

PERSONAL RULE AND PRESIDENTIAL TERM LIMITS IN AFRICA

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ABSTRACT

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One of the major constitutional innovations that accompanied the transition from the authoritarian rule to more competitive and pluralistic modes of governance at the end of the 20th century in Africa was the adoption of presidential term limits. What have been the effects of term limits on personal rule in Africa? What do ordinary Africans themselves think about these rules? Why have some presidents passed legislation that has removed term limits when others abandoned similar efforts and stepped down? These were some of the main questions that this dissertation had sought to address.

Through a methodological approach that employed a combination of quantitative and qualitative methodological tools, the study's major findings show that term limits were embraced as a tool for addressing a proclivity among African presidents for personalizing power and remaining in office for long periods. And despite the recent attempts to remove term limits, these rules have helped to transform the African presidency in very important ways. By providing proof that other individuals in society possess leadership abilities, leadership alternations resulting from tenure limits are helping to undermine the justifications for personal rule which were built on the premise that only certain individuals were imbued with leadership qualities.

While term limits were widely welcomed and embraced by the public, recent African history has been dominated by attempts by incumbent presidents seeking to revert to the old norm of prolonging tenure. This suggests that, despite the transitions towards more competitive political systems, the culture of personal rule refuses to die. While a handful of these bids have

been rejected, a high proportion have been passed, resulting in the removal of term limits in almost half of the countries that had only recently embraced tenure limits on the African continent. In trying to discern the reasons to explain the differential outcomes of the third-term bids in Africa, the study's major findings show that the attempts to remove term limits are affected by a host of institutional factors that either aid or frustrate these bids. On the one hand, several institutions, such as higher government legislative majorities, the military background of the incumbent president, the use of violence, ruling party cohesion, and traditions of respect for authority, aid the removal of term limits. On the other hand, institutions, such as the precedent of prior alternation, legislative fractionalization, aid dependency, ethnic fractionalization, and a united and active civil society, contribute to reject the bids to remove term limits. Another notable finding from the study is that patronage was not a sufficient strategy for removing term limits and that its effect was dependent on the state's ability to identify and punish patronage clients that defaulted by voting against the removal of term limits.

In the final analysis, the study concludes by arguing that the bids to remove term limits reflect the enduring personalism in African politics and that informal institutions played a more critical role in influencing the removal of term limits, thus echoing the findings of other studies that suggest that informal institutions continue to play an important role in the African political arena, notwithstanding the transitions that sought to promote formal institutionalism.

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DEDICATION

To my Mom, Ms. Filless Nohito. We have come a long way together. Thank you for being part of this journey.

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KEY TO SYMBOLS AND ABBREVIATIONS

Aford	Alliance for Democracy
BC	Before Christ
CCAP	Church of Central African Presbyterian
CCM	Chama Cha Mapinduzi
COD	Congress of Democrats
DA	District Administrator
FDC (Malawi)	Forum for the Defence of the Constitution
FDC (Uganda)	Forum for Democratic Change
GDP	Gross Domestic Product
IFAD	International Fund for Agricultural Development
KKK	Ku Klux Klan
MCP	Malawi Congress Party
MK	Malawi Kwacha
MMD	Movement for Multiparty Democracy
MP	Member of Parliament
MSU	Michigan State University
MUN	Mineworkers Union of Namibia
NCHR	National Council for Human Rights
NGO	Non Governmental Organization
NICS	Namibian Central Intelligence Service
NRM	National Resistance Movement
NUMW	National Union of Namibian Workers
PAC	Public Affairs Committee
PDF	Presidential Discretionary Fund
PDP	People's Democratic Party

PREG	Politically Relevant Ethnic Group
SPSS	Statistical Package for Social Sciences
SWAPO	South West Africa People's Organization
UDF	United Democratic Front
UK	United Kingdom
UNIMA	University of Malawi
UPDF	Uganda People's Defence Force
US	United States
USA	United States of America
USAID	United States Agency for International Development
UShs.	Uganda Shilling
ZK	Zambia Kwacha

Chapter 1

Introduction

1.0 A Tale of Four Presidents

As the 20th century drew to a close, Presidents Sam Nujoma of Namibia, Fredrick Chiluba of Zambia, Bakili Muluzi of Malawi, and Yoweri Museveni of Uganda had to deal with the prospect of leaving office and vacating their presidential palaces. While Museveni had ascended to power through a military coup in 1986, the other three presidents assumed power in the early 1990s, starting with Nujoma in 1990, followed by Chiluba in 1991 and then Muluzi in 1994. As per each country's Constitution at the time, all four presidents were obligated to stand down in accordance with the stipulation that no individual could serve as president for more than two terms.¹ Nujoma, Namibia's first president following independence in 1989, was scheduled to leave office first when his second five-year term ended in 1999, followed by Chiluba in 2001. Muluzi and Museveni were to follow in 2004 and 2005 respectively.

Faced with the uncertainty of life outside the presidency, all four leaders initiated national campaigns to debate the removal of presidential term limits.² If successful, these campaigns would have enabled all four leaders to prolong their tenures beyond the maximum of two terms. The campaigns to remove presidential term limits elicited mixed public reactions in all three countries. While supporters of the four presidents fervently campaigned for the removal of term

¹ See Section 29(3) of the Constitution of the Republic of Namibia, 1990; Section 35(2) of the Zambia Constitution, 1991; Section 83(2) of the Malawi Constitution of 1994; and Section 105(2) of the Uganda Constitution, 1995. Although President Museveni had been in office since 1986, he was technically into his second term under the Uganda Constitution of 1995, which had introduced term limits for the office of president.

² See "Nujoma Urged to Stand Again—SWAPO Elders Want a Third Term," in *The Namibian*, March 18, 1997; "Chiluba Wants a Third Term—says Opposition," *SAPA News*, October 7, 1997; "UDF Endorses Muluzi," in the *Daily Times*, July 20, 2000.

limits, other groups, such as opposition parties and civil society organizations, campaigned for their retention. In the end, the presidents of Namibia and Uganda managed to change the tenure limit rules, allowing Nujoma and Museveni to prolong their tenures, while their counterparts in Malawi and Zambia failed in their quests, forcing both Chiluba and Muluzi to step down.

1.0.1 Sam Nujoma: The Pioneer Third-Term President

As one of the last African countries to gain its independence, Namibia's transition from apartheid rule to an independent state coincided with the first of the democratic waves that hit the African continent in the early 1990s. Breaking the entrenched authoritarianism that characterized the majority of African states at the time, Namibia adopted a Constitution that was founded along the "principles of democracy, the rule of law and justice for all."³ Among the new institutional innovations that were included in this Constitution was the provision that stipulated that any individual could only serve as president for a maximum of two five-year terms. This meant that President Nujoma, who became Namibia's first president in 1990 and was re-elected to a second term in 1995, was limited to serving as president only until 2000, after which he would have been constitutionally barred from seeking additional terms. Namibia's incorporation of presidential tenure limitations marked only the sixth time in independent Africa's Constitutional history that these rules had been included as an institutional mechanism for addressing the practice of personal rule reflected in long-serving leaders, which had become a common feature of post-independent African politics (Clapham, 1982; Jackson and Rosberg, 1992). Namibia's adoption of term limits thus represented an important break with the history of personalizing power in Africa, generating an expectation that the previous tradition, where some leaders went

³ See Article 1(1) of the Constitution of the Republic of Namibia, 1990.

to the extent of having themselves declared presidents-for-life, was going to be institutionally constrained.

However, upon being sworn into his second term in 1995, Nujoma and his closest supporters within the ruling South West People's Organization (SWAPO), began to contemplate removing term limits to enable the president to seek re-election for a third term. Although discussions of a third term began as soon as Nujoma was sworn in for his second term in 1995, the first public expression of this debate was made in March 1997, when the SWAPO Elders Council resolved to amend the term-limit provision to enable "President Nujoma to stand for many more years to come."⁴ Nujoma responded by telling the Namibia National Assembly in April 1997 that he was "still young and if people of Namibia want me to continue making a contribution, I will continue to do so."⁵ Meanwhile, leading figures within SWAPO weighed in, joining in the calls to amend the Constitution to enable Nujoma to seek a third term.

In order to appease domestic and international critics that were wary about the creation of another president-for-life, Nujoma's supporters framed their proposal around a narrow and technical reading of the Constitution arguing that, since the president had been first elected by a Constituent Assembly in 1989, his first term of office fell outside the ambit of the constitutional definition of elections as being through "direct universal and equal suffrage."⁶ This narrow reading of the Constitution reflected not only the manipulation of constitutional rules to advance a personalistic agenda, but it also placed Namibia among a long list of countries that departed from

⁴ See "Nujoma Urged to Stand Again," in *The Namibian*, March 18, 1997, pg. 1.

⁵ See "Nujoma Goes for It," in *The Namibian*, April 3, 1997, pp. 1-2.

⁶ See Article 28(2)(a) of the *Namibia Constitution*, 1990.

adhering to the spirit of the Constitution by focusing on the minutiae of the wording of the law itself.

The third-term debate in Namibia ultimately culminated in the tabling of a Parliamentary motion on October 8, 1998, that sought to amend the term-limit provision to allow President Nujoma to seek a third term of office. Although the small Namibian Parliamentary opposition, joined by a handful of the country's fledgling civil society, fought a spirited campaign against the proposal, SWAPO used its commanding majority in the National Assembly and the National Council⁷ to push the amendment through with ease. President Nujoma quickly signed the bill into law, clearing the way for him to run for a third term in the 1999 elections, which he subsequently won with 77 percent of the vote.⁸

1.0.2 Fredrick Chiluba and the Fractured MMD in Zambia

While Nujoma was being sworn in for a third term in early 2000, his colleague in neighboring Zambia, Fredrick Chiluba, embarked on his own campaign to remove the term-limit provision from the country's Constitution. The introduction of presidential term limits in Zambia was part of major Constitutional changes in 1991, which marked a major break from one-party authoritarian rule and the introduction of competitive multi-party politics. The inclusion of a term-limit provision in the new Constitution was motivated in large part by Zambia's long history with authoritarian rule: from independence in 1964, Zambia had had only one president, Kenneth Kaunda. It was only after the adoption of the new Constitution in 1991, which lifted a long-time ban on opposition parties, that Kaunda was forced to leave office after losing to

⁷ At the time of the amendment, SWAPO held fifty-three of the seventy-two seats in the National Assembly and nineteen of the twenty-six seats in the National Council, giving it a majority of just over 73 percent of the seats in both Houses (Africa Elections Database).

⁸ Africa Elections Database.

Chiluba in the first competitive elections since Zambia's independence in 1964. Although Chiluba and his party, the Movement for Multi-Party Democracy (MMD), were among the leading advocates of presidential term limits, he and his supporters in the MMD had completely reversed positions when the president's time to step down loomed close.⁹

As in the Namibian case, the bid to remove presidential term limits in Zambia generated an intense political debate. While Chiluba remained non-committal about his true position on the debate, his supporters mounted a very aggressive, and sometimes violent, campaign for the removal of term limits (Momba, 1999). However, although the MMD had a very strong legislative majority (131 of 150 National Assembly seats), the proposal to remove term limits caused a major split within the MMD ranks. Several cabinet ministers, led by Vice President Christon Tembo, and several MMD Members of Parliament (MPs), joined hands with opposition parties, civil society, trade unions, student groups, and church leaders to mount a well-coordinated campaign against the proposal. They pointed at Kenneth Kaunda's twenty-seven-year rule as an example of what could happen in the absence of limits on presidential office.¹⁰

Although Chiluba and his supporters persisted by bulldozing the MMD's convention in early 2001 to adopt the proposal to remove term limits as a ruling-party position, the strong opposition within the MMD and wider society increased the likelihood that the bill would not pass through parliament. Faced with the prospect of defeat in a Parliament dominated by his own party, Chiluba was forced to concede defeat and declare that he would be stepping down on the

⁹ See "No One Capable of Succeeding FJT—Walubita," in the *Post of Zambia*, March 26, 2001.

¹⁰ See "Fourteen MMD Members Reject Perpetual Presidency Syndrome," the *Post of Zambia*, March 28, 2001.

eve of the bill's tabling in Parliament on May 7, 2001.¹¹ The bill was subsequently withdrawn and the MMD hastily chose Levi Mwanawasa to lead the party in the December 2001 elections. With ten opposition candidates splitting the opposition vote, Mwanawasa managed to squeak through to victory with 29 percent of the presidential vote (Africa Elections Database).

1.0.3 Bakili Muluzi: No Third-Term Charm in Malawi

In a sign that African presidents rarely learn from the experiences of their colleagues, Malawi's president between 1994 and 2004, Bakili Muluzi, embarked on his own campaign to remove term limits around the same time that Chiluba's attempt was being defeated in Zambia. Unlike in the Namibia and Zambia cases, the odds of removing term limits were significantly stacked against Muluzi, whose United Democratic Front (UDF) held less than half of the 193 seats in the Malawi National Assembly. With ninety-three legislative seats, the UDF needed to win the support of at least twenty-five opposition legislators to be able to secure the two-thirds majority required to amend the Constitution.

The calls for the removal of term limits in Malawi, adopted as part of a new Constitution in 1994, which followed three decades of authoritarian rule by "President-for-Life" Hastings Kamuzu Banda, began to emerge long before Muluzi had even finished serving his first term. In January 1999 for example, a senior ruling-party official declared that "Muluzi would stand as the UDF's presidential candidate beyond the two terms because there is nobody capable of assuming the reigns of leadership from him."¹² Muluzi himself appeared to endorse the idea of prolonging his presidency beyond two terms when he said at his second swearing-in ceremony in June 1999

¹¹ See "Chiluba Announces He Will Step Down," *Post of Zambia*, May 7, 2001.

¹² See "Third Term for Muluzi," in the *Daily Times*, January 13, 1999, pp. 1.

that he had “another twenty-six years to rule the country.”¹³ As Muluzi approached the end of his second term in 2004, the calls for him to seek a third term gained further traction. These calls culminated in a decision by the UDF National Executive Committee in July 2000 to endorse Muluzi’s candidature in the 2004 elections (Dulani and van Donge, 2005).

In order to make up for the shortfall in legislative numbers, Muluzi resorted to an extensive campaign that involved the disbursement of various forms of patronage to his party followers, members of the opposition, civil society, and traditional leaders, in return for support for the removal of term limits. In addition to boosting Muluzi’s chances of extending his tenure, the campaign to reach out to the opposition, civic, and traditional leaders helped to project the third-term campaign in Malawi as a national cause instead of being perceived as a narrow partisan one. The success of these efforts was reflected in the fact that the actual bill proposing to remove term limits was sponsored and tabled in the Malawi National Assembly by a legislator from the opposition Alliance for Democracy (Aford), and seconded by the vice president of the main opposition Malawi Congress Party (MCP), Mr. John Tembo (Dulani and van Donge, 2005; Kanyongolo, 2003).

When Parliament voted on the bill on July 4, 2002, however, only 125 MPs voted in favour of removing term limits. This was three votes shy of the required two-thirds majority of 128 votes, and the proposal was therefore defeated (Dulani and van Donge, 2005). Although the UDF conceded defeat after the July 4 vote, a meeting of the party’s regional and district Executive Committees was held two weeks later, on July 20, 2004, reiterating the endorsement of Bakili Muluzi as the party’s presidential candidate in the 2004 elections. This meeting further agreed that the party should table a modified version of the bill, this time calling for an increase

¹³ “Muluzi Goes into Second Term,” *Nation*, June 22, 1999.

in the maximum number of presidential terms from two to three.¹⁴ This represented climb down from the earlier proposal, which had called for the complete removal of the term-limit provision. This change was offered by the UDF as a compromise and was expected to generate less resistance than the earlier bill.

In a further change of tactic, the new bill was tabled in the Malawi Parliament on September 8, 2002, by the minister of legal affairs, thus dispensing with the pretence that the government had no direct interest in the Constitutional manoeuvring. However, as with the original bill, this proposal met with widespread resistance within and outside parliament. For example, the civil society organizations in the country came together and formed a new grouping called the Forum for the Defence of the Constitution (FDC), whose primary aim was to campaign and lobby MPs to vote against the new bill.¹⁵ Meanwhile, Muluzi's former allies in the opposition MCP, whose support was crucial in nearly securing the passage of the July 4 vote, indicated that they would not support the new bill, thus further undermining the prospects of its passage (Dulani and van Donge, 2005). Faced with increasing uncertainty at the bill's passage, Muluzi called upon his party's legislators not to prioritize the bill over other pressing issues, a call that led to the suspension of the Parliamentary debate.

However, the shelving of the bill proved to have only been temporary, as Parliament was again summoned on January 27, 2003, for an emergency session with the sole purpose of debating the proposal to increase the maximum number of presidential terms from two to three. In the ensuing debate, however, it became very clear that the government would yet again fall

¹⁴ See "Third Term Refuses to Die," *Daily Times*, July 22, 2002.

¹⁵ See "FDC Declaration and Resolutions on the Proposed 3rd Term Amendment to the Constitution—October 8, 2002," in *The Lamp*, November–December 2002.

short of the two-thirds support needed to effect the amendment. As a face-saver, the UDF was forced to retreat under the pretext of referring the bill to the Legal Affairs Committee of Parliament for further scrutiny. Two weeks later, Muluzi declared that he would not be standing for a third term, thus putting the campaign to a final rest (Dulani and van Donge, 2005:220).

1.0.4 Yoweri Museveni and the Quest for Indefinite Re-Election in Uganda

While the failures of the campaigns by Chiluba and Muluzi sent a signal that third-term-seeking presidents could not take the removal of term limits for granted, these examples did not prevent other African presidents from embarking on similar campaigns. Among this group of leaders was Uganda's Yoweri Museveni, who had held office since January 1986. However, since term limits had not been adopted in Uganda until 1995, Museveni could serve as president only until 2005, after which he would be ineligible to stand again.

As with Nujoma, Chiluba, and Muluzi before him, Museveni had also been one of the most vocal advocates of presidential term limits. Speaking at his first inauguration as president on January 25, 1986, for example, Museveni promised to usher in a new era of leadership, characterized by regular alternation, as a response to Africa's history of long-serving personal rulers:

Ours is not a mere change of guards but a fundamental change. The problem of Africa in general and Uganda in particular is not people, but leaders who want to overstay in power which breeds impunity, corruption and promotes patronage....For us in NRM/A, we shall be here for only four years, after which we shall hand over power to a free and fairly elected civilian government...

¹⁶ Yoweri Museveni, Inaugural Speech, January 29, 1986, quoted in Okuku, 2005:182. See also President Fredrick Chiluba's speech at the signing of the Zambia Constitution of 1996, where he stated that there were sufficient institutional safeguards against constitutional manipulations by presidents to extend their tenure.

Although by 1995, when the new Ugandan Constitution was being promulgated, Museveni had already exceeded his promised tenure by five years, he was nevertheless seen as a major supporter of term limits, a view that was widely shared by the Ugandan populace. For example, the Constitutional Commission that drafted the 1995 Constitution, echoed Museveni's fears for personal rule and longevity of office, arguing that "the disadvantage of infinite re-election is the danger of personal ambition and using the office to secure re-election to the neglect of more important duties of state...the overwhelming majority view...is to limit the term of office of the president...the general consensus is two terms" (Uganda Constitution Commission, 1993:332). Meanwhile, as recently as 2001, Museveni and his party, the National Resistance Movement (NRM), reaffirmed their commitment to adhere to the concept of term limits by promising in the party's 2001 election manifesto that Museveni was going to step down after completing his "second and final term as directly elected president."¹⁷

However, while on the surface Museveni and the NRM appeared committed to the institution of term limits, they were at the same time working in the background strategizing on finding ways to remove them. For example, in January 2001, two months before Museveni was elected for a second term, his government established a Constitutional Review Commission whose terms of reference included a proviso for the re-examination of "the consistency and compatibility of the constitutional provisions relating to the sovereignty of the people...and make recommendations as to how best to ensure that the country is governed in accordance with the will of the people at all times."¹⁸ Although this did not specifically address the question of term limits, it was used by President Museveni and the NRM as a window to push through the

¹⁷ See NRM 2001 Election Manifesto, page 11.

¹⁸ See section 1.8(8) of Legal Notice No. 1 of 2001.

proposal to remove term limits on the pretext that the people should decide whether to retain or remove presidential tenure limitations.¹⁹

In a move that put opponents of removing term limits in a very untenable position, the Uganda government decided to package the bill with a proposal to allow the reintroduction of multi-party politics, which had been banned under the no-party democracy system that had been adopted under the 1995 Constitution. As a result, opposition to the removal of term limits would have also resulted in the rejection of the reintroduction of multi-party politics.

The bill to remove term limits was subsequently tabled in the Uganda National Assembly on February 15, 2005, by the justice and Constitutional affairs minister. After months of debate, Parliament voted on the proposal on July 11, 2005. A total of 222 legislators—85 percent of the total number of the membership of the Uganda National Assembly—voted in favour of removing term limits, while thirty-six were opposed and a further two abstained (Okuku, 2006). On September 26, 2005, President Museveni assented to the amendment, thus clearing the path for him to seek indefinite re-election in future presidential contests (Makara, 2007). In 2006, Museveni ran for a third term and won with 59 percent of the vote. He repeated this feat in early 2011 when he won a fourth term with 68 percent of the vote (Africa Elections Database).

1.1 Problem Statement

The four cases of Nujoma, Chiluba, Muluzi, and Museveni, discussed in the preceding section are but four of twenty-four African presidents who contemplated the removal of presidential term limits between 1990 and 2009 (see table 1.1). This represents 80 percent of the total number

¹⁹ See “Ssempebwa Minority Report” in the *Report of the Uganda Constitution Review Commission*, 2004.

of presidents who had reached their final terms of office since the adoption of rules setting maximum limits of presidential tenure.

While nine of the twenty-four presidents abandoned their quests for a third term at the discussion phase, nearly two-thirds (fifteen) went further and drafted and tabled legislation seeking to do so. Meanwhile, four of every five presidents who drafted such legislation achieved their goal.

Table 1.1: Attempts to Remove Presidential Term Limits in Africa, 1990-2009

President Has Considered Removing Term Limits to Prolong Tenure (24 Presidents)	Constitutional Amendment Attempted (15 Countries)
Algeria (Abdelaziz Bouteflika) Benin (Mathieu Kérékou) Burkina Faso (Blaise Compaoré) Cameroon (Paul Biya) Chad (Idriss Déby) Djibouti (Ismail Guelleh) Gabon (Omar Bongo) Ghana (Jerry Rawlings) Guinea (Lansana Conté) Kenya (Daniel arap Moi) Malawi (Bakili Muluzi) Malawi (Bingu wa Mutharika) Mali (Alpha Konaré) Mozambique (Joachim Chissano) Namibia (Sam Nujoma) Niger (Mamadou Tandja) Nigeria (Olusegun Obasanjo) Senegal (Abdoulaye Wade) Sierra Leone (Ahmad Kabbah) Tanzania (Benjamin Mkapa) Togo (Gnassingbé Eyadéma) Tunisia (Zine Ben Ali) Uganda (Yoweri Museveni) Zambia (Fredrick Chiluba)	<div>Term Limits Successfully Removed (12 Countries)</div> <div>Algeria - 2008 Burkina Faso - 2003 Cameroon - 2008 Chad - 2005 Gabon - 2003 Guinea - 2001 Namibia - 1998 Niger - 2009 Senegal - 2008 Togo - 2002 Tunisia - 2002 Uganda - 2005</div> <div>Bid to Remove Term Limits Rejected (3 Countries)</div> <div>Malawi - 2002 Nigeria - 2006 Zambia - 2001</div>

Source: Posner and Young (2007); Internet Search

In addition to the presidents who were able to change their countries' tenure-limit provisions, a number of sitting presidents have also found new and creative ways of getting around term limits that do not entail the actual removal of these provisions from their Constitutions. Several presidents, such as Ghana's Jerry Rawlings, Bakili Muluzi in Malawi, and

Joachim Chissano in Mozambique, followed the example of Chiluba by handpicking successors after encountering obstacles to prolonging their tenures. Others, such as South Africa's Thabo Mbeki, attempted to retain influential party positions in ways that would have enabled them to wield significant power and influence even after stepping down as president. In yet other cases, such as that of President Isaias Afwerki of Eritrea, term limits have simply been ignored while the incumbent sought re-election multiple times. Outside Africa, Guatemala President Alvaro Colom's decision to divorce his wife, Sandra Torres, in order to clear the way for her to succeed him as president is not only illustrative of the extremes that leaders will go to circumvent term limits, but also demonstrates that this style of leadership is not unique to Africa.²⁰

Since the majority of the proposals seeking to remove or alter the presidential tenure limitations can enable incumbent presidents to seek at least a third term of office, the contests over the fate of term limits are usually framed as "third-term" debates (Baker, 2002; Morrow, 2006; Okuku, 2006; Ross, 2004). However, the phrase, which I adopt in this study, is all-encompassing, as it is also used to describe debates that seek the complete removal of the term-limit rule, which would allow individuals to vie for the office of president an unlimited number of times.

Meanwhile, the contrasting outcomes of the attempts to remove presidential term limits across Africa raise a number of important puzzles regarding the ability of the new leadership on the continent to mobilize support to change the rules of the political game in ways that allow them to personalize power like their authoritarian predecessors:

²⁰ The Guatemalan constitution not only forbids the re-election of the president, but it also bars the president's close relations, including his spouse, from succeeding him. See "Guatemala's Alvaro Colom to divorce wife Sandra Torres," <http://www.bbc.co.uk/news/world-latin-america-12813999>.

- Why do countries adopt term-limit rules and later attempt to remove them?
- How do the quests for tenure extension in term-limited polities unfold?
- Why do some of these attempts result in the removal of term limits while others fail?

These are the central questions that this research project seeks to address.

1.2 Study Justification

Given the crucial role that presidential term limits were expected to play in preventing a relapse to authoritarian and personal rule in Africa, the high number of countries that have attempted and succeeded in removing them between 1990 and 2009 is therefore a matter that requires careful examination and analysis. Yet, despite the implications that these efforts have on the future of democracy on the continent, there have been very few attempts to systematically study this phenomenon in a manner that would not only explain why countries embark on the path of removing presidential term rules, but also why the outcomes of these bids vary.

The paucity of research examining the third-term phenomenon in Africa can be attributed to several factors. First, the various bids to remove presidential tenure limits on the continent present a new and unfolding phenomenon in polities that are striving to build their young democracies. This has resulted in much analytical attention being directed at the theme of democratic consolidation, while institutional manipulations, such as the quests to remove term limits, are perceived as a feature of polities that are still in transition (Schedler, 2006).

In the few cases where attempts have been made to study the third-term pursuits, the debates have largely been framed within the context of the continuing struggle between formal and informal rules in shaping African politics. For example, two studies that have attempted to analyze the third-term phenomenon in Africa—the first by Posner and Young (2007) and a second by Prempeh (2008)—have both argued that the fact that several attempts to extend tenure

were defeated suggests that formal rules are beginning to supersede informal ones in governing politics on the continent. This is despite the fact that a significant proportion of the presidents who attempted to remove term limits succeeded in doing so and were subsequently able to extend their tenure.

Posner and Young's (2007) study also presents a glaring gap in our understanding of what exactly contributes to the differing outcomes in the third-term pursuits. While the authors provide an entry point into the process of introducing institutional factors that have the potential to impact on the outcomes of the third-term pursuits, their analytical focus is largely limited to speculating on examples of formal institutions that can explain the different outcomes. The lack of attention paid to the role of informal institutions, however, seriously restricts our ability to understand this particular phenomenon. This is more so considering the existence of a rich empirical literature that highlights the significance of informal rules in African politics.²¹

Besides the limited attempts to study the informal dimensions of third-term bids, other studies of the attempts to remove presidential term limits in Africa have often tended to adopt a single-country case study approach. These include studies by Diestcho (1998) and Momba (1998), which respectively examined the Namibian and Zambian third-term bids. A number of studies, including those by Okuku (2006), Makara (2007), Mwenda (2007), and Atoo et al. (2008), have also analyzed Yoweri Museveni's 2005 campaign, which removed term limits in Uganda. Meanwhile, Sklar et al. (2006) took the same single-country case approach in studying Obasanjo's failed bid to remove presidential term limits in Nigeria, while Dulani and van Donge (2005) did the same on the Malawi case. Although these studies offer important insights into the

²¹ Cf: Helmke and Levitsky, 2006; Erdmann and Engel, 2007; Jackson and Rosberg, 1982; Bratton, 2007; van de Walle, 2003, 2007; Bayart et al., 1999; Chabal and Daloz, 1999; Bratton and van de Walle, 1997; Schatzberg, 2001, Herbst, 2000

third-term processes, the lack of cross-country comparison means the lessons generated suffer from the problem of low external validity, hence limiting the generalizability of the study results. This problem is further compounded by a predominance of countries from the Anglophone sub-region of the continent, resulting in a dearth of literature exploring how similar bids unfolded in Francophone Africa, location of more than half of the countries that have removed term limits.

Two studies—Maltz (2006) and Posner and Young (2007)—have attempted to break from the single-country narrative by adopting broader macro-conceptualization of the efforts to remove term limits. Maltz’s study sets itself the more ambitious objective of analyzing the phenomenon at a global level by modelling the likelihood of the removal of term limits on the basis of regime type. Although this study generates important lessons, it fails to offer detailed insights into the dynamics that facilitate or frustrate these quests. Posner and Young’s study, by contrast, limits itself to exploring the phenomenon of removing term limits in sub-Saharan Africa. The narrower geographical scope of Posner and Young’s work enables the authors to generate more detailed insights into the third-term phenomenon than Maltz’s global approach. Among the key contributions made by Posner and Young are predictions about the identification of characteristics of leaders most likely to seek the removal of term limits—such as age and the magnitude of victory in previous elections—which in turn affect the expected benefits or costs of staying in power, as well as the actual costs of changing the Constitution. Posner and Young’s study generates important lessons that enhance our understanding of the increasing influence of formal constitutional rules in governing politics in Africa. However, by focusing primarily on formal institutions, both Maltz (2006) and Posner and Young (2007) end up downplaying the contributions that informal rules, such as resource exchanges through clientelist networks or

partisan agreements on presidential rotation, might have in determining the outcomes of the attempts to remove tenure limitations.

It is against this background—a dearth of cross-national comparative literature examining the formal and informal dimensions of third-term bids in Africa—that this research project was conceived. By adopting an analytical framework that starts with the examination of the historical origins of term limits and how these rules have been applied on the modern presidency globally and in Africa, I hope to make a holistic contribution to the debate, one that examines the factors that explain the different outcomes across countries in a manner that allows for a level of generalization. By digging deeply into the dynamic processes by which these third-term struggles and conflicts unfold over time, I also hope to demonstrate the interactions between formal and informal institutions in Africa’s emerging democracies, the relative power of incumbent and opposition forces and civil society, and their choice of strategies and tactics in the game of changing presidential term-limit rules. Additionally, the study delves into a systematic case study analysis that generates rich narratives on how informal institutions influence the outcomes of the bids to remove term limits in specific countries.

1.3 Research Questions

This study is designed to answer seven key questions:

1. What are the origins and logic of term limits?
2. What types of term limits are employed on contemporary presidents, and what has been their fate?
3. What motivated the introduction of term limits in Africa?
4. What influences the decision to remove term limits?
5. How do the bids to remove term limits in Africa unfold?

6. What institutions (both formal and informal) explain the outcomes of the bids to remove presidential term limits and how?
7. Are the outcomes of the bids to remove term limits in Africa driven more by formal or informal institutions?

1.4 Research Design and Methodology

Previous studies of the phenomenon of personal rule, which informs on the quests to extend tenure when Constitutions provide limitations, have drawn from a variety of fields and disciplines that employ differing research designs and methodologies. Although the dominant literature comes from the field of comparative African politics, the concept of personal rule also draws on research from the fields of history, sociology, and anthropology. The multidisciplinary nature of these studies means that understanding how personal rule interfaces with the removal of term limits requires a comprehensive research design that similarly incorporates a variety of methods from the various disciplines. It was for this reason that this study employed Lieberman's Nested Analysis framework (Lieberman, 2005). This approach, which combines a statistical analysis of a large N sample of cases with in-depth investigation of a small N case study analysis within a single framework, maximizes the analytic leverage in ways that provide a holistic understanding of the third-term phenomenon.

1.4.1 Large N Quantitative Analysis

The study's starting point was a large N analysis that examined the universe of presidential term limits across the globe before narrowing it down to a subset of African countries that either have, or have had, this institution. At this level, the primary method of analysis was a quantitative examination of how both formal and informal institutions influence the outcomes of the bids to remove term limits in the subset of African countries that had this institution. In total, this phase

of the study included thirty-one observations of presidents that had reached their final term of office in the period between 1990 and 2009. This phase of the study was undertaken at Michigan State University (MSU) and the University of Malawi (UNIMA). At MSU the main primary sources of data were the World Bank's Data Base of Political Institutions (2010). Data from this source were further complemented with data from other sources, including the Africa Elections Data Base, the Freedom House Index, and the Afrobarometer surveys. Additional data were obtained from Daniel Posner's (2004) Index of Politically Relevant Ethnic Groups (PREG); Freedom House's Surveys of Press Freedom; and national Constitutional documents obtained through extensive Internet searches. The data were disaggregated according to the outcome of the bids to remove term limits, then entered and analyzed in SPSS (see table 1.2).

While the quantitative analysis provided some important insights into how a range of institutions impacted on the outcomes of the bids to

Table 1.2: Selection of Countries in Large *N* Study (N = 43)

Category		No. of Observations
1	African presidential regimes with term limits in between 1990-2009	N = 36
2	Maximum terms reached	N = 31
3	Incumbent president initiated discussions to remove term limits	N = 24
4	Constitutional amendment attempted	N = 15
5	Term limits removed	N = 12
6	Attempt to remove term limits rejected	N = 3

remove term limits, it was not possible to assess the effects of a number of potentially influential, but difficult to quantify, informal institutions. Examples of such institutions included the extent of patronage, the use of violence, civil society activisms, and changes to rules of the game to facilitate the passage of the third-term bills. Given the widely recognized role that informal institutions play in African politics, the findings of the large *N* quantitative study were thus not sufficient to offer a full purview of the drivers of the third-term bid outcomes. It was therefore in part because of this that the study shifted to a second phase of the Nested Analysis framework by

focusing on an in-depth case study analysis of four countries selected on the basis of the final outcomes of the bids to remove term limits.

1.4.2 Hypotheses

An examination of the procedural requirements for amending Constitutional provisions such as term limits reveals that there are two main options: national referenda, which allow the electorate to cast their votes in deciding whether to amend a particular provision or not; and a second option where such decisions are decided through a parliamentary vote. While national referenda decisions are often decided on a simple majority, Constitutional amendments that are voted on by Parliament often require high majority thresholds, ranging between absolute majorities in Cameroon to four-fifth majorities in Niger and Togo (see table 1.3). The second mode of amendment gives discretion to the president to choose between Parliamentary approval or a referendum. Given the two modes of Constitutional amendments identified in table 1.3, the

Table 1.3: Procedures for Amending Third-Term Provisions in Third-Term Countries (N=15)

Mode of Amendment	Vote Requirement	Countries
Parliament	Simple Majority	Cameroon
	Two-Thirds Majority	Burkina Faso, Malawi, Namibia, Nigeria, Senegal, Tunisia, Uganda, Zambia
	Three-Fourths Majority	Algeria
	Four-Fifths Majority	Niger, Togo
Referendum or Parliamentary Vote	Simple Majority if Referendum; Two-Thirds Majority if Parliament	Guinea*, Gabon, Chad*

* Denotes countries that opted for the referendum option.

Source: National Constitutions of the fifteen countries

For interpretation of the references to color in this and all other figures, the reader is referred to the electronic version of this dissertation.

third-term-seeking president can secure the removal of term limits by garnering the necessary support at either the state or civil society level. I thus make the following hypotheses:

H₁: The larger the majority of seats the president's party holds in Parliament, the more likely that attempts to remove term limits will succeed.

Besides Parliament, other important actors in the third-term process include the judiciary and members of civil society (NGOs, media, religious bodies, etc.). Civil society, including the media, can influence the outcomes of the bids to remove term limits by campaigning for or against the proposals. Specifically, an independent and critical media and an active civil society can act as channels for reaching out to the actors involved in the third-term bids, including influencing the actual decision makers. Holding everything constant, we would thus expect an independent media and an active civil society to influence the rejection of the amendment proposal. This leads me to make the following additional hypotheses:

H₂: The more active and independent the civil society, the higher the likelihood that removal of term limits will be rejected.

H₃: The more democratic a polity is, the lower the likelihood that term limits will be removed.

In the countries where the Constitution is amended through the Parliamentary method, presidents who lack the necessary legislative majorities can seek to build new coalitions that would give them enough support to push through the amendment. In such circumstances, the president can use discretionary powers and the disbursement of patronage as tools to entice members of the Parliament and the wider public to support the removal of term limits. It is in light of this that I make the fourth hypothesis:

H₄: The larger the amount of patronage resources disbursed, the greater the likelihood that bids to remove term-limit rules will result in their removal.

While the popularity of incumbent presidents can potentially influence the likelihood of success or failure of the bids to remove term limits, several informal factors can also potentially influence the final outcomes. These include institutional precedent, particularly in countries

where the adoption of tenure limits were motivated by a history of long-tenured rulers; treatment of the president as a father figure; and the use of violence as a tool to intimidate opponents. I thus make the following hypothesis:

H₅: Prior history of long-tenured presidents will increase the likelihood of the defeat of the bid to remove term limits.

Given the predominance of informal institutions in African politics, my final prediction is that informal institutions will influence the outcomes of the bids to remove tenure limits more than formal ones. However, because the bulk of the informal institutions are unquantifiable, this prediction is not framed as a testable hypothesis.

1.4.3 Case Studies: Malawi, Namibia, Uganda, and Zambia

Case study analysis, in the words of Gerring (2004:341), occupies a “vexed position in the discipline of political science.” On the one hand, practitioners that are well-versed in the intricacies of methodology view the case study method with extreme circumspection (King, Keohane, and Verba, 1994). Yet on the other hand, as Gerring (ibid:341) adds, “political science continues to produce vast numbers of case studies, a high number of which he notes “have entered the pantheon of classic works.”

Among the key benefits of case study research, as noted by Elkins et al. (2009), is that they can illuminate the causal process in a manner that is sometimes lost in large *N* statistical analyses that follow a less sequential evaluation of the association of cause and effect. Brady and Collier’s (2004) distinction between “casual process observations” and “dataset observations” vividly demonstrates the richness of micro- and macro-level case research in understanding social phenomena. In particular, the focus on process employed in case studies has the added benefit of yielding valuable illustrative benefit that cannot be had from large *N* statistical analysis. As Elkins et al. (2009) yet again posit, the narratives that can be had from case studies,

including the proper names of people, places, groups, and events, come alive in a way that clarifies the causal process more vividly and more concretely than statistical parameters usually do. Accordingly, the third and final component of the Nested Analysis framework involved fieldwork in four purposely selected countries: Malawi, Namibia, Uganda, and Zambia.

1.4.3.1 Case Selection

The selection of the four case-study countries was based on elements of the “most similar systems” case design. Under this approach, cases are selected on the basis of differences with respect to the outcome, but match across a host of potentially explanatory variables (Przeworski and Teune, 1970). This method, which derives from J. S. Mill’s “method of difference,” focuses on comparing instances in which a phenomenon does occur with instances in other respects similar in which it does not occur. Lijphart (1971) has termed this approach the analysis of “comparable cases,” where cases selected are similar in a large number of important characteristics, which one wants to treat as constants, but are dissimilar as far as those variables are concerned that one wants to relate to each other. Accordingly, the approach here was to compare the two groups of countries, one where the incumbent presidents were able to alter the presidential term-limit provision (Namibia and Uganda) and a second group where similar bids failed (Malawi and Zambia).

Table 1.4: Small *N* Country Selection

Table 1.4 provides a detailed summary of the two groups of cases and the countries that were selected in each group.

Term Limits Removed	Removal of Term Limits Failed
Namibia Sam Nujoma, 1998	Malawi Bakili Muluzi, 2002/2003
Uganda Yoweri Museveni, 2005	Zambia Fredrick Chiluba, 2001

Apart from the differing outcomes in their bids to remove term limits, the selection of the four countries was motivated by the fact that they all have a shared political history and a very

similar institutional setup.²² For example, the Constitutions of all four countries stipulate that the president should be directly elected to serve for a term of five years.²³ All four countries also share the requirement that candidates for presidential office be at least thirty-five years of age. The only major difference in presidential elections in the four countries involves the rules governing the margin of victory. While the Namibian and Ugandan Constitutions both stipulate that the victorious candidate should secure an absolute majority of the vote using the 50 percent + 1 rule, the Malawian and Zambian Constitutions only require a simple majority for the victorious candidate.²⁴

The shared colonial and institutional history meant that the study avoided the likelihood that the differing outcomes of the quests to remove term limits in the four countries were influenced by exogenous factors.

1.4.3.2 Fieldwork

The fieldwork phase of the study involved gathering data in the four countries starting in the summer of 2007 followed by a second stint between June and December 2008.²⁵ The main

²² Three of the four countries (Malawi, Uganda and Zambia) were all former British colonies. Namibia on the other hand experienced a different colonial history in that the territory was initially shared between the British (Walvis Bay) while the rest of the country was given to the Germans to manage. However, after the 1st world War, Namibia was placed under the trusteeship of the League of Nations with the UK and South Africa mandated to manage the affairs of the country on behalf of the League.

²³ Article 28(2)(a) and 29(1)(a) of the Namibia Constitution (1990); Article 103(1) and 102(b) of the Uganda Constitution, 1995; Articles 80(5)(b) and 83(1) of the Malawi Constitution, 1995; and Articles 34(1) and 35(1) of the Zambia Constitution of 1996.

²⁴ See Article 28 (3) of the Namibia Constitution (1990); Article 103(4) of the Uganda Constitution (1995) and Articles 80(2) of the Malawi Constitution, 1995 Article 34 (8) of the Zambia Constitution, 1996.

²⁵ The first fieldwork component involved a pre-dissertation research work carried out in Malawi in summer 2007. This part of the study was generously funded by Michigan State

goal of this phase was to identify especially the informal institutional traits that can help to explain the outcomes of third-term bids. The primary tool used during this exercise was a semi-structured questionnaire²⁶ that asked target groups in each country questions about how the bids to remove the term limits unfolded, the actors involved at each stage, and the identification of factors that informed the outcomes of the bids. The research instrument was first pretested in Malawi in the summer of 2007 through interviews with key stakeholders. This included participants of the Constitutional drafting meetings, politicians from different political parties chosen to ensure a balance between supporters and opponents of the third-term bids, civil society leaders, members of the media, university academics, traditional leaders, and members of the clergy. Based on the information gathered from the initial exercise in the summer of 2007, I made final revisions to the questionnaire and finalized the list of groups of people to interview in each country. In the summer and fall of 2008, I carried out further fieldwork in the four countries. I started again in Malawi (June–July 2008), followed by Zambia (August–September), Uganda (October–November), and then Namibia (December 2008). Interviewees in each country were identified through a review of newspaper archives to identify some of the leading players during the debates leading up to the bids to remove term limits. Apart from the media, I also relied on Parliamentary records of the debates to identify some of the key actors for possible interviews.

University's International Studies and Programs under its Pre Dissertation Research grant. The second phase was carried out between June and December 2008 and involved fieldwork in all the four case-study countries. This phase of the study was funded by a generous fellowship grant by the Compton Foundation, with additional funding provided by the Department of Political Science at Michigan State University.

²⁶ See Appendix 1.

In terms of actual deliverables, the fieldwork phase focused on collecting quantitative and qualitative data on five key issue areas in each of the four countries: identifying (a) the actors in the national Constitution-making processes in each country; (b) the revealed strategies used to achieve their goals (that is, whether they were sincere or strategic); (c) arguments made by various actors in the public debates on third-term bids and the nature of information on which those arguments were made; (d) the resources that each side deployed, including material, organizational, and ideological resources; and (e) the survival or abolition of old institutions and/or the emergence of any new institutions. The main sources of quantitative and qualitative data were official public records in each country. For the qualitative data, I held interviews with key players and actors in the third-term bids to ascertain, among other things, evidence of the range of strategies employed, including patronage resource exchanges, and expert opinion on the impact of such strategies.

1.4.3.3 Fieldwork Challenges

While the fieldwork process went well overall, there were a number of challenges that were encountered. Among the main challenges was securing interviews with those individuals who had supported the removal of term limits. In many instances, those individuals were very reluctant to be interviewed compared to those that had opposed the bids. In Malawi and Zambia, for example, efforts to schedule interviews with former Presidents Bakili Muluzi and Fredrick Chiluba were canceled at the last minute after the two former leaders were informed of the research topic. Additionally, there were challenges in securing interviews with busy public officials, particularly leading members of ruling parties in the four countries. This challenge was particularly acute in Zambia, where fieldwork had to be postponed following the death of President Levy Mwanawasa in August 2008. After rescheduling the fieldwork, the new research

period coincided with the presidential election campaign to choose Mwanawasa's successor. In a number of cases, interviews were scheduled in advance only to be canceled because the individuals to be interviewed had traveled to take part in the campaigns.

The other types of challenges were logistical. Carrying out fieldwork, particularly of this nature, is not only time intensive, but also very expensive. These challenges are multiplied when the fieldwork, as in this case, had to be carried out in four countries. While in all four countries I benefited from the support of academic colleagues at the Universities of Malawi, Zambia, Namibia, and Makerere (Uganda) in suggesting names of possible interviewees and scheduling a number of these interviews, it was often a challenge to secure interviews with individuals that were not familiar with me. Indeed, travelling to different localities in countries that I am not familiar with posed a number of logistical challenges.

While I spent up to four weeks each in Malawi, Zambia, and Uganda, complications with my travel visa in Namibia forced me to cut my time there short after spending only a week and a half. Despite the setback in Namibia, however, it was nevertheless possible to use my experiences in the other three countries to target key interviewees and secure access to critical documentation that made it possible to get a very strong grasp of how the third-term process unfolded in that country and the key factors that were at play.

1.5 Overview of Chapters

This thesis has a total of eleven chapters, including this introduction. In chapter 2, I provide my analytical framework, which forms the foundation of the analysis in the substantive chapters. This framework, building on the role that institutions play in affecting the outcomes of political change, identifies four levels of institutions that are projected to impact on the bids to remove term limits: Meta, State, Political Society, and Civil Society levels. At each level, I

identify formal and informal institutions that are likely to affect the outcomes of the bids to remove tenure limits and predict the nature and direction of the relationship.

In chapter 3, I review the literature on term limits. This review starts by offering a definition of term limits, distinguishing them from what constitutes a term of office. This is followed by a synopsis of the evolution of term limits, starting with their origins in classical Athens and Rome through their application in contemporary politics. The chapter ends with an exploration of the arguments that are advanced both for and against term limits.

Chapter 4 is the first of seven substantive chapters. This chapter zeroes in on the form and application of the institution term limits on the presidency over time. Through an examination of the universe of presidential-regime Constitutions, I demonstrate that the most common type of limits is one that allows presidents to serve for a maximum of two terms. The chapter closes with an observation that, while there had been a significant surge in the adoption of term limits globally in the last decade of the 20th century, recent evidence from the first nine years of the 21st century shows that the institution is increasingly being threatened by leaders seeking to prolong their tenures. Remaining at the global level of analysis, I continue in chapter 5 with an exploration of the attempts to remove term limits and their outcomes at the global level. I conclude this chapter by arguing that, despite the recent flurry in the adoption of rules aimed at limiting presidential tenure, the increasing number of presidents that have sought to remove these rules demonstrates that Constitutionalism remains a major challenge in new and emerging democracies.

Chapter 6 moves away from the global focus toward a discussion of presidentialism and the recent struggles for prolonging presidential tenure in Africa. A close examination of the third-term phenomenon in Africa leads to the identification of three phases in the removal of

term limits. The first involves national debates on the removal of term limits. This is followed by a second stage where legislation to remove term limits is tabled in the National Assembly. The third and final phase of the process is the outcome stage, which has two possible results: the bill passes and term limits are removed, or the bill fails and term limits are retained. I argue that unpacking the third-term process this way makes it possible to isolate the different impacts various institutions have at each of the three stages of the third-term process without ascribing to them a universal impact throughout the process.

Chapter 7 offers an analysis and discussion of the micro-foundations of support for presidential term limits in Africa. This discussion, which is based on an analysis of Round 4 Afrobarometer data from eighteen African presidential regimes, shows that the main drivers of public support for presidential term limits are political values, followed by performance evaluations. Meanwhile, social attributes and demographic characteristics, such as age, gender, and geographical location, are the least important drivers of public support for term limits.

Chapter 8 wraps up the quantitative part of the study by analyzing how institutions, particularly those of a formal kind, influenced the likelihood of a president considering the removal of term limits, the likelihood of following up this discussion with the tabling of legislation, and finally the outcomes of this legislation. This analysis establishes that a number of institutions—including the precedent of alternation, legislative fractionalization, aid dependency, and ethnic fragmentation—have negative effects on the processes of removing term limits. However, a handful of institutions, particularly the length of an incumbent's tenure and his military background, increase the likelihood of the removal of term limits.

Chapters 9 and 10 draw from the fieldwork components of the study to first discuss the strategies that were employed by those seeking to remove tenure limits. While the findings show

some commonalities in the choice of strategies, the comparison of the two sets of countries reveals some important distinctions. For example, while all four countries employed patronage, violence, and changes to rules of the game to facilitate the removal of term limits, the countries that managed to achieve this goal had the backing of state instruments of force. Conversely, in the cases where the main perpetrators of violence were ruling party militias, it was possible for individuals to receive patronage and yet subsequently refuse to support the removal of term limits, since the physical cost of defection was much lower in those cases. While the main focus in chapter 9 is on the strategies adopted for removing term limits, the discussion in chapter 10 focuses on the informal institutional determinants of the outcomes of the bids to remove term limits. Key findings include the fact that countries that have had a history of long-tenured presidents, and those that have an active and independent civil society, were less likely to remove term limits. Meanwhile, the presence of father-figure presidents, and strong and cohesive ruling parties, were conducive to the removal of term limits.

Chapter 11 brings everything together and concludes.

Chapter 2

An Institutional Framework for Studying the Fate of Term Limits

2.0 Introduction

There is a general consensus in the field of political science that institutions, broadly defined, not only matter, but that they also “influence norms, beliefs and actions and therefore, shape outcomes,” (Przeworski, 2004:527). The importance of institutions in shaping political action and outcomes is further enunciated by Steinmo (2001), when he notes that they help to determine the choices of political actors and influences what these actors believe to be both possible and desirable. The important role that institutions play in shaping politics and influencing political change, including the transformation of different regimes, has long been established (Bayart, 1993; Bratton, 2007; Bratton and van de Walle, 1997; Helmke and Levitsky, 2006; Herbst, 2000; Linz and Valenzuela, 1994; March and Olsen, 2006; O’Donnell and Schmitter, 1986; Posner and Young, 2007; Schatzberg 2001). In their study of transitions from authoritarianism to democracy in Latin America for example, O’Donnell and Schmitter (1986), frame their discussion within the context of the effects that institutions can have in influencing the outcomes of regime types. On their part, Linz and Valenzuela (1994) argue that the institutional dynamics of presidential democracies make them more susceptible to failure and authoritarian capture compared to Parliamentary regimes.

Despite the widely recognized role that institutions play in providing opportunities and constraints for political action, their role in the bids to remove presidential term limits at the global level generally, and in Africa more specifically, has only been tentatively addressed. For example, although Posner and Young’s (2007) study made preliminary attempts at identifying some of the institutions that might influence the outcomes of the third-term bids in Africa, the

authors were challenged by a relatively low number of third-term cases that contributed to non-significant outcomes from their attempts at detailed statistical analyses on the institutional effects on the bids. As a result, the authors were compelled to admit the tentative nature of their arguments, which they acknowledged could “only be suggestive” (ibid:135). By extending the coverage to 2009 in this current study, I almost double the number of third-term cases from the eighteen in the Posner and Young study to thirty-one. Working with this relatively larger sample, it thus becomes possible to not only re-examine some of the conclusions reached by the earlier studies of the third-term phenomenon, but also to test the effects of a larger portfolio of institutions.

In addition to working with smaller sample sizes, both the studies by Posner and Young (2007) and Siegle (2007) did not disaggregate the various stages of the third-term processes as I do here. As a result, both worked on the assumption that the set of institutions they identified would have constant effects throughout the third-term processes. However, as I show throughout this study, the effects of some of these institutions is different at the three phases of the third-term bids. In order to fully understand the dynamics of institutions on the bids to alter presidential term limits, I therefore adopt a framework that breaks down the third-term process into three stages, namely:

- a) Discussion phase, which serves as an information-gathering process by the third-term-seeking presidents to gauge public reaction to the removal of term limits and to identify the appropriate strategies for achieving the goal of removing term limits;
- b) The tabling of legislation seeking the removal of term limits; and

c) A final outcome stage, which depends on the vote on the bill to remove term limits.

Two outcomes can arise from this: voters, principally legislators, support the removal of term limits or reject the proposal and term limits are retained.

By breaking down the third-term process in this way, it becomes possible to test the effects of various institutions that might or might not have the same impact at each of the three stages.

2.1 Defining Institutions

Institutions are defined by March and Olsen (2006:3) as the “relatively enduring collection of rules and organized practices, embedded in structures of meanings and resources, that are collectively invariant in the face of turnover of individuals and relatively resilient to the idiosyncratic preferences and expectation of individuals and changing external circumstances...”

Comprising the rules and practices that stipulate appropriate behaviour, institutions play an important role in helping to organize how authority and power is constituted, exercised, legitimated, controlled, and redistributed (North, 1991). In other words, institutions create capabilities for acting, while at the same time constraining and shaping political interactions by prescribing what actions are acceptable or not. Institutions, in other words, provide structures of meaning, common purposes, and accounts of political actors.

2.1.1 Formal and Informal Institutions

From the definition offered by March and Olsen (2006), institutions not only include the “enduring collection of rules” of a formal kind, but they also include informal norms that are based on “organized practices.” While most studies of institutions have tended to focus primarily on formal rules, largely because they are easy to observe, decipher, quantify, and study, there is an increasing recognition that informal, and often unwritten and unquantifiable, rules that include organizational structures and cultural practices do play equally important roles in politics,

particularly in the developing world (Bratton, 2007; Helmke and Levitsky, 2006; Schatzberg, 2001; van de Walle, 2003).

Drawn from socially shared values and usually unwritten, informal institutions are often created, communicated, and enforced outside of formally sanctioned channels. Yet, despite this lack of formalization, informal rules can have as much influence, and sometimes more, in shaping political affairs and outcomes as do formal ones. This position is well enunciated by Helmke and Levitsky (2006) when they point out that informal institutions contribute to the production of degrees of Executive dominance that can sometime override the formal rules that are prescribed in national Constitutions. The challenge, of course, is to draw a line between where formal rules end and informal ones begin, as often there is an absence of clear distinctions at the margins.

Because informal institutions can create, strengthen, or negate incentives to comply with formal rules, they may also shape attempts to change existing formal rules in very important ways. Informal institutions may also limit the exercise of presidential power, even in cases where Constitutions establish super-powerful presidencies (Siavelis, 2006). The case of Nigeria's Olusegun Obasanjo provides one of the best illustrations of how an informal institution can limit the ability of presidents that are endowed with super-Constitutional powers from advancing their personal agenda. Despite the sweeping powers entrusted on the Nigerian president by the country's Constitution, Obasanjo was prevented from prolonging his tenure in 2007 after his attempt to remove term limits was defeated. Although Obasanjo's People's Democratic Party (PDP) had a commanding Parliamentary majority and his quest for a third term was accompanied by a major campaign of patronage to entice supporters, it was defeated due to the PDP's policy stipulating that its presidential candidates should be rotated between geographical zones after

every two terms.²⁷ This zonal rotation policy meanwhile was influenced by an informal recognition of the need to rotate leadership of the party between the largely Muslim northern part of the country and the predominantly Christian south. Thus, after having served as Nigeria's president for two terms, Obasanjo's attempt to seek a third term was seen as an abrogation of the PDP's informal arrangement to promote leadership rotation. As a result, several PDP legislators in the Nigerian Senate, led by Vice President Atiku Abubakar, voted against the bill that sought to remove term limits when it was tabled in the Senate in May 2006.²⁸

3.1.1.1 Informal Institutions in African Politics

The competing effects of formal and informal institutions in shaping politics and political outcomes are arguably most vividly demonstrated in the African political arena. Although the political transitions of the last decade of the 20th century were expected to increase the influence of formal institutions while reducing the effect of informal ones, the reality is that informal institutions continue to shape political action on the continent in very important ways (Bayart et al., 1999; Bratton and van de Walle, 1997; Chabal and Daloz, 1999; Hyden, 2006; Mainwaring, 1993). Hibou sums up the gist of this argument when she posits in her analysis that formal institutions are oftentimes trumped by informal rules based on traditional and cultural rules of engagement:

The relationships, institutions and people most prominently in public view are not necessarily the most powerful...public administration and institutions in Africa are indeed weak...personal relations, and personal networks, whether of an economic, political, religious or regional nature, frequently offer far more effective instruments of public management... (1999:88-91).

