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Changing the Rules: Institutions, Party Systems, and the Frequency of Constitutional Amendments in Africa

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Abstract

What factors influence constitutional stability in the emerging democracies of Sub-Saharan Africa? This is an important question that has never been addressed in a systematic cross-national study of Africa's emerging democracies. Using the Comparative Constitutions Project dataset and our own original dataset for veto players and party systems, we examine the influence of veto players and party system characteristics on the frequency of constitutional amendments in the electoral periods between 1990 and 2020 in forty-one African countries. Our results provide broad support for the veto players theory. More specifically, we find that as the number of actors needed to approve of a constitutional amendment increases, the likelihood a constitution will be amended decreases. The strength of party veto players also influences whether a constitution is likely to be amended. Furthermore, our results underscore the importance of party system characteristics in influencing amendment frequency.

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Keywords

Constitutional amendment, constitutions, democratisation, political party systems, veto players

Introduction

Identifying the factors contributing to institutional change is central to understanding the politics of transitioning societies. As African societies move away from “Big Man” rule, governing by fiat, towards more democratic forms, the established rules constraining political competition and the legislative process become more important. An important aspect of the question of institutional change is the frequency of constitutional amendments. Despite increasing awareness of and attention to the centrality of institutional politics to political development in Sub-Saharan Africa (hereafter simply Africa), a comprehensive cross-national study of constitutional amendment frequency in the emerging democracies in Africa has been lacking. Addressing this lack of attention to constitutional change in Africa contributes to the growing awareness of the role institutions play in African politics. This is more than simply a geographic extension of the existing literature on amendment frequency. By testing principals of institutional analysis in Africa, we are subjecting them to a crucial test. If we were to find that institutional approaches yielded different results in the African context, this would undermine the claims of advocates of the institutional approach to the generalisability of their framework.

We present a study of the factors that influence constitutional stability in the electoral periods between 1990 and 2020 in forty-one African countries. We find evidence underscoring the importance of veto players theory and party system characteristics, especially with regard to electoral volatility and the age of established parties. As Tsebelis (2020: 5–6) notes, several scholars (e.g. Ginsberg and Melton, 2015) have argued that institutional factors play only a minor role or no role at all in determining the rate of constitutional amendments. Democratic institutions were established relatively recently in many African countries, and this region comprises relatively few consolidated democracies. Therefore, our study constitutes a difficult test of the claim that institutions matter for the rate of constitutional amendments, rendering our findings even more notable. Furthermore, examining constitutional amendment frequency in Africa is important in its own right.¹ Fombad (2014) argued that increased frequency of amendments undermines constitutional legitimacy. Therefore, expanding our empirical understanding of the factors that contribute to or constrain amendment frequency is an inherently important undertaking.

Why Study Constitutions in Africa?

Africa is an excellent setting in which to examine constitutional amendment frequency. Fombad (2014: 430) observes that there have been “three generations of constitution-

building” in Africa which include “the colonial ‘constitutions,’ the postcolonial or post-independence constitutions and the post-1990 constitutions.” Most African countries now have new constitutions or have made significant changes to their pre-1990 constitutions (Fombad, 2014: 438).

Despite the prevalence of constitutional change, many echo Prempeh’s (2008: 110) lamentation that, “...the modal African presidency has emerged from the recent round of democratic reforms with its extant powers substantially intact.” In Zambia, for example, many constitutional reforms that have taken place, but executive power is still robust (Hinfelaar and Wahman, 2021). Poteete (2010) describes how some constitutional amendments intended to strengthen the parliament or rein in the executive in Botswana have failed to have the intended effects. For example, the Independent Electoral Commission was established through constitutional amendments in 1997 but has not functioned as hoped because of its dependence on the executive (Poteete, 2010: 15).

Although opposition leaders may champion decreasing executive power, their perspective tends to change once in power (Prempeh, 2008: 112). The case of Senegal’s President Abdoulaye Wade is illustrative. Upon election, President Wade facilitated the adoption of the 2001 constitution that addressed concerns that had been expressed by the opposition and public. Wade campaigned on abolishing the Senate and reducing the presidential term to five years. He also opposed former President Abdou Diouf enlarging the National Assembly from 120 to 140 seats. The 2001 constitution established the National Assembly as the only parliamentary chamber, changed the presidential term from seven years to five years, and set the number of seats in the National Assembly to 120. In 2008, however, the Senegalese Constitution was amended to change the presidential term from five back to seven years and to enlarge the National Assembly to 150 seats. The Senate was also reestablished; 65 of the 100 Senators were to be appointed by the president (Kuenzi, 2011). Fatima Diallo’s (2013) paper notes that the 2001 Senegalese constitution was amended over fifteen times during Wade’s tenure in office, mostly in ways intended to allow Wade to maintain power and transfer that power to his son, Karim Wade (cited in Fombad, 2014: 444).

