



# Presidential Term Limits: A New African Foreign Policy Challenge

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### RECOMMENDATIONS

- South Africa, having already raised the alarm about constitutional amendments at the PSC meeting earlier this year, should continue to express strong concern at higher levels about these practices and their inherent conflict dynamics. Unfolding events in Burundi make such a proposition both attractive and urgent.
- Leading democratising anchor states such as Kenya, South Africa and Nigeria should as a matter of preventive diplomacy use their privileged regional positions to caution against and desist from approving such constitutional amendments and re-interpretations. They bear a much bigger burden in the event of conflict and regional instability.
- Using recent attempts by ECOWAS to push for presidential term limits as a regional economic community position, the AU Commission should formulate a position paper or policy advisory note for discussion at the January 2016 AU summit. Such a process should necessarily lead to amendments to the AU Charter on Democracy, Elections and Governance.

### EXECUTIVE SUMMARY

A coup d'état in Burkina Faso in October 2014 thwarted attempts by West Africa's former regional strongman Blaise Compaoré to extend his stay in power. A few months later, in May 2015, an attempted coup in Burundi sought to settle simmering tensions around President Pierre Nkurunziza's attempts to contest one presidential election too many. In the next two years, several African leaders will attempt to revise their country's constitution to remain in power longer. Constitutional revisions to allow serving presidents an extended mandate should not become a residual domestic democratic issue in African countries. Such revisions are the cause of domestic violence and political instability, and have a perverse impact on regional security. These new unwelcome pressure points undermine democratic transitions in Africa. It is incumbent upon the AU and consolidating democracies such as South Africa and Nigeria to advocate against these corrosive practices in Africa's quest for democratic development.

### INTRODUCTION

The 24<sup>th</sup> AU Summit in Addis Ababa in January 2015 validated 'Agenda 2063: The Africa we want' as a guiding document to a better African future. Agenda 2063 seeks to build on the AU's existing texts, declarations and instruments, including the Peace and Security Council (PSC), whose mission is to end conflict in Africa.<sup>2</sup> More ambitiously, Aspiration 4 of Agenda 2063 says: 'By 2020 all guns will be silent.'<sup>3</sup> While conflict trends in Africa have shown a steady decline over the past two decades, democratic consolidation and governance is subverted by illiberal political practices that undermine popular aspirations for peace and security in a number of African countries.

Of these practices, the increasing attempts at presidential term extensions are arguably one of the most critical foreign policy challenges in the AU. The manner in which the AU and its member states respond to this policy challenge could provide a glimmer of hope for democratic governance. However, failure could reverse democratic gains and accentuate conflict.

#### FROM BURKINA FASO TO BURUNDI AND BEYOND

On 30 October 2014, Burkina Faso, one of the nominally stable countries in West Africa and a crucial anchor state in terms of regional peace and stability, experienced a period of political chaos, with the army eventually dissolving the government, including the national assembly. The then-president of Burkina Faso, Compaoré, who himself had come to power through a coup in 1987 and legitimised his rule through successive elections in the 1990s, has been a leading mediator in West African conflicts. Moreover, his role as a facilitator has been validated, not only within the continent and the West African sub-region, but also by Western powers such as France, which has intervened diplomatically and militarily on many occasions in particularly francophone Africa's security challenges.

Burkina Faso has since been followed by Burundi, where after a bitter feud between the opposition and government around a third term for Nkurunziza a coup sought to settle the dispute in May 2015.

For the policymaker and analyst, concern over the collapse of a government through a coup should not necessarily reside in the legitimacy of a referendum or parliamentary constitutional amendments seeking to revise the constitution to allow leaders more terms in office. Crucially, the main worry should be the trend of constitutional revisions that allow African leaders to extend their stay in power. Therefore, the collapse of the notionally democratic governments in Burkina Faso and Burundi as a consequence of attempts by Compaoré and Nkurunziza to extend their

presidential terms should raise red flags about state-building and democratic transitions in Africa. This is particularly important in light of the mooted constitutional amendments to extend presidential terms in the next two years in Rwanda, the Democratic Republic of the Congo (DRC) and Congo-Brazzaville. We can only speculate about the consequences, if they should go ahead. But if there are lessons to be drawn from Burkina Faso and Burundi, Africa should err on the side of caution.

