

World Constitutions Illustrated

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Burkina Faso

Constitution of Burkina Faso
2 June 1991
As amended by Law No. 002-97/ADP
27 January 1997

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William S. Hein & Co., Inc.
Getzville, New York
2018

The translation is based on: the French original text of 2 June 1991 prepared by the Government Printer: *Constitution du Burkina Faso. Adoptée par le referendum du 2 juin 1991 et Promulguée le 11 juin 1991*. Ouagadougou: September 1991; the French text of Law No. 002-97/ADP of 27 January 1997 provided by the National Assembly of Burkina Faso; and by the consolidated French text prepared by the Publications du Journal Officiel: *Constitution du Burkina Faso, SGG-CM-Octobre-1997*.

Cite as: Maria del Carmen Gress & J.J. Ruchti, trans., Constitution of Burkina Faso (June 2, 1991) as amended to Law No. 002-97/ADP (Jan. 27, 1997) (HeinOnline World Constitutions Illustrated library 2018)

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CONSTITUTION OF BURKINA FASO

Adopted by the Referendum of 2 June 1991

Promulgated by Kiti No. AN VIII-0330/FP/PRES of 11 June 1991

Revised by the following Law:

Law No. 002/97/ADP of 27 January 1997

Decree of Promulgation:

Decree No. 97-063/PRES of 14 February 1997

PREAMBLE

[Amended by Law No. 002-97/ADP of 27 January 1997]

We, the Sovereign People of Burkina Faso:

—CONSCIOUS of our responsibilities and of our duties before history and before humanity;

—STRENGTHENED by the democracies [we have] acquired;

—COMMITTED to preserve those acquired and animated by a will to construct a State of law guaranteeing the exercise of collective and individual rights, liberty, dignity, security, well-being, development, equality and justice as the fundamental values of a pluralist society of progress and free from all prejudice;

—REAFFIRMING our commitment to the struggle against any form of domination as well as to the democratic character of power;

—SEARCHING [for] the economic and political integration with the other peoples of Africa with a view to the construction of a federative unity of Africa;

—SUBSCRIBING to the Universal Declaration of the Rights of Man of 1948 and to the international instruments concerning economic, political, social and cultural problems;

—REAFFIRMING solemnly our commitment vis-a-vis the African Charter of the Rights of Man and of Peoples of 1981;

—DESIROUS to promote peace, international cooperation, the peaceful resolution of differences between States, with justice, equality, liberty and the sovereignty of peoples;

—CONSCIOUS of the absolute necessity to protect the environment;

APPROVE and ADOPT this Constitution of which this preamble is made an integral part.

TITLE I

OF THE FUNDAMENTAL RIGHTS AND DUTIES

CHAPTER I

OF CIVIL RIGHTS AND DUTIES

Article 1

All the Burkinabè are born free and equal in rights.

All have an equal vocation to enjoy all the rights and all the freedoms guaranteed by this Constitution.

Discrimination of all sorts, notably those founded on race, ethnicity, region, color, sex, language, religion, caste, political opinions, wealth and birth, are prohibited.

Article 2

The protection of life, security, and physical integrity are guaranteed.

Slavery, slavery-like practices, inhuman and cruel, degrading and humiliating treatments, physical or moral torture, services and mistreatments inflicted on children and all forms of the degradation of Man are forbidden and punished by the law.

Article 3

No one may be deprived of his liberty if he is not prosecuted for acts specified and punishable by the law.

No one may only be arrested, detained, deported or exiled by virtue of the law.

Article 4

All Burkinabè and all persons living in Burkina Faso benefit from equal protection of the law. All have the right to have their case heard by an independent and impartial jurisdiction.

Any accused is presumed innocent until his guilt has been established.

The right to a defense, including that of freely choosing one's defender is guaranteed before all the jurisdictions.

Article 5

Anything which is not forbidden by the law may not be hindered and no one can be constrained to do that which [the law] does not order.

The penal law does not have retroactive effect. One may only be judged and punished by virtue of a law promulgated and published prior to the punishable act.

Punishment is personal and individual.

Article 6

The residence, the domicile, private and family life, [and] the secrecy of correspondence of every person are inviolable.

It can only be infringed according to the forms and in the cases specified by the law.

Article 7

The freedom of belief, of non-belief, of conscience, of religious opinion, [of] philosophy, of exercise of religion, the freedom of assembly, the free practice of custom as well as the freedom of procession and of demonstration, are guaranteed by this Constitution, under reserve for the law, for public order, for good morals and for the human person.

Article 8

The freedoms of opinion, of the press and the right to information are guaranteed.

Every person has the right to express and to disseminate his opinions within the order of the laws and regulations in force.

Article 9

The free circulation of persons and of assets, the free choice of residence and the right of asylum, are guaranteed within the order of the laws and regulations in force.

Article 10

Every Burkinabè citizen has the duty to participate in the defense and in the maintenance of the territorial integrity.

He is required to fulfill national service when it is required of him.

**CHAPTER II
OF POLITICAL RIGHTS AND DUTIES**

Article 11

All Burkinabè enjoy civil and political rights within the conditions specified by the law.

Article 12

All Burkinabè without any distinction, have the right to participate in the conduct of the affairs of the State and of society.

In this capacity, they are electors and eligible within the conditions specified by the law.

Article 13

[Amended by Law No. 002-97/ADP of 27 January 1997]

The political parties and formations create themselves freely.

They participate in the activity of political life, in the information and the education of the people as well as in the expression of suffrage.

They conduct their activities freely with respect for the laws.

All the political parties and formations are equal in rights and in duties.