²⁷ See Article 7(2)(c) of the People's Democratic Party Constitution (2009), which calls for "the policy of rotation and zoning of party and public elective offices..."

²⁸ See BBC News, "No Third Term for Nigerian Leader," May 16, 2006, available online at <http://news.bbc.co.uk/2/hi/africa/4986904.stm>.

The central role that informal rules play in the African political arena does not, however, imply that these rules always override formal ones. Indeed, the literature that highlights the transformative power of institutional change goes further to suggest that the political transitions of the 1990s ushered in a new era of formal institutionalism in Africa and that these are gradually supplanting informal ones (Horowitz, 1991; Idrissou-Toure, 2005; Lindberg, 2006; Posner, 2005; Posner and Young, 2007; Purvis, 1996; Reynolds, 1999). Among the new institutions that were introduced following the political transitions of the 1990s included competitive elections, the aim of which was to subject leaders to the will of the people at regular intervals. Others included rules aimed at limiting the ability of leaders to dominate politics and personalize power, such as rules that emphasize Constitutional supremacy. In some cases, the new Constitutions set maximum presidential age limits as a way of addressing the frequency of longevity of leadership that often translated into gerontocracy. For example, Benin, Chad, and Equatorial Guinea, among others, stipulate minimum and maximum ages for candidates for presidential office.²⁹

It is within this changing institutional environment that there has been a new wave of optimism suggesting that the era of informal rule domination in African politics might be coming to an end. Posner and Young (2007) make the most compelling of these arguments when they not only contend that formal institutions are beginning to assume centre stage in post-transition African politics, but they also provide empirical evidence to substantiate the view that formal institutions are supplanting informal ones. Citing examples of incumbent leaders that had publicly expressed interest to extend their tenure but were unable to negotiate the process of removing term limits, Posner and Young (2007:138) contend that “African politics needs to be

²⁹ See Article 44 of the Constitution of Benin (1990); Article 62 of the Constitution of Chad (1996); and Article 33(f) of the Constitution of Equatorial Guinea (1995).

viewed through lens that recognize the formal constraints on executives and rejects the assumption that African leaders simply get what they want.”

The argument that the new, and predominantly formal, institutional frameworks in Africa’s emerging democracies are transforming politics beyond the informal institutional paradigm is not, however, universally shared. Instead, a group of scholars express scepticism about the potency of the formal institutions to reign in Africa’s personal rulers (Bayart et al., 1999; Bratton, 2007; Bratton and van de Walle, 1997; Chabal and Daloz, 1999; Hibou, 1999; Hyden, 2006). The main argument of this scholarship is that the formal institutions have had only a limited impact, and that informal institutions continue to provide the dominant framework within which politics is practiced in Africa. This view is captured most succinctly by Hyden (2006:94, 98) when he contends that “the notion that Constitutional norms and principles are binding on political leaders is still very much in doubt...[and that] personal rule remains prominent in Africa.” Villalon and Idrissa (2005) echo this position when they note from their study of the post-authoritarian regime in Niger that politics remains extremely personalized and that most of the formal institutions that were adopted as part of the democratic transition of the early 1990s were reversed within the first three years. On his part, van de Walle (2003:310) notes that, despite the adoption of new and ostensibly democratic Constitutions, the reality in Africa’s emerging party systems is that “power is [still] intensely personalized around the figure of the president.”

Thus, while formal institutions are beginning to play an increasingly important role in Africa, a full appreciation of politics on the continent still requires a focus on both formal and informal rules. It is in recognition of this continued interaction between formal and informal institutions that this study therefore opted for a framework that examines the relationship

between both sets of institutions (formal and informal) on the outcomes of the bids to remove term limits. This framework has the benefit of providing a holistic understanding of the full range of institutions that influence the outcomes of the bids to remove tenure limits on the continent.

Yet, because informal institutions, in the words of Bratton (2007:99), “are harder to observe than formal ones,” there are conceptual challenges in classifying what qualifies as an institution and what does not in this arena. For example, a measure such as age might not on its own be classified as an institution in the conventional sense, yet when viewed from the perspective of culture and traditions that place emphasis on respect for the elderly and authority, age acquires some important institutional attributes. Similarly, variables such as father-figure presidents, the military backgrounds of individual leaders, and civil society also acquire institutional weighting when viewed from the perspective of traditions that place emphasis on respect for, and deference to, the elderly and authority. Indeed, even commonly accepted measures of informal rule, such as patronage, only acquire the status of an institution when viewed from the context of traditions and behavioural patterns that expect a reciprocal relationship between the patron and the recipients of his patronage.

It is thus in recognition of the unclear boundaries of what qualify as institutions, especially those of the informal type, that this study adopts a very broad definition of institutions that includes organizational structures and cultural practices that all serve as important drivers of politics at different levels of the African political arena. While this broad and rather stretchy approach presents conceptual challenges, especially at the outer margins of the institutional classifications, the inclusiveness it offers ensures a more holistic understanding of how the third-term bids unfold and what influences the outcomes in ways that would not be possible if the

focus was only on the formal dimensions of institutions. Indeed, as I demonstrate in the case-study chapters later in this study, this broad conceptualization makes it possible to compare how formal and informal institutions, broadly defined, affect the outcomes of the third-term bids.

Of course, by factoring in many informal institutions, a majority of which are unquantifiable, this not only creates a dilemma to come up with a single predictive model that makes it possible to identify the most important variables in the third-term processes, but it also creates a major challenge in offering an empirical response to the question of which category of institutions—formal or informal—influences the outcomes of the bids to remove term limits more. In an attempt to overcome these challenges, the study turned to the use of case studies, which are discussed in chapters 9 and 10, to offer more insights into how the third-term bids were affected by informal rules, the effects of which could not have been captured in the quantitative analyses in chapters 7 and 8. Even with this approach, the question on the comparative effects of formal and informal institutions could only be answered based on the author's grasp of how the quests to remove term limits unfolded in the case-study countries. Indeed, an additional dilemma created by the broad definition of institutions is that the institutional framework identifies up to sixteen institutional variables that may affect the outcomes of the bids to remove term limits. While ordinarily this makes it difficult to figure out the main driving forces in the argument, especially given the fact that there are only thirty-one cases, it is important to note that the regression analysis in chapter 8 only captures half of the institutions outlined in this chapter. The rest of the institutions are instead the informal type whose effects are examined in great detail in the case-study discussions in chapters 9 and 10. This approach helps focus on the effects of formal institutions that form the gist of the discussion

in chapter 8, while at the same time accommodating the dynamics of informalism during third-term processes.

2.2 Levels of Institutional Analysis in the Study of Term Limits in Africa

An incumbent president that is approaching the end of his tenure within a term-limited polity has two primary choices: abide by the tenure limitations and step down, or get the term limits removed or relaxed in such a manner as to allow for tenure extension. If the decision is to seek a third term, this would trigger a second phase of the game that requires the removal of term limits. This last phase can take any one of four options, namely:

- i) Abolishing the term-limit rule to allow indefinite re-election
- ii) Increasing the maximum number of allowable terms
- iii) Classifying a prior term as falling outside the term-limit ambit
- iv) Increasing the length of the presidential term without removing term limits

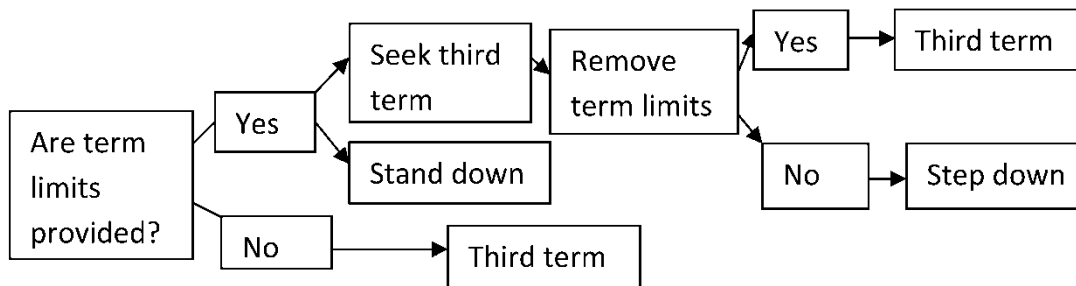


Figure 2.1: Options Facing Term-Limited Presidents

If the president decides on any of the four options of tenure extension (see table 2.1), he has to negotiate a maze of institutions, both formal and informal, before he can get over the limitations. The outcomes of these processes ultimately depend on the strength or weakness of the existing institutions in preventing or aiding the removal of term limits, as well as the ability of the incumbent to successfully negotiate around them. Certain categories of institutions can thus facilitate the process of institutional change, while others can constrain the ability of the

incumbent from achieving the goal of extending tenure by making it very difficult to remove term limits.

When there are no term limits, a president is free to stand for election for any number of elections without needing to negotiate around any institutions. However, if term limits exist, the incumbent can choose to honour term limits and step down; in this case, no further action is necessary. However, if the president decides to extend his tenure when term limits exist, he has to find a way around this rule, drawing upon a range of institutions. The type and nature of these institutions can be partitioned into a four-level matrix. The first is a Meta level, which captures institutions and rules stemming from the overarching legal framework that define the political regime, mostly the national Constitution. The second tier focuses on the set of rules that govern the activities of political actors at the state level, including both local and extant actors that influence the outcomes of political action at this level. The third tier in the matrix is the political society level, covering groups of actors that form political goals, such as political parties and the person of the president. The final tier in the matrix covers institutions that regulate the activities

Table 2.1: An Institutional Matrix for Studying the Bids to Remove Term Limits in Africa

Institutional Level	Type of Institutional Arena	
	Formal Arena	Informal Arena
Meta-Level	Constitution: maximum length of tenure; checks and balances	Path dependency, the precedence of alternation
State-Level	Extent of democracy, legislative majority of ruling party, effective number of parties	Patronage, influence of extant economic actors
Political Society	Political parties, electorate	Alliances, factions, age of the president (gerontocracy), deference for authority and father-figure leadership, military background of president, history of long-tenured presidents
Civil Society	NGOs, religious groups, media, trade unions	Ethnic fragmentation, public opinion

of civil society actors, such as non-governmental organizations (NGOs), the media, religious groups, trade unions, and others. At each of these levels, there are two sub-groups of institutions, formal and informal, that are expected to interact with the bids to remove term limits and influence the final outcomes.

2.2.1 Meta-Level Institutions

The primary institutional focus at the Meta level zeroes in on national Constitutions. Not only do Constitutions provide the overarching legal framework, but they also set out the rules on changing other existing institutions, as well as identifying the actors and arenas through which politics is practiced. However, taking the cue from Okoth-Ogendo's warnings against adopting an approach that focuses purely on the formal aspects of Constitutions, when empirical evidence indicates a common tendency among African leaders to disregard critical provisions of these documents, the study also analyses the informal dimension of Constitutions, by focusing on the extent to which the Constitution is respected. This dimension, which is characterised as Constitutionalism, determines the extent to which other informal rules can influence the political process, including the inclusion of informal actors and rules in influencing political action and outcomes. Drawing upon this Meta framework, I identify subsets of institutions that have the potential to impact the attempts to remove tenure limits at this level.

2.2.1.1 Formal Meta Institutions

The literature on institutional change and term limits suggests that two institutions play a critical role in determining the outcomes at the formal Meta level, namely rules about the maximum length of allowable tenure and the strength of the institutions of checks and balances.

2.2.1.1.1 Maximum Length of Presidential Tenure

In his paper on strategies for building Africa's nascent democracies, Siegle (2007) argues that Constitutional rules stipulating the length of presidential tenure can be an important determinant of whether presidents will step down or seek to manoeuvre around these rules to prolong their tenure. Building on previous studies that have argued that the zero-sum nature of African politics means that the presidency provides the best route to accumulating wealth, the gist of Siegle's argument is that leaders that serve shorter tenures will have a greater incentive to remove term limits as a way of extending the opportunity to accumulate wealth.

Siegle's view is echoed in a recent study by Anderson (2010), who notes that former presidents in Africa face very limited career opportunities when they leave office. This situation contrasts with that of former presidents in Western democracies, who can pick up lucrative careers on the public-speaking circuits after they leave office. Based on these contrasting post-presidential career options, Anderson concludes by arguing that African presidents, especially those that are allowed to serve shorter tenures, would be more inclined to seek the removal of term limits as a strategy to maximize the benefits of office.

If Siegle's and Anderson's propositions hold true, it can be expected that polities in which presidents serve shorter maximum tenures would be more predisposed to initiate national discussions seeking the removal of term limits and follow these up by the tabling of legislation to do so. However, since the main effect of shorter tenures is to motivate the desire to extend tenure, it is unlikely that this institution would have any major effect on the final outcome of the bid itself.

2.2.1.1.2 Checks and Balances

In order to decrease the likelihood of tyranny, many democracies rely on Constitutional frameworks that espouse systems of checks and balances and the separation of the exercise of political power. As Haggard and McCubbins (2001:2) point out, the complementary rules of checks and balances and separation of powers ensure that the power to change public policy and its underlying rules is shared among many competing political actors. Some of these actors, such as Parliaments and the judiciary, wield independent power from the executive and can veto proposals and decisions made by the executive. Presidents that seek to change tenure limits thus have to overcome any opposition from these veto actors before they can achieve the goal of extending tenure. It thus follows that where the checks and balances and separation of powers are strong, presidents would be less likely to succeed in removing term limits. However, checks and balances and separation of powers would be less likely to affect the expression of a desire to seek the removal of term limits, since this phase of the third-term bid is influenced largely by the ambitions of the incumbent.

2.2.1.2 *Informal Meta Institutions*

While the need for social order necessitates the adoption of a Constitution to serve as the overarching legal framework for governing the affairs of state, it is not always the case that these frameworks are respected and adhered to. Indeed the numerous cases of attempts to remove term limits, as well as examples of presidents that have ignored these and other Constitutional rules, underscores the fact that the mere adoption of a Constitution is not a sufficient indicator that the rules contained therein will be respected. This brings in the important distinction between Constitutions as a formal document and the concept of Constitutionalism as an informal dimension at the Meta level of analysis. While the Constitution refers to the actual set of broad

rules that govern the affairs of state, Constitutionalism entails that all political actors and citizens must consent to be governed by the assemblage of institutions, rules, values, and customs that are enunciated in the Constitution. Constitutionalism, in other words, represents a commitment to be governed by the Constitution (Lutz, 2000). It is thus possible to have Constitutions without Constitutionalism, although Constitutionalism cannot be had without Constitutions. It can thus be expected that, among regimes that have presidential term limits, polities that exhibit high degrees of Constitutionalism will be less likely to acquiescence to the removal of term limits than those that demonstrate low Constitutionalism.

2.2.1.2.1 Path Dependency: Precedent of Presidential Alternation

Once a country has written down a set of rules framed as a Constitution, these rules, even if they are merely window-dressing, create an expectation of a reasonable compliance that amounts to a self-fulfilling prophecy over time. As March and Olsen (2006) point out, long periods of institutional continuity can facilitate the reproduction of institutions and thus help to establish institutional equilibrium. This can help to establish a legacy of path dependency, where the institution is continuously reproduced.

The role of path dependency in third-term processes is noted in the study by Steigle (2007:17) when he contends that leaders who step down at the end of their terms “instill the precedent of succession,” thereby making it less likely for their successors to tamper with the institution of term limits. It can thus be expected that countries with leaders that have previously adhered to the letter and spirit of the Constitution by stepping down at the end of their tenures will establish path dependencies of observance of term limits. New incumbents in these polities will thus be less likely to pursue the removal of term limits. Conversely, in countries where the

tradition of honouring tenure limits is less entrenched, there will be a higher likelihood that attempts to remove term limits will succeed.

2.2.2 State-Level Institutions

There are several types of institutions, both formal and informal, at the state level with the potential to impact the outcomes of the bids to remove presidential term limits.

2.2.2.1 Formal State Institutions

2.2.2.1.1 Extent of Democracy

One of the defining characteristics of the transitions from authoritarian rule in Africa was the promotion of democracy in place of authoritarianism. While the authoritarian regimes tended to restrict the scope of political engagement among ordinary citizens, the new democratic regimes sought wider opportunities for citizen engagement and participation in politics. Among the new innovations were opportunities for individuals to contest for political office, to take part in elections, and to join political parties of their choice. The new democratic Constitutions also provided guarantees for wide-ranging freedoms and rights, including freedoms of the press, as well as a host of civil freedoms, such as the right to demonstrate, among many others (Bratton and van de Walle, 1997). Indeed, the adoption of tenure limits, as Baker (2002) points out, was itself indicative of the disavowal of the culture of personal rule characterized by long-serving presidents.

However, given the discussion about Constitution and Constitutionalism, it is possible for Constitutions to provide the framework for democratic politics, and yet limited adherence to these rules could limit the nature and extent of democracy. Thus in polities that are less democratic, it can be expected that there will be higher likelihood of attempts to remove term limits that can end in their eventual removal. Conversely, countries that have stronger democracy

scores would not only be more likely to adhere to the term-limit provisions, but they will also be more likely to reject any efforts to remove them.

2.2.2.1.2 Size of Government's Legislative Majority

In his groundbreaking study on veto players, Tsebellis (2002) has argued that the process of institutional change is greatly influenced by the number of actors that wield effective veto power—actors, individual or collective, whose agreement is necessary for a change of the status quo. March and Olsen (2006:3) echo Tsebellis's position by highlighting the important roles played by veto actors in institutional change processes when they argue that “institutions are reinforced by third parties in enforcing rules and sanctioning compliance.” The ability of presidents to mobilize support for the removal of term limits and overcome resistance will thus depend on their ability to win the support of veto players.

As changes to the Constitution have to be passed in Parliament, usually requiring super majorities, the ability of presidents to remove term limits greatly depends on their support in the legislature. If the president's party has a high enough legislative majority, this can increase the likelihood of the removal of term limits and open the possibility for a third-term bid. Conversely, presidents who have smaller legislative majorities would likely face major legislative hurdles that might not only dissuade them from contemplating a third term, but might also increase the likelihood that attempts to remove term limits would be defeated.

2.2.2.1.3 Effective Number of Parties

Among the list of key actors that can exercise veto power in a given polity are groups of partisan actors that can counterbalance the power enjoyed by incumbent presidents and their parties. In polities where multiple parties are represented in the arenas of governance, there are multi-party Parliaments, with whom presidents have to negotiate in order to pass legislation that

can lead to the removal of term limits. Suffice it to say that the higher the number of partisan veto actors in the legislature, the less the likelihood that any bill proposing to remove term-limit rules will succeed. Conversely fewer partisan veto players in the legislature increases the likelihood that the bill to remove term limits will be passed.

In order to calculate the ability of national legislatures to wield veto power on legislation seeking to remove term limits, I used Laakso and Tangepera's (1979) measure of the effective number of parties. Unlike a simple measurement of the number of seats enjoyed by the parties in the legislature, effective number of parties provides a weighted index of the partisan composition of Parliament, thus giving a more useful indicator on the ease with which the ruling party can pass legislation, as well as the ability of opposition parties to thwart attempts to remove term limits. The formula for calculating the effective number of parties as proposed by Laakso and Tangepera's (1979) is:

$$N = \frac{1}{\sum S_i^2}, \text{ (where } S_i \text{ is the proportion of Parliamentary seats for party } i\text{)}$$

Since a high number of effective parties increases the number of partisan veto players in the legislature, it is thus expected that this measure would have a negative effect on the outcomes of the bids to remove term limits. However, the effectiveness of increased partisan players might be blunted by other complementary strategies, such as patronage, the use of violence, and changes to the rules of the game, all of which can undermine opposition partisan potency in stymieing third-term bids.

2.2.2.2 *Informal Institutions at the State Level*

Africa's long history with personal rule has demonstrated that the personal characteristics of individual leaders have the ability to shape the political system in very dramatic ways. Jackson (1984:421) sums up this view most succinctly when he contends that political activity in Africa's

personalized regimes not only revolves around the person of the president, but that it is also “shaped less by institutions or impersonal social forces than by personal authorities.” In recognition of this importance of the personal in African politics, this institutional framework also examines several dimensions of informal institutions at the state level that have the potential to influence the outcomes of the bids to remove term limits.

2.2.2.2.1 Patronage

The prominent role that patronage plays in Africa’s personalized politics has been well and thoroughly documented (Bayart, 1993; Bratton and van de Walle, 1997; Clapham, 1982; Jackson and Rosberg, 1982; Schatzberg, 2001; van de Walle, 2003). In their analysis of personal rule in Africa, Jackson and Rosberg (1982:38) summed up the linkage between personal rule and patronage most succinctly when they argued that because personalized politics are not founded on established formal rules, they need alternative arrangements “by which uncertainty and potential instability can be reduced and some degree of political predictability obtained.” These arrangements are often to be found in informal institutions, particularly patron-client relationships, where followers “may be opportunists who attach themselves to such leaders in anticipation of benefits to be derived from backing a successful political entrepreneur” (ibid:38-39). The politics of the bids to remove term limits can also be expected to become private exchanges between presidents who disburse various forms of patronage incentives to clients in return for support in the removal of term limits.

Presidents that indulge in the disbursement of patronage will thus be expected not only to be inclined to initiate discussions to consider removing term limits, but they might also come under pressure from their client base to do so. Meanwhile, patronage can also be used as a key component of the overall portfolio of strategies to retain the loyalty of traditional supporters of

the president, as well as to entice members of the opposition to join in voting for the removal of term limits.

2.2.2.2.2 Influence of Extant Economic Actors

While domestic institutions play an important role in influencing institutional change, Africa's reliance on foreign aid has meant that external actors can, and do, play important roles in influencing political outcomes on the continent (Bratton and van de Walle, 1997; Diamond, 1999; Siegle, 2007). Foreign donors, for example, were widely credited for supporting the indigenous political movements that pressured authoritarian regimes to embrace competitive multi-party politics in the early 1990s. In several cases, donors directly pressured the authoritarian regimes to adopt multi-party politics by suspending or threatening to withdraw aid (Bratton and van de Walle, 1997; Brown, 2001; Hearn, 2000).

It is through the recognition of the leverage of aid that Posner and Young (2007) have argued that donors can use the threat of withholding or suspending aid to compel African leaders to desist from removing presidential term limits. To the extent that aid becomes a bargaining tool to compel adherence to term limits after the intent to remove them has been demonstrated, the effect of extant economic actors was measured by the levels of aid dependence in a given country. Specifically, extant economic actors could be expected to play a major role in those countries that are highly dependent on donor aid, as measured by the proportion of foreign aid in the overall Gross Domestic Product (GDP). The expectation was thus that aid dependence³⁰ would have had no effect at the initial discussion phase of the third-term bids. Donor pressure can however be expected to be exerted when an incumbent has publicly expressed a desire to

³⁰ Aid dependence is measured using data, obtained from the Organisation for Economic Co-Operation and Development (OECD), that quantifies aid as a percentage of GDP by country.

prolong his tenure. Donor dependence, in this regard, is not likely to prevent the expression of a desire to seek the removal of term limits, but might kick in at pressuring incumbents to desist from tabling bills to remove term limits or in contributing to the defeat of such bills in the event that they are tabled.

2.2.2 Political Society Institutions

Institutions at the political level include formal and informal rules that are designed to govern the activities of individuals or groups of actors that form for political purposes.

2.2.2.1 Formal Political Society Institutions

2.2.2.1.1 Share of the Presidential Vote in Previous Elections

In their study of third-term bids in Africa, Posner and Young (2007) identify the share of the presidential vote in previous elections as one of three predictors for the likelihood of a bid to remove term limits being attempted and passed. Specifically, the authors contend that presidents who secured high electoral majorities in the most recent elections are likely to use that as a retrospective indicator of the public's willingness to endorse the prolongation of their presidency. This argument is also echoed by Vencovsky (2007:19) when he argues that "the outcome of third-term struggles may hinge...on the degree of popularity that the president enjoys among the population."

If the argument by Posner and Young (2007) holds true, presidents who had a high vote share in previous presidential elections would be expected to be more likely to pursue the removal of term limits and succeed in doing so than those with a smaller vote share.

2.2.3.2 Informal Political Society Institutions

2.2.3.2.1 Ruling Party Cohesion

Traditional measures of Parliamentary composition, including those that examine the relative strengths of different parties in Parliament, can serve as important indicators of the likelihood of the success or failure of the passage of Parliamentary bills. This is particularly critical for bills proposing changes to key Constitutional provisions, such as those that limit presidential tenure, which often require Parliamentary super-majorities to be enacted into law. However, while formal indices of the relative strengths of parties in Parliament serve as important tools for assessing the obstacles that governments have to encounter and surmount in order to fulfill their legislative agenda, they fail to assess the effect that party cohesion might have on the fate of contentious bills.

Because the removal of term limits can have the effect of blocking the presidential ambitions of some candidates within ruling parties, any such attempts can have the potential of causing major fissures within the ruling parties. These fissures can in turn undermine the government's ability to secure the bill's passage, even in situations where ruling parties have substantial Parliamentary majorities. It can thus be expected that, in contexts where the ruling party enjoys strong discipline and cohesiveness, there will be a higher likelihood that term limits will be removed. However, in situations where the parties are fractured, the bills seeking to remove term limits are likely to fail.

2.2.3.2.2 Youth of President

Among the variables that Posner and Young (2007) identify as being potentially important in driving the prospects of third-term pursuits in Africa is the age of the incumbent president. Specifically, the two authors argue that more youthful presidents, who would

otherwise face greater career uncertainty in the event that they leave office, will have “a stronger urge than older rulers to hang on to power” (ibid:135).

This penchant for prolonging presidential tenure among younger presidents is attributed to the fact that, unlike their older counterparts, they have very little to occupy them after they leave office. A number of the presidents that have sought to prolong their tenure have also attributed their quests to the fact that they felt young and still capable of making further contributions as presidents. When asked to state his position on the calls for a third term, Namibia’s Sam Nujoma pointed out in his State of the Nation Address in April 1997 that “I am still young and if the people of Namibia want me to continue making a contribution, I will do so...as long as you can make a contribution, you should be able to do so.”³¹ Going by these arguments, I predicted that younger presidents will be more inclined to initiate and follow through on discussions to remove term limits than their older counterparts.

2.2.3.2.3 Deference for Authority and Father-Figure Presidents

One of the most influential aspects of the informal dimension of African politics rests in the portrayal of presidents as father-figure characters who assume the roles of national providers. As Schatzberg (2001) has demonstrated, the imagery of African presidents as “father-figure providers” plays an important role in shaping the type and trajectory of politics on the continent. By assuming the role of all-knowing and infallible leaders, father-figure presidents have to cultivate and project an image of being irreplaceable features of politics. This often results in all national achievements being attributed to the person of the president. The father-figure imagery is further used to suggest that any alternation in leadership would likely lead to socio-political

³¹ Quoted in the *Namibian*, April 3, 1997, “Nujoma Goes for It: Still Young Enough for a Third Term,” pp. 1-2.

instability and economic collapse (Hughes and May, 1988). As a consequence, father-figure rulers not only become permanent features of the political landscape, but they are also often reluctant to nominate successors, because doing so is considered signalling their own dispensability. This view is highlighted by Cartwright (1983:297) when he argues that, in the rare event that a personal ruler nominates a successor, any such nominee is most likely to be an individual that is "... a nonentity, who poses no threat." It thus becomes common for father-figure presidents to desist from allowing the discussion of a succession plan. Instead, the absence of a designated successor becomes part of the broader sets of arguments for necessitating the removal of tenure limitations, since doing so would likely leave a power vacuum.

Coupled with the generalized trait of great respect for age and authority that is yet another common characteristic of most African societies, the notion of father-figure presidents contributes to scenarios where presidents command high levels of public respect and loyalty with very minimal scope for open criticism. Meanwhile, when the concept of African presidents as father figures merges with traditional power structures that are built on hereditary and life-long rule, it can lead to the casting of presidents as national chiefs who, like other traditional leaders, can be expected to enjoy life-long tenure. Such traits can in turn serve to undermine institutional innovations that aim to promote leadership rotation by stipulating how long individuals can legally exercise presidential power (Aguilar, 1995; Fissy, 1995; Fokwang, 2005; Hobsbawm and Ranger, 1989). The view of traditional power structures as an impediment to the popularization of institutions that seek to limit the exercise of executive power in African politics is summed up most succinctly by Beall et al. (2005) when they argue that hereditary leadership in many of Africa's traditional societies often translates into the acceptance of unlimited leadership.

Based on the foregoing, it was thus expected that presidents who are characterized as father figures would not only be disposed to initiate discussions to seek the removal of term limits, but the deference and loyalty that they enjoy would also make it more likely that they would succeed in these endeavours and secure the extension of their tenure.

2.2.3.2.4 Military Background of President

Throughout history, presidents who have served in the military and their supporters have tended to place emphasis on the importance of political stability over democratic concepts such as regular leadership rotation (Bienen, 1978; Crouch, 1979). Although historically military rulers have not always provided a reliable platform for political stability, it is often contended that leaders that have served in the army are best placed to preside over periods of political stability.

It can therefore be expected that presidents who have military backgrounds will not only be more predisposed to seek the removal of term limits, but they are also most likely to draw upon their military networks to exert pressure that undermines opponents, thus increasing the chances of the removal of term limits. Such leaders are likely to employ the use of violence as a key component of the portfolio of strategies to cement existing support and undermine those opposed to the third-term proposals. Additionally, presidents who have served in the military can also use their networks to exert pressure, including violence, on opponents. They should therefore be more likely to push through the removal of term limits than their non-military counterparts.

2.2.3.2.5 History of Long-Tenured Presidency

The orderly transfer of executive political power is generally regarded as an important indicator of the stability and maturity of a democratic system (Bratton, 2004; Hughes and May, 1998; Przeworski et al., 2000). Not only does orderly transfer of power serve to strengthen public

confidence in existing rules, but it also helps to inculcate a culture of respect for the law as opposed to personal rule. Because term limits in Africa were often adopted as institutional responses to ending the continent's history of long-serving presidents, we would expect countries that have had the history of long-tenured presidents to use that as a reference point in mounting stronger resistance against any proposals to remove term limits. While these experiences might not dissuade incumbents from expressing a desire to prolong their tenure, they can be expected to galvanize opposition against the removal of term limits, thus contributing to the defeat of any third-term quests.

2.2.4 Civil Society-Level Institutions

2.2.4.1 Formal Civil Society Institutions

2.2.4.1.1 Civil Society Activism

One of the main outcomes of the African political transitions of the 1990s has been the emergence of a critical mass of civil society that plays a central role in the governance arena, including helping to hold governments accountable (Baker, 1997; Bratton, 1989; Dulani, 2006; Mercer, 2002). The potency of civil society as a major player in the African political arena was demonstrated by the fact that it played a pivotal role in precipitating the transitions from authoritarianism in Africa (Bratton and van de Walle, 1997; Ellis and van Kessel, 2009; Gyimah-Boadi, 1996; Hearn, 2000; Kasfir, 1998). The pivotal role played by Africa's civil society in precipitating political change is well enunciated by Gyimah-Boadi (1996:18) when he points out that Africa's civil societies played a central role in "dislodging entrenched authoritarianism and brought about the beginnings of formal democracy." The political transitions themselves led to the widening of the space for increased civil society participation in politics following the removal of legal obstacles that previously barred civil society activism. Although not all civil

society groups enjoy veto-power status, they can, and have, influenced politics and political change in important ways.

Following the transitions from authoritarian rule, civil society has meanwhile remained an active participant in the political arena, at times acting as an extra oversight institution. In countries where ruling parties hold commanding legislative majorities, for instance, civil society has often played the role of unofficial opposition, seeking to hold governments accountable and sometimes preventing them from abusing their majorities (Mercer, 2002; Veconvsky, 2007).

As a key democratic stakeholder, I predicted that the final outcomes of these pursuits will hinge on the strength of civil society and the extent to which this block of actors can actively organize and mobilize against the proposals. A strong civil society, for example, can campaign against the tabling and passage of a bill to remove term limits by mobilising public demonstrations against the proposals and lobbying legislators not to pass the bill.

2.2.4.2 Informal Civil Society Institutions

2.2.4.2.1 Ethnic Fragmentation

One of the main arguments advanced in support of personal rule in Africa has been that strong leadership, and its continuity, is necessary to address the challenges of ethnic fragmentation that characterize the majority of African societies (Drazen, 2006; Posner, 2005). This argument has re-emerged during the bids to remove term limits, where it is asserted that the concept of leadership rotation fails to take into account the unique ethnic contexts of most African countries. Strong incumbents and the continuity of their tenure is in this regard seen as offering the best prospects for keeping these ethnically diverse societies together and avoiding inter-ethnic wars that can arise because of disputed successions. This view was captured most succinctly by the SWAPO Elder's Council in Namibia when they referenced their support for the

removal of term limits to President Nujoma's "unifying qualities, without which there would be civil war in Namibia..."³²

In order to test the extent to which ethnic fragmentation might offer a genuine base for the removal of term limits, I utilized Posner's Politically Relevant Ethnic Groups (PREG) Index to test the extent to which ethnic fragmentation affects third-term outcomes. The PREG index, as Posner (2004:854) notes, "reflects the groups that are actually doing the competing over policy, not simply the ones that an ethnographer happens to identify as representing distinct cultural units." If the ethnic fragmentation argument holds true, it is to be expected that societies with more politically relevant ethnicities will pursue and succeed in removing presidential term limits with more success than more homogeneous one.

2.3 Expected Relationships

Having defined the institutional context within which the third-term bids are played out, I proceeded to establish the interactions between the rules and actors and how these shape the third-term bid outcomes. These will in turn shape the factors that I focus on in my study (see figure 2.2).

Figure 2.2 indicates that an incumbent president's ability to remove tenure limits is affected by both formal and informal institutional channels to secure the removal of term limits. In the diagram, we show that formal and informal rules interpenetrate and interact, suggesting that the distinction between the two as depicted here is only an analytic tool, but not necessarily an empirical one. However, overall, the majority of the formal institutions (five of seven) should frustrate the removal of term limits. The picture, however, reverses when it comes to the group

³² See "Should the President Stay or Go?" in *The Namibian*, October 2, 1998, pg. 2.

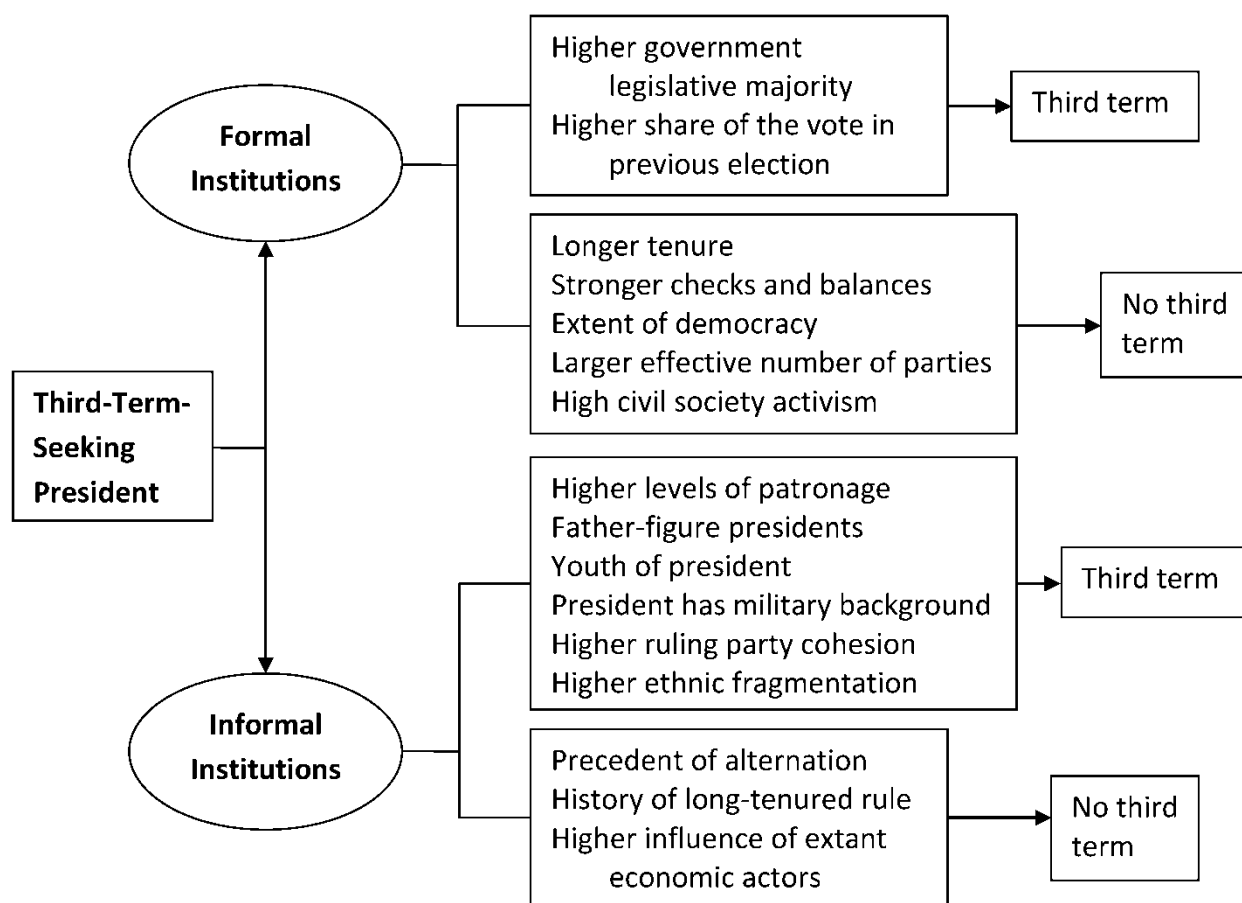


Figure 2.2: Predicted Effects of Institutions on Third Term Outcomes

of informal institutions, where the bulk of institutions in this group (nine of thirteen) are expected to increase the likelihood of the removal of term limits.

2.4 Conclusion

Institutions, broadly defined and including both formal and informal ones, are expected to play an important role in influencing the outcomes of the bids to remove term limits. In this chapter, I have outlined four levels of institutions that potentially influence the outcomes of the bids to remove tenure limits. While each institution will have unique effects on the outcomes of the bids, the more likely scenario is that since different institutions are often at work together, the outcomes of the third-term bids will be dependent on the interactions among the various institutions. Since some of the institutions are predicted to increase the likelihood of the removal

of term limits while others reduce it, it is possible that the expected effects will depend on which of the institutions are strongest.

Chapter 3

The Logic of Term Limits: A Literature Review

3.0 Introduction

The institution of term limits for elected public office holders enjoys strong support from broad swaths of civil society across the globe (Maltz, 2007). In the United States (US), for example, support for term limits for holders of elected public office ranges anywhere from 70 to 80 percent of the population (Petracca, 1994). Even in regions where term limits are a recent institutional innovation, support for them is often very strong. In Africa, for example, a region that has only recently embraced this institution, the most recent data from the Afrobarometer surveys show that about seven of every ten citizens (69 percent) support the idea of limiting their president to serving a maximum of two terms.³³

Despite their popularity among the general citizenry, term limits have acquired a measure of notoriety in recent years, largely as a result of a number of high-profile cases of global leaders that have attempted to overturn them. Cases, such as Hugo Chavez's campaigns in 2007 and 2009 to remove term limits on the Venezuelan presidency, and Michael Bloomberg's campaign to extend the maximum tenure limit for New York City mayor from two to three terms in 2008, have all brought increased spotlight on the durability of this particular institution and its effectiveness to reign in leaders seeking to personalize power. But what exactly are term limits and how can they be distinguished from a term of office? What are their origins and what are some of the main justifications and criticisms levelled against them? In this chapter, I review the literature on term limits, identifying the type of public offices that are subjected to these rules and the key arguments for and against them.

³³ Afrobarometer Round 4 data, collected in twenty countries between 2008 and 2009.

3.1 What are Term Limits?

Term limits, an institution whose origins can be traced to classical republican thought, impose a maximum number of times a person is allowed to hold the same public office (Comfort, 1993). Term limits have to be distinguished from a “term” of office. A “term” refers to the period that elected public officers can serve before being required to renew their mandate in a fresh election (ibid). Term limits, on the other hand, set a ceiling on the number of “terms” that any one individual can serve in elected public office, even if the voters are ready to re-elect them. The US president, for example, is elected to serve a four-year term of office before he/she has to seek a fresh electoral mandate. The 22nd Amendment to the US Constitution meanwhile sets a limit of two terms for holders of the office of president. Outside of the US, term limits are also a common institutional feature of a significant proportion of presidential republics in Latin America, Africa, and Asia.

While term limits are often a common institution in presidential regimes, they are rarely employed in Parliamentary regimes. This is largely due to the fact that, unlike in presidential regimes, chief executives in Parliamentary systems often do not have set terms, serving instead for as long as they retain the support of the legislature. However, in a number of Parliamentary republics that have ceremonial presidents in their Constitutional frameworks, term limits can be employed for the holders of presidential office, even in instances where these are not directly elected. Examples of Parliamentary republics that impose tenure limitations on ceremonial heads of state include Ethiopia, Germany, Greece, India, Ireland, Italy, Poland, Romania, and the Ukraine.

3.2 The Classical Origins of Term Limits

Like many democratic institutions and ideas, term limits were first popularized by their adoption in classical Greece and Rome, two early civilizations that pioneered the concept of elected political office.

3.2.1 *Term Limits in Classical Greece*

The earliest historical evidence of term limits can be traced to the 7th century BC, when the citizens of the Greek state of Dreros-on-Crete passed a law that set strict limits on the number of times any individual could serve in the office of the state's chief magistrate, the *Kosmos*. The law, which was inscribed in stone, provided that an individual that had served as *Kosmos* for a period of ten years could not serve again in that position until at least a period of ten years had passed:

This has been decided by the polis: when a man has been *Kosmos* for ten years, that same man shall not be *Kosmos*. If he should become *Kosmos*, whatever judgments he gives, he himself shall owe double, and he shall be useless as long as he lives, and what he does as *Kosmos* shall be as nothing....

(Quoted in Raaflaub and Wallace, 2007:23)

By casting the law in stone, this not only demonstrated the commitment of the citizens of Dreros toward setting limits on holders of key political offices, but it also illustrated their desire to have this rule remain on their statute books in perpetuity. Meanwhile, decisions taken by any term-limited magistrates would be negated, the individual in question subjected to a “useless” status by being deprived of various civic capacities, including the capacity to hold public office for life.

While the experience of Dreros demonstrates the importance of term limits in classical Greek Constitutional regimes, this institution was popularised by its usage in classical Athens. As early as the 6th century BC, the majority of Athenian officials were not only elected (by

random rotary), but they were also only permitted to serve for fixed, and often non-renewable, terms. Among the notable examples of term-limited officials were the members of the Athenian Council of 500 (the *Boule*), who served as the effective governing body of the Greek state. The five hundred councillors, all of whom were elected by lot to ensure that every eligible Greek citizen had an equal chance of serving on the council, were by law only allowed to serve for a maximum of two years in their lifetime (Jones, 1986; Raaflaub et al., 2007).

Apart from using term limits as an institution to negate the advantages of incumbency and thus encourage alternation in the occupants of public offices, the rule also precluded the possibility of the Council being hijacked and developing an independent and corporate sense. By promoting regular alternation in the membership of the Council on the other hand, the institution of term limits minimised the likelihood of the emergence of a group of people who might come to have distinct interests of their own and not necessarily the same as those of the ordinary people, *the demos*. Term limits, in other words, were perceived as an institutional mechanism for making key government bodies, such as the council, a fair sample of the Athenian people, whose views would naturally coincide with those of the people.

While the five hundred councillors were each limited to serving for a maximum of two years, more stringent limits were imposed on offices that were held by a single individual. These restrictions reflected a strong fear for the likelihood of dictatorship if individuals in powerful positions were allowed to wield and exercise power for long periods. For example, the chairman of the Council of 500, the *Epistates*, who presided over all Council meetings, and retained custody of the common seal of the city and the keys of the temples where the Athenian archives and moneys were stored, was rotated on a daily basis, and an individual holding that office could not serve again in that capacity in their lifetime (Ober, 2007; O'Neal, 1995; Staveley, 1972). The

Lycurgus of Athens, who served as the director of administration responsible for Athens' finances, was also allowed to serve for a single four-year term and could not serve in that capacity again in his lifetime (Jones, 1986).

Strict term-limitation rules were also in force in the Greek state of Sparta. The five members of the Spartan *Ephorate*, who were elected to serve for a period of one year as magistrates, were forbidden from seeking re-election (Rhodes, 1967). Because the five *Ephors* were elected to offer a countervailing power to the Spartan kings, their rotation was justified as part of a strategy of preventing them from assuming the same status and powers of the kings that they were expected to check (Altman, 2008)

3.2.2 Term Limits in the Roman Republic

The ancient Roman Republic (509 BC–27 BC) also featured a system of elected rulers who were subjected to specific term limits. During this period, the two holders of the office of *Consul*, who served as co-heads of the republican government, were limited to serving a maximum of one year. As in classical Greece, term limiting the Consuls was part of an institutional design aimed at preventing the possibility of their assuming too much power and thus acquiring monarchical status that had been abolished at the start of the Republic. Other public offices in the Roman Republic that were subjected to term limits included *tribunes* of the plebs (people's magistrates), *quaestors* (who supervised the treasury and financial affairs of the state, its armies, and its officers), and *praetors*, who exercised magistracy powers as well as acting as heads of government when the Consuls were absent from Rome. Holders of these offices were only allowed to serve single terms of one year, with re-election forbidden for ten years (Altman, 2008).

From 265 BC, holders of the office of Roman *Censor*, who were given the responsibility of maintaining the census, supervising public morality, and overseeing certain aspects of the government's finances, were also limited to serving a maximum of one single term, initially of five years but later reduced to eighteen months (Swartz, 2010). When the office of Censor was first established during the reign of King Servius Tullius (578-535 BC), no formal term limits had been imposed on the office. Despite this absence of term limits, a tradition was soon established where no individual was ever elected to the office more than once. However, in 265 BC, Gaius Marcius Rutilus was re-elected as Censor for a second term. This prompted the enactment of a new law that prohibited re-election (Brunt, 1971; Swartz, 2010). The decision to enact the term-limitation rule thus reflected a quest to codify the tradition of non-re-election. Although the unwritten tradition had lasted for several centuries, Gaius Marcius Rutilus' re-election highlighted the fact that irrespective of longevity, informal traditions do not acquire the force of law unless they are formalized. As I discuss in the next chapter, the history of presidential term limits in the US also went through a similar process, starting with an informal tradition whereby no individual served as president for more than two terms for over 150 years. However, this informal tradition did not prevent President Franklin Roosevelt from seeking re-election for an unprecedented four terms between 1933 until his death in 1945. It was not until after Roosevelt's presidency that the US Constitution was amended to give the two-term-limit tradition a formal Constitutional status.

3.3 Term Limits in Contemporary Politics

The most common application of term limits in contemporary politics is on holders of executive office. Although term limits are often imposed on holders of executive office at the national level, they are sometimes extended to political executives at provincial and municipal

tiers of government. In a number of cases, term limits are also extended to holders of legislative office at the various tiers of government.

3.3.1 Presidential Term Limits

By far the most common application of term limits today is on the office of president. Globally, nearly three quarters (73 percent) of all presidential regimes employed some form of tenure limitations on the office of president at the end of 2009 (see figure 3.1).

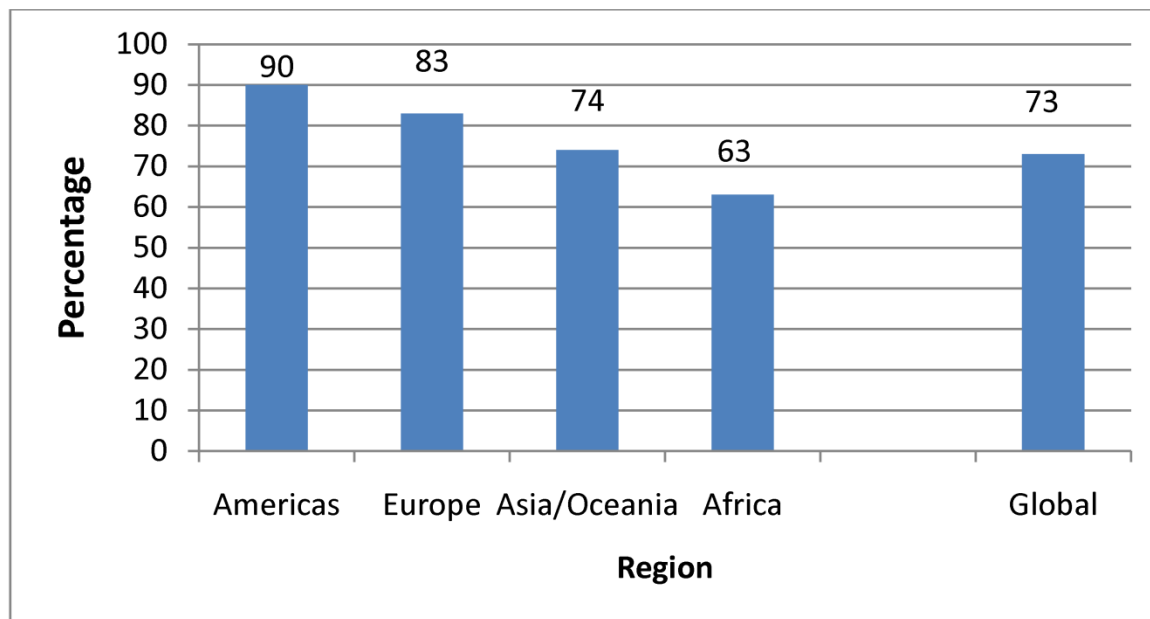


Figure 3.1: Proportion of Countries with Presidential Term Limits by Region as of December 2009 (N=93)

Source: Calculated by author from various National Constitutions

The popularity of presidential term limits in contemporary politics is demonstrated by the high proportion of presidential regimes that employ them. As can be seen from figure 3.1, 90 percent of the presidential regimes in the Americas—which includes countries based in South, Central, and North America—employed term limits on their presidents. Meanwhile, Africa had the lowest proportion of countries that have presidential tenure limits, with only 63 percent of countries employing them at the end of 2009. However, even in this case, the fact that almost

two of every three countries in Africa employed presidential term limits underscores the fact that they remain a main feature of presidential politics in the world.

That term limits on the presidency remain popular across the globe is not entirely surprising. As Linz (1995) has noted, presidents exercise what he terms “uni-personal” power, which can very easily be abused and potentially contribute to the demise of democracy. This view is also echoed by Maltz (2007:131) when he contends that term limits are an important feature of presidential government, as they help “to brake an electoral authoritarian regime’s descent into outright dictatorship.” The popularity of presidential term limits therefore reflects a recognition that this office, more than any other, needs to be rotated on a regular basis in order to ensure the survival of democracy. However, as I demonstrate later in this study, the fact that term limits stand in the way of ambitious presidents from prolonging their tenure means that this institution often faces significant pressure from leaders that seek to remove it.

3.3.2 Gubernatorial Term Limits

In a number of federal republics, tenure limits are extended to public officials that exercise executive power at the state or provincial levels. A review of the literature shows that the extension of term limitations to the state level is done in one of two ways. In the first model, federal Constitutions stipulate that chief executives of state governments and other public officials should be subjected to the same tenure limitations that are applied to the federal president. This approach ensures that there is uniformity in the application of term limits at both the federal and state levels. Among the number of countries that use this approach are Mexico,

Nigeria, and South Africa.³⁴ Before the 2009 referendum that removed tenure limits, the Venezuelan Constitution had also imposed tenure limits on state governors in a similar manner.³⁵

The second approach grants state governments the discretion to decide whether to impose term limits on their state executives and what form they should take. This is the approach that is employed in the US, where the structure of state politics is governed by state, not federal, law. The net effect of this discretionary power is that there is often wide variation in the uptake and application of term limits at the state level. The experience of gubernatorial term limits in the US yet again demonstrates how the absence of federal rules in the application of term limits for state executives results in not only disparity in the uptake of tenure limitation rules among states, but also variation in the types of term limits employed. In a number of cases term limits were imposed on state governors long before they were adopted at the federal level for the US president. For example, term limits were imposed on the office of president or chief magistrate of the state of Delaware as far back as 1776,³⁶ almost a full two centuries before they were formally adopted at the federal level in 1947.

The variation that can arise due to the absence of federal regulations for tenure limits at the state level is further demonstrated in the status of gubernatorial term limits in the fifty states that make up the US. Among the fifty states, thirty-six imposed term limits on the office of

³⁴ See Article 115(i and iii) of the Mexican Constitution of 1917, as amended; Section 182(1)(c) of the Constitution of the Federal Republic of Nigeria; and Section 130(2) of the South African Constitution.

³⁵ See Article 160 of the Venezuela Constitution before the 2009 Amendments.

³⁶ According to Article 7 of the Delaware Constitution of 1776, any individual who had held the office of State President or Chief Magistrate was only allowed to "...continue in that office three years, and until the sitting of the next general assembly and no longer, nor be eligible until the expiration of three years after he shall have been out of that office..."

governor as of December 2009, while the remaining fourteen allowed their governors to seek re-election for unlimited terms. Meanwhile, among the thirty-six states and four territories that employed gubernatorial term limits, there were five different variations of tenure limitations (see table 3.1).

Table 3.1 not only highlights the popularity of gubernatorial term limits in the US, where over half of the fifty states utilize this institution, but it also reinforces the view that the absence of a federal law to govern their application at the state level can result in wide variations in the adoption and type of gubernatorial tenure limits. In addition to the US, other countries that give states the authority to decide whether to employ tenure limitations on their local executives include Argentina, Brazil, and the Russian Federation.³⁷ In all these countries, the net result, as in the US case, is that there are variations in the application and type of gubernatorial term limits.

3.3.3 Municipal Term Limits

In a handful of cases, term limits have also been extended to holders of elective executive office at the municipal level. Mexico leads in this category, where the country's Constitution bars "municipal presidents, aldermen and syndics," from seeking immediate re-election.³⁸ Another Latin American country, Colombia, also bars municipal mayors from seeking re-election after completing their three-year term.³⁹

Elsewhere, some of the world's major cities also impose tenure limitations on elected municipal executives (mayors). In New York City, for example, a referendum in 1993 imposed term limits on all elected city officials. Under this policy, "no person shall be eligible to be

³⁷ See Article 121 of the Argentina Constitution, 1853, as amended in 1994; Article 25(0) of the Brazilian Constitution, 1988, and Article 66 of the Russian Constitution of 1993, as amended.

³⁸ Section 115(i) of the Mexico Constitution, 1917, as amended.

³⁹ See Article 314 of the Colombia Constitution, 1991.

