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CONSTITUTION of NIGER¹

November 8, 1960

PREAMBLE

The people of Niger proclaims its attachment 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 as they are guaranteed by this Constitution.

It affirms its wish to co-operate in peace and friendship with all peoples who share its ideal of justice, liberty, equality, fraternity and human solidarity.

TITLE I

THE STATE AND SOVEREIGNTY

Art. 1. The State of Niger is an independent and sovereign Republic.

The national emblem is the tricolor flag composed of three horizontal stripes whose colors, from top to bottom, are orange, white and green. The middle stripe shall have an orange disc in its center.

The motto of the Republic is "Fraternity, work, progress."

The official language is French.

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

Its principle is government of the people, by the people and for the people.

Art. 3. Sovereignty belongs to the people.

No section of the people nor any individual may usurp the exercise this right.

Art. 4. The people shall exercise its sovereignty through its representatives and by means of referendum. The conditions for recourse to a referendum shall be stipulated by law.

¹ *République du Niger. Constitution. 8 Novembre 1960. Imprimerie J. L. Fontanon, Niamey.* Supplied by the Ministry of Foreign Affairs. Translated by the Editor.

The Supreme Court shall ensure the regularity of the operation of the referendum and shall proclaim its results.

Art. 5. Suffrage shall be universal, equal and secret.

All Nigerian citizens of both sexes who have reached their majority and who enjoy civil and political rights may vote under the conditions to be determined by law.

Art. 6. The Republic shall ensure to all equality before the law without distinction of origin, race, sex or religion.

The Republic shall respect all beliefs.

Any particularist propaganda of a racial or ethnic character and any manifestation of racial discrimination shall be punished by law.

Art. 7. Political parties and groups shall be instrumental in the expression of the suffrage. They shall be formed and shall carry on their activities freely on condition that they respect the principles of national sovereignty and democracy and the laws of the Republic.

TITLE II

THE PRESIDENT OF THE REPUBLIC AND THE GOVERNMENT

Art. 8. The President of the Republic shall be the Head of State. He shall embody national unity. He shall uphold respect for the Constitution. He shall ensure the continuity of the State. He shall be the guarantor of national independence, of the integrity of the territory, and of respect for international treaties and agreements.

Art. 9. The President of the Republic shall be elected for five years by universal direct suffrage. He shall be eligible for re-election.

Art. 10. The President of the Republic shall be elected by an absolute majority on the first ballot. If this is not obtained, the President of the Republic shall be elected on a second ballot, taking place fifteen days after the first, by a relative majority.

Convocation of the voters shall be by decree taken in the Council of Ministers.

The first balloting for the election of the President of the Republic shall take place on the same day as that fixed for the general elections.

These elections shall take place twenty days at the least and fifty days at the most before the expiration of the powers of the incumbent President and Legislature.

A law shall determine the conditions of eligibility and ineligibility, the filing of candidacies, the voting procedure, the counting and proclamation of the results. The Supreme Court shall ensure the regularity of these operations.

Art. 11. In the event that the Presidency of the Republic has been

vacated by decease, resignation or absolute impediment, the functions of the President of the Republic shall be temporarily exercised by a person chosen from the body of the Assembly by its President.

If the duration of the presidential term still to run is equal to or less than twelve months, there shall be no election to the presidency of the Republic. The President appointed by the President of the Assembly shall become, without need of sanction, President of the Republic with the rank, powers and prerogatives attaching to this title.

If the duration of the presidential term still to run is greater than twelve months, new presidential elections shall take place. The term of the new President of the Republic shall expire at the same time as the powers of the National Assembly.

Art. 12. The President of the Republic shall be the sole holder of the executive power.

He shall appoint the members of the Government and assign their powers. Members of the Government shall be responsible to him. He shall terminate their functions.

Art. 13. The President of the Republic shall have the right to initiate legislation together with the members of the National Assembly.

He shall ensure the promulgation of the laws within fifteen days following their transmission to him by the President of the National Assembly. This time limit may be reduced to five days in cases of emergency attested by the National Assembly. Failing promulgation within these time limits, the President of the National Assembly shall proceed thereto.

The President of the Republic may, before these time limits expire, ask the National Assembly for a second reading of the law or of certain of its articles. This second reading may not be refused. He may also, within the same time limits, ask that this second reading not take place before the next ordinary session following the one during which the text was adopted in first reading. This may not be refused.

Voting upon the second reading shall be by a majority of two thirds of the members of the National Assembly.

Art. 14. The President of the Republic, with the agreement of the secretariat of the National Assembly, may submit to referendum any text seems to him to require direct consultation with the people.

