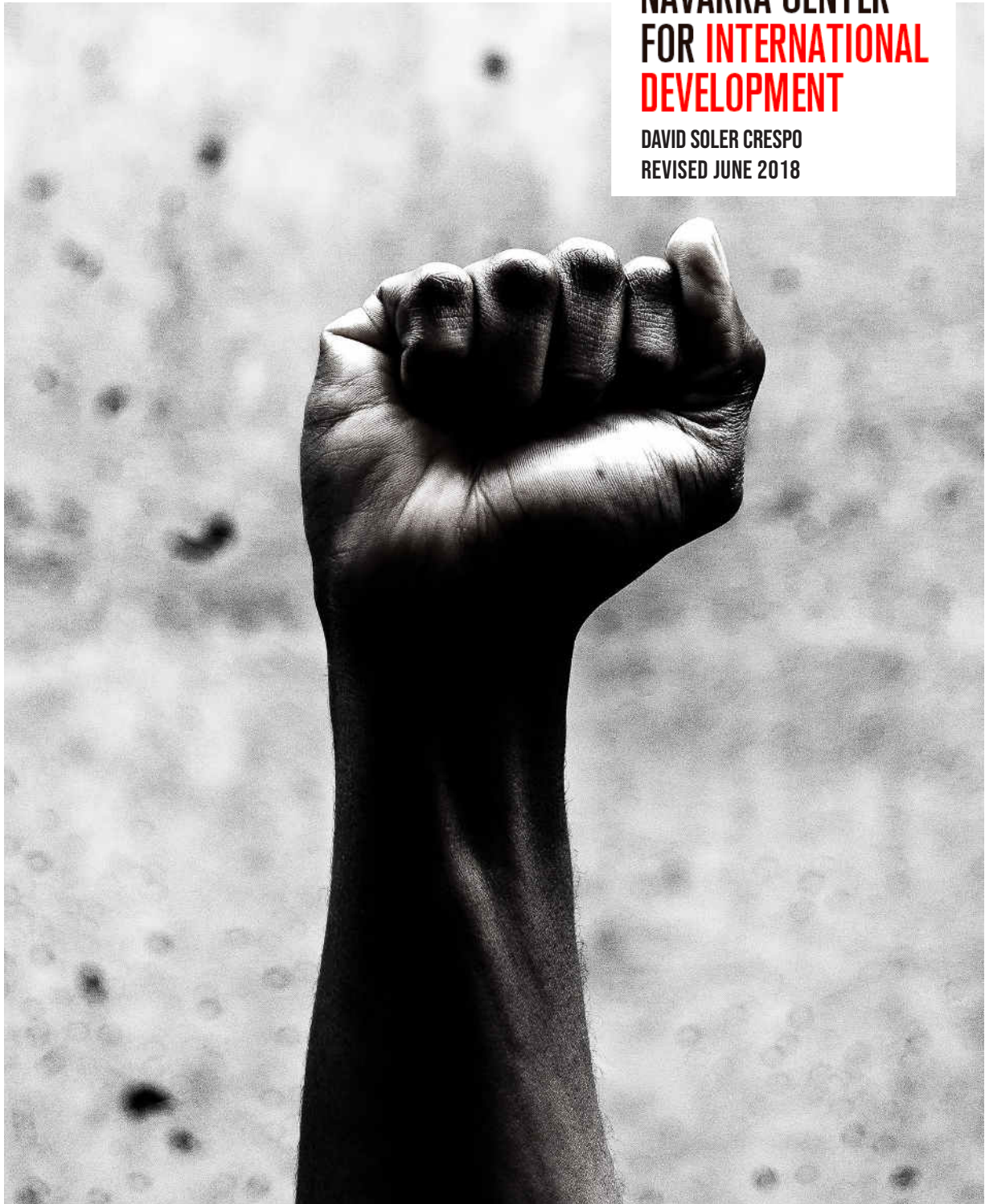


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OCCASIONAL PAPER

**PRESIDENTIAL TERM LIMITS AND DEMOCRATIC DEVELOPMENT IN
SUB-SAHARAN AFRICA**

**ARGUMENTS FOR AND AGAINST TWO TERM LIMITS AS AN EFFECTIVE TOOL TO END THE
STRONGMEN LEADERS FOR LIFE CULTURE**

ABSTRACT

Africa is home to most of the nascent countries in the world. It is also home to seven of the ten longest serving presidents, all of them have been in power for at least 20 years. Constitutional two-term limits for presidents were introduced to foster democratic development. However, this change has not been permanent. Ten African leaders have successfully derogated the law to stay in office. We rely on recent literature to explain the advantages and constraints of such limits. Two-term limits are indeed helpful, but not a central policy for the democratic development of Sub-Saharan countries.



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1. INTRODUCTION

Two thirds of the heads of state and government who have been in power for more than ten years are in Africa. Out of the ten longest serving presidents, seven are from African nations: Equatorial Guinea, Cameroon, Uganda, Chad, Eritrea, Sudan and Congo. The list was bigger in 2017¹. In the last twelve months two of the longest serving leaders left power. In Zimbabwe, Robert Mugabe, after 37 years, was ousted by his allies who were angered with his decision to depose the vice-president. The latter had to flee the country and he has now returned to be sworn in as president. In Angola, José Eduardo Dos Santos decided to not concur to the elections after 38 years of ruling.

African leaders want to die in power. The oldest presidents in office surpass the 70 year old mark: Equatorial Guinea's President Teodoro Obiang is 75; Cameroon's President Paul Biya is 85 and Uganda's President Yoweri Museveni is 73. But they're not willing to leave.

Obiang confirmed that he will run for office once more in the 2022 elections and Biya's longtime opposition candidate announced he won't participate in the 2018 elections, while

AFRICAN LEADERS WANT TO DIE IN POWER

the incumbent president is seriously considering participating in it. Meanwhile, Museveni was able to get parliament to derogate a law to remove the age limit of 75 years old to be president, thus allowing him to seek reelection in 2021. Mulindwa (2018) points out that either an age limit or a term limit should be in place to hold a president to a maximum of 10 years in office².

