

Samuel Ernest Harrington
20, 000 [17, 973]

*The Problem of Sovereignty in the Marquis de Sade:
Transgression and The 120 Days of Sodom*

By

Samuel Ernest Harrington

A THESIS SUBMITTED IN PARTIAL FULFILLMENT OF THE REQUIREMENTS
FOR THE DEGREE OF

MASTER OF ARTS

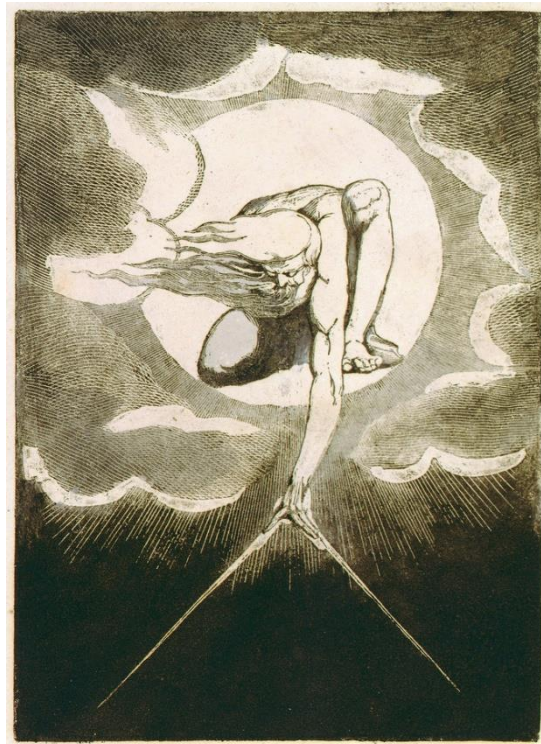
in

The Faculty of Humanities

Philosophy of Humanities

Universiteit Leiden

August 2016



Europe, A Prophecy
William Blake (1795)

Table of Contents

Prolegomena

Introduction.....	3-6
Conceptual Framework.....	7-13

Chapter One

Part I – Carl Schmitt and the Problem of Sovereignty.....	14-19
Summary.....	20

Chapter Two

Part I – The Setting of <i>The 120 Days of Sodom</i>	21-27
Part II – Sade’s Law: the Destructive Principle Revealed.....	28-37
Summary.....	38

Conclusion	39-43
-------------------------	-------

Bibliography	44-47
---------------------------	-------

Prolegomena

The earth being unformed and void, with darkness over the surface of the deep, and a wind from God was sweeping over the water –

God said, ‘Let there be light’; and there was light.

God saw that the light was good, and God separated the light from the darkness.

[Genesis 1:2-4]

Introduction

Born to an aristocratic family in 1740, Donatien Alphonse François, the Marquis de Sade, is one of the most controversial and infamous writers that has ever lived. Banned across Europe for over a hundred years after his death in 1814, Sade is synonymous with a mind fixed on the breaking of prohibitions. His philosophy sought to outrage the morally and sexually repressive laws of Christianity. Ironically and predictably for a man consumed with proving the fallacy of crime, Sade was considered a criminal and spent half of his adult life in prisons. Sade was arrested for various sexual misdemeanours throughout his lifetime, bridging either side of the French revolution; he received *lettres de cachet* from both Louis XVI and Napoleon Bonaparte. The most serious incident with the law occurred in 1772 when Sade drugged a group of women with Spanish fly at an orgy, nearly leading to the death of a young girl. He narrowly escaped the gallows for “poisoning” and a further charge of “sodomy” with his valet, Latour.¹

In prison, Sade spent much of his time writing in intense isolation and the vast body of his writings can be largely read as prison diaries. If Sade was less insolent and keen to ‘reoffend’ upon his numerous releases, it seems that he would have been imprisoned less, but, having been convicted of such unmentionable ‘crimes’ as “sodomy”, his reputation was ruined. Indeed, the French nation and the Sade family would not reclaim the ‘divine’ Marquis until the mid-twentieth century. And so there is something at once both pitiful and noble about a man who, having had the world turn his back on him, endeavours to create the most powerful fiction possible. Sade’s fictive self declares the divine commandments of a supreme master, demanding unlimited power and boundless rights. The prestige and glamour he ascribes to his characters are betrayed by the letters to his wife. Here, he speaks of a “cruel life”, restricted to one sheet of paper per day, a small window of sunlight and limited exercise.² Given this

¹ R. Hayman, *De Sade: A Critical Biography*, Constable: London, 1978, pp. 58-59

² See: D. A. F. Sade, *Letters from Prison*, trans. Richard Seaver, Arcade Publishing: New York, 1999

evident dichotomy between Sade's material environment and his fictive self, it is no surprise that his philosophy focuses' on binaries and their fragile boundaries: crime and law, taboo and transgression, master and slave, abuser and victim.

However, this thesis is not concerned with Sade as the maltreated prisoner, but the monstrous figure presented in his masterwork, *The 120 Days of Sodom, or the School of Libertinism* (*Les 120 journées de Sodome ou l'école du libertinage* [1785]). We will be discussing the extremes of political violence and the theoretical attempts to justify absolute power. In the ensuing pages, we shall find Sade subjecting his citizens to acts that we should find abhorrent: torture, rape, paedophilia, to name but a few of his ostensibly endless "passions" (*passions*). Sade's sentences are long and overdrawn, these acts are described gleefully and exponentially. For within Sade's world, more is always more. Torturing an entire "society" (*société*) is a greater pleasure than the miseries of one individual. Sade's lists of "crimes" (*crimes*), methodically drawn in the seclusion of his cell, are intentionally inexhaustible; he exhibits a consciousness which is continually thwarted by itself. Such is the psycho-sexual pathology of *Sadism*: committing crimes, transgressing taboos, is the height of sexual desire – the bigger the crime, the higher the pleasure. Sade presents a philosophy of negation, a norm grounded in crime, law formed from transgression. This parodistic imperative, '*I ought not be obligated*', ensures that all is permitted. Sade declares: "I am alone here, I am at the world's end, withheld from every gaze, here no one can reach me, there is no creature that can come near to where I am; no limits, hence, no barriers; I am free (*Je suis seul ici, j'y suis au bout du monde, soustrait à tous les yeux et sans qu'il puisse devenir possible, à aucune créature d'arriver à moi; plus de freins, plus de barrières*)."³

Sadean scholars who attempt to moralise this obsession with the forbidden, always come short of providing a complete reading. Scholars must take into account Sade's ambivalence and resistance to fixed moral schemes. Neither Jacobin, nor feudalism of the *ancien régime*, Sade cannot properly belong to the conventional partition between the right and left-wing. On the left-wing 'liberal' Sade, whether in a "feminist"⁴, "gay"⁵ or "queer"⁶ reading, gender egalitarianism is analysed in terms of Sade's occupation of an intermediary space between

³ D. A. F. Sade, *The One Hundred and Twenty Days of Sodom*, trans., Austryn Wainhouse and Richard Seaver, Arrow Books, 1990, p. 412

⁴ See: J. Gallop, 'The Liberated Woman: Sade's philosophy in the Boudoir', *Narrative*, 2005, Vol.13(2), pp.89-104

⁵ See: G. Hekma, 'Review Essay: Rewriting the History of Sade', *Journal of the History of Sexuality*, vol.1(1), 1990, pp.131-136

⁶ See: W. Edmiston, *Sade: queer theorist*, Voltaire Foundation: Oxford, 2013

the traditional hierarchical binaries of sex and gender (such as the preferring of non-reproductive and passive ‘sodomite’ sex). Yet the ‘liberal’ interpretation is undermined by Sade’s utter devotion to masculine sexual prowess, believing women to be the sexual servants of men.⁷ Conversely, if we see in Sade a radical right-wing conservative in the mould of his contemporary Joseph de Maistre (1753-1821), glorifying the absolute monarchy of the first estate,⁸ this interpretation is destabilised by the dry irony which characterises his critique of the feudal system. The four law-makers of *The 120 Days* are overtly representative of those who profited from the excessive corruption of the *ancien régime*. Enamoured with “evil” (*le mal*), they wallow in depravity and vice, openly declaring that they impose all law, but obey none: “Thus, nothing but the law stands in my way, but I defy the law, my gold and my prestige keep me well beyond reach of those vulgar instruments of repression which should be employed only upon the common sort (*Je n’ai donc contre moi que les lois, mais je les brave; mon or et mon crédit me mettent au-dessus de ces fléaux vulgaires qui ne doivent frapper que le peuple*).”⁹

The political dimension of Sade’s *120 Days*, at the heart of this thesis, is found in the sovereign’s capacity to publically summon any citizen and compel them to satisfy their own needs.¹⁰ As the psychoanalyst Jacques Lacan notes, the sadistic will to dominate rejects any of the habitual hallmarks which typify an ethic: otherness, togetherness, mutual benefit or exchange and so on. Morality requires reciprocity, equivalent ethical relations between peoples.¹¹ It is only because no human being can be the property of another – “every other is wholly other” (*tout autre est tout autre*)¹² – that moral experience is possible. By contrast, Sade presents the paradigm of exclusion. The habitual subject of morality (the individual ‘I’ in its relation to humanity as an equal whole of ‘others’) is displaced and relocated solely into the other, into *him*. Sade demands that we submit to *his jouissance*, commanding the right over *our* body, without any limit stopping him. Particularly in *The 120 Days*, human relations are not conceived of in any other terms than power and domination; the subjects of Silling are considered “victims” (*victimes*) not partners. Sade’s imperative begins from this reduction to victimhood: the subjects are already dead to the world, servants to the whims of power,

⁷ See: S. E. Harrington, {REVIEW}, ‘W. Edmiston, Sade: queer theorist’, *International Network for Sexual Ethics and Politics*, Vol. 3(1), (forthcoming, 2016)

⁸ G. Minois, *Histoire de L’Enfer*, Presses Universitaires de France: Paris, 1994 p. 123

⁹ Sade (1990), p. 199

¹⁰ G. Agamben, *Homo Sacer: Sovereign Power and Bare Life*, trans. Daniel Heller-Roazen, Stanford University Press, 1998, p. 79

¹¹ J. Lacan, ‘Kant avec Sade’, *Critique*, 1963, Vol. 191, pp. 291-313

¹² J. Derrida, *Donner la Mort*, Editions Galilee, 1999

which seeks after nothing but to sustain itself. To deny and negate constitutes the manifestation of Sade's political power, separating and distinguishing between those who get to live a legally viable life, and those who can justifiably be conquered. Thus, the stripping away of juridical rights is the sadistic political act *par excellence*.

Sade speaks to the politics of the tyrant and the despot, who, drunk on success, invariably seek the destruction and degradation of their own people. A common dialectical turn in late-eighteenth, early-nineteenth century literature, evident in both Blake¹³ and Hegel,¹⁴ is that he who seeks to dominate becomes shackled to the very object he seeks to enslave and, indeed, Sade's sovereigns are nothing without victims. Yet as the French philosopher Georges Bataille makes clear, the language of *The 120 Days* inverts this dialectical relation between master and slave. Sade's originality lies in his deification of the torturer, whilst employing the violent language of the victim. Banally justifying authority, the tormentor cannot use the language of the violence he wields. Following the rescindment of legal rights for the detainees at Guantanamo and Abu Ghraib, the British and United States military referred to their torture policies as "standard operating procedures", involving "stress positions".¹⁵ The Nazis did not discuss an 'extermination' or 'killing', let alone a 'holocaust', only "evacuation" (*Aussiedlung*) and "special treatment" (*Sonderbehandlung*),¹⁶ expressing "the objects of bureaucratic operation...in purely technical, ethically neutral terms."¹⁷ It is the victim who provides the details of victimhood – who we require to 'speak out'. Sade's aesthetic project in *The 120 Days* is to reveal the cyclical nature of power and domination, the brittle limits cordoning legal boundaries. Pedantically arranged and outlined, Sade intended the novel to be his masterpiece. As Bataille continues, Sade's performative gesture is to provide a counter-enlightenment narrative, uncovering the crimes of the powerful in the language of the repressed: "[Sade] invented it in the Bastille when he wrote the *Cent Vingt Journées*...the man punished for a reason he believes unfair cannot resign himself to silence – silence would imply acceptance...The Marquis de Sade...had to give his rebellion a voice."¹⁸

¹³ W. Blake, *The Visions of the Daughters of Albion* [1793], J.M. Dent and Sons, 1932

¹⁴ G. W. Hegel, *Phenomenology of Spirit* [1807], trans. A. V. Miller, Oxford University Press, 1977

¹⁵ P. Gourevitch and E. Morris, *Standard Operating Procedure: A War Story*, Picador, 2008

¹⁶ H. Arendt, *Eichmann in Jerusalem*, Viking Press: New York, 1964, p. 43

¹⁷ Z. Bauman, *Modernity and the Holocaust*, Cornell University Press, 2008, p. 102

¹⁸ G. Bataille, *Death and Sensuality*, trans. Mary Dalwood, Walker and Company: New York, 1962, p. 190

Conceptual Framework

This thesis intends to use *The 120 Days of Sodom* to contribute to a reflection upon sovereignty in political philosophy. The overarching aim is to determine the extent to which Sade's conception of transgression in *The 120 Days* can illumine the problem of sovereignty. The thesis will argue that this novel presents a sustained revelation of a particular paradox evident in sovereign theory. This paradox is explicitly dealt with in the political philosophy of the German jurist Carl Schmitt (1888-1985). It is the contention of this thesis that the political philosophy of de Sade, as outlined in *The 120 Days*, contains precise affinities with Schmitt's theory of the exception. Like Schmitt, Sade articulates the transgressive capacity of sovereign power. Sovereignty rests upon mere attribution, not moral or normative considerations. Sovereign authority, once attributed, is legitimate because the sovereign has the power and authority to *decide* that it is legitimate. This 'decision' creates our paradox: the transcendent preserver of law is ultimately not bound to the law that is ordered. Consequently, the sovereign power alone is capable of legitimate transgression, going beyond the normal order with the aim of sustaining the normal order. Any suspension of law on behalf of the sovereign is an act of transgression. In the suspension of law, the sovereign transgresses the limits of the juridical order, with the aim of sustaining the legal order, hence the paradox.

