

Contents

<i>Preface</i>	<i>vii</i>
<i>Acknowledgements</i>	<i>xi</i>
<i>Table of Legislation</i>	<i>xvii</i>
<i>Table of Conventions, Treaties etc</i>	<i>xxxi</i>
<i>Documents from the Communist Party of the Soviet Union</i>	<i>xxxi</i>
1. Introduction.....	1
I. Whose Constitutionality?.....	1
II. Overview of Russia.....	3
III. The Cultural Approach to Law.....	5
IV. Conclusion.....	9
2. Historical Background to the 1993 Constitution.....	11
I. Introduction.....	11
II. Before the Empire.....	11
A. The 'Period of the Independent Principalities'.....	11
B. The Mongol Invasion: Autocracy Takes Root.....	13
C. Centralisation.....	14
III. The Tsar as Emperor.....	16
A. The Romanovs and the Growth of Absolutism.....	16
B. Failed Reform under Anna.....	19
C. Enlightenment Ideas But Not Reality?: Catherine II.....	19
D. Reaction and Reform Proposals.....	21
E. Bureaucracy and Private Law Reform.....	22
F. Serf Emancipation and Legal System Reform.....	23
G. Reaction and Repression.....	24
H. Reluctant Reform: 1905–06.....	25
I. The Imperial Legacy.....	27
IV. End of Empire and Establishing Soviet Power.....	29
A. Creating the Soviet State.....	29
B. Marxist Theory on State and Law.....	31
C. The Function of a Soviet Constitution.....	33
D. The Soviet Law on Individual Rights.....	35
V. Perestroika: A Time of Change.....	38
VI. The USSR Disintegrates.....	43
A. The End of the Soviet Experiment.....	43

VII.	Russian Developments.....	45
	A. Yel'tsin Comes to the Fore	45
	B. Russia's Declaration of State Sovereignty, 12 June 1990.....	45
	C. Independent Russia	48
VIII.	Conclusion	49
3.	Genesis and Overview of the 1993 Constitution of the Russian Federation: The Constitution's Creation and General Schema.....	51
	I. Introduction.....	51
	II. The Genesis of the 1993 Constitution	52
	A. Draftsmen Get to Work	52
	B. Dénouement	58
	III. Overview of the Contents of the Constitution	61
	A. Introduction.....	61
	B. Structure	62
	i. Preamble.....	62
	ii. Section I: Chapters 1 to 9 – Order of Exposition.....	62
	iii. Section II: Concluding and Transitional Provisions	63
	C. Constitutional Amendment	64
	D. Chapter 1: Foundations of the Constitutional System	70
	E. Chapter 2: Individual Rights in the Constitution	75
	F. Chapters 3 and 8: Federal Russia.....	75
	i. Russia's Federal Heritage.....	75
	ii. Federative Relations in Independent Russia	77
	G. Chapters 4–7: The Federal Agencies of State Power.....	80
	IV. Conclusion	80
4.	The President	82
	I. Introduction.....	82
	II. The First Russian Presidency	82
	III. The Presidency under the 1993 Constitution	86
	A. Legislative Provisions.....	86
	B. Requirements for Office.....	89
	C. Term of Office	91
	IV. Presidential Powers.....	95
	A. Introduction.....	95

B.	Defining Fundamental Directions of Activity.....	95
C.	Formation of the Executive	99
D.	Supervision and Oversight	107
E.	Implied and Additional Powers.....	109
V.	Accountability	110
A.	Election.....	110
B.	Immunity	112
C.	Impeachment.....	113
VI.	Conclusion	114
5.	The Legislature: Legislation But Ineffective Representation?	117
I.	Introduction	117
II.	Establishing a Multi-party Legislature.....	117
A.	Perestroika Reforms.....	117
B.	Current Representation.....	118
i.	Formation of the Duma	120
ii.	Formation of the Federation Council.....	123
C.	Political Parties in Russia	126
D.	Regional Legislatures	129
III.	Law-Making by the Federal Assembly	130
IV.	The Federal Assembly's Other Powers.....	135
V.	Reform Proposals	142
VI.	Conclusion	144
6.	The Government and Other Agencies.....	145
I.	Introduction	145
II.	Establishing the Government.....	145
III.	Government Accountability	151
IV.	Regional Government	153
V.	Institutions Supporting Governance	160
A.	The State Council.....	160
B.	The Public Chamber and Other Social Oversight Agencies.....	164
VI.	Conclusion	170
7.	Courts and Judges	172
I.	Introduction	172
II.	Russia's Courts.....	172
A.	Constitutional Provisions on Courts.....	172

B.	Constitutional Court Control	178
i.	Abstract Review (Article 125(2)).....	183
ii.	Resolution of Separation of Power Issues (Article 125(3))	184
iii.	Reference from a Specific Case (Article 125(4))	184
iv.	Authoritative Interpretation of the Constitution (Article 125(5))	185
v.	Presidential Impeachment Proceedings (Article 125(7))	187
vi.	‘Other Powers’	188
C.	Non-federal Courts	190
III.	Judicial Independence.....	192
IV.	Conclusion	204
8.	The Treatment of Rights	206
I.	Introduction	206
II.	Establishing Human Rights.....	206
III.	Russians’ Rights	209
A.	The Individual versus Society	211
B.	The Politicisation of Rights.....	213
i.	The Right to Protest	213
ii.	Extremist Activity.....	217
iii.	Propagandising ‘Non-traditional Sexual Relations’	217
iv.	Foreign Agents.....	218
v.	Insulting Religious Feelings	219
vi.	Preserving Memory.....	220
vii.	Undesirable Organisations	221
C.	The 2020 Constitutional Amendments	221
IV.	Rights Enforcement	223
A.	The Procuracy	224
B.	The High Commissioner for Human Rights (Ombudsman)	227
C.	Citizens’ Appeals (Administrative Appeal).....	228
D.	The European Court of Human Rights (ECtHR)	229
V.	Conclusion	238
9.	Conclusion	240
	<i>Index</i>	243