Neo-Institutionalism and its Implications in the Constitution of the Legal Environment of Governance and Legitimacy in Justice Systems

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Abstract

Analyses around the process of constitution of the legal environment of organizations are of great importance for organizational studies because, through the use of concepts such as: endogeneity and institutionalization, as well as other contributions from (neo) Institutionalism, it is possible that we break with the belief somewhat ingrained, in the more traditional academic circles, around a supposed erogeneity of laws, by organizations and legal systems. And, as we will try to demonstrate, in concrete terms, we observe the prevalence of endogenous models, given the valorisation of technical mechanisms that are adjusted, in view of legal requirements, in favour of the subsequent convalidation of greater institutional legitimacy. In view of this scenario, there is, in parallel, a gap around a deepening of the internal mechanisms and external pressures that cause organizations to be affected by endogenous practices, a process that will also be encompassed. Therefore, in methodological terms, we opted for a critical review of the classical (neo)institutionalist literature, and during the studies, it was noticed that this epistemology presents advances in organizational studies because it departs from the functionalist logic, still excessively based on logic: pressures x responses, while seeing organizations being linked to two environments: technical and institutional. Moreover, the (neo)institutionalist perspective envisions endogenous practices from a broader perspective, conceiving them via a multicausal reading, factors that enhance such epistemology, whose uses should be valued even more by academia and the market.

Keywords: Legal Environment; Legitimacy; Institutionalism; Institutions; Organizations

1. Introduction

Analyses around the process of constitution of the legal environment of organizations (Edelman and Suchman, 1997) are of great importance for organizational studies that develop under different hues because, through the use of concepts such as: endogeneity (Edelman et al., 2001) and institutionalization (Styhre, 2015), as well as other contributions from (neo)Institutionalism (Selznick, 1996), it is possible that we break with the somewhat ingrained belief, in the more traditional academic circles, around a supposed exogeneity of laws, on the part of organizations and legal systems.

We also emphasize that the value of these studies is based on another intention of equal merit, which rests on the need to realize that many of the supposed rational answers given by organizations and other professionals are structured through rational myths (Suchman and Edelman, 1996), which aim, above all, to confer an aura of legitimacy (Ewick and Silbey, 2002) based on compliance actions (Edelman, 2016), which, in turn, find support in the decisions given by the courts. Therefore, "depicting legal compliance as institutional isomorphism recasts law as a broad cultural framework that influences organizations both mimetically and normatively, not merely through coercive material incentives" (Suchman and Edelman, 1996, p. 920); that is, organizations are also susceptible to the cultural consequences of norms, making their reactions to legal provisions not limited to mere obedience or resistance.

In the same tuning day, it is always salutary to remember that the promotion of readings around certain processes that take place without, in many cases, being correctly analyzed under a look endowed with greater criticism is one of the main functions of researchers, who need to literally dive into deeper waters in search of the answers they really desire. Thus, when adopting an institutionalist perspective, we will seek, as far as possible, to dodge certain mishaps inherent in functionalist logic, which is still excessively based on logic: pressures x responses, such as a linear process and guided by a strong dose of predictability (Suddaby, 2010).

In the same way, we will join a reading that asserts the existence of two environments: the technical and the institutional (Guarido Filho and Machado-Da -Silva, 2001, p. 33), and while the first, governed by the principles of the capitalist economy, and characterized by the promotion of commercial relations, evaluates organizations for their effectiveness (based on criteria of effectiveness and efficiency), the second "is distinguished by the existence of social rules and requirements to which organizations must adapt to become legitimate in their context" (Guarido Filho and Machado-Da-Silva, 2001, p. 37).

In view of these intentions and imbued with the mission of promoting an analysis of Neo-Institutionalism and its implications in the constitution of the legal environment of organizations, this material seeks, at first, to resume a discussion once present in an essay written in the 90's by Philip Selznick, in which the author already argued that a more accurate understanding of the "old" Institutionalism would favor both understanding and applications of Neo Institutionalism (Selznick, 9999). In parallel, throughout this analysis, we will try to demonstrate how disruptive are, in fact, the proposals proposed by the authors entitled neo-institutionalists in favor of the formulation of an epistemology really dissociated from its predecessor, around the constitution of a really new look. After this comparative analysis, the essay promotes a reflection around the constitution of the legal environment of organizations, having as its starting point its impacts in the field of legitimacy from the contributions of canonical authors such as Lauren Edelman (1999, 2016), Sim B Sitkin and Robert J. Bies (2013).

