SYSTEM AND MODERNITY[*]

The immediate stimulus for this paper came from a reading of Richard Rorty's *Philosophy and the Mirror of Nature*. The book tells the story of analytic philosophy; it provides an intelligible plot for the seemingly messy, oftentimes brilliant and officially powerful "school" that has come to dominate our profession in the 20th century. Many of us have been impressed by the dialectical skills and the audacious confidence of individual philosophers who identify themselves as "analytic." What Rorty has given us is an account of what he calls "the dialectic *within* analytic philosophy."[1] His objective is to make plain the common tendency "which has carried philosophy of mind from Broad to Smart, philosophy of language from Frege to Davidson, epistemology from Russell to Sellars, and philosophy of science from Carnap to Kuhn."[2] His dialectic method is to show how each of these tendencies is governed by a self-critique of the paradigm of knowledge as the mirror of nature and of philosophy as the custodian of that mirror. The modern sense of this ocular metaphor is that "to know is to represent accurately what is outside the mind."[3] Rorty traces this metaphor back to the Greeks[4] and shows how it became, through the modern invention of mind as the place of awareness (Descartes), of mental processes as tools of representing (Locke), and of philosophy as the tribunal of correct representation (Kant), the root metaphor of what we call "epistemology." Analytic philosophy is then presented as a species of the "normal" genus of philosophy of today, philosophy for which epistemology is a normal, if not the fundamental, dimension of philosophy itself. Rorty calls this normal genus "*systematic philosophy*." (Its other main species is said to be Husserlian phenomenology.)

His implicit thesis is that the dialectic of analytical philosophy prepares us for the end of our bewitchment by the notion of philosophy as an adjustment of the mirror of nature. This would mean, on his reckoning, the final "deconstruction" (his term) of "normal" philosophy as it has been practiced over the past two and a half millennia in the West. He calls the emergent shape of philosophy, the "abnormal" successor to "normal" philosophy, "hermeneutics" and Holism, philosophy as the art of interpretation within an unanalyzable whole practical context, as participation in "the conversation of mankind." When philosophers themselves discover what others have known for some time, that they have no special role as adjudicators of culture, they will come to look less ridiculous in the eyes of their academic colleagues and fellow intellectuals, they will find that they can become conversation partners who are welcomed not to judge the foundations of others' "knowledge-claims" but to enrich the conversation by virtue of their conversance with the philosophical heroes of the past, their sisyphean labors to polish and adjust the mirror of nature. To be a hermeneutic holist is accordingly to give up this "normal" mode of philosophical discourse as soon as we have, through a study of

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[1] Richard Rorty, *Philosophy and the Mirror of Nature*, Princeton: Princeton University Press, 1979 (=PMN), p. 7 (my emphasis).

[2] PMN, p. 7.

[3] PMN, p. 3.

[4] In my estimation Rorty is incorrect if by "the Greeks" we are to understand, with Rorty, the tradition from Thales to Aristotle. The roots of the metaphor in question may be traced only to the Hellenistic period and, more precisely, to the Stoics.

recent analytic philosophy, fully comprehended the absurdity in the root metaphor of systematic philosophy. Rorty's most succinct formulation of this absurdity is given in an off-hand remark:

> The notion of an unclouded Mirror of Nature is the notion of a mirror which would be indistinguishable from what was mirrored, and thus would not be a mirror at all.[5]

For those of us whose conversation with our philosophical past includes a careful reading of Hegel, it is impossible not to be struck by the parallelism between this formulation, which epitomizes Rorty's immanent critique of analytic philosophy, and Hegel's repeated argument that the very idea of knowing as mind's representation (*Vorstellung*) of reality is an absurdity. (Recall the opening paragraphs of the "Introduction" to Hegel's *Phenomenology*.) Both Hegel and Rorty also see that this idea, though absurd, is so deeply imbedded in the ongoing *practice* of philosophy that it cannot be uprooted by precept alone. Hegel's strategy for dehabituating us from this practice is called *The Phenomenology of Spirit*, Rorty's is *Philosophy and the Mirror of Nature*. If Hegel's strategy had been practically successful, if it had revolutionized the then normal way of philosophy, Rorty's book, and what led up to it, would have been unnecessary.[6] Or to put it the other way around, if we see that Rorty's critique of mirroring or representing in philosophy is on the mark, then perhaps we might return to a reading of Hegel's *Phenomenology* as something more than an episode in the history of German idealism or the pre-history of Marxism. What might that "something more" be?

