

# Contents

<i>Preface: A Constitution in Search of a Nation</i> .....	v
<i>Table of Cases</i> .....	xv
<i>Table of Legislation</i> .....	xxi

<b>1. CONSTITUTIONAL PRINCIPLES: A HISTORICAL AND SOCIOLOGICAL ACCOUNT</b> .....	1
PART I: THE HISTORICAL BACKGROUND OF THE CONSTITUTION .....	1
PART II: NATIONAL SOVEREIGNTY AND A 'MUZZLED' KING .....	8
A. National Sovereignty .....	9
B. A Parliamentary Monarchy: The King's Powers Limited .....	14
PART III: THE TRANSFORMATION OF THE UNITARY DECENTRALISED STATE INTO A FEDERAL STATE: SIX IMPORTANT STATE REFORMS .....	15
A. Before 1970 .....	18
B. The 1970 Reform: The Foundations of the New State .....	25
C. The 1980 Reform: The Regions Come Alive .....	26
D. The 1988 Reform: The Creation of the Brussels-Capital Region .....	27
E. The 1993 Reform: Federalism at Last .....	28
F. The 2001–2003 Reform: Without Modifying the Constitution .....	29
G. The 2012–2013 Reform: A Long Journey to ... ..	31
Conclusion .....	32
Further Reading .....	33
<b>2. THE FUNDAMENTAL PRINCIPLES OF THE BELGIAN CONSTITUTION</b> .....	35
PART I: CONSTITUTIONALISM .....	37
A. The Constitution .....	37

B. The Rechtsstaat.....	46
C. The Separation of Powers .....	58
PART II: THE DEMOCRATIC PRINCIPLE.....	64
A. Constitutional Concepts of Democracy.....	64
B. Challenges.....	66
PART III: FEDERALISM AND MULTILEVEL GOVERNANCE.....	67
Conclusion.....	69
Further Reading.....	70
<b>3. FEDERALISM AND THE MULTILEVEL STRUCTURE OF GOVERNMENT .....</b>	<b>71</b>
PART I: FEATURES .....	71
A. General Features.....	72
B. Particular Features .....	75
C. Future Prospects.....	85
PART II: ALLOCATION OF COMPETENCES .....	89
A. Residual Powers .....	90
B. Techniques for the Allocation of Powers.....	90
C. Processes for Changing the Distribution of Powers.....	91
PART III: SUBNATIONAL CONSTITUTIONALISM.....	94
PART IV: BRUSSELS .....	97
PART V: BELGIUM IN THE EUROPEAN UNION.....	100
A. Constitutional Hubs for European Integration.....	101
B. Capturing Tri-Level Dynamics in the Constitutional System.....	103
Conclusion.....	104
Further Reading.....	105
<b>4. THE LEGISLATIVE BRANCH .....</b>	<b>107</b>
PART I: PARLIAMENTARY GOVERNMENT AND POLITICAL PARTIES.....	107
A. The Crucial Role of Political Parties in the Belgian System of Parliamentary Government.....	107
B. Status and Financing of Political Parties .....	109
PART II: THE ELECTORAL SYSTEM .....	112
A. Voting Rights and Quotas.....	112
B. Principles of the Electoral System .....	113
PART III: BICAMERALISM .....	116

PART IV: FUNCTIONS .....	119
A. The Legislative Function.....	120
B. The Power of the Purse.....	125
C. Parliamentary Control.....	128
D. Foreign Affairs and Military Matters.....	129
PART V: MEMBERS OF PARLIAMENT:	
LEGAL STATUS .....	131
PART VI: DISSOLUTION OF PARLIAMENT .....	136
PART VII: PARLIAMENT AND EUROPEAN	
INTEGRATION.....	137
Conclusion.....	139
Further Reading.....	140
<b>5. THE EXECUTIVE POWER AND</b>	
<b>ADMINISTRATION.....</b>	<b>143</b>
PART I: THE KING AS HEAD OF THE	
EXECUTIVE POWER .....	143
PART II: GOVERNMENT AS THE HEART	
OF THE EXECUTIVE.....	148
A. Council of Ministers (The Federal Cabinet).....	149
B. Council of Ministers and State Secretaries.....	153
C. The Inner Cabinet ( <i>Het Kernkabinet</i> ).....	154
D. The Crown Council.....	155
PART III: COMPETENCES.....	155
A. Nomination of Ministers, Secretaries of	
State and Civil Servants .....	156
B. Execution of Laws.....	158
C. Foreign Affairs.....	160
D. Defence.....	162
PART IV: LEGAL STATUS.....	163
A. The King.....	163
B. The Ministers and the Secretaries of State.....	166
PART V: POLITICAL AND LEGAL	
ACCOUNTABILITY .....	170
PART VI: ADMINISTRATION AND	
PUBLIC SERVICES.....	173
PART VII: CURRENT AFFAIRS .....	176
Conclusion.....	179
Further Reading.....	179

<b>6. THE PLURALISTIC JUDICIAL SYSTEM AND THE CONSTITUTIONAL COURT</b> .....	181
PART I: CONSTITUTIONAL PRINCIPLES.....	181
A. Constitutional Principles and the Court System.....	181
B. Constitutional Principles of Due Process.....	186
PART II: THE CONSTITUTIONAL COURT.....	192
A. Establishment and Development .....	192
B. Composition.....	199
C. The Powers and Procedures of the Court .....	201
D. The Role of the Constitutional Court .....	203
PART III: THE COURTS AND EUROPEAN INTEGRATION.....	213
Conclusion.....	218
Further Reading.....	220
<b>7. FUNDAMENTAL RIGHTS</b> .....	223
PART I: AN OUTDATED CATALOGUE OF FUNDAMENTAL RIGHTS? .....	223
A. The Emergence of New Rights.....	225
B. The Internationalisation of Fundamental Rights.....	227
C. Horizontal Effect of Fundamental Rights.....	230
PART II: THE BELGIAN FORMAL APPROACH TO FUNDAMENTAL RIGHTS.....	232
A. A Legal Basis for Restrictions Through Acts of Parliament .....	233
B. No Prior Intervention .....	236
C. Looking at Fundamental Rights Through the Prism of Equality .....	238
PART III: THE EUROPEAN CONTRIBUTION TO FUNDAMENTAL RIGHTS.....	240
A. The European Convention on Human Rights .....	240
B. EU Law.....	244
PART IV: CONCURRING FUNDAMENTAL RIGHTS.....	246
PART V: THE PROBLEM OF LINGUISTIC RIGHTS: A <i>CASUS BELLI</i> ? .....	250
PART VI: NEW CHALLENGES TO FUNDAMENTAL RIGHTS PROTECTION.....	253
Conclusion.....	258
Further Reading.....	259

**CONCLUSION: NO FUTURE FOR BELGIUM  
OR A BELGIAN BLUEPRINT FOR THE FUTURE?..... 261**

ECONOMIC CONTEXT ..... 261

DEMOGRAPHIC CONTEXT ..... 264

EUROPEAN INTEGRATION ..... 265

A FUTURE FOR BELGIUM? ..... 266

  

*Index*..... 269