But why have lifelong presidents been able to extend their power for decades with impunity all over the continent? There are multiple reasons and variances from country to country when trying to explain what has enabled some African leaders to stay in power for over twenty years. However, three reasons stand out in recent literature: before political leaders they were liberation leaders as military commanders, granting them therefore respect and martyrdom; weak institutions grant no power or pension to former presidents, which means these presidents fear losing all power and even facing prosecution, as due to a lack of accountability many employ corrupt practices; and finally opposition is weak and ineffective due to the lack of organization and oppression by the ruling government.

1. Freedom House (17 April 2017), Presidential Term Limits: A Crumbling Norm, Freedom House. <https://freedomhouse.org/blog/presidential-term-limits-crumbling-norm>

2. Mulindwa, P. (29 Jan. 2018) Meeting in Cape Town. Senior Project Officer, Center for Conflict Resolution.

2. BACKGROUND OF STRONGMEN LEADERS IN SUB-SAHARAN AFRICA

First of all longtime presidents are not only presidents, but also independence heroes. Many have led a liberation movement as military commanders or activists and once the movement proves victorious, it inherits a sense of legitimacy. Some of these leaders have sacrificed their lives for the cause, and others have been imprisoned for many years. This grants them martyrdom to a certain degree and with it, the right to rule the new country (Clapham, 2013)³.

Due to this, many citizens regard their leaders as national heroes who they can't betray. The liberation fight is still vivid. For many, the struggle continues as leaders are expected to achieve the objectives for which they fought for (Clapham, 2013)⁴.

One example is recently ousted Zimbabwean president Robert Mugabe, who was imprisoned for ten years and later commanded from exile the Rhodesian Bush War for liberation. Once the country achieved independence in 1980, Mugabe was named prime minister and seven years later he was elected president. Since then he has ruled uncontested with the complete support of his fellow comrades and the military. He was only ousted when he hinted at the appointment of his wife, Grace Mugabe, for presidency with the ousting of Emerson Mnangagwa, vice-president and former freedom fighter. The latter

now serves as president after Mugabe was forced to resign by the military.

However, Mugabe is not the only case of a former liberation leader turned into a lifelong president. Samora Machel was the first president of Mozambique. He got to power after being a military commander that led the independence fight against Portugal. Eleven years later, he died in an air crash whilst still in office.

In South Africa all post-apartheid presidents have been liberation leaders. Nelson Mandela had led the ANC and co-founded uMkhonto we Sizwe, its paramilitary branch; his successor, Thabo Mbeki, spent 28 years in exile and was a key negotiator for the secret talks that led to the unbanning of the ANC; Jacob Zuma spent 10 years in prison in Robben Island with Mandela and 15 years in exile; and South Africa's current president, Cyril Ramaphosa, was ANC's Chief Negotiator during the transition to democracy.

Independence heroes are supported by all of their comrades and receive support from millions of citizens which trust them as their supreme leaders and give them a sense of immunity after achieving independence from colonial rule. Only when they fall out of the official line, such as Robert Mugabe tried to do, leaders lose support of their comrades and face

INDEPENDENCE HEROES ARE CONSIDERED SUPREME LEADERS

3. Clapham, C. (1 Feb. 2013) From Liberation movement to Government, p.41. Konrad Adenauer Stiftung. http://www.kas.de/wf/doc/kas_33517-544-2-30.pdf?130828104524

4. ibid Clapham, C. p.44

and exit from power. It is therefore not only the power of the president which allows him to stay in power for such a long time, but he is supported by a net of allies who form a group of powerful warlords that rule the main government agencies and own the main companies.

Furthermore, African institutions are established in a way that those in power have all power, but once one leaves power he is left with nothing. Those lack of privileges as former presidents entrench leaders to power and put a burden on the democratic development of many countries. Many, too, fear that having an opposition candidate in power will end with them prosecuted for their unlawful acts in power, which go unaccounted.

There are many examples of African leaders who have fled after stepping down, losing elections or being deposed. One example is Burkina Faso's Blaise Compaoré, who lives in exile in Ivory Coast after being forced to step down in 2014 as he tried to amend the constitution to seek another term in office. In 2016, Gambia's President Yahya Jammeh lost the elections against opposition candidate Adama Barrow, who had lived in exile. After Barrow seized power, Jammeh fled to Equatorial Guinea, afraid of being prosecuted for human rights abuses and silencing the opposition. A similar situation happened to Congo's longtime President Mobutu Sese Seko, who after 32 years in power was overthrown by

Laurent Kabila and had to find refuge in Morocco. Now, former South African president Jacob Zuma is facing 738 criminal charges for alleged corruption, fraud and racketeering, which could soon send him to prison⁵.

However, recent moves suggest offering former presidents a golden retirement is a successful way to remove longtime leaders from power. In 2017 Eduardo Dos Santos accepted to leave office after the Angolan elections. At the time, it was speculated he was experiencing severe health issues. However, he didn't quite leave. During his last days in office, he ensured his power and privileges wouldn't be removed. Through parliament, he passed a bill that created the position of President of the Republic Emeritus Honorary. This granted him a pension of about 90% of his salary as president (about \$6,000 a month) and immunity from prosecution for him and his family⁶.

