

Democracy Movements as Bulwarks against Presidential Usurpation of Power: Lessons from the Third-Term Bids in Malawi, Namibia, Uganda and Zambia

Boniface Dulani

Abstract:

Among the many constitutional innovations introduced in the last decade of the 20th century in Africa was the adoption of term limits on the presidency. Although the adoption of presidential term limits was aimed at ending the culture of entrenched and personalized leadership on the continent, this institution has come under increasing threat from presidents seeking to extend their tenures of office. These attempts at removing term limits have necessitated the interventions of various groups that had played a pivotal role in precipitating and ushering in democracy in the 1990s. However, the ability of these pro-democracy movements, which include nongovernmental organizations, trade unions, university students, professional associations, religious groups, and groups of concerned citizens, to safeguard tenure limitations has been mixed. This is reflected in the different outcomes of the attempts to remove term limits across countries. On one hand, a number of African presidents have succeeded in removing term limits while several others have failed in similar quests and have thus been compelled to step down. So what factors enable pro-democracy groups to stymie attempts to remove term limits? Drawing on field work carried out in Malawi, Namibia, Uganda and Zambia, this paper examines the roles that democracy social movements played in influencing particular outcomes of the quests to remove term limits. I demonstrate that where the pro-democracy groups were beholden to the ruling regimes for creating an enabling environment for their emergence and proliferation, and where they have had close relationships with

the ruling elites, as was the case in Namibia and Uganda, they have a harder time in organizing to stop the removal of term limits. However, in countries where democracy movements have retained a higher degree of autonomy and an ability to mobilize and organize, as was the case in Malawi and Zambia, they have been able to face up against elites seeking to manipulate the rules of the political game, including helping to stymie the attempts to remove term limits.

Introduction

The role of social movements in precipitating transitions from authoritarian rule towards more democratic forms of governments in Africa and other parts of the globe has been widely acknowledged (McAdam et al. 1996; Bratton and van de Walle 1997; Hochstetler 1997; McAdam et al. 2001). At the global level, numerous examples of democratization processes that were inspired by social movements abound. Among the prominent of these were the labour-inspired Solidarity Movement in Poland; the urban and rural movements in Brazil; the grassroots Piquetero Movement in Argentina and the coalition of labour, women activists, youth groups and indigenous political groups that operated under the banner of the United Democratic Front to fight against apartheid rule in South Africa. In more recent times, the potency of social movements to challenge and bring down powerful authoritarian regimes has been demonstrated yet again by the emergence of spontaneous movements comprising youths, labour groups, women organizations, student organizations, and the unemployed, that have faced up and brought down powerful and entrenched dictatorial regimes in the Middle East in countries such as Egypt, Algeria, Yemen and Libya.

Within sub-Saharan Africa, the potency of social movements as a democratizing force was demonstrated in the last decade of the 20th century when a variety of movements, comprising women's groups, trade unions, university students and faculty, farmer associations, consumer groups, civil servants, political exiles, business and professional associations, lawyer associations, among others, came together and campaigned for the reformation of the authoritarian regimes and their replacement with plural democracies (Gyimah-Boadi 1996; Bratton and van de Walle 1997; Nzogola-Ntalaja 2004; Ngoma-Leslie 2006; Dulani 2009). The success of the efforts of Africa's pro-democracy movements in helping to usher in democratic rule

in the last decade of the 20th century is aptly surmised by Bratton and van de Walle (1993) when they point out that 76 percent of the 21 cases of African democracy transitions between November 1989 and 1991 were initiated by pro-democracy protest movements.

Besides playing a leading role in championing the introduction of multi-party politics, the coalition of pro-democracy groups in Africa also played a central role in overseeing the drafting and adoption of new constitutions that replaced those that had provided the legal foundation for authoritarian rule. Oftentimes, representatives of the democracy movements were included in national commissions that were entrusted with the responsibility of gathering public input for incorporation into the new constitutions. In Uganda for example, civil society representatives, including lawyers, trade unionists, academicians, the clergy, student unions, among others, formed a majority of the membership of the Constitutional Commission that had been established to gather public input into a new Constitution that was subsequently adopted in 1995 (Government of Uganda 1993). Elsewhere on the continent, civic leaders formed the cores of the constitutional drafting commissions in countries such as Malawi, Namibia, South Africa, and Zambia as those countries grappled with the challenge of having to come up with new democratic legal frameworks.

In addition to their involvement in the constitutional drafting processes, democracy movements across Africa were also major contributors of submissions that went into the new democratic constitutions. In Zambia for example, more than 80 percent of the 586 oral submissions that were received by the constitutional commission of inquiry that was mandated to draft a new constitution based on a 'a system of political pluralism' came from the country's leading prodemocracy civil society groups. Among the groups that made oral submissions were the Law Association Of Zambia, the commercial farmers Bureau, the Christian Council of Zambia, the Evangelical Fellowship of Zambia, the Zambia Episcopal Conference, the Association of Zambian Writers, the Family Life Movement, the Pro-life Movement, the Zambia Federation of the Handicapped, Young Women Christian Association and Non- Governmental Organizations Coordinating Committee (see Government of Zambia, 1991: 4).

