

The Scope of Justice

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An attentive reader of *The Italian Campaign and French Political Thought*¹ and later *The Road to Vichy*² cannot fail to notice Yves Simon's passionate and pervasive concern for justice. While the former book is directly concerned with the question of whether the Italian attack on Ethiopia was a just war, the latter study not only deals with the issue of the just war but that of the just price and just wage as well. By explaining in concrete terms how France developed politically in the inter-war period, Simon constantly evaluates what was thought and done in terms of its justice. There is no doubt in Simon's mind about the iniquity of the war in Ethiopia—"this obviously unjust and cruel war"³—and he is worried about Catholic opinion. He refers to the position taken by many Catholics during the Dreyfus affair: "With very few exceptions French Catholics committed themselves unreservedly in the anti-Dreyfus campaign and against justice".⁴ He notes the suffering brought on the Church subsequently through the anti-clerical legislation of a vengeful kind at the turn of the century.

Three times in *The Road to Vichy* he invokes the principle of equal justice: first, as part of the ideology of the French Revolution; secondly, as a foundation for the League of Nations; and thirdly, as

¹Yves R. Simon, *La campagne d'Ethiopie et la pensée politique Française*, 2nd edition (Paris, Desclée de Brouwer, 1936).

²Yves R. Simon, *The Road to Vichy: 1918–1938*, Revised Edition with an Introduction by John Hellman (Lanham, Maryland: University Press of America, 1988, 1990).

³*Ibid.*, p. 112.

⁴*Ibid.*, p. 70.

an aim “to evolve a world where the principle of equal justice for all will prevail. . . .”⁵

But having said this about his concern for justice, we must note how unfortunate it is that Simon did not devote an entire essay, much less a monograph, to the subject. It would have facilitated the task of grasping what his systematic views on the subject were. In the absence of such a treatise, the interpreter must piece together a considerable number of references to justice throughout the Simonian corpus and attempt to present a more or less systematic account of what I call the scope or extent of the concept of justice as he saw it.

The most reasonable and faithful beginning, I presume, would be to examine several of his pre-war essays on Pierre-Joseph Proudhon. Going back to these comparatively early considerations of the notion of justice should not, however, give the impression that a purely chronological order will be followed. Rather, once having identified a suitable starting point, the inquiry will then proceed from a general consideration of justice to an examination of its specific forms and, in regard to the specific forms, to issues of context, rules, and criteria.

At one stage in his career Simon had envisaged a general study of Proudhon’s political philosophy. He had done a great deal of research on the subject, had published several articles, but he abandoned the project when Henri de Lubac’s work appeared in 1945.⁶ There has been a good deal of interest in Proudhon by French scholars and there remains a wide latitude of interpretation, whether one stresses the moral side, the political idea of federation, the theory of mutualism, or Proudhon’s version of anarchism.⁷

Simon describes Proudhon’s great *opus* on justice⁸ as “a veritable summa, indeed a classic statement of Proudhon’s ethics.”⁹ And in spite

⁵*Ibid.*, p. 204

⁶Paule Yves Simon informed me of this in October, 1988. Henri de Lubac, *Proudhon et le Christianisme* (Paris: Editions du Seuil, 1945), translated as *The Un-Marxian Socialist* (New York: Sheed and Ward, 1948). Simon’s extensive Proudhon manuscripts and notes are housed at the Maritain Center, Hesburgh Library, University of Notre Dame, Indiana.

⁷See Robert L. Hoffmann, *Revolutionary Justice: The Social and Political Theory of P.-J. Proudhon* (Urbana, Illinois: University of Illinois Press, 1972).

⁸Pierre-Joseph Proudhon, *De la justice dans la révolution et dans l’église* (Paris: M. Rivière, 1930–1935) 4 volumes.