However, tribalist, regionalist, denominational, or racist political parties or formations are not authorized.

**CHAPTER III
OF ECONOMIC RIGHTS AND DUTIES**

Article 14

The natural wealth and resources belong to the people. They are utilized for the amelioration of their conditions of life.

Article 15

The right of property is guaranteed. It will not be exercised contrary to social utility or in a manner which results in prejudice to the security, to liberty, to existence or to the property of others.

It can only be infringed the in case of public necessity declared in the legal forms.

No one will be deprived of his possessions if it is not for [a] cause of public utility and under the condition of a just indemnity established conforming to the law. This indemnity must be prior to the expropriation, except in case of urgency or of force majeure.

Article 16

The freedom of enterprise is guaranteed within the order of the laws and regulations in force.

Article 17

The duty to fulfill one's fiscal obligations conforming to the law is imposed on everyone.

CHAPTER IV
OF SOCIAL AND CULTURAL RIGHTS AND DUTIES

Article 18

[Amended by Law No. 002-97/ADP of 27 January 1997]

Education, instruction, [professional] training, work, social security, housing, sport, leisure, health, protection of Maternity and of Infancy, assistance to the aged or handicapped persons and [those] in social cases, [and] artistic and scientific creation, constitute the social and cultural rights recognized by this Constitution which sees to their promotion.

Article 19

The right to work is recognized and is equal for all.

It is prohibited to discriminate in matters of employment and of remuneration founded notably on sex, color, social origin, ethnicity or political opinion.

Article 20

The State sees to the constant amelioration of the conditions of work and to the protection of the worker.

Article 21

The freedom of association is guaranteed. Every person has the right to constitute associations and to participate freely in the activities of the associations created. The functioning of the associations must conform to the laws and regulations in force.

The syndical freedom is guaranteed. The unions exercise their activities without constraint and without limitation other than those specified by the law.

Article 22

The right to strike is guaranteed. It is exercised conforming to the laws in force.

Article 23

The family is the basic unit of society. The State has the duty to protect it.

Marriage is founded on the free consent of the man and of the woman. All discrimination based on race, color, religion, ethnicity, caste, social origin, [and] fortune, is forbidden in the matter of marriage.

Children are equal in rights and in duties in their familial relations. The parents have the natural right and the duty to raise and to educate their children. They must give them respect and assistance.

Article 24

The State works to promote the rights of the child.

Article 25

The right to transmit one's possessions by inheritance or gift is recognized conforming to the laws and regulations in force.

Article 26

The right to health is recognized. The State works for its promotion.

Article 27

Every citizen has the right to instruction.

Public education is secular.

Private education is recognized. The law establishes the conditions of its exercise.

Article 28

The law guarantees intellectual property.

The freedom of creation and [of] artistic, scientific and technical works, are protected by the law.

The manifestation of cultural, intellectual, artistic and scientific activity is free and is exercised conforming to the texts in force.

Article 29

The right to a healthy environment is recognized; the protection, the defense and the promotion of the environment are a duty for all.

Article 30

Every citizen has the right to initiate an action or association with a collective action under the form of petition against the acts:

- harming the public patrimony;
- harming the interests of the social communities;
- infringing the environment or the cultural or historic patrimony.

TITLE II

OF THE STATE AND OF NATIONAL SOVEREIGNTY

[Amended by Law No. 002-97/ADP of 27 January 1997]

Article 31

Burkina Faso is a democratic, unitary and secular State.

Faso is the republican form of the State.

Article 32

[Amended by Law No. 002-97/ADP of 27 January 1997]

National sovereignty belongs to the people who exercise it under the conditions specified by this Constitution and by the law.

Article 33

Suffrage is direct or indirect and exercised in the conditions specified by the law.

Direct suffrage is always universal, equal and secret.

Article 34

[Amended by Law No. 002-97/ADP of 27 January 1997]

The symbols of the Nation are constituted by an emblem, by a coat-of-arms, by an anthem and by a motto.

The emblem is the tri-colored flag of rectangular and horizontal form, red and green with, in its center, a yellow-gold star of five points.

- The law determines the coat-of-arms as well as the signification of its constituent elements.
- The national anthem is the *DITANYE*.
- The motto is: *UNITE - PROGRES - JUSTICE* [Unity - Progress - Justice].

Article 35

The official language is French.

The law establishes the modalities of the promotion and of the official use of the national languages.

TITLE III OF THE PRESIDENT OF FASO

Article 36

The President of Faso is the Head of the State.

He sees to the respect of the Constitution. He establishes the principal orientations of the policy of the State.

He incarnates and assures the national unity.

He is the guarantor of the national independence, of the integrity of the territory, of the permanence and of the continuity of the State, of respect for agreements and treaties.

Article 37

[Amended by Law No. 002-97/ADP of 27 January 1997]

The President of Faso is elected for seven years by universal, direct, equal and secret suffrage. He is re-eligible.

Article 38

[Amended by Law No. 002-97/ADP of 27 January 1997]

Every candidate to the functions of President of Faso must be Burkinabè by birth and born of parents themselves Burkinabè, be thirty-five years of age at the date of deposit of his candidature, and meeting the conditions required by the law.

Article 39

The President of Faso is elected by the absolute majority of the suffrage expressed.

If this majority is not obtained in the first round of the ballot, it is followed fifteen (15) days later by a second round. Only the two candidates can present themselves who, as the case may be, after withdrawal of the less favored candidates, are found to have received the greatest number of votes at the first round.

The President of Faso is then elected by simple majority.

Article 40

The elections are set twenty-one days at least and forty days at most before the expiration of the mandate of the President in office *[en exercice]*.

