

# FUNDAMENTAL LAW OF THE SECOND REPUBLIC OF GUINEA

Approved on 23 December 1990

## PREAMBLE

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The people of Guinea,

*Proclaim:*

- The equality and solidarity of all nationals without distinction of race, ethnicity, sex, origin, religion and opinion;
- Its adherence to the ideals and principles, rights and duties established in the United Nations Charter, the Universal Declaration of Human Rights, the Charter of the Organization for African Unity and the African Charter on Human and Peoples' Rights;
- *Affirm* solemnly its fundamental opposition to any regime founded upon dictatorship, injustice, corruption, nepotism or regionalism.

*Reaffirm:*

- Its willingness to achieve, through national unity and reconciliation, a state founded on the primacy of rights and respect for democratically established law;

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- Its attachment to the cause of African Unity, of the sub-regional integration of the continent.

Free to determine its institutions, the people of Guinea adopt the present Fundamental Law.

## TITLE I: SOVEREIGNTY AND THE STATE

### Article 1

Guinea is a unitary, indivisible, secular, democratic and social Republic. It shall assure equality before the law for all citizens, without distinction of origin, race, ethnicity, sex, religion and opinion. It shall respect all beliefs. The official language of the Republic of Guinea is French. The state shall assure the promotion of the cultures and the languages of the people of Guinea. ... Its principle is: "Government of the people, by the people and for the people".

### Article 2

National sovereignty shall belong to the people who exercise it through their elected representatives and by way of referendum. No fraction of the people, nor any individual shall ascribe to itself its exercise. Suffrage shall be universal, direct, equal and secret. Within the conditions determined by law, all adult Guinean citizens of either sex possessing their civil and political rights, shall be voters.

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### Article 3

They [*ie political parties - ed*] shall respect equally the principles of national sovereignty and democracy, the integrity of the national territory and public order. An organic law shall determine the conditions under which political parties form and conduct their activities. It may also fix, for a given time, the maximum number of parties capable of being formed. It shall specify the conditions in which a party which disregards the provisions of the preceding paragraphs will no longer be considered legally constituted.

### Article 4

The law shall punish any act of racial, ethnic or religious discrimination, or any regionalistic propaganda, which could have a grave effect on national unity, the security of the state, the territorial integrity of the Republic or the democratic functioning of its institutions.

## TITLE II: LIBERTIES, DUTIES AND FUNDAMENTAL RIGHTS

### Article 5

The person and the dignity of man are sacred. The state has the duty to respect and protect them. The rights and liberties enumerated hereinafter are inviolable, inalienable and inderogable. They are the foundation of all humanity and guarantee peace and justice in the world.

**Article 6**

Man has the right to the free development of his personality. He has the right to life and physical integrity. No one shall be subjected to torture or cruel, inhumane or degrading treatments or punishments.

**Article 7**

He shall be free to believe, to think and to profess his religious faith, his political or philosophical opinions. He shall be free to express, to manifest and to diffuse his ideas and opinions by speech, by writing and by image. He shall be free to instruct and inform himself from sources available to all.

**Article 8**

All human beings shall be equal before the law. Men and women have the same rights. No one shall be favoured or disadvantaged by reason of his birth, his race, his ethnicity, his language, his political, philosophical or religious beliefs and opinions.

**Article 9**

No one shall be arrested, detained or condemned except under conditions and methods specified by law. Everyone shall have the indefeasible right to present himself before a judge to assert his rights before the state and its agents. All citizens shall have the right to a just and equitable trial, in which the right to present a defence is guaranteed. The law shall establish penalties necessary and proportionate to the crimes for which they are justified.

**Article 10**

All citizens have the right to demonstrate and to march. All citizens have the right to form associations and societies to collectively exercise their rights and their political, economic, social or cultural activities. All citizens have the right to settlement and movement in the territory of the Republic, as well as to freely enter and leave it.

**Article 11**

Whoever is persecuted by reason of his political, philosophical or religious opinions, his race, his ethnicity, his intellectual, scientific or cultural activities, in the defence of liberty has the right of asylum in the territory of the Republic.

**Article 12**

The domicile is inviolable. It shall only be violated in the case of grave and imminent danger, to prepare to face a common danger or to protect the lives of persons. All other violations, all intrusions shall only be ordered by a judge or by an authority designated by law in the forms prescribed by this Constitution. The secrecy of correspondence and communications is inviolable. Every individual shall have the right to the protection of his private life.

**Article 13**

The right to private property shall be guaranteed. Nothing shall be expropriated if it is not in the legally constituted interest of all, and subject to a just and prior compensation.

**Article 14**

The free exercise of religious sects shall be guaranteed. Religious institutions and communities freely create and administer themselves. They shall not be subject to the tutelage of the state.

**Article 15**

Man has the right to health and physical well-being. The state shall have the duty to promote the public health and to fight against epidemics and social plagues.

**Article 16**

Marriage and family which constitute the natural foundation of life in society, shall be protected and promoted by the state. Parents have the right and the duty to assure the education and the physical and moral health of their children. Children owe care and assistance to their parents.

**Article 17**

Youths shall be particularly protected from exploitation and moral abandon. The elderly and handicapped shall benefit from the assistance and protection of society.

**Article 18**

The right to work is recognised for all. The state shall create the necessary conditions for the exercise of this right. No one shall be harassed in his work on account of his sex, his race, his ethnicity or his opinions. Each one has the right to belong to the trade union of his choice and defend his rights through trade union activities. Each worker has the right to participate through his representatives in the determination of his working conditions. The right to strike shall be recognised. It shall be exercised within the framework of the laws that govern it. It shall not in any case abridge the freedom to work. The law shall fix conditions for the assistance and protection to which all workers shall have a right.