⁹Yves R. Simon, “The Problem of Transcendence and Proudhon’s Challenge,” *Thought*, Vol. LIV, No. 213, June, 1979, p. 176.

of the rather disorganized manner in which Proudhon's ideas are presented, "as soon as the emotional intuition which animated Proudhon, that is, the idea of commutative justice with its requirement of strict equality is disengaged from his thought, one sees that a profound logic controlled the seeming chaos of his thinking."¹⁰ While Proudhon correctly saw that strict equality, or some would say equivalence,¹¹ is "the law of commutative justice and the law of honest exchange,"¹² this intuition was conceptualized in an erroneous way, "for it introduced unity at the cost of utterly neglecting the complexities of realities and values."¹³ What are these complexities? The Proudhonian reductionist conception of justice "absorbed every other kind of justice. It got rid of the notions of distributive and legal justice with their laws of proportion rather than of strict equality."¹⁴ In other words, the triadic relationships of justice in the classical or Aristotelian scheme disappear and we are left with the justice of exchange. The political implications of the Proudhonian theory of justice are examined in Simon's "A Note on Proudhon's Federalism."¹⁵

Alan Ritter in his excellent study of Proudhon's political thought gives credit to Simon since he "is the only critic, so far as I know, who remarks on Proudhon's total hostility to distributive justice."¹⁶ Ritter incidentally discusses the difficulties Proudhon would have to face if his conception of mutualism were to completely dispense with any concept of distribution whatsoever.¹⁷ Although the social ideal of mutualism may seem different from the political notion of federation, Simon suggested at one point that Proudhon wanted to eliminate any distinction between the two, holding a thorough-going anarchism that effectively implies the end of politics. However, this reduction never occurred. Thus, the question of the interaction between the mutualist

¹⁰*Ibid.*, p. 177.

¹¹Vladimir Jankélévitch, *Traité des vertus* (Paris: Bordas, 1949) p. 378.

¹²Yves R. Simon, "The Problem of Transcendence and Proudhon's Challenge," p. 177.

¹³*Ibid.*

¹⁴*Ibid.*

¹⁵Yves R. Simon, "A Note on Proudhon's Federalism," in *Federalism as Grand Design: Political Philosophers and the Federal Principle* ed. Daniel J. Elazar (Lanham, Maryland: University Press of America, 1987), pp. 223–234.

¹⁶Alan Ritter, *The Political Thought of Pierre-Joseph Proudhon* (Princeton, New Jersey: Princeton University Press, 1969), p. 99 note 15.

¹⁷*Ibid.*, p. 137.

society, or social economy, and the federative political system must be posed.

According to Proudhon, then, the notion of commutative justice may operate at the socio-economic level and at the political level. So if the concern is primarily with the socio-economic aspect, it is evident that Simon endorses the Proudhonian objection to wealth "leaking out" of society (a concern at the heart of Proudhonian socialism) along with traditional Thomistic concerns with prices and wages. A significant instance of such a leakage would be windfall profits on land. Libertarian proponents of the spontaneous market order argue against the relevance of such moral conceptions and against the idea of distributive justice as appropriate to organization but not to the spontaneous market order.¹⁸ Proudhon, in contrast to the libertarians, supported a substantive, not just a procedural, conception of commutative justice, and for that reason his theory has a strong resemblance to the Thomistic one.

The rejection of any conception of distributive justice by Proudhon is based on the rejection of any hierarchical relationship in the structure of the society or in the polity. Because Simon's conception of economic distribution has been adequately dealt with elsewhere,¹⁹ I will concentrate on the political side of the problem. According to Simon, in Proudhon's political theory "federal society is not hierarchical."²⁰ This means that there can be no whole-part or subordinative relationship. In the presence of horizontal relations alone, there are only the criteria of equality and equilibrium. In such a view the central level of government only plays a coordinating role. Having rejected any hierarchy, Proudhon would have to look upon a federation as a system in which the constituent units are bargaining with each other or maintaining exchange relations. Simon, on the contrary, believes that hierarchy is inevitable in a political organization, particularly one based on the division of power and authority.

To illustrate the issue I shall briefly refer to the Canadian federal system. One interpretation of the Canadian federation, a rather

¹⁸See F.A. von Hayek, *Law, Legislation and Liberty* (London: Routledge, Vol. 2, 1976).

¹⁹Thomas R. Rourke and Clarke E. Cochran, "The Common Good and Economic Justice: Reflections on the Thought of Yves R. Simon," *The Review of Politics*, 54, 2, Spring 1990, pp. 231-252.

