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***The Rights of Sovereignty and the Exercise Thereof: Civil Law
Origins of a Public Law Distinction***

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The author

Daniel Lee (M.Phil. Oxford; Ph.D., Princeton) is Assistant Professor of Political Science at the University of Toronto. He was previously a Fellow of the Columbia Society of Fellows and a Prize Fellow in political theory at the Princeton University Center for Human Values. His current research concerns the reception of Roman private law in later medieval and early modern jurisprudence and the influence of these juristic models and idioms on political theories of sovereignty, rights, constitutionalism, and statehood, especially in the political thought of Jean Bodin and Hugo Grotius. His recent work in these areas has been published in *History of Political Thought*, *Journal of the History of Ideas*, *Review of Politics*, and *Politica Antica*. He has also contributed chapters to several forthcoming edited volumes by Cambridge University Press. Daniel Lee was awarded the Leo Strauss Award in Political Philosophy by the American Political Science Association in 2011.

The paper

The paper for this seminar will focus on a distinction that was crafted by Jean Bodin in his well known analysis of sovereignty in the *Six Books of the Commonwealth* – i.e., the distinction between the legal ‘right’ of sovereignty, on the one hand, and the factual ‘use,’ ‘enjoyment,’ or ‘exercise’ of sovereign power, on the other hand. The distinction is important for Bodin, because it enables him to explain why civil sovereignty does not have to be exercised directly by the bearer of sovereign right, but rather, may be exercised indirectly by concessive grant through the agency of others, such as magistrates, without compromising the unity of the state. This paper will try to position this aspect of Bodin’s analysis within the broader context of some French legal humanists such as Alciato and Donellus whose dicta on the ‘right’ and ‘exercise’ of proprietary rights provided a useful conceptual grammar to model what he viewed to be the proper jural relationship between sovereignty and the political class of officialdom in the well-ordered state.

Related Literature

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--. "Rise of Legal History in the Renaissance." *History and Theory* 9 (1970). Martin Loughlin, *Foundations of Public Law* (Oxford, 2010)
Peter Stein, *Roman Law in European History* (Cambridge, 1999)
Franz Wieacker, *History of Private Law in Europe*, trans. Tony Weir (Oxford, 1995)