The word 'sovereignty' has its origins in medieval French, *soverain* – meaning “the supreme ruler”.¹⁹ This formulation is itself derivative of the Latin *super*, meaning “over, above and beyond”, and *rego*, meaning “to direct, guide and govern”.²⁰ Sovereignty refers to a conception of power in terms of authority. Since there have been a great many different societies, with varying power structures, sovereignty is a challenging term. It became widely used in the early-modern era as a means of navigating the relations between the church and the newly-formed European nation states, developing into a fundamental principle of contemporary international law. In philosophy of law and political philosophy, the highest ruling authority of a given population is understood by the word 'sovereignty'. The term is used both as an adjective (i.e. to describe or characterise that which has supreme authority, like 'the sovereign Queen') and as a noun (i.e. to denote that person, body or state which possesses the highest power, 'the Queen is the sovereign). We refer to the leader of a territory

¹⁹ A. Rey, *Dictionnaire Historique de la Langue Française*, Le Robert, 2010, p. 1267

²⁰ M. de Vaan, *Etymological Dictionary of Latin and the other Italic Languages*, Brill: Leiden, 2008, pp. 517, 600

as the ‘sovereign’, with the area governed denoting the domain of their ‘sovereignty’. The sovereign is the creator and gatekeeper of the law, maintaining supreme power and ultimate right. The sovereign has the right to make law, revise laws already made and repeal laws considered superfluous. As F. H. Hinsley details in his seminal analysis of the term, in order to enact these laws, the sovereign wields the full force of the given territory: “...the idea that there is a final and absolute political authority in the political community...and [crucially] *no final and absolute authority exists elsewhere*.”²¹ This authority functions at two levels: firstly, the sovereign has the right to enforce law *internally* and secondly, the sovereign represents said territory when engaged with other sovereign territories *externally*. The state has the right to rule as its own sovereign body, without outside interference. This sovereignty enables the state to enter into relations with other bodies, whom, in turn, possess their own sovereign power.

According to Schmitt, all the significant concepts of the theory of the state, including sovereignty, are “secularised theological concepts” (*säkularisierte theologische Begriffe*).²² As Kathleen Davis clarifies in her recent study on the problem of sovereignty, for Schmitt, the process of secularisation “does not refer to the narrative of Europe’s extrication from theological constraints; it refers rather to the transferral of theological forms to the politics of an ostensibly ‘secular’ context”.²³ Indeed, the relation of law-making to divinity dates as far back as recorded human civilization: the “lawmakers” of ancient Egypt and Mesopotamia were said to be the human embodiment of the divine realm, for example.²⁴ However, we are not concerned with the many complications deriving from the terms ‘law’ and ‘divinity’, but a particular contradiction intrinsic to political authority: the transcendent preserver of law is ultimately unbound to the law that is ordered. Schmitt’s central claim is that the sovereign’s exceptional authority is a “secularised” (*säkularisierte*) conception of the transcendent Judea-Christian God: “the omnipotent God became the omnipotent lawgiver”.²⁵ The capacity to legitimately transgress a juridical framework is really a secularised conception of the biblical “miracle” (*Wunder*). Schmitt defines the miracle as a “transgression of nature through an exception brought about by direct intervention.”²⁶ Demanding the authority to suspend the

²¹ F. H. Hinsley, *Sovereignty*, Cambridge, 1986, p. 3 (my addendum)

²² C. Schmitt, *Political Theology*, trans. George Schwab, University of Chicago Press, 2005, p. 36

²³ K. Davis, *Periodization and Sovereignty*, University of Pennsylvania Press, 2008, p. 14

²⁴ R. Brague, *Law of God*, trans. Lydia G. Cochrane, University of Chicago Press, 2007, pp. 15-17

²⁵ Schmitt (2005), p. 36

²⁶ *Ibid.*, p. 36

law at will is to compare oneself to God. It is in this event, where force is enacted, law suspended, that the originary power of sovereign authority is revealed.

The definition of political authority in terms of the power to go beyond the normal order therefore, has its ‘pre-theological’ roots in the biblical God’s ‘miraculous’ capacities.²⁷ The biblical God portends all the prestigious characteristics of sovereign authority. He is necessarily mysterious and inscrutable, demanding nothing but absolute submission and obedience: “God’s essence is not knowable”, “one cannot see His face and live” [*Exodus* 33:20]. The power of the biblical God is sourced in His capacity to perform miracles, distinguishing “the children of Israel” [*Exodus* 19:6] from “the gentile” [*Genesis* 10:5]. The biblical God’s miraculous revelations interrupt the normal order of things, changing “rock into a pool of water”, or a “granite cliff into a fountain” [*Psalms* 114]. This authority transcends any evaluative judgments, commanding unconditional humility and servitude.

However, the problem of sovereignty emerges as a fully-formed intentional paradox in the theology of Augustine and the early middle ages, reaching its height in the fourteenth and fifteenth centuries. Here, as Davis maintains, the “paradox” of sovereign power is “explicitly” “recognised”, but not problematised: “...typically expressed in the imperial formula that the prince is simultaneously lawmaker and unbound by law.”²⁸ Augustine of Hippo (354-430) proclaimed that God, *qua* the transcendent preserver of good and evil – the moral “order” (*ordo*) – He is beyond such moral evaluations. God, in the capacity of determining good and evil, exists “outside” (*extra*) “corruption” (*corruptio*) and “evil” (*malum*).²⁹ Beyond time, in “eternity” (*aeternum*), law cannot be forced upon Him.³⁰ God has the authority to go beyond normative prescriptions, demanding actions “contrary to the custom or agreement of a group of people” (*contra societatem civitatis eius obtemperatur*).³¹ Humanity unquestioningly obeys God, they “must serve without hesitation” (*sine dubitatione serviendum est*).³² In the middle ages, Christian sovereign authorities, as the direct

²⁷ Interestingly, Aristotle inquires as to who ought to be “the lord” (*τὸ κῆρυον*) of the “politeia” (*πολιτεία*) [*Politics*, Book III. Ch. vi. 1, trans. Benjamin Jowett]. This term, “*τὸ κῆρυον*”, which is often translated as “sovereign” (by Jowett, for example), is continually used by both Philo (for instance, *On Drunkenness* [372], ch. xxvi, 102) and the Greek New Testament (as in: and said to Him, My Lord [κύριός] John 20:28) to reference the Judeo-Christian God.

²⁸ Davis (2008), p. 14

²⁹ Augustine, *Confessions* [397-400 CE], Book VII, 13.(19), trans. Carolyn J. B. Hammond, Loeb: Harvard, 2014, p. 333

³⁰ F. Suarez, *Tractatus de Legibus ac deo Legislatore* [1612]: *Selections from three works*, trans. James Brown Scott, Oxford: Clarendon Press, 1944, p. 144

³¹ Augustine (2014), p. 119

³² *Ibid.*,

interlocutors of God's word, held the same exceptional status. Sovereignty was a power attributed to God and His human representatives, and doubting sovereign authority is a nonsensical proposition to a society with absolute faith. A legislative action is not "binding" merely "because it is good", it is "binding" because the sovereign "wills it" and "what the prince wills has the force of law" (*quod principi placet vigorem legis habet*).³³ The German-Jewish political philosopher Leo Strauss – a contemporary and correspondent of Schmitt – continues: "Originally, the questions concerning the first things and the right way are answered before they are raised. They are answered by authority³⁴...there is no biblical word for doubt."³⁵

The problem of the legitimacy of sovereign authority – a *theologico-political* problem – arises in the early-modern period (around the sixteenth and seventeenth centuries) because this is the first time that divine sovereign authority is *doubted*. Indeed, in this context, it is "religious disappointment" which provokes the "problem of meaning".³⁶ There are many reasons as to why this doubt occurs: the separation of church and state, the historical approach to sacred texts, the assertion of the "literal incredibility"³⁷ of miracles³⁸ and so on, but none of these purported 'causes' are our concern here. What is crucial for *this* thesis is that in a modern or secular context, the paradox of sovereign power is explicitly understood as a problem. Correspondingly, political authority can no longer claim legitimacy on purely *sacred* grounds – it must be *justified*. From Jean Bodin and Thomas Hobbes to our present day, the sovereign authority's suspension of law is justified on the grounds that it protects the state. The transgressive capacity of sovereign power is justified by recourse to the banner of "security".

Schmitt explains: "The starting point of Hobbes' construction of the state is fear of the state of nature".³⁹ At the basis of political authority is not "divine right", but the "security of the civil, stately (*staatlichen*) condition".⁴⁰ Without the existence of the *civitas*, there is naught

³³ Augustinus Triumphus, *Summa de potestate ecclesiastica* [1326], cit., M. Wilks, *The Problem of Sovereignty in the Later Middle Ages*, Cambridge University Press, 1963, p. 154

³⁴ L. Strauss, *Natural Right and History*, University of Chicago Press, 1965, p. 84

³⁵ L. Strauss, 'Jerusalem and Athens', *Commentary*, 1967, pp. 45-57, p. 47

³⁶ S. Critchley, *Very Little...Almost Nothing*, Routledge: New York, 1997, p. 2

³⁷ *Ibid.*, p. 3

³⁸ B. Spinoza, *Theological-Political Treatise* [1670]: Chapter 6 – 'On Miracles': "...a miracle, whether contrary to nature or above nature, is a plain absurdity." (p. 87, trans. Michael Silverthorne and Jonathan Israel, Cambridge University Press, 2012)

³⁹ C. Schmitt, *The Leviathan in the state theory of Thomas Hobbes*, trans. George Schwab and Erna Hilfstein, The University of Chicago Press, 2008, p. 31

⁴⁰ *Ibid.*, pp. 91-92

but the infamous “war of all against all” (*bellum omnium contra omnes*).⁴¹ Given this mutual and irrefutable antagonism, human beings seek protection from an indivisible and unified sovereign. Terror dictates this subservience to the highest power: the state is constituted by the concrete, existing success of actual fortification. Vital for Schmitt is that Hobbes’ “Leviathan”⁴² is “the *mortal* God”⁴³: “Because state power is supreme, it possesses divine character. But its omnipotence is not at all divinely derived: It is a product of human work and comes about because of a ‘covenant’ entered into by man...The state as order and commonwealth is the product of human reason and human inventiveness and comes about by virtue of the covenant.”⁴⁴ The “secularised” (*säkularisierte*) appearance of miracles emerges in the sovereign’s ability to transcend moral considerations – to transgress normative boundaries – legitimised on the assumption that it benefits the people as a whole. Hobbes writes that: “in a Civil State, where the Right of life, and death, and of all corporal punishment is with the Supreme (i.e. the sovereign); that same Right of killing cannot be granted to any private person.”⁴⁵

One of the core aims of this thesis therefore, is to draw out the underlying affinity between political power and transgression, sourced in the limits connecting legitimacy to criminality. We will explore how sovereign power, and thus law-making as such, is always already involved in transgression: a figure outside the law, who determines the law, but is ultimately not bound to any of its dictums. Transgression is an act that goes against law, either to improve it or to violate it, irrespectively. It implies a normal code of conduct which upholds certain acts as taboo. The taboo denotes respect for the law. The transgressive desire involves the limit and the law, which it then seeks to overcome or violate. Transgression need not be good, or even divine. Any violation of law, in crime, can be seen as a transgression just as well. As Bataille defines, taboo presents a “negative definition” of that which cannot be violated.⁴⁶ Prohibitions sustain the law by delimiting its boundaries. Like the Hegelian *Aufhebung*, the act of transgression suspends and sublates the taboo without eliminating it – transgression transcends the taboo without suppressing it. The possibility and periodic ritual of transgressing these limits creates social cohesion. Which is to say, the juridical order itself

⁴¹ T. Hobbes, *De Cive* [1642], Oxford: Clarendon Press, 1987, p. 49

⁴² The Hobbesian term for the sovereign power.

⁴³ T. Hobbes, *Leviathan* [1651], Oxford University Press, 2008, p. 114

⁴⁴ Schmitt (2008), p. 33

⁴⁵ Hobbes (1987), p. 59

⁴⁶ G. Bataille, *Taboo and Transgression: Georges Bataille’s Essential Writings*, ed. Michael Richardson, Sage Publication, 1998, p. 58

“depends on limited acts of transgression”.⁴⁷ Truly, the *capacity* to legitimately transgress is the mark of sovereign power.

This thesis will focus on *The 120 Days of Sodom* as a philosophical novel about the possibility of absolute sovereignty. This study will demonstrate that Sade’s novel accelerates and exhausts the problem of sovereignty, creating a state of infinite transgression of boundaries and limits (a prospect only possible in art). This interpretation concentrates on the novel’s extra-textual qualities. Key for this reading is that the introduction and the first part (the first thirty days) are the only “parts” (*partis*) of *The 120 Days* that Sade finished, with the remaining three parts – overtly a “plan” (*plan*)⁴⁸ – surviving in a fragmentary style. Sade left notes to himself at the end of every section concerning “mistakes I have made” (*omissions que j’ai faites*). Parts two and three are peppered with Sade’s own running commentary, adding meticulous details, correcting frequent inconsistencies resulting from the overabundant descriptions. The final “notes” (*supplément*) following part four contain an important memo Sade left to himself: “And throughout the whole, introduce a quantity of moral dissertation and diatribe” (*Et dans le total, mêlez surtout de la morale*).⁴⁹ It is this “I” (*je*) which we are seeking to address: Sade’s fictive self and the “moral dissertation” he desired to construct. We will thus pay particular attention to the first section in which the setting and the law are established. The setting of Sade’s texts are commonly misinterpreted by scholars.⁵⁰ We shall see that Sade’s novel is set at a specific time, based on the decline of a certain regime who followed a particular reading of sovereignty. *The 120 Days* is set at the decline of Louis XIV’s reign (1638-1715) – nicknamed “the sun king” (*le Roi-Soleil*), his absolute monarchy was dominated by the political philosophy of Jean Bodin (1530-1596).