²⁰Yves R. Simon, "A Note on Proudhon's Federalism," p. 230.

widespread one in fact, resembles to a great extent the Proudhonian system of political exchange. The federal-provincial conferences have become over the years the characteristic federal forum in which the Canadian prime minister and the provincial premiers periodically assemble, debate the agenda, bargain, and, hopefully, arrive at a consensus—a deal, if you will; if that deal were a constitutional change, it would then be subject to the rules of ratification. This looks very much like the Proudhonian idea of a federation. Yet what was evident on several occasions when serious constitutional change has been at stake, and consensus has been difficult to achieve, has been the threat by the central government to act unilaterally, thus emphasizing the hierarchical order of the whole and the parts. That the threat was not eventually carried out is beside the point. The fact is that the central government may properly act unilaterally on such questions, even if the practice has been one of bargaining.

Thus, the main shortcomings of this interpretation or ideology of federalism as a bargaining system à la Proudhon is that it does not pay attention to the conditions of political foundation, and it does not clearly distinguish between a federal system in which no unit is really sovereign and a confederation in which each and every unit is. Despite the fact that Canada was called a confederation in 1867, it emerged at first as a federal state with a strong centralist bias. At any rate, the bargaining conception of federation illustrates the manner in which the Proudhonian notion of exchange might relate to an actual political system.

Having shown why Proudhon rejected any conception of justice other than commutative justice, Simon then goes on to argue for a broad notion of justice that includes commutative and distributive as well as legal or general justice. Simon, unlike Proudhon, having described social and political organization as hierarchical, would seem to oppose not only the anarchist perspective but other contemporary ideological currents as well. The radical attacks the social hierarchy; the liberal favors the conception of a political society based on a contract.

If the political order, and at least segments of the social order, are hierarchical, that is, involve relations of the whole to the parts, then commutative justice cannot be the whole of justice. There are two vectors: the whole to the parts (distribute justice), the parts to the whole (general or legal justice). Simon shows a preference for the

term “legal justice,” although it too may be misleading in that legal may seem to contrast with natural. On balance Thomas Aquinas uses the term general justice more frequently than he does legal justice, even if the two are taken to be synonyms.²¹

Now, the emphasis on the relationships involved in the different kinds of justice is not intended to obscure the fact that justice for Simon is a virtue, a stable disposition, a *habitus*. There is a temptation in much of the contemporary writing on justice to speak of it solely in terms of a state of affairs or in terms of a social configuration. The primary meaning, it is clear, is that justice is a *habitus* and that the state of affairs or social configuration is a consequence of the presence or absence of the requisite virtues.

A recent study of social justice is based on the notion that there are three criteria of social justice.²² Furthermore, the emphasis on one or the other of these three criteria rests on a certain conception of society. Thus, there is a correspondence between an ethical theory of justice and an account of a certain kind of society. There are in fact two agencies involved in distributive justice: social and political. While Aristotle was solely concerned with the distribution of political offices, the current literature on distributive justice mainly concerns economic distribution, whether or not the state is directly involved. It would seem that social distribution must be pluralistic. Simon focuses on political distribution, though he does mention the way in which the non-public agencies are involved. The three criteria of distributive justice, mentioned above, are needs, desert, and rights. I take the last named first.

Simon accepts the idea that there are three criteria and finds a place for each of them in his writings. It is apparent that he placed much less emphasis on a human rights approach than does Jacques Maritain, for instance. However, the concern is still there. Let us say that Simon is primarily preoccupied with the foundation of human or natural rights, and is inspired to show that a consistently nominalistic philosophy undercuts any notion of natural rights simply because it undermines the

²¹Thomas Aquinas, *ST.*, II-II, 58, 5c.

²²David Miller uses rights, deserts, and need in *Social Justice* (Oxford: Clarendon Press, 1976). The three paradigm cases are the rights theory of David Hume, the desert theory of Herbert Spencer, and the needs theory of Prince Peter Kropotkin.

concept of human nature itself.²³ He doubts, however, that important political philosophers so inclined—Locke, for instance—were consistent nominalists.²⁴ So the discussion of distributive justice in Simon will concentrate on needs and deserts rather than on the distribution of, that is, the protection of, human or natural rights.

