The Downfall of Exceptionalism

Illustrated by Syria, Bahrain, and Egypt

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Contents

<div align="center">Dedicated to my Dad.</div>

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My dad was an inspiration for this work, and it is dedicated to his memory. Whilst he is not here to witness its final creation, I believe he would be very pleased and proud with how the project has finished i.e., a successful completion. This project would not have been possible without his love and unwavering support during my previous studies.

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Chapter 1: Introduction

The basic premise of the thesis is challenging Schmitt's statement "*Sovereign is he who decides on the exception*" (Schmitt 2005 pg.1). Schmitt's presumption is that the sovereign can be found via the process of finding who makes the decision. This presumption is made on the basis of Schmitt's belief of the inherent nature of the decision to the application of legal and political orders. This thesis hopes to unpack this claim in its entirety and examine the claim that the sovereign is the one who makes the exception.

This is not to deny that sovereigns do make decisions but rather the thesis' aim is to question and unpick the claim that the decision is the defining feature of sovereignty. Indeed, the thesis argues the decision is not the defining feature of sovereignty but can paradoxically lead to the undoing of state sovereignty when it is applied. The undoing of sovereignty in this case is not the downfall of the regime as some may suppose. Rather, the undoing as sovereignty can be seen as challenging Schmitt's own terms i.e., unity and homogeneity crystallised by the decision.

The undoing of sovereignty in this regard can be witnessed in the illustrations themselves. Whilst the regimes of Bahrain, Egypt, and Syria have not fallen we have witnessed significant challenges to their claims of sovereignty from below. Rather than focusing on challenges 'above' i.e., primarily via other states in the international arena or international organisations casting doubt on the regime claim to sovereignty via the doctrine of R2P (as in Libya in 2011), the thesis instead focuses on sovereignty challenges 'below' i.e., domestic challenges to regimes themselves. These challenges have come in the form of mass protests and even civil war in the case of Syria posing an existential threat to claims of regime sovereignty domestically.

By using these illustrations and episodic events via the lens of Schmitt this can tell us something about his claims to sovereignty. Rather than merely relying upon a theoretical illustrative approach, this work also discusses Schmitt via the lens of the practical. The illustrations allow for a broader base on which to critically reflect on Schmitt's claims to sovereignty rather than theory alone. This approach not only paints a theoretical analysis but allows for the reader to witness the problems emerging in practice as a response to anti-liberal approaches to sovereignty.

The thesis draws on Carl Schmitt's work on exceptional governance as opposed to later scholars such as Giorgio Agamben who mark out the 'state of exception'. This is due to the inherent difference in the application of emergency governance that exists between the two authors. Giorgio Agamben, as shall be discussed latterly in the thesis, approaches the *state of exception* as a phase of government undermining and eventually dismantling liberal legal structures. This necessarily dictates that the decision is not an inherent form of governance but rather one that can be implemented as a robust response to an emergency situation. Instead, Schmitt takes the view that the decision is not simply applied to an emergency situation replacing a 'rule via law' regime but instead the decision is inherent in legal and political orders.

The distinction that therefore exists between Schmitt and Agamben can be considered two-fold. First, is the descriptive difference surrounding the functioning of legal and political orders. Whereas Agamben believes that non-decisionist legal and political orders can exist this is something that Schmitt contests. Schmitt argues that a decision is ultimately always involved even in supposedly legalistic liberal states. The second distinction can be found in the normative. While Agamben contests the state of exception on normative grounds believing the liberal state needs to be protected, Schmitt does no such thing. Instead, Schmitt believes the

liberal legal and political order is one that cannot function politically, and an alternative account must be sought (Dyzenhaus 2005, DeCaroli 2007, Muller 2010, Vinx 2010, McQuillan 2011).

These distinctions are important to note due to their effects on each author's discussion on exceptionalism. Schmitt's claims are related to the decision's relationship with sovereignty in general, as opposed to merely a response to an emergency scenario that fatally undermines liberal legal and political orders. Decisionism in this sense can therefore be considered to be making more foundational political claims that necessitates an underpinning political logic for it to function. By analysing the underpinning political logic this allows for a fuller account of decisionism's relationship to sovereignty that not only questions the utility of the decision but the stability of the framework itself.

It is this alternative account that the thesis questions and scrutinises. By analysing Schmitt's alternative construction of sovereignty via the illustrations we can witness whether his claims surrounding 'the political' stack up. Thus, Schmitt's hopes to put an end to political instability can be brought out of the purely theoretical and analysed more empirically. Schmitt's alternative anti-liberal sovereignty does not necessitate the annihilation of the regime but the political framework faltering, challenges to the decision, and the undermining of unity and homogeneity as a response to his political solution. In essence, I hope the illustrations highlight the self-defeating nature of Schmitt's alternative.

By using the illustrations of Syria, Bahrain, and Egypt the thesis is using Schmitt to analyse these events and reflect back upon the author. The theoretical structure thus gives a platform to analyse the illustrations during episodes, in particular the 2011 Arab Springs and the resulting political fallout. This allows the thesis to interact more specifically with practical issues affecting sovereignty, such as coup proofing and sectarianism, via the lens of Schmitt's political foundations of sovereignty. Granting the thesis a practical as well theoretical lens to

reflect on Schmitt not only makes it easier for the reader to understand the theoretical framework, but also gives the thesis a stronger basis on which to rest its claims of Schmitt's apparent self-defeating approach to sovereignty.

Despite their differences, both authors argue that exceptional governance is a way for the state to not only maintain but increase sovereignty. Instead of supporting this premise, the thesis argues that exceptional governance is a new way to understand authoritarian brittleness. This is achieved by approaching the foundations of exceptional governance as being necessarily weakened by the process and results of decisionism, thereby creating a self-defeating effect perpetuating a cycle of instability. In order to analyse this claim Caporaso's definition of sovereignty is deployed, utilising the concepts of power, authority, and citizenship. Through this model of sovereignty, it can be conceived that the act of the decision is incompatible with its political foundations, ensuring an effect that weakens the basis for decisionism as the decision is enacted. The result is a process that leads to instability as decisionism becomes more frequent, legitimacy and unity come under threat thus affecting the claim that the decision defines sovereignty.

As a result of these distinctions, Carl Schmitt is the theorist this thesis largely focuses on. This is for two key reasons. First, is the intersection of Schmitt's politics and the non-liberal democratic regimes that I am using to illustrate the theory. These include Syria, Bahrain, and Egypt. The regimes in the illustrations fit more closely with Schmitt's attempts to outline a political order that is seen by many as an alternative to the liberal-democratic one (Wolin 1990, Turner 2002, Kennedy 2004). This is not to suggest that the regimes used as illustrations are incapable of liberal democracy, rather the regimes themselves do not represent traditional liberal democratic models at the time of writing. This allows the thesis to apply not only the decision, but the corresponding political and legal orders imagined by Schmitt in the case studies to fully understand the weakness of the decision.

Second, as Agamben imagines the state of exception through the liberal democratic framework discussion of his claims surround not alternative constructions of sovereignty but rather the ability to dominate and exclude. Domination in this sense comes from the ability of the state to discipline and control the body that is pursued through ever greater mechanisms of sovereign power that grows via the exception. This is interconnected with exclusion, which Agamben argues is inherent in western democracy, and can be seen via the exception moving ever further into a broader sphere creating 'bare life'. Bare life is the exclusion of the body from the political sphere that in the state of exception becomes more and more all-encompassing until the legal and political order collapses into totalitarianism (Ziarek 2008, Downey 2009, Ricciardi 2009, Finlayson 2010). Tackling Schmitt's more encompassing claims of the decision being the foundation of all legal and political orders allows for a deconstruction of the decision from below the sovereign, thus explaining it as an unstable and unreliable mechanism of power. Unpicking the decision in this way creates a stronger claim against sovereignty being the ability to exercise the decision.

To illustrate this theoretical claim, the thesis uses three distinct illustrations of sovereign decisionism in action. The illustrations bring out the relationship of the theoretical to the practical by analysing regime practices that become increasingly reliant upon the state's coercive capacities. This highlights the decisions' relationship to coercion in order to affect its implementation and its undermining effects on the sovereign traits of power, authority, and citizenship. The illustrations are Syria, Bahrain, and Egypt and focus on the timeframe of the Arab uprisings. The Arab uprisings not only rocked the region and its authoritarian regimes, but it also questioned previous assumptions about authoritarian stability following the events of 2011 and beyond.

The illustrations differing attempts to ensure stability and the differing forms of regime types represented allows for a useful analysis of the decision in different contexts and structures. The

Arab uprisings allows the research to identify the problematic responses to threats that differed in scale and form in each state. By adopting the illustrations of Syria, Bahrain, and Egypt the thesis approaches the claims of Carl Schmitt's theory as inherently problematic when theorising about sovereignty. It achieves this by outlining moments of crisis located in the Arab uprisings, highlighting the limitations of sovereign decisionism in both solving the crises and why the crises first emerged.

The illustrations therefore are used as a method on which to critically reflect upon the theoretical claims made in the thesis. By using these illustrations this not only offers a new perspective on these episodes allowing for a new basis on which to critically reflect but also can use this empirical base on which to critically reflect on Schmitt. The illustrations are analysed via a theoretical lens in the chapters Authority, Citizenship, and Power contrasting Schmittian notions of those ideas with the episodic events highlighted. Approaching Schmitt in this way allows not just greater scope for originality but also is a method that provides greater space for critical reflection too.

The research attempts to tackle a gap that is apparent in both the authoritarianism literature on the Arab Middle East and the literature on exceptional governance. The thesis does this in two ways. While scholars such as Furani (2014) and Ardovini and Mabon (2019) have used the state of exception when applying their work to the Middle East they have used Agamben's interpretation of the state of exception. As has already been explained, there are marked differences between how Agamben conceives the state of exception and how Schmitt imagines sovereign decisionism. Therefore, the theoretical approach the thesis takes with reference to exceptional governance in the Arab Middle East is different to that of other scholars.

Not only this, but the theorised state of exception and sovereign decisionism has largely also taken place within Europe. Both Schmitt and Agamben focus on the French Revolution and

the Weimar Republic in their writings to explain the origins and operations of the emergency situation. In recent years, there has been an increasing interest in the application of Schmitt's theories to explain Russia and China's political systems. However, there has still been very limited work done on the Arab Middle East region and the role of sovereign decisionism in these contexts.

The thesis therefore can be conceived of as a project that attempts to break down the assumption that the decision=sovereignty that is applied in Schmitt's and also Agamben's work. By focusing on Schmitt's claim of an underpinning order as well as his argument that the decision is intrinsic to legal and political orders this allows for an approach that is not necessarily grounded in liberal democratic regimes. Instead of applying the decision in emergencies gone awry it allows for a discussion on the sustainability of the political alternatives. The illustrations allow the thesis to highlight the political practices that create an unstable and ultimately unsustainable form of rule that paradoxically suggests the decision is the antithesis of sovereignty rather than its embodiment.

The research therefore addresses three core questions. First, is the form of sovereignty that Schmitt envisioned. Rather than Schmitt being a purely legal thinker, the research addresses Schmitt as both a political and legal philosopher and his theory of sovereignty whilst expressed in law is underpinned politically. Thus, in order to adequately discuss Schmitt's claims surrounding sovereignty, it is insufficient to focus on the legal aspects of his work but the political elements surrounding his claims to sovereignty. The research argues if Schmitt's political components can break down, then so can his theory of sovereignty. Thus, rather than the assumption that decisionism is the exemplification of power, decisionism can undermine sovereignty.

The second question the thesis seeks to answer is why theoretically this claim to sovereignty breaks down. By analysing the quote '*sovereign is he who decides upon the exception*' (Schmitt 2005 pg.1) the thesis analyses the conception of emergency powers and their use inside the political ideals as held by Schmitt. This theory and application is contrasted with Caporaso's claims on the necessities of sovereignty in the westphalian state that discusses key sovereign traits for modern states to occupy. The research concludes that emergency powers and decisionism do not sit easily within the political ideals as held by Schmitt or the necessities of sovereignty inside a modern westphalian state.

The third question the thesis seeks to answer is how is this applied? Answering this is achieved via three illustrations of regimes and their responses to the Arab uprisings that began in 2011. The responses to the Arab uprisings allows the research to breakdown the claim that the sovereign is he who decides on the exception and the political framework underpinning decisionism as identified by Schmitt is ultimately untenable. By identifying key elements of the regimes, the environment in which they exist, and their responses to the Arab uprisings, this allows the thesis to address Schmitt's claims practically.

By addressing these questions, the thesis sheds a new light on three key fronts. First, is in the realm of Schmitt scholarship in relation to sovereignty. Rather than accepting his claim of sovereign decisionism leading to sovereignty, the thesis contends this is an error and instead it destroys sovereignty rather than reinforces it. Second, is the focus on both the political and legal elements to Schmitt's claims on sovereignty. Rather than seeing them as distinct claims, the research addresses the political as underpinning legal claims to sovereignty and comparing it to Caproaso's necessary elements. Thus, developing a thicker notion of sovereignty than is often presumed in relation to Schmitt. Third, is the use of illustrations in relation to the Arab uprisings. There is little literature available on Schmitt outside of western Europe and the

claims of exceptionalism in relation to the Arab Middle East have been restricted to Agamben's '*state of exception*'.

For the thesis to succeed in demonstrating its claims certain things need to be achieved. After-all, this is a document making specific claims about the usefulness of Schmitt's construction of sovereignty. What is not necessary is for the fall of the regimes themselves. Indeed, in two of the three illustrations the regime remains and in Egypt it is credible to claim the underpinning regime structure survived despite a change in leadership. If regime's do not need to fall to prove the point what does need to occur, it may be asked?

Rather than the regime's falling themselves what needs to be witnessed is the limitations of Schmitt's claims to sovereignty. Rather than the decision being the manifestation of sovereignty, we need to witness the decision being actively challenged and, in some cases, making crises worse as opposed to ameliorating them. With the decision being challenged this undermines the very basis of the decision itself i.e., homogeneity and unity. Thus, rather than the decision being the apotheosis of sovereignty it can be witnessed the limitations of sovereign decisionism in relationship to sovereignty even on its own terms.

 This can be seen in the illustrations that far from the decision cementing and holding together homogeneity we can see it splitting apart fracturing the political order. In each of the illustrations it shall be demonstrated via analysing episodic conditions (the Arab Springs of 2011) the limitations of Schmitt's claims to sovereignty. We shall bear witness to the uprisings in each country challenging the sovereign decision. We shall see political unity fracture and, in some cases, break apart entirely. We shall see regime decisions making crises not worse, rather than solving them entirely. We shall see events that if Schmitt was correct in his alternative construction of sovereignty would not be seen.

1.1. Contribution of the thesis to the existing literature

The thesis is primarily situated within Schmittian literature addressing the claim that '*sovereign is he who decides on the exception'*. As a result, the focus of the thesis on Schmitt's thought is in his musings on the nature of sovereignty and politics domestically (e.g., the *friend enemy* dichotomy, homogeneity, and the role of the sovereign god). It is within these literatures that the thesis makes an impact by bringing together these ideas into a cohesive 'Schmittian vision' for sovereignty underpinning the decisionism of the sovereign that the thesis questions. Thus, rather than decisionism existing on its own plane, the thesis argues it necessitates the underpinning components for it to operate functionally in relationship to sovereignty.

 However, the thesis is not confined to merely the Schmittian literature. The thesis traverses multiple realms of literature and speaks to multiple disciplines filling gaps along a broad spectrum of areas such as on Arab authoritarianism, power, authority, and citizenship. However, due to word constraints, a closer examination of all these literatures is not possible. Instead, the chapters in the thesis titled 'Power', 'Authority, and 'Citizenship, give a distinctive vision of these characteristics against a Schmittian conception played out in episodic illustrations. Using a Schmittian lens on literatures such as coup proofing, sectarianism and the Arab uprisings, allows the thesis to fill gaps existing in the literature in relation to claims about sovereignty.

The broader theme of these contributions can be seen in relation to sovereignty itself. As opposed to arguing violence is the apotheosis of sovereign control from a regime, this thesis advances a thicker conception of sovereignty. This conception is not addressing international recognition of regimes but rather domestic claims to sovereign control. Thus, the contribution of this thesis I believe is extensive and addresses multiple gaps across a variety of literatures.

This section shall address this more closely in relation to the literature on Schmitt and Arab authoritarianism.

1.1.1. Schmittian literature

There is an abundance of literature addressing the life and work of Carl Schmitt; some of this is within the scope of my thesis, but a lot is not. This thesis is not a biography of Schmitt, and neither is it commenting on Schmitt's claims about international relations. Therefore, despite valuable contributions from scholars such as Rasch (2000), Scheuerman (2006), Zarmanian (2007), Mehring (2007), Odysseos and Petito (2007), Chandler (2008), and Benhabib (2011) neither these works nor others addressing such subjects overlap or intersect with the basis of this thesis. Additionally, unlike the work of Wolin (1992), Scheuerman (1993), Salter (1999), or Caldwell (2005),this thesis does not test the waters of normativity.

Instead, this thesis focuses on domestic sovereignty as outlined by Caporaso (2000) and Schmitt's theoretical relationship with sovereignty. In so doing it takes our thinking beyond the questions and discussion in IR and around normativity outlined in existing literature and seeks to question the fundamental concept of sovereignty itself where it might be expected to be at its strongest – *within* the domestic sphere. Rather than simply disagreeing with Schmitt's ethics this thesis originally unpicks Schmitt's description of sovereignty itself. It does this by critically analysing and contesting Schmitt's political concepts, specifically sovereign decisionism, homogeneity, the *friend enemy* dichotomy and the 'sovereign god' in relation to authority, citizenship, and power. Thus, rather than the state of exception and sovereign decisionism being the apotheosis of sovereignty we can interpret it as a self-undermining political structure. Interpreting Schmitt both in relation to the construction of his vision of the

political and in deconstructing him in this manner fills a gap in the literature that currently exists.

Sovereignty as defined by Schmitt is located with the person (or group) who has the power to make the exception (Schmitt 2005, Honig 2007). Latter authors such as Agamben (2005), Humphreys (2006), and Mcloughlin (2011) do not deny the relationship between the decision and sovereign action. Instead, they focus on the relationship between violence, dictatorship, and supposed legal legitimacy. This turns to Schmitt's supposed legal bankruptcy identified by Huysmans (2008) and Berkmanas (2011) as opposed to any political breakage which my thesis focuses on. By focusing on political breakage of the decision this provides a new lens to analyse Schmitt's failures, not as a legal scholar of exceptionalism but as a political theorist and probing a deeper and different problem in Schmitt's arguments. This difference in interpretation and approach has greater implications for Schmittian thought. Seeing him not simply as a legal scholar but as a political theorist whose claims to sovereignty cannot be detached from his ideas about sovereign decision gives a thicker and more imaginative way to critique Schmitt.

Whilst the scholarship in relation to Schmitt oftentimes places him as a legal theorist this is not to say I am the first to recognise his political theories. The *Friend enemy* distinction (i.e., the basis for many of Schmitt's political claims) has been discussed by many scholars such as Neocleous (1996), Mouffe (1997), Norris (1998), Gross (2000), Slomp (2007) and Vinx (2010, 2013). The literature recognises the distinction's relationship as an alternative formulation to politics and remains divided on its potential to ground fascistic politics which frequently crosses into normative terrain. Some scholars such as Sartori (1989), Bellamy and Baehr (1993), and Hollerich (2004) question the distinction and Schmitt's dismissal of political difference. Others such as Rae (2016) recognise the distinction as a legitimate method of political identification.

However, this literature, unlike this thesis, does not conceive of the *friend enemy* distinction as a lynchpin to understanding a thicker sovereign political formulation. Additionally, there are few questions as to the viability of the dichotomy and its ability to remain stable or maintain political relations. Furthermore, the *friend enemy* distinction whilst being discussed as part of relations between nations in the frame of Westphalian sovereignty, is not discussed in relation to Westphalian sovereignty concepts such as authority of the sovereign. The thesis new lens of looking at the *friend enemy* distinction grants unique critiques such as the distinction being turned inwardly on the sovereign itself.

This uniqueness is also the case in relation to the literature surrounding Schmitt's arguments on homogeneity. Scholars such as Wolin (1990), Scheuerman (1997), Dyzenhaus (1999), Kalyvas (1999), Muller (1999), Axtman (2007), Pan (2008) and Croce (2013) all recognise Schmitt's theoretical claims on homogeneity in relationship to the *friend enemy* dichotomy as the method by which political orders are imagined by Schmitt. Therefore, the literature on the *friend enemy* dichotomy and homogeneity has substantial overlap.

However, unlike in my thesis there has been a lack of consideration of homogeneity's relationship towards sovereign instability in relation to the decision. Instead, the literature largely accepts homogeneity as a method of pinning together a constitutional order in practice with a focus oftentimes remaining on the normative questions this construction poses. My thesis instead challenges this notion in relation particularly to the functionality of the sovereign decision and the relationship homogeneity has to Schmitt's claims of sovereignty. This is additionally done via a framework of domestic sovereignty providing a new and unique insight and questioning into Schmitt's construction of homogeneity.

This is not to suggest the cupboard is bare when discussing the limitations of sovereign decision. One such critique is that of Benjamin, Benjamin argues that the sovereign faces so

many decisions that the decision becomes mute. This can be seen in articles such as Agamben (2005) and Mininger (2010). However, as outlined by Weber (1992), Bredekamp (1999), and DeWilde (2011), Benjamin accepts Schmitt's principal definition of sovereign exceptionalism but differs on its performance. As a result, my thesis probes more deeply by challenging the core of Schmitt's argument and not simply how it is enacted.

Whilst the literature on Schmitt is vast and overarching, I believe in a number of areas this thesis provides originality. Rather than merely accounting for Schmitt's claims the thesis actively challenges the functionality of them. This sits in opposition to the normative approaches that represent a good part of the existing literature. In addition, by focusing on Schmitt's domestic political claims and interpreting him as a political (as opposed to simply being a legal) thinker, this gives the thesis depth and focus to examine Schmitt's core claims. The thesis questions what Westphalian sovereignty is, maps out Schmitt's claims and interprets them via this framework. It is by this method the thesis is able to attain a unique examination, conception, and critique of Schmittian sovereignty.

1.1.2. Arab Authoritarian literature

Whilst there has been literature on the state of exception in the Arab Middle East such as Hanafi (2012), Mabon (2017, 2021), Biagi (2018), Ardovini and Mabon (2020), Nouini and Aboullouz (2022), this tend to focus on and address Giorgio Agamben's paradigm of the state of exception rather than of Carl Schmitt's. There is one article by Amar (2015) that briefly mentions Schmitt in this region, but this does not apply Schmitt in any depth or relation to his concepts. By bringing Carl Schmitt to this area, the thesis to applies a new lens to Schmitt and to the illustrations the thesis analyses. This can be seen via three strains of literature that are oftentimes related to authoritarianism in the region- neopatrimonialism, coup proofing, and

Sectarianism has gone through so many different definitions the use of the term itself has been questioned and at the very least sectarianism remains a contested term in the literature. Potter (2013), Gaiser (2017), and Haddad (2017) for instance claim that the word has reached such levels of blurring and change that an adequate definition is difficult if not impossible to come by. This sits in contrast to others such as Berger (1954) who define sectarianism as a distinctive religious phenomenon or Cairns (2000) who claims tying sectarianism to religion is merely due to a link in language. The sectarianism debate has informed the question of how important religious conflicts are and what sits at the heart of them. Scholars such as Nasr (2007) believe religious splits will define the political trajectory of the Arab Middle East with other such as Valbjorn and Bank (2007) seeing this as a myth misunderstanding the nature of political conflicts in the region. Little is settled in the literature on sectarianism, except as Phillips (2012) argues perhaps the question of if sectarianism matters (it does). But definitions, drivers, and descriptions all vary.

The neo-patrimonial literature focuses on rulership by a person as opposed to an institutional rule. Literature such as Roth (1968), Van De Walle (2007), Bank and Richter (2010), and Bach (2011) identify leadership decisions made and legitimacy to govern supposedly acquired via the spoils of the modern state. The literature therefore recognises personalised ruling and cultivating personalised relationships such as in the work of Pitcher et al., (2009), and Charrad (2011). The literature such as Magaloni (2008), Guliyev (2011), Svolik (2013), and Sarnelli (2016) identifies predatory relationships of cronyism, establishing families and fostering personal loyalty to the leader themselves. The literature does not use Schmitt's sovereign decisionism as a way of analysing personalised sovereign decision making

Neo-patrimonialism on the face of it would appear to be the exemplification of a Schmittian sovereign possessing: the ability to intervene in politics at will. The illustrations used in the thesis highlight this personal intervention can be – and oftentimes is – conducted via the

constitutional mechanisms of emergency measures. By analysing neo-patrimonialism via a Schmittian framework, we can also witness unique ways to examine the functionality of neo-patrimonialism and personalised systems of governance. Rather than presuming this personalised vision of governance provides security, support, and sovereignty for domestic regimes, this thesis argues that its very essence provides the ingredients for a breakdown of domestic sovereignty in ways not previously imagined.

It is oftentimes via these neo-patrimonial relationships that coup proofing is imagined. Coup proofing as imagined by Quinlivan (1999), Belin (2004), Brownlee et al., (2013), Albrecht (2015), and Santini and Moro (2019) has a dual focus on institutional balancing and retaining the loyalty of key figures. Loyalty in the literature appears to be predicated on a mixture of communal identity, personal loyalty, and familial loyalty. By retaining the loyalty of key figures and successfully limiting their positions of influence, according to coup proofing literature such as Brooks (2013) and Makara (2013), the 'praetorian guard' model defends the sovereign from inside challengers. This model of governance grants the sovereign significant personal decision-making powers to make and re-make the political order.

The thesis provides an alternative lens to explain these mechanisms designed to secure domestic sovereignty for a regime. Rather than focusing on the relationships inwardly on the regime, the thesis instead proposes an outward facing relationship between coup proofing and domestic sovereignty. After-all when analysed via a Schmittian framework of the *friend enemy* dichotomy, homogeneity, and the sovereign god, we can see coup proofing is not just a question of inward regime stability but that it helps create a politics affecting the citizenry. It is via this analysis that the thesis can question the use of coup proofing in a new way in relation to Schmittian claims of sovereignty and its breakdown.

Additionally, the thesis adds value to the literature on sectarianism. The literature on sectarianism is vast, ranging from questioning the value of the word itself by scholars such as Haddad (2017), to questioning who the concept applies to via scholars such as Little (2011), Del Sarto (2019), Mabon (2019, 2020), and Rorbaek (2019). Additionally, work has been conducted on the role of sectarianism in relation to governance and broader communal identities such as ethnicity via scholars such as Berger (1954), Hashemi and Postel (2017), Freer (2019), Valbjorn (2020) and Ille (2021). The thesis addresses a question of sectarianism's use as a political tool for retaining domestic sovereignty by regimes. This is analysed and examined via Schmitt's political framework specifically homogeneity and the *friend-enemy* dichotomy. By approaching sectarianism via this lens this allows a new way to examine and analyse sectarianism as a political function.

This work on the functionality and crossover potential for sectarianism has been accompanied with research questioning how durable and ingrained sectarianism is. A minority of scholars such as Landis (2014), and Nasr (2017) recognise sectarianism as a 'primordial' relationship i.e., something that is intrinsic overshadowing other explanations for conflict. Alternative hypotheses such as instrumentalism and constructivism as discussed by Anderson (1983), Byman (2014), Haddad (2014), Hinnebusch (2016), Finnbogason (2019), and Valbjorn (2020, 2021) explain sectarianism's waning and increased importance in politics relationally to other political factors such as economic and civil restrictions.

The thesis navigates this literature by describing sects as 'manipulated' i.e., sect tensions do exist but can be altered by political and religious actors seemingly for their own ends. The thesis demonstrates this claim by illustrating episodic events during the Arab Springs as explored in some detail by Haskell et al., (2015), Gengler (2020), Alshahri (2021), and El-Husseini (2021). This has had effects to some degree as explored by Falk (2013), Gause (2014), Heydemann and Chace (2018), and Finnbogason et al., (2019). However, by analysing

sectarianism via the *friend-enemy* dichotomy and homogeneity, this thesis questions the sustainability of such processes. By seeing the political not as a fixed but a fluid entity, we can witness the dangers for regimes to manipulate such tensions. Rather than producing homogeneity and stability, the result is an increasingly fractured heterogenous political order that undermines claims to sovereignty rather than cementing them.

As a result of the thesis using and challenging Schmitt's political claims to sovereignty the thesis makes original contributions not just in the Schmittian literature but in the Arab authoritarian literature too. As stated in the first section, the thesis additionally makes contributions to the literature on authority, power, and citizenship but due to word limitations these cannot be developed here. By pulling together and fully examining Schmitt's claims to sovereignty in relation to the Westphalian model, this thesis has provided an original contribution to examining Schmitt. This examination has added further originality via the use of illustrations. Extending this original lens to analyse Schmitt's claims to sovereignty, this allows the thesis to add original contributions in the realms of neo- patrimonial rule, coup proofing, and sectarianism.

1.2.Carl Schmitt

This section discusses both the decision that Schmitt envisions and the underlying political and legal forms that underpin it. However, It is firstly necessary to discuss Schmitt's positionality. By discussing the position of Schmitt i.e., what he is reacting to and his views challenging liberal democracy can give greater insight into what exactly Schmitt is proposing. In addition, it allows us to realise some of the challenges when engaging with Schmitt's thoughts. Second, focusing on the decision and the different forms of decision that Schmitt envisions, allows for some clarity (that shall be extended further in the next chapter) on what the decision entails

and what it is. Following this introductory discussion on the decision, the section then engages briefly on the question of the underpinning political order that grounds the decision. If the underpinning order are not understood and outlined, the real utility of the decision cannot be found. Therefore, it is necessary to discuss both the decision and the underpinning political framework that grounds the decision.

As David Dyzenhaus (1998) has stated that by the late 1920's Carl Schmitt was an influential part of the most mainstream conservative elements in the Weimar Republic whilst providing a framework for a dictatorial solution to Weimar's democratic problems. Thus, the positioning for Schmitt, as not someone who can be regarded as a self-critical liberal but rather someone who openly attacks liberalism as a political philosophy is important to note (Bielefeldt 1998, Dyzenhaus 1998, Hollerich 2004). As Leo Strauss (2007) once wrote Carl Schmitt's writings need to be seen as a concrete polemic against Liberalism itself and Schmitt's authoritarian solutions have been seen as a response to Weimar's institutional and political challenges of a burgeoning liberal democracy. As a result, much of Schmitt's critique against liberalism needs to be seen via the lens of a critique against liberal parliamentary democracy to govern a nation particularly in regards to the Weimar regime (Galli 1999, Kennedy 2004, McCormick 2004, Strauss 2007).

We can witness and understand Schmitt's position by his attitude towards article 48. Article 48 was the Weimar Republic's answer to emergencies which gave the President a broad spectrum of powers including according to Schmitt "*authorizing him to take whatever "necessary measures" he deemed appropriate to reestablish public security*" (Bendersky 1978 pg.41). Schmitt not only had a wide interpretation of Presidential powers but was also a prominent supporter of President Hindenburg making use of article 48 dissolving the Reichstag and upholding cabinet appointments independently acting as a '*guardian of the constitution'* (Bendersky 1978, De-Wilde 2006, Ostovich 2007). The crises engulfing the Weimar Republic

helped paint the image of a strong sovereign as more attractive than a system demanding strong constitutional checks and balances on the use of executive power. Thus, Schmitt's legal and political thinking should not be divorced from the context it was operating in (Mehring 2014, Minca and Rowen 2015, Vinx 2015, Goupy 2018).

Carl Schmitt has two differing ideas of how decisionism may not only be enacted but used. This distinction is made in Schmitt's early work *Dictatorship* between the commissarial sovereign and sovereign dictator. As early as page 2 of *Dictatorship*, Schmitt writes " *The contradiction between commissary and sovereign dictatorship, which will be developed in what follows as the fundamental deciding criterion, is here already indicated by the political development itself, and it resides in the nature of the matter."* (Schmitt 2014 pg.2). The commissarial sovereign manages the emergency situation by temporarily suspending the constitutional order and acts temporary outside of it in order to defend it. Schmitt believes this occurs when normal constitutional bounds are unable to respond to the emergency. The commissarial sovereign's role is not to reshape the order but merely to defend it until the crisis is over and a return to the previous order can be affected. This can be seen when Schmitt argues "*The dictator cannot change the laws; neither can he suspend the constitution or the organisation of office; and he cannot make new laws"* (Schmitt 2014 pg.4). Unlike Agamben's proclamation of any emergency undoing the legal order, in Schmitt's view the commissarial sovereign protects the constitutional order for a short period before returning back to the previous constitutional order (Wolin 1990, Cristi 1997, McCormick 1997, Kalyvas 2000, Schmitt 2014).

The second form of decisionism that Schmitt envisions is that of the sovereign dictator. The sovereign dictator as opposed to the commissarial sovereign has the ability not only to defend the constitutional order for a time limited period but can remake and reshape the legal and political order following an emergency. The sovereign dictator has the unadulterated power to

make and re-make, as Schmitt (2014) argues "*From the perspective of sovereign dictatorship, the entire existing order is a situation that dictatorship will resolve through its own actions. Dictatorship does not suspend an existing constitution through a law based on the constitution- a constitutional law; rather it seeks to create conditions in which a constitution- a constitution that is regards as a true one- is made possible*" (Schmitt 2014 pg. 119). Thus, as opposed to the commissarial sovereign whose role is merely to protect the current political and paradoxically legal order from outside the legal framework, the sovereign dictator has powers and prerogatives that move beyond mere defence but include reformation (Muller 1999, Vinx 2010, Schmitt 2014, de-Wilde 2019).

Despite the distinction between the two sovereign roles there are some similarities too. In both accounts, this form of decisionism is not conducted via representative institutions such as Parliament, instead it is acted out via executive decrees acting out the sovereign will. The sovereign in this sense is akin to 'God' being able to intervene in the natural order to produce miracles that defy the order itself. Institutions such as Parliament are relegated to subordinates of the sovereign in this case even in the case of the commissarial sovereign whose duty is to defend the constitution. Alongside this, the sovereign whether a commissarial sovereign or a sovereign dictator is seen as a great representative of the state and nation. The sovereign will in both cases act as a measure of representation transcending that of the institutional bodies. This can be seen in *Dictatorship* where Schmitt argues "*Dictatorship protects a specific constitution against an attack that threatens to abolish the constitution.*" (Schmitt 2014 pg. 118) and in *Legality and Legitimacy* "*The lawmaker creates what he wants in the law-making process; that process is always 'law', and it always creates 'right'. Through this change, the way was open to an absolutely 'neutral', value- and quality free, formal-functional concept of legality without content.*" (Schmitt 2004 pg. 23) (Weber 1992, Schmitt 2004, 2014, Baume 2009, de-Wilde 2011, Stanton 2011).

It is in part due to these similarities that the distinction Schmitt makes comes under scrutiny. Some scholars such as Wolin (1990) surmise that the distinction between the two modes of sovereign decisionism is in practice meaningless ensuring a collapse of the distinction. The lack of limitations placed upon the sovereign leads to a fear that the commissarial sovereign can easily become a sovereign dictator and there is nothing in the distinction to avoid this occurring. Despite this critique, for Schmitt the distinction is the difference between a sovereign simply temporarily protecting the existing order and remaking and refounding the legal and political order (Wolin 1990, Arato 2000, Tuori 2016, Kelly 2016).

Whilst it is necessary to discuss the decision, it is not possible to adequately discuss the decision without a recognition and interaction with the underpinning political structures that support the decision. Indeed, if the underpinning political framework is either undermined by the decision, or if it is not stable on its own, then the decision cannot be seen as equalling sovereignty. If the political or legal order upholding the decision falters this correspondingly translates to the efficacy of the decision. One example of this tackled in this thesis is the *friend enemy* dichotomy. The *friend enemy* dichotomy is a key political structure that grounds Schmitt's ideas of identity and representation. The dichotomy is guided by the strength of feeling that exists between different groups, if sufficient enmity is found then they are considered *enemies.* Our *enemy* helps us define our unity considered as our *friends.* This can be seen in *Concept of the Political* where Schmitt (2008) argues *"The specific political distinction to which political actions and motives can be reduced is that between friend and enemy."* (Schmitt 2008 pg.26) and *"The distinction of friend and enemy denotes the utmost degree of intensity of a union or separation, of an association or dissociation"* (Schmitt 2008 pg.26). It is from this level of enmity that dictates what constitutes the political, the political rather than being a set of subjects that are ringfenced is instead to be considered subjects that generate sufficient strength of feeling to guide us. Due to this formulation of the political, the *enemy* can be both internal and

external ensuring a challenge to the concept of the citizen (Fontana 1999, Gross 1999, Mouffe 2007, Van Der Zweerde 2007, Schmitt 2008).

The enmity that exists is not something that is necessarily a primordial inevitable feeling but rather it is something that according to Schmitt can be directed by the sovereign. It is here that we can begin to understand the relationship between the decision and its underpinning features of sovereignty. It is through the decision gives the sovereign the ability to define a common *enemy* directing the populace to mobilisation. The *friend enemy* dichotomy is therefore both a necessary function of the political and a potential tool of the sovereign. The latter requires the sovereign to be able to effectively direct the populace into believing who the *enemy* is for if the sovereign loses that ability, they can be cast as the *enemy* from below (Böckenförde 1997, Deuber- Mankowsky 2008, Schmitt 2008, Morgenthau 2012).

A further political feature of the underpinning political framework can be found in the concept of homogeneity. Homogeneity represents an equality of the citizen and functions on a shared strength of feeling for the *friend* and a shared sense of enmity for the *enmity*. It is via this equality and the *friend enemy* dichotomy that the sovereign can adequately function as a representative of the citizens. The strength of enmity fostering equality exposes one of the many paradoxes that lies in Schmitt's claims. At the same time, the enmity is supposed to be strong enough to bind *friends* together but not to destroy the *enemy*, for if one destroys the *enemy* the *friend* is also destroyed (Strauss 2007, Lievens 2012, Rae 2015, Croce 2017). This can be seen when Schmitt (2007) argues "*They are focused on a specific conflict and are bound to a concrete situation; the result (which manifests itself in war or revolution) is a friend-enemy grouping, and they turn into empty and ghostlike abstractions when this situation disappears.*" (Schmitt 2007 pg. 30).

Homogeneity and the *friend enemy* dichotomy can be considered important political tools that ground legitimacy of the sovereign, ensuring the decision does equal sovereignty. It is homogeneity and the *friend enemy* dichotomy that creates the conditions for the creation of a total state to represent the citizens. The total state builds upon the citizens homogenous will granting the sovereign the legitimacy to act as a representor of the unified will. By responding and forming the unified will, the sovereign is granted the legitimacy to make decisions. Thus, the power that the sovereign attains theoretically does not magically come from the top at the beginning but from the bottom-up notion of homogeneity (Wolin 1990, Scheuerman 1993, Mouffe 1997, Axtman 2007).

1.3. Thesis Critiques of Carl Schmitt

The decision is not something that naturally occurs but requires a political structure underpinning it. The necessary political underpinning opens a door to critique the claim that the decision=sovereignty, if the political underpinning doesn't function then neither can the decision. Critiques can still be levied against the claim of decisionism itself but by also critiquing the underpinning political framework this allows for a thicker critique than would otherwise be the case. The thesis focuses upon three central critiques in regard to the question of creating the citizen, conceptualising legitimacy, and the ability of the sovereign to make the decision.

The first critique concerns the paradox of Schmitt's claims of enmity grounding the *friend enemy* dichotomy. The strength of enmity guides our political groupings, however, to rely upon *enmity* functioning at an intense level defining political identity fosters an inherently unstable political order. *Enmity* runs the risk of spilling over fracturing the homogenous state that

Schmitt envisions. *Enmity* cannot be considered static but instead a fluctuating value that can change quickly.

Second, the sovereign not only cannot control the levels of enmity felt but they cannot always control the direction of the enmity. Political control of the *friend enemy* dichotomy as this thesis highlights can quickly get away from the sovereign and transfer to the people themselves. This ensures an unstable political order fracturing the homogeneity that supposedly grounds the state undermining the claim that the decision equals sovereignty. As the illustrations will highlight further below/in chapter 3,4, and 5, the *enemy* can be defined as the sovereign from below due to the unfixed and fluid nature of political currents.

The third critique of Schmitt's decisionism builds on Benjamin's critique of the godly sovereign. Schmitt's sovereign god is built upon the claim that secular concept of government flow from the theological, thus just as God can intervene in the natural order to create miracles, so can the sovereign in the legal and political order (Cavanaugh 2007, Saccomanno 2010, Stern 2015). Benjamin critiques the concept of the sovereign god as being unable to function as a god but becomes instead a mortal being. This occurs when the sovereign is overloaded by the volume or momentous nature of decisions disabling them and ensuring the miracle cannot produced. Thus, according to Benjamin, a messianic force does exist, but this necessarily functions as a 'weak' messianic force (Weber 1992, Pan 2009, Mininger 2010, Martel 2011, McQuillan 2011, Thiem 2013).

Exceptional governance has been conceived by scholars including Schmitt and Agamben as a way for the state to take and retain control in an emergency situation. This thesis contests this claim. In approaching these three critiques to the underlying framework of decisionism as well as decisionism itself, this allows the project to cast doubt on Schmitt's claims at both the level of the decision and the underlying feasibility of the political dimensions of decisionism. The

research thus argues that rather than providing sovereignty, the decision erodes sovereignty creating a reliance on coercive techniques as opposed to manifesting authority and citizenship and power beyond physicality.

The theoretical critiques adopted in my research are supported by practical illustrations that offers a different lens on techniques by authoritarian regimes as a means of securing and maintain political office. These techniques such as coup proofing, instrumentalisation of sectarianism and a use of coercion have been thought to secure power. However by applying an alternative theoretical lens my research suggests that rather than securing power they undermine power and other sovereign traits such as authority, and citizenship, resulting in an undermining of sovereignty as opposed to its strengthening. By weakening the underpinning political structure necessary for the decision to function this creates instability weakening the effectiveness of the decision. By adopting a different lens to these structures of authoritarianism it is possible to understand their resilience and essence to sovereignty in a different light than previously.

1.4. Illustration introductions

This section introduces the illustrations bringing together regime type, demographics, and relevant previous history to give a grounding for the illustrations. This essential information shall not be repeated in future sections in order to give space in the illustrations to discuss regime reactions and the practical relationship to the theoretical. Regime type and demographics shall be discussed, as the state of emergency has not been practiced within exactly the same circumstances. It is therefore necessary to mention these key differences in order to discern the differences between regime type and how that may latterly affect the use of sovereign decisionism in responding to crises. In addition, a brief outline of the Arab

uprisings shall be given to introduce the context that the research focuses on in relation to the illustrations.

1.4. Syria background and political history

This section shall begin with a brief background to Syria before discussing regime type and finally the uprisings. Syrian state's borders were shaped by the treaty of San Remo in 1920 and was an imperialist creation devised primarily at avoiding British and French imperial disputes in the former Ottoman lands of Iraq, Syria, Lebanon, Jordan, and Palestine/Israel (Eldar 1993, Fildis 2011, Fawcett 2017, Meier 2018). The treaty addressed the question of borders in relation to imperial interests and the solution devised in the treaty was somewhat artificial despite the consideration of previous Ottoman boundaries for the states it affected and provided a demographic, geographic and historical logic.

Even so, artificiality does not necessarily mean vulnerability for states; although some states such as Syria have retained a legal stability in their borders but not an internal political stability, instead suffering from high levels of volatility inside and on their borders. The states in the San Remo treaty (including Syria) oftentimes suffered from high degrees of external interference and penetration negatively affecting their claims to sovereignty and authority. But states such as Syria were not invented, indeed Syria was the Birthplace of Arab nationalism (Pan-Arabism has traditionally been a strong ideological tool in Syria oftentimes used as a form of nationalism), instead they reflect a history of being thwarted by imperial powers in their early quest for sovereignty and nationalism and this is true of Syria (Thomas 2002, White 2007, Fildis 2011, Gaub and Pawlak 2013, Fawcett 2017, Yavuz 2017, Meier 2018).

Syria in addition to not being artificial is demographically a land of minorities. This includes a significant tribal presence (around 20% of the population) a strong Sunni Muslim majority (constituting between 60 and 70% of the population) and religious and ethnic minorities such as Alawites, Druze, Turkmen, and Kurds to name a few (Hokayem 2013, 2017, Phillips 2015, Dukhan 2021). During the French mandate existing between 1920 and 1946, France initially saw Syria's heterogeneity as a problem to be solved and the solution for the French was dividing Syria into four local governments, Aleppo and Damascus were the Sunni majority territories, the Alawite sect had Latakia as its capital and held the coast with the Druze Mountain stretching to the southern border to Jordan. This arrangement set parameters of imperial policing via supposedly homogenous ethnic and religious groups but would end following the dissolution of the mandate (Provence 2005, Zisser 2006, White 2011, Rosiny 2013, Muhammad and Katman 2015, Phillips 2015, Mahmoud and Rosiny 2018).

Furthermore, accompanying this was a lack of centralisation and a reliance upon local notables to facilitate rule in this way due to both their local status, ownership of land and commerce as well as location in the area. Local positions were given to notables inside the regions predicated upon the same representative grounds that the regions were founded upon i.e., sect and ethnicity and the armed forces that latterly made up the nucleus of the Syrian army were largely made up of minority communities, largely excluding Sunni Muslims who it was deemed as a community had a tendency to support Arab nationalism (Van Dusen 1989, Khoury 1991, 2014, Fildis 2011, Alli 2014, Mahmoud and Rosiny 2018).

The arrangement of the state was made not only due to perceived concerns about sectarianism but also to dampen the call for Arab nationalism that was most popular among the Sunni Muslim community and many notables. As a result of these calls, the Sunni Muslim community was largely not trusted by the French authorities to play a significant part in the state officially, thus staging future conflicts between the Sunni bourgeoisie and minorities in positions of

authority. However, the French mandate suffered from a lack of legitimacy as most Syrians rejected the fractured sectarianised, ethnicized state that was developed and ineffectively enforced (Khoury 1984, 2014, Thomas 2002, Zisser 2006, Phillips 2015, Mahmoud and Rosiny 2018).

The French mandate state that lasted for 26 years therefore was not strong as it suffered from a lack of central institutionalisation, support and divisions riven throughout the state that included rebellions such as the Great Syrian revolt of 1925 that was the first mass movement against colonial rule in the region. The mandate's lack of strength and stability in the long run can be seen by the fact that between 1948 to 1963 Syria had 15 different military rulers and as a result it could claim to being one of the most politically unstable states in the world (Rabinovich 1972, Ghadry 2005, Stacher 2012, Alli 2014). During this period, the state suffered from the fragmentation that was a natural occurrence from the French mandates policy of attempting to suppress nationalism, neglect institutional building and create divisive settlements such as the minority led armed forces forging a conflictual model of governance. Indeed, the Alawite rebellion in 1946 resisting the central government's authority led by Sulayman al-Murshid demonstrates the immediate difficulties the newly realised state faced. The French mandate policies of politicising sub-state identity continued post-independence in Syria and as a result the Syrian state has been labelled *"in many respects a state without being a nation-state, a political entity without being a political community*" (Alli 2014 pg. 216) (Ma'oz 1972, Fildis 2011, Stacher 2011, Alli 2014, Phillips 2015, Jacoby 2017, Yavuz 2017).

In 1963 the Ba'ath party came to power via a coup from within and took over from a state fragmented, operating on a narrow military-civil base that faced fierce opposition from Nasserites, Liberals, and Islamists. Inside the regime were intra army and intra civil regime rivalries, Alawi loyalties increasingly came to the fore. Officers from the Alawite sect became dominant as a clique in the regime through their disproportionate recruitment in the armed

forces and the Ba'ath regime led by Salah Jadid was dominated by Alawi's even before the eventual Assad led coup in 1970 to become President, a position he would hold until his death in 2000 (Faksh 1984, Hinnebusch 2008, 2012, 2015, Moiles 2012, Alli 2014, Balanche 2015).

1.4.4. Hafez's regime

Assad's longevity in comparison to those before him poses questions for how the regime managed to retain in political office from 1970 until his death. The Syrian regime under Hafez Al-Assad attempted to create authoritarian stability and one of the ways this occurred was through a duel self-proclaimed attempt to create a national identity and government whilst simultaneously ensuring minority dominance in key positions of the regime. The regime sought to present itself as an alternative to previous governance and proclaim there would be no sect or ethnic discrimination, but instead claimed it was a representative nationalist party that included portraying Syria as 'one nation' through institutionalisation via methods such as school curriculums, tv shows and banknotes (Rosiny 2013, Aldoughli 2016, 2021, Saleh 2017, Hinnebusch 2019, Gonzalez and Munawar 2020, Dukhan 2021). During the era of Hafez Al-Assad, this project could also be witnessed via legal and personal appointments made in an attempt to appear as a contrast with the sect ties fostered by the French Mandate that can most easily be seen in two ways. First, the 'on paper' guarantee of inclusiveness with the 1973 constructing a national identity centered around Arabism and legislation such as article 298 of the penal code making it an offence to incite sectarian tensions. In addition, the Ba'ath party did not have an ethnic or tribal requirement to join. Second, was the inclusion of different minorities and majorities in key ministries of state. Mustafa Tlass was defence minister from 1972-2004, Abd al-Halim al-Khaddam was Minister of Foreign Affairs and Vice President from 1970-2005, and Faruq al-Shar who was foreign minister from 1984-2006 and today

remains vice president of Syria (Hinnebusch 2008, 2012, 2019, Stacher 2011, Rosiny 2013, Alli 2014, Aldoughli 2016, 2021, Dukhan 2021).

On the face of it this may appear as if the Assad regime was inclusive to the majority of Syrians who are Sunni Muslims. Despite this, the Ba'ath party under Hafez did ensure domination of the upper echelons of the state to largely Alawi office holders, limiting the political and military power bases of those not from a similar tribe, sect and/or ethnicity and thus created a coalition of minority governance. As Christopher Phillips argues "*While its enemies labelled it an 'Alawi regime' Assad's was more a regime run by 'some Alawis', specifically members of the president's family, his Numailatiyya clan and Matawira tribe*" (Phillips 2015 pg. 365). Key positions given to Rif'at Al-Assad as a commander of special defence units (1970-1984) and had a key role in the Hama massacre in 1982 that ended the uprising by the Muslim Brotherhood, Jamil Al-Assad who was situated in Parliament with an extensive business portfolio and Adnan Al-Assad who commanded so called 'struggle companies' that were also influential in the Hama massacre (Batatu 1981, Gambil 2000, Moiles 2012, Ali 2014, Balanche 2015). Between them, they had control of around 25,000 troops to protect the regime in key positions of the capital that as Hafez Al-Assad once said, "*he who controls Damascus controls Syria*" (Balanche 2015 pg. 10) and all were related to Hafez Al-Assad in an attempt to guarantee ultimate loyalty and control of the state. In addition, a number of tribal appointments were made from Hafez's own tribe such as Brigadier Muhamad al-Khawli who was an adviser to Assad as well as being chief of air intelligence and Brigadier Ali Dubah who was chairman of the Presidential Intelligence committee furthering the reliance on specific loyalties that are akin to blood ties (Batatu 1981, Faksh 1984, Quinlivan 1999, Moiles 2012, Balanche 2015, Phillips 2015, Saleh 2017, Dukhan 2021).

A second key feature of Hafez Al-Assad's rule was the attempt to establish dominance over the political sphere and deny opposition the space to exist. This was achieved by multiple

methods. One was the emergency law instituted by the Ba'ath party and used as a mechanism to establish dominance over institutional structures standing in their way of action. The extensive use of power can be first witnessed at the end of 1962 on December 22nd when the Ba'ath party came to power and instituted a state of emergency. Rather than being curtailed, the emergency law was extended in its scope over time, one example being in 1979 in response to an Islamist attack, membership in the Muslim Brotherhood was made punishable via death. Despite the Syrian regime signing multiple human rights treaties such as the Covenant on Civil and Political Rights and the Covenant on Economic, Social and Cultural Rights as well as acceding to the Geneva Convention, the state of emergency implemented from 1963 onwards superseded the conventions signed by the state internationally with the state actively violating all of these conventions (Rabinovich 1972, Bellafronto 2004, Ghadry 2005, Hadad 2009, Gucturk 2015, Saleh 2017, Abboud 2018).

A further method of establishing domination can be seen witnessed in the growth of dominance over institutional obstacles to action. One way this can be seen is through the growth of internal security services. The growth of these services allowed the state to arrest without judicial review thus implementing the 'on paper' lack of restrictions with the ability to action mass arrests. This dominance did not appear as a matter of history but rather as a functioning on Hafez's personal authority, bringing up the question of if the Syrian state was strong or was it a matter of Hafez's personal authority and structure that he mapped out for the regime that maintained its apparent strength. Despite these changes, popular political opinion remained an obstacle as demonstrated by the mass demonstrations against the constitution of 1973 (Kelidar 1974, Rais 2004, Stacher 2011, Saleh 2017, Abboud 2018).

Hafez's personal authority as President was developed via the 1973 constitution that guaranteed party dominance of Parliament via a 'National progressive Front' and the simple naming of a candidate to run for President which is approved in a popular referendum,

unsurprisingly Hafez Al-Assad always ran without real opposition as has his son. The changes made ensuring Parliament is subordinate to the Presidency creates a 'rubber stamp' effect, limiting any institutional challenges. Indeed, the Syrian constitution gave Hafez the ability to *"provided for a very strong executive with sweeping powers to appoint ministers, members of the Supreme Court, and members of the High Judicial Council. While the directly elected People's Assembly (Parliament) as the national legislature, the President was given important legislative functions between sessions of the People's Assembly and in 'cases of absolute need'."* (Dawisha 1978 pg. 346). (Kelidar 1974, Dawisha 1978, Bellafronto 2004, Leverett 2005, Hakim and Harding 2010, Dajani 2015). However, these changes occurred without the sufficient institutional development seen in other states of executive offices such as the NSC (National Security Council) or the OMB (Office of Management and Budget) and the use of familial rule was unpredictable thus leading such changes open to future challenge and a lack of institutionalisation in the Presidency even if there was a growth in party structures. A strong Ba'ath party was used as a tool to establish dominance over state apparatuses and civil society institutions such as newspapers, professional associations, trade unions, and universities under the doctrine of 'unity' in an effort to advance ideological causes such as Arab nationalism and struggle against Zionism as well as supporting the regime. This was in part achieved by growing membership from a mere 65,000 in 1970 to 374,000 in 1981 and a million people by 2000 the year of Hafez's death (Leverett 2005, Rubin 2007, Dajani 2015).

The true strength of the Hafez Al-Assad regime has been questioned by scholars such as Zisser (2001) who claim that its apparent dominance appeared not due to its strengths but rather as a result of rivals exhausting themselves in the turbulent post-occupation period of 1946-1963. Indeed, the regime did not eliminate dissent with uprisings occurring externally to the regime in Hama in 1982 and internally with Ri'fat Al-Assad challenging his brother in 1984. Analyses have accompanied this by scholars such as Hinnebusch of a fraying Ba'athist coalition as time

went on that the Syrian state was increasingly struggling to control. So, whilst Hafez Al-Assad did create a 'big party' structure that facilitated recruitment and had an apparent role in policy creation this is not deny the strength of the President that he leveraged during his period in office creating a break between the Party and the President (Hinnebusch 1982, 1993, 2008, Zisser 2001, Rubin 2007, Stacher 2011).

1.4.5. Bashar's rule

Following the death of Hafez Al-Assad in 2000, his son Bashar came to rule Syria. The changes made by Hafez created a degree of permanence in the character of rule in Syria. The state of emergency remained in place and continued to curtail civil political activity via the security agencies that Hafez had built up (Ghadry 2005, Hadad 2009, Stacher 2012). The Damascus spring emerged in 2000-2001 calling for greater freedom from intellectuals and activists with independent political forums and groups emerging tentatively with initial tolerance given by the regime. However, the eventual response by the regime included multiple arrests with little to no change in the regime's response to political challenges emerging with Bashar Al-Assad calling the calls for reform ""*agents of the West whose only aim is the undermining of Syrian domestic stability, in the service of the enemies of the state*" (Zisser 2003). (Zisser 2003, Aita 2006, Bar 2007, Vincent 2014, Gucturk 2015, Pearlman 2016).

 Instead of opening up, the regime maintained a repressive grip on the political space. But the maintenance of political repression was not the only resumption of features from Hafez's reign. The use of internal family and tribal figures in key positions has also been a feature of Bashar's regime, indeed it can be argued Bashar has gone even further than Hafez for surrounding himself with those who share family, religious, tribal and ethnic identities. One way this was

instituted was via a programme. Indeed, elite economic interests of those close to the Assad family even exacerbated as Bashar began a programme of economic shifts such as giving the President's cousin controlled 60% of the Syrian economy (Zisser 2003, 2006, Brownlee 2007, King 2007, Donker 2010, Kasab and Shami 2016). Another example can be seen in the armed forces as Sunni army officers have consistently been discriminated against in recent years. They regularly receive poorer equipment than Alawi officers and have received fewer commissions than their Alawite counterparts. Even higher-ranking Sunni officers could not feel truly secure in their position as they could not be sure their orders would be followed during the uprisings against the regime (Van Dam 2011, Hinnebusch 2012, Alli 2014, Nassif 2015, Hokayem 2016, Pearlman 2016, Haddad 2017).

Further to consolidate his position, Bashar Al-Assad attempted to gain control of the Ba'ath party to feel secure internally in the regime. Bashar Al-Assad used the opportunity of the death of his father to clean the Ba'ath party house of notable officials by instituting limited party elections (those determined to be too ambitious and/or disloyal were removed from consideration) for the central committee that ended with 62 new members of the central committee being elected for the 90 available positions. By 2002 ¾ of the top administrative officials had been replaced with new additions featuring his brother-in-law and old friends (Becker 2005, Hinnebusch 2011 Fawcett 2017, Karimi and Mousavi 2018, Menshawy 2018).

In 2003 Bashar Al-Assad issued a decree limiting the party's role in appointments to government offices and the public economic sector. The result was a more limited role for the party in the economy, government and a tussle between laws being made via Presidential authority, but that authority being challenged in their implementation. In 2005 this culminated at the Regional Congress with the last remaining Sunni allies of the previous president being removed from office, highlighting the newfound limitations of the party vs the President and Bashar's fondness for a close circle of allies to direct the state. Under Bashar's rule he

attempted to institute a more sectarianised, narrower state that was just as oppressive as the one his father had created (Becker 2005, Hinnebusch 2011, 2012, Phillips 2015, Kasab and Shami 2016, Fawcett 2017, Hadad 2017, Heydemann 2018, Aldoughli 2020).

 Despite Bashar Al-Assad's confident belief that there would be no uprising due to the regime's closeness to the people. The uprising in 2011 destroyed that paradigm that the Assad regime tried to manufacture of Syria as a content, homogenous, and happy society as an outpouring of protest and social media activity emerged countering the regime. The spark in Syria emerged in Daraa following the regime's arrest, torture, and refusal to release several teenage boys who had graffitied anti-regime sentiments on a wall. Slogans in the initial uprisings such as "*The Syrian people will not be humiliated*" speak to a movement that demanded the change that Bashar Al-Assad had promised them when he first came into office. The calls for change came from many spheres of civil society such as Mosques, market squares and in the streets of towns across much of the country representing the cross cutting non-sectarian movement that largely rejected violence and instead marched and showed their dissatisfaction peacefully. This highlights the regime's belief in Syrian exceptionalism as defined by Syrian citizens' loyalty to the regime was not born out in reality (Slim 2011, Leenders and Heydemann 2012, Provence 2012, Zisser 2012, Leenders 2013, Kahf 2014, Littell 2015, Dagher 2020, Lawson 2020, Ungor 2020).

1.5. Bahrain

This section begins with a brief background of Bahrain before discussing regime type and its past challenges, demographics, and the narrative of the uprisings in 2011. This background

similarly to the Syrian one discusses background issues that shall be referred to in the latter chapters but not outrightly discussed. These illustrations are not a monolith, thus different subjects need to be addressed. This section shall briefly address the modern political history in relation to Bahrain's regime and institutions. Then it shall move onto its demography, similarly to Syria Bahrain is a minority led regime but there will also be a brief outline on the number of non-citizens and their treatment due to its relevance in later chapters. Finally, there shall be a brief outline of the 2011 uprisings in Bahrain.

1.5.1. Political History

The Al Khalifa dynasty has ruled Bahrain since the 18th century but from 1919-1971 Bahrain was officially declared a protectorate of the United Kingdom. British colonial rule created reforms to customs, treasury, and law and represented a colonial project not dissimilar to the one in India. Following the second world war Bahrain came under considerable British influence. As Abdul-Rezak (2017) argues *"However, British control over the island was considerable following the conclusion of the Second World War. Established in Bahrain from 1946 onwards, the Political Residency of the region used its base in Manama to maintain British interests and extend control over the Arab Gulf through appointed Political Agents in Kuwait, Oman, the Trucial States (later known as the United Arab Emirates), Qatar and Bahrain"* (Abdul-Rezak 2017 pg.65). The Al Khalifa have traditionally been presented as close allies of colonial rule, a narrative Davidson (2014) has contested. Whatever the truth, colonial rule had a significant impact on governance in Bahrain and their focus on sect differences as opposed to ethnic, cultural, class or linguistic differences can be seen still impacting government today. The challenges to the regime that exist domestically can be traced back in part to these historical forms of governance (Halliday 1974, Onley 2007, Bambery 2012, Fozi 2012, Louer 2013, Davidson 2014, Abdul- Rezak 2017, Strobl 2018, 2020, Al-Shehabi 2019).

However, despite British influence Bahrain has had a long history of protests and democratic demonstrations stretching back to 1920. Methods such as petitions and marches questioning the legitimacy of rule that continued into the 1950's as protests on economic needs and demands for self-determination emerged. Colonial rule thus came under significant internal pressure and faced protests due to the perceived lack of legitimacy. Strobl (2020) argues this by claiming "*The British-installed Emir Hamad bin Isa Al Khalifah had only tentative legitimacy and his colonial state faced intra- and inter-tribal opposition. It also suffered from strong criticism from a mostly Shi'a underclass more indigenous to the island*" (Strobl 2020 pg. 44) and as Moore Gilbert (2016) states "*Calls for reform and attempts to participate in the country's political process, dating as far back as the 1920s, have typically involved representatives of a variety of ideological persuasions from Bahrain's Sunnī as well as Shīʿī communities*" (Moore-Gilbert 2016 pg. 163). These challenges to the regime historically that have continued post-independence has been labelled by Shehabi (2016) as a '*recurring sovereignty crisis*' (Shehabi 2016 pg. 229) stemming from a long and proud tradition of citizens fighting for forms of political change that cut across both ideological and sect affiliation (Bahri 2000, Moore-Gilbert 2016, Shehabi 2016, Abdul- Rezak 2017, Hafidh and Fibiger 2019, Strobl 2020).

