

# Presidential Term Limits: A Threat to Peace and Security in Africa

By Oita Etyang<sup>1</sup>

## Abstract

This article interrogates the recent trend whereby some African leaders resort to constitutional amendments to remove presidential term limits. It seeks to identify the factors that explain why this pattern is gaining ground in a growing number of countries, and analyzes its implications for peace and security in Africa. Attention is paid to two countries: Burundi and Burkina Faso which recently grappled with the issue of term limits with different outcomes. The article holds that the extension of presidential term limits threatens long-term peace and security in Africa. It argues that such political acts encourage unconstitutional changes of government, undermine human security, and weaken democratic institutions—all of which are critical to peace and security.

Key Words: Peace, Security, Term Limit, Constitution, Coup, democracy

## Introduction

The trajectory of Africa's democratisation since the end of the Cold War has taken place in three phases. The first phase, which Rackner et al. (2007: 7) refers to as the Liberalisation Phase, was characterised by the opening of the political space and dismantling of authoritarian regimes. New constitutions were designed to revitalize constitutional democracy, promote a culture of tolerance, "transparency and accountability as well as political stability" (Fombad and Inegbedion, 2010: 4). In Malawi for example, Mpesi and Svasand (2012, p.3) opine that the "third wave" of democracy (Huntington, 1991: 13), brought about notable gains, among them: freedom of expression, establishment of political parties and establishment of strong institutions such as the judiciary. In Kenya, Section 2A of the independence constitution was repealed to allow for party pluralism, and with it, the entrenchment of a presidential term limit.

The second phase of the democratic trajectory in Africa, referred to as the Transition Phase, was closely associated with the holding of the first competitive elections. In this phase, new political parties emerged to challenge the dominance of monolithic political parties that had characterized the post-independence politics in most African states. Underscoring the political dividends occasioned by the first multiparty elections

---

<sup>1</sup> Oita Etyang currently is pursuing PhD in political science at the University of Johannesburg in South Africa. E-mail: oetyang@comesa.int

in Zambia, Baylies and Szeftel (1992: 75) cogently note that "...the campaigns and the elections [1991 multiparty elections] have produced a surge of political participation, a range of opinion and a vigour of expression, a readiness to attack incompetence and corruption, unknown since the struggle for independence." The third phase – the Consolidation Phase, symbolises the phase through which democratic values and ideals are supposed to be entrenched in the society. It entails respect for the rule of law and democratic institutions. Fernandez (2006: 7) construes democratic consolidation as a political process that entails "the understanding of the system and the formal and informal acceptance of its own citizen with regard to institutional, political and societal obedience to democratic rules and practices".

Most countries are struggling to build strong democratic institutions, such as parliament, the executive, the judiciary, political parties, and rewriting constitutions to reflect the emerging realities in the age of globalisation. Essential to the consolidation process is the issue of presidential term limits. Term limits have become a central feature of democratic consolidation. Attaching statistical meaning to the term limit debate, Baturu (2010: 638) submits that there were seventy-eight term limit extensions between 1960 and 2008. He further notes that thirty-seven leaders extended their terms after 1991. In 2015 alone, five countries (Burundi, Congo Brazzaville, Democratic Republic of Congo (DRC), Burkina Faso, and Rwanda) were engulfed in national debates regarding presidential term limits. This article raises certain questions in relation to term limits and its implications for peace and security: Why are some presidents inclined to remove term limits? How does tenure elongation in Africa amount to constitutional coups? What are the implications of tenure elongation for peace and security in Africa? In seeking to address these questions it focuses on political events in Burkina Faso and Burundi. Both countries have been given prominence in this essay based on the fact that they recently experienced unrest, occasioned by the struggle over term limits. The article is organized in three sub-thematic sections – part one provides the introduction; part two looks at two schools of thought regarding the term limit discourse, and the third sub-theme delves into the issue of term limits in relation to peace and security in Africa.

### **Evolution of Term Limit**

The concept of term limit is traceable to the two ancient civilisations of Greece and Rome (see Maltz, 2007; Dulani, 2011; Ginsburg et al., 2011). It was rooted in the traditional republican and classical liberal models of democracy. In the two ancient polities, term limits were imposed on some elective offices. This implies that periodic elections were conducted to elect new office bearers. The lucidity behind the institutionalisation of term limits was to ensure rotation in office (Hignett, 1967). In U.S.A, presidential term limits were enacted in 1947, following the 22nd amendment to the American constitution. The

amendment was given impetus by President Roosevelt's unparalleled four term rule. The logic behind term limits was meant to discourage government dependency on few individuals which, in the long run, could hamper the development of strong democratic institutions (Streb, 1999). In Latin America, term limits were instituted to prevent dictators from overstaying in power. It was meant to cut short their reign and liberate the population from the jaws of dictatorship.

Africa, on the other hand, has gone through a different trajectory when it comes to term limits. Earlier ethnography and anthropological studies indicate that the pre-colonial period in Africa was characterized by a known system of succession. In most communities, succession was hereditary and life-long (Warioba, 2006). The leadership baton was passed down from one generation to another through clear rules. It is apposite to note that transitions were not always peaceful despite the existence of rules. Among the Maasai's for example, the succession politics that pit Olenana and Sendeyo culminated in a fierce war that forced the Mbatian Kingdom to split into two - Kwavi and Purko Maasai. Rivalry and violence characterised leadership successions in some African communities. According to Warioba (2006), this typology of succession was maintained during the antebellum period with some level of interference from the colonial administration whenever it deemed it favourable to their policy of divide and rule. What the aforementioned discussion suggests is that in the pre-colonial African culture, there were no term limits. Leaders could rule until providence decided otherwise. Where then did the concept of term limits emanate from?