Article 41

The law determines the procedure, the conditions of eligibility and of presentation of the candidatures to the presidential elections, of the conduct of the ballot, of the counting, and of the proclamation of the results. It specifies all the provisions required so that the elections will be free, honest and regular.

Article 42

The functions of the President of Faso are incompatible with the exercise of all other elective mandate of national level, of any public employment and of any professional activity.

The provisions of Articles 72, 73, 74 and 75 of this Constitution are applicable to the President of Faso.

Article 43

[Amended by Law No. 002-97/ADP of 27 January 1997]

When the President of Faso is incapacitated in a temporary manner [*façon*] from fulfilling his functions, his powers are provisionally exercised by the Prime Minister.

In case of vacancy of the Presidency of Faso for whatever cause that may be, or of absolute or definitive incapacity declared by the Supreme Court referred to [the matter] by the Government, the functions of the President of Faso are exercised by the President of the National Assembly.

The election of a new President for a new period of seven years follows.

The election of the new President takes place twenty-one days at least and forty days at most after the official declaration of the vacancy or of the definitive character of the incapacity.

In all cases, application may not be made of Articles 46, 49, 50, 59, and 161 of this Constitution during the vacancy of the Presidency.

Article 44

Before entering into [his] functions, the President elected takes before the Supreme Court the following oath: "I swear before the Burkinabè people and on my honor to preserve, to respect, to have respected and to defend the Constitution and the laws, and to implement it to guarantee justice to all the inhabitants of Burkina Faso."

In the course of the ceremony of investiture, the President of the Supreme Court receives the written declaration of the assets of the President of Faso.

Article 45

The law establishes the civil list of service to the President of Faso. It organizes the service of a pension in favor of former Presidents.

Article 46

The President of Faso appoints the Prime Minister and terminates his functions, either on the presentation by him of his resignation, or on his own authority in the superior interest of the Nation.

On the proposal of the Prime Minister, he appoints the other members of the Government and terminates their functions.

Article 47

The President of Faso presides over the Council of Ministers. The Prime Minister substitutes for him with the conditions established by this Constitution.

Article 48

[Amended by Law No. 002-97/ADP of 27 January 1997]

The President of Faso promulgates the law within the twenty-one days which follow the transmission of the text definitively adopted. This time period is reduced to eight days in case of urgency declared by the National Assembly.

The President of Faso can, during the time period of promulgation, demand a second reading of the law or of certain of its articles; the demand cannot be refused. This procedure suspends the time periods of promulgation.

In default of promulgation within the time periods required, the law enters automatically into force following the declaration of the Supreme Court.

Article 49

The President of Faso can, after [the] opinion of the Prime Minister and of the President of the Chamber of Representatives, submit to referendum any bill of the law concerning [primarily] questions of national interest.

In the case of the adoption of the said law, its promulgation takes place in the time periods specified in Article 48.

Article 50

[Amended by Law No. 002-97/ADP of 27 January 1997]

The President of Faso can, after consultation of the Prime Minister and of the President of the Chamber of Representatives, declare the dissolution of the National Assembly.

In this case, the legislative elections take place twenty-one days at least and forty days at most after the dissolution.

A new dissolution may not take place in the year which follows these elections.

Article 51

[Amended by Law No. 002-97/ADP of 27 January 1997]

The President of Faso communicates with the National Assembly and with the Chamber of Representatives, either in person, or by the messages which he has read by the President of the National Assembly or by the [President] of the Chamber of Representatives. Out of session, the National Assembly or the Chamber of Representatives meets specially to this effect.

Article 52

[Amended by Law No. 002-97/ADP of 27 January 1997]

The President of Faso is the Supreme Head of the National Armed Forces; in this capacity, he presides over the Superior Council of Defense.

He appoints the Major General Head of State of the Armies.

Article 53

The President of Faso is the President of the Superior Council of the Magistrature.

Article 54

The President of Faso exercises the right of pardon. He proposes the laws of amnesty.

Article 55

The President of Faso appoints to the offices of the high civil and military administration, as well as in the societies and enterprises of strategic character determined by the law.

He appoints the ambassadors and the envoys extraordinary to the foreign powers and to international organizations.

The foreign ambassadors and envoys extraordinary are accredited to him.

He appoints the *Grand Chancelier des Ordres Burkinabè* [Grand Chancellor of the Orders Burkinabè].

Article 56

The law determines the other offices which he provides for in the Council of Ministers, as well as the conditions in which the powers of appointment of the President are exercised.

Article 57

The Acts of the President of Faso other than those specified in Articles 46, 49, 50, 54 and 59 are countersigned by the Prime Minister, as the case may be, by the concerned Ministers.

Article 58

The President of Faso decrees, after deliberation in the Council of Ministers, the state of siege and the state of urgency.

Article 59

[Amended by Law No. 002-97/ADP of 27 January 1997]

When the Institutions of Faso, the independence of the Nation, the integrity of its territory or the execution of its obligations are menaced in a grave and immediate manner and/or that the regular functioning of the public constitutional powers is interrupted, the President of Faso takes, after deliberation in the Council of Ministers, after official consultation of the Presidents of the National Assembly, of the Chamber of Representatives and of the Supreme Court, the measures required by the circumstances. He informs the nation of it by a message. In no case may he make an appeal to foreign armed forces to intervene in an internal conflict. The National Assembly meets of plain right and may not be dissolved during the exercise of exceptional powers.

Article 60

The President of Faso can delegate certain of his powers to the Prime Minister.

**TITLE IV
OF THE GOVERNMENT**

Article 61

The Government is an organ of the Executive.

