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The Struggle Over Term Limits in Africa

A NEW LOOK AT THE EVIDENCE

Filip Reyntjens

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Two weeks before Rwanda's 18 December 2015 referendum on a constitutional amendment that would allow Rwandan president Paul Kagame to run for additional terms, EU High Representative Federica Mogherini declared: "In countries that have consistently respected term limits and allowed for change, societies have become more resilient and institutions more credible. There are many examples of that on the [African] continent."¹ This is an attractive assumption, and it is intuitively convincing. But is it true? Are there many examples in Africa?

This subject has become increasingly topical, as a growing number of countries in Africa have scrapped term limits in recent years. In 2015 alone, the Republic of Congo and Rwanda introduced constitutional amendments to allow term-limited incumbents to run again, and South Sudan (where there are no term limits) extended President Salva Kiir's term by three years. In July 2015, Burundian president Pierre Nkurunziza was elected for an unconstitutional third term based on an inventive interpretation of the constitution by the country's constitutional court.

In February 2016, Ugandan president Yoweri Museveni was reelected (the country's two-term limit was lifted in 2005), giving him a fifth term in office in addition to the ten years he had been in power before he was elected. Meanwhile, in early March, Angolan president José Eduardo dos Santos, in power since 1979, announced his intention to step down in 2018, presumably after his reelection in 2017. (He had made a similar promise in 2001.) On 8 April 2016, Djibouti's Ismail Omar Guelleh was reelected for a fourth term, despite having sworn in 2011 that his third would be his last.

Yet there are exceptions to this trend. On 31 March 2016, just a week

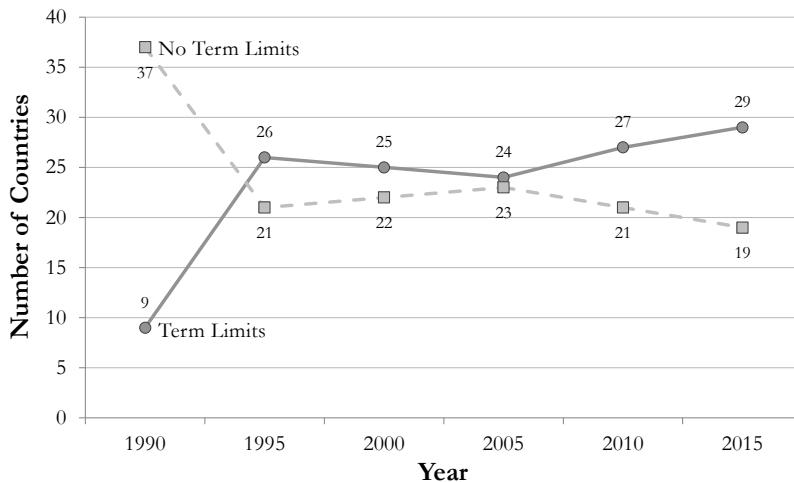
before Djibouti's election, Benin's two-term president Yayi Boni did not run, and his party's candidate lost the election to opposition contender Patrice Talon. Boni stepped down and Talon, who confirmed his campaign pledge to introduce a single-term limit, became president on April 6.

The strain on term limits is one sign of the wider difficulties in Africa's democratic development. Soon after the optimism of the early 1990s, when the democratic wave began in Africa, questions were raised about the nature and durability of democratization.² According to Kennedy Ochieng' Opalo, by 2012 only a quarter of the states on the continent had shown "signs of democratic consolidation," 43 percent were still autocracies, and the remainder were "ambiguous in their regime orientation."³ Although today African leaders respect formal rules more than they did 25 years ago,⁴ research has nonetheless revealed a negative trend in democratization on the continent, finding setbacks instead of gains, "grey zones" between democracy and authoritarianism, and possibly even a "reverse wave."⁵ Incumbency bias is strong across Africa, and transfers of power have been rare—hence, the importance of term limits. Incumbents rarely lose elections in Africa, but in contests without an incumbent—whether as a result of term limits or a ruler's poor health, death, or resignation—ruling parties have won only roughly half the time.⁶

Much has been written on presidential term limits—why they are useful for democratic consolidation, where and why they have been introduced or abolished, and what impact they have had on the transfer of power.⁷ Yet the question of whether there is a link between the presence or absence of term limits and the quality of a country's democracy has hardly been addressed. This essay attempts to establish that correlation empirically and then to address the next logical (and more difficult) question: If there is in fact a link between term limits and the quality of democracy, what is the direction of causality? Do better democracies produce, and engender respect for, term limits, or do term limits make democracies better?