At independence, most African states adopted political systems that reflected largely the political culture of their respective colonial masters. In the former British territories, a Westminster model was adopted, whilst in the French colonies the French political system was preferred. Dulani (2011) notes that most African leaders took advantage of the hereditary system and life-long traditional leadership alluded to, and fused it with the new constitutional dispensation. The consequence was the removal of term limits, institutionalization of patronage, and entrenchment of a one party state. A quick review of existing data set indicates that, out of the 98 constitutions that were crafted before 1990, a paltry six had a caveat on term limit on the institution of the presidency (Dulani, 2011).

### **Discourse on Term Limits in Africa**

The discourse on presidential term limits has gained momentum in the consolidation phase of Africa's democratic trajectory. The introduction of presidential term limits was meant to eradicate one party rule that had become a common political denominator in many states in Africa. This introduction of term limits was to reverse the trend whereby

few African political elites, particularly “strongmen”, engineered an assault on the constitution to perpetrate their stay in power and crush all opposition. As noted by Nwabueze (1974), due to insufficient restraints on presidential power, sit-tight dictators offered themselves for re-election “for life”. Apart from curbing authoritarianism that had permeated every facet of the Leviathan, term limits were meant to promote transfer of power, party turnover, and the rule of law which are critical in the promotion of peace and security. As Reyntjens (2016: 62) rightly puts it, “incumbency bias is strong across Africa, and transfers of power have been rare—hence, the importance of term limits.”

At the regional level, mechanisms were established to promote democracy and prevent unconstitutional change of government, including institutionalizing and respecting term limits. In July 2000, for instance, African heads of state adopted the Lomé Declaration on the Framework for an OAU Response to Unconstitutional changes of Government. The Framework explicitly outlaws: (1) military coup against democratically elected government, (2) mercenaries’ intervention to replace a democratically elected government, (3) intervention by belligerent armed groups to seizure power, and (4) refusal by incumbent government to transfer power to a popularly elected government. In January 2007, the list was expanded through the enactment of the African Charter on Democracy, Elections and Governance (ACDEG), to include term limits. Article 23 (5) of ACDEG prohibits the “manipulation of constitutions and legal instruments for prolongation of tenure of office by incumbent regime.” Gains have been made at national and regional levels to consolidate democracy and entrench constitutionalism. As Bratton and Van De Walle (1997: 8) write in reference to the post-1990 period:

*Transformation had taken place: Not a single de jure one-party state remained in Africa. In its place government adopted new constitutional rules that formally guaranteed basic political liberties placed limits on tenure and power of chief political executives and allowed multiple parties to exist and compete in elections.*

Despite the solid gains that Bratton and Van De Walle allude to, the phenomenon of constitutional amendments or reforms to extend term limits has resurfaced in Burkina Faso, Burundi, Congo Brazzaville, Rwanda, and even the DRC. The recent clamour by some political elites and leaders (both old and new) to change specific clauses in the constitution relating to presidential term limits threaten to reverse the gains made towards multiparty democracy in Africa. Lack of enticement, fear of losing power and the prestige that go hand-in-hand, and loss of material gains have been cited as some of the reasons that African presidents want to remain in power (Baker, 2002).

Posner and Young (2007: 135) provide empirical evidence to back their position that “younger leaders who can expect to spend more years benefiting from office .... will have a stronger urge than older rulers to hang on to power”. To support this assertion, they argue that the medium age of nine presidents whose tenure in office had been completed and had attempted to tamper with the constitution was 60, whereas those who voluntarily relinquished power was 66. The recent cases of Kagame, Nkurunziza, and Kabila corroborate Posner and Young’s point. As reflected in Table 1 below, 23 African leaders have amended, replaced, or disregarded the provision of the constitution regarding term limits. According to Vencovsky (2007), presidents in three countries (Malawi, Nigeria, and Zambia) attempted without success to elongate their tenures. As shown in the same table, 13 countries amended their constitutions to extend the term limits of chief executives between the years 2000 – 2015. What this implies is that Article 23 (5), as provided for in the African Charter on Democracy, Elections and Governance (ACDEG), has not resolved the problem of term limit extension. The clause under Article 23 (5) is broad and does not clearly specify what encompasses constitutional manipulation. In addition, other national legislations have failed to cure the malady of term elongation. Vandeginste (2016), Yarwood (2016) and Reyntjens (2016) submit that cogent legal regimes have been ignored with impunity by political leaders.

African leaders have developed legal or constitutional mechanisms, such as popular petitions through collection of signatures, constitutional amendments and referendums, to circumvent the provisions of various legal instruments and maintain their stay in power.

**Table 1: Profile of Democratic Overstays in Africa, by Year & Means of Overstay**

Country	Year	Leader	Means of Overstay	Over-stay Year
<b>Term elongation through Constitutional Amendments</b>				
Algeria	1999	Bouteflika	Amendment	2009
Burkina Faso	1987	Compaore	Amendment	2014
Cameroon*	1982	Biya	Amendment	2008
Chad	1990	Deby	Amendment	2006
Chad	1990	Deby	Amendment	2006
Gabon	1967	Bongo	Amendment	2003
Guinea	1984	Conte	Amendment	2001
Congo Brazzaville*	1979- 1992 1997		Amendment	2015
Liberia	1944	Tubman	Amendment	1951

Mali	1968	Traore	Amendment	1987
Namibia	1990	Nujoma	Amendment	2000
Rwanda*	1994	Kagame	Amendment	2015
Togo	1967	Eyadema	Amendment	2002
Tunisia	1957	Bourguiba	Amendment	1969
Tunisia	1987	Ben Ali	Amendment	2004
Uganda	1986	Museveni	Amendment	2005
<b>Term Elongation through other Means</b>				
Angola	1979	Dos Santos	Disregarded/Not specified	2007
Burundi*	2005	Nkurunziza	Disregard/Court interpretation	2015
Democratic Republic of Congo	1965	Mobutu	Replacement	1969
Eritrea	1993	Afeworki	Disregarded/Not specified	2007
Niger	1999	Mamadou	Coup/Emergence/suspension	
Rwanda	1973	Habyarimana	Replacement	1990
Siera Leone	1968	Stevenes	Replacement	1978
Sudan	1989	Al-Bashir	Replacement	2008

Source: Extrapolated from Vencovsky (2007) and Ginsburg et al. (2011) with modification.

