



## The Role of the African Union Encouraging Term Limits for State Leaders

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### Introduction

In most democracies, presidential term limits ensure that the elected head of state does not turn the country into a *de facto* dictatorship. In Africa, however that is not always the case. All too often, African leaders run their countries with no set limits. They do so by seizing power illegally, or by changing their constitutions in their favor. African leaders often are able to stay in power indefinitely through outright repression of the opposition using state security agencies, corrupt practices (including financial subsidies to opponents and their supporters), or manipulation of the democratic process. In many countries, harsh ethnic politics make it possible for national leaders to stay in power by relying exclusively on ethnic supporters.

African nations are slowly moving to accept international democratic best practices. The region is becoming more democratic than other parts of the world, such as Central Asia and

much of Southeast Asia. But the trend to establish and implement presidential term limits is not guaranteed.

Several countries in Africa have seen term limits evaded through constitutional amendments or practices like the election of a trusted deputy who assumes formal responsibilities as president or head of state for a former president who retains actual power.

The African Union (AU) is committed to strengthening democracy throughout the region. Reforms mean more when supported by the Member States of that African Union, but the AU does not directly influence election or presidential succession in its Member States. The AU can only do so much without infringing on state sovereignty, a vital principle, jealously guarded by its Member States. Virtually all of them former colonial territories that had to fight for their independence.



African presidents and heads of state at an African Union summit.  
Photo: Equatorial Guinea Embassy



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### Background

African leaders have long acted as if they were rulers for life. The initial generation of rulers after the independence movements of the 1950s-70s were revolutionary leaders who had dedicated their lives to fighting against colonial domination. Having fought their way to power, they often refused to give it up, nor was it easy for them to retire. African leaders then did not retire to quiet lives and write their memoirs. In a violent era, with fierce ethnic disputes, to leave power was to lose everything, often including their lives. Succession often meant military coups or ethnic rebellions and insurgencies.

The risks of changing rulers were great, not just for rulers who wanted to step down, but also for the supporters. Usually united by ethnic identity, they benefited from the patronage of their ruler, while opposition groups—usually with different ethnic identities and loyalties—suffered exclusion and suppression. If a leader fell, all his supporters—sometimes numbering millions of people—would suffer too. This created powerful incentives for African rulers to stay in office, regardless of constitutional formalities. This problem—a reflection of the weakness of many African nations—continues to encourage national leaders to stay in office.

By staying too long, though, heads of state undermine the development of stable and peaceful democratic societies. Tensions accumulate until they are uncontrollable, often leading to revolts that bring war to entire countries. In recent years this process has been witnessed in African countries as diverse as Central African Republic, Cote d'Ivoire, and the Democratic Republic of Congo. Shorter and less frightful rebellions have overthrown aging leaders in countries like Zimbabwe. Orderly and peaceful succession requires stronger constitutional mechanisms and probably requires foreign oversight. That's where the African Union comes in.

The issue of presidential term limits is not unique to African countries. In Russia, President Vladimir Putin just won a fourth term in March 2018 after some strategic politics and changes in the constitution. Previously when confronted with a presidential term limit, Putin traded jobs with his Prime Minister, while he himself remained the actual dominant power from the number two position. And the Chinese parliament voted recently to abolish term limits for General Secretary of the Communist Party of China and President. Previously Party Chairmen were expected to step down after two terms. Now President Xi Jinping can remain in office for life. Since China and Russia play an influential role on African nations, this is likely to help justify regional leaders who want to do the same.

African Nations had a wave of democratization in the 1990s, when public uprisings became more powerful and harder for government leaders to resist. They sought an end to personalized rule, in favor of multi-party democracy based on constitutional standards. Presidential term limits were a major part of these reforms, helping to end personalized authoritarian rule, facilitate rotation of leaders in office, and avoid the violence often associated with changes in rulers.

Noticeably absent in this process was the African Union. The AU's silence may be because of ambiguity in norms and policy, and because of its leadership. The AU Charter on Democracy, Elections and Governance rejects unconstitutional changes of government. But it doesn't say anything specifically about abolishing term limits. A major issue is amendments to national constitutions that permit leaders to stay in office, a common tool in Africa. [Article 23 \(5\)](#) of the AU Charter notes that countries risk being subject to trade and travel sanctions imposed by the AU if they make...