This paper will argue that Sade’s destructive logic is established in the first “part” of *The 120 Days*, and that it is only then allowed to accelerate and disentangle towards its conclusion. This is in opposition to many scholars,⁵¹ arguing that it is the *denial* of *fraternité* which is central to Sade’s thought. The four sovereigns of *The 120 Days of Sodom* possess “identical moral traits”.⁵² Their fundamental dictum reads: the greater the crime, the greater the

⁴⁷ Bataille (1965), p. 68

⁴⁸ Sade (1990), p. 673

⁴⁹ *Ibid.*,

⁵⁰ Stuart Hood argues that *The 120 Days* is set in the Thirty Years War (1616-48) and Angela Carter claims that it is set ‘in the seventeenth century’, cit., J. Phillips, *Sade: The Libertine Novels*, Pluto Press, 2001, p. 35. Elsewhere, Gallop desires to reposition Sade’s *Philosophy in the Bedroom* (1795) to the United States during the 1970’s. Gallop (2005).

⁵¹ See: p. 4 (Gert Hekma, Jane Gallop, William Edmiston)

⁵² Sade (1990), p. 203

transgression of law, the greater the power and the higher the pleasure. The sovereigns' sole desire is to destroy restrictions: "My prick positively jumps when I do evil (*faire le mal*), in evil I discover precisely what is needed to stimulate in me all of pleasure's sensations, and I perform evil for that reason, for it alone, *without any ulterior motive (et sans autre intérêt que lui seul)*."⁵³ The sacred figure that Sade designs seeks to negate both religion and nature; there is no God or sin in Sade's universe, crime is a fantasy of the weak and enslaved. Sade imagines a universe in which the exceptional status of the sovereign, inherent within the logic of the juridical order, is turned into a perpetually manifest law. To read Sade through Schmitt is to put *The 120 Days* into a theological history of political authority, uncovering the relation between politics and faith. The removal of God, the unchaining of the earth from its axis, reveals the void into which Sade descends. In the 'real world', the suspension of law sustains the juridical order, the transgression ultimately serving a practical purpose which is to uphold juridical normalcy. In Sade's fictive space, however, he details no such bounds. *The 120 Days* is a wildly destructive exercise; it imitates the justification of sovereign power found in the decision, to create creating a situation of infinite transgression of boundaries and limits. Sade forms an impossible universe wherein the exception becomes a normative principle. Like Kafka's *Process*, the unravelling of the work's fragments creates a hallucinatory dreadfulness in keeping with its contents. Sade accelerates the principle of sovereign power – the decisionistic aspect of the law – portraying seemingly endless attempts to sustain the "miracle" moment.

⁵³ Ibid., p. 363 (my emphasis)

Chapter One: On Sovereignty

What alarms you, O sea, that you fled?

Jordan, that you ran backward?

Tremble, O earth, at the presence of the LORD

At the presence of the God of Jacob

Who turned rock into a pool of water

The flinty rock into a fountain

[Psalms 114: 5, 7-8]

Part I: Carl Schmitt and the problem of sovereignty

The German jurist Carl Schmitt (1888-1985) gave the political concept of sovereignty renewed philosophical weight when he stated in his *Political Theology* (1922): “sovereign is he who decides on the state of the exception” (*die Ausnahmezustand*).⁵⁴ Schmitt’s theory of sovereignty was and remains a controversial subject in political philosophy. As Kathleen Davis explains: “Schmitt has become famous for invoking his theory of the exception in 1932, a decade after he wrote *Political Theology*, to argue for implementing the emergency powers of the Weimar Constitution...[which] ultimately helped clear the way for Hitler’s rise to power.”⁵⁵ The claim of this thesis is that Sade’s novel, *The 120 Days*, extends Schmitt’s “theory of the exception”, accelerating and dismantling the paradox of sovereign power. Before we begin analysing the novel in the second chapter therefore, this first chapter of the thesis intends to unveil the problem of sovereignty as described by Schmitt’s legal and political philosophy.

Schmitt states that “all law is situational”, meaning that laws are always physical (involved in force or violence, “a physical power”) and spatial (physically enacted in a ‘real’ place).⁵⁶ According to Schmitt, the “law” (*Gesetz, Recht*) is composed of two essential factors: the norm (*Norm*) and the decision (*Entscheidung, Dezision*). There is an agonistic relationship between these two constituents of the juridical order and sovereignty cannot exist without both elements. Schmitt’s claim is that the norm follows “the absolute beginning of the sovereign decision”, representing the concrete rules or statutes of a state: “The norm or rule does not create the order; on the contrary, only on the basis and in the framework of a given

⁵⁴ Schmitt (2005), p. 5

⁵⁵ Davis (2008), p. 79

⁵⁶ Schmitt (2005), p. 17

order does it have a certain regulating function”.⁵⁷ This defence of a decisionistic element of the juridical order is taken in opposition to what we now term ‘popular sovereignty’, represented in Schmitt’s time by the “liberal normativism”⁵⁸ of the Rousseauian and Neo-Kantian schools.⁵⁹ The ‘liberal’ interpretation of sovereignty claims that the state is a reflection of the normative values of the people. Kant for example, defined a state as a “union of human beings under laws of right”. These laws are necessary inasmuch as they articulate the *a priori idea* of the state: “This idea serves as a norm for every actual union into a commonwealth (hence serves as a norm for its internal constitution).”⁶⁰ Schmitt also find this hypothesis in Pindar’s famous equivocation of *Nomos* (νόμος) and *Basileus* (βασιλεύς), “custom, king over all” – *nomos ho pantōn basileus*.⁶¹

Schmitt’s great contribution to the problem of sovereignty – which this thesis contends Sade echoes – is in demonstrating that the authority of sovereign power is not reliant upon any moral or normative considerations, but on the “decision”. Sovereign authority rests upon mere attribution; it is legitimate because the sovereign has the power to *decide* that it is legitimate. As intimated in the conceptual framework,⁶² the “decision” is a “secularised” (*säkularisierte*) theological concept. This ‘miraculous’ capacity lies at the origin of political power, an enigmatic force of law transcending moral judgements. Genesis 1 evidences the decision to create the biblical moral *ordo*, the “good”: “in the beginning, the earth was unformed and void”. The autonomous creativeness of God entails transforming the blank abyss into a significant whole. The first creation is the principle of division and separation, “light”. The ensuing creation days involve the separation of day from night, heaven from earth, woman from man and so on. God names that which is brought forth “good”. As Joseph Baer Soloveitchik explains: “When God engraved and carved out the world, he did not entirely eradicate the chaos and the void, the deep, the darkness, from the domain of His creation. Rather, he separated the complete, perfect existence from the forces of negation,

⁵⁷ C. Schmitt, *On the Three Types of Juristic Thought*, trans. Joseph W. Bendersky, Preeger Publishers, 2004, pp. 48-49

⁵⁸ Schmitt (2005), p. 1

⁵⁹ Another jurist of the Weimar Republic, the Austrian Neo-Kantian Hans Kelsen (1881-1973), for instance, in direct contrast to Schmitt’s separation of the norm and the decision, claims that they are inseparable: the law is ‘moral in nature’, meaning that the law is a ‘norm’: “namely a social norm that men ought to behave in a certain way.” H. Kelsen, *Pure Theory of Law* [1934], trans. Max Knight, The Lawbrook Exchange, 2005, p.65

⁶⁰ I. Kant, *The Metaphysics of Morals* [45]: *Political Writings*, trans. H. S. Reiss, Cambridge, 2000, p. 138

⁶¹ Pindar, [frg. 169], cit., *Early Greek Political Thought*, trans. Michael Gagarin and Paul Woodruff, Cambridge, 2003, p. 40

⁶² See: pp. 8-11

confusion, and turmoil and set up cosmic boundaries, eternal laws to keep them apart.”⁶³ In Schmittian terms, the biblical creation story declares that the “decision” (God’s Word, “and God said”) is prior to any moral considerations (“the good”). Within biblical time, God “carves” the world out of “the deep” *before* the first prohibition forbidding knowledge of good and evil.

Leo Strauss, in his 1932 commentary on Schmitt’s *Concept of the Political* (1927), expounds this theological ‘space’ prior to normative considerations: “the political cannot be evaluated at all, cannot be measured by an ideal; applied to the political, *all* ideals are nothing but ‘abstractions’; *all* ‘normative prescriptions’ nothing but ‘fictions’. For the political is constituted by reference ‘to the real possibility of physical killing’ of men by men; and there is no rational purpose, no norm however correct, no program however exemplary, no social ideal however beautiful, no legitimacy or legality that can justify men’s killing one another for its own sake.”⁶⁴ When sovereign power is allocated to the will of the people – as found for example, in the Romantic conception of sovereignty in Rousseau’s “general will” (*la volonté générale*) of the people defining “the common good” (*le bien commun*)⁶⁵ – the decisionistic aspect of sovereignty is lost. For Schmitt, it is the indivisibility of sovereignty which creates the security and unity of the state.⁶⁶ He writes: “Every general norm demands a normal, everyday frame of life to which it can be factually applied and which is subjected to its regulations... [Yet] for a legal order to make sense, a normal situation must exist, and he is sovereign who definitely decides whether this normal situation actually exists.”⁶⁷

The problem of sovereignty we are dealing with throughout this thesis therefore, concerns the logic and potential limits of contemporary secular sovereignty. The vital question for Schmitt is: to what extent is *the sovereign* bound to law? Key to Schmitt’s answer is that the sovereign is able to demonstrate the full extent of its powers in a “state of emergency” (*Ausnahmezustand*), meaning a situation of “extreme peril” which poses a serious threat to “the existence of the state”.⁶⁸ George Schwab explains that “a state of exception includes any kind of severe economic or political disturbance that requires the application of extraordinary

⁶³ J. B. Soloveitchik, cit., D. Schwartz, *The Philosophy of Rabbi Joseph Soloveitchik*, Vol.1, Leiden: Brill, 2007 p.280

⁶⁴ L. Strauss, *Notes on the Concept of the Political: Carl Schmitt and Leo Strauss*, trans. J. Harvey Lomax, Chicago Press, 1995, p. 103

⁶⁵ J. J. Rousseau, *The Social Contract*, Book II [1], trans. Victor Gourevitch, Cambridge University Press, 1997, p. 57

⁶⁶ Schmitt (2005), p. 49

⁶⁷ *Ibid.*, p. 13 (my addendum)

⁶⁸ *Ibid.*, p. 6

measures... a state of emergency need not have an existing order as a reference point because *necessitas non habet legem*” – necessity has no law.⁶⁹ In this event, the sovereign decides if it is necessary to “suspend” (*suspendieren*) “the law” (*Gesetz, Recht*). When confronted with a “state of emergency” (*Ausnahmezustand*), the rights of the sovereign are extended; the sovereign must go beyond the normative prescriptions of the law.⁷⁰ Indeed, Schmitt argues, to adequately address the hypothetical needs of a given situation, the sovereign is ‘necessarily unlimited’ (*notwendig unbegrenzt*) in its ability to transgress and reaffirm the legal order.⁷¹

In a state of emergency, the sovereign suspends the norm with the intention of re-establishing the juridical order and the norm. The problem of sovereignty is that in this suspension, the sovereign paradoxically exists both inside and outside the juridical order. The form of the exception is thereby the presupposition of the normal sphere: “Inscribed as a presupposed exception in every rule that orders or forbids something (for example, in the rule that forbids homicide) is the pure and unsanctionable figure of the offence that, in the normal case, brings about the rule’s own transgression (in the same example, the killing of a man not as natural violence but as sovereign violence in the state of exception).”⁷² Sovereignty is paradoxical because it entails both the foundation of the legal order and the denial of that order. The sovereign is the one who governs over the exception and is therefore situated both inside and outside the law.⁷³ Schmitt formulates the paradoxical situation of the sovereign, as the transcendent source of law, being ultimately not bound to the law that is ordered. For this reason, sovereignty presents a sphere of indeterminacy, a “borderline idea” (*Grenzbegriff*).⁷⁴

According to Schmitt therefore, it is the state of the exception which legitimises sovereign power. It is precisely the sovereign’s lack of limitation, or, to say this differently, the capacity for the infinite, which constitutes sovereign authority. The sovereign is characterised “positively” as “the one above whom there is no power and who is thus free to decide and, negatively, as the one potentially excepted from every social norm and rule.”⁷⁵ The existence of the sovereign ensures both the law’s subsistence and the capacity to transcend this delimitation – an open contradiction. For Schmitt, sovereignty is necessarily paradoxical. The existence of sovereign power sustains the legal order. Without sovereign authority, the state

⁶⁹ G. Schwab, *The Challenge of the Exception*, Berlin: Dunker und Humblot, 1970, pp. 7, 42

⁷⁰ Schmitt (2005), p. 5 – ‘*Souverän ist, wer über den Ausnahmezustand entscheidet.*’

⁷¹ *Ibid.*, p. 7

⁷² Agamben (1998), p. 21

⁷³ M. Hardt and A. Negri, *Commonwealth*, Harvard University Press, 2009, p. 4

⁷⁴ Schmitt (2005), p. 5

⁷⁵ M. Hardt and A. Negri, *Multitude*, New York: Penguin Press, 2004, pp. 330-331

would cease to exist. In order to uphold the law as such, authority must be situated within a single and indivisible source. Whilst this power is disseminated to a degree within civil institutions (the judge, the police officer, the banker, the educator etc.), this civil authority is only legitimate due to its sublimation under the higher authority of the state. In a state of emergency, when this overarching power is put under significant duress, all authority is relayed to the single sovereign figure. This figure may be one person (as in the days of Kings and Queens), or a group of people (such as a constitutional government). In any case, ‘emergencies’ demand the transcendental capacities of the sovereign power. As the political philosophers Michael Hardt and Antonio Negri write: “...sovereignty does not require that a single individual – an emperor, a Führer, or a Caesar – stand-alone above society and decide, but it does require that some unitary political subject – such as a party, or a nation – fulfil that role.”⁷⁶