The fact that civil society groups took such a proactive role during the African constitutional negotiations was not entirely surprising. At a time when the former authoritarian regimes had ceased to represent the interests of ordinary people, these groups assumed the role of the true

representatives of the wider society. Although not universally elected, these groups could claim as much, if not greater, legitimacy as the authoritarian regimes whose leaders were often imposed against the interests of the ordinary citizenry. It was thus within this legitimacy-vacuum that the pro-democracy movement emerged, taking upon themselves the role of people's representatives against government that had seemed to exist purely to promote the interests of narrow ruling elites (Gyimah-Boadi 1996; Dulani 2009). Meanwhile, the central role that these groups played in the democratization processes generated further political capital for them in ways that made it possible for them to continue to influence politics beyond the transitions (Dulani 2009). They were thus influential in making contributions that were aimed at advancing the creation of a new democratic order, often against the resistance of the authoritarian regimes (Walubiri 2001). As key democracy stakeholders, the recent struggles for the removal of term limits have thus necessitated the interventions of democracy movements to act as bulwarks against the usurpation and personalization of power by presidents in Africa and elsewhere, with mixed results. This paper therefore seeks to explore the roles of democracy movements in the struggles for the removal of terms limits, seeking to identify the conditions under which these groups are able to stymie the removal of tenure limits and under which they fail.

Democracy movements and the evolution of presidential term limits

Among the many innovations that came out of the constitutional negotiations that accompanied the transitions from authoritarian rule to democracy in the early to mid 1990s in Africa was the adoption of term limits. These rules impose limits on the number of terms an individual is allowed to hold elective office and are more commonly applied on the exercise of presidential office. While the concept of term limits has a long history that stretches back to classical Athens and Rome, it has only become popularised in Africa as part of the constitutional engineering that formed a major component of the democratic transitions of the 1990s and early 2000s. Africa's late adoption of presidential tenure limitations can be explained in part by the fact that the concept of limiting the exercise of executive power appears to run contrary to traditional notions of leadership that is very common across the continent. Not only is traditional African leadership largely hereditary unelected, but it is also often life-long, where local chiefs

exude unfettered power for life. As a result, most African constitutions at independence tried to fuse these traditional concepts of leadership into the modern presidency by not only imbuing the presidency with wide-ranging powers befitting the status of the national-chief, but they also did not incorporate the institution of term limits. Taking advantage of the strong affinity to the concepts of hereditary and life-long traditional leadership, the new African constitutions at independence tended to prefer a fusion of traditional leadership into the modern presidency. This was reflected in the decision by several countries on the continent not only to refuse to impose limitations on presidential tenure, but also in the decision by several countries to ban opposition politics and to include clauses that designated several founding leaders as 'presidents for life,' (Dulani 2011; Moss 2007; van de Walle 2007; Jackson and Rosberg 1982; Clapham 1982, Bretton, 1966). A major consequence of this failure to curtail the power of African leaders and limit their tenures was that presidents not only became very powerful, but they also often stayed in power for long periods.

However, in an attempt to reign in the powers of Africa's rulers, one of the main constitutional innovations advocated by Africa's pro-democracy groups during the transitions of the 1990s was the adoption of presidential term limits. The adoption of these rules was in large part motivated by a desire to prevent sitting presidents from using the advantages of incumbency to secure indefinite re-election. The extent to which the social-movement inspired transitions contributed to a corresponding increase in the adoption of presidential term limits in Africa is demonstrated in Figure 1 below, which provides an illustration of the evolution of presidential term limits in African Constitutions from independence in the early 1960 to the first decade of the 21st century:

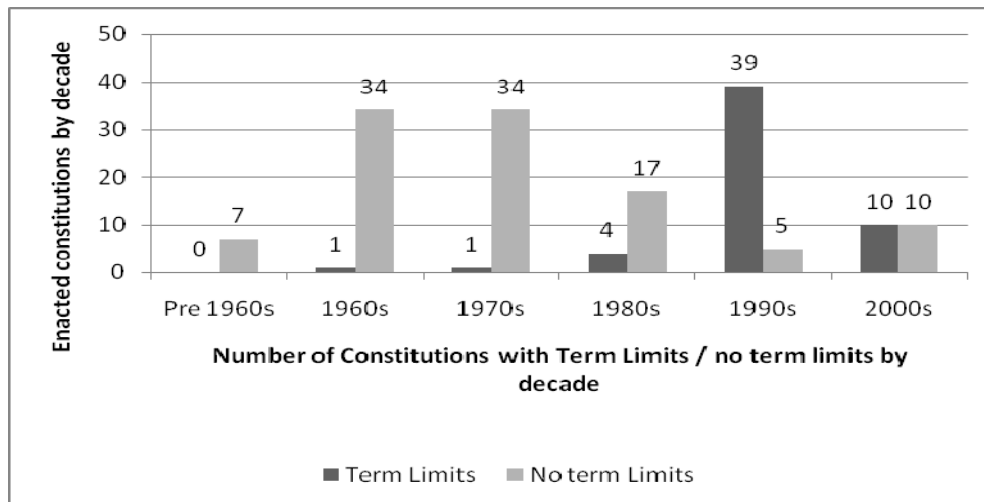


Figure 1: The Evolution of Presidential Term Limits in Africa, 1960-2010. Source: Dulani, 2011

Out of a total of 98 constitutions that were enacted across Africa before 1990, only six contained term limit on the presidency¹. In the two decades after 1990, however, 49 out of 64 new constitutions included a clause that specified the maximum number of terms that a president is allowed to serve. In all, there have been a total of 55 African constitutions that have included presidential term limit provisions since independence, 49 of which came after 1990. This means that 92 percent of the African constitutions that have incorporated tenure limit provisions have come after the democratic wave that swept the continent from 1990 onwards. This suggests that regime change in Africa is often accompanied by significant shifts in the institutional 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.

