Social (Dis-)Trust and The Plague of Corruption in the Western Balkans: The Rule of Law as the Victim

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Summary:

There are two types of institutions that could impact the rule of law. These are observable formal institutions and less observable informal institutions. The operation of formal and informal institutions is often thought to be interdependent. Law and other formal institutions cannot bring about the desired results without the support of informal institutions and norms. Informal institutions, under which we include corruption, clientelism and elite agreements, negatively affect democracy and the rule of law in various ways. The Western Balkans societies are flooded with corruption which negatively impacts rule of law. The causes of corruption are diverse, but this research focused on the question of social (dis)trust as a possible cause in the Western Balkans. There are very strong correlation between social (dis)trust, on the one side, and corruption and the deterioration of rule of law in the Western Balkans, on the other side, could be found.

Key Words: Social trust, corruption, rule of law, Western Balkans, institutions

1. Introduction

When we talk about the Western Balkans we can immediately associate weak institutions and corruption. This perception is supported by the latest survey on corruption in the Western Balkans which states that for every third citizen corruption is acceptable form of behaviour and every third citizen has given some form of a bribe and that 70% of Western Balkans citizens do not believe that the corruption could be substantially reduced (see in: Cuckić, 2020). Corruption and weak institutions are not only problems prevalent in the Western Balkans since this plague is present pretty much in every corner of the World. But there are spots and regions where this plague has deeper roots, where it is omnipresent, negatively penetrating every aspect of social life, and the Western Balkans is such a region. Before diving deeper to the roots of corruption in the Western Balkans, which is the primary object of this research, a theoretical framework and terminological foundation has to be set.

It is evident that corruption negatively impacts the performance of formal (state) institutions (see e.g. in: Guasti & Dobovsek, 2011) In general, Institutions are stable, valued, recurring patterns of behaviour that persist beyond the tenure of individual leaders (Fukuyama, 2014). They are, in essence, persistent rules that shape, limit, and channel human behaviour. One cannot imagine a modern state without its institutions. Basically, a state is a set of institutions and it is these institutions that make up the state. The Rule of law would be only a declaration

on a piece of paper if there are no effective and accountable public institutions that can enforce it on the ground. We shall not forget that the most basic form of redistribution that a state engages in is equal application of the law. *The state and the rule of law work together to produce something like the equality of justice.*

Still, only a small number of countries developed these effective institutions. Most countries have ineffective institutions that are detrimental to development and economic growth (see in: Ellertsdottir, 2014) It is evident that countries in the Western Balkans, mostly, do possess formal institutions and principles of the rule of law that try to emulate, for example, the Scandinavian countries, but they still produce a total different outcome in terms of good governance and rule of law (e.g. see The Rule of Law Index of the World Justice Project) What is the reason for that? One of the logical explanations is that there must be a variable that impacts negatively the performance of state institutions and therefore, indirectly, the rule of law in the Western Balkans. This variable is corruption. So there is no wonder that Guasti and Dobovsek (2011) identified that in the Central and Eastern Europe, the most crucial problem of the rule of law is corruption. This fact is conditioned on the weakness of formal institutions.

Corruption, generally, is widespread, especially in the developing and transition countries. Although corruption differs from country to country, Šumah (2018) identified some of the key common driving forces that generate it. What is common to all countries, which are among the most corrupt, has been identified all of them are developing countries or countries in transition with low income, a closed economy, strong influence of religion, low media freedoms and a relatively low level of education. Šumah (2018) further elaborates that corruption always arises from an array of several, interrelated factors, which can differ considerably from one another. Among the most commonly mentioned factors that influence the development of corruption are: *political and economic environment* (high regulation that grants authority and power to officials), *professional ethics and legislation (*no prosecution and legislation regarding corruption), as well as purely *ethnological factors, such as customs, habits and traditions*.

