

# The Relevance of Rules to a Critical Social Science

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The aim of this article is to argue for a conception of critical social science based on the model of constitutive rules. The author argues that this model is pragmatically superior to those models that employ notions like “illusion” and “ideology,” as it does not demand a specification of the “real (but hidden) interests” of social actors.

**Keywords:** *constitutive rules; critical theory; ideology; recommendations; social facts*

## I. SOME INTRODUCTORY REMARKS

Consider the following two theses about social phenomena:

*Thesis 1:* Social phenomena are constituted by the intersubjective understanding social actors have of them.

*Thesis 2:* Social actors sometimes suffer pervasive misunderstandings of the meanings of social phenomena.<sup>1</sup>

On the face of it, these two theses are incompatible. It is a commitment to both of the above theses, however, which marks the domain of (many brands of) classical critical theory.<sup>2</sup> Typically tactics for mak-

1. These two theses should be seen as rough initial approximations. Obviously, there are many versions of each thesis. I will have much to say about each thesis as the article progresses.

2. I will refer to “critical theory” in what follows in a rather loose way. I have in mind the Marxist tradition of critical theory, though even this is speaking too broadly. There is no “critical theory”—there are only critical theories. I will be using this term to refer to theories that recognize social reality as the product of human subjectivity and

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*Received 29 September 2003*

I would like to thank Richard Bradley, J. McKenzie Alexander, and Joshua Rust for helpful comments on and criticisms of various ancestor versions of this article.

*Philosophy of the Social Sciences*, Vol. 35 No. 4, December 2005 391-419

DOI: 10.1177/0048393105280831

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ing these two theses compatible involve the recognition that our constitutive understandings of some social phenomenon are historical in nature: we have an understanding of *x* that becomes “frozen” historically. This initial (constitutive) understanding fails to acknowledge the eventual contradictions the initial understanding produces. The social phenomenon progresses, in short, beyond our understanding of it. This story is coupled with the claim that, while Thesis 1 is true, it needs to be supplemented with moderation: social phenomena are rarely constituted *entirely* by the understanding social actors have of them.<sup>3</sup>

It is certainly possible to get beyond this *prima facie* tension between Thesis 1 and Thesis 2. The reconciliation of these two theses, however, comes at a price. In what follows, I will argue that the price we pay is too great and that there are good pragmatic reasons for adopting a significantly different picture of a critical social science—one that does not bank on the postulation of the *real* (but hidden) interests of human agents. After considering some of the problems arising for traditional critical theory, I will offer an alternative model for carrying out a critical social science—a model that expands on the use of constitutive rules in the explication of social objects and activities.

My aim in offering this alternative is twofold. First, I want to preserve the crucial insight of critical theorists—namely, that social science should have a critical element. Second, I want to offer an account of the *function* of the notion of “illusion” that does it justice but that also shows that while useful, it is not essential to a critical enterprise.

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regard a critical social science as aiming to spell out the ways in which our everyday understanding of social reality prevents the actualization of human freedom. Theorists in the Marxist tradition clearly fit this mold, as does Charles Taylor (1985a, 1985b). Habermas’s position in *Knowledge and Human Interests* (1971) is a nice exemplification of the sort of view I have in mind.

3. The adverb does most of the work here. Few would claim that only understanding is constitutive of social objects (or activities). As we will see, even the constitutive rule approach to social phenomena acknowledges that social facts depend on nonsocial ones. The point above, however, is that there are *substantive* constitutive elements of social objects and activities other than the intersubjective understanding of the agents. Examples of such constitutive elements might involve determining economic forces, implicit meanings of some sort, or qualities promoting myopia and complacency (i.e., qualities promoting, e.g., meme stability).

## II. CONSTITUTIVE RULES AND SOCIAL ONTOLOGY

In *The Construction of Social Reality*, John Searle (1995) develops a useful model for explicating social phenomena. According to Searle, institutional facts (such as the existence of currency) have the logical structure of constitutive rules: that is, they can be articulated in the form “x counts as y in context c.” In this formulation, the x term picks out some object or range of behavior (a piece of paper, placing paper in a box) that has been given a particular status as a y term (a ballot, the act of voting). The relationship between the x and y terms represents the collective imposition of a status function on the x term (*x counts as y*). X is said to count as y when the appropriate contextual conditions are met (the ballot was not handmade, one is at a designated voting venue, one is eligible to vote, and so on)—in short, in context C.

For Searle, the collective imposition of a status function on a brute x accounts for the *reality* of the y term. The x is necessary but not sufficient for a rule of the social world. It is only after a “counting as” relation is imposed on the x term that a social phenomenon emerges. It is this that allows Searle to speak of the epistemological objectivity and ontological subjectivity of social facts: we can make objective claims about social reality because of the objective status functions we have imposed on brute x terms (hence, we have epistemological objectivity), but *there would be no social facts* if human beings had not collectively imposed these status functions (hence, we have ontological subjectivity).

Thus, social facts are the product of collective intentionality—a social fact *consists in* the collective recognition that some x (object or range of behavior) counts as some y in context c.<sup>4</sup> Searle’s social ontology is thus an endorsement of Thesis 1.<sup>5</sup>

4. The term “recognition” is here one of convenience. The claim that “x counts as y” does not require the conscious awareness (let alone the conscious assent) of social actors. If the existence of social facts required a constant awareness that we were imposing status functions on x terms, we would not have a very robust social reality at all—we would simply be too busy being aware of imposing status functions! It is this that lurks behind Searle’s (otherwise peculiar) claim that he is not engaged in phenomenology but logical analysis. See “Neither Phenomenological Description Nor Rational Reconstruction” (available on Searle’s Web site at the University of California, Berkeley, <http://ist-socrates.berkeley.edu/~jsearle/articles.html>).

5. This *does not* entail that Searle advocates an “idealist” position in social ontology. A social fact consists in the imposition of a status function on an x—and this entails that *we could not have* social facts if we did not have an x. Social facts (on Searle’s view) thus

If this is right—if social objects are constituted by the collective imposition of status functions on brute  $x$  terms—it looks like a “counting as” relation, in Searle’s sense, could not be illusory in the sense advocated by (many) critical theorists. In other words, it looks as though adopting Searle’s version of Thesis 1 requires rejecting Thesis 2.<sup>6</sup> This requires some philosophical unpacking.

Any theory aiming at excavating the structure of social facts must allow room for the possibility of error on the part of social actors. The inability to provide such room is precisely the problem with subjectivist accounts of social reality: we can make mistakes about what things will count as money, football, voting, marriage, and so forth, and our mistakes are correctable in light of social reality. The model of constitutive rules can accomplish this task with relative ease.<sup>7</sup> People sometimes make mistakes about the scope of a “counting as” relation, or about the context that allows an  $x$  to count as a  $y$ , or about what cases will fall under any given  $y$ . I might think that a counterfeit bill counts as money, that a second ballot is a legitimate vote, or that entering the end zone after the whistle still counts as a touchdown in a game of football. In each case, the error I am making can be spelled out in terms of those rules that constitute the practices (or games) in question: to be money *means* to be made by a particular institution, in a particular way; the right to vote *is only* the right to vote *once*; something can count as a touchdown *only* when the game is being played.

