PDF generated: 18 Apr 2016, 15:25



constituteproject.org

Mali's Constitution of 1992

© *Oxford University Press, Inc.*

Translated by Daniel G. Anna

Prepared for distribution on **constituteproject.org** with content generously provided by Oxford University Press. This document has been recompiled and reformatted using texts collected in Oxford's Constitutions of the World.

Table of contents

Preamble . . . 3
TITLE I: THE RIGHTS AND OBLIGATIONS OF THE HUMAN PERSON . . . 3
TITLE II: THE STATE AND SOVEREIGNTY . . . 6
TITLE III: THE PRESIDENT OF THE REPUBLIC . . . 7
TITLE IV: THE GOVERNMENT . . . 12
TITLE V: THE NATIONAL ASSEMBLY . . . 13
TITLE VI: RELATIONS BETWEEN THE GOVERNMENT AND THE NATIONAL ASSEMBLY . . . 14
TITLE VII: JUDICIAL AUTHORITY . . . 17
TITLE VIII: THE SUPREME COURT . . . 18
TITLE IX: THE CONSTITUTIONAL COURT . . . 18
TITLE X: THE HIGH COURT OF JUSTICE . . . 21
TITLE XI: THE TERRITORIAL UNITS . . . 21
TITLE XII: HIGH COUNCIL OF TERRITORIAL UNITS . . . 21
TITLE XIII: THE ECONOMIC SOCIAL AND CULTURAL COUNCIL . . . 23
TITLE XIV: TREATIES AND INTERNATIONAL AGREEMENTS . . . 24
TITLE XV: AFRICAN UNITY . . . 25
TITLE XVI: REVISION . . . 25
TITLE XVII: FINAL DISPOSITIONS . . . 25
TITLE XVIII: TEMPORARY DISPOSITIONS . . . 26

Preamble

• Source of constitutional authority
• Motives for writing constitution

• Reference to country's history

The sovereign people of Mali, strong from their traditions of heroic struggle, pledge to remain faithful to the ideals of the victims of repression and the fallen martyrs of the battlefield for the rise of a state of law and pluralist democracy,

- affirm their volition to preserve and reinforce the democratic gains of the Revolution of March 26, 1991,
- solemnly undertake to defend the republican and secular form of the state,

• Rights of children guaranteed

- proclaim their determination to defend the rights of women and children as well as the cultural and linguistic diversity of the national community,
- reaffirm their determination to maintain and consolidate the national unity,

• Right to culture

- undertake to assure the improvement of the quality of life, the protection of the environment and the cultural patrimony,

• International human rights treaties

- subscribe to the Universal Declaration of the Rights of Man of December 10, 1948and to the African Charter of the Rights of Man and People of June 27, 1981,

• Regional group(s)

- reaffirm their attachment to the realization of African Unity, to the promotion of peace, regional and international cooperation, to the peaceful resolution of differences between states in deference to justice, equality, liberty and the sovereignty of the people.

TITLE I: THE RIGHTS AND OBLIGATIONS OF THE HUMAN PERSON

Article 1

• Inalienable rights

The human person shall be sacred and inviolable.

• Right to life

Every individual shall have the right to the life, to the liberty, to the security and to the integrity of his person.

Article 2

• General guarantee of equality
• Equality regardless of gender
• Equality regardless of skin color
• Equality regardless of social status
• Equality regardless of political party
• Equality regardless of race
• Equality regardless of language
• Equality regardless of religion

Every Malian shall be born and remain free and equal in rights and obligations. All discrimination founded on social origin, color, language, race, sex, religion and political opinion shall be prohibited.

Article 3

• Prohibition of cruel treatment
• Prohibition of torture

No one shall be submitted to torture, nor to inhuman, cruel, degrading or humiliating treatment or brutality (especially from one under who's protection one falls).

Every individual, every agent of the state who by his actions is culpable of such acts, whether of his own initiative, or by instruction, shall be punished in conformity with the law.

Article 4

• Freedom of expression
• Freedom of religion
• Freedom of opinion/thought/conscience

Every person shall have the right to freedom of thought, conscience, religion, cult, opinion, expression and creation within the law.

• Freedom of assembly
• Freedom of association
• Freedom of movement

Article 5

The State recognizes and guarantees, within the conditions determined by law, the freedom to come and go, the free choice of residence, freedom of association, to assemble, to have a following and to demonstrate.

• Right to privacy

Article 6

• Inalienable rights

The domicile, domain (people and things), private and family life, secrecy of correspondence and communication shall be inviolable.

These areas shall only be touched within conditions preordained by the law.

• Freedom of press

Article 7

Freedom of the press shall be recognized and guaranteed.

It shall be exercised within conditions determined by law.

• State operation of the media
• Media commission

Equal access for all to the State media shall be assured by an independent organ who's regulations shall be established by an organic law.

• Reference to art
• Right to culture

Article 8

Freedom of artistic and cultural creation shall be recognized and guaranteed.

It shall be exercised within conditions established by the law.

Article 9

Punishment shall be personal.

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

No one shall be pursued, arrested or accused except by virtue of a law promulgated anterior to the acts for which he is reproached.

• Presumption of innocence in trials

The accused shall be presumed innocent until his culpability is determined by the competent jurisdiction.

• Right to counsel

The right to a defense shall encompass the assistance of the advocate of the defendant's choice after the preliminary investigation.

• Protection from unjustified restraint

Article 10

Every person detained shall have the right to examination by the doctor of his choice.

No one shall be detained for a period of more than forty eight hours except by justifiable decision of a Magistrate of the judicial order.

No one shall be detained in a penal institution except by mandate delivered by a Magistrate of the judicial order.

Article 11

Everything not prohibited by law shall not be hindered and no one shall be forced to do that which it (the law) does not order.

Article 12

No one shall be forced into exile.

