

World Constitutions Illustrated

Edited by
Jefri Jay Ruchti

Burkina Faso

Constitution of Burkina Faso
2 June 1991
As amended by Law No. 001-2002/AN
22 January 2002

Translated by
Maria del Carmen Gress & J.J. Ruchti

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; and the French text of the intervening amending Laws, and of Law No. 001-2002/AN of 22 January 2002 provided by the National Assembly of Burkina Faso.

Cite as: Maria del Carmen Gress & J.J. Ruchti, trans., Constitution of Burkina Faso (June 2, 1991) as amended to Law No. 001-2002/AN (Jan. 22, 2002) (HeinOnline World Constitutions Illustrated library 2018)

Translation © 2018 by William S. Hein & Co., Inc.
All rights reserved.

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 Laws:

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

Law No. 003-2000/AN of 11 April 2000

Law No. 001-2002/AN of 22 January 2002

Decrees of Promulgation:

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

Decree No. 2000-151/PRES of 25 April 2000

Decree No. 20002-038/PRES of 5 February 2002

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 in the 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

[Last amended by Law No. 003-2000/AN of 11 April 2000]

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

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

[Last amended by Law No. 003-2000/AN of 11 April 2000]

While 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 Constitutional Council referred to [the matter] by the Government, the functions of the President of Faso are provisionally exercised by the President of the National Assembly.

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

The election of the new President takes place thirty days at least and sixty days at most after the official declaration of the vacancy or of the definitive character of the incapacity.

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

Article 44

[Amended by Law No. 003-2000/AN of 11 April 2000]

Before entering into [his] functions, the President elected swears taken the Constitutional Council 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 Constitutional Council 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

[Last amended by Law No. 003-2000/AN of 11 April 2000]

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 Constitutional Council.

Article 49

[Last amended by Law No. 001-2002/AN of 22 January 2002]

The President of Faso can, subsequent to opinion of the Prime Minister and of the President of the National Assembly, 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

[Last amended by Law No. 001-2002/AN of 22 January 2002]

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

In the case of dissolution, the legislative elections shall take place thirty days at least and sixty days at most after the dissolution.

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

The dissolved National Assembly may not meet.

Article 51

[Last amended by Law No. 001-2002/AN of 22 January 2002]

The President of Faso communicates with the National Assembly, either in person, or by the messages which he has read by the President of the National Assembly. Out of session, the National Assembly 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

[Last amended by Law No. 001-2002/AN of 22 January 2002]

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 and of the Constitutional Council, 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

[Amended by Law No. 003-2000/AN of 11 April 2000]

On their entry into their functions and to the end of their term, the members of the Government are required to provide a list of their assets to the Constitutional Council.

This obligation extends to all the Presidents of the Institutions consecrated by the Constitution, as well as to other persons of distinction [*personnalités*] of which the list is determined by the law.

TITLE V

OF THE PARLIAMENT

Article 78

[Last amended by Law No. 001-2002/AN of 22 January 2002]

The Parliament consists of one chamber denominated [the] “National Assembly”.

Article 79

[Last amended by Law No. 001-2002/AN of 22 January 2002]

The members of the National Assembly have the title of “Deputy”.

Article 80

[Last amended by Law No. 001-2002/AN of 22 January 2002]

The Deputies are elected by direct, equal and secret universal suffrage. 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

[Amended by Law No. 001-2002/AN of 22 January 2002]

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

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

[Amended by Law No. 001-2002/AN of 22 January 2002]

Any imperative mandate is null.

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

[Amended by Law No. 003-2000/AN of 11 April 2000]

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

It establishes its 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

[Amended by Law No. 003-2000/AN of 11 April 2000]

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

Article 91

[Last amended by Law No. 001-2002/AN of 22 January 2002]

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

[Amended by Law No. 003-2000/AN of 11 April 2000]

Every Deputy appointed to a high function is replaced in the Assembly by a substitute. The list of the high functions is determined by the law.

If he ceases to exercise his functions before the end of the [first] half of the legislature, he can retake his seat; beyond this date, he may only retake it in case of vacancy of the seat by the death or resignation of the substitute.

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

[Last amended by Law No. 001-2002/AN of 22 January 2002]

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 Constitutional Council.

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.