*Any amendment or revision of the constitution or legal instruments, which is an infringement on the principals of democratic change of government.*

But this principle remains vaguely defined and easily evaded. Governments may change the title of their head of state, for example, to avoid technically staying in the same office, while of course retaining all their previous power. it doesn't spell out what type of amendments are being referred to. A more fundamental problem is that the decisions on how to implement constitutional rules, typically are made exclusively by the same men who have amended or abandoned term limits. The country's parliament may play a minor role, such as ratifying the decision, but usually parliaments are effectively controlled by the same head of state or their party.

When the African Charter was adopted, it raised the hopes of democracy activists, who hope it would promote better governance. But ten years on, even the AU Peace and Security Council (PSC) is asking whether the charter has made a difference. Unless a new way is found to address the issue, the African Union seems unlikely to tackle the 'third term' trend any time soon.

**Current Situation**

The tendency for African heads of state to stay in office for life remains a serious barrier to political development (see *Table 1*). This is widely recognized as a problem, even by people caught up in long-term rule. The difficulty is finding a solution that does not risk bloodshed, which allows all people of the nation to benefit for political secession.

**Table 1. Longest currently ruling African heads of state<sup>1</sup>**

Cameroon	Paul Biya	Prime Minister, then President	43 years
Equatorial Guinea	Teodoro Obiang Nguema Mbasogo	President	39 years
Republic of the Congo	Denis Sassou Nguesso	President	34 years
Uganda	Yoweri Museveni	President	33 years
Sudan	Omar al-Bashir	President	29 years
Chad	Idriss Déby	President	28 years
Eritrea	Isaias Afwerki	President	25 years
Algeria	Abdelaziz Bouteflika	President	19 years
Djibouti	Ismail Omar Guelleh	President	19 years
Rwanda	Paul Kagame	President	18 years
Namibia	Hage Geingob	Prime Minister, then President	18 years
Togo	Faure Gnassingbé	President	13 years
Burundi	Pierre Nkurunziza	President	13 years
Mali	Ibrahim Boubacar Keïta	Prime Minister, then President	11 years
Côte d'Ivoire	Alassane Ouattara	Prime Minister, then President	11 years

<sup>1</sup> 'List of current longest-ruling non-royal national leaders', *Wikipedia*, n.d., [https://en.wikipedia.org/wiki/List\\_of\\_current\\_longest-ruling\\_non-royal\\_national\\_leaders](https://en.wikipedia.org/wiki/List_of_current_longest-ruling_non-royal_national_leaders)



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An example of this trickiness of efforts to deal with the problem is Burundi, which is currently working to amend its constitution to *extend* terms limits from five to seven years with a mandate restricted to 2 consecutive terms. Extending the duration of terms is intended as an incentive to limit their number. However these amendments might not be applied to President Pierre Nkurunziza. Already been in office since 2005, he could potentially stay until 2034.

Countries like Cameroon, Chad, Democratic Republic of the Congo, Djibouti, Eritrea, Gabon, Republic of Congo, Rwanda, Sudan, Togo and Uganda have all tweaked their term limits to permit long-time rulers to stay in office, either by abolishing, amending or just ignoring them and not holding elections. And other countries like Lesotho or Morocco—both monarchies—never had term limits.

However, some countries seem to try and regulate themselves. Bids to change the constitution in the regard of term limits have failed in Zambia (2001), Nigeria (2005), Niger (2010) and Burkina Faso (2014). And it is also important to note that most West African nations actually adhere to their constitutions.

The 2015 African Union's 24th summit in Addis Ababa (Ethiopia) validated *Agenda 2063: The Africa we want*, which promoted an emerging plan for Africa. It basically builds on existing foundations to promote democratic consolidation for peace and security. Adding term limits to this agenda is a logical next step. But term extension remains a tricky policy challenge for the AU. How the AU and its member states respond to this policy challenge could provide a glimmer of hope for democratic governance. Failure could reverse the democratic gains and exacerbate conflict.

The 2015 AU summit addressed the crisis in Burundi, provoked by President Pierre Nkurunziza's announcing that he would run for

a third term despite he is country's constitution two-term limit.

The AU made significant progress towards stability and democracy. And the high frequency of military coups in the first decades since independence had diminished. However most of the continent's leaders still see democracy as a threat to their interests and their maneuvers to stay in power have become a major source of instability and conflict.