Furthermore, former president Robert Mugabe will have a long list of benefits as officially announced by president Mnangagwa in an official government statement. Mugabe will have an official residence up to 5,000 squared meters with service employees and all utility bills paid⁷. Rumors are, however, that he was also offered a 10-million-dollar payoff, the promise of receiving his presidential salary for life, and most importantly, immunity for him and his family in Zimbabwe, although this never was made official

FEW AFRICAN COUNTRIES HAVE PENSIONS FOR FORMER PRESIDENTS

5. The Registrar. (13 Oct. 2017). Media Summary - Judgement delivered in the Supreme Court of Appeal: Zuma v DA (771/2016 & 1170/2016) [2017] ZASCA 146 (13 October 2017). Supreme Court of Appeal South Africa. http://www.justice.gov.za/sca/judgments/sca_2017/sca2017-146ms.pdf

6. Agencia Angola Press. (29 June. 2017). Aprovada Lei Orgânica dos ex-Presidentes da República de Angola. Governo de Angola <http://www.governo.gov.ao/VerNoticia.aspx?id=33106>

7. Murwira, Z. (28 Dec. 2017). Presidential benefits gazetted. The Herald <https://www.herald.co.zw/presidential-benefits-gazetted/>

8. Burke, J. (26 Nov. 2017) Zimbabwe: Robert Mugabe to get \$10m payoff and immunity for his family. The Guardian. <https://www.theguardian.com/world/2017/nov/25/robert-mugabe-payoff-family-immunity-zimbabwe-zanu-pf>

Dos Santos and Mugabe secured a golden retirement, a privilege not many other African leaders have. Few African countries have pensions, security schemes or amnesty provided. This leaves them unprotected, unemployed and without any benefits when they leave office. As a result, they cling to power, as leaving office means insecurity (Gaffey, 2015)⁹.

The idea that outgoing presidents should in some cases receive legal immunity is admittedly controversial. Many believe it could undermine the rule of law and deterrence of future crimes (Maltz, 2007)¹⁰. However, others believe it is a minor cost on the long term. The Head of the Konrad Adenauer Stiftung Office in South Africa, Henning Suhr (2018) believes that allocating a lifelong pension as with Dos Santos and Mugabe is the system to follow to get rid of strongmen in African politics¹¹.

This method is common and established by law in many western countries, which pay former presidents their entire salary or at least a percentage of it for life. The United States Former Presidents Act of 1958 set up a pension system. As of 2016 former president Barack Obama earned 205,700 dollars per year, and in total the United

States allocates 3.5 million dollars per year for former presidents¹². The UK pays 50% of its salary, 75,000 pounds approximately¹³ and Spain allocates 80% of the salary as a pension after he leaves office¹⁴.

Third and finally, many African leaders rule with impunity for decades due to a lack of a strong, organized opposition (LeBas, 2016)¹⁵.

Opposition fragmentation helps incumbent leaders, who face many rivals who can't get ahold of a sufficient percentage of the vote. In DRC Congo, Joseph Kabila has been in power since 2001. In both presidential elections he contested in, 2006 and 2011, he failed to achieve at least 50% of the vote. In the last election his main rival achieved 33% of the vote by himself but he couldn't reach an agreement with the ten opposition parties to overthrow Kabila. As of today, he's still President after delaying elections for more than one year.

A fragmented opposition with small and badly organized parties usually combines together with a one party or ruler which holds too much power and influence to use the law in its favor. Incumbent leaders manipulate elections at their will, and make it impossible for oppo-

OUTGOING PRESIDENTS RECEIVING LEGAL IMMUNITY IS CONTRO- VERSIAL

9. Gaffey, C. (15 Dec. 2015) Africa's third-term problem: why leaders keep clinging to power. Newsweek. <http://www.newsweek.com/africa-third-term-problem-cling-power-403440>

10. Maltz, G. (Jan. 2007). The Case for Presidential Term Limits. Journal of Democracy. Volume 18. Number 1

11. Suhr, H. (24 Jan. 2018) Meeting in Johannesburg. Head of the Konrad Adenauer Stiftung Office in South Africa.

12. Ginsberg, W; Richardson, D.J. (16 March. 2016). Former Presidents: Pensions, Office Allowances, and Other Federal Benefits. Congressional Research Service. <https://fas.org/sgp/crs/misc/RL34631.pdf>

13. Thurley, D. (7 March. 2014). Pensions of Ministers and senior office holders. Library House of Commons. <http://researchbriefings.files.parliament.uk/documents/SN04586/SN04586.pdf>

14. Presidencia del Gobierno (4 May. 1992). Real Decreto 405/1992, de 24 de abril, por el que se regula el Estatuto de los Ex Presidentes del Gobierno. <https://www.boe.es/boe/dias/1992/05/04/pdfs/A14993-14993.pdf>

15. LeBas, A (May 2016). Term Limits and Beyond: Africa's Democratic Hurdles. p.171 Current History.

sition leaders, which deem it impossible to achieve power. One example is Rwanda. President Paul Kagame, in power since the start of the 21st century, achieved through a referendum in 2015 to abolish term limits and run for office in the 2017 elections, which he won with a crushing 98.79% of the vote. One month prior to the elections the National Electoral Commission had barred three opposition candidates for not collecting enough signatures. This included activist Diane Rwigara, who was pressured to drop out after private pictures of her were leaked.

Recent literature has been written on the modal party system in Africa, with some researchers defining it as a system with a big party which dominates a few small parties (Van de Walle, 2003)¹⁶. The absence of competition is the result of weak opposition parties, which lack an organizational base and campaign on clientelistic appeals (LeBas, 2016).

Furthermore, the winner-takes-all election system sums up to the burden of a badly organized organization and the existence of a strong and big one party. A winner-takes-all elections system benefits bigger parties and those with more presence in rural areas (LeBas, 2016)¹⁷. Djibou-

ti is a good example of how the system benefits larger parties. The country divides into five constituencies, for which the most voted party takes all seats. Thus, in 2003, the Union for the Presidential Majority ruling coalition won all 65 seats in parliament. The main opposition party was left without representation despite receiving a total 31,660 votes, which accounted for 37% of the total share.