• Protection of stateless persons

Every person persecuted by reason of his political or religious convictions, (or) by his ethnicity, may benefit from the right of asylum in the Republic of Mali.

Article 13

• Protection from expropriation
• Right to own property

The right of property shall be guaranteed. None shall be expropriated except for public use and then only against a just and prearranged indemnification.

Article 14

• Right to establish a business

Entrepreneurial freedom shall be guaranteed within the limits of the law and regulations then in force.

Article 15

• Protection of environment

Every person shall have the right to a healthy environment. The protection, defense and promotion of the environment shall be obligations for all and for the State.

Article 16

• Right to health care
• Right to rest and leisure
• Right to shelter

Education, instruction, formation, work, housing, leisure, health, and social protection shall constitute recognized rights.

Article 17

• Right to rest and leisure
• Right to work

The right to work and to rest shall be recognized and shall be equal for all.

• Right to choose occupation
• Prohibition of slavery
• Duty to work

Work shall be an obligation for every citizen but no one shall be forced into specific occupation except in the case of accomplishment of an exceptional service of a general (public) interest, equal for all within the conditions determined by law.

Article 18

• Right to join trade unions

The freedom of syndication shall be guaranteed. The syndicates exercise their activities without interference and without limits except those preordained by law.

Article 19

• Right to strike

The right to strike shall be guaranteed. It shall be exercised within the limits of the laws and regulations then in force.

Article 20

Every citizen shall have the right to education.

• Compulsory education
• Free education

Public education shall be obligatory, free and secular.

Private education shall be recognized and exercised within the conditions specified bylaw.

• Duty to serve in the military

Article 21

Defense of the homeland is an obligation of every citizen.

Article 22

Every citizen shall work for the common good.

He shall fulfill all of his civic obligations and notably fulfill his obligations of fiscal contribution.

• Duty to pay taxes

Article 23

In the case of a declared national calamity, every citizen shall be obligated to comport his actions within the limits of the legislation then in force.

• Duty to obey the constitution

Article 24

Every citizen, every person living within the Malian territory shall have the obligation to respect the Constitution in, all circumstances.

TITLE II: THE STATE AND SOVEREIGNTY

Article 25

• Type of government envisioned

Mali shall be an independent, sovereign, indivisible, democratic, secular and social Republic.

Its principle is a government of the People, by the People and for the People.

The institutions of the Republic are:

- the President of the Republic;
- the Government;
- the National Assembly;
- the Supreme Court;
- the Constitutional Court;
- the High Court of Justice;
- the High Council of Territorial Units ;
- the Economic, Social and Cultural Council.

• National flag

The national emblem is composed of three equal vertical bands of green, gold and red.

• National motto

The motto of the Republic is "ONE PEOPLE - ONE GOAL - ONE FAITH".

• National anthem

The national hymn is "LE MALI".

Law shall determine the seal and arms of the Republic.

• Official or national languages

French is the official language of expression.

Law shall establish the method of promotion and officialisation of the national languages.

• Referenda

Article 26

The national sovereignty shall belong to the people as a whole who shall exercise it by their representatives or by means of referendum.

Article 27

• Secret ballot
• Claim of universal suffrage

Suffrage shall be universal, equal and secret.

• Restrictions on voting

Electors shall be, within the conditions determined by law, every citizen of voting age, possessing their civic and political rights.

• Right to form political parties

Article 28

Parties shall comply with the expression of suffrage. They shall form and exercise freely their activities within the conditions determined by law.

They shall respect the principles of national sovereignty, democracy, territorial integrity, national unity and the secularity of the State.

TITLE III: THE PRESIDENT OF THE REPUBLIC

• Name/structure of executive(s)

Article 29

The President of the Republic shall be the Chief of State.

He shall be the guardian of the Constitution. He shall incarnate the national unity. He shall be the guarantor of national independence, territorial integrity, respect of treaties and international agreements. He shall assure the regular function of public powers and the continuity of the State.

Article 30

• Head of state selection
• Head of state term length

The President of the Republic shall be elected for five years by direct universal suffrage and by an absolute majority of the votes cast. If this is not obtained on the first ballot there shall be a second ballot.

• Head of state term limits

He shall be re-eligible only once.

• Eligibility for head of state

Article 31

Every candidate for the Presidency of the Republic shall be of native Malian nationality and in possession of all his civic and political rights.

Article 32

The presidential elections shall be at least twenty one days and not more than forty days before the expiration of the mandate of the current President.

Article 33

• Minimum age of head of state
• Head of state selection
• Eligibility for head of state

Law shall determine the procedure, the conditions of eligibility and of presentation of candidates for the presidential elections, of the manner of balloting, of the compilation and proclamation of the results. It shall provide for all dispositions necessary so that the elections are free and regular.

The President of the Republic shall be elected by an absolute majority of the ballots cast. If this is not obtained on the first ballot, there shall be a second ballot, the second Sunday following. This second ballot shall only be open to the two candidates having gained the greatest number of votes.

If one of the candidates withdraws, the ballot shall remain open to the candidate coming next in order of the number of votes obtained.

If within the seven days preceding the date limit of filing the presentation of candidature, one of the persons having, less than thirty days before that date, publicly announced his decision to be a candidate, dies or finds himself impeded, the Constitutional Court may decide the procedure of the election.

If before the first ballot, one of the candidates dies or finds himself incapacitated, the Constitutional Court shall pronounce the procedure of the election.

In the case of death or incapacitation of one of the two candidates most favored in the first ballot before any eventual withdrawals, or of one of the two candidates remaining after any such withdrawals, the Constitutional Court shall decide the recommencing of the entire electoral process.

The convocation of electors shall be done by decree taken in the Council of Ministers.

• Constitutional court powers

The Constitutional Court shall control the regularity of these operations, shall decide on contestations, shall proclaim the results of ballots.

Article 34

The Presidency of the Republic shall be incompatible with the exercise of any other political function, of any other electoral mandate, of any public employment, of any other professional and lucrative activity.

