Post-Cold War Democratic Experiment and Presidential Term Limits in Africa

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The introduction of presidential term limits was one of the outcomes of the various negotiations that preceded the post-Cold War transition elections in Africa. With constitutional support for presidential term limits, which were often ratified in most African countries through a referendum, presidential term limits not only assumed a democratic principle, but were also expected to become both a “process and practice” in new African democracies.¹ The constitution legitimizes term limits (years and tenures) as a democratic principle to regulate power and leadership transition within the context of democratic elections. Shinn (2009) argues that term limits for a country’s most important political leader are an essential component of building democracy. Their importance adds value to the process, practice and constitutive feature of liberal democracy (Shinn, 2009). Numerous studies show that presidential term limits are one of the most consistent predictors of power transition (Beetham, 1994; Linz, 1996a; Cheeseman, 2010). Presidential term limits are also important in sustaining open-seat contests that ensure power alternation. However, this was not to be the case in African democratic experiment, where the process and practice of presidential term limits have become problematic. This paper focuses on how the removal of presidential term limits has worked against the consolidation of democracy in African post-Cold War democratic experiment, resulting in weak institutions, entrenchment and reconsolidation of power by long serving dictators, democratic hybridity and sometimes democratic reversal.

Keywords: Presidential term limits, power alternation, open seat context, pro and contra tempore presidentialism

Introduction

Liberal democratic presidentialism prescribes systems of changing leadership without harming the state. Unlike the parliamentary system of government, the democratic presidential system adopts constitutional means to limit the allotted number of years and terms a particular president holds the presidential office. Most presidencies constitutionally allow a maximum of two terms, after which an open-seat contest would ensure power or party alternation. This constitutional means of limiting presidential terms becomes important in ensuring leadership alternation without creating unnecessary political roadblocks that are capable of harming the

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¹ Understood in this way, I refer to term limits as the outcome of the process and practice of instituting and creating a legal framework to impose limits on the number of years and tenures with regards to the office of the president and some other electoral positions in a presidential system of government. In Nigeria for instance, the office of the 36 State Governors and 700 and 76 Council Chairmen (Mayors) enjoy the same constitutional term limits as the office of the President of the Republic.

state.² Although some scholars and democracy observers have questioned the usefulness of limiting the number and terms of the president (as would be discussed later in this work), presidential term limits serve as a universal principle of liberal and electoral democracy in a presidential system. Unfortunately, the desire for life-term positions of power has tended to motivate many incumbent presidents in Africa to repeal presidential term limits in their countries. The attempted or successful removal of presidential term limits by incumbent regimes in Africa constitutes the central politics of presidential term limits controversy and debates which this paper sets out to discuss.

Many post-Cold War democracies have faced the challenges of incumbent presidents either amending their constitutions to acquire the status of life president³ or of incumbent presidents temporarily elongating their tenures (Posner & Young, 2007; Maltz, 2007; Vencovsky, 2007). Since 1999 and until now, the removal of presidential term limits has become common while slogans as “third term”⁴ has become a popular political concept in many post-Cold War African democracies. Although, attempts to repeal term limits became a global occurrence in the last 25 years, with six out of 10 post-Cold War democracies holding national debates to repeal presidential term limits (Dulani, 2011), this article focuses on Africa where the trend has been highest. Between 1999 and 2015, 15 African countries have either repealed or ignored presidential term limits while only four attempts to remove term limits failed on the continent.

From the independence period through the Cold War, about 90% of African countries did not have the opportunity to experience presidential term limits until the post-Cold War era. Two reasons accounted for this. First, the newly independent African states adopted a parliamentary system of government and therefore had no need for term limits, as was the practice in most imperialist countries.⁵ Secondly, in many other newly independent states, the departing colonial administrations hurriedly handpicked their successors without setting adequate processes into motion for power transition (Bayart, 2009). In some other new independent states, warlords replaced colonial administrations after long and protracted rebellions and wars. In all cases, whatever type of regime that replaced the colonial administration ruled without interruption. Death of the president and *coup de etat* therefore became two important factors that ensured power alternation in Africa (Armstrong, 2011; Vencovsky, 2007).

However, the process and practice changed in the early 1990s as many African states responded to the post-Cold War democratic shock. With about 30 reigning dictators and life-presidents ready to open up for, and at the same time participated in the multi-party democratic elections, the issue of presidential term limits became crucial. In a majority of the democratizing states, the adoption of term limits for a country’s most important political leader was unanimous and hitch-free. By 2004, 38 countries had constitutionally adopted presidential term limits, with the aim of making presidential term limits a major practice in African new democracies.

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² Refer to the benefits of open-seat contests for the technical consolidation of democracy, as discussed in 2.2 of this chapter.

³ Four African countries with the status of life-presidency are Gabon, Cameroon, Uganda, Burkina Faso, and Togo.

⁴ “Third term” is common a jargon referring to the changing of a constitution to accommodate longer tenures by incumbent presidents.

⁵ With the exception of France, other colonising countries in Africa at the time, like England and Belgium, practiced parliamentary systems of government and therefore left behind constitutions that supported parliamentary system of government before the independence of these countries. The rush to switch over to a presidential system by most Africa countries was new and apparently supported by reigning dictators who had tasted power and therefore used the presidential system to sustain an entrenched power.

Afrobarometer (2010-2012) notes that the adoption of term limits increased the popularity and prospects of democracy after the Cold War in Africa. A survey of public opinion in 34 African countries indicated that about three in every five Africans wanted their presidents to serve no more than two terms in office (Ibid.). Except Algeria where the support for the removal of term limits was strong, the support for presidential term limits in other countries surveyed in Africa yielded an average of 70%. If we understand democracy as the government of the people, by the people and for the people why has the removal of presidential term limits become a trend in Africa, even against the wish of the majority in Africa as the survey shows? Is it not an indication that the removal of term limits work directly against the consolidation of democracy on the continent? This paper sets to contribute to the existing literature by articulating how the removal of term limits directly and indirectly works against the consolidation of democracy in African post-Cold War democracies.

Methodology and Structure of the Paper

For this paper, I employed a combination of case study, qualitative, and quantitative methods of research in this study. I considered case study an appropriate method to investigate the causal link between the removal of presidential term limits and state of democratic consolidation in Africa. I used comparative case method to analyze different levels of democratic growth, especially between pro-tempore and contra tempore presidencies in Africa. The case study method further enabled me to connect the micro level (the actions of individual presidents) to the macro level (the social structures and processes) that appears to support the growth or decline of democratic practice in some African democracies. The case study method enabled me to generate questions regarding the boundaries and defining characteristics of each case in order to initiate new thinking, confirm or modify an existing approach to the practice of democracy, especially as it concerns the relevance of presidential term limits in African presidential systems. I was further enabled to probe into how the removal of presidential term limits impacted on the consolidation of post-Cold War democracies in Africa with special focus in institutional independence, power entrenchment, power alternation and mass participation in the democratic process. The method was important in probing the assumptions of this study by examining and comparing the different systems of presidency in Africa: pro versus Contra tempore presidencies.

I am aware that the qualitative and case study research methods are not identical. However, I employed qualitative research method in this study for its ability to construct representations based on in-depth, detailed knowledge of cases. It was useful in explaining and analyzing interactive processes that conspire to derail democratic practice in Africa, after the removal of term limits in various countries.

I have further adopted primary and secondary research methods for data collection in this study. For primary data I employed semi-structured interviews for Nigeria, Zambia and Malawi, and relied on secondary data collection method for Uganda, Cameroon, Ghana, Kenya and Namibia. The interviewees comprised of political actors, MPs, judicial officers, church elites, NGOs, democracy experts, party members and heads of the electoral commissions, where applicable. A total of 30 interviews were conducted for this study with a field research that lasted for four months.

I relied for my secondary data on local, national, and international news agencies and media, including expert documentations, publications and analysis of the presidential term limits debates in the chosen case studies. The aim was to discover to what extent the successful removal or otherwise of term limits impacted on the

“technical and substantial”⁶ growth of democracy in the selected cases.

To guide my research I posed the following research questions: In what ways does the removal of presidential term limits affect the consolidation of democracy (technical and substantial) in post-Cold War African democracies? Could a certain democracy effectively deepen even with the removal of term limits? To what extent have African *contra tempore* democracies experienced systematic and procedural power alternation in Africa?

I have provided the following hypothesis in attempt to provide answers to the research questions: The removal of presidential term limits remains one of the main causes of delay in the technical and substantial consolidation of democracy in Africa. I assume that no democracy can rejuvenate without a procedural and assured system of power alternation.

I divided the article into four parts. In the first part, I presented different opinions concerning the politics of presidential term limits. In the second part, I discussed the benefits of presidential term limits for the consolidation of democracy. In the third part, I examined the frequency of assaults on presidential term limits. In the final part of this study, I discussed the factors that cause the repealing of presidential term limits to appear undemocratic while basing the main arguments of this study on the outcome of presidential term limits politics in Ghana, Nigeria, Malawi, Zambia, Uganda, Cameroon, Namibia and Gabon.

Understanding Presidential Term Limits

By definition, presidential term limits constitutionally impose limits on the number of years and tenures that a particular person holds the presidential office (Dulani, 2011). The constitution legitimizes term limits (years and tenures) as a democratic principle to regulate power and leadership transition within the context of democratic elections in a presidential system.