THERE IS A LACK OF A STRONG OPPOSITION AND POLITICAL PARTIES

However, the fate of opposition parties can change. Small opposition parties are prone to cooperation when they face a new rival instead of the incumbent president, as this new candidate will usually face less support (Maltz, 2007). This happened in Kenya in 2002, when opposition parties joined around Mwai Kibaki as their candidate, who consequently defeated the designated successor of the KANU party, Uhuru Kenyatta, with a 61.3% of the votes¹⁸. In these elections the three main opposition

parties (Democratic Party, Liberal Democratic Party and FORD-Kenya) had joined under the National Rainbow Coalition. Five years before, competing separately, they lost against KANU's candidate Daniel arap Moi. If they'd had joined forces in 2002, their total of nearly 50% would have beaten Moi's mere 40%.

16. Van de Walle, N. (2003), 'Presidentialism and Clientelism in Africa's emerging party systems', *Journal of Modern African Studies*, 41 (2), 297-321

17. *ibid* LeBas, A. (2016) p.173

18. *ibid* Maltz, G. (2007) p.174

3. IMPLEMENTATION AND DEVELOPMENT OF TWO TERM LIMITS

It was not until the early 1990s that term limits came into action. The fall of the USSR (De Sousa, 2016)¹⁹ together with pressure from foreign donors pushed the continent towards a wave of democratization.

A total of 37 African countries amended their constitutions to include multiparty elections and only four of those did not include a term limit restriction (LeBas, 2016)²⁰. Currently only eight sovereign African states have never included a term limit provision in their constitution: Eritrea, Ethiopia, Gambia, Lesotho, Morocco, Somalia, South Sudan and Swaziland (Siegle, 2018)²¹.

Popular support for term limits arose after years of ruling by liberation parties without a clear opposition and no accountability. Afrobarometer's most recent survey on term limit support shows that about 75% of respondents agree with limiting a president to serving a maximum of two terms in office. Algeria was the only country to register less than 50% of support for term restrictions, whilst Benin topped the list with 90% of answers backing this method (Dulani, 2015)²².

The rule was there, the people supported it, what could go wrong? Having undemocratic leaders who do not follow their own constitutions is the answer. In recent years there has

been a trend towards reversing term limit restrictions. As longtime leaders saw the end of their administration fast-approaching, they have maneuvered to extend their time in office through parliamentary bills, referenda, and violent and unlawful constitutional changes²³.

The last of these has been Burundi's President Pierre Nkurunziza, who named himself in March 2018 "Supreme Eternal Guide" of the country. His referendum to amend the constitution to prolong his stay in power has caused protests and the death of at least 27 people, including one anti-government activist assassinated in the street by a bunch of young pro-Nkurunziza militiamen²⁴.

Long before term limits were established, power in many African countries changed from hands to hands through military coups. Since 1960 Africa has experienced 203 military coups, counting both successful and failed coup attempts. However, since the end of the Cold War and the introduction of were 72 attempts between 1970 and 1982, while only 33 were registered from the year 2000 to 2012 (Barka, Ncube, 2012)²⁵. However, since the start of the new century coups have transformed from violent actions with armed militiamen to constitutional coups with votes in parliament or court rulings. That is, tweaking the law to prolong or eliminate term limits (Felter, 2017)²⁶.

75% OF RESPONDENTS AGREE WITH LIMITING A PRESIDENT TO TWO TERMS

19. Naomi de Sousa, A. (4th Feb, 2016). Red Africa - Special Report. <http://www.calvertjournal.com/features/show/5324/red-africa-special-report>

20. idem LeBas, A (2016)

21. Siegle, J (Feb. 2018) Term Limits for African Leaders Linked to Stability. African Center for Strategic Studies. <https://africacenter.org/spotlight/term-limits-for-african-leaders-linked-to-stability/>

22. Dulani, B. (25 May. 2015) African publics strongly support term limits, resist leaders' efforts to extend their tenure. Dispatch No.30. Afrobarometer. http://afrobarometer.org/sites/default/files/publications/Dispatches/ab_r6_dispatchno30.pdf



No Constitutional Two-Term Limit	Countries with Two-Term Limit in Constitution			
	Limit Not Yet Met by Any President (Year Limit to Be Reached)	Two-Term Limit Reached		
		Attempted Modification or Elimination of Limit		Left Office (First Leader to Adhere to Limit)
		Limit Modified or Eliminated	Limit Retained	
Eritrea	Mauritania (2019)	Togo (Eyadéma, 2002)	Zambia (Chiluba, 2001)	Tanzania (Mwinyi, 1995)
Ethiopia ¹	Côte d'Ivoire (2020)	Gabon (Bongo, 2003)	Malawi (Muluzi, 2003)	Ghana (Rawlings, 2001)
Gambia	Guinea (2020)	Uganda (Museveni, 2005, 2018) ⁶	Nigeria (Obasanjo, 2006)	São Tomé and Príncipe (Trovoada, 2001)
Lesotho ¹	Sudan (2020)	Chad (Deby, 2005)	Niger (Tandja, 2009)	Cape Verde ⁹ (Monteiro, 2001)
Morocco ²	Egypt (2022)	Cameroon (Biya, 2008)	Senegal (Wade, 2012)	Mali (Konaré, 2002)
Somalia	Madagascar (2024)	Djibouti (Guelleh, 2010)	Burkina Faso (Compaoré, 2014)	Mauritius ⁹ (Uteem, 2002)
South Sudan ³	Tunisia (2024)	Rwanda (Kagame, 2015)		Kenya (Moi, 2002)
Swaziland ²	Guinea-Bissau (2024)	Burundi (Nkurunziza, 2015) ⁷		Mozambique (Chissano, 2005)
	Seychelles (2025)	Republic of Congo (Nguesso, 2015)		Benin (Kérékou, 2006)
	Libya (2026) ⁴	DRC (Kabila, 2016) ⁸		Comoros (Assoumani, 2006)
	Central African Republic (2026)			Sierra Leone (Kabbah, 2007)
	Zimbabwe (2027)			Botswana (Mogae, 2008)
	Angola (2028)			South Africa (Mbeki, 2008)
	Algeria (2029) ⁵			Namibia (Pohamba, 2015)
	Equatorial Guinea (2030)			Liberia (Sirleaf, 2018)

¹ Executive authority largely rests with the office of the prime minister, which does not face restrictions on tenure.

