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Presidential Term Limits in African post-Cold War Democracies:

The Role of Political Elites

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“No revolution of the masses can triumph without the support of a portion of the internal elites that sustained the old regime”¹

¹ Adapted from a quote in Lieuwen 1961, 134 from D.E.H Russell, *Rebellion, Revolution, and Armed Forces: A Comparative Study of Fifteen Countries with special Emphasis on Cuba and South Africa*, ed. Charles Tilly and Edward Shorter, *Studies in Social Discontinuity* (New York: Academic Press, Inc., 1974),3

Abstract

Why have attempts to repeal presidential term limits succeeded in some African countries and failed in others? What measures and pressures were required to demand and enforce presidential term limits compliance? The lack of precise and effective strategy to enforce term limits compliance seems to expose term limits to incipient repeals by incumbent presidents in Africa.

My field observation in various African democracies shows that the parliament, the judiciary, democracy movements and the international community, though occasionally influential, have not played a decisive role in enforcing term limits compliance in Africa. Their roles rather appear to be dependent on elite dissidence, resistance, sponsorship and sometimes manipulation. My fieldwork in Zambia, Nigeria and Malawi reveals the critical influence and role of political elites in mobilizing and converging pressures to demand and enforce compliance. These cases further find that a compliance outcome becomes possible if individual political elites choose to resist any incumbent president seeking to repeal term limits. The ability of dissenting elites to provide an alternative platform for the convergence of other pressures raise the cost of repression for presidents and force them to compliance.

Since the pressures anchor around elite dissidence, the position of some political elites either for or against the removal of term limits explains why some presidents have succeeded and why others failed in repealing term limits in Africa.

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List of Abbreviations

AC	Action Congress	CCAP	Church of Central African Presbyterian Council
ACN	Action Congress of Nigeria		
AFORD	Alliance for Democracy	CCC	Committee for a Clean Campaign
AD	Action for Democracy		
AIT	African Independent Television	CCJP	Catholic Commission on Justice and Peace
AGPA	All Peoples Grand Alliance	CDP	Congress for Democracy and Progress
ANC	African National Congress	CIA	Central Intelligent Agency
ANPP	All Nigeria Peoples Party	CIRR	Catholic Institute for International Relations
APC	All peoples Congress		
APP	All Peoples Party	CNDD-FDD	National Council for the Defence of Democracy
ASUU	Academic Staff Union of Universities	CSOs	Civil Society organizations
BBC	British Broadcasting Service	CRC	Constitution Review Committee

DANIDA	Danish International Development Assistance	IMF	International Monetary Fund
DFID	UK Department for International Development	INEC	Independent National Electoral Commission
DRC	Democratic Republic of Congo	IRI	International Republican Institute
EFCC	Economic and Financials Crimes Commission	KANU	Kenya African National Union
EU	European Union	LP	Labour Party
FCT	Federal Capital Territory	G-34	Group of Thirty Four
FDD	Forum for Democracy and Development	GNI	Gross National Income
FODEP	Foundation for Democratic Progress	MCP	Malawi Congress Party
ICOZ	Independent Churches of Zambia	MBC	Malawi Broadcasting Corporations
IFES	International Foundation for Electoral System	MCBC	Malawian Catholic Bishops Conference
		MCP	Malawi Congress Party

MFD	Muluzi Foundation for Democracy	NDC	National Democratic Coalition
MIJ	Malawi Institute of Journalism	NDC	New Democratic Coalition
MMD	Multiparty Democracy	NGO	Non Governmental Organization
MPP	Peoples Movement for Progress	NGOCC	NGO Coordinating Council
MPs	Members of Parliament	NI	New Initiative
NADECO	National Democratic Coalition	NICE	National Institute for Civic Education
NCRC	National Constitution Review Conference	NIG	National Interim Government
NCSO	Nigeria Civil Society Organizations	NLC	Nigeria Labour Congress
NEC	National Executive Council	NOA	National Order Act
NDA	National Democratic Alliance	NMA	Nigerian Manufacturers Association
		NOCE	National Organizations for Civic Education

NPRC	National Political Reform Committee	UAD	United Action for Democracy
NWA	National Women Association (of Zambia)	UDF	United Democratic Front
RP	Reform Party	UN	United Nations
PAC	Public Affairs Commission	UNIP	United national Independent Party
PDM	Peoples Democratic Mandate	UNDP	United Nations Development Programme
PDP	Peoples Democratic Party	US	United States
PPA	Peoples Progressive Alliance	USAID	United States Aid
SACBC	Southern Africa Catholic Bishops Conference	VP	Vice President
SNG	Save Nigeria Group	ZIMT	Zambia Independent Monitoring Team

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Chapter 1: General Introduction

1.1 Problem Statement

The tendency to repeal presidential term limits by some incumbent presidents appears to pose a significant challenge to the consolidation process of democracy in Africa. As definition, presidential term limit is the constitutional imposition of limits on the number of years and tenures allowed for an individual candidate to hold presidential office or power (Dulani 2011). It presupposes a maximum allowance of two terms, each of which may not exceed five years (or seven years at the most), and are thought to apply to the office of the president (Shinn 2009). Multiparty presidential systems of democracy have accepted presidential term limits as a fundamental mechanism for ensuring political transition (Beetham 2004; Cheeseman 201; Linz 1996; Armstrong 2010). Thus, presidential term limits remain a powerful predictor of democratic power transition and a vital component of democracy. Although studies have covered the benefits of presidential term limits in a multiparty democracy, little research has examined the effective ways of enforcing presidential term limits, especially in African.

Between 1999 and 2014, twelve incumbent presidents in Africa abandoned or successfully repealed term limits to remain longer in power. At the same time, thirty-four national debates in various African new democracies within the same period concerned the removal of presidential term limits, representing the highest number of global term limits debates and repeals.

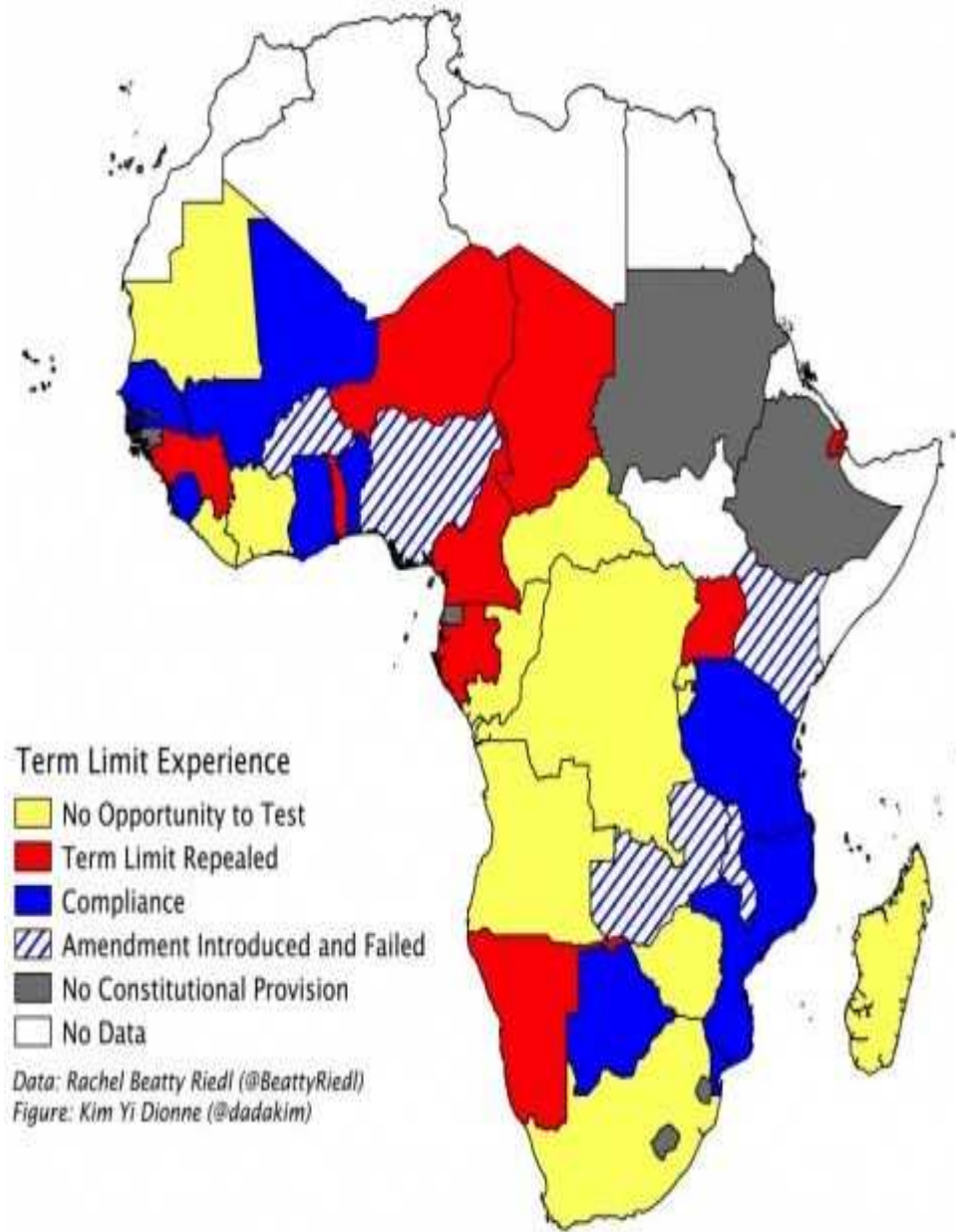


Figure 1: Presidential Term Limits Experience. Post-Cold War African democracies are shaded according to their experience until 2015. Source: Rachel Riedl (Kim Yi Dionne/The Monkey Cage).

Why have attempts to repeal presidential term limits succeeded in some African countries and failed in others? What measures or pressures² are required to demand and enforce presidential term limits compliance? To what extent have the validity and effectiveness of these pressures in enforcing compliance been examined and rated by political science as it concerns African post-Cold War democracies?

This study seeks to contribute to the literature on democratization by examining how pressures from political elites play a role in enforcing presidential terms limits compliance in African democracies. I am aware that approaching this research from political elite perspective might seem somewhat puzzling, given that other variables attract central position in our modern understanding of democratic politics than the elite role in enforcing presidential term limits compliance. There are further theoretical, normative, and practical implications to understanding how presidential terms limits are effectively enforced in furtherance to democracy consolidation. The conventional wisdom in the practice of democracy and presidentialism suggests that a seating president would voluntarily step aside after serving his/her constitutionally allowed tenures without engaging in the politics of repealing term limits to extend his/her tenures. However, this has not been the case in

² I shall refer to pressures in this study as an external impact that influences the outcome or result of an action. The external impact is often independent of the outcome while the outcome is dependent on the impact, without which, the outcome may have been different. For this study, elite political dissidence figures as an independent variable (impact) while term limits compliance outcome figures as dependent.

many African democracies where seating presidents have either ignored term limits or successfully removed term limits to extend their mandates beyond their constitutional terms as figure 1 above shows.

The present research does not set out to introduce a new theory of democracy. Rather, it aims to re-introduce a debate on the role of political elites in enforcing presidential term limits compliance in post-Cold War African democracies. It does this by examining the capacity of individual political elites to resist power entrenchment through elite activism, aimed at galvanizing, mobilizing, sponsoring and bundling pressures to enforce presidential term limits compliance in some African democracies. By addressing this seeming deficiency in the study of the politics of presidential term limits, this research further diversifies the focus on a search for ways and strategies to enforce presidential term limits in Africa.

Some writers have attempted to investigate the processes that yielded to certain presidential term limits outcomes in Africa. These few studies have focused on the role of institutions (Armstrong 2010; Maltz 2007; Vencovsky 2007; Posner and Young 2007), and Civil Society Organizations (CSOs) (Dulani 2011) in enforcing compliance. The visible impacts of institutions and some CSOs in some industrialized Western democracies tend to influence the focus on institutional and CSOs role (Khembo 2004). Institutions of democracy in stable and medium income democracies saliently regulate power alternation and leadership recruitment as a norm. Though Posner and Young (2007) emphasize the institutional strength in

enforcing term limits compliance in Nigeria in 2006, institutions in many post-Cold War democracies, referred to as the bottom billion by Collier (2008) seem to be weak, compromised, or amenable, in effectively and reliably enforcing presidential term limits compliance. As Posner and Young (2007) emphasize,

constitutions and formal institutions exist only on paper and do not shape the conduct of individual actors, especially those in power. Otherwise, voluntary relinquishment of power by some incumbent presidents in the face of impelling formal rules telling them that their time was up directly challenges the caricature of Africa as a place where abstract constitutions and formal institutions exist only on paper (2007).

With such an indictment on institutions, the enforcement of presidential term limits compliance in Africa, where incumbent presidents possess massive executive powers, requires new and realistic strategies even if they often contradict democratic calculations. Research that focuses on the role of individual political elites in mobilizing and bundling pressures to demand and enforce term limits compliance seems to sustain such a paradox. It also calls for a rethinking on the processes that shape democratic prospects in the countries referred to as ‘the bottom billion’ by Paul Collier. As shall be further explored in the case studies, neither democratic institutions nor democracy movements could have enforced presidential term limits compliance without elite involvement and support in African democracies.

Post-Cold War Democracy and Presidential Term Limits in Africa

The introduction of presidential term limits was one of the outcomes of the various negotiations that preceded the post-Cold War transition elections in Africa. With constitutional support for presidential term limits, which were often ratified in most African countries through a referendum, presidential term limits not only assumed a democratic principle, but were also expected to become both a ‘process and a practice’ in new African democracies.³ The constitution legitimizes term limits (years and tenures) as a democratic principle to regulate power and leadership transition within the context of democratic elections. Shinn (2009) argues that term limits for a country’s most important political leader are an essential component of building democracy. Their importance adds value to the process, practice and constitutive feature of liberal democracy (ibid). Numerous studies show that presidential term limits are one of the most consistent predictors of power transition (Beetham 2004; Linz 1996; Cheeseman 2010). Presidential term limits are also important in sustaining open-seat contests that ensure power alternation. However,

³ Understood in this way, I refer to term limits as the outcome of the process and practice of instituting and creating a legal framework to impose limits on the number of years and tenures with regards to the office of the president and some other electoral positions in a presidential system of government. In Nigeria for instance, the office of the thirty-six State Governors and seven hundred and seventy-six Council Chairmen (Mayors) enjoy the same constitutional term limits as the office of the President of the Republic.

this was not to be the case in African democratic experiment, where the process and practice of presidential term limits have become problematic.

As shall be discussed in chapter two of this work, about 90% of African countries did not have the opportunity to experience presidential term limits until the end of the Cold War. Two reasons accounted for this. First, the newly independent African states adopted a parliamentary system of government and therefore had no need for term limits, as was the practice in most imperialist countries.⁴ Secondly, in many other newly independent states, the departing colonial administrations hurriedly handpicked their successors without setting adequate processes into motion for power transition (Bayart 2009). In some other new independent states, warlords replaced colonial administrations after long and protracted rebellions and wars. In all cases, whatever type of regime that replaced the colonial administration ruled without interruption. Death of the president and *coup de etat* therefore became two important factors that ensured power alternation in Africa (Armstrong 2010; Vencovsky 2007).

⁴ With the exception of France, other colonising countries in Africa at the time, like England and Belgium, practiced parliamentary systems of government and therefore left behind constitutions that supported parliamentary system of government before the independence of these countries. The rush to switch over to a presidential system by most Africa countries was new and apparently supported by reigning dictators who had tasted power and therefore used the presidential system to sustain an entrenched power.

However, the process and practice changed in the early 1990s as many African states responded to the post-Cold War democratic shock. With about thirty reigning dictators and life-presidents ready to open up for, and at the same time participate in the multi-party democratic elections, the issue of presidential term limits became crucial. In a majority of the democratizing states, the adoption of term limits for a country's most important political leader was unanimous and hitch-free. By 2004, thirty-eight countries had constitutionally adopted presidential term limits, with the aim of making presidential term limits a major practice in African new democracies. Afrobarometer notes that the adoption of term limits increased the popularity and prospects of democracy after the Cold War in Africa (Afrobarometer 2010-2012). A survey of public opinion in thirty-four African countries indicates that about three in every five Africans want their presidents to serve no more than two terms in office (Ibid.). Except Algeria where the support for the removal of term limits was strong, the support for presidential term limits in other countries surveyed in Africa yielded an average of 70%. As shown in figure 2 below, most Africans favor constitutional limits to presidential powers in African democracies.

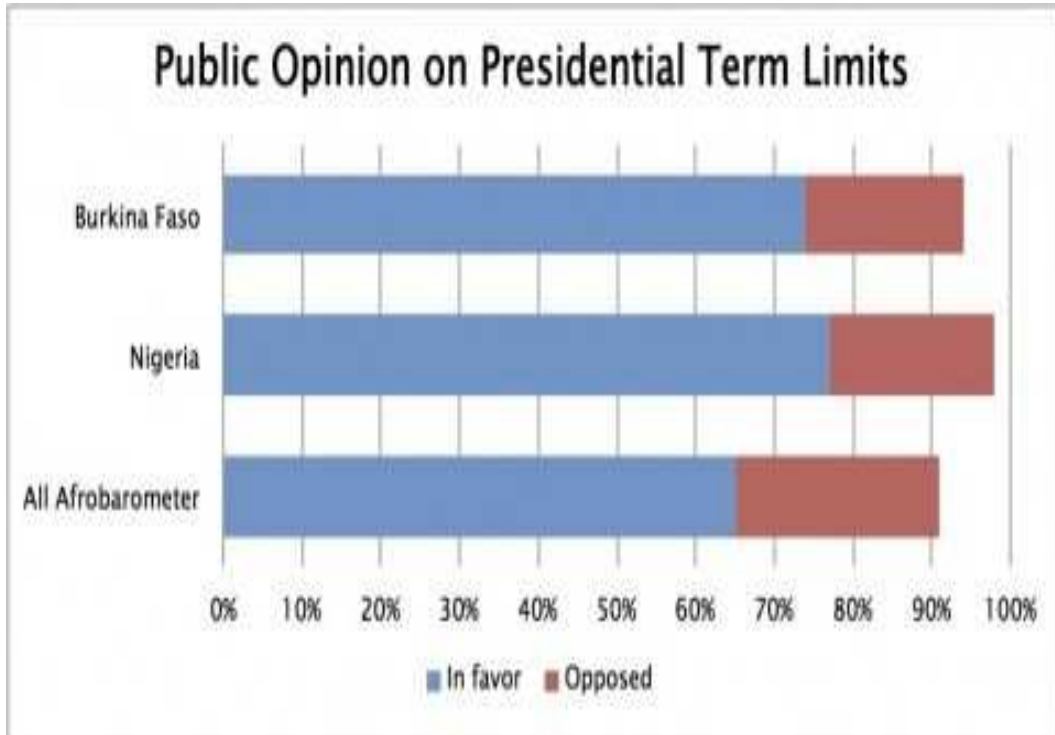


Figure 2: Afrobarometer’s data on Public Opinion of Presidential term Limits in post-Cold War African democracies (Round 5, 2010-2012). Compiled by Emily Hamilton/ The Monkey Cage.

The post-Cold War democratic experiment took off with only six countries having presidential term limits in Africa. However, within the period between 1990 and 2012, fifty-four of sixty-four adopted or amended constitutions formally stipulated term limits for the office of the president. Unfortunately, despite the legalization and formalization of presidential term limits by various constitutions, many presidents continued to resist them by either constitutionally extending their mandates to third terms or life-presidency, or totally ignoring the term limits. In all the cases of repeal in Africa, the result appears to be a setback in democracy

consolidation as it blocks political reforms, leads to a syndrome of power in perpetuity (Shinn 2009), and sometimes to democracy reversal.⁵

The benefits of term limits notwithstanding, some scholars like Baker (2002), Weissert and Halperin (2007), and Elhauge (1997) doubt the so-called benefits and value of presidential term limits for democracy. These opt for the removal of any sort of imposition of limits on the number of years and tenures for the presidential office since term limits impair the effectiveness of the executive. As noted above, various stakeholders in the democratization process readily supported and accepted presidential term limits in Africa after the Cold War not only because of their benefits for democracy consolidation but also to rupture African democratic process and practice from its immediate past of power entrenchment and monopolization of political power by the few. Power alternation, smooth transition, open-seat contests, political competition, rule of law and political level playing ground were advanced as strong reasons for the adoption of term limits after the Cold War to break-off from long dictatorship and era of life-presidency and power entrenchment.⁶ New African democracies supported and adopted presidential terms limits to ensure the possibility

⁵ Refer to the democratic reversal in Burkina Faso, authoritarian consolidation in Cameroon, Uganda, Togo, Gabon, and the democratic confusion in Burundi.

⁶ Though various scholars like Linz, Beetham, and Cheeseman have extensively discussed the benefits of term limits, Professor Falola re-emphasized the benefits of term limits for post-Cold War African democratic experiment. (In author's interview with Falola. Pilzen, Czech Republic. May 2013).

of policy change and help institutionalize the democratic process (Shinn 2009; Armstrong 2010; Reidl 2015).

Unfortunately, the euphoria that greeted the post-Cold War democratization and the adoption of presidential term limits in Africa did not last long as some transition presidents strongly resisted term limits. Some new democracies began to witness undue political tension within ten years of democratization, as many incumbent presidents introduced debates to repeal presidential term limits to either stay longer in power or acquire the status of life presidents. Between 1998 and 2015, thirty-four of the thirty-eight African countries that adopted presidential term limits during their transition held national debates to consider removing presidential term limits provisions from their constitutions.⁷ While thirteen out of the thirty-four national debates resulted in a successful repeal outcome or total neglect of term limits⁸, only four resulted in a failed attempt.⁹ Currently, two national debates

⁷ Author's update of Afrobarometer's data on presidential term limits national debates in post-Cold War African democracies (2010-2012).

⁸ Burundi and Eritrea operate a constitution with presidential term limits stipulation. However, leaders in these two countries tend to ignore the term limits and seek for more presidential terms. I have included these two countries on the list of successful repeals, since presidential term limits seem no longer to work in these countries anymore.

⁹ Zambia, Malawi, Nigeria, and Senegal are so far the only countries that resisted the attempts of their incumbent presidents to repeal their presidential term limits.

concerning the removal of presidential term limits are ongoing in Rwanda and Democratic Republic of Congo (DRC), while one is deadlocked, causing a democratic reversal in Burkina Faso.

With thirteen successful repeals (including three neglected presidential term limits prescriptions) and two on-going presidential terms limits debates,¹⁰ presidential term limits as a democratic principle and an accepted system of leadership alternation appear to face significant challenges in African presidential systems. The threat appears to be greater, as the removal of presidential term limits destroys the enthusiasm that embraced the post-Cold War democratic experiment in Africa that specifically adopted term limits to curb presidential powers after years of dictatorship, life-presidency, and power entrenchment. For most African democracies, presidential term limits appear to have become a burden and a frustrating institution, both for incumbent presidents and for the entire population. The political tension and undemocratic actions associated with the amendment process of repealing or enforcing term limits confirm this burden.¹¹ Despite the argument that some presidents and heads of governments both in Africa and elsewhere can effectively serve the populace in a third or fourth terms, cases abound where continued stay in power have led to a syndrome of power in perpetuity and

¹⁰ Democratic Republic of Congo and Rwanda are currently embroiled in presidential term limits debates and politics.

¹¹ I shall explore this point further in the case studies.

very low democratic growth (Shinn 2009) as in Cameroon, Togo, Gabon and Uganda.¹²

Thus, looking back at the post-Cold War democratization in Africa, what appears to be a real problem after twenty-five years of democratic experiment on the continent is the lack of precise strategy to enforce presidential term limits. Based on the number of countries that have either successfully repealed presidential term limits or ignored them, the on-going national debates to do the same in Rwanda and DRC, and the attraction to entrench and retain power by incumbent presidents, this study appears urgent in setting the stage for a sincere debate on the dynamics of enforcing presidential term limits in Africa.

¹² Some writers like Shinn (2009) and Armstrong (2010) have referred to the perpetual occupation of the office of the president by one person as a setback for change and fresh ideas, and an opportunity for creating structures that sustain increased corrupt practices. Further, attempts by some incumbent presidents to remove term limits and hang on to power have resulted in conflicts and political disorder as in Burundi, democratic reversal as in Burkina Faso, and authoritarian stability as in Cameroon, Togo, Uganda, and Gabon.

1.2 Focus and Significance of Study

In proffering answer to why some presidents succeeded while others failed in removing or ignoring term limits in Africa, this research assumes that the degree of respect for presidential term limits in Africa depends largely on the degree of pressures applied on a particular incumbent president. Various pressures pique in the politics and process of enforcing term limits compliance. However, field research in various African new democracies for this study reveal that the position of individual political elites either for or against the removal of term limits explain why some presidents succeeded and others failed in repealing term limits in Africa. This research focuses on the role and ability of political elites in producing, mobilizing, and bundling pressures to demand and enforce term limits compliance in Africa. The study covers the period between 1989 and 2015 and coincides with the Silver Jubilee of post-Cold War democratic experiment in Africa.

About thirty-five elected presidents who were confronted with the reality of constitutional term limits between 1998 and 2014 received strong calls from their supporters to find a way of staying longer in power (Shinn 2009). While some of these presidents¹³ apparently resisted the calls and refrained from seeking to amend their constitutions for a longer term by announcing their willingness to abide by their

¹³ I refer here to Kerekou of Benin, Antonio Monteiro of Cape Verde, Jerry Rawlings of Ghana, Daniel Arap Moi of Kenya, Alpha Konare of Mali, Joaquim Chissano of Mozambique, Miguel Trovoada of Sao Tome and Principe, France-Albert Rene of Seychelles, and Benjamin Mkapa of Tanzania.

Republic's constitutions others repealed or ignored the constitutional term limits. Democracy observers are yet not unanimous in their search for reasons why some of these presidents chose not to seek for a third or longer terms. For Posner and Young (2007), these leaders seemingly restrained because:

- of palpable fear that suggests the leaders lacked the votes required to amend the constitution;
- the leaders were afraid of the concerted elite opposition that they would face;
- they were concerned of a possible defeat in a third election;
- they consciously wanted to abide by the constitution believing that abiding by the constitution was the right thing to do.

Whatever the rationale might have been, many scholars including the author argue that willingly stepping aside was not necessarily the most preferred choice of these presidents, since only less than 10% of presidents has voluntarily relinquished power in Africa without some pressures (Posner and Young 2007; Shinn 2009; Armstrong 2010; Vencovsky 2007; Dulani 2011). Some incumbent presidents seemed to have agreed to relinquish power because the constitutional prohibition of extending their mandates raised the cost of staying in power beyond a level they were willing to bear.¹⁴

¹⁴ I shall elaborate on this point further in Chapter One of this study.

Secondly, elite political resistance was already forming in some African countries to confront any attempt by some presidents who attempted to amend their republic's constitution to extend their stay in power. For instance, Presidents Jerry Rawlings of Ghana, Arap Moi of Kenya, Kerekou of Benin and Chissano of Mozambique made initial moves to extend their mandates, but changed their minds when it became clear that powerful elite coalitions were ready to confront them (Posner and Young 2007; Armstrong 2010; Shinn 2009). Arap Moi, Kerekou, and Jerry Rawlings complied with constitutional term limits under duress (*ibid*). Incumbent presidents who chose to step down since 1990 in Africa represent less than 30% of presidents who confronted term limits or ignored them. About 70% of incumbent presidents succeeded in changing their constitutions to gain more terms. This is indicative that many African presidents possess enormous powers to shape outcomes to suit their preferences, even when those preferences conflict with the democratic process, practice, and the formal legal limitations on their powers (Posner and Young 2007).

Thus, presidential term limits have faced challenges in African democracies because the presidential system as a political configuration accords much power to the president and enables incumbent presidents to entrench state power (Villalon 2005). Further, many incumbent presidents appear to have stepped on political toes, and thus are concerned about their existence outside office (Maltz 2007). In order to avoid political vendettas from perceived political foes and mass anger, many incumbent presidents deployed various means to retain power either by directly repealing presidential term limits to remain longer in power, or by manipulating the

democratic and electoral process to install a stooge as a successor (Sardanis 2014; Armstrong 2010).

In some African democracies, the tendency to hold on to power has derailed the democratic consolidation process as in Togo, Gabon, Cameroon and Burundi, and in some cases, reversed democratic gains as in Burkina Faso. A study has therefore become necessary on the strategy to demand and enforce presidential term limits compliance as a constitutive feature of liberal democracy in Africa, without harming the state. The number of national debates and the actual neglect or removal of presidential term limits in thirteen African countries within the last twenty-five years underscores the importance and necessity of this study.

My intention is to examine political elite interaction with other perspectives, especially, the institutional and democracy promotion theories to formulate a new model of interaction for elite role in enforcing term limits compliance. In addition to my focus on political elites, I shall investigate some existing theories (institutional, Civil society and democracy promotion) of democracy consolidation to examine the effectiveness or otherwise of these perspectives in enforcing term limits compliance. Using three case studies (Nigeria, Zambia and Malawi), I shall design a model of interaction between political elites and other theories of democracy in mobilizing and bundling pressures to demand and enforce presidential term limits compliance.

1.3 Research Approach and Methodology

1.3.1 Thesis Question

I have selected one main thesis question and four sub-thesis questions to guide this research. The following serves as the main thesis question:

In what ways do political actors mobilize to demand and enforce presidential term limits compliance, especially in African countries?

The four sub-thesis questions that shall support the analysis and conclusion of the study are: What factors influence the political choices and behaviors of individual political elites to mobilize and bundle pressures against the removal of presidential term limits in African countries? Could other sectoral pressures sufficiently and independently enforce term limits compliance without the involvement of key individual political elites? Could individual political actors have achieved a compliance outcome without linking and allying with other institutional or extra-institutional sectors? To which extent have African democracies experienced systematic and procedural power alternation without certain pressures produced and sustained by a section of the political elites?

I shall test the assumptions of this study by examining and comparing the different roles played by some individual political elites with other social forces and institutions in enforcing presidential term limits compliance in Nigeria, Zambia, and Malawi. In testing the assumptions of this study through field research, I seek to discover the origin and sources of the ‘whistle blowers’ who brought the third term

controversies to the public domain. I shall also investigate the forces that mobilized against the repealing of term limits in the selected case studies, as well as the sources that financed the efforts and pressures against repeal attempts.

In various case studies chosen for this study, many sectors became involved in the movements for and against the removal of term limits. These include some institutional and extra-institutional sectors like the parliament, judiciary, international donor agencies, and CSOs (the church, the media, political activist groups, women's organizations, and lawyers' associations). In testing the validity of my thesis, I will investigate the sources of mobilization and funding of these sectors, including the funding for protests, protest materials, and media debates.

The involvement of the judiciary and the parliament in generating pressures against the removal of presidential term limits in new democracies has been controversial and inconsistent. I shall investigate the capacity of these institutions to ascertain their level of involvement in producing independent pressures in the selected case studies. I shall pay special attention to the channels of parliamentary and judicial lobby, especially, the origin of court cases that arose during the third-term debates, and the linkage between judicial officers, MPs, and individual political elites. The interaction between individual political elites and these institutions shall become a major factor in determining and assessing elite role in mobilizing and bundling pressures to demand and enforce compliance.

Some scholars and political analysts have emphasized the use and strength of money in African politics (Villalon 2005; Simon 2005; Rakner 2004; Posner and Young 2007; Armstrong 2010; Chabal and Daloz 1999). Some writers have equally acknowledged economic wealth among individual political elites as capable of both strengthening and derailing democracy (Villalon 2005; Iwu 2008). Though the possession of such economic wealth is limited to few in African countries (Villalon 2005), an examination of how economic wealth influenced elite role in demanding and enforcing term limits compliance shall help confirm or disprove such assumptions. For instance, how did the dissenting political elites secure funds to sustain pressure against incumbent presidents in the selected case studies?

My investigation into how the dissenting political elites were able to mobilize funds to finance their activism against incumbent presidents shall expose the roles of foreign donors in the cases under investigation. I shall pay particular attention to the origin and destination of international funding and the ways in which dissenting political elites attracted funds to sustain their pressure.

Alternative platforms for resistance and activism are important for generating political pressures in demanding and enforcing compliance. While such platforms are necessary for mobilizing other sectors, they also provide alternative political voice and leadership for mass followership. Many political and civil platforms emerged during the third-term debates in various case studies. An examination of the processes

that led to the founding and eventual funding of these platforms shall be revealing in probing the importance of money in discussing term limits politics in Africa.

In seeking explanation to why some presidents succeed in removing term limits and other fail, I emphasize political elite activism, which leads to the mobilization of other sectors and the bundling of pressures that often result in compliance outcome. I will consider elite activism, the mobilization of various sectors, and the eventual enforcement of presidential term limits compliance as process and outcome. I will further assert that compliance outcome (which is the outcome of the process) is central to jump-starting the process of technical stabilization of democracy (referred in this study as impact) as shall be explained in the case studies. In order to merge the process, outcome, and impact, I shall examine the initial condition or independent variables of power entrenchment, intimidation, and the high possibility for presidential term limits repeal in African democracies. I shall further juxtapose the independent variables with the intervening causal process or causal mechanism, which are mainly political elite dissidence and resistance. I shall examine elite defection, intimidation, institutional linkage, and the compliance outcome, which are the dependent variables and direct consequences of attempts to repeal presidential term limits and elite resistance to demand and enforce compliance. I shall highlight the importance of interaction between political elites and other sectors/institutions, including elite capacity to generate and bundle pressures capable of achieving a compliant outcome.

Lastly, I shall analyze the impact of the compliant outcome on the technical prospects of democracy in the selected case studies. I shall apply the analytic indicators of open-seat contests, power or party alternation, level of parliamentary independence, electoral competition, rule of law, and mass participation in election in probing the significance of compliant outcome in the selected cases.

1.3.2 Hypothesis

In response to the thesis question(s), I argue in this study that the process of repealing presidential term limits is less likely to succeed without the active involvement, support, and connivance of key individual political elites. Political elites are likely to mobilize to enforce presidential term limits compliance when their vested interests¹⁵ depend on the survival and expansion of the democratic space.

Contrary to some opinions (Wezel 2009), I argue that some individual political elites have the capacity to produce and apply pressure on incumbent regimes as political insiders (O'Donnell et al. 1986; Higley & Burton 2006). The formation of internal pressure groups by individual political actors has the capacity to rupture political loyalty and cohesion. Elite political activism, resistance, and opposition can pressure incumbent regimes to make strategic mistakes that create room for

¹⁵ Vested interest is referred here as a strong, personal interest in something where the actor expects to get some advantage from. With reference to refusal to support the removal of term limits, vested interests could range from economic and ethnic interests to political ambition.

alternative platforms and defection, which ultimately are essential for mobilizing and bundling pressures to enforce compliance.

I argue that attempts to enforce presidential term limits compliance in African democracies shall remain difficult if individual political elites do not lead or sufficiently get involved in the process of mobilizing other pressures to demand compliance. For an enforced compliant outcome to occur the active support and involvement of key individual political elites (both internal and external) is necessary to create an alternative platform for convergence, in mobilizing resistance and in bundling pressures to counter repeal attempts.

Institutional pressure, international/donor/economic pressure and civil society/mass movement pressure could produce and exert (combined) pressures on incumbent presidents to respect term limits. However, no one single pressure seems to galvanize and exert enough and independent pressure to fully demand and enforce term limits compliance in any African democracy without elite push and active involvement. Ethnic diversity, poverty, seeming political unawareness, and international/foreign policy interests appear to make it difficult for any single pressure to exert effective pressure without elite role and involvement. An interaction between political elites and other pressures, aimed at galvanizing and bundling these other pressures appears to be the most effective way to demand and enforce compliance. Through the selected case studies, I shall detail how political elites produce, mobilize and bundle pressures to enforce presidential term limits

compliance through their interaction with other sectors. The three case studies enable me to examine and analyze how some African presidents on the one hand attempt to remove presidential term limits to extend their tenures in office, and how some individual political elites on the other hand, mobilize and bundle political pressures to demand and enforce terms limit compliance.

I shall pay special attention to political elite dissidence, defection, resistance, and activism as the driving force in producing, galvanizing, mobilizing and bundling pressures on recalcitrant incumbent presidents. I consider elite dissidence, defection, activism and resistance as central, not only in rupturing executive and party loyalty, but also in creating alternative platforms for the convergence of other pressures. As shall be detailed in the case studies, these alternative platforms appear to be necessary in shaping public opinion, setting agendas, and providing alternative information on term limit debates. One important factor that demand thorough exposition in the case studies is the interaction between elite political dissidents and various other sectors in mobilizing funds, attracting political sympathy, and seeking institutional protection. However, as I shall further detail in the case studies, the political elite role in demanding and enforcing compliance does not solely lie in their dissidence, resistance, defection, and activism. More significantly, it lies in their ability to sustain interaction with and provide leadership for other sectors, manage the pressures mobilized, and strategically bundle these pressures to produce compliant outcomes.

The case studies shall detail how pressures arising from elite activism substantially raise the cost of repression for the incumbent presidents intent on repealing presidential terms limits. Some African incumbent presidents commonly and easily manipulate the constitution of their countries to elongate their tenures if key individual political elites decide to play along and tactically withdraw from galvanizing and mobilizing pressures to demand compliance. Where incumbent presidents enjoy such elite support, prominent individual political elites engage in the ‘dirty job’ of defending the repealing initiative by promoting the amendment project among the populace, the international community, and key institutions as recently was the case in Burundi. Further, in majority of the repealing attempts in Africa, the final voting and decision to approve or reject tenure elongation bills ended at the parliament. The parliament as a *terminus ad quem*¹⁶ makes MPs very attractive to political sponsors and ‘godfathers’ during presidential term limits amendment controversies. The possibility of voters rebelling and succeeding to stop incumbent presidents from repealing terms limit therefore remains minimal, since the masses are strategically omitted or isolated from the whole process and politics of presidential term limits repeal in Africa.

By strategically limiting mass participation in the process of repealing term limits by some incumbent presidents, term limits politics became essentially political elite driven in African. Thus, because of their position in the whole politics of term

¹⁶ *Terminus ad quem* is a Latin phrase meaning ‘final destination.’

limits, an attempt to repeal or remove presidential term limits appears unlikely to succeed if individual political actors consciously choose to resist it, or if circumstances force them not to comply¹⁷. In either way, their resistance has the capacity to splinter the party and dissipate political loyalty in the regime and may further alter party balance of power in the legislature, which mostly is the final destination of the struggle to confirm or reject the amendment bill for repeals.

As the case studies shall reveal, a certain amount of pressure was both necessary and sufficient in ensuring compliance in some African democracies that have allowed power to alternate. Without neglecting the role of other pressures such as institutional, structural, contextual, and exogenous pressures in enforcing presidential term limits compliance, these pressures are less likely to independently yield or enforce compliance without active elite involvement. Without prejudice to other pressures, examining political elite activism as a central mobilizing force, and its interaction with other pressures might advance some useful information for the re-evaluation of democratic processes and the implementation of term limits in African democracies. It might further generate new facts for operators and observers of democracy, including, the (I)NGOs, government agencies, political parties, international organizations, and democratic activists in re-examining the processes and interactions needed to demand and enforce presidential term limits compliance.

¹⁷ I refer to the short-changing of their interest or political elites, and the inability of the regime to provide the elites with benefits.

1.3.3 Methodology

Research on term limits so far has not led to the construction of any workable strategy or model to enforce presidential term limits compliance in new democracies, especially in Africa. The aim is not to work out a universally ideal strategy or model of enforcing term limits, but to attempt to construct a strategy that could guarantee term limits, taking into consideration its context, political culture and level of political awareness among the populace and various levels of social forces in Africa.

The first issue concerns an apparent lack of interest in democracy literature concerning presidential term limits, which I consider as an ‘endangered specie’ in African democracies. The canon of literature on democracy has been slow to examine the interaction of multiple actors in the process of enforcing presidential term limits compliance in new democracies. Secondly, I identify a lack of interest in the role of political elite in examining the compliant outcomes of presidential term limits politics in Africa. The aim therefore is to revive interest in the political elite role, especially within the framework of presidential term limits politics and compliance in Africa.

However, I choose to approach political elite perspective distinctly from an elite theory that emphasizes elite monopolization of the political process and as agents of domination as put forward by some writers (Pareto & Finer 1969; Mill 1958; Bayert 1993, Chabal & Daloz 1999; Fatton 1992). I propose to re-introduce the political elite model for the implementation of term limits by first distancing this study from the sociological understanding of elite in understanding and explaining

political elite behavior concerning presidential term limits politics. Sociological understanding of elite theory proves to be misleading and of a limited value for understanding and explaining the interaction of some political elites with other stakeholders in the process of demanding and enforcing term limits.¹⁸

Lastly, while some writers have attempted to investigate the processes that yielded certain presidential term limits outcomes in Africa, none has considered these findings from a political elite perspective. This research is an attempt to address both deficiencies by attempting to bring presidential term limits politics into focus and by re-introducing the political elite model in the study of outcomes of presidential term limits controversies in Africa. I have chosen to examine political elite dissidence, activism, resistance, and their causal effects on the general outcome of presidential term limits controversies in the selected case studies.

1.3.4 Application of Chosen Research Methodologies

I employ case study, qualitative, and quantitative methods in this research. I am aware that the qualitative and case study research methods are not identical. However, qualitative research method mostly seeks to construct representations based on in-depth, detailed knowledge of cases (Ragin 1994). I adopt a qualitative method

¹⁸ Later in this chapter, I shall attempt at conceptualizing political elite as shall be used in this study. The meaning shall center around political elite as fellow stakeholders in the democratic process.

in this study to explain and analyze interactive processes and events that shaped the outcome of presidential term limits debates in the chosen case studies. I further apply primary and secondary methods in collecting data for the entire study.

This study considers the case study as an appropriate method to investigate the causal link between political elites and the outcome of presidential term limits in the selected case studies. The three main case studies for this research are Nigeria, Zambia, and Malawi. I examine the role of individual political elites in enforcing compliance on incumbent presidents in these three countries. I use the case study as a research method to investigate particular processes that led to elite dissidence and activism. Using the method comparatively, I demonstrate different levels of elite interaction with other sectors and the motivational factors for elite resistance. The case study framework provides a comparative analysis of the causal relationship between individual political groups, organizations, movements, and events to the outcomes in the selected cases. Using the comparative case study method, I aim at providing a varied and detailed account of the data I collected during my research.

According to Neuman (2006), case study as a method emphasizes an analytic approach. In my analysis of the particular geographic units of each case, I employ the case study method to examine how specific the configuration of parts of these contexts influenced the process, agency, and outcomes of each case. Through the case study method, I attempt to connect the micro level, or the actions of individual political elites, to the macro level, or the social structures and processes that led to the

outcomes examined in this study. Walton argues that the, "The logic of case study is to demonstrate a causal argument and explanation about how general social forces shape and produce results in particular settings" (Walton 1992). In this regard, I pose questions regarding the boundaries and defining characteristics of each case to generate new thinking, to confirm, or to modify an existing approach to the role of the elites in mobilizing and bundling pressure to demand and enforce term limits compliance.

I adopt primary and secondary research method in this study for data collection. For primary data, my research drew data collected through field research, namely, semi-structured interviews in Nigeria, Zambia and Malawi. The primary interview participants were political elites, especially those politicians and political sponsors that took an active part in the politics of the constitutional amendment debates in the three case studies. Others interviewed include MPs, judicial officers, church elites, NGOs, democracy experts, party members, and heads of the electoral commissions, where applicable.

A total of fifty-one interviews were conducted for this study with a field research that lasted for an average of four months in each of the cases studied. In each of the cases, a short attachment in one of the national universities (University of Nigeria Nssuka, University of Zambia Lussaka and Univeristy of Malawi, Zomba) provided me with an opportunity to interact with domestic experts on the research topic.

In my secondary data collection, I relied on local, national, and international news agencies and media, including expert documentations, publications, and analysis of the presidential term limits debates in the chosen case studies. I also used statements, addresses, and interviews of key actors during the crisis. I examined the processes and proceedings of the parliament, and the voting pattern of the MPs, where debates and voting at the National Assembly were instrumental in the attempted removal of presidential term limits as was the case in Malawi. Since the judiciary is a major stakeholder in the politics of term limits, I examined third-term related reports from panels of enquiry and court proceedings as a major source of secondary, especially in the Nigerian and Malawian cases.

1.3.4 Selection of Case Studies

I have used several criteria to guide my selection of case studies for this research. Firstly, I selected cases of presidential term limits controversies that took place in a post-Cold War democratic setting in Africa. They involve cases of an elected regime attempting to amend constitutionally recognized presidential term limits. Secondly, I selected cases with elite political dissidence, resistance, or a section of individual political elites mobilizing other social forces in an attempt to demand and enforce compliance. There are also cases where incumbent regimes embarked on the constitutional amendment process and successfully repealed presidential term limits practically without meeting resistance or counter-mobilization

from individual political elites. Presidential term limits controversies that ended in repealing or enforcement outcomes qualify for this study.

In selecting the case studies, I considered similarity very important. The three cases: Nigeria, Zambia, and Malawi share the same outcome of ‘fully enforced compliance.’ They operated a strong presidential system at the time of presidential term limits politics. While Nigeria had two legislative houses, Zambia and Malawi operated their presidential systems with one parliament each. In all three cases, the presidential term limits debates ended in the parliament without going further to a referendum, as was the case in Senegal.¹⁹ These similarities allow for generalization and a cross-case comparison. The three cases not only fall into Huntington’s third democratic wave (1991), but also figure as post-Cold War democracies representing the latest conjecture in democratization (Berg-Schlosser 2009).

While Nigeria had experienced three former republics of multiparty democracy, repeated elections, power alternation, and military dictatorships before its latest transition in 1998, Zambia and Malawi had experienced only one-party system and one long-reigning leader since independence. The seeming similarities and differences in the three case studies therefore allow for decent variation and reduction

¹⁹ Senegal has been the only country where the process of removing presidential term limits went beyond the parliament and ended in a referendum. The outcome falls into forced compliance.

of the risk of selective observation.²⁰ The investigation of three presidential terms limits controversies of fully enforced compliance rather than a combination of cases of varied outcomes is a standard method in case studies (Neuman 2006). However, the research findings may reflect the risk of ‘limited generalization,’ or the lack of comparisons to opposite outcomes of presidential term limits controversies. To avoid the risk of limited generalization I will make a limited reference to some other cases without strictly expanding the case studies.

The first case study discusses the “Third-Term Agenda” of President Olusegun Obasanjo of Nigeria. The controversial third-term debate ended on May 16, 2006 with a fully enforced compliance.

The second case is a presidential tenure elongation bid involving Frederick Chiluba of Zambia in 2001. The presidential term limits controversy saw many political actors leave the ruling party. The president recanted his third-term bid when he noticed an imminent defeat of his third-term ambition by a strong political elite resistance led by party internals.

In May 2000, a section of the ruling party internals loyal to the Malawian President Bakili Muluzi introduced the process of amending the Malawian constitution to allow the incumbent president to stand for more presidential terms. In

²⁰ Cf. Neuman’s (2006) description of selective observation as “made in a way that it reinforces pre-existing thinking, rather than observing in a general, neutral and balanced manner.”

June 2003, the ‘presidential open term’ project of President Muluzi was defeated in a hotly contested parliamentary vote in which the ruling party had the majority advantage. The proposed constitutional amendment failed by three votes when several ministers suddenly withdrew their support on the eve of voting on the amendment bill. The sudden withdrawal of support by prominent party internals blocked the two-third majority required to pass the bill.

To balance my findings, I shall investigate two other sets of cases:

1. I shall investigate Uganda, Namibia, and Cameroon as examples of post-Cold War democracies where incumbent presidents successfully repealed presidential term limits.
2. I shall also investigate Ghana and Kenya as examples of partially enforced²¹ presidential term limits compliance in African post-Cold War democratic experiment.

My aim in of investigating two extra sets of cases, which fall outside the selected case studies for this research, is to make room for wider comparison and to limit the risk of limited generalization.

The analysis of the selected case studies for this research aims to provide answers to the questions that directly emanate from the guiding hypothesis. The case

²¹ These represent cases where incumbent presidents set out to repeal term limits, but later withdrew having seen the likely failure of the project.

studies shall enable me analyze and understand the various strategies that political elites employ to resist attempts by incumbent presidents to foist third-term or life presidency on their countries. Since the aim of presidential term limits in any presidency is to enable power transition without compromising the state, I shall use the case studies to expose how individual political elites apply pressure on incumbent presidents to vacate office without harming the state or truncating the democratic process. In examining the case studies further, I shall seek to probe whether political elite activism and the compliant outcome help a particular democracy to consolidate further, and therefore avoid Schedler's (1996) slow democratic death and Rakner's (2004) hybrid democracy.

1.4 The Structure of this Study

This study is divided into nine chapters, with chapter 1 serving as the introduction of this research, which is rather general. The general introduction presents the problem statement, focus of study, the methodology and definition of two key terms that shall form the basis of discussion in this study.

Chapter 2 presents different opinions concerning the politics of presidential term limits, benefits of presidential term limits for multiparty presidentialism and the view of some scholars on the merits and demerits of term limits for democracy. This chapter further examines the frequency of assault on presidential term limits both globally and in Africa. The chapter concludes by presenting the factors that cause the

repealing of presidential term limits to appear undemocratic. I will base the main arguments in this chapter on the outcome of presidential term limits politics in various African democracies.

I argue in this chapter that the removal of presidential term limits reduces a multiparty presidentialism to a routine practice that lacks certain democratic substance and essence. Following Schedler (1998) and Rakner (2004) I shall maintain that the removal of presidential term limits exposes a democratic process to a more subtle process of slow death, where elected officials progressively weaken integral elements of democratic rule, and expose a nascent democracy to regression and hybridity. I will refer to some cases that demonstrate the successful repealing of presidential term limits in African and show that some incumbent presidents successfully remove presidential term limits thereby undermining electoral competition and contestation, eroding checks on executive authority, and placing constraints on political participation. By so doing, these incumbent presidents use the state apparatus to personalize state power, leaving the masses with little options in the process of selecting or electing their leaders.

I shall further use Linz (1996) analysis of the difference between *pro- and contra tempore* presidencies to demonstrate the harm caused by the removal of term limits in post-Cold War African democracies. I shall use data from first and consequent elections in some post-Cold War African democracies to further show that the average turnout rates in elections of democracies with *contra tempore*

presidencies steadily went down after the removal of presidential term limits. I shall demonstrate that with such democratic setbacks, the repeal of presidential term limits endangers democratic consolidation and plunges the democratic process into Schedler's democratic slow death by using democracy to extend and consolidate authoritarianism and dictatorship.

Chapter 3 focuses on the perspectives that are supposed to enable the enforceability of presidential term limits. The chapter attempts to answer the questions: how can a system enforce presidential term limits compliance? What pressures converge to enforce presidential term limits, and who galvanizes and mobilizes these pressures? I shall present elite and institutional perspectives as two dominant theories in this study. While I prioritize political elite theory, I will reappraise institutional theory using the example of democratic institutions that either served as channels of activism or protection by political elites in their attempt to galvanize and mobilize pressures to demand compliance. I will give attention to other perspectives inherent in the debate including the international community and CSOs in order to ascertain the extent to which these sectors contributed to the bundled pressures that enforced compliance in the case studies.

Following Villalon and Simon (2005), I shall treat political institutions as instruments of manipulation by political elites who 'use and co-opt' political institutions as means and tools to achieve desired ends. In this regard, institutions in new democracies become instruments of political elites seeking protection or political

sentiments in the process of repealing or enforcing compliance. Since political elite activism, dissidence, and resistance are important in mobilizing other pressures to demand compliance, I shall show how elite action raises the cost of repression for incumbent presidents, as well as pressures them into compliance. Since the power to amend any constitution for the repealing of presidential term limits resides with the parliament, I shall consider a split and rupture in a parliamentary loyalty very necessary in blocking any amendment process. The role and creativity of individual political actors to resist a regime's attempt to entrench power creates such an opportunity to rupture parliamentary balance of power.

Chapter 4 introduces the first case study of this research. The first case study attempts to establish that the political activism of individual political elites in Nigeria was responsible for mobilizing and bundling the pressures that enforced compliance on President Olusegun Obasanjo in 2006. Obasanjo's attempt to amend the constitution to extend his presidential term met stiff resistance among some political elites, especially within the ruling People's Democratic Party (PDP). The dissenting political elites in PDP, led by the vice-president Atiku Abubakar and Governor Orji Kalu of Abia State, formed a broad coalition of internal party members that mobilized other external political elites and various institutional and non-institutional sectors like parliament, the media, CSOs, and the masses to raise the cost of repression for Obasanjo. With their dissidence and political resistance, individual political party actors internally ruptured political cohesion within the ruling party. They decimated Obasanjo's executive loyalty, created an alternative political platform for activism,

and used the parliament as a center for resistance to apply pressure on President Obasanjo. This coalition of elite political activists pressured and prevented Obasanjo from consolidating power in 2006, forcing him to retire.

The defeat of Obasanjo's constitutional amendment bill was necessary to avoid slow democratic death by allowing a multiparty system to thrive in Nigeria. More so, the compliant outcome in the Nigerian case enabled Nigeria to experience the unprecedented transfer of power from one elected regime to another elected regime, a feat never achieved in Nigeria since her independence in 1960. The compliant further enabled Nigeria to qualify for Beetham's two-election test and Huntington's two election-turnovers, necessary for the qualification of new democracies as consolidating. Nigeria has subsequently held three elections since 2006, with power alternating two times within this period, both at the intra and extra party levels.

Chapter 5 introduces the Zambian case where President Chiluba failed to secure a bill to amend the Republic's constitution to extend his tenure in 2001. A strong elite opposition led by Mark Chona undermined President Chiluba's attempt to secure a third term. Mark Chona created neutral platform 'OASIS' to effectively organize a strong resistance against Chiluba. OASIS became instrumental in mobilizing a groundswell of public and international opinion against Chiluba, inducing an internal elite dissidence and causing a deep split in the ruling party, Movement for Multiparty Democracy (MMD). Fifteen senior members of the ruling

MMD publicly opposed the amendment of the constitution, while fifty-nine ruling MMD's MPs, twenty-one opposition MPs, several cabinet members, and the republic's vice-president signed a document to publicly pledge to block any effort to allow President Chiluba run for a third term. Chiluba backed down in the face of elite opposition.

Chapter 6 presents the third and final case study of this research which investigates the politics of presidential term limits in Malawi and the pressures that converged to enforce compliance on President Bakili Muluzi in 2002. Unlike the first two case studies, I use the Malawian case to focus on the ways in which various political elite alliances, including church elites, conspired to deny President Muluzi the opportunity to entrench power. In order to provide a background of Malawian politics, I first examine the combination of factors that caused the swift and smooth replacement of the thirty-year dictatorship of Hastings Banda through multi-party elections in 1994. Since the process of transition has a direct effect on the post-transitional politics of a given new democracy, I further analyze how the dynamics of Malawi's 'model' transition gave rise to and shaped the presidential term limits controversy.²² I will also analyze how those forces that shaped the Malawian

²² Many scholars and observers quickly termed Malawi a model democracy following its smooth transition to democracy in 1994. Perhaps the successful elections of 1994 formed the basis of this judgment, which failed to confirm whether the new democracy observed or implemented other important aspects of democracy such as human rights, rule of law, and institutional independence (cf. Khembo 2004).

democratic transition later rallied in 2002 to save the democratic process from relapsing to Schedler's "slow democratic death". Though some may argue that the contending elite alliance did not set out to salvage democracy, but to fight for personal interests, the outcome of the presidential term limits controversy remains important for democracy observers since the Malawian democracy itself gained directly from the outcome of the controversy and the said elite alliance.

This case study also notes that many international donors who played significant roles during the transitional period were reluctant to be visibly involved in the presidential term limits controversy, obviously to avoid the appearance of meddling in local politics (Brown 2004). However, the local resistance and mobilization marshaled by individual political and church elites appear to have created an avenue for the role of donor aid,²³ which bundled with political and church elites to produce a compliant outcome in Malawi.

Chapter 7 focuses on the cross-sectional comparison and convergence in the politics of enforcing presidential terms limit compliance in post-Cold War African democracies. Chapters three, four, and five present cases that form the main argument for this study viz, Nigeria, Zambia, and Malawi. These represent African countries where attempts to repeal presidential term limits by incumbent presidents were resisted by individual political elites emphasize the centrality of individual political elites in the mobilizing and bundling of pressures that produced complaint outcome in

²³ I shall come back to this point in the following sections of this case study.

those countries. The present chapter makes a general comparison of the various sectors through which individual political actors generated and bundled pressures. I aim in this chapter to demonstrate the extent to which some sectors not only provided a platform for activism, but also became objects of manipulation by individual political actors in the process of both removing and enforcing term limits.

I further analyze how individual political elites sought linkage with various sectors as a means for protection and platforms for resistance. Through these analyses, I intend to show that what could mistakenly be referred to, as institutional pressure, might actually have been elitist influence and mobilization through the institutions. In further discussing the role of the elite and other sectors and institutions, I shall compare the impact of one on the other. I will demonstrate the level of roles played by individual political elites, the institutions, the international donor community, and the CSOs in producing and bundling the pressures that enforced compliance in the case studies.

In guiding my analysis in this chapter, I shall employ the interrogative approach to examine how incumbent presidents in Africa voluntarily allowed power to alternate without formal or informal pressure to enforce compliance on them. The interrogative approach aims to ascertain how far presidential term limits would survive in some African countries without political activism from individual political elites. One important factor I intend to achieve through interrogative approach in this chapter is to address whether some other sectors like democratic institutions and the

CSOs could effectively and sufficiently enforce presidential term limits compliance in Africa without agential (political elite) push. The chapter shall further probe through cross-case analysis whether individual political elites on their own could effectively and sufficiently enforce presidential term limits compliance without linking and allying with other institutional or extra-institutional sectors.

Using cross-sectional analysis and interrogative approach, I shall quantify the value of pressures exerted by the parliament, judiciary, the international community and CSOs in enforcing compliance on incumbent presidents in the studied cases. A comparative analysis of these pressures shall determine the place of elite activism and resistance in enforcing compliance. It shall further determine if elite pressure was responsible in achieving both full and partial presidential term limits compliance in some other African democracies. Lastly, the analysis shall assist the study expose to which extent the judiciary, parliament, CSOs benefitted from political elite mobilization and activism during the presidential term limits debates in the selected cases.

In Chapter 8, I shall explain why elite activism appears to be responsible for full term limits enforcement in the case studies, and why elite inaction appears to have produced a different outcome in other cases introduced in this chapter. I shall detail the factors that motivate political elite actions and inactions to support or resist attempts by incumbent presidents to remove presidential term limits. Since it is impossible to investigate all political elites involved in the term limits controversies, I

shall emphasize the actions and inactions of some individual dissenting political elites who appeared to have influenced the outcomes of the cases under study. In a detailed manner, I shall analyze some of the factors that appeared to have influenced particular political elites to mobilize collective and sectoral pressures to demand and enforce compliance in the selected cases. The aim is to explain why a section of political elites choose to play along with some incumbent presidents in repealing presidential term limits and why a section of political elites sometimes choose to resist attempts by incumbent presidents to repeal presidential term limits. An important factor that I seek to address in this chapter is why attempts to repeal presidential term limits succeed in some countries and fail in others.

Chapter 9 serves as the concluding chapter of my study and presents the synthesis and findings of the entire research. I shall integrate the entire study and develop a synthesis of case-specific findings to offer a general, elite-focused explanation of presidential term limits politics and their implementation in Africa.

To conclude the study, which set out to discuss the role of particular political elites in enforcing presidential term limits compliance in African democracies, I re-appraise the hypothesis and research questions that guided the entire study. The aim is to discover the extent to which these have corresponded with case-specific findings and observations made in my research.

My hypothesis claims that the process of repealing presidential term limits is less likely to succeed without the active involvement, support, and connivance of key

political elites, both internal but also external. These political elites are likely to mobilize to demand and enforce presidential term limits compliance when their political interests depend on the survival and expansion of the democratic space. My conclusion intends to show that contrary to some opinions in the democratic literature, some political elites have the capacity to mobilize and apply pressures that are capable of producing compliant outcome. Through activism, resistance and defection, political actors rupture political loyalty and cohesion, force incumbent regimes to make strategic mistakes (O'Donnell et al 1986; Higley & Burton 2006), and finally create room for alternative platforms and defection that ultimately become essential for mobilizing and bundling pressures to enforce compliance.

1.5 Conceptualization and Definition of Key Terms for this Study

In this part, I attempt to conceptualize and define the terms that are central to this study. Two key concepts that require definition are 'political elites' and 'term limits compliance' (including full and partial compliance and enforcement). I shall borrow from leading scholars on various fields to support the definition, and challenge some scholars whose definitions are contrary to the usage of these terms in this research.

1.5.1 The Meaning of Political Elite

I argue in this study that political elites as political actors can create the needed alternative platform to mobilize and bundle pressures to enforce presidential term limits compliance. The political elite approach builds upon the assumption that political elites play direct and significant roles in the development and maintenance of democracy because of their political agency and their capacity for political entrepreneurship. Shepsle (2010) describes the political entrepreneur as someone who sees, recognizes, and engages a prospective cooperation dividend that is currently unused or enjoyed. For Shepsle, “prospective cooperation dividend” is a latent interest that when manifest, would benefit from the fruits of collective support and action. For the price of votes, political position, material benefits, or personal satisfaction, the entrepreneur will bear the cost of organizing and mobilizing a group for action.²⁴

I regard the specific political actors who stepped out and mobilized actions against the removal of presidential term limits as the primary cause of the outcomes of presidential term limits politics in the cases under study. I also argue that the combined activism of particular political elites prevented the incumbent presidents from removing presidential term limits in the case studies. Yet who are the political elites? I will redefine the concept for the purpose of this study.

²⁴ I shall elaborate on the agency and entrepreneurship of some political elites both in the case studies and in some analytical sections of Chapter Six.

The use of the term ‘elite’ in various literatures connotes an adverse inference to a sociological stratum. In this sense, political elite or rather the ‘elite’ referred to a distinct sociological group intent on dominating and suppressing other classes in the society (Pareto & Finer 1969; Mill 1958). Relying on Mill, Pareto and Finer, some scholars like Chabal and Daloz (1999), Calderisi (2006), Fatton (1992) and Bayart (1993) have maintained the sociological tradition by analyzing African politics and their elites as patrimonial, rent seeking, and oppressive.

I will use the term ‘political elites’ differently, referring to them as specific political actors and stakeholders who participate at various levels in the political and democratic life of their countries. In this study, I refer primarily to specific political actors, as opposed to a group or a social stratum. Borrowing from Villalon et al (2005), I make a strict distinction between political elites as particular political actors and other elites from a “sociological tradition whose dominance and monopoly over the political process has attracted negative remarks for the concept as ‘anti and counter democratic agents.’”

Based on the position such political actors occupy, I assert that their political choices, calculations, attitudes, and behaviors have the strength to influence and affect political outcomes in their respective democratic experiments. As Iwu (2008, 2009) and Villalon (2005) note, political elites have both the capacity to sustain and diminish the democratic process. I will focus primarily on how their choices, attitudes, and behaviors affect term limits compliance.

Pareto & Finer (1969) mainly emphasize the negative aspects of elites as a social group. Understanding elites as a privileged social group, Pareto and Finer define these exclusively as a “social group that resort to the continuous game of entrenching and preserving itself in power.” Pareto and Finer claim that elites use their hegemonic status to dominate and subordinate other groups within society. As a hegemonic entity, this cohesive group abhors changes to its hegemonic status and prioritizes the adhering and maintenance of the social order that suits its privileged status (Villalón et al, 2005).

Though I cannot avoid a comparison to Pareto and Finer's definition of political elites in this study, particularly with regard to vested interests, I do not intend to present elites as a homogeneous and sociological group. Rather, I shall approach political elites as specific political actors, co-partners, and stakeholders in the democratic process. I shall avoid using the concept set by the tradition of Pareto and Finer (1969), which refers to elites as a “distinct social group, quite similar in outlook, that sets out to monopolize and dominate the political process” (Villalon et al 2005).

In their discussion of African politics and societies, Calderisi (2006), Fatton (1992), Bayart (1993), Chabal, and Daloz (1999), extended the elite's sociological perspective, emphasizing that only those processes of social classification shape the post-Cold War political and democratic experiments in sub-Saharan Africa. In their text *Disorder Works*, Chabal and Daloz (1999) describe the political and democratic

processes in Africa as patrimonial instruments available for the elites to attain and realize their personal interests. Though some incumbent presidents seem to confirm this view by stoutly entrenching state power, the claim remains an obvious generalization since many political elites in Africa have created and provided stable platforms for democracy to thrive. Nelson Mandela of South Africa relinquished power after his first presidential term. Jerry Rawlings of Ghana and Arap Moi of Kenya allowed power to alternate after their two-term mandates, though some scholars have argued that certain pressures were responsible for their decision to step down (Armstrong 2010; Shinn 2009).

Still building on the old tradition of elites as sociological strata, some authors describe African political elites as thugs who seek power to dominate and subordinate the masses. While Calderisi (2006) refers to some African leaders as “thugs on power,” Ayitey (2006) addresses them as “cheetahs” that take pleasure in sucking the blood of their subjects. Their arguments correspond with the view of some other scholars that many incumbent presidents have become “sit-tight leaders” who entrench and monopolize state power to protect vested interests (Bayert 1993, Chabal & Daloz 1999; Fatton 1992). In their effort to entrench and consolidate power, such political leaders subordinate their people, parasitically feeding on them. These leaders appear prepared to throw their societies into conflict instead of relinquishing power (Collier 2005; Falana 2015).

There is a credible evidence to support this argument with over thirty dictators and post-Cold War presidents like Robert Mugabe of Zimbabwe, Blaise Compaore of Burkina Faso, and Nkurunziza of Burundi, who were prepared to engulf their countries in violent conflicts rather than let power alternate. The successful repeal or neglect of presidential term limits in twelve post-Cold War African democracies equally supports this view. However, Nelson Mandela and Thabo Mbeki of South of Africa, Jerry Rawlings and John Kuffour of Ghana, as well as Chissano of Mozambique, have let power alternate at the expiration of their tenures. This is also true of the successive presidents of Botswana, Benin, Cape Verde, Mali, Sao Tome, Tanzania, and Mauritius and various specific political elites who contributed to the democratic growth of their countries by collectively and individually mounting pressure on leaders to enforce presidential term limits compliance. Though quite a number did not succeed in enforcing presidential term limits compliance, some recorded significant successes as shall be demonstrated in the case studies.

In the cases under study, I shall focus on individual political elites whose political activism, dissidence, and resistance succeeded in mobilizing and bundling pressures to enforce compliance in their countries. I shall examine the factors that influenced and motivated these elite actions to demand compliance to see how these factors are applicable elsewhere in enforcing term limits compliance. I will continue to focus on how a coalition of political elite pressure groups was able to link with institutional and extra-institutional forces to produce and apply pressures to demand and enforce term limits compliance in some African democracies.

Following Villalon et al (2005), I will restrict the coverage and meaning of political elites to those particular political actors described and understood in this study as “co-democratic operators and fellow stakeholders in the democratic process.” I do not intend to address the controversy of how the sociological school understands the term ‘elite’ as a “certain privileged section of the society, ultimately engaged in the project of supremacy and suppression of other groups in the society” (Pareto & Finer 1969; Mill 1958). I will focus rather on political elites as an isolated set of political actors, capable of free and conscious choices, who possess the capacity to exhibit political attitudes and behaviors consistent with vested political, economic, national, and common interests.

I will base the criteria that qualify an actor as political elite on political and public positions. Following Burton, Gunther, and Higley (1992), political elites shall include those occupying various positions as representatives of the people, who, because of their positions and commitments, possess the political and economic capacity to influence outcomes in the politics of their various countries. In the presidential system of democracy, these include the presidents, vice presidents, governors, legislators and other elected representatives of the populace. By virtue of positions they occupy, these actors have the alleged capacity and power to affect national political outcomes (Burton, Gunther and Higley 1992). In order to accommodate further variations, I shall expand the meaning of political elites to include other actors, who though as non-partisan or political insiders, command substantial resources, societal standing, and large political followership to influence

national political outcomes. These include leaders of major ethnic groups, religious bodies, and heads of judiciary, electoral commissions, and civil society organizations. To that extent, I will not restrict the definition of political elites to Collier's characterization of elites as "political ins," or key politicians in government coalitions and opposition (1999). I shall also include some "political outs," or influential figures referred to in countries like Nigeria as 'political sponsors' or 'political godfathers.'

1.5.2 The Meaning of Presidential Terms Limit Compliance and Enforcement

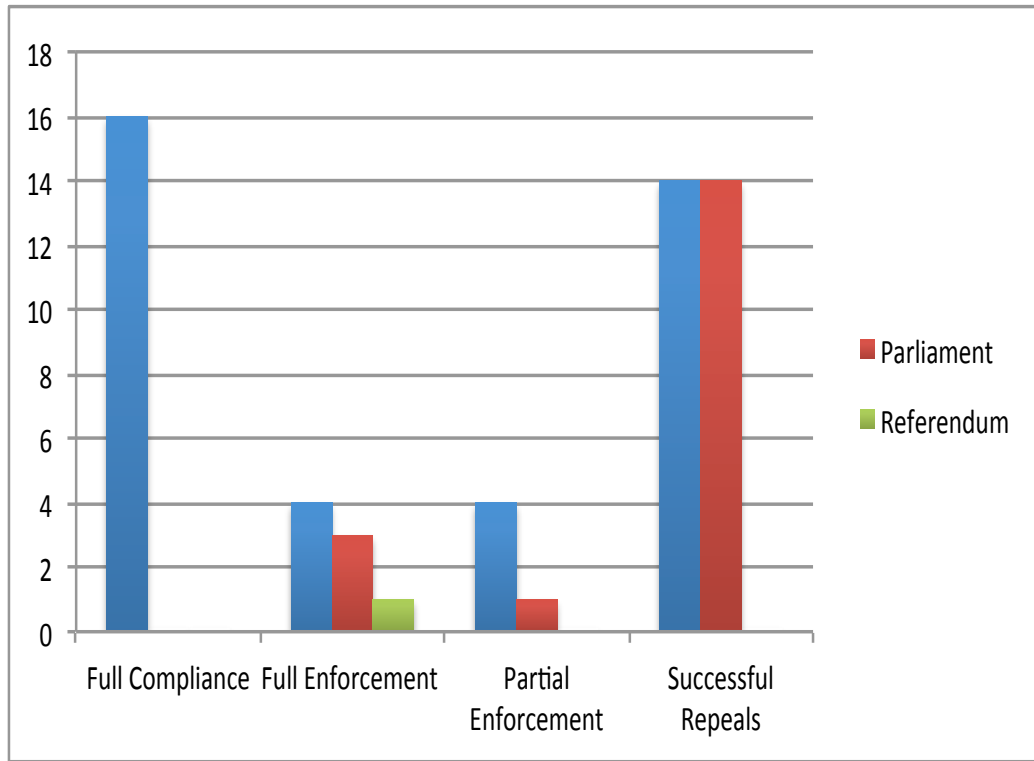
Research so far indicates that scholars bother less with the enforcement of term limits compliance. This seems to arise from the assumption that since term limits appear to be given in a multiparty presidential system, the rule of the democratic game must be sacrosanct. Many scholars therefore seem to focus on other democratic components and processes. This assumption may have resulted in minimal academic attention toward the meaning of term limits compliance and enforcement. The minimal scholarly discussion on term limits compliance and enforcement therefore appear to be inconclusive on the definition of what constitutes full compliance or full enforcement of presidential term limits.

Armstrong (2010) identifies two categories: "full (free) compliance and full enforcement." He argues that full compliance occurs when presidents willingly retire without embarking on the project of constitutional amendments to repeal presidential

term limits. For Armstrong, this involves all situations where a president retires ‘willingly.’ It is irrelevant if the president has explored the possibility of repealing presidential term limits or has ascertained the success or failure of a potential repeal. Secondly, Armstrong considers full compliance as a situation where an incumbent president generates rumors to seek tenure extension, but either decides not to challenge presidential term limits in the parliament or decides to withdraw anticipated failure.

For Armstrong, the two above processes represent a full compliance since legislative voting or referendum did not take place. This was the case with Jerry Rawlings of Ghana and Arap Moi of Kenya, who after generating rumors, decided to withdraw their intention to amend the constitution for tenure extension because of a potential failure of the amendment. While I agree with Armstrong’s first categorization as compliance, I disagree with him on the second category. Further, Armstrong defines “full enforcement” as those cases in which a president promotes the idea to repeal term limits by generating rumors to seek a tenure extension, while ultimately refraining from repeal due to the anticipation of failure. I identify this as ‘partial enforcement.’

Figure 3: Presidential Term Limits Compliance and Enforcement in Africa 1990-2013



Source: prepared by the author from research and existing work by Vencovsky 2007; Dulani 2011; Posner and Young 2007; and Maltz 2007.

As examples of partial enforcement, I shall consider Jerry Rawlings of Ghana and Arap Moi of Kenya.' In the case of Kenya, President Arap Moi decided to retire when he noticed that elite mobilization against him was strong in both his party and the parliament. Moi feared imminent defeat and therefore retired. In the Ghanaian case, D.F. Annan blocked President Rawling's third term ambition by mobilizing political elites and public opinion against Rawlings. President Rawlings withdrew his

intention for a third term after generating rumors and national debates on the issue (Armstrong 2010).

I disagree with Armstrong that the cases of Ghana and Kenya were full (free) compliance, because Jerry Rawlings and Arap Moi sought tenure extension. They had established working committees for the project of term limit repeals, allowing debates to take place. They only announced their retirement when they feared imminent defeat.

Based on the above sets of descriptions, I will use the following descriptions to guide this study:

I shall define presidential term limits compliance as full and free when an incumbent president refuses to entertain or sponsor debates to repeal presidential term limits personally or by proxy. Stepping down is a given without doubts and speculation, even if loyalists demand a continuous stay in power, as was often the case in the United States. An incumbent regime without fear or favor should set all motions in progress for the emergence of a successor at the end of his/her constitutional mandates without any attempt to suggest a prolongation of tenure.

I shall define fully enforced compliance in the case of external pressures that cause the retirement of an incumbent president who ordinarily and legally should have willingly retired at the expiration of the constitutional mandate for a presidential term. Examples of external pressures are parliamentary voting; or the rejection of the president's attempt to repeal presidential term limits by a court of law; or a public

referendum rejecting presidential attempts to extend a mandate, as took place in Senegal in 2012. The question of who applies or supplies the pressures that enforce compliance is irrelevant at this point.

Lastly, a successful repeal or removal of term limits takes place when an incumbent president and his or her allies secure a legislative victory, a court mandate, or a successful referendum to repeal presidential term limits. Across Africa, fourteen countries have successfully repealed presidential term limits, mostly by legislative action. Four attempts have been unsuccessful, three by legislative action, and one by public referendum. In the cases under study, legislative action stopped two attempts to repeal presidential term limits, indicating a fully enforced compliance, while one repealing attempt was failed at the floor of the legislative house prior to voting also indicating full enforcement.

Chapter 2: Presidential Term Limits

2 Introduction

Electoral democracy prescribes systems of changing leadership without harming the state.²⁵ Unlike the parliamentary system of government, presidential systems have prescribed a different rule to limit the allotted number of years and term a particular president holds the presidential office. Most presidencies constitutionally allow a maximum of two terms, after which an open-seat contest would ensure power or party alternation. Although some scholars and democracy observers have questioned the usefulness of limiting the number and terms of political offices, term limits serve as a universal principle of liberal and electoral democracy in a presidential system. Unfortunately, the desire for life-term positions of power motivates many incumbent presidents in African post-Cold War democracies to repeal presidential term limits in their countries. The attempted or successful removal of presidential term limits by incumbent regimes constitutes the central politics of presidential term limits controversy and debates.

²⁵ Refer to the benefits of open-seat contests for the technical consolidation of democracy, as discussed in 2.2 of this chapter.

Many post-Cold War democracies have faced the challenges of incumbent presidents either amending their constitutions to acquire the status of life president²⁶ or of incumbent presidents temporarily elongating their tenures (Posner and Young 2007; Malt 2007; Vencovsky 2007). Between 1999 and 2012, the removal of presidential term limits became common while 'third term'²⁷ became a popular political concept in many post-Cold War democracies. The trend has also occurred frequently on the global level, with six out of ten post-Cold War democracies holding national debates to repeal presidential terms limit (Dulani 2011). However, this chapter shall focus on the position and enforceability of presidential term limits in African democracies.

I shall divide the present chapter into four parts. In the first part, I will present different opinions concerning the politics of presidential term limits. In the second part, I will discuss the benefits of presidential term limits for the consolidation of democracy. In the third part, I will examine the frequency of assault on presidential term limits. Finally, I will discuss the factors that cause the repealing of presidential

²⁶ Four African countries with the status of life-presidency are Gabon, Cameroon, Uganda, Burkina Faso, and Togo.

²⁷ 'Third term' is common jargon referring to the changing of a constitution to accommodate longer tenures by incumbent presidents.

term limits to appear undemocratic while basing the main arguments of this study on the outcome of presidential term limits politics in various African countries.

2.1 Understanding Presidential Term Limits

By definition, presidential term limits constitutionally impose limits on the number of years and tenures that a particular person holds the presidential office (Dulani 2011). The constitution legitimizes term limits (years and tenures) as a democratic principle to regulate power and leadership transition within the context of democratic elections.

To repeal presidential term limits, the constitution must undergo an amendment process, usually through parliamentary debates, votes, or a referendum.²⁸ The repealing of presidential term limits occurs when the incumbent president runs for more presidential terms after serving out his constitutional tenure. The removal of presidential term limits could occur in two distinct ways, which Maltz identifies as ‘soft’ or ‘hard’ contravention (Maltz 2007).

Soft contravention refers to the adjustment or amendment of presidential term limits to allow an incumbent president to stand for a third or fourth election. An

²⁸ The use of a referendum in halting presidential term limits within the post-Cold War African democratic experiment occurred only once in 2008 in Senegal, when Abdul Wade’s attempt to amend the Senegalese constitution for a third-term mandate was defeated in a referendum.

incumbent president will alter a constitution to dictate a personally prescribed limit to the number of presidential terms the president will serve. For instance, instead of two terms of four years, the amendment may prescribe for three or four terms of four or five years. In all cases of term limits repeal or neglect in Africa, the incumbent president benefitted from post-facto constitutional amendments. In 1999, President Sam Nujoma altered the constitutional two-term limits in Namibia to grant himself a third term before willingly retiring in 2004.

On the other hand, hard contravention refers to a process whereby the incumbent executive completely expunges presidential term limits from the constitution. In this regard, the limits on the number of terms an incumbent president may wish to run for re-election are absent.²⁹ About ten African countries have successfully expunged presidential term limits from their constitution, thereby creating a space for incumbent presidents to function as life presidents. Uganda, Cameroon, Gabon, and Togo are examples of hard contraventions of the post-Cold War African democratic experiment. The repealing of presidential term limits appeared to draw little or no attention without elite resistance or opposition as was the case in Gabon, Cameroon, Burkina Faso, Uganda, and Namibia where the repealing of term limits passed unnoticed. Conversely, the repealing of presidential term limits

²⁹ Gabon, Uganda, and Cameroon operate hard contravention of presidential term limits having successfully repealed and expunged presidential term limits from their constitutions.

was resisted by some political elites in Malawi, Nigeria, and Senegal, leading to controversy and political crisis.

Incumbent presidents in new democracies appear to draw from a minimal but strong elite support-base both for their survival and for a larger share of political benefits. Electorally mature systems with proportional representation, like that of the Netherlands, Belgium, and the United Kingdom (UK), compel the formation of coalitions without altering the principle of the minimum winning coalition, even with some moderately left-oriented parties. Presidential systems with term limits boast of a high proportion of support from the population. However, presidential systems without term limits seem to receive support from a big proportion of political elites and a rather small proportion of the population, when compared to more inclusive presidential systems with term limits.

Table 1: Presidential Term limits Amendments in African democracies

Constitutions without	Constitutions that contain a two-term limit on the presidency			
	Two term limits reached			
		Constitution amendment		Deadlocked/r

term limits	Two terms not reached	Constitution amendment not attempted	attempts to repeal term limits		On-going debates	universal
			With success	Without success		
Ivory Coast	CAR	Benin	Algeria	Zambia	DRC	Burkina Faso
Equatorial Guinea	Congo	Cape Verde	Burkina Faso	Malawi	Rwanda	Burundi
Gambia	DRC	Ghana	Burundi*	Nigeria		
Guinea-Bissau	Djibouti	Kenya	Eritrea*	Senegal		
Mauritania	Liberia	Mali	Cameroon	*		
Sudan	Madagascar	Mozambique	Chad			
Zimbabwe	r	Sao Tome & Principe	Gabon			
	Rwanda	Principe	Guinea			
	Sierra Leone	Seychelles*	Namibia			
	South Sudan	Tanzania	Togo			
			Uganda			
			Niger			
			Congo			

			Brazzaville			
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Source: Updated by author from data provided by Dulani 2011; Vencovsky 2007; Paul and Young 2007

- * Burundi and Eritrea have existing presidential term limits, but incumbent presidents ignore them to run for longer term in presidential elections.
- * Seychelles has a three term limits.
- * Senegal remains the only country where an attempt to repeal term limits was defeated by a referendum.

