mechanisms, the organization of employment and poverty reduction programmes, the National Constitution and judicial processes. The focus is put on the capacity of these institutions to operate and produce positive responses in a context of crisis. The selection of the institutions responds to their involvement in events which had taken place close to the date in which the survey was tested.

#### 4.2.6. Trust in the judicial system: performance and impartiality.

Q7: "How much do you trust the performance and equanimity of judges?"

Q8: "Some people do not trust judges and the judicial system, in general, do you think they have reasons for not trusting them?"

The interviewees were asked about the level of trust on the good performance and impartiality of judges, that is, their capacity to guarantee impartial responses to controversial issues. In addition, the individuals were asked on the reasons for not trusting the judicial system. This relates to more structural circumstances that had been going on in Argentina at the time of the survey, which had given concrete reasons for not trusting the judicial system.

#### 4.2.7. Trust in the legal system.

Q9: "Some people do not trust the legal system in general. In the case of Argentina, considering legal procedures and their quality, do you think they have reasons for not trusting the legal system?"

This item analyzes the existence of motivations for not trusting the legal system. Again, these attitudes of mistrust concern the perception that laws fail in its specific social functions, the administration of social conflict, the channeling of expectations

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<sup>15</sup> Law schools have been included in this group because, especially public university, has always been considered as the suitable arena for the elaboration of public agendas and for social mediation.

and provisions with regards the future, leads numerous sectors of society to harbor attitudes of suspicion or open mistrust in law in general and legal institutions.

Q10: "Based on your personal experience, do you think it is reasonable not to trust the following set of laws?"

In addition, the questionnaire addresses the levels of trust generated by certain types of legislation, which, due to its importance in the social and economic emergency, are subjected to constant public criticism. This skepticism is focused not only on the legislative power, decision making processes and political representation, but also on the enforcement of the law. In particular, the interviewees were asked their perceptions on tax, criminal, civil, traffic, labor, electoral, and commercial laws.

#### 4.2.8. Respect for the legal system.

Q11: "In a country such as Argentina, do you think it is worth respecting laws and institutions?"

Q12: "In a country such as Argentina, do you personally believe that those who respect laws and institutions are should be considered or is being naïve?"

These questions inquire on whether respecting laws and institutions pays a benefit. In addition, it delves into the civicness sphere, too, since it inquiries on the values that law encompass, and the worthiness of their respect. Moreover, it explores the perception towards fellow citizens.

Q13: "What are your personal motivations for respecting and complying with laws?"

This question focuses on the motivations for respecting and complying with laws and proposes the interviewee to express himself in terms of: fear of a sanction and social cost, moral duty, education received, functionality, behaving as one would wish the others to behave, convenience, social habit, honor and social order.

#### 4.2.9. Civic education

Q14: "Do you recall having received any type of civic education?"

Within the context of the personal motivations and internalization of legal concepts, interviewees are asked whether they have received any type of education or information on civic matters. If so, they are asked to identify which have been most relevant for them, e. g., primary and/or secondary school, graduate school, post-graduate school, personal relationships, working environment, media, NGOs, churches, daily life, family. This item could also be relevant, in addition, for identifying priorities for a civic education policy, orientated to strengthen in citizens the attitude of respect for and compliance with law.

Q15: "Some people think that many institutional problems in the country are linked to levels of education and knowledge that people have on the legal issues. How much do you think people know about the legal system?"

This question goes in depth into the level of knowledge of the population on civic and legal issues. It addresses explores to what extent education is at the basis of respecting the law. The interviewees were asked on their perception of the level of knowledge on certain matters by the rest of the population: e.g. laws in general, administrative and judicial procedures, access to justice, ethical and legal principles, the phenomenon of corruption.

#### 4.2.10. Validity of republican principles

Q16: "There's a recent social demand for strengthening some of the republican principles. Please, indicate where the following republican principles are more or less valid in Argentina".

An important part of the investigation is to inquiry on the level of effectiveness and validity of republican principles in the practice of social relationships, in terms of to what extent individuals recognize them daily. This item responds, in particular, to the fact that the principles of republic ethics and politics have been widely recognized in

the Argentinean tradition and legal culture. Republican principles are present in the *idearum* of the historic constitution of the country. To this end, the interviewees are asked on their perception towards the division of powers, legal equality, due process, legal rationality, transparency and integrity, access to information, responsibility of public officials,

#### 4.2.11. Interpersonal trust

Q17: "Do you generally trust people that you don't know or you tend to be careful or show certain mistrust?"