Article 35

During his mandate, the President of the Republic shall not, himself, nor by intermediary, buy or take in bailment anything which belongs to the domain of the State, without prior authorization by the Supreme Court within the conditions determined by law.

He shall not take part either himself nor by intermediary in the purchase of supplies nor in auctions for the administrations or institutions dependant on the State or subject to their control.

• Head of state replacement

Article 36

In the event that the President of the Republic is temporarily incapacitated from fulfilling his functions, his powers shall be provisionally exercised by the Prime Minister.

In the case of vacancy of the Presidency of the Republic for any cause whatsoever or incapacitation of its functioning as declared by the Constitutional Court seated by the President of the National Assembly and the Prime Minister, the functions of the President of the Republic shall be exercised by the President of the National

Assembly.

This shall result in the election of a new President for a new term of five years.

The election of the new President shall take place at least twenty one days after and at most forty days after the official declaration of the vacancy or the final characterization of the incapacitation.

In all cases of incapacitation or of vacancy Articles 38, 41, 42 and 50 of the present Constitution shall not apply.

• God or other deities
• Oaths to abide by constitution

Article 37

Before assuming office, the President elect shall take before the Supreme Court the following oath:

"I SWEAR BEFORE GOD AND THE MALIAN PEOPLE TO PRESERVEFAITHFULLY THE REPUBLICAN FORM OF GOVERNMENT TO RESPECT ANDTO SEE THAT THE CONSTITUTION AND LAWS ARE RESPECTED BY OTHERS, TO CARRY OUT MY DUTIES IN THE HIGHER INTEREST OF THE PEOPLE, TOPRESERVE THE DEMOCRATIC GAINS, TO GUARANTEE THE NOTIONALUNITY, THE INDEPENDENCE OF THE HOME LAND AND NATIONTERRITORIAL INTEGRITY.

I SOLEMNLY AND WITH HONOR UNDERTAKE TO UTILIZE EVERYTHINGIN ORDER TO REALIZE AFRICAN UNITY."

After the instatement ceremony and within forty eight hours time, the President of the Supreme Court shall publicly receive the written declaration of the good intentions of the President of the Republic.

This declaration shall be the object of an annual reaffirmation.

• Establishment of cabinet/ministers
• Name/structure of executive(s)

Article 38

• Head of government selection

The President of the Republic shall name the Prime Minister. He shall set limits on his powers upon his (the Prime Minister's) presentation of the resignation of the Government.

• Cabinet selection

Upon proposition of the Prime Minister, he (the President) names the other members of the Government and shall set limits upon their powers.

• Establishment of cabinet/ministers

Article 39

The President of the Republic shall preside over the Council of Ministers. The Prime Minister substitutes for him within the conditions established by the present Constitution.

• Approval of general legislation
• Veto override procedure

Article 40

The President of the Republic shall promulgate the laws within the 15 days that follow the transmission to the Government of the final text adopted.

He can before the expiration of this time demand of the National Assembly a new deliberation of the laws or of certain articles.

This new deliberation shall not be refused and shall suspend the time period in which the law must be promulgated.

In the case of urgency, the time of promulgation can be shortened to eight days.

• Referenda

Article 41

The President of the Republic, on the proposal of the Government, during the sessions of or upon proposition of the National Assembly, after consultation by the Constitutional Court published in the Official Journal, may submit to referendum all questions of national interest, any bill dealing with the organization of public authority, entailing approval of a Community agreement, or providing to authorize the ratification of a treaty that, without being contrary to the Constitution, might effect the functioning of (existing) institutions.

In the event that the Referendum ends in the adoption of the bill, the President of the Republic shall promulgate it according to the time limit provided in Article 40.

• Dismissal of the legislature

Article 42

The President of the Republic may, after consultation with the Prime Minister and the President of the National Assembly, pronounce the dissolution of the National Assembly.

General elections shall take place twenty one days at the least and forty days at the most, after the dissolution.

The National Assembly shall not be dissolved in the year following these elections.

Article 43

The President of the Republic shall communicate with the National Assembly and the High Council of Territorial Units by messages which he has read by the President of the National Assembly or by the same of the High Council of Territorial Units. Out of session, the National Assembly or the High Council of Territorial Units meets in special session for this purpose.

• Designation of commander in chief

Article 44

The President of the Republic shall be the Commander-in-Chief of the armed forces. He shall preside over the High Council and the Committee of Defense of the National Defense.

• Head of state powers
• Establishment of judicial council
• Power to pardon

Article 45

The President of the Republic shall be the President of the High Council of the Judiciary. He shall exercise the power of pardon. He shall propose laws of amnesty.

Article 46

• Head of government decree power

The President of the Republic shall sign the Ordinances and decrees taken in the Council of Ministers.

• Selection of active-duty commanders

He shall name civil servants and high military officers (as) established by law.

The High Chancellor, Generals and Admirals, Ambassadors and Envoys Extraordinary, the Governors of the Regions, (and) the Directors of the Central Administration shall be named by decree taken in the Council of Ministers.

• Supreme court selection
• Head of government decree power

Article 47

The Members of the Supreme Court shall be named by decree taken in the Council of Ministers.

• Foreign affairs representative
• Head of state powers

Article 48

The President of the Republic shall accredit the Ambassadors and the Envoys Extraordinary to foreign powers.

Foreign Ambassadors and Envoys Extraordinary shall be accredited to him.

• Emergency provisions

Article 49

The President of the Republic shall decree after deliberation in the Council of Ministers, the state of siege and state of emergency.

• Emergency provisions

Article 50

When the institutions of the Republic, the independence of the nation, the integrity of national territory, (or) the fulfillment of its international commitments are threatened in a grave and immediate manner and when the regular functioning of the constitutional governmental authorities is interrupted, the President of the Republic shall take the measures commanded by these circumstances, after consultation with the Prime Minister, the Presidents of the National Assembly and of the High Council of Territorial Units as well as the Constitutional Court.