Following independence in 1971, in 1973 both a National Assembly was created of which 2/3rds of the members were elected allowing for open debate and representation and a constitution was created. The 1973 elections brought different ideological groups into Parliament with eight secular leftists and nine Shi'a Islamists elected highlighting the ideological divergence in Parliament. The constitution has been described as a '*remarkable document*' by Abulhadi Khalaf (2000) providing a guarantee of political and civil rights according to law. However, the experiment was short lived and as Bahry argues

"From the start, relations between the assembly and the government were contentious. The assembly wanted to exercise full legislative powers. It asked for accountability on government finances, moved to investigate cases of corruption among high officials, and tried to exercise some control over government actions. The government, on the other hand, wanted—and probably had expected—a weak assembly that it could control. A complete rupture between the government and the assembly finally came when the latter refused to ratify a government-sponsored bill that would have allowed— among other things—the arrest and detention of people for up to three years without trial, the so-called State Security Bill" (Bahry 2000 pg. 130).

The law failed to be ratified in Parliament resulting in Parliament's dissolution in 1975. Following this, rule by decree became the norm until 2001 (Bahri 2000, Khalaf 2000, Herb 2002, Mohammed 2002, Al-Shehabi 2012, Gengler 2013, Zunes 2013, Moore-Gilbert 2016, Mabon 2020).

Following the death of Sheikh Isa bin Salman Al Khalifa in 1999 his eldest son Sheikh Hamad succeeded him to the throne and made a series of speeches outlining his ambition to create an era of national unity and internal security following an era of protests demanding the return of a Parliamentary regime and an end to rule by decree. Following a national dialogue, the new ruler soon announced his intention to return to a constitutional monarchy, mimicking Jordan's blueprint for reform including the National Action Charter that was proposed. The logic for reform was to provide some political space and economic co-option in an attempt to provide stability. As argued by Gengler (2013)

"Even if the King's promised political reform initiative proved largely illusory, still its motivating logic was clear: by offering opponents at least some political space in which to operate, and by improving the living conditions of citizens through economic

revitalization and efforts to stamp out corruption, Bahrain could escape from the chronic discontent that had plagued it during the previous decade". (Gengler 2013 pg.56). (Sakr 2001, Khalaf 2008, Wright 2008, Gengler 2013, Al-Serhan, Mashagbeh, and Salameh, 2017, Dana, Beygi, and Hassani 2018).

As argued by Sakr (2001), the marketing of the charter came with substantial liberalisation as demonstrated below

"This was a two-way process in which the Emir, keen on the kingship the charter would bestow on him, circulated among voters and listened to their concerns. On 5 February, just in time to avert an opposition boycott of the referendum, he declared a general amnesty for political prisoners and detainees, announced that Bahraini nationals living in forced exile would be allowed to return and ordered the reinstatement of dissidents sacked from government jobs or sent down from the university. On February 18 he abolished the notorious 1974 State Security Law and, with it, the State Security Court, whose hearings were held behind closed doors with no right of appeal" (Sakr 2001 pg. 230).

In 2001 the National Action Charter was approved with approval reaching 98% demonstrating the optimism of these new proposals despite the ambiguity of the language in the charter. The ambiguity in the language was a sign of things to come rather than the opposition being overcautious, as Wright (2008) argues

"Within the National Charter, there was vague wording on the role that the chambers of parliament would play. It reads: the first council [Majlis Al Nuwab] shall be formed through direct and free elections and shall have legislative attributes. The second council [Majlis Al Shura] shall be appointed and shall comprise people of experience and competence who will offer their advice and knowledge when needed. This was

particularly problematic for the opposition, which demanded a return to the single chamber system outlined in the 1973 constitution. There was also a fear that this ambiguous wording was a disguised way of implementing a bicameral parliament, which would lack any real legislative power." (Wright 2008 pg. 2-3).

The eventual reformed 2002 constitution was delivered without consultation with opposition groups, and it still granted the king numerous powers including the unilateral declaration that Sheikh Hamad was a king. Demonstrating that opposition groups were correct to be wary of the limited reforms that were being offered up. These reforms included the power for the newly anointed king to

"appoint the prime minister, ministers, ambassadors, governors, judges, members of the Consultative Council, members of the Constitutional Court, the commanders of the armed forces, the security agencies and the National Guard, or dismiss them. The King has the right to propose and amend laws, and to conclude treaties with other countries without requiring the ratification of those agreements by the National Assembly. He also has the final say in any disputes that arise between the three branches of government" (Khalaf 2008 pg.4).

In addition, the king retained the ability to rule via decree as long as the decree did not abrogate the constitution, however the king has the right to declare a state of national safety nullifying constitutional protections. These policies produced discontent and a system stacked against those who wished to challenge it with ultimate power being directed inside the monarchy and government. These powers for the king coincided with electoral districts gerrymandered against the Shi'a majority to protect the Sunni minority that was the base of support for the regime ensuring the majority could never prevail in an election to Parliament. The elections that took place in 2002, 2006, and 2010 were gerrymandered to such an extent a Sunni majority

emerged in the lower house and the upper house (which was appointed) had the ability to veto and amend legislation (Bahri 2000, Sakr 2001, Mohammed 2002, Khalaf 2008, Wright 2008, Moore-Gilbert 2016, Kasbarian and Mabon 2016, Shehabi 2016, Fibiger 2020). As Mohammed claimed

> "*Shi'ite Muslim opposition leaders complained that the single-member districts did not take into account the country's "demographics" - a polite way of pointing out that it dilutes the votes of Shi'ites, who constitute 65% of the population. The gerrymandering was so blatant that some districts contain as many as 12,000 registered voters, while others have as few as 500.*" (Mohammed 2002)

The lack of changes despite the reinstituted Parliament was insufficient to satisfy Bahraini's who had wanted deeper democratic reforms producing fair elections for the majority of citizens. Instead of the constitutional changes that were promised delivering fair elections and a strong Parliament as in 1973 the Al-Khalifa remained in control via a neutered bicameral Parliamentary system rather than the empowered and elected Parliament that was promised National Action Charter. This led to boycotts of the 2002 elections with a turnout of just 53.4%. Whilst no-one boycotted the 2006 elections, they did not change the underlying structural problems in the electoral process which was denying the majority of citizens a Parliament that represented them (Khalaf 2008, Gray 2012, Al-Shehabi 2013, Ulrichson 2013, Jones 2014, Husayn 2015, Shehabi 2016, Fibiger 2018, Hafidh and Fibiger 2019, Alsarghli 2020, Mabon 2020).

The opening of Parliament and some form of democratic commitment has been countered by the regime cracking down on what they define as threats not just through gerrymandering electoral districts but broader political restrictions and forms of oppression. Political rights in the constitution are provided not absolutely but through the framework of accordance with the

law. The 2002 constitution for example in article 1 section h proposes *"provided that citizens, either as men or women, have the right to participate in the public affairs, and enjoy the political rights, including the rights to elect and be a candidate according to the constitution and the rules cited by law, where no citizen is derived from these rights as long as he/she is committed to the provisions of law."* (Altarawneh and Alslamat 2022 pg.4). Political freedoms are therefore defined in relation to the law rather than a broader principle of the freedoms themselves creating a gap between the regime and the citizens (Abd 2013, Khalaf 2013, Altarawneh and Alslamat 2022).

One way we can witness this in practice is through legislation regarding political associations. In 2005, law no.26 was enacted defining political associations as "*as organized groups that are established according to the provisions of law and are based upon common principles and objectives, where they work publicly using legislative democratic ways in order to achieve certain agenda related to the social, economic and political affairs for the Kingdom of Bahrain."* (Altarawneh and Alslamat 2022 pg.8). Article 3 of the same law stated that "*the political associations that are established according to the provisions of this law contribute to achieving economic, social and political progress in the kingdom"* (Altarawneh and Alslamat 2022 pg.8). This provided the limitations of political associations that in 2014 was further extended in law no.34 in which section 1 of article 23 stated *"provided that the minister of justice has the right to apply for the civil supreme court to dissolute the association, confiscate its funds and determine the party to which this money belongs, if the association committed a grave offence against the kingdom's constitution, including this law or any other law or if the association did not take a serious action to repair its imbalances in the restricted time in response to a previous judgment issued against it"* (Altarawneh and Alslamat 2022 pg.8). This change to the law gave greater scope to the regime to dissolve political associations that were

seen to violate the country's constitution and a greater focus on national unity was promulgated (Al-Tarawneh 2020, Altarawneh and Alslamat 2022).

The regime has not only used law to limit political freedoms but also coercion creating challenges to the regime before the 2011 uprisings. There were documented incidents in 2007 and 2009 escalating political tensions by cracking down on dissidents as documented by Freedom House *"Security forces cracked down on the government's most outspoken critics in 2007, and the campaign continued through 2008, with dozens of Shiite activists claiming that they were tortured in custody. Violence escalated following the January 2009 arrest of Hassan Mushaima, Abduljalil al-Singace, and Mohammed Habib alMuqdad, three leaders of the opposition political association Haq. Authorities compounded tensions that month when they arrested the popular human rights activist Abdulhadi al-Khawaja for a speech that was critical of the government."* (Freedom House 2010 pg. 57). By the year of 2010, political openness in Bahrain had decreased as the Freedom House index moved Bahrain from the 'partly free' category to the 'not free' category citing *"arrests of prominent members of the Haq political society, an increase in systematic harassment of opposition figures, and worsening sectarian discrimination."* (Freedom House 2010 pg.56).

However, it is not only the institutional arrangements that are important. Just as within the Syrian illustration it is also important to understand the internal dynamics of the Al Khalifa regime. The rhetoric Sheikh Hamid used when coming to the throne in 1999 raised expectations for democratic reform, necessarily creating conflict inside the ruling family amongst those who were determined to remain on the path the regime was on. It has been argued the project for political reform was destined to fail due to the internal dynamics of the regime. The regime like Syria is dynastic as princes hold the key government posts in government and defence highlighting the importance of family bonds in the regime but despite being family there were deep contestations over the path the regime should take (Khalaf 2004, Brownlee 2013, Gengler

2013, Albrecht and Ohl 2016). As Gengler (2013) argues *"The most widespread view emphasizes the obstructionist role of the anti-reform faction of the ruling family led by Prime Minister Khalīfa bin Salmān and supported by fellow senior conservatives in Saudi Arabia. By this account, Shaikh H. amad has simply lacked the authority to push through the relatively more liberalizing policies that he, at heart a political reformist, would prefer and initially believed possible."* (Gengler 2013 pg.55).

1.5.2 Bahrain's demography and accompanying issues

Rather than being Alawite as in Syria, the ruling regime in Bahrain is Sunni and represents the Sunni minority which makes up around 30% of the population. Similar to Syria, the ruling Al-Khalifah regime is a minority sect and rules with that in mind. Just as in Syria this has in part led to the regime facing homegrown opposition to its rule (Louer 2013, Strobl 2018, 2020). Bahrain has just over half a million citizens according to the 2010 census of which 70-75% of them are Shi'a. A more recent census from 2014 noticed an increase of citizenship numbers to almost 600,000 which had primarily been achieved through the naturalisation of the Sunni minority and migrants who were loyal to the Al-Khalifah regime (Mabon 2012, Louer 2014, Jones 2020). The increase of Sunni citizens and the nature of how it came about reflected policies of the regime in its attempts to change Bahrain demographically towards a stronger Sunni presence away from a Shi'a majority of around 70 percent and reflects the problems of legitimacy that the regime has consistently had during its rule (Gengler 2011, Strobl 2011, Mabon 2012, 2020, Louer 2014, Kasbarian and Mabon 2016, Valbjorn 2019, 2020).

Concern for sympathies with Iran has been a long-held issue in Bahrain for those populations who are mobile, but concerns have been strengthened since the alleged Iranian backed 1981 coup attempt. The majority Shi'a population are seen as a potential 'fifth column' by the regime due to perceived ties and sympathy with Iran. The fears are so great it has permeated private

life with a distinction made daily between Shi'a and Sunni citizens who are 'true' and 'untrue' Bahraini's. Bahrain is thus a classic case of geo-political concerns infecting the domestic arrangement of the state via security concerns affecting recruitment in key areas of state and limiting valid political and religious expressions (Barany 2013, Ambrosio 2014, Valbjorn 2019, 2021, Valbjorn and Hinnebusch 2019, Hamdi and Salman 2020).

The fear over demography has affected recruitment into institutions such as the armed forces. The armed forces since the 1980's (following the alleged coup attempt in 1981) have made it its business to not only not admit Shi'a citizens but oppress open expressions of Shi'a identity. This has been accompanied more recently with security forces that are reinforced by foreign conscripts as opposed to citizens from Shi'a backgrounds further lessening the authority of the regime in the eyes of the Shi'a citizens who are deemed such a security risk. This combination has produced an atmosphere where Shi'as are deemed not only unwelcome and potentially disloyal, but a picture of sectarian rule can be painted where the regime attempts to divide and rule (Mabon 2012, 2019, 2020, Al-Shehabi 2013, Barany 2013, Louer 2013, Ulrichson 2013, Ambrosio 2014, Beaugrand 2016, Jones 2016, Fibiger 2018, Alsarghli 2020, Bianco 2020, Hamdi and Salman 2020, Fibiger 2020).

 Institutional discrimination in the regime has been accompanied by the majority of the population facing discrimination and marginalisation on an everyday basis leading to unequal access to economic opportunities, housing, and anti-Shi'a rhetoric being deployed by the regime on a regular basis. This everyday discrimination ensures these are not aberrations but a pattern by the regime. Indeed, during the Bahraini uprising and after the regime also engaged in destroying Shi'a mosques, conducted sectarian profiles, and arrested around 15,000 people highlighting the use of excessive force and discrimination by the police and security services with the Shi'a majority (Strobl 2011, Gengler 2013, Nepstad 2013, Hurd 2015, Moore-Gilbert 2016, Fibiger 2020).

The dynamic of citizen vs non-citizen in Bahrain is also important as well as the sect divide; Whilst the majority of the country are Shi'a, a number of this community migrated from southern Iraq and thus have not acquired citizenship. Not having citizenship but residing in Bahrain is not unusual, after-all Bahrain has a high percentage of the population who are non-citizens and around 50% of the population do not have citizenship. Gulf monarchies such as Bahrain have traditionally relied upon a large migrant workforce even whilst practicing favouritism to citizens and promoting minority group loyalty (Davidson 2014, De Bel-air 2015, Beaugrand 2016, Gest 2020). However, the influx of non-citizens has oftentimes helped shape political dynamics such as economic strikes in 1965 over wages for oil workers as well as the high levels of the Asian workforce being deemed a strategic threat by the regime due to the potential for the potential of upsetting political dynamics in the country. As a result, non-citizens are very limited in what they can do, non-citizens cannot access many rights that citizens can such as property rights, representation through Parliament or the ability to join a trade union and oftentimes poorer guest workers from countries such as Nepal face significant suspicion and high levels of abuse from citizens (Louer 2008, Gardner 2010, Strobl 2011, Sater 2014, Al-Shehabi 2015, Eickelman et al., 2015, Damir- Geilsdorf 2016).

1.5.3. the 2011 uprisings

The popular uprising in Bahrain began on the February 14th 2011, organised as a 'day of rage' primarily by young people and inspired by the revolutionary movements that had brought about the downfall of leaders in Tunisia and Egypt. Bahrain was the biggest incident of protest in the gulf since the beginning of the Arab Springs. Bahrain saw 150,000 of its people fill the streets following an initial 'day of rage' (February 14th) escalating from 6,000 people inside a week (Friedman 2012, Davidson 2013, Brownlee et al. 2015, Gengler 2013, Zunes 2013, Husayn 2015, Stacher 2015, Albrecht and Ohl 2016, Mabon 2019). As Mabon (2019) highlights the

non-sectarian protests demanded the royal family give up powers and give them over to an elected legislature instead. The failure of the reforms to go further in 2002 provided plenty of grievances for the protesters which resulted in the pearl roundabout, a central square in the capital of Manama, being occupied providing a model of an alternative to the current regime. In response, some minor concessions were made such as giving a grant of $2700 dollars to each family and stating they would look at the proposals for change by the protesters. However, this response was quickly tempered by the declaration of a state of emergency by King Hamad in February and continued until June the same year. The state of emergency suspended the rule of law unleashing a brutal crackdown with the imposition of martial law and a curfew imposed. By suspending the law this allowed for greater armed action against the protesters including a violent raid on the protest movement at the Pearl roundabout on February 17th that left 4 dead (Ambrosio 2014, Moore-Gilbert 2016, Shehabi 2016, Fibiger 2020, Mabon 2019, 2021).

The regime has attempted to portray the uprisings as a foreign backed disturbance rather than a domestic political uprising. This perception has been further reinforced amongst the Sunni minority by cleric's fatwa's proclaiming events in Bahrain as the result of a sectarian struggle manipulated by Iran. The regime thus utilised politically active Sunni Muslims as a way of trying to break the mostly Shi'a uprising against the regime. These episodes allow for a reflection that sect differences have been used as a tool by the regime to explain discontent and a lack of authority, but this does not adequately explain challenges to the regime that emerged, indicating a deeper malaise inside Bahrain than simply a 'foreign backed coup' (Alhassan 2011, Louer 2013, Shehabi 2016, Mabon 2019, Valbjorn 2020, Alrasheed and Mabon 2021).

The uprisings therefore presented the regime with a challenge that it needed to respond to. In chapters 4,5, and 6 this response shall be discussed in relation to the broader theoretical themes of the thesis. The Bahraini regime had promised political reform but delivered a watered-down version of change guaranteeing the political supremacy of the regime and a minority led

government that struggled to respond to political calls for change. The inability to adequately respond to demands for change ensures that the country was not unified as was promised by the newly crowned king following the 2002 constitutional changes but rather deeply divided and provided the background for the uprisings in 2011.

1.6. Egypt

1.6.1. Egyptian political history

The thesis addresses regime's responses to uprisings. Due to the space constraints of the project, the thesis is limiting itself to the actions of the Mubarak regime. This section shall briefly analyse key aspects of Egypt's political history in relation to the themes addressed in the thesis itself, followed by a brief outline of the 2011 uprisings that eventually brought about the resignation of President Mubarak. In this section of the introduction, I shall briefly discuss the demography, the previous use of emergency laws and a brief discussion on the structure of the Mubarak regime.

Egypt like many countries in the region had a growing 'youth bulge' before the uprisings which as detailed in the following section played a role in the uprisings. Egypt was suffering from a 'youth bulge' as Egypt had seen a 65% increase in people aged 16-25 from 1990-to 2011. Indeed, 52.3% of the population at the time of the uprising was aged 25 and below which put pressure on the economic performance of the regime (Yount and Sibai 2009, Anderson 2011, Goldstone 2011, Fadel 2011, Hess 2013, Egypt Demographic and Health Survey 2014, World Bank 2020). Not only was there a 'youth bulge' affecting the demographics of Egypt but there is a plurality of identities. Egypt is an example of a religiously fairly homogenous society with 80 percent of the population being Sunni Muslims with the Coptic Christian population making up between 9-15% of Egypt's total population making them a sizeable minority much bigger

than the approximate 1% Shi'a minority with a heavy Sunni majority of around 84% ensuring there is not just a question of intra and inter-sectarian rivalry but a focus on the 'moderate' vs 'radical' division past regimes have attempted to paint (Brownlee 2002, Rowe 2009, Iskander and Dunn 2010, Ibrahim 2011, Albrecht 2015, Al-Anani 2015, Brown and Dunne 2015, Saleh and Kraetzschmar 2015, Ardovini 2016, Brooke 2017, Ben Lazreg 2021).

Despite the relatively small size of both of these minority groups, there have still been Intra-sectarian and inter-sectarian struggles as shall be discussed in later chapters. Not only does Egypt have a pluralistic religious population there is a distinction between the urban population and the Bedouin nomadic population which has been separated from the modern Egyptian state with exclusions such as being barred from the army until 1947 and only coming under the same administrative system in the latter half of the 1950's. Despite this, the Egyptian state has been historically keen to incorporate tribal and Bedouin areas under their control as argued by Husken (2017)

> "*Gamal Abdel Nasser's regime in Egypt brought new ideas and new rules of the game to the Awlad 'Ali. An Egyptian national identity was intensively promoted and also brought to the Bedouin. The concept of the territorial integrity of the nation-state consolidated the demarcated and protected borders introduced by the colonial powers. The centralized Egyptian state claimed and implemented its monopoly on violence and political power. However, this did not mean that spaces for Bedouin activity in the borderland disappeared.*" (Husken 2017 pg.901).

There were around 20,000 tribal Bedouins living in the Sinai in 2003 with thousands more tribal citizens living around Egypt such as in the port city of Marsa Matrouh (Cole 2003, SEAM 2004, Yamamah et al., 2013, Husken 2017, Gormus 2020).

Emergency laws have a historic use in Egypt as a way of managing political crises. Indeed, before independence, Egypt was ruled under martial law in 1914 and only ended once the country declared its independence in 1922. Once independent, Egyptian authorities still found the power useful with the constitution of 1923 including provisions for emergency law and the 1971 constitution that remained in force until the 2012 redrafted constitution also contained a provision for martial law to be implemented. A declaration of martial law has not been uncommon with it being used in 1939, 1948, 1952, 1956, and 1958 representing the normalcy of the emergency. Following the use of these, in 1958 a more comprehensive 'emergency law' was made which is what has guided more recent declarations of 'states of emergencies'. The 1958 law of emergency gave the president authority to arbitrarily detain citizens, restrict freedom of assembly as well as conduct searches without a warrant making it more comprehensive than the previous martial law (Reza 2007, Feuille 2011, Aziz 2011, Liguori 2012, Maswood and Natarajan 2012, Rutherford 2013, Selim 2015, Ardovini and Mabon 2019, Carnegie 2019). This law of emergency lasted for a significant period of time as Reza (2007) outlines

> "*The 1958 declaration of emergency itself was lifted in 1964, but a new declaration followed in 1967, upon the outbreak of the Six Day War with Israel. That declaration lasted through the death of Nasser in 1970, the election of President Anwar Sadat and the adoption of the current constitution in 1971, the 1973 war with Israel, and beyond. It was finally lifted in 1980, but a new declaration followed in October 1981, hours after Sadat was assassinated by Islamist militants. That declaration of emergency remains in force today, having been renewed roughly every three years by Sadat's successor and Egypt's current president, Hosni Mubarak*" (Reza 2007 pg. 536-537).

The 1971 constitution gives the President the right to declare an emergency but only for a limited period and extensions must be approved by the Assembly and in keeping with the

manner of the law. This means the declaration of the emergency is subject to the bounds of the 1958 emergency law. However, despite these 'on paper' limitations to both the declaration of emergency, the time limitations and actions committed during the emergency the 1971 also gave substantial abilities for regimes to acquire substantial decisionist powers outside the scope of an official 'emergency (Marsot 2007, Reza 2007, Feuille 2011, Ardovini and Mabon 2019, Tamburini 2021). Indeed, the 1971 constitution was

> "*further strengthened by the addition of articles that grant the presidency extraordinary powers when faced by a crisis, even if such is not deemed imminent enough to require the official declaration of a state of emergency. In particular, Art. 74/1971 authorizes the president to enact extraordinary measures 'should there emerge an instant and brave risk that threatens national unity or safety of the motherland or obstructs the performance by State institutions of their constitutional role', while Art. 48/1971 allows state censorship to be imposed on all forms of expression 'in case of a declared state of emergency*" (Mabon and Ardovini 2019 pg.463).

Thus, whilst there have been 'on paper' restrictions the additions to the constitution provided plenty of scope for extensions as well as increasing the scope of regime action beyond martial law and into several areas such as censorship of the press. Furthermore, whilst the Assembly does extend the emergency law every three years, under Mubarak this was never denied ensuring a continuous state of emergency from 1981 onwards (Reza 2007, Feulle 2011, Mabon and Ardovini 2019, Tamburini 2021). The additions to the 1971 constitution did not stop at the ones stated above. In addition to the lack of constitutional limitations impeding the use of the emergency, laws such as the 1992 'anti-terror' law as well as in 2006 further constitutional amendments such as article 179 that further extended the regime's ability to conduct 'anti-terror' operations which read as

> "*The State shall be responsible for protecting security and public order from the dangers of terror. The law will set stipulations concerning procedures for investigation and identification of suspects which the state deems necessary in confronting these dangers, provided that the procedure stipulated in the first clause of article 41 and 44 and the second clause of article 45 of Constitution [shall] not obstruct such an effort. All will be carried out under the oversight of the judiciary. The President has the right to refer any crime of terrorism to any judicial authority under the Constitution or the law.* (Reza 2007 pg.451).

Therefore, the constitutional provisions go beyond mere additions made during 1971 but provided the Mubarak regime with ever greater mechanisms to rule via the emergency. Indeed, Mubarak could as stated above could refer suspects to courts of his choosing nullifying domestic constraints on the regime's ability to prosecute those who were charged with terror offenses. Whilst Sadat removed emergency measures shortly before his assassination in October 1981 and Mubarak's initial promises of reform, Egypt is an illustration of rule via emergency with little practical safeguards limiting regime action which has been taken not only against terror groups but non-violent domestic political actors which can be seen not just in the arbitrary arrest of political opponents but also the refusal to license 12 new political parties between 1981 and 2004 (Brownlee 2002, Hashim 2011, Hassan 2011, Heiss 2012, Liguori 2012, Ferguson 2015, Luhrmann and Rooney 2019).

Whilst Egypt has ruled via the emergency allowing it scope to make decisions with few limitations under the Mubarak regime (1981-2011). Before the uprising Egypt was considered a 'hybrid model' where some protest and political difference was allowed but political competition did not truly exist. The regime was "*highly centralized, with power concentrated in the presidency. The ruling party, the National Democratic Party (NDP), simply conveyed the president's will.*" (Tudoroiu 2011 pg.379). However, the regime was not as simple to

analyse as simply 'Mubarak's will rules all'. Indeed, as Herb (2003) argues *"what has prevailed in Egyptian politics over the last quarter of a century has been an uneasy and gradual accommodation between a presidential system resting on the institutional dominance of the governing National Democratic Party and a range of political forces, religious movements, and economic elites"* (Herb 2003 pg.269). Political difference did exist with elections taking place and parties such as with the Muslim Brotherhood contesting them even though the opposition was subject to the regime oppressing it via a variety of measures and had no chance of electoral victory, however *"participating in Mubarak's National Democratic Party (NDP) dominated legislature served its interests by giving it access to parliamentary tools and privileges that allowed it to gain information, increase its popular profile, articulate political positions, and force the Mubarak regime to repress it both through electoral manipulation and arrest campaigns.* (Loidolt and Mecham 2016 pg.999). Thus, whilst domestic political difference did exist in the Assembly and in civil areas leading to action against the regime such as strikes this did not function as a real 'opposition'. However, despite this *"Although Egypt arguably had a more creative civil society than did Tunisia, the former's specifically political society was and is woefully underdeveloped."* (Stepan and Linz 2013 pg. 25). Indeed, in suppressing civil society and political opposition the regime was happy to use a variety of measures such as arrest, censorship and even ignoring bills proposed in Parliament to enforce its political will (Herb 2003, Durac 2009, Springborg 2009, Tudoroiu 2011, Kielne 2013, Rutherford 2013, Stepan and Linz 2013, Loidolt and Mecham 2016).

The Mubarak regime (1981-2011) has ruled via the emergency, but it is also necessary to analyse other aspects of the regime's rule such as coup proofing. In Egypt, the armed forces are to a greater degree institutionalised as personal ties that are reliant upon primordial identities such as tribe, sect or family defied personalisation of military, security, and police structures giving some degrees of separation between Mubarak and the military. Mubarak's

coup proofing strategy therefore unlike in Syria which was predicated largely upon communal and family identity was building distinct institutions to hold the others in check. Mubarak's coup proofing engaged counterbalancing techniques which is a process described by Nassif (2015) as *"In brief, by keeping the armed forces weak, the counterbalancing technique shields the regime from coups d'état, despite the officers' malaise, because the loyalty of the police and other internal security organizations to the ruling elite creates an equilibrium that is unfavorable to military intervention"* (Nassif 2015 pg. 254). In Egypt under Mubarak this was achieved by building up *"the Ministry of the Interior, which controlled the Central Security Forces, the Egyptian National Police, and the State Security Investigations Service (SSI)"* (Mietzner 2014 pg.439) (Harb 2003, Mietzner 2014, Nassif 2015, Albrecht 2015, Albrecht and Ohl 2016, Koehler 2017, Hussein and Martino 2019).

Mubarak attempted to counterbalance the regime through various ways, one of which was different levels of funding. As argued by Koehler (2017)

> *"A parallel trend was the growth of the non-military security apparatus. Throughout the 1990s and 2000s, the budget of the Egyptian interior ministry grew at a much faster pace than did the defense budget. While Egypt spent on average 3.5 billion EGP annually on the ministry of interior in the 1990s, this figure grew more than six-fold to reach about 20 billion in the late 2000s; during the same period, by contrast, the military budget only doubled."* (Koehler 2017 pg.371).

By providing different levels of funding provided a challenge to the military's hegemony in government. Indeed, the military's reduced representation in top-level political positions is described by Koehler (2017)

> *"The number of military officers holding government offices declined steadily: while 35.6% of the 131 ministers serving under Nasser (1952–1970) hailed from the military,*

this proportion declined to 19.6% of the 163 ministers serving under Sadat (1970–1981) (Hilal, 2006: 162–163 and 189) and to less than 10% of the 120 ministers serving under Mubarak up to 2005 (Stacher, 2012: 156)" (Koehler 2017 pg. 371).

This highlights how the Mubarak regime attempted to balance different institutions in the regime increasing the role of the ministry of the interior and decreasing the military's presence. As shall be discussed in chapters 4, and 6 this had an impact on the functioning of the regime. Despite these changes, the Egyptian military remained a considerable force in Egypt under Mubarak. This was most prominent in Egypt's economy where the military accounted for almost 40 percent of the Egyptian economy in the Mubarak era which was used to oftentimes buy the loyalty of the Egyptian armed forces. Thus, rather than communal loyalty, the armed forces oftentimes received economic rewards for their non-political actions further differentiating it from both Syria and Bahrain and whilst the Egyptian military played a reduced role in Mubarak's regime, it still remained a substantial presence (Hilal 2006, Henry and Springboard 2011, Bellin 2012, Stacher 2012, Brooks 2013, Nassif 2013, Makara 2016, Koehler 2017, Florea 2018, Zollner 2021).

The lack of personalisation was therefore distinctively different from the Syrian regime as Bashar Al-Assad cultivated personal ties. Despite this, there was an attempt of dynastic succession with Gamal Mubarak (Hosni Mubarak's son) put in a position to take over the presidency and presented as a young reforming influence against the dogmatic old guard of the National Democratic Party (NDP). The NDP as Stacher (2020) argues *"was never an institutional anchor capable of resisting centralised executive authority"* (Stacher 2020 pg. 121) and *"The ease with which the ruling party incorporated the President's son, and his associates revealed the inability of the party's established elite to defend their space."* (Stacher 2020 pg. 121). The young Mubarak was given a public and policy profile such as being the lead of important delegations to the United States on two occasions in 2003 and attempts to

lead policy changes to areas such as health, education and the economy via the party's policies secretariat created at the party congress in 2002. However, Gamal Mubarak failed to cultivate the same ties to the hierarchy as Bashar Al-Assad managed. This was in part due to Gamal not taking control of the party framework unlike Bashar Al-Assad whilst simultaneously promoting a new generation of the entrepreneurial business class attempting to reform the regime and side-line key players such as the military creating a rivalry between these two elite groups. Hosni Mubarak's refusal to appoint a vice president and clear successor only elevated these factional suspicions leading to a disjointed regime that had inner competition for prestige under Mubarak and life after him (Brownlee 2007, Zahid 2010, Sawaf 2013, Batera 2014, Albrecht 2015, Stacher 2020)

1.6.2. Egyptian Uprising

Following discussing the political conditions in Egypt before the uprising, this section shall briefly discuss the uprising itself. The protests against Mubarak followed a similar vein to the uprising against Tunisian president Ben Ali with the protesters fighting against the contempt for them and the ruthlessness they saw the Mubarak regime used in order to stay in power. The uprising was preceded by calls for disobedience as *"protests and calls for civil disobedience by what was known as the April 6 movement, as well as protests by the Egyptian Movement for Change – Kifaya"* (Nassar 2011 pg.5) providing proof January 25th was not spontaneous or unexpected but the product of deep dislike of the Mubarak regime (Nassar 2011, Owen 2012, Joffe 2013, Hove and Ndawana 2017).

 Demands for economic reform as well as social justice were key during the uprising. Economically, Egypt was suffering with few prospects for work (Anderson 2011, Fadel 2011, Goldstone 2011, Hess 2013). Poverty remained stubbornly present in Egypt as Fadel (2011) argues *"the rate of Egyptians living on less than $2 per day remained at a stubbornly high*

20%, and real wages for the working class stagnated. Benefits of growth during the Mubarak era generally went almost exclusively to those sectors of Egypt that were already relatively well-off, and the class of crony capitalists close to the regime especially benefitted" (Fadel 2011 pg.294). This has been considered to have been one of the drivers for the uprisings, as argued by Hess (2013) *"In Egypt and Tunisia, this large, educated youth cohort became increasingly frustrated with its poor job prospects, which likely played a major role in fuelling recent unrest."* (Hess 2013 pg. 257). However, it was not simply a matter of economic mismanagement driving a desire for change. Demands for greater freedom were crucial to the development of the uprising in Egypt. Just one example of the demands for freedom came from the '*We Are ALL Khalid Said'* movement, a movement founded to honour Khalid Said, an Egyptian blogger who was killed by police for sharing a video of police divvying up the proceeds of a drug bust. The brutality of the police became a symbol of the lack of political freedom experienced by Egyptians under Mubarak (Anderson 2011, Fadel 2011, Goldstone 2011, knickmeyer 2011, Spindel 2011, Snider and Ferris 2011, Hess 2013).

On the 25[th of] January 2011 the uprisings began and the date was symbolic as a national holiday that is the 'national police day'. The uprisings began with approximately 10,000 Egyptians attempting to gather in Tahrir square to openly protest against poor economic conditions, police brutality, corruption, and political repression. The regime attempted to stop the protesters from reaching the square and *"in fact, the main struggle on January 25 was between protesters trying to reach the square and security forces attempting to stop them from doing so. The day ended violently, when the police used all their force to clear the square"* (Nassar 2011 pg.6). Mubarak ordered the armed forces and police to disperse the protesters firing tear gas to which the protesters responded by throwing stones and trying to force the police and non-state militias out of the space. Whilst the square was cleared on the 25th, it was reoccupied on the 28th and would continue to be so until Mubarak resigned on February 11th (Anderson 2011, Nassar

2011, Halverson et al., 2013, Nepstad 2013, Lang and De Sterk 2014, Chaudhary 2015, Al-Sowaidi et al., 2017, Puspitasari 2017).

Tahrir square thus became a symbol of the revolution against the regime, denying the regime's legitimacy and right to rule over Egypt. It acted as an autonomous space that the regime could not control. Once the protesters made it to the square, Tahrir Square quickly became a focal point for the protests as the square *"played a pivotal role in the first days of the revolution because it became the site of contention between the symbols of the state (the Central Security Forces) and the protesters."* (Nassar 2011 pg. 6). The square not only represented a historical meeting point in Cairo but rather *"housed a complete alternative 'society-under-construction', which functioned as a social laboratory, as a place where alternatives could be formulated and experimented with"* (Van De Sande 2013 pg. 234). It was described as liberated ground that ran autonomously from the regime including security checkpoints controlling who came in and out of the space and also included giving economic, food, and health assistance as well as defying the regime politically by remaining in the square and chanting slogans such as *"Hū yalbas ākhar mawḍah wa-ḥna ni-nām al-ʿashrah bi-ʾuḍah. [While [the president] wears the latest fashion trends, ten of us sleep in a stuffy room.]"* (Al-Sowaidi et al., 2017 pg.631) and *"Ya mubārak ya khasīs dam Al-Miṣri mush rakhīṣ. [O Mubarak, the wicked! the blood of the Egyptian is never cheap.]"* (Al-Sowaidi et al., 2017 pg.640) and "*The people want to bring down the regime*" (Mellor 2014 pg.83) (Anderson 2011, Attia 2011, Nassar 2011, Fathi 2011, Nepstad 2013, Van De Sande 2013, Mellor 2014, Chaudhary 2015, Al-Sowaidi et al., 2017, Puspitasari 2017).

 The protests grew from 10,000 on the 25th to an estimated 100,000 just three days later on the 28th called the 'Friday of anger' which also included prisons being broken into as well as government buildings being burned (Anderson 2011, Spindel 2011, Nepstad 2013, Saidin 2018). The protests continued to grow as public opinion turned increasingly against Mubarak

following the battle of the camel (an attack on protesters by pro regime supporters at Tahrir square) despite his pleas for protesters to go home. As stated by Nepstad (2013) merely 5 days following the battle of camel and his emotional plea for the demonstrators to return to their homes "*By 7 February, 1.5 million people gathered in Cairo to demand regime change. To stop these demonstrations, Mubarak made several concessions, including a promise to not seek re-election. But civil resisters were not appeased and protests continued.*" (Nepstad 2013 pg. 342). On February 10th the Supreme Council of the Armed Forces (SCAF) presented Mubarak with the option to step down voluntarily which he did the following day. The revolution initially on the face appeared to have ousted the regime or at the very least the leader of the regime as the size of the protests continued to grow in scale (Teti and Gervasio 2012, Nagarajan 2013, Nepstad 2013, Wynne-Hughes 2021).

1.7.   Research methodology

1.7.1. The theoretical analysis of the thesis and its relationship with the practical

The central claim of the thesis is that exceptionalism as a theoretical conception of a sovereignty is an unsatisfactory account. Drawing on the claims by Carl Schmitt who argues '*sovereign is he who decides on the exception*' (Schmitt 2005 pg.1) the thesis analyses how sovereign decisionism rather than being an identifier of sovereignty undermines such a claim. Whilst the thesis focuses on Schmitt's decisionism there is also a brief analysis of Agamben's development of Schmitt's decisionism into 'the state of exception'. However, Agamben fails to address the fundamental political features which Schmitt lays down for exceptional governance that leads to its unravelling which is the focus of the thesis. As a result of this difference, the thesis analyses and critiques Schmitt's political conception of exceptional governance fostering sovereignty as a stronger route to challenging the claim that '*sovereign*

is he who decides on the exception' (Agamben 1995, 2008, 2011, Schmitt 2005, Neal 2007, Husymans 2008, Hopkins 2019).

The main claim of the thesis that sovereign decisionism unravels itself is achieved via analysing Caporaso's (2000) 'sovereign traits' of power, authority, and citizenship. By interpreting these features through literature reviews and applying them to Schmitt's political girders upholding the functioning of the decision, it is possible to identify how Schmitt's conception of sovereignty via the decision becomes self-defeating. This is achieved in two ways. First, by locating Schmitt's features of sovereignty that act as support for the decision within the framework of these sovereign features such as unity, homogeneity, the sovereign 'god' and the *friend-enemy* dichotomy affecting power, citizenship, and authority of the sovereign (Caporaso 2000, Schmitt 2004, 2005, 2008, 2008). Second, this theoretical observation can be illuminated via the use of the illustrations. The use of illustrations is a method by which to explore the potential of the theory practically. This is not uncommon when discussing exceptional governance, with Agamben's book *The State of Exception* (2005) using America and revolutionary France as prominent examples of the state of exception or Schmitt using communist regimes to describe the *friend enemy* dichotomy (Caporaso 2000, Agamben 2005, Schmitt 2005, 2008, 2008, 2014). By using the illustrations of Syria, Bahrain, and Egypt during the Arab Spring uprisings, this allows the thesis to highlight how Schmitt's political girders underpinning his claims to sovereignty break down and undercut the sovereign power of the decision.

In order to break down Schmitt's claims about sovereignty, there is a focus on domestic sovereignty operated in the Westphalian world that we exist in i.e., a world where outside interference from fellow Nation States in regime arrangements is not guaranteed or even likely to take place. Rather than focusing on 'outside sovereignty' e.g., Krasner's conception of Westphalian sovereignty relying upon international recognition of a state being established,

this thesis analyses Schmitt's claims to sovereignty by focusing on the necessary features for regimes to acquire internal sovereignty. Caporaso's theory of necessary sovereign characteristics allows for a useful base to analyse Schmitt's claims of sovereign decisionism=sovereignty via his political foundations of unity, homogeneity, and the *friend* enemy dichotomy from a thick theoretical base and this is practiced internally as opposed to externally (Barnett 1995, Krasner 1999, 2001, 2009, Caporaso 2000, Steinburg 2004, Loughlin 2013).

This is a theoretical thesis analysing sovereignty and the necessary features by which regimes maintain sovereignty. Political theory is a branch of study addressing conceptual, normative, and evaluative questions rather than focusing on distinctively empirical studies such as election studies. This is not to dismiss the possibility of the two interlinking; indeed, this thesis uses empirical illustrations to highlight the theoretical claims made. By using illustrations this makes the theory easier to comprehend demonstrating the arguments more clearly for readers. I take the approach of Carrens (2004) who argues "*Theories aim to generalise and that inevitably entails abstraction from particularity, but sometimes theories are presented at such a level of generality and abstraction that it is hard to tell what it really means*" (Carrens 2004 pg.118). Using an illustrative approach by clarifying function of the theory makes both the reader and the author conscious of the issues that need to be addressed in the theory via the practical. As argued by Modood and Thompson (2018) "*it is through the exploration and evaluation of multiple contexts that general principles are devised, revised and refined*" (Modood and Thompson 2018 pg. 340) (Grant and Giddings 2002, Carrens 2004, Gerring 2004, Erman and Moller 2015, Laegaard 2016, List and Valenti 2016, Modood and Thompson 2018). By using the illustrative approach, this simultaneously achieves greater depth for the theory whilst bringing it to life, attaining greater clarity and easing understanding for the reader giving the thesis a distinctive advantage by using illustrations as opposed to only theory.

The descriptive does not necessitate a belief in what ought to be or recommend actions someone should take because they are good or worthy. This approach is described by Reeves (2017) as "*A descriptive social or political theory simply identifies and examines those standards whereas a normative theory formulates statements as to what standards a political community ought to follow or be based upon."* (Reeves 2017 pg. 177). Schmitt's approach was descriptive in the sense he believed liberalism offered an insufficient definition of the political and inhibited democracy, his solution aimed to solve those apparent problems by describing the political and the powers of the decision as he saw them. This thesis therefore addresses Schmitt on his own terms via description and challenges Schmitt's descriptive claims about the political and his conception of sovereignty that is illustrated practically. This approach can be demonstrated by a quote from Raekstad (2015) *"The role of the political theorist is, minimally, to seek to understand this domain of real politics and political agency, and then to contribute, in some way, to improving the actions of the agents involved."* (Raekstad 2015 pg.228). Improving the actions in the context of the thesis is not meant to produce nicer or kinder actions necessarily, but rather to identify the limitations of decisionism and authoritarianism in relation to sovereignty. This could be viewed as a form of realist theorising which is as argued by Rossi and Sleat (2014) and Jubb and Rossi (2015) as firmly in the tradition of Schmitt who argued for the autonomy of politics away from other spheres such as morality. This realism does not limit the ambitions of theory but rather enables thinking about theory practically and functionally, as stated by Newey quoted by Horton (2010) *"To say that political philosophy should address the nature of political practice is not to condemn the discipline to unambitious descriptivism. It is, however, to engage with the phenomena of politics as they are."* (Horton 2010 pg.436) (Scheuermann 1993, Baubock 2008, Brennan and Hamlin 2009, Horton 2010, Vinx 2010, Baderin 2014, Rossi and Sleat 2014, Jubb and Rossi 2015, Raekstad 2015, Meierhenrich and Simons 2016, Reeves 2017, Ackerly et al., 2021).

Whilst the thesis is a theoretical one, by using illustrations to highlight the theory itself, greater lessons can be learned for why authoritarian regimes struggle to maintain stability in the real world. This addresses Schmitt via the feasible and the real which is appropriate given his own arguments focusing on the concrete outcome i.e., descriptive claims about the nature of the political and the role of the sovereign. Indeed, Schmitt's attacks liberalism via this concrete thinking as stated by Mehring (1997) *"Schmitt declared the liberal understanding of politics to be fundamentally inadequate. Since his diagnosis of the functional weaknesses and structural problems of the Weimar Republic emerges from a diagnosis of the self-annulment of liberalism into a new "democratic" irrationalism"* (Mehring 1997 pg.113). Whilst feasibility has traditionally been used in normative political theory via Valentini (2012) and Freeden (2012), it can also be used in descriptive political theory by focusing on the limits of political possibilities and the necessity to interpret events that can be presumed to take place affecting the reliability of political description. This has been argued both by Rawls (2001) citing feasibility as "*Probing the limits of practicable political possibility*" (Rawls 2001 pg.4-5) and by Gilabert and Smith (2012) who claim "*A state of affairs is infeasible if it ignores the momentum or inevitability of certain events*" (Gilabert and Smith 2012 pg. 811). Given Schmitt attempts not only to diagnose what he claims is the fatal weakness of liberal democracies but applies an exceptional solution, if the theory ignores the inevitably of certain events it affects its feasibility. Schmitt's description of sovereignty is therefore treated as unfeasible by virtue of the decision necessarily creating instability and a challenge to sovereignty in ways he had not imagined that are brought alive via the illustrations (Dyzenhaus 1996, Mehring 1997, 1999, Rawls 2001, Freeden 2012, Valentini 2012, 2018, Gilabert and Smith 2012, Smith 2013, Laegaard 2015, Raekstad 2015, Sleat 2016, Prinz 2016, Southwood 2018, Cozzaglio and Favara 2021).

1.7.2. The illuminating illustrative approach

The thesis is of a theoretical nature which uses three illustrations in the Arab Middle East to illuminate the theory. By using comparative illustrations this bring the theory to life practically highlighting specific instances where the exception does not deliver sovereignty as Schmitt claims. This occurs in two keyways, first by illustrating exceptionalism in episodes where the decision has been implemented. Sovereign decisionism has not been the exemplification of sovereignty as Schmitt suggested during episodic crises that can be witnessed via the illustrations. The decision has either been ignored, contested, or followed and exacerbated the crisis faced by the regimes. Second, the use of comparative illustrations highlights the traits Schmitt identifies via different contexts. The different contexts in which we can witness Schmitt's sovereign traits breakdown highlights the theoretical limitations of his claims that the decision= sovereignty and rather than enforcing sovereignty the decision weakens it, sometimes fatally so. By using more than one context, this allows the thesis to go beyond mere context but illustrate the theoretical break that occurs in Schmitt's theory.

The thesis applies sovereign decisionism in the Arab Middle East, specifically on regimes which had previously been thought of as examples of authoritarian stability. The comparative illustrative method also allows the thesis to question authoritarian methodologies thought to sustain stability. Authoritarian techniques such as sectarianism and coup proofing are understood via the Schmittian lens of unity, homogeneity, *friend-enemy* dichotomy, and the sovereign 'god' allowing the thesis to practically illustrate the seeds of instability and a lack of sovereignty located in Schmitt's thought practically. Schmitt's claims to sovereignty therefore are contested theoretically and illustrated through the practical highlighting the theoretical breakdown of his claims.

The use of comparative illustrations gives greater explanatory power to the theory than simply a theoretical account alone making scholars more aware of disagreements and opening up the conversation more effectively for specific expression. This is supported by Carens (2004) who argues *"Different people may accept some theoretical account only because they interpret it differently and are implicitly using conflicting examples as illustrations of the theory. If they bring their conflicting examples to light, they become aware of their disagreements and can pursue the issues more effectively"* (Carens 2004 pg.121). As March (2009) argues political theory is almost always comparative by its nature, comparative studies of thinkers, ideas, and how they are adopted is necessary to conduct the practice of political theory. Comparative illustrations therefore allow for an easier route to understanding and demonstrating theoretical claims once generic similarity and difference have been found. It has been argued by scholars such as Dallmayr (1997) that shared meanings emerge necessarily from interaction with others not similar to one another, by using illustrations that are necessary different to illuminate the theory this can help create a shared meaning. The greater the range of possibilities used with sufficient detail, the greater the chance of revealing accidents vs essences. (Smith 1957, Elder 1976, Dallmayr 1997, 2004, Carens 2004, Nasstrom 2007, March 2009, Thai et al., 2012, VonVacano 2015).

This thesis seeks to demonstrate that Schmitt's claim that the decision=sovereignty is contestable, and his framework ultimately breaks down undermining his claim. There is not a positive theory for sovereignty described in the thesis, rather than analysis of how Schmitt's breaks down highlighted by particular illustrations testing the theoretical claims of the thesis. Whilst comparative illustrations can ignore a potentially large number of variables undermining the notion of a general theme, this has been countered via the selection of the illustrations that are simultaneously most similar and most different. These similarities as well as differences allows the thesis a greater breadth of explanatory power with differing

decisionist regimes and eliminates the claim that it applies only in a specific case or under peculiar circumstances that can be restricted to a specific illustration. By using multiple illustrations to illuminate the theory, this allows the thesis to be more confident in its approach giving it a high degree of conceptual This helps avoid claims of false uniqueness and false universalism by illuminating how this specific claim of sovereignty can be seen to breakdown in a variety of contexts (Lipjhart 1971, Achen and Snidal 1989, Rose and Mackenzie 1991, Yin 2003, Gerring 2004, George and Bennett 2005, Mahoney 2007, Halperin and Heath 2017).

The illustrations share significant similarities such as using authoritarian methodologies used to create stability and having a long period of decisionist authoritarian governance in Syria, Bahrain, and Egypt but also have significant differences aiding the explanatory power of the theoretical claims. These differences exist in several areas such the levels of homogeneity in the population, in Egypt for instance the population is mostly Sunni Muslim and is highly homogenous which is not the case in Bahrain and Syria. They also exist in regime dynasticism, in Syria Bashar was the son of the previous ruler and in Bahrain the royal family dominate the regime but in Egypt despite an apparent attempt at dynasticism from Hosni Mubarak, Gamal Mubarak never became leader of Egypt. The levels of authoritarianism also differed, in Syria the regime did not allow for almost any open expression of difference or challenge, in Egypt despite being authoritarian there was greater ability to protest and express difference and in Bahrain this fluctuated over time. Whilst all the illustrations practiced coup proofing this was managed differently in each illustration- some such as Syria went for a tribal and sect approach whereas in Egypt there was a build-up of different ministries and economic handouts were given to deter competition. Furthermore, tools of legitimation differed between the regimes, some such as in Syria and Bahrain relied upon sect difference to manipulate existing identities whereas in Egypt this was not possible due to the homogeneity of the populace. There are therefore a wide range of differences that apply in the illustrations that eliminate a single causal

factor for the challenge to them that appeared during the Arab springs. However, they do have one distinctive similarity, and that is rule via the decision (Nagar and Smolska 2009, Al-Rasheed 2011, Tartoussieh 2011, Gengler 2013, Khanna 2012, Katzman 2013, Ulrichson 2013, Diwan 2014, Dukhan 2014, 2021, Hamid 2014, Ibrahim 2014, 2015, Gelvin 2015, Elgati et al., 2015, Littell 2015, Lund 2015, Moritz 2015, Ramzy 2015, Bronwyn 2016, Machlis 2016, Pearlman 2016, Armbrust 2017, Pin 2017, Corstange and York 2018, Darwich and Fakhoury 2018, Reiff 2018, Achcar 2019, Valbjorn 2019, Alsarghali 2020, Heydemann 2020).

1.8. Thesis Structure

This section briefly outlines a synopsis of each chapter. This allows for an understanding of both what is presented in the chapters of the thesis but also further clarification on the argument that is being presented throughout. The following two chapters focus on the theoretical framework that guides the arguments in the thesis, whereas the following three chapters bring in a more practical approach. The practical approach conducted via the illustrations adds depth and helps readers understand the theoretical claims made throughout the thesis.

The first chapter outlines a discussion on the emergency situation that leads to exceptional governance. It does this through both Schmitt and Agamben, despite the fact it is Schmitt that is focused on, Agamben is still an important author to focus on to highlight the differences between him and Schmitt and allows the chapter to create space to explain why the focus goes on Schmitt as opposed to Agamben. Whereas Agamben sits firmly inside the liberal democratic framework, Schmitt takes a different approach as more open to sovereign decisionism. Not only is Schmitt more flexible in how the decision operates and the ability to contain it, but his political structure underpinning the decision is different. Finally, the question of space emerges, the thesis being limited to 100,000 words ensured that both theorists could not be adequately

used in an explanation of the exception. Therefore, a choice between Schmitt and Agamben unfortunately had to be made due to the necessity of brevity.

As the title insinuates the second chapter takes the approach to sovereignty at its heart. The chapter begins by marking out the claim of sovereignty in the Westphalian sense. The thesis marks out the fundamentals of Westphalian sovereignty and the distinction between domestic and international sovereignty that need to be made. There are instances of overlap between the international and domestic arena in the claims of sovereignty that the chapter makes clear to create a clear view of the type of sovereignty the thesis engages with. It does this not by focusing on the treaty of Westphalia as others have done but instead approach the themes of westphalian sovereignty through the framework that Caporaso provides. These themes are power, authority, and citizenship. By approaching sovereignty through this lens this allows the chapter to define a full approach to the conception of sovereignty in the westphalian sense. This is opposed to mere international non-interference as is often believed to signify the claim of westphalian sovereignty.

Following the chapter outlining the definition of sovereignty it goes onto define the political traits found in Schmitt's work that relate to sovereignty. This builds upon the work found in the first chapter that focuses upon exceptional decision making and applies the broader political themes found in Schmitt's work to the sovereign traits outlined by Caporaso. It achieves this by engaging with the concept of homogeneity, the *friend enemy* dichotomy and the political miracle that are actualised in later chapters. These two chapters act as a theoretical staging post for the largely empirical chapters that follow.

The third chapter is entitled 'power' and conceives of power as a reflection of concerted unified will, similar to the definition of power Arendt conceived. The chapter distinguishes between violence and power and engages with power on a 'thicker' level than the mere application of

force. This is combined with the theoretical considerations of Benjamin's critique of sovereign decisionism that argues the sovereign is not in a position to be solely a decision maker therefore dethroning Schmitt's sovereign god. The chapter not only discusses the theoretical conception of power and Schmitt's conception of power being the ability to make the decision but applies it in a practical episodic framework. By viewing authoritarian decisions through the framework of Schmitt's building blocks of sovereignty such as homogeneity, unity and the *friend-enemy* it can be seen how decisionism paradoxically undermines its own power. This is achieved through the illustrations of Syria, Bahrain, and Egypt primarily during the Arab Spring.

'Authority' is at the heart of the fourth chapter discussed in the thesis. Authority in the chapter is defined as the belief in the right to commit an action. Authority cannot simply be conceptualised from the commands that the state gives. Instead, authority can be derived from the foundation of the state and continued consent that defines it. By continuing active consent as opposed to mere obedience from commands this helps secure the state from a withering of authority that was once apparent but becomes weaker over time. This is a question distinct from power that discusses the ability to do something but instead is a discussion on the perceived legitimacy of the regime itself. After-all a regime may have the ability to conduct an action, but this does not say anything about the perceived rightness of committing said action. Despite the distinction from power, if a state continuously commits actions that it lacks the authority to do this in turn can have a knock-on effect on the ability of a state to commit an action.

The chapter uses illustrations from Syria, Bahrain, and Egypt to analyse the deficiencies in a command obedience-based model of authority. The illustrations exemplify the difficulties of a continuous model of sovereign dictatorship as a way to safeguard the state's authority over a prolonged period of time. Rather than bringing stability and defining a stable political order as Schmitt argues, these regimes have struggled internally with significant opposition challenging

the authority of the regime to give commands and obedience. Focusing on the 'building blocks' of Schmitt's sovereignty such as unity, homogeneity and the *friend enemy* dichotomy this chapter underlines the inability of the decision to create authority helping it become a self-destructive practice.

Citizenship is the focus of the sixth chapter. In this chapter, citizenship is defined by arguing that legal forms of citizenship through juridical claims on the citizen are limited in their explanatory capacity for citizenship as Schmitt imagined it. Instead, the citizen is imagined via the political and questions the limitations of citizenship that is too narrow and rigid inside what is a fluid political framework of homogeneity, unity, and the *friend-enemy* dichotomy. Exclusionary practices that foster two-tiered forms of citizenship does not necessarily create stability but disunity and heterogeneity inside the political unit. Via the illustrations of Syria, Bahrain, and Egypt, it can be seen how exclusionary citizenship practices have not created unity, homogeneity or *friends* underpinning the decision. Instead, due to the nature of political fluidity regimes have become the *enemy* as unity cannot be maintained but rather the notion of citizenship becomes a fractured entity necessarily creating conflict and instability.

1.9 Concluding Remarks

To conclude this introduction has laid out the theoretical framework that the thesis uses to explore the brittleness which affects authoritarian regimes. Exceptional governance rather than enabling regimes to foster effective sovereignty turns in on itself as it undermines the necessary sovereign traits outlined by Caporaso. Instead of promoting stability and sovereignty these illustrations reveal weak structures that have arbitrarily used their power at a great cost to themselves and the people they rule over.

The authoritarian methodologies used by regimes to secure sovereignty such as coup proofing, rent seeking and an overarching use of power has been ineffective in these case studies in terms

of stabilising the state and increasing its claim to sovereignty. None of these methodologies addresses the systemic problems that exceptional governance causes such as an inability to foster authority or citizenship. They instead are designed to secure and extend the power of the state and of the sovereign that becomes an alternative project of maintaining the sovereignty of the regime over the state.

As the thesis shows these methodologies within the theoretical framework of exceptional governance further undermine the lack of other sovereign traits which these regimes possess. They create a further assumption that the reliance upon power is sufficient and necessary in order to claim sovereignty. They also actively undermine other sovereign traits which further destabilises the state's ability to function on its own terms. Undermining sovereign traits in exchange for an attempt to boost the coercive mechanisms of the state creates an instability in the state that is not reminiscent of secure sovereignty.

Chapter 2: Exceptionalism

2.1. Introduction

This chapter acts as theoretical staging post addressing the differences that exist between Carl Schmitt and Giorgio Agamben's conceptions of exceptional governance. It largely addresses these two authors as these are the most recognised and important authors when discussing exceptional governance. Not only are these particularly important but they both offer a distinctive vision of emergency powers that is important to explore. By differentiating between the two authors, it allows the chapter to explore and explain why the thesis uses Schmitt's conception of exceptional decisionism as opposed to Agamben's state of exception.

The chapter achieves its aims by asking and addressing some fundamental questions:

What is the exception and when can it be employed? The first answer the chapter needs to give is what precisely is the exception. It is important to note the fundamental elements of exceptional rule as opposed to the alternative of rule via liberal norms to restrain regime action. The chapter discusses attempts made both internationally and in domestic constitutions to limit the time and scope of the emergency and the difficulties associated with imposing those restrictions on states who do not wish to abide by them. The limitations and the application of emergency rule helps the thesis define what precisely is emergency rule and how can it be recognised as one. Practically engaging with the exception and emergency rule via the on-paper rules and restrictions alongside a broad explanation of states use of the emergency gives greater explanatory power to the theoretical aspects of the thesis. Discussing the attempts to limit powers exercised in emergency rules and periods of exceptional governance gives greater depth to the theoretical issues underlying both the implementation and debates surrounding the limitations of exceptional and emergency rules.

Is Agamben's and Schmitt's visions of the exception different? There are two clear distinctive visions of the emergency and its application that the thesis focuses on. Schmitt focuses on exceptional governance and the ability to make the decision being the precondition for sovereignty. Rather, than being a normative claim, Schmitt's conception of exceptional decisionism is founded upon his descriptive belief that laws are founded inherently upon the decision even in states that use a liberal democratic model of norms (Wolin 1990, Schmitt 2004, 2008, 2014, Luisetti 2011). Foundationally, it is a claim that argues this is the way law and political decisions are fundamentally made.

Agamben's conception of the exception is rooted in a different argument than Schmitt's that contains both descriptive and normative elements in it. Agamben's argument focuses on the *state of exception* that is arrived at via the liberal democratic state. The state of exception cannot be contained for Agamben, and as soon as emergency powers have been derogated there is no

way back. The state of exception for Agamben is also a biopolitical construct focusing on exclusionary practices that create a 'camp' via the state producing mechanisms that control the body (Agamben 1998, 2005, Finlayson 2010).

How do these differences manifest themselves? The distinctions in conceptualising exceptional government are wide and important to understand. Schmitt's conception of emergency governance, for instance, does not unlike Agamben's belief automatically collapse the legal or political order as he suggest. Instead, emergency powers can be used inside a framework that can constrain their use or they can be used to remake the order. The use of such measures for Schmitt is that they secure the emergency and are ultimately a demonstration of sovereignty, in this sense that both authors agree on the question of the power of emergency measures (Schmitt 2004, 2014, Agamben 2005, Casson 2008, Pan 2009) .

Schmitt's exceptional governance is also not a normative account as opposed to Agamben's. Agamben's framing is that the state of exception is normatively wrong and needs to be avoided to ensure dictatorship is not arrived at. Schmitt's account of exceptional governance is grounded in the logic that this is how decisions are ultimately made and that needs to be embraced rather than dressed up with norms that do not constrain action. This approach has been critiqued by Agamben who has labelled it 'normatively groundless (Agamben 1998, 2005, Schmitt 2000, Vinx 2012).

The difference is also exemplified at a deeper level, by focusing on enmity and identity as the grounding for the sovereign using the decision, this forms a more ideological decisionism compared to the biopolitical control that Agamben chooses. As the thesis goes on to highlight, Schmitt's political construction that can be understood to ground the decision can be a more useful tool to understand the limitations of authoritarianism as opposed to simply focusing on the concepts of exclusion and the camp that Agamben does.

Are there practical examples to highlight this difference of theory? Both Schmitt and Agamben have worked on two practical case studies that can be used to highlight the similarities and differences between the two authors. These case studies are the French revolution and the emergency measures instituted by the Weimar government in Germany via Article 48 of the Constitution. The Weimar case study is useful in its demonstration of the differing approaches to emergency powers that both authors take. Article 48 of the Weimar Constitution endowed the government with significant abilities to rule via decree and suspend constitutional rights during a self-defined emergency. Agamben interprets the emergency powers afforded to the government in the Weimer Constitution as the perfect example of the self-defeating notion of liberal attempts to protect the state. Instead, Schmitt a contemporary of the Weimar republic believed it allowed the president to legitimately and authoritatively become the protector of the constitution and could be used to said end (Dyzenhaus 1997, Kennedy 2004, 2011, Agamben 2005, de Wilde 2006, Schmitt 2008).