As I have argued on a number of occasions,[7] Hegel's *Phenomenology* is most intelligible when read as an introduction to systematic philosophy. Obviously Hegel's use of the term "systematic" is radically different from Rorty's. For systematic philosophy in Rorty's sense, philosophy as the methical quest for correct representation, is the first practice we must overcome if we are to follow the pathway to systematic philosophy in Hegel's sense. Of course, nothing requires Rorty to use the term "systematic philosophy" in the same sense as Hegel. What matters is that many readers of Hegel have taken him to aspire to systematicity in just the sense which Rorty delineates, that his philosophy was an argument from first principles or privileged ideas such as identity, contradiction, panlogism, or historical development. That is why it is helpful to contrast Rorty's sense of "systematic" with Hegel's.

I should also mention that Rorty does not hold relentlessly to a conception of systematic philosophy as the pursuit of correct representation in the mirror of nature. At the very end of his book, after he has made his recommendations for a philosophical shift from commensuration to conversation, from epistemology to hermeneutic holism, he allows himself two "idle" speculations. These pertain to situations that might emerge if the present "conversation" between "edifying" or hermeneutical philosophers and foundationalist or systematic philosophers should ever consummate:

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[5] PMN, p. 376.
[6] Rorty himself hints at this (PMN, pp. 49, n. 18, 133–35, 167 and 192). But these are mere hints. Rorty's attitude toward Hegel, which seems to derive from Sellars and Dewey, is far more systematic than that of the tradition he represents. Still, it is largely ambivalent, uninformed, and laden with the usual Hegel-clichés about history and historicism.
[7] This argument is made most explicitly in "Phenomenology and Systematic Philosophy," in M. Westphal, ed., *Method and Speculation in Hegel's Phenomenology*, New Jersey: Humanities Press, 1982, pp. 27ff.

> Perhaps philosophy will become purely edifying, so that one's self-identification as a philosopher will be purely in terms of the books one reads and discusses, rather than in terms of problems one wishes to solve.[8]

In this case philosophy would become identical with the history of philosophy and so-called philosophers would, like most teachers of art, music and literature, become curators of a glorious but dead tradition. Arguments would be replaced by textual interpretations. The other idle speculation is this:

> Perhaps a new form of systematic philosophy will be found which has nothing whatever to do with epistemology but which nevertheless makes normal philosophical inquiry possible.

This concept of systematic philosophy, which differs radically from Rorty's sense of the term in the rest of his book, seems to me a fair statement of Hegel's aspiration. But even if we read Hegel as I do, not as a voice from the past but as our most contemporary thinker, we will have to acknowledge that his form of systematic philosophy did not in the 19th century, and has not in our own, come to make "normal" philosophical inquiry possible. For most of our contemporaries in philosophy, Hegelian discourse remains largely unknown—except for a few shibboleths—faintly exotic and strangely intimidating. Unless we are able to appropriate his thought in a language and style that is unforbidding while remaining true to the texts, systematic philosophy in Rorty's *second* sense may well *remain* a matter of idle speculation.[9] That is why I shall attempt, in the main body of this paper, to indicate, in a conversational way, a practical whole with a systematic character, the structure of public space in the modern world.

Rorty's book is symptomatic of a refreshing shift in the way some philosophers have come to talk about epistemic legitimation. Discourses about beliefs, rules and confirmation have been supplemented by talk about the context of public practices and linguistic customs within which we are able to make sense in our conversations with one another. The current expression for this philosophical tendency—which dates back to Aristotle's *Ethics* and *Politics* is *holism*. In Rorty's words, holistic arguments take this form:

> We will not be able to isolate basic elements except on the basis of a prior knowledge of the whole fabric within which these elements occur. Thus we will not be able to substitute the notion of "accurate representation" [or "mirroring"] (element-by-element) for that of successful accomplishment of a practice. Our choice of elements will be dictated by our