\*Added by the author.

Taking a cue from Baker, Posner, and Young, the article argues that the desire to continue controlling state resources, pressure from the family, clan and the “kitchen cabinet”, and to some extent, “adhering to divine calling” add up to the many reasons of staying put in power. Underscoring the importance of religion to the third term debate in Burundi, a former National Council for the Defence of Democracy- Forces for the Defence of Democracy (CNDD-FDD) party member said, “You know president Nkurunziza is notoriously religious. He has spiritual godfathers (pastors) around him who have informed him that he is the “chosen one”. His failure to go for the third term will be against divine desire/command.”<sup>2</sup> The fear of the International Criminal Court (ICC) and domestic prosecution is another factor that contributes to perpetual incumbency in

Africa. Some African presidents and those around them have been accused of serious economic and human rights crimes. Due to the nature of the crimes, some do not want to relinquish power for fear of being indicted by the ICC. In Sudan for example, the pending ICC case against Al- Bashir, is arguably one of his reasons for clinging on to power. This was the case in Côte d'Ivoire in 2011, where the then President Laurent Koudou Gbagbo feared to relinquish power because of ICC summons. Despite his initial resistance, he is currently facing numerous accusations on crimes against humanity, murder, rape and other forms of sexual violence, persecution, and inhuman acts (ICC, 2011).

The foregoing is not to suggest that many African leaders have not adhered to term limits. There exist best case examples where leaders have honourably relinquished power upon the expiration of their tenure – Mwinyi, Mkapa and Kikwete in Tanzania, Kufour of Ghana, Pohamba of Namibia, Goodluck Jonathan of Nigeria, and Festus Mogae of Botswana are some notable examples. However, the unprecedented moves to remove term limits that are gaining momentum in some parts of the continent calls for further interrogation.

### **Do Democracies Need Presidential Term Limits?**

Two schools of thought respond to the above question. The first school is composed of the proponents of the term limit theory while the second school is composed of the opponents of a 'term limit theory'. According to Afrobarometer survey of May, 2015, majority of the population in Africa support term limits. According to this survey that was conducted across 34 countries, 73 percent of the population support term limits (Dulani, 2015). To underscore African citizens' attachment to term limits, Carter (2016: 38) posits that "this attachment is driving courageous opposition in Congo, and Burundi, just as it did in Burkina Faso and may soon do in Rwanda and DR Congo". Proponents of the term limit theory posit that term limits allow for the production of an open-seat election. Giving analytical weight to this observation, Armstrong (2011: 14) opines that the nature of the African state calls for the imposition of term limit as a means of "incubating political competition". The incumbent power-holders use patronage and state resources to entrench themselves in power, thus by having term limits the leaders will not, as Baker (2002) says, "overstay their welcome in power". In Kenya, for instance, the constitutional term limit forced Moi out of power after 24 years rule. In Zambia, the term limit forced Chiluba out despite initial vacillation.

Another argument put forward by proponents of term limits is that it nurtures democratic consolidation in blossoming democracies (Przeworski, et al. 2000). It allows for democracy to take root. Consolidation of democracy entails the respect of citizens' rights, building strong state institutions, and managing effectively the aspects of political

transition. Dahl (1971) opines that democracy prescribes periodic elections where all stakeholders within a polity have equal chance to participate. Maltz (2007) amplifies this observation when he claims that term limits prevent electoral authoritarianism from degenerating into a dictatorship. Citing an example from Zimbabwe, he reasons that, had Robert Mugabe left the political scene earlier, Zimbabwe would not have sunk that low both democratically and economically. By extension, Maltz (2007) implies that even the post-election violence experienced in 2008 that led to the formation of Government of National Unity (GNU) would not have taken place if Mugabe had exited the political scene. In Ghana and Tanzania for example, constitutional term limits have ensured peaceful transitions and transfers of power. The same scenario was experienced in Kenya in 2002 when Moi peacefully handed power to Kibaki after serving two terms of five years each.

Term limits strengthen political systems and allow political parties to compete effectively for state power. It facilitates political party alternation which is critical in propagating democratic values. The 2002 elections in Kenya that marked the end of Kenya African National Union (KANU) in power illustrated the importance of term limits in enhancing political party alteration (Maltz, 2007). The 2002 elections allowed a behemoth, called the National Rainbow Coalition, to emerge thus ending KANU's 38 years political dominance. Related to this is the fact that term limit helps break the deeply entrenched tentacles of clientelism and the overbearing networks of corruption (Maltz, 2007). In Africa, leaders have been known to maintain an elaborate system of clientelism and neo-patrimonial ties that largely thrive through corruption. Donald (2007) contends that patronage, as a tool for political acquiescence, needs a colossal amount of resources; therefore, African leaders in their quest to build stable governments and perpetuate their stay in power invest heavily in the patronage network. Thus, entrenching term limits becomes a panacea to end the deep-seated parasitic ties. In Zambia for example, President Levi Mwanawasa confronted corruption cartels with much political zeal after his elections in 2001. The biggest casualty of Mwanawasa's anti-corruption crusade was Fredrick Chiluba. Mwanawasa became popular because of his fight against corruption cartels. Fombad and Inegbedion (2010: 33) aptly observe that:

*The only way to break the deep-seated patterns of clientelism and neo-patrimonialism that have dominated African politics since independence and today still threaten to undermine the faltering and hesitant steps towards constitutionalism and democracy is to ensure that there is a regular leadership change at specified periods and that former leaders are held to account.*

