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**The Constitution of Legitimacy:  
Engaging Realist Theoretical and Empirical  
Investigations on Legitimacy,  
Belief and Social Rules**

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# **The Constitution of Legitimacy**

**Engaging Realist Theoretical and Empirical Investigations on Legitimacy, Belief and  
Social Rules**

*Circa 12,000 words*

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## **Abstract**

I attempt to lay bases on which a realist study of the processes of legitimation can be engaged. My thesis is that the legitimacy of a social feature should be understood as its congruence with a set of respected legitimising social rules. I base my theoretical argument on contrastive ethnographic studies I conducted with participants working in various firms located in France. Contrary to alternative social theories (e.g. Institutional theory), I treat legitimacy as *exlicandum* rather than as *explicans*. Thus, I attempt to uncover and describe the legitimising social rules that enable and contribute to structure the processes of legitimation at play in particular configurations. By distinguishing between legitimacy and belief in legitimacy, I examine how legitimacy is constituted through a social process that presupposes the action of participants, the existence of a previous individual conception of legitimacy and the objective existence of respected social rules that are irreducible to (though dependent upon) the individual beliefs of participants. Also, by treating the constitution of legitimacy as a process, one is able to account for the dual evolution of people's conceptions of legitimacy and of the social rules that legitimise given social features. This research also includes emancipatory objectives as it may help people promoting social features they cherish, either by transforming other members' conceptions or by transforming the social rules that make these social features illegitimate.

**Key words:** contrast explanation, critical realism, institutional theory, legitimacy, professionals, social process, and social rules.

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“Un homme épouvantable entre et se regarde dans la glace.  
‘- Pourquoi vous regardez-vous au miroir, puisque vous ne pouvez vous y voir qu’avec déplaisir?’ L’homme épouvantable me répond:  
‘- Monsieur, d’après les immortels principes de 89, tous les hommes sont égaux en droits; donc je possède le droit de me mirer; avec plaisir ou déplaisir, cela ne regarde que ma conscience.’  
Au nom du bon sens, j’avais sans doute raison; mais, au point de vue de la loi, il n’avait pas tort.”

Charles Baudelaire, *Le Spleen de Paris – Petits Poèmes en Prose*.

## 1. Introduction

The category of legitimacy enjoys a central place in sociological studies in general and in institutionalist studies of organisations in particular (DiMaggio and Powell 1991; DiMaggio and Powell 2000; Meyer and Rowan 1977). In effect, the seminal contribution of Meyer and Rowan (1977) moves beyond the picture of “organisations” exclusively engaged in maximising output by adapting to the technical requirements of their “technical environments”. Rather, it takes count of processes through which organisations acquire greater “legitimacy” vis-à-vis their “institutional environments”. Not so surprisingly, a number of subsequent contributions had recourse to the notion of legitimacy to explain organisational configurations and changes otherwise unexplainable by reference to technical aspects alone. What is somewhat more surprising, however, is that institutional studies employ the notion of legitimacy as a predictor of likely organisational “structures” in given “environments” or as an *explicans* of the transitions occurring at the level of these “structures” rather than as an *explicandum*. Thus, questions of the kind “how did the legitimacy of such or such practice develop?” are neglected in favour of questions of the kind: “In such environment, should we expect organisations to have similar (formal) structures?” and: “What institutional environments induced the changes that occurred in the (formal) structure of such and such organisations?” For instance, in a notable attempt to ‘unpacking institutional arguments’ Scott proposes to define legitimacy as

... The degree of cultural support for an organisation – the extent to which the array of established cultural accounts provide explanations for its existence... The legitimacy of a given organization is negatively affected by the number of different authorities sovereign over it and by the diversity or inconsistency of their accounts as to how it is to function. (Meyer and Scott, cited in DiMaggio and Powell 1991: 170)

Arguably, the legitimacy of social features may sometimes be associated with situations in which “cultural accounts” provide explanations for their existence. However, in the above

definition, the authors make a number of implicit presuppositions that may deserve explicit scrutiny. For instance, is explaining the existence of an organisation the same thing as legitimising its existence? If so, then any account that explains (say) the development of Nazism between the two world wars would (presumably) also be a legitimisation of Nazism. Moreover, what is the role of people in processes of il/legitimation? How are we to move beyond impersonal accounts of the kind “the organisation became more legitimate because of the emergence of such cultural account”? Which is more, Meyer and Scott equate legitimacy with people’s belief in legitimacy. They presuppose that, as soon as there exist established accounts providing explanations, then there exists legitimacy. Thus, it becomes impossible to conceive of (very common) situations in which people believe that a certain social feature is legitimate only to discover later that it was in fact illegitimate. It then follows that the absence of legitimacy is confused with the ambiguity or contestation of legitimacy. An important consequence is that, from these perspectives, uncontested organisational features are deemed to be *ipso facto* legitimate whereas contested organisational features appear to be *ipso facto* illegitimate. In such managerialist accounts:

... Power in organisations necessarily concerns the hierarchical structure of offices and their relations to each other. Particularly (but not exclusively) the field of management studies has tended to label such power as ‘legitimate power’. One consequence of the widespread, implicit acceptance of the hierarchical nature of power has been that social scientists have rarely felt it necessary to explain why it is that power should be hierarchical (Clegg, Hardy et al. 1996)

In the rest of the paper I propose that a social feature (intentional action, rule, resource, demand, command, tool, convention, habit, resource, positioned-practice, power, etc.) is legitimate if and only if it is congruent with a set of rules that are themselves respected. This short characterisation prompts in turn many questions:

- 1) What is meant precisely by the “congruence” of a social feature with a set of social rules?
- 2) What about the common case where there are rules that legitimise a feature and other rules that legitimise its contrary? In other words, what about the very ambiguity of a legitimacy that may be granted by some respected rules and at the same time forbidden by other respected rules?
- 3) What does “respected” mean? Does it mean the same as “recognised” or “followed”? Does it mean the same as “considered to be legitimate”? If respect is the same as legitimacy, then isn’t my characterisation of legitimacy too circular to be of any use?
- 4) On what basis should we distinguish between the legitimacy of a social feature and participants’ belief in the legitimacy of that same social feature?

Moreover, who should respect the legitimising rule for the social feature to be legitimate?

- 5) What are the most striking features of the basic processes through which legitimacy is established or challenged?

Before addressing each of these questions, I would like to give some methodological signposts that may help locating my analysis. Firstly, I would like to locate briefly the role this study occupies in a larger project dealing with authority. Secondly, I would like to clarify the (explanatory) scope of this study as well as its grounds (ie. empirical observations, interpretations and theorisations). Finally, I would like to contrast my approach with (Weberian) ideal-typical a priori conceptions of legitimacy.

## **2. Methodological considerations**

The present paper is articulated to a wider project on authority. My overall objective is to arrive at a better understanding of the relation between authority (understood as legitimising power), people and social rules. Moreover, I believe that this complex relation may be clarified by answering in turn the two following questions: how can we account for legitimacy in terms of social rules? And how can we account for power (legitimising or not) in terms of social rules? In this paper, I attempt to bring elements of answer to the first question. Thus, I will leave questions related to power aside and concentrate on issues about the relation between legitimacy and social rules. It is also worth noting that I use the notion of “rule” in a sense somewhat similar to that of ethnomethodology (Garfinkel 1984; Heritage 1984). Thus, in my conception, rules are usually tacit as they are usually not followed consciously. Social rules are also indexical since their use is contingent on the specific situations encountered - in other terms they cannot account completely for the situations in which they may be used (See also Al-Amoudi 2006).

Moreover, I attempt to study legitimacy in a way that is both theoretical and empirically grounded. This dual aspect of my study should not be much of a surprise considering my ontological and epistemological commitment to a form of realism that is also fallibilist and not actualist<sup>1</sup>. The present study is theoretical in the sense that it seeks for general features of legitimacy that may hold in *any* situation in which legitimacy would be involved (though not necessarily actualised). Thus, the considerations about legitimacy I draw out of this analysis should be valid (acceptable, plausible and, hopefully, true) to help understanding an extended range of situations in which legitimacy is actually present or (notably) absent. Nonetheless, despite its wide explanatory ambition, this study is also empirically grounded in the sense that it is based on (unavoidably) local and subjective observations of unavoidably local and subjective practices. These observations are either my own or are made on the basis of the testimonies of various informants who kindly accepted to share and discuss their experiences with me.

