Contents

Acknowledgements	
Transliteration	
Table of Legislation	
Table of Conventions, Treaties etc	
Documents From The Communist Party of The Soviet Union	xxxi
1. The State of Russia	1
I. INTRODUCTION	1
A. Russia's struggle for constitutionality	1
B. Russia's place in the world	2
C. The federal dimension	3
D. Language	4
E. The impact of social culture	8
F. Russian legal nihilism	9
G. Families of legal systems?	10
II. CONCLUSION	11
FURTHER READING	11
2. History and Nature of the Constitution	13
I. INTRODUCTION	13
II. THE CONSTITUTION IN PRE-REVOLUTIONARY	
TIMES	14
A. Early Statehood	14
B. The Mongol Yoke – autocracy takes root	15
C. Centralisation	16
D. Romanovs and the growth of absolutism	17
E. Failed reform under Anna	20
F. A touch of enlightenment? – Catherine II	21
G. Reaction and reform proposals	22
H. Bureaucracy and private law reform	23
I. Emancipation of serfs and reform of the legal system	25
J. Reaction and repression	26
K. Reluctant reform – 1905–06	27

i. The new Legislature	29
L. The imperial legacy	30
III. THE CONSTITUTION DURING THE SOVIET ERA	31
A. End of empire and establishing soviet power	31
B. Marxist theory on State and law	32
C. Function of a Soviet Constitution	35
D. The Soviet law in individual rights	42
i. Early Soviet rights	42
ii. Rights under the 1977 USSR Constitution	44
E. Perestroika	46
F. The December 1988 Amendments to the 1977 USSR	2
Constitution	48
i. The USSR Congress of People's Deputies	48
ii. The USSR Supreme Soviet	50
G. The 1989 amendments	52
H. The 1990 amendments – from a parliamentary to a	
presidential system	52
i. Change in constitutional position of the Communist	
Party (CPSU)	55
I. March 1991 – end of December 1991 – the USSR	
Disintegrates	56
IV. CONCLUSION	57
FURTHER READING	58
a C 1 1002 C 1 1 1 Puncing	
3. Overview of the 1993 Constitution of the Russian Federation	59
	59
I. INTRODUCTION	39
II. BACKGROUND TO ADOPTION OF THE 1993 CONSTITUTION	60
	60
A. Yel'tsin takes charge in Soviet Russia	
B. Russia's Declaration of State Sovereignty, 12 June 19C. Constitutional amendments on the way to a new	<i>y</i> 0 01
Constitution	62
D. Independent Russia	65
E. Draftsmen get to work	66

		Contents	xiii
		President versus Legislature Dénouement	68 77
III.	70	ERVIEW OF THE CONSTITUTION'S CONTENTS	81
		Introduction Size and structure	81 82
	i. ii. iii.	Preamble Section I: Chapters 1 to 9 – Order of Exposition Section II: Concluding and Transitional Provisions	82 82 83
	C.	Chapter 1: Foundations of the Constitutional System	84
		Articles 1–7: the basics of the State and society Articles 8–9: economic fundamentals Articles 10–12: separation of power	85 86 87
	iv.	Articles 13–14: ideological diversity and the secular State Article 15: direct effect, publication, and the status	89
	٧.	of international law	91
		Chapter 2: Individual Rights in the Constitution Chapters 3 and 8: Russia as a Federal State; Local	93
		Competence	94
	i. ii.	Russia's federal heritage Federative relations in independent Russia	94 97
		Chapters 4 to 7: the Federal Agencies of State Power Chapter 9: Amendment Procedures	101 101
		ONCLUSION HER READING	103 103
4.]	Exe	cutive Power, the President and the Government	105
I. II.		TRODUCTION IE PRESIDENCY	105 107
		The President and his role Presidential power	107 112
	i. ii. iii.	Formation of the executive branch Defining the fundamental direction of activity Supervision and oversight	113 121 127

	iv.	Conciliation Implied powers	129 129
III.		IE GOVERNMENT	130
		The Government Chairman's role and powers The Government's role and powers	132 132
IV.	AC	CCOUNTABILITY	134
	A.	Presidential accountability	134
	i. ii. iii.	Election Immunity Impeachment	134 136 137
	B.	Government accountability	139
	i.	Motion of no confidence	140
V.	PA	RA-CONSTITUTIONAL INSTITUTIONS	141
	В. С.	Federal plenipotentiary presidential representatives The State Council The Public Chamber Conclusions on the Para-Constitutional Institutions	141 143 145 148
		XECUTIVE POWER IN THE FEDERAL SUBJECTS ONCLUSION	148 152
FU	RTI	HER READING	154
5. 7	Γhe	Legislature and its Formation	155
I. II.	IN	TRODUCTION HE FEDERAL ASSEMBLY	155 156
	A.	The structure of the Federal Assembly	156
	i. ii. iii.	Formation of the Duma Political parties in Russia Formation of the Federation Council	157 163 166
	В.	Legislative activity of the Federal Assembly	174
	i. ii. iii.	Constitutional amendment Federal constitutional law Federal law	174 175 176
	iv.	The legislative process	177

		Contents	xv
	C.	Other powers of the Federal Assembly	181
200	i.	Oversight	181
	ii.	Other activities	188
TIT.	TH	IE LEGISLATIVE COUNCIL	190
-		ONCLUSION	191
FUI	RTF	HER READING	192
6.	Гhе	Constitutional Role of the Courts	193
I.	IN	TRODUCTION	193
II.		IE COURT SYSTEM: OVERVIEW OF THE	
		CONSTITUTIONAL PROVISIONS	195
III.		E DEVELOPMENT OF CONSTITUTIONAL SUPERVISION	200
		Introduction The USSB Constitutional Supervision Committee	200 201
		The USSR Constitutional Supervision Committee The RSFSR Constitutional Court – 1991 Law	203
			203
	i. ii.	Establishing the Court Make-up of the Court	205
		The Constitutional Court of the Russian Federation –	
	D.	1994 Federal Constitutional Law	206
	i.	The Court's Jurisdiction	206
	ii.	Make-up of the Court	210
IV.	TH	IE DOMESTIC COURTS AND THE CONSTITUTION	214
	A.	The structure and scope of the domestic courts' hierarchy	214
	B.	The development of a commercial court system	216
V.	TU	RF WARS	217
VI.	JUI	DICIAL INDEPENDENCE	219
	A.	The Soviet period – telephone law	219
		The movement towards judicial independence	221
	C.	A new telephone law?	224
VII	.PR	OTECTION OF HUMAN RIGHTS	228
	A.	The development of human rights	228
	В.		230
	i	Citizen's rights	231

xvi Contents

11	Unqualified rights	233
	Judicial rights	235
	Qualified rights	237
V.	D	238
	Rights enforcement	239
	The Procuracy	240
i. ii.	Citizens' appeals (administrative appeal)	241
11.	The Plenipotentiary for Human Rights – Ombudsman	243
iv.	European Court of Human Rights	246
VIII.	CONCLUSION	251
FURT	HER READING	252
7 Co	nclusion	255
FURTHER READING		259
Index		261
Tipphopa		