The adoption of constitutionally imposed term limits, however, represents an institutional barrier to the indefinite terms of office that long defined executive power in Africa. Posner and Young (2018) argue that the growing importance of formal institutions is reflected in how executives have reacted to term limits. Most presidents accepted the term limits. Those who did not attempted to change the constitution. “This all points to the emergence of a new equilibrium whereby actors...locate the source of political authority in the constitution rather than in a monopoly on the use of violence” (Posner and Young, 2018: 262). This assertion is part of a broader literature emphasising the trend towards more democratic constitutions. This pattern has been observed especially in Namibia and South Africa as well as Kenya (Ndulo, 2018), where democratic constitutional reform had previously not met with success (Cottrell and Ghai, 2007; Ndegwa, 1998). The Kenyan Constitution of 2010 strengthened the legislature (Kadima and Owuor, 2014: 167), increasing its independence (Opalo, 2019).

The rate of constitutional change for democratic development in Africa has ambiguous implications but most scholars agree they are important. Hessebon (2014: 188) sees the desire to correct the shortcomings associated with the previous round of constitutional reforms as driving recent constitutional change. In contrast, Fombad (2014: 447) contends that “The frequency with which most African post-1990 constitutions are being revised not only erodes their legitimacy but also impacts negatively on their implementation and is the main cause of constitutional fragility.” Fombad (2014) observes that most constitutional reforms, even in more democratic countries, are intended to bolster those in power. By example, Fombad (2014: 442) notes that amendments to the South African Constitution established controversial floor crossing rules likely to hurt small opposition parties but leave the African National Congress (ANC) unscathed. Floor-crossing was abolished, however, once significant divisions in the ANC emerged that made floor-crossing more threatening to the ANC.

Some scholars (e.g. Bayart, 1993; Chabal and Daloz, 1999) contend that formal institutions have little influence in African countries (Cheeseman, 2018). If politics is dominated by informal relationships to the point where rules and institutions are not salient, the incentive to rearrange those rules and institutions declines. Similarly, if politicians cannot anticipate their place in the institutional context, they will not know how best to arrange those institutions for their own benefit. In either situation, the incentives to amend a constitution lessen. The rate of constitutional amendment in African countries suggests that formal institutions matter in political life.

Most African countries are now multi-party, electoral regimes (Gyimah-Boadi, 2015: 101); trends over time, however, are not unambiguously moving towards party system institutionalisation (PSI) (Kuenzi et al., 2019).² New parties enter the system often while the electoral support for existing parties can rise and fall dramatically (Kuenzi et al., 2019; Kuenzi and Lambright, 2001, 2005; Weghorst and Bernhard, 2014).

As countries transition from the pure authoritarian regime towards more competitive forms, constitutions take on greater importance. It is precisely these countries in transition on which our research focuses. Most research on constitutional change focusses on established democracies (e.g. Karlsson, 2016; Lorenz, 2005; Tsebelis and Nardi, 2016). Two particularly important features of this literature are the “rigidity” of the constitution (Karlsson, 2016; Lorenz, 2005) and length (Tsebelis, 2017; Tsebelis and Nardi, 2016). Rigidity refers to the difficulty of the amendment process itself. Karlsson (2016) finds evidence that an additive index of constitutional features making amendments more difficult is associated with fewer constitutional changes. However, Tsebelis and Nardi (2016) find that institutional barriers to amendment are insufficient to explain the pattern of amendments observed in OECD democracies (Tsebelis and Nardi, 2016). Indeed, they find that lengthy constitutions are more likely to be amended than shorter ones.³

This research agenda has been extended beyond the OECD democracies to include democracies in other regions especially in Latin America but also Asia and some African states as well (Albert, 2015; Linder and Bachtiger, 2005; Negretto, 2012; Tsebelis, 2017). However, most of the attention given to African states has focused on

the most established democracies on the continent, especially South Africa. We are interested in examining the institutional and party system constraints on constitutional amendments in a wider range of regimes.

Our interest in constitutional amendments originates from our interest in the salience of political institutions in general in transitioning states in Africa (e.g. Brambor, Clark and Golder, 2007; Patterson and Stewart, 2009; Posner and Young, 2007; Reyntjens, 2016). Much of the research on the increasing importance of institutions in emerging democracies has focused on PSI as a dependent variable (e.g. Dalton and Weldon, 2007; Kuenzi et al., 2019; Manning, 2005; Weghorst and Bernhard, 2014).

Despite the strong role of presidents in most African regimes,⁴ they often depend on the support of coalitions of political groups to remain in power and implement their agendas. Even in authoritarian regimes, some basis of support is required (e.g. Geddes and Zaller, 1989; Geddes et al., 2014). Furthermore, because of the fluidity of the party systems, when the legislature's agreement is required to change the constitution, it is likely that a coalition of two or more parties will be required to pass the amendment. The veto player logic leads us to expect that the more parties there are in the legislature, the more likely a multi-party coalition will be required for passage, making passage less likely.

The Importance of Institutions

In Tsebelis' (1995, 2002) approach to understanding political institutions, a veto player is any actor whose agreement is required to change the legislative status quo. These can be institutional veto players such as a president or a chamber in a legislature. They can also be partisan veto players such as a political party that, because of its electoral success, is in a pivotal position in the decision-making process. As the number of and political conflict between veto players increases, changing the status quo becomes more difficult (Tsebelis, 1995, 2002).⁵ While much has been written about veto players in developed democracies, little attention has been given to the role of veto players in developing and emerging democracies.⁶ We contend that veto players play similar roles in African countries with competitive elections, even where democratic consolidation is incomplete, as they play in more established democracies in other parts of the world. We expect that the number of veto players should limit the frequency of constitutional amendments.