The fieldwork research that furnishes the empirical material of the present study is three-folded. First, I conducted in-depth semi-structured interviews with people working at Hurdy & Co. a financial brokerage firm. There, I interviewed 8 persons who were in hierarchical relation with each other. The interviews were around 90 minutes long and were conducted in a relaxed atmosphere in a *café* next to their office. Since relations of authority are a relatively taboo topic in firms, I approached them with the explicit purpose of studying “the division of tasks” in their firm. Luckily, I was almost always able to dig the relations of power and the reasons that justified (legitimised) the actions of participants. I believe that, despite the relatively small number of informants at Hurdy, the information they gave me is reliable for two reasons. The first reason is that my objects of study are not the informants *per se* but the social relations at play in their firm. Every informant relied on her/his innumerable though unsystematic observations to help me picture the principles that would authorise or forbid a social feature in Hurdy. The second reason is that I had the occasion of verifying (and contrasting) the opinions and stories related at Hurdy with 5 friends who accepted to play the game and talk with me about the “relations of authority” at play in their firms. This leads me to expand on the second source of information I used for my fieldwork since these friends have a sociological profile that is close to the employees of Hurdy as they are all “cadres”<sup>2</sup> between 27 and 32 years old. In the light of their narratives, it appeared likely that informants at Hurdy made observations that were plausible and honest. However, it appeared too that, although informants at Hurdy may not have given false information, there were nonetheless some features they felt compelled to pass under silence (e.g. gender relations, some forms of conflict, illegal actions, etc.) As a result, I could ask these friends to develop more fully these “sensitive” topics. Moreover, two of them (Paul and Marie) offered me the occasion to follow the various steps of their (almost simultaneous) departures from their respective firms through various long talks (some of which I tape recorded) as well as through numerous documents that recorded their interactions with their interlocutors (mails, memos, etc.) The third source I used for my fieldwork study was a series of participant observations I made in hospital settings. Because of an accident to my knee, I was able to interact with around 15 different medical employees as a “patient”. Although the interactions in medical settings benefited greatly to my reflection on such topics as the relation between legitimacy and social rules, I do not use them in the present paper. As a result, all the empirical evidence I use in this paper belongs exclusively to the world of private profit-oriented firms.

The method of analysis I use also deserves some clarification. Thus, I would like to describe my *retroductive* approach by comparing it with the (more common) *inductive* approach. Induction consists in departing from a particular acknowledged state of affairs (e.g. the numerous ravens I can see next to the Seine are black) and then in explaining it by the existence of an *actual* (unobserved and still unacknowledged) general state of



affairs (e.g. all ravens are black). On the other hand, retrodution also consists in departing from a particular acknowledged state of affairs (e.g. the numerous ravens I can see next to the Seine are black), and explaining it by supposing the existence of a *mechanism* (understood as a structured possibility) responsible for generating the noted state of affairs. Continuing a gesture initiated by other transcendental realist authors, I try to theorize legitimacy through the use of retrodution. Thus, I depart from empirical situations in which I could observe manifestations of legitimacy (or of its absence) and I try to outline the mechanisms (structured possibilities, tendencies, causal laws) of legitimacy that made these situations possible. Typically, my reasoning is as follows: "I could observe this state of affairs. What must be the case about legitimacy for this state of affairs to have the shape it has rather than another shape?" It appears that generalisation is not obtained solely through a careful observation of empirical events but also through the fundamentally creative establishment of a plausible relation between observed events and supposedly real structural features (characteristics, attributes) of legitimacy.

Finally, I would like to contrast my realist ontological theorising with ideal-typical approaches as developed by Weber and Kojève. These authors are amongst the few who addressed the question of "what is authority?" (and *a fortiori* legitimacy). They both answer this question by elaborating ideal/pure types of authority. In Weber's *Economy and Society*, the types of *legitimate order* (and followingly of *authority*) are relative to their *bases of legitimacy* (i.e. tradition, faith, enactment) (Weber, Roth et al. 1978) as well as to the *grounds of legitimate domination* (a notion Weber equates with authority<sup>3</sup>). Kojève, on his side, distinguishes not three but four ideal types of authority: a) the authority of father over child that was mainly theorised by medieval scholastics; b) the authority of master over slave that was principally theorised by Hegel; c) the authority of leader over group that was theorised by Aristotle and d) the authority of the judge that was theorised by Plato. For Kojève as well as for Weber, all types of authority (and thus of legitimate power) that can be encountered through empirical study should be studied as a mix of the pure types that have been isolated *a priori*. However, it is also worth noting a crucial difference in the status of the pure types drawn by Weber and Kojève. For Weber, pure types have a heuristic role and 'are thus unrealistic or abstract in that they always ask what course of action would take place if it were purely rational and oriented to economic ends alone.' (Weber, Roth et al. 1978). On the contrary, Kojève believes his pure types are real in the sense that

if [his] theory is exact, [the] list [of combinations of pure types] exhausts all the possibilities. It would then only be a matter of seeing whether they are *realised* or *realisable*. In which concrete case, one could see what all these combinations *mean* (and draw all the consequences). (Kojève 2004, my translation, text modified)

Contrary to both of them however, I do not attempt any *a priori* typology of authority or of the sources of its legitimacy. Thus, I do not attempt to make sense of the legitimacy of agents' powers by reference to a mix of pure sources of legitimacy. Which is more, I do not try to attribute the causes of legitimacy to pure sources that would have been defined prior to any empirical observation<sup>4</sup>. Rather, the thesis I defend in this paper (and that guides my whole project) is that legitimacy is caused by people's beliefs and by the social rules that are respected by them, albeit in a way which deserves investigation and clarification. As a result, I do not treat the causes of legitimacy as an *explicans* but rather as an *explicandum* viz. the object that I try to explain through my sociological investigations. It follows thus that any form of legitimacy is context specific to the extent that the social rules and beliefs that give rise to it are historically and geographically bounded.

### **3. The necessary (though usually tacit) reference of legitimacy to social rules**

It may be useful to highlight a significant implication of my characterisation of legitimacy. The idea is that the legitimacy of any social feature presupposes the respect (and thus the reference to) a set of social rules. Therefore, any claim that "social feature SF is legitimate" is necessarily incomplete and might be replaced by a more complete claim of the form "social feature SF is legitimate by virtue of the (legitimising) set of social rules SRL".

The empirical investigations with financial brokers and young "cadres" (professionals) suggest however that legitimising rules are, more often than not, kept silent. For example, I encountered several times the social rule according to which a broker dealing with a specific type of financial product should offer some information about specific client needs to colleagues working on another type of product.<sup>5</sup> In mundane business conversation between competent participants (Goffman 1974) this practice sounds unambiguously legitimate. However, this very legitimacy can only be understood on the background of a tacitly known (that is, silent and taken for granted by participants) set of rules that are more or less socially extended across the business community. Interestingly too, a moment's reflection indicates that these rules are contingent in the sense that they could have been different to some extent. Let us illustrate this point by turning to the above example. If we call SF the social feature corresponding to the fact that "a broker may ask information about specific client needs to colleagues who work on different products", then

we may attempt at identifying (through *retroduction*) some of the rules (SRL) that legitimise SF. For example

SRL1) each employee tries to maximise the profit she appears to generate individually;

SRL2) in order to maximise this profit, employees need the help of their colleagues;

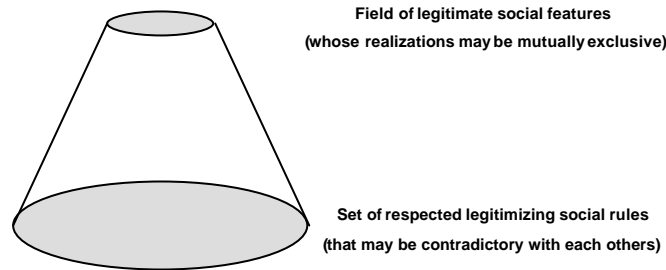
SRL3) it is a tradition to share (some kinds of) information with one's colleagues and

SRL4) that any individual employee who would be reluctant to sharing this type of information with her colleagues exposes herself to some form of rejection from the group (e.g. not benefiting from this kind of information, acquiring a bad reputation, etc.)