The politics of presidential term limits, and the process of repealing or enforcing them in African democracies, seem therefore, to correspond to elite politics and an elite struggle. As I will demonstrate in the following case studies, the process of enforcing presidential term limits compliance in Nigeria, Zambia, and Malawi called elite activism into action. This activism led to mobilization and resistance in other sectors, ultimately resulting in compliance outcomes. If presidential term limits are necessary for democratic consolidation, consolidation research should place an urgent focus on the politics of presidential term limits and the benefits of elite efforts to enforce term limit compliance.

2.2 Presidential Term Limits: Benefits for Democratic Consolidation

The oldest fable of term limits dates back to Athens and Rome in the 4th century B.C. In Athens, Cincinnatus willingly ceded power at a time when power was personalized, taken, or lost depending on the strength or weakness of the army. However, the concept did not originate as presently referred to in this study. However, the adoption, operation, and enforcement of term limits have forestalled the monopolization and abuse of political and public power. Livy's (1960) account of Cincinnatus³⁰ is the oldest historical account of term limits. Though no known literature acknowledges Cincinnatus as a popular leader, his reputation paints him as a virtuous and humble leader who knew when to ascend to and relinquish power (Livy 1960).

The legacy of Cincinnatus has been regularly invoked as the basis of presidential term limits (Maltz 2007; Armstrong 2011). In 1796, George Washington informally imposed presidential term limits on himself and the United States presidency by willingly refusing to contest an election for a third time in office. As an political actor, George Washington introduced the enforcement of presidential term limits compliance in the modern era. Several years after George Washington, Franklin Roosevelt acted in breach of the rule of presidential term limits by contesting and winning the United States presidency with a record of four elections.

³⁰ Cincinnatus, as explained in Livy's account, is a Roman emperor who ceded dictatorial power upon fulfilling his perceived public duty. This serves as the oldest account of term limits.

Franklin Roosevelt's breach instigated the necessity to restore and formally institutionalize presidential term limits in the United States in order to avoid repeat occurrences. Roosevelt's challenge, toward American democracy, presidential term limits, and the principle of leadership alternation influenced political leaders in the United States to embed presidential term limits constitutionally. Roosevelt's action thus influenced the codification of presidential term limits in 1951 as the Twenty-Second Amendment to the United States Constitution (Maltz 2007; Posner and Young 2007).

Emulating the United States, some South American political stakeholders sought the institutionalization of presidential term limits in their countries. Argentina and Mexico followed suit by constitutionally codifying presidential term limits (Maltz 2007). With constitutional protection, presidential term limits emerged as an important democratic principle (*ibid.*).

The post-Cold War democracies that opted for a presidential system adopted term limits to spur democratic power alternation, political competition, democratic growth, and to forestall a relapse to dictatorship and power entrenchment. New democracies adopted presidential term limits for the merits and acceptability of term limits as a democratic principle,⁶ agreeing with Collier (2008) that democracy is universal. In Africa, Latin America, and Eastern Europe, the adoption of presidential term limits

⁶ Author's interview with Professor Oyejishile of the Philosophy Department, University of Ibadan, Nigeria (Pilsen 15 May 2014)

emerged as an innovation following constitutional negotiations during the transitions from one-party and military authoritarian regimes to post-Cold War multiparty democracies. Still, the implementation of term limits has been problematic in most post-Cold War democracies. Though presidential term limits appear to be a permanent feature of democracy, some countries continue to debate their importance (Harbeson ed. 2009; Posner and Young 2007; Maltz 2007).

Before making any further argument for the implementation of presidential term limits, I will first examine the usefulness of presidential term limits. Do presidential term limits add any value to democracy? How beneficial are presidential term limits for the consolidation process of democracy? Can a given presidential democratic system do without term limits?

Though scholars like Baker (2002), Elhauge (1997), Weissert and Halperin (2007) strongly disagree with the merits of term limits for democracy,⁷ arguments in favor of the benefits of term limits determine the urgency of their implementation and their enforcement, especially in post-Cold War African democracies. Bakar (2002) argues that term limits do not produce or create democracies. He maintains that presidential term limits are undemocratic and not necessary for power alternation. He further argues that if democratic accountability is strong enough, the electorate should have the capacity to vote an unwanted president or party out of office at the next

⁷ I shall return to the arguments against presidential term limits in sub-sections 1.5 and 1.6 in this chapter.

election (2002). Baker's argument presents a challenge to defenders of presidential term limits. Why should the masses forego a candidate whom they trust even if he is an incumbent? If the incumbent leader is the best among all the candidates vying for the presidential office, should term limits serve as an excuse to deny the electorate the right to re-elect the incumbent?

Elhauge (1997), Weissert, and Halperin (2007)) have discussed the merits and demerits of term limits in the United States legislature and presidential system, questioning the usefulness of term limits for state and national officers in developed countries. With reference to the legislature, Elhauge, Weissert, and Halperin raise the obvious question of whether unlimited terms of offices confer a special capacity on the quality of a legislature. They investigate the capacity of some legislatures to propose and defend bills in the legislature, arguing that neither limited nor unlimited terms make for a more efficient legislature. They further argue that career politicians (though with cognate experience) do not appear to be more effective for the legislative institution than other MPs. Though I direct my research focus toward the benefits of term limits in the context of presidentialism, the above arguments introduce some significant skepticism concerning the usefulness of presidential term limits for democratic consolidation. Should we consider presidential term limits necessary for power alternation? After all, parliamentarian systems as practiced in England, the Netherlands, Germany, and many other countries do not depend on term limits for power alternation. This argument undermines the importance of presidential

term limits as the guaranteed approach to ensure power alternation, since parliamentary systems function effectively and adequately without term limits.

Despite the above arguments against presidential term limits, I agree with the conclusion shared by scholars like Linz (1999), Beetham (1994), Cheeseman (2010), Bratton (1998), and Schedler (1998) that presidential term limits are beneficial for electoral democracy in the context of presidentialism. According to Linz (1999), imposing constitutional limits on presidential terms demarcates democracy from autocracy. Linz further qualifies and distinguishes between authoritarian and democratic politics, arguing that democrats rule with an expiration date, while autocrats do not rule with an expiration date. Linz refers to democracies as *pro tempore* governments, arguing that it is a common expectation that democratic governance has a time limit. Democracy must, therefore, contrast itself from an authoritarian government, which depends on the usurpation and entrenchment of state power and its conversion to personal power (ibid). In other words, if a certain democratic process loses the feature of *pro tempore* feature, that particular democratic process may run the risk of losing its democratic distinction. By operating *contra tempore*, a presidential democratic system without term limits runs the risk of alienating the populace in the long-term democratic process. Presidential systems without term limits further alienate the populace by denying it basic democratic rights to participate effectively in the democratic process of electing, alternating, or holding their leaders accountable.

Linz (1998) further maintains that the development of a democratic system and government equates the ceding of individual power to government institutions where the rule of law guides the practice and exercise of such powers. The ceding, transfer, alternation, and transmission of power are thus critical events in the practice of democracy (Armstrong 2010; Bratton 1998; Schedler 1998; Beetham, 1994; Cheeseman 2010). Since these represent the technical value of democracy, presidential term limits become essential to guarantee the technical consolidation of any given democracy. Substantial consolidation of democracy includes freedom of speech and association, human rights, and rule of law. Yet these become difficult to achieve without initially ensuring the technical consolidation of the ceding, transferring, alternating and transmitting of power as guaranteed by presidential term limits. The removal of presidential term limits directly and indirectly contradicts these principles and undermines democratic consolidation by working against the basic and accepted democratic features of electoral competition, power alternation, and political participation.³¹ The removal of presidential term limits negatively influences the consolidation process of democracy by potentially exposing a certain

³¹ Professor Oyejishile was emphatic on the range of benefits missed by a particular democracy lacking presidential term limits. He argues that repression, oppression, and abuse of human rights have correlation with regimes that have no expiration dates, maintaining that in democracy, as in every other game, political offices should have a duration in order to avoid abuse (15May, Pilsen, Czech Republic).

democracy to autocratic regression, democratic slow death, and democratic hybridity (Schedler 1998; Ranker 2007).

Schumpeter (1942) defined democracy as a method that respects the institutional arrangements aimed at political power and decision-making authority, acquired by individuals and political organizations through the competitive struggle for popular vote. Building on Schumpeter's understanding of democracy, Dahl (1971) identifies seven key components that are essential for democratic growth. These include control over governmental decisions about policy constitutionally vested in elected officials; frequent free and fair elections; universal adult suffrage; the right to run for public office; freedom of expression; access to alternative sources of information,³² and freedom of association.³³

Following Dahl, Schedler (1998) argues that deepening democracy involves "...the challenge of making democracies secure, of extending their life expectancy beyond the short term, of making them immune against the threat of authoritarian regression and of building dams against eventual 'reverse waves.'" With term limits and open-seat contestation, electoral democracy significantly guarantees the possibility of alternating governments without risking the state. These key basic descriptions of democracy consolidation, as Schedler further argues, demonstrate the

³² A government and its agencies should not monopolize information sources in a democracy.

³³ Freedom of association in a democracy confers rights on individuals and groups to form and join associations as both party and interest groups.

importance of contestation, competition, power alternation, and participation, which are hardly possible without term limits. Hurwitz (2003) concurs with Schedler by emphasizing the same principles as imperative for democratic growth and sustenance. He argues that president *contra tempore* contradicts the basic features of democracy, as enumerated above.

Why and how does the removal of presidential term limits harm the development of a certain democracy? As Dahl (1971) and Bratton (1998) argue, the consolidation of the democratic process particularly involves the collective acceptance of rules to guarantee political contestation, power alternation, and political participation. Free and fair elections provide citizens with the chance to choose their leaders among a pool of contestants, but the removal of presidential term limits particularly weakens the capacity of elections to help democracy consolidate.³⁴ In the case of a president *contra tempore*, elections become a mere process of confirming the incumbent government, lacking quantitative, qualitative, and meaningful features in engineering the democratic process (Bratton 1998).³⁵ Furthermore, various scholars have emphasized open-seat contest as an important dividend of presidential term

³⁴ Some scholars and analysts do not agree on the role that elections play in the consolidation of democracy.

³⁵ Between 1999 and 2013, the thirteen incumbent presidents who contested elections for a longer tenure after successfully repealing presidential term limits went ahead to win the next elections in their various countries. The elections they organized intended to confirm their positions in power.

limits (Beetham 2004; Cheeseman 2010). Consolidated democratic authoritarians and operators of one-party systems hold organized elections that continue to produce the same set of leaders after each election. Though these elections seemingly carry the semblance of democratic elections, open-seat contests remain absent since power holders continue to run undefeated for elections, leaving little room for alternation. The removal of presidential term limits weakens the potency of the democratic and electoral process to guarantee open-seat contests and ensure leadership alternation.

By the late 1990s and the beginning of the 2000s, some incumbent presidents in post-Cold War African democracies were nearing the end of their final tenures in office. The public expected these incumbent presidents to announce their retirements willingly and, therefore, allow elections to choose their successors. Instead, many incumbent transition presidents chose to repeal terms limit to guarantee their continued stay in power. Extended debates ensued, including the long and extended parliamentary and legal processes that delayed elections in many countries. Burkina Faso and Togo postponed elections more than twice. Zambia, Nigeria, and Senegal have all witnessed deadlocked polls because elections were rushed and poorly organized only after seating presidents failed to secure tenure elongation (Harbeson ed. 2009).³⁶ More than half of the thirty-four African countries that sponsored debates against presidential term limits delayed elections once or postponed them for at least

³⁶ Confer the EU Election Observation Reports of the Presidential and Parliamentary Elections in Togo in 2004.

three months.³⁷ In Cameroon, Gabon, and Togo, for instance, where the removal of presidential term limits was successful, the incumbent president convened elections only at their convenience, thereby distorting the quantitative flow of the electoral process.³⁸

In comparison with those countries where term limits compliance were successfully enforced and where term limits routinely apply, subsequent elections (fourth and fifth elections) occurred in timely fashion, with prompt electoral acts.³⁹ In countries with a president *contra tempore*, elections have no definite dates and are at the discretion of the president. By 2012, one hundred and nine presidential elections have occurred in Africa since the post-Cold War democratic movement on the continent.⁴⁰ While sixty-four of the elections took place promptly, forty-four

³⁷ The original source of this information stems from Michael Bratton (1998), which I updated.

³⁸ Many Cameroonians interviewed in the Netherlands by the author seemed unaware or uncertain about when or whether the next election would take place. The majority of those interviewed showed little optimism concerning elections in Cameroon, since elections generally do not bring any change in the political leadership of Cameroon.

³⁹ Confer the EU Election Observation Report for the Nigerian General Elections in 2011. The author compared the regularity of elections in countries where presidential term limits are repealed with the regularity of elections in four countries where term limits were successfully enforced. The examination shows more regularity in the quantity of elections in the later than the former.

⁴⁰ The author has updated the data provided by Michael Bratton (1998) and Dulani (2011) to include recent presidential elections until 2014.

experienced delay.⁴¹ Thirty-eight of these delayed elections occurred in countries whose incumbent presidents successfully repealed presidential term limits. The removal of presidential term limits appears to support the entrenchment of state power and the monopolization of the decision-making process by seating presidents, which adversely affects the quantity of elections as the above analysis shows.

The removal of presidential term limits also affects the quality of democracy and elections. For instance, democratic consolidation takes place when elections are competitive, transparent, free, and fair (Schumpeter 1942; Dahl 1974; Schedler 1998; Hurwitz 2003). Lack of competition, transparency, and fairness in the electoral process reduces the electoral process to a routine maintenance of power by an incumbent president and his party (Smith 1996). Use of the electoral process as a mere means to ratify the maintenance of power by a ruling party or incumbent president does not confirm democratic consolidation (Linz & Stepan 1996; Beetham 1994; Armstrong 2010). Bratton judges the quality of elections by the ways in which they are free, fair, and adhere to accepted rules (Bratton 1998). How obtainable are free and fair elections in countries that have repealed term limits? Does the quality of elections decline in comparison with earlier elections after the removal of presidential term limits?

Bratton provides a model of comparison by insisting that a particular country's recent history should offer an adequate basis for analysis and comparison.

⁴¹ Same as 16

In all the elections held after the removal of presidential term limits in the thirteen repealed or neglected African cases, the quality and performance fell in each subsequent election with an average of sixty percent.⁴² Though post-Cold War African democracies generally experienced fewer elections that met internationally acceptable standards (Bratton 1998; Harbeson 2009), the situation has worsened after the removal of term limits.⁴³

For instance, between 1990 and 1998, the quality of elections averaged 55.5% when term limits operated in Gabon, Togo, Burkina Faso, and Cameroon, but experienced a reduction to an average of 28.4% after the removal of term limits between 2000 and 2012 in the same countries.⁴⁴ Having entrenched and monopolized state power with every institution under firm executive control, incumbent presidents stipulated electoral formulas that suited them and ensured electoral success. At the same time, the incumbents made electoral hurdles stringent for few electoral

⁴² A field observation of elections held in Gabon, Togo and Cameroon after the removal of term limits show a downward decline in electoral competition, level playing ground and mass participation.

⁴³ As evidenced in various Election Observation Results, issues of political competition, one-party dominance and patronage and intimidation induced electoral outcomes have been progressively consistent, especially in presidential and parliamentary elections in countries where without terms limits. Cameroon, Gabon and Togo justify this assertion.

⁴⁴ Author's update of Bratton's analysis of second election to include elections after the removal of term limits in some post-Cold War democracies in Africa.

challengers, sometimes with outright and illegal disqualification of intending opponents (Bratton 1998). For instance, with the successful removal of presidential term limits in Cameroon in 2008, Paul Biya enacted electoral laws that stripped the electoral commission of Cameroon of the powers to announce election results. Biya placed such powers under the presidency, leaving the electoral commission only with powers to conduct elections.

Such electoral laws as in Cameroon weaken the potency and quality of the electoral process by making every opponent a potential loser. Reserving the declaration of election results for the presidency seems a direct contradiction of democracy and the electoral process. It is unlikely that an incumbent president would declare an opponent a winner of an electoral competition in which he is a contestant. It is a reduction of the election to an end itself, instead of to a process in a democracy. Iwu (2007, 2008) argues that the reduction of an election to an end has been responsible for the 'do or die' attitude towards elections in many post-Cold War African democracies. The lack of term limits for a presidency weakens the potency of the electoral process to serve as a referendum to hold an incumbent president or party accountable. The electoral process serves as a mere spectacle to give some credibility to the regime.

On the institutional level, the removal of presidential term limits hampers the growth and development of political parties. By allowing the incumbent president to stand for election at each poll, a political party loses its potency to rejuvenate (Shinn

2009). It cannot mature without a continuous experience of internal party democratic experience. Since in this way, the removal of term limits not only encourages monopolization of power, it also reduces party's capacity for growth. When constitutional amendments allow a particular president to remain in power for life, the political party becomes vulnerable to the personal interests of the incumbent president. Insistent on survival, the president keeps those who are ready to do his bidding, while disposing those opposed to his whims, all to the detriment of the party.

In most post-Cold War African democracies, the president functions as the leader of his political party. Thus, any president who succeeds in removing presidential term limits continues to function as the leader of the party as long as he or she remains in power. This reduces the opportunity to 'reshuffle' at the party level, stifling the implementation of fresh ideas and ideals into the party system. In Uganda, the ruling party has failed to transform from a mere movement to a political party. The original ideas that created the Ugandan movement still persist, while Yoweri Museveni, who has been president and party leader for over thirty years, systematically monopolizes control over the movement.

Perhaps, one crucial danger associated with the removal of term limits is timing. About eighty percent of all debates launched to repeal presidential term limits begin between eight and ten years after democratic transition (Beetham 1994; Armstrong 2010). In other words, incumbent presidents nursing third term or life-presidency ambitions begin the process of challenging term limits between eight to

ten years after transition elections. The period of eight to ten years falls precisely within a time zone that Beetham describes as the ‘democratic consolidation period.’ During this crucial period, a democracy alternates power following a successful third election in an open-seat contest. Within presidential systems that operate term limits, a particular regime cedes power voluntarily to a successor at the end of a second tenure in office. Any miscalculation at this period either by constitutional amendment to allow a third-term, life presidency, or an inconclusive election induces a high risk of democratic reversal, slow death, or hybridity (Schedler 1998; Rakner et al 2007; Diamond et. al 2015). Elections conducted after the removal of presidential term limits have often tended to lose their capacity to strengthen such a democracy.

Cameroon, Burkina Faso, Togo, Gabon, and Uganda have all repealed presidential term limits. Though they all conduct regular elections, they remain caught in the democratic grey zone that does not adequately allow them to move forward toward technical democratic consolidation. Tampering with the period and processes that guarantee minimum technical consolidation paradigms has dislocated the democratic process and prevented those democracies from gaining momentum. Tampering with the consolidation process by engaging in the project of removing presidential term limits at the period allocated for consolidation exposes certain presidential systems to democratic slow death, reversal and hybridity. Many African democracies have initiated the process of slow democratic death, while some operate

hybrid democracy by observing skeletal elements of democracy, such as routine elections to legitimize their power.⁴⁵

What makes presidential term limits attractive and necessary for democracy? What difference does it make if a particular presidential system continues to produce or confirm the same president in every election? Armstrong (2010) argues that significant shifts in the institutional structures of politics and philosophy of governance always precede regime change. Linz (1996) argues that the adoption of an institutional order to control and govern the length of tenures stipulated for office holders reforms the transition from an authoritarian system to a democratic and competitive system. This reform marks the distinction between authoritarian and democratic systems. In other words, a presidential democratic system without term limits would operate as an authoritarian regime.

This is why the adoption of presidential term limits became central to the constitutional negotiations that preceded the transitions from one-party, authoritarian regimes to multiparty democracies of the 1990s in Latin America, Eastern Europe, and Africa (Dulani 2011). The implementation of presidential term limits reflected a driving principle to move away from authoritarian regime systems and impose limits

⁴⁵ I shall return to this topic in Chapter-Nine.

on the number of terms or tenures a president may hold presidential office or power (Linz 1996; Dulani 2011; Armstrong 2010).⁴⁶

To strengthen the importance of term limits in the presidential system, some scholars have qualified or made distinctions between the two types of approach to governance and power. Linz's (1996) distinction of *pro-tempore* and *contra-tempore* is crucial here.⁴⁷ Unlike authoritarianism, Linz argues that people expect democratic governments to be chronologically limited. Authoritarianism depends on the usurpation of state power and accrual of personal power while democracy depends on power consensus, which is crucial for power devolution. Therefore, the repealing of term limits in a presidential system may transform a particular regime into civilian authoritarianism. A particular democracy identifies more with authoritarianism and less with multiparty, competitive democracy when it assumes the features of an authoritarian regime, or loses the features of *pro tempore* and acquires the features of *contra tempore* multi-party democracy. Linz argues further that by losing the features of *pro tempore*, a particular democracy runs the risk of alienating the institutions and

⁴⁶ Professors Falola and Oyeshile concur with Linz in an interview with the author that term limits became necessary in order to dispense with many dictators who succeeded in entrenching state power by blocking all avenues to democratically allow power alternate (Pilzen, 15 May 2014).

⁴⁷ Linz makes a distinction between authoritarian and democratic politics arguing that autocrats rule without an end date while democrats rule with an end date. He uses the concepts of *pro- and contra tempore* to make a clear distinction between democratic and authoritarian regimes.

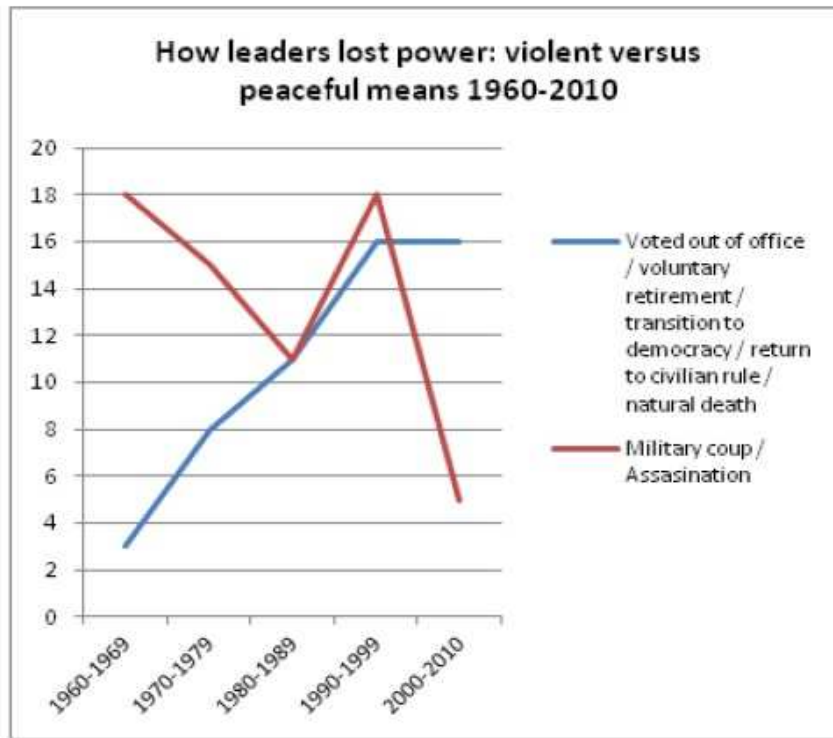
the populace in the democratic process whose duty it is to regulate and allocate power by electoral consensus (ibid.). Schedler's slow death or Rakner's hybridity are inevitable outcomes when a democratic process lacking presidential term limits loses the elements that distinguish it from an authoritarian regime. Without the distinction between *pro-tempore* and *contra-tempore*, the two systems would appear to be the same and operate the same way. The effortless constitutional adoption of presidential term limits by post-Cold War African democracies at the transition period suggest the move away from a system that entrenched power toward a new culture and tradition of checks and balances, electoral consensus, and power alternation through the democratic process.

2.3 Constitution -Making and Presidential Term Limits in Africa.

The making of constitutions in Africa became popular after World War II. The emergence of constitutional committees in various countries, mostly comprising of colonial officers and few independence agitators, preceded the dismantling of colonial regimes. The making of independent constitutions gave rise to independent states in Africa, beginning with Ghana in 1967. Though independence constitutions and elections preceded the inauguration of more than half of new African states, only a few constitutions noted term limits since most new independent states adopted a parliamentary system of government. Presidents in most newly independent states, particularly the British former colonies, were ceremonial and appointed by the Queen

of England as a representative of the Queen. The adoption of a parliamentary system in line with colonial governments may explain the scarcity of term limits in this period. The incursion of the military into politics through coup d'état, one-party system, life presidency, and Cold War geopolitics may have restrained the making of constitutions that stipulated term limits until after the Cold War. Between 1960 and 1989, power alternation as figure four below shows depended more on military coup/assassination and violent means than on peaceful democratic means through election.

Figure 4: Power Transition 1960-2010.

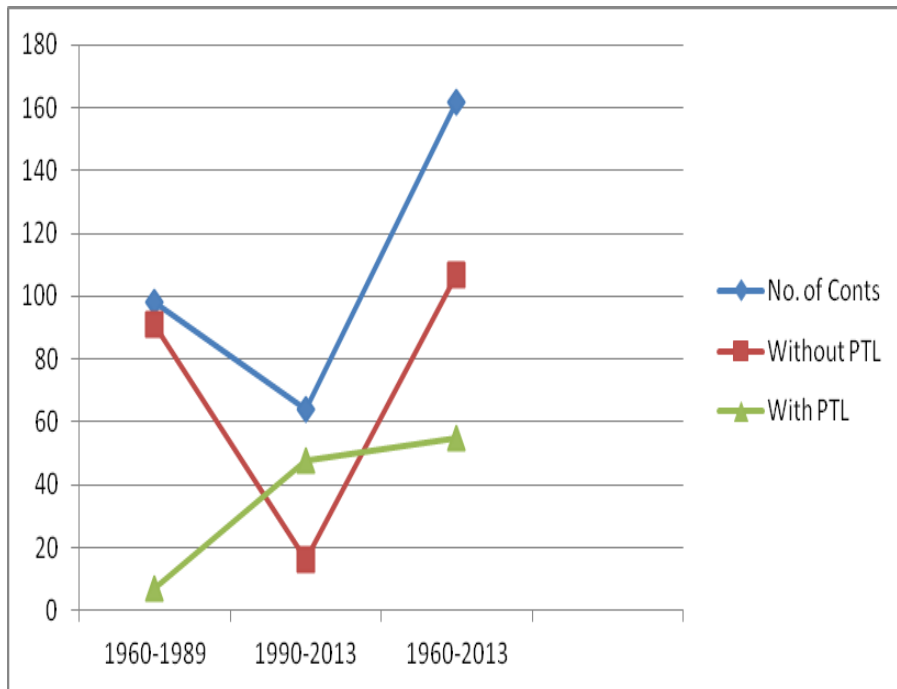


Source: Monique Theron, African Trends and Transformation

Constitutional transition of government did not become a veritable means of power alternation in Africa until 1989, following the post-Cold War democratic shock as figure four shows.

Between 1960 and 1990, only seven presidential elections occurred in African presidential systems in which more than one candidate took part (Nigeria, 1979, 1983, Senegal 1978, 1983, 1988, Somalia 1968, Tanzania 1962). In these seven elections, only one resulted in power alternation across parties when Abdirashid Ali Shermarke defeated Aden Abdullah Osman of Somalia in 1968. The re-introduction of multiparty democracy and the adoption of presidential term limits by many countries in the 1990s resulted in a substantial increase in the quality and quantity of competitive elections on the continent and elsewhere among new democracies. According to Bratton (1998), foundational and second elections recorded a competitive average level of seventy percent with a competitive margin of eighty-five percent in Africa alone.

Figure 5: Constitution-making and Presidential Term Limits: 1960-1989 and 1990-2013 in sub-Saharan Africa



Source, updated by the author from Dulani (2011)

In most cases, run-off elections decided presidential victories, indicating the high competitiveness of the foundational and second elections (Bratton 1998). The removal of presidential term limits, which often came after the second elections, reduced political competition and enabled incumbent presidents to win elections with “landslides” and wide margins.⁴⁸ For instance, the first and second elections in 1994 and 2001 in Cameroon were competitive. Paul Biya struggled to beat his opponent

⁴⁸ “Landslide victory” has since become common jargon used to describe election victories by incumbent presidents and parties.

Nee John Fodi in 2001 with an average vote of sixty-four percent.⁴⁹ After the removal of presidential term limits in 2008, Paul Biya won the subsequent election with an average vote of ninety-two percent in, a clear departure from previous elections that indicated a decline in competition and complete power entrenchment.

The removal of presidential term limits stifles political pluralism and further quickens the process of transforming a polity into a one-party state. The fate of democratic processes in Togo, Cameroon, Gabon, Burkina Faso, and Uganda confirms the destructive nature of a presidential system without term limits. While these states seem to operate on the surface as multiparty democracies by organizing routine elections, in practice they operate as one-party states. After the removal of presidential term limits in above-mentioned states, the incumbent presidents won all subsequent elections with the ruling parties controlling over ninety-two percent of the legislative seats⁵⁰ against an average of 65.3% and 70.1% in the first and second elections consecutively (Bratton 1998). This represents a sharp decline in political

⁴⁹ Allegedly, the announcement of the presidential election results in 1999 experienced a delay in order to manipulate results to favor Paul Biya. The delay and eventual declaration of Biya as the winner resulted in wide protests by university students, followed by violence against students and protesters.

⁵⁰ For the purpose of this study, the author updated Michael Bratton's (1998) work on competition and political pluralism in ten African countries to include the level of competition and political pluralism after the successful removal of presidential terms.

participation and electoral competition, seemingly induced by the repealing of presidential term limits.

The importation of the principle of *contra tempore* into democracies negates the importance of political competition, stifles mass participation, and complicates the achievement of power alternation (Beetham 1994). Thus, political competition and the institutionalization of presidential limits have been responsible for thirty-four presidential alternations between 1990 and 2014 across Africa.⁵¹ Although, the bulk of the alternation has occurred at the intra-party level, nine occurred at the inter-party level signalling a march towards Beetham's two-election-test and Huntington's two-turnover test⁵² on democracy consolidation. The satisfaction of this minimal electoral condition is crucial for democratic consolidation (Huntington 1992; Beetham 1994). If the tendency to repeal presidential term limits by incumbent presidents continues unchallenged, there is a high likelihood that many new democracies may have to wait too long to experience the two-election test or two-turnover test. The provision of presidential term limits aims to make incumbent presidents face the reality of

⁵¹ I have furthered Beetham's research to 2012 by investigating the number of power alternations at the *inter* and *intra* party levels.

⁵² 'Two-turnover test' and 'two-election test' are terms used by Beetham and Huntington, respectively, to analyze the level of consolidation of a given democracy. When a certain democracy has been able to hold two elections in which power alternated or transferred to another party or individual, then consolidation is then in progress.

stepping down at the expiration of their terms in order to stimulate the tradition of democratic competition and leadership alternation both at the intra- and inter-party levels. Thus the incessant attack on presidential term limits and their successful repeal in some new democracies impede the fundamental enriching components of the democratic process and work against democratic consolidation.

Further emphasizing the importance of genuine elections for democracy, Sen (1999) argues that leaders who do not worry about a re-election deliver minimally on democracy dividends. With well-researched data, Sen argues that in functional democracies where elections are regular and respected, disasters seldom occur in comparison to regimes that do not face the challenges of genuine elections or re-elections, as is the case in authoritarian regimes. Authoritarian rulers tend to consider themselves immune from calamities because of their exalted and secured positions. They tend to lack the incentive for appropriate and necessary measures to avert calamities, especially if they do not face the reality of elections and re-elections.

That no famine has ever occurred in functioning democracies of the industrialized West (Northern America and Western Europe), or in the functioning democracies of the developing world, like Botswana and India, is instructive. It equally confirms the importance of facing the reality of genuine re-election, which the repealing of term limits contradicts. Sen remarks that the absence of genuine threat for re-elections appears to contribute to regime neglect of important public policies in one-party states or military regimes. Since, in functional democracies, the

reality of genuine elections determines the fate of particular governments, leaders tend to take the responsibility of solving more common problems than leaders who face scarce opposition or genuine elections. When regimes repeal term limits, they assume the posture of authoritarian regimes, stifling opposition politics and democratic pluralism; elections become a rubber stamp to confirm the same regime in power. Without opposition politics or strong opponents, incumbent regimes are sure of winning in every election. As a consequence, democracy dividends in the form of development, accountability, people-oriented policies, human rights, and freedoms blend into the background.

As some scholars have noted, regular elections do not qualify a polity for democracy without the guarantee of competition contestation, alternation, and a power shift (Linz 1996; Bratton 1998). The intent of elections is to guarantee the alternation of power or leadership. Without it, a particular democracy is not consolidating (Beetham 1994; Huntington 1992; Stepan 1996; Linz 1996). Beetham and Huntington argue that for a democracy to consolidate, two elections would have taken place with likely leadership or power alternation. Incumbent presidents immune the democratic process from the experience of two-election tests and turnovers by repealing term limits within eight to ten years of democratic experiment. Where a particular democracy experiences no turnovers, the chances of Schedler's regression and Rakner's hybridity remain high. Therefore, a presidential term limitless democracy cannot fit into or qualify for Beetham's two-election tests or Huntington's two turnover tests.

A successful two-election-test and two-turnover test devoid of electoral illegitimacy may signal a march towards consolidation and an acceptance of democratic principles and the rule of the game by democratic stakeholders (Linz 1996). It may also indicate that a given democracy is 'stuck in a country's political system' (Dahl 1972). Engaging in debates to repeal presidential term limits within a timeframe allocated for democratic consolidation minimizes democratic consolidation and removes a particular democracy from the consolidation process. For instance, Zambia, Malawi, and Nigeria moved from 'not free' to 'partially free' after their first and second elections, but quickly returned to 'not free' during the debates to remove presidential term limits (Freedom House 2001; 2004; 2007). As soon as the attempt to repeal presidential terms limit was defeated, these countries quickly returned to 'partially free' (ibid.).

According to Linz, "democracy begins to deepen when all, including people with authority, accept democracy as the only game in town and jointly agree to its rules, and entails that presidents respect institutional rules of the game and bow out at the expiration of their tenures, no matter how popular they think they are" (1996). By implication, a particular democracy consolidates when its operators accept Linz's injunction and allow the process to pass Beetham's two-election test and Huntington's two -turnover test. Democracy begins to consolidate when political elites and those who possess authority begin to accept the rule of the game as a given, neutral, independent and autonomous (Linz & Stepan 1998; Armstrong 2010).

Democracy entails the level diffusion of power among a greater number of actors both within and outside the government (Schedler 1998; Ihonvbere 2001). The removal of presidential term limits contradicts the principle of diffusion of power by enabling the entrenchment and monopolization of political power by one person or a small group. The consolidation of democracy can only occur when the ruling or political elites cooperate with other stakeholders to accept the responsibility of term limits enforcement on erring and ambitious presidents who attempt to monopolize state power and sustain a syndrome of power in perpetuity (Shinn 2009). The possibility of alternating leadership remains dim in some post-Cold War democracies because the removal of presidential term limits blocks open-seat contest and genuine political competition, both consequences of a *contra-tempore* presidency. Shinn (2009) rightly observes that the removal of presidential term limits creates and sustains the syndrome of power in perpetuity since most presidents, including those who successfully repealed term limits showed no sign of relinquishing power as table 1 below shows.

Table 2: Fifteen longest serving African Presidents.

Long Serving African Presidents

Rank	Name	State	Duration	Yrs.
1	Haile Selassie, Emperor	Ethiopia	1903-1974	44
2	Moamer Kadhafi	Libya	1969-2011	42
3	Omar Bongo Ondimba	Gabon	1967-2009	42
4	General Gnassingbé Eyadéma	Togo	1967-2005	38
5	Teodoro Obiang Nguema	Equatorial Guinea	1979-	34
6	Jose Eduardo dos Santos	Angola	1979-	34
7	Denis Sassou Nguesso*	Republic of Congo	1979-	34
8	Robert Gabriel Mugabe	Zimbabwe	1980-	33
9	Paul Biya	Cameroon	1982-	31
10	Hosni Mubarak	Egypt	1881-2011	30
11	Yoweri Kaguta Museveni	Uganda	1986-	27
12	Mswati III, King	Swaziland	1986-	27
13	Blaise Compaore	Burkina Faso	1896-	27
14	Omar al-Beshir	Sudan (North)	1989-	24
15	Idriss Deby Itno	Chad	1990-	23

Source: Brad Cibane, *Africa's Elected Monarchs: Presidential Term Limits and Democracy in Africa*, (June 2013)

For instance, in all the thirteen countries that repealed or neglected presidential term limits, incumbent presidents won all subsequent elections.⁵³ While power and

⁵³ Incumbent presidents won all elections held after the removal or repealing of presidential term limits in Togo, Cameroon, Gabon, Uganda, Namibia, Burkina Faso, Guinea, Chad, and Angola.

leadership have alternated at intra- and inter-party levels in some African states, this experience remains scarce among countries with limited chances for open-seat contests⁵⁴. Open-seat contests are necessary for an easy alternation of power (Cheeseman 2010), though Bakar (2002), argues that power may still alternate without presidential term limits if the electorate decides to vote an undesirable incumbent president or party out of power.

Unfortunately, experience in some post-Cold War democracies shows that incumbency factors make it difficult to defeat a seating president or party in Africa (Posner and Young 2008; Maltz 2007; Vencovsky 2007; Dulani 2011). The removal of term limits frustrates the hope of unseating an incumbent president.⁵⁵ The difficulty in defeating an incumbent president in Africa underscores the importance of the open-seat contest, which the removal of presidential term limits contradicts. According to Cheeseman (2010), presidential term limits provide and ensure a measure of political competition for elections in the level playing ground guaranteed by open-seat electoral competition. The enforcement of presidential term limits

⁵⁴ Open-seat competition refers to an electoral contest where fresh candidates lacking any incumbency advantage compete on ‘supposedly’ equal ground for a political office in an electoral process after an incumbent has served out his or her tenure.

⁵⁵ Incumbency factors like patronage, presidential control of democratic institutions and the media, as well as access to state resources make it difficult to defeat incumbent presidents in Africa. Refer also to Dulani 2010; Posner and Young 2007; O’Donnell 1998; Bratton 1998; and Smith 1996.

guarantees open-seat contests, which in turn guarantees power transition and provides the possibility of injecting fresh ideas into governance.

In a multiparty presidential system, open-seat contests offer the electorate a variety of fresh candidates to choose from, unlike the monopoly of a one party system without term limits. Open-seat contests have guaranteed nine party turnovers and alternation in Africa since the end of the Cold War (Cheeseman 2010). Open-seat contests have also guaranteed twenty-five leadership alternations within the same period in Africa.⁵⁶ Unlimited presidential term limits devoid of open-seat contests would have made these alternations impossible. For Cheeseman, once a country passes the two-turnover test by experiencing two transfers of power between parties, the state has made a sustained limp into democratic consolidation. Even though term limits do not produce or create democracies (Bakar 2002), presidential term limits strengthen democracy by providing the environment and facilitating the process in which democracy is more likely to materialize and consolidate.

The open-seat contest which presidential term limits guarantee creates the possibility that widens the democratic space and opens the democratic process up to accountability, good governance, fiscal responsibility, and credible electoral contest. In a *pro-tempore* presidency, open-seat contests grant the populace the opportunity to select their leaders. Because the chances are high that leaders will also be rotated,

⁵⁶ The author's examined post-Cold War elections to ascertain current election turnovers and leadership alternations in the post-Cold War, African democratic experiment

(Schedler 1998; Linz 1996; Bratton 1998), the *pro-tempore* presidency prevents leadership redundancy (Vencovsky 2007; Posner & Young 2008; Cheeseman 2010).⁵⁷ Enforcing term limits and ensuring open-seat contest help a particular democracy avoid the undesired pain of languishing under a life-president as in the cases of Cameroon, Gabon, Togo, Uganda and Zimbabwe.

2.4 Frequency of Removal of Presidential Terms Limit in New Democracies.

Despite their benefits to democratic consolidation, term limits have continued to come under attack by many incumbent regimes in most new democracies across the world. Dulani (2010) notes that attempts by a section or agencies of government to remove presidential term limits have been constant for the last thirty years in some developed and new democracies. Attempts to remove presidential term limits are global and, therefore, raise sufficient doubts about the usefulness and survival of presidential term limits as a key feature of democracy.

Data show that the U.S. has witnessed the highest number of sponsored motions to repeal presidential term limits with about thirty attempts at the U.S. House of Representatives (Basham 2012). Jose Serrano, a member representing New York

⁵⁷ In Nigeria's political jargon, open-seat contest offers an opportunity to "offload" undesired leaders whom they describe as coming to power "by chance."

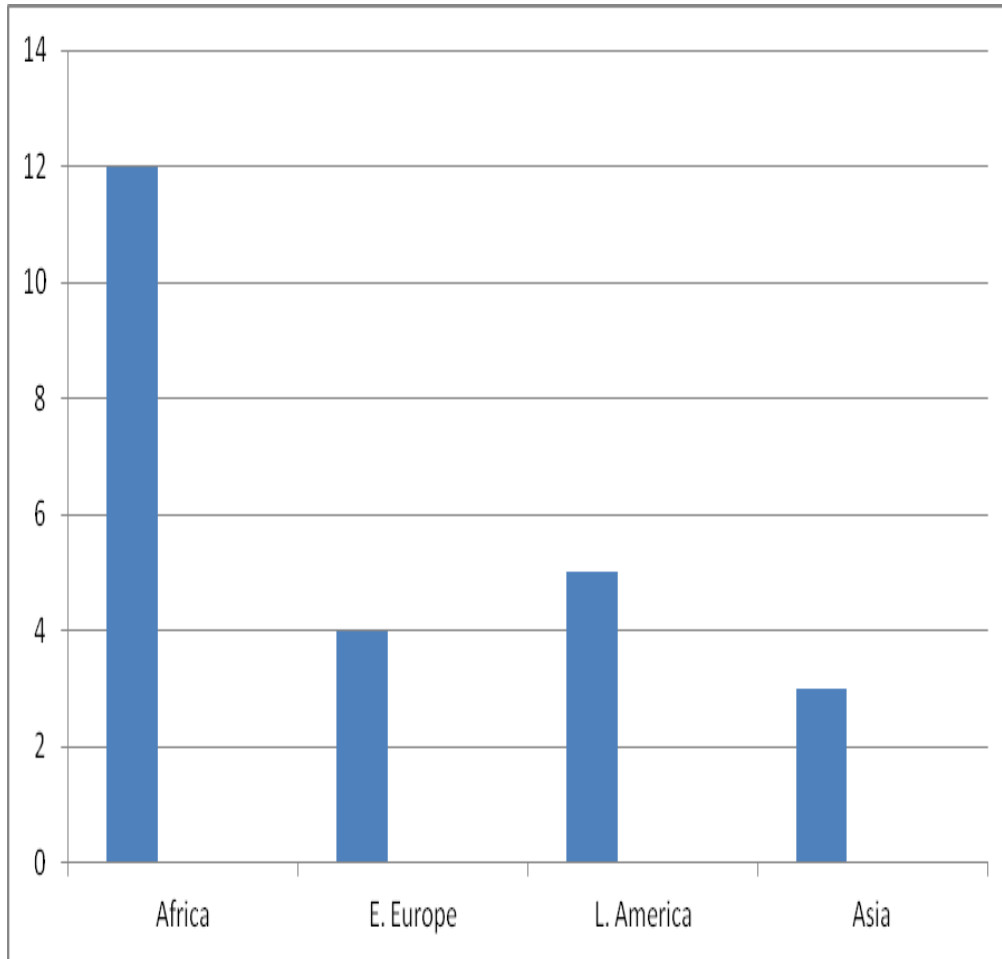
in the House of Representatives, sponsored the first motion in 1975 when he sought the attention of the House of Representatives to repeal the 22nd amendment to the U.S. Constitution. Serrano has re-introduced the same motion in the House on two yearly basis since 1975. Though the motion never got to the voting stage in the House⁵⁸, several other members of the House of Representatives, including Steny Hoyer of Maryland and Mitch McConnell have, on several occasions, sponsored the same motion, requesting the House to strike out presidential term limits in the U.S. constitution. Seemingly supporting the removal of presidential term limits, Bill Clinton argued in 1999, "that the institution of presidential term limits should not hinder incumbent presidents if they chose to serve their countries for longer terms" (*Huff Politics*, 11 August 2011). However, he added a caveat, stating that presidents needed a break after two terms before they could come back to re-contest if they so desired to (*ibid.*).

Although attempts to repeal presidential terms limit have occurred in other continents, this research concentrates on the high proportion of attempts to remove presidential term limits in African democracies. In other post-Cold War democracies

⁵⁸ The Legal Committee of the Federal House Representatives always received the bill to consider the removal presidential term limits in the U.S. At no time did the bill survive any debate beyond the Legal Committee.

of Latin America, Eastern Europe, and Asia, some presidents made similar attempts to challenge presidential terms limits (Dulani 2011).⁵⁹

Figure 6: The frequency of repeal of presidential term limits in various continents 1990-2012.



⁵⁹ The following presidents attempted to repeal presidential terms limits in their countries: Hugo Chavez of Venezuela (2007 and 2009); Daniel Ortega of Nicaragua (2009); Alvaro Uribe of Columbia (2009); Manuel Zelaya of Honduras (2009); Mahina Rajapaksa of Sri Lanka (2010); Nursultan Nazarbayev of Khazakhstan (2007); and Ilham Aliyev of Azerbaijan (2009).

Source, data obtained from Dulani 2010 and updated until 2013 by the author.

Although attempts to remove presidential term limits cut across various continents, post-Cold War African democracies produce the highest number of actual repeals. In the 1990s many African countries responded to the democratic openings ushered in by the demise of the Cold War. Between 1990 and 2000, thirty-eight African countries made swift democratic transitions. While some witnessed what was to be their first election since independence,⁶⁰ others returned to multiparty democracy after an interval of military or civilian dictatorship. By 2004, thirty-eight African countries have had second elections, indicating a swift democratic consolidation process (Huntington 1993; Stepan and Linz 1996; Beetham 1994). However, the excitement brought on by the democratic beginnings in many African countries did not last more than ten years (Vencovsky 2007). At the expiration of their final terms in office, many incumbent presidents have tampered with the constitutional provisions of two-term limits in order to extend their mandates. Instead of organizing credible elections to ensure democratic power transfer at the end of their final terms, many incumbent presidents chose to invest huge resources in securing constitutional frameworks to either allow a third term for themselves, or to completely expunge presidential term limits from the constitution.

⁶⁰ By 1990s, thirty African countries were witnessing unprecedented multiparty elections. A one-party system under the firm control of life presidents was popular in many African states before the third wave of democracy.

Sam Nujoma of Namibia was the first to repeal presidential term limits in 1999 by amending the Namibian constitution to accommodate his third term ambition. He thereby paved the way for the popular ‘third-term agenda.’ Many incumbent presidents who wanted to remain in power for extended periods designed a strategy to manipulate the constitution in order to achieve longer terms (Bratton 1998; Dulani 2011). The trend assumed higher proportions between 2001 and 2012, as most incumbent presidents influenced debates and campaigns to remove presidential term limits when they approached the end of their final terms. In Africa, thirty-four countries held national debates between 1999 and 2014 to consider removing presidential term limits. Thirteen countries successfully repealed presidential term limits during this period, with four successful attempts and three cases of term limits neglect. Debates to remove presidential term limits continue in Rwanda and DRC.

For some scholars the incessant attacks on presidential term limits, especially in the post-Cold War democracies, have cast doubt on the survival and retention of term limits as a democratic institution (Dulani 2010; Vencovsky 2007; Maltz 2007).⁶¹ The frequency may increase in Africa. With about thirteen incumbent presidents still on the second tenure of their mandates, the number of national debates to remove term limits is likely to increase by forty percent as these presidents approach the end

⁶¹ Dulani’s work demonstrates the extent to which presidential term limits are under pressure: six out of every ten countries that adopted presidential term limits during the third-wave democracy held national debates to consider reversing or removing this principle in the period between 1990 and 2010 (Dulani 2011).

of their last terms. The high proportion of African countries engaged in debates to remove term limits, however, signals a significant threat to the survival of presidential term limits as a universally acceptable basic requirement of democracy in a presidential system (Dulani 2011). Presidential term limits are relatively new in most democracies, especially in Africa. With weak institutional formations and semi-informed populaces, the attack on term limits raises particular concern in Africa more than other continents. The frequency of attacks on term limits, and the concerns it generates globally and particularly in Africa remains real.⁶²

2.5 Presidential Term Limits and the Democratic Rule of Law

Some scholars consider the African adoption of presidential term limits as one of the best innovations introduced by the constitutional negotiations in the 1990s that quickly followed the transitions from one-party, authoritarian regimes to multiparty democracies (Schedler 1998; Posner & Young 2007; Maltz 2007; Dulani 2011). The adoption of presidential term limits was swift and accepted by all stakeholders in all the thirty-eight countries that democratized within this period. This indicates that the majority of African countries ab initio accepted term limits as a prominent feature and

⁶² To underscore the real threat occasioned by the removal of presidential term limits and the concerns it generates among the public, refer to the various surveys compiled by Afrobarometer, 2012, 2013 and 2015.

principle of democracy.⁶³ Once a country accepted and implemented term limits, that country did not treat the term limits as accidental arrangements, but rather, as part of the normal order of democracy (Schedler 1998). According to Schmitter, presidential term limits applied during a transition to multiparty democracy, evolved from a contingent solution into prudential norms, structures, and into reliable, regularly practiced, and habitually accepted relationships (Schmitter 1988).

Presidential term limits impose limits on the number of years and terms an individual may hold presidential office or power (Dulani 2011). This checkmates power abuse, authoritarian regression, democratic slow death, and the gradual weakening of the democratic process (Schedler 1998; Huntington 1996; O'Donnell 1992). For Ojeshile, "people expect that officers elected into power under a constitutional provision of *pro-tempore* to be disciplined enough to respect the rules that brought them to power."⁶⁴

Unfortunately, presidential term limits have come under pressure in many countries from those sworn to protect the constitution and democratic rules. Democracies cannot stabilize without respect for democratic rules. Particularly, disrespect and disregard for presidential term limits causes democratic erosion and puts nascent democracies at the risk of authoritarian regression. Weissert and

⁶³ Field research by Dulani (2011) confirms that seventy-five percent of the people questioned on the importance of presidential term limits appreciate term limits and would want them enforced.

⁶⁴ Author's interview with professor Ojeshile. Pilsen, Czech Republic. May 2013

Halperin (2007) have discussed the demerits and merits of term limits in the U.S. legislature and the U.S. presidential system, while Elhauge (1997) has queried the usefulness of term limits for state and national officers in developed countries.

With reference to the legislature, both writers raise the obvious question of whether the absence of term limits confers a special capacity on the quality of a legislature. Do unlimited terms make for a more efficient legislature? Are career politicians with cognate experience better for the legislative institution? Though these questions seem to fall outside the focus of the present study, they introduce skepticism concerning the usefulness of presidential term limits for democratic consolidation. Should we consider presidential term limits necessary for power alternation? After all, parliamentary systems as practiced in England, the Netherlands, Germany, and many other countries do not depend on term limits for power alternation. This argument questions the importance of presidential term limits as the guaranteed approach to ensure power alternation, as parliamentary systems function effectively and adequately without term limits. My research will consider calls to remove term limits within their specific political context and configuration. I will situate this study in the political configuration and context of a presidential system of government as adapted to the North American presidential system. I will focus on term limits politics in a presidential system of government.

2.6 Presidential Term Limits and Democratic Values

An on-going debate on the politics of presidential term limits introduces a paradox in their democratic nature. While some scholars like Baker (2002) argue that presidential term limits restrict democratic choice, others like Beetham (1994), Cheeseman (2011), Armstrong (2010), Vencovsky (2007) and Dulani (2011) maintain that presidential term limits are indispensable for democracy. Despite the seeming benefits of presidential term limits, Baker maintains that presidential term limits are undemocratic and unnecessary for power alternation. He argues that if democratic accountability is strong enough, the electorate should have the capacity to vote an unwanted president or party out of office at the next election or, if necessary, democratically impeach a president through a legislative process (2002). Without prejudice to Baker's argument, the defeat of an incumbent president at the polls in a post-Cold War African experiment is not yet common (Collier 2009), let alone an impeachment.⁶⁵ Scholars have proven that institutional processes are weak in most new democracies even to sustain an impeachment process without elite pressure (Vencovsky 2007; Dulani 2011; Bratton 1998; Villalon 2005). However, Baker's argument presents a challenge to defenders of presidential term limits. Why deny the masses the chance for a candidate whom they trust even if he is an incumbent? If the incumbent leader is the best among all the candidates vying for the presidential office, should term limits serve as an excuse to deny the electorate the right to choose

⁶⁵ Benin is the second African country since 1960 and the first since 1990 where an incumbent president is defeated at the polls.

such an incumbent? This argument is currently making the rounds in Rwanda where the incumbent president is due to step down in 2017 at the expiration of his second term. Many feel that Paul Kagame has performed exceedingly well and has moved Rwanda both economically and politically forward (*Arinaitwe*, 28 February 2013). They argue that presidential term limits should not serve as an excuse to deny the country the services of a good incumbent president. The extension of presidential terms requires an amendment of the Rwandan Constitution and a repealing of the presidential term limit. Is it right to deny the people their choice of Kagame as life president?

Promoters of presidential terms limit argue otherwise, insisting that a presidential term limits provision signifies a degree of lack of trust in the electorate and democratic institutions to make informed decisions (Armstrong 2010; Chabal and Daloz 1990). According to Professor Falola, the electorate sways with African political rhetoric and is not adequately concerned about the merits and demerits of democracy.⁶⁶ Therefore, the institution of presidential term limits requires protection to forestall abuses and empty rhetoric.⁶⁷ During the third term debates in Nigeria in 2006, a loyalist of the president strongly defended the third term as an “indisputable democratic exercise.” He further described the third term as an opportunity for the masses to retain their choice for president (*Sun*, 22 April 2006).

⁶⁶ Authors interview with professor Falola, May 15 2014, Pilsen. Czech Republic

⁶⁷ Ibid.

The scenario was also the same in Cameroon. A government minister described the repeal of term limits in 2008 as a “classic democratic exercise, claiming that the intent of constitutions is not a limiting of voter’s choice (Butty 2008). This argument may appear cogent, but the repeal of presidential term limits gives incumbent presidents undue advantages over other aspirants. The resource advantages available to incumbent presidents may make it difficult for institutions to function effectively and for the electorate to make informed electoral choices and decisions. Since political competition cannot sufficiently guarantee the type of acceptable democratic choice that elections and contestations designate in the absence of presidential term limits (Armstrong 2010), the enforcement of term limits compliance is necessary. Despite arguments that presidential term limits do not produce or create democracies, Huntington’s thesis and Cheeseman’s data show that presidential term limits facilitate the democratic process and provide the environment in which democracy is more likely to materialize and consolidate.

What is undemocratic about a constitutional amendment to repeal presidential limits? Research has shown that many constitutions provide room for amendments. If the legislature or the parliament follows due process in repealing presidential term limits, does it not act democratically and constitutionally? Respect for rule of law and due process is required in handling constitutional issues. Most constitutions stipulate mandatory processes for legitimate amendments. These involve different arms and tiers of government and usually compel a two-third majority to legitimize the amendment of any article in the constitution. If the repealing of presidential term

limits follows due process and is able to mobilize support at all levels, it is considered as being legitimate.

However, the challenge on presidential term limits and their repeal in the last twenty-five years in Africa have not strictly followed due process (Vencovsky 2007; Posner and Young 2007; Armstrong 2010). Neither has it respected the clauses protecting presidential term limits in various constitutions (Dulani 2010). We have witnessed what many scholars have described as a corrupt and ‘illegitimate assault on term limits by some incumbent presidents’ (Jean Morrow 2006).⁶⁸

In Nigeria, Obasanjo provided the sum of US\$350,000 to Senate members and US\$300,000⁶⁹ to members of the Federal House of Representatives to support his third term bid (Posner and Young 2007). Ugandan legislators received US\$3000 to support the removal of presidential term limits from president Museveni in 2005 (Armstrong 2010). Zambian parliamentarians received the sum of US\$1,500 to support Chiluba’s third term agenda in 2001 (Dulani 2011; Armstrong 2010; Sardanis 2014)). Furthermore, incumbent presidents identified those political actors who did

⁶⁸ Other scholars like Armstrong (2010), Posner and Young (2007), Maltz (2007), Vencovsky (2007) Chabal and Daloz (1998) and Colier (2005) have documented the use of financial inducements and intimidation as strategies by incumbent regimes to coerce support from political actors, civil society, and the masses to support the repeal of presidential term limits.

⁶⁹ In my interview with the select political elites in Nigeria, each interviewee pointed to the bribery of the legislators by Obasanjo to vote in support of the third term.

not choose to support the removal of term limits as political enemies, often forcing them out of government (Usman 2012; Campbell 2013; Villalon 2005; Dulani 2011; Morrow 2006).⁷⁰ Scholars have observed that constitutional amendments, referenda, reforms, and elections have been manipulated and flawed, reducing the legitimacy of these processes (Clark 1999; Morrow 2006; Usman 2012). A careful look at the processes surrounding the attempts to remove presidential term limits or their actual repeal in Africa shows a clear and undemocratic lack of procedural due process, devoid of rule of law.

The argument in support of limitless presidential terms notwithstanding, I presidential term limits are relevant and important for democratic consolidation. They are a fundamental mechanism to guarantee leadership and power alternation in a presidential system of government. A presidential system invests excessive power in the executive president. In the case of incumbent presidents in most new democracies, this executive power is rarely decentralized, thereby feeding incumbency advantages and weakening democratic institutions. Since incumbent presidents often entrench state power and leave other stakeholders as spectators in the democratic process some analysts like Rakner (2007) and van de Walle (2005) rightly

⁷⁰ I shall elaborate more in the case studies on the use of money and intimidation as strategies to coerce opposition into loyalty by incumbent presidents.

view the presidential system as the biggest impediment to African democratic consolidation.⁷¹

Since institutional processes are weak in most new democracies (Vencovsky 2007; Dulani 2011; Bratton 1998; Villalon 2005), presidential term limits appear necessary to check excessive powers in a presidential system of government. For instance, where elections are not sufficiently competitive and contested, presidential term limits might present an opening for an open-seat contest to inject fresh ideas into the leadership system of a country and to some extent reduce the pressure of incumbent advantage (Beetham 1994; Cheeseman 2011). Entrenched incumbency advantages have the potential and actual risk of preventing the opposition from gaining representation in the government, therefore violating the minimum standards of electoral fairness and equal opportunity (Schedler 1998; Dulani 2010; Cheeseman 2011). Without vibrant opposition, there may be a high possibility of creating and consolidating civilian dictatorship and hybrid democracy. Free and fair elections, as certified and endorsed by electoral observer groups, do not guarantee or signify genuine democratic processes (Carothers 1998). Elections may appear free and fair but harbor deep undemocratic processes beneath (Bratton 1998). Campaign regulations are not efficient in most post-Cold War democracies and Africa, while political sympathy is dependent on patronage and financial inducement (Chabal and

⁷¹ No post-Cold War African democracy has yet experienced the defeat of any life president at the polls.

Daloz 1998). Incumbent presidents and parties often use their access to state apparatus against opposition candidates and parties (Schedler 1998; Posner and Young 2007; Dulani 2011; Armstrong 2010; Simon 2005; Morrow 2005). An open-seat election reduces such incumbency advantages and increases the possibility of growing political competition required to consolidate democracy.

In Gabon, Cameroon, Togo, Burkina Faso, Guinea, and Niger for instance, the removal of term limits was swift, leaving the populace with no option or time to join the debate (Fomunyoh 2001). In these countries, common good or popular opinion did not drive the removal of presidential term limits (Dulani 2011; Villalon 2005). Legitimate amendments and reforms in presidential term limits politics were scarce, as constitutional amendments to repeal term limits were chiefly motivated by the vested interests of those in state power (Vencovsky 2007). It is so far difficult to guarantee the repeal of presidential term limits through a strict democratic procedure in post-Cold War African democracies since both successful and failed attempts to remove presidential term limits have rarely followed constitutional due process in Africa. The removal of presidential term limits creates immediate democratic consolidation and provides opportunity for incumbent presidents to personalize and entrench power at the level of the state (Villalon 2005; Armstrong 2010; Vencovsky 2007; Dulani 2011).

Contrary to what many third or fourth--term seekers and their supporters have claimed, longer presidential terms do not provide or guarantee good governance

(Shinn 2009); rather, they support the weakening of democratic institutions and other arms of government.⁷² The removal of presidential term limits promotes and sustains power entrenchment and syndrome of power in perpetuity, making the institution of the presidency the reference point in all government decisions. Research further shows that more than ninety percent of the agitation to repeal presidential terms limits originates within the presidency (Armstrong 2010; Shinn 2009; Chabal and Daloz 1999; Morrow 2005). Incumbent presidents use MPs as proxy to introduce and mobilize support in the parliament for the amendment bill, while feigning ignorance and denying any knowledge of the project.⁷³ None of the agitations to remove presidential term limits emanated from the electorate, disclosing the term limits repeal as an entirely presidential incumbency project.⁷⁴

⁷² Gabon, Cameroon, Togo, Burkina Faso, Guinea, and Niger represent this category of democracies.

⁷³ I will demonstrate in the three case studies that the incumbent presidents all deny knowledge of the amendment bills, while the presidents at the same organized amendment rallies distributed slush funds to lobby support.

⁷⁴ In an interview with the author, Professor Ojeshile questioned the sincerity of incumbent presidents who claim that their third-term ambitions enjoyed mass popularity. If this was true, why did incumbents fear a referendum, and why has no amendment bill originated from the masses? (Pilsen, Czech Republic, May 2014)

Conclusion

I have argued in this section that the removal of presidential term limits reduces a democracy to a routine object with only skeletal elements, lacking in substance and essence. It exposes a democratic process to a more subtle process of slow death, where elected officials progressively weaken integral elements of democratic rule, and expose a nascent democracy to regression and hybridity. By undermining electoral competition and contestation, by eroding checks on executive authority and placing constraints on political participation, incumbent presidents who have successfully removed presidential term limits use the state apparatus to personalize state power, leaving the masses with little option in the process of selecting or electing their leaders. The democratic process neither grows nor consolidates.

I have also argued that presidential term limits are beneficial for the deepening and consolidation of democracy, since it halts the chances available to incumbent presidents and elected officers from turning into dictators. Presidential terms limits ensure the possibility of policy change to institutionalize the democratic principle and process of power rotation and alternation. Term limits are required to guarantee a regular electoral contest so that the masses, by participating in a regular electoral process can grow a democratic culture and acquire the basic democratic experience needed for democratic consolidation. As mentioned above, in the

countries that repealed presidential term limits, electoral participation has been minimal and voter apathy rampant in electoral and democratic processes. The populace has remained politically docile, unaware, or uninterested in the democratic process.⁷⁵

Contra tempore presidencies demonstrate the harm caused by the removal of term limits. African turnout rates of elections in democracies with *contra tempore* presidencies went down from an average of 64.1% in the first and second elections to 38.2% after the removal of presidential term limits. The consistent low turnout of voters in Gabon, Togo, Burkina Faso, and Cameroon after the removal of presidential term limits appears to signal an electorate seriously disengaged from the democratic process. With these democratic setbacks, the repeal of presidential term limits endangers democratic consolidation and plunges the democratic process into Schedler's democratic slow death by using democracy to extend authoritarianism and dictatorship.

⁷⁵ A personal comparison of the last elections in Cameroon and Nigeria shows a marked difference in terms of interests and participation. While the presidential election in Cameroon in 2009 was characterized by high voter apathy and low interest, Nigeria's 2011 presidential election witnessed an unprecedented high interest and high voter turnout.

Chapter 3: Theoretical Framework.

3 Introduction

In the previous chapter, I addressed the politics of presidential term limits, their benefits for democracy, and their importance for consolidation in new democracies. I discussed the link between presidential term limits and democratic consolidation without resolving the puzzle of why the attempts to repeal term limits failed in some countries and succeeded in others.

The present chapter is intended to introduce various perspectives that can assist in providing answer to the questions: how can a system enforce presidential term limits compliance? What pressures converge to enforce presidential term limits, and who galvanizes and mobilizes these pressures?

I shall limit my focus in this chapter on two distinct theories that will be dominant in this study: the political elite and Institutional theories. While I will prioritize political elite theory, I will emphasize institutional theory using the examples of democratic institutions that either served as channels of activism or protection for some political elites in their attempt to galvanize and mobilize pressures to demand and enforce term limit compliance in the case studies. I shall argue that an effective entrepreneurship of particular political elites, their dissidence and resistance seem to create the needed

opportunity for alternative platform for convergence in mobilizing pressures to demand and enforce compliance.

In the case studies, I shall introduce other approaches inherent in the democratization literature as effective pressures in enforcing presidential term limits compliance. These include, civil society, popular, contextual, political party, parliamentary, judicial and exogenous pressures. I shall further re-examine and piece these perspectives together in chapter seven to ascertain how they impacted on each other in achieving the complaint outcomes in the case studies. A strong resistance from political elites appears to be necessary and irreplaceable to counter attempts to repeal presidential term limits in Africa.

3.1 Political elite Approach: Activism and Pressure

Political elite perspective to term limits enforcement claims that a determined and active resistance from key individual political elites is necessary for presidential term limits compliance, especially, from elites who assisted incumbent presidents in their ascent to power. As Russel (1961) notes: “No revolution of the masses can triumph without the support of a portion of the elites or insiders that sustained the old regime.”⁷⁶ No incumbent president may consistently entrench state power, or move to

⁷⁶ Adapted from a quote in Lieuwen 1961, page 134, originally from D.E.H Russell, *Rebellion, Revolution, and Armed Forces: A Comparative Study of Fifteen Countries with special Emphasis on*

challenge term limits, without the active connivance and support of key individual elites both from within and outside the regime. As Linz (1996) notes, internal elite dissidence possesses the capacity to alter party cohesion and rupture executive loyalty. It also yields a parliamentary balance of power, especially where the parliament is the *terminus ad quem* of the amendment bill.

Elite political activism was among the pressures that preceded the post-Cold War democratization in many African countries. Particular political elites capitalized on the regional and global democratic changes to challenge long-term, personal rule across Africa (Dulani 2010; Svasand 2009; Tusalem 2007; Lane and Ersson 2007; Diamond 2015). Combined elite and group activism, led by many political actors, has also contributed to high scores of variables in political capital (Booth and Richard 1998). Thus, political activism and resistance, as observed by Easton (1965), can support democratic outcomes and serve as a necessary school of democracy.

In 1990, Frederick Chiluba contributed in mobilizing and coordinating the political activism that ended the long rule of Kenneth Kaunda in Zambia, though he also was to benefit from the activism (Sardanis 2014). In Nigeria, the activism and resistance led by old and new political elites of the National Democratic Coalition (NADECO) and the Peoples Democratic Mandate (PDM) mobilized university professors, the Labour Union, and students in the resistance that forced the military

Cuba and South Africa, ed. Charles Tilly and Edward Shorter, *Studies in Social Discontinuity*, New York: Academic Press, Inc., 1974, page 3.

dictatorship of Ibrahim Babangida to "step aside" in 1992. The same elite political activism led by NADECO and PDM challenged the dictatorship of Sani Abacha in 1995 and laid the foundation for the return of civil and democratic rule in Nigeria in 1999 (Usman 2012; Falana 2015). The introduction of quasi-electoral democracy in Uganda in 1995 was a direct result of political activism led by Yoram Museveni, who formed and coordinated political activism under the National Resistance Army (NRA) that ended the personal, human rights abusive rule of Gen. Tito Okello in 1986. Unfortunately, Yoram Museveni is at the moment one of the longest African serving presidents, and may require elite coalition and activism to force him into retirement. In Malawi, Muluzi supported and benefitted from church-led political defection that ended the thirty yearlong dictatorship of Hastings Kamuzi Banda in 1994 (Morrow 2006). His attempts to re-introduce open-term limits was strongly resisted by a coalition of elite opposition, the CSOs, (Salih et al. 2007), including the Church and international community (Dulani 2005; Morrow 2005; Khembo 2004; Armstrong 2010).

The majority of political elites who participated in enthroning democracy in their various countries eventually became elected executives or MPs as in Nigeria, Zambia, Malawi, and Kenya. The presence of this set of activist elites was to become necessary in mobilizing elite coalition and activism as was the case in Nigeria, Zambia, and Malawi. This was however not completely so in those countries where existing dictators manipulated their way back to power as in Cameroon, Burkina Faso and Uganda. As I will demonstrate in the case studies, elite activism against the

breach of presidential term limits formed the nucleus of internal dissidence and resistance that resulted in the compliance outcomes. These internal elite dissidents and pressure groups included old and new politicians who were able to mobilize university professors, leaders of professional and ethnic associations, the media, judiciary, civil society, and the international actors to safeguard the institution of presidential term limits. Their influence contributed to full and partial presidential term limits compliance in some post-Cold War African democracies.

Many scholars already recognize the capacity of political elites in creating internal resistance, especially within the ruling parties (Bratton and van de Walle 1994; Linz and Stepan 1996; Lindberg and Bryant 2001; O'Donnell 1998). When O'Donnell speaks of 'an important factor', which is hard to pin, he may be referring to the importance of specific political actors. He refers specifically to political and institutional leaders who shape public opinion by acting publicly, deliberately, and according to liberal and republican injunctions (1998). O'Donnell argues that the leadership provided by these leaders can encourage other strategically located individuals or agencies to risk taking similar positions (O'Donnell 1998). However, O'Donnell wonders "how and why" such leaders emerge, emphasizing the need to study such leaders for their scarcity and lack of success in most new democracies.

There are grounds, thus, to consider how and why political elites and political actors emerge and operate as dissidents. An investigation of their emergence and

operation as a pressure group would disclose their role in the enforcement of presidential term limits compliance.

In his study of pressures against the removal of presidential term limits in Africa, Armstrong (2010), building on Posner and Young (2007), Vencovsky (2007), and Maltz (2007), focused on three categories of pressures. Armstrong emphasized institutional, contextual, and exogenous pressures while paying little attention to political elite role. Though he recognized the effectiveness of elite internal pressure in rupturing executive loyalty, he overlooked the elite pressures that blocked the potential third-term projects of Jerry Rawlings of Ghana and Arap Moi of Kenya. Armstrong equally ignored the significant role played by political elites in forming a political barrier against the third-term aspirations of Presidents Olusegun Obasanjo of Nigeria and Frederick Chiluba of Zambia. Armstrong emphasized exogenous factors, which he believed influenced Rawlings and Moi to step down after their second terms. Like most countries in Africa, Kenya and Ghana at the time of Rawlings and Moi respectively, depended on external development aid for their budgetary provisions, raising the issue of external pressure as an influential factor. However, Armstrong failed to ask why the same exogenous factors could not enforce presidential term limits compliance in Burkina Faso, Togo, Cameroon, and Uganda. These countries depend more on external development aid for their economy than Ghana and Kenya.

Sen (1999) emphasizes that the achievement of democracy does not solely depend on the rules and procedures that a particular democracy adopts, but also on the ways that citizens use the opportunities presented to them. As a system of government, democracy creates such opportunities instrumentally and constructively, through the establishment of values and norms. The opportunism of citizens depends on a variety of factors, which Sen characterizes as the vigor of democracy (multipartyism) and the operators of the system. He pays particular attention to the role of elite activism in galvanizing the citizens to seize such opportunities and in preventing democratic deadlock by keeping regimes on alert.

For Sen, the activism of particular opposition elites is a major force in both democratic and non-democratic societies. Using Chile and South Korea as examples, he detailed how, the lack of democratic guarantees notwithstanding, the vigor of elite activism was directly and indirectly effective in the governance of those countries prior to their implementation of democracy. Elite activism brings issues into public debate and consciousness, which may pressure regimes to provide some response. Human rights, gender issues, and the institutionalization of presidential term limits, are examples where political activism has pressured incumbent regimes into confrontation, debates, and activism in many new democracies. While confirming the importance of democratic institutions, Sen maintains that institutions are not mechanical devices for consolidating democracy. Human values and priorities are conditions for their use, which also benefits from available opportunities for articulation, reformation, and participation. .

The agency role of an organized elite resistance and opposition are of particular importance in making meaningful use of opportunities for articulation and reformation. Sen appreciates the contribution of opposition elites in shaping the future of democracy through public debate in India and in many other new democracies. Sen acknowledges them for capitalizing on the given opportunities for the articulation and reformation of the democratic system (1999).

The provisions made by some scholars on the role of political elites in the democratization processes, especially in Latin America and Eastern Europe, offer a guide on existing literature on political elites in democratic processes. Linz and Stepan's *Crafting Democracy* (1998) places emphasis on the need for political elites to create a competitive political environment that can produce alternative political forces and options for the populace. Most democracies have accepted political contestation and efficient electoral competition as co-principles of democracy. Conversely, they view the lack of political competition and elite dissidence as antithetic to both the survival of democracy and the safeguarding of presidential terms limits. Democracies that lack a competitive environment do not fully qualify as democracy, as they present little or no possibility for the electorate to choose or rotate their leaders, (Huntington 1996; Schedler 1998). Many scholars have described non-competitive democracies as 'quasi' or 'hybrid' democracy with diverse characteristics (Schedler 1998; Epstein 2006; Rakner 2004; Gates et al 2006; Elkins 2000; Munck & Verkuilen 2002; Trier and Jackman 2008). Quasi-democracies represent democratic systems that combine an absence of effective contestation with repressed political

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participation, one party system, civilian authoritarian dictatorship, and a conquered state (Goldstone et al 2012).

Other scholars like McFaul (2002), building on Lijphart (1996), emphasize the ability of political actors to form broad coalitions or pacts to address issues of specific national interests bordering on power distribution and economic matters. The recognition by some scholars of elite capacity to create platforms to address specific national issues attributes the same capacity to some political elites to mobilize into pressure groups to demand and enforce term limits compliance. In this way, elite activism creates an opportunity for the emergence of strong opponents whose decisions can shape the trajectory of democratic consolidation processes irrespective of their institutional contexts (Villalon 2005).

Bratton and van de Walle present political actors as agents who have the ability and capacity to shape and reshape the structures in which they operate. Leftwich (2010) discusses the importance of ‘political-actor-agency’ in shaping both development and political processes. He argues that political-actor-agency possesses the ability to create, reshape, fashion, re-fashion, and reconstruct the institutions that guide their operations. Using Botswana as an example, Leftwich defended the role of political elites and coalitions in constructing and fashioning the enabling institutional configurations that have successfully deepened democracy and development in Botswana (ibid.).

In the case studies, I shall treat political-actor-agency as an independent variable. I am concerned on how the 'actor agency' shall interact with both structures and institutions of democracy in the case studies, to produce the pressures that yielded term limits compliant outcome as dependent variable in the case studies. Using Bratton and van de Walle's "structured contingency" approach, I shall show how specific political elites used institutional and extra-institutional platforms as means of protection. Finally, I will demonstrate how they interacted with international and structural contexts to produce compliant outcomes in the three cases under study.

As some scholars argue, it may be difficult to deduce one single variable as responsible for the survival and thriving of democracy (Diamond 2015; Levitsky 2015; Villalon 2005). However, Gomez (2011) argues that some variables tend to apply more pressure than others do toward the achievement of a democratic outcome. In his survey of the democratic experiments in Columbia and Venezuela, Gomez credits the survival and growth of democracy to the following elite values in these two countries: elite activism, pacts, and consensus. Gomez considers elite activism, pact, and consensus more significant than mass political culture in the achievement of democratic results in Venezuela and Columbia. Since most post-Cold War countries in the 1990s made unprecedented attempts toward a democratic experiment, it may be misleading to give sole credence to institutions, structures, a viable state, or rule of law. Because these elements were only recently established, they could not have been solely responsible for the compliant outcomes in Africa.

Most democratic institutions were neither established nor tested at the time of transition. For instance, the evolution and composition of many political parties in Africa have not equipped them to strengthen democracy (Salih 2003, 2007). Since the efficacy of the democratic political process was yet undetermined, institutions and structures could not have solely sustained democracy or enforced terms limit compliance in the new African democracies. More than seventy percent of the African population was still economically poor between 1990 and 2004 (Moyo 2009). This is why it is misleading to emphasize economic and social factors as catalysts toward democratic consolidation. On the long term, however, other variables such as cultural, economic, and mass political culture may impact the thriving and survival of democracy (Schedler 1998; Villalon 2005). In order for democracy to survive, political elites must imbibe or fashion norms and a political culture that can sustain the existing democratic and economic tempo (Leftwich 2010; Gomez 2011).

Thus, survival of democratic space, as well as the expansion and the eventual consolidation of the democratic process, also depend on the capacity and political will of some political elites. Political elites, however, must be willing to make use of the opportunities provided at different junctures during the political process to create and enable policies to stabilize, expand, and consolidate the democratic process (Linz 1978; O'Donnell and Schmitter 1986; Bunce 2000). The politics and process of repealing presidential term limits coincide with the consolidation period in new democracies (Beetham 2004). This incorporates the confrontation of ambitious

incumbent presidents and the mobilization to enforce term limits compliance as means to defend and save democracy from Schedler's slow death.

Further, the democratic experiment regularly generates opportunities for growth or relapse. . Many African autocratic and dictatorial regimes that were open to multiparty democracy in the 1990s succeeded in reconsolidating power following initial elections that many scholars had considered democratic transitions (Diamond 2015; Levitsky 2015). The removal of presidential term limits in Cameroon, Uganda, Niger, Togo, Gabon, and Burkina Faso demonstrate how existing 'reformed' authoritarian regimes succumbed to local and international pressures to open up for multiparty democracy. Later, these same regimes quickly re-consolidated power by returning their countries to an 'authoritarian status quo' following a brief authoritarian crisis (Diamond 2015; Levitsky 2015).

On the other hand, a particular democracy may witness a boost after confronting and enforcing presidential term limits compliance. The confrontation of ambitious presidents with compliance enforcement provides an opportunity to strengthen institutional frameworks and create enabling policies to stabilize and consolidate democracy. In Nigeria, Zambia, and Malawi, specific political elites have used the opportunity presented by such fluid periods to strengthen new and weak

democratic institutions put into place at the time of transition.⁷⁷ Muller and Seligson (1994) recommend that those elite roles that contribute in strengthening the democratic process merit special attention.

Twenty years ago, when they criticized Inglehart's set of variables as statistically insignificant in explaining changes in democracy, Muller and Seligson (1994) proposed a new direction for future research in studying the democratic consolidation processes. They explicitly advocated for a shift in influence from attitudes of the general populace to attitudes of political elites. They suggested that the attitudes of political elites deserved more emphasis in new democracies. They argued that in non-western democracies, political elites possess greater opportunity and capacity for regime influence than the general populace. Robert Dahl (1977) had already made the same point by attributing importance to the impact of attitudes of political leaders on the consolidation process and the stability of new democracies. Building on earlier works of Dahl and Rustow, Higley and Burton (1988) argue that critical measures of analysis in evaluating the stability of democratic regimes are consensus among political elites and their support for democratic institutions and values. They agree with Rustow, stipulating that the support of key political elites is

⁷⁷ I shall give attention to this point in the three case studies and the concluding chapter, especially on how compliant outcome has led to the strengthening or on-going reformation of some key institutions in the cases studies.

necessary to create, fashion, or sustain a democratic process.⁷⁸ Leftwitch also concurs with Rustow, underscoring the indispensability of political leaders in the fashioning and maintenance of the democratization process.

For Leftwitch, the implementation of a democratic system hinges on the conscious decisions of "a small circle of leaders" that can be relied upon to carry the burden of democratic survival. Emphasizing the role of political elites, Linz (1978) models his argument on Rustow and assigns a prominent role to political elites in the democratic process. This role not only contributes to stabilization of the process, but also to the carrying and sharing of the burden of a democratic collapse.

The classic work of Rustow initiated a discussion in 1970 on the role of political elites in the democratization process. However, since the elite variable did not exert pressures on the stable Western democracies examined by scholars like Lijphart (1999) and Spinner (2007), the elite approach has received minimal attention in democratization studies. Thus, institutionalists and students of democratization processes seem to disregard the significant role of the political-elite factor in studying non-Western democracies. This academic neglect of the elite role in democracy, especially in enforcing term limits in new democracies underestimates the impact that elite political values, behavior, and attitudes may have in strengthening democracies.

⁷⁸ Leftwitch concurs with Rustow in the indispensability of political leaders in fashioning and sustaining the democratization process.

Such a role has become more important in enforcing term limits compliance in new democracies.

3.2 Institutional Approach

The institutional approach holds that formal and efficient institutions facilitate the emergence of consolidated democracies and suffice to enforce presidential term limits compliance. It stresses that through formal and efficient political and democratic institutions, it is possible to disperse power in order to create multiple veto players and actors in a decision-making process with the necessary checks and balances. By creating multiple veto players and limiting the power of incumbent and central governments, democracy consolidates in emerging and divided societies (Lijphart 1999, Mainwaring 2001). Drawing on Weber (1946) and Schumpeter (1947), Lipset (1959:71) approached democracy as "a political system, which supplies regular constitutional opportunity to change the governing officials." Lipset emphasized democracy as "a social mechanism for the resolution of the problem of societal decision-making among conflicting interests groups, which permits the largest possible part of the population to influence these decisions through their ability to choose among alternative contenders for political office" (ibid.).

