

# THE CONSTITUTION OF BURKINA FASO

*Adopted on 2 June 1991, promulgated on 11 June 1991,  
amended on 27 January 1997 and on 11 April 2000*

## PREAMBLE

We, the Sovereign People of Burkina Faso,

*Conscious* of our responsibilities and of our rights before history and before humanity;

*Strong* because of our democratic experience;

*Engaged* to preserve that which has been acquired and driven 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 disposing of all prejudice;

*Reaffirming* our attachment to the struggle against any form of domination as well as to the democratic character of power;

*Subscribing* to the Universal Declaration of Human Rights of 1948 and to the international treaties concerning economic, political, social and cultural issues;

*Reaffirming* solemnly our commitment *vis-à-vis* the African Charter on Human and Peoples' Rights of 1981;

*Conscious* of the absolute necessity of protecting the environment,

APPROVE and ADOPT this Constitution of which this preamble is made an integral part.

## TITLE I: FUNDAMENTAL RIGHTS AND DUTIES

### CHAPTER I: Civil Rights and Duties

#### Article 1

All Burkinabians shall be born free and equal in rights. All have an equal vocation to enjoy all the rights and all the freedoms guaranteed by the present Constitution. Discrimination of all sorts, notably those founded on race, ethnic background, region, colour, sex, language, religion, caste, political opinions, wealth and birth, shall be prohibited.

#### Article 2

The protection of life, safety, and physical integrity are guaranteed. Slavery, slave practices, inhuman and cruel, degrading and humiliating treatment, physical and moral torture, mistreatment inflicted upon children and all forms of deprecation of man are forbidden and punished by 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 be arrested, detained, deported or exiled except by virtue of the law.

#### Article 4

All the Burkinabians and every person living in Burkina Faso benefit from equal protection under the law. All have the right to have their case heard by an independent and impartial jurisdiction. Any accused is presumed innocent until their guilt is established. The right to a defence including that of freely choosing one's defender is guaranteed.

#### Article 5

Anything which is not forbidden by law cannot be enjoined and no one can be constrained to do that which the law does not order. The penal law does not have retroactive effect. No one can be judged and punished except by virtue of a law promulgated and published before the punishable act. Punishment is personal and individual.

#### Article 6

The residence, the domicile, private and family life, secrecy of correspondence of every person are inviolable. It can only be affected 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, philosophy, of religious exercise, the freedom of assembly, the free practice of custom as well as the freedom of procession and its demonstration is guaranteed by the present Constitution subject to respect of the law, of the public order, of good morals and of the human person.

**Article 8**

The freedom of opinion, of the press and the right to information are guaranteed. Every person has the right to express and to disseminate his opinions within the order of the laws and regulations in force.

**Article 9**

The free circulation of persons and goods, 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 Burkinabian citizen has the duty to contribute to the defence and to the maintenance of the territorial integrity.

**CHAPTER II: Political Rights and Duties****Article 11**

All Burkinabians enjoy civil and political rights according to the conditions specified by the law.

**Article 12**

All Burkinabians without any distinction have the right to participate in the conduct of the affairs of the state and of society. Under this title, they are electors and eligible according to the conditions specified by the law.

**Article 13**

Political parties and formations create themselves freely. They concur with the spirit of political life, to the formation and to the education of the people as well as to the expression of suffrage. They freely conduct their activities with respect to the laws. All political parties and formations are equal in rights and duties. However, tribalist, regional, confessional, or racist political parties or formations are not authorised.

**CHAPTER III: Economic Rights and Duties****Article 14**

The natural wealth and resources belong to the people. They are utilised for the amelioration of their conditions of life.

**Article 15**

The right to property is guaranteed. It will not be exercised contrary to social utility or in a manner which brings prejudice to the security, liberty, or to the existence or the property of others. It can only be affected in case of public necessity declared within the legal forms. No one will be deprived of his possession if it is not for reason of public utility and under the condition of just indemnification fixed conforming to the law. This indemnification 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 discharge oneself of one's fiscal obligations in conformity with the law applies to everyone.

