

CONSTITUTION
of the
Tunisian Republic

**Text of the Constitution of 1st June 1959,
including subsequent Amendments
as follows :**

- Constitutional Law No. 65-23 dated 1st July 1965, amending Article 29 of the Constitution.
- Constitutional Law No. 67-23 dated 30 June 1967, amending Article 29 of the Constitution.
- Constitutional Law No. 69-63 dated 31 December 1969, amending Article 51 of the Constitution.
- Constitutional Law No. 75-13 dated 19 March 1975, amending Articles 40 and 51 of the Constitution.
- Constitutional Law No. 76-37 dated 8 April 1976, amending and supplementing the Constitution of 1st June 1959.

**RESOLUTION BY THE NATIONAL
CONSTITUENT ASSEMBLY
PROCLAIMING THE REPUBLIC**

We, the representatives of the Tunisian Nation, Members of the National Constituant Assembly,

By virtue of the full powers we hold from the people,

For the purpose of strengthening the foundations of the independence of the State and of the sovereignty of the People,

With a view to establishing the democratic system aimed at by the Assembly in framing the Constitution,

Do, hereby, in the name of the People, resolve the following, which shall be immediately enforceable :

1. That the monarchy be completely abolished,

2. *That Tunisia be a Republican State,*

3. *That Mr. Habib BOURGUIBA, Head of the Government, be entrusted with the office of Head of State, under the present circumstances until such time as the constitution shall become effective, and that the title of President of the Republic be conferred upon him,*

4. *That the Government be charged with the enforcement of this decision and with taking any and all measures necessary to safeguard the Republican Regime; and, further, that the President of the Assembly, the Secretary General of the Bureau of the Assembly and the Government be charged with making this decision known to all and sundry.*

Drawn up at the « Palais de l'Assemblée »

Le Bardo,

on 25th July 1957, at 6 p.m.

Jellouli FARES,

*President of the National Constituent
Assembly*

PREAMBLE

In the name of God, the Compassionate and the Merciful !

We, the representatives of the Tunisian People, meeting as a National Constituent Assembly,

Proclaim that this People, having freed itself from foreign domination thanks to its strong cohesion and to the fight it has waged against tyranny, exploitation and backwardness, is resolved :

— To consolidate national unity and remain faithful to those human values that are the common heritage of those Peoples that are attached to human dignity, justice and liberty, and that work for peace, progress and free international cooperation;

— To remain faithful to the teachings of Islam, to the unity of the Great Maghreb, to its kinship with the Arab Family,

to cooperation with the African Peoples in building a better future and to solidarity with all the Peoples fighting for liberty and justice;

— To establish a democracy based on the sovereignty of the People, with a stable political system which is founded on the principle of the separation of powers.

We declare that a republican regime is the best guarantee for safeguarding human rights, for preserving equality among citizens both in their rights and in their duties, for achieving the nation's prosperity by developing its economy and exploiting the country's wealth for the benefit of the people, and constitutes the best means for protecting the family and ensuring every citizen's right to work, health and education.

By the grace of God, We, the representatives of the free and sovereign Tunisian People, decree this constitution.

CHAPTER ONE
GENERAL PROVISIONS

ARTICLE 1. — Tunisia shall be a free, independent and sovereign State, Islamic in religion, Arabic in language and Republican in regime.

ART. 2. — The Tunisian Republic is part of the Great Arab Maghreb and shall work for its unity, within the framework of common interests.

Treaties concluded for this purpose and which may call for any amendment of this Constitution shall be submitted by the President of the Republic to a referendum, after having been adopted by the National Assembly, in such form and under such conditions as provided in the Constitution.

ART. 3. — Sovereignty is vested in the Tunisian people, who shall exercise it in accordance with the Constitution.

ART. 4. — The flag of the Tunisian Republic shall be red and have, in its middle, a white circle enclosing a five-pointed star within a red crescent, as defined by law.

The device of the Republic shall be :
« Liberty, Order, Justice ».

ART. 5. — The Tunisian Republic shall guarantee the inviolability of the human person and freedom of conscience and safeguard public worship, provided such worship does not disturb law and order.

ART. 6. — All citizens shall have equal rights and duties and be equal before the law.

