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# Burkina Faso's Constitution of 1991 with Amendments through 2012

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# Preamble

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;
- DETERMINED to promote integrity, probity, transparency, impartiality and the obligation to render account as the republican and ethical values proper to moralize the life of the Nation;
- RECOGNIZING the customary and traditional leadership as [a] moral authority[,] depository of the customs and of the traditions in our society;
- RECOGNIZING that the promotion of gender is a factor for realization of the equality of law between men and women of Burkina Faso;
- 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 Burkinabe 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 Burkinabe and all persons living in Burkina Faso benefit from an 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 belief, 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 of respect 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.

- Right to life
- Prohibition of cruel treatment
- Prohibition of slavery
- Prohibition of torture

- Protection from unjustified restraint

- Power to deport citizens

- Right to fair trial

- Presumption of innocence in trials

- Right to counsel

- Protection from ex post facto laws
- Principle of no punishment without law

- Inalienable rights
- Right to privacy

- Freedom of assembly
- Freedom of religion

- Freedom of expression
- Right to information
- Freedom of opinion/thought/conscience
- Freedom of press

## 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 Burkinabe 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 Burkinabe enjoy civil and political rights within the conditions specified by the law.

### Article 12

All the Burkinabe 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

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 within respect for the laws.

All the political parties or 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 may 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 their 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 each one.

## CHAPTER IV: OF SOCIAL AND CULTURAL RIGHTS AND DUTIES

## Article 18

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.

- Right to establish a business

- Reference to art
- Right to culture
- State support for the elderly
- State support for the disabled
- Right to rest and leisure
- Reference to science
- Right to shelter
- General guarantee of social security

- Right to work
- Right to equal pay for work

- Freedom of association
- Right to join trade unions

- Right to strike

- Right to marry
- Provision for matrimonial equality

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 matters 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. These 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 assets 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 to promote it.

## 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 participate in 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

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### Article 31

Burkina Faso is a democratic, unitary and secular State.

Faso is the republican form of the State.

### Article 32

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 under the conditions specified by the law.

Direct suffrage is always universal, equal and secret.

### Article 34

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

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### 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, [and] of respect for agreements and treaties.

## Article 37

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

## Article 38

Every candidate to the functions of President of Faso must be Burkinabe by birth, be thirty-five years of age at least and of seventy-five years [of age] at most 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 proceeds fifteen (15) days later to 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.

## 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

While the President of Faso is incapacitated in a temporary manner from fulfilling his functions, his powers are provisionally exercised by the Prime Minister.

In case of vacancy of the Presidency of Faso for any 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 exercised by the President of the Senate. It proceeds to the election of a new President for a new period of five years.

- Secret ballot
- Head of state selection
- Head of state term length
- Head of state term limits
- Claim of universal suffrage

- Minimum age of head of state
- Eligibility for head of state

- Head of state selection

- Head of state removal
- Head of state replacement

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

The President of the Senate exercising the functions of the President of Faso may not be [a] candidate at this presidential election.

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

## Article 44

Before entering into [his] functions, the President elected swears before the Constitutional Council the following oath: "I swear before the Burkinabe 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 from among the majority of the National Assembly 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

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 or the Senate.

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 may not 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

The President of Faso can, after [the] opinion of the Prime Minister, of the President of the Senate and of the President of the National Assembly, submit to referendum any bill of the law concerning any question of national interest.

• Oaths to abide by constitution

• Cabinet removal  
• Cabinet selection  
• Head of government removal  
• Head of government selection

• Approval of general legislation  
• Veto override procedure  
• Constitutionality of legislation

• Referenda

In [the] case of the adoption of the said law, it proceeds to its promulgation in the time periods specified in Article 48.

## Article 50

The President of Faso can, after consultation of the Prime Minister, of the President of the Senate and of the President of the National Assembly, declare the dissolution of the National Assembly. In [the] case of dissolution, the legislative elections take place sixty days at least and ninety days at most after the dissolution.

It may not proceed to a new dissolution in the year which follows these elections.

The dissolved National Assembly may not meet.

However, the mandate of the Deputies only expires at the date of validation of the mandate of the members of the new National Assembly.

## Article 51

The President of Faso communicates with the two Chambers of the Parliament, either in person, or by the messages which he has read by the President of each Chamber and which do not give rise to any debate. Out of session, the Chambers of the Parliament meet specially to this effect.