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

[Last amended by Law No. 003-2000/AN of 11 April 2000]

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 Court of Accounts 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

[Amended by Law No. 003-2000/AN of 11 April 2000]

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 Constitutional Council. 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

[Amended by Law No. 003-2000/AN of 11 April 2000]

During the sessions, at least 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 questions on current events, written questions, [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

[Amended by Law No. 003-2000/AN of 11 April 2000]

The proposals and amendments concerning the Law of Finance 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

[Amended by Law No. 003-2000/AN of 11 April 2000]

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 Constitutional Council, 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

[Amended by Law No. 003-2000/AN of 11 April 2000]

The jurisdictions of the judicial order and of the administrative order of Burkina Faso are:

- the Court of Cassation;
- the Council of State;
- the Court of Accounts;
- the Courts and the Tribunals instituted by the law;

These jurisdictions apply the law in force.

Article 127

[Amended by Law No. 003-2000/AN of 11 April 2000]

The Court of Cassation is the superior jurisdiction of the judicial order.

The Council of State is the superior jurisdiction of the administrative order.

The Court of Accounts is the superior jurisdiction of control of the public finances.

An organic law establishes the composition, the organization, the attributions, [and] the functioning of each of these jurisdictions, as well as the procedure applicable before them.

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

[Amended by Law No. 001-2002/AN of 22 January 2002]

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.

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

Article 134

[Amended by Law No. 003-2000/AN of 11 April 2000]

The Superior Council of the Magistrature makes proposals on the appointments and the assignments of the presiding magistrates of the Court of Cassation, of the Council of State, of the Court of Accounts 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

[Last amended by Law No. 003-2000/AN of 11 April 2000]

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 Court of Cassation. 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 ECONOMIC AND SOCIAL COUNCIL AND OF ORGANS OF CONTROL

[Amended by Law No. 003-2000/AN of 11 April 2000]

Article 141

[Amended by Law No. 003-2000/AN of 11 April 2000]

A consultative organ denominated the Economic and Social Council (CES), is instituted.

The Economic and Social Council is charged to give its opinion on the questions of economic, social or cultural character brought to its attention by the President of Faso or the Government.

It may be consulted on any draft of [a] plan or of [a] program of economic, social or cultural character.

The Economic and Social Council can equally proceed to an analysis of any problem of economic and social development. It submits its conclusion to the President of Faso or to the Government.

The Economic and Social Council may designate one of its members[,] on the demand of the President of Faso or of the Government, to present before these organs, the opinion of the Council on the questions which have been submitted to it.

An organic law establishes the composition, the organization and the functioning of the Economic and Social Council.

Article 142

[Last amended by Law No. 003-2000/AN of 11 April 2000]

The organs of control 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 are established by the law.

**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

[Amended by Law No. 003-2000/AN of 11 April 2000]

If the Constitutional Council, 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 CONSTITUTIONAL COUNCIL

[Amended by Law No. 003-2000/AN of 11 April 2000]

Article 152

[Amended by Law No. 003-2000/AN of 11 April 2000]

The Constitutional Council is the institution competent in constitutional and electoral matters. It is charged to decide on the constitutionality of the laws, of the ordinances as well as the conformity of the treaties and international agreements with the Constitution.

It interprets the provisions of the Constitution. It controls the regularity, the transparency and the sincerity of the referendum, of the presidential elections, legislative [elections] and is the judge of electoral disputes.

It proclaims the definitive results of the presidential, legislative and local elections.

The control of the regularity and of the transparency of local elections arises from the competence of the administrative tribunals.

Article 153

[Last amended by Law No. 003-2000/AN of 11 April 2000]

The Constitutional Council consists of, other than its President, 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 its President, the members of the Constitutional Council 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 Council are incompatible with those of a member of the Government or of the Parliament.

The other incompatibilities are established by the law.

Article 154

[Amended by Law No. 003-2000/AN of 11 April 2000]

The Constitutional Council sees to the regularity of the presidential elections.

It examines the complaints and announces the results of the ballot.

The Constitutional Council 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.

The Constitutional Council sees to the regularity of the operations of the referendum and announces the results of it.

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

Article 155

[Last amended by Law No. 001-2002/AN of 22 January 2002]

The organic laws and the regulations of the National Assembly, before their promulgation or their entry into application[,] must be submitted to the Constitutional Council.

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

Article 156

[Last amended by Law No. 003-2000/AN of 11 April 2000]

The Constitutional Council 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

[Last amended by Law No. 001-2002/AN of 22 January 2002]

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

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

Article 158

[Amended by Law No. 003-2000/AN of 11 April 2000]

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

Article 159

[Amended by Law No. 003-2000/AN of 11 April 2000]

A provision declared unconstitutional may not be promulgated or implemented.

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

Article 160

[Amended by Law No. 003-2000/AN of 11 April 2000]

An organic law establishes the organization and the functioning of the Constitutional Council 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

[Last amended by Law No. 001-2002/AN of 22 January 2002]

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

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.