ART. 7. — Every citizen shall enjoy all the rights to which he is entitled in such manner and on such conditions as pro-

vided by law. The exercise of these rights may only be limited by a law enacted to protect the rights of others, observance of law and order, national defence, economic development and social progress.

ART. 8. — Freedom of thought and expression, of the press, of publication and assembly, and freedom of association shall be guaranteed and exercised in accordance with the law.

Trade-union rights shall be guaranteed.

ART. 9. — The inviolability of the home and secrecy of correspondence shall be guaranteed, save in exceptional cases prescribed by law.

Art. 10. — Every citizen shall have the right to move freely within the country, to leave it and to live where he may wish, within the limits prescribed by law.

ART. 11. — No citizen may be banished from the country or forbidden to return to it.

ART. 12. — Every accused person shall be presumed innocent until his guilt has been proved following proceedings offering him the necessary guarantees for his defence.

ART. 13. — Sentence shall be passed on a personal basis and shall only be pronounced by virtue of a law existing prior to the offence.

ART. 14. — The right to ownership shall be guaranteed and exercised within the limits of the law.

ART. 15. — The defence of the country and of its territorial integrity shall be the sacred duty of every citizen.

ART. 16. — It shall be the duty of every individual to pay taxes and contribute to public expenditure on an equitable basis.

ART. 17. — Political refugees shall not be extradited.

CHAPTER TWO
THE LEGISLATIVE POWER

ART. 18. — The people shall exercise legislative power through a representative body called « National Assembly ».

ART. 19. — The members of the National Assembly shall be elected by free, direct and secret universal suffrage, in accordance with the terms and provisions of the electoral law.

ART. 20. — Any citizen who shall have held Tunisian nationality for at least five years and have attained twenty years of age shall have the right to vote.

ART. 21. — Any elector born of a Tunisian father and at least twenty eight years of age may stand for election to the National Assembly.

ART. 22. — The National Assembly shall be elected for a term of five years, during the last thirty days of its term.

ART. 23. — If, on account of war or imminent danger, elections cannot be held at the appointed date, the term of the National Assembly shall be extended by means of a law until such time as elections can be held.

ART. 24. — The seat of the National Assembly shall be in Tunis and its suburbs. However, under exceptional circumstances, the National Assembly may meet anywhere else, within the territory of the Republic.

ART. 25. — Every member of the National Assembly shall be considered as a representative of the whole nation.

ART. 26. — No member of the National Assembly shall be sued, arrested or tried for opinions or proposals put forward or for acts done by him in the discharge of his duties within the National Assembly.

ART. 27. — No member of the National Assembly shall be arrested or prosecuted during his term of office for a crime or misdemeanour, unless deprived of his immunity by the National Assembly.

However, if the member is caught in the act, he may be arrested, and the Assembly shall be informed thereof without delay, but his detention shall be determined if so required by the Assembly.

ART. 28. — The National Assembly shall exercise the legislative power. The President of the Republic and the members of the National Assembly shall concurrently, have the right to introduce bills, but the bills introduced by the President of the Republic shall take precedence.

The National Assembly may, for a limited period and for a specific purpose, empower the President of the Republic to issue decree-laws, which shall be submitted to the Assembly for ratification at the expiration of this period.

The National Assembly votes upon the organic law. The organic bill cannot be the subject of a debate by the National Assembly until fifteen days have lapsed after its introduction. The text is adopted by a majority of two-thirds of the representatives.

The laws provided for by articles 4, 8, 9, 10, 66, 67, 68, 69 and 71 of the constitution are considered as organic.

The electoral law is considered as an organic law.

Ordinary bills are passed by a majority of the members of the National Assembly.

The National Assembly adopts Finance Bills, appropriation and winding up of the budget in accordance with the provisions of the Budget Organic Law.

The Budget must be adopted not later than 31 December. If after such date, the National Assembly has still not taken its decision, the provisions of the Finance Bill

can be put into effect by means of decrees, as renewable quarterly instalments.

ART. 29. — The National Assembly meets each year in an ordinary session starting in October and ending in July.

However, the first session of each legislature takes place during the first fortnight of November.

During recesses, the Assembly may be convened to an extraordinary session by the President of the Republic or a majority of its members.

