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Presidential Term Limits in Africa and Latin America: Contested but Resilient

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Today, the great majority of African and Latin American countries have presidential term limits inscribed in their constitutions. Yet, Bolivia's Evo Morales and Guinea's Alpha Condé are only recent examples of incumbents trying to extend their time in office – and of the acute political conflicts that follow from these bold moves.

- A presidential term limit is the constitutional rule that restricts the number of terms that the president of a given state may serve. In presidential systems, such limits are a key check on the power of the incumbent. Their goal is to constrain personalism, prevent power abuse, and to promote party competition and alternation in power.
- In practice, term limits have not always been an effective instrument to stop the president from taking office again and again. Since the 1990s, Latin America and sub-Saharan Africa have been hit by an amendment fever that today accumulates to about 60 approved reforms and additional failed attempts. Term limits have been abolished, amended, or re-interpreted recurrently, but have certainly not disappeared from the political scene entirely.
- In contrast to power holders' attacks on term limits, survey results from Africa show that the societies they govern value this constitutional rule. Besides, in several countries popular protests have repeatedly sought to defend term limits against incumbents aspiring to extending their time in office beyond the term limits imposed by their constitutions.

Policy Implications

Term-limit abolition is a good indicator of a democratic backlash, and usually the last step in a series of institutional assaults that previously led to the concentration of power. But term limits are more often relaxed and circumvented than they are abolished. These additional executive moves can also impact democracy negatively and provoke societal conflicts. Therefore, all adjustments of the term-limit rule should be observed closely by integrating them in systematic monitoring activities, and addressed directly in political dialogues.



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Checking Executive Power with Term-Limit Rules

Surprising to many in Europe, the regulation of presidential term limits has become a key battleground in many Africa^[1] and Latin American democracies. Constitutional rules that restrict the number of terms that the president of a given state may serve are typical of political systems with directly elected presidents: namely, presidential and semi-presidential modes of government. In such systems, terms are fixed and parliaments typically cannot vote the president out of office during their incumbency. Term limits were first adopted in Latin America in the early nineteenth century, and remained a rare institution outside this region until the middle of the twentieth one.^[2] However when (semi-)presidential systems of government began to diffuse globally and the direct election of the president thereafter became *de rigueur* (Elgie 2016), particularly with the third wave of democratisation in the 1980s and 1990s, many countries resumed or adopted presidential term limits. This rule is perhaps the most important contribution of Latin America to the theory and practice of liberal democracy (Corrales 2018: 194).

In theory, the intention behind the rule is to prevent personalism and power abuses through the limitation of the executive's time in office. Since Ancient Greece and the Roman Empire, term limits have been associated with democracy and perpetual rule with tyranny. Incumbents have plenty of advantages – agenda control, appointment powers, greater media coverage, unaccountable entourages, patronage resources –, ones which they accumulate with the passing of time, and often to the detriment of political adversaries. These advantages are reflected in their electoral success. If incumbents stand for re-election, they win in 70 per cent of cases, as Przeworski (2015: 104) has shown in a study of 2,230 contested presidential elections held around the globe between 1788 and 2008. Term limits put a brake on incumbents' ability to perpetuate their stay in office by promoting competition and alternation in power. Certainly, they constrain electoral accountability (Manin 1997) and are probably too blunt as an institution to protect citizens against presidents taking advantage of incumbency (Cheibub 2007: 167). However, as a constraint on majority rule, term limits are regarded as an institution that strengthens liberal democracy.

In practice, the term-limit rule has not always been an efficient instrument to stop the president from seeking office again and again. Two indicators of this difficulty can be cited here. For one thing, the rule does not look the same everywhere. There is not such a thing as *a* term-limit rule, and different rule types have potentially different implications. At the extreme ends of the spectrum, there are those rules that prohibit any presidential re-election and alternately those that allow for indefinite re-election. However term-limit rules may take other forms too, as the next section will illustrate. Moreover, when combined with the length of the presidential term, the range and level of potential restrictions on presidential power vary even further. It is obvious that longer terms in unlimited re-election settings are not a genuine constraint on power, but the effects of other rule types and rule combinations on presidential power are more difficult to assess.