Table 3.1: Gubernatorial Term Limits in the United States, December 2009

Type of Term Limit	State	Federal Territories
Only two consecutive terms allowed, but multiple non-successive	Alabama, Alaska, Arizona, Colorado, Florida, Georgia, Hawaii, Kansas, Kentucky, Louisiana, Maine, Maryland, Nebraska, New Jersey, New Mexico, North Carolina, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, West Virginia (24)	American Samoa, Guam, US Virgin Islands (3)
Maximum of eight years within a twelve-year period	Indiana, Oregon (2)	-
Maximum of eight years within a sixteen-year period	Montana, Wyoming (2)	-
Maximum of two terms	Arkansas, California, Delaware, Michigan, Mississippi, Missouri, Nevada (7)	Northern Mariana Islands (1)
Multiple, but non-consecutive terms allowed	Commonwealth of Virginia (1)	-
No term limits	Connecticut, Idaho, Illinois, Iowa, Massachusetts, Minnesota, New Hampshire, New York, North Dakota, Texas, Utah, Vermont, Washington, Wisconsin (14)	Washington, DC, Puerto Rico (2)

Source: *The Book of the States, Vol. 41, 2009*

elected to or serve in the office of mayor, public advocate, comptroller, borough president or council member if that person had previously held such office for two or more full consecutive terms...”⁴⁰ However, at the instigation of Mayor Michael Bloomberg, the New York City Council voted in October 2008 to extend the maximum number of terms for all city officials,

⁴⁰ See Charter of the City of New York, §1138.

including the mayor, from two to three terms.⁴¹ In addition to New York, nine of the ten largest cities in the US also imposed term limits on mayors and city council members at the end of 2009.⁴² Outside the US, mayors of a number of major metropolitan centres, such as Sao Paulo (Brazil), Guatemala City (Guatemala), and Buenos Aires (Argentina), to mention but a few examples, were also subjected to various forms of term limits. It is important though to note that all the major global cities that employ term limits also impose tenure limitations on the holders of presidential office. Conversely, in countries where national executives are not term limited, there are also usually no term limits for municipal executives, suggesting that the application of tenure limits at the municipal levels is often influenced by the existence or absence of these rules at the national level.

3.3.4 Legislative Term Limits

Although the application of term limits is often limited to holders of executive office at different tiers of government, in a handful of cases the institution has been extended to holders of legislative office at national, state, and even municipal levels. The most notable examples of legislative term limits are the two Central American countries of Costa Rica and Mexico. In the Mexico case, federal senators and congress deputies are limited to serving only one term of office, after which they are barred from seeking any further terms.⁴³ On the other hand, in Costa Rica, a Constitutional amendment in 1969 imposed a single-term limit on the presidency and

⁴¹ See “New York City Council Extends Term Limits for Mayor, Other Officials,” CNN Politics, October 23, 2008, available online at http://articles.cnn.com/2008-10-23/politics/bloomberg.third.term_1_term-limits-public-vote-council-speaker-christine-quinn?_s=PM:POLITICS.

⁴² New York, Los Angeles, Houston, Philadelphia (mayor only), Phoenix, San Antonio, San Diego, Dallas and San Jose. The only major US city not to have term limits is Chicago (cf, www.termlimits.org).

⁴³ See Article 59 of the Constitution of Mexico of 1917, as amended.

National Assembly delegates. However, while former presidents are permanently barred from seeking reelection, National Assembly delegates are allowed to run again for assembly seats after sitting out at least one term.⁴⁴ Prior to the 2009 referendum that abolished term limits, Venezuela had limited its National Assembly deputies to serving a maximum of two terms after which they were not allowed to seek re-election.⁴⁵ Outside of these few Latin American cases, however, no other country in the world imposed term limits on its national legislators as of December 2009.

The absence of term limits on legislators arguably reflects a recognition that chief executives are more likely to usurp power and overthrow democracy than holders of legislative office. Because legislatures are often composed of numerous individuals, it is more difficult for them to usurp power than it is for presidents who exercise uni-personal power. Cheeseman (2010) sums up this view most succinctly when he argues that the ability of presidents to control state institutions, coupled with their ability to enjoy considerable control over patronage resources, generates a strong incumbency bias that is superior to legislative turnover.

However, it has to be recognized that the absence of term limits on holders of legislative office is in part a function of other institutional mechanisms that have made their employment for this office redundant. A closer study of the Constitutional debates during the formulation of the US Constitution, for example, reveals that proposals to limit congressmen from serving consecutive terms were rejected, in part because it was felt that there were other Constitutional safeguards that would neutralize the problem of long congressional tenure. Among these safeguards included the adoption of relatively shorter terms for members of the House of

⁴⁴ See Articles 107 (legislative Term Limits) and 132(1) (Presidential Term Limits) of the Costa Rica Constitution of 1948 (as amended by Law No. 4349, July 11, 1969).

⁴⁵ See Article 192 of the Venezuela Constitution , 1999, as amended in 2009.

Representatives (two years). And while senators were guaranteed longer term durations of six years, the Constitution provided for staggered elections for Senate as a way to promote regular rotation without requiring term limits (Altman, 2008). As a result, some of the key players during the Constitutional debates felt that term limits would be unnecessary for members of Congress (Gorsuch and Guzman, 1992). For example, James Madison dismissed the need for legislative term limits on account of his belief that “new members [of Congress] ... would always form a large proportion of the House.” Thus, instead of legislative term limits, Madison argued for longer congressional terms in order to allow “newcomers time to learn their job” (quoted in Gorsuch and Guzman, 1992:2). The absence of term limits for members of the legislature in the US, in this regard, reflected the view that term limits were not necessary as it was inconceivable at the time that many incumbent legislators would be able to win continual re-election.

However, the prediction that the institutional mechanisms governing the election of members of Congress would prevent congressmen from serving for long periods of time has not been borne out by evidence over time. This has been particularly the case for US senators, a number of whom often serve long durations that sometimes span across the tenures of several presidents. The late Senator Robert Byrd (D-West Virginia), for example, served in the House and the Senate for a combined total of fifty-eight years, a period that saw twelve different occupants of the White House.⁴⁶ This history of long-tenured congressmen has led to regular proposals to extend term limits to the legislative level in a bid to reduce what is characterized as the professionalization of politics (Jacob, 1994; Petracca, 1994). These arguments, it is interesting to note, are almost identical to the arguments advanced in favour of term limits in

⁴⁶ viz: Harry Truman, 1945-1953; Dwight Eisenhower, 1953-1961; John F. Kennedy, 1961-1963; Lyndon B. Johnson, 1963-1969; Richard Nixon, 1970-1974; Gerard Ford, 1974-1976; Jimmy Carter, 1977-1981; Ronald Reagan, 1981-1989; George HW Bush, 1989-1993; Bill Clinton, 1993-2001; George W. Bush, 2001-2009; and Barack Obama, 2009-.

classical times, when tenure limitation rules were seen as an institutional mechanism for ensuring that the political arena was not hijacked by career politicians, thus increasing the likelihood of a disconnect between the representatives and the represented. It is thus not surprising that within the US there have been regular attempts to introduce term limits for members of Congress, although none of these efforts have ever been successful (Petracca, 1994).

While the efforts to introduce term limits for members of the US Congress have not been successful, there have been modest successes of similar campaigns at the state level. As Doron

Table 3.2: Term Limits for State Legislatures in the United States, December 2009

Form of Tenure Limits	States Employing Them
Term limits for state legislators	Arizona, Arkansas, California, Colorado, Florida, Louisiana, Maine, Michigan, Missouri, Montana, Nebraska, Nevada, Ohio, Oklahoma, South Dakota (15)
Legislative term limits removed/repealed	Idaho (2002); Massachusetts (1997); Oregon (2002); Utah (2003), Washington (1998), Wyoming (2004) (6)
No legislative term limits	Alabama, Alaska, Connecticut, Delaware, Georgia, Hawaii, Illinois, Indiana, Iowa, Kansas, Kentucky, Maryland, Minnesota, Mississippi, New Hampshire, New Jersey, New Mexico, New York, North Carolina, North Dakota, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Vermont, Virginia, West Virginia, Wisconsin (29)

Source: *The Book of the States, Vol. 41, 2009*

and Harris (2001) illustrate, a spate of ballot initiatives towards the end of the 20th century resulted in the adoption of term limits for state legislators in twenty-one of the fifty states. Although several states have subsequently overturned or repealed these provisions, fifteen states still retained term limits for their state legislators at the end of 2009 (table 3.2).

The lingering doubts about the justifications for term limits on legislators is reflected in the fact

that there are more than twice as many state governments in the US that employ term limits for their governors (thirty-six) than those that employ them for their state legislators (fifteen).

Globally, though, it is interesting to note that most countries that have recently adopted presidential term limits, using the US as a model, have not given serious thought to legislative term limits. This omission is particularly glaring since very few countries have comparable rules for the election of legislators as those employed in the US, which were designed to minimize the occurrence of long tenure among legislators. In many of the countries that have recently embraced term limits, presidents and legislators are often elected in the same general elections and also often serve terms of similar lengths. Yet only presidents are term limited, while most legislators are not. This discrepancy in the employment of term limits has become a major source of controversy, with most presidents pointing at the absence of term limits for legislators as justification for the removal of term limits for the presidency too (Baker, 2002). However, because the final responsibility of law making rests with legislators, they have often been reluctant to term limit themselves. There is, in other words, a self-serving nature in the application of term limits. Legislators, who are entrusted with the power of making laws, are quick to embrace term limits as long as they themselves are not subjected to these rules.

3.4 Arguments For and Against Term Limits

Because term limits exclude certain individuals from exercising the powers of elective office, they often create natural enemies, primarily among those who see them as a barrier to prolonging their hold on office. Meanwhile, groups that aspire to ascend to political office see term limits as additional tools that can help pave the way for them to gain power through elections. It should thus come as no surprise that, although the idea of term limits has a very long history and remains popular among the wider citizenry, they remain a contested institution today

as in classical times. This has led to a rich debate that advances arguments for and against the institution.

3.4.1 Arguments in Support of Term Limits

Supporters of term limits include opposition parties, who embrace them as a mechanism to enhance their chances of ascending to power. Indeed, as Cheeseman (2010) contends, the chances of opposition parties winning elections increase several fold when the presidential incumbent is barred from contesting for office. Term limits also enjoy the support of moderates in government, who see them as an opportunity to get rid of hardliners who put their own interests above those of the nation. Indeed, hardliners from within the ruling parties who aspire for the high office of president can also support term limits, since this opens up opportunities for them to assume office without having to resort to unconstitutional means (Maltz, 2007). This was demonstrated, for example, in countries such as Kenya, Benin, Malawi, and Zambia, where the former authoritarian rulers were themselves quick to embrace term limits in order to project an image of their being converted to the democratic cause. Several arguments are advanced to support the imposition of term limits on elected political office.

3.4.1.1 Term Limits Promote Rotation of Leadership

The first argument in favour of term limits, one that influenced the application of these rules in classical times, was that they serve as an important institution that promotes alternation for elected public office holders by opening up opportunities for other members of society to hold political office. Among the earliest advocates for this position was the Greek political philosopher, Aristotle, who argued that term limits were a necessary institution of democratic politics, as they help to ensure that all individuals in society would have the opportunity to serve in leadership roles:

.... the characteristics of democracy are as follows: the election of officers by all out of all; that the appointment to all offices, or to all but those which require experience and skill, should be made by lot.....that a man should not hold the same office twice, or not often, or in the case of few except military officers; that the tenure of all offices, or of as many as possible, should be brief..... Aristotle, *The Politics*, Book VI, Section II

For Aristotle, term limits were therefore conceived of as an important institution that would advance the democratic principle of “ruled and being ruled in turn.” The extent to which term limits can neutralize the advantages of incumbency was also recognized during the debates on the drafting of the US Constitution, when Thomas Jefferson argued in a letter to James Madison that “reason and experience tell us the First Magistrate will always be reelected if he may be reelected,” (quoted in Sigel and Butler, 1964:39). By requiring that incumbents step down from office after serving a set period, term limits therefore serve as an institutional barrier that negates the advantages of incumbency.

Although rotation of office holders in democratic politics can be achieved through competitive elections, term limits can play an important role by neutralizing the advantage of incumbency, which significantly reduces the chances for challengers to win elections (Cheeseman, 2010; Farrar, 2007; Jacob, 1994; Mayhew, 1974; Maisel, 1990; Maltz, 2007; Newman, 1994, Petracca, 1994; Reed and Schansberg, 1992; Rhodes, 1986). Although the causes of incumbency advantage are contested, there is nonetheless a large body of literature that has established that incumbency advantage is not only real, but also that it is truly important and has been increasing over time. King and Gelman (1991), for example, find that incumbency increases a representative’s expected vote share by 11 percent. In yet another study by Newman (1994), it was found that incumbents won sixteen times as often as their challengers, have higher margins of victory, and participate in more unopposed elections than do challengers. Maltz’s (2007) study of electoral authoritarian regimes also found that incumbency advantage is at work

in these polities, with incumbents being retained to power in 93 percent of elections they contest. A recent study by Cheeseman (2010) also finds strong evidence of incumbency advantage at work in Africa, whereby the transfer of power is greater in open-seat polls where incumbents are excluded from contesting than when they can.

Besides encouraging turnover in holders of political office, advocates of term limits also contend that the resultant rotation of public office holders, especially at the executive level of government, can have a corresponding effect that increases the prospects of party alternation, which is considered a key feature of democratic politics (Cheeseman, 2010; Lindberg, 2006; Maltz, 2007; Sigel and Butler, 1964). Maltz (2007) offers one of the strongest evidence-based arguments in support of this position when he points out that, when an incumbent gives way to other candidates, the chances of electoral victory for the ruling party are reduced from a 93 percent probability of success to a more modest 52 percent. Term limits, in other words, not only encourage the alternation of the individuals holding office, but they also increase the likelihood of alternation of the party of the president. Cheeseman (2010) makes a similar argument when she notes that, by forcing incumbents to step down, term limits increase the opportunities for other players, both from the incumbent president's party or from the ranks of the opposition, to ascend to high political office. The main argument here is that the process of leadership change, when incumbents are forced to step down due to term limits, carries with it additional dynamics that can facilitate the consequential turnover of the party in power. Moehler and Lindberg (2007:2) expound on this argument further by arguing that "leadership alternation generates shared levels of legitimacy between winners and losers in the general population [and] thus furthering democratic consolidation." These positions are buttressed by evidence showing that in a number of countries where an incumbent president had stepped down after exhausting their

maximum quota of terms, this was often accompanied by the loss of power of ruling parties, some of which had been in power for decades (Cheeseman, 2010). To the extent that democracy is, by definition, “government pro-tempore,” in which the electorate can make those governing accountable and impose a change, tenure limits can provide “the greatest guarantee against omnipotence and abuse of power and a last hope for those in opposition to ascend to office” (Linz, 1994:16-17).

Rotation of office, of course, is not the end in itself. Indeed, if securing rotation of office alone were the main goal of term limits, these rules could be deemed to be antithetical to democracy, as they would override the goal of letting the people decide who should be their leaders. However, supporters of term limits argue further that rotation of office presents opportunities for democratic consolidation. Maltz (2007), for example, finds that both intra-party leadership alternation and partisan turnovers are typically followed by a significant improvement in the quality of political rights and civil liberties. This view is echoed by Cheeseman (2010:151), who contends that alternation of political leadership not only provides strong evidence that key actors have a genuine commitment to democratic values, but that the “...experience of witnessing a ruling party gracefully accept defeat builds confidence among a range of actors that political leaders intend to follow the rules of the game, and thus moves countries closer to a point where democracy becomes the only game in town.”

Besides encouraging turnover in holders of political office, advocates of term limits also contend that the rotation of executives can have a corresponding effect that increases the prospects of party alternation, which is considered a key feature of democratic politics (Cheeseman, 2010; Maltz, 2007; Sigel and Butler, 1964). Lindberg (2006:42) makes the strongest case in favour of term limits as a tool for promoting the likelihood of partisan

alternation when he contends that, more than other factors, partisan alternation is “the ultimate indicator of...democracy and democratic quality.” The main argument here is that the process of leadership change carries with it additional dynamics that can facilitate the consequential turnover of the party in power. Moehler and Lindberg (2007:2) expound on this argument further by arguing that leadership alternation generates shared levels of legitimacy between winners and losers in the general population [and] thus furthering democratic consolidation.” These positions are buttressed by evidence which shows that, in a number of countries where an incumbent president had stepped down after exhausting the maximum quota of terms, this was often accompanied by the loss of power of ruling parties, some of which had been in power for decades (Cheeseman, 2010).

3.4.1.2 Term Limits Reduce the Likelihood of Tyranny

Aside from promoting leadership alternation, term limits are supported on account of the fact that they can help to safeguard democracy by preventing degeneration into tyranny and dictatorship. The imposition of term limits in Athenian democracy, for example, reflected a deep-seated fear that unlimited power increases the likelihood of a type of leadership that exercises arbitrary and unrestrained power, whether tyranny or oligarchy or rule by the rabble, forms of leadership that were anathema to the Athenian people (Farrar, 2007). In the same manner, term limits in the modern era are justified as mechanisms that help prevent the possibility of democracy being hijacked and overthrown by tyrants. This view was best summed up in the words of Thomas Jefferson, when he warned in an 1807 letter to the legislature of Vermont that political leaders, particularly chief executives, if not bound by term limits, could use their popularity and power to become kings:

If some termination to the services of the chief magistrate be not fixed by the Constitution or supplied in practice...his office, nominally for years, will in fact become

for life; and history shows how easily that degenerates into an inheritance (Jefferson, 1900:867).

The danger of tyrannical rule in the absence of term limits is particularly greater in presidential regimes, where the chief executives are at the pinnacle of the government machinery. As Navia (2009) notes, with this great power comes a great threat that democratically elected chief executives can use their positions to become tyrants. When the exercise of this power is accompanied by lengthy tenure, the threat of tyranny and demise of democracy becomes even more pronounced. In the words of Linz (1996:17-18), “the person who has been president, with all the power, prestige and adulation accompanying that office, will always find it difficult to relinquish power and be excluded from the prospect of regaining it...” Term limits, in this regard, reduce the likelihood of democracy being hijacked by very popular leaders, who might be inclined to dispense with its competitive aspects and thus potentially usher in an era of electoral authoritarianism. Indeed, in an earlier study, Sigel (1966) alluded to this intermediary role of term limits, pointing out that they help to ensure that the power entrusted in presidents is not usurped and used to advance personal ambitions. In other words, term limits make it possible for the electorate to entrust their presidents with significant powers while simultaneously minimizing the likelihood of these powers being used to supplant democracy.

In the African context, it can be seen that the same rationale for preventing lengthy and personalized forms of rule were critical in driving the upsurge in the adoption of presidential term limits from the early 1990s onwards (Baker, 2002; Cheeseman, 2010; Maltz, 2007; Posner and Young, 2007). In these cases, term limits were widely embraced as a response to the history of long-tenured presidents by introducing barriers against long tenure (Baker, 2002; Okuku, 2005). In other words, the effect of term limits as an institutional deterrent for tyranny stems

from the fact that these rules promote the rotation of leadership as discussed in the preceding section.

3.4.1.3 Term Limits Help to Increase Participation in Politics

By encouraging the rotation of public officials and parties in power, term limits are further credited for generating the additional benefit of stimulating public participation in politics. Farrar (2007:118) captures this view most succinctly when he argues that the rotation of office in classical Athens made it possible for individuals “with no inherited advantages, with no family distinction to give him a start, with no money to build up a *clientela* or advertise himself as a public-spirited citizen, to rise to the highest political levels...” Meanwhile, by denying self-selected elites the ability to dominate the arena of politics, term limits helped to reduce the power of those most committed to particular goals or those with the greatest economic resources to become the most dominant political actors (Rhodes, 1986). In other words, by promoting the regular rotation of public office holders, tenure limitation rules help to reduce the likelihood that one single individual or group of individuals can dominate politics in significant ways.

The political vacancies that arise as a result of term limits also ensure that, not only are more people afforded the opportunity to ascend to political office, but the number of former political office holders that exist in society can have the added benefit of increasing the stock of people that are knowledgeable about public affairs. Society, in other words, becomes well-endowed with politically experienced individuals who can play bigger political roles, including monitoring the performance of government and offering meaningful advice. Term limits, in this regard, help by contributing to the expansion of the educative function of political participation, thus helping to build up the stock of individuals that are well-ensconced in the affairs of government.

An ancillary benefit that stems from the expanded opportunities for participation in politics is that these rules can have the potential to rejuvenate the political processes in a manner that can contribute to higher voter turnout during elections. Altman (2008:2) makes this argument most forcefully when he contends that, by shaking up power structures and mitigating the advantages of incumbency, term limits can “excite the electorate to turn out and vote.” The extent to which term limits are perceived to facilitate higher voter turnout during elections was reflected in the draft of a proposal for the imposition of term limits for the Arkansas congressional delegation in November 2002. In stating the case for term limits, the proposal read in part:

The people of Arkansas find and declare that elected officials who remain in office too long become preoccupied with reelection and ignore their duties as representatives of the people. Entrenched incumbency has reduced voter participation and has led to an electoral system that is less free, less competitive, and less representative than the system established by the Founding Fathers. (Preamble to Amendment 73 to the Arkansas State Constitution, November 3, 1992).

We can see that the rationale for the proposal to bind the Arkansas congressional delegation to term limits was thus based on the belief that doing so would not only make the electoral system freer and more representative, but also more competitive, and thus more democratic. This was in turn expected to contribute to greater public interest in the elections and thus contribute to improvements in voter turnout.

3.4.1.4 Term Limits Promote Efficiency and Effectiveness in Government Policy

By promoting regular rotation, especially for the office of president, term limits are also credited for increasing the likelihood of new leadership that can bring new and fresh ideas to solving a country’s problems (Altman, 2008; Griner, 2009; Shinn, 2009). While some heads of government can serve their people effectively in a third or even fourth term, there are many cases where this has led to a syndrome of power in perpetuity that can in turn become an impediment

for change and fresh ideas. In the classical democracies, for example, the rotation of public officials was seen as a strategy to address the danger that perpetual incumbency would create politicians who shirk their responsibilities and deviate from the wishes of the voters they are supposed to represent. Farrar (2007) refers to this as “shirking-deviation theory,” whereby incumbency advantage serves as a relaxation of the election constraint: as the likelihood of re-election becomes more likely, politicians can afford to ignore the wishes of the voters.

By encouraging regular leadership alternation and overcoming the advantages of incumbency, term limits can therefore encourage a sense of representation and legitimacy. Term limits, in this regard, help to promote a people-centric leadership, thereby enhancing the overall quality of political representation through the creation of reciprocity of responsibility and experience among rulers and the ruled. Decisions makers faced with the certainty of leaving office due to term limits, have to keep in mind the unknown citizens who would soon replace them, and thus represent them, when their turn at leading the key institutions of state come to an end.

The underlying argument here is that career politicians tend to lose touch with the people they are supposed to represent, thus severing the key democratic bond between the representative and the represented. Mann (1994:85) makes this case when he contends that careerism in politics produces “risk-averse” public officials, who are hypersensitive to public sentiments and unwilling to exercise independent judgment.” When elected public officials desire to serve multiple terms, they may therefore focus too much on securing re-election instead of making or taking on unpopular points of view that have more beneficial and long-lasting effects. In this regard, term limits provide the citizenry with an opportunity to regularly elect a new group of

leaders, which helps to not only broaden public service, but also makes room for the infusion of fresh thinking and new ideas within the political process.

3.4.2 Arguments Against Term Limits

Term limits can be a frustrating institution, especially for incumbent leaders who are compelled to step down, sometimes at the height of their public careers. Occasionally, tenure limitations can also be frustrating for the governed, as they can contribute to the removal of popular and proven incumbents and their replacement with new and inexperienced leaders. In recent years, criticisms against term limits have led to numerous attempts to remove these rules in favour of open-ended tenure. Thus, despite their popularity and wide employment, term limits are not without their critics, who advance several arguments against them.

3.4.2.1 Term Limits are Undemocratic

The first argument levelled against term limits is that they are undemocratic—they infringe upon the right of citizens to elect into office a president or leader of their choice for as long as they want. Mann (1994:94) sums up this view most succinctly when he contends that term limits “diminish democracy by restricting it unnecessarily, by taking away the power to end the careers of politicians from the electorate.” Meanwhile, Kamber (1995:1) echoes this view by describing the drive towards the adoption of legislative term limits, as in the US, as a sign of “giving up on democracy.”

Several arguments are advanced to support the view that tenure limitations for elected public officials are undemocratic. The first of these arguments, one that is also frequently made by leaders that are seeking to prolong their tenure, is that term limits devalue the role of elections by reducing the field of candidates that can compete for political office (Cain, 1994; Mann, 1994; Pettraca, 1992). By barring previous office holders from seeking re-election, term limits

are thus portrayed as an institution that reduces electoral choice. This view is best summed up by Doron and Harris (2001:viii) when they contend that:

“...the answer to the question of who should occupy political posts ought to be entirely the choice of the people to be expressed through free elections. Any attempt to affect these external rules ought to be considered an attempt to temper with freedom [of choice]....” (Doron and Harris, 2001:viii).

Although it is acknowledged that the rotation of public officials is an essential feature of democratic politics, critics of term limits point out that leadership alternation in a democracy should only be achieved through elections in which no individual is barred from contesting. By taking away the right of certain individuals to contest for political office, term limits are thus not only criticized for reducing electoral competition and choice, but also that they are founded on the premise that the electorate are not smart enough to vote out leaders they are not satisfied with. Arguing against term limits in this regard does not therefore entail a rejection of the concept of regular rotation of public office holders, but it instead represents an unflinching faith in the ability of the electorate to make the proper decisions in deciding who should be elected to positions of leadership. In this regard, term limits are portrayed as being democratically flawed, as they can potentially conflict with the will of voters. Instead of entrusting the power to remove politicians to innate Constitutional rules, critics of term limits therefore argue that removing these rules has the effect of placing the ultimate authority to remove unpopular leaders from office in the hands of the electorate, which is considered a true measure of democracy (Cain, 1994; Jacob, 1994; Kamber, 1995).

Responding to those who argue that the popularity of term limits justifies their adoption, the critics point out that just because the people support an idea does not make it a good one (Jacob, 1994). Indeed, these critics go further to argue that it is contradictory to rely on the views of the very people who are responsible for re-electing their representatives to justify the retention

of term limits. Term limit proponents, in other words, are accused of treating incumbency advantage as if it were an exogenous force imposed upon the voters by a nefarious power, and yet it is the voters who are responsible for incumbency advantage in the first place. In this regard, incumbency advantage, especially in well-functioning democratic systems, should be seen as indicative of voter satisfaction, even if the lack of alternation is considered undesirable. Imposing term limits to neutralize incumbency advantage, in this regard, would effectively amount to punishing responsive public officials, while at the same time taking away the ability of voters to reward performers and punish non-performers. Indeed, to the extent that term limits effectively bar a specific category of citizens from seeking public office, in some cases for life, the idea is criticized for limiting not only the freedom of choice for the electorate, but also that of individuals from standing for public office, which is anathema in a free democratic society (Cain, 1994).

In the worst case scenario, a number of critics of term limits also point out that it is possible that, instead of contributing towards the consolidation of democracy, term limits can have the opposite effect of contributing to the demise of democracy. Linz (1994) encapsulates this view the most when he argues that the winner-takes-all nature of presidential elections, when juxtaposed against term limits on the presidency, means that presidents seeking to extend their tenure might have to resort to non-democratic means to remain in office. The consequences, as Linz further points out, can be violent protests and coups as the only way to secure *continuissimo*, or tenure prolongation. The fight over term limits can therefore serve as a major challenge that can lead to the collapse of democracy. This challenge is particularly notable in new and emerging democracies, where democratic institutions are very weak and political stability is only assured through the leadership of particular individuals. When such leaders are

forced to leave office as a result of term limits, the leadership vacuum they leave behind can contribute to increased instability that might even threaten democratic survival. It could be counter-argued, of course, that one of the key aims of democracy is to build political stability on strong and impersonal institutions. Any uncertainty and instability that can arise due to leadership alternation, in this regard, is indicative of the weakness of the political system as a whole and cannot be simply blamed on the existing tenure limits.

3.4.2.2 Term Limits Reduce Accountability

In addition to preventing the right of the people to re-elect candidates that have been proven in office, term limits are also attacked for reducing the incentive for elected office holders to serve those who voted them into power (Besley and Case, 1995; Cain, 1994; Doron and Harris, 2001) While opportunities for re-election leave open the possibility that non-performing leaders can be fired by being voted out of office, term limits are criticized for severing this bond between electors and the elected. This view is summed up most succinctly by Navia (2009:18), when he contends that “without the possibility of re-election, representatives lack the incentive to serve those who voted them in.” The extent to which term limits reduce the accountability of elected public officials is said to be particularly acute in polities such as Mexico’s, where almost all elected officials are not allowed to stand for re-election. In such scenarios, public officials, once elected, cannot be obligated or pressured to perform and respond because the threat of being “fired” during elections has been eliminated.

Aside from giving public officials the excuse for not being responsive to those who elect them, term limits are also criticized for encouraging a type of leadership that shirks its responsibilities when approaching the end of their tenure. Not only can this contribute to an increase in profligate spending by lame-duck leaders who are approaching the end of their final

terms, but, as Cain (1994) notes, it can also have the effect of forcing such officials to start worrying about their next job, thus giving them an excuse for not being responsive to the people who elected them in the first place.

3.4.2.3 Term Limits Do Not Prevent Former Leaders from Influencing Policy Making

While supporters of term limits argue that these rules can facilitate turnover and thus open up opportunities for new leadership to emerge and influence public policy making, critics counter-argue by pointing out that the mere removal of certain individuals from office does not automatically prevent them from influencing public policy from the outside. In many instances for example, there are no rules barring term-limited leaders from assuming other high profile public positions, such as serving in cabinet or other key public positions. Vladimir Putin, former Russian president, offers the best illustration of a former leader who left office due to term restrictions but continued to play a central political role after he swapped the presidency for the position of prime minister in 2008. From this new position, Putin has not only continued to play a prominent role in Russian politics, but he has also presided over Constitutional changes that not only increased the length of a presidential term from four to six years, but also now make it possible for former presidents to seek re-election after sitting out one term following two successive terms.⁴⁷

Indeed, critics of term limits in this case argue that this institution puts a lot of emphasis on individual leaders, and yet their policies can still be continued after their tenures have ended. This could be done through their vice presidents, former cabinet members, or other handpicked successors, who can succeed them and continue with the policies of the previous president. For example, although former US presidents cannot seek re-election after serving the maximum of

⁴⁷ See Article 81(2) of the Russian Constitution of 1993, as amended in 2008.

two terms, they can still play key roles in influencing government policy, either directly through interactions with their successors or through having individuals who played key roles in their administrations assume similar positions in new administrations. Former President Bill Clinton, for example, has not only continued to play a central role in US politics by serving as a sounding board for President Barack Obama, who assumed office in 2009, but he also continues to play an influential role in promoting the candidatures of Democratic candidates in various election contests. At the same time, a number of officials who served under the Clinton administration, including his wife, Hilary Clinton, have found their way into Barack Obama's administration. Meanwhile, the case of Argentina, where former President Nestor Kurschner was succeeded by his wife, Christina Fernandez Kurschner in 2007, established what essentially amounted to a modern diarchy—rule by two heads of states. All these and other examples demonstrate how former presidents can continue to play central political roles even after ostensibly leaving office. Thus, even if term limits can produce leadership alternation, this alone is insufficient to bring about the all-important objective of allowing the infusion of new ideas and fresh perspectives to the public policy-making process.

3.4.2.4 Term Limits Promote Inefficiency

The quest for leadership rotation that lies at the center of term limits is also criticized for promoting inefficiency. This criticism can be traced to the critics of rotation of office in classical Athens and Rome. Plato and Socrates, two of the leading critics of the principle of rotation, argued that leadership rotation promotes inefficiency because it constantly entrusts critical public decision making in the hands of amateurs instead of experts. In Socrates' words, strict enforcement of rotation ultimately promoted "mediocrity" as it "deprived Athens of the services of professional experts that were equipped with superior governing skills" (quoted in Staveley,

1972:55). Similar arguments were also advanced during the debates on the 22nd Constitutional Amendment in the US, where critics pointed out that term limits are flawed because they contribute to the removal of experienced candidates who are more aware of their public responsibilities than newcomers (Kamber, 1995; O’Neal, 1995). Cain (1994:47), sums up this view most succinctly when he contends that “term limits undervalue the need for enlightened and experienced management of public policy...there is nothing wrong in entrusting decisions about complex and crucial issues that can affect our lives and the world ...to the people with professional experience.” Kamber (1995:83) also echoes this view, arguing that term limits “remove seasoned professionals [from office and] depriving them of the experience, institutional memory, wisdom and judgment needed to govern effectively...leaving the affairs of government in the hands of amateurs.”

In addition to the criticism that regular leadership alternation brings in inexperienced leaders to govern, term limits are criticized further for their potential to increase inefficiency due to their indiscriminate removal of good and non-performers alike from political office. While elections allow voters to choose to reward good performers by re-electing them and punish non-performers by voting them out of office, term limits interfere in this process by forcing the removals of the candidacy of both good and bad performers. As a result, the electorate is deprived of the choice of rewarding good performers and asking them to continue to offer their services. Of course this argument is premised on the assumption that elections can be a sufficient tool for voters to reward or punish their elective public office holders. However, in order to do so, voters not only need to be well-informed to make sound electoral choices, but the playing field also needs to be level so that all candidates have an equal chance of winning. As the literature on incumbency advantage has demonstrated, however, this is rarely possible. The

unevenness of the electoral playing field is particularly glaring in emerging democracies, such as in Africa, where high illiteracy rates and limited access to news, coupled with very weak and poor-resourced opposition parties, all conspire to make it difficult for voters to make informed electoral choices (Schedler, 2009).

In recent years, the criticism of term limits as promoting inefficiency has been extended to include the argument that rotation of leadership can disrupt, or indeed reverse, policy gains made by previous administrations. In situations where continuity is vital, especially during periods of crisis, the breaks in administration enforced by tenure limitations can slow down the recovery process (Cain, 1994; Kamber, 1995). Furthermore, it is argued that the possibility of remaining in office for long periods might enhance the likelihood that public office holders would adopt long-term plans. Conversely, term limits encourage short-termism, as public officials know they would not have the time to fulfill long-term plans even if these would ultimately be more beneficial (Kamber, 1995).

Responding to the charge that term limits promote inefficiency by removing experienced leaders, supporters of tenure rules counter-argue by stating that the average person is competent to carry out the routine affairs of the government (Staveley, 1972). The institution of term limits, in other words, represents a demonstration of faith not in the knowledge of experts, but in the common sense of all citizens to be able to exercise leadership. By providing opportunities for as many people as possible to contest for leadership positions, society can thus tap into the leadership potential of a wider range of individuals in society, thus increasing the portfolio of contributions in a manner that can increase the prospects of success several fold (Jacob, 1994; O'Neil, 1995).

3.5 Conclusion

This chapter has established that the history of term limits goes as far back as classical Athens and Rome, when the institution began to be applied with a view to promoting leadership alternation. In contemporary politics, term limits are employed on holders of executive political office, from national, provincial, and municipal tiers of government administration. In a handful of cases, however, term limits have also been extended to cover holders of elected legislative office. In the US, although there have been a number of attempts to extend term limits to members of Congress, these efforts have thus far been unsuccessful. However, since the early 1990s, the US has seen the successful adoption of term limits on members of state legislatures.

Like most political concepts, the idea of term limiting public office holders is heavily contested, with strong arguments advanced for and against them. On the one hand, proponents of term limits argue that they promote leadership alternation, thereby reducing the likelihood of tyranny as well as promoting democracy, efficiency, and effectiveness in government performance. Critics, on the other hand, argue that term limits are undemocratic in that they usurp the role of voters by reducing the options available to them at elections. Other arguments against term limits stipulate that these rules reduce accountability, promote inefficiency, and are not an effective tool for preventing former leaders from influencing public policy making.

While both sides make strong arguments for and against term limits, this author is persuaded more by those who argue in support of term limits. The first major draw in favour of term limits stretches back to the arguments advanced in their favour in classical times, namely the possibility that such rules help to strengthen the link between the governors and the governed. By promoting a culture of regular leadership alternation, term limits not only help to diminish the likelihood of the emergence of careerist political elites, but they also create a

window of opportunity for many ordinary citizens to ascend to public office. In other words, term limits can help to diminish the perception that there are individuals who are born with natural leadership qualities and that rules should be shaped to solely accommodate such individuals, thus increasing the prospects of the personalization of politics. This is despite the fact that the actual application of term limits might not automatically generate the benefits associated with them. For example, as I demonstrate in the discussion in chapter 6 on the effects of term limits on the lengths of tenure of African presidents, it is possible that term limits might only have significant effect on one aspect of rotation, namely intra-party leadership alternation, while having minimal effect on partisan rotation. Yet, the arguments seem to take it for granted that these rules will promote both leadership and partisan alternation. While this still represents a major departure from Africa's history of long-serving leadership, which in some circumstances led to the formalization of a life-presidency syndrome, the fact that tenure limits are not having similar effects in promoting partisan alternation raises questions about the effectiveness of these rules in the consolidation of African democracy. This is especially the case as leadership alternation alone might give the semblance of a working democracy that could lead to the consolidation of non-democratic regimes.

Ultimately though, my own support for term limits is founded as much on the strength of the arguments advanced in their favour as on fundamental flaws in some of the key arguments leveled against them. In the first instance, the argument that term limits are undemocratic in that they stand in the way of ordinary citizens to elect into public office individuals of their choice for as many times as they may want them to is fundamentally flawed. Political stability that is founded on the personal qualities of particular leaders is indicative of a flawed politics that does not qualify as democratic. In any event, the underlying argument that presidents who are good

should be allowed to seek indefinite tenure is equally flawed in that it looks at term limits less from the perspective of the people who hold public office and portrays them instead as limitations on the people themselves. To argue that limiting the power of the people in the choice of candidates for political office undermines democracy wrongly suggests that power of the people exists for its own sake and not for the enhancement of the lives of those individuals. The premise that democracy is enhanced by removing these limits grossly underplays the fact that such legal restrictions are an indispensable condition for democracy and its survival. In any event, it is flawed logic to argue that laws that limit who can be a candidate in an election remove the ability of voters to make free political choices. Indeed, given the advantages that come with incumbency, term limits can enhance electoral choice, allowing more individuals to emerge to offer their services for the benefit of all.

Chapter 4

From Athens to Zambia: The Evolution and Nature of Presidential Term Limits in Contemporary Perspective

4.0 Introduction

Conventional political theory, in the words of Geddes (2002:353), has taught us that “politicians seek the continuation and enhancement of their political careers.” Given the chance, political leaders will use the advantages of incumbency—the electoral margin enjoyed by political officer holders on account of their status as an incumbent running in an election—to secure an almost permanent hold on political office (Ansolabehere and Snyder, 2002; Erikson, 1971; Mayhew, 1974). Linz’s (1996) study on democratic survival further demonstrates that, historically, incumbency advantage poses a greater threat to democratic survival in presidential systems than in Parliamentary ones. One of the instruments for countering the advantages of incumbency and threats to democratic survival has been the institution of presidential term limits. This has been promoted as “the greatest guarantee against omnipotence and abuse of power and the last hope for those in opposition to ascend to power” (Linz, 1994:16-17).

In this chapter, I zero in on the application of tenure limit rules on presidents at the global level. I start with a historical review of presidential term limits, starting with their employment in France and Latin America in the 18th and 19th centuries. Moving on to the contemporary era, the chapter ends with an examination of the nature and types of presidential term limits in contemporary politics. Looking specifically at the history of presidential term limits in the US, one of the major findings in this chapter is the similarity between the codification of presidential term limits in the US and their evolution in classical Athens and Rome. As was the case in Republican Rome, the presidential term limits in the US were only codified after a lengthy period when the rules were founded on an informal and unwritten tradition of presidents serving

for no more than two terms of office. It was only after this tradition had been broken by President Franklin Roosevelt that term limits were adopted under the 22nd Constitutional Amendment of 1947.

4.1 Data

In order to understand the type and nature of presidential term limits in contemporary politics, I examined the universe of written presidential Constitutions in the contemporary era. The primary source for this exercise was the list of global Constitutions generated by the Comparative Constitutions Project (Elkins et al., 2009). This project provides a list of all written Constitutions for all countries in the world up to December 2005. The total number of Constitutions in this list was 720. I updated this list to include Constitutions enacted or re-instated up to December 2009. This generated a further twenty-one Constitutions, bringing the final total to 741. From this list, I proceeded to identify a subset of 328 Constitutions that established presidential regimes.⁴⁸ I then sourced all these 328 Constitutions, primarily through internet searches, and coded them according to whether they contained presidential tenure limits or not.

4.2 Presidential Term Limits in the 18th and 19th Centuries

Although the Constitutional discussions leading up to the founding of the US contained extensive debates on whether to include tenure limits for various public office holders, including the presidency, the final consensus was that such rules were not necessary. Thus although today the US and its rules on tenure limits stand as a model for most contemporary presidential

⁴⁸ I use Linz's (1990:52) definition of presidential regimes systems that have an executive who is granted considerable constitutional powers—generally including full control of the composition of the cabinet and administration; is directly elected by the people for a fixed term; and is independent of Parliamentary votes of confidence. The president is not only the holder of executive power, but is also the symbolic head of state and can be removed between elections only by the drastic step of impeachment.

regimes, it was not the pioneer of the institution of term limits for the presidency. Instead, this honour belongs to France and several Latin American countries.

4.2.1 Term Limits during the Debates Leading to the Enactment of the US Constitution

The first serious discussion of term limiting the executive branch of government in contemporary politics took place in the build-up to the drafting and enactment of the US Constitution in 1776. With many of the leading players in the Constitution drafting and enactment process educated in classical political systems and very familiar with rotation of office in classical Greece and Rome, the Constitutional debates, not surprisingly, revealed a desire to study and profit from the object lessons offered by ancient democracy (Bailyn, 1992; Reinhold, 1984; Richard, 1994; Wood, 1998).

Among the leading proponents of term limits during the US Constitutional debates was Thomas Jefferson, who proposed the setting of term limits for members of Congress and the president. Drawing on his knowledge of classical democracy, Jefferson's arguments echoed those advanced by the classical supporters of leadership rotation by arguing that tenure limitations were an important tool for democratic survival. Although Jefferson was appreciative of the people's right and ability to vote a president out of office, his support for term limits reflected a fear of the advantages of incumbency and the likelihood that long-serving leaders would usurp democratic rights from the people. In such a case, Jefferson feared that the right to vote a candidate out of office was neither guaranteed nor the complete solution to the survival of democracy (Jefferson, 1978). The Jeffersonian conceptualization of term limits was therefore one which perceived them as a mechanism for countering the advantages of incumbency rather than a lack of confidence in the people's ability to vote for a leader of their choice. The influence of Jefferson and other supporters of term limits was first reflected in the Articles of

Confederation, which imposed limits on delegates to the Constitutional Conference, providing that “no person shall be capable of being a delegate for more than three years in any term of six years; nor shall any person, being a delegate, be capable of holding any office under the United States, for which he, or another for his benefit receives any salary, fees or emolument of any kind...”⁴⁹

However, despite the forceful arguments that were advanced in favour of term limits for the presidency and members of Congress, the final version of the US Constitution, as adopted in 1787, omitted them. Jefferson, meanwhile, expressed his great disappointment at this omission, writing to James Madison that the absence of term limits posed a major threat to American democracy:

I dislike, and strongly dislike... the abandonment in every instance of the principle of rotation in office and most particularly in the case of the President. Reason and experience tell us that the first magistrate will always be re-elected if he may be re-elected. He is then an officer for life. If once elected, and at a second or third election outvoted by one or two votes, he will pretend false votes, foul play, hold possession of the reins of government... The power of removing every fourth year by the vote of the people is a power which will not be exercised, and if they were disposed to exercise it, they would not be permitted.⁵⁰

However, in a letter to Isaac Weaver in 1807, Jefferson (1904:220) adopted a more flexible position, observing that term limits need not be incorporated in the Constitution, but could also be established “by practice and force of precedent and usage.” Jefferson’s faith in term limits through an established tradition of alternation, however, showed his limits as a student of classical democracy. The history of the office of *Censor* during the Roman republic, should have taught him that longevity of practice does not guarantee that a tradition would acquire the force of law. As with the Roman Censor Gaius Marcius Rutilus in 265 BC, President

⁴⁹ See Article V of the Articles of Confederation.

⁵⁰ Thomas Jefferson to James Madison, 1787. (Forrest version) ME 6:389

Franklin Roosevelt's multiple terms as US president between 1933 until his death in 1945, demonstrated that entrusting term limits to an informal tradition is no guarantee that no one will ever go against the precedent. In all fairness to Jefferson, he wrote to John Taylor in 1805 of his desire that the tradition of precedent should "beget a disposition to establish it by an amendment of the Constitution."⁵¹ His wish was not realized until Roosevelt's lengthy tenure set off the process that eventually led to the adoption of the 22nd Amendment, which formally codified the two-term limit in the US Constitution.

4.2.2 Term Limits in France and Latin America in the Late 18th Century and 19th Century

While the concept of presidential term limits in the early history of the US was based on an informal tradition, France was the first country in the modern era to formally enact term limits for holders of executive political office under its Constitution of 1795. This Constitution, which replaced an earlier one enacted in 1791, included a provision which specified that five members of the *Directoire*, a body entrusted with exercising the executive powers of state, could only serve for a single term of five years without the option of reelection "until after an interval of five years had lapsed."⁵² In a sign that the term-limit provision was specifically designed to address the advantages of incumbency, the 1795 French Constitution went further to bar "ancestors and descendants in direct line, brothers, uncles and nephews, first cousins, and those related by marriage in said several degrees may not be members of the Directory," to serve in the Directory at the same time, or to succeed them until "after an interval of five years."⁵³

⁵¹ Thomas Jefferson to John Taylor, 10805: Jefferson ME, 11:57.

⁵² See French Constitution of Year III, 1795, available at <http://chnm.gmu.edu/revolution/d/450/>.

⁵³ Ibid.

The provision limiting immediate re-election for the members of the French *Directoire* in the Constitution of 1795 was an institutional response to the country's history of long-serving kings. By imposing term limits, it was hoped that this would prevent the likelihood of any individual usurping the powers of executive office and taking the country back to monarchical rule. Additionally, the term-limit provision would also appear to have been motivated by the fear that incumbents would have a significant advantage over their potential challengers if they were allowed to stand for re-election. In this regard, the French position echoed the fears of Thomas Jefferson in the quotation cited earlier where he felt that, in a system that allowed for unlimited re-election, the advantages of incumbency would mean that incumbents would continue to get re-elected, thus threatening democracy's survival. Although the French Constitution of 1795 was short-lived, its successor in 1799 maintained the tradition of term limits by barring the holders of the newly created office of *Consul*, which replaced the *Directoire*, to serving a maximum term of ten years, after which they were "indefinitely ineligible."⁵⁴

Besides providing the earliest examples of formal Constitutional tenure limits on the holders of executive office, the French Constitutions of 1795 and 1799 illustrate two types of term-limit rules. The first refers to situations where immediate re-election is not allowed, although individuals are allowed to return to office after sitting out for a specified period. The second type of was the one provided in the 1799 Constitution, where individuals are permanently barred from re-election.

Elsewhere in the 19th century, the practice of presidential term limits began to gain greater traction as more countries, particularly in Latin America, began to adopt new Constitutions that included provisions that set out maximum tenure limits on the office of the

⁵⁴ See Article 39, French Constitution of 1799.

president. Colombia (1821) led in this process, when the Constitution that was proposed at the congress of Cúcuta and later adopted in August 1821, provided for a four-year term for the office of president, who could not be re-elected (Gibson, 1948). Similar provisions were also included in the Ecuadorian Constitution of 1830, El Salvador in 1841, and Argentina in 1853 (Streb, 1999). In Europe, the Swiss Constitution of 1874, which established the office of the chairman of the Federal Council to exercise the power of the president of the Swiss Confederation, provided that holders of this office would be “chosen by the Federal Assembly from among the members of the Council for a term of one year [and that] the outgoing President is not eligible to be President or Vice-President for the following year....the same member may not hold the office of Vice-President for two successive years.”⁵⁵

4.3 Presidential Term Limits in the 20th Century

While presidential tenure limits were a spotty institution in the 19th century, the increase in the number of new presidential regimes in the 20th century saw an increased focus on term limits. In particular, the third wave of democracy in the latter part of the 20th century came with an increased uptake of presidential term limits in national Constitutions.

4.3.1 The 22nd Amendment of the United States Constitution

While several countries with presidential systems adopted new Constitutions that entrenched presidential term limits at the start of the 20th century (e.g. Ecuador, 1906; Mexico, 1917; Finland, 1919; and Chile, 1925), it was not until 1947 when these acquired new traction following the passage of the 22nd Amendment to the US Constitution. This innovation followed President Roosevelt’s four presidential terms, which persuaded the American electorate that leadership rotation could not be assured on the basis of an informal institution founded on

⁵⁵ Article 98 of the Swiss Constitution of 1874.

historical precedent alone. First passed by Congress on March 21, 1947, and subsequently ratified on February 26, 1951, the 22nd Amendment provides that:

No person shall be elected to the office of the President more than twice, and no person who has held the office of President, or acted as President, for more than two years of a term to which some other person was elected President shall be elected to the office of President more than once. But this Article shall not apply to any person holding the office of President when this Article was proposed by Congress, and shall not prevent any person who may be holding the office of President, or acting as President, during the term within which this Article becomes operative from holding the office of President or acting as President during the remainder of such term.⁵⁶

It is worth noting here the similarity of the process that led to the formalization of the presidential term limits in the US in 1947 and the formalization of term limits on the office of Censor in classical Rome in 265 BC. As discussed in chapter 2, a formal law limiting the possibility of re-election to the office of Censor during the Roman Republic was only enacted after Gaius Marcius Rutilus had broken a three-century-old tradition where no individual had held that office for more than one term (Swartz, 2010). As in the Roman case, the 22nd Amendment of the US Constitution was also only enacted after the breaking of long-held tradition extending to the founding presidency of George Washington. Thus, President Franklin Roosevelt became the first—and last—president to be elected into office for more than two terms. Since the US Constitution has often been used as a model for other presidential regimes, the 22nd Amendment has often been used as a blueprint for formulating limitations on the office of president in other states.

4.3.2 The Surge of Presidential Term Limits in the Second Half of the 20th Century

The independence wave that saw many countries in Africa gain independence from European colonial rule in the middle of the 20th century led to a significant increase in the number of countries that adopted presidential systems of government. But presidential term

⁵⁶ See Amendment 22(1) of the US Constitution.

limits did not immediately become popular in the new presidential-government systems of Africa and Asia. Between 1950 and 1970, when several new states became independent, especially in Africa, a total of fifty-two new presidential-system Constitutions were enacted globally. However, of these, only seven (13 percent) included presidential term-limit rules. It was not until towards the last two decades of the 20th century—a period that also coincided with a new “third” wave of democracy,⁵⁷—that presidential term limits became an ubiquitous feature of presidential-regime Constitutions across the globe (figure 4.1).

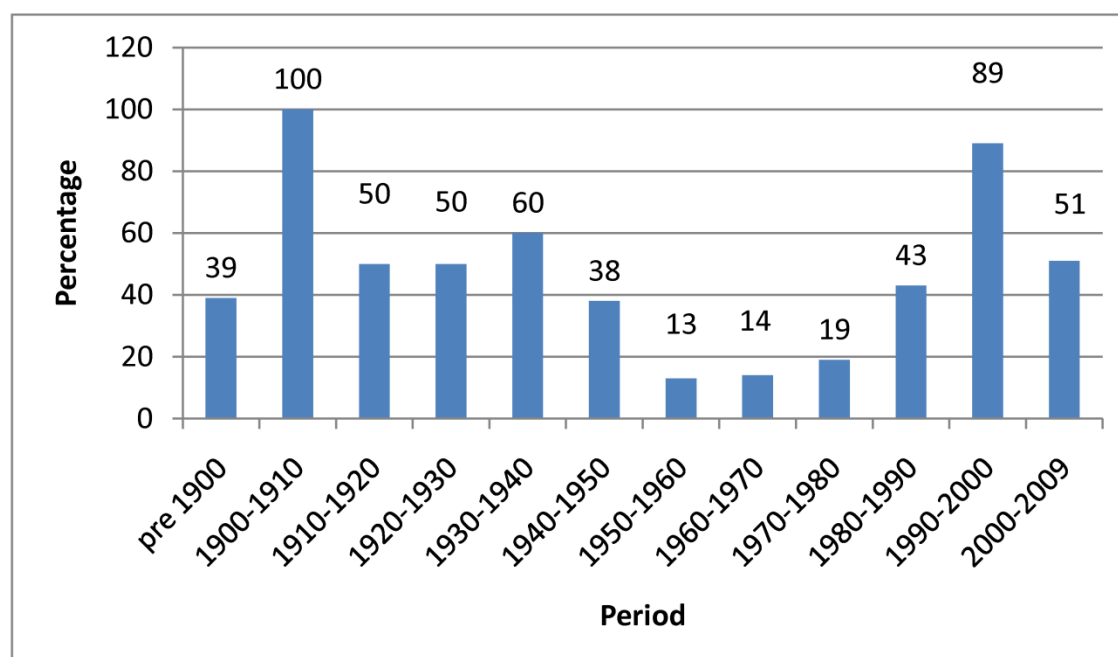


Figure 4.1 Proportion of Global Constitutions with Presidential Term Limits Over Time (N=328)

Source: Calculated from various presidential Constitutions

Up until the 1990s, the majority of presidential regimes did not have term limits.

Although the 1930s recorded a high proportion of new Constitutions that incorporated

⁵⁷ Coined by Huntington (1991), the third wave of democracy is said to have started in 1974 with the democratic revolution in Portugal, then expanding to the rest of the third world, with Africa and the former Soviet states in Europe and Asia as the last arena of democratization in the 1990s, a wave that, according to Huntington, led to a doubling in the number of democracies in the world.

presidential term limits, the total number of new Constitutions enacted during this period was rather low (five, with only three making provision for term limits).

The decade between 1990 and 1999, on the other hand, stands out as the peak of the institutionalization of presidential term limits. During this period, a total of sixty-six Constitutions were promulgated, a high proportion of which (89 percent) incorporated presidential term limits. The high number of Constitutions incorporating tenure limitations during the 1990s not only reflects the important political changes that took place during the last decade of the 20th century, but it also underscores the fact that presidential term limits are now considered to be a major institutional feature of modern democratic politics. Marking a new desire to break away from the history of dictatorship and autocratic rule, the newly independent countries of Eastern Europe, Central Asia, and Africa embraced presidential term limits during this period. Even countries that had experienced unbroken years of democratic rule, such as Botswana, joined in by amending their Constitutions to include term limits.

The proportion of global Constitutions that enshrined presidential term limits, however, slowed down significantly in the first nine years of the 21st century. Of the forty-one Constitutions enacted or amended during this period, just slightly over half (51 percent) provided for presidential term limits. As more term-limited presidents began to reach the end of their maximum tenures towards the end of the 1990s, several began to initiate processes to either remove term-limit provisions or alter them. This process of reversal began in 1998 when Namibia amended her Constitution to allow the country's founding president, Sam Nujoma, to contest for a third term in the elections of 1999. Outside of Namibia, a host of countries, from Azerbaijan in Central Asia to Venezuela in Latin America, passed similar amendments that

enabled sitting presidents to contest for further terms of office beyond what was previously allowed.

4.4 Presidential Term Limits in Contemporary Constitutions

Notwithstanding the increasing efforts at removing limitations on presidential tenure, term limits remain an important institution of the world's presidential and semi-presidential regimes. In order to understand the importance of presidential term-limit provisions in the world, I examined the national Constitutions of the world's ninety-three presidential and semi-presidential government systems as classified in the World Bank's Database of Political Institutions as of December 2009.⁵⁸ I then proceeded to review the Constitutions of these ninety-three countries, determining if the Constitutions made specific provisions for the number of terms any individual can serve as president. The results are presented in table 4.1.

As seen in table 4.1, seven in ten (70 percent) of the ninety-three presidential and semi-presidential regimes had tenure limits on the office of president at the end of 2009. Although Africa accounts for nearly half of presidential regimes (forty-three), nearly two-thirds of the countries on the continent do not have presidential term limits (nineteen of twenty-eight). This can be explained by the higher number of African countries that have recently removed term limits from their national Constitutions. Of the nineteen African countries that had no presidential term limits in December 2009, twelve had removed them in the period between 1998

⁵⁸ The final figure of ninety-three countries was arrived at after first selecting all the countries coded as having either presidential or semi-presidential government systems from the World Bank Institution's database. The list of countries was then trimmed by leaving out countries that are coded as having presidential or semi-presidential systems but yet have either a presidential-style monarchy, such as Swaziland or Brunei, and those that either have military governments of effective one-party states, such as North Korea, China, and Somalia, to give but a few examples.