Moreover, these legitimising social rules (SRL 1,2,3,4) are contingent and could have been otherwise to some extent. For instance, a junior broker working in a brand-new department reported that she had to work in binomial team with another broker. During the first few weeks each of them thought it was legitimate to avoid sharing information about his own clients with his team-mate. After a month or so however, they decided to change the "rule of the game" and start sharing information. The reasons for this change that the interviewee recorded were principally that sharing information would be better for each of them on the long run. In this case it was clear that the sharing of client information was legitimised by social features SRL1, SRL2 and SRL4 but not SRL3. This example of a situation that evolved through time shows that the same legitimate social feature "sharing information about clients with one's peers" is legitimate only by virtue of (tacit) social rules. Moreover, the legitimate social feature does not determine the social rules that legitimise (justify) it. Therefore, these rules deserve being mentioned for a fuller understanding of the legitimacy of the social feature under scrutiny. However, for reasons of readability, I sometimes mention legitimacy in the present paper without recalling systematically that this legitimacy is relative to social rules.

Finally, it is key to note that social rules usually determine the legitimacy of sets of social features that may incidentally be contradictory (their actual realisations are mutually exclusive). In the case of the team-mates, the respected social rules implied that it was more legitimate to share client information than not to share it. However, the question remained open as to what kind of information should be shared. Should the team-mates share all the information they had? Should they share only the information related to some delimited kinds of products? These open-ended questions reveal (retroductively) that the respected legitimising social rules SRL defined a field of legitimate potential actions whose realisations are mutually exclusive (Cf. figure 1)

Figure 1. Respected rules define a field of legitimate social features



#### 4. Clarifying the notion of “congruence”

I can see at least two ambiguities in the way I used the word “congruence” so far. The first ambiguity is that “feature SF is congruent with the set of rules SRL” can mean either that “if you respect the rules SRL, then you should do (favour, create, reproduce) the social feature SF” or it can mean that “if you respect SRL, then you should permit (not impede) SF”. In the first case, legitimacy is conceived as obligation whereas in the second it is conceived as permission. If we follow commentators on Weber such as Bullen (1987), it appears that Weber’s conception of legitimacy is thought as an obligation rather than as a permission. Thus, according to Bullen, Weber distinguishes between features that are “legitimate”, features that are “non legitimate” (that should not be impeded) and features that are “illegitimate” (that should be forbidden). This commentary of Bullen is somewhat corroborated in Weber’s statement that

[a]n order which is adhered to from motives of sheer expediency is generally much less stable than one upheld on a purely customary basis through the fact that the corresponding behaviour has become habitual. The latter is much the most common type of subjective attitude. But even this order is in turn much less stable than an order which enjoys the prestige of being considered binding or, as it may be expressed, of “legitimacy”. (Weber, Roth et al. 1978, emphasis added)

I tend however to think that the conception of legitimacy as obligation is misleading. For instance, employees at Hurdy and  $\omega$ . would sometimes drink water from the fountain. They have the right to do so as well as they have the right not to drink a single drop if they wish so. Isn’t it excessive then to state that drinking water from the fountain is a non legitimate action in that organisation? Rather, shouldn’t we better distinguish between legitimate and obligatory social features? This would allow us, for example to state that drinking water at Hurdy is legitimate without being obligatory. It follows that the notion of

congruence I use does not express an obligation but a right. Therefore “feature SF is congruent with set of rules SRL” is equivalent to “if you respect SRL, then you should not impede SF”.

It is worth noting too that obligation is a particular case of permission since, if a set of rules SRL renders social feature SF obligatory, then, *a fortiori*, SRL permits SF (the contrary being evidently false). When an agent wants to prove she has the permission to do something (SF), she very often tries to show evidence that she has the obligation to do it in virtue of rules (SRLo) that are respected by her interlocutor. For example, one of my informants (Marie, a young woman who worked in a French organisation other than Hurdy & co.) was trying to negotiate a departure package with her employer. She found out that it was easier for her to legitimise her resignation by arguing that she had to follow her long-standing partner who needed to move abroad. Arguably, the obligation she put forward was recognised as congruent with a social rule that was respected by her (male) interlocutors. In this case, the social rule (SRLo) according to which “a woman should follow her male partner if he moves to another country” was recognised as obligatory by the employer (and the H.R. managers). By the same token however, it legitimised the (otherwise illegitimate) social rule according to which “the female informant should seek to leave her job”.

The second ambiguity of congruence stems from the fact that agents do not (always, necessarily) follow explicit and rigorous logics. Thus, the proposition “if you respect social rule SRL, then you should permit social feature SF” is scarcely expressed explicitly by agents. Moreover, not only is this proposition usually implicit but the relation between SRL and SF is (usually) not rigorously deductive. For instance, a particular social feature SF may (usually) be recognised as legitimate by analogy with some other explicitly legitimate social feature SF\*. For example, employees at Hurdy would often affirm that if they fail to deliver results that are “satisfactory” for their manager, they would be legitimately “asked to find other job opportunities elsewhere”. When asked why this is legitimate, they reply usually by telling the story of one of their former colleagues who were “asked to leave” for similar reasons. It follows thus that the congruence of SF with SRL is in practice usually expressed under the form: “I suppose that SF is legitimate (is ok, harmless, etc.) because SF\* is ok”, when the whole (implicit) idea is that “I suppose that SF is ok for three reasons. First, because it is subject to the same social rules SRL as SF\*, second because SF\* is ok (which implies that rules SRL are respectable) and third because I assume there are no social rules SRi that would overwhelm SRL and thus make SF illegitimate.”<sup>6</sup> Now, this third reason deserves more elaboration and leads us to the next question we prompted: What about the usual case in which there are rules that legitimate a feature and other rules that legitimate its contrary?

### 5. Rules that legitimise a social feature and rules that illegitimise it

Amongst the informants who agreed to meet me for my empirical study, several called me back to change the date of the interview “because [they] had an important meeting with a client”. Moreover, I guess that even those who did not happen to change the date of our interview would have changed it had a client proposed them a meeting at that precise time. Significantly enough too, informants would call me on my cell phone and tell me something like: “you understand, I have a meeting with a client at that time, could we change the date?” Everything (I would find meaningful and relevant) in their demand expressed the dual fact that they were themselves convinced that their demand was legitimate and that I would myself find it legitimate. By contrast, I also had the luck to wait around 20 minutes for a (junior) interviewee who had forgotten about the interview. When I phoned him, his voice was anxious and he expressed how sorry he was. He hurried to reach our meeting point (a café next to his office) and renewed his excuses: “I am absolutely sorry. I forgot about the meeting. I have no excuse.” I told him that this event was ok and offered him a cup of coffee, so that the “natural” (that is, the social and conventional) flow of events could continue its course.

In front of these contrasting events, we may suppose retroductively that the set of rules (SRL) according to which “these persons (*qua* brokers<sup>7</sup>?) should adapt to the meeting slots of their clients” overrules the set of rules (SRi) according to which a) “they (*qua* would-be informants?) should not attempt to cancel or modify the time of the meeting they agreed on with an almost anonymous interviewer” and b) “they (*qua* “polite persons”?) should favour the (chronologically) anterior engagement over the (chronologically) posterior one”. In the case of the forgotten meeting, my conjecture is that SRL was not actually realised, so it could not (actually) overrule SRi. I believe however that the junior broker who forgot our meeting would have preferred having a “good” excuse (reason) of the type of the rules SRL in order to arrive lately.