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depend on nonsocial facts—but this logical dependence does *not* amount to the claim that a social fact *includes* that upon which it depends. Calling a piece of paper “money” depends on the existence of the piece of paper. It does not follow from this that the social reality of money includes the brute material out of which it is made. (If it did, the distinction between brute and institutional reality would be meaningless.)

6. It should be remembered that a commitment to Thesis 1 need not entail that all of the explanatorily relevant features of a social object or activity are transparent to social actors. There is certainly much about social reality that is not in plain view (e.g., there might be historical or economic laws governing some actions that are not transparent to social actors—certain economic laws seem to be a case in point). Claiming that there are explanatorily relevant (and unknown) features relating to social objects, however, is *not* to say that social objects are *not* constituted by our understanding of these objects. It is to say that our investigation of these objects and activities might well lead us *beyond* that which constitutes them.

7. I am leaving untouched the question of how we can assess whether a particular constitutive rule adequately captures an institutional fact. My interest here is only in how the model of rules can deal with cases of agents who fail to see a particular (actual) “counting as” relation.

The understanding of an individual can be assessed in terms of its coherence with the understanding of other social actors engaged in the same activity or institution. Insofar as an individual actor *fails* to share the understanding of other actors, he can be said to fail to participate in the social activities in question.

The situation changes, however, when we attempt to understand the notion of widespread or pervasive error. Consider, once again, the following example: this piece of green paper (x) counts as money (y) in context c. X can count as money precisely because of our intersubjective agreement concerning the status of x in c. While I might make a mistake about whether or not the “counting as” relation applies in some particular case (when I unknowingly possess a counterfeit bill, for example), it is hard to see how we might maintain both (1) that the existence of money is epistemologically objective and ontologically subjective (i.e., constituted by our intersubjective agreement about the status of x in c) and (2) that we are pervasively mistaken about the meaning of money.

If money is what it is in virtue of our collective understanding of it, then a pervasive misunderstanding of money would amount to the claim that money (as it is understood) does not exist. But this would mean that (1) is false. If we proclaim our allegiance to (2), in short, it seems that we must abandon (1). It cannot be the case both that money is what it is in virtue of the way we collectively understand it *and* that we are systematically mistaken about money.

It is precisely this tension that exists between Thesis 1 and Thesis 2. For the sake of convenience, I will dub the widespread or pervasive error about some social fact “illusion.” If we accept the model of constitutive rules for explicating social phenomena, illusion poses a difficulty for the model. If y *just is* our understanding of x (as [1] claims), then *there could be no y without our understanding of it*: an essential feature of any social object is that we understand the social object as we do. It is what it is because of our understanding of it. To say that our understanding of a social object is illusory (it seems) is to say that there is no such social object—that the constitutive understanding we have is bunk and, hence, that this understanding is inadequate to a social ontology.

The situation, then, seems to be this: if we accept the view that there can be illusory understandings in any robust sense, we must also accept the view that a social ontology based on the constitutive understandings of x terms (or, as Searle would have it, on the

collective impositions of status functions) is inadequate.<sup>8</sup> On the other hand, if we are convinced that the model of constitutive rules *does* capture social phenomena, we might well be forced to dispense with the notion of “illusion” altogether.

### III. THE SIGNIFICANCE OF ILLUSION: THE “SUCCESS TERM” APPROACH

*III. 1.* As fans of critical theory are quick to point out, it is immensely useful to employ the concepts of ideology and illusion. The usefulness of these terms I will not contest—they do seem to capture something about the way social actors are sometimes duped by an institutional reality that could not exist without them. Nevertheless, I think that the *status* of claims about illusion and ideology has been widely misunderstood by Marxists and non-Marxists alike. In what follows, I will present an account of the significance of these watchwords in terms of their use.

To facilitate entry into this discussion, I will rely on Comstock’s (2001) well-known article on the aims and method of a critical theory. What I hope to show (or, at any rate, to make plausible) is the claim that the essential *aim* of a critical social science need not employ the notions of illusion and ideology—that these words, as they stand, are simply *success* terms, that is, they are employed whenever something goes right or when an area of social life that could use improvement is spotted. By reading the notion of “illusion” in this way, we can embrace the view that social reality is constituted by our shared understanding of social objects and institutions, while also leaving room for a critical element in social science.

Critical theory draws on both hermeneutics and naturalism, we are told, while also adding its own uniquely necessary element. As Comstock (2001, 630) puts it, “Critical social science is distinguished by its interest in the emancipation of those groups and classes that are

8. I have no doubt that those committed to Marxist philosophical anthropology will not accept my reading of illusion and ideology. This is precisely because I will not employ Marxist theory to determine the meanings of these terms. There will be no reference to economic substructure, no appeal to the mechanism of capitalism or to the forms of alienation that come to dominate life in an economy built around private property. Nevertheless, I think the crucial insights of the *humanist* Marx can be maintained in the approach I am here advocating. If doing away with the metaphysics facilitates this, then so much the worse for the metaphysics.

presently dominated." The measure of success in critical theory lies in its ability to transform our lives for the better—to get us beyond alienation and illusion—to help us approach higher and higher levels of enlightened autonomy. It is "a science of *praxis* in which action serves as both the source and the validation of its theories" (p. 630).

A critical theory proceeds step-wise—first diagnosing an ideology-ridden area, then intervening in this area to effect what Comstock (2001) calls "de-alienation."<sup>9</sup> If we want verification that an ideology has been obliterated (and hence that there was ideology to begin with), we must examine the actions of the agents who have been affected by the progress of the critical social science. When we pose the epistemological question to the critical theorist, "How do we know what's ideology and what isn't?" the answer, it seems, lies in the practical results of critical social scientific inquiry. As Comstock puts it, "The criterion for the truth of critical theorems is the response of the theory's subjects" (p. 630).

This manner of theory validation, familiar from the clinical data of psychoanalysts, is not by itself objectionable. One way of determining whether a cure worked is by noticing its results. While this certainly does not yield certainty concerning the method of cure, it does suggest that *something* went right in dealing with the illness.

But this process is not so obviously applicable when dealing with illusion. In the case of treating illness, we can simply observe that the symptoms of the illness are no longer present. The question of whether a *new* illness has simply taken the place of the old one need not arise.<sup>10</sup> This is not the situation when dealing with illusion and ideology. What sort of action constitutes "de-ideologized" action? The self-reports of the subjects are certainly inadequate for determining whether they are the victims of ideology, as such self-reports are often ideology-laden. Comstock (2001) takes it for granted that recognizing the removal of ideology is possible, and this because critical social science's "method of investigation and validation is based on *dialogue* with its subjects" (p. 631).<sup>11</sup>

9. Comstock lists seven steps in this process. The details are unimportant here.

10. In psychoanalysis, transference is a constant danger. The analyst is supposed to be mindful that he does not take the place of the analysand's authority figure. The attention given to transference attests to Freud's methodological self-awareness: if the analyst replaces the father, the analysis has only succeeded in replacing the old illness with a new one.