In favor of the above objectives, the material is subdivided into three moments. In the first, we will discuss the importance of the studies that make the institutions, as well as make a distinction between them and the organizations. Next, a comparison between the old and the new Institutionalism will be elaborated, trying to highlight the points of contact between such readings of reality, so that, at the end of the work, we can present some considerations about the contributions of Neo Institutionalism around the constitution of the legal environment of organizations and their links with the notion of legitimacy, because, as Lauren Edelman (2016, p. 31), is strongly tended to imagine laws and organizations as separate spheres, when, for the sake of truth, they are strongly conspicuous and interconnected, constituting a strong symbiosis relationship.

2. Organisations and institutions

Affirming that society is constituted by a number of organizations and institutions, as well as that they develop different forms of interaction, is a statement that is supported in much of the specialized literature. However, when we want to promote a more in-depth study around the institutions, it is up to us, at first, to establish differentiations between them and organizations.

This distinction is somewhat old, since it was already present in leadership in administration (1957), in which, Philip Selznick already postulated that: "as an organization is institutionalized, it tends to assume a special character and to achieve a distinct competence or even, perhaps, a trained or incorporated disability" (Selznick, 1996, p. 271). Therefore, the process of institutionalization benefits organizations with a value (or a quality), the impact of which goes beyond the purely technical/legal requirements and aimed at the operationalization of their activities end. Edelman et al. (1999), when looking at this theme, argue that most organizations see the laws as widely exogenous. However, in practice, we observed the prevalence of endogenous models, given the prevalence of technical mechanisms that are adjusted, taking into account the legal requirements (and not the other way around), in favor of the subsequent convalidation of greater legitimacy.

Selznick (1972, p. 5), by promoting distinctions between organizations and institutions, also argues that the former would be much more of a technical instrument, aimed at mobilizing human energies in favor of achieving an end already established. That is, its constitution, from the beginning, is already based on criteria primarily rational /instrumental, with a view to the execution of a certain objective, task or service, not being for nothing that act basically on its own structure (Lombarts, 2011, p. 63)

The institutions, on the other hand, would be endorsed with greater plasticity and dynamism, being "the natural product of social pressures and needs – an adaptable and receptive organism" (Selznick, 1972, p. 5), only being able to be studied from the rescue of its historical construction and the multiple influences they receive from the social environment. This perspective, it is important to always remember, received a valuable contribution from sociology of knowledge, a school of thought that had been developed, in the 1960s, by Peter Berger and Thomas Luckmann (2014), in view of the advent of Social Constructivism. This sociological aspect had its theoretical starting point in the notion of institution as the final product of institutionalization, defined as the "reciprocal typification of actions accustomed by types of actors" (Berger and Luckmann, 2014[1966], p. 72).

This view is also shared by Richard Scott (1994, p. 68), for whom: institutions could be seen as symbolic and behavior systems, consisting of representative, constitutive and normative rules, as well as regulatory mechanisms that "define a system of common meaning and that give rise to different actors and routines of action", that is, "institutions are multifaceted, durable social structures made up of symbolic elements, social activities, and material resources" (Scott, 2008, p. 48). In this sense, and based on the premise that institutions are "the result of human construction, it can be mentioned that the institutional process is structured and structuring simultaneously, not necessarily rational and objective, but rather the result of interpretations and intersubjectivity" (Guerra &

Ichikawa, 2011, p. 342 griffin ours),which reinforces the relevance of symbolic elements (subjective). Institutions, therefore, would be valuable in themselves, with no need to offer some kind of product, or something like that, which would break with the obligation of a teleological function, while promoting a disruption both symbolic and etymological, since the expression organization in Greek means "tool or instrument" (Morgan, 1996, p. 24).

