CARL SCHMITT'S CONCEPT OF SOVEREIGNTY
AND ITS IMPLICATIONS FOR THAI DEMOCRACY

ANAWAT BUNNAG

A DISSERTATION SUBMITTED IN PARTIAL FULFILLMENT OF
THE REQUIREMENT FOR THE DEGREE OF
DOCTOR OF PHILOSOPHY
IN PHILOSOPHY

GRADUATE SCHOOL OF PHILOSOPHY AND RELIGION
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ABSTRACT

Carl Schmitt is one of the 20th century’s most influential political and legal theorists in Europe. His influence has extended into post-world war II American political thought as well. His connection with the Nazis during WWII gave him a reputation as an advocate of fascism. However, his political thoughts on related concepts such as the conception of Sovereignty, the state of exception, the distinction between friend and enemy and the relationship between state and society, is worth exploring when considered in today—the 21st century Democratic context—as it has invoked a lot of reflection from contemporary thinkers including well-recognized names such as Girgio Agamben, Jürgen Habermas, Jacques Derrida, Slavoj Zizek, and so on.

The notion of Sovereignty is generally recognized as the state’s supreme power within a specific geographical boundary but the location and origin of this power has developed from a single individual into the general will of a collective people. Carl Schmitt gave his account on Sovereignty of the people as ‘he who decides on the exception’ which, in my opinion, is important in relation to the preservation of national sovereignty within the contemporary Democratic era and the current Globalization community.
This dissertation explores the development of the concept of Sovereignty in connection with the conception of Democracy in order to understand how it can help in stabilizing order and peace in our society. Moreover, it describes how Schmitt’s political thoughts including his idea of Sovereignty can be related to Democracy and how his political ideas can be applied to help dealing with problems such as corruption, terrorism and social injustice.

This study ends with a discussion aimed at encouraging readers and thinkers to envision a new way of thinking politically, outside of the Western ‘democratic’ box that entails the ‘capitalist’ economy. From the researcher’s viewpoint, the path to ease all conflicts, protest and political unrests in our society can only be found by the people who could make their sovereign decision to subtract the capitalist economy from the illusion of Western Democracy. It begins with this recognition that Democracy and the capitalist economy are two different concepts that would lead us to the finding of an alternative economic system that could provide sustainable peace and long-term stability to our national and political community in the future years to come.
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ABBREVIATIONS

The following abbreviations are in use throughout this paper referring to works by Carl Schmitt


NE The Nomos of the Earth, USA: Telos Press Publishing, 2006

PT Political Theology: Four Chapters on the Concept of Sovereignty, USA: University of Chicago Press, 2005.


RCPF Roman Catholicism and Political Form, USA: Greenwood Press, 1996

Chapter I: Introduction

1. Background and Significance of study

Current global dilemmas involve significantly in the area of human rights violation and the idea of an entitlement to democratic governance. The contemporary notion of 'good governance' comprised the ideas of representative democracy based on fundamental human rights and of free-market capitalism. If states uphold the norms of this type of good governance, then their sovereignty do not become a matter of concern for the 'international community'. On the other hand, states reluctant to embrace these norms may have 'special conditions' imposed upon them to enforce compliance, or may be subject to external intervention to bring about change.

'Sovereignty' in political notion means "the ultimate overseer, or authority, in the decision-making process of the state and in the maintenance of order" (Encyclopedia Britannica, 2005, Sovereignty). The definition of sovereignty displays two distinctive dimensions. One dimension is the 'internal' aspect of sovereignty which engages the conviction that a political entity established as the supreme authority can rightly exercises the 'sovereign command' over a particular community and thus, the government is regarded as the 'final and absolute authority' within that terrain.

Another dimension of sovereignty is 'external' which engages the claim that there is no other absolute and final authority beyond or above the sovereign state, which implies that in the international context, each state should be treated as equally independent. That is, freedom to manage all of their political matters internally and they should have, in principle, freedom to resolve their own dilemmas within this
international relations outline. Hence, external sovereignty is an attribute that all political societies should have and hold while relating to one another. In sum, external sovereignty is the idea that all states have an equal right to self determination; each state can make its own policy and establish its own regulations without uncalled interference from outsiders or other nations.

Therefore, governing by the sovereign consisting of the proportional mix of space, people and resources within that territory, together with the monitoring, policing and disciplining of the population within these geographical boundaries became the foundation, and the manifestation, of state sovereignty. As a result of historical development carried on over hundreds or thousands of years, the modern territorial state emerged as a distinctive ensemble of governmental association, staff and bureau that implements the power of political authoritative decisions within an occupied territory which has an unambiguous and internationally recognized frontier.

In this research, I shall begin the next chapter with the discussion on the development of the concept of internal Sovereignty (which is the feature that a person or a political entity exercises supreme authority over every other individual or organization in its territory). Although the word ‘sovereign’ could easily be linked to the individual monarch, leading thinkers of the sovereignty theory such as Jean Bodin and Thomas Hobbes recognized that “authority can also be exercised by sovereign body of people” (Routledge Encyclopedia of Philosophy, 1998, Sovereignty), while later thinkers like Rousseau located sovereignty in the people when he coined the term ‘the general will’
For Hobbes, society means a populace beneath an ultimate authority, to whom all individuals in that society have agreed to give up merely sufficient of their natural rights for the sovereign to be able to guarantee internal peace and territorial defense. This ultimate authority, whether democracy, aristocracy or monarchy (nonetheless, Hobbes favors monarchy), should be a Leviathan, which means that he should have an absolute authority. Because Hobbes explained that life in the state of nature is “solitary, poor, nasty, brutish and short” (Hobbes, 1985, p. 186), it follows that to live in peace and security people need to establish a social contract, which means submitting to a ‘Sovereign Power’. Each individual must surrender their personal power and accepts that the authority decides what should be done. That decision making body – which could be an individual or an assembly of individuals, has the sovereign power which is the authority to coerce the rest of the people into fulfilling their obligation. Thus, for Thomas Hobbes, his sovereignty must be absolute and indivisible.

For Bodin, his sovereignty must be “perpetual and not the kind of power that is entrusted to someone for a time by the people who may take it back again” (Routledge Encyclopedia of Philosophy, 1998, Sovereignty, 2. Sovereignty and logic).

In essence, Bodin’s sovereignty must be absolute and law is the direct instruction of the sovereign to implement his sovereign power. While both Hobbes and Bodin do not exclude the possibility of genuinely sovereign rule by popular assemblies, they both exhibit a preference for monarchy.

Internal Sovereignty recently became a new approach to an old problem which involves the disposition of power and rule. As the concept of sovereignty has
developed from Bodin to Hobbes, from Locke to Rousseau, it has become the
conditions of, a notion of the possibility of, the rightful exercise of political power
which focuses on two main issues: on the one hand, an interest in where sovereign
authority should be appropriately placed; and on the other hand, an interest in what
the suitable limits and form are, which means the legitimate scope and action of the
state should be.

Internal sovereignty not only denotes the internal matters of the state but also signifies
the locality of supreme authority within it. The idea of internal sovereign represents a
political body that possess final, independent and ultimate authority; the supreme
body on whose decisions would oblige upon all the general public including all
citizen, all groups and institutions in society. The attempt to decide precisely where
such sovereignty should be sited has been an important part in many political theories.

Early thinkers were inclined to the belief that sovereign power should be granted in
the hands of an individual, who is a monarch. Absolute monarchs described
themselves as 'sovereign', and could declare that they were the state, as did Louis
XIV of France in the seventeenth century. The disadvantage of appointing sovereignty
to a single person was that sovereignty would then be indivisible. The risk is that
since the ruling power would be expressed in a single voice that could claim absolute
and final authority, if that monarch turns evil, there would no other power to balance
and cancel it out.

The most radical departure from the absolutist notion of sovereignty came from Jean-
Jacques Rousseau in the eighteenth century. He rejected monarchical rule and
preferred the notion of popular sovereignty, the conviction that supreme and ultimate authority is located in the people themselves, and could be articulated in the proposal of the ‘general will’. The principle of popular sovereignty is often recognized as the foundation of modern democratic theory.

Later in chapter II, I shall discuss the development of the concept of Democracy and its connection to the concept of sovereignty. The idea of ‘popular sovereignty’ had emerged during the French revolution and the struggle for independence of the American colonies, as a new principle for the political legitimacy of supreme authority. The state is legitimate only insofar as it enacts the people’s will and is responsive to the public interest.

In chapter III, I shall introduce one of the most controversial political thinkers Carl Schmitt (July 11, 1888 – April 7, 1985) and critically examine his idea of sovereignty, which still continues to stir heated debates among scholars in our contemporary period, in connection with the concept of Democracy.

Carl Schmitt a German jurist, political theorist, and professor of law has his own unique view of sovereignty. In the first line of his book *Political Theology: Four Chapters on The Concept of Sovereignty* (1985), Schmitt famously claims that

"Sovereign is he who decides on the exception"

Before we continue to examine his work further, I shall take a short look at his background in order to be able to relate more profoundly to his process of thought. He was born to a Catholic family of modest means in Plettengerg in the west of Germany.
He died in the same town on Monday after the Sunday Easter in 1985 at the age of ninety-six. His life spanned good days of German Empire, the rise and fall of the Weimar Republic, Nazism, the division of Germany by the Allies, and the establishment and stabilization of the Federal Republic after 1945. He has thus survived the two World Wars, the German Revolution (1918), the horrors of the Holocaust, the Cold War and the construction of the Berlin Wall. Although he continued to write and correspond well into his final years, Schmitt’s most impressive intellectual achievements date roughly from World War I until the early 1950’s.

Schmitt studied law in Berlin, Munich, and Strasbourg, where he graduated in 1910, then completed the traditional prerequisite for pursuing an academic career in Germany in 1914. He was exempted from military service in the front line because of back injuries during training. At the end of World War I, he worked for the military government in power ultimately helping to oversee the activities of the peace movement and left-wing socialists (USPD) for the general staff. His first marriage in 1916 to a Serbian woman, Pawla Dorotic who claimed an aristocratic background ended in embarrassment. His attempt to divorce her brought him into conflict with the Catholic Church. His plan to remarry in 1926 gained a hostile response from the Church, which he nonetheless went ahead and did despite the fact that excommunication inevitably would follow.

Interestingly, religious themes play an insignificant role in his writings from late 1920s while he distanced himself from Catholicism during the Nazi period. Although his Catholic background is evident in some writings, he was a relatively secular-minded jurist, not a “political theologian” for most of his career. He taught in Munich,
Bonn, and then Berlin during the Weimar period and served as a legal adviser to the executive-centered emergency regimes established in Germany in the wake of the economic depression in 1929. He helped coordinate the legal case of those who unconstitutionally dismantled the Prussian state government in the ‘coup against Prussia’ of 1932.

Although he might, before 1933, have hoped for a right-wing authoritarian solution to the Weimar crisis along lines distinct from those of the Nazis, after the Nazi takeover he immediately linked up with Germany’s new rulers by joining the National Socialist Party and soon climbed up the Nazi hierarchy with many prominent posts. Despite a feud with elements of the SS in 1936 that forced him to surrender some of his positions, Schmitt remained a vocal Nazi legal thinker who played a central role in debates within Germany about international law and politics. He continued on as an outspoken professor in Berlin until 1945. However, his writings from this period provide no support for his postwar claim that after 1936 he opposed National Socialism (see Scheuerman, 1999, p.2-10;Balakrishnan, 2000,p.11-27).

After the war, he was banned from teaching partly because he refused to comply with the formalities of denazification. However, his residence in Plettenberg served as an intellectual second home to both older and younger German conservatives hostile to democratic politics and the “Americanization” of West Germany after World War II.

In order to critically examine Schmitt’s idea, I intend, in Chapter II, to explore the development of the conception of Sovereignty in relation to the development of the concept of Democracy. Then in Chapter III, I shall try to analyze Schmitt’s concept of
Sovereignty including his ideas about the state of exception, the friend and enemy distinction and his idea on the State and Society.

In Chapter IV, I shall discuss the various views from other philosophers reflecting on Schmitt’s concept of Sovereignty. Many critics claim that what Schmitt described as the state of exception is no longer a transitory state during times of emergency, but that it is likely to prolong its appearance as the cardinal standard of government in today’s politics, especially after the events of September 11, 2001 which led the United States to carry out the war on terrorism, followed by the invasion of Iraq and Afghanistan. Particularly, Giorgio Agamben (1942-) criticizes the United States’ response to September 11, 2001, and its establishment as a permanent condition that legitimizes a ‘state of exception’. He cautions us about a "generalization of the state of exception" through laws like the USA PATRIOT Act, which means a permanent installment of martial law and emergency powers.

Jacques Derrida (1930-2004) mentioned Schmitt in Politics of Friendship (2005) with the expression that Schmitt's thinking of 'the political' is something that has to be "overcome" for the sake of a "coming democracy". While Slavoj Zizek (1949-) in his contribution to The Challenge of Carl Schmitt (1999) makes an effort to reconfigure and decode Schmitt's notion of the decision. Zizek tries to maintain and preserve certain insight characteristics of Carl Schmitt that can help clarify and argue against deconstructions.

Finally, in Chapter IV I shall conclude this research based on my contention that although his idea of Sovereignty is essential for our globalization age, the application
of his friend and enemy concept has created negative results in justifying the violation of other nation’s sovereignty; such as the declaration of war against terrorism by the Bush administration, the US invasion of Iraq, Afghanistan and possibly Iran in the near future.

2. Thesis Statement:
In this paper I shall critically examine Schmitt’s idea of sovereignty based on my claims that firstly, his sovereign power does not preclude ‘democracy’. Secondly, his state of exception is conditioned as temporary (that is it has a time limitation) and thirdly, his argument for the concept of sovereignty does not aim at creating ceaseless war as it is wrongly applied in current the world situation but rather aims at preventing or ending ceaseless discussion before it leads to a more chaotic situation within the nation. In addition, his sovereignty concept is important for preserving the possibilities of democracy in the current globalization age. However, I shall criticize his position on the notion of friend and enemy distinction while I shall try to recover Schmitt both from his supporters and detractors.

3. Objectives of Dissertation:
This dissertation has the following objectives:

1. To critically study the concept of Sovereignty and how it is related to democracy in order to understand how it has developed to maintain order and peace in human society.

2. To critically study Carl Schmitt’s concept of Sovereignty including his idea of the state of exception and his friend/enemy distinction, in order to gain a better understanding on how it can be related to democracy.
3. To critically examine how Carl Schmitt's idea can be considered in both its positive and negative aspects, to see if this research can apply his political concept to help solving today’s worldwide political problems such as corruption, terrorism and social injustice.

4. Limitation

This dissertation intends to critically provide a comprehensive understanding of Carl Schmitt’s concept of Sovereignty and his other political ideas including the state of exception, friend and enemy distinction and the relation between State and society. The limitation of this study is the limitation of the subject matter that is Carl Schmitt’s concept of Sovereignty and its connection to democracy. This study limits itself by focusing on the relationship between the concept of Sovereignty and its connection to contemporary democracy.

5. Research Methodology

The investigation of this research is a critical analysis that is focused on conceptual argumentation based on analysis and evaluation of the concept of Sovereignty. The research will emphasize on reading, gathering information, analyzing, critically thinking and reflecting on the concept of Sovereignty with current political situation in Thailand and global as the backdrop of reflective thinking.

6. Definitions of the terms used:

**Sovereignty** (Noun)

1. Top authority: supreme authority, especially over a state
2. independence: the right to self-government without interference from outside

3. Independent state: a politically independent state.

7. Expectations

This research has the following expectations:

1. A better understanding about the concept of sovereignty and its connection to democracy, to be able to cope with the recent political turmoil in Thailand and to be able to adapt and prevent future political unrest.

2. A clearer understanding on Carl Schmitt's sovereignty concept and its positive and negative application in today's politics.

3. A possibility to pursue additional essential academic guidelines for the benefit of political stability in our country as well as our globalization world at large.
Chapter II: Sovereignty and Democracy

2.1 Development of the concept of Sovereignty.

The idea of sovereignty is intimately linked to the idea of the state; for its origin and history is directly related to the origin and development of the state. The notion of internal sovereignty suggests that in a certain territory, there is a political entity which has undeniable power to set up the outline of rules and regulations and to govern with its supreme authority correspondingly. Internal sovereignty entails the conviction that a political entity that was instituted as a sovereign could properly exercise its ‘supreme command’ over the citizens of that community within that particular territory. The supreme commander, who is the government, must possess the ‘absolute and final authority’ within that vicinity.

However, internal sovereignty can sometimes be divided into legal and political sovereignty which makes distinction between a supreme legal authority- referring to the right to make, interpret and enforce the laws that govern the community, while the notion of political sovereignty defines the state’s supremacy in terms of its actual exercise of coercive power. This process has often been referred to as one of de facto (concerning fact or action) rather than de jure (concerning right) which explicitly means legal sovereignty. (see Jones, 2002, p.4-5)

The notion of internal sovereignty implicitly refers to the source and location of supreme legal and political authority, together with the source and location of coercive power, within the state’s territorial boundaries. Therefore, the question of
which person or body or institution is entitled to make decisions binding on all individuals and groups within the state’s jurisdiction has become the most often raised question in the study of political philosophy.

The idea of sovereignty, surprisingly, was not part of the ancient classical Greek world (see Heywood, 2004, p. 90-120; Jones, 2002, p. 2-9; Held, 1995a, p. 214-225). Back in that time, the city-state, or polis, did not distinguish between state and society because citizens of ancient Athens were at one and the same time both the originators of public rules and regulations as well as the subject of State power. The people or the demos, must regularly engage in judicial and legislative functions; because the Athenian idea of ‘citizenship’ demanded taking a share in public functions, which means direct participation in the affairs of the state. A pledge to the principle of civic virtue is required by Athenian democracy. Loyalty and devotion to the republican city-state is the primary character of citizens while the private life of the individual is secondary to public affairs and the common good. ‘The public’ and ‘the private’ were entwined. It was conventional perception that humans could only live honorably and properly fulfill themselves as citizens in and through the polis.

It was not until the rise of the Roman Empire that a new type of rule, rule by a single central authority, emerged. Record of this notion can be found in the lex regia doctrine noted by Justinian, the sixth-century Byzantine emperor, in his Corpus iuris (compilation of Roman law) (see. Held, 1995a, p. 217). According to this doctrine, what pleases an emperor has the force of law but only in so far as ‘the people’
transfers to him and into his hands ‘all its own right and power’. Rulership entails power, but it is a power that has to be understood in relation to its proper origins; the will of the people. With the *lex regia* doctrine the idea of sovereignty as a distinct form of law-making power was firmly established, but its influence, in the first instance, did not outlive the Roman Empire.

With the fall of the Roman Empire the idea of sovereignty became progressively submerged by the rise of the Christian faith. While it could be misleading to indicate that Christianity effectively banished secular considerations from the life of rulers and ruled, it suffices to say that Christianity unquestionably shifted the source of wisdom and supreme authority from this world to other world representatives. The Christian worldview transformed the rationale of political action from that of the empire or *polis* to a theological framework. The Hellenic view of humanity, for example, as formed to live in a city, was replaced by an apprehension of how humans could achieve the ultimate life of living in communion with God. The Christian worldview claims that the good rested in submission to God’s will (see Axtmann, 2007, p. 154).

Furthermore, the integration of Christianity in Europe gradually came to depend above all on two theocratic authorities, the Papacy and the Holy Roman Emperor. During the Middle Ages there was no theoretical alternative to the theocratic positions of pope and emperor. One of the most striking manifestations of this was the absence of a clear distinction between ideal and positive law, between public and private rights and between legality and religious morality. The medieval view of
The whole frame of medieval belief must be broken before the notion of a sovereign political order could once again be conceived independently of religious authority, as something different in kind from religious, kindred or economic groupings. This continued until about the end of the twelfth century when, among other things, the principles and precepts of Roman law were rediscovered and began to stimulate Western legal interest, but it was not until the end of the 16th century that the nature and limits of law, rights, political authority, and obedience emerged as a preoccupation of European political thought. It was perhaps the Protestant reformation that helped trigger new ways of thinking about political authority in Europe. The struggles between religious sects which stretched across Europe during the last half of the 16th century had reached their most intense expression during the Thirty Years War in Germany—which made it clear that the powers of the state should be separated from the duty of rulers to support any particular faith (see Axtmann, 2007, p.164-165; Held, 1995a, p.218-219).
In addition, an increasing awareness in Europe of the variety of political and social arrangements followed after the discovery of the non-European world. A major focus of discussion was on the relationship between Europe and the ‘New World’, and the nature of the rights (if any) of non-Europeans while the changing nature of politics was experienced differently throughout Europe. It was the conception of sovereignty that suggested a new connection between political power and the supreme authority of the ruler.

In the struggle between state, church and community, sovereignty offered an alternative way to formulate the legitimacy of claims to power. However, many different accounts were offered in order to define the ‘supreme power’ in society, the source of authority to that power, and the limitations and the ends to which that power should be directed. After the Thirty Year War (ended 1648), European political thought became suffused with the modern conception of the state as a supreme, all-powerful, all-embracing authority, as a centralized power structure in contrast to the past, from the 11th to 15th century that the authority of kings had been regarded as coordinate with, or subordinate to, that of the Catholic Church within the framework of the medieval church-state (See Jones, 2002, p.2-10).

During the 16th and 17th centuries, this concept of state sovereignty became the foundation stone of European political thought. In the beginning it was Niccolo Machiavelli (1469-1527) who formulated a view of the state as secular, independent and morally-neutral entity. He was the first political thinker who broke with
medieval catholic thought, rejecting the idea of the limited authority of the state which implied the subordinate status in relation to the Catholic Church. In his theory of the powerful ruler (developed in his 1532 work, The Prince) who was needed either to found a new state as its ultimate legislator or to reform a corrupt state as its benevolent dictator.

Later on Jean Bodin (1530-1596) developed the concept of sovereignty as the unmatched and perpetual power and established it as the essential condition of a stable political regime (see Axtmann, 2007, p.156; Heywood, 2004, p.165). In Thomas Hobbes’ idea, sovereignty is the only viable alternative to the condition of anarchy— in the state of nature (see Axtmann, p.157-162; Heywood, 2004, p.123). Both Bodin and Hobbes emphasized the need for the concentration of political authority—of the right to make laws and issue commands—in the hand of a single person or body and within the formal framework of either a monarchy or a republic.

In the 17th century, John Locke (1632-1704) developed a different perspective on the question of sovereignty of the modern state. In his Second Treatise of Government (1689), Locke argued that sovereignty resided ultimately with the people, who had loaned their power to the English Parliament as their representative assembly, and not with the monarch. His argument was presented to justify the English ‘Glorious Revolution’ of 1688 and hence as a theoretical defense of both a constitutional monarchy and limited government.
In the 18th century, a French political thinker Jean-Jacques Rousseau (1712-1778) formulated the first case for popular sovereignty in his most famous work, *The Social Contract* (1762). He promoted the idea of a sovereign community and state, rooted in a form of participatory, direct democracy which he called 'the general will', which entails a patriotic spirit engendered by a concern for the common good.

### 2.1.1 Sovereignty of Absolute Monarchy

It was Machiavelli, an Italian political thinker and diplomat who wrote in his most famous work of political theory, *The Prince*, which reflected his first hand experiences of government service. He focuses on political leadership within principalities or monarchies. It raises the question of how to acquire, retain and increase political power, and examines the character of the ruler who is capable of attaining those goals. Here he asks, first, what kinds of qualities or methods are required to produce a strong, lasting absolute monarchy or principality. Secondly, what kind of individual political leader is entitled to wield absolute power within such a regime.

“All the states and Government, by which men are or ever have been ruled, have been and are either Republics or Princedoms. Princedoms are either hereditary, in which the sovereignty is derived through an ancient line of ancestors, or they are new. New Princedoms are either wholly new, as that of Milan to Francesco Sforza; or they are like limbs joined on to the hereditary possessions of the Prince who acquires them, as the Kingdom of Naples to the dominions of the King of Spain. The States thus acquired have either been used to live under a Prince or have been free; and he who acquires them does so either by his own arms or by the arms of others, and either by good fortune or by merit”. (Machiavelli, 2004, P.3 Chap1)
Attempting to answer those questions, he stresses the need for a solitary and hard-headed political leader who must act either as founder of a new state or as reformer of a corrupt state. He will employ, if necessary, not only force but also characteristics of deception, cunning and ruthlessness in order to achieve the desired goals of order, stability, peace and unity within the state.

"He need never hesitate, however, to incur the reproach of those vices without which his authority can hardly be preserved; for if he well consider the whole matter, he will find that their may be a line of conduct having the appearance of virtue, to follow which would be his ruin, and that there may be another course having the appearances of vice by following which his safety and well-being are secured." (Machiavelli, 2004, p.73-74 Chap 15)

Supporting by his many years of experience as a senior diplomat in the service of the Florentine Republic from 1498-1512, and hence by his observations of European power politics, Machiavelli formed a clear view of the leader that were needed in the climate of corruption, lawlessness, internal conflicts of the Italian politic during that time. He suggested in The Prince that a form of dictatorship—specifically, an absolute monarchy—would be required to unify the Florentine state into a coherent national entity and ultimately to the unification of Italy.

"...so that Italy, left as without life, wounds and put an end to the ravaging, swindling and taxing of the kingdom that for long have fostered. It is seen how she entreats God to send someone who shall yet heal her. And it is seen in how she entreats God to send someone who shall deliver her from these wrongs and barbarous insolencies. It is seen also that she is ready and willing to follow a banner if only someone will raise it." (Machiavelli, 2004, p. 157)

Moreover, he also remarked that the prince should demonstrate what he called 'virtue' which includes qualities such as strength, courage, resoluteness, self-reliance and practical wisdom, as he wrote,
"..., all fanciful notions concerning a Prince and considering those only that are true, I say that all men when they are spoken of, and Princes more than others from their being set so high, are characterized by some one of those qualities which attach either praise or blame. Thus one is accounted liberal another miserly(...); one is generous, another greedy; one cruel, another tenderhearted; one is faithless, another true to his word; one effeminate and cowardly, another high-spirited and courageous; one is courteous, another haughty; one impure, another chaste; one simple, another crafty; one firm, another facile; one grave, another frivolous; one devout, another unbelieving; and the like. Everyone, I know, will admit that it would be most laudable for a Prince to be endowed with all of the above qualities that are reckoned good;..., he must be discreet enough to know how to avoid the infamy of those vices that would deprive him of his government..." (Machiavelli, 2004, P.73, Chap 15)

He further argues that conflict is the essence of political behavior. Rulers will always desire glory and other lands; generals will always desire to be rulers; soldiers will always desire to be generals; and civilians will always desire to be soldiers. It follows that conspiracies, purges, wars, revolutions, and all internal or external intrigues are business as usual in his political realm. The most interesting aspect of his argument is that he maintains that good can come out of violence, that stability can emerge from chaos, that tyranny can result in freedom and that evil can produce good. This is the source of his notorious reputation in the history of political thought as the proponent of the doctrine that the end justifies the means as he wrote in Chapter 18 of The Prince that

"...in the action of all men, and most of all of Princes where there is no tribunal to which we can appeal, we look to results. Therefore is a Prince succeeds in establishing and maintaining his authority, the means will always be judged honorable and be approved by every one." (Machiavelli, 2004, P.85-86)
2.1.2 Sovereignty under the law of God, Nature and Custom

It was Jean Bodin, a French philosopher and political writer who reflects on the civil and religious conflicts of the 16th century by arguing that these conflicts could only be solved if it was possible to establish the existence of an absolute ruling power qualified to override all customary and religious authorities. He maintained that an ‘ordered commonwealth’ depended upon a sovereign authority whose powers are recognized and accepted by the community as the legitimate power founded on the rightful basis of authority. He developed definitions of sovereignty in his major text, *Six books of the Commonwealth* (1576). Sovereignty is the untrammeled and undivided power to make laws. It is the utmost power over subjects which is unrestrained by law;

"From all this it is clear that the principal mark of sovereign majesty and absolute power is the right to impose law generally on all subjects regardless of their consent". (Bodin,1576, p.32)

It suffices to say that law is nothing other than the command of the sovereign in the implementation of his sovereign power. The Sovereign has the capacity to make and alter the law for all his subjects.

"Because there are none whom God establishes as mankind." (Bodin, 1576, p.40).

The sovereign power is not capable of being inferior to the commands of any other body, for it is the sovereign that makes law for his subject. Hence, Sovereign power is rightfully exercised.
Bodin held that 'reason of state' has priority over the 'rights of individuals'. In contrast to Machiavelli, Bodin tried to show that a sovereign authority could only be properly established if, as it has been aptly put, 'the body politic was regarded as being composed of both ruler and ruled, integrated as previous beliefs and politics had failed to integrate them, and if the governing power respected legal and moral rules. In Bodin's work, good government, or sovereignty properly exercised, is subject to the laws of God and the law of nature as well as to the fundamental or customary rights and laws of the political community (including the property rights of citizens). (see Held, 1995a, p. 219-220; Heywood, 2004, p.90-91)

In Bodin's account, sovereignty is the defining characteristic or constitutive power of the state. Different types of state can, he continued, be differentiated according to the locus of this supreme power-monarchy, aristocracy or democracy. However, Bodin's clear preference was for a monarchical polity with a just form of government: an all-powerful monarch who would temper power with respect for law and justice. He commented that

"The principal mark of a commonwealth, that is to say the existence of a sovereign power, can hardly be established except in monarchy. There can only be one sovereign in the commonwealth. If there are two, three or more, not one of them is sovereign, since none of them can either impose a law on his companions or submit to one at their instance. Though one can imagine a collective sovereign power, vested in a ruling class, or a whole people, there is no true subject nor true protector if there is not some head of the state in whom sovereign power is vested, who can unite all the rest. (Bodin, 1576, p.205)"

In maintaining this position-in conquering, on the one hand, a supreme power unrestrained by law and, on the other, necessary limits upon this power-Bodin has
often been charged with inconsistency. However, his primary concern is with lawful government. Sovereignty may be unlimited, but the sovereign is bound in morals and religion to respect the laws of God, nature and custom. In addition, he clearly suggests that sovereignty can and ought to be limited by constitutional law when he wrote,

"... whether the sovereign power is vested in a prince, the nobles, or the entire people, and the state be a monarchy, an aristocracy or a popular state, if it is governed without law and all is left to the discretion of the magistrates to distribute pains and penalties according to the importance and status of each individual, such a state could be neither stable nor durable...." (Bodin, 1576, p.214)

2.1.3 Sovereignty from Social Contract

"The Obligation of Subjects to the Sovereign is understood to last as long, and no longer than the power lasteth, by which he is able to protect them. The end of Obedience is Protection; ..." (Hobbes, 1985, p.272, part2, chap21)

According to Hobbes, living a life without the protection of the state is the worst condition for a human being. Therefore, it is essential to have a strong government to ensure that we do not tumble into the state of nature where it is the state of ceaseless war of all against all. In his most famous work Leviathan (first published 1651), Thomas Hobbes provided one of the most elegant rationales for the primacy of the state, that is for the necessary unity of the state as the representative of the body politic, and for the necessity of the state as the creator and maintainer of positive law.

Like Bodin, he wrote against the background of social disorder and political instability; in this case, the English Civil War. He assumes that in the absence of
government, human nature will unavoidably bring us into violent conflict which he calls ‘the state of Nature’ or a war of all against all.

Again, like Bodin, Hobbes attempts to establish the necessity of an all-powerful sovereign capable of securing the conditions of ‘peaceful and commodious living’. But Hobbes radically suggest a new direction by arguing that it was only when individuals ‘lay down their right to all things’ that their long-term interest in security and peace can be upheld. The sovereign has to have sufficient power to ensure that the laws governing political and economic life are sustained. Although, beyond the sovereign state’s sphere of influence, there will always be the chaos of constant warfare; but within the vicinity controlled by the state, with ‘fear of some coercive power’, social order can be upheld.

It is worth noting here that in Hobbes’ opinion, sovereignty must be undivided, self perpetuating, and ultimately absolute. The rationalization for this is ‘the safety of the people’. By ‘safety’ is meant not only minimum physical preservation (see Held, 1995a, p.221). The sovereign must also guarantee the security of all things regarded as private property of his people. Private property includes those that are dearest to a man which is firstly, his own life, his limbs and body parts; and secondly, in the next degree of importance, are those that concern conjugal affection; and thirdly, after them are objects of wealth and means of living. As he wrote,

"...the Sovereign Power, namely the procuration of the Safety of the People: to which he is obliged by the Law of Nature, and to render an account thereof to God, the author of that law, and to none but him. But by safety here, is not meant a bare preservation, but also all other contentments of life, which every
man by lawfull industry, without danger, or hurt to the commonwealth, shall acquire to himself.” (Hobbes, 1985, Chap.15).

Although Hobbes acknowledges certain limits to the legitimate range of the sovereign’s action (see Hobbes, 1985, chap.21), the state is regarded by him as pre-eminent in all spheres. For the state is authorized to represent all individuals and, accordingly, absorbs all popular or public right. State sovereignty embraces all elements of the body politic.

Although justification of state power received its fullest expression with Hobbes, his position was controversial and challenged on at least two grounds; firstly, the fundamental question is raised of where sovereign authority properly lay, with the ruler, the monarch, the state, or with the people. Secondly, concerning the proper form and limits, the legitimate scope of state action is in question (see Held, 1995a, P. 222). In the first stage of Hobbes’ argument for absolute sovereignty, he emphasized the need for a social contract or ‘covenant’ formed among individuals as the necessary means of achieving peace and security. He then demonstrates the need for a sovereign ruler who would enforce that social contract since

“...to make their Agreement constant and lasting; which is a Common Power, to keep them in awe, and to direct their actions to the Common Benefit. The only way to erect such a Common Power... is (for all men) to confer all their power and strength upon one Man, or upon one assembly of men, that may reduce all their Wills, by plurality of voices, unto one Will.” (Hobbes, 1985, p.226-227, Part2, Chap 17)
Royal sovereignty had traditionally been justified in terms of the doctrine of the divine right of kings who derived their authority from God-given powers (see Jones, 2002, p. 15-19). However, Hobbes provides a new and unorthodox theoretical justification for the supreme political authority by establishing a legitimate basis for political authority. He begins by posing in Leviathan two fundamental questions about government; firstly, he asks what its essential function is. The answer he gives is; to provide maximum security and safety for the individual in an uncertain and dangerous world. Secondly, he asks what kind of government can achieve that aim most effectively for the individual. He replies that it can only be a government in which supreme authority is concentrated in the hands of a sovereign ruler.

