

Chapter I

The Method of Determining This Function

The word *function* is used in two somewhat different ways. Sometimes it designates a system of living movements, divorced from their effects. At other times it expresses the corresponding relationship existing between these movements and certain needs of the organism. Thus we speak of the digestive or respiratory functions, etc. But we also say that the digestion fulfils the function of controlling the absorption into the organism of fluid or solid substances intended to make good its losses. We likewise say that the respiration fulfils the function of introducing into animal tissues the gases necessary for sustaining life, etc. It is in this second connotation that we intend the term. Thus to ask what is the function of the division of labour is to investigate the need to which it corresponds. Once this question has been resolved we shall be able to see if that need is of the same kind as those to which correspond other rules of behaviour whose moral character is undisputed.

If we have chosen this term, it is because any other would be inexact or ambiguous. We cannot use 'aim' or 'purpose', and speak of the goal of the division of labour, because that would suppose that the division of labour exists *for the sake of results* that we shall determine. To use 'results' or 'effects' cannot satisfy us either, because no idea of correspondence is evoked. On the other hand, the term 'role' or 'function' has the great advantage of implying that idea, but in no way prejudices the question of knowing how that correspondence has been established, or whether it arises from some intended and preconceived adaptation or from some adjustment after the event. What is important for us is to know whether this correspondence exists, and in what it consists, and not whether

it has been vaguely foreseen beforehand, or even whether it has been realised later.

I

At first sight nothing appears easier than to determine the role of the division of labour. Are not its efforts known to everybody? Since it increases both the productive capacity and skill of the workman, it is the necessary condition for the intellectual and material development of societies; it is the source of civilisation. Moreover, since we ascribe somewhat glibly an absolute value to civilisation, it does not even occur to us to seek out any different function for the division of labour.

We cannot conceive it necessary to argue that it does in reality have such a result. But if it had no other result and served no other purpose, there would be no reason for attributing any moral character to it.

Indeed the services that it renders in this way are almost entirely divorced from moral life, or at most have with it merely a very indirect and distant relationship. Although it is somewhat customary nowadays to reply to Rousseau's diatribes by dithyrambs of the opposing kind, it is by no means demonstrated that civilisation is a moral matter. To resolve the question we cannot rely on the analysis of concepts that are necessarily subjective. Rather we should pick out some fact that might serve to measure the average level of morality and then observe its variations as civilisation progresses. Unfortunately we lack this unit of measurement, although we do possess one for collective immorality. The average number of suicides and crimes of every description may serve to indicate the level of immorality in any given society. Now, if such an operation is carried out, it hardly redounds to the credit of civilisation, for the number of such morbid phenomena seems to increase as the arts, science and industry progress.¹ It would doubtless be somewhat rash to conclude from this fact that civilisation is immoral, but at the very least we may rest assured that, if civilisation exerts any positive and favourable influence upon moral life, that influence is somewhat weak.

If, moreover, we analyse that ill-defined conglomerate dubbed 'civilisation', we find that the elements of which it is made up lack any moral character.

This particularly holds good for the economic activity that always accompanies civilisation. Far from it assisting the progress of morality, it is in the great industrial centres that crime and suicide are most frequent. In any case civilisation does not exhibit those external indicators from which moral facts can be discerned. We have replaced the stage coach by the railway, sailing ships by ocean liners, and small workshops by factories. All this expansion of activity is generally acknowledged to be useful, but there is nothing obligatorily moral about it. The artisan or small-scale industrialist who resists this general trend and stubbornly perseveres in carrying on his modest business fulfils his duty as much as the great manufacturer who covers the country with factories and assembles under his orders a whole army of workmen. The moral consciousness of nations is not deceived: it prefers a modicum of justice to all the industrial improvements in the world. Assuredly such industrial activities have a reason for their existence; they correspond to needs, but these needs are not moral ones.

This is even more true of art, which remains entirely resistant to anything resembling an obligation, since its domain is one where freedom reigns. It is a luxury and an ornament that it may well be fine to possess, but that one cannot be compelled to acquire: what is a superfluity cannot be imposed upon people. By contrast, morality is the indispensable minimum, that which is strictly necessary, the daily bread without which societies cannot live. Art corresponds to the need we have to widen those of our activities that lack purpose, for the pleasure of doing so, whilst morality constrains us to follow a path laid down, one which leads towards a definite goal. He who speaks of obligation speaks at the same time of constraint. Thus, although art can draw inspiration from moral ideas or is to be found intermingled with the evolution of strictly moral phenomena, it is not moral in itself. Observation might even establish perhaps that, with individuals as with societies, from the moral viewpoint the inordinate development of the aesthetic faculties is a grave symptom.