Stable democracies tend to function as Lipset describes above. However, the political elite approach claims that democratization requires more than well-designed formal institutions or the implementation of a proper constitution, particularly in nascent democracies. Without good operators, well-designed agencies and laws may

still yield an opportunity to entrench power as witnessed in some African states. With due respect to advanced industrialized democracies where institutions like the parliament and political parties have been tested, by accumulating experience and maturity for some hundreds of years, one cannot adequately make such a claim for institutions in the systematic study of democratic processes in Africa (Salih et al 2007).

In reference to democratic institutions, it is important to note the extent to which they influence or guide the actions, choices, and behavior of political elites, and how in turn, the same actions, choices, and behavior impact on democratic institutions. Which play a more significant role in the protection of new democratic space and the enforcement of presidential term limits compliance, the institutions or the political elites?

Institutionalists stress that institutions are more important for the enhancement of the democratic process. As mentioned above, the experience of stable democracies, where democratic institutions have existed for many years, substantiates this argument. In stable democracies, strong institutions have been the credible result of learning processes and adjustments. However, the argument may not hold for new democracies that established democratic institutions only a few months before transition elections. Moreover, as most transition constitutions were photocopies of constitutions from Western countries, they did not reflect real, local contingencies (Bradt 2011). Diamond (2015) and Levitsky (2015) argue further that the re-

consolidation of power by some pseudo-democratic regimes was a result of the manipulation of weak institutions by some incumbent governments. This encouraged ambitious incumbent presidents to return their democracies to the autocratic status quo, confirming that institutions scarcely function without good operators.

Institutions (political parties, parliament, the judiciary government branches, civil society, and the constitution) appear as independent variables in the politics of enforcing of term limits compliance (Posner and Young 2007; Dulani 2011; Maltz 2007; Armstrong 2011; Bratton and van de Walle 1997; Linz and Stepan 1996). The levels of strength, autonomy, and will of democratic institutions determine the extent of pressure they can exert against presidential behavior and ambitions. Bratton and Van de Walle argue that the strengthening of institutions is an excellent remedy against the entrenchment of power. However, two points remain unclear: who has the role of strengthening institutions? Do institutions come before democracy, or vice versa?

Institutions are new in the majority of post-Cold War democracies. The existence of democratic institutions before the advent of multiparty democracy in some African countries before the 1990s remains uncertain. If they did not exist before this period, it is doubtful that these institutions would suddenly have gained

enough strength to influence executive behaviors that had existed for thirty years before the introduction of democracy⁷⁹

Democratic institutions differ, in this sense, from economic structures (Armstrong). We view democratic institutions as ‘agents,’ reflecting Linz and Stepan’s five-part analyses of stable democracy as aggregated in political society, the bureaucracy, the rule of law, agency, and civil society. The extent to which these institutions have enforced presidential term limits compliance in post-Cold War democracies in Africa remains an on-going debate. Though I recognize that some institutions of democracy are new in Africa, quite a number have gone through a rapid improvement process since the 1990s. Even with this improvement, scholars disagree on their institutional impact in enforcing presidential term limits compliance. The inability to stop thirteen presidential term limits repeals or neglects implicate the institutional role and obviously deflect the pro-institutional argument in protecting term limits in Africa.

Autonomous and active institutions allegedly account for the evolvement of the democratic process in stable democracies (Morrow 2005). To be autonomous however, institutions must have boundaries, which require the acknowledgement and respect of other relevant agencies and actors in the democratic process. For

⁷⁹ Some like Cameroon, Gabon, Togo, Uganda, and Burkina Faso had long reigning, authoritarian, one-party regimes. Moreover, the absence of parliaments and strong opposition parties created an imbalance only remedied by decisive pressure.

O'Donnell (1998), these other actors must exist and be available to defend and redress such boundaries when transgressed. Many incumbent governments in new democracies steadily encroach beyond the political boundaries demarcated for and by institution.⁸⁰ Many of them consciously choose not to strengthen the institutions that are likely to work against them, but rather work to diminish the powers of such institutions (O'Donnell 1998). O'Donnell argues that executive delegates tend to sidetrack some institutions with the strategies of 'elimination co-optation' and the neutralization of institutions in order to maximize their powers. Political dissidence, resistance and activism is necessary to limit executive power, especially in the course of a power play that involves the invocation of some institutions like the courts, the parliaments, and the rule of law. New democracies cannot guarantee autonomous and strong institutions without the interactive intervention of political elites (Leftwich 2010).

Since democratic experience in some post-Cold War democracies is yet at the transition level, institutional frameworks alone may not sufficiently and independently guarantee presidential term limits compliance. The active role of particular political actors to demand compliance is necessary in challenging non-compliance. The pro-institutional argument might prove itself invalid if the

⁸⁰ Many authors have discussed the ability of the executive to pressure to influence party decisions and judicial and parliamentary outcomes in some new democracies, diluting and sometimes erasing the principle of democratic division of power in some new democracies.

institutions in question function in new democracies as they function in stable Western democracies. Not only that most democratic institution is weak in new democracies, many incumbent presidents prefer to operate strong informal institutions to the detriment of formal democratic institutions (Collier 1999, 2005; Iwu 2007, 2008; Villalon 2005). These informal institutions function to undermine democratic institutions for vested interests (Chabal and Daloz; Calderisi 2006; Bayart 1992; Ayitey 2006; Collier 2005; Calderisi 2006; Diamond 2015). The agential push of political actors in the form of political activism and resistance to demand compliance and constitutionalism not only challenges institutional efficacy, but become necessary in strengthening hitherto dormant institutional capacities in post-Cold War African democracies.

Institutions in new democracies function also as platforms and protective mechanisms for dissenting elites (Villalon 2005). While regime internals weaken and manipulate democratic institutions to consolidate and retain state power, political dissenters create a way of linking with the same institutions for protection. Thus, institutions are likely and able to come into action through elites' agential push and activism (O'Donnell 1998). The agential role of political elites becomes essential in the assignment of a role to otherwise dormant institutions. Incumbent presidents, therefore, experience political embarrassment when elite dissidents use the weakened system to challenge non-compliance. Since most institutions seem to operate as extensions of the presidency in new democracies, incumbents are even more humiliated when the vulnerable institutions link with elite dissidents and offer them

protection from incumbent decisions. In this regard, particular political elites engage institutions in political action.

The pressures generated from the interaction between political elite dissidents and different institutions may combine to embarrass incumbent presidents and their calculations, and therefore increase the costs of repression for such regimes (Mesquita and Smith 2010; Armstrong 2010). In this sense, the interaction between specific political elites and different institutions may directly pressure an incumbent's president to yield to partial or full compliance.⁸¹ Thus, institutions do not function or act in isolation of political agents (Leftwich 2010), represented here in elite resistance and activism, especially in African democracies.

For institutional pressure to occur as suggested for new African democracies, a particular institution has to be independent while members of that particular institution, representing its agency must be willing to act without external influence. Since most post-Cold War African democratic institutions unfortunately fall under the firm control of incumbent presidents, it is not likely that these institutions can act independently or without external influence. Diamond (2015) discusses the relapse of new democracies that benefitted from an authoritarian crisis after the Cold War, in

⁸¹ Two cases confirm the argument. Jerry Rawlings of Ghana and Arap Moi of Kenya decided to withdraw their intentions to go for third term when they discovered that some individual political elites within their ruling parties have perfected a strategy to block their attempts to amend their various constitutions tenure extension.

many of these democracies, incumbent presidents capitalized on the weak and dependent nature of democratic institutions to re-consolidate power and repeal presidential term limits. The rescue of institutions from the grip of incumbent presidents requires therefore a particular strand of dissidence and activism from political elites. When political elites challenge the institutions as political agents they inject the needed will and autonomy required to strengthen and position the particular institutions toward action.

I will detail how elite activists linked with democratic institutions to mobilize and bundle pressures to enforce compliance. In 2001, the expelled MPs of the ruling party who did not support the third-term agenda of Frederick Chiluba pursued links with the court to boost their activism. The ruling party had ordered the vacation of their parliamentary seats after defecting from the ruling party. The decision of the MPs to approach the court to challenge the party's decision to declare their legislative seats vacant introduced elite-institutional interaction in the *Zambian* case. The court granted them a hearing and nullified the ruling party's decision to expel or vacate their parliamentary seats. Their court victory was a sort of protection, which boosted their motivation and activism to engage the parliament to further pressure president Chiluba into compliance in *Zambia*. The same occurred in *Malawi*, which I will discuss in Chapter Six. These instances demonstrate that an institution does not apply political pressure in a vacuum. An act influences an institution and results in a political reaction that can further yield other political outcomes.

Various African countries enacted ninety-eight constitutions between 1960 and the end of Cold War in 1989.⁸² Seven of these constitutions contained provisions or clauses that stipulated presidential term limits. The period between 1990 and 2014 saw the ratification of seventy-four new constitutional enactments and amendments in Africa.⁸³ Fifty-two of these seventy-four new constitutions and modifications contain explicit clauses stipulating presidential term limits. Fourteen amendments made within this period have tampered with presidential term limits while five constitutions remain ambiguous over presidential term limits.⁸⁴ In fifty-nine constitutions containing presidential term limits specifications since 1957, fifty-two occurred after 1990. In other words, ninety-two percent of constitutions that contain the presidential term limits provision in Africa occurred after 1990.

In the same period, thirty-four countries have held national debates to consider repealing presidential term limits, with current debates still taking place in two countries. While five incumbent presidents have willingly conceded power after their second terms in compliance with presidential term limits requirements since 1990, thirteen incumbent presidents have repealed or neglected term limits and

⁸² I draw on various sources on African political development to create a database of constitutional enactments and amendments from the period of independence to the period of post-Cold War democratic movements in Africa, covering the period between 1957 and 2014.

⁸³ Ibid.

⁸⁴ Ibid.

refused power alternation. Only four attempts to abolish term limits have failed, with one incumbent president refusing to acknowledge defeat.

The data suggests that institutions lack the capacity to exercise pressure to enforce presidential term limits compliance in post-Cold War African democracies. Institutional pressure in new democracies remains low without the activism of interaction with political elites. The successful defeats of the third-term amendment in Nigeria, Zambia, and Malawi were possible because elite political dissidents were determined to create an alternative platform for resistance. The ability to link their political activism with institutional forces in order to mobilize pressures created the necessary legitimacy needed to demand and enforce term limits compliance.⁸⁵

Some scholars accurately recognize the lack of stability and reliability in institutions in terms of their influence on the behavior of African ambitious presidents (Chabal and Daloz 1998; O'Donnell 1998; Armstrong 2010; Diamond 2015; Levitsky 2015). The lack of elite resistance and activism appear to encourage some incumbent presidents to disrespect the protocol of presidential term limits. Political elite pressure appears to create the opportunity to counter-balance sitting presidents who nurse the ambition to manipulate the democratic process to consolidate power.⁸⁶ As trends have

⁸⁵ I will elaborate more on this point in the case studies.

⁸⁶ The two cases of Kenya and Ghana earlier referenced in this study confirms the effectiveness of proactive pressure from political elites in discouraging incumbent presidents in seeking to repeal term limits

shown, democratic institutions have not sufficiently applied the needed pressure to constrain tenure elongation bids of incumbent presidents in African. At best, political and democratic institutions have only provided platforms for political agents to either consolidate power or launch counter-elite pressures (Villalon 2005).

Linz and Stepan (1996) are therefore right to refer to institutions as “agents” in the form of political society, the bureaucracy, the rule of law, and civil society. Vulnerable to manipulation, institutions in most post-Cold War African democracies serve as means, instruments, or stepping-stones to achieve a particular political end . Incumbent presidents often use democratic institutions like the parliament, judiciary, media, and civil society to achieve desired political goals (Villalon 2005; Posner and Young 2007; Armstrong 2010; Diamond 2015; Smith 1996). Elite political dissidents, operating on almost the same level with incumbents, use the same institutions to achieve alternative outcomes to enforce term limits compliance.

Conclusion

In this chapter, I presented some political institutions as instruments of manipulation by political elites who ‘use and co-opt’ the institutions as means and tool to achieve desired outcomes. I emphasized political elite capacity in mobilizing other sectors into action to demand compliance. I argued that through political elite activism, dissidence, and resistance, alternative platforms are created to mobilizing other pressures to resist the removal of presidential term limits.

In the next three chapters, I shall examine how political resistance arising from some political elites became necessary in mobilizing institutional and extra-institutional pressures to rupture party loyalty, splinter the ruling parties and alter parliamentary balance of power in the case studies. I shall examine how various sectors (political elites, parliament, judiciary, CSOs and the international community) reacted to the attempts by various presidents to repeal term limits in the case studies.

The next chapter introduces Nigeria as the first case study for this research. It presents the 2006 'Third Term project of president Olusegun Obasanjo.

Chapter 4: No Third Term, No Nigeria! (First Case Study)

4 Introduction

I seek to establish that the political activism of particular actors was responsible for the enforcement of term limits compliance on the Nigerian President Olusegun Obasanjo in 2006. Obasanjo's attempt to amend the constitution to extend his presidential term met stiff opposition among some political elites, especially in the ruling People's Democratic Party (PDP). The dissenting political elites in PDP, led by the vice-president Atiku Abubakar and Governor Orji Kalu of Abia State, formed a broad coalition of internal party internals that mobilized other external party members and various institutional and non-institutional sectors like parliament, the media, civil society organizations, and the masses to raise the cost of repression for Obasanjo. With their dissidence and political resistance, particular political elites internally ruptured political cohesion within the ruling party. They decimated Obasanjo's executive loyalty, created an alternative political platform for activism, and used the parliament as a center for opposition to apply pressure on President

Obasanjo. This coalition of elite political activists pressured and prevented Obasanjo from consolidating power in 2006, forcing him to retire.

After seven years of democratic experiment, democracy in Nigeria was at the crossroads because of the presidential term limits amendment bill.⁸⁷ Both the technical and substantial⁸⁸ consolidation of Nigerian democracy was subject to immense pressure: Nigeria's nascent democracy stood on the brink of a successful repeal of presidential term limits and Schedler's slow democratic death. President Obasanjo's campaign for a one-party system, and his dismissal of the multiparty system as disloyal and undisciplined, foreshadowed a regression toward life presidency and a one-party system. The defeat of Obasanjo's constitutional

⁸⁷ Most academic and newspaper reports described the Nigerian democratic experience as extension of military rule, lacking real democratic credentials. There was a general longing of 'real democracy' with respect for the rule of law and devolution of power. The constant request from the public for a National Conference confirmed this feeling. Professor Maurice Iwu, the Chairman of the Nigerian Independent Electoral Commission, confirmed in an interview with the author that by 2006, the Nigerian public had lost hope in the Nigerian democracy because it failed to yield sufficient democracy dividends.

⁸⁸ Technical democracy fulfills some outward democratic forms and attributes such as elections with parliamentary and judicial arms, yet lacks the needed separation of powers, freedom of expression, human rights, rule of law, and power alternation that represent the substance of democracy.

amendment bill was necessary to avoid slow democratic death by allowing a multiparty system to thrive in Nigeria.

Secondly, the enforcement of term limits on Obasanjo made an open-seat contest possible in 2007 and enabled Nigeria to experience the unprecedented transfer of power from one elected regime to another elected regime, a feat never achieved in Nigeria since her independence in 1960. The enforcement of compliance on Obasanjo in 2006 further enabled Nigeria to qualify for Beetham's two-election test and Huntington's two election-turnovers, necessary for the qualification of new democracies as consolidating. Nigeria has subsequently held three elections since 2006, with power alternating at intra and extra party within this period. The open-seat contest, power and party alternations that Nigeria experienced would have appeared difficult without pro-tempore presidency.

Some indigenous writers have described political elites as the cause of Nigeria's problems and the bane of Nigeria's political woes and democratic failure (Mahmudat 2009; Agboola 2008). These woes include the manipulation of ethnicity as a tool to advance parochial and sectional interests of the dominant ruling class (Iwu 2008, 2009; Campbell 2011). For these authors, political incompetency among some political elites has resulted in the crisis of legitimacy and a governance deficit, hampering good governance and national integration (Campbell 2011). The enforcement of term limit compliance on President Olusegun Obasanjo by a contending faction of political elites shifted the technical democracy towards a

substance democracy and challenged the position of theorists that deride the political elite role in democratization.

This recovery of democratic space from autocratic control reveals that political elite activism can have positive impact on the process of democratic consolidation. The Nigerian democratic experience was on the verge of Schedler's democratic reversal and slow democratic death. It was also veering toward Rakner's hybrid democracy. Had Obasanjo been successful in amending Nigeria's constitution to repeal presidential term limits, these situations would have confronted Nigeria, as they did in many other African countries. The political elite recovery of the political and democratic space from the grip of an incumbent president reveals that political elite activism can have a positive impact on the process of democratic consolidation. I will examine the role particular political actors played in enforcing term limits compliance on President Obasanjo in Nigeria in 2006.

4.1 Background

Since December 1983, when a military coup led by Mohammed Buhari foiled Nigeria's second democratic republic, Nigeria struggled to return to a functional democracy with regular elections, power alternation, diffusion of power, and rule of law. Nigeria missed a good opportunity in June 1992 when it experienced its most organized, free, and popular election (1992 Presidential Election Report; Collier 2009; Iwu 2008; Usman 2012). Unfortunately, the military regime led by Ibrahim

Babangida annulled the 1992 elections and forced Moshood Abiola into a short exile, the candidate most Nigerians saw as the winner of the presidential election.

The joint struggle to reclaim Abiola's mandate from the military, and to return Nigeria to democratic rule created many political pressure groups led by notable political elites. The likes of former presidents, Alex Ekwueme, Shehu Musa Y'ardua, and Atiku Abubakar, as well as political activists Gani Fawemi, Ben Nwabueze, Wole Soyinka, and Femi Falana), joined forces to create resistance platforms against the military. The struggle led to the formation of political associations like the National Democratic Coalition (NADECO) led by the former speaker of the national Assembly, Anthony Enahoro, and Peoples' Democratic Mandate (PDM) led by Shehu Musa Y'ardua. These formed themselves into elite activists and pressured Babangida into "stepping aside"⁸⁹ in July 1992. A National Interim Government (NIG) put together by Babangida lasted only four months when General Sani Abacha overthrew the NIG led by Ernest Shonekan in November 1992 in a palace coup.

The overthrow of the NIG by General Abacha intensified the struggle and activism of NADECO and PDM, who requested General Abacha to quicken the process of returning Nigeria to democratic rule.⁹⁰ In 1995, Abacha yielded to the political pressure from the political elites and accepted to return the country to

⁸⁹ This took place after the nation-wide industrial action which paralyzed Nigeria after the annulment

⁹⁰ NADECO issued a communiqué and gave a press conference on September 23, 1994 requesting the military regime to make a transition program and choose a hand-over date.

democratic rule by calling for a constitutional conference. However, he did not hide his intent to evolve into a civilian president, an effort resisted by leading political elites, like Musa Y'ardua, and PDM members, who included Atiku Abubakar. The opposition elites outsmarted Abacha by using Abacha's constitutional conference in 1995 to produce a timetable for transition that gave the military a transition dateline.⁹¹ Embarrassed, Abacha became hostile to the opposition elites by clamping down on and arresting many, including Shehu Musa Y'ardua and Olusegun Obasanjo. Others, like Atiku Abubakar, Lt-Gen. David Mark, and Lt. Gen. Abdulkarim Adisa went into self-imposed exile.

Having intimidated the leading political elites into compliance, Abacha set out to transform himself into an elected president by coercing the five registered political parties to adopt him as their presidential candidate. In May 1996, Daniel Kanu organized a "One Million Man March" in support of Abacha's metamorphosis into civilian president. Surprisingly, Abacha even coerced many notable political elites into participating in the pro-Abacha rally.⁹² However, Gen. Abacha's death on June

⁹¹ Atiku Abubakar gave a personal interview in the *Sun* newspaper of Sunday, September 22 2013. In it, he gave a detailed exposé of his own exile and the arrest and death of Shehu Musa Y'ardua. The latter was leader of PDM, persecuted for masterminding and influencing the drawing of a Transition Time Table for Gen. Abacha at the National Constitutional Conference in 1995.

⁹² The aim of coercing prominent political actors into participation in the rally was to lend the appearance of credibility to Abacha's interests in becoming Nigeria's next elected president.

12, 1998 after ruling Nigeria with iron fist for five years presented Nigeria with another opportunity at democratization. The death of Abiola in prison on July 10, 1998, followed quickly. The passing on of both men opened a window of opportunity for Nigeria to democratize. In June 1998, General Abdulsami Abubakar inherited a disgruntled and irritated Nigerian society that yearned for democratic rule. Gen. Abdulsami ruled Nigeria for eight months, during which he lifted all bans on political activities in the country. The release of the transition timetable followed quickly to sustain the general demand for democratization. As the formation and merger of political associations occurred, electoral activities gradually took place with three leading political parties in Nigeria: People's Democratic Party (PDP), All Peoples' Party (APP), and the Alliance for Democracy (AD).

The multiparty elections of February 1999 put Nigeria back on the list of post-Cold War democratizing African nations. The transition elections equally raised Nigeria's democratic profile from 'not free' before 1999, to 'partly free' in 1999 (Freedom House 1999). The biggest party at the time, PDP adopted General Olusegun Obasanjo as presidential candidate. After winning the presidential election, he was inaugurated on June 29, 1999 as the first post-Cold War democratic president of Nigeria. This occurred twenty years after he organized and supervised a transition election that returned Nigeria to democracy in 1979 as a Military Head of State.

Obasanjo was in detention during the transition activities that produced Nigeria's fourth republic. Though he did not take part in the negotiations for the

formation of PDP, the party adopted Obasanjo as a presidential candidate because the political elites had zoned the presidency to the South West.⁹³ In addition, the incumbent military regime sought to relinquish power quickly to someone capable of stabilizing the polity and building political bridges across the nation. Many believed that Obasanjo had such qualities as a former head of state and an African elder statesman.

According to Ibrahim (2006), General Obasanjo had three significant strengths in his curriculum vitae. Firstly, his war record demonstrated his nationalist credentials. Secondly, Obasanjo's "transfer of power to the elected Shehu Shagari regime in 1979 portrayed his capacity to bow to democratic demands for a Second Republic in Nigeria" (ibid.). Thirdly, Obasanjo demonstrated engagement in civil society through the Africa Leadership Forum, Transparency International and his "track record of democratic struggle and commitment to combat corruption," by promoting good governance. As some analysts observed, Obasanjo's rich background may have convinced Nigerians to believe that this President would not be like the other military leaders who tried to manipulate the country to perpetuate their self-rule and loot the treasury (Ibrahim 2006). Obasanjo carried himself as a democrat and placated a section of Nigeria who felt short-changed by the annulment of the 1993

⁹³ The PDP created an internal arrangement of rotational presidency and zoned the presidency to the south. The choice of Obasanjo, a Yoruba from the southwest, placated the Yoruba people after the annulment of the election won by the Yoruba, Abiola, on June 12, 1992.

presidential election. As a military leader, he enjoyed the greatest capacity to restrict the military from encroaching into politics (Usman 2012). According to Ibrahim, "General Obasanjo came to power in 1999 in a groundswell of optimism that Nigerian leaders had allegedly learned their lessons and would honor the desire of the Nigerian people to the respect of the rule of law, democracy, and federalism" (ibid).

To the contrary, Obasanjo began early in his regime to entrench power by disregarding and disrespecting the principle of separation of powers as enshrined in the Nigerian Constitution of 1999. He imposed Evans Enwerem as Senate President in 1999 against the choice of the Senate and his party (Adejumobi 2011).⁹⁴ Even when the senate impeached Enwerem and replaced him with Chuba Okadigbo, Obasanjo viewed the impeachment as an affront and masterminded the removal of Okadigbo in January 2001.⁹⁵ Okadigbo became the first high profile political actor to defect from the ruling party to join an opposition party in 2002.⁹⁶ In 2003, Obasanjo

⁹⁴ Many leading news agencies, including Pointblank News, including some members of the Senate, exposed Obasanjo's unilateral imposition of Evan Enwerem on the Senate. Refer also to "How Shagari saved Obasanjo from impeachment – Abaribe, *Todyay*, August 24, 2015.

⁹⁵ The Nigerian Senate President Chuba Okadigbo became the first casualty of Obasanjo's effort to conquer the Senate. Before he left in 2007 as the transition president, Obasanjo had single-handedly caused the removal of four Senate presidents whom he accused of being disloyal to him.

⁹⁶ Chuba described Obasanjo in his defection speech as highhanded and undemocratic, warning that Obasanjo would seek to destroy the Nigerian nascent democracy in his effort to entrench power.

was due for re-election. Because his sponsors were beginning to doubt his loyalty and sincerity, many state governors began to resist his re-election bid, making it difficult for him to secure the party ticket. Orji Uzor Kalu, the governor of Abia State, had raised objections to Obasanjo's re-election bid. He predicted that Obasanjo would seek a third term if allowed to go for a second term.⁹⁷ The majority of state governors had lost faith in Obasanjo's government and had approached the vice-president to contest the 2003 party primaries against Obasanjo, promising him their support.⁹⁸ The vice-president turned down this request and insisted on the rotational presidency as adopted by the ruling party.

In hindsight, Obasanjo already nursed a third-term ambition even before the end of his first term in office. One year into his second term, his loyalists erected campaign offices for a third term. Obasanjo denied this repeatedly, openly declaring that he would respect the two-term mandate as stipulated by the constitution (El Rufai 2012). He frequently claimed in a joking manner that his chickens were missing him in his Otta farms. By May 2004, the third-term rumors and campaign had grown

⁹⁷ In an interview with the author, Orji gave reasons why he opposed Obasanjo's re-emergence as PDP presidential candidate. Orji felt Obasanjo secretly nursed serious ambitions to entrench power. He also felt Obasanjo was going to misuse such powers as a former military man.

⁹⁸ In an interview with the author, Orji Kalu mentioned about seventeen governors who had grown weary with the way Obasanjo ran the affairs of the PDP government. Obasanjo's blatant passion for power further irritated these state governors, who unanimously agreed to nominate and support the vice-president as presidential candidate of the ruling PDP during the party's convention in 2003.

stronger as third-term loyalists began to mobilize funds for the third-term project. There were strategic replacements in the cabinet and within the ruling party, ostensibly to ease off political actors unsympathetic to the third-term agenda like the party chair, the senate president, and the defense and finance ministries. However, with Orji's exposure in 2003 of Obasanjo's intention, political actors became closely watchful of Obasanjo's moves. In June 2004, the vice president and five state governors publicized and confirmed the rumor in separate press conferences by declaring their opposition to any attempt to change the constitution in favor of third term for president Obasanjo. This raised further public dissent against the third term.⁹⁹

Between 1960 and 1999, Nigeria had experienced five failed democratic experiments. Though military adventurism was the main bane of Nigeria's democratic growth, political elites were equally culpable for the failure of previous democratic experiments (Dyson ed. 1998).¹⁰⁰ Inexperience, power lust, political intolerance, ethnic bigotry, and the entrenchment of power by the ruling party and

⁹⁹ In an interview with the author, Atiku confirmed that out of frustration, he took the decision to expose Obasanjo's third term because the president had not been sincere to him. His efforts to ask the president if he nursed third term ambition failed, as the president remained closed on the third term issue. He went public in order to avoid confrontation with an issue of which he was ignorant.

¹⁰⁰ In almost all the interviews conducted by the author, respondents mentioned the inexperience of the political class and the electorate as the factor that robbed Nigeria of its first republic. This, with other minor factors, also explains Nigeria's failure to develop a democracy prior to 1999.

elites have colluded to erode democratic values, causing the deepening of democracy in Nigeria (ibid.). It is not surprising that some political elites, having been at the forefront of the struggle against former military regimes, would rally to oppose any tendency towards civilian dictatorship. They resisted Obasanjo's attempt to entrench power from the onset of his regime. He met the stiff opposition of party members when he attempted to capture the parliament, the Senate, and the House of Representatives, despite a clear parliamentary majority by his own party. After the successful unseating of three military dictators, political elites knew that Obasanjo's perceived invincibility was unsubstantiated.¹⁰¹

Obasanjo's loyalists and legal experts knew that the actualizing of a third term would require constitutional amendments of the ruling PDP.¹⁰² The Nigerian constitution would also require an amendment, since the 1999 Nigerian constitution adopted a two term of four years for all executive positions. In 2005, Obasanjo caused the national and state administrations of the ruling party to effect some changes in their personnel by replacing all officers opposed to the third term agenda

¹⁰¹ Orji confirmed in an interview with the author that the political actors who piloted Nigeria's Fourth Republic were not ready to compromise Nigeria's democracy to any group, including the military. According to Orji, the political leaders were prepared to defend Nigeria's democracy (Ehime, December 2008).

¹⁰² PDP's constitutions had already adopted presidential term limits of two terms of four years, and a further adoption of a formula for a rotational presidency. In order for Obasanjo to go for a third term, these two constitutions required amendments.

with his loyalists. This move displaced the chair of the national party and twenty-eight out of thirty-six state chairs in the ruling party. Directed by the president, the new national party chair embarked on a revalidation exercise of party membership. He tactically de-registered all prominent opposition elites, including the vice president and many state governors, from the ruling party. By displacing these opponents, it was not difficult for Obasanjo to scale the hurdles at the party level.

In November 2005, the new party chair called a National Convention of the ruling party that adopted changed party rules to accommodate Obasanjo's third-term agenda. Obasanjo and his loyalists barred all internal dissidents from participating in the party's National Convention, including the vice president, Governor Orji Kalu, and many other state governors and legislators. Several attempts to secure court injunctions to return to status quo by the opposition elites were unsuccessful.¹⁰³

Having crossed the hurdle at the party level Obasanjo's next task was to call a national conference to recommend any amendments to the Constitution of the Federal Republic to the National Assembly, as stipulated by the Constitution. The legislature could handle minor constitutional amendments without a national Conference, but any major changes in the constitution like that regarding 'term limits' required a national conference to make a recommendation to the National Assembly.

¹⁰³ The court struck out the case brought to it against the party by the opposition elites and referred to the case as a family case.

Realizing the ominous task ahead, Obasanjo and his loyalists drafted the Deputy Senate President Ibrahim Mantu, an Obasanjo loyalist, to lead the Constitution Review Committee (CRC).¹⁰⁴ In January 2006, Obasanjo called a National Constitution Reform Conference (NCRC) with a self-made agenda from the CRC and handpicked delegates. Obasanjo was aware that leading political actors (now dissidents) were opposed to the third-term agenda and had avoided them in the composition of the delegates to the National Conference. Obasanjo had also sponsored the National Conference himself, fearing that the divided parliament would refuse to approve any funds for NCRC.

The delegates for the NCRC were to meet for two weeks. They did not have much work to do than to confirm prepared amendments to the 1999 constitution with one hundred sixteen alterations. The most sensitive and controversial clause of the proposed amendment was to increase the tenure of the president and the state governors to a three-term of four years as opposed to a two-term of four years prescribed by the 1999 Constitution (Kwaja 2006). Under pressure from state governors, President Obasanjo allowed them to benefit from the tenure amendment. The amendments would allow both the president and the governors¹⁰⁵, apart from

¹⁰⁴ The choice of the deputy senate president, a core loyalist of the president Obasanjo to chair the CRC was also to make the adoption of the recommendations easy at the parliament where Mantu was supposed to command much loyalty.

¹⁰⁵ The state governors wielded much power over the State Houses of Assembly and the national legislators from their states. Though he included the State Governors in amendment package, the

having already served two terms of four years each, to run for three more terms of four years. If the amendment passed, it would block major political positions in Nigeria until further notice. Resistance and opposition to the bill became critical, not only to 'offload' President Obasanjo, but also to leave political spaces open.

With the exception of the conference chair and secretary, all other delegates to the NCRC were Obasanjo loyalists, strategically placed to give some credibility and legitimacy to the NCRC (Usman 2012). However, the opposition elites did not waste futile energy in putting pressure on the conference delegates to reject the third-term agenda. Instead, the opposition elites brought the pressure and lobby to the two legislative houses that had the power to reject or approve the amendments. The approved recommended changes by the National Conference would have to go through to the National Assembly for ratification. Ratification required a two-third majority of both houses of National Assembly, as well as a two-third majority of the State Houses of Assembly.¹⁰⁶ Though Obasanjo's PDP had a clear majority in the legislature and twenty-nine of the thirty-six State Houses of Assembly, the two-third

majority of these governors already had grudges with president Obasanjo. Obasanjo's particular interest in including them as beneficiaries of the new amendment was to win their support for the amendment. Unfortunately, most of the governors did not trust the sincerity of president Obasanjo.

¹⁰⁶ Both the Senate and the House of Representatives would need two-thirds of their members to agree on the amendment bill. Two-thirds of the twenty-three State Houses of Assembly of the thirty-six states in Nigeria also had to agree to the changes.

majority required from all the involved components was going to be difficult to achieve without elite support.

However, by the end of February 2006, the National Constitution Review Conference (NCRC) approved Obasanjo's one hundred and sixteen amendments, overseen by Deputy Senate President Ibrahim Mantu in its entirety. In April 2006, President Olusegun Obasanjo submitted the recommendation as a bill to the National Assembly seeking hundred and sixteen amendments to the Nigerian 1999 constitution (Kwaja 2006). After two years of protracted political and constitutional crises, and following, abuse of power, intimidation, financial lobbying, and political violence, the two parliaments threw out the bill in its entirety on May 16, 2006, refusing to debate the proposed amendments (Kwaja 2006). The throwing out of the bill barely a week after its arrival shows the strength of elite dissidence and activism in influencing the outcome of the presidential term limits politics in Nigeria in 2006. Elite influence and the style adopted by both houses of Parliament ensured the death of the bill on its arrival at the parliament.

Newspaper and interview reports show that the presidential term limits politics in Nigeria in 2006 was decisive, intricate, and extensive in human costs and material resources¹⁰⁷ (Iwu 2008; 2009; Ozoh 2009). As shall be seen in the *Zambian*

¹⁰⁷ Author's interview with Professor Maurice Iwu, former chairman Independent Electoral Commission of Nigeria and Dr. Frank Ozoh, former Director, The Nigerian Electoral Institute Abuja (October 2013)

case, Obasanjo used intimidation against perceived opponents and purged his cabinet and the ruling party of all potential opponents to the third-term project. Prior to the public manifestation of the third-term agenda, key political actors who opposed the plan at its inception at the party level were either intimidated out of the party, humiliated, or reduced to persona-non-grata in the party and government. Obasanjo extended his brutal purging to active and retired top military leaders,¹⁰⁸ the vice president, and top leaders of the legislature. Senate President Adolphus Nwagbara and the chair of the ruling party, Audu Ogbe, lost their positions at the consultation level in 2005 for not showing enough support for the third-term agenda.¹⁰⁹ Other political office holders were intimidated, as in the case of Governors Orji Kalu, Ahmed Tinubu, and Boni Haruna. Obasanjo's regime went on further against a court order to seize federal allocations that accrued to Lagos and Abia States for many years because their governors were at the forefront of resistance against him.¹¹⁰ Not

¹⁰⁸ Obasanjo approved the compulsory retirement of all military personnel that held a political office. Effectively, Obasanjo purged the military of potential challengers and experienced officers.

¹⁰⁹ A personal interview shows that Obasanjo had met separately with the Party Chair and the Senate President to seek support for his third-term dream. Both officers declined their support for the third-term, reminding Obasanjo of a subsisting party memorandum of understanding that supports rotational presidency.

¹¹⁰ Orji Kalu, Ahmed Tinubu, and Boni Haruna opposed the third term. The presidency unleashed the EFCC on them, an instigated political opposition in their various states. Federal allocations to their states experienced delay, occasionally coercing them into submission.

only did Obasanjo rebuff court injunctions to secure the federal allocations, he also ignored court injunctions secured by the vice president and other dissenting political elites to stop the National Constitutional Review Conference.

Obasanjo utilized anti-corruption and state security agencies to intimidate key dissenting voices during the crisis. While key Obasanjo loyalists received funds to mobilize support among the populace. According to Chris Kwaja:

While security forces have made it a priority to arrest those opposed to the Third Term Agenda, the rabid supporters of tenure extension for Obasanjo are having a field day. So far, the supporters have spent close to \$3 million on their "Vote for Greatness, Vote for Tenure Extension" newspaper campaign on behalf of the President" (2006).

In the run-up to the constitutional amendment debates in National Assembly Obasanjo's loyalists used state agents to intimidate opponents both at the national and state levels. In the cities of Ibadan and Katsina, police assaulted and drove away opposition elites who attended the conference (Usman 2012). On the National level, for instance, the participation of all known third-term opponents in the National Conference (CRC) was barred. The president selected all delegates to the Constitution Review Committee from the pro-third-term group (Usman 2012).

The CRC refused to entertain any submissions coming from the elite dissenting groups, demonstrating a clear abuse of power.¹¹¹ The Conference delegates argued that the conference would consider a proposed constitutional amendment coming from the NCRC without debate over other options. The delegates reserved further debates for National Assembly, hoping to secure an easy passage of the bill at the parliament. Thus, instead of dissipating energy at the CRC, the dissenting political elites shifted their resistance to the National Assembly, thereby turning the parliament into a platform for elite activism and resistance.¹¹²

While some dissenting political elites described the composition of the NCRC as illegal, petitioning the courts to stop the proceedings, some civil society organizations demonstrated both in favor and against the proposed amendment.¹¹³ The campaign against the third term and the intimidation of political insiders caused the fracturing of the ruling party and resulted in the formation of a broad coalition of

¹¹¹ Though the National Conference preparatory group visited the six geopolitical zones to seek intervention from the populace, the group considered little input. The executive had already prepared versions of the new constitution, which were smuggled into the National Conference.

¹¹² More than seventy percent of interviewed political elites acknowledged that the National Conference denied them any forum, since it was insulated and tele-guided. The best option for them was to mobilize at the national assembly, which offered the best possibilities to defeat the third term because of its neutrality.

¹¹³ There were an equal number of CSOs on both sides, depending on who mobilized and financed them.

political elites against the third term. Unlike in Zambia, where intimidated party members immediately defected and formed the oppositional Forum for Democracy, the core opponents of third term in the Nigerian case refused to leave the party and fought internally until the third term was defeated.¹¹⁴

By challenging Obasanjo's third-term agenda at the courts, the opposition elites tested the legitimacy and independence of the courts to deliver popular judgments (Armstrong 2010; Campbell 2011). For instance, between 2005 and May 2006, the coalition of opposition elites inundated the courts with more than thirty cases bordering on constitutional interpretation and implication of Obasanjo's third term.¹¹⁵ Some have interpreted that the barrage of court cases was strategic, aimed at conjuring sympathy and sentiment for the dissenting elites and at seeking protection through the courts.¹¹⁶ Although Obasanjo had performed creditably on economic

¹¹⁴ For instance, the vice president and twelve state governors, including thirty-two senators, defected after they confirmed the defeat of the third-term agenda. They coalesced with opponents from other parties and provided the necessary intelligence and funds to defeat the anti-third-term project.

¹¹⁵ Newspaper reports and case files at the Federal High Court, the Appeal, and Supreme courts had court cases and proceedings that named Atiku, Orji, Dariye, Haruna, and Tinubu Nwagbara, as opposing Obasanjo, the PDP, or the Federal Government.

¹¹⁶ A personal interview with Orji Uzor Kalu confirmed the role of the courts in providing protection to the opposition elites and arousing sympathy among the masses.

reforms and political stabilization during his first term,¹¹⁷ his third-term agenda had eroded these credits and pitched him against many former core supporters and loyalists. Unlike the Zambian case, which demonstrated a confluence of forces ranging from the elites to other small sources that pressured Chiluba to retirement, the Nigerian case shows an arrogant President that had no regard for exogenous, temporal, and institutional prohibitions. It took a strongly rooted elite resistance to pressure Obasanjo into term limits compliance.

4.2 Pressures

I begin this sub-topic with the hypothesis that pressures from the political elite represent the central variable shaping the term limits compliant outcome in Nigeria in 2006. However, I will examine various pressures that converged and thus, contributed indirectly to the term limits compliance outcome in Nigeria. These include political elite, institutional, Civil Society and International pressures. I will analyze these pressures on their merit to consider the extent to which each particular pressure contributed to the compliance outcome in Nigeria.

¹¹⁷ Obasanjo prided himself for assembling the best economic team and for presiding over an economy that grew at 6.5% per annum. This raised his profile locally and internationally.

4.2.1 Political Elite Pressure: Resistance and Activism

Political resistance within the ruling party against Obasanjo's attempt to entrench power began during the transition period. The composition of the party and the prominence given to particular political actors who contributed immensely towards its formation provided an opportunity to balance the power of the president. For instance, heavy elite opposition within the ruling party confronted Obasanjo's second term re-election. In 2003, Governor Orji Kalu spearheaded the attempt to scuttle Obasanjo's re-emergence as PDP's presidential candidate for a second tenure. Orji Kalu conspired with twenty-four other state governors to move against the Obasanjo candidacy by convincing the vice president to withdraw his support for Obasanjo.¹¹⁸

Three reasons apparently motivated this factional group to 'abandon' Obasanjo in 2003.¹¹⁹ Firstly, those who drafted Obasanjo into the presidential race in 1999 (including Vice President Atiku Abubakar, Ibrahim Babainda, and Orji Kalu) had secured an understanding from Obasanjo that he would go for one term to stabilize the divided Nigerian polity, and then give way to younger politicians.

¹¹⁸ Author's interview with Emeka Duru, former Director of Research and Planning of the ruling party (PDP). Abuja. November 2013

¹¹⁹ In an interview with the author, Orji Kalu enumerated the various reasons why it became important to stop Obasanjo's second term bid. Obasanjo's attempt to amend the constitution only confirmed his anticipation that Obasanjo would pursue a second term against earlier agreement.

Secondly, Obasanjo's adoption in 1999 was to placate the southwestern Yoruba tribe for the annulment of 1992 presidential election allegedly won by a Yoruba, Moshood Abiola. Obasanjo's one term as a president would have healed the wounds inflicted on the Yoruba's by that annulment. Thirdly, Obasanjo's apparent dictatorial and autocratic tendencies gave the impression that Obasanjo would not stop at second term if allowed to go on.¹²⁰

The factional group requested Vice President Atiku Abubakar to consider coming into the presidential race to replace Obasanjo. If Obasanjo would insist on running, the group planned to disgrace him at the party primaries by supporting the vice president. However, Atiku refused the request, insisting on the party's constitution, which had rotated the presidency to the South for two terms.¹²¹ Vice President Atiku Abubakar insisted that if the governors did not want to support Obasanjo's candidacy, they should shop for another candidate from the South while retaining his position as vice president. It was not difficult for the governors to persuade a former vice president, Alex Ekwueme, whom they quickly drafted into the

¹²⁰ Cf. Orji Kalu's interview with Ozioma Ubabuko, *Punch Newspaper*, Enugu, 11 March 2014. This reflected Orji Kalu's particular fear, which he voiced in January 2003 at the PDP's presidential primaries. In an interview with the author, he maintained the following motivation behind his opposition to Obasanjo: Obasanjo was going to behave like other African life presidents.

¹²¹ Atiku repeatedly alluded to his respect for the zoning formula as a democratic interest. He saw his rejection of the call to become a president in 2003 as a commitment to grow democracy in Nigeria and to respect the rules guiding democracy.

presidential context. With assurances from the governors, Alex Ekwueme became a strong candidate to compete for the presidential ticket of the ruling party.

A nervous Obasanjo, lacking a political base, knew the danger ahead. It became apparent on the eve of the party's presidential primaries that victory would go to former vice president Alex Ekwueme. All the PDM governors who controlled about seventy-five percent of the delegates to the ruling party's presidential primaries planned to vote against President Obasanjo in favor of Ekwueme. The only strategy open to Obasanjo was to approach the vice president and negotiate with him, which he did.¹²² The negotiation between the two probably influenced the intervention of the vice president, which led to a change in decision by state governors to support President Obasanjo's second-term bid. Governor Orji Uzor Kalu of Abia State who had raised initial doubts and fears about Obasanjo's sincerity on presidential term limits, refused to support Obasanjo's second term, despite the said reconciliation and negotiation.¹²³ Prominent members of the ruling party maintained that the events

¹²² In the company of the chair of the Board of Trustees, and the National Chair of the party, Obasanjo had approached Atiku and reached a negotiation with him. They agreed that if Atiku could convince the governors to support Obasanjo's emergence in his second-term bid, Obasanjo would assist Atiku to succeed him in 2007.

¹²³ The record of the presidential primaries of the ruling party in 2003 shows that Governors Orji Kalu and Joshua Dariye of Plateau States were the only governors who withdrew their support for Obasanjo in favor of Alex Ekwueme

surrounding the PDP's primaries of 2003 were politically strategic for both the vice president and Orji Kalu.¹²⁴

After his emergence as the presidential candidate of the ruling party and his eventual victory at the polls for a second term in office, however, Obasanjo quickly turned the table against prominent party members, including the vice president and his loyalists. After his re-election, Obasanjo moved to 'conquer' the ruling party in order to establish his authority. He systematically withdrew the positions Atiku Abubakar had enjoyed as vice president and leader of the ruling party. Neither was Governor Orji Kalu exempt from the witch-hunt to punish both known and imaginary internal enemies in the ruling party. Obasanjo began consultations for his third-term bid as early as 2004, though he openly denied it. Once again, Governor Orji Kalu became the first to confront President Obasanjo directly on the third-term issue in a party executive meeting in August 2004. Orji asked Obasanjo to declare his intention on third-term rumors. Obasanjo again denied any third term dream and intention to amend the constitution (El Rufai 2012).

However, the vice president did not make his stand on the third term issue known until May 2005, when it became clear that Obasanjo was sponsoring a motion

¹²⁴ In an interview with the author, Emeka Duru, former Director of Research and Planning of the ruling party and a delegate to the party's presidential primaries in 2003, claimed that Orji and some governors carried out the moral coup against Obasanjo in order to re-establish their strength and indispensability within the party as political "godfathers" (October 2013).

to repeal term limits in Nigeria. While the position of the vice president remained silent, Obasanjo enjoyed a free political ride in the ruling party. From interview reports, the position of the vice president within the struggle was to become most significant.¹²⁵ Atiku's open declaration in May 2005 against Obasanjo's third term provided the platform for other political actors to place pressure on the president. As Emeka Duru indicated in an interview with the author, "Many state governors and legislators rallied round the vice president and together with him, it became easy to mobilize funds, the civil society, the media, and a section of the masses against Obasanjo's third term."¹²⁶

Most political actors and the masses seemed to trust the vice president more than they trusted President Obasanjo. Because the third-term bill was also not on ruling party's agenda the president's popularity also declined among his party members. President Obasanjo probably knew that as most office holders were loyal to the vice president, the third-term project would not garner much support. The Senate president and the speaker of the House of Representatives were supporters of

¹²⁵ Author's interviews with Professors Toyin Falola, Oyejishile, and Dr. Frank Ozoh confirmed this position differently. The former U.S. Ambassador to Nigeria, John Campbell confirms that Atiku's involvement and his position against the third term agenda became a rallying point for the political elites and other stakeholders to galvanize more support against the third term (Campbell 2011).

¹²⁶ Author's interview with Emeka Duru, former Director of Research and Planning for the ruling party in Abuja, October 2013.

the vice president and indicated less interest in the tenure elongation project.¹²⁷ It also appeared that the majority of the governors were averse to the third term, having immediately supported the vice president.¹²⁸

The replacement of Audo Ogbe, a major supporter and ally of the vice president as the chair of the ruling party, with Ahmadu Ali, Obasanjo's former colleague in the military, was strategic. The refurbished ruling party was to fulfill Obasanjo's bidding. Next, Obasanjo dismissed the Senate president Adolphus Nwagabara on corruption allegation charges (*The Sun* 14 April 2006). Though President Obasanjo was quick to influence the selection of his core loyalist, Ahmadu Ali, to replace Audo Ogbe as party Chair, it became difficult for him to act accordingly in the Senate. Senators loyal to the vice president blocked Obasanjo's move to install his loyalist as Senate president (Usman 2012).¹²⁹ On May 29, 2005, the Nigerian Democracy Day, the vice president and twelve state governors issued separate and coordinated messages condemning and disassociating themselves from Obasanjo's plan to amend the constitution for his third-term dream (*The Sun* May 30,

¹²⁷ Ibid.

¹²⁸ Ibid.

¹²⁹ In an interview with the author, Adolph Nwagabara and Ken Nnamani, former senate presidents confirmed this position.

2005). As some analysts noted, the vice president made this to raise a strong public opinion against Obasanjo's third term (Ibrahim 2006).¹³⁰

The position and involvement of Vice President Atiku Abubakar and Governor Orji Kalu against President Obasanjo's third term re-enforced elite activism and dissidence against Obasanjo's third term, further raising the cost of repression for the president. Ayo Makinde has described the challenge from the vice president as fearless and resolute for fighting the removal of presidential term limit:

...the resolute decision of Vice President Atiku Abubakar to ally himself with the aspirations of Nigerians for a genuine democratic order that guarantees a level playing field and encourages due process gave the opponents of the obnoxious third-term agenda a shot in the arm. At a time when there was anxiety about the crumbling spirit of the opposition, the historic decision of the Vice President to join the fray on the side of the people against despotic forces became a clear demonstration that he was not a coward. His loyalty to the President and sacrifices for the success of Obasanjo's regime, despite ingratitude and humiliation, was once mistaken for weakness, irresolution, and cowardice (2006).

¹³⁰ Though the masses did not initially engage directly in any activity or protest to express their disaffection against the third-term rumor, the vice president and the dissenting political elites capitalized on an 'assumed' public opinion against the third term to launch multi-faceted campaign against Obasanjo and his third term.

The position of the vice president represented the interest of the marginalized majority of the population, as well as the wishes of the founding fathers of the ruling party to instigate a rotational presidency. The vice president created a platform for these groups by taking a decisive position against the amendment of the constitution to allow a third-term for Obasanjo.

Dr. Frank Ozoh, a former director of the Nigerian Electoral Institute, insisted in an interview with the author that, “Obasanjo’s third term probably would have succeeded if the vice president had played along.”¹³¹ According to Ozoh, Atiku’s popularity, his wealth, his antecedent as a pro-democracy activist, and his followership in the ruling party were great assets that Obasanjo needed to secure the constitution amendment.¹³²

For instance, while the government sponsored visits of the National Conference and Reform Committee (NCRC) to the six geo-political zones of Nigeria to canvas support for the constitutional amendment, the dissident political elites planned

¹³¹ In the same in interview with the author, Dr. Frank Ozoh summarized his speech saying, “You can write whatever you want, but Vice President Atiku Abubakar destroyed every chance of success for the amendment bill. He had strong loyalty in the ruling party, he had enormous financial resources, and he supplied and doubled the amount delivered to the MPs by the president.”

¹³² Author’s interview with Dr. Frank Ozoh, former Director of the Nigerian Electoral Institute. Abuja. October 2013. Also confirmed in another interview with Professor Toyin Falola, Pilsen, Czech Republic. May 2014.

parallel visits to the thirty-six federating states to counter the move to amend the constitution for tenure extension. In each of these states, an anti-third term rally took place, aimed at sensitizing the masses and civil society against the ‘evil intention’ of third-term project (Makinde 2006; Usman 2012).¹³³

There was a strong opinion among the press that such rallies promoted and sustained anti-third term sentiments among the populace (Oladele 2006; Ojo 2013; Suka 2013). Newspaper reports show that between 2005 and May 2006, the vice president held more than one hundred separate meetings with the core anti-third term groups, which he founded and sponsored. Furthermore, the vice president utilized every available opportunity to cajole Obasanjo’s attempt to change the constitution and invite every stakeholder to reject it. The vice president addressed private media institutions about thirty more times, granted forty-two interviews, addressed members of the National Assembly in twelve press conferences, and led about forty popular protests against the third-term amendment bill. In so doing, Atiku secured a comfortable place among major democratic stakeholders and forced third-term loyalists to adopt a defensive approach towards the amendment bill by painting President Obasanjo as a dictator.

¹³³ The greatest attack on the third term agenda was perhaps the ability of the opposition group led by the vice president to organize parallel rallies against the third term. The strategy to bring the rally to the grassroots level appeared successful by clearing the impression propagated by the state-controlled media that the third term would stimulate and stabilize the Nigerian democracy and economy.

For instance, in each of the meetings and press conferences where the vice president spoke, he boasted: "I and fellow democrats are out to kill and bury the third term agenda as we chased *{sic}* the military out of power."¹³⁴ Strategically, the meetings and press conferences produced results. Many NGOs, media outlets, the masses, and prominent political elites identified with Atiku's resistance.¹³⁵ According to Makinde, "Atiku's resolve to participate in the meetings of anti-third term lawmakers and leading democratic voices across the country and worldwide, tremendously raised the spirit of those struggling to save our democracy from the lion's mouth of brazen dictatorship clothed in the cloak of democracy" (2006). Atiku's address to the media on January 17, 2006 demonstrated Atiku's resilience and resistance:

The promise of democracy is not just fulfilled by keeping the military out of political governance; the promise of democracy requires protection of people's rights and freedom. A real democracy is one that promotes the wishes and aspirations of the people, one that promotes governing through

¹³⁴ In all his speeches against third term, the vice president invited his audience to reject and kill Obasanjo's third term and be on the right side of history. This gave rise to a popular slogan against third term: "Kill third term and be on the right side of history!"

¹³⁵ Professor Falola agrees that Atiku's appeal and closeness to the media and civil society became a major blow to the third-term dream of Obasanjo, not only by letting the cat out of the bag, but also by providing alternative information to the public on the third-term issue.

consensus and conciliation as opposed to ruling unilaterally and one that ensures that the will of the few cannot trample the majority. Protection of people's right to change their leaders or representatives remains an important pillar of democracy. A third-term bid is in direct contradiction to maintaining those values and those components of our democracy. We cannot rest until we defeat third term (Makinde 2006).

When speaking to anti-third term MPs at the National Assembly in Abuja in March 2006, the vice president recalled his interview with the newspaper *This Day* in 2005, in which he had hinted of a "hidden third term agenda." The vice president also recalled his persistent warning that the president was hijacking the ruling party to actualize his third-term agenda. Judging other countries with Nigeria, the vice president lamented "countries such as Ghana, Benin, Tanzania, Niger Republic, and Mali," were "stealing the spotlight from Nigeria in terms of genuine and credible democratic order, while the president of Nigeria was busy conquering his party to achieve his dream to become life president."

On April 12, 2006, Vice President Atiku Abubakar addressed anti-third term protesters at Yola International Airport Adamawa and boasted that he would fight to the last to ensure that democracy survived in Nigeria by not allowing the third-term agenda to pass through the National Assembly. The vice president argued at the same rally that if allowed to succeed, the removal of presidential term limits would implement the life presidency in Nigeria, which is contrary to democratic

consolidation and leadership alternation. He insisted that Nigerians never bargained for lawlessness and a life president at the inception of the Obasanjo's administration. His choice of words and invitation to those who had labored for Nigerian democracy to join hands with him to rescue it from dictatorship drew not only retired elites, but also students and unemployed youth into the struggle against the repealing of term limits in Nigeria.

At the same venue in Yola, Atiku said, "I appeal to 'fellow compatriots' and all those who stood firm against the military to come out again and defend our democracy. I appeal to the members of the National Assembly, especially those who seemed to be showing sympathy towards Obasanjo's scheming to impose life presidency in Nigeria to retrace their steps and join the 'right side of history.'" Atiku's message kindled hope as many party members and government functionaries were afraid to demonstrate their opposition to the president but really did not believe in the third-term project. According to Emeka Duru, many young politicians supported the vice president based on his and other governors' claim that Obasanjo's third term could be defeated.¹³⁶

Defending his stance against the removal of presidential term limits, the vice president argued that, if allowed, the third term bill would further erode the little progress made in Nigeria's democracy at a time when many countries, both

¹³⁶ Author's interview with Emeka Duru, former Director of Research and Planning of the People's Democratic Party

developed and developing, were attempting to internalize the permanent tenets of democracy (Makinde 2006).

Furthermore, the vice president's tacit support for constitutionalism boosted the confidence of other dissenting elites in mobilizing an overwhelming opposition in the Senate to "kill"¹³⁷ the amendment bill. The vice president was the first to cheer the apparent defeat of third-term agenda as soon as initial debates on the amendment bill commenced in the parliaments: "Today, we definitely know that the third-term agenda is dead. We have mobilized enough votes to kill the third term agenda and it is also a blessing for Nigerians" (*Punch* 5 May 2006).

Governor of Abia State, Orji Kalu, declared the third agenda dead in the same venue, and challenged all democrats to stand up and "be counted." Orji spoke with full assurance over the imminent defeat of Obasanjo's third term. He produced a photograph of senators who were allegedly "collecting money" to vote in favor of the third term, declaring that he would soon prove that the president had bribed them with Fifty Million Naira (US\$350,000).¹³⁸ All the speakers at the rally boasted of

¹³⁷ The anti-third term elite dissidents and the media regularly employed the word "kill" to emphasize the defeat of the third-term amendment bill.

¹³⁸ In an interview with the author, Emeka Duru revealed that the threat by Orji Kalu to expose the bribery incident within the parliament was strategic because the threat to reveal the identity of senators who received money to back the third term may have put pressure on many legislators to withdraw their support for the amendment bill

their intent to kill the term third-term agenda in the parliament. They expressed shock that an elected president would insist on staying in office in defiance of the constitution. Gambo Jimeta, a former Senate leader, said,

We must defeat the third term and can begin to celebrate because we have acquired the required number to defeat dictatorship through the National Assembly. A situation where the president is prepared to set apart brazenly all the rules of the land in order to elongate his tenure is not acceptable. We must send him packing. And now that we are sure that we have defeated third term agenda, all democrats must stand up and be counted (ibid.).

The vice president's public rejection of Obasanjo's third term also influenced and motivated various sectors to take a firm position against the amendment bill. Consequently, the number of MPs disposed to the amendment bill decreased daily, while both Atiku and Kalu continued to pressurize particular MPs against the bill.¹³⁹ Since the presidency had strategically avoided the involvement of the masses by ruling out any possibility for a referendum, the parliament became the decisive destination of the political battle. As I will explain later, a fierce battle took place for

¹³⁹ Several senators interviewed for the purpose of this study confirmed that initially, the number of MPs willing to allow the passage of the third-term bill were in the majority, a factor that probably boosted Obasanjo's confidence to submit the amendment bill to the parliament. I shall elaborate further on this point when I discuss the pressures that stemmed from the parliament, the judiciary, political parties, and civil society.

the soul of the parliament. The president and his loyalists were on one side, while the vice president and his loyalists were on the other.

Popularity, political experience, loyalty, connection, and the size of slush cash (for lobbying) were decisive factors in the outcome of the amendment bill in the parliament. Political entreaties from both sides turned the parliament into a platform for lobby and resistance. The vice president and his loyalists saw the parliament as the *terminus ad quem* of the amendment bill. They intended to “marshal out” every means to “kill” the third term in the parliament, including making use of “undemocratic means.” After failing to stop Obasanjo at the party and National Conference levels, elite political activists shifted to the National Assembly for lobbying. As mentioned already, the vice president addressed the Parliament about the need to reject the third-term bill on twelve different occasions. Governors Orji Kalu, Boni Haruna, and several other governors opposed to the third-term bill also scheduled and sponsored several meetings with parliamentarians from their federating states with the aim of convincing them to reject the third term bill.¹⁴⁰ The vice president and Governors Orji Kalu and Boni Haruna personally lobbied and

¹⁴⁰ In an interview with Orji Uzo Kalu of Abia State, Orji confirmed that the anti-third term governors agreed in a meeting to work around the clock in order to convince members of the National Assembly from their various states to reject Obasanjo’s third term.

convinced some MPs from various political parties to reject the third-term amendment bill.¹⁴¹

As I will discuss later in this chapter, elite activism to protect term limits in Nigeria influenced and pressured the judiciary into action. The duo of Atiku Abubakar and Orji Kalu challenged the credibility of the courts with thirty-six court cases. Furthermore, prominent party members ignored during the National Convention of the ruling party in 2005 challenged the legality, composition, and outcome of the convention in several courts, appealing it to the Supreme Court.

Initially, the courts appeared restrained to entertain the cases, describing them as a party affair. However, the vice president and some state governors placed pressure on the courts, and five separate mass protests against the judiciary followed in 2005 and 2006. This pressure and the mass protests forced the courts to entertain and deliver judgments on most of the pending court cases, the outcome of which was often in favor of the dissidents.

An example of one case challenged the legality of the National Constitution Review Conference (NCRC), convened to back the third-term amendment bill. Elite pressure on the courts radically forced the courts to deliver an independent judgement against the NCRC, referring to its process and composition as “unconstitutional.”¹⁴²

¹⁴¹ Author's interviews with some individual political elites, civil society, and media personnel disclosed the influence of the leadership and personal lobby of the vice president and state governors.

¹⁴² Refer to the presentation of Ibrahim Gambari, “The Challenges of Nations Building: the Case of Nigeria”

The vice president and other dissenting elites had already petitioned the courts to challenge the legality, the process, and the composition of the conference to render it invalid. Though President Obasanjo pressed on to conduct the NCRC without respecting the court injunctions, the anti-third term elites were emboldened by the apparent support coming from the judiciary.¹⁴³

Several other leading political elites worked hard from behind the scenes to kill the third-term amendment bill in Nigeria. For instance, former presidents Ibrahim Babaginda and Muhammadu Buhari used their extensive connections, political loyalties, and wealth to influence the outcome of the bill (Campbell 2011). The Senate president at the time, Ken Nnamani, provided particularly fertile ground for dissenting elites to operate unhindered within the Senate, though they generated the impression of working on a level playing ground and in parliament neutrality (Usman 2012; Campbell 2011). Although the senate president repeatedly claimed neutrality, his colleagues and analysts claim that his closeness to the vice president influenced the senate leadership decision to adopt legislative strategies that favored ‘dissident’ political actors during the amendment bill debates. As a member of the ruling party and the third in the hierarchy of government, the Senate president was keenly aware

delivered on February 7, 2008.

¹⁴³ I shall elaborate on the issue of judicial projection in the section on judicial mobilization and pressures.

of Obasanjo's determination to see the amendment bill passed.¹⁴⁴ During the debate, Nnamani was instrumental in protecting the MPs from presidential intimidation. This enabled their sense of freedom and individual discretion during the amendment debate.

In response to the efforts of the vice president, some prominent cabinet members of the ruling party silently worked against the third-term bill, apparently recognizing the hopelessness of Obasanjo's misadventure. Former ministers Liyel Imoke and El-Rufai withdrew their confidence in the third-term and chose to work against the bill, while outwardly feigning sympathy to Obasanjo.¹⁴⁵ Political defiance and pressure from the vice president and his loyalists surprised the PDP hierarchy, presidency, and Obasanjo himself when they matched Obasanjo's onslaught with equal resistance. On May 14, 2006, two days prior to the defeat of the third-term bill, the vice president challenged Obasanjo's invincibility and the success of the third term bill in a pre-emptive victory speech, saying: "When I start speaking, you will know more."

¹⁴⁴ He confirmed that Obasanjo informed him about the agenda shortly after he became the Senate president: "Immediately, I became Senate President, he told me of his intentions and told me how he wanted to achieve it. I did not initially take him serious until event began to unfold."

¹⁴⁵ El Rufai has given an account of how he worked secretly against the third term by working closely with the Speaker of House of Representatives and other cabinet members to ensure the failure of the third-term bill.

Like Orji Kalu and other founding fathers of the ruling party, the vice president apologized for his part in the negotiations that installed Obasanjo in 1999 and 2003. While acknowledging this error, which Obasanjo himself confirmed through his intended violation of the Nigerian constitution, Atiku promised to right the wrong by leading the struggle to enthrone constitutionalism. The final speech by the vice president before the defeat of President Obasanjo's third-term amendment bill was strategic. It moved various sections of the populace,¹⁴⁶ eliminated any remaining relevance and credibility Obasanjo had as a democrat,¹⁴⁷ and laid the foundation for the defeat of the bill.

The dissenting elites may have realized that the best way to defeat power entrenchment and create room for leadership alternation was to stop Obasanjo at the elite level. Since all incumbent presidents who had repealed presidential term limits went on to win subsequent elections, the entrustment of Nigeria's democracy to the electorate was risky at the time. Judging from the weak nature of the Nigerian electorate and institutions, Obasanjo was fully capable of manipulating elections to his advantage. Since the electorate was ill equipped to stop Obasanjo at the polls, the best option for democracy in Nigeria was in collaborative elite activism aimed at defeating his third-term attempt and effectively creating an open-seat contest in 2007.

¹⁴⁶ Author's interview with Professor Falola, Pilzen Czech Republic. May 2014.

¹⁴⁷ Author's interview with Emeka Duru, former Director of Research and Planning of the Ruling PDP. Abuja Nigeria. October 2013.

Paradoxically, the dissenting elites sometimes employed undemocratic approaches and the strategy of counter-financial inducement in resisting the third term.¹⁴⁸ However, the undemocratic actions apparently produced democratic results. They forced compliance onto Obasanjo, created an open seat contest, and ensured power alternation. Nigeria would have relinquished these three democratic values had Obasanjo succeeded in entrenching state power.

4.2.2 The Institutions

Elite mobilization of the institutions occurred in Nigerian through three channels. These major channels were the judiciary, parliament and political party. I shall show that these various institutions did not set out and were not equipped to protect constitutionalism. Instead, some political elites particularly utilized these institutions to mobilize pressures against president Obasanjo.

4.2.2.1 The Judiciary

The Judiciary is an important tenet of democracy. Its independence represents a sign of thriving and consolidated democracy (Schedler 1998; Bratton 1998; O'Donnell 1998; Villalon et al 2005; Armstrong 2010; Maltz 2007). By 2006, Nigeria did not qualify as a consolidating democracy (Freedom House 2006; Polity IV 2007)

¹⁴⁸ I shall elaborate on this point later in this chapter

The judiciary and other arms of government have yet to enjoy the level of independence corresponding to a consolidating democracy. Both Freedom House and Polity IV rated Nigeria's democracy as partly free (Freedom House 2006; Polity IV 2007). However, some political elites were able to mobilize the judiciary during the third-term controversy in Nigeria as a channel to express their grievance and further raise the cost of repression for Obasanjo's regime. The dissenting elites used the judiciary strategically as a protective shield against intimidation and executive abuse. They tested the judiciary by challenging the credibility of the courts and the ability of judicial officers to deliver independent judgments.

Prior to the third term debate, the Nigerian courts exercised little credibility. They had cultivated an unpopular reputation of delivering favorable judgements to the highest bidder (Nwabuzor 2004). Between 1999 and 2005, a culture of bribery and corruption among the judges had apparently influenced many high-profile political cases and eroded the credibility of the courts (Oko 2011; Iwu 2008, 2009). The popular saying, "the court is the last hope of the common man" lost its relevance in Nigeria between 2003 and 2006 (Usman 2012).

Many Nigerian judges had 'bastardized' the judicial processes and handed favorable judgments to the highest bidder (Usman 2012; Vanguard 8, 2003). Judicial abuse reached its apogee in a legal battle concerning the contested 2003 presidential election between President Obasanjo and opposition presidential candidate, General Muhamabdu Buhari. After the 2003 general elections, the Nigerian president

influenced judges to delay the judgement tactically for four years in court (*EU Election Observation Report 2007*; Nwabuzor 2004). The ruling party and President Obasanjo, who had rigged the 2003 presidential elections, would have lost the tribunal case had the judges delivered a prompt judgement (*ibid.*). After four years of delay, the Supreme Court judges delivered an “unpopular” and “unenforceable” judgement in favor of the opposition candidate. The Supreme Court, nevertheless, asked President Obasanjo to continue as president since an alternation less than one year prior to the end of the tenure would have instigated a constitutional crisis for Nigerian democracy.

The above Supreme Court judgement, judicial delays, the regular dismissal of court cases, and other unpopular judgements concerning the rigged elections of state governors made the judiciary very unpopular.¹⁴⁹ Protests against the courts and the courts’ dwindling credibility among the masses prompted the Minister of Justice to introduce judicial reforms in 2005 to improve judicial credibility in Nigeria (Azinge 2012).

Obasanjo himself boasted a record of reckless disobedience of court orders. In 2004, he refused to obey a court order that reinstated Governor Joshua Dariye, an impeached governor of Plateau state. In the same year, he disobeyed court orders directing the federal government to pay all seized allocations accruing to Lagos and

¹⁴⁹ Eight protests took place between 2003 and 2005 against court judgments and decisions.

Abia States. In 2003, Obasanjo ordered the closure of the Savannah Bank.¹⁵⁰ He also ordered the withdrawal of the business license of Slok Air and Shipping Lines, belonging to Orji Kalu. Kalu was the governor of Abia State and a prominent member of the anti-third term group. President Obasanjo refused to honor three separate injunctions given by different courts to release the above assets. He also intimidated judges by forcing some judges to retire for delivering unfavourable judgments against the government or the ruling party.¹⁵¹ During the third-term politics, many still considered the judiciary as an extension of the presidency (Usman 2012; *Nigerian Voice* 2012).

As mentioned above, an independent judiciary is "the last hope of common man." Should the judiciary present itself as a dependent and ineffective institution, however, people will take the law into their own hands. They will seek justice through protest or violence when the court presents itself as an illegitimate and nonviable platform.

The breakdown of the nascent democracy in Congo-Brazzaville in 1997; Madagascar in 1998; and in Benin, Niger, and Kenya in 2007 occurred because aggrieved political actors lost confidence in the judiciary (Obi 2007; Villalon 2007;

¹⁵⁰ There allegations that ordered the closure of Savannah bank because Jim Nwobodo, a senator and stakeholder in the bank had intended to contest against Obasanjo him in the presidential elections.

¹⁵¹ Many argue that the sack of many high profile judges including Ayo Salami was because such judges pronounced unfavorable judgments to the ruling powers.

Diamond 2015). The aggrieved political actors resorted to violence and the ‘law of the streets’ to express their frustration, because the legal institutions were not independent.¹⁵²

The Nigerian political crisis of the third-term amendment bill in 2006 took a different shape. The dissenting actors faced state persecution and intimidation because of their position against the third term amendment bill. The dissenting elites may have recognized the counter-productivity of resorting to violence, especially in a developing country where the president possesses unrestrained power. For protection, Vice President Atiku Abubakar and other political elites chose to seek redress through the courts. By doing so, they strategically shunned violence and the ‘law of the street’ as political strategies. Before the third-term controversy climaxed in 2006, the courts visibly tilted towards the presidency. However, as the third-term controversy witnessed an increasing degree of political intimidation and victimization, the elite political dissidents pressured the judiciary for protection. The pressure on the judiciary finally forced the court to transform into the ‘hope for the common man.’¹⁵³

In 2005, when members of the ruling party approached the court to intervene on their forced dismissal from the party, the court initially refused a hearing on their

¹⁵² This was the case in Nigeria in 1965, 1983, and 1993.

¹⁵³ Most political elites who received favorable legal outcomes from the courts referred to the courts as the “last hope of common man.”

case, describing it as a party affair. In the same year, the court responded with levity to more complaints brought by members of the ruling party concerning the “illegal party convention” organized by Obasanjo to legitimize his third-term agenda. Again, the court referred to the case as “family matter.”¹⁵⁴

In 2006, however, a High Court in Abuja granted an injunction to stop the National Political Reform Conference organized by Obasanjo to give legal backing to the third-term amendment bill. Though Obasanjo ignored the injunction and held the National Conference, the court ruling instilled confidence in elite political dissidents. This ruling confirmed public sentiment, as the masses already viewed Obasanjo as pursuing an illegal mandate and did not take him seriously.

On the other hand, the court decision provided the vice president and his anti-third term loyalists with needed relief. Consequently, they used the judgment as a weapon to break the remainder of Obasanjo’s grip in the parliament, the judiciary, and the ruling party. Obasanjo’s choice to conduct the NCRC in disregard of the judicial ruling further equipped the elite political dissidents to approach the courts and nullify the Conference Report.

Having noticed the likely failure of the amendment bill and the corresponding role of the vice president, the ruling party and the presidency made a last effort in May 2006 to break the resolve of the vice president. The president and the ruling

¹⁵⁴ “Family matter” is Nigerian jargon synonymous with illegality.

party attempted to revoke Atiku Abubakar's position as the vice president of Nigeria. Atiku Abubakar needed his immunity as vice president for both protection and loyalty. However, to get Atiku Abubakar and reduce his political influence, the president needed to strip him of his function. The president saw this chance in 2006 when the vice president and most of his loyalists revived their political association within the ruling party, to sustain political pressure against Obasanjo. Without seeking any court injunction, the president used Atiku Abubakar's association with the PDM as a ploy to divest him of his status as vice president, using anti-party activities as an excuse. However, the Supreme Court ruled that Atiku could retain the vice presidency even if he chose to be in a different party.

Many analysts believe that the favorable judgment for the vice president was consequential to the previous judgment on the National Constitutional Reform Conference, without which the ruling to salvage his vice presidency may not have been possible. The judgment served two purposes. On the one hand, it was a clear case of judicial protection. The vice president's immunity protected him and his followers from humiliation from the president. A withdrawal of such immunity would have exposed him to violence and more intimidation. Secondly, the court probably recognized the importance of the vice president for the struggle against the removal of term limits in Nigeria. Demoting the leader of the dissenting elites would have ended the struggle or instigated anarchy in the presidential term limits controversy.

After the success of two court cases, the elite political dissidents were probably emboldened to challenge many presidential decisions, even where they did not directly involve the amendment bill. Apart from the vice president, Governors Tinubu, Haruna, Dariye, and Kalu each challenged Obasanjo's and the ruling party's policies in court on more than six occasions. In fifty percent of these cases, the court granted a swift hearing and favorable judgments to the opponents. In cases where the Economic and Financial Crimes Commission (EFCC) had filed corruption charges, the three dissident governors received interim injunctions that placed the charges on hold.¹⁵⁵ Although the president and the ruling party often disobeyed court rulings, the readiness of the courts to entertain and deliver judgements on such cases, albeit at the later stage of the debate, boosted elite activism.

The relationship between some elite dissidents and the judiciary during the third term struggle in Nigeria was symbiotic. While the courts provided the political elites with protection, the political elites equally provided an opportunity for the judiciary to reclaim its lost credibility. Legal experts and the many human rights organizations referred to many of the judgements delivered during the presidential term limits controversy as popular and landmark judgments (Azinge 2012)

¹⁵⁵ Some legal experts interviewed dismissed the cases against the dissident governors as trump-up charges made in bad faith to punish the dissidents for their rejection of Obasanjo's third term. According to them, the courts became mindful of Obasanjo's faith and rightfully decided to offer protection to the dissident governors.

The judiciary institution is reactionary and not proactive (Shepsle 2010). Judicial involvement in most constitutional and legal issues is an invitation to interpret, confirm, or nullify a certain policy decision or action. The court, therefore, may choose to remain silent over pieces of legislation or policies if it is uninvited or unpressured to give its opinion. It was a surprise, thus, that the court would be at the forefront of third-term debate in Nigeria. To what extent did the court entertain and deliver sound and popular judgements on cases brought to them by the contending parties in the third-term controversy? What were the sources of those legal cases that pressured the involvement of the court?

I mentioned earlier in this chapter that political elite dissidents inundated the court with a barrage of cases that pressured the judiciary into action. Either for protection or in order to avoid using the law of the streets, the aggrieved elite dissidents involved the judiciary in the Nigerian third-term controversy. The courts were not prominent at the beginning of the third-term debates in Nigeria and did not participate directly in the struggle against the third-term project. In 2004, the judicial officers protested against the incessant assault on the rule of law and the reckless disobedience of legal judgments by the executive. President Obasanjo disobeyed five high-profile judgements relating to his third-term project. However, the courts won support in Nigeria by delivering some popular judgments that not only offered protection to particular dissidents, but also sustained the process of third-term debate until its defeat in May 2006. Without this, the dissenting elites would have probably

lost the battle halfway, especially if the president had succeeded in divesting the head of the Nigerian anti-third term movement, the vice president..

The court's readiness to entertain and deliver judgements in favor of the dissenting elites is remarkable. The fate of presidential term limits indirectly depended on the outcome of some of those pending legal cases, indicating the importance of elite-institutional interaction in enforcing term limits compliance. The jubilation that preceded the judgments signified popular support for elite resistance against the removal of term limits and for the recovery of judicial legitimacy in Nigeria (Arewa 2007). Therefore, the impact of political elite resistance on the judiciary not only tested the credibility of the court, but also challenged the courts to assume a new role of being a co-defender of the democratic process. In response to elite pressure, the court further played a supportive role for the political elites by assisting the political dissidents to mobilize, sustain, and bundle political pressure to enforce compliance in Nigeria.

4.2.2.2 Political Parties

Political parties are an important component of the democratic process. In Nigeria, the three major political parties that took part in the transitional elections of 1999 had national coverage and well-defined manifestos. The People's Democratic Party won the transition election because of the popularity of its founders. Moreover, mass movements that were very active in the struggle against the military regimes

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converged in PDP and merged to form what many have described as the biggest party in Africa.¹⁵⁶ Its founding principle was to bridge Nigerian political gap and to spread democratic principles in Nigeria (Ekwueme 2015). The PDP logo, an umbrella, symbolizes this.

Obasanjo, however, was not part of the founding fathers of the People's Democratic Party that won elections in 1999. He was also not part of the negotiations that went into the formation of political parties in 1998. Atiku Abubakar and former vice-president Alex Ekwueme led the two important political associations, the Peoples' Democratic Mandate (PDM) and the G-34 that collapsed into PDP. These formed the nucleus of the ruling party. Obasanjo was serving a prison term while political party formations took place in 1998. Prominent PDP members, including Atiku Abubakar, negotiated Obasanjo's release with the military regime in 1998. The same group within the PDP consequently influenced Obasanjo's adoption as the presidential candidate of the party and Atiku Abubakar as a running mate.

Atiku Abubakar was a strategic choice for a running mate to Obasanjo. Obasanjo was a former military dictator whose military mentality stood to benefit from Atiku Abubakar's party influence and leadership. Atiku Abubakar's financial capacity and political experience were also convenient for the party itself, which was new and needed much funding. For instance, Orji Kalu, Ibrahim Babangida, and

¹⁵⁶ Many former and serving Chairmen of the ruling party including Vincent Ogbulafor described PDP as the biggest political party in Africa, and boasted that PDP was going to rule Nigeria for sixty years.

Atiku Abubakar financed the campaign costs for Obasanjo's presidency.¹⁵⁷ Although the populace hailed Obasanjo as the "Baba,"¹⁵⁸ the significant social and political resources at his disposal did not help him to initially consolidate power. The vice president and Governor Orji Kalu had strategically denied him the personal and political coalition he needed to convince the political elites that his rule was indispensable.

President Obasanjo used most of his second tenure to consolidate power by strategically influencing many changes at the party's leadership level. In 2004, Obasanjo particularly purged the PDM of prominent members within the ruling party who were loyal to the vice-president. By 2005, Obasanjo had the ruling party firmly under his control after positioning his loyalists in all sensitive party positions across the country, including the local governments. As mentioned above, a new party policy of "re-integration," barred the party re-entry of many major potential internal opponents whose loyalty was in question. Only the courts could arrange for a renewal of party membership for the banned vice president and twelve state governors,

¹⁵⁷ Orji Kalu provided one million dollars, while Ibrahim Babangida provided \$fifteen million dollars as the initial campaign take-off to put Obasanjo forward as the presidential candidate of PDP.

¹⁵⁸ Obasanjo's nicknames were Oga and Baba -- the father of the nation and the father of modern Nigeria because of his previous patriotic inputs in Nigeria. He was a civil war hero, a democratic activist, and the first African military leader to organize a successful democratic transition by handing over power an elected civilian president in 1979.

At the time, when it was unclear why Obasanjo moved to control the party, the vice president and Orji Kalu vaguely convinced the public of Obasanjo's "hidden agenda." Obasanjo may have thought that his third-term ambition guaranteed the elimination of dissident party internals. Contrary to his political calculation, most of the internal dissidents remained in the party, courtesy of judicial assistance and protection. These 'political dissidents' fought from within the party until the third term amendment bill was defeated.

Furthermore, no sufficient pressure could have come from the opposition parties. At the time of the third term debates, the opposition parties were in disarray, with several crises haunting their legitimacy. Moreover, the opposition party system in many post-Cold War African democracies was still weak at the time. Though fifty-two political parties existed in Nigeria in 2006, forty-eight of these political parties functioned as extensions of the ruling party.¹⁵⁹ The formation of these parties neither based itself on ideology nor aimed itself at applying pressure to the ruling party. Mostly, they figure as platforms for political negotiation and patronage (Campbell 2011).

Immediately after each election, losers from these political parties align with the government in power for political patronage (Ibeanu 2007; Usman; Iwu 2007,

¹⁵⁹ With the exception of Action Congress (AC) and All Nigeria Peoples Party (ANPP), All Peoples Grand Alliance (APGA) and Labour Party (LP), dissidents from the ruling party, floated majority of other political parties, and mostly returned to the ruling after each election

2008; Adetula 2009 Agboola 2008; Iyayi 2007). Even when candidates from these parties won elections, they returned to the ruling party as soon as the elections were over (Iwu 2008, 2009). Except in the case of the ruling party, fifty-one other parties remain dormant until election periods, when elites who lose primary party elections struggle for smaller parties to stand for elections. The regime exchanged candidacy for a position or patronage. Thus, opposition parties were not a threat to Obasanjo's third term and applied insignificant pressure on the third-term agenda. The Conference of Nigerian Political Parties, comprising of many small parties, however, issued a statement in May 2006 condemning the third-term agenda, barely two weeks before the defeat of the third-term agenda. Analysts have interpreted this move as a face-saving gesture, or an effort to be on the good side of history (Agboola 2008).