What does this say about the exception in relation to my thesis? By outlining the construction of the exception and sovereign decisionism in comparison to Agamben's '*state of exception'* this thesis is able to demonstrate the differences between the two claims and why it is choosing to engage with Schmitt as opposed to Agamben. Schmitt's exceptionalism proposes a more explicit relationship with sovereign decisionism and the underlying sovereign traits than Agamben's biopolitical construction of the 'state of exception'. This chapter therefore focuses on the construction of exceptional governance and giving a clear reasoning for the application of Schmitt's exceptional governance versus Agamben's 'state of exception'. The construction of exceptional governance vs state of exception is important to outline in order to ascertain the fundamental differences that both authors adopt. This allows for a clear grounding on the difference between the two models of emergency governance in its implementation, outcomes, and normative dimensions.

2.2 Defining Exceptionalism:

This section of the chapter outlines two key areas. The first concerns the definition of exceptional governance that the thesis uses going forward. Offering a clear definition of exceptional governance should allow for a lucid discussion latterly in the chapter and avoid any potential confusion that could arise. This is achieved via examining the law both internationally and domestically and addressing the functionality of restraints towards the emergency. Understanding the restraints that exist and sometimes their inability to rein in regimes enables the thesis to present not just a legal definition of the emergency but a political understanding of it too.

Once the abilities and restrictions of the emergency have been outlined, the following section discusses the differences and similarities between Schmitt and Agamben. Both Schmitt and Agamben have differing approaches to the emergency both in a descriptive and normative sense. It is not a question of posing a normative value on the question of the emergency, however by exploring the differing normative values it enables a greater discussion on the descriptive differences of the two authors. By comparing the different approaches between Agamben and Schmitt this allows a greater understanding of Schmitt's claim of sovereignty arrived at via the decision.

In order to do this, the scene first needs to be set for when a period of emergency governance can arise. The right of states to temporarily suspend key rights in order to secure a state's existence is found both domestically in constitutions in autocratic and democratic political systems. Indeed, emergency powers are present in nine out of 10 current constitutions which often contain the ability to act swiftly to contain the emergency (Bornskov and Voigt 2021). The principle of emergency rule is also enshrined internationally in key human rights

documents, but this principle of freedom to act does not extend to extinguishing the right to life, right to freedom from torture or degrading treatment, thus there are some norm limits present even in the application of emergency powers at least on paper. The legitimacy of emergency rule in certain essential situations is acknowledged in principle documents both internationally and domestically as it remains embedded in the majority of global constitutions (Hartman 1981, Gross 1998, Nickel 2007, Rooney 2019).

Whilst the principle of the legitimacy of emergency rule held in key documents there are on paper limitations to the emergency's ability to eviscerate long held norms as well as supposed limitations on when the emergency itself can be declared. It has been argued that for exceptional governance to occur it needs to be presupposed by an economic or political emergency requiring the application of extraordinary powers (Schwab 1970, Reilly 1992, Criddle and Fox-Decent 2012, Bjornskov and Voigt 2017). An emergency therefore should not and cannot be declared for anything less than an essential emergency requiring the state's full attention and resources devoted to it. Sitting alongside these requirements to declare an emergency are different types of emergencies cultivating different responses. Liberal democratic approaches to managing the emergency that are often bounded to hem in extraordinary powers responding only to the most serious emergencies sits in contrast with authoritarian regimes who use emergencies to expand their legal powers (Hafner-Burton et al. 2011, Nickel 2016).

Therefore, despite the broad nature of emergency legislation on the face of it emergency measures can be recognised as being applied only to genuine emergencies when a threat is felt politically or economically. States of emergencies and legislation unpicking restraints on regime action responding to emergencies can only be used in proportion to the threat to the state itself to limit the ability to act and the period for which action can take place. Indeed, in a democratic state with a strong constitutional framework it has been argued that the ability to

declare the emergency and act can be held up as in modern liberal states as rule of law and democracy are mutually reinforcing systems of governance (Kervegan 2003, Mcgovern 2011). This is reinforced by the fact that liberal democratic regimes which exercise states of emergencies are more likely to use derogation clauses releasing them from rights obligations but are less likely to abuse rights in a state of emergency than their autocratic counterparts (Hafner-Burton et al. 2011).

The restrictions set in force therefore do offer some potential limitations to emergency measures in two keyways. First, for the implementation of emergency measures that includes some specific restrictions on how a regime can act during a period of emergency with both international and domestic constitutions offering some on paper protections against what could be considered the worst abuses. Second, the ability to declare emergency powers i.e., an event has to occur that reaches the threshold of a political and/or economic emergency to satisfy the parameters of a state being able to declare an emergency situation. Limiting the emergency to certain conceived scenarios that require the state to act immediately and relatively unconstrained is an attempt to ensure specific acts are only exercised in defined 'emergency' situations.

Despite these potential limitations that some scholars recognise, the state of emergency also has potential areas where limitations cannot constrain it. The distinction between the emergency and normalcy is present in the applicability of emergency rules and their limitations during times of normalcy but not present during times of emergency (Davenport 1996, Sheeran 2012, Luhrmann and Rooney 2019). The period of the emergency exists without the norms that are considered to withhold state action in liberal democratic and autocratic states with on paper restrictions that exist in law with few constraints set in place. Ultimately, courts cannot dictate state action but merely attempt to navigate a course that the regime cannot go down (Rosenkrantz 2010, Luhrmann and Rooney 2020, Aleman et al. 2021). The ability of 'on paper'

restrictions to limit a regime's action in a specific emergency must be subject to question as the emergency exists in an unbounded state.

International law lacks powerful enforcement mechanisms on its own terms to limit state actions in times of emergency and the ability to set hard limits to states that derogate rights is complex due to the unforeseen nature of potential emergencies that exist. Thus, limiting states abilities to excuse themselves from rights obligations in times of emergencies becomes more complex and unlikely the longer the issue is analysed. Simply defining an adequate state of emergency is no easy task by the same token, the complexity and unforeseen nature of emergencies themselves limit abilities to adequately define them and thus reign them in via legislation or treaties (Grossman 1986, Zeidy 2003, Criddle 2014).

Those protections that are put in place such as international protections exist uneasily with the concept of the state of emergency. This is shown by the fact that they have been relatively unsuccessful at limiting state action internationally to protect fundamental rights both in terms of action and the length of time that emergencies are in operation for. Indeed, regimes that face threats to the status quo who are not democratic often deploy 'coercive responsiveness' that exercises repression in order to counter or eliminate said threat (Hartman 1981, Davenport 2007, Sheeran 2012). Some regimes such as Syria and Egypt, have governed under a state of emergency for decades with the ruling regimes using the state of emergency as a means of ensuring an elasticity of action away from the constitutional limitations that in principle limit what the state can do (Reza 2007, Haugbolle 2008, Hadad 2009, Eldakak 2011, Hassan 2011, Dahi and Munif 2012). Even when leaders of regimes such as Mubarak in Egypt (1981-2011) fall this has not necessarily ended the state of emergency. The emergency can remain and even be expanded upon such as in the Egyptian case, where despite the revolution and the ratification of a new constitution still relies upon emergency measures as a method of ruling ensuring the

emergency is the new normal as opposed to the exception (Brown 2014, Abdelrahman 2017, Taha and Khalil 2020).

The emergency presents the opportunity for regimes to overstep the bounds that previously hemmed them in. International restrictions on state action for instance do exist in a number of areas and some of these responsibilities can be loosened in times of emergency. However, not only can some of these responsibilities be loosened, the ability of international restrictions for the most fundamental rights such as right to life and freedom from slavery to be enforced on a state that believes it is unreasonable or simply is unwilling to recognise such restrictions appears limited. There is therefore a need to focus on domestic applications of emergency measures as opposed to international legal applications that are limited in their effectiveness or reliability.

The application and natural limitations of emergency measures is a political question for this thesis not simply a juristic question. Emergency measures and the right of states to exercise them is applied to specific political circumstances and therefore it is necessary to consider the political ideologies that function alongside emergency measures. Not only this, but Schmitt himself did not see emergency measures as a juristic question but one that belonged to the political. He argued in *Political Theology* "*But whether the exception can be banished from the world is not a juristic question. Whether one has confidence and hope that it can be eliminated depends on philosophical, especially philosophical-historical or metaphysical, convictions.*" (Schmitt 2005 pg. 7). Liberal democracies for instance that do derogate certain fundamental rights during times of emergency often do not breach certain thresholds because they have decided not to politically, rather than as a result of an enforcement of a specific law that limits on paper the actions of the state. This contrasts with regimes that do not have such convictions exercising coercive responsiveness in response to the emergency.

Not only are international restrictions limited in their ultimate application but so are domestic constitutional restrictions. As stated earlier, nine out of ten constitutions exist with specific emergency powers granted to the state and this sits alongside constitutional provisions to limit both what can be declared an emergency and the powers regimes can take via a state of emergency. However, this comes up against two key issues. The first issue concerns our ability to define adequately what is an emergency in a precise sense. The very nature of the emergency ensures it is difficult to define beforehand. This poses a problem for any constitutional provisions to limit the ability to declare an emergency. The ability for long term emergency powers to re-emerge quickly even after the fall of a regime that used them extensively- as has been the case in Egypt- speaks to the durability and attractiveness of using emergency powers by those in power. Second, is that states of emergency are operating in a sense of normlessness, invoking norm limitations in a state of self-declared normlessness appears to be an uneasy paradox that struggles to be applied in practice. Indeed, those states that are not by their nature adverse to exercising coercion confronts potential 'threats' with a coercive responsiveness to resolve the 'emergency'.

2.3. Schmitt and the Exception

Emergencies and their limitations in the practical sense have been defined. It is now necessary to discuss the theoretical application of the emergency itself. The emergency, and the ability of norms to contain it, rests upon an argument around where law itself comes from. The creation of the normal situation in this sense is just as important a question as the effects of emergency rule that as shown above can range from the unrestrained excess of power to states recognising and accepting restraints in recognition of certain normative values. Therefore, it is necessary to discuss both the theoretical application of the decision according to Schmitt as well as its relationship with normalcy outside of the 'emergency'. By addressing these two issues it is

possible to clarify Schmitt's belief on the role of norms more generally and their function in a mode of rule. As will be outlined in this section, Schmitt sees norms as unable to constrain the decision due to the normal situation resting upon a decision and the desire to implement a 'norm' itself being a decision. Instead, what matters is the concrete application of the decision via the regime.

As discussed in the introductory chapter, it is necessary to discuss the positionality of Carl Schmitt when thinking about his work. Schmitt's writings on the subject are oftentimes directed towards a specific problem i.e., finding order and stability in a context of chaos. Schmitt's almighty sovereign is imagined during a time of democratic chaos and institutional dysfunction plaguing Weimar democracy. The result as Schmitt saw it was division amongst 'the people' resulting in political lethargy and an inability to act politically (Carty 2001, Kerestes 2014, Scheuerman 2019). We must remember the context that Schmitt existed in, as well as the antisemitism that regularly infected his work in the post Weimar era when reflecting on his 'solutions' to the problems that he believed liberal democracy brought forth (Telman 2001, Kahn 2003, Legg 2011).

When considering the notion of homogeneity in Schmitt's work it is necessary to consider his antisemitism and opposition to liberalism when discussing what it means. His initial greeting of Nazism to office and his enthusiasm for Italian fascism should also be considered in this light despite his eventual movement away from the Nazi regime (Scheuerman 1990, Caldwell 2005, Gross 2016). The relationship Schmitt found between the *friend* and *enemy* that bounds the political also needs to be found amongst this context of Schmitt's political support, opportunistic or not, for fascism (Caldwell 1994, Stirk 1999, Slovacek 2015, Berg 2017). As a result, homogeneity and the *friend enemy* dichotomy should not be divorced from the context of Schmitt's political views at the time.

Executive actions when used via the emergency are difficult to contain both in their duration and the scope of their powers. As a result of the lack of these limitations the emergency can move beyond the mere protection of the state and into a new period of normalcy that cannot be governed nor constrained easily (Keith and Poe 2004, Gross 2006, Karagiannis 2010, Whiting and Kaya 2021). Previously held constitutional limitations struggle to be imposed in a time of emergency which by its very reasoning exists in a state of normlessness. This can be considered as relational to the inability to anticipate the emergency, as Schmitt argues "*The precise details of an emergency cannot be anticipated, nor can one spell out what may take place in such a case, especially when it is truly a matter of an extreme emergency and how it is to be eliminated*" (Schmitt 2005 pg., 6-7). This uncertainty gives states the opportunity to abrogate previously held constitutional limitations on executive action as the decision becomes the mechanism for governing that is unhindered by previous norm constraints. The emergency therefore provides the opportunity for regimes to move to a new period of normalcy defined by the emergency and the decision but not by the norm.

The analysis of norms limiting regime action rests upon the assumption that the norm can guide and maintain a normal situation via regimes that respect legal norms, i.e., that norms can guide regimes during normal times. Norms that are applied therefore hem in regime behaviour according to normative criteria that have been decided are necessary to abide by because of self-determined behavioural constraints. However, not everyone agrees with this contention in regard to the use of norms in relation to their ability to influence and maintain 'normalcy'. Schmitt addresses the functioning of the 'normal' situation arguing law and constitutions can rule in a normal situation, but that the 'normal' situation must first be created by the decision (Sartori 1989, Wetters 2006, Pan 2008). This belief is expressed by Schmitt who argues "*After-all, 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." (Schmitt 2005 pg. 10).

This presupposes that norms themselves rest upon a decision, thus the question is really who is the one making the decision? Not only this, but it is the normal situation that must be decided via the decision of the sovereign. Schmitt argues "*he is sovereign who definitely decides whether this normal situation actually exists.*" (Schmitt 2005 pg. 13). Norms cannot determine the application of their own rules in Schmitt's view, instead rules and law only have the effect that are concretely exercised by the sovereign (Cristi 2011, white 2015). Resultingly, in this framework Schmitt views law as the direct expression of power that emerges from the executive and the normal situation must be fostered by the executive (Sartori 1989, Dyzenhaus 1997).

Despite this apparent clarity on the role of norms in their ability to restrain the decision in Schmitt's hypothesis there has been some confusion due to an apparent oscillation in his work on the role that norms play in relation to the law (Wolin 1990, Vatter 2008). Indeed, Schmitt argues "*the simple truth of legal scholarship becomes evident through all the normative fictions and obscurities: that norms are valid only for normal situations, and the presupposed normalcy of the situation is a positive-legal component of its 'validity.' However, the lawmaker under normal circumstances is something different than the special commissioner of the abnormal situation who re-establishes normalcy ('security and order')*" (Vatter 2008 pg. 248). This supposes that norms do indeed have a role to play in normal circumstances i.e., circumstances sitting outside the state of emergency or exceptional rule are times of normlessness but that times of normalcy the norms themselves are valid.

This inconsistency has created a scholar who excites extreme and divergent opinions. Schmitt has been called a sceptic and a dogmatist, a romantic and anti-romantic and the man who did

away with the state but also regretted its death (Zarmanian 2006). Schmitt's inconsistency has led to differing accounts of his claim on the decision. Vatter (2008) and Smolenski (2012) for instance argue that Schmitt's decision is one that is taken in order to return to a state of normalcy where norms can be applied, and the sovereign can be adequately encased inside the legal structure via norms until decisionism is necessary and becomes apparent. In opposition to this argument are scholars such as Wolin (1992), McCormick (1999), Rasch (2003), and Huysmans (2008) who argue that Schmitt's decision must be exercised regularly and unconstrained via norms, as according to Schmitt norms themselves rest upon the decision. Norms according to this reading of Schmitt merely cover for the state's decision making and the exception merely shatters the illusion that norms themselves act as an active agent of restraint on state behaviour.

However, the quote below would seem to clear up any confusion on where Schmitt stands on the question of where law and the exception emerge from:

> "*There exists no norm that is applicable to chaos. For a legal order to make sense, a normal situation must exist, and he is sovereign who definitely decides whether this normal situation actually exists. All law is "situational law." The sovereign produces and guarantees the situation in its totality. He has the monopoly over this last decision. Therein resides the essence of the state's sovereignty, which must be juristically defined correctly, not as the monopoly to coerce or to rule, but as the monopoly to decide. The exception reveals most clearly the essence of the state's authority*." (Schmitt 2005 pg. 13).

Indeed, this quote makes it clear that for Schmitt all law is by necessary situational, and the sovereign is the one who ultimately decides on the situation. Therefore, even in a normal situation this remains a product of the sovereign's decision. The emergency merely illuminates

the reality of the normal situation that norms only exist as values and nothing more (Wetters 2006). The inability of norms to create a concrete reality or law envelops a sovereign decisionist model of law based on the commands of the sovereign will (Kalyvas 2000). This logic points both to the argument that the legal order is always founded upon the decision and that norms are unable to restrain state action even in times of supposed normalcy.

Schmitt's claims on the inability of norms to create law or restrict power strips away the logic of norms in the first place in his claims. What is replacing such a claim is the belief that a hierarchical order produces domination that is founded upon the decision issued by the sovereign that is unencumbered by normative claims or restrictions but is instead focused on the concrete political effects (Barash 1998, Kahn 2003, Rasch 2003, Falk 2014). The ability of a decision to produce a concrete legal order is the determination for its rightness, this originates from a space beyond law where the sovereign represents the state and acts to produce a valid legal order via the decision itself as opposed to potential restrictions that attempt to restrict action on normative principles (Dyzenhaus 2004, Zarmanian 2006, Falk 2014). The norm as a result rests upon the decision ensuring the use of norms in limiting the exceptional situation for Schmitt being of no use due to the application of the norms themselves resting upon a decision (Rasch 2003, Falk 2014).

For Schmitt therefore, a true state of emergency necessarily allows regimes to take what measures they deem to be necessary to resolve the situation (Goupy 2018). Not only does the sovereign gain the ability to act as they see fit to resolve the emergency, but they also have acquired the ability to decide what constitutes an emergency. This twofold ability to both decide upon the exception and the freedom to address the emergency as the sovereign sees fit gives the sovereign carte blanche that could only be constrained if the sovereign wanted to be constrained. This is due to the emergency existing both in the sphere of normlessness and the inability of law to imagine and pin down all possible emergency situations. Schmitt argues

"Nor will any positive law be passed that may define in advance the authority and powers of a dictator in a concrete manner" (Schmitt 2000 pg. 31). This is a consistent train of thought in Schmitt's belief about the emergency as he expresses the same belief in *Political Theology* arguing "*The exception, which is not codified in the existing legal order, can at best be characterised as a case of extreme peril, a danger to the existence of the state, or the like. But it cannot be circumscribed factually and made to conform to a performed law"* (Schmitt 2005 pg. 6).

This perspective is also free from limitations to actions on a normative basis. This is demonstrated when Schmitt argues *"in cases of emergency we can only say this much: the dictator is entitled to do everything that is appropriate in the actual circumstances*" (Schmitt 2000 pg. 8) and in *Legality and Legitimacy,* he writes "*The sovereign is the highest legislator, judge, and commander simultaneously. He is also the final source of legality and the ultimate foundation of legitimacy."* (Schmitt 2004 pg.5-6). The question of normative limitations imposed upon the lawmaker do not appear to be considered given the sovereign's ability to not only decide upon the course of action but what constitutes the emergency. Schmitt's focus is one of description, i.e., what the decision can do and what the sovereign can do, rather than a prescriptive method i.e., actions the sovereign should take (Dyzenhaus 2006, Gross 2006, Husymans 2008, Baume 2009, Dean 2010).

It is not just the exception to the legal order that is important to note here but the relationship of the miracle and God to sovereignty. Schmitt makes comparisons of the theological nature of the decision to the miracle that is not just important in relation to the question of the infallibility and unstoppable nature of the decision that Schmitt proposes, but it is also key to understanding the nature of the regime and politics itself as he understands it. (Weber 1992, Marramao 1999, Honig 2007, McCormick 2007, Baume 2008, Robertson 2015, Vega 2017). Schmitt writes in

Political Theology "*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 century.*" (Schmitt 2005 pg. 36). He goes on to argue that "*this theology and metaphysics rejected not only the transgression of the laws of nature through an exception brought about by direct intervention, as is found in the idea of a miracle, but also the sovereign's direct intervention in a valid legal order*" (Schmitt 2005 pg. 36-37).

The essence of the decision being its infallibility and ability to overwrite the norm is the core of the argument that presents Schmitt as a distinctly anti-liberal thinker ensuring that in his view norms cannot constrain decision as the decision is itself a miraculous act that liberalism attempts and fails to contain (Kelly 2004, Strauss 2007, Ostovich 2007, Monagle 2010, Hoelzl 2016). The functioning of the decision as a miracle overwriting the norms that have been attempted to be imposed in the Schmittian sense is applicable to his core argument against liberalism e.g., politics must be considered in terms of concreteness as Strauss argues "*thus Schmitt's basic thesis is entirely dependent upon the polemic against liberalism; it is to be understood only qua polemical only "in terms of concrete political existence"*"(Strauss 2007 pg. 100).

Schmitt's dispute of liberalism's attempts to rein in the decision and can be witnessed in *Political Theology where he states that "The essence of liberalism is negotiation, a cautious half measure, in the hope that the definitive dispute, the decisive bloody battle, can be transformed into a parliamentary debate and permit the decision to be suspended forever in an ever-lasting discussion* (Schmitt 2005 pg. 63). He argued that liberalism dismantled the ability for sovereigns to make decisions but simultaneously wanted a figure above representative assemblies i.e., that they wanted their cake and eat it too. This can be seen when he states *"they made the king a mere executive organ with his every act dependent upon the*

*mere consent of the cabinet, thus removing once again that personal element. They wanted a king who would be above parties, who would thus also have to be above the people's assembly.; and simultaneously they insisted that the king could not do anything but execute the will of the people's assembly." (*Schmitt 2005 pg. 60).

Schmitt's analogy of the decision with the miracle therefore plays two key roles. First, in the functioning of the decision itself but also a broader interpretation of politics. Thus, the analogy for Schmitt is not merely a play on words but an important aspect of understanding the functioning of sovereign regimes. It is not only the claim of the miracle that is important to note i.e., but the legal order can also be abrogated at will via the exception, rather it emphasises the claim that the sovereign can intervene in an established order at will. This is an important distinction to question when considering the function of emergency powers and the question of can they be adequately hemmed in inside Schmitt's theory of emergency.

The sovereign for Schmitt sits above the law as the decision overrides attempts to limit the use of the decision. By describing the exception as a miracle creating interventions into the 'natural juridical order' this represents the possibility that the decision can roam unconstrained just as miracles can appear in the same way. The decision can lose its miraculous shape easily enough and become a part of everyday life constituting the concrete political reality of the state. Instead of a onetime miracle, the construction of Schmitt's decision allows the emergency to exist in a space of normlessness absent of a juridical order that can effectively constrain them. The decision that is the signifier of sovereignty therefore cannot only enforce the structures it seeks to protect but also create new ones and exist in a continuous cycle of a permanent emergency decided upon via the sovereign. The difficulty of normalcy emerging out of the emergency declared via the sovereign is one of the will of the sovereign themselves that Schmitt believes is the ultimate signifier of sovereignty.

2.4. Schmitt versus Agamben's Exceptionalism

Comparing and contrasting the two accounts of exceptionalism as presented by Schmitt and Agamben gives the thesis greater clarity and allows it to perform a clearer accounting of the type of exceptional rule this thesis is focussed on. Agamben's conception of the exception differs to Schmitt's in relation to the form the exception takes and the function of the exception. Not only do the ideas about what constitutes the exception differ between Schmitt and Agamben but so do the beliefs surrounding the exception. Agamben believes the exception necessarily leads to totalitarianism and to a dysfunctional dislocation in the present system of governance. This sits in comparison with Schmitt who believes the exception is both the protector and creator of systems of governance when it is exercised by the sovereign (Agamben 1998, 2005, Owens 2009, Smith 2009, Hopkins 2019).

Not only does this section compare Schmitt and Agamben theoretically, but it also uses a practical example to highlight the differences between the two. The exampled used is French Article 48 of the Weimar constitution. These example highlights both the normative and descriptive differences that exist between the two. Schmitt believed in article 48 as an adequate protective procedure for the Weimar republic that needed to be instituted to protect the political order. As opposed to Agamben who believed article 48 posed an existential threat to the state and this was shown latterly via the dual track governance of the NSDAP (Nazi party) who ruled both via the Fuhrer principle and a state of emergency via article 48.

The regime and the state functions in Schmitt's scheme of exceptional is supposed to operate as a concrete political reality that exists over any potential norms that may inhibit action. Both in *Political Theology* and in *The Crisis of Representative Democracy* Schmitt argued that the

state's very existence highlights superiority over any norms that seek to constrain it. This can be witnessed when Schmitt argues *"The existence of the state is undoubted proof of its superiority over the validity of the legal norm. The decision frees itself from all normative ties and becomes in the true sense absolute".* (Schmitt 2005 pg. 12). Schmitt therefore believes the decision operates as a functioning of concrete political reality that can be placed in the sovereign who acts as a representative of the 'people' which can be seen when Schmitt argues "*If for practical and technical reasons the representatives of the people can decide instead of the people themselves, then certainly a single trust representative could also decide in the name of the same people"* (Schmitt 2000 pg.34). The decision in this scheme therefore is representative of the political order defined by the concrete reality as opposed to norms defining representation of the populace (Pan 2008, Mouffe 2000, Barber 2014). The regime is deemed as the ultimate final arbiter of action subordinating autonomous agents such as civil society and the civil service due to the state's final ability to decide (Wolin 1990, Wolin 1992, Barash 1998, Kahn 2003, Zarmanian 2006, Kutay 2019).

Schmitt's focus is not simply on the use of norms to restrain the decision but also the structures that are used. Instead of Parliamentarism which Schmitt accuses of being little more than a talking shop, Schmitt supposes the use of the decision through a representative capacity is conducted via the sovereign representing the people's will. Schmitt argues in *The Crisis of Parliamentary Democracy* that *"Compared to a democracy that is direct, not only in the technical sense but also in a vital sense, parliament appears as an artificial machinery. Produced by liberal reasoning, while dictatorial and Caesaristic methods not only can produce the acclamation of the people but can also be a direct expression of democratic substance and power" (*Schmitt 2000 pg. 17). It is therefore not just the theoretical claims of representative democracy that Schmitt contends with but the practical realities to substantiate his claims of

sovereign decisionism. This is appreciated by scholars such as Mouffe (2000) who argues "*he claims that liberalism negates democracy and democracy negates liberalism, and that parliamentary democracy, since it consists of the articulation between democracy and liberalism is therefore an unviable regime*" (Mouffe 2000 pg. 39). The ability to decide for Schmitt therefore is the essence of sovereignty and the strongest route to a form of representation of the people as coalesced into a whole. By being able to take necessary and quick decisions by deciding upon the emergency and the necessary action outside the talking shop of representative institutions the decision functions as both the protector and creator of political orders and the marker of sovereignty in Schmitt's eyes (Kalyvas 2000, Wetters 2006, Casson 2008, Dean 2010, Teschke 2011, Kutay 2013, Dyzenhaus 2015).

Whilst Schmitt does have in mind a particularly acute emergency for the engendering of emergency action, he assumes that that the emergency cannot be made to conform to a performed law already in existence. Instead, the use of emergency measures can be decided upon the sovereign's will. This is further reinforced by Schmitt's belief in the concrete superiority of the state over particular norms that would otherwise infringe upon a state's ability to action. All of this has been considered in this chapter. Despite this, it needs to be considered that Schmitt makes a distinction between different forms of exceptional measures. This is considered in *Political Theology*, where Schmitt argues

> "*There exists no norm applicable to chaos. For a legal order to make sense, a normal situation must exist, and he is sovereign who definitely decides whether this normal situation exists.*" (Schmitt 2005 pg. 13).

"The rule proves nothing; the exception proves everything: It confirms not only the rule but also its existence, which derives only from the exception" (Schmitt 2005 pg. 15).

The exception in Schmitt's thinking therefore needs to be distinguished from the mere act of decisionism that grounds the legal order. Not every act of decision constitutes an exception but instead it is defined by the emergency nature of such a decision. Defined by its emergency quality the emergency frees the state from any normative ties and only the sovereign can decide upon the normal situation that becomes defined by the exception. The exception represents a greater marker of sovereignty and has an effect that acting as a symbol of an order that other decisions cannot mimic for Schmitt (Sartori 1989, Levett 2005, McLoughlin 2009, Gould 2013, Fusco 2017).

The decision is the rule but in order to prove that rule the exception is needed. As detailed throughout this chapter the exception not only performs a specific function but represents a greater political entity that guides the normal situation. It can be used to understand not only what the guiding principle of sovereignty is but inversely what cannot constitute sovereignty according to Schmitt. He uses this argument to knock down institutions and attempts to hem in decisions via norms that constitutional liberal democracy has provided. Seeing Schmitt as simply a scholar of the law is a mistake, rather as the next chapter explores further, Schmitt should be seen as a theorist whose claims move beyond the legal realm and into the political.

Whilst Schmitt gives us one understanding of emergency powers and the decision, his is not the only voice on the subject. Agamben draws heavily from Schmitt's work, but both have different conceptions of the political as well as emergency powers fostering an intersection between juridical and biopolitical powers locating sovereignty in a different sphere from

Schmitt (Husymans 2008, Smith 2009, Barkan 2009, Dean 2013, Mcloughlin 2016). This is apparent when reading Agamben's work. Flowing through his writings are commentaries on not only the exception and its relationship with the degradation of democratic structures but also an argument as to why Schmitt's attempt to ground the exception as part of the legal order are flawed (Gratton 2006, Humphreys 2006, Neal 2007, Barkan 2009). This can be seen from the quotes below from the book *State of Exception*

> *"The state of exception is not a dictatorship (whether constitutional or unconstitutional, commissarial or sovereign) but a space devoid law, a one of anomie in which all legal determinations- an above all the very distinction between public and private- are deactivated. Thus, all the theories that seek to annex the state of exception immediately to the law are false"* (Agamben 2005 pg. 50).

> *"But fallacious too are theories, like Schmitt's, that seek to inscribe the state of exception indirectly within a juridical context by grounding it in the division between norms of law and the norms of realisation of law, between constituent power and constituted power, between norm and decision. The state of necessity is not a 'state of law' but a space without law (even though it is not a state of nature but presents itself as the anomie that results from the suspension of law)."* (Agamben 2005 pg.50-51).

As the quotes above highlight there are fundamental distinctions between Agamben's beliefs about the exception and Schmitt's. Agamben's reading of the exception is that by its nature it cannot be part of the legal order, instead the exception necessarily exists as a lawless concept sitting inside the gap that has been carved out via its very suspension and cannot be reconstituted as before due to its very suspension. This has a knock-on effect towards the description of dictator, in Agamben's belief this is inaccurate for someone ruling via the

exception as a dictator rule via law as opposed to an absence of law- thus Agamben rebukes Schmitt's attempts in *Dictatorship* to codify different forms of exceptional governance instituted via the law but existing outside the parameters of law. Furthermore, whilst Schmitt locates the exception within the sphere of the state and believes that whilst the exception is the definitive marker of sovereignty there are differing forms of exception. Schmitt rejects the idea all extra-legal measures constitute an exception but instead argues that exceptions are particular forms of measures that are necessary to protect the state. Agamben questions this notion and argues all emergency measures must have the same effect by abrogating the law it ensures laws path towards irrelevancy (Norris 2000, Kalyvas 2000, Gross 2006, Honig 2007, Husymans 2008, Raschke 2018, Van Den Berge 2019).

Agamben attempts to challenge Schmitt's claims by locating the exception necessarily outside of the sphere of law and assigns the exception as having a fundamental quality in a different sense to Schmitt. In essence, Agamben's reading of Schmitt is that decisions taken in a state of lawlessness still have the authority of law itself which sits in contrast to his own claims that the 'ark of power' is essentially an empty space devoid of law creating a zone of anomie. In this space where law dissolves is the production of a biopolitics that is necessarily exclusionary creating an 'outside' for those deemed a threat to the body politic. Those on the outside live in a metaphorical camp in a state what termed 'bare life' i.e., a life that is without protection and subject to the absolute will of the sovereign. The categories Agamben uses to designate those who exist on the outside of the body politics is that of '*zoe*' and those who are 'fully human' are termed '*bios*' (Kelly 2006, Barkan 2009, Fabbri 2009, Boukalas 2014, Mcloughlin 2016, Mabon 2019).

It is the creation and maintenance of this outside space that simultaneously creates an inside space and the ability to exercise untrammelled power to do as they will within this space that

is the location of sovereignty according to Agamben. Once bare life has been instituted for 'zoe' it will gradually inch itself towards the centre and encompass those who are '*bios*'. The inching of biopolitical power from the outside to the inside creates a state of exceptional being that governs the body of the citizens that moves beyond all previously instituted limitations and covers those previously considered on the 'inside' of the political body. This exceptionalism takes over the norm and is realised through the creation of the 'camp' that is the non-physical political structure of the state of exception. These arguments are marshalled in Agamben's work *Homosacer*: *Sovereign Power and bare Life*. In it, Agamben argues

> *"The present inquiry concerns precisely this hidden point of intersection between the juridico- institutional and the biopolitical models of power. What this work has had to record among its likely conclusions is that these two analyses cannot be separated, and that the inclusion of bare life in the political realm constitutes the original-if concealed-nucleus of sovereign power.*" (Agamben 1998 pg. 6).

> *"The relation of exception is a relation of ban. He who has been banned is not, in fact, simply set outside the law and made indifferent to it but rather abandoned by it, that is, exposed and threatened on the threshold in which life and law, outside and inside, become indistinguishable.*" (Agamben 1998 pg. 28).

> *"A pure form of law is only the empty form of relation. Yet the empty form of relation is no longer a law but a zone of indistinguishability between law and life, which is to say, a state of exception.*" (Agamben 1998 pg. 59).

> *"But what is first of all taken into juridical order is the state of exception itself. Insofar 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 realised normally." (Agamben 1998 pg. 170).

The consequences for those who are in the 'bare life' category under the exception is that they are subject to the possibility of physical elimination at the will of the sovereign. This condition necessarily leads to the degradation of democracy and a totalitarian state emerging as opposed to any defence of an order that Schmitt envisions. The exception cannot be contained but becomes the new normal enveloping everything before it eliminates the previous political grounding, creating a new biopolitical 'camp' which creeps every inward as bare life moves from those groups excluded from the political space to those who occupy it. As will be discussed in the next chapter on sovereignty, Agamben's belief in the groundless bio-political decision sits in absolute contrast to Schmitt's attempts to derive a foundation for the decisions of the sovereign ensuring that nothing can stand in the way of the exclusionary power that is manifested via the exception (Humphreys 2006, McQuillan 2011, Rijpkema 2012, Dos Reis 2017, Hopkins 2019).

This distinction is due to the difference in how the exception is imagined between the two authors. Schmitt's conception of the decision is a political one as opposed to Agamben who frames the decision in an ontological form. Schmitt's arguments on the decision are undergirded with specific political conceptions supporting the use of the decision, as opposed to Agamben who focuses on the lack of the political entity to it. Instead of an explicitly political component to bare life, Agamben asserts 'bare life' and the life that can be ended but not sacrificed has a history that can be traced back to the beginning of western political thought, thus it is not an aberration of western politics but a foundational part of it. The ability to end bare life is a fundamental pillar of Agamben's belief that the exception confers sovereignty

upon those who wield it and ensures at least some overlap with Schmitt on the power of the exception. (Damai 2005, Minca 2006, Wetters 2006, Passavant 2007, Pan 2008, Abbot 2012, Hopkins 2019).

Despite deep differences between Schmitt and Agamben there are areas of overlap that exist that should be acknowledged. There is a foundationally an implicit assumption of agreement with Schmitt by Agamben that the exception leads to the fostering of sovereignty of the regime via the state. Both authors share the argument that the creation of the exceptional decision came out of the democratic tradition as opposed to the absolutist one which ultimately leads to the authors diverging on the qualities of the exception. As Agamben and Schmitt both argue

> *"the authors of the counterrevolution explained political change as a result of change in outlook and traced the French revolution to the philosophy of the enlightenment. It was nothing more than a clear antithesis when radical revolutionaries conversely attributed a change in thought to change in the political and social conditions."* (Schmitt 2005 pg. 42-43)

> *"The idea of a suspension of the constitution (of the 'rule of the constitution') had instead been introduced as we have also seen, by the Constitution of 22 Frimaire year 8. Article 14 of the Charter of 1814 granted the sovereign the power to 'make the regulations and ordinances necessary for the execution of the laws and the security of the state"* (Agamben 2005 pg.11).

Whereas the French Revolution provides a useful area to highlight some common ground between the two authors, the case of Article 48 of the Weimar constitution is a strong case to explore practically the deep differences that exist in Agamben's and Schmitt's work. Article 48 empowered the President to suspend guaranteed rights under the constitution and deploy

the armed forces as necessary to re-establish law and order (Kennedy 2004, 2011, Borislavov 2005, Humphreys 2006, McQuillan 2011). Schmitt argues the content of Article 48 allows for sovereign dictatorship to emerge due to the indeterminacy of the article and believed in the expansion of Presidential powers to 'safeguard' the constitution (Schwab 1980).

> *"But only the arrangement of the precondition that governs the invocation of exceptional powers corresponds to the liberal constitutional tendency, not the content of article 48. Article 48 grants unlimited power." (Schmitt 2005 pg.11)*

Schmitt found in a practical sense the technical limitation of the Reichstag demanding the suspension of the exception did not limit the action which could be taken under Article 48. This is because the President was allowed to frequently violate constitutional restrictions (Bendersky 1978, Schwab 1980, Dyzenhaus 1998, De Wilde 2006, 2010, Schmitt 2014). This can be seen in the exercise of Article 48 by President Von Hindenburg from 1930 onwards to appoint minority cabinets that utilised emergency decrees with regularity and wore down Weimar's liberal institutions (De Wilde 2010). As a result, in Schmitt's eyes the President should be the guardian of the constitution through article 48 (Hollerich 2007). The article allowed for the President according to Schmitt the necessary tools for the sovereign to defend the state from those attempting to dismantle it.

Agamben does not deny there was a state of exception within the Weimar republic through the usage of Article 48, indeed he affirms it by stating "*It is well known that the last years of the Weimar Republic passed entirely under a regime of the state of exception" (*Agamben 2005 pg. 15). However, unlike Schmitt who Agamben quotes as approving of exceptions being implemented, Agamben sees the state of exception which existed within Weimar and the concept more generally as exceedingly dangerous. He argues:

> "*but the end of the old Weimar Republic clearly demonstrates that, on the contrary, a 'protected democracy' is not a democracy at all, and that the paradigm of constitutional dictatorship functions instead as a transitional phase that leads inevitably to the establishment of a totalitarian regime*. (Agamben 2005 pg.15)

Agamben uses Hitler's rule highlighting that he ruled via a dual track of the Weimar constitution and personal will, thus the state of emergency that empowered Hindenburg was a precursor to fully dismantle democracy. Emergency powers under this framework do not offer protection of the political order but rather enact and infect the order leading to its ultimate destruction. As the quote below highlights Agamben applies this lesson to the paradigm of emergency powers today and actively warns against the supposed protection emergency measures give.

> "*Hitler was not a dictator, rather he was leader of a dual state, they placed the legal constitution beside a second structure, often not legally formalised that could exist alongside the other because of a state of exception. From a juridical standpoint, the term dictatorship is entirely unsuitable for describing such regimes, just as, moreover, the clean opposition of democracy and dictatorship is misleading for any governmental paradigms today*" (Agamben 2005 pg. 48).

This example, as opposed to the French Revolution, provides a practical explanation of some of the differences in theory that appear between the two authors. Schmitt believed the article was a safeguard for the state to use in a time of emergency to protect the state that faced danger from all sides. By unleashing the President's authority as leader of the state from its constitutional restrictions this allowed the Weimar republic to protect itself and failure to do so ultimately would lead to its fall. Agamben takes a different approach, believing that article 48 was inherently dangerous as demonstrated by its excessive use under the Weimar republic and

its lack of repeal under the National Socialist government. Rather than these measures being able to defend the state they ultimately deform its politics and allow totalitarianism to take hold (Agamben 1997, 2005, McCormick 1997, Boyd 2001, Mcloughlin 2012, Bendersky 2014, Vinx 2015).

2.6. Concluding Remarks

This chapter has set out the beginnings of the thesis both in terms of practice as well as theory. The state of emergency has a significant practical component with most states having provisions in their constitutions that allow for a state of emergency to be exercised. Despite their being international protections and limitations in both the reasoning for the implementation of the emergency and the actions being allowed to be conducted by the state during times of emergency, these limitations are unable to be effectively implemented. The result is that states are limited in their behaviour only by their own ideological alignment and internal pressures as opposed to a substantial external force ensuring compliance with norms that inhibit behaviour during exceptional moments. Unsurprisingly, this has meant that liberal democratic states are the ones most likely to act in a restrained manner during times of emergency compared with authoritarian states.

Not only has the chapter explored the practical side to the state of exception but it has also discussed some of the theoretical considerations of emergency measures. Schmitt's belief in the decision manifesting the exemplification of sovereignty relies upon a normlessness that infects his work and thus producing an attempt to undo liberal democratic legalistic structures replacing them with a representative sovereign decider i.e., Schmitt attempts to dismantle the claims of the norm guiding and dictating action in favour of concrete decisionism that appears in times of greatest need. The representative sovereign decider is able to act as they will in an emergency that they themselves decide upon- this can either result in the defence of or the

resetting of the political order creating normalcy. The decision therefore takes the form of the miracle and the sovereign as God providing a miraculous intervention into the normal order. The concrete ability for the sovereign to do this ensures their claim to sovereignty is valid and the decision is the best representative marker of this.

Schmitt's claims on the exception are not uncontested. The chapter uses Agamben as a contrast to his belief on exceptionalism as a form of governing. Agamben does agree with Schmitt that the exception is a marker of sovereignty but believes this is far from ideal. Instead of proposing the exception as a legal-political tool as Schmitt does, Agamben argues the decision as an ontological issue that necessarily roles up the legal and political order. As opposed to Schmitt who goes to some length to argue the exception paradoxically can be contained, the exception for Agamben infests the political creating a 'bare life' that moves from those who are excluded from the political community gradually working itself inwardly until the community itself constitutes a 'camp'.

The thesis agrees the exception cannot be contained like Schmitt claims but believes unlike Agamben the political aspects of Schmitt's claims on the exception need to be examined so his fundamental argument that the sovereign is the one deciding upon the exception can be unwound. The practical examples of the French Revolution and Article 48 of the Weimar republic highlight the necessary distinctions that need to be made between the two authors to clarify both the descriptive and normative differences so the thesis can clearly engage on the claims of exceptional governance that Schmitt makes as opposed to Agamben. The practical examples also allow the thesis to recognise some overlap and similarities that exist in the two's work and the foundational claim that the exception secures the sovereignty of the state that this thesis challenges.

Chapter 3: Sovereignty

3.1. Introduction

The chapter builds upon the reflections on decisionism presented in the preceding chapter focussing on the broader claim of sovereignty that arrives out of decisionism. The thesis argues that Schmitt's decisionism is reliant upon a political undergirding to make it function producing order and thus sovereignty. It is therefore necessary to outline and discuss what this undergirding is in relation to the decision. This chapter examines this undergirding in order to highlight that decisionism rather than producing order ultimately does the opposite.

First, the chapter discusses the framework of Westphalian sovereignty that is being utilised to measure sovereignty. Within this framework are sovereign traits as outlined by Caporaso which states should occupy if they are to make a claim of sovereignty. This is accompanied by Krasner's work that outlines different spheres of sovereignty specifically between domestic and international spaces. Outlining a workable definition that measures sovereignty functions as a requisite to assess whether if Schmitt's claims meet a criterion of sovereignty or if they fall short.

The chapter also builds upon the outline of decisionism made in chapter two focussing this time on the form the decision can take. Primarily, this is done by discussing Schmitt's attempts to differentiate between a commissarial sovereign and sovereign dictator. The commissarial sovereign is defined by the limited scope of their powers to defend an order in times of emergency whereas the sovereign dictator is defined by their unlimited powers that expand outwards unconstrained by time. Rather than recognising this distinction, the thesis produces an account that leads to the flattening of the two and nothing can restrain the sovereign once they are granted emergency powers (McCormick 1997, Feldman 2008, Schmitt 2014, Mcloughlin 2016, Tuori 2016).

Following this, the chapter focuses on the political components of Schmitt's thesis on sovereignty. This is accomplished by discussing his belief in the nature of the 'political'. Schmitt's anchoring of the political is the level of enmity that exists- if sufficient enmity is present it is transformed into the 'political'. Categorising enmity via the *friend enemy* dichotomy is Schmitt's lynchpin in defining political questions and the role of the sovereign in defending the order from the *enemy*. The paradox that is invoked by Schmitt is that the *friend* needs the *enemy* to remain but as I attempt to show this paradox is fundamentally an unstable one.

For the chapter to validate the theoretical claims I make; it needs to ask and answer the following questions:

What framework of sovereignty does the thesis use?

The thesis before it can do anything needs to first define the method of measuring sovereignty it is using. By defining the method of measuring sovereignty, it is then possible to explain how Schmitt's attempts to construct a sovereign state ultimately fall flat. The thesis uses the westphalian model of sovereignty that places sovereignty inside a marked boundary of the state. Sovereignty is defined via the ability to exercise control over the boundary and those who exist inside it. In order for a regime to exercise control, it is argued by Caporaso that the state requires four elements consisting of power, authority, citizenship, and territoriality. Combined these elements creates a state that can be considered sovereign.

This is further reinforced via Krasner's claim of sovereignty that can be in differing areas such as domestically and internationally. By focusing on domestic sovereignty this thesis produces an account that locates sovereignty inside the state itself as opposed to international recognition. As argued in the previous chapter, despite the existence of international restrictions on exceptional governance these have not been enforced, instead it is often reliant

upon states individual ideology to decide where the limits of decisionism reside. Defining these elements in the beginning of this chapter allows later chapters to tease out how Schmitt's attempts to define sovereignty undermine these sovereign elements that leads to instability.

What type of exception does Schmitt envisage?

Following the detailing of the Westphalian order and the sovereign elements which encompass them, the thesis now outlines Schmitt's model of exceptionalism. This section of the chapter builds upon the work of the first chapter that outlined Schmitt's belief in the sovereign's ability to not only make decisions in times of emergency but also declare the emergency. The lack of international limitations on state sovereignty domestically further compounds the ability of sovereigns without strong institutional constraints to exercise exceptionalism on a regular basis.

In order to recognise Schmitt's model of exception it is necessary to determine what type of sovereign decisionism Schmitt argues for. Whilst Schmitt claims that law is always founded upon a decision, he poses two possible accounts for how that decision is exercised. Commissarial dictatorship is one in which the sovereign is encased inside the legal order when making decisions. This model rests upon an emergency that requires the sovereign to make decisions so the state can return to a state of normalcy. Sovereign dictatorships are when the sovereign is removed from the legal order and instead rests upon the decision being consistently exercised (Cristi 1997, Wolin 1990, Schmitt 2008, Kelly 2016) . Schmitt attempts to produce a meaningful distinction between these alternative accounts of exceptional governance. Despite this, the chapter argues the attempt is flawed and can easily lead to a flattening of the commissarial sovereign into the sovereign dictator. The paradox (Schmitt's work is littered with them) of an extra-legal method of ruling being taken back to the legal process relies entirely on the goodwill of the sovereign outside of institutional limitations.

What is Schmitt's account between the exception and sovereignty? Following the further exploration into Schmitt's exceptionalism, it is necessary to give a clear account of Schmitt's exceptionalism and its relationship with sovereignty. Schmitt does not give an outrightly political account of the state and the exception's relationship with sovereignty politically, however there are political markers of sovereignty inside his work that can be understood as key to the foundation of exceptionalism guaranteeing sovereignty.

Assuming it is simply the ability to decide is what allocates sovereignty ignores the underlying political framework which substantiates the ability to decide. This is not to dismiss the centrality of the state and regime to Schmitt's belief in exceptional governance; indeed, the state necessarily features centrally in Schmitt's conception of sovereignty. Schmitt's political discussions relate to conceptions such as homogeneity and enmity that are managed via a strong centralised state. Homogeneity is not sameness in Schmitt's conception but instead is meant to signify 'equality' of citizens living inside the state. This homogeneity is founded upon and located in the enmity for the *enemy* that defines the *friend* which makes up the citizenship of the state. Fostering citizenship on these grounds is itself a paradox as the enmity that defines the *enemy* struggles to be contained in the way Schmitt imagines as the *enemy* is not to be destroyed otherwise the *friend* itself will be destroyed.

How does Schmitt's state of exception undermine sovereignty? Once Schmitt's arguments surrounding exceptionalism have been defined, it is therefore possible to explore how Schmitt's exceptionalism undermines sovereignty as defined earlier in the chapter. The sovereign marks, as can be defined by power, authority and citizenship, can be seen to be undermined by Schmitt's claims on homogeneity and enmity. Homogeneity in states that have significant identity differences can become problematic for sovereigns to manage and this is especially the case given the necessity of enmity in Schmitt's conception of the state. When combined, this creates a deficient regime that increasingly lacks authority and undermines the process of

citizenship. Exceptional governance has the character of gradually eating away at authority as the original claim of legitimacy underpinning the decision remains static as the political moment keeps moving.

3.2. Westphalian Sovereignty

This section does not directly address the claims made about the treaty of Westphalia itself. Indeed, whether the treaty of Westphalia specifically impacted the development of nation states is not of relevance to the focus of the thesis. Rather, the section focuses on the discussion of sovereignty encased inside the nation state. The Westphalian model places sovereignty firmly inside the state and thus state structures are responsible for the maintenance of sovereignty. This corresponds to Schmitt's argument that sovereignty resides within the state and the sovereign who decides upon the exception. After highlighting the themes of Westphalian sovereignty, the section outlines Caporaso's four sovereign elements. These elements consist of power, authority, citizenship, and territoriality. These are the necessary sovereign traits for states to claim sovereignty inside the Westphalian framework.

Whilst this thesis does not focus on the debate between scholars concerning the treaty of Westphalia, given that this section is entitled Westphalian sovereignty, I would be remiss in not addressing the topic briefly. The treaty of Westphalia has been considered by many as the treaty that led to sovereignty being consigned inside the state as opposed to outside forces. Despite this, scholars such as Osiander (2001) and Krasner (1995) dispute the myth of the treaty that has argued the treaty specifically created the principle of territorial sovereignty. Indeed, the claim of ruling over a specific geographical space rather than people is somewhat new and only became the norm in the 19th century, before this there were multiple claims of authority from religious and non-state actors in different areas. Not only this, but the approach of the treaty has been defined by some such as Haymen and Williams (2006) as outdated due

to its focus on personal sovereigns as opposed to states themselves (Krasner 1995, Habermas and Cronin 1998, Osiander 2001, Jackson 2003, Haymen and Williams 2006, Snyman 2006, Mearsheimer 2018, Zarakol 2018).

There is an alternative view that the treaty of Westphalia is not the issue, but the approach labelled Westphalian sovereignty remains important. According to this argument, it is not the treaty that created a state centric approach to sovereignty, the term goes beyond the mere treaty but gives name to an event that is ongoing. The equality of states in the principle of territorial control is what defines the Westphalian approach to sovereignty and that has been considered to be the model in the modern day embedded in the organisations such as the United Nations, African Union, Arab League, and the European Union. The principle of states being the utmost sovereign in their own territory is therefore replicated across a wide-ranging body of organisations giving priority to state sovereignty (Gross 1948, Kratochwill 1986, Krasner 1995, Brun 1998, Croxton 1999, Falk 2002, Brunet-Jailly 2005, Hassan 2006, Ginsburg 2010, Schmidt 2011).

The thesis argues that it is not what lays inside the specific Treaty of Westphalia that ultimately matters but instead the claim that states can dictate policy inside their own borders. This claim is related to the description of a Westphalian order encompassing different spheres of sovereignty including domestic sovereignty, interdependence sovereignty, international legal sovereignty, and westphalian sovereignty by Krasner (1999). Westphalian sovereignty is demarcated by two conditions: first, the principle of territoriality and second the exclusion of external factors in the domestic sphere. This is not to suggest the international order cannot do anything against states but rather the state has wide parameters of behaviour as the Westphalian order gives the sovereign the right to exercise authority in a specific space/territory (Morgenthau 1948, Ansell and Weber 1998, Krasner 1999, Snyman 2006, Mearsheimer 2010, Dar, A.I. and Sayed, J.A., 2017).

While Caporaso identifies different types of rule, such as ruling by tribe or belief, this does not extend to his scheme in the Westphalian order. The Westphalian order is one ruling over a specific space with a state's legal reach encompassing that space (Caporaso 2000). Therefore, in the Westphalian sense it is not just a question of space that is important but also authority to dictate what occurs over that space. The critique made by Haymen and Williams (2006) ignores that many states today are personalised as opposed to possessing independent institutions. What appears to be important in defining Westphalian sovereignty is control over the space as opposed to how the space is governed. This approach outlines the limitations of the international order in denying sovereignty to states that have defied international norms even in the most severe ways. Ultimately, it is not the function or the contents of the treaty of Westphalia itself but the form of sovereignty which is named after the treaty that the thesis uses.

In the *Concept of the Political* Schmitt identifies the state specifically inside a closed geographic border which is inherent to Schmitt's understanding of a state. The historical persistence of boundaries and lines of division in a multitude of contexts are what define the order of the state and Schmitt's work is focused upon the idea of order primarily. The necessity for unity is embedded inside a territorial construct with the border acting as both a metaphorical but also a physical line emphasising separation and difference. This is not to suggest that the *enemy* are simply those existing outside the border but rather the border is used to act as a gate for the community creating an inside/outside distinction. Space therefore in Schmitt's mind is not simply about strategy or power as classical geopolitical views suggest but rather a thicker interpretation of the importance of a politically sovereign reign over a territorial space (Dean 2006, Zarmanian 2006, Elden 2011, Minca and Rowen 2012, Meyer, R., Schetter, C. and Prinz, J., 2012, Minca and Vaughn-Williams 2015).

3.2.1. Four Elements of Sovereignty in the Westphalian model

This section details the four elements that Caporaso argues exist inside the Westphalian order. The Westphalian model is one which is predicated upon states maintaining independence and thus the 'right to rule' within their own geographically defined borders. Thus, any external interference naturally corresponds to a delinkage of sovereignty through the model that is posited by Caporaso. Not only is external interference an issue but it also requires control by the state over the space that it claims to occupy. These traits are used in order to highlight how Schmitt's thinking on sovereignty through the model of sovereign decisionism does and does not quite fit into the westphalian order that comprises sovereignty. This thesis is not questioning Caporaso's model but rather using it as a model to measure Schmitt's thinking on sovereignty.

The first of the four elements which Caporaso highlights is that of authority. Authority as Caporaso argues is not just grounded in the model of a liberal democratic element but rather can be conceived by some in the command and obey system. This is highlighted in Weber's model of legitimate governance as a legitimate monopoly of violence (Caporaso 2000). However, for Caporaso this command and obey model has limitations such as over-estimating consent to authority and relies too heavily on coercion and a fear of retaliation if one were not to obey. Caporaso even uses Arendt's quote to highlight the limitations in the command and obey model and to relate closely to how he views authority

> *"The authoritarian relation between the one who commands and the one who obeys rests neither on common reason nor on the power of the one who commands: what they have in common is the hierarchy itself, whose rightness and legitimacy both recognize and where both have their predetermined stable place"* (Caporaso 2000 pg.9).

Caporaso ultimately argues that the question of authority deals with both the capacity to rule but also the right to rule. This presumption of right to rule is one which joins both the rulers

and ruled which does not mean that sovereign and private authority are necessarily redundant terms inside this framework.

The next sovereign trait which Caporaso addresses is that of power. In his paper, Caporaso details it as sovereignty but in fact it is essentially a discussion on the concept of power. Caporaso highlights that authority can exist without the power to enforce that authority such as a religious leader, a doctor, and a parent but that what Caporaso terms as sovereignty is related to the relationships between different authority figures. What matters is that the state has the final right to decide and make the decision. This for Caporaso is what constitutes sovereignty which is the ability to rule inside a given territory and the capacity to effectively govern (Caporaso 2000). Caporaso admits himself that this is a much less sophisticated vision of sovereignty than other scholars such as Krasner presents. This thesis terms it 'power' as it essentially addresses the allocation of the final decision and capacity to execute that decision.

Territoriality is the next sovereign trait that Caporaso addresses. As is noted by Caporaso territoriality is not just limited to the space that a territory occupies but also addresses the legal reach of the public authority within the territory (Caporaso 2000). Rule by territory is the notion that the rule extends as far as the geographical border of the particular state. However, there are other categories of ruling which Caporaso highlights such as rule by tribe or by belief such as the Catholic Church (Caporaso 2000). The thesis does not address this sovereign marker directly due to the illustrations all ruling using a geographical model. However, this is not to say that these ideas are necessarily meaningless, certainly the as some of the illustrations suffer from sectarianised politics where citizens do feel that the state is ruling for some people and ruling over others. Caporaso claims that the model of territorial rule by a single ruler subverts multiple claims of authority such as in the Medieval era whereby there would be multiple claimants upon authority however as both Caporaso and Mearsheimer highlight once rule over

space emerges as the model of authority it is not authority over 'what' that matters but authority over space (Caporaso 2000, Mearsheimer 2018).

The final sovereign trait in the Westphalian model that Caporaso notes is that of citizenship. Caporaso frames citizenship as membership of the political community and argues that it cannot be imagined without this foundation. In the Westphalian order, membership of the political community is rooted inside being a member of a state, simply being a visitor or a guest while working in a state fails to entrench the same rights as citizenship does (Caporaso 2000).

3.3. Schmitt's Claims to Legal Order in Relation to the Sovereign

The previous chapter distinguished between the two competing conceptions of exceptional governance that exist in Agamben and Schmitt's work. The decionist based model that Schmitt uses comprises of two alternative methods of decisionism that Schmitt himself attempts to impose. This is the distinction between the commissarial sovereign and the sovereign dictator. This distinction moves the thesis away from a purely legal commentary on the role of exceptionalism and into a political one that discusses the effect politically of decisionism on legal and political orders. Thus, this section focuses on the political sphere of the decision and its effects.

Schmitt's decisionism is one that is fundamentally devoid of normative assumptions on the role of law and politics. Instead Schmitt focuses on what he believes is the nature of the political and legal sphere. Rather than norms guiding the process of political decisions, Schmitt contends that fundamentally all judgements and actions come out of a decision itself. Thus, if we take Schmitt at his word, once the exception has been declared it cannot be reined in or undone

unless via another decision as the one who make the exception are themselves the sovereign. Decisionism in this sense operates as the counterbalance to deliberative politics and these two distinctive political ideas cannot be brought together (Wolin 1990, Kalyvas 2000, Husymans 2008, Pan 2008, Ungureanu 2008, Vatter 2008, Hoelzl 2016).

The relationship of the legal order to that of sovereignty is one where sovereignty is intermittently expressed through the containment of emergencies through the sovereign. By the sovereign giving orders outside of the state via the exception but those orders having a concrete effect on regime practice creates a scenario where the decision is an expression of sovereignty. The exception can lift the sovereign above the legally constituted order, giving them the monopoly to decide. This is in contrast to rule via law that according to Schmitt is an empty shell attempting to restrain the decision that ultimately cannot be restrained. The sovereign's duty is to resolve the crisis that is supposed to be returned to normalcy once a crisis has passed but this still does not mean the decision is meant to be constrained via law. Sovereignty via the decision is therefore defined by Schmitt as the ability to create a concrete reality (Cristi 1997, McCormick 1997, Kalyvas 2000, Roach 2005, Teschke 2011, Espejo 2012, Reilly 2016, De-Wilde 2019). The belief that the decision should not be constrained via law in decisive moments can be witnessed via Schmitt's argument in *Dictatorship* where he argues

> "*Therefore, especially in a Dictatorship, only the goal governs, which is freed from restrictions imposed by the law and is only determined by the need to create a concrete situation. In principle, whenever there is an exclusively technical interest in the state and political matters, legal restriction can be a hinderance and something inappropriate-in exactly the same way.*" (Schmitt 2000 pg. 8).

The restrictions of legality on the decision in times of emergency producing a concrete order is not something that Schmitt is interested in either in the belief that it would be useful or

necessary. Despite this, Schmitt attempts to navigate his method of decisionism through a paradox of at once belonging to a form of legality but existing outside of the legal order when in action. It is this paradox that leads Schmitt to attempt to create a distinction between the commissarial sovereign and sovereign dictator.

3.4. Commissarial Sovereign versus Sovereign Dictatorship

Schmitt attempts to differentiate between different forms of sovereign. Both forms of exceptionalism exist in a time of necessity that necessitates extreme powers and neither in the time they exist are constrained by a legal order. However, one is supposed to function as a return to a legal order and the other is defined by its existence outside the sphere of law, but both are defined by the ability of the sovereign not only to act outside of the law to protect the order but also the ability to define the emergency itself. The sovereign's role in acting as a protector of an order from threats unrestrained by the norm in both of these conceptions of the sovereign therefore remains the same. In Schmitt's view dictatorship is the only protective measure that comes up trumps in times of crisis to regain or retain the sovereign quality of control over territory (Sartori 1989, Habermas and Cronin 1998, Arato 1999, Neocleous 1996, McCormick 1997, Kennedy 2004, Dean 2013, Howland 2018).

Schmitt's distinction between the commissarial sovereign and the sovereign dictator in *Dictatorship* is an important one to note in an attempt to grasp Schmitt's intent on the differing functions that Schmitt intended to create for these sovereigns. One is defined by paradoxically functioning inside a legal order and one is defined by its continued existence outside of said order. The commissarial dictatorship is defined by its constitutional limitations that limit both its timeframe and authority in what the sovereign can and cannot do. The sovereign dictator on the other hand is unconstrained and occupies a much broader terrain of decision making than the commissarial sovereign. Rather than simply defending the existing order, the role of the

sovereign dictator is to create a new order in its entirety (Wolin 1990, Kalyvas 2000, Muller 2003, Feldman 2008, Smolinsky 2012, Tuori 2016, Kelly 2017).

This distinction between these two dictators can be seen at the very beginning of the text *Dictatorship* where Schmitt distinguishes between the role of an emergency dictator in Roman times to the transition of Caesarism that latterly emerged. Schmitt argues

> "*The dictator, who was appointed by the consul at the senate's request, had the task of dissolving the dangerous situation by reason of which he had been nominated either by waging war or by squashing an uproar from within.*" (Schmitt 2000 pg. 1).