In the same tuning, Angelina Antoinetta Louise Maria Lombarts (2011) reminds us that institutions would constitute "superorganisatie-structuren" (superoganizational structures) and supraorganizational structures, by nature, because they could bring together more than one organization. Moreover, while the members of an organization dominate the ideas and ways of thinking, in the institutions, those involved internalized the visions, habits and customs of the organization and attributed a certain meaning (symbolic/subjective) and value to the organization (Lombarts, 2011, p. 63). The institutions, therefore, would be coated with a much denser and more intense subjectivity, which would ensure, at least in the case, greater cohesion and, therefore, greater durability of relationships.

In other words, in the institutions relations would prevail based on a greater conviction, while in organizations such relationships would be coated with a more technical/instrumental character. That is, in the institutions there is an internalization of a subjective and symbolic character, which gives another meaning to organizations, causing, over time, a transformation of an organization into an institution can occur. Therefore, through a critical analysis of Angelina Lombarts' notes (2011, p. 63), it would not be wrong to affirm that institutions can be conceived as institutionalized organizations. Berger and Luckmann (2014[1966], p. 109) argue that institutions are also represented by social structures, expressed as a way: linguistic objectifications, physical, natural and artificial objects, reinforce that these representations need to be continuously enlivened to endure and not die. That is, one of the elements of identification of an institutionalization process, which even contributes to its strengthening and subsequent legitimation, are the elements of a symbolic nature (derived from linguistic objectifications – as highlighted by Gilberto Clarício Martinez Guerra and Elisa Yoshie Ichikawa, 2011), whose sharing will lead to an expansion of the sphere of institutionalization, the consequences of which are also felt in the legal environment.

3. Institutional Theory or Institutionalism

In order to understand the characteristics of (Neo)-Institutionalism, first, we must emphasize that, for Selznick (1996, p. 2), "institutional theory investigates the emergence of forms, processes, strategies, distinct perspectives and competencies as they emerge from patterns of interaction and adaptation of the organization". Therefore, Institutional Theory, or Institutionalism, studies political, economic and social changes, while dealing with the interaction between institutions and their respective actors (Lombarts, 2011, p. 62).

In historical terms, we observed that, over time, there was an expansion around the concept of institution (Lombarts, 2011, p. 62), which caused some renowned authors such as: DiMaggio and Powell (1991), Selznick (1996) and Scott (2001) to establish a methodological division, in view of the existence of a *new*/neo *versus an old*/Institutionalism. Even so, it is always important to highlight that such a dichotomy (old x new) around Institutionalism did not occur in an integral and definitive way even because the New Institutionalism, as Lombardy (2011, p. 62), did not promote a complete rupture with its predecessor, because it is still based on readings of the Old Institutionalism (rooted in Political Science, Economics and Sociology), while feeding on the same theoretical-conceptual sources.

3.1. Old Institutionalism

Selznick (1957), as a disciple of Robert Merton (1967, p. 57), who already envisioned organizations as being the result of a "rationally organized social structure", and from the publication of his book Leadership in Administration, is considered as one of the main sources of the entitled Old Institutionalism. In this work, Selznick points out that the organization should be interpreted as being: the "structural expression of rational actions", which take place over time, for chronological reasons, and in the face of other conditions imposed by the environment. Organizations, once subject to pressure stemming from the social environment, are transmuted into adaptive organic systems, and this process results in the substitution of technical factors by values, as elements endowed with strong subjectivity, in the subsequent determination of organizational tasks (Carvalho, Vieira and Lopes, 1999, p. 23).

Selznick, from these premises, can also be seen as one of the first authors to break with the until then current reading that organizations would be mere technical instruments intended to perform specific tasks, conceiving them, on the other hand, as mutant entities, whose changes occur from the various pressures of the environment, so much so that the legal environment itself, as a specificity of the social environment, is also shaped, according to the reading of Edelman et al. (1999), as a way of ensuring legal and market benefits to organizational structures, which pass the action via compliance actions.