## Article 52

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 extraordinary envoys to the foreign powers and to international organizations.

The foreign ambassadors and extraordinary envoys are accredited to him.

He appoints the Grand Chancellor of the Order Burkinabe.

A law determines the functions or offices for which the power of appointment of the President of Faso is exercised after [the] opinion of the Parliament as well as the modalities and effects of this consultation.

## 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

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 Senate, 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 Parliament meets of plain right and the National Assembly 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

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## 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 [has at its] disposal 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.

- Name/structure of executive(s)
- Head of government removal
- Head of government selection
- Head of government powers
- Head of government replacement

## 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 relevant to the competence of the President of Faso.

In the thirty days which follow his appointment, the Prime Minister makes a declaration of general policy before the National Assembly.

This declaration is followed by debates and gives rise to a vote.

The adoption of this declaration validates investiture.

If the declaration of general policy does not receive the absolute majority of the members composing the National Assembly, the President of Faso terminates the functions of the Prime Minister within a time of eight days.

He appoints a new Prime Minister in accordance with the provisions of Article 46 above.

## 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.

- Cabinet removal

## 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 is possible with the prior agreement of the Government.

## Article 71

Every person appointed to exercise ministerial functions obligatorily benefits from a leave of absence or from a suspension of contract of work[,] according to the case.

## 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 corresponding to 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 for personal ends[,] information that is communicated to him.

## Article 75

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

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

## Article 76

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

## Article 77

On their entry into their functions and to the end of their exercise, 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 [concerning] which the list is determined by the law.

# TITLE V: OF THE PARLIAMENT

## Article 78

The Parliament consists of two Chambers: the National Assembly and the Senate.

The Congress is the meeting of the two Chambers of the Parliament.

The Congress meets under the presidency of the President of the National Assembly.

## Article 79

The members of the National Assembly have the title of "Deputy" and those of the Senate, the title of "Senator".

## Article 80

The Senate is composed of representatives of the territorial collectivities, of the customary and religious authorities, of the employers, of the workers, of the Burkinabe living abroad and of persons of distinction appointed by the President of Faso.

The Senators representing the local collectivities are elected by those locally elected of their respective regions by universal indirect suffrage.

The Senators representing the customary and religious authorities, the workers, the employers and the Burkinabe abroad are designated by their respective structures. No one may be elected or appointed Senator if they are not forty-five years old on the day of the ballot or of the appointment.

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

Every parliamentarian must benefit[,] the case arising, from a leave of absence or from a suspension of contract[,] as the case may be.

## Article 81

The duration of the mandate is of five (5) years for the Deputies and of six (6) years for the Senators.

However, by derogation of the paragraph above and in the case of force majeure or of necessity expressed by the Government and recognized by the Parliament with the absolute majority of the votes of the members composing the Parliament, the duration of the legislature may be prorogued until the validation of the mandate of the Deputies or of the Senators of the new legislature.

This extension may not surpass a time of one (1) year.

This modification is applied to the current legislature.

## Article 82

The law determines:

- the electoral circumscriptions;
- the number of seats and their division;
- the modes of the ballot;

- the conditions of election, of designation and of replacement by new elections or appointment in the case of vacancy of [a] seat, as well as the regime of the ineligibilities and of the incompatibilities;
- the status of the parliamentarians and the amount of their indemnities.

## Article 83

It may not proceed to partial elections in the last third of the legislature.

## Article 84

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

## Article 85

Any imperative mandate is null.

However, any Deputy who freely resigns from his party or from his political formation in the course of [a] legislature is replaced[,] of right[,] by a substitute. The law specifies the modalities of implementation of this provision.

All the members of the Parliament have deliberative voice. The right to vote of the parliamentarians is personal. However the delegation of the vote is permitted when the absence of a member of the Parliament is justified. No one may validly receive for a given ballot more than one delegation of the vote.

## Article 86

Every new Chamber of the Parliament proclaims the validity of the election or of the appointment of its members[,] notwithstanding the control of regularity exercised by the Constitutional Council.

It establishes its regulations.

An organic law establishes the regulations concerning the organization and the functioning of the Chambers of the Parliament.