Among all the elements of civilisation science is the sole one to assume, under certain conditions, a moral character. Indeed societies are increasingly tending to regard it as a duty of the individual to develop his intelligence by absorbing those scientific truths already established. Already nowadays there are certain areas of knowledge that we should all possess. We are not forced to

throw ourselves into the hurly-burly of industry, or to become an artist, but we are now all expected not to remain ignorant. So keenly felt is this obligation that, in certain societies, it is not only hallowed by general opinion, but by the law. Moreover, we can indeed perceive how this special privilege of science arises. It is because science is none other than consciousness raised to the acme of clarity. For societies to be able to live in the conditions of existence now available to them the sphere of consciousness, whether individual or social, must be extended and clarified. Indeed, as the environment in which societies live becomes increasingly complex, and consequently more fluctuating, they must change frequently in order to survive. Furthermore, the more the consciousness remains unenlightened, the more averse it is to change, because it does not perceive rapidly enough either the need for change or the direction change should take. On the contrary, the enlightened consciousness has learnt how to prepare itself beforehand for the way in which it has to adapt. This is why intelligence, guided by science, requires to assume a greater role in the processes of collective life.

However, the science that everybody is called upon to possess in this way hardly deserves that name. It is not science; or at the very most it is the most common and general part of it. It is indeed limited to a few indispensable elements of knowledge which are only required of everyone because they are within everyone's grasp. Science proper soars infinitely beyond this vulgar level. It includes not only what one would blush at not knowing, but all that it is possible to know. It presumes among those who are its adepts not only those average faculties possessed by all men, but special aptitudes. In consequence, since it is accessible only to an elite, it is not obligatory. Although something fine and useful, it is not so utterly indispensable that society categorically requires it. There is advantage in being equipped with it, but nothing immoral about not acquiring it. It is a field of activity open to everyone on their own initiative, but one which no one is compelled to enter. One is no more required to be a scientist than an artist. Thus science, like art and industry, lies outside the realm of ethics.²

If so much controversy has centred round the moral character of civilisation, it is because too often moralists have lacked any objective criterion by which to distinguish moral facts from those that are not. It is customary to categorise as moral everything that has something noble or valuable about it, everything that is the

object of no mean aspirations. It is because of this exaggerated extension of the meaning of the term that civilisation has been included within the moral domain. But the field of ethics is far from being so indeterminate. It comprises all the rules of action that are imposed categorically upon behaviour and to which a punishment is attached, but goes no further than this. Consequently, since civilisation comprises nothing that displays this criterion of morality, it is morally neutral. Thus if the role of the division of labour were solely to make civilisation possible, it would share this same moral neutrality.

It is because we have generally perceived no other function for the division of labour, that the theories that have been put forward regarding it are to this extent inconsistent. In fact, even supposing a neutral area could exist in the field of morality, it would be impossible for the division of labour to be sited within it.³ If the division of labour is not good, it must be bad; if it is not moral, then it must represent a falling away from morality. Thus if it serves no other purpose we fall into unresolvable contradictions, for the economic advantages it affords are set against moral disadvantages. As we cannot subtract these two heterogeneous and uncomparable quantities from each other, we cannot tell which one takes precedence over the other. Nor, consequently, can we arrive at a decision. The primacy of morality will be invoked in an out-and-out condemnation of the division of labour. But, besides the fact that this *ultima ratio* always represents a scientific *coup d'état*, the evident need for specialisation makes such a position impossible to sustain.

Something else must be said: if the division of labour fulfils no other role, not only does it possess no moral character, but no reason for its existence can be perceived. Indeed we shall see that of itself civilisation has no intrinsic and absolute value. What confers value upon it is the fact that it meets certain needs. Later the proposition⁴ will be demonstrated that these needs are themselves consequences of the division of labour. It is because the division of labour is accompanied by an increase in fatigue that man is constrained to seek after, as a compensatory increase, those goods of civilisation that otherwise would present no interest for him. Thus if the division of labour corresponded to no other needs than these, its sole function would be to mitigate the effects that it produces itself, one of binding up the wounds that it inflicts. In such circumstances it

might be necessary to submit to it, but there would be no reason to desire it, since the services it would render would reduce themselves to repairing the damage that itself caused.

Everything therefore impels us to search for some other function for the division of labour. A few commonly observed facts will set us on the path to a solution.