The simultaneous presence of a set of rules (SRL) that legitimises a social feature and of a set of rules (SRi) that illegitimises it can be a source of ambiguity for the very legitimacy of social features. This ambiguity and the tensions that follow are to some extent (but never completely) relieved by the fact that agents prioritise (rank) the different rules they follow. For instance, most (senior) people at Hurdy act as if they ranked the rule according to which “one should be fair with her colleagues” higher than the rule according to which “one should love and be loved by her colleagues”.

It is worth remarking however that even in cases when rules are explicitly and apparently unambiguously ranked by interviewees, this ranking is highly dependent on the situation in which these rules are followed. Let us consider an example I encountered during the field study. Brokers at Hurdy commonly buy under-priced products without receiving any specific order from their clients. They do so in the hope that they will later be able to offer a competitive price to their clients when these will express their desire to buy these

products. The rule that is usually followed is that if the broker incurs losses, these should be deduced from her results sheet (not from the client's). Thus, the rule according to which brokers should pay for their losses "because [they] ran the orders" is usually ranked higher than the rule according to which clients should assume these losses "since, after all, they are the ones who get the benefits". It is interesting to remark however that this prioritisation may sometimes be inverted. This happens typically in situations when the broker incurs losses a short time after having brought high returns to her clients thanks to the risks she took. In these (rather scarce) cases, both broker and client may find legitimate that the client "pays for the loss". Interestingly too, the broker and the client have sometimes divergent opinions regarding which of these two rules should be ranked higher. Thus, it appears that the very ranking of rules is usually not explicitly mentioned in these very rules, just as much as rules cannot account entirely for their conditions of applicability (late Wittgenstein, Garfinkel) Needless to say, this essential ambiguity of rule ranking (and of rule applicability) generates conflicts that are both "countless" and "normal" between brokers and their clients as well as between brokers and their team leaders.

The (ambiguous) ranking of legitimising rules is also related to the identities of participants. This can be seen clearly in the case of a middle manager who happened to be a close friend of the senior manager who hired him at Hurdy. During the interview, the middle manager referred explicitly to the rule according to which close friends ought to avoid harming each others. However, he also asserted (somewhat contradictorily) that "the moral contract between [him and his friend] is that if he performs below expectations, then [he] gets fired. Conversely, if he finds a better [job] opportunity in another company, he would leave." In order to make sense of this situation, we must admit that this participant had several identities at play in his relation to his boss. At the same time, he felt he was his friend and felt he was his subordinate. Each of these identities tied him to different sets of rules that would legitimise or illegitimise his behaviour and that of his boss. His discourse indicates that his identity as an employee is (*ceteris paribus*) having priority over his identity as a friend. As a result, he feels more respect for the set of rules related to his identity as an employee than for the set of rules related to his identity as a friend. But then, how should we conceive this notion of respect? To this problem we now turn.

## **6. Legitimacy and the sense of respect**

The notion of respect is pretty perilous to define satisfactorily. Despite its centrality to the Kantian system of morality, Kant himself had some difficulties with this notion as he lamented that

'It might be here objected to me that I take refuge behind the word respect in an obscure feeling, instead of giving a distinct solution of the question by a concept of the

reason. But although respect is a feeling, it is not a feeling received through influence, but is self-wrought by a rational concept, and, therefore, is specifically distinct from all feelings of the former kind, which may be referred either to inclination or fear, What I recognise immediately as a law for me, I recognise with respect.' (Kant 1785)

I hope nonetheless that a wide range of readers may accept the succinct analysis of respect I suggest in the following lines. It is worth noting that this analysis is focussed on respect for a social rule. At first sight, I believe however that it could be easily extended to respect for other objects (people, actions, values, etc.)<sup>8</sup>

The etymology of "respect" gives us some insight about an important aspect of respect. Indeed, the word "respect" is derived from the Latin "re-spectare", the action of looking (back) at something, of (re)considering it. It follows that respect implies consideration and recognition so that respecting something implies recognising the existence of that thing and taking it into consideration. Thus, in order to respect a social rule, it is necessary (though not sufficient) to acknowledge its existence or at least its (structured) possibility. For example managers at Hurdy happen to respect the rule according to which employees should be allowed to stay or be forced to leave in function of the profits they appear to generate individually. Clearly, for these people to respect this rule, it must be the case that they believe either that this rule exists or, at least, that it could exist. Thus, the recognition of the (possible or actual) existence of such a rule is analytical to the respect of this rule.

However, the recognition of the existence or (structured) possibility of a social rule is a necessary but insufficient condition of respect. Indeed, respect also implies that one should value the rule as worthy of being taken into consideration into one's actions. Thus, "respecting a rule" can be contrasted with "acknowledging a rule" and with "following a rule". Let us expand further on these contrasts to ameliorate our comprehension of respect. A person may acknowledge the existence of a social rule and refuse to follow it because she feels more respect for another incompatible rule. For example, it is possible for managers at Hurdy & Co. to pay female staff less than male staff (rule 1). We can imagine plausibly however that a manager refuses to follow this rule and follows another rule that she respects more, e.g. that all employees in her team should be paid equally without consideration for their gender (rule 2). In this case, rule 1 is acknowledged but not respected whereas rule 2 is respected and (by logical implication) acknowledged. Conversely, a rule may be followed (and thus known in some way<sup>9</sup>) without being respected. For example, an interviewee (a friend working for a consumer goods firm next to Paris) told me that she was actually managed and evaluated by the director of the department but that she had to show signs of deference to one of her colleagues who is (formally) her boss. Thus, she would regularly keep her informed of the progress of her work (rule A) without feeling any respect for this rule. I felt that this absence of respect for rule A was manifest in the fact that the interviewee would affirm that she thought this state



of affairs was a “bad” one and that she would like to have things changed (if only she knew how to proceed without incurring too much harm).

Finally, this also points out that respect entails trying to establish or to preserve a rule. If we give credit to the critical realist transformative model of social action, then we may say that if one respects a set of social rules  $SR$ , then she should either try to reproduce  $SR$  (if it exists already) or try to transform the existing (less respected) set of rules  $SR^-$  into a more respected set of rules  $SR^+$ . It follows too that respect is thought here in a graded way. Thus, rather than talking of “respected” or “disrespected” rules, it may be more accurate to talk about rules that are “more” or “less” respected than others. In sum, respecting a social rule implies that one recognizes the existence of this rule, feels it is worthy of being followed and seeks to maintain it or to establish it. But then, how is it possible to differentiate respect and legitimacy? A possible answer to this question could be that the word “legitimacy” is not synonymous with “respect” but rather with “respectability”. This points out that respect and legitimacy are two things of different kinds. Whereas respect is basically a feeling or a belief, legitimacy is basically a possibility that is not necessarily actualised as a feeling or as a belief. Thus, I could notice during my fieldwork experience that people often spend significant time and effort trying to find out whether such or such social feature is legitimate and should therefore be respected. For example, it took me a great deal of effort to prove to potential interviewees that my presence and that my activities were legitimate according to rules they already respected. To a lesser extent, I also tried to prove them that rejecting my request was not so legitimate according to these same rules.

The fundamental difference between respect and legitimacy also indicates that my characterisation of legitimacy in terms of social rules can be useful despite its apparent circularity. Let us first note that I am characterising social features that may be respected in terms of social rules that are already respected. Thus, the object that characterises (i.e. the legitimising social rule) is not the same as the object that is characterised (i.e. the legitimised social feature). This should be sufficient reason to cast away doubts about circularity.

I would like however to add another argument that defends my conception of legitimacy in terms of respected rules. This characterisation tries to account for the process of legitimation, that is, the process through which people establish that some social feature is legitimate (and thus respectable though not necessarily already respected) in the light of other social features that are already respected (believed to be legitimate). In the light of this process, it appears that the legitimacy of a social feature is not given independently of what people are *ready* to consider (judge) as meriting respect. This prompts in turn two important questions. First, to what extent should people believe in the legitimacy of a social feature for this feature to be legitimate? Second, who should be ready to respect a social feature for its being legitimate? To these questions we now turn.

