What are the debates on same-sex marriage and on the recognition of transwomen as women about? On anti-descriptivism and revisionary analysis

Abstract: In recent years, debates on same-sex marriage and the recognition of transwomen as women have been raging. These debates often seem to revolve around the meaning of, respectively, the word "marriage" and "woman". That such debates should take place might be puzzling. It seems that if debates on gay and transgender rights revolve around the meaning of these words, then those in favor of same-sex marriage and of the recognition of transwomen as women have no room left to maneuver. However, prima facie, the pro- and anti-, in both cases, have genuine disagreements over the meaning of these words: though the analyses of revisionary theorists are revisionary, they are analyses. Sally Haslanger and other philosophers in her wake have appealed to an *anti-descriptivist* externalist view of meaning to provide the conceptual foundations of this practice of revisionary theorizing: revisionary analyses bring to light what, unbeknownst to us, these words mean. In this paper, I argue that a *descriptivist* externalist view should be preferred instead. My argument rests on the thesis that what is contested in these debates is the (descriptive) meaning of the words 'marriage' and 'women' as used in the law.

1 Introduction

Participants to debates about same-sex marriage disagree about whether the law of their respective countries should allow same-sex marriage. Many (if not most) of the arguments put forward by opponents to same-sex marriage purport to show that, by definition, persons of the same-sex cannot get married. Now, though one might think that the meaning of the word 'marriage', in the context of these debates, indeed includes, among other things, the idea that it unites a man and a woman and that, consequently, a proper response to these arguments would be to push for a replacement of this word by another one[1], this is not the way many (if not most) proponents of same-sex marriage respond[2]. Consider, for example, the following argument:

(1) A marriage is a union of a man and a woman.

(2) If a marriage is a union of a man and a woman, same sex couples cannot marry.

(C) Same-sex couples cannot marry.

To this argument, many (if not most) of the proponents of same-sex marriage respond that a marriage is not a union between a man and a woman. This is somewhat puzzling. And, more puzzling still: the opponents to same-sex marriage do not always reply by way of metalinguistic arguments, like: 'This is not what we mean by "marriage"'. Let's call this back and forth an argumentative exchange. In recent years, social philosophers and philosophers of language have

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[1] I here take words to be individuated partly by their meaning. Thus, such a replacement could conserve the form 'marriage'.

[2] I need to make two terminological remarks. First, debates like these have taken place in countries where same sex-marriage is now legal and are taking place in countries in which it isn't. For simplicity, I won't make this distinction in most of the paper. Thus, when I write 'these debates' and use the present tense, I should be taken to refer to and characterize all these debates, past and present. (Of course, it is likely that in countries in which same-sex marriage is now legal, the meaning of the word 'marriage' doesn't include the idea that it unites a man and a woman anymore; hence the qualification: 'in the context of these debates'). Second, these debates can still take place in countries in which same-sex marriage is now legal. In these countries, the pro same sex-marriage should properly be called the 'defenders' of same-sex marriage, not its 'proponents'. For simplicity though, I will use the word 'proponents' to designate both those who argue for the existence of same-sex marriage and those who argue in its defence.

been trying to determine how this argumentative exchange should be interpreted. In doing so, they set for themselves the following constraint: 'we should look for an interpretation of these arguments and our response to them that *makes sense of what we are doing*'[34] (Ball 2020, 40). This constraint gives rise to two requirements on an interpretation of this argumentative exchange: 'It must give parties to the debate reasonably good epistemic status with respect to what they say (Ball 2020, 40) and 'It must make assertions relevant to the debate' (Ball 2020, 40).

For convenience I will call this argumentative exchange the marriage debate - being well aware that there is more than one. One possibility is to interpret the marriage debate in such a way that the proponents of same-sex marriage are using a different word. However, such an interpretation ascribes an error both to them and their opponents: to the former ones because they don't see that their argumentative strategy cannot but be unsuccessful, to the latter because they fail to point that out. I will call this interpretation of the marriage debate the changing the subject interpretation[5]. It clearly doesn't satisfy the interpretative constraint just laid out. One might wonder, then, whether there wouldn't be an alternative to (Change). And indeed, such an alternative has been put forward and it has risen to prominence in recent years. According to this interpretation, what the proponents of same-sex marriage do when they object to this kind of argument is to put forward a revisionary analysis of the word 'marriage' and what the opponents to same sex-marriage do in reply is to argue against such a revision. They don't deny that giving a revisionary analysis of a word is possible, they deny that it is legitimate in the case of the word 'marriage'. I will call this interpretation of the marriage debate the revisionary analysis interpretation[6].

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[3] Unless specified otherwise, italics in quotes are the authors'.

[4] To make explicit what Ball has left implicit in this sentence, I should add that one should respect this constraint only to the extent that it appears to be possible.

[5] I will, in what follows, designate the changing the subject interpretation by (Change).

[6] (Revise) in what follows.

The challenge for a proponent of (Revise) is to make sense of the fact that an analysis could be revisionary, that is, that in a situation in which participants on both sides of the debate agree on the meaning of the term, the received analysis could be mistaken. Sally Haslanger has been developing an *anti-descriptivist* externalist account of revisionary analysis that aims at answering this challenge[7]. My main goal in this paper is to offer a *descriptivist* externalist account of revisionary analysis as a foundation for (Revise). Giving a general argument against anti-descriptivism for politically significant terms (terms for institutions, racial terms, gender terms, etc.) is beyond the scope of this paper. I will, though, by considering the word 'woman', show how the argument could go for words which are not words for institutions, like 'marriage' is, and thus cash out on the promise made by my eye-grabbing title.

I will start by presenting in some detail the anti-descriptivist externalist account of revisionary analysis (§.2), first by presenting Haslanger's views (§ 2.1.), then by exposing the weakness of these views and by presenting Derek Ball's contribution, which doesn't suffer from the same weakness (§2.2). In a nutshell, whereas it is unclear whether Haslanger's revisionary analyses can legitimately be called analyses, Ball's revisionary analyses, being analytic in a sense he makes precise, can. I will then find this account wanting (§3). After expanding a little more on the interpretative constraint and the requirements to which it gives rise (§3.1), I will argue that (Revise), under the anti-descriptivist externalist gloss, fails to satisfy this constraint (§3.2)). We will see that the problem for Ball comes from the fact that the arguments given in favour of revisionary analyses are not compatible with an anti-descriptivist externalism. These arguments aim at determining the (descriptive) meaning of the word as used in the law to determine in turn

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[7] 'Ameliorative analysis' is Haslanger's label for 'revisionary analyses' (Haslanger 2005a). I will continue using the more neutral label.

what the essence of the institution is. After having criticized the *anti-descriptivist* externalist account of revisionary analysis I will offer as an alternative a *descriptivist* externalist account (§4). This account suggests itself if we notice that marriage is a legal institution. But then one might object that the legal institution is nothing but the mere formalization of the social institution by a legislative act and add that, if so, then anti-descriptivism does provide the proper foundations for (Revise). I will present this objection, argue that this is not the case and show that even if it were the case, the objection would still be unsuccessful: ultimately, a descriptivist externalist account should be favoured (§5). Finally, by considering the word 'woman', I will show that an interpretation founded on a descriptivist externalist account is also the best interpretation to give to debates over politically significant terms which are not terms for institutions, like 'marriage' is (§6).

