



Discussion Paper

**THE EFFICACY OF PRESIDENTIAL TERM LIMITS**

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**Abstract:**

The political atmosphere in many African countries has reinvigorated the debate on the efficacy of presidential term limits: ‘Should the leader go or should s/he stay?’ More Africans are resisting presidential efforts to flout constitutional term limits. Democratization theories suggest five possible explanations for this enforcement: voluntary cession of power; strong individual opposition leaders; institutional pressures; populist pressures; and foreign pressures. But across Africa, while term limits have been included in 34 constitutions implemented since the 1990s, they are only *fully* respected in one-fifth of these countries. With the recent demise of Blaise Compaoré’s government in Burkina Faso, campaigns and debates in defence of presidential term limits, considered pivotal to democratic political change in Africa, have been multiplied leading to unease among leaders, the rise of youth movements, radicalization of opposition movements, imprisonment of opposition leaders, riots and displacement of citizens across the borders. This paper will interrogate the advantages and disadvantages of term limits, analyzing their impact in developing countries, and discussing the broader lessons from term limits debates.

**Key words:** Africa, Term limits, Democracy, Presidency, Rule of law, Authoritarian regimes

## Table of Contents

<b>Acronyms .....</b>	<b>4</b>
<b>Introduction .....</b>	<b>5</b>
<b>1.1.What are Term Limits? .....</b>	<b>7</b>
1.2. The Classical Origins of Term Limits .....	7
1.2.1. Term Limits in Classical Greece .....	7
1.2.2. Term Limits in the Roman Republic .....	8
1.2.3. Term Limits in Contemporary Politics .....	8
1.3. Presidential Term Limits .....	8
<b>2. Transfer of Power in Africa .....</b>	<b>9</b>
2.1. Clamors for Term Limits in Africa .....	11
2.2. The Advantages of (presidential) Term Limits .....	13
2.2.1. Strengthening Democracy through Rotation of Leadership .....	13
2.2.2. Fighting/Limiting Corruption .....	13
2.2.3. Unity of Opposition Parties .....	14
2.2.4. Change of Party in Government .....	14
2.2.5. Upholding the Rule of Law .....	14
2.2.6. Lessening the Chances of Tyranny .....	14
2.2.7. Reducing Partisan Politics .....	14
2.2.8. Averting Civil War and the Rise of Internally Displaced Persons .....	15
2.2.9. Promoting Political Responsibility and Meritocracy .....	15
2.2.10. Less Commitment to Lobbyists .....	15
2.2.11. Loyalty to the Electorate .....	15
2.2.12. Reducing the Wealth Gap between Nations .....	16
2.3.The Limits of (Presidential) Term Limits .....	16
2.3.1. Losing Valuable Experience On-the-Job .....	16
2.3.2. Limiting the Peoples' Freedom of Choice .....	16
2.3.3. Favoring Bureaucracy .....	16
2.3.4. Hindering Reforms and Public Works and Preventing a Strong Leader from Staying in Power in Times of Crisis .....	17
2.4.Beyond Africa: Latin America .....	18
<b>3. Three Case Studies .....</b>	<b>20</b>
3.1. Burundi: Constitutional and Extra Constitutional Maneuvers .....	20

3.2. Congo: A President-for-Life?.....	19
3.3. Senegal: One of the ‘Good Pupils’ .....	20
3.4. Institutions: Rules that Restrain Political Action .....	21
<b>Conclusion.....</b>	<b>22</b>
<b>References .....</b>	<b>23</b>
<b>List of Tables.....</b>	<b>25</b>

## Acronyms

- AfDB African Development Bank
- AU African Union
- BC Before Christ
- IDPs Internally Displaced Persons
- MINDS Mandela Institute for Development Studies
- MP Member of parliament
- NGO Non-governmental organization
- PDS Senegalese Democratic Party
- UN United Nations
- US United States
- UNESCO United Nations Educational and Scientific Organization
- UNDP United Nations Development Programme

## 1. Introduction

The issue of presidential term limits is increasingly fraught across Africa. More Africans support term limits, even those in countries without them.<sup>1</sup> Since the early 1990s, when a breeze of democracy swept across the continent, at least 34 of Africa's 53 countries (54 since South Sudan was recognized in 2011) have put term limits on their presidents, usually giving them a maximum of two five-year tenures.<sup>2</sup> Some have stuck to the rules. A handful – Zambia's Frederick Chiluba in 2002, Malawi's Bakili Muluzi in 2004 and Nigeria's Olusegun Obasanjo in 2007 – stepped down only after trying in vain to wangle extensions.<sup>3</sup> In 2014 mass protests prevented Burkina Faso's Blaise Compaoré from hanging on, and he was forced to flee.<sup>4</sup> At least half a dozen presidents have cajoled their legislatures, by foul means or fair, into ditching the limits. Uganda's Yoweri Museveni, once confined to ten more years in office by the constitution of 1995<sup>5</sup>, has now served 29 years in all. Paul Biya has presided over Cameroon since 1982. In 2015 Togo's Faure Gnassingbé was re-elected to a third term, extending his family's unbroken tenure to 48 years. Denis Sassou-Nguesso in Congo-Brazzaville, who has ruled for most of the past 31 years, has stretched his terms in defiance of the constitution.<sup>6</sup> Joseph Kabila in the Democratic Republic of Congo, who should retire in 2016, has plans to amend the constitution.<sup>7</sup>

Some leaders seek craftily to retain a coating of constitutional propriety even while flouting its spirit. Analysts on Rwanda talk of a "Putin-Medvedev scenario" with regard to President Paul Kagame that would let him stay merrily in power after 2017.<sup>8</sup> In Ethiopia the presidency is limited to two six-year terms, but Meles Zenawi ran the show for 17 years as prime minister, with no hint of cutting short his rule, until his death in 2012.<sup>9</sup> And Zimbabwe's Robert Mugabe, who has held power (as prime minister and president) since 1980, signed a new constitution in 2013 that limits the head of state to two terms—but only from that date.

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<sup>1</sup> Cf. *Afrobarometer*, Dispatch No. 30, 25 May 2015.

<sup>2</sup> Posner, D.N. and Young, D.J. (2007) 'The Institutionalization of Political Power in Africa' in *Journal of Democracy*, forthcoming, available at [http://www.polisci.ucla.edu/faculty/posner/pdfs/Posner\\_Young.pdf](http://www.polisci.ucla.edu/faculty/posner/pdfs/Posner_Young.pdf), accessed on 2 July 2016.

<sup>3</sup> Ibid.

