



FORUM

The elementary forms of moral life?

Responsibility, sacred things and Durkheim's ontological turn

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Jane Guyer invites us all to reconsider the late work of Emile Durkheim on ethics. To this end, she brings to our attention and translates into English a key piece of Paul Fauconnet's fascinating moral treatise on responsibility, clearly inspired by Durkheim. Fauconnet was an *Année Sociologique* regular, among the scholars listed as a contributing editor for all twelve volumes along with Mauss, Hubert, Durkheim, and four others (Lukes 1973: 655). He was author together with Marcel Mauss of a 1901 encyclopedia article that Durkheim cited as authoritative on method, along with his own book, *The rules of sociological method* (ibid.: 293). As Fauconnet reports, he and Durkheim in the 1910s intended a partnership that would return to improve on Durkheim's early efforts at a social science of ethics, starting from Durkheim's 1894 lectures on sanctions. Fauconnet had to complete the project on his own, he tells us, after World War One and Durkheim's death. I think we can accept Fauconnet's account. While most of the many posthumous publications of Durkheim's work concern the politics of war and socialism, several are part of Durkheim's percolating intention to improve, in the light of the thematics of 1912's *The elementary forms of the religious life*, Durkheim's longstanding efforts to critique moral philosophy and establish a positive, evolutionary, and interventive science of morality. Fauconnet's text, both in the shape of its overall argument, and in his particular ruminations on the relations of liberty and responsibility, free will and determinism, fit closely with Durkheim's later published texts. They fit most notably with the collection of Durkheim's lecture texts on professional ethics (French: "déontologie professionnelle") the state, the right of property and the morals of contractual relations, published in 1957 as *Professional ethics and civic morals*. Durkheim himself bundled these lectures, a course he had taught intermittently as early as 1890 and as late as 1912, under the title, "The nature of morals and of rights."



In what follows I will discuss (1) the trajectory of Durkheim's search for a sociology of ethics, (2) the relation of Fauconnet's arguments to Durkheim's *Elementary forms*, (3) the challenge these arguments pose to contemporary philosophical discussions that contrast and combine deontological, consequentialist and virtue-oriented approaches to ethics, (4) their implications for theory and practice of human rights, and (5) why, alas, they are almost completely unbelievable—to our great misfortune.

The elementary forms of the political life? Durkheim's hopes for a positive, evolutionary and interventive science of morals

Steven Lukes (1973: 296ff.) has vividly told the story of Durkheim's dramatic 1893 PhD defense, in which examiners from the discipline of Philosophy were confronted by the argument that basic Kantian problems could only be adequately resolved by the largely non-existent, Comtean, and positivist counter-discipline of sociology. Confronted also by Durkheim's brilliance and an audience squarely on his side, as Lukes tells the story, several of the examiners simply gave up, more in resignation and exasperation (respectively) than actual acceptance. On one key point, however, Durkheim gave way: Under pressure to consider whether he had inappropriately substituted function for duty in his model of human life as an organ in a larger, real society, a Sorbonne examiner challenged that "You ignore liberty and you do not believe in Duty in general," to which Durkheim replied, "That was not my subject. Why ask me questions with which my thesis is not concerned?" (ibid.: 297, quoting Doyen's report on the examination). But as Guyer has persuasively shown us, liberty and its social conditions of possibility were very much Durkheim's, and Fauconnet's, concern by the 1910s.

In the 1893 book resulting from his thesis, *The division of labor in society*, Durkheim included, albeit somewhat ambivalently, his arguments trumping philosophical approaches to morality. Kant and Rousseau come up briefly but decisively, Rousseau to receive the news that social contract theories of the origin of society are, for scientific reasons, fatally flawed (Lukes 1973: 201) and Kant to learn that individual personalities are not the foundation of society (120) and that his general ethical formula is also socially grounded (400). "Society is not, then, as has often been thought, a stranger to the moral world, or something that has only secondary repercussions on it. It is, on the contrary, the necessary condition of its existence" (399). Already, in this text, Durkheim deploys his characteristic insistence on the superior relation of his science to reality, against philosophy's mere generalizations (120). In his preface to the first edition, Durkheim begins by declaring his book "preeminently an attempt to treat the facts of moral life according to the method of the positive sciences" (32), contrasting this method both to a priori philosophies and efforts to extract ethics directly from scientific method, which amounts ironically to the same thing. Instead, he argued, "Moral facts are phenomena like others . . . It must, then, be possible to observe them, describe them, classify them, and look for the laws explaining them" (32).