Table 4.1: Presidential Term Limits in the World, December 2009

Region	Countries with Presidential Term Limits	Countries without Term Limits
Africa	Benin, Burundi, Cape Verde, Central African Republic, Comoros, Congo DR., Congo-Brazzaville, Ghana, Kenya, Liberia, Madagascar, Malawi, Mali, Mauritania, Mozambique, Namibia, Nigeria, Rwanda, Sao Tome and Principe, Seychelles, Sierra Leone, South Africa, Tanzania, Zambia (24)	Algeria*, Angola, Burkina Faso*, Cameroon*, Chad*, Cote D'Ivoire, Djibouti* Egypt, Equatorial Guinea, Gabon*, Gambia, Guinea*, Guinea-Bissau, Niger*, Senegal*, Togo*, Tunisia*, Uganda*, Zimbabwe (19)
Americas	Argentina, Brazil, Chile**, Colombia**, Costa Rica; Dominican Rep, Ecuador** El Salvador, Guatemala, Guyana, Haiti, Honduras, Mexico, Nicaragua**, Panama, Paraguay Peru, United States, Uruguay (19)	Bolivia*, Venezuela* (2)
Europe	France, Georgia, Moldova, Poland, Ukraine (5)	Cyprus (1)
Asia/Oceania	Afghanistan, Armenia, Indonesia, Iran, Kiribati, Kyrgyzstan**, Maldives, Mongolia, the Philippines, Palau, Russia, , South Korea , Sri Lanka, Taiwan, Timor-Leste, Uzbekistani**, Yemen (17)	Azerbaijan*, Belarus*, Kazakhstan*, Syria, Tajikistan*, Turkmenistan* (6)
Total	65	28

* Denotes a country that has recently removed the presidential term-limit provision as of December 2009.

** Denotes a country that has recently altered the presidential term-limit provision to allow for an extension of presidential tenure although the term limit rule remains in the Constitution as of December 2009.

Source: *National Constitutions (various)*

and 2009. Had these countries not done so, then the proportion of term-limited African countries would have been 84 percent.

4.5 Nature and Types of Presidential Term Limits at the Global Level

Presidential term limits come in different shapes and forms. Indeed, even if two Constitutions provide a similar number of maximum terms that an individual can serve as

president, it is important to remember that this does not imply that any two individuals would serve the same maximum number of years in office. For example, while both the US and Rwandese Constitutions provide for a maximum of two presidential terms for any individual, the length of a presidential term for the US president is four years, while in Rwanda's case it is seven. This implies that US presidents can only serve for a maximum of eight years, while their Rwandese counterparts can serve for a maximum of fourteen years, nearly double the tenure of the US presidents when measured by the actual number of years served.

Besides the differences in the length of a presidential term, there is also a variety of forms of presidential term-limit rules. The most restrictive rule limits individuals to serve as presidents for only one single, non-renewable term. This type of restriction is comparable to the strict rules that were imposed on elected office holders in classical Athens and Rome, such as the *Epistates* of Athens and the *Censor* in Republican Rome (discussed earlier). While the single-term rule appears to be influenced by the fear that incumbency significantly reduces the likelihood of leadership rotation, the second, and by far the most common, limit strikes a balance by allowing re-election for a maximum of two terms. In addition to these two, there are also another six different types of presidential term limits. Table 4.2 provides a summary of the variety of presidential term limits in contemporary presidential Constitutions.

The most common form of tenure limit is one that restricts holders of the office of president to a maximum of two terms, whether successive or not. This rule accounts for 68 percent of all term-limited presidential Constitutions in 2009. The two-term rule is particularly popular in Africa, where 85 percent of all the Constitutions with presidential tenure have this type of rule. The popularity of the two-term-limit rule can be attributed to the fact that the majority of countries in Africa and Eastern Europe and Asia looked at the US for guidance when

Table 4.2: Types of Presidential Term Limits in the World, December 2009 (N=93)

Term Limit Type	Countries	Number (% of Total)
One term, total	Costa Rica, El Salvador, Guatemala, Honduras, Mexico, Paraguay, the Philippines, South Korea	8 (12%)
Two terms, total	Afghanistan, Armenia, Benin, Brazil, Burkina Faso, Burundi, Central African Republic, Colombia, Congo DR., Congo- Brazzaville, Dominican Rep., Ecuador, France, Georgia, Ghana, Indonesia, Iran, Kenya, Kyrgyzstan, Liberia, Madagascar, Malawi, Mali, Maldives, Mauritania, Moldova, Mongolia, Namibia, Nigeria, Palau, Poland, Rwanda, Sao Tome and Principe, South Africa, Sierra Leone, Sri Lanka , Taiwan, Tanzania, Timor-Leste, Ukraine , United States, Yemen, Zambia	44 (67%)
Two non-successive terms, total	Nicaragua, Haiti	2 (3%)
Three terms, total	Seychelles	1 (1.5%)
Three terms, only two of which can be consecutive	Kiribati	1 (1.5%)
No successive terms permitted, but multiple non-successive	Chile, Comoros, Uruguay	3 (4.5%)
Two successive terms permitted, but multiple non successive	Argentina, Cape Verde, Mozambique, Peru, Russia, Uzbekistan	6 (9%)
No successive terms allowed, but candidates can seek re-election after an interval of two terms	Panama	1 (1.5%)

Source: Calculated from various national Constitutions

formulating their new democratic Constitutions in the 1990s. The 22nd Amendment of the US Constitution was in this case used as the model for formulating the term-limit provision.

The second most popular form of presidential term limits is the one that allows individuals to serve for only one term. Although the majority of countries with this rule provide a much longer presidential term, between five and six years, others in this group, such as Chile and Costa Rica, have a four-year presidential term. In all these cases, the standard provision states that “A citizen who has held the office of President of the Republic, by popular election or by

appointment as an interim, provisional, or substitute President, can in no case and for no reason again hold that office.”⁵⁹

The third most common form of term limits permits only two successive terms, but otherwise allows individuals who have held the office of president to come back any number of times provided they sit out at least one term after serving two successive terms. Six countries, including Argentina and Russia, have this rule. The standard provision stipulates that “No one person shall hold the office of President...for more than two terms in succession.”⁶⁰ The interpretation of such provisions, suffice it to say, has often elicited major debates and disagreements, especially whether re-election is allowable after sitting out one term or not. In Russia, for example, there has been an ongoing debate on whether the provision on term limits, as it currently stands, allows former President Vladimir Putin, who served as president for two successive four-year terms between 2000 and 2008, to seek re-election in 2012 after sitting out one full term.⁶¹

The fourth category of presidential term limits includes a group of three countries (Chile, Comoros, and Uruguay), that do not allow individuals to hold the office of president in successive terms, but otherwise allow multiple terms. Article 25 of the 1980 Constitution of Chile, as amended in 2005, provides an example of this type of tenure limitation, stipulating that “The President of the Republic shall hold office for a term of four years and may not be re-elected for the consecutive period...”⁶²

⁵⁹ See Article 83 of the Constitution of Mexico of 1917, as amended.

⁶⁰ See Article 81(3) of the Russian Constitution, 1993.

⁶¹ See “Putin Is Coy on a Run in 2012,” in *New York Times*, December 3, 2009, page A-8.

⁶² See Article 25 of the Chile Constitution of 1980, as amended in 2005.

The remaining categories of presidential tenure limits include a variant of the two-term-limit rule, which stipulates that any individual can serve a maximum of two, but non-successive, terms (Haiti and Nicaragua). This category is distinct from the two-term category in that it specifically requires those seeking re-election for a second term to sit out for one entire term before they can do so. Seychelles and Kiribati, meanwhile, provide similar, although at the same time distinct, term limitations. Both countries allow individuals to serve a maximum of three terms. However, in Seychelles there are no further restrictions on how these three terms can be served. Kiribati, on the other hand, stipulates that only two of the three can be successive. The final category of term limits is the one provided for in the Panamanian Constitution, which does not allow successive terms but otherwise allows individuals to hold the office of president for indefinite terms.

4.6 Conclusion

Presidential term limits have moved from being a spotty feature of politics in presidential regimes to one of the most common aspects of contemporary presidential regimes. Although the US Constitution today provides one of the key models of presidential tenure limitations, the institution itself was first adopted elsewhere, first in France. After France, term limits were increasingly adopted by several Latin American countries in the 18th century. The adoption of presidential term limits under the 22nd Amendment of the US Constitution followed a long tradition of presidents that served for a maximum of two terms. However, following President Roosevelt's unprecedented four terms, there was a recognition that precedent alone does not guarantee against incumbents seeking to remain in office for long periods. In this regard, the formalization of presidential tenure limits in the US mirrored the adoption of similar rules in Republican Rome, when term limits were adopted after a tradition that had lasted for three

centuries was broken by Gaius Marcius Rutilus in 265 BC. The adoption of term limits, in this regard, can be perceived as an institutional response to long-tenured leaders. As I demonstrate in later chapters, the adoption of presidential term limits in a significant number of African countries also followed a similar path, coming as a response to a history of long-tenured rulers who did not want to leave office.

Chapter 5

Personal Rule, the Quests for Third Terms, and the Fate of Presidential Term Limits

5.0 Introduction

Although Constitutions are supposed to provide an enduring structure of politics, they are not immune from mortality. Indeed, as Elkins et al. (2009) observe, most Constitutions die at a young age, especially when states encounter crises and changes in the political environment. As Constitutions change, so do provisions that are contained in them, including presidential term limits. Indeed, in a number of cases the fates of national Constitutions are often closely tied to the inclusion of provisions that restrict the exercise of executive political power. This is noted by Linz (1996) when he points out that institutions that impose restrictions on the political ambitions of individuals, such as presidential term limits, are one of the main threats not only to Constitutional survival, but also to the fate of democracy itself.

It is thus not surprising that, throughout history, term limits have come and gone. In this chapter, I continue with a review of presidential term limits by zeroing on the recent global trend of attempts to remove term limits. What countries have attempted these bids and what have been the outcomes? Yet again, I demonstrate that the countries that have attempted to remove term limits span the entire globe. This underscores the fact that this is not a phenomenon unique to Africa. At the same time, I also demonstrate here that Africa has had the greatest number of contemporary attempts to remove term limits, thus making it an important case to study in order to understand these bids

5.1 The Third-Term Phenomenon in Contemporary Politics

Although the majority of modern day presidential democracies impose tenure limits of one kind or another on the office of the president, it is important to note that they have not

always been accepted by political elites. Throughout history, various presidents have sponsored amendments to change term-limitation rules as a way of extending their tenure. In some extreme cases, incumbents have sponsored the enactment of new Constitutions that do not contain term-limit provisions to replace older ones that did.

In order to understand the fate of presidential term limits in the contemporary era, I conducted an Internet search for news articles in the last twenty years to identify countries that held national discussions on removing or altering presidential term limits for the seventy-nine countries that have had presidential term limits. Where there was evidence of discussions on the fate of term limits, I followed up to examine whether the discussions resulted in the tabling of legislation to remove them and the outcomes of those bills. The entry point in this analysis was the US Department of State's Country Profiles, which were consulted to garner information on whether a country held any debates on the fate of term limits and the outcomes of any such discussions. Additional data was also taken from the Comparative Constitutions Project database, which tracks discussions on key Constitutional changes and amendments discussion. Table 5.1 presents findings on the fates of presidential term-limit rule.

The extent to which presidential term limits are under threat from politicians desirous of extending their tenure is reflected by the fact that six of every ten countries (61 percent) that have had these rules have recently held discussions to consider removing them. With 72 percent of the countries that have had presidential term limits debating their removal, Africa leads among all global regions in these debates, suggesting that presidential term limits face a very uncertain future on this continent more than others.

Africa's lead in considering removal of presidential term limits should not be surprising. African countries were very late in embracing term limits. While Latin American countries for

Table 5.1 The Fate of Presidential Term Limits in the World, 1990-2009

Region	# of Countries Debating Removal of Term Limits <i>(% of debating countries as against total number of countries with term limits)</i>	Active Attempts at Removing Term Limits <i>(% of attempts as against debating countries)</i>	Term Limit Removal Success Rate <i>(% of successes v. attempts)</i>
Americas	13 (62%)	8 (62%)	5 (63%)
Africa	26 (72%)	15 (58%)	12 (80%)
Asia /Oceania	8 (36%)	5 (63 %)	5 (100%)
Europe	1 (20%)	0	0
Total	48 (61%)	28 (58%)	22 (79%)

Source: Internet Search, US Department of State Country Profiles, Comparative Constitutions Project

example have a much longer history of term limits stretching back to the 19th century, African countries only began to embrace these rules in the last decade of the 20th century. Not only does the African continent retain more vivid memories of authoritarian rule, but a significant number of presidents and key political leaders between 1990 and 2009 were individuals that had emerged from the remnants of the pre-term-limit authoritarian era. The list of such leaders include Algeria's Abdelaziz Bouteflika; Blaise Compaoré of Burkina Faso, Jerry Rawlings of Ghana, Cameroon's Paul Biya, Chad's Idriss Derby, Kenya's Daniel arap Moi, Uganda's Yoweri Museveni, Gabon's Ali Bongo Ondimba, Lansana Conté of Guinea, Gnassingbé Eyadéma of Togo, Mathieu Kérékou of Benin among many such leaders. These leaders were thus more likely to see term limits as obstacles to their ambitions of prolonging tenure and thus more likely to seek to remove them.

Despite having the longest history with presidential term-limit rules, the Americas region has not, however, been entirely spared the discussions on removing term limits. Altogether, 62

percent of the term-limited countries in this region have held national discussions on whether to remove or alter term limits in order to allow for extended presidential tenure. While only a few of the discussants have sought the complete removal of the term limits, a higher proportion of the discussions have focused on altering them to allow for an increased number of terms. Argentina, Brazil, Chile, Colombia, Ecuador and Nicaragua, for example, have all recently pursued amendments that have culminated in Constitutional contexts that now allow for the possibility of re-election which were not allowed under previous Constitutions (IRI, 2010).

The experiences of the Americas in considering the removal of term limits suggest that while long experience with term-limit rules can potentially facilitate their entrenchment, this is not always a guarantee that they will be secure from the ambitions of new leaders. However, at the same time, it is telling the majority of the amendments in the Americas have focused on merely allowing the possibility of re-election without necessarily removing the term-limit rules completely as has been the case in Africa and the former Soviet states of Asia. We can thus speculate that the length of presidential terms, while not completely eliminating the likelihood of removal, ameliorates the nature of amendment to ones that seek more modest changes.

Meanwhile, Europe and the Asia/Oceania regions have had the lowest proportions of countries that have considered the removal of presidential term limits, with 20 percent and 36 percent respectively.

5.2 Moving from Debates to Actual Attempts at Removing Presidential Term Limits

While the proportion of countries debating the retention or removal of presidential term limits is high, not all such debates result in formal attempts to either alter or remove this new institutional feature of presidential politics. As we saw from Table 4.3, only 58 percent of the universe of countries that debated the removal of presidential term limits proceeded to take the

next step of starting the formal legislative processes to remove them. Although the Asia Oceania region had the second lowest proportion of countries debating the removal of presidential tenure limitations, a high proportion of those that held such discussions (63 percent), proceeded with formal attempts to remove the tenure limits. Meanwhile, in Africa, just slightly more than half (54 percent) of the countries that debated the removal of presidential term limits launched formal attempts to remove them.

The fact that not all debates on the fate of presidential term limits resulted in the initiation of formal attempts to remove them suggests that such discussions should not be considered as signalling the eventual demise of term limits. In certain circumstances, the discussions might actually serve a more positive effect by garnering more informed support that can go towards entrenching this institution. This is the case especially among those countries that do not take the next step to formally attempt to remove them. The experiences of countries such as Benin, Brazil, Colombia and Ghana, to mention but a few countries in this group, for example, have demonstrated that the debates actually served as an important platform for the public and other key stakeholders to reaffirm their commitment to this key institution of modern presidential democracies. Even among those countries such as Malawi, and Nigeria, where formal attempts to remove the term-limit rules were made, the ensuing debates not only served as a platform to reaffirm popular support for term limits and secure their place in the Constitutional documents, but they also influenced the decision makers to ultimately reject the proposals.

However, it is worth pointing out that the failure to launch formal efforts to remove presidential term limits does not always imply that presidents seeking to prolong their tenure are always being impeded from doing so because of term limits. In some cases, the discussions are used by incumbent leaders to strengthen their hold on power. For instance, Turkmenistan's first

president, Saparmurat Niyazov, went against the two-term-limit provision in the country's 1992 Constitution by securing a Constitutional amendment in 1994 that extended his tenure to allow him to stay in office until 2003. This move went against the two-term-limit provision which would have seen him step down after his second four-year term ended in 2009. However, not content with the initial extension to his tenure, Niyazov secured yet another Constitutional amendment in 1999 that designated him president-for-life.⁶³ Thus although Turkmenistan's retained the two-term-limit provision, Niyazov's manipulations have rendered it meaningless in realizing the goal of securing leadership alternation. Meanwhile in Eritrea, President Isaias Afwerki, who first assumed the country's presidency in 1992, remains president at the end of 2009 despite the country's 1997 Constitution providing for a maximum of two five-year term limits.⁶⁴

Assuming that the debates on whether to retain or remove presidential term limits reflect a desire by sitting presidents to extend their tenure of office, the fact that just slightly more than half of the global debates on the fate of term limits led to formal attempts to alter this institution suggests that it is nonetheless becoming an important barrier that is preventing a sizeable proportion of presidents who wish to prolong their tenure from easily doing so. This finding reinforces Posner and Young's (2007) argument that term limits are becoming an important institution in checking the ambitions of leaders that are desirous of remaining in power for extended periods. Indeed, the fact that even those leaders that have extended their tenures have been compelled to go through the lengthy process of amending their national Constitutions shows that the term limits are slowly becoming an integral part of presidential politics. Although

⁶³ See *New York Times*, "Turkmenistan's Leader is Voted President for Life," December 29, 1999.

⁶⁴ See Article 31(3) of the Eritrea Constitution, 1997.

they might not always prevent individual presidents from extending their tenures, their existence is an important step from the era when presidents could serve for unlimited tenures. The only exceptions to this rule of course have been the handful of countries, such as Kazakhstan, Eritrea, and Turkmenistan, where the incumbent presidents decided to ignore the term restrictions and run for more terms than were allowable. However, the fact that these are unique cases points towards a new era of presidential leadership that is being governed by rules than the mere ambitions of the incumbent leaders around the globe.

5.3 Outcomes of Bids to Remove Presidential Term Limits

While fewer debates on the fate of presidential term limits have led to formal attempts to remove them, it is worth noting that once a decision to formally seek an amendment is taken, there is very high likelihood that these efforts will result the eventual removal of the institution.

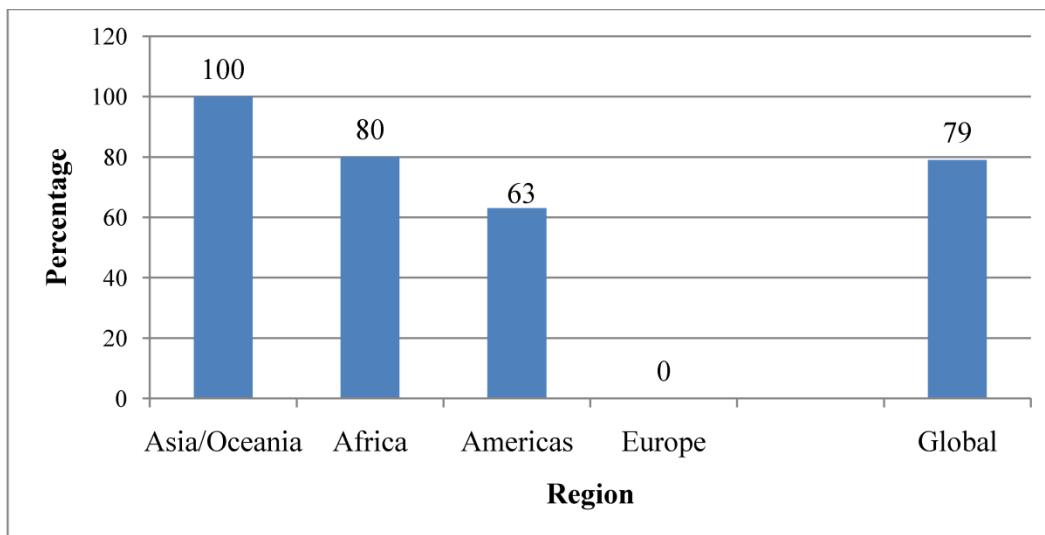


Figure 5.1: Proportion of bids to change presidential term limits that resulted in removal by region, 1990-2009

Source: calculated from Author's data set

Globally, a high proportion (79 percent) of countries that launched bids to remove presidential term-limit rules eventually succeeded in doing so. Although fewer countries in the Asia/Oceania region held discussions to debate the fate of presidential term limits, all the five

countries that subsequently launched bids to change them ultimately removed them. The Americas region, meanwhile, had the fewest countries that succeeded in removing term limits. This might suggest that a region that has a longer history with presidential term limits might face strong opposition to efforts to remove or alter the rules.

The fact that a higher proportion of formal attempts to change presidential term limits resulted in their removal should not come as a major surprise: the decision to initiate the formal amendment process often comes at the end of a lengthy evaluative process that enables the decision maker to gather as much information and strategise for how to approach the amendment. The debate phase in this regard serves a useful purpose of gauging the public support for or against the proposed changes. Even when there are indications of limited support, the leaders can strategise on how best to overcome such resistance and increase the likelihood of a successful outcome. Thus once a decision to proceed with the amendments is taken, there is a higher likelihood of success than failure. A more important question at this phase, one which we will be exploring in greater depth in the next set of chapters, therefore becomes not about why so many removal attempts have succeeded, but rather, why a number of these attempts have failed. This could be a result of misreading the public mood or a general failure to win adequate support by those who seek to prolong their tenure.

The net result of the altering of the presidential term-limit rules has been an increase in the number of presidential regimes that had no term limits at the end of 2009. Of the twenty-five countries that had no presidential term-limit rules in December 2009, two-thirds (sixteen) were in this position because they had removed these rules in the period between 1990 and 2009. This shows that that if it were not for the practice of removing presidential term limits, slightly more than nine in ten presidential regimes in the world would have had tenure limits.

5.4 The Bids to Remove Term Limits, Constitutions, and Constitutionalism

The various cases of attempts to remove term limits, as captured in the preceding discussion yet again demonstrate that the inclusion of tenure limits in national Constitutions alone does not imply that they will always be honoured or retained. This finding reinforces the findings of previous studies which have demonstrated that term limits have often come under pressure from leaders desiring to prolong their tenure. Hanratty (1989) and Hartlyn (1989), for example, respectively illustrated how presidents of Ecuador and the Dominican Republic in the 19th century regularly went against the term-limit provision. This was done by the promulgation of new Constitutions that did not provide term limits, ruling through proxies or by simply ignoring the term-limit provisions altogether.

The case of El Salvador, which went through nine Constitutions between 1824 and 1886, demonstrates the Constitutional dilemmas that can arise as a result of term-limit rules. The country's founding Constitution of 1841, provided for a two-year presidential term with no possibility of re-election. Although this provision was initially adhered to, President Gerardo Barrios, who assumed the presidency in 1858 dispensed with the two-year term-limit rule, first by extending his term by legislative decree in 1860, then by replacing the entire Constitution with a new one in 1864. In order to extend President Barrios' tenure of office, the new Constitution not only increased the presidential term from two to four years, but also allowed for at least one re-election. A further six Constitutions were adopted in El Salvador between 1871 and 1886, which resulted largely from a back-and-forth tug-of-war between liberal legislative forces keen on limiting the power of the president on one hand and ambitious presidents on the other, driven by a desire to extend their hold on power beyond the years prescribed by the Constitution (Haggerty, 1990). Similar tussles also took place in Argentina, Costa Rica,

Colombia, Haiti, Honduras, Peru, Nicaragua, and Venezuela, where Constitutions that included presidential term-limit provisions were regularly revised and replaced with new ones in a manner that allowed incumbent leaders to remain in office for extended periods.

That presidential term limits have come under significant pressure in contemporary presidential regimes should thus not be entirely surprising. As Baker (2002:285) has observed, although term limits were specifically written “to prevent dictatorship recurring...they are not proving to be insuperable to ambitious presidents.” Baker’s position underscores an important feature of institutions that are designed to address what amounts to the symptoms of a broader problem with authoritarian leadership: while term limits seek to curtail the quest for long tenure, they do not necessarily curb the initial desire for prolongation of tenure that drives the attempts to remove them. Once ambitious and authoritarian leaders ascend to the presidency, they naturally turn their attention to altering the term-limitation rules to realize that desire for lengthening tenure. It should come as no surprise, therefore, that these rules have come under increasing pressure as leaders seek to extend their hold on office beyond the maximum allowable terms. Ultimately, this speaks to the weak political culture that has failed to nurture and strengthen democratic institutions such as tenure limitation rules.

The pressure being exerted on term limits highlights an important distinction that needs to be made about the rule of law, especially in newly emerging democracies. While many of the presidential regimes adopted new Constitutions that had provisions that were designed to buttress democracy, rule of law and respect for human rights, the recent proliferation of attempts to remove term limits suggests that having ostensibly democratic Constitutions is not sufficient guarantee that ambitions and powerful presidents will be tamed and reigned in. This brings in the all important distinction between Constitutions and Constitutionalism that was discussed in

chapter 3. To recap, Constitutions provide the Meta frameworks that serve as the basis decisions, rules and incentive systems concerning government formation, the conditions under which governments can continue to rule and the conditions under which they can be terminated democratically (Andrews, 1968; Okoth-Ogendo, 1993; Okuku, 2005). Constitutionalism, on the other hand implies is a process through which political activity is governed by the rules stipulated in the Constitution (Greenberg et al., 1993; McIlwain, 2005; Sunstein, 2003).

The cases of attempts to remove term limits outlined above suggest that in order to understand the effects of such limitations, it is important to look beyond their inclusion in statute books and focus on whether they are being adhered to. The many cases across the globe where the term limits have been blatantly removed or ignored suggest a serious dearth of Constitutionalism in the new democracies. Indeed, even in those cases where the letter of the term-limit rules have ostensibly been honoured, the spirit of the rule, vis-à-vis neutralizing incumbency advantage and securing rotation of leadership, can sometimes be violated when outgoing presidents handpick successors to enable them rule by proxy. The case of Russia, where Vladimir Putin handpicked Dmitri Medvedev to succeed him while he himself took over the office of prime minister, allowing him to wield significant power in Russian politics is illustrative of such efforts.⁶⁵ Presidential term limits, in other words, are only an important democratic institution to the extent that they are honoured by incumbent leaders. While presidential term limits can potentially promote regular leadership alternation, historical and contemporary evidence of efforts aimed at circumventing them shows that their mere existence in Constitution documents is not a guarantee that they will be honoured. Indeed, the fact that a number of leaders such as Fredrick Chiluba in Zambia, Yoweri Museveni in Uganda, Olusegun

⁶⁵ See C. J. Chivers, "Medvedev Takes Oath in Russia, but Putin Dominates Much of Day," *New York Times*, available online at <http://www.nytimes.com/2008/05/08/world/europe/08russia.html>.

Obasanjo in Nigeria, Bakili Muluzi in Malawi, to mention but a few examples, supported the inclusion of term limits during the adoption of the new democratic Constitutions, and yet later on sought to remove them casts doubt about the commitment of the new generation of leaders to move away from the culture of personal rule and adherence to rule of law.

5.5 Conclusion

Despite their popularization in contemporary politics, the fact that term limits serve as obstacles against ambitious politicians who desire to remain in office for long periods increases the levels and frequency of contestation around them. Consequently, the adoption of term limits does not necessarily imply that they will continue to survive. Indeed, in a number of cases, some of the staunchest supporters of term limits, especially those who initially saw them as an important mechanism that would open up opportunities for them to challenge for political office, later on became some of the leading critics when these same rules stood in their way to extend tenure. Under such scenarios, support or criticism of term limits might be influenced more by calculations of personal benefits or costs at a particular point in time.

The evidence deduced in this discussion shows that globally, term limits come under severe pressure when they stand in the way of incumbents that have ambitions of extending their tenure. However, once successful, the removal of term limits can increase the potential that the institutional order will be altered in such a manner that democracy itself is at risk. The fact that the majority of the attempts to remove term limits have come in the newly emerging democracies of Africa, Asia and Latin America is particularly worrisome, as this speaks volumes about the slow pace of the entrenchment of a culture of Constitutionalism. Thus despite the adoption of new and democratic Constitutions, the evidence adduced in this chapter highlights the fact that

leaders who seek to remain in power can find ways of circumventing the new rules of the game to remain in office.

Chapter 6

Presidentialism and the Struggle for Third Terms in Africa

6.0 Introduction

In the previous chapter, we saw that several presidents have instigated discussions to consider the removal of term limits. While not all these discussions resulted in the initiation of formal legal processes to remove the term-limit rules from the Constitution, a majority did. Meanwhile, among those countries that made formal attempts to remove the presidential term limits, a few failed to achieve their goal. This brings us back to the three questions that form the foundation of this study: what explains the emergence of debates on the removal of term limits in some countries and not in others? Why do some of the countries that hold these discussions proceed by launching formal legal attempts to remove term limits when others do not? And finally, how do we explain the different outcomes in the efforts to remove presidential term limits?

However, due to the dispersed nature of the countries that have attempted to remove term limits, it was not possible to make any in-depth analysis to get an understanding on how those processes unfolded at the global level. We could thus not begin to answer the main research questions from a global perspective. As a way of gaining insights into the dynamics informing the different outcomes in the discussions and bids to remove presidential tenure limits, the focus of our analysis shifts from the global level to Africa. Africa in this case makes an obvious choice to begin to answer these questions. As we saw in the preceding chapter, slightly more than half (54 percent) of the countries that have held discussions to consider removing presidential term limits were from the African continent. Additionally, a similar proportion (54 percent) of the countries that launched formal legal processes to remove presidential tenure limits were from

Africa. These attempts resulted in the removal of term limits on twelve occasions in Africa. However, on three occasions, the bids were rejected. Africa, in other words, provides the richest set of cases from which to begin to explain the differences at each phase of the processes leading to the removal of presidential term limits. In this chapter, I trace the processes of removing the presidential term limits as they have happened in Africa between the years 1990 and 2009. I start by offering a brief overview of the evolution of presidential term limits on the continent as an institutional response to counter the legacy of personal rule that was a common characteristic of the continent's presidential regimes from independence.

6.1 Independence and “Super” Presidentialism⁶⁶ in Africa

Although the majority of countries in colonial Africa followed the Parliamentary model of their colonial powers, the attainment of independence from the middle of the 20th century was marked by shift away from Parliamentarism and the embrace of presidentialism (Bratton and van de Walle, 1997; Collier, 1978; Gonidec, 1978; van de Walle, 2003). The dramatic shift away from Parliamentary to presidential regimes in Africa is illustrated by Robinson and Torvik (2008), when they note that at the peak of the independence movement in the early 1960s, Parliamentary-system outnumbered presidential ones by a margin of four to one. However, after independence, country after country made a switch towards presidentialism so much that at the end of 2009, only five of the continent's fifty-three countries (Botswana, Ethiopia, Lesotho,

⁶⁶ I use the term ‘super presidentialism’ to distinguish the personalized and very powerful African presidency. Superpresidents, who are granted significant powers by the Constitution and other legal instruments, are to be distinguished from the formal notion of presidentialism that is used in the literature to distinguish between parliamentary and presidential regimes. (For an extended discussion on super presidentialism, see Fish's (2005) account on the failure of democracy in Russia).

Mauritius, and Morocco) were classified as having Parliamentary government systems, while the remaining forty-eight had variants of presidentialism.⁶⁷

A main characteristic of the brand of presidentialism that was practiced in Africa was its highly personalized nature. This was reflected in the adoption of independence Constitutions that entrusted extensive powers in the presidency. Over time, the concentration of power in the presidency resulted in the domination of the African political arena by “Big-Men” rulers (Bayart, 1993; Bratton, 2007; Bratton and van de Walle, 1997; Clapham, 1982; Hyden, 2006; Jackson and Rosberg, 1982; Moss, 2007; Purvis, 1996; van de Walle, 2003, 2007; van Wyk, 2007). Among the main features of this form of rule was a highly personalized system of governance, where leaders wielded and exercised substantial power and were generally less restrained by formal rules. Indeed, the concentration of power in the both the person and office of the president in the post-colonial era in Africa brought politics on the continent very close to Max Weber’s description of the patrimonial state, where political administration is:

...treated as a purely personal affair of the ruler and political power is considered of his personal property....The office and the exercise of public authority serve the ruler and the officials on which the office was bestowed; they do not serve impersonal purposes – Weber, 1978:1028-1029.

From independence up until the democratic transitions of the 1990s, African leaders not only personalized the office of the president, but they also manipulated the Constitutional rules to perpetuate their hold on power. In a number of instances, incumbent presidents spearheaded the re-writing of national Constitutions to accord themselves the status of president-for-life. Examples of such leaders include Ghana’s Kwame Nkrumah, Malawi’s Hastings Banda, Uganda’s Idi Amini, Francisco Macías Nguema of Equatorial Guinea and Mobutu Sese Seko of

⁶⁷ See World Bank’s Database on Political Institutions.

Zaire, to mention but a few examples (Hyden, 2005; Jackson and Rosberg, 1982; Young, 1994). Not surprisingly, therefore, one of the main characteristic of post-independent African politics has been that of long-serving leaders (Posner and Young, 2007). For example, Omar Bongo was president of Gabon for forty-two years until his death in 2009. Other long-serving African presidents include Togo's Gnassingbé Eyadéma (thirty-eight years); Félix Houphouët-Boigny of Ivory Coast (thirty-three years); Mobutu Sese Seko of Zaire (thirty-two years); Malawi's Kamuzu Banda (thirty years); Kenneth Kaunda of Zambia (twenty-seven years); and Daniel arap Moi of Kenya (twenty-four years). While the aforementioned presidents were either forced out of office or died, some of Africa's longest serving leaders were still in office at the end of 2009. These included: Teodoro Obiang Nguema Mbasogo of Equatorial Guinea (thirty years); Angola's Jose Eduardo Dos Santos (twenty-nine years); Cameroon's Paul Biya (twenty-seven years); Hosni Mubarak of Egypt (twenty-seven years); and Deniss Sasou Nguesso of the Republic of Congo (twenty-five years).

Given the widespread nature of personal rule in post-colonial Africa, it is perhaps not surprising that the majority of the continent's independence Constitutions did not include provisions that would have served the purpose of limiting the power and tenure of the presidency. Indeed, in many instances, the Constitutions were regularly changed to concentrate more powers in the office of the president while at the same time, reducing the likelihood of alternation of office. As van de Walle (2003:309) notes, this resulted in Constitutions that were ultimately "highly presidential, with various rules that weaken the hand of the legislature and allow the president to make the key decisions without legislative approval."

Notwithstanding the political transitions that swept through much of Africa in the 1990s, presidentialism remains the dominant regime type on the continent. At the end of 2009, 79

percent of the fifty-three countries on the continent were presidential regimes while one, South Africa, was classified as a semi-presidential regime. Only five countries (Botswana, Ethiopia, Lesotho, Mauritius, and Morocco) were categorized as Parliamentary regimes (see table 6.1).

6.2 Evolution of Presidential Term Limits in Africa

Against the background of Africa's long, and often problematic, experience with personal rule, one of the main goals of the transitions from

Table 6.1: Government Systems in Africa, December 2009, N=53

Regime Type	Countries	Number (% of total)
Presidential Republics	Algeria, Angola, Benin, Burkina Faso, Burundi, Cameroon, Cape Verde, Central African Republic, Chad, Comoros, Cote D'Ivoire, Congo DR., Djibouti, Egypt, Equatorial-Guinea, Gabon, Gambia, Ghana, Guinea, Guinea-Bissau, Kenya, Liberia, Madagascar, Malawi, Mali, Mauritania, Mozambique, Namibia, Niger, Nigeria, Rwanda, Republic of Congo, Sao Tome and Principe, Senegal, Seychelles, Sierra Leone, Tanzania, Togo, Tunisia, Uganda, Zambia, Zimbabwe	42 (79%)
Semi Presidential Republic (president elected by legislature)	South Africa	1 (2%)
Parliamentary Republics	Botswana, Ethiopia, Lesotho, Mauritius, Morocco,	5 (9%)
Absolute Monarchy	Swaziland	1 (2%)
Military Oligarchies	Libya, Sudan, Eritrea	2 (4%)
Undetermined	Somalia	1 (2%)
TOTAL		53

Source: World Bank Political Institutions Database, 2010

authoritarianism toward more pluralistic forms of governance in the early 1990s was the

reduction of the power enjoyed by continent's Big-Man rulers (Cheeseman, 2010; Idrissou-Toure, 2005; Ihonvbere, 2000; Maltz, 2007; Posner and Young, 2007; Purvis, 1996). This was to be achieved through the adoption of new institutions that were designed to limit the ability of leaders to dominate politics and personalize power. These included the introduction of regular and competitive elections and clauses that emphasized Constitutional supremacy as a way of subjecting the exercise of executive power to the Constitution. It was within this changing institutional context that there has been a new wave of optimism that suggests that the era of personal or Big-man rule in Africa might be coming to an end. In the words of Posner and Young (2007:127-128), recent institutional developments appear to suggest that there is a "a major change in how power is exercised and it challenges us to ask again whether the Big Man still bestrides the world of African politics with as much ease as he once did."

Among the institutions that were designed to undercut personal rule in Africa were Constitutional provisions aimed at limiting the length of years that any single individual could serve as president. The new Constitutions specified the lengths of presidential terms and made the holding of regular and competitive elections a Constitutional obligation. A number of the new Constitutions also set maximum presidential age limits, thus precluding the possibility of individuals continue to serve as presidents after reaching a maximum age (eg, Benin and Chad, both of which set the maximum age of presidential candidates at seventy).

However, the most prominent institution introduced to check the length of presidential tenure was the introduction of presidential term limits. Given Africa's history of long-serving leaders, it was not surprising that the inclusion of the presidential term-limit rule was among of the key institutional features that distinguished the new Constitutions of the 1990s from those that were in force since independence. The period after the 1990s, therefore, stands out in terms

of the inclusion of presidential term-limit provisions in African Constitutions as figure 6.1 below shows.

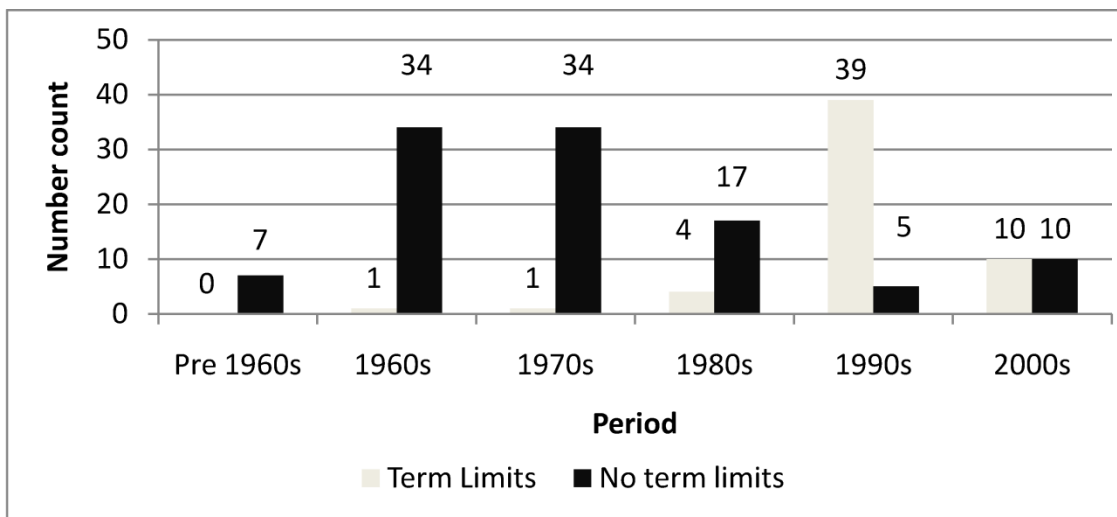


Figure 6.1: Presidential Term Limits in African Constitutions from Independence to 2009 (N=162)

Source: calculated from various African Constitutions

The importance of the transitions of the 1990s in ushering in a new era of presidential term limits in Africa is demonstrated in figure 6.1. Of the total of ninety-eight Constitutions that were enacted before 1990, only six included maximum presidential term-limit provisions. In other words, only 6 percent of the presidential-system Constitutions enacted before 1990 limited presidential tenure.⁶⁸ In the post 1990 period on the other hand, 77 percent of the sixty-four Constitutions enacted between 1990 and 2009 included provisions that limited the maximum number of terms that presidents could serve. In all, there have been a total of fifty-five African Constitutions that have included presidential term-limit provisions since independence, forty-nine of which came after 1990. This means that 92 percent of the presidential term-limit Constitutions in Africa have come between in the years 1990 and 2009. This finding reinforces Elkins et al.'s (2009) argument that regime change often results in significant shifts in the

⁶⁸ viz: South Africa (1961); Comoros (1978); Tanzania (1984); Liberia (1986); Tunisia (1988); and Comoros (1989)

structures of politics and the philosophy of governance. In this context, we see a clear change in the institutional order governing the length of presidential tenure as part of the transition from authoritarian rule towards more competitive systems in the 1990s.

6.2.1 Nature and Type of Presidential Term Limits in Contemporary Africa

In chapter 4, I identified eight different types of presidential term limits that were in force globally in 2009. Only four of these eight types were adopted in Africa in 2009 (see table 6.2).

In chapter 4, we saw that 73 percent of the world's presidential-regime Constitutions in 2009 provided for presidential term limits. The proportion of Africa's presidential regimes with term-limit rules is however below the global average, with only 63 percent of the presidential-regime countries on the continent having them in 2009. Conversely, the proportion of African countries that had no term limits in 2009 (37 percent) was higher than the global average of 27 percent.

It is however important to note that the lower proportion of countries with term limits in Africa at the end of 2009 was in part a result of the removal of these rules over the eleven year period between 1998 and 2009. As we can see from table 6.2, half of the sixteen African countries that had no presidential term limits in 2009 had initially had them before they were removed. Had these not been removed, the proportion of African countries with presidential term limits in 2009 would have stood at 81 percent, which would also have raised the global average of countries with presidential term limits.

In terms of the type of term limits, an overwhelming majority of African countries opted for a maximum of two terms. Overall, 85 percent of African countries that have term limits

Table 6.2: Types of Presidential Term Limits in Africa, December 2009 (N=43)

Term Limit Type	Countries
Explicitly no term limits	Algeria*, Angola, Cameroon*, Chad*, Cote D'Ivoire, Egypt, Equatorial Guinea, Gabon*, Gambia, Guinea*, Guinea-Bissau, Togo*, Tunisia*, Uganda*, Zimbabwe (16)
Two terms, total	Benin, Burkina Faso, Burundi, Central African Republic, Congo DR., Congo- Brazzaville, Djibouti**, Ghana, Kenya, Liberia, Madagascar, Malawi, Mali, Mauritania, Namibia, Nigeria, Rwanda, Sao Tome and Principe, South Africa, Senegal, Sierra Leone, Tanzania, Zambia (23)
Three terms, total	Seychelles (1)
No successive terms permitted, but multiple non-successive	Comoros (1)
Two successive terms permitted, but multiple non-successive	Cape Verde, Mozambique (2)
Term Limits Total	27 (63%)

* Denotes a country that has removed presidential term-limit provisions.

** Although the Djibouti Constitution provides for a presidential term limit of two five-year terms, the country's president, Ismail Guelleh, in power since 1999, has ignored the rule and remained in power at the end of 2009.

Source: *Calculated from various Constitutions by author*

subscribe to the two-term-limit rule, which is higher than the 68 percent at the global level that do so. Two countries (Cape Verde and Mozambique) meanwhile allow their presidents to serve multiple terms, although they do require that there should be a break of at least one term in between the second and third terms. Comoros (which allows multiple, but non-successive terms) and Seychelles (which allows a maximum of three terms) provide the remaining two types of presidential term-limit rules that are in force in Africa.

The dominance of the two-term-limit rule can arguably be attributed to the fact that the majority of African countries looked at the US Constitution as a model for formulating their new Constitutions in the 1990s. With the dominance of presidential regimes in Africa, the US in this

respect offered the best democratic model on which to frame the new Constitutions. The 22nd Amendment of the US Constitution in particular was used as the standard model for formulating the term-limit provision. The only modifications that were made were on the length of the presidential term, which vary across countries from four years in the Comoros and Ghana to seven years in Rwanda and the Republic of Congo. However, by far, the modal length of a presidential term among Africa's limited countries is five years.

6.2.2 The Effects and Limits of Presidential Term Limits in African Politics

Notwithstanding the numerous attempts to undercut the value of term limits, there have still been some important changes in the trajectory of African politics that can be directly traced to these rules. The extent to which presidential term limits are changing the nature of the African presidency is arguably reflected in the increasing number of leaders that have left office at the end of their maximum tenure despite having contemplated extending their tenure (table 6.3).

As we can see from table 6.3, a total of fifteen African presidents stood down and left office at the expiry of their Constitutionally permitted terms between 1990 and 2009. In two countries (Ghana and Tanzania), there have actually been two cases of presidential alternations due to tenure limits. In addition to this list, Nelson Mandela of South Africa stepped down after serving only one term of office (1994-1999). As we have already argued, these alternations are helping to entrench the presidential term-limit provisions on the continent by setting the precedent of alternation that has the potential to bind future leaders from tampering with the term-limit rules.

One of the main consequences of the introduction of presidential term limits has therefore been the increased number of leadership alternations through electoral means in Africa. This is also noted by Posner and Young (2007) when they observe that African leaders are now more

Table 6.3 African Presidents Who Have Left Office at the Expiry of Their Tenure between 1990 and 2009

Country	Presidents Who Left Office at Expiry of Maximum Tenure	Year Term Limits Introduced	Years in Office under Term-Limit Provisions
Benin	Mathieu Kérékou*	1990	1996-2006
Cape Verde	António M. Monteiro	1992	1991-2001
Ghana	Jerry Rawlings*	1992	1993-2001
	John Kufour	1992	2001-2009
Kenya	Daniel arap Moi*	1992	1992-2002
Malawi	Bakili Muluzi*	1994	1994-2004
Mali	Alpha Oumar Konaré*	1992	1992-2002
Mozambique	Joaquim Chissano*	1990	1995-2005
Nigeria	Olusegun Obasanjo*	1999	1999-2007
Sao Tome and Principe	Miguel Trovoada,	1990	1991-2001
Seychelles	France-Albert René	1993	1993-2006
Sierra Leone	Ahmad Tejan Kabbah**	1991	1996-1997; 1998-2007
Tanzania	Ali Hassan Mwinyi	1984	1985-1995
	Benjamin Mkapa*	1984	1995-2005
Zambia	Fredrick Chiluba*	1991	1991-2001

* Denotes a president who initiated a national discussion to change term limits

** President Kabbah was temporarily removed from office in a military coup between May 1997 and February 1998. Kabbah returned to office in 1998 to finish his first term and was re-elected for a second and final term in 2002.

Source: *Africa Elections Database*

likely to leave office through electoral and non-violent means. This stands in contrast to the pre-1990 period, when presidents on the continent were two to three times more likely than leaders

elsewhere in the world to leave power by violent means (Posner and Young, 2007). One of the consequences of this new state of affairs has been increased leadership alternation that has led to a gradual lowering of the mean

Table 6.4: Term Limits, Electoral Alternation, and the Length of Presidential Tenure in Africa

Era	Number of presidents leaving office through electoral means	Average number of years in office for presidents serving at least one full term
Pre-term-limits	1	13
Post-term-limits	15	7

Source: *Africa Elections Database*

number of years that African presidents remain in office (table 6.4).

As we can see from table 6.4, one of the outcomes of presidential term limits has been to contribute to the lowering of the average number of years that African presidents remain in office. While African presidents in the pre-term-limits era stayed in office for an average of thirteen years, the average number that African presidents have been staying in power has since been halved to an average of seven years. Although all these changes cannot be attributed to presidential term limits alone, it is clear that the family of institutions that were adopted after the transitions of the 1990s to counter personal rule in Africa are having important effects on the contemporary African presidency.

In addition to promoting the prospects of the alternation of individual presidents, the introduction of term limits in Africa might also be having profound effects in promoting the alternation of the partisan identities of incumbent presidents. Among the fifteen presidential alternations that occurred after the previous incumbents had exhausted their maximum tenures between 1990 and 2009, six were succeeded by candidates that had been sponsored by opposition parties.⁶⁹ These six cases of partisan alternation represented a 40 percent success rate among opposition parties in presidential elections, providing evidence in support of the argument that term limits enhance alternation prospects, both in terms of the individuals and parties. To put this in perspective, in the pre-term-limits era between independence in the 1960s and 1990, there was only one case of presidential alternation—when Somalia’s Aden Abdullah Osman was defeated by Abdirashid Ali Shermarke in 1967—out of a total of eleven elections that were contested by more one person.⁷⁰ Put differently, the success rate for presidential challengers has

⁶⁹ Viz: Benin, 2006; Cape Verde (2001); Ghana (2001, 2009); Kenya (2002); and Sierra Leone (2007)

⁷⁰ This list includes: Burkina Faso (1978); The Gambia (1982, 1987); Ghana (1960, 1979); Nigeria (1979, 1983); Senegal (1978, 1983, 1988); and Tanzania (1962). It is also worth noting

gone up almost four-fold after 1990, a period characterized by shifts towards more competitive politics and uptake of tenure limitations. However, the fact that the parties of the term-limited presidents still won in six of every ten elections, suggests that it is not automatic that presidential rotations forced by term limits will result in the alternation of the party in power. When there is this partisan continuity, the other benefits attributed to term limits, such as the promotion of efficiency and effectiveness, might not accrue since the continuation of the party in power would most likely also result in policy continuity, despite the alternation in the holders of the office of president. In addition, when presidents are succeeded by individuals from their own parties, it is also less likely that the outgoing presidents will be held accountable for their actions while in office, thus reducing the accountability aspect that term limits are supposed to promote.

Notwithstanding the positive benefits that term limits are having in reshaping the nature of the African presidency, there is also an emerging consensus that the transitions of the early 1990s and the institutional innovations that accompanied it, have failed to effectively eradicate the personalization of politics in Africa. In their work on Niger for example, Villalon and Idrissa (2005) highlight the extremely personalised nature of the post-transition regime, noting that this has resulted a rapid reversal of most of the institutions that were introduced with the aim of limiting the exercise of presidential power. Van de Walle (2003:310) also makes a similar observation, noting that despite the adoption of new Constitutions that sought to limit the personalization of power in Africa, the reality is that “power is still intensely personalized around the figure of the president.” It is thus not surprising that this presidentialism and personal rule have resulted in numerous attempts to remove term limits as the first step in clearing the way for the prolongation of power (Cheeseman, 2010).

that these calculations do not include Liberia, which held competitive presidential elections from its founding in 1847 until 1971.

It is also important to note that even in the cases where African presidents have avoided the route of removing term limits, several leaders on the continent have found other less conventional ways of circumventing the tenure limitations. For example, while the Constitutions of Burkina Faso and Senegal retain presidential tenure limitations, Constitutional changes instigated by Presidents Blaise Compaore and Abdulaye Wade to reduce the length of a single presidential term from seven to five years in both countries allowed the two leaders to argue that they could now seek two new terms under the new Constitutional order, thus potentially giving them another ten years in office after having already served fourteen years each under the previous tenure rules (Vencovsky, 2007). Thus while term limits might be helping to shorten the length of tenures of African presidents, some of the gains are being cancelled out by the passage of amendments that allow incumbents to extend their tenures in less conventional ways.

The fact that several African leaders were only prevented from prolonging their tenure after their third-term bids were rejected suggests also that the increasing number of presidents who are stepping down and leaving office does not signify the disappearance of the actual desires by the new generation of African leaders to extend their tenures. As we can see from table 6.3 earlier, two-thirds of the presidents that stood down at the end of their maximum tenure only did so after they had orchestrated discussions to remove term limits. Indeed, while seven of these gave up their ambitions at the discussion stage, three (Bakili Muluzi in Malawi, Olusegun Obasanjo in Nigeria, and Fredrick Chiluba in Zambia), went further only to be prevented from extending their tenure after their formal bids to alter the term-limit rules were rejected. While this trend underscores yet again the importance of term limits in checking the ambitions of contemporary African presidents, it also demonstrates that the introduction of presidential term limits does not necessary entail the end of the desire among African leaders to remain in office

for long periods. As long as African presidents continue to seek the prolongation of their tenure, term limits will continue to come under threat.

6.3 Tracing the Process of Removing Presidential Term Limits in Africa

When Africa's new generation of leaders reach the end of their maximum tenure, they are faced with two primary options: pack up their bags and prepare to leave office or try to prolong their tenure. While the first option requires no Constitutional change, the second option can only be achieved through formal changes to the term-limit rules or through an extension to the rules that define the term of office. The decision to extend tenure is influenced by several factors, including the personal ambitions of the incumbent president as well as the calculations of the supporters of the ruling parties. As Cheeseman (2010:43) points out, decisions to extend tenure of an incumbent in Africa are motivated by the fear of going through the "...unsettling act of choosing a new leader....this is a huge hurdle for parties in Africa, because the centrality of the executive to political life and the low institutionalization of political parties tend to magnify the stakes of succession politics...moreover, many unregulated successions deteriorate into political crises and violence."

For presidents who choose the path of prolonging their tenure, the process of changing the presidential term limits can involve at least one of four options:

- i) Abolishing term-limits to enable incumbents seek indefinite re-election.
- ii) Increasing the maximum number of allowable terms.
- iii) Classifying a prior term as falling outside the term-limit restriction
- iv) Increasing the length of the presidential term to allow an extended tenure without removing term limits

Whichever option is chosen, its realization requires the president to negotiate through a number of important phases before the goal of extending tenure is realized. The first of these stages involves initiating a series of national discussions to debate the removal or alteration of the term-limit rules. The discussion phase usually involves a deliberation on the preferred type of change from among the four options listed above. The second phase in the process becomes the decision on whether or not to go ahead with a formal bid to initiate the legislative process of changing the term limits. In instances where incumbents see lower possibilities in securing a positive outcome, the decision might be taken not to pursue the change. The third and final phase is the outcome stage. Presidents who succeed in pushing through the Constitutional proposals to change the term limits can extend their tenure by contesting for at least a third term in office in subsequent elections. Where the Constitutional changes are rejected, as happened in Malawi, Nigeria and Zambia, the incumbents are forced to abandon their desire to prolong their tenure and are thus forced to stand down. Based on the foregoing, I traced the fate of presidential term limits in Africa by examining the number of countries that have gone through each phase.

6.3.1 Discussions Seeking Third Terms

From figure 6.2, we can see that the attraction of power remains strong among the post-authoritarian generation of African presidents. This is demonstrated first by the frequency of the discussions that considered the removal of term limits between 1990 and 2009. Out of the thirty-one cases where an incumbent president reached their final term of office, twenty-four (77 percent) demonstrated their desire to prolong their tenure by initiating national discussions to consider removing term limits from the national Constitution.