<sup>4</sup> Cf. Eze, K., 'Youth Participation in Elections in Africa', MINDS Annual Youth Dialogue Research Paper 2015.

<sup>5</sup> Cf. 'The Constitution of the Republic of Uganda, 1995, Uganda, Parliament of Uganda, at <http://www.parliament.go.ug>.

<sup>6</sup> See 'President Sassou Nguesso prepares for final stage of constitutional coup: elections in Republic of Congo' at <http://africanarguments.org/2016/03/16/president-sassou-nguesso-prepares-for-final-stage-of-constitutional-coup-elections-in-republic-of-congo/>

<sup>7</sup> See *The Guardian*, May 2, 2016.

<sup>8</sup> See 'Is Rwanda's Cut-Throat Leader About to Leave Power' at <http://www.salem-news.com/articles/december102011/rwanda-turnover-ck.php>

<sup>9</sup> See 'Meles Zenawi: 5 things to know about the Ethiopian leader's death and legacy' at [http://www.washingtonpost.com/blogs/blogpost/post/meles-zenawi-5-things-to-know-about-the-ethiopian-leaders-death-and-legacy/2012/08/21/e4bdbc12-eb96-11e1-b811-09036bcd182b\\_blog.html](http://www.washingtonpost.com/blogs/blogpost/post/meles-zenawi-5-things-to-know-about-the-ethiopian-leaders-death-and-legacy/2012/08/21/e4bdbc12-eb96-11e1-b811-09036bcd182b_blog.html)

Therefore he would retire as a 99-year-old.<sup>10</sup> All this moved Linda Thomas-Greenfield, the top American official for African affairs, to declare that term limits are “under threat”.<sup>11</sup>

### 1.1. What are “Term Limits”<sup>12</sup>?

Term limits, an institution whose origins can be traced to classical republican thought, impose a maximum number of times a person is allowed to hold the same public office (Comfort, 1993). Term limits have to be distinguished from a term of office. A term refers to the period that elected public officers can serve before being required to renew their mandate in a fresh election (ibid). Term limits, on the other hand, set a ceiling on the number of terms that any one individual can serve in elected public office, even if the voters are ready to re-elect them. The US president, for example, is elected to serve a four-year term of office before he/she has to seek a fresh electoral mandate. The 22nd Amendment of 1951 to the US Constitution meanwhile sets a limit of two terms for holders of the office of president. Outside of the US, term limits are also a common institutional feature of a significant proportion of presidential republics in Latin America, Africa, and Asia.

### 1.2. The Classical Origins of Term Limits

Like many democratic institutions and ideas, term limits were first popularized by their adoption in classical Greece and Rome, two early civilizations that pioneered the concept of elected political office.

#### 1.2.1. Term Limits in Classical Greece

The earliest historical evidence of term limits can be traced to the 7th century BC, when the citizens of the Greek state of Dreros-on-Crete passed a law that set strict limits on the number of times any individual could serve in the office of the state’s chief magistrate, the *Kosmos*. The law, which was inscribed in stone, provided that an individual that had served as *Kosmos* for a period of ten years could not serve again in that position until at least a period of ten years had passed: This has been decided by the polis: when a man has been *Kosmos* for ten years, that same man shall not be *Kosmos*. If he should become *Kosmos*, whatever judgments he gives, he himself shall owe double, and he shall be useless as long as he lives, and what he does as *Kosmos* shall be as nothing. (Raaflaub and Wallace, 2007:23).

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<sup>10</sup> See ‘92-year old Mugabe refuses to relinquish power until he dies’ at <http://www.thezimbabweonlinenews.com/politics-14518-92-year-old-mugabe-refuses-to-relinquish-power-says-until-he-dies.html>

<sup>11</sup> Read Greenfield’s observation at <http://iipdigital.usembassy.gov/st/english/article/2014/10/20141016309955.html#axzz4Ca5a5Y27>

<sup>12</sup> This paper focuses chiefly on ‘presidential term limits.’

### **1.2.2. Term Limits in the Roman Republic**

The ancient Roman Republic (509 BC–27 BC) also featured a system of elected rulers who were subjected to specific term limits. During this period, the two holders of the office of *Consul*, who served as co-heads of the republican government, were limited to serving a maximum of one year. As in classical Greece, term limiting the Consuls was part of an institutional design aimed at preventing the possibility of their assuming too much power and thus acquiring monarchical status that had been abolished at the start of the Republic. Other public offices in the Roman Republic that were subjected to term limits included *tribunes* of the plebs (people's magistrates), *quaestors* (who supervised the treasury and financial affairs of the state, its armies, and its officers), and *praetors*, who exercised magistracy powers as well as acting as heads of government when the Consuls were absent from Rome. Holders of these offices were only allowed to serve single terms of one year, with re-election forbidden for ten years (Altman, 2008).

### **1.2.3. Term Limits in Contemporary Politics**

The most common application of term limits in contemporary politics is on holders of executive office. Although term limits are often imposed on holders of executive office at the national level, they are sometimes extended to political executives at provincial and municipal tiers of government. In a number of cases, term limits are also extended to holders of legislative office at the various tiers of government.

## **1.3. Presidential Term Limits**

By far the most common application of term limits today is on the office of president. Globally, nearly three quarters (73 percent) of all presidential regimes employed some form of tenure limitations on the office of president at the end of 2009 (Dulani, 2014). Which now leads us to consider the situation in Africa.

## 2. Transfer of Power in Africa

In the first decades after independence from European colonial rule, African leaders were rightly depicted as “big men,” unconstrained by the rules that formally limited their power (Jackson and Rosberg 1982; Chabal and Daloz 1999; Hyden 2006). Authority in this era stemmed from a combination of military might, intimidation, and the command of informal networks. Leaders entered and exited office not through elections or other regular means but primarily through the barrel of a gun. In this era, it was almost unthinkable that a head of state would relinquish power simply because a clause in the constitution said that he must. Much more likely, he would ignore the provision and simply declare himself (or have the legislature he controlled declare him) “President for Life”—as Kwame Nkrumah did in 1964, Hastings Banda did in 1970, Jean-Bédél Bokassa and Francisco Macías Nguema did in 1972, and Idi Amin did in 1976. Many other African leaders effectively did the same, even if they never adopted the formal title. Table 1 (next page) reveals a change in the trend over the years:

**Table 1: Presidential Term Limits in Africa, 1990-2016**

<b>Constitution omits a two-term limit on the president</b>	<b>Two-term limit not reached by 2016</b>	<b>Constitutional Two-term limit by 2016 <i>Limit accepted</i></b>	<b>Constitutional Two-term limit by 2016 <i>Limit Ignored</i></b>
	Angola		
	Central African Republic		Burundi (2015; Nkurunziza)**
Côte d’Ivoire	Democratic Republic of Congo	Benin (2006; Kerekou)	Cameroon (2011; Biya)**
Gambia		Botswana (2008; Moage)	
Guinea---Bissau	Equatorial Guinea	Cape Verde (2001; Monteiro)	Chad (2006; Deby)**
Lesotho	Ethiopia	Cape Verde (2011; Pires)	Congo---B (2016; Sassou---Nguessou)**
Somalia	Liberia	Ghana (2000; Rawlings)	Djibouti (2011; Guelleh)**
South Sudan	Madagascar	Ghana (2008; Kufuor)	Gabon (2005; Bongo)**
	Mauritania	Kenya (2002; Moi)	Guinea (2003; Conté)**
	Rwanda	Kenya (2012; Kibaki)	Namibia (1999; Nujoma)**
	Senegal	Mali (2002; Konaré)	Sudan (2005; Bashir)**
	Seychelles*	Mali (2012; Touré)	Togo (2003; Eyadema)**
	South Africa	Mozambique (2004; Chissano)	Uganda (2006; Museveni)**
	Zimbabwe	Mozambique (2014; Guebuza)	Burkina Faso (2015; Campaoré)***
		Namibia (2004; Nujoma)	Malawi (2004; Muluzi)***

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Namibia (2014; Pohamba)	Niger (2009; Tandja)***
Sao Tome (2001; Trovoada)	Nigeria (2007; Obasanjo)***
Sao Tome (2011; Menezes)	Zambia (2001; Chiluba)***
Sierra Leone (2007; Kabbah)	
Tanzania (1995; Mwinyi)	
Tanzania (2005; Mkapa)	
Tanzania (2015; Kikwete)	

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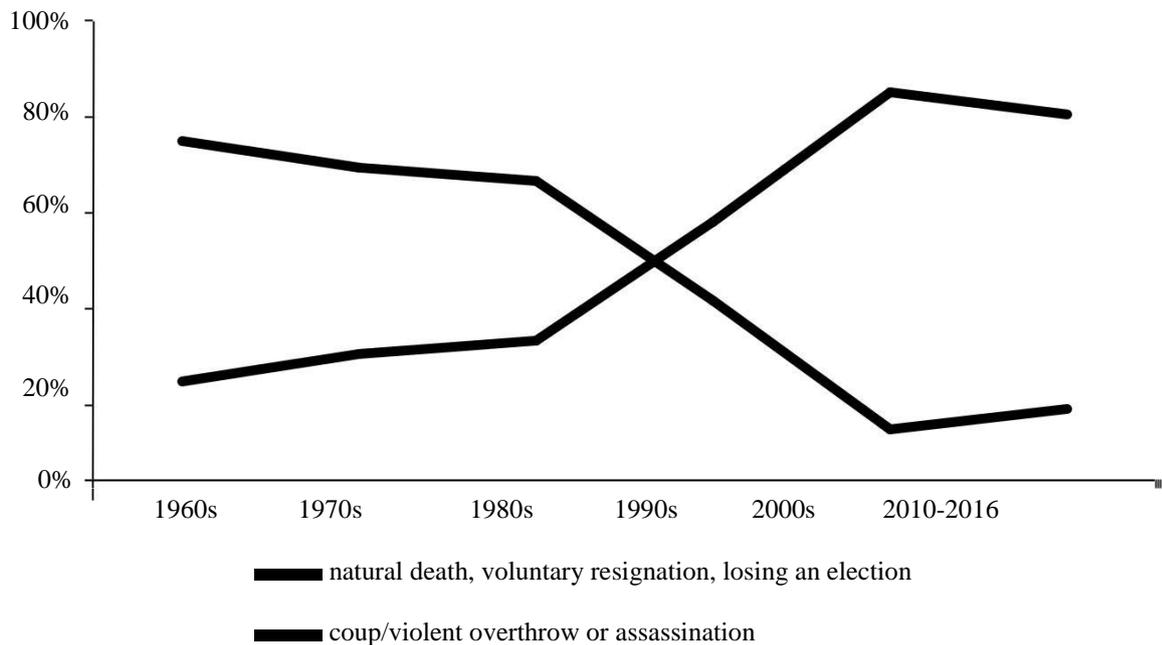
\*Seychelles has a three-term limits

\*\*Attempt was successful

\*\*\*Attempt was unsuccessful

As the Table 1 shows, six countries do not have constitutions that contain two-term limits and another twelve have term limits that had not yet been reached by 2016. In the remaining twenty-seven countries, there were thirty-six instances in which presidents found themselves in the position of having completed two terms and being constitutionally barred from seeking a third (in several cases, more than one such instance in a single country). In nearly every case, these leaders heard strong calls from their supporters to find a way to stay in power. Facing this pressure – and no doubt often also wanting to remain in office for their own personal reasons – these incumbents had three options: they could abide by the constitutional term limits and step down; they could attempt to change the constitution to permit a third term; or they could scrap the constitution altogether and prolong their tenure through extra-constitutional means. So far, twenty leaders chose the first option, fourteen chose the second, and just two (Omar al-Bashir of Sudan and Pierre Nkurunziza of Burundi) pursued the third. The fact that so few African leaders chose to take this third path – as we will describe later – indicates just how important it has become not to be seen to be overtly flouting the rules set out in the constitution.