> "*In particular, the obvious difference between the older republican dictatorships and the later ones of Sulla and Caesar might have suggested a much closer examination of the concept of dictatorship. The contradiction between commissary and sovereign dictatorship, which will be developed in what follows as the fundamental deciding criterion, is here already indicated by the political development itself and it resides in the nature of the matter.*" (Schmitt 2000 pg. 2).

The distinction between these alternative types of? dictatorships can be witnessed via two key differences that Schmitt attempts to fashion: first, is the distinction in terms of protection versus will. The commissarial sovereign is understood to be a protector of the defined order whereas the sovereign dictator exists to remake an order therefore no limitations can be placed upon their decision making. Secondly, are the time limitations of dictatorial powers - the commissarial sovereign is limited either in time or in circumstance for their office to remain intact, in comparison the sovereign dictator exists without time limitations. These differences emerge from the competing sources of authority that supposedly guides the two dictators, one derives its authority from the existing order that bounds it in time and when it can be used- whereas the sovereign dictator attains their authority via enacting the 'will' of the people

creating a new order (Agamben 2005, Coleman 2007, Feldman 2008, Vinx 2010, Reilly 2016, Mcloughlin 2016, Mohamed 2018).

The differing sources of authority that underpin the different forms of dictatorship are also outlined in *Dictatorship*. Schmitt argues

> "*As a commissar, the intendent only had the forms of authority that resulted from his commission- concerning both his own person and his duty*." (Schmitt 2000 pg. 80).

> "*It is assumed that a dictatorship can only emerge if a constitution already exists, because the chef supreme is the one who appoints the dictator and his function remains within the framework of the constitution- even if only for its legal basis and not in the content of its activity. The omnipotence of the dictator rests on his being empowered by an existing organ with constitutional authority. This is the concept of the commissarial dictatorship.*" (Schmitt 2000 pg. 112).

> " *From the perspective of sovereign dictatorship, the entire existing order is a situation that dictatorship will resolve through its own actions. Dictatorship does not suspend an existing constitution-a constitutional law; rather it seeks to create conditions in which a constitution- a constitution that it regards as the true one- is made possible.*" (Schmitt 2000 pg. 119).

The quotes from *Dictatorship* reveal Schmitt's attempt to paradoxically limit a commissarial dictatorship inside a legal order for a specific purpose to defend the existing order. The authority of the commissarial dictator comes from the constitution in times of emergency when the order needs to be defended from either an inside or outside force. Schmitt attempts to box in the commissarial sovereign's actions, restricting them expressly to previously defined limitations both in time and action. The paradox comes to the fore when a sovereign via defending the existing order must act outside of it at once limiting the sovereign's action but

simultaneously giving the sovereign room to act as they deem necessary. This contrasts with the sovereign dictator whose authority cannot be situated within the constitution as it is the sovereign dictator's role to remake the political and legal order. Any previous limitations that might once have existed become null and void as the reshaping of the order disposes of them for something newer. The sovereign dictator therefore has a much wider mandate that can be described as functionally limitless in their remaking of the legal and political order (Schwab 1980, Arato 1999, Casson 2008, Vinx 2010, Legg 2011, de Wilde 2019, Kutay 2019).

Schmitt's attempt to differentiate between two different forms of sovereign response to an emergency is therefore necessarily found in the different authority that each sovereign can call upon. By choosing to differentiate? between the sources of authority that the sovereign calls upon this either inhibits or frees up a sovereign's actions. However, the functions of the sovereign existing outside of the legal and political order, even if they are conducting themselves as the commissarial sovereign, leaves open a troubling notion. The Schmittian paradox is something that scholars have argued opens the door to an ultimate philosophy of decisionism that cannot be constrained. Indeed, Wolin (1990) argues that the distinction Schmitt attempts to make breaks down as the distinction flattens once the powers themselves are enacted. Not only this, but Schmitt's own views expressed on article 48 highlight movement latterly as one of towards a more favourable view of a sovereign dictator that focuses on the concrete reality of decisionism as opposed to the paradoxical notion of commissarial sovereignty. Indeed, Schmitt's shifts over time has even led him on this question has even led to him being called a chameleon on this question moving from a time limited dictatorship to eyeing sovereignty as the concrete ruler who exists above and beyond the law (Wolin 1990, Salter 1999, Arato 2011, McConkey 2013, Brannstrom 2015, Moudarres 2015, Scheuerman 2020, Collison 2021, Kaiser 2021).

Although some authors such as Wolin (1990) suggest that Schmitt's original distinction is ultimately meaningless there are those that disagree. Some, such as e.g. Kalyvas (2000) argue that the distinction is essential to maintain as the commissarial sovereign ultimately despite being a decision maker in a specific time period is distinct from the characteristics of decision that the sovereign dictator ultimately inhabits. Thus, the distinction is important in locating alternative forms of exceptional decisionism deciding to enforce an existing normalised legal order as opposed to rule via the decision. This line of argumentation forms the opinion that Schmitt was ultimately no legal nihilist but rather seeks to limit the decision inside the legal structures that encase the commissarial sovereign (Wolin 1990, McCormick 1997, Kalyvas 2000, Dean 2013).

The shift in Schmitt's thinking from the publication of *Dictatorship* to *Political Theology* can best be captured in Schmitt's own words. Given in *Dictatorship* Schmitt went to great lengths to discuss the differences between the commissarial sovereign and sovereign dictator, even going so far as to label continual sovereign dictatorships problematic claiming '*this decisionism is essentially dictatorship not legitimacy'* (Pan 2008 pg. 51). Whereas in *Political Theology*, Schmitt takes a turn towards pursuing a demand of obedience towards the sovereign that has not only been constituted to declare and resolve the emergency. Not only this, but Schmitt also addresses a broader concept of the state that cannot be constrained via the norm and is undergirded by certain political concepts supporting the decision that shall be discussed later in the chapter. He argues

> " *What is argued about is the concrete application, and that means who decides in a situation of conflict what constitutes the public interest of the interest of the state , public safety and order, le salut public, and so on. The exception, which is not codified in the existing legal order, can at best be characterised as a case of extreme peril, a*

danger to the existence of the state, or the like. But it cannot be circumscribed factually and made to conform to a performed law." (Schmitt 2005 pg.6).

"*The state is the original power of rule, but it is so as the power of order, as the 'form' of national life and not an arbitrary force of applied by just any authority.*" (Schmitt 2005 pg. 25).

The quotes therefore suggest that it is not merely the decision cannot simply be defined via an emergency decree but must be understood as a broader conception of the state and sovereignty that underpin the method of the decision itself. Not only this but the decision and its effectiveness for Schmitt is not an issue that is abstract but is instead a practical matter that is the concrete locater of sovereignty. By being the concrete locator of sovereignty, the state is different from other forms of orders that exist, that being the case what is it that gives the state a greater level of sovereignty than other authorities. Thus, the regime being in control of the state apparatus, making decisions with concrete effects provides according to Schmitt is sovereignty in action (Schwab 1989, Weber 1992, McCormick 1994, Mouffe 1997, Kelly 2003, Schmitt 2005, 2008, Vatter 2014).

However, whilst Schmitt is primarily known as a legal theorist in relation to his work on decisionism, in his work he addresses directly political themes that acts as the undergirding for his statement that *sovereign is he who decides on the exception*. Schmitt's anti-liberal approach to politics and the state is grounded in three key themes: the homogeneity of the citizenry that exists inside the state, the *friend enemy* dichotomy that defines the essence of the political itself, and the state being the overarching entity that binds the citizens together as opposed to multiple competing organisations. In addressing these themes that underpin the sovereign, it is possible to assess the utility of decisionism once it is exercised inside this form of political framework.

If the framework for decisionism can ultimately be found wanting, then so can the decision itself.

It is not simply through these three areas that Schmitt's political undergirding can be judged but also his arguments for the role of the sovereign in relation to the state that has been related back theologically. In order to truly understand the role of the sovereign and the state in Schmitt's political underpinning it is necessary to begin at the claim that the state conceptually is formed from secularised theology and the sovereign plays the role of God creating miracles.

3.5 Secularised Theology and the Sovereign God

Schmitt contends that the supposed omnipotence of the state is built upon secularised theological concepts. Thus, the state rather than existing as a nebulous concept that people just submit to is in Schmitt's eyes built upon secularising theological terms. In reference to the secularised theology the sovereign issuing a decree is similar to the church handing down a creed which entails the same effect of no-one being able to countenance it. The secularised theology in the state also directly relates to the necessity of homogeneity inside the state as the state akin to the church practices unity of doctrine and belief.

Schmitt famously cites in *Political Theology* that

> "*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*" (Schmitt 2005 pg. 36).

> "*there always exists the same inexplicable identity: law giver, executive power, police, pardoner, welfare institution. Thus to an observer who takes the trouble to look at the*

total picture of contemporary jurisprudence, there appears a huge cloak and dagger drama, in which the state acts as many disguises but always as the same invisible person. The 'omnipotence' of the modern lawgiver, of which one reads in every textbook of public law, is not only linguistically derived from theology." (Schmitt 2005 pg.38)

"*At the foundation of his (*Kelsen's*) identification of state and legal order rests a metaphysics that identifies the lawfulness of nature and normative lawfulness. This pattern of thinking is characteristic of the natural sciences. It is based on the rejection of all arbitrariness and attempts to banish from the human mind every exception.*" (Schmitt 2005 pg. 41).

The claim Schmitt exercises here is not simply one of history but also one of a similarity of structure. Thus, it is not to religious tradition that we should look to but to the structure of the decision being at once part of the order but also transcendent of it producing the sovereign god that can uplift the decision from the state in a miraculous manner. The decision represents the parallel to the miracle in the fact that the sovereign intercedes in the natural order of the law and makes an exception akin to God interceding in natural law and making an exception. The decision cannot be located outside of the sovereign as for Schmitt the decisionist element would be removed if so. It is not only this but a combination both miraculous nature of the decision with states and regimes exercising what are foundationally theological concepts that provide the notion of sovereignty. This necessarily according to Schmitt needs to go beyond merely addressing the nature of the state itself but its relationship with society via the decision that ensures the state rises above the society and acts as a guiding force preventing the crisis of authority that engulfed the Weimar republic. (Wolin 1992, Baume 2009, Elden 2011, Thiem 2013, Roberts 2015, Reilly 2016, Hoelzl, M., 2016, Bonefeld 2017).

Schmitt's theological linkage to the secular state therefore is an important one in terms of understanding how the sovereign exercises the decision and the qualities the decision represents that necessarily informs us of the role of the state acting as a representor from above. The state necessarily becomes authoritative as opposed to simply legal, extending the decision into an eternal form that gives the sovereign the necessary authority to decide that translates to the opposite of the legal formalism that Schmitt opposed. Viewing the role of the decision and the state via the lens of the theological allows us to understand better the potential of Schmitt's theory for absolutism and finality that is expressed in his belief that the secular concepts of the state derive themselves theologically. The framing of the state as a secular theological form has been considered by some authors, such as Blumenberg, to be a method of secularising the absolutism of theology and adopting the strong authoritative state fatalistically as it cannot function as anything other than that. Not only does the state's absolutism appear in the theological claims of Schmitt but it represents the seedbed of the political itself that exists in the level of enmity that appears primarily through the *friend enemy* dichotomy (Wolin 1990, Wetters 2006, Pan 2008, 2009, Vatter 2008, Bragagnolo 2011, Herrero 2015, Gibbs 2019).

Schmitt's attempts to ground his sovereign god and the authoritative state in the theological has not gone without dispute. Barash (1998) disputes Schmitt's central claim of decisionism and the state being secularised theological concepts at all. As Reilly (2016) and Gibbs (2019) have all noted Schmitt was challenged by Blumenberg and Peterson who questioned the legitimacy of Schmitt's theological grounding of the state and the decision in its relationship with the political in the modern age. The question of sovereignty in relation to the political therefore is placed at the crux in the central theme of the state with its right and ability to make the decision open to question. Indeed, it has been argued by some the rise of the rules-based state has banished the miracle from the state entirely rendering Schmitt's '*sovereign god'* useless. The logic of the liberal state as constituted in the modern day is necessarily aimed at

creating rules and norms designed to protect people on a rights-based approach that limits the exclusionary and decisionist approach as advocated for by Schmitt (Barash 1998, Neocleous 1998, Mouffe 1999, Ifergan 2010, Pankakoski 2013, Kistner 2016, Reilly 2016, Gibbs 2019).

3.6 Hobbes and Schmitt

The perceived similarities between Schmitt and Hobbes have earned Schmitt in some quarters the title of the *20th century Hobbes* (Norris 1998, Moltmann 1999, Spektorowski 2002, Theim 2013). Schmitt's sovereign can be seen as akin to Hobbes' sovereign via the decision acts as a preserver but also Schmitt tries to continue to retain the authority of the political and legal orders as does Hobbes (Dyzenhaus 1997, Mininger 2010, Teschke 2011). Indeed, as this section discusses Schmitt's book on Hobbes contains significant praise for the 17th century theorist. This similarity can be used to understand the themes that appear in Schmitt's account of sovereignty more broadly. However, it is not only their similarities but also their differences that appear in both accounts and that can guide us to how Schmitt conceptualises the state and sovereignty. Schmitt believes that Hobbes ultimately did not go far enough to construct a strong unity inside the state that would ultimately see his creation ripped apart from within.

Schmitt and Hobbes both have a shared interest in the conflictual nature they ascribe to politics. Both authors assign conflict an important locus in relation to the sovereign and their ability to manage conflict within the political system that they reside over via the power to decide. (Sartori 1989, Wolin 1992, Cristi 1997, Kristiansson and Tralau 2013). For Hobbes, the power to decide is necessarily situated within the confines of the sovereign being able to ensure a state of nature does not occur and this ensures the necessity of an 'all powerful sovereign (Thomsen 1997, Bredekamp 1999, Schmitt 2008, Muis 2016). As Hobbes argues

> *"Hereby it is manifest, that during the time men live without a common power to keep them all in awe, they are in that condition which is called war; and such a war, as is of every man against every man" (*Hobbes 2005 pg. 84).

> *"If there be no power erected, or not great enough for our security, every man may lawfully rely on his own strength and art for caution against other men"* *(*Hobbes 2005 pg.111*).*

Hobbes, just as Schmitt contends, desires a sovereign who can resolve the state of nature and he does this by erecting a strong enough state to prevent conflict occurring inside the state itself absolving it of anarchy and instead providing order. Citizens will accept this condition on the basis they want to avoid the state of nature thus by agreeing to a social contract that gives the sovereign the ability to do as they will to ensure the maintenance of the state and the order that comes with it. By achieving the social contract and consent wrapped up in the sovereign, the bedrock of popular sovereignty has been formed that is expressed via the legality of the Hobbesian state (McCormick 1997, Bredekamp 1999, Schmitt 2008, Moehler 2009, Tralau 2010, Stanton 2011, Mohamed 2018).

But it is not only in certain forms of thought that Hobbes and Schmitt share similarities. They also share a contextual similarity of extreme political turbulence that affected their thoughts on politics. Whilst Hobbes was writing during the time of the English civil war, Schmitt was writing in Germany during the period of the Weimar Republic and the rise of Nazism. For Schmitt at least, the chronic instability fostered a desire for a singular political entity that was strong and could unite a homogenous people (Bendersky 1979, McCormick 1994, Thomsen 1997, Ostovich 2007, Gelot 2011). As expressed in the previous chapter, this can be witnessed via Schmitt's support for article 48 in the Weimar republic.

The representation of the sovereign links distinctly to Schmitt's conception of the sovereign's ability to acquire personal authority by making a decision and solving the emergency. Awe is important in the formulation of the sovereign in Hobbes' work for their ability to create a concrete effect in dissolving conflict and thus avoiding the state of nature. The awe generated by the Hobbesian sovereign ensures obedience is achieved and the sovereign remains largely unchallenged. Schmitt's sovereign's ability to not only resolve the emergency but declare it has echoes of this formulation. The decision is for Schmitt the opposite of the disorder that engulfed the Weimar state. Creating a communal order in the form of a total state that is directed by the decision fostering unity harnessed and recognised inside the state is for Schmitt what produces political order and thus sovereignty. The unity achieved to tie the state together and produce a sustainable state is not naturally present but instead needs to be created via the decision, thus in Schmitt's claim the decision is the necessary component of unity and of sovereignty (McCormick 1994, Kahn 2003, Kelly 2004, Stanton 2011, 2016, Vatter 2014, Douglass 2015, Howland 2018, Zaffini 2020).

Despite the similarities between the two authors there are also considerable differences that enable us to shine a light on Schmitt's broader claims to sovereignty. One of these differences concerns the symbolic and coherent representation that is conducted via the state. Schmitt uses the sovereign god as imagined in *Political Theology* to highlight the Hobbesian state as being a mere empty vessel devoid of content but is rather a machine that attempts to run itself (Cristi 1997, Thomsen 1997, Skinner 2002, Tralau 2010, Muller 2010). Not only this, but the awe that Hobbes required for the sovereign to retain order in Schmitt's eyes necessitated the absolving of the 'inner' and 'outer' that Hobbes posited in the *Leviathan* leads to social pluralism that unwinds the sovereign and the machine state that Hobbes envisioned (Ostovich 2007). These critiques can be witnessed below where Schmitt argues

"*For technically represented neutrality to function, the laws of the state must become independent of subjective content, including religious tenets or legal justifications and propriety, and should be accorded validity only as the result of the positive determination of the state's decision making apparatus in the form of command norms.*" (Schmitt 2008 pg. 44).

"*Even though a consensus of all with all has been achieved, this agreement is only an anarcho-social, not a state, covenant. What comes about as a result of this social covenant, the sole guarantor of peace, the sovereign-representative person, does not come about as a result of but because of this consensus. The sovereign-representative person is much more than the sum total of all participating particular wills.*" (Schmitt 2008 pg. 33).

"*Also, his* (Hobbes) *answer to Bishop Bramhall (1682) confirms that he has dealt with the sensitive point by underscoring the importance of absorbing the right of private freedom of thought and belief into the political system. This contained the seed of death that destroyed the mighty leviathan from within and brought about the end of the mortal god.*" (Schmitt 2008 pg. 57).

As highlighted in the quotes above, the state desired by Hobbes becomes a machine that helps produce the ability to ensure the awe that suppresses challenges to the state thus avoiding the state of nature. Schmitt however finds two key problems with this claim. First, is the lack of content in the Hobbesian state depriving the state of either the necessary transcendental foundation or political identity needed to ensure the adequate creation of the total state. Second, is Schmitt's belief that Hobbes pokes a hole in the machine that inevitably leads to its destruction. Hobbes' recognition of private belief opens the inner-outer distinction that in Schmitt's eyes wears down unity and necessarily means the ultimate dethroning of the

sovereign god that Hobbes creates (Neocleous 1996, Cristi 1997, Hollerich 2004, Dyrberg 2009, Minca and Rowan 2014, Muis 2016). These two differences are key in fully understanding Schmitt's ultimate claims to sovereignty that rest beyond the decision but that the decision necessarily requires a political unity that is constructed via the sovereign themselves.

3.7 Unity and Homogeneity

The *friend enemy* distinction is an important claim in Schmitt's discussion of the political that directly relates to his claims on sovereignty. As the previous section on Hobbes outlined, Schmitt's departure from Hobbes arrives because of Schmitt's dispute with Hobbes' state occupying an ideologically empty space and the inner-outer distinction that Hobbes manufactures creating a crack in the idea of the total state. Thus, the *friend enemy* distinction and the total state offer an alternative to Hobbes' leviathan that for Schmitt promises that the decision equals sovereignty.

Like Hobbes, Schmitt believes that politics is fundamentally a conflictual exercise but rather than imagining conflict on an atomised basis of the individual Schmitt imagines that political conflict emerges between groups of people that describe *friends* and *enemies.* In this sense, Schmitt's use of the term is not a normative statement but rather a descriptive one that delineates how he sees politics being born out. Personal safety is not the bar that Schmitt aims for in the *friend enemy* dichotomy but a larger unity that creates stability and thus sovereignty in the form of a unified state. Schmitt believes the dichotomy emerges as a result of a concrete threat against the unified group that exists either inside or outside the state. It is the state that defines the *enemy* via the decision, and this requires the state to be homogenous as opposed to heterogeneous in its makeup. In *Ethic of the State,* Schmitt highlights that powerful social groups weaken the state's ability to proclaim decisions and instead becomes agonistic and no

longer able to define the *friend* or *enemy* (McCormick 1994, Thomsen 1997, Norris 1998, Schmitt 1999, Suganami 2007, Hohendahl 2008, Vatter 2008, Dyrberg 2009, Stanton 2011, Teschke 2011, Salzborn 2012, Pankakoski 2013).

The ability to locate and decide the concrete threat against the unity of the state for Schmitt is therefore paramount in according the state sovereignty. The unity that is desired by Schmitt cannot also be narrowly located in specific areas of what we call 'the political'. The fostering of the *friend* can be considered as a mechanism to lessen strife compared to the strength of feeling that groups feel for *enemies.* Indeed, 'the political' in Schmitt's world is built upon the level of enmity that flows from it. Subjects such as economics, aesthetics, and morality can all be considered 'political' from the enmity that flows from them. Once a subject reaches a level of enmity to be counted into the political, the sovereign decides as to whether this constitutes a threat to the community, rather than lowering the levels of enmity identifying the *enemy* can merely ratchet up the already existing levels of enmity (Rasch 1997, Zarmanian 2007, Husymans 2008, Dyrberg 2009, Dean 2013, Rae 2015). This is exhibited in a quote by Schmitt who argues "*Democracy requires, therefore, first homogeneity and second - if the occasion arises - elimination or eradication of heterogeneity*" (Wolin 1990 pg. 403).

By constituting the sovereign to make the *friend enemy* dichotomy exercised via the unified total state this restricts the ability of citizens to engage in the political themselves. Schmitt's surface commitment to democracy may appear to ensure the citizenry have a definitive say on the *enemy* as opposed to simply the sovereign. Despite this, as Schmitt writes in *Crisis of Parliamentary Democracy* the 'democratic principle' can be observed via representation. Indeed, Schmitt argues

> "*Compared to a democracy that is direct, not only in the technical sense but also in a vital sense, parliament appears as an artificial machinery. Produced*

by liberal reasoning, while dictatorial and Caesaristic methods not only can

produce the acclamation of the people but can also be a direct expression of

*democratic substance and power" (*Schmitt 2000 pg. 17).

"The minority might express the true will of the people; the people can be

deceived" (Schmitt 2000 pg.27).

The unity that is necessary to form the homogeneity that is the grounding for the *friend enemy* dichotomy therefore must be created via the decision and this is what gives the sovereign their representational ability that grounds the decision and thus sovereignty. The state's existence pre *friend enemy* distinction allows the sovereign to define the terms of the state's *enemies* that are then realised inside the homogenous nation itself. Creating a thicker conception of the sovereign and the state than Schmitt ascribes to Hobbes through the *friend enemy* dichotomy ensures that Schmitt's claims to sovereignty via the decision rests upon a political basis. This is a basis that can be seen as one of a tightly knit unified state guided by a decisionist sovereign and whose foundation is the *friend enemy* dichotomy. Indeed, the *friend enemy* dichotomy goes beyond the mere legal analysis that Schmitt offers, the legal is incapable of anticipating the *enemy* nor can law actively declare an *enemy* that is an inherently political position (Sartori 1989, Wolin 1992, Muller 1997, Norris 1998, Kahn 2003, Koskenniemi 2004, kennedy 2011, Roberts 2015).

Unity that identifies the *friend* and thus the *enemy* can be found via the formation of group consciousness. The identification of shared traits such as culture, heritage, or ethnicity for Schmitt presents the opportunity for a will to defend against the outsider thus identifying a *friend* and an *enemy*. Thus, the creation of the state is not empty or simply machine-like, but instead requires a thicker identification of community than simply awe but also commonality to make up the state (Norris 1998, Scheuerman 2006, Muller 2007). This is important to note

given as Mehring (2017) highlights, Schmitt's words in *Concept of the political* being "*the concept of the state presupposes the concept of the political*" (Mehring 2017 pg. 305) and "*the specifically political distinction is the distinction between the friend and enemy*" (Mehring 2017 pg.305). Thus, in Schmitt's own words for there to be a state that exists it must adequately distinguish between the *friend* and the *enemy*. The ability to create unity through the common enemy is something that rings true in Schmitt's construction of the *friend enemy* dichotomy, thus there is less focus on friendship as an ideal as opposed to the mutual understanding of who the *enemy* is (Mehring 2017). As Schmitt argues in *Constitutional Theory* friendship is defined by homogeneity, in this case homogeneity being a mutual agreement of the *enemy* (Mehring 2017).

As stated, before in the chapter, Schmitt saw politics in terms of concrete groups rather than individuals thus in Schmitt's mind it is not the individual conscience that is important but the direction of the concrete group. Schmitt wanted the state itself to be homogenous on the grounds that if there are other organisations in the state that are capable of providing greater protection than the state itself then the state becomes annexed by those parties. Instead, the state must be the organisation citizens identify with and receive protection from. Ultimately this provides the basis for the sovereign to define the *friend enemy* as other organisations which otherwise challenge the state's authority are subsumed by the state itself. This requires the state to have the monopoly of the political. Yet, as we can see in the illustrations even when states and regimes have the monopoly of the political as the authoritarian structures restrict the activities of other societal groups this has not been sufficient for the state to remain secure.

3.8. A Critique of Schmitt

Following on from a discussion of Schmitt's conception of not only the decision but the broader outlines of sovereignty that uphold the decision, it is now necessary to turn our attention to a criticism of Schmitt's decisionism and claims of sovereignty. The critiques are aimed not only at the limitations of the decision conferring sovereignty onto the state but also the political underpinnings that the decision is grounded upon. If the political underpinnings of the decision can be seen to be unstable then that necessarily ensures the decision is unfit to proclaim sovereignty and the continued use of the decision merely exacerbates the political instability that exists rather than stabilising the situation. The notion of the decision conferring sovereignty is also critiqued in this section. This is done via critiquing the concept of Schmitt's 'godly sovereign' and the natural limitations of the decision ensuring instability is the result of this form of governance as opposed to the stability that Schmitt promised.

The first critique I shall be using is attacking the notion of the 'sovereign god' that Schmitt proposes. This critique sits at the heart of Schmitt's claim of the decision equalling sovereignty. The sovereign god is titled as such because of god's ability to make exceptions to the natural order thus creating a miracle. For Schmitt, the modern state has merely cloaked its features in rationalist discourse ignoring the reality that the state rests upon theological structure to uphold itself. This is the structure that gives the sovereign the ability to intervene in the legal and political order at will. The sovereign therefore akin to God, has the ability to create a political miracle by committing to a decision that supersedes the legal order. Despite Benjamin showing admiration for Schmitt's theological conception of the state and other ideas, he exercised them in a fashion that meant them being challenged and ultimately opposed. Benjamin locates a precise problem in Schmitt's reasoning when it comes to the claim of the sovereign god. By arguing the sovereign god must 'fall' as the decision is not able to be exercised consistently highlighting the humanity of the sovereign as opposed to the godly ability to intervene (Weber 1992, Mininger 2010, Monagle 2010, De Wilde 2011, Reilly 2016, Vatter 2019, Murphy 2021).

The Schmittian claim of the decision being the miracle therefore presupposes the decision itself is both useful and actively solves the problem is not necessarily the case. It might be said that the mere ability to intervene constitutes a miracle in of itself, but if the intervention consistently harms or is ineffective then the ability to intervene will according to this thesis become harder and harder until it can no longer be done. Rather than being a miracle intervening in the natural order to produce an outcome, the sovereign decision can instead become an anti-miracle undermining the sovereign's claim of representation of the homogenous whole and limiting their future ability to intervene. This will be reflected in the chapters on power, authority, and citizenship that argue the decision not only cannot maintain these traits but necessarily undermines them underlining the limitations of the so-called miraculous decision.

Not only is the 'sovereign god' seen by some as lacking in their ability to create and execute the miracle there are also those who believe the sovereign god unleashes an ability that cannot be limited creating a nihilistic political project. Kelsen critiques the idea of the sovereign god as breaking down Schmitt's paradox of the legal sovereign. God cannot be constrained via the law of nature but instead wanders through it unconstrained. If the sovereign has the ability to act akin to a sovereign god, this same approach breaks down Schmitt's unstable paradox of the legal sovereign allowing them to be unconstrained by the legal order. Rather than producing a legal sovereign making decisions and returning to the legal order, the sovereign practically becomes unencumbered and unrestrained by the law or other political forces. This leaves Schmitt open to the charge of political nihilism that is offered up by Karl Lowith in *The occasional decision of Carl Schmitt.* Indeed, Schmitt's claim of the sovereign god only holds up if the decisionism is of a time limited period that specifically resolves the situation as opposed to an unencumbered sovereign but as the thesis highlights time limited emergencies often become timeless (Baume 2009, McQuillan 2011, Falk 2014, Mcloughlin 2016).

Paradoxically, the charge of political nihilism and the fall of the sovereign god can work conjointly. On face of it, it would seem that we would have to choose between the sovereign god either being ineffectual or all powerful unable to be constrained but this assumes that a lack of institutional constraints on the sovereign empowers them as opposed to laying the road to their potential downfall. The sovereign can be unconstrained in the decision-making process ensuring their ability to intervene in the 'natural order', but these decisions can simultaneously weaken the sovereign's position thereby weakening the sovereign and leaving them open to becoming increasingly ineffectual.

A second core critique of Schmitt is his attempts of representation. Schmitt goes to great effort in an attempt to locate representation via the sovereign and the decision that is built upon the pillars he sets up. The decision therefore cannot be seen in isolation but rather needs to be realised as part of a broader political framework that props it up, and if that framework does not work neither will the decision. There are two strong critiques of Schmitt's attempts at representation: these critiques take aim at both Schmitt's theory of representation in the sovereign decision and the levels of intensity creating an unstable bond of the *friend* and *enemy.*

The first critique is an issue with the dynamic will clashing with the static decision, rather than the will being represented via the decision the will can quickly overrun the decision. This appears on the face of it to be a similar critique to Benjamin's claim that the sovereign god must ultimately fall and become all too human, but it is slightly different. Rather, the will that is grounded in the static political moment first created can change and the sovereign's grounding in the collective homogenous will runs out. This creates a tension in the *friend enemy* dichotomy highlighting that the sovereign can go from defining the *friend* to becoming the *enemy* of the newly constituted will that the sovereign can no longer direct or control. Further attempts at decisionism rather than exercising sovereignty either go unheeded by the masses or

are directly rebelled against undermining Schmitt's belief that the sovereign *is he who decides upon the exception*.

The will like all political concepts for Schmitt must necessarily have a polemical meaning ensuring that it maintains its visceral and heated qualities are retained. Schmitt's claim that the political was based upon the enmity that opposing groups feel dividing us into *friends and enemies* is the epitome of such a claim. However, the visceral and heated quality threatens the ability to create a concrete whole as Schmitt imagines under the unity of a single ruler as the groups consistently face the possibility of destabilisation. Indeed, the paradox of the *friend enemy* dichotomy in Schmitt's work of simultaneously seeking to be bounded by the threat of the *enemy* (Sartori 1989, Zarmanian 2006, Doulat 2008, Benhabib 2012, Salzborn 2012, 2017, Conty 2018). The *friend enemy* distinction becomes an unstable force that is incapable of bounding together a people and rather than creating stability guided by the representational unity of the sovereignty becomes an unstable grouping that threatens not only to attack the *enemy* but break apart internally.

Not only is there a danger of the *friend enemy* distinction coming under contestation and being turned into an unstable grouping that can move from peace to violence quickly, but it can be argued Schmitt cannot bound individuals into a concrete whole as he supposes under his attempt to foster unity. Despite Schmitt's attempt to locate unity in the state as a parallel to the church's ability to represent and unify in a single body that the sovereign represents symbolically this claim can be considered more fragile than it first appears. The ability to build a democratic dictatorship is undermined by Schmitt's location of unity as both the aim and the source of the legitimacy of the paradoxical state creating an unworkable simultaneous functioning of unity. The functioning of the sovereign as the prominent component making political life unthinkable without them as the structural backbone of Schmitt's pillars ensures the instability of his attempt to create a unified state that ensures the *friend enemy* dichotomy

is one of a juxtaposition between order and absence of order. The state machine that Schmitt idealises can be seen to fall foul of the same critique that he levels at Hobbes, the machine he intends to build suffers from a fatal crack that breaks it apart (Rasch 2000, Teschke 2011, Liew 2012, Gil 2014, Bradley 2018, Mullieri 2018, Passos 2018, Lesch 2019).

The fundamental aim of the thesis is to highlight Schmitt's attempts to produce a sovereign decision equating to sovereignty founders upon the political state that props up the decision in the first place. Schmitt details the need for a total state ensuring the cohesion of social groups into one communal homogenous state propping up the sovereign decision when it is exercised. His critique of Hobbes on the liberal state as detailed earlier thus becomes important, the decision cannot be exercised unless it is bounded inside a homogenous communal state otherwise this opens a crack in the system that necessarily undermines the decision. The decision as identified by Schmitt therefore cannot merely be understood as the immediacy of the sovereign decision but rather an alternative political framework that can be understood as an attempt to solve the tension Schmitt finds in liberal democratic states.

 However, the reality is this state is impossible to maintain even if it can be constructed in its initial formation of homogeneity. The fluidity of the political outruns the ability to decide, the more decisions made for longer the more they undermine the political underpinnings of the state and thus the decision. Decisionism once it is let off the leash of constitutional restrains provides no limitations to sovereign action. Initially, the argument for ultimate power of the state grounded in the homogenous citizenry sounds like a good claim to sovereignty descriptively even if normatively there are obvious problems; however, my argument is that descriptively this claim does not stand up when tested and instead this form of decisionism runs aground of political trends that cannot be predicted or contained.

The political decision as identified by Schmitt therefore comes across political features propping up the decision that exist underneath the sovereign that the sovereign cannot contain or represent adequately. Despite Schmitt's attempts to ground the decision both politically and legally, the future chapters titled *Power, Authority, and citizenship* highlight the practical limitations on Schmitt's decisionism and political underpinning of the decision. I use these three definitions that exist inside Caporaso's definition of sovereignty highlighting the inability of decisionism to provide the desire for stability that Schmitt so desperately seeks. Instead of stability the decision undercuts these sovereign features ensuring instability and an ever-growing reliance on coercive mechanisms in an attempt to retain control over the state.

Chapter 4: Power

4.1. Introduction

 The previous chapters lay out the theoretical claims of the thesis. This chapter instead focuses more on the practical application of exceptionalism and the claims of sovereignty that were theoretically imagined. By outlining the theoretical claim of power this chapter outlines the paradoxical conflict existing between coercion and political power. Rather than power emanating from coercion, coercion can undermine the claim to political power when it is used excessively de-linking the grounding for power that is necessary to sustain the coercive mechanisms of the state.

Given the inability of coercion to create power, this chapter outlines the ways in which Schmitt's decisionism in its political form ultimately undermines power as opposed to sustaining it as he imagines. This shall be achieved not only by highlighting the limitations of Schmitt's claims but by identifying an alternative conception of power that sits in contrast to Schmitt's decisionism. Alongside the theoretical dispute, the chapter uses the illustrations of Syria, Bahrain, and Egypt to examine the failure of decisionism in practical terms that can be

seen to have played out in specific episodes. Rather than decisionism grounding sovereignty, decisionism instead creates a dislocation of the sovereign from the citizenry upending Schmitt's claims that '*sovereign is he who decides on the exception*'.

The chapter asks the following questions in order to both define what power is and how the implementation of regime coercion can undermine the conception of power the thesis advances:

How should power be conceptualised? The first question the chapter answers is the conceptualisation of power. The thesis makes a distinction between coercion and power with the former requiring a stable and legitimate basis to ensure the maintenance of power. However, if a regime relies upon coercion this basis cannot exist. Following this distinction, the thesis argues that power needs legitimacy in order to function, whilst self-interested citizens may obey regime commands in exchange for security this requires regimes to maintain its overpowering nature indefinitely, thus leading to the realisation that if it relies on coercion it otherwise cannot maintain itself. Thus, the ability of coercion to enforce behaviour is not useful to ground power.

The question of behaviour modification is also addressed as it is not only coercion that some authors have argued create behaviour modification. Instead, behaviour modification can be seen as a product of mutual relationships from below and above fostering exclusionary practices ensuring behaviour modification. However, this approach is challenged by two critiques that argue this approach does not make enough of a distinction between different spheres of power but instead flattens these into one, and secondly, the paradox of behaviour modification occurring via both the bottom and the top simultaneously.

Instead of using coercion or behaviour modification as a basis for power, the thesis has opted to adopt a position that power cannot be conceived of coming from a single source and it is

subject to a negotiation from below that challenges the above. If the top-down structures do not respond to demands from below then the legitimacy of the sovereign is critically compromised. Power must therefore be seen as more of a continual negotiation that relies upon legitimacy and if legitimacy is compromised then the ability of the sovereign to exercise power is critically compromised and an increasing reliance upon coercion is created.

How is the exception implemented? This is the important question of how the exception itself is exercised and governed. The previous chapters have laid out the theoretical model of what the exception is but also what supports the implementation of the exception in different theorists' models of sovereignty. This chapter asks the question of what the specific implementation of the exception is. This will be done in two ways.

First, is the exception a permanent measure or a temporary one? In the illustrations this differs with Syria and Egypt operating on a model of permanent exception with the Bahrain case being a more episodic model. The exception can take the form of a permanent state of emergency that is officially enshrined in legal codes, or it can take place in a more episodic format that is implemented for specific emergencies. However, all three of the illustrations have used decisionism as a method of governing as opposed to rule via the Parliamentary approach of governing. Therefore, the three illustrations all sit inside the parameters the thesis sets for decisionism and the state of emergency.

Second, is that once an emergency is declared how is the state of emergency and decisionism in general actually delivered? The chapter outlines how the *friend enemy* dichotomy, the unrestrained use of regime power and the exercise of coup proofing are all exercised in the implementation of the emergency. The goal of the implementation measures is to resolve the emergency and re-establish sovereignty, this chapter shows that this is both not what has occurred but also cannot occur with these measures. By doing this, the chapter achieves its

stated aim of highlighting decisionism does not create the stable sovereign state that Schmitt imagines.

What are the problems with implementation? The next question the chapter answers what specifically the problems are with the implementation of exceptional decisionist rule. The implementation of the decision necessarily needs to exercise the political framework that Schmitt outlines and this chapter examines the difficulties of implementing decisionism. The difficulties of implementing decisionism affect both the political structure creating a destabilising effect on the state and destabilises the state asking a significant question on the utility of decisionism as a form of governing to ground sovereignty.

The *friend enemy* dichotomy that is supposed to homogenise the nation but once operationalised via emergency decisionism undermines the claim of homogeneity. In the illustrations this can be witnessed in different ways. In Syria and Bahrain there has been a focus on sectarianising the other, posing the claim that the 'other' is a threat to the nation that makes the 'other' sect the *enemy* creating a critical situation. Both Syria and Bahrain are minority regimes (regimes which are led and largely represent those who are not part of the dominant sect or ethnic demographic in the state) ensuring this attempt at dichotomising on sect can make the regime the *enemy* as opposed to the *friend.*

Regimes can also use the spectre of terrorism to define *friends* and *enemies,* something that has been done in each of the case studies. Those who oppose the regime are called *enemies* that need to be defeated in order to secure the state and those who live in it. Rather than producing homogeneity, this instead produces a tension between who are really the *friends* and who are the *enemies* in the citizens minds with the state taking the place of the enemy in many people's minds. This entrenches the conflict rather than resolving it as the need to exercise the state of exception highlights the lack of homogeneity inside the state itself. In each of the illustrations,

the description of protesters during the Arab uprisings as *enemies* and the framing of the Arab uprisings through both a lens of terrorism as well as a lens of sectarianism has been ineffective in grounding the support of its citizens.

The thesis also shall show the use of coup proofing in each of these regimes has been counter-productive to the creation of sovereignty. Coup Proofing as a model is supposed to insulate the sovereign and provide greater stability inside the regime structure by ensuring key positions are held by loyalists who can be trusted. In practice, coup proofing is used by regimes in an attempt to safeguard from internal strife with varying degrees of institutionalisation and a differing role of personal relationships. Some forms of coup proofing involve creating parallel forces others involve retaining loyalty inside institutions, and some focus on material incentives as opposed to exploiting communal ties (Quinlivan 1999, Bellin 2012, Makara 2013, Batera 2014, Albrecht 2015, Mehrl and Choulis 2021).

Coup proofing is often therefore not just a tool of regime management but cannot be dislocated from relations such as sect, ethnic, tribal, and personal loyalty but instead it needs to be discussed inside these frameworks. If regime elites are closely tied to the survival of the regime through familial, sect, or ethnic relations they will likely see their personal future tied up with the survival of the regime, but if there is sufficient pressure from below this increases the chances of inside actors attempting to depose the sovereign. Paradoxically, this kind of loyalty creates the conditions for rebellion to occur as purges can mobilise opposition to a leader's rule once they sit outside the regime (Roessler 2011, Bellin 2012, Powell 2012, 2014, 2019).

The relationship of coup proofing therefore cannot merely be considered an 'insider' relationship but one that intrinsically affects the 'outside' too. Homogeneity has an inevitable impact of coup proofing and on the equality of citizens and can be considered representative of the larger *friend enemy* dynamics that are enacted across the state. It can be considered that

those inside the top of the regime hierarchy are often *friends* of the state whilst those on the outside and have their career opportunities limited can be considered *enemies* unfit to represent the regime at the highest levels and are not to be trusted. However, as shall be discussed, this dynamic cannot remain static but instead is naturally fluid ensuring the difficulty of maintaining a representative *friend enemy* dichotomy in practice.

4.2 The Literature on 'Power'

The literature on the topic of power can be grouped into three main concerns. These concerns involve: (1) distinguishing violence from the conception of power; (2) power as derived from perceived legitimacy; and (3) power understood as behaviour modification. These categories will be considered via Schmitt's conception of sovereignty. Schmitt perceives the ability to make the decision as the precondition for power and thus sovereignty.

The questions this review seeks to answer are as follows: (1) does the ability to make decisions necessarily shape behaviour? (2) Does power derive from the sovereign's ability to make the decision? (3) Do the decisions really sit with the sovereign, or do they sit somewhere else? By answering these questions this literature review answers the question: is the sovereign really the person who decides upon the exception? In order to anticipate what will follow, we can say that power necessarily cannot merely be the function of coercion. Coercion is insufficient to bind citizens to the state and the sovereign is unable to make all the decisions. Therefore, the sovereign is reliant upon others seeing them as legitimate to ensure they can practice power but decisionism is an insufficient method to achieve this. The review concludes that power cannot be conceptualised via the application of coercion nor behaviour modification.

4.2.1. Distinguishing between Violence and Power

The literature proposes a distinction between the ability to exercise coercion and retain power in a 'thicker' sense. Before a discussion can be had on coercive capacity it is necessary to define what coercion is. Political associations cannot be entirely voluntary, indeed even if social contracts have initially been entered to completely voluntarily these still require enforcement if they are broken. The only alternative is a utopian political association that never witnesses disobedience, something that is theoretically possible but not something that will practically occur. At a basic level, coercion can be considered to be defined by a broad category of actions that limits people's absolute freedom in some manner by attempting to influence their decisions. The attempt to influence decision-making is not done with mere debate or disagreement but rather a meaningful coercive threat of negative consequences if the subject of attempted coercion does not submit. Limiting absolute freedom can involve differing results such as enforcement of your will over someone else's or punishment for non-compliance. Coercion as defined by constraining freedom occurs in all states, for instance if the law is broken enforcement of said law is necessary limiting the citizens freedom via punishment (Ryan 1980, Carr 1988, Baumann 2003, Pevnick 2008, Anderson 2010, Valentini 2011, Morrison 2012, Munger 2012).

Some level of coercion to individuals can be deemed necessary to maintain any state but a state can become over reliant on the tools of coercion as a foundation tool of the state. As opposed to legitimate domination reliant upon a bedrock of legitimacy as outlined by Max Weber, the state simply becomes a tool of domination (Weber, Parsons, and Henderson 2012). Coercion is therefore delinked from the principles of authority and justice that may otherwise ground obedience but instead the state's use of coercion becomes overwhelming. One example is that of indiscriminate coercion. Indiscriminate coercion is used by states against those dissenting due to a clash of interests between state and citizen raising the possibility of domestic political violence. This level of coercion is disproportionate to the threat that is faced to the state and is

often unconstrained in its application. Disproportionate coercion does not have to be effective in forcing an action for coercion to have been applied, indeed this thesis argues excessive coercion oftentimes has a counterproductive effect as people resist coercive practices rather than complying (Finogentova et al. 2011, Weber, Parsons, and Henderson 2012, Bell et al. 2013, Wendt 2015).

Coercive capacity cannot be used to create power but merely as an exercise in its maintenance, thus coercion can be applied inside the legal structure but the legitimate application of such coercion rests upon a legitimate foundation of the state (Parsons 1963, Foucault 1982, Mcintosh 1970, Breen 2007, Ricouer 2010, Pearce 2017, Dowding 2017, Reed and Moore 2019). Therefore, if coercion is perceived to have abused these limits its ultimate effects to sustain obedience are limited (Foucault 1982, Hindess 1996, Breen 2007, Huxley 2008, Ross 2014, Zelditch, and Walker., 2003, Bischof and Fink 2015, Lawson and legrenzi 2017, Haugaard 2018).

Power therefore cannot simply be imagined as a capacity to coerce. Coercion weakens its ability to demand obedience when it is perceived to be abused suggesting that coercion, when it is sufficiently de-linked from legitimacy, degrades rather than shores up power. The concrete limitations of coercion makes the contestation of legitimacy a critical question when considering the source and scope of power a critical question when discussing Schmitt's infamous quote '*Sovereign is he who decides on the exception*' (Dahl 1957, Parsons 1963, Schmitt 2005, Baldwin 2015). Is the source of power really the sovereign and does their ability to make exceptions and command provide sufficient scope to really give them power? Or does power come from other necessary sources to produce a political reality?

4.2.2. Power as a Reflection of Legitimacy versus the Sovereign Decision

Whilst a self-interested citizen may obey commands of a centralised body due to coercive mechanisms providing protection this is naturally a problematic formulation due to the trade-off of obedience in exchange for security (Boyle 1987, Hurd 1999). As soon as the coercive mechanisms are not overpowering, the claim to obedience is dismantled. Instead of being coercive, power can be conceived of as a reflection of legitimacy that stops the degeneration of power into a subject of mere coercion (Constas 1958, Eden 1982, Pakulski 1986, Allen and Goddard 2014). An institution's capacities vary over time ensuring regime's need to be 'thicker' than the capacity to coerce if it wants to garner stability in its position of power (Rudolph and Rudolph 1979, Matheson 1987, Kallis 2006).

This puts doubt into the claim that the sovereign is really who decides upon the exception but rather requires the maintenance of legitimacy by a regime over a longer period of time. The claim that the sovereign can act as a 'god' and intervene is reliant upon the continued maintenance of legitimacy inside the political order if legitimacy is not maintained the ability to intervene becomes limited. Schmitt's political underpinning claim of unity is founded in the *friend enemy* dichotomy. The dichotomy's reliance upon heightened enmity poses a threat to the claim of the sovereign god due to the necessary fluidity of politics creates leading to the possibility of unity breaking apart and the *enemy* turned inwardly on the sovereign themselves.

Distinguishing between power and domination therefore becomes important. This is due to the inability of coercion alone to understand power. The difference between mere coercion without political associations acquiring legitimacy and one that does is the difference between mere power and domination (Morcillo and Schlichte 2016, Szelényi 2016). Rather than coercion as the expression of state power as expressed through the sovereign decision to either defend or reform the state, power can be expressed through institutions garnering legitimacy lessening their reliance upon coercion. There are three distinct versions of where legitimacy can be found. First, is the institutional model that produces a hierarchical authority producing the 'right' to

issue commands with obedience flowing from this perceived authority of the institution (Miller 1970, Hilbert 1987, Burgess 2002, Mercier 2016). These institutions are often bureaucratic by virtue of their size, resources, and accompanying legitimacy from citizens agreeing to their exercise of commands thus giving them power (Weber 1978, Allen 2004, Allen 2020). Thus, rightness flows from the top down producing a hierarchical approach to the question of power and institutions.

A second approach is the belief that power is the result of group cohesion. Arendt argued shared belief fosters a rational constitution of the self, creating unified actions and unlike institutional models of power focused not on '*power over*' but rather '*power with*' (Benhabib 1990, Penta 1996, Anter 2020). In this sense, power does not reside with the sovereign or institutions making decisions and filtering them down but instead locates sovereignty inside a unified people (Arendt 1970, Allen 2002). Like the hierarchical approach of institutions, it locates power inside a single source but differs in where that source can be found.

However, the third approach to this question finds that power relations are diffused and cannot be found inside a single source. Thus, rather than the single source of power it cannot be conceived of in a centralised process that other theorists envision but is instead created across links that can be seen as unfixed (Reed 2017, Alasuutari 2018, Moore and Reid 2019). Reed's (2017) definition focuses on three distinct agents: rectors who recruit allies for the project, actors who take up the project, and others who are either outsiders or enemies. Power in this sense is not all-encompassing but is subject to negotiation and challenge fostering the need for responsiveness that is found in disparate actors.

Schmitt's formulation of power does not neatly match any of the above claims tying power to legitimacy when following his discussion to its end point. Schmitt's formulation of the sovereign is '*Sovereign is he who decides upon the exception*' (Schmitt 2005 pg. 1) therefore

locating ultimate power in the ability to decide. For Schmitt, once the legislator is granted the authority to make law, they become sovereign, acting as a representative that fosters greater legitimacy than law and the institution which makes law (Wheeler 2001, Posner and Vermuele 2011). Critically, not only can the sovereign take emergency powers, they can also decide upon what constitutes an emergency (Hirst 1988, Ungureanu 2008, Hoelzl 2016, Rossello 2017). Schmitt himself argues *"He decides whether there is an extreme emergency as well as what must be done to eliminate it."* (Schmitt 2005 pg. 7). Alongside this, Schmitt locates the inability of the emergency to be prescribed in law before its event, he argues *"The exception, which is not codified in the existing legal order, can at best be characterized as a case of extreme peril, a danger to the existence of the state, or the like. But it cannot be circumscribed factually and made to conform to a preformed law.*" (Schmitt 2005 pg. 6).

Schmitt's image of the sovereign's powers allows for them to remain unconstrained from any potential legal restraint and raises them above institutions that decide upon law. The initial moment of legitimacy allowing a sovereign to be a representor acts as a static moment in what is a fluid situation. Thus, the sovereign may have initially acquired legitimacy but over time lost legitimacy hierarchically whilst still giving commands. If legitimacy to rule does run its course for the ruler, this can manifest itself in the use of excessive coercion due to rulers who are deemed socially alien often need to compensate with additional punishment (Breuilly 2011, Horne et al. 2016). Power therefore is not invested inside institutions but inside a leader producing the will to follow commands. Whilst the *friend enemy* dichotomy is predicated upon unified groups mirroring Arendt's vision on the surface, it does not lead to an ultimate sovereign authority, nor does it advance the strength of enmity that is required to found the political. Indeed, the levels of enmity in the *friend enemy* dichotomy produce an unstable political grouping that struggles to be maintained. Power also cannot be diffused for Schmitt, the greater the diffusion the weaker commands shall necessarily be- the sovereign would not

be a 'god' but instead be one of many gods lessening their ability to create and maintain a political order.

4.2.3. Power as Behaviour Modification

Coercion and attempting to define legitimacy as a foundation for state action are two different definitions by which to define power. An alternative definition of power can be expressed through behaviour modification. Instead of the state coercing citizen's behaviour, behaviour modification is focused upon self-discipline and self-regulation that is derived from norms that are disparate forming from the 'bottom up'. This is in distinct opposition to the centralised formulation of sovereign decisionism exercised via the emergency.

Foucault argues power cannot simply be located in big decisions but needs to be examined in the micro sense that are formulated via dispersed bottom-up structural relationships that influence not only our decisions but institutional and social relations (Foucault 1982, 1990, 1991, Driver 1985, Garland 1986, Dean 1991, Hindess 1996, Allen 2001, 2003, 2004). From this perspective, coercion and consensus are not distinct but are a combination of power, shaping individual's behaviour through exclusionary practices producing domination (Foucault 1982, Dean 1991, 2001, 2002, lemke 2002, Allen 2003, Steinburg 2016). This is the case even in states that have representation and mechanisms of restraint on the state (Blencowe 2010, Erlenbusch 2013, Braeckman 2020). Controlling the body via institutions such as education and health that are reproductions of social norms that reinforce themselves from the bottom-up manufacturing consent and regulating our behaviour (Foucault 1979, Erikson 1995, Lacombe 1996, Bevir 1999, Singer and Weir 2006, Braun 2007, Collier 2009, Steinburg 2016, Haugaard 2021). This sits in contrast with both the claims of Arendt and Schmitt, as neither is power derived from '*power with*' but nor is it from the commands of the sovereign. According to this

view legitimacy cannot be derived from institutions due to the power relations that form such entities ensuring coercion is still exercised but rather in the form of overt violence is produced and reproduced via differentiated norms and structures of power.

However, power as being derived via behaviour modification has two flaws that undermine its claims to power. First, is the paradox of despite power coming from behaviour modification this is still contestable (Butler 1993, 1997, Dowding 2017). Thus, rather than social networks and institutions regulating our behaviour totally, it is necessary to discern between the social relations of those in power and those not in positions of power ensuring agency is a necessary factor in power relations (Fisk 1993, Keltner et al. 2003, Overbeck, Tiedens and Bron 2006, Fiske and Berdahl 2007, Magee and Galinsky 2008). Second, is the inability of this claim to recognise distinctions of power. As noted in previous sections, power can be seen as up for continual contestation as can be witnessed from social practices that are contested and also those that are self-inflicted (Bartky 1990, Patton 1998, Allen 1999, Bevir 1999, Gordon 2002).

4.2.4. Concluding Remarks

Coercion can be effective for a time to enforce obedience, but this effectiveness remains time limited and eats away at the legitimacy of the institutions. In time if the institution relies excessively on coercion mechanisms these produce the paradoxical effect of increasing resistance to the institution in question ultimately weakening power. This places limitations on the sovereign decision as a mechanism of exercising power- both in its time limitedness as the sovereign being able to act as a representor, the arbitrary manner in which it can be deployed as institutional constraints are significantly limited, and the ever-changing political circumstances such as the fluidity of the *friend enemy* dichotomy to which the sovereign cannot

realistically respond limiting their 'god' like qualities. As a result, unity and homogeneity cannot be achieved via these frameworks ensuring that sovereign decisionism therefore is not a useful explanation for political power.

If power is not violence, not coercion, and not control then what can power be conceived of? This thesis attempts to argue that power is a constructive relationship that is necessarily delineated from one single source and is contestable. The difference between this claim and other forms of power can be exemplified by Arendt's distinction of power as a manifestation of freedom and Foucault for which power is shaping and constituting individuals (Gordon 2002). For power to truly exist, the exercise of it must be rooted in legitimacy that is able to correspond to the exercise of political freedom if it is able to retain influence over those institutions wish to rule over. As a result, power cannot be constructed in a single institution exercising it but rather it is limited in its capacities and is contested over. For instance, power can be challenged from below if mutual promises are broken ensuring an ineffective reliance on coercion (Arendt 1998, Magee and Galinsky 2008, Bilgic 2015). Power thus can be subject to renegotiation between positions of power and subjects ensuring a mutual relationship between the exercise of power and the concept of legitimacy (Bailey 1993, Cooper 1994, Allen and Cochraine 2010).

4.3. Application of Power in the illustrations

As outlined in the questions at the beginning of the chapter, the thesis focuses on the practical relationship with the theoretical. This section therefore briefly describes the practical use of coercion masquerading as 'power' such as through coup proofing, personalised rule, and the ways in which the *friend enemy* dichotomy can be manipulated across identities such as sect, ethnicity, and tribe. This gives a guide for ways in which the illustrations can be analysed through the lens of attempting to foster homogeneity through difference via the *friend enemy*

dichotomy, the sovereign acting as a representor undermining institutions and how the god like quality of the sovereign is undermined as the decision cannot rectify emergency situations.

Power as described is not a matter of coercion but rather a contestable quality, requiring legitimacy to function and is dispersed. The illustrations that are being used highlight the limitations of personalised rule that uses coercion excessively in order to demonstrate their 'power'. Personalised rule oftentimes leads to attempts to stitch together a ruling coalition predicated upon personal and group loyalty via clientelism, neo-patrimonialism and coup proofing oftentimes fusing together practices of identity, coercive capacities, and material benefits (Migdal 1988, 1994, Geddes 1999, Young 1999, Ulfeder 2005, Erdmann and Engel 2007, Albertus and Menaldo 2012, Haddad 2012). These practices often cut across social cohesion as the process of attempting to secure the sovereign and the regime. These attempts as my illustrations highlight are oftentimes focused on extending the coercive capacities of the regime and manipulating strongly held identities. The result is creating a divide and rule regime that can be analysed via the *friend enemy* dichotomy but rather than creating unity and homogeneity it creates division and political instability creating a tension over Schmitt's belief that the sovereign is a unifying representor. Over time, this limits the regime's ability to act undermining sovereign will as the indicator of sovereignty.

4.3.1. Neo-patrimonialism

Before this section discusses coup proofing or instrumentalisation of identities that regimes use in an attempt to remain in political office, it is first necessary to discuss the concept of Neo-Patrimonialism. Neo-patrimonialism as Erdman and Engel (2007) write is a commonly used concept in political science derived from personalised authority occurring in modernity but not through a de-personalised bureaucratic modern state. Patrimonialism was first described by Weber not as corruption or a symptom of a weak state but instead as a method of personalised

ruling. Patrimonialism represents a form of legitimation derived from traditional personal rule as opposed to rational-legal legitimacy.

Focusing on culturally diverse forms of authority, Neo-patrimonial leaders are supposed to recognise the mutual forms of recognition and restraint that build personal legitimacy and lead to personal rulership. Neopatrimonialism therefore is not necessarily a system defined by coercion but is rather rule outside institutional legal rational bureaucratic apparatuses whilst using the spoils of a 'modern state' to govern (Roth 1968, Eisenstadt 1973, Erdman and Engel 2007, Van De Walle 2007, DeGrassi 2008, Pitcher et al., 2009, Bank and Richter 2010, Bach 2011, Bach and Gazibo 2011). The system therefore is maintained via the personalised distribution and use of beneficial economic and societal arrangements to cultivate and maintain loyalty of the ruled by the ruler blending the traditional with the modern (Roth 1968, Schwartzman 1977, Remmer 1989, Pitcher et al., 2009, Bach 2011, Charrad 2011, Lachmann 2011, Kelsall 2011). This gives the sovereign greater ability to exercise the decision outside of bureaucratic processes that limit what can be done. The sovereign can reward influential *friends* and dispense with *enemies* in an attempt to build a personal legitimacy.

Neo-patrimonialism can therefore take the form of a predatory patrimonial regimes where cronyism comes first, in particularly severe cases this forms the basis of sultanism as it becomes based on a leader's arbitrary and appearance of uncontrolled power. Patronage networks of established families often arise due to the intermixing of the personal and the political, fostering loyalty rather than competence or representation as the key value thus creating a question in regard to their legitimacy and thus their power over the long term (Gandhi and Przeworski 2006, Magaloni 2008, Guliyev 2011, Svolik 2013, Mabon and Ardovini 2016, Sarnelli 2016, Nasr 2017).

In the context of the Arab Middle East, the dependence on key figures inside regime hierarchies fuelled ever growing corruption and ate into the promises of leaders to deliver increased economic growth and prosperity for citizens. Rather than cementing rulers' leaderships as some predicted, it instead gave cause for concern as institutions had been hollowed out and functionally struggled to provide adequate services and growth even for those groups who regimes supposedly represent (Guliyev 2011, Hertog 2013, Gerschewski 2013, Isaacs 2014, Henry 2018, Dagher 2019, Ali 2020).

Neo-Patrimonialism can be seen through the lens of the Schmittian political system bringing emphasis to the phrases '*sovereign is he who decides on the exception*'. It gives regimes the ability to bring about big state politics in an attempt to foster loyalty but outside a democratic legal-bureaucratic rationale leading to the potential personalisation of the regime and control over state offices. The development of personalisation as explained in the second chapter can be viewed through the frame of personalisation, emptying out institutional safeguards limiting the regime's ability to reined in. This brings a challenge to Schmitt's belief in the sovereign's functioning not only as a representor but to rid the regime of preferential associations. As discussed in chapter 3, the sovereign builds unity by binding equality into homogeneity which is undermined by the preferential treatment of select groups creating the possibility for inequality and disunity. If the sovereign is preferential towards distinct groups inside the country this can lead to a breakage in what is supposed to be a unified homogenous political unit, damaging the sovereign's role as a representor of the unified whole. This leads to cracks and can lead to challenges in who is the real *friend* and *enemy* leading to pressure being applied to the sovereign as the people turn the *friend enemy* dichotomy inwardly on the regime and the sovereign.

4.3.2. Coup Proofing

Personalisation of regimes in an attempt to secure and maintain political office has not been limited to economic incentives but also to the coercive apparatus of the regime. One example of this is coup proofing. Coup proofing was briefly discussed at the beginning of this chapter and can be understood as the placement of groups with special ties to the sovereign. These include groups such as ethnic groups, religious groups, and those with personal relationships in important positions of the state in an attempt to cultivate greater loyalty amongst those with a significant investment in the regime surviving. This method attempts to ensure loyalty to the sovereign and the regime to those close to the hierarchy of the regime rather than building and maintaining loyalty to the institutions of the state itself in a broader capacity (Quinlivan 1999, Belin 2004, Bohmelt and Pilster 2012, Brownlee et al. 2013, Nepstad 2013, Battera 2014, Albrecht 2015, Santini and Moro 2019).

Functioning in regimes that use Neo-Patrimonialism, coup proofing can therefore be seen as a praetorian guard model; a line of defence tying key players in the regime to the sovereign in an attempt to build and maintain the regime's coercive capacity through the armed forces and the security services (Bellin 2004, 2012, Brooks 2013, Makara 2013, Albrecht 2015). An important part of coup proofing is diversifying actors so no one person can challenge the regime leader in their political decisions, thus at once centralising decision-making capacities yet de-centralising the ability to carry out orders to actors that are both part of the 'state' and those who support the regime but are functionally non-state actors. Personalisation in this sense makes a sovereign potentially more vulnerable to challenges inside and outside the regime due to a lack of institutional safeguards and norms hemming in actors' behaviour (Kohn 1997, Goldstein 2011, Bellin 2004, 2012, Brooks 2013, Makara 2013, Albrecht 2015, Albrecht and Ohl 2016).