## 7. Legitimacy and belief in legitimacy

In this section, I elaborate briefly on the distinction between legitimacy and belief in legitimacy. For example, if a person goes to a formal dinner dressed in jeans, she may be dressed in a way that is illegitimate relatively to the social rules at play in dinners (when formally organised by Western European middle class people). Nonetheless, that person may ignore that the way she is dressed is illegitimate according to rules she is herself ready to respect. For instance, it may be the first time she goes to such dinner or she may have thought that the occasion was less formal than it turned to be. In order to maintain her status as a “good member of the community”, this person may need to apologise by reaffirming her respect for the rules she has broken and by explaining her actions by reference to her mis-appreciation of the situation. Similarly, it is possible to imagine situations in which people believe they act in an illegitimate way although what they are doing is legitimate according to the social rules they (or other people) respect. For example, the same person in the same dinner may believe that she is acting rudely by starting to eat her hot starter before everyone is served when this is acceptable according to some social conventions (in French middle / upper class, when the starter is bound to get colder). In this example, eating hastily the hot starter is illegitimate according to the rule that one should wait until everyone is served but is legitimate according to the (supposedly overwhelming) rule according to which one ought to behave politely in formal dinners.

Thus, belief in legitimacy derives from what people *actually* respect in consideration of the social rules they already respect although they may be unclear or wrong about it. Moreover, belief in legitimacy is immediately (directly) effective through the conscious actions of individual agents. On the contrary, legitimacy itself corresponds to what people *should* believe to be legitimate in light of the social rules they already respect. Thus, people are not necessarily aware of the legitimacy of any given social feature. Moreover, legitimacy is not necessarily immediately effective through the actions of agents. This is not to say that it is not effective at all, but rather that when it is effective, it is so in a way that is mediated through the activity of agents.

## 8. The relativity of legitimacy

I now attempt to bring elements of answer to the question of “who should respect the legitimising rules for the social feature to be legitimate?” I do so by drawing on the distinction between legitimacy and conceptions of it. A social feature SF is conceived to be legitimate to the extent that someone actually believes in it. Turning back to a previous example (Cf. Supra) “going to a dinner dressed in jeans” is conceived to be legitimate by me as long as I believe it is so. A direct implication of this consideration is that a conception of legitimacy should normally be referred to the person (or group of persons)

that believes in it. Thus, sentences of the type “social feature SF is conceived to be legitimate” could be replaced and completed by sentences of the type “social feature SF is conceived to be legitimate relatively to the beliefs of persons P1, ..., Pn”. On the other hand, a social feature SF is legitimate to the extent that it is congruent with a set of respected social rules SRL. Thus, as we mentioned at the beginning of this paper (without being yet able to distinguish legitimacy and the conceptions people hold about it), considerations of the kind: “social feature SF is legitimate” could be replaced and completed by sentences of the kind: “social feature SF is legitimate relatively to respected rules SRL1, ..., SRLn”. Therefore, it is possible to affirm without contradiction that, although conceptions of legitimacy are relative to people, legitimacy itself is relative to social rules, not to people.

At this level of the analysis, I would like to address two linked concerns that may arise concerning the relativity of both legitimacy and conceptions of it. First, who should respect the very legitimising social rules for legitimacy to be exist? And second, isn't the very distinction between legitimacy and belief in legitimacy seriously undermined since the actual existence of the respected legitimising social rules necessitates the belief of social agents? A short answer to the first question is that no one needs to respect *actually* the legitimising social rule for the legitimacy of a social feature to be real! The reason is that legitimacy is *in essentia* a congruence relatively to a set of rules. The reality of this congruence depends on the reality of the rules (as a structured possibility) and not on their actual existence and presence. If two persons consider the legitimacy of the same social feature but respect two different sets of social rules, then they are trying to uncover two different legitimacies. The reality of legitimacy is hence virtual in the sense that it is structured by social rules that may well be absent or forgotten. Therefore, if the set of believed-to-be-legitimate social features corresponds to the features people *are ready to accept*, then the set of legitimate social features corresponds to the social features agents *should accept* with respect to the social rules they already accept.

Let us now turn to the second question and examine whether the fact that respected legitimising social rules necessitate the belief of agents is enough reason for admitting the collapse of the distinction between legitimacy and the belief in legitimacy? A general answer could be that social objects may well depend (for their existence) on the beliefs of people and still be irreducible to these beliefs. Ontologically, this is the same difference than that between a) the existence of object Y being dependent on the existence object X and b) object Y being reducible to object X. Logically, I believe it is also the same difference as that between stating that a) X is a necessary condition for Y and b) X is a sufficient condition for Y.

To illustrate this distinction (and thus save the distinction between legitimacy and conceptions of it) let us suppose that I forget some night that jeans are not allowed in formal dinners. At that moment, I should actually respect social rule SR “when invited for

an event, try to respect the dress code associated to it” by dressing formally, but I fail to do so. Without my belief, SR is not respected by me. Therefore, my belief is a necessary cause of (the existence of) SRL through my actions. However, my belief is not a *sufficient* cause of SRL. For instance, if the rest of the people attending that dinner had different conceptions of what is tolerated in a formal dinner, then SRL would be undermined. More importantly still, a person can realise (understand, judge) the legitimacy of the action “wearing jeans for a formal dinner” relatively to the social rule “when invited to an event, one should respect the dress code” without respecting herself this social rule. In fact, since legitimacy is respectability rather than respect it suffices that one examines the congruence (absence of contradiction) between a social rule and the social feature under scrutiny to judge its legitimacy<sup>10</sup>.

### **9. A contrastive empirical enquiry on some processes through which legitimacy and belief in legitimacy are realized**

In this section I illustrate and explore further the effects on social reality of both legitimacy and belief in legitimacy. To this end, I rely on a contrastive sociological empirical study (Lawson 2003). I conducted this study with Marie and Paul, who are two very close friends of mine and who decided to leave their jobs at approximately the same time. Although they were working in different companies, the situations they faced may offer an interesting contrast as they were occupying *prima facie* similar positions. Both of them were working as young professionals in consulting oriented firms located in Paris. Moreover, they had graduated from the same *grande école* relatively recently. At the time when I am writing this case-study, Marie and Paul are still working in their respective firms, although the conditions of Marie’s departure look clearer than those of Paul’s.

Marie works for Beta Consulting, a management and accounting consultancy that is dedicated to workers’ committees. She wanted to leave her job in order to follow her long-standing partner who needed to settle in the U.K. Moreover, she also hoped she could obtain a financial “departure package”. For this, she needed to persuade various persons in her firm that her departure was legitimate. Perhaps a case could be made that the legitimacy of her departure was already granted by the set of social rules that participants already respected in her firm<sup>11</sup>. Nonetheless, this very legitimacy could only become clearly and fully effective after everyone involved in the negotiation realized it (recognised it, accepted it, believed in it). This whole process was not instantaneous, since it necessitated around one full month during which matters were “very uncertain”. Moreover, this process necessitated considerable energy for Marie. In addition to various actions she undertook, she also reported that, all the while, she felt much more “anxious” than usual. She was uncertain about the issue and felt at times lost in front of the complexity of the situation. Arguably, her interlocutors might have felt similarly. Marie (and friends of her including myself) dedicated substantial time consulting Internet sites that would inform her

about her legal rights. Moreover, she also discussed with several colleagues in her firm in order to clarify her understanding of how more or less similar cases were treated in the past – that is, she tried to understand the traditions (social rules that were respected in the past) at play in her firm. Finally, the negotiation involved several talks between her and the decision makers. These talks were key for her understanding two things. First, she wanted to understand what “imperatives” her interlocutors ought to respect and with what weight. Second, she attempted to understand the “departing position” of her interlocutors with the intention of transforming it if she thought this would be possible and desirable. Finally, these discussions necessitated “good faith” from all discussants as they needed to think out what they “really” assumed to be “fair” - that is, legitimate according to the social rules they respect. At the end, Marie and her interlocutors reached an agreement that “sounded fair” to all parties. She would obtain a “satisfactory” departure package and would be welcome to ask for reference letters, which is not that common in France but pretty handy for job-hunting in the U.K. In exchange, she would work “hard” for a few more months in order to face the seasonal peak that was about to start when the agreement was reached. Since she was departing “in excellent terms”, she was invited to come back and apply for a job in the firm “whenever she wanted”.