**Figure 1: How African Leaders Have Left Power, by Decade**



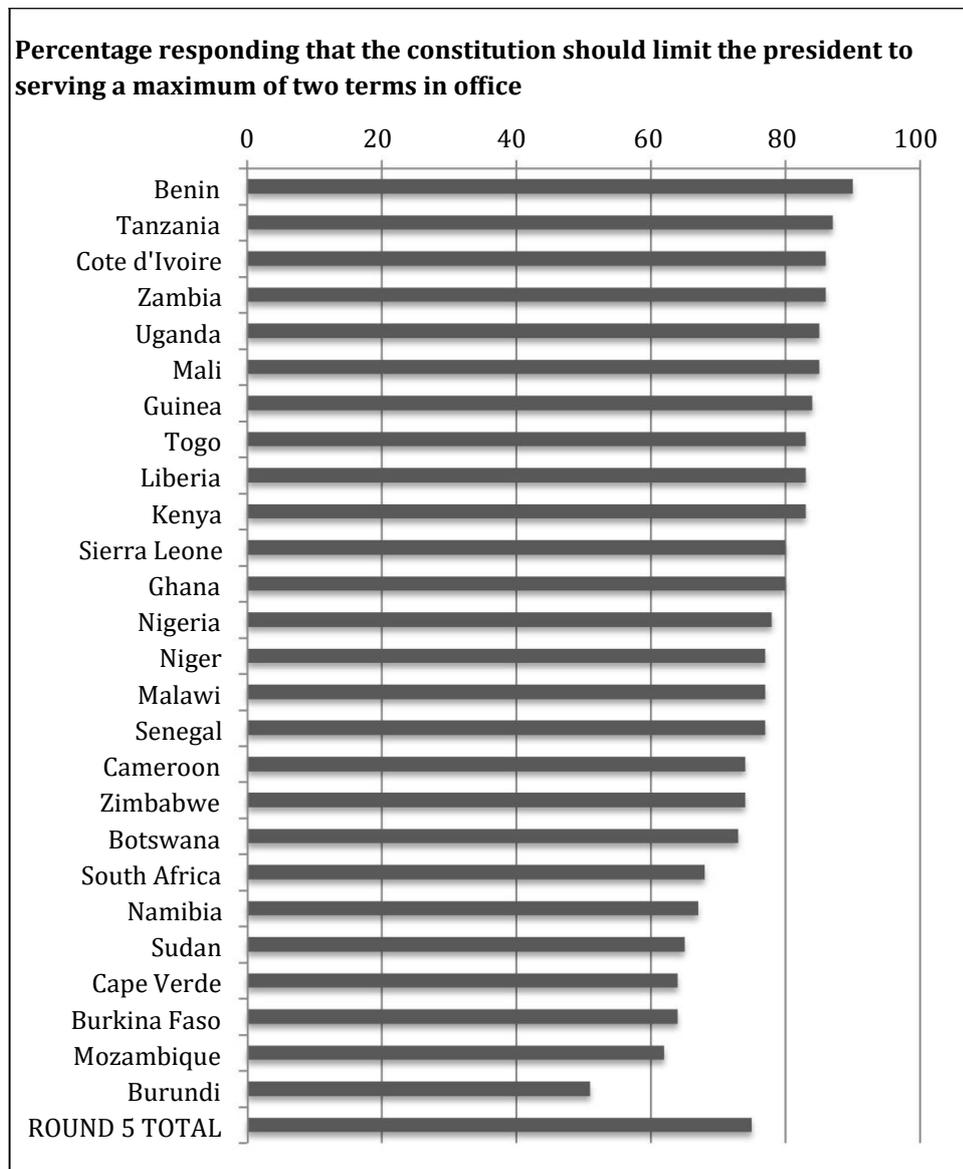
As Figure 1 makes clear, nearly three-quarters of the African leaders who left power in the 1960s and 1970s did so through a coup, a violent overthrow, or an assassination. In the 1980s, this dropped to just below 70 percent. By the 1990s, it was surpassed by the share of those who left power through natural death, voluntary resignation, or electoral defeat. In the 2000s, the share of leaders leaving power through irregular means dropped to just 15 percent. Although it crept up to 19 percent between 2010 and 2015, the numbers are still near historic post-independence lows. The upshot is that whereas the most common way that African heads of state leave office used to be by coup or assassination, it is now by voluntary resignation, in most cases triggered by constitutional term limits. Therefore since 1990, 78 African leaders have left office. Of these, nine died of natural causes, 45 voluntarily resigned, and eleven lost an election. The remaining thirteen were ousted by violent means.

### 2.1. Clamors for Term Limits in Africa

A frequent claim by African leaders seeking to abolish term limits is that their campaigns reflect popular demand (Baker, 2002). The fact that all incumbents who have removed presidential term limits have gone on to win subsequent elections is presented as *post-facto* evidence of citizens' preference for the stability that comes with leadership continuity rather than rotation (Blunt & Jones, 1997). Yet rarely are ordinary African citizens allowed formal space to make their voices heard in these debates. Instead, term-limit advocates fight for space, often in the streets and sometimes at great risk to their lives. Therefore we understand that the majority of cases – 20 of the 36 instances in which presidents faced term limits – are ones in which incumbent presidents simply stepped down in accordance with the constitution. John Kufuor, the second consecutive Ghanaian president to abide by his country's two-term limit,

summed up the rationale for this course of action when, in response to a journalist’s question, he said: “These days it has become fashionable that you do only two terms because people have come to believe that no matter how good you are, exposure to two terms for a leader is enough.”

**Figure 2: Popular Support for Term Limits in Africa**



Source: *Afrobarometer/Dulani* (2015)

Kufuor’s description of “what people have come to believe” accords with what public opinion surveys tell us about African citizens’ views on term limits. Figure 2, borrowed from Dulani (2015)<sup>13</sup>, reports the results of an Afrobarometer question that asked respondents in twenty-six countries between 2011 and 2013 whether they agreed that the constitution should limit the president to serving a maximum of two terms in office. As the figure makes clear, most Africans – three out of four in the sample overall – support a two-term limit on the presidency. If nearly

<sup>13</sup> The 2016 *Afrobarometer* by the same author presents a similar result.

80% of Africans support the constitution being limited to the president serving two terms in office, what advantages do they and researchers see in presidential term limits and what drawbacks do others underscore.

## **2.2. The Advantages of (Presidential) Term Limits**

Attempts by sitting African presidents to extend or remove term limits have led to conflicts – sometimes resolved by reaffirming term limits, but at other times leading either to prolonged political disorder or authoritarian stability. The future of presidential term limits on the continent is still evolving, as many countries contend with the difficulties of building democracy, but the majority of Africans who support term limits cite these factors:

### **2.2.1. Strengthening Democracy through Rotation of Leadership**

The first advantage of term limits is strengthening democracy and ensuring long-term stability.<sup>14</sup> Campaigns to establish or defend presidential term limits have been pivotal to democratic political change in Africa (Riedl, 2014), and in globally neutralizing the advantages of the incumbency (Cheeseman, 2010; Farrar, 2007; Jacob, 1994; Mayhew, 1974; Maisel, 1990; Maltz, 2007; Newman, 1994, Petracca, 1994; Reed and Schansberg, 1992; Rhodes, 1986). It enables the establishment of preconditions for more competitive democratic elections. In some countries, it is almost impossible to get rid of an incumbent politician, especially when s/he has control of the treasury and the support of the military. With term limits, transitions take place as a natural course of events in the democratic system (Dulani, 2011). Politics ceases to be viewed as a zero-sum game. Ruling parties are able to cultivate new leadership which can carry on the successful policies of their former leaders, but also correct for past missteps. They can remake themselves in the public eye and adapt to the dynamic challenges of the world around them. Indeed, public perception of democracy, always a fluid measure of democratic stability, appears to be enhanced in democracies where a transition from one party to another has taken place.<sup>15</sup> And it creates opportunity for all individuals to serve in leadership roles (Aristotle, cited in Dulani, 2011).