However, the Nigerian multiparty system played an indirect role in the struggle and defeat of Obasanjo's third-term agenda. With so many political parties and the possibility of easily forming more, the political elites who opposed the third-term agenda from within the ruling party were not willing to take abandonment. Unlike in Uganda, Cameroon, Gabon, and Togo, which systems reflected the one party or semi-single party system, the multiparty system afforded the dissenting elites in Nigeria the opportunity to defect and apply the same pressure from a new or another party. The possibility to defect also accorded the dissenting elites an opportunity to retain their seats in the parliament even when the ruling party disposed of them. By retaining their seats even after defection, dissenting MPs engendered the parliamentary balance of power and sustained the activism in the parliament against

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the third-term agenda. In this sense, the possibility to cross over to other parties reduced the strength of the ruling party by about thirty-five percent. By crossing over, the elite political dissidents grew in number and strength while the ruling party staggered to retain its majority in both houses of the Nigerian parliament.

Without the possibility of defecting or forming a broad coalition, the political elites may not have been able to apply sufficient pressure on Obasanjo. In Uganda, where only one party operated during the third-term agenda of Yoram Mussoveni in 2005, the internal dissidents were forced to succumb to the will of the president, since no alternative party existed to which they could defect (Armstrong 2010). The president was the owner of the party (Movement), and firmly controlled its structures (ibid.). The absence of alternative political parties made it perhaps difficult for the two political actors who opposed Mussoveni's third-term agenda to exert sufficient pressure, since there was no other platform for them to express their dissatisfaction with the alteration of term limits in Uganda.

The most notable pressure on Obasanjo did not come from the opposition political parties as an institution. The pressure arose from some political actors within the ruling party, particularly, from a faction of core political actors led by the vice president. A strong coalition of party internal elites and some opposition elites mobilized what was to be a decisive pressure on Obasanjo's third term project.

Events after the transition elections in 1999 created mixed opportunities for the entrenchment of power by the president, much to the detriment of parliamentary independence. Although the parliament constantly quarrelled with the president, the parliament as an institution, as demonstrated above, never gained independence. The removal of five Senate presidents within seven years through presidential executive influence does not portray an independent parliament. However, particular political actors did challenge presidential influence on the parliament on many occasions.

Chuba Okadigbo, Pius Anyim, Adolphus Nwagbara, Ken Nnamani, Ghali Umar Na' Abba, and Aminu Massari provided the highest pressure within the parliament by allowing individual discretion within it (Nwabuzor 2012). Parliamentary independence manifested in 2002 after the president had influenced the removal of two senate Presidents. Senate members who insisted on electing their own choice in Pius Anyim strongly resisted Obasanjo's effort to install another loyalist as Senate president (Oyewo 2007). An erratic Obasanjo moved against the new senate president and attempted to use some loyalists in the senate to impeach him.

In 2003, Obasanjo was embarrassed when the new senate president mobilized the members to suspend some Obasanjo loyalists and instituted an impeachment process against him. It took the intervention of four former presidents to save a threatened

Obasanjo from impeachment.¹⁶⁰ Between 2003 and 2005, Obasanjo was to reduce the little independence gained by the Senate in 2002. In 2003, Obasanjo masterminded the election of Adolphus Nwagbara as Senate president and equally masterminded his removal as Senate president in 2005 for not supporting his third-term agenda. Though Nwagbara resigned his position, some senators loyal to the vice-president blocked Obasanjo from installing his loyalist as a Senate president.¹⁶¹ An Obasanjo loyalist as Senate president would mean a total dependence of the Senate on the presidency. It would also mean a railroading of the third-term agenda of President Obasanjo. The independent and dissenting elite's choice of Ken Nnamani as Senate president moved to recover some independence from the executive and send a signal to president Obasanjo that the dissenting elites had neutralized his power in the Senate.¹⁶²

It was impossible for the new senate president to mobilize the senators as a body against the third-term project. However, he strategically gave free space to the

¹⁶⁰ the former presidents who negotiated for the withdrawal of impeachment process against president Obasanjo with the Senate included Yakubu Gowon, Shehu Shagari, Mohamadu Buhari, Ibrahim Babangida, Ernest Shonekon and Abdulsalami Abubakar.

¹⁶¹ Against the Senate Standing Rule not to elect as Senate President any senator without a cognate experience of at least two terms in the senate, the senate amended the rule in 2005 to elect Ken Nnamani who was a first time senator

¹⁶² Many former senators interviewed confirmed that the choice of Ken Nnamani as Senate President was to recover some parliamentary independence. A level of presidential intimidation would drive a weak senate president into irrelevance.

senators, especially the dissenting elites, to operate unhindered within the Senate (Popoola 2012; Nwabuzor 2004). While the Senate president appeared neutral, the Deputy Senate President was a leading pro-third term member. The ruling party controlled a clear majority in the parliament, but party loyalty did not count anymore, to the benefit of individual discretion and activism. In 2005, the Senate supported Obasanjo to repeal the bill protecting Nigerian CSOs. The Senate also supported Obasanjo in most of his anti-humanitarian policies, including the bill on minimum wage and derivation formulas. By 2006, the legislature that hitherto assisted Obasanjo in passing some unpopular bills had become an arena of dissidence. Many legislators belonging to the ruling party no longer identified themselves by their party's position on the third term, but rather, on where they stood as individuals regarding the third term agenda.¹⁶³

It was, therefore, easy for dissenting elites to penetrate the legislature to lobby senators against the third-term agenda. For instance, on Thursday, April 6, 2006, Atiku addressed the meeting of "Movement 2007," an amalgam of senators opposed to the third-term agenda. He strongly condemned Obasanjo's third-term bid and urged the legislators, including the former Speaker of the House of Representatives, Ghali Umar Na'Abba, and National Assembly members, to resist the third-term:

¹⁶³ There were varied factions within the ruling party. It was also the case with opposition parties. Within the ruling PDP, a faction called 'old PDP' and the PDM formed an alliance with some anti-third term factions in other opposition parties.

What better testimony, what better evidence do we need that this is a real agenda? Let us step up this campaign; let us step up the lobby among other members of the National Assembly. Let's keep on campaigning to our brothers and sisters. As long as the numbers keep increasing, they will never bring their bill to the National Assembly (*Guardian* 7 April 2006). Such lobby campaign by dissenting elites may have strongly influenced the behavior of the members of the National Assembly towards the third term.

Against state financial inducement of some members of the National Assembly (with US\$350,000) to support the tenure elongation bill (Iwu 2008, 2009; Campbell 2011; Posner and Young 2007; Ozoh 2008), a confirmed report claims that the opposition elites mobilized funds and pulled resources together to counter-induce senators with US\$650,000 to reject the amendment bill.¹⁶⁴ On May 15, 2006, in the heat of National Assembly debates, the President and the chair of the ruling party summoned parliament leaders to the Government House. The aim was to coerce them into bending the rules in the parliaments to favor the third-term agenda. The Senate president had approved that all proceedings would be open to the public and covered on live television coverage, as opposed to the secret ballot system recommended by the party.

¹⁶⁴ The financial inducement for and against the third-term bill has been confirmed by many former senators, including the former senate President Ken Nnamani, Ifeanyi Ararume, and the Chief of Staff to the former INEC Chairman, Dr. Ozoh

Before commencement of the debate and voting, the Senate president also requested each senator to publicly declare his or her stand on the third-term amendment bill, warning that each MP should act independently. Dissenting elites in both houses of the National Assembly blocked all attempts by the presidency and third-term loyalists to change this strategy for the secret ballot system. Meanwhile, the vice-president, anti-third term governors led by Orji Kalu, and several dissenting elites were present at the parliament to observe the proceedings. With a resounding “NO!” to the third-term agenda after the public speech, the parliament decided not to table the bill for a second reading and debate, tossing it out on the floor of the House.

It may appear that the parliament exerted some pressure in enforcing compliance in Nigeria. However, as in the Zambian case, the parliament did not act as an institutional body against the third-term bill. The blocking of systematic proceedings and the amendment process simply aimed to prevent the third term from surviving beyond the parliament. The Senate avoided the secret ballot system to limit the capacity of Obasanjo and his loyalists to manipulate the parliament in the voting process of the amendment bill. The dissenting elites equally envisaged that the easiest way to defeat the third-term project was to block it from going beyond the house floor.

The senate decision to publicize and televise the senate debate and vote strategically blocked the influence of executive financial inducements and intimidation. By insisting on public and televised opening proceedings of the debate,

the dissenting elites set a trap for pro-third term senators who planned to support the third-term agenda secretly. When the parliament strategically allowed rules that favored the opposition, dissenting elites and anti-third term legislators claimed it as a platform for elite activism to organize and launch their strike against the third term.

4.2.3 Civil Society and Media

The Nigerian role of civil society and media in the struggle against the third term was not as visible as in other countries I researched. In 1994, the combined demonstrations of National Democratic Coalition (NADECO), the Student Union, the Academic Staff Union of Universities (ASUU) and the United Action for Democracy (UAD) forced General Babangida out of power (Usman 2012; Ubani et al. 2006). The civil society group of 2006 missed the intensity of the acting parties in 1994

While civil society had developed in the course of the Nigerian democratic struggle, like in other new democracies, the roles of civil society and the elite struggle against dictatorship overlapped. Yet civil society's role requires an independent source of funding, which was missing from the case in Nigeria. Western civil organizations or particular political actors exercised a monopoly and practice of funding local CSOs for their interests (Chabal et al. 1999; Khembo 2004). The inability for independent funding made it nearly impossible for civil society to operate independently and objectively outside elite influence. CSOs danced according

to the tune of its sponsors, siding with the opposition or the government based on financial support.

Within the Nigerian framework of third-term politics, there were equal CSOs and protests on both sides, depending on the side from which the funds were coming. While the proponents of the third term were able to recruit an array of civil society members, the anti-third term group recruited just as many. For instance, while the Save Nigeria Group (SNG) protested in Lagos against the third term, the Nigerian Manufacturers Association (NMA) was protesting in the Nigerian capital city of Abuja in support of Obasanjo's third-term agenda. On April 12, 2006, a combined group of protesters mobilized to support the vice-president at Yola International Airport Adamawa state to protest against the third term. On the same day, another group, the "Concerned Citizen" led by Wampara, a core Obasanjo loyalist, staged another protest in favor of third term in the same city of Yola. Some of the inscriptions on the placards read in Hausa and English languages. "Atiku Azzalumine" Numan Atiku" ("We are tired of Atiku"). "Bamu sonka" and "Kai mugh ne" ("Atiku is an unserious presidential aspirant").

The situation on April 10, 2006 was not any different. As pro-third term protesters mobbed the vice-president and vandalized his home in Lagos, Governor Orji Kalu was welcomed as a hero in Abia State by Aba Traders Association for opposing Obasanjo's third term. Anti-third term loyalists mobilized this group to counter the incident in Lagos and to win more support and sympathy for their

resistance to the third-term project.¹⁶⁵ With such confusion within the civil society, it was difficult for the masses to inform an objective opinion based on the arrays of demonstrations in support and against the third term.

The civil society in Nigeria had previously operated under the one umbrella of the Nigeria Civil Society Organizations (NCSO). This umbrella had protected small CSOs and had afforded civil society a platform to coordinate actions and speak with one voice. It was easy and possible for the central body to organize and enforce the joint decisions of Nigerian CSOs through the Nigerian Labour Congress (NLC). On economic and social issues, the CSO central umbrella had recorded huge achievements in forcing the government to implement minimum wages, petrol subsidy, and the Thirteen-Percent Oil Producing Derivation Formula.¹⁶⁶ Twice, the NLC has forced the government of Obasanjo to capitulate and reduce the price increases of petroleum products (Usman 2012).

On the political level, however, the achievement of CSOs in Nigeria has been minimal. For instance, after the fraudulent elections of 2003, a combined national mass protest led by prominent civil society crusaders like Wole Soyinka, Femi

¹⁶⁵ Governor Orji Kalu sponsored the Aba Traders Association, Okada Ridders Association, and Aba Market Women Association to stage a protest in Aba on April 11, 2006.

¹⁶⁶ In 2004, the NLC mobilized other CSOs to put pressure on Obasanjo's government to implement the 1995 agreed Federal Allocation of thirteen percent to Oil Producing Areas and States. States that produce oil are entitled to thirteen percent of the proceeds.

Falana, Gani Fawehimi, and the NLC paralyzed activities in Nigeria for many days.¹⁶⁷ The Nigerian state succeeded in using force to disperse protesters with the pretext of not having obtained police clearance (Usman 2012).

Possibly, aware that the dissenting elites might use the national civil society body against the third-term agenda, the government used an executive bill to ban the national umbrella body of the CSO in Nigeria in 2005. By proscribing the national umbrella body of the CSOs, the government forced civil society groups to work separately and exclusively on issues affecting each group. Each CSO received the mandate to obtain police clearance before it could embark on civil protests. A law that required police permission and protection prior to protests made it difficult for CSOs to demonstrate, because the police rarely granted such clearance. During the public hearing at the National Constitution Reform Conference (NCRC), CSOs like NDC and Save Nigeria Group combined with dissenting elites to take a united stand before the government overpowered them.

On December 14, 2005, the representatives of twenty-nine CSOs came together and issued a communiqué detailing their stance on the third-term agenda.

¹⁶⁷ In 2003, the All Nigerian Peoples Party, which cheated at the presidential and governorship elections, rejected the election results and called for mass civil disobedience. Democracy activists and the Labour Congress joined in the mass protest, which paralyzed Nigeria for two days. The government claimed it had to intervene with force because of the presence of the opposition party in the protest.

After outlining the danger of a third term, the G-29 produced a six-point article (communiqué) in which they agreed to align with the dissenting elites to challenge the looming and emerging dictatorship in Nigeria.

The CSOs apparently made their communiqué in good faith. However, Nigeria in 2006 was a semi-illiterate society where about fifty percent could not read. Any communiqué against the third term that could not commit itself to public protest or action was lost and not meaningful for the public. The statement by human rights activists and representatives of civil society on the political agenda of President Olusegun Obasanjo did not go far and apparently made an insufficient impact on the struggle against the third term. In the first place, none of the CSOs could mobilize the masses for public protest or present an alternative approach to them. In the second place, President Obasanjo continued with his political agenda without any reference to the said communiqué.

On February 22, 2006, the clampdown on civil society groups intensified when the Nigerian Police clamped down on protesters in Oshogbo, Ogun State. The protesters had come to participate in the public hearing for the proposed constitutional reforms by the Obasanjo regime. The Nigerian police successfully attacked and dispersed the protesters and the leader of the United Action for Democracy (UAD) with teargas for protesting without a police clearance. According to Femi Falana, a pro-democracy activist and attorney for the detained protesters, the police exhibited a serious level of bias and intolerance against the protesters. On the

same day, police arrested Bamidele Aturu of the UAD at the public hearing in Oshogbo, Osun state for speaking against President Obasanjo's third term. On February 16, 2006, the public hearing in Kastina turned violent as police moved against anti-third term campaigners led by opposition elite Haruna Shetima. While the protesters carried placards which read "Third term extensions are immoral" and "Say no to greed," they were forced out of the venue by security before Shetima could make any presentation (Usman 2012; The Punch February 23, 2006).

By the end of February 2006, the CSOs felt exhausted and incapacitated. Meanwhile, Obasanjo had succeeded with the Party Convention and the National Constitution Review Conference, despite court injunctions. The bulk of the struggle to stop President Obasanjo's third term lay in the hands of dissenting elites. By enforcing the law that demanded police clearance before civil protests, the government controlled and limited the activities of the CSOs ahead of third term politics in 2006. With the civil society not at the forefront of the anti-third term demonstrations and struggle, many among the populace assumed that civil society had accepted the third term (Usman 2012). Only those CSOs mobilized and sponsored by dissenting elites could defy government orders and sporadically establish a visible protest with consequences ranging from arrests and prosecution, to imprisonment.

Alarmed by the apparently lukewarm attitude towards the third term by the Nigeria Labour Congress (NLC), some leading opposition members scheduled

several meetings with the leadership of CSOs, hoping to motivate them into the struggle. On April 20, 2006, the vice president led dissenting elites and members of the National Assembly under the aegis of the “2007 Movement” to address some civil society groups and invite them to join the struggle (*This Day* April 21, 2006). Specifically, this meeting concerned the silence of the NLC leadership on the third-term agenda. The concerned political elites also requested the NLC's National President, Comrade Adam Oshiomhole, to announce Labour's position on the issue to the nation. Many analysts interpreted the poor interest in the third-term struggle by the NLC and many other CSOs as “scandalous” (Olaiya 2003).

While I affirm in this research that public opinion was overwhelmingly against the constitutional amendment of president Obasanjo, the masses had no opportunity to participate fully in the third-term debate. The planning of the third-term project systematically excluded the masses and civil society. Apart from the initial enthusiasm during the National Conference, the CSOs could not create a platform for the masses to express their grudges against the third-term agenda, nor personally lobby the MPs or sponsor against the removal of term limits in Nigeria. The civil society could also not mobilize the masses against one clear and common ground. As Chris Ngwodo succinctly puts it:

The Nigerian Labour Congress (NLC) and some other civil society bodies were on their way to evolving into a mass political movement. But having exhausted a tired and obsolete confrontational approach and run out of ideas, their leaders have

shied away from the arena of political participation and constructive engagement (February 18, 2006)

Thus, the role of the civil society was limited, varied, and dependent. Of about the five hundred registered CSOs in Nigeria, only about five officially participated in the protest against the third term. An analyst describes the poor showing of the NLC as disappointing. Judging from the elite-dependent actions of CSOs during the third-term controversy in Nigeria, I conclude that pressure of CSOs made an insufficient impact on the decision of the parliament to throw away the third-term bill. Dissident and loyal political elites in either opposition or support of the third-term agenda mobilized and funded the sporadic participation of Nigerian civil society. The CSOs lacked an independent voice and capacity to have enforced term limits on president Obasanjo.

4.2.4 The International Community

The transition of Nigeria to multiparty democracy in 1999 was not a result of any exogenous pressure (Campbell 2011; Ibeanu 2007). The Nigerian political elites had launched continuous pressure on the military since 1983, when the last democratic dispensation had collapsed. Elite pressure led by NADECO had directly resulted in Ibrahim Babangida's abortive transition programs. Although Abiola, the winner of the deadlocked and annulled 1993 presidential election, had died in the

presence of U.N. and U.S. envoys visiting Nigeria to broker peace in 1998, little or no exogenous pressure had figured in the Nigerian struggle towards democracy.

Nigeria was also not heavily dependent on external development assistance, as were other neighboring countries like Ghana, Cameroon, and Uganda. If there were any external pressures towards democratization in Nigeria, both Babangida and Abacha ignored those international pressures. Elite activism put pressure on both regimes and forced them out of power (Obi 2002). For instance, in 1992, a combined pressure from political elites under the umbrella of the National Democratic Coalition (NADECO) and the Academic Staff Union of Nigeria (ASUU) forced Babangida to “step aside.”¹⁶⁸ Though the EU, Commonwealth, and other western countries placed sanctions on Abacha’s regime after the execution of the Ogoni activists led by Ken Saro-Wiwa in 1995, Abacha did not bulge. The sanctions from the Commonwealth of Nations and the EU strictly targeted Abacha’s abuse of human rights and had nothing to do with democracy promotion (Obi 2008; News Watch 1995). Like the Babangida regime, there was no direct international pressure on Abacha to democratize. The U.S. and E.U. policy on Nigeria during the military era concerned itself more with the stability of oil prices, the security of oil production and supply, and with the security

¹⁶⁸ In 1992, after the annulment of the June 1992 presidential elections (believed to be the fairest and freest election in Nigeria’s history), the president faced an unprecedented opposition from NADECO and ASUU. Babangida, who never expected such a level of opposition, succumbed to pressure from the NADECO and ASUU and announced his retirement saying, “I wish to step aside.” This became a popular political jargon in Nigeria.

in the Niger Delta (Obi 2002, 2006, 2008). Abacha remained on the verge of becoming a civilian dictator until his death in June 1998. After the death of Abacha in 1998, the consistent pressure against the military regime from the NADECO and PDM forced the new military government of Abdulsalami Abubakar to return Nigeria to a democratic rule within nine months of his regime. The new military regime did not doubt that a delayed transition timetable could cause a confrontation with NADECO and PDM.

International pressure did not have any effect on Obasanjo's third-term project. In his book, *Nigeria: Dancing on the Brink*, the former United States Ambassador to Nigeria, John Campbell, detailed his frustration and disappointment. Campbell lamented the aloofness of the international community, namely the E.U., and the U.S., during the Nigerian struggle against the third term (2011). He watched in utter disappointment as these two important international actors played politics with the fate of the Nigerian people and their hard-earned democracy without taking an official stand on the issue (ibid.).

Nigeria has been an important ally of the United States and the European Union. Nigeria is also the largest oil producer in Africa and the big exporter of oil and gas to the U.S. and E.U. member states. Nigeria supplies ten percent of U.S. oil needs and eight percent of E.U. oil needs. Nigeria also plays a significant role in the war on terror and cooperates with both the U.S. and the E.U. on their African foreign policy. That notwithstanding, Nigeria is the most populous black nation with a

population of about one-hundred and seventy million. Due to Nigeria's population and size, any conflict in Nigeria would affect global oil supply and price and destabilize the entire sub-region.

U.S. and many E.U. member states may have seen the third-term agenda of Obasanjo as a potential source of conflict, especially considering the ethnic sensitivity of Nigerian politics. The U.S. State Department had therefore asked Nigeria to manage the third-term debate maturely without taking any clear position on its impact on the consolidation of Nigerian democracy (*Financial Times London*, 21 February 2006). The neutral warning of the State Department was more a strategy motivated by national interest than it was a promotion of democracy (Campbell 2011). Washington feared that Obasanjo's third-term agenda could provoke mass upheavals as well as exacerbate ethnic tensions and worsen the almost intractable global energy crisis. John Negroponte, the overall head of the U.S. intelligence services warned in February 2006 that, a third term for Obasanjo could threaten to unleash major turmoil and conflict and could lead to disruption of oil supplies, secessionist moves by regional governments and major refugee flows and instability elsewhere in West Africa.¹⁶⁹

The only high profile statement issued from the U.S. never referred to the removal of presidential term limits and democratic consolidation. Campbell found it a scandalous, statement on the flimsiness of the theory of democracy promotion and

¹⁶⁹ Refer to *Financial Times London*, 21 February 2006.

democratization.¹⁷⁰ Obasanjo probably knew that the E.U. and U.S. had no interest in democracy in Nigeria. He went ahead to execute his third-term agenda and simply allowed oil to flow without disruption.

However, the U.S. statement on the third term in Nigeria, though insufficient, is significant. Although the message was diplomatic and strategic, it may have re-enforced the determination of dissenting political elites against a third term. I cannot creditably conclude that the warning exerted pressure on Obasanjo, since Obasanjo carried on with his third-term project, free of sanctions until its defeat. Nonetheless, the statement strengthened the resolve of the opposition elites and reinforced their determination to press on with the third-term agenda.

For instance, both Atiku and Kalu alluded frequently to America's warning in their rallies against third term (Premium times, November 28, 2011).¹⁷¹ Many political elites, who were still seating on the fence, may have felt motivated to join the anti-third term pressure group due to the statement from the U.S. State Department. The Nigerian masses cheered the U.S. and the E.U. and credited the defeat of the third term to the U.S., who they stereotypically viewed as the world's

¹⁷⁰ Campbell detailed in his book, *Nigeria: Dancing on the Brink* (2011), how the Bush administration prevented him from making any official statement on the third term as a U.S. Ambassador to Nigeria.

¹⁷¹ Orji Kalu has claimed in various interviews that President Bush stopped Obasanjo's third term. John Campbell sees Orji's comments as absurd, knowing that the Bush administration did nothing to pressure Obasanjo against a third term.

police officer (Campbell 2011). Campbell notes that the recognition of the U.S. in a struggle in which the U.S. only played lip service was the most absurd event in his tenure as the U.S. ambassador to Nigeria (ibid.).

Governor Orji Kalu internationalized the struggle against the third term. He alludes in his interviews to how he alerted President George W. Bush about Obasanjo's intention to change Nigeria's constitution to become life president (*Premium Times*, 28 November 2011). In her book, *No Higher Honor*, former U.S. Secretary of State Condoleezza Rice confirmed that Mr. Obasanjo nurtured a third-term agenda. She wrote: "In 2006, when President Olusegun Obasanjo of Nigeria sidled up to President Bush and suggested that he (Obasanjo) might change the constitution so that he could serve a third term, President Bush told him not to do it." Obasanjo went on with his third-term agenda without any official statement from George Bush until it was defeated, indicating that the communication with President Bush was a private affair without any effect.

This study notes no direct exogenous pressure to stop Obasanjo's third term or to save democracy in Nigeria during the third-term debate. Obasanjo went on with his third-term project despite the statement from the U.S. On an individual basis, the statement from the U.S. State Department may have indirectly had an effect on some dissenting elites, and not on Obasanjo and his loyalists. The dissenting elites may have drawn some strength from the apparently diplomatic statement to strengthen their resolve.

Conclusion

I conclude in this chapter that key dissenting elites caused the defeat of Obasanjo's third-term agenda in Nigeria. Elite activism created the platform for sectoral interactions, which produced the ancillary pressures that some political elites bundled to enforce compliance. Though some dissenting political elites who resisted Obasanjo's third term embarked on the project for a mixture of interests, they saw the project as threatening to the democratic space and as a grand plan to re-introduce authoritarianism in Nigeria consciously chose to resist it.¹⁷² According to Dr. Ibrahim Jibrin),

the present political situation in the country is very grave for the consolidation of democracy. There is widespread opposition to the Third Term Agenda of the President. Except for the narrow circle that is directly benefiting from government patronage, virtually all the political class is opposed to the scheme. The mainstream political elites of all the zones in the country are also opposed to the plan (2006).

Those who genuinely resisted Obasanjo's attempt to entrench state power remained resolute, despite intimidation and financial inducement.

¹⁷² In several statements and interviews, some quoted in this study, both vice-president Atiku Abubakar and Governor Orji Kalu expressed their concern on the negative consequences that Obasanjo's third term or life-presidency would have on the consolidation Nigerian nascent democracy.

Other dissenting elites engaged in the struggle for hidden political, economic, and social interests. Ultimately, the cost of political repression against the political elites became too high for Obasanjo. When the dissenting political elites coalesced under Vice President Atiku Abubakar to combine their resources, they invested with the hope of reaping benefits. While Obasanjo could muster US\$350,000 to induce the legislatures to support the third term, opponents of the third term combined resources to double the amount for the legislatures to kill the bill. The third term opponents outsmarted the government by sponsoring media debates and civil protests against the third term. The mobilization of various sectors against the third term underscored the importance and role of an elite coalition in creating a platform for democracy to thrive (Linz 1998; Schedler 1998).

Chapter 5: “I must stay! No, you must go!” Failed Attempt to Repeal Presidential Terms Limit in Zambia

5 Introduction

The presidential term limits politics in Zambia resulted in the defeat of President Frederick Chiluba’s attempt to extend his tenure in office beyond 2001. At the bidding of a few political elites, many sectors converged and bundled pressures to raise the cost of repression for Chiluba. The debate was intricate and costly. It left the democratic process in Zambia temporarily bruised, but on the long term, stronger. While the role of some political elites, especially internal political elites, was decisive and clear in the defeat of the third-term agenda of Olusegun Obasanjo of Nigeria, the Zambian case presents a confluence of dissipated pressures which political elites mobilized and bundled in order to apply pressure on Chiluba’s regime. The role of political elites became instrumental in sensitizing and harnessing pressures from various segments of Zambian society to enforce compliance.

By opening up to multiparty elections in 1991, Zambia became one of the first countries to pave the way for the latest phase of democratization in sub-Saharan Africa. It was also to become the first post-Cold War African democracy to enforce full term limits compliance in an attempt to repeal term limits by an incumbent president. The founding leader of Zambia, Kenneth Kaunda, held multiparty electoral elections in 1991 after twenty-seven years in power. Frederick Chiluba succeeded

Kenneth Kaunda in 1991 after winning the transition election and a popular but controversial re-election in 1996 (Simon 2002, 2005; van de Walle 2002). Halfway through his second term in office, some political elites became distrustful of President Chiluba because of his dictatorial policies and penchant to entrench state power. Analysts regarded the bitter days of Kenneth Kaunda as better than the democracy under Frederick Chiluba (Sardanis 2014; Rakner 1999).

Chiluba's anti-democratic and anti-opposition behavior caused many political elites and observers to raise objections and concerns for the stabilization of Zambian democracy under Chiluba (Sardanis 2014). The former president of Zambia, Kenneth Kaunda, predicted in 1998 that President Frederick Chiluba was most likely to alter the constitution to perpetuate his presidency, justifying the doubts many had in Chiluba.¹⁷³ Like in the Nigerian case, Chiluba rhetorically denied the allegation in private and public forums. He declared through several of his spokespeople that he would respect the two-term provision as provided by the Zambian Constitution (Skala 2000; 2001). Interview and expert reports show that the local and international democracy stakeholders initially trusted Chiluba (Sardanis 2014).¹⁷⁴ The local media,

¹⁷³ Author's interview with Mark Chona. Lusaka, Zambia, October 2014.

¹⁷⁴ In an interview with the author, Chona and Haagala all confirmed the Chiluba enjoyed an overwhelming local and international trust at the beginning of his presidency, but sabotaged this trust halfway into his regime by immersing his regime in scandalous and human rights abuses that involved high profile political assassinations and corruption.

including daily newspapers, continuously broadcast Chiluba's apparent commitment to democracy in various local languages (Sardanis 2014; Simon 2002, 2005).

The introduction of national debate to elongate his presidency confirmed the popular distrust on Chiluba. This presidential term limits debates lasted a little more than a year and swayed the president against leading political elites in Zambia. This was a period of large-scale party defection, political intimidation, political assassinations, high political patronage, and dwindling democratic dividends (Sardanis 2014). The third-term controversy also saw the active mobilization of two sectors by opposition elites in Zambian politics, namely that of the courts and student union, (Rakner 2004; van de Walle and Mulaisho 2001).

In May 2001, Frederick Chiluba's third-term dream faced a disgraceful defeat from elite political dissidents on the floor of the parliament. The role of dissenting political elites became significant to the extent that these political actors were instrumental in sensitizing and harnessing pressures from various segments of Zambian society to enforce compliance.

I argue in this chapter that elite-led activism against Chiluba's third term applied the greatest pressures. Elite-led activism also awakened other sectors that coalesced to enforce term limits compliance on Chiluba in 2000. I will base reports and analysis on semi-structured interviews involving fifteen persons within the target group: political elites, church elites, media personnel, the parliament, and the civil society.

5.1 The Background

Zambia gained its independence in October 1964 with Kenneth Kaunda as the first president of the new independent Zambian Republic. The United National Independence Party (UNIP) under Kenneth Kaunda, which became the only official political party in 1966, ruled Zambia until 1991. In that last year, a combination of local and international pressures forced Kenneth Kaunda to agree on a constitutional amendment for multiparty democracy that limited the presidential tenure to two terms of five years (Simon 2005; O'Donnell 1999; Joseph 1998). All political stakeholders supported the amendment,¹⁷⁵ including the leader of the main opposition party Frederick Chiluba. The amendment introduced the first multiparty elections in Zambia in 1991. As presidential candidate of the main opposition Movement for Multiparty Democracy (MMD), Chiluba defeated President Kaunda in the election. With this success, a multiparty democracy and a new constitution that was clear on power alternation and power-sharing formula replaced Zambia's one-party state. The defeat of Kenneth Kaunda in a competitive, multiparty presidential election in 1991 raised the stakes and hope for democracy in Zambia (van Donge 1995; Joseph 1992) with high prospects for democracy consolidation that reached across the southern African region (Sardanis 2014).

¹⁷⁵ Stakeholders include the former president, members of UNIP, the churches, civil society organizations, student union and the international community.

The struggle for democratization in Zambia did not occur as painfully as in other countries where political conflict preceded such transition. Perhaps the near unanimity for a multiparty democracy within the ruling UNIP¹⁷⁶ played a role in the swift transition. Though some writers argue that the highest pressure stemmed from Zambian civil society, organized and led by trade union activist Frederick Chiluba, (Sardanis 2014; Skala 2000, 2001; Simon 2003, 2005; Dulani 2010), other opinions recognize the willingness of the ruling party to relinquish power as a factor.¹⁷⁷ Moreover, the masses were weary of the dominance of one party and one president in Zambia. They clamored for change, which the president was willing to respect. This and mild international pressure led to the quick democratization in Zambia.

The few pressure groups and political movements that emerged during the agitation for Zambian democratization collapsed into the MMD, a platform Chiluba used to confront Kenneth Kaunda in the 1991 presidential elections. The MMD enjoyed a free political ride through the large-scale willingness for change. By inventing slogans that announced the true arrival of democracy in Zambia, Chiluba succeeded in mobilizing all sectors to introduce multiparty democracy (Sardanis 2014; Simon 2005; van de Walle 2001).

¹⁷⁶ Mark Chona informed the author in an interview that there was a consensus within the ruling UNIP to abrogate one party system by 1994, to coincide with Zambia's 30th Independence Day.

¹⁷⁷ *ibid*

Sardanis argues that Chiluba invented democratic slogans in order to discredit Kenneth Kaunda as a Marxist, promote himself as a liberal democrat, and win the trust of the international community (2014). This strategy worked, as international donors queued behind him as *Zambian liberator* (*ibid.*). The ruling UNIP effectively defected into the MMD, forcing Kenneth Kaunda into retirement (Simon 2002; Skala 2000; Sandanis 2014). With the prominent political elites in the new MMD, these joined forces with pro-democracy pressure groups and donor communities. It was easy for the MMD to become grassroots-oriented, raising enormous hopes with popular acceptance as an alternative to UNIP. The MMD's candidate thus won the 1991 elections with relative ease as the first multiparty president of Zambia. Chiluba and his MMD were re-elected in 1996 on what many observers described as a wave of popular support for the values of democracy and good governance (Simon 2002; Burnell 2001; Skala 2000).

One thing that worked tremendously for President Chiluba was his ability to publicly package and to present himself as a true democrat. Having led the coalition in 1991 that brought down the regime of Kenneth Kaunda and ushered in multi-party democracy in Zambia, Chiluba sold himself to the international community and donors as a democrat (Sardanis 2014). In his campaign rally in 1996, Chiluba made a firm promise saying: "When my term of office comes to an end, do not even think of retaining me, because when a person gets old, he runs out of ideas" (SACBC, December 2002). In the African Head of States summit in Cameroon in 1995,

Chiluba appealed to other African leaders to never cling to power: “Such practice breeds dictatorship” (ibid.).

These kind of statements endeared Chiluba to the public as a democrat, while Chiluba secretly concentrated efforts to entrench state power (Armstrong 2010). Among his most heinous undemocratic behaviors were the looting of public treasure and political assassinations under his tenure (Sardanis 2014). In spite of his denials and public display as a democrat, Chiluba had in May 2001 coerced his party into voting to change its constitution to allow him a third term in office, despite opposition and protests. The ambition for popular political support and the delivery of democracy dividends have figured as two contradictory characteristics of many presidents in the post-Cold War African democratic experiment.

As many writers have noted, Chiluba failed to consolidate democracy in Zambia against popular expectation, but concentrated much of his energy and strategy in the consolidation of power (Skala 2001; Sardanis 2014). Assassination, imprisonment, or economic isolation systematically dislodged potential political competitors. As victims of Chiluba’s political ambitions, the family of the first president experienced political assassination, imprisonment, and economic victimization from the same regime. However, Chiluba’s focus on consolidation of personal power put him out of favor with a section of political elites and some civil society organizations in Zambia (Armstrong 2010; Simon 2005; Sandanis 2014).

According to Simon, the Zambian democracy struggled to live to its early promise over the course of Chiluba's ten years in office (2005), showing few signs of consolidation (Freedom House 1999). After two unwarranted declarations of states of emergency, two flawed and manipulated elections, and a record of political intimidation, assassinations, violence, and corruption, Chiluba and the MMD did not distinguish themselves from their predecessors in political behavior and style (Nyambe 1999; Chabal and Daloz 1999; Sardanis 2014; Skala 2001; Mphaisha 1996). Chiluba stood accused of taking Zambia back to the worst periods in history, incomparable even with the mild authoritarianism under Kaunda (Joseph 1998; Sanders 2014). All these together reduced Zambia's Freedom House rating from 2.5 (free) in 1991 to 4.5 (partly free) in 1996 (Freedom House 1996).

In hindsight, the constitutional amendment debate to remove presidential term limits in Zambia, popularly referred to as the 'third-term agenda,' tested the rootedness of democracy in Zambia, and the readiness of different sectors to defend democracy in Zambia. It exposed the extent to which various sectors and institutions could protect democracy in Zambia.

In the next section, I will examine the particular role of some political elites in mobilizing, harnessing, and bundling pressures to achieve the compliance outcome in Zambia. Why was the political elite dissident group apparently the only sector that could confront Chiluba? While contemplating his third-term agenda in 2000, why did Chiluba not foresee a defeat? Why did Chiluba not recognize the similarity between

the elite collaboration against Kaunda in 1990 and the elite collaboration against him with the singular agenda: “Chiluba Must Go”?

5.2 The Third Term Debate and Elite Activism in Zambia

By early 1999, public dissent had grown strong against Chiluba and third-term rumors had reached their peak. Government-controlled newspapers (*The Times of Zambia* and the *Zambian Daily Mail*) and the only licensed radio station in Zambia had been rigged to popularize the third-term intention of Frederick Chiluba (Phiri 2001). The Youth Wing of MMD was likewise encouraged to propagate the third-term project (Simon 2005; SACBC 2002). However, like in the Nigerian case, any attempt at tenure elongation would have required a constitutional amendment of the ruling party that hitherto recognized only two terms in office. The Zambian Constitution would have required an amendment to accommodate any third-term ambitions since the Republic’s constitution prescribed two presidential terms of five years. Chiluba apparently underestimated elite resistance and the dissident elite capacity to mobilize forces like civil society and religious bodies against him (Inter Press Service, News Agency, Lusaka. 21 April 2001; *Christianity Today*, 23 April 2001).

Two prominent members of the ruling party introduced the resistance against President Chiluba’s third term by convincing a retired politician, Mark Chona, to

create and lead a movement to stop the amendment process.¹⁷⁸ The caucus meeting of the ruling party endorsed a motion on January 29, 2000 to amend the constitution of the ruling MMD to allow President Chiluba go for a third term. On the same day, two prominent MMD members who took part in the caucus meeting met with Mark Chona to discuss the outcome of the caucus meeting. Their meeting with Chona on the evening of January 29, 2000 became the basis for the formation of OASIS, the platform that mobilized various sectors against President Chiluba and his third-term agenda.

The decision of party internals to entrust the organization and leadership of the opposition platform to Mark Chona was both strategic and result-oriented. In the first place, Chona enjoyed much popularity on the Zambian political climate. Having served on the highest levels of the diplomatic mission, he had resigned with a good record as Zambian chief negotiator for the liberation of South Africa. On the international level, Chona commanded much respect having also served as consultant to IMF, World Bank, and many foreign embassies in Zambia. Chona's leadership of OASIS would guarantee the necessary funding needed for their activism. It would be difficult for President Chiluba to intimidate Mark Chona without attracting immediate international reaction because of Chona's international connections. On April 29, 2000, OASIS held its anti-third term rally in Lusaka. It mobilized church, women's, and student groups to signal a strong opposition and rejection of any form of

¹⁷⁸ Author's interview with Haagala, Director

amendment to alter the presidential term limit of two terms in the Zambian Constitution. OASIS under Mark Chona was also able to mobilize support for constitutionalism among the MPs, cabinet members and prominent members of the ruling MMD. For instance, on April 29, 2001, the vice president of the republic and eighty serving MPs not only identified with the course of OASIS, but also strongly dissociated themselves from Chiluba's third-term ambition.

The vice president was the highest-ranking political elite to reject Chiluba's attempts to amend the constitution for a third term. As a prominent member of the ruling MMD, his open disapproval of the attempt by Chiluba to seek a third term became a rallying point for other cabinet members and MPS mobilizing against Chiluba (News Agency Service, 21 April 2001; Armstrong 2010). Despite elite resistance and mobilization against the third-term agenda, President Chiluba and his loyalists went on to organize a National Convention to amend the party's constitution to allow Chiluba a third term. The police were on hand to forcefully prevent all dissenting party elites from gaining access to the venue where the third-term issues would be decided. Internal opposition grew, with more prominent party internals including Miyanda, the Minister of Education, coming out strongly and making public statements against the third term (*The Post*, Lusaka, 12 February 2001). Using OASIS as a platform, Mark Chona and other dissenting elites went on to further mobilize students who, on two separate occasions, took to the streets denouncing Chiluba as a dictator (*ibid.*), while the Zambian Law Association (also sponsored by

OASIS) staged protests against Chiluba (Inter Press Service, News Agency, Lusaka. April 21, 2001).¹⁷⁹

As the government struggled to contain the elite activism, defection, and protests organized by OASIS, the drafting of tribal and regional chiefs into the protest movement further raised the cost of repression for President Chiluba. In the following public statement, tribal and regional chiefs threatened to mobilize further opposition against the third term in rural communities, should the MMD go on to approve third term for Chiluba:

We make bold to ask our parliamentarians to state their views on the third term issue publicly. If they support the cause to extend President Chiluba's term of office, they have failed us in their functions and must quickly come back to their respective homes. (*The Post*, Lusaka Zambia, 30 January 2001).

Newspaper reports show that Chiluba provided his loyalists with ready cash funds to finance the third-term agenda, especially for lobbying and image laundering (SACCB 2002; Dole 2001; Armstrong 2010; Dulani 2011). At the same time, opposition political actors who did not show enough sympathy towards Chiluba's third term became victims of political and economic intimidation, corruption allegations, or dismissal.

¹⁷⁹ International donors and embassies provided sufficient funds to sponsor elite dissidence and enforce compliance.

Unfortunately, the president could not sack members of his cabinet who were opposed to his third term. Attempts to sack the ministers would have caused a governmental collapse and a constitutional mandate for a new election within three months. With his popularity waning and only a few months to the end of his second tenure, Chiluba did not consider new elections an option. He had no choice but to retain his cabinet, where more than five ministers openly spoke and worked against his third-term agenda (SACCB, December 2002).¹⁸⁰ Instead the dismissal affected mainly members of the military, the police, the intelligence service, top officers of the ruling party, members of the legislature, and many political elites whose sympathy for the third term agenda was questionable (Simon 2005; Armstrong 2010; Sardanis 2014).¹⁸¹

President Chiluba's hardline posture towards internal dissidents ultimately resulted in a complete rupture of the ruling MMD, creating room for massive elite defection from the ruling party and followed by the formation of a new political association to challenge the ruling party. Though Chiluba knew the strength of the

¹⁸⁰ Mark Chona remarked that president Chiluba initially approved the sacking of four Ministers for speaking out openly against third term, but refrained when he noticed that the sacking of ministers would trigger mass resignation of other ministers, which would lead to the collapse of his government.

¹⁸¹ Interview reports generally remark that the police, the army and members of the national intelligence community were particularly punished for shielding OASIS and the dissident elites and their protests against presidential directives

elite coalition against him, it is uncertain why he underestimated their capacity to defeat his third term project. However, despite Chiluba's public hardline posture against the dissenting political elites, he found time to personally meet with Mark Chona (the leader of OASIS) and each of the national executive members individually to persuade them with patronage to support his third-term bid, a gesture rejected by majority of cabinet members (SACCB, December 2002).¹⁸² The massive defection from the ruling party after Chiluba had secured his party's mandate for a third term shows that Chiluba's carrot and stick strategies to win political elite support did not succeed.

President Chiluba could not presume ignorance of the danger posed by internal dissidence toward him and his third term. By 2001, seventeen officials had resigned from his government while more than twenty prominent members of the party had defected.¹⁸³ The external and internal elite resistance led by Mark Chona and the vice president had mobilized enough support to stop the third term agenda at the party level. Since Chiluba needed the ruling party's approval for a third term, he ordered state police to stop the dissenting elites from participating in the party

¹⁸² Mark Chona confirmed in an interview with the author that President Chiluba personally met with him to discuss a way out of the controversy

¹⁸³ I base my calculation on my interview, various literature and newspaper reports on the defections in Zambia between 1997 and 2001.

conference (Simon 2005).¹⁸⁴ Prior to the party convention that endorsed Chiluba's third term, a large number of party members voiced their opposition to Chiluba and boycotted the convention.¹⁸⁵ However, the absence of the dissenting elites worked toward the advantage for Chiluba's loyalists to approve the third term for Chiluba.

The convention also approved a proposal to expel all party members opposed to Chiluba's third term. The threat of expulsion did not deter the elite dissidents, who chose to fight back through the courts. Even though the courts turned down their demands, the elite dissidents set a precedent for the judiciary's involvement in the constitution amendment controversy in Zambia. As I shall discuss later in this chapter, the court was to give a landmark ruling at a later stage of the debate that sustained and shaped the outcome of the controversy. Having secured the commitment of the ruling party and the National Constitutional Conference for a third-term proposal, Chiluba still needed to convince the MPs to confirm the removal of presidential term limits in Zambia. This task proved difficult, since some prominent elites had already lobbied and mobilized the MPs against Chiluba's third term.

As a first strategy, the elite dissidents agreed to refrain from boycotting any session in the parliament and by default, give Chiluba an undue advantage. The ruling

¹⁸⁴ Mark Chona and Haagala confirmed this allegation in an interview with the author

¹⁸⁵ *ibid*

party controlled a clear majority (seventy percent) in the parliament, but it was difficult for Chiluba to secure the required two-third majority of votes to pass the amendment bill. The elite dissidents made their presence and activism so strongly felt in the parliament that it necessitated the postponement of the presentation of the third-term bill to the parliament on three occasions (Dulani 2011).¹⁸⁶

However, the more Chiluba used threats and physical violence to intimidate the dissenting elites, the more his prominent party and cabinet members defected. In an opposition rally organized by the Law Association of Zambia, Vice President Christo Tembo and Minister of Education Miyanda warned Chiluba to respect the Zambian Constitution or face humiliation. They vowed to resist any attempt by the president to manipulate the constitution for personal ambition (Inter Press Service, 23 April 2001).

By April 2001, OASIS has assembled a strong coalition of party internals and externals against Chiluba's third term. Prominent party internals like Godfrey Miyanda, Nevers Mumba, Defense Minister Ben Nwila, Anderson Madoka, Michael Sata, and over eighty MPs had switched loyalty to retire Chiluba (Simon 2005). The broad coalition and the massive defection of political elites from the ruling party raised the cost of oppression for Chiluba considerably, isolating his regime further from the public. The vice president and the Minister of Education alluded to the

¹⁸⁶ Confirmed in the author's interview with Mark Chona in Lusaka Zambia, October 2014.

coalition in May 2001 when they lobbied the MPs to reject Chiluba's third term to forestall dictatorship in Zambia (SACCB, December 2002).

In response, more than eighty-five of Zambia's one hundred and fifty-eight MPs signed a petition agreeing to oppose and frustrate the constitutional amendment to give Chiluba a third term. Among those who signed the petition were sixty MMD MPs, twenty opposition members, and five independent members of the Parliament.¹⁸⁷ With eighty-five MPs, the elite dissident group enjoyed a superior position over Chiluba and his loyalists. Chiluba and his loyalists could not coerce these MPs to change their mind in favor of the third term, financial inducements and patronage notwithstanding.¹⁸⁸ OASIS presented a counter strategy to provide dissenting MPs and cabinet members with pocket money and transport fares for anti-third term rallies. This probably worked against Chiluba's attempted inducement of MPs and cabinet members to support the amendment bill.¹⁸⁹

¹⁸⁷Ibid.

¹⁸⁸ There is a confirmed allegation that Chiluba promised and paid US\$3000 to MPs who would support his third term bid (cf. Dulani 2011; Armstrong 2010).

¹⁸⁹ According Mark Chona, the founder of the OASIS Movement, the ability of OASIS to secure funds from international donors made it possible to counter Chiluba's use of state funds to bribe support for the amendment bill. Certain of rally allowances and transport fares, the dissenting elites put their weight against Chiluba's third-term bill, having nothing to lose financially.

The platform and leadership provided by Mark Chona, the vice president and speaker of the parliament, set the stage for the dissenting elites to apply pressure on Chiluba. By May 2001, a significant number of internal and external anti-third term elites had combined with other sectors to overpower Chiluba's group in the parliament. Though assured of a two-third majority vote in the parliament, Chona and the leading dissents were prepared for contingencies. Anticipating that some MPs might give in to the fear of intimidation, the dissenting elites designed an alternative plan for impeachment, should Chiluba refuse to relinquish his third-term agenda. With the majority of MPs on their side, it was easy for OASIS to mobilize an impeachment process against Chiluba. This influenced voting on the constitutional amendment in May 2001. The cabinet members needed by Chiluba for a parliamentary victory joined the dissenting group, further depleting the pro-third term group and deflecting any hope that the third-term project would succeed. The impeachment process for the dissenting elites overshadowed any prospects of parliamentary voting on the third-term bill. The impeachment process gained ground quickly and pressured President Chiluba to withdraw the third-term bill and announce his retirement from politics.¹⁹⁰

¹⁹⁰ In an earlier discussion with Chiluba, Chona had admonished the president to withdraw the amendment bill, to which Chiluba refused. In an interview with the author, Mark Chona spoke of President Chiluba's sudden interest in meeting him again later, following the commencement of the impeachment process. Chona refused to meet the president, as the dissenting elites were set to embarrass the president and his supporters.

5.3 Other Pressures Against Chiluba's Third Term

Other sectoral pressures converged to enforce compliance on President Frederick Chiluba. However, these pressures would have been insignificant to guarantee the compliance outcome in Zambia without elite mobilization. Firstly, elite dissidence had stimulated, sponsored, and distributed these sectoral pressures. Secondly, Chiluba strategically isolated many sectors in the presidential term limits debate by focusing and targeting the ruling party and the parliament, over which he had apparent control. He avoided a referendum that would have given sectors the mandate to put Chiluba under pressure.

Chiluba had anticipated a successful passage of the amendment, because his party controlled the majority of parliamentary MPs. Internal elite dissidence and activism prevented this, having thwarted Chiluba's third-term calculations and strategies. The formation of OASIS became a rallying point for all oppositional actors/sectors. The formation of an alternative political platform by the vice-president and other dissenting MMD elites, the Forum for Democracy and Development (FDD), became a political counter-initiative against the ruling MMD. While OASIS remained apolitical and resistant to political and institutional divides, the internal dissenting elites presented the FDD as an alternative platform to MMD. The vice president and other dissenting cabinet members used the FDD as a political platform to maintain political pressure on Chiluba. The non-political stance, of OASIS,

enabled its partnership with the FDD and further simplified the mobilization of CSOs, the church, women's groups, and the media against the third-term agenda of Chiluba.

Some analysts argue that about sixty-eight percent of the Zambian political community, including the judiciary, the international community, market men, and women, were involved in the third-term politics (Sardanis 2014). Political elites like Mark Chona, vice-president Criston Tembo, and the speaker of the parliament stirred the political consciousness against Chiluba's third-term agenda. They were instrumental in mobilizing other elites to bundle the sparse pressures arising from CSOs, the church, democratic institutions, and international actors. The elite activism and bundling of pressures forced Chiluba to retire. In the following, I will analyze the effectiveness of some of these pressures accordingly in producing the compliance outcome in Zambia.

5.3.1 Civil Society and Media

Zambian civil society has a long history of political activism dating back to the 1990s, when the first signs of a democratic transition were evident in Zambia. Some civil society organizations were active in the struggle that brought down the twenty-seven years one-party regime of President Kenneth Kaunda. By default, these CSOs helped install the multi-party democracy that brought Frederick Chiluba to power in 1991 (Dulani 2011).

In the struggle against Chiluba's third-term agenda, however, the involvement of the civil society was not central. In 1991, the populace yearned for democracy and a multi-party system. However, the CSOs that became active in the process that supported President Chiluba's election to president in 1991 lost their enthusiasm after they had helped install a multi-party democracy in Zambia. With the end of the Cold War, the populace had high expectations for the impact of democracy on Zambian economic development. After the implementation of a democratic system and initial enthusiasm, many Zambians became less optimistic about the promise of democracy and its effect on economic development.¹⁹¹

In Zambia, as in most other post cold-War African democracies, popular support for democracy declined due to the apparent inability of democracy to address the economic expectations of the people. The sporadic demonstrations against the third-term bill indicated that a section of the populace was not in favor of Chiluba's continued stay in power. The apparent failure of his democratic regime to deliver on

¹⁹¹ Inglehart 1977; 2003 describes this general decrease in enthusiasm on the promises of democracy as over expectation and the cause of a "mass lack of support for democracy", which characterized many post-Cold War democracies

democracy dividends as earlier expected of a democracy became a factor in “Chiluba must go” project.¹⁹²

However, some other civil society organizations, including the National Organization for Civic Education (NOCE) and the Independent Churches of Zambia (ICOZ), supported protests in favor of the regime. Many other minor CSOs remained less visible and active during the controversy. President Chiluba operated a regime that was antagonistic to both Zambian civil society and media, even though he benefitted from civil society and media activism in 1991 (Sardanis 2014). Many prominent journalists were intimidated and arrested to coerce the media into submission.¹⁹³ As Simon (2005) points out, harassment of the media demonstrates the Chiluba administration’s intolerance of the dissenting view.

For instance, youth members of the MMD in the Copperbelt region attacked an independent radio station in March 1999 that broadcasted an interview with an opposition politician, destroying its equipment and putting it out of the air.¹⁹⁴ The police also sounded a warning to other journalists to refrain from openly criticizing

¹⁹² Only the students and the National Women Association (NWA) came out strongly in opposition of the amendment of the constitution, seemingly because OASIS invited them to do so. The other few CSOs that joined the anti-third term struggle did so on varied reasons.

¹⁹³ Author’s interview with Swithin Haangala, Managing Director, Zambezi FM Radion in Livingstone, Zambia, October 2014.

¹⁹⁴ The Foundation for the Democratic Process documented such anti-media behavior in 2002.

the regime. Officers arrested and imprisoned Masautso Phiri, the editor of *The Post*, in 2001 for publishing articles criticizing Chiluba's third-term.¹⁹⁵ Also in 2001, Chiluba ordered the prosecution of an editor and some dissenting elites for defaming the president in an article that published in *The Post*.¹⁹⁶ Though this kind of repression drew condemnation from local and international human rights crusaders, the message from the Chiluba regime was clear (Human Rights Watch 1996, 1997; Phiri 1999).

Chiluba's government did not spare civil society any intimidation. Civic education NGOs suffered the most in Zambia, targeted because they represented the sensitive dynamics of 'donor-elite relations' in Zambia (Simon 2005). For instance, the mission of the Foundation for Democratic Progress (FODEP), the NGO Coordinating Council (NGOCC), and the Committee for a Clean Campaign (CCC) was "promoting democracy and good governance." This mission had a direct bearing on the substance of democratic consolidation. It involved the education of the citizenry about their democratic rights, the tutoring of politicians about their responsibilities, and the creation of opportunities to serve their constituencies, supporting greater participation in politics.

¹⁹⁵ Ibid.

¹⁹⁶ *The Post* allegedly referred to the president by calling him a 'thief.'

In order to entrench and retain state power as many incumbent presidents elsewhere have done in Africa (Ingelhart 2014; Diamond 2015; Collier 2008), president Chiluba used executive powers to suppress policies that would have expanded democratic practices in Zambia. Democracy NGOs, as mentioned above, drew the wrath of Chiluba's regime. The regime targeted these NGOs with anti-democratic policies in order to keep the populace ignorant about their democratic rights (Simon 2002; Sardanis 2014). To realize this objective, Chiluba's government utilized frivolous excuses to minimize the impact of these democracy NGOs, linking them to external support and banning them unequivocally (Simon 2002; Sardanis 2014). In 1996, for instance, prominent MMD leaders called for the banning of the three major democracy-oriented NGOs: the FODEP, the Zambian Independent Monitoring Team (ZIMT) and the CCC. The regime identified and banned several other groups that were outspoken and critical of the regime's style of governance (Simon 2005). In one of his public messages, Chiluba distinguished local NGOs as "conveyor belts of external forces that resembled mercenary operations," using this as an excuse to further stifle the voice of civil society by subjecting them to additional registration and conduct requirements (*Zambia Daily Mail*, 6 October 1996).

It was obvious that both the civil society and the media were exhausted and conquered long before the third-term debates had begun in Zambia. Because the regime weakened the potency of leading civil society organizations, neither civil society nor the media would figure at the forefront of the struggle against Chiluba's third term. Their most viable option was to ally with the leading anti-third term

movement, OASIS. Alliance with the leading elite political dissidents offered the NGOs a platform, funding, and protection.

Interview reports confirm that those CSOs that had participated in anti-third term rallies had simply queued into the anti-third term rallies organized and sponsored by OASIS.¹⁹⁷ Owing to paucity of funds among some NGOs, OASIS funded many NGOs that indicated an interest in participating in anti-third term rallies organized by OASIS.¹⁹⁸ It became evident that particular political elites, who were the masterminds of the resistance, mobilized and sponsored many of the NGOs that participated in the OASIS-led anti-third term movement in Zambia (Armstrong 2010). Political affiliation, connection, protection, and funding played a significant role in the mobilization of these NGOs. However, once incorporated in the struggle, the pressures emanating from these CSOs became mutually dependent and concurrent with elite political activism (Dulani 2011, Armstrong 2010). Simultaneously, some political elites in the likes of Mark Chona, Cristo Tembo, and the speaker of the parliament were indispensable in the harnessing and channeling of the bundled pressures to enforce compliance.

As shown in the Nigerian case, internal political dissidents served as whistleblowers. According to Armstrong (2010), these whistleblowers presented a

¹⁹⁷ Author's interview with Swithin K.M Hangala, Director of Zambezi FM Radio in Zambia, October 2014

¹⁹⁸ Ibid.

“high-profile opposition” to Chiluba. Elite opposition activism against the removal of term limits had been taking place for months before NGOs and other sectors joined the struggle. Newspaper accounts show that civil society, represented by student and religious bodies, only legitimized and strengthened the initial and on-going pressures from some political elites. Though the involvement of some CSOs in the anti-third term protests raised the costs of repression for Chiluba, analysts affirm that particular political elites initiated the movement against Chiluba’s third term, and brought the movement to its final fruition (Simon 2005; Armstrong 2010).

For instance, university students organized three mass protests in Lusaka in 2001. They organized these protests in solidarity with OASIS and elite dissenters that the regime had persecuted for their political stance against Chiluba's third term. As in the Nigerian case, these so-called mass protests were actually offshoots from the elite resistance against the removal of term limits. Mark Chona and Haangala all spoke of their difficulty in convincing and mobilizing the masses against the removal of presidential term limits. Since the majority of the rural grassroots did not understand the intricacies of term limits politics, it became difficult to mobilize them against the president, who had already bribed them with patronage and slush cash. Part of the government’s strategy involved the selling of government houses to village heads at low cost, a move that sustained Chiluba’s popularity in the rural areas (Sardanis 2014).

Relying on funds from international donors, OASIS, on the other hand, mobilized a section of the masses by producing and distributing t-shirts, face caps, towels, and handkerchiefs. Additionally, OASIS organized incidents of minor civil disobedience to attract popular attention among the masses. These included the appeal for two minutes of daily silence every afternoon at 17:00; the blowing of whistles; and the display of a red card to symbolize a total rejection of President Chiluba.¹⁹⁹ This helped anti-third term slogans and sentiments to gain strength among a section of the populace. Eventually, the regime deployed security agents to prevent people from observing the 17:00 hours' anti-third term ritual of silent protest. But even these security agents switched sides, protecting the people who observed the protest ritual and seizing t-shirts, towels, and face caps for themselves.²⁰⁰

CSOs participated in the protests against Chiluba for varied reasons. Judging from reports and public statements, CSO participation was motivated socially, religiously, and economically. Students, for instance, particularly opposed Chiluba for breaching the constitution (*The Post*, 2 May 2001). The Labour Union, however, cared little about the third term and joined the struggle to protest Chiluba's inability to create jobs for the unemployed masses (*The Post*, Lu 25 January 2001). Elite-led religious bodies, on the other hand, opposed Chiluba because of "his hypocrisy."

¹⁹⁹ Author's interview with Mark Chona and Haangala in Lusaka, Zambia on October 5, 2014

²⁰⁰ Author's interview with Swithin K.M Hangala, Managing Director of Zambezi FM Radio in Livingstone, Zambia, on October 2014

According to their statement, while Chiluba had declared Zambia a Christian state, his governance style demonstrated the opposite. Religious organizations referred to this attitude as hypocritical (*BBC News*, 3 April 2001). Mark Chona's close relationship to Fr. Nkwette, the personal secretary to the Archbishop of Lusaka, made the church willing to ally with OASIS. Fr. Nkwette had worked on the same commission with Chona. He facilitated a meeting between Chona and the Archbishop, as well as a meeting between Chona and the National Women's Association, to which he was a chaplain. With such connections, OASIS expanded and penetrated other organizations using the church, women's groups, and other small but powerful clubs.

Of all these CSOs, the protest generated from the students was most targeted. When the students protested the illegality of the intended removal of presidential term limits, they directly influenced the struggle against Chiluba's third-term amendment bill. The protest actions of other groups were 'non-directed,' having manipulated the ongoing political situation to exhibit their separate grievances. There was no evidence of direct lobbying of the MPs emanating from CSOs, nor evidence of CSO-sponsored protests. CSO protests were anchored and dependent on dissenting elites and therefore could not have directly and independently influenced the outcome of the third term debate. In the end, political elites supplied the highest pressure that enforced term limits compliance on President Frederick Chiluba in 2001.

5.3.2 The Parliament

As in most presidential systems in developing democracies, the Zambian political system accommodated power entrenchment by concentrating power within the presidency. Though the constitution clearly demarcated the role of parliament, the overbearing and monopolizing nature of the presidency hindered the independence of parliament. The parliament, though, had only existed for nine years. As an institution, it lacked the experience and maturity to assert its independence.

Furthermore, no precedent for independent action had existed under the mild authoritarianism of Kenneth Kaunda's regime, which has lasted twenty-seven years. Under Kaunda, an unbalanced relationship existed between the executive, the parliament, and the judiciary, providing an opportunity for executive recklessness and undemocratic political behavior. For a large part, this remained unchanged under Frederick Chiluba. The judiciary and parliament often served as institutional tools to legitimize Chiluba's desired programs (Simon 2005; Sardanis 2014).

Like Kaunda, Chiluba used the parliament as a rubber stamp to confirm his oppressive policies (Rakner 1998). Records show that the parliament never recorded any clear victory against presidential initiatives prior to third-term politics (Armstrong 2010). According to a Zambian political expert, no one expected parliament to reject Chiluba's bill (Sardanis 2014). Parliament had often figured as an extension of the presidency. It neglected its function to 'check and balance' the executive, a role which it did not take seriously (Armstrong 2010; Sardanis 2014).

For instance, the parliament readily approved the ‘State Proceeding Act’ initiated by Chiluba in 1998, which stripped the courts of their power to hold the executive accountable (*Business Day South Africa*, 15 September 2000).

Parliament’s dependence on the executive reveals how the parliament initially understood its duties within the new Zambian democracy. At the beginning of the transition regime in the 1990s, the parliament apparently understood cooperation with the executive as a sign of political maturity and democratic consolidation. The parliament did not serve as a place for opposition politics until the third-term debate fractured and ruptured the ruling party and loyalties within the parliament. Elite activism against third-term politics would re-shape the understanding of democratic growth and consolidation in Zambia. Political leaders would employ the tactics of political realignment and an elite coalition to apply pressure on and demand accountability from Chiluba, using the parliament as a platform for resistance. Through elite activism, the parliament suddenly became a political battlefield for third-term politics.

Parliament provided the platform for dissenting political actors to launch three important decisive actions that increased political pressure on Chiluba and ultimately pressurized him into compliance (IRIN, 7 May 2001). The parliament became the venue where internal party opponents mobilized and launched impeachment proceedings against Chiluba. Dissenting elites used the parliament too to demand the dissolution of Chiluba’s cabinet. Lastly, the parliament offered the speaker the

opportunity to overrule the president on the dismissal of dissenting ruling MMD MPs.

Like in the Nigerian case, the parliament provided the platform for an organized struggle against Chiluba's third term by becoming a destination for "war." Dissenting political elites used the parliament to execute a prepared political agenda, without compromising the needed and usual parliamentary debates, arguments, and procedures (Dulani 2009). Party affiliation no longer mattered, as individual discretion took an upper hand. Instead of party affiliation, the position of each MP on Chiluba's third term was decisive. Ultimately, parliament did not act as an autonomous body in the third-term debate. Particular dissenting elites transformed the parliament into a combatant venue to pressure President Chiluba into compliance relying on individual discretion.

Furthermore, as in most new democracies operating a presidential system, the Zambian Constitution allowed an "institutionalized resource advantage for incumbent presidents" (Simon 2005). President Chiluba often exercised an unrestrained monopoly on issues of finance with other branches of government (ibid). A majority advantage of the ruling party in the parliament often made this possible. Former president Kenneth Kaunda enjoyed these institutional advantages for twenty-seven years. Unfortunately, the transition constitution particularly failed to reshuffle many of the resource advantages available to an incumbent regime.

President Chiluba enjoyed unbalanced advantages, to the detriment of multiparty democracy and its consolidation efforts in Zambia. He employed these resource advantages against his opponents throughout his two tenures and intensified it especially during the third-term politics (Sardanis 2014). President Chiluba and his loyalists particularly monopolized the state media to the disadvantage of other parties and opponents (Phiri 1999; Sardanis 2014). During the third-term amendment bill debate, the regime allowed itself and loyalists unrestrained access to public media for their lobby activities, while it denied dissenting elites access to the very same media.²⁰¹

The incumbent regime also controlled major aspects of the economy. Chiluba maintained a competitive imbalance toward his favor by controlling a wide range of assets from National Banks to Copper Mines (Simon 2005; Sardanis 2014).²⁰² Some analysts have observed that Chiluba used an economic monopoly to maintain his political and economic dominance over the opposition (Rakner 1999; van de Walle 2001). Chiluba used the proceeds as patronage to coerce dissenting voices and achieve an electoral advantage (Sardanis 2014). The executive branch in Zambia heavily dominated other branches in its government using this kind of carrot and stick

²⁰¹Ibid.

²⁰²In an interview with the author, Mark Chona particularly criticized president for the handling of national Copper Mines, a scandal he argued gave OASIS a seeming advantage in spreading anti-third term message to the masses.

strategy, as was the case in most other African countries (Tordoff and Molteno 1974; Gertz 1984).

Describing the imbalance in Zambia, van de Walle states that “executive dominance” had “eaten away at Zambian democracy” (2002), while Philip Alderfel observed little improvement in the quality and quantity of parliamentary activities in Zambia after 1991: for every step forward on the path of legislative development, there were two steps backward” (1997). Chiluba's dominance over parliament, coupled with the institutionalized resource advantages accruable to his regime, made it difficult for the parliament to exert any meaningful institutional pressure on Chiluba. Parliament only succeeded in effectively coercing Chiluba with the help of elite agents during the third-term debate (Burnnel 2001; Wehner 2001).

Mark Chona recognized his own agential influence within parliament, when he and other political elites mobilized over one hundred MPs against the repealing of term limits in Zambia. He acknowledged that the outcome of the presidential terms limit amendment debate would have been different without the consistent pressure mounted on the MPs by OASIS, the vice president, and the speaker of the parliament. He commended the role of other prominent members of the ruling party, whose rejection of Chiluba's third-term amendment bill ruptured executive loyalty within the ruling party and engendered a parliamentary balance of power.

A parliament that had been docile would not have suddenly risen up to apply decisive institutional pressure on the president, without a decisive and radical push

from some political dissenting elites who may have used the parliament as a platform to settle political scores with President Chiluba.

5.3.3 The Judiciary

Initially, the Zambian courts did not differ from the Zambian parliament. Like in many other post-Cold War African democracies, the courts enjoyed little independence. Many people across post-Cold War African democracies regarded the courts as an appendage of the executive (Bratton and van de Walle 1994; Diamond 1988). As an institutional body, the Zambian courts did not take a clear stand on any issue concerning the entrenchment of power by Chiluba. Instead, the courts assisted the government in securing victory in many controversial court cases involving the government (Simon 2002). However, during the presidential term limits debates, dissenting political elites tested the credibility of the courts by providing an opportunity for the courts to show some courage and independence (Armstrong 2010). The internal dissenting elites were undoubtedly aware of the weakness of the Zambian courts, but still decided to reach out to the judiciary during the third-term controversy for two reasons. The dissenting political actors wanted to protest against what the vice president described as Chiluba's "reckless impunity and approach to the

rule of law.” The dissenting elites also wanted to use the courts to legitimize their resistance.²⁰³

Mark Chona emphasized the importance of legitimizing elite activism through the court. While being careful to avoid his personal connections with judicial officials, he believed that the judiciary could help challenge certain executive decisions against dissenting elites. By enlisting the help of the courts, Chona could involve the judiciary in the third-term debate. The dissenting elites probably understood the role of the judiciary as a reactionary institution that would only take a stand if opponents raised objections and approached the courts for interpretation. Like in the Nigerian case, the dissenting elites in Zambia utilized this space and inundated the judiciary with court cases related to the politics of presidential term limits.

While the judiciary initially failed to show interest in the third-term controversy, the courts adjusted their stand as the debate heated up. The courts became even more involved as Chiluba’s camp began to litter the political space with political casualties. For instance, the neutrality of the courts disappointed the masses when Chiluba and his loyalists barred the dissenting elites from the party convention that repealed the MMD’s constitution, allowing Chiluba to run for a third time. The courts initially refused to entertain the hearing on the charge brought forward by the opposition elites, describing it as a party affair (*The Post* 30 April 2001). In its

²⁰³ According to the author’s interview with Mark Chona, approaching the courts was a better strategy for inviting the judiciary into the third-term amendment bill.

refusal to intervene early, the judiciary appeared to protect President Chiluba and allow his consolidation of more power (Phiri 2002). Others interpreted the court's inaction as judicial recklessness (IRIN 7 May 2001).

How and why did the court suddenly begin to deliver judgments in favor of the dissenting elites? The first judicial decision that favored the dissenting elites was the overruling of an executive and MMD party order, which declared the parliamentary seats of defected and expelled MPs vacant. At the time of the overruling, the MPs were preparing for a parliamentary vote on the third term bill, and the amendment debate was nearing its end. Though President Chiluba had anticipated the absence of over eighty expelled and defected MPs to allow the bill through, he was not certain that the remaining MPs were on his side. Some MPs loyal to Chiluba were to cast protest votes against Chiluba, in solidarity with the expelled MPs.²⁰⁴

The courts, thus, only advocated the dissenting elites when the elites already appeared to have won. In April 2001, the Zambian Lawyers Association, (a strong member of OASIS) organized a rally in which the vice president was a key speaker. The rally was a protest against the executive order that had declared the seats of expelled and defected members of the ruling party vacant. Observers argued that the

²⁰⁴ In separate interviews, Mark Chona and Haangala convinced the author that the MPs were optimistic and eager to vote down the bill to protest the executive order that declared the parliamentary seats vacant of those expelled colleagues who had demonstrated opposition to Chiluba's third term.

Zambian Lawyers Association had organized the rally to pressure the judiciary to protect the dissenting elites. At the rally, the lawyers invited the judiciary to ‘stand on the right side of history,’ since Chiluba’s third term would be defeated (Inter Press Service, 21 April 2001). Any contrary judgment would supposedly influence the credibility of the Zambian courts negatively. The case before the courts proved a difficult one, but it became an opportunity for the judiciary to redeem itself and secure its independence from President Chiluba.

In 1998, Chiluba passed a parliamentary bill that amended the ‘State Proceedings Acts’ and stripped the courts of their capacity to issue injunctions. Before May 2001, the courts had continuously been supportive of the incumbent Zambian presidents and respected the terms of the State Proceeding Acts, even after their amendment in 1998. In May 2001, the courts suddenly decided to disobey them. The courts illegally issued injunctions in favor of the internal dissenting elites expelled from the ruling party, acting in direct consequence of elite pressure on the judiciary. Why did the courts act in breach of the amended State Proceeding Act, which refrained them from granting court injunctions against the executive?

Though some interview reports alleged a personal connection between the dissenting elites and some top judicial officers,²⁰⁵ I judge the breaching as important

²⁰⁵ Haagala alleged in an interview with the Author that Mark Chona had very good connection with top judicial officials, a factor he could not disconnect from judicial soft spot for the dissenting elites. However, the author could not confirm this allegation independently.

for many reasons. It enabled the dismissed ruling party dissident MPs to retain their seats in the parliament. The injunction also enabled the affected ruling party MPs to continue to apply pressure on Chiluba from within the parliament. The injunction guaranteed the parliamentary majority needed by anti-third term elites to defeat the amendment bill. Equipped with the judicial injunction, the Speaker of Parliament quickly overruled the executive order, recalled the dismissed MPs, and retained their seats in parliament. The retention of these parliamentary seats of expelled party members was necessary to block any move from Chiluba to push any legislation concerning the third term (IRIN 7 May 2001). Furthermore, it fuelled the impeachment process against Chiluba, giving it more support and speed. The impeachment attempt sent a strong signal to Chiluba's loyalists and strengthened the elite dissenting camp against the third term.

The last judicial intervention was crucial in sustaining a majority advantage for the dissenting elites in the parliament. However, the intervention came late, at a time when the dissenting elites had already resisted executive intimidation, sustained their activism, and further strategized to enforce compliance on Chiluba. Though the intervention of the courts appeared to quicken the defeat of the amendment bill, it came when the fight was almost over, and was moreover, elite-induced, targeted to give protection to victims of Chiluba's executive intimidation. For many actors, the defeat of the amendment bill had not been dependent on judicial intervention.

According to Mark Chona, President Chiluba and his government had already been facing strong political isolation. The loss of more than seventy-five percent of his cabinet members and more than one hundred MPs to the anti-third term movement (OASIS) rendered the president powerless. As Mark Chona remarked:

We appreciated the judicial judgment that restored the parliamentary seats of the expelled MPs. Of course, we became more confident. However, we had our plans and strategies. We were not waiting for the court because we knew that the government had already collapsed. The president had already become a lame duck. We would have still defeated the amendment bill without the late intervention from the court.²⁰⁶

The judiciary, thus, joined the struggle to exploit the apparent victory of the opposition and place itself ‘on the good side of history.’ There was no evidence of independent pressure from the courts. Unlike the parliament, the courts did not function as effective platform for the dissenting elites to apply pressure to Chiluba. They only provided last minute protection for the dissenters to stop Chiluba and his third-term amendment bill in the parliament.

²⁰⁶ Author’s interview with Mark Chona in, Lusaka, Zambia, in October 2015

5.3.4 Political Parties

In 1991, a coalition of political movements had combined to pressure Kenneth Kaunda to allow a multi-party democracy. International donors, civil society groups, political activists, and religious bodies produced the bundled pressure that resulted in Zambia's democratization. The successful democratic transitions in Benin Republic, Niger, Togo, and Gabon in the early 1990s further encouraged Kaunda to lift the ban on multi-party political activities in Zambia (U.S. State Department, April 2001). The combination of these forces with strong local and internal elite activism²⁰⁷ within the ruling party pressured Kaunda to a roundtable negotiation, which culminated in the formation of political parties and the first ever, open, multi-party elections in Zambia in 1991 (Armstrong 2010; Sardanis 2014).

Before 1991, Kenneth Kaunda had ruled Zambia as a one-party state for twenty-seven years with his United National Independence Party (UNIP), consolidating and entrenching state power (Simon 2005; van de Walle 2001; Rakner 1999; Sardanis 2014). With the democratic opening assured, many political associations and movements officially gained ground, and after that transformed into political parties. The Movement for Multiparty Democracy (MMD) became the

²⁰⁷ According to Mark Chona, an agreement already existed in the ruling UNIP for democratization and a multi-party democracy. Kaunda had already yielded to internal pressure from the party to hold multi-party elections in 1994 and then retire. The democratization movement only quickened the process.

dominant and most significant political party that created an alternative platform for popular convergence²⁰⁸ to challenge Kenneth Kaunda and his ruling UNIP. The MMD therefore became a loose coalition of former UNIP elites, Labour and Professional Unions, and many other opponents of President Kaunda. The convergence in the MMD aimed to force Kaunda into retirement (Simon 2005; Dulani 2011; Sardanis 2014). The competition for the presidency and the parliament took place primarily between two parties, the ruling UNIP and the newly formed MMD.

In 1991, the presidential candidate of the MMD, Frederick Chiluba, won the parliamentary and presidential elections with an overwhelming majority. The ruling MMD under Chiluba, however, quickly became guilty of Kaunda's mistake of running a one-party state with little tolerance for opposition parties. This attitude placed him in opposition to other political elites in Zambia (Bratton 1999; Sardanis 2014). By 1996, when Zambia was due for its second elections, Chiluba used a system of carrot and stick to either lure or coerce most opponents into the ruling party. The government used patronage, bribery, and intimidation to destroy the newly introduced multi-party system in Zambia (Simon 2005; Sardanis 2014).

²⁰⁸ Knowing that Zambians had become tired with UNIP and wanted a change, some prominent members of the ruling UNIP merged their political factions and associations with the MMD to create a formidable opposition and remain relevant in the new democratic dispensation.

By the second election in 1996, some political parties were almost extinct because of Chiluba's little tolerance for opposition parties. For instance, in 1996, Chiluba barred the only prominent opposition candidate, Kenneth Kaunda, from contesting in the presidential elections. Kaunda had led the UNIP as the main opposition party to boycott the presidential and parliamentary elections in 1996.²⁰⁹ Chiluba's political intolerance caused political disaffection in Zambia, especially among political elites (and within his MMD), who accused Chiluba of returning Zambia to a one-party state.²¹⁰ Kenneth Kaunda was an independence hero and still commanded much respect and loyalty, even within the ruling MMD. Not many political elites accepted the humiliation to which President Chiluba subjected Kaunda, a situation that was later to hunt President Chiluba.²¹¹

Thus, Chiluba did not only face great opposition from political elites from other parties, but the internal MMD's opposition elites also grew exponentially,

²⁰⁹ Chiluba implemented a discriminatory Electoral Law in 1996 that barred all politicians from contesting the presidency whose parents were not of original Zambian descent. The target of this policy was apparently Kenneth Kaunda, who was the main opposition candidate.

²¹⁰ The decision to amend the constitution to forbid presidential candidates without Zambian roots aimed to prevent Kenneth Kaunda from further contesting the presidency against the incumbent. Chiluba saw Kenneth Kaunda as a political threat with massive loyalty and support among the elites. He constitutionally blocked him from any hope of joining the presidential race, according to Mark Chona.

²¹¹ *Ibid.*

mainly because of Chiluba's intolerance of opposing views (Ihonvbere 1995; Sardanis 2014). However, the strongest opposition to Chiluba's third term came from within the ruling MMD. The internal resistance was obvious. A loose coalition of former disenchanted and frustrated UNIP elites, who could not accept Kaunda's entrenchment of state power, had culminated in the first formation of the MMD. It was not surprising to see the same political elites abandon Chiluba, once Chiluba showed similar signs of entrenching of state power.

By 1996, it had become clear that the MMD lacked any ideological grounding. The MMD began to demonstrate the same factors that had once brought down the UNIP. Judging from its internal political incoherence, the party that had popularly defeated an incumbent president in 1991, strongly portrayed itself only a few years later as an interest group with a singular agenda: to oppose and retire Kenneth Kaunda. Beyond this, the MMD lacked any focus on how to manage its political success. According to Ihonvbere (1995), the MMD was an assemblage of political dissidents who turned themselves into an elite pressure group to checkmate Kaunda's presidential powers and grab power. The implosion and chaos in the MDD between 1999 and 2000, which culminated in elite defection, indicated not only a lack of ideological unity and political loyalty in the ruling party, but also in other political parties (Armstrong 2010). It also demonstrated how little the Zambian political party system had grown, which echoed the larger situation within Africa.

Like in the Nigeria case, the political parties in Zambia functioned as platforms for power access lacking in ideological motivation and unity (Campbell 2011; Armstrong 2010). Between 1995 and 1996, Chiluba moved against prominent members of the UNIP, including Kenneth Kaunda, in a calculated attempt to intimidate the opposition party out of the 1996 electoral contest. This strategy attracted strong opposition from prominent members of the ruling party, who did not conceal their political abandonment of the president. Again, this incident confirmed that the MMD was not a political party, but rather, an interest group aimed at forcing the 1991 retirement of Kenneth Kaunda. The ideological disunity in the ruling MMD was to play a significant role in the defeat of Chiluba's third term (Simon 2005). The combination of power entrenching tendencies combined with political miscalculations to form the nucleus of internal opposition against Chiluba's third term.