David Zenmenou, of the Institute for Security Studies (ISS) in South Africa, said that "African leaders don't hold elections to lose them," adding that they use whatever instruments they can to win, including manipulating electoral commissions and voters' rolls. Between 2000 and 2015, 15 African leaders had tried to remain in power by changing their countries' constitutions to remove presidential term limits. Eleven had succeeded and four had failed.

The AU provides sanctions by suspending Member States should they by manipulate constitutions and military coups as unconstitutional changes of power. But Zenmenou said that the AU protocol against manipulating constitutions to cling to power would serve no purpose unless other African leaders spoke out "early and decisively" when they saw leaders preparing to give themselves third terms. "If they fail, don't be surprised to see people take the law into their own hands."

Wolters warned that similar crises to that in Burundi seemed to be looming in the Republic of Congo, the Democratic Republic of Congo (DRC) and Rwanda because there was evidence that the leaders of those countries were maneuvering around two-term limits. But it remained unclear what the leaders would do about the third term problem at the summit.

### **Role of the AU and Term limits**

After avoiding the issues for decades, at the behest of its Member States, in recent years, the



AU has begun to engage more in promoting term limits among the Member States and encouraging adherence. There is growing recognition that without orderly democratic secession, there can be no peace throughout Africa.

The social chaos and armed violence that accompany prolonged personal rule endanger not just each Member State, but their neighbors as well. Conflicts in one country tend to spill over borders, affected other countries too. Changes need to happen in order to achieve greater stability and peace on the continent, to promote and protect human rights, and to have better democratic governance.

In effort to do so, the AU adopted a number of initiatives. These set standards and put common principles and values related to constitutional democracy. The AU established reporting systems such as the African Union Election Observation Missions (AUEOMs), as well as the African Peer Review Mechanism (APRM). It can hold member states accountable through electoral observation missions.

The *African Charter on Democracy, Elections and Governance*, adopted in January 2007 encourages each Member State to adhere to the universal values and principles of democracy and respect for human rights. It set standards for better governance across the continent. It also created the AU Peace and Security Council (PSC), it is the principal decision-making body for the prevention, management and resolution of conflicts.

The AU is putting ever greater effort into promotion of having constitutional democracies across the continent. However, challenges remain, not just to spread of democratic institutions and laws, but to their enforcement and actual implementation. How to ensure that rules that look good also do good? A major problem relates to constitutional changes designed to make it possible for rulers to stay in power after normal term limits, either by declaring a state of emergency or extending

limits. The frequent uprisings and security crises, often triggered by opposition to such efforts to stay in power, have led the AU to get involved in matters previously regarded as the sole responsibility of each Member State.

The difference between the legality and legitimacy of some regimes has led the AU to evaluate the legitimacy of regimes against its broader agenda of democratization and constitutionalism. This is why the AU, through the PSC, calls for the development of guidelines for constitutional amendment. In another resolution, the AU leaders called upon Member States to ‘ensure that constitutional amendments are done in accordance with the provisions of the ACDEG, as a baseline, and the active participation of their citizens.’

#### Proposals for Further Action

- *Reaffirm state sovereignty*: The easiest course of action for the African Union is to reaffirm the sovereignty of each African Union Member State, in effect insulating them from external pressure and permitting each country complete freedom to choose leaders as it sees best itself. This ‘dictators’ preference’ would have the effect of empowering national leaders to perpetuate their rules through the means at their discretion. By denying the role of the AU in shaping regional best practices and international law, it requires a shift away from recent decisions by the African Union and other regional organizations like the Economic Commission of West Africa (ECOWAS) to require that elections be conducted as scheduled, with complete fairness.
- *International best practices*: Alternatively, the African Union could strive to make the region more consistent with international best practices. This body can contribute to



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developing guidelines for constitutional change without infringing on democratic rights of other nations. It can use the AU's existing resolutions, policy and practice on constitutionalism as a basis and refer to the African Charter to construct a framework of principles to govern democratic constitutional amendment processes. These should link the factors preventing constitutional manipulation so that they provide the basis for a response to constitutional manipulation that is properly alert to the political, social and economic context.