It conducts the policy of the Nation; in this capacity, it is obligatorily referred to [matters]:

- of drafts of international agreements;
- of bills and proposals of law;
- of drafts of regulatory texts.

It conducts the administration and the forces of defense and of security.

Article 62

The Government is responsible before the Parliament in the conditions and following the procedures specified by this Constitution.

Article 63

The Prime Minister is the Head of the Government; in this capacity, he directs and coordinates the governmental action.

He is responsible for the implementation of the policy of national defense defined by the President of Faso.

He exercises the regulatory power conforming to the law, assures the implementation of the laws, appoints to civil and military offices other than those arising from the competence of the President of Faso.

Article 64

The Prime Minister assures the presidency of the Council of Ministers by delegation and for a specific agenda.

Article 65

The Prime Minister determines the attributions of the members of the Government. These attributions are established by decree taken in the Council of Ministers.

Article 66

The acts of the Prime Minister are, as the case may be, countersigned by the members of the Government responsible for their implementation.

Article 67

The Prime Minister can delegate certain of his powers to members of the Government.

Article 68

The members of the Government are responsible for the management of their respective departments before the Prime Minister. They are jointly responsible for the decisions of the Council of Ministers.

Article 69

Any vacancy of the post of Prime Minister automatically terminates the functions of the other members of the Government. In this case, the latter expedite the current affairs until the formation of a new Government.

Article 70

The functions of a member of the Government are incompatible with the exercise of any parliamentary mandate, of any remunerated professional activity and of any function of professional representation.

However, the exercise of functions of professional representation of international character are possible with the prior agreement of the Government.

Article 71

Every person appointed to exercise ministerial functions obligatorily benefits from a leave of absence [*detachment*] or from a suspension of contract of work as the case may be.

Article 72

The members of the Government must not expose themselves to any situation susceptible of creating conflicts between the duties of their functions and their private interests.

Article 73

During the term of their functions, the members of the Government may not directly or indirectly buy or lease anything which belongs to the domain of the State. The law will specify the cases where this provision can be derogated.

They may not take part in sales and in adjudications held by the Administration or by the Institutions arising from the State or submitted to its control.

Article 74

No member of Government may make a profit through his position, or make use of[,] directly or indirectly to personal ends[,] information that is communicated to him.

Article 75

The provisions of Article 73 remain applicable for members of the Government during the six months which follow the cessation of their functions.

Those of Article 74 remain applicable during the two years which follow the cessation of their functions.

Article 76

Each member of the Government is responsible before the High Court of Justice for the crimes and misdemeanors committed by him during the exercise of his functions.

Article 77

On their entry into their functions and at the end of their exercise, the members of the Government are required to provide a list of their assets to the Supreme Court.

TITLE V OF THE PARLIAMENT

Article 78

[Amended by Law No. 002-97/ADP of 27 January 1997]

The Parliament consists of two chambers: the National Assembly and the Chamber of Representatives.

Article 79

[Amended by Law No. 002-97/ADP of 27 January 1997]

The members of the National Assembly have the title of “Deputy” and those of the Chamber of Representatives the title or “Representative”.

Article 80

The Deputies are elected by direct, equal and secret universal suffrage. They exercise the legislative power, the Representatives are elected by indirect suffrage. The Chamber of Representatives has a consultative role. The law establishes the rules concerning the composition and the functioning of the Chamber of Representatives. Every person elected Deputy must benefit[,] the case arising, from a leave of absence or from a suspension of contract as the case may be.

Article 81

The term of the legislature is five (5) years.

The Chamber of Representatives is renewed every three (3) years.

The relations between the two Chambers are established by this Constitution and by the law.

Article 82

The law determines:

- the electoral circumscriptions;
- the number of seats and their division by circumscription;
- the mode of the ballot;
- the conditions of election and of replacement by new elections in the case of vacancy of [a] seat, as well as the regime of the ineligibilities and of the incompatibilities;
- the status of the Deputies and the amount of their indemnities.

Article 83

Partial elections may not take place in the last third of the legislature.

Article 84

[Amended by Law No. 002-97/ADP of 27 January 1997]

The National Assembly votes the law, consents to taxation and controls the action of the Government conforming to the provisions of this Constitution.

Article 85

All the Deputies have deliberative voice. The right to vote of the Deputies is personal. However, the delegation of the vote is permitted when the absence of the Deputy is justified. No one can validly receive for a particular [*donné*] ballot more than one delegation of the vote.

Article 86

Every new Assembly proclaims the validity of the election of its members notwithstanding the control of regularity exercised by the Supreme Court.

It establishes its internal regulations.

Article 87

[Amended by Law No. 002-97/ADP of 27 January 1997]

The Assembly meets of plain right each year in two ordinary sessions. The term of each may not exceed ninety days. The first session opens the first Wednesday of March and the second the last Wednesday of September. If the first Wednesday of March or the last Wednesday of September is a holiday, the session opens the first working day possible which follows.

Article 88

The Assembly meets in extraordinary session on convocation of its President, at the demand of the Prime Minister or of that of an absolute majority of the Deputies on a specific agenda. The extraordinary session is closed on completion of the agenda.

Article 89

The sittings of the Assembly are public. However the Assembly may meet in closed session in case of need.

Article 90

Except in the case of force majeure declared by the Supreme Court, the deliberations of the Assembly are valid only if they have taken place within the confines of the Parliament.

Article 91

[Amended by Law No. 002-97/ADP of 27 January 1997]

The President of the National Assembly is elected for the duration of the legislature by an absolute majority at the first round, or by a simple majority at the second round.

The members of the Bureau are elected for one year, renewable.