² Executive authority rests with a monarch.

³ South Sudan: Salva Kiir's term as elected president ended in 2015, though he has subsequently remained in office without a renewed mandate.

⁴ Libya: The draft 2016 Constitution imposes two-term limits.

⁵ Algeria: A limit of two five-year terms was reinstated in 2016, theoretically allowing Abdelaziz Bouteflika to run for two more terms starting in 2019.

⁶ Uganda: Presidential term limits were lifted in 2005, and the age limit was removed in 2018.

⁷ Burundi: While legitimacy remains contested, Pierre Nkurunziza has held onto power past term limit expiration in 2015.

⁸ DRC: Joseph Kabila served out his second term in 2016 but has resisted leaving office.

⁹ The elected president is term limited, though power is shared with a prime minister, who is not.

23. idem Siegle, J. African Center for Strategic Studies

24. The Economist (May 19th, 2018) Back to the old days: <https://www.economist.com/middle-east-and-africa/2018/05/19/burundis-president-is-now-supreme-eternal-guide.-retirement-is-out>

25. Ben Barka, H. Ncube, M. (Sep. 2012). Political Fragility in Africa: Are Military Coups d'Etat: a Never-Ending Phenomenon? African Development Bank

26. Felner, C (28 Dec. 2017) Africa's 'Leaders for Life' Syndrome. Council on Foreign Relations. <https://www.cfr.org/backgrounder/africas-leaders-life-syndrome>

27. ibid Tull, D.M., Simons, C

The claim and modus operandi to achieve this reversal have been various, but in all cases, presidents used legal mechanisms and procedures to extend their power in office. (Tull, Simons, 2017)²⁸.

The first leader to successfully remove term limits to stay in power (Opalo, 2012)²⁹ was Burkina Faso's President Blaise Compaoré in 1997. After him came other eleven leaders such as Togo's Eyadema in 2002, Gabon's president Bongo in 2003 and Uganda's president Museveni in 2005, who yet again removed an age limit in January 2018 to seek his sixth term in 2021.

However, Compaoré failed to prolongue his stay in power. In 2000, he was forced to restore term limits again and in 2014 massive protests erupted after he tried to scrap them again. This time, he was forced to step down and he fled to Ivory Coast (Tull, Simons, 2017)³⁰. As Compaoré, other African leaders have faced bad

luck in trying to extend their power. Malawi's president Bakili Muluzi had to bring back term limits after popular protests. Zambia's president Frederik Chiluba was forced to step down after trying to change the constitution in his favor (Felter, 2017)³¹.

In total, 21 African countries have upheld term limits, and an additional 15 have now a constitutional mandate that limits a president's time in office. Results show that term limits have a direct effect on the average time in power of leaders. In those 15 countries with term limits leaders have been in power for four years on average, while in countries where heads of state evaded their limit the average time in office was 22 years (Siegle, 2018)³². A special case is Gabon's former president Omar Bongo, who died in power in after 42 years in office. To this day, the Bongo family continues in power, as his son, Ali, has been president since his death in 2009.

Figure 2. How Incumbents Circumvent Term Limits

Mechanism	Cases
Change of constitution through parliament/senate	Namibia (1999), Togo (2002), Gabon (2003), Cameroon (2008), Djibouti (2010), Rwanda (2015)
Change of constitution/introduction of new constitution through popular referendum	Burkina Faso (1997), Guinea (2001), Chad (2005), Uganda (2005), Sudan (2005), Niger (2009), Rwanda (2015), Congo-Brazzaville (2015)
Court ruling legalising third-term bid	Senegal (2012), Burundi (2015)

28. Tull, D.M., Simons, C (10 July. 2017). The Institutionalisation of Power Revisited: Presidential Term Limits in Africa, *Africa Spectrum*, 52, 2, 79–102. p.81

29. Opalo, K (30 July. 2015) African Elections: Two Divergent Trends, *Journal of Democracy*, Volume 23, Number 3, July 2012, pp. 80-93 (Article): <https://muse.jhu.edu/article/480976/pdf>

30. *ibid* Tull, D.M., Simons, C. p. 92

31. *idem* Claire Felter

32. *idem* Siegle, J. African Center for Strategic Studies

33. *Ibid* Tull, D.M., Simons, C

4. SUPPORTING ARGUMENTS FOR CONSTITUTIONAL TWO-TERM LIMITS

Countries which have term limits and leaders stay for a shorter time in power tend to be more free. Two thirds of the current leaders who have been more than ten years in power are in Africa. Out of the ten longest serving presidents, seven are from African nations: Equatorial Guinea, Cameroon, Uganda, Chad, Eritrea, Sudan and Congo.

All these countries were defined as “not free” in Freedom House’s Freedom in the World 2017 report³⁴. This whole group also entered in the category of “authoritarian regimes” in The Economist’s 2017 Democracy Index³⁵, which further defined Chad and Equatorial Guinea as extremely authoritarian.

With these data it seems reasonable that term limits are favorable for a country’s democratic development and should be implemented. However, this is not the only supporting argument for constitutional term limits. Recent literature points out to three main points in favor of the introduction of two-term limits: it limits a president’s capability to run the country as it’s own enterprise; it promotes peace and stability and it fosters an alternation of power amongst parties

which in turn helps in reducing corrupt practices and fostering a democratic culture.