A second indicator of this difficulty, meanwhile, is that compliance with the rule and rule enforcement also noticeably vary across both countries and time. In fact, there is a tension between rulers and rules because term limits test the political actors' amenability to accepting constraints on their personal interest in remaining

¹ The terms “sub-Saharan Africa” and “Africa,” as well as other corresponding adjectives, are used interchangeably in this Focus. Both refer, consequently, to the 49 states located on the African continent south of the Sahara Desert.

² The US-American constitution initially did not prescribe a president term limit. However, George Washington set up an informal practice of stepping down after two terms. It was only in 1951 – after Roosevelt having won three terms – that the two-term limit was introduced into the constitution.

in power. The lack of compliance is a highly personalised scenario wherein rulers prevail over rules (Baturu 2014). It manifests in varied forms and intensities, such as rule manipulation, circumvention, or alteration. The excessively high rate of institutional change indicates that the rule does not manage to prevail over fluctuations in the distribution of power and in preferences (Brinks, Levitsky, and Murillo 2019). Therefore, a certain rule stability is necessary to genuinely constrain power.

Since the late 1990s, Latin America and sub-Saharan Africa have been swept by a corrective amendment fever that today accumulates to approximately 60 approved reforms and additional failed attempts. The recurrent reforms of the term-limit rule may not come as a surprise given that personalism – either in the form of “Big Man rule” or *continuismo* – is a widespread political feature. However, the comparison of the two world regions in the last few decades has also revealed that strong executives often fail to eradicate this rule for once and for all. A more common pattern is the opposition, civil society, and the president themselves engaging in debates on term limits, making the story of presidential term limits a never-ending one.

The Many Faces of Presidential Term-Limit Rules

Rule types and their reform paths are embedded in related countries’ individual trajectories and historical contexts, but a cross-regional overview also shows some general trends too. At the beginning of 2020, two concrete facts can be established. First, presidential term limits are the rule rather than the exception in both of these regions. Looking at the countries which are presidential democracies, only four out of 39 African constitutions and four out of 19 Latin American ones do not provide for any limitation on the president’s time in office.³ Second, constitutions in the two regions offer a variety of rule types that differ with regards to the number of terms a president is allowed to serve and regarding the possibility of serving further ones at some point in the future. The most restrictive rule is that of a single presidential term without any possibility of re-election – the textbook case is Mexico, with its famous *sexenio* – which facilitated the predominant party’s rule for about a century and did not change after the democratic transition. The immediately next type is also that of a single term, but includes the possibility of re-election after a term away from office – Chile and Panama are cases in point here. Other rules limit the total number of terms to two or three (e.g. Benin and Ecuador), while the last rule type limits the initial number of presidential terms but allows for the return to the executive office after a term break (e.g. Brazil and Mozambique).

Beyond these generalities, there are some regional patterns. Latin America has the widest variety of term-limit rules, since all mentioned types can be found there. However the dominant type is that of the restriction to one term, with 11 cases out of 19 – coming either with the possibility of a further non-consecutive term or not. Rule diversification came with time in Latin America, as during the 1980s and until Peru’s constitutional reform in 1993 presidential term limits allowing for immediate re-election were absent from constitutional designs. Time also brought a relaxation of the rule in many cases, and even the removal in four countries.

In contrast, the standard term-limit design in Africa is the two-term. Today, 28 African constitutions provide for a two-term limit. Seven African constitutions

³ Ten sub-Saharan African countries were not included in the analysis. Lesotho, Mauritius, Ethiopia, Botswana, and South Africa have parliamentary systems of government in place while Eswatini is a monarchy. In the Comoros, the head of state is subject to a unique system of rotation. South Sudan still has a transitional constitution in force, while Eritrea as well as Somalia have never held elections to date. In Latin America, meanwhile, Cuba as well as the other countries with parliamentary systems in the anglophone Caribbean are not included. In total, in Latin America we count 18 pure presidential systems and one semi-presidential one (Haiti).