Therefore, organizations are entities, in essence, in constant change, and that, over time, can become institutions. Institutionalization, in turn, results in an "infusion of values in the organization beyond the purely technical requirements" (Scott, 1987, p. 494), also responsible for greater stability, and which would not be limited only to the self-preservation of the organization, aiming to generate, in parallel, the maintenance of the so-called institutional integrity (Selznick, 1972, p. 119) and itssubsequent perpetuation. Scott (1987, p. 494) continues his reasoning, highlighting that organizations, once institutionalized, end up acquiring a natural dimension of greater consistency and cohesion, which could not be easily weakened and/or discarded, resulting in the constitution of their own identity, entitled "institutionalized organization", whose purpose also revolves around the establishment of greater security, coherence and stability.

Institutionalism, based on these premises, analyzes the advent of integrated, ordered and stable social patterns based on "instable, precariously organized and strictly technical activities" (Selznick, 1996, p. 271). Institutionalization, therefore, brings with it greater predictability, whose foundations lie, in parallel, in the structuring of a normative framework, focused, in parallel to achieving a more robust legitimacy (as it will become clearer in chapter 3).

Selznick also approaches organizations as units of analysis and, even not denying the relevance of other aspects inherent to the institutionalization process, such as the creation of a formal structure and/or the emergence of specific norms and codes, stresses that, from the idea of responsiveness, practices are changed or abandoned by the organization in response to new circumstances or demands; which reinforces the links established with the environment. Therefore, thinking of organizations as decoupled entities from the environment, according to this reading, would no longer be a viable or plausible option.

Finally, even in the face of several advances in the field of organizational studies, it is always salutary to remember that the old Institutionalism, when turning its gaze more intensely to the individual/personal field, would be endowed with a less plastic and more deterministic reading of reality, since, according to what is exposed by many authors affiliated to the former Institutionalism, habits, history and moral obligations determine individual behavior, making the action performed by the various actors not only influenced, but imposed ahocd hoc , by the institutions.

Institutions, following this reasoning, are seen as formal and dominant structures that impose restrictions and obligations on their actors (Lombarts, 2011, p. 63), which are relieved of the possibility of imposing their will or, at least, of constituting protection mechanisms, or at least defense, in favor of an opposition to such a scenario. Therefore, the old Institutionalism ─ while at the same time that it would have promoted significant advances with regard, for example, to organizational plasticity ─ would tend to adopt a more restrictive and conservative reading in the individual field, while devoting less attention to personal freedom to the detriment of vertical impositions from institutions.

3.2. The New Institutionalism

If, in the previous subchapter, we try to present some founding characteristics of the so -called Old Institutionalism, as well as its main contributions to organizational studies, our intention, in this second moment, stems from the need to demonstrate the most striking traits as well as the advances promoted by the entitled Novo Institucionalismo. For this and as a way to make our exhibition clearer, it is important that we make a brief historical analysis, even as a way of situating the various authors in chronological terms.

Walter Powell begins his essay entitled The New Institutionalism,noting that: approximately forty years ago, the first neo-institutionalist arguments were composed of authors such as: John Meyer and colleagues such as Brian Rowan and Lynne Zucker in 1977; as well as by Richard Scott in 1983, and this new methodological orientation proposed that the formal organizational structure reflected not only the demands and technical resources, being in parallel shaped by institutional forces, which would be constituted: by rational myths, by knowledge duly legitimized by the educational system, by the values and practices inherent to the various professions, by the power of public opinion and, finally, by the force of the law/legal-coercive act (Powell and Colyvas, 2008, p. 977).

The new Institutionalism, according to the reading of March and Olsen (1984), could also be seen as a reaction to the behavioral and rational revolution that began to take place in the fifties of the last century, and whose consequences were felt in different spheres. Lombarts (2011, p. 63), following an analogous path, points out that the behavioral revolution put an end to the view that individual behavior would always be predictable, at the same time that the rational revolution broke with the idea that the choices made by people, as well as by organizations, are made for purely logical-rational reasons and/or by decisions, from the beginning, well planned and executed.