One of the main outcomes of the recent proliferation of term limits in Africa has been to spur a new tradition of leadership alternation through electoral means. Although the period between independence to 1990s only recorded a total of 11 presidential elections that were contested by more than one candidate², only one resulted in leadership alternation across parties. By

¹ viz: South Africa (1961), Comoros (1978), Tanzania (1984), Liberia (1986), Tunisia (1988) and in Comoros (1989).

² This list includes: Burkina Faso (1978); The Gambia (1982, 1987); Ghana (1960, 1979); Nigeria (1979, 1983); Senegal (1978, 1983 and 1988); Somalia, 1968; and Tanzania (1962). It

contrast, not only did the introduction of multi-party democracy in the 1990s result in a substantial increase in the number of competitive presidential elections, but it has also led to 15 presidential alternations over the twenty-year period between 1990 and 2010 alone. While the bulk of these alternations have been at the intra-partisan level, six of the alternations actually came from candidates that were sponsored by opposition parties. In these cases, not only are incumbent presidents being forced to leave office after exhausting the maximum number of terms, but they are also helping to usher in a tradition of leadership alternation, both at the intra and inter party levels. To put this in perspective, in the pre-term-limits era between independence in the 1960s and 1990, there was only one case of cross-party presidential alternation in Africa - 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 (Dulani, 2011). Put differently, the success rate for presidential challengers has gone up almost four-fold after 1990, a period characterized by shifts towards more competitive politics and uptake of tenure limitations. The institution of term limits in other words, can be said to be delivering on one of the main arguments advanced in their favour, namely, neutralizing the advantages of incumbency (Table 1):

Table 1: Term limits, presidential alternation and tenure length in Africa

	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 era	1	13
Post term limits era	15	7

Source: Africa Elections database 2010

In addition to promoting electoral leadership alternation on the African continent, the adoption of presidential term limits has also impacted on the average number of years that African presidents remain in office (see Table 1 above). While African presidents in the pre-term limits era stayed in office for an average of 13 years, this figure has since been reduced by almost half to an average of seven years in the post-term limits era. Based on these

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

findings, it can thus be argued that the institution of terms limits is having a profound effect on the African Presidency by increasing the likelihood of leadership rotation while at the same time, reducing their staying in power.

The quests for removing term limits

Despite the positive effects that term limits are having in countering personal rule, it is important to note that they have not always been accepted or honoured. This is especially true of elites that want to remain in office for extended periods, resulting in the emergence of the trend of third-term seeking presidents that embark on campaigns to remove term limits when they approach the end of their final terms. While a high proportion of these attempts have occurred in Africa, similar attempts have also occurred outside the continent, particularly among the third-wave democracies in Latin America, Eastern Europe and Asia. The most high profile examples include those of Hugo Chavez in Venezuela (2007 and 2009); Daniel Ortega in Nicaragua (2009); Álvaro Uribe in Colombia (2009); Manuel Zelaya in Honduras (2009), Mahinda Rajapaksa in Sri Lanka (2010); Nursultan Nazarbayev of Kazakhstan (2007) and Ilham Aliyev in Azerbaijan (2009).

The extent to which presidential term limits are under threat from presidents desirous of extending their tenure is reflected by the fact that globally, six of every ten countries that have had these rules have held national debates to consider removing them in the period between 1990 and 2010 (Dulani 2011). Whilst these attempts reflect a significant threat to the fate of presidential term limits at the global level, the high proportion of African countries debating their removal raises particular fears about the survival of what is still a relatively new institution here more than in any other global region.

In addition to the presidents that have either removed or altered the tenure limitation provisions, a number have resorted to new and creative ways of getting around these rules without having to remove them. For example, several presidents, such as Vladimir Putin in Russia, Ghana's Jerry Rawlings, Daniel arap Moi in Kenya, Bakili Muluzi in Malawi and Fredrick Chiluba in Zambia, among many others, resorted to handpicking successors they hoped to control as proxies and thus making it possible for them to wield significant influence even after leaving their presidential palaces. Others, such as South Africa's Thabo Mbeki, meanwhile attempted to retain influential positions within their party structures in ways that would have

enabled them to wield significant power over party affairs, and by extension, state ones, even after stepping down from the presidency. In yet other cases, such as those of Eritrea's Isaias Afwerki and Nursultan Nazarbayev in Kazakhstan, term limits have simply been ignored, with the tenures of the two presidents exceeding the maximum number of years allowed³. In yet another demonstration of how far individuals are willing to go to circumvent term limits, Guatemalan President Alvaro Colom and his wife, Sandra Torres, filed for divorce in early 2011 in order to get around the rule that bans immediate family members from succeeding an incumbent president⁴. By divorcing her husband, Ms. Torres could thus claim to no longer be related to President Colom, and thus claim eligibility to stand for election to succeed her husband.⁵

Interventions of Democracy Movements during the quests to remove tenure limits

The frequency of the assaults on term limits globally, and in Africa in particular, has necessitated that democracy movements, who were among the leading advocates of this institution, step up and intervene to ensure the preservation of these rules. In doing so, democracy movements have had to assume a new role of not only being guardians of Africa's nascent democracies, but also to ensure compliance with the key institutions that buttress these young democracies. Yet, despite the efforts of the democracy movements, there has been a distinct variation in the final outcomes of the third-term bids in Africa. Some of the third-term bids have been successful, while a handful were defeated and the incumbents forced to step down and hand over power. Among the 24 presidents that discussed the removal of term limits, for example, 15 followed through with legislation to do so.

³Despite both the Eritrea and Kazakhstan Constitutions providing for a maximum of two terms for their presidents (see Article 42 (4) of the Kazakh Constitution of 1995 and Article 41 (3) of the Eritrea Constitution of 1997), President's Isaias Afwerki and Nursultan Nazarbayev were still in office at the end of 2010, having ascended to those offices in 1991 and 1993 respectively.