Hobbes argues that the origins and legitimate basis of sovereign state lie in a contract or 'covenant' between the people. In his view, legitimate political rule rests on the voluntary agreement of the ruled. Therefore, the individual subjects should be prepared to give their obedience to the sovereign in return for his establishing a secure and ordered society. The sovereign's existence is necessary because egoistic and self-seeking individuals cannot be trusted to stick to any agreement without fear of punishment by a stronger power. Ultimately, the political authority of Hobbes' sovereign stems from the people's own authorization-from an agreement or social contract rather than from the traditional doctrine of the divine rights of kings.

A notable advocate of the idea of the King as Sovereignty under the divine right is Sir Robert Filmer (1588-1653) whose famous book *Patriarcha: The Natural Power of*
Kings, first published in 1680, provoked John Locke (1672-1704) to directly attack his idea in his book *Second Treatise of Government* (first published in 1690). Filmer argued that Kings are above the laws because kingly power is granted by the law of God. He explained that state structure is similar to a family and the King is the father of all families who had "... Absolute power of Life and Death, of Peace and War, and the like, within their Houses or Families..." (Filmer, 1680, p. 17). Locke argued against this absolute power of the Sovereign by postulating his idea of Sovereignty from consent of the people and this body of sovereign also functions under the Laws that the people agreed upon.

### 2.1.4 Sovereignty from consent

Locke strongly rejected the view of Sir Robert Filmer, who claimed that just as fathers have power over their children by nature, thus, the children's consent is not necessary. Locke instead suggested that Kings derive their powers from consent of the people and that they are accountable to them to protect their life and right to property.

"And here we have the plain difference between the state of nature and the state of war, which however some men have confounded, are as far distant as a state of peace, good Will, mutual assistance, and preservation and a State of enmity, malice, violence, and mutual destruction are from one another. Men living together according to reason, without a common superior on earth, with authority to judge between them, is properly the state of nature." (John Locke, 1980, Chap. 3 p. 24)

Locke also emphasizes in the above paragraph that Hobbes' idea that the state of nature can be compared to a state of war is a mistake. For him, even in the absence of government or sovereign authority, it would be possible to live a normal life in general. The state of nature, says Locke, is first of all, a state of perfect freedom.
Second, it is a state of equality and third, it is crucial that this state is bound by the Law of Nature. The Law is significant since it assumes that no one should harm one another in his health, liberty, possessions or life. The rationale for this is that although in the state of nature we do not have any natural superiors on earth, we do have the most supreme one in heaven. For we are all creatures of God, we are his property, we were put on earth as his servants, we were made to last during his, not one another's pleasure. Locked explained that,

“Everyone, as he is bound to preserve himself, and not to quit his station willfully; so by the like reason, when his own Preservation comes not in competition, ought he, as much as he can, to preserve the rest of Mankind, and may not, unless it be to do justice on an offender, take away, or impair the life, or what tends to the preservation of the life, the liberty, health, limb, or goods of another.” (Locke, 1980, Chap2p. 13)

For Locked, the Law of Nature is basically the notion that mankind should be protected as much as it is doable. He suggests that we have a plain and lucid duty not to harm others in the state of nature (though there are some exceptions of self-defense), and on the contrary, we are obliged to help others if we can do so without harm to ourselves. It is critical for Locke that yet in the state of nature we still continue to uphold a moral code to confine our behavior. However, like all laws, the Law of Nature requires a law-enforcer because without such an enforcer it would be empty. Then, the basis of a society is a contract whereby individuals consent to be bound by the laws of a common authority known as civil government, whose central purpose is to safeguard the individual's natural rights—liberty, property and life since for Locke,

"Men being, as has been said, by nature all free, equal and independent, no one can be put out of this estate, and subjected to the political power of
another, without his own Consent. The only way whereby any one divests himself of his natural liberty, and puts on the bonds of civil society, is by agreeing with other men to join and unite into a community for their comfortable, safe, and peaceable living one amongst another, in a secure enjoyment of their properties, and a greater security against any, that are not of it.” (Locke, 1980, Chap. 8, p. 88).

John Locke’s theory of sovereignty differs most obviously from Hobbes in its concern with a fear of dictatorship rather than of anarchy. For him, ultimate sovereignty always lies not with the state or the king but with the people, who only loan their power to the parliament and the government of the day. Locke held that the foundation of government could and should be established as a mechanism for the security of the liberty, property and life of its citizens which means, government’s raison d’etre is to safeguard the individuals’ rights as formulated by God’s will and as upheld in law (see Jones, 2002, p. 20-25). Moreover, the formation of the state does not signal the transfer of all subjects’ rights to the state. Although the right to make and enforce law, which means legislative and executive rights are transferred, nonetheless the whole process is conditional upon the state to maintain its original objective, that is—the preservation of liberty, property and life of its citizen.

Sovereign authority is legally circumscribed and divided. Locked argued on behalf of a system of sovereign constitutional monarchy holding executive power coexisting with a parliamentary assembly holding the rights of legislation, although he did not think this was the only form government might take.

Therefore, in Locke’s account, political authority is bestowed by individual citizens onto its government for the purpose of pursuing the ends of the people who are being governed (see Held, 1995a, p. 223). If these ends are sufficiently neglected, the citizen of the state would be the final judges. They are the people who can replace the
government by their deputies and if necessary dispense the existing form of
government itself. It follows that the government rules and its legitimacy can be
sustained, by the ‘consent’ of individuals.

Thus, the ultimate power was the inalienable right of the people since governmental
supremacy was a delegated supremacy that is established by trust (see Held, 1995a,
p.224). It is sufficient to say that the government’s legitimacy or its rightful power to
govern could be confiscated if the people evaluated and decided that this is
appropriate and necessary. Thus Locke’s assumptions about the law of nature, the
individual’s natural rights and a social contract based on consent explicitly confirm
his conception of civil government and his idea of state sovereignty as a form of
trusteeship.

Furthermore, according to his theory, the people are the sovereign so long as the
legislature, the supreme government, exercises supreme power delegated by the
people. But once the legislature has been dissolved by the people, for whatever
reason, the people regain their active power, which was originally granted by them in
trust and which can be recalled by the people whenever the legislators break that
trust.

“...and men can never be secure from tyranny, if there be no means to escape
it till they are perfectly under it: and therefore it is, that they have not only a
right to get out of it, but to prevent it. There is therefore, secondly, another
way whereby governments are dissolved, and that is, when the legislative, or
the prince, either of them, act contrary to their trust.” (Locke, 1980, Chap.19,
p.194)
It follows that Locke’s theory of sovereignty exhibits, first, the formal checks and limits that can be placed upon the exercise of state authority and power, and second, the conditions under which the governed are entitled to resist or even remove their rulers. Regarding the question of checks and limits, Locke focuses on the notion of the separation of the powers of government. This approach designed to ensure that the institutions of government respect and promote the rights of the governed since Locke believed that political authority should be divided between the branches of the legislature, which is imbued with full delegated authority, and the executive, which has partial authority.

The legislature has the sole right, granted by the people in trust, to make the laws; the executive, constrained to act within the framework of law, has the power to execute the laws but is ultimately responsible to the legislature. Locke argues that these two functions of government are distinct and should preferably be held in separate hands and vested in separate branches of government, in order to prevent an accumulation of powers in any one body, with all the subsequent abuses which that might generate.

Regarding the conditions under which the governed are entitled to resist or remove their rulers, Locke insists that any rulers or governments that fail to respect and protect the individual’s natural rights-to liberty, property and life-thereby forfeits its claim to the individual’s obedience and may even be overthrown by the people. Locke gives the justification ‘Of Dissolution of Government’ in his Second Treatise, identifying both legislative and executive power that might be abused such as acting
in an arbitrary or unconstitutional manner or violating the individual’s natural rights to liberty, property and life (see Locke, 1980, chap. 19). Thus, according to Locke the people have actively reasserted their sovereignty—their ultimate political authority and power—which they provisionally delegated to the legislature and executive on the basis of trust.

2.1.5 Sovereignty from the General Will

"If when the people, sufficiently informed, deliberated, there was to be no communication among them, from the grand total of trifling differences the general will would always result, and their resolutions be always good." (Rousseau, 1947, p. 26)

Taking arguments about sovereignty in a new direction, Jean-Jacques Rousseau held that, ideally, individuals should be involved directly in the making of the laws under which their lives are regulated. Sovereign authority is formed by the general will—the deliberative judgments about the common good made by people in their capacity as citizens. All citizens should gather together to determine what is best for their community and endorse their own apposite laws. It is evidenced that for Rousseau, the ruled should be identical to the rulers. His concept of the general will provides the intellectual foundation of his account of sovereignty. The essence of his social contract is a process in which each individual surrenders his rights not to the state (as in Hobbes’ theory) or to a representative assemble (as in Locke’s theory), but rather to the community of which he is a member.
The key points of his theory are, first, that legislative authority ought to belong to the entire community of citizens; second, that the individual citizen is thereby subject to the sovereign authority of the community; and third, that each individual nevertheless has a share in that collective authority and ought, therefore, to play an equal part in the law-making process of community. Moreover, each individual, having helped to shape the laws that regulate the affairs of his community, subsequently undertakes to obey those laws. For Rousseau make it clear that the purpose of his idea of social contract is to create a form of alliance that will protect and secure each individual member and his property with the full common force. While each individual nonetheless obeys only himself and remain as free as before, he voluntarily unites with all for the sake of safeguarding his life and property, but he should be permitted to and actively partake in all law-making processes.

For Rousseau, the supreme value is freedom and he believes that freedom is a matter of following a rule, or law, you prescribe to yourself. He did not reject the concept of sovereignty, but insisted on retaining for the people the sovereignty which Hobbes had transferred to the state and its rulers. In his view, sovereignty originates in the people and ought to stay there. For the very essence of sovereignty are the creation, authorization and enactment of laws according to the standards and requirements of the common good. The nature of the common good can only be known through public discourse and public agreement. Only citizens themselves can articulate ‘the supreme direction of the general will’-it is the sum of their publicly generated judgments of the common good.
Moreover, Rousseau argued, citizens can only be obligated to a system of laws and regulations they have prescribed for themselves with the general good in mind. He wrote,

"...the general will is always right and tends to the public advantage; but it does not follow that the deliberations of the people have always the same rectitude. Our will always seeks our own good, but we do not always perceive what it is; the people are never corrupted, but they are often deceived, and only then do they seem to will what is bad." (Rousseau, 1947, p.26)

In addition, Rousseau thinks that Sovereignty cannot be either represented or alienated, for the same reason. He explains further that

(sovrenity) "Its essence is the general will, and that will must speak for itself, or it does not exist: it is either itself or not itself: there is no intermediate possibility. The deputies of the people, therefore, are not and cannot be their representatives; they can only be their commissioners, and as such are not qualified to conclude anything definitively. No act of theirs can be a law, unless it has been ratified by the people in person; and without that ratification nothing is a law". (Rousseau, 1947, p.85).

He saw individuals as ideally involved in the foundation of the laws by which their lives are affected and regulated. The sovereign authority is the people making the rules by which they live. Within his social contract, the individuals involved (all citizens) have not allowed any appointed person or assembly to exercise sovereign rule over them.

He continued by denouncing the system of representative democracy that,

"The people of England deceive themselves when they fancy they are free; they are so, in fact, only during the election of members of parliament: for, as soon as a new one is elected, they are again in chains and are nothing. And
Thus, by the use they make of their brief moments of liberty, they deserve to lose it.” (Rousseau, 1947, p.85).

Instead the forging of the contract, this act of association, as Rousseau describes it, creates a moral and collective body-in the form of a decision-making popular assembly—which assumes the name of ‘Republic or body politic’ and which its members recognize as “State” when it is passive, “Sovereign” when active.

Furthermore, for Rousseau, the true source of popular sovereignty is the general will of the ‘moral and collective body’ created by the agreement of the community. Indeed, sovereignty itself, Rousseau implied, is nothing but the exercise of the general will, and must therefore reside in the community. This sovereignty of the general will, and, hence, of the community, cannot be surrendered or delegated to any one person or group of people. Nor, may it be exercised on behalf of the community through elected representatives, as in 18th century England.

In addition, the sovereign which comprises the entire body of active citizens, agree on a general policy for the common good. This decision of sovereignty is thus not an agreement between the superior and the inferior, but an agreement among the entire community interacting with each one of its members. This agreement is legitimate, because it is established on the conception of social contract, just and unbiased because it would be commonly applied to all.
Rousseau mentions certain preconditions for realizing his ideal of popular sovereignty, for sustaining a sovereign assembly that expresses the general will. Firstly, he argues that the state should be relatively small, since it would not only be easy for all citizens to participate in law-making assembly but also would allow each individual to possess a reasonable share of sovereign power. Secondly, he maintains that there should be no fractional society in the State, which means that there is no division, no other association, interest group that undermines the relationship between the individual citizen and the state as a whole community. Finally, the advantage of a small state would be that the workload of its legislative assembly would be a limited one, since such a state would need very few laws (see Jones, 2002, p.29).

Rousseau has in mind a small state like his own native city-state of Geneva or like Corsica. He commends these states, with their small population size (300,000 citizens) and their decentralized structures as a desirable and superior state to hierarchical and centralized states such as England and France. Moreover, he argued that his desired state and society should also be characterized by a high degree of equality. Since political inequalities give rise to relationships of dominance and subordination that would fatally undermine the exercise of the general will.

Therefore, in Rousseau’s ideal state, it should consist of interdependent equals and it is essential that no citizen ought to be dependent on anyone else economically or
politically. He emphasizes that there should not exist any individual citizen who is “sufficiently opulent to be able to purchase another, and none so poor as to be forced to sell himself.”(Rousseau, 1947, p.47)

He maintained that a modern state that promotes popular sovereignty would be one without a representative assembly such as the English Parliament. For, sovereignty cannot be represented, since its very essence is the exercise of the general will which is something that cannot be transferred by the community to any other body or institution (see Rousseau,1947, BookIII chap15). For this reason he considered the English system of parliamentary representation to be illegitimate and incompatible with the voters’ political freedom. Instead of creating a representative assembly, the people ought to participate directly in popular legislative assemblies, casting the votes until a simple majority was obtained on a particular issue. Whenever such majority voting reflected the common good or public interest of the entire community, then it would become a true expression of the general will.

Rousseau differentiates the will of all, which is the outcome of each and every individual’s particular will, from what he meant by the general will. There is a distinction between voting in one’s interests, and voting on what one thinks is right. Exercising your vote in your own interests is to pursue your particular will. Voting what in your view is the morally correct outcome, or the common good is, for Rousseau, a vote that acting in accordance with the idea of the general will. He also claims that the general will must be general in its object as well as its essence. That is,
it must apply equally to all citizens. By this he means that the general will must only make laws which, affect all the citizens rather than executive orders targeted at particular individuals or groups (see Rousseau, 1947, Book IV chap 2). It suffices to say that Rousseau proposed we should be ruled by laws, not rulers.

However, Rousseau suggests that application of the laws is not the business of the Sovereign, but of the executive or government who arranges day-to-day administration. He thinks that it would be absurd to organize this task democratically, in the sense of involving universal active participation. He prefers an ‘elected aristocracy’ to act where the “wisest should govern the multitude, when there is an assurance that they will govern for (the many’s) welfare, and not for their own” (Rousseau, 1947, p. 62). Thus his elective aristocracy has a restricted role in applying and administering law but does not have the power to make laws. Rousseau’s law making process differs from contemporary democracies in that they are made not in Parliament, but at popular assemblies where the general will can be discovered.

“When any law is proposed in the assembly of the people, the question is not precisely to enquire whether they approve the proposition or reject it, but if it is conformable or not to the general will, which is their will. Each citizen in giving his suffrage, states his mind on that question; and the general will is found by counting the votes. When, therefore, the motion which I oppose carries, it only proves to me that I was mistaken, and that what I believe to be the general will was not so.” (Rousseau, 1947, p. 95-96).

Finally, to re-emphasize the necessary conditions for Rousseau’s idea to apply, we have to be sure that firstly, the people are voting on their idea of the right solution not for the outcome that favors their benefits. Secondly, the people do indeed, on average,
have a better than even (50/50) chance of being right, that is the most important condition involving both the educational and moral standard of the society.

"So long as several men unite and consider themselves as one body, they have but one will, which is to promote the common safety and general well-being. While this union continues, all the springs of the State will be vigorous and simple, the maxims by which they are regulated will be clear and comprehensible; and there will be no jarring, opposing interests; the common good will then be everywhere evident, and nothing will be necessary but a sound understanding to perceive it." (Rousseau, 1947, p.92)

2.2 Development of the Concept of Democracy

2.2.1 What is Democracy?

Etymologically speaking, democracy is derived from the ancient Greek word Demos and Kratos. While Demos stands for 'the many' or 'the people', Kratos means power or rule. Democracy therefore, means 'rule by the demos or the many'. In contrast to our modern usage, democracy was originally a negative term, denoting not so much rule by all, but rather rule by the propertyless and uneducated mass (see Heywood, 2004, p.221). Thus, democracy then was considered to be the enemy of liberty and wisdom. While famous thinkers such as Aristotle were ready to recognize the virtues of popular participation, they feared that unrestrained democracy would decline into a form of 'mob rule'. Such insulting implications continue to cling to the idea of democracy up until the 20th century.

Democracy has developed considerably over the course of time. Its varieties include direct popular participation in government, like those in Ancient Greek times, and the
models that emphasize elections and representative politicians. These two contrasting models are recognized as direct democracy and representative or electoral democracy.

The Modern understanding of democracy is dominated by the form of electoral democracy that has developed in the West, often called liberal democracy.

Although the democratic political tradition can be traced back to Ancient Greek civilization, democracy was not widely approved by political thinkers until the 19th century. Generally, democracy was rejected as the governing system by the unenlightened and ignorant masses. Now that we have entered the post-politic age, it seems that democracy is the magic label for all. Liberals, socialists, conservatives, communists, anarchists and others have been interested to claim the virtues of democracy and try to exhibit their democratic characters.

It follows that the development of a democratic tradition does not advance into a single and agreed ideal of popular rule, but is rather an arena of debate in which the notion of popular rule and means to achieve the popular rule are discussed. In that sense democratic political thought addresses three central questions. First, who are the people? Since it is not possible to stretch political participation to all the people in the nation, then the question is: on what criteria should it be limited? - in relation to age, gender, education, or social background or else? Second question is how should the people rule? This relates not only to the choice between direct and indirect democratic forms, but also to debates about forms of representation and different electoral systems. Third, how far should popular rule extend? Should democracy be
confined to political life, or should democracy also apply, say, to the family, the workplace, or throughout the economy?

Hence, democracy is by far not a single, unambiguous phenomenon. In reality, there are many theories and so-called ‘models of democracy’. Each theory offers its own version of popular rule. There are not only many different forms and mechanisms of democracy but there are also very dissimilar grounds on which democratic rule can be justified.

There are variations of democratic models. For instance, ‘classical democracy’, based upon the Athenian model, is characterized by consistent and direct participation of citizens in the processes of governing, while ‘protective democracy’ is a limited and indirect form of democratic rule intended to give individuals a means of defense against government (see Heywood, 2004, p.222). As such, it is linked to natural rights theory and utilitarianism. ‘Development democracy’ is associated with attempts to broaden popular participation, on the basis that it advances freedom and individual flourishing. Such ideas were taken up by New Left thinkers in the 1960s and 1970s in the form of radical or participatory democracy. Finally, ‘deliberative democracy’ highlights the importance of public debate and discussion in shaping citizens’ identities and interests, in order to increase their awareness of the common good.

Critics of democracy have adopted various positions. They have warned, variously, that democracy fails to recognize that some people’s views are more worthwhile than others; that democracy upholds majority views as the expense of minority views and
interests; that democratic rule tends to threaten individual rights by fuelling the growth of government; and that democracy is based upon the bogus notion of a public interest or common good, ideas that have been further weakened by the pluralistic nature of modern society.

2.2.2 Variety of democratic models

Nowadays all kinds of political regimes throughout the world declare to be democracies on their own account. It is because democracy bestows an aura of legitimacy upon contemporary political existence. It can make rules, laws and all procedures seem justified when they are labeled as 'democratic'. According to David Held (1995b), there are three basic models of democracy.

"First, there is a direct or participatory democracy, a system of decision-making about public affairs in which citizens are directly involved. This was the 'original' type of democracy found in ancient Athens, among other places. Secondly there is liberal or representative democracy, a system of rule embracing elected 'officers' who undertake to 'represent' the interests or views of citizens within delimited territories while upholding the 'rule of law'. Thirdly, there is a variant of democracy based on a one-party model (although some may doubt whether this is a form of democracy at all). Until recently, the Soviet Union, east European societies and many developing countries were committed to this conception." (Held, 1995b, p.5)

Abraham Lincoln mentioned the virtues of what he called government 'of the people, by the people and for the people' in his Gettysburg Address given November 19th, 1863. In my opinion, his statement implies two contrasting notions of democracy. The first, 'government by the people', is based upon the idea that the public participates in government and indeed governs itself; that is popular self-government.
The second, 'government for the people', is linked to the notion of the public interest and the idea that government benefits the people, whether or not they themselves rule.

### 2.2.2.1 Direct Democracy

Based on the Athenian model of democracy that has long been regarded as a basic source of inspiration for modern Western political thought, the cornerstone of Ancient Greek democracy was the direct and continuous participation of all citizens in the life of their polis or city-state, which amounted to a form of government by mass meeting. Each citizen was qualified to hold public office if selected to do so by lot or rota. This was a system of direct democracy or what is sometimes referred to as 'participatory democracy'. By removing the requisite for a special class of professional politicians, the citizens themselves were able to rule directly, thus eliminating the distinction between the state and civil society and between government and the governed (see Heywood, 2004, p.224).

A similar system of direct democracy that is still practiced at a local level in some parts of the USA and Switzerland namely the 'town-meeting democracy', but this is not the only means through which direct democracy can operate. The plebiscite or referendum, a popular vote on a specific issue which enables members of the community to make decisions directly, is another obvious method of direct democracy, instead of selecting politicians to make decisions on their behalf. Referendums are widely used at every level in Switzerland and are also held in countries such as Ireland to ratify constitutional amendments as well as in other
countries. In the USA, referendums have increasingly been used in local politics in the form of ‘propositions’ or popular initiatives.

Advocates of direct democracy further point out that the development of modern technology has opened up broader possibilities for popular participation in government. Particularly, the use of interactive television and the internet could enable citizens to both watch public debates and engage in voting without ever leaving their homes. This should support the possibilities of promoting direct democracy in our 21st century politics.

2.2.2.2 Indirect or representative democracy

Our contemporary government bears little resemblance to the Athenian model of direct democracy. In politics today, government is left in the care of political parties comprised of professional politicians who are responsible for making all decisions on behalf of the people. Representative democracy is not only indirect but also a limited kind of democracy. The reason that it is limited is due to the fact that direct participation is brief and only occasional, since it is reduced to the act of voting on election day once every few years, depending on the length of the political term (see Heywood, 2004, p.224-225). Representative democracy may nonetheless qualify as a form of democracy on the grounds that, however limited and indirect it may appear, the act of voting remains a vital source of popular power. Although representative democracy may not fully realize the classical goal of ‘government by the people’, it
may make possible a form of 'government for the people' (which normally would not be the case).

Advocates of representative democracy acknowledge its limitations, but argue that it is the only practicable form of democracy in modern conditions since the idea of creating a government by mass meeting being conducted in the modern nation-state containing ten or hundreds of millions of citizens is absurd. Moreover, to consult the general public on each and every issue, with public debate and discussion would threaten to paralyze the decision-making process and would make a country virtually ungovernable.

The most fundamental support of representative democracy is the claim that ordinary people lack the time, specialist knowledge and maturity to rule wisely on their own behalf. Thus representative democracy merely applies the advantages of the division of labour to politics. Assuming that politicians are able to devote all their time and energy to all activities of government, have specialist knowledge and enough maturity in politic, they can do a better job than would the general public (see Heywood, 2004, p.225).

However, since the 1960s there has been a revival of interest in classical democracy and particularly in the idea of participation. This reflects growing disenchantment with the bureaucratic and unresponsive nature of modern government, as well as a declining respect for professional politicians, who have increasingly been viewed as
self-serving and greedy being. Furthermore, the act of voting is often seen as a meaningless ritual that has little impact upon the policy process, making a mockery of the democratic ideal. Civic disengagement and declining electoral turnout in many parts of the world are sometimes viewed as symptoms of the malaise of representative democracy.

2.2.2.3 Liberal democracy

After the fall of communism in Europe, it is widely recognized that a particular model of democracy has come to dominate the political thinking sphere, to the extent that many in the west treat it as the only feasible or meaningful form of democracy. This is called ‘liberal democracy’ which can be found in almost all advanced capitalist societies and now extends, in one form or another, into the developing countries including parts of the former communist world. Indeed, in the light of the collapse of communism, the US writer, Francis Fukuyama in his book *The End of History and the Last man* (1992), claimed the worldwide triumph of liberal democracy, describing it as the ‘end of history’, by which he meant the struggle between political ideas has ended. The failure of communism and the collapse of the Soviet Union have confirmed the victory of liberal democracy together with its free-market economics or capitalism. Since security and freedom are achieved, hence history has ended. However, Fukuyama suggested that whether this victory is entirely satisfactory is another matter.

“In the course of the original debate over the *National Interest* article, many people assumed that the possibility of the end of history revolved around the
question of whether there were viable alternatives to liberal democracy visible in the world today. There was a great deal of controversy over such questions as whether communism was truly dead, whether religion or ultranationalism might make a comeback, and the like. But the deeper and more profound question concerns the goodness of Liberal democracy itself, and not only whether it will succeed against its present-day rivals.” (Fukuyama, 1992, p.xxi)

Despite its attractions, liberal democracy is not the only model of democratic government and, like all concepts of democracy it has its good side and bad side. According to the liberal viewpoint, the government is a necessary evil since it always prone to become a tyranny against the individual citizen if its power is not controlled and checked. This leads to support for inventing devices designed to constrain government, such as a Bill of Rights, a constitution, an independent judiciary and a network of checks and balances across government institutions. Liberal democracy, moreover, respects the continuation of a healthy and strong civil society, found upon respect for individual liberty and property rights. Liberal-democratic rule, therefore, typically coexists with the capitalist economy (see Heywood, 2004, p.225-229).

It can be concluded that the essential element in liberal democracy is the notion of popular consent that is expressed in practice only on Election Day through the act of voting. It is thus, a form of electoral democracy, in that popular election is seen as the only legitimate source of political authority. The attraction of liberal democracy is its capacity to blend elite rule with a significant measure of popular participation. Since the power to decide which is sovereign is vested in the people’s hand at the election, politicians competitively struggle to win the people’s vote. It follows that the virtues
of elite rule—government by experts, the educated or well-informed—are balanced against the need for public accountability.

Indeed, it is implied that in liberal democracy political power is ultimately wielded by voters at election time. The voter exercises the same power in the political market as the consumer does in the economic markets. This public accountability process is strengthened by the capacity of citizens to exert direct influence upon government through the formation of cause groups and interest groups. Liberal democracies are therefore described as pluralist democracies, that is within them political power is widely disseminated among different competing groups and interests, each of which has access to government.

However, there are critiques of liberal democracy (see Heywood, 2004, p.226-229) who contend that, on the one hand, liberal democracy is ‘capitalist’ or ‘bourgeois’ democracy. Since capitalism is a necessary precondition for democracy (the right to own property is an evidence of individual liberty which is the basis of democracy), there are conflicting conditions between the political equality which liberal democracy proclaims and the social and economic inequality which the capitalist economy inevitably generates. On the other hand, critics of liberal democracy focus on its narrow conception of political equality that has nothing more than equal voting right as ‘One man One Vote’. It follows that liberal democracy is labeled as façade democracy by radical democracy proponents.
2.2.2.4 Radical Democracy

Radical democracy returns to the classical conception of democracy as self-government. They emphasize the necessity of political participation and attack liberal democracy as having reduced citizen participation to a meaningless ritual of casting ballots every once in a while (see Heywood, 2004, p.228-229). Voting every few years for politicians who can only be replaced by another set of self-serving politicians cannot represent the people as a whole. It suffices to say that the people, in the current situation of democracy, never rule. The evidence of the growing gap between government and the people is reflected in the spread of corruption, apathy, inertia and the breakdown of community.

Radical democracy highlights the benefits that political participation brings, often by reference to the writing of Rousseau and J.S. Mill. Nonetheless, no single alternative to liberal democracy is suggested but radical democrats are prepared to endorse any reforms that encourage citizen participation, including the use of referendums and information technology, as well as the radical decentralization of power and activist and campaigning pressure groups, rather than typical bureaucratic government structures.

2.3 Critique of Democracy

2.3.1 Democracy as mob rule

According to Aristotle, rule by the many and by the poor is defined ‘democracy’. Not only because he assumed that society will always be divided between the few rich and
the many poor but also because he thought that poverty and virtue are negatively correlated. However, he thought that democracy was tolerable as long as it holds two important characters; first, it abides by the rule of law and second, it is dominated by a middle class. In its unbridled form, rule by the many is similar to a tyrannical monarchy since in both, rule is by decree, not law, and disproportionate power is in the hands of those who can sway either the monarch or ordinary people, in each case masking their political privilege as monarchical or democratic rule. The point that concerned Aristotle is that unchecked power could easily conspired by individuals through manipulation of public opinion.

For Aristotle, proper rule or right rule is undertaken for the common good while improper rule is conducted to serve private interests. By ‘common good’ he did not mean the interests that people happen to share, but that which is good for their community. Living in a good community, for him, promotes the well-being of all its members by allowing them to achieve their full potential and to lead virtuous and successful lives.

He classified six forms of rule (Aristotle, 2010, p.43-44) that are

1. Royalty is where one person rules for the common good.
2. Tyranny is where one person rules in his private interests.
3. Aristocracy is where the few rule for the common good.
4. Oligarchy is where the few rule for their private interests.
5. Polity is where the many rule for the common good.
6. Democracy is where the many rule for themselves.
Of these six forms of government, Aristotle (who contended that the best rule would be a royalty) considered democracy the 'most tolerable' of the three improper rule forms, since more people profit from democracy's self-serving rule. Thus the often quoted view of Sir Winston Churchill that democracy is the least bad form of government was in fact much earlier expressed by Aristotle.

2.3.2 Democracy cultivates the tyranny of the majority

Alexis de Tocqueville (1805-59), a French politician, political theorist and historian highlighted the dangers associated with greater equality of opportunity and social mobility. In particular, he warned against the growth of atomized individualism brought about through the erosion of traditional social bonds and structure, and the dangers of 'a tyranny of the majority', that is the tendency of public opinion in a democratic polity to discourage diversity and independent thought, paving the way for the rise of demagogic politics. His most important work is his book, Democracy in America.

Tocqueville was able to identify a highly democratic situation and to see many advantages and virtues to democracy while remaining critical of it. He asked what a majority is, if not an individual with opinions and interests that are contrary to another individual's opinions and interests, who is called the minority. In the most fully realized form of democracy (America for him), this majority is possessed of unbridled power, which occasions the worry that if you admit that a man empowered
with omnipotence can abuse it against his adversaries, why would a similar situation not occur with the omnipotent majority?

Tocqueville maintained that the greatest dangers threatening the American republics would develop from the dominance of the majority that could completely overpower the minority faction of the society.

“For my part, I am persuaded that in all governments, whatever their nature may be, servility will cower to force, and adulation will follow power. The only means of preventing men from degrading themselves is to invest no one with that unlimited authority which is the sure method of debasing them.

...If ever the free institutions of America are destroyed, that event may be attributed to the omnipotence of the majority, which may at some future time urge the minorities to desperation and oblige them to have recourse to physical force. Anarchy will then be the result, but it will have been brought about by despotism.” (Tocqueville, 1835-39, chap. XV)

He quoted Thomas Jefferson as commenting on the possibility of the tyranny of the legislature in the USA as followed,

"The executive power in our government is not the only, perhaps not even the principal, object of my solicitude. The tyranny of the legislature is really the danger most to be feared, and will continue to be so for many years to come. The tyranny of the executive power will come in its turn, but at a more distant period.”(Tocqueville, 1835-39, chap. XV)

Tocqueville was critical about the majority in the USA, which he observed “so frequently displays the tastes and the propensities of a despot, is still destitute of the most perfect instruments of tyranny” (Tocqueville, 1835-39, chap. XVI).

However, from his observation that American central government and local administrators operate on two separate platforms, Tocqueville projects that which is
the difficulty for any tyranny of the government to have an affect on the whole
country which is run individually by local or state administrators.

“In the American republics the central government has never as yet busied
itself except with a small number of objects, sufficiently prominent to attract
its attention. The secondary affairs of society have never been regulated by its
authority; and nothing has hitherto betrayed its desire of even interfering in
them. The majority has become more and more absolute, but has not increased
the prerogatives of the central government; those great prerogatives have been
confined to a certain sphere; and although the despotism of the majority may
be galling upon one point, it cannot be said to extend to all. However the
predominant party in the nation may be carried away by its passions, however
ardent it may be in the pursuit of its projects, it cannot oblige all the citizens to
comply with its desires in the same manner and at the same time throughout
the country. When the central government which represents that majority has
issued a decree, it must entrust the execution of its will to agents over whom it
frequently has no control and whom it cannot perpetually direct. The
townships, municipal bodies, and counties form so many concealed
breakwaters, which check or part the tide of popular determination. If an
oppressive law were passed, liberty would still be protected by the mode of
executing that law; the majority cannot descend to the details and what may
be called the puerilities of administrative tyranny. It does not even imagine
that it can do so, for it has not a full consciousness of its authority. It knows
only the extent of its natural powers, but is unacquainted with the art of
increasing them.”(Tocqueville, 1835-39, chap. XV)

He concluded that if a similar political system were applied to other countries smaller
in size than the USA, that the power of central government could easily interfere and
enforce in most, if not all, local administrative tasks. It is highly likely that the worst
form of tyranny would prevail.