2. Externalist foundations for the revisionary analysis interpretation

2.1 Haslanger's views

In a series of paper Haslanger has developed revisionary analyses of gender and racial terms and investigated the consequences of such analyses (Haslanger 2000; 2004; 2005b). Later, to answer the charge that there are no such things as revisionary analyses, she offered an anti-descriptivist externalist account of revisionary analysis (Haslanger 2005a; 2006; 2010). Here is one of the analyses which can be found in Haslanger's influential 2000 paper:

S is a woman iff$_{df}$ S is systematically subordinated along some dimension (economic, political, legal, social, etc.), and S is 'marked' as a target for this treatment by observed or

> imagined bodily features presumed to be evidence of a female biological role in reproduction. (Haslanger 2000)

To bring out the revisionary character of such an analysis it is useful to note the following consequence of this analysis: if the feminist movement was to be successful, there would be no more women to be found, or, less dramatically worded, it wouldn't be possible any more to truly ascribe the property of being a woman to anyone. The challenge is then to explain how this biconditional, whose content is undoubtedly revisionary, can rightly be called an analysis of the meaning of 'woman'.

I have qualified this account of revisionary analysis as anti-descriptivist and externalist. This needs some unpacking. First, in one of the meanings of 'anti-descriptivism', which I adopt in this paper, anti-descriptivism is a metasemantic thesis about reference, that is, a thesis about the kind of facts which determine the fact that a word refers to some entity in the world. Descriptivists hold that the fact that a singular term refers to an individual is determined by the fact that this individual has the properties which the term represents the individual as having; and, that the fact that a general term refers to a set of individuals is determined by the fact that these individuals have the properties which the term represents them as having[8]. Anti-descriptivists hold that the reference of a term, whether a singular or a general term, is determined by the fact that a term is appropriately related to these entities[9]. Second, externalism is also a metasemantic thesis, but a thesis about the relationship between intrinsic psychological facts and semantic facts broadly conceived – that is,

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[8] Predicate reference is notoriously problematic (for a survey, see (MacBride 2006)). I am under no illusion that this characterization of a descriptivist account of predicate reference is without problems.

[9] The adjective 'appropriately' is here used as a placeholder for a specification of what this relation is supposed to be. There are many distinct accounts on the market. Fortunately, the details won't matter for what follows. The relation which holds between the term and an entity when the latter satisfies the descriptive content of the former is of course not among these appropriate relations. If so, descriptivism would be a kind of anti-descriptivism and therefore the distinction between the two would collapse.

not only facts about reference. Internalists hold that intrinsic psychological facts determine semantic facts while externalists deny that. Thus they hold at a minimum that environmental facts determine semantic facts jointly with psychological facts (Lau and Deutsch 2016). Externalism is traditionally associated with anti-descriptivism. The appropriate relation which must hold between a term and an entity for the former to refer to the latter has more often than not been taken to hold between the term and an entity external to the thinker[10]. Therefore, facts about reference are jointly determined by intrinsic psychological facts and environmental facts. However, it need not be. For example, on the one hand, Russell, at some point of his career, was an anti-descriptivist but thought that the only referential terms where those which he took to refer to sense-data, that is, entities which are standardly taken to be internal entities; thus - to the extent that he didn't took the reference of terms to be determined at least partly by environmental fact - he was an internalist (Russell 1912). On the other hand, Frege is widely considered to be the arch-descriptivist (Reimer and Michaelson 2017, sec. 2.1). But he also thought that what determines the reference of a given term, that is, its sense, is external to the speaker, something that the speaker grasps by an act of the mind (Frege 1984).

With these preliminaries in hand, we can turn to Haslanger's anti-descriptivist externalist foundations for (Revise) and see that both components of her anti-descriptivist externalist account of revisionary analysis play a role in founding (Revise). First, for Haslanger, in the marriage debate, the proponent of same-sex marriage who objects does put forward an analysis in the sense that they give the meaning of the word 'marriage'. To see this, it is important to note that, from the point of view of many anti-descriptivists, the meaning of a word is the referent of the word[11]. It

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[10] Though there are subtleties, e.g. when terms for mental states are concerned.
[11] That is, many anti-descriptivists as I am using the term are also Millian (Reimer and Michaelson 2017).

follows from this that from the fact that the proponent of same-sex marriage can be interpreted as giving the reference of the word 'marriage' one can infer that they can be interpreted as giving the meaning of the word 'marriage'. Second, the analysis of the word 'marriage' put forward by the proponents of same-sex marriage is revisionary. From an externalist point of view, semantic facts are determined by both intrinsic psychological facts and environmental facts. Thus, speakers can be mistaken about the reference of the word they use. It thus makes sense to think that most people could be mistaken about what the reference of the word 'marriage' is. And it seems indeed that, *in the context of these debates*, they are so mistaken. They think that 'marriage' refers to the union of a man and a woman. Therefore, the analysis of the proponent of same-sex marriage is revisionary. In the next sub-section, we will see why Halsanger's views provide insufficient foundations for (Revise) and how Ball's recent contribution to the debate can help solve the problems faced by Haslanger's views.

2.2 A problem with Haslanger's views and how Ball's contribution helps

Haslanger's anti-descriptivist externalist account of the meaning of gender and racial terms does seem to solve the problem of the proponents of revisionary analyses. A revisionary analysis *reveals* what the terms referred to all along, and this reference is the meaning of these terms. It gives the meaning of the term (it is an analysis). And it reveals it because speakers were blind to the meaning of the terms they used (it is revisionary). There is, however, a potential problem for this view.

Though Haslanger's 'revisionary analyses' can legitimately be called revisionary, it is unclear whether they can also legitimately be called analyses. Indeed, for something to be called an analysis, it seems that it should display the parts of the analyzandum, that is, in the case of meaning, that it should display the parts of the meaning of the word. If so, finding out with which entities

the word 'marriage' is appropriately related to when speakers use it doesn't qualify. A true sentence which displays the parts of the meaning of a word is a sentence which is true in virtue of the meaning of the word, i.e. *analytic*. Thus, it seems that in order to give an anti-descriptivist externalist account of revisionary analyses, an anti-descriptivist externalist must find room for the concept of analyticity in their account. And this is no small order, given that contemporary anti-descriptivists typically deny that there are such things as analytic sentences (see for example (Williamson 2006)). In a forthcoming contribution, Ball provides the anti-descriptivist externalist with the resources to solve this problem and thus to provide sound anti-descriptivist externalist foundations for (Revise).

