

# Term limits for heads of state

The question of whether term limits should be included as a core element of African democracy has been a controversial one. The reason for this is that many European democracies do not have term limits for their heads of government (and in the case of monarchies, they certainly do not have term limits for heads of state). Why then, critics ask, should such a condition be imposed on Africa states? The answer is: for several reasons.

First, that a good and useful principle is not introduced in one country is no excuse for not introducing it somewhere else. This argument should resonate well with many proponents of “an African style of democracy”. These proponents often complain that the ideals and institutions of the colonial powers should not be imposed wholesale on African countries, but be adapted by Africans to their own cultures and needs. The need for term limits in Africa is related to the earlier discussion in this study of the human and national security threats related to transfers of power on the continent.<sup>96</sup> Too often power is shifted from one leadership to another through violence or the threat thereof. African leaders have tended to remain in office for too long, in many cases for several decades, usually becoming increasingly unresponsive to the needs and wishes of the population as the years go by. A prudent look at the continent’s post-colonial history should thus lead to the conclusion that term limits are not just desirable but necessary.

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Second, the need for term limits is greater in the developing democracies of Africa than in, for instance, Britain and Scandinavia. In these latter countries, pressure within the ruling party from aspiring

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leaders as well as pressure from outside the party via the ballot boxes, means that leaders who stay in power for more than a decade (like Margaret Thatcher) are an anomaly. In many African countries, leaders who refuse to hand down power peacefully have been the rule rather than the exception, making the introduction of term limits a much more urgent question – indeed making it a human security issue.

Third, although the need may be bigger in African countries than in most European ones, there is arguably a good case to be made for introducing term limits across Europe as well. In Britain, for instance, it seems to be a broad agreement among Conservatives and non-Conservatives alike that Prime Minister Margaret Thatcher stayed in power for too long and became increasingly out of touch with party supporters and voters in general. Similar criticisms are now beginning to be lodged against Prime Minister Tony Blair. There is often an unwritten “rule” in countries without formal term limits that leaders should step down after a suitable period. In the United States, formal term limits were not introduced until President Franklin D Roosevelt broke this unwritten rule and ran for a third and fourth term.

Fourth, when taking a closer look at the Western countries that have introduced term limits, such as the United States and France, these countries have presidential systems where the president, as the head of state, is either also the head of government (as in the United States) or has significantly more power than the head of government (as in France, where the position of president is more important than that of prime minister). Most African countries have similar systems where the leader of the executive has extensive personal powers *vis-à-vis* cabinet and parliament. In such systems, regular and guaranteed changes at the top are more important than in systems where power is spread more widely.

Seven out of the eight countries under review have imposed term limits on their heads of state and governments during the course of the last decade. The exception is Ethiopia, where there is indeed a limit of two terms for the head of state – the president – while the prime minister, who is the head of government and holds the real power in the country, has no limitations on how long he or she can stay in office. Of the others, most have introduced term limits so recently that it is too early to test whether they have been (or rather, will be) respected or not.

This chapter will give an overview of the situation in each of the eight countries, ranked according to how far they have come in implementing temporal limitations on political power in law and in practice. Thus, the chapter will start with the countries that: first, have introduced term limits in their constitutions; and second, have had leaders who have stepped down voluntarily before or at the end of their last legal term. The chapter will continue with countries that have legal term limits but with no examples in practice of whether these will be respected (the “wait and see” category). It will then turn to countries that have term limits but have disregarded them – or look set to disregard them by instituting processes to overturn or change the dictates of the constitution. Finally, we come to Ethiopia, where the AU commitment to introduce term limits for the head of government (rather than the unimportant ceremonial figurehead of the president) has not been acted on.