To repeal presidential term limits, the constitution must undergo an amendment process, usually through parliamentary debates/votes, or a referendum.⁷ The repealing of presidential term limits occurs when the Constitution is altered in regards to the existing rule to usher in new sets of rules to guard presidential tenures. The changes could be determined either by parliamentary action or through a referendum. Parliamentary action occurs when the parliament becomes the *terminus ad quem* for the entire repealing process. Mandated by the constitution, the parliament holds debates and through parliamentary votes, repeals the existing term limits or retains the status quo. With the exception of Congo Brazzaville, all successful term limits repeals in Africa occurred by parliamentary action. In all the cases of repeal in Africa, the new rule has allowed an incumbent president to run for more presidential terms after serving out his initial constitutional tenures.

The removal of presidential term limits could occur in two distinct ways, which Maltz (2007) identifies as “soft” or “hard” contravention. Soft contravention refers to the adjustment or amendment of presidential term limits to allow an incumbent president to stand for a third or fourth election. An incumbent president will alter a

⁶ Technical consolidation of democracy refers to the availability of the initial conditions that allow democracy to thrive. These include respect for the rule of the democratic game (Linz, 1996), regular elections and sincere possibility of leadership alternation, equal playing ground in the electoral process and the creation of democratic space for participation in democratic process. These are predecessors to institutional growth and ethos that sustain substantive deepening of the democratic process.

⁷ The use of a referendum in halting presidential term limits within the post-Cold War African democratic experiment has occurred only once in 2008 in Senegal, when Abdul Wade’s attempt to amend the Senegalese constitution for a third-term mandate was defeated in a referendum.

constitution to dictate a personally prescribed limit to the number of presidential terms the president will serve. For instance, instead of two terms of four years, the amendment may prescribe for three or four terms of four or five years. In all cases of term limits repeal or neglect in Africa, the incumbent president benefitted from post-facto constitutional amendments. In 1999, President Sam Nujoma altered the constitutional two-term limits in Namibia to grant himself a third term before willingly retiring in 2004 after a third term.

On the other hand, hard contravention refers to a process whereby the incumbent president completely expunges presidential term limits from the constitution (Maltz, 2007). In this regard, the limits on the number of terms an incumbent president may wish to run for re-election are absent.⁸ About 10 African countries have successfully expunged presidential term limits from their constitution, thereby creating a space for incumbent presidents to function as life presidents. Uganda, Cameroon, Gabon, and Togo are examples of hard contraventions of the post-Cold War African democratic experiment.

Incumbent presidents in post-Cold War African democracies appear to draw from a minimal but strong elite support-base both for their survival and for a larger share of political benefits. Electorally mature systems with proportional representation, like that of the Netherlands, Belgium, and the United Kingdom (UK), compel the formation of coalitions without altering the principle of the minimum winning coalition, even with some moderately left-oriented parties. Presidential systems with term limits appear to boast of a high proportion of support from the population. On the other hand, presidential systems without term limits seem to receive support from a big proportion of political elites and a rather small proportion of the population, when compared to more inclusive presidential systems with term limits.

Table 1

Presidential Term Limits Amendments in African Democracies

Constitutions without term limits	Constitutions that contain a two-term limit on the presidency				
	Two terms not reached	Two term limits reached			
		Constitution amendment not attempted	Constitution amendment attempts to repeal term limits		On-going debates
			With success	Without success	
Ivory Coast Equatorial Guinea Gambia Guinea-Bissau Mauritania Sudan Zimbabwe	CAR Djibouti Liberia Madagascar Rwanda Sierra-Leone South-Sudan	Benin Cape Verde Ghana Kenya Mali Mozambique Sao Tome & Principe Seychelles** Tanzania	Algeria Burkina Faso Burundi* Eritrea* Cameroon Chad Gabon Guinea Namibia Togo Uganda Niger DRC* Congo Brazzaville	Zambia Malawi Nigeria Senegal** *	DRC Rwanda Burkina Faso

Source: Updated by the author from data provided by Dulani, 2011; Vencovsky, 2007; Paul and Young, 2007.

Note: * Burundi, DRC and Eritrea have existing presidential term limits, but incumbent presidents have ignored them to run for longer terms in presidential elections; ** Seychelles has three term limits; *** Senegal remains the only country where an attempt to repeal term limits was defeated by a referendum.

⁸ Gabon, Uganda, and Cameroon operate hard contravention of presidential term limits having successfully repealed and expunged presidential term limits from their constitutions.

The politics of presidential term limits, and the process of repealing or enforcing them in African democracies, seem therefore, to correspond to elite politics and an elite struggle. Presidents rely on elite support to the detriment of mass involvement in the process of repealing term limits in Africa (Anyaeze, 2015). This accounts to why more than 90% of all successful repeals in Africa ended in the parliament instead of referendum. The process of enforcing presidential term limits compliance in Ghana, Kenya, Nigeria, Zambia, and Malawi called elite activism into action. This activism led to mobilization and resistance in other sectors, ultimately resulting in a convergence of pressures that strictly demanded compliance. If presidential term limits are necessary for democratic consolidation, consolidation research should place an urgent focus on the politics of presidential term limits and the pressures that culminate to mobilize and create alternative platforms for resistance, and to demand strict compliance.

Presidential Term Limits: Benefits for Democratic Consolidation

The oldest fable of term limits dates back to Athens and Rome in the 4th century BC. In Athens, Cincinnatus willingly ceded power at a time when power was personalized, taken, or lost depending on the strength or weakness of the army. However, the concept did not originate as presently referred to in this study. The adoption, operation, and enforcement of term limits aimed at forestalling the monopolization and abuse of political and public power. Livy's (1960) account of Cincinnatus⁹ is the oldest historical account of term limits. Though no known literature acknowledges Cincinnatus as a popular leader, his reputation paints him as a virtuous and humble leader who knew when to ascend to and relinquish power (Livy 1960), letting power alternate without endangering or harming the state.

The legacy of Cincinnatus has been regularly invoked as the basis of presidential term limits (Maltz, 2007; Armstrong, 2011). In 1796, George Washington informally imposed presidential term limits on himself and the United States presidency by willingly refusing to contest an election for a third time in office. As a political actor, George Washington introduced the enforcement of presidential term limits compliance in the modern era by laying the foundation for the institutionalization of presidential term limits as a democratic principle. Several years after George Washington, Franklin Roosevelt acted in breach of the rule of presidential term limits by contesting and winning the United States presidency with a record of four elections. Franklin Roosevelt's breach instigated the necessity to restore and formally institutionalize presidential term limits in the United States in order to avoid repeat occurrences. Roosevelt's challenge, toward American democracy, presidential term limits, and the principle of leadership alternation influenced political leaders in the United States to embed presidential term limits constitutionally. Roosevelt's action thus influenced the codification of presidential term limits in 1951 as the 22nd Amendment to the United States Constitution (Maltz, 2007; Posner & Young, 2007).

Emulating the United States, some South American political stakeholders sought the institutionalization of presidential term limits in their countries. Argentina and Mexico became the first after the United States to constitutionally codify presidential term limits as a democratic principle for power alternation (Maltz, 2007). With constitutional protection, presidential term limits emerged as an important democratic principle (Maltz, 2007).

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⁹ Cincinnatus, as explained in Livy's account, is a Roman emperor who ceded dictatorial power upon fulfilling his perceived public duty. This serves as the oldest account of term limits.

The post-Cold War democracies that opted for a presidential system probably adopted term limits to spur democratic power alternation, political competition, democratic growth, and to forestall a relapse to dictatorship and power entrenchment. These new democracies adopted presidential term limits for the merits and acceptability of term limits as a democratic principle, agreeing with Collier (2009) that democracy is universal. In Africa, Latin America, and Eastern Europe, the adoption of presidential term limits emerged as an innovation following constitutional negotiations during the transitions from one-party and military authoritarian regimes to post-Cold War multiparty democracies.

That notwithstanding, the implementation of term limits has been problematic in most post-Cold War democracies even though presidential term limits appear to be an acceptable and permanent feature of democracy. Some countries and scholars still continue to debate their importance, merits and demerits. So far, 38 national debates have been held across Africa to consider removing term limits.

Before making any further argument for the implementation of presidential term limits, I will first examine the usefulness of presidential term limits. Do presidential term limits add any value to democracy? How beneficial are presidential term limits for the consolidation process of democracy? Can a given presidential democratic system do without term limits?

Though scholars like Baker (2002), Elhauge (1997), Weissert and Halperin (2007) strongly disagree with the merits of term limits for democracy¹⁰, arguments in favor of the benefits of term limits determine the urgency of their implementation and their enforcement, especially in post-Cold War African democracies. Bakar (2002) argues that term limits do not produce or create democracy. He maintains that presidential term limits are undemocratic and not necessary for power alternation. He further argues that if democratic accountability is strong enough, the electorate should have the capacity to vote an unwanted president or party out of office at the next election. Why should the masses forego a candidate whom they trust even if he is an incumbent or a life-president? If the incumbent leader is the best among all the candidates vying for the presidential office, should term limits serve as an excuse to deny the electorate the right to re-elect the incumbent as a life-president? Baker's argument presents a challenge to defenders of presidential term limits.

