

PRESIDENTIAL TERM LIMITS AND DUBIOUS DIPLOMATIC DISCOURSE.

An open letter to His Excellency Peter Fahrenholtz, German Ambassador to Rwanda.

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Your Excellency,

Dear Ambassador Fahrenholtz,

On 18 May 2015, the New Times published [an exclusive interview](#) you gave and which I read with great interest. I usually do not write open letters to diplomatic envoys. Exceptionally, I wish to do so in order to react to the important statement you made in this New Times interview concerning the topical issue of presidential term limits.

As you know, in several African countries – including Burundi, the Republic of the Congo and the Democratic Republic of the Congo (DRC) – the enforcement of constitutional presidential term limits is the subject of political controversy, civil society activism and scholarly analysis. In Rwanda, a movement to amend the Constitution has gained momentum. Around the time of your interview, an impressive number of [petitions were handed over to parliament](#) calling for a removal, ahead of the 2017 elections, of the presidential term limit currently laid down in article 101 of the Constitution (“*The President of the Republic is elected for a term of seven years renewable only once. Under no circumstances shall a person hold the office of President of the Republic for more than two terms.*”)

The New Times asked your comments on the ongoing debate over the amendment of the Constitution which would allow President Kagame to run for office in 2017. To inform the other readers of this open letter, let me quote your answer to that question before making some comments on it.

“It is not up to me to say who should be the next president of this country or the constitution should be changed or not. It is really not up to me to say anything about this. It depends on what the Rwandan people want and what is the best for this country.

Rwanda has been very successful for the last 21 years. It has achieved tremendous amounts of security, stability, peace, progress, the life of everybody is getting better, and also the future should be like that.

Politically, it depends on what the majority of people want. If the majority or everybody in the population want the same thing, then what can go wrong? That is the most important thing that every country in the world needs to have. The problem is divergence when some part of the population wants to do this and another part wants to do that or some political leaders want to do this and the population want to do that. In Burundi for example, where is the consensus of the population?

This is why democracy is the best system; it is about what the majority of people want. If the majority is behind you, then you know where to go and everything will be fine.

Looking at the process, we can expect a clear process to change the constitution and rules are there. I am sure we will have a completely transparent and fair process to change the constitution and to have elections. I am sure, absolutely sure of that and it is really up to the people of Rwanda to make the necessary decisions.”

Before raising some critical questions and observations, I want to thank you, first of all, for making it abundantly clear why the international community is so often perceived as an unreliable partner of citizens and movements promoting constitutionalism in their countries and on the African continent more generally.

Next, I invite you to take another look at your own words from the perspective of citizens and political actors in those other African countries I mentioned above. Here’s some questions and some observations I would like to share with you.



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1. You start off by stating that it is really not up to you to say who should be the next president of Rwanda and whether the constitution should be amended. That may seem like a standard and redundant statement ambassadors usually make when asked about the internal affairs of the country to which they are accredited. In this case, however, this clarification is very useful. Otherwise, when reading the remaining part of your answer, New Times readers might have the impression that you enthusiastically embrace the prospect of president Kagame's election for a third term after a smooth constitutional amendment.
2. I am puzzled, however, by the statement you make earlier on in the interview regarding Burundian president Nkurunziza. Indeed, you state that "*it would be wise for him to step down*" and you explicitly advise him to "*use wisdom and [...] just step aside and let the country move forward*" (p. 6). So, while it is not up to you to say who should be Rwanda's next president, it is up to you to say who should not be Burundi's next president, correct? What explains the difference? And how do you apply that seemingly incoherent German policy to DRC and president Kabila and to Congo (Brazzaville) and president Sassou-Nguesso, both of whom are about to reach the end of their last constitutionally permitted term?
3. The second paragraph of your answer refers to the fact that Rwanda has been very successful in achieving security, stability, peace, progress and a better life for everybody. Am I correct in concluding that, in your view, constitutional presidential term limits apply to 'bad autocrats' and not to 'good autocrats'? ('Autocrats' indeed, quite surprisingly, you are not crediting Rwanda for its democratic performance.) But, in your view, who decides who belongs in which category? The people of the country concerned? Well, that is exactly the argument president Nkurunziza is putting forward: let the ballot box decide whether I can rule for another term!
4. Might your position evolve over time? Would it make a difference if, in the run-up to the 2017 elections and to protest against a third mandate of president Kagame, citizens take to the streets of Kigali, or if a palace revolution is staged against him, or if an insurrectional movement is launched from abroad? You may consider these scenarios to be very unrealistic now. But perhaps they will not remain all that unlikely. Indeed, when comparing the German position on Rwanda and on Burundi, here is one of the major lessons the Rwandan opposition might learn from the Burundian crisis. Only if presidential term limits give rise to insecurity and instability, they are of concern to the international community. If they do not, you turn a blind eye. That reads like an invitation to launch violent protests. That being unrealistic in the short term, your position for the time being sends the signal that autocrats who do not tolerate any dissent or independent media and nip potential protests in the bud have nothing to fear and can play with the constitution at their convenience.
5. You claim that "*If the majority or everybody in the population want the same thing*", nothing can go wrong. You add that divergent opinions and a lack of consensus are a cause of trouble. That is quite a remarkable thing to say, in particular in a region where minorities – with dissenting views and/or different needs and aspirations – have been victimized on a massive scale. Of course, in post-genocide Rwanda, ethnicity has been reduced to a historical error and wished away by decree as a no longer politically salient factor. But in Burundi, a different choice was made, including in the internationally celebrated Arusha Agreement, with assurances for minority ethnic groups and their political representation. Suppose president Nkurunziza took the oath for a third term in August 2015. Are you suggesting that, if he organizes a referendum in 2016 and gets the support of the majority to remove presidential term limits, things will be just fine?
6. Respecting presidential term limits is a matter of respecting the value of constitutionalism. However, you welcome a process to amend the constitution if that is done in a transparent manner in accordance with the constitution. Did you have the chance to share that wisdom with the African Union and with your former colleague U.S. Great Lakes Envoy Russ Feingold? The [AU Charter on Democracy, Elections and Governance](#), which Rwanda ratified in 2010, bans a number of unconstitutional changes of government, including "*Any amendment or revision of the constitution or legal instruments which is an infringement on the principles of democratic change of government*" (article 23). When [addressing the US Institute of Peace in February 2015](#), Feingold reiterated the view he earlier expressed on DRC that "*Changing constitutions and eliminating term-limits to favor current incumbents is inconsistent with democratic principles, reduces confidence in democratic institutions, often leading to serious instability, and undermines the legacy and legitimacy of any individual who demands such steps*". True for DRC, but not for Rwanda, in your view?

Looking forward to your reply and thanking you in advance for clarifying a - at first sight - incoherent, dangerous and hypocritical statement.

Respectfully yours.



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