But the most important part for this research are the ethnological factors. The perception and acceptance of corruption depends also where you live. Corruption is in some societies part of folklore and a way saying "thank you". Also, in some societies, due to a weak public social security net, corruption is an informal form of social security. This is especially present in societies with traditional values (see Figure A1) where the family is the main social security insurance and where religion plays a vital role. These societies did not have the opportunity or circumstances to develop the right social instruments to "immunise" society against corruption.

In the latter stage of this research a closer look at the ethnological factors, especially on the aspect of values, will be presented.

But for now, let us see what is the relationship between corruption and rule of Law.

2.   How Corruption impacts the Rule of Law

A network of mutually reinforcing institutions is necessary for rule of law. Why have all the formal legal improvements that are concomitants of twenty-first-century democracy—new constitutions, better laws, improved judiciaries, more accountable security forces—failed in many respects to produce more "democratic rule of law, especially for the underprivileged? The role informal institutions play has not been appreciated. Therefore, a network of the combined application of formal and informal ancillary institutions is needed to bring about the desired result (O´Donnell, 1999, citation in: Araya,n.d.)

There are two types of institutions that could impact the rule of law. These are observable formal institutions and less observable informal institutions. The operation of formal and informal institutions is often thought to be interdependent. Law and other formal institutions cannot bring about the desired results without the support of informal institutions and norms (Araya,n.d.). If institutions are to be effective to set up the rule of law and thereby bring about economic and social development we should not exclude customary law and the other informal ways in which many in developing nations order. In order to become effective, rights stipulated in laws require the development of a network of ancillary supporting institutions, both formal and informal (Brinks,2008). In other words, what enables the holders of legal rights to effectively assert those rights is a dense network of formal and informal ancillary institutions that support those rights, providing the incentives and capacity for the duty bearers and enforcement agents to comply with the law (*ibid.*)

Formal institutions are the written 'rules of the game' and consist of laws and regulations, constitutions, charters, property rights and even governance. they are enforced in an official manner by a third party, which is usually state-governed, such as the police, courts, judges, and bureaucrats (Ellertsdottir, 2014 :140) But, many "rules of the game" that structure political life are informal--created, communicated, and enforced outside of officially sanctioned channels (Helmke & Levitsky, 2004). And in much of the developing and postcommunist world, patterns of clientelism, corruption, and patrimonialism coexist with (and often subvert) new democratic, market, and state institutions behavior (*ibid.*). Political actors respond to a mix of formal and informal incentives (North, 1990), and in some instances, informal incentives trump the formal ones. Consideration of informal rules is also often critical to explaining institutional outcomes. Informal structures shape the performance of formal institutions in important and often unexpected ways. For example, executive-legislative relations cannot always be explained strictly in terms of constitutional design. Neopatrimonial norms permitting unregulated presidential control over state institutions in Africa and Latin America often yield a degree of executive dominance that far exceeds a presidents' constitutional authority. Informal institutions may also limit presidential power (see in: Helmke & Levitsky, 2004 :726). Informal institutions as socially shared rules, usually unwritten, that are created, communicated, and enforced outside of officially sanctioned channels (definition used in: Helme& Levitsky, 2004 :727) To be considered an informal institution, a behavioral regularity must respond to an established rule or guideline, the violation of which generates some kind of external sanction (Helme& Levitsky, 2004:727)

Rules on paper make little difference compared with underlying social norms and attitudes that moderate the effects of formal institutions. (OECD, n.d.) For example, despite changes in formal institutions that affected both Northern and Southern Italy, the South underperforms the North due to lower levels of preexisting social capital, or norms of trust and reciprocity (Putnam, 1993). In most cases, however, the positive potential of informal institutions can only be effectively used if they are reformed and linked to state institutions (Tilman,n.d.)