Tsebelis' (2017) argues that constitutions are stable so long as they reflect the preferences of the actors whose agreement is required to change them. When the actors, their preferences, or the issues themselves change, constitutional amendment is possible. The veto player effect, as it applies to constitutional amendments, is also related to the concept of "rigidity" as discussed above (Karlsson, 2016; Lorenz, 2005; Tsebelis, 2002). We explore these concepts with two related hypotheses. First, we examine the number of institutional actors whose agreement is required to change the constitution. This is a direct measure of the number of institutional veto players. For example, in countries with a bicameral legislature, and where both chambers must independently approve the constitutional amendment, we count each chamber as a discrete veto player. We also

consider other institutional veto players such as presidents, sub-national units or popular referenda when the approval of those actors is required for the passage of an amendment. The total number of veto players thus reflects the total number of institutional actors whose approval is required for the passage of the constitutional amendment.

Hypothesis 1: As the number of actors required to change the constitution increases amendments to the constitution become less frequent.

A related issue to the number of actors required to change the status quo is how close the largest party in the system is to being able to make unilateral changes. A single dominant party supported by several smaller parties is a common pattern in Africa's new democracies (Bogaards, 2008; van de Walle, 2003). The more control the largest party has over the legislative process, the more control it will wield over any changes to the constitution. As the largest party's share of the seats in the legislature increases, the more concentrated we expect political power to be. As legislative dominance increases, we expect it to be easier to amend the constitution. And this leads us to our next hypothesis:

Hypothesis 2: As the largest party in the system's seat share approaches, or exceeds, the threshold for unilateral amendment, amendments will become more frequent.

However, one of the difficulties in analysing the politics of Africa is that the party systems can be so unstable that party affiliations can be less important than ethnic, regional, or other demographic identities. There is considerable research that underscores the importance of ethnic fractionalisation to African politics. Nevertheless, even in countries where ethnic politics dominate, ethnic identity can play a similar role to partisan veto players (e.g. Buttorff, 2015; Kuenzi and Lambright, 2005; McCauley, 2014; Posner, 2004a, 2004b). It is likely that ethnic groups' political influence allows them to block changes, much as partisan veto players would in OECD democracies. To evaluate the possibility that ethnic groups act as veto players, we test the following hypothesis:

Hypothesis 3: More ethnic diversity in the system will make amendments less frequent.

Because African politics is often characterised by shifting party loyalties and the distribution of patronage, we can envision a political world in which an unstable party system leads to parties' shifting institutional preferences. As preferences for institutional arrangements become more fluid, the frequency of efforts to change those institutional arrangements should increase.

Increased volatility can change parties' positions in the system altering the strategic context in which parties find themselves. Volatility can result from new parties entering the system, older parties departing or electoral support shifting from one party to another. All of this is especially likely in the African context because so many parties are vehicles for prominent individual politicians. Indeed, it is common for such political actors to

rename or completely reconfigure their party organisations to suit new needs and priorities. This, in turn, can lead to increased demand for changes to the institutional context in which the parties operate.

Shifting electoral support can change parties' preferred electoral rules. However long lived the party is, this can also change that party's preferences for institutions. Suppose a party that has been in power for some time experiences declining electoral support. They may wish to lock in policies by putting them in the constitution or change electoral rules to reflect their new strategic position. Similar changes in preferences can occur in opposition or smaller supporting parties as well. In any case, changing electoral fortunes can lead to increased demand for institutional change.⁷

Hypothesis 4: As electoral volatility increases, amendments to the constitution should become more frequent.

While many African political parties are largely vehicles for the personal political careers of particular politicians, in some African countries, parties have stabilised enough to outlast the public careers of their leaders. Longer lived parties are defined more by their positions in the country than by their current leaders' needs of the moment. Such parties may pay more attention to institutions. In this context, the age of parties is a reasonable indicator of the focus on institutions as opposed to personal politics. Kuenzi and Lambright (2005) found some evidence that the average age of parties is associated with improved democratic characteristics. Furthermore, older parties accumulate expertise and experience over time that enable party leaders to have clearer preferences about their position in the system and how best to optimise the constitution to suit their needs. We expect that as parties age, the politicians in them become more confident in the constitutional characteristics they desire.

Hypothesis 5: As the average age of parties increases, amendments to the constitution will be more frequent.