Elhauge (1997), Weissert and Halperin (2007) have discussed the merits and demerits of term limits in the United States legislature and presidential system, questioning the usefulness of term limits for state and national officers in developed countries. With reference to the legislature, Elhauge, Weissert, and Halperin raise the obvious question of whether unlimited terms of offices confer a special capacity on the quality of a legislature. They investigate the capacity of some legislatures to propose and defend bills in the legislature, arguing that neither limited nor unlimited terms make for a more efficient legislature. They further argue that career politicians (though with cognate experience) do not appear to be more effective for the legislative institution than other MPs. Though I direct my research focus toward the benefits of term limits in the context of presidentialism, the above arguments introduce some significant skepticism concerning the usefulness of presidential term limits for democratic consolidation. Should we consider presidential term limits necessary for power alternation? After all, parliamentary systems as practiced in England, the Netherlands, Germany, and many other countries do not depend on term limits for power alternation. This argument undermines the importance of presidential term limits

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¹⁰ I shall return to the arguments later in this paper.

as the guaranteed approach to ensure power alternation, since parliamentary systems function effectively, and adequately guarantee power alternation without institutionalized term limits.

Despite the above arguments against presidential term limits, scholars like Linz (1996b), Beetham (1994), Cheeseman (2010), Bratton (1998), and Schedler (1998) maintain that presidential term limits are beneficial for electoral democracy in the context of presidentialism. According to Linz imposing and prescribing constitutional limits on presidential terms demarcates democracy from autocracy. Linz further qualifies and distinguishes between authoritarian and democratic politics, arguing that democrats rule with an expiration date, while autocrats do not rule with an expiration date. Linz refers to democracies as *pro tempore* governments, and further argues that it is a common expectation that democratic governance has a time limit. Democracy must, therefore, contrast itself from an authoritarian government, which depends on the usurpation and entrenchment of state power and its conversion to personal power (ibid). In other words, if a certain democratic process loses the feature of *pro tempore*, that particular democratic process may run the risk of losing its democratic distinction. By operating *contra tempore*, a presidential democratic system (without term limits) runs the risk of alienating the populace in the long-term in the democratic process. Presidential systems without term limits further alienate the populace by denying it basic democratic rights to participate effectively in the democratic process of electing and alternating their leaders, or holding their leaders accountable.

Linz (1996b) further maintains that the development of a democratic system and government equates the ceding of individual power to government institutions where the rule of law guides the practice and exercise of such powers. The ceding, transferring, alternating, and transmission of power are thus critical events in the practice of democracy (Armstrong, 2011; Bratton, 1998; Schedler, 1998; Beetham, 1994; Cheeseman, 2010). Since these represent the technical value of democracy, presidential term limits become essential to guarantee the technical consolidation of any given democracy. Substantial consolidation of democracy includes freedom of speech and association, human rights, and rule of law. Yet these become difficult to achieve without initially ensuring the technical consolidation of the ceding, transferring, alternating and transmission of power as guaranteed by presidential term limits. When presidential term limit is repealed within 10 years after transition as we witness across Africa, it damages the normal functioning of the democratic process since the act of repeal (though seemingly democratic), but directly and indirectly contradicts basic democratic principles and undermines democratic consolidation by working against the same basic and accepted democratic features of electoral competition, power alternation, and political participation.¹¹ The removal of presidential term limits in practice has a negative influence on the consolidation process of democracy by potentially exposing a certain democracy to autocratic regression, democratic slow death, and democratic hybridity (Schedler, 1998; Ranker, 2007).

Schumpeter (1942) defined democracy as a method that respects the institutional arrangements aimed at political power and decision-making authority, acquired by individuals and political organizations through the competitive struggle for popular vote. Building on Schumpeter's understanding of democracy (Dahl, 1971) identifies seven key components that are essential for democratic growth. These include control over

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¹¹ Oyejishile was emphatic on the range of benefits missed by *contra tempore* democracies in Africa. He argues that repression, oppression, and abuse of human rights have correlation with regimes that have no expiration dates, maintaining that in democracy, as in every other game, political offices should have a duration in order to avoid abuse (15May, Pilsen, Czech Republic).

governmental decisions about policy constitutionally vested in elected officials; frequent free and fair elections; universal adult suffrage; the right to run for public office; freedom of expression; access to alternative sources of information,¹² and freedom of association.¹³

Following Dahl, Schedler (1998) argues that deepening democracy involves

... the challenge of making democracies secure, of extending their life expectancy beyond the short term, of making them immune against the threat of authoritarian regression and of building dams against eventual “reverse waves”.

With presidential term limits and open-seat contestation, electoral democracy in a presidential system significantly guarantees the possibility of alternating governments without risking the state. These key basic descriptions of democracy consolidation, as Schedler further argues, demonstrate the importance of contestation, competition, power alternation, and participation, which may hardly be guaranteed without term limits. Hurwitz (1973) concurs with Schedler by emphasizing the same principles as imperative for democratic growth and sustenance. He argues that president *contra tempore* contradicts the basic features of democracy, as enumerated above.

Why and how does the removal of presidential term limits harm the development of a given democracy? As Dahl (1971) and Bratton (1998) argue, the consolidation of the democratic process particularly involves the collective acceptance of rules to guarantee political contestation, power alternation, and political participation. Free and fair elections provide citizens with the chance to choose their leaders among a pool of contestants, but the removal of presidential term limits particularly weakens the capacity of elections to help democracy achieve this purpose.¹⁴ In the case of a president *contra tempore*, elections become a mere process of confirming the incumbent government in power, lacking quantitative, qualitative, and meaningful features in engineering the democratic process (Bratton, 1998).¹⁵ As a result, various scholars have emphasized open-seat contest as an important dividend of presidential term limits (Beetham, 2004; Cheeseman 2010). Consolidated democratic authoritarians and operators of one-party, life-presidential systems hold pre-determined elections that continue to produce the same set of leaders after each election. Though these elections seemingly carry the semblance of democratic elections, open-seat contestation remains absent since power holders continue to run undefeated for elections, leaving little room for alternation. Uganda, Togo, Gabon, Cameroon, hold regular elections that lack the capacity to engineer power alternation. The removal of presidential term limits in these countries appears to have considerably weakened the potency of democratic electoral process to guarantee open-seat contests and ensure leadership alternation.

By the late 1990s and the beginning of the 2000s, some incumbent presidents in post-Cold War African democracies were nearing the end of their final tenures in office. The public and some other democracy stakeholders including the international community expected these incumbent presidents to announce their retirements willingly and, therefore, support genuine elections to choose their successors. Instead, many

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¹² A government and its agencies should not monopolize information sources in a democracy.

¹³ Freedom of association in a democracy confers rights on individuals and groups to form and join associations as both party and interest groups.

¹⁴ Some scholars and analysts do not yet agree on the role that elections play in the consolidation of democracy.

¹⁵ Between 1999 and 2013, the fifteen incumbent presidents who contested elections for a longer tenure after successfully repealing presidential term limits went ahead to win the next elections in their various countries. The elections they organized could be interpreted as intended to confirm and give legitimacy to already consolidated and entrenched power.

incumbent transition presidents chose to begin the process of repealing presidential term limits in order to guarantee their continued stay in power. Extended debates ensued, including the long and extended parliamentary and legal processes that delayed elections in many countries. Burkina Faso and Togo postponed elections more than twice. Zambia, Nigeria, and Senegal all witnessed nearly deadlocked polls because elections were rushed and poorly organized only after seating presidents failed to secure tenure elongation (Harbeson & Rothchild, 2009; Anyaeze, 2015).¹⁶ More than half of the 38 African countries that sponsored debates against presidential term limits delayed elections once or postponed them for at least three months.¹⁷ The successful removal of presidential term limits in Cameroon, Gabon and Togo, provided the incumbent presidents the opportunity to convene elections only at their convenience, thereby distorting the quantitative flow of the electoral process.

In comparison with those countries where term limits routinely apply, subsequent elections (third, fourth and fifth elections) occurred in timely fashion, with prompt electoral acts as in Ghana, Kenya, Malawi and Zambia.¹⁸ Therefore, in countries where presidential *contra tempore* applies, elections appear to have no definite dates and are at the discretion of the president. For instance, President Kabila has in October 2016 postponed the election that was supposed to hold in November 2016 for one and half years (until May 2018), possibly to buy time to contest for a third term in the DRC.

By 2012, 109 presidential elections occurred in Africa since the post-Cold War democratic experiment on the continent.¹⁹ While 64 of the elections took place promptly, 44 experienced delay.²⁰ Thirty-eight of these delayed elections occurred in countries whose incumbent presidents successfully repealed presidential term limits. It therefore appears that the removal of presidential term limits supports the entrenchment of state power and the monopolization of the decision-making process by seating presidents. It also clearly indicates that the removal of presidential term limits adversely affects the quantity of elections in Africa.