Many of the texts written by the Italian political philosopher Giorgio Agamben argue that “the state of the exception” is the “dominant paradigm of government in contemporary politics”.⁷⁷ According to Agamben, in what we might tentatively call our ‘postmodern’ societies, comprising the latter half of the twentieth century until the present day, “there is a continuing trend in Western democracies” to replace the name “suspension of law” with “an unprecedented generalisation of the paradigm of *security* as the normal technique of government”.⁷⁸ This “state of emergency” – often “self-willed” as certain Nazi jurors proclaimed openly (*gewollte Ausnahmezustand*) – is a “technique of government”, appearing “as a threshold of indeterminacy between democracy and absolutism.”⁷⁹ The plainest and most controversial “suspension” of law in recent memory was the USA’s “Military Order of November 13th, 2001”. Here, Agamben claims, appears plainly “the original structure in which law encompasses living beings by means of its own suspension”.⁸⁰ The order states that George W. Bush’s “authority” is “vested in me as President” and “in light of grave acts of terrorism and threats of terrorism” (i.e. the attacks on “September 14th, 2001”), he “proclaimed a national emergency”. With the intention of “protecting the United States and its citizens” Bush “finds” that “it is not practicable to apply in military commissions under this order the principles of law and the rules of evidence generally recognized in the trial of

⁷⁶ Ibid., p. 331

⁷⁷ Ibid., p. 2

⁷⁸ G. Agamben, *State of Exception*, trans. Kevin Attell, The University of Chicago Press, 2005, p. 14

⁷⁹ Ibid., pp. 2-3

⁸⁰ Ibid., p. 3

criminal cases in the United States district courts.”⁸¹ Agamben writes that “What is new about President Bush’s order is that it radically erases any legal status of the individual, thus producing a legally unnameable and unclassifiable being.”⁸² Like “the legal situation of the Jews in the Nazi *Lager*”, in a state of emergency, the sovereign’s exceptional (i.e. *presidential*) status, enables the reduction of life to a sphere of “indeterminacy”.⁸³ The ‘miraculous’ capacities of sovereign authority make it possible to distinguish who leads a politically qualified life and who can justifiably be killed.

However, as Agamben continues, is not that the state of the exception is particularly *exceptional* (that is to say, rare or uncommon) – on the contrary, it is that contemporary sovereign power is itself defined by the rule of the exception. The state of the exception is not a distinct type or kind of law (like the law of the sea); instead, since it is a suspension of the legal order itself, it circumscribes what is inside or outside the law.⁸⁴ Sovereign power is defined by this “limit concept”. Rather than functioning within a normative legal framework, the decisionistic feature of sovereignty involves sovereign power being located in an area of “originary indistinction” between “violence and law”.⁸⁵ Agamben explains: “One of the paradoxes of the state of exception lies in the fact that in the state of exception, it is impossible to distinguish transgression of the law from execution of the law, such that what violates a rule and what conforms to it coincide without any remainder”.⁸⁶ At the moment of transcendence, when law is suspended, the eventual goal is to re-establish and protect the normative order. In this momentary rupture, it is the force of law itself which bursts through the void. The result of this rupture between the sovereign and the juridical norm is force itself – unadorned violence. Agamben notes: “...the state of exception marks a threshold at which logic and praxis blur with each other and a pure violence without *logos* claims to realize an enunciation without any real reference.”⁸⁷

⁸¹ Federation of American Scientists, *G. W. Bush, ‘Military Order of November 13, 2001’*, via <<http://fas.org/irp/offdocs/eo/mo-111301.htm>>, retrieved: 8/2/2016

⁸² Agamben (2005), p. 3

⁸³ *Ibid.*, p. 4

⁸⁴ *Ibid.*, p. 4 (my emphasis)

⁸⁵ Agamben (2005), p. 6

⁸⁶ Agamben (1998), pp. 37-8

⁸⁷ Agamben (2005), p. 40

Summary

The point of this first chapter has been to outline the problem of sovereignty we will be addressing throughout this thesis. Sovereignty is a term used to describe the highest ruling authority of a given population; we refer to the creator and gatekeeper of the law as ‘the sovereign’, with the area governed denoting the domain of their ‘sovereignty’. As drawn by Schmitt, the “law” is composed of two factors: the “decision” and the “norm”. Sovereignty is not determined by moral or normative considerations, but on the capacity to ‘*decide*’: sovereign is he or she who decides on the exception. Sovereignty is thereby contradictory – a “borderline idea” – because it involves both the institution of the juridical order and the denial of that order, a legitimate transgression. This first chapter has shown that the legal order is determined by this ‘miraculous’ ability: the capacity to decide the limits of a juridical framework, circumscribing what is inside or outside the law. Thus in every law lies the presupposed exception, an unsanctionable figure who openly brings about the law’s transgression. The conformation of the law occurs simultaneously with its violation. The sovereign’s exceptional status transforms criminal acts, such as murder, into an act of sovereign violence.

The problem of sovereignty regards the potential limits of the sovereign power. Schmitt asks: to what extent is *the sovereign* bound to law? The answer is that in an “emergency”, when the state is under significant duress, the sovereign is hypothetically boundless in its ability to transgress and reaffirm the juridical order. Emergencies reveal the decision in its purest form. In an emergency, a violence grows without legal reference because “necessity has no law”. And so, the original indistinction between violence and law found in the “decision”, ensures that legitimacy is always grounded in a theological ‘space’ prior to normative considerations. This ‘void’ ultimately represents Schmitt’s process of “secularisation”, the transferral of God – the ‘unchaining of the earth from its axis’⁸⁸ – revealing an abyss, “the deep” with which the law-maker “carves”. It is to Sade’s examination of this abyss and his impossible desire to dwell in it entirely, that we now turn.

⁸⁸ F. Nietzsche, *Gay Science* [Book III, 125], trans. Walter Kaufmann, Vintage, 1974, pp. 181-182

Chapter Two: Transgression and *The 120 Days of Sodom*

Now the inhabitants of Sodom were very wicked sinners against the LORD.

The LORD rained upon Sodom and Gomorrah sulphurous fire from the LORD out of heaven.

And, looking down toward Sodom and Gomorrah and all the lands of the Plain, he saw the smoke rising from the land like the smoke of a furnace

[Genesis 13:13, 19: 24, 28]

Part I: The setting of *The 120 Days of Sodom*

The 120 Days of Sodom, or the School of Libertinism (Les 120 journées de Sodome ou l'école du libertinage) relates the story of a series of “orgies” (*orgies*) conducted over one hundred and twenty days by four “libertines” (*libertins*). The history of the novel – “the most impure tale ever told”⁸⁹ – is as unusual as the text itself. Sade composed the story over a number of years and penned the novel as it stands today in a single month (from the 22nd of October to the 28th of November in 1785) whilst imprisoned at the Bastille in Paris.⁹⁰ Upon the storming of the Bastille in 1789, the unfinished manuscript was stolen and Sade thought it eternally lost. Sade declared that he wept “tears of blood” at the loss of his *magnum opus*.⁹¹ The text was finally rediscovered over a century later by the German sexologist Iwan Bloch, eventually appearing “in three quarto volumes” between 1931 and 1935.⁹²

As a result of this strange history, coupled with the defiant transgressive nature of the text itself, modern scholarship is often characterised by the attempt to envisage Sade in terms of the twentieth century. These scholars claim that Sade was above all else a prophetic writer, signalling future developments in twentieth century Western thought. As outlined in the introduction, these parallels range across the political spectrum.⁹³ Jane Gallop for example, argues that Sade ultimately promoted sexual equality. She states that *The 120 Days of Sodom* is not related to sovereignty, claiming that interpreters relocate sovereignty *into* Sade’s fiction

⁸⁹ Sade (1990), p. 185

⁹⁰ *Ibid.*, p. 184

⁹¹ D. A. F. Sade, *The Complete Justine*, trans. Austryn Wainhouse and Richard Seaver, Grove Press, 1965, p. 144

⁹² Sade (1990), p. 186

⁹³ See: pp. 4-5

as a means of purporting their own theses.⁹⁴ Yet, the completed introduction of *The 120 Days of Sodom* makes clear that Sade's novel is set at a *specific time*, based on *the decline* of a *certain regime*, which promoted a particular *form of sovereignty*. In Sade scholarship, this historical and political rooting is often overlooked or misread.⁹⁵ Therefore, the aim of this first section of the second chapter is to reclaim *The 120 Days of Sodom* for the context that Sade himself prescribed.

Firstly, an outline of the text's overall narrative: *The 120 Days* follows the actions of four sovereign law-makers and their "orgies" at "Silling Castle": "The Duc de Blangis...his brother the Bishop...the celebrated Durcet and the Président de Curval".⁹⁶ Sade states that Curval and Durcet are both financiers in the sovereign courts – the *Chambres des comptes*.⁹⁷ A duke, de Blangis, is described as "colossally wealthy" after obtaining his inheritance from the age of "eighteen".⁹⁸ Whilst the Bishop, similarly rich from the family fortune, "brought about the cruel deaths of the two children whose sizable fortune was left in trust with him".⁹⁹ Sade makes clear that in terms of their philosophical function within the novel, the only difference between the four characters are these material attributes: "Keep in mind *the identical moral traits (En conservant absolument les mêmes traits moraux)*...The same black soul, the same penchant for crime, the same contempt for religion, the same atheism (*Même noirceur dans l'âme, même penchant au crime, même mépris pour la religion, même athéisme*)".¹⁰⁰ The four characters organise for "victims" (*victimes*) to be brought to the castle, they claim absolute sovereignty over these inhabitants. Within the castle, the subjects are always obligated, the sovereigns are always legitimate. They establish a juridical order – "the statutes" (*règlement*) – which order their sexual bacchanals. Sade details the systematic rape, torture and eventual mass murder of the subjects. The novel ends with the sovereigns' agreeing "to give a green ribbon to everyone whom they propose to take back with them to France; the green favour is bestowed, however, upon condition the recipient is willing to lend

⁹⁴ J. Gallop, *Intersections*, University of Nebraska Press, 1981, p. 32

⁹⁵ Stuart Hood argues that *The 120 Days* is set in the Thirty Years War (1616-48) and Angela Carter claims that it is set 'in the seventeenth century'. J. Phillips, *Sade: The Libertine Novels*, Pluto Press, 2001, p. 35. Elsewhere, Gallop considers Sade's *Philosophy in the Bedroom* (1795) in light of the United States during the 1970's. Gallop (2005).

⁹⁶ Sade (1990), p. 191

⁹⁷ *Ibid.*, pp. 207, 256

⁹⁸ *Ibid.*, p. 197

⁹⁹ *Ibid.*, p. 255

¹⁰⁰ *Ibid.*, p. 203 (my emphasis)

Samuel Ernest Harrington
20, 000 [17, 973]

a hand with the destruction of the other victims (*de donner un ruban vert à tout ce qui doit être ramené en France, sous condition de prêter la main aux supplices du reste*).¹⁰¹

The 120 Days of Sodom is set in France during the early-1710's, at the close of King Louis XIV's (1638-1715) reign: "The extensive wars wherewith *Louis XIV* was burdened during his reign,¹⁰² while draining the State's treasury and exhausting the substance of the people, none the less contained the secret that led to the prosperity of a swarm of those bloodsuckers... *The end* of this so very sublime reign was perhaps one of the periods in the history of the French Empire when one saw the emergence of the greatest number of these mysterious fortunes whose origins are as obscure as the lust and debauchery that accompany them. *It was towards the close of this period*, and not long before *the Regent*¹⁰³ sought, by means of the famous tribunal, which goes under the name of the *Chambre de Justice*,¹⁰⁴ to flush this multitude of traffickers, that four of them conceived the idea for the singular revels whereof we are going to give an account."¹⁰⁵ In 1661, Louis took the decision to rule as his own first minister, an absolute sovereign in theory.¹⁰⁶ As the absolute ruler of the French kingdom, "no individual or institution could challenge his supreme power".¹⁰⁷ In his memoirs he declared that his was a line of "hereditary kings who can boast that there isn't either a better house, nor greater power, nor more *absolute authority* than theirs anywhere else in the world."¹⁰⁸

Jean Bodin (1529-1596) had provided the philosophical justification for this "absolute authority" a century earlier with his *Les six livres de la République* (1576). Schmitt asserts that Bodin founded the philosophy of sovereignty for the modern and secular idea of the state.¹⁰⁹ Bodin identified sovereignty, not with divine grace or supernatural intervention, but

¹⁰¹ Sade (1990), p. 670

¹⁰² Louis XIV 'engaged in five declared wars', most notably the Dutch War (1672-78) and the War of the Spanish Succession (1701-14). J. A. Lynn, *The Wars of Louis XIV: 1667-1714*, Longman, 1999, p. 6

¹⁰³ During the minority of Louis XV, Philippe d'Orléans (1674-1723) was the Prince Regent of France from 1715 to 1723. See: J. H. Shennan, *Philippe Duke of Orleans*, Thames & Hudson: London, 1979

¹⁰⁴ The *Chambre de Justice* was a French high-court in operation from the middle-ages until the French Revolution of 1789. A tribunal was established by d'Orléans in 1716, curbing the actions of some members of the aristocracy who had grown rich off the spoils of King Louis XIV's many wars; our four libertines are explicitly archetypal of this scandal. E. Goldner, 'Corruption on Trial: Money, Power, and Punishment in France's Chambre de Justice of 1716', *Varia: Crime, History and Society*, Vol. 17(1), 2013, pp. 5-28. This is corroborated by Sade in *Juliette* (1797-1801); Dorval states that by the end of the rule of Louis XIV, 750 million had been paid in taxes, whilst only 250 million had been spent, thus there were 500 million *livres* unaccounted for. cit., I. Bloch, *Marquis de Sade: His Life and Works*, trans. James Bruce, Fredonia Books, 2002, p. 224