## 7.1 Introducing term limits and keeping them

South Africa has an executive president and no prime minister.<sup>97</sup> The president’s tenure is limited to two terms of approximately five years each. Nelson Mandela, who became South Africa’s first democratically elected president after the 1994 election decided not to run for a second term as president, thus stepping down before he was legally obliged to do so. Mandela’s vice-president, Thabo Mbeki, was elected as president in 1999. President Mbeki ran for a second term in 2004 following his re-election as party leader in December 2002, and will have to step down in 2009. While there have surfaced from time to time rumours and fears that President Mbeki will try to run for a third term – through supposedly changing the constitution with the help of the ANC-dominated parliament – there has been no public suggestions by President Mbeki of such intent. The action of the previous president, Nelson Mandela, has set a strong precedent against tampering with the term limits.

Ghana, like South Africa, has a hybrid system of presidential and parliamentary governance. The president is both head of state and head of government. The constitution limits incumbents to a maximum of two

<sup>97</sup> South Africa’s Constitution, art. 83(a) and 85(1).

four-year terms.<sup>98</sup> Since the coming into effect of the constitution, there have been three elections and one change of government. Jerry Rawlings, the country's long-serving leader, introduced and won democratic elections in 1992 and won again in 1996. Term limits were not applied to his years in office before the 1992 election but Rawlings respected the new rules and did not run in 2000. The opposition NPP, led by John Agyekum Kufuor, beat Rawlings' party, NDC, whose candidate, John Atta-Mills, had been the incumbent vice-president. The next elections will take place in December 2004.

The term limit restriction is one of the "entrenched" provisions of Ghana's constitution. It can only be changed by a referendum, not by legislation or presidential decree. The idea of changing the term limits was floated by the then ruling NDC party in 1997 but was quickly shot down by a barrage of civil society and opposition party protests. No practical steps to change the term limits have been attempted by the executive, and the principle of term limits now seems fairly well entrenched in Ghanaian democracy.

The Kenyan president, as head of state and commander-in-chief,<sup>99</sup> has had a constitutionally imposed term limit of two five-year terms since 1991. During that period there have been three elections, and the term limits have been respected. President Daniel Arap Moi, who in 1991 had already served for more than two terms, was allowed by a court order to begin afresh as a new president entitled to two terms. He won the 1992 and 1997 elections but stepped down for the 2002 elections when his two terms expired. When President Kibaki took over power in 2002 he was only Kenya's third president since independence.

## 7.2 The "wait and see" countries

Term limits were not introduced until 2001 in Senegal. Before that, the country had two very long-serving political leaders. President Senghor ruled from 1960 to 1981 (he was elected in 1960, 1963, 1968, 1973 and 1978). He resigned to be replaced by Abdou Diouf, who presided over Senegal from 1981 to 2000 (elected in 1983, 1988 and 1993). In 1992, the previous five-year mandate was prolonged to seven years by a

<sup>98</sup> Ghana's Constitution, art. 66.

<sup>99</sup> Kenya's Constitution, section 4.

constitutional amendment voted by the Assembly. Following Wade's victory over Diouf in 2000, the new constitution of 2001 reduced the duration of terms from seven to five years (implemented from the next forthcoming presidential election) and limited the number of terms to two.<sup>100</sup> Constitutionally, the term limits can only be amended through a referendum or a constitutional reform voted by the national assembly. The test of Senegal's adherence to the principle of term limits will (assuming that Wade stands for a second term) not be until 2012.

Under Nigeria's constitution, the president – the executive head of state – is entitled to a maximum of two four-year terms in office. The same rule applies to state governors. President Obasanjo, whose election in 1999 ended more than 15 years of brutal military dictatorship, is now into his second and final term.

So far, due to military interference, there has never been occasion in Nigeria to determine whether an elected president would obey his term limits. The first post-independence elected government was overthrown by the military in 1966 just after its re-election. The next spat of democratically elected governance took place when the military handed back the reins to an elected leader in 1979. However, President Shehu Shagari, Nigeria's first executive president under an American-style system, suffered the same fate as previous democratic leaders when he was overthrown by the military three months into his second term. This time, it looks as though President Obasanjo will be able to sit out his second term, making 2007 the year when constitutional term limits will be tested for the first time.