Data and Methods

Our dataset includes constitutional amendment data for forty-one African countries⁸ that held multi-party legislative elections between 1990, the year largely seen to mark the start of the democratic era in African politics (Bleck and van de Walle, 2019), and 2020 with country-electoral period as the unit of analysis.⁹ We look first at those countries holding continuous multi-party elections regardless of their level of democracy (forty-one countries). To control for regime type, we use the Polity IV score which ranges from -10 to 10 with higher values being associated with more democracy (Marshall et al., 2017). We transformed this to a measure ranging from 0 to 20. Controlling for the level of democracy does not fully address the fact that some of the countries that hold elections do not qualify as minimally democratic which means that elections are not competitive. Polity scores below the midpoint suggest that governments control elections to a degree that

affects party system dynamics (Mainwaring and Zoco, 2007: 158). We are interested in examining the determinants of constitutional amendment in emerging democracies in which elections are not completely controlled by the government. Indeed, the hypotheses put forward in this paper apply best to regimes that are at least minimally democratic. Therefore, following other studies that use a Polity score close to the midpoint as the democracy cutoff (e.g. Butkiewicz, and Yanikkaya, 2007; Mainwaring and Zoco, 2007 *inter alia*), we restrict our sample to those twenty-eight countries with a Polity score above 10 (that would be a Polity score of 0 on the original scale). As additional robustness checks, we run the models with a cutoff one point above and one point below that used for our core model (please see Table A2 in the online appendix).

Our unit of analysis is the span of time between elections or election period. We use this as the unit of analysis because many of our variables of interest (largest party size, electoral volatility, etc.) are constant throughout this period. Using year would therefore over count the values of such variables. Using election year would omit many of the amendments that take place between elections. The mean number of observed electoral periods per country is 3.1 for the sample of countries with a polity score above 10. The number of elections (and thus electoral periods) and electoral calendars differ among the African countries included in this study ranging from 1 electoral period to 5 per panel. We characterise our dataset as a longitudinal cross-sectional time-series (TSCS) with highly unbalanced panels and a limited number of observations per panel. This allows us to accept the critical assumptions of a TSCS model, such as the assumption of pooling (i.e. stacking observations by units). Specifically, this assumes that all units can accurately be captured through the use of a single regression equation at multiple points in time (Stimson, 1985).

Operationalisation

The dependent variable, whether the constitution was amended during the electoral period, is derived mainly from the Comparative Constitutions Project (CCP) dataset which we corrected and significantly expanded to correspond with our sample of countries.¹⁰ The CCP distinguishes between several constitutional events: amendments, new constitutions, and interim periods. Our measure of the dependent variable only considers constitutional amendment events since the process and political climate around the introduction of new constitutions is not the same as the process of amending existing constitutions. Additionally, amendments are much more frequent in Africa than the introduction of new constitutions.

The variable for the total number of institutional veto players was derived from the text analysis of all current and former constitutions¹¹ of the forty-one countries in our dataset. We focused on the constitutional articles establishing the amendment procedure of the constitutions. We applied Tsebelis' definition of an institutional veto player as any actor established in the constitution whose agreement is required to change the status quo. For example, if the amendment process requires the approval of both houses of a

bicameral legislature and the president, then we determine that there are three institutional veto players.

We also include a variable that captures whether there is more than one way to amend a constitution. This dummy variable takes on a value of one if there is more than one way to amend the constitution and a value of zero if there is only one way to amend the constitution. For example, a constitution can be amended through a majority vote of the national assembly with the possibility of a presidential veto or a higher threshold super majority vote by referendum without the possibility of a presidential veto. Those two ways of amending the same constitution differ and so would the number of institutional veto players reflected in the previous variable depending on which amendment process we coded.

For those constitutions with several ways to amend, we isolated the “easiest way of amending” the constitution by examining the articles of the constitutions related to the amendment processes. We use criteria that would make the amendment more difficult¹² or easier.¹³ These criteria are all based on the veto players logic.

First, we assume that the more actors are required to pass the amendment, the more difficult the procedure of amending the constitution will be. Second, we assume that the more steps in the procedure (even if the same actor decides in more than one step) are required to pass the amendment, the more difficult the procedure. Some amendment procedures require the same actor to approve an amendment twice. For example, a legislature may need to approve twice with an election taking place between the two approvals. In this situation, we treat the two approvals by the same actor as separate approvals by two different actors. Third, we assume that a joint session of a bicameral legislature is an easier hurdle to clear than separate approvals by the two chambers because a joint session would have a single agenda setter, whereas separate sessions for the two chambers would empower separate agenda setters for each chamber. Finally, we assume that higher vote thresholds for passage at any step, whether in a legislative vote or a referendum, make the procedure more difficult.

A key indicator of veto players effects in our model is the ratio between the seat share of the largest party and the percentage of seats required to amend the constitution. This is a measure of the ability of the largest party to amend unilaterally or, barring that, how many allies it would need and how powerful would they be relative to the largest party itself. For example, suppose some party has a seat share of 55 per cent and the threshold for amending the constitution requires a 60 per cent vote. The largest party ratio value in this example is $0.55/0.60 = 0.9167$. This indicates that the largest party has roughly 92 per cent of the seats required to amend the constitution. Suppose that the party had 62 per cent of the seats under the same threshold. In that example, the party's ratio score would be $0.62/0.60 = 1.0333$. This indicates that they have more than 103 per cent of the seats required to amend the constitution. Finally, consider a party that only has a 40 per cent seat share in a system requiring a 60 per cent vote to amend. In that situation, the party's ratio score would be $0.40/0.60 = 0.6667$, indicating that the party has roughly 67 per cent of the seats required to amend. Under our logic, the constitution would be most likely to be amended in the second example, because the

largest party can unilaterally amend. It would be somewhat likely to be amended in the first example because the largest party would need fewer and weaker allies to get over the threshold. The prospects for amendment would be weakest in the third example. Data on the largest party seat share were derived from Kuenzi et al. (2019) and then adapted and extended using the Inter-Parliamentary Union's Parline database, the International Institute for Democracy and Electoral Assistance (IDEA), and the African Elections Database to match the spatial and temporal domains of this study.

