

Contents

<i>Acknowledgements</i>	<i>vii</i>
<i>Table of Cases</i>	<i>xv</i>
<i>Table of Legislation</i>	<i>xxi</i>
1. The Making of the Italian Constitution and its Evolution.....1	
I. Introduction.....	1
II. The Albertine Statute.....	3
III. The Fascist Regime, the Second World War and the Transition to the Republic (1922–1945)	6
IV. The Constituent Assembly (1946–1948)	8
V. The Rigidity of the Republican Constitution.....	11
VI. Procedures for and Limits on Constitutional Amendments.....	15
VII. The Most Important Constitutional Amendments	18
VIII. The Evolution of the Italian Republican Constitution	20
A. The First Phase (1948–1992): A Republic Ruled by Political Parties	20
B. The Second Phase (1993–2013): In Search of a Majoritarian Democracy	22
C. The Third Phase (2013–2021): A Republic with a De-institutionalised Party System?.....	24
IX. Conclusion.....	25
Further Reading.....	26
2. The Italian Constitution within the ‘Composite’ European Constitution	
I. Introduction.....	27
II. Openness to the International Order and its Foundations	28
III. The Constitutional Principles on International Law	30
IV. The ‘European Journey’ of the Constitutional Court	33
V. The ‘Counter-limits’ Doctrine	37
VI. The European Convention of Human Rights in the Italian Legal System	39

VII. Constitutional Rules and Practice of Implementing EU Law.....	41
A. The Government's Duty to Inform and the Parliamentary Scrutiny Reserve	42
B. The Early Warning Mechanism and the Political Dialogue in the EU.....	43
C. The Role of the Italian Parliament in Implementing EU Measures	44
VIII. Conclusion.....	44
Further Reading.....	45
 3. Popular Sovereignty and Separation of Powers.....	46
I. Introduction.....	46
II. The Democratic Principle in the Italian Constitution: The Right to Vote and to be Elected	48
III. Direct Democracy: The Abrogative Referendum and its Different Usages.....	50
IV. Representative Democracy: The Electoral System and its Evolution	55
A. An Electoral Law Written by the Parties: The Proportional System (1948–1993)	55
B. An Electoral Law Written by the People: The Majoritarian System (1993–2005)	56
C. An Electoral Law Written by the (Centre-right) Majority: The Majority Bonus (2005–2013)	59
D. An Electoral Law Written by the Constitutional Court? (2014–2017).....	60
V. Conclusion.....	65
Further Reading.....	67
 4. Parliament.....	68
I. Introduction.....	68
II. The Italian Parliament in the Constitution	69
III. A Symmetrical Bicameralism	70
IV. The Internal Organisation of the Chamber and the Senate	72
V. Privileges and Immunities of MPs.....	76
VI. Parliamentary Rules of Procedure.....	80
VII. The Legislative Process	82
VIII. The Budgetary Process	86

IX. The Oversight Function.....	88
X. Conclusion.....	90
Further Reading.....	91
5. The Government: Between Politics and Administration	92
I. Introduction.....	92
II. The Structure of the Government	93
A. The Essential Bodies	93
B. The Non-essential Bodies.....	96
C. Members of the Government, Members of Parliament	98
III. The Confidence Relationship with the Two Houses of Parliament.....	98
A. The Motion of Confidence.....	99
B. The Motion of No Confidence.....	100
C. The Motion of No Confidence in a Single Minister	100
D. The Question of Confidence	102
IV. The Primary and Secondary Normative Powers of the Government.....	104
A. Decree-laws	105
B. Legislative Decrees.....	108
C. Regulations	111
V. The Distinction between Politics and Administration	112
VI. The Constitutional Principles on Public Administration....	114
VII. The Auxiliary Bodies and the Independent Authorities.....	116
VIII. Conclusion.....	118
Further Reading.....	120
6. The President of the Republic	121
I. Introduction.....	121
II. Election, Term of Office and Substitution	122
III. The Responsibility of the President of the Republic.....	123
IV. The Counter-signature and the Classification of the Acts of the President of the Republic	126
A. Formally Presidential, but Substantively Governmental, Acts	127
B. Fully (Both Formally and Substantively) Presidential Acts	129
C. Complex (or Dual) Acts: Appointment of the Government and Dissolution of the Parliament	131

V. The Shaping of the Role of the President of the Republic Throughout the Constitutional Experience	135
VI. Conclusion.....	137
Further Reading.....	138
7. Regional and Local Government.....	139
I. Introduction.....	139
II. Origins and Evolution of the ‘Republic of Autonomies’.....	141
III. The Constitutional Framework and its Delayed Implementation.....	144
IV. Special and Ordinary Regions.....	146
V. The Direct Election of the Presidents of the Regions and Statutory Autonomy	149
VI. The Distribution of Legislative Competences between the State and Regions	150
VII. Administrative Autonomy and the Principles of Subsidiarity and Loyal Cooperation.....	154
VIII. Financial Autonomy	158
IX. Local Authorities.....	160
X. Conclusion.....	162
Further Reading.....	163
8. The Judiciary	164
I. Introduction.....	164
II. The Evolution of the Judicial Function	165
III. The Separation of Powers and Judicial Independence.....	168
A. External Independence: The High Council of the Judiciary	169
B. Internal Independence: Appointment, Tenure and Absence of Hierarchy	172
IV. The Organisation of the Judiciary	176
A. The Principle of Unity of Jurisdiction and Special Judges.....	176
B. Administrative Courts: A Dual System	178
C. Judges and Public Prosecutors	180
V. Judicial Responsibility.....	181
VI. Conclusion.....	184
Further Reading.....	185

9. The Constitutional Court	186
I. Introduction.....	186
II. Historical Background	187
III. The European Model of Constitutional Adjudication	189
IV. The Constitutional Court: Composition and Functions....	190
A. Special Judge	190
B. Specialised Body	192
C. Centralised Body	192
V. The Court's Delayed Establishment and First Years of Activity: Reviewing Fascist Legislation	193
VI. A Variety of Remedies.....	196
VII. The Incidental Procedure and the Relationship with Ordinary Courts	199
VIII. The Constitutional Court and European Courts	202
IX. The Relational Character of Italian Constitutional Adjudication and Internal Collegiality	205
X. Conclusion.....	207
Further Reading.....	208
10. Protection of Rights	209
I. Introduction.....	209
II. The Evolution of Constitutionalism and the ‘Age of Rights’	210
III. Inviolable Rights	212
IV. The Italian Approach to Fundamental Rights: Personalism, Pluralism and Solidarity	214
V. Codified Rights and New Rights.....	218
VI. Limiting Rights	221
VII. Judicial and Non-judicial Safeguards	225
VIII. Key Rights	230
A. Citizens and Migrants.....	230
B. Freedom of Religion	234
C. Social Rights.....	239
IX. Conclusion.....	243
Further Reading.....	244
Index	245