Algeria's 1996 constitution also confines the president to two terms in office. In practice, the term limitation has never been tested, since the power dynamics between president and military leaders have overridden the democratic processes. The first president under the 1996 constitution, Liamine Zeroual, resigned before his term of office expired, due to political difficulties with the military leaders. The current president, Abdelaziz Bouteflika, elected in 1999, was reelected in 2004. The major problem in Algeria, is that while the constitutional term limits on the head of state ensure that formal power changes hands after two terms, the constitution

100 Senegal's Constitution, art. 27.

does not define the role, limits and function of the military. In a way, then, Algeria should not be categorised among the “wait and see” countries but together with Ethiopia, where term limits are introduced for less important political actors but not for the real incumbents in power.

### 7.3 From the theory to the practice of stepping down

The Ugandan president is head of both state and government. Term limits of maximum two terms of five years were introduced with the new constitution of 1995. Two presidential elections have so far been held under this constitution (in 1996 and 2001), both of which were won by the incumbent president, Yoweri Museveni. His last term expires in 2006.

Since the constitution is less than ten years old, the provision on term limits has yet to be tested. However, some signs bode ill for its survival. In 2001, the president appointed a commission to propose amendments to the constitution. The commission presented its report to the Minister of Justice and Constitutional Affairs on 10 December 2003. The report has not yet been made public. However, it is expected to contain recommendations on the presidential term limits. Sections within the NRM are advocating for the two-term limit to be removed in order to allow President Museveni to stand for election again in 2006. This has caused a split within the NRM and the Ugandan population in general. So far, the president has not come out to allay fears that he is interested in a third term. Accordingly, uncertainty abounds regarding Uganda's next election and whether peaceful transfer of power will take place. Such fears are not unfounded; Uganda has never experienced a peaceful transfer of power from one leader to another since independence. Military *coups d'état* and civil wars have been the norm.

### 7.4 Term limits as a guise

In Ethiopia, executive power is vested in the prime minister, while the office of president is titular. There is a limit of two six-year terms for the president but no limits for the prime minister, the actual leader of the country. There is no process in place at present to introduce such limits.

There has never been a democratic transfer of power in Ethiopia, and peaceful transfers have only taken place twice, both times on the occasion of the natural death of the emperor: in 1913, Emperor Iyasu succeeded on the death of Menilek, and in 1930, Emperor Haile-Selassie succeeded on the death of Zawditu. Violent transfers of power occurred in 1855, 1868, 1871, 1889, 1916, 1936, 1941, 1974 (twice), 1977 and 1991.

The present leader, Meles Zenawi, has been in power since 1991, initially as president, and soon after, with the introduction of the new constitution of the Federal Democratic Republic of Ethiopia, as prime minister. The present government has an authoritarian origin, as a guerrilla movement guided by a Marxist-Leninist ideology. Its approach to government has been consistently authoritarian, albeit limited to some degree by domestic and (perhaps especially) international political considerations. The prospects for the introduction of term limits for the executive head of government are therefore slim.

## 7.5 Conclusion

Term limits for executive heads of state and government have been introduced in all but one of the eight countries during the course of the last ten to fifteen years. Only three of the countries have a track record so far of political leaders stepping down voluntarily before or at the end of their tenure (in Algeria, presidents may have stepped down but only because of conflicts with the behind-the-scenes military powers). Another two countries have introduced the necessary constitutional safeguards but we have to wait and see whether these will be respected when push comes to shove. In one country – Ethiopia – there is no intention to introduce term limits in the foreseeable future. Finally, in Algeria, the question is at one level a matter of whether incumbents will step down voluntarily and not due to undemocratic pressures. However, at a deeper and more significant level, the situation is similar to Ethiopia: the people who wield real power – in the case of Algeria the military nomenclature – have no intention to impose term limits on themselves.