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8   PMN, p. 394.
9   Rorty himself disavows any intention to make either of his alternative speculations more plausible than the other. But, given the disarray of philosophy today, we must be grateful for any effort to discern a plot in that philosophical melange which identifies itself as "analytic." When the effort is as balanced, knowledgeable, generous, and well-written as Rorty's book and when, in addition, it follows a path of immanent critique that strikingly parallels Hegel's *Phenomenology*, then we must consider its publication and our opportunity to discuss it a major occasion, opening the possibility of realizing non-epistemological systematic philosophy as a normal mode of discourse in our time.

understanding of the practice, rather than the practice's being "legitimated" by a "rational reconstruction" out of elements.[10]

One question which this holistic line of argument raises is whether we might ever hope to gain a comprehension of the wholes in question, whether the "legitimacy" of a whole practice must remain beyond discussion as soon as we have given up the practice of "legitimation" by means of a "rational reconstruction" out of elements. For Rorty (and some other holists) the very idea of legitimation seems to depend upon some variation on the mirror of nature argument whereas the practical wholes within which we carry out our conversations are said to be as inarticulate as a "way of life" à la Heidegger or a Wittgensteinian "language game."

But this seems a much too narrow conception of legitimation. If legitimation were "methodical" in Rorty's sense, then it *would* have to be abandoned together with the mirror of nature metaphor. What I take to be a possible mistake in Rorty's argument is his tendency to talk about whole practices as if the point of his talk were to show why practices rather than criteria were the appropriate means to "isolate basic elements" or the parts of a "culture, … language, or whatever."[11] Is not the practical intent of such a strategy a variation upon the epistemological theme, despite anti-foundationalist disclaimers?

In point of fact we do, I believe, engage in legitimating discourses all the time and many of these concern the basic structures of the social practice we share today, a systematic whole that is not, I shall argue, an aggregation of elements but whose elementary structure is articulable. Moreover, these conversations do not attempt to articulate a whole in terms of beliefs, rules, or other epistemic notions; they show that we can be, at least in non-reflective discourse, *attentive* to wholes without attempting to construct wholes out of parts. There is, in short, a correlation between the way we ordinarily talk about legitimacy in the modern world and a systematically philosophical account of modern secular society. In neither the conversation nor in systematic philosophy is it the point to use the whole, once articulated, as a foundation for legitimating knowledge claims or for spelling out the background of intentionality that might be said to govern our consciousness. The point is simply to understand. I now propose to test this conjecture by presenting a conversational account of legitimation in modern secular society. It will be evident that the conversation borrows unashamedly from Hegel without mentioning him. This is because I take a systematic discourse to be systematically *different* from an interpretation of an historical thinker. So please do not take me to be talking *about* Hegel. One of the marks of a systematic philosopher is that his thought is better *used* than *mentioned*.

The implicit theme of the conversation is that modern secular society, and no other, is an articulable practical whole and thus susceptible of systematic discourse. It will begin with a brief gloss on the familiar argument that modern society is illegitimate because it *is secular*, because it is the result of a process of secularization.[12] It then proceeds to consider the various moments of legitimacy that

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[10]   PMN, p. 319.
[11]   PMN, p. 319.
[12]   See my essay, "Hegel and the Secularization Hypothesis," in J.J. O'Malley, et al., eds., *The Legacy of Hegel*, The Hague: Martinus Nijhoff, 1973, pp. 144ff.

we all tend to raise in our purely secular conversations about our life together in the modern world. It will end on an implicit question: do our ways of talking about legitimacy today indicate that we share a *common world*, a world of speech that is a whole, without the need of foundations in another world?