“This point deserves attention; for if a democratic republic, similar to that of
the United States, were ever founded in a country where the power of one man
had previously established a centralized administration and had sunk it deep
into the habits and the laws of the people, I do not hesitate to assert that in
such a republic a more insufferable despotism would prevail than in any of the
absolute monarchies of Europe; or, indeed, than any that could be found on
this side of Asia.”(Tocqueville, 1835-39, chap. XVI)
2.3.3 Democracy can be easily corrupted by Equality

Montesquieu (1689-1755), a French political philosopher supports a form of parliamentary liberalism that was based upon the writing of Locke. Montesquieu put emphasis on the need to resist tyranny by fragmenting government power, particularly through the mechanism of the separation of powers. The separation of powers proposes that government be divided into three separate branches which are the legislature, the executive and the judiciary (see Heywood, 2004, p.206).

In his most important work, *The Spirit of the Law* (1949), Montesquieu categorized three types of governments; the first is the republican governments, which can presume either aristocratic or democratic forms. The second type is monarchies and the third is despotisms. Different from other political thinkers such as Aristotle, Montesquieu does not categorize different types of government based on virtue of the sovereign. For instance, the distinction between despotism and monarchy, does not depend upon the virtue of the monarch, but depends upon whether or not he governs ‘by fixed and established laws’ (Montesquieu, 1949, 2.1). Each type of government has its main assumption, that is a set of ‘human passions which set it in motion’ (Montesquieu, 1949, 3.1); and each can be corrupted if that major assumption is diluted or undermined.

“There are three species of government: republican, monarchical, and despotic. In order to discover their nature, it is sufficient to recollect the common notion, which supposes three definitions, or rather three facts: that a republican government is that in which the body, or only a part of the people, is possessed of the supreme power; monarchy, that in which a single person governs by fixed and established laws; a despotic government, that in which a single person directs everything by his own will and caprice.” (Montesquieu, 1949, 2.1)
Because in a democratic community the ultimate sovereign lies in the people, while they may exercise this power through executives, or be represented by a politician, nevertheless they still possess that power to choose their representatives for themselves. The fundamental of democracy is in fact a political virtue, by which Montesquieu means “the love of the laws and of our country” (Montesquieu, 1949, 4.5), structuring its democratic constitution. A democratic government would make the laws preserving suffrage and voting as necessary prerequisites. Nevertheless, the need to protect its principle imposes far more extensive and complicated requirements. As he explains that,

“When the body of the people is possessed of the supreme power, it is called a democracy. When the supreme power is lodged in the hands of a part of the people, it is then an aristocracy. In a democracy the people are in some respects the sovereign, and in others the subject. There can be no exercise of sovereignty but by their suffrages, which are their own will; now the sovereign's will is the sovereign himself. The laws therefore which establish the right of suffrage are fundamental to this government. And indeed it is as important to regulate in a republic, in what manner, by whom, to whom, and concerning what, suffrages are to be given, as it is in a monarchy to know who the prince is, and after what manner he ought to govern.” (Montesquieu, 1949, 2.2)

For Montesquieu, the virtue necessary for democracy to function well is not natural and, thus difficult to attain. It involves “a constant preference of public to private interest” (Montesquieu, 1949, 4.5); it “limits ambition to the sole desire, to the sole happiness, of doing greater services to our country than the rest of our fellow citizens” (Montesquieu, 1949, 5.3); and it “is a self-renunciation, which is ever
arduous and painful” (Montesquieu, 1949, 4.5). Montesquieu equates it to monks' dedication to their practices in which

“...their rule debars them from all those things by which the ordinary passions are fed; there remains therefore only this passion for the very rule that torments them. ... the more it curbs their inclinations, the more force it gives to the only passion left them” (Montesquieu, 1949, 5.2).

To be able to achieve this unnatural state of self-renunciation, “the whole power of education is required”. (Montesquieu, 1949, 4.5) It is important that to sustain democracy, the national community should encourage its citizens to subordinate their personal interests to the interests of their country. It is also important to have censors to effectively preserve its customs and cultures. Frugality should be supported by law, in the effort to prevent its citizens from being tempted to accumulate their own wealth at the expense of the general public. Similarly, the property laws should regulate the transfer of its ownership in order to manage equal distributions of property among its citizens. That is property tax and inheritance tax should be carefully outlined.

According to Montesquieu, democracy can be corrupted by either ‘the spirit of inequality’ or ‘the spirit of extreme equality’ (Montesquieu, 1949, 8.2). On the one hand, the spirit of inequality rises when citizens cease to subordinate their personal interests to the interests of their country, and make attempts to multiply their wealth and personal gains at the expense of the general public and at the same time seek to obtain political power to support their selfishness. On the other hand, the spirit of extreme equality surfaces when the people are no longer satisfied to be equal
politically in basic necessities of life as ordinary citizens, but demand to be equal in every respect including socially and economically. He explains that

"The principle of democracy is corrupted not only when the spirit of equality is extinct, but likewise when they fall into a spirit of extreme equality, and when each citizen would fain be upon a level with those whom he has chosen to command him. Then the people, incapable of bearing the very power they have delegated, want to manage everything themselves, to debate for the senate, to execute for the magistrate, and to decide for the judges.

When this is the case, virtue can no longer subsist in the republic." (Montesquieu, 1949, 8.2)

In a well-functioning democratic community, the people elect representatives to implement their executive task, and they obey and respect the representatives they have selected. If those politicians betrayed their respect, they would vote to have them replaced. But if the spirit of extreme equality rises, the citizens would neither obey nor respect any authorities. They would want to decide, choose and manage on every action themselves. When they want to participate in every function of the state, the result is the government would eventually cease to effectively function. Then the last remains of virtue will eventually disappear, since democracy will finally be triumphed over by despotism.

In despotic states “a single person directs everything by his own will and caprice” (Montesquieu, 1949, 2.1). A despot can do whatever he likes without laws to confine him, and without the need to attend to anyone who does not agree with him; no matter how much the action is morally wrong, ill-advised or deplorable. It follows that subjects under despotism are similar to slaves, whom the despot can dispose of whenever or however he sees fit. It is important to recognize that the fundamental
The rule of despotism is panicking fear. This fear would be continuously and persistently maintained, and the living situation under despotism is genuinely terrifying. It follows that education is unnecessary and should not be encouraged in despotism. But if it exists at all, it should be designed to impair any reasonable mind and corrupt any honorable spirit.

Without proper education, moral ideas such as honor, justice and virtue should never occur to a despot's subjects, since it is known that

"persons capable of setting a value on themselves would be likely to create disturbances. Fear must therefore depress their spirits, and extinguish even the least sense of ambition" (Montesquieu, 1949, 3.9).

Their "portion here, like that of beasts, is instinct, compliance, and punishment" (Montesquieu, 1949, 3.10), and any advanced desires and higher ambition should be cruelly suppressed.

Montesquieu maintains that

"The principle of despotic government is subject to a continual corruption, because it is even in its nature corrupt. Other governments are destroyed by particular accidents, which do violence to the principles of each constitution; this is ruined by its own intrinsic imperfections, when some accidental causes do not prevent the corrupting of its principles.

When once the principles of government are corrupted, the very best laws become bad, and turn against the state; but when the principles are sound, even bad laws have the same effect as good; the force of the principle draws everything to it." (Montesquieu, 1949, 8.10-11)

This reflects despotic society in many aspects. First of all, because property is not secure in a despotic state, commercial business will not prosper, and the state will become poor. It follows that despotic governments deflate themselves. Second,
despotic society undermines itself in creativity and intelligence. Since it is the intention of the despot to keep the people in the state of continuous fear; there is no room for inspiration and wisdom to be developed. Montesquieu suggests that education plays an essential part.

"As education in monarchies tends to raise and ennoble the mind, in despotic governments its only aim is to debase it. Here it must necessarily be servile; even in power such an education will be an advantage, because every tyrant is at the same time a slave.

Excessive obedience supposes ignorance in the person that obeys: the same it supposes in him that commands, for he has no occasion to deliberate, to doubt, to reason; he has only to will." (Montesquieu, 1949, 4.3)

As a result, intelligence, character, or resolutions are not necessary for a despot. Since he has never really intended to govern his people, he will soon appoint a nominee to govern for him. He will then occasionally retire to his paradise to pursue pleasure and enjoy his wealth accumulated from the expense of the general public. However, he cannot trust his army to protect him because he is afraid that the army will turn against him; that his generals will themselves try to seize power. From this reason we can assume that a despotic ruler in a repressive state has no more security than his terrified people.

"From the nature of despotic power it follows that the single person, invested with this power, commits the execution of it also to a single person. A man whom his senses continually inform that he himself is everything and that his subjects are nothing, is naturally lazy, voluptuous, and ignorant. In consequence of this, he neglects the management of public affairs. But were he to commit the administration to many, there would be continual disputes among them; each would form intrigues to be his first slave; and he would be obliged to take the reins into his own hands. It is, therefore, more natural for him to resign it to a vizir, and to invest him with the same power as himself. The creation of a vizir is a fundamental law of this government." (Montesquieu, 1949, 2.5)
It is also true that monarchical and republican governments entail specific governmental structures, and expect that their citizens have certain sorts of inspiration such as justice and virtues. When these inspirations fail, the structures collapse, then monarchical and republican governments would be corrupted, and their corruption would result in them falling into a despotic state. On the contrary, if a particular despotic government falls, it would rarely be reinstated by a monarchy or a republic, because the establishment of a stable monarchy or republic state is extremely difficult.

"...one would imagine that human nature should perpetually rise up against despotism. But notwithstanding the love of liberty, so natural to mankind, notwithstanding their innate detestation of force and violence, most nations are subject to this very government. This is easily accounted for. To form a moderate government, it is necessary to combine the several powers; to regulate, temper, and set them in motion; to give, as it were, ballast to one, in order to enable it to counterpoise the other. This is a masterpiece of legislation; rarely produced by hazard, and seldom attained by prudence. On the contrary, a despotic government offers itself, as it were, at first sight; it is uniform throughout; and as passions only are requisite to establish it, this is what every capacity may reach." (Montesquieu, 1949, 5.14)

It is difficult to construct the laws of a moderately balanced government and to try to live by them after one has previously been degraded and brutalized by despotism. In contrast, to produce a despotic government is rather straightforward. Under a despotic regime, it does not require the carefully balancing of power against one another, does not need to create institutions and maintain their existence, does not have to foster complicated motivations, and does not have restrictions on power to be kept in place. The only necessity one needs is the motivation to terrify other fellow citizens, that is severe enough to allow the despot to impose his will on them which Montesquieu claims, "is what every capacity may reach" (Montesquieu, 1949, 5.14). It suffices to
say that in comparison to other forms of government, despotism inevitably relates to corruption differently. While other forms are unavoidably accountable to corruption, despotism is necessarily its incarnation.

2.3.4 Representative is a moral duty

A UK statesman and political theorist, Edmund Burke (1729-97) is often seen as the father of the Anglo-American conservative tradition. Although he was a Whig politician, and expressed sympathetic towards the American Revolution of 1776, he earned his reputation through the criticism of the 1789 French Revolution that he developed in his work, *Reflections on the Revolution in France* (1790).

The central themes in his writings are a distrust of abstract principle and the need for political action to be rooted in tradition and experience. He totally resists the attempt to rewrite French politics in accordance with the ideas of liberty, equality and fraternity, arguing that wisdom resides largely in history and, in particular, in institutions and practices that have survived through time. For Burke, “People will not look forward to posterity” and “who never look backward to their ancestors” (Burke, 1955, p.31). His famous definition of society was that it was a contract between the living (who live in the present), the dead (who lived in the past) and those who are yet to be born (who will live in the future). Each individual is only a cell composing a larger body. The individual cell dies, but the body lives on. It is, therefore, the body that matters. When we understand that we are citizens in a continuous and eternal society, we must never ignore tradition because this age-old wisdom is the experience
of our kind. History can guide us to a better future, because tradition is a better guide to actual situations than is abstract reasoning.

He had a gloomy view of government, recognizing that, although it may prevent evil, it rarely promotes good. He also supported the classical economics of Adam Smith, regarding market forces as an example of 'natural law', and supported a principle of representation that stresses the need for representatives to use their own mature judgment.

In his famous speech to the electors of Bristol in 1774 he informed his constituents that “our representative owes you, not his industry only, but his judgment; and he betrays, instead of serving you, if he sacrifices it to your opinion”. (Heywood, 2004, p.233) For Burke, the essence of representation was to serve one’s constituents by the exercise of one’s mature judgment and enlightened conscience.

In short, representation is a moral duty. It is important that those with the advantage to possess better education and understanding should act in the interests of those who are less fortunate. In Burke’s view, this position was justified by the fear that if MP’s acted as ambassadors who took instructions directly from their constituents, Parliament would become a battle ground for contending local interests, leaving no one to speak on behalf of the nation. ‘Parliament’, Burke emphasized, “is a deliberative assembly of one nation, with one interest that of the whole”. (Heywood, 2004, p.233)
2.3.5 Free election doesn’t guarantee the common good

According to Schumpeter (1883-1950), an ex-minister of finance in Austria and a professor of economics at Harvard, fundamental aspects of classical democracy that is self-government (by the people) and for the common good (for the people) are strongly challenged by the factual events in modern democratic practice.

Regarding the self-government aspect, he insists that it is obvious that societies generally called democratic are governed not by the people or by a majority as a whole but by elected officials along with non-elected political party and bureaucratic attendants. This is clearly the case on a day-to-day and year-to-year basis, when officials usually pursue policies in accord with their own interests or their estimation of what is best done. (see Cunningham, 2002, p.9-10)

Furthermore, regarding the aspect that democracy promotes the public good, Schumpeter contends that this is nowhere to be found. Neither in the motives of those who vote for the public officials, each of whom will vote on the basis of private preferences, nor in the outcome of a vote since members of a majority typically have a wide variety of motivations for casting their ballots.

Thus, he reduces democracy to merely a method for selecting public officials and defined this method simply as “that institutional arrangement for arriving at political decisions in which individuals acquire the power to decide by means of a competitive
struggle for the people’s vote” (Schumpeter, 1962, p.269). It follows that any political regime that held free elections is as democratic as any other on this definition.

However, he argues that there are preconditions for the democratic method to ‘succeed’ (see Cunningham, 2002, p.10); which are

1. Availability of qualified political leaders.
2. Assurance that experts and not the public decide matters requiring special knowledge or talents.
3. A well-trained bureaucracy.
4. A public whose members are tolerant of one another and are prepared to allow politicians a relatively free hand in governing.

Finally he expressed his view that on balance a social democratic society held the most promise since it could provide a more skilled bureaucracy than a capitalist-dominated society, which is more prone to foster deep conflict within a population and makes trust in political leaders and tolerance hard to sustain.

2.4 Critical Evaluation of the connection between Sovereignty and Democracy

Why do we need politics? How are human societies arranged to be able to live peacefully together? What would the best form of government be? Almost every political philosopher today would answer that good government must mean some kind of democracy. That is somehow one way or another, the people must rule, which leaves rooms for argument about what democracy really means in practice for each
particular society. However, many years back in human history, different views prevailed. Good government of our ancestors meant government by a wise monarch, by an enlightened aristocracy, or by men of property or some kind of combination among these types of men.

The contemporary agenda of spreading democracy, human rights, and free markets is being pursued based on the destruction or the undermining of the idea of 'sovereignty', which is now being denied and called by the names such as 'rogues states' or 'outlaw states', non-democratic states, and states that violate human rights. All have their sovereignty questioned and became targets for outside intervention by violent or non-violent means. In the following discussion, I shall address the political development of 'sovereignty', the use of the idea that intends both to assert and to deny autonomy. A denial of the 'sovereign equality' of states could open the door to a policy of intervention. Since the idea of 'democracy' has always been related to the acceptance of the idea of 'sovereignty of the people', therefore, 'popular sovereignty' went hand-in-hand with 'state sovereignty'.

Initially, the notion of sovereignty was conceptualized as a final and absolute political authority in a political community which has "no final and absolute authority exists elsewhere" (Hinsley, 1986, p.26). It was the concern of Jean Bodin and Thomas Hobbes to establish some one final source of authority, and thus to identify the site of sovereignty.
Recently the method of ‘unbundling’ of the concept of sovereignty was suggested by Stephen Krasner (1999), who categorized Bodin’s and Hobbes’ concept as just one of several meanings of ‘sovereignty’, which is best understood as referring to domestic authority structure (see Krasner, 1999, p.3-20). Lassa Oppenheim analyzed in his classic book, *International Law*, the core of sovereignty that include the authority of a nation to 1) “adopt any constitution it likes”; 2) “adopt any commercial policy it likes”; and 3) “treat its subject according to its discretion” (Oppenheim, 1905, p. 124). It is this aspect that ‘internal sovereignty’ is comprised of, which involves “the specification of legitimate authority within a polity and the extent to which that authority can be effectively exercised” (Krasner, 1999, p. 4). Bodin and Hobbes’ concern with the source and site of internal sovereignty is mixed here with a concern for the effective control of activities within a state’s boundaries. We shall continue into a more detailed discussion of the connection between ‘internal sovereignty’, in the form of ‘popular sovereignty’, and democracy.

Democracy seems to require certain preconditions to function effectively. A literate and wealthy population is a basic element, means of mass communication and media is fundamental so that circulation of ideas and opinions can run freely, a well-functioning legal system that the people respect is also critical and the list goes on. These preconditions were not available anywhere in the world until recently nor could they be created overnight. It suffices to say that what we understand today as democracy was not a practicable form of government in ancient times, because these prerequisites could not be attained until contemporary times.
We are governed by states that yield unparalleled power to influence our lives. They not merely provide us with basic protection against attack on our person and our property but they also demand from us in return, in countless ways by laying down terms on which we ought to live our lives, earn our living, communicate with one another, travel to and from, and so on. We can affirm that we are all citizens of the state, although some states fail to provide these basic tasks. It is also critical to emphasize that no citizen can benefit from belonging to a failing state.

Here my contention is that if we try to imagine life in society without the sovereign power, if the legal system, the police, the army, and other branches of the state authority and civil services are all taken away, then what kind of society would that be?

The concept of sovereignty consists of two aspects. On the one part is its authority which is its right to command its people in certain ways. People obey the law and behave accordingly because they think that the sovereign is legitimate and they have the duty to comply. On the other part, people who do not want to comply are under threat and bound to be punished by law enforcers. It follows that sovereign power combines authority and forced compliance.

Human history has revealed that human societies used to govern themselves on a much smaller scale than our modern state. In ancient tribal communes sovereign power generally rested in the hands of the village leaders who would gather villagers
to settle any disputes that occurred in their tribe, to discuss tribal regulations and to issue occasional commands. After societies became larger, as in medieval Europe or in China under the Han dynasty, sovereign authority rested in the hands of the monarch while daily governance was taken care of by regional aristocrats and their officers (see Miller, 2003, p.19-20). Political arguments were focused on who would be most suitable to rule and for the following centuries the arguments continue to evolve around the issue of the supreme authority of the state; who ought to be the sovereign and how the sovereign power should be exercised?

One of the notable ideas about sovereignty in the Western World came from Thomas Hobbes who had experienced the breakdown of sovereign power during the English Civil War, who described the natural condition of mankind or human behavior in the state of nature that without sovereign power in the society, men would ferociously compete for the necessities in life. People in the state of nature would live in constant fear that they would be attacked or robbed or killed, and therefore, would be inclined to attack others first. The result was explained in his famous passage quoted from his book *Leviathan*(1985), he wrote,

"In such condition, there is no place for Industry; because the fruit thereof is uncertain; and consequently no Culture of the Earth; no Navigation, nor use of the commodious Building; no Instruments of moving, and removing such things as require much force; no knowledge of the face of the Earth; no account of Time; no Arts; no Letters; no Society; and which is worst of all, continuall feare, and danger of violent death; and the life of man, solitary, poor, nasty, brutish and short." (Hobbes, p.233)

In my opinion, Hobbes pointed out a very interesting aspect of social life. That is--there could be no peaceful or commercial relationship between people in the absence
of trust, and that—trust is missing if the sovereign power that enforces the law is absent. Without the sovereign, who can regulate all the rules, it is not safe to expect a trust from anyone. If I make an agreement with someone, why should I expect that he will keep his promise since he would face no consequence if he violates the agreement? And he may likewise wonder the same about me. Finally, according to Hobbes, this fear and distrust of others would turn life without sovereign power to rely on into “a perpetuall warre of every man against his neighbor.” (Hobbes, 1985, p. 260)

Although Hobbes may have a rather negative opinion of human nature, in my opinion what he is trying to suggest is that after the breakdown of sovereign power, society would be in a climate of fear; it is then that the kinder, honest and reliable side of human nature would be removed. Thus the human community always needs a political sovereignty, because it ensures us the security and protection that allows us to trust other people. It is unarguable that in an ambiance of trust, people can better cooperate and produce all those goods and profit. Hobbes envisaged all citizens gathering together and making an agreement with each other to institute a sovereign who would be their ruler. They would submit themselves to the leviathan whose sovereign power was unrestricted and undivided in order to achieve peaceful society and avoid the state of nature that Hobbes fears.

In ‘pre-modern’ Europe, political authority was shared between a wide range of institutions and individuals, both secular and religious; that is between kings, royal
families, noblemen, knights, bishops, abbots and papacy, guilds and cities, and
‘bourgeois’ merchants and artisans. The conception of the modern state strives to
replace these overlapping and often controversial jurisdictions through the founding
of a centralized state. The theory of sovereignty legitimized this attempt by claiming
the ultimate power of the government of any state over its populace, resources, and
most important, over all other authorities within its geographical boundary.

‘Sovereignty’ meant that absolute and final authority within the territory rest with the
supremacy of state (see Axtmann, 2007, p. 152-153; Held, 1995a, p. 219). It suffices to
say that the state controls without being controlled by others, and its will was
‘absolute’; because it does not answer to anyone but itself.

Since there is space involved in the territorial character of the ‘sovereign’, this spatial
dimension manifests itself most clearly in the drawing of territorial boundaries that
demarcate the ‘inside’ from the ‘outside’. This territorial exclusion is a prerequisite
for identifying the source of sovereignty within the bounded territory and for defining
‘us’ in contradiction to ‘them’. In the theory of sovereignty, the claim of political
legitimacy in the past had been based on the notion that the monarchs or the rulers
had attained their authority from heaven or ‘from the grace of God’ (dei gratia)(see
Held, 1995a, p. 220; Axtmann, 2007, p. 154). To keep the peace and to provide justice
under the rule of God, as well as under the rule of law, were the main responsibilities
and justifications of royal authority well into the fifteenth century. The provision of
peace and justice (pax et justitia) was to result in order (tranquillitas) (see Axtmaan,
2007, p. 154).
However, it was the effort to impose religious conformity during the 16th and 17th centuries that resulted in undermining the formation of order in the course of religious wars that spread across Europe during the time. As a result of these wars, religious issues became subordinated to secular concerns with order and stability of the political association. For some political thinkers such as Jean Bodin, to maintain political orderliness through consolidation of the power of the state had priority over the enforcement of religious conformity and uniformity (see Held, 1995a, p. 220). This shift in the meaning of sovereign authority found its most significant expression in the increase in the legislative activity of the ruler who now founded himself as law-maker. This generated theoretical endeavors to assess more precisely the nature of law-making, the kind of power which it both presupposed and entailed. The notion of ‘sovereignty’ in the sense of supreme authority became central in the context of these reflections. It became one of the major concerns of political and juridical thinking to identify the “will which legally commands and is not commanded by others” (Axtmann, 2007, p. 156). While both Bodin and Hobbes conceptualized the king as the source of the law, it was Hobbes who moved the source of the ruler’s legitimacy from ‘divine right’ to sovereignty by the people from the ‘social contract’.

Jean Bodin who wrote during a time of civil war in France, asserted that there must exist within a state a clearly recognizable, legitimate supreme power which cannot be subordinated by any other power and cannot be limited by civil, positive or customary law, but only by divine and natural law (see Axtmann, 2007, p. 156). While the unity of sovereignty need to be preserved, a distinction needs nevertheless to be made
between the possession of sovereignty or the actual form of the state and the form of administration. All intermediate powers are radically excluded from sovereignty, which is one and indivisible; administrative power can be delegated to corporate bodies or individuals. Thomas Hueglin (1999) concludes Bodin's position as "unitary concentration of sovereign powers, but decentralized administration by mandated agents or representatives" (Hueglin, 1999, p. 47).

According to Thomas Hobbes, the state was constituted on the basis of a social contract. His starting point was the 'state of nature' which was populated by free and equal individuals. In this 'state of nature', even the weakest "has strength enough to kill the strongest, either by secret machinations, or by confederacy with others, that are in the same danger than himself" (Hobbes, 1985, p. 183). Thus there is always as if "warre, of every man, against every man" (Hobbes, 1985, p. 188).

I shall discuss here about whether it is possible for social cooperation when the sovereign power is absent. Anarchists who believe that it is possible can be divided into two groups: the communitarian and the market anarchists. Communitarian anarchists argue that in a society comprised of small communities, where people have personal contact with each other on their daily basis; it is possible to have social cooperation without the sovereign power to regulate them. Since the penalty for breaking their trust is direct social sanction upon the guilty, which should be enough to prevent any fraud, sovereign power is not necessary. The question is can our
modern complex societies merely rely on a personal contact basis? Does every single human really care if he is banned by society or he would love to be left alone?

Market anarchists (the so-called libertarians) believe that we could replace the sovereign power who exercises state duty with paid private services such as security guards or insurance company to protect our wellbeing and properties. This idea relies on the economic power of the individual instead of the sovereign power of the public, since they would buy every service needed from their own pocket. Each will receive the service that they can afford. The question is who would regulate those paid agencies, on one hand, to act upon their duties and, on the other hand, what degree of responsibility should be satisfied?

The idea of ‘popular sovereignty’ proposed that political authority was legitimate only if it was bestowed and willed, by the people. Thus, the people, not the king, were considered the source of the law.

‘The people’, understood as the whole body of a territory’s legal inhabitants, are imagined as the collective source of the state’s authority. The Virginia Bill of Rights of 1776 made this point very prominently by announced that

“All power is vested in, and consequently derived from, the people; Magistrates are their trustees and servants, and at all times amenable to them”.

(Section 2, available http://www.constitution.org/bcp/virg_dor.htm)

The assertion in the French Declaration of the Rights and Duties of Man and Citizen of 1789 also confirmed that

But the following questions would be; how can the body of 'the people' be defined? Who are 'the people'? Since 'the sovereignty of the people' is understood as being inalienable, the first act of exercising this sovereignty was believed to consist in the decisive moment that the people created their constitution. Thus, 'the people', understood as the entire body of a territory's legal inhabitants, "are imagined as the collective source of the state's authority, determining how this authority should be constructed and employed" (Yack, 2001, p.523). It means that 'popular sovereignty' expresses itself in the 'constituent sovereignty' of the people.

The answer to the question of the characteristics of 'the people' is explained by the word 'the nation'. It is also critical to realize that "in order to conjure up an image of the people as standing apart from and prior to the establishment of political authority, you have to think of its members as sharing something more than political relationships" (Yack, 2001, P. 525).

The nation is also "an imagined political community-and imagined as both inherently limited and sovereign" (Anderson, 1996, p.6) According to Benedict Anderson, a nation is imagined because "the members of even the smallest nation will never know most of their fellow-members, meet them, or even hear of them, yet in the minds of each lives the image of their communion." (Anderson, 1996, p.6) Furthermore, the
nation is imagined as limited because no matter how large a population they may have, the nation has finite and specific boundaries, beyond which lie other nations. In addition, the nation is imagined as sovereign because “nations dream of being free, and, if under God, directly so. The gage and emblem of this freedom is the sovereign state.” (Anderson, 1996, p. 7) Lastly, the nation is imagined as a community because as a result of cultural roots of each nation “the nation is always conceived as a deep, horizontal comradeship. It is this fraternity that makes it possible for many millions of people as willing to die for such limited imagining.” (Anderson, 1996, p. 7)

Though there are alternatives to the concept of sovereignty, are they better choices or are they merely alternatives? In my opinion, the real question is not whether we should have the sovereign power to govern us, but what kind of sovereign power we should have and what its limit should be. The problem of political obligation (see Horton, 1992; Klosko, 1992; Simmons, 1979) is also crucial and should be address in this writing. Why should we obey the sovereign power when we disagree on the issue? For example, when the sovereign impose tax on us, why should we pay?

For one spontaneous answer, we obey the law because there are consequences if we do not comply with the law. We would be punished. However, there are claims by philosophers about this issue. The first claim is that we are obliged to obey the law, because we have agreed or consented to do so. Although people in general do not choose to become a member of the state but, in practice, they are compelled to obey them. It was John Locke who pointed out in his Second Treatise of Government (See
Locke, 1980, Chap VIII: Beginnings of Political Societies sec 116-117) that if we do accept benefits such as protection of our property, health and life from the state, then our acceptance can be regarded as a form of consent.

To be more specific, since the protection of our property is one of the major functions of the sovereign, when we acquire any property either by purchase or by inheritance, we are technically accepting the sovereign's legal authority over that property, and thus consenting to his laws. According to Locke, this act of consent also includes travelers who only temporarily pass through that state's boundary. (see Locke, 1980, Chap VIII, sec 118-121)

Secondly, the reason that we obey law is because we agree that it is fair to do so. Every person would naturally prefer to do what they like, perhaps not paying tax or ignoring the traffic light. But when someone pays his tax, the rest of us benefit from the tax money that is used to support schools, hospitals and roads. This fairness means that when you stop at the red light, you make it safer for other people to go on the green light. It is sufficient to say that those who ignore and break the law, but enjoy benefits from the state due to the fact that other people still obey it, are behaving unfairly.

However, there are difficulties that have to be overcome in order for the fair play argument to be justified. Firstly, we have to demonstrate that the state has provided benefits fairly to everyone. Secondly, we have to determine what a fair distribution of
social cost and benefits should be, given that people have very different needs, abilities, and preferences and so on.

In addition, if the sovereign power refuses to pay attention to the concern of the minority when making his decision, or issues an unjust or oppressive law, the non-violent form of protest namely civil disobedience is justified (to resist or refuse to comply with the government’s decision) (see Locke, 1980, Chap IX). Thus, it suffices to say that political obligation may not be binding on all occasions, with the exception of some extreme circumstances, civil disobedience can be justified.

2.5 Summary

The idea of ‘democracy’ has always been related to the acceptance of the idea of the ‘sovereignty of the people’. It follows that the answer to that question of who has or where is the supreme authority over the state could determine the democratic status of that state. In the past, the claim of legitimacy of monarchical domination had been based on the notion that the sovereign had accepted their authority ‘from the grace of God’ (dei gratia). Being appointed by God, they were obliged to perform their duties in a just and virtuous way. Rather than being seen as ‘founders’ of new laws, they were seen as ‘finder’ of old laws, which represent and express enduring norms contained in ethical values, traditions and religious teaching. Maintaining peace and providing justice under the rule of God as well as under the rule of law were the vital justifications and chief duties of royal authority.
Since the sovereign power shifted towards the people, there are differences in locations where sovereign power can be found. Within the Classical model of democracy, sovereign power lies with the assembly of citizen and the scope of its power includes all the general concerns of the city. In the republican model, sovereign power is balanced by division of legislative and administrative power.

The idea of ‘popular sovereignty’ suggested that political authority was legitimate only if it was bestowed and willed, by the people. Hence the people, not the king are the source of the law. The sovereignty of the people is understood as being inalienable, and it could not be revoked by, or surrendered to some other body or person.
Chapter III: Carl Schmitt and Democracy

3.1 Critical Examination of Carl Schmitt’s Political Concepts

Schmitt explains the state of exception as that state which calls for the emergence of a potentially absolute sovereign, who not only would save a constitutional order from a political crisis but also would reinvent it within its constitutional procedures (See PT, p.12-15). His political concepts also include his friend-enemy distinction and the emergence of sovereign power other than the state of exception.

Schmitt suggests that Machiavelli (1469-1527) actually initiates the process of making the characteristics of sovereignty the very center of modern normal politics. In Schmitt’s account, Machiavelli advocates the use of the political techniques of sovereignty in everyday politics. Hobbes further inverts the relationship of a normal political situation and an exceptional one with his concept of the "state of nature" (see LVH, p.80-87). Civil war becomes the ever-imminent normal state of affairs to which the sovereign power is the exceptional solution. Hobbes's sovereign state is hence a kind of supreme authority that has as its sole task guarding the ever-present exception. And because there is no sustained concept of stable political normalcy its authority cannot be a commissarial authority. It is rather, appropriate to its name, a sovereign one.

Similar to Hobbes, Schmitt is pessimistic about the human condition in the state of nature. In Schmitt’s view, Hobbes was not proposing that human beings escape
from the state of nature into a monstrous state leviathan, but rather he was arguing for absolute state power only insofar as it guaranteed protection and security. Schmitt argues that one’s obedience to the state is payment for protection and security, and if protection and security terminates, so too does the obligation to obey (see LVH, p.71-72). The leviathan symbolizes the gigantic and artificial mechanism of the modern state, and to indicate that the state as a transitional structure that can suspend the larger decline that modernity tends to suggest.

