



## De la fondation à la conservation de l'État de droit

La notion de violence chez Schmitt et Benjamin

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**Abstract:** During the Weimar period, Carl Schmitt and Walter Benjamin posed the question of the origin of the political-legal order, as well as that of its preservation. Both authors seem to agree on the fact that the foundation of the rule of law is always the result of an act of violence. While Benjamin characterizes this inaugural act as “law-making violence”, Schmitt supports the idea that there is an elementary “political decision”, incumbent upon the constituent power, which is at the root of every legal order. Initially taking the form of emergency measures, violence would thereafter establish itself as “law-preserving”, and would from then on seek to maintain the established state order. This article aims to illuminate the importance of the concept of violence in the reflections developed by these two German thinkers during the 1920s.

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Journal article: [Previous](#) 5/13 [Next](#)