A comparison between Mortimer Adler and Simon on the use of the criteria is instructive. In his most complete examination of justice in *The Time of Our Lives*,²⁵ Adler mentions needs alone as a criterion of distributive justice in a teleological context of self-fulfillment and then proceeds to identify needs and rights, so we may speak, I think, of needs-rights. (There is even a passage in his little book on Aristotle in which he attributes such a theory to that philosopher which seems anachronistic, to say the least.)²⁶ Nowhere in this central book on ethics is there any reference whatsoever to the idea of desert or merit. However, when Adler comes to deal with the problems of justice in *Six Great Ideas*,²⁷ his theory broadens. While stressing natural equality in both the political and social setting, he now refers to admissible forms of inequality based primarily on “unequal contributions to the welfare of the community.”²⁸ Where there are “unequal contributions . . . [there is] inequality of results in the rewards they receive.”²⁹ Unfortunately, Adler uses the term “equalities of condition” in a somewhat misleading way.³⁰

As to “circumstantial equality . . . with respect to economic status, treatment and opportunity”, Adler wants to endorse a kind of socialism.³¹ This is based on the questionable assumption that present day socialists or egalitarians would accept the notion of desert. R. H. Tawney did so, but, if John Rawls is taken as an example of the egalitarian liberal, the fact is that he specifically rejects the idea that

²³Yves R. Simon, *Philosophy of Democratic Government* (Chicago: University of Chicago Press, 1951, 1961, 1977), p. 201. Revised edition (Notre Dame, Indiana: University of Notre Dame Press, 1993).

²⁴*Ibid.*

²⁵Mortimer J. Adler, *The Time of Our Lives: The Ethics of Common Sense* (New York: Holt, Rinehart and Winston, 1970).

²⁶Mortimer J. Adler, *Aristotle for Everybody* (Toronto: Bantam, 1978), pp. 84–91.

²⁷Mortimer J. Adler, *Six Great Ideas* (New York: Macmillan Publishing Co., 1981).

²⁸*Ibid.*, p. 138.

²⁹*Ibid.*, p. 161.

³⁰*Ibid.*, p. 139 and p. 165.

³¹*Ibid.*, p. 181 and p. 195.

anyone is meritorious or that anything anyone does is a basis for distribution by merit.³² In this regard it is interesting to note the evolution of “liberal” (social democrat) thought beginning with J. S. Mill, continuing through Dewey and Hobhouse, and terminating in Rawls.³³ If Adler is capable of calling the mixed economy “socialized capitalism,”³⁴ I suppose he has no difficulty in calling a system that uses both needs and deserts as criteria or distribution as socialism. I would maintain that both identifications are unwarranted and that to describe his theory as “socialism” is a misnomer, more prone to confuse than enlighten the reader.³⁵

Now one can read some of Simon’s works, such as *Work, Society, and Culture*, and draw the conclusion that he is primarily, if not exclusively, taken up with the problem of needs and their satisfaction. Yet the impression of reductionism is scotched in *Philosophy of Democratic Government* where he offers a more balanced account of the criteria of distribution. In that work Simon does discuss the three criteria, but in varying and uneven ways. There is no doubt that, leaving rights aside, there are two main reasons for distribution: needs and deserts.³⁶

Moreover, there is no doubt that Simon is quite aware of the complexity of allocations in terms of needs, for there are different kinds of need. In *Philosophy of Democratic Government* there is a distinction made between biologically determined and sociologically determined needs.³⁷ Speaking of what he calls “a philosophy of human needs,” he identifies *capitalization* and *free distribution* as two social needs.³⁸ Furthermore, he refers to elementary, real, and genuine

³²This interpretation has been made by a number of commentators. For a succinct statement, see D.D. Raphael, “John Rawl’s Theory of Justice” in *Justice and Liberty* (London: Athlone Press, 1980) pp. 102–114. For an argument that there is a place for desert in Rawls’s theory, see Thomas W. Pogge, *Realizing Rawls* (Ithaca, New York: Cornell University Press, 1989), pp. 81–86.

³³John Stuart Mill, *Principles of Political Economy* (Toronto: University of Toronto Press, 1965), p. 202. John Dewey and James H. Tufts *Ethics* (New York: Henry Holt and Co., 1913) p. 546. Leonard Hobhouse, *The Elements of Social Justice* (London: Allen and Unwin, 1922), pp. 97–101.

³⁴Mortimer J. Adler, *Six Great Ideas*, p. 181.

³⁵*Ibid.*, p. 180.

³⁶Yves R. Simon, *Philosophy of Democratic Government*, pp. 230–241.