Q18: "In relation to your family, and people around you (see list) how much do you trust them?"

Q19: "Please, indicate the level of solidarity in your neighborhood".

This section addresses the issues of interpersonal trust, towards strangers, and towards family members, friends, neighbors, colleagues from work and other members of the community, such as priests, pastors, teachers and professors. Interviewees were asked the widely used question on interpersonal trust used in numerous cross national surveys. In addition, individuals were asked about solidarity within the community. The survey addresses from generalized trust (trust to strangers), to trust to particular groups of people. Some of the questions might seem redundant, in particular, the ones referring to neighbors and neighborhoods. The purpose is to obtain considerable data for possible cross-validations.

#### 4.2.12. Collective actions and social mobilization.

Q20: "In case of a problem in the community, what are the chances that people will mobilize to solve it?"

Q21: "During the last couple of years, have you participated in any type of social mobilization (see list)?"

These questions survey the extent to which individuals get involve in joint activities or mobilize in response to problems in their communities. Collective action and cooperation has been used as a proxy to social capital in numerous studies. This is due to the fact that collective action is only possible if there is some level of social capital, no matter how minimum it is. The interviewees are asked regarding their involvement in public life, their participation in community activities and also in social mobilization (e.g. participation in a road blockage, manifestation, volunteering, contacting a public official, online and offline activism). The aim is to investigate in depth one of the most important dimensions of interpersonal trust: the predisposition to mobilize towards the affirmation and defense of interests perceived and felt as shared and common with others.

#### 4.2.13. Access to information

Q22: "Which are the sources of information you trust the most, when there's a problem of common interest in your community? (see list)"

Access to information has been increasingly recognized as essential for communities to have stronger voices in issues which directly affect their well-being (Grootaert *et al.* 2004). This question explores the means and sources by which individuals receive information and the level of trust they have in them (e.g. informal conversations, online social networks, community bulletin, local media, national media, NGOs, politicians, public officials, churches, associations).

#### 4.2.14. Situational awareness

Q23: "What is your opinion about certain features of the Argentine society? (see list)"

Q24: "Do you agree with those who say that the Argentine society is violent?"

Q27: "Do you agree with those who say that the Argentine society is authoritarian and conflictive?"

Different questions were designed to inquire on the perception of outsiders and self-image on the members of a community. The scope of these items is to describe the grounds for different types of bonds. For instance, Q23 inquiries on the existence of a sense of national identity, plurality, respect, and democratic attitudes of citizens. In turn, Q24 and Q27 envisage inquiring about individuals' perceptions on the level of violence and conflict within their society, and, in addition, on the social predisposition to authoritarianism and conflict. If a society is moved by centrifugal rather than centripetal forces, the need for law and institutions might turn out to be essential.

Q25: Do you agree with those who say that the Argentine society is corrupt?

The analysis of both public and private corruption is another essential factor in social capital research. The lack of transparency in social life induces defensive reactions. It leads society to compete precisely on those issues in which it should cooperate. In addition, the society tends to develop "protection" bonds, under the form of social capital, with negative outcomes for the rest of the society: clientelism, subjection and controls based on pragmatism or fear. The uncertainty towards the future and the feeling of vulnerability reflect personal insecurity.

Q26: Do you agree with those who say that the Argentine society is individualistic and not willing to cooperate?

Q28: Do you agree with those who say that the Argentine society is nevertheless gets along well with each other?

These two questions aim at studying the perception towards attitude towards cooperation. The perception that the others act in a defensive way generates, in its turn, defensive responses, creating a vicious cycle. When the common citizen behaves in a defensive manner, social cooperation is problematic, breeding the ground for a reactive and prone to conflict culture to be shaped. The interviewees are asked on whether, independently from ideological and political differences, the members of their community are prompt to act in a convergent way, prioritizing common objectives. It should not be assumed that even if the society is divided at the top level, this trend replicates at the bottom.

#### 4.2.15. Access to law

Q29: "In general terms, do you think that you are protected by laws and institutions, and that they guarantee your basic rights and liberties?"

The diversification of legal frameworks, globalization, socio-economic situation, among other factors, have an impact on the basic legal principle of presumption of knowing the law. This question addresses the issue of access to law in terms of access to legal needs and information.