11. It was precisely the dialogical aspect of psychoanalysis that separated it from earlier attempts at therapy. For an extended discussion of this, see Wisniewski (2003).

Critical social science thus resembles psychoanalysis in both method and validation: the method is hermeneutic, the aim is emancipatory, and the proof is in the proverbial pudding. Insofar as agents end up with an improved life, we can claim that they have been “de-ideologized.”

The temptation to employ Ockham’s razor at this point is significant. If we have managed to improve the patient’s/social actor’s life (on some criterion), why bother to speak of illusion and ideology at all? A better life does not show someone has overcome an illusion—it shows that he or she is living a better life, perhaps opting for a different set of illusions or none at all.<sup>12</sup>

The problem here is as follows: without presupposing that there are illusions of a pervasive sort, we never have decisive reasons for ascribing illusions to groups of persons. Any validation of the view that such illusions exist will rely on the results of some course of action—but the course of action in question might just as easily be described as *replacing* the initial illusions with new ones—and where it is impossible to distinguish right and wrong, we should give up speaking of right at all.<sup>13</sup> If we want to give up the notion of illusion altogether, we can just as easily describe a resultant change in an agent’s understanding in terms of a gestalt switch—one that proves either helpful or unhelpful given the agent’s purposes.<sup>14</sup>

Of course, it might be objected that we have here given up any claims to objectivity. If we do not appeal to ideology and illusion, in virtue of what can we claim that one understanding is better than another? This sort of objection is as old as philosophy itself. I do not find it particularly salient but nonetheless feel obligated to respond to it. Two things are worthy of noticing here.

First, we should notice that (on the model given above) critical theorists have *already* given up objectivity. There is no way to say *definitively* whether we have removed ideology and illusion from

12. One response might be to claim that a better life *just* is a life without pervasive illusion—but this response begs the question. Moreover, it reduces a substantial claim (viz. that a life without ideology is preferable) to a tautological one.

13. The reference is, of course, to Wittgenstein’s *Philosophical Investigations* (1954).

14. Thus, we *can* speak of right and wrong, but we cannot speak of this in terms of some grandiose theory of human nature, or economic substructure, or whatever. The same move is sometimes made on behalf of psychoanalysis: the clinical results tell us something is going right, but this need not commit us to Freud’s (rather outlandish) metapsychology.

some group of social actors.<sup>15</sup> To say that the proof is definitive is to affirm the consequent; to acknowledge that it is not is to admit that the notion of ideology might well be dispensable.

Second, we should notice that the absence of *one* correct understanding of, say, our social existence (where all departures can be regarded as degrees of ideology and illusion) need not commit us to the view that any understanding is as good as any other. This is a point that should now be familiar: critical research can effect changes in the self-understanding of agents, and we can call such changes beneficial insofar as they allow us to deal with problems that have emerged in our sociohistorical position. A shift in the terms in which we understand ourselves, however, need not entail that we were suffering from illusion while employing the terms of an older vocabulary. All that we might claim is that the shift enabled us to understand things in a way we could not understand them before—and that this new understanding enables us to deal with problems that were unanswerable given the previous understanding.<sup>16</sup>

The terms “ideology” and “illusion” manage to capture some such improvement. To claim that a group of social actors were suffering under an illusion is to claim that their situation has improved. To claim that a group of social actors still labor in false consciousness is to claim that their situation *can* improve.<sup>17</sup> We can acknowledge the function these terms play as success terms without committing ourselves to lofty theories of false consciousness, dialectical materialism, and the like. Critical theory need not say “You suffer an illusion spawned from a frozen understanding generated by capitalism” (as Comstock would have it) to be appropriately *critical*. One can just as easily say “You wouldn’t have these problems if you didn’t understand x in that manner.”

15. This is a problem even on Habermas’s model of communicative rationality, for agreement among participants does not yet exclude the possibility of pervasive illusion. I am not here claiming that Habermas does not have an apparatus for dealing with this (Habermas has an apparatus for everything); I am merely pointing out that the problem applies to many models of critical social science.

16. This is the story Kuhn tells in *The Structure of Scientific Revolutions* (1962): we can speak of progress, he tells us, because we can solve puzzles we could not solve before. It makes no difference that there are other puzzles we can no longer solve—or even represent as problems—because we are no longer interested in *those ones*.

17. It should be remembered that “improvement” in these pages must be understood as a contextual notion—as “improvement given values x and y.”

Deciding which of these will be the appropriate way to express criticism is certainly a complicated matter. Two initial (and I think decisive) reasons for opting for the latter mode of expression are the following: First, claiming that a revision in our understanding of some *x* will improve social conditions is not predicated on any substantive theoretical commitments (as talk of “ideology” generally is). Second, and more important, adopting the latter manner of expression eliminates the tension between critique and Thesis 1. In this respect, it preserves the critical element of a critical social science while also maintaining that our understanding of social objects and institutions are *constitutive of* these objects and institutions.

Of course, those committed to ideology and illusion as useful notions for critical social science have several avenues of response open to them, even if we grant the force of both of the above considerations. Three of these avenues are worth mentioning explicitly. First, one can simply confess to being a devoted Marxist. The machinery of Marxism, one might claim, is *not* burdensome, and this because the truth never is. I am in no position to dismiss Marxist theory at present. I will say, however, that a simple devotion to Marxist theory halts dialogue between the Marxist and non-Marxist. To take one example: there are immense critical resources in the Foucaultian corpus—some of which have been mined by non-Marxists<sup>18</sup>—even though Foucault explicitly rejects the ideology/science distinction so essential to the Marxist tradition. It seems immensely shortsighted to dismiss these resources when one notices that they contain no place for the notion of “illusion.”<sup>19</sup>

A second avenue of response might run as follows: we can maintain Thesis 1 and Thesis 2 consistently by invoking a denotation/connotation distinction. Claiming “*x* counts as *y* in *c*” provides an essentially referential relation, leaving untouched the connotative force of the *y* term—and it is in this connotative force that we can locate ideology and illusion.

While this response initially seems rather promising, it does not pan out. In the case of constitutive rules, there is no clear denotation/

18. See, for example, Bent Flyvbjerg (2001) for one such appropriation of Foucault and Judith Butler (1990) for another.

19. In many respects, this has been Habermas’s response to Foucault. See Habermas (1998).

connotation contrast to be drawn. The “counting as” relation that holds between the *x* and the *y* term is sufficiently ambiguous to prevent a clear line from being drawn. To claim that a rule is essentially denotative, moreover, is seemingly to ignore the *y* term in “*x* counts as *y* in context *c*.” One can easily respond that only the *x* term is involved in actual referential activity, while the *y* term provides the set of definite descriptions we can attach to a given *x* to express its meaning in *c*.<sup>20</sup>

A third response to the view that we can eliminate the notion of ideology from critical social science might hold that constitutive rules are merely descriptive in a way that is insufficient for critical theory. A *critical* theory must have the resources *to be critical*, and these resources are supplied by the notions of ideology and illusion.