To do so, Ball starts by borrowing two theses from (Boghossian 1997), (Adoption Grasp) and (Implicit Definition) about, respectively, what makes it the case that a speaker understands a term and what makes it the case that a term has a given meaning. He then amends (Implicit Definition) to make it compatible with anti-descriptivist externalist tenets. Let's start by quoting Boghossian:

> *(Adoption Grasp):* 'A term t is grasped by adoption (or a-grasped) just in case there is some set of truths S which is such that one understands t iff one accepts each member of S.'

> *(Implicit Definition):* 'A term t is implicitly defined iff we attach a meaning to t by arbitrarily stipulating that certain sentences involving t are to be true. More specifically, t has that meaning, if any, which would make true a specified set of sentences involving it.'

Ball's move here consists in *quasi*-untying (Adoption Grasp) and (Implicit Definition), meaning that if (Adoption Grasp) is incompatible with the anti-descriptivist externalist story inherited from (Kripke 1980), (Implicit Definition), *properly amended,* is.

Why are these two principles incompatible with the anti-descriptivist externalist story that we find in Kripke? Ball takes the example of the proper name 'Ansel' introduced at an initial baptism. Such a baptism involves a stipulation, like 'I hereby stipulate that the following sentence is true: "The baby in room 110, Ninewells Hospital, at 10:00am GMT 25th April 2013, is Ansel"'. Later uses of the name 'have their meaning in virtue of their connection to this initial baptism' (Ball 2020, 48), hence to this stipulation. Given that later speakers do not need to know the stipulation with which the word has been introduced to grasp the meaning - i.e. reference - of 'Ansel', (Adoption Grasp) is false. Moreover, though (Implicit Definition) would be true if the meaning of 'Ansel' was completely determined by the stipulation, this is not so. Therefore, (Implicit Definition) is also false. However, (Implicit Definition) can be modified to register the fact that the stipulation partially determines the meaning of 'Ansel':

> *(Partial Implicit Definition):* 'A term t is *p-implicitly defined* iff t has the meaning it does at least in virtue of an arbitrary stipulation that certain sentences involving t are to be true. More specifically, if t has a meaning, it has a meaning which could make true a specified set of sentences involving it.' (Ball 2020, 48)

Ball's next move is to define a new concept of analyticity. While Boghossian, in the very same paper, distinguishes between the epistemic analyticity and the metaphysical analyticity of a sentence which rest, respectively, on the speaker's justification for holding this sentence to be true or false and on the fact in virtue of which this sentence is true or false, Ball introduces the concept of metalinguistic analyticity of a sentence (with respect to a word) which rests on the p- implicit definition of a word by a stipulation:

> *(Metasemantic Analyticity):* 'A sentence is metasemantically analytic with respect of a word (or a use of a word) iff the meaning of that (use of the) word is partially fixed by the

stipulation that the sentence is to be true (i.e., iff the sentence p-implicitly defines t word).'

(Ball 2020, 50)[12].

At this step, Ball grants that revisionary analyses are metasemantically analytic. However, though this could lead to the conclusion that revisionary analyses indeed change the subject (revisionary analyses would be 'a kind of stipulation that introduces a new meaning for a word' (Ball 2020, 50)), he resists this inference. If Ball rejects, with Kripke, the thesis that competent users of a word 'must grasp the stipulation that introduced [it]' (Ball 2020, 51) he also goes further in rejecting the thesis that the 'stipulations which [partially] fix the meaning of my words must be temporally prior to my use of those words' (Ball 2020, 51). That is, he accepts temporal externalism[13]. Finally, Ball's last move is to regiment the talk of revisionary analysis by means of these new concepts: for him, 'the key to understand revisionary analyses is that they involve a stipulation that (partially) fixes the meaning of *prior* uses of the word' (Ball 2020, 51). To go back to our example, a revisionary analysis of 'marriage' is a partial implicit definition, in this context a stipulation, which fixes the meaning - i.e. reference - of *prior* uses of the word.

How does this solve the problem Haslanger's view suffered from? According to Ball, a revisionary analysis of 'marriage' does display the parts of the meaning of the word 'marriage'. Indeed, Ball's concept of a partial implicit definition allows him to interpret the marriage debate as a debate over which statements about 'marriage' are analytic. It is *revisionary* because, though this partial implicit definition of the term 'marriage' was already the one given by the analysis, it wasn't known to any speakers. However, though Ball is to be commended for his resourcefulness and the

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[12] At this point, Ball notes that though 'Metasemantic analyticity has, perhaps, received less attention in the literature on analyticity than epistemic and epistemological analyticity […] there is nonetheless a notable tradition of using the word 'analyticity' to pick out metasemantic analyticity' (Ball 2020, 50). For example, Ball claims that meaning postulates in Montague's grammar, which fix the meaning of lexical items by restricting the range of models relative to which the sentences of the (formal) language are assigned semantic values, are metasemantically analytic.

[13] For an exposition and defence of the view, see (Jackman 1999; 2005).

innovative character of his proposal, I will argue in the next section that anti-descriptivism fails. To start with, we will see in the next sub-section that (Revise), under the anti-descriptivist externalist gloss, actually doesn't satisfy the interpretative constraint set forth by Ball himself.

3 How anti-descriptivism fails

3.1 Interpretation, explanation and the broader picture

In this subsection I will start by taking a step back and discuss interpretative matters. In the introduction of this paper I have stated Ball's interpretative constraint and the two requirements to which it gives rise. My intention is not to question these constraints - they rest on norms of charitability in interpretation which are widely taken to be uncontroversial. I want instead to put them in broader perspective. This will allow me to evaluate Ball's proposal.

We want a good interpretation of the marriage debate, but what for? By saying that we are looking for an interpretation of this debate we mean that we want to determine what the participants to the debate are thinking. And we want this as a way of understanding what they are doing. Therefore, a good interpretation provides us with an explanation of why participants to the debate utter the sentences they utter. From this perspective, an interpretative constraint is a constraint on the explanations which should be preferred to others. And, according to the constraint given by Ball, we should prefer explanations according to which participants to the debate are rational. While according to the first requirement we should prefer to ascribe participants to the debate knowledge or at least justified beliefs, according to the second constraint, we should ascribe them actions which are appropriate to their aims. That is, the rationality in question is both, respectively, theoretical and practical. Now, one might wonder whether (Revise), under the anti-descriptivist

externalist gloss, actually satisfies the rationality constraint. Ball thinks that it does. However, I think it doesn't and I now want to show why.