ART. 30. — The National Assembly elects among its members standing committees whose activity continues during recesses of the National Assembly.

ART. 31. — During the recesses of the Assembly, the President of the Republic may, with the agreement of the standing committee concerned, issue decree-laws which shall be submitted to the Assembly for ratification during the next ordinary session.

ART. 32. — Treaties shall not become operative until after their ratification. Duly ratified treaties shall take precedence over the laws.

ART. 33. — Treaties shall be ratified by means of a law.

ART. 34. — Texts governing the following subjects shall take the form of laws :

— general procedures for the implementation of the constitution, other than those relating to organic laws;

— the setting up of boards, public offices, national companies or corporations;

— nationality, personal status and obligations;

— rules of procedure before the various courts of law;

— determination of crimes and misdemeanours and of the penalties applicable thereto;

— amnesty;

— the subject-matter of assessment and the rates of taxes for the benefit of the

state, except in the event of a delegation of authority to the President of the Republic through the finance law and tax laws;

- the system of issuing money;
- loans and financial commitments contracted by the State;
- basic guarantees granted to members of the civil and military services.

ART. 35. — The law shall determine the basic principles of :

- the system of ownership and of title to chattels real;
- education;
- public health;
- labour and social security legislation.

ART. 36. — Approval of the Development Plan shall be embodied in a law. The law shall also authorize Government revenue and expenditure in accordance with the conditions set forth in the budget organic law.

CHAPTER THREE
THE EXECUTIVE POWER

ART. 37. — The executive power shall be vested in the President of the Republic who is assisted by a Cabinet headed by a Prime Minister.

SECTION I

The President of the Republic

ART. 38. — The President of the Republic is the Head of the State.

His religion is Islam.

ART. 39. — The President of the Republic shall be elected for a term of five years by secret, direct, free and universal suffrage, during the last thirty days of the presidential term of office as provided by the electoral law.

In the event it shall be impossible to hold elections within the period prescribed

for reasons of war or imminent danger, the term of the President shall be extended by means of a law until such time as elections can be held.

The President of the Republic is re-eligible.

Exceptionally and in consideration of the eminent services rendered by « President Habib Bourguiba » to the Tunisian people, whom he has liberated from the yoke of colonialism, turning them into an unified Nation and an independent modern State enjoying full sovereignty, the National Assembly hereby proclaims President Habib BOURGUIBA President of the Republic for life.

ART. 40. — Any Tunisian of Moslem religion, whose father and paternal grandfather are Tunisians, all three having held Tunisian nationality without interruption, shall be eligible to the Office of President.

The candidate shall also not be less than forty years of age and enjoy full civil rights.

The candidate shall be sponsored by a number of elected persons, in accordance with the procedures and conditions set forth in the electoral law.

The déclaration of candidature shall be entered in a special register kept by a committee composed of the President of the National Assembly, who acts as Chairman, and five members : The Mufti of Tunisia, the First President of the Supreme Court, the Attorney General, the First President of the Administrative Court and the First President of the Court of Appeals of Tunis.

The Committee shall determine the validity of the candidature and proclaim the results of the ballot.

ART. 41. — The President of the Republic shall be the guarantor of the Nation's independence, of its territorial integrity, of compliance with the constitution and the laws and of the execution of treaties. He shall be responsible for the normal operation of constitutional public authorities and shall ensure the continuity of the State.

ART. 42. — The President-elect shall take the following oath before the National Assembly :

« I swear by Almighty God that I will preserve the independence territorial integrity of the Homeland, comply with its constitution and laws, and protect the Nation's interests to the best of my ability ».

ART. 43. — The official seat of the Presidency of the Republic shall be Tunis and its suburbs.

However, under exceptional circumstances, it may be transferred temporarily to any other location within the territory of the Republic.

ART. 44. — The President of the Republic shall be Commander in Chief of the Armed Forces.

ART. 45. — The President of the Republic shall accredit diplomatic representatives of the State to foreign powers.

The diplomatic representatives of foreign powers shall be accredited to him.

ART. 46. — In the event of impending danger threatening the existence of the Republic, the security and independence of the country and making impossible the normal operation of public services, the President of the Republic may take such exceptional measures as shall be necessary under the circumstances, after consultations with the Prime Minister and the President of the National Assembly.