He informs the nation of these events by a message.

The application of these exceptional powers by the President of the Republic shall not in any case compromise the national sovereignty or territorial integrity.

The exceptional powers shall aspire to assure the continuity of the State and the reestablishment without undue delay the regular functioning of institutions in conformity with the Constitution.

The National Assembly shall meet by right and shall not be dissolved during the exercise of these exceptional powers.

Article 51

The President of the Republic may delegate certain of his powers to the Prime Minister.

The acts of the President of the Republic other than those preordained in articles 38,41, 42, 45, and 50 as well as the first paragraph of this article shall be countersigned by the Prime Minister and in the applicable case by the Ministers concerned.

Article 52

The law shall establish the benefits accorded to the President of the Republic and organize the manner of granting a pension to former Presidents of the Republic possessing their civil rights.

TITLE IV: THE GOVERNMENT

• Powers of cabinet

Article 53

The Government shall determine and conduct the policy of the Nation and prescribe for the Administration of the armed forces.

• Cabinet removal
• Head of government removal

Article 54

The Government shall be responsible before the National Assembly under the conditions and following the procedures preordained in Articles 78 and 79.

• Name/structure of executive(s)
• Head of government powers

Article 55

The Prime Minister is the Head of the Government; under this title, he shall direct and coordinate governmental action.

He shall be responsible for the execution of national defense policy. He shall assure the execution of the laws. Under the reservations of the terms of Article 46, he shall exercise the power of regulation.

He may, delegate certain of his powers to the Ministers.

He supplants, if need be, the President of the Republic to the Presidency of the Council and the Committee preordained in Article 44.

He supplants him in the Presidency of the Council of Ministers, by virtue of an express delegation and by an order of fixed duration.

Article 56

The acts of the Prime Minister shall be countersigned, if need be, by the Ministers responsible for their execution.

Article 57

Before assuming power the Prime Minister and the Ministers shall submit to the President of the Supreme Court a written declaration of their good intentions.

This declaration shall be the object of an annual reaffirmation.

The dispositions of Article 35 are applicable to the members of the Government.

Article 58

• Eligibility for cabinet
• Head of government's role in the legislature

The Office of a member of the Government shall be incompatible with the exercise of any parliamentary mandate, of any functions of professional representation at the national or local level, of any 'public employment or of any professional and lucrative activity.

An organic law shall determine the conditions in which it shall be necessary to replace the holders of such mandate, functions, or employments.

The replacement of members of Parliament shall take place in accordance with the provisions of Article 63.

TITLE V: THE NATIONAL ASSEMBLY

• Structure of legislative chamber(s)

Article 59

The Parliament shall comprise one single house called the National Assembly.

Article 60

The members of the National Assembly carry the title of Deputy.

• First chamber selection
• Term length for first chamber

Article 61

The Deputies shall be elected for five years by universal suffrage. An organic law shall determine the conditions of this election.

• Immunity of legislators

Article 62

The Deputies shall benefit from parliamentary immunity.

No member of the National Assembly may be prosecuted, sought, arrested, detained, or tried because of his opinions or votes expressed by him in the exercise of his functions.

No member of the National Assembly may, during its sessions, be prosecuted or arrested for criminal or minor offenses without the authorization of the National Assembly, except in the case of flagrant offense.

• Standing committees

No member of the National Assembly may, out of session, be arrested without the authorization of the Office of the National Assembly, except in the case of flagrant offense, of authorized prosecutions or of definitive conviction.

The detention or the prosecution of a member of the National Assembly shall be suspended if the National Assembly so requires.

• Compensation of legislators
• Replacement of legislators
• Minimum age for first chamber
• Eligibility for first chamber
• Outside professions of legislators

Article 63

An organic law shall determine the number of members of the National Assembly, their indemnification, the conditions of eligibility, the areas of ineligibility and of incompatibility.

The organic law shall also determine the conditions in which people called to assure the replacement of Deputies shall be elected, in case of vacancy of a seat, until the renewal of the National Assembly.

Article 64

All binding instructions (upon members of Parliament) shall be null and void.

The right to vote of members of the National Assembly shall be personal.

The organic law may authorize, under exceptional circumstances, the delegation of a vote. In this case, no member may be delegated more than one vote.

• Length of legislative sessions

Article 65

The National Assembly shall convene by right in two ordinary sessions per year.

The first session shall begin the first Monday in October.

It may not exceed 75 days.

The second session shall begin the first Monday in April and may not exceed a duration of ninety days.

• Extraordinary legislative sessions

Article 66

The National Assembly shall convene in extraordinary session upon the demand of the Prime Minister or of the majority of its members to consider a specific agenda.

When the extraordinary session is held at the request of the members of the National Assembly, the closure decree shall take effect as soon as the National Assembly has exhausted the agenda for which it was called and at the latest fifteen days from the date of its convening.

The Prime minister may demand a new session before the expiration of the month following the closure decree and upon a specific agenda.

• Extraordinary legislative sessions

Article 67

Apart from the cases in which the National Assembly meets by right, extraordinary sessions shall be opened and closed by decree of the. President of the Republic.

• Leader of first chamber

Article 68

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

• Public or private sessions
• Publication of deliberations

Article 69

The meetings of the National Assembly shall be public. The integrated report of the debates shall be published in the Official Journal.

TITLE VI: RELATIONS BETWEEN THE GOVERNMENT AND THE NATIONAL ASSEMBLY

• Organic laws

Article 70

The law shall be passed by the National Assembly by a simple majority. However, the laws to which this Constitution gives the character of organic law shall be passed under the following conditions:

• Standing committees

- the proposition or project shall only be submitted to the deliberation and vote of the National Assembly after the expiration of a period of fifteen days after its filing with the Office of the National Assembly;
- the text shall only be adopted by an absolute majority of the members composing the National Assembly. The organic laws shall only be promulgated after a declaration by the Constitutional Court as to their conformity with the Constitution.