³⁷*Ibid.*, p. 242.

³⁸*Ibid.*, p. 245.

human needs.³⁹ So initially, at least, he is concerned primarily with determining significant social needs. For a more developed treatment of the complexity of the conception of needs, we turn to the essay “Common Good and Common Action”⁴⁰ that can be taken as a further elaboration of some of the themes incompletely explored in *Philosophy of Democratic Government*. Here one finds a new distinction and a somewhat different approach to the concept of social needs. It would be a mistake, he argues, to confine the notion of needs to biological, physical, and material requirements, in short, to physical goods, and ignore “goods of the spirit” and the “service that society renders to individuals in intellectual, esthetic, moral, and spiritual life.”⁴¹ He then proceeds to question the assumption “that a need is necessarily self-centered.”⁴² In fact, the notion of need expresses merely the state of a tendency not yet satisfied with ultimate accomplishment.⁴³ So while there is a need to have or take, there is also a need to give. Such a need is clearly other-centered, generous. It seems to me that what Simon articulates here connects with the anthropological study of the gift by Marcel Mauss and the social service idea of the gift-relationship examined by Richard Titmuss in regard to blood donors.⁴⁴ In such instances, two needs are satisfied: the need to have or take and the need to give. The need to give is surely related to what in other contexts is called free distribution by Simon.

Ethical concerns for need-satisfaction normally developed within a larger theory of a teleological kind. One such theory is the widely known conception of higher and lower order needs of Abraham Maslow, tied to “the fostering of universal self-actualization.”⁴⁵ Maslow combines the ethical and the psychological by referring to “a good and healthy man.” The theory is controversial in that it

³⁹*Ibid.*, “elementary” p. 291, “real” and “genuine” p. 300.

⁴⁰Yves R. Simon, *A General Theory of Authority* (Notre Dame, Indiana: University of Notre Dame Press, 1962, 1980, 1990), pp. 23–79.

⁴¹*Ibid.*, p. 24.

⁴²*Ibid.*

⁴³*Ibid.*

⁴⁴Marcel Mauss, “Essai sur le don,” *L’année sociologique*, Seconde série 1923–1924 and Richard Titmuss, *The Gift Relationship* (London: Penguin, 1970).

⁴⁵Abraham H. Maslow, ed. “Psychological Data and Value Theory” in *New Knowledge in Human Values* (New York: Harper and Row, 1959), p. 129.

stipulates that “these needs or values are related to each other in a hierarchical developmental way, in an order of strength and priority.”⁴⁶ The objection to it is that the idea of the end is vague, or merely formal; and, secondly, any sort of hierarchy presupposes an assertion about human excellence and such a notion is unlikely to gain wide assent given the character of ethical discourse today. The second objection is characteristic of the moral pluralist or the liberal political philosopher who seeks a moral consensus and argues that no such agreement is possible concerning the *telos* or ultimate end.⁴⁷ (In a sense this is a political approach to ethics since the primary objective is not to develop a moral theory, defensible in its own right, but always to keep in mind the fact that only some minimal principles will garner the desired consensus.) Rawls is one of the most prominent, but surely not the only, political philosopher to pursue a liberal consensus. The general pattern is to endorse a deontological solution and reject a teleological one, usually vaguely expressed as a theory of flourishing.

I think the rejoinder to the moral pluralist in regards to need is to make a distinction. Granted that any agreement among moral philosophers concerning an ultimate end (or conception of the good-as-end) is extremely remote. But surely there can be agreement on a number of intermediate ends, on provision of food, clothing, shelter, and on health and education (at least to a certain level). Once one goes beyond that list, disagreement will obviously be significant.

Once one has elaborated a schedule of needs, the logical or inevitable question bears on who will provide these needs. It would be an erroneous interpretation of Simon’s theory, I think, to believe that the state would be responsible for the satisfaction of all of these needs. (In some instances, like free distribution, it could not be the state.) Given Simon’s concern for autonomy, there would be a number of distributing agencies, so to speak, from the family to voluntary associations, from benevolent associations to public bodies. He does refer to the French system of family allowances as a means of providing “distribution according to needs.”⁴⁸ That does not mean that

⁴⁶*Ibid.*, p. 123.

