



[HeinOnline](#)

Citations:

Bluebook 20th ed.
English translation of the French original text of the Charter of 7 May 1970 138
(2011) Title I: The State and Sovereignty

ALWD 6th ed.

Chicago 7th ed.
, "Title I: The State and Sovereignty," Charter of the Presidential Council of the
Republic of Dahomey : 138-139

McGill Guide 9th ed.
, "Title I: The State and Sovereignty" 138.

MLA 8th ed.
"Title I: The State and Sovereignty." Charter of the Presidential Council of the
Republic of Dahomey, , , p. 138-139. HeinOnline.

OSCOLA 4th ed.
, 'Title I: The State and Sovereignty' 138

Provided by:
Harvard Law School Library

- Your use of this HeinOnline PDF indicates your acceptance of HeinOnline's Terms and
Conditions of the license agreement available at
<https://heinonline.org/HOL/License>
- The search text of this PDF is generated from uncorrected OCR text.

CHARTER OF THE PRESIDENTIAL COUNCIL of the REPUBLIC OF DAHOMEY¹

May 7, 1970

PREAMBLE

We, Hubert Maga,
Justin Ahomadegbe-Tometin,
Sourou-Migan Apithy, as those politically responsible for Dahomey,
Affirm our firm desire to accomplish national unity, to reconcile the
sons of this country and to ensure to our country the stability which is
necessary and indispensable to its economic and social development;
Condemn arbitrary acts, injustice, corruption, speculation, regionalism,
nepotism:
Reaffirm the attachment of Dahomey to the principles of democracy
and the rights of man as defined by the Declaration of the Rights of Man
and the Citizen of 1789, by the Universal Declaration of 1948, and the
Charter of the United Nations;
Confirm the attachment of Dahomey to the cause of African unity and
to co-operation with all the Peoples of the world in peace, justice, liberty,
equality and independence.
In faith of which
We solemnly adopt this Charter to which we swear loyalty and faith.

TITLE I

THE STATE AND SOVEREIGNTY

Art. 1. The State of Dahomey is an independent and sovereign republic.
The national emblem is the tricolor flag: starting from the staff, one

¹ *Charte du Conseil Présidentiel, Ordonnance No 70-34 C.P. du 7 mai 1970*, Imprimerie Nationale, Porto Novo, supplied by Ministry of Foreign Affairs, in December 1971. Translated by the Editor. Ed.

green stripe across the top of the flag and covering two fifths of its height, two equal horizontal stripes, the upper one yellow and the lower one red.

The seal and armorial bearing of the State shall be determined by regulation.

The national anthem of the Republic is "*L'Aube Nouvelle*."

The motto of the Republic is "fraternity, justice, work."

The official language is French.

Art. 2. The Republic of Dahomey is one and indivisible, secular, democratic and social.

TITLE II

THE RIGHTS AND DUTIES OF THE CITIZEN

Art. 3. The Republic of Dahomey guarantees the fundamental liberties. It guarantees freedom of speech, press, assembly, association, procession and manifestation under conditions determined by ordinance.

Art. 4. The Republic of Dahomey recognizes that all citizens have the right to work and shall attempt to create the conditions to make this right effective.

Art. 5. The freedom of the worker to form unions and to strike is recognized. This right shall be exercised under conditions stipulated by ordinance.

Art. 6. No one may be arbitrarily detained.

All accused persons shall be presumed innocent until their guilt has been proved as the result of a procedure providing the guarantees indispensable to their defence. The judicial authority, guardian of individual liberty, shall ensure respect for this principle under the conditions stipulated by ordinance.

Art. 7. The domicile is inviolable.

Art. 8. An ordinance shall guarantee secrecy of correspondence.

Art. 9. The Republic ensures equality before the law to everyone without distinction of origin, race, sex or religion. It respects all beliefs.

All particularist propaganda of a racial, regional or ethnic character, as well as any manifestation of racial discrimination shall be punished by law.

Art. 10. The defence of the nation and of the territorial integrity is a sacred duty for every Dahomean citizen.

TITLE III

THE PRESIDENTIAL COUNCIL

Art. 11. The Presidential Council is the supreme organ of the state.

Art. 12. The Presidential Council is composed of three members as follows:

Messrs. Hubert Maga
Justin Ahomadegbe-Tometin
Sourou-Migan Apithy.

Art. 13. The Presidential Council of the Republic shall embody the national unity.

It shall guarantee national independence, territorial integrity, respect of international treaties and agreements.

It shall insure, by its arbitration, the regular functioning of the governmental authorities, as well as the continuance of the State.

Art. 14. The Presidential Council is the exclusive holder of the legislative and executive powers.

It shall determine the policy of the Nation.

Art. 15. The Presidential Council shall appoint the members of the Government on the proposal of each of its members, and shall determine their functions.