Term limits prepare the opposition to take over power. Corrales and Penfold (2014) have argued that term limit reduces the chances of political parties being perpetually in opposition. This is premised on the assumption that members of the opposition can foresee their chances of capturing political power in the near future. Thus, according to Corrales and Penfold (2014, p.158), “making them [opposition] more eager to accept the rules of the game because they know that their greatest rival – the incumbent president will be required to step down”. Vencovsky (2007) vouches for term limits by arguing that it promotes constitutionalism, prevents arbitrary and violent rule. Citing an example of Nigeria, Vencovsky asserts that term limits have contributed to regional rotation of the presidency thus eradicating the feeling of political marginalisation (Vencovsky, 2007). In his seminal paper titled, “Term Limit: A reform that Works”, Basham (2015) explains that term limits address the problem of what he calls careerism. It prevents leaders from creating a perpetual career in politics. In other words, it allows for rotation in leadership. According to Basham, careerism is associated with unresponsive and egocentric leadership. Therefore, term limit solves the problem of careerism. In sum, this school of thought argues that term limits revitalise leadership, strengthens democratic tenets, and allows for political competition, transparency, and accountability.

On the other hand, opponents of term limits argue that imposing term limits deprive the people of the right to exercise their general will. They argue that, if it is the wish of the people to renew the social contract with the ‘philosopher king’, then that should be respected. Mugabe, in support of this view, reasoned that “...It is a democracy, if people want a leader to continue, let him continue” (Zimbabwe Independent, 2015). This school of thought views term limits as a foreign concept meant to curtail African leadership. The opponents, in most cases, invoke the famous political mantra, “government of the people, for the people and by the people”, to advocate for term elongation or total removal. Therefore, if the people decide that the incumbent power-holder should stay, then that sovereign will should be respected. It is apt to mention that this argument has been championed in Rwanda to allow President Kagame to continue with what Kagwanja (2006) refers to as the “sad term”. The same is being echoed in Congo Brazzaville where Sassou Nguesso won a referendum approving constitutional changes that allow the President to extend his hold on power. Conservative rights activists have further argued that imposing term limits curtail the constitutional rights of the seating president as well as the voters’ choice. To illustrate this, Corrales and Penfold cited the Nicaragua’s case in 2009, where the constitutional court invalidated a constitutional provision that purported to ban consecutive re-election. (Corrales and Penfold, 2014)

Opponents of term limits further postulate that it allows “young and good leaders” to continue serving, and accomplish their unfinished projects and programmes. In changing the constitution in Namibia, South West People’s Organisation (SWAPO) argued that the

young, vibrant, visionary father of the nation was to continue shepherding the nation and with that, Sam Nujoma was granted a third term (see Baker, 2002). The same narrative was used to remove term limits in Uganda in 2005, ultimately elongating Museveni's reign. David Hume (1752), an opponent of term limits, argues that it divests a society of the best possible leader. According to him, an ideal type of government would not entertain the idea of term limits. Lack of alternative leadership is another reason being championed by opponents of term limits. In extending Museveni's term, it was argued that there was no alternative leader and he still had a lot to offer to the Uganda people. The essay finds the above arguments to be superfluous and devoid of empirical rigour.

Opponents of term limits have always used clandestine tactics (bribery, black mail, intimidation, and violence) to extend their stay in power. Members of parliament and the judiciary have, in most cases, been cajoled or coerced to adhere to the desires of the chief executives – extension, or removal of term limits. In 2000, Blaise Compaore used the judges of the Constitutional Council (presidential appointees) to continue his stay in power in the post-2000 era after the term limit was introduced. The Constitutional Council ruled that the amendments introduced in 2000 could not apply retrogressively. In 2012, President Wade used the Constitutional Court to legitimise his candidature for the 2012 elections after originally serving his two terms. Ironically, Wade's government had enacted a new constitution in 2001 that introduced the term limit. In Burundi the ambiguity in the legal text, as reflected in Article 96<sup>3</sup> and Article 302<sup>4</sup>, gave impetus to the claim for another term (Vandeginste, 2016). Secondly, the National Council for the Defence of Democracy – Forces for the Defence of Democracy (CNDD-FDD) was accused of arm-twisting the Constitutional Court to strengthen its claim for a third term. As asserted by the Deputy Judge of the Constitutional Court, Sylvere Nimpagaritse, “the judges came under enormous pressure and even death threats which had resulted in the Court's capitulation to the will of the CNDD-FDD” (Kabumba, 2015). In 2008, the ruling party in Cameroon leveraged its majority in the national parliament by passing a law that gave Paul Biya a blank cheque to remain in power by removing term limits. President Mathieu Kerekou of Benin was faulted for bribing members of parliament to support his unpopular bid for a third term. Olusegun Obasanjo of Nigeria reportedly also attempted the same thing, but was defeated. This article is of the view that the furtive methods used to remove/extend term limits negate the ideals of democracy and reflects the lack of political values and respect for constitutionalism. The surreptitious methods being used by incumbent leaders seeking to extend their rule undermine key institutions

3 Article 96 states that the president of the republic is elected by direct universal suffrage for a mandate of five years, renewable once (see Stef, 2016, p.43)

4 Article 302 which forms part of the transition clause states that: As an exception, the first President of the Republic in the post-transition period shall be elected by the National Assembly and the Senate [...], with a two-thirds majority of the members. [...] The President elected in the first post-transition period cannot dissolve Parliament.

that are vital to the promotion of peace and security. It is argued that the removal of term limits directly undermines the measures put in place to tame sentiments of ethnic or regional exclusion and marginalisation, such as rotation and devolution of power. The tendency of African leaders to remove term limits pose a peace and security challenge.