### **2.2.2. Fighting/Limiting Corruption**

Since the earliest times, a general consensus states that people, when given unlimited power, will eventually be corrupted by it. If executives have term limits in place, their power will be limited. They will be more likely to run their tenure for the purpose of serving the people, and they would have to leave office before corruption dominates their decisions.

These provisions have been used to circumscribe the power of presidential incumbents in countries where control and resources are highly centralized and loyalty to the ruling party has been the ready route to public benefits (cf. Riedl, 2014).

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<sup>14</sup> See Griner's work at <http://www.restartcongress.org/term-limits>

<sup>15</sup> Ibid.

### **2.2.3. Unity of Opposition Parties**

Campaigns for term limits have also enabled opposition parties to unite, and to overcome fragmentation and divisions among contesting leaders to mount concerted efforts to oust incumbents. In Senegal, for example, when Abdoulaye Wade exploited technicalities to run for a new term, opposition parties rallied behind Macky Sall to vote him out. Civil society organizations also support term limits as a way to avoid partisan splits (Cheeseman, 2010).

### **2.2.4. Change of Party in Government**

Where term limits are repealed, authoritarian stability is typical, as the incumbent president and party stay in power. Even when the rule survives, it can sometimes be circumvented, as happened in Burundi and Senegal where incumbents exploited technicalities to run for further terms (Riedl, 2014). And term limits have at times persisted without challenge because a dominant or authoritarian party has well-established procedures for replacing the top brass with new leaders, as in Tanzania (*ibid.*).

### **2.2.5. Upholding the Rule of Law**

Civil society organizations support term limits as a way to avoid partisan splits and advance the rule of law. Term limits likewise show a possible pathway to uphold the legal autonomy of the judicial system. Public opinion is often mobilized around campaigns for term limits, enabling collective action to challenge offenses or corruption by the ruling regime. And struggles for term limits offer openings for international pressures on behalf of neutral application of the law and the establishment of preconditions for more competitive democratic elections (Newman, 1994; cf. Dulani, 2011).

### **2.2.6. Lessening the Chances of Tyranny**

The danger of tyrannical rule in the absence of term limits is particularly greater in presidential regimes, where the chief executives are at the pinnacle of the government machinery. As Navia (2009) notes, with this great power comes a great threat that democratically elected chief executives can use their positions to become tyrants. When the exercise of this power is accompanied by lengthy tenure, the threat of tyranny and demise of democracy becomes even more pronounced. In the words of Linz: “The person who has been president, with all the power, prestige and adulation accompanying that office, will always find it difficult to relinquish power and be excluded from the prospect of regaining it...” (1996:17-18).

### **2.2.7. Reducing Partisan Politics**

Usually executives are heavily entrenched in partisan politics, resulting in gridlock when trying to pass any legislation. If term limits were enacted, toeing the party line would be less important, as the need for re-election and holding onto party seats would no longer be the

driving force behind most legislative decisions. Members of the Parliament (MPs) would have an easier time passing the legislation that would make a positive difference for the nation.<sup>16</sup>

### **2.2.8. Averting Civil War and the Rise of Internally Displaced Persons (IDPs)**

In recent cases, contestations around term limits have led to prolonged conflict and even civil war. In Burkina Faso, for example, the government dissolved after mass protests in 2014, leading to a military take-over, violence and chaos.<sup>17</sup> Contestations in Senegal, Burundi and the Congo also have led to the death of many citizens and resulted in IDPs. Our case studies on these countries will further examine this eventuality.

### **2.2.9. Promoting Political Responsibility and Meritocracy**

Within the Parliament, most legislation is written by a committee that handles a specific duty or topic. Committee appointments can be very prized positions for the power, influence and financial backing that can be attained. These positions are often assigned based on political favors and a willingness to support causes or projects. Therefore, career politicians who have formed the most self-serving relationships can often be given the most power in the Parliament. Term limits would work to stop this cycle of political reward and power abuse. Committee assignments would be determined by merit and expertise, resulting in fair and informed decisions.<sup>18</sup>

### **2.2.10. Less Commitments to Lobbyists**

Term limits can, theoretically, diminish influence of lobbyists, since the lobbyists would have to re-establish relations with both fresh politicians and their staffs, especially at the senior level.<sup>19</sup> Philosophically, having no term limits creates, in essence a permanent “governing” politician class, which is fully contrary to what many African constitutions stipulate. The ruling party will have less time in office to develop financially beneficial commitments to lobbyists and other special interest groups, thereby undermining the threat of lobbyists being a primary influence on legislation.<sup>20</sup>

### **2.2.11. Loyalty to the Electorate**

With term limits in place, leaders will be more responsible toward their constituents because they will soon be constituents themselves. They will have to live under the laws they have created while in office. Another foreseeable benefit is that, theoretically, a politician not running for re-election will be ready to make wiser decisions more beneficial to the whole country in a long term, since s/he won't care about making unpopular choices costing them an election. And, closely related, an executive not running for re-election will spend the time

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<sup>16</sup> Riedl, Ibid.

<sup>17</sup> Op. Cit.

<sup>18</sup> Read arguments at <http://www.americasquarterly.org/pros-and-cons-of-term-limits>

<sup>19</sup> Ibid

<sup>20</sup> See the arguments at <http://www.debate.org/term-limits/>

actually governing, as opposed to spending most of his term campaigning for re-election, which is these days much a full time job.

### **2.2.12. Reducing the Wealth Gap between Citizens**

Money is a major factor in who will win an election, in Africa and elsewhere in the world. Incumbents have the benefit of the access to state resources they made while in power – plus the backing of their party, contributing organizations and special interests – to get re-elected. However, these wealthy incumbents may often not be the best persons for the job, as they are so far-removed from the daily realities of their people. Term limits will help to eliminate the shady, profitable relationships between the political class and special interest groups, and therefore reduce the wealth gap between candidates. In turn, more qualified people may have a real opportunity to win elections.

## **2.3. The Limits of (Presidential) Term Limits**

Notwithstanding the positive benefits that term limits are having in reshaping the nature of presidency in Africa, opponents of it point out to the following limits:

### **2.3.1. Losing Valuable Experience On-the-Job**

Opponents of term limits affirm that career politicians should be valued for their experience. If a nation regularly fills a presidential office with a newcomer, that nation will lose the valuable experience on-the-job that person can offer in government (Cf. Van de Walle on personalization of power in Africa, 2003).