⁴ See *BBC News*, "Guatemala's Alvaro Colom to divorce wife Sandra Torres, 21 March 2011, available online at: <http://www.bbc.co.uk/news/world-latin-america-12813999>, accessed 21 March 2011

⁵ See *BBC News*, 'Guatemala's Alvaro Colom to divorce wife Sandra Torres, 21 March 2011, available online at: <http://www.bbc.co.uk/news/world-latin-america-12813999>, accessed 21 March 2011

Meanwhile, of the fifteen, only three (Malawi, Nigeria and Zambia) were rejected while the rest were passed.

The fact that a high proportion of African Presidents have succeeded in removing presidential term limits brings into the forefront the question about what factors play into facilitating the removal or retention of term limits and the roles played by democracy movements in these processes. Drawing upon fieldwork that was conducted in Malawi, Namibia, Uganda and Zambia in 2007 and 2008, the rest of the paper examines the key factors that influenced the outcomes of the bids to remove term limits and the roles that democracy movements played in influencing these outcomes. More specifically, the paper delved into an in-depth analysis that examined the conditions under which democracy movements played a key role in aiding the removal of retention of term limits in the four countries. The four fieldwork countries were purposely selected to offer a comparative assessment of the role played by the democracy movements in influencing the outcomes of the third-term bids between countries where term limits were removed (Namibia and Uganda) and those where similar efforts were defeated (Malawi and Zambia).

Democracy Movements and the struggles for third-term bids in Africa

In part due to the influence of the democracy movements in advocating for new constitutions that sought to promote participatory brands of politics, the democratic transitions of the 1990s in Africa helped to create an enabling space for the increased participation of social movements in the political arena. In countries where the ruling parties hold commanding legislative majorities, these groups have had to play the role of unofficial opposition, seeking to hold governments accountable and sometimes preventing them from abusing their majorities (Mercer 2002; Veconvsky 2007; Dulani 2009). As a key stakeholder in the democratic process, it is thus predicted that the final outcomes of the quests to remove presidential term limits will hinge on the strength and ability of the democracy movements to serve as guardians of the democratic order. At the same time, these groups also used their organizational capacity, as well as the legitimacy built from their roles in the struggles that ushered in democracy, to serve as platforms for public dialogue and debate, including organizing public demonstrations against the removal of term limits.

An assessment of the activism of democracy movements in the four countries reveals a very clear distinction about the extent of their engagement during the debates to remove term limits. In the two countries where term limits were removed, democracy movements played a 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, fewer democracy movements engaged in the process, blunting their ability to hold the government accountability and serve as a check on executive dominance. Conversely, in Malawi and Zambia, where the third-term bids were stopped by sustained pressure orchestrated by democracy movements, there were more groups that came together to oppose the attempts to remove term limits (Table 2):

Table 2: Democracy Movements and the third-term bids in Malawi, Namibia, Uganda and Zambia

<i>Country</i>	<i>Groups in favour of removing term limits</i>	<i>Groups against the removal of term limits</i>
Malawi	Chief's Council Muslim Association of Malawi Pentecostal Churches	Public Affairs Committee Malawi Congress of Trade Unions Malawi Law Society Human Rights Consultative Committee (a grouping of more than 50 governance NGOs) Episcopal Conference of Malawi Church CCAP General Synod Church NGO/Consortium Evangelical Association of Malawi Forum for the Defence of the Constitution
<i>Country</i>	<i>Groups in favour of removing term limits</i>	<i>Groups against the removal of term limits</i>
Namibia	SWAPO Elders Council Namibia National Students Organization Mineworkers Union of Namibia SWAPO Youth League National Union of Namibian Workers	National Council for Human Rights (NCHR) Breaking the Wall of Silence Namibian Students Education Movement
Uganda	National Organisation of Trade Unions	Foundation for Human Rights Initiative Uganda Joint Christian Council

		Kituo Cha Katiba Uganda Law Society Episcopal Conference of Uganda Human Rights and Peace Centre Development Network of Indigenous Voluntary Associations Popular Resistance Against Life Presidency
Zambia	National Organization for Civic Education (NOCE) Independent Churches of Zambia (ICOZ).	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 (CSUZ) National Youth Alliance (NYA) Catholic Commission for Justice and Peace Zambia Civic Education Association Women for Change (WfC)

Source: Dulani 2011

It can be seen from Table 2 that Malawi and Zambia, and to a lesser extent, Uganda, all had a high number of groups that opposed the removal of presidential term limits. This is in sharp contrast to the Namibia experience, where more groups supported the removal of term limits than were opposed. However, notwithstanding the relatively higher number of groups that opposed the removal of term limits in Uganda compared to Namibia, the effectiveness of the Ugandan groups, as I demonstrate below, was compromised by several factors, which ultimately undermined their ability to swing the final outcome towards retention of term limits.

Why were democracy movements successful in preventing the removal of term limits in Malawi and Zambia and not in Namibia and Uganda?

A closer analysis of the state of democracy movements during the third-term bids in the four countries reveals a number of factors that shed light into why efforts of the pro-democracy groups were successful in ensuring the retention of term limits in Malawi and Zambia while their colleagues in Namibia and Uganda were unsuccessful. These factors include: the unity

and cohesion of the democracy movements; the ability of the groups to overcome attempts to stifle them and undermine their potency and, lastly, their historical relationship with the ruling parties.