The AU has acted swiftly in the event of unconstitutional overthrows of government. After the coup, it suspended Burkina Faso from its institutions and requested the military to produce a road map that would allow a transition to a democratically elected civilian government. The army transferred power to a transitional civilian authority late in November 2014. Similar suspensions by the AU were imposed on Egypt (2013), Mali (2012) and Guinea-Conakry (2011) when coups threatened the democratic frameworks in these countries.

On this, the question of civilian rule, normative convergence in the AU has been widely accepted and is welcomed as a safeguard for democratic civilian rule. Experience over the past decade and more demonstrates that a coup is no longer a viable option in the AU. This acceptance, codified in articles 2–22 of the AU's constitutive act,<sup>4</sup> is a result of lessons learned from the security and governance failures posed by undemocratic military rule. Still, more positive evolutions are needed since constitutional revisions to allow presidents for life pose serious foreign policy and domestic challenges, with wide-ranging implications for regional peace and stability.

With the on-going tension in Burundi, the AU missed an opportunity to introduce this debate at its 25<sup>th</sup> summit in June 2015 in South Africa. As it stands, however, there seems to be scant appetite to deal with what is regarded as a sovereignty-norm issue in many African states. The inability of the AU to introduce presidential term limits for debate in South Africa is a clear demonstration of the force of sovereignty norms.

## A NORMATIVE NO-MAN'S LAND IN AFRICA'S FOREIGN POLICY

As far as most African states are concerned, presidential term limits and extensions constitute mostly a domestic policy issue that is best dealt with in a constitutional framework. For as long as the domestic democratic franchise has the requisite institutions, presidential term limits have been outside the normative and policy purview of the AU, including in leading member states where term limits are increasingly becoming entrenched in democratic practice. South Africa, where the democratic state-building and consolidation process has been in motion for two decades, is a good example of where the practice of a two-term limit is accepted as a democratic *acquis* in the national constitution. The fact that South Africa is something of an exception in the African context is worrying on a continent whose democratic experiment and state-building exercise is fragile and in a state of flux. It is for this reason (state fragility and frailty) that countries such as South Africa, as well as the AU membership at large, should seek to open up the debate about presidential term limits, with a view to their entrenchment as immutable in the AU governance architecture.

As it stands, the AU, Western donor countries and African leaders rely on the reactive infrastructures of peace mediation and ex post facto coercion instruments when democratically elected governments are removed from power through unconstitutional means. Yet significant evidence demonstrates causality between protracted stays in power by African leaders and state fragility and weak institutions. For the AU, acceptance of causality (term extensions and conflict) could be a much-needed entry point to open the Pandora's box of presidential term limits.

## OPEN THE DEBATE ABOUT PRESIDENTIAL TERMS

Presidential term limits in Africa are no longer procedural questions best dealt with in the sovereignty norms of marginally democratic and fragile states. The coups in Burkina Faso and

Burundi, as well as sporadic protests in the DRC against constitutional revisions to allow President Joseph Kabila a third term in office, clearly illustrate the necessity of framing this issue on the side of good governance and democracy. The assumption that presidential limits constitute a no-man's land where the normative resources of the AU should not enter is increasingly under stress.

The potential erosion of the modest democratic gains that Africans have witnessed in the last two decades is now a real threat in countries where constitutional amendments are being set in motion. The dynamics of tensions and conflict that characterise these processes should compel the AU and leading democracies to act. Therefore, the AU's Charter on Democracy, Elections and Governance, which in its preamble expresses concern about unconstitutional changes of government as 'one of the essential causes of insecurity, instability and violent conflict in Africa', should be revisited.<sup>5</sup> Specifically, a section on presidential term limits would be welcome. Alternatively, it should be considered in broad terms within the framework of the AU Constitutive Act, in particular articles 3 and 4, which emphasise good governance, popular participation, human rights and the rule of law.<sup>6</sup>

The agenda of democracy, good governance, state-building and consolidation should not be divorced from presidential term limits, the lack of which could act as a catalyst for state failure and collapse. The 'Burkina Faso and Burundi effect' provides leading African countries such as South Africa and Nigeria, as well as the AU, with an opportunity to promote adherence to presidential term limits as essential anchors for sustainable democratic governance.