### **2.3.2. Limiting the Peoples' Freedom of Choice**

Opponents of term limits argue that a genuinely great politician, even if he is so beloved that his popularity is through the roof and a large chunk of electorate ready to vote for him or her, will be prevented to run for another tenure against the will of the people.<sup>21</sup>

### **2.3.3. Favouring Bureaucracy**

This argument is based in the notion that incoming officials will be entirely unqualified for their jobs and will be easily led astray by staff, bureaucrats, special interests, sycophants, etc. The way the system works today suggests that the real problem is in longevity of office and the complacency that can come along with it. For instance, lobbyists invest heavily in long-term relationships with sitting legislators. In the United States of America, Congress members often shirk many responsibilities by delegating them to bureaucratic agencies (Cf. Villalon and Idrissa, 2005). This idea has been expressed by other scholars as “neo-patrimonialism”. This term describes informal client-patron power networks based on mutual favors (Brown, 2004).

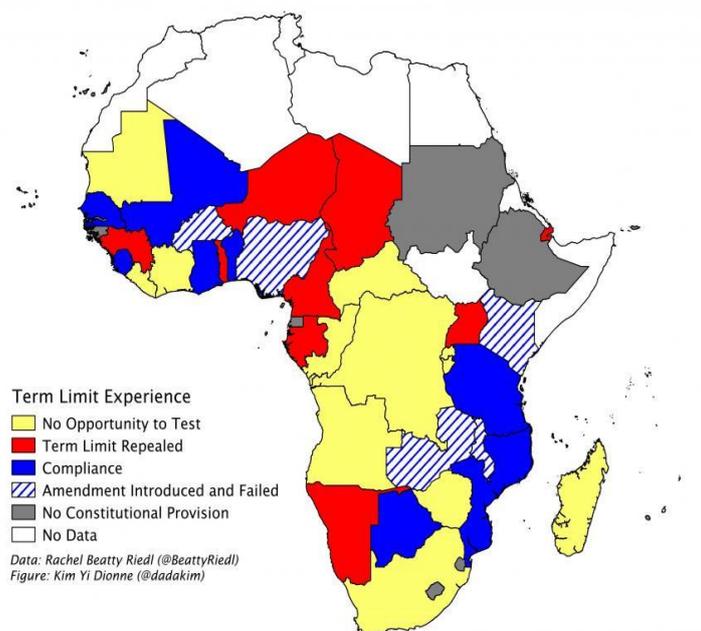
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<sup>21</sup> Ibid.

### 2.3.4. Hindering Reforms and Public Works, and Preventing a Strong Leader from Staying in Power in Time of Crisis

When Bakili Muluzi in Malawi, Olusegun Obasanjo in Nigeria, Fredrick Chiluba in Zambia, Abdulaye Wade in Senegal, to mention but these four, orchestrated moves to extend term limits, they did so by citing sustaining reforms and avoiding crisis. Fear of instability played a role in Namibia, as noted by Baker (2002) and VonDoepp (2005) ‘Party Cohesion and Obasanjo’s motivation could have been to sustain reforms as noted by the International Crisis Group (2007).<sup>22</sup> These claims were also discussed in the works of Sklar, Onwudiwe and Kew (2006), and Baker (2002).

**Figure 3: Term Limits in Africa via the African Map**



Do the advantages of term limits favor and advance countries that implement them? The above map shows countries with “no opportunity to test”, or those where “term limits are repealed”, or where “compliance” is the norm, or where the introduction of “amendment failed”, or even those with “no Constitutional provision” or “availability of date”. Take the example of Botswana, one of Africa’s most successful countries, on the “compliance” block. It has topped polls as continental Africa’s best-run country. Since independence in 1966, it has consistently held unfettered multi-party elections. It has an abundance of diamonds and

<sup>22</sup> See ‘Nigeria’s Elections: Avoiding a Political Crisis’, available at <http://www.crisisgroup.org>, accessed on 14 June 2016.

successive governments have husbanded the country's resources. Average income has tripled in real terms in two decades, putting Botswana on a par with Mexico.<sup>23</sup> Ghana, also on the "compliance" block and a recent success in development and democracy, has been exceptional in letting power change hands recently. Oxford academics declare as falsehoods the theory that dictatorship and one-party states – like China – do better at imposing discipline to spur economic growth. The same academics laud imposing term limits on leaders, not just in Africa.<sup>24</sup> Furthermore, a look at the AfDB's recent reports on the GDP of countries on the map show that countries with operational term limit are more prosperous and stable than those without it.<sup>25</sup>

#### 2.4. Beyond Africa: Latin America

In his book *Latin American Politics*, David Close (2009) affirms that since the mid-1990s, no fewer than 10 countries of Latin America have attempted to reform, rewrite or reinterpret their Constitutions. The chief motivation has been to extend the mandate of a popular chief executive. For the most part, public debate has concentrated on extending, but not eliminating, presidential term limits. Term limits in Latin America fall into three general categories: the complete prohibition of re-election (Mexico); a limit to two consecutive terms of usually four years (Brazil); and the prohibition of consecutive re-election (Chile). The latter restriction has the practical effect of limiting the executive to two, often very distinct, terms in office as exemplified by the administrations of Alan García in Peru and Oscar Arias in Costa Rica.

Brazil, one of the largest democracies in the world, is one of the best illustrations of the benefits of term limits. Presidents are banned from serving beyond a second term. As a result, government and opposition forces over the years have developed an equilibrium of power, which in turn has helped the country address its problems (ibid.). Peaceful transitions in Brazil, Uruguay and El Salvador have helped political parties maintain relevance even when they are not in power.<sup>26</sup> Indeed, public perception of democracy, always a fluid measure of democratic stability, appears to be enhanced in democracies where a transition from one party to another has taken place. But Latin America has struggled its way too. Such has been the case of Chile, where the *Concertación* (a coalition of center-left political parties founded in 1988) has governed for four consecutive terms with four presidents representing three different political parties. It has led to the opposition remaining a loyal opposition, rather than try to upset the system, since it can envision taking power one day via a free and fair election.<sup>27</sup>

Therefore Close (2009) discusses how the Peruvian President Alberto Fujimori's heavy-handed efforts to concentrate his presidential powers and his continued efforts to extend his mandate met with popular support at first: In 1990, he easily won an absolute majority of the vote. His shutdown of Congress in 1992 met with even higher public approval ratings. Yet, as the shine on his important victories against terrorism and inflation faded, so did the patience of

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<sup>23</sup> Read "Democracy in Africa" in *The Economist*, 22 October, 2009.