**CHAPTER IV: Social and Cultural Rights and Duties****Article 18**

Education, instruction, formation, work, social security, housing, sport, leisure, health, protection of motherhood and of infancy, assistance to the aged or handicapped persons and in social cases, artistic and scientific creation, constitute social and cultural rights recognised by the present Constitution which aims to promote them.

**Article 19**

The right to work is recognised and is equal for all. It is prohibited to discriminate in matters of employment and remuneration based notably on sex, colour, social origin, ethnicity or political opinion.

**Article 20**

The state sees to the constant amelioration of conditions of work and to the protection of the worker.

**Article 21**

The freedom of association is guaranteed. Every person has the right to form associations and to participate freely in the activities of the associations created. The functioning of associations must conform to the laws and regulations in force. The syndical freedom is guaranteed. Unions exercise their activities without restraint and without limitations other than those specified by law.

**Article 22**

The right to strike is guaranteed. It is exercised in conformity with the laws in force.

**Article 23**

The family is the basic unit of society. The state owes it protection. Marriage is founded on the free consent of the man and of the woman. All discrimination founded on race, colour, religion, ethnicity, caste, social origin, or fortune is forbidden in the matter of marriage. Children are equal in rights and in duties within their familial relations. The parents have the natural right and the duty to bring up and to educate their children. They must give them respect and assistance.

**Article 24**

The state works to promote the rights of the child.

**Article 25**

The right to transmit one's possessions by succession or gift is recognised in conformity with the laws and regulations in force.

**Article 26**

The right to health is recognised. The state works to promote it.

**Article 27**

Every citizen has the right to education. Public education is secular. Private education is recognised. The law establishes the conditions of its exercise.

**Article 28**

The law guarantees intellectual property. The freedom of creation and artistic, scientific and technical works are protected by the law. The manifestation of cultural, intellectual, artistic and scientific activity is free and is exercised in conformity with the laws in force.

**Article 29**

The right to a healthy environment is recognised; the protection, defence and promotion of the environment are a duty for all.

**Article 30**

Every citizen has the right to initiate an action or to join a collective action under the form of a petition against the following acts;

- harming the public patrimony;
- harming the interests of social communities;
- harming the environment or the cultural or historical patrimony.

**TITLE II: THE STATE AND NATIONAL SOVEREIGNTY****Article 31**

Burkina Faso is a democratic, unitary and secular state.

**Article 32**

National sovereignty belongs to the people who exercise it under the conditions specified by the present Constitution.

**Article 33**

Suffrage is direct or indirect and is exercised under the conditions specified by law. Direct suffrage is always universal, equal and secret.

...

**Article 35**

The official language is French. The law determines the modalities of promotion and of official designation of national languages.

### TITLE III: THE PRESIDENT OF FASO

...

#### Article 58

The President of Faso decrees, after deliberation in the Council of Ministers, a state of siege and a state of urgency.

#### Article 59

When the institutions of Faso, the independence of the nation, the integrity of its territory or the executions of its obligations are threatened in a grave and immediate manner and/or the regular functioning of public constitutional powers is interrupted, the President of Faso takes, after deliberation in the Council of Ministers, after consultation of the Presidents of the National Assembly, of the Chamber of Representatives and of the Constitutional Council, the measures required by these circumstances. He informs the nation of it by a message. In no case can he make an appeal to foreign armed forces to intervene in a domestic conflict. The National Assembly meets of right and cannot be dissolved during the exercise of exceptional powers.

...

### TITLE VIII: THE JUDICIAL POWER

...

#### Article 125

The judiciary is the guardian of individual and collective liberties. It sees to the respect of the rights and liberties defined within the present Constitution.

...

#### Article 129

The judiciary is independent.

#### Article 130

The sitting magistrates are only submitted in the exercise of their functions to the authority of the law. They are irremovable.