### 5. Main findings and discussion<sup>16</sup>

As it was previously explained, the questionnaire was tested during March 2011 in the Autonomous City of Buenos Aires, Argentina, covering, in this opportunity, a representative sample of 250 households. It is not the aim of this section, nor that of the paper, to delve into the discussion of the outputs of the survey, in terms of analyzing the levels of social capital and trust in legal institutions in the context of the city of Buenos Aires. The scope is to rather discuss the outcomes of implementing such a tool and whether it is possible to identify social capital dynamics and dimensions that could be further explored for strengthening trust in legal institutions. When appropriate, exemplifications will be provided to better illustrate the argumentation.

<sup>16</sup> Further discussion on the results provided can be found in the PhD thesis of the author (Zuleta Ferrari 2012).

The questionnaire allowed, on one hand, the exploration of an innovative approach to social capital measurement, and, on the other, the collection of data in order to provide possible answers to some of the basic questions posed in different fields of sociology of law and institutions. The tool not only addressed social capital dynamics and trust, but also public perceptions and expectation on legal institutions.

The results showed that, according to the respondents, public institutions struggle to respond to the demands from the population. For instance, the replies to Q6 on the levels of trust in the capability of institutions to provide effective responses showed that 4,8% of the respondents, trusted them to a great extent, 21,9% to some extent, 37,9% to a small extent and 25,2% trusted them not all (10,2% did not know or did not reply).

Table 1

	Total (%)
To a great extent	4,8
To some extent	21,9
To a small extent	37,9
Not at all	25,2
DK/DA	10,2

Table 1. Replies to Q6. With reference to the legal system (such as laws in general, processes and institutions), please indicate the level of trust on their capability to solve the current problems of the Argentinian society.

In addition, according to the replies of Q8 and Q9 on motivations for not trusting the judicial and the legal system, approximately the 80 to 85% of the respondents believed that there were motivations not trust them. There has been a breaking point that needs to be re-established and transformed in accordance to the new circumstances, converging the individual with the institutional level. Social expectations defy and go beyond the capacities of traditional institutions.

Table 2

	Total (%)
Total	100
To a great extent	42,8
To some extent	45,4
To a small extent	9
Not at all	1,1
DA/DK	1,6

Table 2. Replies to Q8 - Some people do not trust judges and the judicial system in Argentina; do you believe they have good reasons for not trusting them?

Table 3

	Total (%)
Total	100
To a great extent	37,9
To some extent	44,8
To a small extent	13,7
Not at all	2,5
DK/DR	1,1

Table 3. Replies to Q9. Some people do not trust laws in general. Considering the Argentina case, do you think they have good reasons for not trusting them?

Despite the findings on low levels of trust, the questionnaire explored motivations to trust legal institutions. The replies showed that though the performance of institutions suggested them not to do so, there individuals still provide a value to do so (see table4 corresponding to Q 11).

Table 4

	Total (%)
Total	100
Yes	76,2
No	8,3
It depends	13,8
DK/DA	1,6

Table 4. Replies to Q11. In a country such as Argentina, do you believe it is worth respecting the law and public institutions?

On another aspect, the questionnaire effectively showed, on one hand, dynamics that stress the importance of strong ties and bonding social capital, and on the other, dynamics that highlight the role that social cohesion and cooperation, or bridging social capital, could play. In this sense, according to the replies, trust in strangers remains relatively low, and 75,4% of the respondents would tend to be careful with strangers.

Table 5

	Total (%)
Total	100
Tend to trust unknown people	24,6
Tend to be careful with unknown people	75,4

Table 5. Replies to Q17. With reference to trust on people who you don't know in depth but you eventually are related, generally speaking, do you tend to trust them or do you tend not to trust them and be careful?

In relation to interpersonal trust, family and friends remain among the most trustworthy groups, as it can be depicted from the results of Q18 on interpersonal trust.

Table 6

	Total average	DK (%)	DA (%)
1. Members of family	9,1	0,4	0
2. Friends	8,6	0,4	0,4
3. Neighbours	6,4	1,6	0,4
4. Colleagues from work	8,2	4,4	16,8
5. Bosses and immediate superiors	8	5,6	18,8
6. Priests and pastors	7,4	3,6	10,8
7. Teachers and professors	9	4,4	12,4

Table 6. Replies to Q18. In relation to the following groups of people, please provide from a scale of 1 (no trust) to 10 (high trust) how much do you trust them, in terms of your willingness to trust and confide them your problems and expect from them a disinterested help.