To start with, here is Ball's anti-descriptivist externalist account of revisionary analysis:

> Revisionary analyses can be seen as a kind of (attempted) stipulation, and so as attempts at giving metasemantic analyticities; but if they are successful, they fix the meaning of words as we have always used them (even before the stipulation took place) (Ball 2020, 56)

Moreover, the difference between the success and the failure of a revisionary analysis is, Ball tells us, that 'the successful analysis is *accepted,* and the failed analysis is *rejected*' and he wants the success of the attempted stipulation to be a response to an argument: 'accepting a view can count as a stipulation, even though it is also a response to an argument'. The problem is that he leaves us in the dark on what these arguments are[14]. Why is this a problem? Isn't it too much to ask of Ball that he should tell us what they are? It isn't. In order to show us that (Revise), under the anti-descriptivist externalist gloss, is the right interpretation to give of the marriage debate, Ball should show us that the said arguments are compatible with his anti-descriptivist externalism. And to do so, he does need to tell us what these arguments are. What this means is that in order to properly interpret the marriage debate, one cannot focus only on the three steps argument(s) that Ball focuses on. One has to look at the kinds of arguments which are given for and against, e.g., premise (1) of the argument given at the opening of this paper, namely, 'A marriage is a union of a man and a woman'. I contend that if one looks at the broader picture, one sees that (Revise), under the anti-descriptivist externalist gloss, cannot be the right interpretation. These arguments are

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[14] Another problem is that, even if we grant Ball that stipulating and accepting a view can be seen as the same speech act, it is unclear how a stipulation, which is arguably a speech act distinct from an assertion, could be the conclusion of an argument (being a response is not enough). But this problem is not a problem for anti-descriptivism in general, it's only Ball's, and, moreover, it is unclear that it requires more from Ball than that he adjusts his view. As the problem I am about raise is general and cuts deeper, I will set it aside.

incompatible with an anti-descriptivist externalism: they aim at determining the (descriptive) meaning of the word as used in the law to determine in turn what the essence of the institution is.

The proponent of (Change) presupposes that the participants to the debate indeed do not have a genuine disagreement and ascribing such an error to these participants goes against the rationality constraint. (Revise), on the other hand, doesn't ascribe such an error to these participants. It is thus preferable to (Change). However, let us look at the following question: why do (some) gay and lesbian rights activists choose this kind of argumentative strategy? Why, for example, don't they recognize that a marriage is indeed a union between a man and a woman and go on to argue that this is wrong (for whatever reason) and that, consequently, marriage should be replaced by another institution?

There are at least two very good reasons to choose this kind of argumentative strategy. First, gay and lesbian pro-same-sex marriage activists are fighting to have the same rights as heterosexuals. But, if one were to show that the existing institution already applies to people of the same sex then, it would show that they actually *already* have the same rights. Thus, this is a very direct and efficient argument. Second, it is strategically much better to argue that the existing institution already applies to people of the same sex, if possible. Indeed, it would make the recognition of same-sex marriage a far less important change than if the existing institution didn't apply to people of the same sex and thus needed to be changed. This answer clearly satisfies the interpretative constraint put forward by Ball: these are good reasons! Now, can an anti-descriptivist make sense of this strategy. They cannot. Determining what marriage is amounts to determining what an institution is. But institutions are transparent to their creators. However, without a lack of transparency, there is no room for an anti-descriptivist theory of reference to operate: anti-

descriptivism needs a discrepancy between manifest properties and essential properties to get off the ground. There is a lot to unpack in this remark. I will do so in the next sub-section.

3.2. What is the debate on same-sex marriage about? Against anti-descriptivism (I)

Participants to the debate want to determine what marriage is, that is, what the essential properties of marriage are[15]. In general, in order to determine what the essential properties of a given entity are, it is helpful to proceed as follows. One first determines to which broad category the entity belongs to. (Is this a biological species, a chemical element?). This restricts the space of answers which can be given to the essence question; arguably, the essential properties of biological species are not of the same kind as the essential properties of chemical elements. (According to many if not most philosophers of biology, biological species have a historical essence[16]). Then one determines what the best available theory for entities of this given kind is. (The best theory about biological species is evolutionary theory). Finally, one reads off what the essential properties of this entity are from this theory. Turning now to marriage, how should we answer these questions?

To start with, marriage is an institution[17]. It is often difficult to specify the kind of an entity without entering straight away in theory, but a somewhat neutral view of institutions is as a stable set of roles occupied by agents, these roles being characterized by deontic powers (there are things agents

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[15] As many have now pointed out, there is a whole range of possible essence concepts, from weak to strong ones (see e.g. (Beebee 2013) and references therein). In using the word 'essence' I don't intend to commit myself to any specific one. Therefore, my characterization of the debate shouldn't be seen as controversial.

[16] For a defence of this essentialist thesis, see (Wilson, Barker, and Brigandt 2007).

[17] Or, maybe, instances of marriages (e.g. the marriage between Wafa and Salah) are institutions. Probably both; my intuitions are not firm on this. In any case, what follows can be reformulated to fit the proper usage if necessary. The word 'marriage' can also designate a social event. However, we are here concerned with the institution itself.

who occupy these roles have the right to do, the duty to do, the permission to do…)[18]. A consequence of this is that saying that marriage is an institution is very likely to be loose talk still. Presumably the deontic powers married people have e.g. in the UK and the US are distinct. If so, then marriage in the UK is one institution, while marriage in the US is another[19]. By default, my reader should assume that I talk about a specific institution. Not only is marriage an institution, it is a legal institution. To say of something that it is a legal institution amounts to saying that the roles which have to be occupied by agents for this institution to exist are determined by law, which is itself a product of legal institutions - in the more restricted sense of institutions which legislate, adjudicate, execute, administrate and enforce the law[20].

To continue, collective acceptance theories of institutions are widely taken to be the best available theories of institutions. According to these theories, institutions *constitutively* depend on collective intentional states; institutions exist *in virtue of* collective intentional states, they are not merely caused by them, that is, if these states were to cease to exist, they would also cease to exist[21]. According to Searle, whose theory is the most well-developed and which is at the heart of most of the discussions on institutions, institutions exist and are maintained by the collective acceptance of 'constitutive rules', that is, judgements of the following form: 'In virtue of satisfying some conditions C, an agent has deontic powers constitutive of entities of kind K.' and the existence of the agents satisfying conditions C. More formally:

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[18] It should be obvious that I here focus on but one of the many meanings of the word 'institution'. According to this understanding, though parliaments, hospitals and corporations are institutions, a law, money and the Queen of England aren't.

[19] What allows me to talk of marriage in the UK and marriage in the US are the commonalities between these two institutions. On which more in sec. 4.