By contrast, Paul related a significantly different story about how he is currently quitting his job. Just like Marie, he wished to leave with a “reasonable” financial departure package. However, the reasons why he wanted to leave were different. As he stated in a 10 pages long document that was written in January 2004 but that was never actually communicated to his firm

[...] My work at Mercury Associates is unsatisfactory for various reasons

**Training:** the conjuncture did not allow the firm to realize many missions over the last 2 years. Consequently, I am mainly asked to “sell consulting missions” rather than to perform consulting missions, which is less formative for me.

**Remuneration:** the remuneration that I obtained since the start of my work contract is inferior to what was agreed at the beginning of my internship (40 vs. 42 k€ p.a.). The discretionary variable part was never paid. I never received any compensation for the extra hours I worked. My salary did not increase since I was hired.

**Work relations:** my relations with my superiors deteriorated gradually along with the frustrations I accumulated and expressed. Without abandoning elementary courtesy, finding an agreement for my departure now seems desirable for both parties

**Career development within the firm:** after 2 years of important deficit, I have doubts about the middle-term viability of Mercury Associates. Amongst the 16 persons who used to work for Mercury Associates in June 2003 [...] 7 [already] quitted the firm [...]' (Paul, *Untitled document January 2004*, my translation, text modified)

Contrary to Marie, Paul felt he could hardly trust his employer who had already made him “false promises” in the past about his status and remuneration in the firm. Moreover, he felt that he could not sue them since he would then be “banned from the financial community”. As a result Paul believed that he could rely neither on the law nor on the rules his interlocutors pretended to respect, despite the very favourable “general principles” expressed orally by his interlocutors and although he had some idea of what he could legitimately reclaim in front of the courts. Moreover, his interlocutors managed to deflect all his attempts to have them mentioning their conditions in writing. As he lamented during a conversation we had and that he allowed me to record *in extenso*

‘Paul: I can’t stand it anymore, these guys... They’re parselmouths! You know, the bad guys in Harry Potter.

Interviewer: What about him [the firm owner], what justifications does he give you?

Paul: Kind of like... Yes... “We are sorry. We will fix all this. Don’t worry, things will get better next time.”

[silence]

Interviewer: Yeah, this doesn’t mean anything!

Paul: Yeah exactly, yeah!

Interviewer: Yeah, but I’d tell them “I need the document!”

Paul: Yes, but they toss the ball back to one another! Me, it exhausts me to run after them.

Interviewer: Yes but how is it that he [the firm owner] manages to play the clock this way? Why don’t you press him?

Paul: [The owner] is in Canada! No, he’s in Japan now! And [the contractor in charge of supervising me day to day] has no power. He’s not even part of the firm. [The owner] is the only one who’s part of the firm.

Interviewer: (laughs!) He has his firm managed by someone who’s not part of it?! Like that the poor [contractor] has to deal with all your grievances?

[...]

Paul: No, but, if you like, for the moment, I go to work and I am there from 11am to noon and then again from 15pm to 16pm.

Interviewer: Yeah?

Paul: Two hours a day, that’s it! It’s not the end of the world.’ (Paul, Interview June 2004)

The twin stories of Marie & Paul may reveal interesting things about the effects of legitimacy and belief in legitimacy. Starting with the latter, I believe it is possible to consider at least two ways through which it is (or better, *becomes*) effective in particular social settings. On the one hand, belief in legitimacy is effective *qua* reason, that is as an efficient cause of people’s actions whereas on the second hand it is effective *qua* material

cause in the process of constitution of (ameliorated) legitimacy. Let us examine these two processes more fully. As I mentioned above, Marie sought to understand the “imperatives” of her interlocutors. Arguably, these “imperatives” correspond to what I refer to in this paper as the respected social rules that confer legitimacy. Interestingly, Marie had a rather clear idea of the social rules that were respected by her interlocutors. However, she was at first unsure about which rules would be granted priority. For instance, she didn’t know if her employer believed that the rule according to which an employer needs to keep good relations with leaving employees was more important than the rule according to which the firm should attempt to save the financial equivalent of her “departure package”. Understanding the beliefs of the interlocutors (that is, their conception of legitimacy) was of vital importance since, *ceteris paribus*, the interlocutors would use these beliefs to inform and structure their actions (judgements, decisions). To the extent that people’s conception of legitimacy is a belief, it constitutes reasons that are themselves causes on peoples’ actions (Bhaskar 1998).

Interestingly, there are other ways through which conceptions of legitimacy affects social reality. Indeed, it is possible to think of another mechanism that is equally important though perhaps less immediately effective and observable<sup>12</sup>. This mechanism may be illuminated if we remember that Marie tried to uncover the “initial position” of her interlocutors concerning her demand. She felt it was vital to first listen to the opinions of her interlocutors before she could deploy fully her own arguments. I believe this “initial position” corresponds indeed to the initial belief in legitimacy from which her interlocutors departed. Interestingly, the process of negotiation could be analysed as a process of active (and somewhat harassing) transformation of the believed legitimacy of Marie’s request in the minds of all participants. In this case, participants moved from a state of consciousness in which the conception of legitimacy of Marie’s request was obscure and ambiguous to another state of consciousness in which it was clearer and less ambiguous. This points out that the ameliorated conception of legitimacy was not formulated *ex nihilo*. Rather, it was built upon some prior conception held by participants. In this light, the initial belief in legitimacy served as the material cause of the ameliorated belief in legitimacy. Arguably too, the (direct and indirect) effects of the improved belief in legitimacy may be viewed as indirect effects of the belief in legitimacy.

These considerations lead us to ask what is the role of legitimacy in the constitution of the ameliorated conceptions developed and held by people? I contended above that legitimacy is not effective clearly and immediately. My point was not however that legitimacy is not effective at all but rather that, when it is effective, it is necessarily so in a mediated way that may incidentally be unclear. It could perhaps be argued that Legitimacy is effective on conceptions of legitimacy in several indirect ways. There is however one way that I believe is of particular import to our subject matter<sup>13</sup>. As we already noted the process of constitution of belief in legitimacy is a social process since it is performed

through the intentional actions of people. However, similarly to scientific discovery and contrary to (some) other forms of social action, when people act in good faith this process is guided with a concern for the intrinsic nature of its intransitive object (legitimacy). It follows that the process through which an initial conception of legitimacy is transformed into a “better” conception of legitimacy presupposes an intransitive object (legitimacy) that exists independently of the theory that is specifically being elaborated about it<sup>14</sup>. This point could be illustrated and analysed by turning back to the stories of Marie and Paul. The necessity of legitimacy (as distinct from actual belief) manifested itself through the fact that it was not sufficient for each of them to announce plainly their right for a “departure package” in order to get such a thing. In effect, Marie also needed to prove that her getting a departure package would be compatible with the other respected rules at play in the firm. Retroductively, this indicates that the belief of any sub-group of individuals concerning particular social rules is neither a necessary nor a sufficient condition for the realisation of these rules. A parallel could be drawn here between the establishment of legitimacy and the establishment of social meaning as opposed to individual belief in Bhaskar (1979)