II

Everybody knows that we like what resembles us, those who think and feel as we do. But the opposite phenomenon is no less frequently encountered. Very often we happen to feel drawn to people who do not resemble us, precisely because they do *not* do so. These facts are seemingly so much at odds that in every age moralists have hesitated about the true nature of friendship and have traced it now to the one cause, now to the other. The Greeks had already posed the question. 'Friendship,' says Aristotle, 'gives rise to much argument. For some it consists in a certain resemblance, and those who resemble each other like each other: hence the proverbs, "like goes with like", and "birds of a feather flock together", and other similar sayings. But on the contrary, according to others, all those who resemble one another grate upon one another. Other explanations are sought at a higher level which are taken from a consideration of nature. Thus Euripides says that the parched earth is in love with the rain, and that the overcast sky heavy with rain pours down upon the earth in a fury of love. Heraclitus claims that one only accommodates to what one opposes, that the finest harmony is born from differences, and that discord is the law of all becoming.'⁵

What demonstrates these opposing doctrines is the fact that both forms of friendship exist in nature. Dissimilarity, just like resemblance, can be a cause of mutual attraction. However, not every kind of dissimilarity is sufficient to bring this about. We find no pleasure in meeting others whose nature is merely different from our own. Prodigals do not seek the company of the miserly, nor upright and frank characters that of the hypocritical and underhand. Kind and gentle spirits feel no attraction for those of harsh and evil disposition. Thus only differences of a certain kind incline us towards one another. These are those which, instead of mutually

opposing and excluding one another, complement one another. Bain says, 'There is a kind of disparity that repels and a kind that attracts; a kind that tends to rivalry, and a kind that tends to friendship . . . if what the one has, the other has not, but desires, there is a basis of positive attraction.'⁶

Thus the theorist with a reasoning and subtle mind has often a very special sympathy for practical men who are direct and whose intuition is swift. The fearful are attracted to those who are decisive and resolute, the weak to the strong, and vice versa. However richly endowed we may be, we always lack something, and the best among us feel our own inadequacy. This is why we seek in our friends those qualities we lack, because in uniting with them we share in some way in their nature, feeling ourselves then less incomplete. In this way small groups of friends grow up in which each individual plays a role in keeping with his character, in which a veritable exchange of services occurs. The one protects, the other consoles; one advises, the other executes, and it is this distribution of functions or, to use the common expression, this division of labour, that determines these relations of friendship.

We are therefore led to consider the division of labour in a new light. In this case, indeed, the economic services that it can render are insignificant compared with the moral effect that it produces, and its true function is to create between two or more people a feeling of solidarity. However this result is accomplished, it is this that gives rise to these associations of friends and sets its mark upon them.

The history of marital relationships affords an even more striking example of the same phenomenon.

Doubtless, sexual attraction is never felt save between individuals of the same species, and fairly generally love presumes a certain harmony of thought and feeling. It is nevertheless true that what imparts its specific character to this tendency and generates its specific force is not the similarity but the dissimilarity of the natures that it links together. It is because men and women differ from one another that they seek out one another with such passion. However, as in the previous case, it is not purely and simply contrast that causes reciprocal feelings to arise: only those differences that are assumed and that complement one another possess this power. In fact, men and women in isolation from each other are only different parts of the same concrete whole, which they reconstitute by uniting

with each other. In other words, it is the sexual division of labour which is the source of conjugal solidarity, and this is why psychologists have very aptly remarked that the separation of the sexes was an event of prime importance in the evolution of the sentiments. This is because it has made possible perhaps the strongest of all disinterested tendencies.

There is something else. The division of labour between the sexes is capable of being more, and capable of being less. It can relate only to the sexual organs and some secondary traits that depend on them, or, on the contrary, can extend to all organic and social functions. It can be seen historically as having developed precisely along the same lines and in the same way as marital solidarity.

The further we go back into the past, the more we see that the division of labour between the sexes is reduced to very little. In those distant times woman was not at all the weak creature that she has become as morality has progressed. Prehistoric bone remains attest to the fact that the difference between the strength of a man and a woman was relatively much less than it is today.⁷ Even nowadays, in infancy and up to puberty, the skeletal frame of the two sexes is not appreciably different: its characteristics are principally female. If one accepts that the development of the individual reproduces in abridged form that of the species, we may justifiably conjecture that the same homogeneity was to be found at the beginnings of human evolution, and see in the female form a close image of what was originally that single, common type from which the male sex has gradually become distinct. Moreover, travellers report that among a certain number of South American tribes man and woman show in their general build and appearance a similarity greater than that found elsewhere.⁸ Finally, Dr Lebon has been able to establish directly, with mathematical precision, this original resemblance between the sexes, in regard to the pre-eminent organ of physical and mental life, the brain. By comparing a large number of skulls selected from among different races and societies, he arrived at the following conclusion:

The volume of the skull of a man or woman, even when subjects of the same age, size and weight are being compared, presents considerable differences in favour of the man, and this disparity likewise increases with the advance of civilization, so that, as regards the mass of the brain, and consequently of the intellig-

ence, woman tends increasingly to become different from man. For example, the difference which exists between the average size of the brain between present-day Parisian men and women is almost double that observed between male and female skulls in ancient Egypt.⁹

A German anthropologist, Bischoff, has arrived at the same result in this respect.¹⁰

These anatomical similarities are concomitant with functional ones. In fact, in these same societies the female functions are not very clearly distinguished from the masculine ones, but the two sexes lead roughly the same kind of existence. Even now there is still a very large number of savage peoples where the woman takes part in political life. This has been observed especially among the Indian tribes of America, such as the Iroquois and the Natchez,¹¹ in Hawaii where she shares in the life of the man in countless ways,¹² in New Zealand and Samoa. Similarly we see very frequently the women going off to war with the men, stimulating them to fight, and even participating very actively in the fighting. In Cuba and Dahomey they are as warlike as the men, fighting side by side with them.¹³ One of the distinctive attributes of a woman today, that of gentleness, does not originally appear to have been characteristic of her. Already among certain animal species the female is, on the contrary, noted for the opposite characteristic.

Among these same peoples marriage exists only in a very rudimentary state. Even if not yet demonstrated with certainty, it is even very likely that there was an era in the history of the family when marriage did not exist. Sexual relationships were made and unmade at will, the partners being bound by no legal tie. In any case we know of a family type relatively close to us¹⁴ in which marriage is still only in a distinctly embryonic state, that is, the matriarchal family. The relationships between mother and children are very clearly defined, but those between the two partners are very lax. They can cease as soon as the parties wish, or indeed may be entered into only for a limited period.¹⁵ Marital fidelity is still not required. Marriage, or what is so termed, comprises solely obligations of a strictly limited nature, and these are very often of short duration, linking the husband to the wife's relations. Thus it amounts to very little. In any given society the set of legal rules that constitute marriage only symbolises the state of conjugal solidarity. If this is

very strong, the bonds uniting husband and wife are numerous and complex, and consequently the marriage rules, whose purpose is to define them, are themselves very elaborate. If, on the other hand, the marital state lacks cohesiveness, if the relations between the man and the woman are unstable and sporadic, they cannot assume a very fixed form. Consequently marriage comes down to a small number of rules lacking rigour and preciseness. The state of marriage in societies where the two sexes are only slightly differentiated thus bears witness to the fact that conjugal solidarity is itself very weak.

On the other hand, as we approach modern times, we see marriage developing. The network of ties that it creates becomes ever more extensive, the obligations that it imposes increase. The conditions on which it may be entered into, and those on which it may be dissolved are stipulated with increasing precision, as are the consequences of such a dissolution. The duty of fidelity takes on an organised form; at first laid upon the wife alone, it later becomes reciprocal. When the institution of the dowry makes its appearance, very complex rules emerge fixing the respective rights of each partner regarding their individual fortunes. Moreover, we need only cast a glance through our legal codes to see how important is the place of marriage. The union of the two spouses has ceased to be ephemeral; no longer is it an external, temporary and partial contact, but an intimate association, one that is lasting, often even indissoluble, between two lives throughout their whole existence.

Beyond question, over the same period of time labour became increasingly divided up as between the sexes. At first limited to the sexual functions alone, it gradually extended to many other functions. The woman had long withdrawn from warfare and public affairs, and had centred her existence entirely round the family. Since then her role has become even more specialised. Nowadays, among civilised peoples the woman leads an existence entirely different from the man's. It might be said that the two great functions of psychological life had become as if dissociated from each other, one sex having taken over the affective, the other the intellectual function. Noticing how, among certain social classes the women are taken up with art and literature, just as are the men, one might, it is true, believe that the activities of both sexes are tending once more to become homogeneous. But even in this sphere of activity, the woman brings to bear her own nature, and her role

remains very special, one very different from that of the man. What is more, if art and letters are beginning to become matters that occupy women, the other sex appears to be abandoning them so as to devote itself more especially to science. Thus it might well happen that this apparent reversion to a primeval homogeneity is no more than the beginning of a fresh differentiation. Moreover, these functional differences are made perceptible physically by the morphological differences they have brought about. Not only are size, weight and general shape very dissimilar as between a man and a woman, but Dr Lebon has shown, as we have seen, that with the advance of civilisation the brain of the two sexes has increasingly developed differently. According to this observer, this progressive gap between the two may be due both to the considerable development of the male skull and to a cessation and even a regression in the growth of the female skull. He states: 'Whilst the average size of the skulls of male Parisians places them among the largest known skulls, the average size of those of female Parisians places them among the smallest skulls observed, very much below those of Chinese women and scarcely above those of the women of New Caledonia.'¹⁶