### **Tenure Elongation: A Recipe for Coups?**

The tensions and conflicts brought about by removal of the term limits between the incumbent power-holders on one hand and the opposition and civil society organisations on the other, is capable of creating an institutional or power vacuum that may result in military coups. According to Beetham (1991, cited in Omotola, 2011), power becomes legitimate if, and when, (1) it is in line with the existing laws, (2) the rules can be justified by a shared belief, and (3) there is mutual consent to the arrangement. Beetham's postulation gives us an insight as to when and how term limit leads to insecurity in Africa. Removal or extension of term limits in most cases contradicts the enacted legal regimes. In Beetham's words, "it's not in line with existing rules". The crisis created by term limit debates and violence readily provides the military a pretext to overthrow the sit-tight incumbent under the pretext of protecting democracy.

Unfortunately, in most cases, after seizing power, the military suspends the constitution and implants authoritarianism. The involvement of the military in a role that is traditionally the preserve of politicians, gives impetus for military juntas to emerge under the excuse of restoring normalcy. In Burundi, for example, after violent demonstrations following President Nkurunziza's decision to change the provision of the constitution limiting his tenure to two terms, the army under the leadership of Godefroid Niyombare, on 14th May 2015, launched a coup to topple Nkurunziza who was away attending an East African Community (EAC) extraordinary meeting in Dar es Salaam. While dismissing Nkurunziza, Niyombare said:

*Regarding President Nkurunziza's arrogance and defiance of the international community which advised him to respect the constitution and Arusha peace agreement, the committee for the establishment of the national accord decides: President Nkurunziza is dismissed, his government is dismissed too (Reuters, 2015.)*

The "dismissal" of Nkurunziza was marked by initial jubilation across a section of the population who were against the "sad term" bid. The popular opposition to the third term bid in Burundi further corroborates the Afrobarometer's findings that alluded that a greater percentage of the population in Africa does not support the removal or change of term limits. An attempt by Blaise Compaore of Burkina Faso in November 2014 to

push through a constitutional amendment by repealing presidential term limits resulted in a popular insurrection. As Riedl (2015) notes, “the power void that was created led to military takeover”. The root cause of the recent coup (September 2015) staged by the Elite Presidential Guards (RSP) in Burkina Faso can, by extension, be attributed to the initial action of removing term limit.

### **Removal of Term Limits and the Emergence of Militia Groups**

It can be argued that changing or removing term limits contributes to the emergence and resurgence of militia groups. The chaos that is associated with blatant disregard of constitutional provisions provides a fertile ground for militia and non-state armed groups to emerge and thrive. The resultant effect is insecurity and lawlessness. The removal or extension of term limits trigger the emergence of armed opposition groups seeking to challenge the status quo. Groups sprout to challenge overstay in power by leaders. On the other hand, groups emerge in support of the status quo.

In Burundi, militia groups have emerged in support of the incumbent power-holders. The Imbonerakure militia has been accused of killings and destruction of properties of those opposed to Nkurunziza’s third term. The fleeing refugees have accused Imbonerakure of threats, harassment and wanton attacks (Daily Nation, 2015). In their analysis of post-transition violence in Burundi, Bouka and Wolters (2016) observe that armed opposition groups composed of police and army deserters, youth and former combatants, have emerged to challenge Nkurunziza’s presidency. To compound the problem, evidence has emerged of recruitment of militia groups in Rwanda (See Bouka and Wolters, 2016). Apart from Imbonerakure, two additional groups have surfaced. The first group – the Forces Républicaines du Burundi (Forebu), is made up of senior army and police officers who were in the ranks of CNDD-FDD during the war period. The second group is the Résistance pour un État de Droit au Burundi (RED-Tabara) which is reported to be operating in Eastern Congo. According to Bouka and Wolters (2016) the group is composed of army and police deserters. Further reports indicated that Democratic Forces for the Liberation of Rwanda (FDLR) are exploiting the insecurity in Burundi to regroup. Affirming this view, Rwanda’s foreign minister remarked, “we have information that some FDLR elements have crossed into Burundi from the Congo and might even get involved directly in the continued unrest in the country” (Business Daily, 2015). These groups have orchestrated attacks on civilians and government installations. They have also been accused of conducting selective assassination of top military, police, and other government officers.

Political commentators fear that Kabila’s quest for a third term is likely to trigger insurgency in the Congo. Apart from creating room for the emergence of militias, it

creates division among the security forces, especially in the military and the police. In Burundi, a rift emerged between the police and the army during the April and May 2015 demonstration. The army intervened to quell the tension between the police and demonstrators. The intervention by the army exacerbated the tension between the two security institutions, leading to the killing of two soldiers. The ongoing killings targeting high military officials are attributed to the widening division in the security forces. Cases of desertion have also been reported. In Burkina Faso, a rift was created between the Presidential Guard (RSP), that was largely sympathetic to former president Blaise Compaore, and the national army after the 16th September 2015 coup that was orchestrated by the (RSP) under the leadership of Colonel Gilbert Diendere. The ripple effects are that a security capacity gap is created where the forces fail to maintain a monopoly on the use of force, fail to ensure public order, control borders, and fail to protect the state from external and internal aggression, and the fragmented forces turning against each other.

### **Exacerbating Human Insecurity**

Human security has been a major casualty in the raging problem of term limits in Africa. The insecurity associated with the extension of presidential mandates has led to massive violence, loss of lives, increased criminality, and violation of human rights. In Burundi, the third term crisis led to an influx of refugees to neighbouring countries. According to United Nations High Commission on Refugees (UNHCR), 150,000 refugees had fled the country by May 2015. The outbreak of cholera in the refugee camps in Tanzania, for example, exacerbated the human security situation (UNHCR, 2015). In addition to refugee crisis, some political figures, military/police personnel and civilians have been killed (The Guardian, 2015). The upsurge of attacks and killings underscore the magnitude of the crisis linked to term limits. On 22nd May 2015, the UPD-Zigamibanga presidential candidate Zedi Feruzi was killed, and on 2nd August 2015 a military general, Lt. Gen. Adolphe Nshimirimana, was killed in Bujumbura (The Telegraph, 2015). The attempted assassination of human rights activist Pierre Clavier Mbonimpa in Bujumbura further accentuates the underlying problem of insecurity attributed to term limit-related crisis (The Guardian, 2015). Scores of civilians and police officers lost their lives in the political crisis in Burundi and Burkina Faso (United Nations, 2015).