However, their functions can be terminated during the course of the legislature at the demand of two-fifths[,] and after a vote of the absolute majority[,] of the members of the Assembly.

By absolute majority [it] is understood [to mean] more than half of the members [*voix*].

Article 92

In case of vacancy of the presidency of the Assembly by death, resignation or for any other cause, the Assembly elects a new President in the conditions defined in Article 91.

Article 93

The Assembly enjoys financial autonomy. Its President manages the credits which are allotted to it for its functioning.

The President is responsible for this management before the Assembly; it can dismiss him by an absolute majority for incompetence in his management.

Article 94

Every Deputy appointed to a high function is replaced in the Assembly by a substitute.

If he ceases to exercise his functions before the end of the legislature, he can retake his seat in the Assembly.

Article 95

No Deputy may be prosecuted, investigated, arrested, detained or judged for reason of the opinions [or] votes emitted by him during the exercise of his functions.

Article 96

Except in the case of flagrante delicto, any Deputy may only be prosecuted or arrested in a correctional or criminal matter with the authorization of at least one-third of the members of the Assembly during the sessions or of the Bureau of the Assembly [when] out of the sessions.

TITLE VI

OF THE RESPECTIVE DOMAINS OF THE LAW AND OF REGULATION

Article 97

[Amended by Law No. 002-97/ADP of 27 January 1997]

The law is a deliberation, regularly promulgated, of the National Assembly.

The law to which the Constitution confers the organic character is a deliberation of the National Assembly having for its object the organization or the functioning of the institutions. It is voted by the absolute majority and promulgated after declaration of its conformity with the Constitution by the Supreme Court.

The initiative of the law belongs concurrently to the Deputies and to the Government. The drafts of texts emanating from the Deputies are called "proposals of law" [*propositions de loi*] and those emanating from the Government "bills of law" [*projets de loi*].

The proposals and bills of law are deliberated in the Council of Ministers before their deposit with the Bureau of the National Assembly. The latter must transmit a copy to the Chamber of Representatives.

The initiative of the referral [of the matter] to the Chamber of Representatives for a consultative opinion on a proposal or bill of law considered [*jugé*] of national importance belongs to:

- the Government;
- the National Assembly;
- the Permanent Bureau of the Chamber of Representatives.

Article 98

[Amended by Law No. 002-97/ADP of 27 January 1997]

The people exercise the initiative of laws by way of petition consisting of a written proposal signed by at least fifteen thousand (15,000) persons having the right to vote under the conditions specified by the law.

The petition is deposited to the Bureau of the National Assembly.

The right of amendment belongs to the Deputies and to the Government whatever the origin of the text may be.

Article 99

The ordinance [*l'ordonnance*] is an act signed by the President of Faso, after deliberation of the Council of Ministers, within the domains reserved to the law and in the cases specified in Articles 103, 107 and 119 of this Constitution. It enters into force on its publication.

Article 100

The simple decree [*décret simple*] is an act signed by the President of Faso or by the Prime Minister and countersigned by one or more competent members of the Government.

The decree in the Council of Ministers is an act signed by the President of Faso and by the Prime Minister after the opinion of the Council of Ministers: it is countersigned by one or more competent members of the Government.

Article 101

[Amended by Law No. 002-97/ADP of 27 January 1997]

The law establishes the rules concerning:

- citizenship, civic rights and the exercise of the public freedoms;
- constraints arising from the necessities of the National Defense;
- nationality, the state and capacity of persons, the matrimonial regimes, inheritance and gifts;
- the procedure according to which customs may be asserted and harmonized with the fundamental principles of the Constitution;
- the determination of crimes and misdemeanors, as well as the penalties which are applicable to them, the penal procedure, [and] amnesty;
- the organization of judicial and administrative tribunals and the procedure before these jurisdictions, the status of the magistrates, [and] of the ministerial and auxiliary officers of justice;
- the basis, the rate and the modalities of collecting taxes of all kinds;
- the regime of the issuance of money;
- the electoral regime of the National Assembly and of the local assemblies;
- the nationalization of enterprises and the transfers of property of enterprises of the public sector to the private sector;
- the creation of categories of public establishments;
- the state of siege and the state of urgency.

The law determines the fundamental principles:

- of the protection and of the promotion of the environment;

- of the drafting, of the execution and of the review of the national plans and programs of development;
- of the protection of the freedom of the press and of the access to information;
- of the general organization of the Administration;
- of the general status of the public function;
- of the organization of the national defense;
- of education and of scientific research;
- of the integration of the national cultural values;
- of the regime of property, of the rights of real property and of civil and commercial obligations;
- of the right to work, of the syndical right, and of the social institutions;
- of the alienation and of the management of the domain of the State;
- of the penitentiary regime;
- of insurance and of savings;
- of the organization of production;
- of the regime of transportation and communications;
- of the free administration of the territorial collectivities, of their competences and of their resources.

Article 102

The law of finance determines, for each year, the resources and the obligations of the State. The bill of the law of finance must specify the receipts necessary for the integral coverage of expenses.

Article 103

[Amended by Law No. 002-97/ADP of 27 January 1997]

The National Assembly is referred to [the matter] of the bill of the law of finance on the opening of the second ordinary session.

The provisions of the bill can be put into force by ordinance if the Assembly has not decided in a time period of sixty days following the deposit of the bill and only if the budgetary year is about to expire. In this case, the Government convokes an extraordinary session, in order to demand ratification. If the budget is not adopted at the end of the extraordinary session, it is definitively established by ordinance.

If the bill of the law of finance cannot be dealt with in time to be adopted and promulgated before the beginning of the fiscal year, the Prime Minister demands of urgency of the Assembly the authorization to restore the budget of the preceding year by provisional twelfths.