The removal of presidential term limits also affects the quality of democracy and elections. Some scholars have argued that democratic consolidation takes place when elections are competitive, transparent, free, and fair (Schumpeter, 1942; Dahl, 1971; Schedler, 1998; Hurwitz, 1973). Lack of competition, transparency, and fairness in the electoral process reduces the electoral process to a routine maintenance of power by an incumbent president and his party (Smith, 1996). Use of the electoral process as a mere means to ratify the maintenance of power by a ruling party or incumbent president does not confirm democratic consolidation (Linz & Stepan, 1996; Beetham, 1994; Armstrong, 2011). Bratton (1998) judged the quality of elections by the ways in which they are free, fair, and adhere to accepted rules. How obtainable are free and fair elections in countries that have repealed term limits? Does the quality of elections decline in comparison with earlier elections after the removal of presidential term limits?

¹⁶ Confer the EU Election Observation Reports of the Presidential and Parliamentary Elections in Togo in 2004.

¹⁷ The original source of this information stems from Michael Bratton (1998), and updated by the author.

¹⁸ The author compared the regularity of elections in four countries where presidential term limits are repealed with the regularity of elections in four other countries where term limits were successfully enforced. The examination shows more regularity in the quantity of elections in the later than the former, Nigeria 2015 being an exception where the election was delayed for one month because of alleged security challenges.

¹⁹ The author has updated the data provided by Michael Bratton (1998) and Dulani (2011) to include recent presidential elections until 2014.

²⁰ *ibid*

Bratton (1998) provided a model of comparison by insisting that a particular country's recent history should offer an adequate basis for analysis and comparison. In all the elections held after the removal of presidential term limits in most of the 15 repealed or neglected African cases, the quality and performance fell in each subsequent election with an average of 60%.²¹ Though post-Cold War African democracies generally experienced fewer elections that met internationally acceptable standards (Harbeson, 2009), the situation has worsened after the removal of term limits.²²

For instance, between 1990 and 1998, the quality of elections averaged 55.5% when term limits operated in Gabon, Togo, Burkina Faso, and Cameroon, but experienced a reduction to an average of 28.4% after the removal of term limits between 2000 and 2012 in the same countries.²³ Having entrenched and monopolized state power with every institution under firm executive control, incumbent presidents stipulated electoral formulas that suited them and ensured their electoral success. At the same time, the incumbents made electoral hurdles stringent for few electoral challengers, sometimes with outright and illegal disqualification of intending opponents (Bratton, 1998). For instance, with the successful removal of presidential term limits in Cameroon in 2008, Paul Biya enacted electoral laws that stripped the electoral commission of Cameroon of the powers to announce election results. Biya placed such powers under the presidency, leaving the electoral commission only with powers to conduct elections.

Such electoral laws as obtainable in Cameroon weaken the potency and quality of the electoral process by making every opponent a potential loser. Reserving the declaration of election results for the presidency seems a direct contradiction of democracy and the electoral process. It is unlikely that an incumbent president would allow the declaration of an opponent as a winner of an electoral competition in which he is a contestant. The situation in Cameroon as in other *contra tempore* democracies is a reduction of election to an end itself, instead of a process in a democracy. Iwu (2008, 2009) argues therefore that such a reduction of an election to an end itself has been responsible for the "do or die"²⁴ attitude towards elections in many post-Cold War African democracies, with "winner takes it all mentality". The lack of term limits for a presidency weakens the potency of the electoral process to serve as a referendum to hold an incumbent president or party accountable and allows the electoral process to serve as a mere spectacle to give some credibility to an incumbent regime.

On the institutional level, the removal of presidential term limits directly hampers the growth and development of political party system that is supposed to be the bedrock of multiparty democracy. By allowing the incumbent president to stand for election at each poll, a political party loses its potency to rejuvenate (Shinn, 2009). For the maturity and growth of political parties, a continuous experience of internal party democratic experience is needed. The removal of term limits encourages monopolization of power by an incumbent and also

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²¹ A field observation of elections held in Gabon, Togo and Cameroon after the removal of term limits shows a downward decline in electoral competition, level playing ground and mass participation.

²² As evidenced in various Election Observation Results, issues of political competition, one-party dominance, political patronage, intimidation and induced electoral outcomes have been progressively consistent, especially in presidential and parliamentary elections in countries without terms limits. Cameroon, Gabon and Togo justify this assertion.

²³ Author's update of Bratton's analysis of second election to include elections after the removal of term limits in some post-Cold War democracies in Africa.

²⁴ The phrase "do or die" was coined by President Obasanjo of Nigeria when he insisted on stopping Vice President Atiku Abubakar from succeeding. Vice President Abubakar played a leading role in mobilizing other political actors and institutions in defeating Obasanjo's Third term agenda in Nigeria in 2016.

reduces party's capacity for growth. When constitutional amendments allow a particular president to remain in power for life, the political party becomes vulnerable to the personal interests of the incumbent president. Insistent on survival, the president keeps those who are ready to do his bidding, while disposing those opposed to his whims, all to the detriment of internal growth in the party. The consequence is that political party relies on the incumbency of its leaders for sponsorship, victories and survival, and not on the skills of competitiveness, ideology and strategies necessary to promote and sustain multi-party experience.

In most post-Cold War African democracies, the president functions as the leader and bona-fide owner of his political party. Salih (2003; 2007) argues that majority of political parties in Africa lack ideological differences and incapable of mobilizing the masses around a given ideology, because they are reduced to mere vehicles of accessing and maintaining power (Armstrong, 2011; Okowa, 2016). Thus, any president who succeeds in removing presidential term limits continues to function as the soul leader and coordinator of "his" political party as long as he or she remains in power. This reduces the opportunity to "reshuffle" at the party level, stifling the implementation of fresh ideas and ideals into the party system. In Uganda, the ruling party has failed to transform from a mere Movement to a political party. The original ideas that created the Ugandan movement still persist. Have repealed presidential term limits in Uganda, Yoweri Museveni, who has been president and party leader for over 30 years, systematically monopolizes power and control over the "movement".

Perhaps, one crucial danger associated with the removal of term limits is the timing of the repeal process. About 80% of all debates launched to repeal presidential term limits began between eight and 10 years after democratic transition in Africa. In other words, incumbent presidents nursing third term or life-presidential ambitions begin the process of challenging term limits between eight to 10 years after transition elections. The period of eight to 10 years falls precisely within a time zone that Beetham (1994) describes as the "democratic consolidation period". During this crucial period, a new democracy in any presidential system is supposed to alternate power following a successful third election in an open-seat contest. Within presidential systems that operate term limits, a particular regime cedes power voluntarily to a successor at the end of a second tenure in office. Any miscalculation at this period either by constitutional amendment process to allow a third-term, life presidency, or an inconclusive election induces a high risk of political confusion/controversy, democratic reversal, slow death, or hybridity (Schedler, 1998; Rakner et al., 2007; Diamond et. al, 2015). Elections conducted after the removal of presidential term limits have often tended to lose their capacity to strengthen such a democracy. Burkina Faso, Burundi and DRC represent a clear case of this situation.

Cameroon, Burkina Faso, Togo, Gabon, and Uganda have all repealed presidential term limits. Though they all conducted and still conduct regular elections, they remain caught in the democratic grey zone that does not adequately allow them to move forward toward technical democratic consolidation. Tampering with the period and processes that guarantee minimum technical consolidation paradigms has dislocated the democratic process and prevented those democracies from gaining momentum. Tampering with the consolidation process by engaging in the project of removing presidential term limits at the period allocated for consolidation only succeeded in exposing these presidential systems to democratic slow death, reversal and democratic hybridity. By removing term limits, many African democracies have initiated the process of slow democratic death, while some operate hybrid democracy by observing skeletal elements of democracy, such as routine elections to legitimize

their power.²⁵

What makes presidential term limits attractive and necessary for democracy? What difference does it make if a particular presidential system continues to produce or confirm the same president in every election? Armstrong (2011) argues that significant shifts in the institutional structures of politics and philosophy of governance always precede regime change. Linz (1996b) argues that the adoption of an institutional order to control and govern the length of tenures stipulated for the office of the president reforms the transition from an authoritarian system to a democratic and competitive system. This reform marks the distinction between authoritarian and democratic systems. In other words, a presidential democratic system without term limits would operate as and embody the character of an authoritarian regime. This is why the adoption of presidential term limits became central to the constitutional negotiations that preceded the transitions from one-party, authoritarian regimes to multiparty democracies of the 1990s in Latin America, Eastern Europe, and Africa (Dulani, 2011). The implementation of presidential term limits reflected a driving principle to move away from authoritarian regime systems and impose limits on the number of terms or tenures a president may hold presidential office or power (Linz, 1996a; Dulani, 2011; Armstrong, 2011).²⁶

To strengthen the importance of term limits in the presidential system, some scholars have qualified or made distinctions between two types of approach to governance and power. Linz's (1996b) distinction between *pro-tempore* and *contra-tempore* is crucial here.²⁷ Unlike authoritarianism, Linz argues that people expect democratic governments to be chronologically limited. Authoritarianism depends on the usurpation of state power and accrual of personal power while democracy depends on power consensus, which is crucial for power devolution. It is a market place of sort where ideology based competition for power should be guaranteed. When term limits is removed, the competition for power that precedes and sustains leadership and power alternation in a democratic style is diminished. Therefore, the repealing of term limits in a presidential system transforms a particular regime into civilian authoritarianism. Such a democracy identifies rather more with authoritarianism and less with multiparty, competitive democracy when it assumes the features of an authoritarian regime, or loses the features of *pro tempore* and acquires the features of *contra tempore*, even. As Linz further argues, by losing the features of *pro tempore*, a particular democracy runs the risk of alienating the institutions and the populace in the democratic process whose duty it is to regulate and allocate power by electoral consensus (ibid.). Schedler's slow death or Rakner's hybridity are inevitable outcomes when a democratic process loses the elements that distinguish it from an authoritarian regime. Without the distinction between *pro-tempore* and *contra-tempore*, the two systems would appear to be the same and operate the same way. The constitutional adoption of presidential term limits by post-Cold War African democracies at the transition period suggested a move away from a system

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²⁵ Many scholars have argued that elections alone, no matter how regular, do not improve on democracy. Democracies that routinely or regularly conduct elections without corresponding openness to other component of democracies like media freedom, genuine participation of the masses and opposition in politics are regarded as electoral democracies. Elections are merely conducted to attract external legitimacy while other imported aspects of democracy like the rule of law, human rights and institutional independence remain in abeyance.