Unity and cohesion of democracy movements

The first factor that helps to explain the different outcomes in the performance of democracy movements during the third-term pursuits in the four countries involves the level of unity and cohesion of the movements. In Malawi and Zambia, where the attempts to remove presidential term limits were defeated, the groups of democracy activists were not only well organized in their efforts to stop the removal of term limits, but they also operated in unison by pooling the wholesome of their resources to run well coordinated campaigns that proved to be ultimately successful in preventing the removal of term limits. By contrast, Namibian and Ugandan groups were unable to get together and to provide a united front and were ultimately unsuccessful in their efforts to prevent the removal of tenure limitations (Table 3).

Table 3: Democracy movements engagement during the debates to remove term limits

	Malawi	Namibia	Uganda	Zambia
State of Democracy Movements	Cohesive, organised and coordinated	Fractured and uncoordinated	Infiltrated and un-coordinated	Cohesive, organized and coordinated

Source: Field work analysis by author

The extent to which unity and coordination of effort among pro-democracy groups helped to stymie the campaign to remove term limits was demonstrated most vividly in Zambia during president Chiluba's campaign to remove term limits in 2001. As the government pushed its agenda of removing the presidential term limit provision from Zambia's 1991 constitution, the very coalition of civic actors that had been at the forefront in fighting against authoritarian rule re-emerged to mount a strong campaign defending the retention of term limits. The group of actors included among others the Law Association of Zambia, University of Zambia Students Union, human rights and governance NGOs, the mainstream Churches and Trade Unions, all of whom had been at the

forefront of the political struggles that resulted in the transition to multiparty rule in 1991. These groups came together and formed the '*Oasis Forum*', which served as the platform for the groups that were opposed to the removal of presidential term limits in the country (Chella and Kabanda 2008, Dulani 2011). Sticking to their principle of opposition to dictatorship, these groups saw the fight against the attempts to remove term limits as an extension of their mandate to safeguard democracy and ensure its survival. Learning from the example of their Zambian counterparts, pro-democracy groups in Malawi banded together and formed the '*Forum for the Defence of the Constitution*,' (FDC), which served as a coordinating body for all groups opposed to the removal of term limits in the country (Dulani and van Donge 2005; Dulani, 2009). Through the FDC, leading Malawian pro-democracy groups were able to work together and mounted a strong and united campaign against the efforts by President Bakili Muluzi to remove term limits in 2002 and 2003. Among the leading players in this process were the Malawi Congress of Trade Unions and its affiliates, the Malawi Council of Churches, the Episcopal Conference of Malawi, the Public Affairs Committee (PAC), the Malawi Law Society, the Human Rights Consultative Committee, student and farmer organizations. As in the Zambian case, these groups had also previously played an influential role in forcing the regime of former President-for-Life, Hastings Banda, to embrace multi-party democracy in 1993. Thus at a time when the very democracy that these groups had fought for was faced with serious threats of reversal, the pro-democracy groups emerged and took their earlier democracy advocacy stance to a new level where they had now become bulwarks against attempts by sitting presidents to usurp power in the mode of the first generation of independence African leaders.

Through their united efforts, the democracy movements in Malawi and Zambia were thus able to successfully stifle the proposals to remove term limits. Among the many activities of these campaigns included lobbying of cabinet ministers and Members of Parliament to vote against the bills seeking to remove term limits; organizing public debates to deliberate on the merits of retaining term limits, and holding public demonstrations against the removal of term limits. In Zambia for example, the Oasis Forum issued the '*Oasis Declaration*' in February 2001, which outlined the key reasons for the pro-democracy movements' opposition to the removal of term limits. Top among the reasons advanced were the fear that removing

term limits would open up the political space in Zambia to another long-serving president in the mould of the country's first President, Kenneth Kaunda, who had been in power from independence in 1964 until 1991. In addition, the opponents of removing term limits alluded to the fact that removing these rules would make the presidency less accountable as well as depriving Zambians of the political benefits of alternation. The Oasis Declaration went further to urge Zambian citizens to step up and defend their Constitution from being manipulated to promote the personal agendas of President Chiluba and his close associates. The message of the *Oasis Declaration* was meanwhile widely disseminated through Zambia's independent media and through readings in the Churches whose mother bodies were part of the Oasis Forum such as the Catholic, Evangelical and Presbyterian Churches. Through these efforts, the message of the pro-democracy movements reached out to a big section of the Zambian population, thus undercutting Chiluba's campaign in the public media calling for the removal of term limits.

Meanwhile Malawi's pro-democracy groups, operating under the FDC banner, organized similar activities aimed at stopping the Muluzi government from removing the term limit provision from the country's 1995 Constitution. The list of activities included public demonstrations, media statements and public debates that highlighted the dangers of removing the term limit provision. In doing so, these groups cited the long reign of Malawi's first President, Hastings Banda, who had remained in office for nearly three decades and had secured a constitutional amendment to get himself declared the country's president-for-life in 1971 as a demonstration of the dangers of removing term limits.

Through their united and coordinated efforts, the Malawi and Zambia democracy movements were able to mobilize the wider citizenry to rally against removing term limits. This citizen pressure in turn resulted in increased pressure being exerted on Members of Parliament to reject proposals to remove term limits or face the risk of being voted out of office. Faced with this incessant pressure, which also resulted in the decisions by several leading figures from the ruling parties to defect and express their intentions to vote against the proposals, both Presidents Chiluba and Muluzi were forced to abandon their third-term quests and offered to step down at the end of their second terms as required by their respective national constitutions.