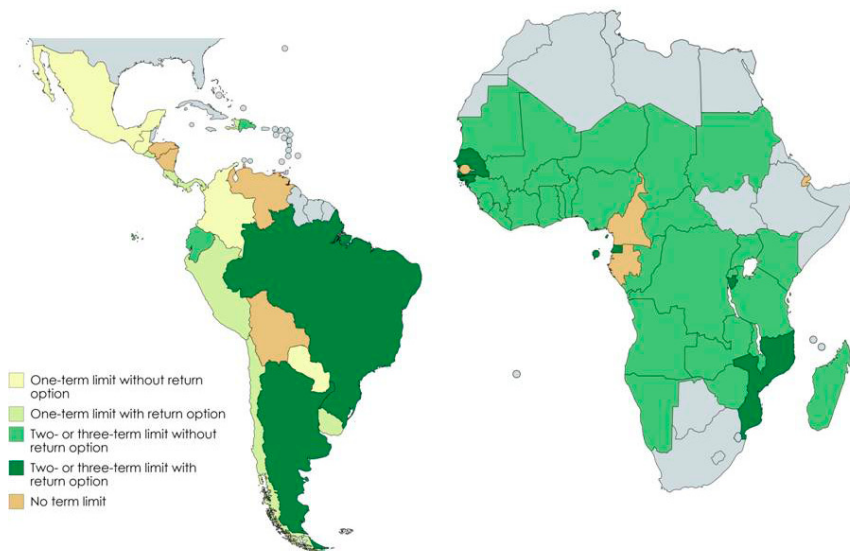


Figure 1
Term-Limit Rule
Types in Latin Amer-
ica and Sub-Saharan
Africa as of January
2020

Source: Authors' own compilation, using map chart.net

allow for additional non-consecutive terms. Among them are mainly former Portuguese or Spanish colonies, where the conditions for non-consecutive terms are clearly spelled out. Conversely, Burundi and Senegal introduced recently some ambiguity into their constitutions that allows for varying interpretations and makes possible a return to power after a one-term break.

Why are the details on the rule type important? There are three major implications here. First, the number of permitted terms affects the time that a president has available for the implementation of their policy agenda. In Latin America, most presidents rule for either four or five years. If the constitution allows two consecutive terms in office, the president seeking re-election has in total more time – eight to ten years – to implement their policy programme. Second, the number of permitted terms influences just how far the incumbent's advantages can be consolidated. The longer the time in office, the larger the risk of patronage networks sprawling out or state resources being embezzled. Third, the option to stand again for presidential office after a break influences the role of former presidents. If the door is left open to a potential return, they have a strong incentive to keep pulling the strings from behind the scenes and to maintain their power networks. At the global level, the circumstances surrounding Russia's Vladimir Putin are the most prominent example of such a staged comeback.

The incentives to wait in the wings for a return to the presidency are particularly strong if presidents are still young, and further if they are not offered alternative career options due to a weak private sector. This is why the Mo Ibrahim Foundation launched a prize for leadership achievements that grants selected former heads of state an award of USD 5 million over 10 years. Liberia's former head of state Ellen Johnson Sirleaf was the last chosen laureate, after having respected the country's two-term limit.

Paths of Stability and Change

The rule type prevailing in the respective countries today is the result of a long-term process and, in many cases, it is unlikely to be the final word thereon. Both the

direction and the frequency of change are important. In the reform fever that has swept the two regions in the last few decades, reforms were directed towards easing the possibility of a presidential comeback – either immediately or at some point in the future. Nonetheless, the recent cases of Ecuador (2018) and Togo (2019) also reveal opposing trends. The individual trajectories of the presidential term-limit rule are quite singular meanwhile, but many of these processes show recurrent features and some general trends appear across time and regions. Below we outline six individual trajectories – three each from Africa and Latin America respectively – as well as their recent consequences for electoral turnover.