Initially, internal dissent was not a factor in the ruling MMD. Chiluba had been able to pass key parliamentary bills without opposition from the ruling party and parliament during his first tenure. The State Proceeding Act²¹² had passed without opposition, for example. It may even have helped Chiluba to consolidate power. However, elite activism between 1999 and 2001 turned the tide and undermined Chiluba's regime by presenting extra political hurdles that hindered Chiluba's actualization of his third term. Chiluba knew the strength of the opposition elites,

²¹² This act barred the courts from issuing injunctions against the government.

especially that of the vice president, Gen. Christo Tembo, the Minister of Education, Gen. Miyanda, and the Speaker of the Parliament. Having tried in vain to win them over with patronage, he made an effort to isolate them from the ruling party, especially prior to the party convention in 2001(*The Post*, 7 April 2001).

The more Chiluba employed intimidation and violence against his opponents, the stronger the internal resistance in the MMD grew and the more party loyalty disintegrated. The official dismissal of Chiluba's internal opponents from the ruling party, for instance, had a far-reaching consequence on Chiluba's third term. The sacked members of the ruling party (cabinet members and MPs alike) emerged as public, aggressive opponents of the regime. They channeled their frustration with OASIS in the organization and sponsorship of anti-third term conferences, seminars, and media debates (Phiri 2003; Sardanis 2014).

The boldness of the dismissed members and their alliance with OASIS may have inspired and attracted some CSOs, especially the students, into the struggle. The vice president made a 'Public Plea' on April 29, 2001, one week before MMD's convention that approved Chiluba's third term. In his widely listened public plea, he opposed any attempt to change the presidential term limits provision in the Zambian Constitution. He requested his party members and the public to resist and reject

Chiluba and his third term in its totality, and boasted to help kill the third-term bill (BBC News, 21 April 2001).²¹³

Chiluba was probably aware that the success or failure of his third-term bill depended on his level of support among political elites and the size of his elite base (Burnell 2001). In the run-up to the third-term debate, Chiluba invested exorbitant funds in his elite support-base. His use of intimidation and patronages was notable, aimed to guarantee that his loyalists won every available election (Armstrong 2010; Simon 2005). He sought to have more of his loyalists in prominent positions to boost his political elite support base and counter potential dissidence from prominent political elites within the ruling party. Chiluba was probably mindful of the importance of political elites for the success or failure of his third-term bill. He, therefore, tried to boost his elite base by investing energy and resources in luring and amassing more loyalists, even though his party already had an overwhelming parliamentary majority (Burnnell 2001). By intimidating and financially inducing some of his opponents for support, Chiluba targeted particular political elites who ultimately were to force him to retire, despite the MMD's parliamentary majority (ibid).

²¹³ The BBC news, headline reflected the Vice President's plea, reading "Ministers tell Chiluba: Time is up." BBC acknowledged that no statement was more inspirational in galvanizing support against Chiluba's third term than the public statement from the vice president.

While I argue that the ruling party as an institution failed to check Chiluba's powers, I recognize the crucial role of Zambia's multiparty configuration for the outcome of the presidential term limits politics in Zambia. Because the multiparty system in Zambia allowed room for defection, it increased the potency for internal political activism against Chiluba (Simon 2005; Burnel 2001; Armstrong 2010). The party system, with the possibility of defection, not only provided a platform for elite activism, but also guaranteed the formation of alternative platforms. The elite political dissidents needed the platform to sustain their activism and pressure on President Chiluba, taking into consideration how the president as a party member solely influenced and coerced the ruling party into altering its constitution to grant him a third term. The ruling MMD did not apply constitutional pressure on Chiluba. Rather, the president conquered the ruling MMD, which became an instrument of manipulation in Chiluba's attempt to entrench power. Individual elements, not the party supplied the pressures.

The exclusion and expulsion of dissenting party members, as well as and the controversial amendment to the party's constitution indicate that the ruling party lacked internal democracy. As an institution, the ruling MMD also lacked the capacity to check excessive presidential power. Chiluba's affront on the ruling MMD demonstrates how some incumbent presidents assume the stature of a 'big man' in African politics (Iwu 2008; 2009, Calderisi 2006). As in most post-Cold War African democracies, the Zambian case shows how a president's power exceeds that of the party (Daloz and Chabal 1999; Posner & Young 2007; Diamond 2015). As the

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President of the Republic, Chiluba assumed the position of a grand- commander of the ruling party. Since the party depended on him for funding, he could manipulate the party, as he desired (Sardanis 2014). Elite internal dissidence became necessary to loosen Chiluba's hold on the party. Elite internal dissidence went on to balance his presidential powers in the party.

Since the party provided a limited forum for alternative views, while stifling internal competition, dissenting internal elites relocated to the parliament. The neutrality of the parliament apparently provided a forum for elite convergence against Chiluba's third term, which the party failed to provide. The MMD had more than the required two-thirds majority to pass the amendment bill in the parliament, but elite dissidence and resistance caused the MMD to forfeit it.

5.3.5 International Pressures

Zambia has a long history with the international community and international donor agencies. By 1999, foreign funding represented about seventy percent of all project funding in Zambia (Rakner 1999). During Chiluba's regime, especially in his first term, foreign aid increased when Zambia appeared open to democracy (van de Walle and Mulaisho 2001). Chiluba accepted the Structural Adjustment Program and boasted of his positive economic relationship with western donors (Simon 2005), specifically referring to the importance of foreign funding to the Zambian economy

(Ihonvbere 1995). The reliance of the Zambian economy on foreign funding came, however, with responsibilities.

The western donors who funded Chiluba's regime and the Zambian economy placed expectations on Chiluba. They expected, on the one hand, that Chiluba would help politically stabilize the southern African region and on the other hand, liberalize the Zambian economy by enforcing laws to guarantee the privatization of state-owned companies in Zambia (Sardanis 2014). Chiluba initially appeared ready to deliver on these expectations (ibid).

The consolidation of the Zambian democracy was apparently not a primary focus of the international community. While Chiluba committed human rights abuses and intimidated political parties, the international community showed little concern (Simon 2005; Sardanis 2014). However, Chiluba did produce proof of liberating the Zambian economy and stabilizing the region, but failed to sustain these interests, though, as the third-term agenda became a priority (ibid.).

An alleged coup resulted in the arrest and detention of Kenneth Kaunda, the former president of Zambia, in 1997. This incident drew the international attention of western media and governments to Chiluba, for the detention of Kaunda in a maximum prison in Lusaka (*The New York Times* January 1, 1998). Concerned about the unfounded allegation and the lack of a fair trial, the African Union, U.S., U.K., South Africa, and other countries pressured Chiluba to release Kaunda. After a week of diplomatic wrangling and persistent pressure from Julius Nyerere, who chose to

relocate with his wife to Kaunda's prison, Chiluba reluctantly bowed to international pressure. He transferred Kaunda from prison to house arrest.

After witnessing the international pressure against Chiluba for the release of Kaunda, Zambians expected the same external pressures to respond to Chiluba's third term in 2001. In the case of the third term, international actors only pressured Chiluba indirectly and only due to the involvement of OASIS in the anti-third term struggle. The term limits politics in Zambia saw an increase in external pressures when particular political elites, like Mark Chona, began an expansive lobby through OASIS to attract international attention against Chiluba.²¹⁴

Mark Chona personally appealed and lobbied many embassies and home countries to support constitutionalism in Zambia. In an interview with the author, he revealed how many international donors secretly funded elite activism against Chiluba's third term by channelling funds through a designated embassy in Lusaka.²¹⁵ The funds were necessary for the sponsoring of anti-third term rallies and the lobbying of MPs, the media, and civil society organizations. It financed the printing campaign and rally materials like t-shirts, pamphlets, brochures, handkerchiefs, as

²¹⁴ Ibid.

²¹⁵ Ibid.

well as provided pocket money for MPs and cabinet members for anti-third term activities.²¹⁶

Mark Chona is responsible for the international lobby, which rested more on his global connections and popularity than the international community's interest in saving the Zambian democracy. In actuality, international donors had admired Chiluba, regarding him as the darling of the international community despite the detailed human rights abuses credited to his regime (Sardanis 2014). International donors either trusted Chiluba to respect the constitution, or cowered before Chiluba's hard stance against foreign NGOs, whom he frequently accused of meddling in Zambian internal politics (Simon 2005; Sardanis 2014), resulted in the closure of many Zambian democracy NGOs with links to international offices (ibid.).

While preparations by the regime's loyalists to actualize the third-term agenda were underway, Chiluba's third-term project was free of external pressure. Then, a violent incident took place at the MMD party conference, which resulted in the breaking of the arm of the Minister of Mines. OASIS used this incident to attract international attention.²¹⁷ In response to the international condemnation of the violence, Chiluba quickly and strategically reassured the international community

²¹⁶ Ibid

²¹⁷ Ibid.

that he would fulfil his pledge to serve only two terms (BBC Monitoring International Reports, 27 April 2001).

The absence of strong and direct international pressure against Chiluba's third term prior to the involvement of OASIS reflected a general decline in international interest for democracy consolidation in African countries where term limits were repealed (Diammond 2015, Levitsky 2015). With exception, Nigeria was the only country held accountable to an official statement on the third-term amendment bill from an international power, which dissenting elites used to their advantage.²¹⁸ In Zambia, direct political pressure from the international community on the third-term amendment bill was non-existent and wanting. The secret funding of the elite dissenting group through OASIS was indirect and dependent on elite pressure, mobilization, and international contacts and connections. Political opponents, elite activism, and non-exogenous pressures directly impeded Chiluba's third term, ultimately preventing him from entrenching power through the enforcement of term limits compliance.

²¹⁸ The U.S. State Department issued a statement in which he admonished Obasanjo to re-think his intention in seeking a third term. Though diplomatic and chiefly aimed at avoiding conflict and obstruction in oil production and flow, opposition elites could at least rely on such statement to apply more pressure.

Conclusion

I have identified and analyzed different pressures that interacted to enforce term limits compliance on President Chiluba in 2001. I chose to analyze five sectors that were directly involved in the debate and struggle to enforce compliance in Zambia: elite activism, the judiciary, the parliament, political parties, civil society and international actors. From field research and literature, I conclude that elite political activism interacted with institutional dynamics to produce direct and more focused pressures that enforced compliance on President Chiluba. Elite political activism ruptured the dominant executive loyalty in the ruling party, altered the hegemonic position of the ruling MMD in the parliament, and forced the judiciary to reclaim its legitimacy by rendering popular judgements. Political elite dissidents turned the parliament into an important platform for opposition against the third term and invited the courts to provide protection for the dissenting politicians to sustain their resistance and activism.

The liberation of these institutions by elite activism implemented unprecedented institutional independence, positioning those institutions to play a role in the enforcement of term limits compliance in Zambia. Mass involvement in the form of protests was insignificant and mostly dependent on elite mobilization and sponsorship, thus unable to raise independent and sufficient costs of repression for Chiluba. Pressures arising from the civil society were secondary and dependent, since they stemmed from elite dissent within the ruling MMD. The multiparty system

provided a veritable ground for elite defection while political parties, especially the ruling MMD, aided the entrenchment of power by Chiluba.

International pressure would have been non-existent without elite involvement and the lobby initiated by OASIS. This was an oppositional forum led by Mark Chona, former Underminister of Foreign Affairs and consultant to the IMF and World Bank. Chiluba was a darling of the international community for championing the liberation of Zambian economy from Kaunda's state-controlled economy (Sardanis 2014). A figure of Chona's capacity was necessary to lobby the international community to reconsider its position on Chiluba. The decision of the international community to support constitutionalism by sponsoring anti-third term activities in Zambia was possible due to Chona's connection and popularity within the international circle.

Zambians hailed Frederick Chiluba as a hero for leading other political elites and the civil society to pressure Kaunda to move the country toward a multiparty democracy in 1991. Analysts have also noted Chiluba's capacity to use enormous political resources to consolidate power, especially after his second election in 1996. However, like Obasanjo in Nigeria, Chiluba failed to garner a personal political coalition with which to convince key political elites within his ruling MMD that his political power was invincible (Dulani 2011; Simon 2005; Armstrong 2010). The collaboration of some political actors from the ruling MMD and a broad coalition of Zambian political elites ultimately mounted pressures that effectively enforced term

limits compliance on Chiluba (Phiri 1999). Political elite dissidents became responsible in mobilizing the MPs, the courts, civil society organizations, and religious bodies. The dissenting elites bundled these collective but sparse pressures to enforce term limits compliance on President Frederick Chiluba.

In the next chapter, I will examine the final case study, which focuses on the presidential term limits politics of the open and third-term constitutional amendment bills of 2002 and 2003 in Malawi.

Chapter 6: The ‘Elite Pork-Barrel Politics’²¹⁹ of Presidential Term Limits in Malawi

Elite behavior represents the central variable shaping Malawi’s democratic experience. That is, both quick and slow democratic death are understood as ultimately authored by political elites who, operating in the context of other factors, have the power to shape the survival and character of Malawi’s democracy (vonDoepp 2005).

6 Introduction

The peaceful power alternation in Malawi through multi-party democratic elections in 1994 gave both democracy observers and promoters hope in a changing international policy rooted in ‘democracy exportation.’ In the general elections of 1994 Malawi experienced for the first time, an electoral process in which multiple parties and persons contested for elective positions. Democracy observers quickly

²¹⁹ Morrow describes the politics of presidential term limits in Malawi as ‘elite pork-barrel politics.’

heralded Malawi as a model of democratization under harsh circumstances.²²⁰ However, less than a decade later, the Malawian democratic experiment would witness a major challenge toward consolidation. The transitional president, Bakili Muluzi, had never hidden his intention to rule beyond his constitutional two-term mandates. He had successfully repealed the law establishing senate and local governments before moving against the presidential term limits. The two consecutive attempts to amend the Malawian constitution to remove presidential term limits and re-introduce open presidential terms in Malawi pitched him against major political allies, both from within and outside his party, including church elites and some foreign donors. These major forces assisted his rise to power in 1994. The same alliance that assisted Muluzi's rise to power later played a major role in blocking his tendency to entrench power.

This case study investigates the politics of presidential term limits in Malawi and the pressures that converged to enforce compliance on President Bakili Muluzi in 2002. Unlike previous case studies, I will use the present case study to focus on the ways in which various political elite alliances, including church elites, conspired to deny President Muluzi the opportunity to entrench power. In order to provide a background of Malawian politics, I shall begin by examining the combination of

²²⁰ Immediately after elections in Zambia, Ivory Coast, Cameroon and Uganda, democracy observers had also prematurely promoted these governments as models of democracy without waiting to systematically observe how those new democracies would evolve, relying purely on the elections for their judgments.

factors that caused the swift and smooth replacement of the thirty-year dictatorship of Hastings Banda through multi-party elections in 1994. Since the process of transition has a direct effect on the post-transitional politics of a given new democracy, I shall further seek to analyze how the dynamics of Malawi's 'model' transition gave rise to and shaped the presidential term limits controversy.²²¹ I will also analyze how those forces that shaped the Malawian democratic transition later rallied in 2002 to save the democratic process from relapsing to Schedler's "slow democratic death" (1998). Though some may argue that the contending elite alliance did not set out to salvage democracy, but to fight for personal interests (Villalon 2005), the outcome of the presidential term limits controversy remains important for democracy observers. The Malawian democracy itself gained directly from the outcome of the controversy and the said elite alliance.

The end of the Cold War and the international pressures generated through aid conditionality played a central role in ushering in the democratic transition in 1994. However, the centrality of international pressure and donor-dependency at the time of transition seemed to have equally undermined the growth of other democratic institutions like the parliament, judiciary, and civil society in Malawi (Morrow 2005).

²²¹ Many scholars and observers quickly termed Malawi a model democracy following its smooth transition to democracy in 1994. Perhaps the successful elections of 1994 formed the basis of this judgment, which failed to confirm whether other important aspects of democracy such as human rights, rule of law and institutional independence were observed or implemented in the new democracy; Cf Khembo 2004.

This might explain the inability of these democratic institutions to play active roles in defending democratic gains and in enforcing the desired democratic checks and balances in Malawi's post-transitional period.

The absence of any form of checks from Malawian democratic institutions resulted in the deterioration of democratic governance, as the presidency, reminiscent of the Banda era, remained overly powerful and insufficiently accountable with a strong penchant to entrench more power (Morro 2005). No other actors or branches of government including the parliament, opposition political parties, or civil society organizations seemed able to check executive abuses other than, in a random and unorganized manner, or through the political resistance and mobilization led by some political actors and church elites. This case study also notes that many international donors who played significant roles during the transitional period were reluctant to be visibly involved in the presidential term limits controversy, obviously to avoid being seen as meddling in local politics (Brown 2004). However, the local resistance and mobilization marshaled by particular political and church elites appear to have created an avenue for the role of donor aid.²²²

The present chapter is divided into three sections. In section one, I shall deal with a brief history and demography of Malawi. I will demonstrate how these prepared Malawi for the long one-party dictatorship under President Banda. I will

²²² I shall come back to this point in the following sections of this case study.

demonstrate how such formations potentially shaped and sustained the presidential term limits controversy in Malawi in 2002.

In section two, I will concentrate on the context of the presidential term limits controversy with the aim of exposing different actors and alliances that canvassed for recognition during the controversy. I will focus on the emergence of ‘elitist-hang outs’ during the presidential term limits debates, which contributed to the failure and defeat of the amendment bills.

Lastly, in section three, I will investigate and analyze the various pressures that combined to enforce presidential term limits compliance on President Bakili Muluzi. Though I will emphasize the role of particular political elites and dissidents, I will also examine how specific political elites made use of the existing institutional and religious channels as effective instruments of activism.

6.1 Brief History of Malawi

What we know of today as Malawi was once a humble British protectorate referred to as Nyasaland before 1964. Subsistence and peasant agriculture were the mainstays of Nyasaland during the colonial and post-colonial era, with tobacco and tea topping the list of its commercial crops (Short 1974). Nyasaland further sustained its weak economy by exporting labor to neighboring Rhodesia and South Africa during the colonial era, and later, during the ten-year existence of the Federation (Morrow 2005).

Nyasaland was a mixture of illiterate, mostly manual laborers who supplied work for southern Rhodesian farms and northern Rhodesian mines. Unlike Nyasaland, the other components of the protectorate enjoyed relative literacy. This is probably the consequence of Scottish migrants and missionaries, who established a presence in the North and South due to favorable weather and mineral resources. Because it lacked the copper of Northern Rhodesia and the expanding industrial, agricultural, and mining economy of Southern Rhodesia, Nyasaland formed a liability to the British colonial administration (Short 1974). In 1953, the colonial administration joined Nyasaland with its neighbors in the Central African Federation, exercising an administrative policy that many argued was a reward from Britain for facilitating white settler domination (Short 1974).

Though the pressure for independence increased after the end of World War II, Nyasaland could not immediately benefit because it lacked trained and enthusiastic leaders in the form of Kame Nkrumah of Ghana, Nnamdi Azikiwe of Nigeria, Kenneth Kaunda of Zambia, Jomo Kenyatta of Kenya, and Julius Nyerere of Tanganyika (later Tanzania).

In 1964, Dr. Hastings Kamuzu Banda, an American-trained medical doctor who had lived in Britain and Ghana, became a national figure. While his academic training and exposure seemed to qualify him as a leader at the time, his political and leadership qualities were yet to be tested (Morrow 2005). Nevertheless, the young nationalists agitating for independence had already approached Banda in 1963 and

requested him to come back to lead the Malawi Congress Party (MCP) in its fight for independence against the Central African Federation (Short 1974). Banda readily obliged by quickly returning to Malawi in 1964 to lead the MCP. Unfortunately, Malawi under Banda's leadership did not differ significantly from the experience of the young nation under the Central African Federation (Short 1974; Morrow 2005).

With Banda on board as the new political leader from 1964, Malawi experienced what many writers have described as 'thirty years of stringent dictatorship under the Ngwazi' (Short 1974, Morrow 2005).²²³ Following the trends in the southern African sub-region, Banda wasted no time in establishing his authority over the young, semi-literate nationalist movement, which already seemed to contain the seeds of authoritarianism (McCracken 1998). As the most learned and exposed at the time in Malawi, Banda could quickly imposed his will on his predominantly young and semi-literate allies in the immediate aftermath of Malawi's independence in 1964 (ibid.). Banda ran a strict one-party authoritarian regime for thirty years in Malawi. Though there were outward signs and forms of parliamentary procedures under Banda, his regime heavily relied on traditional courts, MCP Young Pioneers, the state police, and the army for political repression and domination

²²³ *Ngwasi* is often used as an attribute for God. Literally translated, it means 'supreme leader.' Originally used to refer to God, this term became an attribute of the Malawian presidency under Banda to signify how great, awful, and elevated he was in comparison to other Malawians.

(Morrow 2005). Banda's penchant for intolerance and brutal suppression of opposition took root in Malawian politics and ostensibly became a precursor for the post-transition term limits controversies in Malawi between 2001 and 2002.

6.2 The Democratic Transition of 1994: Regional and International Influence.

Banda's rule, which many refer to as oppressive, lasted thirty years (SACBC 2004; Morrow 2005; Brown 2000 & 2004). While neighboring countries like Zambia and Namibia democratized and showed signs of political liberation after the Cold War, Banda argued and possibly believed that Malawi had developed its own unique form of government, "an entrenched and stable one-party system" led by the *Ngwazi* and the MCP (Brown 2004). Banda argued that a one-party Malawi was efficient and popular, and therefore, needed no liberalization (Brown 2004). However, yielding to international, religious, and regional pressures (vonDoepp 2005, Morrow 2005), Banda reluctantly allowed a referendum in 1992 that was specifically aimed at confirming a one-party system in Malawi (Morrow 2005).

To the disadvantage of the regime, the referendum saw to the quick collapse of the old order and laid the grounds for the first ever multi-party elections.²²⁴ In June

²²⁴ Writers like Stephen Brown interpreted the referendum as regime's error because Banda had overrated his popularity and underestimated the capacity of some opposition elites and the populace to

1993, referendum voters expressed a preference for a multi-party system. Banda reluctantly accepted this while opting to contest in the multi-party presidential elections billed for April 1994, thus signifying his interest to remain in power. In the first ever multi-party elections in 1994, President Banda competed against two of his former loyalists who internally revolted to form new opposition political parties. Bakili Muluzi, a former secretary of the ruling independence MCP under Banda and a founder of United Democratic Front (UDF), defeated president Banda in a closely contested election to become the first multi-party elected president of Malawi in 1994. Banda and his party, having lost both the presidential and parliamentary elections of April 1994, gracefully conceded to Bakili Muluzi, who was to rule Malawi for the next ten years.

The orderly nature and successful outcome of the elections were not, however, to guarantee Malawi as a 'model' democracy. Malawi's political structures and context remained the same, as Banda had left most of the former political structures in place, hoping to benefit from them when elected as president as many metamorphosing presidents had done in other new democracies (Ross 2004). The new president himself, being a member of the old order, became the beneficiary of these old structures that he maintained and built upon.

reject him and his one-party system. This was to be the first major step in altering political calculations in Malawi.

With the retention of old structures, the democratization in Malawi found itself caught between a 'reforma' and 'ruptura' transition, a situation that encouraged Muluzi to seek to retain and entrench more power. The socio-economic structures remained the same while Muluzi maintained the politics of patronage reminiscent of Banda era (vonDoepp2005; Morrow 2005). Furthermore, Muluzi appeared to neglect the poverty level, as the policies initiated to ameliorate poverty became political strategies to maintain power and were scarcely implemented (Banda 1998). By 2000, when rumors of open presidential term limits surfaced, Malawi stood at a population of 10,900,000 inhabitants. With GNI/Capita of US\$615 and a life expectancy of thirty-eight years, political rights and civil liberty scores were captured at four on the scale of ten (Freedom House 2000). This was the context for the presidential term limits debate in Malawi in 2002.

Why did Banda suddenly decide to open up to a multi-party system and subsequently yield power? Though this seems to be outside the scope of this study, it is important to note that the literature on Malawian democracy has been controversial in this regard. Some observers attribute Malawian democratization to resistance from domestic forces initiated by religious authorities (CIRR 1993; Mchombo 1998; Newell 1995; Nzunda and Ross 1995; Ross 1995 & 1996). Some authors specifically emphasize external pressures, arguing that the suspension of foreign aid and aid conditionality of the early 1990s left Banda with little choice than to accede quickly to the demands of foreign donors (Clapham 1996 & 2002; Decalo 1998; van Donge 1995). While this study does not completely reject such claims, it notes that aid

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conditionality is most effective and decisive in dismantling dictatorships. However, aid conditionality has failed to sustain democracy in Gabon, Cameroon, Burkina Faso, Uganda, Togo, and other countries reluctant to expel a one-party system, even after democratization. Research in hybrid democracies shows that aid conditionality without vibrant local forces may not sufficiently generate the desired momentum and pressure to sustain democracy or prevent it from Schedler's slow democratic death or reversal (Rakner 2004).

6.3 Build-Up to the Open-Ended /Third-Term Politics in Malawi

Scholars have likened the politics of open-ended and third-term presidency in Malawi to the 'elite pork-barrel politics' of the post-Banda era (Morrow 2005). In the first place, presidential term limits politics operated at the political elite level through slight donor collusion and an active collaboration with church elites (Villalon 2005, Morrow 2005). The parliament exclusively served as a platform for opposition, dissidence, and resistance. The main gladiators were Bakili Muluzi (the incumbent president) and his loyalists cutting across the party divide, represented mainly by the Speaker of the parliament and Peter Fachi, the Attorney General of the Republic and Dumbo Lemani, a prominent UDF loyalist of the president.

Internal party dissidents like Brown Mpinganjira, Jaap Sonke, Danga Mughogo, Cassim Chilumpah, Mattews Chikaondo and Kaleso who, at the beginning of the controversy were members of the ruling UDF led the internal opposition group.

These were instrumental in the formation of an opposition party, the National Democratic Alliance (NDA), which became a converging platform for resistance. The gladiators against an open-ended term were further comprised of religious leaders of predominantly Christian groups led by Catholic bishops and priests. The Public Affairs Commission (PAC), led by Nicholas Mkwabata, acted as the militant wing of the churches. It provided the platform for alliance between church elites and politically dissenting elites to raise the cost of repression for President Muluzi.

As a former member and Secretary General of MCP during the one-party system in Malawi, Bakili Muluzi had gained considerable experience and popularity in Malawian politics. It was not, however, the popularity that secured his victory over Hastings Banda. Instead, he benefited from a major resistance by major Malawian stakeholders against Banda.²²⁵ Unfortunately, Muluzi could not translate his victory and popularity into popular governance in the Malawian post-transitional era (Clapham 1996 & 2002; Morrow 2005). Because the ‘old-order’ in which he was a stakeholder had not completely ruptured, the political formation acquired during the Banda era continued to persist. This situation may have turned Muluzi into Banda’s ‘alter ego.’ His free access to wealth, most of which was questionable, was reminiscent of the Banda regime and reduced his government to a patronage industry (Villalon 2005).

²²⁵ Author’s interview with Dr. Blessing Chissinga, HOD Department of Social Science Research, University of Malawi, Zomba, Malawi, October 2014.

During his first term, Muluzi raised political patronage to an extensive level, using his executive position as an advantage while simultaneously punishing the same crime among the opposition (SACBC 2004). The poverty level in Malawi,²²⁶ with sixty-five percent of the population living below one dollar per day, may have fertilized the grounds on which such an extensive patronage system could thrive (Freedom House 1996, CIA Fact Book 1995-2000). Newspaper and expert reports present Malawian public schools and institutions as lacking in basic amenities and functional materials to perform at an average level (Morrow 2005, Brown 2000). This situation provided Muluzi with an opportunity to swap political support with patronage. Two incidents in 2000 confirm this allegation.²²⁷ Morrow has also detailed how Muluzi regularly travelled with large sums of cash, which his loyalists and supporters openly distributed at meetings and visits to individuals and institutions (2005). Writing about Malawi under President Muluzi, Villalon notes, “In an environment where politics provided the highest level of income, it became advantageous for Muluzi to use patronage as a strategy to sustain his support base both among the ruling class and the populace” (2005).

²²⁶ Cf. Freedom House, *Freedom in the World 2003-Malawi*. Malawi was rated among the world’s ten poorest countries, with sixty-five percent of the population living on less than one dollar a day.

²²⁷ Upon a visit to a public school in Blantyre in 2000, Muluzi and his loyalists doled out a brown envelope with K50.000 for school desks, taking it from a Land Cruiser where piles of such envelopes were stored. Furthermore, Muluzi donated a cash sum of K300.000 for clothes to a Presbyterian church in Blantyre in the hope reaping support for his open-term bill.

Presidential term limits politics in Malawi enjoyed a fertile environment of easy money devoid of questions for accountability, a social context of extreme poverty and illiteracy, and a declining economy. An ex-minister told me that Muluzi had calculated that some political elites and church leaders could succumb to patronage and therefore remain docile over the presidential term limits issue.²²⁸ But his calculation seemed to be wrong. According to Monsignor Tamani, political and church elites felt confronted with two questions: Should the political and church elites make use of such an opportunity to benefit themselves and allow Muluzi to entrench state power, or should they demand accountability from him and look the other way?²²⁹ While Muluzi and his loyalists would mistake the large gatherings at pro-third term rallies for popularity, the dissenting elites would capitalize on the extreme poverty in the country to demand a strict compliance to constitutionalism. For instance, the church leaders raised the stakes for Muluzi by constantly referring to poverty, the maize grain shortage, executive corruption, and scandals as the ‘political trail-blazer’ of their strict demand for compliance (Brown 2004 & Morrow 2005).²³⁰

²²⁸ Author’s interview with an ex-cabinet member under Muluzi’s regime, Lilongwe, Malawi, November 2014

²²⁹ Author’s interview with Monsignor Boniface Tamani, former chairman of the Public Action Committee (PAC), Limbe, Malawi, October 2014.

²³⁰ Ibid.

As was the case in some other new democracies, where attempts to repeal presidential term limits were launched, the idea to repeal presidential term limits and the push for life presidency in Malawi started immediately after the second term elections of 1999. Muluzi's attempt to amend the Malawian constitution in 2001, barely mid-way into his constitutional second term, followed a history of extravagant abuse of the rule of law reminiscent of most African transitional presidents (Morrow 2005 & Brown 2004).²³¹ He never concealed his tendency to doctor or manipulate public policies to his advantage. For instance, in 1998, a commission created to oversee the 1999 General Elections recommended the creation of seventy new constituencies to balance political representation in the Malawian parliament. Muluzi saw it as an opportunity to swell his political base by unilaterally appropriating forty-two of the seventy proposed new constituencies for the Southern region, the stronghold of the ruling UDF (Dulani 2005; Morrow 2005).

This incident and the manipulation of the voters register in favor of UDF seem a thought out strategy to aid his ambition for life presidency. Unfortunately, the controversy over constituency boundaries recalled the insensitivity of the colonial era,

²³¹ Chiluba of Zambia, Nujoma of Namibia, Bongo of Gabon, and Gnassingbe Eyadema of Togo began to toil with the idea of amending their constitutions for open-ended or third-term presidencies immediately after their second elections.

which Muluzi seemed to imitate (Morrow 2005).²³² Furthermore, Muluzi introduced political suspicion in Malawi by refusing to let the Electoral Commission be specific on the date of the 1999 general elections until he was sure of potential victory (Brown 2000; Morrow 2005). This reflects an attitude that politically suffocated opposition parties and their leaders and therefore put them on a red alert for Muluzi's potential manipulation of the democratic process (Dulani 2005). The former Minister of Finance, who later defected from the ruling UDF notes that, "President Muluzi's regime had the culture and history of interfering with due process, thereby rubbing the hope of growing true multi-party democracy which many stakeholders fought for"²³³.

The culture and history of interference gave rise to the suspicion and distrust that became a potential arsenal against Muluzi. His political influence came under the scrutiny of an alliance of political and church elites, some international donors, and a handful of local NGOs as he prepared to manipulate the constitution for a life-presidency. The judiciary was to supply 'judicial empathy' by giving protection to particular political dissidents, referred to as enemies of the government. Elite dissidence increased in response to the ability of the courts to strike out some pro-

²³² Author's interview with Dr. Blessing Chissinga, HOD, Social Science Research, University of Malawi, Choba, Kenya, October 2014.

²³³ Author's interview with former Minister Kaleso, who resigned from Muluzi's cabinet because of his opposition to open and third-term presidency, September 2014.

government decisions taken by the Electoral Commission (Wiseman 2000 & Morrow 2005), to the belated protection of the parliamentary seats of sacked MPs (vonDoepp 2005; Armstrong 2010), and to the revocation of an executive order banning street protests (ibid.)

Regime loyalists and some party leaders from opposition parties introduced and sustained the bill to repeal presidential term limits in Malawi as part of a strategic conspiracy that gave the bill a semblance of cross-party support (Armstrong 2010 & Morrow 2005). While the Attorney General, Peter Fachi, prepared the amendment dossier and introduced the agenda to the national public, Khwauli Miska, an opposition MP of the Alliance for Democracy (AFORD), introduced the bill in the parliament, making the bill appear as private. In the heat of the controversy over the legitimacy of the fraudulent 1999 presidential elections, the Attorney General hinted, “Muluzi may even become life president regardless of what the courts would rule” (Patel 2004). This was followed by another revelation by another prominent member of the ruling UDF who openly declared: “The constitution will be amended to pave way for open and limitless presidential terms for President Muluzi” (Patel 2004).²³⁴

²³⁴ In a BBC news report in 2002, the Attorney General insisted that despite the uproar, many Malawians wanted the president to remain in office, saying: “We cannot escape the fact that people still want Dr. Muluzi. The new bill to be introduced next month would allow presidents three terms of office, which could be extended following a national referendum” (BBC, September 2002).

Thus, the events that preceded the 1999 presidential elections, the post-election activities, as well as the rhetoric of the president and his loyalists became crucial in erasing any doubts about a hidden tenure elongation agenda by the incumbent president. However, the same events put many political elites of the opposing camp on red alert. For many political actors, the revelation and statements by the Attorney-General and prominent loyal members of the ruling and some opposition parties were not sudden or incidental, taking into consideration that the political activities leading to the 1999 presidential and parliamentary elections were marked by unprecedented violence against opponents (Simon 2005; Morrow 2005).

Furthermore, the use of state funds for political ends became more extensive when compared to the 1994 transition elections (Morrow 2005), which many political elites already interpreted as genuine attempts by President Muluzi to entrench state power (SACBC 2004). The majority of actors interviewed acknowledged that the line between government and politics became hard to differentiate both during the second elections of 1999 and the presidential term limits politics of 2001 to 2002, as Muluzi marshaled state police and the ‘YOUNG UDF’ against opponents (Villalon 2005; Morrow 2005).²³⁵ This blurring of the line between government and politics from 1999 onward explains why some writers observed that constitutionalism was under attack (Kamwendo 2000). This left hopes dim for the budding Malawian democracy to experience a power alternation and open-seat contest in 2004.

²³⁵ I will address the details of such intimidation in the coming sections.

6.4 Pushing the Bill Further through Undemocratic Means and Actions

With the introduction of the open-term presidential bill in Malawi 2002, the MPs experienced considerable pressure to support the passing of the bill (SACBC 2004 & Morrow 2005). An attempt to pressure the MPs in favor of the bill further split the parliament into compartments, as individual MPs gave more loyalty to their political sponsors than their political parties. The regime sought individuals and groups who might influence the MPs. The use of enormous slush funds and patronage, disguised as gifts (Morrow 2005), became powerful strategies to woo MPs and the masses to the amendment bill²³⁶. In a pro open- term rally in Blantyre in February 2002, Muluzi described his cash awards as “a token of appreciation to veterans for strengthening the ruling UDF” (Freedom House 2002 & Morrow 200). In another rally in a public school in Blantyre, Muluzi arrived with four hundred school notebooks, two hundred ball pens, one set of football uniforms, two soccer balls, and two bicycles to donate to what some local observers described as a “run-down and over-crowded urban primary school” (Morrow 2005).

At the same venue, Muluzi prided and distinguished himself from the dissenting elites saying, “You should see the difference between our party’s rallies and the dissidents. I don’t just come, I always bring something along” (ibid.).

²³⁶ Author’s interview with Dr. Blessings Chissinga, University of Malawi, Zomba, Malawi, October 2014.

Obviously seeking to improve the support base for his open-term amendment bill, Muluzi officially raised the monthly allowances paid to local chiefs by twenty-five percent in May 2002 (*Daily Times* 17 May 2002). Local chiefs were expected to apply pressure on their parliamentarians to support the amendment bill, since local chiefs are known to have significant influence in their localities.²³⁷

Additionally, influential politicians of different parties, including amenable MPs who were willing to swap loyalty, were openly rewarded with choice urban land allocations in return for more opposition members to Muluzi's camp (Morrow 2005 & *Daily Times* 17 May 2002). Influential political elites and businesspersons who had the apparent capacity to influence a negative outcome of the bill or to finance the elite political dissidents, were clearly asked to stay clear or face the risk of losing their government contracts and connections.²³⁸ For instance, one million Kwacha were allegedly made available for the ruling UDF MPs, while two and half million Kwacha were allocated for any MP from the opposition parties willing to vote in favor of the amendment bill.²³⁹

²³⁷ Author's interview with Boniface Tamani. Limbe, Malawi. October 2014

²³⁸ Ibid.

²³⁹ Sean Morrow mentioned the allegation in his article *Toxic Mushrooms? The Presidential Third-Term Debate in Malawi*, and the allegation was confirmed in the author's interview with Monsignor Tamani.

There were further allegations of suitcases stashed with money, freighted from Libya into Malawi, and delivered to the Sanjika Presidential Palace in Balntyre without customs investigation (Morrow 2005). Apparently, the suitcases sustained immense pressure on the UDF and opposition MPs to support the presidential open-term bill.²⁴⁰ Though some prominent party members defected from the ruling UDF, the attraction of huge financial benefits also caused defection from opposition parties into the ruling UDF. For instance, Chakufwa Chihana of the opposition AFORD and Tembo of the MCP joined the ruling UDF with nearly half of the MPs of their parties, with whom they negotiated for a substantial patronage from Muluzi.²⁴¹ As was widely believed, opposition party leaders like Chihana and Tembo conspired to corrupt their own party members, thereby making it initially difficult to accuse or blame Muluzi for the open-term controversy (Morrow 2005).²⁴² The cash awards and gifts were to attract praise and support for Muluzi, further increasing his popularity at the grassroots level.²⁴³

²⁴⁰ Ibid.

²⁴¹ Confirmed in author's interview with Monsignor Tamani, former chairman of the PAC. Limbe Malawi. October 2014

²⁴² This allegation was corroborated in an author's interview with an ex-MP in Lilongwe, Malawi. November 2014.

²⁴³ Newspaper headlines and pictures have shown poor villagers singing praise and donning the ruling UDFs yellow colours at political rallies. Observers referred to Muluzi's rallies as "pay centers"

The strategy to hire political contractors to influence MPs to support the amendment bill became a means to coerce support for the open-term amendment bill. Upon immense pressure from the UDF regime, for instance, Martin Kansichi, a prominent businessperson and president of the Malawi Confederation of Chambers, Commerce and Industry had reluctantly accepted to act as an intermediary between a group of twenty-two opposition MPs and Muluzi.²⁴⁴

Some opposition MPs of MCP in particular argued that acceptance of a bribe risked their public integrity; accordingly, they demanded a higher price commensurate with that sacrifice. It was alleged that in a negotiating meeting with the president, the group of twenty-two MPs demanded Five Million Malawian Kwacha each (equivalent of US\$20.000) to support the amendment bill (Morrow 2005). Though their demands were swiftly accepted, the President was unable to raise the funds in a short time. The suspension of development assistance to Malawi by international donors apparently made it difficult for Muluzi to keep the terms of agreement.

because of the tendency to dish out cash to participants at the rallies, which made the rallies very attractive.

²⁴⁴ Confirmed in author's interviews with Monsignor Tamani, and two ex-MPs. Tamani equally confirmed in an interview with the author that church elites recommended that the MPs receive whatever Muluzi was willing to give as a bribe while insisting that MPs, in conscience, should vote against Muluzi's open-term bill.

In an interview with Morrow (2005), Martin Kansichi argues that the open-term amendment bill failed because these twenty-two opposition MPs strategically raised the stakes for Muluzi to a level he was unable to meet.²⁴⁵ Muluzi's failure to get the twenty-two MPs to support the constitutional amendment bill contributed to his losing the two-thirds majority required to passing the bill at the parliament. Khembo (2004) acknowledges this fact, describing it as a strategic, elite-church collaboration against Muluzi.

Apart from internal political conflicts in the ruling UDF, leading politicians, as well as various political and religious elites became involved in intensive lobby and negotiations both for and against the amendment bill. The lobby also resulted in considerable split in various political parties and religious bodies.²⁴⁶ However, while the dissident elites lobbied and co-opted the leadership of some Christian churches to its side, the open-term loyalists attracted huge support among some Muslim groups. Religious differences between Christian groups who generally opposed Muluzi's tenure extension and the Muslim minority who supported tenure extension for a

²⁴⁵ Cited in an interview granted in 2005 to Morrow by Dr. Martin Kansichi, former President of the Malawi Confederation of Chambers of Commerce and Industry, Lilongwe.

²⁴⁶ In an author's interview Father John Guwa pointed out that both the Catholic and Protestant churches witnessed major rifts concerning the amendment bill. The rift, however, was more noticeable among the Protestants, especially in the Presbyterian community in Blantyre, the supposed base of the ruling UDF.

Muslim incumbent president led to division and distrust across many sectors including the media, ethnic groups, and civil society.²⁴⁷

In general, such divisions and distrust either played out or resulted in increased violence and intimidation from the ruling UDF against journalists and NGOs sympathetic to the dissenting elites²⁴⁸. The Young Democrats (the youth wing of the ruling UDF) assumed the role of militants using intimidation and random violence against perceived and real enemies of President Muluzi's regime, especially prominent members of the MCP, AFORD, the newly formed NDA, the media, and other apparently nonconforming actors (Dulani 2005).²⁴⁹ For instance, the Young Democrats attacked and destroyed three media houses and two radio stations, as well as abducted and molested many journalists, mostly in the presence of the state police.²⁵⁰ Some media houses that dared to publish articles contrary to the view of the

²⁴⁷ Cf. *Attack on the Press*, The Chronicle, August 24, 2002.

²⁴⁸ During the tenure elongation controversy, seven journalists were kidnapped while three clergy men were physically assaulted by the Young UDF, all in full view of state police and other security agents. Many felt that the severity of these incidents surpassed the violence during the period of the presidency.

²⁴⁹ Ibid.

²⁵⁰ In February 2002, Young Democrats abducted Mallick Mnela of the *Chronicle Weekly* and assaulted three other *Chronicle* journalists after the *Chronicle* published an article about apparent disagreement and in-fighting within the ruling UDF over tenure extension.

ruling UDF on the constitution amendment controversy also faced the state's executive intimidation through the Young Democrats. In May 2002, thousands of Young Democrats besieged and destroyed the offices of Blantyre Newspapers, which privately published the *Daily Times* and weekly Malawi news in favor of dissenting elites (*The Nation*, 29 May 2002).²⁵¹

As Paul Collier notes in his book *Democracy, Guns and Election*, many incumbent presidents have succeeded in brutalizing civil society and the masses in order to entrench power. This seems to be a recurring factor in some post-Cold War African democracies. Muluzi did not prove to be different from other incumbents that had entrenched power by muscling the opposition, the civil society, and the masses. His attempt to minimize opposition against the constitution amendment damaged and incapacitated some NGOs in Malawi. In January 2002, a few NGOs showed significant interest in working with the dissenting elites and the church by supporting the PAC's organized rallies against Muluzi's open-term bill (Morrow 2005). Possibly fearing that dissenting elites would benefit from the NGOs' nonconformity, Muluzi declared a ban on demonstrations and open rallies against the amendment bill through an executive order in May 2002 (*Nation*, 29 May 2002).²⁵²

²⁵¹ Refer to *Attack on the Press* (2002).

²⁵² Ibid.

The ban notwithstanding, regime loyalists could organize rallies with police protection while the dissenting elites and some CSOs became targets of police violence.²⁵³ An attempt to seek judicial protection by dissenting elites prompted a high court to overturn the ban on public rallies and demonstrations.²⁵⁴ However, the overturning of the executive order did not last, as Muluzi quickly intervened by calling on the public to “ignore” the ruling, describing it as “irresponsible and highly insensitive” (*Nation*, 5 June 2002). With the president’s insistence on the executive ban on demonstrations and rallies, another High Court overturned Judge Dustain Mwaunglu’s judgment and sustained Muluzi’s ban on public rallies and demonstrations.²⁵⁵ The police were always on hand to take action against rallies organized by dissenting elites by dispersing meetings and a handful of protests organized by an insignificant number of CSOs (Morrow 2005; Brown 2004).

²⁵³ Several newspaper reports detailed how protesters were arbitrarily arrested, beaten, molested, and put behind bars for weeks without prosecution. Cf. The Malawi Human Rights Commission, August 2002; *The Chronicle*, February 23, 2002; *The Sun*, August 24, 2002; *The Malawi Standard* August 23, 2002; *The Malawi Insider* August 25, 2002

²⁵⁴ Dustain Mwaunglu, a High Court judge, overturned Muluzi’s executive order by describing the ban as an “affront on the constitutional rights of the Malawian people to express themselves on a matter of public interest” (*Nation*, 4 June 2002).

²⁵⁵ The role of the courts shall be discussed further below.

6.5 Involving the Church

By the beginning of 2002, regime loyalists blocked all avenues of protest and pressure. The only channel seemingly still open for dissenting elites was the church. These considered the church's structure immune to executive bans, police, and court actions.²⁵⁶ Moreover, the church had in 1993 created the Political Affairs Commission (PAC) as a lobby group against government's anti-people policies. The PAC was also a spearhead of the protests that, after thirty years, brought down Hastings Banda's one-party system in 1994

It became a good strategy for dissenting elites to collaborate with the church and use the existing and favorable church structures to sustain the anti-open term pressure. They penetrated the church through their connection to the PAC and church leadership, as eighty percent of Malawian political elites was Christian (Morrow 2005).²⁵⁷ The politically dissenting elites became active in sponsoring meetings through the church,²⁵⁸ a strategy that they advantageously used in setting the agenda and converting church gatherings to opposition political rallies against Muluzi's tenure extension project. The church also became a veritable channel for information distribution at the grassroots level, publishing pastoral letters for reading in every

²⁵⁶ Author's interview with John Guwa, Catholic University of Malawi, October 2014.

²⁵⁷ Author's interview with John Guwa, Catholic University of Malawi, October 2014

²⁵⁸ Author's interview with Boniface Tamani, former chairman of the PAC.

church gathering.²⁵⁹ Though the government officially banned public rallies, dissenting elites went on to organize rallies through the church in the form of crusades, public worship, and prayers, thereby strategically defying the executive ban on public rallies.²⁶⁰

The coalition and partnership between dissenting political elites and the Church became instrumental in attracting international concern and action against Muluzi. The coalition had petitioned international donors in 2002 to suspend development aid to Malawi, alleging that the regime had used funds to impose dictatorship on Malawi without strictly abiding to the rules of transparency according to donor regulations.²⁶¹ Thus, as the debates and controversy over constitutional amendment raged in Malawi, many donor agencies either stopped or suspended financial aid to Malawi (Villalon 2005 & Morrow 2005).

While the United States stopped its financial assistance to Malawi, referring to financial recklessness and unaccountability from the regime, the Danish International Development Agency (DANIDA) suspended and later cancelled its development aid policy to Malawi referring to internal government policies in the donor country as its

²⁵⁹ Ibid., also confirmed in the author's interview with John Guwa, October 2014.

²⁶⁰ Cf. Author's interview with Monsgr. Tamani, former Chairman of PAC and professor of Politics and Social Ethics at Univeristy of Malwi, Zomba. Limber, October 2014.

²⁶¹ Ibid.

motivation (Morrow 2005). However, some donor agencies that had suspended aid to Malawi in the heat of the controversy found a way to channel their funds through the church. Such secret funds supported and sustained opposition against Muluzi's tenure extension bill (ibid).²⁶² On several occasions, Muluzi accused church and religious groups of bribery by dissenting elites and international donors, whom he described as "former colonialists" (*Malawi Standard*, 25-30 September 2002).²⁶³

Before the commencement of the open-term amendment controversy, the ruling UDF controlled a clear majority in the parliament with 101 out of 193 seats. Despite an extensive lobby, intimidation, and financial inducements, the UDF could not mobilize the two-thirds majority required to amend the constitution. The inability of the regime to secure a two-thirds majority in the parliament resulted in two consecutive postponements of parliamentary voting on the bill,²⁶⁴ though the bill was to be hastily handed in on July 4, 2002 without due process.²⁶⁵

²⁶² Ibid.

²⁶³ The elite coalition and connection between the church and foreign donors against the constitutional amendment shall be further discussed in the section "Mobilization through the Church."

²⁶⁴ Author's interview with former Minister of Finance under President Muluzi. Lilongwe, October 2014.

²⁶⁵ 'Due process' refers to proper consultation or discussion with the cabinet, party's national executive, or the parliament.

After two postponements, heavy financial inducements, political intimidation, and violence, the open-term amendment bill failed by a very narrow margin (short of five votes) to meet the required two-thirds majority. The dissenting elite group was able to muster fifty-one votes against, in comparison to one hundred and twenty-nine votes in support, despite the combined forces of the UDF and major figures from opposition political parties like Tembo of the MCP and Chihana of the AFORD party. Interestingly, many ruling UDF and some MCP MPs belonging to the pro-faction groups voted against the tenure extension while several others abstained, indicating that many prominent politicians who openly supported Muluzi did so to maintain their political positions and to avoid political intimidation. It shows also how the opposition group could penetrate the pro-government faction, using the strategy of comradeship.

The failure of the open-term amendment bill did not seem to deter president Muluzi and his loyalists. While the dissenting coalition of political and church elites celebrated the defeat of the open-term bill as a victory for democracy, Muluzi and his loyalists quickly introduced another tenure elongation bill, now strictly for a 'third-term.' The third-term bill appears to have been a "plan B" for the event that the open-term bill should fail. The introduction of the third-term bill intensified violence, intimidation, and lobbying, as the ban on public rallies against the bill continued. The Catholic Church, however, continued to provide the platform and vehicle for elite

activism through crusades and prayer meetings, which were once more used as political rallies and a forum for protest.²⁶⁶

Unhappy that the Church continued to provide the platform for elite dissent, therefore playing a major role in the defeat of the open-term amendment bill, Muluzi tactically intensified and extended his executive intimidation toward the Church.²⁶⁷ For instance, the Governor of the Southern Region once attempted to stop a ‘Public Song Worship’ organized by the Church in Blantyre, referring to it as ‘critical of the third-term proposal’ (*Daily Times*, 23 October 2002). The Young Democrats equally dispersed several public worship services where pastoral letters against third-term presidency were read and dissenting elites due to speak, dismissing them as political rallies (Morrow 2005).²⁶⁸

²⁶⁶ According to Monsignor Tamani, this became necessary to fill the gap created by the banning of CSOs on participation in any kind of protest concerning the open-term amendment bill by President Muluzi. This has also been confirmed by Dr. Chissinga,

²⁶⁷ Author Mosignor Tamani explained in an interview that Muluzi had nothing more to lose. His decision to extend his intimidation to the Church and church elites was informed by how church elites conspired with political dissidents and opposition elites by allowing the Church to be used as a vehicle of opposition, thereby dragging the church into politics. He was therefore to treat the Church as vehicle of a political opposition.

²⁶⁸ Confirmed in author’s interview with John Guwa, Catholic University of Malawi, October 2014.

As has been noted, the second attempt at tenure elongation by President Muluzi exercised much intimidation, bribery, and violence on the part of the regime. However, the more the regime intimidated and induced the dissenting elites and their church counter-parts, the more support for the third-term amendment bill declined. As it became increasingly apparent that the bill was going to fail, many MPs who voted in favor of the open-term bill began to retrieve their support, apparently to be on the better side of history.²⁶⁹ At a special session of the parliament in January 2003, the possibility of securing the two-thirds majority required to amend the constitution appeared impossible²⁷⁰. Unwilling to go through a second humiliating parliamentary defeat, Muluzi quickly recalled the bill, but decided to keep silent on whether the bill would be re-introduced or not. After about six weeks of rumor concerning president Muluzi's next line of action, Muluzi announced his retirement on March 30, 2003, proclaiming Bingu wa Mutharika as the UDF presidential candidate for the 2004 presidential election (Ross 2004 & Africa Confidential 44, 9: 5-6). With this move, he rested every case concerning his tenure extension and the removal of presidential term limits in Malawi.

²⁶⁹ Author's interview with an ex-MP in Lilongwe, Malawi, November 2014.

²⁷⁰ Author's interview with an ex- ruling party MP. Though the ruling party had 93 MPs, it would require 35 extra MPs to pass the amendment bill based on two-thirds majority.

6.6 The Pressures

The pressure against the removal of presidential term limits in Malawi qualifies the Malawian presidential term limits politics as a “fully enforced compliance.” This section shall outline and analyze the different pressures that culminated to yield the compliance outcome in Malawi. By treating the Malawian case as *fully enforced compliance*, this study recognizes that some pressures or a combination of pressures were responsible for the enforcement outcome in Malawi. It also means that without applying pressure on President Bakili Muluzi, the removal of presidential term limits in Malawi would have been successful. In other words, the full compliance in Malawi was the direct result of the pressures applied on President Muluzi by some or a combination of forces. I will aim to detect the specific forces that applied the highest pressures. I will also identify the particular forces responsible for mobilizing and bundling those pressures that resulted in the outcome of compliance. I will analyze pressures coming from dissenting elites, civil society, media, and international sources. I will treat the involvement of the Church as a separate pressure arising from elite mobilization and partnership.

6.6.1 The Civil Society

By definition, the civil society is a vital source of pressure against bad policies and governance (Diamond 2015; Rakner 2004). Scholars have convincingly argued that vibrant civil society organizations and massive democratic movements have piloted some changes that occurred in the area of democratization (Wezels 2009 &

Gibson 1998), though Inglehart (2003) questions the solidity and rootedness of civil and mass support for democracy. However, the civil society in Malawi has not been a consistent source of pressure in the area of democratization and further consolidation. Some writers have attributed this failure to the long one-party regime under Banda that seemed to have given little space for civil society to thrive due to political victimization and intimidation (Chirwa 2000; Meinhardt and Patel 2003).

Many writers would not agree with Meinhardt and Patel since in any form of authoritarianism, political ‘opportunity structure’ or ‘control deficit’ (Tarrow 1998 & Ulfelder 2005) makes such a regime vulnerable and offers democratic forces different opportunities to emerge (Welzel 2009). Such opportunities were rare in Malawi, as the civil society in Malawi remained almost invisible, especially in the area of championing democratic courses. Even efforts leading to democratization in 1994 were championed by the Catholic bishop’s Conference of Malawi and supported by international donors (Morrow 2005 & Brown 2004), with the civil society only playing a supporting role. Further, civil society failure in Malawi as in many post-Cold War African democracies is linked to widespread poverty and lack of funding, which make civil society vulnerable for financial inducements and weak political outing (Chirwa 2000; Morrow 2005). Trade unionism crippled under the Banda regime was yet to recover at the time of the debate on constitutional amendment in Malawi. Even those unions that still portrayed outward signs of existence showed poor organization and offered no substantial services to their members to engage in the open and third-term amendment debates (ibid).

As some Malawian democracy observers have pointed out, the role of CSOs in general and of NGOs in particular during the presidential term limits politics was secondary (Tsoka 2002; Brown 2004), ambiguous, and disappointing (Morrow 2005). Though the political changes in Malawi in the 1990s led to the springing up of many mushroom NGOs, the CSOs put little or no pressure on the government after the 1994 elections, at least in opposition to bad policies and bad governance. Some observers think that this inaction was due to the successful achievement of regime change in 1994, which tended to overshadow the broader democratic reforms, thereby making it difficult to focus on good governance, specific freedoms, and consolidation (Chirwa 2000). Furthermore, many leaders in civil society organizations joined the ruling party or other political associations, as was the case with Chihana Chafkuwa, who returned from exile in 1993 to ally with the Catholic Church in their demand for multi-party politics in Malawi. Chafkuwa's contribution in the alliance enhanced the coordination of some civil protests and demonstrations against Banda's one-party system in 1993. However, Chafkuwa later became a co-founder of AFORD and played a significant role in dividing his party in favor of Muluzi's tenure elongation attempt (Dulani 2005).²⁷¹

²⁷¹ Monsignor Boniface Tamani, the former chairman of the PAC, emphasized in an interview with the author the PAC's disappointment with Chafkuwa's inconsistency. The CSOs lost their credulity when Chafkuwa decided to support tenure elongation against the principles he had advocated as a pro-democracy activist.

Furthermore, it seems that most Malawians do not trust the capacity of CSOs to influence government activities and behavior.²⁷² According to a national survey conducted in Malawi in 1999, bulk respondents emphasized that they would “do nothing” if the government were to ban CSOs and opposition parties in large part, since their actions have had no impact on Malawi’s democracy (Tsoka 2002, 29, 31). It appears also that only church-organized, broad-based protest and activism between 1992 and 1994 created some impact among ordinary Malawians regarding democratization. Since most people trusted the Church more than they trusted the CSOs in Malawi, an alliance with the Church seems to have become an accepted route to civil society action. The presidential term limits controversy created another opportunity for activism. The churches seized the opportunity again by providing the structures and platform for elite activism, which the CSOs lacked. By visibly aligning itself with the opposition elites to pressure Muluzi to compliance, the church became central in successfully opposing two consecutive government actions in a decade. Obviously, the centrality of the Church did not diminish the civil society role. Instead, the prominence and active involvement of the churches was more of a response to the vacuum in civil society than an expression of their strength in social

²⁷² In an interview with the author, Dr. Blessing Chissinga of the University of Malawi pointed out that most Malawians do not trust their capacity to effect change, believing that change can only be externally induced.

concerns (Ross 2004).²⁷³ According to Chissinga and confirmed by John Guwa, “The church arose to provide the links and structures for activism that the civil society was not able to provide.”²⁷⁴

Other major setbacks in the operation of NGOs in Malawi, as in most new African democracies, include the narrow urban operating base and lack of specialized departments. These made the issue of mass mobilization exceedingly difficult, especially in the rural communities. Because of the lack of specialized departments, NGOs lack genuine information on key policy issues, making NGO operations in such places as Malawi more “event driven and reactive,” rather than proactive, process, and policy driven (Meinhardt and Patel 2003).

The democratic openings that started in Malawi in 1992 afforded many NGOs the opportunity to commit themselves to civic education and human rights issues (PAC 2004 & Chirwa 2000). However, the operation of many NGOs that sprang up did not differ from many other institutions in Malawi, including the political parties. This resulted in some writers criticizing the NGOs as vehicles for “aggrandizement and mechanisms for milking donor funds, symbolized by interminable seminars and workshops in five star hotels” (Englund 2000; & 2003). As has been noted in the

²⁷³ Author’s interview with Dr. Blessing Chissinga, University of Malawi, Zomba Malawi, October 2014.

²⁷⁴ Ibid. & author’s interview with Father John Guwa of the Catholic University of Malawi, October 2014.

Nigerian and Zambian cases, the status of many NGOs during the presidential term limits debate in Malawi was imprecise. For instance, the National Institute for Civic Education (NICE) was initially against the constitutional amendment, but subsequently went underground and remained silent all through the period of debate on the presidential term limits politics in Malawi (Englund 2003). Ostensibly, NICE withdrew from the controversy because it was firmly under government control after receiving its funds from a donor partnership between the government and the EU (ibid.).

The Muluzi Foundation for Democracy (MFD) was another NGO expected to make an impact on the pro-democracy movement. Regarded as the ruling UDF think-tank, the foundation was politically inclined. With its direct connection with the ruling party, MFD received substantial funding from the ruling regime, and tended to tilt its policies and activities towards favoring the ruling UDF (Englund 2003). Though MFD comprised of regional and district governors and some university academics, its dependence on the regime and ruling party for funding perhaps contributed to its docility over the constitutional amendment debate.

Lastly, the regime's executive ban on protests over the amendment bill and the consequent intimidation of NGOs opposed to open-ended and third-term presidency further diminished the strength of the few non-conforming NGOs to exert meaningful and independent pressure on the regime against the amendment bill. As a

result, the few NGOs that dared to oppose the third term project did so by aligning with and seeking protection in churches.

Though the NGOs have been obliged since January 2001 to become a member of the Council for Non-Governmental Organizations, a move that was interpreted as an unwarranted control (Meinhardt and Patel, 2003), the NGOs did not use the opportunity provided by elite resistance against Muluzi's amendment bill to restore or manifest their independence. This demonstrates the weakness of NGO operations in Malawi. I concur with some writers like Englund (2000 & 2003), Anders (2002), and Morrow (2005) that the civil society in Malawi as represented by the NOGs was not a strong force at the time of the controversial presidential term limits debate, and therefore played no independent role in the defeat of the open and third-term debates in Malawi.

6.6.2 *The Media*

The role of the media is comparable to the secondary and disappointing role of the civil society during the presidential term limits controversy in Malawi. Morrow (2005) and Brown (2004) attribute the media failure to the extreme level of poverty and rurality in Malawi. By 2002, television and newspaper coverage was still very limited and city-bound, and available to only urban dwellers (Morrow 2005). Radio broadcasts seemed to be the only medium that had national coverage. However, the only two media outlets that had such capacity for national coverage were the two Malawi Broadcasting Corporations (MBC 1 and 2) that were strictly under

government control. The private radio stations that sprung up after the fall of Hastings Banda had limited coverage and were restricted to the big cities of Blantyre (the old capital) and Lilongwe (the new capital). Thus, even though the media could have wished to do more, unfortunately both the MBC 1 and 2 were under firm control of the government during the constitutional debate.

Some journalists who were sympathetic to the dissenting elites made several attempts to air opposing views through disguised “popular soap opera” programs. The government responded swiftly with censorship or sanctions (Morrow 2005, Englund 2003). A few independent radio stations that wanted or even dared to broadcast opposing views were intimidated or threatened with sanction. For instance, Power 101 F.M, who showed some interests in broadcasting the position of the dissenting elites, faced threats of censorship and the revocation of its license. Thereafter, Power 101 FM relaxed its approach in giving information about the constitutional amendment (Englund 2003). Malawi Institute of Journalism (MIJ) was the most radical radio station and operated from Blantyre. It closed down after airing an interview with Mpiangilari, a prominent member of the dissenting elite group. A court injunction was necessary to bring it back on the air.

Printed media was equally a victim of executive intimidation (Brown 2004). Critical newspapers experienced harassment while journalists were beaten, kidnapped, or arrested for merely reporting on popular opposition to UDF policies (ibid.). The Muluzi regime and its loyalists used intimidation as a strategy to cripple

the media ahead of the tenure elongation politics. The government was ostensibly aware that persons who had possible affinity with some elites, especially from the MCP, privately owned seventy-five percent of printed media (Morrow 2005).²⁷⁵ The *Daily Times* had an MCP background, while Aleke Banda, a popular figure who had split from the ruling UDF to become a leading opponent of Muluzi, owned the *Nation. The Chronicle*, a bi-weekly news journal that many referred to as the most consistently independent voice in Malawian journalism, equally had an opposition background. These three independent print media outlets were consistent at the beginning of the debate by providing alternative information and debate on the amendment bill (Morrow 2005). However, the rurality level of the Malawian public made the efforts of these media outlets less visible during the early stages of the constitutional amendment debates in Malawi.²⁷⁶

As the controversy progressed, the regime loyalists not only used intimidation and physical assault on the media, but also effectively used legal actions to cripple some of the media companies. For instance, in February 2002, some Young

²⁷⁵ During the long regime of MCP under Hastings Banda, many prominent members of the MCP acquired licenses to float media companies. Unfortunately, after the 1994 elections, which the MCP lost, the MCP became an opposition party. Muluzi feared that the opposition elites would use the private media companies owned by prominent opposition MCP members against him. Where he could not induce loyalty by patronage, he used intimidation to silence such media companies.

²⁷⁶ Author's interview with the Director of Operations at *The Chronicle*. Lilongwe, October 2014

Democrats abducted Mallick Mnela (a journalist working for *The Chronicle*) for publishing an article against Muluzi.²⁷⁷ The abduction occurred in the presence of state police (while the police looked the other way) and indicated cooperation between the regime and the police in the intimidation of opponents of the regime, as was the case in Banda's era (Brown 2004).

There were also efforts to blackmail journalists and force them to back down or remain silent on the presidential term limits politics. For instance, the ruling UDF took legal actions against two prominent private print media companies for publishing articles in which they exposed executive corruption within the ruling UDF during the debates.²⁷⁸ These legal actions have been interpreted as attempts to cripple media companies financially, knowing that most print media companies in Malawi lacked enough financial resource to sustain prolonged legal actions (Englund 2003).

The violence and intimidation toward media houses and personnel had the singular goal of silencing the media in order to withhold any privilege toward the dissenting elites on issues concerning the amendment bill.²⁷⁹ Consequently, as the level of intimidation and attack on the media increased with continued abduction,

²⁷⁷ *Daily Times* January 16, 2002

²⁷⁸ *The Chronicle* 4, April 2002.

²⁷⁹ Author's interview with Dr. Blessing Chissinga, Head of Department, Social Science Research, University of Malawi. Choba, Kenya, October 2014

physical molestation, and legal actions, the print media companies and journalists gradually lost their capacity to provide alternative information on the tenure elongation debates. The opposition therefore needed other channels to mount pressure. Thus, public demonstrations and protests in the form of church crusades, prayer worships, and pastoral letters became crucial for the dissenting political actors, not just as a manifestation of opinions, but as means of disseminating alternative information and sustaining pressure against Muluzi's open and third-term projects.²⁸⁰

6.6.3 *Political Parties*

Like in many new democracies, political parties in Malawi from the inception of democracy in 1994 did not set out toward further democratization (Brown 2004). The five main political parties were offshoots of the ruling CMP and acted as mere vehicles in the competition for power among defectors from the MCP. They were less visible in converging ideology and common vision around national development. This explains why compromise remained non-institutionalized in the party politics. Moreover, strong individuals formed and ran the political parties, using party structure to attract personal benefits and patronage. A prominent observer of Malawian politics once described the parties and their leaders as Machiavellian in their changing alliances. Because of the weakness of the parties and lack of common vision, the ruling UDF was able to further split two main opposition parties (Dulani

²⁸⁰ Author's interview with Monsignor Boniface Tamani, Professor of Politics, University of Malawi and former chairman of the Public Action Committee (PAC), Limbe, Malawi, October 2014.

and van Donge 2005), by favoring one faction over the other, using ‘carrot-and-stick’ strategies (Morrow 2005).

6.6.4 *The Parliament*

From the inception of multi-party democracy in 1994, the Malawian parliament was not a place for opposition and activism (Dulani 2005). Though competition for political power existed between the UDF, MCP, and AFORD, these parties often compromised their interests within the parliament to allow easy passage of bills from the executive (Morrow 2005 & vonDoepp 2005).

Eliciting cooperation from other political platforms in favor of the government was initially not difficult for the ruling UDF. A few examples confirm this fact. The working alliance of UDF with MCP within the parliament facilitated the constitutional amendment that curtailed the autonomy of MPs with the leaders benefiting directly from the amendment (Dulani 2005; von Doepp 2005). The alliance facilitated the scrapping of the senate and supported the impeachment of three High Court Judges whose judgments contradicted the interests of the ruling UDF (von Doepp 2005)). In early 2000, UDF used financial inducement to persuade many AFORD MPs to support the amendment of the constitution for tenure elongation. For instance, Chakufwa Chihana of the opposition AFORD joined the ruling UDF with nearly half of the MPs of AFORD, with whom he negotiated for a substantial

patronage from Muluzi (Dulani and van Donge 2005).²⁸¹ A member of the MCP faction loyal to Muluzi described how the alliance and cooperation with the regime yielded important benefits to him and his constituency.²⁸² The government used the resources at its disposal to entice its opponents.

Generally, the parliament was extremely weak²⁸³ and only reacted to the executive, setting no precise agenda of its own (Brown 2004). This inability to set a precise agenda for itself was a benefit for the ruling UDF, specifically since the ruling party in all various elections failed to garner parliamentary two-third majority. As many observers noted, established checks and balances were lacking within the parliament to hold the regime effectively accountable, which some writers described as an unfortunate element of continuity with the Banda regime (Cammack 2004; Brown 2004; Meinhardt and Patel 2003). Moreover, representation among the MPs was in abeyance; the president had imposed or coopted most MPs, who therefore did not effectively represent their constituencies (Brown 2004).

²⁸¹ Cf. Morrow's investigation of corruption allegations in his article *Toxic Mushrooms: The presidential Term Limits Debate in Malawi* (2005).

²⁸² Two former MPs MCP informed the author that many projects implemented in their constituencies were products of cooperative strategy between their faction and the ruling UDF. The projects (mainly borehole projects) were unrealizable when MCP represented a formal opposition in the parliament.

²⁸³ Author's interview with Blessing Chissinga, University of Malawi, Zomba, Malawi, October 2014.

However, dynamics in Malawian politics after the second elections threw up new political challenges and stakes that turned the parliament partly into a place for resistance and activism. Some political elites defected, enabling the formation of new political platforms that brought about fragmentation in the party system in Malawi (Brown 2000; 2004). Obviously, the fragmentation further deprived the ruling UDF of its hegemony in the Malawian politics and therefore limited its capacity to have its way with both simple legislation and constitutional amendment.

The formation of National Democratic Alliance (NDA) by Brown Mpiangilari and six other dissenting prominent ruling UDF members successfully caused the ruling party to lose its majority status in the parliament. The NDA was specifically formed to fight against the extension of Muluzi's presidency (Dulani and van Donge 2005). The defection of Mpiangilari and his loyalists, most of them UDF and opposition MPs, seemed to restore the parliamentary balance of power and independence. The ruling party probably failed to foresee the implosion and defection that were to occur when it expelled Mpinganjira, Cassim Chilumpha and Professor Chikaondo as cabinet members and was therefore not in an immediate position to wriggle out of the loss caused by their defection. Efforts to entrench power appear stalled by the activism and resistance of new NDA elites and their coopted opposition MPs. For instance, dissenting MPs of the NDA joined hand with some opposition MPs of MCP and AFORD to block a bill seeking to modify parliamentary standing rule for constitutional amendments in 2000 (Dulani and van Donge 2005). While the

UDF wanted and lobbied for a simple majority to be able to pass constitutional amendment bills, NDA elites resisted it.

Furthermore, with the retention of two-thirds majority as a legislative standing rule to adopt constitutional amendments, it became difficult for the UDF to mobilize the two-thirds votes necessary to amend the Local Government Act in the parliament. This would have given the president the power to hire and fire local government officers (Africa News Service 2000 & von Doepp 2005). By blocking the modification of the Local Government Act and the legislative quorum, dissenting elites showed their strength by successfully and potentially signaling the death of any future hope of a constitutional amendment to allow Muluzi a third term. A once high-handed party was subdued into obtaining the cooperation of other parties and individuals in parliament to pass both simple legislation (requiring a majority) and constitutional amendments (requiring two-thirds of the MPs).

This particular change of dynamics within the parliament exposed President Muluzi and his loyalists into ‘political beggars,’ while turning the dissenting elites into ‘political hot cakes.’ This change further gave rise to the political economy of opposition politics, as many political jobbers and contractors emerged to negotiate between the government and the dissenting NDA elites. One such political jobber was Martin Kansichi, a prominent businessperson and president of the Malawi Confederation of Chambers, Commerce and Industry, who stepped forward to

negotiate between President Muluzi and twenty-two opposition MPs (Khembo 2004).²⁸⁴

While money played a significant role in securing parliamentary advantage for the government, individual resistance and the space for alternative leadership provided by Mpiangilari and Jaap Sonke for the dissenting group provided the necessary activism to alter the balance of power within parliament. Apart from financial inducement by the government to coerce MPs into supporting the amendment, political interests and church induced moral burden equally influenced many MPs at the last minute to drop their support for the tenure elongation bill.²⁸⁵ The massive elite resistance and mobilization against the newly introduced third-term bill was the only reason why President Muluzi withdrew the new bill and announced his retirement.

In conclusion, the parliament did not function strictly as an institution to enforce compliance on President Muluzi. Rather, it functioned as a political marketplace where political loyalty was on sale and where individual discretion and interest usurped party and parliamentary unity. For instance, the failure of the first bill by only three votes short of a two-thirds majority is an implication that the

²⁸⁴ Refer to section 6.2 of the present chapter

²⁸⁵ The moral burden as a political pressure which came from the church during the tenure debate and its impact in influencing the outcome of the presidential term limits in Malawi shall be analyzed in Section 5.

Malawian parliament was not yet sufficiently mature to protect the new democracy. As in the case of many other post-Cold War African democracies, this also shows that parliamentary alliance could not be trusted (vonDoepp 2005). The presence of the clergy in the parliament acted as moral intimidation on the MPs, who felt compelled to vote against the amendment bill on an individual basis. Having been emboldened with massive support from the Church and civil society, efforts to introduce a new bill by pro-government MPs failed three times because of resistance and control in the parliament by dissenting elites.

6.6.5 The Judiciary

The Malawian judiciary was accustomed to a one-party system and operated within the limits of dictatorship for thirty years. Unlike the parliament, the judiciary had often rendered popular judgments that upset the government in power. Banda left the high courts, appeal courts, and the supreme courts intact but created a parallel court called the 'Traditional Court.' His regime used the traditional court, which was visibly loyal to him, to legitimize his regime's policies while the other courts concentrated on civil and criminal matters. The traditional court was therefore available to provide legal backing to Banda's policies. However, the new transitional constitution merged the courts and created a central legal system, striking out the parallel traditional court that had leaned towards the regime.

After 1994 transitional elections, the courts did show a significant sign of independence, sporadically and selectively challenging some government programs

though the executive selectively applied courts' rulings (vonDoepp 2000; Brown 2004). Dr. Blessings Chissinga and Boniface Tamani acknowledged the judiciary role in encouraging democracy in Malawi.²⁸⁶ In the electoral petitions of 1994 for instance, the courts favored the presidential challenger instead of the incumbent.²⁸⁷ Nevertheless, in 1999, the courts grossly favored the government of President Bakili Muluzi after eighteen months of electoral legal process in an election widely voiced as highly flawed (Dulani and van Donge 2005; Morrow 2005). President Muluzi had the privilege of appointing a number of new judges and therefore expectedly received favorable judgments from the courts (Dulani and van Donge 2005).²⁸⁸

The political nature of the judgment's outcome is undeniable. Equally, some of the judges who occupied leadership positions or supervised judicial events at the time had received their appointments during Banda era, thus suggesting some direct and indirect loyalty and tie to the MCP. Moreover, John Tembo had already defected with a faction of MCPs to the ruling UDF. The MCP has a significant influence in the

²⁸⁶ Interview with Dr. Blessing Chissinga and Boniface Tamani, October 2014.

²⁸⁷ This was understandable, since most Malawians wanted to do away with Banda after thirty years of presidency.

²⁸⁸ For instance, the judges once interpreted the Constitution narrowly by ruling that a quorum at the beginning at each session was sufficient to begin a legislative business. The Judges also ruled that the government could overrule the Constitution using the Doctrine of Necessity in the national interest (Dulani and van Donge 2005).

ruling party, since the UDF was principally an offshoot of the MCP. Prominent leaders of UDF like Muluzi and Chakufwa were former prominent members of the MCP.

In the particular case of 1994, the courts played it safe by ruling in favor of President Muluzi. The political atmosphere in Malawi was tense. There was a visible wind and agitation for change. Though Banda appointed the judges that presided over the electoral tribunal, most felt that Banda's time was over, giving his age and the resistance against him. The courts strategically decided to be on the right side of history by pitching their tent with the masses. However, as tenure elongation politics incited new dynamics and changes in the political balance of power, the courts were also to shift their loyalty as the judiciary became increasingly important in the new power play though Muluzi tried to break the courts' apparent resistance.²⁸⁹

With their connection to the judiciary, coupled with the sympathy awakened from executive intimidation, the dissenting elites apparently attracted sympathy and protection from the courts using a proactive strategy. Though some dissenting elites publicly tried to portray a diminished image of the judiciary, the courts actually supported the course of the opposition by delivering some favorable judgments to the

²⁸⁹ Author's interview with Dr. Blessings Chissinga, Univeristy of Malawi, Choba. Malawi. October 2014. Muluzi used the Supreme court the overturn some judgemnts delivered by the lower courts in favor of the dissenting coalition. Refer also to Dulani B and van Donge J.K "A Decade of Legislature-Executive Squabble in Malawi, 1994-2004 (2005) pp 201-224

dissenting elites.²⁹⁰ By blocking the Civil Service Act in the parliament, with which President Muluzi sought to monitor and control judges, justices and the judicial process, some dissenting elites limited the ability of the government to control judges, especially at the High Court level. When they blocked the government's effort to control the courts, dissenting actors secured some independence at the high courts with which judges could render judgments that deposed government interests.

It is interesting that at the heat of the presidential term limits controversy in Malawi, several High Court judgments were ruled in support of the dissenting elites.²⁹¹ For instance, in November 2001, a High Court judgment challenged the decision of the pro-government faction of the UDF in parliament to declare the parliament seats of UDF and other defecting MPs vacant. In October of the same year the Speaker of the parliament, a Muluzi loyalist, had declared the seats of all defected NDA MPs and other opposition MPs vacant. A politically calculated move, this significantly reduced the strength of the non-conforming elites within parliament by seven.

²⁹⁰ Author's interview with a prominent member of NDA who formally was an of president Muluzi that their closeness to some High Court Judges facilitated some judicial processes and guaranteed judicial protection for the dissenting elites.

²⁹¹ Apart from giving favorable judgments to the opposition elites, a High Court had also declared a presidential ban in October 2002 on all demonstrations and protests regarding third-term presidency illegal and unconstitutional.

A legal petition instituted by the non-conformist group in the High Court resulted in the invalidation of the said declaration by the Speaker and a consequent institution of a judicial panel of inquiry to review the action of the Speaker. It was a victory for the non-conformist elites as the purportedly expelled opposition MPs regained their seats and further applied pressure from within the parliament. Insistence on a judicial panel of inquiry was a ploy by the dissenting elites and MPs to seek judicial protection and to delay any parliamentary decisions tactically until the tenure elongation bill was defeated. As vonDoepp (2005) observed, this was critical for the defeat of the amendment bill because nine months later, when the open-term bill was presented for voting in the parliament, the judicial issues had yet not been resolved. The continued seating of the seven purportedly expelled dissenting MPs in the parliament also became crucial in defeating the proposed constitutional amendment for President Muluzi's open-presidential terms, as the bill failed by three votes.

The problems the ruling elites confronted in their efforts to modify the constitution in favor of Muluzi show the importance of elite activism in the process of enforcing presidential term limits compliance in Malawi. As the former chair of PAC, Monsignor Tamani notes, "Should the opposition elites not have been proactive and resisted pro-government antics and strategies using the courts as a shield, Muluzi would have certainly succeeded in entrenching power and amending the

constitutions.”²⁹² The institutional backing and protections from courts were a calculated strategy from the non-conformist elites to counter pro-government strategies to weaken the strength of the dissenting elites by illegal dismissals. By being more politically proactive, the dissenting elites were able to attract judicial protection, delay their expulsion from the parliament, and oversee the death of the constitutional amendment project that would have allowed President Muluzi to repeal presidential term limits in Malawi.

6.6.6 *International Actors.*

Morrow describes the period and economic context of the presidential term limits controversy in Malawi as that of “impoverished millions struggling for daily existence, where only few opportunities exist to rise above the level” (2005). Unfortunately, one of the few opportunities, if not the biggest, was in politics. In Malawi, national politics was regarded as a big industry where the scarce resources are highly concentrated within the hands of the ruling elites (ibid.). In such a distribution, only the ‘lucky or ruthless’ few prosper. Lack of a national economic resource base and a high poverty level in Malawi created a ‘scramble’ for scarce resources, forcing Malawi to rely heavily on donor aid.

²⁹² Author’s interview with the former chair of the PAC, Monsignor Boniface Tamani, Limbe, Malawi, October 2014.

As shall be discussed later, Malawi's heavy reliance on donor aid made the state vulnerable to external pressure (Brown 2004; vonDoepp 2005). Foreign aid sustained the Malawian economy in large part (Brown 2000 & 2004; Morrow 2005). As tiny as it was though, foreign aid was very important for the survival and relative prosperity of the Malawian ruling class. As a result, some form of constitutionalism was necessary to allow development aid flow (vonDoepp 2005 & Morrow 2005). Any slight shrinking of foreign aid raised tension and agitation among the ruling class and among the populace, as the Malawian economy depended heavily on development assistance²⁹³. In order to keep these channels of foreign aid open, Banda yielded to multi-party democracy and effectively lost the election in 1994 (Brown 2004).

For the operators of the new Malawian democracy, a form of artificial constitutionalism was needed to keep donor aid flowing.²⁹⁴ In Malawi as in most other African countries, such artificial constitutionalism, especially periodic elections, chiefly represents the wishes of donors rather than that of the local ruling elites. Some

²⁹³ Between 2006 and 2008, the human rights abuses by the Muktarika regime attracted the suspension of foreign aid, which caused economic hardship in Malawi. Within the same period, Malawi recorded about 34 street protests involving the students, the trade unions, NGOs and market women who agitated against the biting economic situation arising from the suspension of foreign aid to Malawi (Malawian Centre for Social Concerns 2010).