When a referendum has resulted in the adoption of a bill, the President of the Republic shall promulgate it within the time limits stipulated in the preceding article.

Art. 15. The President of the Republic shall ensure the implementation of the laws and of the decisions of the judiciary. He shall issue the regulations applicable to the whole territory of the Republic.

Art. 16. The President of the Republic shall accredit Ambassadors and Envoys Extraordinary to foreign powers; Ambassadors and Envoys Extraordinary of foreign powers shall be accredited to him.

Art. 17. The President of the Republic shall be the Head of the Administration. He shall make appointments to the civil and military posts of the State.

Art. 18. The President of the Republic shall be the Head of the Armed Forces.

Art. 19. When the institutions of the Republic, the independence of the nation, the integrity of its territory or the implementation of its international undertakings are threatened in a clear and present danger, the President of the Republic shall take such exceptional measures as are required by the circumstances, with the agreement of the President of the National Assembly.

He shall inform the nation by a message. The National Assembly shall meet by right.

Art. 20. The President of the Republic shall have the right of pardon.

Art. 21. The President of the Republic shall determine and conduct the policy of the nation.

Art. 22. The President of the Republic shall preside over the Council of Ministers.

The Council of Ministers must deliberate upon:

- decisions which determine the general policy of the State.
- Government bills;
- ordinances and regulatory decrees;
- appointments to the higher offices of the State the list of which shall be drawn up by law.

Art. 23. Bills, ordinances and regulatory decrees, may be examined, before being submitted to the Council of Ministers, by the Supreme Court for its opinion.

Art. 24. The President of the Republic may delegate certain of his powers to the Ministers.

Art. 25. The functions of the President of the Republic and of members of the Government shall be incompatible with the exercise of any parliamentary mandate, of any public employment and of any professional activity.

Art. 26. The President of the Republic shall communicate with the National Assembly either directly, or by means of messages which he shall cause to be read by the President of the National Assembly and which shall not be followed by any debate.

TITLE III

THE NATIONAL ASSEMBLY

Art. 27. Parliament shall be composed of a single assembly called the National Assembly, whose members shall bear the title of deputies.

Art. 28. The National Assembly shall pass the laws and vote taxation.

Art. 29. Deputies to the National Assembly shall be elected by universal direct suffrage on a complete national list.

The duration of the legislation shall be for five years.

A law shall determine the number of members of the National Assembly, the conditions of eligibility and ineligibility, the offices incompatible with membership in the Assembly, the method of vote, the conditions under which new elections shall be organized in the case of vacancies in the seats of deputies.

In case of dispute, the Supreme Court shall rule upon the eligibility of candidates.

Art. 30. The National Assembly shall be the sole judge of the validity of the elections of its members.

Art. 31. Each year the National Assembly shall meet by right in two ordinary sessions.

The first session shall begin on the last Wednesday in April and shall not exceed three months. The second session shall begin on the first Wednesday of October and shall end on the third Friday of December.

Art. 32. The National Assembly shall be convened in extraordinary sessions by its President to consider a specific agenda, at the request of the President of the Republic or of an absolute majority of the deputies.

Extraordinary sessions shall be closed as soon as their agenda is exhausted.

Art. 33. The President of the Assembly shall be elected for the duration of the legislature.

Art. 34. An *in extenso* report of the debates shall be published in the *Journal Officiel*.

The Assembly may sit in secret committee at the request of the President of the Republic or of one third of its deputies.

Art. 35. Each deputy shall represent the whole Nation. All binding instructions shall be null and void.

The right to vote of deputies shall be personal. However, delegation of a vote shall be permitted when a deputy is absent because of sickness, in the accomplishment of an office or mission assigned to him by the Government or the Assembly, or to fulfil his military obligations. No one may be delegated more than one vote.

Art. 36. No deputy may be prosecuted, sought, arrested, detained or tried as a result of the opinions or votes expressed by him in the exercise of his functions.

Art. 37. No deputy may, during sessions, be prosecuted or arrested for criminal or minor offenses without the authorization of the National Assembly except in *flagrante delicto*. When the Assembly is not in session, no deputy may be arrested, without the authorization of the Secretariat of the National Assembly, except in *flagrante delicto*, in the case of authorized prosecution, or of final conviction.

The detention or prosecution of a deputy shall be suspended if the National Assembly so requests.

Art. 38. The deputies shall receive an emolument the amount of which shall be fixed by law.

Art. 39. The National Assembly shall draw up its own rules of procedure.

TITLE IV

RELATIONS BETWEEN THE ASSEMBLY AND THE GOVERNMENT

Art. 40. Members of the Government shall have access to the commissions of the National Assembly. They shall be heard at the request of the commissions. They may be assisted by Government commissioners.