This is a salient, albeit flawed, objection. To call *x* a rule is already to admit that there is a normative element in *x*. The normative element is, of course, a conditional one in the case of constitutive rules. If I say “this movement (*x*) counts as moving a bishop (*y*) when playing chess (context *c*),” I am also claiming that *if* you want to play chess, you must “obey” this rule. Nevertheless, this normative element in constitutive rule talk is rather limited. The answer to this issue, however, need not be to allow room for talk of ideology and illusion in critical social science. One might just as easily expand the model of constitutive rules in question—something I propose to do in the final section.<sup>21</sup>

20. This would be an essentially Fregean response, where the *x* term would be the *Bedeutung* and the *y* term the *Sinn*. We would get to the *x* through the *y*—to the reference through the sense. I am not advocating any position in the philosophy of language here. I am simply pointing out that a quick denotation/connotation distinction by no means resolves the issue.

21. A variation on this objection might run as follows: ideology and illusion involve *norms*, while constitutive rules involve phenomenological facts. We can maintain Thesis 1 as a fact and Thesis 2 as a claim about the norms associated with the phenomenological fact. This response to the account I have been giving is, in effect, a combination of the second and third response. The problem with this view is the same as the problem with those discussed above: rules are not simply descriptive facts—they are also normative. Moreover, one can employ constitutive rules rather easily to talk about more robust norms in social life by allowing the *y* term to represent some value and the *x* term to represent some behavior.

**TABLE 1**  
**Constitutive Understanding and Illusion**

<i>Ontological Status</i>	<i>Epistemic Status</i>	<i>Social Status</i>
Quasi-constitutive	Ontological subjectivity Epistemic subjectivity	Illusion
Constitutive	Ontological subjectivity Epistemological objectivity	Social reality

*III. 2.* The arguments I have thus far given, it might be claimed, are too shortsighted to be of much relevance to a critical approach to social science. What interests critical theory, the objection runs, is *any* illusion, not merely those illusions that are pervasive. When we broaden the scope of the notion of illusion to include nonpervasive illusion (e.g., the illusion of some social subcommunity), the tension between Thesis 1 and Thesis 2 becomes irrelevant.

This is a poignant response: the problem articulated above relies on a conception of illusion that does not do justice to the instances of illusion that interest critical theorists. Even if we acknowledge that there are no *entirely* pervasive illusions, there are still *local* illusory understandings: the view that a woman is essentially a mother, that private property is a source of intrinsic value, and so on. Illusions, on this view, would be located at an iterated level of understanding. One could maintain Thesis 1 while also maintaining that our understanding of social objects and activities is a layered one. We have genuine constitutive understandings of some *x*, but we also have *quasi*-constitutive understandings—and it is here that we locate illusion.

This, it seems to me, is a plausible way of reconciling Thesis 1 with a notion of illusion. The general view is captured in Table 1. Nevertheless, I think there are purely *pragmatic* reasons for rejecting talk of nonpervasive illusion (as opposed to the *logical* reasons for rejecting talk of pervasive illusion).

As is obvious, the mere fact that we can speak coherently about (nonpervasive) illusion does not mean that we *should* speak about such illusion. To speak of some perception as an illusion is to acknowledge that there is some fact of the matter that might adjudicate disputes about what is illusory and what is not. When I rush toward the oasis I see in the desert, I can be said to be having an illusory experience precisely because I am seeing something that is

not there—when I arrive at the illusory oasis, I wind up with a mouth full of sand and a heart full of disappointment.

The case of social phenomena is by no means so straightforward. An illusion will not simply be seeing something that is not there, as the illusory understanding is quasi-constitutive of some piece of social reality. An illusion, on the contrary, will involve *constituting as a social object* what should not be so constituted (e.g., promoting a conception of the female as quintessentially a mother; making intrinsically valuable what ought to be seen as only instrumentally valuable, etc.).

The epistemic difficulties here are significant and obvious. How precisely are we to know what we should and should not constitute as social reality? One answer runs as follows: we constitute as social reality those things that serve our true interests. This response, however, simply relocates our epistemic worries without addressing them: how are we to determine what interests are our “real” interests?

I do not mean to suggest that there are not ways to answer this question. There most certainly are, and critical theorists have been sensitive to the difficulties in providing an account of our real human interests. But the problem here is precisely that we can answer the question in numerous ways—and there does not seem to be a theory-independent way of deciding what a *true* human interest might consist in. If this is right, it seems that a critical social science relying on a conception of illusion will ipso facto rely on a theory-heavy conception of real human interests. The result of this is quite burdensome: to accept the results of critical inquiry, we must already accept the theory of human agency that specifies what interests constitute *true* human interests.

There is an obvious difficulty here: one thing about which we might want to be critical are theories of agency themselves. On the model of local illusion articulated above, however, we will need to presuppose just such a theory to get any criticism off of the ground. To subject *this* theory (theory<sub>1</sub>) to criticism from the point of view of another theory (theory<sub>2</sub>) is to concede that those interests grounded in theory<sub>1</sub> are not necessarily unassailable and, hence, that there might be no *real* human interests at all.

Even if one does not accept this reasoning, a weaker (but nevertheless decisive) criticism amounts to the same point: we do not want our theoretical commitments to decide *in advance* what interests we should attempt to realize in social reality. If a critical social science

can engage in criticism without such theory-heavy postulations, there is a pragmatic reason to do so.<sup>22</sup>

*III. 3.* Whatever the force of these arguments, a position that fails to account for the evaluative element captured under the rubric of “illusion” will be an inadequate position: the *critical* contribution of critical theory is one well worth preserving. The notion of an illusion is nicely suited to just this end, and it is the ability of this notion to carry evaluative weight that (at least partially) accounts for its popularity: we recognize some fault in an agent’s understanding of himself, his social conditions, or some other *x*, and the locution “illusory” allows us to express this fault.

If what I have said above is correct, however, this idiom carries significant theoretical commitments—even if the account of illusion we offer is local. Instead of opting for Marxist machinery, softening Thesis 1, or presupposing some set of real (but hidden) interests to accommodate illusion, I would like to offer a different account of error in social understanding. Obviously, speaking of “error” without a fact-of-the-matter is misleading. Nevertheless, we frequently criticize the understanding of others, and such criticism should not be dismissed if it can be accommodated in our social ontology. In the final section of this article, I will attempt to provide a more detailed account of how we can understand a critical enterprise in social science in terms of constitutive rules.