[20] What MacCormick calls 'institutional agencies' (2007, chap. 2.9).

[21] Authors disagree on the nature of these collective intentional states, with, among others, some thinking that collective intentions are of the form 'we intend' (Searle 2010), others thinking that they are individual states interrelated in specific ways (Bratman 1999) and others still thinking that they are the intentions of the group itself (Gilbert 1989). This need not concern us here.

$$x \text{ is } K \leftrightarrow [CA(x \text{ is } K \text{ if } C) \,\&\, C]; \text{ where 'CA' stands for 'Collective Acceptance'}[22]$$

For example, it is collectively accepted that under specific conditions, some people have, among others, the right to arrest people and that this right is one of the rights constitutive of being a police officer. Moreover, police officers are one of the entities that needs to exist for a police institution to exist[23].

In this essay, I am not concerned with answering the question of the essence of marriage. It is enough for my purpose to determine the kind of arguments participants to the marriage debate can use. One of the factors on which the kind of arguments participants to the debate depend is the kind of epistemic access to institutions people have. In a couple of papers (Thomasson 2001; 2003), Amie Thomasson has argued that we have an epistemic privilege with regard to institutional kinds in that those involved in their creation and maintenance 'are guaranteed freedom from complete ignorance and are preserved from error' (Thomasson 2003, 590) in many of their beliefs about these entities[24]. As Thomasson stresses, a consequence of the fact that the existence of institutions depends on the satisfaction of the conditions C laid out in the constitutive rules collectively accepted in a given community is that it cannot turn out that members of this community are wrong in thinking that, for example, satisfying conditions C is sufficient for being a police officer and that it cannot turn out that they are wrong about the kinds of entities which need to exist for the police institution to exit.

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[22] This formalization is borrowed from (Guala 2010).

[23] I should note that Searle's theory is meant to have a broader scope than just institutions as I defined them. Searle takes all the entities which fall within the scope of his theory to be institutions, that is, Searle makes a different use of the word 'institution' than I do in this paper. He does, however, have this account of what I call institutions: 'A corporation is a set of placeholders for a set of actual power relationships among actual people' (Searle 2010, 22).

[24] Thomasson's account is distinct from Searle's account as I have just presented it – in part for the obvious reason that Searle's latest book on the topic was published after Thomasson wrote her article. It is not so different, however, that it makes it impossible to make the same point she makes from inside Searle's theory. For the sake of brevity and simplicity, this is what I will do. I should note that Thomasson use the word 'institution' in the same way Searle does.

Thomasson's argument can be extended[25]. Thomasson's point is that from the fact that the collective acceptance of constitutive rules and the existence of agents which satisfy the conditions laid out in these constitutive rules create entities, we can infer that if the conditions C obtain then a corresponding entity of kind K cannot but be created and, moreover, we can also infer that the members of this community, if they know that the conditions C obtain, cannot but know this fact. We might now ask whether the two converses are also true, namely, is it the case that when an entity of kind K exists, the corresponding conditions C obtain and that the members of this community cannot but know it?

If the answer to the first question were no, it would mean that two distinct constitutive rules for the same entities of kind K are collectively accepted by the members of this community (indeed, an entity cannot but be created by collective acceptance of constitutive rules). This, however, cannot be. constitutive rules do not exist in a vacuum. They are grounded in the concept of the entity the community has, a concept which specifies the necessary and sufficient conditions for something to be an entity of kind K[26]. As a consequence, the conditions C are meant to be essential to entities of kind K. Conditions C are essential to entities of type K if an entity cannot be of type K without the conditions C obtaining. However, if there are two sets of conditions C, this situation can obtain. Therefore, if there are two sets of conditions C, they cannot be essential. In conclusion, when an entity of kind K exists, the corresponding conditions C obtain. Moreover, as the members of the community create entities on the basis of the concept of the entity they possess, they cannot but know this to be the case; hence one should also answer the second question by the affirmative.

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[25] I will run this argument only for entities of kind K themselves, but the same point also applies to the things they constitute, namely, institutions.

[26] Thomasson makes this point in a discussion of the epistemology of artefacts (Thomasson 2007).

To sum up: first, when an entity of kind K exists, the corresponding conditions C obtain and reciprocally, and second, the members of the community who created the entity cannot but know this to be the case. Going back to the anti-descriptivist rendering of (Revise), it is clear that anti-descriptivism is inconsistent with this privileged access, as Thomasson also noted.

Indeed, according to anti-descriptivism it could always turn out that the members of a community are wrong in thinking that satisfying a set of conditions C is sufficient for being a K. It is after all, the lesson of Putnam's Twin Earth's experiment: there is on Twin Earth a drinkable colourless and odourless (etc.) liquid substance but this substance is not water, but Twater. Moreover, it could also always turn out that the members of a community are wrong in thinking that something being a K implies that conditions C are satisfied. It is, after all, the lesson on which rests Kripke's modal argument when applied to natural kind terms: 'Water might not have been the watery stuff' is true (Kripke 1980)[27]. But we've just seen that the opposite is true for institutions[28].

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[27] On modal arguments for both singular and natural kind terms, see (Kallestrup 2011, chap. 2.2).

[28] (Guala 2010) is an extended attack on arguments in favour of infallibilism about human kinds which take off from collective acceptance theories, like Thomasson's. In the space of this paper, I cannot provide an extended discussion of Guala's paper. I will limit myself to a few remarks. Guala first argues by way of counterexamples. He argues that people had wrong theories about witches and had/have wrong theories about money. As neither witches nor money are institutions as I defined them, I need not discuss these cases. But he also takes the lessons he draws from the money case to apply widely. His argument for this claim takes less than one page of a twenty pages paper and as a consequence, it is not clearly laid out. But fortunately, I need not be concerned with it, as I think that Guala's very strategy is mistaken.