According to Schmitt, this process is radicalized as sovereignty becomes increasingly defined as popular sovereignty -- as authority derives not from a specific and definite individual person like an absolute monarch but rather from an amorphous and differentiated populace. On the one hand, Sovereignty is the body that makes the decision whether an exceptional situation exists -- in the Roman case, the Senate through the consuls -- and, on the other, it is the person that is chosen to decide what to do in the actual duration of the emergency who is the sovereign himself. The two separate acts of making decisions, one act takes place during the time of normalcy, the other in the moment of exception, are combined together and concealed in his opening statement in Political Theology, that said “Sovereign is he who decides on the exception” (PT, p.4). Indeed, further on in the work Schmitt explicitly and deliberately conflates the two decisions: the sovereign "decides whether there is an extreme emergency as well as what must be done to eliminate it" (PT, p.7)
The exception, which could not be categorized in any juridical order, can be best explained as a situation of excessive insecurity or a dangerous threat to the existence of the state, or any equally hazardous situations.

"If measures undertaken in an exception could be circumscribed by mutual control, by imposing a time limit, or finally, as in the liberal constitutional procedure governing a state of siege, by enumerating extraordinary powers, the question of sovereignty would then be considered less significant . . . ” (PT, p.12).

In Political Theology the normal liberal political order is presented as being so utterly corrupted by science and technology that it is actually redeemed by the exception and the sovereign action for which it calls (see PT, p.36-52).

"In the exception, the power of real life breaks through the crust of a mechanism that has become torpid by repetition" (Schmitt, PT, p.15)

The separation of powers by liberalism unavoidably paralyzes a state during the time of an emergency because it complicates the determination of which authority actually is the supreme sovereign, who must make decisions and take control at that emergency moment (see PT, p.59-66).

In his book the Concept of the Political, Schmitt proposes the friend/enemy distinction as the core of the political because “the political must rest on its own ultimate distinction, to which all action with a specifically political meaning can be traced, ...which is that between friend and enemy” (Schmitt, CP, p.26). He explains further that “The distinction of friend and enemy denotes the utmost degree of intensity of a union or separation, of an association or dissociation” (Schmitt, CP,
which "can neither be decided by a previously determined general norm nor by the judgment of a disinterested and therefore neutral third party" (Schmitt, CP, p.27).

Moreover, he emphasize that to recognize the distinction between friend-enemy is essential to the political because this distinction is bound to a concrete existence, not as metaphor or symbols.

"... a political concepts, images, and terms have a polemical meaning. They are focused on a specific conflict and are bound to concrete situation; the result (which manifests itself in war or revolution) is a friend-enemy grouping" (Schmitt, CP, p.30).

For Schmitt, the enemy is not private or personal but a public enemy since he wrote that

"An enemy exists only when, at least potentially, one fighting collectivity of people confronts a similar collectivity. The enemy is solely the public enemy, because everything that has a relationship to such a collectivity of men, particularly to a whole nation, becomes public by virtue of such a relationship." (CP, p.28)

Two of Schmitt remarks are important here. First, the enemy is a public, not a private enemy. The purpose of his highlight on the public nature of the enemy is to elevate politics from what he saw as its parasitic manipulative and intrigue-ridden state, one of a privatized affair between individual groups, into the realm of the collective public. And this state was, he thought, the current state of liberalism, one brought about by the liberal ideals of eternal economic competition between individuals or individual groups, which is mirrored in the liberal conception of politics as eternal discussion, the competition of private opinions.
A second remark of the friend-enemy distinction that affects the concept of political is its intensity. It “is the most intense and extreme antithesis, and every antithesis is that much more political the closer it gets to the extreme, the grouping of friend and enemy” (Dyzenhaus, 1999, P. 48). For Schmitt this entailed that the political is mindful of “the ever present possibility of combat” (CP, p.32) and

“...the ever present possibility of physical killing. War follows from enmity. War is the existential negation of the enemy.” (CP, p.33)

And it is this intensity (of possible combat/warfare) which connects the concept of the political to the concept of sovereignty.

According to Schmitt, the concept of the political requires an enemy because he thinks that “the concept of the state presupposes the concept of the political” (CP, p.19). The crucial distinction is that the concept of the state should be determined by political means and the concept of society by economic means. While liberalism theory concerning almost exclusively the internal struggle against the state power leads to “an entire system of demilitarized and depoliticized concepts” (CP, p.71). He seizes Franz Oppenheimer whose “liberalism is so radical that he no longer permits the state to be even an armed office guard.” (CP, p.76), as an example of the concept that “Society...now stands infinitely higher than the state, which is degraded to a region of brutal immorality” (CP, p.77).
Thus, without the sharp distinction between the state and society, whereby the state (and politics) is defined as the sphere of just and honest rivalry; society (and economics) as a world of deception and cunning, Schmitt suggests that “a system of mutual contracts finally deteriorates into a system of the worst exploitation and repression” (CP, p.77). Finally, this society that established on exchange and mutual contracts (economics purposes) would result in “peaceful and just is thereby eliminated.” (CP, p.78)

Schmitt argues that the political is a fundamental character of human life; politics in this sense has become the destiny. It follows that man cannot escape politics (see CP, p.36, 66, 76). This inescapability of the political is evidenced in the conflict man has to face if he tries to eliminate the political. The attempt to eradicate the political for the sake of humanity has its consequence in the increase of inhumanity, since the negation of war would lead to a war against war will be undertaken as “the definitively final war of humanity”. (Strauss, 1995, p.95) Schmitt further explained that,

“When a state fights its political enemy in the name of humanity, it is not a war for the sake of humanity, but a war wherein a particular state seeks to usurp a universal concept against its military opponent. At the expense of its opponent, it tries to identify itself with humanity in the same way as one can misuse peace, justice, progress, and civilization in order to claim these as one’s own and to deny the same to the enemy.” (CP, p.54)

The reason why war conducted in the name of humanity were remarkably inhuman is that all means are justified once the enemy is identified as the antagonist of humanity. The current definition of the demarcated line between friend and enemy
as one between the good and civilized world and its enemies would be labeled as the barbaric and evil government. Hence, the enemy is required to be totally annihilated.

Schmitt’s emphasis on the distinction between friend and enemy as essential to the political suggested that, to him, the world was a pluriverse, not a universe (see CP, p. 53). Any attempts to impose a western model of democracy as a universal model or as a cosmopolitan new world order would have horrible consequences. He often denounced the way in which the concept of ‘humanity’ is used as an ideological weapon of capitalist expansion (see CP, p. 54, 66; NE, p.273-280). It follows that sovereignty of state is an essential concept for small nations including Thailand, that should be strengthened, in order to preserve her national identity and traditional way of living in the environment of the sufficiency economy, which is on the verge of being spoiled by western capitalist economic expansion.

3.1.1 Schmitt’s Concept of Sovereignty

According to his famous definition of sovereignty that simply says “Sovereign is he who decides on the exception” (PT, p.5), this statement implies that his sovereign has two qualities here. One is to make decisions and the other is to emerge at the time of emergency or the so-called ‘state of exception’. Schmitt has described that his sovereign must have total control over the decisions of the state in the time of chaos—which is the exception, since “there exists no norm that is applicable to chaos” (PT, p.13) and the sovereign “produces and guarantees the
situation in its totality” (PT, p.13). However, Schmitt claimed that sovereignty is a ‘limit concept’ (Balakrishnan, 2000, p.45) which can be correctly understood only in the light of an emergency situation, when the very existence of the political community is at stake.

A ‘sovereign decision’ determines what constitutes a threat to public safety in situations where the meaning of public safety has become an indeterminable object of contention. Schmitt’s definition of a sovereign is similar to Hegel’s in his work ‘Philosophy of Right’ where he says that the sovereign is

“...the personality of the state, and its conscious assurance of itself. This final term gives to all particularities a new form by taking the up into its pure self. It ceases to hesitate between reasons pro and con, and deciding by an ‘I Will’, initiates all action and reality.” (Hegel, 2001, p.225)

It follows that according to Schmitt, the essence of the state’s sovereignty is “not as the monopoly to coerce or to rule but as the monopoly to decide” (PT, p.13).

Moreover, the sovereign “has the monopoly over the last decision” (PT, p.13) since he creates and guarantees the situation entirely and in absolute totality.

Schmitt explains further about the theologically related dimension of his sovereignty concept that God is transferred into the theory of the state as the supreme commander, the sovereign, whereas miracle is compared with the state of exception.

“All significant concepts of the modern theory of the state are secularized theological concepts not only because of their historical development—in which they were transferred from theology to the theory of the state, whereby, for example, the omnipotent God became the omnipotent
lawgiver—but also because of their systematic structure, the recognition of which is necessary for a sociological consideration of these concepts. The exception in jurisprudence is analogous to the miracle in theology. Only by being aware of this analogy can we appreciate the manner in which the philosophical ideas of the state developed in the last centuries” (PT, p. 36).

To decode his meaning, we have to understand that as a student of Max Weber, Schmitt understands ‘secularized’ through accepting the idea of ‘demagification’ or ‘disenchantment’ of the world. To say that all concepts in modern state theory are secularized theological concepts is not to want to restore to those concepts a theological dimension, but to restore to the concepts of sovereignty and political authority in a secular age the qualities that they had in the past. (see Strong, 2005, p.xxiv-xxv)

For Schmitt, the secularization of theological concepts in the domain of sovereignty should rather be recognized as corresponding to the greatest progress in human rationality. This progress has occurred in and because of the state. But what is the consequence to this understanding of secularization? According to Tracy B. Strong in her foreword of Political Theology, there are three elements involved. The first element is Schmitt’s perception of power. Political power is to be comprehended on the model of God’s creation, which is similar to how Hobbes had perceived it. “Power is to make something from that which is not something and thus is not subject to laid—down laws” (Strong, 2005, p.xxvii).

The second element in his conception of secularization is the notion that the French revolution is the historically tangible expression of revolutionary myth, the myth of
the creative energy of the democratically equal populace. This is the foundation of Schmitt's criticism of Rousseau, that the 'general will' is substituted for the human will of a sovereign.

"Imitate the immutable decrees of the divinity." This was the ideal of the legal life of the state that was immediately evident to the rationalism of the 18th century. This utterance is found in Rousseau's essay Political Economy. The politicization of theological concepts, especially with respect to the concept of sovereignty, is so striking that it has not escaped any true expert on his writings. Said Emile Boutmy, "Rousseau applies to the sovereign the idea that the philosophers hold of God: He may do anything that he wills but he may not will evil." (PT, p.46)

For Schmitt, the sovereign action is the act of "us" against "them". It is clearly the encounter of friends versus enemies. This encounter, particularly, must practice at the metaphysical level, for instance, it could be that of one religious faith against another. For this reason the confrontation is one of 'political theology'. (See Strong,2005, p.xxviii)

The last element in Schmitt's conception of secularization is that he himself in relation to political matters is a realist, which is one of the reasons that many people found his idea significant. Schmitt's thought has continued from the initiation of Carl von Savigny, an important legal theorist in the early 19th century, who argued that civil law acquired its character from the Volkswusstsein which means the common consciousness of the people and was therefore the product of the particular historically-given qualities that a specific group of people might have (see Strong 2005, p.xxviii-xxix). It is worth noting here that Schmitt and Savigny shared a
similar view, that the sovereign or legislator was the expressor of the common consciousness of the people (Volksbewusstsein).

Schmitt locates the decision at the center of what establishes the supreme political power, because it is the action of the sovereign to make decisions in both normal and exceptional situations. It follows that he sees the decision as the original notion and the sovereign is essentially nothing but a name that stands for the happening of the absolute decision. Schmitt gives priority to the decision itself, while the deed is considered essential, the doer has to perform the correct act in order to achieve his sovereign status. The identity of the sovereign will be disclosed by the actuality of who really has the energy and the capability to make that most critical decision. It suffices to conclude that instead of being the sovereign who makes the decision, it is rather the act of making decision which identifies the sovereign.

3.1.2 The State of exception

"What characterizes an exception is principally unlimited authority, which means the suspension of the entire existing order. In such a situation it is clear that the state remains, whereas law recedes. Because the exception is different from anarchy and chaos, order in the juristic sense still prevails even if it is not of the ordinary kind." (PT p.12)

In my view Schmitt’s notion of the state of exception is neither radical nor revolutionary. It was primarily the concerned with the stability of the state and the attempt to defend the legitimately constituted government. It was his effort to restore political order legitimately, while being outside the legal sphere during time of crisis. “While the state of exception can know no norms, the actions of the
souvern within the state must be governed by what is prudent to restore order” (Hirst, 1999, p.12).

The major significance of the state of exception as a primary structure through which laws assimilate with the human being and this act of law suspending itself has become apparent in the military order issued on November 13, 2001 by the President of the United States. The order was to subject non-citizens suspected of terrorist activities to special jurisdiction that would include indefinite detention and military trial. It is worthy to note that The U.S. Patriot Act of October 26, 2001, has already authorized the Attorney General to detain every foreigner suspected of endangering “the national security of the United States” (Agamben, 2005, p.3).

However, it is crucial that within seven days, this detained foreigner had either to be accused of some crime or to be expelled. This new Bush order would completely removed any existing legal status of these individuals, and radically created entities that could neither be classified nor categorized by any existing Law. Examples are those Taliban fighters who were captured in Afghanistan. They are not only disqualified from the status as Prisoners of War defined by the Geneva Conventions, but also they are not compatible to any jurisdiction existing under the United States’ law. They cannot be tagged as prisoners or identified as the accused, but they are simply mentioned as detainees. It suffices to say that they are subjected to pure de facto sovereignty, which puts them into detention that could be indefinite. This ‘indefinite’ is not only in its temporal sense but also in its nature,
because it takes place outside of the law and outside of all forms of legal control.

Agamben describes what happened with the detainees at Guantamo Bay as the situation that naked life has returned to its most extreme indetermination.

"..they are the object of a pure de facto rule, of a detention that is indefinite not only in the temporal sense but in its very nature as well, since it is entirely removed from the law and from judicial oversight" (Agamben, 2005, p.3). And "The state of exception is not a special kind of law (like the law of war); rather, insofar as it is a suspension of the juridical order itself, it defines law’s threshold or limit concept (Agamben, 2005, p.4).

Schmitt realized that the state of exception, insofar as it endorses the total suspension of any existing legal order, could certainly avoid every legal concern.

Nonetheless, the issue, for him, is to ascertain that there still is a connection between the state of exception and the legal order. Since the state of exception differs from anarchy and a chaotic situation—in the legal sense that there is still some type of order in it, Schmitt based his sovereignty theory not on legality but on this legitimacy during the state of exception.

However, his articulation could be considered paradoxical, based on the issue of that which should be inscribed within the legal sphere is actually brought into effect exterior to it. Any order that exists outside of the legal sphere could be compared to the suspension of the legal order itself. Schmitt tried to explain the possibility that the suspension of law could derive from within the legal domain, and not necessarily from the arbitrariness of anarchy. This is how the state of exception introduces a zone of anomaly (a condition of instability resulting from a breakdown of standards and values or from a lack of purpose or ideals—www.britainica.com)
into the law, which, according to Schmitt, delivers the possibility of an effective ordering in reality. He wrote,

"The decision parts here from the legal norm, and (to formulate it paradoxically) authority proves that to produce law it need not be based on law." (PT, p.13)

It is understandable now why the theory of the state of exception in corresponding to Political Theology, can be represented as a principle of sovereignty. The state of exception is declared by a sovereign who must ensure that it must be proclaimed based on some kind of existing legal order. However, since the decision at this point involves the annulations of the existing legal norms, it follows that the state of exception signifies the occupation of an abstract space that is neither internal nor external. Consequently, the sovereign settles outside of the existing juridical order. Since he is responsible for the decision whether the Constitution would be totally suspended, he would locate himself exterior to the legal realm only after the decision was made.

Contemporarily, Carl Schmitt's theory of the exception as the constitutive principle of the political has certainly made a comeback in the critical discourse, though the full substance of his other theories in political philosophy are still underestimated. Recently, the renewed interest in rethinking the problematic of the political has served to bring up "the relation between the constituted order (politics) and its constitutive principle (the political), which in Schmitt's approach is precisely the decision on exception." (Prozorov, 2005, p.81)
In my opinion, his state of exception is conditioned as temporary. It is obvious that Schmitt's sovereignty idea not only conforms to democratic politics but also does not intend to turn 'the state of exception' into the permanent rule. It is merely a temporary state of emergency or a transitory period.

“What characterizes an exception is principally unlimited authority, which means the suspension of the entire existing order. In such a situation it is clear that the state remains, whereas law recedes. Because the exception is different from anarchy and chaos, order in the juristic sense still prevails even if it is not of the ordinary kind.” (PT, p. 12)

He defines the State of Exception by what it is not, that is law, when he writes “The exception ...cannot be circumscribed factually and made to conform to a preformed law.” (PT, p. 6) He argues that what defines the exception is necessity, and then the following questions are how, and by who, the circumstances and limits of necessity can be identified. However, he proposes his theory of the state of exception in corresponding to what he pointed out as the two primary rudiments of law which are the decision and the norm. By highlighting on disorder, he intends to put his emphasis on the significance of order. His clarification of the State of Exception is set to bring to light the importance of creating order in an exceptional situation, which is certainly not under the legal force of normal existing law to begin with.

It is also noticeable that his conception of sovereignty aims for peace and stability of the society during the State of Exception. Schmitt argues repeatedly that his sovereignty has the duty to decide on both crucial situations that whether or not there is an extreme emergency surfacing and if there is, what should be done to eliminate it.
“Everyone agrees that whenever antagonisms appear within a state, every party wants the general good... But sovereignty resides in deciding this controversy, that is, in determining definitively what constitutes public order and security, in determining when they are disturbed, and so on.” (PT, p.9)

Moreover, Schmitt added that “the state suspends the law in the exception on the basis of its right of self-preservation” (PT, p.12) and nonetheless, the exception is still “accessible to jurisprudence because both elements that is the norm and the decision, remain in the framework of the juristic.” (PT, p.13) It follows that we can conclude our understanding of Carl Schmitt that the State of Exception has peace and stability of the society as its ultimate end.

3.1.3 Friend and Enemy distinction

There is a perception that could obviously contend to be self-evident that the purpose of politics is to maintain peace within human society. Conversely, Schmitt argued that the fundamental character of the political is antagonistic and its essence is polemic. Moreover, he argued that human beings naturally fight and kill each other simply to fulfill the lowest craving similar to most animals, which is mainly for preservation of our existence. He maintains that

“War, the readiness of combatants to die, the physical killing of human being who belong to the side of the enemy—all this has no normative meaning, but an existential meaning only,...” (CP p.49)

In his book *The concept of the political* (1996), Schmitt confronts a world that seeks to escape the distinction between friend and enemy “with the unavoidability of a radical Either-Or”. (Meier, 2006, p.4) It is exclusively the reserve of human
beings that they could make war for the purpose other than to kill their opponents, but basically to sacrifice themselves for a higher cause. That is to die, ultimately for the highest cause, which could be anything beyond themselves such as their beliefs.

"The political enemy need not be morally evil or aesthetically ugly; he need not appear as an economic competitor,... But he is, nevertheless, the other, the stranger; and it is sufficient for his nature that he is, ..., existentially something different and alien, so that in the extreme case conflicts with him are possible." (CP, p. 27)

The key word for Schmitt is 'possible'. He explained that "What always matters is only the possibility of Conflict" (CP, p.39). The minimal potentiality of violent action is sufficient for the friend-enemy circumstance to develop into a real situation between two or more conflicting group of people. Moreover, He explains that friend/enemy concept has its existential meaning that cannot be prevailed by other social conceptions.

"The friend and enemy concepts are to be understood in their concrete and existential sense, not as metaphors or symbols, not mixed and weakened by economic, moral, and other conceptions,... in a private-individualistic sense as a psychological expression of private emotions and tendencies". (CP p.28)

Finally, in his book, Theory of the Partisan (2007), he contends that the friend/enemy concept could enliven a person when he enters into this most extreme intensity of political engagement.

"In enmity, a person who has lost his right seeks to regain it; in enmity, he finds the meaning of his cause and the meaning of right when the framework of protection and obedience within which he formerly lived breaks up. Or when the web of legal norms that he formerly could expect of law and a sense of justice is torn apart."(TP, p.90)
From studying his writings, it can be concluded that Schmitt has categorized 3 types of enmity-conventional, real and absolute (see TP, p.85-95; Slomp, 2009, p.79-94).

I am contending that firstly, ‘absolute enmity’ is not more intense than real or conventional enmity. This claim is crucial for a correct understanding of the political in Schmitt. Secondly, I shall propose that although he has presented us with three kinds of enmity, theoretically he is only interested in the duality of limited and unlimited enmity. Thirdly, I shall claim that Carl Schmitt uses *jus publicum europaeum* (the system of law borne out of the Westphalia Treaty that informed foreign policy between nation states and regulated hostility and war between them) in a destructive way.

**Conventional Enmity**

Schmitt explicitly links ‘conventional’ enmity to *jus publicum europaeum*, in which its central unit is the sovereign state and thus, the acknowledgement of a state’s sovereignty implies an acknowledgement of the right to wage war (see Slomp, 2009, p.80). In this ‘conventional’ model of war and enmity, the state is the agency which makes the political decision of naming the enemy. The soldier then, has a duty to obey the order and “the distinction of friend and enemy is therefore no longer a political problem which the fighting soldier has to solve.”(CP, p.34)

This ‘conventional enmity’ is easily recognized by uniform and the army is trained to respect the difference between soldiers and civilians who do not wear uniform. The enemy wears his uniform with pride and as a symbol for immediate
identification. The enemy is not denied respect, when captured or wounded the enemy is not denied rights or justice. In Schmitt’s view, this conventional war between sovereign states is not a crime and the enemy is not a criminal (see TP, p.34). The image of the enemy is that of someone we want to weaken and contain, not annihilate or destroy. The drive of enmity is not hatred or despise but calculated fear. A state will normally refrain from the use of cruel weapons against an enemy that can be expected to do the same.

It follows that conventional enmity implies a limited and regulated enemy. Its limitation is imposed by the classical distinctions assumed by *jus publicum Europaeum* between civilian and combatant, criminal and enemy, war and peace. The subject of conventional enmity is the nation-state and the circumstances involved are inter-state wars.

**Real Enmity**

According to Schmitt, ‘real enmity’ resists and challenges all classical war regulations and conventional practices. It includes the use of all available means to overcome the enemy. Brutality, camouflage, acts of terror are all legitimate and necessary for undermining an enemy that is stronger and that cannot be openly challenged (see Slomp, 2009, p.82-85). This kind of real enmity is the practice of the partisan who needs to blur all the distinction assumed by *jus publicum Europaeum* that regulate conventional hostility in order to fight successfully.
The partisan not only violates the classical distinction between military and civilian by ignoring uniforms and all symbols that separate soldiers from civilians, but he also troubled the classical distinction between enemy and criminal. The enemy is considered as someone acting under legality and legitimacy that the partisan does not acknowledge (see Slomp, 2009, p.83). Thus, the partisan knows that the enemy, too, regards him as a criminal acting outside legality and the traditional notions of righteousness. As Schmitt observes, “The more the regular, uniformed opponent is respected as an enemy, and, also in the most bloody struggles, is not considered to be a criminal, the more ruthlessly the irregular fighter is treated as a criminal.” (TP, p.34)

Moreover, the partisan obscures the classical distinction between internal and external, domestic and foreign. Although normally the partisan operates in civil war or colonial war, fighting an internal enemy, it is often the case that he gains external supports from foreign countries. Not only with arms and military supplies, but also the political recognition in the international sphere which keeps him in the status of fighting for a cause—a political cause—instead of a bandit who commits crime merely to benefit himself.

The partisan, most importantly, violates the distinction between war and peace. While peace is the normal conclusion of war between states, for the partisan, war and peace are moments of unending battle that cannot be ceased until the enemy is annihilated. As Schmitt puts it,
"He (the partisan) has moved away from the conventional enmity of controlled and bracketed war, and into the realm of another, real enmity, which intensifies through terror and counter-terror until it ends in extermination" (TP, p. 11).

In addition, there are more differences between conventional and real enmity. While conventional enmity assumes the value and worth of the enemy, real enmity entails hatred for the enemy; while conventional enmity assumes opponents of comparable strength; real enmity is often involved with inequalities between opponents. The weaker side therefore, needs to use terror, camouflage and deceit as the only ways to attack the stronger. Furthermore, while the fighting unit of conventional enmity is the state and its fighting scene is the war between sovereign states, real enmity emerges from the partisan group fighting in civil or colonial war and is, very often, the result of the weakening of the state.

However, according to Schmitt, real enmity is still limited and therefore not absolute enmity. Since "another limitation of enmity follows from the telluric character of the partisan. He defends a piece of land with which he has an autochthonous relation" (TP, p. 92), this 'telluric' character of the partisan imposes spatial and temporal limits on his enmity.

**Absolute enmity**

This absolute enmity is considered absolute because it is unbound by consideration of time and space. Schmitt explains in his book *Theory of the Partisan* (2007) that the original bearer of absolute enmity in the twentieth century is the activist who
operates globally concerning his ideology (see TP, p.52, 93). He shares many characters of the partisan including his unconventional means of fighting. The difference that set him apart from the traditional partisan is the absent of a bond with a particular land. While the traditional partisan’s mission is defensive and concrete, the global activist fights for an abstract notion of what he believes is justice. His mission is aggressive and he operates on the global basis, which means unlimited in space, and he supports all revolutionary wars.

It is important to note here that unlike the telluric partisan, whose enemy is found in a certain space and time and thus, relative to and bounded by specific historical circumstances, the global activist’s enemy can be considered as a universal enemy, unlimited by space and time. He is dehumanized and regarded as a monster, the source of all evil; the enemy of the global activist is totally unbridled. It is sufficient to say that for the global activist, his mission is a never-ending state of enmity.

In the last chapter of The Nomos of the Earth (2006), Schmitt claims that absolute enmity is cultivated by the ‘Just war’ ideology (see NE, p.316-322). Indeed an appeal to abstract ideals (such as justice, liberation, emancipation, democracy or universal rights) is the vital difference between absolute and real enmity. According to Schmitt, real enmity is about defending a land, a mother soil, or a country (see TP, p.92) which is perceived as essential for the preservation of a group’s existence.

“Such a fundamentally defensive position also presupposes a fundamental limitation of enmity. The real enmity will not be declared to be absolute enemy.”(TP, p.92)
Absolute enmity, on the other hand, focuses on imposing a new belief, aiming to establish a new world order, and fighting for a cause of their ideology.

Schmitt claims that couriers of absolute enmity perceive themselves as surrounded by Evil or total inhumanity (see TP, p.94). Lenin is a good example when he wrote, “we are surrounded on all sides by enemies” (Lenin, 1969, p.11). Moreover, for the courier of absolute enmity, the end (that the Evil is defeated) justifies the use of all available means, thus entailing a discarding of any moral justice (see CP, p.36-38; TP, p.94-95). This trait of thinking is evident when Lenin urges revolution to us as “not one plan or method of political struggle, but all means of struggle” (Lenin, 1969, p.47).

However, for Schmitt, Marxism is not the only ideology which gives birth to absolute enmity; there are other ideological views that demoralize the conception of conventional enmity. In his book, the Concept of the Political (1996), he mentioned the “last war of humanity” (CP, p.36) or “war in the name of humanity” (CP, p.54) and “just war” (TP, p.89; NE, p.320) in the Theory of Partisan (2007) and The Nomos of the Earth (2006). He suggests that all these ideologies and beliefs promote the classification of the enemy as ‘evil’, thereby supporting the urge to completely eliminate the enemy, in contrast to the spirit of jus publicum europaeum.

It suffices to say that Schmitt describes conventional enmity as regulated and limited because the player of this type of enmity is the sovereign state, which always has its regulations and limitations in conducting inter-state warfare.
Accordingly, real enmity is defined by Schmitt as unbounded by and subversive of any conventional war regulations. He explains that real enmity was initially found in colonial wars and civil wars, which were fundamentally to support their defensive intention (See TP, p.89-92). The protagonist of real enmity originates from the telluric partisan who sees their enemy as the oppressors, or the invaders of their territory who must be repelled by all accessible means. Although real enmity is unrestricted by rules and regulations, it is not entirely unlimited, in so far as the 'telluric' feature of the partisan still imposes on him spatial and temporal limits which prevent him from declaring his fight as the movement for absolute justice of humankind.

As a result, Schmitt describes absolute enmity as the global partisan or the revolutionary activist. While the enemy of the telluric partisan is situated in the boundary of time and space, the global partisan envisages his enemy as universal, such as an entire group with common beliefs or common characteristics or the whole class or a race of ethnicity or economic grouping. Therefore his enmity is absolute and unbridled since there are no rules and limitation in the war of absolute and total enmity (See TP, p.92-95). Limits of jus publicum europaeum could not constrain conventional enmity, nor can the temporal and spatial limits that border real enmity have effects on absolute enmity.

Furthermore, Schmitt explains that there is a relationship between technological advances in weaponry and the notion of enmity (see TP, p.93-94). Weapons of mass
destruction fundamentally relate to an absolute, unlimited notion of enmity. Technology enables war to be conducted from long-range and aims to eliminate a large target group of anonymous enemy. In order to justify the use of nuclear weapons or long range missiles, one must be convinced that the enemy is worthless, evil, and inhuman. It follows that the conventional notion of enmity, that he is not worthless, nor a criminal has also faded through the development of modern technology.

"Technical-industrial development has intensified the weapons of men to weapons of pure destruction. For this reason a infuriating incongruity of protection and obedience has been created: half of mankind has become hostage to the rulers of the other half, who are equipped with atomic weapon of mass destruction. Such absolute weapons of mass destruction require an absolute enemy...." (TP, p.93)

Schmitt concludes that "it is not the weapons of mass destruction that destroy, but rather men, who destroy other men with these weapons." (TP, p.93) The ultimate danger then exists in men who make decision to use these weapons against other men. They must declare their enemies to be totally wicked and inhuman, and most of all, completely worthless. If not, they will become wicked and evil themselves for destroying other human's lives. This leads to full destructive results of the logic of value and worthless justification, whereas it creates new and profound discriminations, criminalization and devaluations until all worthless lives have been eliminated.

It is also interesting to note here that Schmitt links Lenin with absolute enmity (see TP, p.48-54) while he equates Mao with real enmity (see TP, p.55-61). He thinks
that Lenin who was a life-long revolutionary and the advocate of global civil war contributed more than Mao in supporting worldwide universal change and 
expanded the real enemy into an absolute enemy, who is indiscriminate and 
unbounded by any consideration of time and space.

I shall begin my observation by arguing that all kinds of enmity are fatal, be it conventional, real or absolute. It is evidenced in many events that uniformed soldiers can kill more people than partisan fighters. Schmitt clearly states that all wars bring pain, suffering and worst of all, death. In my view, it is also not reasonable to claim that the most intense form of enmity is absolute enmity and conventional enmity is the least intense since nothing can be more intense than killing and dying which can be done by any form of enmity. Schmitt describe conventional enmity as more limited than real enmity and real enmity as more limited than absolute enmity. More limited does not mean less intensity, but it has a smaller scope of target. Conventional enmity targets only uniformed soldiers, real enmity targets enemies within a particular geographic area, while absolute enmity targets a more expansive list of enemies including both civilians and soldiers, both concrete and abstract enemies, both internal and external enemy.

Furthermore, in my opinion, Schmitt prefers the kind of enmity imposed by *jus publicum europaeum* and regards it as unique, because it formed the precondition for what he called ‘limited war’ or ‘war in form’. He explains that,
"Compared to the brutality of religious and factional wars, which by nature are wars of annihilation where in the enemy is treated as a criminal and a pirate, and compared to colonial wars, which are pursued against ‘wild’ peoples, European “war in form” signified the strongest possible rationalization and humanization of war.” (NE, p.142)

As a result, the enemy was no longer a barbarian or a criminal, but a just enemy. Jus publicum europaeum created the notion of conventional enmity as an enmity which is limited and restricted to only uniformed military officers and excluding civilians.

He also sympathizes with the telluric partisan, who ignores jus publicum europaeum and its restrictions and employs the ‘telluric element’ (territorial boundary) as the limitation of his enmity. It is possible that he is suggesting a form of enmity that is limited and can be regulated and contained by a nomos.

If one tries to categorize forms of enmity from another approach, a conceptual approach instead of a historical approach, one would find evidence that Schmitt, although historically identifying three forms of enmity, i.e. conventional, real and absolute, conceptually recognizes only two forms of enmity, i.e. limited and unlimited.

Furthermore, he also holds the belief that a limitation of enmity based on the conventional distinction between uniformed officer and civilian may not be applicable to the situation in the twentieth century, in which most wars are civil or revolutionary (see NE, p.243-246). It follows that a new foundation for limiting enmity is urgently in demand. A new nomos of the earth could limit enmity in a way that would be more suitable to our contemporary atmosphere.
In my opinion, when Schmitt discusses enmity in the context of *jus publicum europaeum*, he does not mean to support merely conventional enmity but he meant to support limited hostility. In addition, he proposes a *nomos* that bases its limitation on concrete reference such as geographic boundaries that limit the enmity of the telluric partisan. From Schmitt’s concept of enmity we can conclude that firstly, the difference between forms of enmity should not be focused on the level of intensity but on the limitation of target enemy. These target enemies are limited in both real and conventional enmity but unlimited in absolute enmity.

Secondly, although Schmitt mentions three historical forms of enmity, we can grasp only a duality of conceptual form of enmity, i.e. limited and unlimited enmity. Finally, he thought that the old foundation for limiting enmity or the *Nomos* of the Earth that adopted *jus publicum europaeum* are inadequate for contemporary times, let alone for the future. Hence a new basis must be established. He demonstrates the telluric partisan and his real enmity, bound by the love of a specific territory, as an inspiration for a new fundamental basis for limited enmity; A basis that is concrete and could be valid across different cultural backgrounds.

3.1.4 The State and the Society.

Since the state is “the political status of an organized people in an enclosed territorial unit” (CP p.19) Schmitt argues that the state cannot be considered as one more association among others, which would be on the same level as a church or a
trade union. “The equation state=politics becomes erroneous and deceptive at exactly the moment when state and society penetrate each other” (CP p.22). He urges us to acknowledge that the political entity is something different and more decisive. “German political science originally maintained (under the impact of Hegel’s philosophy of the state) that the state is qualitatively distinct from society and higher than it.” (CP p.24) For him, to deny this is to deny the political. If the state is weakened, and becomes a referee between competing factions, reduced to a purely instrumental function, it cannot be the object of loyalty; it loses its ethical role and its capacity to represent the political unity of the people.