Actors create informal rules because formal institutions are incomplete (Johnson, 2002). Formal rules set general parameters for behavior, but they cannot cover all contingencies. Second, informal institutions may be a "second best" strategy for actors who prefer, but cannot achieve, a formal institutional solution.' In some cases, actors simply lack the power to change the formal rule. A third motivation for creating informal institutions is the pursuit of goals not considered publicly acceptable. Because they are relatively inconspicuous, informal institutions allow actors to pursue activities-ranging from the unpopular to the illegal-that are unlikely to stand the test of public scrutiny (Mershon,1994: 50)

Informal institutions, under which we include corruption, clientelism and elite agreements, negatively affect democracy in various ways, among others they: disable mechanisms of control against the abuse of power, limit transparency, disrupt competition and contribute to disproportional allocation of resources, narrow interest representation, reduce accountability, distort representation, obstruct inclusion and legitimacy (Waggoner 2008). The bad informal institutions distort all aspects of the rule of law (Lauth 2011) in particular the system of checks and balances and independence of judiciary (Guasti & Dobovsek, 2011:2)

Corruption jeopardises the good functioning of public institutions and diverts public action from its purpose, which is to serve the public interest. It disrupts the legislative process, affects the principles of legality and legal certainty, introduces a degree of arbitrariness in the decision-making process and has a devastating effect on human rights. Furthermore, corruption undermines citizens' trust in the institutions (Parliamentary Assembly of the Council of Europe, 2013).

3.   The Role of Values

Institutions are, in the end, made of people and their interactions. So it is obvious to ask what values, habits and customs do these people adhere who work in the institutions (civil servants) and who interact with these institutions (citizens). That is why some authors have expressed concern that corruption having a cultural or value root is unlikely to be eradicated effectively by mere institutional approaches (Tu et al., 2020:2)

There is quite a lot research that focuses on the question how values, habits and customs reflect on corruption. A very important factor that affects corruption is also demographics. A number of studies have shown that patriarchal society is more prone to corruption (Šumah,2018). For example, there is an empirically well grounded assumption that more masculine societies also appear to have lower probabilities of viewing bribery as being seriously wrong (Lee & Guven, 2013:17) In masculine cultures, material gains and status brought about by the ends outweigh the legitimacy of the procedures and means (Yan & Hunt, 2005). Thus, people take it for granted to achieve their goals even by transgressing ethical norms and formal regulations (Getz& Volkema, 2001). On the contrary, feminine societies or people tend to prefer "tender" values such as cooperation, compassion, care for others, and emphasis on service and social needs over productivity (Adler & Gundersen, 2007: 66).
Research has also shown that societies plagued by wide spread corruption endorse some social norms which blur the line between public and private, confuse differences between gifts-receiving and corruption, advocate favouritism, and ignore petty corruption (Smith, 2001). Culture and social norms affect how people view corruption (Larmout, 2009). It is believed that individual values may be pressured by social expectations or sanctions to conform to dominant social values, which leads people in the same society to share some

similarities in their values (Schwartz, 2011). People who value loyalty to small groups more than the laws or professionalism tend to seek illegitimate benefits for their groups, which may lead to collective or organised corruption (Tu et al., 2020:4)

Cultural and habitual factors encompass both heritage of the past and prevailing acceptance of bad informal institutions (in particular of corruption and clientelism) as effective mechanisms to achieve desired goals. In terms of weak sanction mechanisms, these encompass both the judiciary in prosecuting bad informal institutions and electoral - in which citizens lack information (or interest) necessary to sanction politicians through electoral mechanisms (Guasti & Dobovsek, 2011:3) It has been also shown (see in: Šumah, 2018) that the social status and personal characteristics also play an important role in the shaping of corruption perception at the micro level.

One very interesting factor, though, is also social trust. Levels of social trust, averaged across a country, predict national economic growth as powerfully as financial and physical capital, and more powerfully than skill levels – over which every government in the world worries about incessantly. It is also associated with many other non-economic outcomes, such as life satisfaction (positively) and suicide (negatively) (Halpern, 2015). Having trust in the legal system is also associated with a lower probability of being asked for a bribe, likely reflecting an individual's known propensity to seek law enforcement if approached for a bribe (Lee & Guven, 2013:12).