#### IV. AN ALTERNATIVE CRITICAL APPROACH: RULES AS RECOMMENDATIONS

*IV. 1.* One route into developing an alternative approach to critical social science is via disagreement. Disagreement among social actors is an important social phenomenon—one that can be immensely instructive when we consider the nature of the shared understanding often claimed to be constitutive of social objects and activities (as in Thesis 1). To make sense of disagreement, however, we must first examine in more detail what is expressed in the notion of a shared

22. I do not mean to suggest that theory-freedom is possible. The point here is simply that when our aim is critical, we do not want our theoretical commitments to decide in advance everything about which we *can* be critical.

understanding. The importance of this is to give substance to the “counting as” in “x counts as y in context c.”<sup>23</sup>

One manner of explicating social phenomena is in terms of those constitutive rules that adequately articulate social objects and institutions. This, in essence, is an application of the Searlian model of institutional facts to institutions themselves, broadening the scope of the constitutive rule model. Money, voting, and driving all admit of constitutive rules. Likewise, we can understand fatherhood, the family, even free choice as admitting of an analysis in terms of constitutive rules. Whatever the metaphysical status of these phenomena, they nonetheless have an important social dimension: they are pieces of our social phenomenology, admitting of “counting as” relations. Some range of behavior (x) will count as free choice (y) given our shared understanding of freedom in institutional reality.

The notion of shared understanding thus plays a substantial role in the application of the constitutive rule model to social reality. In short, it allows us to articulate the social *element* of any given phenomenon.<sup>24</sup> Before proceeding, we should attempt to articulate a more precise notion of a shared understanding.

IV. 2. Consider the following banal case: I enter a grocery store because I need milk. I walk to the back of the grocery store, where the dairy products are usually located, and retrieve one gallon. I then walk back to the front of the store, where I find a line proceeding to the cashier. I get in this line, and (not so) patiently wait my turn. When I approach the cashier, I place my merchandise on the counter. She scans the product label into a machine that registers the price. I hand her a ten dollar bill, and she gives me my change.

Philosophers are generally not very fond of such seemingly trivial everyday instances—but much waits here to be mined. Our standard analyses often seek to explain the anomalies—where there are problems, let us say, in knowing whether one has really purchased milk, or whether the cashier has a mind, or why we might have a

23. It is worth noting explicitly that the account that follows, while building on Searle’s work, also moves beyond it.

24. This approach is essentially a Heideggerian one: instead of asking about the brute reality of some x, we ask what object or range of behavior will count as that x given our understanding of it. This allows the notion of a constitutive rule to be applicable to atoms, families, and anything else that plays a role in a practice. It does this, moreover, without needing to decide questions in realism/antirealism disputes.

warranted true belief that the contents of the container we have purchased will not contain arsenic. These analyses, as useful as they are, tend to skirt the rich texture of the quite normal proceedings just sketched. I propose to ask, not what happens when something goes wrong in our everyday interactions, but what accounts for such occurrences going smoothly (which they almost always do). Why is it that there is no problem in knowing that I am to give the cashier money after she has registered the merchandise? Why does the cashier know that it is money I am giving her and that this is the currency with which I should pay? Philosophers are quick to dodge these questions, if only because they seem so transparent as to warrant no investigation. But there is much to be learned here.

Interactions such as the one above go smoothly, by and large, because the participants in such interactions understand what it is they are doing. In line with some recent discussions, we might even say that they have knowledge in their actions. The cashier knows, she does not merely believe, that I am to pay with a federal reserve note (though she might not put it like this, if she were to “put it” at all). I know, and I do not merely believe, that I *only* pay the cashier when I am purchasing something and not, say, whenever I pass a register.

The understanding that we share—the cashier and I—is that in virtue of which such interaction can run without snags in everyday cases. I propose this as a basic explanatory device when considering meaningful human interaction: agents possess a shared understanding of the practices in which they are involved, and it is this shared understanding that is presupposed by any meaningful interaction whatsoever. Let us call this S.

“S” can be formulated in two very distinct ways. I represent them as follows:

- S1: Agents x and y have two respective understandings of some practice “P.” They acquire this understanding in one way or another, and by some type of magic their understandings converge, enabling x and y to participate mutually in P.
- S2: Agents x and y share an understanding of P, not because they have arrived at this understanding in isolation, but because they have been taught that only certain sorts of action are appropriate in P.

S1 is a (roughly) atomistic doctrine about the way we come to acquire the same understanding of the appropriate roles to play in particular practices. S2 is a (roughly) dialogical view. Commitment to

S as an explanatory device does not decide between these two alternatives. It is my view that S2 is the superior way of cashing out S, although it has not yet been adequately formulated.

To begin to clarify this notion, we should consider in more detail the notion of a practice. I take it as given that a practice is to be construed as public: a practice is something in which people participate, or do not participate, and in which one can fail to participate appropriately. The ability to engage in a practice incorrectly is that in virtue of which we can call a practice normative: there is a right way to do it. What determines the correct way to engage in a practice is not my understanding of the practice but the *correct* understanding of the practice. No matter how vehemently I believe that one can castle through check in a game of chess, my belief that this is the case does not make it so. There is still something in virtue of which my opponent can proclaim, "You are breaking the rules!" or "That's not allowed!" An individual understanding of a practice does not determine the normativity of a practice. Rather, normativity (at least in this and similar cases) arises out of the fact that there are rules that are independent of any particular person's understanding of the practice in question.

Of course, if everyone suddenly and miraculously came to believe that rooks moved like bishops, and all instruction manuals were either destroyed or seen as the work of some deus deceptor, what would count as a correct move in the practice of playing a game of chess would change. I do not take this to be an objection to the claim that a practice is public. Like the above case, normativity arises out of a shared understanding of the rules or, when this fails, a shared understanding of what will count as the adjudicator in disputes about rules (in this case, a rule book). Practices depend on (general) intersubjective agreement about how one is to proceed, and it is precisely this that I should like to call a "public" understanding.

It is difficult for S1 to accommodate this view of a practice. As intersubjective and normative, a practice does not lend itself to (roughly) atomistic pictures of the self, somehow managing to acquire *the same* understanding of a given practice P. If the individual understandings converge, it seems to be dumb luck. If they do not, there does not seem a plausible way to adjudicate disputes. One ends with bald assertions like "Well, this is *my* way of playing the game—play however *you* like!" S2 is meant to overcome this problem by postulating what initially seems like a bizarre phenomenon: that

shared understandings of any P involve coming to see what is appropriate in P by coming to see what intersubjective agreement (however implicit) already exists concerning P.

Unfortunately, the idea of "appropriateness" reeks of question-begging here. If S1 is right, what is "appropriate" just is whatever agreement we manage to have, and for whatever reason. S2 is thus an inadequate alternative as it stands. The problem is that the notion of "appropriateness" does not seem to capture the intersubjectivity that S2 requires to move beyond the atomism of S1.

We might revise it as follows:

S3: Agents x and y share an understanding of P, not because they have arrived at this understanding in isolation, but because they have acquired an intersubjective understanding that only certain sorts of actions *count as* participating in P.