To capture ethnic diversity, we employ Alesina et al.'s (2003) index of ethnic fractionalisation. There are several measures of ethnic fractionalisation for African countries in the literature (see Posner 2004a for an extended discussion and comparison). The measure developed by Alesina et al. offers the least amount of missing data of the measures reviewed by Posner (2004a).

To capture electoral volatility, we employ "Pedersen's index of electoral volatility, which measures the net change in the seat (or vote) shares of all parties from one election to the next" (Mainwaring and Scully, 1995: 6). This is the standard measure of overall electoral volatility in the literature. Like Ferree (2010), Kuenzi et al. (2019), and Weghorst and Bernhard (2014), we use seat shares to calculate our measure of electoral volatility because vote shares are not available for many African elections. We employ the average age of parties as an indicator of party system stability (Cruz et al., 2016).¹⁴ As shown in Table A1 in the online appendix, there is considerable diversity among party systems on this measure with party age values ranging from 4.5 to 53 years. We adapted and extended Kuenzi and Lambright's (2001) data on electoral volatility using the Inter-Parliamentary Union's Parline database,¹⁵ the IDEA,¹⁶ and the African Elections Database.¹⁷

We control for the effects of variables that have been linked to constitutional amendment in the literature. We control for two characteristics of constitutions, the length of the constitution, and the age of the constitution. We also account for the level of democracy in a country. We use a measure of economic growth to control for the effects of economic performance. Finally, we control for the length of the electoral period. The descriptive statistics are presented in Table A1 in the online appendix.

Estimation Methods

Since our dependent variable, whether the constitution was amended during an electoral period, is a binary variable and our data are cross-sectional time-series with unbalanced panels, we use time series logit with random effects as our estimation technique. Because we are interested in how the variation in factors across countries (units) influences the likelihood that a constitution will be amended during an electoral period, fixed effects is not an appropriate estimation technique for this study. Several of our independent variables of interest, such as the number of institutional veto players, whether there are multiple ways to amend the constitution, and ethnic diversity are time invariant for the period covered in this study. Moreover, the outcome variable does not vary across electoral periods in some countries. Our diagnostics of the distribution of the error terms indicate

that our models have a low level of heteroscedasticity.¹⁸ We address this issue by running our models with robust standard errors.¹⁹

Results

As can be seen in Table 1, the results of the analysis provide support for many of the hypotheses. In the first column (Model 1), we see the results for all the countries in our sample, including those countries that are relatively authoritarian in nature. In Model 2, the analysis is restricted to those countries with competitive elections.²⁰ The veto players theory is supported by the results displayed in Table 1. The coefficient for the number of institutional veto players is negative and highly significant in both models indicating that the likelihood a constitution will be amended declines as the number of institutional veto players increases, as predicted in Hypothesis 1. In African countries, as elsewhere, the likelihood a constitution will be amended declines as the number of institutional actors required to approve the change increases. The post-Cold War period has been one characterised by a rapid spread of democracy. Institutions have been growing in importance across the continent and therefore the institutional arrangements guiding the amendment process have the effects in the African context one would expect based on theory. The veto players theory is also supported by the results for largest party's ratio of the threshold for unilateral amendment which is significant and positive in both models. These results are consistent with our second hypothesis.

The coefficient for ethnic diversity is negative as expected Model 1 but positive in Model 2. It is not significant in either model, so we cannot conclude that it influences amendment frequency. While hypothesis 3 is not supported, the effects of a country's ethnic demography may be reflected in other institutions which do influence amendment frequency.

Electoral volatility is associated with a higher probability that a constitution will be amended in both Models 1 and 2, although the coefficient is only significant at the 0.1 level in Model 1 which includes electoral regimes that are more authoritarian. We expected that it would be difficult to see the effects of party system characteristics among regimes in which the governing party is able to limit competition. The coefficient for electoral volatility is positive and significant in Model 2, in which the analysis is restricted to only those cases where the government does not control electoral competition. It is not surprising that when the sample is restricted to only those cases in which elections are competitive, the effects of electoral volatility become clear. These results support Hypothesis 4. In addition, we find that, as political parties endure, the salience of constitutions increases leading political actors, such as parties, to try to further their agendas via constitutional amendments. The coefficient for the average age of parties is positive and significant in the models. This result supports Hypothesis 5.

Turning to the control variables, we can see that the length of the constitution influences the amendment frequency in Africa's multi-party systems. Overall, our finding is consistent with that of Tsebelis and Nardi (2016) who find that longer constitutions are more likely to be amended in OECD democracies. The coefficient for our measure of

Table 1. Determinants of Constitutional Amendment.