With regards to cooperation, solidarity and social mobilization, it is worth describing some peculiar dynamics: despite the low levels of trust in strangers, in circumstances of need, individuals might tend to cooperate, to get by. However, if this cooperation is taken a step further, to reach the institutional level, then, the interviewees would not engage easily in social protests and mobilization (see table ns. 6, 7 and 8, referring to replies to Q19, Q20, Q21 respectively).

Table 7

	Highly agree (%)	Agree (%)	Disagree (%)	Highly disagree (%)	DN/DR (%)
The majority of the people in this neighbourhood is open to others and is willing to help in case of need.	12,6	54,9	23,5	3,3	5,7
In this neighborhood one cannot be too careful; someone might want to take advantage from you.	6	36,5	48,5	3,9	5,1
People in this neighborhood are individualistic and only mind their own business.	8,1	40,2	38,9	3,6	9,2

Table 7. Replies to Q19. Please indicate whether you highly agree, agree, disagree, or highly disagree with the following statements.

Table 8

	Total (%)
Total	100
Very likely	21,9
Likely	45,4
Neither likely nor unlikely	11,1
A little unlikely	9,7
Very unlikely	7
DA/DR	5

Table 8. Replies to Q20. Suppose there is a problem of general interest in your neighbourhood (such as a cut in the provision of water, electricity or gas); which is the likelihood that neighbours will mobilize together in order to solve the problem?



Table 9

	Yes (%)	No (%)	DK/DA (%)
1. Getting in touch with a person of power	17,2	82	0,8
2. Succeed in getting catching media's attention with reference to a particular problem	7,6	91,2	1,2
3. Being active in information campaigns	8,4	90	1,6
4. Being active in an electoral campaign	6	93,2	0,8
5. Taking part in a protest or manifestation	27,2	72	0,8
6. Contacting a political representative	5,6	92,8	1,6
7. Participate in a meeting with public officers	7,2	91,6	1,2
8. Writing a petition or notification to a public officer	10	88,8	1,2
9. Making donations in money or species	35,6	62,8	1,6
10. Volunteering in a charity organization	17,6	80,4	2
11. Becoming member of an NGO	6,4	92,4	1,2
12. Participation in public audiences	5,6	93,6	0,8

Table 9. Replies to Q21. In the past three years, have you participated in any of the following activities?

Promoting a culture of cooperation strengthens the ties between individuals and the rest of the community. In addition, it contributes to making stronger feelings of belonging, and fosters stronger bonds that could lead to collective cooperation, reciprocity, solidarity and even altruistic help. The problem comes with regard to building bridges for cooperation between individuals and institutions, which will enhance trust, with time.

The reconstruction of trust is a strategic task. It supposes shared goals and shared vision of what it wants to be achieved. It presupposes policies, objectives, rules and procedures, criteria and standards, all of these updated to the actual needs of current times. Modern society, however, has lost its optimism towards the future. It is in this context that social capital acquires an essential role in fostering mechanisms to build trust. These entail bonding and bridging social capital and trust which establish links and resources for mutual assistance and cooperation. Furthermore, these establish mutual understanding which will build bridges along old division lines and social borders.

The research carried out in Argentina has provided mixed feelings and perceptions. It is not possible to provide a one-sided explanation and a final balance. However, the methodology was effective in providing an initial snapshot of a strong society at the bottom, but fragmented towards the upper levels. Strong bonding and bridging social capital at the individual level, but with difficulties to bridge gaps and cooperate towards the institutional level. This finding demands getting deeper into these dynamics. Therefore, further research in this field should include and delve into the particular phenomenon of governance structures.

The issue of good governance under the rule of law comes as top priority in public agendas. The concept of governance is increasingly broadening and entails a recovery of the original sense of republican virtues. Good governance brings into the arena both individuals, private and public actors. Governing implies coordinating, generating dialogue, in order to reach consensus and coherence. The challenge is to promote a setting in which political institutions successfully manage to keep their steering role among a context characterized by plurality and heterogeneity, by local, national and supranational actors, capable of contesting the monopoly of public rationality, which was hold, until not so long ago, exclusively, by the State.