Article 104

In the course of the execution of the budget, when the circumstances require it, the Government proposes to the Parliament, the adoption of rectifying laws of finance.

Article 105

[Amended by Law No. 002-97/ADP of 27 January 1997]

The National Assembly regulates the accounts of the Nation, according to the modalities specified by the law of finance.

It is, to this effect, assisted by the Chamber of Accounts of the Supreme Court which is responsible for all inquiries and studies concerning the execution of

public receipts and expenses, or the management of the national treasury, of the territorial collectivities, of the administrations or institutions arising from the State or submitted to its control.

Article 106

The Assembly meets of plain right in the case of [a] state of siege, if it is not in session. The state of siege can only be extended more than fifteen days with the authorization of the Assembly.

The declaration of war and deployment of troops abroad are authorized by the Assembly.

Article 107

The Government can, for the execution of its programs, demand of the Assembly the authorization to take by ordinance, for a limited time period, measures which are normally of the domain of the law.

The ordinances are taken in the Council of Ministers after the opinion of the Supreme Court. They enter into force on their publication, but lapse if the bill of law of ratification is not deposited with the Assembly before the date established by the enabling law [*loi d'habilitation*].

On the expiration of the time period provided for in the first paragraph of this article, the ordinances can only be modified by the law in those provisions which are of the legislative domain.

Article 108

The matters other than those corresponding to the domain of the law have a regulatory character.

TITLE VII

OF THE RELATIONS BETWEEN THE GOVERNMENT AND THE NATIONAL ASSEMBLY

[Amended by Law No. 002-97/ADP of 27 January 1997]

Article 109

[Amended by Law No. 002-97/ADP of 27 January 1997]

The Prime Minister has access to the National Assembly. He can charge a member of the Government with representation before the Assembly; that [member] can be assisted, in the course of the debates or in commission, by the members of the Government, by counselors or experts of his choice.

The Prime Minister presents directly to the Deputies the state of the Nation on the opening of the first session of the Assembly.

This presentation is followed by debate but does not give rise to any vote.

Article 110

The members of the Government have access to the Assembly, to its commissions and consultative organs. They can be assisted by counselors or experts.

Article 111

During the sessions, one sitting per week is reserved to the questions of the Deputies and to the responses of the Government.

The Assembly can address to the Government written or oral questions, with or without debate.

Article 112

[Amended by Law No. 002-97/ADP of 27 January 1997]

The Government deposits the bills of law before the National Assembly.

It presents and defends before it the governmental policy, the budget of the State, [and] the plans of economic and social development of the Nation.

It participates in the debates concerning the orientations, the legitimacy, the merit and the effectiveness of the policy of the Government.

Article 113

The Government is required to furnish to the Assembly all explanations which are demanded of it on its management and on its acts.

The Assembly may constitute commissions of inquiry.

Article 114

The reciprocal relations of the Assembly and of the Government are expressed equally by:

- the motion of censure;
- the question of confidence;
- the dissolution of the Assembly;
- the procedure of parliamentary discussion.

Article 115

[Amended by Law No. 002-97/ADP of 27 January 1997]

The National Assembly can present a motion of censure with regard to the Government. The motion of censure is signed by at least one-third of the Deputies of the Assembly. To be adopted, it must be voted by an absolute majority of the members composing the Assembly. In case of rejection of the motion of censure, its signatories may not present another before the time period of one year.

Article 116

[Amended by Law No. 002-97/ADP of 27 January 1997]

The Prime Minister can, after deliberation of the Council of Ministers, engage before the National Assembly the responsibility of the Government on a program or on a declaration of general policy.

The confidence in the Government is refused if the text presented does not receive the absolute majority of the votes of the members composing the Assembly.

The vote on the question of confidence may not take place less than forty-eight hours after the deposit of the text.

The Prime Minister can, after deliberation of the Council of Ministers, engage the responsibility of the Government before the Assembly on the adoption of a text. In this case, this text is considered adopted except if a motion of censure, deposited within the twenty-four hours which follow, is adopted in the conditions specified in the paragraphs above.

Article 117

If the motion of censure is adopted or confidence is refused, the President of Faso terminates, within a time period of eight days, the functions of the Prime Minister. He appoints a new Prime Minister according to the procedure specified in Article 46.

Article 118

The agenda of the Assembly consists by priority, in the order that the Government has established, [of] the discussion of popular petitions, of bills deposited by the Government and of the proposals accepted by it.

Nevertheless, any proposal of law can be discussed two months after its submission to the Government without the application of the preceding paragraph having been made, or of Articles 121 and 122 of this Constitution.

Article 119

In case of urgency declared by the Government, the Assembly must decide on the bills of law within a time period of fifteen days. This time period is extended to forty days for Law of Finance. If, at the expiration of the time period no vote has been taken, the bill of law is promulgated unchanged, on proposal of the Prime Minister [and] by the President of Faso, in the form of an ordinance.

Article 120

The proposals and amendments deposited by the Deputies are irreceivable when their adoption will have as a consequence, either a diminution of public resources, or the creation or the increase of a public expense, unless they are accompanied by a proposal for augmentation of receipts or of equivalent economies.

Article 121

If the Government demands it, the Assembly decides by a single vote on all or part of a text in discussion retaining only the amendments proposed or accepted by it.

Article 122

When the Assembly has referred the examination of a draft of a text to a commission, the Government can, after the opening of debates[,] oppose the examination of any amendment which has not been preliminarily submitted to this commission.

Article 123

The proposals and amendments which are not of the domain of the law are irreceivable. The irreceivability is decided by the President of the Assembly.

