



NOMOS
Le attualità nel diritto



Quadrimestrale di teoria generale, diritto pubblico comparato
e storia costituzionale

THE PREREQUISITE TO DEMOCRACY

ABSTRACT

di Dieter Grimm*

Modern constitutionalism emerged toward the end of the 18th century in North America as a particularly ambitious way to submit political power to law. It expanded in the 19th century and was almost universally adopted after many battles, backlashes and detours at the end of the 20th century. But alongside its exterior success an internal erosion can be observed. Conceived for a liberal state, it was exposed to challenges when the liberal state was transformed into a welfare state. Constitutionalism was confronted with an even greater challenge when the century-long identity between public power and state power came to an end and states began to transfer parts of their public powers to international organizations that exercise these powers regardless of the national constitutions. This could not leave the national constitution unaffected that claimed to regulate state power comprehensively. Hence, one of the great questions of our time is whether and how the achievement of modern constitutionalism can be extended to the international level or whether new forms of legitimating and regulating international public power will emerge over time.

* Professore emerito di Diritto costituzionale presso la facoltà di Giurisprudenza dell'Università Von Humboldt di Berlino, già giudice emerito del Tribunale costituzionale federale tedesco e già Rettore del Wissenschaftskolleg zu Berlin.