“Today nothing is more modern than the onslaught against the political. American financiers, industrial technicians, Marxist socialists, and anarchic-syndicalist revolutionaries unite in demanding that the biased rule of politics over unbiased economic management be done away with. There must no longer be political problems, only organizational-technical and economic-sociological tasks.” (PT, p.65)

Schmitt identified the role of the state as providing the conditions of stability and security, under which citizens could simply pursue their individual goals. It is, nonetheless, comprehensible that he revisited again and again in his writings to Thomas Hobbes’s the ‘mutual Relation between Protection and Obedience,’ and shared with Hobbes the belief that “autoritasa, non veritas facit legem-The one who has authority can demand Obedience-and it is not always the legitimate sovereign who possesses this authority”. (Schwab,1985, p.xxxv)
However, according to Schmitt, the most widespread evolution of the state today shows that the ancient demand of the state to be the sovereign unity and totality has been challenged by the pluralistic aspects of modern society. He writes,

"As early as 1907 the syndicalist theorists in France had proclaimed: 'The state is dead'. ... In Germany the crisis opened with the collapse of the Bismarckian Empire, as the understandings of state and government which had until then been thought unshakeable fell away. Since 1919, a massive crisis in literature has come into existence. Suffice it to recall here the title of Alfred Weber's book- The Crisis of European Thought. Accompanying this was an extensive body of theoretical work on the state and international law which sought to destroy the concept of sovereignty and, with it, the customary understanding of the state as a unity transcending all other groups." (EsPs, p.195)

He explains further that to challenge the state implies to challenging the ethic of the state and the attempt to discredit the status of earthly god of the state. He explains,

"When the 'earthly god' falls from his throne, and the kingdom of objective reason and ethics turns into a 'magnum latrocinium' (meaning 'a large band of robbers'), then political parties slaughter the mighty Leviathan, and each cuts from its corpse a piece of flesh for itself. What can 'ethic of state' mean then?" (EsPs, p.195-196)

For Schmitt, theories of the state from G.D.H. Cole and Harold Laski tried to negate not only the state as the supreme unity but also its ethical demand to create a higher and distinctive kind of obligation than any of the other social associations of human (see EsPs, p.196). It follows that the state would become merely another sphere of human social life.

"The state then becomes a social group or association which at most stands next to, but never above, the other associations. The ethical consequence is that the individual lives in a multiplicity of unordered, equally valid social obligations and loyalty relationships: in a religious community; in economic associations like unions, combines, and other organizations; in a political party or club; in cultural or social societies; in the family; and in a multitude of other social groups. He finds obligations of loyalty and fidelity everywhere." (EsPs, p.196)
Thus, the characteristic of the state as the most important and the highest on the platform of the 'hierarchy of duties' would eventually vanish.

"Everywhere an ethic springs up: church ethic, estate ethic, union ethic, family ethic, association ethic, office ethic, commercial ethic, and so on. In all this complex of duties, in the 'plurality of loyalties', there is no 'hierarchy of duties', no unconditional prescriptive principle of super- and subordination. In particular, the ethical bond to the state, the duty of fidelity and loyalty, appears as only one instance alongside other bonds - alongside loyalty to the church, the economy, or the family; loyalty to the state has no precedence, and the ethic of state is a special ethic among many other special ethics." (EsPs, p.196-197)

After the state has lost its authority as the highest sphere of human life, Schmitt argues that the decision will be made on the basis of social group interests, not by the autonomy of the single individual citizen. He maintains that it is not likely that the ultimate decision would reside with the individual since "the empirical individual is not sufficient unto himself, and his individuality cannot decide the ethical conflicts of social life." (EsPs, p.201) He concludes that the individual decision would then be by the influence of his circle of society instead of from his own rationale or for the purpose of the common good because

"For an ethic of individuality, the individual has value only as a human being; the prescriptive concept is, correspondingly, humanity. In fact, for Laski humanity appears to be the highest factor, even humanity taken as a whole. And by the word 'society', Cole means - though not unambiguously - something similar to humanity." (EsPs, p.201)

3.2 Critical Evaluation of the connection between Carl Schmitt's Political Concept and the concept of Democracy

3.2.1 Schmitt's Definition of Democracy

According to Schmitt, pure democracy can be defined as "a state form as well as a governmental or legislative form, democracy is the identity of ruler and ruled, governing and governed, commander and follower."(CT, p.264) Moreover, this
identity, the distinction of ruler and being ruled, governor and governed, does not express a qualitative difference. For in democracy, government may not rest on inequality, not on the superiority of those ruling, nor on the fact that those who rule are qualitatively better than the governed. Hence, when one governs he may not deviate from the general identity and homogeneity of the people since the prerequisite of Schmitt's 'pure democracy' rest on the principles of equality and homogeneity (see CT, p. 256-267).

"Consequently, the power or authority of those who rule or govern may not be based on some higher qualities that are not easily obtained by the people, but rather only on the will, on the commission from and confidence of those who are being ruled or governed and thereby actually rule themselves. Thus the turn of phase that democracy is the rule of the people over itself receives its sense as an idea." (CT, p.264)

For Schmitt, the word 'identity' denotes the comprehensive identity of the homogeneous people and thus, is supportive to the definition of democracy.

"More specifically, it 'denotes the identity of the homogenous people that includes both those governing and governed. In this regard, it is noteworthy that the difference between representing and being represented does not come into consideration, for that which is being represented is not those governing but instead the political unity of the whole.'(CT, p.264)

Most important of all, for Schmitt, a democracy must not permit the inevitable factual difference between governing and being governed to become a qualitative distinction and to distance governing persons from those governed. Since there should be no difference among members of the equal and homogenous society, whoever governs, does so only because he has the confidence of the people (see CT, p.266).
3.2.2 Schmitt’s Concept of the Constitution

He suggested that the meaning of the term ‘constitution’ should be limited to the constitution of the State, that is to say, the political unity of the people (see CT, p. 59-66). He explains that, hence, ‘constitution’ can describe the state itself, which renders “an individual, concrete state as political unity or as a particular, concrete type and form of state existence.” (CT, p.59) Particularly, constitution can signify a unity, the complete condition of political unity and order.

According to Schmitt, constitution can have more than one meaning. He proposes three of them (see CT, p.59-61); firstly, constitution can mean the specific, collective condition of social order and political unity of a particular state. Political unity and social order are essential parts of every state. It suffices to say that the state is a constitution which means an actually present condition or a current status of unity and order of that political community whether it is a monarchy, aristocracy, democracy, tyranny or others.

Secondly, constitution can mean the specific type of superiority and inferiority because in reality there is no social order without the superior and the inferior. The constitution is a special form of rule, which is part of every state and not detachable from its political existence. It follows that, “Constitution is the equivalent of state form.”(CT, p. 60)
Thirdly, constitution can mean the formation of the dynamic emergence of any particular political unity. It is the representation of the process of continually renewed formation and emergence of this political unity from a fundamentally effective power and energy.

"The state is understood not as something existing, resting statically, but as something emerging, as something always arising anew. Political unity must form itself daily out of various opposing interests, opinions, and aspirations… it must ‘integrate’ itself." (CT, p. 61)

However, this meaning of constitution stands in opposition to previous ones, which speak of a status (in the sense of a static unity). But Schmitt explains, this ‘dynamic’ concept of constitution remains in the sphere of (emerging) being and of the existing. The constitution is, thus, “the active principle of a dynamic process of effective energies.” (CT, p. 61)

3.2.3 Democracy is not his enemy

In my opinion, Schmitt is not opposed to democratic politics. For one reason, although he often attacked liberalism and the parliamentary system, he has never rejected or argued against constitutional democracy. Nor did he explicitly propose other political system than that of constitutional democracy. As a well respected jurist of his time, he confirms this idea in the opening line of *The Crisis of* Parliamentary democracy (1988) that

"The history of political and state theory in the nineteenth century could be summarized with a single phase: the triumphal march of democracy. No state in the Western European cultural world withstood the extension of democratic ideas and institutions" (CPD, p. 22)
For another reason, his writing on constitutional theory within democratic politics is far greater in quantity than his work that attacks liberal democracy. His *Constitutional theory* amounts to about 400 pages while *The Crisis of Parliamentary Democracy* is a thin book, only about 80 pages in total, similar to *The Concept of the Political* which is about the same size. It is obvious that he recognized the necessity for a political model to be legitimate in the modern era; it must confine its conceptual and mechanical apparatus within democratic realm.

"Neither the theory nor the practice of constitutional and international law could get along without a concept of legitimacy and for that reason it is important that the dominant concept of legitimacy today is in fact democratic." (CPD, p.30)

In order to understand his thought I would follow his argument in this consecutive order. He begins his thought and directs his arguments toward first of all, making a distinction between the parliamentary and democracy concepts (see CPD, Chap 1-2). Then, he accuses the parliamentary system as being corrupted and belonging to the liberal concept which contradicts democracy in its fundamental (see CPD, Chap.2; CP, p.69-79). Finally, he tries to portray his democratic model which emphasizes plebiscite over parliamentary (see LL, p. 59-66) and equality over freedom (see CT, p.255-267).

### 3.2.4 Schmitt's Objection to Parliamentary system:

#### a) As unnecessary to Democracy

Schmitt denied that the concept of Representative Parliament is essential to democracy since, in his opinion, it rather belongs exclusively to liberalism.
"The belief in parliamentarism, in government by discussion, belongs to the intellectual world of liberalism. It does not belong to democracy. Both, liberalism and democracy have to be distinguished from one another so that the patchwork picture that makes up modern mass democracy can be recognized." (CPD, p.8)

His arguments about modern representative democracy raise many challenging queries to which supporters of parliamentary democracy need to respond. For Schmitt, the ideal of free and unhampered discussion sets up the necessary principle of classical nineteenth-century parliamentarianism. Expressed most clearly by liberal intellectuals like Francois Guizot and J.S. Mill, the idea of a freewheeling, "deliberative parliament, where rational public opinion would be able to crystallize and guide state action, had far-reaching implications and manifested itself in a rich variety of ways." (Scheuerman, 1999, p.40) Nonetheless, Schmitt explains that the oldest justification for parliament was that "the people in its entirety must decide, as was originally the case when all members of the community could assemble themselves under the village tree" (CPD, p.34) Later on, when the population grows and it is difficult to gather all citizen to decide on every issues, "so the familiar scale originated: Parliament is a committee of the people, the government is a committee of parliament."(CPD, p.34)

Although, Schmitt asserted, "the notion of parliamentarism thereby appears to be something essentially democratic", and "in spite of all its coincidence with democratic ideas and all the connections it has to them, parliamentarism is not democracy any more than it is realized in the practical perspective of expediency."(CPD, p.34) He argued further that if representatives can make all decisions as a replacement for the people themselves, then only one representative
is justified to decide in the name of the same people and this argument could also lead to justification of dictatorship under democratic claims.

“If for practical and technical reasons the representatives of the people can decide instead of the people themselves, then certainly a single trusted representative could also decide in the name of the same people. Without ceasing to be democratic, the argument would justify an antiparliamentary Caesarism. Consequently, this cannot be specific to the idea of parliamentarism,...” (CPD, p.34)

He argues that the parliamentary system is not democratic, since the parliament is independent of the people throughout the electoral period and it is rarely possible to recall while the government, on the contrary, is dependent on the parliament throughout the period. Furthermore, the parliamentary system is always on a course of disagreement with ongoing conflicts among different views which result from diverse political attitudes. Thus Schmitt contends, “the essence of parliament is therefore public deliberation of argument and counterargument, public debate and public discussion, parley, and all this without taking democracy into account” (CPD, p.35).

Objection to parliamentary system:

b) As easily corrupted

He attacks the deficiency of the parliamentary system and political parties that act for the economic benefit of their members instead of acting for the benefit of the people.

“The situation of parliamentarism is critical today because the development of modern mass democracy has made argumentative public discussion an empty formality....The parties do not face each other today discussing opinions, but as social or economic power-groups calculating their mutual
interest and opportunities for power, and they actually agree compromises and coalition on this basis." (CPD, p.6)

Furthermore, his argument criticized parliamentary government because he considered it too weak to respond adequately to challenges presented by modern political situations, since the parliamentary system has lost its intellectual and rational character - the ability to crystallize the process of making decisions through public discussion.

"Great political and economic decisions on which the fate of mankind rests no longer result today (if they ever did) from balancing opinions in public debate and counter debate. Such decisions are no longer the outcome of parliamentary debate. ...As things stand today, it is of course practically impossible not to work with committees, and increasingly smaller committees; in this way the parliamentary plenum gradually drifts away from its purpose (that is, from its public), and as a result it necessarily becomes a mere façade."(CPD, p.49)

He believes that openness and discussion are two most important characters of democracy, but parliamentary democracy has reduced the exercise of openness and discussion from public debate and counter debate to "small and exclusive committees of parties or of party coalitions make their decisions behind closed doors (CPD, p.50)". It is critical to realize that parliamentary democracy has undermined the essence of right over might which can be achieved through the method of public discussion.

"Openness and discussion are the two principles on which constitutional thought and parliamentarism depend in a thoroughly logical and comprehensive system...What was to be secured through the balance guaranteed by openness and discussion was nothing less than truth and justice itself...the way of beasts, as Locke said-could be overcome through openness and discussion alone, and the victory of right over might achieved." (CPD, p.49)
3.2.5 Liberal concept contradicts democracy in its principle

Furthermore, in his book *Constitutional Theory* (2008), he critically examined the two basic principles of democracy, equality and freedom, which, he argued, often contradict one another in both their content and effects. Schmitt proposed that only 'equality' is the principle of democracy while 'freedom', in fact, belongs to liberal principle.

"In terms of domestic politics, only equality can count properly as a democratic principle. Domestic political freedom is the principle of the bourgeois Rechtsstaat, which acts to modify the principles of political form,... It must be said about the term 'freedom' that it is a liberal principle when meant in the sense of an individual freedom accorded to every individual person by nature. It comes into consideration only for the Rechtsstaat component of the modern constitution, but not as a principle of political form. There all are 'equally free'.(CT, p.256)

He also displayed his fear for the tyranny of the majority in Parliamentary system that all the decisions are made in secrecy by small committees. He mentions J.S. Mill's concern on the issue that the oppression of the minority's opinion, even one single individual opinion, is not acceptable to Mill's since that might be the only opinion that is the most correct.

"Bentham proclaimed the significance of a free press from a liberal ideology: Freedom of public discussion, especially freedom of the press, is the most effective protection against political abuses, and 'controlling power' is the real 'check to arbitrary power' and so forth. As this idea developed one comes across its contradiction of democracy once more. John stuart Mill understood, with despairing concern, that a contradiction between democracy and freedom is possible and that the majority could crush minorities. Even the thought that a single person might be deprived of the opportunity to express his opinion set this positivist in an inexplicable uproar, because he considered it possible that this individual's expression of opinion might have come closest to the truth." (CPD, p. 39)
He points out that while all the freedoms are prerequisite in liberal thought; they are beneficial directly to the individual private sphere. But equality is essential in the public sphere, and, hence, necessary to the democratic society (see CT, p.256).

3.2.6 Schmitt’s democratic model favors plebiscite over parliamentary democracy

He displays his preference of direct democracy over representative (parliamentary) democracy when he contends that parliamentary democracy has lost its existential meaning with its absence of openness and discussion.

"According to the well-known argument, especially Rousseau’s version, that the representative must fall silent when the represented themselves speak, the democratic consequence is that the popular assembly must always recede into the background, if opposed by the people it represents. But that is an argument of the direct, plebiscitary, non representative democracy. Certainly, when the representation of parliament collapse and no longer finds supporters, the plebiscitary process is always stronger. The result,..., the quality of parliament itself is changed through these plebiscitary elements. Parliament is transformed into a mere intermediary phase of the plebiscitary system." (LL, p.61)

He maintains that direct voice from the people is inevitably superior to those voices of the representatives of the people in the parliament. Hence, Schmitt writes,

"in the referendum, by contrast, the people appear as extraordinary lawmaker in opposition to and certainly also superior to the parliament. And their extraordinariness as well as their superior status produces ratione supremaiteitism from their characteristic as sovereign." (LL, p.60)

He also referred to Erwin Jacobi who “shows that in a democratic state form, the expression of the people’s will through a direct vote is superior to every indirect form of expression, thus even parliamentary decisions” (LL, p.60).
It suffices to say that he only argued against the system of parliamentary democracy out of his objection to the corrupted representative parliament. To counter that he tried to outline a democratic theory with the use of plebiscites (direct voting) as a regular means to decide on political issues.

3.2.7 Schmitt's democratic model favors equality over freedom

He does not only discard freedom from democratic principle but he also renders the concept of equality as essential to democracy, for he claims that “democracy’s precise state form can be grounded only on a precise and substantial concept of equality” (CT, p.257). However, he contends that there are some concepts of equality that does not provide any foundation for a state or are meaningless to any form of government, such as the concept of general human equality which “does not contain a juristic, a political or an economic criterion”(CT, p. 258). Its significance for constitutional theory lies only in the fact that it is an essential part of liberal individualism and, hence is displayed as the principle of basic rights for liberal democracy.

Schmitt argues that, firstly, the democratic notion of equality is a political concept and, like every genuine political concept, includes the possibility of a distinction (see CT, p. 258). He explains further that “Political democracy therefore cannot rest on the inability to distinguish among persons, but rather only on the quality of belonging to a particular people” (CT, p.258). This quality of belonging (to a particular group of people) can be defined by different elements including common race, common religious belief, common destiny, common tradition and culture. This
equality that is part of the essence of democracy disseminates itself internally within a particular democratic state system where all members of the state are equal. The consequential significance from the political and public law perspective is that whoever is not a member of the state who does not share that common element is not taken into account under this democratic equality.

Second, the democratic concept of equality is the prerequisite for all other additional equalities such as equal right to elected office, equality of law which is applied equality and not the essence of democratic equality. Third, this democratic concept of equality is a substantial equality, since all citizens of the state participate in this substantive component, to be treated as equal under law, having an equal right to election, etc.

Finally, Schmitt maintains that it is important to recognize not only equality but also inequality in the democratic society. He suggests that "Every actual democracy rests on the principle that not only are equals equal but unequals will not be treated equally." (CPD, p. 9) This idea is, in my opinion, quite significant to Thailand because our society, with its inheritance of custom and culture from the past, is organized based on hierarchical orders. It is traditional for most Eastern societies to have social orders based on age, profession and other qualities. Hierarchy does not always mean unjust, in fact it could directly mean justice for the less advantaged in society who could be given priority, starting from the least advantaged at the base of the hierarchical order in society.
In my view, equality in a society should place emphasis on providing equal access to basic human needs, including electricity, water supply, food, education, public transportations and healthcare. However, inequality or advantage of opportunity should be given to those who are less fortunate first and in different proportion to others. It is important to recognize the unequal, hence, those who live in remote areas of the country should be provided with a new hospital, a new school or a new irrigation system, before Bangkokians will have their new landmark called ‘Bangkok Eye’ that would cost billions of baht from tax payers’ money.

3.3 Summary
Schmitt claimed that in modern democracy the people are the sole sovereign because they are the only exclusive owners of the constituent power, that is, the single authors of the constitution. He explains that where the democratic foundation rests on the basis that the majority rules, the validity of the constitution is therefore, resting on the will of the people (see Kalyvas, 2008, p.96-100).

For him, it is this constituent sovereign that possesses the exceptional moment of contributing to the process of originating a democratic constitution.

However, under modern conditions it is often decisions made by the government and the parliament that formulate the primary law of the land. Schmitt argued that government and parliamentary decision must always remain subordinated to the supreme authority of the people, the true, uncontestable sovereign, which has
delegated and authorized it to act, hence those decisions are mandated. It is not the sovereign act, but it is the representative act on behalf and in the name of the people, who have the power to renounce their proxy anytime by initiating a political activity.

It suffices to say that for Schmitt, the real sovereign power in democracy belongs only to the people, not the constituent assembly, which according to him, still is a form of delegated authority. During the exception, the people remain sovereign and the constituent assembly is its delegated authority. The people during normal politics can be identified with the direct democratic leader, who stands for the unity of the state but during the exception they are superior. It follows that a democratic leader is not the subject or holder of the constituent power, but only its delegate.

'The people' is the final and the only legitimate sovereign authority in democracy, insofar as it is the exclusive rightful owner of the constituent power that can legitimately create a new constitutional order. In modern times during the exception, wherein constitutions are on the founding process, only the people can be sovereign. As Antonio Negri affirmed that, "...to speak of the constituent power is to speak of democracy. In the modern age the two concepts have often been related.' (Negri, 1999, p.1)

It was Schmitt who recovered the idea of constituent power of the people as the ultimate authority (see Kalyvas, 2008, p.98). But it is because of its origin as well as of its content; the constituent power remains sovereign in a democratic and
revolutionary model that belongs exclusively to the context of a democratic constitutional theory.

Sovereignty not only can be defined by its instituting power to create a new constitution and a new set of fundamental laws, but it can also be characterized by its identification with the will of the people (see Balakrishnan, 2000, p.98-100). Schmitt also defined the constituent power by three elements. First, it is indivisible and thus it is one. Second, it is unrepresentable. Third, it is inalienable and untransferable. According to these elements, sovereign authority appears as only a system of delegation, secondary to the power of the people who remain the true sovereign (see Kalyvas, 2008, p.99). The people still are the uncontestable bearer of the constituent power, who has the final authority and the absolute power to make an ultimate decision to determine the existence of a political unity in its entirety.

Democratic theory recognizes as a legitimate constitution only the one that rests on the constituent power of the people. Democracy is defined as a regime in which the people is the subject of the constituent power and gives to itself its own constitution (see Kalyvas, 2008, p.99-100). It suffices to say that his constitutional and political writings help to illuminate the normative foundations of popular sovereignty and help explaining the democratic grounds of legitimate political authority.

Constitutional politics is a standard strategy of power, arising from the creative and cooperative activity of the citizens organized as a collective agency and directed to
the emerging of a new order. "A valid democratic constitution is one that has been created by the decision of the sovereign subject, outside preexisting authority and legality" (PT, p.51). In my view, it follows that his theory of legitimacy is pure because it tries to develop the validity of a political-legal order purely from the will of the sovereign people. The legitimacy of a democratic constitution depends exclusively on the act of the constituent decision of the sovereign people, and it is that political decision which gives birth to a democracy during normal times.
Chapter IV: Critical Evaluation of Contemporary Reflections on Schmitt’s concept of Sovereignty

Carl Schmitt is plausibly one of the most controversial thinkers of the 20th century. To some, he was just the defender of the Nazi regime. To others, Schmitt is a thinker whose work is essential to understanding the transformation of the concept of the political in the last century. Though many liberal democracy theorists see Schmitt as an adversary who targets and attacks those liberal ideas that do not correspond to democratic ideas, nonetheless some liberalists see Schmitt’s idea as helpful and thought provoking.

On the one hand, these include Chantel Mouffe, Slavoj Zizek and Paul Hirst, who praised Schmitt’s ‘decisionism’ as a challenge to the liberal-democratic theory of sovereignty “in a way that throws considerable light on contemporary political conditions.” (Hirst, 1999, p.8) And his work “asks hard questions and points to aspects of political life too uncomfortable to ignore.” (Hirst, 1999, p.8) Hirst understood Schmitt’s decision-making concept as the necessity for order in the society as he wrote,

“Because his thinking about concrete political situations is not governed by any dogmatic political alternative, it exhibits a peculiar objectivity. ...What led him to collaborate with the Nazis...was not, however, ethical nihilism, but above all concern with order. Along with many German conservatives, Schmitt saw the choice as either Hitler or chaos.” (Hirst, 1999, p.8)

On the other hand, for the renowned Italian philosopher Giorgio Agamben, Schmitt’s state of exception is a paradox. Attempting to solve it, Agamben enters into an
analysis of the paradox in terms of Schmitt’s writings and the history of the concept of the exception.

“The paradox of sovereignty consists in the fact that the sovereign is, at the same time, outside and inside the juridical order. If the sovereign is truly the one to whom the juridical order grants the power of proclaiming a state of exception and, therefore, of suspending the order’s own validity, then the sovereign stands outside the juridical order and, nevertheless, belongs to it, since it is up to him to decide if the constitution is to be suspended in to...the sovereign, having the legal power to suspend the validity of the law, legally places himself outside the law.” (Agamben, 1998, p.15)

In fact, according to Agamben, what constitutes a point of imbalance between public law and political fact is where the state of exception situated. It is somewhere in an ambiguous, borderline area or intersection of the legal and the political.

Furthermore, Jacques Derrida (1930-2004) following Kierkegaard, suggests that “the instant of the decision must actually be mad” (Derrida, 1995, p.65), thus, Schmitt’s attempt to define the political through the enemy, remains unattainable.

Undecidability (as the opposite of Schmitt’s decisionism) is one of Derrida’s most important ideas in his deconstructive approach.

“...the aporia of decision with regard to the perhaps. There is no event, to be sure, that is not preceded and followed by its own perhaps, and that is not as unique, singular and irreplaceable as the decision with which it is frequently associated, notably in politics.” (Derrida, 2005, p.68).

4.1 Carl Schmitt the anti-Parliament

Slavoj Zizek, (b.1949-) a Senior Researcher at the Institute for Social Studies, Ljubljana, Slovenia, a Slovenian-born political philosopher and cultural critic, whose works since 1997 have become increasingly and explicitly political, has challenged the postmodern widespread consensus that we live in a post-political or post-
ideological world, while he, on the contrary, supported the possibility of ongoing changes to the new world order of globalization.

"In post-politics, the conflict of global ideological visions embodied in different parties who compete for power is replaced by the collaboration of enlightened technocrats (economists, public opinion specialists..) and liberal multiculturalists; through a process of negotiation of interests, a compromise is reached in the guise of a more or less universal consensus." (Zizek, 1999, p.30)

His writing confirms Schmitt's idea about the collapse of parliamentary democracy that undermined its conceptual existence of openness and discussion.

"...the real business takes place, not in the open sessions, but in a committees, and that important decisions are taken in secret meetings of faction leaders, and in this way the whole parliamentary system finally becomes only a poor façade concealing the dominance of parties and economic interests." (Schmitt, CPD, p.20)

According to Zizek, knowledge is the most essential element that defines our contemporary politics. The enlightenment suggested knowledge and human reason as the foundation of the political to substitute the belief in authority. Similar to Schmitt's complaint, he noted that the legitimacy of postmodern authorities is founded not in the self-grounding decision of the sovereign. But it is founded in the ability of authorities to provide a logical chain of reasons to subjects about why they are fit to govern. (See Zizek, 2003, p.2-11; Zizek, 2004, p.1-5; Zizek, 2011, Introduction)

Zizek's reading of Schmitt reflects his interest in Schmitt's concept of sovereignty as the monopoly or the body that makes decision.

"According to Schmitt, it is not possible to pass directly from a pure normative order to the actuality of social life-the necessary mediator between the two is an act of Will, a decision, grounded only in itself, which imposes a
certain order or legal hermeneutics (reading of abstract rules).” (Zizek, 1999, p.18)

He also contends that reference to Carl Schmitt’s idea is vital to liberal theorists in order to detect their flaw.

“.: the reference to Schmitt is crucial in detecting the deadlocks of post-political liberal tolerance: Schmittian ultrapolitics—the radicalization of politics into the open warfare of Us against Them discernible in different ‘fundamentalisms’—is the form in which the foreclosed political returns in the post-political universe of pluralist negotiation and consensual regulation.” (Zizek, 1999, p.35)

Regarding Schmitt’s ‘state of exception’, Zizek comments on its emergence that the moment when a state entity declares a state of emergency is when it desperately attempts to avoid the true state of emergency and makes the effort to return to the state of normalcy as quickly as possible (see Zizek, 2002, p.108). Thus the permanent state of emergency initially carried out by the ruling class, is primarily an apparatus of the struggle against the actual state of emergency that would be carried out by those revolutionists seeking an actual state of exception that would cause real chaos in political, local or even global arena.

Similarly, Paul Hirst (1947-2003) a British Professor of Social Theory at Birkbeck, University of London, agreed that Schmitt’s idea of the Sovereign as the entity or the body that makes decisions contests the liberal democratic theory of sovereignty in a way that “shows most formal constitutional doctrines to be junk.” (Mouffe, 1999, p.2) as he wrote,
“Liberalism tries to make the state subject to law. Laws are lawful if properly enacted according to set procedures; hence the ‘rule of law’. In much liberal-democratic constitutional doctrine the legislature is held to be ‘sovereign’: it derives its law-making power from the will of the people expressed through their representatives”. (Hirst, 1999, p.10)

Hirst supported Schmitt’s attack on liberalism when he discussed the functionality of parliamentary democracy. He contended that, in the parliamentarist conception of politics, politics is

“dominated by ‘discussion’, by the free deliberation of representatives in the assembly. Schmitt considers 19th century liberal democracy anti-political and rendered impotent…” (Hirst, 1999, p.8)

Furthermore, he argues that there exists power outside the legality of law that is the political power which Schmitt tried to define as the sovereign power.

“Classical liberalism implies a highly conservative version of the rule of law and a sovereignty limited by a constitutive political act beyond the reach of normal politics. Democracy threatens the parliamentary-constitutional regime with a boundless sovereign power claimed in the name of the ‘people’. This reveals that all legal orders have an ‘outside’; they rest on a political condition which is prior to and not bound by law. A constitution can survive only if the constituting political act is upheld by some political power.” (Hirst, 1999, p.11)

To Hirst, Schmitt’s concept of ‘sovereignty’ is not only interesting but also thought-provoking because “it forces us to think very carefully about the conjuring trick which is 'law.” (Hirst, 1999, p.10) Hirst tried to analyze Schmitt’s ‘Sovereignty’ under the contemporary western political situation and found out that under liberalism, the state is reduced and inferior to law and its legitimacy rests on the system of representative where the law-making process is confined to merely a small group of people. As he wrote,
“Liberalism relies on a constituting political moment in order that the 'sovereignty' implied in democratic legislatures be unable to modify at will not only specific laws but also law-making processes. It is therefore threatened by a condition of politics which converts the 'rule of law' into a merely formal doctrine. If this 'rule of law' is simply the people's will expressed through their representatives, then it has no determinate content and the state is no longer substantially bound by law in its actions.” (Hirst, 1999, p.11)

It follows that according to Hirst, liberal democracy entails a traditional version of the rule of law in which sovereign power is exclusively constrained by a political act within the scope of the constitution, which is beyond the scope of normal legal procedure. It suffices to say that liberal democracy gravely endangers the parliamentary-constitutional regime with a boundless sovereign power obtained in the name of the people.

“...The 'people' exist only in the claims of that tiny minority (their 'representatives') which functions as a 'majority' in the legislative assembly. 'Sovereignty' is thus not a matter of formal constitutional doctrine or essentially hypocritical references to the 'people'; it is a matter of determining which particular agency has the capacity - outside of law - to impose an order which, because it is political, can become legal.” (Hirst, 1999, p.11)

Hirst acknowledges that Schmitt sharply penetrates into the (often ignored) nature of postmodern politics - specifically mass politics, and that the value of his theory lies in the revelation of extra-legal power of state agencies. For Hirst, Schmitt's theory of exception illustrates what the supporters of dictatorship implicitly employ in their political philosophy; conventional belief in the 'unlimited capacity of an omnipotent lawgiver' in the shape of God and the fear of populism. In that aspect, Schmitt's theory can unveil the disguises of modern power states operating with greater power than ever before in the name of politics of, for, and by the people.
Although she disagrees with Schmitt in some aspects, Chantal Mouffe suggests that his idea about the deficiency of the parliamentary system is worth examining. She acknowledges that his warning has its intellectual value when she remarks that:

"What Schmitt fears most is the loss of common premises and consequent destruction of the political unity which he sees as inherent in pluralism that accompanies mass democracy. There is certainly a danger of this happening, and his warning should be taken seriously". (Mouffe, 1999, p.50)

In Schmitt's view, the liberal parliamentary order required that a whole series of disruptive questions concerning morality, religion and the economy be confined to the private sphere. This was a necessary precondition if the parliament was to be able to present itself as the place where individuals, distanced from the conflict of interests which separated them, could discuss and arrive at a rational consensus. It is only in this way that homogeneity, which for Schmitt is essential for democracy to function, can be created.

"On the whole and in every detail of its political existence, democracy presupposes a people whose members are similar to one another and who have the will to political existence. Under this presupposition, it is thoroughly correct when Rousseau states that what the people will is always good. Such a principle is correct not on the basis of a norm. It is correct because a people's existence is based on its homogeneity." (CT, p.264-265)

Mouffe maintains that "the whole question of modern democracy revolves around pluralism" (Mouffe, 2005a, p.131). As Schmitt has shown us, both the force of attraction that unity-based thinking exerts, and the dangers inherent in it, in his discussion of Anglo-Saxon pluralist theorist, he provides a series of important arguments. According to pluralist like Harold Laski or G.D.H Cole, each individual is a member of many communities and associations, none of which may have priority over the others (see CP, p.37-45). Schmitt concludes,
"The pluralist theory of state is in itself pluralistic, that is, it has no center but draws its thought from rather different intellectual circles (religion, economics, liberalism, socialism, etc.). It ignores the central concept of every theory of state, the political and does not even mention the possibility that the pluralism of association could lead to a federally constructed political entity. It totally revolves in a liberal individualism." (CP, p.45)

Mouffe agrees with Schmitt to "stress the deficiencies of the kind of pluralism that negates the specificity of the political association and to his assertion that it is necessary to constitute the people politically" (Mouffe, 1999, p.19). However, in her book, The Return of the Political (2005), she proposed for a new political philosophy, which she called 'radical democracy' when explained that

".. it is important to abandon the myth of a transparent society, reconciled with itself, for that kind of fantasy leads to totalitarianism. A project of radical and plural democracy, on the contrary, requires the existence of multiplicity, of plurality and of conflict, and sees in them the raison d'être of politics". (Mouffe, 2005a, P.18)

Moreover, she proposes that it is the mission of radical democracy to intensify the democratic revolution and to bring together diverse democratic struggles such as antiracism, anticapitalism. In the struggles to articulate these differences, it is necessary to formulate a new 'common sense'. For it is not an affair of forming alliances between given interest groups but of actually integrating the very identity of these groups.