Modern "secular" society is sometimes taken to be an illegitimate child of historical developments. If we take the late medieval contrast and struggle between this world and the church as the paradigm for explanation, then it does seem to follow that modern secular society is the offspring of a process of *secularization* and, therefore, in some sense of the word, illegitimate. But this model of explanation becomes questionable as soon as we consider how absurd it would be to apply the notion of "making-worldly" or "secularization" to account for the transformation of classical Greek civilization into the medieval and modern worlds. Indeed, Hannah Arendt in her magnificent book, *The Human Condition*, does take the ancient Greek world as her historical point of departure and gives a plausible account of the rise of modern society as the result of a process of "de-secularization," that is, a transformation by which the human condition came to be less and less worldly. Like the secularization theorists who take the medieval two-world model as their paradigm, Hannah Arendt also tends to regard modern society as illegitimate. But now this illegitimacy is said to derive from the condition of being alien to this world, of not being "at home" in the world, or, in short, because modern society is *not* secular.

In contrast to Hannah Arendt and her picture of modern society as an illegitimate product of historical alienation from the world, or of de-secularization, and also in contrast to those who suggest that modern society is the product of an illegitimate incursion of worldliness, or secularization, the proposed conversation on "Legitimation in Modern Secular Society" takes—rightly or wrongly—our present worldly or secular society as its adequate context, as an intelligible whole. Having considered the equal plausibility of taking the Ancient Greek or the Medieval Christian periods as historical bases for explanation, as the de-secularization and the secularization theories respectively do, I hope that a non-historical or "systematic" discussion about modern secular society will appear somewhat more plausible. For, after all, we must make *some choice* about where to begin. And our ordinary conversations usually tend to begin where we are.

When we consider the topic "Legitimation in Modern Secular Society" in light of the foregoing remarks, it becomes clear that the word "legitimation," like the words "secularization" and "de-secularization," also designates a process or a development. But here the process or development is conceived as systematic and non-historical, one that takes place *within* an overarching whole, the context of modern secular society. It follows that the process in question does not concern the emergence of secular society but rather the articulation of that holistic structure in such a way that we can grasp the main patterns of legitimation *within it*.

If, then, secular society is to provide our point of departure for a conversation on "the main patterns of legitimation," we will have to arrive at some preliminary understanding of the concept of "secular society." I shall propose what I take to be the simplest possible definition: "secular society" is the condition of existing on this earth in association, company, or interaction with others of the same species.

Of course it is clear that no questions of legitimation are directly raised by this simple definition. One might well protest, as Glaucon did to Socrates in Plato's *Republic*, that such a definition would pertain just as much to a "city of pigs" as to a city of human beings. And it is true that the given definition of secular society does no more than specify a condition of plurality and interaction among one or another of the candidate species who live in this world. The rationale for such a species-indifferent definition is to call attention to the fact that the act of picking out others of our species constitutes the primary dimension of legitimation in secular society.

I. Persons

Many senses of the term "legitimation" are readily intelligible on the basis of our common-sense understanding. Consider for a moment one of the oldest senses of the word. One used to speak of legitimate and illegitimate children and also of the process by which the illegitimates (or bastards) could be made legitimate. Hence, legitimation with respect to family membership. It was also once common to speak of naturalizing an alien in a state as a process of legitimation. Now if we extend this notion of an act of legitimizing membership in a family or a state to the act of acknowledging full membership in the human species we will have a concept of the most basic dimension of legitimation in secular society. And lest this seem trivial, consider too that mere biological membership in the species man has not always guaranteed that an individual was accepted as fully human. For distinctions between slave and free or between civilized and barbarian have been—and to some extent continue to be—drawn within the human species. People who draw such distinctions today are, we might say, conversation-stoppers.

The principle that *all* members of our species are legitimate first began, through the spread of Christianity, to gain a foothold in the conversation of mankind. For Christianity taught that all men are equal in the eyes of a transcendent God. But the principle that all men have a right to *legitimation in this world*, in the eyes of other men, was first established in an authoritative way by the Declaration of the Rights of Man, the declaration of the new regime in Paris in 1789. Still, it is one thing to establish the principle that all men have *the right to be legitimate* and it is another to be *legitimated*. The act of legitimation is an act that is, and must be, repeated again and again whenever one individual (or group) picks out or recognizes another as fully legitimate. The elementary act of legitimation may be called the act of recognizing others as *persons*. "Person" is the word we ordinarily use to talk about a *legitimate* member of the human species. And one becomes a person not by the mere fact of birth but through the act, and the repeated act, of being recognized. Thus the first form of legitimation *within* secular society is legitimation by recognition.