More of Durkheim's argumentation in this book is directed at Adam Smith, Karl Marx and the rest of political economy than at Rousseau, Kant, and moral philosophy. By the second edition in 1902, Durkheim redirected the argument

interventively, stepping up from the insistence that the division of labor was located in society and not merely in the economy, to the conclusion that contemporary anomie would be resolved by reconstitution of guild-type “corporations,” professional associations that recognized positions in society’s division of labor. For that second edition, Durkheim cut from the introduction a long criticism of the methods of Kantian moral philosophy, which the English-language edition of the text has reproduced as an appendix.

The younger Durkheim inherited Auguste Comte’s political ambition for a science of sociology. This included Comte’s contempt for the metaphysical illusions of lawgivers who imagine that legislators can really choose the laws that govern society. It also included Comte’s blurring of empirical science and Kantian necessities within the image of positive knowledge of general facts, and it included Comte’s hope that scientific clarity could guide the state and society to a clearer alignment of its institutions with inevitable necessities, and thereby, end war and strife and maximally achieve order and progress. While Durkheim’s conception of the positive resonated with Kantian necessities, it also had a more spatial sense of positionality drawn from other sources, notably Montesquieu’s usage. Where Hobbes had correctly shown that law and justice could only begin within the state, since each respected positions that only existed in civil society, Montesquieu thought that Hobbes was entirely in error about the relationship of this state and war. Montesquieu argued that wars were a consequence and not a cause of the emergence of positive laws and mappable realities of position and property, the very stuff worth fighting over. Characteristically, Durkheim sought to synthesize the positions, including the power of Kantian necessities and the scope for rearrangement afforded by the positional versions of political and legal positivism, casting doubt on destructive vanities of would-be revolutionary lawgivers while proffering special hope for scientifically informed policies.

Fauconnet, responsibility, and Durkheim’s ontological turn

By the time he wrote *The elementary forms of the religious life*, Durkheim showed considerably more respect for detailed empirical inquiry, and on the heels of the specificities of *Suicide* and the comparative method in *Primitive classification*, he set out to reconfigure positive methodology by insisting on the significance of “the first ring” in the chain of scientific truths. More than ever, “what we must find is a concrete reality, and historical and ethnological observation alone can reveal that to us” (Durkheim [1912] 1915: 16). In *The elementary forms of the religious life*, Durkheim gave us a vision of annual Australian effervescence, a totemic religion whose phratries were the elementary form of religious life because they were the simplest possible organization: society and thereby the universe divided but only once, into only two parts. Durkheim declared the churinga stones to be, simultaneously, the first art, the first writing, and the first materialization of the sacred (ibid.: 149). In light of this and the other late Durkheim texts (on which see below), and remembering our Rousseau, should we add also, the first property? The first grounds for claims of right? Of duty? Where would these sacred stones fit in, and what else would they enable, in tales of the elementary forms of moral life?

Here, precisely, we can notice where and how Fauconnet is not Durkheim. Fauconnet's *Responsibility* includes a flow of argumentation remarkably like Durkheim's in *The elementary forms*, criticizing philosophical approaches with a priori errors, insisting on the observation of social facts as things, and posing problems to be solved by comparative method seeking "elementary and universal characteristics," including the late arrival of contracts and individual personality and rights. But, this pursuit of the elementary forms of moral life lacks its churinga stones, its ethnographic clinchers that concretized Durkheim's positive and evolutionary vision. Brief inquiries into sorcery and other examples notwithstanding, Fauconnet lacks Durkheim's touch for the footlights, Durkheim's expository construction of an ethnographic front stage for the evolutionary drama. Perhaps, of course, this is a sign of Fauconnet's rectitude, after all. In Durkheim's own day, Goldenweiser (1910, 1915) spoke for the Boasians in his critical reviews of French theories of totemism and of *The elementary forms of the religious life*. Goldenweiser argued ethnographically that there were many consequentially different kinds of totemism, and declared implausible the evolutionary premises of Durkheim's elementary forms argument. Debates have not ceased since, and are recently renewed.