The law shall determine rules concerning:

- the civil rights and fundamental guaranties granted to citizens for the exercise of public liberties, the obligations imposed by the National Defense upon the persons and property of citizens;
- nationality, civil rights, status and legal capacity of persons, marriage contracts, inheritance and gifts, property rights, actual rights and civil and commercial obligations, societal systems, expropriation;
- the crimes and misdemeanors as well as the penalties imposed therefore, criminal procedure, amnesty, the creation of new juridical systems and the status of Ministerial Officers, the status of the juridical professions and the Judiciary;
- the general status of government employees;
- the general status of Armed Forces and Security personnel;
- the regulation of currency, the bases, rates and methods of tax collection.

• Requirements for birthright citizenship
• Right to marry

The law shall equally determine the fundamental principles:

- of general organization of defense and security;
- of the right to work, of social security, of syndication;
- of the organization and the competence of professional orders;
- of instruction and research
- of the protection of the cultural and archeological patrimony;
- of public accountability;
- of creation, of the organization and control of public services and organizations;
- of nationalizations of enterprises, of privatizations and of the transfer of the property of enterprises from the public to the private sector.(;)
- of an electoral system
- of the free administration of local units, of their competence and their resources;
- administrative organization of territory;
- administration and transfer from the domain of the State;
- organization of production;
- organization of justice;
- system of penal institutions.

• Right to work
• General guarantee of social security

• Budget bills
• Tax bills

The Law of Finances shall determine the resources and the duties of the State.

The plan shall be adopted by the National Assembly. It shall determine the objectives of economic and social action of the State.

• Power to declare/approve war

Article 71

A declaration of war shall be authorized by the National Assembly specially convened for this purpose.

The President of the Republic shall inform the nation by a message.

• Emergency provisions
• Head of government decree power

Article 72

State of emergency and state of siege shall be decreed in the Council of Ministers.

Their extension beyond ten days shall only be authorized by the National Assembly.

A law shall determine their conditions.

• Head of government decree power

Article 73

Matters other than those coining within the domain of the law shall be of a regulatory character.

Legislative texts concerning these matters before the entry into force of the present Constitution may be modified by decree after consultation with the Supreme Court.

Those of these texts which may be passed after the entry into force of the present Constitution may only be modified by decree if the Constitutional Court has declared that they are of a regulatory character with respect to the preceding paragraph.

The laws and regulations shall be published in the Official Journal.

Article 74

The Government may in order to carry out its program or in areas determined by law, demand the authorization of Parliament to take by Ordnance, during a specified period of time or between the two sessions (of the National Assembly), measures that are normally within the domain of the law.

Ordinances shall be taken in the Council of Ministers after consultation with the Supreme Court. They become operative from the time of their adoption, but become null and void if the bill for their ratification is not submitted to the National Assembly before the date set by the enabling act. Upon the expiration of the date mentioned in the first paragraph of the present Article, Ordinances shall only be modified by the law in matters which are in the legislative domain.

Article 75

• Initiation of general legislation

Initiation of laws shall belong concurrently to the Government and to the members of the National Assembly.

• Standing committees

Bills shall be deliberated in the Council of Ministers after consultation with the Supreme Court and filed with the Office of the National Assembly.

Article 76

The members of the National Assembly and the Government shall possess the right of Amendment.

After the opening of debate, the Government may oppose the examination of any Amendment that was not first submitted to it.

• Budget bills

Article 77

• Balanced budget

The National Assembly shall consider the appropriations bill at the opening of the ordinary session preceding the fiscal period. The appropriations bill must anticipate the income necessary for completely meeting all expenditures.

If the National Assembly has not acted on this matter before the beginning of the fiscal period or if it has not passed the budget, the Government shall resubmit the proposed budget within fifteen days to the National Assembly convened in special session for this purpose.

The National Assembly shall then act within eight days. If this deliberation has not resulted in a budgetary vote, it shall be automatically established by the Government on the basis of the revenues of the preceding fiscal period and after consultation with the Supreme Court.

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

Article 78

The Prime Minister, after the deliberation of the Council of Ministers, shall pledge before the Assembly the responsibility of the Government with regard to its program or eventually with respect to a declaration of general policy.

The National Assembly shall question the responsibility of the Government by the vote of a motion of censure. Such a motion shall only be receivable if it is signed by at lea stone tenth of the members of the National Assembly. The vote may only take place forty eight hours after its filing. The only votes counted shall be those favorable to the motion of censure which may only be adopted by a two thirds majority of the members composing the Assembly. If the motion of censure is rejected, the signatories may not propose another during the course of the same session.

The Prime Minister may, after deliberation of the Council of Ministers, pledge the responsibility of the Government before the National Assembly on the vote of a text. In this case, the text shall be considered as adopted, unless a motion of censure, filed in the following twenty four hours, is passed.

• Cabinet removal
• Head of government removal

Article 79

When the National Assembly adopts a motion of censure or when it disapproves the program or the declaration of general policy of the Government, the Prime Minister shall submit to the President of the Republic the resignation of the Government.

Article 80

The close of ordinary or special sessions shall by right be delayed in order to permit, should the case arise, the application of the dispositions of Article 78.

TITLE VII: JUDICIAL AUTHORITY

• Structure of the courts

Article 81

• Judicial independence

Judicial authority shall be independent of executive and legislative authority. It shall be exercised by the Supreme Court and the other Courts and Tribunals.

Judicial authority shall be the guardian of liberties defined in the present Constitution.

It shall protect the respect of rights and liberties defined by the present Constitution.

It shall be charged with the application in its proper domain of the laws of the Republic.

Article 82

• Supreme court term length

Magistrates shall only yield in the exercise of their functions to the authority of the law.