Coup proofing therefore highlights the reliance of authoritarian regimes on particular mechanisms of coercion that do not necessarily build up state capacity but are rather derived

from the strength of personal and group loyalty. Whilst instinctively, this may at first appear to fit Schmitt's category of homogeneity creating the political foundations for the decision to function, the result is rather a fractured heterogeneous regime and state that is divided by personal and group loyalties. This reliance arguably makes regimes more vulnerable to popular uprisings from below as a result of the enmity building up that regimes cannot ameliorate. (Brownlee et al. 2015, Bamert et al. 2015). Coup proofing therefore akin with neo-patrimonialism suffers from similar theoretical deficiencies when analysed through the lens of Schmitt's decisionism.

By de-linking governance from institutions this further de-centralises decision making capacities putting into question if the '*sovereign is he who decides on the exception'*. The decision is necessarily tied to if groups that are relied upon inside regimes decide to follow the sovereign or believe it is necessary for self-preservation to abandon them. Given the importance of group loyalty in coup proofing, this necessarily leads to the importance of group loyalty in the political space outside of coup proofing too. The regime can suffer from becoming the *enemy* of the people and sovereigns in regimes rely upon the maintenance of group and personal loyalty that is ultimately conditional in order to exercise the decision effectively. Rather than fostering stability through unity and homogeneity, the regime is necessarily built upon inequality and heterogeneity undermining the sovereign's role as a representor and creating the conditions where coercion needs to be exercised.

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4.3.3. Manipulation of identities

This section discusses the manipulation of identities focusing on how primordial identities are perceived and can be manipulated. Rather than arguing for primordialism or instrumentalism (the beliefs that identities either necessarily create conflict or that they are entirely

manufactured by elites) the thesis takes the argument through the middle way of constructivism. Neither denying that primordial identities do exist, are embedded, and have some purchase but that feelings surrounding these identities can be manipulated. I shall argue this through the framing of sectarianism as this is a common and much written about theme on the subject of identity politics and is pertinent for my illustrations.

There are two key strands to the literature when discussing sectarianism, first is its definition and second is how does it function as an identity. Sectarianism has gone through so many different definitions the use of the term itself has been questioned and at the very least sectarianism remains a contested term in the literature. Indeed, the word 'sectarianism' itself has been questioned as to its usefulness due to the sheer volume of definitions that have been applied to it and as a result watering the word down to the point it is difficult to define a clear meaning (Haddad 2017, Hashemi and Postel 2017, Del Sarto 2019, Freer 2019, Mabon 2019, 2020, Valbjorn 2020). Despite this concern, a reasonable definition of sectarianism can be found if its scope is not broadened to irreligious conflicts that retain similar drivers such as ethnicity but retained inside the identity of religion manifesting in a political conflict according to a belief of religious difference. This is not to suggest the sectarian divisions are driven by a rich understanding of religion but rather the division itself constitutes separate group dynamics that exist and can be manipulated. Despite the fact that non-religious groups will often use religious rhetoric in their politics and there are intersections between sectarianism and other identities such as ethnicity and tribe, religion is a pre-requisite when discussing the concept of sectarianism (Berger 1954, Little 2011, Haddad 2017, Hashemi and Postel 2017, Del Sarto 2019, Rorbaek 2019, Valbjorn 2020, Ille 2021).

Now sectarianism has been defined, the second question of how it functions as an identity needs to be answered. There are three key strands in this debate- primordialism, instrumentalism and constructivism. It has been argued by some such as Landis (2014) and

Nasr (2017) that sect is an intrinsic difference that is a fixed part of a group's identity overshadowing other explanations for conflict and discord. However, this remains an unconvincing view as it insufficiently manages to explain the differences in sectarian feeling as well as being overly reductive and fails to confront competing reasons for political discord (Landis 2014, Haddad 2014, 2017, Nasr 2017, Valbjorn 2020, 2020). This has led primordialism becoming unpopular, as Valbjorn (2020) highlights there are few primordialist scholars today. An alternative view taken is instrumentalism. Instrumentalism believes sectarianism is socially constructed via elites' direct political interest and instead other factors behind the sectarianism should be analysed to explain the root of conflict. Indeed, sectarianism in some cases can even be banal. Constructivism adopts a middle ground, arguing that sect relations are embedded but are not necessarily conflictual. However, it is argued that sect relationships can be manipulated by elites and be used as a tool of political mobilisation (Anderson 1983, Young 1993, Byman 2014, Haddad 2014, 2017, Malmvig 2015, Hinnebusch 2016, Hashemi and Postel 2017, Finnbogason 2019, Rorbaek 2019, Valbjorn and Hinnebusch 2019, Valbjorn 2020, 2021).

Thus, rather than taking the approach of seeing sect as a primordial driver of conflict, it is instead more reasonable to see existing sect identities constructed by elites that leads to 'othering' and dehumanisation. One way to describe this process is sectarianisation, a term used by Hashemi and Postel (2017). Sect feelings rather than being static are fluid, authoritarians can manipulate sect feelings and tensions, claiming they are guarantors of peace and stability whilst creating the seedbed for conflict in an attempt to ensure regime survival (Hinnebusch 2016, Hashemi and Postel 2017, Hadad 2017, Freer 2019, Mabon 2019, 2020, Neggaz, 2020). This description is useful as it outlines manipulations of sect identity from the top down by regime elites as opposed to a hardwired difference that necessarily causes conflict and disunity.

The growth of manipulation by regime elites during the Arab uprisings saw an increased surge in sectarianised relations between regimes and their citizens affecting relations on wide plains from increased political inequalities, access to the state and relations with wider society. Manipulation therefore can be used not only to problematise identity but also to regulate political activity that attempts to challenge this dynamic (Cederman et al. 2010, Haskell et al., 2015, Rorbaek 2019, Gengler 2020, Valbjorn 2019, 2020, 2021, Alshahri 2021, El-Husseini 2021). As a result of these attempts at manipulations, there has been an uptick in sectarian-based violence emanating from state and non-state groups in the region that can be witnessed in some of my illustrations (Falk 2013, Gause 2014, Hashemi and Postel 2017, Heydemann and Chace 2018, Finnbogason et al. 2019, Rorbaek 2019, Valbjorn 2019).

Manipulation of identities can therefore be witnessed through the lens of a Schmittian political framework. These forms of manipulations suffer from similar problems as outlined in the coup proofing and neo-patrimonial sections. Existing inside a neo-patrimonial form of governance emphasising personalised rule manipulating identities further stretches the possibility of the sovereign to be an able representor and unifier grounding the regime. Instead, heterogeneity is likely to increase leading to an unstable form of the *friend enemy* dichotomy. Whilst the *friend enemy* dichotomy is supposed to be a political construction that supports decisionism by grounding homogeneity, as shall be seen in the illustrations rather than homogeneity being secured by regimes heterogeneity and discord is the result. This vulnerability inevitably chips away at regime capacity hindering the ability of the sovereign to execute decisions whilst the strength of enmity becomes unrestrained. As this instability rears its head the need to exercise coercion is more likely leading to significant questions on the sovereign's role as a form of 'god' as decisions increasingly require force to implement them. Whilst, I have focused on sectarianism as an example, as mentioned previously tribe and ethnic identities function similarly as shall be highlighted in my illustrations.

The Arab uprising have shone a new light on studying the resilience of authoritarianism. Both those who advocating the idea of an 'Arab exceptionalism' for authoritarianism and those who painted authoritarian states as durable were shocked by the large uprisings that occurred. The uprisings therefore disputed the notion that the Middle East was a place where authoritarianism was a more 'natural' form of governance and those who believed authoritarian regimes had cemented their hold on political office via a variety of practical measures. Some authors such as Alaa El-Aswany predicted the organised resistance to the region's authoritarian leaderships that was to come in the Arab uprisings, but most were surprised both by the levels of popular dissent and the form that it took (Laipson et al. 2011, Teti and Gervasio 2011, Pace and Cavatorta 2012, Hinnebusch 2014, 2015, Valbjorn 2019, Joshua and Edel 2021). Rather than analysing the outcome of the uprisings which have been unpredictable in their results, the thesis questions the stability of authoritarian constructs via the Schmittian lens. This differs from studies such as Brownlee's (2013) that identify the *modest harvest* from the Arab Springs, instead focusing on the mass uprisings that led to the resignation of four Presidents and sparked public protests rarely seen before. These events posed critical questions for regime stability and highlighting potentially critical weaknesses in authoritarian regimes (Teti and Gervasio 2011, Bellin 2012, Brownlee et al., 2013, Heydemann 2013).

4.4 The State, Power, and the Syrian Uprising

Rather than repeating information that has come before in the introductory chapter this section shall be split into three categories focusing on the regime's response to the uprising. These categories follow the previous sections focus on personalised ruling and the manipulation of identity. These sections shall be analysed via the theoretical framework as discussed previously in the chapter e.g., the *friend enemy* dichotomy, the role and functioning of decisionism as well

as the ability to construct and maintain political homogeneity. Through viewing the regime's response to the uprisings as well the results through this lens, it shall demonstrate that rather than homogeneity, unity and sovereignty emerging, there was heterogeneity, disunity and conflict contesting the regime's right to rule that affected its ability to rule.

This section discusses the theoretical claims of the chapter in relation to the regime's reactions to the Syrian uprising. This involves discussing the Syrian regime's use of Neo-Patrimonialism, coup proofing and manipulation of identities in response to the 2011 uprisings and during the civil war that resulted. As discussed in the introductory chapter, the Syrian regime has gone through significant personalisation via both Hafez and Bashar Al-Assad leading to a form of sovereign decisionist rule with few if any checks and balances. Under Bashar Al-Assad, there had previously been hopes of opening up the regime to more critiques during the Damascus Spring, but the regime decided to clamp down on critique rather than tolerate it. In addition, as discussed in the introductory chapter, Bashar Al-Assad had made significant personnel changes in the party and the inner workings of the regime to reflect loyalty to him and more broadly a more open tribal and sectarianised regime than had come before under Hafez Al-Assad.

4.4.1. Personalised Ruling

As discussed in the previous section neo-patrimonialism can be considered a feature of authoritarian governments in the region. As outlined in the introductory chapter, the Assad regime under Bashar Al-Assad had become a highly personalised regime composed of figures that were close to Bashar who were integral both to the economy and the coercive mechanisms of the state. It is in this context that the regime response needs to be considered, as opposed to structural features of politics such as an independent judiciary or an independent party which

could constrict Assad's action, this was instead a regime that ran with few if any institutions to limit action.

The regime response to the uprisings needs also to be considered in a context that the uprisings were not from an opposition party or an organised vanguard group. Rather than a monolith, the revolution was a plethora of activity organically emerging from the streets and growing with co-ordination committees appearing and secretive trust networks operating in cities in an attempt to ensure activist safety. This was combined with some tribal and clan based social structures such as in Daraa that cemented social networks enabling protesters to mobilise as groups (Leenders and Heydemann 2012, Diaz 2016, Kassab and Al-Shami 2016, Pearlman 2018, 2021). The decades of rule via patrimonial networks and excessive coercion as outlined in the introductory chapter had blinded the regime to growing levels of dissatisfaction that could not be ordinarily expressed by citizens but burst asunder when the opportunity presented itself. As two interviewees stated to Pearlman "*They planted fear in us and taught us fear ever since we were young*" (Pearlman 2018 pg. 889). And one recounted being told *"Do not oppose the ruler. Be careful, the walls have ears".* (Pearlman 2018 pg.889).

Thus, the regime was confronting an event that they couldn't have anticipated or stopped early on in its tracks due to the sheer levels of fear built up by the regime. This points to a distinction between coercion creating power and coercion fostering an assumption of power that is in reality built upon sand. Even strong levels of coercive domination cannot necessarily stop spontaneous events and such a coercive regime cannot see potential uprisings due to the levels of repression imposed on the civilian populace. It may be assumed that the regime is strong or that a form of unity has been fostered, where deep discontent may be bubbling below the surface. Indeed, as another interview to Pearlman stated *"There was no planning. Because if it had prior planning, the government would have been able to eliminate it . . . The random equation is impossible to figure out. If we take, for example, random parts in each town, it's*

difficult to gather them. But if you take the formulaic organized thing, it can be figured out. So the government was not able to see any beginning. Random parts came out . . . from all segments of the population." (Pearlman 2021 pg. 1796-1797).

The initial protests in Daraa that spread across the country between March and May of 2011 triggered a response from the regime. This regime response was mixed between the carrot and the stick. In Daraa, Bashar sacked the governor but also decided to storm the mosque where the protesters were gathering killing those inside leading to further protests at the martyrs' funerals (Leenders and Heydemann 2012, Abboud 2018, Pearlman 2018, 2021, Dagher 2020). The decision to use force rather than negotiate with the initial protests in Daraa inside the regime was contested by figures such as Manaf al-Tlass who claimed, '*They have wasted no time in taking the Hama manual out of the drawer"* (Dagher 2020 pg. 178) referring to the regime's bloody response to the 1983 Islamist uprising in Hama leading to up to 20,000 deaths. However, the regime's Janus-faced approach of at once giving some 'on paper' reforms such as an amnesty towards all political prisoners on May 31st, the dissolution of the state of emergency on April 28th and amending the constitution in February continued whilst continuing to use excessive violence against the swelling protest movement that had developed and the regime seemed unable to control (Time 2011, Heydemann 2013, Hokayem 2013, Gucturk 2015, Mabon and Royle 2016, Dagher 2020, Gaber 2020, Ungor 2020).

This response was not the only one used. Assad also denied there was a genuine rebellion against him in Darra arguing *"The people of Dara'a are the people of patriotism and the people of pan-Arab nationalism, Dara'a is a frontline region against the Israeli enemy. It is impossible for a person to, at the same time, defend the nation and then try to harm it!"* (Time 2011).

Set against the backdrop of Assad's brother Maher Al-Assad, his cousins the Makhloufs and Mukhabarat (the security service), Assad's speech trying to focus on unity in 2011 hardly

seems plausible or likely. Indeed, the regime family hardliners of his brother and cousins heavily advocated the regime to come down hard on those challenging the regime declaring the protests as nothing more than a foreign plot to undermine the regime (Zisser, E., 2012, Frisch 2013, Lesch 2013, Selvik 2014, Albrecht 2015, Koehler 2017, Dagher 2020). This speaks to the struggles of even deep inside and outside the regime to create a homogenous governing system and instead factional disputes over action were occurring. The dual use of coercion and concessions point to a limitation of what the sovereign decision can functionally manage if those below the sovereign i.e., citizens no longer feel bound to him or fear him. The loss of fear cannot merely be pointed to capacity of violence- after-all as demonstrated in Daraa, the capacity to commit violence was as strong as ever by the regime. Rather, it speaks to the willingness of the citizenry not to submit to violence once it is deployed or to continue to contest the regime's legitimacy and thus power. Indeed, this multifaceted response from the regime did not create unity but rather further disharmony and anger on the streets. As stated by one citizen who saw a presidential address to the nation "*President Assad gave a televised speech to the People's Assembly, in which he discussed a broad range of political and civil rights, including the right to demonstrate, but not only did he ignore the violence and killings by the formal security forces, there also did not seem to be any impact of his professed good intentions on the ground*" (Ungor 2020 pg. 68).

As a result of the coercive nature of the regime the severe disturbance from the citizenry were not anticipated by the regime. Due to the dynamics inside the majority of the inner hierarchy of the regime such as a fear of no alternative, and an unwillingness to compromise, the regime's capacity to deliver essential services such as food, healthcare, electricity, or security quickly became compromised once the uprisings became violent (Selvik 2014, Juan and Bank 2015, Martinez and Brent 2017). The regime's use and undermining of the state in this manner highlights the de-linkage between sovereign decision, regime loyalty, and state sovereignty

that further eroded as Syria became a playground for regional proxy conflicts to play out (Reynolds 2011, Makara 2016, Martinez and Brent 2017, 2018, Steenkamp 2017, Schierenbeck and Rudd 2018, McLauchlin 2018, Phillips and Valbjorn 2018).

4.4.2. Manipulation of identity

Whilst Assad and the regime purported to be seeking unity across the nation, they were also engaged in manipulating identity. As discussed in the introductory chapter, the Assad regime is built upon close sect and tribal relations. The Assad family themselves are Alawite and whilst Hafez built what appeared to be a broad church of Sunni's and other minorities, the regime from Hafez onwards has secured key positions within both familial, sect and tribal relations. This section details the different forms of manipulation that the regime has undertook during the uprisings and frames this via the *friend enemy* dichotomy and an attempt to foster homogeneity. This has occurred both via inside the regime's hierarchy such as in the armed forces but also in the rhetoric, use of non-state actors and other actions during the uprisings sectarianising the conflict.

The regime institutionally suffers from sectarianism that has been exacerbated since the arrival of Bashar Al-Assad and the uprisings. The Syrian regime's lack of access to goods such as oil and gas akin to the Gulf states ensures a reliance on the giving of high-ranking positions in the regime and a focus on communal identity such as sect stacking as opposed to focusing strictly on benefits earned from rents. However, under Bashar Al-Assad there has been a policy of increased familial rule leading to the President's cousin controlling around 60% of the economy by 2011 (Byman 2014, Heydemann 2014, Allinson 2015, Kasab and Shami 2016, Dagher 2020). Bashar Al-Assad has also ensured Alawi's are dominant at the very highest levels of the regime and the armed forces. Despite only representing around 10% of the country, it is

estimated that at the time of the conflict 90% of the higher-ranking Syrian army officials were Alawite (Makara 2013, Albrecht 2015, Hokayem 2016, Albrecht and Ohl 2016). In addition, the Sunni officers in the Syrian army have often been given poorer equipment than their Alawi counterparts, there are even instances of Sunni officers orders being countermanded by their Alawite superiors ensuring the narrow sect based regime retains strong control over the means of coercion. Mustafa Tlass is just one example of a previously high-ranking Sunni officer who was dismissed and eventually fled the country given his unwillingness to obey orders from Alawite colleagues (Quinlivan 1999, Van Dam 2011, Bellin 2012, Makara 2013, Albrecht 2015, Nassif 2015, Hokayem 2016, Albrecht and Ohl 2016, Dagher 2020).

Institutionally, as discussed in the introductory chapter and above, it is reasonable to assert that the regime is sectarianised. There is a focus on obedience inside the regime that is reflected outwardly in the regime's demands for obedience from the populace and this has been secured by stacking key positions with familial, sect, and tribal bonds (Dukhan 2014, Nassif 2015, Pierret 2014, Albrecht 2015, Hokayem 2016, Dagher 2020, Hoekstra 2020). However, despite this demand for obedience Assad's decisionist regime was coming up against a spontaneous opposition that was pluralistic and unwilling to trust or compromise with the regime. Thus, the attempt to appeal to Syrian's sense of duty and loyalty to the regime was met with deaf ears. The homogeneity that the Assad regime assumed was present not just inside the regime but out of it was not there, fear and coercion could no longer function as sources of 'power'.

Many of those inside the regime may have stayed loyal but this was not initially affecting the ability of the regime to change the behaviour of those outside the regime. The attempt at fostering homogeneity was not just focused on the regime and its institutions but also more broadly. The regime engaged in sectarianised discourse and actions throughout the uprisings forming popular committees in Alawite neighbourhoods providing communal security painting opposition as the *enemy*. An extension of these committees can be seen through the gangs

known as the Shabiha. The Shabiha is a term widely used for pro government militia primarily largely made up of Alawite groups that are often described as operating above the law. The militias are managed either by those in the armed forces, the mukhabarat, leaders in the Ba'ath party or simply neighbourhood strongmen from Alawite communities (Nakkash 2013, Chapman 2014, Vincent 2014, Saleh 2017, Hadaya 2020).

Not only are the Shabiha a sectarianised force in their mobilisation and leadership but they have engaged in sectarian acts that have been motivated both by reprisals and sectarianised beliefs. Deemed by a US Department of State report in 2012 similar to the Iranian Basij that indiscriminately wreak violence against defined targets. It was common for members of Shabiha militias to describe the uprisings as terrorist led and a belief the uprisings aims were to destroy the Alawite community. The Shabiha militias for example have taken over previously owned Sunni businesses such as in Zahra with Sunnis being evicted from the market and their stores looted. In addition, the Shabiha during the uprisings followed into cleared zones after the armed forces committing acts of murder and looting and were implicated in massacres in the towns of Houla and Taldou (Human rights watch 2012, Office of the High Commissioner for Human rights 2012, US Department of State 2012, Wieland 2012, Nakkash 2013, Chapman 2014). It was not only the Shabiha that was deployed but also the National Defence Force (NDF). The NDF were units of civilians working in tandem with the armed forces to, in the words of Bashar Al-Assad, '*Protect their communities'* (Leenders 2013 pg.165). The NDF just like the Shabiha sit in the realm of the diffusion of violence by the state itself as these units whilst comprised mostly of Syrian citizens were trained by Iran and were seemingly necessary to supplement the manpower shortages in the army and acted largely as an aggressive communal force (Leenders 2013, Vincent 2014, Kaddour 2015, Hadaya 2020, Leenders and Giustozzi 2020, Ungor 2020).

The sectarianised discourse that emerged from the regime and the actions of regime led militias perpetuated changed the focus of the uprisings. The strength of feeling that emerged can be analysed via the *friend enemy* dichotomy intensifying communal feelings during the uprisings. The regime by deploying these militias largely organised on a sect basis manipulated identity and found the *enemy* to be internally those protesting the regime who the leadership had identified as 'terrorists'. The uprisings as a result became sectarianised leading to a situation that by 2012 the country had slipped into an all-out civil war, demonstrating the limited response to the regime's attempt to ameliorate the escalating situation with the regime relying upon foreign nations such as Iran and Russia to control the country (Kasab 2011, Salih 2012, Phillips 2015, Albrecht and Ohl 2016, Hassan 2015, Finnbogason et al. 2019, Menshawy 2019). This rhetoric on 'terrorism' has not just been fired at domestic opposition but at foreign nations too in an attempt to form national unity in opposition to the foreign *enemy.* The talk of foreign conspiracy by Assad as outlined by Gaber (2020) further entrenches a way to analyse the regime's approach to the uprisings as one that is seeking to define *enemies* and for those backing the regime to become the homogenous whole of the Syrian nation. Indeed, a good example of this can be found in Assad's own rhetoric when he argued "*It's true, we lost our best young people as well as infrastructure that cost us a lot of money and hard work, but in return we won a healthier and more homogenous society.*" (Dagher 2020 pg. 449). Unity in this sense is built off the identification and eradication of the *enemies* that Assad believed were those opposing him. It is thus no real unity at all and as demonstrated has not lead to homogeneity and sovereignty but a fragmented regime that cannot control the country but is rather a fractured collection of individuals reliant upon violence. This highlights the limited effect of the regime using violence and sectarianism in an attempt to shore up those who are loyal and relying upon fear to stop people challenging their rule. Rather than coercion

extinguishing the protests it merely exacerbated the uprisings until they could no longer be contained without external help.

4.5. The state, power, and the Bahrain uprising

This section akin to the Syrian one discusses the regime's response to the Bahrain uprising through the theoretical lens as discussed throughout this chapter. Rather than repeating information that has come before this section shall be split into three categories building upon what has been stated in the introduction. These categories as with Syria focus on personalised ruling and the manipulation of identity. The regime's response to the 2011 uprising made use of neo-patrimonialism, coup proofing and the manipulation of identities. As discussed in the introductory chapter, the regime in Bahrain (the Al-Khalifa family) whilst longstanding has faced historic challenges to its support dating back to the 1920's faced arguably its greatest challenge in 2011. The regime faced internal division over not only how to handle the crisis but what the crisis was.

These sections shall be analysed via the theoretical framework as discussed previously in the chapter e.g., the *friend enemy* dichotomy, the role and functioning of decisionism as well as the ability to construct and maintain political homogeneity. These affect both the unity and homogeneity of the constructed political order as well as the sovereign's functioning as a unified representor. This has the knock-on effect of regime overreliance on coercion.

4.5.1. Personalised ruling

The regime's clampdown on civil society activists and opposition in the years preceding the uprisings were met with challenge from the populace. The uprisings therefore were not something that could not be predicted as in Syria but events that could be seen before they

emerged. As Gelvin (2012) argues it is not just the uprisings in Bahrain that can be seen in a similar light to Syria but also the nature of the regime and why uprisings occurred in the first place despite the differences of degrees between the two regimes. He argues "*there are two factors Bahrain and Syria hold in common that ensured the uprisings there would initially follow similar trajectories: the heterogeneity of the two countries and their rule by members of religious minorities, on the one hand, and the strategies their rulers used to stay in power, on the other.*" (Gelvin 2012 pg. 118). Thus, whilst there are key differences between the Bahrain and Syrian illustrations, both illustrations represent the limitations of sovereign decisionism in fostering stability due in part to the lack of homogeneity, the inability to maintain a stable *friend enemy* dichotomy and the resulting breakdown in national unity ensuring a reliance upon the use of coercion by the regime.

The protests that engulfed Bahrain in 2011 should be seen as a product of regime policies deemed unpopular across the country akin to Syria rather than overly sectarian demands. Ronald Neumann the former US ambassador to Bahrain attributed the distrust of the regime to policies of failed democratisation going back to 2001. Indeed, the date of the initial day of rage was chosen in relation to the 9th anniversary of the National Action Charter highlighting the demand for reform of the regime. The protests demanded an end to torture, the release of political prisoners, free elections, a representative consultive council and the end to the political naturalisation of Sunni's from foreign countries (Neumann 2013, Wehrey 2013, Hurd 2015, Husayn 2015, Hinnebusch 2016, Moore-Gilbert 2016, Albrecht and Ohl 2016). The high levels of turnout during the uprisings which had clear demands indicate widespread dissatisfaction with the regime. The protests inside a week spread to the Pearl Roundabout which akin to Tahrir square in Egypt was used as a rallying place and a space to imagine a different type of regime from what had gone before (Friedman 2012, Nepstad 2013, Neumann 2013, Husayn 2015, Moore-Gilbert 2016, Albrecht and Ohl 2016, Shehabi 2016, Fibiger 2018, Rorbaek 2019,

Valbjorn 2020). Following the gatherings at the Pearl roundabout the regime reacted violently and on the February 17th 2011 killed 4 people. This galvanised demands from the protesters as one of regime reform to outright regime change, increased anger and swelled the size of the protests. The roundabout as a result took on a life of its own and became a national symbol for the protests (Gelvin 2012, Katzman 2012, Khalaf 2013, Ulrichson 2013, Zunes 2013, Lucas 2014, Husayn 2015, Moretz 2015, Albrecht and Ohl 2016).

Following the violence at the Pearl roundabout, the protests moved into a post clampdown phase to which the regime reacted in a number of ways, two of which shall be considered in this chapter. The regime simultaneously decided to react in a violent, and conciliatory way. This created a confused response undermining the use of the decision by the sovereign, thus whilst the sovereign was a 'god' in intervening in the political order as they wished, the contradictory decisions undermined their effect. Any attempts to relieve the enmity from the uprisings towards the regime failed and instead created an unstable political situation where the *friend enemy* dichotomy was turned inwardly on the regime itself. The conflict inside the regime towards what action should be taken highlights the lack of unity inside the regime as well as outside. Thus, rather than a homogenous regime creating unity, there was a heterogenous regime creating disunity, exacerbating instability, and undermining sovereignty.

The first regime reaction we shall consider is the attempt to foster national unity. This was done in a couple of ways. First, there was a declaration of a state of emergency that was declared in February 2011 lasting until June the same year releasing the armed forces, security agencies and neighbouring countries were 'authorised' to take steps to secure the security of the country. This led to the defence force, national guard, police force and national security agency being used to try and disrupt and coerce protesters and the peninsula shield force using troops and police from Saudi Arabia and Jordan were invited into the country in an attempt to 'restore stability'. These actions have involved the torture of protesters, rounding up dissidents and

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targeting those who dared to help them including doctors treating protesters injuries (Strobl 2011, Gelvin 2012, Nepstad 2013, Ambrosio 2014, Albrecht 2015, Hurd 2015, Brown et al., 2016, Shehabi 2016, Alsarghli 2020, Mabon 2021).

This action represented a split inside the regime between one of conciliation and one of initiating a crackdown. The ruling family have been reported to have a split between a *"'moderate' faction led by King H. amad bin ʿĪsā and his son Crown Prince Salmān, and a group of 'hard-line' challengers headed by the King's uncle and Prime Minister for forty-two years, Prince Khalīfa bin Salmān*" (Gengler 2013 pg.54). The Khawalid, a branch of the ruling family who have a long history of hard-line repression of Shi'a protest to the Al-Khalifa rule retained core positions in the ministry of defence and armed forces who spearheaded the drive for a hard crackdown. As Husayn (2015) argues "*Today, prominent members of the Khawālid include Minister of Defense and army commander, Khalifa b. Ahmad, and his brother, the Royal Court Minister, Khalid b. Ahmad, and Ahmad b. Atiyyat Allah, who is their nephew. The two Khawālid brothers are considered the architects of the crackdown in Bahrain in the spring of 2011*" (Husayn 2015 pg. 35). This represents a divide in the regime between different branches of the ruling family divided between reform and crackdowns (Gengler 2013, Diwan 2014, Moretz 2015, Husyan 2015, Moore-Gilbert 2016). The tensions between these competing approaches represents significant divisions inside the ruling family rather than unity. Factionalism and vacillation undermined the power of the decision boxing in the ability to make decisions as their value diminished. Citizens outside the government increasingly mistrusted the regime as simultaneously discussions for reform were ongoing whilst violence was being meted out to the protesters (Gelvin 2012, Gengler 2013, Zunes 2013, Lucas 2014, Husyan 2015, Moretz 2015).

Secondly, the regime sought reconciliation following the killings at the Pearl Roundabout on February 17th. The regime attempted to achieve this through what was called the National

Dialogue Initiative and initiating the Independent Commission of Inquiry led by an international team of legal experts determining lessons to be learned and recommending reforms to be implemented. The NDI were a series of meetings beginning early in 2011 following the crackdown on the pearl roundabout to encourage open discussion on regime reform. This was followed by proposals on March 13th that laid out plans for reform including "*seven principles" that would guide a national dialogue, including a "parliament with full authority"; a "government that meets the will of the people"; fair voting districts; and several other measures*" (Katzman 2013 pg. 7) (Katzman 2013, Moore-Gilbert 2016, Moritz 2015, Helal 2019).

But just like in Syria, this was not a united opposition but rather an opposition made up both of 'street movements' and more established political associations in opposition to the regime. Indeed, as Moritz (2015) claims "*Although formal political societies such as Shia Islamist al-Wefaq and secular liberal Waad tend to work together, street movements such as al-Haq and the February 14 Coalition eschew the formal societies for their willingness to engage with the government.*" (Moritz 2015 pg.4) and this was especially the case following the violence meted out to the protesters by the regime. The talks broke down when "*AlWefaq refused to enter a formal dialogue unless the government agreed to a new constitutional arrangement. Accordingly, the offer of talks was withdrawn, and on 14 March the GCC sent in its Peninsula Shield Force to help restore stability in Bahrain*" (Ulrichson 2013 pg. 4-5). The reforms recommended by the independent report were also not introduced casting further doubt on the reality of reformation (Katzman 2013, Ulrichson 2013, Husayn 2015, Moritz 2015, Moore-Gilbert 2016, Van Lier 2017, Al-Rashidi 2019, Watanabe 2019).

The regime reaction that necessarily undercut the attempts to reconciliation demonstrating not only contrary regime decisions but disunity both inside and outside the regime. This demonstrates the limitations of the decision when in action. The *friend enemy* dichotomy can

be seen to be turned inward against the regime due to the decision to use violence against the protesters. The decision rather than creating unity and homogeneity created further disunity and heterogeneity threatening the very existence of the regime itself. Whilst the Crown Prince publically attempted to act as a unifying figure for 'every loyal citizen' he was facing a large portion of the populace who did not see the regime as legitimate, sovereign or representing them but rather were their *enemy*. Inside the regime, substantial portions of the ruling family as well as outside actors such as Saudi Arabia saw the protests as an existential threat that should not be negotiated with but rather crushed with brute force.

4.5.2. Manipulation of identities

Politics in Bahrain cannot be reduced to sect difference alone. As stated by the Bahrain Independent commission report *"Bahraini society is not divided into two monolithic sects. Within the Shia and Sunni communities, there exists a diversity of religious views and political opinions. Broad generalisations about the positions or allegiances of either sect misrepresent the social reality of Bahrain."* (BICI 2011 pg. 24). The report highlighted the complexities of political life in Bahrain that moves beyond mere sect difference and as highlighted in the previous section, statements made by the Crown Prince highlighted the unity of Bahraini's regardless of sect. However, due to the spatial limitations of the thesis, it is necessary to focus on specific areas of political disagreement of which sect differences are one.

Indeed, sect differences played an important role in the politics of the uprisings and as such this section shall be focusing on this. As Mabon (2020) argues in *Houses built on sand "Although political life is far more complex than the binary delineation of sectarian difference, Shi'a groups have historically been viewed as a source of opposition. One report for a Bahraini ministry noted: There is a dangerous challenge facing Bahraini society in the increased role of the Shīʿa and the retreat of the role of the Sunna in the Bahraini political system; namely,*

the problem concerns the country's Bahrain's national security" (Mabon 2020 pg.81). The projected fears led to greater manipulation of identities via securitisation during the uprisings. As shall be discussed, this securitisation took on many forms some of which painted the uprising as the work of a foreign power, accusing protesters of being fifth columnists and painting the protesters and Shi'as in general as a security threat. This led to an array of initiatives targeted at the Shi'a population some of which shall be analysed in this section such as bulldozing places of worship and banning Shi'a religious sermons from television (BICI 2011, Strobl 2011, Mitchell 2012, Ambrosio 2014, Stephens and Callaway 2014, Al-Rawi 2015, Hurd 2015, Al-Shehabi 2017, Mabon 2020).

These tensions shall be analysed through the lens of the thesis emphasising levels of enmity in casting the Shi'a majority as a security threat. Thus, Shi'as were cast as the *enemy* who represented a significant threat not just to the regime but also to the nation as a whole. This as discussed in the previous section created instability and disunity rather than unity, stability, and homogeneity. The *friend enemy* dichotomy in its relationship with enmity provides for instability due to the intensity of the enmity felt in relations between groups. As shall be seen here, the actions taken by the regime creates the conditions for instability and a lack of sovereignty.

The hardliners in the regime policies around identity were focused as seeing Shi'a as an internal *enemy* viewing the protests through the prism of being a necessarily sectarian endeavour. As Lucas (2014) argues *"In Bahrain, while the Pearl Roundabout protesters attempted to use the language of national identity, preexisting sectarian divisions allowed the regime to present the demonstrators as only drawing from the Shia"* (Lucas 2014 pg.208) (Lucas 2014, Husayn 2015, Al-Rashidi 2019, Valbjorn 2019). Thus, the uprising and the protesters were presented as internal *enemies* on a sect basis and a mortal threat to the regime. This can be seen from hardliners opinions as outlined by Owen Jones (2016) *"The Prime Minister, who has long*

opposed democratization and who remains influential, continues to be "wary of reform for many reasons: the demographic threat posed by the majority Shi¤a, whose loyalty to Bahrain (i.e., connections with Iran) has long been questioned" (Owen Jones 2016 pg. 269). Not only were the protests seen as an internal sectarian affair by the hardliners of the regime but also the products of foreign interference. The alleged 1981 coup by Iran against the regime has been used by the regime to sow distrust against the Shi'a majority and this policy continued during the protests. Protesters were derided as fifth columnists in an attempt to inflame the passions of the Sunni minority securitising sect identity portraying Shi'as not only as domestic *enemy's* but representative of foreign *enemies* too (Byman 2012, Louer 2013, Frisch 2013, Gengler 2013, Hurd 2015, Albrecht and Ohl 2016, Owen Jones 2016, Hoffman 2018, Mabon 2020).

These fears from hardliners in the regime led to greater reliance on coercion from the regime. Indeed, as Mabon (2020) writes in his book *Houses built on sand "Fearing increased Iranian involvement, regimes typically respond with restrictive strategies and securitisation"* (Mabon 2020 pg. 54) (Heydemann 2014, Hinnebusch 2016, Hafidh and Fibiger 2019, Valbjorn 2019, Mabon 2020). One example of this is the targeting of Shi'a mosques by the regime which led to 30 being bulldozed by the regime demonstrating not just sectarian actions but sect actions directly linked to the attempt at crushing dissent more broadly. As Owen Jones (2017) argues *"These processes, which range from the destruction of Shia mosques to the demolition of the Pearl Roundabout, all represent attempts to limit the ability of 'resistance identities' to flourish through the evisceration of both symbols and places"* (Owen Jones 2017 pg.3). This destruction has been accompanied by broader anti-Shi'a actions by the regime such as *"More than 5,000 people almost all of them Shia, were fired from their jobs, thousands were systematically tortured, and Shia neighborhoods came under collective punishment"* (Al-Khawaja 2014 pg. 194) (Zunes 2013, Al-Khawaja 2014, Fibiger 2015, Husayn 2015, Owen Jones 2017, Valbjorn 2019, Mabon 2020). These violent and coercive actions represent the tip of the sword of the

regime attempting to destroy the gathering places of the sectarian *enemy* and collectively punish them. However, as demonstrated earlier this does not present the regime with the necessary unity or homogeneity to ensure stability, rather it simply represents an inability to accommodate heterogeneity without resorting to violence leading to instability emerging.

The regime has not only used violence to punish the sectarian *enemy* but have used media in an attempt to foster a sense of the sectarian *enemy*. The regime has tried to use television and social media to get this message across with fatwa's being issued demonstrating the Shi'a as the *enemy*. As Valbjorn (2019) argues *"In Bahrain in particular, both state television and social media have been used to frame the uprisings as a violent sectarian plot led by an exogenous, Iran-backed fifth column intent on installing Shia theocratic rule with no place for Sunnis"* (Valbjorn 2019 pg. 139) (Husayn 2015, Valbjorn 2019, Alrasheed and Mabon 2021). Whilst Shi'a sermons were banned from television fatwas from Sunni clerics were used to boost the claim of sectarianism from Shi'a protesters amongst the Sunni population. As argued by Alrasheed and Mabon (2021) *"In doing so, the Sunni political actors framed Shiʿi groups as insidious fifth columnists doing the bidding of Iran. This position was supported by a number of Sunni clerics who issued fatwas framing events in Bahrain as a sectarian struggle stemming from Iranian manipulation."* (Alrasheed and Mabon 2021 pg.156). Just one example of a fatwa from Sunni Cleric Hassan al-Husseini is *"The revolution in Bahrain is not like other Arab revolutions, it is a sectarian revolution from the beginning. The Shic ite made the popular movement as a sectarian revolution. They call what is happening in Bahrain a battle of Karbala. They then divided the Bahraini society into two groups: followers of Yazeed bin Muawiya, and the followers of Hussein bin Ali. Their rhetoric, escalation and the atonement of the Bahraini government led to sectarian strife in Bahraini society"* (Alrasheed and Mabon 2021 pg.160) (Lucas 2014, Husayn 2015, Owen Jones 2016, Al-Rashdi 2019, Valbjorn 2019, Mabon 2020, Alrasheed and Mabon 2021).

As this section highlights the regime attempted to portray the uprising as the product not only of an internal *enemy* but also an outside *enemy.* As shall be discussed in chapter 6, this has an effect on how citizenship has functioned in Bahrain. Bahrain has long had problems with sectarianism, specifically sect discrimination in electoral institutions and this directly fed into the widespread demand for change. The decision was unable to effectively manage the protests as they spread creating a conflicted response undermining the decision. Not only could the decision not stop the uprisings to begin with, it could not end them without external intervention. The sovereign was no such 'almighty God' but rather a leader with few followers. Due to this divided approach the sovereign could not be seen as a 'representor' of the people.

4.6 The State, Power, and the Egyptian uprising

This section analyses the Egyptian regime's response to the uprisings that led to the downfall of President Mubarak. As discussed in the introduction the Egyptian illustration has used emergency powers continuously under the rule of President Mubarak. Emergency powers therefore cannot be considered as 'new' to Egyptian rule but as already operational by the time of the uprising on January 25^{th,} 2011. However, as shall be discussed, despite the use of emergency powers the regime was unable to contain either the spread of the protests or their direction. Through the framework of the thesis, the response to the uprisings in Egypt highlights that simply attaining strong coercive capacity is insufficient to exercise 'power' over a population. Unlike in the Syrian illustration where no opposition to the regime was allowed to exist, as discussed in the introduction there were forms of civil and political difference present in Egypt during the Mubarak regime. This presents a dilemma, as not only when the decision decided to attempt to eliminate all forms of opposition not succeed in fostering unity, so it was the case in Egypt when some forms of opposition were tolerated that unity could not be constructed either. Rather than creating stability and homogeneity, the Egyptian illustration

is a further example of when the *friend-enemy* dichotomy was turned inwardly on the regime and Mubarak could not function as a 'sovereign representor'. Rather than being a 'sovereign god' able to intervene in the political and legal order, Mubarak became a mere mortal man unable to effect either order undermining the claim that the '*sovereign is he who decides on the exception*'.

4.6.1. Background, the uprisings, and police action

As discussed in the introduction, before the uprising the Egyptian regime did allow some forms of political difference to exist but not real opposition acting as a genuine challenge to Mubarak's rule. Indeed, both the emergency law that had existed since 1981, as well as the anti-terror legislation of 1992 and constitutional amendments made in 2006, gave the regime the legal right to arrest and detain suspects for long periods, determine where their trial would be held, prohibiting civil society actions such as strikes and public meetings as well as shut down independent institutions such as newspapers. Thus, whilst political liberalisation did occur with a controlled multi-party regime and a network of civil society activists that helped the uprisings to begin there was no real challenge to Mubarak's reign. Despite this apparent control of the political space, protests such as in 2003 against the US's invasion of Iraq as well as in 2004 "*the Kifaya group organized a protest against the fifth term of Mubarak and his planned successor who was Mubarak's son Gama Mubarak*" (Sarihan 2012 pg.71) emerged demonstrating resistance to continued Mubarak rule. In addition, online groups emerged in large numbers such as the April 6th group on Facebook that emerged in 2008 "*who were working together to change the current brutal regime to one of transparency, equality, and liberty*" (Sarihan 2012 pg.71) and "*By January 22, 2011, the group had garnered over 380,000 members; making it Egypt's the largest and the most active online group*" (Sarihan 2012 pg.71) (Owen 2001, Reza 2007, Dreyfuss 2011, Feuille 2011, Hassan 2011, Sarihan 2012, Bhuiyan

2015, Montanda 2016, Pratt and Rezk 2019, Tamburini 2021). These fissures indicate that below the regime there were disturbances amongst the citizenry that were dissatisfied with the regime and the regime was not in full control of the political space as was assumed. Rather than the regime creating unity and a homogenous country with a sovereign representor, there were clear disturbances that could be seen indicating a desire for political change leading to political heterogeneity undermining the decision as a form of governance and stability.

Indeed, despite the regime's rule via emergency and subsequent laws aimed at limiting space for civil discourse, the regimes of Syria, Bahrain and Egypt cannot be homogenised in their methodology of authoritarianism. Egypt differed significantly from Syria and Bahrain as discussed in the introduction with the military enjoying greater levels of institutionalisation ensuring that, unlike Syria, the Egyptian military was not largely a 'family affair' and Mubarak's dynasticism was hesitant with inter-regime competition occurring rather than the natural course of action as it was in Syria for Bashar Al-Assad. The reaction to the uprisings in Egypt therefore differed markedly than in Syria and to an extent than in Bahrain in relation to the brutality from the armed forces as well as the border response to the uprising due to the reflective legitimacy of those institutions. This response needs to be discussed in order to understand why the decision was so ineffective in retaining sovereignty in all of these illustrations despite differing arrangements in order to guarantee regime stability (Monem 2011, Sarihan 2012, Brownlee 2013, Saidin 2018, Pratt and Rezk 2019).

The uprising on January 25[th,] 2011 led to around 18 million citizens out of a total population of 80 million joining the protests against the Mubarak regime with large numbers gathering in Tahrir square just days following the initial uprising on January 25th. The regime knew the protest was coming. Indeed, as stated by El Ghobashy (2011) *"Interior Minister Habib al-'Adli and his four lieutenants had met on January 24 to finalize their strategy. Cairo police chief Isma'il al-Sha'ir issued stern warnings through the media, threatening protesters with arrest*

and invoking the demonstrations law of 1914 requiring a permit for any public gathering of more than five persons." (El Ghobashy 2011). The demonstrations as discussed in the introduction were aimed at the regime as a whole and its security apparatus which had up until this point secured its rule. The scale of the protests against the regime in such a short period of time presented necessary problems surrounding the response rendering the decision and the emergency ineffective against the sheer weight of the threat to the regime from the citizenry (El Ghobashy 2011, Ibrahim 2011, Nepstad 2013, Mietzner 2014, Albrecht 2015, Affan 2016, Makara 2016, Albrecht and Eibl 2018, Santini and Moro 2019, Abozaid 2020, Holmes and Koehl 2020, Hecan and Farhoui 2021).

Already the decision by the regime was being contested to as protests erupted despite the threat of arrest by the regime demonstrating the limits of coercion in creating unity. The response to the protests was mixed throughout the period of the uprising from different institutions such as the army and the police with the police being largely responsible for managing the protests that emerged as opposed to the armed forces. Whereas the armed forces generally commanded people's respect and could be seen as the citizen's *friend*, the police as an institution was more disliked for their regularly aggressive and violent actions against citizens, with just one example being the notorious killing of Khalid Said in 2010. Indeed, as Badr (2021) argues

> "*In Mubarak's Egypt, however, police brutality had become a systematic routine exercised in the name of security (Abdel Aziz, 2007; Moorehead, 2005; Morayef, 2015: 10). Through a 'politics of humiliation', the police frequently used physical punishment and verbal violence to uphold the authoritarian regime.*" (Badr 2021 pg. 528).

This came to be the case during the uprising as police were responsible for the majority of the 900 dead and 7,000 wounded during the uprising (Anderson 2011, Owais 2011, Ismail 2012, Blanga 2014, Badr 2021). The police as well as the regime's wider security apparatus thus can

be interpreted as the citizen's *enemy* during the uprising. The police can be seen as an internal *enemy* for citizens during the uprisings as

> "*In the first few days of the revolution, 99 police stations were burned down and many detention cells were opened and detainees let out. The bulk of the police stations attacked were located in Cairo popular quarters such as Helwan, Imbaba, Bab al-Shi'riyya, Bulaq al-Dakrur, al-Mattariyya, and al-Gammaliyya. The same pattern can also be noted for Alexandria and other cities where large mobilization took place. It is also important to underscore that in these clashes with the police, there were many fatalities among the protestors.*" (Ismail 2012 pg.445).

Between January 25th and the 28th there was continuous street fighting between protesters and the police. The 28th of January being the 'high point' of protests as a call to action following Friday prayers was announced with 200,000 protesters at Tahrir square disorientating police due to the sheer number of protest groups creating chaos that the police could not control with television stations, the high court, the Egyptian museum and the NDP headquarters all being targeted by protesters. Indeed, *"Sounds of gunfire came from the direction of the Egyptian Museum. Police used rubber bullets, tear gas, batons, live ammunition, and water cannons to prevent demonstrators from reaching the Square. Clashes between authorities and protesters were everywhere"* (Mohamed et al., 2015 pg.6). The police were losing control as protesters "*Advancing on riot police formations, 'breaking them apart and gaining a tad more ground each time', they climb onto a truck and jubilantly sing the national anthem. The police commanders mobilized their troops and ordered them to rush into the crowd*" (Kanna 2012 pg.365) (Anderson 2011, El Ghobashy 2011, Owais 2011, Ismail 2012, Kanna 2012, Housden 2013, Lutterbeck 2013, Tabaar 2013, Blanga 2014, Mohamed et al., 2015, Goswami and Ghosh 2018, Badr 2021).

The *friend-enemy* dichotomy was imagined by Schmitt to bound the regime to the people creating a unity that creates political stability for the regime. However, what was occurring from the 25th was the internal *enemy* being defined as the regime and the security apparatus that propped it up. The police force bore the brunt of enmity with buildings being targeted for reprisals for their previous brutality towards the citizenry. Rather than homogeneity and unity being fostered creating sovereignty and stability for the regime, the *friend-enemy* dichotomy was being turned inward with the police losing control and the regime unable to secure itself.

4.6.2. exceptional decisions and the armed forces in relation to the uprising

The now critical challenge to the regime was met with a variety of responses. As discussed in the introduction, emergency rule was a long-time feature of Mubarak's rule and additional self-described anti-terror laws in 1992 and 2006 had widened the regime's ability to coerce the population leaving few if any roadblocks to regime action during a time of crisis one of which was to restrict access to the internet. Thus, if the sovereign is really '*he who decides upon the exception*' there should be no doubt who was the sovereign in Egypt. A truly exceptional decision was made on the morning on January 28th when the regime decided to shut down the internet with no official justification given.

Given that Egypt had 17 million broadband users in 2010, 160,000 bloggers, and 4 million Facebook users meant many activists used the internet thus it was thought shutting down the internet may limit the spread of the protests. The internet in Egypt had previously been a wide space for opposition activists to coalesce despite regime attempts to regulate the space with arrests of prominent bloggers and activists. As argued by Tufekci and Wilson (2012) *"The Internet in Egypt was quickly utilized for dissent by liberals, minorities, religious groups, and*

others opposed to the Mubarak regime. The online political sphere emerged first in the form of blogs and personal sites, later in Facebook, YouTube, and Twitter" (Tufekci and Wilson 2012 pg. 364). The internet thus gave some space for political heterogeneity to emerge challenging homogeneity and unity and this was especially the case during the uprising where the internet provided a space outside a space the regime could control undermining the sovereign decision. The regime first blocked Twitter and Facebook but quickly made the decision to try and block the internet. As Stepanova (2011) notes "*Having first blocked Twitter and Facebook, the Egyptian authorities moved directly to ordering all major telecommunications providers to block Internet access; Telecom Egypt, Vodafone/Raya, Link Egypt, Etisalat Misr, and Internet Egypt all complied.*" (Stepanova 2011 pg.4). This action was achieved inside 15 minutes demonstrating the decision to 'shut down' the internet was more than possible by the regime to enact but difficult to implement. However, this decision ignored the reality that the protests were spreading not simply because of internet connectivity but wider anger towards the regime and political conditions in the country (Anderson 2011, Allagui and Kuebler 2011, Cowie 2011, Stepanova 2011, Sabadello 2011, Alhindi et al., 2012, Tufekci and Wilson 2012, Wilson and Corey 2012, Browning 2013).

The regime shut down had two effects, first was that it did not have its desired effect practically. Despite government attempts to shut the internet down access was still possible highlighting the limitations of the decision in its ability to concretely intervene into the political sphere. As one interviewee stated, "*Even after the government banned Twitter, I was logging in via a proxy in order to disseminate the news about the protests to mainly people abroad.*" (Aouragh and Alexander 2011 pg.1349) indeed as Howard and Hussein (2011) argue

> "*Like Tunisia, Egypt has long had a large and active online public sphere frequented by banned political parties, radical fundamentalists, investigative journalists, and disaffected citizens. The state could not shut it down entirely: When the online news*

service of the Muslim Brotherhood (MB) was banned, for instance, servers were found in London and the organization continued to convey its views across the ether." (Howard and Hussein 2011 pg.38)

and in the first week of the uprising alone 1.5 million Egypt related tweets were made. Alongside this, as highlighted by Alhindi et al., (2012) *"In another example of traditional-meets-digital media, Facebook pages with times and dates of Cairo protests were printed out and disseminated by hand between Egyptians without Internet access"* (Alhindi 2012 pg. 106) highlighting that even if some could not get online, the online material was distributed offline. Second, rather than stifling protests and crippling their capabilities, the internet shutdown fuelled further anger towards the regime amongst the citizenry who saw it as an overt act of dictatorship (Aouragh and Alexander 2011, Cowie 2011, Howard and Hussein 2011, Russel 2011, Stepanova 2011, Aday et al., 2012, Alhindi et al., 2012, Cattle 2015, Saidin 2018). This can be seen by the quotes below arguing

> *"it did not have dramatic consequences in terms of mobilization. Shutting down the Internet on January 27 actually had two effects that had a mobilizing input: It infuriated many who felt it was time to take a stand or forced some who had so far at most been involved in cyberspace but now were prompted to join the street protests, adding to the growing numbers of protesters. And as most activists mentioned, it sent an important signal about the balance of power: namely that the regime was threatened."* (Aouragh and Alexander 2011 pg.1350)

> *"The protests gained momentum as a result of Mubarak's electronic communication blackout, as the loss of connectivity further alienated the generation of "Internet youth" and served as a tipping point for many previously unaffiliated citizens who began to sympathize with the movement."* (Cattle 2015 pg. 419).

Shutting down the internet in the Egyptian illustration can be seen as a claim on the ability of the decision to affect sovereignty. Whilst the decision could be made to shut down the internet by the regime this could not enforce sovereignty for the regime. The regime by the point of shutting down the internet was constructing the opposite of a unified, homogenous country that enabled the decision. Instead, the regime was facing an uprising that had turned the *friend-enemy* dichotomy inward and was no longer listening to the sovereign. The decision's effect was thus nullified highlighting that its impact is necessarily rooted in the underlying political structures that maintain it. The ability to act as a 'god' necessitates the ability to act concretely to implement your decision but as seen in this example, Mubarak became a mere mortal as his interference did not produce the intended result and he could not stop the flow of information or the gathering of protests against his regime rendering him at best an impotent god.

The growing strength of the uprising against the regime led to the regime on the 28th announcing a curfew and ordering the army into the streets in an attempt to reinforce the now overwhelmed police presence. This was accompanied by apparent conciliation from Mubarak rendering the sovereign god as a mere mortal in an attempt to appease the growing crowds gathering against his regime. As stated by Blanga (2014)

> *"On 28 January he delivered an address to the nation that conveyed his resolve and was intended to calm the masses. In an attempt to present himself as attentive to the people's will, Mubarak dismissed the government and announced the appointment of a new prime minister, Ahmed Shafiq, former commander of the Egyptian Air Force, and, for the first time in 30 years, of a vice president, Gen. Suleiman"* (Blanga 2014 pg. 373).

But this did not appease protesters. By January 29th the Interior minister told Mubarak events had spun out of control and by February 1st an estimated 250,000 people demonstrated in Tahrir

square in response to Mubarak's address to demand not only that he reform the regime but that the regime itself be dissolved and contestation spread inside the regime itself, specifically the armed forces. Whilst Mubarak had tried to restrict the military's influence on domestic policy during the uprising, they necessarily played an important role as the regime faced an existential crisis. As discussed in the introduction there was intra-elite competition in the Mubarak between the armed forces, the interior ministry, and Gamal Mubarak that emerged undermining the unity and homogeneity existing inside the regime. Whilst the Egyptian army was deployed on the 28th of January across the country, they nevertheless declared the protests *"legitimate"* (Lutterbeck 2013 pg. 37) and *"the military had declared it would not follow orders to shoot the people"* (Aziz 2014 pg. 4) as well as selectively choosing to protect protesters from acts of violence either from the regime or those who still supported Mubarak. This did not mean the military offered wholesale protection, during the battle of the camel in Tahrir Square the armed forces failed to protect protesters from pro-regime elements invading Tahrir square on horses and camels with stones, knives, petrol bombs and live ammunition killing dozens in an attempt to force out the protesters. Indeed, "*Even though pro-Mubarak thugs killed several demonstrators, the army units present on the square did not intervene, instead calling upon the protesters to leave the square and go home"* (Lutterbeck 2013 pg.38) (Anderson 2011, Bellin 2012, Lutterbeck 2013, Mabon 2013, Jezrack 2013, Aziz 2014, Lang and De Sterck 2014, Mellor 2014, Lawson 2015, Nassif 2015, Selim 2015, Khan et al., 2020, Wynne-Hughes 2021).

Despite the military's hesitant and paradoxical behaviour of not fully defending the regime but neither fully protecting protesters from attacks following the battle of the camel on February 2nd the military did not allow for a repeat of the attacks to take place. Instead, the army attempted to de-escalate whilst maintaining the status quo of the fundamentals of the regime even as they prepared for Mubarak to leave. Indeed, "*The signs of behind-the-scenes intervention by the Egyptian high command to push Mubarak off the stage began to be clear."*

(Blanga 2014 pg. 376), and whilst recognising the legitimate grievances of the Egyptian people the military's conduct following the fall of Mubarak gives us an insight into their true intentions rather than the idealised account of believing *"the military "owe their allegiance to the people. The Egyptian high command took that commitment seriously, stating, "To the great people of Egypt, your armed forces, acknowledging the legitimate rights of the people . . . have not and will not use force against the Egyptian people"."* (Berlin et al., 2014 pg. 242) (Lynch 2012, Stein 2012, Berlin et al., 2014, Blanga 2014, Albrecht 2015, Holmes and Koehler 2020).

The military's behaviour presents a further challenge to the claim that the sovereign is '*he who decides upon the exception*'. The intra-elite competition created a lack of homogeneity and disunity that manifested itself during the uprising as the military secured the foundation of the regime but without its sovereign Mubarak. Rather than making a 'miraculous' decision and creating a concrete reality, Mubarak's decisions came under question and even outright refused showing heterogeneity in the regime between the leadership and military. The military was increasingly acting as the sovereign representor as opposed to Mubarak as his speeches fell flat and were unable to defuse the situation whilst the military's refusal to fire on protesters endeared them to the citizenry. The military's actions as well as the mass protests and the regime's inability to affect its will highlights the dubiousness of the claim that the decision=sovereignty.

4.7. concluding remarks

To conclude, this chapter explores the application of state coercion and attempts by regimes to exercise decisionism and homogeneity in order to sustain their regimes. However, through applying the Schmittian marks of sovereignty to this framework this chapter identifies the limitations of these authoritarian methodologies that can even result in a paradox of power for the authoritarian ruler. The use of force across the illustrations and the decisions made have

not enforced sovereignty but in each illustration rather has fuelled a backlash that has created crises in each illustration. This has fostered a condition where sovereignty comes under contestation in each illustration.

Sectarianism when utilised by the state such as Bahrain and Syria are supposed to help a state maintain power and thus sovereignty by politicising communal identities via the practising exclusionary tactics ensuring a homogeneity inside regimes and the state at large. This is demonstrated especially by the illustrations of Syria and Bahrain who have gone to extraordinary lengths at times in an attempt to create a homogenised state. Sectarianism is supposed to bind those in the state to the ruler by highlighting the communal identity in minority led regimes, therefore if the regime falls so does the entire community and its prospects. This helps create an internal *enemy friend* distinction for those inside the regime structure.

The *friend enemy* dichotomy for Schmitt is the basis of the political but the levels of enmity that are found via this dichotomy create unstable political units. As seen in the illustrations, those who are framed as internal *enemies* stop obeying the sovereign creating political turbulence. Not only this, but as witnessed in the illustrations the *enemy* can widen and the *friend* can narrow creating an unstable political basis for rule. The sovereign can in fact become the *enemy* of the majority of the citizenry such as in the Bahrain and Syrian illustrations leading to an existential contestation over sovereignty.

Coup proofing is the second authoritarian methodology that this chapter highlights. Coup proofing is essentially attempting to ensure stability inside the state structure itself particularly the structures which carry the capacity to coerce i.e. the armed forces and state security services. Through a variety of measures such as counter balancing, de-politicisation and de-personalisation and ensuring economic incentives for those structures which have coercive

capacities. These measures are supposed to both secure the stability of the state by ensuring that no agent of the state has the sole ability to exercise coercion and that by offering incentives as well as communal loyalty as mentioned in sectarianism and the state this ensures loyalty to the sovereign.

However, just as with the utilisation of sectarianism, using coup proofing also creates deficiencies in the system that is supposed to ensure stability. First, it creates what I have termed a paradox of power. The greater the power the sovereign wishes to exercise the more they have to counterbalance which in turn ensures decision making capacities are thus de-centralised. In some cases, such as Syria, the regime has outsourced certain coercion capacities to non-state groups. This de-centralisation undermines the ability of the sovereign and the state to exercise effective decisions which undercuts their claim to sovereignty. Second, the assumption embedded within coup proofing is that only a small percentage of truly loyal followers exist. Thus, the need to either incentivise or check the power of the rest by employing multiple agencies to do the same thing and monitor them implies that the system is by its very nature unstable. Coup proofing itself is an admission that the state is heterogenous and not homogenous as Schmitt intended for the exception to be effective. Therefore, coup proofing is an attempt to stabilise what is already an unstable regime but fails to actively create traits which enhance sovereignty but rather merely relies on the exercise of power. As this chapter has shown the effective exercise of power rests upon other sovereign traits. Third, in a similar essence to sectarianism, coup proofing builds upon a self-interest rather than a loyalty to the state and a respect of the natural authority of the sovereign. This is one reason why so many measures have to be undertaken in coup proofing to ensure no institution can decide they would be better off with a different ruler.

Identifying states of emergencies which have been implemented is the third way in which this chapter examines regime's ability to exercise coercion. The best example of this emerging is

the case study of Syria which has used the state of emergency to exercise power, in this case the state of emergency has overridden other sources of law such as international commitments to the protection of certain fundamental rights as identified in the introduction. However, divorcing action from internal or external 'on paper' restraints has not increased power or guaranteed security for these regimes. Instead, relinquisihing limitations on actions paradoxically creates limitations in practice via the damage done by regime actions towards the citizenry. Rather than creating a sovereign 'god' this instead creates a mere mortal sovereign unable to effect the political order. The illustrations betray the use of the decision and sovereign rule has to be complimented by numerous survival strategies that have to be implemented to ensure security within the regime. Not only this but the methodologies betray an inherent instability in the system which cannot be remedied by the further exercise of coercion. It is not only inside the regime but also the citizens that this method of rule faces constant challenge. The more the citizens face an authoritarian decisionist model underpinned by coercive structures the more the *friend enemy* distinction becomes contested in the state. In minoritarian regimes such as Syria and Bahrain the state quickly becomes the *enemy* that needs to be defeated leading to uprisings against the regime.

Chapter 5: Authority

5.1. Introduction

The previous chapter focused on the limits of the decision when exercised in the illustrations highlighting the limits of the claim that the *sovereign is he who decides on the exception.* When analysed through the lens of Schmitt's underpinning politics, we can witness the limits to the effectiveness of the decision. Thus, rather than raw power grounding the decision and enforcing its execution, this thesis argues power when exercised without sovereign traits such as authority

and citizenship paradoxically becomes weaker limiting a regime's ability to act. Authority in this sense, is perceived constraining the functioning of power via the perceived right to commit an action.