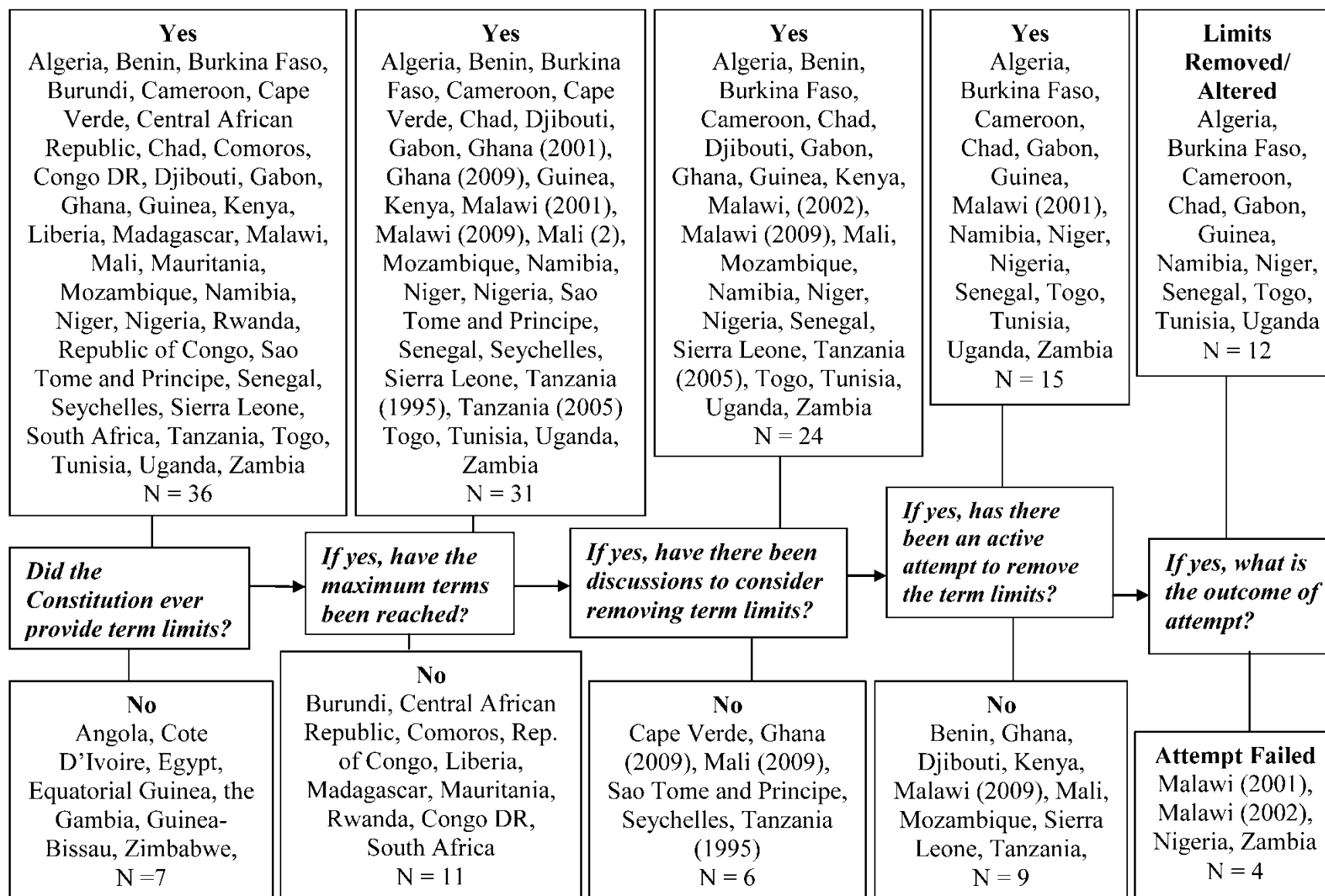


Figure 6.2: The Third-Term Process in Africa

While the majority of the third-term discussions were held in countries where the incumbent president had reached their final term of office, similar discussions were also held in a handful of countries where the incumbents were in their first term. In three such countries (the Central African Republic, 2006; Rwanda, 2009; and the Democratic Republic of Congo, 2009), for example, proposals for removing presidential term limits were nationally debated while the incumbents were in their first term of office (Lunn, 2009). This suggests that in order to understand the full extent of the third-term bids in Africa, it might be necessary to go beyond those countries where incumbents have reached their final terms of office.

The arguments that are advanced in favour of removing term limits in the third-term debates in Africa tend to mirror those made by other removal advocates elsewhere in the world. At the heart of these arguments is the view that additional presidential terms, when achieved through elections that follow legal Constitutional amendments, are perfectly legitimate developments that reflect the will of the people to re-elect the incumbent (Vencovsky, 2007). Other arguments meanwhile cite a range of country-specific factors to justify the need for the continuation of the tenure of a particular president. These include fears of instability and leadership vacuum, especially in instances when there are no clear successors and also the need to allow incumbents complete or sustain development reforms (Anderson, 2010; Baker, 2002). In other instances, the arguments are built around the qualities of individual leaders that supposedly cannot be dispensed with. Such a view was most vividly illustrated in Namibian when the case for changing the presidential term limits in 1998 was built around the view that Namibia could not afford to dispense with the leadership of then-President Sam Nujoma. In the words of the country's prime minister, Hage Geingob, when he tabled the motion to change the term-limit rule in the country's Parliament:

“Our President, Comrade Sam Nujoma, possesses extraordinary qualities, for being a freedom fighter, a diplomat and statesman, and a man who suffers unquenchable and unsatiated [sic] love for his people and country....to bar him from re-election now, when Namibians are in urgent need of his continued service and leadership, would be to place form over substance...”⁷¹

The justification for the removal of term limits in the words of the Namibian prime minister quoted above highlights the extent to which the third-term pursuits reflect the perpetuation of the personalization of power in Africa despite the introduction of multi-party politics in the early 1990s. In addition to this Namibian episode, it is also telling that in all the countries on the continent that have debated the removal of presidential term limits, the key argument has been that the incumbent president has presided over a period of prosperity and development and that he deserves to be given another term. In other words, the Constitutional changes are based on personalities. The fundamental flaw in this argument, even if one were to accept the good performance of the incumbent president, remains that there is no guarantee that removing term limits for an individual guarantees that in future, all other individuals who succeed to the presidency will be equally good performers that also deserve an open tenure platform. Indeed, as Peter and Kopsieker (2006) point out, having a good leader that people are reluctant to let go does not automatically mean that a country is bankrupt of other good or even better leaders. Indeed, as the examples of Nelson Mandela, Julius Nyerere, Joachim Chissano, Jerry Rawlings, to give but a few examples, have demonstrated, former presidents in Africa can have a very meaningful and productive life after they leave office.

It thus comes as no surprise that given the personalized nature of the quests to remove term limits, the proposals often face opposition from numerous groups in society such as civil

⁷¹ Chrispin Inambao and Graham Hopwood, “The Third Term Has Landed,” *The Namibian*, October 8, 1998, available online at www.namibian.com.na/Netstories/October98/thirdterm1.html.

society organizations, opposition political parties, student groups and other influential societal groups such as members of academia and church leaders (Dulani and van Donge, 2005). These opponents often cite the same arguments that were advanced in support of the initial enactment of term limits during the transitions from authoritarian rule in the 1990s (Baker, 2002). Mwenda (2007) also echoes this view by highlighting the potential threats to democratic survival that might result from leaders who remain in power for too long. As a result, the interactions between supporters and critics of the third-term bids have been characterized by demonstrations, extensive use of patronage, use of violence, and threats as the two groups try to outdo each other to advance their preferred positions. Although the government position has usually prevailed in these interactions, the opponents of the third-term bids have prevailed in a handful of countries, forcing a number of presidents to abandon their quests to prolong their tenure. This was demonstrated first by the fact that a number of countries that have discussed the removal of term limits but is reflected by the fact about one in three of countries that held discussions to consider the removal of term limits did not proceed to the next stage of tabling a legislative bill to do so.

Two important lessons need to be taken from the fact that several third-term bids were abandoned at the discussion phase. First, this shows that term limits are already beginning to stand in the way of some presidents who seek to prolong their tenure, even if many more do not appear dissuaded by these rules. This reinforces the argument advanced by Posner and Young (2007) when they conclude that Africa is slowly moving away from her past of personalized rule towards a new era of rule by law.

6.3.2 From Discussions to Tabling Formal Legislative Bids to Remove Term Limits

As discussed in the preceding section, the debates on removing term limits do not always lead to actual legislative attempts to remove term-limitation rules. The fewer number of

discussants who proceed with launching formal bids to remove term limits suggests that these discussions are also used by incumbent presidents to gather information about the prospects of the success of future legislative proposals. If the information gathered indicates that the bid will succeed, then incumbents will proceed with tabling a legislative bill seeking to remove term limits. On the other hand, if the level of resistance is very high, the incumbents might be forced to abandon their quests altogether or seek other alternatives of extending tenure without actually removing term limits. These could involve hand-picking successors or increasing the length of a presidential term.

The fact that the discussion phase is used as an information-gathering process can therefore help to explain the high rates of the passage of the bills that seek to remove term limits when they are tabled in Parliament. It is likely that this process helps incumbents to strategise on how to secure the passage of such bills. As we will see in chapters 8 and 9, when there are indications of potential obstacles, incumbents are compelled to adopt such strategies as changing rules of the game, disbursing patronage and mounting violence campaigns to strengthen support and weaken opponents. Given this background, we should thus not be entirely surprised that a high proportion of the legislative bills seeking to remove term limits achieve their goal. Instead, we should perhaps be surprised that in three of the countries that tabled such bills (Malawi, Nigeria, and Zambia), the proposals were defeated. This would suggest that the incumbents in those countries completely misread the feedback from the discussion phase and failed to respond accordingly before tabling the bills in Parliament.

6.3.3 Types and Outcomes of Third-Term Bids in Africa

The third, and final, phase of the third-term bid process is dependent on the outcome of the second phase. Those presidents who succeed in changing the term-limit rules can then

proceed to stand for re-election for a further term of office while those that fail are forced to step down. As pointed out earlier, the incumbents can choose one of four options, namely:

- i) Abolishing term limits to enable incumbents seek indefinite re-election
- ii) Increasing the maximum number of allowable terms
- iii) Classifying a prior term as falling outside the term-limit restriction
- iv) Increasing the length of the presidential term to allow an extended tenure without removing the term limits

As I argue below, the choice of the type of amendment sought is influenced by the likelihood of success. Where the resistance to the changes is minimal, the first choice would be to go for the abolition of term limits, which allows the incumbent to seek indefinite re-election. However, depending on the degree of resistance, presidents can choose any of the other three options depending on their likelihood of passage. Table 6.5 provides a summary of the varieties of the attempts made between 1997 and 2009 in Africa.

Table 6.5 Bids to Amend Term Limits in Africa and Their Outcomes, 1990-2009

Goal of Constitutional Change	Country	Year	Outcome
Abolish Term Limits (10 cases)	Guinea	2000	Approved
	Malawi	2002	Rejected
	Togo	2002	Approved
	Tunisia	2002	Approved
	Gabon	2003	Approved
	Chad	2005	Approved
	Uganda	2005	Approved
	Algeria	2008	Approved
	Cameroon	2008	Approved
	Niger	2009	Approved
Increase Maximum Number of Terms from Two to Three (4 cases)	Tunisia	1998	Approved
	Zambia	2001	Rejected
	Malawi	2003	Rejected
	Nigeria	2006	Rejected
Amendment Allows a Third Term While Retaining the Two-Term Limit (2 cases)	Namibia	1999	Passed
	Burkina Faso	2005	Passed
Extend Length of Presidential Term (1 case)	Senegal	2008	Passed

Source: Posner and Young (2007), *Africa Elections Data Base*, and *African Politics* (France 24.com)

The most common type of change sought by African leaders has been the abolition of presidential term limits. Just slightly more than half (53 percent) of the seventeen attempts at changing presidential tenure limits sought this type of change (abolition of term limits). A very high proportion of these attempts (nine of ten) were eventually passed, resulting in the removal of term limits in nine countries by 2009. Thus not only is the abolition of term limits the most popular type of change sought, but this also carries a very high likelihood of passage.

In contrast to the popularity and high passage rate of the bids to abolish presidential term limits, only one of the four cases that sought the extension of term limits from a maximum of two to three, was successful (Tunisia). The higher rejection rate of the attempts to increase the maximum number of presidential terms, albeit with a smaller sample size, might suggest that the choice to opt for a third term as opposed to unlimited tenure can be seen as only a second option. As we have argued earlier, the national debates can serve as an important signalling tool for gauging the prospects of the passage of the proposed changes to the term-limit provisions. When these debates reveal significant obstacles in the way of the complete abolition of tenure limits, the fall-back option becomes to pursue an extension in the maximum number of terms allowable. This was clearly illustrated by the efforts of President Bakili Muluzi in Malawi. The original proposal, which was tabled in Parliament in 2002, sought to abolish term limits. However, this proposal was rejected in a Parliamentary vote in mid 2002 (Dulani and van Donge, 2005). Following the defeat of his proposal to abolish term limits, Muluzi tried again to extend his tenure, but this time seeking to increase of the maximum number of terms from two to three. However, even this compromise proposal, which was brought before Parliament in early 2003, failed to garner the necessary two-thirds Parliamentary support. Muluzi was thus forced to abandon his quest to prolong his tenure and eventually stepped down when his second term

ended in 2004. This case reinforces our argument that if an incumbent president feels very confident, they are likely to seek the complete removal of term limits. In cases where the presidents seek any of the other options, this might suggest that the incumbent is uncertain about the chances of obtaining the ultimate goal of removing term limits.

The third category of changes to the presidential term-limitation rules involves arguments that seek to allow the incumbent to seek re-election for at least one more extra term beyond what the Constitution allows. Namibia (1998) and Burkina Faso (2005) are the two countries that sought and passed this type of change. In both cases, the gist of the argument was that one of the terms served by the two presidents, Sam Nujoma and Blaise Compaoré in Namibia and Burkina Faso respectively, fell outside the scope of the term-limit provisions. In the Burkinabe case, presidential term limits were only added to the country's 1991 Constitution in 2000, when President Compaoré was into his second seven-year term. Thus upon reaching the end of his second term in 2005, President Compaoré moved the country's Constitutional Council to rule that the term-limit provision did not cover his terms between 1991 and 2005 since it took effect while he was already president. This not only cleared the way for Compaoré to contest for a third term in 2005 (which he won), but it was also suggested that he could stand for a "second" term in the elections that were scheduled for 2010.⁷² A similar proposal was also tabled in Uganda as an alternative to the main attempt at removing the presidential term limits. As Atoo et al. (2008) have noted, a ruling NRM legislator proposed to introduce an alternative amendment that retained term limits while providing that the counting of terms would start afresh whenever the country adopted a new political system after 2005. However, this proposal was rejected.

⁷² See *France24*, "Changing the Constitution to Remain in Power—Burkina Faso," available online at <http://www.france24.com/en/20091023-changing-constitution-remain-power>.

The option of allowing an incumbent to continue in office while retaining term limits, it is to be noted, can enable presidents to claim to respect the Constitution while extending their tenures. At the same time, such leaders can avoid going through the demanding processes of legislating term limits out of the Constitution. The cases of Burkina Faso and Namibia, where the incumbents managed to prolong their tenure without removing term limits, are thus suggestive of the fact that contemporary African leaders are coming up with creative ways of circumventing term limits. While on the outside, such leaders can claim to honour their respective national Constitutions, the manipulative interpretation of the tenure limit rules brings back the discussion of Constitutions as mere legal documents versus Constitutionalism. In these cases, the incumbents only abide to the letter while going against the spirit of the law. That this is the case should not be entirely surprising. As Moehler (2008) has demonstrated in her in-depth study of Uganda, African leaders have demonstrated a tendency to ignore Constitutional provisions, including the human rights provisions that were a major institutional innovation of the political transitions of the early to mid 1990s. This yet again goes to demonstrate that the support for provisions aimed at limiting the exercise of presidential power that some of these leaders gave at the dawn of the democratic era was not entirely genuine. This points to a fundamental weakness in the transitions from authoritarian rule on the continent. While these transitions were characterized by important institutional changes, there was a failure to transform the minds of the key political players to learn to respect the new rules and live by them. The consequences of the failure of this transformation are the numerous cases of bids to tamper with the new rules once they become obstacles to the ambitions of the new leadership on the continent.

The fourth category of amendment that has the effect of extending the tenure is the one which lengthens the number of years that constitute a single presidential term. Such change is

interpreted as creating a new Constitutional order that allows an individual on the verge of exhausting their maximum tenure to contest again for new terms of office. This is the type of amendment that occurred in Senegal in 2008 when the country's Constitution was amended to increase the length of a single presidential term from five to seven years.⁷³ Although incumbent President Abdoulaye Wade's second, and thus final, term in office ends in 2012, his supporters have interpreted the 2008 amendment as meaning that Wade can seek two fresh seven-year mandates after 2012.⁷⁴

Not all bids to remove presidential term limits end in the desired outcomes. As we can see from figure 6.1, one in four of the efforts to change term-limit rules in Africa were rejected. Thus as with the discussions, the initiation of the legal process to remove presidential term limits does not automatically signal their removal. It could indeed be argued that the fact that a handful of the formal legislative bids to remove presidential term limits have been rejected suggests that African presidents can no longer impose their will on the people, but these cases might also be suggestive that some African legislatures, albeit very few, are slowly beginning to become effective checks on the exercise of executive power. While in the past, the continent's personal rulers were able to dictate to Parliaments and get their proposals enacted into law with ease, the rejection of the third-term bids, at both the discussion and Parliamentary phases, suggests that the contemporary African presidents are beginning to face important Parliamentary hurdles than their predecessors. The current generation of African presidents, in other words, are not able to change the rules of the political game with the same ease as their authoritarian-era colleagues.

⁷³ See "Concern as Senegal Term Extension," *BBC News*, July 30, 2008, available online at <http://news.bbc.co.uk/2/hi/africa/7532882.stm>.

⁷⁴ See "Senegal Approves Presidential Term Extension," in *Afronews*, July 30, 2008, available online at <http://www.afrol.com/articles/30051>.

Instead, Parliaments, are now beginning to assert themselves by reigning in executives who desire to prolong their tenure beyond the limits prescribed by the new Constitutions.

It is worth noting at this stage that the removals of term limits were almost exclusively done to advance the ambitions of incumbent leaders to prolong their tenures. Although oftentimes the incumbent presidents sought to portray themselves as uninterested parties in the final outcomes by basing the campaigns for removing term limits on the argument that these rules were undemocratic by limiting the choices of candidates available to the electorate, all twelve incumbents in the countries that eventually removed term limits sought re-election in the elections immediately following the removals. Not only did this thus suggest that the removals of term limits were ultimately a reflection of the continued personalization of politics in Africa, with incumbent presidents hiding their ambitions by changing key democratic rules the name of the electorate. The fact that all the twelve presidents not only sought re-election but were also ultimately victorious in securing additional terms of office, thus highlight the fact that these rules are important in promoting leadership alternation and that once removed, the likelihood of the rotation of presidents goes down accordingly.

6.4 Conclusion

One of the institutional outcomes of the transition from authoritarian rule in Africa from the last decade of the 20th century has been the widespread adoption of presidential term limits as a response to the experience of long-tenured rule that had been a common feature of politics on the continent.

While term limits mark an important milestone in Africa's political development, recent experience has shown that the attraction of power remains a strong motivation for a majority of the continent's new generation of leaders, as demonstrated by the emerging tendency by leaders

to attempt to alter or remove the term-limit provisions when they get close to the end of their maximum tenure. When such leaders approach the end of their tenure, the institution of term limits becomes an obstacle, even if they originally supported it. As a result, many term-limited presidents on the continent have initiated discussions to consider removing term limits. Thus term limits in Africa are most secure when incumbents do not have to worry about their tenure, likely in their first term of office. At this point, they might even claim to be supportive of term limits. However, when they reach a point when they have to contemplate life outside state house, then they might begin to agitate for their removal. This state of affairs stems from one important dilemma: the introduction of term limits during the transitions from authoritarian rule in the 1990s and the adoption of new Constitutions that included tenure-limit provisions did not necessarily bring an end to the desire to remain in office for long periods among the African leaders, both old and new. This imbalance has resulted in significant pressure that has in many cases resulted in the removal of term limits. Indeed, even in the cases where some presidents have stepped down due to term limits, this has not been due to those leaders' respect for the Constitution and the term-limit provision in particular. Instead, as we have argued in this chapter, some of these leaders were only compelled to abandon their quests for removing term limits after realizing the difficulty of securing a complete removal. In which case, if any credit is to be given, it has to go to the members of the public and the legislature who gave signals to the leadership that they would not acquiescence to the removal of term limits to advance personal ambitions.

Chapter 7

Micro Foundations of Support for Presidential Term Limits in Africa

Muluzi will stand again in 2004 because the people want him to. We will change the Constitution so Muluzi can stand.

Uladi Mussa, Member of the Central Executive Committee of Malawi's United Democratic Front, speaking to Reuters in 2001⁷⁵

7.0 Introduction

Although term limits remain very popular among broad swaths of society, one of the frequent refrains heard from third-term-seeking African presidents has been that their third-term quests are responses to popular grassroots demands for the removal of tenure limits (Baker, 2002; Dulani and van Donge, 2005; Gulliyev, 2009; Mwenda, 2007; Peter and Kopsieker, 2006). As the two quotations cited above indicate, framing the proposals to remove term-limit rules as people-driven allows Africa's third-term-seeking presidents to portray themselves as reluctant subjects of unsought-for campaigns.

The fact that all incumbents that have succeeded in removing presidential tenure limits have gone on to win subsequent elections is presented as post-facto evidence of the willingness of African citizens to prefer leadership continuity and the stability it brings over notions of leadership rotation that inform their adoption. Together, the frequency of alterations of presidential term limits and the electoral success of such incumbents in Africa have been described in the literature as indicative of the fact that institutions that seek to limit the power and tenure of presidential office lack popular support on the continent (Aguilar, 1998; Akokpari, 2004; Blunt and Jones, 1997; Oomen, 2005). Blunt and Jones (1997:10), sum up this view most succinctly when they contend that "Western democratic notions of leadership are not widely

⁷⁵ See "President Muluzi Reportedly Plans for Third Term," available online at <http://allafrica.com/stories/200108100405.html>.

applicable in Africa [where] there are significant differences in values concerning authority, group loyalties and interpersonal harmony.”

Thus far, however, very little empirical evidence has been advanced to support the claims that the changes to presidential term limits in Africa are genuine responses to public demand. Given the well-documented problems of elections as true reflections of the wishes of the African electorate,⁷⁶ electoral victories, especially those that follow the removal of term limits, cannot be simply interpreted as true indicators of public rejection of limiting the tenure of presidents. Indeed, as we saw in the previous chapter, the fact that the third-term proposals were frustrated in several countries on the continent suggests that even if some Africans support the removal of term limits, this support is not universal.

The availability of survey data from the Afrobarometer project⁷⁷ meanwhile, makes it possible for us to systematically examine public attitudes on presidential term limits in Africa. Starting with the simple question on what ordinary Africans think about presidential term limits, the chapter proceeds to analyze the social, political and economic determinants of support for presidential term limits in Africa.

7.1 Data

The data presented in this chapter is drawn from Round 4 of the Afrobarometer project. The Round 4 surveys were conducted between 2008 and 2009 in twenty African countries spanning the continent’s main geographic regions, with the exception of North Africa. Although

⁷⁶ cf: Lindberg, 2006

⁷⁷ The Afrobarometer is a comparative series of public attitudes on democracy, market reforms, and civil society in Africa. A total of twenty African countries were surveyed in Round 4: Benin, Botswana, Burkina Faso, Cape Verde, Ghana, Kenya, Lesotho, Liberia, Madagascar, Malawi, Mali, Mozambique, Namibia, Nigeria, Senegal, South Africa, Uganda, Zambia, and Zimbabwe. The total sample number of respondents surveyed was 27,713.

the full list of Round 4 countries includes two Parliamentary regimes (Botswana and Lesotho), the other eighteen countries were either full or semi presidential systems. Meanwhile, seventeen of these eighteen presidential regimes have, or have had, presidential term limits in the most recent past. Only one country in the dataset, Zimbabwe, has never had the institution of term limits. Of particular relevance to this study is the fact that the Afrobarometer Round 4 coverage includes half of the twenty-six African countries that have debated the removal of presidential term limits. Seven of these countries proceeded to the second phase of the third-term process by launching formal attempts to do so. This resulted in the removal or the altering of the term-limit provisions in four countries (Burkina Faso, Namibia, Senegal, and Uganda) although in three countries (Malawi, Nigeria, and Zambia), the third-term bids were rejected. Overall, therefore, the list of countries in the Afrobarometer surveys provides us with a rich variety from which we can begin to extrapolate lessons on the micro foundations of support for presidential term limits in Africa.

7.1.1 Dependent Variable: Support for Presidential Term Limits in Africa

The dependent variable, support for presidential term limits, is drawn from a question in the Afrobarometer surveys that asked respondents to indicate whether they supported limiting the president to serving a maximum of two terms or not. The proportion of respondents in the eighteen countries that expressed support for presidential term limits is presented in figure 7.1.

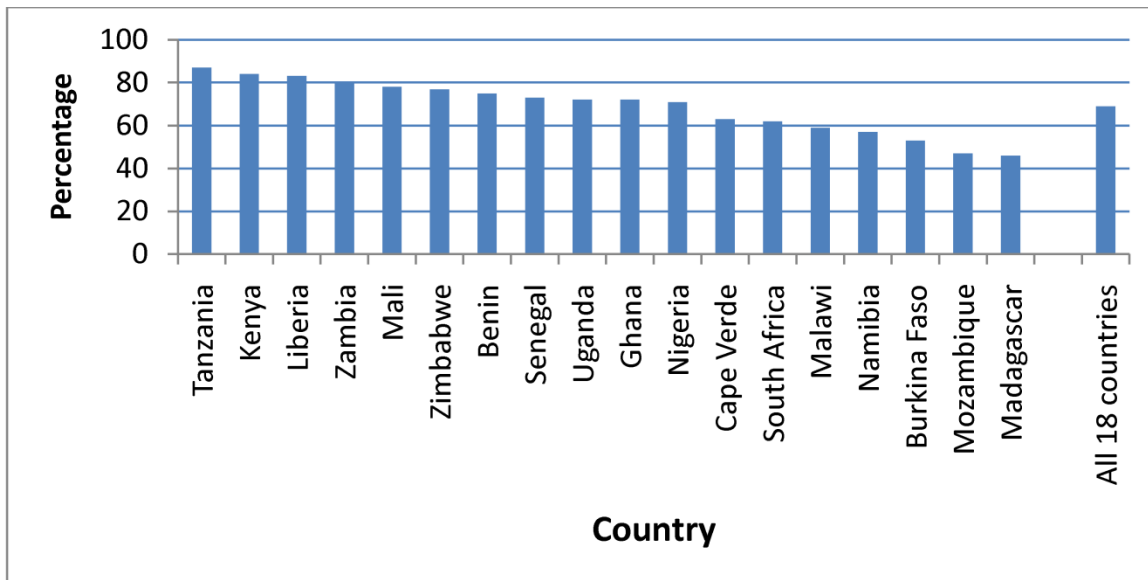


Figure 7.1: Support for Presidential Term Limits in Africa, 2008/2009

Source: Afrobarometer, Round 4, 2009

Question wording: “Which of the following statements is closest to your view? Choose statement 1 or statement 2.

Statement 1: The Constitution should limit the president to serving a maximum of two terms in office.

Statement 2: There should be no Constitutional limit on how long the president can serve.

Arguments that seek to justify the removal of presidential term limits by claiming that they are responses to popular demand amount to what philosophers describe as the fallacy of *argumentum ad populum*—building a case simply from claiming that the people want it so. As Van Eemeren and Grootendorst (1987) point out, such arguments often lack sufficient logic in that they merely play on the emotions of the people as a substitute for intelligent argument. Appealing to people’s support without actually consulting them, as the African presidents that have sought the removal of term limits have done, carries the implicit assumption that any such demands are right. However, the *argumentum ad populum* fallacy cautions that not all people-driven proposals are logically sound. Thus even if there were evidence showing that there is genuine popular demand for the removal of presidential term limits, this would not automatically

make any resultant removals of presidential term-limit provisions right, as the people can be wrong.

In any case, the findings from figure 7.1 reveal that the question of the philosophical validity of the arguments that Africa's third-term bids are people-driven does not even arise. Instead, the Afrobarometer survey findings clearly demonstrate that the claims that Africa's third-term bids have been motivated by popular demands are fallacious, as there is very strong support for limiting the tenures of presidents across the continent. Overall, slightly more than two-thirds (69 percent) of the Africans in the eighteen countries were in support of limiting their presidents to serving a maximum of two terms. Among the eighteen countries in the data set, Tanzanians expressed the highest support (87 percent) for presidential term limits while Mozambicans (47 percent) and Madagascans (46 percent) expressed the least support for this institution.

The high level of support for presidential term limits in Tanzania can be explained by the fact that it has had the longest history and application of term limits among the eighteen countries. Tanzania was one of first African countries to adopt presidential term limits as far back as 1984. By 2009, three Tanzanian presidents, Julius Nyerere, Ali Hassan Mwinyi and Benjamin Mkapa, had all stepped down after serving the maximum tenure of a total of ten years. With these three turnovers setting a precedent, it should come as no surprise that a high proportion of Tanzanians are supportive of term limits. Tanzania's case therefore provides some preliminary evidence that the experience of having at least one presidential turnover at the end of maximum tenure, not only helps to set off a course of path dependency that entrenches term limits, but it also has the potential to strengthen public support for this particular institution. Even if in this case the alternating presidents all came from the same ruling party, they

nonetheless engender public familiarity with, and support for, tenure limits. This case meanwhile provides cause for some cautious optimism about the future of presidential term limits in Africa. When, and if, more presidents step down at the end of their tenures, this might have positive effects in the survival of the institution and thence, the popularization of a culture of regular leadership rotation.

On the other hand, the low proportion of Madagascans that support term limits appears to be a function of a disproportionately high number of respondents (17 percent) that offered no opinion on the question. This can arguably be attributed to the fact that the term-limit rule is not well known in the country in large part due to the fact that it has never been used. Although term limits were introduced in Madagascar in 1992, frequent political instability, which has often resulted in suspension of the Constitution, has meant that no single president had served up to the maximum of two terms by 2009. Thus while the Tanzania case demonstrates how leadership alternation can positively influence public support for term limits, the Madagascar example provides the other side of this argument, giving further confirmation of the importance of precedent in the survival and public support for tenure limits. In this case, the lack of the experience of leadership alternation due to term limits seemingly leads to public ambivalence toward the rule.

The fact that a number of leaders on the continent have managed to circumvent the term-limit rules should therefore not be interpreted to mean that ordinary Africans want and prefer unlimited presidents. Instead, the high levels of public support for term limits, as identified here, suggests that the majority of African peoples are supportive of the concept of regular leadership alternation by imposing term limits on their presidents. The widespread support for presidential term limits among Africans therefore debunks the arguments that Africa's third-term bids are

people-driven. Instead, the evidence strongly suggests that the third-term bids are going against the wishes of the ordinary African folk, a high proportion of whom want their presidents to step down after serving two terms in office.

7.1.1.1 Support for Term Limits in Non-Term-Limited Countries

Among the sixteen countries with presidential systems in the survey, two (Uganda and Zimbabwe) had no presidential term limits in 2009. However, even in these two cases, the absence of term limits does not lead to low levels of public support for this institution. With three in four Zimbabweans (77 percent) and almost an identical proportion of Ugandans (72 percent) expressing preference for a two-term limits in 2008, it can be argued that support for term limits, at least in these two countries is intrinsic since it is not influenced by the actual existence of this particular institution in their respective Constitutions.

The Ugandan case in particular illustrates the fallacy of the claims that the removal of presidential term limits is a response to popular demand. Unlike Zimbabwe, which has never had presidential term limits, Uganda introduced these rules in 1995. However, when President Yoweri Museveni approached what was supposed to be his final term in 2005, he embarked on a campaign to remove term limits. As with other third-term-seeking presidents, President Museveni portrayed himself as a reluctant subject of what was claimed to be a people-driven campaign pressurizing him to prolong his tenure (Makala, 2006; Mwenda, 2007). These claims, as the descriptive data demonstrates, lacked empirical basis, as a significant majority of Ugandans were still very supportive of presidential term limits in 2009, three years after they had been removed from the country's Constitution.

Although Constitutions are meant to serve as solemn declarations of the desires and aspirations of entire nations, the Ugandan and Zimbabwean cases suggest that often, it is the

narrow interests of the ruling elites that are reflected in national Constitutions. In these cases, we can see that the absence of presidential term limits from the Constitutions of the two countries goes against the wishes of a high proportion of ordinary citizens. Despite the fact that most Constitutions claim in their preambles that these documents reflect the wishes and goals of a country's peoples, the reality is that our findings in Uganda and Zimbabwe illustrate a major disconnect between the wishes of ordinary people and the ambitions of ruling elites that are captured in national Constitutions. The absence of term limits in the two countries, despite widespread support for them, suggests that ordinary people have very little meaningful input into Constitution-making processes. This finding reinforces the argument advanced by Moehler (2008) when she contends that Constitution-making processes in Africa provide very limited opportunities for ordinary people to make significant inputs even when efforts are ostensibly made to make such processes participatory and inclusive.

7.1.1.2 The Effects of Debates to Remove Term Limits

Among the fifteen countries in our data sample, five (Namibia, Zambia, Malawi, Uganda, and Nigeria) held debates to consider the removal of term limits and followed these up by tabling legislation seeking to do so. These bills were eventually passed in Namibia and Uganda while being rejected in Malawi, Nigeria and Zambia. In order to assess the preliminary effects of the campaigns to change the presidential term-limit rules on public attitudes in these five countries, a comparison was made of the support for term limits using data from

Table 7.1: Changes in Public Support for Presidential Term Limits in Third-Term Countries, 2002-2008

Country	2002	2008	% Change, 2002-2008
Malawi	76	59	-17%
Nigeria	80	71	-9%
Uganda	80	72	-8%
Namibia	63	57	-6%
Zambia	86	80	-6%
Total	77	68	-9%

Source: Afrobarometer, Rounds 2 and 4, 2002 and 2009

Afrobarometer Rounds 2 (2002) and 4 (2008). The results are presented in table 7.1.

The comparison of public support for presidential term limits in the five countries that launched bids to remove term limits shows that these attempts have contributed to the erosion of public support for the concept of a limited presidency. Overall, support for term limits in the five countries declined by an average of nine percentage points between 2002 and 2008.

Malawi, which recorded the largest decline in support for presidential term limits (-17 percent), offers an interesting case study. Two attempts by President Bakili Muluzi to remove term limits from the Malawi Constitution were rejected twice, in 2002 and in 2003.⁷⁸ While these failures forced Muluzi to step down in 2004, a new round of discussions to remove term limits provision was re-ignited almost immediately after Muluzi's successor, Bingu wa Mutharika, was sworn into his second, and final, five-year term in mid 2009.⁷⁹ The strong popular support for presidential term limits at the height of Muluzi's campaign to remove them in 2002 can therefore be interpreted as indicative of the Malawi public's rejection of Muluzi's bid to prolong his tenure beyond the ten years that he had been in office. On the other hand, the decline in popular support for term limits in 2008 can be seen as a sign of a greater acceptance by a relatively higher proportion of Malawi citizens for an extension to Mutharika's presidency, who, coincidentally, enjoyed higher performance approval ratings (83 percent), than his predecessor.

⁷⁸ In the first attempt of 2002, the proposal was to abolish term limits from the Constitution and allow unlimited tenure. However, this proposal failed to garner the necessary two-thirds support in Parliament and was thus defeated. The Muluzi government then sought to present an amended version of the bill in 2003, this time seeking to increase the maximum number of terms from two to three. However, this bill also met with resistance and, sensing defeat, the government withdrew it before a vote could be taken (see Dulani and van Donge, 2005).

⁷⁹ See "Bingu for Third Term," *Malawi Voice*, May 27, 2010, available online at <http://www.malawivoice.com/latest-news/%E2%80%9Cbingu-for-third-term>.

The Malawi case, where support for term limits was high during the tenure of a less popular president but declined under the tenure of a more popular one, suggests that public support for presidential term limits might be extrinsic: that is to say it is not necessarily influenced by a commitment to the institution's goal of promoting leadership rotation, but rather, driven more by performance evaluations of incumbents. This can result in fluctuations in the levels of popular support for the institution over time, rising when an unpopular president is in office and falling when a popular leader approaches the end of their maximum tenure. Under such circumstances, public support for term limits at a particular point in time does not provide sufficient guarantee that such support will carry over in future. This presents a dilemma and uncertain future for term limits in Africa: although the public might be supportive of term limits in the present instance, these rules can still be very vulnerable to removal when popular presidents are in office.

While the overall decline in public support for term limits in the five countries can be attributed to the campaigns by the ruling elites to convince the public to rethink the concept of limiting the number of terms their presidents can serve, it is important to note that there is still strong public support for presidential term limits in all these five countries. With support for term limits in the five countries averaging 72 percent across the two survey rounds, it can be argued that the debates proposing the removal of term limits have failed to reverse support for tenure limits among the public to very critical levels. Even if African presidents launch intense campaigns to push for the removal of term limits, this finding suggests that the idea of regular leadership rotation, which term limits are designed to promote, remains very popular in Africa.

7.2 Explaining Support for Term Limits in Africa

What factors explain support for presidential term limits in Africa? In order to test for the factors that explain support for presidential term limits in Africa, I run a pair of linear regression models to identify the effects of the independent variables on support for term limits. The first regression model examined the factors that determine support for term limits in all the eighteen presidential regime countries. The total N for the first model was 25,313. The second model meanwhile only examined the drivers of support for term limits in the sub set of sixteen countries that had these rules in 2008.

7.2.1 Independent Variables and Expected Relationships

Three categories of independent variables were identified for the analysis, namely social attributes, political attitudes and performance evaluations.

7.2.1.1 Social Attributes and Demographic Characteristics

The category of social attribute variables includes measures of rural residency, age, education and gender. With regards to rural residency, studies of African politics have consistently demonstrated that rural residents on the continent tend to hold lower levels of support for democracy and democratic institutions (Bratton, 2003; Bratton et al., 2005; Evans and Rose, 2007; Wantchekon et al., 2007). It was thus expected that rural residency would have a negative effect on support for term limits. As for the effect of age, studies have shown that age or generational cohorts, can have important effects in determining political attitudes (Kohli, 1996). Specifically, the concept of cohort effects is built on the premise that common and shared social experiences and social location, leads people to develop a common and shared consciousness of being a generation that ultimately develops to a shared political identity and values. Within the African political setting, it was predicted that older individuals on the continent, who have had

direct experience of unlimited presidents and the authoritarianism that ensued, would be more supporting of term limits than the younger folk. Although the younger generation are likely to be more educated about democracy, their lack of experience of the consequences of unlimited presidential tenure could make them ambivalent towards term limits.

The important role that education plays in inculcating democratic values has meanwhile been widely discussed in the literature. Evans and Rose (2007:1) for example, argue that education “can increase civic involvement and support for democratic practices in developing societies...than any other social factor.” This view is echoed by other studies which have consistently demonstrated a positive relationship between education and support for democracy (Bratton and Mattes 2001; Bratton et al., 2005; Shecktel, 2010). Given this background, it was expected that education would have a positive impact on support for presidential term limits.

With regards to gender, the prediction was that African women would much prefer the leadership stability that the prolongation of tenure provides and would thus be less supportive of term limits compared to the men folk. This prediction draws upon findings of previous studies which have demonstrated a gender gap in the levels of awareness of the political world among African women compared to their male counterparts (Bratton and Mattes, 2001; Bratton et al., 2005).

7.2.1.1 Political Attitudes

The sub-set of political attitudes variables includes a list of seven measures of political attitudes, namely: support for democracy; satisfaction with democracy; support for freedom to choose who to vote for; support for multi-party politics; support for president to be monitored by Parliament; and, support for Parliament to be responsible for making laws.

Building upon the arguments advanced by Diamond (1999) and Bratton and Mattes (2001) which suggest a close relationship between satisfaction with democracy and support for democracy, the overall prediction on the relationship between the political attitude measurements and support for democracy is that individuals who hold views that are supportive of democratic positions should also be supportive of the institution of term limits since it too forms a major component of the democratic discourse.

Among the main hallmarks of modern democratic politics are the two related concepts of separation of powers and checks and balances (Fisher, 1971; Green, 1994; Lijphart, 2002). The rationale behind these concepts, as Lijphart (2002) argues, is to prevent tyranny and the usurpation of power by ensuring that no single branch of government monopolizes the exercise of state power. This view is also echoed by Shane (2006:196), when he opines that the primary rationale for the separation of powers and checks and balances concepts is to “implement a balance of virtues: the protection against tyranny deemed to result from assuring that the power to make and interpret law is largely vested in different institutions.” This is in addition to ensuring greater efficiency and effectiveness which is thought to follow from focusing each of the three branches of government on tasks especially suited to its composition and process (Fisher, 1971). Given that one of the primary justifications for separation of powers and the checks and balances ideas is to prevent tyranny and usurpation of power, it was thus expected that individuals who support these two concepts would also support the institution of term limits.

7.2.1.1 Performance Evaluations

Citizens evaluations of system outputs can be one of the most important factors shaping not only the reputation of political institutions, but also of the political system as a whole (Weatherford, 1987). In particular, several studies have demonstrated that performance

evaluations of key political actors, as well as public perceptions of both personal and national economic conditions, are related to institutional support (Cho, 2004; Clarke et al., 1993; Kornberg and Clarke, 1992; Listhang and Winberg, 1995). Yet again drawing from studies that demonstrate that positive evaluations of government performance in Africa tend to promote acceptance of the status quo (Bratton and Mattes, 2001; Bratton et al., 2005), it was expected that individuals who hold positive assessments of government performance, particularly the presidency, should prefer the continuation of the incumbent's tenure. Such individuals would thus be less supportive of the institution of term limits. The group of performance indicators includes three variables that measure assessments of president's performance; sociotropic and egotropic evaluations of economic performance

7.3 Results

The results of the regression analyses of the determinants for support for presidential term limits in Africa are presented in table 7.2.

7.4 Discussion

7.4.1 Cross-Country Support for Presidential Term Limits in Africa

The first point to note from the results of the regression analysis in table 7.2 is that there does not appear to be major differences on the impact of the independent variables on support for term limits in the two models. Firstly, the direction of the relationships between the independent and dependent variables is the same in both models. This suggests that the presence of term limits in the Constitution or their absence, does not affect the nature of public support for tenure limitation rules. This finding provides statistical corroboration to the argument in the previous section that there are no major differences in the support levels for presidential term limits and what drives them when comparing the group of countries that have them and those that do not.

Table 7.2 Regression Results
(Dependent Variable Is Support for Presidential Term Limits)

	Model 1		Model 2:	
	18 Presidential Countries		16 Countries with Term Limits	
	OLS Coefficients		OLS Coefficients	
	(Std. Error in Parentheses)		(Std. Error in Parentheses)	
	B	Beta	B	Beta
<u>Social Attributes</u>				
Rural Residency	-.078*** (.063)	-.024	-.069** (.022)	-.021
Age	.000 (.000)	.012	.000 (.000)	.009
Education	.010*** (.002)	.025	.010*** (.002)	.026
Gender of Respondent (female)	-.020 (.019)	-.006	-.009 (.021)	-.003
<u>Political Attitudes</u>				
Support for Democracy	.067*** (.006)	.077	.064*** (.006)	.074
Satisfaction with Democracy	.004 (.005)	.005	.008 (.006)	.010
Freedom to Choose Who to Vote For	.058*** (.008)	.041	.079*** (.009)	.055
Support for Multi-Party Politics	.141*** (.007)	.135	.137*** (.007)	.130
President Monitored by Parliament	.048*** (.006)	.057	.055*** (.006)	.065
Support for Parliament to Make Laws	.045*** (.005)	.059	.053*** (.006)	.070
Support for President to Obey Laws and Courts	.166*** (.006)	.180	.159*** (.007)	.173
<u>Performance Evaluations</u>				
Performance: President	.015** (.005)	.019	.021*** (.005)	.025
Sociotropic Economic Evaluation	-.014 (.007)	-.017	-.018 (.008)	-.017
Egotropic Economic Evaluation	-.035*** (.009)	-.027	-.031** (.010)	-.023
Intercept	1.923		1.784	
Adjusted R ²	.122		.130	

*** Significant at the 99% Confidence Interval; **Significant at the 95% Confidence Interval

It is important to note though that of the three categories of independent variables, the most important predictors of support for presidential term limits are the political value variables. In both models, the set of political value variables account for slightly over 80 percent of the variance in the dependent variable. The effects of the social and performance evaluation variables on the other hand, are almost identical in both models. We can therefore argue that political attitudes and values trump social attributes and performance evaluations in explaining support for term limits among the group of countries covered in the Afrobarometer surveys.

7.4.1.1 Social Determinants of Support for Term Limits

7.4.1.1.1 Rural/Urban Residency

The findings of the regression analysis demonstrate that rural residency has a negative effect on support for presidential term limits in Africa. The relationships are significant in both models (although the level of significance is reduced in Model 2), suggesting that the impact of rural residency carries across irrespective of whether a country has term limits or not. This finding is consistent with other studies that have demonstrated stronger support for democracy and democratic values among urbanites in Africa and elsewhere compared to rural residents (Bratton, 2003; Bratton et al., 2005; Evans and Rose, 2007; Wantchekon et al., 2007). Given that African urbanites were at the forefront of the democracy movements that helped to usher in democratic rule in the early to mid 1990s,⁸⁰ it is not surprising that they support democracy and its underlying institutions, including term limits, more than their rural counterparts.

The relatively higher levels of urban support for key democratic institutions such as presidential term limits likely reflects the increased exposure to a more diverse media in Africa's

⁸⁰ For a detailed discussion on the role of African Urbanites in the democracy movements of the early 1990s, see Bratton, 1994; Bratton and van de Walle, 1997; Ngoma-Leslie, 2006; Ellis and van Kessel, 2009; Logan et al. 2007; and Harding, 2010.

urban areas. While rural residents in much of Africa have a limited media exposure, often restricted to public radio, their urban counterparts often have a wider variety of media options. This is crucial especially during national debates to reconsider the retention or removal of term limits. While the public media, which tends to have a national-wide coverage, often propagates the government position, vis-à-vis advocating for the removal of term limits, the independent media usually offers a more balanced perspective, offering both sides of the argument as well as allowing critics of the third-term proposals to publicize their positions. With the increased access to the alternative view-points, urban residents are able to make more informed decisions compared to their rural counterparts. As with the predominantly urban-based movements that helped to bring an end to authoritarian rule in the early 1990s, the third-term campaigns in Africa have faced their strongest resistance among urbanites.

While it is encouraging that urban residency increases support for presidential term limits, the fact that Africa's population is predominantly rural portends a major challenge to the fate of presidential term limits on the continent. In situations where changes to Constitutional provisions such as term limits require national referenda, incumbent presidents might only need to appeal to the rural folk while disregarding protestations from the urbanites in order to succeed in prolong their tenures. However, it is also worth noting that Africa has been ranked by the United Nations as the fastest urbanizing continent.⁸¹ This gives hope that as more Africans move from rural to urban areas, leaders will in future find it increasingly harder to remove term limits as such proposals will be met with increasing resistance from this growing urban population.

7.4.1.1.2 Education

⁸¹ See UN Habitat, "African Ministerial Conference on Housing and Urban Development", January 31, 2005, available online at <http://www.unhabitat.org/content.asp?ID=2418&catid=5&typeid=6&subMenuId=0>.

As expected, education has a positive effect on support for presidential term limits and this relationship is significant at the 99 percent confidence interval in both models. A closer analysis of the data shows that support for term limits increases by five percentage points between individuals that have no formal education and those that have at least some primary education. Meanwhile, having some secondary education also increases support for term limits by a further five percentage points from those with at least some primary education. The highest jump meanwhile is between individuals with only some secondary and those with at least some tertiary education, where support for term limits jumps by an average of ten percentage points.

We can thus deduce from these findings that every increase in the level of education positively impacts on support for term limits. This suggests that among the democratic values that education is inculcating in African peoples, this includes an appreciation for the concept of leadership alternation and the role that presidential term limits play in realizing it.

7.4.1.1.3 Age

Although age has a positive impact on support for presidential term limits, the relationship is not significant in either model. This suggests that support for the institution of term limits is spread across all age categories, with both young and old citizens on the continent expressing support in equal amount. Although this finding debunks my earlier prediction, it is consistent with other studies that have demonstrated that age is not an important factor in determining support for democracy and democratic values in Africa and elsewhere (Bratton and Mattes, 2001; Cho, 2004; Evans and Rose, 2006). Given the finding that education plays a very important role in promoting support for term limits, the finding on the effect of age should perhaps not be surprising. While the older generation of African might be supportive of term limits due to their own experiences with unlimited presidency, the younger generation might be

making up for what they lack in the experience of authoritarian rule through education. In other words, the findings here suggest that awareness of the dangers and consequences of unlimited and personalized styles of leadership is an important mechanism that drives support for presidential term limits in Africa. However, such awareness needs not come only from the actual experience of life under authoritarian rule, but can also be acquired through education. This finding suggests that there can indeed be cohort effects at work although these result in increased support for term limits among both the older and younger age cohorts.

7.4.1.1.4 Gender

As with age, gender too does not have a significant effect on support for term limits in either model. In other words, support for term limits is spread across both gender groups, and women are not comparatively different from men in their support for presidential term limits. This finding is consistent with the findings of Logan and Bratton (2006), who demonstrated that women differed relatively little from men with regard to their preferences for political and economic regimes.

Given that African societies are often portrayed as traditional, conservative and providing limited opportunities for women (Goetz, 2003; Ibhawoh, 2000; Mikel, 1997), the non-significance of gender as a predictor of support for presidential term limits in Africa suggests that contrary to popular perception, African women are as much supportive of key democratic institutions as their male counterparts. There is, in other words, no gender gap as far as support for an institution that seeks to promote leadership rotation. African women, in this regard, are not the conservative entities they are often portrayed in the literature as desirous of stability and wary of change. Instead, they too appreciate the rationale of presidential rotation and thus support the term-limit provision as much as their male colleagues.

7.4.1.2 *Political Attitudes and Support for Presidential Term Limits*

7.4.1.2.1 Support for, and Satisfaction with, Democracy

As expected, support for democracy has corresponding positive effects on support for presidential term limits. Given our observation on the centrality of the concept of leadership alternation as a centerpiece of the transitions towards democracy in the 1990s, it is not surprising that the findings of the regression model corroborate the view that Africa's democracy supporters also tend to strongly support the retention of presidential term limits. This finding is consistent with other studies that have found that support for democracy tends to have a positive effect on support for other democratic institutions while conversely increasing rejection for non-democratic forms of governance (Bratton, 2004; Bratton et al., 2005; Diamond, 1999; Rose and Mishler, 1996).

While the relationship between support for democracy and support for presidential term limits is consistent with our initial predictions, satisfaction with democracy does not have a significant effect in both models. In hind sight, this finding is perhaps not entirely surprising. Several studies have demonstrated that while support for democracy in Africa is very high, very few Africans are satisfied with how it is being practiced. Bratton and Mattes (2001), for example, highlight this dilemma, observing that support for democracy in Africa is intrinsic in that there is high support levels for democracy even if fewer citizens are satisfied with the type of democracy they have been getting. The findings from the Round 4 Afrobarometer surveys further demonstrate the intrinsic nature of support for democracy in Africa, with a higher proportion of the population being supportive of democracy even if fewer believe that they are getting it.⁸²

⁸² cf. "Neither Consolidating Nor Fully Democratic: The Evolution of African Political Regimes, 1999-2008," *Afrobarometer Briefing Paper No. 67*, May 2009

Given the intrinsic nature of African democracy, individuals who are less satisfied with the practice of democracy can be expected to be more supportive of presidential term limits in the hope that leadership alternation can possibly deliver a better quality of democracy. Conversely, individuals who express satisfaction with the currently malfunctioning democracies would be more likely to be supporters of incumbent parties and presidents. These individuals would thus be among those that support the perpetuation of the status quo, and thus join in supporting the calls to remove tenure limits. Satisfaction with a brand of democracy that is malfunctioning can, as these findings show, have the opposite effect of reducing support levels for presidential term limits. Because only a well functioning democracy is likely to win satisfaction from those who support democracy, improvements that strengthen Africa's nascent democracies can be expected to not only increase satisfaction with democracy, but also to translate into positive effects on support for presidential term limits.

7.4.1.2.2 Separation of Powers and Checks and Balances

The Afrobarometer surveys had two sets of questions that captured the concept of separation of powers: Parliament making laws as opposed to the president; and the president being required to obey the laws and the courts as opposed to being free to act as he wishes. One question meanwhile captured the checks and balances dimension (president to be monitored by Parliament versus the president being free to act on his own).

As expected, all the three measures had strong positive effects on support for the institution of term limits. Yet again, these findings suggest that support for key democratic institutions has spill-over effects on support for institutions that seek to promote democratic ideals such as term limits. While Parliaments and the judiciary were often rendered powerless and dominated by the executives during the long years of authoritarian rule in Africa, it is not

surprising that there is now a strong belief that not only should presidents be term limited, but also that their powers should be both curtailed and checked. These findings, in other words, suggest a convergence between the primary goal of term limits and institutions that promote separation of powers and checks and balances in Africa. Term limits and the resultant alternations of leadership are thus considered as part of the institutional set up that prevents incumbents from accumulating too much power.

7.4.1.2.3 Free and Competitive Elections

As with the preceding discussion, our findings show that Africans who support free elections and competitive multi-party politics tend to strongly support the idea limiting the tenures of presidents. It can therefore be argued that support for free elections and multi-party politics are important predictors of support for presidential term limits irrespective of whether a country has term limits or not.

Taken together, the findings on political attitudes and their relationship with term limits show that support for democracy and democratic values are being extended to support for institutions that promote leadership alternation. On a continent where democratic revival was driven by a desire to break away from the authoritarian past and its highly personalized modes of governance, support for the principles of separation of powers and checks and balances feeds into support for presidential tenure limits as a further institutional strategy of preventing the re-emergency of tyranny. This reaffirms the commitment of Africans to the institutional changes that sought to mark a break from the era of personal and big-man rule. Democratic institutions, in other words, are increasingly being perceived by Africans as a packaged bundle that has to be supported in its entirety. Thus those who support democracy and hold democratic political

attitudes are likely to support the key institutions associated with it such as separation of powers, checks and balances and term limits.

7.4.1.3 Evaluations of Presidential and Economic Performance

Since one of the key arguments in favour of extending the tenure of incumbent leaders is to ensure policy continuity, it was expected that positive evaluations of the performance of the president, as well as positive evaluations of the national economic situation, would contribute to increased support for the incumbent president and subsequently increase public support for the removal of presidential term limits. To capture the assessment of the president's performance, I used the question in the Afrobarometer survey that asks respondents to evaluate the performance of the president. For economic evaluations, two measurements were used. The first looked at sociotropic evaluations of the economy while the second examined the egocentric economic evaluations.

7.4.1.3.1 Performance of President

Contrary to the initial expectations, approval of the president's performance had a positive effect on support for presidential term limits. While in the first model this relationship is only significant at the 95 percent confidence interval, the level of significance increases to 99 percent in the second model. This suggests that positive evaluations of presidential performance become an important predictor of support for term limits among the set of countries that have presidential term limits. This finding, that positive assessment of presidential performance leads to increased support for term limits, yet again contradicts one of the main arguments advanced by Africa's third-term presidents, namely the indispensability of their presidency. Instead, these findings show that Africans might actually be taking the view that positive performance of their presidents might be one of the benefits arising from leadership alternation. Specifically, this

speaks to one of the arguments in favour of term limits where it is contended that leadership rotation increases government efficiency and effectiveness by allowing for new leaders to step in that have new ideas of promoting development and novel ways of solving some of the national challenges being encountered. Thus rather than undermining support for term limits, positive evaluations of presidential performance are having the opposite effect by strengthening public support for the institution of limited presidential tenure.

This finding, however, puts African presidents in a dilemma: to achieve re-election, they have to demonstrate their ability to perform and deliver to the electorate. However, in doing so, this might help to galvanize support for institutions that encourage leadership alternation, thus reducing their prospects of prolonging their tenure, should they wish to do so. Meanwhile, laxity and poor performance is also not an option, as this could negate any claims for seeking a third term. Viewed from a perspective that seeks to retain presidential term limits, this finding is encouraging, as support for presidential term limits in Africa is not likely to fluctuate in accordance with evaluations of presidential performance contrary to the claims of the third-term presidents on the continent.

7.4.1.3.2 Sociotropic and Egocentric Economic Evaluations

While evaluations of presidential performance have a positive effect on support for term limits, the findings on economic evaluations are in line with my original predictions. Specifically, the findings show that positive economic evaluations, both at the sociotropic and egocentric levels, have negative effects on support for presidential term limits.