"And in order to establish democratic equivalences a new 'common sense' is necessary, which would transform the identity of different groups so that the demands of each group could be articulated with those of others according to the principle of democratic equivalence. .. In order that the defence of workers' interests is not pursued at the cost of the rights of women, consumers, or immigrants, it is necessary to establish an equivalence between these different struggles. It is only under these circumstances that struggles against power become truly democratic." (Mouffe, 2005a, P.19)
Furthermore, Mouffe contends that radical democracy needs an innovative concept of right as well as an alternative idea of liberty (see Mouffe, 2005a, p.18-21; Mouffe 2005b, p.1-34). Similarly, Schmitt also discards the idea that the universal equality of mankind could be a fundamental character of a state or government. He views the idea of human equality as a non-political form of equality because it is a kind of particular equality addressed to each individual not to the society as a whole (see CPD, p.12-13). Thus, it does not provide any criteria for establishing political institutions. He confirms that,

"the equality of all persons as persons is not democracy but a certain kind of liberalism, not a state form but an individualistic-humanitarian ethic and Weltanschauung. Modern mass democracy rest on the confused combination of both" (CPD, p.13)

In his view, when we speak of equality, we need to distinguish between two very different ideas. The first idea is the liberal conception of equality, suggesting that every person is, as a person, automatically equal to every other person. The other idea is the democratic conception of equality that compels the possibility of segregating those who belong to the demos and those who are not included in the demos. Therefore democratic equality cannot exist without relating it to some degree of inequality (see CPD, p. 9-16).

For Schmitt, equality can exist only through its specific meanings in particular spheres, such as political equality, economic equality, and so forth. Those specific equalities always entail traits of inequality from the segregation of the members and non-members of that particular group. It follows that an absolute human equality...
would be a practically meaningless, indifferent equality. The important point he makes is that the democratic concept of equality is a political one which entails the possibility of discrimination (see CPD, p.12-13). I agree to his idea that it is not possible for democracy, as a political regime, to be based on the generality of all mankind, and that democracy must belong to a group of people who share something in common, a homogeneous group.

However, he never suggested that this belonging to a group of people could be in racial terms. He insists on many ways that homogeneity of the people could be manifested. For examples, the substance of equality, “can be found in certain physical and moral qualities, for example, in civic virtue, in arête, the classical democracy of virtues” (CPD, p.9). He also suggests that from history,

“In the democracy of English sects during the seventeenth century equality was based on a consensus of religious convictions. However, since the nineteenth century it has existed above all in membership in a particular nation, in national homogeneity.” (CPD, p.9)

It follows that what Schmitt thinks is important is the line of demarcation between those who belong to the group and those who are exterior to it. Those who are the demos can have equal rights but those who are not the demos cannot have the same rights. This kind of democratic equality is expressed today through citizenship of a country. It is through their belonging to the demos that democratic citizens are granted equal rights, not because they participate in an abstract idea of humanity. This is why he declares that the vital concept of democracy is not ‘humanity’ but the
‘people’ and that there can never be a universal democratic model of mankind. Democracy can exist only for the people.

In my opinion, it is reasonable to say that “democracy need not always follow the western model” (Yusuf, 2011, p.13A) because in different cultures and traditions people enjoy different values in their lives. In the United States, democratic people may desire equality and freedom in every aspect of life, everything is attached to monetary value, wealth and fame are their ultimate goals, hence free-trade and mass market consumption are inevitable means to achieve their goals. While in Thailand, the people are merely in need of equal opportunity to access basic necessities in their lives. Our cultural and traditional mindsets have always been living together in modesty. Knowing that not everything in life is attached to monetary value, living a peaceful and harmonious life has been our ultimate goal until recently. The influence of globalization has derailed our thought and shifted our ultimate goal towards pursuing westernized values.

Schmitt also argues that even in democratic states, where it is believed that a universal human equality has securely established, there still are people who are excluded from that demos of having equal rights as foreigners or as aliens, and thus, in real situations there can be no absolute equality of persons. The equality among the citizenry found in those states is based on a much stronger emphasis on national homogeneity and who is and who is not a citizen. If a state attempted to accomplish the universal equality of individuals in the political realm without concern for
national or any other form of homogeneity, its consequence would be a complete
devaluation of political equality and of politic itself. For Schmitt, the inequalities
would not disappear but would shift into other spheres, such as the economic sphere
(see CPD, p.11-12). As he claims,

"..under the conditions of superficial political equality, another sphere in
which substantial inequalities prevail (today, for example, the economic
sphere) will dominate politics. This is completely unavoidable and any
reflection on political theory recognizes it as the real grounds for the much-
deplored dominance of economics over state and politics".(CPD, p.13)

I agree to Schmitt's claim that in our modern day politics, economics has already
dominated the political sphere. The process of globalization is evidence of current
dominance of economics over politics and is laying the foundation for worldwide
democratization and the establishment of cosmopolitan citizenship. Under this
circumstance, small sovereign nations such as Thailand should be aware and prepare
to cope with changes and difficulties that Western Democracy would introduce. With
knowledge and ability to segregate the good and bad characteristics while preserving
Thai sovereignty, a model of democracy needs to be developed -the model that would
be appropriate to Thai culture and tradition and that would benefit the well-being of
Thai citizens all over the kingdom.

4.2 Carl Schmitt's Concept of Sovereignty and the Exceptional
Politics

4.2.1 The state of exception could become a permanent paradigm of government

In this section I shall focus my examination on the state of exception and the process
of beginning a new order of the state to find the differences in the founding moment
between democratic states and other regimes. In order to be able to determine which act of founding can be located within the democratic framework.

The first step of examination should begin with trying to differentiate between normal politic during ordinary times and ‘exceptional’ politics during the state of exception. Normal politics, traditionally, is monopolized by political elites, bureaucratic parties, the principle of representation and parliamentary-electoral processes. Political fragmentation, low popular participation in decision making concerning common affairs also characterizes democratic normal politics, which can often result in bargaining and negotiation among organized interest groups and state officials. Economics and social sphere have dominated the political and normal democratic politics which are conducted by political elites, professional bureaucrats and global corporate enterprises.

Exceptional politics, on the other hand, involves collective mobilization of the people, popular will supporting changes and anti-government movements directly challenging the power of the state. These movements signify the awakening of the popular sovereign to reassure its supreme power of both self-determination and self-government. It also signifies the need to rearrange the fundamental norms, values and institutions that regulate ordinary legislation and institutional politics. During these exceptional moments, politic opens up to make room for popular participation and spontaneous collective intervention, whose aim is at the core of constitutional matters.
or at social significations, cultural meanings or economic issues, to be able to transform these basic structures of society and to remodel social reality.

Giorgio Agamben contends that in present-day politics, Schmitt’s state of exception in which the law is terminated by the sovereign, has turned out to be the permanent rule (see Agamben, 1998, p.8-9,170-171; Agamben, 2005, p.1-31). This is a situation that he recognizes as one of ‘abandonment’, in which the law is in force but has no content or concrete meaning, because it is in force without any significance. The law can no longer be enforced. The subject of the law is gradually voided by it (see Agamben, 1998, p.112-115;166-180). Agamben draws a figure to demonstrate this condition which is named ‘homo sacer’, or sacred man. The name is taken from Roman law and to indicate the one who “may be killed and yet not sacrificed.” (Agamben, 1998, p.8)

However, the sacredness of homo sacer does not explain the conceptual ambiguity restricted to the sacred in relation to the law. According to Agamben, the sacred man is removed and excluded from both divine and secular law as the exception or the outsider and is therefore, abandoned by both laws. To make matters worse, based on the fact that in our contemporary politics, the exception has increasingly become the norm or permanent rule of the land, indicates that it is not only some distinguished minorities that are abandoned by the law. But rather, he argues that in our age, “we are all virtually homines sacri.” (Agamben, 1998, p.115) that we are all sacred men who were removed outside of the normal law.
Agamben further argues that until today we continue to live under the patronage of a classical state which continues to function as it was conceived in early modern Europe. The fundamental characteristic of the state is its capacity to define and occasionally delete the boundary between ‘normality’ and ‘emergency’ and thus the capacity to transform society into a ‘camp’ or Lager populated by citizens reduced to ‘bare life.’

"The importance of this constitutive nexus between the state of exception and the concentration camp cannot be overestimated for a correct understanding of the nature of the camp. The ‘protection’ of freedom that is at issue in Schutzhäft is, ironically, protection against the suspension of law that characterizes the emergency. The camp is the space that is opened when the state of exception begins to become the rule. In the camp, the state of exception, which was essentially a temporary suspension of the rule of law on the basis of a factual state of danger, is now given a permanent spatial arrangement, which as such nevertheless remains outside the normal order." (Agamben, 1998, p. 168-169)

In summary, the camp is the extraordinary space that operates when the state of exception transforms into the rule. The camp represents a space of exception, a piece of territory placed exterior to the normal juridical order, but at the same time it is the ultimate expression of the logic of the exception. As such, the state of exception has finally become the norm.

"In so far as the state of exception is ‘willed’, it inaugurates a new juridico-political paradigm in which the norm becomes indistinguishable from the exception. The camp is thus the structure in which the state of exception-the possibility of deciding on which founds sovereign power-is realized normally. The sovereign no longer limits himself, ..., to deciding on the exception on the basis of recognizing a given factual situation (danger to public safety): laying bare the inner structure of the ban that characterizes his power, he now de facto produces the situation as a consequence of his decision on the exception." (Agamben, 1998, p. 170)
In addition, the present-day western states allegedly obscure the line between the exceptional and the norm, between war and peace, by progressively focusing more attention on the individual. So much attention directs toward its population not only as citizens, but also as embodied beings, that their personal data must be recorded in detail. The example could be the increasing tendency towards biometric registration of travelers when crossing state borders. Taking the situation seriously, Agamben has placed this trend of state practice alongside the tattooing of inmates in concentration camps (see Agamben, 1998, p. 181-188).

"...an apparently anodyne place (such as the Hotel Arcade near the Paris airport) delimits instead a space in which, for all intents and purposes, the normal rule of law is suspended and in which the fact that atrocities may or may not be committed does not depend on the law but rather on the civility and ethical sense of the police that act temporarily as sovereign. This is the case, for example during the four days foreigners may be kept in the zone d’attente before the intervention of French judicial authorities. In this sense, even certain cities as well as the gated communities of the US are beginning today to look like camps, in which naked life and political life, at least in determinate moments, enter a zone of absolute indeterminacy." (Agamben, 2000, p.41)

Current political developments have been complicated by the influence of schemes such as postmodern, globalization, terrorism, regionalization, religious fanaticism, or advanced liberalism. It is not surprising that the normal and stable political, economic or social structures are undermined and damaged in the proliferation of ‘the exception’. Giorgio Agamben claims that the exception, being intrinsic to present-day politics and currently invading the political space, could soon become the universal ‘rule’ for contemporary government.

“What is in question in political experience is not a higher end but ... being-into-a-mean as an irreducible condition of human beings. Politics is the exhibition of a mediality: it is the act of making a means visible as such. Politics is the sphere neither of an end in itself nor of means subordinated to an end; rather, it is the sphere of a pure mediality without end intended as the field of human action and of human thought” (Agamben, 2000, p. 115-116).

He proposes a new scheme of politics that requires the formulation of a new 'happy life,' in which bare life is never separable as a political subject and in which what is at stake is the experience of communicability itself, without reference to sovereignty and associated concepts such as the nation, the people and democracy.

However, though it often confused with natural life, partly as a consequence of Agamben's own inconsistency, bare life is not entirely identical to natural life—but rather, it is the politicized form of natural life. It is from within this distinction that bare life emerges as the political mode of life which can be defined as “Not simple natural life, but life exposed to death (Bare life or sacred life) is the originary political element.” (Agamben, 1998, p.88) He continued that

“This is why the camp is the very paradigm of political space at the point at which politics becomes biopolitics and *Homo Sacer* is virtually confused with the citizen. The correct question to pose concerning the horrors committed in the camps is, therefore, not the hypocritical one of how crimes of such atrocity could be committed against human beings. It would be more honest and, above all, more useful to investigate carefully the juridical procedures and deployments of power by which human beings could be so completely
This integration of law into normal life has contributed to a normative crisis since it is no longer the case that the rule of law outlines or restricts the conduct of the living body, but rather, the living body has become "the rule and criterion of its own application" (Agamben, 1998, p.173) and in so doing it transcends the law as its basis of legitimacy. This claim is considered controversial because if the camp has become, in reality, the 'nomos' of our modern-day politics, it follows that the normative crisis evident in them is not exclusively limited to them, but is actually a universal characteristic of our present political condition.

4.2.2 His idea of Sovereignty does not preclude Democracy

Schmitt's comments on modern day democracy begin with a critical examination of the political consequences after the alteration from the sovereignty of the king in medieval times to the sovereignty of the people in modern times. He explored the situation that involved the rising of popular sovereignty and the fact that “the decisionistic and personalistic element in the concept of sovereignty was lost... (because) the unity that a people represents does not possesses this decisionistic character.” (PT, p. 48-49).

He tried to underline the democratic origins of political power, to rethink the category of sovereignty in a democratic age, and to formulate a systematic theory of democratic legitimacy.

Schmitt reconceptualized sovereignty as the constituent power of the people appears for the first time when he discussed in a systematic way the two different concepts of
authority in the forms of commissarial and sovereign (see Balakrishnan, 2000, p.38-
39; Kalyvas, 2008, p.89-90). Schmitt’s commissarial authority, following the Roman
republican tradition, is appointed by a higher political authority and has a very
specific task to accomplish that is the elimination of enemies during a crisis that
threatens the survival of the regime. During the emergency state, the higher authority
appoints the commissarial to suspend, if necessary, the existing legal order, to remove
the threat, and to restore the previous normal conditions. (see Kalyvas, 2008, p. 89).
The commissarial has unlimited power to achieve its designated end, while neither
moral nor legal limits constrain his actions. He can both suspend the existing legal
system in its entirety and operate outside of it, in a legal void vacuum.

For Schmitt, this type of authority is founded based on the fact that “all is justified
that appears to be necessary for a concretely gained success.” (Schmitt, quoted from
Kalyvas, 2008, p. 89). Commissarial authority remains a form of constituted politics,
designed to safeguard the established constitutional order in cases of exceptional
crisis and high peril. Its functions are usually carefully specified in the constitutional
text and strictly prescribed in the institutional matrix of the regime. For examples, it
has specific time and task limits, cannot legislate, and is always subordinated to the
higher, sovereign authority that has appointed it. This form of authority represents a
clear form of delegation. While the constitution can be suspended it cannot be
replaced, since the only purpose of the commissarial is to end the crisis, restore the
normal order and return to the usual politics.
Contrary to commissarial authority, Schmitt's concept of sovereign authority has a different task, that is, to set up a new legal and political order by drafting a new constitution. Thus, sovereign authority is a founding power reminiscent of the classical legislator who operates outside the existing legal system and is external to the established constitution. This founding act represents a legal break that separates it from the previous system of normalcy.

It suffices to say that his sovereign authority is a form of constituting politics. The constituent power of the sovereign decision denotes the activation of a new regime that cannot be traced back to any prior procedure. Schmitt's redefinition of sovereignty as the constituent founder has shifted from the traditional concept of sovereignty as the final and supreme authority of command to the concept of sovereignty as the creative, founding act of the constituent power.

The major movement behind his distinction between dictatorship and sovereignty is, on the one hand, his sovereignty has the power to make the decision and that decision is to create a new constitution. Thus, he is the founder of a new order. On the other hand, the authority can be considered a dictator because it is unlimited, uncontrollable, and unrestricted by any preexisting system of legal norms and constitution provisions.

Although Schmitt described the nature of sovereignty as free from any existing legal norm, he postulated that the essence of sovereignty resides in its creative, instituting powers to establish new systems of fundamental laws. While dictatorship is
understood as norm-breaking, sovereignty is certainly norm-founding. While dictatorship is coercive and repressive, sovereignty is creative and productive. In sum, we can say that dictatorship as an executive power embodies a particular will, while sovereignty expresses a general will.

"The sovereign is the one who creates the constitution and the fundamental laws of a regime, the one who decides the juridical form and content of the political existence of a collectivity and of its higher regulative and normative principles. In a word, the sovereign is the constituent subject". (Kalyvas, 2008, p. 93)

When Schmitt discussed the instant of the sovereign decision, it was primarily to stress its disruptive, instituting, founding attributes. He affirmed that, "every legal order is based on a decision, and also the concept of the legal order, which is applied as something self-evident, contains within it the contrast of the two distinct elements of the juristic-norm and decision. Like every other order, the legal order rests on a decision and not on a norm" (PT, p.10) In addition, "the circumstance that requires a decision remains an independent determining moment." (PT, p.30). Thus, the sovereign who takes the act of making this decision "...is the highest, legally independent, underived power." (PT, p. 17)

In my view, Schmitt abandoned the traditional definitions of sovereignty as an absolute instance of command or as the highest power of domination. Instead of focusing on the discretionary power of a supreme, personal executive authority emanating from the top, he leads us to the origin of the real establishment located at the bottom. The sovereign constituent subject does not represent a repressive or controlled force, but rather functions as a productive agency. The mission of the
sovereign is to invent the fundamental laws and established the rules of a political community. With his constituent sovereign model, he tried to account for the origins of a juridical system and political order. He did not try to eliminate the norm in favor of the exception, but to elucidate the conditions of its emergence and of its possibility.

His constitutional theory is aimed at revealing the superiority of legitimacy only during exceptional politics, that is during those singular, extraordinary moments of genuine constitutional creation. "While he established the primacy of legitimacy as the foundation of legality, he did not wish to eradicate the latter." (Piccone & Ulmaen, 1987, p. 7)

This change exceeds the conventional idea, since the idea of Jean Bodin, that the definition of sovereignty is principally its absolute powers, its arbitrary discretionary will, or even its illegal potentialities. This is the main reason behind his distinction between dictatorship and sovereignty. On the one hand, his concept of sovereignty entitles the subject who has decisive authority to establish a new constitution. The sovereign is the fundamental creator of a new constitutional order. He has the power to "establish a new juridical arrangement, to regulate juridical relationships within a new community" (Negri, 1999, p. 2).

On the other hand, the same political subject can also be considered to be a dictator because at the very moment of its manifestation it cannot be controlled, limited or restricted by any preexisting system of legal norms and constitutional provisions.
Therefore, while sovereignty qua constituent power refers to the genuine process of constitutional making, dictatorship evokes the arbitrary and discretionary attributes that often characterize this process.

While dictatorship represents a temporary break with the established legal system and the emphasis is on the moment of violation and suspension of an established order, sovereignty refers to the instant of the original creation and establishment of a new order. Schmitt, on one hand, characterized dictatorship as free from any legal norms, he, on the other hand, understood the essence of sovereignty to reside in completely different area, which is in its initiative, creative, instituting powers to formulate new systems of fundamental laws, and to bring into being novel constitutions. It follows that in contrast to dictatorship which is norm-breaking; sovereignty is a norm-founding entity (see Balakrishnan, 2000, p.28-41).

In addition, while dictatorship is coercive and repressive, sovereignty is creative and productive. Moreover, dictatorship is illegal whereas sovereignty is extralegal.

Finally, dictatorship, as an executive power, embodies a particular will; sovereignty, by contrast, expresses a general will (see Kalyvas, 2008, p.91-92).

However, the distinction between dictatorship and sovereignty has always been blurred. It may be because Schmitt himself used the term ‘sovereign dictatorship’ in some of his work. Some interpretations of his work tend to equate his concept of dictatorship and sovereignty, accusing him of implementing a permanent executive dictatorship. Schmitt’s sovereign is often understood as the force of a supreme power,
usually emerged in the figure of the president, outside and beyond the restriction of
the legal order, thus his sovereignty is regularly equated to emergency rule.

"...the sovereign exception is, according to Schmitt, the very condition of
possibility of juridical rule and, along with it, the very meaning of State
authority. Through the state of exception, the sovereign 'creates and
guarantees the situation' that the law needs for its own validity. ......the
exception is a kind of exclusion. What is excluded from the general rule is an
individual case...".(Agamben, 1998, p.17)

Some critics have even suggested that his anti-liberal and anti-pluralistic existentialist
notion of sovereignty is inherently totalitarian. I disagree with those writings because
firstly, I think they did not take note of the differences between sovereignty and
dictatorship, normalcy and the exception. What they missed is that the act of
suspending the instituted order is the distinguishing mark of dictatorship. Secondly,
they ignore Schmitt's explicit depiction of the constituent sovereign as a "founding
power". The sovereign is the one who established the constitution and set up the
fundamental laws of a regime. He is also the one who decides and outlines the legal
form and content of the political and of its higher regulative and normative principles.
The sovereign is the constituent subject.

The initial sovereign decision cannot be traced back or reduced to anything posterior
or exterior to itself. It represents a new, radical juridical beginning. It is in that sense
that Schmitt recognized the sovereign will as the starting point and thus, groundless.
Ernesto Laclau, following Jacques Derrida, has nicely captured this instituting
capacity of the decision by observing that
In my opinion, it is obvious that Schmitt has given up the traditional definitions of sovereignty as an absolute instance of command or as the highest power of domination. He forwards our attention to the origin of the real foundation located at the bottom of the chain of power, who is the sovereign constituent subject (see Kalyvas, 2000, p.99).

It suffices to say that for Schmitt, the sovereign is less an absolute commander than a legislator. The mission of the sovereign is to invent the higher rules and to outline the fundamental laws of a political community. Thus he is the one who set the rules for lawmaking process. Once the rules are laid down, the sovereign withdraws from the political realm, leaving politics to its elected representatives which are now the new instituted norms and the state legality; this is the second moment of democracy the so-called normal politics.

Schmitt sought to account for the origins of a juridical system and political order with his concept of the constituent sovereign. He did not try to eliminated the norm and replace it with the exception, but he tried to establish the condition of its emergence and its possibility. Accordingly, he did not aim to replace legality with legitimacy, but his constitutional theory tries to reveal the superiority of legitimacy only during the exception, which is during the process of constitutional foundation. However, the
superiority of legitimacy as the prerequisite of legality does not mean the total elimination of the legal system (see Kalyvas, 2008, p.100).

It suffices to say that for Schmitt, sovereignty means the origin of the new higher norm and the foundation of a new legal system during the moments of radical political change. Since the norm is presupposed by the decision that has brought the norm into being and instituted, the origin of the norm, therefore, must be located in an exceptional, extralegal zone without the norm.

4.3 Carl Schmitt's sovereign decision is unattainable.

It is worth noting that the concept of undecidability is one of Jacques Derrida's most important contribution to philosophy. This idea of undecidability undermines Schmitt's emphasis on the essence of the sovereign as the entity that possesses authority to make the most critical decision during the time of emergency (see Derrida, 2005, p.67-69, 112-133). According to Derrida an undecidable, which many of them exist in deconstruction such as ghost, pharmakon, hymen, etc., is something that cannot correspond to either polarity of a dichotomy. It cannot be categorized as either present or absent, cure or poison, and inside or outside in the above examples. Because, for instance, the figure of a ghost seems to be neither present nor absent. On the contrary it can be both present and absent at the same time.

However, in later deconstruction the term undecidability returns with a different meaning. Derrida, indeed, makes matters worse by explaining undecidability in two
distinctive forms. In his recent work, Derrida insists repeatedly on those famous examples of his that the condition of the possibility of an activity such as giving, forgiving, mourning and hospitality is at the same time also the condition of their impossibility. When he explores more of these ‘possible-impossible aporias’, (aporia was originally a Greek term meaning puzzle, but it has come to mean something more like an impasse or a paradox), he concludes that it has become undecidable whether, for example, genuine giving has either a possible or an impossible value (see Derrida, 1992; 1995; 2005).

Derrida then focuses more of his attention on what appeared to be known as ‘possible-impossible aporias’. He has particularly explicated the absurdity that troubles activities like “giving”, “hospitality”, “forgiving” and “mourning”. He postulates that the situation of their possibility is also, and at the same moment, the situation of their impossibility.

His later philosophy combines his analysis of various types of undecidability that directly related to the notion of the decision itself. From this perspective, Derrida repeatedly insisting that a decision cannot be wise, or challengingly suggests that “the instant of decision is madness” (Derrida, 1995, p. 65). Following the footsteps of Kierkegaard, Derrida steps up and provokes us with “a decision requires an undecidable leap beyond all prior preparations for that decision” (Derrida, 1995, p. 77), and this required leap is not limited to those changing to another religious faith which Kierkegaard supported but it applies to all types of decision.
Conversely, it suffices to say that for Derrida, all decisions can be compared to a faith and a fragile faith, “they would cease to be a faith or a decision at all” (Derrida, 1995, p. 80) because a faith or a decision must be substantiated. His account of the decision as a moment of madness and that it must transcend rationality and calculative reasoning may seem absurd, but it could nonetheless be settled at the point when he explains that a decision requires a 'leap of faith' beyond the process of scientific reasoning.

In Politics of Friendship (2005), Derrida set up a theory of the subject which cannot execute even the slightest decision because if a decision is approximated (since it is basically followed from certain personality traits), then an authentic decision is not achievable. Derrida insisted that,

“Undoubted the subjectivity of a subject, already, never decides anything; its identity in itself and its calculable permanence make every decision an accident which leaves the subject unchanged and indifferent... For if nothing ever happens to a subject, nothing deserving the name ‘event’, the schema of decision tends regularly – at least, in its ordinary and hegemonic sense (that which seems dominant still in Schmittian decisionism, in his theory of exception and of sovereignty)-to imply the instance of the subject, a classic, free, and willful subject, therefore a subject to whom nothing can happen, not even the singular event for which he believes to have taken and kept the initiative: for example, in an exceptional situation.” (Derrida, 2005, p 68),

It follows that according to him, whatever decision one may take, it can never be totally justified.

Again in Politics of Friendship (2005), he argued that the decision must “surprise both the freedom and the will of every subject-surprise, in a word, the very subjectivity of the subject” (Derrida, 2005, p. 68) and it is in taking this leap away from calculative reasoning that Derrida argues that responsibility consists.
“For yet again, one must certainly know, one must know it, knowledge is necessary if one is to assume responsibility, but the decisive or deciding moment of responsibility supposes a leap by which an act takes off, ceasing in that instant to follow the consequence of what is – that is, of that which can be determined by science or consciousness and thereby frees itself (this is what is called freedom), by the act of its act, of what is therefore heterogeneous to it, that is knowledge”. (Derrida, 2005, p. 69)

Furthermore, according to Derrida, Schmitt’s philosophy is founded on the presupposition that he can distinguish who is a friend and who is the enemy which is the essence of ‘the Political’. This presupposition itself is an overstatement and hence, creates a paradox, since the possibility of defining the real enemy is unattainable. Derrida wrote,

“If the political is to exist, one must know who everyone is, who is a friend and who is an enemy, and this knowing is not in the mode of theoretical knowledge but in one of a practical identification: knowing consists here in knowing how to identify the friend and the enemy. The practical identification of self-and from one self to another-the practical identification of the other-and from other to other-seem to be sometimes conditions, sometimes consequences, of the identification of friend and enemy. (Derrida, 2005, p. 118)

In conclusion, Schmitt’s emphasis on the sovereign’s decision is opposed by Derrida as not possible because, on one hand, the paradoxical character of making decisions of a subject itself. On the other hand, the distinction between friend and enemy is impossible to make.

4.4 Carl Schmitt’s Sovereignty leads to totalitarianism

Hannah Arendt argues that Sovereignty endangers the nature of the political by replacing freedom with hierarchical control and rulership, substituting the plurality of the public sphere with homogeneity and sameness, and replacing horizontal
cooperation among equals with the vertically structured command-obedience relationship (see Arendt, 1970, p.139). She contends that in ancient Greece, sovereignty was restricted to the private realm, while in modern times it invaded the public space to become the principle of politics, making the citizens its obedient subjects. Modern omnipotent sovereign coincided with the formation of the modern nation-state with its central bureaucratic and administrative structure.

Furthermore, she claims that sovereignty destroys the plural, multi-perspective dimension of public spaces. Popular sovereign presupposes that the people compose a solid, seamless homogeneous collective entity which replaces the indivisible and absolute power of the king. The problem with an absolute collective will, an irresistible 'general will' is that it cultivates sameness and "the general will was nothing more or less than what bound the many into one" (Arendt, 1990, p.60). It follows that the unique quality of the political, which is its plurality, is eradicated because the idea of the popular sovereign "excludes all processes of exchange of opinions and an eventual agreement between them" (Arendt, 1990, p.76). She suggests that this sameness of the sovereign will can eventually lead to totalitarianism.

Ardent was convinced that the sovereign homogeneous people destroy the common world shared by all citizens via verbal and physical relations. They also close the space that relates and separates individuals and groups by turning them into sameness that would be easily dominated by an absolute leader. Sovereignty is ultimately
hostile to the very nature of politics because it destroys the presuppositions of freedom by imposing a uniformity that reduces political equality to an organic homogeneity (see Kalyvas, 2008, p.210-212). Thus, she became fully aware of the dangers inherent in sovereignty and, contrary to Schmitt, realized that the presence of a sovereign during the state of exception could be dangerous.

Ardent cited the American success in their politic revolution due to their "consistent abolition of sovereignty within the body politic of the republic, the insight that in the realm of human affairs sovereignty and tyranny are the same." (Arendt, 1990, p.153). She affirmed that the American revolutionists were more successful than the French of 1789 because they "retained from them the meaning of many, of the endless variety of a multitude whose majesty resided in its very plurality" (Arendt, 1990, p.93) While the French failed because they made fatal mistake to put the people into the seat of the king, to give to the mass the power to make decisions, a mass that acts as though possessed by one will and moves as one body. A mass authorizes with the power of sovereign and its actions are located outside the existing human law. The sovereign people not only demolished all differences but also created the limitless power of homogenous community that can easily lead to totalitarianism.

In Christianity, one can find the birthplace in history of modern sovereignty as the absolute power that can create norm out of nothingness. Beginning in early Christianity to the organized church and the pope to the absolute king until it develops into national and popular sovereignty. Schmitt developed his idea in
political theology from the belief that "all power comes from the people takes on a meaning similar to the belief that all authoritative power comes from God." (CPD, p.31)

Arendt commented in her analysis of the French Revolution that "the first essential step on the road to Total domination is to kill the juridical person in man" (Arendt, 1976, p.447) when all established norms were removed and all legal orders are suspended, the society descended into the chaos of the natural state that everyone is equally non-protected and equally without rights. Without legal order, the nation dissolves into the state of anarchy, full of over and under privileged individuals. This could happen in any country that adopted violence as a means during the transition of its political regime.

It follows that if the security and liberty of the citizen is of the utmost concern, revolution should never break out into riots and violence, even though the situation of the governing power is extremely scandalous. For Arendt, more civil liberties exist in those countries where the revolution is defeated than in those where revolutions have been victorious through inhumane, violent mean and extensive national riots.

According to Hegel, the notion of a sovereign entails 'excessive voluntarism' (Hegel, 1991, p.38), it follows that the sovereign people can turn into an unstable stream of will, fluctuating in relation to its unpredictable emotions and arbitrary wishes. Spinoza also added that
"the sovereign is thus bound to live according to his own laws, not according to anyone else's, and to recognize no man as a judge, or as a superior in religion. Such, in my opinion, is the position of the sovereign, for he may take advice from his fellow-men, but he is not bound to recognize any as a judge, nor anyone besides himself as an arbitrator on any question of right. (Spinoza, 1951, p. 211).

Arendt claims that the sovereign therefore, is "bound by no universal law and acknowledge nothing superior to itself". (Arendt, 1976, p. 230). She accused the concept of sovereignty as the cause of the unsuccessful attempt of the French Revolution to produce a permanent and stable constitutional order. Moreover, she pointed out that the sovereign popular will is a paradox to stability in its nature since it can never control itself and thus, can never establish a stable constitutional order. "The so-called will of a multitude..., is ever-changing by definition, and that a structure built of it as its foundation is built on quicksand". (Arendt, 1990, p. 163)

Arendt attacked Schmitt's definition of the sovereign as "the one who decides on the friend-enemy distinction" (CP, p. 39) for encouraging war during the state of exception. This exclusion aspect of sovereignty arises out of its relation of command and obedience that implies the hierarchical and asymmetrical relation between rulers and ruled. One can either possess power or become sovereign, or one can remain a powerless subject in the position of subordination and subjection. This formulation is based on "the insight that the freedom of one man, or a group or a body politic can be purchased only at the price of the freedom, i.e., the sovereignty of all others." (Arendt, 1990, p. 164).
This sovereign notion of zero-sum power was evidenced during the French Revolution that disintegrated into civil war, and its constituted power of the people dissolved within the scenario of violence and chaos. Politics became a battleground and Schmitt’s friend-enemy distinction becomes internalized. It follows that Schmitt’s sovereignty not only could lead to totalitarianism but could also bring about civil wars and violence. The lowest implication is that only by addressing an enemy, the notion of sovereignty as indivisible and one can be united. This pursuit of homogeneity logically continues its way to the punishment and indictment of differences and plurality due to the fact that during the state of exception, nation-states could not submit to discord and criticism. They had to strive in every possible way to retain perfect uniformity of opinions as the necessary condition for success.