This chapter analyses how authority functions in relation to Schmitt's underpinning political framework and the limits of the decision in its ability to act without sufficient grounding in authority. By analysing authority via the Schmittian political framework of the sovereign 'god', the *friend-enemy* dichotomy and the construction of a homogenous state. This chapter analyses the Arab Springs in Syria, Bahrain, and Egypt, highlighting how Schmitt's attempts to construct authority grounding the decision can be seen to fall apart. The *friend-enemy* dichotomy sits at odds with the attempt to create homogeneity, creating an unstable political framework in which to ground the decision undermining sovereign authority. In addition, the sovereign 'god' struggles to assert authority creating 'miracles' that are rejected by the citizenry.

These issues are addressed via both questions that are asked and illustrations in the chapter. The chapter focuses on the questions below:

How do Hobbes and Schmitt formulate the state and thus authority differently? The chapter first anchors the claim of how authority is formulated in the scheme of Hobbes and Schmitt. As the previous chapters note, the influence of Hobbes on Schmitt cannot go unnoticed, Schmitt wrote a text on Hobbes' *Leviathan* and so it is useful to analyse both of these conceptions of authority. The chapter finds that there is a substantive difference between the authors. Whereas Hobbes grounds his authority in the agreement to avoid the state of nature, he leaves a gap which Schmitt argues ultimately undermines the authority of the state. This gap is the differing nature between the 'inner' and 'outer' that is between the state commanding

and a person's allowance to disagree with certain principles. Schmitt contends this leaves the door open to extinguish the total state as it may not rest upon ideological homogeneity but mere obedience to the sovereign (Dyzenhaus 1994, Thomsen 1997, Bredekamp 1999, Mastnak 2010 Slomp 2010).

What is the role of homogeneity in creating authority? The role of homogeneity is a cornerstone of the claims that surround the exception from the Schmittian perspective. Homogeneity in the Schmittian sense is not merely a similarity but a political agreement that is evident in the state. It is also the way in which the authority of the state and regime can be seen. By adopting the critique of Hobbes by Schmitt of the private and the public it is possible therefore to see where Schmitt's claims of authority lay- in the homogeneity of the state, regime, and society that allows for the concrete implementation of regime action via decisionism. The role of homogeneity in Schmitt's scheme therefore is that it is necessary to ground the exception (Mouffe 1997, 1999, Muller 1999, Dyrberg 2009, Heiser et al., 2011, Croce 2013).

What happens to the authority of the state and decisionism when homogeneity is not achieved? If we take Schmitt to mean that the state gains its authority from homogeneity, then decisionism as seen from the literature review can be seen as a problematic method of governing that undermines the authority of the state. As shall be explored, political homogeneity is not static but rather fluid that can lead to heterogeneity where there was once homogeneity leading to a fluctuation in the *friend-enemy* dichotomy. This movement undermines the attempt to create a command-obedience denying the presence of a 'sovereign god' ensuring instability on a grounding that cannot be predicted and authorisation that is irregular. Rather than fostering stability, the result of this process is more often the potential for disobedience as authority ebbs away.

What do the illustrations demonstrate? The illustrations highlight the de-linking of authority by the state when coercion is applied without sufficient authority. The continual use of decisionism exercised via states of emergencies and decisionism undermines authority as it is unable to effectively respond to changing political dynamics. Without the cultivation of sufficient authority decisionism's effectiveness wears off and becomes problematic. The illustrations highlight that the mere asserting of authority is insufficient to acquire or reacquire it and authority once it withers away is difficult to regain. As shown in the illustrations of Syria, Bahrain, and Egypt decisionist rule has lost authority before citizens decide to rise up. As in the preceding chapter, the cases look specifically at the Arab uprisings.

5.2. The Literature on Authority

There is no universal definition of authority but the literature on political authority can be divided into roughly three categories: being in a position of authority, authority as the result of legitimacy, and authority from tradition. These alternative conceptions of political authority rest upon competing definitions of authorisation giving the sovereign the ability to claim authority. These divergent themes provide distinct visions of authority that will? be highlighted and contested in the chapter. These different claims of authority are important in analysing and evaluating Schmitt's conception of authority from the claim of legitimacy grounded in the *friend-enemy* dichotomy that formulates homogeneity.

The literature on authority largely focuses on the perceived right to do something. Whereas in the past, authority had such meanings as being held in esteem or the strength of religious orders and institutions these are not applicable to the literature on wielding political authority (Cassinelli 1961, Watt 1980, Mortenson and Kirsch 1993, Ginsberg 2016). Similarly, it is important to note a distinction between being 'in' authority and being 'an' authority (Friedman 1973, Oakeshott 1975, Shapiro 2000, Flathman 2018). Being 'an' authority on a subject is

different from being 'in' a position of authority with the requisite authorisation to conduct political decisions and choices (Flathman 1997). Thus, the focus on sovereignty ensures the narrowing of the literature to that which specifically concentrates on the notion of political authority and the necessary authorisation used to ground power.

Authority is distinct from power, that is it is not about how coercive functions operate but is a discussion of who and why can exercise certain rights and functions. The previous chapter described power as a framework of continual contestation that requires legitimacy to function, authority in this sense is similar even if functionally distinct. Thus, authority cannot be captured via coercive systems but must be manufactured via legal or relational means (Carter 1979, Agnew 2005, Lake 2009). Authoritarian regimes struggle to capture authority on the basis that its legitimacy is tied to its capacity to coerce as opposed to voluntary compliance. Modern authoritarian regimes such as China claim a special right to rule largely predicated upon its claims of competence which are necessarily time limited and contested (Cassinelli 1961, Linz 1964, Carter 1979, Kojeve 2014, Weigand 2015). Coercion can manufacture obedience, but this rests upon the regime retaining strong coercive capacities that seem immune to challenge. Obedience thus needs to be differentiated from active consent and legitimacy as when regimes retain these the capacity to coerce is not of primary importance.

If coercion is not the mechanism that this thesis claims can be sufficient on its own to garner authority, then it needs to be considered where it can come from. Theories differ between the legal, social, and contractual with social and contractual theories presenting a trade-off between freedom and order (Sennett 1980, Lake 2007, 2009). Autonomy therefore may not be presented as the central theme of authority but can present itself in the construction of a political order grounded in consent. This can be witnessed in Weber's notion of an order being more than simple autonomy but are rationalised through consent grounded through three different avenues

of traditional legitimacy, rational-legal, and charismatic (Spencer 1970, Lukes 1987, Migdal 2005, Guzman 2015).

Authority has been conceptualised since the days of Ancient Rome where it was largely dependent upon tradition using the transmission of ancestry to found its institutions, values, and laws (Arendt 1958, Gordon 1999, Hammer 2002, Antaki 2007). Tradition allows strong principles to develop inside state structures ensuring regimes stay true to what has gone before. This allows for the development of stability (Mayer 1992, Gordon 1999). This claim comes from the strength of continued solidity and belief that tradition brings, but this claim of authority ignores the potential of fluidity that exists inside the authority literature in a not dissimilar way to the literature on power in the previous chapter. Whilst this claim of authority fosters legitimacy from tradition, it has been claimed traditional sources of authority no longer have the ability to command legitimacy as individualism has become more important (Arendt 1956, 1958, Mayer 1992, Antaki 2007, Moyn 2008, Mihaila et al .2016). Thus, authority is more mobile than tradition may allow for and requires a stronger ability to connect.

Another form that authority can take according to the literature is that of being 'in' authority. This occurs when the institution is assumed to have authority, but not the person occupying it (Christiano 2013, Bourdieu 2014, Flathman 2018). It is the office that has the ability to influence and enforce (Flathman 1980, Mortenson and Kirsch 1993, Lake 2009, Sending 2017). By arguing this, being 'in' authority places authority in the value of orders producing authority for institutions that are reflected in the political order (Spencer 1970, Lukes 1987, Migdal 2005, Guzman 2015). But being 'in' authority can emerge in authoritarian structures and flow towards a democratic authority over time as authorities do not remain static or unitary (Raz 2005, Spencer 1970, Sennett 1980, Agnew 2005, Weigand 2015, Biressi 2020). This claim to authority therefore does not distinguish the particular office that can claim authority, nor does it deny the fluid nature of authority that can change the offices that are in authority.

Indeed, Weber's critique of charismatic authority being unstable and subject to flux represents one strand of this argument that authority can be understood as represented through institutions and the norms that guide them (Parsons 1942, Spencer 1970, Matheson 1987). Rather than merely being in a position of authority, it is necessary for a social and political order able to rationalise consent to secure stability and continual consent to authority as opposed to mere obedience to commands or shifting interpersonal relations such as kinship that is fleeting (Parsons 1942, Spencer 1970, Hilbert 1987, Guzman 2015). One critique of the breakdown of authority in totalitarian systems is that authority is centred in the person of the dictator and flows outwards that creates an instability of authority (Arendt 1956, 1996). Rather, the authority must be an authority to the collective, creating a well constituted order that is relational to the interests of the general (Przeworski 2020). It must also be impersonal in modern mass democracies.

Wherever authority can be performed by a particular office but requires legitimacy to function it is important to note where that legitimacy can be found and how it can be maintained. Legitimacy can be concentrated in the founding of the institution as opposed to expressed agreement with all of its commands. After-all, commands can lead to irrational choices such as stopping at a red light when no-one is around that does not entail agreement with the command but with the authority enforcing said command (Lukes 1987, Hurd 1991, Zurn et al. 2012). However, as legitimacy is not static but fluid this foundational legitimacy needs maintenance. This has been conceptualised by Arendt's claim of collective cohesion that argues authority is the antithesis of violence and legitimacy is to be found in cohesive authoritative action (Arendt 1958, Honig 1991, Mayer 1992, Scheuerman 1997, Hammer 2002, Antaki 2007, Moyn 2008). This mode of authority represents a different model from the descriptive claim of being 'in' authority but a thicker model that requires stronger levels of consent (Lukes 1987, Haugaard 2018).

Not only does the literature engage in three key themes of the origins of authority, it also discusses the potential fluidity of authority. Informing the discussion of authority is the recognition it is not necessarily as a static or solid quality but something that can shift and change. Dynamism can undercut the ability of institutions to retain authority indefinitely especially in non-democratic states (Blau 1963, Venzke 2013, Krisch 2017). Fostering a responsive authority aids in a mutual collaboration of request-command holding together a cohesion that can ground authority over time (Warren 1996, Simmel 2009, Zurn 2017). Authoritarian regimes often lack this as the focus is centralised rather than de-centralised and the more authoritarian and decisionist the regime is, the more this is true with totalitarian regimes making decisions purely from the centre dictator (Arendt 1956, 1996).

In states of emergency this fluidity can be seen immediately as the sovereign takes control regardless of previous constraints locating it in the sovereign representing the political order (Bielefeldt 1998). However, with fluidity so emerges unpredictability ensuring continuous decisionism creates an unstable basis for the grounding of authority (White 2015). A political crisis ensures that authority becomes contested fostering an instability in legitimate political authorities (Sennett 1980). This is especially the case in weak states that face challenges from the outside, which is primarily why emergency measures are fostered thus making it more difficult to locate the real centre of authority as it is subject to negotiation and contestation (Cassinelli 1961, Raz 2005, Lake 2007, 2009, Lopez 2020). Emergency powers are adopted and maintained when a state lacks other forms of legitimation to tap into when it is challenged and states that continue to use emergency powers therefore wilt away at the legitimacy they may have cultivated previously if they are continuously used. In authoritarian states this is especially so as the ability to foster legitimacy via authority beyond mere coercive mechanisms is limited.

The differing theories of authority approached in the review undercut the claims to authority that derogating long-term emergency powers to a state is supposed to provide. Rather, the claims of authority that a state makes cannot simply flow from the ability to coerce but require a stronger normative requirement that ensures people 'buy into' the commander's right to authorise. The natural fluidity that emerges in changing political dynamics undercuts the ability of tradition to provide that on its own merits but instead requires states to engage meaningfully with the citizenry to ensure commands are to be respected. After-all, it is not the commands themselves that are the key to gain authority ultimately but the reasoning behind the institutions giving them. The traffic light example provided earlier is a good demonstration of a command that may not make much sense but is obeyed because of who is giving it.

 If institutions cannot be justified sufficiently then the commands they give are more likely to be contested or ignored. Authority can be provided by being 'in' or at the head of a particular institution for a period of time from authorisation. However the longer the institution rests upon a specific moment of authorisation the more the authority shall be contested. The more authority is contested, the greater the chance of commands not being obeyed through a variety of manners. Therefore, this thesis argues that authority needs to be represented by institutions that are recognised by the collective will as being legitimate. If institutions maintain their legitimacy, then commands shall be obeyed when given. Institutions cannot rest upon authorisation given long ago but needs to regularly maintain renewed authorisation responding to dynamic political changes. Tradition alone is unable to maintain authority due to the nature of dynamic political change. Decisionism ultimately suffers from the same problems, whilst authorisation may have been given at some point, this over time decreases the legitimacy of decisionism the longer it is maintained. Once challenges emerge, this creates a contestation of authority that is not easily discernible or clear. Authority therefore is necessarily maintaining not only the confidence of the citizenry in times of emergency but during periods of normalcy.

5.3 Hobbes and Schmitt

Schmitt's engagement with Hobbes is important for the thesis to address due to the questions of authority and sovereignty that emerge. Both Hobbes and Schmitt lived in times of political upheaval where violence was commonplace which they both tried to provide solutions to in their work. Indeed, *McCormick* quotes Hobbes who argues "*The passion to be reckoned with is fear*" (McCormick 1994 pg. 620) identifying the importance of fear of death that plays its part in Hobbes' state and thus the importance of not justice in a philosophical sense prevailing but the security of the commonwealth. Guiding citizens out of anarchy is partially what grounds the secular nature of Hobbes' sovereign. It is by identifying the fear of security to the commonwealth, that the sovereign becomes not just a Master of Laws but also requires the ability to put them into action to manage threats both internal and external to the Commonwealth (Nagel 1959, Hampton 1994, Baumgold 2005, Douglass 2009, Ahrensdorf 2010, Dyzenhaus 2015, Grewal 2015, McQueen 2019). This is written about in Hobbes' *Dialogues* and *Leviathan* where he writes

> "*without law every thing is in such short every Mans, as he may take, possess, and enjoy without wrong to any Man, every thing, Man, Lands, Beasts, Fruits and even the bodies of other Men, if his reason tells him he cannot otherwise live securely: for the dictates of reason are of little worth, if they tended not to the preservation and improvement of Mens lives.*" (Hobbes 1971 pg. 58).

> "*And covenants, without the sword, are but words, and of no strength to secure a man at all. Therefore notwithstanding the laws of nature (which every one hath then kept, when he has the will to keep them, when he can do it safely) if there be no power erected,*

or not great enough for our security; every man will, and may lawfully rely on his own strength and art, for caution against all other men." (Hobbes 1996 pg. 111).

This fear of death and the need to protect the Commonwealth can be construed of also representing fear of political competition manifesting a desire for unanimity. Unanimity limits competition and threats emerging to the safety and security of the Commonwealth allowing for a peaceful and harmonious relationship governed via law. Whereas competition creates the potential for instability and insecurity emerging undermining a key reason for the implementation and maintenance of sovereign rule to begin with for Hobbes i.e., it's the strongest way to maintain security. It is Hobbes' contention that without security society and man shall be undone as described in the quote above, thus unanimity is not simply a political desire for Hobbes but one that is essential to hold together the state. Indeed, this can be seen by Hobbes in *Leviathan* when he states

> "*For though they obtain a victory by their unanimous endeavour against a foreign enemy; yet afterwards, when either they have no common enemy, or he that by one part is held for an enemy, is by another part held by a friend, they must needs by the difference of their interests dissolve, and fall again into a war amongst themselves.*" (Hobbes 1996 pg. 112).

> " *Again, if we take liberty, for an exemption from laws, it is no less absurd, for men to demand as they do, that liberty, by which all other men may be masters of their lives. And yet as absurd as it is, this is it they demand; not knowing that the laws are of no power to protect them, without a sword in the hands of a man, or men, to cause those laws to be put into execution.*" (Hobbes 1996 pg. 141).

This unanimity is expressed via the law that directs public unanimity on political issues that need the sovereign's direction and consent. Unanimity appears therefore to be a connection for

Hobbes and Schmitt. Hobbes' claim in the ultimate authority of the state is mirrored in Schmitt's belief of the necessity of the total state fostering unity and acting as a representation of shared enmity with the capacity to act. However, the type of unity represents something of a contrast between the two authors. Hobbes' individualism in the non-legal space and Schmitt's claim to the concrete group is not just interesting but also vital in understanding the claim of Schmitt's authority grounding sovereign decisionism. But it is not just how Hobbes and Schmitt conceive of the unanimity of the state but how the state is directed that is interesting for both authors claims surrounding authority (Skinner 1965, 1990, Cropsey 1971, McCormick 1994, Mcloughlin 2009, Holmes 2010, Tralau 2010, Sorrell 2016, Slomp 2016, Stauffer 2016).

Ruling by law as opposed to law itself ruling is another common theme between Hobbes and Schmitt. Both Hobbes and Schmitt argue that since the sovereign defines law, law itself cannot bound the sovereign's actions. Obedience to law in Hobbes' state is paramount not only for those situated in the commonwealth but also the sovereign themselves. This is not to suggest that Hobbes believes law should constrain sovereign action, but rather if the sovereign intends to act it should do so via law. The law as a result is a mechanism by which the sovereign manifests their will and rules which can be seen in chapter 26 of *Leviathan* when Hobbes argues "*Civil law, is to every subject, those rules, which the commonwealth hath commanded him, by word, writing, or other sufficient sign of the will, to make use of, for the distinction of right and wrong; that is to say, of what is contrary, and what is not contrary to the rule*." (Hobbes 1996 pg 176). The individual construction of the leviathan is what gives the sovereign machine its characteristic as sovereign- i.e., the sovereign's ability to protect the commonwealth and it achieves through a clarity of rules via specific law and governs through their actions such as appointments to key positions of state (Wolin 1992, Dyzenhaus 1994,2001, Zuckert 2003, Altini 2010, Vinx 2012, Lang and Slomp 2015, Sorrell 2016, Jaede 2016).

This can be seen from when Hobbes argues that the sovereign needs to enforce law not just create it as argued below:

> "*Tenthly, is annexed to the sovereignty, the choosing of all counsellors, ministers, magistrates, and officers, both in peace and war. For seeing the sovereign is charged with the end, which is the common peace and defence; he is understood to have power to use such means, as he shall think most fit for his discharge.*" (Hobbes 1996 pg. 120).

> "*If a subject have a controversy with his sovereign, of debt, or of right of possession of lands or goods, or concerning any service required at his hands, or concerning any penalty, corporal, or pecuniary, grounded on a precedent law; he hath the same liberty to sue for his right, as if it were against a subject; and before such judges, as are appointed by the sovereign. For seeing the sovereign demandeth by force of a former law, and not by virtue of his power; he declareth thereby, that he requireth no more, than shall appear to be due by that law.*" (Hobbes 1996 pg. 146).

Whilst Hobbes believes the sovereign should govern via law, he also focuses on the need for covenants of the subjects to remain in use as he stated in *Leviathan* "*And consequently they that have already instituted a commonwealth, being thereby bound by covenant, to own actions, and judgments of one, cannot lawfully make a new covenant, amongst themselves, to be obedient to any other, in any thing whatsoever, without his permission.*" (Hobbes 1996 pg. 115). Hobbes carves out significant powers and protections from society for the sovereign such as the right not to be actively judged by the subject and protections from uprisings and protest. These protections for the sovereign come from the initial authorisation given to the sovereign from the multitude rather than to individual groups and are highlighted by Hobbes in *Leviathan*

"Thirdly, because the major part hath by consenting voices declared a sovereign; he that dissented must now consent with the rest; that is, be contented to avow all the actions he shall do, or else justly be destroyed by the rest." (Hobbes 1996 pg. 117).

"For he that doth anything by authority from another, doth therein no injury to him by whose authority he acteth: but by this institution of a commonwealth, every particular man is author of all the sovereign doth: and consequently he that complaineth of injury from his sovereign, complaineth of that whereof he himself is author; and therefore ought not to accuse any man but himself" (Hobbes 1996 pg. 117-118).

This along with other sovereign rights that Hobbes proposes make Hobbes' sovereign appear quite almighty. Institutionally, for Hobbes there is little to stop the sovereign doing as they wish but it is less the ability to do as one wishes but rather ruling judiciously that is important to Hobbes. According to the rules of nature that he finds that include no man can be his own judge, warnings against pride and arrogance, and the ability to pardon. Hobbes' desire for just rule via these 'laws' and the potential consequences for a sovereign ruling injudiciously can be seen in *Leviathan* when Hobbes argues

"Also if a man be trusted to judge between man and man, it is a precept of the law of nature, that he deal equally between them. For without that, the controversies of men cannot be determined but by war. H therefore that is partial in judgement, doth what in him lies, to deter men from the use of judges, and arbitrators; and consequently, (against the fundamental law of nature) is the cause of war." (Hobbes 1996 pg. 103).

"Of which, this is one, that a man obtain a kingdom is sometimes content with less power, than to the peace, and the defence of the commonwealth is necessarily required. From whence it cometh to pass, that when the exercise of the power laid by, is for the

public safety to be resumed, it hath the resemblance of an unjust act; which disposeth

great numbers of men (when occasion is presented) to rebel" (Hobbes 1996 pg. 213).

Therefore, Hobbes believes in the use of just laws enforcing the authority of the sovereign as opposed to unjust laws making it more difficult for the sovereign to rule a united multitude. Despite accumulating unlimited power thereby being able to act as they choose the sovereign should continue cultivating consent ensuring a grounded authority to act through law. Hobbes on paper grants the sovereign great abilities to conduct affairs as a sovereign sees fit, but inbuilt in this are natural limitations of ruling that if broken create discontent and a contestation of authority. It is not only just laws and conduct that should be maintained for Hobbes but also a recognition of the limitations of sovereign rule. As Cropsey argues "*Hobbes, however has taught that men must be free to do all those things not expressly forbidden by law*" (Cropsey 1971 pg. 18). This indicates that scholars have found a space in Hobbes between sovereign action and civil society. There is scope as Larry May has argued for in *Limiting Leviathan* between what a sovereign can theoretically do in Hobbes and what a sovereign should do. This is compounded by the 'right' of a citizen to defend their own lives from the sovereign (Dyzenhaus 2001, Falk 2004, Baumgold 2005, Douglass 2009, Malcolm 2011, McCormick 2011, Fox-Decent 2012, Tamanaha 2012, May 2013, Jaede 2016, Sorrell 2016, Parietti 2017). Indeed, in *Leviathan* Hobbes argues

"*that it is an inconvenience in monarchy, that the sovereignty may descend upon an infant, or one that cannot discern between good and evil: and consisteth in this, that the use of his power, must be in the hand of another man, or of some assembly of men, which are to govern by his right, and in his name; as curators, and protectors of his person and authority.*" (Hobbes 1996 pg. 126).

"As for other liberties, they depend upon the silence of the law. In cases where the sovereign has prescribed no rule, there the subject hath the liberty to do, or forbear, according to his own discretion. And therefore such liberty is in some places more, and in some less; and in some times more, in other times less, according as they that have the sovereignty shall think most convenient." (Hobbes 1996 pg. 146).

"And therefore a law that is not needful, having not the true end of a law, is not good. A law may be conceived to be good, when it is for the benefit of the sovereign; though it not be necessary for the people; but it is not so. For the good of the sovereign and people, cannot be separated. It is a weak sovereign, that has weak subjects; and a weak people, whose sovereign wanteth power to rule them at his will." (Hobbes 1996 pg. 230).

Schmitt and Hobbes do share similarities in political thought both on the claim of 'command and obedience' sovereignty and both sovereigns occupy similar roles in the authors' visions. Schmitt's analysis of Hobbes differs across time as his view of Hobbes in *Dictatorship* does not mention his later misgivings that appear in *The Leviathan In The State Theory Of Thomas Hobbes*. What is held in common is Schmitt's belief that the total state requires control via dictatorship to maintain and operate sovereignty and it is this focus that Schmitt ascribes to Hobbes too. This can be seen when Schmitt argues:

"According to Hobbes, the sovereign defines what is beneficial and what is harmful for the state and, because human beings are motivated by their ideas of what is good and evil or what constitutes an advantage and a disadvantage, the sovereign must also have the decisive power about the opinion of the people; otherwise there would be no cessation to the struggle of everyone against everyone else" (Schmitt 2014 pg. 17).

"In addition, Hobbes transfers- and that seems to me to be the gist of his philosophy of state- the Cartesian conception of man as a mechanism with a soul onto the 'huge man', the state, made by him into a machine animated by the sovereign-representative person." (Schmitt 2008 pg. 32).

As demonstrated earlier, Hobbes believes in obedience to the sovereign and a strong, some would say all-encompassing role for the sovereign that Schmitt identifies himself as demonstrated by the final quote above. However, this has been accompanied with Hobbes' limitations on sovereign action and the 'right' that is the ability of citizens to defend their bodily autonomy with sovereign rule running out if they are unable to protect the Commonwealth. Rather than fostering a functioning machine that produces sovereignty, Schmitt latterly felt that Hobbes left open a crack that defeated the entire concept i.e., the creation of the beginning of the modern neutral liberal state thus undermining the authority of the state. The beginnings of this could be seen in Hobbes' writing on the concept of miracles, allowing for an individualist conception on the topic opening up the crack between the unified state and heterogeneity. Rather than creating an almighty state able to protect the Commonwealth, Schmitt labels Hobbes' vision as an anarchist social contract. This can be seen in *The Leviathan In The State Theory Of Thomas Hobbes* when Schmitt argues

"The assemblage of men gathered together by the fright of fiends cannot, from the presuppositions of their gathering, overcome hostility. The pluralistic 'state of nature' cannot be transferred, as Paul Ritterbusch aptly said, by using analytic concepts of rationalism, to an entirely different condition of unity and peace. Even though an entirely consensus of all with all has been achieved, this agreement is only an anarchico-social, not a state, covenant." (Schmitt 2008 pg. 33).

"*But at this place, at the zenith of the sovereign power that brings about the unity of religion and politics, occurs the rupture of the otherwise so complete, so overpowering unity, the decisive point, concerning miracle and belief, that Hobbes evades. Concerning the question of the belief in miracles, he made his noneradicable, individualistic proviso in a way that renders any discussion of whether he was an individualist superfluous for our consideration. At this point enters the differentiation between inner faith and outer confession into the political system of the Leviathan.*" (Schmitt 2008 pg. 55-56).

"*If looked at from the perspective of constitutional history, a dual beginning was made here: first, the juristically (not theologically) constructed beginning of modern, individualistic right of freedom of thought and conscience and thereby the characteristic individual freedoms embodied in the structure of the liberal constitutional system; and, second, the evolution of the state from one inherently void of substantive truth into a justifiable external power*" (Schmitt 2008 pg. 56).

For Schmitt therefore, the supposed crack that appears in Hobbes' formulation weakens the ability of the sovereign to create an authoritative model fostering obedience thus undermining the authority of the sovereign and the state. Schmitt ascribes Hobbes as creating a neutral state 'machine' and for this machine to function it requires homogeneity rather than heterogeneity. As time has progressed for Schmitt so has the change to the state, moving from a neutral machine to a state that limits the ability for the machine to function. As Hobbes' argument for Schmitt rests upon the fusion of authority and power this lifts the sovereign up above the commonwealth, undermining this by building on individualism for Schmitt is the equivalent of building a house on sand. Schmitt maintains the symbiotic nature of consensus and power in an attempt to ground his argument that the '*sovereign is he who decides on the exception*' (Dyzenhaus 1994, Norris 2000, Strong 2008, Mastnak 2010, Fischer 2010, Slomp 2010, Vega

2017, Zaffini 2020). Schmitt is careful to link political unity with that of the question of obedience in a political system. He argues that

> "*I'm not speaking of particular commands reprehensible to right, but rather that of a general situation in which the holder of power and those subjected to power are bound together into a political unity. Here it is the case that he who has power can uninterruptedly create effective and in no way immoral motives for obedience: through the guarantee of protection and secured existence, through education and through the interests of solidarity against others. Briefly: consensus effects power, that's right, but power also effects consensus*" (Schmitt 2015 pg.31).

> "*The intrinsic logic of the manmade, artificial product 'state' does not culminate in a person but in a machine. Not the representation done by a person but the factual, current accomplishment of genuine protection is what the state is all about.*" (Schmitt 2008 pg.34)

> "*Because the state of the absolute prince was bound by virtue of law, and transformed from a power-and-police state into a 'constitutional state' [Rechtsstaat], law, too, changed and became a technical means to tame the leviathan, to 'put a hook into the nose' of the leviathan.*" (Schmitt 2008 pg. 65).

Indeed, the fear of a weakened modern liberal state being able to maintain sovereignty is a driving force for Schmitt to find an alternative conception of the state and sovereign. Schmitt argues decrees by the sovereign rather than the law itself through a Parliament should be used to rule the state and give the sovereign sufficient authority. Schmitt also uses the distinction of legislative, jurisdiction and government or administrative states to highlight this distinction between Hobbes and himself. The governmental state finds its authority in the ability to concretely affect politics thus cementing the importance of the decision. This ability to direct

concrete change through the state thus requires obedience from the citizenry. As opposed to the legislative state where this is directed through the rule of law, in the governmental state this is achieved through commands from above. (Springborg 1976, Scott and Cavanaugh 2004, Schmitt 2004, Slomp 2007, Mcloughlin 2009, Fischer 2010, Holmes 2010, Slomp 2010, Muller 2010, Tralau 2010, Stanton 2011, Wolin 2012, May 2013, Mohammed 2018, Manderson and Bikundo 2019, Zaffini 2020). Schmitt argues this below by claiming

> "*Both the governmental and administrative states perceive a distinctive quality in concrete demands, which are directly executable or easily obeyed, and they make an end of the advocate's pleas accompanying the jurisdiction state as well as that of the parliamentary states legislative tendency toward endless discussion, recognising already in decisionism the immediately executable directive as a legal value in itself. In this regard, it still holds true: 'The best thing in the world is a command'* "(Schmitt 2004 pg.9)

> "*Both in sovereign dictatorship and in commissary dictatorship, the idea of a situation that ought to be created by the practice of the dictator is implicit in the concept. Its legal nature consists in the fact that, in view of the end to be achieved, legal restrictions and restraints that, in a given situation, are an ill-considered hinderance to achieving the goal are in practice eliminated.*" (Schmitt 2014 pg. 117).

Schmitt's belief in the use of commands can thus be seen through the lens that the sovereign is a 'god'. This sovereign god creates miracles in the legal order just as god does in the natural order i.e., the sovereign can intervene at will via the state to resolve a crisis. This claim by Schmitt sits alongside his belief in the secularisation of the theological. The claims of secularisation made by Schmitt relate to the structural features of a secular political state, and thus can be directed to the authority and ability of the sovereign themselves to decide upon

enforce an order akin to God creating a miracle. The rise of the modern state is analogous to that of the church- the state making decisions on law= the church making decisions on doctrine which for Schmitt should result in the creation of a homogenous unified state. As the rise of the modern state takes from the theological, in Schmitt's eyes if it is a homogenous unified state this allows for the subsuming of the political and thus the ability to end political conflict (Norris 2000, Hohendahl 2008, Glover 2009, Ifergan 2010, Gelot 2011, McCormick 2011, May 2013, Pankakoski 2013, Williamson 2015, Vega 2017). This can be seen when Schmitt argues

> "*all significant concepts of the modern theory of the state are simply secularised 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 law giver-but also because of their systematic structure, the recognition of which is necessary for a sociological consideration of these concepts.*" (Schmitt 2005 pg.36).

> "*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*." (Schmitt 2005 pg. 36).

> "*In the political situation of the seventeenth century, that is, in the struggle between the absolute state power and the authority of the nobility and the church, the leviathan-according to this explanation-no longer projects an image of the highest, indivisible, and strongest temporal power, one in accord with the biblical symbol of the most powerful animal.*" (Schmitt 2008 pg.20).

The section has given a grounding in the Schmittian location of authority that can be derived from his view on Hobbes. Whilst Schmitt has been called a 20th century Hobbesian, this chapter has located crucial distinctions between Hobbes and Schmitt's claims on the role of the state,

sovereign and the unity that is manifested. These differences allow for an alternative view of authority to be expressed in Schmitt compared to Hobbes. Schmitt's difference as outlined in the section can be found in two key ways: first, the distinction between the individual and the group. Hobbes focuses on individual consent that creates a commonwealth, whereas Schmitt as noted in previous chapters rejects any claim of individualism and instead believes it is concrete groups of *friends and enemies* that found the political. Thus, for Schmitt one of the dangers of Hobbes is the creation of an individualist anarchist social contract rather than a unifying state. Second, Schmitt focuses on Hobbes' claims of allowance of private belief in miracles to demonstrate this apparent break between the state and the individual.

Authority for Schmitt thus comes from the ability of the state and sovereign to guide a homogenous body of people and to effect concrete change when necessary through the use of commands. This is something that the Hobbesian state for Schmitt cannot achieve due to creating the crack in the machine that effects change and neither can modern expanded versions of the Hobbesian 'neutral machine'. However, it can be argued, rather than decisionism constituting an act of the state that is given authority by the underlying features of the political body. It is instead purely the personal act of the *sovereign god*. By routinely exercising the decision outside of the authority given to the state by the consent of the citizens through its laws this ultimately rather than enforcing the authority of the state has the opposite reaction and weakens it.

Rather than providing authority, as the chapter argues, the decision fundamentally erodes the unity of the state thus not providing the stability that Schmitt argued but creating the very conditions for an anarchic political situation that the decision can no longer contain with the loss of authority. The illustrations of Syria, Bahrain, and Egypt highlight the challenges to authority that can emerge to this description of authority. Indeed, as described in previous chapters, the *friend enemy* dichotomy can be turned inwardly on the state as opposed to those

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who challenge it. This creates a significant challenge to the authority of the sovereign and the state due to a lack of recognition of legitimacy.

5.4 The weakening of authority in Syria

The Syrian illustration is one which can bring out the theoretical claims of the previous sections. It highlights the limitations of Schmitt's vision of a homogenous concrete total state existing as a body of representation responding to the commands of the sovereign. The construction of a top-down political order as opposed to a bottom-up political order represents the limitations of the political order to create and maintain authority. Indeed, homogeneity is not a static notion that can be dictated, created, or controlled by the sovereign alone. Attempts to create such a body especially amongst a heterogeneous population is doomed to rely on coercion as its predominant sovereign trait. This section highlights the attempts of the Syrian regime to cultivate authority during the revolution whilst using a Schmittian lens of the *friend-enemy* dichotomy, the sovereign 'god' and homogeneity to analyse how these attempts have undermined the decision in action.

The Assad regime during the uprisings has projected itself as a defender of the state at large rather than a sectarian regime that its opponents claimed it was. One example of this in action is the Assad's social media profile, displaying themselves among the people in patriotic ways in an attempt to portray themselves as the first couple of the country. By positioning themselves among 'the people' this was an outward attempt at demonstrating national unity of support for the regime and the sovereign Assad (Holiday et al. 2015, Phillips and Valbjorn 2018, Hinnebusch 2019, Gaber 2020, Schulhofer-Wohl 2020). A further example of this attempt to show off a 'national unity' can be from speeches made outwardly condemning sectarian killings and preaching national unity against self-defined 'terrorism' and 'conspiracies against

the nation'. Just some examples from speeches Bashar Al-Assad made between 2014-2019 being

> *"there are those who are killing in the name of the religion and want to spread chaos under the pretext of religion"* adding that *"the state is like a mother or father [...] When a state affords clemency to those who erred it means it acts in a very responsible way"* (Gaber 2020 pg. 242).

> "*Let us act as quickly as possible to heal our wounds and restore harmony to our larger family and maintain love as our uniting bond.*" (Gaber 2020 pg.243)

> "*We should keep rallying our country under a sense of patriotism, the real force which protects Syria at every juncture*" (Gaber 2020 pg.243).

The Assad regime in response to the uprisings did also attempt to foster support amongst what it considered to be its natural allies. One of the ways this can be witnessed was via Assad's public addresses to the nation via Parliament, one of which was on March 30th two weeks into the uprisings. Bashar's visits to Parliament creating a raucous reception as they shouted "*God, Syria, Bashar only!*" (Time 2011). In his speech claiming a demonstration of unity for the nation by arguing it was *"a test of our unity," he warned of attempts to sow sectarian strife in secular Syria's patchwork ethnic and religious society, and blamed satellite television channels for broadcasting "lies, lies and lies that they eventually believe is the truth."* (Time 2011). Further early attempts were made by organising public demonstrations bringing together the self-named '*those who love you Assad'* and large numbers of those who worked for state-controlled organisations such as the National Union of Syrian Students in an attempt to demonstrate unity and support for the regime. One example of this has been highlighted by Aljasem who found "*All NUSS members of faculties, institutes and the university accommodation city in key positions were summoned for a meeting with the member of the*

Executive Office, Omar Arob, who was the executive director envoy for Aleppo University. Arob indicated that he was asked 'by the leadership to organize NUSS to stand in the face of all the turbulences and prevent any tries to organize anti-government protests at all costs" (Aljasem 2021, pg. 102). During these demonstrations and despite videos of sectarian massacres out in the public domain, Assad presented himself as a last line of national unity and defence arguing "*Do you want to see another Afghanistan, or tens of Afghanistans? Any problem in Syria will burn the whole region. If the plan is to divide Syria, that is to divide the whole region.*" (Hokayem 2013 pg. 52). Despite attempts to profess a shared unity and blame the uprisings on lies and manipulations by foreign agents, Assad's speech was speaking to an empty chamber as support drained away from his regime and the protests simply kept spreading as citizens simply no longer believed him thus limiting his power (Khamis, Gold, and Vaughn 2012, Lesch 2012, Hokayem 2013, Nakkash 2013, Ungor 2019, Aljasem 2021).

On the face of it, this provides evidence that the Assad regime made a decision to try and create the notion that this was a unifying regime determined to hold together a country bursting asunder at the seams. However, as demonstrated earlier in the thesis, in the introduction and chapter 4, we can witness the Janus-faced approach by the regime who had used the language of sect manipulation during the uprisings. This is not a recent approach, as Droz-Vincent (2014) has argued "*use and abuse of sectarianism has been a foundational fact of Assad family rule since November 1970"* (Droz- Vincent 2014 pg.40). Assad labelled the opposition as filled with '*radicals and blasphemous intellectuals'* (Keen 2021 pg. 246) and describing them as filled with extremists and terrorists who would face an existential threat if the regime fell in an attempt to rally the minorities in Syria's heterogenous population in a fight to the death. The Assad regime whipped up sectarian division by taking the Alawite minority hostage "*linking its fate to its own. It did so deliberately and cynically…[staging] sectarian incidents in confessionally-mixed areas as a means of bringing to the surface deeply-ingrained feelings of*

insecurity among Alawites…To stoke fear, authorities distributed weapons and bags of sand—designed to erect fortifications—to Alawites living in rural areas long before any objective threat existed" (Hof and Simon 2013 pg. 17). Indeed, this fortification happened not only physically but also via rhetoric by the regime as well as hoxes used in an attempt to whip up sectarian division. Indeed, this can be witnessed by the Assad regime *"spreads rumors of Sunni atrocities against Alawites and depicts the conflict as a fight to prevent Alawite extermination. In late December 2012, Time Magazine reported allegations that the Assad government provided up to $500 per month to individuals posing as members of the opposition and painting graffiti on buildings or chanting slogans with overtly sectarian rhetoric, including, "the Christians to Beirut and the Alawites to the Tarboot (Grave)."* (Jasser 2014 pg. 62). (Kasab 2011, Salih 2012, Heydemann 2013, Hof and Simon 2013, Leenders 2013, Droz-Vincent 2014, Jasser 2014, Hokayem 2016, Keen 2021, Menshawy 2022).

The claim to unity from the regime could not be sustainable whilst violence was being meted out onto those protesting and videos of pro Assad militias were distributed of sectarian massacres such as in the town Baniyas as discussed in chapter 4, leading to a breakdown between the citizenry and the regime limiting the space for what actions the regime could take. The result of these crude attempts to whip up sectarianism came at a significant cost to the authority of the regime. Sectarianism as discussed in the '*power*' chapter has been manipulated especially during the uprisings when sect feelings became intensified due to an exclusionary sectarian government that fostered polarisation. The regime attempted at once to portray itself as a national institution whilst making a large proportion of its citizens internal *enemies.* This necessarily undermined Assad as a 'sovereign god' as the *friend-enemy* dynamic remained in contestation with the regime becoming the *enemy* for the majority of those not part of the minority communities of the country. Rather than a homogenous regime and state guided by

the decision and led by a sovereign god, Syria was rather the picture of heterogeneity, disunity and instability undermining sovereignty of the regime.

The sectarian rhetoric deployed by the regime was not limited to mere words. Rather, sectarian actions followed, creating further divisions in the country as the uprising continued to spread against the regime. There was an attempt to absorb en-mass the Alawite community into the armed forces and security apparatus and the growth of paramilitaries and gangs such as the Shabiha (who committed en-mass sect crimes) to fill the gap in the regular armed forces when Sunni and other soldiers deserted to join the uprising. The Shabiha as discussed in the introduction are a paramilitary gang that have long standing ties to the Assad regime that go back before Bashar came to power. They were involved not only because of the potential capacity problems for the regime but also the draining authority and loyalty that existed even within even supposedly loyal quarters of the regime. This lack of authority filtered through to even those who were deemed counted upon segments of the population for support. Chapman (2014) quotes the International Crisis Group report that *"There must have been some doubt in official circles over whether the ordinary soldier could be relied upon to defend the regime against his fellow Syrians, especially if he was Sunni. The loyalty of Alawites in official positions was also far from guaranteed. An intelligence officer 'estimated that three quarters of his colleagues felt some sympathy for the protestors"* (Chapman 2014 pg.103). The Shabiha were involved in trying to put down the uprisings from early in the conflict via the framework of fighting 'foreign terrorists' that the regime perpetuated. Indeed, this can be seen by Hadaya (2020) who interviewed an alleged participant of early Shabiha action who claimed *"they told me that the demonstrators were foreigners, and they had come to our area to cause trouble, scare civilians, and plant explosives, so I did not mind participating. Especially when they promised me a job as a night guard"* (Hadaya 2020 pg. 613) (Kasab 2011, Salih 2012, Heydemann 2013, Leenders 2013, Byman 2014, Chapman 2014, Haddad 2014, Hassan 2015,

Phillips 2015, Hinnebusch 2016, 2019, Corstange and York 2018, Heydemann and Chace-Donahue 2018, Menshawy 2019, Hadaya 2020, Leenders and Giustozzi 2020, Ungor 2020).

Here, we can see the practical consequences for regime sovereignty and the function of the decision without sufficient grounding in authority. Inevitably, the lack of authority hindered the ability of the regime to act, as national state led institutions such as the army could not win the civil war alone. The regime therefore outsourced some of its capacities to non-state groups further undermining their authority to lead whilst recognising the central regime did not have the strength on its own terms to contain the uprising. This can be seen by Hadaya (2020) claiming the regime had to *"delegate some authority to clientelist networks in which Shabiha, local notables, clerics, cronies, and tribal leaders intermeshed."* (Hadaya 2020 pg.611). Despite Assad's calm air of supposed authority that the mass uprisings would not affect Syria, this changed once they began to spread and would not stop. Indeed, even the loyalty of the Shabiha was put into question when as Salih (2012) reports they went on strike over unpaid wages from the regime emphasising the weakness of legitimacy of the regime. The regime's actions further fracturing sect relations led to an unstable *friend-enemy* dichotomy that could not be controlled and the enmity apparent in the conflict could not be contained. This led to an unstable basis for regime authority, leading to a heterogenous state that was necessarily conflicted, far from bringing unity there was instead chaos. As demonstrated, this limited the ability of the sovereign to act and weakened Assad's position.

The regime's response to the uprisings highlights the lack of serious engagement with those challenging the regimes authority and the precursor to a pyrrhic response leaning increasingly on coercion and undermining the opposition. This coercive response not only lessened the authority of the Syria regime by creating a contestation over the means of violence and indeed governance both from actors inside the regime as well as those outside further limiting the regime's authority. Fear of the regime and its security apparatus that may have held together a

fraying coalition from Hafez's death but the seeds of disunity and heterogeneity undermining the sovereign were already present. The regime's actions as described in chapter 4, to the teenagers who wrote the graffiti in Dara'a and the subsequent uprising ensured that citizens were willing to take risks to express their displeasure at the barbarity of the regime's actions.

Knowledge of these initial protests and regime's coercive actions spread far and wide and were facilitated to grow via modern tools of communication, such as phones and the internet that encouraged activists to risk their lives and rise with a renewed hope of success as the regime could no longer fully control channels of communication. This occurred despite raising a 'digital army' in the months following the initial uprisings. This can be seen via Rane and Salem (2012) who wrote *"the social movement for freedom and democracy in Syria gained serious momentum from late April 2011. By mid-2011, the Facebook page 'Syria Revolution 2011' had almost 200,000 fans and protests have continues for months all across the country."* (Rane and Salem 2012 pg.107) and as argued by Shehabat (2012) *"Importantly, the protesters' only retaliation weapon was YouTube, leading Khamis to describe the Syrian revolution as the 'YouTube uprisings' (Khamis et al, 2012). The high level of mobile phone penetration in Syria also played a pivotal role in publicising the regime's brutality. The incidents in Darra and Homs were recorded and uploaded onto YouTube and broadcast worldwide. This was in stark contrast to the events of February 1982 when Hafez Al-Assad (father) committed a massacre in Hama, killing an estimated 25,000 to 40,000 civilians following the rise of the Islamic Brotherhood in the province.* (Shehabat 2012 pg.2) (Shaery-Eisenlohr 2011, Rane and Salem 2012, Shehabat 2012, Davidson 2013, Leenders 2013, Lynch et al., 2013, Ahmad and Hamasaeed 2015, DeJuan and Bank 2015, Hinnebusch 2015, 2018, Albrecht and Ohl 2016, Pearlman 2016, Corstange and York 2018, Karimi and Mousavi 2018, Santini and Moro 2019, Dagher 2020, Keen 2021).

In essence, the immediate coercive response exaggerated and catalysed the already wilting authority of the Syrian regime, the uprising was not something that may have happened therefore, rather it was an inevitable result of a regime reliant upon force rather than genuine support or affection. The use of modern technology to spread the reality of the coercive actions of the regime, unlike in 1982 led to the spreading of further anger towards the regime as discussed in chapter 4. The Syrian regime instead of governing and solving the problems to their authority that emerged during the episode in Dara'a instead doubled down on coercion to solve the protest movement and discontent. Through the schmittian lens, we can understand this as an attempt to enforce homogeneity via the vanquishing of the internal *enemy*. However, with no monopoly on the spread of information and the increasing weakening of authority, the regime became the internal *enemy* for a great number of its citizens.

This section of the chapter has highlighted the limitations of the sovereign decision and its struggles to both maintain authority but also act efficiently and effectively when a regime's authority comes under question. Despite the regime attempting to maintain a supporter base with rallies and proclamations that this was a 'national' regime not divided along sect lines, this message struggled to get through precisely because of the sectarian rhetoric and atrocities that were being committed by the regime at the same time. From this we can learn three key things. First, the *friend-enemy* dichotomy had begun to turn inwardly against the regime creating greater pressure on the regime and boxing in the effects of the decision. Second, this necessarily undermined the homogeneity that was 'present' in the state. As discussed in the introduction and chapter 4, this 'homogeneity' was grounded upon coercion from the regime executed via the decisions made by the 'sovereign'. Increased heterogeneity and the decision leading to an excess in coercion, stability began to breakdown. Third, this boxed in the implementation of the decision, undermining its effects on the political order as citizens were no longer willing to listen. Rather than a sovereign god, Assad had become a very mortal figure

whose decisions came under increasing threat of non-effect and his dethroning a very real possibility.

5.5. The weakening of authority in Bahrain

This section like the previous section discusses the authority of the Bahraini regime via the theoretical lens of the thesis. This section builds on the work in chapter 4 that analysed regime actions in relation to the decision, highlighting how the sovereign decision is not always homogenous and the limits of its effects on the political order due to an overreliance on coercion. By building on the work conducted in chapter 4, this section highlights how regime actions have undermined the authority of the regime making it more difficult to enact decisions. This necessarily undermines the function of the decision and rather than fostering a unified, homogenous regime and state, the decision has led to a fractured heterogeneous regime and state. Attempts to create homogeneity have led to violence, creating a contestation over who the *enemy* is undermining the authority of the regime. This leads to a weakening of regime sovereignty rather than its strengthening as Schmitt envisions.

Rather than being a unifying force the regime can be considered to be an actively splintering force undermining unity. The regime's form of unity necessarily excluded those who demanded regime change as opposed to regime reform leading to a contestation of who really represented 'the nation'. This contestation over who really represented 'the nation' was one factor leading to a rise in enmity, turning the regime into the *enemy* as opposed to the *friend* along with the increase of violence against the uprising that is analysed in this chapter. The regime appeared to attempt to foster a sense of national unity, in a bid to increase its legitimacy amongst the citizenry during the uprisings. This was done like in Syria of sponsoring counter demonstrations in response to the uprisings that had emerged across the country. Counter

demonstrations were designed just like in Syria, to create a contested narrative of what 'the people' wanted and their opinions. As Ulrichson (2013) states "*Thousands of pro-government supporters gathered at the Al-Fateh Mosque in Juffair on 21 February (and again on 2 March 2011) to declare their support for the regime. They formed The Gathering of National Unity (TGONU)"* (Ulrichson 2013 pg.3). Pictures of the king were held up and Bahraini flags were waved symbolising the cause of unity between the regime and the nation (Louer 2013, Khalaf 2013, Ulrichson 2012, 2013, Al-khawaja 2014). But just as in Syria, the regime's attempts to sponsor counter protests demonstrating loyalty to the regime merely heightened the protests the regime at the pearl roundabout and beyond. Thus, the sponsoring of counter protests were an ineffective method in demonstrating the regime's place as a unifying structure guiding the homogenous nation but rather symbolised the fractious and heterogeneous nature of the political order.

The connection that the regime attempted to foster of unity, nationalism, and loyalty through this method of engaging counter-protests could also be seen via the speeches made by the Crown Prince emphasising unity and equality. Just one example of this on the 17th of February was *'Every loyal citizen, Sunni or Shia. I want to see all brothers this evening. Anyone who has a sense of patriotism, please come forward and speak out. Do not be afraid"* (Al-Rashidi 2019 pg. 511-512). This remark seems innocuous, indeed even supportive of the idea of a regime speaking to the nation as a whole to enact meaningful change. However, it speaks to a broader two-pronged strategy that illuminates the reality of the regime, which was not unity, but disunity and fostering the *enemy* both externally and internally. This was achieved by the regime attempting to distinguish between the loyal citizens' and the supposedly 'disloyal ones' and those who had a sense of 'patriotism' and those who did not.

First, this can be seen at portraying an external *enemy*. As discussed in the introductory chapter, and chapter 4, there has been a long-standing geo-political rivalry with Iran, in part due to the

1981 alleged coup attempt and the sectarian nature of the regime. The alleged fear of 'foreign interference' by Iran into Bahrain's domestic affairs can be seen by public statement from the regime such as *"Fawaz bin Mohammad Al-Khalifa argued against "expansionist ambitions of the Persian Shia establishment", blaming Iran for widespread unrest across Bahrain and the wider Middle East"* (Mabon 2021 pg. 745) that was accompanied by the framing of the Peninsula shield as an intervention *"to secure Bahrain's vital and strategically important military infrastructure from any foreign interference"* (Mabon 2019 pg.33) (Neumann 2013, Zunes 2013, Moretz 2015, Al-Rashidi 2019, Mabon 2019, 2021, Watanabe 2019, Debre 2021). It can therefore be seen how the regime has fostered the idea of the external *enemy* undermining internal unity and threatening the security of the state, not just the regime. However, given the widespread nature of the protests that only grew following the Peal roundabout crackdown the regime's legitimacy domestically came under increasing question.

The second form of *enemy* the regime attempted to construct was that of the internal *enemy*. The internal *enemy* in the illustration of Bahrain can be seen in one sense to be directly linked with the external *enemy* Iran in relationship to their Shi'a identity. This has created the notion of Shi'a citizens as an internal security threat, the fears are so great it has permeated private life with a distinction made daily between Shi'a and Sunni citizens who are 'true' and 'untrue' Bahraini's. The distinction has led not only to stringent regime crackdowns on open expressions of Shi'a identity as discussed in chapter 4, but institutions of the state such as the armed forces and police discriminating in their hiring policies towards Shi'a citizens. As shall be discussed in chapter 6, this was further exacerbated with the regime fast tracking citizenship of foreign conscripts who were Sunni to weaken the demographic majority of Shi'a citizens. This combination has produced an atmosphere where Shi'as are deemed not only unwelcome and potentially disloyal but that a picture of sectarianism is painted that the regime attempts to capitalise on via 'divide and rule' (Mabon 2012, 2019, 2020, Al-Shehabi 2013, Barany 2013,

Louer 2013, Ulrichson 2013, Ambrosio 2014, Beaugrand 2016, Jones 2016, Fibiger 2018, Alsarghli 2020, Bianco 2020, Hamdi and Salman 2020, Fibiger 2020).

The internal *enemy* during the uprisings were not simply in relation to sect. The internal *enemy* is a broader spectrum of those who were willing to continually challenge the regime from outside the prescribed engagement process with the regime fostering a 'unity' that was necessarily narrow and exclusionary. On the face of it, the regime in asking citizens to come forward for discussion was acting pragmatically towards the uprisings and the supposed aim of the dialogues was to facilitate ideas and create a framework for the implementation of political reform. However, the regime despite its rhetoric on unity was not in the mood to compromise with those who disputed the regime's authority. Despite the National Dialogue Initiative being pledged to find common ground amongst differences, the seeds of further disunity could be seen in the same speech as the National Dialogue Initiative was to come to the fore. The Crown Prince saw the dialogues as a method to *"foil the attempts of those who plot to cause friction."* (Al-Rashidi 2019 pg. 512) and used further coercion against those who *"refused to engage in any form of dialogue with the regime, because they did not recognise its legitimacy and, to them, to participate with the regime would be equivalent to accepting and recognising its legitimacy"* (Al-Rashidi 2019 pg. 512) (Al-Jazeera 2011, BICI 2011, Karolak 2012, Fakhro 2013, Katzman 2013, Al-Rashidi 2019, Khalifa 2019, Watanabe 2019). The regime's attempts to foster a unity was a failed project precisely because of their unwillingness to seriously discuss with the opposition, as Watanabe (2019) writes

> "*the royal-initiated attempts for social reconciliation have failed. One of the main Shiite opposition groups, al-Wifaq National Islamic Society (Jamaʿīya al-Wifāq al-Waṭanī al-Islāmīya: hereafter, al-Wifaq) withdrew from the Dialogue on July 17, 2011. The society complained that the opposition was underrepresented in the Dialogue in terms of seats and time allocation (Al Jazeera 2011).* (Watanabe 2019 pg.61)

The result that emerged from the breakdown was one of anger and low-level confrontation between groups and the police that could ultimately only be solved via coercive mechanisms and a further promise to consult with opposition figures. Rather than reinforcing authority, the security forces willingness to fire and subjugate the protesters weakened authority fostering further divides in the political sphere that were already fractured leading to the regime necessarily at least pretending to engage in political dialogue. This led to a narrowing of the political space where authority could be grounded for the regime, rather than a homogenous state, the breakdown of the dialogues highlights the contested and heterogenous nature of the political order. It also represents the limitations of the sovereign decision without being sufficiently grounded in authority, the ability of the 'sovereign god' to affect the political order is limited if citizens are not willing to listen to the 'god'. Rather than miracles, the 'god' was dubious in his ability to concretely affect the political order. This limits the impact of the decision and creates further contestation over the claim that the decision is truly a mark of sovereignty (Gray 2012, Jeong 2013, Louer 2013, Owen-Jones 2013, Katzman 2013, Khalaf 2013, Ulrichson 2013, Moore-Gilbert 2018, Fibiger 2020).

As discussed in chapter 4, the decision was not only contested from those outside the regime but also from those within the regime. Some parts of the regime demanded greater crackdowns whereas others, such as the Crown Prince are reported to have favoured a more tolerant approach. We can therefore witness a lack of homogeneity not only outside the regime but also internally affecting the functioning of the decision. One way this was attempted to be managed was via the Bahrain Independent Commission of Inquiry. The inquiry was an investigation into the uprising, and the commission of such an inquiry can be viewed along similar lines to the creation of the dialogues i.e., a tool that was supposed to reign in excess supporting the further constituting of the regime. However, it was also designed to reign in excess internally and to quieten the voices of those demanding further crackdowns that had already taken place. This

led to a difference between the Independent Commission and the dialogues as reportedly King Hamad saw the BICI as a primary tool to mitigate challenges from 'both sides' rather than specifically targeting the external *enemy*. This can be seen by Helal (2019) who argues

> "*To King Hamad, the BICI was a tool of reconciliation, which required debunking the polarizing narratives that were being propagated about the events that had occurred during the unrest by extremists in the opposition and among the government's supporters on the Sunni side of the political spectrum. Therefore, if the commission showed that the 'police were not angels' and that abuses were indeed committed, it would not only help placate the opposition but would also 'embarrass certain domestic actors' and highlight the necessity of reform*" (Helal 2019 pg.908).

The BICI report as a result was no whitewash, instead as Barany (2016) highlights "*On November 23, 2011 the BICI released its findings in an unexpectedly candid report that charged the regime with widespread human rights violations, using excessive force in breaking up the protests, torturing demonstrators in custody, and punishing the Shi'a community collectively*" (Barany 2016 pg. 32). The report was also critical of regime actions during the state of emergency that opened the door to *"opened the door for the perpetration of grave violations of human rights, including the arbitrary deprivation of life, torture and arbitrary detention"* (Hehir 2015 pg. 1130) which included the setting up of special courts by the regime to punish those participating in protests, firing workers en-mass and expelling students. However, despite these findings, the regime has generally not implemented the recommendations from the report. Indeed, as noted by the very chair of the BICI, *"In 2014 Cherif Bassouni, Chair of BICI, noted the Bahraini government's implementation of his recommendations had been 'piecemeal' and warned that people 'who do not have the hope of seeing themselves as equal citizens' eventually 'explode'"* (Hehir 2015 pg.1132). This lack of faith in the changes made is also shared by scholars such as Matthiesen (2013) who argue *"But*

the reality is that many recommendations have not been implemented, especially those of a more political nature such as the retrial of all those convicted in military or semi-military courts and under emergency law.93 Instead of starting a process of transitional justice, the BICI has become a symbol of the political stalemate in Bahrain." (Matthiesen 2013 pg.82-83) (BICI 2011, Davidson 2012, Louer 2013, Matthiesen 2013, Hehir 2015, Admin 2016, Barany 2016, Catino 2017, Helal 2019).

Both the BICI report's recommendations and the lack of action despite the Crown Prince's initial intentions to act can tell us about the limited authority of the decision. The chance for a rebalancing in relations via regime positioning and rhetoric in 2012 post uprising was there but was never capitalised on further entrenching a distinction between citizens and lessening the authority of the regime from the outside. Internally, the sovereign decision struggled to navigate internal disagreement as outlined in chapter 4 and further illustrated by the lack of progress on the BICI report recommendations. Rather than curtailing both sides ambitions, the result has been little to no progress and a furthering of coercion and narrowing of the political space. As witnessed historically, this does not mean the end of the challenges to the present regime but rather a delay to a future pushback against authoritarian rule. As discussed in the introductory chapter, Bahrain has a proud tradition of civil and political activism on a wide range of issues.

A further problem with authority for Bahrain has been the role of communication in relation to action. The role of the internet affects the necessary claim to unity and homogeneity that supposedly ground the decision, it also undermines the claim of the 'sovereign god'. As shall be discussed in chapter 6, Bahrain adopted programmes such as Finspy to unmask those who 'insulted' the king (Boire and Marczak 2012, Marczak et al., 2014, Owen Jones 2017, 2017). This can be seen by Owen Jones' claim that *"Twitter parody accounts of high-ranking Bahraini officials, including that of the country's prime minister, were targeted by the government*

security services – who used IP spying techniques in an attempt to uncover the identity of those operating the account" (Owen Jones 2017 pg.137-138). However, whilst the regime used technology and produced coercive actions to uncover those who were not pro-regime, the use of social media is a gateway into understanding the dearth of authority held by the regime. During the uprising, social media accounts gained much bigger followings than usual giving increased space and a bigger than usual voice to journalists and independent media in the country, just one example being of Alwadi (2014) who writes

> *"I still remember how my Twitter account was tripled with followers in just a few days after the uprising started in Bahrain in February 2011. As a journalist, people from inside as well as outside Bahrain felt the need to follow me and many other journalists in order to get a sense of the news from the ground. That was the beginning of the shift in the way Bahraini journalists, as well as activists were seen and perceived in the eyes of their own community"* (Alwadi 2014 pg.140).

Indeed, there was not only an increase in following for journalists via the online modes of communication such as twitter, but this filtered into offline support for those who dared to challenge the regime. Despite the regime not allowing private tv and radio stations, due to law no.47 in 2002 and four of the five newspapers in Bahrain are either owned or affiliated with members of the royal family this did not stop online content from providing a gateway to news affecting the citizens sympathy for those defying the regime. As Alwadi (2014) recounts "*The crackdown on women activists in Bahrain created a lot of admiration from the general public, people in very conservative villages started chanting for those women, they started viewing them differently*" (Alwadi 2014 pg. 142-143). This process undermined the necessary homogeneity that sits at the foundation of the decision, rather than unity and homogeneity there was disunity and heterogeneity. The online and offline were interconnected, neither one could be fully disconnected from the other with offline activity being influenced by online activity

and online activity at times being guided by offline activity. Thus, with the regime being unable to fully police the online this affected their ability to fully manage the 'offline' casting into doubt Schmitt's beliefs about the 'sovereign gods' concrete effects on the political order. This can be seen by Karolak who argues *"The neighborhoods support each other by sharing links and occasionally use the Internet to coordinate cooperation in offline activism."* (Karolak 2017 pg.91) and this led to protests against government actions, just one example being "*In Bahrain, a social networking campaign has called for the release of blogger Ali Abdulemam who has been imprisoned for allegedly posting "false news" on his popular site BahrainOnline.org."* (Ghannam 2011 pg. 5) (Ghannam 2011, Huijser and Little 2011, Stepanova 2011, Alwadi 2014, Husayn 2015, Khamis and Alwadi 2015, Karolak 2017). Thus, rather than authority being found via homogeneity and unity in common relation to the *friend enemy* dichotomy, we can see the *friend enemy* dichotomy being turned inwardly. This necessarily impacted the regime's inability to fully control either the online or offline space undermines the sovereign having a 'god' like concrete effect on the political order. As a process, this undermines the apparent qualities of the decision equalling sovereignty.