⁴⁷Raymond Plant, *Modern Political Thought* (Oxford: Basil Blackwell, 1991), Chapter 5.

⁴⁸Yves R. Simon, *Work, Society, and Culture* (New York: Fordham University Press, 1971, 1986), pp. 133–135.

the state becomes the “supreme dispensator.”⁴⁹ The plurality of distributors in regard to needs and other criteria may be implied more than may be patent in Simon’s account. The plurality of distributors has been properly noted in other accounts of distributive justice, and it indicates one of the lacunae of Simon’s often schematic treatment of justice.⁵⁰

I noted earlier that there was a long period in the English-speaking liberal tradition in which both needs and merit or desert were recognized as criteria of justice. Common or basic needs had to be satisfied and individual differences taken into account, recognized, and individual performances rewarded. Rawls’s *A Theory of Justice* broke with that tradition or line in endorsing need alone as a criterion of distributive justice, but rejecting desert or merit in any form. The personal characteristics of individual members of the society became resources deployed for the society. This is a sort of communism of attributes. In fact, Rawls’s theory reflected a split between egalitarian liberals who stressed need alone and libertarian liberals, like John Hospers,⁵¹ who selected desert alone. Since Simon believes that the principal question concerning distributive justice is to discern “in what respects are men equal and in what respects are they not equal,”⁵² a defensible account of justice cannot ignore characteristics that persons as persons possess and the use that is made of those characteristics (or properties, if you will). It seems that he combines two considerations when he speaks of merit: that excellence should be recognized and regarded and that unless it is given appropriate weight, society will not be “properly served by its best members.”⁵³ The second consideration taken out of context and treated in non-moral terms would be the familiar incentive argument in economics.

⁴⁹This is my translation of the French original in a treatise by Bertrand de Jouvenel. The strength of the original is lost when the translator uses “a supreme legislator” instead. The English version is *Sovereignty: An Inquiry into the Political Good* (Chicago: University of Chicago Press, 1957), p. 164.

⁵⁰*Ibid.* See also Michael Walzer, *Spheres of Justice: A Defense of Pluralism and Equality* (New York: Basic Books, 1983).

⁵¹I use a distinction made by Michael Sandel, ed. “Introduction,” *Liberalism and Its Critics* (New York: New York University Press, 1984) p. 4. John Hospers, *Human Conduct: Problems of Ethics* (New York: Harcourt, Brace and Jovanovich, 1972), pp. 433–467.

⁵²Yves R. Simon, *Philosophy of Democratic Government*, p. 197.

⁵³*Ibid.*, 94.

The position defended is that, while there are common needs based on common human nature, there are individual characteristics, individualized traits, that when properly used constitute a claim for meritorious distribution. "Distributive justice is the rule by which the community renders their due to each and every one of its parts," and "the relation of the whole to the parts is covered by the rules of distributive justice, by which the community renders their due to its members according to merit and need."⁵⁴ The plurality of distributive agencies, corresponding to different kinds of community, would seem relevant to distributive justice as in the case of promotions in the armed forces, in business enterprises, or in educational institutions. Simon's reference to the common good, rather than to the social product, reiterates once more his primary focus on the political aspects of distribution, at least in *Philosophy of Democratic Government*.⁵⁵

To return once again to a comparison of Simon and Adler, let us note that both of them are critical of the concept of quotas in regard to distributive justice. Adler's arguments imply a rejection of quotas as they are presently employed.

Difference in gender is a totally irrelevant consideration, as is difference in skin color, difference in ethnic origin, difference in religion. These differences being irrelevant, the persons involved are equal.⁵⁶

This presumably implies that being irrelevant to justice, these differences may neither count against nor for someone; they are neither disadvantages nor advantages. Simon refers to "such contingencies as color or other so-called 'race' features" as not being pertinent to distribution.⁵⁷ But a stronger argument is explicitly mounted against the use of quotas in a wartime book that investigated the support for the use of quotas in Nazi Germany. He notes the reasons why such quotas are popular: they eliminate competitors. (He refers specifically to the professions, education, medicine and law.) Once established, the next step will be a proliferation of quotas. There will be "a quota for every group which persistently preserves its identity within the community

⁵⁴Yves R. Simon, *The Definition of Moral Virtue* (New York: Fordham University Press, 1986, 1989), p. 99.