It may, in the same manner and conditions, terminate their functions and replace them. However, should one of the Presidents refuse to replace a Minister deprived of his office, the replacement shall be made by majority decision of the members of the Presidential Council.

Art. 16. The functions of member of the Presidential Council and member of the Government shall be incompatible with the exercise of any elective office, of any public employment and of any professional activity.

Art. 17. During their term of office neither the members of the Presidential Council nor the members of the Government may, either themselves or through intermediaries, buy or lease anything that falls within the domain of the State without prior authorization by the Supreme Court under conditions stipulated by law. They may not take part in sales of furnishings nor in adjudications relating to administrations or institutions dependent on or controlled by the State.

Art. 18. The Presidential Council shall be headed by a President who shall be both Head of State and Head of the Government.

The Presidential Council shall meet upon convocation of its President or at the request of 2 of its members.

It shall take its decisions by unanimity of its members. However, should one member of the Presidential Council refuse three times to agree to an action, the decision shall be by majority vote.

Art. 19. Each member of the Presidential Council shall in turn hold the office of the Presidency for a period of two years in the order stipulated in Article 12 above.

Art. 20. In the event that the presidency of the Presidential Council has been vacated, by death, resignation or definitive incapacity, the responsibility shall devolve on the next in order President. The term of the new President may in no case exceed the normal term of office provided for each President.

In case of temporary absence or impediment of the President in office, the interim shall be filled by the member of the Presidential Council next in order.

Art. 21. The Presidential Council shall negotiate and ratify treaties and international agreements.

Art. 22. Treaties and international agreements properly ratified shall, from their time of publication, possess authority overriding the laws, subject in each case to its application by the other party.

Art. 23. The Presidential Council of the Republic shall appoint in the Council of Ministers the Grand Chancellor of the National Order, the members of the Supreme Court, Ambassadors, envoys extraordinary, judges, officers and those high officials the list of which shall be drawn up by ordinance.

Art. 24. The Presidential Council has the right of pardon. It shall exercise this right in accordance with the conditions provided in Article 48 below.

Art. 25. The acts of the Presidential Council shall be signed by the members of the Council.

In cases of urgency so declared by the Council, however, the signature of the President and one member shall suffice.

Art. 26. The members of the Presidential Council shall, before taking office, take the following oath:

“Before God and our ancestors, before all men and before the Dahomean people, sole holder of the national sovereignty,

We, Hubert Maga, Justin Ahomadegbe-Tometin, Sourou-Migan Apithy, Members of the Presidential Council, solemnly swear:

- Loyally to fulfil the high office confided to us;
- To be guided by the general interest, to consecrate all our efforts to seeking and promoting the common good;
- To act everywhere as faithful and loyal servants of the people.

In case we are foresworn, may we submit to the rigors of the law.”

The oath shall be taken before the President of the Supreme Court.

TITLE IV

THE PRESIDENT OF THE PRESIDENTIAL COUNCIL

Art. 27. The President of the Presidential Council shall direct the policy of the Nation in agreement with the Council.

Art. 28. He shall be the Supreme Head of the Armed Forces.

He shall appoint in the Council of Ministers, following the advice of the members of the Presidential Council, the members of the High Council of Defence and shall preside over meetings of that Council. The other members of the Presidential Council shall attend these meetings.

The composition, organization and functioning of the High Council of Defence shall be determined by ordinance.

Art. 29. The President of the Presidential Council shall be responsible for the National defense.

He shall have control of the public forces. He shall ensure the maintenance of order and security.

Art. 30. In no case may the President of the Presidential Council, without incurring the guilt of high treason, call upon internal or foreign Armed Forces in order to retain his office beyond its normal term, nor to endanger the system of government established by this Charter.

Art. 31. The President of the Presidential Council shall accredit Ambassadors and envoys extraordinary to foreign powers; foreign Ambassadors and envoys extraordinary shall be accredited to him.

Art. 32. The President of the Presidential Council shall ensure the execution of judicial decisions.

Art. 33. The acts of the President of the Presidential Council other than those provided in Articles 28 and 31, shall be countersigned, when circumstances so require, by the ministers responsible for their execution.

Art. 34. The President of the Presidential Council shall make civilian and military appointments other than those provided in Article 23 above.

TITLE V

RELATIONS BETWEEN THE PRESIDENTIAL COUNCIL
AND THE GOVERNMENT

Art. 35. The Ministers shall be directly under the authority of the President of the Presidential Council, Head of State and Head of the Government.

Art. 36. The members of the Presidential Council shall attend the Council of Ministers.

They may take part in the deliberations.

Art. 37. The Council of Ministers shall be presided over by the President of the Presidential Council.

Art. 38. Ordinances and regulatory decrees shall be issued in the Council of Ministers.

Ordinances shall be signed by the members of the Presidential Council in accordance with the procedure provided for decision of the Council in paragraph 3 of Article 18 above.

Regulatory decrees shall be countersigned by the Ministers in charge of their execution.