Datasets

I have compiled two datasets. The first gives an overview of presidential term limits in every sub-Saharan African country from 1990 to 2015. These data are presented in five-year blocks ending in 1990, 1995, 2000, 2005, 2010, and 2015. A typical quantitative large-N study on term limits would focus on countries' constitutions: If a constitution mandated a limit on presidential terms, the code would be "yes"; if it did not, the code would be "no."⁸ This approach, however, misses nuances and yields an incomplete and somewhat distorted picture. Therefore, I also apply several qualitative considerations to the data in order to

FIGURE—EFFECTIVE TERM LIMITS IN AFRICA, 1990–2015

capture a fuller, more realistic picture of whether and how well existing term limits are actually being implemented.

This leads me to classify three kinds of cases as lacking term limits: First are those where constitutions mandated term limits but no presidential elections were ever organized, such as Angola between 1992 and 2012 and Eritrea since 1993; second are the cases where existing term limits were simply disregarded, including Burkina Faso in 2005, Burundi in 2015, Côte d'Ivoire in 2010, and Sudan since 2005 (in Burkina Faso and Burundi, the constitutional court, acting under duress, authorized the transgression); third and most common are the cases where existing term limits were never tested *and* where a subsequent constitutional amendment abolished them prior to the expiration of the last legal term. This occurred in Cameroon in 2008, Chad in 2005, Republic of Congo in 2015, Djibouti in 2010, Equatorial Guinea in 2011, Gabon in 2003, Guinea in 2001, Rwanda in 2015, Togo in 2002, and Uganda in 2005.

I have coded the countries exhibiting any of these three characteristics in the relevant period as not having term limits. By using this mixed method, the quantitative data are corrected by a qualitative analysis, which significantly modifies the results found by consulting constitutional texts alone. As a result, the number of countries with term limits in this survey is much lower than what a purely quantitative study would show. Logically, I also do not include among countries with term limits those that have parliamentary systems, as prime ministers can hold office as long as they command a majority in parliament. This category includes Ethiopia, Lesotho, Mauritius, and Swaziland.⁹ The Figure shows the trajectories of term limits, in the sense defined above, over the period from 1990 to 2015.

TABLE 1—CORRELATION BETWEEN TERM LIMITS AND CDI SCORE

Year	Countries with Term Limits	Average CDI Score	Countries Without Term Limits	Average CDI Score
2000	N = 25	6.9	N = 22	3.5
2005	N = 24	6.7	N = 23	3.7
2010	N = 27	6.2	N = 20	3.8
2015	N = 29	6.2	N = 19	3.9

Predictably, as the third wave reached Africa from 1990 to 1995, there was a sharp rise in the number of countries with term limits. Already in 2002, Bruce Baker had noted that the initial progress of the third wave had “been undone” or was “under threat in parts of Africa.”¹⁰ Indeed, in the following period, between 1995 and 2005, the number of countries imposing presidential term limits fell slightly. By contrast, the most recent period, 2005 to 2015, saw a moderate increase. Yet it is important to note that in 2015 the number of countries with effective term limits was higher only by a third than those without them, an indication that the practice has failed to penetrate the entire continent.