Having in mind the before said, the question arises what is the level of social trust in the Western Balkans and how this impacts the level of corruption and indirectly the level of rule of law. There is a clear negative impact of corruption on the overall level of rule of law, as it has been shown above in this research. But is there a relevant correlation between social (dis)trust and corruption, and social (dis)trust and rule of law? The hypothesis of this research is that social distrust negatively impacts the Rule of Law in the Western Balkans.

4.   **Data and Analysis**

a.   *Variables and Sample*

The present research uses one independent (explanatory) variable: *social trust* and two dependent variables: *perceived corruption level* and *rule of law index.* In this research data for eight countries has been analysed. For better comparison and clearer results four Western Balkans countries (Bosnia and Herzegovina, Croatia, Montenegro and Serbia) were chosen for reasons that these countries share the same historic experience, culture, language and legal system and in order to have a relative homogeneous sample with minimalises the influence of eventual confounding variables based on culture or similar. On the other side, four European countries (Germany, Netherlands, Sweden and Switzerland) with high level of rule of law and low level of corruption were chosen for comparison. These European countries were chosen also for the convenient fact that they share the same continental legal culture (except Sweden) as the Western Balkans Countries.

b.   *Data*

The relevant data for the targeted countries was drawn from three sources. For the level of social (dis)trust the dataset from World Values Survey: Wave 7 (https://www.worldvaluessurvey.org/WVSContents.jsp) was used. For the level of perceived corruption Transparency International´s Corruption Perceptions Index 2019 (https://www.transparency.org/en/cpi) was used. And for the level of rule of law the World Justice Project Rule of Law Index 2020 (https://worldjusticeproject.org/our-work/research-and-data/wjp-rule-law-index-2020) was used. This index was used since it uses indicators that basically measure the performance of government and its institutions and this analysis relies on the notion of the importance of institutions for the rule of law.

Concerning the data for social (dis)trust the used survey question was:

Generally speaking, would you say that most people can be trusted or that you need to be very careful in dealing with people?

1.- Most people can be trusted 2.- Need to be very careful 3.- Don´t know 4.-No answer

For the purpose of this research the answer- option number 2 was coded as the expression of social distrust. Also the option (answer) number 1 could have been used for this research as the expression of social trust. The results would have been the same, only the resulting correlation between the dependent and independent variable would be positive.

c.   *Analysis and Results*

With data from the selected countries a simple linear regression analysis has been conducted using two models. The first model is the combination: social distrust (independent variable)-Corruption Perceptions Index –CPI (dependent variable). The second model is the combination: social distrust (independent variable)- Rule of Law Index (dependent variable).

The results for the first model (see Figure A2) show a very statistically significant correlation (*Correlation Coefficent=0,972, CI 95%*) between the independent (social distrust) and dependent (CPI) variable, meaning that the linear relationship between the two variables is very strong and negative (when the value of the independent variable increases the value of the

dependent variable decreases). This model also fits very good *(R Square=0,945)* since it explains 94,5% of the dependent variable values by the independent variable values. There is a high statistical significance of the results for this model (*Significance F=0,000051, F<0.05, p=0,000051, p<0,05).* The graphical representation (see Figure A3) of this regression model also visualises clearly the strong relationship between these two variables.

The results for the second model (see Figure A4) show a very statistically significant correlation (*Correlation Coefficient=0,94, CI 95%*) between the independent (social distrust) and dependent (Rule of Law Index) variable, meaning that the linear relationship between the two variables is very strong and negative (when the value of the independent variable increases the value of the dependent variable decreases). This model also fits fairly good *(R Square=0,88)* since it explains 88% of the dependent variable values by the independent variable values. Although the results for this model (*Significance F=0,0052 p=0,0052)* are on the very edge of statistical significance (since F should be<0,05, p<0,05) it should be noted that this could be attributable to the decreased sample size (Montenegro and Switzerland could not be analysed since there was no data regarding the Rule of Law Index for this countries). But the graphical representation (see Figure A5) of this regression model also visualises clearly the strong relationship between these two variables.