¹⁰⁵ Sade (1990), p. 191 (my emphasis)

¹⁰⁶ J. Swann, *The State and Political Culture: Old Regime France*, ed., William Doyle, Oxford, 2001, pp. 140, 145

¹⁰⁷ J. H. Shennan, *Louis XIV*, Methuen & Co., 1986, p. 5

¹⁰⁸ Louis XIV cit., Shennan (1986), p. 8 (my emphasis)

¹⁰⁹ C. Schmitt, *On Dictatorship*, trans. Michael Hoelzl and Graham Ward, Polity Press, 2004, p. 21

with “power” (*puissance*), defining the sovereign as the one who has the unqualified right to command.¹¹⁰ Emphasising the indivisibility and inalienability of sovereignty, Bodin writes: “...there are none on earth, after God, greater than sovereign princes, which God establishes as His lieutenants to command the rest of mankind (*Puisqu'il n'y a rien plus grand en terre, après Dieu, que les Princes souverains, et qu'ils sont établis de lui comme ses lieutenants, pour commander aux autres hommes*).¹¹¹ For Bodin, sovereignty is defined as “absolute and perpetual” (*absolue et perpétuelle*).¹¹² The sovereign’s “power” (*puissance*) is absolute in that it contains the right to impose laws generally on all subjects regardless of their consent.¹¹³ This absolutism means that the sovereign’s rule is supreme and unconditional: “for it is he who makes law for the subject (*donner loi aux sujets*), abrogates law already made, and amends obsolete law (*casser ou anéantis les lois inutiles, pour en faire d'autres*).”¹¹⁴ The sovereign’s power is perpetual in that only death can take away this authority: “A perpetual authority...must be understood to mean one that lasts for the lifetime of him who exercises it...he does so either by consent or by force and violence (*force et violence*).”¹¹⁵

For Bodin, the encompassing attribute of sovereignty is “the power to make and unmake law” (*La puissance de donner et casser la loi*), “the power to make law binding on all subjects”.¹¹⁶ The law may be established instantly by the sovereign; it draws its force from that which “has the right to bind all the rest.”¹¹⁷ The law is then “promulgated” and “imposed” by the authorities, often “against the wishes of the subject”.¹¹⁸ Any binding restraints placed upon the supreme authority results in contradiction; it implies in some way that the subjects could be considered higher than the sovereign. Correspondingly, the attributes of sovereignty are unique to the sovereign, if any of these attributes were applicable to the subject, they could no longer be called attributes of sovereignty. The vital statement for this thesis is Bodin’s proclamation: “Just as Almighty God (*Dieu*) cannot create (*ne peut faire*) another God equal with Himself (*pareil à lui*), since He is infinite (*entant qu’il est infini*) and two infinities cannot co-exist, so the sovereign prince, who is the image of God (*l’image de Dieu*), cannot

¹¹⁰ J. Bodin, *On Sovereignty: Six Books of the Commonwealth*, trans. M. J. Tooley, Seven Treasures Publication, 2009, p. 25

¹¹¹ *Ibid.*, p. 295

¹¹² *Ibid.*, p. 65

¹¹³ *Ibid.*, p. 68,

¹¹⁴ *Ibid.*, p. 72

¹¹⁵ *Ibid.*,

¹¹⁶ *Ibid.*, p. 82

¹¹⁷ *Ibid.*,

¹¹⁸ *Ibid.*,

make a subject equal with himself (*un sujet égal à lui*) without *self-destruction* (*anéanti*).”¹¹⁹ Bodin concludes that the only limitations that can be placed on the absolute sovereign are the laws of “God” and “Nature” (*la loi naturelle et divine*): “...the sovereign...cannot in any way be subject to the commands of another”.¹²⁰ By “natural law”, Bodin understands the eternal mathematical principles of “natural reason” (*raison naturelle*).¹²¹ By “divine law”, Bodin understands those normative acts which are “directly contrary to the law of God” (*directement contraire à la loi de Dieu*) such as “incest, adultery, parricide” (*incestes, adultères, parricides*) and so on.¹²² We shall see in the next section,¹²³ Sade desires to transgress even these limits, surpassing not only the moral laws of Christianity, but also, and impossibly, concrete physical law.

William Church explains that the French monarchy recognised the value of *Les six livres de la République* at once, Bodin was cited as a leading authority in seventeenth century France: “Bodin's conception of sovereignty had attributed to the ruler the combined authorities to make new law and to enforce its execution...when royal authority of that type was given a basis in divine authorization, the resulting idealization of the monarch's rule caused thinkers increasingly to regard the law made by the king as the earthly manifestation of God's will”.¹²⁴ Bodin's philosophy was used to force independent communities under “the domination of an absolute sovereign whose word was to be law”; Louis XIV would express this power in a few words: “*l'Etat! c'est moi*”.¹²⁵ The “manipulation” of Bodin's theories was to “a large extent responsible” for “the despotic absolutism” of seventeenth century France.¹²⁶ Indeed, as the French economist Henri Baudrillart wrote in 1853 on exactly this point: “Bodin is the philosopher of party politics, his book, considered from this point of view, is national politics scaled down and framed into a formal system (*Bodin est le philosophe du parti politique, son livre, considéré à ce point de vue, n'est que la politique nationale réduite en corps et formulée en système*).”¹²⁷

¹¹⁹ Bodin (2009), p. 81

¹²⁰ Ibid., pp. 68-9

¹²¹ Ibid., p. 68

¹²² Ibid., pp. 48-65

¹²³ See: p. 34

¹²⁴ W. F. Church, *Constitutional Thought in Sixteenth Century France*, Octagon, 1969, pp. 212, 252

¹²⁵ J. Scott, *Law the State, and the International Community: Volume One*, Columbia, 1939, p. 325

¹²⁶ S. Beaulac, ‘The Social Power of Bodin's ‘Sovereignty’ and International Law’, *Melbourne Journal of International Law*, Vol. 4(1), 2003, pp. 1-28, pp. 23-24

¹²⁷ J. Baudrillart, *Jean Bodin et son temps* [1853], Burt Franklin: New York, 1969, p. 76 (author's own translation)

Sade was aware of the inherent crisis experienced within late-eighteenth century French aristocracy. His *Aline et Valcour* (1795), written around the same time as *The 120 Days* in the 1780's, prophesied of the coming revolution and the death of the old regime: "O Sainville, a great revolution is brewing in your country: the crimes of your *sovereigns*, their cruel exactions, their debauchery and ineptitude have left France; she is beyond despotism, she is on the verge of breaking her shackles (*O Sainville, une grande révolution se prépare dans ta patrie; les crimes de vos souverains, leurs cruelles exactions, leurs débauches et leur ineptie ont lassé la France; elle est excédée du despotisme, elle est à la veille d'en briser les fers*)."¹²⁸ With the death of Louis XIV in 1715, the French aristocracy and the justification for absolute sovereignty were drastically altered – a new rhetoric emerged from the *ancien régime*. As Sade references on the opening page of *The 120 Days*,¹²⁹ a new *Chambre de Justice* was commissioned in 1716 by the Regent Philippe d'Orléans, which aimed to "punish wrongdoings in the King's finances".¹³⁰ Marc-René de Voyer de Paulmy d'Argenson (1694-1757), *le secrétaire d'État des Affaires étrangères* for Louis XV, provided a more utilitarian justification for royal power. Here, royal authority is not simply imposed, it is a "centre for reform": "The king's authority would be insufficient to repress all the abuses...caused by the malice of men and the exigencies of the times, if, limiting itself to the maintenance of old laws, it could not establish new ones."¹³¹

Louis XIV became a common *topos* for the late-eighteenth century French writer, such as Sade, as well as those heralding the "massive rejection" of all that "absolute monarchy stood for".¹³² Of the same generation as Sade, Joseph Lavallée's (1747-1816) *Tableau philosophique du règne de Louis XIV, ou Louis jugé par un français libre* (1791), declared: "Louis XIV...was born to the throne...from ferocious tyrants and barbarians! (*Louis XIV...Il naquit pour le trône...des tirans féroces et barbares!*)"¹³³ Similarly, Voltaire's (1694-1778) *Dictionnaire philosophique* (1764), a 'bestseller' throughout France's revolutionary period,¹³⁴ refers to the *chambres* when speaking of the 'bankrupts' (*banqueroutiers*) which plagued 'the last years of Louis XIV's reign' (*la dernière année du règne de Louis XIV*): "...the fear of interrupting all commerce, obliged the government in 1715, 1716 [the *chambre* Sade also

¹²⁸ D. A. F. Sade, *Aline et Valcour*, Le Livre de Poche, 1976, p. 206 (author's own translation, my emphasis)

¹²⁹ Sade (1990), p. 191

¹³⁰ Goldner (2013), p. 6

¹³¹ R. L. de Voyer d'Argenson, cit., F. L. Ford, *Robe and Sword*, Harvard, 1953, p. 230

¹³² W. F. Church, *Louis XIV in Historical Thought*, Norton: New York, 1976, p. 21

¹³³ J. Lavallée, *Tableau Philosophique du Regne de Louis XIV*, Strasbourg, 1791, pp. 2-3 (author's own translation)

¹³⁴ P. Gay, *Voltaire's Philosophical Dictionary in Two Volumes*, Vol. 1., Basic Books: New York, 1962, p. 30

refers to], 1718, 1722 and 1726 to suspend all proceedings against all those who were in a state of insolvency (*la crainte de l'interruption de tout commerce, obligèrent le gouvernement, en 1715, 1716, 1718, 1721, 1722 et 1726, à faire suspendre toutes les procédures contre tous ceux qui étaient dans le cas de la faillite*).¹³⁵

In short, the 1710's were an important time for late-eighteenth century France, signalling the swansong of Louis XIV's despotic absolutism. This absolute monarchy was frequently attacked by the French revolutionaries. We shall see in the next section, the relation of *The 120 Days* to the reign of Louis XIV is more complex than Sade's revolutionary colleagues. His four principle characters (a bishop, a duke, a financier and a magistrate) are explicitly archetypal of those who benefited from Louis XIV's regime, representing "the four social groups responsible for maintaining law and order in France and, at least symbolically, for keeping Sade in jail."¹³⁶ Silling Castle is the set where Sade's four characters, having grown rich from Louis XIV's many wars, become 'God-like' law-makers. In this fictive space, they are absolute sovereigns, exercising unlimited power and right. We are told that they are yet to suffer any ramifications, but the *chambre de justice* of 1716 awaits, ruining financiers "whose fortunes had seemed secure only a few months before."¹³⁷ Sade establishes his story as the allegorical death-throes of the principle of absolute sovereignty. Sade's four sovereigns, keen to enjoy their last grasp at complete freedom, organise a series of debauched bacchanals before the *chambre* "flushes out this multitude of traffickers" (*de faire rendre gorge à cette multitude de traitants*).¹³⁸

¹³⁵ Voltaire, *Philosophical Dictionary*, trans. H. I. Woolf, Knopf: New York, 1924, p. 21 (my addendum and emphasis)

¹³⁶ F. du Plessix Gray, *At Home with the Marquis de Sade: A Life*, Simon & Schuster, 1998, pp.264-5

¹³⁷ R. Bonney, *Absolutism: The Limits of Absolutism in ancien régime France*, Variorum, 1995, p. 109

¹³⁸ Sade (1990), p. 191

Part Two: Sade's Law: the destructive principle revealed

This section of the paper will unveil Sade's law as established in the first "part" (*partie*) of the novel. Firstly, we will be discussing the nature of Sade's law – the "statutes" (*règlement*). As explained in the introduction to this thesis,¹³⁹ the argument is that Sade's destructive logic is established by these laws in the novel's first "part", and is then allowed to accelerate and disentangle in the final (unfinished) sections of the work. This will lead us to our second task, the possibility of infinite transgression. The sovereigns articulate a desire in constant frustration, destroying restrictions only to find a further impediment. As we have seen, Bodin states that the only restrictions to sovereign power are God and Nature; Sade seeks to transgress even these boundaries. We shall see that the establishment of the "statutes" (*règlement*), whilst initially requiring solidarity from the sovereign's, ultimately unravels and is destroyed. In the end, each aspect of life at Silling Castle is highly controlled and maintained, leading to an ultimate abandonment as the text escalates. In Sade's fictive world, we shall see that sovereign authority – unlike Bodin's – is *categorically* perpetual and absolute. The totality of this authority, precisely because of its monstrous claim for universality, must be continually justified. The method of justification is formed from the suspension and transgression of law. The making of law, the transgressing and re-affirming of the juridical order, is the mark of sovereign power. Hence why it is the statutes themselves which create the crimes. This cyclical and destructive logic unfurls and stutters to a close in the novel's later sections, and we are left with lists of the dead.

The Statutes (*règlement*)

The 'statutes' (*règlement*) refer to a system of law maintained by the sovereigns at Silling Castle. The authority of this law is sourced in the transgressive "decision" as articulated by Schmitt in the preceding chapter. Like Schmitt, Sade saw sovereign law in terms of the "decision" rather than any moral or normative values. That is to say, prior to taking into account specific transgressive acts of an ostensibly 'moral' (i.e. Christian) nature, such as incest or "sodomy" (both of which Sade was particularly fond of describing as a pleasure sourced in "evil" [*le mal*]), we are dealing with the transgressive "decision" inscribed within the law itself. As we saw in the last chapter,¹⁴⁰ central to Schmitt's understanding of sovereign power is that "normative prescriptions" can only emerge as a result of the

¹³⁹ See: pp. 12-13

¹⁴⁰ See: pp. 14-16

“decision” (*Entscheidung*).¹⁴¹ Thus in Sade’s novel, the normative prescriptions of the law can only be formed *after* the sovereigns have “decided” to make themselves “exceptional”. It is this “exceptional” status which institutes and validates their juridical order.¹⁴²

Sade writes at the beginning of the work that the four sovereigns “decide” (*décida*) to form a “society” (*société*).¹⁴³ This society is absolutely isolated from any other legislation: Silling is governed by its own internal law, allowing for no outside influence whatsoever, the walls are gated shut and the inhabitants are entirely enclosed within the *château*. Sade writes that: “...they barricaded themselves to such an extent there was no longer any trace left of where the exits had been.”¹⁴⁴ The inhabitants of the castle are subdivided, each “class” (*classe*)¹⁴⁵ is accorded a sexual function. As David Martyn writes, this organisation is characterised by a “numeric quality”: “...the orgies at Silling can be reduced to a number of geometrical constellations among the novel’s symmetrically arranged cast of characters.”¹⁴⁶ Sade is absolutely adverse to odd and prime numbers; the division and separation of life at Silling necessitates further control, hence the subdivisions into two, four, six and eight: a “harem” (*sérial*) of eight “young girls” (*jeunes filles*), a “harem” of eight “young boys” (*jeunes garçons*), eight male “fuckers” (*fouteurs*) aged between twenty and thirty years old, four “story-tellers” (*historiennes*) who inflame the sovereigns senses with descriptions of “every one of debauchery’s extravagances”,¹⁴⁷ four “wives” (*femmes*) and, finally, the four sovereign husbands.