	Model 1	Model 2
Veto players	-0.892** (0.345)	-1.085*** (0.285)
Largest party ratio	1.971* (0.891)	5.730** (1.937)
Ethnic diversity	-1.294 (1.435)	0.712 (1.434)
Electoral volatility	0.0255 ⁺ (0.0142)	0.0617* (0.0263)
Party age	0.0702* (0.0309)	0.0824* (0.0399)
Executive turnover	-0.801 (0.670)	-1.027 (1.035)
Length of constitution	0.0000493** (0.0000183)	0.0000695** (0.0000257)
Age of the constitution	0.00580 (0.0261)	-0.0209 (0.0306)
Multiple ways to amend	0.883 (0.589)	-0.184 (0.624)
Polity	-0.118 ⁺ (0.0715)	-0.0988 (0.137)
GDP PC change (<i>t</i> -1)	-0.0352 (0.0324)	-0.0736 ⁺ (0.0452)
Length of EP (months)	0.0513* (0.0237)	0.0458 (0.0342)
Constant	-4.322 (2.730)	-9.916 ⁺ (5.233)
Insig2u	-0.267 (1.159)	-14.43 (.)
Observations	127	77

Note: Standard errors in parentheses.

Significance levels: ⁺ $p \leq .10$, * $p \leq .05$, ** $p \leq .01$, *** $p \leq .001$ for a two-tailed test.

democracy, Polity IV, is negative and significant at the 0.1 level in Model 1 and negative but not significant in Model 2. The analysis in Model 2 is restricted to countries in which elections are competitive and thus there is less variation in the level of democracy in Model 2. When the full range of regimes is included in the analysis (Model 1), it appears that constitutions may be less likely to be amended in more democratic regimes. This result is consistent with the idea that the strength of democracy and institutional stability reinforce each other. The coefficient for economic growth is negative in both models and significant at the 0.1 level in Model 2 implying that the system may be less likely to be amended when the economy is performing well. The coefficient for the length of the electoral period is positive in both models but only significant at the 0.1 level in Model 1. It is logical that a longer electoral period would provide a greater opportunity for constitutions to be amended. The other control variables appear unrelated to the likelihood of constitutional amendment.

We explore the substantive impact of the covariates of interest on the probability a constitution will be amended by calculating how a change in the value of our covariate of interest affects the probability of a constitutional amendment when the values of the other independent and control variables are set at their means (marginal effects). As can be seen in the plots in Figure 1, the independent variables of interest have significant substantive effects on the likelihood of constitutional amendment. The large substantive effect of the number of institutional veto players on the likelihood a constitution will be amended is clear. Malawi is an example of a country with only one veto player; a super majority of 66 per cent of Malawi's one legislative house must approve the amendment. It

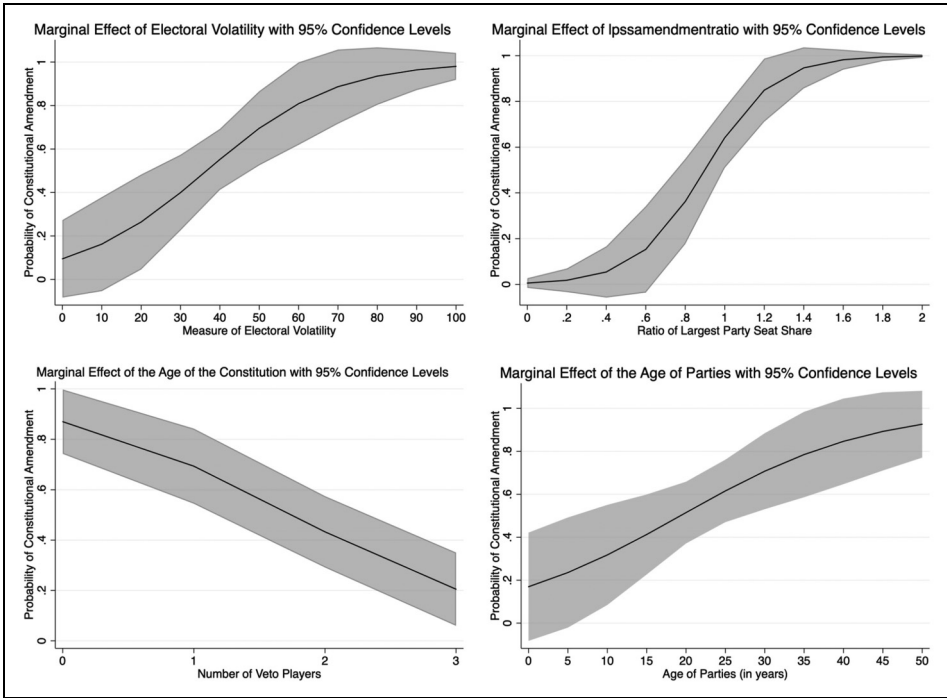


Figure I. Marginal Effect of Key Predictors of Constitutional Amendments with 95 per cent Confidence Levels.

is therefore not surprising that Malawi’s constitution has been amended many times, including three times during the first three years of the constitution’s existence.