Section I. Respective Domains of Law and Regulation

Art. 41. Laws shall establish the regulations concerning:

- citizenship, civil rights, and the fundamental guarantees granted to the citizens for the exercise of their public liberties;
- 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 the Constitution;
- determination of crimes and misdemeanors as well as the penalties imposed therefore, criminal procedure, amnesty;
- the organization of judicial and administrative tribunals and the procedure followed before them, the status of magistrates, of law officers and of assistants to the judiciary;
- the basis, the rate and the methods of collecting taxes of all types;
- the issuance of currency;
- the electoral system of the National Assembly and the local assemblies;
- the establishment of categories of public institutions;
- the general statute for the public service;
- the general organization of the administration;
- martial law and siege law.

Laws shall determine the fundamental principles of:

- the organization of the national defense;
- education;
- property rights, civil and commercial obligations;
- legislation pertaining to employment, unions and social security;
- transfers and administration in the State sector;

- benefit societies and savings;
- the organization of production;
- the system of transportation and telecommunications.

The financial laws shall determine the financial resources and obligations of the State.

Laws pertaining to national planning shall determine the objectives of economic and social action of the State.

Art. 42. The National Assembly shall authorize the declaration of war.

Art. 43. Martial law shall be decreed in a meeting of the Council of Ministers. The National Assembly shall meet automatically if it is not in session.

Prorogation of martial law beyond fifteen days may be authorized only by the National Assembly.

Art. 44. Matters other than those that fall within the domain of law shall be of a regulatory character.

Legislative texts concerning these matters existing prior to the entry into force of this Constitution may be modified by decree after consultation with the Supreme Court.

Art. 45. The President of the Republic may, in order to carry out his program, ask the National Assembly to authorize him by law to take for a limited period through ordinances measures that are normally within the domain of law.

These ordinances shall be enacted in meetings of the Council of Ministers, after consultation with the Supreme Court. They shall come into force upon their publication, but shall become null and void if the bill for their ratification is not filed with the National Assembly before the date set by the enabling act.

At the expiration of the time limit referred to in the first paragraph of this Article, the ordinances may be modified only by law in those matters which are within the legislative domain.

Art. 46. Bills and amendments which do not fall within the domain of law shall be inadmissible. Inadmissibility shall be pronounced by the President of the National Assembly.

In case of dispute, the Supreme Court, at the request of the President of the Republic or of the President of the National Assembly, shall rule within a time limit of eight days.

Section II. The drawing up of laws

Art. 47. Bills and amendments introduced by deputies shall not be considered when their adoption would have as a consequence either a diminution of public resources or the creation or increase of public expenditures, unless they are accompanied by a proposal for revenues or economies to an equivalent amount.

Art. 48. The discussion of Government bills shall pertain to the text

presented by the Commission. The latter shall, at the request of the Government, inform the National Assembly of the points on which there is disagreement with the Government.

Art. 49. Deputies shall have the right of amendment.

Art. 50. The National Assembly shall pass finance bills under the conditions to be stipulated by law.

Art. 51. The finance bill shall be filed with the National Assembly at the beginning of the October session. The finance bill must provide the revenues necessary wholly to cover the expenditures.

The National Assembly shall vote the budget in balance.

Should the National Assembly fail to reach a decision within seventy days after the bill has been filed, the provisions of the bill may be enforced by ordinance.

The Government shall inform the National Assembly, convened in extraordinary session, for ratification within a time limit of fifteen days.

Should the National Assembly fail to pass the budget by the end of this extraordinary session, the budget shall be definitely drawn up by ordinance.

Should the finance bill not be filed in time for it to be promulgated before the beginning of the fiscal year, the President of the Republic shall immediately request the National Assembly for the authorization to continue the budget of the preceeding year on a basis of provisional monthly credits.

Art. 52. The National Assembly shall settle the accounts of the Nation according to the methods provided in the Finance law.

TITLE V

TREATIES AND INTERNATIONAL AGREEMENTS

Art. 53. The President of the Republic shall negotiate and ratify international treaties and agreements.

Art. 54. Peace treaties, treaties or agreements relative to international organization, those that modify the internal laws of the State may be ratified only by a law.

Art. 55. If the Supreme Court, the matter having been referred to it by the President of the Republic or by the President of the National Assembly, shall declare that an international commitment contains a clause contrary to the Constitution, the authorization to ratify this commitment may be given only after amendment of the Constitution.

Art. 56. Treaties or agreements duly ratified shall, upon their publication, have an authority superior to that of laws, subject, for each agreement or treaty, to its application by the other party.