Granted, then, that this legitimation is innerworldly or secular, it is important to consider how it comes about. If I am to be recognized in this world by others, and in principle by all others, there must be some means by which I am recognizable; I must be sensibly present to others if I am to be recognized by them. And if I have a right to recognition, a right to basic legitimation, I must have a right to the means by which such legitimation is possible. At the very least this entails that I must be recognizable in my body, that I have a right to my body; my body must not be the property of another.

(In light of this basic notion of legitimation, to have one's body recognized as the property of *another* is the very formula of slavery.)

It is of course true that my body is not the only means by which I get recognized as a person in the modern world. But any attempt to specify these means in detail would take us too far afield. For our aim here is to articulate only the basic structures of our modern social whole. Our conversations about legitimation in the modern world do concern an abstract structure of persons-in-relation. The abstractness of this structure is both its strength and its weakness. To be legitimated is to be recognized as a person—this is the positive dimension. In this process of recognition, personhood alone counts. A person must *not* be identified on the basis of race, sex, or inherited status. In short, our concept of elementary legitimacy requires that, at an important level of our life together, persons be recognized **as** persons and shown an elementary respect for this reason alone.

In the United States (which most clearly approaches what Weberian sociologists might call the "ideal type" of a purely secular society) we are accustomed to describe this most elementary pattern of legitimation with our expression "due process." For us it is a truism that the due process clause written into the 5th and 14th amendments to our constitution is designed to guarantee that all persons be accorded respect and protected from arbitrary judgment.

Of course it is true in the United States, as everywhere in the modern world, that the organization of social life requires the existence of institutions—both public and private—within which certain individuals (let us call them officials) have the power, and must have the power, to make decisions that intervene in the lives of others. Conversations about the legitimation for such decisions always take account of the nature of the institutions in question, the pertinent statutory laws and the relevant policies and practices. In every case, however, the first and most basic question raised by our elementary secular notion of legitimation is whether any given person or people have been accorded the respect owed to the person or persons. Whenever we find that a person or a people have been treated, *in the first instance*, say as a black or a women or a "terrorist," then we know that our sense of due process has been violated. The specific legitimation for an official's decision will always have to conform with the general legitimation of persons. That is why we say that persons adversely affected by the decisions of public or private officials have the right to know the reasons.

This brief consideration of the right of persons to "due process," draws attention to a kind of legitimation that is systematically different from the elementary legitimation of persons by recognition. It is, namely, the question of the legitimation of **action** by officials. And clearly we do normally distinguish between legitimating an action and legitimating a person.

A person is legitimated simply by being recognized. One does not earn the right to be a person by performing any good works; in secular society one has this right to recognition simply by virtue of membership in the human species. In receiving recognition and being persons we are, strictly speaking, passive recipients of what might be called a purely secular "grace." Action, on the other hand, is something we do; it is a performance. And if it is to be legitimated it will require a legitimation of a different kind.

We have observed that "due process" entails that the actions of officials toward persons under their authority be legitimated by *reasons*. When we talk about actions in general, however, we implicitly know that our talk is not restricted to the domain of officials—it pertains to all members of the human species. If, therefore, action is universal to the modern human condition and if secular actions require legitimation, then in an account of how actions are legitimated, the sorts or reasons that are given and received, will provide us with a second basic pattern of legitimation requiring explication in a general account of legitimation in secular society.

II. Agents

We say that a human being becomes a legitimate member of secular society by the act of recognition, by the acknowledgment of personality. To be a person is therefore to be dependent upon the action of others and, in principle, of all others. When we consider a recognized individual as himself acting, on the other hand, the question of legitimation is radically different. For it is a basic notion in modern conversation that *every individual has the right to act autonomously*. This is a notion which is exhibited at the earliest stages of our conversational life. Think of the child who accidentally tips his glass at table and says: "But Mommy, I didn't *mean* to spill the milk." The child is spontaneously claiming the right to determine what is to be regarded as his own action. And this is a right that we all continue to assert throughout our adult lives. We acknowledge that we are responsible for our own actions but we claim the right to distinguish between what we do "on purpose" and what we happen to do, what we do inadvertently.