## Article 87

Each Chamber of the Parliament 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

Each Chamber of the Parliament 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 or of the Senators on a specific agenda. The extraordinary session is closed on completion of the agenda.

## Article 89



The sittings of the Chambers of the Parliament are public. However they may be held in closed [session] in case of need.

## Article 90

Except [in the] case of force majeure declared by the Constitutional Council, the deliberations of each Chamber of the Parliament are valid only if they have taken place at its seat.

The deliberations of the Congress may be made in any other place regularly determined by joint decision of the President of the National Assembly and of the President of the Senate.

## Article 91

The President of the Senate and the President of the National Assembly are elected for the duration of the legislature by the absolute majority in the first round, or by the 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 votes.

## Article 92

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

## Article 93

Each Chamber of the Parliament enjoys financial autonomy. Each President manages the credits which are allotted to him for the functioning of the Chamber.

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

## Article 94

Every elected member of the Parliament appointed to high functions is replaced by a substitute. The list of the high functions is determined by the law.

If he ceases to exercise his functions at the latest 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 member of the Parliament may be prosecuted, investigated, arrested, detained or judged for reason of the opinions or votes emitted by him during the exercise or on the occasion of the exercise of his functions.

- Leader of first chamber
- Standing committees
- Leader of second chamber

- Replacement of legislators

- Immunity of legislators

## Article 96

Except in the case of flagrante delicto, any member of the Parliament may only be prosecuted or arrested in a penal or criminal matter with the authorization of at least one-third of the members of the Chamber of which he is a member during the sessions or of the Bureau of that Chamber when out of the sessions.

# TITLE VI: OF THE RESPECTIVE DOMAINS OF THE LAW AND OF REGULATION

## Article 97

The law is a deliberation, regularly promulgated[, ] of the Parliament.

The law to which the Constitution confers the organic character is a deliberation of the Parliament 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, to the Senators and to the Government. The drafts of texts emanating from the Deputies or from the Senators are called "proposals of law" and those emanating from the Government "bills of law".

The proposals and bills of law are deliberated in the Council of Ministers before their deposit with the Bureau of each Chamber of the Parliament.

## Article 98

The people exercise the initiative of the laws by way of petition constituting a proposal[, ] written and 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 with the Bureau of the National Assembly.

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

## Article 99

The ordinance 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 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

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 custom may be asserted and harmonized with the fundamental principles of the Constitution;
- the promotion of gender;
- 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, of the Senate 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

The Parliament votes the bill of the law of finance within the conditions provided for by the law.

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

The National Assembly decides [statue] first within a time of sixty days after the deposit of the bill and the Senate has at its disposal fifteen days counting from the date of reception to decide.

If the Senate adopts a text identical to that of the National Assembly, the law is transmitted without delay to the President of Faso for promulgation.

If the Senate has not decided within the time required or is in disagreement with the National Assembly, the bill is transmitted with urgency to the National Assembly which decides definitively.

The provisions of the bill can be put into force by ordinance if the Assembly has not decided at the latest on the date of the cloture of the session and only if the budgetary year is about to expire. In this case, the Government convokes an extraordinary session, in order to demand the ratification. If the budget is not voted at the end of the extraordinary session, it is definitively established by ordinance.

If the bill of the law of finance has not been dealt with in a timely fashion to be voted 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

The Parliament 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 the 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 Parliament 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 Parliament.

The declaration of war and the sending of military contingents or observers abroad are authorized by the Parliament.

• Budget bills

• Designation of commander in chief  
• Emergency provisions  
• Power to declare/approve war

## Article 107

The Government can, for the execution of its programs, demand of the Parliament 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 become lapsed if the bill of law of ratification is not deposited with the National Assembly before the date established by the enabling law.

On the expiration of the time period mentioned in the first paragraph of this Article, the ordinances may only be modified by the law in those of their 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 PARLIAMENT

## Article 109

The Prime Minister has access to the Parliament. He can give responsibility to a member of the Government of representation before the Parliament; 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 National Assembly.

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

## Article 110

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

## Article 111

During the sessions, at least one sitting per week is reserved to the questions of the members of the Parliament and to the responses of the Government.

The Parliament can address to the Government questions on current events, written questions, [or] oral questions with or without debate.

## Article 112

The Government deposits the bills of law before the Parliament within the conditions provided for by the law.