TITLE VI

THE SUPREME COURT

Art. 57. The Supreme Court shall be composed of four chambers: the Constitutional Chamber, the Judicial Chamber, the Administrative Chamber and the Accounts Chamber.

A law shall determine the composition, organization, powers and functioning of the Supreme Court.

TITLE VII

THE JUDICIAL AUTHORITY

Art. 58. Justice shall be rendered throughout the territory of the State in the name of the people.

Art. 59. Judges shall, in the exercise of their functions, be subject only to the authority of the law.

The President of the Republic shall be the guarantor of the independence of the judges. He shall be assisted by the High Council of the Judiciary.

Art. 60. A law shall determine the composition, organization and functioning of the High Council of the Judiciary.

Art. 61. Judges shall be appointed by the President of the Republic on the proposal of the Minister of Justice with the advice of the High Council of the Judiciary.

Art. 62. No one may be arbitrarily detained.

Everyone shall be presumed innocent until his guilt has been established following a procedure which offers him the guarantees required for his defense. The judicial authority, guardian of individual liberty, shall ensure respect for this principle under the conditions stipulated by law.

TITLE VIII

THE HIGH COURT OF JUSTICE

Art. 63. The High Court of Justice shall be composed of deputies elected by the National Assembly from its midst after each general election. The High Court of Justice shall elect its President from among its members.

A law shall determine the number of its members, its rules, and the procedure to be followed before it.

Art. 64. The President of the Republic shall not be held accountable for actions performed in the exercise of his office nor summoned before the High Court except in case of high treason.

The High Court shall be competent to try members of the Government for actions deemed to be crimes or misdemeanors performed in the exercise of their office, as well as to try their accomplices in case of conspiracy against the security of the State.

Art. 65. Indictment of the President of the Republic and of members of the Government shall be by open vote and by a majority of two thirds of the deputies composing the National Assembly.

Art. 66. The High Court shall be bound by the definition of crimes and misdemeanors as well as by the determination of penalties, as they are established by the criminal laws in force when the acts are committed.

TITLE IX

THE ECONOMIC AND SOCIAL COUNCIL

Art. 67. The Economic and Social Council shall give its opinion on Government bills, ordinances or decrees, as well as on parliamentary bills submitted to it.

Any bill dealing with a plan of an economic or social character shall be submitted to it for its advice.

The President of the Republic may consult the Economic and Social Council on any problem of an economic or social character.

The composition of the Economic and Social Council and its rules of procedure shall be determined by law.

TITLE X

TERRITORIAL UNITS

Art. 68. The territorial units of the State shall be created by law. A law shall determine the fundamental principles of the free administration of the territorial units, their powers and their resources.

TITLE XI

ASSOCIATION AND CO-OPERATION BETWEEN STATES

Art. 69. The Republic of Niger may conclude agreements of association with other states. The Republic of Niger is willing to create with other States intergovernmental organizations of common action, of co-ordination and of free co-operation.

Art. 70. Such organizations may have as their objects in particular the following:

- the harmonization of the monetary, economic and financial policies;
- the establishment of custom unions;

- the creation of joint funds;
- the harmonization of development plans;
- the harmonization of foreign policy;
- taking common measures for national defense;
- the co-ordination of judicial organization;
- health co-operation and co-ordination;
- co-operation in matters of higher education;
- harmonization of rules relating to the status of the public service and the right to work;
- co-ordination of transportation, communications and telecommunications.

TITLE XII

AMENDMENT

Art. 71. The President of the Republic and the members of the National Assembly alike have the right to initiate amendment of the Constitution.

Art. 72. A bill of amendment must, in order to be considered, receive the vote of a majority of three fourths of the members of the National Assembly.

No amendment shall enter into force before it has been approved by referendum, except if the bill in questions has been approved by a majority of four fifths of the members of the Assembly.

Art. 73. No procedure of amendment may be undertaken or pursued if it threatens the integrity of the territory. The republican form of Government may not be the subject of amendment.

TITLE XIII

GENERAL AND TRANSITIONAL PROVISIONS

Art. 74. The provisions necessary to implement this Constitution shall be the subject of laws voted by the National Assembly.

The present National Assembly shall be prolonged for five years from the date of the vote on the Constitution. The President of the Republic, Head of State, shall be elected for five years by the present National Assembly.

Art. 75. The established authorities of the Republic shall continue to exercise their functions, and the existing institutions shall be maintained until the establishment of new authorities and institutions.

Art. 76. The legislation presently in force in Niger shall continue to be applicable insofar as no new texts have been voted, and insofar as it is not contrary to this Constitution.

Done at Niamey, November 8, 1960