Thus, the so -calledrational revolution (Powell and Colyvas, 2008)sought to demonstrate that the choices made by individuals do not followmerely logical-rational parameters (rational choice),which would put in check, for example, the belief that institutions would have a determining character in individual behavior, while dehydrating an inheritance derived from Western Modernity, around the supposed predictability and subsequent control of human actions, as if the human species had already completely and successfully domesticated all its unconscious impulses and/or acted independently of its primitive biological device.

The New Institutionalism, in the eyes of Selznick (1996), is based on a rejection of models of merely rational actors while proposing a turn: a cognitive turn, valuing sociocultural explanations and particular interests in supraindividual issues, conferring greater subjectivity and inaccuracy to the analyses promoted by the actors. What we observe in this process is that ancient Enlightenment beliefs are giving way to a more assertive reading of the facts, in the face of the promotion of a less idealistic understanding of human nature.

In the words of Selznick (1996, p.273), the formal structure of organizations "cannot be understood as a rational system of coordinated activities, nor can it be considered by a logic of transaction costs", even because they will always be constituted by people. The organization, in this perspective, could be conceived as always being a human product, an organized anarchy, understood as a coalition permeated by multiple sociocultural factors, which cannot be parameterized only by logical-rational criteria, constituting, in the words of Vieira and Carvalho (2003, p. 13), an organizational non-rationality.

The lack of a supposed rationality capable of understanding all processes could be glimpsed, according to the understanding of Vieira and Carvalho (2003, p. 13), in the very formal structure of organizations, one being: "product of human construction and the result of actions proposed by individuals instrumentally guided by the institutional forces themselves interpreted, suggesting, therefore, a structured and at the same time structuring process , which is not necessarily rational and objective, but the result of interpretations and subjectivities." At this point, the very structuring of organizations does not originate from fully predictable criteria, since subjective bias always prevails.

Selznick himself (1996, p. 275), in valuing the contributions from neo-institutionalist authors, also points out that large organizations can be understood as "a coalition, governed by multiple rationalities and negotiated authority, rather than a unified coordination system". In other words, seeing organizations, as well as institutions, as if they were large hives, in which their members always acted according to the previously institutionalized normative booklet is something that should always be questioned.

Alketa Peci (2006, p. 3), echoing the propositions highlighted above and highlighting the advent of New Institutionalism, points out that the social constructivism influence adopted as: "official perspective of the new Institutionalism" would be the most striking and distinctive trait in relation to its predecessor. Peci (2006, p. 4), in justifying his point of view, points out that while traditional currents, affiliated with the Old Institutionalism, "took individual organizations as the object of study and considered the environment as a background, the new institutional approach understands individual organizations as a consequence of this environment", which also comes to rely on symbolic elements, thus breaking with the once existing tradition that environments, from a rational/objective perspective, would be constituted only by elements endowed with greater tangibility — such as material and economic/financial resources (capital) — while conferring secondary importance to their actors.

Finally, Neo Institutionalism, according to Powell's reading (2007) and as will be demonstrated below, part of the premise that there is no way to dissociate organizations from the political-legal environment, so that: the central idea that organizations are deeply rooted in social and political environments suggests that organizational practices and structures are often reflections, or even responses to rules, beliefs and conventions legally incorporated into a broader and more complex environment (Powell & Colyvas, 2008, p. 976).

4. The New Institutionalism and its consequences in the legal environment

When we think about the legal environment, it is *important, a priori,* that we are aware that this, at least in theoretical terms and, especially, from the consolidation of modernity in Western society, began to have a strong link with the notion of Legitimacy, a value that is constantly desired by organizations, as we have addressed in previous chapters.

In addressing this issue, Professors Sim B Sitkin, and Robert J. Bies (2013, p. 3) point out, for example, that the process of infusing norms to a certain organization permeates what *they call legalization,* which can be conceived as: "a process that encompasses the dissemination of legalistic reasoning as a means of sustaining, maintaining or improving the legitimacy of an organization". Sitkin and Bies (2013) continue their reasoning stating that the organization's obedience to legal dictates confers a scope of legitimacy to organizational action, including with regard to its social aspect. Meyer and Rowan (1977, p. 340), in the same sense, highlight that organizations, by incorporating in their formal structures the socially legitimized elements, as with the laws, are able to guarantee their action around collectively important objectives, which enables an increase in their legitimacy and their "survival perspectives, regardless of the immediate effectiveness of the practices and procedures acquired".