At the same time, good governance depends more on the quality of the rule of law, the accountability and efficiency of public institutions than on presupposed virtues or a spontaneous civil society. We are living a demand-side social revolution. We have to fill a substantial gap between the quality and quantity of social demands and the quality and quantity of the real capacity of our institutions.

## **6. Conclusions**

Social capital measurement methods are diverse but complementary, owing to the complexity of the phenomenon. The value of a social survey lies on the possibility to look into the values, norms, cognitive aspects, levels of knowledge, trust and perceptions of individuals. Although the micro-level is essential to understand social capital dynamics, it is the least explored due to the costs and logistical problems of these type of studies.

The aim of this paper has been to present a particular approach to the complexity of the social capital phenomenon. Considering the options offered by meso-level social analysis, based on community analysis, or macro-level analysis, based on economic factors, the intention was to propose the advantages that micro-level analysis provides. This analysis is based on the implementation of questionnaires on perceptions and attitudes towards the other. This is the type of perspective used to analyze the legal culture of the citizens.

The implementation of the tool was effective to obtain data for analyzing the case study. For instance, the results obtained allowed to infer that individuals would like to trust legal institutions. However, the institutional effective performance and the impact on the social sphere suggest citizens not to do so. Reciprocity, trust and expectations had been deceived. Contexts which suffer political instability and uncertainty are prompt to generate a culture of suspicion. Citizens adopt attitudes of distrust and defensiveness; they postpone commitment and suspect the advantages of cooperation.

The results from the survey allow stressing the importance of studying the processes that generate and strengthen trust as the fundamental basis for a harmonious institutional growth, able to sustain development processes and the consolidation of political democracy. These mechanisms provide a window for shortening the distances between the citizens and institutions. Access to policy makers and institutions is easier now than some decades ago. This gives space for new dynamics of participation, constituting a better citizenship and strengthening responsiveness and accountability.

In this context, the social capital theory and its research methodology appears as an innovative approach to the understanding of this crisis. Reciprocity and cooperation relationships become a core issue to strengthen. Levels of social capital become of particular importance.

Re-establishing the trust in those institutions which generate and administrate the rules of the game in a society will, gradually, not only benefit the individual, but the wider society. Re-establishing trust in legal institutions, however, is not an easy task. It is part of a broader process which involves social structures, all sort of institutions, normative systems, and clear and transparent national and international frameworks.

Facilitating and fostering communication among people and institutions, as well as mediating and resolving conflicts among these is likewise needed for getting and keeping the different stakeholders together to accomplish things that go beyond their individual capacity. Establishing this setting is the first step towards creating structural social capital, along macro and micro levels. Increasing and maintaining the framework is what makes it fruitful and productive. Networks among the different stakeholders represent the channels for communication and cooperation that will lead them to the shared objectives, reducing transaction costs and making collective action more feasible and profitable.

These dynamics entail bonding and bridging social capital, trust and solid expectations, which establish links and mechanisms for cooperation. Furthermore, it establishes mutual understanding which will build bridges along old division lines and social borders. And it is within this context that theory of social capital comes as an innovative approach, by stressing the real value of networks of reciprocity, solidarity, trust and shared values and norms.

The theory of social capital is a valuable instrument for the analysis of new circumstances and planning for future scenarios. However, it is necessary to take into serious consideration that the process of social construction of collective trust and confidence is much more complex. An advancement on the quantity and quality of social bonds and networks that foster trust and cooperation seem to be more the result of critical experiences that promote resilience reflexes than the spontaneous effect of the consolidation of stable conditions of market improvement and democratic consolidation. Social capital is not the result of cultural economic and political equilibrium. Most of the times it is effect of popular response against adversities. However, the consideration of this aspect can help in the renewal of the agenda of the social conditions of democratic progress and consolidation.

Future developments in research need to take place at all levels. The present work aims at contributing towards one of the possible approaches, without excluding but rather complementing the others, by addressing one of the levels studied the least: that of the citizens. In addition, as already explained in Section 3, there is an "appropriate social capital" (Serageldin and Grootaert 2000, p. 54) for a specific country at a specific moment in time. This tool was developed with a specific research scope, which would be tested in a specific city, Buenos Aires, which at the moment of the design and implementation had a specific political and social context. Should this research be replicated in the future, the variables would remain most likely the same though the questions would definitively need to be revised and checked, and be adapted to the concrete political and social context.

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