From Toothless Term Limits to Stability: Chad, Ghana, Senegal

Term limits are associated with democratic rule, but may also be present in authoritarian constitutions. In the latter, they are frequently toothless. In Chad, its introduction feigned liberalisation but never actually constrained the incumbent's time in office. The authoritarian leader Idriss Déby introduced twice a two-term limit as a strategic move, but he also made sure that it does not pose a threat to his power. In 1996, Déby's government was under pressure from France to complete the constitutional consultation process after he had ruled for six years under a transitional charter. In the meanwhile, many other African countries had adopted democratic constitutions in which term limits were a standard feature. However, the term-limit clause was abolished in 2005 before it could prohibit Déby from running for another term. In his 2016 election campaign, still-incumbent Déby pledged to reintroduce the term limit in order to facilitate electoral turnover.

At first sight, this might seem a surprising move by a leader who until then had ruled the country uninterrupted for some 26 years. However, the re-introduction of the term limit was accompanied by the creation of a full presidential system of government that granted an already powerful president even more prerogatives. Moreover, the new term limit does not apply retroactively. Thus Déby is allowed to run for another two terms and to potentially rule until 2033, which would mean a total of 43 years in power. Besides Chad, there are a few other examples of countries in Africa ruled by a long-term leader and where the term limits prescribed in the constitution do not constrain the prospects of the ruler in the near future (such as Equatorial Guinea, the Republic of Congo, Rwanda, and Togo).

In contrast, Senegal is a puzzling case where the inscribed term limit has never induced an incumbent to step down but where term-limit reforms have increasingly steered public debate and mobilised public protest. Moreover, electoral turnover occurred twice – in 2000 and 2012 – despite the unstable term-limit rule. The country's legacy of constitutional restrictions to presidential tenure dates back to 1970, when a two-term limit was introduced for the first time. In 1991, the two-term limit was introduced for a second time – but incumbent Abdou Diouf initiated its elimination in 1998, long before it would have forced him to step down. Two years later, the electoral victory of Abdoulaye Wade brought to an end the Parti Socialiste's 40-year rule. Following his campaign pledges, Wade launched constitutional reform that hardly cut any presidential powers but which did re-introduce a term limit. However, in his second presidential term, Wade argued that his first term did not count towards the two-term limit rule because it was only introduced after he

had come to power. The Senegal Constitutional Council shared Wade's interpretation, and he was allowed to run for another term in 2012. Yet civil society and the opposition responded with intense protests to Wade's third-term bid, and he eventually lost the elections (Heyl 2019).

Wade's successor Macky Sall pledged in his own campaign to respect the term limit. However, in the most recent constitutional reform of 2016 the term-limit rule was softened through the adoption of more ambiguous wording. Moreover, Sall sacked a public official in October 2019 after he had publicly stated that the Senegalese constitution does not allow Sall to stand for a third term. In his last press conference of 2019, Sall refused to identify a clear position regarding his potential third candidacy (Diop 2020; Rogers 2019). These recent events show that the history of presidents contesting the term limit continues, but the heated public debate in response to these attempts also suggests that Senegalese civil society is gearing up to defend the term limit once again.

Still, not all African term-limit rules are subject to contestation or manipulation. The case of Ghana proves the opposite in fact. The country's term-limit rule remains untouched since its introduction in 1992, and it induced two electoral turnovers in 2000 and 2008. Ghana has a stable two-party system and regular alternation in power. Moreover, electoral turnovers there are not only the result of the two-term limit. In the most recent presidential election of 2016, then-incumbent John Mahama was defeated after having served only one term. Benin, Mali, Liberia, São Tomé e Príncipe, and Sierra Leone are other examples of African countries in which the term limit is respected and has induced electoral turnovers. In ones like Mozambique and Tanzania, term limits were also repeatedly respected; here, presidents changed but the dominant party still remained in power.