However, it is worth noting that only the egocentric evaluations are significant in both models while the sociotropic evaluations are not. This goes against other findings which have found that sociotropic evaluations tend to have a greater effect than egocentric ones on support

for democracy and related institutions in Africa and elsewhere (Clark et al., 1992; Cho, 2004; Lewis-Beck, 1988; Mishler and Rose, 1994; Stevens et al., 2006). Instead, my findings show that egocentric evaluations have greater effect on support for presidential term limits than sociotropic ones. After a closer analysis and reflection, this finding makes sense. Given the well documented influence of patronage in African politics, it should be expected that individuals who derive personal economic gain from the presidency should feel beholden to that individual and thus support the prolongation of his tenure. This would not only ensure that they would be able to retain whatever economic gains they will already have accumulated, but extending the tenure of the incumbent means extending the opportunities for accumulating benefits in future. Although I explore the role of patronage in greater detail in the case studies in chapter 9, the findings on egocentric economic evaluations provides the first evidence that patrimonialism in Africa is undermining public support for rules that seek to promote a culture of leadership alternation. On the other hand, positive sociotropic evaluations, like presidential performance, might elicit mixed signals: some individuals might credit the president for such gains and thus join in supporting the removal of term limits. Other citizens on the other hand might see national economic gains as one of the benefits of leadership alternation and thus contribute to making them support term limits more.

7.5 Conclusion

Although Africa's third-term presidents justify their campaigns to remove presidential term limits as people-driven, the findings in this chapter show that such claims are fallacious. Instead, the evidence presented in this chapter shows that there is very strong support for the institution of term limits across the continent. Indeed, both the descriptive data and the regression analysis have demonstrated that presidential term limits are very popular even in those countries

that did not have them at the end of 2009. Although the third-term debates on the continent have contributed to the lowering of popular support for term limits in the countries that have held them, this has not been sufficient to push support levels in those countries below the fifty percent mark, thus ensuring that there is majority support in those countries.

Although I have speculated that the evidence garnered from the two countries that have no presidential term limits suggests that support for tenure limitations is intrinsic, the evidence is mixed when considering the levels of support for the institution in some countries on the continent such as Malawi where support has fluctuated according to the popularity of an incumbent president. However, this issue requires further examination to see if the Malawi experience is also replicated in the other African countries.

Overall, the findings have demonstrated that democratic political values have the strongest effects on public support for presidential term limits and these relationships hold irrespective of whether a country currently has presidential term limits or not. On the other hand, performance evaluations of the presidential and economic performance have mixed results. While on one hand positive assessments of presidential performance increase public support for presidential term limits, both sociotropic and egocentric economic evaluations on the other hand, negatively affect support for presidential term limits. However, only the egocentric evaluations of the economy generate statistically significant results. This suggests that individuals that get personal economic gains from incumbent presidents are most likely to support the removal of term limits. This finding confirms the critical role that the disbursement of patronage resources plays in African politics.

Chapter 8

Institutional Determinants of Presidential Third-Term Bids in Africa

8.0 Introduction

Having established the micro-foundations of support for term limits in the preceding chapter, I proceeded to examine how the range of institutions outlined in the analytical framework in chapter 3, impact on the outcomes of the bids to remove tenure limits. Unlike the studies of Posner and Young (2007) and Siegle (2007), which only focussed on the final outcomes of the third-term bids, I adopted an approach that treated each of the three phases of the third-term bids (discussion; tabling of a legislative bill to remove term limits; and, the final outcome) as being distinct from each other. This is done with the belief that it is possible for some institutions to have different effects at the various phases of the third-term processes. The analysis that follows shows that effects of formal institutions on the process of removing term limits is generally weaker than that of informal rules, yet again underscoring the fact that informal rules are the main drivers of politics in highly personalized polities.

8.1 Data

As indicated in chapter 3, the main source of data for this analysis is the 2010 edition of the World Bank Database of Political Institutions. The data from this source were supplemented by additional data from the Freedom House Index (2010); the Africa Elections database; and the Organization for Economic Cooperation and Development. Data on ethnic fragmentation were obtained from Posner (2004) based on his index of Politically Relevant Ethnic Groups in Africa. These sources were complimented with the author's own original data set from the examination of the Constitutions of forty-three presidential regimes in Africa.

8.1.1 Dependent and Independent Variables

The three dependent variables are derived from the three phases of the bids to remove the presidential term limits:

- i) Discussing the removal of term limits
- ii) Tabling of bill in Parliament to remove tenure limits; and
- iii) An outcome that results in the removal of term limits

The list of the independent variables meanwhile draws from the set of quantifiable institutions identified in the analytical framework in chapter 2. Table 8.1 provides a summary of the institutions that

Table 8.1: List of Independent Variables

Level of Analysis	Institutions	
	Formal	Informal
Meta Level	Maximum Length of Presidential Tenure; Checks and Balances	Precedent of Alternation
State Level	Extent of Democracy; Government's Legislative Majority; Effective Number of Parties	Legislative Fractionalization; Aid as Proportion of GDP
Political Society	President's Share of the Vote in Previous Elections	Age of President; President's Military Background
Civil Society	n/a	Ethnic Fragmentation

formed the basis for the logistical analysis in this chapter.

8.2.1 Descriptive Results

Before delving into the detailed statistical analysis, I started by examining the mean scores of a selected number of independent institutional variables at the three phases of the third-term bids. The main purpose of comparing the means of various independent variables at the three phases of the third-term bids was to establish any differentials that are suggestive of some notable patterns (see table 8.2).

Table 8.2: Means of Some Independent Variables at the Different Phases of the Third-Term Bid Processes in Africa

	Discuss Removal of Term Limits		Formal Attempt to Remove Term Limits		Outcome: Term Limits Removed?	
	Yes	No	Yes	No	Yes	No
<i>Meta Institutions</i>						
Maximum Length of Tenure ^a	10	11	11	10	11	9
<i>State-Level Institutions</i>						
Extent of Democracy (Reversed Freedom House Scores) ^c	3.85	3.86	3.5	3.9	3.38	3.83
Size of Government Legislative Majority ^a	69	61	63	55	63	54
Effective Number of Parties ^e	2.51	3.18	2.16	3.1	2.2	2.4
Aid as Percent of GDP ^b	11.36	11.1	9.19	15.4	6.4	18
<i>Political Society Institutions</i>						
President's Share of Vote in Previous Elections ^d	69	66	71	69	73	62
Age of President ^a	64	60	66	63	67	62
<i>Civil Society Institutions</i>						
Politically Relevant Ethnic Groups ^f	.39	.35	.42	.46	.37	.64

Sources: ^a World Bank Data Base on Political Institutions; ^b Organisation for Economic Co-Operation and Development (OECD); ^c Freedom House; ^d Africa Elections database; ^e Africa Elections Database

Although descriptive data offers very little in terms of explanatory value, a number of interesting patterns are notable from table 8.2. Overall, there appear to be three groups of institutions: the first group includes institutions whose mean values did not differ irrespective of whether a country attempted any of the phases of removing term limits. This group of institutions includes maximum tenure length and the age of the incumbent president at the time of the third-term bid. The second category of institutions includes those where the countries that attempted the removal of term limits had higher mean scores than those that did not. This group includes institutions such as size of government's legislative majority and the president's share of the vote in previous elections. The last sub set of institutions includes those where the countries that attempted the removal of term limits had lower mean scores than those that did not, tentatively

suggesting a negative relationship between these institutions and the pursuit of a third term. This group of institutions includes extent of democracy, aid dependency, the effective number of parties and ethnic fragmentation.

8.2 Logistic Regression Results

In order to test the true effects of the various institutions on the various phases of the process of removing term limits, I carried out a more robust statistical analysis of the relationships between the independent and dependent variables. Since the three dependent variables are all dichotomous, I opted for logistic regression analysis to analyse the causal effects of the independent variables on the third-term process in Africa. Indeed, logistic regression analysis offers the most ideal tool in this regard, as, unlike other regression analysis methods, this makes no assumption about the distribution of the independent variables, which do not have to be normally distributed, linearly related or of equal variance within each group. The findings of the logistic regression analysis are presented in table 8.3.

8.3 Discussion

The first thing to note from the results is that the set of institutions in the model have minimal effect on the first two stages of the third-term processes. In other words, with only minor exceptions, institutions play almost no role in influencing the likelihood of a president expressing a desire to remove term limits and following this up by tabling draft legislation to do so. At the debate phase of the process, the only institution that has a significant effect is the precedent of prior alternation, mostly at the level of the person of the president rather than at the partisan level. At the second phase of the process, the precedent of alternation and legislative fractionalization are the only two institutions that have significant effects, which is both negative. In other words, there are not only no formal institutional explanations on the

Table 8.3: Logistic Regression Results

	Model 1 Discussion of Third-Term Coefficients (Std. Error in Parentheses) B	Model 2 Formal Bid to Remove Term- Limits Coefficients (Std. Error in Parentheses) B	Model 3 Outcome of Third-Term Bid (Std. Error in Parentheses)
<i>Meta Level Institutions</i>			
Maximum Tenure Length	-.006 (.046)	-.010 (.062)	.091 (.058)
Checks and Balances	-.028 (.027)	-.044 (.036)	-.048 (.103)
Precedent of Alternation	-.416* (.183)	-.756** (.253)	-.350* (.145)
<i>State Level Institutions</i>			
Extent of Democracy	-.066 (.055)	-.032 (.074)	-.209 (.101)
Government Legislative Majority	.040 (.227)	.022 (.038)	.019* (.004)
Legislative Fractionalization	-.204 (.335)	-.110* (.061)	-.176* (.078)
Aid Dependency	.007 (.009)	-.009 (.012)	-.128* (.011)
<i>Political Society Institutions</i>			
President's Share of Vote in Previous Elections	.001 (.005)	-.003 (.006)	.017 (.009)
Youth of President	.006 (.009)	.007 (.012)	-.014 (.013)
President's Military Background	-.074 (.170)	.010 (.014)	.360* (.183)
<i>Civil Society Institutions</i>			
Ethnic Fragmentation	.064 (.339)	-.536 (.450)	-1.671* (.366)
Constant	.364	-.926	1.807
Pseudo R ²	.386	.416	.825

differences between those countries that pursued the first and second stages of the third-term bids and those that did not, but there is also a dearth of institutional explanatory that positively influenced these two stages. It is only at the third stage, where the outcomes of the third-term bids emerged, that more institutions become significant, including those that positively and

negatively influenced the outcomes. It was in part as a result of these relatively weak explanations at the first two stages that the study incorporated a case study dimension, whose results are presented in the next two chapters, in order to get a more detailed understanding of these efforts at institutional change in order to enable the incumbent presidents to prolong their tenures.

8.3.1 *Meta-Level Institutions*

As predicted, the three Meta institutions generally had negative relationships with each of the three phases of the third-term bids. However, the two formal institutions at this level (maximum length of tenure and checks and balances) were not significant predictors. Instead, the only significant institution at the meta level was the lone informal type, namely, the precedent of leadership alternation. Indeed, as can be seen from the logistic regression findings in table 8.2, the precedent of alternation is the only one of the full range of institutions in the regression analysis to have a consistently significant effect at all the three phases of the process of removing term limits.

8.3.1.1 *Maximum Length of Presidential Tenure*

Contrary to the initial prediction that presidents who serve longer terms will be less likely to seek and effect the removal of term limits, the findings of both the descriptive data and the regression analysis suggest that tenure length does not have a significant effect on the removal of term limits at any of the three stages. The non-significance of the effect of tenure length at all the three phases of the third-term bids suggest that attempts to remove term limits in Africa are not limited to only those presidents that serve relatively shorter tenures. This is borne out by the fact that among the groups of presidents that have at least discussed the removal of term limits in Africa, there have been short-tenured presidents such as Ghana's Jerry Rawlings and Olusegun

Obasanjo in Nigeria, both of whom could only serve for a total of eight years as well as long-tenured ones such, as Cameroon's Paul Biya and Guinea's Lansana Conté, both of whom could serve a maximum of two seven-year tenures, giving them a total of fourteen years.

The fact that both short- and longer-tenured presidents in Africa have shown a similar proclivity to pursue tenure extensions suggests that the culture of personal rule in Africa cannot be addressed completely through Constitutional engineering in the form of manipulating the maximum length of presidential tenure. While the arguments that presidents who are allowed to serve shorter tenures might seek to prolong their presidency as one of the ways to extend their ability to accumulate wealth might be valid, long-tenured presidents might be just as equally motivated to seek the prolongation of their tenures although the reasons for doing so might be different. Anderson's (2010) contention that the decisions to step down or extend tenure might be motivated by the desire to maximize wealth accumulation and avoid prosecution might be very relevant in this regard. Personal rulers who have stayed in office longer might be more fearful of prosecution and thus be inclined to prolong their tenures to escape that eventuality.

8.3.1.2 Checks and Balances

As expected, the checks and balances variable, which captures the extent to which the Constitutional regime establishes mechanisms for checking on the exercise of executive power by the legislative and judicial branches of government, has a negative relationship with all the three phases of the third-term bids in Africa. However, as with the maximum tenure length variable, this relationship too is not significant in any of the three models. What this finding suggests is that institutions that seek to promote checks and balances have the potential to stymie the removal of term limits although they are currently not strong enough to serve this purpose. That this is the case should not be entirely surprising. Africa's previous long history of

authoritarian rule has meant that the institutions of checks and balances are relatively new and underdeveloped. Indeed, in a number of cases, the new generation of political elites have fought sustained battles to undermining these institutions in a bid to entrench their power. As a result, the effectiveness of checks and balances to counter the accumulation of power has been blunted. As Bratton (1994) cautions, it is natural to expect differences in the role of the institutions of checks and balances in Africa's post-authoritarian regimes since their strength and organizational ability will vary over time and also from country to country. In countries where checks and balances institutions have become stronger and better organized, they can play an effective role in preventing presidents from prolonging their tenure.

However, in countries where checks and balances institutions remain weak and lacking in organization ability, their existence on the statute books alone does not mean they can stifle the ambitions of presidents that want to extend their tenures. Secondly, and as I demonstrate in the next chapter, presidents that seek to remove term limits also often mount comprehensive campaigns to undermine checks and balances institutions. This typically involves institutional manipulations and disbursement of patronage that are designed to undermine the ability of Parliaments and the judiciary to check on the exercise of presidential power. Not only does such manipulations result in the perpetuation of super-presidentialism, as van de Walle (2003) observes, but it also emboldens incumbents to be less fearful of defeat in their third-term pursuits.

Despite their non-significance, the overall negative effect of checks and balances on the three phases of removing term limits provides cause for some cautious optimism about the fate of term limits in Africa. On one hand, the fact that the relationship is negative suggests that efforts at strengthening checks and balances mechanisms can play an important role in reducing

the personalization of power by promoting the retention of institutions that seek to promote a new culture of leadership rotation. However, it needs to be pointed out once again that the lopsided nature of the removal of term limits on the continent means that the institutions of checks and balances are currently not strong enough to effectively check against the continued personalization of power.

8.3.1.3 Precedent of Alternation

Of all the institutions examined in this analysis, precedent of alternation is the only one that has a significant effect at all the three phases of removing term limits in Africa. As predicted, this relationship is negative at all three stages, suggesting that presidents who honour term limits and step down after exhausting their maximum contribute to the establishment of a process of path-dependency, resulting in the reproduction and entrenchment of the institution of term limits. This finding thus corroborates the arguments of other works on institutions that argue that institutional continuity aids the establishment of institutional equilibrium (Arthur, 1994; March and Olsen, 2006; North, 1991; Page, 2006). The finding of a strong negative relationship between the precedent of alternation and third-term bids in Africa also provides important collaboration to Steigle's (2007) argument that presidents who step down after exhausting their maximum tenures, can help to entrench the institution of term limits and aid its retention in the Constitution.

The case of Tanzania, which was one of the first countries to adopt term limits, provides one of the best illustrations of how precedent is an important factor in ensuring the retention of term limits. After the adoption of a two-term-limit rule in 1984, Julius Nyerere, Tanzania's president from independence in 1964 indicated that he would be stepping down in 1985. Nyerere was succeeded by Ali Hassan Mwinyi who stepped down as president in 1995 after serving the

maximum of two five-year terms. Although Mwinyi's successor as president, Benjamin Mkapa, briefly contemplated removing term limits when he approached the end of his second term in 2005, he was pressured against doing so by leading members of his party, who urged him to emulate the examples set by his predecessors and step down (Fombad and Inegbedion, 2010). Faced with this united and strong opposition, Mkapa was forced to drop his bid to seek a third term and promised to step down at the end of his second term in 2005 (ibid). In addition to demonstrating how precedence helps to entrench term limits, Tanzania's case became a model cited by other anti third-term campaigners across the continent. During the third-term debates in Uganda for example, critics of President Yoweri Museveni's attempts to prolong his tenure urged him to emulate Tanzania's example and desist from removing term limits.⁸³ Meanwhile, Mkapa himself eventually embraced this anti-third-term role by urging other African leaders to follow his example by stepping down when they reach the end of their maximum tenure limits.⁸⁴

While Tanzania's case offers a good illustration of the importance of path dependency in the retention of tenure limits, it is important to note that in this case, all the three presidents that had stepped down were succeeded by new leaders from the same party, Chama Cha Mapinduzi (CCM), which has held power in Tanzania since the first nationalist elections of 1958. In this case, the main effect of term limits has been to promote rotation of leadership at the intra-party level without having any effect in the more important alternation-effect at the partisan level. The fact that intra-party rotation resulting from term limits has not aided partisan alternation suggests that there are limits on the extent to which tenure limitations might aid the democratic process. In

⁸³ See "MPs Start Third Term Debate," in the *New Vision*, June 21, 2005, available online at <http://www.newvision.co.ug/D/8/12/440610>.

⁸⁴ See, for example, "Mkapa Slams Life Presidency Syndrome," available online at http://www.iol.co.za/?click_id=68&art_id=qw102406410013B252&set_id=1.

other words, while the precedent of honouring term limits in Tanzania has helped to promote the rotation of the holders of presidential office, it has not satisfied the important aspect of increasing the prospects of victory by presidential candidates from opposition parties. In other words, this case does not serve as an adequate example to substantiate the arguments advanced by Newman (1994) and Maltz (2007), among others, that term limits can aid the alternation in the partisan identity of holders of presidential office. Indeed, the evidence from Tanzania, where the ruling CCM has held very strong legislative majorities even after the incumbent presidents have stepped down, suggests that term limits in Africa are failing to lead to Cheeseman's (2010) prediction that presidential alternation should increase the prospects of opposition parties in legislative elections. Given the widely acknowledged importance of partisan alternation as an indicator of democracy consolidation, the failure of term limits to facilitate either the alternation of presidents and legislative parties along partisan lines, suggests that the precedent of alternation in Africa is currently an insufficient tool for promoting democracy consolidation. In this case, alternation of leaders within the same party ultimately means that the potential of term limits to generate some of the benefits advanced in their favour, such as increasing the prospects of leadership accountability, promoting policy effectiveness and efficiency and increasing popular participation in politics, might not be realized. Indeed, despite the fact that Tanzania's first president, Julius Nyerere, stepped down in 1985, he still continued to wield political power and influence within CCM, so much that it is debatable that his stepping down had a major effect on the personalization of power in the country.

While the precedent of honouring term limits might prevent African presidents from seeking to extend their tenures, it is also important to recognise that this situation might also be contributing to yet another unintended effect of forcing incumbents to explore other options that

can enable them to continue wielding power without having to remove or change the tenure limitation rules. For example, after the defeat of their proposals to remove term limits, the presidents of Malawi, Nigeria, and Zambia all resorted to hand-picking weak successors in an effort to wield power from behind the scenes. In South Africa, Thabo Mbeki, who had succeeded Nelson Mandela as president in 1999, also attempted to circumvent the term-limit rule by contesting for the presidency of the African National Congress when he reached the end of his tenure in 2008. Had he succeeded, this would have given Mbeki a very powerful platform to continue playing a central role in South African politics. Elsewhere on the continent, other leaders such as Senegal's Abdoulaye Wade, Namibia's Sam Nujoma and Togo's Gnassingbé Eyadéma, began to groom their own children as their successors. In yet another recent case, Malawi's Bingu wa Mutharika has launched a national campaign seeking to have his brother succeed him as president when he steps down at the end of his second term in 2014.⁸⁵ However, the most dramatic example of efforts to circumvent tenure limits came from outside Africa when, in early 2011, President Alvaro Colom of Guatemala sought, and was granted, divorce from his wife, Sandra Torres in a bid to pave way for her to succeed him.⁸⁶ Without this divorce, Colom's wife would have been constitutionally ineligible to succeed her husband as president because the Guatemalan Constitution not only bars any president from seeking re-election, but it also disallows succession by the president's immediate relatives.⁸⁷

⁸⁵ See "DPP Agrees on Arthur Peter Mutharika," in *Nyasatimes*, February 11, 2011, available online at <http://www.nyasatimes.com/politics/dpp-agrees-for-arthur-mutharika-not-peter.html>.

⁸⁶ See "Guatemala President Alvaro Colom Granted Divorce," *BBC News*, April 8, 2011, available online at: <http://www.bbc.co.uk/news/mobile/world-latin-america-13022118>.

⁸⁷ See Article 186C of the Guatemala Constitution, 1993.

These examples demonstrate that even in instances where the term-limit provisions are not tampered with, incumbent leaders can find alternative ways to continue playing central political roles without removing term limits. In other words, honouring the term-limit provision in these cases might not mean that all the new generation of African presidents are necessarily subscribing to the underlying concept of leadership rotation which the term-limit rules aim to promote.

8.3.2 State-Level Institutions

While a total of nine state-level institutions were identified as having the potential to influence the outcomes of the third-term bids, only six were analyzed in the regression models. Meanwhile, three informal institutions at this level (patronage, father-figure presidents, and changing the rules of the game), could not be readily quantified and were thus not examined. Of the six state-level institutions examined, only three (president's share of the vote in previous elections, military background of president, and aid dependency) were significantly related to at least one phase of the third-term bids. Government's legislative majority, age of the president, and the number of years the incumbent had been in office, on the other hand, did not have any significant relationships.

8.3.2.1—Extent of Democracy

As noted, a country's democracy standing does not appear to have a significant effect on the outcomes of the third-term pursuits in Africa. Instead, presidents in some of the most democratic regimes on the continent, such as Namibia, Ghana and Mali, were just as likely to consider tenure prolongation as those with very low democratic scores such as Cameroon, Togo and Burkina Faso. The quest for tenure extension, in other words, is not limited to less democratic

polities, but rather, spans across the entire spectrum of different regime types in Africa, from the highly democratic to less democratic ones.

Given that some democratic outcomes, such as strong electoral performance of incumbent presidents, can be used as motivations for the pursuit of a third term, it should not come as a surprise that the extent of democracy alone does not guarantee the preservation of term limits, although it obviously helps. This finding, namely that stronger democracies do not have a strong relationship with dissuading the pursuit of a third-term bid, should serve as a warning that the strengthening of democracy alone does not imply that the trait of presidents wanting to personalize power and seeking the prolongation of their tenures is going to end in Africa. This finding, of course, might also speak to the general deficiencies of African democracies and their inability to facilitate the entrenchment of rules that are aimed at promoting a new culture of leadership alternation.

8.3.2.2 Government's Legislative Majority

It is interesting to note that the size of the ruling party's legislative majority did not deter or encourage incumbents from expressing their intentions to remove term limits and tabling draft legislation to do so. This might suggest that even presidents that do not have high legislative majorities might have felt that they could use informal means to entice opposition members to join in supporting the removal of term limits. Indeed, as I demonstrate in the next chapter, such inducements included extending patronage benefits to members of the opposition and passing laws that undermined opposition cohesion.

However, not surprisingly, higher legislative majorities were a significant factor, albeit a weak one, at aiding the removal of term limits. This demonstrates that African legislators, especially those from the ruling parties, are willing to assist their president in removing term

limits. Presumably, this underscores yet again the personalization of politics on the continent: where ruling parties are known more by the person of the president rather than the policies they espouse, ruling party legislators might calculate that their own prospects of electoral survival are closely tied to the prolongation of the tenure of the president. Rather than face the uncertainty that might arise from leadership alternation, Africa's ruling party legislators are thus more likely to vote in support of removing term limits. There is, in other words, a self-serving component for the legislators' action, not least because voting in favour of removing term limits can be seen as a demonstration of their loyalty to the president and thus placing themselves in positions from where they could be rewarded. At the same time, voting in a manner that enables the president to seek a third term in office might improve re-election prospects when voters tend to support the person of the president and not necessarily the party in power.

8.3.2.3 Legislative Fractionalization

As predicted, the partisan fractionalization of the legislature, as measured by the effective number of parties, has a negative effect on the process of removing term limits. This relationship is particularly significant at the second and third stages of the third-term process, when legislative actors begin to be directly involved in the process.

The fact that legislative partisan fractionalization does not appear to dissuade third-term-seeking presidents in Africa from expressing their ambitions through national debates on the fate of term limits might highlight the belief by African leaders that they can potentially use various informal strategies, including patronage incentives, violence and changes to the rules of the game, in order to undermine partisan opposition to the removal of term limits.

Although partisan fractionalization does not stop presidents from expressing their desires to extend their tenures, the results of the regression analysis show that this institution reduces the

probability of the actual tabling of draft legislation to remove term limits and the passage of any such legislation. Multiple parties not only make third-term-seeking presidents hesitant to table draft legislation, but the evidence adduced in this analysis suggests that a high number of partisan groups in the National Assembly can make compromise difficult, thus exacting high costs for the passage of bills, especially those of a Constitutional nature that require super Parliamentary majorities to pass. The extent to which partisan fractionalization increased the overall cost of removing term limits was arguably best demonstrated in Malawi which had an effective number of parties score of 2.66. In order to neutralize opposition and buttress his own support within the ruling party, President Bakili Muluzi was forced to engage in one of the most extensive patronage campaigns in addition to employing other complimentary strategies such as changing the rules of the game and unleashing violence against his critics. Despite all these efforts, Muluzi was still nonetheless unable to overcome the Parliamentary opposition, resulting in the rejection of his bid to remove term limits and extend his tenure beyond the maximum of two terms

8.3.2.4 Aid Dependency and the Roles of Extant Economic Actors

Dependence on foreign aid introduces an extant actor into the third-term processes by allowing international donors to use aid as a leverage to influence the outcomes of the third-term bids. This is not, of course, a new intervention. As Bratton and van de Walle (1997) demonstrate, the withdrawal of aid was also used to pressure to Africa's authoritarian rulers to respond to the demands of the groups that were advocating for political change that culminated in the political transitions of the 1990s.

As expected, aid dependence, has a negative effect on the likelihood of the tabling of legislation to remove term limits and its passage. As with the other state-level institutions, aid

dependence is however only significant at the final outcome stage. While the countries that failed to remove term limits had an average of 18 percent of aid as a proportion of GDP, the group of countries that managed to remove term limits on the other hand had a much lower mean of aid as a percentage of GDP of 6.4 percent. These findings suggest that the role of donors only kicks in after the third-term proposals move beyond discussions phase. As it was alluded to in chapter 2, the initiation of national discussions on the fate of term limits is largely a reflection of the ambitions of individual presidents. The public expression of these ambitions through the initiation of public debates on the fate of term limits is thus highly unlikely to be influenced by extant political and economic actors such as donors.

However, while it is impossible for donors to use aid to leverage against the initiation of the national debates on the fate of term limits, they can become involved in pressuring third-term-seeking presidents against the tabling of a bill to remove term limits. This can be in the form of threats to reduce or withdraw aid in the event that the quest to remove term limits is not dropped. When donor pressure fails to halt the tabling of a bill to remove term limits, donors can continue to use threats to withhold aid in order to pressurize legislators against passing the bill that would lead to the removal of term limits. This was clearly the case in Malawi and Zambia, two of the most aid-dependent African countries, when both countries attempted to remove term limits. In both cases, donors exerted pressure on the governments of Presidents Chiluba and Muluzi to halt their bids to remove term limits.⁸⁸

⁸⁸ See *BBC News*, “Donors Urge Zambia’s President to Step Down,” April 27, 2001, available online at <http://cdnedge.bbc.co.uk/1/hi/world/africa/1300823.stm>. See also *IRIN News*, “Donors Urge Consultation over Third Term in Malawi,” September 17, 2002, available online at <http://www.irinnews.org/Report.aspx?ReportID=34564>.

The fact that aid dependence appears to lower the likelihood of a third-term bid provides an important lesson not only about the role of donors in influencing adherence to the rule of law and the preservation of key democratic institutions in Africa, but it also highlights the reluctance by the new generation of African leaders to accept the institution of term limits. In this case, adherence to term limits due to donor pressure suggests that the survival of term limits might not necessarily always signify a commitment to the ideal of leadership alternation but might merely be a reflection of the pragmatism induced by the recognition by especially those countries that are heavily reliant on donor aid. In this regard, Posner and Young (2007) are mistaken to assume that the increasing number of African presidents who have stepped down as a result of term limits reflects the gradual demise of personal rule and the quest for leadership longevity on the African continent. The fact that term limits continue to face sustained pressure from a high proportion of African presidents and that their survival is only being assured by the interventions of foreign donors and other local political actors, suggests instead that the traits of personal rule remain an important feature of contemporary African politics. These traits are however not being translated into longer tenures not because of a commitment to tenure limitations, but rather, because of the activism of various actors, both domestic and extant. Thus while the presidents that have abandoned the third-term pursuits at the discussion stage have to be applauded for doing so, it has to be recognized that not all such decisions reflect a buy-in into the importance of term limits and rule of law. To the extent that some of the decisions to step down are a result of donor pressure, they reflect an instrumentalist view of the law on term limits, reflecting a triumph of economic realism and not necessarily a commitment to the concept of regular leadership alternation.

8.3.3 *Political Society Institutions*

Of the four state institutions identified at the political society level, the effects of only three could be tested (extent of democracy, share of the presidential vote in previous elections and the effective number of parties). Of these three, only one (effective number of parties) was significantly related to two of the third-term phases. Meanwhile, although stronger democracies were less likely to pursue a third-term bid, the effect of this variable was not significant at any of the three stages, suggesting that the passage of third-term bids is not influenced much by the extent of a country's democracy.

8.3.3.1 *President's Share of the Vote in Previous Elections*

Although a high share of the presidential vote in previous elections does not equate to public endorsement for the removal of term limits, the correlation matrix confirms the existence of a positive relationship between this and the proclivity to initiate discussions to remove term limits in Africa. This suggests that winning elections with a high vote share is perceived by African presidents as a motivator to start considering themselves as indispensable and thus begin to seriously consider removing the term-limit provisions. It is thus possible to predict the likelihood of a third-term bid based on the share of the presidential vote that an incumbent president garnered in the previous elections. The magical figure in this regard appears to be 70 percent of the presidential vote as all presidents that secured at least this share of the vote between the period 1990 and 2009 initiated national discussions that proposed the removal of term limits.

To the extent that low victory margins in elections can reduce the likelihood of a third-term pursuit, this finding suggests that competitive elections, besides underscoring the

consolidation of democracy, can play a major role in preventing retrogression to the era of personal rule in Africa.

8.3.3.2 *Youth of President*

The findings of both the descriptive data and the regression analysis debunk the prediction that younger African presidents would have a stronger urge to hang on to power than their older counterparts. Instead, it is clear that the quest for tenure prolongation through the removal of term limits in Africa is not a preclusive of any particular age cohort of presidents as leaders of all age categories, both young and old, are just as likely to pursue a third-term bid. This is clearly demonstrated by the fact that the five youngest Presidents in the field of thirty-one presidents in the data set, who had a mean age of forty-eight years,⁸⁹ all contemplated removing term limits. Meanwhile, the five oldest presidents, whose mean age was 77 years,⁹⁰ also initiated their own campaigns to extend their tenures beyond the tenure limits.

On reflection, this finding is not entirely surprising. While Posner and Young (2007) were right to observe that the removal of term limits in Africa is motivated by a desire to prolong the accrual of benefits that come with that office, they advance no convincing reasons as to why older presidents should also not seek similar benefits. Indeed, given Anderson's (2010) observations about the limited opportunities that former African presidents have after they leave office, it can be argued that the portfolio of post-presidential career opportunities is even more limited for older presidents. It is also possible that presidents who ascend to office late in life might be motivated to prolong their tenure in an attempt to maximize benefits from the

⁸⁹ Joseph Kabila in the DRC (34); Rwanda's Paul Kagame (46); Chad's Idris Derby (53); Ghana's Jerry Rawlings (54); and Burkina Faso's Blaise Compaoré (54).

⁹⁰ Senegal's Abdoulaye Wade (82); Kenya's Daniel arap Moi (77); Malawi's Bingu wa Mutharika (75); Sierra Leone's Ahmed Tajan Kabah (75); and Cameroon's Paul Biya (75).

presidency and make up for the losses encountered during the long years outside of power. The case of Senegal's Abdoulaye Wade, is a very good example of such an individual. Between 1978 and 2000, Wade had contested unsuccessfully in four presidential elections before winning in 2000 at the age of seventy-four. After this late start, Wade quickly demonstrated his reluctance to relinquish power by orchestrating Constitutional changes that will allow him to extend his tenure for additional fourteen years after he finishes his second five-year term in 2012. Wade could thus potentially serve as president until he is one hundred years old.⁹¹

8.3.3.3 *President's Military Background*

The findings of the regression analysis suggest that presidents that have previously served in the military are more likely to table bills seeking the removal of term limits and are also most likely to succeed in doing so. In addition to the margin of victory in previous elections, the military background of incumbent presidents had a significant relationship at the first and third phases of the third-term bids.

Although the effect of the military background of presidents is not significant at the first and second phases of the third-term bids, it is moderately significant at the outcome stage. This is also borne out by the fact that the rate of removal of term limits was higher among military presidents (88 percent) as compared to 70 percent among non-military presidents. Taken together, these findings suggest that once the decision is made to proceed with tabling legislation to remove term limits, presidents with military backgrounds can utilize their military networks to secure the passage of these bills. This could be either directly through the employment of military force against opponents as happened in Chad, Niger and Burkina Faso. The importance

⁹¹ See "Elderly Wade Eyes Third Term," AFP (IOL), September 18, 2009, available online at http://www.int.iol.co.za/index.php?set_id=1&click_id=68&art_id=nw20090917223423137C306618.

of the president's military backgrounds influencing the outcomes of the third-term bids is demonstrated by the fact that ten of the twelve presidents that removed term limits had previously served in the military (see table 8.4).

Table 8.4 Third-Term Bids and the Military Backgrounds of Presidents in Africa

Military History	Term Limits Removed (N=12)	Third-Term Proposal Rejected
President Has Served in the Military	Abdelaziz Bouteflika (Algeria) Blaise Compaoré (Burkina Faso) Gnassingbé Eyadéma (Togo) Idriss Déby (Chad) Lansana Conté (Guinea) Mamadou Tandja (Niger) Omar Bongo Ondimba (Gabon) Sam Nujoma (Namibia) Yoweri Museveni (Uganda) Zine El Abidine Ben Ali (Tunisia) (10)	Olusegun Obasanjo (Nigeria) (1)
No Military Background	Paul Biya (Cameroon) Abdoulaye Wade (Senegal) (2)	Bakili Muluzi (Malawi) Fredrick Chiluba (Zambia) (2)

Of the eleven presidents that had served, or were still serving, in the military, only one (Obasanjo) failed to secure the removal of term limits. In other words, there was a 91 percent chance that once a president who had served in the military decided to seek the removal of term limits, he was going to succeed. Conversely, not only were there fewer non-military presidents that actively sought to remove presidential term limits (four), but the only half of these were able to push through the Constitutional amendment bills that removed the tenure limits. Thus the military background of the incumbent was a critical factor in not only determining the likelihood of a third-term pursuit, but also the eventual removal of term limits. As I demonstrate in the next chapter, a president's military links played an important role in the perpetuation of the strategy of violence, which helped to silence and cow opponents of the bids to remove term limits more

effectively. Conversely, presidents that had no military backgrounds could only rely on the less threatening violence perpetuated by ruling party militias, which was not as effective.

Thus despite the adoption of tenure limitations, the continued personalization of power in Africa is feeding on the lingering militarization of politics that is perpetuated by leaders that have previously served in the military. Although these leaders might have originally claimed to support term limits, they subsequently use their military linkages to facilitate the process of overturning the tenure limits. It is also likely that the nature of military experience, with its strict requirement for discipline and hierarchical power structures, inculcates a culture of authoritarianism in former military leaders that travels with them beyond their time in the military. The survival of the new democratic institutions and consolidation of democracy in Africa, in this regard, are threatened by the lingering militarism in African politics that is perpetuated by military-turned-civilian leaders who are demonstrating that they are ready to utilize their military linkages to aid the removal of rule that seek to limit the exercise of power.

8.3.4 Civil Society Institutions

8.3.4.1 Ethnic Fragmentation

One of the popular claims made by the group of African presidents that have sought to remove term limits has been that leadership continuity provides one of the best guarantees for stability among Africa's ethnically fragmented societies. In Namibia for example, the SWAPO Elders' Council referenced their support for the removal of term limits on President Sam Nujoma's alleged "unifying qualities, without which there would be civil war in Namibia."⁹² Similar arguments were also made about President Yoweri Museveni's in Uganda where the removal of term limits was anchored on the argument that he had demonstrated an ability to

⁹² See *The Namibian*, "Should the President Stay or Go?" October 2, 1998, pg. 2.

preside over a long period of relative political stability in a country that had been regularly torn apart by political strife (Makara, 2007; Okuku, 2005).

However, contrary to these claims, ethnic fragmentation, as measured by Posner's Politically Relevant Ethnic Groups Index, has a negative effect on the likelihood of the tabling of draft legislation to remove term limits and its eventual passage. In other words, countries that are more ethnically fragmented are less likely to remove term limits than more homogenous ones. While this finding goes against the original prediction, it is, on reflection, not entirely surprising. Given the widely documented ethnic nature of organized political activity in Africa, high ethnic fragmentation should increase, rather than reduce, the number of partisan obstacles that can prevent the ability of sitting presidents from extending their tenure. This is because tenure extension reduces the opportunities for other ethnic groups to put forward candidates from their own ethnic backgrounds and thus access the benefits of presidential office.

Tenure limits, in this regard, provide an institutional mechanism that allows different ethnic groups to bid their time and hope that they too will get their turn at producing a president through legitimate political means. Under these conditions, it becomes very difficult for opposition parties in ethnically fractured societies to support the removal of term limits. Thus contrary to the claims that tenure prolongation provides political stability, it is actually the possibility of rotation that is promoted by institutions such as term limits that can create a more solid foundation for political stability in Africa's divided societies.

8.4 Conclusion

The ability of African leaders to ostensibly portray themselves as reformed democrats while retaining the old robes of authoritarianism has been demonstrated by the high proportion of leaders that have expressed an interest to remove term limits in order to prolong their tenures.

While most of the current generation of presidents claim to represent a new breed of African leadership, the frequency and commonality of attempts to remove term limits suggests the traits of personal rule continue to characterize African politics and that the continent faces a long battle to move away from these modes of governance.

Of the three stages of the third-term processes in Africa, the discussion stage is the least impacted by the range of institutions outlined in the analytical framework. Only one institution, the precedent of alternation, had a significant effect at this initial third-term stage. That this is the case collaborates the original prediction that the quests to remove terms limits in Africa reflect the personal ambitions of incumbent leaders and that these quests are less influenced by existing institutions, whether formal or informal. This also suggests that the discussion phase of the third-term bids serves as an information gathering process for presidents on the likelihood of success of any third-term pursuit. The information gathered from these discussions can either lead to the abandonment of the third-term pursuits when the signs are that any bids are less likely to succeed. For those that decide to proceed to the next stage in the process, the information gathered can be used to choose the appropriate strategies for securing the removal of term limits.

The main effect of institutions however begins to kick in once the incumbent leaders decide to take the next step of drafting and tabling legislation to remove term limits. However, even then, only two institutions, the precedent of alternation and the effective number of parties, have significant effects at this stage, both of which are negative. While it is encouraging that multi-party Parliaments and the decisions of former presidents to honour term limits reduce the likelihood of the tabling of legislation to remove term limits, it is nonetheless worth noting that several other institutional features remain non-significant factors in preventing the third-term pursuits at this stage. This might suggest that most institutions designed to end the culture of

personal rule in Africa still remain very weak and are thus not able to prevent the current generation of African leaders from manipulating Constitutional rules to advance their personal interests and ambitions.

The main effect of institutions, however, appears to be at the final outcome stage. While some institutions, such as strong government legislative majority, long-tenured leadership and presidents that previously served in the military, all aid the removal of term limits, several other institutions make the removal of term limits very difficult. These include precedent of alternation, aid dependency, high partisan fractionalization of the legislature and ethnic fragmentation. It is telling though that of the four institutions that have a negative effect on the removal of term limits, only one, the effective number of parties, is of a formal type. This, once more, provide some tentative evidence to suggest that the third-term outcomes in Africa are largely influenced by informal institutions and less by formal ones. Nonetheless, while it is encouraging that legislative multi-partism promotes retention of term limits, it also needs to be noted that ruling parties in Africa often win substantial electoral majorities that reduce the likelihood of their legislatures from helping to undercut personal rule on the continent. It is also possible that the absence of significant relationships between the bulk of formal institutions on the bids to remove term limits in Africa highlights the fact that informal institutions continue to be dominant in influencing political outcomes than formal ones.

Despite extending the period of coverage to include all cases that pursued a third-term bid up to 2009, which made it possible to increase the sample size of cases where an incumbent had reached the end of their tenure to thirty-one (thirteen more than the number of cases that Posner and Young covered in their 2007 study), it was still not possible to measure the effects of several non-quantifiable institutions, particularly those of a formal kind. In order to shed more light on

how the various types of institutions actually influenced the outcomes of the bids to remove term limits, and also to capture the effects of the institutions not covered in the regression analysis, the study thus proceeded with an in-depth case study analysis of how the third-term bids unfolded in four countries: Malawi, Namibia, Uganda and Zambia.

Chapter 9

Strategies for Removing Presidential Term Limits and their Effects in Malawi, Namibia, Uganda and Zambia

9.0 Introduction

Despite finding some strong relationships between the various institutional variables and the third-term bids in Africa, the logistic regression analysis in the previous chapter failed to establish significant casual relationships among a high number of the institutional variables and the third-term bid processes in Africa. In addition to the weak relationships from the quantitative analysis, the logistic regressions did not capture the important, albeit non-institutional, dimension of the third-term bids, namely, the strategies that were employed to remove term limits. In addition, and as alluded to earlier in chapter 2, the effects of a number of informal institutions could not be exactly determined in large part because some could not be quantified while the effects of others could not be adequately ascertained because the minutiae differences across countries could not be captured in the quantitative analysis.

In order to address the omitted institutions, the study followed the nested analysis framework suggestion to step down from the continental focus and zeroed in on a four-country case study that examined in greater detail how the third-term bids unfolded in two countries that removed term limits (Namibia and Uganda) and in two where the third-term bids were rejected (Malawi and Zambia). By juxtaposing two countries that removed term limits against two that failed to remove them, it became possible to isolate the key factors that appear to explain the differing outcomes. This is not, by all means, to imply that we can draw conclusive and inferential observations from this analysis. Given the small and purposely selective nature of the sample of case-study countries, we could not make strong inferences from this analysis. However, given that nothing short of conducting similar detailed studies in all the countries that

attempted to remove the term-limit provisions would have generated more conclusive results, this case study approach is, at a minimum, an important starting point that generated insights into how informal institutions influence the outcomes of the bids to remove term limits.

The results of the case studies are split into two parts. The first part, which forms the gist of this chapter, is a detailed examination of the two principal strategies that were utilized to achieve the goal of removing term limits. This is followed in the next chapter by an examination of how informal institutions, including those based on organization structures and cultural practices, influenced the differing outcomes of the third-term bids in the four countries.

9.1 A Structured Case-Study Analysis of the Bids to Remove Term Limits in Malawi, Namibia, Uganda, and Zambia

As discussed in the opening chapter, the adoption of presidential term limits in Malawi, Namibia, Uganda and Zambia came at the height of the third wave of democracy that swept across the African continent from 1990 onwards. The first of the four case-study countries to adopt term limits was Namibia (1990), followed by Zambia (1991), Malawi (1994), and Uganda (1995). All four countries meanwhile adopted the identical rule of limiting their presidents to serving a maximum of two five-year terms.⁹³

As discussed in chapter 1, the four presidents of Malawi (Bakili Muluzi); Namibia (Sam Nujoma), Uganda (Yoweri Museveni), and Zambia (Fredrick Chiluba) were all among the earliest advocates of term limits during the transitions of the 1990s. The fact that they subsequently turned against these very rules and attempted to remove them, therefore underscores the fact that their original support was motivated by an attempt to be seen as part of

⁹³ See Article 29(3) of the Namibia Constitution, 1990; Article 35(2) of the Zambia Constitutions of 1991 and 1996; Section 83(2) of the Malawi Constitution, 1994; and Article 105 of the Uganda Constitution of 1995.

a new and progressive type of leadership that was intent on making a break with Africa's history of authoritarian rule. Yet, their subsequent efforts to remove term limits when these rules became barriers against their plans to extend their hold on power suggests that their initial support did not represent a disavowal of personal rule, but rather, it was merely part of a strategy to create opportunities to ascend to power. In other words, the initial support for term limits might have been motivated by purely instrumental calculations which had the additional effect of enhancing the cosmetic democratic credentials of these new challengers for presidential office. Because of the shallow nature of this support, which was not founded on commitment to the values and arguments in favour of term limits, it quickly dissipated once these leaders were confronted with the prospects of having to step down when the tenure limitations now stood in their way.

Because the discussions to remove term limits in all four countries were motivated by the desires of the four incumbents to prolong their tenures on approaching the end of their second and final tenures of office, the order with which the four countries sought to remove the term limits followed the order with which the rules had been adopted. Thus Namibia was the first to tamper with the term-limit provision in 1998, followed by Zambia (2001), Malawi (2002-2003), and finally, Uganda (2005). Table 9.1 offers a summary of the key timelines in the histories of presidential term limits in the four countries.

In all four cases, term limits came under attack when the incumbents subjected to these rules approached the end of their final tenures. This might suggest that the longer term limits remain on the statute books, it will be less likely that incumbents will seek to remove them. Given their earlier support for term limits, the attempts by the four presidents to remove these rules on approaching the end of their final terms yet again underscored the fact that support for term limits is, in many respects, temporary. African leaders such as these four, only expressed

Table 9.1: A Brief Timeline of Presidential Term Limits in Malawi, Namibia, Uganda, and Zambia

Country	Year	Constitutional Developments	Presidential Term Limits
Namibia	1990	Independence from South Africa. New Constitution provides for presidential term limits.	Yes
	1998	Amendment allows President Nujoma to seek a third term.	No
Zambia	1964	Independence from Britain. New Constitution. Presidential system.	No
	1973	Constitutional amendment designates Zambia a one-party state.	No
	1991	New multi-party Constitution adopted. Presidential term limits introduced. President Kenneth Kaunda defeated in elections and succeeded by Fredrick Chiluba.	Yes
	1996	Referendum to adopt new Constitution defeated.	Yes
	2001	Proposal by President Chiluba to remove presidential term limits rejected.	Yes
Malawi	1964	Independence from Britain. Multiparty Parliamentary system.	No
	1966	Declaration of Malawi Republic. Presidential system.	No
	1971	Amendment makes Hastings Banda Life President.	No
	1994	New Constitution adopted. Presidential term limits introduced. President Banda defeated by Bakili Muluzi.	Yes
	2002	Proposal to abolish term limits rejected.	Yes
	2003	Second proposal to extend term limits from two to three terms rejected.	Yes
Uganda	1962	Independence from Britain. Multi-party, Parliamentary, with ceremonial president.	No
	1967	Interim presidential Constitution adopted.	No
	1967	New Constitution adopted. Presidential system.	No
	1986	Military coup led by Yoweri Museveni overthrows government of Milton Obote. NRM proclamation reaffirms 1967 Constitution. Presidential system.	No
	1995	New non-partisan Constitution adopted. Presidential term limits introduced.	Yes
	2005	Major Constitutional amendments legalizing party politics. Term limits removed.	No

Source: Fieldwork by author

initial support for term limits so long as these rules did not stand in their way to staying in power.

When these same rules became institutional barriers for perpetuating their hold on power, they quickly reversed their original positions and advocated for their removal.

Although all four presidents sought to prolong their tenures, only Namibia's Nujoma and Uganda's Museveni were able to remove term limits. Meanwhile, Malawi's Muluzi and Zambia's Chiluba failed in their bids and were compelled to stand down at the end of their second terms. The contrasting outcomes of the third-term bids in the four countries, despite sharing a common political history, bring to mind Leo Tolstoy's opening words in the novel, *Anna Karenina* that states "happy families are all alike; [but] every unhappy family is unhappy in its own way."⁹⁴ Without inferring that all the African countries that have not ventured into removing term-limitation rules on their presidency are all "happy" in the same way, the variation in the outcomes of the bids to remove term limits in the four countries goes some way to lend credence to Tolstoy's theory that different circumstances might influence outcomes of institutional change processes differently in what otherwise appear to be similar situations.

In analyzing how the third-term bids unfolded in the four countries, the discussion that follows utilizes the approach of *analytic narratives*. This approach, as Bates et al. (1998) point out, pays close attention to stories, accounts and context. By adopting this approach, I am able to make an explicit attempt to construct explanations of empirical events through analyses that "respect the specifics of time and place but within a framework that both disciplines the detail and appropriates it for purposes that transcend the particular story" (Levi, 1999:154). The analyses and discussion thus follows the analytic narratives approach by incorporating elements of deduction and induction in ways that allow the identification of generalizable features of political behavior surrounding the third-term bids.

Before venturing into a discussion of the strategies and institutional dimensions of the third-term processes in the four countries, it was very clear that the choice of strategy, as well

⁹⁴ Leo Tolstoy, *Anna Karenina*, translated by R. Pevear and L. Volokhonsky, New York: Penguin, 2002, pg. 1.

how informal institutions were utilized and impacted on the final outcomes of the quests to remove term limits, were influenced in large part by the status of the ruling party majorities in the National Assembly. In cases where the ruling parties held strong legislative majorities, there were often less aggressive strategies employed as well as limited utilization of informal institutions to secure the removal of term limits. Table 9.2 provides a summary of the legislative composition in the four case-study countries at the time of the third-term pursuits.

Table 9.2: Parliamentary Composition during the Bids to Remove Term Limits in the Four Case-Study Countries

	Malawi (May 1999)	Namibia (Dec. 1994)	Uganda (June 2001)	Zambia (Nov. 1996)
Total number of National Assembly seats	192	72	250 + 26 ^a	150 + 8 ^b
Number of ruling party seats in the legislature (proportion of total in parentheses)	93 (48%)	53 (74%)	235 (85%)	139 (88%)
Minimum number of votes required for Constitutional amendment	128	48	184	100
Effective number of parties ^a	2.66	1.71	-	1.31

^a Article 78(c) of the Uganda Constitution (1995) provided for a Parliament composed of 250 directly elected non-partisan members and an additional twenty-six members appointed by the president to represent the army, youth, and persons with disabilities.

^b Zambia's Constitution (1991) establishes a Parliament of 150 directly elected members and an additional eight members nominated by the president.

9.2 Findings: The Effect of Strategy Choices in the Removal of Term Limits

The literature on institutional change has highlighted the fact that when decisions to alter or remove a particular institution are made, there follows a process that examines the various options and strategies for achieving the desired outcomes. The choices about what strategies to employ are primarily influenced by the time and resources available (IFAD, 2008). With regards to quests to overcome the presidential tenure limitations, the key strategies involved ways of

securing the necessary support to effect the removal of term limits. These strategies were focused on securing the support of sufficient numbers of Parliamentarians as well as aiming to secure public support for the third-term bids. Some of the strategies meanwhile were targeted at weakening and eliminating any sources of opposition against the removal of term limits. From the fieldwork, two primary strategies, each with varying dimensions, were recorded in the four countries, namely:

- i) Violence against opponents, and
- ii) Changing the rules of the game

These strategies, which were employed by proponents of the third-term bids, were meanwhile expected to aid the removal of presidential term limits and allow the incumbents to seek additional terms of office beyond those prescribed by the Constitution. The extent to which each country utilized the three strategies is summarized in table 9.3.

Table 9.3: Strategies for Removing Presidential Term Limits in Malawi, Namibia, Uganda, and Zambia

Strategy/Country	Malawi	Namibia	Uganda	Zambia
Violence against opponents	Yes (by ruling party militias only)	Yes (by ruling party militias backed by the police and army)	Yes (by ruling party militias aided by the police and army)	Yes (by ruling party militias only)
Changing the rules of the game	Extensive	Minimal	Extensive	Moderate

Source: Fieldwork

9.3.1 Violence Against Opponents

While the literature on African politics has emphasised the use of patronage as a tool to win support among the continent's personal rulers, the use of violence to intimidate opponents and to compel supporters into compliance has also been an important strategy for perpetuating personal rule. Jackson and Rosberg (1982:48) alluded to this reliance on violence when they

pointed out that personal rule as a form of governance is characterized not only by its authoritarian nature, but also by its “political monopoly...[built around] the elimination or subordination of rivals.” Although the introduction of competitive politics in the 1990s was expected reduce the role of violence as a political tool, there is evidence that it still remains part of the broad spectrum of strategies used by African presidents to keep opponents at bay. Two recent studies on Zimbabwe by Le Bas (2006) and Bratton and Masunungure (2007), for example, have both demonstrated that violence continues to be an integral part of the politics of personal rule in the post-authoritarian era. Elsewhere on the continent, violence has also been employed in Kenya, Eritrea, Sudan, Cameroon, Ivory Coast, Uganda, to mention but a few examples, to keep incumbents in power. Against this background, it was thus expected that not only violence would be an integral part of the portfolio of strategies employed in the quests to remove presidential term limits, but also to influence the outcomes by increasing the prospects of removal.

Accordingly, the first prong of the strategies to remove term limits in the four countries was the threat and use of violence. Violence as a strategy was specifically employed to intimidate opponents so that they could be coerced into supporting the proposals to remove term limits or to remain silent. While all four countries employed the strategy of violence, a closer analysis of the case studies however revealed that the most important key that determined whether the proposal to remove term limits were passed or rejected lay in the choice of the perpetrators of violence. In the countries where the incumbent president was able to call upon the state instruments of coercion, namely the army and the police, as was the case in Namibia and Uganda, this served to enhance the prospects that violence as a strategy would work to enhance the prospects of removing term limits. Conversely, where the army and the police did not get

involved and the perpetuation of violence was limited to ruling party militias, as was the case in Malawi and Zambia. Because violence perpetuated by ruling party militias was not as potent as that where state instruments of coercion were utilized, it was a less effective strategy in securing the removal of term limits in these two countries.

9.3.2.1 Violence as a Winning Strategy in Namibia and Uganda

In the two countries that altered presidential tenure limits (Namibia and Uganda), the main perpetrators of violence included party militias who were aided by the police and military. In Namibia for example, individuals and groups that opposed the proposal to allow President Nujoma to seek a third term were routinely beaten up by SWAPO party militias, often in the presence of the police and military agents.⁹⁵ In a number of cases, the Namibian government used intelligence agents from the military and the police to hound critics of the third-term proposal. Among the victims of the state-sponsored violence in Namibia was a former senior SWAPO official, Ben Ulenga, who had broken ranks with the ruling party over the third-term proposal. However, following Ulenga's decision in April 1999 to form a new party, the Congress of Democrats (COD) he and his supporters were frequently followed and intimidated by Namibian Central Intelligence Service (NICS), agents who also actively discouraged Namibian citizens from attending the party's meetings. In addition, intelligence agents from the Namibian Defence Force, whose top leadership had been drawn mostly from SWAPO's former military wing, the People's Liberation Army of Namibia, mounted surveillance campaigns aimed at preventing those opposed to the third term from organizing to work as a united front.