The first point in favor should be looking at how presidents rule their country when serving for a long time. When the president holds too much power for too long a country tends to develop a neopatrimonialistic form of rule,

in which power is focused in the hands of the president as an individual and access to him is more important than that to formal institutions. This, in turn, fuels corruption, abuses and a sense of immunity, as well as poor economic decisions for the country, as the state is run as the president’s own personal business (Prempeh, 2008)³⁶. Recent literature has found that there is a strong correlation and high significance between high presidential power and bad governance (van Cranenburgh)³⁷. Shugart and Carey (1992) argue that a high concentration of power in hands of the president causes “regime problems”, which they define as a breakdown of democracy³⁸. This type of regime leaves a weak state, with scarce resources to implement profound changes, which hampers development and leave African nations poor.

TERM LIMITS HAVE A POSITIVE IMPACT ON A COUNTRY’S PEACE

34. Freedom House (2017) The dual threat to democracy: populists and autocrats. Freedom in the World 2017.

35. The Economist (2017). The Economist Intelligence Unit’s Democracy Index.

36. Prempeh, Henry Kwasi, Presidents Untamed, Journal of Democracy, Volume 19, Number 2, April 2008, pp. 109-123 p.111 (Article)

37. van Cranenburgh, Oda (2008) ‘Big Men’ Rule: Presidential Power, Regime Type and Democracy in 30 African Countries’, Democratization, 15:5, 952-973, p.968

38. Matthew Soberg Shugart and John Carey (1992), Presidents and Assemblies: Constitutional Design and Electoral Dynamics (Cambridge: Cambridge University Press), pp. 38–43 and 157

Despite the introduction of multiparty elections nearly three decades ago, the political system hasn't really changed in Africa and there is still a high concentration of power³⁹. Alternation in power helps to prevent these detrimental causes and reduces the risk of one individual piling too much power by increasing accountability as it faces the threat of being defeated in the next elections.

Secondly, implementing and respecting two-term limits also has a positive impact on a country's peace and stability. Only 2 out of 21 countries that have upheld constitutional limits are currently in conflict, while 6 out of 18 countries that have either overruled or never established a two-term limit are in conflict. These include South Sudan, Somalia and DRC Congo. The latter is on the verge of another civil war as President Joseph Kabila has delayed elections for two years⁴⁰.

Some researchers argue neopatrimonial systems lead to unstable countries and enhance the risk of armed conflict, as they tend to factionalize society (Williams, 2011)⁴¹. The greed for power and managing of the state with a clientelistic approach oppresses those who strive to be heard, which in turn increases chances of inciting conflict.

The prospect of conflict increases during an economic crisis. Neopatrimonial systems tend to regulate and promote policies which favor those in power in the short-term, but harshly punish a state's resources in the long-term. Supporting these type of policies sets off a declining trend as

public revenues decrease and with it the quality of public services. As researchers claim, setting national policies only for incumbent elites aggravates divisions and paves the way for future insurgencies and conflict (Bates, 2008)⁴².

The third and last main reason discussed in literature in favor of two-term limits is that incumbents hold an unfair advantage when facing re-election, therefore having term limits fosters alternation of power amongst different political parties, improving the democratic prospect of a country. As Opalo (2008) points out, elections happen regularly, but sitting presidents almost always win them⁴³. Between 1992 and 2006 incumbents won 93 percent of the 67 elections in which they ran for reelection, while in the same period successors only won 52 percent of the 21 elections held around the world. In Sub-Saharan Africa these numbers increase, with 96 percent of incumbents being reelected and only 60 percent of successors being chosen for office⁴⁴.

Term limits force party alternation as successor candidates of ruling parties are more likely to fail due to various motives. First of all, they have less public support than their predecessor. New candidates face the difficult challenge of succeeding someone in their own party which is more familiar, visible and experienced to citizens. This leads to two issues. If the outgoing leader still has large popular support, comparisons with him will make the candidate look weak, and if the leader has lost popular backing, the next candidate has the hard task of trying to distance him or herself.

39. van Cranenburgh, Oda (2003), 'Power and Competition: The Institutional Context of Multi-Party Politics', in M. Salih (ed.), *African Political Parties: Evolution, Institutionalization and Governance* (London: Pluto Press), pp. 188–207.

40. idem Siegle, J. African Center for Strategic Studies

41. Williams, Paul D. (2011) *War and Conflict in Africa*, Polity Press, p.55

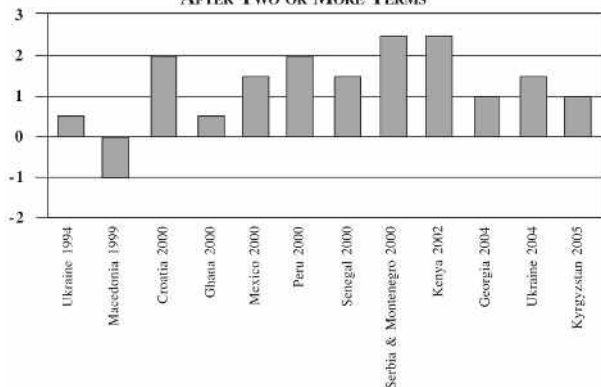
42. Bates, R. (2008) *When Things Fell Apart: State Failure in Late-Century Africa* (Cambridge Studies in Comparative Politics)

43. ibid Opalo, K (p.83)

44. ibid Maltz, G. (p.128)

Second, the ruling party can face fracture when choosing a successor. When an opportunity to be the new face of the party emerges, contestants for that position divide into factions within the party's ranks, which weakens the organization. This could imply a divide in the party's traditional electorate, as well as leading to a loss of confidence amongst non-traditional supporters and undecided voters.

45 FIGURE 2—CHANGE IN FREEDOM HOUSE SCORES WHEN RULING PARTY IN AN ELECTORAL AUTHORITARIAN REGIME LOST PRESIDENCY AFTER TWO OR MORE TERMS



Third, the incumbent government has a lower probability of implementing repression, intimidation and cheating in the electoral process with immunity as the fear of losing power is present⁴⁶.