Guala takes research in social science to show that some facts about (some?) institutions cannot but be known *a posteriori* (I take him to mean that among these facts are facts about these institutions' essential properties). The lessons he draws from this is that the theory of collective acceptance is 'best interpreted as an ideal type or idealized model like those found in science' (Guala 2010, 262). But both claims can and should be resisted. The first claim presupposes that anti-descriptivism is true of institutional terms and that social scientists and folks alike mean the same thing when they use them (if both assumptions are true then the fact that the folks are mistaken does suggest that some facts about (some?) institutions cannot but be known *a posteriori*), but he gives no argument for either one of these assumptions. Instead of inferring from the discrepancy between (some of) our concepts of institutions and research in social science that the essence of these institutions cannot but be known *a posteriori*, one could infer that our concepts, unbeknownst to us, don't refer to anything. Second, though insisting that, unbeknownst to us, some institutions actually don't exist might look like digging in one's heels, it is not so. The theory of collective acceptance is not best interpreted as 'an ideal type or idealized model like those found in science'. This is a category mistake. These ideals are *normative*. The conditions C which have to obtain to be a K are the conditions the agent *ought to* satisfy. (That many if not most institutions are produced by the law is not merely incidental.) And, whether the conditions laid out in constitutive rules are satisfied or not, the mere fact that individuals collectively accept them is key to explaining the social world. Guala might want to say that even if this is right, collective acceptance

(Revise), under the anti-descriptivist externalist gloss, is therefore not a good interpretation of the marriage debate. The analysis which proponents of and opponents to same-sex marriage seek to provide is a conceptual analysis (i.e. an analysis along descriptivist lines). If this is a conceptual analysis, it can aptly be called revisionary because, arguably, most of the time, the meaning of the word is not known but by experts: in the process of determining the meaning of the term 'marriage' non-expert participants to the debate change their belief about the meaning of the word. What can secure the revisionary character of this theorizing is thus an externalist theory of meaning. Therefore, the right interpretation of the marriage debate is (Revise), but under a *descriptivist* externalist gloss. In the next section, I will lay out the view in more detail.

4 Descriptivist externalist foundations for the revisionary analysis interpretation

To start with, I want to highlight the fact that descriptivist externalist foundations for (Revise) differ from anti-descriptivist externalist foundations in a crucial respect. There isn't merely one concept of marriage, there are many concepts of marriage. On the one hand, when in her book on marriage Elizabeth Brake briefly traces the history of marriage (Brake 2012), she uses the word 'marriage' to refer to many non-legal and legal institutions across time, space, and cultures. As for Ball, I assume that he writes with both the debate which takes place in the US and the debate which took place in Great Britain in mind. Additionally, he makes no mention of the law. He thus seems to be using the word 'marriage' to refer to a social institution which can be found, now, in different locations and cultures. I, on the other hand, use the word 'marriage' to refer to a specific legal institution in a specific country. Again, my use of the phrase 'marriage debate' should be seen as

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theories are under a misconception as to what they are really doing. Maybe so, in part, but this is of no consequence for what follows.

nothing but loose talk. In fact, I take it that the we are interested in marriage *debates*. The fact that we can consider these debates together shows that there are interesting commonalities between them and thus, that the concept Ball is using is operative in the background. But this doesn't mean, however, that we are interpreting *a debate* which happened/happens in several countries. We are interpreting *debates*, which occurred/occur in several countries. Having this distinction in mind forces us to see that *a* marriage debate (as characterized in this paper) could turn at the advantage of the proponent of same-sex marriage in some countries and at their disadvantage in other countries. It all depends on the nature of their respective laws.

This legal nature of the institution in these debates is what allows for both the descriptivist and the externalist views which found (Revise). I start by descriptivism. Collective acceptance theory prima facie presupposes that all the people who create institutions and support their existence have a clear idea of what these institutions are. This feature could prompt the objection that the theory is too intellectualistic. However, the constitutive rules which determine the existence of legal institutions are codified in texts. Therefore, whatever the merits of this objection are, it doesn't apply to a collective acceptance theory of *legal* institutions. So, the legal nature of the institutions is what allows collective recognition theory to straightforwardly apply to them. And, as we have seen, a descriptivist view about the term 'marriage' according to which participants to the marriage debate are analysing the meaning of the term 'marriage', follows from collective acceptance theory. So, the legal nature of institutions is what allows for the descriptivist view which found (Revise).

I now move to externalism. Arguably, a legal institution like marriage is not created by the collective recognition of the rule constitutive of marriage by *all* the members of a society[29]. In a democracy, the members of the legislature, on behalf of the citizens of the state, collectively

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[29] As we have seen, such a creation is also conditional on some fact obtaining.

recognize the rules constitutive of marriage and in doing so create the conditions for the existence of marriages. As a consequence of this, participants to the debate who are not members of the legislature don't have the privileged access members of the legislature have, as I have argued for in the previous sub-section, in Amie Thomasson's wake. This means that in order to analyse the meaning of the word 'marriage', they need to defer to experts, namely, the members of the legislature, who, conveniently enough, have put the constitutive rules in writing in the form of laws[30][31]. So the legal nature of institutions is what allows for the externalist view which found (Revise).

If we go deeper into the argumentative strategies which are used in these debates, we find that they have another feature that descriptivist externalist foundations can also help explain. Debates on same-sex marriage often revolve around the question of what functions marriage has. Among the many functions which have been ascribed to marriage are 'recognizing and supporting adult caring relationships', 'designating and supporting parenting' (Brake 2012). It is obvious from this list that some of these functions are friendlier to same-sex marriage than others. But if the debate is about constitutive rules, how can the function of the institution be relevant to what it is? The answer is that legislators have created the institution to serve some specific goal. What grounds the ascription

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[30] In saying that the law is the product of the legislator, I gloss over a huge debate in general prudence over judicial law-making. See for example (Raz 1979).

[31] (Torrengo 2017) stresses the importance of deferential beliefs in social construction, that is, beliefs according to which 'enactments produced according to certain established procedures determine social constraints, rights, duties, and the like' (Torrengo 2017, 80). This is in line with what I have just said. Torrengo, however, wants to go further. If I understand him correctly, he wants to say that the ascription of a general intention to defer to the members of a community is in tension with the specificity of the institutions thus created: collective acceptance theory 'has great difficulty explaining how often very imprecise and general shared content can ground complex and often detailed institutional profiles' (Torrengo 2017, 83) (see also (Torrengo 2017, 75). However, one might hold, as I did implicitly, that the institution is created, and its existence supported by, the collective acceptance of the agents the members of the community defer to, not by the deferential attitudes of the members of the collectivity itself. Of course, these agents wouldn't be able to create these entities if they didn't have these deontic powers and these deontic powers are conferred to them by the members of the collectivity, but this is just to say that if the building blocks of social reality break, the whole edifice collapses. Torrengo conflates two types of dependence. Torrengo also wants to say that there are some cases in which there are no experts because he follows (Guala 2010). For a reply to Guala, see fn.27.

of a function to the institution here is this very goal that was pursued by the creators of the institution in creating it[32]. Now, determining what the function of the institution is can in turn allow the participants to the debate to read the law (as text) correctly, that is, to determine what the constitutive rules for marriage are, and thus what marriage as a legal institution is. Therefore, it makes sense that the participants to a debate over what marriage is would care for an answer to the question of what the function(s) of marriage is(are)[33].