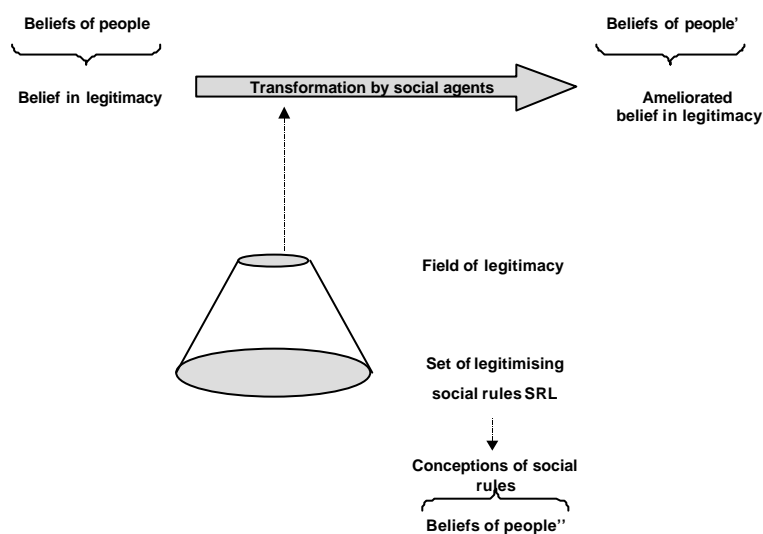
‘To coin a slogan: intentions are personal, meanings are social – in the sense that intentions are of (that is, belong to) persons, whereas meanings are always effectively given for them. Now it is only because language is always and everywhere already given, that one can use it as a vehicle with which to describe actions (and, in the special case of speech, to perform them), and thus, in the case of one’s own actions, use it both to form intentions and to comment reflexively upon what is intended in or by an action (whether the action is communicative or not). Thus it is a mistake to identify the social meaning of an action with the agent’s intention in performing it on some particular occasion. Cf. Weber’s distinction between “direct” and “explanatory” understanding’ (Bhaskar 1979)

As a result, even if some participants (e.g. Marie or the director of her firm) may sometime succeed at establishing new rules they believe to be legitimate, other participants would consider these new rules as legitimate only if they are compatible with the set of (higher ranked) rules they already respect. Concretely, this meant for Marie that even if her employer could (physically) claim that leavers should get no “departure package”, this claim alone would have been insufficient to convince other employees that the departure package was not legitimate. Thus, both Marie and her employer had to refer to commonly respected rules in order to justify their point of view. In this particular case, participants were acting and judging “in good faith”. Therefore, it was a matter of proving that one’s point of view was congruent with the set of rules that are respected throughout the company. It is important to note here that the social feature under scrutiny (the departure package) as well as the respected social rules taken into account and the relation of



congruence between these rules and the social feature under scrutiny all exist independently of the contextual thoughts of participants *at the moment of the negotiation*. In this light, this process appears to be a process of judging (and by the same token of discovering) the Legitimacy of the “departure package” since it is about uncovering the insufficiently well known nature of entities that exist irreducibly to (though in part dependently upon) the questions that are asked in the process of constitution of ameliorated belief in legitimacy (Cf. fig. 2).

**Figure 2. The transformation of conceptions of legitimacy**



Through this process, legitimacy has effects on conceptions of legitimacy through the efforts of participants but also thanks to their genuine “good faith” to figure out “what is legitimate and what is not”. However, isn’t legitimacy losing its power if people do not care about it or if they try to defend the legitimacy of features that they believe (more or less consciously) to be illegitimate? Moreover, in our analyses, we did not try to account for the possible existence of various legitimate possibilities open to participants. What about the case then of a person or a group of persons enjoying “arbitrary power”, aren’t the effects of legitimacy cancelled (or at least transformed) in that case?

First, let us tackle the question of people not caring for the legitimacy of the social features they promote. In this case, a group of people does not bother about knowing whether the actions they undertake and the social features they use are legitimate or not. Arguably, these people run the risk of being confronted with the lack of acceptance (not to say outright rejection) by other agents of their implicitly expressed point of view. Sticking to the example of Marie’s departure, her interlocutors could have reacted in various different

ways and *could* have elaborated offers that they would have found advantageous for themselves without bothering about the legitimacy (in relation with the rules that are commonly respected in the firm) of these offers. For example, they could have refused to pay her the balance of her unused days off (as it occurred to Paul). However, if Marie or the workers representatives of her firm had been able to explain why these proposals were illegitimate, they would have then been able to exercise powers they would not have been able to use otherwise. For example, Marie could have been able to obtain medical exemptions for psychological harassment and eventually submit her case on the relevant courts hoping to win a trial against her employer (a strategy Paul considered seriously without adopting). Moreover, she would have been able to be more selective on the kind of tasks she would accept to perform and the kind of tasks she would outright refuse without raising a feeling of injustice amongst other participants who would know about her story (as Paul actually did). Interestingly, in the case when participants do not attempt to judge in “good faith” the legitimacy of the social features they use, then legitimacy may be realized through the very *resistance* of some participants against social features that presuppose (necessarily) a conception of legitimacy with which they disagree.

Similarly, when some participants act in bad faith, a similar mechanism of resistance through revelation and of revelation through resistance may reveal the legitimacy at play in the local organisational settings. Bad faith implies retroductively that a person or a group of persons decide to act following a set of rules that they (more or less) consciously believe to be illegitimate but that other participants may believe to be legitimate. When other participants do not believe in the conception promoted through bad faith, then the situation is the same as when they resist it by promoting an alternative improved conception that is itself guided by their comprehension of legitimacy. On the other hand, when other participants do believe in it, then the newly (and cynically) legitimised social feature is believed to be legitimate for those who believe in its legitimacy but not for those who promoted it. Moreover, no one knows infallibly the legitimacy (relative to commonly respected social rules) of this social feature. However, the very fact that the person or group acting in bad faith *concealed* what they thought to be the most adequate representation and expression of legitimacy indicates that this conception could be convincing and adopted by other participants. It follows that even though bad faith and concealment impede the realisation in both senses of the term of legitimacy, they also reveal retroductively its effects *in potentia* on beliefs in legitimacy and on respected social rules.

Finally, let us examine the effects of legitimacy when a participant (e.g. the company owner) has legitimate arbitrary power of decision. Almost by definition in the case of legitimate arbitrary power, the respected social rules under-determine legitimacy, which results in the liberty of the participant to promote different (and in a certain sense contradictory) legitimate social features. It is crucial to note however that this very liberty

(under-determinacy) is itself granted (determined) by social rules that precede ontologically and chronologically the actions and judgements of participants enjoying discretionary power. In the case of Marie and Paul, each participant could legitimately undertake various possible actions that were at the same time legitimate and contradictory, that is, their actual realisations were mutually exclusive. For instance, Marie's boss could have tried to offer her a "departure package" of lesser importance and still remain within the limits of what Marie (as well as her colleagues) were ready to accept. Thus, even in cases where there is a degree of arbitrariness in the legitimising judgements of participants, this very arbitrariness (and the limits associated to it) is itself a product of other rules that participants assume to be legitimate. Therefore, even though legitimacy may have no immediately visible direct effects on these arbitrary judgements, it still has less visible indirect effects on the respected social rules that constitute the conditions of possibility of these judgements.

## 10. Conclusion

Contrary to institutional theory, I consider legitimacy as an *explicandum* rather than as an *explicans*. I do so through a retroductive approach that attempts to uncover the mechanisms (structured possibilities) that shape the events I can observe. This approach is fallibilist in nature since the scientific knowledge it generates is radically open to debate and contradiction by alternative theories. Moreover, any form of legitimacy is context specific to the extent that the social rules and the beliefs that are its (material) cause are historically and geographically bounded. I defend a conception of legitimacy as the congruence of a social feature with respected social rules, which implies that the legitimacy of any social feature cannot be adequately thought without reference to a set of social rules that legitimises it. Moreover, a set of respected social rules does not define a single possible legitimate social feature but define rather a field of possible legitimate social features that may be exclusive from one another (in their actualisation).

I also defend a conception of congruence as the absence of incompatibility rather than as necessity. It follows that the nature of legitimacy (and followingly of authority) is principally to authorise. As a result, obligation is a particular case corresponding to the absence of congruence of the opposite. It follows interestingly that obligation implies permission of some kind. Moreover, agents usually estimate the il/legitimacy of a social feature by analogy with an other social feature they believe to be legitimate. This does not contradict the role of legitimising social rules but presupposes it indeed. Also, social rules can perfectly be contradictory with each others, resulting in the necessity for agents to rank them through their decisions and meaningful actions. Empirical evidence appears to suggest that participants do so by taking into account the situation to which they are confronted as well as their personal identities.