If this familiar distinction is legitimate, then the question arises as to who is to draw it. But if the distinction turns upon the purpose of the agent, then it is clear why we say that the agent himself must, in the first instance, draw the distinction between what part of his deeds did, and what did not, follow from his purposes. Thus we assert for ourselves and acknowledge in others the right to legitimate actions by reference to purpose.

When we grant that an act was done on purpose and was therefore the legitimate act of an agent, we still insist that the agent acting on purpose have "good intentions." But here again we say that it is only the agent who can give an account of his intentions and explain how they fit into his conception of the good. We accordingly require of ourselves as agents that we have some conception of the good. And we can also ask how this is determined.

But insofar as our concept of legitimation is purely secular it would be a violation of our notion of autonomous agents to say that they are obliged to have any specific conception of the good. We must leave such matters—just as we leave choice of religion in secular society—up to the individual himself. Talk about secular legitimation allows every agent the right to determine, as best he can, the basic framework in terms of which he seeks to do the good. For isn't this what we mean when we say that we have a "conscience"?

For some foundationalist critics of modern secular society, the pattern of conversation I have just outlined is taken to be the *reductio ad absurdum* of any attempt to show how legitimation is possible on purely secular grounds. If we acknowledge that the individual agent, in the privacy of his own

conscience, is to arbitrate even the question of the good, then how can we speak of any legitimation? What is the difference between the legitimacy and illegitimacy of action if the ultimate principles for adjudication are left up to the "conscience" of each and every agent? Isn't this the very formula for anarchism? Can legitimacy be founded upon arbitrary choice?

I am sure that we are all familiar with one or another version of this foundationalist critique of man in modern society. And it has some conversational impact because it appeals to our most elementary intuition that there must be—or at least that there ought to be—an objective difference between "good" and "evil" and that this distinction, if left to the free and autonomous choice of individual agents, is open to the basest and most self-serving forms of manipulation.

In one word, *if* our talk about the legitimation of action in secular society requires that we talk about autonomous agents—and it does—, *then* we must ask whether our ordinary speech commits us to the notion that this autonomy must be unqualified or absolute. While it is true that some intellectuals do talk this way, and accordingly try to minimize the legitimacy of any institutions that might inhibit an autonomous agent,[13] I think that we do quite normally talk about certain *institutional* structures within which we *realize* our autonomous *ideals* of the good, rather than confront an alien impediment to our freedom. Are these sacred or secular? Are they structures that fill our normal conversations or are they species-specific (like the universal attributes of "speaking" or "thinking" as applied to the human animal)?

III. Institutions

In our survey of secular legitimation the only non-voluntary structure which has come to light so far is the structure of reciprocal recognition which constitutes the world of human beings as persons. This structure *does* impose important constraints—which I illustrated by our purely secular notion of "due process"—but insofar as persons must be conceived abstractly, that is, merely as the recipients of recognition, it is hard to see how the legitimation of persons could be protected from actions which are based in merely subjective or discretionary autonomy.

Also it is clear from contemporary practice (at least in America) that institutions such as religion or the church could not be regarded as non-voluntary structures of stability in the modern world. For, however regrettable it might be, the choice of religious involvement has become one of the prerogatives of individual conscience.

The question, then, is whether there are *any* institutional structures in the modern world in which *all* legitimated persons and agents participate, not as a matter of choice, but simply *as* legitimated members of modern society. When the question is posed in this way, it seems plausible to say that we normally identify at least *three* non-voluntary institutional structures in our everyday conversations. Each no doubt has vulnerabilities, but I think we can say that the structures we identify are truly universal.

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[13]   For a spirited argument that autonomy and authority are incompatible, see R.P. Wolff, *In Defense of Anarchism*, New York: Harper & Row, 1970.

The first of these is the *family*. Although there has been some tendency to talk about the family as a voluntary association, and despite the fact that we do sometimes speak of marriage as a voluntary contract, these phenomena still appear as exceptions to our general sense that the bonds of love and sentiment are *as* essential to our common life *as* the respect of persons and the autonomy of agents. In our ordinary conversations we do not legitimate the notion of family-dissolution-on-demand and, despite certain forms of liberationist rhetoric, family membership has not, and I would say—admittedly without adequate argument—can not, become like a voluntary club. We have all required, and all future generations will continue to require, a long period of growth in the bosom of the family before we are able to step out and be recognized as persons on our own.