In that event, the President cannot dissolve the National Assembly, nor can a motion of censure be tabled against the Government.

Such measures shall become inoperative as soon as the circumstances that generated them shall have ceased to exist.

The President shall send the National Assembly a statement to that effect.

ART. 47. — The President of the Republic may submit to a referendum any bill dealing with the organization of the public authorities or the ratification of a treaty which might have an effect on the operation of institutions, provided that nothing therein shall be contrary to the Constitution.

In the event such referendum results in the bill being adopted, the President shall promulgate such bill within a period of not more than fifteen days.

ART. 48. — The President of the Republic shall promulgate treaties.

He shall declare war and conclude peace with the consent of the National Assembly.

He shall have power to grant reprieves and pardons.

ART. 49. — The President of the Republic shall direct national policy, determine its basic tenets and inform the National Assembly thereof. The President may address the National Assembly either in person or by means of a message.

ART. 50. — The President of the Republic shall appoint the Prime Minister, and, on the recommendation of the Prime Minister, the other members of the Cabinet.

The President shall preside over Cabinet meetings.

ART. 51. — The President of the Republic shall have the power to dismiss the

Cabinet or one of its members, on his own initiative or on the recommendation of the Prime Minister.

ART. 52. — The President of the Republic shall promulgate constitutional, organic and ordinary laws and have them published in the Official Journal of the Tunisian Republic within a period not exceeding fifteen days from the day he shall have received them from the President of the National Assembly.

The President may, within said period, send the bill back to the National Assembly for a second reading. Then, if the bill is passed by a majority of two-thirds of the National Assembly, the bill shall be promulgated and published within a new period of not more than fifteen days.

ART. 53. — The President of the Republic shall be responsible for ensuring that the laws are implemented and shall be entrusted with general regulatory powers.

He may delegate all or any part of this authority to the Prime Minister.

ART. 54. — Bills shall be debated in Cabinet meetings. Executive orders of a regulatory nature shall bear the signatures of the Prime Minister and of the Cabinet member concerned.

ART. 55. — The President of the Republic shall, on the recommendation of the Cabinet, appoint the higher civil and military officers.

ART. 56. — If the President of the Republic is temporarily unable to discharge the powers and duties of his office, he may, by means of an executive Order, delegate all or part of his powers and duties, except the power to dissolve the National Assembly, to the Prime Minister.

The Cabinet shall continue in existence, even when a motion of censure is voted against it, for the duration of the tempo-

rary inability of the President and until such inability be removed.

The President shall notify to the President of the National Assembly the temporary delegation of his powers and duties.

ART. 57. — In the event of a vacancy in the Office of the President of the Republic by death, resignation or permanent inability, the powers and duties of President of the Republic shall immediately devolve on the Prime Minister for the remainder of the term of the then current National Assembly.

The Prime Minister shall inform the President of the National Assembly thereof by letter and take the constitutional oath set forth in Article 42 hereinabove before the National Assembly or, if that is not possible, before the Bureau of the National Assembly, or, if that is not possible, before the President of the National Assembly.

In case of a simultaneous impediment in respect of the Prime Minister for one of the reasons listed in the preceding paragraph, the powers and duties of President of the Republic, excepting those referred to in the second paragraph of Article 2 and in Articles 46, 47, and 63, shall be temporarily carried out by the President of the National Assembly.

If there should be, for any reason whatsoever, a like impediment in respect of the President of the National Assembly, then, the Minister of Justice shall temporarily exercise the powers and duties of President of the Republic, excepting those referred to in the second paragraph of Article 2 and in Articles 46, 47 and 63.

In the last two cases, a new President shall be elected for the remainder of the term of the then current National Assembly. Elections shall be held within not more than forty five days from the start of the vacancy.

Within this period, no motion of censure may be tabled against the Government.

SECTION II

The Cabinet

ART. 58. — The Cabinet shall implement national policy in accordance with the directives and options established by the President of the Republic.

ART. 59. — The Cabinet shall be responsible for its actions to the President of the Republic.

ART. 60. — The Prime Minister directs and coordinates Government activities. The Administration and Public Force are under his direction, authority and control. He deputizes, as required, for the President of the Republic in presiding over Cabinet and any other meetings.