**Article 19**

The people of Guinea shall freely and sovereignly determine its institutions and the economic and social organisation of the nation. They shall have the inalienable right to its resources. These shall benefit all the citizens in an equitable fashion. They shall have the right to the preservation of their heritage, culture and environment. They shall have the right to resist oppression.

**Article 20**

Each citizen shall have the duty to conform to the Fundamental Law, to laws and to regulations. Each citizen shall have the duty to participate in elections, to promote tolerance, democratic values and to be loyal towards the nation. Each citizens shall have the duty to respect the honour of the opinions of others. Each citizen shall contribute taxes according to his means and shall fulfil his social obligations under conditions determined by law. Each citizen shall have the sacred duty to defend the fatherland.

**Article 21**

The state shall promote the well-being of its citizens. It shall foster pluralism of opinions and sources of information. It shall assure the security of each person, and shall watch over the maintenance of public order. It shall assure the continuity of institutions and public services, in respect of the Fundamental Law. It shall guarantee equal access to public employment. It shall favour national unity and African Unity. It shall cooperate with other states to strengthen independence, peace, mutual respect and friendship among peoples. It shall assure the education of the youth, which is obligatory. It shall create conditions and institutions which permit each child to develop. It shall guarantee freedom of education, and register private schools.

**Article 22**

The law guarantees to all the exercise of fundamental rights and liberties. It shall determine the conditions under which they shall be exercised. The law shall only set limits on these rights and liberties which are indispensable to the maintenance of public order and democracy. Organisations whose goals or activities are contrary to laws or that manifestly disturb the public order can be dissolved.

**Article 23**

Whoever occupies a public post or performs a public function shall be accountable for his activity and shall respect the principle of neutrality in public service. He shall not use his functions for ends other than those in the interest of all.

**TITLE III: THE PRESIDENT OF THE REPUBLIC**

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**Article 45**

The President of the Republic can, after having consulted the President of the National Assembly, submit to referendum any bill pertaining to the organisation of public authorities, concerning fundamental rights and freedoms or economic and social action of the state, or purporting to authorise the ratification of a treaty. He shall, if the National Assembly demands by a resolution adopted by two-thirds of its members, submit to referendum all bills pertaining to the organisation of public authorities or concerning fundamental rights and freedoms. Before summoning voters by decree, the President of the Republic shall obtain the opinion of the Supreme Court on the bill's or proposition's conformity with the Fundamental Law. In the case of nonconformity, it shall not proceed to referendum.

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**TITLE V: RELATIONS BETWEEN THE PRESIDENT OF THE REPUBLIC AND THE NATIONAL ASSEMBLY**

**Article 64**

In the full eight days which follow the adoption of a law, the President of the Republic or a tenth of the Deputies can convene the Supreme Court for close scrutiny to ensure the conformity of the law with the Fundamental Law. The delay period of promulgation is thus suspended. The Supreme Court shall decide within the thirty days that follow its convocation or, if the President of the Republic makes the demand, in eight days. The decision of the Supreme Court shall be published in the Official Journal. A disposition of a law declared nonconforming to the Fundamental Law shall not be promulgated nor applied. The decision of the Supreme Court shall be binding on all.

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**Article 67**

The laws qualified as organic laws by the present Fundamental Law shall be passed and modified by a two-thirds majority of the members composing the National Assembly. They shall not be promulgated if the Supreme Court, obligatorily seated by the President of the Republic, has not declared their conformity to the Fundamental Law. The National Assembly shall not enable the President of the Republic to take by means of ordinance measures which are subject to an organic law.

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**Article 74**

The state of siege, like the state of emergency, shall be decreed by the President of the Republic, after consultation with the President of the National Assembly and the President of the Supreme Court. These consultations shall be published in the *Official Journal*. The President of the Republic can take, by ordinance, any measure necessary for the defence of territorial integrity and for the reestablishment or maintenance of public order. The National Assembly shall meet by right, if it is not in session. It may not be dissolved. The decree proclaiming the state of siege or the state of urgency shall cease to be valid after twelve days, unless the National Assembly, convened by the President of the Republic authorises the prorogation for a period which it shall fix. The ordinances taken to effectuate the state of siege or state of urgency cease to be valid at the end of this period.

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**TITLE VI: TREATIES AND INTERNATIONAL ACCORDS**

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**Article 79**

Treaties or accords regularly approved or ratified shall have from their date of publication a superior authority to that of laws under the reservation of reciprocity.

**TITLE VII: JUDICIAL AUTHORITY**

**Article 80**

The judicial authority is independent of the executive authority and legislative authority. It shall be exercised exclusively by the courts and tribunals.

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**Article 83**

The Supreme Court shall have the authority to declare the constitutionality of laws and international engagements, under the conditions established in articles 64, 67 and 78.

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**TITLE XI: REVISION OF THE FUNDAMENTAL LAW**

**Article 91**

The initiative of the revision of the Fundamental Law belongs to both the President of the Republic and to the Deputies. The bill or proposition of revision adopted by the National Assembly shall only become definitive after having been approved by referendum. At any time, the bill of revision shall not be presented to referendum when the President of the Republic decides to submit it only to the National Assembly. In this case the bill of revision shall be approved by a two-thirds majority of the members of the National Assembly. It shall consist of the same proposition of revision which had received the approval of the President of the Republic. No procedure of revision shall be undertaken or pursued in the case of occupation of a part or the entire national territory, in the case of state of urgency or a state of siege. The republican form of government of the state, the principle of secularity and the principle of separation of powers shall not be the object of revision.

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