²⁹⁴ Many presidents in new democracies have logically maximized quasi and artificial constitutionalism to sustain the flow of foreign aid (vonDoepp 2005).

incumbent presidents in Africa would have preferred to dump constitutionalism (Brown 2004; Diamond 2015; Levitsky 2015). Foreign aid regime systematically and partly became a strategy in the 1990s to ensure constitutionalism. Malawi's case represents this fact, as international donors somehow became important partners in the democratic transition process in Malawi between 1992 and 1994 (Brown 2004; vonDoepp 2005; Morrow 2005).

However, after the success of the 1994 transition elections referred to as 'model' democratization, international donors seemingly diverted their attention to the Malawian economy and paid progressively less attention to Malawian politics and the democratic process (Brown 2004). As Brown further notes, "donors rarely raised issues related to democratization after the 1994 elections, despite clear backsliding by the ruling party....focusing more on economic than political governance" (2004). Added to the above, attitudes and policies vary according to the disposition and personality of donor representatives in Malawi. In 1998 for instance, some officials of the World Bank, the United Kingdom's Department for International Development (DFID), and the International Monetary Fund (IMF) pushed hard for economic and political reforms in Malawi. Fortunately, for President Muluzi, the successors of these officials chose a softer stance against him by abandoning reform policies approved by their predecessors (Brown 2000). This allowed President Muluzi not only to gain time but also firmly fix impunity into his regime.

However, where political will exists and national interests pose no barriers, donors have often recognized their capacity as a formidable force. They can play a very important role as watchdog, not only in demanding accountability for the financial resources they provide, but also in opting to comment on government failures to respect rule of law and constitutional provisions. Post-Cold War development aid policy and conditionality contributed directly to democratization in many countries, making dependency on donor aid risky for governments. This should have informed President Bakili Muluzi to reconsider his attempt to change the presidential term limits to his advantage, when he was not in good standing with some important donors. Donor support and approval could have potentially provided him with a sixty percent chance to pass the amendment bill.

Uganda, Namibia, Cameroon, Gabon and Togo succeeded, however, without attracting the wrath of donors. Why did international donors tilt towards the dissenting elites and show visible sign of collaboration against President Muluzi? Democratic post-transitional Malawi under President Muluzi demonstrated bad governance and highly concentrated presidential power. It lacked accountability, transparency, and the rule of law. It displayed human rights abuses and political intimidation. All of these points affected Muluzi's credibility (Cammack 2004; Meinhardt & Patel 2003; Brown 2004; Morrow 2005). The executive branch no longer respected or enforced constitutional provisions.

As a foreign aid dependent country, resources from donors supported the recurrent expenditure of Malawi. This accounted for 31.5 percent of Malawi's GNP, almost triple of the Sub-Saharan African average of 11.1 percent (UNDP 2000, 221-222). Development aid supported the entire democratic process, especially the elections (Brown 2000). The 1994 and 1999 general elections, as well as the 2000 local elections, depended on donor and overseas aid (vonDoepp 2005; Brown 2000, 2004; Morrow 2005).²⁹⁵ Even the Malawian Electoral Commission, founded in 1994, remained ninety-percent donor-supported (Brown 2000, 2004; Morrow 2005).²⁹⁶ The NGOs involved in civic education and other electorally related services were also fully donor dependent (Chirwa 2000, Tsoka 2002).

As many writers argue, the institutions and processes of democracy in Malawi were dependent on donor-support (VonDoepp 2005; Kabemba 2005; Tsoka 2002; Morrow 2005), thereby exposing Malawi to an extensive external influence on the democratic process. The use of development funds exacted an indirect and disguised influence on the agitation against the removal of terms limit in Malawi. With party opposition splintered and ineffective (Brown 2004), civil society extremely weak (Chirwa 2000; Tsoka 2000), and the parliament in disarray (Brown 2004; Morrow 2005) one Western aid official in 2002 spoke collectively for other donors when he

²⁹⁵ Author's interview with a serving Ambassador in Malawi, Lilongwe, Malawi, November 2004

²⁹⁶ Interview with the Chairman of Malawian Electoral Commission, Lilongwe, Malawi,,November 2014.

remarked: “We are the checks and balances” (Brown 2004). While donors remained silent after the transitional elections on the political issues for reasons mentioned above, between 2001 and 2003, donors aligned with some dissenting political elites and church organizations to enforce constitutionalism by defeating the UDF’s repeated attempt to extend the mandate of President Muluzi.

The goal was to ‘offload’ President Muluzi, even when placed under the guise of ‘good governance’ and an economic undertone. In partnership with the Church, some dissenting elites like Jaap Sonke and Brown Mpingilari have petitioned the World Bank, IMF, DFID, DANIDA, and the United States Agency for International Development (USAID) to consider suspension of development aid to Malawi since President Muluzi deployed development aid to buy political loyalty and intimidate the opposition.²⁹⁷ With a track record of “executive high-handedness and reckless confrontation with donors” (Brown 2004), it became easier for donors to align with the dissenting elites and the Church to starve President Muluzi of the funds he desperately needed to finance his tenure elongation bill.

The subsequent suspension of development aid by the United States and Denmark reduced the capacity of Muluzi’s regime to effectively finance the constitutional bill (Brown 2004), apparently in direct consequence of the petition. The United States further suspended a substantial part of its assistance to Malawi in

²⁹⁷ In 2001, Brown Mpingilari led the dissenting elites to petition donor agencies in Malawi with the headline, “Corruption and Reckless Misappropriation of Development Aid by Muluzi’s Regime.”

2002 in response to what it called “an increasing lack of financial and political transparency” (Brown 2004). However, before the United States placed economic pressure on Muluzi, donors had already collectively stopped or suspended development aid to Malawi in 2001 in response to accusations of corruption, a bloated cabinet, and economic and administrative mismanagement levied against the regime by the leaders of the dissenting group (Brown 2004; Morrow 2005). While Denmark took the most drastic measure (as shall be discussed later), some donors limited their development support to Malawi on a project-by-project basis.

Muluzi had run a bloated cabinet since 1994, with many of the dissenting elites (now defectors) as beneficiaries, while donors allowed funds to flow. Why was it necessary for the donors to act now? According to the former Chairman of PAC, “It became necessary to suspend foreign aid because the dissenting elites and most of the donors found a common ground and were working in tandem with a seeming common agenda.”²⁹⁸ For instance, the American embassy in Blantyre brought its concealed pressure to bear, not directly on the proposed tenure elongation bill, but on any procedure that sought to bypass the democratic process in seeking the constitutional amendment. Of course, the embassy knew that Muluzi employed

²⁹⁸ Author’s interview with Monsignor Tamani, former chairman of Public Action Committee: “President Muluzi needed to go, and it was not the responsibility of the donors to dictate for Malawians. The dissenting political actors presented an opportunity for a change and the donors bought into it, using development funds as a strategy to help the dissenting elites enforce compliance on President Muluzi.” Limbe, October 2014

undemocratic means to achieve his tenure elongation ambition by intimidating opponents, banning civil society actions, and using slush funds to buy support. The insistence on democratic process brought Muluzi in direct confrontation with the United States, which seemed to have made up its mind against Muluzi. Though the United States diplomatically avoided direct meddling in the tenure elongation politics of Malawi, which some observers interpreted as insufficient (Brown 2004), it partially laid the foundation for the collapse of Muluzi's campaign by withholding funds at a time when Muluzi needed them to maintain his support base (Morrow 2004).

6.7 Special Case Study: DANIDA and Local Linkage in Malawi.

I have discussed the hypothetical capacity of international pressure to enforce term limits compliance in new democracies. However, the burden of national interest seems to often blur this capacity (Diamond 2015 & Levitsky 2015). The Malawian case reflects the paradox of foreign aid policy in influencing democratic outcomes, especially in its relations with Denmark, which demonstrates extensive donor-recipient politics (Morrow 2005).

In January 2002, a change of government in Denmark resulted in the suspension of development aid to Malawi (ibid.). According to Khembo (2005), the suspension was justified in 'Malawian venality and inefficiency' and evolved into a

diplomatic face-off between Malawi and Denmark. The conflict raised the obvious question: whose interest did DANIDA serve in Malawi?

In reaction to the suspension of donor aid to Malawi, Muluzi accused Denmark of having a hidden agenda. He quickly expelled the Danish Ambassador, Orla Bakdal, from Malawi. The regime in Malawi took the Danish criticism against Muluzi (based on the petition submitted by the dissenting elites), at face value, since it weighed heavily on the politics of constitutional amendment. However, much of the Danish development assistance targeted at the support of democratic process and institutions. The Danish attempt to suspend foreign aid during debates on a constitutional amendment for presidential tenure extension lent itself to political interpretation.

Literature reports that the suspension and eventual withdrawal of Danish development funds, and the rise in power of a right-wing populist party in Denmark, were connected (Morrow 2005). However, the above argument enjoyed minimal reception in Malawi, where interviews and local reports framed the Danish domestic agenda as a ploy. These claimed that Denmark ceased development aid in order to further impoverish Malawi and punish President Muluzi (Englund 2002). After the amendment bill failed, Denmark made a surprisingly quick U-turn and proved those media suspicions true. Unlike the United States, the Danish development assistance office DANIDA sought and maintained local links in Malawi through which funds helped sustain pressure against Muluzi.

In July 2002, a delegation of the Public Affairs Committee (PAC), the main organ representing the religious bodies (Roman Catholic Episcopal Conference of Malawi, the Protestant Malawi Council of Churches, the Muslim Association of Malawi, the Malawian Lawyers Association and a handful of local NGOs) held a meeting with DANIDA in Lusaka, Zambia.²⁹⁹ DANIDA had left Malawi in 2001 during the Malawi-Denmark face-off (Morrow 2005). According to Boniface Tamani, the main agenda for the meeting was the financing of PAC activities to sustain pressure against Muluzi, which DANIDA swiftly accepted to do.³⁰⁰ The meeting in Lusaka resulted in funds being approved for PAC, which were channeled through a Zambian NGO called “Women for Change.”³⁰¹ This move by DANIDA was to attract criticism within Muluzi’s regime. However, DANIDA justified its action and intention in terms of good governance and rule of law, defending its links with PAC as effectively falling within the boundaries of the law.

Though the government of Denmark and DANIDA weakly denied supporting the dissenting elites against Muluzi, it was still strongly suspected that Denmark had covertly supported the Malawian opposition elites against Muluzi through DANIDA and PAC. After all, DANIDA suddenly returned to Malawi, held meetings with PAC

²⁹⁹ Author’s interview with Boniface Tamani (former chair of the PAC), Limbe, Malawi, October 2014..

³⁰⁰ Ibid.

³⁰¹ Ibid.

in Zambia, and channeled funds to PAC when no locally based donors appeared (at least openly) to have given resources specifically to groups opposed to open-ended and third-term presidency. Boniface Tamani confirmed in an interview with the author that although funds from DANIDA helped to organize church crusades, the aim was to strengthen opposition against the repealing of presidential term limits. Church crusades and national worship rallies aimed to achieve this specific goal.³⁰²

External pressure became an issue in the Malawian case because dissenting political elites had lobbied foreign donors for support against Muluzi and the proposed constitutional amendment (Brown 2004). Although many donor agencies sided with the dissenting actors against the proposed constitution amendment, they avoided involvement in Malawian internal politics and were careful to observe some protocols in respect to sovereignty. The United States was very careful about the use of its funds in the context of political opposition, as was the case with British High Commission in Malawi.³⁰³ However, this was not the case with DANIDA.

³⁰² Ibid.

³⁰³ The British High Commissioner, Norman Ling, tried to get the PAC to tone down its anti-Muluzi/tenure elongation posture. This became obvious when the PAC was no longer distinguishable from the opposition elites who had permeated the PAC and used it as proxy. The channeling of funds to the PAC resembled the sponsoring of political opposition against the president, which was considered to be against diplomatic rule. This is a fallout from author's interview with Monsg. Boniface Tamani.

The Public Affairs Committee (PAC) that worked in tandem with dissenting elites was able to attract direct funding from DANIDA against the constitutional amendment (Morrow 2005). The PAC was an anti-government organ in which many dissenting elites were stakeholders. Funds from DANIDA publicly implemented programs and activities against the open-term constitution amendment like the publication of Pastoral Letters and the hosting of church rallies, vigils, workshops, and dinners in which dissenting elites were given prominent positions and speech time against the tenure elongation bill.³⁰⁴

When it became clear that funds from DANIDA aided political opposition purposes and agitation, the government specifically complained to the Danish embassy about the use of Danish funds for political purposes in Malawi (Brown 2004). Denmark responded by calling PAC to order and by crosschecking whether it had allocated its funds in this direction. Denmark's response appears, however, more cosmetic in nature. Despite the denial of PAC that it diverted funds from DANIDA for political agitation,³⁰⁵ it was obvious that PAC channeled the funds into activities

³⁰⁴ In an interview with John of the Catholic University of Malawi, it became explicit that the chair of the PAC, Boniface Tamani, was a partisan, even to the extent of using church services and his homilies to sustain pressure against Muluzi and his open-term ambition.

³⁰⁵ The PAC had denied using funds from DANIDA to support opposition against constitution amendment claiming that the funds supported a program against community violence. The PAC referred to church rallies and open air interdenominational worships as organized workshops against community violence, even though prominent opposition elites made speeches at such rallies.

that sustained opposition and pressure against Muluzi and the constitution amendment bill for open-ended term.³⁰⁶

The international donor connection in the Malawian case played two significant roles. The suspension of development funds by donors, which was a direct consequence of the political and church elite pressure and lobby, contributed in causing Muluzi's tenure elongation to crash: he lost the funds with which to coerce support for his amendment bill. His inability to raise funds crippled Muluzi, who was unable to pay MPs who had demanded five million Kwacha (\$25.000) to support the amendment bill. The suspension of development funds to Malawi denied the president of the continuous flow of funds to maintain his support base. Secondly, DANIDA funded PAC to support and sustain elite political pressure against Muluzi. This enabled PAC and dissenting elite alliance to continue undisrupted to plan and implement their programs against Muluzi's constitution amendment bill.

Due to the suspension of foreign aid to Malawi during the constitutional amendment, Muluzi reacted angrily in a pro-open term rally in Mulanje in August 2001: "Why do you donors threaten us every day? I am head of state in my own right and no donor has a right to meddle in the country's internal issues" (*Nation*, 25 August 2001). He made a similar statement at Mangochi, saying: "Donors should work with poor countries as partners and should not release funds to influence

³⁰⁶ Refer to Brown 2004. Boniface Tamani confirmed that Denmark was aware of the involvement of its funds in sustaining pressure against Muluzi and his open-term ambition.

political change...nobody should come to Malawi or Africa to lecture us as if we are kids at a kindergarten” (*Nation*, 24 January 2002). Unlike the Nigerian and Zambian cases, international factors contributed directly to the sustaining of elite political pressure against the removal of presidential term limits in Malawi.

6.8 Elite Dissidence as a Mobilizing Factor in Malawi

The main hypothesis of this chapter is that opposition political elites were chiefly responsible for the enforcement of presidential term limits compliance in Malawi in 2003. Donor alliance and partnership with church organizations facilitated elite activism and resistance. With two rounds of successful elections in Malawi, voters, political elites, and parties were beginning to enjoy strong incentives to participate in a routine democratic process that they had missed during the thirty years of Banda’s era. For the political parties, the incentive was that elections were the route to power. For opposition elites and parties, there was at least a chance of power alternation.

Any attempt to allow Muluzi to succeed in entrenchment of power by repealing the presidential term limits recalled the Banda era, an experience none of the dissenting elites seemed willing to see happen. As in most new democracies, the Malawian electorate has little influence on its government. Still, some political elites have learned their lessons and woken up to the fact that life-presidency and the entrenchment of power by a single individual or party is a total closure of political

space. It leads to intimidation, suppression, and executive highhandedness reminiscent of Banda era. The “Banda experience was not going to be allowed to be repeated.”³⁰⁷

Furthermore, if Muluzi could succeed, some political elites with higher political ambitions stood to lose the most. The regime had used intimidation to conquer civil society and the media (Chirwa 2000 & Tsoka 2003). Donor conditionality had failed to impose discipline on Muluzi through threats and actual suspension of financial assistance (vonDoepp 2005 & Morrow 2005). The only option open for the opposition elite to enforce compliance on Muluzi was to seek other channels of activism both within and outside formal institutions. While elite defection from the ruling party depleted the strength of the ruling party to operate freely in the parliament (vonDoepp 2005), co-opting and aligning with the church elites seemingly became another successful strategy in applying both political and moral pressures on the MPs to reject Muluzi’s tenure elongation bills.

Elite opposition against Muluzi started immediately after his victory as the new president of Malawi in 1994. The opposition elites who were dissatisfied with the election results challenged him in courts. Though the court later ruled in favor of Muluzi, the challenge coming from some political elites appeared to be a signal to Muluzi that business was no longer going to be as usual. It was a clear sign that

³⁰⁷ Two former cabinet members expressed that they were prepared to sacrifice their lives to stop Muluzi becoming life-president and to forestall a return to Banda era.

fellow political elites in the new Malawian democratic process were not to be taken for granted, as was in the case in the Banda era.

Quite unlike in the Banda era, the event of 1994 showed that a president or an incumbent could be challenged in Malawi. Both the courts and political parties were witnessing such a challenge for the first time. The challenge continued into the second elections in 1999, when the presidential candidates of the MCP and AFORD formed a coalition to challenge Muluzi in the second presidential elections. Though the electoral commission pronounced Muluzi as the winner, opposition to Muluzi's re-elections continued (Brown 2004). Muluzi allegedly won 75,5 percent, compared to less than 20 percent for the coalition candidate, Gwanda Chakuamba in an election characterized as flawed (Dulani 2005). Not satisfied with the outcome of 1999 presidential election, some opposition actors from the MCP and AFORD took to the courts to challenge what they described as "massive electoral fraud" by the ruling UDF (ibid).³⁰⁸

Though the Supreme Court later upheld the election of Muluzi, the opposition continued. Because many opposition elites had acquired enough political self-

³⁰⁸ Some leaders of NGOs at the inception of democracy in Malawi later joined political parties and sought both elective and cabinet positions. Chafukwa, who led a protest against Banda, formed the AFORD party, which later aligned with UDF during the presidential term limits politics. He also mobilized some NGOs to protest against the electoral fraud of 1999, using his affinity with some NGOs as an advantage.

confidence to confront Muluzi, they carried their opposition into the politics of presidential term limits. With the opposition challenges of 1994 and 1999, the dissenting political elites seemed to have acquired more experience by having studied the political terrain and various ways to channel their activism. The political parties were neither strong nor reliable. The government had decimated civil society and the media through executive intimidation and prohibition. Because of financial inducement, the parliament was not a place for opposition and activism. Moreover, the opposition elites lacked the required resources to counter the level of financial inducement generated by the executive. The opposition elites had to design a strategy to challenge Muluzi's attempt to elongate his tenure effectively.

6.9 Political Elite Dissidents, Church Elites and Donors: The Killer Alliance

The opposition saw the church as a channel of activism as the presidential prohibition on civil society and ban on demonstrations regarding the amendment bill prevented the dissenting elites from channeling their resistance through the civil society.³⁰⁹ Moreover, the cost of channeling its activism through demonstrations was financially high as the dissenting elites lacked the funds to organize street protests and lobby the media. Since regime loyalists had done better propaganda by

³⁰⁹ Author's interview with Dr. Blessing Chissinga, Head of Department, Social Science Research, University of Malawi, Zomba. October 2014.

mobilizing popular mass support for Muluzi, exploring the Church, as a platform became a better and easier option for the political elite dissidents, since the Church already had existing structures that could easily defy government bans. This and three factors account for the reason why the dissenting elites sought contact with and used the church as a political vehicle to convey its resistance.

The political parties lacked resources and the capacity to sustain pressure. Most prominent foreign donors were not dependable, either succumbing to or completely avoiding internal politics. At the same time, the civil society had exhausted and lost its capacity to lead, systematically demobilized through an executive ban on street protests concerning the amendment bill. While the judiciary later began to demonstrate broad independence in its decisions, it grew too cautious due to intimidation and an overburdened court system that lacked resources and training (Morrow 2005).

Meanwhile, the media remained under heavy executive attack while undergoing physical, financial, and psychological persecution from the regime. The masses seemed to be politically unaware and pro-Muluzi because of regime's strategy of using patronage to buy support and loyalty from poor villagers. Since the dissenting political elites could not work in isolation and needed a channel for its activism, they sought alliance and partnership with the already active church structures, thereby bringing religion to bear on the politics of presidential term limits in Malawi. Church services and pastoral letters became forums for spreading of

information, while political elite alliances with church elites formed a politico-religious collaboration against Muluzi. The church was also to become the channel through which international funds flowed into Malawi and allegedly sustained the resistance against president Muluzi.

The ability of the opposition elites to discover this channel in the church became a turning point in the presidential term limits politics in Malawi. Through the instrumentality of the Malawian Catholic Bishops Conference (MCBC), the Catholic Church had already fought against political abuses in Malawi.³¹⁰ Church-led activism in 1992 brought political reforms and saw to the collapse of Banda's regime in 1994 (Brown 2004; Morrow 2005). The Pastoral Letter of 1992 demanded political reforms that galvanized both international and local forces, pressuring Banda to agree to a referendum that ended the one-party system and ushered in a multi-party democracy (CIIR 1993; Mchombo 1998; Newell 1995; Nnzuda and Ross 1995; Ross 1995, 1996).

³¹⁰ John Guwa explained that the Church in Malawi has a long history of confronting the government on social ills and bad policies. Since 1975, when the first bishop of Blantyre Monsignor Brown issued the first pastoral letter denouncing some policies considered oppressive under Banda, the body of Catholic Bishops of Malawi has maintained itself as a social instrument in confronting social and political ills in Malawi(Cf. interview with the author, October 2014).

The role of the Catholic Church was also central in mobilizing domestic opposition and initially organizing opposition groups under its banner (Brown 2004). As John Guwa pointed out in an interview, people generally believe that whenever the Catholic Church opposes any regime, that particular regime ultimately collapses.³¹¹ Dissenting elites had calculated that attracting church partnership with a record of opposition against past regimes would enhance their activism and resistance. The political elite and church elite partnership proved to be decisive in attracting funds for the anti-Muluzi resistance and influencing donor action against the regime.³¹²

By October 2000, some senior members of the ruling UDF like Brown Mpingilari, Jaap Sonke, and several MPs had indicated and declared their position against the rumored amendment of the Malawian Constitution for an open-term for the office of the presidency. Consequently, the regime's hard stance towards the dissenting elites prompted the formation of the New Initiative (NI), an elite political alliance against the constitution amendment project. The NI promptly invited the

³¹¹ Author's interview with John Guwa. Limber, October 2014.

³¹² Boniface Tamani, former chair of the PAC, explained in an interview with the author that international donors suspended their development aid to Malawi because of the petition written by individual actors and supported by the PAC. As was the case with the DANIDA, some funds went to the PAC in order to support the opposition against the amendment bill.

churches through PAC to join the alliance.³¹³ In a statement issued by the NI and copied to the international community, political parties, local and international media, human rights organizations, civil society organizations, and the government, the NI declared that “the body shall comprise of political parties, MPs, religious groups, NGOs and other pressure groups in Malawi” (NI 2000). However, of all the bodies mentioned above, only the religious groups, mainly of the Christian denomination represented by PAC, became increasingly, fearlessly, and visibly active in the debates and activism against the removal of presidential term limits. According to Boniface Tamani, the interest of the dissenting elites was to win the support of the church in their activism. These elites included other bodies in the partnership to give the coalition a semblance of inclusiveness, while the main target was the church, which contained all the structures needed for activism.

In November 2002, President Muluzi dismissed Deputy Transport and Works Minister Jaap Sonke after indicating his opposition against the amendment of the constitution. Secretary-General of the UDF Paul Maulidi immediately replaced him. In an interview with the *Daily Times*, Jaap Sonke emphatically insisted that “the open-term bill would not work,” quickly adding that he was in discussion with a lot of political elite dissidents and the church through PAC to provide the needed activism and resistance to crash the open-term project (*Daily Time*, 12 November

³¹³ Author’s interview with Monsignor Boniface Tamani, former chair of the PAC, Limbe, Malawi, October 2014

2002). His open reference to being in contact with PAC is a further indication of the elite lobby with the Church against the amendment bill. It indicates a disposition on the part of the Church to collaborate with the dissenting elites against the amendment bill.

To strengthen the alliance, the Catholic Commission on Justice and Peace (CCJP) organized a dinner in February 2002 to bring MPs and Catholic clergy together to discuss the modalities to resist the amendment bill³¹⁴. Describing the dinner, Morrow writes, “While MPs loyal to the dissenting elite group was one hundred percent represented, no MP loyal to Muluzi was present at the dinner” (2005). According to Boniface Tamani, regime insiders and loyalists probably knew that the aim of the dinner was to provide the dissenting elites with a platform to lobby against the removal of presidential term limits, as well as to commit resources for the dissemination of information against the bill through churches. The agenda for the dinner proved the regime loyalists right as the main topic of discussion was how the Catholic Church could provide the needed structures for the dissemination of information through pastoral letters, church services, crusades, and vigils.³¹⁵ The alliance between church and dissenting elites seemed to have been effective, as some prominent cabinet members like Jaap Sonke used the platform to canvass for resistance and activism against the amendment bill. Though this led to a violent

³¹⁴ Ibid.

³¹⁵ Ibid.

opposition campaign, his removal as a minister, and his resignation from the ruling party, his position on the amendment bill became a factor in influencing other party leaders to join the dissenting elite group.³¹⁶

“It appears to be a common belief in Malawi that whenever the church speaks, something happens because the activities of the Catholic(s) in engineering the fall of one-party system in 1994 (are) still fresh.”³¹⁷ Malawi is a deeply religious country where many identify themselves strongly as Christians or Muslims. While Christianity makes up seventy-five percent of the population, Islam accounts for about twenty percent (*Freedom House* 2002). Both Bakili Muluzi and Vice-President Cassim Chilumpha were Muslims. The prospective life-rule of a Muslim president and Vice-President in a primarily Christian country was an affront to Christian leaders and elites.

Dissenting elites significantly capitalized on this by playing into the religious sentiments of the Christian majority. It was easy for some dissenting elites to win the support of church leaders in the fight against the removal of presidential term limits in Malawi. Though some church denominations and Muslim groups distanced themselves from the activities of the churches, the PAC grew as an extension of political elite opposition against Muluzi. Thus, presidential term limits politics led to

³¹⁶ Author’s interview with Dr. Blessing Chissinga. University of Malawi, Zomba, Malawi, October 2014.

³¹⁷ John Guwa, in an interview with the author, Catholic University of Malawi, Limbe, October 2014.

strains between the government and religious leaders, causing further divisions among religious leaders (BBC 2002). While dissenting elites mobilized Christian leaders against the amendment bill, some Muslim groups led by the Muslim elites, especially in the southern part of Malawi, strongly supported Muluzi and his third term (BBC, 10 September 2002). Islam was in the minority, thus, it was politically impossible for a Muslim in a Christian-dominated population to stay president for a life term. With the three provisos as background, I shall analyze how a coalition of Church and political leaders enforced compliance on Muluzi.

About ninety percent of the political elite who supported Muluzi to win his first and second elections were Christian. Many, especially from the opposition MCP have expressed the desire for a transition of power, preferably to a Christian after eight years of Muslim rule.³¹⁸ A third term or life-presidency for President Muluzi would allow a minority to defeat the majority.³¹⁹ Apart from that, many considered the implications of a life term Muslim presidency on the political economy of Malawi. Kate Kainja, Secretary-General of the MCP during the constitution

³¹⁸ In an interview with the author, Reverend John Guwa mentioned that the Christian political elites were unwilling to tolerate Muluzi for any number of more years. It was as an affront for a Muslim minority to continue to rule in a country whose population was seventy-five percent Christian. Limbe, October 2014.

³¹⁹ Morrow's interview with the former Secretary General of MCP, Kate Kainja, in *Toxic Mushroom: The Presidential Term Limits Debate in Malawi*, 2005

amendment debate, stood firmly against the removal of presidential term limits by Muluzi insisting that, “Muluzi’s amendment bill would chase away Jesus Christ in Malawi.” She further accused Muluzi of spreading Islam in Malawi through his encouragement of proselytization and marriages between Muslim men and Christian women (Morrow 2005).

Kainja’s argument places the presidential term limits debate in the context of Islamic expansion in Malawi. Referring to the Muslim vice-president, Kainja projected her argument into the future, fearing that any potential incapacitation of the President would lead to his constitutional replacement by yet another Muslim successor ruling over a Christian majority. She also accused Vice-President Chilumpha of acting as the conduit for Muluzi’s confessionalism (Morrow 2005).

Some writers argue that as Islam has not been particularly contentious in Malawi, its role has not been as politicized as in other countries (Meinhardt and Patel 2003). One could therefore argue that the mobilization of church structures against Muluzi’s attempt to remove presidential term limits was motivated less by the political elitist suspicion of Islam, and more by their concerns regarding power entrenchment and constitutionalism (Morrow 2005). In my opinion, Kainja produced the above argument in order to appeal to the creedal and emotional appeal of Christian churches to join elite resistance against Muluzi. A life term presidency for Muluzi would deny her party and herself any hope of presidency in the future. As

made apparent during the debates, the Christian-Islamic tension exceeded the religious sphere.

However, the issue of political economy became crucial. With the exception of the lakeside area of Nkhotakhota, Malawian Islam has been historically, confined within the Yao ethnicity and associated with low levels of modern education (Morrow 2005). With Muluzi as president, things were beginning to change in Yao. Many political elites of Christian extraction, ostensibly uncomfortable with the growth of Islam in Malawi, accused Muluzi of using funds from the more economically viable Middle East to construct mosques and launch programs for Koranic schools (madrassas).³²⁰

Though Malawians may outwardly pride themselves on their religious tolerance, some Christians, especially among the political class, became doubtful and confrontational about the rising influence of Islam under Muluzi. The apparent tension between Christianity and Islam had a history in events near the end of the nineteenth century when the Malawian population entered into a system of economic and political competition based on their Christian or Islamic identities (Bone 2000). It was predictable, then, that religious intolerance between Christians and Muslims

³²⁰ John Guwa insisted in an interview with the author that Muluzi's huge investments on Islam have made Islam literally and figuratively more visible in the Malawian political and social landscape, a situation that many dissenting elites did not neglect in their resistance against Muluzi's dream to cling to power.

gradually developed in some parts of Malawi, as documented by the Centre for Social Concerns (2004).

Increasing tension and intolerance provided the possible context for the church to align with the dissenting political elites against the removal of presidential term limits in Malawi. Some Christians on the left, represented by Bishop Patrick Kalilombe, were very worried about the growth of fundamentalist Christian sects. These sects often received the support of religious groups from the United States. These Christians from the left did not stop the dissenting elites from mixing religion and politics, or from drawing support and funds from foreign religious groups for political purposes (Lungu 2004; Morrow 2005). The alliance between political and Church elites against Muluzi visibly introduced a new religious experience of chameleon politics in Malawi.

With its strong Christian presence and Muslim minority, Malawi represents a good example of an African country where religion played a vital role in presidential term-limits politics. As in some other African countries, the Malawian case demonstrates the reality that institutionally and ideologically, churches and mosques remain integrated in the social and political reality of everyday life. With the absence of vibrant, funded, and focused activities of modern western NGOs, churches and mosques are important to the vast majority of the Malawian population and most African countries.

With its strong Christian presence in Malawi, the institutional role of the Catholic Church appears indispensable. The church became vital and central to the events that brought down the dictatorship of Hastings Banda in 1994. The Church was central in negotiating the birth of multiparty democracy in Malawi (Morrow 2005; Newell 1995; Nzunda & Ross 1995; Ross 1996; Schoeffeleers & Maille 1999), and was equally central in navigating the outcome of Muluzi's open-term amendment bill in Malawi in 2003. The central role of the Church in collapsing Banda's dictatorial regime in 1994 and the absence of strong media and civil society in Malawi may have informed the disposition of the dissenting political elites to mobilize their pressure against Muluzi around and through the church. The strategies employed include the extensive use of Church platforms to lobby MPs, the dual policy approach towards bribery, and the non-reactionary stance in the face of intense intimidation from the government.

In January 2001, Church leaders agreed and planned to spread the message of protest and opposition through church services, gatherings, worships, and crusades.³²¹ A pastoral letter by the Catholic Bishops Conference followed quickly on March 25, 2001, which admonished the lack of respect for basic democratic principles enshrined in the constitution. While pledging to safeguard the constitution in their pastoral

³²¹ In an interview with the author, Monsignor Boniface Tamani revealed that some individual dissenting elites had made a passionate appeal to the churches, prompting the meeting of January 2001. This meeting resulted in agreements and the publication of pastoral letters by some churches in Malawi.

letter, the Bishops urged against the manipulation of others for the purposes of eroding the constitution (Lungu 2004).

In April of the same year, the Church of the Central African Presbyterian Council in Malawi (CCAP) issued another pastoral letter, placing the constitutional amendment debate within a wider social and political discussion already making waves in southern Africa.³²² The letter dismissed and condemned any attempt to amend the constitution for the removal of presidential term limits as a bad foundation for the consolidation of democracy. Entitled “Some Worrisome Trends Which Undermine the Nurturing of our Young Democracy,” the pastoral letter was welcomed by dissenting elites but viewed by the UDF as confrontational, “unfriendly, and opposition induced” (SACBC 2002; Ross 2004; CCAP 2001).

As Blantyre was the main support base of UDF, the emergence of such a pastoral letter from Blantyre was an indication for the UDF that the dissenting elites had penetrated its support base through the church. It was also an indication that the intended amendment of the Malawian constitution to allow Muluzi more terms was not going to win solely on party and ethnic divides, but more importantly on religious ground. For instance, not one MP loyal to Muluzi was present at the dinner organized

³²² By 2001, three South African countries had witnessed controversial debates on constitutional amendments to remove presidential term limits. While Nujoma succeeded in Namibia, Chilubal failed in Zambia. Chisano rejected appeals to change the constitution in Mozambique. The Bishops placed the Malawian debate in this wider context, insisting on rule of law in Malawi.

by the Catholic Commission on Justice and Peace (CCJP) to bring MPs and clergy together to discuss the amendment bill, while the opposition group was present in full. It served as a platform to lobby against Muluzi and raise funds for the dissemination of information through the churches against Muluzi's project for open-ended and third-term presidency.

As the constitutional amendment controversy progressed, mobilization through the church equally progressed and further divided the country in religious lines. According to the Southern African Catholic Bishops' Conference (SACBC), "at the invitation of their leaders, Malawi's Christian communities enhanced their war against any measures toward life-term presidency, as religious leaders, both Protestant and Catholic, stated their intention to remain united in the fight against any attempt to amend the constitution (SACBC 2002). The alliance between dissenting political and church elites apparently created self-confidence on both sides, thus spurring church leaders and civil rights groups to become openly critical on the constitutional amendment issue.

The Malawian masses remained difficult to mobilize except through churches. The ban on demonstrations about the constitutional amendment issue still subsisted. Most mass media was state-controlled. Independent newspapers were under pressure to not report the opposition view on the proposed amendment. It was only a matter of time before the ruling party discovered that it was fighting invisible enemies.

While political support was overwhelming from the faction loyal to Muluzi within the ruling UDF, the reality outside indicated the opposite. Muluzi appeared to enjoy massive support from UDF leaders, but in reality, the same party leaders became the voices of opposition in their churches against Muluzi. The crusade organized at the National Service of Worship on July 5, 2001 at Mzuzu University was revealing. Bishop James Tengatenga criticized the tendencies and the intentions of the constitutional amendment in his homily. He insisted that the project was bound to collapse if the intention was to allow Muluzi to run for more than the constitutionally stipulated two terms. Tengatenga presented contemporary politics in Malawi from the angle of Christian morality, calling on all political actors who professed Christian faith to oppose the amendment of the Malawian constitution. Though Bishop Tengatenga's statement was viewed within the UDF circle as sensitive (Ross 2004; CCAP 2001), senior opposition leaders present at the crusade took turns criticizing the constitutional amendment proposal. No chance was given to senior UDF loyalists present at the crusade to defend the proposed bill.

The tension generated by this crusade led to violent attacks on the organizers of the crusade including Bishop Tengatenga. UDF thugs physically assaulted a cleric, apparently mistaking him for the preacher (Morrow 2005). Some political dissenting elites from different Christian churches also shelved their differences in order to sustain pressure on Muluzi. Malawi is home to the fundamentalist Livingston and Blantyre Synods, with their Scottish origins. It is also home to the Nkhoma Synod, which has apparent roots in the South African Dutch Reformed Church, a

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denomination with an often quietist and non-alliance position. The creedal antagonism between these two groups was set aside. Roman Catholics also united with Anglicans, while Evangelicals and some of the previously politically docile Pentecostal and charismatic churches obviously at the bidding of dissenting elites and PAC cooperated in mounting extensive pressure against Muluzi and the constitutional amendment bill.

It is also important to mention that the competition to use the Church as a platform did not exclusively apply to dissenting elites. The regime of Muluzi also made effort to lobby some Christian denominations to its side, thereby making some church denominations willing political partners during the constitutional amendment controversy in Malawi. The government was not passive in the scramble for churches for political support. Allegedly, a few prominent loyalists in the pro-Muluzi camp, who exercised influential positions in some churches, particularly lobbied and persuaded some church elites and leaders in the Pentecostal and charismatic churches for support. However, the more the government pushed, the more opposition elites pushed through the churches that many MPs were under pressure to swap loyalty because of financial inducement. The opposition elites held a crucial meeting in May 2001 with some church leaders to further whittle down the effect of any financial inducement. The result was an immediate issuance of statement to all MPs through PAC insisting on earlier agreements to vote against the proposed amendment to section 83 (3) of the Constitution. The statement reads in part, “ you may receive all the gifts from those who support the open term bill, but we call upon you to reject the

amendment. Demonstrate to the nation that you can stand for the values of democracy. Say no to the proposed amendment. God is with you” (Ross 2004: 97 and Morrow 2005: 162).

Boniface Tamani, chair of the PAC during the amendment debate, confirmed in an interview with the author that most of the church statements emanated from the dissenting leaders. He equally confirmed that the church served as a vehicle of information, as it disseminated anti-third term messages mainly through the services every Sunday. Both the church and the opposition manipulated and made use of the other to achieve separate goals. The opposition elites, mainly of Christian background, aligned completely with the church. They used the church as an effective channel of opposition, successfully exposing the church to a direct confrontation with the government in the case of the amendment bill.

Conclusion

I conclude based on my field research that dissenting political elites were responsible for demanding and enforcing term limits compliance on President Bakili Muluzi in Malawi in 2002. The event that led to the formation of the New Initiative (NI) was started by two prominent party internals who first dictated Muluzi’s intention to rule beyond 2004. The formation of the NI was decisive in forming an opposition alliance and in creating a platform for elite activism and resistance. By consistently withstanding executive intimidation and resisting several attempts by the regime to compromise their resistance, the dissenting elites attracted other social

forces into the resistance against President Muluzi. The ability of the dissenting political elites to seek linkage with the Church and donor agencies provided the needed structures that sustained their resistance and activism to the end.

The coalition between the dissenting elites, the church and the donors was symbiotic in nature. It raises the question whether the dissenting elites could have succeeded in enforcing term limits compliance in Malawi without an alliance with the Church and some donor agencies. Or whether the Church and the donors could have pressured compliance on Muluzi without the activism and resistance provided by dissenting political elites. The Church and donor agencies could not have sustained the pressure without the initial and sustained resistance from some political elites. Though at the forefront of the political actions that brought down the thirty-year long, one-party rule of President Hastings Banda in 1994 (Brown 2004; Morrow 2005), the enthusiasm and popular demand for change that existed between 1993 and 1994 was lacking in 2003. The dissenting political elites benefitted from church structures in sustaining its resistance and attracting international funds, while the church attached itself to elite activism to prevent a foreseen Muslim domination of the Malawian political space. The donors saw in elite activism, the opportunity to get rid of a recalcitrant president who refused to play by the ‘rule of the game.’

Thus, the Church and donor agencies who kept some distance after the transitional elections, even though it was evident that President Muluzi did not provide good governance to the Malawian people, especially during his second

presidential tenure, colluded with elite dissidents to pressure him into compliance.³²³

The Church and donor agencies in Malawi possibly realized that political resistance should emanate from local forces within the Malawian political space (Brown 2004), and were willing to support such resistance if it was sufficiently articulated. Some political actors within and outside the ruling party provided such resistance during the presidential term limits controversy. Though reflecting varied interests, an alliance with dissenting elites became necessary for the Church and international donors to press for accountability and constitutionality. Judicial, Church, and international donor actions were thus dependent on elite activism, only providing a linkage and platform for elite activism, legitimacy, and protection.

In the next chapter, I will focus on a general comparative analysis of the pressures arising from various sectors as observed in the three case studies.

³²³ Author's interview with Father John Guwa, Catholic University of Malawi, October 2014

Chapter 7: Cross-Sectional Comparison and Convergence in the Enforcement of Presidential Terms Limit Compliance

7 Introduction

In the last three chapters, I presented cases that form the main argument for this study. Nigeria, Zambia, and Malawi represent African post-Cold War countries where attempts to repeal presidential term limits by incumbent presidents were resisted. In the three case studies I evaluated all the pressures and sectors that came alive during the term limits controversies, and emphasized the centrality of dissident political elites in mobilizing and bundling the pressures that enforced term limits compliance in the case studies. In the present chapter I shall make a general comparison of the various sectors through which elite political dissidents generated the pressures that were applied. I aim to demonstrate the extent to which some sectors not only provided a platform for activism, but also became objects of manipulation by some political actors in the process of both removing and enforcing term limits.

I shall analyze and compare the role each sector played in the attempt to remove or enforce presidential term limits in the case studies. I shall further analyze how and why some political elites sought linkage with various sectors as a means for protection and as vehicles of activism. I shall demonstrate that what many mistakenly refer to as institutional pressure is actually elitist influence and mobilization through the institutions.

Lastly, in discussing the role of the elite and other sectors and institutions, I shall compare the impact of one on the other. In analyzing the reasons why thirteen post-Cold War African countries have successfully repealed or neglected presidential term limits, I shall seek to demonstrate how elite activism and pressure have been responsible for both partial and full compliance outcomes and how lack of elite activism and pressure have produced the opposite outcomes.

Though Nigeria, Zambia, and Malawi remain central for this study, I shall refer to Ghana, Kenya, Uganda, Namibia, and Cameroon to buttress my hypothesis further. While Ghana and Kenya represent partially enforced cases, Namibia, Uganda, and Cameroon represent fully repealed cases of presidential term limits. I will use the following questions to guide my analysis in this chapter: Have incumbent presidents in post-Cold War African democracies voluntarily allowed power to alternate without formal or informal pressure to enforce compliance? How far would presidential term limits survive in post-Cold War African democracies without political activism from political elites? Could other sectors like democratic institutions and the civil society effectively enforce presidential term limits compliance without (political elite) agential push in post-Cold War African democracies? On the other hand, could dissenting political elites effectively enforce presidential term limits compliance without linking and allying with other institutional or extra-institutional sectors?

7.1 Political Elites, Political Activism and Term Limits Compliance

The institution of presidential term limits may not have survived the twenty-five years of post-Cold War democratic experience in Africa without elite political activism and pressure. The retention and enforcement of term limits compliance in few African post-Cold War democracies was dependent on the involvement of internal and external key political elites. The ability of some political elites to link and ally with institutional and extra-institutional sectors enabled them to produce and bundle pressures that have yielded partial and full compliance outcomes in Africa. Some political elites have the capacity to function as a pressure group (O'Donnell et al 1986 & Higley & Burton 2006). In the three cases studied, elite dissidence ruptured political loyalty and cohesion and forced incumbent regimes to make strategic mistakes. Elite dissidence also created room for alternative platforms and defection, which ultimately became essential for mobilizing and bundling pressures that enforced term limits compliance.

Sen (1999) argues that democracy as a system of government provides opportunities for articulation and reformation. For such articulation and reformation to occur, Sen insists that particular actors must be ready to step forward to make the right use of available opportunities to strengthen and defend democracy. Dissenting political actors prevented democratic slow death in Nigeria, Malawi, and Zambia by mobilizing and bundling pressures to enforce compliance on their presidents. In doing so, they laid the foundation for political actors elsewhere in Africa to challenge incumbent presidents who are intent on entrenching state power.

Linz (1996), Sen (1999), and Leftwitch (2010) further emphasize the importance of some political actors and democratizing political elites in the fashioning and crafting of new political orders that help sustain democracy. Valenzuela (1990), O'Donnell and Schmitter (1986) argue that a rupture within the political elite rank creates the possibility for both democratization and survival of democracy. In the particular cases of Africa, the process of removing presidential term limits has been elite-based. The support of political elites for or against the removal of term limits therefore remains necessary for the outcome of the process. My research shows that political elites can contribute to the process of consolidation, especially when they choose to demand strict term limits compliance as in Nigeria, Zambia, and Malawi.³²⁴

For democracies that emerged by 'transaction' or 'reforma'³²⁵, there was a high tendency to retain old habits. With the exception of Arap Moi and Jerry Rawlings (who were the transition presidents of Kenya and Ghana respectively),

³²⁴ These three cases have witnessed and survived open-seat contest, leadership alternations, party alternation, robust electoral contest, and improved rule of law since attempts to repeal term limits were defeated. They have also constitutionally and successfully transferred power after the death of the president without hurting the state. This was different from Gabon and Togo where the life-presidents laid the foundation for their sons to usurp power immediately after the demise of the presidents.

³²⁵ Democratization by transaction or reforma refers to a polity where an old system or order remains un-'ruptured' while entering into a new order. Worst still, operators of the old order were allowed to come in and operate the new order or system. Most often, this results in regression.

ninety percent of reigning dictators who metamorphosed into elected presidents by transaction and reforma ultimately discarded presidential term limits at the expiration of their second terms. They were able to do so despite the institutions, the civil society and international community. A sustained political elite activism was needed to harness and bundle pressures to rescue the democratic experiment from the grip of old habits.

The case studies detail how political actors like Atiku Abubakar, Orji Kalu, Bola Tinubu, Ken Nnmani of Nigeria; Mark Chona, Christon Tembo, Ben Nwila of Zambia; Jaap Sonke, Brown Mpingalari, Cassim Chilumpha, Mattews Chikaondo and Kaleso of Malawi spearheaded formidable elite activism to enforce compliance on Presidents Olusegun Obasanjo, Frederick Chiluba, and Bakili Muluzi respectively. In cases outside this study, Armstrong (2010) noted how Mwia Kibbaki and Raila Odinga of Kenya, and D.F Annan, and John Kuffour of Ghana led elite activism for the survival of presidential term limits in Kenya and Ghana respectively. These political actors formed a coalition of political forces that exerted both personal and bundled pressures on their presidents to abide by the rules that govern the transition of democratic power. By forming a broad coalition and entering into elite pacts that mobilized various sectors of the society, including some democratic institutions, pressures were made to bear on the ruling regimes that culminated in either willing or enforced compliance.

According to Simon (2005), political and democratic processes are far from operating at an accepted and expected level in new democracies. It becomes essential that effective leaders who are committed to democracy can compensate for weak institutions by mobilizing mass incentives and interests to sustain democracy (Leftwich 2010). I have noted that ninety percent of transitional presidents emerged by transaction and reforma, and were therefore determined to maintain old habit and structure by demonstrating unwillingness to allow an alternation of power. These were the first to lay siege on presidential term limits in the post-Cold War African democratic experiment without involving the masses through referendum in the process of constitution amendment bill.³²⁶

An elite-based approach has enabled incumbent presidents to avoid the masses strategically in the process of removing presidential term limits. These incumbents have concentrated on using parliaments, since ruling parties controlled the excessive majority in most African parliaments. In these case studies, I documented how elite dissidence ruptured party cohesion in Nigeria, Zambia, and Malawi. It is important that elite dissidence further affected executive loyalty and

³²⁶ Refer to Chapter One, Subsection Four: Frequency of Assaults on Presidential Terms Limit. Senegal is the only country among post-Cold War African democracies where an attempt by an incumbent president resulted in a referendum. The other twelve successful repeals/neglects and three failed attempts ended controversially in the parliament.

adjusted parliamentary balance of power. Political defections of some political elites became necessary in altering political loyalties and parliamentary balance of power. This jostling for survival laid the foundation for institutional and extra-institutional linkages by which the incumbent presidents conceded that power transition was absolute and necessary for democracy in a multi-party presidential system.

Table 3: Impact of Presidential Term Limits in post-Cold War African Democracies

Democracies	State of Democratic Development	Political Elite Pressure	Institutional Pressure
Uganda Cameroon Gabon Togo Burkina Faso Niger Guinea Namibia	Successful repeals: Non-compliance Entrenchment of power Dominance of one party	Weak opponents and zero dissidence	Weak/Moderate institutional pressures

Nigeria	Full enforcement:	Strong and visible	Moderate -active
Zambia	Failed attempts	opponents	institutional pressures
Malawi	Open-seat contest		Active extra-
Senegal	Power alternation		institutional presence
	Party alternation		Moderate - strong civil society pressures
Ghana	(in)voluntary	Strong and visible	Moderate institutional
Kenya	compliance	opponents	pressures
Tanzania	open-seat contest		Moderate civil society
Mozambique	Power alternation		pressures
	Party alternation		

Source: Fieldwork analysis by author

The table above demonstrates:

- a weak political elite activism in cases where presidential term limits were successfully removed despite the presence of other pressures.
- a strong elite activism in cases of failed attempts to repeal presidential term limits even in the absence of other pressures

- a strong elite activism in cases where incumbent presidents seemingly or (in)voluntarily retired

Table 1 above indicates a prevalence of multiple sectors and institutions that were very active in the cases where presidential term limits compliance was enforced. The table confirms that various sectors were involved in producing pressures that converged to enforce compliance, but specifically on various degrees, with elite activism being higher than other sectors. The table thus suggests that in the three case studies, elite opposition activism stimulated various institutions and sectors into action.

For instance, in Nigeria, Zambia, and Malawi, particular political elite dissidents mobilized the media and the civil society to participate in the third term debates. They sponsored media debates and mass protests against the amendment bills. Vice President Atiku Abubakar and Governor Orji Kalu used the media outlet, especially *The Sun* and *Turaki Vanguard* (which they founded and funded) to provide alternative information to counter state-controlled media. In the Nigerian case specifically, the leading elite dissidents merged their funds to offer the MPs US\$600,000 each to diminish presidential offer of US\$350,000 to support the amendment bill (Posner and Young 2007; Armstrong 2010).³²⁷ The duo of Atiku Abubakar and Orji Kalu invited the judiciary into the third-term controversy in Nigeria by using the courts to seek redress and protection. As professor Falola stated

³²⁷ Confirmed in author's interview with Dr. Frank Ozoh, Director of the Electoral Institute of Nigeria.

in an interview, “Funding legal cases in Nigeria is not cheap, I am still wondering how Atiku and Orji Kalu sustained over thirty legal cases in Nigeria at the same time, with the courts, rather responding rapidly to their cases.”³²⁸

In Malawi and to some extent in Zambia, the linkage exists through the Church. Nevertheless, the use of such channels like the media, NGOs and the Church only served as channels of activism. The political dissenting elites funded and utilized church gatherings, prayer sections, crusades, and vigils in Malawi to disseminate information. The elite dissidents resorted to Church structures as platforms for rallies when they lost linkage with the CSOs because of executive order banning rallies and protests against the amendment bill (Brown 2004; Morrow 2005; Khembo 2004).³²⁹

In Zambia, two prominent party internals including Vice-President Christon Tembo, Benjamin Mwila (Minister of Defense), and Godfrey Miyanda (the Minister of Education) started what was to become an internal dissidence in the ruling party. With the support and leadership of Mark Chona, an elite opposition platform ‘OASIS’ was created through which students, international actors, women, and regional leaders were mobilized against President Frederick Chiluba. OASIS became central in setting the agenda that mobilized the MPs, seating ministers, the judiciary, and the masses to produce a bundled pressure that enforced compliance in Zambia. In

³²⁸ Author’s interview with Professor Falola, Pilsen, Czech Republic, May 2014

³²⁹ This was also confirmed in the author’s interview with Boniface Tamani, former chair of the PAC (Public Affairs Commission of Malawi), Limbe, Malawi, October 2004.

the Malawian case, a coalition of political and Church elites produced the Public Action Commission (PAC), which became instrumental in mobilizing the MPs, the judiciary, international donors, civil society organizations, religious leaders and various Christian churches against President Muluzi. The effective use of these channels to shape and spread the message of opposition against the removal of presidential term limits rested not only on the intention and goal of political dissidents, but also on their ability to fund and set the agenda for these groups. While I acknowledge the importance of the elite-institution linkage, I maintain that institutions appear stimulated by pressure from elite dissidence and activism.

Some democracy observers might argue that variations in institutional developments influence elite role. This would lead us to ignore the important roles of some political elites in mobilizing and bundling pressures to enforce presidential term limits compliance. A probing question may be whether the leadership of Atiku Abubakar, Orji Kalu, Mark Chona, Christon Tembo, Benjamin Mwila, Godfrey Muyinda, Jaap Sonke, Cassim Chilumpha, Matthews Chikaondo and Brown Mpingalari did not help develop and fashion the elite oppositional structure through which they acted.

The attempt to remove presidential term limits in Nigeria, Zambia, and Malawi may have avoided degeneration into political crisis and an enforced compliance outcome if seventy-five percent of political elites had supported the amendment bills. While it is not the intention of the present research to resolve the

endless agency versus structure debate in the social sciences, this study does not shy away from such questions.

The case studies show that particular political elites were instrumental and influential in enforcing presidential term limits compliance by developing institutional linkage and credibility, and by mobilizing other sectors into action. The case studies also show that some political elites directly and indirectly expanded the political and democratic space by entering it, redefining the meaning of democratic consolidation by challenging the legitimacy, independence, and credibility of some democratic institutions, especially the judiciary and the parliament.

In Nigeria, some political elites from both sides approached the courts forty-times while political elites in Malawi approached the courts fifteen times to challenge some actions and judgments against or for the amendment bill.³³⁰ Though the judicial challenges did not produce a completely favorable outcome for some political elites on the opposing side, they provided an opportunity for the judiciary to reclaim its credibility and prove its capacity to deliver independent judgments (Armstrong 2010; Maltz 2007; Posner and Young 2007). I maintain that the decisive pressures that produced compliance outcome in the case studies came from particular political opponents, while institutions played supportive and protective roles.

³³⁰ Refer to the first case study (Chapter Four) and the third case study (Chapter Six).

Beside the three case studies, the process of enforcing presidential term limits compliance shows the same pattern in other cases involving presidential term limits politics. For instance, in 1999, D.F. Annan, the Speaker of the Parliament, and John Kuffour convinced Ghanaian President Jerry Rawlings that constitutionalism was absolute and necessary by mobilizing the parliament, the media, and the civil society to confront Rawlings. While D.F. Annan sought linkage with the media and the civil society to set an agenda for the presidential term limits debates in Ghana (Armstrong 2010), John Kuffour mobilized other political elites, including MPs, to raise the cost of repression for Rawlings. In Kenya, some political elites led by Mwia Kibaki and Raila Odinga effectively mobilized the MPs to ensure and enforce compliance on President Arap Moi. While Kibaki argued and boasted that the political elites would not allow an amendment to the constitution for a third term, Raila Odinga declared President Arap Moi's third-term attempt as "time wasting" (Armstrong 2010). The duo mobilized the MPs who quickly produced clauses that forced Arap Moi to retire.

Besides seeking institutional linkage, the case studies also detail other strategies employed by some political elites in enforcing presidential term limits compliance. Political propaganda, political experience, economic wealth, and popularity became important attributes that positioned some political elites to challenge non-compliance.³³¹ In the Nigerian case, Vice-President Atiku Abubakar declared Obasanjo's third term a "goose chase," while Orji Kalu and other elite

³³¹ I shall come back to this point in Chapter Seven.

dissidents boasted of a formidable force to “kill Obasanjo’s third term agenda.”³³² The formidable force to which Orji Kalu seemed to refer turned out to be their political experience, the economic wealth at their disposal, their popularity, and possibly their international connections, which they heavily deployed against Obasanjo’s third term.

In the *Zambian* case, Mark Chona relied on his popularity and international contacts to raise the cost of repression for Chiluba, while in the *Malawian* case, some elites relied on their closeness to the Catholic Church and foreign donors to not only raise the cost of repression, but also deny Muluzi funds to finance the amendment bill. The three cases followed the same model indicating that the decisive pressures were produced and mobilized by key dissenting elites, whose experience, economic wealth, international and national connections, and popularity seemed to have played a role.³³³

Having lost grounds in their various political parties, political dissenting elites manifested and tested their resistance in the parliament as a last option. They transformed the parliament into a theater of opposition and activism. Elite activism in

³³² In author’s interview with Orji Kalu, he boasted that he was financially instrumental to Obasanjo’s rise to power, and therefore still had the capacity to force him to retire despite his (Obasanjo) being the President of Nigeria. (Abuja, Nigeria, October 2013).

³³³ I shall return to this point in the next section.

the parliament consequently offered the parliament an opportunity to develop an autonomous and popular voice.

This seemed to be the case in June 2006, when Nigerian Senate President Ken Nnamani admonished the MPs in a parliamentary joint session. Before the final debate preceding the parliamentary vote on the amendment bill, he said: “You are now on your own, the whole world is watching you, exercise individual discretion and do the needed.”³³⁴ Ken Nnamani’s statement became instrumental in motivating the MPs to do the “needed.” Most analysts in Nigeria have interpreted the statement as crucial in encouraging the MPs to reject the amendment bill by following individual discretion instead of party directive.³³⁵ The Zambian and Malawian cases followed the same model.³³⁶

In all the three cases studied, internal political elites acted as whistle blowers by being the first to publicize the rumors regarding the constitution amendment bill. In Zambia, two prominent party internals met with Mark Chona the same night

³³⁴ Cf. Ken Nnamani’s speech to introduce the final consideration and voting on the Presidential Term Limits Amendment Bill in Nigeria.

³³⁵ Author’s interview with Dr. Frank Ozoh, Director of the Electoral Institute, Abuja, Nigeria, October 2013

³³⁶ In the first anti-third term rally organized on April 29, 2001 by OASIS in Zambia, eighty MPs of the ruling MMD signed to work against the amendment bill while the vice-president declared his opposition in the same rally against Chiluba’s third term.

President Chiluba informed his party of his intention to go for a third term.³³⁷ The meeting with Mark Chona resulted in the setting up of the opposition platform OASIS. These party internals continued to supply the initial information that OASIS needed for its first open rally against Chiluba's third term.³³⁸

Some political elites further championed media debates against the amendment bill in the three case studies. Their connection to private media houses was to become instrumental in setting the agenda for media debates. In the Nigerian case, Atiku introduced the debates and the media attack through African Independent Television (AIT), while Orji Kalu utilized his private media company, *The Sun* Newspapers, to introduce and set the agenda for the debate on the amendment bill. In Zambia, Chona mobilized the *Zambezi FM Radio* and *Daily Times* as alternative voices in the amendment debates.

The scenario, however, was different in the Malawian case where the three singular media outlets were government owned. The dissenting political elites relied on their connection and linkage with the Catholic Church to spread their message on the amendment bill through pastoral letters, worships/services, prayer sessions, and

³³⁷ Author's interview with Mark Chona, Lusaka, Zambia, October 2014

³³⁸ Ibid.

crusades (Morrow 2005, Brown 2004).³³⁹ By initiating debates on the third term amendments bill, some political elites further sponsored and widened the scope of presidential term limits amendment politics, sustaining the debates until the defeat of amendment bills. In other instances outside the case studies, especially, the Ghanaian and Kenyan cases, the process followed the same pattern. Internal party dissidents sponsored and sustained the debates until the incumbent presidents of Ghana and Kenya dropped their third-term ambitions (Armstrong 2010).

The involvement of the judiciary in the process of enforcing presidential term limits compliance has emerged as a new phenomenon in presidential term limits politics. The case studies detail how particular political elites strategically involved the judiciary as an important partner in confronting non-compliant incumbent presidents. In Nigeria, Zambia, and Malawi, internal dissidents and defectors initiated petitions in the courts that not only challenged the credibility and independence of the judiciary, but also pressured the courts to deliver independent judgments.³⁴⁰ By attracting the judiciary into the presidential term limits politics, the courts became active in rendering judgments that provided political protection for some elites, especially to defectors whose seats the ruling parties declared vacant.

³³⁹ This view has also been confirmed in an interview with the author by Boniface Tamani, former chairman of the Public Affairs Commission (PAC), Limbe, Zambia, October 2014.

³⁴⁰ Refer to the three case studies to see how individual political actors mobilized using the courts.

Specific political elites not only laid the foundation and provided the sustenance for political activism against the removal presidential term limits, they equally mobilized and bundled the pressures that enforced compliance in Nigeria, Zambia, and Malawi. In the Nigerian case, Vice-President Atiku Abubakar and Orji mobilized about five hundred internal party members, including government ministers and MPs, against Obasanjo's third term. In Zambia, Mark Chona and Vice-President Christon Tembo mobilized a broad coalition of political elites against President Frederick Chiluba, also comprising of ministers and eighty MPs (Sardanis 2014).

The Nigerian and Zambian cases demonstrate a very strong elite coalition through the instrumentality of an alternative platform where the political dissidents converged to further mobilize and apply pressure on their incumbent presidents. In the Malawian case, the historical process of church activism became manifest. The ability of political elites to woo church elites into opposition and further utilize church structures for their activism became strategic. Jaap Sonke, Brown Mpingalari, Kaleso, the PAC under Mongr Boniface Tamani and Chakufwa Chihana initiated the process that attracted the Church into the amendment debate as a coalition partner in Malawi. The partnership between political and church elites became decisive in producing the outcome of the amendment bill in Malawi:

The Church has a particular history in Malawi. Anytime the church speaks, a change occurs. Being conscious of this, the opposition elites sought linkage and

attracted the church through PAC into the presidential term limits controversy. However, both the church and the opposition elites gained from the activism by making use of each other to achieve different interests³⁴¹ In contrast, few political opponents emerged in other cases where incumbent presidents succeeded in repealing presidential term limits.

In their study of the presidential term limits politics on Uganda and Namibia, Dulani (2011) and Armstrong (2010) show that civil society organizations and the courts were scarcely involved in the constitution amendments debates. While the judiciary was completely uninvolved in both cases, the number of civil society organizations that supported both sides of the debate almost cancelled themselves.³⁴² It can be argued that the absence of elite activism was responsible for the non-mobilization of any sector in the Ugandan and Namibian cases, and therefore, responsible for the successful repealing outcome in those countries. Political elites were instrumental in mobilizing the civil society organizations, the courts, and the Church in Nigeria, Zambia, and Malawi. The total support given to the incumbent presidents by political elites in Uganda and Namibia appear to have influenced the ill

³⁴¹ Author's interview with John Guwa, Catholic University of Malawi, October 2014

³⁴² Refer to Dulani, *Democracy Movements as Bulwarks against Presidential Usurpation of Power: Lessons from the Third-Term Bids in Malawi, Namibia, Uganda and Zambia*. Stichproben. Wiener Zeitschrift für kritische Afrikanstudien, Nr. 20/2011, 11 Jg., 115-139.

mobilization on the part of civil society, the courts, and other sectors to apply pressure against the removal of term limits in these countries.

This supports the hypothesis that attempts to remove presidential term limits only become successful when political actors play along and consciously refuse to mobilize pressure against it. Though the cases studied for this research do not cover the successful presidential term limits repeals, Namibia and Uganda present us with apt examples of elite political in-activism.

In Namibia, only one individual opponent emerged (Armstrong 2011). While three CSOs were in opposition, four CSOs supported the presidential term limits amendment bill (Dulani 2011). However, their opposition and street protests garnered little or no support (Baker 2002) since majority of political elites roundly played along and supported Nujoma's third term in Namibia.

In the Uganda case in 2005, there was strong opposition within the civil society and the media, with a scant opposition among political elites. Renowned journalist Andrew Mwenda led the media opposition against Museveni by using the media to mobilize pressure against the term limits amendment bill in Uganda (Dulani 2011). However, lack of support and funding by political actors and businesspersons who queued behind Museveni diminished his attempts to mobilize any pressure. As was the case in Namibia in 1999, only one political opponent emerged, and consequently was unable to amass support from other political elites who chose to stand on the side of the amendment bill. Furthermore, the only internal dissident in

Uganda chose to remain in the ruling party, later contesting the presidency against Mussoveni from within.

Uganda can boast of a fairly blossoming civil society, strong independent newspapers, and a sizeable educated middle class with government critics who strongly recorded their opposition against the presidential term limits amendment bill in 2005 (Armstrong 2010; Dulani 2011). However, the failure of political elites to lead or align themselves with the other side of the debate became a big advantage for the incumbent president in successfully repealing presidential term limits in Uganda. I maintain therefore, that the support of political elites for the amendment bill in Uganda and Namibia diminished any substantial activism that could rupture executive and incumbent loyalty and mobilize pressure to enforce compliance. Their support for the amendment bill further diminished the capacity and narrowed any avenue that could have mobilized the MPs, the civil society, the judiciary, and the masses to bundle pressure against the removal of presidential term limits in Uganda and Namibia.

With the apparent lack of division among political elites, and their docility towards the removal of term limits in the two said countries, the masses and civil society could not be maximally mobilized and sponsored. Parliaments functioned as a rubber stamp without any sufficient opposition to passing the constitutional amendment bill that repealed the presidential term limits provision in Namibia and

Uganda.³⁴³ As scholars have observed, a split and division among political actors (O'Donnell et al 1986; Higglely and Burton 2006) and an emergence of a political arrowhead (Casper and Taylor 1996) would have provided the needed elite activism and pressure to mobilize other sectors to raise the costs of repression for Nujomo and Mussoveni. Failure of political elites to assume this responsibility in Uganda and Namibia apparently caused the successful removal of presidential term limits in those countries.

The above argument notwithstanding, institutionalists may argue that the failure of the emergence of political elite dissidents in Uganda and Namibia is rooted in institutional and environmental differences (Armstrong 2010). In the Ugandan case, Armstrong specifically argues that potential leaders experienced repression more easily in Uganda than elsewhere in Africa. He argues that In Ghana, Zambia, and Nigeria, however, political leaders enjoyed access to a more reliable legal system for protection, as well as a growing civil society that could be mobilized to spread the opposition's message (ibid.).

The existing literature on democratic development in Africa shows that repression of political opponents and rivals was higher in Nigeria, Malawi, Ghana,

³⁴³ It is important to note that the removal of presidential term limits passed as a non-event in Uganda and Namibia because of the support of political elites. In Nigeria, Zambia, and Malawi, it assumed the nature of political crisis because of elite activism and opposition against the removal of presidential term limits.

and Zambia, which demonstrate a history of long civilian and military dictatorships (Obi 2005, 2008; Ibeanu 2006; Sardanis 2014; Brown 2004; Usman 2013). Political violence, intimidation, and assassinations have also been higher in Nigeria, Zambia, and Malawi compared to Namibia and Uganda (Sardanis 2014; Iwu 2008, 2009; Morrow 2005; Simon 2005). Until recently, the civil society and media enjoyed more freedom in Uganda and Namibia than in Nigeria, Zambia, and Malawi (Dulani 2011). While Nigeria had been under military dictatorship until 1999, Namibia enjoyed democratic freedoms since 1989. Uganda, on the other hand, enjoyed vibrant media freedom led by Andrew Mwenda since 1995. In Uganda and Namibia, the courts had a history of delivering independent judgments (Armstrong 2010), on many occasions even against the government.³⁴⁴ These contradict Armstrong's argument that institutional and environmental factors for enforcing compliance were more favorable in Nigeria, Zambia, Ghana, and Malawi than in Uganda and Zambia. Only economic wealth appear to put Nigeria ahead

The three cases further indicate that the civil society and legal institutions did not create the opposition leaders in Nigeria, Zambia, and Malawi; instead, political elites re-created the institutions and the civil society by challenging their legitimacy and mobilizing them into action. The court is not a proactive institution, but reactionary by practice, depending mostly on invitation to make interpretations (Shepsle 2010). Therefore, the readiness of the legal institution to offer protection to

³⁴⁴ Refer to the three cases lost by the government in Uganda in 2005.

political opponents in Zambia, Malawi, and Nigeria was not only beneficial to these individual political elites; rather, it was more a benefit for the legal institution, which had an opportunity to recreate itself.³⁴⁵ Moreover, the judgments that were delivered in favor of political elites occurred after political dissidents had already mobilized other sectors and exerted much pressure. The legal institution might have noticed that the amendment bills were likely to fail and veered to be on the right side of history.

According to Chissinga, the case of the courts delivering judgments against the Africa governments “seems to support the theory that men of the bench are likely to favor the opposition if they are sure of imminent change of power.”³⁴⁶ As expressed by a Justice of the Appeal Court in an interview with the author, “the courts often become biased in their judgments whenever the political space is being littered with political casualties, while maintaining that ‘the courts must be invited to do so.’”³⁴⁷ In her opinion, “political actors including the opposition must be able to make use of such an opportunity.”³⁴⁸

³⁴⁵ Dr. Frank Ozoh emphasized in an interview with the author that the judiciary seemed to have benefitted more by restoring its credibility during the Third Term politics when it rendered some judgments considered independent.

³⁴⁶ Author’s interview with Dr. Blessing Chissinga, Head of the Department of Social Science Research, University of Malawi, October 2014.

³⁴⁷ Author’s interview with a Justice of the Appeal Court of Nigeria, Abuja, Nigeria, October 2013.

³⁴⁸ Ibid.

Prior to the presidential term limits amendment bill debates, Nigeria, Zambia, and Malawi lagged behind Uganda and Namibia in media, civil society, and institutional freedoms (cf. Freedom House 2000-2007). President Obasanjo, for instance, stood accused of bullying the opposition (Agabti 2006). Civil society did not fare well before and during his regime. Obasanjo mostly used the anti-corruption regime to hound his political enemies.³⁴⁹

President Frederick Chiluba was not only accused of high profile political assassinations, but also condemned many civil society organizations, which he accused of anti-government propaganda (Sardani 2014). The case in Malawi was similar, where the civil society and opposition suffered from Muluzi's executive ban and intimidation (Morrow 2005; Brown 2004). However, the emergence of political actors equipped with deft political experience, wealth, and charisma seemed to upturn the political landscapes in Zambia, Malawi, and Nigeria, while Uganda and Namibia felt the absence of such political actors at that critical political juncture. Political and democratic processes in Nigeria, Malawi, and Zambia have witnessed robust progress through power and party alternations, more than two election turnovers, several open-seat contests, and buoyant electoral competition following forced compliance.

³⁴⁹ Most of the political elites I interviewed confirmed the view of some Nigerian authors that anti-corruption efforts under President Obasanjo reduced official corruption among office holders. All insisted, however, that the anti-corruption net spread to capture those whom the President considered political opponents, while the regime exonerated its friends, even after the official exposure of their corrupt office practices.

Uganda, on the other hand, is representative of a host of post-Cold War African countries that have successfully repealed presidential term limits and has yet to experience any of the above technical qualities of consolidating democracy.

Lastly, the three case studies show that political elite activism and institutional pressure are often interdependent and sometimes symbiotic. Dissenting political actors can rely on institutions, civil society, and the masses as channels of elite activism while simultaneously empowering these sectors. As Linz (1996) notes, institutional channels remain the recommended avenues of dissent in democracies if the destructive law of the streets is not desirable.

Nigeria and Zambia exemplify cases where opposition actors relied on the civil society and the masses for spreading their message by mobilizing and sponsoring their protests. The Malawian case saw a little variation because the opposition elites had no access to the civil society and the masses to spread their information, thus resorting to religious institutions, in particular the Catholic Church as a platform to build up their opposition and activism.

Enforcement of presidential term limits requires political opposition actors to link up with institutional channels for effective activism and resistance (Armstrong 2010). In this study, I juxtapose thirteen successful repeals or neglects and political elite docility with four failed repeals and political elite activism. From that juxtaposition, I conclude that the compliance outcomes in post-Cold War African democracies have largely depended and may still depend more on political elite

activism and less on institutional and other structural factors. While any degree of enforcement is dependent on elite political resistance and activism, respect for presidential term limits and willful compliance by incumbent presidents presuppose strong and stable institutions.

7.2 Perspectives and Pressures

In Chapter three, I discussed the two main perspectives that formed the basis of analysis for this study. However, I indicated that various other perspectives commonly regarded by scholars as capable of enforcing presidential term limits compliance in new democracies should be discussed in chapter seven. Though some of these perspectives (the parliament, political parties, judiciary, CSOs and the international community) have been specifically introduced in various case studies, I shall generally analyze and criticize these perspectives based on the findings in the case studies. I will offer reasons why these perspectives may fail to guarantee or enforce presidential term limits compliance, especially in African democracies.

7.2.1 *Presidential Initiative (Voluntarism)*

Some writers seem to assume that the choice to repeal or respect the institution of presidential term limits rests solely on incumbent presidents (Maltz

2007). Many incumbent presidents therefore rightly or erroneously arrogate to themselves the right to amend the constitution to extend their tenures.

For instance, in various interviews, President Obasanjo has claimed that he did not actually want a third term, but that his loyalists wanted a third term for him and worked towards it. Despite the fact that he was defeated, Obasanjo insists that he would have gotten a third term if he had wanted it: “If I wanted (a) third term, I would have known what to do, and I would have got (sic) it”.³⁵⁰ It becomes important therefore to investigate how presidential initiative or voluntarism has accounted for the removal of presidential term limits or its compliance in Africa. How many incumbent presidents have voluntarily retired in post-Cold War African democracies without controversy? How many have voluntarily made room for a successor without pressure?

Political systems where individuals and institutions yield to the will of the incumbent president often result in power entrenchment. The rate of challenges to presidential term limits in African democracies strongly indicates that incumbent presidents choose to step down or challenge presidential term limits on their own accord. This is antithetical to democracy and constitutionalism. If power alternation is dependent on the incumbent president’s choice to respect or challenge presidential term limits, the need for term limits compliance manifests by default.

³⁵⁰ *Daily Champion*, May 20, 2007

From a quantitative perspective, this study has observed that in most new democracies, incumbent presidents do not willingly choose to retire. Instead, circumstances force their choice to retire. Globally, six out of ten post-Cold War democracies have held national debates to remove presidential term limits (Dulani 2011). In Africa alone, thirty-four of thirty-eight countries that adopted presidential term limits in the 1990s have held one or two national debates to repeal presidential term limits.³⁵¹ While eight incumbent presidents are yet to complete their second terms, Rwanda and the Democratic Republic of Congo are holding national debates to consider repealing term limits. Only six presidents have retired at the end of their second tenure in the post-Cold War democratic experiment in Africa, with three of them yielding to partially enforced compliance.

The data indicate that power transfer by incumbent presidents in post-Cold War African democracies has not been systematically voluntary. In other words, a certain amount of pressure has been responsible for enforcing presidential term limits compliance. In democracies where this particular pressure is lacking, incumbent presidents have chosen to stay as long as they wished. In democracies where such pressures exist and are applied, incumbent presidents either decide to retire or feel pressured into compliance. Some political elites have been remarkable in mobilizing, bundling, and applying such pressures.

³⁵¹ Updated data from Dulani 2011.

For instance, contrary to insinuations that Jerry Rawlings of Ghana and Arap Moi of Kenya voluntarily retired (Armstrong 2010), internal political elites pressured these two former incumbent presidents into compliance. In the case of Jerry Rawlings, powerful opposition and elite activism within his ruling National Democratic Coalition (NDC) led by D.F. Annan and John Kuffour left him with little choice than to step down.

The case of Arap Moi of Kenya is more revealing for the present study. Like Jerry Rawlings and many transition presidents, Moi was one of the many benevolent dictators who metamorphosed into elected presidents in the 1990s. His regime was not without abuses, ranging from human rights to rule of law. Moi never really wanted to vacate office, as he feared for political reprisals if any of his political opponents were to succeed him (Armstrong 2010). While consciously failing to groom a successor as Obasanjo and Chiluba did, Moi tactically allowed rumors of third term to gain ground in Kenya, even to the extent of allowing his loyalists to introduce a third-term bill into parliament successfully. After gauging the apparent failure of a third-term bill, President Arap Moi decided to retire. Growing internal elite activism and opposition led by Mwia Kibaki and Reila Odinga had forced his third-term project to a halt.

Though voluntarism appeared to have gained ground following the successful repealing or neglect of presidential term limits by thirteen incumbent presidents, the two partially enforced cases of Ghana and Kenya seem to prove this hypothesis weak.

The presidential initiative to retire voluntarily conceals a complex dynamics of pressures. Some incumbent presidents, as Jerry Rawlings and Arap Moi, are able to promptly dictate the opposition and make the informed decision to retire and be on the right side of history. Others, like Frederick Chiluba, Olusegun Obasanjo, and Bakili Muluzi choose to challenge presidential term limits, willingly or unwillingly, or due to poor judgment.

It is therefore inaccurate to claim, as many scholars seem to believe, that the compliance or challenging of presidential term limits is solely a presidential choice. Though the choice of incumbent presidents to repeal presidential term limits often reflects real ambitions, these presidents face limitations and directions from what scholars like Dahl (1971) and Mesquito (2012) respectively call the costs of toleration and the costs of repression.

7.2.2 Institutional Perspective.

The importance of institutions in the democratic process has been discussed in Chapter Two of this study. Institutions are very important because a political community is much less likely to treat recurring, consequential problems in an ad hoc manner (Shepsle 2010). A political community develops routines and vigorous standard ways of doing things by organizations endowed with resources and authority. Therefore, regularly recurring problems often illicit institutionalized responses. Collective action becomes necessary in the political community because established standard procedures provide political actors with appropriate incentives to

take the necessary action to provide a public good or control externalities (Shepsle 2010).

Institutions act as repositories of authority and resources to solve such collective problems. For the sake of this study, official institutions include the executives, legislatures, courts, and political parties. They may also involve, in a less official manner, private sector organizations such as houses of worship (churches), charitable organizations, and unions. Though political science studies tend to emphasize official institutions, all the above institutions drive the process of democratic consolidation in an actual democratic setting. Each of these is a political community in its own right and institutionalizes procedures to deal with recurring important challenges and problems.

The institutionalization of politics or aspects of political life is reserved for recurrent, challenging problems and has important consequences. This becomes necessary because political performance is not exclusively a function of the ‘quality’ of political actors, but also a function of strong institutions. According to Shepsle, institutions require formalized procedures because men are not angels, but ordinary people (Shepsle 2010). The methods for doing political business become necessary to guide human political actions. As David Hume notes:

People ought not to trust the future government of a state entirely to chance, but ought to provide a system of laws to regulate the administration of public affairs to the latest posterity. Wise regulations in any commonwealth are the most valuable

legacy that can be left to future ages. In the smallest courts or office, the stated forms and methods, by which business must be conducted, are found to be a considerable check on the natural depravity of mankind (1985).

It is Hume's argument that institutions exist in the first place because men cannot be trusted. In other words, institutions exist to guide actions, processes, and procedures. Institutions, however, do not provide answers when external actors and forces suffocate, trample upon, disrespect, pressure, or limit their function.

In the present study, I do not address the degree to which individual institutions matter for democratic consolidation, but rather the extent to which institutional pressures have been responsible for enforcing presidential term limits compliance. Which institutions in particular are responsible, and how can we decipher them?

Observers of processes in new democracies often tend to mistake mere instrumentality of institutional sources as institutional pressure or independence. All post-Cold War African democracies operate 'strong presidentialism' with weak institutions, which many democracy observers regard as the bane of African democracy (Huntington 1996 & Rakner 2004). Unfortunately, promoters of African democracy did not notice or take into account the attributes of strong presidentialism at the beginning of the African post-Cold War democratic experiment. Instead, these promoters of democracy paid undue emphasis on elections (Bratton and van de Walle 1997). The beneficiaries of these weak democratic institutions were transitional

incumbent presidents who quickly strove to alter the system but adamantly refused to change the existing political culture by maintaining the status quo and doing little to strengthen democratic institutions.

The removal of presidential term limits or their neglect in thirteen African new democracies within the first decade of democratic experiment seems to give credence to this argument. Dr. Blessing Chissinga puts this succinctly, saying ...”it is disgusting that most transitional incumbent presidents who benefitted from the struggle against one-party system chose to retain old habits while outwardly portraying themselves as democrats.” By moving against presidential term limits, these transitional incumbent presidents manifested their favor for the old order and worked against the principles of liberal multi-party democracy which the masses across Africa yearned for.³⁵²

However, if the hypothesis is correct that institutional pressures have been responsible for enforcing presidential term limits compliance, we shall notice higher and effective pressures emanating from Nigerian, Zambian, and Malawian institutions than those coming from Uganda and Namibia, where repeals were successful. We should notice higher institutional pressures in the Zambian, Malawian, and Nigerian cases before, during, and after presidential term limits debates to have enabled enforcement of compliance. On the other hand, institutional

³⁵² Author’s interview with Dr. Blessing Chissinga, Coordinator of Social Science Research, University of Malawi, October 2014.

pressures should appear to be considerably low in Uganda and Namibia before, during and after presidential term limits debates in order to be able to account for institutional inability to enforce compliance.