The regime's attempts to unify the country has amounted to a concerted effort to paint the majority as *enemies* that need to be guarded against. This form of 'unity' was only functioning to those willing to accept the existence of the regime rather than those questioning it that has necessarily led to a narrow political space. This has not created a homogenous state underpinning the decision and creating authority but rather a fractured, decisionist heterogeneous state that is held together via coercive methodology. Instead of providing stability and grouping together a homogenous whole, decisionism in Bahrain can be understood to have brought instability and division between citizens and even internally in the regime itself. The creation of the internal *enemy* at the moment of a mass uprising which included cross-sect participation can be seen as inherently problematic both within sect divisions and a

broader division between those who supported the monarchy and those demanding its time had come to an end. Whilst divisive rhetoric and coercive actions were accompanied with claims of sovereign reconciliation with the citizenry these promises have not been fulfilled. This pretence of reform does not secure the authority of the regime, rather it weakens it in the case of future events as was noted by the former head of the BICI. Without authority and unity, the decision is boxed in limiting its effect and not providing the sovereign freedom that Schmitt describes, thus rather than providing the exemplification of sovereignty we can witness the limitations of the decision both in the maintenance of unity inside and outside the regime as well as its failure to foster homogeneity and stability.

5.6. The weakening of authority in Egypt

This section akin to the sections on Syria and Bahrain highlights the limitations of the decision when used without authority. The limiting of authority in this illustration is examined via the lens of Schmitt's underlying political girders holding up the decision, specifically, the claim to homogeneity, unity, the *friend enemy* dichotomy as well as the 'sovereign god'. This like the previous illustrations, shall be analysed via regime reaction to the Arab Spring uprisings in Egypt and the apparent limitations of regime authority that can be seen in a variety of actions, just one example is speaking to the public in an attempt to stop the uprisings. By analysing these actions and their limitations via the lens of Schmitt's decisionism, it is possible to witness the weakness of the decision being exercised without authority. The focus of this section shall be on the media, Mubarak's personal pleas to stop the uprising and the coercive actions taken by the Egyptian regime to try and bring a halt to the uprising.

Whilst the constant state of emergency that Egypt found itself in had detached the country from a true 'emergency' scenario to a period of normalcy of the 'emergency' this did not create the effect of permanent stability inside Egypt. As shall be demonstrated below, the uprising created

an outpouring of instability, heterogeneity and a reversal of the *friend enemy* dichotomy that could not previously be seen but was no doubt there. The regime despite investing significant amounts in the interior ministry and other coercive apparatus' faced domestic challenge to proposals such as welfare reform highlighting the narrow base with which Mubarak's regime really operated on. The focus thus was on repressing negative perceptions whilst enforcing the legal order instead of maintaining a homogenous united political unit, instead an unstable heterogenous political unit was being maintained via regime coercion holding back the tide of resentment and disapproval of the Egyptian populace. This level of coercion can make it appear as there is social passivity and acceptance of the regime, hiding the bubbling tensions and challenge to authority and legitimacy that has not yet spilt out into the public arena. However, during the uprisings it did spill out, the regime initiated a crackdown as discussed in the introduction and chapter 4 via the police, but this was insufficient to send the protesters home highlighting the limitations of coercion (Bayat 2010, Heydemann and Leenders 2011, El-Hibri 2014, Hassanpour 2014, Beissinger et al., 2015, Cattle 2015, Issawi and Cammaerts 2016, linssen 2018, Holmes and Koehler 2020).

To truly understand the limitations of coercion, it is necessary to discuss why the uprisings took place. The reasoning for the uprising was varied but consistent with the theoretical lens that the regime was no longer serving its function. The reasoning for the Egyptian masses to come out and protest were varied. One poll conducted by the Arab barometer survey in June 2011 found that 38% of people protested mainly because of economic reasons, 18% for civil and political liberties, 22% to stop Gamal Mubarak taking over once his father had left office and 18% to combat corruption. In addition, discontent with the regime went back further than simply 2011. One analysis of polling data by Kilavuz and Sumaktoyo (2020) argues support for democracy in Egypt went up from 2001-2008 before the uprisings took place. This highlights multiple reasons for the protests occurring that drew in different concerns, not just

an appetite for greater democracy which had existed in the country since before the uprisings occurred. What we can gather is an overall dissatisfaction with regime performance and a desire to see an end to the regime rather than its continuation. These pressures have not been allowed to be addressed in the illustration due to the continuation of the state of emergency and the autocratic nature of the regime that doesn't allow for a re-authorisation of authority allowing for a refreshing of authority. Whilst some political reforms were authorised, the Mubarak regime never allowed itself to be truly threatened with being replaced even though they did allow for the existence of some civil society actors existing such as the Muslim Brotherhood and the Egyptian Labour movement. (Tessler et al., 2012, Weyland 2012, Clarke 2014, Bamert et al., 2015, Beissinger et al., 2015, Robbins 2017, Benstead 2018, Kilavuz and Sumaktoyo 2020).

What we can see is that the Mubarak regime even before the uprising faced a deficit in its authority. It was overly reliant upon coercive mechanisms that it employed to create a perception of a nation that was not bristling with discontent. However, the seeds of the uprising could be seen well before the uprising that did occur. Rather than a homogenous nation, the regime was struggling to contain political heterogeneity, this can be witnessed via the challenge and dissent witnessed over the potential rise of Gamal Mubarak. These seeds that could be witnessed simply fully flowered during the uprisings where all authority had drained away from the regime. This produced a situation where the 'decision' implemented with coercion by the police could not stop the uprising.

The Egyptian revolution highlighted the lack of authority present in the existing Mubarak regime. The uprising demonstrated the heterogeneity in the state at large, it was described by some activists as akin to Wikipedia i.e., everyone was able to contribute highlighting the heterogeneity of the state as opposed to homogeneity creating unity. This heterogeneity was facilitated by platforms such as Twitter and Facebook that proved pivotal in the organising and

spreading of the uprising. This provided a direct challenge to the traditional media landscape that had prevailed in Egypt. The traditional news media in Egypt was the most diverse and developed in North Africa before the uprisings but still struggled to adequately shape events. This was in part due to the lack of coherence in the media landscape ensuring greater freedom than in Syria but still retained a watchful eye on content. This meant that when encountering voices directly from the ground as found in social media it struggled to respond. Social media was able to facilitate organisation acting as a lightning rod for the enhancement of consciousness propelling the calls for protest far and wide across Egypt, with just one example being the call for the first day of rage that led to thousands protesting in Tahrir square. During the uprisings, the role of the internet was demonstrated with twitter hashtags and the names of facebook groups being written on placards for the protests highlighting the interaction between the online and offline (Russel 2011, Hamda and Gomaa 2012, Tawil-Souri 2012, Ali and Fahmy 2013, Harlow 2013, Meraz and Papacharissi 2013, Hassan et al., 2016, Issawi and Cammerts 2016, Smidi and Shahin 2017).

Social media provided an alternative context for the uprisings that the traditional media did not represent. The rise of social media therefore didn't just allow for greater organisational capacity to challenge the decision as seen above but also provided the basis for the contestation over the framing of the uprising. Rather than a uniformly negative approach to the uprisings, social media spread support for those protesting undermining the necessary homogeneity to ground the decision. The traditional media responded to the uprisings by labelling demonstrators as thugs, thugs, foreign conspirators, and disruptive forces undermining national unity. Social media allowed for an alternative framing of the uprisings as something positive and necessary rather than undermining and destructive. This alternative framing provided the political space to highlight both the suffering of families who had lost people as a result of regime violence as well as the levels of corruption amongst government officials. The internet also provided the

space for videos of protests to spread far and wide, for instance, in one survey conducted by Tufecki and Wilson found that 1/3rd of respondents of those who participated in the protests first found out about the Tahrir protests through social media such as Facebook. Furthermore, social media provided a space for those wishing to participate in protests, as Chehib and Sohail demonstrate by claiming *"According to Ahmed, a social activist in Tahrir Square, online activist meetings replaced the regular secret ones that could have been broken up by the police; it was much safer"* (Chehib and Sohail 2011 pg. 143) (Chehib and Sohail 2011, Eltantawy and Wiest 2011, Aouragh 2012, Farrell 2012, Tufecki and Wilson 2012, Harlow 2013, Meraz and Papacharissi 2013, Brym et al., 2014, Hassan et al., 2016).

The presence of social media and citizen journalists existing in competition with the established media landscape challenging the picture presented by the established media of the uprising highlights the lack of homogeneity in Egypt. The regime could not control the flow of information as it desired to with social media providing networks for the further spread of organisation for the uprisings. Not only did social media provide a space for the uprising to organise, but the flow of information also further allowed it to grow- blurring the line between online and offline activity. Rather than a unified country, the uprisings exposed a latent heterogeneity and disunity that could be witnessed previous as discussed in the introduction with protests emerging before the uprisings and a distinct level of competition emerging to the Mubarak regime. The increased disunity created a distinct problem for the regime in terms of its authority via the decision, the *friend-enemy* dichotomy was being turned inward on the regime itself opening up the gates to the decision struggling to assert itself as its grounding was under threat.

In an attempt to stop the spread of the protests, the Egyptian regime considered cutting off one key source of growth which was the internet. The regime switched off the internet to limit the protest movement and stop information on where to protest to carry outwards. This is the

perfect example of decisionism in action, shutting down a critical network that is used widely in an attempt to stop a movement against the regime. However, the attempt of the government to shut down the internet became an ineffective tool as citizens and organisations both found ways around the attempted shutdown and used tools to mask posters whereabouts in an attempt to ensure their safety. Instead, landlines were used as were short form radio broadcasts and tweeting via the google app 'Speak 2 tweet'. Indeed, the Mubarak's government attempt to shut down the internet ensured the protests spread from the contained Tahrir square to across the entirety of Cairo leading to the overwhelming of the police having the entirely opposite effect to what was intended. The regime's traditional tools to restrain protest and discontent from appearing in the streets therefore became blunted and a greater reliance upon coercive mechanisms appeared as it could neither contain the growing cyber activism occurring or the on the ground protests fuelling ever greater anger against the regime. (Howard and Hussein 2011, Glanz and Markoff 2011, Farrell 2012, Hamda and Gomaa 2012, Tawil-Souri 2012, Hassanpour 2014, Cattle 2015).

The regime we can see lost control over the monopoly of information both in the online and offline world. Thus, rather than being able to strengthen their legitimation and authority via the disinformation campaign spread by traditional news outlets, it fell flat as the monopoly of information previously enjoyed by the regime was truly severed. Rather than activists and ordinary Egyptians simply going home, the regime could not stop the growing protests who found novel ways around the internet being taken 'offline'. This led not only to the growth of protests but a direct challenge to the regime's authority that ultimately it could not meet. The internet not only allows for individuals to network with each other but gives greater capacity for organisations such as unions to mobilise in different locations highlighting the need to maintain authority and legitimacy rather than relying upon coercion. Even in Egypt where a state of emergency had long been in effect, the uprising is a good example of the difficulty of

predicting when an outbreak of protest emerges which limits the effectiveness of emergency measures unless capacity is always kept on high alert for a potential crisis.

But it is precisely this measure that limit's a regime's ability to cultivate authority from below. Shutting off the internet is a good example of the flaws to decisionism when practised without sufficient authority. The decision when implemented on a populace no longer willing to listen loses its ability to create 'miracles' and affect the political order concretely. The decision when no-one is listening is akin to speaking to an empty chamber, it loses its magical effect. The regime becoming the *enemy* rather than the *friend* of the people is the downfall of the decision, the decision itself as can be seen here relies upon the political undergirding to function effectively. In this illustration, the *friend enemy* dichotomy was not being defined from above but rather from below and the big state that was supposed to provide homogeneity and security provided neither. Thus, we can witness the need for authority to be derived from legitimation springing up from the bottom rather than the top for it to be regularly confirmed. If it is not, even if initial authorisation is given to a regime this can begin to wear away over time lessening the authority and making a regime vulnerable to an uprising.

A further way we can witness the limitations of the sovereign decision is through Mubarak's personal pleas during the uprisings for the protesters to go home. Mubarak in reaction to growing protests, on the 1st of February promised not to run again for the Presidency, stated that he had never personally sought power or gain and defended his time in office as one where he had looked after the security of the country. However, this was met with derision from protesters who were no longer buying what the dictator was selling. Not only did Mubarak make various promises as to his personal conduct, but he also made distinct political promises and warned of the dangers of the protests (Alharbi 2012, Anagondahalli 2013, Asadu 2013, Brownlee 2013, Maalej 2013, Blanga 2014, Puspitasari 2017, Saidin 2018, Khan et al., 2020). Mubarak's promises to defend Egypt from oncoming chaos on that day as highlighted by

Maalej (2013) *"I am equally keen to the same degree on preserving Egypt's security and stability; will not allow for this fear to get hold of our citizens"* (Maalej 2013 pg. 644) as well as trying to cleave Egypt into two *"whereby the Egyptian youth and the citizens have been cleft into two: "Noble youth and citizens" vs. "those who endeavored to spread anarchy, resort to violence and confrontation, and leap on and assault constitutional legitimacy."* "(Maalej 2013 pg.644-645). However, despite Mubarak's promises, warnings and threats this did not have an effect on the protest movement who were determined to continue the uprising. This can be seen through interviews conducted by Asadu (2013) capturing comments such as *"He lost the trust of every Egyptian now. He keeps promising us without doing anything… We are all disappointed and we want revenge"* (Asadu 2013 pg. 88).

This example of attempts at conciliation and defence of his own rule by Mubarak highlight the limitations of the sovereign decision. Rather than concretely affecting the political order with both substantial changes of his cabinet to begin with as discussed in chapter 4, and then a promise not to run again, the 'sovereign god' had not the power to effect concrete change and thus became a mortal man. The weakness of the decision can be witnessed when it remains unaccompanied with the necessary sovereign traits, decisions without authority necessarily constrain concrete action. The unity that is supposed to uphold the sovereign is grounded in the *friend-enemy* dichotomy was turned inward on the regime by the citizenry with the sovereign no longer able to direct where enmity was directed towards. Here we can see the instability of the *friend enemy* dichotomy and the fluidity of its existence rather than it being a static thing. This instability highlights the inability of the decision to function as a form of sovereignty without sufficient unity and homogeneity that the Egyptian regime struggled to create.

The Egyptian illustration retains some commonalities with the Bahrain illustration and with the Syrian one. The lack of true competitiveness in the regime ensured an inability to effectively re-authorise the regime. Despite there being some openings and elections, these events were

never allowed to truly threaten meaningful change in the Mubarak regime. Just as in Bahrain and Syria if critics stepped too far in their criticism of the regime, then under state emergency laws they could be taken into custody. Thus, akin to both Bahrain and Syria a problem of re-authorisation occurred whereby this chipped away at the legitimacy of the regime. In addition, Egypt suffered from a lack of homogeneity from outside the regime where political heterogeneity emerged, and despite the regime allowing some opening up this was limited in its application. Rather than the regime being able to effectively tackle a challenge to its authority it relied upon coercion to implement its will until that was no longer effective. Once the regime's monopoly on politics had been challenged, it could not successfully adapt to the changes highlighting the limitations of the decision. In taking steps to secure the leader's survival this helped sow the seeds of Mubarak's downfall from those outside of the regime. This combined with a lack of re-authorisation substantially hit at the credibility and legitimacy of the regime that couldn't address social and economic problems but denied a chance for a new approach to take place.

5.7. Concluding remarks

This chapter has outlined the limitations of the decision when it is used without cultivating sufficient authority. Not only this, but through looking at authority via the Schmittian lens, we can see how the decision undermines the necessary political undergirding for it to function. As discussed in the literature review, authority cannot be presumed to be a static thing, neither can it be presumed to function based on being in a position of authority. Political authority is necessarily a fluid thing, requiring legitimacy from the governed to ensure actions from the actor can be pursued with as few constraints as possible. Once authority begins to drain away so does the ability to conduct actions- if authority completely disappears this brings about the total reliance on coercion for a regime, a position which is ultimately unsustainable.

Via the Schmittian lens of the *friend-enemy* dichotomy, homogeneity, and the 'sovereign god' we can witness the decision undermining the political traits that uphold it specifically in relation to authority. The sovereign relies upon the concrete nature of authority to be able to function, however the lack of re-authorisation is a significant problem for any sovereign ruling via the decision. If a sovereign makes bad decisions or rules over a country which is not fully unified this leads to political heterogeneity. As opposed to homogeneity, which is to be found via unity over the *friend-enemy* dichotomy, heterogeneity opens up cracks in the political foundation of the decision's location in authority.

Continually making decisions in a heterogeneous political body further opens up those cracks leading to an increased challenge to a sovereign's authority. Without re-authorisation and increasing heterogeneity this begins to open the political space leading to a contestation over the *friend-enemy* dichotomy. This contestation over the *friend-enemy* dichotomy inevitably leads to the questioning of the 'sovereign god' weakening their ability to impact the political order. The weakening of the sovereign in a time of political crisis makes the sovereign a mere mortal, limiting the functioning of the decision bringing about a breakdown in the sovereignty of the regime.

In the illustrations the breakdown of the decision and the limitations of the decision in relation to authority can be witnessed. Rather than regimes being able to simply declare and commit an action, their actions become increasingly contested limiting the scope to which they can have an effect. This can have an effect both internally and externally, as seen via all three illustrations. Regimes who use strategies such as divide and rule, such as the Syrian illustration necessarily weaken their authority amongst significant sections of the populace weakening unity and homogeneity and fostering further heterogeneity. This necessarily limits the actions a sovereign can take affecting their ability to act as a 'sovereign god' as the populace are no longer willing to trust the regime and the 'miracles' no longer exist as the sovereign struggles

to exert their will. The result is a further reliance upon coercion which necessarily weakens authority. In the Bahrain illustration, we can see internal heterogeneity limiting the sovereign's ability to function as a true decision maker, the regime response becomes confused and contradictory. In a similar way to Syria, we see a reliance upon coercion further undermining unity and homogeneity limiting regime actions. In the Egyptian illustration, Mubarak's lack of authority can be witnessed with the full breakdown of decisionism. Despite regime actions to try and limit the uprising that spanned from shutting down the internet, to a personal plea from Mubarak himself nothing worked until he left office. Authority therefore cannot be found in the decision but the decision necessitates authority to function. However, as witnessed in the illustrations, the nature of the decision makes it difficult to maintain authority as the decision naturally undermines authority.

Chapter 6: Citizenship

6.1. Introduction

Citizenship questions who belongs to the legal and political orders and what a citizen is supposed to be and do. This is at the heart of the thesis' argument questioning Schmitt's claims to sovereignty. By questioning who belongs to the political and legal orders as a citizen this leads to an analysis of the ability to maintain homogeneity and the stability of the *friend enemy* dichotomy. This necessarily affects the ability of the sovereign to act as a representor potentially undermining the sovereign's functioning as a 'god'.

There is a difference between the legal definition of the citizen and the political theorist interpretation of what constitutes citizenship. The legal status of citizenship merely confers the same rights and restrictions as every other citizen bounded in the territory of the state. This is

a 'thin' definition of what citizenship is and entails little about duties or the accompanying political community that exists alongside citizenship. It has often been claimed that citizenship is the right to have rights i.e., the springboard to legal equality inside an existing state. In the context of Schmitt, the right to have rights is not the underpinnings to sovereignty, instead that comes from homogeneity and unity grounding the decision and allowing the sovereign to be an effective unifier.

The citizen therefore in the context of the thesis needs to be considered as something beyond mere legal equality but instead a form of political citizenship. Citizenship requires a rounded political and communal equality to be able to function effectively in creating homogeneity and unity grounding sovereignty. As shall be discussed in this chapter, the *friend enemy* dichotomy threatens instability due to the nature of its volatility undercutting any legal grounding for the citizen and fostering political and communal inequality. Rather than creating stability this necessarily creates instability thus undermining sovereignty.

The chapter shows this by asking the following key questions:

What is citizenship? Citizenship therefore is constructed as relational to states bounded as territorial entities. This in recent years has come under challenge due to increasing globalisation that increases people's transience and more people committing to dual citizenship for example. Despite these contestations to the territorially-bound notion of the citizen there is as of yet no 'global citizenship' thus legal citizenship remains under the purview of territorially-bound sovereign states.

How to construct the citizen? Building on the territorially-bounded notion of citizenship, how this is maintained or undermined needs to be answered. The maintenance of citizenship being territorially bounded comprised of political groups is a definition that, whilst thin, ultimately

grants equality of citizenship to those in the space of the state itself. The construction of the citizen therefore rests upon firstly a legal basis.

The second basis for constructing the citizen is a 'thicker' conception of the citizen, this conception moves beyond simply a legal equality but arrives at an interaction with the political. The citizen in order to fully be a citizen needs more than simple legal equality but also a political construction. The political construction of the citizen includes notions such as political community and group identity fostering a political relationship not just a legal one with the citizen. These notions of the citizen as shall be discussed, when analysed through Schmitt's concepts such as the *friend enemy* dichotomy can be come exclusionary creating two tiers of citizenship undermining homogeneity, unity, and sovereignty.

Can Sovereign decisionism undermine the notion of the citizen? This question asks how sovereign decisionism undermines the claim of citizenship both theoretically and in the illustrations. Schmitt's conception of the citizen is rooted in unity. Despite this claim to political unity that in theory grounds the state and the citizen there is an inner tension between this and the *friend enemy* dichotomy. The *friend enemy* dichotomy is grounded upon a conception of the political predicated upon the depth of enmity. It is this level of enmity that renders the *friend enemy* dichotomy necessarily unstable undermining the ability of citizenship to create unity in the long run. Instead, the intensity of these relationships with their fluid nature makes political citizenship as a function of unity unreliable.

 How do states actualise the de-linking of the citizen from the space? Building on the theoretical claims of the chapter it is necessary to bring in the illustrations. The chapter analyses the illustrations of Bahrain, Syria, and Egypt to understand how citizenship can be de-linked from the space of the country through sovereign decisionism and the *friend enemy* dichotomy. Focusing on the sectarianism in the cases of Syria and Bahrain where regimes have de-linked

the conception of citizenship from the space of the state. As a result, the illustrations gravitate towards attempting to create a politically homogenous community that can be understood through the *friend enemy* dichotomy.

6.2. The Citizenship Literature

The literature on citizenship can be divided into three key categories and questions. Being addressed first is the question of the descriptive versus normative conceptions of citizenship. The normative descriptive distinction manifests itself in two forms; first is the difference between the territorially bounded model of citizenship and the cosmopolitan right-based vision. The first (territory) is focused upon defining a citizen (Linklater 1998, Chandler 2003, Benhabib 2007, Carvalhais 2007, Smith 2007). All modern states have defined their boundaries of rights in terms of its citizenship and the formation of the modern state cannot be understood without the notion of citizenship (Stewart 1995, Habermas, and Cronin 1998).

Citizenship is grounded to the territorially bounded space of the state including or excluding political communities predicated upon ancestry or current geographical location (Habermas 1996, Keely 1996, Isin and Turner 2002, Castle 2005). This means that even when citizens are not currently living in a state where they are a citizen, they have a linkage to the territory that gives them the right to claim citizenship. These facts ensure citizenship in practice remains linked to the concept of territory even if citizenship is moving towards de-ethnicization in an era of global movement. This is a descriptive and practical approach to citizenship as opposed to a thicker normative approach to what citizenship entails. It sits in contrast to cosmopolitan citizenship which believes we have duties to everyone as human beings as opposed to territorial-based models that distinguish between those who are members of states and those who are not (Held 1995, 1996, Linklater 1998, Chandler 2003, Stevenson 2003). In other

words, whilst cosmopolitans' base citizenship on common humanity, territorial-bounded theorists' base citizenship on being born in, or being a resident of, a certain geographical area (such as a state).

In relation to Schmitt, he argues a state is necessarily built upon specific entities of people. As stated in the *Concept of the Political* Schmitt argues "*In its literal sense and in its historical appearance the state is a specific entity of people*" (Schmitt 2007 pg.19). This is not necessarily territorially bounded however, the *friend enemy* dichotomy that as stated in chapter two exists both inwardly and outwardly of territorial bounds- if someone is an *enemy* can they truly be an equal citizen even if they sit inside a territorial border? Homogeneity suggests a similarity and unity, but this is founded upon ideological sameness. This conception of the citizen sits in tension to the claim of territorial boundaries defining an equality of citizen based upon territoriality.

The second question to be addressed is the distinction between juridical and political conceptions of the citizen inside the state itself. A juridical model of citizenship is one that relies upon law recognising equal rights of other citizens. Citizenship in order to function is dependent upon full membership and an equality under the law that ensures all members of the territorial state have the same rights through unity and integration (Crowley 1998, Smith 2001, Sasseen 2002, Joppke 2007). In this sense, citizenship can be defined as the right to have rights due to the difficulty of non-members such as refugees' ability to access such rights suggesting the location of rights to be recognised is within state boundaries (Coutin 2000, Sassan 2005, Long 2011, Kingston 2014, Lenard 2016, Schrover 2021). This does not necessarily mean citizenship grants human rights, after-all plenty of countries which have citizenship do not respect human rights, but states are currently the only vehicle that can guarantee the implementation of rights (Karst 2000). A juridical claim of citizenship thus indicates a relationship of recognition by the state that you exist as a citizen and is a vehicle to accrue

rights but offers little more than this. It does not necessitate social or political action and inclusion.

This is contrasted with a political claim of citizenship that moves beyond legality but fosters a form of citizenship that is politically inclusionary or exclusionary moving beyond the mere legal sphere but encompasses social action. A political claim of citizenship requires more than simply a legal model but a more active form of citizenship that enters the political as opposed to merely the juridical (Bader 1995, Cohen 1999, Seidman 2001, Abowitz and Harnish 2006, Lee 2010). Political claims to citizenship are different from one another with some discussing the potential for exclusionary practices and others focusing on inclusion. Particularly influential is Marshall's 'rights based' claims upon citizenship focusing on a thicker definition of citizenship encompassing economic and social rights that are part and parcel of being a citizen as opposed to simple belonging to a territorial entity (Barbalet 1986, Turner 1986, 2009, Pakulski 1997, Crowley 1998, Hermes 2006). The thicker political practice of citizenship needs to be considered in relation to Schmitt.

As discussed earlier, Schmitt's relationship to the citizen via the *friend enemy* dichotomy and homogeneity at once creates an exclusionary notion that limits inclusion and ideological sameness in relation to the political. As mentioned in the introductory chapter, Schmitt does not envisage the eradication of the *enemy* despite the strong emotional enmity gathered towards them but enmity must reach levels of fear of violence for a group to be viewed as an *enemy* creating an unstable notion of the political that is difficult to contain and manage (Strauss 2007, Lievens 2012, Croce 2017). It is in relation to this concept that political conceptions of the 'citizen' can become exclusionary and attempts at eradication can take place, either through legal forms such as the taking of official citizenship rights, or other forms of demographic change achieved either through over violence or the creation of citizens to alter demographics.

This not only creates a discriminatory notion of the citizen but one that is necessarily going to be contested and subject to instability as equal citizenship is undermined.

Citizenship once outside of the legal definition contains ambiguities both in terms of the consistency of obligations and rights but also in terms of the communities that citizenship is applicable to. This creates a contestation over what citizenship should look like and who counts as a citizen (Gray 1977, Von Gunsteran 1978, Leca 1991, Brubaker 1992, Coutin 2000, Visser 2007, Costa 2009, Isin, E.F., Nyers, P. and Turner, B.S., 2009, Maktabi 2010, Barry, C. and Ferracioli 2016, Ferracioli 2017). Citizens may conceive of themselves linked not just by territory but by thicker collective identities such as membership of a polity and ethnicity allowing for the fostering of an insider/outsider dialectic informing the legitimacy of political communities on the grounds of identity (Young 1989, Baubock 2001, Bruter 2003). However, using primordial identity as a marker for citizenship has weakened in recent years, international migration has seen a move towards a de-ethnicization of citizenship in some states that previously had been the case such as in Germany (Bosniak 2000, Sassen 2002, Joppke 2003, 2007, Benhabib 2007). Despite globalisation and challenges to state sovereignty, states have continued to demand allegiance from citizens when naturalised from elsewhere and have requirements of citizenship linking citizens to their territorial boundary. In this sense, citizenship can be defined as an insider/outsider distinction that is a status given to someone (Isin 2003, 2009, Dahlin and Hironaka 2008). It is therefore reasonable to assume a citizen can be thought of as an insider/outsider claim tied to the territorial boundary that the state represents.

In relation to Schmitt, it is the relation to the polity and the connection between those who are united as *friends* defining the *enemy* that is the important political bonding. This exemplifies the difference between the territorially bounded legalistic conception of the citizen and a normatively thicker conception of the citizen as one of the insider and outsider. The levels of

fear occur both to what Schmitt defined as the insider *enemy* as discussed in chapter 2 as well as those *enemies* existing outside the boundaries of the state. This puts into question the notion that citizenship is really about simply a form of status, it may be a requirement for an existence of the citizen but insufficient to truly explain citizenship in relation to the political conception of the citizen. This also necessarily creates a fluidity of the citizen due to the changing relations between the *friend* and the *enemy* creating a contestation over if the sovereign can possibly represent the citizen.

Once practiced, certain forms of political citizenship can undermine the effective status of citizenship as equality under the law often struggles to be fulfilled due to a myriad of political inclusion/exclusion practices. These practices filter down into political inequality that affects citizens' active membership in states and thus their claim to effectively be citizens in the same way as others even if they have technical legal equality (Lister 2007, Turner 2016). One such practice is the development of inclusionary and exclusionary practices of previous colonial influences fostering fluid ethnocultural and political boundaries of the state (Gellner 1983, Smith 1987, Greenfeld 1992, Miller 2001, Dahlin and Hironaka 2008, Shevel 2009, Bhambra 2015). This can have a broad range of impacts on the ability for people to practice their citizenship in a wide range of areas such as work and on political norms that transcend the public/private boundary (Roseneil et al. 2013, Mayblin 2017). This can be considered the case in multicultural and multireligious states that pose new challenges to existing frameworks of the citizen in specific contexts such as when sectarianism is manipulated linking rights claims specifically to identity (Van Zoonen and Mihelj 2010, Farouk Alli 2014, Hinnebusch 2016, Haddad 2017).

This does not necessarily mean that thicker claims of citizenship are necessarily exclusionary in a larger and more problematic fashion than legalistic definitions of citizenship. Political equality as a notion of citizenship can be fostered both through the interdependency of

governed and governing respecting cultural differences such as custom, language, and religion fostering a positive as opposed to exclusionary approach to difference (Rosaldo 1994, Miller 2001, Balibar 2008, Haddad and Wang 2015, Mihaila, Popescu, and Nica 2016). However, this brings together concepts that do not easily co-exist, meaning rights and obligations are insufficient to bind people together, instead it needs to be continually practiced and negotiated (Pawley 2008).

As citizenship rights and obligations have been heightened according to TH Marshall so has the legitimacy of the state been enhanced. The growth of civil, political, and social rights allows the progressive expansion of the political community forming the state (Barbalet 1986, Turner 1986, Pakulski 1997, Hermes 2006). The greater the inclusionary mechanisms for citizens to share in a participatory way, the more the state generates loyal citizens increasing its legitimacy in the eyes of those previously excluded. This potentially fosters a tension as citizenship is necessarily exclusionary due to its basis being grounded in one of inheritance or having lived in the space for a specific period of time making someone eligible for citizenship (Turner 2001, 2008). However, recognising citizenship is bounded via rules of inheritance and movement is not necessarily a strong critique for limiting those who are citizens in fully exercising their citizenship therefore increasing the legitimacy of the state. The exclusionary principle therefore should be applied to the status of citizenship but for those who are classed as citizens the conception of 'what is a citizen' should be capacious.

This claim sits in contrast to Schmitt in relation to the *friend enemy* dichotomy that creates homogeneity. Legitimacy in this sense as discussed in the first half of the thesis is ground through the mutual recognition and representation of the *friend* against the *enemy.* The answer for Schmitt therefore is not to tone down difference, but instead to recognise difference and the functioning of the political is to problematise difference when threat appears. As the illustrations shall demonstrate, the functional relationship of eliminating these differences as

opposed to expanding the political realm of citizenship leads to instability and violence to occur, as opposed to the potential for strengthening the legitimacy of the regime. This undermines the role of the sovereign as the representor unable to foster unity and necessarily undermining the claim that the '*sovereign is he who decides on the exception*'. If legitimacy is witnessed as a zero-sum game to be achieved via elimination, this ultimately creates an unstable political entity that needs to rely upon coercive acts to maintain political office.

A citizen can therefore be considered someone who is a member of a state sitting inside its territorial bounds. But what actually is a citizen beyond this very basic claim of who can be considered a citizen? The citizen in relation to the thesis is not one that is considered a *friend* defined by its relationship to the *enemy*. Whilst the citizen is one that is by definition exclusionary in the legal sense, i.e., some people are citizens, and some are not by virtue of birth, ancestry, or other relations in a political sense citizenship should be equal and capacious of difference. If the citizen is defined as an *enemy* the strength of enmity creates an unstable polity, states that draw boundaries that are politically narrow and all-encompassing for a citizen are vulnerable to crises of legitimacy from those deemed as the *enemy* but sitting inside the territorial boundary of the state as is witnessed in the illustrations. This necessarily limits the capacity of the sovereign to act as a 'god' and undermines the unity on which the decision is founded. This questions the ability of the sovereign to concretely effect the political order bringing into question if the sovereign is really *'he who decides on the exception'*. If the state becomes overly exclusionary in its citizenship practices the state becomes the *enemy* rather than the *friend* of those who live inside its territorial boundaries questioning its function as a sovereign.

6.2. Schmitt's Homogeneity and Friend Enemy Dichotomy in Relation to the Citizen

Having discussed different conceptions of the citizen that exist, it is necessary to analyse Schmitt's claims of unity. The unity of a people acts as the foundation for which a political order on which the regime is built upon. If unity cannot be constructed, then the political order that is constructed which underpins sovereign decisionism remains unstable. The question of citizenship can therefore be located within the question of fostering political unity, if citizenship is undermined by regimes exercising decisionism this cuts through the possible unity that could be constructed. Rather than ensuring political equality via citizenship to ground the political order, sovereign decisionism can undercut equality and unity by creating a two-tiered citizenship fostering mutual feelings of enmity.

Schmitt believes that unity can be derived from the levels of enmity that are present or manufactured for different concrete groups politically. The level of enmity dictates if a matter is political or not, if sufficient enmity is not reached it is a disagreement of content as opposed to a political disagreement placing it outside the bounds of the political. This is a description of the essence of the political as according to Schmitt the issue at hand is the strength of enmity rather than the content creating the enmity (Bielefeldt 1997, Strauss 2007, Rae 2016, Croce 2017, Morefield 2017). Before the matter of enmity and the *friend enemy* can be discussed it is necessary to outline the conception of homogeneity that grounds the unity that is developed.

The starting point for unity begins at homogeneity which is arrived at via political unity. It is this competing form of 'unity' that forms the basis of a Schmittian claim to the political community. A well-ordered political community that is homogenous is the grounding for a cohesive state structure that produces stability. Schmitt's lack of distinction between state and society flattens the need for alternative associations besides the state to foster homogeneity

allowing for a big state to emerge directing political unity (Baehr and Bellamy 1993, Neocleous 1996, Aughey 1997). In *Legality and Legitimacy*, Schmitt makes this point clear by claiming "*Every democracy, even the parliamentary variety, fundamentally rests upon a presupposed homogeneity that is thorough and divisible.*" (Schmitt 2004 pg.41).

The relationship of homogeneity, the state and society is guided by the political according to Schmitt and thus the relationship of homogeneity and unity needs to be seen through this lens in Schmitt's work. It is unity that is created via the *friend enemy* dichotomy that guides the political. The *enemy* as opposed to the *friend* is something that is strange and something that is not recognised. The *enemy* therefore is not a personal foe, but rather an oppositional group that exists both inside and outside the state boundary but exists diametrically opposed to the *friend* that grounds homogeneity. The enmity and strangeness in which the *enemy* is held is distilled by Schmitt by describing the *enemy* through the comparisons of other distinctive categories. The enemy is the stranger- the thing we do not recognise and invites a distinctive form of enmity as a result. Schmitt argues "*Insofar as it is not derived from other criteria, the antithesis of friend and enemy corresponds to the relatively independent of other antitheses: good and evil in the moral sphere, beautiful and ugly in the aesthetic sphere, and so on.*" (Schmitt 2007 pg. 26).

But the enemy is also concrete both by its identification and its role in and helping to guide the *friend* according to Schmitt. The process of identifying the *enemy* constructing homogeneity can be seen as not just the role of the united group but also the state. Schmitt embraces this by arguing "*To the state as an essentially political entity belongs the jus belli, the real possibility of deciding in a concrete situation upon the enemy and the ability to fight him with the power emanating from the entity.*" (Slomp 2014 pg. 442). The homogenous *enemy* that the political rests upon are developed concretely and are reflective of enmity both inside and outside of the state's territorial boundaries. Schmitt's conception of homogeneity is born out of necessary

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political conflict that casts groups against one another. In this sense, rather than citizenship being an inclusive idea or merely a legalistic framework to describe who is a part of the state, the citizen is instead part of a homogenous concrete grouping that grounds the sovereign decision. The state cannot be a neutral political force as is imagined in legalistic liberal philosophies but instead must be grounded in the political itself (Wolin 1990, Baehr and Bellamy 1993, Kennedy 1997). By understanding Schmitt's conception of the political, homogeneity, and the grounding for the state this allows us to imagine the form of citizen Schmitt envisaged.

There are substantial problems with this kind of envisioning for the constitution of the citizen. The conception of citizenship outlined by Schmitt goes beyond the claim of merely legal equality as advocated by some. This is a much thicker form of citizenship much closer to ideas forming the basis of politics citizenship rather than the mere institutionally legal conception of the citizen. A mere formal legal claim of citizenship does not demand political unity or homogeneity; indeed, the opposite is true as it demands for heterogeneity encompassing a legal conception of equality of the citizen. Citizens, as the previous sections have shown, are supposed to be treated equally inside the state- the *friend enemy* dichotomy makes that difficult if not impossible to attain.

The unity fostering the necessary homogeneity that forms the political order of the regime can be at first constructed and then managed by the sovereign themselves- this creates a distinct issue of the *enemy* both inside and out being subject to change concretely. Unity is not necessarily tied to the concept of the regime but can be described through ideologies or identities that bound people together in enmity to opposition. Enmity can also be directed from below upwards towards the regime. By creating a separate class of citizens subjects the regime to discontent that can manifest in protest or violence from below as corruption and unfairness are built into the political system. As this chapter goes on to highlight this politically thick

conception of the citizen requires the beginning of a shared unity that over time can come undone as the sovereign rules and manages exceptional situations. The direction that enmity is directed by the state shifts over time from sect affiliation, ethnic identity, tribal identity, and internal opponents of the regime leading to the fostering of a lack of unity and unstable conceptions of the citizen.

6.3 Non-State Identities

There are identities at both the sub and supra level that can threaten the notion of citizenship inside a territorially bounded state. The identities can acquire a level of intensity and enmity if they are manipulated by regimes that can constitute a *friend enemy* dichotomy as identified by Schmitt. Despite these identities not belonging to the state but rather existing beyond or below the state they can affect the role of citizenship inside the state by creating *enemies* inside the state. Once groups are identified as *enemies* this limits the capaciousness of citizenship creating an overly exclusionary model of the citizen undermining sovereignty.

One such non-state identity that this thesis examines is that of sectarianism. The question of sectarianism was already discussed in chapters 4 and 5 where the root of sectarianism was analysed via the notion of constructivism. This identity becomes activated not just as a result of a historic constant, even if sectarian divisions have played a part in conflict in the past, but as social relations that can be replicated in economic and political spheres. Elites can selectively deploy identity symbols which allows them to mobilise groups which are large enough for them to gain political office. In doing so this creates sect group mobilisation on said basis. Whilst sectarianism requires religious difference to be a focal point, other existing identities such as ethnicity can be manipulated by elite groups in similar ways ensuring sect differences are not politically unique in their effects (Little 2012, Byman 2014, Darwich and Foukhari 2014, Hashemi 2016, Bormann et al., 2017 Rorbaek 2017, Jacoby 2017, Rorbaek 2019).

Sectarian identity differences being mobilised for political advantage has been given a term called *sectarianisation* by Hashemi and Postel (2017). This is a process whereby sectarian differences are integrated into the machinery of the regime itself. In the context of the thesis, we can view *sectarianisation* as the regime directing *enemies* from inside the infrastructure of the regime outwards creating an exclusionary process of citizenship that moves beyond a legalistic framework. Sectarianisation often occurs in multi-sect societies under authoritarian regimes that cultivate division on the basis that one sect will act as a supporting base for the regime itself whilst simultaneously casting themselves as guarantors of peace and stability (Gause 2013, Darwich and Foukhari 2014, Hashemi and Postel 2017, Freer 2019, Mabon 2019, Valbjorn and Hinnebusch 2019, Valbjorn 2020). However, as shall be demonstrated in this chapter, rather than creating stability and unity, this process creating internal *enemies* raises the level of enmity felt creating political instability and disunity. This necessarily challenges the sovereign's role as a unifier and representor of the nation.

As the chapter shall show through the illustrations, the Arab uprisings have created new challenges to regimes that have responded via a renewed sectarian mobilisation that has fostered a more exclusionary approach to citizenship than was previously apparent. Regimes through the analytical lens of the thesis have therefore identified certain citizens as *enemies* and have undermined their role as citizens through both legal and political measures. Regimes have been more open to withdrawing citizenship, depriving citizens of legal rights, and an increase in sectarianised discourse since they have been challenged. Sect mobilisation has been adopted and strengthened via structures that can lock out some legal citizens but allow others in, creating the very tension between the regime, included citizens, and excluded citizens (Nasr 2000, Cederman et al. 2010, Al-Rasheed 2011, Dalacoura 2013, Falk 2013, Heydemann 2013, Gause 2014, Al-Rawi 2015, Freer 2019, Rorbaek 2019, Del Sarto 2019, Hinnebusch 2016, 2019, Valbjorn 2019). By excluding certain citizens who are identified as *enemies* this creates

tension inside the state creating not unity and homogeneity but heterogeneity and disunity. The lack of unity threatens to undermine the sovereign decision that comes under contestation.

It is not just sect difference that is important to note. Another such difference is that of ethnic division. Ethnic identities can be defined as groups who have ascriptive ties such as language, ancestral links, culture, or the combination of territory and a form of history (Heraclides 1989, Cordell and Wolf 2011, Kaplan and Costa 2014, Del Sarto 2019). In this way sectarian and ethnic relations should not be seen as unique but as rather part of a broader pattern of the manipulation of primordial identities by regimes and actors (Mansfield and Snyder 2012, Gause 2014, Hashemi and Postel 2017, Badran and Smets 2018). Ethnic cleavages if they are strengthened by regimes undermines the ability to build a cohesive citizenry and this increases the chance of political instability emerging. This has especially been the case in heterogeneous states where splits on an ethnic base can be activated during tumultuous events such as the Arab uprisings thus taking advantage of already existing cleavages (Hoffman and Jamal 2014, Korotayev et al., 2014, Brubaker 2015, Ellison 2015, Rorbaek and Knudson 2017, Hoffmann 2018).

Ethnic divisions in states are not exclusive to the Arab Middle East but rather can be witnessed in a wide variety of regimes, states, and conflicts across both time and space. Ethnic differences do not necessarily affect citizenship claims as discussed earlier in this chapter, but they can be used to undermine and problematise a groups relationship to the political body that forms the state. Just like sectarian relations, ethnic relations are not homogenous but rather differ both inside the same ethnic groupings as well as across different ethnic groups (Kagan 2006, Wimmen 2014, Del Sarto 2019, Tezcür and Asadzade 2019). Despite these universalist themes, regimes in the Arab Middle East in particular have not been shy of using ethnic and national differences in order to justify discriminatory practices against citizens that can be seen as identifying internal *enemies*. The paradox of regimes relationships to these divisions, akin to

sect divisions, is that regimes have at once manipulated ethnic divisions whilst simultaneously warning of oncoming chaos if their rule is challenged. Regimes who unleash ethnic conflicts then seek to re-bottle them up often find that they can be delayed but not eradicated.

Pursuing narratives of danger from the 'other' creates a *friend enemy* dichotomy internally as equality of citizenship is undercut by either sectarian, ethnic, or tribal cleavages that are manipulated by regimes. This creates a tiered citizenship that is inherently exclusive and attempting to engender enmity towards the 'other' that manifests itself in a politically unstable creation of 'the citizen'. By attempting to engender fear of the other via an exclusive claim of citizenship and pointing towards internal *enemies* this leads to a lack of loyalty to the regime and the fluidity of politics ensures the *enemy* could be turned inward to the regime itself. In cases where the authoritarian contract runs out, the regime is left vulnerable to challenge by an excluded citizenry that seeks to challenge a regime that has failed to cultivate a sense of loyalty.

6.4 Syria's response to uprisings and its effect on citizenship

The Syrian regime's response to the uprisings had effects on how citizenship functions and is used by the regime. As outlined previously, citizenship cannot merely be seen as a legal claim but has a direct relationship to the political. In order to demonstrate Syria's relationship to the citizen, it is first necessary to briefly describe the legal rights of citizens in Syria. This presents a baseline for the rest of the section, which then discusses how the regime undermined the legal notion of the citizen and diluted the citizen's relationship to territory by creating a rigid and narrow political form of citizenship. The section focuses on the regime's relationship to the citizen during the time of the Arab Spring uprisings.

Following this brief introduction, the section discusses the relationship between the regime and citizenship through sect and tribal identity. The Syrian illustration is a good one identifying the limitations of political citizenship adopted by the regime. As identified in the introductory

chapter, the Syrian regime has a long history of sectarianised relations that, as discussed in chapter 4, also manifested itself during the uprisings. In addition, the regime's use of violence and its hostility towards political pluralism narrowed the political base for the regime. This led to some significant opposition in the country such as some tribes being used as key social and political networks during the uprisings including in the initial uprising in Daraa.

This section highlights how the regime's response to the uprisings affected citizenship in different ways, one of which was sect relations. By manipulating sectarian and tribal identities, the regime created *enemies* fostering the notion of second-class citizens undermining cohesive equal political citizenship. This undermines Schmitt's claim that homogeneity can be achieved whilst politics is founded upon a *friend enemy* dichotomy. Finally, the section analyses how the regime introduced laws that disadvantaged those who took part in the uprising. One example of this is Law No.10 which constitutes an extension of earlier decrees depriving those who participated in the uprisings in Damascus of their property. Law No.10 is a good example of how laws have been used to create two tiers of citizenship in the country. As citizenship is conditional and there is no democratic outlet for citizens to express their political wishes, there is a question of whether people are truly citizens or closer to 'subjects' in the Assad regime.

6.4.1. Legal Citizenship in Syria

As discussed in the introduction, the Ba'ath party outwardly proclaimed a 'nationalist' regime inclusive of differences that can be seen on the surface to create an equality of citizenship. The regime was one that proclaimed to 'stand above' classes, sect, ethnicities, and tribes representing everyone who obeyed. It did this by providing 'on paper' guarantees for the equality of the citizen. For instance, Art. 25 of the 1973 constitution defined the rights of citizens protecting their dignity and security. Under Articles 26 and 27 the constitution also guaranteed citizens the right to partake in political, economic, and social freedoms as well as

being treated as equal under the law (Hinnebusch 1989, 2008, Davis 1996, Aldoughli 2016, 2022). The Baathist regime thus attempted to portray itself as one that fostered unity and homogeneity by declaring equal protected rights and freedoms for all its citizens despite regime practice oftentimes contravening all of these supposed 'protected rights'.

In the revised Syrian constitution of 2012 similar proclamations have been made in Art. 2:

"The system of governance in the state shall be a republican system; Sovereignty is an attribute of the people; and no individual or group may claim sovereignty. Sovereignty shall be based on the principle of the rule of the people by the people and for the people; The People shall exercise their sovereignty within the aspects and limits prescribed in the Constitution." (Syrian constitution 2012). In addition, in Articles 8.4, 33.3, and 34 of the 2012 constitution on paper not only protects the basic rights of the citizen but attempt to project a national unity by limiting group activity predicated upon characteristics such as sect, tribe, or ethnicity.

"Carrying out any political activity or forming any political parties or groupings on the basis of religious, sectarian, tribal, regional, class-based, professional, or on discrimination based on gender, origin, race or color may not be undertaken;" (Syrian constitution 2012 article 8.4).

"Citizenship shall be a fundamental principle which involves rights and duties enjoyed by every citizen and exercised according to law;" (Syrian constitution 2012 article 33.3).

"Every citizen shall have the right to participate in the political, economic, social and cultural life and the law shall regulate this." (Syrian constitution 2012 article 34).

The revised 2012 constitution thus attempted to foster unity akin to the 1973 constitution. Indeed, as was noted by Porras-Gomez (2021) the 2012 constitution mirrored the 1973 constitution almost exactly. The revised constitution could be seen as a cosmetic change given both the timing (2012 as protests had already spread across the country) as well as the fact that

the President retained his powers. Indeed, power to dissolve Parliament and remain head of key institutions such as the Judiciary and military all remained in place. The constitution's focus on national unity via the prohibition of sectarian political activity are echoed in Assad's speeches, analysed in chapter 4, preaching unity and denouncing sectarianism and indicating a further narrowing of the political space for the citizen (BBC news 2012, Gelvin 2015, Pin 2017, Anderson 2018, Porras-Gomez 2021).

As Pin (2017) argues, the revised 2012 constitution can be seen as a symbolic step for the regime to re-legitimise itself, but given the similarity to the previous document this needs to be treated with scepticism. The regime's attempts to foster unity and homogeneity via a written constitution were ineffective given the regimes' outright manipulating sect and tribal cleavages in day-to-day politics. As shall be examined in the following section, we shall see the difficulty in presenting a homogenous, united nation when also openly identifying internal *enemies*. Indeed counter to the constitutional provisions, there effectively existed two classes of citizens that undermined any attempt to foster unity and homogeneity politically no matter the rhetoric or constitutional provisions deployed by the Assad regime.

As shall be discussed in the latter sections of this chapter, the regime manipulated sectarian and tribal identities, as well as the use of law to disadvantage citizens based on their political beliefs. The regime could and did override any 'on paper' constitutional restrictions to its behaviour, this undermined any notion of a legal citizenship that was realistic to attain. The political actions of the regime also denied the possibility of an enlarged political form of citizenship, instead the regime created a citizenship that was narrower and more politically rigid. Through the lens of the thesis, we can witness this as citizenship defined by the *friend-enemy* dichotomy that ultimately undercut any notion of political homogeneity.

6.4.2. Syria's sect and tribal relationship to the citizen

As discussed in the introductory chapter, as well as chapters 4 and 5 the regime has a complex relationship with the country's sectarian and tribal groups?. The regime has at once portrayed itself as a vehicle for national unity whilst manipulating sectarian and tribal identities in an attempt to divide and rule. By conducting these two notions simultaneously, we can analyse this through the simultaneous attempt to dictate *friends* and *enemies* whilst proclaiming to be fostering unity and homogeneity. This was challenged during the 2011-2012 uprisings, declaring instead that the regime did not represent unity or homogeneity but illegitimacy and brutality creating a contestation in the *friend-enemy* dichotomy with the regime and the majority of citizens declaring each other as the *enemy*. This created a split undermining any pretension of homogeneity fostering an unstable relationship with the citizen. Despite proclamations from the regime, we can witness how the manipulation of sectarian identities has undermined unified and equal citizenship in Syria and thus undermined the stability of the regime.

During the uprising, despite being labelled as sectarian by the regime, there was in 2011 a specific focus on national unity, equality, and identity from the uprisings. One of the ways this dynamic can be represented is via the protestors' slogans and general rhetoric that they produced competing to represent the Syrian nation as opposed to being a mere sectarian revolt. Whilst state sponsored marchers, as discussed in chapter 4, chanted "*One, One, One, The people and the President are one*" (Bachleitner 2022 pg. 178) this was met with anti-regime protesters stating "*One, one, one, the people of Syria are one*" (Salamandra 2013 pg. 304) and "*The people want the fall of the regime*" (Chevee 2022 pg. 155). Revolutionary newspapers and websites of newly formed political entities arising out of the protests also signified their nationalist unifying intent against the regime. One example was the Democratic People's Party

slogan published in the first month of the uprising "*The time of silence is gone: Syria will no longer remain the mute kingdom"* (Neggaz 2013 pg.1). Some members of the uprisings that latterly became symbols of the uprisings, such as Ibrahim Qashoush, who is attributed with the chant "*Get out Bashar"* (Dubois 2013 pg.4) created songs directed against the leaders of the regime following Bashar Al-Assad's 2011 speech discussed in chapter 4. Indeed, the political and democratic nature of the uprisings can be seen in Darra when in response to economic measures announced by Assad in March 2011 protesters chanted "*The Syrian people are not hungry*" (Vignal 2012) highlighting not economic dissatisfaction but a deeper malaise that had manifested itself inside Syria (Ismail 2011, Vignal 2012, Dubois 2013, Neggaz 2013, Wedeen 2019, Bachleitner 2022, Chevee 2022).

The previous fear of challenging the regime evaporated creating an outpouring of expression of citizens' dissatisfaction with the regime. The political chanting was accompanied by the protesters removing regime iconography from public spaces such as statues, photos, and raising national flags demonstrating their national unity beyond mere slogans and speeches but through practice (Leenders 2013, Salamandra 2013, Yigit and Tarman 2013, Sowaidi, Banda, and Mansour 2017, Chevee 2022). These actions demonstrated not only the strength of feeling against authoritarianism, but the attempt to construct equal citizenship predicated upon self-determination, rather than as the regime proclaimed their supposed dangerous sectarian notions. This reflects the inability of the regime to create and maintain unity and homogeneity given not only the strength of the uprisings but also the scale highlighted the necessary limitations of the regime. This failure is a source of instability as the regime struggled to create equality and homogeneity but instead relied upon manipulating primordial identities that can be understood through the *friend-enemy* dichotomy.

As the uprising continued to spread in 2011, the regime helped manufacture a sectarianised conflict through its actions undermining the notion of homogenous and equal citizenship. This

was done in various ways, just two of which are the use of the Shabiha as outlined in chapter 4 as well as releasing scores of religious extremists from its jails in an attempt to radicalise the uprising. These actions helped create the conditions for a descension into civil war and the fracturing of the country across multiple sect, ethnic, tribal, and ideological lines. (Hashim and Patte 2012, Nahar 2012, Althameneh and Sayej 2013, Leenders 2013, Khatib 2014, Pierret 2014, Littell 2015, Pearlman 2016, Corstange and York 2018, Reiff 2018, Hadaya 2020). By 2012 sectarian-based crimes became more common both on the side of government forces composed of outside actors such as mercenaries from Iran and Hezbollah as well as non-state militias such as the Shabiha due to the increased intensity of the uprisings. Sect-based crimes on the opposition side also became more frequent as the uprising became increasingly militarised from 2012 onwards and as Jonathan Littell has noted in his work *Syrian Notebooks* documenting the uprisings in Homs, many original joiners of the protests joined more extreme organisations, such as Jabhat Al-Nusra and latterly the Islamic State (Kasab 2011, Salih 2012, Vincent 2014, Dannreuther 2015, Phillips 2015, Hassan 2015, Littell 2015, Albrecht and Ohl 2016, Lister 2017, Abboud 2018, Finnbogason et al. 2019, Menshawy 2019, Rorbaek 2019).

It is not only sect that was a non-state identity, but tribe was too. The Syrian regime before the uprising had a history of attempting to subsume tribes into the regime by centralising land ownership and abolishing tribal law resulting in an oftentimes conflictual relationship between tribes and the regime (Dukhan 2014, 2021, Dukhan and Hawat 2014, Lakitsch 2018, Hinnebusch 2019). In more recent years, as different tribes joined different sides during the conflict, oftentimes whom they joined was dictated by political interests or tribal codes of honour, justice, and revenge that worked against the regime post-uprising rather than for the regime. In Daraa, for instance, strong tribal and clan-based structures were one of the factors in playing a role in the uprising that occurred creating alternative social structures that opposed the regime (Leenders and Heydemann 2012, Lakitsch 2018, Dukhan 2021). The regime's

humiliation and violence towards members of these groups evoked a necessary response of protests and anger at the regime for their actions (Chatty 2010, Leenders and Heydemann 2012, Dukhan 2014, 2021, 2021, Phillips 2015, Hinnebusch 2019, Hadaya 2020, Bachleitner and Matthiesen 2021).

Thus, we can see sub-state identities coming to the absolute fore due to the weakness of the approach to identity and citizenship that the regime had and still has. From the regime's approach to sect relations, we can witness the de-linking of the citizen away from the territory of Syria and instead on non-state identities. The regime has actively used sect tensions in a ploy to retain political office and divide the protesters into a bloody conflict creating *enemies* of their own citizens. The *enemy* in this illustration became a contested one, the regime was attempting to portray a significant proportion of their citizens as *enemies* with the inverse being true too- a significant proportion of citizens believed the regime to be the *enemy*. The result is a narrow form of citizenship that operates contingently and results in the degradation of the legitimacy of the regime.

From its relationship with tribal identities, we can see the narrow conception of the citizen the regime insisted upon. This narrowness is not only expressed in tribal relations but broader political notions of the citizen. As discussed in the introductory chapter, the Damascus Spring gives us a good indication of the limitations of political openness for the citizen in Syria. The regime's approach has produced the effect of a relatively small band of *friends* but has fostered a disconnected and discontented citizenry that feels little affinity for the regime creating many *enemies* internally. The result of this exclusionary approach was not political stability as might be imagined or a collective unity resulting in homogeneity but rather a fractured heterogeneous state that the regime could not control nor depend upon citizens' loyalty in times of crisis.

The regime rather than seeking to strengthen unity and homogeneity by engaging with the uprisings and thus creating stability depended upon splitting the country into *friends* and *enemies.* Sovereign decisionism and its necessary constructions, rather than opening up the regime to multiple potential actions, boxed in the possible responses of the sovereign if the regime wanted to attempt to survive in its current form. The actions of the regime in taking this path further entrenched the lack of unity and increased the sense of enmity that already existed during the uprisings between the regime and the majority of the citizens. The result was an intensification of conflict as the country became an international battlefield fought over by regional rivals.

6.4.3 The Regime and Legal Citizenship

The Assad regime has also used the law to punish those who have opposed it, creating different classes of citizens. This has happened both through law and attempts at demographic change. Through the descent into civil war from the initial uprising in 2011, it is possible to witness the regime's increasing attempts to undermine homogenous equal citizenship by punishing those taking part in the uprising and rewarding those who remained loyal to the regime. In this sense, in practice, we can witness the tension between the *friend-enemy* dichotomy and homogeneity despite the speeches of Assad, as discussed in chapter 4, purporting to foster a more 'homogenous society'. This supposed 'homogeneity' undermines citizenship, filtering it down to a rigid dichotomy of *friend* and *enemy* creating inequality and instability amongst those regarded as internal *enemies.*

Through the law, the regime has been able to deny equality of citizenship via the right to maintain property ownership. Those who the regime deemed as *enemies* have oftentimes suffered from property confiscation. Citizenship and property have a close relation as property rights such as homes expresses our identity as citizens and oftentimes form part of our

inalienable rights, thus property confiscation is not simply taking our goods but a broader attack on the locus of the citizen (Lund 2014, Stubblefield and Joireman 2019, Sosnowski 2020). The post-conflict reconstruction efforts can thus be seen as an extension of the sectarian dynamic that had emerged during the mass uprisings before the descent into civil war with the regime maintaining a sectarian exclusionary paradigm of citizenship that can be analysed via the *friend enemy* dichotomy (Khaddour 2015, Lund 2015, Heydemann 2020, Hinnebusch 2020, Phillips 2020).

The result in Syria is no different as Steven Heydemann argues "*For the Assad regime, however, reconstruction is not seen as a means for economic recovery and social repair, but as an opportunity for self-enrichment, a way to reward loyalists and punish opponents, and as central to its efforts to fix in place the social and demographic shifts caused by six years of violent conflict*" (Heydemann 2017). One example of this form of attack by the Syrian regime is Law No. 10 which was used as an extension from decrees 63 and 66. Both the decrees 63 and 66 as well as law no.10 followed the process of disadvantaging citizens who had participated in the uprisings and punishing the *enemies* of the regime. Decree 63 had a big impact on disadvantaging citizens as *"the government passed Decree Number 63, empowering the Finance Ministry to seize assets and property from those who fell under Law Number 19, a counterterrorism law passed that year. The law's impact was highlighted in November 2018, when the Finance Ministry documented over 30,000 property seizures in 2016 as a result of accusations of purported terrorist activities and 40,000 seizures in 2017"* (Dagher 2019). (Almanasfi 2019, Morris 2019, Dagher 2019, Hinnebusch 2020, Schall 2020). The regime has thus engaged in attempting to engineer property rights in the country predicated upon supposed loyalty to the regime. This can be analysed through the lens of attempted homogeneity when considering such acts of expulsions in order to attempt to create a more 'unified' nation. These decrees act as punishment for defined *enemies* of the regime internally displacing them and

taking away their ability to live where they wish thus ensuring they cannot settle creating a two-tiered form of citizenship undermining equality of citizenship that was further expanded by law no.10.

Law no.10, which was passed in April 2018, created 'redevelopment zones' designated for reconstruction largely in the areas the regime has bombed which were centres of opposition to the regime (Human rights watch 2018, Morris 2019). Before the uprisings, over 60 percent of land in Syria was publically owned and many Sunni migrants from the countryside lived and owned businesses on an informal basis thus oftentimes there was little to no paper trail for ownership. Informal ownership of property was exaggerated by corrupt practices that were regular inside the regime. The law allowing for zones to be requested by decree requires a proof of ownership to avoid demolition without compensation, many do not have this and even those who do cannot access it due to the high level of destruction and displacement internally and externally (Haugbolle 2018, Human rights watch 2018, Morris 2019, Schall 2020, Sosnowski 2020).