The second data set is based on an index of proxies for democratic quality. I opted to create a composite index (which I call the Composite Democracy Index, or CDI) because existing rankings tend to diverge, often considerably, and the choice of a single index would be arbitrary and could leave the findings open to question. The CDI brings together Freedom House political-rights scores and Polity IV scores from 2000 to 2015, and adds the Bertelsmann Transformation Index and the Economist Intelligence Unit (EIU) Democracy Index beginning in 2005. As none of these rankings includes term limits as an indicator, at least not explicitly, there is no problem of endogeneity. Each index was adjusted to a common scale of 1 to 10, where 10 indicates the highest democratic quality.¹¹

Correlations and Causality

The correlation between effective term limits (as defined earlier) and democratic quality is strong, as Table 1 shows. Countries with presidential term limits scored roughly twice as high on democratic quality in 2000 and about a third higher in 2015. Although the difference narrows over time, it remains significant ($p < 0.001$).¹²

Surprisingly, one major consequence of term limits generally highlighted in the literature—namely, increased alternation of power—has less visible effects than expected. Countries where alternation took place scored on average 6.9 in 2000, 7.2 in 2005, 6.3 in 2010, and 6.5 in 2015. These scores are only slightly higher than those of countries that had effective term limits but did not experience an actual transfer of power during the same periods.

Although there is a clear correlation between the presence of term limits and the quality of a country's democracy, correlation does not imply causality. Do term limits enhance democracy, or does democracy encourage the establishment of, and respect for, term limits? Gideon Maltz finds that "while not a single democracy eliminated terms limits" between 1992 and 2006, "23 percent of electoral authoritarian regimes did so." This suggests that the direction of causality goes from democracy to term limits. Yet Maltz's survey of Freedom House scores after an alternation in power bears out his supposition that rather than being an "indication of consolidated democracy," as is commonly thought, presidential turnovers can be "a causal mechanism for advancing democratization." Maltz found that after ruling parties lose the presidency in an electoral authoritarian regime, Freedom House scores almost always improve—in other words, the country experiences some degree of liberalization.¹³

Like Maltz, Nic Cheeseman and Michael Bratton both find that presidential turnover promotes democratization. Although neither of these scholars focuses directly on term limits, the existence of term limits increases the likelihood of alternation in power, and hence of democratization. "Clearly," Cheeseman writes, "there are good reasons to believe that the more turnover we see, the more confidently we can speak of democratic consolidation." In his view, turnovers are opportunities for political liberalization, for embedding democratic values, and for legitimizing regimes. Michael Bratton reaches a similar conclusion based on Afrobarometer data.¹⁴

But these arguments do not explain why term limits are introduced and respected in some countries and abolished or ignored in others. In other words, they do not address causality in the other direction—where more democracy fosters effective term limits and alternation, and where less democracy does the opposite. According to Boniface Madalitso Dulani in the most comprehensive study on the subject to date, more democratic polities are less likely to see term limits removed or violated. By looking at the political situation in a country before an election where term limits came into play (whether they were maintained or not), Dulani finds that deeper democracies were more likely to respect term limits.¹⁵

I address the causality question empirically by comparing countries that 1) removed term limits, 2) attempted but failed to remove term limits, and 3) maintained term limits without ever attempting to remove them. These data are presented in Table 2 below.¹⁶

The results are impressive. Between 2000 and 2015, in countries that lifted term limits the average CDI was 3.6; where attempts to lift term limits were made but failed, it was 5.7; and where limits were maintained and no attempt was made to remove them, it was 7.2. These data strongly suggest that existing democratic quality has a determining impact on whether or not term limits are maintained. Anecdotal cases

seem to back this up. For example, Senegal's CDI score was a strong 7.7 in 2012, when opposition candidate Macky Sall defeated President Abdoulaye Wade, who was running for an unconstitutional third term.¹⁷

Although it seems logical that the level of public approval for term limits would correspond to a country's level of democracy—that popular support for term limits would be high in countries with high CDI scores and vice-versa—the data are inconclusive. In fact, there is no correlation between the share of Afrobarometer respondents who favor a two-term limit and the CDI.