Unfortunately, this has not been the case. Institutional pressures in Nigeria and Zambia operated at a moderate level before presidential term limits debates. Shortly before the debates, and during the early stages of the third-term debates, some institutions like political parties, the parliament, and NGOs operated at low levels and remained conquered until halfway into the debates, when particular political actors discovered them as channels of activism. The institutional linkage became responsible for liberating the courts, the parliament, the civil society, and the media in Nigeria and Zambia (Brown 2004; Sardani 2014; Egwu 2008).

7.2.2.1. The Judiciary: Courts and Judges

In the existing literature on political science, especially on rational choice approaches to political institutions, the courts and judges (judicial officers) are rarely discussed. The explanation for this relative negligence may be in the puzzling nature of the courts and judicial officers (Shepsle 2010). Shepsle argues that elected politicians, though not less complex than judges, lend themselves to simple behavioral hypotheses, either for the straightforward purpose of re-election or the anticipation of higher electoral positions. Elected politicians pursue personal conceptions of ‘good public policy’ and aspire to positions of influence within their

respective spheres. These simple behavioral hypotheses provide the background to understanding the operating characteristics of legislative, executive, and electoral institutions. On the other hand, the courts, especially, the judicial officers, seem to resent being included in the same category as elected politicians, preferring to operate outside the daily tussle of politics. Judicial officers react to and interpret legislations only when invited to do so. As central players in important political institutions, judges however remain politicians. Personal contacts, belief systems, and political affiliations also appear to influence their judgments.

What are the courts supposed to be? Why are courts reactionary? The courts operate mainly as a post-facto institution that forces judges into dispute resolution and rule interpretation instead of dispute prevention. By interpreting rules, judges as ordinary people may often allow personal feelings to influence their resolution of disputes or interpretation of laws (Posner). Posner helps us to understand judges as ordinary people. Politics, personal friendships, ideology, and pure serendipity influence their appointments. With special reference to this study, Posner helps us to identify how personal friendships and ideology may have influenced the decision of judges during the presidential term limits politics in the cases under study.

Public opinion and newspaper reports during and after the third-term debates indicate that the judicial institutions in the three case studies were dependent on the executive. Some observers of African democracy have often described the courts as corrupt, ineffective, and lacking in the capacity to deliver independent judgments

(Morrow 2005; Armstrong 2010; Usman 2012). People disdained the courts to the extent that they chose not to approach the courts for litigations. Court cases also experienced unreasonable delays, with some electoral cases lasting up to three years, except when the government in power was sure of victory.³⁵³ Protests against judicial officers often carried the inscriptions “Justice delayed is justice denied,” and “The court is the last hope of common man, so please wake up.”³⁵⁴

As revealed in the three cases studies, many small parties whose electoral victories were stolen by the ruling parties often refused to approach electoral tribunals because of the fear of delay, excessive judicial costs, and apparent injustice.³⁵⁵ It was therefore daring that dissenting political elites still chose to use the courts as channel of opposition despite potential disappointments from the courts.

In Nigeria for instance, the court initially refused to intervene when the Vice-President and some dissenting party elites approached the courts for an injunction to stop the ruling party from changing the party’s constitution to accommodate a third

³⁵³ Refer to the presidential electoral case in Nigeria in 2003 between Obasanjo and Buhari that lasted until 2006.

³⁵⁴ Inscriptions on placards carried by protesters against judicial officers in Nigeria in 2005 and 2006.

³⁵⁵ Author’s interviews with Emaka Duru and John Guwa in Nigerian and Malawi revealed that some aggrieved members of smaller parties whose mandates were allegedly ‘stolen’ by the ruling parties became frustrated after years of delays at the electoral tribunal. Refer also to the electoral case between Obasanjo and Buhari in Nigeria that lasted three and half years at the tribunal.

term for the incumbent president. Neither the High Court nor the Appeal Court in Abuja, Nigerian entertained the requests. They referred to the requests as a ‘family affair,’³⁵⁶ and did not intervene when the same dissenting actors instituted a case requesting the courts to stop their expulsion from the ruling party. Also coined as a “family affair,” the courts in Zambia and Malawi confirmed the decision of the ruling party to expel some of its members who opposed presidents Chiluba’s and Muluzi’s third term. In both countries, the courts declined the opposition elites’ requests by referring to them as internal party problems.

However, in all three case studies, the same courts rushed to deliver judgments in favor of the political dissenting elites towards the end of the presidential third-term debates. What was responsible for the abrupt change of approach by the courts?³⁵⁷ Many have emphasized the closeness of some dissenting elites to some judicial officers as a possible factor.³⁵⁸ The Nigerian case in particular demonstrates how the closeness between some judicial officers and political elites in both camps influenced some of the judgments that emanated from the courts. The Nigerian case

³⁵⁶ Refer to Chapter Three of the first case study, “Mobilizing through the Courts.”

³⁵⁷ Some judicial officers interviewed in the three case studies confirmed that some judicial officers gave favorable judgments to the opposition because they also wanted to be on the good side of history, having seen the potential failure of the third-term bills.

³⁵⁸ Author’s interview with the former chair of the PAC, Boniface Tamani, Limbe, Malawi, October 2014.

has recorded allegations of financial inducement and party affiliation that allegedly influenced some decisions coming from the court.

In April 2001, barely two weeks before the defeat of Chiluba's third-term agenda, the courts pronounced a judgment in favor of the opposition MPs of the ruling MMD, whose seats had been declared vacant after their expulsion by the ruling party. In the Nigerian case, the courts re-instated Atiku Abubkar barely one week before the defeat of Obasanjo's third-term project. The courts reinstated Atiku Abubakar as the Vice-President, whose seat the ruling party had declared vacant. Some other key opponents of the third-term agenda, including Governors Orji Kalu and Bola Tinubu, all got interim injunctions stopping further trials on cases of trump-up corruption allegations by the Obasanjo regime.

In Malawi, the dissenting elites obtained a favorable judgment from the courts on their complaint regarding the right of the president to change the constitution. In its judgment in favor of the dissenting elites, the court insisted that the president had no right to interfere with the constitutional term limits. Though scholars might consider these judgments as coming rather late, they became landmark judgments for the dissenting elites by boosting their motivation and sustaining their activism to the end. On the other hand, the independent judgments that emanated from the courts toward the end of the term elongation controversies indicate a kind of unbundling process of the judiciary. Having leaned toward the regime, the controversy and elite activism presented the courts with good opportunities to experience judicial balance

and independence. According to newspaper reports, the reactions that came from the public after the judgments indicated that the courts had been under siege, possibly explaining why it took the courts too long to intervene during the presidential term limits controversies.³⁵⁹ Why did the judicial officers change their mind? Regardless of financial inducements or political and ethnic affiliations, judicial officials apparently began to change their mind towards popular opinion when they noticed the obvious failure and futility of the amendment bills. The court's interest to be on the right and safer side of history appear to have motivated her leaning toward the dissenting elites and its granting of judicial protection and a favorable judgment.

The unbundling of the courts and their apparently popular and independent judgments resulted directly from a combination of factors. These included elite activism, insistence by dissenting political elites, ties between dissenting political elites and judicial interests, and an induced pressure on judicial officers to align themselves with the safer and winning camp.

³⁵⁹ Several news dailies including the Vanguard, Sun, Daily Times and the Guardian reported the incidents concerning various protests by the masses and civil society to protest against unpopular judgments and unnecessary delays of judicial cases in Nigeria.

Table 4: Frequency of Judicial Cases and Outcomes Involving Presidential Term Limits Debates in Some Selected Cases.

Countries	Number of legal cases by dissenting elites	Number of legal cases won by dissenting elites/allied CSOs	Number of legal cases lost by dissenting elites	Delayed legal cases
Nigeria	35	6	9	15
Zambia	22	5	6	-
Malawi	18	3	3	-
Namibia	0	0	0	0
Uganda	0	0	0	0

Source: Result of interviews conducted by the author, as well as literature and newspaper reports reviewed for the purpose of this research.

7.2.2.2 Political Parties

Democratization experts as well as policy makers are in unison that a good relationship exists between the consolidation of democracy and good functioning of political parties (Salih 2003, Salih et.al 2007; LaPalombara ed. 1966; Iwu 2008;

2009; Adetula 2009; Armstrong 2010; Okowa 2015). Salih et. al (2007) have distinguished the operation of different party systems in Africa, and the challenges they present for sustained multiparty democracy in Africa.³⁶⁰ I shall build on their conclusions to sustain my claim that political parties, as they operate in Africa, lack the incentives to exercise supremacy over elected executives and therefore not sufficiently capable of exerting pressure to enforce term limits compliance in Africa.

As “an organization of people which seeks to achieve goals common to its members through the acquisition and exercise of political power,”³⁶¹ political parties serve as a link between the government and the populace (Salih et. al 2007). Therefore, except where the constitutions prescribe otherwise (for independent candidates), it is the duty of political parties to sponsor candidates for elections. Independence, transparency, internal democracy and clear ideological difference all combine to make political parties function effectively in a fledging democracy, and in this manner can exercise some level of supremacy of individual candidates who seek to promote their political careers on the platform of given political parties.

³⁶⁰ In the Africa regional Report for IDEA, Salih and his co-authors distinguished between One-party, Two-party, Dominant-party and Multiparty systems, and how they stand in the consolidation of democracy in Africa. Refer to Political Parties in Africa: Challenges for Sustained Multiparty Democracy (2007), 44-53.

³⁶¹ The definition of political party by Wikipedia, free online dictionary.

Thus, established democracies run on the wheels of independent and functional political parties with clear ideological differences and an enlightened share of public support. Such public support has its base in political aims, visions, and missions, which have been tested and confirmed over time. As some writers argue, strongly functioning political parties are essential for the success of a transition to democracy, as well as for its consolidation (Adetula 2009).

Though leading democratic scholars have emphasized the institutional relevance of political parties as one of the driving forces of democratic consolidation, this point was elusive as it concerned the enforcement of presidential term limits in the cases studied. The case studies failed to identify any strong and sufficient pressures emanating from political parties against the removal of presidential term limits.

The reasons for the inability of political parties to checkmate ambitious presidents are not difficult to find. Salih et. al (2007) already addressed the predicaments of political parties in Africa noting that the democratic content of political parties remain fragile because of ethnic and religious cleavages, the context of external pressures and development aid conditionality. Further, the majority of African governing political parties appear to be still heavily dependent on the direct or indirect sponsorship from the government or political god-fathers. Since the party in power is hardly autonomous from government influence in the majority of African states (Salih et. al 2007), it becomes extremely difficult to demarcate the line between

the government and the political party. Confirming Salih's view, the various case studies observed that the relationship between government and party was blurred that the governing parties relied on the state resources to dispense patronage to sustain the organization and management of the parties.

In most African democracies, political parties lack clear differential ideologies and objectives (Salih et. al 2007; Armstrong 2010; Posner and Young 2007). They are yet untested and inexperienced (Adetula 2009), and did not have the opportunity to evolve over time as most political parties did in established democracies (Salih et. al 2007). As many writers have noted, and as equally confirmed in the case studies, majority of political parties function as mere platforms to capture state power in order to control and dispense state economy (Okowa 2015; Armstrong 2010; Campbell 2011; Salih et al 2007; Iwu 2008, 2009; Chabal and Daloz 1999) Collier 2008).

Thus, rather than be evaluated on account of their ideologies and manifestoes, the majority of political parties in Africa distinguish themselves with and yield to ethnic, religious and regional cleavages (Okowa 2015; Salih 2003; Salih et.al 2007). All these conspire to deny African political parties the independence they desperately need to exert pressure on African presidents.

At the inception of the democratic transition, many new democracies had no experience of multi-party politics.³⁶² The majority of African countries including Zambia, Malawi, Tanzania, Gabon, Kenya, and Uganda had become used to an entrenched one-party system, while others like Burkina Faso, Ghana, Benin, and Nigeria have had multiple experiences with military coups boasting little or no democratic institutions.

These countries regarded military coup as the only means of alternating power. Burkina Faso, Cameroon, Guinea, Gabon, Namibia, and Togo never experienced multiparty politics before the 1990s. Some writers have also argued that some people in many African states tend to believe more in individual leaders for political loyalty than in political parties (Chabal & Daloz 1999). New political parties during transitional periods were still in their developing stages at the time of third-term politics. While many political actors had greater political experience, political parties were still new and therefore inadequately equipped to apply significant pressure against the removal of presidential term limits. In some countries, especially in the cases under study, political parties functioned as ‘personal properties’ of either incumbent presidents or prominent political leaders. In the three case studies, the ruling political parties enjoyed direct funding from the presidency. Such direct

³⁶² By 1991 and 1992, when the first post-Cold War African countries were democratizing, only eight countries had experienced an organized multi-party election within the period of forty years.

funding by party leaders and the presidency sustained executive control and prevented political parties from exerting independent pressure on the presidents.

Furthermore, the negotiation for multi-party democracy in most post-Cold War African democracies occurred as a transaction (Linz 1996). In most cases, the old political order could not rupture, as most long-serving dictators negotiated their way into the new system through ‘reforma’ (ibid). This entailed the metamorphosis of dictators into leaders of the new multiparty system without their complete extrication from the old dictatorial order. In a one-party system, the ruling political parties usually functioned as appendages of the presidency, lacking in independence and internal democracy. The presidents functioned at the same time as party leaders, exercising high degrees of control over the parties as the bona fide owners of political parties (Chabal and Daloz 1999).

Unfortunately, the structures of the one-party system did not rupture with the advent of multiparty system of the post-Cold War democratic era in Africa.³⁶³ Consequently, after what seemed to be a moderate reform, the old system applied within the new multiparty democracy. Incumbent presidents and a few ‘political or wealthy influential’ persons became sponsors and owners of political parties with little independence, internal democracy, or party ideology. Lack of independence and internal democracy resulted in the imposition of candidates by party leaders onto the

³⁶³ Also confirmed in author’s interview with Dr. Blessings Chissinga, University of Malawi, October 2014.

populace for election into various offices.³⁶⁴ Incumbent presidents and party leaders also only allowed those party policy reforms that suited their interests (Adetula 2009; Collier 2008; Chabal and Daloz 1999).³⁶⁵

The ease with which the ruling parties dispensed their constitutions to approve third-term bids, confirms the massive control of the incumbent presidents on ruling parties. This demonstrates a lack of independence among political parties as a source of institutional pressure in new democracies. It also shows that political party regulations and the entire organization of most African political parties are still very weak and prone to extreme manipulation and usurpation by incumbent presidents (Iwu 2009; Egwu 2009; Morrow 2005). Scholars have particularly noted that party finances remain confidential and internal democracy undeveloped in most new African democracies (Salih et. al 2007; Adetula 2009; Egwu 2009). Lack of independence and internal democracy, which appear to be the bane of political parties in Africa (Salih et. al 2007; Okowa 2015) render political parties weak and propagates poor political ideologies. In the particular incident of the case studies,

³⁶⁴ In 2008, Cameroonian President Paul Biya introduced a second parliament, the Senate.. However, to date, President Biya himself selects the senators by appointment, not by election. By avoiding election and personally appointing the senators himself, he maintains a solid control of his party and the parliament.

³⁶⁵ Refer also to Obasanjo's forceful take-over of the ruling party in Nigeria in 2005 and his policy of the 'New PDP', a strategy used to ease off his 'political enemies' and prominent party members opposed to his third-term amendment bill.

these contributed in weakening the capacity of political parties to function, on the one hand, as an institutional pressure against the removal of presidential term limits, and on the other, as a general catalyst for the consolidation of democracies in Africa.

However, this study emphasizes the importance of multi-party system and the possibility to defect as a political advantage and breakthrough in some new democracies. Some scholars view party defection as undemocratic, dishonorable, and a form of political fraud (Armstrong 2010; Dulani 2011; Ahamba 2014). In the three cases under study, certain correlation exists between elite defection and the outcome of presidential term limits compliance. The possibility for defection appears to have provided elite dissidents the opportunity to continue to apply pressure from an alternative platform. As shall be emphasized in the concluding chapter, this created a long-term opportunity for robust opposition politics and led to party alternation in all the cases under study.

Without the possibility to defect, political actors would have been forced to remain in political parties where the possibility to compete or apply pressure did not exist. For instance, defections from ruling parties were more common in Nigeria, Zambia, Malawi, Ghana, and Kenya where presidential term limits compliance were either fully enforced or partially induced. Likewise, the possibility for elite defection led to the formation of strong opposition, a balanced competition for power, and strong alternative political platforms and parties. Consequently, these led to both

leadership and party alternations.³⁶⁶ The table below captures the level of party defections in some countries that have featured in the present study, demonstrating how they affected presidential term limits outcomes in those post-Cold War democracies.

Table 5: Estimated Number of Dissenting Political Elites and Defections and the Corresponding Outcome of Presidential Term Limits Debates in Some Selected Cases in Africa.

Countries	Number of dissenting political elites	Number of Defections	New Opposition platforms	Result
Nigeria	150	120	5	Fully enforced
Zambia	111	86	4	Fully enforced
Malawi	72	58	3	Fully enforced

³⁶⁶ The defections that started during the presidential term limits politics in all the case studies led to the formation of strong opposition political parties that went on to challenge the dominance of the ruling parties. In consequent elections, the merging of some of these opposition parties into strong alliances as the All Peoples Congress (APC) in Nigeria, the Democratic Progressive Party (DPP) in Malawi, and the Patriotic Front (PF) in Zambia were able to wrestle power from the ruling parties, causing these democracies to experience party alternations.

Ghana	75	28	3	Partially induced
Kenya	68	12	2	Partially induced
Namibia	2	1	1	Successful repeal
Uganda	1	1	0	Successful repeal

Source: Compiled from author's interviews, literature, and newspaper reviews on the case studies.

Before the presidential term limits debates in Nigeria, Zambia, and Malawi, defections were minimal and one-directional because the incumbent presidents enjoyed strong political loyalty from party members. Attraction for political positions and survival also saw many political actors defecting to the ruling parties after winning or losing elections in other smaller parties. However, during the presidential term limits debates, internal opposition elites pressured the party system with defections. Defections were no longer one-directional into the ruling parties, but this time, mainly out of the ruling parties.

Political parties, especially those ruling, failed to enthrone internal and competitive democracy and rule of law. Political elites did not respect pacts and

negotiations. This gave rise to internal party dissidence and further compelled dissenting elites to ‘rupture’ the ruling parties by defecting and seeking other platforms to sustain democratic competition and activism. By seeking other platforms, the dissenting elites created a political space outside the mainstream parties to foster elite convergence and activism.

In Nigeria, Atiku Abubakar defected from the ruling PDP to merge his political association, the Turaki Vanguard, with Governor Ahmed Tinubu’s Action Congress of Nigeria (ACN). They later formed the All Progress Alliance that defeated the ruling PDP in the presidential polls in 2015. Governor Orji Kalu took his opposition to form the People’s Progressive Alliance (PPA) that won many governorship and parliamentary seats, especially in the South East of Nigeria.

In Zambia, the vice president Christon Tembo, Ben Nwila, and the Speaker of the parliament combined to form the Reform Party (RP), which became an alternative platform where dissenting actors converged. The party was to produce the first party alternation in Zambia in 2007.

In Malawi, the expelled and defected prominent members of the ruling UDF formed the New Democratic Coalition (NDC) as a new platform to sustain an opposition pressure on President Muluzi. A merger between NDC and the Democratic Progressive Party (DPP) also produced the first party alternation in Malawi in 2009 (Morrow 2005). This was not the case in Uganda and Namibia,

where elite political resistance was minimal during the presidential term limits amendment bill debates, resulting in zero defection.

As in Uganda and Namibia, political actors were unable to challenge the party system to create an alternative platform in countries that had successfully repealed presidential term limits. This failure indicates a diminished elite pressure, which may have resulted in an easy removal of the presidential term limits by their incumbent presidents. Elite resistance and activism against the removal of presidential term limits was less than fifteen percent in Namibia and Uganda. This might explain the lack of necessity for elite defection or an alternative political space outside the ruling party to mount and sustain an effective pressure.

When the ruling party blocked all avenues of resistance and competition in Nigeria, the dissenting elites sought for another platform using various names but largely converging in the ACN and PPA to sustain their pressure. In Zambia, the dissenting elites converged and formed many pressure groups, but used the RP as an effective platform to apply pressure on Chiluba. In Ghana, when Rawlings initially insisted on a third term, it resulted in the formation of opposition platform led by John Kuffour, the 'Reform Movement,' which became strongly instrumental in further mobilization of the masses, CSOs, and other political actors against Rawlings. In Kenya, the formation of internal opposition camps by a section of the ruling KANU became strong sources of opposition against Arap Moi's third-term ambition.

Thus, the formation of various opposition and pressure groups by dissenting political actors in Ghana, Nigeria, Zambia, and Malawi afforded the dissenting elites an opportunity to expand the party system and to sustain political competition during the presidential term limits controversies. It also resulted in partial liberation of the multiparty system and created an opportunity for opposition politics. Unfortunately, because the political elites consciously chose to play along in those countries where presidential term limits were successfully repealed, political competition and opposition politics remained low.

By challenging and resisting executive dominance, some political elites succeeded in liberating party institutions in Nigeria, Zambia, and Malawi. Their ability to rupture the existing presidential and executive dominance in the parties altered the continued structural dependence of party system on incumbent executives. On the other hand, the absence of political dissidents and the failure of the few dissenting actors to link with other institutional platforms to pressure and challenge executive and incumbent dominance enabled some incumbent presidents to entrench state power in many new African democracies. For instance, having successfully whittled down elite dissidence, removed or neglected presidential term limits in thirteen African democracies, some transitional incumbent presidents succeeded in stunting the democratic growth of their countries.³⁶⁷

³⁶⁷ While Namibia recorded about two strong elite oppositions and one defection from the ruling SWAPO during the third term debate, Uganda recorded one elite opposition and no defections. Lack of

7.2.2.3 The Parliaments

Throughout the world, the legislature consists of politicians who harbor a variety of political objectives (Shepsle 2010). With the exception of the Cameroonian senate,³⁶⁸ electoral competition is a prerequisite for the acquisition of political, parliamentary positions in all African democracies and elsewhere in the world. MPs usually obtain their positions by winning an election (except in Cameroon), with the hope to remaining in parliament or possibly advancing their political careers beyond the parliament. According to Shepsle, MPs are, as politicians, conscious of those people they must please in order to advance their political ambitions (2010). In the African context, aware of high campaign costs, many MPS are, for example, eager to please those who can supply the resources for the next campaign: ‘god-fathers,’ major endorsers, small contributors, prominent party officials, volunteer activists, NGOs, and many sycophants.

Yet many politicians choose not to please only campaign contributors and voters, but decide to follow a personal agenda. For whatever reasons, the case studies show that many politicians come to the legislature with personal objectives. As a political actor, the MP is accountable to him- or herself and to the many groups

electoral competition, power alternation, absence of open-seat context, and electoral turnover have become consistent with countries that lacked the ability to enforce presidential term limits.

³⁶⁸ The Cameroonian President Paul Biya reserves the personal right to appoint members of senate, who supersede members of the lower elected parliament in political importance.

among the MP's own constituents, campaign contributors, and supporters. Some MPs even elect to follow the bidding of those who sent them to parliament, acting as personal delegates.³⁶⁹ However, group interests appear to motivate other MPs who view themselves as the trustees of fellow citizens.

Most MPs interviewed appear to be a mixture of the last two categories. A parliament in the African setup consists of MPs who seek to please those who control their political future, while striving to achieve personal goals. How does the MP's instrumental objective to secure incentives for their constituents through the pursuit of political goals and specific policies, referred to here as 'instrumental behavior' affects the prospects of term limits in Africa?

I seek here to analyze how instrumental behavior of MPs affected the outcome of the presidential term limits politics in the three case studies. Many MPs appear to have remained loyal to the party because of targeted political interests, while many others remained loyal to certain 'god-fathers' for their protection and political support. How did each of these factors, or a combination of them, yield to the outcome of presidential amendment bills in the case studies?

I have noted in the three case studies that most African democracies mistook parliamentary docility as a sign of a consolidating democracy. The parliamentary

³⁶⁹ This reflects the experience of most MPs in the cases under study. 'Godfathers' nominated or sponsored some, while political contractors and big organizations fronted others as their personal link to the parliament.

majority for a ruling party was also often mistaken to signal governmental effectiveness and strength. The false pretense of docility and party majority led incumbent presidents and their executives in some African democracies to treat parliaments as rubber-stamping machines, expecting easy passage of any pieces of legislations presented to the parliament.

When parliaments failed to meet these expectations, executives often interpreted this as a parliamentary challenge and dismissed the parliamentary leaderships.³⁷⁰ Nigeria probably has the highest record of a president sacking ‘disloyal’ heads of parliament. Between 1999 and 2005, president Obasanjo caused the removal of six heads of parliament for being disloyal to him, three of them specifically for questioning and not supporting his third-term ambition (Punch, November 7, 2014). President Chiluba declared the seat of MMD MPs and the Speaker vacant for having a different opinion towards his third-term amendment bill (Sardanis 2014). President Bakili Muluzi threatened and sacked UDF MPs for taking a different position over his open term bill (Morrow 2005; Brown 2004).

In the face of such overbearing domination by incumbent presidents, the parliaments remained docile in the three case studies until the altering of parliamentary balance of power through elite activism and defections. For instance, in 2005, the two legislative houses rubber-stamped Obasanjo’s bill to proscribe the

³⁷⁰ Seven heads of the parliament lost their seats in Nigeria between 1999 and 2007, mainly for disagreeing with the incumbent president on policy and legislative issues.

national umbrella of Civil Society Organizations (CSOs) in Nigerian, approving stringent rules that made it difficult for the CSOs to organize protests. One of those stringent conditions mandated the CSO to obtain police clearance not later than seventy-two hours before embarking on any protests.

This was equally the case in 1999, when the Zambian legislature rubber-stamped Chiluba's National Order Act (NOA), removing the capacity and independence of the courts to grant injunctions against the government. In 2001, the parliament supported an executive bill that prohibited streets protests against Muluzi's open-term amendment bill in Malawi. In hindsight, these were all done in preparation towards the removal of presidential-term limits, yet the parliaments erroneously acted as rubberstamps thinking that the parliament was no place for confrontation and opposition. Would it have been possible for the same parliament to transform itself into a center of opposition? The parliament could not have mutated in six months' time to exert significant institutional pressure to demand and enforce compliance without agential push.

Like political parties and the judiciary, an independent parliament is a sign of thriving democracy. A functional and independent parliament not only reflects the existence of a functional democracy, it also signifies a match toward a consolidated democratic system. It acts as a balance of power and performs an important oversight function that guarantees democratic freedoms and accountability (Salih 2005). With political sponsors and presidents sometimes handpicking and presenting loyal

candidates for the position of MP, MPs act as surrogates and mostly do the bidding of their god-fathers/sponsors to the detriment of common interest of their constituencies. Like the regional African parliaments, which Salih et. al (2007) rightly describes as legislatures without legislative powers, some African parliaments portray the signs of legislatures without legislative power and lack the institutional independence to pressure erring incumbent presidents into compliance.

Further, like many other institutions in new democracies, the parliament in its democratic form was never sufficiently tested in many new democracies prior to the transition elections of the 1990s. The parliaments that existed in one-party states like Zambia, Gabon, Kenya, Malawi, and Uganda could be referred to as ‘quasi’ parliaments. These were at the grip of the presidents who more or less endorsed each member of the parliament in reward for political loyalty or outright patronage (Dulani 2011). Through these protégés, incumbent presidents controlled parliamentary proceedings by proxy (Chabal & Daloz 1999). The introduction of multi-party democracy did not resolve the monopolization and control of the parliament by incumbent presidents, since the old structure hardly ruptured. Thus, the parliament remained ‘quasi’ in the three case studies until elite defection ruptured party loyalty and altered parliamentary balance of power.

Further, the first and second elections in most post-Cold War African democracies saw the ruling parties controlling about seventy-five percent of MPs (Bratton and van de Walle 1997). In isolated cases, the ruling parties, especially in

Cameroon, Togo, Burkina Faso, and Uganda still contribute over ninety percent of MPs to the parliament. In Nigeria, the ruling party captured eighty-seven of the hundred and nine senate seats in 1999, while the other five parties shared the remaining thirty-two seats. Such an imbalanced scenario diminishes the capacity of the parliament to exert pressure as an independent institution, since the ruling party treats parliamentary agendas as a party affair. Further, with the political mentality of ‘winner takes it all’ in new democracies, ruling parties remotely control the parliament. Party leadership, often loyal to the president, exercises more power than does the Speaker of the parliament.³⁷¹ This probably explains why the president was able to dismiss MPs who showed signs of political disloyalty so easily from the ruling party and declare their seats, as in the Zambian and Malawian cases.

In the three cases studied, the parliament as an institution lacked sufficient institutional capacity to enforce presidential term limits compliance. If parliamentary pressures were enough to induce compliance, we would notice a strong, independent and radical parliament operating above-moderate levels prior to, during, and after the third-term amendment debates. Unfortunately, in all the three cases, the parliament operated at a moderate level before the amendment debates, and below-moderate

³⁷¹ Between 1999 and 2011, the chair of the ruling party in Nigeria visited the senate and House of Representatives more than forty-five times, mainly to ‘coerce’ party members to toe certain lines in parliamentary proceedings. In 2011, the MPs decided to break away from party control by electing their speaker against the choice of the ruling party.

level during the debates, but rose sharply to above-moderate level towards the end of the presidential terms limits politics. Two reasons could explain this phenomenon.

When opposition elites either defect from government or decide to go into elite activism, they often seek linkages with democratic institutions. These linkages figure more as official channels of democratic engagement than the law of the street. Usually, agents seek linkages with the courts, the parliaments, or civil society organizations for the various reasons discussed above.

I have noted how ruling parties expelled the dissenting elites in all the case studies. Having lost out at the party level where the incumbent presidents operated as hegemony and tsars, the dissenting political elites galvanized in their various parliaments as a neutral ground, thereby turning their parliaments into platforms for opposition and activism. The parliaments, which hitherto were docile and amenable, became places of resistance, lobby, and politicking – namely, centers for political activism and competition.

In all the case studies, and even through Ghana and Kenya, many observers discounted the parliaments as weak institutions because of strong presidentialism and the overbearing presence of the incumbent president (Iwu 2008, 2009; vonDoepp 2005; Brown 2005; Morrow 2005). However, during the extended third-term disagreements, dissenting elites gained the upper hand through elite size, wealth, and

experience³⁷², re-defining the parliaments as a platform and destination for opposition and competition.

The capacity of some political elites to challenge presidential orders using the instrumentality of the parliament became a deciding moment for the parliaments to achieve induced political maturity, legitimacy, and relative independence. In the Nigerian case, the parliament became a desired venue for those political elite dissidents who rejected Obasanjo and his third-term bid. Their collective aim was to prevent Obasanjo from clinging to power, and the parliament became a favorable destination for converging against him.³⁷³

Dynamics interpreted by Posner and Young (2007) as institutional pressures in the Nigerian case, may have actually emanated from dissenting and regional political elites who used weak parliaments as instrument for struggle. Elite activism enabled this penetration into the parliaments by other interest groups. Elite convergence in the parliament brought further pressure to bear on the parliaments themselves, introducing the process of parliamentary liberation in Nigeria, Zambia, and Malawi. The parliament, which had hitherto celebrated its docility, became a popular destination for dissenting elites who consequently turned it into a center of

³⁷² I shall discuss and analyze this issue in section B of this chapter.

³⁷³ Though the amendment bills to repeal presidential term limits were defeated at the parliament in the three main case studies, the scant literature, newspaper reports, and popular media have given no credence to the parliaments as an institution for enforcing compliance.

opposition, activism, resistance, lobby, and competition for political loyalty. All these case studies followed the same pattern.

7.2.2.4 Civil Society Organizations

Dulani (2011) has attributed the failure of the attempts to repeal presidential term limits in Malawi and Zambia to civil society actions and the opposite outcomes in Uganda and Namibia to civil society inaction. Dulani based his hypothesis on the argument that the civil society played a significant role in the dismantling of dictatorships across Africa in the 1990s, therefore helping to enthrone multi-party democracies across the continent. Dulani, however, failed to recognize other local and international forces whose pressures converged to dismantle dictatorial regimes on the continent. The gains of post-Cold War democratization in Africa were not the singular responsibility of civil society action, but the collective result of foreign policy regimes, democracy promotion, aid conditionality, and strong elements of local internal forces yearning for multi-party democracy in Africa (Villalon 2005; Brown 2004; Khembo 2004).³⁷⁴ By singling out democracy movements and the civil society (in)action for term limits compliant and repealing outcomes in Africa, Dulani fails to appreciate the political changes that have taken place in the last twenty years of democratic experiment within the continent.

³⁷⁴ In separate interviews with the author, Mark Chona, and Dr. Chissinga emphasized the robust yearning among the Zambian and Malawian populations for political reform and multi-party democracy.

For instance, most incumbent presidents that operated the new democracies were long serving dictators who metamorphosed into elected presidents under transactions, negotiated reforms, and manipulated elections (Linz 1996, Chabal and Daloz 1999; Vilalon 2005). The transitional incumbent presidents probably knew the potential and actual force of civil society elsewhere in the world. With the help of parliamentary bills, they took steps to hinder CSOs systematically before and during presidential term limits politics.³⁷⁵

Using these strategies, the incumbent presidents in the three case studies systematically weakened the potency of CSOs to yield a formidable pressure before and during the third-term constitution amendment debates. In the Nigerian case, the notorious Labor Union's refusal to join the protests against Obasanjo's third-term is remarkable.³⁷⁶ The number of CSOs that protested in favor of the removal of presidential term limits almost outnumbered the number of CSOs that protested

³⁷⁵ In the Nigerian case, President Obasanjo secured a parliamentary bill in 2005 to proscribe the national umbrella of CSOs in Nigeria, rendering them vulnerable. Another bill made it mandatory for CSOs to obtain police clearance before embarking on any protests. In Malawi, President Muluzi banned and criminalized all protests against his open presidential term amendment bill in 2001, while Zambian President Chiluba did the same in 2000 by enforcing fresh and more stringent registration laws for CSOs

³⁷⁶ The opposition queried the Labour Union on Nigerian in 2006 for their refusal to participate in various protests organized in support of the opposition elites against the third-term amendment bill.

against the removal of presidential term limits in the various countries under study.³⁷⁷ Since civil society action and inaction balanced themselves, Dulani's argument crediting civil society action for the enforcement of Zambian and Malawian term limits compliance appear misleading.

Secondly, Dulani fails to note that democratic processes are different from political processes in self-rule and dictatorial regimes. The channels of resistance in democratic systems differ from channels of resistance in dictatorial regimes. In democracy, aggrieved political elites seek institutional linkages and legitimacy for their resistance. Like institutional linkage, civil society can be turned into a channel of resistance by aggrieved and dissenting political elites to disseminate information, legitimize, and direct their resistance. In turn, dissenting political elites harness and bundle pressures arising from such institutional linkage to solidify their activism and resistance. What Dulani identifies as civil society action in his work on Malawi and Zambia could have rather been an elite mobilization of civil society to legitimize their resistance and activism.

Moreover, as some writers have rightly noted, CSOs in African democracies lack organized funding. They are ill equipped financially to carry out independent actions (Khembo 2004). The civil society suffers the same fate as political parties in terms of funding and control. As Salih et. al notes:

³⁷⁷ Refer to Dulani, *Democracy Movements as Bulwarks against Presidential Usurpation of Power: Lessons from the Third-Term Bids in Malawi, Namibia, Uganda and Zambia*, 2011.

The private sector in Africa appears too small to support and sustain the establishment of strong and vibrant civil society organizations and a non-political middle class that are autonomous of the state. Interest associations are the backbone of civil society everywhere. Unfortunately these appear to be subsumed in Africa by the state. In this kind of situation, it is difficult for civil society to make demands on the government and on the party or challenge party or government policies. Because the relationship between the government, party and civil society is so blurred and entangled, CSOs often find no moral push to challenge government/party policies where its funding often comes from (2007, 21).

As I have already detailed in various case studies, political elites either sponsored or led most CSOs that participated in the protests for or against the removal of presidential term limits.

In the Nigerian case, the opposition elites led by Atiku Abubakar and Orji Kalu mobilized and sponsored more than twenty-five CSOs and more than one hundred protests.³⁷⁸ They defied police orders and incurred police intimidation and assaults (Agbati 2006). In the Zambian case, major CSOs refused to participate in opposition organized against the third-term presidential amendment bill. The dissenting political elites relied on Mark Chona's OASIS, which was only able to mobilize the student union, women's groups, the Church, and the Zambian Bar

³⁷⁸ Author's interview with Orji Kalu, Nigeria, October 2013

Association against president Chiluba.³⁷⁹ Finally, in the Malawian case, the criminalization of civil protests by Muluzi caused most CSOs to stay out, forcing opposition elites to court partnership with religious institutions and Church organizations (Morrow 2006).³⁸⁰ While pro-third-term CSOs freely staged protests in favor of the removal of presidential term limits, the anti-third-term CSOs faced security intimidations, a situation that could explain the poor show of civil society action against the removal of presidential term limits in Malawi (Morrow 2006, Brown 2004; Simon 2005).³⁸¹

The following table gives a comparative and representative account of CSOs in favor and against the removal of presidential term limits in the case studies.

³⁷⁹ Author's interview with Mark Chona, chairman of Oasis Lusaka, October 2014

³⁸⁰ Author's interview with Tamani Boniface, John Guwa, and Dr. Blessings Chissinga in Malawi, October 2014

³⁸¹ The former chairman of the PAC, Boniface Tamani, confirmed this fact in an interview with the author, Limbe, Malawi, October 2014.

Table 6: Representation of CSOs in Presidential Term Limits Debates in the Selected Case Studies

Countries	Number of CSOs		Pro-third-term CSOs	Anti-third-term CSOs
Nigeria	106		26	18
Zambia	72		12	10
Malawi	64		10	8

Source: Dulani 2011, updated by the author using interviews, literature review, and newspaper reports undertaken for this study.

The mobilization for and against the removal of presidential term limits almost cancelled each other in the countries mentioned above. However, the scenario in Uganda is very striking. Despite the higher number of anti-third-term CSOs, Mussoveni’s third-term amendment bill was not preventable. This demonstrates that all parties related with the CSOs as vehicles and channels at their disposal. Both dissenting political elites and incumbent presidents required civil society linkage to disseminate their information and legitimize their positions. This also demonstrates that civil society organizations rely on elite mobilization and incentives for civil society action because of the paucity of funding and stringent national operation laws (Khembo 2004). In the three case studies, particular political elites lobbied and sponsored CSOs to engage in protests and mass actions, using them as avenues to

legitimize their activism and resistance.³⁸² By doing so, they succeeded in harnessing and bundling pressure from the CSOs to enforce term limits compliance.

7.2.2.5 Extra-Institutional Pressures.

The case studies did not record much extra-institutional pressure, except in the Malawian case, where dissenting political elites collaborated with Church elites and used church structures as vehicle and platform for activism and resistance. The role of the Malawian church in the outcome of the debates regarding open-ended and third-term presidency is threefold.

Ross (2004) argues that the emphatic stand by some churches, especially the Catholic Church, against President Muluzi and his open-term amendment bill represents what they see as their custodianship of democratic values. The churches are willing champions of constitutionalism, the rule of law, the Bible, the people's voice, and strong engagement against the politics of patronage.

However, Peter van Doepp (2005) identifies the scheming of some self-interested political actors who used the church as a venue to 'offload' President

³⁸² Orji Kalu disclosed in an interview that over US\$500,000 funded CSO protests and media debates against Obasanjo's third term in Nigeria. Mark Chona also revealed in an interview that most of the funds released to the OASIS group by foreign donors against the removal of presidential term limits in Zambia was utilized to fund mass protests and lobby civil society groups to join their course.

Muluzi. For them, the church was the only open, Malawian platform through which to channel their resistance and activism.³⁸³

Thirdly, the Malawian Church seemed to have substituted weak forces in civil society and political parties (VonDoeep 2002; Morrow 2005; Khembo 2004). In the Nigerian case, dissenting elites channeled their activism through the courts and civil society, making use of extensive ‘counter-financial inducements.’ In the Malawian case, these channels were inaccessible.

The Malawian Church, which possessed ‘ready-made’ structures, was closest to the population and provided a social refuge for the populace. The Church offered the dissenting elites not only a platform for activism, but also an alternative venue of public information. Having secured the trust of the Church through a partnership with some Church elites, the dissenting elites played on the religious sentiments of the populace by turning the presidential term limits controversy into a religious discourse of Christian-Muslim dichotomy.³⁸⁴ Religion and churches are of great importance in Malawi, as in many other African new democracies, and still play significant role in shaping social and political outcomes.

The Malawian president and the vice-president, both Muslims, became victims of politico-religious sentiments in a society where Islam figured as a minority

³⁸³ See also Phiri & Ross 1998.

³⁸⁴ See also the statement of Kate Kainja, the Secretary-General of MCP, page 334.

religion.³⁸⁵ Before the presidential term limits debates, religion played less significant role in Malawian politics, explaining the lack of opposition to a Muslim-Muslim ticket as president and vice-president in 1994 and 1999. Dissenting elites, especially from the MCP, capitalized on the existing hegemonic nature of the Christian majority to stir religious sentiment and sustain collaboration against President Muluzi. In Chapter Six on the Malawian case study, I noted that the ruling UDF had its support base among the Yao, a tiny section of the Southern Region. President Muluzi had tried in 1999 to boost the political importance of the region by manipulating the creation of new constituencies to assign forty-two extra seats to the Southern Region.³⁸⁶ He had aimed to boost and increase the political and electoral value of his religious and political constituencies, a situation that many Church and political elites of Christian extraction regarded as confrontational.³⁸⁷

The visible presence of the clergy in their clerical robes on voting day in the parliament is instructive. Their literal takeover of the visitors' gallery of the parliament sent out a clear signal and an appeal to the moral obligation of MPs,

³⁸⁵ In an interview with the author, John Guwa (a catholic clergy) was very emphatic in adding that the president and his vice had overstayed their welcome and should have been happy for a ten year-office, even though they were both Muslims.

³⁸⁶ Cf. Morrow 2005, p155.

³⁸⁷ Ibid.

especially of the Christian extraction, to reject the bill.³⁸⁸ Though most MPs had been financially induced,³⁸⁹ the presence of the clergy in large numbers at the parliamentary gallery was interpreted by an interviewed MP as ‘salt on open wound,’ a ‘moral control,’ and a ‘touch on conscience.’³⁹⁰ A former MP also confirmed in an interview that dissenting elements in the MCP, NDA, AFORD, and PAC (with funds from DANIDA) had sponsored the presence of the clergy. Their large-scale presence in the parliament intended to minimize the effects of executive financial inducement during the voting.³⁹¹

In the absence of huge resources among dissenting political elites to counter-balance executive inducement and patronage, especially on the part of MPs, the elite dissidents resorted to moral inducement, systematically channeled through the Church and executed by clergy and church elites. The presence of the clergy in the parliament certainly depleted the potential votes anticipated by regime loyalists. Prior

³⁸⁸ Author’s interview with John Guwa and Boniface Tamani

³⁸⁹ Ibid.

³⁹⁰ Author’s interview with a member of the parliament (who requested to be kept anonymous)

³⁹¹ Boniface Tamani confirmed in an interview with the author that some opposition political actors had partially paid the transportation costs to enable the church clergy to be present at the parliament (Blantyre, September 2014).

to the voting, regime loyalists were almost sure to garner more than two-thirds majority of votes to pass the bill. The bill failed by a margin of three votes.³⁹²

According to Boniface Tamani, the intention of the dissenting elites to have the clergy present in great numbers during the voting was to sustain moral pressure on the MPs.³⁹³ Many analysts have argued that without the strategically solid alliance between dissenting political elites and Church elites that mobilized a visible presence during the parliamentary voting, the open term amendment bill would have passed. Two MCP MPs confided in the author that they changed their mind to vote against the bill just a few minutes before voting began, owing this to the presence of the clergy on the visitors' gallery.³⁹⁴ The PAC had admonished MPs to accept bribes from the government, but vote against the bill. Brown Mpinganjira of the National Democratic Alliance (NDA), proclaimed the defeat of Muluzi's open-term bill as a "victory for democracy" and adding, "I would like to congratulate those MCP and AFFORD MPs who got money from UDF and voted against the bill as directed by the Church" (*Daily Times*, 7 May 2002). In a victory reception feast organized by the Justice and Peace department of the Catholic Bishops Conference of Malawi, an

³⁹² Author's interview with Bonifae Tamani, former chairman of the PAC and Vicar General of the Archdiocese of Blantyre, Limbe, Malawi, October 2014.

³⁹³ Ibid.

³⁹⁴ Author's separate interviews with two former MPs (who requested to be quoted anonymously, Lilongwe, Malawi, October 2014).

opposition MCP leader, referring to the political and Church-elite alliance, joyfully told the crowd that ‘God stopped the open-term bill’ (*The Nation* 29 July 2002).

Conclusion

Focusing on the assumption that political elites were responsible for enforcing presidential term limits compliance in the three cases under study, I have discussed the institutional and extra-institutional linkages through which political elites manifested their activism. Without dismissing the importance of democratic institutions in the process of democratic engineering, I emphasized that most institutions in these three cases studies, and elsewhere in post-Cold War African democracies, were still fresh and untested at the time of presidential term limits politics across Africa. In their preference for weak institutions, most incumbent presidents invested energy in entrenchment of power and did little to strengthen the institutions to support democracy consolidation. In most new democracies, the judiciary became an ancillary of the presidency, while the parliament functioned as a rubber-stamping machine for the incumbent presidents. While the civil society in most countries was active during the transitional periods because of external funding and robust international support for democratization, this was not the case during the presidential term limits amendment debates. Civil society lacked funds to sustain independent opinions.

In the three case studies, the only local forces that could challenge incumbent presidents were political elites who resisted the incumbent presidents in Nigeria, Zambia, and Malawi from entrenching state power. They sustained their activism and resistance by mobilizing the parliament, the courts, and the civil society as vehicles for opposition, legitimacy, and protection. In the special case of Malawi, the dissenting elites mobilized and collaborated with the Church to launch and sustain their activism. Political elites bundled together combined pressures produced through these institutions to enforce compliance in all three cases. What some writers have noted as institutional pressure was actually elite mobilization activism through the parliament, the judiciary, the civil society, and the Church. In return, these institutions gained some legitimacy and independence through elite mobilization, activism, and resistance.

In the next chapter, I will analyze some factors that seemingly motivated some political elites to resist constitutional breach of term limits in the case studies. I will focus on those factors occurring in all three case studies and beyond to underwrite some generalizations. I will emphasize the undemocratic actions and strategies employed by incumbents and dissenting political elites to produce alternative outcomes in the various cases investigated for this study.

Chapter 8: Political Elite Behavior towards Presidential Terms Limits

8 Introduction

In the previous chapter, I argued that the parliament, judiciary, and civil society organizations exerted dependent pressures in the compliance outcome of the three case studies. I also detailed how elite activism was responsible in achieving both full and partial presidential term limits compliance in the cases referred to in this study. I also detailed how the judiciary, parliament, and civil society organizations benefitted from political elite mobilization and activism. I defended political elite activism for producing and bundling the pressures that enforced term limits compliance in these cases.

In this chapter, I will explore the interactive relationship between incumbent presidents, the institutions and elite mobilization, and how elite activism became the dynamism that spurred the institutions into action. I shall attempt to show how this dynamism impacts on the outcome of term limits politics in the case studies, and other cases I shall refer to in this chapter. I shall further discuss the factors that motivated political elite actions and inactions in response to attempts by incumbent presidents to remove presidential term limits. I will concentrate on providing answers to the following questions: Why does a section of political elites choose to play along with some incumbent presidents in repealing presidential term limits? Why does a section of political elites sometime including party internals choose to oppose

attempts by incumbent presidents to repeal presidential term limits? What strategies do they employ? Why do attempts to repeal presidential term limits succeed in some countries and fail in others?

A sizeable number of factors appear to motivate some political elites to support or oppose the repealing of presidential term limits. I will focus on six factors represented in the three case studies and beyond. While the case studies provide insights to these questions, I will reference cases where term limits were successfully repealed to buttress the main arguments and allow for some generalizations and differences in this study.

8.1 Probing the Case Studies

About 84% of transition incumbent presidents supervised the making of transitional constitutions that adopted presidential term limits in post-Cold War African democracies.³⁹⁵ Yet in the three case studies, none of the incumbent presidents who sought to repeal presidential term limits supervised the making of the transitional constitution as an incumbent president.³⁹⁶ However, thirty-two of the thirty-eight post-Cold War transition presidents supervised the adoption of presidential term limits in their various countries as incumbent, life/interim

³⁹⁵ Refer to Chapter 2.3 on Constitution-Making and Presidential Term Limits in Africa, pp. 78-90

³⁹⁶ Olusegun Obasanjo became president after the dismantling of military regime in Nigeria in 1999, while Frederick Chiluba and Bakili Muluzi became presidents after an agreed reform from one-party to multiparty system in Zambia and Malawi respectively.

presidents. The adoption of presidential term limits in these countries seemed unhindered.³⁹⁷

The issue lay instead in the number of years and terms a particular government or president should serve before power was allowed to alternate through election. The general acceptance of presidential term limits as a genuine democratic principle to guide power alternation and replace the age-long bloody contest of power suggests a common vision among post-Cold War African democracies.³⁹⁸ Constituents had probably not expected incumbent presidents to challenge the institution of term limits they helped put into place.

The general acceptance of presidential term limits indicates that the adoption of presidential term limits was never a problem. The framers of the various transitional constitutions, however, had failed to envision their actual implementation. Furthermore, post-Cold War constitutions that adopted presidential term limits probably intended to secure democracy by decoupling governments and the presidency from individuals (Morrow 2005), hoping to put an end to the era of African ‘big man politics’ (Iwu 2008, 2009 & Villalon 2005). This was difficult to achieve when many dictators who metamorphosed into elected presidents quickly

³⁹⁷ Presidential term limits in African new democracies were a given, just as elections were accepted as a standard system of selecting and changing leadership in a democracy. Constituents in these new democracies accepted presidential term limits with much celebration and faith that they would deepen democratic experiments in Africa (Dulani 2011, Vencovsky 2007).

³⁹⁸ In Chapter 2, I explained that power mostly alternated in Africa through coup d’états, assassinations, and death, resulting in one-and-a-half coups per year in Africa until the 1990s.

moved against presidential term limits after adopting them a few years before.³⁹⁹ Transition incumbent presidents who metamorphosed from dictators to elected presidents were the first to go against the institution of presidential term limits. The majority of repealed cases have come from countries where dictators re-assumed power through reform.

Gnassingbe Eyedema of Togo, Omar Bongo of Gabon, Blaise Compaore of Burkina Faso, Yoweri Museveni of Uganda, Paul Biya of Cameroon, and Idriss Deby of Chad were all reigning dictators or life-presidents prior to their adoption of multi-party democratic elections in their countries. These supervised the making of new democratic constitutions that adopted presidential term limits in their countries. Based on the new constitutions, they all contested as incumbent presidents in the transitional elections. Consequently, upon serving out their two terms, many of them moved quickly to repeal the presidential term limits that came into force under their supervision. Presidential term limits came under stress in the late 1990s and early 2000s in Africa, when most foundational incumbent presidents approached the end of their final tenures and had to face the constitutional stipulation of stepping down to allow power to alternate, thereby blocking their democracies from experiencing election turnovers (Armstrong 2010; Huntington 1996; Beetham 2004).

³⁹⁹ The adoption of constitutional term limits were supervised and signed into law by the same incumbent presidents who moved to repeal them eight or ten years after. We have seen this take place in Gabon, Namibia, Togo, Cameroon, Burkina Faso, Uganda, and anticipate it to take place in Rwanda.

Unlike the African independence constitutions that had favored the parliamentary system, all post-Cold War African democracies adopted presidentialism as a system of government. The presidency is referred to as an institution, with a specified 'pro tempore' to decouple the presidency from individuals. Unfortunately, many transitional incumbent presidents succeeded in entrenching state power by personalizing the institution of the presidency within the period constitutionally allowed for their tenures. Having successfully personalized and entrenched state power, some presidents encouraged debates regarding the removal of presidential term limits.⁴⁰⁰ This trend occupied the preceding decade of democratic experiments in Africa. Scholars have failed to agree over the factors that motivated incumbent presidents to move against presidential term limits they helped adopt. Is it possible that the incumbent presidents already knew at the beginning of their presidential terms that they would challenge and remove presidential term limits? Did events spur them up along the line to challenge presidential term limits?

Since 2012, there have been rumors in Rwanda that the incumbent president, Paul Kagame is determined to go against the constitutional two-term presidential limit.⁴⁰¹ Paul Kagame is due to retire in 2017 after two seven-year terms as president, the maximum allowed by the Rwandan constitution.

⁴⁰⁰ National Debates for the removal of term limits have been entertained in twenty-eight African countries. While twelve of these debates resulted in actual presidential term limits repeal, four failed. Twelve others crashed before legislative voting

⁴⁰¹ In 2012, Paul Kagame won the election for his second term.

On February 8, 2013, President Kagame confirmed that his party would likely move to alter the constitution to accommodate a third term (*Great Lake Voice*, 19 January 2015). The confirmation by the president has thrown many analysts, journalists, and sections of the population into debates on the likely success or failure of a third term for President Paul Kagame. The debates have also extensively addressed the merits and demerits of repealing the presidential term limits provision.

While a section of the debate supports the removal of presidential term limits, another section wonders why Paul Kagame would wish to continue in office after about twenty-three years as a president. After all, he supervised the making of the constitution that approved presidential term limits in 2003. Should the country move quickly to abolish the institution of presidential term limits just after its transition period? Should people affiliate the presidency to an individual?

Both sides of the debate demonstrate strong reasons in favor and against the removal of presidential term limits in Rwanda. Some hinge their argument on the person of Kagame, his economic policies, and popularity, while others see him as a strong and charismatic president. Kagame inherited a war-torn country following the Rwandan genocide in 1994. Many argue that he has been able to unify the nation by building economic and political bridges that have enabled peace to reign in Rwanda (*Great Lake Voice*, January 19, 2015). Many consider the peace project to be still fragile and dependent on Kagame. Some consider him necessary in consolidating the peace already gained in Rwanda. Paul Kagame and his supporters represent the

feelings of all presidents nursing the intention of staying longer in power. The debate in Rwanda confirms the fears many seem to have concerning the survival of presidential term limits in new democracies. It also offers an opportunity to generalize some observations made in the case studies. The debate further suggests that the institution of presidency is yet to detach from individuals and personalities. Finally, it also confirms that the mere inclusion of term limits in the constitution does not guarantee their implementation. Having noted that particular political elites are crucial in producing and bundling pressures to challenge non-compliance, I will now focus on those factors that appear to motivate incumbents and their supporters to embark on removing term limits and the reasons for elite resistance to enforce compliance.

8.2 Interactions between Incumbent Presidents and Democratic Institutions

How have incumbent presidents interacted with various institutions and other democratic sectors in the process of repealing presidential term limits in African democracies? What types of interaction was that and who determined and set the motions for such interactions? Did such interaction promote or diminish the consolidation of the democratic process? What strategies do incumbents employ to maintain their hold on power?

The case studies have largely dwelled on the strategies employed by incumbents to maintain their hold on power. Perhaps, the most visible strategies include the

weakening of democratic institutions through patronage, intimidation and outright manipulation of the constitution through by proxy. I shall focus on parliamentary and judicial institutions in this section to show that presidents have not been inert in their interaction with political institutions, as the case studies have shown.

One of the consolidating factors of democracy is the so-called independence of the different arms of government in a democratic setting. The democratic process is further strengthened by a regular interaction between the different arms of government and institutions. In a presidential system, functional independence of democratic institutions like the parliament, the judiciary and CSOs is essential not only in providing oversight functions as prescribed in various constitutions, but also necessary to hold an incumbent government accountable, and to prevent a democratic regime from operating as a ‘democratic dictatorship’ (Linz 1996; Villalon et al 2005). Various constitutions stipulate and recommend regular interactions between agencies and institutions of government to promote coherent and transparent governance. For instance, the Nigerian Constitution provides some of such interactions, which include Joint Sessions for the presentation of National Budgets, Quartal Legislative Joint Sessions and Weekly National Executive Council Meetings.⁴⁰² Sometimes, National Executive Council (NEC) and Caucus Meetings of governing political parties bring both the executive and parliamentary members of the party together to deliberate on national issues and policies. However, in most cases, the ruling party’s NEC

⁴⁰² Refer to the Nigerian 1999 Constitution as Amended, 2010.

overshadows various opportunities for interaction as required by some national constitutions.⁴⁰³ Further, outside the official and recommended interactions, other levels of interaction exist between the presidency and institutions of government in Africa. As observed in the case studies, some presidents have special advisers on parliamentary and judicial matters. The major functions of such advisers include but not limited to advising the government on parliamentary or judicial matters, but also in maintaining a regular interaction with these institutions to lobby for support for the president or government policies.

However,, the kind of interaction that promotes and sustains institutional independence and by extension, support democratic consolidation has not really existed across new democracies in Africa. As the author pointed out earlier in this study, many incumbent president invested less energy in growing institutional independence, and chose to operate with unofficial institutions to boost their power base and maintain unilateral monopolization of state power. As observed in the cases investigated, some incumbent presidents employed both official and unofficial means to sustain such interactions to either expand their presidential powers or coax support

⁴⁰³ In the case of Nigeria, the National Executive Council of the ruling party became more powerful than the legislative houses in influencing the policy trust of the government during Presidents Obasanjo's and Jonathan's regimes in Nigeria. Both Obasnjjo and Jonathan created organs in the ruling party like PDP's Governor's Forum and PDP's National Assembly Caucus that became more powerful than other democratic institutions. President Muhamadu Buhari has tried to reduce the powers and influence of these organs in influencing major government policies in his regime.

for their regimes. In some cases, incumbent presidents preferred to operate with weakened official, and strong unofficial institutions where their power were seldom challenged. President Paul Biya of Cameroon operates with a second parliament (senate) whose members he directly appoints using his presidential prerogative. This self appointed senate is accorded with more powers by the president and oversees the functions of the elected MPs. Thus, the interaction between the president and the elected MPs goes via the appointed senators who regulate and supervise the elected MPs from their regions. By placing the elected MPs directly under the charge of appointed senators, whose contributions on national issues must be vetted by the senators before approval, Paul Biya maintains an unequal relationship with elected MPs and through proxy controls all legislative interventions in Cameroon. Such an interaction leaves not doubt that the consolidation of the democratic process, radical legislative independence or intervention would continue to be in abeyance.

It therefore appears that democratic institutions in many African democracies exist only on paper (Posner and Young 2005), and only good at doing the bidding of incumbent presidents. Prior to the third term controversies in the three cases studied, the incumbent presidents got away with every piece of legislation they presented to the parliament, even with less coercion and lobbying (Armstrong 2010). As Armstrong has reasoned, many African parliaments mistook radical parliamentary oversight and challenges as affront on democracy democratic consolidation, and therefore allowed a one-sided interaction dominated by the presidency (Armstrong 2010). The feeling of ‘not rocking the boat’ has created in many African democracies

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a sort of interaction between the institutions and the presidency that has remained on the behest of the incumbent president who most often dictates the interaction agenda. As an ex-MP disclosed to the author in an interview on the Malawian case: “In my eight years in the parliament, we never really debated the national budget or really screened any ministerial nominee forwarded by the president for parliamentary confirmation. What we did was simply a routine rubberstamping of every scrap that emanated from the presidency, sometimes to the detriment of national interest. What the Parliament now enjoys as independence came only after the defeat of Muluzi’s open and third term controversies.”⁴⁰⁴ In 2010, Patrick Obahiagbon, a former member of the Nigerian Federal House of Representatives described his colleagues as “presidential political alleluia boys,” because of their readiness to rubberstamp executive decisions without independent considerations.⁴⁰⁵ With particular reference to the politics of term limits, the increased interaction between incumbent presidents and the democracy institutions was motivated by and centred on efforts to legitimize the repealing of term limits in Africa.

These facilitated the passage of key executive legislations and anti-people laws. Opposing views were repressed and sometimes leading to the isolation or outright sacking of the culprit.

⁴⁰⁴ Author’s interview with an ex-Malawian MP. November 2014. Lilongwe, Malawi

⁴⁰⁵ Interview with Channels Television, March 3, 2010

Further, the interaction between the presidency and the parliament was fraught with suspicion in most African democracies that further impeded institutional independence and growth (Salih 2005). Most of the incumbent presidents ruled as dictators without parliaments before metamorphosing as elected presidents. They had no option than to operate with parliaments as constituted elements of liberal democracy enforced after the Cold War by a combination of local and international democratic forces. Some incumbent presidents viewed both the legislative and judicial institutions with suspicion and distrust, and therefore did not waste time in using executive powers to make these institutions dependent on the executive. For instance, the case studies show that major appointments in the judiciary and the parliament are directly or indirectly approved and influenced by the presidency.⁴⁰⁶ Most incumbent presidents employ such executive privileges in appointing stooges to key positions in the legislature and judiciary not only to sustain a consolidated personal power,⁴⁰⁷ but also to maintain a maximum control over these institutions.⁴⁰⁸ As such, the interactions between the presidencies, the legislative and judicial institutions were not based on the governance logic of equal partners, but rather on

⁴⁰⁶ The three case studies share this common experience

⁴⁰⁷ The Nigerian case study details how Obasanjo forced the removal of Chuba Okadigbo as the senate president because he feared Okadigbo would not be willing to do his bidding as a senate president.

⁴⁰⁸ For mere disloyalty to him, President Obasanjo influence and caused the removal and replacement of five legislative heads within eight year for their disloyalty to him. Refer to the Nigerian Case.

‘master-client basis’⁴⁰⁹. As noted in the Nigerian case, President Obasanjo had in 2006, interrupted legislative proceedings during the third term debate by summoning the senate president and the Speaker of the House of Representatives to the Presidential Villa in Aso Rock, Abuja Nigeria. The president who seemingly expected his third wish to be rubber-stamped by the parliament appeared to be upset with the way the debate was going, and so had to interrupt legislative proceedings for more than six hours to instruct legislative heads on how to conduct legislative sessions to suite his third term ambition.

Further, the interaction between the incumbent presidents and the judiciary in some African countries has not been so different as that between the presidency and the parliament. In the cases investigated for this study, the constitutions allow the president to appoint the heads of the judiciary and other democratic agencies like the electoral commissions and state security agencies. The case studies also show that the presidents, who are the leader and sometimes, the owner of the party, mostly influence the emergence of the party chair. The overbearing privilege enjoyed by incumbent presidents potentially and remotely whittles the independence of these institutions. With special reference to Nigeria, the presidency uses a system of “reaching out” in its interaction with judicial officials. The ‘reaching out’ could be

⁴⁰⁹ This situation has softly changed after the defeat of third term in some African countries as shown in the Nigerian, Malawian and Zambian cases.

directly or by proxy.⁴¹⁰ In Nigeria, the political language of ‘reaching out’ characterises and describes the interaction that existed between the executive and other institutional arms of the government. For instance, whenever the executive wanted any piece of legislation passed or the outcome of a particular court case influenced, the president appoints a respected former member of the parliament or judiciary to ‘reach out’ to the MPs or Justices.

The case studies detailed various levels of interaction between incumbent presidents and some institutions. Some scholars (Armstrong 2010; Villalon 2005; Morrow 2005; Brown 2004) and this author have documented how various incumbent presidents reached out to the parliaments, judiciary, CSOs, international donors and the masses in their effort to extend their tenures beyond constitutional prescription of two terms⁴¹¹.

⁴¹⁰ In a system of ‘reaching out’, the presidency directly or indirectly organizes events where judicial officers are expected to be present. Presidential envoys, traditional rulers, pastors, special advisers or close associates of the president who have any type of affinity with the concerned officials are mandated to approach them to discuss on issues that are particular to the president, including terms of delivery. In Nigeria, this is beyond lobby, and popularly known as ‘reaching out.’ It goes also goes with monetary implications.

⁴¹¹ Refer to Chapter 2, 4, 5 and of this thesis on how incumbent presidents used various means to coax existing institutions into supporting the amendments bills to repeal term limits in various African countries

It has been alleged that, the ruling PDP through the instrumentality of the Ministry of Defence led by Musliu Obanikoro rigged the 2014 state elections in Ekiti State in its favour by using military personnel to confiscate electoral materials, prevent opposition loyalists from casting their votes, intimidated and arrested opposition leaders prior to the elections.⁴¹² The military personnel involved have admitted to be acting with ‘instruction from above.’ Yet, the judiciary, right from the Federal High Court through to the Supreme Court absolved the party and the government personnel involved of any wrong doing, using judicial technicalities as excuse to strike out all cases instituted by the opposition APC at the court. The Malawian case is not different. I have already detailed how the state police acting on executive orders kidnapped and molested opposition leaders and journalists who dared to speak out against Muluzi’s third term ambition in Malawi. The security agencies and the judiciary never prosecuted these agents for abuse of office because of what many scholars have described as institutional complacency (Morrow 2005; Brown 2004).

Another complex interaction between various institutions and the presidency appears to be rooted in religious and ethnic politics as practiced in many African countries (Salih 2003; 2007). The Malawian case shows how President Muluzi easily secured support and injunctions for his executive orders from judicial officers with Islamic background. Though this appeared to have insignificant impact in the

⁴¹² Refe to the Report: Military Involvement in the Ekito Gubernatorial Elections 2014

outcome of the third term controversy because of the minority percentage of judicial officers with Islamic background on the Bench, however, religion and ethnicity was decisive in shaping the outcome of the presidential term limits debate in the Malawian case.

In general, this study observed clear and complex levels of interactions between incumbent presidents and many democratic institutions like the judiciary, political parties, the parliament, CSOs, and sometimes, the international community. However, the interaction initially produced a one-sided outcome where both the parliament and the judiciary aligned with the presidency in confirming pieces of legislation and policies, even when they appeared to be in antagonism with national interests. The one-sided and non-confrontational interaction between the incumbent presidents and the institutions was initially regarded, celebrated or rather mistaken as a sign of consolidating democracy.⁴¹³

The foregoing shows that incumbent presidents have not been inept in inter-institutional interactions in Africa. As many scholars have observed the presidential system as practiced in Africa has been overbearing (Posner and Young 2007; Chabal and Daloz 1999; Calderisi 2006; Armstrong 2010). The towering tendency of the presidency has also been visible in the monopolization of interaction with other sectors and institutions that often act as rubberstamps on presidential directives. As I detailed in Chapters Seven and Nine of this study, a seeming balance of interaction

⁴¹³ Refer to the 2nd Case Study on Zambia

between incumbent presidents and some institutions only occurred during and after the presidential term limits controversies in the various cases investigated for this study.

In Nigeria, the level of interaction increased between the presidency and the Parliament and the judiciary during the term limits politics. Using direct and indirect interventions, President Obasanjo maintained a regular interaction with the Senate and Federal House of Representatives. He met with the parliamentary head on twelve occasions between at the peak of the controversy in 2005 and 2006. His Special Adviser on the national Assembly, Florence Itta Giwa intervened severally in the senate while state governors loyal to the president constantly met with MPs representing their regions to anchor support for Obasanjo's third term. As already noted in the Nigerian case, in May 2006, Andy Ubah, a presidential Adviser on Domestic Issues attempted to coax the MPs to support the third term agenda by offering US\$350,000 to MPs to vote in favour of the third term amendment bill. In 2012, president Jonathan approved the removal of Justice Salami as the president of the Appeal Court. Under Justice Salami as the president of the Appeal Court, the ruling party lost four consecutive cases to opposition parties; a development the ruling party considered as an affront. Relying on a non consequential report by National Judicial Council (NJC), the president ordered the sacking of Justice Salami as the president of the Appeal Court. Analysts insist that this was done to create a vacancy for a new president of the Appeal Court that would be considerate to the presidency and the ruling party.

The constitution and Nigerian Fiscal Regulatory Policy allow the president to approve supplementary budgets for the parliament and judiciary. The president is also bestowed with the privilege of approving promotion for judicial officers. With these privilege instruments, incumbent presidents maintain an unbalanced interaction with and wield big stick on judicial officers whose loyalty to incumbent governments appears to be doubtful. The interaction system between the presidency and other democratic institutions follow the same pattern in other case studies. For instance, relying on his firm control over the parliament and judiciary occasioned by presidential privileges, president Muluzi easily secured the support of MPs to repeal the Senate and Local Government Acts 1996 with overwhelming majority in the parliament.⁴¹⁴ In 2002, Muluzi secured the support of a State High Court to overrule another high court that ruled against an executive ban on street protests against his third term. In the Zambian case, President Frederick Chiluba utilized the privilege of supervising the privatization of State Mining and Communication companies to secure support for certain legislations in the parliament (Sardanis 2014). By allocating sizable chunk of state mining companies to key MPs in form of patronage (sometimes using intimidations), Chiluba easily secured legislations that directly targeted key opposition leaders in Zambia.⁴¹⁵

⁴¹⁴ Refer to case Study 3, Malawi

⁴¹⁵ In 1996 the parliament passed an Executive Bill prohibiting individuals with foreign paternity or maternity from participating in Zambian politics. Analysts suggest that this bill was targeted at former

The case studies reveal that some incumbent presidents have not respected the principle of institutional independence in their interaction with other institutions in African democracies, especially as it concerns attempts to repeal term limits. A review of these interactions shows deep-seated undemocratic means in the entire process of repealing term limits in Africa. Further, scholars argue that the process of both repealing and defending term limits have relied heavily on undemocratic means since the interaction on both sides depended heavily on patronage, intimidation and manipulation of the democratic process (Posner and Young 2007; Armstrong 2010; Calderisi 2006; Vencovsky 2007).⁴¹⁶

Instead of genuine interaction partners, the institutions (political parties, judiciary, parliament and CSOs) appear to be victims of executive manipulation, since incumbent presidents through a process of divide and rule and sometimes, outright intimidation or a combination of stick and carrot coax these sectors into willing tools to support and defend repealing amendments bills. The three case studies detail how the incumbent presidents caused the ruling parties to declare vacant the parliamentary seats of MPs who either chose not to support the amendment bills or defected from the ruling parties. The case studies also remark

president Kenneth Kaunda who was a key opposition to president Chiluba in the 1996 presidential elections.

⁴¹⁶ Chapter Two of this study devoted a section on this debate by reviewing different opinions concerning the democratic rule of and repealing of presidential term limits

how the courts initially refused to intervene for these affected MPs until the tide was turn against the seating presidents through elite dissidence and activism.

As has been pointed out, a ‘seeming good’ interaction existed between president Muluzi and the parliament before the third term controversy in Malawi. This seeming good interaction helped the president to consolidate power, extend his authority and expand his loyalty in the parliament. A consequence of such interaction was the ability of president to amass the parliamentary support needed to repeal the act establishing the senate in the Malawian constitution. For many analysts, the removal of the senate was to reduce parliamentary strength, which the presidency over time maximized to its fullest advantage (Morrow 2005).

Incumbent presidents drastically compromise the independence of the parliament and Judiciary when they influence the appointment of proxies as parliamentary and judicial heads. Through proxies, incumbent presidents maintained solid control over these institutions and therefore could potentially determine the course of judicial and parliamentary procedures. In Nigeria, president Obasanjo saw to the removal of parliamentary heads when he sensed that these were not disposed to his third term agenda. He re-shuffled the head of the Judiciary two times before and during the third term controversy in Nigeria. Many have interpreted the sudden reshuffling of the judicial heads as an attempt to dispose and intimidate the judiciary to supporting his third term agenda (Arewa 2014).

Again, Obasanjo and Chiluba all ‘reached out’ to the international community for support. Obasanjo met with the US president, and organized a dinner for foreign ambassadors in Nigeria in April 2006. This was to psyche the opinion of the international community on his third term agenda (Rice 2012). President Chiluba boasted of foreign support for his third term agenda. On 29 April 2002, while OASIS held a massive rally against his third term, Chiluba was in the United Kingdom to drum support for his third term agenda.⁴¹⁷

As the case studies confirm, the interaction between the presidency and various institutions have not been genuine enough to support democratic growth.⁴¹⁸ Until the third term controversies, especially in the cases studied, incumbent presidents considered both the parliament and judiciary as unequal partners in the democratic process. The presidency decided the faith of party leaders, MPs and Judicial officers and saw these institutions as objects of intimidation and manipulation. As already pointed out by the author, the members of senate are still handpicked and appointed in Cameroon by the president. In Uganda and Cameroon, key judicial officers are appointed from the pool of loyal and trusted members of the party and movement respectively. In the special case of Uganda, only trusted members of the Movement are allowed to head critical institutions and agencies of

⁴¹⁷ Confirmed in author’s interview with Mark Chona, Initiator and Mobilizer of OASIS against Chiluba’s third term.

⁴¹⁸ Refer also to Villalon et al 2005; Armstrong 2010; Venconsky 2007; Posner and young 2007

the state in keeping with the vision and mission of the Movement. In disguise and in principle, loyalty goes first to the Movement and the leader of the movement. In these environments, such a system forecloses any transparent interaction between the presidency and other democratic institutions, which leaves little room for institutional radicalism. As the Nigerian, Zambian and Malawian cases have shown, the interaction between various institutions and their confrontation with the incumbent presidents raised the cost of repression for the incumbents. In Uganda, Namibia and Cameroon, incumbent presidents strictly employ proxy strategy to maintain institutional loyalty. The presidents not only enjoy institutional loyalty, but also elite support base that cut across various institutions. Without first rupturing party's cohesion and presidential loyalty in within the institutions, attempts to recover term limits in such environments remains remains low. As long as the president continues to enjoy such a support base, interaction between the presidency and the institutions shall continue to be one-sided, aimed at providing political incentives to individual actors to the detriment of democratic growth and constitutionalism.

8.3 Repealing and defending presidential term limits

I shall focus here on the strategies employed by some incumbent presidents and their loyalists to challenge term limits. In the second part of this section, I shall discuss the reasons why particular political elites choose to challenge non-compliance by incumbent presidents. I will aim to provide answers to why some political elites

choose to challenge non-compliance, while others side with incumbent presidents to repeal term limits. The strategies employed and the motivational factors to support or challenge non-compliance vary, since political actors make choices based on a range of perspectives.

For instance, the reasons being adduced in Rwanda to allow Paul Kagame more presidential terms were the same reasons given in the thirty-four countries where incumbent presidents have allowed or sponsored debates to repeal presidential term limits provisions. Posner and Young (2007), Maltz (2007) enumerate such strategies as age and popularity in influencing the repeal of presidential term limits by incumbent presidents, while Vancovsky (2007) emphasizes such factors as lust for power and economic gains as motivational factors. Iwu (2008) and Collier (2009) attribute the tendency to repeal presidential term limits provision to “a big man politician tendency” in African politics referred in political literature as “big man political culture.” Some other scholars attribute the tendency to challenge presidential term limits to cultural threat, insisting that presidential term limits go contrary to African understanding of leadership (Dulani 2011; Calderisi 2006; Chabla and Daloz 1999). However, a close examination of the case studies shows that lust for power, economic greed, dispensation of patronage to family and cronies, and an attempt to escape indictment after office appear to be the main factors motivating incumbent presidents and their supporters to repeal term limits. “The presidency offers extensive powers and legal immunity to incumbent presidents and by extension to their cronies

and families in Africa. Once tasted, many incumbent presidents want to continue to enjoy these privileges.”⁴¹⁹

However, various arguments rage on why incumbent presidents set out to challenge or repeal presidential term limits in Africa. I shall critically discuss some of these arguments to see how they pose real questions and challenges to term limits compliance in African democracies.

8.3.1 Popularity

Many incumbent presidents employ popularity as a strategy to maintain their hold on power.⁴²⁰ Further, some scholars consider popularity or public opinion as one of the important factors influencing incumbent presidents to challenge presidential term limits (Posner and Young 2007; Maltz 2007). This argument suggests that incumbent presidents who are confident of winning a re-election may have a greater incentive to challenge presidential term limits provisions than those incumbent presidents who weigh low on the scale of public opinion. But this is not always true. By the time he challenged presidential term limits in Nigeria, Obasanjo was most popular. Though popular with his economic and anti-corruption policies in Nigeria

⁴¹⁹ Author’s interview with Dr. Blessings Chissinga. Univeristy of Malawi, Zomba. October 2014

⁴²⁰ Presidents Obasanjo, Chiluba, Muluzi, Musseveni and Kagame did allude to their popularity for wanting to extend their presidential mandates.

(Armstrong 2010; Collier 2009), Obasanjo's attempt to entrench power diminished his popularity. By 2005, Obasanjo's name has become synonymous with evil and anything ugly (Tinubu, Sun Newspaper), yet he moved against presidential term limits. Like Obasanjo, Frederick Chiluba of Zambia and Bakili Muluzi of Malawi lost the best part of their reputation in their second terms (Villalon 2005). Paul Biya of Cameroon and Abdul Wade of Senegal did not have credible records as presidents, though they made references to their non-existent popularity for seeking third term. They had strong corruption allegations and presided over dwindling economies. Yet they moved to challenge or repeal presidential term limits in their countries using fake popularity as a strategy. Thus, popularity as structuralists argue has not sufficiently accounted for why incumbent presidents move against presidential term limits. Popularity is only employed by incumbents as a strategy to entrench state power.

8.3.2 Age of the president

Age has also been suggested as a likely factor influencing the tendency by incumbent presidents to challenge term limits (Maltz 2007). This is hinged on the argument that incumbent presidents who are below the age of fifty-five at the expiration of their final terms are very likely to challenge presidential term limits to remain longer in power. It suggests that any age below fifty-five years is grossly early to retire as a politician especially in Africa. Though effective during the Cold

War era in sustaining life presidency in Africa,⁴²¹ this factor has however not accounted for the various presidential term limits challenges and repeals in post-Cold War African democracies. Paul Biya was already eighty-two (82) years in 2008 when he challenged and expunged presidential term limits provision in Cameroon. Abdul Wade was already 88 years in 2012 when he sought to remove presidential term limits in Senegal. Obasanjo was already 73 years in 2006 when he attempted to repeal presidential term limits in Nigeria, while Omar Bongo of Gabon and Gnassingbe Eyadema of Togo were above 70 years when they repealed presidential term limits provision in their constitutions to remain longer in power. Incumbent presidents only employ the age issue as a strategy to hang on to power when it suits their particular political convenience.

8.3.3 Donor influence

International support has also been suggested as a potential factor that motivates incumbent Presidents and their supporters to repeal presidential term limits (Posner and Young 2007, Maltz 2007). As a strategy, this hypothesis recognizes the role of geo-politics, development aid packages, international alliances and partnerships. It argues for instance that incumbent presidents from countries

⁴²¹ About 70% of presidents who assumed power in the Cold War era in Africa was below 50 years of age. Many of them retained power for over 30 years and even metamorphosed to become elected presidents.

depending less on foreign aid relative to their GDP are likely to challenge presidential term limits than presidents from countries receiving huge levels of foreign aid relative to their GDP. It is believed that donor pressure should be able to act as a compliance enforcement agent on presidents who depend on foreign aid for the running of their governments. While this argument may be justified in the case of Nigeria that scarcely depends on foreign aid relative to its GDP, the same argument cannot support the presidential term limits repeals and challenges in Uganda, Namibia, Burkina Faso, Zambia and Malawi that hugely depend on foreign aid, sometimes up to 65% for their yearly budgets. Incumbent presidents of Zambia and Malawi attempted to remove presidential term limits while incumbent presidents in Uganda, Burkina Faso and Namibia successfully repealed their presidential term limits despite their dependence on foreign aid. They used their capacity to attract international assistance as a ploy to retain power as president consistently. Chiluba mentioned severally that without him, the donor agencies would blacklist Zambia from the list of donor-recipient countries (Sardanis 2014).

On the other hand, international support has sometimes supported the removal of presidential term limits and not vice versa. Museveni utilized his international contact to pressure local support for his third term. The British government is quoted to have declined comments on Museveni's third term, describing it as internal problem (Maltz 2007). While Chiluba made reference to an increase in foreign aid as a sign of international acceptance and support to his regime, Obasanjo celebrated his role in partnering with the US and the international community in the fight against

terror (Simon 2005). Despite these international contacts and supports, these presidents challenged and repealed term limits in their countries. Like popularity and age, international influence does not sufficiently account for why incumbent presidents move against presidential term limits. It is used instead as a strategy by presidents to entrench state power.

8.3.4 Cultural Legacy

Cultural legacy is another strategy employed by African incumbent presidents to maintain their hold on power. Dulani argues that cultural legacy is a factor and not a strategy influences incumbent presidents to challenge presidential term limits (Dulani 2011). This hypothesis maintains that in traditional societies where hereditary leadership is still strong, incumbent presidents are likely to challenge presidential term limits to remain longer in power (ibid). Understanding African leadership as hereditary, Dulani argues that term limits run contrary to perceived and accepted leadership tendencies across the continent. It is his view that in some traditional societies, leadership is considered to be hereditary and for life. However, contrary to Dulani's argument, some traditional African stools are not hereditary and for life (Mbiti 1986; Metuh 1982), while some are for life as in most western monarchies. Some are also rotatory, but are allowed to rotate only when the occupant is dead or impaired (Ekwunife 2002). Thus, in his analysis of presidential term limits politics in Africa, Dulani links Africa's late acceptance of presidential term limits in the 1990

and the subsequent repeals in some Africa countries to cultural and traditional legacies. He argues that the concept of limiting the exercise of executive power runs contrary to traditional notions of leadership that is very common across the continent and rooted in tradition and culture, maintaining that presidential term limits provision contradicts the traditional understanding of leadership in African societies. For him, since presidential term limits contradict African traditional notion of hereditary and life-long leadership, the tendency to repeal presidential term limits by incumbent presidents is a sharp response to cultural and traditional experience of leadership on the continent. He justifies his argument with the example of president Bokassa of Central African Republic who in the 1980s changed his presidential status into Emperor. Kwame Nkruma of Ghana and Banda of Malawi also declared themselves life presidents.