S3 is an improvement on S2, even if it is slightly redundant. S3 invokes the notion of a constitutive, as opposed to a regulative, rule about P. Whereas S2 claims that this is what one *ought* to do in P, S3 claims that this is what it *means* to do in P. S2 permits the claim that "it is appropriate to move a bishop along a diagonal, and not a rook." S3 makes the stronger claim that "It is constitutive of chess to move the bishop along a diagonal, and not a rook."

But what have we purchased with the move to the "counting as" locution? A *constitutive rule* has the form "x counts as y." An object used in chess that moves only along a diagonal counts as a bishop. A piece of paper made by the appropriate governmental body counts as a five dollar bill. Constitutive rules are impossible without intersubjective agreement about the "counting as" relation. If only one-third of us recognized that this material, produced in this way, just is a five dollar bill, we would have a messy practice of exchange indeed. I certainly could not purchase a gallon of milk as smoothly as in the above example.

Constitutive rules are not rules that we follow, except perhaps in very rare circumstances (such as when we are learning a game or what is involved in a practice). Rather, a constitutive rule is a *descriptive tool*. It is a useful way of talking about the law-like regularity that characterizes our meaningful activity. We do not access constitutive rules to participate in practices.<sup>25</sup> Indeed, to

25. A plausible exception to this might be found in language pedagogy. When we attempt to instruct persons in constructing grammatical sentences, we *do* appeal to con-

participate in a practice is to be at home with—or to understand without reflection—the constitutive rules involved.<sup>26</sup>

By contrast, consider a *regulative rule*. These are rules that can be accessed, that can be applied in a straightforward way. A regulative rule in chess might be to play in order to win. Failure to follow this regulative rule does not result in failure to play the game of chess. It regulates our activity, it does not constitute it.

Both regulative and constitutive rules can be contrasted (albeit heuristically) with *conventions*. It is a convention in chess that white opens the game with the first move. This is not a regulative rule in any deep sense (though, admittedly, it might be presented as one). I do not access this rule to open play. I merely follow convention. Likewise, it is not a constitutive rule: failure to follow this convention is not tantamount to failure to play the game of chess, or even to play the game of chess appropriately (such as in the case of the regulative rule of trying to win).

The third category above is often overlooked in discussions of the distinction between constitutive and regulative rules.<sup>27</sup> It is useful precisely because there are parts of practices that do not seem to fit into either rule category adumbrated above. In everyday interlocution, for instance, standing distance is very much a part of our practice of communication. Standing too close to someone will not result in a failure to participate in conversation (hence, it is not constitutive). It is also a stretch to think of standing distance in terms of a regulative rule (we don't really follow it as we standardly do regulative rules). One

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stitutive rules. This strikes me as a feature of pedagogy that demarcates it from other sorts of activities. It does *not* entail anything substantive about what cognitive exercises are necessary to participate in *any* practice.

26. It is the rather metaphorical status of the notion of a "rule," in this context, that has led several philosophers to question the utility of rule talk. See, for example, David-Hillel Ruben (1997).

27. Searle does not overlook this third category, but I find his discussion problematic for several reasons. In general, Searle thinks it is necessary to distinguish a practice from rules. This strikes me as stipulative.

Consider the following case: there is a tribe in which it is a common practice to cause pain by screaming the word "BANG" into another's ear. Searle claims that we ought to view the word used as a convention, not as a constitutive rule, as pain would exist no matter what word you used when engaging in this practice of causing pain.

But one might just as easily switch the object domain from pain to practice and get substantially different results. I see no problem of speaking of this in terms of constitutive rules: what it means to engage in this practice is simply to engage in this screaming behavior. Yelling "PHILOSOPHY OF LANGUAGE" would violate this constitutive rule and, hence, would not count as engaging in this (imagined) practice.

option that remains is to view it as a conventional part of a practice that neither constitutes nor regulates (as a rule) our behavior but that is still very much a part of the practice in question.<sup>28</sup>

Allow me to return to S3 in light of the distinctions I have just been making.

S3: Agents *x* and *y* share an understanding of *P*, not because they have arrived at this understanding in isolation, but because they have acquired an intersubjective understanding that only certain sorts of actions *count as* participating in *P*.

We can now reformulate this one final time as

S4: Agents *x* and *y* share an understanding of *P* insofar as their actions conform to (are describable in terms of) the constitutive rules of *P*.

This (final) formulation overcomes the magic of S1: individual understandings of a given practice do not need to fortuitously converge. As intersubjective, constitutive rules are public: one arrives at the understanding in question through interaction with those who already understand the practice. The idea of coming to understand the constitutive rules in private is as perverse as the idea of someone inventing a private language that was *recognizable to us* as a language.<sup>29</sup>

28. Of course, this is a problematic example. It is useful for precisely this reason. Standing distance is normative. When someone stands too close to me in conversation, I may find it difficult to focus on the speaker's words, as I am uncomfortable in the speech situation. This suggests that violating a standing distance norm can lead to a failure to communicate. Likewise, someone standing too close might lead me to back up a few steps (thus, in one sense, regulating my behavior). Claiming that this is best seen as a convention is a matter of interpretation, and it is precisely this point that we should emphasize about all of our constitutive rule talk: our practices admit of diverse analyses. Talk of constitutive rules is a tool for capturing specific aspects of these practices, and an articulation of a constitutive rule must be construed as aiming to articulate something about a practice—not as giving one the *only* possible characterization of a practice. It is in this fundamental respect that my notion of a constitutive rule is different from Searle's. By my lights, rules are only rules under a description.

29. I am hinting at a certain reading of the so-called "private-language" argument here that is often overlooked. Wittgenstein is not making a metaphysical point about any logically possible language. Rather, he is casting an eye on what counts as a language to we who only understand language by having a language. While a private language is not, strictly speaking, impossible, it would not be recognizable as a language if it did occur. This is so precisely because it would lack what we are willing to *count as* language: a rule-governed behavior, where rules are (rightly) construed as public.

But let me retrace what I take myself to have accomplished in this discussion: our everyday interactions presuppose a shared understanding. This shared understanding can be characterized as an understanding of constitutive rules. These rules exist at many levels: the right material made in the right way counts as money; handing this material to the right person in the right context counts as making a purchase; standing in a specific position in a store counts as waiting in line; and so on. Without a shared understanding of the “counting as” relation, there could be no regularity in meaningful human interaction, and hence, there *could be almost*<sup>30</sup> no meaningful human action.<sup>31</sup> A shared understanding, as I said above, is an explanatory device that is meant to make sense of the smoothness of most human interaction. I have used the notion of a constitutive rule to cash out what is involved in this understanding. Before pressing forward, however, I should warn against two errors concerning the rule talk I have been employing. The first error centers on the idea that rules are in some sense prior to the activities they constitute. John Rawls first made this point in “Two Concepts of Rules” (1955, 25): “The rules of practices are logically prior to particular cases.” Likewise, as Searle (1969, 33) puts it, “Constitutive rules do not merely regulate, they create or define new forms of behavior.” The priority Searle asserts here might prove the source of a misunderstanding: constitutive rules *constitute* a form of behavior; they do not exist antecedently to such behavior, miraculously allowing said behavior to exist. When speaking of a priority of rules to

30. The reason for the term “almost” is as follows: in learning situations, the activities of agents do seem to be meaningful, though there is no “counting as” relation to speak of. This qualification applies to two situations. First, it applies to situations in which an agent is *imitating* the activities constitutive of a practice. The action is meaningful precisely because the agent is attempting to participate in an activity constituted by “counting as” relations she does not yet know. Second, the caveat applies to face-to-face action situations in which two agents are *attempting* to communicate (speakers of different languages, for example). The action is meaningful, though the agent is unaware of the “counting as” relations the other agent is employing. Both of these cases are learning situations—situations in which an agent attempts to *learn/decipher* the “counting as” relations of one or more other agents.