⁵⁵*Ibid.*

⁵⁶Mortimer J. Adler, *Six Great Ideas*, pp. 189–190.

⁵⁷Yves R. Simon, *Philosophy of Democratic Government*, p. 203.

and refuses to let itself be assimilated. There follows a multiplication of quotas.”⁵⁸ His final statement on the consequences of the practice of quotas not only reflects on a historical situation, but is, I fear, unfortunately prophetic: “With the consistent application of the quota principle we see a savage struggle take shape, a merciless war between hardened and irreconcilable groups, a delirium of discord which no community could possibly resist.”⁵⁹ It may be observed that the acquiescence of liberal-minded people in our day to the practice of quotas marks a shift from the former liberal stress on achievement to the conservative conception of ascription and status. And since the conservatism alluded to is closer to the old regime than it is to the open society, liberals may be returning to notions they once fiercely opposed.

No account of distributive justice would be complete without some reference to the notion of social justice, often used interchangeably with it. There are at least two instances in which Simon employs the term, the first being a discussion about its ambiguity, the second being an attempt to give it some kind of precision. In the first instance in which he calls social justice “an extremely ambiguous expression”⁶⁰ he reminds us that in most of the current literature on the subject, the term social justice is taken as a synonym for distributive justice. On the other hand, Roman Catholic writers use the term as a synonym for general or legal justice. If the first identification is about pattern theories of justice, the second summons the Christian to duties in regard to the common good. Then again the term is often used in a vague way without any specification of other usages. In order to enter into a discourse from which the Roman Catholic view is excluded, it would be important to employ a more common vocabulary, or at least one free from ambiguity.

In his book, *The Definition of Moral Virtue*, Simon uses the term to refer to the whole of justice of which general and particular justice are parts. “And that leaves us with just three kinds of what we may call social justice: general, distributive and, corrective (or commutative) justice.”⁶¹ So, Simon avoids both the contemporary tendency to equate distributive with social justice and the Roman Catholic practice of

⁵⁸*Ibid.*, p. 49.

⁵⁹*Ibid.*, p. 50.

⁶⁰Yves R. Simon, *Work, Society, and Culture*, p. 138. Cf. Bertrand de Jouvenel, *Sovereignty: An Inquiry into the Political Good*, p. 139.

⁶¹Yves R. Simon, *The Definition of Moral Virtue*, p. 100.

using the term to designate legal or general justice. An objection to the first use is that it is too narrow and does not specifically include political distribution. In the second case, the term is not preferable to the terms legal or general justice and, in fact, may be misleading.

We finally come to the third form, of justice, legal or general justice, “ruling the relations of the parts of the community to the community itself.”⁶² If we are speaking of the political community, as Simon usually is, the issue at hand is the conception of good citizenship and the responsibility of political leaders. Although he does not explicitly say that he is examining aspects of legal or general justice in the passages I shall use to illustrate this form of justice, there seems little doubt that the issues are pertinent to the rule of legal or general justice, and that rule, or “law,” as Simon prefers to say, is one of proportion just as is the case with distributive justice, its converse, so to speak.

In the first instance, the intention of the common good by the citizen is examined. Simon takes the case of the wife of a convicted murderer. If she is to be a good citizen, should her intention be that her husband be severely punished? As a private person “as far as content and matter is concerned” her “business is to will and intend private goods.”⁶³ To demand that a private citizen will or intend the common good both formally and materially would be to eradicate the distinction between the private and public person. Of course, some tension between these two *personae* might arise in a direct democracy, for instance, in which the citizen “is the bearer of two capacities—the public and the private.”⁶⁴ In that situation a proprietor of land may have to suffer some disadvantage if the common good requires the appropriation or use of some of his terrain.

In the second instance, Simon examines the political party and the danger that once in power it will substitute its own interests for that of the whole community. Simon refers to “the formal identification of the party with the whole of the state” in the totalitarian one-party state.⁶⁵ Yet the modern notion of party politics in a non-totalitarian setting, if

⁶²*Ibid.*

⁶³Yves R. Simon, *A General Theory of Authority* (Notre Dame, Indiana: University of Notre Dame Press, 1962, 1980, 1990), p. 55 and *Philosophy of Democratic Government*, pp. 41–42.

⁶⁴*Ibid.*, 54.