In all these examples the most notable effect of the division of labour is not that it increases the productivity of the functions that are divided in this way, but that it links them very closely together. In all these cases its role is not simply to embellish or improve existing societies, but to make possible societies which, without these functions, would not exist. If we reduce the division of labour between the sexes beyond a certain point marital life disappears, leaving only sexual relationships that are predominantly ephemeral. If indeed the sexes had not separated off from each other at all, a whole style of social living would not have arisen. It is possible that the economic usefulness of the division of labour has had some bearing upon the outcome. In any case, however, it goes very considerably beyond the sphere of purely economic interests, for it constitutes the establishment of a social and moral order *sui generis*. Individuals are linked to one another who would otherwise be independent; instead of developing separately, they concert their efforts. They are solidly tied to one another and the links between them function not only in the brief moments when they engage in an exchange of services, but extend considerably beyond. For example, marital solidarity as it exists today among the most cultured

peoples – does it not make its effect felt at every moment and in every detail of life? Moreover, those societies established by the division of labour cannot fail to bear its mark. Since they have this special origin, they cannot resemble those that are determined by the attraction of like for like. They must be constituted differently, rest upon a different foundation, and appeal to different sentiments.

If exchange alone has often been held to constitute the social relationships that arise from the division of labour, it is because we have failed to recognise what exchange implies and what results from it. It presumes that two beings are mutually dependent upon each other because they are both incomplete, and it does no more than interpret externally this mutual dependence. Thus it is only the superficial expression of an internal and deeper condition. Precisely because this condition remains constant, it gives rise to a whole system of images which function with a continuity that is lacking in exchange. The image of the one who complements us becomes inseparable within us from our own, not only because of the frequency with which it is associated with it, but above all because it is its natural complement. Thus it becomes an integral, permanent part of our consciousness to such a degree that we can no longer do without it. We seek out everything that can increase the image's strength. This is why we like the company of the one the image represents, because the presence of the object whose expression it is, by causing it to pass to the state of perception here and now, gives it greater vividness. By contrast, we suffer in any circumstance where, such as in absence or death, the effect can be to prevent its return or to lessen its intensity.

Despite the brevity of this analysis, it is sufficient to show that this mechanism is not identical to the one on which are founded those feelings of empathy that spring from similarity. There can certainly never be solidarity between ourselves and another person unless the image of the other person is united with our own. But when union derives from the similarity between two images, it consists in an agglutination. The two representations become solidly bonded together because, being indistinct from each other either wholly or in part, they fuse completely, becoming one. They are only solid with one another in so far as they are fused in this way. On the contrary, in the case of the division of labour, they remain outside each other and are linked only because they are distinct. The

feelings that arise cannot therefore be the same in both cases, nor can the social relationships that derive from them.

Thus we are led to ask whether the division of labour might not play the same role in more extensive groupings – whether, in contemporary societies where it has developed in the way that we know, it might not fulfil the function of integrating the body social and of ensuring its unity. It is perfectly legitimate to suppose that the facts we have just observed are replicated here also, but on a broader scale; that these great political societies also cannot sustain their equilibrium save by the specialisation of tasks; and that the division of labour is the source – if not the sole, at least the main one – of social solidarity. Comte had already taken this view. Among all the sociologists, so far as we are aware, he was the first to point out that in the division of labour there was something other than a purely economic phenomenon. He saw in it 'the most essential condition of social life', provided that it were conceived of 'in all its rational extent, namely, as being applied to the whole range of our various activities of all kinds, instead of being limited, as is only too common, to mere material uses'. Considered from this viewpoint, he said:

it leads one immediately to look not only at individuals and classes but also, in many respects, at different peoples, as participating at one and the same time, each following in its own fashion and to its own special, determined degree, in a vast common enterprise. It is one whose inevitable and gradual development links, moreover, those co-operating together at the present time with the line of their predecessors, whoever these may have been, and even to the line of their various successors. Thus it is the continuous distribution of different human tasks which constitutes the principal element in social solidarity and which becomes the primary cause of the scale and growing complexity of the social organism.¹⁷

If this hypothesis were proved, the division of labour may play a much more important role than is normally attached to it. It would serve not only to endow societies with luxury, perhaps enviable but nevertheless superfluous. It would be a condition for their existence. It is through the division of labour, or at least mainly through it, that the cohesion of societies would be ensured. It would determine the essential characteristics that constitute them. By this

very fact, although we are not yet in a position to resolve the question with any rigour, already we can nevertheless vaguely perceive that, if this is the real function of the division of labour, it must possess a moral character, since needs for order, harmony and social solidarity are generally reckoned to be moral ones.