31. This claim will undoubtedly strike some as peculiar. I am banking on a particular conception of “meaning” that mimics the way we speak of the meanings of words. One would not call a word meaningful, in the strict sense, if it failed to play the same role (or set of roles) on each occasion it was employed. Of course, calling it meaningless might be too strong. The point here is that the word would lack the sort of intersubjective agreement that competent language use presupposes. I wish to apply precisely this conception of meaning to our practices.

practice, it is crucial that we emphasize this priority as a merely logical one (as Rawls does): we can only make sense of certain actions falling under a range of descriptions (analogous to moves in a game) given a prior understanding of the practice in terms of which these actions are so describable. This does not mean, of course, that there must be rules before actions occur. It means, rather, that descriptions of such actions must presuppose the rules in question to describe the actions that fall under them.

The second error to warn against is one to which Hubert Dreyfus has shown the most sympathy.<sup>32</sup> Talk of rules seems to provide us with a picture of human action that is far too deliberative and seemingly oversimplified. The notion of a “constitutive rule” is deeply contentious in attempts to explicate human action. This is so partially for reasons we know well from John Austin: the substantive noun “action” seems too large to be encapsulated by any single descriptive tactic (Austin 1956/1990). Sneezing, going to the movies, playing tennis, voting: all of these count, in the most general respects, as actions, and it is not clear that one could provide an account that would adequately capture the rich and complicated dimensions of each respective activity.

But some distinctions can be made. First, we can distinguish events from actions. “Sneezing” is not something I do intentionally—it is an “event” I experience. When speaking of actions, I do not intend to capture nonintentional behavior. Second, we can distinguish two types of intentional actions. Following Dreyfus, I will call these two types “motor-intentionality” and “deliberate intentionality,” respectively.

In learning to drive a car, I often have to keep in mind several things: the speed at which I am going, the position of other cars in relation to me, the point at which I should change gears, the direction the car is heading, and so on. When I have mastered this activity, the need to keep such things in mind simply drops away: I know what I am doing and do it without reflection. Athletes report a similar phenomenon in describing their play: at a certain point, one simply becomes immersed in the situation at hand, and all reflection drops out of the picture—one is “in the zone,” one is “being the ball.”

These intentional actions are certainly quite distinct from the deliberative sort: I decide to wash my car and do it, I think with excessive concentration about the next move to make in a game of

32. The discussion which follows is based largely on Dreyfus (2001). The general themes, however, are in most of Dreyfus's work.

chess, I contemplate where to hang a picture in my home. These sorts of intentional action involve cognitive effort in a way that motor-intentionality does not.

These two types of intentionality are usefully captured in the notion of skillful coping. Most human activity, it seems to me, is categorizable as falling under this general rubric. I am absorbed in my activity, and no deliberative intentionality is required for this absorption to continue. My actions are intentional because I am doing what I intend to do (e.g., driving, playing tennis, showering, etc.), but they are not deliberative (I do not need to think about every movement involved in steering, in serving, in washing, etc.). I am simply engaging in a particular activity in a skillful manner, responding to my environs in a noncognitive way.

The pervasiveness of skillful coping initially makes talk of rules seem a bit farfetched. This is so, I think, because of a (natural) inclination to read rule talk as fundamentally deliberative. I *follow* rules, and I do so by applying a rule to a particular situation. While this undoubtedly happens, it is not the way human agents normally proceed through their daily activities.

In speaking of constitutive rules, I am not speaking about rules that we necessarily follow (though in some cases, such as learning a game, we do “follow” these rules). My aim in invoking the notion of a constitutive rule is purely descriptive (if that is possible). The notion of a constitutive rule is a way to talk about the regularity in much human activity, and this regularity occurs in instances of skillful coping as well as instances of deliberative activity. Knowing what it means to engage in tennis playing does not entail exerting cognitive effort to play the game in question. My skillful coping in the game presupposes that I understand what is involved in the game, but this need not entail that I have to constantly hold before my mind’s eye a set of propositions (constitutive rules) that make possible my engaging in the game. Constitutive rules are not *empirical* conditions for participating in the practice these rules aim to capture: an agent rarely needs to be consciously aware of what I am calling the constitutive rules of a practice to engage in the practice, much as an agent rarely needs to be aware of the conventions she is following, or the social norms guiding her activity.<sup>33</sup> A constitutive rule is just a way

33. I say “rarely” because some performative speech acts *do* seem to require knowledge of the constitutive rules in question. To get married, I must know that saying “I do” is required of me at a particular time. Analogous claims hold of christening a boat, pronouncing guilty, and so on.

of articulating regularity in meaningful human action—be it skillful coping or deliberative intentional acts.

In talking of “understanding” these constitutive rules, I thus do not wish to make any cognitive commitments on the part of those who understand the rules in question. Our understandings are far too textured and complicated to be reduced to a set of tidy propositions about the world. To put the point explicitly one final time: constitutive rules are a means of discussing the understanding necessary for meaningful human activity, not an empirical notion used to characterize that understanding.

IV. 3. In “Assertions, Clarifications, and Recommendations: Theories of Agency in a Wittgensteinian Key” (Wisniewski 2002), I distinguished constitutive rules aiming at the clarification of a practice from recommendations for adopting some constitutive rule within a practice. Whereas constitutive rules have the form “x counts as y in c,” recommendations have the logical form “x *should* count as y in context c.” It is precisely this distinction that allows us to accommodate an evaluative role in a critical social science.

In fact, putting it this way is misleading—for, on my view, evaluation does not *need* to be accommodated, as it is already part of our everyday discussions of social reality. Recommendations for the adoption and abandonment of constitutive rules abound in social life. It is precisely this feature of social dialogue that makes the phenomenon of disagreement so theoretically fruitful. In the remainder of this article, I want to provide an account of disagreement that both (1) clarifies what is involved in a shared understanding and (2) provides an outline of how criticism in social science can proceed without “illusion” and in light of the model of constitutive rules.