In both the previous section and this one, I have made use of specific views of the social ontology of legal institutions. Notice, though, that these views could ultimately turn out to be false while my interpretation of the debate could still be true. This can be seen by reflecting on the fact that the interpretative constraint on the interpretation of the marriage-debate Ball set forth for us and that I abided to is that 'we should look for an interpretation of these arguments and our response to them that makes sense of what we are doing', not that the assumptions participants to the debate make should ultimately turn out to be true. I hope that my reader thinks that the view I have presented is reasonable and as a consequence does make sense of what we are doing when we take part in the marriage-debate. In the next section, I will discuss the objection that the legal institution is nothing but the mere formalization of the social institution by a legislative act and add that, if so, then anti-descriptivism does provide the proper foundations for (Revise). This will give me the opportunity to better articulate the relations between marriage as a legal institution and marriage as a social institution.

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[32] I here endorse a design theory of institutional functions. As institutions are routinely taken to be artefacts and as design theories of artefact functions, according to which the function of an artefact is the use the designer of the artefact wanted to put it to (Preston 2009), are the most widely shared, this should be uncontroversial (Ehrenberg 2016).

[33] This also opens an avenue for a modification of the text which would make it more faithful to the intentions of the legislators.

5 Marriage as a legal and social institution: an anti-descriptivist reply rebutted

Anti-descriptivists might argue that lawmakers, in passing marriage laws, aim at designating and supporting marriage as a social institution and add that the anti-descriptivist view can best make sense of the debate over a social institution. Consequently, by making sense of the debate over marriage as a social institution, anti-descriptivists ultimately also make sense of the debate over marriage as a legal institution. Though the point is well-taken, I think that it is ultimately inconclusive, as I will now argue. I will argue against both conjuncts of the reply, starting by the latter.

Asserting that the debate over marriage as a legal institution is reducible to the debate over marriage as a social institution is much too quick, for at least two reasons. First, when we are trying to determine what marriage as a legal institution is, the legal material outstrips marriage law. This gives us a reason to doubt that the legal institution is nothing but the mere formalization of the social institution by a legislative act. Second, even if this is the case, there are reasons to think that in some contexts legislators actually do not defer to the social understanding of what marriage is. I will take these two points in turn. Though I haven't make this clear to this point in this paper, laws, in the sense of the word which interests us here, are to be distinguished from statutory provisions, constitutional provisions, regulations, etc[34]. Therefore, it's not the case that marriage as a legal institution is nothing more than marriage as a social institution formalized, even if lawmakers aim at designating and supporting it. And consequently, the debate over the nature of marriage as a *legal* institution doesn't amount to a debate over the nature of marriage as a *social*

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[34] On the distinction between the conditions of individuations of law and the conditions of individuations of statutes, regulations, etc., see (Raz 1980, chap. IV).

institution. To illustrate, in the Supreme Court case Obergefell vs Hodges[35], the Equal Protection Clause of the 14th amendment of the Constitution of the United States of America was also invoked in the debate, alongside the marriage law of the state of Michigan, Kentucky, Ohio and Tennessee. One of the questions was whether classification along the line of sexual orientation was a suspect classification and, as a consequence, whether the Michigan, Kentucky, Ohio and Tennessee legislations had to pass the standard of strict scrutiny (i.e. whether it had to be shown that the state had a *compelling* interest in designating and supporting a view of marriage which excluded same-sex couples). Thus, in order to determine what marriage was, it was necessary not only to determine what it was according to the legislators, but also what it could and could not be according to the Constitution; a text which cannot be suspected of deferring to the use contemporary Americans make of the word 'marriage'.

Moving to my second reason to doubt that the debate over marriage as a legal institution is reducible to the debate over marriage as a social institution, and continuing with this case, the attorney for the state of Michigan, Jack Bursch, actually didn't ascribe to members of the legislature the intention of deferring to the social understanding of marriage. In doing so, he intended to show that Michigan marriage law passed the standard of strict scrutiny. Indeed, he argued that the state interest was in binding children with their biological parents, not promoting love and commitment, and, assuming that this interest was legitimate, tried to show that allowing same-sex marriage would have interfered with this interest (by alluding to the detrimental consequences that same-sex marriage would have had on opposite-sex marriage). But this definition of marriage would have excluded sterile different-sex couples from marriage - as was pointed out by the liberal justices on the Court – and therefore, was at odds with the social understanding of marriage. Now,

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[35] Obergefell v. Hodges, 576 U.S. ___ (2015).

given that the state of Michigan did grant marriage licenses to sterile opposite-sex couples, the attorney for the State was presumably being disingenuous. In any case, we can imagine cases in which lawmakers, in order to make sure that a status excludes a part of the population from some benefits or restricts the liberties of a part of the population, would pass a law that is at odds with the social institution, with the purpose of actually promoting this social institution. And consequently, the debate over the nature of marriage as a legal institution doesn't necessarily amount to a debate over the nature of marriage as a social institution.

Of course, my objector could reply that though there are cases in which the space of possible marriage institutions is restricted by rights and cases in which legislators do not intend their characterization of marriage as a legal institution to track the characterization of marriage as a social institution, there are also simple cases. Moreover, my objector could argue that, even if there are no such simple cases, designating and supporting marriage as a social institution is what motivates lawmakers and that the proponents of same-sex marriage in fact argue about marriage as a social institution, not marriage as a legal institution, in order to erode this motivation. I am happy to grant both these points, for the sake of the argument. However, I contend that the second part of the anti-descriptivist reply I have been examining in this section, that is, the assumption that anti-descriptivism makes sense of the debate over marriage as a social institution, is mistaken. Only the descriptivist externalist can make sense of this debate. Indeed, it would have been absurd for same-sex marriage activists to claim that same-sex unions were marriages if the use everybody made of the word to designate the social institution had contradicted this claim. The strategy was to argue that the word was being applied by many to same-sex couples, namely, to argue – along externalist lines – that, unbeknownst to some of its users, this is what the word now meant and thus what the social institution was. Therefore, a descriptivist externalist account can be given of

the debate over the social institution which parallels the account given of the debate over the legal institution, with the distinction that, while there were experts in the latter case (the legislators), there are prima facie no parallel authorities in the former case. In the next sub-section, we will see how an interpretation founded on a descriptive externalist account can also be given of another debate, namely, the recent debate in the UK over the recognition of transwomen as women.

6 What is the debate on the recognition of transwomen as women about? Against anti-descriptivism (II)

Though I suspect that anti-descriptivism will never be in a position to make sense of any debate over politically significant terms, giving a general argument for this conclusion is beyond the scope of this paper. I will, however, take another example, with the aim of showing that the irrelevance of anti-descriptivism will not be limited to cases in which the debate is about the character of a legal or a social institution.

On February 10 2004 the Gender Recognition Act was passed by the House of Lords and on May 25 2004 it was passed by the House of Commons, getting Royal Assent on July 2004. The aim of the legislature was to make it possible for transsexual women and men to be able to be identified, respectively, as women and men on their official documents. In 2016, the committee for Women and Equality published a review of the act noting its deficiencies and making recommendations for its review (Wikipedia contributors 2018). In July 2017 the Government Equalities Office announced a new proposal for reforming the act and the opening of a consultation in autumn 2017.