The family itself is like a person, it is recognized in secular society as a private domain in its own right, and because of this we will, I believe, continue to talk about the family as one of the invariant patterns of life on earth in modern society.

The second non-voluntary structure to which we all belong as members of secular society is indicated by the fact that we talk about one another as having legitimate *interests*. Normal conversation partners in the modern world recognize that all of us have certain vital interests—interest in our material livelihood, interest in pursuing a vocation according to our talents, interest in a marketplace for commerce with other men, interest in the protection of our market-rights, and interest in protection from the vicissitudes of market fraud and misfortune. Since this basic structure was first identified in the 19th century and given a name, "*civil* or bourgeois *society*," it too, like the family, has come under repeated attack. But even in those parts of the world where civil society has been mistakenly identified with capitalism and even where, as in Poland today, efforts are made to suppress it, the conditions of modern secular life have again and again shown civil society to be an irrepressible structure. In the 20th century we have come to talk about it as a global structure, a planetary institution designed to secure the secular legitimation of human interests.

The third and final non-voluntary institution which has become a universal in our conversations about man in the modern world is *the constitutional state*. Along with the family and civil society, it has been subject to intensive criticism, and particular states have been the instruments of awful destruction. But as states have become more and more secular, we have also come to discover that their legitimation is not of a traditional, divine or nationalistic, kind. Especially in the years since World War II and the Universal Declaration of Human Rights (not by a single nation, like the French in 1789, but by the United Nations), states have come more and more to articulate *their* sense of legitimacy in their *constitutions*. What this means is that a modern secular state is said to be legitimate when it supports and sustains a whole structure for the legitimation of persons, agents, family members, and participants in civil society. These are admittedly not the traditional functions of a state. They are rather functions that we have gradually come to assign the modern secular state. No doubt they have added to the complexity of government and many have lamented this development. But note, too, that each of these functions is, strictly speaking, a limitation of the power of the state through the protection of other independent *spheres* in the whole context of secular legitimation. It is not the state which has created these spheres, and, as spheres of legitimation, they cannot be abolished

by the willful action of any particular state.[14] For these patterns of legitimation have achieved the status of being virtually *invariant structures* in conversations about our highly variable world.

IV. A Paradox

Before I conclude, I must candidly admit that there seems to be something paradoxical about the very idea of a conversation about legitimation in secular society. The paradox, in short, is this: modern secular society has given rise to more talk about illegitimacy than any previous, that is, non-secular, structure of human interaction. Racial groups, ethnic groups, women, and the poor have all voiced their protests against the inequities of the modern social order. Individuals from a multitude of different social backgrounds have protested the ways in which modern institutions constrict their freedom to act. In addition, there have been protests against the modern tendency to uproot individuals from their sense of solidarity with groups, like the family or the nation state. As basic types of illegitimacy these may be called *wrongs* against our sense of due process, *coercions* of our sense of autonomous liberty, and *alienations* from our sense of belonging to larger *social wholes*. We are all familiar with these *three* basic types of illegitimacy and any one of us could fill in countless examples from our own experiences and from conversations with others.

What I should like to stress is that today all three of these kinds of illegitimacy are easily discussed, examples are readily identified, and arguments about them are innumerable in ordinary conversation. One of the paradoxes of modern secular society is that we are all so intimately familiar with its dimensions of legitimacy that we have a commonplace vocabulary to unmask illegitimacies in practical arguments against racism, sexism, etc. I say that this situation is paradoxical because it is only through our heightened *practical sense of legitimacy* that we are able to identify so many illegitimacies. If we shake ourselves loose from the image of secular society as unfounded and illegitimate, perhaps we will be able to construe *a theory* that is true to our everyday *practical talk* about *legitimation* in modern secular society.

KENLEY R. DOVE

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[14] The world's reaction to the treatment of blacks under the South African system of apartheid or of Palestinians under Israeli occupation may be taken as cases in point.