The use of violence that drew upon the state machinery of force in Namibia not only had the effect of silencing opponents of the third-term proposal, but it also served as an important

⁹⁵ See, for example, the US State Department's *1999 Namibia Human Report*, which records several cases of beatings of anti-third term activists by SWAPO Youth militia and the state police and military.

deterrent against other would-be opponents by creating “a lot of fear within the SWAPO ranks and the broader civil society... a lot of people who did not agree with the proposal to amend the Constitution to enable Nujoma seek a third term were forced to contain their anger while maintaining their silence in fear of the SWAPO and the state’s security agents.”⁹⁶

However, because Nujoma and SWAPO, who were still basking in the political honeymoon of having spearheaded Namibia’s independence, faced relatively little opposition, violence did not have to become as extensive or critical part of the third-term campaign. By contrast, the political dynamics in Uganda were such that there was greater uncertainty that the proposal to remove term limits would pass easily. As a result, President Museveni had to rely on a more extensive use of violence compared to Namibia. The heavy reliance on violence as a critical component of the third-term campaign in Uganda, led Mwenda (2007) to argue that the Uganda’s ruling NRM was first and foremost a military grouping that happened to pursue political goals as a party. For example, President Museveni relied both on the NRM party militia, supplemented by support from the police and military to suppress opponents of his quest to remove tenure limits. The central role that violence played as a strategy in Uganda was cited by nearly all key informants that were interviewed and was also highlighted by Makara (2007:57), who noted that Museveni “used the police and army as key players...to suppress legitimate opposition or even simple dissent...” As part of this strategy, the Museveni regime formed a number of new state-sponsored security organizations whose primary purpose was to suppress dissent against the removal of term limits.

Among the examples of the Ugandan military’s involvement in the third-term process were groups that were established at Museveni’s instigation such as the Kalangala Action Plan,

⁹⁶ Personal interview with author, November 27, 2008.

the Popular Intelligence Network, and the Violent Crime Crack Unit, all of whom were headed by senior officers from the Uganda People's Defence Force (UPDF). Although the three military-led groups were ostensibly formed with a view to curbing crime, they were primarily used to crack down on opponents of the proposal to remove term limits (Mabasi, 2008; Okuku, 2005). Subsequently, the debates on the proposal to remove term limits were characterized by frequent instances of opposition leaders being beaten up while others were arrested and tried in military tribunals on politically motivated charges.⁹⁷ In more extreme cases, some opposition leaders were abducted from their homes by security agents and never heard from again.⁹⁸

The use of state machinery of coercion in Namibia and Uganda against opponents of the proposal to remove term limits also had the additional effect of quelling internal dissent within the ranks of the ruling parties. The few internal dissenters in both cases were ruthlessly suppressed and cast into what one interviewee described as the "Namibian political wilderness."⁹⁹

9.3.2.2 Failure of the Strategy of Violence in Malawi and Zambia

Despite failing to push through the removal of term limits, the presidents of Malawi and Zambia also used violence as part of the portfolio of strategies to prolong their tenures. However, while Namibia and Uganda roped in the police and military to aid the violence campaign, the main purveyors of violence in Malawi and Zambia were the militia wings of the ruling parties. In Zambia for example, the youth militia of the MMD threatened violence against opponents of the

⁹⁷ For example, the leader of the main opposition, Forum for Democratic Change, Kizza Besigye, was arrested and put on trial for treason in a military tribunal in 2005.

⁹⁸ Mabasi (2008) cites Robert Mugenyi and Otim Orach, both senior FDC officials, who were abducted in early 2005 and were never heard from again.

⁹⁹ Interview with author, December 4, 2008.

proposal to remove term limits, saying in a statement that they would “work like the the Ku Klux Klan (KKK), and flush out those that are found wanting in order to cleanse our society of such miscreants.”¹⁰⁰ Among the victims of this violence included civil society activists and members of opposition parties who argued against the proposal to remove term limits. Members of the MMD Youth wing also regularly assaulted those from within the ruling party that were opposed to the third-term bid for President Chiluba, with several MMD dissidents being threatened with forced deportation from Zambia. This violence campaign was also extended to provincial MMD conventions, where, as Chella and Kabanda (2008) note, district administrators (DAs) were “brandishing their pistols while the other cadres moved freely with their knives and *pangas* in full view of the police officers.”¹⁰¹

Meanwhile in Malawi, President Muluzi and his UDF also unleashed a campaign of violence against critics of the proposal to remove term limits. As Dulani and van Donge (2005) note, the main purveyors of this violence were members of the ruling party’s youth wing, the UDF *Young Democrats*, who terrorized opponents, including MPs from both the ruling party and the opposition who had expressed opposition to the lifting of term limits. In mid 2001 for example, the *Young Democrats* assaulted three UDF legislators and burnt their vehicles outside the gates to the National Assembly for expressing public opposition to the removal of term limits.¹⁰² Other victims of this campaign of violence by the UDF youth wing included members

¹⁰⁰ See “Public Statement by MMD Cadres,” in the *Post Newspaper*, April 7, 2001.

¹⁰¹ See “We Shall Force Patel out of Zambia: MMD Cadres Seek Patel’s Deportation,” in the *Zambia Post*, March 16, 2001; see also “Armed Gangs Aiding MMD Cadres,” in the *Zambia Post*, March 30, 2001.

¹⁰² See “Big Fight at Parliament,” in the *Daily Times*, June 6, 2001.

from the independent media houses, civil society, university students, private media practitioners and church leaders (Dulani and van Donge, 2005).

9.3.2.3 The Potential and Limits of Violence as a Strategy

While violence was employed as a strategy in all four countries, the success or failure of this strategy was dependent on the involvement of the state institutions of coercion, namely the police and the army. In the two countries where the police and the army were active players in terrorizing opponents (Namibia and Uganda), term limits were eventually removed. Conversely, in Malawi and Zambia, where the violence strategy was carried out by ruling party militias, the efforts to remove term limits were defeated. This suggests that in highly contentious proposals for institutional change, violence as a strategy might require the involvement state instruments of coercion to achieve the desired results. Unlike party militias, the state instruments of coercion provided the most credible and fearsome response against groups and individuals opposed to the removal of term limits. Indeed, as we have already demonstrated with regards to the disbursement of patronage, it was important for the proponents of third-term bids to project a very credible threat of violence to ensure that recipients of patronage honoured their promises and remained loyal to the patron while defectors had to face the real threat of severe punishment.

In contrast, several beneficiaries of patronage who had also originally pledged to vote in favour of the removal of term limits in Malawi and Zambia, subsequently reneged on those pledges. This was vividly demonstrated by the case of John Tembo, whose ascension to the post of leader of opposition had been aided by the ruling UDF and was also one of the major beneficiaries of Muluzi's patronage. Although Tembo initially delivered on his pledge by enticing several legislators from the opposition Malawi Congress Party to join him in voting for the removal of term limits, he subsequently reneged on this commitment and indicated that he

would vote against a new modified version of the bill which sought to increase the maximum number of terms from two to three. This case thus demonstrates that when incumbent presidents cannot rely on the state agents of coercion, it becomes difficult for them to use violence as an effective strategy for securing support and minimizing the possibility of defection.

The findings on impact of violence as a strategy to remove term limits in the four countries not only show that the involvement of the police and military as agents of violence was the critical factor of this strategy, but it also demonstrates how the military background of presidents as an institution, shaped the outcomes of the third-term bids. The ability of Presidents Nujoma and Museveni to employ the state instruments of force to aid their third-term pursuits appeared to have been made possible by the two leaders' long-standing linkages with the military. Before both leaders ascended to power, they had served for many years as heads of paramilitary groups that eventually transformed into political parties on whose platforms they were propelled into power. In Nujoma's case, he had led SWAPO's nationalist military struggle against apartheid rule from 1958 until Namibia gained independence in 1990. On his part, Museveni had served in various capacities in the Ugandan military from 1970 and remained a full serving military official long after ascending to the presidency in 1986. Indeed, the NRM was only formed in 1986 as a political party as a successor to the National Resistance Army (NRA), which had fought to oust the government of Milton Obote in a military coup in January 1986. As recent as April 2004, at the very height of the third-term campaign, Museveni was promoted to the rank of a full General thus retaining the leadership of the Ugandan military in addition to his role as the Commander in Chief of the UPDF.¹⁰³ The involvement of the police

¹⁰³ See "General Museveni Quits Army," *BBC News*, April 6, 2004, available online at <http://news.bbc.co.uk/2/hi/africa/3603485.stm>.

and army in unleashing violence against opponents of the removal of term limits in Namibia and Uganda in other words, provides an explanation on the mechanisms explaining the effectiveness of the military background of the president in influencing third-term outcomes. Where leaders were lacking in such networks, as was the case in Malawi and Zambia, violence became a less effective strategy and did not aid the removal of term limits.

9.3.3 Changing the Rules of the Game

Political contestation is often governed by sets of rules and procedures which determine the distribution of power and prescribe who may engage in politics and how (Atoot et al., 2008; Bratton and van de Walle, 1997). These rules, which constitute the rules of the political game, are often codified in Constitutions and other legislation. However, one of the main characteristics of personal rule in Africa and elsewhere has been leaders that are less restrained by the formal rules of the game. In the words of Jackson and Rosberg (1982:17), personal rulers “cannot be subjected to removal or replacement by [formal] institutional means.” In this regard, the quests to prolong presidential tenure when national Constitutions impose limits are demonstrative of the lingering traits of a type of leadership that seeks to circumvent the rules of the game.

While the act of removing presidential term limits represents the end point in the process of changing this particular institution, getting there often requires changes to other ancillary rules that were enacted to prevent such occurrences or at least to make them difficult. These include rules that set super majority requirements to effect Constitutional change; secret voting procedures in Parliament to free legislators to vote without fear; as well as rules that open up the political space to allow for the participation of other key stakeholders such as NGOs, free media, and others. When the attempts to remove presidential term limits are preceded by changes to these ancillary rules, the incumbent is therefore able to minimize the legal obstacles in such a

way that the removal becomes more likely to pass. Conversely, presidents that fail to change the rules of the game would be less likely to remove presidential tenure limits.

The second prong of the strategies to remove presidential term limits therefore involved changing the rules of the game, especially those that had been put in place to safeguard key democratic principles such as tenure limitations. In a demonstration that the third-term pursuits were not the spontaneous and people-driven decisions they were often portrayed to be, the evidence from three of the four case-study countries points at a systematic process of rule changes that often preceded the tabling of the bills to remove term limits. The main goal of these rule changes, some of which took place years before the proposals to remove term limits were made public, tended to mirror those that influenced the pursuit of the patronage strategy: to secure and shore up government's legislative majorities; to weaken and undermine the opposition and, to remove legal obstacles against the candidacy of the incumbents.

While three of the four case study countries (Malawi, Uganda, and Zambia) all pursued this particular strategy, Namibia was the lone exception. This again appears to have been influenced by the cohesiveness of the ruling SWAPO party as well as the limited opposition that Nujoma and SWAPO faced both in and outside Parliament.

9.3.3.1 Changing Rules to Bolster Government's Legislative Majorities

The first aim of the rule-change strategy, as we have already noted, was to bolster the majority of governing parties. This strategy meanwhile had two sub-prongs: the first involved changes that sought to enhance ruling party cohesion and limit the possibilities of defections; the second, meanwhile, involved changes that sought to lure opposition members to support the removal of term limits.

In Zambia and Uganda, where the governing parties enjoyed strong legislative majorities, the main emphasis of the rules changes was to consolidate support and limit defections from the ruling parties. Among the examples of the use of this strategy include the establishment in 1998 by the Zambia Parliament of the Presidential Discretionary Fund (PDF), in 1998 followed by the establishment of the position of district administrators in 2000. While the PDF provided President Chiluba access to public funds for disbursement to his supporters to back the removal of term limits, the DAs were used to channel these funds to legislators and members of the public in return for their support for the third-term bid (Mthembu-Salter, 2004; Rakner, 2003).

Meanwhile in the Malawi case, where the ruling party had to contend with the twin problems of stymieing defections and simultaneously luring opposition members to support the removal of term limits, the changes to the rules of the game included both prongs. Among the earliest examples of these efforts was an unsuccessful attempt to change the Constitution in 2000 that proposed to empower the president to appoint up to twenty MPs. Given the UDF's slim Parliamentary majority after the 1999 elections, this proposal was designed to increase the government's Parliamentary majority while at the same time, reducing the government reliance on the opposition to secure the two-thirds majority required to effect the Constitutional amendment that would have removed term limits.

Another aspect of the rule changes aimed at bolstering support for the removal of term limits involved amendments to Parliamentary voting rules to make it easier to identify how legislators voted. While Namibia used open roll-call voting system on Parliamentary bills, the National Assemblies of Malawi, Uganda and Zambia all used secret voting methods. Secret voting provided legislators with anonymity and the ability to make independent voting decisions without pressure from their political party leadership. These rules meanwhile meant that it was

possible for legislators, including those from ruling parties, to receive patronage benefits and pledge to vote in favour of removing term limits but later defect without being identified. Not only did secret voting thus render the employment of the patronage strategy unreliable, but it also nullified the use of violence as a complimentary strategy in that defectors could not be readily identified and targeted for retribution. Not surprisingly therefore, the three countries that had secret voting attempted to replace this rule with open roll-call methods. These changes were effected in Malawi (2001) and Uganda (2004). In Zambia, however, similar proposals in early 2001 were shelved after several ruling party legislators indicated that they would oppose them. By replacing secret voting with open roll call, the governments of Malawi and Uganda could thus effectively track the decisions of not only their party legislators, but also those from among the opposition ranks. This was a particularly important strategy that made it possible to track the voting decisions of those legislators that had benefitted from patronage and pledged to support the removal of term limits. This raises the possibility that it is possible that some legislators voted in favour of removing term limits not out of conviction, but because of fear. As a Ugandan legislator pointed out, the timing of the motion to change from secret voting to open roll call in 2004 was “intended to intimidate and coerce MPs to vote for lifting the term-limit provision.”¹⁰⁴

9.3.3.2 Changing Rules to Weaken Opposition

The second set of rule changes included those that were made with the specific aim of weakening and undermining opponents of the proposals to remove term limits. In Zambia for example, the ruling MMD made several legislative changes between 1996 and 2001, which Rakner (2004:128) argues were a demonstration that “the Chiluba government was willing to compromise the rule of law...and willing to use its majority to undermine its opponents.” Among

¹⁰⁴ Interview with author, Kampala, Uganda, October 7, 2008.

these changes included a Constitutional amendment in 1996 that imposed new citizenship requirements that disqualified Zambia's founding president and Chiluba's strongest challenger, Kenneth Kaunda, from contesting in future presidential elections. The Zambia government also passed a new Police Act in 1996 that placed stringent restrictions on the ability of opposition parties to organize and hold political meetings, changes described by Osei-Hwedie (1997:43) as "suppressing mass mobilization by the opposition."

Similar legislation was also passed in the other three countries. In Namibia for example, a year before the third-term bill was tabled in Parliament, the government passed a new National Intelligence Service Act in 1997. Among several attributes, this law authorized the National Intelligence Service to conduct wiretaps, intercept mail and engage in other covert activities. This Act was used in 1998 by the government to request footage of anti-third-term demonstrations from the Namibian Broadcasting Corporation after which the leaders of the demonstration were targeted by government.¹⁰⁵ In Uganda, the Museveni regime also enacted several pieces of legislation that were aimed at weakening groups and individuals who were opposed to the removal of term limits. Among these changes included a Cabinet Resolution of 2002 that substantially reduced the experience requirements for Supreme and High Court appointees. As Okuku (2005:209) noted, these proposals were designed "to enable President Museveni to get rid of those Judges who had exercised a relative degree of judicial independence...and have the judiciary stacked with less experienced and more pliable judicial functionaries willing to do the Executive's bidding..." Additional changes enacted by the Uganda government that were subsequently used to neutralize third-term opponents included a

¹⁰⁵ See US State Department Report on Namibia, 1999, page 5. See also Namibia Country Report, in *Africa, South of the Sahara*, 2004.

2002 Anti Terrorism Act, which stipulated that opposition parties could only be registered on the condition that they pledged not to field candidates in elections. Parties that refused to register under these conditions were then be categorized as “terrorist organizations” and prevented from operating in Uganda (Mabasi, 2008). This was followed by the enactment of new legislation in 2003 which empowered the president to dissolve Parliament and call for fresh elections in situation where the National Assembly was deadlocked over any issue brought before it (Ngozi, 2003).

In Malawi, the Muluzi government also pursued one of the most comprehensive and systematic paths of changing the rules of the game to undermine opposition to the removal of presidential term limits. These included changes to the Parliamentary Standing Orders in 1999 that made it possible for government MPs to take part in selecting the leader of the opposition in Parliament (Dulani and van Donge, 2005). This change enabled the Muluzi government to split the Parliamentary opposition by supporting the election of the vice president of the opposition Malawi Congress Party, John Tembo as leader of Opposition over the party’s president, Gwanda Chakuamba. By courting Tembo’s support in this way, Muluzi, not only undermined opposition cohesion, but he also increased his chances of securing the super majority required to amend the Constitution in the Malawi Parliament, where his UDF party was thirty-five seats short of the 128 required to make Constitutional amendments. Other additional legislative changes in Malawi included a Constitutional amendment in June 2000 that widened the powers of the Speaker to expel legislators who join “an association or organization whose objectives or activities are political in nature” (Dulani and van Donge, 2005:214). Immediately after this bill’s passage, fourteen MPs who had taken part in a public rally organized by civil society leaders to demonstrate opposition to the removal of term limits were expelled from Parliament. Among the

list of expelled legislators were seven from the ruling UDF, two from the MCP and a further five from a faction of the Alliance for Democracy opposed to the removal of tenure limits.¹⁰⁶

While the preceding changes were specially aimed at weakening Parliamentary opposition, a number of rule changes were also made with the aim of weakening extra-Parliamentary opposition to the removal of term limits. Yet again, Malawi led in this process through the enactment of a new NGO Act in 2001 that made it possible for government to control the activities and operations of civil society, including prohibiting them from “engaging in partisan politics, electioneering and politicking.”¹⁰⁷ As Dulani and van Donge (2005) point out, the timing of this law had the effect of circumscribing the political space within which the Malawi civil society could operate and their ability to mobilize against the removal of presidential term limits. An identical legislation, the NGO Amendment Act (2001) was also enacted in Uganda in the same year. As in the Malawi case, this law provided for strict registration requirements for NGOs and brought them under greater government control. As an executive director of a leading Uganda NGO pointed out in an interview, the NGO Law of 2001 was designed to “stifle the work of NGOs, especially those highly critical of government policy and practice as Museveni prepared to pursue a third term in office.”¹⁰⁸

9.3.3.3 Rule Changes Aimed at Eliminating Obstacles to the Candidacy of the Incumbents

Apart from facing legal obstacles that had to be removed before the bills to remove term limits could be tabled, the four presidents also faced internal party rules that prevented them

¹⁰⁶ It should be noted that all but two of the fourteen expelled legislators successfully sued against their expulsions and were subsequently allowed to return to Parliament in time to take part in the vote on the bill that proposed to remove the presidential term limits.

¹⁰⁷ See Section 20 of the Malawi NGO Act, 2001.

¹⁰⁸ Interview with author, October 9, 2008, Kampala, Uganda.

from prolonging their tenures. Among these were intra-party Constitutional rules that, like the national ones, imposed two-term limits on the holding of senior party positions.

Not surprisingly therefore, the third-term pursuits in all four countries were preceded by amendments of ruling-party Constitutions to relax at the tenure limit provisions as the first step towards making the incumbent leaders eligible to seek re-election for national office. As the first country to push through the changes to the presidential tenure limits, Namibia's SWAPO was the first to amend its party Constitution at an Extra Ordinary Congress held in August 1998, where the provision that had imposed a two-term limit for the party presidency was removed. This was replaced with a new provision that allowed for indefinite eligibility for re-election for the party presidency.¹⁰⁹ Similar changes were also made in the Constitutions of the ruling parties in Zambia (2001) and Malawi (2002).¹¹⁰ In Uganda meanwhile, the tabling of the bill to remove term limits in 2005 was preceded by the adoption of a new NRM Constitution in 2003 that, among several issues, removed tenure limits on holders of key party positions, including that of National Chairperson (Okuku, 2005).

However, changing the rules of the game does not appear to have been an effective stand-alone strategy in the bids to remove tenure limits. As the Malawi case, has shown, even the most comprehensive and systematic campaign at changing the rules of the game does not guarantee the removal of the term-limit provision. By contrast, Namibia was able to succeed in altering the term-limit provision and deliver a third term for Nujoma without effecting major changes to existing rules. Although all four case-study countries utilized this strategy, the fact that they

¹⁰⁹ See the unamended and amended versions of Article IX A(6) of the SWAPO Constitution.

¹¹⁰ See Dulani, 2005; and "I'm Pleased, says Chiluba," in *the Post*, May 1, 2001, pg. 1.

ended up with differing outcomes suggests that changing the rules of the game was, at best, a limited strategy that did not guarantee success in removing tenure limits.

It is worth noting though that certain aspects of this strategy could have been effective to the extent that they were complimented by the use of violence against opponents. For example, the fact that the ruling party in Malawi lacked the direct support of the army and police in their violence strategy meant that some of the rule changes could not bring about the same results that similar changes in Uganda for example elicited. For example, despite the fact that the Malawi government had adopted open roll call voting in Parliament 2001, the cost of defection was lower compared to countries such as Uganda and Namibia where the ruling parties relied on the support of the state agents of coercion to enforce compliance. The clearest demonstration of such limits in Malawi were highlighted by the decision of the deputy leader of the MCP, John Tembo, who had been elevated to the position of Leader of Opposition after the UDF had facilitated changes to the Parliamentary Standing Orders to enable government MPs to take part in choosing the Leader of Opposition. Although Tembo initially reciprocated Muluzi's favour by mobilizing other opposition MPs to vote in favour of removing term limits in July 2002, he subsequently reneged and refused to support a second bill that sought to increase the maximum number of presidential terms from two to three in 2003. While similar defectors in Uganda and Namibia were abducted by intelligence agents and some murdered, John Tembo did not face such forms of retribution in a context where the ruling party could not count on the involvement of the state instruments of force to exact retribution on its behalf.

However, this does not mean that changing the rules of the game did not matter in the third-term bid. The fact that Zambia did not manage to pass important rule changes such as shifting from secret to open roll call voting in Parliament put the Chiluba government at a huge

disadvantage compared to his peers in the other three countries. Not surprisingly, Zambia's third-term proposal was shelved before it could be formally tabled in Parliament. This would suggest that deprived of success in changing key ancillary rules, the passage of the amendment was not only unpredictable, but also more difficult as the government could not track the voting of decisions of those that had benefitted from patronage and identify defectors for future sanctioning. In the Malawi case too, although Muluzi failed in his quest to remove term limits, several changes to the rules of the game, including those that enabled the government to win over the support of a key section of the Parliamentary opposition, made the removal of term limits more likely than would have been possible given the ruling party's weak Parliamentary majority.

Overall, this exploration of how the four presidents sought to change the rules of the game sheds more light on why, as we found out in chapter 8, some of the formal institutions that were designed to replace the old tradition of personal rule with a new culture of rule of law were rendered ineffective in stopping the passage of the Constitutional amendments aimed at removing the tenure limitation rules. To the extent that the ancillary rules designed to make Constitutional change more difficult are themselves not immune from being tampered with by ambitious leaders that desire to prolong their tenure, the evidence from these four countries clearly demonstrate that they too will not be sufficient to reign in the new generation of Africa's personal rulers.

9.4 Conclusion

All four presidents in Malawi, Namibia, Uganda and Zambia that sought to prolong their tenures employed a multi-prong strategy to achieve their goal of removing the presidential term-limit provisions. Two main strategies stood out from these processes: unleashing violence

against opponents and changing the rules of the game. The extent to which each strategy was pursued often depended on the main areas that the ruling parties felt needed to be addressed. In countries where the ruling parties did not have the requisite Parliamentary majorities, as was the case in Malawi, all three strategies were extensively used. By contrast, in countries where the ruling parties enjoyed significant Parliamentary majorities and faced minimal resistance to the proposal to extend the tenures of the incumbent presidents, as was the case in Namibia, all three strategies were only moderately used. Indeed, with regards to violence, its value rested more in its threat than actual use.

While both strategies played some roles in deciding the outcomes of the bids to remove term limits, the one that stands out the most is the use of violence. However, while all four countries employed this strategy, the key appears to have been the involvement of the state's agents of force, namely the police and the military to enforce its violence strategy. Indeed, the effectiveness of the violence strategy that was aided by police and military support, meant that some of the presidents did not even need to use patronage or seek comprehensive changes to other ancillary rules in order to remove presidential term limits. At the same time, the active usage of violence, as well as its latent threat, helped to buttress the effectiveness of the other two strategies. This finding also sheds more light on the effectiveness of patronage as a strategy for propping up personal rule in Africa – it works, but requires mechanisms to enforce compliance, especially among those that received it.

Chapter 10

The Effect of Informal Institutions in the Bids to Remove Term Limits in Malawi, Namibia, Uganda, and Zambia

10.0 Introduction

While the previous chapter demonstrated that the choice and application of strategy plays an important role in institutional change processes, there is a strong recognition in the literature that informal institutions, espoused through organizational structures and cultural practices, also play equally important roles in determining the outcomes of institutional change, in addition to mitigating the effects of the various strategies (Campos, 1999, 1997; North, 1991). Within the arena of African politics for example, several works have established that prevailing beliefs, traditions and cultural practices, serve as important institutions of an informal kind that drive political developments on the continent. Aguilar et al. (1995), for example, have attributed the prevalence of personal rule and gerontocracy in Africa to the prevalence of traditions that place emphasis on hereditary and unlimited rule while at the same time preaching respect for the elderly and those in positions of authority. Meanwhile, in their study of the transitions from authoritarianism in Africa, Bratton and van de Walle (2007) cite the historical traditions of authoritarianism as having influenced the choice and adoption of new institutions from the 1990s onwards.

Motivated by this recognition of the importance of informal institutions whose effect could be assessed using detailed qualitative narratives, the present study thus proceeded to examine the influence of organizational structures and cultural practices and how they influenced the outcomes of the bids to remove tenure limits in the four countries. Given the different outcomes of the quests to remove term limits in the four countries, this analysis enables us to examine how informal institutions influenced the outcomes of these bids. In doing so, the study

thus not only provides additional insights into how personal rule is influenced by informal rules, but it also allows us to build upon the emerging literature that seeks to link personal rule in Africa and the continent's unique social, political, and historical factors.

Although several informal institutions informed on the likelihood and outcomes of the proposals to remove term limits, the findings adduced from the fieldwork suggest that the key ones included patronage; cohesiveness of the ruling party; the presence of a father-figure president; history of long-tenured president and civil society activism. Although patronage was expected to increase the likelihood of the removal of term limits, the evidence adduced from this study suggest that patronage alone was not a sufficient to secure the removal of term limits. Its effectiveness instead was dependent on not only other prevailing institutions, but also the choices of strategies used to push through the third-term bids. Meanwhile, where the ruling party was cohesive and where the incumbent president benefitted from the attributes of a father figure, the proposals to remove term limits were likely to be passed. On one hand, the two countries that had had a previous history of long-tenured authoritarian rule, and where civil society was very active, the proposals to remove term limits were rejected. On the other hand, the absence of a designated successor, which is often cited as one of the pillars for removing term limits, was found to not have been an important factor in influencing the outcomes of the third-term bids.

As with the discussion on strategy in the previous chapter, the findings here suggest that the informal institutions often interacted with each other to influence the final outcomes of the bids to remove term limits. This was demonstrated, among other things, by the limited organized civil society action in countries where the presidents were accorded father-figure status. At the same time, countries that had had a history of long-tenured father-figure presidents were less likely to accord similar status to new presidents that had come into office at the height of the

transitions from authoritarian rule in the 1990s, and thus ultimately less likely to acquiesce to the removal of term limits

10.1 Findings on the Effects of Informal Institutions on the Bids to Remove Presidential Term Limits

A review of the literature, coupled with the findings of interviews conducted with key informants in the four countries identified a set of six organizational structures and cultural practices as the key informal institutions that influenced the final outcomes of the quests to remove tenure limits, namely:

- Patronage
- Ruling Party cohesion
- Father-figure president
- Absence of designated successors
- History of long-tenured presidents
- Civil society activism

Table 10.1 provides a summary of the findings on the status of the five contextual factors in the four countries:

10.1.1 Patronage

As expected, the four presidents in the case-study countries resorted to the disbursement of patronage in a bid to woo support for the proposals to remove presidential term limits. Indeed, in a demonstration of the centrality of patronage in institutional change processes, this was also embraced by those opposed to the proposals to remove term limits. These groups also used patronage to incentivize legislators and other key political stakeholders to reject the removal of term limits. However, the type, as well as scope of patronage, differed from country to country

depending on the prevailing political circumstances which influenced the targeted beneficiaries of patronage.

Table 10.1: Informal Institutions and the Third-Term Bids in the Four Case-Study Countries

Country Contextual Factors	Malawi	Namibia	Uganda	Zambia
Patronage	Yes (Extensive)	Yes (Moderate)	Yes (Extensive)	Yes (Extensive)
Ruling Party Cohesion	Fractured	Cohesive	Cohesive ^a	Fractured
President as Father Figure	No	Yes	Yes	No
Designated Successor	None	None	None	None
History of Long-Tenured President	Yes	No	No	Yes
Civil Society Activism	Organised and Coordinated	Compromised/ Weak	Infiltrated/ Compromised	Organized and Coordinated

^a Although technically Uganda was a no-party state at the time of the third-term bid, election of members in the 2001 elections were sponsored by political parties. The NRM affiliated MPs won 200 of the 214 seats (93%) in the elections of June 26, 2001, which were boycotted by the opposition.

Sources: Author, from fieldwork; * Posner, 2004

10.1.1.1 Scope and Extent of Patronage

As can be seen from table 10.1, patronage was extensively employed in three of the four countries (Malawi, Uganda, and Zambia). Although Namibia also made use of this institution, the extent of patronage was very moderate and did not reach the levels of the other three countries.

In Malawi, the fact that Muluzi and the UDF had to pursue a very extensive campaign of patronage has to be understood within the context of the precarious Parliamentary numbers that the ruling UDF party commanded in the National Assembly. With only ninety-three of the 192 seats, the UDF needed at least thirty-five votes from among the opposition ranks to reach the minimum two-thirds requirement of 128 votes to make amendments to the Constitution. Even

that would only have been possible only if all the ninety-three UDF MPs voted in favour of removing term limits from the Constitution. This scenario compelled Muluzi to cast the net of patronage wider to not only entice opposition legislators to support the efforts to remove term limits, but it was also extended to ruling party supporters, especially those in Parliament as a way of securing their support. Not surprisingly, this scenario led to one of the most extensive and elaborate patronage campaigns among all the four countries.

While Malawi's leadership laboured to consolidate support from within the ruling party and entice members of the opposition to support the removal of term limits, the other three countries (Namibia, Uganda, and Zambia) faced different challenges that accordingly shaped the nature and scope of patronage. In all these three cases, the ruling parties enjoyed substantial Parliamentary majorities that were well above the two-thirds thresholds required to make Constitutional changes. Thus, unlike Malawi, the presidents of Namibia, Uganda, and Zambia did not have to extend patronage to members of opposition parties. Instead, the primary beneficiaries of patronage in these three countries were members of the ruling parties as the presidents sought to consolidate support and minimize defections. However, although all three shared high legislative majorities, the country-specific contextual factors resulted in variations in the nature and scope of the patronage strategies that were employed.

Although the ruling parties in Uganda and Zambia had very high Parliamentary majorities, which were a result of opposition boycotts during the elections immediately preceding the tabling of the third-term bills, they too sought recourse to patronage in the pursuit of the removal of term limits. In the Uganda case, although more than four-fifths of legislators belonged to Museveni NRM party, the country's Constitution of 1995 suspended political party

activities and instead established what was termed as a “No-Party Movement System.”¹¹¹ Under this system, National Assembly candidates could only be elected on the basis of individual merit and not on a partisan platform (Mugaju, 2000). Although this system helped Museveni to suppress opposition activity and consolidate his hold on power, it created challenges for mobilizing Parliamentary support for contentious bills such as the one that sought to remove presidential term limits. Despite the fact that the majority of Ugandan legislators in the 2001-2005 Parliament claimed NRM membership, the absence of organized party voting in Parliament created uncertainty about the levels of support for the bill seeking to remove presidential term limits. As a result, Museveni was compelled to indulge in an extensive campaign of patronage to his party’s legislators as a way of securing and consolidating support for the removal of term limits among this group.

Meanwhile, although President Chiluba’s party held 88 percent of the seats in the Zambian National Assembly, the proposal to remove term limits created major fissures within the ruling MMD party. These divisions, which saw several senior members of the party, including Vice President Christon Tembo and several cabinet ministers, increased the levels of uncertainty over the passage of the bill to remove term limits. Drawing upon Zambia’s experience of long-tenured rule under founding President Kenneth Kaunda, critics of the third-term bill within the MMD argued that term limits were an important institution whose adoption the party had supported because of the fear of tyranny.

Indeed, so strong was the opposition to the proposal to remove the term limits within the ruling MMD party in Zambia that fifty of the party’s legislators signed a petition opposing the proposed Constitutional changes (Chella and Kabanda, 2008). Had all these fifty lived up to their

¹¹¹ See Section 70 of the Uganda Constitution, 1995.

promise to vote against the removal of term limits, it would have meant that overall support for the bill would have fallen short of the two-thirds threshold by a minimum of eleven votes. In response, President Chiluba was thus forced to pursue an aggressive and intensive campaign of patronage disbursement to stem the tide of defections and to win back some of the lost votes. The cases of Uganda and Zambia thus demonstrate the need to go beyond conventional measures of Parliamentary composition to look at the cohesion of the ruling party in order to get a full grasp of why some particular strategy choices, such as patronage, were employed in polities that on the surface appear not to have needed them.

While the Malawian, Ugandan, and Zambian presidents struggled to secure support for the removal of term limits, the situation was very different in Namibia. Here, members of the ruling SWAPO party fought to be seen as the leading advocates of the third-term bid as a demonstration of their loyalty to President Nujoma, who commanded the undisputed status of Namibia's father-of-the-nation. Nujoma's position at the apex of Namibia's patronage chain meant that support for an extension of the president's tenure would ensure continued membership of the existing patronage networks. This view was captured most succinctly in the words of a senior Namibia opposition party official who pointed out that:

“The fact that Mr Nujoma was being held up by every SWAPO organization as the father of the nation needs to be understood within the context of a leadership that has for long utilized a rampant network of patronage to win support...the question was thus not whether Nujoma was competent enough to serve a third term, but his popularity was fabricated by his supporters so that the system of patronage that is essential for party officials would continue...”¹¹²

Indeed, as I demonstrate later in this chapter, the rush to remain part of Nujoma's patronage network was not only restricted to members of SWAPO. Instead, it also led to the formation of odd alliances between influential business persons in Namibia, some of whom were

¹¹² Author interview with an opposition Namibian Member of Parliament, November 27, 2008.

members of the country's past apartheid regime. These groups joined SWAPO in advocating for the extension of Nujoma's presidency as a calculated strategy to continue to get government contracts for their businesses. As a result, Nujoma did not have to resort to new rounds of patronage to win support for the removal of term limits as much as his colleagues in Malawi, Uganda and Zambia had to.

10.1.1.2 Type and Nature of Patronage

The key components of the patronage option included the disbursement of money and other material rewards such as cars, houses, cloths as well as appointments into senior government positions, including cabinet jobs and diplomatic postings. The main beneficiaries in each case were largely determined by the prevailing political situation in each country and included ruling and opposition party members, civil society activists, traditional leaders, business people among others. Conversely, non-supporters were dismissed from government and deprived of the benefits associated with senior government positions.

10.1.1.2.1 Cash and Material incentives

The primary currency of patronage in the four countries involved the disbursement of money and government contracts to entice recipients to support the proposals to remove presidential term limits. Among the leading pioneers of this strategy was Zambia's Fredrick Chiluba, who spearheaded the establishment in 2000 of a "Presidential Discretionary Fund." This Fund provided Chiluba with the opportunity to disburse public funding to various groups to enhance his chances of securing the removal of term limits. Among beneficiaries of these funds were activists from the ruling MMD party and other key governance stakeholders such as members of civil society and Church leaders who reciprocated by supporting the removal of tenure limits. Although Chiluba openly acknowledged to making these handouts, he declined that

they were an inducement for support for his third-term bid, arguing instead that he was “merely assisting people that confronted him with problems.”¹¹³

Cash handouts also made up part of the patronage campaigns in Malawi and Uganda. In the Malawi case, for example, legislators from the ruling UDF, a faction of the MCP led by the party’s deputy president, John Tembo, and several legislators from the opposition Alliance for Democracy (Aford) were in early 2001 each paid the sums of MK50,000 (about \$1,100 at the 2002 exchange rate of 1US\$ = MK44). Although this money was ostensibly paid out to support the constituency work of legislators, the fact that legislators that had expressed opposition to the proposal to remove term limits were left out demonstrated that the true motive was to reward those legislators that had expressed support for the removal of term limits. Other cash recipients in Malawi included select members of civil society allied with the ruling party and senior traditional leaders, who became regular recipients of President Muluzi’s famous “brown envelopes” stuffed with unspecified amounts of cash (Dulani and van Donge, 2005). In return, these groups went out nationwide campaigns to drum up support for the removal of term limits (Dulani and van Donge, 2005). Meanwhile in Uganda, President Yoweri Museveni also adopted an identical approach of targeting key groups to receive similar cash handouts. However, unlike his Malawi and Zambia counterparts, Museveni increased the value of the cash disbursements when in late 2004 he authorized payments of five million Ugandan Shillings (just slightly under \$3,000 at the 2004 exchange rate of \$1 = UShs. 1,755) to over two hundred MPs from the ruling NRM party who had pledged to vote for the removal of term limits (Atoo et al., 2008; Tangri, 2006).

¹¹³ Author interview with a Trade Union leader, August 27, 2008.

The disbursement of cash to win support for the removal of term limits was least used in Namibia. However, although the study could not deduce any evidence of cash handouts, there was evidence that some of those that spoke in favour of removing term limits in the country, especially from the influential white business community, were motivated by calculations of individual monetary gain from maintaining the status quo. This view was vividly encapsulated in the words of a Namibian businessman who had served as a cabinet minister during the apartheid era, when he chastised organizations that were against allowing Nujoma to seek a third term, arguing that:

“calls for Nujoma to step down will kill a lot of business and make people jobless in this country...what is good should not be replaced in the best interest of our country and its people....”,¹¹⁴

Such statements highlight the fact that prominent Namibians, including the economically influential business community, saw the status quo under Nujoma’s presidency, as providing a measure of stability against the uncertainty of leadership change. While it was conceivable that any successor for Nujoma would have pursued a similar neopatrimonial agenda, the uncertainty of who would be the beneficiaries of patronage under a new regime made the existing beneficiaries of Nujoma’s patronage lobby for the perpetuation of the status quo. Support for the third term, in this regard, was a largely instrumental affair, with SWAPO members, the business community and others jumping in the third-term bandwagon not for the sake of Nujoma personally, but for their own financial and business gains.

10.1.1.2.2 Appointments to government positions

Besides cash, the second dimension of patronage involved the use of presidential discretionary power to appoint supporters of the proposals to remove term limits to senior

¹¹⁴ See “List Calls for Third Term,” the *Namibian*, April 18, 1997, pg. 9.

government positions. In Zambia, this involved the creation by President Chiluba of new positions of district administrators for each of the country's seventy-two districts in mid 2000. These administrators, who were all appointed by the president and paid monthly government salaries of ZK2.6 million (about \$850 at the 2000 exchange rate of \$1 = ZK 3,110).¹¹⁵ Owing to their appointments to President Chiluba, the new appointees served as a nationwide network of lobbyists that pressured legislators and members of the public to support the removal of limits. Additionally, the District Administrators were given a combined total budget of ZK10bn (about \$3.2 million), to fund MMD party youth militia to lobby their legislators to support the removal of term limits.¹¹⁶

Underscoring yet again how the political realities of the four countries shaped the targets of patronage, Malawi's Bakili Muluzi also used his discretionary powers of appointment to entice opposition legislators to support the removal of term limits. For example, prior to the tabling of the bill seeking to remove term limits, the UDF instigated changes to the Parliamentary standing orders in late 2001 that enabled all MPs, including those from the ruling party, to take part in voting for the Leader of Opposition in the National Assembly. Following these changes, the UDF supported the election of the deputy president of the Malawi Congress Party, John Tembo, to become leader of opposition over his president, Gwanda Chakuamba, who was one of the leading critics of the proposal to remove the term-limit provision. In return, Tembo and his supporters within the MCP Parliamentary caucus voted in favour of removing term limits when the bill was tabled in Parliament in July 2002. The extent of Muluzi's success in using patronage to woo members of the opposition was underscored by the fact that the

¹¹⁵ The salaries paid to the district administrators were four times those paid to essential government officials, such as medical doctors and teachers.

¹¹⁶ See "I Must Go and Rest When My Term Finishes," in *The Zambia Post*, March 30, 2001.

original bill to remove term limits was tabled in Parliament by a legislator from the opposition Aford party, Khwauli Msiska, who was subsequently appointed into Muluzi's cabinet (Dulani and van Donge, 2005). In using this type of patronage to win opposition support, not only did Muluzi manage to boost his overall majority in the Malawi National Assembly but it also allowed him to claim that the quest to remove term limits was not motivated by the personal ambitions of President Muluzi himself or his ruling United Democratic Front (ibid). In the end, thirty-eight opposition legislators joined the UDF in voting in support of the bill seeking to remove term limits in July 2002. However, while Muluzi was successful in wooing legislators from the opposition, he was unable to secure complete support from his own UDF, where six legislators voted against the bill and three others abstained from voting. This resulted in the UDF failing to secure the two-thirds majority by three votes, thus leading to the defeat of the proposal.¹¹⁷

On his part, Ugandan President Yoweri Museveni also utilized the strategy of appointments extensively. During the third-term debates, Museveni reshuffled his cabinet several times and rewarded loyalists with new portfolios while those holding opposing views were dismissed (Tangri, 2006, 2005).

In Namibia, where the careers of most ruling SWAPO legislators were closely tied with their demonstration of loyalty to Sam Nujoma, there was no evidence of new government appointees in return for support for the relaxation of the term-limit provision to enable President Nujoma to seek a third term in office. However, there were nonetheless reports of threats that those that refused to support the third-term bid would be dropped from their positions and threatened with expulsion from SWAPO (Rodgers and Melber, 2006).

¹¹⁷ Malawi Parliament, *Hansard*, July 4, 2002.

That supporters of the bids to remove term limits were rewarded with government appointments while opponents were purged suggests that Jackson and Rosberg's (1982) contention that one of the main characteristics of personal rule is the retention of loyalists and the purging of dissenters, remains true in Africa even after the introduction of competitive politics and the adoption of new democratic institutions of governance. While the new generation of leaders swear to abide by the new rules, the fact that they continue to use their discretionary powers of appointment to reward supporters and punish critics suggests yet again that the new generation of African leaders only show commitment to respect the rules of the political game for as long as those rules do not impinge upon their political ambitions. The new political realities in Africa, in other words differ from the authoritarian era only to the extent that there are more rules designed to reign in personal rule. However they are somewhat similar in the sense that the new leaders use all the resources at their disposal, including cash disbursements and appointments, to circumvent the new rules and personalize power. Put differently, Africa might have the rules to encourage rotation but is short on adherence to them. The attempts to remove term limits and the employment of patronage to achieve these goals suggests that the abundance of Constitutional rules is being trumped by a critical scarcity of Constitutionalism.

0.1.1.2.3 Patronage among Opponents of the Removal of Term Limits

While it is tempting to assume that individuals and groups that were opposed to the removal of presidential term limits in the four countries were motivated by a commitment to promoting a culture of Constitutionalism and respect for the rule of law, this study unearthed evidence to suggest that not all opponents of the third-term bids were immune from the allure of patronage. In Malawi for example, a leading opposition figure that spearheaded the campaign against the removal of term limits in and outside Parliament was rewarded for his efforts by

being given a house by a prominent local businessman. Other legislators from both the ruling and opposition parties were also provided with various forms of financial and material inducements from members of the business community that were opposed to the prolongation of the Muluzi presidency. While the motivations of the business community in these instances could not be readily ascertained, several interviewees pointed out that these represented a section of the business community that were outside the circle of the beneficiaries of government contracts. It is thus possible that in supporting the retention of term limits, they were positioning themselves in situations where they could benefit from government contracts once Muluzi was forced to step down.

Similar inducements were also made to opponents of the third-term proposal in Uganda and Zambia. In the Ugandan case, several commentators pointed out that civil society leaders took the third-term campaign as an opportunity to raise funds for their organizations by submitting proposals to international donors to support their anti-third-term activities.¹¹⁸ This view was also noted by Okuku (2007) when he argued that Ugandan opposition parties and their leadership, benefitted from financial rewards from some prominent business persons in the country in return for concerted opposition against the removal of tenure limits.

Similar sentiments were also raised in Zambia, where one senior opposition figure pointed out that a number of his opposition colleagues were given cash to counter the monetary inducements that were being made by the ruling party.¹¹⁹ Meanwhile there was also evidence to suggest that some of the key opponents to the proposals to remove term limits might have been motivated by their desire to succeed Chiluba and rise to the pinnacle of the patronage chain. This

¹¹⁸ Author interviews, October 27–28, 2008, Kampala.

¹¹⁹ Interview with author, July 4, 2008.

was demonstrated by the fact that after successfully thwarting the removal of term limits, several of the critics of the proposals within the MMD subsequently left the party and contested in the 2001 presidential elections. The case of Zambia's Michael Sata who, as MMD Administrative Secretary, led the campaign for a third term for President Chiluba also shows another dimension of the nature and extent of patronage to the quests to remove term limits. In leading the campaign for a third term for Chiluba, several key informants pointed out that Sata might actually have had his own presidential ambitions in doing so. Specifically, many observers noted in interviews that Sata might have calculated that he stood to benefit whether the third-term bid succeeded or failed. On one hand, if the bid succeeded, he would have been amply rewarded by Chiluba both financially and by being appointed to a senior government position. In the event that the bid failed, it was expected that Chiluba would have rewarded Sata by anointing him as his successor. However, after failing to secure the removal of term limits, Chiluba overlooked Sata and instead handpicked an outsider, Levi Mwanawasa, to succeed him. In response, Sata immediately resigned from the MMD and quickly formed his own party, the Patriotic Front, on whose ticket he contested in the 2001 presidential elections

What these experiences tell us is that it is possible that resistance to the removal of term limits might not necessarily always be influenced by a commitment to democratic ideals and their underlying rules. Instead, third-term opponents might have been motivated by calculations of self-interest. Campaigns for and against the removal of term limits, in this regard, encapsulate the very essence of patron-client relationships. Under these scenarios, incumbent presidents play the role of patrons in a purely instrumental relationship, using their position and influence to offer resources, primarily monetary, and other discretionally benefits such as appointments to government positions to clients. These clients, who include members of the president's own

party as well as members of the opposition and other key governance stakeholders, in return offered support to secure the removal the presidential tenure limits. It is thus conceivable that the clients might appreciate the value of Constitutionalism over personalism but only that they valued the patronage incentives more. In other words, a commitment to rule of law and Constitutionalism might not be sufficient for the preservation of key democratic institutions such as presidential tenure limits, especially when patronage offers such an enticing attraction that Africa's key political actors find it hard to resist.

10.1.1.3 The limits of patronage

Patronage as an institution is founded on reciprocal relationships whereby a patron provides benefits to clients who return the favour by acting in ways that advance the patron's interests. When the chains of this reciprocal relationship is broken, patronage becomes an ineffective strategy and cannot thus be expected to bring about the desired results.

While patronage in its various forms appears to have played a major role in the quests to remove term limits in the four case-study countries, its impact on the outcomes is mixed at best. This is especially the case considering that two of the three countries that made extensive use of this institution (Malawi and Zambia) failed to achieve their goal of removing term limits. Thus while several authors, including Okuku (2005), Makara (2007), Mwenda (2007), and Atoo et al. (2008), all of whom write on the single case of Uganda, have argued that patronage played a decisive role in influencing the removal of presidential term limits in 2005, it becomes clear that when the issue of patronage is looked at from a cross country perspective, it does not appear to have been as pivotal as it is often portrayed in the single-country studies. Otherwise, if patronage were such a decisive factor as the various commentators on the Ugandan case have suggested, we would have expected the proposals in Malawi and Zambia to have been passed too. Indeed,

elsewhere on the continent, President Olusegun Obasanjo's regime in Nigeria pursued one of the most extensive campaigns of patronage in his bid to remove term limits in 2006 (Lewis, 2010; Sklar et al., 2006; Suberu, 2007). Yet, this patronage campaign failed to secure the removal of term limits for Obasanjo, with several Senators from the ruling People's Democratic Party (PDP) breaking ranks and voting against the proposal. In this case, monetary inducements were trumped by yet another informal arrangement within the PDP that called for the rotation of the party's presidential candidates between the predominantly Moslem Northern Nigerian States and the Christian South.

This is, of course, not to intimate that patronage does not matter in the bids to remove the presidential term limits in Africa. Certainly, the willingness of both Museveni and Nujoma to disburse huge sums of money and offer various incentives such as ministerial and ambassadorial appointments, even when they both enjoyed commanding legislative majorities, suggests that even these entrenched leaders were not sure that they could remove term limits without offering patronage incentives to their support base. Although patronage might not have brought about the desired outcomes in Malawi and Zambia, it still had some modest effects in shaping the final outcomes even if such effects were not decisive. This was particularly notable in the Malawi case where President Muluzi got close to getting the two-thirds Parliamentary majority by enticing a sizeable number of opposition legislators with patronage to vote in favour of removing term limits. The failure of Muluzi's third-term campaign thus cannot thus be attributed to the ineffectiveness of patronage as a tool for winning opposition support, but rather to Muluzi's failure to sustain the full support of his own party's legislators.

Nevertheless, the fact that patronage appears to have contributed to the removal of term limits in Namibia and Uganda and not in Malawi and Zambia, is suggestive that while it remains

a potent tool for perpetuating personal rule, it is not on its own, a sufficient strategy in the third-term processes. Instead, what these findings suggest is that at best, patronage can only be a successful when it is employed as part of a broader and more comprehensive multi-strategy approach. In this case, patronage succeeds when it is complimented with strategies that not only help to identify how the recipients of patronage vote, but also the existence of a credible threat of violence to punish defaulters. Combined, the identification of decisions of beneficiaries and the credible threat of violence can ensure that patronage can be an effective tool in securing institutional change that ensures perpetuation of personal rule, as happened in Namibia and Uganda. Conversely, where the patrons are unable to identify how their clients vote due to voting secrecy rules (as in Zambia), the strategy of patronage can only have limited results. Even in those cases where the patrons secure rule changes to provide for the identification of how clients vote (Malawi), the absence of a credible and significant threat of violence meant that the costs of defection were not as significant, thus encouraging more defections than in the cases where the threat of violence was founded on state instruments of violence as was the case in Uganda and Namibia.

10.1.2 Ruling-Party Cohesion

The quests to remove presidential term limits not only generated national debates about how such changes would impact on rule of law, these proposals also created fissures within the ruling parties that impacted on the final outcomes in important ways. That this was the case was not entirely surprising. While term limits provide opportunities for presidential aspirants to bid their time and wait for their turn, the removal of these rules reduces the opportunities for the other individuals bidding to contest for the presidency. In Malawi and Zambia, the two countries that failed to remove term limits, the proposals to remove term limits resulted in extensive

fracturing of the two ruling parties, UDF and MMD respectively. Although there were some minor fissures in the ruling parties in Namibia and Uganda, SWAPO and NRM remained largely cohesive and intact, which enabled Presidents Nujoma and Museveni to secure near unanimous backing from their party followers to seek the removal of term limits.

10.1.2.1 Things fall apart in the ruling parties in Malawi and Zambia

In Zambia and Malawi, the two countries where the quests to remove tenure limitations were subsequently rejected, the bids caused major splits in the ruling parties that ultimately hampered party unity and deprived the incumbent presidents the necessary legislative support. In the Zambia case, several leading figures from the ruling MMD came out strongly against the proposal to remove the term-limit provision. Among the prominent MMD defectors were senior cabinet ministers, members of the MMD National Executive Committee, as well as several of the party's trustees.

The open dissention by the senior MMD officials in Zambia over the third-term proposal also served as a catalyst that emboldened other junior members of the party hierarchy, including MPs, and provincial officials, who declared publicly their opposition to the removal of term limits. In March 2001 for example, over fifty senior MMD officials, issued a joint statement condemning the proposal to remove term limits as an attempt to bring back the “perpetual presidency syndrome.”¹²⁰ In addition to these defections of senior MMD officials, President Chiluba's ability to succeed in removing term limits was further worsened by the fact that he often responded by expelling party members who had expressed opposition to his third-term proposal. Not only did these expulsions weaken the MMD's ability to mount an effective

¹²⁰ See “MMD Members Reject Perpetual Presidency Syndrome,” in *The Post*, March 28, 2001, pg. 1.

campaign in favour of removing term limits, but they also contributed to the erosion of the party's overall Parliamentary majority. Thus although the MMD had won slightly over 87 percent of the national Assembly seats in the 1996 elections, the internal opposition within the MMD, where up to fifty-nine of the party's 131 legislators openly expressed their intentions to vote against removing term limits, meant that Chiluba was unlikely to garner the necessary two-thirds majority required to remove term limits from the Zambia's Constitution (Chella and Kabanda, 2008). Ultimately, the chasm in the MMD was so huge that President Chiluba was compelled to concede defeat on the eve of the tabling of the amendment bill in early May 2001, reluctantly expressing his decision to step down at the end of his second term of office.¹²¹

Although the level of internal defections from the ruling party in Malawi were not up to the same levels as Zambia, the narrow size of the ruling UDF's Parliamentary majority, which was already thirty-five seats short of a two-thirds majority, meant that any defections from the ruling party would have major consequences on the government's ability to remove term limits. In the course of the debates leading up to the tabling of the bill that sought to remove term limits, eight UDF legislators, some of whom had served as cabinet ministers, openly broke ranks and declared their opposition to the proposal (Dulani and van Donge, 2005). The loss of support from this group might actually have influenced Muluzi's decision to adopt a very aggressive strategy of patronage aimed at attracting support from opposition legislators. At the same time, and as we saw in the preceding chapter, Muluzi explored numerous options at changing the rules of the game, including those that sought to expel from Parliament those members that were opposed to the removal of term limits. However, notwithstanding all these efforts, the first tabling of the bill to remove term limits in Malawi was three votes short of the required two-thirds majority. By the

¹²¹ See "Zambia's Chiluba Will Not Seek a Third Term," in *The Guardian*, May 7, 2001, available online at www.guardian.co.uk/world/2001/may/07/chrismcgreal/print.

time a second version of the bill was to be tabled in an emergency session of Parliament in early 2003, an additional eight UDF MPs indicated that they would be voting against the new proposal that sought to increase the maximum number of presidential terms from two to three.¹²² The fate of Muluzi's quest for a third term took a further hit when in November 2002, thirty-eight opposition legislators who had originally supported the failed bid in July 2002, indicated that they would not support the proposal to increase the maximum number of presidential terms from two to three (Dulani, 2005). Together, these defections of former Muluzi allies meant that the second version of the Constitutional amendment of the term-limit provision would most likely have fallen even further short of the two-thirds majority. Faced with this reality, the UDF decided to shelve the bill before Parliament could even vote on it in January 2003.

That the efforts at removing the presidential term limits in Malawi and Zambia contributed to ruling party divisions was not entirely surprising. In creating a time barrier for holders of presidential office, term limits can pacify ambitious partisans to bide their time and wait until incumbents are out of office so that they too can launch their own presidential campaigns. When incumbents decide to prolong their tenures, this works against the ambitious of other presidential aspirants, including those in the ruling parties. It is thus important to note that the decision by these dissenters in Zambia and Malawi to refuse to support the removal of term limits might not have been motivated by a desire to defend the Constitution and subscription to the principle of regular leadership rotation, but rather, by personal ambition. In both Malawi and Zambia for example, some of the leading figures from the MMD that opposed the removal of term limits went on to form their own parties and contested in the following presidential

¹²² According to an MP from the ruling UDF Party, the number of dissenters was likely to be more than eight, with more deciding to keep their opposition silent. It was thus more probable that more UDF legislators would have voted against the removal of term limits but chose not to make those decisions public (interview with a UDF MP, July 15, 2007).

elections even after both Chiluba and Muluzi had been forced to step down. So, while some of the ruling party dissenters in both Malawi and Zambia might have argued that their opposition to the proposals to remove term limits was influenced by a desire to promote a culture of adherence to Constitutional principles, it is possible that such claims were only incidental to the extent that they merely coincided with aiding their own presidential aspirations.