Last and most importantly, opposition tends to unite when they see a real opportunity of obtaining power, posing a bigger threat to the ruling party. As Prempeh (2008) lays out, “opposition activists pushing for political change in Africa have been motivated not so much by a real desire to reform government as by the prospect of forming the government themselves”⁴⁷. An example is Uhuru Kenyatta’s loss in the 2002 elections in Kenya. Kenya-

ta had been directly chosen as his successor by Daniel arap Moi, who had been ruling for 24 consecutive years. The KANU party was the only party who had been in power since independence and his father, Jomo Kenyatta had been the first president of the country and was considered one of the nation’s founding fathers. Despite his family ties and the strength of his party, Kenyatta lost with only a 31 percent of the vote against Mwa Kibaki, who led a coalition of opposition parties. Various reasons explain this defeat: his inexperience, his young age, as he was only 42 years old back at the time and the resentment from a fraction of his own party.

Term limits help to promote party alternation, which is a good catalyzer for democratization as different indices signal. Freedom House scores for “civil liberties” and “political rights” improved an average of 0.9 points on a 7-point scale in the twenty cases where opposition won power. This number rises to a 1.3 point increase when a party lost after two or more terms in office⁴⁸.

The mere fact that a leader knows there is an end to power reduces the chances of corruption and managing the state as a neopatrimonial system. Furthermore, with new leaders facing the ballot incumbent political parties have the fear of losing an election. This reduces their ability and willingness to resort to unconstitutional means to stay in power and forces them to comply with their promises to gain the respect of the electorate if they want to be voted to stay in office after the next elections. Term limits, therefore, reduce the feeling of immunity that a lifelong leader has.

45. *ibid* Maltz, G. (p.133)

46. *ibid* Maltz, G. (p.133)

47. Prempeh, Henry Kwasi, *Presidents Untamed*, *Journal of Democracy*, Volume 19, Number 2, April 2008, pp. 109-123 p.111 (Article): <http://muse.jhu.edu/article/235518>

48. *ibid* Maltz, G. (p.135)

5. CONSTRAINTS OF TWO TERM LIMITS

As many researchers point out the positives of implementing term limits, others signal the constraints that term limits have. Two-term limits are just a tool which do not automatically guarantee a country to be democratic. There are also three main arguments against the use of this law. First of all many argue that two-term limits are not mutually exclusive with an authoritarian rule, as some countries which have limits on power implemented still rank poorly on democratic values. Furthermore, they do not guarantee party alternation. Some African nations have still got the same party in power for years despite effectively implementing term limits. Finally, some leaders promote the idea that it is an undemocratic western imposition that ignores the will of the people.

The first of the three arguments refers to countries such as Tanzania and Mozambique, where the grip on power of one party has annulled alternation⁴⁹. The Chama Cha Mapinduzi is the longest reigning ruling party in Africa. It has been in power for 56 years under different names, since Tanganyika was established as a new country in 1962 after achieving independence from the United Kingdom. The Mozambique Liberation Front (FRELIMO) has also been in power since independence in 1975, surviving a long civil war which lasted until 1992. With the election of Filipe Nyusi as president in 2014, the party prolonged their stay in office, which already lasts for 33 years. Both countries are considered a hybrid regime and have a 'largely unfree' or 'unfree' media as reported by The Economist Democracy Index 2017⁵⁰.

In many cases, this happens because the head of state handpicks its successor, which gets elected due to a lack of an organized opposition and perpetuates an autocratic one-party system⁵¹. In Zambia, president Frederik Chiluba couldn't run for a third term in 2001, but named his vice-president Levy Mwanawasa as his successor, who took his place after winning the elections. In Malawi, a similar case occurred, with president Bakili Muluzi choosing Bingu wa Mutharika as his successor, who sat in power during eight years until his death in 2012.

As we have mentioned before, term limits foster party alternation by eliminating the incumbency advantage that a president seeking re-election faces and helping opposition unite against the reigning party. However, term limits do not guarantee party alternation, and party alternation is not needed to achieve a democratic state.

Botswana, South Africa and Namibia are three of the eight countries considered as a democracy in Africa in The Economist Democracy Index 2017⁵². The three of them have seen no party alternation since independence.

Botswana has now been a democracy for over fifty years and still maintains its reputation as an example of socioeconomic and political development. However, the Botswana Democratic Party has ruled since 1966 without contestation. In 2004, they even mocked opposition parties by titling its election manifesto "There is still no alternative" (Lekalake, 2016)⁵³. In South Africa, term limits are entrenched in their de-

49. *ibid* LeBas, A. (p.172)

50. *idem* The Economist (2017)

51. *idem* LeBas, A.

52. The EIUI (2017), White Paper, The Economist. <https://www.eiu.com/topic/democracy-index>

53. Lekalake, R. (Jan. 2016), Botswana's Democratic Consolidation: What Will It Take?, Afrobarometer Policy Paper No.30. http://afrobarometer.org/sites/default/files/publications/Policy%20papers/ab_r6_policypaperno30_democracy_in_botswana.pdf

mocratic values and are not contested, and are therefore term not a defining principle for democracy. Citizens assume that after two periods the president will have to leave office (Friedman, 2018)⁵⁴. As in Botswana, the liberation party African National Congress has not been removed from power since the end of the apartheid era. In Namibia, the SWAPO Party have also been the governing party since independence.

According to these rankings, democracy is achievable without party alternation. These reports from Freedom House, Transparency International and The Economist Democracy Index rely mainly on expert surveys. Some researchers dispute this interpretation, as they believe that in order to achieve a democratic status there must be several peaceful democratic turnovers (Huntington, 1991)⁵⁵.

