

Contents

1	The Forge of Constitutionalism	1
1.1	Constitutionalism: A Definition	2
1.2	The Contribution of Ancient Constitutionalism: Jusnaturalism, Mixed Government, and Contractarianism	3
1.3	The Doctrine of Sovereignty and the Foundation of the Nation State in the Modern Age	9
1.4	The Minority Paths of Constitutionalism in the Age of Absolute Sovereignty	15
	References.....	17
2	Achievements: Constitutionalism in the Age of the Modern Revolutions	19
2.1	Triggering the Constitutional Experience.....	21
2.2	The Origins of English Constitutionalism.....	22
2.3	The Foundation of Constitutionalism in Great Britain: Republicanism and Liberalism.....	26
2.4	The First and Second English Revolutions: The Settlement of the Constitutional Monarchy	28
2.5	The Bill of Rights of 1689 and the Rights of First Generation	32
2.6	American Constitutionalism: Foundations.....	36
2.7	The American Revolution	37
2.8	From Independence to the Philadelphia Convention: The Revolutionary Decade	41
2.9	The Philadelphia Convention.....	43
2.10	The Federal Constitution	44
2.11	The Ratification Process and the Bill of Rights	58
2.12	The Emergence of the Judicial Review of Legislation.....	60
2.13	Constitutionalism in the French Revolution: Historical and Theoretical Premises	63
2.14	The Summer of 1789: From the Constituent Assembly to the Declaration of Rights.....	66
2.15	1789–1799: French Revolutionary Constitutions.....	71
2.16	Western Constitutional Traditions: Convergence or Divergence?	75
	References.....	79
3	The Different Paths of Western Constitutional Law in the Nineteenth Century	81
3.1	Constitutionalism in the Liberal State.....	82
3.2	British Evolutionary Constitution: From the Constitutional Monarchy to Parliamentary Government.....	84
3.3	The Progress of American Constitutional Law in the Nineteenth Century: From the Early Republic to the Civil War	87
3.4	Liberal Constitutionalism in Nineteenth Century Europe.....	93

3.5	European Constitutions of the Liberal Age	97
3.6	The Development of Public Administration in the Liberal State	104
3.7	Principle of Legality and Rule of Law	107
	References.....	112
4	Constitutionalism in the Age of Democratization	115
4.1	Constitutionalism and Democracy at the Beginning of the Twentieth Century	116
4.2	The Evolution of the American Constitution	118
4.3	The United Kingdom Between the Two World Wars.....	126
4.4	The Irish Independence and the Constitution of 1937	130
4.5	European Constitutions in the Aftermath of the First World War	132
4.6	A European Invention: The Centralized Review of the Legislation	136
4.7	The Weimar Constitution.....	140
4.8	Toward the Catastrophe.....	145
	References.....	148
5	Framing Constitutional Democracy: The Anglo-American Experience	151
5.1	From the British Colonial Empire to the Commonwealth.....	152
5.2	The Constitutional Order of Canada.....	154
5.3	The Constitutional Orders of Australia and New Zealand.....	157
5.4	The Evolution of the British Constitution Between the Human Rights Act, Devolution, and Constitutional Reform Act.....	162
5.5	The United States Constitution, from Post-world War II Until Modern Times	172
	References.....	188
6	Framing Constitutional Democracy: The European Experience	191
6.1	A New Beginning: Liberal-Democratic Constitutions in Europe	192
6.2	The General Features of Contemporary European Constitutionalism.....	195
6.3	The Italian Constitution of 1948.....	213
6.4	The German Basic Law of 1949.....	220
6.5	The French Fifth Republic Constitution (1958)	230
6.6	The Consolidation of Constitutional Democracy in Europe: Democratic Transitions in Greece, Portugal and Spain.....	241
	References.....	249
7	The European Constitutional Space: The European Convention on Human Rights and the European Union	253
7.1	The Transformations of International Law in the Post Second World War.....	255
7.2	From the Open Constitutional State to the European Constitutional Space.....	260
7.3	The European Convention on Human Rights: (a) The Catalogue of Rights and the Court of Strasbourg.....	262
7.4	The European Convention on Human Rights: (b) The Relevance of the Convention in Domestic Legal Orders	267
7.5	The European Union: Origins of the Integration Process	272

7.6	The New System of the Treaties and the Ambivalent Identity of the EU.....	273
7.7	The “Democratic Life” in the Union and the Institutional Framework of the EU	275
7.8	The Sources of Law of the European Union and their Effects in Domestic Legal Orders	282
7.9	The Court of Justice of the European Union	287
7.10	The Protection of Fundamental Rights in the European Union	290
7.11	The European Union Between Integration and Resistance	294
	References.....	297
8	The Worldwide Expansion of Constitutional Democracy	299
8.1	Trends of Expansion	300
8.2	Decolonization and Constitutionalism in Asia	301
8.3	Decolonization and Constitutionalism in Africa	307
8.4	Constitutionalism in Latin America.....	309
8.5	The Ambivalent Expansion of Constitutionalism in Eastern and Central Europe After the Fall of Communism	315
8.6	Western Constitutionalism in the Global Landscape.....	318
	References.....	322