10.1.2.2 The Centre Holds in Namibia and Uganda

While the third-term pursuits caused major fissures within the ruling parties in Malawi and Zambia that ultimately undermined the efforts to remove tenure limits, their Namibian and Ugandan counterparts fared much better. In these two cases, the bills that altered the term-limit provision faced very little to no opposition within the ruling parties (SWAPO in Namibia and NRM in Uganda). In both cases, when the bills for changing the term-limit provisions were tabled in Parliament, they received almost unanimous support among the ruling party legislators.¹²³ The question that arises is how did Nujoma and Museveni manage to hold their parties together while Chiluba and Muluzi failed in Zambia and Malawi?

The history of the ruling parties in the four countries can arguably shed some light into why they remained intact in Namibia and Uganda but disintegrated in Malawi and Zambia. Firstly, the ruling parties in Namibia and Uganda had a much longer history, with distinct ideological positions and a discipline that was shaped before they ascended to power. Both SWAPO and NRM originated from military struggles, which imbued them with military

¹²³ In Namibia, all fifty SWAPO MPs voted in favour of the constitutional change that allowed President Nujoma to seek a third term. When the bill was tabled in the twenty-six-member National Council, nineteen SWAPO councilors voted in favour. In Uganda, the bill to remove term limits was supported by 222 MPs, all from the ruling NRM. Thirty-six opposition MPs voted against with two abstentions.

discipline and an ethos of loyalty. Their counterparts in Malawi and Zambia, by contrast, were new creations, having only been formed at the height of the democracy wave in the early 1990s. While SWAPO and NRM were tight units with a longer history, the UDF in Malawi and MMD in Zambia were disparate coalitions of individuals and group that were only united by the quest to displace the former authoritarian regimes. They did not, in other words, share strong ideological roots other than the desire to assume power. Not surprisingly, some of the membership within these newer parties saw the bids to remove term limits as obstacles to their own presidential ambitions. Conversely, the lengthy tenures of the Namibian and Ugandan presidents meant that Nujoma and Museveni were not only central to the political opportunities of the ruling elites in those countries, but their military leadership in the pre-democracy struggles provided them further legitimacy and loyalty from their supporters. As one Namibian academic pointed out on Nujoma's dominance of the Namibian political space, there are "very limited prospects for career advancement in politics outside of SWAPO... opposing Namibia's unquestioned founding father...would have been tantamount to political career suicide..."¹²⁴

While breaking ranks and forming a new party were a realistic prospects for ambitious politicians in Malawi and Zambia, the dominance of the political space by the Namibian and Ugandan presidents meant that prospects of political survival outside the ruling parties for those that opposed the removal of term limits was very minimal. While the unified fronts of the ruling parties in Namibia and Uganda might have been demonstrative of the loyalty and popularity enjoyed by Nujoma and Museveni, it is also possible that the political context, vis-à-vis the limited political career opportunities outside of SWAPO and NRM, meant that individuals who wanted to prolong their political careers had no incentive to speak against the removal of term

¹²⁴ Interview with author, November 19, 2008.

limits. The unified fronts that the ruling parties in Namibia and Uganda demonstrated, in other words, do not necessarily imply that there were no dissenters within the ruling parties in those countries as happened in Malawi and Zambia. Rather, it might have been reflective of the different political realities in the four countries, where dissention over the third-term bids, in other words was not as career threatening in Malawi and Zambia as it was in Namibia and Uganda.

10.1.3 Respect for Authority and Father-Figure Status of Presidents

An important aspect of personal rule is the high levels of deference accorded to authority (Clapham, 1982; Schatzberg, 2001). In polities where respect for authority drives political action, those entrusted with high public office are rarely criticised and often enjoy unbridled power. Respect for authority, in other ways, serves as the foundation for personal rule, easing the possibility of leaders to secure institutional changes that entrench their authority. Among the most important manifestations of respect for authority is the level of deference accorded to presidents that acquire the status of national father figures. At the height of the authoritarian era in Africa, several of the continent's dictators went to great lengths to appropriate the imagery of father figure, which offered an institutional justification for their unquestioned authority and accumulation of extensive powers.

Not surprisingly, the third-term presidents have sought to appropriate the father-figure imagery as a basis for justifying their claims to securing the removal of term limits and prolong their tenures. However, although all four presidents in the case study countries sought made claims to the father-figure imagery as a basis for winning public support, there was a clear distinction between the perceptions of the father-figure qualities of the two presidents that

succeeded in removing term limits (Namibia and Uganda) and the two that failed (Malawi and Zambia).

10.1.3.1 Genuine and Pseudo Claims to Father-Figure Status

In the two countries where tenure limits were removed (Namibia and Uganda), the two presidents had stronger claims as their countries' unquestioned father figures. In Nujoma's case, the genesis of his status as Namibia's founding father were based on his leadership of SWAPO from its formation in 1957 through the nationalist struggle against apartheid rule until the country gained independence in 1990, with Nujoma becoming the country's first president. As a result, SWAPO's calls for relaxing term limits were built around the view that this represented a recognition of the president's "long and unbroken leadership qualities as the founding father of the nation [as] some of the motivating factors for a third term."¹²⁵

Although President Yoweri Museveni did not lead his country to independence, he was nonetheless able to successfully cultivate a father-figure image for himself on account of the fact that his ascendancy to the Ugandan Presidency in 1986 came after nearly two decades of a turbulent political history, characterised by frequent, and often unconstitutional, leadership changes. By ushering in a new era of stability and relative peace, Museveni was hailed as a liberator and Uganda's "father of the nation...the only man with a vision for a prosperous Uganda and best placed to oversee the rebuilding of the institutions of state...in a country torn apart by decades of conflict" (Makara, 2007:57). In a nutshell then, although Museveni's and Nujoma's presidencies started towards the end of the 20th century, the way the two were perceived in their respective countries is akin to the same levels of adulation accorded to the first generation of African leaders in the middle of the 20th century.

¹²⁵ See "SWAPO Congress Resolution" in the *Namibian*, June 2, 1997, pg. 2. See also *New Era*, May 9-11, 1997, pg. 1.

In Malawi and Zambia on the other hand, Presidents Muluzi and Chiluba failed in their attempts to pass themselves off as father-figure type of leaders. Although both presidents played important roles during the transitions of their countries from authoritarian rule in the early 1990s, several factors made their attempts to appropriate the father-figure imagery very difficult. Firstly, the fact that both Chiluba and Muluzi won presidential elections against their respective countries' founding presidents was in part a reflection of popular disillusionment with father-figure and personalized forms of leadership (Bratton and van de Walle, 1997). It was thus more difficult for Chiluba and Muluzi to appropriate the imagery of father-figure leaders without losing a large proportion of the constituency that had propelled them into power in the first place. This situation was further compounded by the fact that both Muluzi and Chiluba were only part of broader coalitions of social movements that campaigned for an end to authoritarian rule. Although they later emerged as presidents, they could not claim to have played the same decisive roles that their Namibian and Ugandan counterparts could claim.

Not surprisingly, the discrepancies in the father-figure attributes of the four presidents played important roles in influencing the outcomes of the quests to remove term limits. For the two leaders who could make justifiable claims of being their country's father figures (Nujoma and Museveni), this not only fed into the overall justifications to reward them by removing term limits, but it also contributed to a reduction in the levels of popular resistance against the third-term pursuits. While Nujoma and Museveni were able to lay strong claim to father-figure status, their counterparts in Malawi and Zambia had to contend with more obstacles, both within their own parties and outside. The failure by Chiluba and Muluzi to appropriate the father-figure imagery in Zambia and Malawi respectively not only made it more difficult for them to win public support for the removal of term limits, but it also made it relatively easy for other

presidential aspirants to emerge and challenge them. Thus despite the attempts to use several contextual factors in their favour, coupled with the employment of a multi-prong strategy that included patronage, violence and rule changes, both Chiluba and Muluzi were unable to completely quell the tide of resistance against the removal of term limits efforts.

That the third-term bids in the four countries were premised on the father-figure characteristics of the incumbents highlight some of the limits of the democratic transitions of the 1990s in overcoming the informal bases of personal rule in Africa generally and the four case study countries in particular. The practice of justifying the removal of term limits on account of the supposed father-figure traits of the incumbents, as was the case in the four countries, suggests that the habit of modifying formal rules to accommodate the whims of leaders did not completely disappear as African countries joined the third wave of democracy in the early 1990s. However, at the same time, the experiences of the four countries demonstrate that there are different categories of father-figure presidents in modern day Africa. Those, such as Sam Nujoma in Namibia and Yoweri Museveni in Uganda, who command levels of adoration and loyalty that is akin to that which was accorded to the first generation of African leaders, face relatively fewer obstacles and are more likely to succeed in removing tenure limits. On the other hand, leaders that came to political prominence following the political transitions of the 1990s, such as Muluzi and Chiluba, find it more difficult to cultivate for themselves images of true father-figure leaders. As a result, these *pseudo* father figures face significant obstacles that can derail attempts to remove tenure limits on their part.

Although this finding paints a somewhat mixed picture of the trajectory of African politics, vis-à-vis the future of personal rule, it nevertheless suggests a somewhat more optimistic future of politics on the continent. While the vestiges of the father-figure characteristics linger on

and can aid the perpetuation of personal rule, the fact that the likes of Chiluba and Muluzi have not been successful in their efforts to appropriate these images, demonstrates that the newer generation of leaders cannot automatically draw upon this factor to change rules to prolong their tenures. It is thus likely that as the remnants of father figures from the pre-transition generation leave the political stage, their successors will find it harder to claim the same political favours that their predecessors enjoyed. This is already being demonstrated in Namibia, where, after Nujoma stepped down as president in 2004, his successor has operated in the shadow of Nujoma, who is considered to be the only genuine claimant to the status of modern Namibia's founding father.

10.1.4 Absence of Designated Successors

Like the traditional chiefs in Africa's traditional cultures, father-figure presidents are expected not only to be respected and obeyed without question, but they also have no designated successors. Not surprisingly therefore, one of the main arguments advanced in favour of removing term limits was the absence of successors. This was best exemplified in Namibia, where one of SWAPO's arguments for the relaxation of the two-term-limit rule in 1999 to except only Nujoma from the two-term-limit rule was that there was "no obvious and natural successor for President Nujoma."¹²⁶ Even in Uganda, a country of nearly thirty million people, advocates of the removal of term limits suggested that there were no viable alternative to President Museveni's leadership and that no one else could hold the country together and sustain the country's development gains like Museveni (Mbazira, 2008; Okuku, 2005).

In Malawi and Zambia, the two countries where the third-term bids were rejected, the removal of term limits were also similarly justified on account of the lack of successors for

¹²⁶ See "Perspective," in *The Namibian*, March 20, 1997, pg. 6.

presidents. Momba (1999) noted for example, that one of the key arguments in favour of removing tenure limitations in Zambia was that the country had no viable alternatives as Chiluba had not groomed anyone to succeed him as president. However, while the histories of Namibia and Uganda made it possible to make a stronger case for the indispensability of the presidential incumbents, the history of Malawi and Zambia made this a much more difficult argument to sell. Specifically, the fact that both Chiluba and Muluzi had succeeded long-serving presidents, who themselves had no designated successors, undermined the argument. Instead, the ascendancy of both Chiluba and Muluzi were used by those opposed to the removal of term limits as evidence that no individual leader was indispensable. It is thus not surprising that unlike their Namibian and Ugandan counterparts, both Chiluba and Muluzi were unable to build convincing cases for the removal of term limits on account of the fact that they did not have designated successors.

Suffice to say that the arguments in favour of the removal of presidential term limits on account of the absence of designated successors highlight the continuing linkage between institutional change and the personalization of power in Africa. While modern conceptualizations of democratic politics highlight the need for rule-based leadership, the appeal to the absence of designated successors in the four countries suggests that leaders who desire to prolong their tenure deliberately promote traditions that identify political and development achievements with the person of the president instead of promoting impersonal agendas. Under these circumstances, the notion of leadership alternation, promoted through institutions such as term limits, becomes an anathema. Ultimately, this becomes self-serving: leaders that seek to prolong their tenure have no incentive to nominate successors because doing so would signal that there are others capable of leading in their place and thus derail any campaigns to remove rules that seek to promote alternation.

However, the fact that all four countries made appeals to the absence of a leadership succession plans and yet ended up with the different outcomes in their attempts to remove term limits suggests that the absence of a designated successor does not ensure automatic removal of presidential term limits. At best, the absence of a succession plan can merely serve as a motivation for initiating the debates to consider the removal of term limits. At the same time, it is important to note that although a clear succession plan can ease the fears of incumbents against stepping down, the extent to which this can dissuade future pursuits of third-term bids cannot be ascertained from this analysis. This is particularly true in the cases where the pursuit of third-term bids were motivated by the desire by incumbents to avoid prosecution in the event that they hand over power. In the Malawi and Zambia cases for example, both Presidents Muluzi and Chiluba followed their failed bids to remove term limits by handpicking successors.¹²⁷ However, while these successors initially pledged to protect their predecessors, they both reneged and dragged Chiluba and Muluzi to court over allegations of corruption and mismanagement.¹²⁸ It is thus possible that the pursuits of third terms to avoid future prosecutions might remain a possibility, especially when there is evidence that hand-picked successors are not immune from dragging their predecessors to court over their actions while in office.

¹²⁷ In Zambia, President Chiluba picked Levy Mwanawasa, who had retired from politics in 1996 to succeed him as the MMD candidate in the 2001 elections. In Malawi, President Muluzi also handpicked Bingu wa Mutharika, who was poached from his opposition United Party to stand on the UDF ticket in the 2004 elections.

¹²⁸ See “Fredrick Chiluba,” in the *New York Times*, August 19, 2009, available online at http://topics.nytimes.com/topics/reference/timestopics/people/c/frederick_chiluba/index.html. See also “Muluzi Arrested,” in the *Nation Newspaper*, July 28, 2006.

10.1.5 History of Long-Tenured Presidents

As we saw in earlier chapters, the history of long-tenured presidents was one of the most important factors in influencing the adoption of term limits in Africa. Among the four case-study countries, two (Malawi and Zambia) had had the direct experience of leaders that had stayed in office for long durations in the pre-term-limits era.¹²⁹ While Malawi and Zambia had two long-tenured presidents, Uganda and Namibia on the other hand never had similar experiences by the time the debates to remove term limits were being introduced. For Namibia, this was largely an outcome of the country's late attainment of independence which came in 1990. Thus at the time the country began to consider the changes to the presidential term-limit provision in 1998, Sam Nujoma had been Namibia's only president. Meanwhile, although Uganda gained her independence in 1963, the country experienced a very turbulent political history, characterised by frequent unconstitutional usurpations of power (Ngozi, 2003). Between independence in 1963 and 1986, Uganda had a total of eight presidents, each averaging just slightly less than three years in office.

Given the differing histories of the four countries, vis-à-vis the experience of long tenured presidents, it was not surprising to find that the two countries that had a history of long-tenured presidents (Malawi and Zambia) rejected the removal of term limits. Having had the direct knowledge and experience of the likelihood of strong and personalized rule in the absence of tenure limits, these two countries arguably had the strongest motivation to retain presidential tenure limits. This view was summed up most succinctly in the words of a former cabinet minister in the Chiluba government in Zambia, when he pointed out that:

¹²⁹ Malawi's first president, Hastings Banda, was in office for twenty-eight years as president and a further five as prime minister, giving him a combined total of thirty-three years at the helm of Malawi politics. Zambia's founding president, Kenneth Kaunda, was in office for twenty-seven years before being ousted in the 1991 general elections.

“Zambia’s history under Kenneth Kaunda demonstrated to us that the Constitution is the only shield we have against the natural ferocity of the human species and tendencies for self-entrenchment... nothing had happened since 1990 to change my views on the absolute need to limit the term of office of our presidency... Kenneth Kaunda’s tenure had taught us that even leaders that start off well, they can become autocrats after staying in power for too long.”¹³⁰

Although anti-third-term campaigners in Namibia and Uganda cited the dangers of unlimited presidential tenure, the lack of local examples of leaders that had stayed in office for too long in office meant that such arguments were largely theoretical and lacking in familiarity and appeal among the local citizenry. In Malawi and Zambia, by contrast, anti-third-term campaigners could point at the real-life examples of the long tenures of Banda and Kaunda to substantiate their arguments that the term limits are needed to prevent the recurrence of the life-presidency syndrome. These contrasting scenarios thus made it easier for anti-third-term campaigners to mobilize public support against the proposals to remove term limits in Malawi and Zambia, leading to frequent and vocal public demonstrations against the proposals. In contrast, in Uganda and Namibia, the anti-third-term campaigners were often lonely voices that failed to attract significant levels of public support. This enabled the ruling elites to claim that the anti-third-term campaigners were a minority fringe element while the majority of the people were supportive of the proposals to remove them.

10.1.6 Civil Society Activism

An assessment of civil society activism during the third-term debates reveals a very clear distinction about the extent of civil society engagement in the four countries. In the two countries where term limits were removed, civil society played a much less active role than in the two where the proposals were rejected. In the two countries where the term-limit provisions were changed or removed, civil society was not only weak, but was either compromised (in Namibia)

¹³⁰ Interview with author; August 18, 2008.

due to its close association with the government or was infiltrated and disorganized (Uganda).

Table 10.2 provides a summary list of the leading civil society groups in each of the four countries and their positions on the third-term bids.

10.1.6.1 A United and Active Civil Society in Malawi and Zambia

In Malawi and Zambia, the two countries that ultimately rejected the attempts to remove presidential term limits, civil society groups were well organized and undertook well coordinated campaigns against the proposals to remove term limits. In Zambia, for example, leading civil society organizations—including the Law Association of Zambia, the NGO Coordinating Committee, the Zambia Episcopal Conference, the Christian Council of Zambia, the Evangelical Fellowship of Zambia, and the Zambia Congress of Trade Unions and its affiliates—came together and formed the “*Oasis Forum*,” which became the leading mouthpiece of the civil society campaign against the removal of term limits in the country (Chella and Kabanda, 2008; USAID, 2003). In Malawi meanwhile, several civil society groups, such as the Malawi Congress of Trade Unions and its affiliates, the mainstream churches, the Public Affairs Committee (PAC), the Malawi Law Society, and the Human Rights Consultative Committee, also came together and formed the “*Forum for the Defence of the Constitution*,” which served as a coordinating body for opponents of the proposals to remove term limits (Dulani and van Donge, 2005).

Operating through the united fronts, civil society organizations in Malawi and Zambia were able to coordinate their campaigns against the proposals to remove term limits. These activities included lobbying cabinet ministers and MPs to vote against the bill seeking to remove term limits; organizing public forums to debate about the merits of retaining term limits and organizing public demonstrations against the proposals. In Zambia for example, the civil society

Table 10.2: Civil Society and Third-Term Bids in Malawi, Namibia, Uganda, and Zambia

Country	Civil Society in Favour of Removing Term Limits	Civil Society against the Removal of Term Limits
Malawi	<p>Chief's Council Muslim Association of Malawi Pentecostal Churches Pastors Voices Fraternity</p>	<p>Public Affairs Committee Malawi Congress of Trade Unions Malawi Law Society Human Rights Consultative Committee (<i>a grouping of more than fifty governance NGOs</i>) Episcopal Conference of Malawi Church Catholic Commission for Justice and Peace CCAP General Synod Church NGO/Consortium Evangelical Association of Malawi Forum for the Defence of the Constitution University of Malawi Students Union</p>
Namibia	<p>SWAPO Elders Council Namibia National Students Organization Mineworkers Union of Namibia SWAPO Youth League National Union of Namibia Workers Women Action for Development</p>	<p>National Council for Human Rights Breaking the Wall of Silence Namibian Students Education Movement Institute for Public Policy Research National Society of Human Rights Legal Assistance Centre</p>
Uganda	<p>Kalagala Action Plan National Organisation of Trade Unions Uganda Manufacturers Association Uganda Media Center Buganda Royal Establishment</p>	<p>Foundation for Human Rights Initiative Uganda Joint Christian Council Kituo Cha Katiba Uganda Law Society Episcopal Conference of Uganda Human Rights and Peace Centre Network of Indigenous Voluntary Associations Human Rights Network Uganda Women's Network</p>
Zambia	<p>National Organization for Civic Education Independent Churches of Zambia Civil Society Initiative Pentecostal Churches.</p>	<p>Law Association of Zambia NGO Coordinating Committee Zambia Episcopal Conference Christian Council of Zambia Evangelical Fellowship of Zambia Zambia Congress of Trade Unions Civil Servants Union of Zambia University of Zambia Student Union National Youth Alliance National Citizens Coalition Tonga Traditional Association Catholic Commission for Justice and Peace Zambia Civic Education Association Women for Change Afronet-Zambia</p>

Source: Compiled by author from fieldwork interviews, June 2007-December 2008.

issued the ‘*Oasis Declaration*’ in February 2001 which outlined the main reasons for civil society’s opposition to the removal of term limits and also called upon President Chiluba to honour the Constitution by not seeking a third term in office. This document was not only widely distributed through the independent media, but it was also read in member-churches of the Christian Council of Zambia, Evangelical Fellowship of Zambia, and Episcopal Conference of Zambia, all of whom were among the key signatories to the *Oasis* declaration.

At the same time, these groups also used their organizational capacity to serve as platforms for public dialogue and debate, including organizing public demonstrations against the removal of term limits. Civil society in the two countries were also very active in issuing press releases in support of the retention of term limits as well as pursuing various strategies such as wearing green ribbons (Zambia), honking car horns and blowing whistles to demonstrate opposition to the removal of term limits. These united campaigns by civil society in Malawi and Zambia were not only effective in countering the efforts to remove term limits, but their success was also instrumental in convincing citizens of their power to influence political outcomes.

10.1.6.2 Civil Society Compromised and Infiltrated in Namibia and Uganda

By contrast, civil society organizations in Namibia and Uganda played very minimal roles in stopping the third-term bids. In Namibia for example, several of the country’s leading civil society groups, including the influential trade unions and the student union movements sided with SWAPO to support the relaxation of the presidential term-limit provision to allow Nujoma to seek a third term. The National Union of Namibian Workers (NUMW) and the equally influential Mineworkers Union of Namibia (MUN), for example, were among the leading civil society organizations that endorsed the proposal to allow President Nujoma to seek

a third term.¹³¹ Indeed, while the SWAPO proposal only called for the relaxation of the term-limit rule to allow only Nujoma to stand for a third term of office, the MUN went further to call for the complete removal of term limits.¹³² Although a handful of civic organizations such as the National Council for Human Rights (NCHR), the Breaking the Wall of Silence, among others, were opposed to the removal of term limits, these were not only few and isolated, but also lacked the levels of coordination that were evident in Malawi and Zambia. Indeed, given the level of unbridled respect enjoyed by President Nujoma as Namibia's father figure, the few civil society groups that opposed the removal of term limits were very careful to avoid being seen as if their opposition was against the person of Nujoma. In their statement on the third term, for example, the 'Breaking the Wall of Silence' group noted that most Namibian civic organizations were "fearful of speaking out against the third term...for fear of giving the impression of being disrespectful to President Nujoma..."¹³³ This resulted in a situation where even those few civil society groups that were opposed to the removal of term limits to tread a careful path, to "campaign against the third term without giving the impression that they were opposed to Nujoma, who, enjoys a lot of support and any indications that the campaign were against him could easily have caused a revolution."¹³⁴

Although compared to Namibia, Uganda had a lot more civil society groups that operated independently from the NRM regime, they were nevertheless unable to organize and coordinate their activities against the removal of term limits. Despite initial attempts to bring Ugandan civil

¹³¹ See "NUNW Backs Third Term and Intervention in DRC," in the *Namibian*, October 1, 1998, pg. 1.

¹³² See "MUN Supports a Third Term for President," in *Miners Speak*, Vol. 8, 1997, pg. 1-2.

¹³³ See "Press Statement by Breaking the Walls of Silence," in the *Namibian*, April 8, 1997.

¹³⁴ Interview with civil society activist, November 19, 2008.

society organizations together to fight a coordinated campaign against the removal of term limits, these efforts were not successful. As Ngozi (2003) notes, the attempts by Ugandan civil society groups to come together at the onset of the third-term debates under the banner of the *Popular Resistance Against Life Presidency* were quickly scamped by state security agents who violently suppressed the efforts and prevented the groups from organizing. In the absence of a coordinating body, Uganda's civil society could only make isolated submissions to the Legal and Parliamentary Affairs Committee of Parliament expressing their opposition to the removal of term limits. Although in numerical terms Uganda had as many civil society organizations that were opposed to the removal of term limits as Malawi and Zambia, their inability to get together to coordinate their activities meant that President Museveni and his supporters within the NRM were able to isolate them by labelling their leadership as opposition activists, thereby undermining the potency and traction of their message.

10.1.6.3 History and the Disparity in Civil Society Activism in Malawi and Zambia vs Namibia and Uganda

Once again, a critical question that emerges from this discussion is how to explain the differences in the roles of civil society organizations in the four countries during the debates for the removal of term limits. Yet again, it would appear that history played a major role in explaining the differing roles that civil society groups played during the debates to remove term limits in the four countries.

In Namibia and Uganda, civil society had for long been closely identified with the ruling regimes, so much that during the debates for the removal of presidential term limits, a number of prominent and influential civil society groups felt obliged to side with government. In the Namibia case for example, the few civil society organizations that emerged during the apartheid era were closely aligned with SWAPO during its guerrilla struggle against apartheid in

advocating for Namibia's independence. These included the trade union movement as well as university student organizations. Thus when independence was granted in 1990, the Namibian civil society and SWAPO had already had a long history of working in close alliance. As Good (1997), notes, the close association between SWAPO and Namibian civil society groups culminated in the appointment of several civil society leaders into government after 1990.

The potency of the Ugandan civil society to lobby against the removal of presidential term limits was also further undermined by several advance institutional changes that have limited their ability to play a prominent role in the governance arena. Although the Museveni government had been credited for opening up the space for the proliferation of civil society after it came to power in 1986, it is widely recognised that the regime has been accommodating of only those civil society groups that have taken on a predominantly apolitical and service-oriented approach. This view was summed up succinctly by Kjær and Olum (2008:184) when they argued that civil society groups were only accepted by the Museveni regime as long as they were perceived as “not a challenge to political power...hence the Ugandan civil society moved from being active to docile political players.” In addition to restricting the operations of governance civic groups, the Museveni regime in Uganda also made deliberate efforts to incorporate Ugandan civil groups to become what Kabwegyere (2000:101) describes as “part of a national coalition with the NRM.” Meanwhile, the close association between civil society and the NRM regime has prevailed over time (Katusiimeh, 2004).

The Museveni regime has also undertaken several initiatives aimed at circumscribing the space for civil society organizations to mobilize against controversial government initiatives proposals. These included the enactment of an NGO Amendment Act of (2001). This law, which preceded the start of the discussions to remove term limits, imposed very strict restrictions for

the registration of NGOs working in the governance sector. As one executive director of a Ugandan NGO pointed out in an interview, the NGO Act of 2001 was a “deliberate ploy by the Museveni regime to stifle the work of NGOs that were highly critical of government policy and practice.”¹³⁵ It is telling that while a similar legislation in 2001 to limit NGO activities on governance issues in Malawi was challenged and overturned by the High Court before the third-term bill was tabled in Parliament, the Ugandan one remained on the statute books throughout the third-term campaigns in the country. As a result, while the Malawi Civil Society groups could operate relatively more freely, their Ugandan counterparts were forced to operate in an increasingly narrow space that ultimately limited their effectiveness. Subsequently, although there were as many civil society groups that were opposed to the removal of term limits in Uganda as there were in Malawi and Zambia, the restricted space within which the Ugandan groups operated meant that they could not have the same impact as their counterparts in Malawi and Zambia.

By contrast, the history of civil society organizations in Malawi and Zambia, vis-à-vis their relationship to the ruling parties, was very different. In these two countries, civil society groups, including trade unions, student movements, non-governmental organizations, and church groups, all played a central role in precipitating, and sometimes overseeing, the transitions from authoritarian rule in the early 1990s. Not only did these civil society organizations have a direct investment in the transitions toward more open and democratic forms of government in the two countries, but a number of them played key roles in the drafting of the new Constitutions that included the tenure limit provisions. Examples of these civil society groups include the Public Affairs Committee in Malawi, the Malawi Law Society, the Law Society of Zambia, the Zambia

¹³⁵ Interview with author, October 14, 2008.

Congress of Trade Union, to mention but a few. While these groups in Malawi and Zambia had a shared interest with the new parties in challenging the former authoritarian regimes, they also had a vested interest in the retention of the institution of term limits. Thus when the MMD and UDF began to agitate for prolonging the tenures of Presidents Chiluba and Muluzi, these efforts crossed paths with the interests of the established governance civil society groups in both countries.

The net result of these contextual differentials was that while there emerged a vibrant and active civil society in Malawi and Zambia, their Namibian and Ugandan counterparts were compromised and weakened as oversight institutions. Consequently, while a high proportion of leading civil society organizations in Malawi and Zambia took an active opposition stance in campaigning against the proposals to remove term limits, the bulk of leading civil society organizations in Namibia and Uganda were either silent or came out in support of the proposals to prolong the tenure of the incumbent presidents.

10.3 Conclusion

While the evidence outlined in the preceding two chapters on the impact of formal institutions and choice of strategies on the outcomes of bids to remove presidential tenure limits was mixed, I have demonstrated in this chapter that informal institutions, as espoused through organizational structures and cultural practices, had much more important effects. In polities where the ruling parties remained intact and cohesive during the bids, and where the third-term-seeking presidents enjoyed the status of father-figure personalities, and where there was no history of long-tenured presidents, the Constitutional amendment bills to remove term limits were likely to be passed, as happened in Namibia and Uganda. Conversely, in polities where the third-term bids led to the fracturing of the ruling parties, where there was a history of long-

tenured authoritarian rule, and where civil society was united and very active in campaigning against the removal of tenure limits, the third-term bids were likely to be defeated. This was the case in Malawi and Zambia.

However, of the six informal institutions analyzed in this chapter, two did not have the predicted effects on the outcomes of the bids. These were patronage and the absence of a designated successor. The evidence adduced from the four case studies on the effects of patronage suggests that despite its employment in all the four countries, it did not automatically lead to the removal of term limits as had been predicted. Instead, two of the countries that employed this institution most extensive, Malawi and Zambia, still failed to push through the removal of term limits. This finding, apart from underlining the limits of single-country case study analyses, provides interesting and new lessons on the dynamics of some of the most common aspects of African politics. For example, while single country studies in Uganda, where the ruling regime pursued an extensive strategy of violence, led to conclusions that patronage was an important factor in explaining the eventual removal of term limits in 2005, such conclusions no longer hold when the experiences of other countries where similar bids were defeated (Malawi and Zambia) are factored in. The fact that patronage during Obasanjo's third-term bid in Nigeria was trumped by zonal rotation further suggests that the power of money in influencing institutional change and the personalization of power, just like the failed cases in Malawi and Zambia, is perhaps overestimated. Even if there is very significant evidence of patronage disbursement, this does not guarantee that political incumbents can automatically secure institutional changes that enable them to perpetuate their hold on power.

One important lesson to take from this discussion is that history matters a great deal in shaping the effects of the informal institutions on the outcomes of the third-term bids. As it has

been shown, countries that had experienced long-tenured authoritarian rule were less likely to consent to the removal of term limits. As the Malawi and Zambian cases have shown, the populace in these circumstances were likely to demonstrate a stronger commitment to tenure limits as they had had real-life examples of the need for tenure limitations as an institution of reining in personal rulers. History also played a major role in influencing whether ruling parties remained intact or not during the third-term bid processes. Specifically, the evidence adduced here demonstrates that political parties that have a much longer history, as was the case in Namibia and Uganda, were likely to remain cohesive during the third-term bids. Meanwhile, newly formed parties in Malawi and Zambia, which had emerged at the height of the political transitions of the early 1990s, were more likely to be fractured in part due to individuals within them that had their own presidential ambitions and saw a personal benefit from the retention of term limits. History was also a crucial factor in establishing the father-figure credentials of the incumbent presidents. Presidents that had been at the helm of their parties for a long time that often spanned some tumultuous periods, such as Nujoma in Namibia and Museveni in Uganda, were much more likely to succeed in cultivating father-figure images that in turn was used to build support for the removal of term limits. By contrast, leaders that ascended to power at the onset of the transitions such as Chiluba and Muluzi, were unable to successfully appropriate the father-figure imagery and could thus not use that to build a strong case for the removal of term limits. Lastly, historical circumstances were also crucial in shaping the relationships between ruling parties and civil society organizations. In the countries where civil societies had had a history of close relationships with government, civil society played a less activist role that could not succeed in stymieing the removal of term limits. Conversely, in countries where civil society

has had a history of being independent and autonomous from government, such groups played pivotal roles in stopping the bids to remove term limits.

Taken together, these findings provide the basis for cautious optimism about the future fate of term limits in Africa. For example, as the generation of leadership that has spanned across the authoritarian and democratic eras and are able to claim father-figure status dies out, the newer generation of leaders will find it more difficult to appropriate these titles. As a result, the new generation of leaders will encounter increased obstacles if and when they seek to remove term limits. Of course, this only works in those countries where the term-limit provisions remain on the statute book or in cases such as Namibia where the alteration of the term-limit provisions were specifically made to cater for the country's founding president while retaining the term-limit provision for his future successors.

Chapter 11

Conclusion

This study set out to answer three main questions: why do countries adopt term-limit rules and later attempt to remove them; how do the quests to remove term limits unfold and why do some of these pursuits succeed while others fail.

In response to the first question, the study has demonstrated that there has indeed been a major surge in the uptake of term limits in a majority of the global presidential regimes, including and especially, in Africa. The increased adoption of term limits in Africa has represented a major departure from continent's prior history of long-serving and unlimited presidents, some of who were formally crowned presidents-for-life. The surge in the adoption of term limits in Africa coincided with the transitions from authoritarian rule towards more competitive modes of governance and has become a major component of the institutional changes that accompanied these transitions. The shift towards limited presidency has enabled Africa's presidential regimes to become part of a global movement of countries that have codified tenure limitation rules.

Despite being relatively new, term limits have acquired a great measure of public acceptance and legitimacy in Africa, thus providing a strong foundation for their sustenance. Even in countries such as Zimbabwe that have never had term limits, and also in those that have recently removed them such as Uganda, the evidence presented in this study shows that there is strong public support for these rules, not only in countries that have them, but also in those that currently do not. As a result, leaders who seek to remove term limits or to omit them during Constitutional discussions, have to confront and overcome this strong public support. The fact that term limits remain popular in countries that have only recently removed them such as

Uganda, not only contradict some of the claims made by political elites to justify their removal as people-driven processes, but it also raises the possibility that this might lead to popular pressure for their future reinstatement.

Despite several attempted and successful attempts to reverse the tenure limit phenomenon, I have shown that these rules are impacting on the trajectory of African political leadership in very dramatic ways. For example, this study has shown that the adoption of term limits has been accompanied by a new phase in the history of the African presidency, characterized by an increasing number of presidents that have had to step down at their end of their tenures. While alternation of leadership through electoral means or through natural death of the incumbent was a rarity in pre-term limits Africa, the evidence adduced in this study, shows an increase in leadership alternation through electoral means as a result of term limits. This finding provides strong corroboration to other non-empirical works that have argued that the adoption of term limits can result in a notable jump in the alternation of presidents, both at the intra- and inter-party levels. From a single president who lost competitive elections on the continent in the three decades between 1960 and 1990, a total of fifteen presidents had stepped down from office between 1990 and 2009 alone as a result of term limits. While there has been a notable shift in presidential alternation, it is however important to recognize that the bulk of the alternations arising from tenure limitations have been between presidents from the same party succeeding each other. Partisan alternation, on the other hand, has lagged behind. While the lower levels of partisan alternation still represent an important shift from the pre-term-limits era, the disparity with intra-party rotation means that the ultimate consumers of African politics, namely the ordinary people, are not getting the full complement of benefits associated with tenure limits. This is because intra-party alternation does not necessarily result in major policy

changes or the opening the possibility of holding the previous incumbent accountable as does inter-party rotation.

Though modest, the six cases recoded in this study of inter-partisan alternation at the end of tenure limits however provides some basis for cautious optimism that these rules, when combined with other democratic institutions, might continue to transform the politics of African leadership over time. This is reflected in the fact that during presidential elections, ruling-party candidates have significantly lower odds of victory when previous incumbents have been barred from standing. Ultimately, the introduction of term limits, when juxtaposed against rules that opened the opportunities for competitive elections, has helped to widen the window of opportunity for elections as a viable tool for leadership succession in contemporary African politics. Subsequently, these rules have had the added effect of minimizing the occurrence of military coups and other extra-legal usurpations of power across the continent. Additionally, term limits have also helped to undermine one of the most important dimensions of personal rule on the continent, namely leaders who stay in office for long periods. Because of the increased rotation arising from the imposition of tenure limitations, the average number of years that African presidents remain in office has been reduced by almost half.

Despite the fact that term limits face significant challenges from presidents that seek to prolong their tenures, where these rules still remain, they are proving to be effective barriers against tenure extensions. While it is tempting to argue that the high number of presidents that have succeeded in removing term limits might be suggestive of not only the weakness of institutional rules aimed at aiding the retention of the new portfolio of democratic rules, it is worth recalling that only about half of the twenty-four African presidents who had expressed a desire to prolong their tenures succeeded in removing them. Meanwhile, nine of the twenty-four

third-term seekers abandoned their ambitions at the discussion phase after realizing that they would most likely fail to convince their legislators to amend the relevant Constitutional provisions. Thus even if tenure limit rules are being challenged, it is clear that they are serving an important role in forcing a number of incumbents to reluctantly give up their ambitions of lengthening their tenures. Had term limits not existed, it is most likely that almost all the twenty-four presidents who had expressed a desire to prolong their tenures would have, at a minimum, sought re-election and used the benefits of incumbency to increase their chances of victory. This would in turn have reduced the likelihood of presidential alternation, both at the intra and inter party levels. Even among those presidents that succeeded in removing term limits, the fact that they have had to go through the labourious Constitutional amendment process represents an important step in that the new generation of African leaders cannot simply impose themselves on their countries in the same manner that their authoritarian predecessors did.

Coming to the question on why some incumbents seek to remove term limits, this study has accumulated evidence, both from existing empirical literature and from the qualitative narratives, suggesting that there are a myriad reasons as to why incumbents seek to prolong their tenures. Firstly, third-term seekers appear to be motivated by a desire to utilize the office of president to accumulate wealth. This suggests that only when Africa gets a new generation of political leaders that are keen to put the interests of the people above their own will the rules aimed at undercutting personal rule be safe. The attraction of office can also be minimized by the availability of post-presidential career opportunities. Other presidents meanwhile seek to remove term limits in a bid to avoid the threat of prosecution once they leave office. Removing term limits in this regard is motivated by a desire to avoid being held accountable. Of course this can be read to mean that presidents who seek to prolong their tenure often have something to hide by

staying in office. Perhaps removing rules that place super powers on the presidency while simultaneously introducing other rules that make it possible to prosecute leaders while they are still in office would have the double effect of reducing super presidentialism and making incumbency less attractive as a hideaway strategy.

The quests for tenure extensions are also not only reflective of the desires of the individual incumbents. There are, instead, hosts of supporters who stand to gain from the perpetuation of the tenure of the incumbents. These groups, who feel threatened by any changes to the status quo and the uncertainty of presidential alternation, thus work together with the presidents to advocate for the removal of term limits. This is particularly the case in political systems that rely less on electoral legitimacy and more on the disbursement of patronage as a tool for political support. Among the individuals in this group are the presidents' coterie of clients, business persons and other political elites close to the president who acquire the status of patrons in their own right from the resources of the state available to them. It is also important to note that the evidence adduced in this study has demonstrated that even among the elites that have argued for the retention of term limits, this does not imply that all such critics are motivated simply by a desire to safeguard democracy and democratic values. Instead, their support for term limits might be influenced by calculations of the opportunities that might be created for them to contest for high political office. In some cases, these critics might also be motivated by calculations of direct personal gain in the form of financial and other material rewards. Of course under these circumstances, it becomes easier for such critics to claim that their opposition to the removal of term limits is motivated by their support for democracy and democratic values even if this is only incidental.

In the end, the fact that there have been an increasing number of attempts to remove term limits in Africa over time underscores the fact that for many individuals on the continent, the presidency continues to be an important means for accumulating wealth, directly for the incumbent and indirectly for his coterie of clients.

Whether an incumbent president manages to secure the removal of term limits however depends on the interaction of several institutional variables, both of a formal and informal kind. However, the lessons from the quantitative analyses show that the first two stages of the third-term bids, that is the initiation of national discussions to consider the removal of term limits and the tabling of legislative bill to do so, are relatively unaffected by most formal institutions. For example, presidents with high legislative majorities were just as likely as those with small majorities to express a desire to remove term limits, much in the same way as presidents whose countries had high democratic scores were just as likely as those presiding over less democratic polities to attempt to remove term limits.

The main effect of institutions is however at the outcome stage, where formal and informal institutions combine to influence the outcomes of institutional change processes. While both formal and informal institutions drive the outcomes of the bids to remove term limits in important ways, overall, most formal institutions tend to promote the retention of term limits while informal rules aide their removal. In order to overcome Constitutional rules that were designed specifically to buttress key democratic values, incumbents often turn to informal rules, including patronage, violence, changing the rules of the game, among others, to push through their removal. In other words, formal institutions have failed to completely supplant informal rules in influencing political outcomes in the post-transition era in Africa.

The effectiveness of the various institutions to achieve particular outcomes in the third-term bids also depends on the underlying strategies that are employed to effect them. The evidence from the case study narratives, for example, has demonstrated that the effectiveness of patronage as an incentive to win support for removing term limits, depended a great deal on whether and how it was accompanied by the twin strategies of the use of violence against opponents and changes to the rules of the game. Where patronage was accompanied by both the threat and actual use of potent violence, and corresponding changes to the rules of the game that made it possible to identify how recipients of patronage voted, it aided the removal of term limits. However, in instances where the president could not project credible threat of violence on both opponents and defaulters, and could not readily identify how the recipients of patronage voted due to secret voting rules, an extensive campaign of patronage was not sufficient to secure the removal of term limits. As a standalone strategy, however, patronage was thus not a sufficient institution and was, in some cases, trumped by other existing informal rules such as zonal rotation as was the case in Nigeria.

While a high proportion of presidents that tabled legislation to remove term limits succeeded in doing so, it is important to note that a similar number abandoned their third-term ambitions at an early stage. Given that we have established that the third-term process involves various phases that start with national discussions to debate the removal of term limits and ending with the final outcomes, it is possible that the high passage rate of the bills seeking to remove term limits is a direct consequence of the signaling effects of the earlier phases. Specifically, incumbent presidents use the discussion phase to gather information about the likelihood of the passage or failure of any legislation seeking to remove term limits. As a result, only those presidents that determine that there is a high likelihood of removing term limits

follow through to table legislation, resulting in the higher passage rates. The relative high proportion of countries that managed to secure the passage of legislation that removed term limits should thus not be seen purely as a sign of the complete failure of existing institutional safeguards for these rules that are supposed to serve as the bedrocks of Africa's new democracies.

The fact that this study has unearthed evidence to suggest African presidents are resorting to informal rules in their quests to alter and remove formal ones such as term limits, suggests that the entrenchment and survival of formal democratic rules in Africa is dependent on the pace at which the continent and its peoples discard informal rules and fully embrace formal ones. Until such a scenario unfolds, the survival of new democratic institutions such as term limits will remain under threat from institutional dynamics such as traditions that place emphasis on respect and deference for authority and the elderly as well as reciprocal relationships through patron-client exchanges. The employment of informal rules in the battles to remove an important formal institution such as term limits, thus casts doubt about whether, and when, the new formalism will fully supplant the more entrenched, and culturally nested, informal rules that influence the decisions and actions of the individuals that populate the African political arenas.

These findings bring us full circle to the debate about the relative roles of formal and informal institutions in African politics. On one hand the evidence of the transformative power of term limits in African politics suggests that the new rules adopted at the onset of the democratic transitions have the potential to impact political action on the continent in ways that were not possible before the political transitions of the 1990s. However, at the same time, evidence, especially from the case studies, that shows that informal rules become the institutions of choice by leaders seeking to override term limits, suggest that Africa still has some ways to go

before formal institutions can be adequately entrenched. The reversals of term limits in nearly a third of the countries where they had only been adopted in the early 1990s, suggest that personal rule remains as much alive among the post-authoritarian generation of African leaders as it was in the pre-term-limit era. As the detailed narratives of the third-term campaigns of Presidents Chiluba, Muluzi, Museveni, and Nujoma have demonstrated, these ostensibly new leaders will only claim to support democratic institutions so long as they do not frustrate their own power ambitions and they will willingly and readily turn against them when it benefits them. The new generation of African leaders, in this regard, is not significantly different from their authoritarian predecessors. What is different are the rules of the game in which these leaders play the politics of presidential tenure. This suggests in other words, a serious crisis of Constitutionalism: the adoption of very liberal and democratic Constitutions alone does not ensure democracy and its survival unless a new generation of African leaders learn to subscribe to the letter and spirit of the Constitution and other laws. Ultimately therefore, the frequency of attempts to remove term limits and the high rate at which these attempts result in the removal of tenure limitations, reflect the resilience of the culture of personalizing power in African politics. The very bids to remove term limits reflect a carry-over of the culture of seeking to bend the rules of the game to advance personal agendas and the interests of the ruling elites. While term limits might present obstacles for the successors of the authoritarian Big Men, the rate at which these rules have been removed within the last decade shows that tenure limits can be easily dispensed with in the perpetuation of personal rule.

By way of closing, it is of course important to put the third-term bids in Africa in their proper global perspective. As the early and most expansive chapters of this study have shown, the quests for removing term limits are not unique to Africa nor are they a recent phenomenon.

From classical times to the present day, term limits have faced challenges from leaders that want to extend their tenures. In the modern world, it is not only African presidents that have attempted to remove term limits, but there have also been similar, and, in the case of President Colom's decision to divorce his wife in Guatemala, sometimes more bizarre attempts to circumvent tenure limits. Indeed, even within the US, a country that serves as a model for most countries adopting presidential term limits, the rationale for these institutions at various levels of government remain highly contentious even after two centuries of democratic practice.

APPENDICES

Appendix 1: Semi-Structured Interview Guide

Personal Rule and Presidential Term Limits in Africa

Small N Country Study: Semi Structured Interview Guide

These questions will be asked in interviews with the following groups of people in Malawi, Zambia, Uganda, and Namibia:

- University faculty
- Political actors from the ruling and opposition sides
- Civil society leaders
- Media practitioners

Introduction

Good day. My name is Boniface Dulani. I am from Chancellor College of the University of Malawi. I am currently a research student at Michigan State University in the United States. I do not represent the government or any political party. I am studying the views of some key informants on the inclusion of the presidential term-limit rules in the national constitution and how this provision can be changed. I will be talking to a select number of key informants on the subject and you happen to be one such key informant who can help me to understand this constitutional feature. All information will be kept confidential.

Note: The person must give his or her informed consent by answering positively. The questions are to be used as an interview guide that should generate open-ended data. The interviewees will be given ample time to expound on their responses.

A. Adoption of the New Constitution

When was the current Constitution adopted? (Year)

Who were the main actors involved in the adoption of the new Constitution? (list)

What motivated the adoption of the new Constitution?

How can the new Constitution be amended? (Probe for majority requirements and verify with the relevant Constitutional provision.)

B. Presidential Term-Limit Rules in the New Constitution

Can you share with us your views on the incorporation of the presidential term-limit rules in the _____ (country) Constitution?

Who were the groups that were in favour of its incorporation in the Constitution?

Were there groups that opposed to the adoption of term limits? If yes, who?

What motivated the introduction of term limits?

What were the reasons advanced in favour of the term-limit rules?

What were the arguments advanced against the term-limit rules?

(Supplement with published findings of the Constitutional debates in each country.)

C. Amending the Term-Limit Rule

When did the discussion to remove the term-limit rules start?

What was the initial objective of removing the term-limit rules (i.e., allow for a third term or an indefinite term)?

Who were the groups that advocated for the removal of the term-limit rules?

Was the president involved in advocating for the removal of term limits?

What were the main arguments advanced in favour of the removal of the presidential term-limit rules?

How were these arguments expressed (at political rallies? through the media? in Parliament? etc.)?

What were the target groups for the arguments in favour of removing the term-limit rules?

What were the strategies used to generate public support for the third-term bids?

Who were the main targets of these strategies?

Were the strategies tailored for specific groups?

What was the effect of these strategies on the different groups? (Probe for legislature and the public.)

What was the source of support/opposition to the removal of the term-limit rules?

Who were the main groups opposed to the removals?

What factors influenced the opposition to the term-limit removal bids?

What strategies did the opposition adopt?

How would you rate the effectiveness of the different strategies on the outcomes of the third-term bids?

What was the relative effect of the opposition strategies vis-à-vis the supporters?

Within which arena was the amendment process played out? (formal v informal)

D. State Institutions

Parliament

How many legislators did the ruling party have in Parliament?

What was the parliamentary composition (ruling and opposition) at the time of the bid to remove the presidential term-limit rules?

Did all ruling party legislators support the removal of the presidential term-limit rules?

What motivated their support for the term-limit removal bid?

Were there ruling party members that opposed the removal? If yes, how many?

If yes, what were the reasons advanced by those ruling party supporters to oppose the removal of the term-limit rules?

Were there opposition legislators who supported the removal of the term-limit rules?

If yes, how many?

If opposition legislators supported the presidential term-limit removals, what were the factors influencing their decisions?

How many legislators voted in support of the bill to remove the term-limit rules?

How many supporters were from the ruling party and how many were from the opposition?

How many legislators voted against the removal of the term-limit rules? How many were from the ruling party and how many were from the opposition?

The Executive

What was the expressed position of the sitting president on the proposal to remove the term-limit rules?

Which groups did the president appeal to and why?

What strategies did the president adopt in promoting his preferences and garnering support for the same? (open ended. do not probe)

Is there any evidence for patronage exchanges as a strategy for gaining support for the bill to remove the term-limit rules?

If yes, what forms did it take? Who were the beneficiaries and why were they targeted?

Was there evidence of violence as a strategy? If yes, who were the perpetrators and who were the victims?

Were there cases of institutional change to facilitate the removal of term limits? If yes, when did they occur and why?

The Judiciary

In your view, how independent is the judiciary in this country?

What role, if any, did the judiciary play in the debate on the proposed amendment to the presidential term-limit rules?

What would you say was the impact of this judicial intervention?

Civil Society

What was the position of Non-Governmental Organizations (NGOs) on the proposal to remove the term-limit rules?

What proportion was in favour of the removal and what proportion was against?

Can you provide a list of NGOs that were in favour or removing term limits?

Can you provide names of NGOs that were against the removal of term limits?

How did the NGOs advance their positions?

What was the effect of the position of the NGOs?

What was the position of religious groups on the proposal to remove the term-limit rules?

What religious groups were in favour and which ones were against the proposal?

What proportion was in favour of the removal and what proportion was against?

How did the religious advance their positions?

What was the effect of the position of the religious groups in influencing the final outcome?

What role did the public media play in the debate over the proposal to remove the presidential term-limit rules? (Probe whether supportive or against the proposal.)

What role did the private media play in the debate over the proposal to remove the presidential term-limit rules? (Probe whether supportive or against the proposal.)

The Public

Which social groups were in favour of the proposal to remove the term-limit rules

(Probe on rural v urban; age; education; gender; ethnic background; etc.)

What was the general public response to the proposal to remove the term-limit rules (supportive or not)?

In your assessment, would the public have supported the proposal to remove the term-limit rules if the president had the option of presidential term limit can only be amended through Parliament?

Besides partisan identity, what were the other factors (cultural, traditional) that influenced public support or opposition against the removal of term limits?

Appendix 2: Country Institutional Analysis Questionnaire

Personal Rule and Presidential Term Limits in Africa

Country Institutional Analysis questionnaire

(For all 37 African Countries with presidential systems)

A. Country Details

- 1 Country Name _____
- 2 Former Colonial Power _____
- 3 Per Capita National Income _____
- 4 Literacy Rate _____
- 5 Freedom House Index rating for country at time of amendment _____
- 6 Are there presidential term-limit rules (no=0; yes=1) _____
- 7 Has there been an attempt to remove the presidential term rules? (no = 0, yes =1) _____
- 8 If an attempt was made, did it succeed (no=0; yes=1) _____

B. The Executive

- 9 How is the President elected: _____
Direct presidential= 0; Strong president elected by National Assembly= 1; Parliamentary system = 2
- 10 President's share of the vote in preceding elections _____
- 11 How did the president originally get into office _____
(Military coup = 0, Nationalist struggle = 1, Democratic elections = 2 Other (specify) = 3)
- 12 Is the president a former military officer? no= 0; yes =1 _____
- 13 What is the age of the president at the time of the amendment? _____
- 14 Length of office for the President at the time of the amendment _____
- 15 Years left in the current term at time of amendment _____
- 16 President's performance rating at the time of the amendment? _____

- 17 Average economic growth rate during President's tenure prior to amendment _____
18 Is the president from the dominant ethnic group? (No= 0; yes =1) _____

C. The Legislature

- 19 Number of Legislative Houses _____
20 Number of seats in the Lower House _____
21 Does one party have majority in the Lower House? (No= 0; yes = 1) _____
22 Number of seats of the largest party in Lower House _____
23 Number of opposition seats in Lower House _____
24 Was the proposal to remove term limit rules tabled in Parliament (No=0, Yes=1) _____
25 Number of government members voting in favor of the amendment _____
26 Number of opposition Assembly members voting in favor of amendment _____
27 Number of government Members voting against the amendment _____
28 Number of opposition Assembly members voting against the amendment _____
29 Proportion of Lower House members supporting the bill _____
30 Is there an Upper House of parliament? (No= 0; yes=1) _____
31 Number of seats of in Upper House _____
32 Number of seats of the largest party in Upper House _____
33 Does one party have majority in Upper House (No= 0; yes =1) _____
34 Number of opposition seats in Upper House _____
35 Number of government members in Upper House voting in favour of the amendment ____
36 Number of opposition members in Upper House voting in favour of amendment ____
37 Number of government Members in Upper House voting against the amendment ____
38 Number of opposition members in Upper House voting against the amendment ____
39 Did the proposed amendment pass? (no=0, yes=1) _____

D. Political Parties

- 40 Are there coalition parties? _____
- 41 What is the age of the ruling party? _____
- 42 How long has the ruling party been in power? _____

E. Constitutional Amendment rules

- 43 How is the constitutional provision on term limits amended? _____
Parliament = 0; referendum = 1; either Parliament or referendum = 3
- 44 If amendment through parliament, what is the majority threshold? _____
Simple majority = 0; two thirds = 1; three fourths = 2; other (specify) = 3
- 45 If referendum, what is the majority threshold? _____
Simple majority = 0; two thirds = 1; three fourths = 2; other (specify) = 3
- 46 If amendment is through parliament, what was the proportion of Lower House Members voted in favour of amendment? _____
- 47 If amendment is through parliament, what was the proportion of Lower Members voted against the amendment? _____
- 48 How Many Lower House members abstained? _____
- 49 If amendment is through parliament, what was the proportion of Upper House Members (where applicable) voted in favour of amendment? _____
- 50 If amendment is through parliament, what was the proportion of Upper House Members voted against the amendment? _____
- 51 How Many Upper House members abstained? _____

F. Civil Society

- 52 Proportion of population preferring democracy to other forms of government _____
- 53 Proportion of the population in favour of one man rule _____
- 54 Proportion of population in favour of one party rule _____
- 55 Proportion of population in favour of military rule _____
- 56 Population expressing interest in public affairs _____

Civil society and the Presidency

57 Population who believe the President should be limited to serving a maximum of two terms _____

58 Proportion of population who believe the term limit rules should be amended to enable President remain in office for more than two terms _____

59 Population who believe the president should serve for as many terms as possible

60 Proportion of population against removal of term limit rules _____

G. Media and NGOs

61 Number of independent media players _____

62 Number of governance NGOs _____

63 No of governance NGO supporting retention of term limits

64 Number of NGOs supporting the removal of term limits

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