

Contents

1	The Forge of Constitutionalism: Rediscovering the Heritage of Resistance Against Political Power	1
1.1	Constitutionalism: A Definition.....	2
1.2	The Contribution of Ancient Constitutionalism	3
1.3	The Foundation of the Nation State in the Modern Age	9
1.4	The Minority Paths of Constitutionalism in the Age of Absolute Sovereignty	14
	References.....	16
2	Achievements: Constitutionalism in the Age of the Modern Revolutions	17
2.1	Triggering the Constitutional Experience.....	19
2.2	The Origins of English Constitutionalism, Between Political Struggle and Legal Structure	19
2.3	The Rediscovery of Constitutionalism in English Thought: Republicanism and Liberalism	23
2.4	The First and the Second English Revolution: The Settlement of the Constitutional Monarchy.....	25
2.5	The Bill of Rights of 1689 and the Origins of the Constitutional Guarantee of Individual Rights	28
2.6	American Constitutionalism: Foundations.....	31
2.7	The American Revolution	33
2.8	From Independence to the Philadelphia Convention: The Revolutionary Decade.....	35
2.9	The Philadelphia Convention.....	36
2.10	The Federal Constitution	38
2.11	The Ratification Process and the Bill of Rights	47
2.12	The Settlement of the Judicial Review of Legislation.....	49
2.13	Constitutionalism and the French Revolution: Historical and Theoretical Premises	52
2.14	From the Pallacorda Oath to the Declaration of Rights.....	54
2.15	Constitutional History of the French Revolution	58
2.16	Western Constitutional Paths: Convergence or Divergence?	61
	References.....	64
3	The Different Paths of Western Constitutional Law in the 19th Century	65
3.1	Constitutionalism and the Liberal State.....	66
3.2	The English Conventional Constitution: From a Constitutional Monarchy to a Parliamentary Government.....	67
3.3	The Progress of American Constitutional Law in the 19th Century. From the Early Republic to the Civil War	70

3.4	Liberal Constitutionalism in the 19th Century Europe	74
3.5	The Development of Public Administration in the Liberal State.....	82
3.6	Principle of Legality and Rule of Law.....	84
	References.....	89
4	Constitutionalism in the Age of Democratization.....	91
4.1	Constitutionalism and Democracy at the Beginning of the 20th Century.....	92
4.2	The Evolution of the American Constitution	93
4.3	The United Kingdom Between the Two World Wars.....	99
4.4	The European Constitutions Between Democratization and Rationalization of the Parliamentary Government	102
4.5	A European Invention: The Centralized Review of the Legislation.....	104
4.6	The Weimar Constitution.....	107
4.7	Toward the Catastrophe.....	111
	References.....	114
5	Analyzing the Pattern of Constitutional Democracy: The Anglo-American Experience	115
5.1	Constitutional Democracy After the Second World War	116
5.2	The Constitutional Orders of Canada, Australia and New Zealand	118
5.3	English Constitutionalism Between the Devolution and the Constitutional Reform Act.....	125
5.4	The United States of America from Post-World War II Until Modern Times	132
	References.....	142
6	Analyzing the Pattern of Constitutional Democracy: The European Experience	145
6.1	A New Beginning: Contemporary Constitutionalism in Europe.....	146
6.2	The General Features of European Contemporary Constitutionalism	148
6.3	The Italian Constitution of 1948	163
6.4	The German Basic Law of 1949.....	169
6.5	The French Fifth Republic Constitution (1958)	178
	References.....	186
7	From the Open Constitutional State to the European Constitutional Space.....	187
7.1	Toward a European Constitutional Space	188
7.2	The European Convention on Human Rights and its Relevance in the National Legal Orders.....	192
7.3	The European Court of Strasbourg and the Increasing Role of Judicial Dialogue, as a Driver of Global Constitutionalism	199
7.4	The European Union: Historical Origins.....	202

7.5	The New System of the Treaties and the Ambivalent Identity of the EU	202
7.6	The “Democratic Life” and the European Institutional Framework.....	204
7.7	Sources of Law of the EU Legal Order.....	209
7.8	The Court of Justice of the European Union	213
7.9	The Protection of Fundamental Rights in the European Union.....	215
7.10	The European Constitutional Space Between Integration and Resistances.....	220
	References.....	222
8	The Worldwide Expansion of Constitutional Democracy	225
8.1	Trends of Expansion	226
8.2	The Expansion of Constitutionalism in Western Europe	227
8.3	Decolonization and Constitutionalism in Asia.....	232
8.4	Decolonization and Constitutionalism in Africa.....	238
8.5	Constitutionalism in Latin America	239
8.6	The End of Communism and the Ambivalent Expansion of Constitutionalism in East-Central Europe.....	242
8.7	The Tradition of Western Constitutionalism in the Global Landscape	246
	References.....	249