Seeking Continuity with Different Term Limits: Argentina, Uruguay, Bolivia

The variety in Latin American presidential term limits and their different implications became evident during the three presidential electoral processes that took place last October in South America. In Argentina and Bolivia, the incumbent presidents were seeking re-election. In Uruguay, it was the ruling party that was seeking to keep hold of the presidency for a further term. None of them ultimately achieved what they were looking for, but the consequences were different for each.

Back in the 1980s, when these countries – as many others in the region – made transitions to democracy, the presidential-term-limit rule looked quite similar for all three: presidents could run again for executive office, but they had to wait for an interval of one term because constitutional rules banned immediate re-election. Since then, the term-limit rule has followed different trajectories in the three cases and today it only prevails in its original form in Uruguay. Since democratic transition in 1985, two presidents have returned to their position after a five-year interregnum in accordance with the constitution. The last one was President Tabaré Vázquez (2005–2010, 2015–2020), from the leftist alliance Frente Amplio. Under different presidents, the Frente Amplio has been governing uninterruptedly since 2005. But in the most recent elections, it lost in the run-off by the very narrow mar-

gin of just over 37,000 votes. Not only were the electoral results tight, but they were also only confirmed some days after election day – when the electoral court finally concluded the counting of absentee ballots. Nonetheless, the losing Frente Amplio peacefully accepted the defeat. A party alternation will take place in Uruguay with the changeover of government in March for the first time in 15 years. The long spell of same-party government did not involve rule change, nor a deterioration of the electoral process.

In Argentina, Mauricio Macri (2015–2019) was seeking re-election last October, but he lost in the first round. His defeat meant the return to power of the Peronists, who had run the presidency for three consecutive terms before Macri. In 1994, a constitutional reform authorised immediate re-election in Argentina.^[4] Then-ruling President Carlos Menem (1989–1995) was able to profit from it and, indeed, served another term (1995–1999). The term-limit rule has been stable since then. Menem tried to circumvent it in the late 1990s, but failed. The chances to profit from re-election have been uneven though, with the Peronist Party traditionally being electorally stronger: the Kirchner couple – first Néstor (2003–2007), then his wife Cristina (2007–2011, 2011–2015) – ruling, as noted, for three consecutive terms, if taken together. As the comparative literature suggests, rule authorisation in almost every case means that the president will seek re-election; moreover, a re-election bid is likely to be successful, as incumbents have plenty of advantages in electoral contests.

In Latin America, between the late 1970s and 2017 incumbents sought re-election on 27 occasions and only failed on three of them (Marsteintredet 2019). Macri's recent defeat adds to the minority group, but his single-term presidency has some additional historical relevance for Argentina. In fact, Macri finished his term despite severe socio-economic constraints and against a historical background of political instability that has particularly affected non-Peronists governments. In a context of political and economic crisis, party alternation in power provided for an institutional exit – much in contrast to the situations of protest and social unrest that erupted in several neighbouring countries (Llanos and Maia 2019).

Events in Bolivia, meanwhile, contrast with the previous two cases. Morales, the charismatic leader of the Movement to Socialism (MAS) and president of Bolivia since 2006, sought a fourth presidential mandate in last October's presidential elections despite having been defeated in the 2016 referendum, when his country's people rejected a constitutional reform to allow him to run for another consecutive term. This outcome was thanks also to a controversial ruling by the Constitutional Court that in 2017 changed the meaning of the 2009 constitution, stating that rules limiting the president's chance to run for office again violated constitutional political rights.^[5] But the electoral results of October 2019 did not turn out as expected by the president. They were objected to on the grounds of allegations of serious fraud, which triggered weeks of intense and violent popular protest. Facing the withdrawal of support from the heads of the armed forces and the police, Morales resigned and fled abroad. Now he lives in exile in Argentina, and cannot stand as a candidate in the recently announced presidential elections that will take place on 3 May.

These are not just idiosyncratic cases. They tell stories that will also look familiar to readers in different contexts. The cases of Ghana and Uruguay represent seemingly robust rule within the framework of consolidated party systems. Where rules are followed and respected, such as in these two countries, parties alternate in

⁴ Presidents rule for four-year terms and can be re-elected for another immediate one. After these two consecutive terms, they may come back following an interval of four years.