Habermas attacked Schmitt on his theory of democratic homogeneity as being ethnic and racist. For Habermas, Schmitt’s theory of the popular constituent power presupposes a substantive ethnic homogeneity that binds together and organizes a society which is an integral part of his ‘militant ethnonationalism’. (Habermas, 1998, p. 148)

However, I disagree with this accusation since there is nothing in his writing to suggest that he relates the ability of the people to act as a constituent sovereign to common ethnic or racial origins. In contrast, he thought that the political identity of the people

“does not describe its own substance, but only the intensity of an association or dissociation of human being whose motives can be religious, national (in
the ethnic or cultural sense), economic, or of another kind and can affect at different times different coalitions and separations.” (CP, p.38)

Chantel Mouffe explained that Schmitt’s theory illuminates the fact

“that the creation of an identity implies the establishment of a difference, difference which is often constructed on the basis of a hierarchy... Once we have understood that every identity is relational, and that the affirmation of a difference is a precondition for the existence of any identity, i.e. the perception of something ‘other’ which constitutes its ‘exterior’, we are, I think, in a better position to understand Schmitt’s point”. (Mouffe, 2005b, p.15)

In my opinion, Schmitt did not put ethnicity or race as the fixed essence of identity but the ‘we’ is developed through struggles, antagonism, and differential relations among groups.

“The notion of democratic identity is a political notion and as all true political notions, it refers to the possibility of a distinction. Political democracy cannot rest on the absence of a distinction among all men, but only on the belonging to a particular community, and this belonging could be determined by very divergent factors that is the idea of a common race, a common faith, a common destiny and tradition” and a common social class “(Schmitt quoted from Kalyvas, 2008, p.122)

It is evidenced that he has never suggested that the constituent popular sovereign has to be an homogeneous ethnic community. Contrary to being a totalitarian or racial ideology, his belief that democracy requires popular unity and collective solidarity is identical to the political thoughts of the democratic, conservative, republican or socialist traditions. He asserted that the crisis of modern democracy stems from the problem of “a substantial equality and homogeneity, which is necessary to democracy, cannot be resolved by the general equality of mankind” (CPD, p.15). It is, therefore, coherent to expect some degree of unity to exist among citizens of a
political society so that a common good and a decision on general affairs can make sense to that society.

4.5 Summary

The concept of sovereignty has been a constitutive attribute of modern theories of democracy. From Spinoza to Rousseau, democratic politics has gradually come to mean the regime of popular sovereignty. The people, who emerged intact and revitalized from the debris of absolutism and the secularization of politics, gradually came to be recognized as the supreme source of legislation and legitimate political authority, which once were the exclusive attributes of the King. To Schmitt, this was a conventional, self-evident truth beyond dispute. It not only defined the very nature of democracy but also marked the starting point of his constitutional and political explorations.

Schmitt's theory of sovereignty alludes to the real invention of a new order by a popular sovereign decision, it is assumed to function only during the state of exception or a legal vacuum. During the process of constitutional making there is no antecedent rule or norms because if the constituent will is restrained by the former existing legal order, it would function as a constituted power, not a constituent power. The old legal system must be ignored if a new constitution is in the making. Renato Cristi explained that for Schmitt,

"Sovereign became visible only during exceptional circumstances, when a constitution was destroyed and another was born. In these circumstances, sovereignty showed up under the guise of constituent power."(Cristi, 1998, p.117).
It is thus, more accurate to describe the constituent power of the popular will as extralegal rather than illegal because during the moment of creating the original constitution there is no established legal system. Schmitt put sovereignty in relation to the state of exception because sovereignty assumes the exception as its precondition. The failure and collapse of the previous regime opens the door to the exercise of the sovereign constituent power.

However, the exception is not the essence of sovereignty nor is it its defining feature, but rather it is the condition for the possibility of popular sovereign intervention, which could lead to new constitutional creation. Schmitt's notion of the constituent power represents the extraordinary dimension of the political as the original, instituting moment of society. He emphasizes the sources, content, scope and condition of this originating event which he found in the constituent power of the sovereign popular will. He introduced the rebellious and insurgent force of the constituent power, which had been discovered in the midst of the English civil war and during the heyday of the American War of Independence and the revolutionary deliberations that changed the French National Constituent Assembly.

Schmitt's concept of the constituent will of the sovereign people is illustrated in his constitutional texts. His formulation of sovereignty can be traced back, not only to his much-discussed definition based on the exception, but also to his model of genuine constitution making. He attempts to extricate constitutionalism from the liberal
tradition in order to take it in a more democratic direction, but struggles to blend the
democratic principle of identity with that of political representation within a
substantive constitution. He failed by concluding with a presidential solution and by
endorsing an omnipotent personalistic executive power with a plenitude of dictatorial
powers, while substituting the extraordinary with the exception and founding with
emergencies.
Chapter V: Carl Schmitt’s Concept of Sovereignty and Its Implications for Thai Democracy

5.1 Current situation of Democracy in Thailand

While among most of the countries in Southeast Asia a major part of democratization efforts involving the removing of the military from the political arena and subordinating them to civilian control has encountered many obstacles, the situation of democracy in Thailand today is far better and very different from, on the one hand, the situation under the military government of Myanmar, where without civilian government control, democracy is almost impossible. Democratic constitutions tend to be worth little more than the paper on which they are written, since the political process is under military control. Civilian authorities might be legitimized by popular elections to rule; however, they lack the effective power to govern if soldiers do not follow their command (see Chamber & Croissant, 2010).

On the other hand, Cambodia’s early stage of democracy which has gradually eroded into a new kind of electoral authoritarianism under the leadership of Prime Minister Hun Sen since the late 1990s can be seen as a good example of how the word ‘democracy’ could be exploited. However, after more than 70 years of democratization, Thailand is still being afflicted by unstable parliamentary institutions, corrupt politicians, a weak rule of law, bureaucratic inefficiency, and a lack of social justice.
Following the massacre of civilians during the Black May of 1992, the Thai military appear to have experience a slow revival since. The military's status hit rock bottom in terms of support from the people and they seemed to voluntarily comply with elected civilians for many years afterwards. Yet in 2006, there occurred another military coup which “gained a lot of support from Bangkokians and scholars who believe in the integrity of soldiers over the empty promises of corrupted politicians” (Chambers, Croissat & Pongsudhirak, 2010, p.4). The 2006 military coup threw out the Thaksin Shinawatra government and led to the appointment of retired-General Surayud Chulanond's government.

Although the Sep19th, 2006 Coup was accomplished without bloodshed and effectively ended a long period of political turmoil, public debate on the legitimacy of the coup is still confusing. The main error of the confusion is based on the false assumption that the deposed Thaksin government was legitimate or, at least, was democratically elected. Therefore, to overthrow the “democratically elected government” by armed forces could be considered illegal and unacceptable, domestically and internationally. However, this argument was later proved wrong by the constitution court verdict (See Constitutional Court Ruling, 2007).

It is evident in the verdicts from the constitution court delivered on May 30th, 2007 for the dissolution of the Thai Rak Thai Party that the deposed government was
neither legitimate nor democratically elected since the party had seriously and intentionally violated the Rule of Law before and during the general election.

A respected Scholar from Chulalongkorn University, Professor Dr. Khien Theeravit explains about the rational of the 2006 coup in Thailand and the right of the people to rebel in his 2011 writing that,

"To understand the real nature of the coup we must take into consideration words of wisdom of some great political philosophers in the past. One of the great philosophers in the East, Mencius (372-289bc) quotes his mentor Confucius (551-479bc) on 'rectification of names' in Analects (Lun Yu) as saying that the "son of heaven"(king) exercises his authority with the support of the populace in accordance with the name given (Zheng Ming) "let the ruler be ruler, the subject subject...".

The truly moral king must rule the country by the "kingly way" (Wang Dao). If not, he would lose the "mandate of heaven" (Tian Ming) by being killed or disposed through rebellion." (Theeravit, 2011, p.12)

Furthermore, from western philosophers such as Aristotle's and Tocqueville's viewpoint, the deposed Thaksin government can be identified as the "tyranny of the majority", because Thaksin and his peers systematically violated the constitution and the law of the land. Thus, without the rule of law in effect and with the will of the majority claimed to be on his side and so to be above the laws, Thailand was theoretically turned into the state of chaos because there is no right or wrong but only the concept that the might(the group of people who have the power of the state)
is right. This situation can be interpreted from Carl Schmitt's view as "the state of Exception".

Finally, according to Schmitt's perspective, the 2006 coup is neither legal nor illegal since during the state of exception, law was not in effect. But it was definitely legitimate. Since for Schmitt, Sovereignty is he who decides on the exception and he must act in order to restore the order of the state. It follows that the 2006 coup that overthrow an illegal government for the benefit of the people in necessarily good and therefore, legitimate.

From Schmitt's perspective, order must be restored and the sovereign has to decide and act accordingly. As we have discussed in previous chapters that Schmitt's concept of Sovereignty could means the power of each individual citizen to make his/her own decision as well as any individual who made the ultimate decision and command during the state of exception can reveal himself as the sovereign. It follows that the 2006 military coup lead by General Sonthi Bunyaratglin had made that ultimate decision.

Schmitt insists that the state derives legitimacy from its foundation in essential human qualities. For him, the constitutional personality of the state is not external to the state. The constitution of a legitimate state represents the concretely unified will
of its constituents; it does not represent norms inferred independently of the state.

The constitutional personality of the state, for Schmitt, is clearly the state’s own foundation of identity and this constitution has no reality apart from the state itself.

"...the meaning of the term 'constitution' be limited to the constitution of the state, that is to say, the political unity of the people.

In this limited meaning, 'constitution' can describe the state itself and, indeed, an individual, concrete state as political unity or as a particular, concrete type and form of state existence." (CT, P.59)

Schmitt addresses the relation between legality and legitimacy that Legality is a formal condition that must be given meaning and content by a prior structure of legitimacy. Legitimacy is obtained only through the representation of the unified will or the historical existence of the people, and this must be presupposed as the origin of the constitution and indeed of all law. Politics is before the law. The constitution must express the political will of the people or of a people, and this will might accommodate notions of freedom and identity that cannot be transposed into universal norms. The constitution of a state must therefore, firstly be political, not legal. (See CT, introduction)

"Yet 'constitution' can also mean a closed system of norms and, then, in the same way, can designate a unity, however, not a concrete existing unity, but instead a reflective, ideal one. In both cases, the concept of the constitution is absolute because it expresses a (real or reflective) whole." (CT, p.59)
The 2006 coup suspended the existing rule of laws—that were only applied to some people but excluded the politicians in power—in order to restore order in society and create a new rule of laws that can be applied equally to all. The new constitution was created by an assembly of representatives from different professions and was ready for national voting in the following year. It is important to recognize that the 2007 constitution is the only one constitution ever written in Thailand that was approved by direct voting of the people and it is, therefore, in accordance with Schmitt’s idea of direct democracy.

The 2007 constitution is the only version that comes from direct voting and has actually won national consensus. It contains all the essence of the 1997 constitution and a more robust checks and balance system which can be used the people and other non-government agencies such as the administrative court and the constitutional court (see Weerawan, 2012, p.235; Thai Constitution 2007). Politicians often claim that the process of electing representatives is the most important element of democracy, which is a very suspicious claim.

According to Schmitt and, probably, many other philosophers and political thinkers would agree with his viewpoint that the most important element of democracy should in fact be how the people are governed after the election. Politicians repeatedly claim their legitimacy to govern from winning majority votes at the general
election; however, that majority vote does not authorize them to do anything they want by ignoring, violating, undermining and manipulating the rule of law. It does not give them any right to rule arbitrarily. In fact, it binds them to the duty of the state that needs to be performed with honesty and the benefit of the public must be their main priority.

"In contemporary language, legitimacy means righteousness and legality lawfulness. Legality is the logical result of the function of a state bureaucracy or of any other mathematically construed apparatus; it is viewed as the predictable function of a sequential procedure compatible with what is taken as modern bureaucracy. Legitimacy would carry with it a vast contraband of old concepts and transpositions which could include tradition, customs, fatherhood and the necromancy of the old". (PTII, p.119)

Regarding the present day situation of democracy in Thailand (2012), the attempt to bend the rules to benefit the politicians in power and thus, weaken the rule of law is still rampant. Although our country's money politics, with its corrupt politicians, has eroded Thai politics to a very critical state, most Thais are still optimistic that by doing nothing and saying nothing, the evil will go away in the end. However, according to Schmitt, what he fears is not change (making decisions) but the reluctance to change. Not-making decisions could finally lead toward devastation in all aspects of the country, morally and economically with the consequent collapse of society, transforming the country into a chaotic society that is a community without any moral, legal and ethical standard of right and wrong.
In Thailand at present, the rule of law only applies to law-abiding people, while many who did not conform and violated the law remain unpunished and thus represent the double-standard enforcement of law by government agencies.

Moreover, the process of enforcing the law either by the election committees or by others is too slow to convict any politicians before they come into power and try to fix, bend or overthrow that law. It follows that the country's law enforcement agencies—all of them, including the police, the DSI, the attorney office, the election committee and etc. urgently need to be reformed. Decision making to enforce the law must be equally executed in regard to every citizen and within precise and equal timeframes, as well as in a timely manner.

5.2 Carl Schmitt's concept of Sovereignty is critical for the development of Thai Democracy

"Your literary men, and your politician, and so do the whole clan of the enlightened among us, essentially differ in these points. They have no respect for the wisdom of others; but they pay it off by a very full measure of confidence in their own. With them it is a sufficient motive to destroy an old scheme of things, because it is an old one. As to the new, they are in no sort of fear with regard to the duration of a building run up in haste; because duration is no object of those who think little or nothing has been done before their time, and who place all their hope in discovery. They conceive, very systematically, that all things which give perpetuity are mischievous, and therefore they are at inexpiable war with all establishments." (Burke, 1955, p. 147)
In the following section, a suggestion for the continuing struggle for better democracy in Thailand will be offered based on the argument that a country like Thailand has to find her own way to develop her own version of democracy. The resulting form of government, however, cannot diverge too much from what the global community finds acceptable, but it should be the form of government that retains the many traits that represent the historical, traditional and cultural development of the country.

It has been evident in South East Asian community in the past that the relationship between political powers was hierarchical. This hierarchy also applied to relationships among several kingdoms in the neighboring region. Smaller towns paid tributes to the larger kingdom, while these tributaries were regarded as separate kingdoms with their own court, administrative and military systems. The overlord of the region also treated a tributary king with minimum interference. We may say that in general, these lesser kingdoms had their own sovereignty, but were required to regularly sent tribute payments to the overlord (see Winichakul, 2004, chap4).

Since ancient times, Thailand has long cultivated and passed on to succeeding generation her culture and traditions while her sovereignty has been well-preserved and continuously intact. Since human beings do not exist as individuals outside of society, the state of Civil Society is the State of Nature. Rights are ‘prescriptive’,
because they are prescribed by society. What makes any right prescriptive is tradition. If a society has evolved rights and political practices that are recognized as legitimate, then they are usually legitimate. What is legitimate is socially condoned.

Therefore, it is possible that Thailand could gradually develop and establish the Democratic version that is suitable for and adaptable to her own culture and traditions if her sovereignty continues to be preserved. Schmitt emphasized that

“State and politics cannot be exterminated. The world will not become depoliticized with the aid of definitions and constructions, all of which circle the polarity of ethics and economics. Economic antagonisms can become political, and the fact that an economic power position could arise proves that the point of the political may be reached from the economic as well as from any other domain” (CT, p.78)

Although there are many Thai scholars who are more or less completely 'Westernized', who have abandoned Thai tradition and adopted all the deviations of the Western culture, and these denatures who were led astray by the teaching of European and American universities, and many have become a cause of trouble and agitation in their own country, it is evidenced that this anti-tradition movement has recently lost its support. After decades of adopting the Western model of Democracy and its capitalist economy which has proven to be disastrous, it has become increasingly clear that in its culture and traditions may reside the real wisdom after all.
5.2.1 Democracy in Thailand does not have to follow Western Democratic model

In this section I shall argue that the Western democratic model is not suitable for countries of the East especially, Thailand, since it contains an element of economic essence that is destructive and hazardous to the development of democracy as well as to the traditions of Eastern cultures. Arguments frequently heard from leading scholars of Western countries themselves, are that democracy as it is currently practiced in the West cannot be fully realized as real democracy after all (see Schmitt, CPD, CT, PT; Mouffe, 2009; Badiou, 2011; Ross, 2011; Rancière, 2009). The reasons are firstly, Western democracy entails a capitalist economy, which presupposes certain values such as freedom and equality that are contradictory to democratic values. Schmitt argues that

"Wherever an indifferent concept of equality, without the necessary correlate of inequality, actually takes hold of an area of human life, then this area loses its substance and is overshadowed by another sphere in which inequality then comes into play with ruthless power." (CPD, p.13).

For Schmitt, equality can exist only through its specific meaning such as political equality, economic equality and so on. However, these equalities always entail some form of inequality or the possibility of distinctions, which makes the idea of absolute human equality practically meaningless. Only through belonging to the demos are democratic citizen granted equal rights and thus,
“..the central concept of democracy is not ‘humanity’ but the concept of ‘the people’, and that there can never be a democracy of mankind. Democracy can exist only for a people” (Mouffe, 2009, p.41).

Secondly, the calls for democracy in Asian countries are actually a veil hiding capitalist intent behind. Thirdly, Western democracy with its capitalist economy will hinder moral, ethical and cultural development and will result in the country that adopts it to lack in the aspects of morality, culture, traditions and the sense of righteousness among citizens.

I will try to show that democracy is not necessarily bound to a particular cultural tradition and economic model, including the Western capitalistic one. Thus, the reaction against the recent political uprising in Thailand should be seen in a clearer light as, in fact, a reaction against the movement of the mob that attempted to legitimize the bourgeoisie’s oligarchic regime.

Democracy is not necessarily based on a particular cultural tradition; therefore, it is not essentially tied to a fixed economic foundation or any universal principles either. An argument for the conclusion just stated, will be based on Carl Schmitt’s proposal that democracy and the parliamentary system are two distinct conceptions (see CPD, CP, PT). Democracy is a system of government of the people which aims to govern
for the common good of its citizens, while the parliamentary system aims at benefits sharing and negotiations among political parties. This Western democratic system is not the only one possible and is not the best regardless of historical, social, or cultural context. But the Western democratic model and the capitalist economy coexist in our world and turn out to be substantially identical—this coexistence which, I argue, requires imposing democracy into every single country on earth. Democracy is then justified, because the expansion of capitalist economy into developing countries is essential for multinational corporations to survive and prosper.

5.2.2 Sovereignty of the nation is necessary for Thailand to develop her own version of Democracy

I shall argue here that the sovereignty of the nation is necessary for Thailand to develop her own version of Democracy based on three assumptions. The first one is based on the premise that full implementation of Western democracy would entail a set of economic values which are contradictory to some Eastern values, and would finally result in the identical chaotic society full of drug abusers and materialistic individuals as has already occurred in the western society. The second assumption is based on the claim that demands for democratization in Eastern countries are in fact veiled threats of capitalism. The third assumption contends that the Western democratic model will lessen the morality of the citizen.
The first argument against Western democracy is based on the premise that Western and Eastern culture differs in too many aspects. Although cultures are not fixed or concretely established, and often adaptable, cultural entities that are too distinct from one another must go through a length of time and effort in order for them to synchronize well with each other. Although a culture may change considerably over time, the changing paths also vary according to climates, localities, population, technological advances, religions, traditions and so on.

For example, although the description of 'the Thai culture' or 'Thainess' may vary according to many factors, one of which is the locality of the people. When the phase 'Thainess' is used, Thais often proudly present our cultural and traditional practices of the royal court, consisting of sophisticated dances such as the royal mask play or Khon, literature written beautifully in poetry, and the most remarkable craftsmanship of many royal temples and palaces. Folk dances performed by peasants in different regions of the Northeastern, or the South for instance, are also examples of Thai culture which are indeed very diverse.

Although some may argue that it is always difficult to mark precisely where one culture ends and another begins, most people would agree that it is not very difficult to recognize 'Thainess' from Western culture. For instance, being humble to parents and older persons is typical and easy for a Thai person to practice, but almost
unknown and difficult to comply with for an American. Furthermore, being kind to strangers is also typical of most Thai people. There are traditional proverbs about how you should help strangers such as ‘Whoever comes to your house must be properly welcomed’. The Thai traditional greeting phase is not ‘How are you?’ as in the Western tradition, which is very superficial and insincere, since nobody really wants to know how you really are or really feel at the moment. Thais often greet each other with ‘Have you eaten rice?’ and really care for it. If you have not had your meal, you will certainly be invited to join that meal or have a company for the meal while if you are in the U.S., nobody would be in the least interested or sincerely care.

Hence, the assumption that the Western democratic model is not necessarily the best for Thailand seems to be well-grounded.

Even though some may argue that assumptions and beliefs constitutive of a culture do not stay the same over time. Contemporary Thai culture is different from the culture that existed fifty or a hundred years ago. The adoption of a foreign idea like Western democracy could result in a loss of our decent cultural identity. If we fully adopted the Western democratic model, we would definitely lose a large part of who we are because of the harm that its capitalist economy could bring. This argument here indeed moves from the conclusion that Western and Thai culture differ quite
significantly and followed from that premise. It is minimally doubtful if we consider the following examples.

Countries of South America, for instance, differ considerably to North American and European countries in their histories, temperaments, preferences in food and drink, and so on. Although some of these differences continue, some countries such as Argentina having been colonized and later turned into a liberal democracy and adopting a free-trade capitalist economy more than a century ago, still struggle under economic difficulties. In a liberal democratic culture, the economic system would eventually enter into the realm of practices constitutive of cultural identities. The political domain could as well be defined, according to Carl Schmitt, as "a sphere of honest rivalry", while the economic domain could be viewed "as a world of deception" (CP, p.77). The liberal democratic culture integrates the domain of the political, economic and that of private lives. Economic enemy could become political and the political may be reached from the economic domain. It follows that destiny today is no longer politics but economics which has become the political (see CP, p.78).

"The negation of the political, which is inherent in every consistent individualism, leads necessarily to a political practice of distrust toward all conceivable political forces and forms of state and government, but never produces on its own a positive theory of state, government and politics" (CP, p.70)
Cultural or traditional values, nonetheless, are threatened by the Western democratic model, as the above example illustrates. Traditional Values such as, obedience to the elders, submission of individuality for the sake of the group and striving toward unity of the whole are being shaken by the values of individualistic consumerism in the free market economy. The value that strongly promotes your individuality and personal identity is justified on the basis that you have the right and freedom to be whatever you want to be, buy whatever you want to buy—not what is actually essential. With consumerism having taken over the society, the political and cultural context of the country would differ entirely from what it was in the past.

The political in which rulers should possess superior moral virtues and knowledge are undermined and ignored. Public media and communication agents such as TV, radio stations and News agencies not only connect with the people but they also educate and transform the society, with their strong influence over the entire population. Information is no longer limited only to the elites or to those in the population with high education. Hence knowledge is universal and accessible everywhere.

The traditional system which sustained moral values and virtuous practice in the past is now falling apart under the influence of capitalist values. Constituted partly of communications among people that transcend national and cultural boundaries, this
virtual communication leads people to think that moral values and virtuous practices are only beliefs and that violating them sometimes means no physical or legal consequences. With modern consumerist life constantly forcing changes and revisions of beliefs, the belief in the legitimacy of the rulers by virtue of their moral and epistemic superiority comes to be regarded as unnecessary, as irrelevant and possible obstructing the maximization of wealth and pleasure-seeking of individual persons or groups. And since the belief in wealth becomes the basic and universal rationalization, the legitimacy of any oligarchic elites, who could claim superior knowledge and more efficiency in maximizing wealth, to govern the country without obeying, respecting or conforming to the rule of law is also plausible and could be widely practiced.

The second argument against the Western democratic model is that the call for greater democratization in Southeast Asian countries is in fact a veil for the creation of a capitalist economy. The frightening reality is that these political uprisings do not come from outside. The movement is supported by business groups, politicians and activists, who would gain if the free-markets economy is well-established. The free-trade economy could give them maximum benefits and enormous wealth. Though the threats of real foreign intervention are less probable, it is still possible if the US and its allies happened to recognize their benefits from the intervention as when they invaded Iraq during 2003-2010 and Afghanistan from 2001 to the present time.
Therefore, it follows that threats of capitalism incurred by implementation of the Western democratic model are more than real. Democracy is a form of diversion, to blur the sight of the people so that they fall into the capitalist trap. But if Thai people realize that democracy can emerge internally from among ourselves and does not have to be imported from western countries, then they will know that democracy without a capitalist economy could be a totally different matter.

Finally, it is possible that the Western democratic model will lessen the morality of Thai citizens. In the Western democratic model there are too many voices, too many opinions, and too many directions to which policy makers are being pulled. With its free-trade policy, running a country structurally resembles running a business corporation. Business enterprise always aims at maximum benefits and increasing wealth. It follows that morality, decency, kindness and goodness become more and more irrelevant in the competing business arena. However, a country is far too varied and pluralistic to be managed as a corporation, and visions of the good among citizens of a country might conflict with that of the CEO prime minister of the country, who wants to take the country along the path of a successful business enterprise. Recently the world capitalist economies have been hit by a global financial crisis stemming from countries such as Italy and Greece. The crisis has the potential to become pandemic, expanding into many other countries. Climate changes and global warming are also issues that shift the directions of the
development paradigm from economic growth to human well-being and environmental preservation.

The tradeoff between the vision of the good life of the people and what is considered successful in the international economy, such as high GDP growth, may be too much for the people. It follows that they have rights to find the most suitable way to achieve their collective goal of human well-being such as discard the GDP (Gross Domestic Product) and concentrate on GNH (Gross National Happiness) instead (see Supadhiloke, 2010).

My first assumption shows the discrepancy between democracy and the cultural traditions of the East. It gains supports from the presupposition that Western and Thai cultures are different, although the line of demarcation is not always clear and adaptation is also possible. My second assumption is supported by the fact that these calls for greater democracy and freedom always result in benefit for the leaders of the political movement and the multinational businesses that support the movement, instead of for the majority of the people in the country and such gains clearly unveil the activists' own claims. My third assumption argues against the belief that there is only one universal vision of a good life, that of winning the competitive game of commerce while accumulating maximum wealth. This, however, is a result of viewing a country as a business corporation, owing its survival and prosperity to its
success in high GDP or GNP (Gross National Product). However, a country is far too pluralistic and diverse for that. The global economic competition clearly does not focus on the well-being of the majority of the population or increase the GNH (Gross National Happiness). The increase of Natural catastrophes and international economic crises in this past decade has supported the idea that national and global development should switch its direction from an economic focus i.e. the capitalist economy to a human and environmental focus i.e. the sufficiency economy.

By refuting the capitalist economy, it does not require that Thailand be ruled by a non-democratic, authoritarian regime. Similarly, as I have argued before, although Carl Schmitt has refuted parliamentary democracy and accused the liberal system of being in contradiction to democracy, he never negated other form of democracy i.e. democracy without the free market economy. It follows that Thailand could eventually develop her own version of democracy without full adoption of the capitalist economy, if her sovereignty is well protected from Western intervention (such as what happened in Iraq and Afghanistan) and well-preserved internally by the unity of the Thai people.

Arguments purporting to show that the Western democratic model is unsuitable to Eastern countries are, then, successful. Democracy is not necessarily a foreign wisdom from the greater civilizations of the West imposed on the uncivilized
countries of the East. It suffices to say that it is not only the Western democratic model alone that is capable of producing real democratic regime.

To establish the democratic tradition in Thailand requires, first, a clear understanding by the people about what democracy really means, and second, a clear understanding by the people that their democratic rights, their freedom and equality always come together with the duties and responsibilities of the democratic citizen.

The call for democracy has to take into consideration several assumptions constituting a cultural tradition where the democracy is to be founded. Democracy ought to be founded and maintained within each particular country's tradition and culture, because it could offer the best alternative for the people from within their own culture itself.

"When ancient opinions and rules of life are taken away, the loss cannot possibly be estimated. From that moment we have no compass to govern us; nor can we know distinctly to what port we steer. Europe, undoubtedly, taken in a mass, was in a flourishing condition the day on which your revolution was completed. How much of that prosperous state was owing to the spirit of our old manners and opinions is not easy to say; but as such causes cannot be indifferent in their operation, we must presume, that, on the whole, their operation was beneficial. (Burke, 1955, p.134)."
Since Thailand has an established culture, customs and traditions that can be physically observed in the reflection of its Arts, literature and craftsmanship, the argument that nationhood is only an imagined community can be viewed as invalid for Thailand.

Thai people are actively creating democracy for ourselves, and the process is still an ongoing event in which everybody should partake. Awareness of other cultures make comparison with our own traditions possible, but the most important point is that knowledge and morality are two essential conditions that Thai people need to utilize and reorient themselves to. This reorientation in the fundamental conception of how society is to be constituted is essential, because although democracy seems to be the only possible choice of government at the moment the capitalist economy is clearly not. It does not preclude that a capitalist economy may be suitable in some other countries. For example in US society, where the mass is literate and materialistic, and thus, is in constant pursuit of wealth, material gains and individual pleasure, each individual person is in lifelong competition with every other person in every aspect of life. Jealousy, envy and selfishness are very common. This kind of competitive and selfish society, however, had never been openly practiced or accepted as the social standard of behavior in Thailand before the invasion of capitalism under its democratic cover.
I shall conclude here that democracy is not essentially tied to a particular economic system, such as the capitalist economic system, if it could evolve from within the traditions of a cultural entity itself. It follows that Thailand could develop her own version of democracy with her own economic system that results from the accumulation and adaptation of Thai traditions and culture, as for example in the sufficiency economy.

5.3 Democracy in Thailand and Sufficiency Economy as its economic counterpart

Scholars around the world are seeking alternative approaches to the Western economic model that represents the capitalist economy, which promotes a short-term maximization of profit and optimization of shareholder’s value. They argue that capitalism with its Western business practices could not lead to corporate sustainability (see Avery, 2005; Mintzberg, 2004; Dunphy, 2003). In European countries, there is an approach called the Rhine model that concerns long-term sustainability of a company together with its relationships with other stakeholders, such as the local community and the environment (see Avery, 2005; Albert, 1993). In Japan, the employee-focus model is developed to achieve long-term business sustainability, which is evidenced in the country’s economic success (see Ozaki, 1991). Singapore is highly successful, with its strong government support and guidance model (see Stiglitz, 2002). While in Thailand, where most businesses following the Western economic model, that focuses on short term maximizing
profit and shareholder's value, went into bankruptcy and needed help from the IMF during the 1997 Asian Economic crisis (see Kantabura, 2006).

It was not until 1997 that the Philosophy of Sufficiency Economy (PhilSE) has become publicly acknowledged, when Thailand had to devalue its currency and obtain loans from the IMF. His Majesty King Bhumibol Adulyadej mentioned a remedial process in his address on the eve of his birthday anniversary on December 4th, 1997 that

"Recently, so many projects have been implemented, so many factories have been built, that it was thought Thailand would become a little tiger and then a big tiger. People were crazy about becoming a tiger.

Being a tiger is not important.

The important thing for us is to have a sufficient economy.

A sufficient economy means to have enough to support ourselves. A careful step backward must be taken. A return to less sophisticated methods must be made with less advanced instruments.

However, it is a step backward in order to make further progress." (cited in Government Public Relations Department, 2007, pp. 101-102).

Sufficiency Economy Philosophy has originated from a life-long accumulation of knowledge and experience of His Majesty the King and his life-long devotion to provide a means toward community development, which has been evident for more than 60 years. He has always been concerned with sustainable development, so that humans can live in balance with nature and other beings.
Later, in his royal speech on December 4th, 1998, His Majesty explained more on the Philosophy of Sufficiency Economy that:

“This ‘sufficiency’ means a ‘sufficiency economy.’ It is satisfactory if each individual has enough to live on, but it is even better if the entire country has enough to live on.

We in Thailand used to be sufficient. Now, it is free to be insufficient. Therefore, it is a policy to adopt a sufficiency economy so that everyone has enough to live on.

Sufficiency means to lead a reasonably comfortable life, without excess or overindulgence in luxury but having enough.” (as cited in Government Public Relations Department, 2007, p. 102).

Moreover, His Majesty also explained that Sufficiency Economy differs from the English term and idea of “self-sufficiency” that,

“Self-sufficiency means producing enough for one’s own need, without having to borrow anything from others, or as they say, standing on one’s own feet. But the Sufficiency Economy concept is much broader than that.

Sufficiency is moderation. If one is moderate in one’s desires, one will take less advantage of others. If all nations hold this concept, without being extreme or insatiable in one’s desires, the world will be a happier place.

Being moderate does not mean to be too strictly frugal: luxurious items are permissible, but one should not take advantage of others in the fulfillment of one’s desires. Moderation, in other words, living within one’s means, should dictate all actions. Act in moderation, speak in moderation that is, be moderate in all activities.

In 2006, after the UN Secretary General, Kofi Annan presented a Human Development Life-Time Achievement Award to the King, and the publication of UNDP Thailand Human Development Report in 2007, his work has become worldwide recognized as an efficient means towards sustainable development with a focus on human development (see Suphadiloke, 2010; Mongsawad, 2010).

The ultimate goal of development has shifted from that of economic growth to improve human well-being because the majority of the world’s population still suffers from lack of basic necessities in life including food, shelter, education and healthcare. Though poverty is one of the causes of a low quality of life, improving human well-being does not involve merely monetary value. The ability of people to make their own choices is also vital. The PhilSE treats this problem at a very fundamental level by focusing on the idea that individuals and families should be able to rely on themselves as the most important part of the development. In order to achieve self-reliance condition, the PhilSE offers three basic principles which are moderation, reasonableness and self-immunity (see Kantabutra, 2007; Mongsawad, 2010; Supadhiloke, 2010).

Moderation represents the concept of people living their lives on the middle path contrary to those on the extreme ends. They live their lives without overindulgence because they are reasonable. They are aware of the consequence of overindulgence,
living along the extreme line and being unreasonable. It implies that they can
develop self-immunity from sudden change, internal or external, because of their
reasonableness. Knowledge and morality are also essential to complete the
Sufficiency Economy’s requirement for success.

The United Nation Development Program (UNDP) has stated in its investigation into
the PhilSE that the heart of development in the context of the PhilSE corresponds to
the UNDP agenda on development, which is human well-being, focusing on people
to live up to their own potential and lead the fullest life possible in freedom and with
dignity (see UNDP, 2007). It is this freedom of self-reliance that the PhilSE can
introduced that could free Thai people from the trap of materialism in which citizens
of capitalist societies are trapped, that is the most enjoyable freedom offered by the
Philosophy of Sufficiency Economy.