Art. 39. Ordinances shall establish the regulations concerning:

- citizenship, civil rights and the fundamental guarantees granted to the citizens for the exercise of their public liberties, the obligations imposed by the national defense upon the persons and property of citizens;
- nationality, status and legal capacity of persons, marriage contracts, inheritance and gifts;
- the procedure by which customs shall be recorded and harmonized with the fundamental principles of this Charter;
- determination of crimes and misdemeanors as well as the penalties imposed therefor, criminal procedure, amnesty;
- the organization of all juridical systems and the procedure to be followed before them, the creation of new juridical systems, the status of magistrates, of ministerial officers and of assistants of the judiciary;
- the basis, the rate and the methods of collecting taxes of all types;
- the issuance of currency;
- the establishment of categories of public institutions;
- the general statute for public office;
- the general organization of the administration;
- martial law and siege law.

Ordinances shall determine the fundamental principles of:

- the general organization of national defense;
- the free administration of local communities, the extent of their jurisdiction and their resources;
- education;
- property rights, civil and commercial obligations;
- legislation pertaining to employment, unions and social security;
- transfers and the direction of the state domain;
- benefit societies and savings;
- the organization of production;
- the system of transportation and telecommunications;
- the prison system.

Art. 40. The “financial laws” shall determine the financial resources and obligations of the State. “Regulatory laws” shall control the implementation of the “financial laws” subject to the subsequent audit of the Nation’s accounts by the Supreme Court.

“Planning laws” shall determine the objectives of the economic and social action of the State.

“Financial laws,” “regulatory laws” and “planning laws” shall be issued by ordinance.

Art. 41. Matters other than those indicated in Articles 39 and 40 above shall be covered by decrees.

Art. 42. Texts in the form of laws concerning the matters referred to in Articles 39 and 40 drawn up before the entry into force of this Charter may be modified or abrogated by ordinance.

TITLE VI

THE SUPREME COURT

Art. 43. The Supreme Court shall be the highest authority of the State in constitutional, administrative, and judicial matters and in the accounts of the State.

There shall be no appeal from decisions of the Supreme Court. They shall be binding upon the governmental authorities, upon all jurisdictions and upon all administrative and judicial authorities.

The Supreme Court shall ensure the regularity of electoral and referendum proceedings and proclaim their results.

It may be consulted by the Presidential Council on all drafts or ordinances, decrees and, more generally, on all administrative and judicial matters.

It may not rule upon the expediency of proposals submitted to it.

Art. 44. An ordinance shall stipulate the composition, organization, powers and functions of the Supreme Court.

TITLE VII

THE JUDICIAL AUTHORITY

Art. 45. Justice shall be rendered over the territory of the State in the name of the people.

Judges shall, in the exercise of their functions, be subject only to the authority of the law.

Art. 46. The Presidential Council shall be the guarantor of the independence of the judges.

It shall be assisted by the High Council of the Judiciary.

Art. 47. The High Council of the Judiciary shall be the disciplinary jurisdiction for judges.

The composition, organization and functioning of the High Council of the Judiciary shall be established by ordinance.

Art. 48. The High Council of the Judiciary shall study cases of pardon and transmit their advice to the Presidential Council.

Art. 49. Judges shall be appointed by the Presidential Council on the proposal of the Minister of Justice with the advice of the High Council of the Judiciary.

TITLE VIII

OTHER INSTITUTIONS OF THE STATE

Art. 50. There shall be created and set up:

1. A National Consultative Assembly composed of three sections:

- (a) An economic section;
- (b) A social section;
- (c) A section of general policy.

2. Consultative councils at the level of the departments, the communes and the villages;

3. An organ of state control attached to the President in office of the Presidential Council.

Art. 51. The composition, organization, functions and powers of these institutions shall be fixed by ordinances.

TITLE IX

TERRITORIAL UNITS

Art. 52. The territorial units shall be the communes and the departments. Other territorial units may be created by ordinance.

TITLE X

GENERAL PROVISIONS

Art. 53. The regime instituted by this Charter shall be guaranteed by the Army.

The Army shall take an oath to this effect before the Presidential Council.

Art. 54. The provisions necessary to the application of this Charter shall be issued as ordinances or decrees.

Art. 55. Legislation presently in force in Dahomey shall continue to be applicable except where new texts intervene, insofar as it is not contrary to this Charter.

Art. 56. Pending general elections and the institution of a constitutional

regime this Charter shall be executed as the “fundamental law” of the State.

Done at Cotonou, 7 December 1970.

BIBLIOGRAPHY

Adloff, Richard. *West Africa: The French-Speaking Nations, Yesterday and Today*. New York: Holt, Rinehart and Winston, 1964.

Avindele, A. and Aguessy, C. *Dahomey*.

Glèle, M. A. *La république du Dahomey*. Paris 1969.

Reste, J. F. *Le Dahomey*.