- Powers of cabinet
- Head of government decree power

- Legislative committees
- Head of government powers
- Legislative oversight of the executive

- Powers of cabinet
- Legislative committees

- Legislative oversight of the executive

- Budget bills
- Powers of cabinet
- Division of labor between chambers
- Economic plans
- Initiation of general legislation
- First chamber reserved policy areas
- Second chamber reserved policy areas

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

In accordance with the law, the Government participates in the debates concerning the orientation, the legitimacy, the merit and the effectiveness of the policy of the Government.

Every bill of law is examined successively in the two Chambers of the Parliament. The bills of law are, after their adoption by the National Assembly, transmitted to the Senate which decides within a time of twenty days counting from the date of reception, with exception made for the law of finance. In case of urgency declared by the Government, the time is reduced to five days.

If the Senate adopts a text identical to that of the National Assembly, the law is transmitted without delay to the President of Faso for promulgation. In case of disagreement between the National Assembly and the Senate, or if the Senate has not decided within the time required, the National Assembly decides definitively.

However, the bills of law having for [their] principal object the organization of the territorial collectivities and of the representative instances of the Burkinabe established outside of Burkina Faso are submitted first to the Senate.

In this case, if there is disagreement between the two Chambers, the Senate decides definitively.

## Article 113

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

The Parliament may constitute commissions of inquiry.

## Article 114

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

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

## Article 115

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

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.

• Legislative committees  
• Legislative oversight of the executive

• Head of government removal  
• Limits on removing head of government

• Head of government removal

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 voted 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 each Chamber of the Parliament consists of the discussion of the popular petitions, of the 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 application of the preceding paragraph having been made, or of Articles 121 and 122 of this Constitution.

The inscription, by priority, in the agenda of the Chambers, of a bill or proposition of law or of a declaration of general policy, is of right if the President of Faso or of the Prime Minister makes the demand for it.

## Article 119

In case of urgency declared by the Government, the Parliament must decide on the bills of law within a time period of fifteen days. This time period is extended to forty days for the 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 by the President of Faso, in the form of an ordinance.

## Article 120

The proposals and amendments concerning the law of finance deposited by the members of the Parliament are irreceivable when their adoption would have as a consequence, either a diminution of public resources, or the creation or the increase of a public expense, unless they should be accompanied by a proposal for augmentation of receipts or of equivalent economies.

## Article 121

If the Government demands it, the Chamber of the Parliament referred to [a matter] decides by a single vote on all or part of a text in discussion retaining in it only the amendments proposed or accepted by it.

## Article 122

When a Chamber of the Parliament 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.

- Head of government removal
- Head of government replacement

- Balanced budget
- Budget bills

- Legislative committees

## Article 123

The proposals and amendments which are not of the domain of the law are irreceivable. The irreceivability is decided by the President of the Chamber referred to [the matter].

In case of dispute, the Constitutional Council, on referral of the Prime Minister or of the President of the Chamber referred to [the matter], decides with a time period of eight days.

## TITLE VIII: OF THE JUDICIAL POWER

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### Article 124

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

### Article 125

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

### Article 126

The jurisdictions of 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 Tribunal of Conflicts;
- the courts and the tribunals instituted by the law;

These jurisdictions apply the law in force.

### Article 127

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.

The Tribunal of Conflicts is the jurisdiction of regulation of the conflicts of competence between the jurisdictions.

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

### Article 128

• Structure of the courts

• Establishment of administrative courts

• Eligibility for supreme court judges  
• Supreme court selection  
• Establishment of administrative courts  
• Establishment of constitutional court  
• Courts for judging public officials  
• Structure of the courts  
• Ordinary court selection  
• Supreme court powers

• Eligibility for administrative judges  
• Eligibility for ordinary court judges



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 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 Scales, the Minister of Justice, is the first vice president and the first President of the Court of Cassation is the second vice president.

## Article 133

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

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

## Article 134

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

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

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

# TITLE IX: OF THE HIGH COURT OF JUSTICE

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## Article 137

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 of 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 voted by a majority of four-fifths of the votes of the Deputies composing the Assembly. That of the members of the Government is voted 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 THE ORGANS OF CONTROL

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### Article 141

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

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

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### Article 143

Burkina Faso is organized in territorial collectivities.