A few examples illustrate the importance of the ratio of the largest party seat share to amending the constitution. Nearly all the countries included in our study have or had presidential term limits. To succeed in amending the constitution to either extend or abolish term limits among the countries in our sample, it appears that having a ratio of 1 or above was of great importance. For example, although many constitutional amendments have been made to Malawi’s constitution, the attempts to extend the presidential term limits during President Muluzi’s last term in office failed when the ruling party did not control the requisite proportion of the seats needed to amend the constitution. Of course, having a ratio of 1 or above cannot guarantee the passage of such a controversial amendment as cohesion in the presidential party would also appear to play a role, which President Chiluba found out in his attempts to amend the Zambian Constitution so that he could run for a third term. Although President Chiluba’s Movement for Multiparty Democracy’s (MMD) had more than enough seats to pass a constitutional amendment in the legislature, fifty-nine MMD legislators committed in writing to prevent the passage of an amendment of this type (Dixon and Landau 2019: 382). In contrast, President Nujoma had both well above

the number of seats in the legislature needed to change the constitution and the level of cohesion in his party, SWAPO, to be able to successfully amend the constitution in 1999 so that he could serve an additional term.

The large substantive effect of electoral volatility on the likelihood of constitutional amendment is also evident in Figure 1. Senegal is an example of a country that saw its constitution amended many times after an election that produced a very high level of volatility.

The important impact of party age on the likelihood of constitutional amendment is quite intuitive. Leaders of parties that have endured are likely to have clear ideas of the sorts of constitutional arrangements that are most beneficial to their parties. They are also likely to have mastered the rules of the game and therefore know what strategies are likely to be effective in getting an amendment passed. South Africa has the highest party age in our sample, and not surprisingly its constitution has been frequently amended.

Conclusion

Our results highlight the importance of institutions in constraining political outcomes in African countries. Veto players theory finds strong support in our results. As in other regions, as the number of institutional actors who must agree to a change in the constitution increases, the likelihood that the constitution will be amended declines. We also find that partisan veto players have a powerful effect on the likelihood of constitutional amendment. Taken together, our results indicate that the characteristics of the political party system influence constitutional amendment frequency markedly. As parties become more institutionalised, as reflected in their “age” or years in existence, the constitution’s rules become more and more important. Most of Africa’s democracies are young and therefore the average ages of parties in African countries are lower than those in other parts of the world, even those comprising many emerging democracies such as Latin America (Kuenzi and Lambright, 2001). Perhaps when parties reach the age of the parties we see now in the long-standing democracies such as those in Western Europe, we will see a change in this relationship. High levels of legislative volatility also encourage constitutional amendment for very different reasons. In systems with high levels of electoral volatility, those in power anticipate losing power and wish to have their preferences enshrined in the constitution for the future. These findings point to the important role political institutions play in influencing political outcomes in Africa. Given the youth of democratic institutions and the small number of consolidated democracies in Africa, this finding is even more notable. Our findings do not mean that informal institutions and relationships are not important. As Cheeseman (2018: 27) observes, formal institutions and informal institutions need not be rivals but rather they may have a symbiotic relationship. Some of the findings of our study echo those of studies done on different world regions which supports the notion that certain universal causal processes may be at play when it comes to constitutional change. For example, the rigidity of the constitution, a concept integrally related to veto players logic, and length of the

constitution play important roles in determining the rate of constitutional amendment in Latin America (Negretto, 2012). Although we did not hypothesise about the effect of the length of the constitution, our results also indicate that longer constitutions are more likely to be amended in African countries. Our results point to the importance of the seat share of the largest party in influencing constitutional amendment in the African context. We also find, however, that other party system characteristics play a role.

To the best of our knowledge, this is the first cross-national empirical study to examine the factors that influence constitutional amendment in Africa. Since constitutions are considered the foundation of the rule of law and democracy, understanding the forces that shape them is critical. Our findings indicate a close link between veto players, political party systems, and constitutional amendment. Future research could examine other types of constitutional change in Africa such as the adoption of new constitutions and other factors that space and time did not allow us to explore. Exploring whether there is some type of a tradeoff between different types of constitutional change could also be fruitful.

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Supplemental material

Supplemental material for this article is available online.

Notes

1. We focus exclusively on constitutional amendments. Emergence of new constitutions is an important subject of study but it is a separate one. We are interested in whether amendment frequency is constrained by existing institutional features. Conducting an empirical analysis of the creation of new constitutions would require information about the actors, their preferences, and the rules constraining them that we do not have access to.
2. Nevertheless, it is important to remember that institutionalisation of these party systems is not the same thing as democratization (see Hicken and Kahonta, 2011).