⁵ According to different press reports, the Constitutional Court will decide on the legality of this decision soon. Morales had already been favoured by a court ruling in 2013, which allowed him to run for the presidency in 2014. On that occasion, the president circumvented the presidential term limits. The argument was that the constitution of 2009 had installed a new institutional setting, such that the presidential term he had served before it did not apply in the successive counting.

power peacefully and regularly. In contrast, presidential term limits are toothless in authoritarian contexts, such as Chad, where rule stability or change do not necessarily involve changes in the political regime. Meanwhile, recurrent amendment or reinterpretation leading to progressive rules' relaxation in consolidating democracies, such as Bolivia, shows how personalisation hinders democracy. As this example demonstrates, the leader's exit may occur through undemocratic means under very dramatic conditions. To work as an effective check in these contexts, the term-limit rule cannot operate in isolation. It needs support from other institutions that also provide checks to presidential power (such as courts or the legislature), a viable opposition, and an active civil society. The role of the partisan opposition and the active engagement of the citizenry has been crucial in the cases of Argentina and Senegal meanwhile.

Ambiguous Effects in the Grey Zone

We have seen that in theory, presidential term limits are rules that strengthen liberal democracies, but that, in practice, their assessment is difficult. They exist in authoritarian and democratic settings alike, and we need to analyse them in context to understand what role they play. This is particularly important regarding term-limit reforms. Very often such reforms take place in a grey zone wherein democratic and authoritarian practices co-exist. Their amendment may work in either direction depending on the broader context. By looking at the adopted rule types, the direction, and the frequency of reform, as we have done in these pages, we can better assess the consequences of the reform enacted. Despite the variety of individual trajectories, the – usually frequent and progressive – relaxation of the term-limit rule brings about a democratic weakening. In the extreme cases, term-limit abolition is a good indicator of a democratic backlash – and usually the last step in a series of institutional assaults that have previously led to executive aggrandisement (Bermeo 2016).

Yet, compliance with term limits and the occurrence of the electoral turnover of power alone do not guarantee democracy. We have learnt that the association of term limits with democracy in practice is more complex than the theory suggests. Sometimes leaders elected in a turnover do not pursue agendas that foster democracy and socio-economic development, as we have seen in Senegal in 2000 – where the turnover president Wade subsequently ruled in an autocratic way. In weak democratic contexts, the sound functioning of other political institutions, civil society, and the media, as checks on the executive, is crucial. However if electoral turnovers are a credible possibility in competitive settings, they provide a horizon to navigate towards and fuel expectations of change – which in turn enhance commitment to the rules and may induce stronger checks and balances, such as independent courts.

Even if the consequences of term limits and electoral turnover are not straightforward, what we do know is that term limits are potentially important checks on power and also that they are increasingly socially valued. This is noticeable in Africa, where the rule – in spite of its only rather short existence to date – seems to be taking root. The Afrobarometer survey reveals that a large majority of the interviewed Africans support presidential term limits. In the most recent survey round, 74 per cent of respondents across 33 countries agreed with the idea of two-term

limits; the level of support for it remained stable in comparison to the last survey rounds (Afrobarometer 2020). Moreover, presidents' manipulations have driven numerous people to the streets to demand rule reinstatement, as we have recently seen in Guinea.

Presidential term limits have repeatedly come under political pressure. As a principle, they are likely to remain in the respective constitutions even while their contestation continues here and there. The form and path that their reform follow in practice will need to be monitored closely, because they always have something to tell us on the state of democracy, the risk of backlash, or regarding the chances of regime liberalisation.

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The functioning of presidential systems and the relations between the different levels of government are investigated within RP1 “Accountability and Participation,” particularly within the Democratic Institutions Research Team. The team analyses, among other topics, issues concerning electoral politics, aiming to assess the extent to which economic challenges and political and social constraints impact on electoral outcomes.

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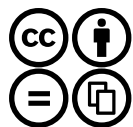
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