Yet before examining whether this hypothesis is well founded, we must verify the hypothesis we have just enunciated regarding the role of the division of labour. Let us see whether, in fact, in the societies in which we live today, it is from this that social solidarity essentially derives.

III

Yet how does one proceed to this verification?

We have not merely to investigate whether, in these kinds of societies, there exists a social solidarity arising from the division of labour. This is a self-evident truth, since in them the division of labour is highly developed and it engenders solidarity. But above all we must determine the degree to which the solidarity it produces contributes generally to the integration of society. Only then shall we learn to what extent it is necessary, whether it is an essential factor in social cohesion, or whether, on the contrary, it is only an ancillary and secondary condition for it. To answer this question we must therefore compare this social bond to others, in order to measure what share in the total effect must be attributed to it. To do this it is indispensable to begin by classifying the different species of social solidarity.

However, social solidarity is a wholly moral phenomenon which by itself is not amenable to exact observation and especially not to measurement. To arrive at this classification, as well as this comparison, we must therefore substitute for this internal datum, which escapes us, an external one which symbolises it, and then study the former through the latter.

That visible symbol is the law. Indeed where social solidarity exists, in spite of its non-material nature, it does not remain in a state of pure potentiality, but shows its presence through perceptible effects. Where it is strong it attracts men strongly to one another, ensures frequent contacts between them, and multiplies the opportunities available to them to enter into mutual relation-

ships. To state the position precisely, at the point we have now reached it is not easy to say whether it is social solidarity that produces these phenomena or, on the contrary, whether it is the result of them. Likewise it is a moot point whether men draw closer to one another because of the strong effects of social solidarity, or whether it is strong because men *have* come closer together. However, for the moment we need not concern ourselves with clarifying this question. It is enough to state that these two orders of facts are linked, varying with each other simultaneously and directly. The more closely knit the members of a society, the more they maintain various relationships either with one another or with the group collectively. For if they met together rarely, they would not be mutually dependent, except sporadically and somewhat weakly. Moreover, the number of these relationships is necessarily proportional to that of the legal rules that determine them. In fact, social life, wherever it becomes lasting, inevitably tends to assume a definite form and become organised. Law is nothing more than this very organisation in its most stable and precise form.¹⁸ Life in general within a society cannot enlarge in scope without legal activity simultaneously increasing in proportion. Thus we may be sure to find reflected in the law all the essential varieties of social solidarity.

It may certainly be objected that social relationships can be forged without necessarily taking on a legal form. Some do exist where the process of regulation does not attain such a level of consolidation and precision. This does not mean that they remain indeterminate; instead of being regulated by law they are merely regulated by custom. Thus law mirrors only a part of social life and consequently provides us with only incomplete data with which to resolve the problem. What is more, it is often the case that custom is out of step with the law. It is repeatedly stated that custom tempers the harshness of the law, corrects the excesses that arise from its formal nature, and is even occasionally inspired with a very different ethos. Might then custom display other kinds of social solidarity than those expressed in positive law?

But such an antithesis only occurs in wholly exceptional circumstances. For it to occur law must have ceased to correspond to the present state of society and yet, although lacking any reason to exist, is sustained through force of habit. In that event, the new relationships that are established in spite of it will become

organised, for they cannot subsist without seeking to consolidate themselves. Yet, being at odds with the old law, which persists, and not succeeding in penetrating the legal domain proper, they do not rise beyond the level of custom. Thus opposition breaks out. But this can only happen in rare, pathological cases, and cannot even continue without becoming dangerous. Normally custom is not opposed to law; on the contrary, it forms the basis for it. It is true that sometimes nothing further is built upon this basis. There may exist social relationships governed only by that diffuse form of regulation arising from custom. But this is because they lack importance and continuity, excepting naturally those abnormal cases just mentioned. Thus if types of social solidarity chance to exist which custom alone renders apparent, these are assuredly of a very secondary order. On the other hand the law reproduces all those types that are essential, and it is about these alone that we need to know.

Should we go further and assert that social solidarity does not consist entirely in its visible manifestations; that these express it only partially and imperfectly; that beyond law and custom there exists an inner state from which solidarity derives; and that to know it in reality we must penetrate to its heart, without any intermediary? But in science we can know causes only through the effects that they produce. In order to determine the nature of these causes more precisely science selects only those results that are the most objective and that best lend themselves to quantification. Science studies heat through the variations in volume that changes in temperature cause in bodies, electricity through its physical and chemical effects, and force through movement. Why should social solidarity prove an exception?