- *Uniform constitutional standards:* The African Union could establish a uniform principle for legitimate presidential succession, such as requiring heads of State to retire after an agreed number of terms or an agreed number of years in office. The AU cannot require that its Member States follow such a rule—the Member States alone are sovereign—but an agreed standard would be influential. Alternatively, the AU could amend its own Charter to allow Member States only who accept its decisions, forcing rebellious Member States to leave the organization. The dilemma is this might allow countries to solve their anxiety about presidential succession simply by leaving the AU.
- *Incentives to step down:* Since much of the problem of *orderly succession* in office is due to country leaders being unwilling or afraid to surrender power, the African Union would make a valuable contribution by supporting reforms aiming to encourage leaders to retire when their terms of office are over. Possibilities include assuring safe havens for leaders who leave office, possibly in neighboring countries or countries in other regions, assuring them financial support, or protecting them

from prosecution. The difficulty is leaders often do not want to retire, move away, or there are popular demands they be prosecuted for corrupt practices or event genocidal war crimes. All these conflicting demand must be balanced.

- *Focus on foreign intervention:* How can the AU better insulate its Member States from the influence of foreign powers in the succession process, countries like China, France and the United States, that sometimes play the role of 'king makers'? The dilemma is that domestic opposition often requires the help of such outside powers to overthrow authoritarian leaders who cling to office. And what should the AU recommend when external groups include a vote of the UN Security Council?
- *Focus on specific countries:* Special attention should be given to countries where especially aging leaders cling to office, such as superannuated, abusive, internationally unpopular rulers: Cameroon, Equatorial Guinea or Republic of Congo. A policy would be necessary guiding action when such aging leaders are democratically elected, under constitutions that permit (or have been amended to permit) continuous reelection. Incentives might include trade and travel sanctions, or suspension of membership from the AU.
- The biggest barrier to such reforms is not just governments that fear being overturned in a wave of reenergized constitutionalism, but also the problem of implementation. Drafting good rules is one thing, ensuring governments will follow them, especially when it means losing power, is quite another. If the AU takes this approach, it needs to consider ways to encourage countries to consistently implement its decisions.



But many Member States will resist anything that smacks of coercion.

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**Table 1: Presidential Term Limits in Africa (Anno 2018)**

COUNTRIES	Renewable	Renewable once	Renewable twice	Maximum two consecutive terms	Maximum two terms altogether	4 years	5 years	6 years	7 years
Algeria		1					1		
Angola					1		1		
Benin		1			1		1		
Burkina Faso		1			1		1		
Burundi	1			1					1
Cameroon	1								1
Central African Republic		1		1			1		
Cape Verde	1			1			1		
Chad		1						1	
Côte d'Ivoire		1					1		
Comoros*		1					1		
Congo			1				1		
Djibouti	1						1		
Democratic Republic of Congo (DRC)		1					1		
Egypt		1				1			
Equatorial Guinea	1			1					1
Eritrea					1		1		
Gabon	1								1
Gambia**	1						1		
Ghana					1	1			
Guinea-Bissau	1			1			1		
Guinea		1			1		1		
Kenya					1		1		
Liberia					1			1	
Libya***		1					1		
Madagascar		1					1		
Malawi				1			1		
Mali		1					1		
Mauretania		1					1		
Mozambique	1	1		1			1		
Namibia					1		1		





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COUNTRIES	Renewable	Renewable once	Renewable twice	Maximum two consecutive terms	Maximum two terms altogether	4 years	5 years	6 years	7 years
Nigeria					1	1			
Niger		1			1		1		
Rwanda		1					1		
Senegal				1			1		
Seychelles					1		1		
Sierra Leone					1		1		
South Sudan**	1						1		
Sao Tome and Principe	1			1			1		
Sudan		1					1		
Tanzania					1		1		
Togo	1						1		
Tunisia					1		1		
Uganda					1		1		
Zambia					1		1		
Zimbabwe					1		1		
<b>Total Countries (N = 46)</b>	<b>12</b>	<b>18</b>	<b>1</b>	<b>9</b>	<b>18</b>	<b>3</b>	<b>37</b>	<b>2</b>	<b>4</b>

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\* = Re-election is possible once. In addition, the presidency rotates among islands with a maximum of two consecutive terms for each Island (Comoros Constitution 2001, revised in 2018, art. 52)

\*\* = No mention of term limits.

\*\*\* = Draft Constitution

SOURCE: Compilation by Cambridge University press based primarily on the Comparative Constitutions Project dataset. Available at <http://www.comparativeconstitutionsproject.org> (last accessed 02 November 2018)