<sup>24</sup> Ibid. See in addition the works of Kevin B. Grier of the University of Oklahoma and Michael C. Munger of Duke University.

<sup>25</sup> Cf. AfDB annual reports at <http://afdb.org/en/documents/publications/african-development-report/>

<sup>26</sup> Read the article by Steven Griner at <http://www.americasquarterly.org/pros-and-cons-of-term-limits>

<sup>27</sup> Griner, ibid.

his electorate. By 2000, despite significant opposition to his administration, Fujimori was able to win a third term using a pernicious mix of bribery, intimidation and state largesse. Had Fujimori abided by the existing term limits, his legacy might have been a different one. As it was, the transition of power in 2001 shook Peruvian democracy to its core, its former hero turned villain.

Term limits alone did not guarantee a flourishing multiparty democracy. Despite its promise of “Universal Suffrage and No Re-election,” the Mexican Revolution did not usher in a meaningful multi-party democracy until seventy years later. To avoid another dictatorship, Paraguayans carefully included a no re-election clause in its Constitution, yet the reign of the Colorado Party remained unbroken for nineteen more years until the election of Fernando Lugo.<sup>28</sup> In both countries, however, presidential succession between individuals, even of the same party, paralleled a gradual change in political reform. Moreover, the vigorous, even acrimonious, debate within the ruling parties demonstrated the vulnerabilities of the ruling party and provided important opportunities for the opposition in the general elections. The legacy of “No Re-election,” one important check on the otherwise unrivaled power of these political parties, contributed in some small measure to the eventual peaceful transitions of power.<sup>29</sup>

An inquiry into global media reveal that when the issue of re-election was broached by sitting presidents in Mexico and Paraguay, party leaders and the public roundly rejected the idea.<sup>30</sup> Today, the electorate in Latin America remains highly ambivalent about lifting one of the few checks on their executive.<sup>31</sup> Back in 2007, Venezuelans rejected unlimited re-election of the executive. The measure was eventually passed in a “doover” (do over) vote fourteen months later; even in defeat, though, more than five million people voiced their preference for term limits<sup>32</sup>. And when President Álvaro Uribe contemplated an unprecedented third term, public opinion in Colombia voiced significant disapproval.<sup>33</sup>

Back in Africa the struggle for term limits revolves around three major cases: of presidents that abide by the constitutional term limits and step down; of those that attempt to change the constitution to permit a third term; or those that could scrap the constitution altogether and prolong their tenure through constitutional and extra-constitutional means. Let us examine three cases:

### **3. Three Case Studies**

#### **3.1. Burundi: Constitutional and Extra-constitutional Maneuvers**

Burundi is a country in east-central Africa, south of the Equator. The landlocked country, a historic kingdom, is one of the few countries in Africa whose borders were not determined

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<sup>28</sup> See Pablo Stefanoni, ‘The Rise, Via Crucis and Fall of Fernando Lugo’ in *The Argentina Independent*, 6 July, 2012.

<sup>29</sup> See Daniel Zovatta, ‘Re-election, Continuity and Presidentialism in Latin America’ in *Brookings Research*, 2 July, 2014.

<sup>30</sup> See ‘Latin America and Caribbean Analysis’ at <http://www.bbc.com/news/world-latin-america-19978115>.

<sup>31</sup> See the political updates at <http://www.economist.com/topics/paraguay>.

<sup>32</sup> *Ibid.*

<sup>33</sup> Cf. ‘Why Colombia’s Alvaro Uribe should rule out a third term in office’, at <http://www.washingtonpost.com/wp-dyn/content/article/2009/12/14/AR2009121402990.html>

by colonial rulers.<sup>34</sup> Pierre Nkurunziza has been its president since 2005. Having already served two terms, and with a two-term limit in place that barred him from running for re-election in 2015, President Pierre Nkurunziza decided to seek a third term. His first move was to try to amend the constitution, but he fell one vote short of the 80 percent parliamentary majority he needed.<sup>35</sup> His next move was to seek a ruling from the Constitutional Court that would permit the third term on the grounds that his first election in 2005 should not count toward the two-term limit because the election had been by the national assembly rather than directly by the people. Although the Court did rule in his favor, the decision was by all accounts coerced.<sup>36</sup> In any case, Nkurunziza took the Court's ruling as justification for proceeding with the third term bid. When protestors took to the streets in large numbers to oppose the president's attempt, police responded harshly and several demonstrators were killed. As protests continued, officers associated with General Godefroid Niyombareh attempted a coup, but it was put down. At least 100 people were killed and more than 20,000 fled the country during the ensuing crackdown.<sup>37</sup> The end result was that the election went forward and Nkurunziza was re-elected in a contest marred by an opposition boycott and low turnout. Burundi case provides an example of a leader who pursued both constitutional and extra-constitutional strategies.

### **3.2. Congo: A President-for-Life?**

The Republic of Congo, also called Congo Republic or Congo-Brazzaville, is a central African nation with rainforest reserves. Congo-Brazzaville is bordered by five countries: Gabon and Atlantic Ocean to the west; Cameroon to the northwest; the Central African Republic to the northeast; the Democratic Republic of the Congo to the east and south; and the Angolan enclave of Cabinda to the southeast. Its capital city, Brazzaville, lies across the Congo River from Kinshasa, the Democratic Republic of Congo's capital (Shillington, 2005; Chan, Kruhly and Olivennes, 2016).

On March 27, 2015 Sassou Nguesso, who is one of Africa's longest-reigning presidents and who has been in power in the Congo for 34 years by 2016, announced that his government would hold a referendum on changing the country's 2002 constitution to allow him to run for a third consecutive term in office.<sup>38</sup> On October 25, the government held a referendum to allow Sassou Nguesso to run in the next election. The government claimed that the proposal was approved by 92% of voters with 72% of eligible voters participating. The opposition, who boycotted the referendum, said that the government's statistics were false and the vote a sham.

The election raised questions and was accompanied by civil unrest and police shootings of protesters;<sup>39</sup> at least 18 people were killed when security forces during opposition rallies

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<sup>34</sup> For further reading see Chretien, Jean-Pierre, *The Great Lakes of Africa: Two Thousand Years of History...*

<sup>35</sup> See Vandegiste (2015) for an extensive analysis of these recent events, and Lemarchand (2009) for the dynamics of them.