¹⁴¹ Schmitt (2005), p. 6

¹⁴² Agamben (1998) p. 16

¹⁴³ Sade (1990), p. 235

¹⁴⁴ *Ibid.*, p. 240

¹⁴⁵ *Ibid.*, p. 231

¹⁴⁶ D. Martyn, *Sublime Failures: The Ethics of Kant and Sade*, Wayne State University Press, 2003, p. 72

¹⁴⁷ According to the German psychoanalyst Erich Fromm, “the core of sadism, common to all its manifestations, is the passion to have absolute unrestricted control over a living being...[Sadism] is the transformation of impotence into the experience of omnipotence.” E. Fromm, *The Anatomy of Human Destructiveness*, Holt, Rinehart and Winston, 1973, pp. 288-296. We know from his letters that Sade was “semi-impotent”, incapable of ejaculation without great pain, probably the result of a venereal disease. du Plessix Gray (1998), pp. 236-238. This may explain not only the vigour with which he went about composing his masturbatory fantasies, but also the “anal” (cit., Fromm) listing of every aspect of his life behind bars, both in his writings and personal life. Biographically, we know that Sade developed something like an obsession with number (a mania, Fromm notes, common to both Himmler and Stalin). He counted every aspect of his life in prison: how many times he masturbated and in what ways, the amount of words and lines in letters, and so on. Similarly, at the ‘Spanish fly’ orgy, we know that Sade made notches in the bedposts counting how many times he and Latour had been flogged. At times, Sade called Latour the “Marquis” and referred to himself as the valet, a geometric reversal common to the orgies of *The 120 Days*. Extending the numerical quality in Sade’s novel, every single day of *The 120*, the “story-tellers” (*historiennes*) narrate a story and then the sovereigns imitate the acts they have heard, like clockwork. These taboos, termed “passions” (*passions*) in the text, are progressively intensified and combined, proceeding from the “weaker” to the “stronger”, and ultimately climaxing with a description of “hell” (*l’enfer*). Sade (1990), pp. 218, 665.

Silling Castle is a radical imagining of an internal police state. Foucault describes that the police state “entails precisely an objective or set of objectives that could be described as unlimited. Since for those who govern in the police state it is not only a matter of taking into account and taking charge of the activity of groups and orders, but also of taking charge of activity at the most detailed individual level.”¹⁴⁸ Indeed, the protection given to the sovereigns is completely fantastical, as if Sade were systematically eliminating any attempt by the reader to picture loopholes or viable escapes; within the castle walls, there are no delimitations to Sade’s sovereign authority. Silling Castle is built on “impossible” (*impossible*) foundations, a claim reiterated continually in the descriptions: “...a mountain almost as high as the Saint-Bernard and infinitely more difficult to ascend (*on commençait à escalader une montagne presque aussi haute que le mont Saint-Bernard et d’un abord infiniment plus difficile*)...so insurmountable that none but birds might overcome it (*tellement insurmontable qu’il n’y avait plus que les oiseaux qui pussent la franchir*)...after having climbed up the mountain, it is impossible, without great skill to go back down it (*après avoir grimpé la montagne, il devient impossible de la redescendre*).”¹⁴⁹ The Duc “concludes” that “one would have to have wings or the devil’s powers to get out or in”.¹⁵⁰ As the German-language novelist and playwright Elias Canetti observes in his work on mass psychology, *Crowds and Power* (1960), in this context, the “ruler” is analogous to the “paranoiac”: “...by the very nature of power...a sense of personal place or position is of cardinal importance...surrounding himself with soldiers and shutting himself in fortresses.”¹⁵¹

According to Schmitt, with the “decision” to form a juridical order made, we can establish normative principles by examining the implied values of its law. Schmitt writes: “The ultimate juristic foundation of all legal validity and values [is] an act of will...a decision, which, as decision, actually creates ‘law’ (*Recht*)...that is, all ensuing norms and orders.”¹⁵² In concrete terms, once the cast of characters is assembled and the echelons of the “society” established, the four sovereigns of *The 120 Days* proclaim a “code of law” (*un code de lois*). These binding “articles of government” are in operation for the entirety of the one hundred and twenty days. Sade writes that “...the four friends laboured over a code of laws which, as soon as it was brought to perfection and signed, was promulgated to those concerned (*les*

¹⁴⁸ M. Foucault, *The Birth of Biopolitics*, trans. Michel Senellart and Graham Burchell, Palgrave Macmillan, 2008, p. 7

¹⁴⁹ Sade (1990), p. 236

¹⁵⁰ *Ibid.*, p. 149

¹⁵¹ E. Canetti, *Crowds and Power*, trans. Carol Stewart, New York: Continuum, 1973, p. 436

¹⁵² Schmitt (2004), pp. 59-60

quatre amis travaillèrent à un code de lois, qui fut signé des chefs et promulgué aux sujets sitôt qu'on l'eût rédigé."¹⁵³ At Silling, it is the sovereigns who "form the light and create darkness" [Isaiah 45:7], on their "decision" is the normal juridical order formed. I will now describe and term three kinds of law here given.

Firstly: 'Obligations'. These "statutes" inform the reader as to *when* something must happen, providing a sort of schedule. Obligations relate to the organisation of "victims" internally within the castle. They are specific to their distribution – "the administration of bodies"¹⁵⁴ as Foucault labels it – describing exactly when, how and to what extent the citizens of Silling will be manipulated. For example, it is scheduled that "punctually at six o'clock" every evening, the particular "storyteller" arranged for that day "shall begin her story", the four sovereigns "may interrupt at any point and as frequently as they please".¹⁵⁵ As Agamben notes, the "organisation of life" at Silling Castle has a "totalitarian character", Sade does "not spare" descriptions of "any aspect of physiological life (not even the digestive function, which is obsessively codified and publicised)."¹⁵⁶ The sovereigns determine the victims' consumption and excretions, no aspect of life at Silling, physiological, psychological or otherwise, exceeds their control. Indeed, in the entirety of the time that the sovereigns are awake – from arising at "ten o'clock in the morning"¹⁵⁷ until "two in the morning" when the "orgies cease"¹⁵⁸ – every bodily performance is rigorously accounted for.

New obligations can be and are introduced at any point during the proceedings. The sovereigns hold the right to perform secular "miracles", suspending and reaffirming the juridical order. Many of the new laws concern the digestive function. The sovereigns find pleasure in the consumption and sanctification of waste. The "private and common privies" are blasphemously "established in the chapel", for example, to be emptied only by "the four wives".¹⁵⁹ Overarchingly, these 'obligations' legislate for absolute submission on the parts of the subjects. The sovereigns declare: "Should any subject in some way refuse anything demanded of him, even when incapacitated or when that thing is impossible, he shall be punished with the utmost severity; 'tis for him to provide, for him to discover ways and means' (*Tout sujet qui fera quelque refus de choses qui lui seront demandées, même en étant*

¹⁵³ Sade (1990), p. 241

¹⁵⁴ M. Foucault, *The History of Sexuality: Volume One*, trans. Robert Hurley, Penguin, 1978, p. 138

¹⁵⁵ Sade (1990), p. 246

¹⁵⁶ Agamben (1998), p. 135

¹⁵⁷ Sade (1990), p. 241

¹⁵⁸ *Ibid.*, p. 247

¹⁵⁹ *Ibid.*, p. 249

dans l'impossibilité, sera très sévèrement puni: c'était à lui de prévoir et de prendre ses précautions)."¹⁶⁰

'Prohibitions' are our second kind of law. Some of the prohibitive laws forbid certain actions as such, applying to every rank of the "society", whilst others apply only to the subjects. The penalty for transgressing these laws for the "victims" (i.e. non-sovereigns) is punishable by death and torture. With regards punishment to "the story-tellers" (*historiennes*), it shall be "one-half that of the children" and "the wives" shall "always be rewarded by punishment double that given the children".¹⁶¹ The penalty attached to those few prohibitions which apply to the sovereigns is a fine of "ten thousand francs" (*dix mille francs*).¹⁶² For instance, the subjects are forbidden from engaging in unplanned sexual activity: "Any man taken *flagrante delicto* with a woman shall be punished by the loss of a limb when authorisation to enjoy this woman has not hitherto been granted him (*Tout homme pris en flagrant délit avec une femme sera puni de la perte d'un membre, quand il n'aura pas reçu l'autorisation de jouir de cette femme*)."¹⁶³ Much of what is prohibited to all parties is religious faith. It is decreed that any "religious act on the part of the subjects" (*acte de religion de la part d'un des sujets*), sovereigns included, however "slight" (*plus petit*), will "be punished" (*sera puni*).¹⁶⁴ Correspondingly, "the name of God" (*Le nom de Dieu*) shall not be "uttered save when accompanied by invectives or imprecations" (*n'y sera jamais prononcé qu'accompagné d'invectives ou d'imprécations*).¹⁶⁵

Thirdly and most interestingly for our purposes therefore, is the ritualistic breaking of this order – what we will hereafter term 'transgressions'. These statutes prohibit certain actions until a certain date. The 'transgressions' ensure that the libertines will not do "certain things" before "the appointed time".¹⁶⁶ Paradoxically, this article of government determines what is initially illegal or taboo (implying the sovereigns transgressive "decision") and then it seeks to overcome this restriction. The transgression is inscribed within the law itself, self-reflexively concerning taboo and the authority to break the taboo. For example, there is a "schedule" established for the "deflorations".¹⁶⁷ Sade's sovereigns announce: "...it has been

¹⁶⁰ Ibid., p. 248

¹⁶¹ Ibid., p. 247

¹⁶² Ibid., p. 248

¹⁶³ Ibid.,

¹⁶⁴ Ibid.,

¹⁶⁵ Ibid.,

¹⁶⁶ Ibid., p. 452

¹⁶⁷ Ibid., p. 247

decided and planned that the eight maidenheads of the little girls' cunts shall remain intact until the month of December, and their asses shall likewise remain in bond, as shall the asses of the eight little boys, until the month of January (*il est décidé et arrangé que les huit pucelages des cons des jeunes filles ne seront enlevés que dans le mois de décembre, et ceux de leurs culs, ainsi que deux des culs des huit jeunes garçons, ne le seront que dans le cours de janvier*).¹⁶⁸ Relatedly, the sovereigns are not allowed to have themselves “fucked” (*foutre*) until a certain point.¹⁶⁹ These restrictions are only “forbidden” “until the moment” they are “embedded in the story”.¹⁷⁰ In a deliberately mathematical and power-driven approach to political relations, the sovereigns ascend in stature as the victims are degraded. Once a child is “initiated”, “it shall be available for every enjoyment, in all manners and all times (*on pourra jouir de lui, quand et de quelle manière que l'on le voudra*).”¹⁷¹ Robbed of any legal identity, to be used wholly at the whims of the ruling power, the sovereigns declare to the victims at Silling: “You are already dead to the world” (*Déjà mortes au monde*).¹⁷²

The claim here is that the third type of statute is the *norm* of Sade's law. ‘Transgressions’ are the moral trajectory of the novel because this destructive logic is mirrored in the work's extra-textual qualities which we outlined in the introduction.¹⁷³ To be clear: all three types of law are ultimately grounded in the sovereign “decision” made prior to the “orgies”. The *morale* which we are uncovering in Sade's law then, only occurs as a result of the sovereigns decision to form their isolated “society”. Sade explicitly states in his notes, this organisation is formed on the strength of “moral diatribe”. This *morale* is implied in the construction of the law. Therefore, there is a double transgressive movement in the third category. The statutes order the bacchanals, certainly, but also and more importantly for Sade's philosophy, they dialectically provide the possibility of transgressing limits, engendering further pleasure through a further demonstration of power. In the course of the novel, these limitations are systematically destroyed. Sade is certain, “the value” is “set upon despotism”.¹⁷⁴ This norm lurking within Sade's law, is only a parody of normativity; this is a norm that contains and entails its own destruction – *a norm founded on crime* – like an ouroboros. Right from the off, Sade is embroiled in the key thematic of his law: infinitude and impossibility. At their

¹⁶⁸ Ibid., p. 241

¹⁶⁹ Ibid., p. 452

¹⁷⁰ Ibid., p. 452

¹⁷¹ Ibid., p. 247

¹⁷² Ibid., p. 251

¹⁷³ See: pp. 12-13

¹⁷⁴ Sade (1990), p. 192

most extreme, the sovereigns possess infinite power, they crave impossible desires, housed in impossible conditions, where every whim, every decision, can be made regardless of the consent of those who are affected *by* those decisions.