To sum up the results of both models: there is a very strong correlation between social distrust and the level of perceived corruption, and there is also a very strong (although a little weaker which could be attributed to the decreased sample size and other confounding variables that contribute to lower levels of rule of law) correlation between social distrust and the level of rule of law.

5.   Discussion

The limitations of this research are grounded in the fact that this research represents only a statistical "snapshot" of the relationship between the analysed variables. To get a more precise and accurate picture, especially taking into account the development of the data over time and over individual countries, more sophisticated statistical methods should be used (e.g. panel data analysis) Also, the sample size was relatively low and further research with an increased sample size (countries) could be used to confirm or refute the results of this research. Furthermore, it should be noticed that three different data sets (gathered from different sources) were used and that it could had have influence on the final findings of this research. The findings show that there is a link between social distrust, on the one side, and the level of corruption and level of rule of law in a country, on the other side. But it is not possible to determine what the cause is and what the consequence. Whether is the level of corruption lower due to high social trust, or is it vice versa, cannot be directly identified, since the corruption depends on social trust, while at the same time affecting them. The same issue arises in the relationship between social (dis)trust and the level of rule of law. One should also not exclude (especially in the relationship between rule of law and social (dis)trust) other confounding variables and that further research should include more independent variables.

Having in mind everything said, building on the findings of this research, it is reasonable to assume that the low level of social trust in the Western Balkans countries can be linked to higher corruption and lower levels of rule of law. Although this research did not investigate the reasons of low level social trust in the Western Balkans societies, it can be assumed, taking into account the recent and distant history of these societies, which factors could have contributed to social distrust. One should not diminish the role of intergenerational

experience which forms a certain mind set, or call it culture. In this regard Šumah (2018) rightly identifies, that peace is one of the prerequisites for a successful fight against corruption. The Western Balkan societies did not have much luck in this regard. When we consider that in their entire history Western Balkans societies were constantly infested with wars and violent regime changes and that most of this regimes were either of short duration and/or unjust regimes, there is than no wonder that there were no long enough periods and stable enough social conditions to form a stable state and administration based on rule of law principles. One could argue that the state was almost a kind of enemy to the ordinary man on the Western Balkans and parallel social structures and informal institutions (like corruption) had to be formed to survive. This all, like in a devil´s circle, generated general social distrust and especially distrust towards the state and its organs. So it is of no surprise that the majority of the Western Balkans population does not trust the judiciary, police etc. what can also been seen from the dataset of the World Values Survey (2020).

6.   Conclusions

This research indicates that it is not enough to make structural and formal changes in the legal and administrative framework of the Western Balkans countries to reduce corruption and increase rule of law, but that it is very important and a *conditio sine qua non* to (re)establish trust, at least towards state institutions. Without trust, as the social glue, there will be no reduction of corruption in the Western Balkans.

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APPENDIX

Figure A1: Cultural map - WVS wave 6 (2010-2014)
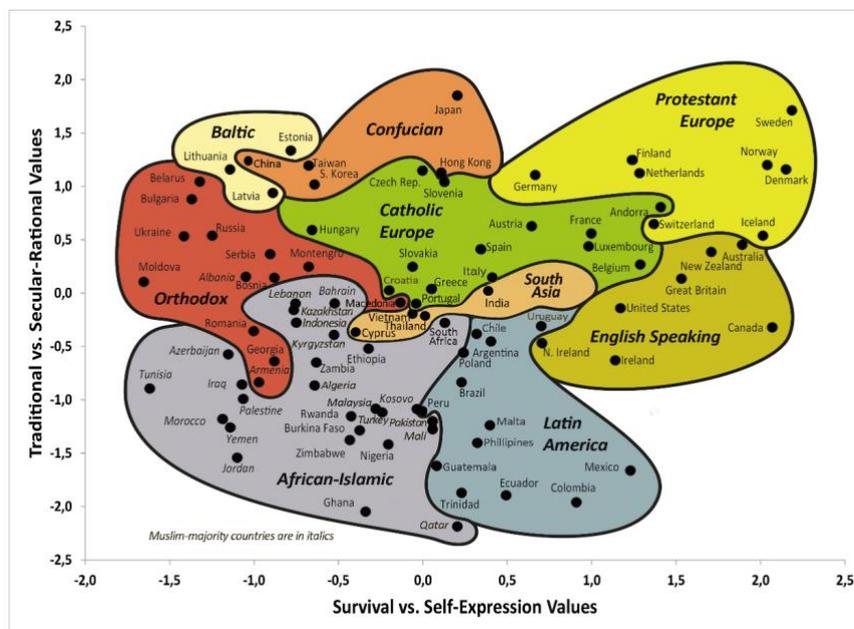
Note: Analysis of WVS data made by political scientists Ronald Inglehart and Christian Welzel asserts that there are two major dimensions of cross cultural variation in the world:

1. **Traditional values** versus **Secular-rational values** and

2. **Survival values** versus **Self-expression values**. The global cultural map (below) shows how scores of societies are located on these two dimensions. Moving upward on this map reflects the shift from Traditional values to Secular-rational and moving rightward reflects the shift from Survival values to Self–expression values.

Traditional values emphasize the importance of religion, parent-child ties, deference to authority and traditional family values. People who embrace these values also reject divorce, abortion, euthanasia and suicide. These societies have high levels of national pride and a nationalistic outlook.

Secular-rational values have the opposite preferences to the traditional values. These societies place less emphasis on religion, traditional family values and authority. Divorce, abortion, euthanasia and suicide are seen as relatively acceptable. (Suicide is not necessarily more common.)

Survival values place emphasis on economic and physical security. It is linked with a relatively ethnocentric outlook and low levels of trust and tolerance.

Self-expression values give high priority to environmental protection, growing tolerance of foreigners, gays and lesbians and gender equality, and rising demands for participation in decision-making in economic and political life.

Figure A2: Table of data analysis (linear regression) performed with Excel Data Analysis Tool

Countries	Level of Distrust (in %)	Corruption Perceptions Index (CPI)2019
Germany (n=1528)	52,4	80
Sweden (n=1198)	35,7	85
Switzerland (n=3181)	41,7	85
Netherlands (n=2409)	39,8	82
Bosnia&Herzegovina (n=1735)	89,4	36
Serbia (n=1520)	78,7	39
Croatia (n=1493)	83,7	47
Montenegro (n=1004)	75,5	45
Correlation Coefficient (Multiple R)	0,972	
R Square	0,945	
Significance F	0,000051	

for the correlation between social distrust and the Corruption Perceptions Index.

Data sources: *World Values Survey Wave 7: 2017-2020 and Amnesty International Corruption Perceptions Index 2019.*

Figure A3: Graph of the linear regression model: social distrust and the Corruption Perceptions Index
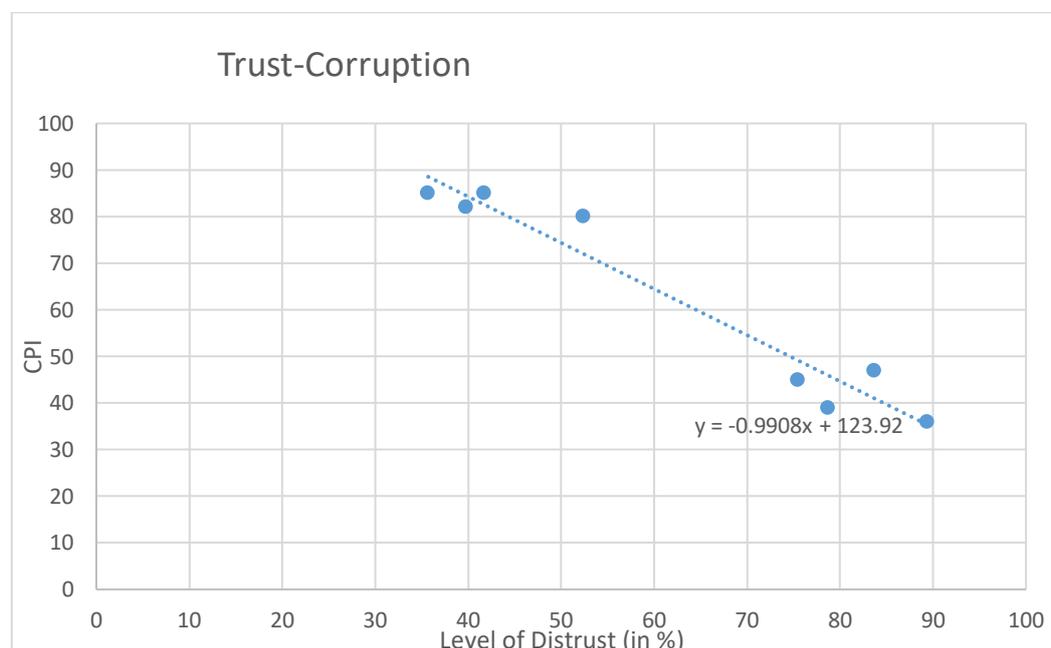