Whether or not it is lucky for us that Fauconnet does not base his theory of responsibility on a particular, strong model of totemism, it is important to connect Fauconnet's discussion of responsibility to Durkheim's elementary forms. In fact, Fauconnet relies upon Durkheim's theory of the sacred. Fauconnet refers three times to sacred things and once to rites when explaining the relationship between responsibility and liberty. In his chapter outline, he explains carefully in his conclusion to chapter one that all beings are qualified to become responsible but that responsibility of a subject does not flow from properties inherent to a subject. Responsibility flows from the situation a subject engages.

Deontology, consequentialism, virtue, or what?

Shades of Bakhtin's *Art and answerability*, Fauconnet's is a theory of response and responsibility. The will, and its liberty to respond, depends in the first instance not on its own properties but on the subject's relationship to things. Fauconnet asks us to consider moral facts as things. A subject's moral qualities are, thereby, not characteristics of an individual (such as their intrinsic character or virtue) but the subject's engagement with real things in the world, their acts a part of the social life of those things. The good, by this theory, exists in the world, in various types and forms. In his lectures on "The nature of morals and of rights," Durkheim had another name for a major set of these goods: property, which absolutely does not begin with either labor or exchange, contra Smith, Hegel and Marx. Long before there are contracts or exchanges of property, "there is a sacred basis for property being property" (Durkheim 1957: 152). Property begins by its unavailability, its withdrawal from circulation, marked by ritual status such as, in the Pacific, taboo. Everyone's home and land was restricted, ethically, to family use, and only with the development of patriarchal institutions, Durkheim argued, did any human agent have a right developed to transform it or dispose of it. Many more valuable properties, such as the churingas, were inalienably collective property and thereby,

precisely, withdrawn from general use, or even sight. To Durkheim, the rise of individuals with powers to move, change, or alienate property were developments of relationships of production and exchange. These relationships followed long after the original arrangements of people and things created the situations making more mundane properties possible, contracts only recognizable in a social field already coordinated by ritually renewed positions and relations. Freedom of motion, of will, of liberty to move people and things, to change, to alienate, and to transform, all follow from within the order necessary for such possibilities to be envisioned as real and binding. To be contracts, socially reckoned, recognized and responsible, and not just takings by force, formal language and gesture was required. Words that were “endowed with a sacred force” compel and bind a person once themselves exchanged. It is legal forms that “are sacred and he is profane. In consequence, they are beyond his free-will” (ibid.: 186) and yet enable his liberty to exchange.

Thus I could have titled this comment, “Civilization and its contents.” But the two senses of “contents,” contentment, and composition, involve two different pronunciations. And apart from this infelicity, the irony is perhaps better appreciated here in the midst of the commentary, that the idea of contentments of civilization would be just as thin an image of the moral benefits of society from Durkheim’s point of view, as is the famous image of “civilization and its discontents” is a thin rendering of the tragedy of frustration depicted by Freud. All the current positions taken in imagined possible philosophies of ethics share Freud’s, and not Durkheim’s ontology: a self somehow existing before or apart from society and the rest of the real world, conscious of relations, some kind of contract, with exterior bullying hegemony. Perhaps that self is subject and agent by its own lights, and should be measured by its character and virtue, or perhaps all must necessarily follow rules of reason in the exercise of will, rules of reason with their own (deontological) necessity, thus duties. Or, situations matter and consequences really vary. Durkheim’s and Fauconnet’s model is as insistent on the exterior grounding of ethics as any consequentialism, and as interested in virtues as any virtue-ethics, and as attuned to positivities of duty as Kant. But, they do not accept the willing actor as an analytic premise of ethical description. They consider social goods as things. And in the social contract as they imagine it, the party of the first part is not the willing subject, but rather these good things. The subjects respond and are thereby responsible, advancing the good of the world. Free will certainly exists, because it is built into human agents, a realization of a telos to be sure, but the product necessarily of the movement of good things in the world, the things inspiring the people to act, in the first instance via rites, not deals or exchanges or production of new material assemblages.

Human rights?