Infinite Transgression

In this section of the thesis, we are discussing the possibility of infinite transgression as proposed by the moral trajectory of Sade's novel. The term 'possibility' is key due to an immediate and recurrent problem in *The 120 Days*. Despite our claim for impossibility, some scholars, like Jane Gallop have argued that the four sovereigns do not purport this negative logic.¹⁷⁵ As described, there are *four* sovereigns, not *one*, suggesting camaraderie. These four sovereigns preside over an entire society, formed from different ranks of power. The sustainment of that power clearly requires an agreement between the four sovereigns, otherwise their sovereignty would collapse. In other words, does the ordering of the statutes themselves prove the existence of fraternity and friendship within Sade's fiction, thereby undermining our claim for limitless sovereignty? In the following pages of the thesis, we will argue against this position; Sade creates a figure under no restraints at all. Sade's sovereignty concept does indeed ultimately collapse, constructing an immaculate project of self-destruction.

In his reading of sovereignty, Bodin is keen to stress the imprescriptibility of both divine and natural law, whilst Sade's main objective is to "outrage the laws of both Nature and religion."¹⁷⁶ It is the very impossibility of these desires which drives the sovereigns. Upon not being satisfied by a particular victim he had taken, the Duc says warily to the other sovereigns, "You know to what we are led by a thwarted desire"¹⁷⁷ They seek to continually attain what Schmitt entitles the "miracle" (*Wunder*) moment. In their desire to overcome divine restrictions, the sovereigns are "analogous to the omnipotent God".¹⁷⁸ Within this fictive space, Sade challenges the moral laws of Christianity as well as the physical laws of nature: his victims die impossibly long deaths, his sovereigns aspire to burn the world, to "dismember Nature and unhinge the universe".¹⁷⁹ A philosophy of ruin and cataclysm, Sade's notes demonstrate that he is often unclear whether some characters are even alive at certain

¹⁷⁵ See: Gallop (1981)

¹⁷⁶ Sade (1990), p. 219

¹⁷⁷ Ibid., p. 272

¹⁷⁸ Schmitt (2005), p. 36

¹⁷⁹ Sade (1990), p. 363

points in the narrative.¹⁸⁰ “Most infatuated with evil”, Sade’s severe atheism ensures that all things are permissible; he takes great pleasure in describing the violation of Christian taboos.¹⁸¹ As Kierkegaard states in *The Sickness Unto Death* (1849), the highest form of sin is the positive kind, declaring Christianity to be a lie implies the rejection of sin entirely.¹⁸² In Sade’s hands, the name of God becomes just another means of producing pleasure. The subjects are to have “no religion save that of blindly serving and obeying”.¹⁸³

Therefore, any agreement between the four sovereigns is temporary. Whilst it is true the sovereigns are obliged to follow the “statutes” initially, this commitment is rescinded by the end of the novel. In the final pages, the sovereigns, with a depleted stock of subjects, turn the upstairs chambers into a prison and destroy the last of the victims. The narrative stops abruptly with lists of the dead. The reader is asked to fill in the lost details: “With what regards the tortures and deaths of the last twenty subjects, and life such as it was in the household until the day of departure, you will give details (*A l’égard et des supplices des vingt derniers sujets et de la vie qu’on mène jusqu’au départ, vous le détaillerez à votre aise*)...sprinkle in whatever tortures you like (*les supplices à votre choix*).”¹⁸⁴ In the end, the sovereigns break their statutes and destroy the last of the subjects. Hegel teaches us that “self-consciousness” (*Selbstbewußtsein*) cannot exist without being “acknowledged” (*Anerkanntes*).¹⁸⁵ Thus with no one left to subject, they are no longer sovereign. In his influential reading of Hegel, Alexandre Kojève writes that a dead human cannot acknowledge the triumph of the subjugator: “For the dead man is no longer anything more than an unconscious thing, from which the living man turns away in indifference, since he can no longer expect anything from it for himself.”¹⁸⁶ The sovereigns conclude their orgies, attempting the highest crime, the destruction of their own sovereignty. This brings the novel to a close and ends the juridical order. As Bodin states, only “self-destruction” (*anéantie*) ensures “the image of God” (*l’image de Dieu*) becomes “equal” (*égal*) to the “subjects” (*sujet*).¹⁸⁷

¹⁸⁰ Ibid., p. 627

¹⁸¹ Ibid., p. 570

¹⁸² S. Kierkegaard, *The Sickness Unto Death*, trans. Edna H. Hong & Howard V. Hong, Princeton University Press, 1941, p. 146

¹⁸³ Sade (1990), p. 405

¹⁸⁴ Ibid., p. 452

¹⁸⁵ Hegel (1977), p. 111

¹⁸⁶ A. Kojève, *Introduction to the Reading of Hegel*, trans. James H. Nichols Jr., Cornell University Press, 1980, p. 14

¹⁸⁷ Bodin (2009), p. 81

Thus, there may *be* an agreement, but it is not friendship: it is the obligation to be a sovereign. The statutes order the sovereigns domination of the victims; this initial agreement legislates their laws. Yet as Foucault also notes, when Sade's characters are forced to accept order – figured in the text by “*the statutes*” – this is only an exercise in carrying sovereignty to a point where it is naught but “unique” and “naked”: “...an unlimited right of all-powerful monstrosity.”¹⁸⁸ At the end of the book, the highest crime is attempted – the denial of sovereignty – the overturning of that contract. This process of self-destruction is the ultimate pleasure for the sovereigns; the definitive negation is their own sovereignty. For this is precisely why Bataille writes: “Denying others becomes in the end denying oneself.”¹⁸⁹ The project of absolute sovereignty is ultimately self-destructive because it seeks to negate life itself. Hence the intensification and eventual disintegration of the novel. In the final “parts”, the tortures become more intense and the descriptions more barren. Gone are the lengthy narrative diatribes and in their place, recurring geometrical depictions of the victims' death and mutilation. The concluding “passion” (*passion*), related by the “story-tellers” (*historiennes*), is a vision “of hell” (*de l'enfer*).¹⁹⁰ The figure Sade presents seemingly endless attempts to sustain the “miracle” moment and become absolutely limitless: “He bleeds both of her arms and would have her remain standing while her blood flows; now and again he stops the bleeding and flogs her, then he opens the wounds again, and this continues until she collapses. He only discharges when she faints (*Il la saigne des deux bras, et veut qu'elle soit debout quand le sang coule; de temps à autre, il arrête le sang pour la fouetter; ensuite il rouvre les plaies, et le tout jusqu'à l'évanouissement. Il ne décharge que quand elle tombe*).”¹⁹¹

The figure Sade entertains the possibility of an ultimate crime, producing the ultimate pleasure. Like Schmitt, Sade saw political power in the desire for the infinite. The sovereigns dream of the impossible – the destruction of existence as such: “...*my imagination has always outdistanced my faculties (j'avoue que mon imagination a toujours été sur cela au-delà de mes moyens)*...Ah how many times, by God, have I not longed to be able to assail the sun (*attaquer le soleil*), snatch it out of the universe, make a general darkness, or use that star to burn the world (*embraser le monde*).”¹⁹² At its most extreme therefore, this philosophy denies life as such – a task only possible in art. As Bataille writes on this development of

¹⁸⁸ Foucault (1978), p. 149

¹⁸⁹ Bataille (1962), p. 176

¹⁹⁰ Sade (1990), p. 665

¹⁹¹ *Ibid.*, p. 617

¹⁹² *Ibid.*, p. 364

Samuel Ernest Harrington
20, 000 [17, 973]

impossibility: "...an attitude of utter irresponsibility [that] ends with...stringent self-control...the peak that sovereignty can attain."¹⁹³ An entirely ruinous approach to philosophy, Sade reveals the "infinite possibilities of literature", constructing a figure subject to no restraints of any kind.¹⁹⁴

¹⁹³ Bataille (1962), p. 175

¹⁹⁴ Ibid., pp. 166-7

Summary

This second chapter of the thesis has argued that Sade's conception of transgression in *The 120 Days of Sodom* extends the principle of absolute sovereignty to its unlimited ends. As we saw in the first section, Sade situates his novel in the 1710's at the decline of King Louis XIV's reign. This rule was dominated by the philosophy of Jean Bodin, whose principle of "absolute sovereignty" was used to legitimise the despotism of the seventeenth century French aristocracy. In late eighteenth century France, critiques of this absolute monarchy were commonplace. Bodin argued that sovereignty is perpetual and absolute. The attributes of sovereignty are inalienable and unique to the sovereign. The encompassing quality of absolute sovereignty is the power to make and unmake laws, regardless of consent from the subjects. Thus, the absolute sovereign is a figure outside the law, who determines the law, but is not bound by any of its dictums. As Schmitt writes, it the rule of the "exception" that is the true mark of sovereign power.

In the second section, we examined the notion of transgressive law in Sade's novel. As we saw, it is the statutes which provide the impetus behind Sade's transgressions; their unravelling constructs the novel's entire narrative development. The statutes provide a medium for the domination of the subjects by the sovereigns. This association consolidates their sovereign power. However, the agreement is negated – like all else – at the end. This is because of the basic dictum of the figure Sade: to commit the ultimate crime for the ultimate pleasure. This contract represents the sovereigns' obligation to sovereignty, used to mediate the suppression of the subjects and offer the possibility of an ultimate crime. For whilst the statutes establish ordered limitations, the figure Sade presented in his fiction, sees an opportunity to *destroy* a further restriction.

Conclusion

See, then, that I, I am He

There is no God beside Me

I deal death and give life

I wound and I will heal: from My hand none can deliver

Lo, I raise My hand to heaven

And say: 'As I Live forever'

[Deuteronomy 32: 39-40]

In the first chapter we introduced the paradox of sovereign power as described by Carl Schmitt. Following Schmitt, we have seen that sovereignty, a “secularised” (*säkularisierte*) theological concept, is determined by being the exception to the rule. Sovereign is he or she who retains the capacity to transgress and reaffirm the legal order. With the aim of sustaining the legal order as a whole, the sovereign can do what the subjects cannot. This is not necessarily an exceptional occurrence, we regularly permit the state to kill on our behalf, for example. Yet in an “emergency”, when the security of the state is severely threatened, the sovereign’s rights are similarly extended *ad infinitum*. The problem of sovereignty is that in this transgression, the sovereign exists both inside and outside the law. The sovereign is the law-maker, determining juridical limits, but is ultimately not bound to the law that is ordered.

In ‘theological’ societies, the “miracle” (*Wunder*) of going beyond the legal order was considered a gift from the divine. Ancient political leaders were regarded as demigods, their absolute authority was a sacred force never to be doubted. In a theological context, the law and its authority emerge concomitantly; there is no separation between the norm and the exceptional law-maker, because “what the prince wills has the force of law” (*quod principi placet vigorem legis habet*).¹⁹⁵ In a modern and secular context, however, the paradox of sovereign power emerges as a problem. Driven by fear for the security of the state, a rupture emerges between the sovereign and the juridical norm. Schmitt states that in the state of the exception, the sovereign’s capacity to suspend law is “necessarily unlimited” (*notwendig unbegrenzt*). In “emergencies”, a violence grows without reference point because “necessity

¹⁹⁵ Augustinus Triumphus (1963), p. 154

has no law” (*necessitas non habet legem*). Thus, God’s vacated space ensures that at the heart of modern sovereign power, lies an originary indistinction between violence and law. This is not a violence of passion, but cold bureaucratic ‘need’.

In the first section of the second chapter, we provided a short history of *The 120 Days of Sodom* and its scholarship, leading to an exegesis of the novel’s setting. In the second section, we were concerned with the presentation of absolute sovereignty offered in *The 120 Days*. We analysed the implied *morale* proposed by Sade’s law. Working from the conceptual framework informed by Schmitt from the preceding chapter, this second section made evident the centrality of law in Sade’s fictive universe. The narrative of *The 120 Days* is defined by the establishment of a juridical order, the libertines “decide” (*décident*) to form a “society” (*société*). These laws (*lois*) – named “Statutes” (*règlement*) in the text – establish a destructive and negative logic which we unpicked. It was argued that Sade’s law seeks after nothing save its own destruction, an impossible task. We saw that Sade extends this destructive principle to its absolute ends. Sade’s novel is structured by the making of law, the sustaining of that law, and its consequent transgression and violation. Sade accelerates the problem of sovereignty; law is paradoxically determined by that which has the capacity to suspend and transgress the juridical order. Whilst Bodin declares that the sovereign has but two “limitations” (*limites*) to his “absolute” (*absolue*) and “perpetual” (*perpétuelle*) “power” (*puissance*): “the laws of God and Nature” (*la loi naturelle et divine*). Sade seeks to destroy even these restrictions, outraging “the laws of both nature and religion”.¹⁹⁶

We have seen in this thesis that *The 120 Days of Sodom* disrupts the “borderline idea” (*Grenzbegriff*) of sovereignty, exposing the fragile boundaries between legality and illegality, crime and law, abuser and victim. As argued, Sade’s primary contribution to the problem of sovereignty lies with his concept of transgression in *The 120 Days of Sodom*. Transgression as the normative trajectory of Sade’s novel accelerates and exhausts the problem of sovereignty, necessitating the perpetual breaking of limitations, a desire for the infinite. The figure Sade presents in *The 120 Days* seeks to rise above all legal *ordo*. The sovereigns at Silling have unquenchable thirst, dismantling relations only to find a further unity to destroy. For the sovereigns, crime does not exist, everything is permitted, all is possible. Whilst we subjects see restrictions, the sovereigns at Silling see a further opportunity to demonstrate their majesty. Yet what can transgression truly mean for the sovereigns, who do not accept any restriction? Crime is denied, yet, at the same time, it also provides the one sole pleasure

¹⁹⁶ Sade (1990), p. 183

for the sovereign law-makers. Transgression involves the breaking of law, to improve it or violate it irrespectively, but if the sovereigns do not accept law, then what is transgressed?