Respect (for a rule) is a key notion that entails recognising that rule and trying to preserve it or to establish it by transforming present less respected rules. Legitimacy designates a possibility rather than an actual state of affairs and is thus synonymous with respectability rather than with respect. Moreover, the distinction between legitimacy and conceptions of it allows us to consider without contradiction the relativity of legitimacy. Conceptions of legitimacy are *qua* belief relative to the participants who believe in them whereas legitimacy is *qua* congruence relative to the respected social rules with which it is compatible.

Furthermore, a contrastive case-study helped us studying into more detail some aspects of the general process through which both legitimacy and conceptions of it are realised. Belief in legitimacy is effective as a cause because it is a reason held by participants and because it is the point of departure of the process through which participants constitute ameliorated conceptions of legitimacy. On the other hand, legitimacy is only indirectly effective through the activity of participants who attempt to uncover it. Even when some participants act in bad faith, legitimacy is still effective, but it is so through the resistance of some (resisting) participants. Moreover, discretionary power is not contradictory with the realisation of legitimacy but presupposes it to some extent.

I also hope the present work may bring some contribution for further research in ethnomethodology, management, philosophy, political theory and sociology on issues of legitimacy and authority as it attempts to move beyond the heritage of conceptions *à la* Weber. Thus, I hope this paper may provide some ground for developing further a study of legitimacy and authority that does NOT interpret determinate configurations in light of ideal typical categories set *a priori* but, rather, that attempts to uncover and describe the legitimising social rules that enable and structure the processes of legitimation at play in these configurations. Moreover, by treating the constitution of legitimacy as a process, one is able to account for the dual evolution of people's conceptions of legitimacy and of the social rules that legitimise determinate social features.

This research agenda is not devoid of emancipatory objectives. It is my hope that such research will help individual participants understand and transform the legitimising social rules at play in their community. For instance, it could allow them to promote social features they cherish either by transforming other members' conceptions or by transforming the social rules that il/legitimise these social features. Moreover, such research could arguably offer the basis for an internal critique of contemporary (and past) social settings. This critique would be internal to the extent that it could render visible discrepancies between participants' conceptions of the legitimacy of determinate social features on the one hand and the systems of rules they respect on the other hand. For example, an internal critique of the instrumental relations at play in many western private firms could perhaps be deployed by pushing participants to confront their acceptance of

(mainly) instrumental relations of work with the wider systems of rules they respect (ethics of brotherly conduct, religious moral, and so on).

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<sup>1</sup> By "fallibilism" I refer to an epistemological belief that scientific knowledge is necessarily subject to error and eventually to rectification. By "actualism" I refer to an ontological belief that the very objects of scientific knowledge are ultimately reducible to series or sets of events. Rejecting actualism allows referring to such scientific entities as possibilities, structures and intentional actions.

<sup>2</sup> I find the word "cadres" almost impossible to translate. It designates a socio-professional category that regroups people commonly designated in the UK as professionals or as managers.

<sup>33</sup> A detailed analysis of *Economy & Society* highlights significant shifts in Weber's conceptions of domination, power and consequently of authority. The shift occurs around the supposition that domination supposes (or not) the actual use of commands. Thus, on the one hand he acknowledges that "in addition to numerous other possible types, there are two diametrically opposed types of domination, viz domination by virtue of a

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constellation of interests (in particular: by virtue of a position of monopoly), and domination by virtue of authority, i.e., power to command and duty to obey' Weber, M., G. Roth, et al. (1978). Economy and society : an outline of interpretive sociology. Berkeley, University of California Press.. However, on the other hand, Weber restricts this definition of domination in order to make it easier to use for an (actualist) historian. This leads him to decide a few pages below that 'in [his] terminology, domination shall be identical with authoritarian power of command' Weber, M., G. Roth, et al. (1978). Economy and society : an outline of interpretive sociology. Berkeley, University of California Press.. It may be interesting to study a) how Weber's actualism impeded him of thinking authority as a power that is irreducible to its exercise and b) how Weber's subordination of sociology under history rendered acceptable his approach of authority in terms of (only) three pure sources of legitimacy.

<sup>4</sup> I find it a bit unclear to what extent the pure bases of legitimacy should be considered as "causes" of legitimacy (and hence of authority) in Weber's works. The situation is different for Kojève as he explicitly associates one type of cause to each of his four pure types of authority. Thus, prior to any confrontation with the social field, Kojève assumes that the act of creation causes the authority of the father; the overcoming of death causes the authority of the master; the project causes the authority of the leader and the sense of justice causes the authority of the judge.

<sup>5</sup> Although this is not the topic of the present paper, it is interesting to note that, very often, people would say something of the kind "one may ask many things from her colleagues". In order to understand correctly this simple sentence and translate it into "a broker can ask her colleagues to perform actions that are not immediately profitable for them", I had to assume many social rules that invalidated alternative interpretations. This illustrates the extent to which interpretation is necessarily tributary of rules (social and grammatical) that give their meanings to utterances. A fact that is widely accepted and taken into account by ethnomethodologists (Garfinkel, Goffman) and, to a lesser extent by sociologists such as Bourdieu in Bourdieu, P. (1977). Outline of a theory of practice. Cambridge, Cambridge University Press.

<sup>6</sup> The necessary (though tacit) presence of contradictory rules points out an empirical question that I find very interesting: how are the different (normative) social rules ranked in western private work organisations? This question is closely linked to most issues of business ethics (corporate responsibility, management ethics, etc.) Perhaps, a clearer understanding of the stratification of rules in corporations could allow us to understand more clearly what could (and should) be transformed in a corporation if its members wish to comply with such or such form of ethics. Unfortunately, such an empirical research falls out of the scope of the present paper and of my present project on authority.

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<sup>7</sup> The identity of participants appears here to be essential to their following (or ignoring deliberately) particular social rules. It is important to note however that these identities are ambiguous for several reasons on which I do not expand here.

<sup>8</sup> This intuition may have been suggested by Kant's claim that 'Respect for a person is properly only respect for the law (of honesty, etc.) of which he gives us an example. Since we also look on the improvement of our talents as a duty, we consider that we see in a person of talents, as it were, the example of a law (viz., to become like him in this by exercise), and this constitutes our respect. All so-called moral interest consists simply in respect for the law.' Kant, I. (1785). Fundamental Principles of the Metaphysic of Morals, eBooks@Adelaide.

<sup>9</sup> Arguably, most rules are followed without being explicitly acknowledged. This does not imply however that such rules are not acknowledged at all but rather that they are acknowledged tacitly, as seems to indicate the narcissistic amazement felt by readers of works of psychology and sociology dealing with their own social settings.

<sup>10</sup> Following this reasoning, a judge does not need to be honest in order to be competent! Thus, the definition of legitimacy I propose in this paper accommodates the idea of an objective juridical knowledge (law as a science) without denying neither the essential relativity of legitimacy or the irreducibility of social rules to any form of objective (human) knowledge.

<sup>11</sup> This does not mean that the set of rules at play in a community of any sort determine unambiguously the legitimacy of all social features. My point is rather that even in cases where legitimacy is somewhat unambiguous (determined by the social rules at play), it may still be the case that belief in legitimacy is ambiguous and obscure.

<sup>12</sup> Needless to say, I am NOT implying that these are the only two mechanisms through which conceptions of legitimacy is effective.

<sup>13</sup> I believe this mechanism is isomorphous with the mechanism through which the nature of the scientific object under scrutiny affects the scientific discourse that is socially constructed about it. This analogy assumes that the reader feels comfortable with the critical realist meta-theory of scientific discovery Bhaskar, R. (1979). The possibility of naturalism : a philosophical critique of the contemporary human sciences. Atlantic Highlands, N.J., Humanities Press.. More generally, my argument in favour of the effects of legitimacy on social rules presupposes a form of scientific realism that may not be equally appreciated by all readers.

<sup>14</sup> This is, of course, very different from saying that the intransitive object exists independently of *any* theory. Thus, social things are both dependent on the conceptions of agents for their continuous existence and independent of the specific conception I may (or may not) elaborate in the present study.