Magistrates shall not be removable from their seats.

The President of the Republic shall be the guarantor of the independence of the judiciary.

• Establishment of judicial council

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

The High Council of the Judiciary shall be charged with the progress of the careers of Magistrates and shall advise on all questions of the independence of the judiciary.

The High Council of the Judiciary shall decide as Council of discipline for Magistrates.

An organic law shall determine the organization, composition, attributes and functioning of the High Council of the Judiciary.

The law shall equally determine rules of operation of the Judiciary with respect to the principles contained in the present Constitution.

TITLE VIII: THE SUPREME COURT

• Structure of the courts

Article 83

The Supreme Court shall consist of:

- a Judicial section;
- an Administrative section;
- a Accounts section.

An organic law shall determine its organization, the rules of its operation as well as the procedure followed before it.

• Supreme court selection

Article 84

The Supreme Court shall be presided over by a Magistrate of the judicial order named by the President of the Republic upon a suitable proposition of the High Council of the Judiciary.

The President of the Supreme Court shall be assisted by a Vice-President named under the same conditions.

TITLE IX: THE CONSTITUTIONAL COURT

• Establishment of constitutional court

Article 85

• Constitutional interpretation

The Constitutional Court shall be the judge of the constitutionality of the law sand it shall guarantee the fundamental rights of the human person and civil liberties.

It shall be the regulatory organ of the operation of the institutions and activities of the Public Authorities.

• Constitutional court powers

Article 86

The Constitutional Court shall obligatorily decide upon:

• Constitutional interpretation

- the constitutionality of organic laws and laws before their promulgation, regulatory acts touching upon the fundamental rights of the human person and civil liberties;
- interior regulations of the National Assembly, of the High Council of Territorial Units and of the Economic, Social and Cultural Council before they come into application when their conformity with the Constitution comes into question;
- conflicts between the institutions of the State regarding attribution;
- the regularity of all elections and operations of referendum of which it proclaims the results.

• Constitutional court powers

Article 87

The Constitutional Court shall resolve, in the case of contested validity of an election, by any elector, any candidate, any political party or delegate of the Government, within the conditions preordained by an organic law.

• Constitutionality of legislation

Article 88

Organic laws shall be submitted by the Prime Minister to the Constitutional Court before their promulgation.

Other categories of law as well as other regulatory acts may be deferred to the Constitutional Court by the President of the Republic, the Prime Minister, the President of the National Assembly or one tenth of the Deputies, the President of the High Council of Territorial Units or one tenth of the National Councilors or the President of the Supreme Court.

• Constitutionality of legislation

Article 89

The Constitutional Court shall reach its decisions (,) within an adversarial system the operation of which shall be determined by an organic law (,) within one month.

Always, upon the demand of the Government and in the case of urgency, this period shall be shortened to eight days.

Consideration suspends the time limit for promulgation of the law or application of the act.

A disposition declared unconstitutional shall not be promulgated or applied.

• Constitutional court powers
• Legal status of treaties

Article 90

International engagements described in Articles 114 to 116 shall be deferred before their ratification to the constitutional court, either by the President of the Republic, the Prime Minister, the President of the National Assembly or by one tenth of the Deputies, the President of the High Council of Territorial Units or by one tenth of the National Councilors.

The constitutional court verifies, within one month, if these engagements contain a clause contrary to the Constitution.

Always, upon the demand of the Government, if there is urgency, this time limit is shortened to eight days.

In the affirmative (finding of unconstitutionality) these engagements shall not be ratified.

• Constitutional court selection
• Constitutional court term length

Article 91

• Constitutional court term limits
• Eligibility for const court judges

The Constitutional Court consists of nine members who carry the title of Councilor with a mandate of seven years renewable one time.

The nine members of the Constitutional Court shall be designated as follows:

- three shall be named by the President of the Republic of which at least two shall be jurists;
- three shall be named by the President of the National Assembly of which at least two shall be jurists;
- three Magistrates shall be designated by the High Council of the Judiciary.

The Councilors shall be chosen principally from among professors of law, advocates and Magistrates having at least fifteen years of experience, as well as qualified personalities distinguished for service to the State.

Article 92

The President of the Constitutional Court shall be elected by his peers.

In the case of temporary incapacity, his term shall be assured by the oldest Councilor.

In the case of death or resignation of a member, the new member named by the authority of nomination concerned shall complete the mandate already commenced.

• Oaths to abide by constitution

Article 93

The functions of a member of the Constitutional Court shall be incompatible with all public, political or administrative functions or all private or professional activities.

The members of the Constitutional Court take an oath during a solemn ceremony presided over by the President of the Republic before the convened National Assembly and the Supreme Court.

They take the following oath:

"I SWEAR TO CONSCIENTIOUSLY FULFILL THE OBLIGATIONS OF MYCHARGE, IN STRICT RESPECT OF THE OBLIGATIONS OF NEUTRALITY ANDRESERVE, AND TO CONDUCT MYSELF IN MAGISTRATORIAL DIGNITY ANDLOYALTY."

Article 94

The decisions of the Constitutional Court shall not be subject to any recourse. They impose upon public authorities, all administrative and juridical authorities and all physical and moral persons.

The rules of organization and operation of the Constitutional Court, as well as the procedure followed before it, shall be determined by an organic law.

TITLE X: THE HIGH COURT OF JUSTICE

• Head of state removal
• Courts for judging public officials

Article 95

• Head of government removal

The High Court of Justice shall be competent to judge the President of the Republic and the Ministers accused before it by the National Assembly for high treason or for actions qualified as crimes or misdemeanors committed in the exercise of their functions as well as their accomplices in the case of conspiracy against the security of the State.

The act of accusation shall be determined by vote open to public scrutiny by a two thirds majority of the Deputies composing the National Assembly.