Transgression is the means through which Sade can reveal power in its bare naked form. Sade reveals the fully realised paradox of sovereignty as a contradiction between transgression and the desire for infinite power. The highest power lies with the sovereign, the one who decides, the law-maker. This power is exercised through the overcoming of limitations. Sovereign is he or she who is 'exceptional', who overcomes juridical delimitations, existing both inside and outside the law. *Sovereignty is paradoxical because it involves both the institution of the juridical order and the denial of that order.* Sade accelerates this paradox, exclusively emphasising the transgressive capacity of sovereign power – the contradiction in terms of a 'legitimate transgression'. Sade's sovereigns are driven by incredible desires of infinite variety, they remark that "it is truly impossible to guess how far a man may go in this direction, provided he be ashamed of nothing."¹⁹⁷ Their goal is to have a "heart" which does not "recognise virtue".¹⁹⁸ The subjects are to be degraded until death. Sade heralds this reduction to victimhood: "Feeble, enfeathered creatures destined solely for our pleasures...you must expect naught but humiliation, and obedience is that one virtue whose use I recommend to you...Give a thought to your circumstance...You are enclosed in an impregnable citadel; no one on earth knows you are here; you are beyond the reach of your friends, of your kin; insofar as the world is concerned, you are already dead to the world... (*Êtres faibles et enchaînés, uniquement destinés à nos plaisirs...des esclaves, vous ne devez-vous attendre qu'à l'humiliation...Examinez votre situation...Vous êtes enfermées dans une citadelle impénétrable; qui que ce soit ne vous y sait; vous êtes soustraites à vos amis, à vos parents, vous êtes déjà mortes au mondes...*)."¹⁹⁹

In the final "parts", *The 120 Days* exhibits the unadulterated structure of the sovereign decision. The normative aspects of Silling are systematically discounted, until the subjects are reduced to nothing but mere statistical lists of the dead. With inexorable precision, Sade marches his sovereigns toward the decisive transgression, destroying their own power, overcoming their own sovereignty. Here, the unbearable tension, a product of their impossible desires, can at last be neutralised and returned to its original equilibrium. Repeating Bodin's testament, the process of making the subjects at Silling to the sovereigns,

¹⁹⁷ Ibid., p. 495

¹⁹⁸ Ibid., p. 496

¹⁹⁹ Ibid., p. 215

involves cataclysm and self-destruction. Since the sovereigns of Silling stand perpetually outside the law, they ultimately negate themselves. As such, the sovereigns destroy the remaining citizens and in so doing, their own sovereignty. The previously divisible qualities of life at Silling, the even numbers through which the sovereigns exercise power, have been reduced to zero. Indeed, the sudden end of the novel itself demonstrates that the work cannot sustain the destruction of its own purpose.

The purpose of *The 120 Days of Sodom* is to extend the principle of absolute sovereignty to its necessarily destructive ends. According to Schmitt, the principle of absolute sovereignty is the rule of the exception; the absolute sovereign decides the law, but he also exists outside its authority. This means that the sovereign has the right to enforce law regardless of the subject's consent. Indeed, as Bodin concludes, the only limitations that can be placed upon the absolute sovereign are the laws of "God" and "Nature". The four sovereigns' of *The 120 Days of Sodom* however, extend the principle of absolute sovereignty to its extreme; they seek to destroy even these constraints. The sovereigns' dream of the impossible, committing the ultimate crime and becoming absolutely limitless. 'The figure' Sade desires to transcend all restrictions. In their attempt to inhabit absolute negation, the sovereigns' aspire to destroy existence as such, a claim only possible in art. The law of the exception therefore, when taken to its ultimate, results in self-destruction.

Conclusively, by turning transgression (the outside) into the norm (the inside), Sade turns the very dialectics of sovereignty inside out. In Bodin, Hobbes and Schmitt, sovereign power is examined from the view of a subject. They enquire as to how sovereign law obligates both themselves and the wider population. In *The 120 Days*, conversely, sovereign power is exclusively understood as the violence unleashed beyond the law. This is fitting for a man who defies the torturer in the language of the repressed. Sade creates an impossible universe wherein the transgressive decision becomes a permanently manifest law. Emergencies authorise the sovereign decision to legitimately suspend and transgress the normative legal order. Sade's novel shows that this suspension exceeds moral experience. The legitimacy of the decision is always grounded in a theological space prior to normative considerations; it refuses to recognise the habitual hallmarks which characterise an ethic: otherness, togetherness, mutual exchange or reciprocity. *The 120 Days* is a novel structured by this compulsion, the desire for power beyond order – the greater the suspension of law, the greater the violence and the higher the pleasure. It is, of course, impossible to be without restriction. We know of no human being who has lived without law and we know of no

Samuel Ernest Harrington
20, 000 [17, 973]

society without rule. Yet in Sade's fictive space, he details no bounds whatsoever. Sade attempts to see political power in its purest, most singular form. As Bataille writes, Sade's greatest truth was in pushing 'the destructive element to its logical conclusion'.²⁰⁰

²⁰⁰ Bataille (1962), p. 18

Bibliography

Articles

- Stéphane Beaulac, ‘The Social Power of Bodin’s ‘Sovereignty’ and International Law’, *Melbourne Journal of International Law*, Vol. 4(1), 2003, pp. 1-28
- Jane Gallop, The Liberated Woman: Sade’s philosophy in the Boudoir, *Narrative*, 2005, Vol.13(2), pp.89-104
- Erik Goldner, ‘Corruption on Trial: Money, Power, and Punishment in France’s Chambre de Justice of 1716’, *Varia: Crime, History and Society*, Vol. 17(1), 2013, pp. 5-28
- Samuel E. Harrington, {REVIEW}, ‘W. Edmiston, Sade: queer theorist’, *International Network for Sexual Ethics and Politics*, Vol. 3(1), (forthcoming: 2016)
- Gert Hekma, ‘Review Essay: Rewriting the History of Sade’, *Journal of the History of Sexuality*, vol.1(1), 1990, pp.131-136
- Jacques Lacan, ‘Kant avec Sade’, *Critique*, 1963, Vol. 191, pp. 291-313
- Leo Strauss, ‘Jerusalem and Athens’, *Commentary*, 1967, pp. 45-57

Books

- Hannah Arendt, *Eichmann in Jerusalem*, Viking Press: New York, 1964
- Aristotle, *Politics*, trans. H. Rackham, Loeb: Harvard, 1932
- Giorgio Agamben, *Homo Sacer: Sovereign Power and Bare Life*, trans. Daniel Heller-Roazen, Stanford University Press, 1998
- Giorgio Agamben, *State of Exception*, trans. Kevin Attell, The University of Chicago Press, 2005
- Augustine, *Confessions* [397-400 CE], Book VII, 13.(19), trans. Carolyn J. B. Hammond, Loeb: Harvard, 2014
- Georges Bataille, *Death and Sensuality* [1957], trans. Mary Dalwood, Walker and Company: New York, 1962
- Georges Bataille, *Georges Bataille’s Essential Writings*, ed. Michael Richardson, Sage Publication, 1998
- Jean Baudrillard, *Jean Bodin et son temps* [1853], Burt Franklin: New York, 1969
- Zygmunt Bauman, *Modernity and the Holocaust*, Cornell University Press, 2008
- William Blake, *The Visions of the Daughters of Albion* [1793], J.M. Dent and Sons, 1932
- Iwan Bloch, *Marquis de Sade: His Life and Works*, trans. James Bruce, Fredonia Books, 2002
- Jean Bodin, *On Sovereignty: Six Books of the Commonwealth* [1576], trans. M. J. Tooley, Seven Treasures Publication, 2009
- Richard Bonney, *Absolutism: The Limits of Absolutism in ancien régime France*, Variorum, 1995

- Rémi Brague, *Law of God*, trans. Lydia G. Cochrane, University of Chicago Press, 2007
- Elias Canetti, *Crowds and Power*, trans. Carol Stewart, New York: Continuum, 1973
- William F. Church, *Constitutional Thought in Sixteenth Century France*, Octagon, 1969
- William F. Church, *Louis XIV in Historical Thought*, Norton: New York, 1976
- Simon Critchley, *Very Little...Almost Nothing*, Routledge: New York, 1997
- Kathleen Davis, *Periodization and Sovereignty*, University of Pennsylvania Press, 2008
- Jacques Derrida, *Donner la Mort*, Editions Galilee, 1999
- William F. Edmiston, *Sade: queer theorist*, Voltaire Foundation: Oxford, 2013
- Franklin L. Ford, *Robe and Sword*, Harvard, 1953
- Michel Foucault, *The Birth of Biopolitics*, trans. Michel Senellart and Graham Burchell, Palgrave Macmillan, 2008
- Michel Foucault, *The History of Sexuality: Volume One*, trans. Robert Hurley, Penguin, 1978
- Erich Fromm, *The Anatomy of Human Destructiveness*, Holt, Rinehart and Winston, 1973
- Michael Gagarin and Paul Woodruff, *Early Greek Political Thought*, Cambridge University Press, 2003
- Jane Gallop, *Intersections*, University of Nebraska Press, 1981
- Peter Gay, *Voltaire's Philosophical Dictionary in Two Volumes*, Vol. 1., Basic Books: New York, 1962
- Phillip Gourevitch and Errol Morris, *Standard Operating Procedure: A War Story*, Picador, 2008
- Ronald Hayman, *De Sade: A Critical Biography*, Constable: London, 1978
- Michael Hardt and Antonio Negri, *Commonwealth*, Harvard University Press, 2009
- Michael Hardt and Antonio Negri, *Multitude*, New York: Penguin Press, 2004
- Georg W. Hegel, *Phenomenology of Spirit* [1807], trans. A. V. Miller, Oxford University Press, 1977
- Francis Harry Hinsley, *Sovereignty*, Cambridge, 1986
- Thomas Hobbes, *De Cive* [1642], Oxford: Clarendon Press, 1987
- Thomas Hobbes, *Leviathan* [1651], Oxford University Press, 2008
- Immanuel Kant, *Political Writings*, trans. H. S. Reiss, Cambridge, 2000
- Søren Kierkegaard, *The Sickness Unto Death* [1849], trans. Edna H. Hong & Howard V. Hong, Princeton University Press, 1941
- Alexandre Kojève, *Introduction to the Reading of Hegel*, trans. James H. Nichols Jr., Cornell University Press, 1980
- Joseph Lavallée, *Tableau Philosophique du Regne de Louis XIV*, Strasbourg, 1791
- John A. Lynn, *The Wars of Louis XIV: 1667-1714*, Longman, 1999
- David Martyn, *Sublime Failures: The Ethics of Kant and Sade*, Wayne State University Press, 2003

- H. Meir, *Carl Schmitt and Leo Strauss: The Hidden Dialogue*, Chicago University Press, 1995
- Georges Minois, *Histoire de L'Enfer*, Presses Universitaires de France: Paris, 1994
- Friedrich Nietzsche, *Gay Science*, trans. Walter Kaufmann, Vintage, 1974
- John Phillips, *Sade: The Libertine Novels*, Pluto Press, 2001,
- Philo, *On Drunkenness*, trans. F. H. Colsen, Loeb: Harvard, 1930
- Francine du Plessix Gray, *At Home with the Marquis de Sade: A Life*, Simon & Schuster, 1998
- Alain Rey, *Dictionnaire Historique de la Langue Française*, Le Robert, 2010
- Jean Jacques Rousseau, *The Social Contract* [1762], trans. Victor Gourevitch, Cambridge University Press, 1997
- Donatien Alphonse François, Marquis de Sade, *Aline et Valcour* [1795], Le Livre de Poche, 1976
- Donatien Alphonse François, Marquis de Sade, *The Complete Justine* [1797-1801], trans. Austryn Wainhouse and Richard Seaver, Grove Press, 1965
- Donatien Alphonse François, Marquis de Sade, *Letters from Prison*, trans. Richard Seaver, Arcade Publishing: New York, 1999
- Donatien Alphonse François, Marquis de Sade, *The One Hundred and Twenty Days of Sodom* [1785], trans., Austryn Wainhouse and Richard Seaver, Arrow Books, 1990
- Carl Schmitt, *On Dictatorship* [1921], trans. Michael Hoelzl and Graham Ward, Polity Press, 2004
- Carl Schmitt, *The Leviathan in the state theory of Thomas Hobbes* [1938], trans. George Schwab and Erna Hilfstein, The University of Chicago Press, 2008
- Carl Schmitt, *On the Three Types of Juristic Thought* [1934], trans. Joseph W. Bendersky, Preeger Publishers, 2004
- Carl Schmitt, *Political Theology* [1922], trans. George Schwab, University of Chicago Press, 2005
- George Schwab, *The Challenge of the Exception*, Berlin: Dunkerand Humblot, 1970
- Dov Schwartz, *The Philosophy of Rabbi Joseph Soloveitchik*, Vol.1, Leiden: Brill, 2007
- J. Scott, *Law the State, and the International Community: Volume One*, Columbia, 1939
- Joe H. Shennan, *Louis XIV*, Methuen & Co., 1986
- Joe H. Shennan, *Philippe Duke of Orleans*, Thames & Hudson: London, 1979
- Baruch Spinoza, *Theological-Political Treatise* [1670], trans. Michael Silverthorne and Jonathan Israel, Cambridge University Press, 2012
- Leo Strauss, *Natural Right and History*, University of Chicago Press, 1965
- Francisco Suarez, *Selections from three works*, trans. James Brown Scott, Oxford: Clarendon Press, 1944
- Michiel de Vaan, *Etymological Dictionary of Latin and the other Italic Languages*, Brill: Leiden, 2008
- Voltaire, *Philosophical Dictionary*, trans. H. I. Woolf, Knopf: New York, 1924

Samuel Ernest Harrington
20, 000 [17, 973]

- Michael Wilks, *The Problem of Sovereignty in the Later Middle Ages*, Cambridge University Press, 1963

Other

- Federation of American Scientists, *G. W. Bush, 'Military Order of November 13, 2001'*, via <<http://fas.org/irp/offdocs/eo/mo-111301.htm>>, retrieved: 8/2/2016
- *The Greek New Testament*, ed. Barclay M. Newman, London: United Bible Societies, 1933
- *JPS Hebrew-English Tanakh*, trans. The Jewish Publication Society, 2000
- *The New English Bible*, The Delegates and Syndics of the Cambridge University Press, chaired by Donald Ebor (1961), Oxford and Cambridge University Press, 1970