As have alluded to earlier, the fact that the pro democracy groups in Malawi and Zambia came out and mounted such a strong and passionate campaigns in favour of term limits should be understood within the context of the investment that these very groups had made in the democracy projects in the two countries. Not only would the removal of term limits have had the effect of setting the democracy projects off course, but the removal of such an important institution would also have eroded the credibility of the democracy groups in the eyes of the wider public. The removal of term limits, in other words, would have created a crisis of legitimacy among the pro-democracy groups themselves. Under these circumstances, fighting for the retention of term limits was the only viable option available.

While democracy movements came together and mounted joint campaigns against the attempts to remove term limits in Malawi and Zambia, their counterparts in Namibia and Uganda were unable to organize and mount similar cohesive campaigns. Ultimately, they were unsuccessful in their efforts to prevent the removal of tenure limitations. Although there were initial attempts to bring Ugandan pro-democracy groups together to fight a united campaign against the removal of term limits under the banner of the *Popular Resistance Against Life Presidency (PRALP)* in 2005, these were not as successful as those in Malawi and Zambia. Instead, these efforts at forming a coordinating body in Uganda were quickly scamped by state security agents who used violence and detentions of the key leadership to suppress these campaigns. In the absence of an opportunity for a united front, most Ugandan pro-democracy groups were compelled to make individual submissions against the removal of term limits to the Legal and Parliamentary Affairs Committee of Parliament. Examples of these groups included the Foundation for Human Rights Initiative (FHRI), the Uganda Law Society, the Human Rights and Peace Centre (HURIPPEC), the Development Network of Indigenous Voluntary Associations (DENIVA), Kituo cha Katiba, among others. By suppressing their ability to unite and coordinate their anti third-term campaigns, President Museveni and his supporters were thus able to isolate the dissenting groups by labelling their leadership as opposition activists, thereby undermining the potency and traction of their message. As a consequence, these groups failed to mobilize large public following to protest the removal of term limits in the manner that their counterparts did in Malawi and Zambia.

Meanwhile in Namibia, although a handful of that country's fledgling pro-democracy groups, such as the Breaking the Wall of Silence and the National Council for Human Rights (NCHR), among others, came out to oppose the removal of term limits, these were not only few and isolated, but also lacked coordination. As a result, the campaign to stop the removal of term limits in Namibia was not only muted, but also lacked the levels of leadership and coordination that was evident in Malawi and Zambia. Indeed, given the level of unbridled respect enjoyed by President Nujoma as Namibia's founding-father, the few groups that opposed the removal of term limits often went out of their way to avoid being seen as if their opposition was against the person of Nujoma. In their statement opposing the removal of the term limit provision for example, the 'Breaking the Wall of Silence,' a grouping of pro-democracy activists, noted that most Namibian civic organizations were 'fearful of speaking out against the third term [and give] the impression of being disrespectful to [...] President Nujoma.'⁶ This resulted in a situation where even those few groups that were opposed to the removal of term limits had to tread a careful path, to 'campaign against the third term without showing 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'⁷. As a result, the potency of the message coming from these groups was severely blunted, making it very difficult for them to appeal to the wider public to join them in opposing the removal of term limits. In a country where the ruling party, the South Western African People's Organization (SWAPO) enjoyed a substantial legislative majority, the bill to remove term limits was easily passed and quickly signed into law by Nujoma, paving the way for him to contest for a third term in the elections that were held in 1999 and easily won by the incumbent (Dulani 2011).

Although the removal of term limits in Namibia and Uganda suggest that the presence of democracy movements alone does not guarantee the preservation of these rules, their success in defeating similar efforts in Malawi and Zambia demonstrates that given the proper environment, they can play a major role in securing the retention of tenure limitations. Indeed, while the defeat of the third-term bids in Malawi and Zambia cannot be credited to these groups alone, the important role that they played in this

⁶ see 'Press Statement by Breaking the Walls of Silence', in the *Namibian*, 8 April 1997

⁷ Interview with Civil Society Activist, 11 September 2008

process was acknowledged in a USAID Governance Assessment Report for Zambia, where it was pointed out that the 'united front presented by a coalition of diverse [pro-democracy] nongovernmental groups and the active involvement of the churches...was a key factor in the campaign's triumph [and demonstrates] the power of citizens to hold government accountable' (USAID 2003: 27). The contributions of the democracy movements in defeating the third-term bids in Malawi and Zambia, in other words, demonstrate that under proper institutional contexts, the roles that these groups can play can extend beyond simply being instigators of democratic politics to guardians of new institutions that accompanied the new mode of governance. However, in order to effectively play this role, the organizational capacity of these groups and their ability to get together and mount joint campaigns is crucial.

Institutional barriers to undermine the potency of democracy movements

Secondly, the ability of the democracy movements to fight off attempts to remove presidential term limits in the four countries was also heavily influenced by the institutional context within which they operated. As part of their strategies to neutralize opponents, the ruling elites in the four countries used a range of options at their disposal, including changing the rules of the game, disbursement of patronage and violence to compel opponents to switch positions and become supporters of the third-term bids or to cow them into silence. I have demonstrated elsewhere that the ruling elites in the four fieldwork countries resorted to extensive disbursements of patronage, which took the forms of cash and other material incentives, as well as offers of appointments into senior government positions in order to buttress their existing support and to entice opponents to join them (Dulani 2011). In Malawi and Uganda, for example, legislators who pledged to vote in favour of removing term limits were respectively paid cash sums of \$1,100 and \$3,000 each (ibid). Similar pledges were also made in Namibia and Zambia, where third-term bid supporters were rewarded with cash and other material inducements.

