A State Built on Consent? The Complex Nature of the Nineteenth-Century Constitutional State and a Hypothesis Concerning the Rule of Law

This paper is an attempt to present the complex theoretical model of the constitutional state in the nineteenth century. Its main structural elements result from the application of three principles in the state-creation process: the principle of sovereignty, the rule of law, and the principle of political compromise. The rule of law is discussed in more detail because of its fuller and wider application for nineteenth-century statehood. The hypothesis formulated in this article is that the rule of law requires the existence of “good society” and is thus a political project that is constantly burdened with risks. The article presents arguments that show the reasonableness of the hypothesis and its risky nature.

Keywords: state, constitution, constitutional state, revolution, reformation, sovereignty, law, modernization