
Further Thoughts on Power

Debate on Power Should Continue

Marshall DeRosa

Florida Atlantic University

Professors Gottfried's and Ryn's dialogue on power¹ is significant for a variety of reasons. When two intellectual titans engage in debate over the essence of political legitimacy, the contest in and of itself is intriguing. But more importantly these exchanges provide a unique opportunity to trace the fissures within conservative thought, and anticipate the direction which serious scholarship will take in moving from the realm of theory to the arena of political action. This is not to say that scholars should or need to become politically active. But ideas have consequences, and those consequences may be eventually manifested in political action. I suspect that a protracted continuation of the themes addressed in the the Gottfried–Ryn dialogue on power will attract attention from a variety of philosophical, theoretical, and ideological quarters, thereby shaking the foundations upon which political power rests. The purpose of this brief essay is to encourage these two gentlemen to continue their dialogue.

The differences of position taken by Gottfried and Ryn appear to be subtle. Ryn acknowledges as much by conceding that "Professor Gottfried may actually be more receptive to my general argument than appears from his explicit comments on my article" (BSV, 107). However, an attentive reading of their respective positions makes clear that the differences are substantial, and in some

¹ Claes G. Ryn, "Dimensions of Power: The Transformation of Liberalism and the Limits of 'Politics,'" *Humanitas* XIII, no. 2 (2000), 4-27; Paul Gottfried, "Power is Coercion," *Humanitas* XIV, no. 1 (2001), 96-99; and Claes G. Ryn, "A Broader, Subtler View of Power," *Humanitas* XIV, no. 1 (2001), 100-107; references to this article hereinafter cited in the text as "BSV."

aspects mutually exclusive. The contrasts in their respective positions on power need to be drawn out.

Political power is neither monolithic nor static. This is especially the case in the United States, with its system of separation of power, checks and balances, federalism, the rule of law, and elections. These dynamics do affect the distribution and locus of power. Consider the manner and extent to which the U.S. Supreme Court exercises power. In high-conflict/high-salience cases, in what manner and to what extent does the Court's power stem from the U.S. Constitution, the Congress, judicial moral authority, the executive branch, the electorate, and/or the litigants involved in the case? If the Supreme Court's power is grounded in its moral authority, does that authority wax and wane in accord with changing circumstances? A survey of its decisions makes clear that the Supreme Court functions with a wink and a nod from the U.S. Congress. So, in the final analysis, is the locus of power in the Congress, which institutionally manipulates the Court to achieve political objectives? And if the Congress is the "people's branch," does that mean that in a round-about way the people are sovereign?

Power not monolithic or static.

But if executive bureaucracies chock full of managerial elites are churning out policies at a pace and complexity such that neither an elected president nor members of the Congress can reliably exercise oversight, wherein lies the consent of the governed? Submission to regulatory policy is a form of consent, but what type of consent is that? Is it the type of consent that the framers had in mind when the U.S. Constitution was drafted and ratified?

Ryn addresses these complexities in his most poignant argument that "Gottfried's conception of power does not take into account the fact that political elites are largely symptomatic of the general moral and cultural trends of society or of the fact that, for that reason, there is an ever-present give-and-take between these elites and those whom they govern" (BSV, 107). Nevertheless, what is the nature and legitimacy of the "give-and-take"? If the elite and dominant political culture condone policy X, but a substantial subculture considers policy X to be abhorrent, are members of that subculture obligated to submit to policy X because of the terms of the *quid pro quo* give-and-take? In more concrete terms, if the majority in Florida consider abortion to be infanticide, by what authority can the United States government compel Floridians to fund and provide abortions? If the state submits, is

Legitimacy of give-and-take in question.

that submission a form of consent? If so, would it be more meaningful to speak in terms of a sliding-scale consent, e.g., high, medium, and low? Hence, over a range of public policies could an overall “consent rating” be calculated, thereby discerning the distribution of power among the elites and non-elites?

Submission based on fear, not real consent.

Lastly, at what point does the extensive magnitude of the mega-nation negate meaningful discussions about the exercise of political power being grounded in the consent of the governed and the locus of power? The governed may be so far removed from those exercising power over them that submission to governmental authority may emanate from despair, fear, and/or a calculative cost-benefit analysis. Has meaningful participation by the governed been crushed under the sheer weight and complexity of government? More troubling, one must ask if there is such an imbalance of cognitive and economic power between elites and non-elites that the latter could not, or would not, exercise political power responsibly even if provided with the opportunity? Instructively it is important to keep in mind that American common law does not recognize submission based upon fear, fraud, and/or ignorance as real consent. Such being the case, should scholarly efforts be directed at the question of in what manner and to what extent political power can be justly exercised at all. Admittedly, these are ancient questions, but perhaps they assume an unprecedented urgency in today’s increasingly integrated political, economic, and cultural setting.

Should these concerns be dismissed as pedantic on the grounds that the U.S. Government is benevolent and grounded in the well-established canons of the rule of law, and hence should not be compared to a coercive, fraudulent system dependent upon the ignorance of its subjects? Those very canons stem from the historically demonstrated fact that if power and opportunity to diminish the role of the consent of the governed coincide, the prospects for the survival of republican-style self-government are bleak. Professor Ryn’s trust in the “moral and cultural constituents of power relations and the corresponding element of mutuality between leaders and followers”(BSV, 101) is a weak reed upon which to rest liberty, especially if those moral and cultural constituents have been substantially corrupted, while Professor Gottfried’s focus on the managerial elite is too one-dimensional.

In order to break through the clutter of political power's multifaceted nature, a subsequent dialogue on power might specifically address the principle of proximity, i.e., the proximity of those who exercise and those who are subjected to political power. For example, a dialogue centered on a meaningful and viable system of states' rights (or subsidiarity) versus national power (or centralization) would bring some clarity to the issues mentioned and would demonstrate the usefulness of continuing this discussion of power.