Moreover, the adoption of a legalistic stance should be seen not only as a way of coating organizations with an *aura of legitimacy,* but also has a much more pragmatic purpose, because legal obedience also avoids possible future legal sanctions, which could result, for example, in fines or other modalities of pecuniary penalties. This time, organizational practices based on a normative scope imply benefits that go beyond a bias merely linked to the notion of *compliance.*

After these first observations, it is also important to mention that, when we examine, more carefully, the *question of legitimacy per se,* from the outset, it is important to emphasize that it is a very relevant theme, "but also complex and difficult" (FRIEDMAN, 2016, p. 188), even because there is no semantic consensus among all authors who deal with this theme, much less around what would be the real guarantor elements of its existence. That is, legitimacy, by way of illustration, is not automatically recognized when an organization follows all legal dictates.

And, in the most specific case of organizational studies, legitimacy can be conceived as an imperative that is both a source of inertia and something to justify particular forms and practices, making, for example, that if social needs are correctly met, the absence of efficiency, in processes and/or in the result, does not automatically delegitimize such processes. In the words of Di Maggio and Powell (1991), since the needs of society are well met, an institution may not even be fully efficient (from a technical point of view), but, even so, it will continue to exist because it is legitimized by the collective, as we observe in organizations that return to the fulfillment of a given collective interest.

4.1 The question of Legitimacy x Legality under the institutional approach

As a way of enabling, under the institutional approach, a more accurate and accurate analysis of the expression legitimacy, as well as their respective developments in the legal environment, the authors Guarido Filho *et al.* (2018, p. 1) state that, "from a philosophical perspective, legitimacy is related to the justification of a particular institutional order (for example of a legal or political system), while from a sociological or psychological point of view, it refers to the prevalence of attitudes of trust and the technical dispositions of obedience in relation to a social order".

Already, from the Weberian perspective, a certain social order is conceived as legitimate when admitted as fully valid. Weber, according to Friedman's reading (2016, p. 192), associates the concept of legitimacy (as well as authority), from the Enlightenment (Modernity), to criteria based on rationality (bureaucratic-legal model). However, as a way to give a greater density to this study, Weber elaborates a model based on its three ideal types of domination.

From the reading of contributions of Weber, we emphasize that the bureaucratic-legal-rational modality is undoubtedly the main source of domination (legitimate authority) in the modern world, although the other two types have not been extinct in any way. For Luhmann *(apud* Friedman, 2016), rational legitimacy produces an appreciation around respect for rules, norms, and laws (legal environment), not because of their content or because of the personality of legislators, but because of the way these rules, norms or laws arose: via democratic elections, or through a legal process ordered or even by a majority of votes (democracy).

By referring to legitimate authority, and following in Friedman's footsteps (2016), we highlight that, in society, it is linked to the social role that people play before others. As an example, we can mention that mothers and fathers have authority over their children, teachers have authority in the classroom, judges have authority in the courtroom, police have authority on the streets. However, it is also important to stress that authority, like legitimacy, is socially constructed. This, at certain historical moments and in certain places, becomes more or less intense, more or less powerful and is also subject to decay/disappear. Thus, the authority that parents have today in front of their children is very different from that observed in the past, the same is true for teachers in front of their students.

4.2 The contributions of Neo Institutionalism to the Constitution of the Legal Environment of Organizations

After we make some considerations about the concept of Legitimacy and how much it is imbricated to that of Legality, our next step is to analyze them from the neo-institutionalist perspective. Thus, and in order to understand the contributions of Neo Institucionalism to studies that support the legal environment, it is primarily up to us to emphasize that the process of institutionalization, in the eyes of authors such as Machado-da-Silva *et al.* (2003), would be constituted by steps, from which, usual actions are converted into standards, which are transmitted over time and generations, causing, at the end of this journey, this habit to gain a normative character. Thus, "the creation of a set of shared beliefs and knowledge originates a socially constructed, institutionalized and legitimized reality before society" (Guarido Filho and Costa, 2003, p. 25).