In case of dispute, the Supreme Court, on referral to [the matter] by the Prime Minister or by the President of the Assembly, decides with a time period of eight days.

TITLE VIII OF THE JUDICIAL POWER

Article 124

The Judicial Power is conferred on the judges; it is exercised on all the territory of Burkina Faso by the jurisdictions of the judicial order and of the administrative order determined by the law.

Article 125

The Judicial Power is the guardian of the individual and collective liberties. It sees to the respect for the rights and freedoms defined in this Constitution.

Article 126

The jurisdictions of Burkina Faso are:

- the Supreme Court;
- the Courts and the Tribunals.

These jurisdictions apply the law in force.

Article 127

The Supreme Court is the superior jurisdiction.

It includes four Chambers:

—the Constitutional Chamber;

—the Judicial Chamber;

—the Administrative Chamber

—the Chamber of Accounts;

The composition, the attributions, [and] the functioning of the Supreme Court and of its Chambers are determined by the law.

Article 128

The law establishes the seat, the jurisdiction, the competence and the composition of Courts and of the Tribunals.

Article 129

The judicial power is independent.

Article 130

The presiding magistrates [*magistrates du siege*] are only submitted[,] in the exercise of their functions[,] to the authority of the law. They are not removable.

Article 131

The President of Faso is the guarantor of the independence of the judicial power.

He is assisted by the Superior Council of the Magistrature.

Article 132

The President of Faso is the President of the Superior Council of the Magistrature.

The Guardian of the Seals, the Minister of Justice, is the Vice President of it.

Article 133

The Superior Council of the Magistrature gives its opinion on any question concerning the independence of the Magistrature and on the exercise of the right of pardon.

The law establishes the organization, the composition, the attributions, [and] the functioning of the Superior Council of the Magistrature.

Article 134

The Superior Council of the Magistrature makes proposals on the appointments and the assignments of the presiding magistrates of the Supreme Court and on those of the first presidents of the Courts of Appeal.

It gives its opinion on the proposals of the Minister of Justice, concerning the appointments of other presiding magistrates.

The prosecuting magistrates [*magistrates du parquet*] are appointed and assigned on proposal of the Minister of Justice.

Article 135

An organic law establishes the status of the Magistrature with respect for the principles contained in this Constitution.

It provides for and organizes the guarantees and the independence of the Magistrature.

Article 136

The hearing in all the courts and in all the tribunals is public. The closed hearing is only allowed in the cases specified by the law.

The decisions of the jurisdictions are substantiated, except in the cases where the law provides otherwise.

**TITLE IX
OF THE HIGH COURT OF JUSTICE**

Article 137

[Amended by Law No. 002-97/ADP of 27 January 1997]

A High Court of Justice is instituted. The High Court of Justice is composed of Deputies that the National Assembly elects after each general renewal as well as the magistrates designated by the President of the Supreme Court. It elects its President from among its members.

The law establishes its composition, the rules of its functioning and the procedure applicable before it.

Article 138

The High Court of Justice is competent to take cognizance of the acts committed by the President of Faso in the exercise of his functions and constituting high treason, of infringing the Constitution or misappropriation of public funds.

The High Court of Justice is equally competent to judge the members of Government for reason of acts qualified as crimes or misdemeanors committed in the exercise or on the occasion of the exercise of their functions. In all other cases, they remain justiciable by the jurisdictions of common law and of the other jurisdictions.

Article 139

The impeachment of the President of Faso is adopted by a majority of four-fifths of the votes of the Deputies composing the Assembly. That of the members of the Government is adopted by a majority of two-thirds of the votes of the Deputies composing the Assembly.

Article 140

The High Court of Justice is constrained by the definition of crimes and misdemeanors and by the determination of the resultant punishments of the criminal laws in force at the time when the acts were committed.

**TITLE X
OF THE ORGANS OF CONTROL, [AND OF THE]
CONSULTATIVE INSTANCES AND ORGANS**

Article 141

Organs of control, [and] consultative instances and organs are created by the law.

Their competence concerns question of economic, social and cultural character of national interest.

The composition, the attributions and the functioning of these organs of control, [and] consultative instances and organs are established by the law

Article 142

[Amended by Law No. 002-97/ADP of 27 January 1997]

At the demand of the President of Faso, of the Government, [and] of the National Assembly:

- the consultative instances and organs give their technical opinions and their recommendations within the domain of their competence;
- the organs of control proceed to investigations and produce reports.

TITLE XI

OF THE TERRITORIAL COLLECTIVITIES

Article 143

[Amended by Law No. 002-97/ADP of 27 January 1997]

Burkina Faso is organized in territorial collectivities.

Article 144

The creation, the elimination, and the division of territorial collectivities correspond to the law.

Article 145

The law organizes the democratic participation of the populations in the free administration of the territorial collectivities.

TITLE XII

OF AFRICAN UNITY

Article 146

Burkina Faso may conclude with any African state agreements of association or of community implying a total or partial abandonment of sovereignty.

Article 147

The agreements consecrating the entry of Burkina Faso into a Confederation, a Federation or a Union of African States are submitted to the approval of the People by referendum.

TITLE XIII

OF TREATIES AND INTERNATIONAL AGREEMENTS

Article 148

The President of Faso negotiates, signs and ratifies the international treaties and agreements.

Article 149

Peace treaties, the treaties of commerce, the treaties which commit the finances of the State, those which modify the provisions of legislative nature, [and] those that concern the state of persons, can only be ratified or approved by virtue of a law.

They can only take effect after having been ratified or approved.