Further literature argues that public opinion is a better measure of democratic consolidation (Bratton & Mattes (2003)⁵⁶. In Botswana, citizens define democracy mainly as civil liberties, ahead of popular rule, peace/unity/power sharing, and finally electoral competition. This means that public opinion in Botswana largely views democracy in liberal terms rather than in the provision of services and socioeconomic development. That is why a 76% of citizens approved its country to be a “full democracy” or “a democracy, but with minor problems” (Lekalake, 2016)⁵⁷, despite the country being one of the most unequal in the world (Cilliers, 2016)⁵⁸.

Despite this two arguments, the most repeated claim by African leaders is that term limits are a western colonialism imposition, directly coming from the United States. In 2015, Barack Obama held a speech before the African Union in Addis Ababa where he asked for African leaders to respect term limits: “Nobody should be president for life”, he said, and added that “Africa’s democratic progress is at risk when leaders refuse to step aside when their terms end” (Baker, 2015)⁵⁹. Various longtime leaders answered the now former U.S. president. Zimbabwe’s Robert Mugabe said term limits “place a yoke around the necks of African leaders” while Uganda’s President Yoweri Museveni said he rejects “this business of term limits”, and added: “I am there by the will of the people” (Wilmot, 2015)⁶⁰.

Contrary to Museveni’s thought, as mentioned before, three quarters of Africans do support an implementation of a two-term limit restriction for presidents. However, in some cases such as in Rwanda with president Kagame, citizens have approved through popular referenda the removal of term limits.

Lastly, those opposing term restrictions also say they are undemocratic arguing it limits their human right as a citizen to opt to the presidency, and the people’s will to maintain someone in power if they wish to do so (Maltz, 2007)⁶¹.

54. Friedman, S (24 Jan. 2018) Meeting in Johannesburg. Professor and Political Scientist at the University of Johannesburg.

55. Huntington, S. P. (1991). *The third wave: Democratization in the late twentieth century*. Norman, OK: University of Oklahoma Press.

56. Bratton, M., & Mattes, R. (2003). *Learning about democracy in Africa: Awareness, performance, and experience*. Afrobarometer Working Paper No. 31.

57. *idem* Lekalake, R.

58. Cilliers, J. (Oct. 2016) *The future of democracy in Africa*, African futures Paper 19, Institute for Security Studies Africa: <https://issafrica.s3.amazonaws.com/site/uploads/af19.pdf>

59. Baker, P. (28 July. 2015) *Nobody Should Be President for Life, Obama Tells Africa*. New York Times. <https://www.nytimes.com/2015/07/29/world/africa/obama-in-africa-says-he-could-win-third-term.html>

60. Wilmot, C. (5 Oct. 2015) *How and Why Term Limits Matter*. African Arguments. <http://africanarguments.org/2015/10/05/how-and-why-term-limits-matter/>

61. *ibid* Maltz, G. (p.131)

6. CONCLUSIONS

This paper draws a general outline on the laws and events that have developed during the last three decades in Africa. Its intention is to give an analysis of the trends in the whole continent. Therefore, this paper has its limitations, as there has not been a deep research into the formal legal procedures and clauses of each constitution of all the countries mentioned along the paper. It is not the intention of this publication to analyze in depth what causes have driven a specific country to implement, retain or remove constitutional two term limits, but rather to offer a general background with those similarities and differences between countries.

However, it must be acknowledged that every country has a different background, and therefore there is no intention in this paper to offer a generalized statement of the solutions that Africa as a whole needs in order to improve its democratic values. This paper instead analyzes and tries to offer solutions to just one part of the problem discussed by researchers as a democratic burden for African nations: the existence of a strongmen leadership culture with presidents that want to stay in power until they die.

The objective of this paper is to put together what has been said in recent literature in regards to the trend of reversing term limits in various African countries. The aim is to

explain and analyze the main arguments in favor and against the implementation of these constitutional limits on power for presidents in Africa, as well as the restrictions of this law.

Two-term limits have helped many African countries with their democratic development. The strongmen culture is ingrained in many leaders who feel legitimized to rule over their country until they die. Sub-Saharan Africa is home to seven of the ten longest serving presidents, all of which have been in office for 20 years or more, and it's home to 15 leaders that have been in power at least 10 years. This is unprecedented in any other region of the world. Except for Botswana, none of these countries are considered a democracy or a free country.

Limits on a president's power have helped to remove leaders peacefully from office in 15 African countries. However, 5 countries have overruled term limits in the last three years and now 18 African nations do not have any regulation for a president's time in office.

This proves that term limits also have a limit themselves. A law is just a signature in paper which has to be implemented and respected by those in government. The wider issue is that powerful men still want to die in power and are able to do so, which is a sign of the

62.Zounmenou & Adeyemo (2017) Pursuing the status Quo or regime change? A critical analysis of external influence on Presidential Term Limits in Africa, Chapter 3, Section 1, Checks and Balances: African Constitutions and Democracy in the 21st Century, Electoral Institute for Sustainable Democracy in Africa, p.62.

63. *ibid* Zounmenou & Adeyemo (2017) p.78.

underlying problem: weak institutions in African nations (Zounmenou & Adeyemo, 2017)⁶².

Moreover, term limits do not address the deeper sources of Africa's democratic deficit (LeBas, 2016): they do not guarantee democratization, better conditions in civil liberties, respect for human rights and political participation. Furthermore, election processes generate conflict in many African nations. Having a transfer of power every eight to ten years could heat up tensions, as of today there are still many security threats and violence around electoral processes and power transfers (Zounmenou & Adeyemo, 2017)⁶³.

Constitutional two-term limits are not the panacea to end the strongmen culture and promote democratic development in Africa. However, they are a useful tool as they come together with more accountability, freedom and respect for the rule of law.

Most importantly, almost three quarters of African citizens support two-term limits for presidential mandates, as Afrobarometer's poll revealed, and citizens protests managed to stop attempts to eliminate limits in six countries. If democracy is listening the will of the people, then Africans all across the continent have voiced their will to renew their president every eight years.



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