## A MATTER OF PREVENTIVE DIPLOMACY

It is becoming an untenable and disingenuous proposition for the AU to suspend member states after an unconstitutional overthrow of government. Moreover, it is a waste of resources and time to deliberate at AU summits on conflict as a consequence of presidential term limits when

the AU can cut to the core of the problem.

Presidential term extensions are no longer a popular proposition on the African street, from Ouagadougou to Bujumbura. The collapse of government in these two capitals amply demonstrates this new reality and democratic evolution. Civilian dissatisfaction with presidential mandate extensions in the DRC, Benin and Congo-Brazzaville illustrates the limited appetite for these practices. The AU, through Agenda 2063, prides itself on being a body whose mandate is driven by the aspirations of African citizens. Therefore, in light of the political instability inherent in presidential term extensions, the AU should prioritise this conversation and not the conflicts arising from these practices.

The AU, and in particular the AU Commission as a potential initiator of this conversation, would not be starting on a blank page. In a widely ignored yet pivotal speech at the PSC meeting in January 2015, South Africa's President Jacob Zuma fired the first salvo by cautioning against presidential term extensions in Africa.<sup>7</sup> While welcoming the PSC's report on its activities and the state of peace in Africa, Zuma emphasised the need to draw important lessons from events in Burkina Faso. Sadly, the intervention by South Africa did not receive wider support. Encouragingly, however, ECOWAS at its regional summit in May 2015 tried to push for the adoption of a regional position on two-term limits for presidents. This attempt, in a region where most states impose a two-term limit, was derailed by The Gambia and Togo. Still, the bright South African spark, the laudable attempt by ECOWAS, and the unfolding events in Burundi should create greater momentum for the AU to open the conversation on presidential term limits.

## CONCLUSION

The attempted coup in Burundi and the successful one in Burkina Faso are two too many.

The underlying strains leading to these new triggers of political instability have been laid bare by attempts to tamper with constitutions to allow for extended presidential terms. This is no longer a residual question that is best dealt with by competing domestic constituencies. Therefore, it leaves the AU and emerging democracies such as South Africa and Nigeria with few options. What is imperative is for African states, the AU Commission and the PSC to take a proactive approach by insisting that respect for constitutional mandates by member states be placed higher on the AU summit agenda.

## ENDNOTES

- 1 Dr. Alfredo Tjiurimo Hengari is a senior fellow at SAIIA. His research focus is on the role of foreign policy in norms and policy convergence.
- 2 For more information, see AU Commission, *Agenda 2063: The Future We Want for Africa*, 2<sup>nd</sup> ed., August 2014, [http://agenda2063.au.int/en/sites/default/files/agenda2063\\_popular\\_version\\_05092014\\_EN.pdf](http://agenda2063.au.int/en/sites/default/files/agenda2063_popular_version_05092014_EN.pdf).
- 3 *Ibid.*, p. 6.
- 4 For more information, see the Constitutive Act of the AU, [http://www.au.int/en/sites/default/files/ConstitutiveAct\\_EN.pdf](http://www.au.int/en/sites/default/files/ConstitutiveAct_EN.pdf).
- 5 For more information, see the AU Charter on Democracy, Governance and Elections, <http://www.au.int/en/content/african-charter-democracy-elections-and-governance>.
- 6 For more information, see the Constitutive Act of the AU, articles 3 and 4, [http://www.au.int/en/sites/default/files/ConstitutiveAct\\_EN.pdf](http://www.au.int/en/sites/default/files/ConstitutiveAct_EN.pdf).
- 7 For more information, see South Africa, The Presidency, *Intervention by President Jacob Zuma on the AU Peace and Security Council and its activities during the 24th Ordinary Session of the Assembly of the African Union Heads of State and Government*, Addis Ababa, 30 January 2015.

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