The High Court of Justice shall be constrained by the definition of crimes and misdemeanors and by the determination of penalties resulting from the penal law in force at the time of the acts comprised in the juridical action.

Article 96

The High Court of Justice shall be composed of members designated by the National Assembly upon each general renewal (of the National Assembly). It shall select its President from among its members.

The law shall determine the number of its members, the rules of its operation as well as the procedure followed before it.

TITLE XI: THE TERRITORIAL UNITS

• Subsidiary unit government

Article 97

The territorial units shall be created and administered under conditions defined by law.

Article 98

The units shall freely administer themselves by the Councilors elected and within conditions determined by law.

TITLE XII: HIGH COUNCIL OF TERRITORIAL UNITS

Article 99

The High Council of Territorial Units shall have as its mission to study and to give its considered advise concerning all policies of local and regional development.

It may make propositions to the Government for all questions concerning the protection of the environment and the improvement of the quality of life of citizens

within the units.

• Standing committees

The Government shall be obligated to file a conforming bill within fifteen days of this charge with the Office of the National Assembly.

The Government shall be obligated to solicit the advice of the High Council of Territorial Units for all actions concerning the domains cited in the present Article.

Article 100

The High Council of Territorial Units shall be seated in BAMAKO; it may be transferred to any other location in the case of need.

The High Council of Territorial Units shall not be dissolved.

Article 101

The members of the High Council of Territorial Units carry the title of National Councilor.

An organic law Shall determine the number of National Councilors, their compensation, conditions of eligibility, areas of ineligibility and incompatibility as well as conditions of their replacement.

The mandate of Deputy is incompatible with that of national Councilor.

Article 102

The National Councilors shall be elected for five years by indirect suffrage.

They assure the representation of the territorial units of the Republic.

Malians established outside of Mali shall be represented on the High Council of Territorial Units.

Article 103

The High Council of Territorial Units shall convene by right in ordinary session two times per year upon convocation by its President.

The duration of each session shall not exceed thirty days.

Its meetings shall be public. The official report of its debates shall be published in the Official Journal.

Article 104

The President of the High Council of Territorial Units shall be elected for five • years.

Article 105

The National Assembly and the High Council of Territorial Units may convene in limited committee at the request of the Prime Minister. The President of the National Assembly and the President of the High Council of Territorial Units may call a common session of Deputies and National Councilors.

The agenda of this session shall consider a local and regional problem of national importance.

The duration of this session shall not exceed 15 days.

TITLE XIII: THE ECONOMIC SOCIAL AND CULTURAL COUNCIL

• Right to culture

Article 106

The Economic, Social and Cultural Council shall have competence in all aspects of economic, social and cultural development.

It shall participate in all projects of national interest of an economic, social and cultural character.

Article 107

The Economic, Social and Cultural Council shall collect, (and) put into suitable form, with the participation of the different entities of which it is composed, to the attention of the President of the Republic, the Government and the National Assembly, the yearly collection of aspirations, the needs and the problems of the civil society with directions and propositions.

Article 108

The Economic, Social and Cultural Council shall be obligatorily consulted on any appropriations bill, any economic, social or cultural plan or program as well as any legislative dispositions of a fiscal, economic, social and cultural character.

Article 109

The Economic, Social and Cultural Council may designate one of its members, upon the demand of the President of the Republic, the Government, or the National Assembly, in order to expound before these organs the views of the Council on the projects or propositions which are submitted to it.

The Government and the National Assembly shall have the obligation, when they are in session, to give effect to the views and reports formulated by the Economic, Social and Cultural Council within a maximum of three months for the Government and before the end of the current session for the National Assembly.

It shall receive a copy of laws, ordnances and decrees from the moment of their promulgation. It shall be apprized of decisions of the Government relative to economic, social and cultural organization.

Article 110

Shall be members of the Economic, Social and Cultural Council:

- representatives of unions, associations, socio-professional organizations elected by their associations or organizations of origin;
- high officials of the State in the economic, social and cultural domain;
- representatives of the territorial units designated by their peers;
- representatives of Malian established outside of Mali.

Article 111

The Economic, Social and Cultural Council convenes annually of right in two ordinary sessions of fifteen days each upon convocation by its President.

The meetings of the Economic, Social and Cultural Council shall be public.

Article 112

The President and the Vice-President of the Economic, Social and Cultural Council shall be elected to the heart of the Council by their peers upon the opening meeting of the first session for a mandate of five years.

No member of the Economic, Social and Cultural Council may be prosecuted, sought, or tried for his opinions expressed by him during the meetings of the Council.

Article 113

The internal organization, rules of operation and the designation of members of the Economic, Social and Cultural Council shall be determined by law.

TITLE XIV: TREATIES AND INTERNATIONAL AGREEMENTS

• Foreign affairs representative
• International law
• Treaty ratification

Article 114

The President of the Republic shall negotiate and ratify treaties. He shall be informed of any negotiations likely to lead to an international agreement not submitted to ratification.

• Accession of territory
• Colonies
• International organizations
• Treaty ratification
• Legal status of treaties

Article 115

Peace treaties, treaties of commerce, treaties or accords relating to international organizations, those concerning State finances, those containing cession, exchange or joining of territory, shall only be approved or ratified according to the law.

They only take effect after approval or ratification. No cession, no exchange, no joining of territory shall be valid without the consent of the people.

• Legal status of treaties

Article 116

Treaties or agreements regularly approved or ratified shall have, from their publication, an authority superior to that of laws, under the reservation for each treaty or agreement of application by the other party.

TITLE XV: AFRICAN UNITY

• Regional group(s)

Article 117

The Republic of Mali may conclude with any African State agreements of association or of community comprising the partial or total abandonment of sovereignty with the view of realizing African unity.

TITLE XVI: REVISION

• Constitution amendment procedure
• Unamendable provisions

Article 118

The initiative of revision of the Constitution belongs concurrently to the President of the Republic and the Deputies.