#### Article 131

The President of Faso is the guarantor of the independence of the judiciary.

...

#### Article 133

The President of Faso is the guarantor of the independence of the judiciary.

...

#### Article 136

Hearings in all the courts and in all the tribunals are public. Closed hearings are only admitted in cases defined by law. The decisions of the courts are reasoned, except in the cases where the law disposes of this otherwise.

...

### TITLE XIII: TREATIES AND INTERNATIONAL AGREEMENTS

#### Article 148

The President of Faso negotiates, signs and ratifies international treaties and agreements.

#### Article 149

Peace treaties, treaties of commerce, treaties which engage the finances of the state, those that modify the provisions of legislative nature, and those affecting personal status, can only be ratified or approved by virtue of a law. They can only take effect after having been ratified or approved.

#### Article 150

If the Constitutional Council, seized in conformity with article 157, has declared that an international engagement includes a provision contrary to the Constitution, the authorisation to ratify it or to approve it can only take place after revision of the Constitution.

#### Article 151

Treaties or agreements regularly ratified or approved have, from their publication, higher authority than laws, provided that, in respect of each agreement or treaty, the other party applies that treaty or agreement.

### TITLE XIV: THE CONTROL OF THE CONSTITUTIONALITY OF LAWS

#### Article 152

The Constitutional Council is the institution that deals with constitutional and electoral matters. It shall be responsible for giving rulings on the constitutionality of laws and decrees, as well as on the conformity of international treaties and agreements to the Constitution. It shall interpret the provisions of the Constitution. It

shall monitor the legality, transparency and impartiality of referendums and presidential and legislative elections, and shall be the judge of electoral litigations. It shall announce the final results of presidential, legislative and local elections. The monitoring of the legality and transparency of local elections shall fall under the jurisdiction of the administrative courts.

...

#### **Article 155**

The laws of government organs and the regulations of the National Assembly and those of the Chamber of Representatives must be submitted to the Constitutional Council, before being promulgated or implemented. To the same end, ordinary laws and treaties submitted for ratification may be referred to the Constitutional Council before promulgation.

#### **Article 156**

The Constitutional Council is also charged with the control of the respect by the political parties of the provisions of article 13, line 5 of this Constitution.

#### **Article 157**

The following may submit matters to the Constitutional Council:

- the President of Faso;
- the Prime Minister;
- the President of the National Assembly;
- the President of the Chamber of Representatives;
- at least one-fifth of the members of the National Assembly.

#### **Article 158**

The submission of a matter to the Constitutional Council shall defer the promulgation of the texts submitted to it.

#### **Article 159**

A provision declared unconstitutional may not be promulgated nor implemented. There is no possible appeal against the decisions of the Constitutional Council. These decisions shall be mandatory for government authorities and all administrative and jurisdictional authorities.

...

### **TITLE XV: REVISION**

...

#### **Article 163**

The draft of revision is, in all cases, submitted preliminary to the evaluation of the National Assembly, after the advice of the Chamber of Representatives.

#### **Article 164**

The draft of the text is then submitted to referendum. It is considered to have been adopted when it had obtained a majority of the votes cast. ... However, the draft of the revision is adopted without recourse to referendum, if it is approved by the majority of 3/4 of the members of the National Assembly.

#### **Article 165**

No draft or proposal of revision of the Constitution is admissible when it places at issue:

- the republican nature and form of the state;
- the multi-party system;
- the integrity of the national territory.

No procedure of revision can be engaged or pursued when it affects the integrity of the territory.

### **TITLE XVI: FINAL DISPOSITIONS**

...

#### **Article 167**

The source of all legitimacy arises from the present Constitution. All power which does not take its source from this Constitution, notably those stemming from a *coup d'état* or from a *putsch*, is illegal. In this case the right to civil disobedience is recognised to all the citizens.

#### **Article 168**

The Burkinabian people proscribe any idea of personal power. They forbid equally all oppression of one faction of people by another.

...