²⁶ Falola and Oyeshile concur with Linz in an interview with the author that term limits became necessary in order to dispense with many dictators who succeeded in entrenching state power by blocking possible avenues to democratically allow power alternate (Pilzen, 15 May 2014).

²⁷ Linz makes a distinction between authoritarian and democratic politics arguing that autocrats rule without an end date while democrats rule with an end date. He uses the concepts of *pro- and contra tempore* to make a clear distinction between democratic and authoritarian regimes.

that entrenched power, toward a new culture and tradition of checks and balances, electoral consensus, and power alternation through genuine democratic process. Unfortunately, the removal of presidential term limits has not made this completely possible in some Africa States.

Constitution-Making and Presidential Term Limits in Africa

The making of constitutions in Africa became popular after World War II. The emergence of constitutional committees in various countries, mostly comprising of colonial officers and few independence agitators, preceded the dismantling of colonial regimes. The making of independent constitutions gave rise to independent states in Africa, beginning with Ghana in 1967. Though Independence Constitutions and elections preceded the inauguration of more than half of new African states, only a few constitutions noted term limits since most new independent states adopted a parliamentary system of government. Presidents in most newly independent states, particularly the British former colonies, were ceremonial and represented the Queen of England. The adoption of a parliamentary system in line with colonial governments may explain the scarcity of term limits in this period, especially in former British colonies. The incursion of the military into politics through coup d'état, one-party system, life presidency, and Cold War geopolitics may have further restrained the making of constitutions that stipulated term limits until after the Cold War. Between 1960 and 1989, power alternation as figure one below shows depended more on military coups/assassinations and violent means than on peaceful democratic means through election. As the same figure shows, constitutional transition of government did not become a veritable means of power alternation in Africa until 1989, following the post-Cold War democratic opening in the continent.

Figure 1. Power transition 1960-2010.

Source: Monique Theron, *African Trends and Transformation*.

Between 1960 and 1990, only seven presidential elections occurred in African presidential systems in which more than one candidate took part (Nigeria, 1979, 1983; Senegal, 1978, 1983, 1988; Somalia, 1968; Tanzania, 1962). In these seven elections, only one resulted in inter-party power alternation when Abdirashid Ali Shermarke defeated Aden Abdullah Osman of Somalia in 1968. The re-introduction of multiparty democracy and the adoption of presidential term limits by many countries in the 1990s resulted in a substantial increase in the quality and quantity of competitive elections both in Africa and elsewhere among new democracies. According to Bratton (1998), foundational and second elections recorded a competitive average level of 70% with a competitive margin of 85% in Africa alone.

In most cases, run-off elections decided presidential victories, indicating the high competitiveness of the foundational and second elections (Bratton, 1998). The removal of presidential term limits, which often came after the second elections, reduced political competition and enabled incumbent presidents to win elections with “landslides” and wide margins.²⁸ For instance, the first and second elections in 1994 and 2001 in Cameroon were competitive. Paul Biya struggled to beat his opponent Nee John Fodi in 2001 with an average vote of 64%.²⁹ After the removal of presidential term limits in 2008, Paul Biya won the subsequent election with an average vote of 92% in a clear departure from previous elections indicating a decline in competition and complete power entrenchment.

Figure 2. Constitution-making and presidential term limits: 1960-1989 and 1990-2013 in sub-Saharan Africa.

Source: Updated by the author from Dulani (2011).

Case study analysis by the author on some African democracies has shown that the removal of presidential term limits actually and potentially stifles political pluralism and further quickens the process of transforming a polity into a one-party state (Anyaeze, 2015). The fate of democratic processes in Togo, Cameroon, Gabon,

²⁸ “Landslide victory” has since become common jargon used to describe election victories by incumbent presidents and parties.

²⁹ Allegedly, the announcement of the presidential election results in 1999 experienced a delay in order to manipulate results to favor Paul Biya. The delay and eventual declaration of Biya as the winner resulted in wide protests by university students, followed by violence against students and protesters.

Burkina Faso, and Uganda confirms the destructive nature of a presidential system without term limits. While these states seem to operate on the surface as multiparty democracies by organizing routine elections, in practice they operate as one-party states. After the removal of presidential term limits in above-mentioned states, the incumbent presidents have won all subsequent elections with the ruling parties controlling over 92% of the legislative seats³⁰ against an average of 65.3% and 70.1% in the first and second elections consecutively (Bratton, 1998). This represents a sharp decline in political participation and electoral competition, seemingly induced by the repealing of presidential term limits.

Table 2

Longest Serving African Dictators Who Metamorphosed Into Elected Presidents Following the Post-Cold War Democratic Opening in Africa. Most of Them Went Ahead to Repeal Presidential Term Limits After Completing Their Terms as Elected Presidents

Rank	Name	Country	Number of years as unelected president	Number of years as elected president	Total Number of years on power
1	Omar Bongo	Gabon	1967-1993	1993-2009	42
2	Gnassingbe Eyedema	Togo	1967-1993	1993-2005	38
3	Robert Mugabe	Zimbabwe		1980-	36
4	Teodoro Obiang Nguema	Equatorial Guinea	1979-2002	2002-	37
5	Denis Sassou Nguesso	Republic of Congo	1979-1992, 1997-2002	2002-	37
6	Jose Eduardo dos Santos	Angola	1979-1992	1992-	37
7	Paul Biya	Cameroon	1982-2002	2002-	34
8	Yoweri Museveni	Uganda	1986-2005	2005-	30
9	Blaise Compaore	Burkina Faso	1986-1998	1998-2014	28
10	Omar Bashir	Sudan	1989-2010	2010-	27
11	Idris Derby	Chad	1991-1996	1996-	25
12	Hosni Mubarak	Egypt	1981-2005	2005-2011	30
13	Paul Kagame	Rwanda	1994-2002	2002-	22
14	Omar al Bashir	Sudan	1989-2010	2010-	27
15	Mubarak	Egypt	1981-2005	2005-2011	30

Source: Compiled and updated by the author for the present Paper with reference to Brad Cibane's *Africa's Elected Monarchs: Presidential Term Limits and Democracy in Africa*, (June 2013).

The above conclusion confirms Linz (1996b) allusion that the importation of the principle of *contra tempore* into presidential democratic systems negates the importance of political competition, stifles mass participation, and makes power alternation hard to achieve. Between 1990 and 2014, the institutionalization and enforced compliance of presidential term limits and the attendant political competition have been responsible for 37 residential alternations across Africa.³¹ Although, the bulk of the alternation has occurred at the intra-party level, 10 have occurred at the inter-party level signalling a march towards Beetham's two-election-test and Huntington's two-turnover test³² on democracy consolidation. The satisfaction of this minimal electoral

³⁰ For the purpose of this study, the author updated Michael Bratton's (1998) work on competition and political pluralism in 10 African countries to include the level of competition and political pluralism after the successful removal of presidential terms.

³¹ I have furthered Beetham's research to 2012 by investigating the number of power alternations at the *inter* and *intra* party levels.

³² "Two-turnover test" and "two-election test" are terms used by Beetham and Huntington, respectively, to analyze the level of consolidation of a given democracy. When a certain democracy has been able to hold two elections in which power alternated or transferred to another party or individual, then consolidation is then in progress.

condition is crucial for technical and structural democratic consolidation (Huntington, 1991; Beetham, 1994). If the tendency to repeal presidential term limits by incumbent presidents continues, there is a high likelihood that many new democracies may have to wait too long to experience the two-election test or two-turnover test prescribed by Huntington and Beetham.

Further, the provision of presidential term limits aims to make incumbent presidents face the reality of stepping down at the expiration of their terms in order to stimulate the tradition of democratic competition and leadership alternation both at the intra- and inter-party levels. Thus the incessant attack on presidential term limits and their successful repeal in some new democracies only works to impede the fundamental and enriching components of the democratic process and work against democratic consolidation.