Moreover, what remains of social solidarity once it is divested of its social forms? What imparts to it its specific characteristics is the nature of the group whose unity it ensures, and this is why it varies according to the types of society. It is not the same within the family as within political societies. We are not attached to our native land in the same way as the Roman was to his city or the German to his tribe. But since such differences spring from social causes, we can only grasp them through the differences that the social effects of solidarity present to us. Thus if we neglect the differences, all varieties become indistinguishable, and we can perceive no more than that which is common to all varieties, that is, the general

tendency to sociability, a tendency that is always and everywhere the same and is not linked to any particular social type. But this residual element is only an abstraction, for sociability *per se* is met with nowhere. What exists and what is really alive are the special forms of solidarity – domestic, professional, national, that of the past and that of today, etc. Each has its own special nature. Hence generalities can in any case only furnish a very incomplete explanation of the phenomenon, since they necessarily allow to escape what is concrete and living about it.

Thus the study of solidarity lies within the domain of sociology. It is a social fact that can only be thoroughly known through its social effects. If so many moralists and psychologists have been able to deal with this question without following this method, it is because they have avoided the difficulty. They have divested the phenomenon of everything that is more specifically social about it, retaining only the psychological core from which it develops. It is certain that solidarity, whilst being pre-eminently a social fact, is dependent upon our individual organism. In order to be capable of existing it must fit our physical and psychological constitution. Thus, at the very least, we can content ourselves with studying it from this viewpoint. But in that case we shall perceive only that aspect of it which is the most indistinct and the least special. Strictly speaking, this is not even solidarity itself, but only what makes it possible.

Even so, such an abstract study cannot yield very fruitful results. For, so long as it remains in the state of a mere predisposition of our psychological nature, solidarity is something too indefinite to be easily understood. It remains an intangible virtuality too elusive to observe. To take on a form that we can grasp, social outcomes must provide an external interpretation of it. Moreover, even in such an indeterminate state, it depends on social conditions that explain it, and cannot consequently be detached from them. This is why some sociological perspectives are not infrequently to be found mixed up with these purely psychological analyses. For example, some mention is made of the influence of the *gregarious state* on the formation of social feeling in general;¹⁹ or the main social relationships on which sociability most obviously depends are rapidly sketched out.²⁰ Undoubtedly such additional considerations, introduced unsystematically as examples and at random as they suggest themselves, cannot suffice to cast much light on the social nature of

solidarity. Yet at least they demonstrate that the sociological viewpoint must weigh even with the psychologists.

Thus our method is clearly traced out for us. Since law reproduces the main forms of social solidarity, we have only to classify the different types of law in order to be able to investigate which types of social solidarity correspond to them. It is already likely that one species of law exists which symbolises the special solidarity engendered by the division of labour. Once we have made this investigation, in order to judge what part the division of labour plays it will be enough to compare the number of legal rules which give it expression with the total volume of law.

To undertake this study we cannot use the habitual distinctions made by jurists. Conceived for the practice of law, from this viewpoint they can be very convenient, but science cannot be satisfied with such empirical classifications and approximations. The most widespread classification is that which divides law into public and private law. Public law is held to regulate the relationships of the individual with the state, private law those of individuals with one another. Yet when we attempt to define these terms closely, the dividing line, which appeared at first sight to be so clear-cut, disappears. All law is private, in the sense that always and everywhere individuals are concerned and are its actors. Above all, however, all law is public, in the sense that it is a social function, and all individuals are, although in different respects, functionaries of society. The functions of marriage and parenthood, etc. are not spelt out or organised any differently from those of ministers or legislators. Not without reason did Roman law term guardianship a *munus publicum*. Moreover, what is the state? Where does it begin, where does it end? The controversial nature of this question is well known. It is unscientific to base such a fundamental classification on such an obscure and inadequately analysed idea.

In order to proceed methodically, we have to discover some characteristic which, whilst essential to juridical phenomena, is capable of varying as they vary. Now, every legal precept may be defined as a rule of behaviour to which sanctions apply. Moreover, it is clear that the sanctions change according to the degree of seriousness attached to the precepts, the place they occupy in the public consciousness, and the role they play in society. Thus it is appropriate to classify legal rules according to the different sanctions that are attached to them.

