

# Carl Schmitt, “The Legal Basis of the Total State” (1933)

## Abstract

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Carl Schmitt (1888–1985) was a Prussian state councilor and a leading professor of international and public law. Schmitt worked hard during his career to describe the legality of a total state that exercised arbitrary power and defied the rule of law. Here, he is justifying the “concept of leadership” [*Führertum*] and the “leadership principle” [*Führerprinzip*] as major forces behind the total state. This document is infused with fascist notions of the role of the state. The idea that the state should never operate on an abstract level, but rather through concrete action that works to unify its people is central to Schmitt’s argument. Further, ethnic, religious, and class plurality and equality are seen as the greatest ills of society. For Schmitt, the total state, and by extension National Socialism, have “the courage to treat unequally what is unequal and enforce necessary differentiations.” These quasi-legal justifications for the authoritarian state constructed by the Nazis are important because they reflect a wider understanding of fascism and its supposed superiority over other ideologies.

## Source

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[...]

National Socialism does not think in abstractions and clichés. It is the enemy of all normative and functionalist ways of proceeding. It supports and cultivates every authentic substance of the people wherever it encounters it, in the countryside, in ethnic groups [*Stämme*] or classes. It has created the Hereditary Farm Law; saved the peasantry; purged the Civil Service of alien [*fremdgeartet*] elements and thus restored it as a class. It has the courage to treat unequally what is unequal and enforce necessary differentiations. [...] In a different way, but out of the same awareness of the specific properties of what has its own organic development, National Socialism is able to do justice to the concrete differences between the village, rural town, industrial community, city, and metropolis in the sphere of communal autonomy without being impeded by the erroneous concepts of equality imposed by a liberal democratic scheme of things.

The recognition of the plurality of autonomous life would, however, immediately lead back to a disastrous pluralism tearing the German people apart into discrete classes and religious, ethnic, social, and interest groups if it were not for a strong state which guarantees a totality of political unity transcending all diversity. Every political unity needs a coherent inner logic underlying its institutions and norms. It needs a unified concept which gives shape to every sphere of public life. In this sense too there is no normal State which is not a total State. The more varied the points of view which dictate regulations and institutions of the different spheres of life on the one hand, the more clearly a uniform, cogent, overriding principle must be recognized and adhered to on the other. Every uncertainty and dichotomy become the source of forces that start out as neutral towards the State and then become antagonistic to it, and hence the focus for pluralistic fragmentation and disintegration. A strong State is the precondition for the strong and autonomous vitality of its diverse constituent parts. The strength of the National Socialist State lies in the fact that it is from top to bottom and in every atom of its existence ruled and permeated with the concept of leadership [*Führertum*]. This principle, which made the movement strong, must be carried through systematically both in the administration of the State and in the various spheres of self-government, naturally taking into account the modifications required by the particular area in question. But it would not be permissible for any important area of public life to operate independently from the Führer concept.

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