There were also attempts by the four governments to undermine the potency of the democracy movements by changing the rules of the game to make the operations of pro-democracy movements more difficult during this period. These efforts included the enactment of new legislation that was designed to restrict the space within which democracy movements could

operate and also to bring them under greater government control. In Malawi and Uganda for example, amendments were made to the laws governing the operations of civil society groups by among others, banning them from commenting and demonstrating on 'political' issues, imposing strict registration requirements and giving discretionary power to government officials to de-register non-compliant groups⁸. As an Executive Director of a leading Ugandan NGO pointed out, the NGO Act of 2001 was a calculated move by the Museveni regime 'to stifle the work of governance groups in the country, especially those highly critical of government policy and practice'⁹. Meanwhile Namibia and Zambia also passed similar pre-emptive legislation aimed at stopping public demonstrations against the proposals to remove term limits.

The capacity of the democracy groups to fight off the third-term bids in the four countries was thus dependent on their ability to overcome these legal barriers before they could move on to challenge the removal of term limits. Overall, the pro-democracy groups in Malawi and Zambia were able to overcome these impediments, by among others, successfully challenging the legality of the bans in court and getting them overturned. For example, the Malawi NGO Act of 2001 was declared unconstitutional by the country's High Court after leading civil society groups challenged its legality. By contrast, there were no attempts to challenge these rules in both Namibia and Uganda. In the few instances where court challenges were made, Courts that are populated by regime-appointees often ruled in favour of the government. As a result, civil society groups were forced to operate within a very restricted space in Namibia and Uganda while at the same time, their organization ability was often compromised by enticements offered to some of the groups' leadership. Together, these factors contributed to the weakening of the capacity of the democracy movements in Namibia and Uganda to prevent the removal of term limits in contrast to their Malawi and Zambia counterparts who succeeded in defeating the proposals to remove term limits.

⁸ See for example Malawi's NGO Act (2001) and Uganda's NGO Amendment Act (2001)

⁹ Interview with author, 11 August 2008

The Role of History

The third, and final factor that influenced the ability of the democracy movements in the four countries to defeat the removal of term limits or not was the historical context within which the groups operated. In Namibia and Uganda, where the incumbent presidents were able to extend their hold on power, the pro-democracy movements had had a close and long association with the ruling parties, relationships that preceded the introduction of term limits. Coming from histories of unstable politics (Uganda) and apartheid rule (Namibia), the regimes of Sam Nujoma in Namibia and Yoweri Museveni in Uganda had helped to create the space for the emergence and participation of a variety of civic groups. As a result, the pro-democracy movements in those countries not only felt beholden to the political leadership, but they also owed their very existence to the interventions of the ruling regimes, with which they forged a long history of alliances. This relationship, despite occasionally being fraught with tensions, has persisted to the present day, so much that when presidents Nujoma and Museveni sought to remove term limits, a number of the pro-democracy groups felt compelled to side with the government as a demonstration of their continued gratitude.

In the case of Namibia for example, the few pro-democracy groups that emerged during the apartheid era were closely aligned with the SWAPO during its' long years of liberation struggle against apartheid South Africa control. Both SWAPO and a majority of Namibia's social groups were thus united in advocating for Namibia's independence. Thus when independence was granted in 1990, the Namibian pro-democracy movement and SWAPO had already had a long history of working together. After independence, several leaders from the pro-democracy movement, including lawyers, civil society activists and trade unionists, were incorporated into Nujoma's administration, with some being appointed into cabinet positions (Good 1997). As a result, when President Nujoma sought to seek a third term in office, several of the country's leading civil society groups, including the influential trade unions and the student union movements came out in support of the calls for the relaxation of the presidential term limit provision to allow Nujoma to seek a third term. The National Union of Namibian Workers, which retains a long affiliation with the ruling SWAPO forged during the independence struggles, for example, was among the influential organizations that endorsed the proposal to

amend the term limit provision in order to allow President Nujoma to seek a third term¹⁰. Indeed, while the SWAPO proposal only called for the relaxation of the term limit rule to allow President Nujoma to stand for a third term, some of Namibia's influential civic groups, such as the Mineworkers Union of Namibia, went further to call for the complete removal of term limits, arguing that 'we strongly feel that the clause is undemocratic...if a person is performing and that is the will of the people, he should be afforded an opportunity to lead'¹¹.

Uganda's history of political instability also had similar effect in bringing together civic groups and the regime of Yoweri Museveni after his ascendancy to power in 1986. As one prominent political commentator noted in an interview, some of the groups that transformed into democracy movements had sided with Museveni during the civil wars of the 1980s, looking at him as offering the best prospects for political stability and creating an enabling environment for pluralistic politics.¹² This view was also advanced by Kabwegyere (2000), when he noted that while the NRM facilitated civil society engagement in the Ugandan political arena after 1986, there was at the same time concerted effort to bring these groups to become part of a broader national coalition with the NRM. This view is also echoed by Kjær and Olum (2008: 184) when they point out that civil society groups in Uganda, especially those engaging on political matters, have only been accepted as long as they have not been perceived by the NRM as 'a challenge to political power [...] hence the Ugandan civil society moved from being active to docile political players.'