The recommendation of the committee for Women and Equality was that the law should be modified to make it easier for transwomen and transmen to be identified, respectively, as women and men. The proposal was that the parliament was to allow for the recognition of someone as a woman or a man on the ground of her or his self-identification. This proposal has been met with strong opposition by feminists – many of them self-identifying as radical feminists - who took issue with this criterion on the ground that, *among other things*, it could be used by non-transgender ill-intentioned males to have easy access to public spaces otherwise reserved to females in order to harass, assault and/or rape them and that it would render impossible data-gathering and monitoring of sex-based discrimination. Transwomen were actually already allowed, under the 2010 Equality Act to access gender-specific spaces without any Gender Recognition Certificate, though a provider of services could, with justification, prevent them from entering such spaces. The fear was both that the revision of the Gender Recognition Act would embolden ill-intentioned men (as adult male humans) to enter gender-specific spaces and that the Equality Act would be modified to make it impossible for a provider of services to actually prevent transwomen from entering gender-specific spaces[36]. I will now offer an interpretation of this debate along the lines presented in the foregoing.

Much of the literature on the meaning of 'woman' consists in a reaction to Haslanger's proposed revisionary analysis, which I quote once again:

S is a woman iff$_{df}$ S is systematically subordinated along some dimension (economic, political, legal, social, etc.), and S is 'marked' as a target for this treatment by observed or

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[36] A grassroot organization opposed to the reform the Gender Recognition Act, a Woman' s Place, provides evidence that this idea has indeed been in the air: 'Evidence of Calls to Remove Single Sex Exemptions from Equality Act.' WomansPlaceUK, 27 June 2018, womansplaceuk.org/references-to-removal-of-single-sex-exemptions/.

imagined bodily features presumed to be evidence of a female biological role in reproduction (Haslanger 2000)

As I wrote in the above, this analysis is revisionary in the sense that if the feminist movement was to be successful, there would be no more women to be found. But this analysis has also been found unpalatable for another reason. The analysis has been found to exclude transwoman and thus to fail for lack of inclusiveness[37]. So, an anti-descriptivist will ascribe to the proponents of the reform of the Gender Recognition Act the view that in fact, as Jenkins argues, the word 'woman' also designates transwoman. But the opponents to the reform of the Gender Recognition Act may happily accept this and instead focus on what the law is and argue that according to the law, transwomen are not women. Therefore, the anti-descriptivist doesn't make sense of the debate over the Gender Recognition Act.

Here is how one can formulate the argument of the opponents to the reform of the Gender Recognition Act. First, though transwomen can enter some gender-specific spaces, thanks to the Equality Act, providers of services can, also thanks to this act, legitimately prevent them from so doing. This suggests that though the act can help protect transwomen, the rights of female human animals are recognized by the law as having a special character and as needing to be secured. Second, the actual Gender Recognition Act has been instituted primarily for *transsexual* individuals. If people are under no obligation to actually submit themselves to a sex reassignment procedure in order to secure a Gender Certificate, it doesn't mean that the Gender Recognition Act wasn't meant to apply to transsexuals. This is presumably for ethical and political concerns. In summary, woman as female human animals are offered special protection by the law - in the sense

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[37] See (Jenkins 2016), cited approvingly in (Diaz-Leon 2016).

of a protection which is specific to them – and the Gender Recognition Act aims at extending this protection to *transsexual* individuals. As a consequence, according to the law, transwomen are not women.

Of course, it is open to the *opponent* to the reform of the Gender Recognition Act to argue otherwise, namely, that though according to the law transwomen are women, they shouldn't be, and it is also open to the *proponent* of the reform to reply to the argument I have presented that, though according to the law transwomen are not women, they should be. However, this is not the kind of debate I am interested in in this paper, because this is not the kind of debate anti-descriptivist views have aimed to make sense of. In the case of the marriage-debate the revisionary proposal was made by the proponents of same-sex marriage and the conservative proposal was made by the opponents to same-sex marriage. In the present debate, the revisionary proposal is made by the proponents of the reform of the Gender Recognition Act and the conservative proposal is made by the opponents to this reform. In neither case is any side of the debate thinking that the other side is replacing the word 'woman' with another one because both sides are concerned with what the word under examination means in the law. If one side is revisionary it is because they oppose the belief which is the most widely shared belief (that marriage is institution which concern people of different sexes and that women are human female animals).

7 Conclusion

Participants to debates about same-sex marriage disagree about whether the law of their respective countries should allow same-sex marriage. Many (if not most) of the arguments put forward by opponents to same-sex marriage purport to show that, by definition, persons of the same-sex

cannot get married. To this argument, many (if not most) of the proponents of same-sex marriage respond that a marriage is not a union between a man and a woman and the opponents to same-sex marriage do not always reply by way of metalinguistic arguments, like: 'This is not what we mean by 'marriage'. I have called this argumentative exchange the marriage debate.

I have argued that the interpretation according to which what the proponents of same-sex marriage do when they object to the thesis that two persons of the same sex cannot get married, is giving a revisionary analysis of the word 'marriage', is the wrong interpretation to give of these debates, *when under an anti-descriptivist externalist gloss*. Indeed, the anti-descriptivist externalist view fails to make sense of this debate. Participants to these debates over same-sex marriage are arguing about what the legal institution is. Therefore, if one wants to make sense of these debates, one has to adopt a *descriptivist externalist* view of the meaning of the word 'marriage'. Discussing the objection that the legal institution is nothing but the mere formalization of the social institution by a legislative act and add that, if so, then anti-descriptivism does provide the proper foundations for (Revise) has allowed me to better articulate the relations between marriage as a legal institution and marriage as a social institution. We have seen that these relations are not as simple as one might have thought. In any case, a descriptivist externalist view alone was up to the task.

Though in the space of this paper I couldn't give a general argument for the conclusion that anti-descriptivism will never be in a position to make sense of any debate over politically significant terms, I have showed that the irrelevance of anti-descriptivism will not be limited to cases in which the debate is about the character of institutions. I have argued that the debate over the meaning of the term 'woman' relative to the potential revision of the Gender Recognition Act in the UK is a debate over the proper characterization of the class of persons that the lawmakers had the intention to protect in promulgating the Gender Recognition Act and the Equality Act.

To the outsider's eye, this whole discussion will no doubt seem like a useless academic skirmish. However, I don't think it is. Anti-descriptivist views about the meaning of politically significant terms make little or no sense of the arguments given by political activists. This is already bad in itself. It is even worse when it dooms the interventions of philosophers who endorse these views to political irrelevance.

Acknowledgements

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