Institutionalization would consist, therefore, of: "a process conditioned by the logic of conformity to socially accepted norms, as well as by the incorporation of a knowledge system constructed throughout social interaction, which constitute parameters for the conception of reality of social actors, thus defining their way of acting" (Machado-Da-Silva, 2003, p.183). The institutions, from this perspective and aiming at gaining legitimacy and social acceptance, adapt their actions and legal structures to environmental values, as well as to socially correct concepts, which would cover the consequences in the legal environment, even because their growing interactivity *(toenemende interactie* - Lombarts, 2011, p. 60)

When we think about the legal environment, we cannot be able to profit from pointing out that a reading based on Neo Institutionalism also allows us to know the gears of the institutionalization process, either with regard to its architecture (design), or with regard to its subsequent implementation and future implementation (Lombarts, 2011, p. 60), which becomes even more relevant in the normative field of , given the immediate non-applicability of the norms, as we once emphasized.

Following Selznick's reading (1996), the new Institutionalism would have as one of its focuses the institutional legitimacy, conceived as a driving source of organizational actors, since through that an organization can become an institution, which would guarantee its legitimacy before society and ensure its permanence/ perpetuation in the environment in which it is inserted. Such a process of legitimation can be further improved if an organization is molded from its own (endogenous) normative framework, capable of conferring greater predictability and, consequently, greater security.

In this sense, Selznick, in turning his gaze to the legal environment and according to the understanding of Ewick and Silbey (2002, p. 149), describes legality as being an ideal, although an *imperfectly institutionalized* ideal, in view of the limitations inherent to arbitrariness both in norms and behaviors. At this point, Selznick contradicting the thought woven by many more conservative jurisprudential thinkers is supportive of the thesis that legality is a concept empirically derived *from variable instantiation,* so that not even laws have immediate applicability.

Moreover, and as Edelman (1999, p. 409) had already demonstrated, we reinforce that legal provisions are not *self-binding (applicable per se).* For, as Fonseca (2004, p. 258) asserts, "the idea of a powerful, powerful right that had the ability to understand everything that occurred in society is, as we know, an invention of the legal Enlightenment". That is, when a new rule is announced, the subjects who will subsequently be covered (and who must therefore submit to it) end up determining, at a subsequent time, both the form in which *compliance will be constituted,* as well as what actions will be performed to demonstrate this compliance. Thus, this process of, so *to speak, legal decanting, enthused* by Edelman, reinforces the immediate non-applicability of normative devices, as well as the gradual construction of the subsequent notion of legitimacy.

And, as we observed in the case of private organizations, DiMaggio and Powell (1983, p. 1991) also observe an analogous process in the state sphere, in which organizational structures and processes aimed at reducing uncertainty and ambiguity – and shaped by specific laws – are taking place with increasing intensity in government, actions that also aim to ensure an expansion of levels of legitimacy. In the eyes of Lombarts (2011, p. 65), the adoption of such a stance by the Public Administration, around a *mirroring* of the actions put in place in private organizations, aim to generate proposals that, even when they are not fully capable of generating the expected results, return, at least, to the reduction of uncertainties, as well as greater security and predictability.

Moreover, although "law is a social institution composed of and through organizations", we must point out that "law and organizations as overlapping social fields" (Edelman, 1999, p. 22), nominated organizational field and legal field and that *have different logics.* For, while the former, in addition to being the most relevant for organizations, encompasses suppliers, customers and suppliers, the second encompasses courts and other administrative bodies (including the various actors that constitute them as lawyers, judges, and other employees).