By contrast, the history of democracy movements in Malawi and Zambia, vis-à-vis their relationship to the ruling parties, has been very different. In these countries, pro-democracy groups enjoy a greater autonomy that gives them operational independence. Drawing upon a legitimacy derived from their key roles in precipitating the transitions from authoritarian rule to democracy, these groups have acquired the ability to oppose the ruling regimes especially when they are seen to be acting contrary to democratic expectations. Thus rather than the democracy groups feeling beholden to the ruling parties for their existence, as was the case in Namibia and

¹⁰ see 'NUNW backs Third Term and intervention in DRC', in the *Namibian*, 1 October 1998, p. 1

¹¹ See 'MUN supports a third term for President', in *Miners Speak*, Vol. 8, 1997 issue, p. 1-2

¹² Interview with author, 12 October 2008

Uganda, the ruling parties in Malawi and Zambia were actually beholden to these groups owing to the fact that their political activism helped to create the space in which new political parties emerged to challenge the old authoritarian order. Not only did these groups play central roles in precipitating regime change, but they were also strong advocates of institutions aimed at preventing a recurrence of personal rule such as term limits. Thus while they might have shared an interest with the emerging parties to challenge the former authoritarian regimes in those countries, they also had a vested interest in the retention of the institution of term limits, which separated their cause from that of the ruling parties when the attempts to remove term limits were made.

The net result of these contextual differentials on the history of democracy movements in the four countries was that while there emerged and remained vibrant and pro-democracy movement in Malawi and Zambia, their Namibian and Ugandan counterparts were compromised and weakened as oversight institutions. Consequently, while a high proportion of leading key pro-democracy groups in Malawi and Zambia took an active stance in campaigning against the proposals to remove term limits, the bulk of leading organizations in Namibia and Uganda were either silent or came out in support of the proposals to prolong the tenure of the incumbent presidents.

Conclusion

Democracy movements not only have a vested interest in seeing the retention of term limits, but they can also play important roles in securing these rules from presidents that seek to remove them in order to extend their tenures. However, the ability of democracy movements in acting as effective defenders of term limits depends on several factors. In polities where pro-democracy movements identify closely with the ruling regimes, they lose their potency to serve as checks against executive attempts to remove tenure limits. Under such circumstances, alliances between ruling parties and the majority of pro-democracy groups can result in outcomes that end up with the removal of key democratic institutions, including those that are designed to promote leadership alternation. By contrast, in polities where pro-democracy movements exercise autonomy and independence from the ruling regimes, they can serve as effective barriers against the usurpation of power by incumbent presidents, as happened in Malawi and

Zambia. These findings also demonstrate that democracy movements can play an important role in promoting constitutionalism by forcing presidents to abide by tenure limitations outlined in the constitution. The experience of African social movements in Malawi and Zambia that have successfully fought off efforts to remove term limits offer important lessons to other civic groups in Africa and beyond faced with similar challenges by incumbents seeking to circumvent constitutional rules designed to curtail presidential power. In order to succeed, social movements need to work together, coordinate their efforts and mount a unified campaign and assert their autonomy and independence from the ruling elites. The leadership of these groups also needs to stand firm against the allures of patronage by putting the interests of the wider group above those of the self. Of course, by working in a group, patronage has much reduced potency compared to when pro-democracy groups operate as singular entities.

However, at the same time, the fact that a high number of African presidential constitutions have been amended over the twenty year period between 1990 and 2010 and the incumbent presidents allowed to prolong their tenures suggests that constitutional rules and the support for them from civil society are not sufficient to bring the culture of personalizing power in Africa and beyond to an end. This suggests that adherence to constitutional rules by ruling elites requires a lot more than the words written in constitutional books. Instead, it requires the vigilance and activism of groups that have had invested in ushering in the democratic era. This can be achieved through the active involvement of democracy movements.

Abstract:

Die Einführung von Begrenzungen präsidialer Amtszeiten stellte in der letzten Dekade des 20. Jahrhunderts eine wichtige Neuerung im Verfassungsrecht afrikanischer Staaten dar. Obwohl die Annahme solcher Begrenzungen auf eine Beendigung der verflochtenen und personalisierten Regierungsmuster auf dem Kontinent abzielte, geriet diese Institution zunehmend durch Präsidenten in Gefahr, die an ihrem Amt festhalten wollten. Versuche, Amtszeitbegrenzungen aufzuheben, erforderten das Eintreten verschiedener Gruppen, die in der Stärkung

demokratischer Strukturen in den 1990er Jahren eine zentrale Rolle spielten. Die Fähigkeit dieser aus NGOs, Gewerkschaften, Studierenden, Berufsverbänden, religiösen Gruppen und Gruppen engagierter BürgerInnen bestehenden Demokratiebewegungen, diese Begrenzungen zu verteidigen, variierte. Die unterschiedlichen Resultate der Versuche, Amtszeitbegrenzungen aufzuheben, veranschaulichen dies. Einer Reihe afrikanischer Präsidenten gelang es, diese Begrenzungen aufzuheben, andere scheiterten bei diesem Versuch und mussten zurück treten. Welche Faktoren ermöglichen Demokratiebewegungen eine erfolgreiche Verteidigung von Amtszeitbegrenzungen? Auf der Grundlage von Feldforschungen in Malawi, Namibia, Uganda und Sambia untersucht dieser Artikel den Einfluss von Demokratiebewegungen auf das Ergebnis solcher Auseinandersetzungen. Ich zeige dass Demokratiebewegungen in Namibia und Uganda, wo ihr Aufkommen dem herrschenden Regime zu verdanken war und wo enge Bindungen zur herrschenden Elite vorlagen, größere Schwierigkeiten hatten, gegen die Aufhebung der Amtszeitbeschränkungen zu mobilisieren. In Ländern wo Demokratiebewegungen einen höheren Grad an Autonomie bewahren konnten – wie in Malawi und Sambia – konnten sie Eliten dagegen entgegentreten, wenn diese versuchten, die politischen Spielregeln zu manipulieren.

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