Article 150

If the Constitutional Chamber, referred to [the matter] conforming to Article 157, has declared that an international commitment contains a provision contrary to the Constitution, the authorization to ratify it or to approve it can only take place after the revision of the Constitution.

Article 151

The treaties and agreements regularly ratified or approved have, on their publication, an authority superior to that of the laws, under reserve, for each agreement or treaty, of its application by the other party.

TITLE XIV

**OF THE CONTROL OF THE CONSTITUTIONALITY
OF THE LAWS**

Article 152

The control of the constitutionality of the laws is assured by the Constitutional Chamber of the Supreme Court.

The Constitutional Chamber is presided over by the President of the Supreme Court.

Article 153

[Amended by Law No. 002-97/ADP of 27 January 1997]

The Constitutional Chamber consists of, other than the President of the Supreme Court, three (3) magistrates appointed by the President of Faso on the proposal of the Minister of Justice, three (3) persons of distinction appointed by the President of Faso, [and] three (3) persons of distinction appointed by the President of the National Assembly.

Except for the President of the Supreme Court, the members of the Constitutional Chamber are appointed for a single mandate of nine (9) years. However, they are renewable by thirds (1/3) every three (3) years within the conditions determined by the law.

The functions of member of the Constitutional Chamber are incompatible with those of a member of the Government or of the Parliament.

The other incompatibilities are established by the law.

Article 154

The Constitutional Chamber sees to the regularity of the presidential elections. It examines the complaints and announces the results of the ballot.

The Constitutional Chamber decides, in case of dispute, on the regularity of the election of the Deputies.

In electoral matters, the Constitutional Chamber can be referred to [a matter] by any interested candidate.

It sees to the regularity of the operations of the referendum and proclaims the results of it.

The Constitutional Chamber sees to respect for the procedure of revision of the Constitution.

Article 155

[Amended by Law No. 002-97/ADP of 27 January 1997]

The organic laws and the regulations of the National Assembly and those of the Chamber of Representatives, before their promulgation or their entry into application, must be submitted to the Constitutional Chamber.

To the same ends, the ordinary laws and the treaties submitted to the procedure of ratification, may be deferred to the Constitutional Chamber, before their promulgation.

Article 156

The Constitutional Chamber of the Supreme Court is also charged with the control of respect by the political parties, for the provisions of Article 13 paragraph 5 of this Constitution.

Article 157

[Amended by Law No. 002-97/ADP of 27 January 1997]

The Constitutional Chamber is referred to [a matter] by:

- the President of Faso;
- the Prime Minister;
- the President of the National Assembly;
- the President of the Chamber of Representatives;
- one-fifth (1/5) at least of the members of the National Assembly;

Article 158

The referral to [a matter] of the Constitutional Chamber suspends the time period of the promulgation of the texts which are deferred to it.

Article 159

A provision declared unconstitutional may not be promulgated or implemented.

The decisions of the Constitutional Chamber are not susceptible to any recourse. They impose themselves on the public powers and on all the administrative and jurisdictional authorities.

Article 160

An organic law establishes the organization and the functioning of the Constitutional Chamber and determines the procedure applicable before it.

TITLE XV

OF REVISION

Article 161

[Amended by Law No. 002-97/ADP of 27 January 1997]

The initiative of the revision of the Constitution belongs concurrently:

- to the President of Faso;
- to the members of the National Assembly;
- to the people when a fraction of at least thirty thousand (30,000) persons having the right to vote, introduces before the National Assembly a petition constituting a written and signed proposal.

Article 162

[Amended by Law No. 002-97/ADP of 27 January 1997]

The law establishes the conditions of the implementation of the procedure of revision.

Article 163

[Amended by Law No. 002-97/ADP of 27 January 1997]

The bill of revision is, in all cases, submitted preliminarily to the evaluation of the National Assembly, after the opinion of the Chamber of Representatives.

Article 164

[Amended by Law No. 002-97/ADP of 27 January 1997]

The bill of the text is then submitted to referendum. It is considered to have been adopted when it has obtained a majority of the suffrage expressed.

The President of Faso then proceeds with its promulgation within the conditions established by Article 48 of this Constitution.

However, the bill of revision is adopted without recourse to referendum if it is approved by a majority of three-quarters (3/4) of the members of the National Assembly.

Article 165

No bill or proposal of revision of the Constitution is receivable when it effects:

- the republican nature and form of the State;
- the multiparty system;
- the integrity of the national territory.

No procedure of revision can be initiated or pursued when it infringes upon the integrity of the territory.

TITLE XVI

FINAL PROVISIONS

Article 166

Treason against the Fatherland and infringement the Constitution constitute the most grave crimes committed against the people.

Article 167

The source of all legitimacy follows from this Constitution.

All power which does not derive its source from this Constitution, notably that resulting from a coup d'etat or from a putsch[,] is illegal.

In this case, the right to civil disobedience is recognized to all citizens.

Article 168

The Burkinabè people proscribe any idea of personal power. They proscribe equally all oppression of a part of the people by another.

TITLE XVI

TRANSITORY PROVISIONS

Article 169

The promulgation of the Constitution must take place in the twenty-one 21 days following its adoption by referendum.

Article 170

The Head of State and the Government are enabled to take the measures necessary to establish the Institutions.

Article 171

The presidential and legislative elections take place within the twelve (12) months which follow the adoption of the Constitution.

Article 172

Until the Institutions are established, the Head of State and the Government continue to act and take the measures necessary for the functioning of the public

powers, for the life of the Nation, for the protection of citizens and the safeguarding of the freedoms.

Article 173

The legislation in force remains applicable insofar as it is not contrary to this Constitution, until the intervention of new texts.