This finding would also result in the existing dichotomy between the **legal logic** (authority/law empire) and organizational logic (based on business rationality and market efficiency), and the overlap of such logics would result in the legalization of organizations, given the infusion of ideas and legal structures about the organization (Edelman, 1999, p. 23). Thus, according to Edelman *et al.* (1999), when we try to understand the way in which organizations respond to the law, as an adaptive process before the legal environment, we are faced with two important analytical structures focused on this intent. The first, entitled *market approach,* which emphasizes rational adaptation to a set of conditions arising from the foreign market; and the second, called the **institutional approach,** which emphasizes normative clues (trajectories) that emanated from the environment of organizations. Edelman *et al.* (1999) suggest that such apparently opposite explanations are, to some extent, complementary, which reinforces the idea of the endogeneity of the law over time (a concept that finds support in neo-institutionalist propositions).

In line with the above, Sitkin and Bies (2013, p. 5) ─ calling for the Selznick discussion (1969, p. 8), for whom legalizing an institution consists, in essence, of infusing "its mode of governance with the aspirations and restrictions legal order" ─ wonder about the real motivation that leads many companies to adopt a posture more focused on *the principles of compliance,* because what is observed, in practice, it is the incorporation of a large number of practices with the greater objective of dodging some future punishment and/or with the intention (even if veiled) that obtain an increase in terms of credibility, as well as a more favorable positioning before the *various stakeholders*.

5. Final Considerations

In establishing the main distinctions between *the old* and the *new* Institutionalism, it is important to mention that, even in the face of the numerous and undeniable similitudes, while the former would have a more idealistic bias (still guided by many premises derived from Western Modernity itself), because it envisions organizations as entities guided by the coherence and rationality of its actors, as well as sees with fear any mode of change (valorization of stability); the second tends to give greater attention to value aspects, endowed with greater subjectivity on the part of its actors, resulting from the notion that organizations would be the result *of much more organized anarchy* (Selznick, 1996, p. 275), because they would be devoid of a cohesive and unified system of coordination, consisting of multiple rationalities and negotiated authorities. Neo-Institutionalism would also have a broader look, which gives greater attention to the extramural reality of organizations, even because organizational legitimacy itself, in line with the writings of Berger and Luckmann (1957), also needs to be linked to the external environment, see the importance of the legal environment for such intent.

Thus, when analyzing the contributions of the New Institutionalism, endowed with a greater sociological sensitivity to organizational studies, we must pay special attention to the concept of organizational legitimacy, which can be conceived as an imperative that is both a source of inertia and something to justify particular forms and practices. The search for this legitimacy (both internal and external) has a strong relationship with the legal environment, since the construction of an *aura of legality* ends up being one of the most relevant objectives for most organizations.

In highlighting the contributions of Neo Institutionalism, it is also important to emphasize that, while market approaches emphasize *the organizational agency* and generally support that economic markets reward efficiency and rationality in the organizational structure, as well as that, from organizational market behaviors, *normative devices tend* to be characterized as impediments/barriers to market efficiency; (neo)institutional theories, on the other hand, challenge the notion of a supposed objective rationality, arguing that even the concept of rationality and, consequently, the very notion of legitimacy, are socially constructed by factors such as widely accepted norms and patterns of behavior. In the words of Edelman *et al.* (1999 p. 419), while market approaches "tend to assume that efficiency is objectively known and, to a large ly, a product of market conditions", and can be parameterized, in large part, by quantitative criteria, institutional approaches are more favorable to their observance as a sociocultural and subjective construction, which would give it a more plastic and dynamic.

Authors such as Lauren Edelman, in giving a more assertive reading of organizational reality, still affirm that neo institutional readings maintain that organizational behavior is largely structured from "rational myths", or also by belief systems, which incorporate stories about "cause and effect" and successful solutions to problems, and that they are reproduced as if they *were models of success.* These belief systems seem rational in that they specify the form/model that organizations must implement to be efficient, even though they are, in essence, myths, because their effectiveness is linked to the fact that they are widely shared rather than inherently effective. Finally, we also reinforce that the organizational logic, by shaping the legal logic, constituted a normative framework that ─ while ensuring greater long-term survival of organizations ─ does not allow them to develop actions contrary to the current order (which could lead to fines and/or other financial penalties), as well as promote substantial gains in terms of legitimacy and reputation, more than *desirable objectives* of compliance practices. That is, such a process is the result of much more of a thought-out choice than just by an imposition of the legal environment.

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