$y = -0.9908x + 123.92$

Figure A4: Table of data analysis (linear regression) performed with Excel Data Analysis Tool for the correlation between social Distrust and the WJP Rule of Law Index.

Countries	Level of Distrust (in %)	Rule of Law Index 2020
Germany	52,4	0,84
Sweden	35,7	0,86
Netherlands	39,8	0,84
Bosnia&Herzegovina	89,4	0,52
Serbia	78,7	0,5
Croatia	83,7	0,61
Correlation Coefficient (Multiple R)	0,94	
R Square	0,88	
Significance F	0,0052	

Data sources: *World Values Survey Wave 7: 2017-2020* and *WJP Rule of Law Index 2020*

Note: The data for Montenegro and Switzerland is not presented since there is no available data concerning the Rule of Law Index for these countries.

Figure A5: Graph of the linear regression model: social mistrust and the WJP Rule of Law Index
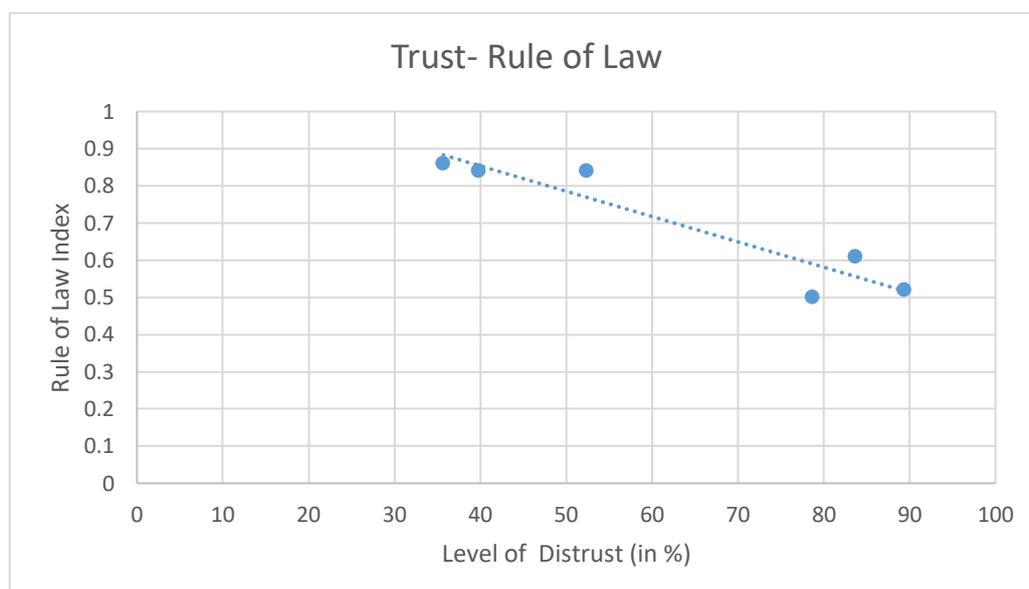
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