### **Weakening State Institution**

In Africa, the extension or removal of term limits has weakened key state institutions. The legislature, executive, and the judiciary, which are in most cases at the centre of constitutional changes, have been weakened by the institution of the executive presidency. In countries where the president has managed to extend or remove term limits, the

institutions are weakened and in most cases act at the behest of the president. In other words, the institutions end up being “captured” by the state. They cannot independently exercise their mandate as stipulated in the social contract and they lose legitimacy.

In Burundi, the Constitutional Court lost legitimacy after the unpopular ruling that allowed Nkurunziza another term in office. Political commentators argued that the court had gone to bed with the “enemy”. The Constitutional Court in Burkina Faso and in Senegal lost legitimacy after aiding the incumbents to extend their terms in office. During the 2005 debate over the presidential term limit in Uganda, “Museveni threatened to weaken parliament further by eliminating its powers of censure and dissolving it altogether if it disagreed with him” (Miller, 2010: 173). This demonstrates the extent to which incumbents are willing to go to legitimise their stay in power.

### **Polarization of Political Elites**

The debate on term limits, many a time, ends up creating a rift between political elites. The rift is always between the proponents and the opponents of term limits. Scholars (for example Baker, 2002; VonDoepp, 2005) have argued that such debates are healthy in a democracy. In most cases, elite fragmentation takes an ethnic outlook which is manifested in political power play. According to Horowitz (1985), ethnic fragmentation leads to political competition and ultimately ethnic confrontation. In Zambia, Fredrick Chiluba’s bid for a third term led to elite polarisation. Senior cabinet ministers of the government, numbering 12, resigned in protest (Otele and Etyang, 2015). In Burundi, it was reported that the term limit debate had taken an ethnic angle that political elites were exploiting. In my interview with a senior government minister supporting Nkurunziza, he said, “the Tutsi elite are not happy with the Hutu government and they are using civil society organisations to destabilise the government”<sup>5</sup>. Most political figures, especially those in opposition in Burundi, fearing persecution have fled into exile. The coup in Burkina Faso under the leadership of Colonel Gilbert Diendere was partly attributed to the exclusion of political elites from the former regime from contesting in the October 2015 elections. The exclusion of a cross-section of the political class from the political market place brews rebellion, thus exacerbating the already fragile security situation.

### **Term Limits Impede Political Transition**

In representative democracies, term limits provide the mechanism for ensuring political transition. Democracy stipulates that periodic elections should be held to allow for

---

5

A discussion with a Government minister in Bujumbura, 25 May, 2015

political party turn-over. In this context, political transition can be understood as the process that leads to political change from authoritarian regime to a democratic regime. Oyugi (2003) notes that the concept also encompasses situations where change does not only occur in the political leadership but also in the political party that takes over the reins of power. It is apposite to mention that transition can also occur from one democratic regime to another, as was the case in Kenya in 2013 and Zambia in 2014, following the demise of Michael Sata. In countries where the political class has tampered with term limits, the process of political transition has been delayed. In Gabon, Togo, and Guinea, for instance, political transition was delayed until the demise of Omar Bongo, Gnassingbe Eyadema, and Lansana Conte in office respectively.

The consequence of delayed transition is that it destabilises countries especially after the demise of a seating president. Political elites jostle for power to replace the incumbent which, in most cases, turn chaotic. In Guinea for example, after the death of Conte, the country was plunged into chaos thus exacerbating the security situation. As a result, Captain Moussa Camara seized power and suspended the constitution. The situation continued until the 2011 democratic elections that restored order in the mineral-rich country. In Togo, the death of Gnassingbe Eyadema saw a father - to - son transition. After the announcement of the death of Eyadema, the military connived with some loyalists to install Faure Gnassingbe as the transitional president. This move was contrary to the provisions of the constitution that stipulated that, in the absence of the president, the president of the National Assembly was to take over in interim capacity (Aning and Salihu, 2013). The transfer of power to Faure was rejected by members of the opposition and the international community. Therefore, the Economic Community of West African States (ECOWAS) suspended Togo from the activities of the Community. Diplomatic mediation paved way for elections that saw Faure being declared the winner.

This transition process was characterised by massive violence. Citing Togolese Human Rights League (LTDH), Aning and Salihu (2013) write that 811 people had died in protests that followed the death of Gnassingbe Eyadema. They submit that demonstrations that followed the announcement of presidential election results led to unprecedented violence between the demonstrators, security forces, and pro-government militia. Aning and Salihu (2013) further estimate that more than 40,000 people were displaced and forced to escape as refugees. The subsequent political negotiations culminated in the formation of government of national unity. The two examples illustrate the fact that tinkering with term limits impede political transitions which in turn aggravates the peace and security situation.