Sen (1999) underscores the importance of genuine elections for democracy and good governance by arguing that leaders who do not worry about a re-election deliver minimally on democracy dividends. With well-researched data, Sen argues that in functional democracies where elections are genuine, regular and respected, disasters seldom occur in comparison with regimes that do not face the challenges of genuine elections or re-elections, as is the case in authoritarian regimes. Authoritarian rulers tend to consider themselves immune from calamities because of their exalted and secured positions. They tend to lack the incentive for appropriate and necessary measures to potentially avert calamities, especially if they do not face the genuine reality of elections and re-elections. The intent of elections is to guarantee the alternation of power or leadership. Regular elections do not qualify a polity for democracy without the guarantee of competition, contestation, alternation, and a power shift (Linz, 1996a; Bratton, 1998). Without guaranteed alternation in an election, a particular democracy is not consolidating (Beetham, 1994; Huntington, 1991; Linz & Stepan, 1996; Linz, 1996a). Beetham and Huntington argue therefore that for a democracy to consolidate, two elections would have taken place with likely leadership or power alternation. Incumbent presidents immune the democratic process from the experience of two-election tests and turnovers by repealing term limits within eight to 10 years of democratic experiment. Where a particular democracy is denied the opportunity to experience electoral turnovers, the chances of Schedler's regression and Rakner's hybridity remain high. Therefore, a presidential term limitless democracy cannot fit into or qualify for Beetham's two-election tests or Huntington's two turnover tests for consolidation.

Successful two-election turnover (that guarantees an alternation), devoid of electoral crisis and illegitimacy signal a march towards consolidation and an acceptance of democratic principles and the rule of the game by democratic stakeholders (Linz, 1996a). They indicate also that a given democracy is "stuck in a country's political system" (Dahl, 1971). Engaging in debates to repeal presidential term limits within a timeframe in which democracy is expected to technically take roots, minimizes the chances of a democracy deepening and removes a particular democracy from the consolidation process. For instance, Zambia, Malawi, and Nigeria moved from "not free" to "partially free" after their first and second elections, but quickly returned to "not free" during the debates to remove presidential term limits (Freedom House, 2001; 2004; 2007). As soon as the attempt to repeal presidential term limits was defeated, these countries quickly returned to "partially free" (Freedom House, 2001; 2004; 2007).

Linz (1996b) therefore argues that, "democracy begins to deepen when all, including people with authority, accept democracy as the only game in town and jointly agree to its rules. It entails that presidents respect institutional rules of the game and bow out at the expiration of their tenures, no matter how popular they think

they are". By implication, a particular democracy consolidates when its operators accept Linz's injunction and allow the process to pass Beetham's two-election test and Huntington's two-turnover test. Democracy begins to consolidate when political elites and those who possess authority begin to accept the rule of the game as a given, neutral, independent and autonomous (Linz & Stepan, 1996; Armstrong, 2011).

Shinn (2009) rightly observes that the removal of presidential term limits creates and sustains the syndrome of power in perpetuity since most presidents, including those who successfully repealed term limits showed no sign of relinquishing power as Table 1 above shows. More so, in all the 15 countries that repealed or neglected presidential term limits, incumbent presidents won all subsequent elections.³³ While power and leadership have alternated at intra- and inter-party levels in some African states, this experience remains scarce among countries with limited chances for open-seat contests³⁴ which Cheeseman (2010) recommends as a necessity for an easy alternation of power, although Bakar (2002) holds an opposite view that power may still alternate without presidential term limits if the electorate decides to vote an undesirable incumbent president or party out of power. Unfortunately, experience in some post-Cold War democracies shows that incumbency factors make it difficult to defeat a seating president or party in Africa (Posner & Young, 2008; Maltz, 2007; Vencovsky, 2007; Dulani, 2011). The removal of term limits therefore frustrates the hope of unseating an incumbent president.³⁵ The fact that incumbent presidents and parties won all succeeding elections in the 15 countries where term limits were successfully repealed or neglected, indicate a common pattern and trend. The difficulty in defeating an incumbent president in Africa underscores the importance of the open-seat contest, which the removal of presidential term limits contradicts. To a considerable degree, compliance to Presidential term limits provides and ensures a measure of political competition for elections in the level playing ground guaranteed by open-seat electoral competition. Respecting and enforcing presidential term limits ensures open-seat contests, which in turn guarantees power transition and provides the possibility of injecting fresh ideas into governance.

One may argue that multi-party democratic presidential system has not yet guaranteed good leadership in Africa as the continent is yet boasts of a democratic system that produces one of the worst leadership globally (Calderisi, 2006; Ayitey, 2007; Chabal & Daloz, 1999). However, in a functional multiparty presidential system, open-seat contests offer the electorate a variety of fresh candidates to choose from, unlike the monopoly of a one party system that *contra tempore* sustains. At least, *pro tempore* and open-seat contests have guaranteed 12 party turnovers and alternations in Africa since the end of the Cold War (Cheeseman 2010; Anyaeze, 2015). Open-seat contests have also guaranteed 25 intra-party alternations in Africa within the same period.³⁶ *Contra tempore* democratic regimes (devoid of open-seat contests) would have made these alternations impossible. Even though term limits do not produce or create democracies (Bakar 2002), presidential term limits strengthen democracy by providing the environment and by facilitating the process in which democracy is more likely to materialize and

³³ Incumbent presidents won all elections held after the removal or repealing of presidential term limits in Togo, Cameroon, Gabon, Uganda, Namibia, Burkina Faso, Guinea, Chad, and Angola.

³⁴ Open-seat competition refers to an electoral contest where fresh candidates lacking any incumbency advantage compete on "supposedly" equal ground for a political office in an electoral process after an incumbent has served out his or her tenure.

³⁵ Incumbency factors like patronage, presidential control of democratic institutions and the media, as well as access to state resources make it difficult to defeat incumbent presidents in Africa (Dulani, 2010; Posner & Young, 2007; O'Donnel, 1998; Bratton 1998; Smith 1996).

³⁶ The author's examined post-Cold War elections to ascertain current election turnovers and leadership alternations in the post-Cold War, African democratic experiment

consolidate.

The principle of open-seat contest which presidential term limits guarantee creates the possibility that widens the democratic space and opens the democratic process to accountability, good governance, fiscal responsibility, and credible electoral contests. In a *pro-tempore* presidency, open-seat contests provides the opportunity for leaders come forward and for the populace to select their leaders. Because the chances are high that leaders will also be rotated (Schedler, 1998; Linz, 1996a; Bratton, 1998), the *pro-tempore* presidency prevents leadership redundancy (Vencovsky, 2007; Posner & Young, 2007; Cheeseman, 2010).³⁷ Enforcing and respecting term limits and ensuring open-seat contests help a particular democracy avoid the undesired pain of languishing under a life-president as the cases of Cameroon, Gabon, Togo, Uganda and Zimbabwe represent.

Frequency of Removal of Presidential Terms Limit in New Democracies.

Despite their benefits to democratic consolidation, term limits have continued to come under attack by many incumbent regimes in most new democracies across the world. Dulani (2010) notes that attempts by a section or agencies of government to remove presidential term limits have been constant for the last 30 years in some developed and new democracies. Viewed in this way, attempts and the call to remove presidential term limits could be said to be global and, therefore, raise sufficient doubts about the usefulness and survival of presidential term limits as a key feature of democracy.

Figure 3. The frequency of repeal of presidential term limits in various continents 1990-2012.

Source: Data obtained from Dulani 2010 and updated until 2013 by the author.

Data show that the US has witnessed the highest number of sponsored motions to repeal presidential term limits with about 30 attempts at the US House of Representatives (Basham, 2012). Jose Serrano, a member representing New York in the House of Representatives, sponsored the first motion in 1975 when he sought the attention of the House of Representatives to repeal the 22nd amendment to the US Constitution. Serrano has re-introduced the same motion in the House on two yearly basis since 1975. Though the motion never got to the

³⁷ In Nigeria's political jargon, open-seat contest offers an opportunity to "offload" undesired leaders whom they describe as coming to power "by chance".

voting stage in the House³⁸, several other members of the House of Representatives, including Steny Hoyer of Maryland and Mitch McConnell have, on several occasions, sponsored the same motion, requesting the House to strike out presidential term limits in the US constitution. Seemingly supporting the removal of presidential term limits, Bill Clinton argued in 1999, “that the institution of presidential term limits should not hinder incumbent presidents if they chose to serve their countries for longer terms” (Huff Politics, 11 August 2011). However, he added a caveat, stating that presidents needed a break after two terms before they could come back to re-contest if they so desired (Huff Politics, 11 August 2011).

In other post-Cold War democracies of Latin America, Eastern Europe, and Asia, some presidents made similar attempts to challenge presidential terms limits (Dulani, 2011).³⁹

Although attempts to remove presidential term limits cut across various continents, post-Cold War African democracies produce the highest number of actual repeals. In the 1990s many African countries responded to the democratic openings ushered in by the demise of the Cold War. Between 1990 and 2000, 38 African countries made swift democratic transitions. While some witnessed what was to be their first election since independence,⁴⁰ others returned to multiparty democracy after an interval of military or civilian dictatorship. By 2004, 38 African countries have had second elections, indicating a swift democratic consolidation process (Huntington, 1993; Stepan & Linz, 1996; Beetham, 1994). However, the excitement brought on by the democratic beginnings in many African countries did not last more than 10 years (Vencovsky, 2007). At the expiration of their final terms in office, many incumbent presidents have tampered with the constitutional provisions of two-term limits in order to extend their mandates. Instead of organizing credible elections to ensure democratic power transfer at the end of their final terms, many incumbent presidents chose to invest huge resources in securing constitutional frameworks to either allow a third term for themselves, or to completely expunge presidential term limits from the constitution.