Durkheim, before his death, fully articulated his reconsideration of Kant’s approach to pure reason. His critique of the a priori nature of categories of thought is the cornerstone of *The elementary forms of the religious life*. But he clearly hoped, from the beginning of his career to its premature end, to more fully articulate a counter-proposal to Kant’s moral theory. It is Mikhail Bakhtin, not Emile Durkheim, who

gave a real name to a compelling counter-version of Kant's variously formulated categorical imperative. But Bakhtin's trumping counter, not to treat others only by universal rule, or only as ends not means, etc., Bakhtin's recognition of the actual irreducibility of other subjects, brilliantly condensed in the principle "no alibis," is nonetheless, again, very much built from the premise of civilization as a site of discontents for needful subjects. What would a simple categorical imperative look like from Durkheim's point of view?

It would be something like human rights, of course. Something sacred, universal in principle and presence, and varying in scope perhaps along with the real evolution of society, but also requiring recognition, engendering response and responsibility from all who engaged with it, and at the same time, engendering free will, or as Guyer properly specifies, free willing. From Durkheim's point of view it would be no paradox at all that human rights only exist where recognized and responded to, despite being universal in principle and practice. Considered themselves as a thing, they are the sacred of a society with a specific history, geometry, and insofar as their ethics intervene, a destiny.

But of course

Alas we find neither Durkheim nor the existence of human rights wholly believable. Durkheim's confidence in the constitutive ontological powers of ritual are matched by the most extreme, unique feature of his, actually unbelievable, ontology: that sacred things exist. Most readers of *The elementary forms of the religious life* misunderstand him on this point. Or, to put it another way, they accept the very Anglican British reinscription of Durkheim's theory of religion via the structural-functionalism begun with Radcliffe-Brown's own much more insistently reductionist ontology of ritual, religion, and society. Where Radcliffe-Brown centered his science on an ontology of equilibrium and a strong theory of the functional constitution of social institutions to maintain such social equilibria (an equally unbelievable theory these days), the later Durkheim was less (again, ironically) the Comptean anti-religious warrior in his own ethical positivism. When Durkheim called some things sacred, we can see now that he really meant it. When he argued, in the conclusion of *The elementary forms of the religious life*, that the old gods were dead, but that our moral mediocrity was also destined to be a mere transition, he was hopeful. Durkheim's timeline was very unusual. Unlike Smith, Kant, Hegel, Marx, and myriad other social theorists who put human society at or near the end of history, Durkheim placed his society in the middle. And he believed in the existence of meaning. Not for him the Anglican investiture instituting meaninglessness in the candidate's choice whether to be enrolled top-down from a bishop or bottom-up from the congregation; not for him the same meaninglessness refracted into otherwise rich ethnography in Leach's theory that myth and ritual had no content other than reflection of social structure, that it was senseless to ask whether nats had legs (Leach 1954: 14).

No, Durkheim lived in a world of evolving meanings. His last page in *The elementary forms* declared the *finis naturae*, the ultimate creation of nature, to be not "man" but society, the social and moral facts and not the biological human,



the apex of evolution. Durkheim would have no problem accommodating, in that evolving society, interspecies relationships, and not only of association but even of constitution—something important there. But Stephen Jay Gould would remind us that evolution doesn't really have an apex. Walter Benjamin (1940) would be unsurprised that Durkheim was shattered by the fate of his students in the First World War, betrayed by his modernist faith in the narcotic of progress. Of course this story has several, still open, endings: on the same post- and prewar scene where Benjamin came to despise this modernist narcotic of promised, redemptive progress, Marcel Mauss ([1925] 1967: 81) renewed Durkheim's hopes for an ethical science, questing for the gifts that would rescue peace from the threats of war, but tragically aware that this ethical science could only name the feasible, and required also "the supreme art" of politics, a more positive view of conscious political intervention than Durkheim ever embraced (on Durkheim see Lukes 1973: 258ff.; on Mauss see Guyer 2014).

Durkheim can interrupt our contemporary obsession with emergence as performance by observing social facts, especially moral facts, as things, and by insisting, correctly, on the ethics of responsiveness, the primacy of responsibility to an ethical life—also important. But, he proffers no solution to the bleak vistas of actually experienced modernism itself, to the world's increasingly unquiet desperation to secure meaning and order with justice, while losing confidence in the promise of a better future. The obvious criticism of Durkheim is well established, that his positivism lacks an adequate theory of politics, struggle, and power.

Or, could we rebuild his theory without the alibi of evolutionary modernism?

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