## Conclusion

The removal or extension of term limits is becoming a cancerous political trend that needs to be halted decisively. Africa has made tremendous efforts in institutionalising and consolidating multiparty democracy in the past two decades. Removing or extending term limits will reverse the gains made by entrenching a dominant-one-party, stifling opposition, thereby opening a door for rebellion and sectarian conflict. It risks taking Africa back to the dark days of 1970s and 1980s that were characterised by human right abuses, political assassinations, and military coups. African Union (AU) and Regional Economic Communities (RECs) should continue to discourage or place sanction on the extension of term limits by insisting on the principle of unconstitutional accession to, or holding onto power under any guise. African leaders should be encouraged to leave office at the expiry of their tenure. As Kagwanja (2006: 5) notes, “condemning and ostracising leaders who have extended their tenure and stopping those seeking to do so in their tracks is central to ensuring stability and entrenching genuine democracy on the continent”. Civil society organisations and the media should be in the forefront in condemning leaders who have refused to “expire”. Institutions such as parliament and the judiciary need to be strengthened so that they do not bend to the whims of the executives. It is suggested that the continent’s vision encapsulated in Agenda 2063 will remain a mirage if the issue of term limits is not dealt with expeditiously by the regional body. Agenda 2063, captioned “The Africa We Want”, under Aspiration 3, champions “an Africa of good governance, democracy, respect of human rights, justice and the rule of law”. In conclusion, it is apparent that the removal of term limits is an affront to Aspiration 3 as contained in Agenda 2063. Africa should strengthen and renew its resolve to safeguard the sanctity of constitutional term limits as a means of consolidating democratic values.

## References

- Aning, K. and Salihu, N. (2013). 'Northern Problem': Postcolony, identity and political (in) stability in Code d'Ivoire and Togo. In Sabelo, J.N.G. and Mhlanga, B. (Eds.), 'The Northern Problem' and ethno-futures. Pretoria. African Institute of South Africa.
- Armstrong, B. (2011). Ne Touche Pas Ma Constitution: Pressures and Presidential Term limits. Unpublished Honors Thesis. Department of Political Science Northwestern University.
- Baker, B. (2002). Outstaying one's welcome: The presidential third-term debate in Africa. *Contemporary Politics*, 8:4, pp.285-301.
- Basham, P. (2015). Term limits: A reform that works. Edited by Slobodien, M. Available at:<http://ourgeneration.org/wp-content/uploads/2011/06/term-limits.pdf>. Accessed on 28 September 2015.
- Baturo, A. (2010). The Stakes of Losing Office, term limits and democracy. *British Journal of Political Science*, 40 (3), pp.635-662.
- Baylies, C. and Szeftel, M. (1992). The fall and rise of multi-party politics in Zambia. *Review of African Political Economy*, 54, pp.75-91.
- Beetham, D. (1991). The legitimation of power. In, Omotola J. S. (2011). Unconstitutional changes of government in Africa: What implications for democratic consolidation? Discussion Paper, Number 70. Nordiska Afrikainstitutet, Uppsala.
- Bouka, Y and Wolters, S. (2016). Analysing post-transition violence in Burundi. Pretoria: Institute for Security Studies.
- Bratton, M. and Van De Walle, N. (1997). Democratic experiments in Africa: Regime transition in comparative perspective. Cambridge. Cambridge University Press.
- Business Daily. (2015). (August 6). Burundi and Rwanda joined in tug of war. Available at:<http://www.bdlive.co.za/africa/africanews/2015/08/06/burundi-and-rwanda-joined-in-tug-of-war>. Accessed on 23<sup>rd</sup> September 2015.
- Carter, L. (2016). The struggle over term limits in Africa. How international pressure can help. *Journal of Democracy*, Vol. 27, No. 3, Pp. 36-50.

- Chweya, L. (2004). Emerging dimensions of security in the IGAD region. In, Mwagiru, M. (Ed.). African regional security in the age of globalization. Nairobi: Heinrich Böll Foundation, Pp. 31-48.
- Corrales, J. and Penfold, M. (2014). Manipulating term limits in Latin America. *Journal of Democracy*, 25 (4), pp.157-168.
- Dahl, R. (1970). *After the revolution? Authority in a good society*. New Haven, CT: Yale University Press.
- Daily Nation. (2015). Burundi refugees flee attacks by ruling party's 'Watchmen'. Nation Media Group. May 12<sup>th</sup>. Available at <http://www.nation.co.ke/news/africa/Burundi-refugees-attacks-ruling-party-militia/-/1066/2713536/-/11so5cm/-/index.html>. Accessed on 23<sup>rd</sup> September 2015.
- Donald, G. L. (2007). African Politics. In April A. G. and Donald L. G. (eds.). *Understanding contemporary Africa*. Boulder, CO: Lynne Rienner
- Dulani, B. (2011). Democracy movements as Bulwarks against presidential usurpation of power: Lessons from the third term bids in Malawi, Namibia, Uganda and Zambia. *Stichproben. Wiener Zeitschrift für kritische Afrikastudien*, No... 20/2011, 11, Pp. 115.139.
- Dulani, B. (2015). African publics strongly support term limits, resist leaders' efforts to extend their tenure. *Afrobarometer Dispatch*, No. 30.
- Fernandez, C.F. (2006). *Exploring the relationship between democratization and corruption in the Philippines 1986-2006*. Simon Fraser University.
- Fombad, C. and Inegbedion, N. A. (2010). Presidential term limits and their impact on constitutionalism in Africa. In Fombad, C and Murray, C. (eds.). (2010) *Fostering constitutionalism in Africa*. Pretoria. Pretoria University Law Press.
- Ginsburg, T. Melton, J and Elkins, Z. (2011). On the evasion of executive term limits. *William and Mary Law Review*, 52 (6), Pp. 1807-1872.
- Hignett, C. (1967). A history of the Athenian constitution to the end of the fifth century B.C. 23. Cited in Ginsburg, T. Melton, J and Elkins, Z. (2011). On the evasion of executive term limits. *William and Mary Law Review*, 52 (6), pp. 1807-1872.