Constitutive rules cover ordinary cases. As such, they are indeterminate. I do not take this as an objection to constitutive rule talk: our practices themselves are indeterminate. Human agents are not merely passive recipients of the practices in which they engage. They shape these practices in various ways—they respond critically to elements of a practice that they find troublesome. A lawyer may refuse to defend a guilty client, a citizen may dodge the draft for reasons of conscience, a visionary might found new institutions of education to meet some perceived need. None of these instances marks a denial of certain constitutive rules making up a practice.

Indeed, it is precisely because of the “counting as” relationship that we recognize the above examples as exceptional.

Because constitutive rules cover ordinary cases, it is by no means surprising that when we encounter oddities, we will not know straightaway (or perhaps ever) whether the oddity is covered by the constitutive rule in question: I decide to do x. At the same time, a superior power determines that if I do not do x, he will force me to do it. Here is a case where I could not have done otherwise, but it looks like my action was free nevertheless. Was it? I could not begin to say. What we collectively recognize as “free” is the much more mundane: deciding on a red car instead of a blue, choosing to get married, picking one graduate school over another, and so on. The fact that philosophers disagree about examples such as the one above *does not mean* that no one recognizes what would count as a free action (that there is no “counting as” relation whatsoever). The (often important) philosophical fuss is about how our understanding might deal with cases beyond the mundane ones. The disagreements are substantive precisely because the constitutive rules in question are not determinate.

Of course, one value of rule talk in general is that it is able to cover future cases. As Searle (1969, 42) puts it, “Two of the marks of rule-governed as opposed to merely regular behavior are that we generally recognize deviations from the pattern as somehow wrong or defective and that the rule unlike the past regularity automatically covers new cases.” This initially seems to be precisely the sort of philosophical disagreement I adumbrated in the preceding paragraph: in my view, constitutive rules will not necessarily cover new cases, precisely because these rules are indeterminate. They involve a shared understanding that only ranges over the familiar, leaving alien thought experiments to philosophers who would like to see just how indeterminate our rules turn out to be.

The social constructionist camp also seems (initially) to present a problem for my view of constitutive rules, largely because of all the banter about the ideological qualities of specific practices or roles within institutions. If there are constitutive rules for, for example, what will count as a “father” or a “mother,” how could there be so much disagreement between and among essentialists and social constructionists? Traditional critical theory has an elegant answer to this question: there is disagreement precisely because our everyday shared understanding is frozen in ideology, and critical theorists are

busy trying to “unfreeze” this understanding—to show how our conceptions of “family” (for example) are spawned from the economic substructure.

While this is a fascinating story, I would like to try another: disagreements about what will count as a “mother,” or a “criminal,” or a “child” only make sense in light of some antecedent agreement that seems politically problematic. There is no book on the social construction of staplers (to my knowledge) for precisely this reason: we all recognize that certain sorts of items, fulfilling a certain function, will count as staplers, and *we view this “counting as” relation as unproblematic*. Disagreements about the “counting as” relation, in most conversations about social construction, stem from perceiving such a relation as a problematic one: as oppressive, or unhealthy, or whatever. The disagreements about this relation are motivated by antecedent agreement—by a shared understanding of some phenomenon that the social constructionist wants to problematize.<sup>34</sup> Such problematizing is possible, not because there are no constitutive rules, but rather because constitutive rules are contingent on a shared understanding of some phenomenon. When a social constructionist analysis is successful, it manages to show that our shared understanding is an optional one, or that it is oppressive, or both.

These remarks suffice, I think, for questions about disagreements. Disagreements about some phenomenon can be cashed out in terms of a disagreement about how we are to view certain cases (do they “count as” *x*, given our shared understanding?), or as disagreements about whether we should have the constitutive rules we do have (given a history of oppression, *should* we think that this color “counts as” belonging to this race? or that these gametes “count as” being this sex?). To put it more succinctly, disagreements can be explained in terms of the *indeterminacy* and *contingency* of our shared understanding of constitutive rules.

One implication of the indeterminacy and contingency of constitutive rules is that institutions, strictly speaking, are not empirical entities to be analyzed by social scientists: they are explainable in terms of our shared understanding of what “counts as” the constituent practices and appendages of the institution in question, and this understanding is revisable in light of both (1) new cases that emerge in either academic or practical settings and (2) our

34. Ian Hacking (1999) makes a similar point.

normative concerns about the shared understanding we already have (e.g., in questions about race, sex, or even human agency).

The courthouse is not a courthouse prior to a shared understanding of the meaning of the activities in that particular arrangement of plaster and cement. The family is not a family before there is a shared understanding of the respective roles of father, mother, child, and so on—*no matter how provisional and contingent these roles turn out to be*. Attempts to redefine the roles that constitute the institution of the family (each with a set of constitutive rules), or the practices of legal institutions, are attempts to redefine the constitutive rules of an institution: they are about what we take to count as a criminal, a father, a vote, a social safety net, and so on. As such, these disputes will not be settled on empirical grounds. They are disputes about what *ought* to count, in particular cases, as any of the above things. They are, in short, recommendations, paraphraseable in the locution “x should count as y.”

To say that some understanding is illusory, on this reading, is to say that the rule that captures the understanding is not best suited to the context-dependent purposes of the agent—that another rule should be adopted. In this sense, a claim of illusion is a recommendation to adopt a *different* constitutive rule—it is a claim of the form “ $x_1$ , and *not*  $x_2$ , should count as y.” What must be noticed about this approach is that critique occurs by problematizing the “counting as” relation and attempting to *change the constitutive understanding of an x* (and, hence, what an x is). It does not aim at eliminating a misconception, an illusion, or an ideology by revealing the true nature of the social phenomenon in question. Indeed, on this account, the true nature of some x *just is* the constitutive understanding we have of x. Moreover, we need not wait to reveal an ideology to engage in social critique: the opportunity for revising constitutive understandings abounds in social life—and this is so precisely because constitutive rules do not decide all cases in advance.<sup>35</sup>

This approach to error in our understanding is superior to the traditional approach of critical social science in two crucial respects. First, it does not rely on heavily metaphysical assumptions about the role of history, economy, and the creative capacities of human agents in the social world. Rules exist only under descriptions. They are a

35. Note that this account acknowledges the “layered” understanding of Table 1 but rejects the claim that problematic social facts should be cashed out in terms of illusion. The reason for this, to be blunt, is pragmatic: “illusion” commits us to providing an account of real human interests.

useful model for explicating social phenomena, and they should be construed as such. Second, it makes the normative issues we face in social science normative *all the way down*. Whereas a Marxist (or, for that matter, a Taylorian) will appeal, in the end, to some theory-heavy conception of human nature, real human interests, economic forces, or whatever, the approach advocated here demands that we make explicit the pragmatic goals we hope to accomplish by revising the constitutive understandings we have of social objects.

## V. CONCLUSION

The above remarks have been primarily suggestive. I do not mean to imply that these considerations are sufficient for a complete critical social science. My aim has been simply to provide the outline of an alternative approach to such an endeavor. While there is certainly much to be worked out in this analysis, this much should be clear: the notion of recommended rules provides a viable alternative to a critical social science.

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