In some countries with low CDI scores, such as Cameroon, Côte d'Ivoire, Guinea, Swaziland, and Togo, popular support for term limits was relatively high. Likewise, in some countries with high CDI scores, such as Botswana, Lesotho, and Mauritius, popular support for term limits was comparatively low. Overall, however, Africans overwhelmingly favor term limits: The continent-wide average of those in favor is 76.4 percent; in countries with term limits, it is 79.8 percent; and in countries without them it is 68.8 percent, showing that a vast majority of African citizens are at odds with some of their leaders on this issue.¹⁸

While there is strong empirical evidence to support the correlation between effective term limits and the quality of democracy, the answer to the causality question is harder to verify empirically. Although causality probably runs in both directions, the dominant direction seems to be from deeper democracy to greater respect for term limits. This may well be because democracy breeds democracy and authoritarianism breeds authoritarianism, which corresponds to observations made in a different but

TABLE 2—TERM LIMITS IN AFRICA

<i>Term Limits Removed</i>		
Country	Year	CDI*
Cameroon	2008	3.4
Chad	2005	3.1
Congo, Republic of	2015	3.2
Djibouti	2010	4.3
Equatorial Guinea	2011	2.2
Gabon	2003	3.8
Rwanda	2015	3.4
Togo	2002	4.3
Uganda	2005	5.0
Average CDI		3.6
<i>Failed Attempts to Remove Limits</i>		
Country	Year	CDI*
Burkina Faso	2014	4.6
Malawi	2002	7.6
Nigeria	2006	5.6
Zambia	2001	5.0
Average CDI		5.7
<i>No Attempt to Remove Limits, 2000–2015</i>		
Country	CDI**	
Benin	7.7	
Botswana	8.4	
Cape Verde	9.2	
Comoros	5.3	
Ghana	7.9	
Guinea-Bissau	5.5	
Kenya	6.0	
Mali	7.0	
Mozambique	6.7	
Namibia	7.8	
São Tome and Príncipe	8.9	
Senegal	7.6	
Seychelles	7.1	
Sierra Leone	6.3	
South Africa	9.0	
Tanzania	5.5	
Average CDI	7.2	

*CDI in relevant year

**Average CDI per country 2000–15

related context—foreign aid. According to Nabamita Dutta, Peter Leeson, and Claudia Williamson, “Aid makes dictatorships more dictatorial and democracies more democratic.” They contend that foreign aid neither improves nor worsens governance in recipient countries; rather, it amplifies recipients’ existing political-institutional orientations.¹⁹

Yet because this conclusion suggests that change is unlikely, it could lead to a fatalism about Africa’s (un)democratic future. Moreover, it does not explain why authoritarian systems turn democratic or why democratic regimes become authoritarian. The personality of a leader, unforeseen events, better organization on the part of the political opposition or civil society, or external pressures can precipitate a watershed moment. Moreover, sometimes these factors can engender a two-way causality. This was the case in Nigeria, when, for a variety of reasons, President Olusegun Obasanjo (1999–2007) failed to get the constitution amended to allow him to run for a third term in 2007.²⁰ He stepped down after the election that year. As a result, political space opened up, setting the country on a path that seems to hold democratic promise. Obasanjo’s reluctant respect for term limits was therefore both the consequence of a certain degree of democracy and the catalyst for more democracy, as evidenced by the way in which power changed hands peacefully in 2015.

So, while the empirical data presented here suggest that the dominant causality runs from democracy to (respect for) term limits, the reality is more complex. We therefore need to explore more deeply, on a case-by-case basis, how democracy affects the fate of term limits, and if and how the existence of term limits affects the consolidation of democracy.

NOTES

1. Council of the EU, “Declaration by the High Commissioner Federica Mogherini on Behalf of the EU on Constitutional Review in Rwanda,” 3 December 2015.

2. René Lemarchand was among the first to warn that “there are compelling reasons to fear that the movement toward democracy may contain within itself the seeds of its own undoing” in “Africa’s Troubled Transitions,” *Journal of Democracy* 3 (October 1992): 98–109.