3. We control for both concepts in our model and explain how we operationalize them below.
4. Several countries in our analysis are semi-presidential systems in which the President is the dominant figure.
5. Note that this is largely consistent with historical institutional approaches such as “path dependency” (e.g. Pierson, 2000). Path dependency argues that past institutional choices constrain future options for change. The veto players approach does not reject that overall view but rather offers a specific mechanism by which past institutional choices make future change more or less likely.
6. This is partly due to the difficulty in identifying the ideological positions of African political parties; a key measure of the veto player effect. We use a variety of indicators to measure veto player effects in the countries in our sample. We explain these in more detail below.
7. All these sources of volatility drive amendment frequency in the same direction. As such examining them in combination is the correct approach. Furthermore, there is precedent for aggregating both types of volatility into a single measure (e.g. Kuenzi and Lambright, 2005; Mainwaring and Zoco, 2007; Pederson, 1983; Tavits, 2005). Furthermore, for methodological reasons that we discuss in more detail below, dividing volatility into two distinct measures is problematic in the African context.
8. Benin, Botswana, Burkina Faso, Burundi, Cameroon, Cape Verde, Central African Republic, Chad, Comoros, Congo, Ivory Coast, Djibouti, Equatorial Guinea, Ethiopia, Gabon, Gambia, Ghana, Guinea Bissau, Kenya, Lesotho, Madagascar, Malawi, Mali, Mauritania, Mauritius, Mozambique, Namibia, Niger, Nigeria, Rwanda, Senegal, Sierra Leone, South Africa, Tanzania, Togo, Uganda, Zambia, Zimbabwe.
9. An electoral period is the time between two consecutive elections. Electoral periods disrupted by democratic reversals because of coups or civil wars are therefore excluded from the analysis.
10. We rely on several sources to identify constitutional amendments. We focus on official government online records, national assembly records, and other legal and archived documents that we translated from French, Arabic, Portuguese, Swahili, and other local languages. Where official government records could not be found, we relied on other non-legal but reliable sources such as press releases, official newspaper records, and amendment voting records. We identified and corrected both omissions (missing amendments) as well as errors (incorrect amendments identification) in the CCP dataset. We then updated the CCP dataset to match the temporal domain of our study (1990 to 2010) as the CCP did not cover all the years that we needed. Finally, we expanded the CCP dataset to include all the countries in our sample.
11. We employ Optical Character Recognition (OCR) tools to conduct an in-text analysis of the articles establishing the amendment of the constitutions. These include both the introductory process of amending articles, the conditions of amending as well as any final signatories to the amendments such as presidential veto powers or the override of that veto thereafter.
12. Examples include higher thresholds to win a vote either in referenda or in the legislatures, more actors required to approve the amendments, and more steps required to approve the amendments even if some steps are repeated approvals from the same actors.
13. Examples include lower thresholds to win a vote, fewer different actors required to approve the amendments, and a joint session of a bicameral legislature instead of separate approvals by each chamber of the bicameral legislature.

14. According to the codebook, “This is the average of the ages of the 1st government party (1GOVAGE), 2nd government party (2GOVAGE), and 1st opposition party (1OPPAGE), or the subset of these for which age of party is known” (Keefer, 2012: 13).
15. www.ipu.org/parline-e
16. www.idea.int
17. www.africanelections.tripod.com
18. See Figure A1 in the online appendix for the plot of the normality of residuals. Additional tables in the appendix examine alternative measures of ethnic diversity and democracy as well as different cut off points for the level of democracy of countries included in the analysis. Finally, the appendix includes country dummy variables for three key cases. In all the alternative models our substantive results largely held.
19. Multicollinearity, however, is not a problem in our analysis. The highest variance inflation factor (VIF) for any of the variables included in the model is 1.87 for the level of democracy while the overall mean VIF for the model is 1.41.
20. As noted, our cutoff is a score of 10 on Polity IV and thus Model 2 is restricted to countries that have an 11 or higher on Polity IV. We conduct robustness checks by running trials with a cutoff one point below (9) and one point above (11) the cutoff used in Model 2. (Please see Table A1 in the online appendix.)

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Änderung der Regeln: Institutionen, Parteiensysteme und die Häufigkeit von Verfassungsänderungen in Afrika

Zusammenfassung

Welche Faktoren beeinflussen die Verfassungsstabilität der aufstrebenden Demokratien Subsahara-Afrikas? Diese wichtige Fragestellung wurde bislang noch nicht in einer systematischen länderübergreifenden Studie über aufstrebende Demokratien in Afrika behandelt. Anhand des Datensatzes des „Comparative Constitutions Project“ und eines eigenen Originaldatensatzes zu Vetospielern und Parteiensystemen untersucht diese Studie den Einfluss von Vetospielern und Charakteristika der Parteiensysteme auf die Häufigkeit von

Verfassungsänderungen in Wahlperioden zwischen den Jahren 1990 und 2020 in 41 afrikanischen Ländern. Die Ergebnisse stützen die Vetospieler-Theorie. Die Wahrscheinlichkeit einer Verfassungsänderung sinkt mit zunehmender Zahl von Akteuren, die für eine solche erforderlich sind. Daneben beeinflusst die Stärke der parteipolitischen Vetospieler die Wahrscheinlichkeit einer Verfassungsänderung. Die Ergebnisse unterstreichen außerdem, dass die Eigenschaften des Parteiensystems die Änderungshäufigkeit von Verfassungen beeinflussen.

Schlagwörter

Verfassungsänderung, Verfassungen, Demokratisierung, Parteiensysteme, Vetospieler