5.3.1 Democracy and capitalist society in the contemporary global scenario

Today, democracy is the slogan of almost all of the leaders on the planet. The
development of the term ‘democracy’ by Western governments has evolved into a
class ideology justifying system that allowed a very small number of people to
govern—and to govern without the intervention of ‘the people’. Democracy has
become the system of an unchecked and deregulated free-market economy, a
ruthless opposition to communism, a right to intervene, militarily or by other means, in many sovereign nations and the internal affairs of other nations---To call all this democracy should be viewed as an incredible success. To manage to make the market be considered as an evident condition of democracy and to have democracy viewed as inseparable from the free market economy is an astounding accomplishment. Society from now on could be the place for uninterrupted "democratic" deliberation, dialogue, debate, and a continuous regulation of social relations. However, in reality the main system of rule and regulation in our society is precisely the economy.

The understanding of democracy in relation to elections or with the will of the majority as its essential parts is actually a very recent historical understanding. What is called representative democracy ---in our own time, supposed to consist of free elections, free political parties, a free press and the most notable character, the free market---is in fact an oligarchic form. It is the system of representation by a minority granted the title of stewards or trustees of common affairs. All of today's 'advanced industrial democracies' are in fact oligarchic democracies because they actually represent the victory of a dynamic oligarchy (see Ross, 2011,p.89-99). They are the evidence of our postmodern governments which focus on great wealth and the worship of wealth, but at the same time are capable of building consensus and legitimacy through the voting system or election which by limiting the variety of options, can effectively protect the supremacy of the postmodern bourgeois.
We must therefore, firstly, recognize the non-existence of democracy and its inversion in reality. Secondly, we must acknowledge how necessary it is to preserve the original, broad sense of the term democracy. I suggest that we should re-examine democracy from another perspective———democracy not as a ‘form’ of government since it is not a ‘type’ of institution but democracy as the ‘power’ of any citizen to concern himself or herself with public affairs. Hence, Schmitt’s concept of Sovereign decision is important to all common affairs of the society in contrast to the stance of ignorance that most citizens normally adopt.

Perhaps the better way to make truth out of the current political situation in Thailand is to give up the illusion of democracy in its Western form. The Western world considers itself the center of democracy, everyone else is on its outskirts. These ‘guardians of democracy’ claim to run the world and segregate the others who are not living in their democratic world, be they those from the Middle East or Asian countries or others. The world of these democrats is certainly not the world of everyone and thus is not really representative of the whole world after all.

Western Democracy, nowadays turn out to be merely the symbol of protection that the conservative oligarchies use to guard their own territories and wealth-seeking nature.
In my opinion, the capacity of democratic symbols to do harm comes from its essence, which is egoism and the desire to maximize wealth and enjoyment in life. Plato was convinced that democracy would not save the Greek *polis*, which it actually did not. His critique of democracy aims at the essence or the reality of the democratic form of State and at the constitution of the democratic state. His theses are firstly, the democratic world isn’t really a world. Secondly, the only thing that constitutes the democratic subject is pleasure or more precisely, pleasure-seeking behavior. Plato describes two forms of the relation to pleasure constituted in the democratic society (see Plato, 360bc, BookIII; Badiou, 2011, p.9-15). The first is youthful Dionysiac enthusiasm. The second is elderly indifference to the varieties of pleasure, which in our contemporary world can be decoded as the nullity of everything except the universal standard of value that is, money.

According to Plato, democracy is a form of government that is diverting, anarchic and bizarre, which dispenses equality of sorts indiscriminately among the equal and the unequal.

What Plato calls the imposition of an artificial equality on things unequal implies the universal equivalency of the money principle that blurs any possibility of real difference, of the heterogeneous characters of the society. This abstract equality is merely a degrading subjection of human society that prohibits the consistence of a
world order, while imposing the rule of what Plato calls “anarchy”. Anarchy prevails when value is attributed to what is without value (see Badiou, 2011, p.11). A society that employs universal substitutability is a society without any proper logic of its own; no definition of what is right and what is wrong, since all actions can be substituted by monetary value. This kind of society could not be either real or sustainable because it is simply an ‘anarchic’ shadow.

In my view, what we called democracy today is what Plato called anarchy in his book VIII of The Republic. Citizens of this anarchy reflect the substitutability of everything for everything else. Thus we see the manifestation of desires, of the object upon which these desire are directed, and of the strong passion they deliver. Most important of all, it is within this manifestation that citizens are comprised.

During the process of becoming old, our citizens come to accept a certain ability to exchange everything via the quantity of money it is worth as the concept of ‘modernization’. It is the youthful urge to seek pleasure to satisfy desire, while the wise old one realizes that everything is monetarily substitutable. There is something juvenile about the democratic ethos, something that feels like universal childishness. In this anarchic society, the elderly tune themselves into youthful mode. They must pretend to be continuously keeping up with modernity, revolution and changed fashion.
What becomes of collective life when its universal symbol is eternal youth, when the
sense of age has vanished? What would be the collective scenario of the society?
The answer depends on where, geographically, you are observing the state of things.
On one hand, if you are in the area where monetary circulation has not yet achieved
a capitalist economy, it is possible that you will see a lot of brutality and
recklessness of adolescence directed toward some common political goal.

On the other hand, if you are observing things from a capitalist society where free-
trade economy is applied and money circulation is in abundance, the supremacy of
youth makes the pleasure-seeking attitude the core of social vitality. Alcohol abuse,
drug abuse, sex and violence of all kinds are employed to enhance and prolong the
thrill of happiness. Plastic surgery is generally accepted as a tool to maintain
youthfulness and thus, increases happiness. Having fun has become the universal
maxim of our age. Even those least able to do so are obliged to try to comply. Hence
the profound stupidity of contemporary democratic societies spreads everywhere.

In short, our 21st century society, be it modern or postmodern must be accompanied
by a tag that says 'it is a democratic society'. However, the absence of reality, the
democratic symbol as subjectivity enslaved to monetary circulation, and the
important of universal pleasure seeking can guide any society toward a disastrous
end. Since the substitutability of everything with money plays a vital part in the
democratic/capitalist society as we have discussed, it follows that the society is incapable of any discipline of establishing or any order in anything. Laws, social rules and regulations are useless, subjective and double-standard. Sooner or later this manner of existence, grounded in the indiscipline of pleasure-seeking behavior and its related form of government, the so-called representative democracy, will bring about a visible manifestation of their empty essence.

There is a link between democracy and nihilism since the democratic/capitalist world is a mirage of existence. Consumption means extremely consuming every resource into dryness, be it our youth, our health, our natural resources and commodities. The symbol of today's world is democracy and youth is a character of that symbol, representing the absence of discipline in relation to time. If money, youth and pleasure-seeking behavior equals today's democracy, then the lacking ingredient in democratic society is its disciplinary and unselfish attitude.

In my view, Democracy today can be considered as the reign of limitless desire of individuals in mass society. Democratic government "is bad when it is allowed to be corrupted by democratic society, which wants for everyone to be equal and for all differences to be respected" (Rancière, 2009, p.4). For some, democracy does not refer to a corrupt form of government but it does, even worse, represent a crisis of civilization that troubles the society and privatizes the affairs of the State.
Democracy triumphed in the Middle East, we were told, despite protests by citizens who believe that democracy consists in the government of the people, by the people and so cannot be imposed on a country by the force of arms.

Democracy has triumphed, but one must understand the meaning of this victory. Imposing democracy on another country does not solely mean pouring into the country the beneficial effects of a constitutional State, free elections, universal suffrage and freedom of the press. The accompanying negative effects also include social disorder.

It is because democracy does not intrinsically emerge as the government of the people, by the people, but it was the disorder and the desires of protesters eager for satisfaction that democracy must be introduced from outside by the army of superpowers. Democracy signifies the irresistible growth of demands that put pressure on governments, leads to a decline in authority and causes individuals and groups to become more disobedient to discipline and sacrifices required for the common good.

Furthermore, the campaign to promote the worldwide rise of democracy has revealed its paradox. On the one hand, democracy is opposed to arbitrary government, which is government without limits, be it tyranny, dictatorship or totalitarianism.
On the other hand, an effective democratic government must be able to control the democratic society comprised of democratic citizen enjoying their democratic life. The intensity of democratic life is similar to the ‘anarchic’ principle that affirms the power of the people, the power to contest and persistently protesting authority of the State, to undermine the principles of good government, to disrespect public authorities and to disobey any expert advices.

The solution to the excess of political energy that democracy brought about is to redirect that energy towards the quest for individual satisfaction. Promoting a vitality of private life would unavoidably lead to an increase in demands and desires, which would make citizens inattentive to the public good because they are too busy with their personal concerns. Democracy has finally become the regime that cultivates ‘egotistical individuals’ who, at the same time, are recognized as the ‘greedy consumers’ of the free-trade economy.

This means that democracy is “nothing but the reign of the narcissistic consumer varying his or her electoral choices and his or her intimate pleasures alike” (Rancière, 2009, p.23). In the past, politics was an art of living together and a search for the common good and the essence of this art was a clear distinction between the domain of common affairs and that of private life of domestic interests. In the present, politics is ruined by postmodern democracy in which society is governed by
the law of consumerist individuality and the firmly fixed indistinguishable identity of democratic man and the individual consumer. They become two faces of the same coin and that was how democracy was reduced from a state affair into a society affair (see Rancière, 2009, p.23-25).

Now we come to the part about how democracy has turned into a catastrophe, a self-destruction of humanity. The root of all evil is identified as democratic individualism. It was the unequal society that evolves the youngster into consumer overwhelmed by the notion of equality which is synonyms with democracy as well as “plunging of all of existence into the sphere of consumption” (Rancière, 2009, p.27). The question yesterday was about equality and social inequality, but the question today is only how to transmit knowledge of virtues and traditions that has to be saved from the self-destructive tendency being born in today “democratic” society.

In my view, good government, as opposed to democratic corruption, no longer needs to hold on to the name of democracy. Good government today should rediscover the name that it had before the word ‘democracy’ took over the globe. The name is, ‘the government of righteousness’ in which modern democracy has distorted the real motif of governing and being governed—that is forgetting what righteousness should consist of.
In the government of righteousness (see Pakditanakul, 2008, p.6), it must be, firstly, virtuous in essence, meaning that it must not be tyranny of any form. The state officials and cabinet members must not benefit from their own decisions but the people must benefit. Secondly, it must renounce greed while promoting public good over individual gain. Thirdly, it must value and give priority to those who dedicate themselves toward public good, instead of giving priority to politicians who are currently in control of the power of the state. Finally, its fundamental code of conduct must include not only legal standards but also moral and ethical standards in making all decisions.

This means that at the end of our so-called democratic politics road, the order of circulation must be shifted from that of money, wealth and accumulation of private property to other things. Politics in the future will emerge out of independent values of collective society, reinventing its own non-capitalist norm such as goodness for humanity or environmental friendly practice. Politics will no longer be subordinate to monetary power, or to the wealthy and powerful figures.

It would not be until then that we can finally go back to the literal meaning of democracy, which is the power of the people to have a voice in the matters concerning their own existence. Politics is inherent in people’s search for a common ground to live peacefully together, but is somehow withering away by the
development of capitalist economics. Only from this perspective can we ever become a true democratic society, connected to the significance in life of the people (see Badiou, 2011, p.14-15).

It suffices to say that Democracy in Thailand need not always follow the western economic model, in which free-market and mass consumerism is included. Our cultural, traditional, national sovereignty and historical foundation has paved the way for the Thai people to practice the philosophy of Sufficiency economy that is—living a life in contentment and in harmony with nature as our ultimate goal.

5.3.2 Sufficiency Economy as the basis for the development of democracy in Thailand

In order to be free from the disastrous capitalist society under the illusion of western democracy, we have to firstly, change the attitude and the misconception that if we are to become a true democracy, we must adopt the practice of free-market trade and the mindset of mass consumerism, including all the characteristic of individualism living in the capitalist economy.
Secondly, in order to survive the effect of globalization, we should reinvent our own version of democracy which is rooted in our culture, traditions and sovereignty. The result of this reinvention would be the version of democracy that coexists with the economic practice that focuses more on the importance of human well-being on the basis of local wisdom and morality called 'the Philosophy of Sufficiency Economy'.

His Majesty King Bhumibol Adulyadej, in 1999, has explained the meaning of Sufficiency Economy in details that,

"Sufficiency Economy is the Philosophy that addresses the way of living and practice of the public in general from the family unit and the community, to the national level, in development and management of the country towards the middle path especially in developing the economy to keep up with the world in the era of globalization.

The word "Sufficiency" means moderation and reasonableness including the need to have self-immunity to be ready against any internal and external shocks. In addition, the application of theories in planning and implementation requires great care and good judgment at every stage.

At the same time, all members of the nation, especially officials, intellectuals, and business people, need to develop their commitment to the importance of knowledge, ethical, integrity, and honesty to conduct their lives with perseverance, toleration, Sati and Pañña, and precaution so that the country has the strength and balance to respond to rapid and widespread changes materialistically, socially, environmentally, and culturally from the outside world.” (as cited in NESAC, 2007, p.5).

It follows that the Philosophy of Sufficiency Economy (PhilSE) consists of three components and two underlying conditions. The three components are moderation,
reasonableness and a self-immunity system, meaning the ability to sustain internal and external change. Moreover, the underlying conditions necessary for Sufficiency Economy are knowledge and morality. We can identify seven business practices that are consistent with the Philosophy of Sufficiency Economy as followed (see Kantabutra, 2007, p.5),

1) Appropriate use of technology that is the use of inexpensive but technically sound technology.
2) Appropriate manufacturing capacity consistent with the business’ ability to manage.
3) No greed and do not focus on short-term profits.
4) Emphasis on honesty in the entire business operation, that is be fair to consumers, workers, customers and suppliers.
5) Emphasis on risk diversification that is diversify products or having ability to adjust products.
6) Focus on ‘down-side risk management’, that is the business does not create unmanageable debts.
7) Focus on responding to local, regional, domestic and international markets respectively.

A study in 2003 examined 296 SMEs from different group of industries which successfully survived the 1997 economic crisis, as to whether their business practices were consistent with the above seven Sufficiency Economy business practices. The study has concluded that all SMEs that successfully survived the crisis
had conducted their business according to these seven business practices. (see Puntesen A., Premchuen S. & Keitdejpunya P., 2003)

In addition, in their study of two royally initiated projects, they have identified two more business practices of the PhilSE which are firstly, frugal use of resources with highest effectiveness. Secondly, employment creation so there is no unnecessary replacement of human labor by technology.

Not only this 2003 study supports the idea that SMEs that conduct their business in accordance with the philosophy of Sufficiency Economy can remain sustainable during the economic crisis, a later study sponsored by the National Economic and Social Development Board (NESDB) which examined three large sustainable businesses in Thailand also came to similar conclusions.

Those three case studies are Sa paper (the fiber of mulberry trees) business (see Kantabutra, 2005), a jewelry business (see Nuttavuthitsit, 2005) and a cement conglomerate (see Kusumavalee, 2005), which were chosen as case studies because they not only exhibit strong financial performance but they also export their products overseas and thus are effected by globalization. Moreover, all three businesses have survived the 1997 economic crisis and thus have proved their ability to overcome
social and economic difficulties. In addition, they can still maintain the leading position in their own market.

In the case study of Sa paper business, it is evident that their business practice is consistent with the PhilSE (see Kantabutra, 2005). Firstly, they invented their own manufacturing technology such as color formula, recycle material and water treatment system, using local wisdom. Secondly, they take their orders according to their manufacturing capacity. They do not exceed their manageable capacity to produce their goods, since they do not focus on maximizing their sales only for short-term gains. Thirdly, they do not take any loans and focus on a low-risk management. Fourthly, they are honest not only to their shareholders but a wide range of stakeholders. In addition, they initially start selling their products locally, and then they distribute domestically and finally, export to foreign markets which means that they can diversify both their markets and products and hence the ability to cope with sudden economic change.

In the case study of a jewelry business, it is also evident that their business conduct is consistent with the PhilSE (see Nuttavuthisit, 2005). Firstly, they have established long-term relationships with their trade partners. They emphasize their social contribution and they are responsible for a wide range of stakeholders. Secondly, they emphasize skill development of their human resources, which means that they
are committed to long-term goals. Finally, their products are highly diversified to attract different markets, which means that they have the ability to sustain sudden economic change.

Both businesses also share common business practices (see Santiprabhob, 2005) i.e. moderation and reasonableness. They are moderate in areas such as accepting purchase orders, utilizing raw materials, while they are reasonable in areas such as making profits and taking loans to expand their businesses. They also have the ability to sustain change, since their products and markets are diversified. Moreover, they both possess knowledge necessary for their business, since they understand their business thoroughly and are able to identify their key success factors. They also support staff learning and advance their knowledge in the industry by synergies with other companies. Most of all, they hold on tight to the virtue of morality when doing their business, by competing fairly and contribute socially to a wide range of stakeholders.

In the case study of a cement conglomerate manufacturer, it is evident that their business practice is consistent with the philSE. (see Kusumavalee, 2005). They take a long-term perspective of the business by investing heavily in their human resources. During the 1997 economic crisis, they did not lay-off any of their employees and they always promote job positions from inside personal to show their
support for the specific skills of their human resources that take time to develop.

Furthermore, this cement firm is responsible for a wide range of stakeholders, not only for their shareholders.

Similarly, another case study of a hospital in Bangkok that survived the 1997 economic crisis has revealed supports to the philSE practices (see Mahidol University Leadership Research Group, 2006). During the crisis this hospital did not lay-off any employees, management voluntarily reduced their own salaries to cut costs instead. They also continue to introduce innovative treatments and procedures as well as synergize their findings with other hospitals to further develop their common knowledge. They are now one of the leaders in their business.

From all case studies mentioned above, they all share common characters which can be identified with the PhilSE i.e. moderation and reasonableness. They all conduct their business in moderation by focusing on long-term improvement instead of short-term maximizing benefits. They are reasonable in their business practices by being accountable to all stakeholders and not only their shareholders. They have self-immunity to sudden change by valuing human resources and thus are able to maintain their specific knowledge inside their organization, which is essential for their competitiveness. Moreover, they all cultivate innovativeness within their
organization to be able to progress in their field which is consistent with the PhilSE in acquiring knowledge.

It suffices to say that the philosophy of Sufficiency Economy is acknowledged by many recent studies as an alternative approach to corporate sustainability. Sufficiency Economy aims to achieve major goals of balanced living, security, sustainability and resilience, all of which are basic elements of happiness. Hence the PhilSE is basically a means to achieve happiness at the individual, community and country levels because the Sufficiency Economy Approach is applicable to the micro and macro levels. All the principles in the PhilSE are much related to human the development process toward right living, therefore right interaction and relations with other beings on this planet including to natural resources. From this basis, the PhiSE provides a practical tool to cultivate the necessary conditions and to alter human well-being through the happiness development process.

It follows that the PhilSE could provide an approach for human development by improving the mind. Happiness starts from developing an ability to become self-dependent in order to satisfy one’s own needs. With moderation and reasonableness as their practice guidelines, with knowledge and morality, humans will utilize natural resources efficiently and ethically because the PhilSE places importance on the long-term sustainability of all stakeholders. Therefore, it takes a broader
perspective and a more prudent approach to development. It draws attention to resource management, through the emphasis on ethics and efficiency in resource allocation and utilization. Both ethics and efficiency principles represent a public-minded attitude. The latter is unusual and contrasts with capitalist business practices.

However, the philosophy of Sufficiency Economy is not entirely against making profit as a business goal. Rather it emphasizes fairness, good governance, honesty and moderation and non-harmful actions. That is the means of acquiring goals, such as wealth and fame, but the wealth and fame must not come from unethical means.

5.3.3 Conceptual Distinctions between Corporate Social Responsibility (CSR), Corporate Governance (CG) and the Philosophy of Sufficiency Economy (PhilSE)

Corporate Social Responsibility (CSR) is a commitment to improve community well-being through discretionary business practices and the contribution of corporate resources (Kotler&Lee, p.3). The CSR concept contradicts the free market capitalist view by insisting that a business organization should be concerned with social issues. Responsible to various groups in society (internal and external stakeholders), including the natural environment which must be accounted for, since the firm must not only aim to create wealth and maximize profit for shareholders.
Corporate Governance (CG) was developed to ensure that international companies are run in transparent and ethical ways that retain investor confidence while respecting local values and regulations. Good corporate governance helps to prevent corporate scandals, fraud and the potential civil and criminal liability of the organization (Lipman & Lipman, 2006, p.3). Both CSR and CG practice are developed to bring about corporate sustainability, thus in Thailand, they are often identified or confused with the Philosophy of Sufficiency Economy (PhilSE).

Although both CSR and CG concept share similar characteristic with the PhilSE, they both can be categorized as merely subdivisions within the PhilSE framework. (see Kantabutra, 2007, p.22-24). The phiSE exhibit a more holistic approach than CSR and CG since an organization can be entirely transparent (CG), fully responsible and genuinely concerned with social and environmental issues (CSR), but still cannot sustain their business over time or during economic crisis because of their imprudent management e.g. high-risk for high return, quick fixes, top-down approach, no-innovation.

In sum, Sufficiency Economy business practices can be identified by these following characters (see Kantabutra, 2007, p.18-19)
I. Adopt a long-term perspective for decision-making at the management level. Do not focus on short-term maximization of profit but emphasize long-term effects.

2. Value and develop human resources as an essential investment. Do not lay-off employees to cut costs.

3. Be honest and concerned for the society and the environment plus contribute to the welfare of the community. That is ready for, prepared for and responsible to a wide range of stakeholders, including the environment and society.

4. Nurture innovation throughout the organization in both products and manufacturing process, which is often the result of promoting cross-functional teamwork.

5. Optimize the use of raw materials and resources.

6. Adopt local wisdom and try to develop inexpensive but effective manufacturing technology.

7. Careful investment, by gradually expand the business when the firm is ready to grow not because of temporary market demand.

8. Minimize risk by diversifying products, expanding markets and adjusting investment portfolios.

9. Share knowledge to develop the market to benefit consumers. Synergizing with direct competitors and other firms in similar business could radically improve the industry.

10. Conduct business with ethics, perseverance and diligence.
Most companies only try to meet the standard of CSR and CG but the Philosophy of Sufficiency Economy offers more than meeting the standard by including human resources focus (morality) and cultivating innovation (knowledge) with moderation, reasonableness and self-immunity.

It suffices to say that the philosophy of Sufficiency Economy suggests a more effective management perspective than the free-market economy, since the free-market or capitalist model focuses mainly on short-term financial results. The philSE carefully manages its human resources, while nurturing innovation. The philSE also includes two underlining conditions, i.e. knowledge and morality, that could help develop corporate sustainability. Innovation (knowledge) and prudent management (morality) are also essential for businesses to compete in the long run.
5.4 Summary

I would claim that the sufficiency economy is the philosophy that is suitable for the development of democracy in Thailand because it focuses on human development, values knowledge, concentrates on morality and, most of all, transcends all diversity into unity. For it starts from developing individual values of honesty together with the middle way or moderate living, greed or desire for personal gain of luxury things is controlled. When greed is limited there is room for compassion and sympathy for other beings and the urge to share the excess wealth with society to help the disadvantaged. Exploitation of nature could also be reduced if people are honest to themselves about what is really necessary for them in order to be happy in their daily life. Less natural resources will be consumed if we drive fewer cars, own fewer homes, and enjoy less monetary and material gains. At the end, all diversity of want and greed will be transcended to the unity of compassion and sharing.

It is evidenced by today’s climate change and natural disasters that the Western economic model has promoted a zero-sum game between humans and nature, which represents dualism, the I-thou viewpoint. If we-humans take the profit, they-the environment and other species-will lose. The more we make money from exploiting nature, the more global warming and draught we encourage and encounter.
Sufficiency economy promotes the real win-win situation with its holistic worldview that is living in moderation and harmoniously with nature. Both we-human, thou-nature and other creatures will all win. Less industrial plants could save the rivers and trees from industrial pollution and poisoning. Less whale hunting, less deep-sea fishing can save those species from extinction and keep the balance of the earth planet's biological food chain, which can also help save our human race from natural disaster, food and natural resources scarcity and finally, total extinction of our own species as well.

While Benedict Anderson (1936-) claims that the success of print knowledge since the early 16th century in Europe has helped promote the national consciousness through the use of common languages as well as support the spread of capitalism (see Anderson, 1996, p.37-46), I would also claim that, likewise, the internet, and its social media such as Facebook, Twitter, etc., could perform a similar role in promoting Thai national consciousnessness, as well as supporting the spread of the sufficiency economy.

Finally, Thongchai Winichakul argues that Siam (Thailand’s ancient name) had no definite geographical boundary before the technology of mapping was introduced by the West in the attempt to map Southeast Asia during the colonial era (see Winichakul, 2004, p.81-94), and thus, in pre-modern Siam, a subject was bound first
and foremost to his lord rather than to a geographically defined state (see Winichakul, 2004, p.164). I would suggest that, conversely, in our globalization age--in order for a Thai to fulfill his/her duty as a valuable member of Thai society, to really belong to Thailand as a citizen of this nation, one should not only live in its geographic territory or be born in a Thai family but one should also first and foremost be bound to Thai custom and traditions. It is the duty of all Thai citizens to inherit, respect and preserve its cultural, traditional and environmental values.

In our postmodern era, in which geographical demarcation can no longer limit the flow of information and global communication, everyone should be enabled--that is with enough information, and equipped--with enough education, to make his/her sovereign decision about what kind of democracy Thailand should be developed into. Would it be the kind of democracy that is imposed upon us by the influence of Western civilization in which cultural, historical and environmental values totally differ from our own? Or would it be the kind of democracy that citizens of Thailand would agree to mutually develop based on our cultural traits that include wisdom and values of eastern civilization which could make the nation economically, politically and environmentally sustainable in the long run? The answer would be up to you, the sovereign--who has to make that ultimate decision.
Chapter VI: Conclusions and recommendations for further research

6.1 Conclusions

It is the recognition that Sovereignty is a central concept in many subjects including political philosophy, political theory, international relation and international law which inspires me to research further into this concept. Actually the concept was known before these subjects were separated but its meaning is still unstable and always challenged by scholars of each subject. History of the sovereign concept has always been controversial. There are two major concepts involving the word 'sovereignty'.

On one hand, the external or international sovereignty means an independent state’s governing power over its territory. One the other hand, the internal or domestic sovereignty means the supreme commander over a particular society and the final and absolute authority within that ‘imagined community’ (see Anderson, 1996) that we recognized as a nation.

With the rise of democracy, state sovereignty was challenged by popular sovereignty which was originally conceived as the public consent and then developed to the consistent participation in the course of decision making, or the so-called, voting. Most recently, there is this new challenge stemming from Montesquieu’s and Edmund Burke’s idea called republican sovereignty, in which the people or citizens of a sovereign nation should have inherited common traditions and possess the virtues to be self-legislators in a homogeneous nation-state (see Jacobson, Sampford & Thakur, 2008, p.2-4). This leads to conflict within multi-ethnic, multi-religious, and multi-
lingual states to demand the refusal of native people (such as in the US, New Zealand and Australia) their citizenship or to insist on their freedom to govern among themselves. In the case of the minority hill tribe people in the Northern part of Thailand and along the Burmese border, should they be granted Thai citizenship or, similarly, in the case of Muslim Insurgents in the Southern part of Thailand should they be allowed to govern by themselves. Although the problem of sovereignty in Thailand may still be considered as less serious than in other nations such as with the Ajeh Insurgents in Indonesia or the Palestine problem in Israel, in my opinion, this issue should be critically examined by both scholars and politicians in the immediate circumstances in order to prevent further complications of the situation.

International relation has arranged its institutions through multilateral agreements voluntarily ratifying external sovereignty such as the UN Charter, WTO, the EU/NATO, ASEAN and so on. Not until recently is it that the limitation of international sovereignty is discussed and the idea of ‘suspended sovereignty’ (see Yanis, 2003), ‘Interrupted Sovereignty’; and ‘conditional sovereignty’ (see Jacobson, Sampford & Thakur, 2008, p.4) are internationally acknowledged.

The International Commission on Intervention and State Sovereignty (ICSS) argued that states had a responsibility to protect the rights of their citizens. The best solution to disintegrating states “was to strengthen and legitimate states rather than overthrow the system of states” (Chesterman, Ignatieff and Thakur, 2005, p.360). Any state that fails to carry out its responsibility to protect its citizen’s basic human rights would be subject to UN sanctions and it would become the international responsibility to intervene and protect those rights.
However, the most controversial claims are made by the Americans who exercised their right to invade other sovereignties based on their claim of anti-democracy and their declaration of ‘war’ against terrorism. The concept of a state as the ultimate authority and supreme power over a particular territorial boundary is therefore challenged by today’s reality.

The first challenge is that in the international level, the only superpower is the US, whose ability to exercise her power is unlimited and evidenced in the war against Iraq in 2003. The second challenge is the fact that there are new players at the international level that can influenced the sovereign power of a state, which include transnational corporations, the UN itself, international agencies such as the IMF and World Bank, international NGOs and so on. The third challenge is the situation that, at some point during intense political crises, a state may appear to the international observers as unable to maintain its internal order and has lost its governing power. It follows that the state has lost its ability to provide its citizen with basic human rights and may need international intervention in order to regain its controlling power.

Furthermore, modern transportation has changed the nature of state boundaries. Both people and commercial goods are able to travel transnational within a short period of time. Economic success has become the primary source of identity instead of traditional or cultural traits. Loyalty to each state has declined due to the fact that business success can be multinational and therefore borderless, while the state’s authority, governing power and law abiding agents are restricted within its territory and therefore limited.
Finally, the differences between external sovereignty among international society and internally located authority within a country can be complicated as we have witnessed in the case of Iraq. It was this conceptual thinking that sovereignty resides in the people that was used to justify the intervention. The UN had authorized the war as a legitimate action because it was a humanitarian intervention. The argument for the mission was simply to return to the Iraqi people that which had been taken away from them by the so-called dictatorship regime.

6.2 Recommendations for Further research

Schmitt’s stance toward democracy has often been described as either hostile or hypocritical. He is portrayed as an uncompromising enemy of modern democracy who feared that

"the entry of the propertyless masses into the political arena not only would subvert an already weak state authority and a shaky social order but also threaten the political privileges, economic interests, and power position of capitalism and the bourgeoisie". (Cristi, 1998a, p.17)

Schmitt notoriously defines democracy as the identity between citizen and government and its combination with parliament system is recognized as a rhetorical, opportunistic move at its best and as a deceptive, instrumental tactic that should not be taken at face value at its worst.

In my opinion, it is possible to distill some elements from Schmitt’s theory without committing to his entire project. Some traits can be used to reconstruct an effective model of democracy and also to create a successful theory of democratic constitutionalism. My aim is not to provide a new exegesis of his work or defend it against its critics. I opt to elucidate those parts that if
properly appropriated and reorganized, could advance our understanding of democratic foundation and the exception with Schmitt and then beyond Schmitt.

He has discussed the compatibility of sovereignty and democracy, contending that in some cases the sovereignty can “better embody the values of democracy”. (CPD p. 17, 28,32) Moreover, throughout his life he continued to be profoundly concerned with issues of order and discipline, and his work often cited the “inability of modern mass societies to implement and guarantee security” (RCPF, p.36).

Instead of perceiving the political from society’s viewpoint, which is from the perspective of the self-organized popular masses, he preferred to approach the political from above which is from the viewpoint of the rulers and the perspective of the state. He explained his method by stating that it was because “authority emanates from the top, trust from the bottom” (LL p.87) and thus his examination of the political authority begins from the top. His renowned definition of democracy as the identity between the state and the people, has erased the image of the state as an institution independent of its population and abolished the asymmetrical structures of command and domination, and it is interesting not because of its egalitarian and participatory implications, but because of its ability to secure order.

Schmitt’s redefinition of sovereignty as the constituent founder has uniquely distinguished sovereignty from dictatorship. In making this distinction, he shifted from the traditional conception of sovereignty as the supreme and final authority in the command hierarchy to the notion of sovereignty as the founding and originating act of the constituent power.
I shall conclude that although Schmitt's idea of Sovereignty is compatible with the idea of the democratic regime, nonetheless, his friend and enemy concept is very dangerous since its goal is indefinite battle. Finally, I shall recommend that we should consider different political perspectives for Thailand, based on Carl Schmitt's concept of Sovereignty, in order to prepare for the coming influence from the era of globalization.

Although his Sovereignty does not preclude democracy, his friend and enemy distinction is hazardous, because not only is it anti-peacemaking but it also encourages war, which can destroy either the unity of the nation or international relations. Above all, our contemporary political trend directs us toward recognizing and valuing plurality in our society, while Schmitt's trend could direct us toward 'the final war of all against all' with his friend/enemy distinction.
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I was born and raised in Bangkok to a middle class family whose family line has been the residence of this capital city since its early beginning over 200 years ago. My father was an engineer graduate, who worked as an executive for a state enterprise and my mother was a doctor, who worked for the government health service program. Both of them graduated from Chulalongkorn University many years ago.

My undergraduate background includes a B.A. degree in Archaeology from Silapakorn University Bangkok Thailand. Then I went on to receive an M.A. in Liberal Studies from the Graduate School of Arts and Science (GSAS), New York University (NYU), NY, USA. After that I studied for an MBA degree in business from the University of Victoria, Canada and this dissertation is a part of the requirement for a PHD degree in philosophy from the Assumption University, Bangkok, Thailand.

My academic papers also include “Henry Bergson’s Duration: A Refutation from Buddhist Perspective” (2007) presented in the Annual seminar of Philosophy and Religion in collaboration with Rangsit University booklet, during October 15th-16th, 2007; “The Philosophical Dimension of Sufficiency Economy” (2007) presented in the seminal booklet of The 3rd Philosophy and Religion Relation Camp at Burapa University; “Sovereignty of the Nation is necessary for Thailand to Develop her own version of Democracy” (2012), will be published in Proceeding of the Kuala Lumpur conference December, 2012.