⁶⁵Yves R. Simon, “Thomism and Democracy,” in *Science, Philosophy and Religion* ed. Lyman Bryson and Louis Finkelstein (New York: The Conference on Science, Philosophy and Religion in Their Relation to the Democratic Way of Life, Inc., 1942), Vol. 2, p. 259.

it is not to become “a permanent threat against the common good,”⁶⁶ must recognize that the power it exercises through the electoral process is a power to serve the community as a whole and not simply its own supporters. The leaders of a governing party in a democracy, just as the medieval kings, only act justly to the extent that they intend the common good. If legislative acts benefit some portion of the population, the rationale for that legislation has to be in terms of the good of the community as a whole.

The eclipse of the concept of political community and the good of that community may mean that the sole legitimacy and foundation of the exercise of power is deemed to be its origin in an electoral contest. Henceforth, it becomes just a matter of our turn, our turn to use the public power for the benefits of our partisans. And when the other party or parties get into power, they will act in like manner. It is not difficult to surmise how this would breed conflict of interest. This would make democracy a perpetual alienation of the public good for the benefit of a temporary majority.

In a modification of Lincoln’s famous formulation of the democratic ideal, Simon says that “the essence of democracy is a government for the people, for the whole of the people, for the common good of the people.”⁶⁷ This is not, of course, to deny that political authority is transmitted from the people to those who exercise it. It is to point out that it does not suffice that party government has been established by a legitimate constitutional process; it must also subscribe to the ethics of the common good.⁶⁸

Evident even in his earliest reflections on justice, Simon emphasized the importance of the political context. Not satisfied with purely abstract considerations of distributive justice, unlike a number of our contemporaries, he spoke of the agency or agencies of distribution in a particular political community. Now, there are exponents of a cosmopolitan morality inspired by John Rawls’s theory of justice as fairness who question whether any country owns its own resources—because, after all, no individual does either—and who will impose on

⁶⁶*Ibid.*

⁶⁷*Ibid.*, p. 260.

⁶⁸Raymond Aron comments that for Max Weber “it is as if the catholic notion of the common good of the polity were not valid, or in any case could not be rigorously defined.” *Main Currents in Sociological Thought* (Harmondsworth: Penguin, 1967), Vol. 2, p. 214.

richer countries heavy responsibilities while ignoring the real conditions of interstate relations and the meaning and limitations of political community. If their prescriptions were followed, there would be a massive redistribution of wealth and countless interventions.⁶⁹

The difficulties of distributing goods to assuage basic human necessities for those who lack them in Africa, in Ethiopia, in Somalia, and in the Sudan, to mention but three cases, has centered around the obstacles placed in the way of various relief agencies. Aid has been confiscated, and aid has been used as a weapon to force a regime's enemies to capitulate; aid is siphoned off by various competing bands in a condition of civil anarchy. States unable to provide or secure the basic material needs for their people resort to the concept of state or national sovereignty in order to thwart humanitarian aid from getting to its destined recipients.

So, I think that Simon's reflections on justice are a corrective to the political shortcomings of this conception of "duties beyond borders" (to use Stanley Hoffmann's phrase).⁷⁰ We not only need to understand the scope of justice, the kinds of justice, the criteria of justice, but also, where relevant, the agents of effecting justice, whether it concerns the duties of leaders and citizens under general justice or the responsibility of those who are in charge of the distribution of the goods of the whole to the parts of the political community.

I think Simon's theory and application of the various forms of justice includes both universal and particular factors. Such particular factors include the world of the city-state, the medieval monarchies, and the modern nation-states. Maybe the attention to the particular circumstances at stake here is another way of connecting the sense of justice to political prudence. Maybe it is another way of saying that a distinction should be made between what is permanent and what is transitory in a theory of justice.

⁶⁹I refer particularly to Charles R. Beitz, *Political Theory and International Relations* (Princeton, New Jersey, Princeton University Press, 1979). In a similar vein, see James P. Sterba, *The Demands of Justice* (Notre Dame, Indiana: University of Notre Dame Press, 1980).

⁷⁰Stanley Hoffmann, *Duties Beyond Borders: On the Limits and Possibilities of International Relations* (Syracuse, New York: Syracuse University Press, 1981). Hoffmann, like Beitz and Sterba, relies on certain Rawlsian notions.