<sup>36</sup> Ibid.

<sup>37</sup> Vandegiste, Ibid.

<sup>38</sup> See Roos, A., 'Congo Republic president says expects referendum over a third term' at <http://mobile.reuters.com/article/idUSKBN0MN25N20150327>

<sup>39</sup> See Roch Bouka, 'Congo opposition holds ceremony for killed protesters,' at <http://mobile.reuters.com/article/idUSKCN0SO24720151030#6gUx7xJL8tLmw1OB.97>

leading up to the referendum held in October.<sup>40</sup> The United States State Department said it was told of many irregularities and criticized the Peruvian government for cutting all telecommunications before the vote. Sassou Nguesso's contested and violent re-election is an example of non-respect of the people's wish.

### **3.3.Senegal: One of the 'Good Pupils'**

Senegal, a small West African country, peacefully attained independence from France in 1960, and has since been among the more politically stable countries in Africa. It surrounds Gambia on three sides and is bordered on the north by Mauritania, on the east by Mali, and on the south by Guinea and Guinea-Bissau. Its economy is centered mostly on commodities and natural resources. Owing to its relative stability, tourism and hospitality are burgeoning sectors. French is the official language, while Wolof is the lingua franca. A multiethnic nation, Senegal has no official religion, but Sunni Muslim with Sufi and animist influences are predominant (UNESCO, *General History of Africa*, 1991).

On March 20, 2016, Senegal took the road of free and fair referendum to address the issue of presidential term-limit. 38% of Senegalese voters participated in a constitutional referendum that President Macky Sall chose to initiate halfway through his first presidential term. Of those who voted, 63% approved proposed amendments to Senegal's constitution that were promoted by the president and his ruling coalition as 15 major propositions "to modernize the political regime, reinforce good governance and consolidate rule of law."<sup>41</sup>

The propositions included reducing the presidential term from seven to five years, lowering barriers to independent candidacy in all types of elections, designating the leader of the largest parliamentary party as "head of opposition" and increasing the number of Constitutional Council members while diversifying their mode of appointment.

These amendments might further democratic consolidation in Senegal, which has long enjoyed a reputation as a beacon of democracy in the region. But the politics of the referendum have been more complex than a mere "up or down" vote on strengthening certain aspects of Senegalese democracy.

What was at stake in the referendum? The referendum wasn't a mere up or down vote on changes to Senegal's political system that would consolidate democracy. Opposition leaders in the Senegalese Democratic Party (PDS) marketed the referendum as a plebiscite on Sall's presidency and encouraged voting "no."

What does the referendum say about term limits and democracy in Senegal? Vibrant debates about the referendum and citizens' widespread acceptance of its outcome are healthy features of democracy in Senegal. But term limits alone will not ensure strong democracy. The reforms brought about by this referendum could fragment and weaken the opposition, which would make future elections even less competitive.

First, the amendments encourage even more party splintering, since the new constitution reduces barriers to independent candidacy. Our research shows that Senegal's party system is

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<sup>40</sup> See 'Violences au Congo : le gouvernement accuse les opposants à Sassou-Nguesso' at <http://www.lefigaro.fr/international/2016/04/04/01003-20160404ARTFIG00174-violences-au-congo-le-gouvernement-accuse-les-opposants-a-sassou-nguessou.php>

<sup>41</sup> See *The Republic of Senegal, Referendum sheet 2016*.

already host to over 250 registered political parties, many of which are “telephone booth parties” that do not regularly run candidates in elections. These parties often splintered from parliamentary opposition parties, which are most vulnerable to splits under two conditions: when the barriers to party formation are low and when the rewards for new party formation are high. But Senegal is resolutely set on the path of respect for term limits.

### **3.4. Institutions: Rules that Restrain Political Actions**

If institutions are rules that restrain political actors, then the most important institutions that constrain the most important political actors are the rules that tell presidents how and when they must relinquish power. The most significant of these are the constitutional provisions that restrict presidents to two terms in office. The longer a chief executive holds power, the more the delineation between the state and the ruling party becomes blurred. Non-respect for term limits erodes the balance of power and weakens the authority of autonomous legislatures, independent judiciaries, neutral electoral authorities, and competitive political parties. Forays into a third term and beyond distract from implementing important policies, contribute to political polarization and smack of soft authoritarianism.

Beyond their role as bellwethers for institutionalization, term limits are valuable for a number of additional reasons. Maltz (2007) underscores the extent to which term limits generate alternations in governing political parties, which can build trust in the democratic process and aid in democratic consolidation. Cheeseman (2010) points out that term limits generate open-seat polls, which tend to be more transparent and fair than elections in which an incumbent is contesting. He also notes that open-seat polls tend to generate fissures in monolithic ruling parties, which makes them more vulnerable and opens space for opposition groups. The efficacy of term limits then depends on the rule of law, and the strength of the rule of law depends on political will and the interdependence between opposition leaders, political parties, and legislative and judicial institutions.

## **Conclusion**

In this paper we have looked at contemporary debates on term limits in Africa, the origin of term limits and its definition; we have discussed the clamor for term limits by Africans across the continent, how presidents leave power in Africa, the advantages and limits of term limits and a view into the subject from Latin America; we have explored three cases of struggles for term limits (to diverse results) and the centrality of strong institutions. At the end of this study, it remains to sum up that defeating a long-sitting president in Africa is a very difficult task. The spontaneous, ad hoc efforts to tweak constitutions to expand the mandates of sitting presidents have not been followed by meaningful legislation to control the use and abuse of state resources in an electoral campaign. There are few rules that determine when a president seeking re-election is a chief of state, with unrivaled and unfettered access to public resources, and when he or she is a presidential candidate, drawing on private or public campaign funds. Even in the most consolidated of multiparty democracies, the flagrant use of state resources during the electoral campaign remain a worry.

Eliminating or unduly extending term limits engenders corruption, the main cause of public distrust in democratic institutions, and a significant obstacle to economic development in Africa. Conversely with term limits, transitions take place as a natural course of events in the democratic system. Politics ceases to be viewed as a zero-sum game. Ruling parties are able to cultivate new leadership which can carry on the successful policies of their former leaders, but also correct for past missteps. To this end, the electorate should maintain its prerogative to change its mind constitutionally, and politicians should have the opportunity to allow – and encourage it – to do so.

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## **List of Figures**

Figure 1: How African Leaders Have Left Power, by Decade

Figure 2: Popular Support for Term Limits in Africa

Figure 3: Term Limits in Africa via the African Map

## **List of Tables**

Table 1: Presidential Term Limits in Africa, 1990-2016