3. Kennedy Ochieng’ Opalo, “African Elections: Two Divergent Trends,” *Journal of Democracy* 23 (July 2012): 81.

4. Daniel N. Posner and Daniel J. Young, “The Institutionalization of Political Power in Africa,” *Journal of Democracy* 18 (July 2007): 127–40; Oda van Cranenburgh, “Democracy Promotion in Africa: The Institutional Context,” *Democratization* 18 (April 2011): 443–61.

5. Jørgen Møller and Svend-Erik Skaaning, “The Third Wave: Inside the Numbers,” *Journal of Democracy* 24 (October 2013): 97–109.

6. Nic Cheeseman, *Democracy in Africa. Successes, Failures, and the Struggle for Political Reform* (New York: Cambridge University Press, 2015): 177–78.

7. See Gideon Maltz, “The Case for Presidential Term Limits,” *Journal of Democracy* 18 (January 2007): 128–142; Posner and Young, “The Institutionalization of Political

Power in Africa"; Nic Cheeseman, "African Elections as Vehicles for Change," *Journal of Democracy* 21 (October 2010): 140–53; Opalo, "African Elections: Two Divergent Trends." The most comprehensive treatment is Boniface Madalitso Dulani, "Personal Rule and Presidential Term Limits in Africa" (PhD diss., Michigan State University, 2011), which unfortunately has not been published.

8. For instance, Dulani bases his figures on constitutional provisions rather than actual practice; Dulani, "Personal Rule," 108, 133.

9. While presidents are generally immune to parliamentary censure, the tenure of prime ministers can end abruptly if parliament withdraws its confidence, forcing the premier to resign. Although Swaziland's 2005 Constitution introduced a maximum of two prime-ministerial terms, I count Swaziland as a country without term limits since it is ruled by an absolute monarchy.

10. Bruce Baker, "Outstaying One's Welcome: The Presidential Third-Term Debate in Africa," *Contemporary Politics* 8 (2002): 299.

11. I sincerely thank Bram Reyntjens for compiling these data and their adjustment to a common scale, and Mathias De Roeck for checking statistical significance.

12. The average CDI score of countries without term limits is artificially inflated by the inclusion of countries with parliamentary systems whose democracy scores are good (Lesotho between 7 and 8 from 2005 to 2015) or excellent (Mauritius consistently over 9). Unlike Ethiopia and Swaziland, these are genuine parliamentary democracies. In Mauritius, the longest-serving prime minister since 1990, Navin Ramgoolam, was in office for nine years. During the same period, Lesotho's Pakalitha Mosisili held the office for fourteen consecutive years.

13. Maltz, "Case for Presidential Term Limits," quotes on 129 and 135.

14. Cheeseman, "African Elections as Vehicles for Change," 150–51; Michael Bratton, "The 'Alternation Effect' in Africa," *Journal of Democracy* 15 (October 2004): 147–58.

15. Dulani, "Personal Rule," 21–22.

16. Countries not included in Table 2 are those without term limits, those where term limits were disregarded, and those that experienced civil wars, coups, or other forms of unconstitutional rule during the period under review (2000–15). This is a large group ($N = 19$), but its inclusion would significantly skew the correlation with CDIs, as such situations affect countries extremely negatively. For a comprehensive list of presidential terms and term limits in sub-Saharan Africa (as of the end of 2015), see the Table on the *Journal of Democracy*'s website at www.journalofdemocracy.org/articles/supplemental-material.

17. Because there was no attempt to remove constitutional term limits in Senegal, it is included in the third category.

18. Data are based on Afrobarometer Round 6, 2014–15. Lesotho and Mauritius are parliamentary regimes where personal domination of the executive does not seem to be an issue, which might explain why respondents are less concerned about term limits.

19. Nabamita Dutta, Peter T. Leeson, and Claudia R. Williamson, "The Amplification Effect: Foreign Aid's Impact on Political Institutions," *Kyklos* 66 (May 2013): 209.

20. Charles Fombad and Nathaniel A. Inegbedion, "Presidential Term Limits and Their Impact on Constitutionalism in Africa," in Charles Fombad and Christina Murray, eds., *Fostering Constitutionalism in Africa* (Pretoria: Pretoria University Law Press, 2010): 10–11.