These are of two kinds. The first consist essentially in some injury, or at least some disadvantage imposed upon the perpetrator of a crime. Their purpose is to do harm to him through his fortune, his honour, his life, his liberty, or to deprive him of some object whose possession he enjoys. These are said to be repressive sanctions, such as those laid down in the penal code. It is true that those that appertain to purely moral rules are of the same character. Yet such sanctions are administered in a diffuse way by everybody without distinction, whilst those of the penal code are applied only through the mediation of a definite body – they are organised. As for the other kind of sanctions, they do not necessarily imply any suffering on the part of the perpetrator, but merely consist in *restoring the previous state of affairs*, re-establishing relationships that have been disturbed from their normal form. This is done either by forcibly redressing the action impugned, restoring it to the type from which it has deviated, or by annulling it, that is depriving it of all social value. Thus legal rules must be divided into two main species, according to whether they relate to repressive, organised sanctions, or to ones that are purely restitutory. The first group covers all penal law; the second, civil law, commercial law, procedural law, administrative and constitutional law, when any penal rules which may be attached to them have been removed.

Let us now investigate what kind of social solidarity corresponds to each of these species.

Notes

1. Cf. Alexander von Oettingen, *Moralstatistik* (Erlangen, 1882) p. 37ff.; also Tarde, *Criminalité comparée* (Alcan, Paris) ch. II. For suicides, cf. *infra*, Book II, Chapter I, § II.
2. 'The essential characteristic of the good, as compared with the true, is therefore to be obligatory. Taken by itself, the true does not possess this characteristic' (Janet, *Morale*, p. 139).
3. For it is in opposition to a moral rule (cf. p. 5).
4. Cf. *infra*, Book II, Chapters I and V.
5. *Nicomachean Ethics*, vol. VIII, no. 1, 1155a, 32.
6. A. Bain, *The Emotions and the Will* (London, 1889).
7. Topinard, *Anthropologie*, p. 146.
8. H. Spencer, *Essays: Scientific, Political, and Speculative* (London, 1858). Waitz, in his *Anthropologie der Naturvölker*, vol. I, p. 76, reports many facts of the same kind.

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9. Lebon, *L'homme et les sociétés*, vol. II, p. 154.
10. Bischoff, *Das Hergewicht der Menschen. Eine Studie* (Bonn, 1880).
11. Waitz, *Anthropologie*, vol. III, pp. 101-2.
12. *Ibid.*, vol. VI, p. 121.
13. H. Spencer, *The Principles of Sociology* (London, 1876) vol. I, pp. 753-4.
14. The matriarchal family certainly existed among the Germanic tribes. Cf. Dargun, *Mutterrecht und Raubehe im germanischen Rechte* (Breslau, 1883).
15. W. Robertson Smith, *Marriage and Kinship in Early Arabia* (Cambridge, 1885) p. 67.
16. Lebon, *L'homme*, p. 154.
17. A. Comte, *Cours de philosophie positive*, vol. IV, p. 425. Analogous ideas are to be found in Schaeffle, *Bau und Leben des sozialen Körpers*, vol. II, *passim*, and Clément, *Science sociale*, vol. I, pp. 235 ff.
18. Cf. *infra*, Book III, Chapter I.
19. Bain, *Emotions and The Will*.
20. H. Spencer, *The Principles of Psychology* (London, 1881) vol. I, pp. 558-77.

Chapter II

Mechanical Solidarity, or Solidarity by Similarities

The bond of social solidarity to which repressive law corresponds is one the breaking of which constitutes the crime. We use the term 'crime' to designate any act which, regardless of degree, provokes against the perpetrator the characteristic reaction known as punishment. To investigate the nature of this bond is therefore to ask what is the cause of the punishment or, more precisely, what in essence the crime consists of.

Assuredly crimes of different species exist. But it is no less certain that all these species of crime have something in common. This is proved by the reaction that they provoke from society: the fact that punishment, except for differences in degree, always and everywhere exists. The oneness of the effect reveals the oneness of the cause. Undoubtedly essential resemblances exist not only among all crimes provided for in the legislation of a single society, but among all crimes recognised as such and punished in different types of society. No matter how different these acts termed crimes may appear to be at first sight, they cannot fail to have some common basis. Universally they strike the moral consciousness of nations in the same way and universally produce the same consequence. All are crimes, that is, acts repressed by prescribed punishments. Now the essential properties of a thing lie in those observed wherever it exists and which are peculiar to it. Thus if we wish to learn in what crime essentially consists, we must distinguish those traits identical in all the varieties of crime in different types of society. Not a single one of these types may be omitted. Legal conceptions in the lowest forms of society are as worthy of consideration as those in the highest forms. They are facts that prove no less instructive. To rule them out of court would be to run the risk of perceiving the essence