As Haubolle (2018) argues, the law had little to do with redevelopment but was rather built on a previous decree used as punishment for those who joined the uprisings. "*Law no. 10 extends a legislative decree passed in 2012 (Decree 66) from Damascus to the entire country. Decree 66 legalized the bulldozing of the neighborhood Basateen al-Razi and other areas in the capital after the government retook them from rebels (based on Decree 63, which allowed the finance ministry to seize the assets of people who fell foul of the 2012 Counterterrorism Law) and identified them as zones for development.*" (Haugbolle 2018). For Law No. 10 all property owners must obtain permission from the state i.e., the regime before registering their lands as their own leading to those criminalised by the regime unable to claim their own property even though the 30-day period has been extended to a year (Norwegian Refugee council 2016, al-

Zarier and Limoges 2018, Human rights watch 2018, Haugbolle 2018, UN.org 2018, Almanasfi 2019, Morris 2019, Dagher 2019, Hinnebusch 2020, Schall 2020).

One further way the Syrian regime has attempted to create homogeneity is through demographic changes. In 2015, as the regime was securing areas with the help of Russia and Iran, so-called 'reconciliation agreements' were made by the regime with the now rebels. As Berti and Sosnowski argue reconciliation agreements functioned by forcing citizens "*into a type of strangle contract whereby they supposedly chose whether to be transferred to the rebel-held enclave of Idlib in north-west Syria, displacement camps or subsumed back under regime control via the quasi-legalistic terms the agreements*" (Berti and Sosnowski 2022 pg.275-276). Whilst those who surrendered were guaranteed safe passage as Abboud writes *"In December 2018, three men – Marwan al-Fadil, Sami al-Layl, and Ghassan al-Yahya – were arrested at a checkpoint by Syrian intelligence officers as they were traveling along the Damascus-Dar'a highway. The three men were eventually imprisoned, tortured, and killed."* (Abboud 2020 pg. 751). In practice, these agreements not only did not grant pardons to individuals but were also used to force demographic change via displacement of groups in an attempt to eradicate political opposition under the cover of agreeing to an amnesty of hostilities. In Sunni majority areas such as Homs city centre, there was an evacuation of the population to ensure an Alawite majority in the area (Hinnebusch and Imady 2017, Stubblefield and Joireman 2019, Abboud 2020, 2020, 2021, Sosnowski 2020, Berti and Sosnowski 2022, Clowry 2022).

The reconciliation agreements were thus not forms of reconciliation but an attempt to continue the Assad regime albeit, in a much weaker and more fragmented form than what had been in place before the uprisings. They were simply another method to try and inflict punishment on defined *enemies* by resuming the policy used since 1970 of violence in an attempt to secure stability and homogeneity under the guise of 'on paper' agreements. These reconciliation agreements ultimately held no more weight than the previous constitutions guaranteeing rights

and representation from the regime. The agreements can be understood as the regime's attempts to eliminate those deemed *enemies* and go to extreme attempts to foster homogeneity by physically driving out political heterogeneity. It is not just the agreements that need to be understood this way but the broader pattern of the regime's attempts to create a functioning homogenous society that goes beyond mere obedience, however the regime's actions in this sense from manipulating sects, using excessive violence, and granting no political space for citizens creates a counterproductive environment guaranteeing instability and dissent to emerge.

6.5. Bahrain's response to uprisings and its effect on citizenship

Bahrain is an example of a regime predicated on a politically exclusionary vision of the citizen. Whilst there are multiple ways to analyse citizenship in Bahrain that affects multiple groups this section analyses two particular cases to aid the illustration. First, is the legal relationship with the citizen that Bahrain has. Bahrain has the ability like any regime to withdraw citizenship and following the uprisings it expanded this ability. In addition, the regime has criminalised political actions such as 'insulting the king'. This has narrowed the conception of the citizen and expanded the notion of the *enemy* to increase an ever-wider range of citizens.

Second, is the sect relationship that Bahrain has with its citizens. Whilst on paper citizenship appears to be a relationship grounded on equality, we can see how the regime has undermined legal citizenship equality. This section analyses how during the uprising and following the uprising the regime undermined the notion of the equal citizen. It shall achieve this by analysing the regime's relationship with the Shi'a majority. The regime has adopted an outwardly exclusionary approach to the Shi'a majority which has manifested itself in relationship to the majority Shi'as form of citizenship. The regime attempted to adopt demographic change

through political naturalisation and has undermined the legal basis of citizenship for certain Shi'a activists against the regime.

These actions can be seen through the lens of the *friend enemy* dichotomy. The attempt by the regime in Bahrain to create a politically exclusionary form of citizenship allows us to view the construction of the internal *enemy* and the resulting destabilising consequences for sovereignty that results from this. Unity and homogeneity are created ever more narrowly excluding more citizens increasing dissent internally and undermining the notion of the sovereign as the representor of the nation. Through this framing of the citizen and citizenship, it is that the application of coercive measures by a state does not increase its power but undermines sovereignty. As shall be shown below the casting of the internal *enemy* is not one-directional but can be applied back at the regime creating a contestation of the *enemy.* As seen in the case of Syria this can lead to a conflict emerging as enmity spills over into outright conflict creating a contestation for sovereignty over the state.

6.5.1. Bahrain's legal relationship with the citizen

Bahrain akin to Syria has a legal relationship with the citizen through the citizenship law of 1963. This section analyses this legal relationship through two key areas of legal equality of citizenship and the ability to withdraw citizenship. Both of these areas can be analysed through the lens of the *friend enemy* dichotomy and the attempt to create a homogenous as opposed to a heterogenous populace to try and foster unity stabilising the regime and maintaining stability of decisionism. The citizenship law of 1963 is the primary document from which citizenship laws spring but there have been amendments to the 1963 law and decrees affecting the law that shall also be analysed as they are pertinent to these two themes. The legal relationship with the

citizen is one that has become increasingly conditional with the regime willing to remove citizenship from those who are open in their lack of support for the regime.

The original citizenship act of 1963 was not watertight in its protection of citizenship. Under article 10 C gave ministers the power to revoke citizenship under extraordinary circumstances. However, these circumstances were not readily defined, article 10 A and 10 B state if someone helps a foreign country or continues to serve in the armed forces when not to this shall be grounds to denaturalise someone. Article 10 C simply states, "*If he causes harm to the security of the State."* (Bahrain citizenship act 1963 pg.5). The definition of 'harm' and 'security' are vague and open to interpretation allowing the regime substantial ability to threaten the citizenship of those who are deemed a threat, and this was especially the case during the uprisings. This could be seen in action when "*In 2012, Bahrain used its 1963 Citizenship Law to strip the citizenship of thirty-one individuals for allegedly damaging State security"* (Esbrook 2015 pg.1289) and overall "*115 individuals who demonstrated during the uprising were stripped of their citizenship and other opposition leaders were imprisoned"* (Al-Rashidi pg.527) (Bahrain Citizenship act 1963, Albarazi and Tucker 2014, Esbrook 2015, Almutawa 2018, Alsabeehg 2018, 2021, AlSaleh 2018, Al-Rashidi 2019).

In addition to this ability in the 1963 law, the regime in Bahrain have given themselves additional scope to strip citizenship. Decree 20 in 2013 amended law no.58 which was introduced in 2006 stating that citizenship can be revoked in cases of 'terrorism' by the courts if royal approval is granted. The scope of the provision moves beyond mere terrorism but becomes more all-encompassing as provisions now included "*disruption to public order*" (Baber 2017 pg. 531) and "*damaging national unity*" (Baber 2017 pg.531). The regime therefore sought not to protect citizens from terrorism through these changes but rather limiting dissent as argued by Almutawa (2018) "*was widened from a focus on the security of the state, allows the law to be used to revoke the citizenship of activists and dissidents alongside more*

violent extremists" (Almutawa 2018 pg.955) (Beaugrand 2016, Baber 2017, 2018, Almutawa 2018, Human rights watch 2018, Alsabeehg 2021, Joshua and Edel 2021).

Alongside decree 20 in 2013, in July 2014 an amendment was created to the Bahrain citizenship law of 1963. This gave further scope for the regime to strip citizenship from those who "*fail in their duty of loyalty*" (Human rights watch 2014) to the state. The vaguely worded provision on top of the already vaguely worded 1963 law created the grounds of revocation of citizenship not just for danger to the state but also for a lack of obedience to the regime making the law increasingly easy to abuse (Human rights watch 2014, Esbrook 2015, Busafwan and Rosiny 2015, Dalek et al., 2016, Fargues and Winter 2019). The regime has not been shy in exercising these new powers. Indeed, *"The government has in the period post 2011 restricted the activities of political and civil societies, including by suspending opposition groups that had earlier run for election and denaturalising some of their members. At least 990 individuals had their citizenship revoked between 2012 and 2019"* (Alsabeehg 2021 pg. 1). The new provisions in law have been exercised by the regime on those who are not threats to the security of the state but rather challenge the regime and has been used post uprisings by the regime in an attempts to re-establish unity and order (Almutawa 2018, Owen Jones 2020, Alsabeehg 2021). The regime has thus politicised the revocation of citizenship. Just one prominent example of this can be the revocation of Isa Qassim's citizenship, the country's most important Shi'a cleric (Esbrook 2015, Hashemi 2016, Freedom House 2017, Al Saleh 2018, Al Sabeehg 2021, Van Waas 2021).

Through the analytical lens of the thesis, we can therefore witness how citizenship in Bahrain has changed in response to the uprisings. Previously, the 1963 law allowed for the revocation of citizenship when a threat to the state emerged. If certain citizens posed a political threat to the safety of other citizens, they were deemed *enemies* and could be removed from the political community. In more recent years, this provision was interpreted liberally by the regime and

used the ambiguity in the language to revoke non-violent citizens status. Removing non-violent disobedient citizens status was extended following decree 20 in 2013 and the 2014 amendment to the citizenship law of 1963 giving the regime further abilities to remove citizenship. As discussed in chapter 4, the regime's mixed response eventually was geared towards coercion towards its citizens. This pattern has emerged in how citizenship functions in Bahrain. The regime has broadened *enemies* outwardly to those who contest the rule of the regime even non-violently creating a politically narrower space on which to construct unity and homogeneity. Rather than the sovereign being a true 'representor', citizenship laws have been constructed to coerce obedience which as seen by the uprisings and Bahrain's political history has oftentimes broken down.

It is not just through the revocation of citizenship that Bahrain has legally limited the bounds of citizenship against a range of symbols demonstrating national unity such as the flag, the national emblem, or the king. As Duffy (2014) states "*Article 214 of the Bahrain penal code promises a prison sentence for anyone "who offends the emir of the country, the national flag or emblem."* (Duffy 2014 pg.21). Bahrain has used the law to limit political expression into an ever-narrower terrain. One example of the regime using law to narrow political capaciousness in an attempt to foster unity are new laws increasing the penalties for insulting the king. As Alsayeed (2014) writes "*In February 2014, Bahrain passed a contentious amendment to its Penal Code, imposing prison sentences of up to seven years and more than $20,000 in fines for publicly insulting the king"* (Alsayeed 2014 pg. 101). A further example is that of the increase in penalties in the laws for insults against the flag. As Owen Jones (2016) argues "*Penalties for insulting the King and even the Bahraini flag have been made more severe, and now those found guilty can be jailed for up to seven years"* (Owen Jones 2016 pg. 260). The regime has used these laws to arrest and imprison citizens who are deemed disloyal and undermining national unity even on a small scale by using technology such as FinSpy to reveal

the identity of critics (Katzmann 2013, Kelly 2013, Kinninmont 2013, Duffy 2014, Khamis and Alwadi 2015, Alsharekh 2016, Kasbarian and Mabon 2016, Owen Jones 2016).

The examples of using law to criminalise insulting the monarch, the flag and the national emblem demonstrate as seen through the Schmittian lens an attempt to foster unity and homogeneity. However, as seen in the Syrian illustration, creating legal limitations to political opposition does not eradicate it nor does it foster unity. The result is instead a fracturing of the political and increased hetereogeneity undermining the sovereign's role as the representor. The decision via law when it is used to limit opposition merely makes the opposition unseen rather than it not being there. This limits the sovereign's ability to see what is occurring creating the impression of unity and homogeneity when it does not exist. As shall be discussed in the next section, political attempts to create these conditions have been made too.

6.5.2 Bahrain's political undermining of the citizen

Whilst states revoke citizenship when they wish to cut legal ties to a particular group or individual citizen there are other ways of undermining citizenship without a formal revocation. It is possible to politically undermine the citizen without revocation or imprisoning them. As discussed, citizenship is not simply a legal status but also a guarantee of an existence and recognition inside a political community. Therefore, citizenship, and the equality and rights it is supposed to entail, can be undermined without a formal revocation (Keenen 1994, Kingston 2014, Lenard 2016, Bloemraad 2018, Gibney 2020). The regime's actions towards the Shi'a majority can be viewed through the *friend enemy* dichotomy that is practiced via systematic discrimination undermining the requisite homogeneity grounding the citizens inside the state. The result is a politically divided country undermining the sovereignty of the regime (Aziz, S.F. and Musalem 2011, Al-Rasheed 2011, Friedman 2012, Karolak 2012, Neumann 2013,

Khalaf 2013, Louer 2014, Al Hasan 2015). This section discusses how Bahrain has undermined equal citizenship through political measures that stop short of revoking citizenship. As shall be discussed this includes altering demographics, placing formal or informal limitations on citizens such as what jobs they can take and political clampdowns on specific groups of citizens.

On the face of it there are no political differences made between different citizens in Bahrain in terms of legal restrictions on the basis of political identity. There are no mentions of sect or tribal difference in relation to gaining citizenship in the 1963 law, rather everyone who fits the qualification for naturalisation is considered a Bahraini. The citizenship law of 1963 did not distinguish between sect, thus just like Syria 'on paper' no distinction was made between degrees of citizenship. Article 4 of the 1963 citizenship law declared

"*Anyone shall be regarded a Bahraini national, if: (A) Was born in Bahrain after the effective date of this act and his father was a Bahraini at the time of birth. (B) Born outside Bahrain, after the effective date of this Act, and his father was a Bahraini national at the time of birth provided that this father or the grandfather was born in Bahrain. (C) Born in Bahrain or abroad, after the effective date of this Act, and his mother, at the time of birth was a Bahraini national provided that father was unknown, without nationality or fatherhood was not substantiated*" (Bahrain citizenship law 1963).

Despite this 'on paper' equality there are limitations to citizenship equality in Bahrain that can be seen politically. As discussed in the introductory chapter and chapter 4, the Al Khalifa have long been suspicious of Iran and have hardliners in the regime perceive the Shi'a majority as a potential 'fifth column. In the analytical frame of the thesis, the Shi'a have been labelled as a foreign and domestic *enemy*. This has not just been accompanied by rhetoric but by actions marginalising them not only from the regime but undermining the notion of equal citizenship.

Citizenship therefore has been used as a tool to include perceived *friends* of the regime as well as casting out *enemies*.

One way this has manifested itself is through attempts to re-engineer the demographics of the archipelago to minimalise the Shi'a majority. The regime has engaged in processes of political naturalisation that has undermined the political citizenship of the Shi'a majority. Whilst the focus of this section is on the reaction to the uprisings there are instances of political naturalisation occurring before the uprising demonstrating it as a longer held aim of the regime as opposed to one merely created by the uprisings. One example of this is the where the regime in 2002 naturalised expelled tribes such as 20,000 descendants of the previously expelled Sunni tribe called the Dawasir in 2002. They were granted dual Saudi-Bahraini citizenship as permitted by decree. The repatriation of this tribe has had a political upside for the regime as the regime drove them over the causeway from Saudi Arabia so they could vote in Parliamentary elections. This is one way to gerrymander electoral districts as discussed in in the introduction undermining the electoral process in an attempt to convey legitimacy onto the regime. As stated by Alsabeehg (2021) when it was in the regime's interests they were more than willing to endorse *"(1) the practice of mass-naturalisation; (2) the abandonment of requirements for naturalisation stated in the law; and (3) citizens given electoral rights straight after being naturalised."* (Alsabeehg 2021 pg.10) (Kapizewski 2005, Dajani 2015, Gengler 2015, Owen Jones 2016, Mabon 2019 Alsabeehg 2021).

The 2002 incident of naturalisation can be analysed as an early attempt to create unity and homogeneity by naturalising *friends* of the regime in a process to undermine the *enemies* of the regime during the first Parliamentary elections since it had been dissolved as discussed in the introductory chapter. Indeed, as Al-Shehabi (2014) argues this has been a practice since the 1990's "*The 'politically naturalized,' as they are called, are Sunni Muslims mainly from Bedouin Arab tribes in Jordan, Saudi Arabia, Syria, and Yemen, as well as ethnic Baluchis*

from Baluchistan province in Pakistan. These groups are perceived as having close ethnic and or cultural links to the local rulers" (Al-Shehabi 2014 pg. 37). From a schmittian perspective this should create homogeneity and unity and the regime in Bahrain has made further use of demographic changes since the uprisings of 2011. Whilst as discussed in the previous section the regime has removed the citizenship of at least *"990 individuals had their citizenship revoked between 2012 and 2019"* (Alsabeegh 2021 pg.1) of which are *"predominantly from the country's Shia population. There is therefore reason to believe that the Bahraini government is leading a deliberate policy of inclusion and exclusion of the citizens and that this is part of the political project of demographical engineering"* (Alsabeehg 2021 pg.17). This policy has been accompanied by a fast tracking of citizenship for selected foreign persons who join the defence and security forces. It has been estimated that as of 2011 the regime had naturalised as many as 60,000 non-citizens for those who have worked for the security and police forces in an attempt to further alter the demographics to command security of the regime with non-compatriots largely comprising the forces suppressing protests. As outlined by Hansberg and Greenberg (2019) *"While the exact number of noncitizen personnel in Bahrain's forces is a state secret, human rights organizations suggest that more than half of the kingdom's 19,400 military and paramilitary forces are non-Bahrainis."* (Hansberg and Greenberg 2019 pg. 311) (AlShehabi 2011, 2014, Al-Rasheed 2011, Wehrey 2013, Ambrosio 2014, Wimmen 2014, Bank and Edel 2015, Fibiger 2019, Hansberg and Greenberg 2019, Alsabeegh 2021).

Rather than creating unity and homogeneity for the regime this process has created resentment and anger. As discussed in chapter 4, one of the key complaints of the protesters was the process of politicised naturalisation. As politically not only was the regime but the country was divided and heterogeneous rather than united and homogenous changing demographics as a form of decision was not supported furthering the feelings of disunity. The regime attempting to import

friends and denaturalise *enemies* has not led the sovereign to be a great representor allowing for 'god like' intervention into the political order creating the conditions for stability but rather this intervention created the conditions for disunity, disorder, and instability.

It is not just through demographic change that the regime has undermined the notion of the citizen, political unity, and homogeneity. The regime has also practiced political exclusion for the majority of citizens by limiting access to specific jobs. As demonstrated earlier a large proportion of jobs in the armed forces and polices are occupied by non- Bahrainis. The armed forces and police have largely been cordoned off to the Shia' majority of the population. The elite echelons of the security forces i.e., the defence force, national guard, and police force are coup proofed by the regime where "*sectarian profiling and recruitment of foreign mercenaries have enabled the regime virtually to avoid recruiting Shias in the four main security agencies that are in charge of protecting the ruling elites*" (Louer 2013 pg. 246). Indeed, Shi'a Muslims are barely existent with "*Sunni Muslims constitute only a quarter of the population but approximately 95 percent of the security apparatus.*" (Makara 2013 pg. 353). The hardliners in the regime as discussed in the introductory chapter are in key positions in the security forces and fear Shi'as as potential 'fifth column' threat representing both a domestic *enemy* on political grounds and a foreign *enemy* from a perceived threat of Iran thus undermining the notion of the citizen and casting them as outsiders not to be trusted (Strobl 2011, Karolak 2012, Louer 2013, 2014, Neumann 2013, Makara 2013, Wimmen 2014, Eickelman 2015, Makara 2016, Fibiger 2019, Hansberg and Greenberg 2019, Valbjorn 2020).

These limitations not only affect the relationship between certain groups of citizens and the regime but also reflect structural limitations of a narrow political citizenship where increasing numbers are deemed *enemies* of the regime. Citizenship was not just legally undermined by denaturalisation but politically challenged by limitations on citizens and mass naturalisation of non-citizens to perceived *friends* of the regime. Rather than the sovereign being able to act as

a representor and intervene in the political order akin to a 'god' actions such as mass naturalisation for political purposes merely created disunity and the conditions for the uprising. The uprising a cross-sect affair reflected the *friend enemy* dichotomy being turned inwardly on the regime whilst in reaction an ever-narrower space existed for the citizen to exist as a *friend* to the regime. Despite attempts by the regime to construct unity and homogeneity via law and political practice including but not limited to criminalising speech insulting national symbols, and denaturalising perceived *enemies* this could not create a basis for unity, homogeneity and sovereignty for the regime. Instead, increasing coercion has been applied to hide heterogeneity and disunity to give the appearance of stability and sovereignty akin to Syria before the uprisings.

6.6. Egypt's response to the Uprising undermining citizenship

The Egyptian illustration exposes a different form of citizenship to that found in Syria and Bahrain but retains similar difficulties for the maintenance of citizenship. The Egyptian illustration is relatively homogenous in terms of religious identity (around 90% Sunni) compared with the Syrian illustration but retains a religious pluralism of Christians and a small number of Shi'a Muslims. Whilst Citizenship rights have been undercut for some religious minorities, citizenship is not necessarily predicated on sect boundaries as in the other illustrations. The Egyptian illustration demonstrates the limitations of citizenship rights and the perilous state citizenship found itself in under the Mubarak regime. The ability to remove citizenship has been used by previous regimes of Egypt akin to Bahrain and Syria highlighting the limited space for political expression to exist. Homogeneity in this illustration has not been attempted to be maintained via sect divisions but rather more closely on the basis of political

opposition. As shall be highlighted below, the changes to citizenship laws have further decreased political space threatening whole categories of citizens rendering them the *enemy*.

6.6.1. Stripping of citizenship and political limits on the citizen

First, it is necessary to discuss the ability of the Egyptian state to withdraw citizenship. As discussed before, all states have the ability to withdraw citizenship, but it is important to note when and how regimes apply this fact. Under the Mubarak regime, the stripping of citizenship was achieved via law no.26 of 1975. As argued by Malek 2021 *"The enactment of Law No. 26 of 1975 Concerning Egyptian Nationality that is in current use today presented a codification of the circumstances surrounding acquisition and withdrawal of citizenship. It details acquisition of citizenship through marriage, birth, and naturalization and loss of citizenship through crime, treason, forgery, or endangering national security."* (Malik 2021 pg. 1). Section 16 of the citizenship act of 1975 gave an itemised list of reasons that could lead to any Egyptian losing their citizenship. This included

> *"1. Obtaining another citizenship without notifying the Minister of Interior in breach of Section 10 of the Citizenship Act; 2. Enrolling in a foreign army without the approval of the Egyptian authorities; 3. Committing a crime against Egypt's security; 4. Working for a foreign government or international agency and refusing to resign following an order by the Egyptian cabinet; 5. Joining a foreign agency that aims at destroying Egypt's social fabric and economy; 6. Working for a State or foreign government at war with Egypt (or whose diplomatic ties with Egypt had been severed), where this work may negatively affect Egypt's military, diplomatic, or economic position or jeopardize other national interests; and 7. Adopting Zionist sympathies."* (Badawy 2014 pg.279).

The 1975 act gave broad rights for regimes to strip citizenship including stripping citizenship from those who were deemed a threat to the state (i.e., in practice the regime). This power was extended both by rule via the emergency which as outlined in chapter 4 gave the Egyptian regime under Mubarak plenty of political space to strip citizenship as outlined by Ardovini and Mabon (2020) *"In particular, Art. 74/1971 authorizes the president to enact extraordinary measures 'should there emerge an instant and brave risk that threatens national unity or safety of the motherland or obstructs the performance by State institutions of their constitutional role'"* (Ardovini and Mabon 2020 pg. 463) and this has been accompanied by legislation such as the 1992 anti-terror legislation gave the regime the right to refer suspects to special exceptional state security courts who had low standards for burden of proof thus giving regimes plenty of scope to denaturalise their citizens if they so wish (Hassan 2011, Badawy 2014, Elgati et al., 2015, Bronwyn 2016, Armbrust 2017, Manby 2018, Pratt and Rezk 2019, Ardovini and Mabon 2020, Heydemann 2020, Malek 2021, Yefet and Lavie 2022). This on the face of it gave the regime under Mubarak the ability to act akin to a sovereign 'god' intervening in the concrete political situation at will with the ability to remove those from the state who posed a potential threat to the regime. As discussed in the introductory chapter and chapter 4, the regime had a tight control on the political space before the uprisings.

The focus on security and loyalty both to the nation and even enforcing ideological perspectives such as denouncing Zionism as a condition for citizenship allows for a framing of the citizen as one that can be witnessed via the *friend-enemy* dichotomy. The ability of the regime to strip citizenship was cast wide allowing those opposed to the regime to be cast as *enemies* and a threat to the state itself. This can be specifically seen ideologically with the apparent necessary denouncement of Zionism and those who do not are seen as internal *enemies* who can be removed to sustain internal homogeneity. Indeed, whilst the condition of non-support for

Zionism is largely considered 'dead letter law'. i.e., a law on the books but no longer enforced this has still been an issue as recently as 2010, as stated by Badawy (2014)

> *"In 2010, the Supreme Administrative Court issued a judgment forcing the Minister of Interior to provide information about an estimated 30,000 Egyptian citizens married to Israelis to the Cabinet for the latter to decide on whether their citizenship must be revoked. The case was initiated by a lawyer who claimed that Egypt's security was at risk, since the descendants of Egyptians married to Israelis would become nationals of Egypt and Israel, which, given the tumultuous history between both countries, could jeopardize Egypt's national security"* (Badawy 2014 pg.282).

However, despite the wide powers of citizenship stripping that the Mubarak regime had acquired this still did not facilitate unity and homogeneity as demonstrated by the uprisings. The regime had not constructed unlike in Syria and Bahrain a stringent ideological framework for citizenship but rather those who threatened to oppose the regime were treated as internal *enemies* limiting the space for citizens to exist. The focus of the citizen was supposed to be loyalty to the state creating on the face of it a homogenous political community; indeed, this focus could even be seen in educational curricula. As outlined by (Waddell 2013)

> *"While equality and rights were based on citizenship, the focus was on loyalty to the state without description of rights protected by the state. Baraka did a unique study counting the prevalence of words related to citizenship in Egyptian textbooks during the Mubarak era. She found the most used word to be "authority" which was used twice as much as the word citizen, a sign of what she calls "state dominance over individuals""*(Waddell 2013 pg.8).

However, as outlined in chapter 4, the regime under Mubarak could not control all avenues of dissent such as online protest and forms of political activism that did not threaten the existence

of the regime. This undermined the ability of the regime to demand or foster continued obedience as a precondition for citizenship despite the regime's attempts to minimalise dissent and heterogeneity. This can be seen from Abdelhalim (2018)

> *"I am against excluding any political faction, even from Mubarak's regime.' She seemed to understand what he said and agreed in silence. I sat there in disbelief. No one could imagine that during Mubarak's reign, political lexicons entailing words like exclusion and political factions could be dispersed and actively used on a daily basis among all societal strata"* (Abdelhalim 2018 pg.403).

This did not mean the complete eradication of the space for citizens to exist in opposition to the regime akin to Syria but rather created a space where dissatisfaction was at times expressed allowing for a heterogeneous political space to emerge. But this was done with more often than not a hushed tone as the regime cracked down on opposition (Nagar and Smolska 2009, Tartoussieh 2011, Khanna 2012, Waddell 2013, El-Nawawy 2014, Abdelhalim 2018, Herrera 2019, Saleh 2019, Menza 2021). This led to undermining the unity and homogeneity that underpinned obedience to the sovereign decision as seen in chapter 4 where the uprising could be seen to emerge with previous events of protest unlike in Syria where protest suddenly occurred which the regime did not predict or imagine. Thus, rather than unity and homogeneity being continuously sowed by the regime, we can see a mixed and confusing scenario for citizens, where open dissent was not often tolerated by the regime but there were spaces where it occurred, and opposition manifested itself creating heterogeneity and disunity between the regime and its citizens undermining the sovereign decision.

6.6.2 communal relations of the 'citizen'

The relationship between the minority Coptic community in regard to citizenship has not been static and complex with the Mubarak regime. Under the Mubarak regime, citizenship rights were limited with religious divisions played down in an attempt to emphasise national unity in an attempt to foster a civil state with limited political space whilst denying the political tensions that did exist. Indeed, this can be seen by Sobhy (2015) who stated *"Mubarak-era textbooks do highlight 'national unity', respecting the 'other' and combating extremism as aspects of good citizenship. However, they reflect almost complete denial of sectarian tensions, religious discrimination or the situation of Copts. Sectarian tensions are portrayed as: foreign-directed; addressed by the declaration of a new Coptic national holiday by the 'wise President''* (Sobhy 2015 pg.814). This apparent attempt to foster a shared unity could also be found in expressions from the Mubarak regime such as '*religion is for God and the Nation is for all'* (Ibrahim 2014 pg. 1) and is the locus for the creation of a national myth of unity and homogeneity which as argued by Menza (2021) led to " *the interaction of both Islam and Christianity has resulted in a homogenous, albeit not always harmonious, relationship between the two religions, whereby a symbiotic process of co-existence and mutual acknowledgment was a vital component in the Egyptian polity since the Arab conquest."* (Menza 2021 pg.3) (Rowe 2009, Iskandar 2012, Casper 2013, Hamid 2014, Ibrahim 2014, 2015, Ramzy 2015, Sobhy 2015, Sajoo 2016, Armbrust 2017, Ha 2017, Menza 2021).

This attempt at asserting unity was not just directed by the regime but Coptic authorities too, as evidenced by Pope Shenouda who stated, "*Egypt is not a nation in which we live, but a nation which lives inside us*" (Ramzy 2015 pg. 650). The orthodox Coptic church, therefore, did not encourage a feeling of separation but rather the polar opposite and through the lens of the thesis, we can see an attempt to foster unity and homogeneity from outside the regime too but a broader civil unity and homogeneity being fostered. However, despite the general homogenous nature of the Egyptian state, as argued by Valbjorn (2019) there are inter-religious

sectarian cleavages that should not be ignored. As argued by Valbjorn (2019) *"Like Jordan, Egypt has almost no Shias and about 90% of the population are Sunni. While Egypt is often considered more homogeneous than many other Middle Eastern countries, there are still some identity cleavages with political significance. Instead of a Shia/Sunni schism"* (Valbjorn 2019 pg. 136) (Sedra 1999, Bayat 2010, Makara 2013, Saad and Fegiery 2014, Farha and Mousa 2015, Pizzo 2015, Ramzy 2015, Ha 2017, Hussein and Martino 2019, Valbjorn 2019).

It is in this context that the Coptic community has simultaneously been cast as *friends* and *enemies*. Whilst Coptic Christians have played a political role in aligning with forces such as the regime under Mubarak to limit Islamism's influence on the face of it making themselves *friends* of the regime, they have been underrepresented in Parliament and government limiting their ability to be recognised as full citizens and true *friends*. Restrictions were also imposed such as the building and maintenance of churches and being painted as a 'fifth column' by the regime. However, this state of affairs under the Mubarak regime coexisted with the perception that the Coptic Christian community were being threatened by certain Islamist actors creating a reason for the regime to further limit the political space. The membership of the Brotherhood has been found by surveys to believe in limiting political participation for certain minority groups, thus limiting their citizenship rights. As Hamid has noted "*According to the survey of Brotherhood activists in Egypt conducted by Khalil al-Anani in 2006, which I discussed in Chapter 2, only 27 percent of respondents supported the right of Copts to hold the position of prime minister"* (Hamid 2014 pg. 173). This highlights that there has a dual issue for the Coptic community that exists whereby it was not just the regime limiting citizenship rights for the Coptic community but civil society that has at times made the community both a *friend* as well as an *enemy* leading to a potential break in the homogeneity of the citizen (Henderson 2005, Rowe 2009, Galal 2012, Iskandar 2012, Casper 2013, Hamid 2014, Ibrahim 2014, 2015, Ramzy 2015,Lukasik 2016, Sajoo 2016, Yefet 2017).

During the uprising, the Coptic community supported demonstrations in large numbers even if their support for the protests and their role in the protests oftentimes did not wholly resemble the mass protests both visually or by the rhetoric used. This is not to suggest they never did, indeed one sign read '*I am Coptic, I am Egyptian. I want my rights*' (Ramzy 2015 pg. 660). This was accompanied by marches of Muslims and Christians together celebrating the martyrs of the revolution and demanding their democratic rights civilly (Rowe 2013, Bardhan 2014, Byman 2014, Ramzy 2015, Hassan et al., 2017, Yefet 2019, Menza 2021). Despite the aesthetic and language differences that did sometimes exist, the appearance of the Coptic minority joining the protests en-mass had an effect on the regime given official reporters asked the people to save the army from the Coptic minority further reinforcing the principle of Copts as second-class citizens. The regime, therefore, were not shy in attempting to cultivate Copts as an internal *enemy* who were threatening a coup against the regime which following the fall of the regime did occur as communal tensions grew and spilled over into violence during both SCAF's (Supreme Council of the Armed Forces) and the Muslim Brotherhood's rule (Galal 2012, Casper 2013, Ibrahim 2014, 2015, Pizzo 2015, Lukasik 2016, Pratt and Rezk 2019, Rowe 2020, Ben Lazreg 2021).

The question of the citizen in relation to the Coptic community illuminates the condition of citizenship under the Mubarak regime. Simultaneously cast as *friends* and *enemies* the contradictory nature of regime actions undermined any potential unity and homogeneity that could have been politically constructed for citizens. Whilst the disunity and heterogeneity in citizenship did not reach the levels in Egypt under Mubarak that can be seen in Syria under Assad or in Bahrain under the Al-Khalifa, it can still be understood that the regime fostered disunity and a narrow basis for the citizen in which to exist. Thus, rather than unity, homogeneity created a basis for the sovereign decision, disunity and heterogeneity created an unstable base for the decision that left it open to challenge and political discord.

However, it is not only religious distinctions that affect the conception of citizenship in Egypt. The Sinai and the Bedouin who occupy that space compete with the Egyptian state over who rules the area. The Bedouin refuse to accept the state's role thus creating a contested space undermining the notion of a homogenous form of citizenship. Whilst citizenship was given to the Bedouins in 1906 this has not guaranteed their rights to the desert space but rather the tribes and state have existed in a state of contestation that has undermined unity, homogeneity and citizenship rights which became practice following law 143 of 1981 allowing the land to be sold to any interested party (El Araby 2003, Abou Ali 2012, Karkabi 2013, Takemura 2016, Salman 2018).

This has led to a discriminatory form of citizenship for the Bedouin community that has forced many to remove themselves from their land. As can be seen by Karkabi (2013) who states "*The contest over land rights is carried out at first through the transition from Bedouin customary law to the state civil system. Thus through the efforts of the Egyptian government to nationalise the Sinai Peninsula, official state registry of the land becomes a structural practice of discrimination.*" (karkabi 2013 pg.52) that has led to many Bedouins to "*resettle on the outskirts of the tourist towns, 'encroaching' their own tribal territory and reclaiming their rights on 'state owned' desert lands. This vicious circle of claiming, disclaiming and reclaiming lands, labelled the Sinai Bedouins as disobedient, criminal and civically irresponsible population; a threat to the sovereignty of the modern nation state.*" (Karkabi 2013 pg. 54). Thus, rather than homogeneity creating unity in the form of an equal citizenship, the Bedouin community are a good example of citizens who have as a result of discriminatory practices rejected homogeneity creating a heterogeneous form of citizen that has been openly challenging the regime with disobedience (Gilbert 2011, 2013, Gilbert and al-Jebaali 2012, Karkabi 2013) .

Rather than material land disadvantages being an isolated issue, it is instead wrapped up inside a broader framework where we can witness Bedouins being seen as an internal *enemy*. These material disadvantages are not isolated but are interlinked as Bedouins have also been discriminated against by being barred from employment in the security services and armed forces with only 10 percent of the Bedouin are part of the official workforce in Egypt leading to many Bedouin engaging in the dark economy and poverty being entrenched with around half of the Bedouins in 2011 in south sinai living on less than a dollar a day (Gilbert 2011, Soliman 2011, Ramadan 2013, Karkabi 2013, Elgati et al., 2015, Husken 2017, Fawcett 2017, Idris 2017, Gormus 2020, Menza 2021). As a result of these conditions this has helped create unrest in the region with both civil and violent protests emerging in opposition to the Egyptian regime and the ability for terrorist groups to proliferate in the region. Through the framing of the thesis, we can see the Bedouin minority as an internal *enemy* that did not respond to the 'sovereign god's' commands and decisions but contested them via both civil and violent protest. Rather than creating unity and homogeneity, the decision fostered conditions leading to disunity, heterogeneity, and the fostering of disobedience.

In conclusion, the Egyptian illustration of citizenship both differs and mirrors Bahrain and Syria in crucial ways. It is similar in the sense that the Mubarak regime had an overly narrow conception of political citizenship. Through the framing of the thesis, we can understand this as an attempt to foster unity and homogeneity in an effort to secure obedience and grounding the decision. However, the Mubarak regime failed to secure any of these things with disunity, heterogeneity, and an unwillingness to follow the sovereign's decision ultimately leading to contestation of sovereignty. The narrow space was not as narrow as in Syria for instance, but this highlights that with both some openness or a complete shutting down of the political space, the desired end is not accomplished, and unity is not achieved. Whilst citizenship in Egypt was not overly sectarianised due to the relatively homogenous population, there are instances of

inter-religious sectarian relations that have fostered *friend enemy* dynamics creating further heterogeneity. Indeed, the relationship with the Bedouin is an example of a regime's attempt to force homogeneity via the decision that resulted in an entirely opposite reaction i.e., further rebellion, disunity and contestation of sovereignty.

6.7. concluding remarks

This chapter outlines the limitations of decisionist regimes in relation to citizenship. Legal citizenship, a politically thin conception of the citizen that guarantees citizens rights via legal protections has in all three illustrations been shown not to function. The legal order when overruled by the political order has little room to manoeuvre, this is especially the case since Judges interpret law and legality. The 'on paper' restrictions that regime's set for the limitations of their behaviour both domestically and internationally do not seem to apply. They are instead merely pieces of paper.

As documented in the chapter, citizenship can therefore have a 'thicker' conception than just the law and the legal protections that being a citizen is supposed to grant us. These 'thicker' conceptions of the citizen in this chapter are analysed via the Schmittian lens. Whilst legal citizenship is grounded in a territorial notion, the illustrations provide a picture that territory and the law offer no substantive protection against regimes who have a different ideal of the citizen. Citizenship in this chapter has been analysed via the *friend enemy* dichotomy and the claim to homogeneity. Homogeneity is created via a shared *enemy* that bounds together groups to create unity amongst a populace. By sharing an *enemy*, citizens are part of the 'in' group as opposed to the 'out group'.

However, this politically 'thicker' definition of citizenship has significant problems that undermines the claim to citizenship for a number of citizens. As shown in the illustrations, regimes which define *enemies* internally produce policies and rhetoric diminishing their roles

as citizens inside the state. This can be seen in the Syrian illustration where the regime has systematically undermined citizen's rights by enforcing ethnic changes in parts of the country and confiscating property from supposed *enemies* during the country's post-conflict reconstruction efforts. In Bahrain, we have witnessed renewed attempts at demographic change through the fast-tracking of certain now citizen's citizenship process as well as broadening laws to revoke citizenship from those 'threaten the state's security'. In Egypt, we can see similar moves of widening the ability for the regime to enact punishments and revoke citizenship for those 'threatening' the security of the state.

Through analysing formal citizenship rights through the Schmittian lens, we can see how regimes narrowed the space for citizens politically. The increase in the breadth of those who were targeted for punishment by regimes and the strength of those punishments highlight an increase in the scope and number of internal *enemies* in the state. As highlighted in previous chapters, the *friend-enemy* dichotomy is one which is not static but fluid, and regime's enacting further punishments across a broader range of 'offences' creates the danger of the regime eventually becoming the *enemy*. This leads not to homogeneity but greater heterogeneity as more people are put into the 'out' group and treated as internal '*enemies*'.

It is not only through the formal stripping of rights that regimes can foster an internal *enemy*. Regimes can create internal *enemies* by fostering a political dynamic whereby their very existence poses a threat to the state. Regimes exercise this political dynamic as can be seen in the Syrian and Bahrain illustrations through manipulating sect and tribal relations. This manipulation helps create a condition of exclusion. In addition, discrimination from the regime and a lack of access to key resources furthers this condition for the internal *enemy*. Those who are still citizens and regarded as the internal *enemy,* especially in minority led regimes pose a threat to the 'sovereign god' and limit the ability of the decision. Rather than homogeneity, creating a two-tiered citizenship with internal *enemies* abound merely leads to a deep

heterogeneity, undermining unity and the homogeneity that is supposed to ground the decision. The fluidity of the *friend-enemy* dichotomy ensures that attempts to permanently create an *enemy* are problematic and not bound to hold. By creating a two-tiered form of political citizenship, the decision ultimately undermines its own existence and stability, creating questions over the sovereignty it is supposed to create according to Schmitt.

Chapter 7: Conclusion

7.1. Purpose of the thesis and lessons that can be learned

The purpose of the thesis was to show why Schmitt's claim that the sovereign is '*he who decides on the exception'* was a mistaken one. Rather than the decision being the essence of sovereignty, or the marker of sovereignty, the argument proposed throughout this document is that sovereign decisionism ultimately fails to provide a stable basis for sovereignty to be asserted. The reasoning for why the decision is not a marker of sovereignty was achieved by unpicking what laid at the foundations of sovereign decisionism leading it to its demise and production of instability. This is explained by analysing Caporaso's sovereign traits via a Schmittian lens highlighting how the underlying political framework begins to fracture once the decision is enacted. The illustrations act as a way to practically highlight and illuminate the theoretical claims made in the thesis itself, guiding the reader practically through the theory making the argument clearer and more convincing. The decision as a result of its unstable foundation cannot be the definition of sovereignty, it is instead paradoxically the thing that creates political instability, undermining regime's attempts to manufacture and secure sovereignty. As a result, sovereign is not he who decides on the exception.

The thesis also makes an original contribution to several literatures as detailed in the introduction. It makes an original contribution to the Schmittian literature by analysing Schmitt in a cohesive way via the framework of Westphalian sovereignty. By focusing on domestic sovereignty and key sovereign traits identified by Schmitt such the *friend enemy* dichotomy, homogeneity and the sovereign god and analysing them in new ways it brings about an original lens on Schmitt's claims to sovereignty. Whilst the thesis has recognised the problematic nature of Schmitt in his positionality, it has not made a normative assessment of Schmitt. Instead, it has challenged the descriptive usefulness of his claims to sovereignty.

The thesis has achieved these descriptive challenges by turning Schmitt in on himself. Rather than analysing Schmitt via an alternative model, the thesis argues in a novel fashion that his own estimations for sovereignty and stability cannot be achieved via his own framework. This is achieved via the use of theoretical examination and illustrations. The thesis uses a Westphalian sovereign framework to understand the limitations of Schmitt's claims to sovereignty, in particular the troubling and paradoxical relationship with enmity and homogeneity. By understanding the limited potential of homogeneity and enmity in relationship to authority, citizenship, and power the thesis teases out the limitations of the supposed 'sovereign god'. This is compounded by the thesis' assessment in regard to the limitations of violence in relationship of power.

This has been accompanied using illustrations in the thesis. Whilst the regimes in the illustrations have not fallen, they do not need to fall for the thesis to make its point. Instead, there needs to be political events happening that Schmitt would not have recognised. Indeed, the lack of stability in these illustrations highlights the limitations in Schmitt's work. The illustrations bring out not just the novelty in relation to the argument on Schmitt but additionally the original work conducted in relation to neopatrimonialism, coup proofing and sectarianism.

Using Schmitt to examine these themes has led to an original analysis of these different themes in the literature. Coup proofing has been analysed not just as an inwardly facing balancing of institutional and structural power but an outwardly problematic form of governance. Additionally, neo-patrimonialism and sectarianism oftentimes assumed as different methods of attaining and retaining office have been found to have been part of the foundation of political instability in authoritarian regimes in the illustrations. This has in turn provided a unique and novel method of analysing Schmittian claims to sovereignty via these illustrations highlighting the theories limitations in a different context. The complex interrelation of the theoretical and practical has provided a new lens to discuss Carl Schmitt's claims to sovereignty.

This theoretical analysis is achieved by analysing core political concepts of Schmitt's that provide unstable political foundations on which the decision operates on. The primary focus has been on the *friend-enemy* dichotomy, homogeneity, unity, and the sovereign god both for its underlying premise as well as the supposed successful exercise of the decision that Schmitt imagines which were all addressed in the first three chapters of the thesis. The thesis pulls together these political ideas as a foundational base for which the decision is supposed to operate on, rather than the decision being disconnected politically, it is rather supposed to be the apotheosis of these political foundations. However, the document highlights why this is not the case, and why the decision undermines sovereignty as decisionism is built off an unstable and even unsustainable political basis. By unpicking the foundation and bringing down the decision, this achieves the thesis' goal of proclaiming that the sovereign is not '*he who decides on the exception*'.

By addressing this political foundation, it is possible to witness the deconstruction of the decision. One of the purposes of the thesis, is to knit this foundation together from the bottom up. The *friend enemy* dichotomy is where the analysis truly begins. According to Schmitt, 'the political' is built on the strength of enmity that is felt. If the enmity is insufficient, then it is not

part of 'the political' but if it is then it can be regarded as part of 'the political'. Additionally, this enmity can be directed towards an internal or external *enemy*, this presents the possibility of an internal *enemy* existing in the polity that the sovereign directs. Given, the *friend enemy* dichotomy is the political identity, this can be represented and directed by the regime and state mitigating the need for alternative political representative associations for Schmitt as highlighted in chapter 3. What is built off this shared enmity towards this *enemy* is the *friend.* The *friend* is what homogeneity is constructed from- i.e., homogeneity is the construction and relationship of a political grouping who share the same *enemy.* The result of this shared enmity is the creation of unity, unity therefore springs from homogeneity. Unity and homogeneity provide the supposedly stable political basis on which the decision is founded upon and can function. If there is unity, that is directed by the decision this creates the conditions for the sovereign god to emerge unchallenged able to affect the political order concretely. The sovereign god is defined by their ability to affect the political order concretely at will, akin to a god affecting the natural order to create a miracle. For Schmitt, this is the creation of a regime and state that fosters unity, homogeneity, stability and sovereignty in comparison to a liberal democratic pluralistic regime that tries in vein to resist the functioning of the decision.

However, despite the theoretical neatness of Schmitt's unifying sovereign decisionist regime the purpose of the thesis is to challenge his claims. This theoretical unpicking is achieved by analysing these Schmittian political claims via a framework of sovereignty identified by Caporaso as necessary for creating and maintain 'Westphalian sovereignty'. As discussed in the introduction, this thesis does not take the approach of defending the treaty of 'Westphalia' or that the system is normatively correct. Rather, the term 'Westphalian sovereignty' is used in the context of a sovereign states right to dictate policy inside its own borders without external interference. This has been the approach taken due to analysing Schmitt's political foundation of the decision that can be achieved domestically.

The focus of the thesis as discussed in chapter 2 is on domestic sovereignty as opposed to international acceptance of a state's policies or formation as the locus of sovereignty. Thus, this approach challenges Schmitt's political claims directly in the domestic arena, as opposed to introducing an international element that challenges the ability of a regime to dictate its own policy. Indeed, as has been highlighted, international and domestic legal limitations on states of emergencies are rarely if ever enforced. Therefore, it makes little sense for the thesis to focus on international acceptance of a regime's political choices when these norms are at best partially enforced if at all. In essence, the thesis uses Schmitt against himself identifying fundamental weaknesses in this construction of sovereignty.

Via this domestic sovereignty framework, it is possible to understand and locate key sovereign traits, specifically, power, authority and citizenship that Caporaso identifies. These traits are identified as key to underpin the functioning of the decision, after-all as is one of the key purposes of the thesis, it is not possible for a decision to function without requisite support. Power is the ultimate ability to act as found in chapter 4, but this cannot be maintained without sufficient authority, the less authority an institution or a person has the more limited their options become for acting are. The greater the authority, the greater the scope for action becomes, but authority is not a static thing, rather it is fluid. Finally, citizenship can be seen as a measure of political belonging, whilst legal citizenship does exist, in the illustrations law is rarely a protective shield from the regime who seemingly use and abuse law at will.

By identifying these sovereign traits and applying a Schmittian lens to them we can witness how the underpinning logic of decision undermines these key sovereign traits. Power can be interpreted via the role of the sovereign god, authority via homogeneity and unity and citizenship through the *friend enemy* dichotomy. There is as witnessed in the chapters 4,5, and 6, plenty of theoretical crossover between these elements as they knock into each other, akin to billiard balls, thus it would be a mistake to see them as separate realms. Rather than

establishing unity, stability, and homogeneity, it is possible to identify key holes in Schmitt's claim for a strong state being guided by the sovereign decision. The thesis shows these holes by examining the very foundations of the decision.

Schmitt grounds his decisionism on the *friend enemy* dichotomy providing the original basis on which the sovereign can act. However, rather than being a static thing, the *friend-enemy* dichotomy can be seen as a fluid, ever-changing notion. The *friend enemy* dichotomy cannot be static but remains in flux, thus the decision is necessarily grounded upon a continuously moving structure. This continuously moving structure requires the sovereign to consistently make good, popular decisions in order to remain unopposed and retain their right i.e., authority to act. If a sovereign begins to make poor decisions, this begins to chip away at the notion of the sovereign having the right to make said decisions. A sovereign needs to continually make good decisions in order to remain a 'sovereign god' i.e., a sovereign who can intervene in the political order at will, akin to god in the natural order to create a miracle. The ever-changing nature of the political as well as the number of decisions the sovereign has to make ensures that at some point the sovereign will become a 'mortal man' and make mistakes. The poorer decisions that are made by the sovereign, the greater the limitations on their ability to affect the political order. Due to the nature of decisions and the continually changing nature of the *friend enemy* dichotomy this is difficult if not impossible for a sovereign to manage and maintain effectively. Taken to its extreme, the sovereign can make so many bad decisions that they are defined as the internal *enemy* from below.

A further grounding of the decision that the thesis contests of Schmitt's is the sovereign's ability to unilaterally declare an emergency. Whilst Schmitt in his earlier work such as *Dictatorship* did provide a basis for a distinction between the commissarial sovereign and the sovereign dictator, his later works such as *Political Theology* collapsed that distinction. The ability not only to decide how to act during an emergency but to be able to declare one speaks

to the role Schmitt believes the sovereign necessarily plays in his vision of a homogenous regime. A sovereign unleashed, directing the unified political body against an *enemy* could be seen by Schmitt to be the essence of sovereignty and even political stability. Instead of trying to reign in the sovereign, Schmitt believed the sovereign decision could not only solve emergencies but establish and maintain valid political order.

This positioning of the sovereign decision comes apart once the sovereign loses their position as the true leader of a homogenous body. Due to the fluidity of the *friend enemy* dichotomy and the lack of re-authorisation that a sovereign attains his authority if they make poor decisions can be mortally threatened. The lack of re-authorisation within this dictatorial model limits a sovereign's ability to proclaim true authority once political homogeneity begins to be undermined. Indeed, given the fluidity that is necessarily present in the *friend enemy* dichotomy, authority without re-authorisation comes under significant pressure over time whether from inside or outside a regime. Simply, making more decisions, whether that is declaring an emergency or issuing a decree does not solve those fundamental tensions, indeed it can even exacerbate them. A sovereign cannot rule completely unilaterally, even the most 'powerful' of sovereigns requires supporters to enforce their decision. Building from the limitations of the 'sovereign god' without sufficient authority to act, the sovereign struggles to act unilaterally eroding the claim to be a 'god' making the sovereign a mere mortal.

The third key way the thesis unpicks Schmitt's decisionism is through the notion of citizenship. Citizenship in the Schmittian sense can be seen through the *friend enemy* dichotomy as belonging to a political grouping that are *friends* of the regime. Citizenship in the illustrations is not grounded on a truly legal basis, the law is malleable and used to the ends that regimes want but rather a political one. If 'citizens' do not support the regime or come from a background that seemingly threatens the regime they do not enjoy the same rights or privileges that other citizens who are *friends* do. However, this necessarily creates a narrow political base

filled with potential enmity leading at best to disgruntlement and at worst to outright anger and instability. If the base for *friends* becomes too narrow over time, then the original authorisation of the regime becomes increasingly challenged by the populace who are excluded from being true 'citizens'. Enmity can thus overrun the regime's ability to contain it and chip away at the sovereign's ability to effectively act undermining the notion of the sovereign god and the power of the decision.

This theoretical examination of the grounding of the decision in chapters 1,2, and 3 is illuminated via three illustrations. These illustrations focus on the key theoretical points made in the thesis, making them clearer to the reader and more real in practice. Not only this, but the illustrations provide a further insight into practical regime management techniques thought to support and maintain authoritarian regimes. These mechanisms such as coup proofing and strengthening the state's coercive apparatus to name just two do not provide stability due to them being built on an unstable foundations. The thesis approaches the use of authoritarian techniques in chapters 4,5, and 6 supposed to support regimes in the illustrations as sometimes counterproductive mechanisms exacerbating fundamental problems already existent in the regime. At best they do not solve those necessary problems and can even exacerbate regime disunity leading to confrontation with the possibility of regime breakdown resulting.

The uprisings described in the illustrations highlight the limitations of sovereign decisionism as a form of governing, both inside and outside the regimes exist key fissures. Each regime practiced different methods, different levels of coercion, had different ideologies and different types of regimes from the monarchical and religious to the secular. Despite this, in each regime there were challenges present that regimes struggled to address. This can be seen in each of the illustrations to different degrees, in Syria inside the regime there was a greater degree of homogeneity than there was in Bahrain which suffered from internal disunity. However, Syria suffered from a complete breakdown of political unity with the regime being thought of as an

internal *enemy* for much of the population. In Egypt, Mubarak retained the support of much of his inner circle but lost almost all support domestically during the uprisings. What can be seen in each of these illustrations is that rather than unity, homogeneity and a strong 'sovereign god' the regimes suffered from increased heterogeneity, disunity and a very mortal sovereign.

The thesis therefore showed four key things. First, that Schmitt envisaged the decision as part of a broader political framework. In order to fully understand the decision and its functioning, it is necessary to engage with the framework that Schmitt laid out. Second, the foundations of Schmitt's decisionism is what ultimately leads to its downfall. It is premised on an unstable set of political girders that cannot support the sovereign decision for a prolonger period. The lack of re-authorisation present leads to a sovereign being able to outlast their authority leading to a crisis evolving from the very thing that is supposed to define sovereignty. The result is the breakdown of the decision and the emergence not of a strong sovereign governing over a unified political body, but a weaker sovereign trying to mitigate political and physical battles that result from an increased heterogeneity that the regime cannot handle. The decision therefore ultimately leads to the emergence of heterogeneity, instability and the growth of internal *enemies* limiting the scope of the sovereign decision to act. These holes provide a new way for questioning Schmittian decisionism in a new and unique way.

Third, the use of 'sovereign traits' can be a useful tool to understand and interpret Schmitt's claims to sovereignty in an innovative way which reflect critical political issues grounding sovereignty in the 21st century. Thus, rather than divorcing Schmitt from modernity, this lens allows for a fresh look at Schmitt, sovereignty, and authoritarianism in the modern day. Fourth, and finally, the thesis provides a fresh analysis on authoritarian regimes in the Arab Middle East. Whilst Agamben has been used to analyse Syria, Bahrain, and Egypt, Schmitt has not been used in the Arab Middle East region. Additionally, the claims of sovereignty via this lens have not been contested in the manner that they have been in this piece of work. This thesis

shows that authoritarian regimes remain necessarily vulnerable to challenge from within and below. Even those such as Syria which have fearsome and extensive coercive state apparatus' are not invulnerable even if they remain difficult to predict where the next challenge may emerge from.

7.2. Limitations of the thesis

Despite being very proud of my thesis, there are some limitations that are present due to a variety of factors, but most importantly the time and space that was available to this project. The time being that at some point this project had to be handed in to be examined and the space requirements of 100,000 words inevitably meant a lot of cutting out of words to ensure my document met the requirements to pass. Ultimately, decisions had to be made on what were both the most important questions to be answered and what topics were the most pertinent and clear so the reader could be in little doubt what the thesis was driving out. There were several limitations to the thesis that I would like to discuss, many of these are potential avenues to future research that could be conducted in the future. Therefore, whilst there are limitations that exist in the thesis, I believe many of these could be addressed with further work conducted on areas outside of the thesis.

The first limitation was the number of countries used in the thesis. Rather than focusing on a series of countries, the thesis chose three regimes that had both similarities and differences in the region. However, there could have been a larger sample of illustrations if the thesis had been able to be more than 100,000 words. Countries such as Iran and Saudi Arabia could have been chosen and even cross-regional choices such as China and Hungary could have been considered. This would have given a wider scope on which the research could have focused on, considered different episodic events such as the Corona virus and presented unique research questions. However, the word limitations and limitations of time meant that three illustrations

was the maximum that could be researched robustly and put into the work to highlight the theoretical claims of the document. Whilst the Corona virus would have been an interesting episode, due to the timing of the thesis and the pandemic, it was not possible to consider this as a viable research option.

A second limitation of the thesis is the episodic nature of the illustrations. Rather than taking a long form view of the regimes and describing in detail the systemic problems that has affected these decisionist regimes for a prolonged period of time, the thesis decided to focus on specific episodes. Whilst this gives the illustrations a focus and clarity which is a strength, if there was more space available then a longer-term view could have been adopted. In the case of Syria, Bahrain and Egypt, this could have been strengthened by using the most recent political developments. This could have added greater strength and depth in places but may also have blurred the clarity of the argument that the document was trying to make. The illustrations were there to add clarity and to frame the theoretical argument in a physical context in order to ground it and make it more visible for the reader. In addition, by using illustrations this allowed the thesis to analyse strategies of authoritarian resilience via the Schmittian lens, giving a new frame with which to analyse them.

A third limitation of the thesis was the focusing of the illustrations in on specific areas of study such as sectarianism, ethnicity, and tribal relations. In addition, the document also decided to zero in on specific areas of governance relating to those areas such as coup proofing from regimes. This necessarily leads to a more limited analysis than if detailed analysis was conducted on a wider range of political groupings such as gender, class, and LGBTQ identities. If the document had the space, a more comprehensive and in-depth study could have been conducted on the functioning of sovereign decisionism and its effects on those communities. However, the research focused on specific episodes and had to engage with topics that best covered and fully explained the theory as a whole as opposed to microcosms of said events.

A fourth limitation is that of not including the sovereign notion of territory. Whilst Caporaso includes territory in the 'sovereign traits' he identifies this was not given a specific chapter in the thesis. Whilst issues such as 'online' and 'offline' space were addressed via questions of the internet and social media having a role in driving 'offline' activity such as protests, a wider discussion on territory was not widely addressed. Territory was considered to be less theoretically rich and not quite as important as the other 'sovereign traits' (authority, power, and citizenship) in relation to discussing Schmitt's decisionism and less functional at outlining the downfall of decisionism that was being shown. Given the space limitations, it was decided that doing three sovereign traits well, and keeping the thesis theoretically rich was better than cramming everything into 100,000 words and leaving theoretical gaps in other sovereign traits.

A potential fifth limitation could be considered at focusing solely on Schmitt rather than a broader claim on the notion of exceptional governance. There is a large literature not only on Schmitt's claims of exceptional governance but on exceptional governance itself featuring scholars such as Agamben. As stated in the introduction, there were valid reasons to focus on Schmitt; his specific vision of sovereign decisionism and the political foundation that was used was specifically thought of as an alternative to pluralistic liberal democracy in an effort to provide stability and sovereignty. The document aims to challenge that central notion. However, there are other scholars such as Agamben, who focus on other themes such as biopolitics, which could have added theoretical depth to analyse the weakness of sovereign decisionism. Due to the word restrictions and maintaining a focus on Schmitt whilst illustrating those claims, it was not possible to include other important scholars in the overall analysis such as Agamben. However, there is scope for future research in this area that the document sets up.

7.3. Future areas of research

There are some particular areas of future research that may be useful. This project opens a new perspective on researching Schmittian decisionism, bringing together areas that are not usually combined as well as using illustrations that have rarely been looked at (if they ever have) through this theoretical lens. Despite this, there are still many more areas of potential research that could be explored beyond what this research has managed to do. The theoretical framework could be applied to other sovereign decisionist countries in the region such as Iran, Saudi Arabia. This could provide a fresh perspective on authoritarian techniques in those countries by using this theoretical lens. In addition, the framing could also be used to analyse sovereign decisionism further afield to other countries such as China and Hungary where there is an increasing interest in the use of the decision.

Furthermore, there could be additional research conducted on different areas where the decision may affect political relationships. Because of space, or rather the lack of it, the thesis focused in on key issues which were deemed both especially pertinent to the study but also most clearly highlighted the theoretical elements at play in the illustrations. However, there are many additional areas such as class, gender, race, and LGBTQ that could be used both in relation to sovereign decisionism in different countries. This could provide a fresh perspective on political relations in different countries which practice sovereign decisionism and a deeper understanding of political relations in these categories.

Not only this, but theoretical analysis of the political foundations of the decision could be used as a tool for political orders at large. These theoretical foundations do not necessarily only apply to sovereign decisionism but to politics in general across a variety of regime types. The discussion in the thesis on the role of enmity, the *friend-enemy* dichotomy and the role of unity is not moored to sovereign decisionist regimes but can apply to different types of authoritarian

and democratic regime types. Specific areas of future research could be the politics associated with the war on terror in the United States and the prevent framework in the United Kingdom. This framework could also be applied to analysing narratives applied to immigration from nationalist parties across Western Europe too.

Finally, a future area of research can be applying this framework to a broader range of emergency measures. This thesis focuses on Carl Schmitt's decisionism, however there is a large range of scholars such as Agamben who also write about sovereign exceptionalism. The political framework discussed in the thesis could be applied more broadly to other scholars' theories on exceptional governance. This is a line of research that could open exciting avenues to discuss more broadly the theories of exceptional governance in relation to other scholars.

The thesis has shown that there are significant limitations to the claims of sovereign decisionism in relation to sovereignty. It has sought to both fully understand the claim that the sovereign is '*he who decides on the exception'* but also fully unpick that claim. Rather than the sovereign being the one who decides on the exception, the thesis highlights the dynamic nature of sovereignty that cannot be founded in the practice of the decision. Rather than creating a stable premise of sovereignty, the political components of Schmitt's decisionism heighten the potential for dynamism and political fluidity in a conception of sovereignty. Thus, rather than a static political relation between the sovereign and the citizen resulting in a concrete effect, the result of Schmittian sovereignty is an ever changing, ever challenging scenario for the sovereign presenting a multitude of challenges they cannot always control or effect. The sovereign is as a result, not he who decides on the exception.

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