ART. 61. — Cabinet members shall have the right to attend the National Assembly and meetings of its Committees.

Any member of the National Assembly shall have the right to put written or oral questions to the Cabinet.

ART. 62. — The National Assembly shall check upon the implementation by the Cabinet of the policy laid down by the President of the Republic.

The National Assembly shall have the right to draw the attention of the President of the Republic to a Cabinet action, by means of a recommendation stating the reasons on which it is based and adopted by an absolute majority of its members.

The Assembly may challenge the Cabinet's continuance in Office by voting a motion of censure. The motion of censure shall only be admissible if it states the reasons on which it is based, bears the signatures of not less than one third of the members of the National Assembly and if three months shall have lapsed after

the recommendation referred to in the second paragraph of this article has been dispatched.

Voting on the motion of censure shall not take place until forty eight hours after it shall have been introduced.

When a motion of censure is adopted by a majority of two thirds of members, the Prime Minister shall submit the resignation of the Cabinet to the President of the Republic.

ART. 63. — The President of the Republic may, after consultations with the Prime Minister and the President of the National Assembly, dissolve the National Assembly if a motion of censure has been passed by its members.

The decree dissolving the National Assembly must state that electors are being called to vote at new elections within a period not exceeding thirty days.

In case of a dissolution of the National Assembly proclaimed in accordance with the provisions of the first paragraph of this article the President of the Republic shall have the power to take decree-laws which shall thereafter be submitted to the National Assembly for ratification.

The newly elected National Assembly must meet within ten days from the publication of election results.

In the event that, during its first session, the newly elected Assembly shall pass a further motion of censure under the same conditions and for the same reasons as those of the motion passed by the previous Assembly, then, President of the Republic shall be required to hand in his resignation.

In that case, the powers and duties of the Office of President of the Republic shall temporarily devolve on the President of the National Assembly, as provided under the second paragraph of Article 57.

Thereupon, the provisions of the fourth and the fifth paragraphs of said article shall apply.

CHAPTER FOUR
THE JUDICIARY POWER

ART. 64. — Judgements shall be given in the name of the People and carried out in the name of the President of the Republic.

ART. 65. — Judges shall be independent and subject to no authority other than that of the law in the discharge of justice.

ART. 66. — Judges shall be appointed by means of a decree from the President of the Republic, on the recommendation of the higher Council of the Judiciary.

The procedures for their recruitment shall be established by law.

ART. 67. — The composition, powers and duties of the Higher Council of the Judiciary shall be determined by law. This Council shall take care that the guarantees granted to judges with regard to appointment, promotion, transfer and discipline be duly enforced.

CHAPTER FIVE
THE HIGH COURT

ART. 68. — The High Court shall be convened when high treason has been committed by a member of the Cabinet. Its jurisdiction, composition and rules of procedure shall be determined by law.

CHAPTER SIX
THE STATE COUNCIL

ART. 69. — The State Council shall consist of two bodies :

1 — The Administrative Tribunal

2 — The Court of Accounts.

The composition, jurisdiction and rules of procedure of the State Council shall be determined by law.

CHAPTER SEVEN
THE ECONOMIC AND SOCIAL
COUNCIL

ART. 70. — The Economic and Social Council shall be an advisory body on economic and social matters.

Its composition as well as its relations with the National Assembly shall be determined by law.

CHAPTER EIGHT
LOCAL AUTHORITIES

ART. 71. — The Municipal and Regional Councils shall deal with matters of local interest, as prescribed by law.

CHAPTER NINE
AMENDMENT
OF THE CONSTITUTION

ART. 72. — The President of the Republic, or not less than one third of the members of the National Assembly, shall have the right to propose amendments to the constitution, provided that such proposals shall in no way affect the Republican System of the State.

ART. 73. — The National Assembly shall not give consideration to the proposed amendment until it shall have passed a resolution to this effect and determine its object by an absolute majority, and after its examination by an ad hoc committee.

No amendment shall be made to this Constitution by the National Assembly except when it shall have been passed by a two-thirds majority of its members in

two readings, the second of which shall take place not less than three months after the first.

ART. 74. — The President of the Republic shall promulgate as a constitutional law the law amending the Constitution, as provided under Article 52.

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