### Article 144

The creation, the elimination, and the division of territorial collectivities is the resort of 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

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## 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

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## 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 engage 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 law.

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

## Article 150

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

• Establishment of constitutional court

## Article 152

• Constitutional court powers  
• Constitutional interpretation

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 international treaties and 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 referendum, [and] of the presidential and legislative elections.

The control of the regularity and of the transparency of local elections corresponds to the competence of the administrative tribunals. The proclamation of the definitive results of these elections corresponds to the competence of the Council of State.

## Article 153

• Constitutional court term limits  
• Eligibility for const court judges  
• Constitutional court selection  
• Constitutional court term length  
• Outside professions of legislators

The Constitutional Council consists of:

- the former Heads of State of Burkina Faso;
- three (3) magistrates appointed by the President of Faso on proposal of the Minister of Justice;
- three (3) persons of distinction appointed by the President of Faso having at least one jurist;
- three (3) persons of distinction appointed by the President of the National Assembly having at least one jurist;
- [and] three (3) persons of distinction appointed by the President of the Senate having at least one jurist.

The members of the Constitutional Council are appointed for a sole mandate of nine (9) years. They elect from among themselves the President of the Constitutional Council.

With the exception of the former Heads of State, the members of the Constitutional Council are renewable by thirds (1/3) every three years within the conditions established 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

• Constitutional court powers  
• Constitutional interpretation

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

The Constitutional Council decides, in case of dispute, on the regularity of the election or of the appointment of the members of the Parliament.

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

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

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

## Article 155

The organic laws and the regulations of the Chambers of the Parliament, 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

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

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

- the President of Faso;
- the Prime Minister;
- the President of the Senate;
- the President of the National Assembly;
- one-tenth (1/10) at least of the members of the National Assembly.

If, on the occasion of an instance in course before a jurisdiction, it is held that a legislative provision infringes the rights and freedoms that the Constitution guarantees, the Constitutional Council can be referred to [the matter] of this question on referral of the Council of State or of the Court of Cassation. The Constitutional Council decides within a time period determined by the law. An organic law determines the conditions of application of this provision.

The Constitutional Council can refer itself to any questions relative to its competence, if it judges it necessary.

## Article 158

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

## Article 159

A provision declared unconstitutional may not be promulgated or implemented.

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

## Article 160

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

## TITLE XIVbis: OF THE MEDIATOR OF FASO

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### Article 160.1

A gratuitous intercessory organ between the public administration and the citizens denominated the Mediator of Faso[,] is instituted.

### Article 160.2

An organic law establishes the attributions, the organization and the functioning of the Mediator of Faso.

## TITLE XIVter: OF THE SUPERIOR COUNCIL OF COMMUNICATION

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### Article 160.3

An independent administrative authority of regulation of communication to the public denominated [the] Superior Council of Communication[,] abbreviated (CSC), is instituted.

### Article 160.4

An organic law establishes the attributions, the composition, the organization and the functioning of the Superior Council of Communication.

## TITLE XV: OF REVISION

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### Article 161

The initiative of the revision of the Constitution belongs concurrently:

- to the President of Faso;
- to the members of the Parliament by the majority of each of the Chambers;
- 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 proposal, written and signed.

### Article 162

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

- Constitution amendment procedure

## Article 163

The bill of revision is, in every case, submitted preliminarily to the evaluation of the Parliament.

- Constitution amendment procedure
- Joint meetings of legislative chambers
- Referenda
- Standing committees

## Article 164

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

The President of Faso then proceeds with its promulgation in 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 Parliament convoked in Congress by the President of Faso. The Bureau of the Congress is that of the National Assembly.

- Constitution amendment procedure
- Unamendable provisions

## 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 may be initiated or pursued when it infringes upon the integrity of the territory.

# TITLE XVI: FINAL PROVISIONS

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## Article 166

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

- Right to overthrow government

## 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 Burkinabe people proscribe any idea of personal power.

They proscribe equally all oppression of a part of the people by another.

### Article 168.1

A full [pleine] and entire amnesty is accorded to the Heads of State of Burkina Faso for the period running from 1960 to the date of adoption of these provisions.



## TITLE XVI: TRANSITORY PROVISIONS

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### Article 169

The promulgation of the Constitution must intervene in the twenty-one 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.

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