The project or proposition of revision must be adopted by the National Assembly by a two thirds majority of its members. The revision is only definitive after having been approved by referendum.

No procedure of revision shall be attempted or followed when it touches the integrity of the State.

The republican form and the secularity of the State as well as multipartyism shall not be the object of revision.

TITLE XVII: FINAL DISPOSITIONS

Article 119

Legislation in effect shall remain valid so far as it is not contrary to the present Constitution and it is not the object of an express abrogation.

Article 120

The present Constitution shall he subject to referendum within thirty days. In the case that it acquires the majority of votes cast, the President of the Committee of Transition For the Reestablishment of the People shall proceed with the promulgation under conditions determined by the present Constitution.

Article 121

The foundation of all authority in the Republic of Mali resides in the Constitution.

The republican form of the State shall not be subject to question. The people have the right to civil disobedience for the preservation of the republican form of the State.

Any coup d'etat or putsch shall be an imprescriptible crime against the Malian People.

TITLE XVIII: TEMPORARY DISPOSITIONS

Article 122

Until these institutions are put into place, the Transitional Committee For the Reestablishment of the People and the Government shall continue to act and take measures necessary for the operation of public authority, the life of the nation, the protection of the citizens and the safeguard of liberty.

Topic index

A

Accession of territory . . . 24
Approval of general legislation . . . 9

B

Balanced budget . . . 16
Budget bills . . . 15, 16

C

Cabinet removal . . . 12, 17
Cabinet selection . . . 9
Claim of universal suffrage . . . 7
Colonies . . . 24
Compensation of legislators . . . 13
Compulsory education . . . 5
Constitution amendment procedure . . . 25
Constitutional court powers . . . 8, 19
Constitutional court selection . . . 20
Constitutional court term length . . . 20
Constitutional court term limits . . . 20
Constitutional interpretation . . . 18, 19
Constitutionality of legislation . . . 19
Courts for judging public officials . . . 21

D

Designation of commander in chief . . . 10
Dismissal of the legislature . . . 10
Duty to obey the constitution . . . 6
Duty to pay taxes . . . 6
Duty to serve in the military . . . 6
Duty to work . . . 5

E

Eligibility for cabinet . . . 12
Eligibility for const court judges . . . 20
Eligibility for first chamber . . . 13
Eligibility for head of state . . . 7, 8
Emergency provisions . . . 11, 15
Equality regardless of gender . . . 3
Equality regardless of language . . . 3
Equality regardless of political party . . . 3
Equality regardless of race . . . 3

Equality regardless of religion . . . 3
Equality regardless of skin color . . . 3
Equality regardless of social status . . . 3
Establishment of cabinet/ministers . . . 9
Establishment of constitutional court . . . 18
Establishment of judicial council . . . 10, 18
Extraordinary legislative sessions . . . 14

F

First chamber selection . . . 13
Foreign affairs representative . . . 11, 24
Free education . . . 5
Freedom of assembly . . . 4
Freedom of association . . . 4
Freedom of expression . . . 3
Freedom of movement . . . 4
Freedom of opinion/thought/conscience . . . 3
Freedom of press . . . 4
Freedom of religion . . . 3

G

General guarantee of equality . . . 3
General guarantee of social security . . . 15
God or other deities . . . 9

H

Head of government decree power . . . 10, 15, 16
Head of government powers . . . 12
Head of government removal . . . 12, 17, 21
Head of government selection . . . 9
Head of government's role in the legislature . . . 12
Head of state powers . . . 10, 11
Head of state removal . . . 21
Head of state replacement . . . 8
Head of state selection . . . 7, 8
Head of state term length . . . 7
Head of state term limits . . . 7

I

Immunity of legislators . . . 13
Inalienable rights . . . 3, 4
Initiation of general legislation . . . 16
International human rights treaties . . . 3
International law . . . 24

International organizations 24

J

Judicial independence 17

L

Leader of first chamber 14
Legal status of treaties 19, 24
Length of legislative sessions 13
Limits on removing head of government 17

M

Media commission 4
Minimum age for first chamber 13
Minimum age of head of state 8
Motives for writing constitution 3

N

Name/structure of executive(s) 7, 9, 12
National anthem 6
National flag 6
National motto 6

O

Oaths to abide by constitution 9, 20
Official or national languages 6
Organic laws 14
Outside professions of legislators 13

P

Power to declare/approve war 15
Power to pardon 10
Powers of cabinet 12
Presumption of innocence in trials 4
Principle of no punishment without law 4
Prohibition of cruel treatment 3
Prohibition of slavery 5
Prohibition of torture 3
Protection from ex post facto laws 4
Protection from expropriation 5
Protection from unjustified restraint 4
Protection of environment 5
Protection of stateless persons 5
Public or private sessions 14
Publication of deliberations 14

R

Reference to art 4
Reference to country's history 3
Referenda 7, 10
Regional group(s) 3, 25
Replacement of legislators 13
Requirements for birthright citizenship 15
Restrictions on voting 7
Right to choose occupation 5
Right to counsel 4
Right to culture 3, 4, 23
Right to establish a business 5
Right to form political parties 7
Right to health care 5
Right to join trade unions 5
Right to life 3
Right to marry 15
Right to own property 5
Right to privacy 4
Right to rest and leisure 5
Right to shelter 5
Right to strike 5
Right to work 5, 15
Rights of children guaranteed 3

S

Secret ballot 7
Selection of active-duty commanders 10
Source of constitutional authority 3
Standing committees 13, 14, 16, 22
State operation of the media 4
Structure of legislative chamber(s) 13
Structure of the courts 17, 18
Subsidiary unit government 21
Supreme court selection 10, 18
Supreme court term length 17

T

Tax bills 15
Term length for first chamber 13
Treaty ratification 24
Type of government envisioned 6

U

Unamendable provisions 25

V

Veto override procedure 9