Sam Nujoma of Namibia was the first to repeal presidential term limits in 1999 by amending the Namibian constitution to accommodate his third term ambition. He thereby paved the way for the popular “third-term agenda”. Many incumbent presidents who wanted to remain in power for extended periods designed a strategy to manipulate the constitution in order to achieve longer terms (Bratton, 1998; Dulani, 2011). The trend assumed higher proportions between 2001 and 2012, as most incumbent presidents influenced debates and campaigns to remove presidential term limits when they approached the end of their final terms. In Africa, 38 countries held national debates between 1999 and 2015 to consider removing presidential term limits. Fifteen countries successfully repealed presidential term limits, or neglected them during this period, with four unsuccessful attempts.

The incessant attacks on presidential term limits, especially in the post-Cold War democracies, have continued to cast doubt on the survival and retention of term limits as a democratic institution (Dulani, 2010;

³⁸ The Legal Committee of the Federal House Representatives always received the bill to consider the removal presidential term limits in the US. At no time did the bill survive any debate beyond the Legal Committee.

³⁹ The following presidents attempted to repeal presidential terms limits in their countries: Hugo Chavez of Venezuela (2007 and 2009); Daniel Ortega of Nicaragua (2009); Albvaro Ulrike of Columbia (2009); Manuel Zelaya of Honduras (2009); Mahina Rajapaksa of Sri Lanka (2010); Nursultan Nazarbayev of Khazakhstan (2007); and Ilham Aliyev of Azerbaijan (2009).

⁴⁰ By 1990s, 30 African countries were witnessing unprecedented multiparty elections. A one-party system under the firm control of life presidents was popular in many African states before the third wave of democracy.

Vencovsky, 2007; Maltz, 2007).⁴¹ The frequency may increase in Africa as the trend normalizes on the continent. With about 11 incumbent presidents still on the second tenure of their mandates, the number of national debates to remove term limits is likely to increase by 40% as these presidents approach the end of their last terms. The high proportion of African countries engaged in debates to remove term limits, therefore signals a significant threat to the survival of presidential term limits as a universally acceptable basic requirement of democracy in a presidential system. With weak institutional formations and semi-informed populaces, the attack on term limits raises particular concerns in Africa more than other continents. The frequency of attacks on term limits, and the concerns it generates globally and particularly in Africa remains real.⁴²

Presidential Term Limits and the Democratic Rule of Law

Among other values, the adoption of presidential term limits in Africa after the cold War is one of the best innovations introduced by the constitutional negotiations in the 1990s that quickly followed the transitions from one-party, authoritarian regimes to multiparty democracies (Schedler, 1998; Posner & Young, 2007; Maltz, 2007; Dulani, 2011). The adoption of presidential term limits was swift and accepted by all stakeholders in all the 38 countries that democratized after the Cold War. This indicates that the majority of African countries “*ab initio*” accepted presidential term limits as a prominent feature and principle of democracy.⁴³ Once a country accepted and implemented term limits, that country did not treat term limits as accidental arrangements, but rather, as part of the normal order of democracy (Schedler, 1998). According to Schmitter (1988), presidential term limits applied during a transition to multiparty democracy, evolved from a contingent solution into prudential norms structures, and into reliable, regularly practiced, and habitually accepted relationships. Turning back to repeal them ten years after successful transition sets in motion the process of democratic recession.

As has been explained earlier, presidential term limits impose limits on the number of years and terms an individual may hold presidential office or power (Dulani, 2011). Its intent is to checkmate power abuse, authoritarian regression, democratic slow death, and the gradual weakening of the democratic process (Schedler, 1998; Huntington, 1996; O'Donnell, 1992). For Ojeshile, “people expect that officers elected into power under a constitutional provision of *pro-tempore* to be disciplined enough to respect the rules that brought them to power in order to allow the democratic process and practice to deepen.”⁴⁴

Unfortunately, presidential term limits have come under pressure in many countries from those sworn to protect the constitution and democratic rules. Democracies hardly stabilize without respect for democratic rules (Liz, 1996). Particularly, disrespect and disregard for presidential term limits causes democratic erosion and puts nascent democracies at the risk of authoritarian regression. Weissert and Halperin (2007) have discussed the demerits and merits of term limits in the US legislature and the US presidential system, while Elhauge (1997) has

⁴¹ Dulani's (2011) work demonstrates the extent to which presidential term limits are under pressure: six out of every 10 countries that adopted presidential term limits during the third-wave democracy held national debates to consider reversing or removing this principle in the period between 1990 and 2010.

⁴² To underscore the real threat occasioned by the removal of presidential term limits and the concerns it generates among the public, refer to the various surveys compiled by Afrobarometer, 2012, 2013 and 2015.

⁴³ Field research by Dulani (2011) confirms that 72% of the people questioned on the importance of presidential term limits appreciate term limits and would want them enforced.

⁴⁴ Author's interview with Ojeshile, Professor of Philosophy, University of Ibadan, Nigeria. Pilzen, Czech Republic. May 2013

queried the usefulness of term limits for state and national officers in developed countries.

With reference to the legislature, both writers raise the obvious question of whether the absence of term limits confers a special capacity on the quality of a legislature. Do unlimited terms make for a more efficient legislature? Are career politicians with cognate experience better for the legislative institution? Though these questions seem to fall outside the focus of the present study, they introduce skepticism concerning the usefulness of presidential term limits for democratic consolidation. Should we consider presidential term limits necessary for power alternation? After all, parliamentary systems as practiced in England, the Netherlands, Germany, and many other countries do not depend on term limits for power alternation. This argument questions the importance of term limits as the guaranteed approach to ensure power alternation, as parliamentary systems function effectively and adequately without term limits. This study considers calls to remove term limits within their specific political context and configuration. I situate this study in the political configuration and context of a presidential system of government as adapted to the United States presidential system.

Presidential Term Limits and Democratic Values

An on-going debate on the politics of presidential term limits introduces a paradox in the democratic nature of term limits as a key democratic principle. While some scholars like Baker (2002) argue that presidential term limits restrict democratic choice, others like Beetham (1994), Cheeseman (2010); Armstrong (2010), Vencovsky (2007) and Dulani (2011) maintain that presidential term limits are indispensable for democratic growth, especially in a presidential system. Despite the seeming benefits of presidential term limits, Baker maintains that presidential term limits are undemocratic and unnecessary for power alternation. He argues that if democratic accountability is strong enough, the electorate should have the capacity to vote an unwanted president or party out of office at the next election (2002), or, if necessary, democratically impeach a president through a legislative process. Without prejudice to Baker's argument, the defeat of an incumbent president at the polls in a post-Cold War African democratic experiment is not yet common (Collier, 2009), let alone an impeachment.⁴⁵ Scholars have proven that institutional processes are weak and compromised in most new democracies (Vencovsky, 2007; Dulani, 2011; Bratton, 1998; Villalon, 2005; Anyaeze, 2015), not to talk of sustaining an impeachment process. However, Baker's argument presents a challenge to defenders of presidential term limits. Why deny the masses the chance for a candidate whom they trust even if he is an incumbent? If the incumbent leader is the best among all the candidates vying for the presidential office, should term limits serve as an excuse to deny the electorate the right to choose such an incumbent? Is it democratic to bare an incumbent from presenting him/herself for election? This argument recently made the rounds in Rwanda before presidential term limits was repealed in 2016. The incumbent president was due to step down in 2017 at the expiration of his second term. A section in Rwanda felt that Paul Kagame had performed exceedingly well and had moved Rwanda both economically and politically forward (*Arinaitwe*, 28 February 2013). They argued that presidential term limits should not serve as an excuse to deny the country the services of a good incumbent president. The extension of presidential terms required an amendment of the Rwandan Constitution and a repealing of the presidential term limit. Should it have been right to deny the people their choice of Kagame as life president?

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⁴⁵ Benin is the second African country since 1960 and the first since 1990 where an incumbent president is defeated at the polls.

Promoters of presidential terms limit argue otherwise, insisting that a presidential term limits provision signifies a degree of lack of trust in the electorate and democratic institutions to make informed decisions (Armstrong, 2010; Chabal & Daloz, 1999). According Falola, the electorate sways with African political rhetoric and is not adequately concerned about the merits and demerits of democratic principles.⁴⁶ Therefore, the institution of presidential term limits requires protection to forestall abuses and empty rhetoric.⁴⁷ During the third term debates in Nigeria in 2006, a loyalist of the president strongly defended the third term as an “indisputable democratic exercise,” and described Obasanjo’s third term as an “opportunity for the masses to retain their choice for president” (Sun, 22 April 2006).

The scenario was also the same in Cameroon where a government minister described the repeal of presidential term limits in 2008 as a “classic democratic exercise”, claiming that “... the intent of constitutions is not a limiting of voter’s choice” (Butty 2008). This argument may appear cogent, but the repeal of presidential term limits gives incumbent presidents undue advantages over other aspirants in the electoral process in Africa. The resource advantages available to incumbent presidents may make it difficult for institutions to function effectively and for the electorate to make informed electoral choices and decisions. Since political competition cannot sufficiently guarantee the type of acceptable democratic choice that elections and contestations designate in the absence of presidential term limits (Armstrong, 2011), the enforcement of term limits compliance is necessary. Despite arguments that presidential term limits do not produce or create democracies, Huntington’s thesis and Cheeseman’s data show that presidential term limits facilitate the democratic process and provide the environment in which democracy is more likely to materialize and consolidate.