- Horowitz, D. L. (1985). *Ethnic groups in conflict*. Berkeley, CA: University of California Press.
- Hume, D. (1752). Cited in Ginsburg, T. Melton, J and Elkins, Z. (2011). On the evasion of executive term limits. *William and Mary Law Review*, 52 (6), pp. 1807-1872.
- Huntington, S. (1991). Democracy's third wave. *Journal of Democracy*, 2 (2), Pp. 12-34.
- International Criminal Court. (2011). Situation in the Republic of Cote d'Ivoire. ICC. No.: ICC-02/11.
- Kabumba, B. (2015 May 13). Article 96: The provision that could break Burundi. *New Vision Uganda*. Retrieved from <http://www.newvision.co.ug/news/668308-article-96-the-provision-that-could-break-burundi.html>.
- Kagwanja, P. (2006). Third term presidencies: An emerging threat to the African Union's security vision. Centre for International Political Studies. Briefing Paper No. 38/2006.
- Laing, A. (2015). General Adolpe: Burundi President spy chief assassination in drive-by shooting. *The Telegraph* (August 3). Retrieved from <http://www.telegraph.co.uk/news/worldnews/africaandindianocean/burundi/11780603/General-Adolpe-Burundi-presidents-spy-chief-assassinated-in-drive-by-shooting.html>. Accessed on 26th February 2016.
- Maltz, G. (2007). The case for presidential term limits. *Journal of Democracy*, 18(1) pp. 128-42.
- Mambo, E. (2015). Khama's call for democracy exposes Mugabe. *Zimbabwe Independent* (August 21). Retrieved from <http://www.theindependent.co.zw/2015/08/21/khamas-call-for-democracy-exposes-mugabe/>. Retrieved on 26th February 2016.
- Miller, Laurel E. (Ed.). (2010). *Framing the state in times of transition: Case studies in constitution making*. United States Institute of Peace.
- Mpesi, M. and Svasand, L. (2012). The development and functions of electoral manifestos in Malawi: The impact of weak parties and excessive presidentialism. Paper for the APSA panel, "How's and why's of party manifestos", Annual Meeting of the American Political Science Association, New Orleans, Aug. 30. – Sept. 1, 2012.

- Mutiga, M. (2016) (January, 5). Burundi civil war fears as President accused of campaign of murder. *The Guardian*. Retrieved from <http://www.theguardian.com/world/2016/jan/05/burundi-pierre-nkurunziza-police-protest-crack-down>. Retrieved on 26th February 2016.
- Nwabueze, B. (1974). *Presidentialism in Commonwealth Africa*. London: Hurst.
- Ofuho, H. (2004). Security concerns in the Horn of Africa. In Mwagiru (ed.). *African security in the age of globalization*. Nairobi: Heinrich Böll Foundation.
- Omotola, S. (2011). Unconstitutional changes of government in Africa: What implications for democratic consolidation? Discussion Paper Number 70. Nordiska Afrikainstitutet, Uppsala.
- Otele, O. M. and Etyang, O. (2015). Party institutionalization in Africa: Kenya's 2013 elections in comparative perspective. *The African Review: Journal of African Politics, Development and International Affairs*, 42 (1), pp. 29-57.
- Oyugi, W. (2003). Introduction. In Oyugi, W. Wanyande, P. and Mbai, O. C. (Eds.). *The politics of transition in Kenya: From KANU to NARC*. Nairobi: Heinrich Boll Foundation.
- Posner, D. and Young, J. (2007). The institutionalization of political power in Africa. *Journal of Democracy*, 18 (3), pp. 126–140.
- Przeworski, A., et al. (2000). *Democracy and development: Political institutions and well-being in the World 1950–1990*. Cambridge: Cambridge University Press.
- Rackner, L. Menocal, A. and Fritz, V. (2007). *Democratisation's third wave and challenges of democratic deepening. Assessing international democracy assistance and lessons learnt*. Overseas Development Institute.
- Reuters (2015). Senior Burundi army officer says dismisses president Nkurunziza. May 13. Available at: <http://www.af.reuters.com/article/topNews/idAFKBN0NY1B520150513>. Accessed on 23 September 2015.
- Reyntjens, F. (2016). The struggle over term limits in Africa: A new look at the evidence. *Journal of Democracy*, Vol. 27, No. 3, pp. 61-68.

- Riedl, B. (2015). Are efforts to limit presidential power in Africa working? Available at <http://www.washingtonpost.com/blogs/monkey-cage/wp/2015/02/16/are-efforts-to-limit-presidential-power-in-africa-working/>. Retrieved on 23 September 2015.
- Streb, J. M. (1999). Re-election or term limits? The short and long view of economic policy. Universidad del CEMA.
- Tsebelis, G. (2002). Veto players: how political institutions work. Cited in Alence, R. (2004). Political institutions and developmental governance in sub-Saharan Africa. *Journal of Modern African Studies*, 42, (2), pp. 163–187.
- United Nations (2016). Ban Arrives in Burundi in Support of UN Efforts to Resolve Political Crisis. UN News Centre.
- United Nation High Commissioner for Refugees. (2015). Cholera Epidemic Claims 31 Lives in Tanzania, Including 29 Burundians. Retrieved from <http://www.unhcr.org/555f013e9.html>. Accessed on 26th February 2016.
- Vandeginste, S. (2016) Legal loopholes and the politics of executive term limits: Insights from Burundi. *Africa Spectrum*, Vol. 2, pp. 39–63.
- Vencovsky, D. (2007). Presidential term limits in Africa. In Gounden, V. (2007). *Conflict trends*, 15.
- VonDoepp, P. (2005). Party cohesion and fractionalization in new African Democracies: Lessons from struggles over third-term amendments. *Studies in Comparative International Development*, 40 (3), pp. 65-87.
- Warioba, J. S. (2006). Political succession in East Africa. In Peter, C.M. and Kopsieker, F. [2006]. *Political succession in East Africa: In search for a limited leadership*. Nairobi: Friedrich Ebert Stiftung.
- Yarwood, J. (2016). The struggle over term limits in Africa: The power of protest. *Journal of Democracy*, Vol. 27, No. 3, Pp. 51-60.