What is undemocratic about a constitutional amendment to repeal presidential limits? Since many constitutions provide room for amendments, if the legislature or the parliament follows due process in repealing presidential term limits, does it not act democratically and constitutionally? Respect for rule of law and due process is required in handling constitutional issues. Respect for rule of law and due process also confers legitimacy on ammended legislatures. Most constitutions stipulate mandatory processes for legitimate amendments. These involve different arms and tiers of government and usually compel a two-third majority to legitimize the amendment of any article in the constitution. If the repealing of presidential term limits follows due process and rule of law, and is able to mobilize support at all levels, it is considered as being legitimate.

However, the challenge on presidential term limits and their repeal in the last 25 years in Africa have majorly relied on executive manipulation (Vencovsky, 2007; Posner & Young, 2007; Armstrong, 2011; Anyaeze, 2015) and have not sufficiently respected the clauses that protect presidential term limits in various constitutions in Africa (Dulani, 2010). We have witnessed what many scholars have described as a corrupt and “illegitimate assault on term limits by some incumbent presidents” (Morrow, 2006)⁴⁸ who deploy state resources and might to achieve private agenda. It has been alleged that in 2006 in Nigeria, Obasanjo provided the sum of US\$350,000 to Senate members and US\$300,000 to members of the Federal House of Representatives to support his third term bid (Posner & Young, 2007). Frank Ozoh in an interview with the author confirmed the allegation of inducement

⁴⁶ Authors interview with Falola, Professor of African History at Austin State University. May 15 2014, Pilsen. Czech Republic

⁴⁷ Ibid.

⁴⁸ Other scholars like Armstrong (2011), Posner and Young (2007), Maltz (2007), Vencovsky (2007) Chabal and Daloz 1999 and Collier (2009) have documented the use of financial inducements and intimidation as strategies by incumbent regimes to coerce support from political actors, civil society, and the masses to support the repeal of presidential term limits.

by the Nigerian president to coerce support from the parliament for his third term ambition.⁴⁹

Ugandan legislators received US\$3000 to support the removal of presidential term limits from president Museveni in 2005 (Armstrong, 2011). Zambian parliamentarians received the sum of US\$1,500 to support Chiluba's third term agenda in 2001 (Dulani, 2011; Armstrong, 2011; Sardanis, 2014)). Furthermore, incumbent presidents identified those political actors who did not choose to support the removal of term limits as political enemies, often forcing them out of government (Usman, 2012; Campbell, 2011; Villalon, 2005; Dulani, 2011; Morrow, 2006; Anyaeze, 2015).⁵⁰ Scholars have observed that constitutional amendments, referenda, reforms, and elections have been manipulated and flawed, reducing the legitimacy of these processes (Morrow, 2006; Usman, 2012). A careful look at the processes surrounding the attempts to remove presidential term limits or their actual repeal in Africa shows a clear and undemocratic lack of procedural due process, devoid of rule of law.

The argument in support of limitless presidential terms notwithstanding, presidential term limits systematically prevent dictators from emerging in the presidential system since it is a fundamental mechanism to guarantee leadership and power alternation in a presidential system of government. A presidential system invests excessive power in the presidency in Africa. In the case of incumbent presidents in most new democracies, this executive power is rarely decentralized, thereby feeding incumbency advantages and weakening democratic institutions. Since incumbent presidents often entrench state power and leave other stakeholders as spectators in the democratic process, some analysts like Rakner (2007) and van de Walle (2003) rightly view the presidential system as the biggest impediment to African democratic consolidation.⁵¹

Institutional processes increasingly appear to be weak in most new democracies (Vencovsky, 2007; Dulani, 2011; Bratton, 1998; Villalon, 2005) to check executive and excessive powers in a presidential system of government. For instance, where elections are not sufficiently competitive and contested, presidential term limits presents an opening for an open-seat contest to inject fresh ideas into the leadership system of a country and to some extent reduce the pressure of incumbency advantage. Entrenched incumbency advantages have the potential and actual risk of preventing the opposition from gaining representation in the government, therefore violating the minimum standards of electoral fairness and equal opportunity (Schedler, 1998; Dulani, 2010; Cheeseman, 2010). Without vibrant opposition, there may be a high possibility of creating and consolidating civilian dictatorship and hybrid democracy. Free and fair elections, as certified and endorsed by electoral observer groups, do not guarantee or signify genuine democratic processes. Elections may appear free and fair but harbor deep undemocratic processes beneath as are the cases in Nigerian, Burundi and Cameroon. Campaign regulations are not efficient in most post-Cold War democracies and Africa, while political sympathy is dependent on patronage and financial inducement (Chabal & Daloz, 1999; Anyaeze, 2015). Incumbent presidents and parties often use their access to state apparatus against opposition candidates and parties (Schedler, 1998; Posner & Young, 2007; Dulani, 2011; Armstrong, 2011; Simon, 2005; Morrow, 2006). An open-seat election reduces such incumbency advantages and increases the possibility of growing political competition required to consolidate democracy.

⁴⁹ Frank Ozoh, was the Chief of Staff of the Chairman of the Electoral Commission of Nigerian, and later the Director of the Electoral Institute of Nigeria until 2012.

⁵⁰ I shall elaborate more in the case studies on the use of money and intimidation as strategies to coerce opposition into loyalty by incumbent presidents.

⁵¹ No post-Cold War African democracy has yet experienced the defeat of any life president at the polls.

In Gabon, Cameroon, Uganda, Togo, Burkina Faso, Guinea, and Niger for instance, the removal of term limits was swift, leaving the populace with no option or time to participate in the process. In these countries, common good or popular opinion did not drive the removal of presidential term limits (Dulani, 2011; Fomunyoh, 2001; Villalon, 2005). Legitimate debates in presidential term limits politics have been scarce, as constitutional amendments to repeal term limits have been chiefly motivated by the vested interests of those in state power (Vencovsky, 2007). So far, it is difficult to guarantee the repeal of presidential term limits through a strict democratic procedure in post-Cold War African democracies. Since the majority of the repeal processes has not followed a constitutional due process, it is only certain both the repeal process and its actualization impeded democratic consolidation. The removal of presidential term limits simply creates an opportunity for incumbent presidents to personalize and entrench power at the level of the state (Villalon, 2005; Armstrong, 2011; Vencovsky, 2007; Dulani, 2011).

Contrary to what third or fourth term seekers and their supporters have claimed, longer presidential terms do not provide or guarantee good governance (Shinn, 2009); rather, they support the weakening of democratic institutions and other arms of government.⁵² In Togo, Gabon, Uganda and Cameroon, presidential *contra tempore* has rather promoted and sustained power entrenchment and syndrome of power in perpetuity, making the institution of the presidency the reference point in all government decisions.

Conclusions

I have argued in this paper that the removal of presidential term limits reduces a democracy to a routine object with only skeletal elements, lacking in substance and essence. It exposes a democratic process to a more subtle process of slow death, where elected officials progressively weaken integral elements of democratic rule, and expose a nascent democracy to regression and hybridity. By undermining electoral competition and contestation, by eroding checks on executive authority and placing constraints on political participation, incumbent presidents who have successfully removed presidential term limits use the state apparatus to personalize state power, leaving the masses with little option in the process of selecting or electing their leaders. The democratic process neither grows nor consolidates.

I have also argued that presidential term limits are beneficial for the deepening and consolidation of democracy, since it halts the chances available to incumbent presidents and elected officers from turning into dictators. Presidential terms limits ensure the possibility of policy change to institutionalize the democratic principle and process of power rotation and alternation. Term limits are required to guarantee a regular electoral contest so that the masses, by participating in a regular electoral process can grow a democratic culture and acquire the basic democratic experience needed for democratic consolidation. As I argued, in the countries that repealed presidential term limits, electoral participation has been minimal and voter apathy rampant in electoral and democratic processes. In these countries the removal of presidential term limits created the conditions that kept the populace politically docile, unaware, or uninterested in the democratic process.⁵³

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⁵² Gabon, Cameroon, Togo, Burkina Faso, Guinea, and Niger represent this category of democracies.

⁵³ A personal comparison of the last elections in Cameroon and Nigeria shows a marked difference in terms of interests and participation. While the presidential election in Cameroon in 2009 was characterized by high voter apathy and low interest, Nigeria's 2011 and 2015 presidential elections witnessed an unprecedented high interest and high voter turnout.

The monopolization of the democratic process by the few demonstrates the harm caused by the removal of term limits in Africa. African turnout rates of elections in democracies with *contra tempore* presidencies consistently went down from an average of 64.1% in the first and second elections to 38.2% after the removal of presidential term limits. The consistent low turnout of voters in *contra tempore* democracies in Africa strongly signals an electorate seriously disengaged from the democratic process. With these democratic setbacks, the repeal of presidential term limits endangers democratic consolidation and plunges the democratic process into Schedler's democratic slow death. Democracy in *contra tempore* presidential system, is only employed to extend and consolidate authoritarianism and dictatorship.

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