However, the traditional and hereditary nature of African leadership does not offer enough argument to explain the attacks on presidential term limits across the continent since such attacks does not occur only in Africa. Moreover, some incumbent presidents in Africa have willingly chosen to step down at the end of their tenure without meddling into the politics of repealing presidential term limits. African traditional leadership system operates in the same way as most countries, especially in Europe and parts of Asia where traditional monarchic leadership exists as hereditary or semi-hereditary, yet separated from democratic politics. Dulani's argument that cultural legacies may be responsible for the attack on presidential term limits is very weak because no incumbent president in Africa has alluded to cultural

legacy as pretext to extend his/her tenure. Instead many incumbent presidents in new democracies have monopolized state power and resisted power alternation arguing that the longer a president stays on power, the more democracy consolidates and stabilizes, using other factors to seek support.⁴²² While some incumbent presidents may potentially utilize Dulani's argument to monopolize state power, it does not fully account for the trend to challenge presidential term limits across the continent. African traditional leadership is not completely hereditary or uniform across Africa (Mbiti 1986).

In places where traditional African leadership was hereditary and life-long, it remained at the level of clans and lineages (Metu 1982). Furthermore, though there existed strong pre-colonial and centralized states, Zulu (South Africa), Buganda (Uganda), Zanda (Sudan), Ashante (Ghana), Nupe, Bini and Kanem Bornu (Nigeria), the rulers of these kingdoms often subjected themselves to a system that checkmated authoritarian tendencies.⁴²³ Moreover, African traditional leadership was not different from other monarchies across the world where traditional leadership system is based on heritage. In Belgium, the Netherlands, England and Spain, traditional monarchies have remained hereditary and life-long, enjoying no term limits. If Dulani's argument

⁴²² Incumbent presidents intent on repealing presidential term limits make more reference to their popularity, economic policies, international standing and developmental strides.

⁴²³ Refer to Introduction: The Changing Governance Role of African Parliaments, ed M.A. Mohamed Salih, (2005) p.4

were to be true, all these countries would be operating limitless political regimes. Contrary to Dulani's argument that African chiefs exuded unfettered power for life, the traditional African leadership had a system of checks and balances.⁴²⁴ No traditional leadership could operate without a council, where every clan is represented through the council of elders, subordinate territorial chiefs and religious officials (Salih 2005; Ebelebe 2008). These sophisticated institutionalized system acted as 'restraints against autocracy' (Salih 2005). Traditional leaders who misused or abused their offices were mostly banished or exiled by their communities because the community was considered supreme over individuals (Ozigbo 1982; Ekwunife 2002). Further, contrary to Dulani's argument that most African constitutions tried to fuse these traditional concepts of leadership into the modern presidency, more than 90% of constitutions in Africa only accord customary rights to the traditional stool (Pierre Vos 2013). Some incumbent presidents may find it potentially exciting to use cultural legacy as a pretext and strategy to go against presidential term limits, but such allusion remains weak and unreliable.

⁴²⁴ African traditional leadership system is sparsely hereditary, and partly unelected, but there exist a recognized suffrage, with every clan represented in the traditional constituency.

8.4 Factors motivating elite resistance against the removal of term limits

Some factors I intend to examine include elite size, size economic wealth controlled by specific political elites, wealth of experience, vested interests, cultural legacy, international connections and political culture. The aim is to expose how these factors motivated some political actors to demand strict compliance from some post-Cold War African presidents, but also how these factors became strategic in creating an opportunity for the convergence of other institutions in demanding compliance from incumbent presidents.

8.4.1 Political Elite Size

Political elite size in terms of numerical strength in a given democracy plays a role in raising the costs of repression for incumbent presidents (Villalon 2005, Mesquita 2008).⁴²⁵ This argument holds that political elite size in a given country has a huge influence on calculations and choices of the president (Shepsle 2010, Mesquita 2008). Mesquita further argues that where the size of political elite is large, it is difficult for a leader to survive a coalition against him. Mesquita's argument hinges on the fact that the cost of buying political support is very expensive for leaders facing political pressure from a large size of elite political coalition and alliance. Political elite size can raise the costs of repression for an incumbent.

⁴²⁵ Field research in Nigeria, Zambia and Malawi confirm this claim. A further analysis of the partially induced enforcement in Kenya and Ghana shows that elite size raised the stakes for the incumbent presidents.

The interaction between the incumbent president and other institutional actors and social forces is often dependent on presidential privileges and the ability of the former to dispense patronage. The incumbent president faces great challenges when his ability to dispense patronage is depleted and thus lacks the needed funds to sustain the support of a large elite group. A successful coalition of a large activist elite is more likely to enforce compliance than a dispersed elite coalition. For instance, in 2006, the size of political elites in Nigeria rose by fifty-eight percent in comparison with 1979, and forty-two percent with respect to 1992. The expanded size of political actors in 2006 in Nigeria made it difficult for Obasanjo to buy off the large opposition camps that cut across various institutions to support his third-term project.

This is precisely the opposite in Cameroon and Uganda, where elite size was kept low for political convenience and control. In 1979, Nigeria had 19 state governors, 42 senators, 112 MPs, 18 ministers and 5 political parties. In 2006, it increased to 36 state governors, 109 senators, 178 MPs, 42 ministers and 52 political parties. In Mesquito's calculation, it is more difficult for a president to survive elite political pressure in Nigeria than in Uganda or Cameroon. Malawian analysts have also attributed the failure of President Muluzi's third term to his inability to secure funds to pay off the large number of opposition elites against him. His inability to raise five million Malawian Kwacha to bribe each of the dissenting MPs caused the defeat of the amendment bill in Malawi (Morrow 2005, Khembo 2004). The size of the opposition group therefore not only motivates some political actors to challenge

non-compliance, but also makes it difficult for an incumbent president to guarantee political loyalty.

8.4.2 Wealth of Experience Among main Opposition Leaders

Experience among political actors plays a major role in challenging non-compliance and in shaping elite behavior. Levine (1997) offers a somewhat similar view in his investigation of the democratic consolidation in Venezuela. Some scholars argue that crisis, violence, instability, or a process of political learning and internship over a period can culminate in a normative consensus among key political actors about formal and informal rules to adopt for the democratic game (Linz 1996; Gunther and Higley 1992).

Learned pattern of behavior and experience all combine to influence political choices and calculations (Clark 2005). For countries that have gone through a period of crisis and violence, such processes become important in creating a normative and informal consensus among key political actors. In most cases these actors fashion both formal and informal rules to guide the democratic game after a crisis is defeated or has ended (Leftwich 2010). For instance, in countries that have experienced failed democratic regimes or a quasi-one-party experience, political elites are likely to use formal and informal elite coalition to challenge any process that threatens the survival of democracy.

Political elites with such experience are also more likely to succeed in challenging non-compliance than political actors in countries with low level of elite

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political experience. Having undergone both democratic processes and dictatorships, political actors who participated in the dismantling of dictatorships are more likely to unite against the usurpation of power by an incumbent president.

For instance, many political elites have been involved in the struggle to establish democracies in Nigeria, Benin, Ghana, Senegal, Mali, Zambia, and Malawi. These countries have experienced intervals of dictatorships and sometimes a mixture of interrupted or quasi-democracies. They have garnered experience and informed judgments on democratic struggles. The third-term agenda probably failed in Ghana, Kenya, Zambia, Malawi, and Nigeria were challenged because of the experience gained by political actors in past struggles against dictatorial regimes. Individual political actors and some political leaders as detailed in the case studies utilized their wealth of experience to redefine the political equation and interaction that has hitherto existed between incumbent presidents and various institutions. They provided alternative platforms for the convergence of other social forces to demand compliance. The lack of such convergence of social forces made possible by elite dissidence appear to be lacking in Uganda, Cameroon where incumbents easily repealed term limits.

Most dissenting political elites in Nigeria were involved in the dismantling of three military dictatorships, while in Zambia the political actors who challenged Chiluba's third term were involved in dismantling the authoritarian regime of

Kenneth Kaunda.⁴²⁶ In these countries, it was not difficult for some political actors to resist power entrenchment from incumbent presidents whom they also assisted to power. Atiku and Orji assisted Obasanjo to power, while General Christon Tembo, Godfrey Miyanda, Nevers Mumba, Ben Nwila, Anderson Madoka, Michael Sata, and other former UNIP leaders assisted Chiluba to power.⁴²⁷ In countries like Gabon, Uganda, Togo, Cameroon, and Burkina Faso, that have never experienced any struggle toward the toppling of dictatorships or the implementation of democracy, the scenario was different.

Elite experience played another major role in the handling of the amendment bill controversies in the case studies. Cognate political experience motivated the political elites in Nigeria, Zambia, and Malawi to make political calculations that did not compromise the democratic process. Villalon (2005) accepts this as progress in the democratic experience of some African countries. For instance, the lack of experience among various political actors was responsible for the collapse of Nigeria's democratic experiment in 1965, 1983, and 1992 (Usman 2013). The case in 2006 was different as many of the political elites had been active in the struggle against military regimes for about twenty years.

In the Zambian case, Mark Chona, the vice-president, the Speaker of the parliament, and several ministers were prominent members of the UNIP under Kenneth Kaunda. They coordinated the visible opposition that marshaled strategies

⁴²⁶ Author's interview with Mark Chona, leader of OASIS, Lusaka, Zambia, October 2014.

⁴²⁷ Ibid.

for the defeat of Kenneth Kaunda in 1991 when the Zambians yearned for a break from one-party system.⁴²⁸ Chiluba also rode on their political structures and popularity for his victory against Kaunda.⁴²⁹ When the struggle against Chiluba's third term became evident, the same actors who helped him ascend to power became the ladder on which his political power came down. Experience in politics gave these political actors the upper hand redefining political interaction and spurred them to create alternative platforms for convergence to challenge non-compliance by their presidents.

8.4.3 Economic wealth among dissenting elites

An extensive observation made in the case studies is the impact of 'money politics' in the development and destruction of democracy in Africa (Iwu 2008, 2009; Simon 2005).⁴³⁰ Democracy as practiced in Africa has become progressively expensive since democratic transitions in the 1990s. Though many scholars and local democracy activists in various countries have criticized such trends in African democracy, the political use and influence of money remains a puzzle in its potential to produce both democratic and undemocratic outcomes.

⁴²⁸ Author's interview with the leader of OASIS, Mark Chona, Lusaka, Zambia, October 2014.

⁴²⁹ Ibid.

⁴³⁰ Professor Falola particularly emphasized that the central position of money in African politics prevents the emergence of quality leaders in most post-Cold War African democracies.

On the one hand, the influence of money politics has been responsible for poor democratic participation across Africa. On the other hand, money influence has enabled the survival of many democracies from slow death. Economic wealth among political actors could function as a general means to sustain democracy. In particular, this same wealth could work against the removal of presidential term limits exemplifying a case of ‘undemocratic actions producing democratic outcomes.’

Villalon (2005) has noted that the size of economic wealth controlled by some political actors plays a significant role in the shaping of the future of African democracy, especially in the prevention of particular presidents from entrenching state power. Though the impact of money on politics is a global phenomenon,⁴³¹ some experts have specifically observed that the most popular way of doing politics in most African countries is by disbursing extensive patronage (Calderisi 2006; Chabal and Doloz 1999).

The case studies detail how money formed a strategy to woo support for or against the amendment bills. Money exchanged hands in the form of slush cash and other material incentives, such as offers of key political and government appointments to political loyalists. The aim was to buttress an existing support or to buy off political opponents.⁴³² Strategies to entice opponents to support executive

⁴³¹ Professor Toyin Falola argues in an interview with the author that monetary influence in politics is a global phenomenon. According to Falola, Africa falls under the spotlight due to poverty and undeveloped regulations concerning money in politics.

⁴³² Author’s interview with Emeka Duru, former Director of Research and Planning of the PDP in Nigeria, Abuja, Nigeria, October 2013.

policies, passage of parliamentary bills, and support for other government's projects or agendas also took the form of awarded government contracts or direct disbursement of cash (Iwu 2008, Armstrong 2010).

The removal of presidential term limits is an executive project that requires an extensive elite support. In the three cases studied, bribery and patronage were common and extensively used as strategies by incumbent presidents to secure political elite support for the removal presidential term limits (Dulani 2011, Armstrong 2010, Posner and Young 2007). These strategies have been effective in securing the support of particular political elites in repealing term limits in Uganda, Gabon, Togo, Burkina Faso, and Cameroon (Armstrong 2010), as well as in other countries where political elites lacked sufficient financial power to counter money influence by incumbent presidents. Patronage and bribery as political strategies might have stifled the capacity of political elites to engage in political activism, further dissipating their political energy to apply pressures in those countries mentioned above. Villalon notes that unfortunately, not all countries in Africa possess the caliber of political actors who could resist the attraction of patronage and bribery. Economic wealth is increasingly instrumental in mobilizing against incumbent presidents who might want to depend on state funds to buy political support for the removal of presidential term limits.

In 2003, the opposition elites raised the stakes for President Muluzi of Malawi by demanding Five Million Kwacha for their political support of his third term. Some

opposition elites argued that they would be sacrificing their public integrity if they accepted a bribe, justifying a price higher than the president could afford. According to Kansichi, the chief negotiator between the president and the opposition MPs, the inability of the president to secure these funds was “why the third term bill failed” (Khembo 2004, Morrow 2004, Brown 2004).

In 2005, legislators who pledged to vote in favor of removing presidential term limits were paid cash sums of US\$3000 each in Uganda, while US\$350,000 were made available to legislators who would support Obasanjos’s third term in Nigeria in 2006 (Posner and Young (2007), Armstrong 2010, Dulani 2011).⁴³³ Though the sum paid in Uganda was smaller in comparison to Nigeria, the Ugandan legislators received the amount without any protest from the opposition political elites.

Despite the amount being considerably higher and more attractive in Nigeria, many legislators rejected the inducement and stood against Obasanjo’s third term (Posner & Young 2007).⁴³⁴ Furthermore, three political actors who led the opposition against Obasanjo’s third term agenda mobilized the MPs against Obasanjo’s third

⁴³³ Atiku Abubakar, Ibrahim Babangida and Orji Kalu teamed up to raise funds to counter president Obasanjo’s financial inducement to the MPs. Their offer has been confirmed in an interview with Dr. Frank Ozoh, the Director of The Electoral Institute of Nigeria, who was the Chief of Staff to the Chairman of the Independent Electoral Commission of Nigeria (INEC) in 2006.

⁴³⁴ Confirmed in author’s interview with Dr. Frank Ozoh, former Director of the Electoral Institute of Nigeria, Abuja, Nigeria, October 2013.

term by doubling the monetary offer for MPs to reject Obasanjo's third term.⁴³⁵ In interviews with some MPs in Nigeria, most MPs stressed the important role of counter-inducement by opposition elites as a powerful strategy in crashing Obasanjo's third term.⁴³⁶

In further emphasizing the impact of money politics in the Nigerian case, the Chairman of Independent National Electoral Commission of Nigeria (INEC), Maurice Iwu, made references in his 2008 and 2009 Annual Reports of the Electoral Commission to the advantages and disadvantages of the size of economic wealth under the control of the 'nouveau riche' in Nigerian politics. Iwu insisted, "Such size of wealth was both capable of derailing and strengthening Nigerian democracy" (Iwu 2008 and 2009).

In the Zambian case, the opposition elites did not control such a sizable amount of wealth. However, the readiness of some international donors to fund the opposition group lent itself to the remarkable instrumentality of Mark Chona, leader of the OASIS and former Special Adviser on International Relations to Kenneth Kaunda. Chona had used his extensive connections with the international community to attract funds from various embassies and donor agencies for stopping Chiluba's third term.⁴³⁷ Though the funds in question were concealed and disbursed through an

⁴³⁵ Ibid.

⁴³⁶ Author's interview with Senator Ifeanyi Ararume, Abuja, Nigeria, October 2013

⁴³⁷ Confirmed in an interview with Mark Chona in Lusaka, Zambia, October 2014.

embassy in Lusaka, the funds became crucial in financing opposition rallies, securing campaign materials, and sometimes bankrolling transport costs for the MPs and cabinet ministers.⁴³⁸

In the Malawian case, some foreign donors directly and indirectly financed the opposition group through the Church. The suspension of foreign aid to Malawi by the United States, United Kingdom, Canada, Sweden, and Denmark crippled Muluzi's strategic capacity to sustain the use of slush cash while reducing the cost of activism for the opposition elites. However, the secret channeling of some of the suspended funds by DANIDA (Denmark) to the opposition group was more decisive. Set up by various Churches and organizations through the Public Affairs Committee (PAC), the funds from DANIDA particularly enabled dissenting elites-church alliance to mobilize more sectors, fund rallies, pay legal fees, and supply campaign materials.⁴³⁹

Though essentially undemocratic, the channeling and controlling of wealth by opposition elites can play a role in shaping the future of democratic experiments in new democracies. This can counter the efforts of incumbent presidents who capitalize on presidential advantages to remove presidential term limits by using patronage to buy political support. The size of wealth controlled by or available to the opposition elites in Nigeria, Malawi, and Zambia was instrumental in mobilizing the judiciary,

⁴³⁸ Ibid.

⁴³⁹ Boniface Tamani, former chair of the PAC, confirmed in an interview with the author that funds from DANIDA were central in sustaining elite pressure against Muluzi.

the MPs, and the civil society. It sponsored media debates, conferences, and protests against the removal of presidential term limits in those countries. The ability of the opposition elites to mobilize forces and funds against the incumbent regimes influenced the survival of presidential term limits by penetrating the parliament, the judiciary, the CSOs/Church, the Media and the masses. In a democratic setting, these social forces raise a sufficient barrier for incumbents intent on entrenching power while the lack of it exposes an incumbent to power entrenchment. The convergence of social and institutional forces through elite mobilization as detailed in the case studies sufficiently explain the different outcomes in attempts by incumbents to repeal term limits in African democracies.

8.4.4 Political Entrepreneurship and Vested Interest

Vested interests were crucial in the outcome of presidential term limits politics in the studied cases. Vested interests here refer mainly to political ambitions and economic interests. Some scholars regard these as somewhat crucial for strengthening new democracies (Iwu 2008 & 2009, Villalon 2005). Post-Cold War African democracies that lack political elites with political ambitions and the commitment to pursue such political ambitions appear to be virile and easily conquered, as in the case of Cameroon, Uganda, Togo, Gabon, Burkina Faso, and Guinea. Scholars have noted the importance of competition in democracy (Linz 1996; Beetham 2004), and political ambitions feed democratic competition.

In Chapter One, I discussed the benefits of presidential term limits for democratic competition. Democratic competition is dependent on the pursuit of political ambition. Accordingly, most stakeholders who assembled in defense of presidential term limits did so with a combination of vested interests. Devoid of vested interests, political actors may become unmotivated to invest resources that promote political competition.

The case studies demonstrated the interests of some political actors that operated the fourth Nigerian democratic republic and the second Zambian and Malawian republics. These political actors supported the democratic experiment on the basis of their experience and interests on national, regional, ethnic, and, individual levels. It appears difficult in some cases to make a clear demarcation between personal and vested or common and national interests, especially in the event of third term politics since national and vested interests often converged. Nonetheless, politics remains a 'game of interests.' The three case studies are supported by Shepsle argument that political actors hardly make decisions or choices based solely on either vested or common interests (2010). Sometimes, elements of political entrepreneurship combine with vested interests to produce democratic outcomes.

The mobilization by particular political elites to demand compliance is a form of political entrepreneurship. Political entrepreneurship is the ability of political actors to tap into a political opportunity by maximizing such an opportunity and engaging in political actions for political benefits (Shepsle 2010). It is the assumption

of the responsibility and costs of organizing political movements and activism, for the potential benefits that accrue from such actions.⁴⁴⁰ Shepsle argues that political actions are rarely indifferent. Some political opposition elites made conscious political choices not to support the removal of presidential term limits in Nigeria, Zambia, and Malawi. It may be difficult to argue that these individual choices were devoid of vested interests, since political leaders are known to engage in political entrepreneurship if the later promises to help realize a particular interest or ambition.

Vested interests intermingle with national and common interests since they complement each other in politics (Shepsle 2010). For instance, Atiku repeatedly emphasized the consolidation of Nigerian democracy as a reason for standing against Obasanjo's third term.⁴⁴¹ Governor Orji Kalu argued emphatically that Obasanjo's third-term would brew dictatorship in Nigeria, presenting his opposition against Obasanjo's third term with regard to national interest (*Vanguard*, 11 March 2014). Vice President Christon Tembo and Mark Chona of Zambia made the same allusions, as well as by Jaap Sonke and Brown Mpinganjira of Malawi. These stood against Chiluba's and Muluzi's third terms, respectively.

But this was not the whole truth concerning the mobilization of these political elites to enforce compliance in those countries. As political entrepreneurs, the presidential ambition of Atiku Abubakar, Orji Kalu, and Christon Tembo bore the

⁴⁴⁰ Refer to Wagner in Shepsle 2010.

⁴⁴¹ Refer to Chapter 4 (the first case study): Atiku's speeches to MPs and CSOs explain why he embarked on the project to stop Obasanjo's third term.

costs of organizing movements to forestall the entrenchment of power by their respective incumbent presidents. Their individual hope and ambition to become presidents depended on the retention of presidential term limits and the benefits of an open-seat contest.

Further, this desire and interest to acquire representation in the next government appeared a significant motivation for some dissenting elites to enforce compliance. Clearly, some of the dissenting elites, especially Atiku and Orji Kalu of Nigeria, and Christon Tembo of Zambia, nursed visible ambitions to succeed their respective presidents. These political actors stood to lose the most politically, if the constitutional amendments allowed their incumbent presidents to run for more terms. These actors were prepared to deploy any possible strategy to enforce compliance in order to realize their political dreams. Indeed, vice-presidents Atiku Abubakar, Christon Tembo, and Orji Kalu coordinated the opposition against the removal of presidential term limits, and subsequently contested the presidency after successfully enforcing compliance in their countries. Their political ambitions partly motivated their commitment to mobilize other pressures to enforce compliance on their presidents.

Other political elites who have become political liabilities and enemies of the incumbent regimes desired a change at all costs in order to restore their political hope. The political future of some former presidents, ex-ministers, and ex-MPs depended

on leadership alternation.⁴⁴² For instance, former Presidents Ibrahim Babangida and Muhammadu Buhari of Nigeria and ex-president Kenneth Kaunda of Zambia all supported and invested in the elite opposition against the removal of presidential term limits.⁴⁴³

Most ex-power holders wanted to come back to power. Though still nursing presidential ambition, some needed time to brush-up their political standing among the public after having lost some popularity as former dictators. By joining elite activism to demand compliance, they struggled to be on the right side of history and used the chance to regain their lost popularity. Kenneth Kaunda, Ibrahim Babangida, and Muhammadu Buhari of Nigeria fit this description.

In the Nigerian case, ethnic interest played a further role in shaping political elite strategy to enforce compliance. The ruling party had adopted an elite pact in 1999 that allowed presidential power to rotate every eight years among the six political zones. This was to solve the power-sharing problem and reduce power domination by a particular section of the country. Obasanjo had utilized the chance of the South West by ruling for two terms. A third term for Obasanjo would have meant an unofficial abrogation of the elite pact and a domination of other geopolitical

⁴⁴² Two presidents of the Nigerian Senate, Anyim Pius Anyim and Adolphus Nwagbara, both deposed by Obasanjo, joined forces to enforce compliance on him because their future political life depended on the ousting of Obasanjo or the defeat of his third-term ambition.(Author's interview with Nwagbara, Abuja, Nigeria, November 2012.)

⁴⁴³ In an author's interview with Mark Chona, the organizer of OASIS (the coalition against the removal of term limits in Zambia), Chona remarked that Kenneth Kaunda had been ready to sacrifice everything to stop the third-term ambition of Chiluba because of the humiliation that Kaunda had received from Chiluba.

groups by the South West. It would have also meant depriving the North of ‘their turn’ to produce the next president, according to the internal arrangement of the ruling party.

For the northern regional political elites, opposition to Obasanjo’s third term was a means to enforce the informal pact and understanding that presidential power rotates among the regional groups. In this regard, third-term opponents from northern Nigeria aligned their desire to enforce compliance with their desire to enforce an elite pact made by the ruling party. This contradicts the view that resistance from northern elites was purely ethnic resistance aimed at capturing state power.⁴⁴⁴ However, the case studies show that the political interest of the dissenting elites and their mobilization of various democratic stakeholders boosted democratic experience in Nigeria, Zambia and Malawi. Their political interest expanded the democratic process and further raised political consciousness in the polity in comparison with Uganda, Cameroon, Togo and Gabon where political interests and challenges have been low.

8.4.5 Strategic Regime Miscalculations

O’Donnell and Schmitter (1986) note that regime miscalculations and disposition during a period of political liberation often have far-reaching consequences. Regime miscalculations are not limited to periods of political

⁴⁴⁴ See for instance Lewis 2009; Campbell 2011; and Armstrong 2010,

liberation, however, but also occur during major political crises as part of the process of political and democratic growth. In all the cases under study, the respective regimes made a number of strategic errors of interpretation and judgment. All three incumbent presidents adopted strategies that worked against their regimes, weakened the potency of the constitution amendment bills, and galvanized support for the opposition elites by inducing sympathy and protection for the dissenting elites.

In the Malawian case, some internal dissidents met vehement intimidation and violence after they indicated their opposition to Muluzi's amendment bill. Jaap Sonke and Kaleso lost their jobs as ministers, while Brown Mpinganjira a chieftain of the ruling party, were all forced out of the ruling party for indicating their opposition to the amendment bill. MPs that indicated a divergent opinion lost their seats within the party with a consequent threat to withdraw their parliamentary seats. Muluzi's regime also went so far as to charge ministers with corruption or the threat of imprisonment, as in the case of ex-minister Kaleso.⁴⁴⁵ The Young Democrats attacked media houses, kidnapped and molested journalists who showed sympathy for the opposition view.

The combination of these attacks and the assault on clerics by regime loyalists complicated issues for Muluzi and made the realization of the amendment bill appear

⁴⁴⁵ The former chairman of the PAC, Boniface Tamani, confirmed in an interview with the author that Muluzi's regime administered corruption charges and subsequent imprisonment to those who challenged his attempts to amend the Malawian constitution. According to Tamani, "the Church and the Courts had to come in to save the nation such injustice and embarrassments." (Limbe, Malawi, October 2014.)

remote.⁴⁴⁶ The news of such human rights abuses were not only received with misgivings in Malawi, but were also smuggled out of Malawi to be broadcast both on South African Radio and the BBC World Service (Brown 2004). The incidents aroused both domestic and international opposition, engendering spontaneous protests that surprised both dissidents and the government.⁴⁴⁷ Foreign donors like the United States, Canada, and the United Kingdom, who had been slow to meddle in internal Malawian politics, found reasons to suspend their foreign aid to Malawi on the basis of human rights abuses.⁴⁴⁸ The suspension of foreign aid to Malawi not only motivated the dissenting elites, but, more significantly, reduced the capacity of Muluzi to sponsor the amendment bill project (Morrow 2005).⁴⁴⁹

The Zambian case was not different. The persecution of local and foreign NGOs who spoke out against the third-term ambition of Chiluba attracted both international and local attention.⁴⁵⁰ The battering and physical assault of the opposition by regime loyalists drew local condemnation and resulted in the suspension of foreign aid by donor agencies.⁴⁵¹ Mark Chona, coordinator of the

⁴⁴⁶ Author's interview with Dr. Blessing Chissinga, Univeristy of Malawi, Choba, Kenya, October 2014.

⁴⁴⁷ Author's interview with Jaap Sonke, former Junior Finance Minister in Malawi, Lilongwe, Malawi, October 2014.

⁴⁴⁸ Author's interview with Boniface Tamani, former chairman of the PAC, Limbe, Malawi, October 2014

⁴⁴⁹ Ibid.

⁴⁵⁰ Author's interview with Mark Chona, Lusaka, Zambia., October 2014.

⁴⁵¹ Ibid .

OASIS coalition, remarked, “We were able to attract both local and international support because President Chiluba had made a number of strategic errors.”⁴⁵²

The courts also weighed in after the regime illegally declared the seats of the MPs who opposed Chiluba’s third term vacant. Perhaps the most singular strategic error made by the Chiluba regime was the arrest of former president Kenneth Kaunda on trump-up coup charges, ostensibly aimed to reduce the former president’s capacity to present a formidable challenge. The international and diplomatic uproar in response to the arrest of Kaunda forced Chiluba to quickly revert Kaunda’s detention to house arrest.

This miscalculation also exposed the hypocrisy of President Chiluba as a proponent of human rights. President Chiluba had boasted of his human rights records, which had apparently attracted initial international support for his regime (Sardanis 2014). But after the arrest of Kaunda on trump-up coup charges, most donor countries quickly changed their view of Chiluba, who had been hitherto referred to as “the darling of international community” (ibid.). According to Sardanis, Chiluba initially enjoyed considerable international support for his effort in liberalizing the Zambian economy. Sardanis argues, however, that the lack of international support for Chiluba’s third term was a direct consequence of human rights abuses which became manifest in his second term as president. The strategic

⁴⁵² Ibid.

error further diminished Chiluba's popularity and caused massive defection from his support base (ibid).⁴⁵³

The case in Nigeria was not different. Obasanjo's regime arrested dissidents on corruption charges, declared the seat of the vice-president vacant, and used both the police and the Economic and Financial Crimes Commission (EFCC) to intimidate and assault opponents.⁴⁵⁴ Obasanjo's abuse of human rights did not as such attract international attention, but it increased local resistance and created unity among various sectors of opposition. For instance, the courts responded to Obasanjo's impunity and abuse of human rights by providing the opposition with legal support and protection.⁴⁵⁵

There is no leader without support and loyalty, even the most cruel of dictators. However, Shepsle insists that leaders who intend to retain their loyalty and support-base should be austere with their use of punishment as a strategy against dissenting supporters (2010). According to Shepsle, a mere threat serves a better purpose than excessive and outright punishment: intimidation and violence could turn a (dis)loyal follower into an alternative leader. Shepsle argues that leaders who use

⁴⁵³ Also confirmed in the author's interview with Mark Chona and Swithin Haangala, director of Zambezi FM Radio, Lusaka, Zambia, October 2014.

⁴⁵⁴ Author's interview with Orji Kalu, Abuja, Nigeria, November 2013

⁴⁵⁵ Author's interview Justice Mary Odili, Abuja, Nigeria, October 2013.

outright punishment to force loyalty end up losing their supporters to alternative leaders, often chosen or self-appointed from among the victims.

This appears to be the case in the three case studies where incumbent regimes could not manage dissidents and opposition strategically. The opposition elites possibly pushed the incumbent regimes into disproportionate punishment of dissidents, which attracted international and donor attention, sympathy from the masses and courts, and support from the churches as in the Malawian and Zambian cases. It further redefined the interaction between the incumbents, the dissenting elites and the judiciary, and further transformed the opposition leaders into political entrepreneurs and alternative leaders. The combination of attention, support, sympathy, and entrepreneurship arising from regime error directly and indirectly mobilized support for the dissenting elites and contributed in the compliance outcome in Nigeria, Zambia, and Malawi.

In Uganda and Namibia, where the removal of presidential term limits was swift and successful, there were fewer reports of instances of intimidation and violence. Actual implementation of issued threats was not manifest, even when the ruling party expelled a few political elites who opposed the amendment bills in Uganda and Namibia. Reports show that the regime minimally dismissed government officers in reference to the amendment in Uganda and Namibia, except those who chose to resign on their own accord. Thus, international and local attention was effectively minimal.

There was equally little need for judicial sympathy and support, as the amendment bill appeared to produce minimal political victims or casualties. It may be argued that strong opposition against the removal of presidential term limits was absent in Uganda and Namibia, or that the regimes strategically suppressed the opposition. The capacity of the regimes to keep the limited opposition that rose within the fold gave them the upper hand to checkmate and manage the dissidents and opposition without causing a shipwreck of the ruling parties. However, the lack of sufficient elite dissidence in Uganda and Namibia suppressed the opportunity to force the incumbents into strategic mistakes, expand the democratic process and create an alternative platform for the convergence of other social forces to demand compliance, as was the case in Nigeria, Zambia and Malawi.

8.4.6 Regional and International Influence

Many scholars have emphasized the impact of international actors on political elite behavior. Salih (2005) and Salih et. al (2007) note that party-to-party network and regional parliamentary initiatives could increase the prospects of democracy in Africa. Unfortunately, these have not been allowed to fully develop because of the seeming penchant of African presidents to dominate political parties and parliaments. However, a mixed reaction has confronted presidential term limits in Africa. While Mugabe went on to his seventh mandate, Nujoma in Namibia secured the first constitutional amendment for a third term in Africa. On the other hand, Joachim

Chissano of Mozambique did not attempt to prolong his tenure and went on to publicly criticize such attempts elsewhere (Morrow 2005). The example of Thabo Mbeki who rejected third-term offers in South Africa, despite calls from within the ruling African National Congress (ANC) for a third term, demonstrated that constitutionalism could be achieved on the continent.

In 2004, Mbeki called for the respect of constitutionalism and compliance toward presidential term limits by congratulating those who labored to enforce compliance in Malawi and Zambia, and by praising the defeated incumbent presidents for accepting defeat in line with their constitutions (SACBC 2004). In the same year, Kofi Annan, the Secretary General of the United Nations, delivered the opening speech at the 2004 African Union (AU) summit addressing the importance and respect for presidential term limits. Kofi Annan challenged and questioned the morale behind the manipulation and fraudulent amendment of constitutions for the sole purpose of allowing presidents to retain power beyond their prescribed terms. He called African presidents to order, saying, “Let us always remember that constitutions are for the long-term benefit of society, and not the short-term goals of the ruler. Let us pledge that the days of indefinite one-man or one-party governments are behind us.”⁴⁵⁶

Political appeals are effective when backed by actions. Usually, incumbent presidents do not back such appeals. However, such calls as by Annan appeared to

⁴⁵⁶ *This Day*, 7 July 2004.

have motivated some political elites to demand strict compliance in Africa.⁴⁵⁷ A year after Kofi Annan's speech Mussoveni succeeded in removing presidential term limits in Uganda. Subsequent attempts failed in Nigeria in 2006 and in Senegal in 2012. Of sixteen challenges between 1998 and 2004, nine became successful repeals, while two failed. Since 2004, when Annan made his appeal, there have been five challenges and two ongoing debates. While three have succeeded, two have failed indicating a decrease of about forty percent. The promotion of democracy by the African Union and the open support for constitutionalism among African leaders like Kofi Annan and Thabo Mbeki, seem to exercise a major influence on some political actors seeking to demand and enforce compliance.⁴⁵⁸

On economic, geopolitical, and strategic considerations, international actors have had a significant influence on elite behavior and choices on democratization (Bratton and van de Walle 1997; Maltz 2007; Villalon 2005; Moyo 2009; Smith 1996; Yilmaz 2009). The argument hinges on the hypothesis that donor contribution, development assistance, and democracy promotion as foreign policy can exert international pressures on actors in new democracies (Bratton and van de Walle 1994). Likewise, aid conditionality can trigger both positive and negative results in countries that largely depend on external aid (Carothers 1999). The international and

⁴⁵⁷ Vice-president Atiku Abubakar of Nigeria cited Kofi Annan several times in his public statements against third-term in Nigeria, indicating the high impact of Annan's statement.

⁴⁵⁸ Atiku Abubakar and Orji Kalu made reference to regional political situations during the controversy in Nigeria to legitimize their insistence on term limits compliance. Atiku specifically likened Nigeria to a 'banana republic,' Obasanjo's third term succeed, whereas small countries like Zambia and Malawi were able to defeat it.

regional communities have also sanctioned some military units for intervening in or destabilizing new democracies, as was the case in Mali in 2012. Some elected leaders have been discouraged from manipulating democratic rules in their favor either by facing the risk of lack of recognition by a section of the international community, or by being forced to share powers with the opposition. The electoral manipulations and consequences in Kenya in 2007 and in Ivory Coast in 2012 present ready examples. Still, the impact of donor agencies and international actors has been impressive in motivating some political elites into political activism to demand and enforce compliance.

In the Malawian case, the withdrawal and suspension of development assistance by the United States and Danish governments in 2001 and 2002 strengthened the resolve of dissenting political elites to demand strict compliance from President Muluzi.⁴⁵⁹ The dissenting elites in Malawi were emboldened when in 2001, the United States Embassy brought pressure on the regime by suspending development aid to Malawi for lack of accountability to human rights issues (Morrow 2005; Brown 2004). Though the United States publicly claimed to respond to the increasing lack of financial and political transparency by Muluzi, the suspension and large reduction of American development aid to Malawi from January 2001 was implemented as a reaction to Malawi's regression in the democratic process.⁴⁶⁰

⁴⁵⁹ Author's interview with Boniface Tamani, former chair of the PAC, Limbe, Malawi, October 2014

⁴⁶⁰ Boniface Tamani insists in an interview with the author that the suspension of funds was engineered by the opposition elites as a direct response to President Muluzi's manipulation of democratic procedures in pursuit of the amendment bill.

Muluzi seemed unperturbed by similar international reactions and continued with his third-term agenda. In reality, however, total suspension of donor funding was risky for a country that depended hugely on foreign aid. With the suspension of funds to Malawi, elite dissidents became increasingly emboldened and encouraged to demand compliance from President Muluzi.⁴⁶¹ They also capitalized on the shortage of funds accruable to the regime to make demands that the regime could not fulfill, leading to the crash of the amendment bill in Malawi.

Arap Moi of Kenya faced the same situation, which the internal opposition elites capitalized upon to demand compliance. In the Nigerian case, the statement from the United States Department of State on the proposed constitutional amendment became a rallying point for the non-loyal political elites. Though the reason for opposing the third-term agenda was more strategic than it was democratic promotion, American concerns reinforced the resolve of the opposition elites to move against Obasanjo's third term. Accordingly, Atiku and Kalu alluded to the warning from the United States severally in their anti-third term rallies (El Rufai 2012). Some political elites, who probably were still sitting on the fence, may have been motivated to join the anti-third-term group because of American concerns regarding third term constitutional amendment in Nigeria.⁴⁶²

⁴⁶¹ Ibid.

⁴⁶² Orji Kalu has alluded in multiple interviews in various news dailies that his contact with President George Bush encouraged him and other opposition elites to insist on term limits compliance in Nigeria.

International actions, though unintended and undirected, could influence the choices and actions of domestic players. I have noted in the case studies how international and donor actions became strategic in influencing and shaping elite composure to demand compliance. However, other goals may be more important and decisive in shaping the interactions of some international actors with many new democracies. International actors have not been consistent in pressurizing and enforcing compliance on power entrenching regimes. In some instances, international actors have actually enabled the efforts of authoritarian leaders seeking to entrench their holds on power (Villalon 2005, Bratton and van de Walle 1997). Nonetheless, the case studies show that international actions have exercised some influence on elite decisions to demand presidential term limits compliance.

8.4.7 Elite Political Culture

Elite political culture or “learned norms and patterns of behavior” (Villalon 2005) plays a significant role in the shaping of elite behavior and in influencing the actions of political elites. Elite political culture played a role in shaping the behavior of the actors that chose to demand compliance in Nigeria, Zambia, and Malawi. For scholars like Levine (1978), Wildasky (1978), Burton, Gunther, and Higglely (1992), elite political culture and actions can generate subjective frameworks that shape values, filter information, and establish the cognitive repertoire of potential courses of action. In the three case studies, these three overlapping issues deserve consideration.

In this regard, the way in which key political elites viewed and valued the democratic process is very important.

To some extent the case studies demonstrate that the incumbent presidents did not view the democratic institutions as essentially “good,”⁴⁶³ Presidents Obasanjo, Muluzi, and Chiluba consciously chose not to improve on the inherited democratic institutions within their presidential tenures. Instead of consolidating democracy, they invested considerably in the consolidation of personal power. This was probably the case because improvement in democratic institutions would have resulted in limiting their own powers. They chose therefore to preside over weak, moribund, and decayed institutions while their personal political powers soared and the extension of their elected terms appeared increasingly accessible. The maintenance of such personal power is dependent on elite support. A rupture among the ruling elites is necessary to limit the entrenchment of state power, challenge executive legitimacy, and awaken democratic accountability (O’Donnell et al 1986; Higley and Burton 2006). The sustainment of elite docility and amenability supports the entrenchment of power and flattens opposition politics.

Until the third-term debates, there was no significant rupture within the ruling political parties in the case studies. This indicates a type of docility as motivating factor for incumbent presidents to challenge presidential term limits. While elite

⁴⁶³ Author’s interview with Dr. Blessing Chissinga, University of Malawi, Choba, Kenya, October 2014.

docility remained intact in Namibia, Uganda, Gabon, Cameroon, Burkina Faso, and Togo after the introduction of presidential term limits debates, the cohesion and docility ruptured through elite activism in Nigeria, Ghana, Kenya, Malawi, Zambia, and Senegal during the presidential term limits debates. All countries witnessed cracks in the ruling parties and resulted in defections. While rupture in the ruling parties challenged some institutions into action, strengthening and unifying political opposition, (Higgley and Burton 2006), elite docility sustained and strengthened the entrenchment of power by incumbent regimes in Gabon, Cameroon, Uganda, Togo, and until recently, Burkina Faso.

Conclusion

In this chapter, I have discussed various levels of interactions that existed between the presidents and various institutions as observed in the case studies. Apart from Nigeria, Zambia and Malawi where attempts to repeal term limits were repelled, I made reference to Uganda, Cameroon, Namibia, Togo, Burkina Faso and Gabon where term limits were successfully repealed. I made additional reference to Rwanda and Burundi where debates were on to repeal term limits. Observations in these cases show how incumbent presidents dominated and determined the outcome of their interactions with various democratic institutions. It also shows that most institutions largely remained docile before term limits controversies in these cases. My observation shows that through elite dissidence, individual political elites redefined incumbent-institutional interaction by providing alternative political and social

platforms for the convergence of various social forces and institutions. I went further to discuss various strategies mobilized by both incumbent presidents and dissenting elites to win the support of various institutions to either repeal term limits or demand compliance. These strategies became essential in unbundling and expanding the democratic space hitherto monopolized by incumbent presidents. Though the strategies employed by dissenting elites proved effective in all the case studies, their degrees of effectiveness differed. While elite size, political experience, and money politics were more effective in Nigeria, international support and elite cohesion became crucial in motivating elite dissidence in Zambia and Malawi. The convergence of different pressures through elite dissidence became a deciding factor for compliance outcome in Nigeria, Zambia and Malawi. The lack of this convergence due to the absence of elite dissidence was therefore responsible for the repealing outcomes as was the case in Uganda, Cameroon and Namibia. My analysis of the importance of elite (in)action has not been strictly based on data collected from the three case studies of enforced compliance, but also on various other cases where presidential term limits were successfully repealed by incumbent African transitional presidents.

I will conclude this study in the next chapter. I will briefly discuss the impact of political elite pressure on the technical consolidation of the democratic process within these case studies. I will further analyze the fate of presidential term limits in African democracies before concluding with remarks concerning the implementation of presidential term limits in African democracies.

Chapter 9: General Conclusion

9 Introduction

The study of democracy has kept the faces of political elites long hidden in the analyses of democratization and consolidation processes, particularly in African democracies. Political elites are ostensibly neglected because of the tendency to view political elites as self-interested, oppressive automatons and extensions of particular regimes as discussed in the introduction of this study.⁴⁶⁴ As a result, there exist a tendency to still view political elites collectively as ultimately lacking in the capacity for resistance. However, far from being self-interested, oppressive automatons or regime extensions acting in blind obedience, political elites are complex social forces and structures bound in loyalties and identities that span across various sectors (Shepsle 2010), with identities of their own. Theories of social cohesion, insists that these multiple levels of loyalty and identity, affect perception of a given political crisis and the boundaries within which both the regime and dissenting elites are able to act while retaining their interests (Villalon et al 2005).

The dynamics of presidential term limits politics force a consideration of agency and contingency. As observed in the case studies, while the regimes attempted to coerce political actors to their own desired end through intimidation and patronage,

⁴⁶⁴ Refer to my definition of 'Political Elites' in the Introduction, where I specifically distanced my use of political elites in this study from the work of scholars like Pareto & Finer (1969); Mill (1958; Fatton) (1992), Bayart, Chabal and Daloz (1999)

the dissenting political elites attempted to rupture executive loyalty through dissidence and activism. The combination of elite dissidence and executive intimidation appeared to have pushed dissenting elites into defection, which further attracted more intimidation and directed violence, with further dissidence, activism and intimidation. Elite resistance further forced a form of interaction with the institutions, CSOs and the international community for legitimacy and protection, even with other institutional and extra-institutional forces, including the judiciary and the church. This collaboration and linkage mostly yielded significant pressures that political dissident groups bundled to sustain their demand for compliance. Institutions consequently experience liberation from executive siege, which widens the democratic space. Though the role of loyalty may appear to be a given, the reality is more complicated. The strategic interaction of actors and other sectors in a political context of presidential term limits politics may play out in a hidden sequence

In this thesis, I have examined three main cases of failed attempts to repeal presidential term limits in Nigeria, Zambia, and Malawi. I have explored how elites react to the politics of presidential term limits and the outcomes of compliance or non-compliance. I have also examined two other cases of partial enforcement (Ghana and Kenya) and three extra cases of non-compliance (Cameroon, Uganda, and Namibia). Nigeria, Zambia, and Malawi served as the main case studies for this research, and five extra cases provided necessary comparisons. Empirical and scholarly examinations of the cases provided a deeper understanding of how the events surrounding the presidential term limit politics unfolded and progressed to a

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certain outcome. The methodological approach of this study was effective in establishing case-specific findings. It determined the usefulness of political elite dissidence and activism in the study of presidential term limits and its enforcement in new democracies.

The African democratic experiment has rather been puzzling. Each writer seems to have a specific view and understanding of democratic processes in Africa, while research into African democracy remains in progress. This thesis cannot make any claims regarding the generality of case-specific findings given the partially inductive nature of the study (concentration on post-Cold War African democracies). However, I offer evidence to support the wider applicability of lessons drawn from the new democracies in question. The role of political elites in enforcing term limits compliance in African post-Cold War democracies is worthy of analysis since their study also informs on broader issues of democracy consolidation. The application of this research is timely, because the continent has recorded the world's highest number of presidential term limits repeals within a brief twenty years of democratic experiment.

9.1 Synthesis

In the remaining part of this conclusion, I will develop a synthesis of case-specific findings to offer a broadly applicable, elite-focused explanation of presidential term limits politics and their implementation in new democracies.

I will conclude the study, which set out to discuss the role of political elites in enforcing presidential term limits in post-Cold War African democracies. I will return to the hypothesis and research questions that have guided the study up to this point. The aim is to probe the extent to which these have corresponded with case-specific findings and observations made in my research.

I claim that political elites are likely to mobilize to enforce presidential term limits compliance when their political interests depend on the survival and expansion of the democratic space. I claim also that the process of repealing presidential term limits is less likely to succeed without the active involvement, support, and connivance of key political elites, both internally and externally. Political elites have the capacity to produce and apply pressure (O'Donnell et al 1986; Higley & Burton 2006), which can yield term limits compliant outcome. By forming internal pressure groups, some political actors rupture political loyalty and cohesion, force incumbent regimes to make strategic mistakes, and finally create room for alternative platforms and defection that ultimately become essential for mobilizing and bundling pressures to enforce compliance.

The following thesis questions guided my study: In what ways do political actors mobilize to demand and enforce presidential term limits compliance, especially in new democracies? What factors influence the political choices and behaviors of particular political elites to mobilize pressure against the removal of presidential term limits? Have transition incumbent presidents in post-Cold War African democracies

voluntarily allowed power to alternate without formal or informal pressure to demand compliance from them? Could democracies achieve such compliance without the involvement of key political elites? The case studies and beyond discovered an active and leading role of particular political elites in galvanizing, mobilizing and bundling pressures to demand and enforce term limits compliance.

9.2 Assessment of Case-Specific Findings and Outcomes

I begin the assessment with a review of the broad conclusions established during the case studies, focusing on the outcomes of enforced compliance. In this study, I have focused on the outcome variables of enforced-compliance, in an abstract and dichotomous fashion---without necessarily knowing why some political elites reacted as they did towards attempts by incumbent presidents to repeal presidential term limits. However, I expected the emergence of further deviations and variables during my research.⁴⁶⁵ Variance did emerge in the outcomes, especially between the types and extent of strategies, linkages, alliances, and responses to intimidation by dissenting political elites. The outcomes are categorical when considered in the context of the processes and mechanisms that led to them. Categorizing and

⁴⁶⁵ Alexander L. George and Andrew Bennett, *Case Studies and Theory Development in the Social Sciences*, *BCSIA Studies in International Studies*. London and Cambridge: MIT Press, 2005, 241. Cf. *ibid.*84.

classifying these processes offer a deeper understanding beyond the abstract terms and figures of particular outcomes.

Table 7: Case Specific Findings of the State of Democracy Development in Some African democracies

Democracies	Power alternation	Party alternation	Two election turnover	Regular elections	Electoral competition	Level playing ground
Nigeria	2007 & 2011	2015	Yes	Yes	Yes	Yes, after 2007
Zambia	2004	2009, 2014	Yes	Yes	Yes	Yes, after 2004
Malawi	2004	2009 2014	Yes	Yes	Yes	Yes, after 2004
Ghana	1999, 2009, 2013	1999, 2009	Yes	Yes	Yes	Yes
Kenya	2002	2012		Yes	Yes	2007 exceptio

						n
Uganda	No	No	No	Yes	No	No
Cameroon	No	No	No	Yes	No	No
Gabon	Yes, death of the president	No	No	Yes	No	No
Togo	Yes, death of the president	No	No	Yes	No	No

Source: Author's fieldwork and literature analysis

The classification of outcomes can help to refine future studies that will focus on different kinds of presidential term limits outcomes. For instance, recurring repertoires of elite political defections, such as defection by intimidation or defection by disguised disloyalty, are particularly suitable for further in-depth studies. Such approach supports new trends in the scholarship of democratization, which examines the relationship between political elites and external institutions, as well as CSOs and the international community (including foreign donors).

Interaction and linkages between the dissenting elites and various institutions, including the Church and other sectors, created a resistance structure. This interaction emerges as the most interesting, academically fruitful, and policy-relevant aspect of

these cases. A comparison of the effects and the impacts of these interactions and other unique features beyond, results in observations that can be used to create a general picture of the operation of elite activism in the process of enforcing presidential term limits compliance.

Concealed (dis)loyalty or mistaken assumptions about loyalty were found to be particularly important in the examined cases. Elite resistance often reveals information about true loyalty and the nature of followership. In the three main case studies, loyalty was seen as self-evident prior to the presidential term limits controversies. The spate of intimidation by Muluzi on the dissenting elites disclosed unrevealed (dis)loyalty and mistaken followership, which prior to the third term controversy remained latent. The revelation of hidden and assumed (dis)loyalty leads to alterations in executive loyalty and the emergence of alternative leaders. The alteration in executive loyalty and emergence of alternative leaders has great influence in altering political equations in the parliament, judiciary, civil society, and the international community.

My research has found that the ability and capacity of dissenting elites to mobilize the wide spectrum of sectors to produce a bundled pressure is especially significant in determining the outcome of presidential term limits politics. In the cases examined, the ability of political dissidents to mobilize key sectors formed the core of the resistance platform to which the rest of the structure linked. The linkages and interactions dominating the process structure exerted significant influence on

perceptions of resistance, intimidation, threats, the ensuing external and institutional reactions, and the actors in need of protection. These perceptions resulted in divergences and secondary goals during the debates.

9.3 Other Findings in the Research

Since the post-Cold War democratization in Africa began in 1990, only six transitional incumbent presidents have voluntarily allowed power to alternate. Four out of six alternations that occurred after the transition elections were seemingly induced or pressured, indicating that about eight-five percent of all power alternations have either been partially or fully enforced. Behind any visible voluntary compliance is a certain pressure, sometimes invisible, but always effective in enforcing compliance.

Political elites (as initial moderate pressures on the president) mostly generate such pressures in the ruling party internally. In some cases, initial and internal moderate elite pressures have had the capacity to produce compliance-outcomes. Ghana and Kenya represent cases where the level of internal elite moderate pressures was sufficient to achieve compliance-outcome. I have referred to these instances as partial enforcement, because the incumbent presidents withdrew from pursuing amendment bills after noticing the seriousness of the internal resistance mounted against their proposed amendment bills. These cases also show that most transitional

incumbent presidents have involuntarily complied with term limits provisions, only allowing power to alternate because of pressure.

On the other hand, the Nigerian, Zambian, and Malawian cases represent full pressures. The incumbent presidents strongly overcame the initial moderate resistance mounted by internal elites against their intended amendment bills. By securing constitution amendments of their parties, the incumbent presidents went on to introduce a bill in parliament seeking to alter presidential term limits provision in their various constitutions.

The case studies clearly show that political dissenting elites mobilized and at the same time worked in alliance with other sectors in order to achieve a compliance outcome, signifying the importance of strategic linkages in demanding and enforcing term limits compliance.

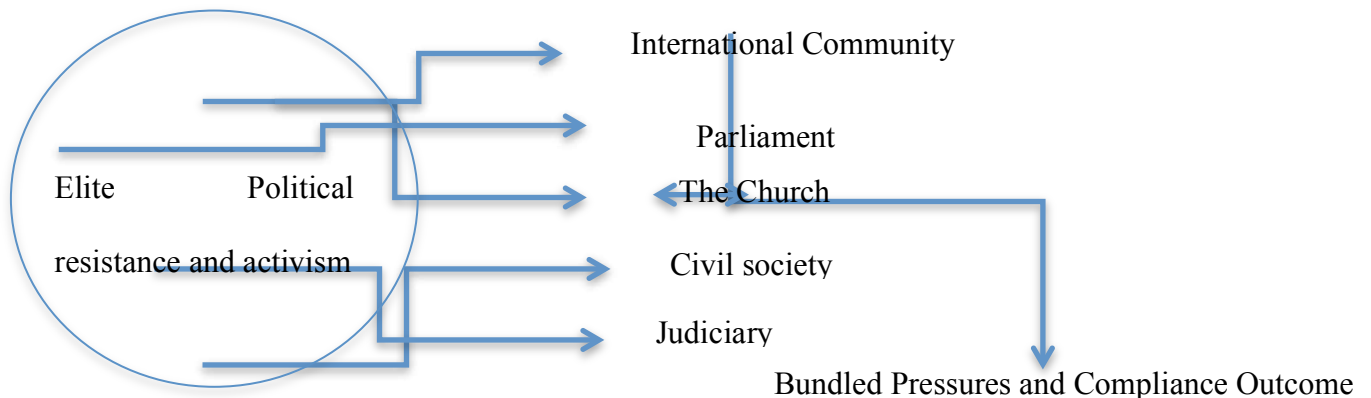


Figure 7: Political Elite impact on Institutions

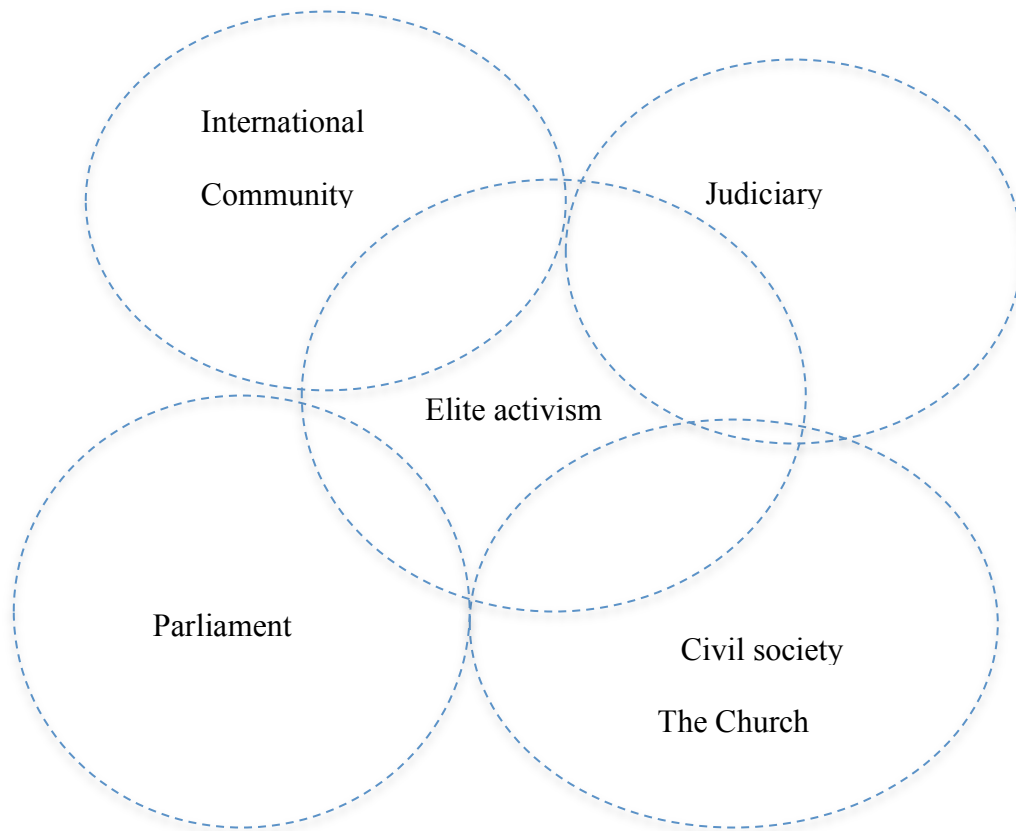


Figure 8: Political Elite Interaction with Other Sectors

The political dissenting elites needed the linkages to create popular attention, seek protection, source for funds, and galvanize pressures against the regime.⁴⁶⁶ The instrumentality of the opposition leaders was central in mobilizing these linkages. Their contacts, wealth of experience, and economic strength sustained the interaction and worked as a counter strategy against the regimes. In most cases, the legitimacy and credibility that sustained the linkage and elite–institution interaction had a twofold source: the popularity of leading dissenting figures, as in Nigeria; and the sincerity of contracted arrowheads, as in Zambia.

Could other sectors have achieved the compliance outcome in Nigeria, Zambia, and Malawi without the dissenting elites? Could the civil society, for instance, have enforced compliance without the support of particular political elites in Malawi, Nigeria, or Zambia? This would have been difficult to achieve, because in most new democracies, civil society is amorphous with mass action. Mass action is nameless, devoid of ideology and focus. Many people participate in protests not out of strict support for the political view, but out of spontaneity and for fun (Shapls 2010). An entrepreneurial leader is needed to lead a focused, mass action to a desired outcome (ibid).

Many communities overthrow their dictatorial regimes by way of mass protests and actions anchored in either international or elite defection (Brown 2004; vonDoepp 2005). Political entrepreneurs who bore the costs of mobilizing and of

⁴⁶⁶ Author's interview with Mark Chona, Lusaka, Zambia, October 2014

sustaining group focus guided these protests. I have already given an example of Frederick Chiluba of Zambia in 1991, who as leader of the Labor Union, benefited from the regional and international pressure on Kenneth Kaunda to yield to multiparty democracy. Atiku Abubakar and Alex Ekwueme mobilized a group under the Nigerian PDM and G-23 to pressure the military out of power in 1999. Chihana, an ex-exile, and Bakili Muluzi capitalized on Church activism, defection, and international pressure in 1992 to mobilize the sponsored mass protests that ended the regime of Banda in Malawi.

While such mass involvement from civil society is necessary for democratic transition and initial democratization, it does little for the enforcement of term limits compliance. The planning and execution of strategies for the removal of term limits are remote, elite based, and distanced from the masses and grassroots levels. For instance, all the successful repealed cases of term limits were parliamentary induced, while three of the failed four cases employed also ended in parliament. Only one ended in a referendum where the masses had a chance to participate in the process.

Moreover, most MPs reserve about eighty-percent of their loyalty to their respective parties, and presidents/godfathers, since their political future chiefly depends on approval and support from their political ‘godfathers.’ “*Onye fee Eze, eze erou ya aka*” is a cultural political ideology in most African cultures. It translates literally to “if you honor the king, you can become one.” Those who intend to grow politically honor the power holder and ‘god-fathers,’ not the masses.

“Onye bu igu ka ewu na eso” is another adage that defines the political culture in African democracies. Literarily, it means, “he who dishes out favors controls more followership than he who has less to dispense.” Mass protests have achieved little in enforcing compliance without the support of specific political elites within and outside the government. Both Uganda and Namibia possess an array of active civil society. The opposition and their protests against the removal of presidential term limits in Uganda and Namibia produced little pressure because they lacked support from political actors who could change public opinion, influence, or alter political loyalty. Furthermore, political actors acting as political entrepreneurs are necessary to provide funding, leadership, and the necessary linkages with other political elites, the courts, the media, the church, and an array of local and international NGOs, all aimed at bundling pressures to enforce compliance.

9.4 Enforced Compliance and its Impact on Democratic Consolidation

The optimal path and expectation of democratization in post-Cold War African democracies was to move from new and nascent democracies toward a ‘consolidated democracy’ (Haerper 2009). I will briefly note the level of consolidation these case studies have so far achieved since the enforcement of presidential term limits compliance. I will base assessment of post-enforcement consolidation purely on Huntington and Beetham’s hypothesis of power and party alternation, open-seat contestation, robust electoral competition, two electoral

turnovers, and mass participation in the electoral and democratic processes. According to Huntington and Beetham, one can determine if a particular democratic process is consolidating by the identification of the technical qualities mentioned above. Schelder adds to this, identifying consolidation as the process through which a democratic system has overcome a slow democratic death. For Linz, the democratic process must guarantee tenure limitation (pro-tempore), power alternation, rule of law, electoral competition and popular participation of the electorate in the democratic process.

However, Freedom House and Polity IV index have outlined what constitutes democracy consolidation, differing from the definitions above. For Freedom House and Polity IV, a new democracy consolidates when it fulfills the criteria for a liberal democracy: rule of law. It boasts a clear separation of powers, a vibrant civil society (independent from the state), functional democratic constitutions and associated constitutionalism, pluralism of political actors and institutions, full respect of human and political rights, and freedom of media and political association. Additional criteria include the capacity of a new democracy to fulfill the minimum requirements of free, fair, and competitive multi-party elections, as well as the visible consolidation of political and legal institutions (Haerper 2009). As Linz (1996) notes, democracy can be said to have stabilized when an absolute majority of the citizens support the democratic process, as ‘the only game in town’.

The above requirements represent the substantive characteristics of a consolidated democracy. However, historical research on democratic development generally agrees that democracies never achieve substantive consolidation prior to technical consolidation, and never in less than twenty years after transition. Most post-Cold War democracies are far from achieving substantive consolidation, since most of these democracies are still between ten and twenty years of their democratic experiment. Other empirical indicators and indices can measure the process of democratization and consolidation. Before substantive consolidation, new democracies that have experienced several years of authoritative and dictatorial regimes first require technical consolidation. I consider technical consolidation as a pre-requisite for substantive consolidation. Since the period under investigation falls within the first twenty years of democratic experiment in the chosen case studies, I focus on technical consolidation in my analysis of the post-enforcement impact on the selected case studies.

As mentioned above, scholars like Beetham, Huntington, Cheeseman, and Linz enumerate factors that constitute technical consolidation: leadership and party alternation, open-seat contestation, regular elections, electoral competition, and a level playing field for contestants. Though substantive and technical consolidation processes seem to overlap in certain areas, many observers of new democracies prefer technical consolidation as a faster route, which lays the foundation for substantive consolidation (Villalon 2005; Linz 1996; Bratton and van der Walle 1997).

As has been pointed out in Chapter One, presidential term limits controversies and the consequent repealing of presidential term limits that resulted in hybridity and reversal in some new democracies began eight to ten years after the transition experience. Some scholars have already emphasized the importance of this period for the technical consolidation of a given democracy (Beetham 2004, Huntington 1996, Cheeseman 2011) in terms of electoral turnover, open-seat contests, level playing ground and power alternation. Scholars have also argued that the removal of presidential term limits during this period immunizes a particular democracy from accessing the technical qualities as mentioned above.

Some African countries like Cameroon, Gabon, Uganda, and Togo are a few examples of post-Cold War ‘democracies’ that have scarcely experienced the above qualities following the successful removal of presidential term limits within the first ten years after their transition. These countries are less likely to achieve substantial consolidation in comparison to countries that succeeded in enforcing presidential term limits. The latter go on to experience power and party alternation, open-seat contest, electoral turnovers, regular and popular elections, robust electoral competition, and an apparently level playing field for contestants.

Power and party alternation for instance have been the bane of many post-Cold War democracies. In Africa, two-thirds of post-Cold War democracies are yet to experience power or party alternations due largely to infringements on presidential term limits. New democracies that boast of open-seat contestation, two electoral

turnovers, level playing ground and power alternation signify a major match towards technical consolidation as Figure V shows.

The successful power and leadership alternations in the case studies tended to resolve the political tension arising from power transitions in most African democracies. The successful enforcement of presidential term limits directly provided room for an open-seat contest that assured power alternation. Consequently, power alternation prepared and laid the foundation for party alternation, as aggrieved political elites converged in alternative political platforms that yielded them enough force and space to challenge the ruling parties through defection. The decision of some political actors to challenge and resist non-compliance thus united previously fragmented and self-interested political actors and parties against the incumbent dominance. The singular most valuable benefit of resisting and challenging non-compliance in the cases studied was the manifestation and mobilization of some institutions and CSOs around political elites to uphold term limits. The opportunity to uphold rule of law and democratic rights was seen as separate from partisan politics that frequently limited cooperation among opposition elites in many new democracies.

As detailed in the case studies, elite opposition and resistance against non-compliance provided sustained legal mechanisms and opportunities that reinforced the autonomy and credibility of the judicial system. In Nigeria, Zambia and Malawi, the legal system recovered its lost credibility through a sustained pressure on the

courts by aggrieved and intimidated elite dissidents. The case studies further showed that public opinion often formed and mobilized around efforts to uphold or enforce term limits. The political elites provided the opportunity for collective action in Nigeria, Zambia and Malawi, especially, in protesting the offenses of the ruling regime. Not only that elite resistance presented an opportunity for a collective action, it also created a platform for local and international convergence of pressures.

Political term limits are focal points for political change since they introduce the opportunity to challenge the legitimacy of the incumbent's right to maintain power (Riedl (2015). Apart from the three main case studies, initial term limits controversy in Ghana and Kenya demonstrated the same process. It is not yet the case, however, in Uganda, Cameroon, Togo, or Gabon, where persistent siege on term limits has continued to deny successful power and party alternations. The full and partial compliance outcomes in Nigeria, Zambia, Malawi, Ghana, and Kenya have respectively necessitated open-seat contest, and consequently, power and leadership alternation. When a democracy cannot guarantee an open-seat contest, the possibility of alternation remains remote, both at the party and leadership levels.⁴⁶⁷ A particular democracy must have had the opportunity of producing two consecutive

⁴⁶⁷ Cameroon, Niger, Chad, Togo, Gabon, and Uganda represent this paradigm.

leaders through the electoral process in order to be ‘technically consolidating.’⁴⁶⁸

Cheeseman and Beetham note that the period between eight and ten years of any democratic experiment is particularly crucial. This number of years allows for gradual consolidation by presenting the opportunity to experience two electoral turnovers by electorally replacing leaders. By removing presidential term limits at this period, incumbent presidents deny a particular democracy from technically evolving. They expose such a democracy to Schedler’s slow democratic death.

Table 8: Presidential Term Limits and Impact on the Consolidation Process

Democracies	Power alternation	Party alternation	Two election turnover	Regular elections	Electoral competition	Level playing ground
Nigeria	2007 & 2011	2015	Yes	Yes	Yes	Moderate after 2007
Zambia	2004,	2009, 2014	Yes	Yes	Yes	Moderate after 2004
Malawi	2004	2009	Yes	Yes	Yes	Moderate after 2004

⁴⁶⁸ Beetham and Huntington emphasize two election tests and turnovers as necessary ingredients of technical consolidation. Nigeria, Zambia, Malawi, Ghana, and Kenya appear to have have crossed this threshold with the successful enforcement of presidential term limits compliance.

		2014				
Ghana	1999, 2009, 2013	1999, 2009	Yes	Yes	Yes	Yes
Kenya	2002, 2012	2002	Yes	Yes	Yes	Moderate
Uganda	Not	No	No	Yes	No	No
Cameroon	No	No	No	Yes	No	No
Gabon	Yes, death of the president	No	No	Yes	No	No
Togo	Yes, death of the president	No	No	Yes	No	No

Source: author's field research and literature analysis

What then is the difference between new democracies that have achieved technical consolidation and those yet to achieve them? The enforcement or removal of presidential term limits represents a big difference. It shows that Zambia, Ghana, Kenya, Nigeria, and Malawi have laid the foundation for substantive consolidation after achieving a greater level of technical consolidation by demanding and enforcing term limits compliance. In the particular case of Nigeria, the enforcement of term limits laid the foundation for an improved rule of law. Other reforms there have led to

a considerable independence of the parliament, the judiciary, civil society, and the electoral commission. In 2007, the immediate president (after the defeat of Obasanjo's third term) felt pressured to adopt electoral and judicial reforms, as well as rule of law as part of his administration's seven-point agenda.

The rule of law led to the unbundling of the political system while judicial reform rescued the judiciary from the grip of the executive. In 2008, the successful year-long completion of electoral reform saw to the removal of the Chairman of the electoral commission that had supervised the 2007 election, judged to be the worst in Nigerian history. The reform commission also recommended independent funding for the electoral commission, hitherto funded directly by the presidency.

Political parties like the ruling PDP, suffered much defection and decimation during the presidential term limits politics in Nigeria. The first case study details how 'godfatherism' and alterations in the party ruptured internal party cohesion and loyalty. However, after enforcing compliance on Obasanjo, the ruling party and other major opposition parties embarked on massive reforms. The assistance of the electoral commission, the United Nations Development Program (UNDP), International Republican Institute (IRI), and financial regulations restored internal democracy in the major Nigerian parties. The 2011 general elections became an opportunity to test most of the recommendations and reforms put in place after enforcing compliance on Obasanjo. The implementation of some of the recommendations made by various reform commissions led to the successful outcome

of 2011 general elections in Nigeria, accepted as ‘free and fair.’ by international and local observers, as well as major stakeholders.⁴⁶⁹

The most remarkable post-third term development in Nigeria was perhaps the formation of a mega political party that confronted and defeated the ruling party in 2015. A merger of about fifteen political parties and factions, the All Peoples Congress (APC), became a political platform where defected members from the ruling party converged. With the exit of former vice-president Atiku Abubakar, six serving state governors, sixteen former governors and ministers, the new mega platform routed the ruling PDP and gave Nigeria the first party alternation in its history. This would perhaps not have been possible if President Obasanjo had amended the constitution for his third-term project in 2006. The compliance outcome in 2006 apparently enabled the Nigerian electorate to grow from moderate to conscious stakeholders in the democratic process, while political parties and candidates other than the ruling party could go into elections with at least a fifty percent chance of victory at the polls.

The Zambian case reflects a similar development. The voter apathy that marked the 2004 general elections has steadily improved within ten years, from 52% voter apathy in 2004 to 15% in 2013 (Sardanis 2014). Before the defeat of Chiluba’s third-term bill, abuse of the rule of law and political assassination rated high in Zambia (ibid.). With the compliance outcome and subsequent power and party

⁴⁶⁹ Confer *EU Election Observation Mission Report* for Nigeria’s 2011 General Elections.

alternations, rule of law progressively improved (Sardanis 2014).⁴⁷⁰ In 2006, President Mwanenesa secured parliament's motion that lifted Chiluba's immunity and made him stand for trial for abuses perpetrated during his regime (Sardanis 2014). As an anointed successor of President Chiluba (from the same ruling MMD), President Mwanenesa's decision to present Chiluba for prosecution (even for personal reasons) became a boost to the rule of law in Zambia. Furthermore, with the introduction of level playing ground, opposition parties were to win the presidency in 2009 and 2013, putting Zambia on the list of few post-Cold War African democracies that have recorded party alternations. The process has not been different in Malawi, which has equally witnessed two party alternations and a high level of political competition and level playing ground since term limits compliance on President Bakili Muluzi in 2003.

While Nigeria, Zambia, and Malawi have made progress in the consolidation process, Cameroon and Uganda seem to engender negative consolidation. Though they hold regular elections, Cameroon and Uganda make no conscious efforts to consolidate on multi-party democracy. In 2012, Cameroon passed a bill into law from President Paul Biya that divested the Electoral Commission the right to announce presidential election results in Cameroon. Though the commission has the duty to conduct elections, Biya transferred the announcement and returning of winners to a

⁴⁷⁰ Author's interview with Haagala, Director of Zambezi FM Radio Station, Livingstone, Zambia, October 2014.

department within the presidency. In doing so, he foreclosed any hope of power alternation. In Togo and Gabon, the incumbent presidents created rules that allowed them to personalize the ruling parties while promoting national laws that force opposition parties to be regulated and remain moderate. In Togo and Gabon, the sons of incumbent presidents automatically inherited the ruling parties after the death of the presidents, and went on to become presidents in respective countries.

While post-Cold War African pro-tempore democracies appear to have witnessed robust technical and moderate substantive progression toward democracy consolidation, the opposite is the case in contra-tempore democracies that have remained mere electoral democracies. Harpfer (2009) describes democracies that have not met the consolidation standards as outlined by Polity IV and Freedom House as electoral democracies. As Harpfer argues,

“When a political system is holding competitive and multiparty elections, it can achieve the status of electoral democracy...however, this concept of electoral democracy is restricted to the institutions and process of nation-wide elections, and does not account for the democratic character of political institutions. While focusing attention on elections, such democracies do not consider the democratic performance of actors and institutions or involvement of the masses in the decision making process” (ibid)

Mere electoral democracies do not fulfill most of the criteria for substantial or technical consolidation, including but not limited to, rule of law, separation of

powers, civil society, constitutionalism, pluralism, human and political rights, freedom of media and opinion power alternation and open-seat contest. Scholars apparently did not foresee the sustained attack on presidential term limits that has developed into a trend in post-Cold War African democracies, nor the danger it has posed for the consolidation of democracy in Africa. Lacking a guarantee of prior technical consolidation, as well as a strategy to enforce presidential term limits compliance on some incumbent presidential, most post-Cold War African democracies may have settled for electoral and hybrid democracies with little prospects for either technical or substantive consolidation.

However, it sounds cheap to brand all democracies that fail to meet all the standards set by Polity IV and Freedom House as mere electoral democracies. I must make a distinction between ‘pro tempore’ and ‘contra tempore’ democracies in this regard. While pro tempore democracies stand a better chance of gradually fulfilling both the technical and substantive requirements on consolidation, contra tempore democracies seem only to experience negative consolidation. For instance, in some contra tempore democracies as in Cameroon, the electorate is denied the right to elect their senators. The president, who in turn exercises absolute control over the MPs, personally appoints the senators. This is a direct opposite of the three cases studied for this research where the legislatures have begun to enjoy some independence as stipulated by the principle of the separation of powers. The appointment of senate members may guarantee the continued entrenchment of power by the incumbent president at the short term, but may at the long run work against the consolidation of

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democracy in Cameroon. It may at the short term promote executive loyalty while suppressing representative quality of democracy at the long run. Since this type of arrangement exists exclusively in a contra-tempore democracy, it is an indication that contra-tempore democracies may continuously lack the principles that stimulate technical consolidation like open-seat contest, power alternation, electoral competition, and turnovers. These shortcomings erase any hope of further attaining substantive consolidation since contra-tempore democracies depend on routine elections that are chiefly tele-guided and predetermined to confirm the incumbent party and president in power. Unlike their pro-tempore counterparts, contra-tempore democracies qualify more as Harpfer's (2009) 'electoral democracies,' since they fulfill only the minimum requirements of technical and substantive consolidation.

9.5 State of Democratic Development in Africa So Far

While literature on democratic experiments tends to paint a bleak future of the general consolidation of post-Cold War African democracies, a sincere analysis of the last twenty years of democratic experiment on the continent shows some strengths, hopes, and weaknesses. Many of these democracies, including the three case studies have made remarkable progress in the technical democratic consolidation process. By enforcing presidential term limits compliance, the likes of Nigeria, Zambia, and Malawi have met Beetham and Huntington's two electoral turnover tests. These countries have defeated attempts to remove presidential term limits and created

opportunities for power/party alternation. Interpreting political development in Africa, Villalon (2005) and vonDoepp (2005) argue that presidential term limits is less likely to cause democratic regression or reversal in those that succeeded in enforcing compliance. The level of political and electoral competition has risen in these countries to sustain opposition politics. Competing candidates and parties go into elections with the hope of winning them, now that ruling parties have lost at least one presidential or parliamentary election. Thus, Nigeria, Zambia, and Malawi have avoided power entrenchment and by extension Shedler's slow and quick democratic death, by enforcing presidential term limits compliance. They have joined the league of consolidating democracies, at least on technical ground. The thirteen African new democracies that successfully repealed or neglected presidential term limits have yet to experience two-election tests, turnover, or party alternation.

The greatest weakness and impediment to the consolidation process of democracy on the continent remains entrenchment of power by incumbent presidents and the challenges this creates for new democracies. With the all-time record of thirteen repeals and neglects and four failed attempts, the inability to enforce presidential term limits portrays a danger for the consolidation of democracy, at least, technically in new democracies. Of the thirteen successful repeals, ten occurred in new democracies where long serving dictators metamorphosed into elected presidents in the 1990s. With the exception of Rawlings of Ghana and Arap Moi of Kenya, all other long serving/life-presidents mutated into elected presidents and succeeded in personalizing and entrenching state power. Worse still, two of those tightly seated

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presidents, Omar Bongo of Gabon and Gnassingbe Eyadema of Togo, succeeded in letting power alternate to their sons after their death. These men positioned their sons ahead of time and assigned them key positions above other political actors. In Gabon, Omar Bongo appointed his son the defense minister. After his death, his son succeeded him in a family-arranged, tele-guided election. In Togo, Gnassingbe Eyadema appointed his son the chief of the army. He usurped presidential power immediately after the death of his father, until Nigerian presidency forced him into elections, which he eventually won.

Presently, Yoweri Museveni has appointed his son the Commander of the Internal Brigade of the Ugandan Army. Many analysts see the move as a tactical strategy by President Yoweri Museveni to position his son to succeed him after his retirement. The Cameroonian case is similar. Paul Biya is currently prepping his son for an eventual succession. Many local analysts are of the opinion that Paul Biya is hanging on even after eighty-four years to wait for his son to mature. The removal of term limits and the inability to enforce compliance make this trend possible in some post-Cold War African democracies.

9.6 Integration of Findings into Current Theory and Agendas for Future Research

This thesis has examined one theoretically coherent component of democracy consolidation: the role of political elites in enforcing term limits compliance. It is

important to piece the components of these theories back together to construct an integrated theory. In this section, I will discuss how this thesis fits into practical theories of democracy and present an agenda to integrate this thesis further into theories of democracy. I will use the development of an integrated, moderate, elite-based theory of democracy and presidential term limits. I will show how this theory can link studies that examine presidential term limits in democracy with studies that investigate long-term and short-term strategies for enforcing presidential term limits compliance.

Internal party cohesion and loyalty; internal rupture of executive and party loyalty; and the manner in which these connect political elite resistance to other social forces are important for understanding and explaining presidential term limits politics and outcomes. This study, however, examined institutional and international forces only in reference to the actor of primary interest in this thesis: the dissenting political elite. A complete model would require the construction of separate interaction models of the regime (incumbent presidents) and of institutional and international pressures. I would juxtapose these regime and pressure models with the model I developed for the study of presidential term limits and its implementation in new democracies. I would apply it to examine the connections between the populace and incumbent regimes that have successfully repealed presidential term limits without reference to political elites as mobilizing factor. I would aim to ascertain to what extent the masses could mobilize themselves to enforce compliance. Until then, the model produced in this study would appear as follows:

Political elite activism → defections → mobilization of other sectors and bundling of pressures → applying bundled pressures on incumbent particular presidents → compliance outcome. A complete process as outlined above that fails to yield a compliance outcome may result in a crisis outcome as in Burkina Faso where President Compoare's insisting on repealing term limits despite elite resistance resulted in a democratic reversal.

9.7 Further Empirical Works

In this thesis, I have ambitiously re-examined elite theory in politics. I have established and begun to test the validity of a model of elite-institutional-cum international linkage, which, when expanded in democracy studies, can rescue presidential term limits from extinction. Given the institutional-isomorphism of democracy institutions in new democracies, the state and government design, and the overbearing nature of presidents in new democracies, this model can apply to most case studies of states where the removal of presidential term limits stunts democratic consolidation. Most importantly, the model can apply to these cases in its entirety to contribute to the model's refinement and the examination of other causal pathways and outliers. Scholars could conduct these studies comparatively, using the findings in this study to structure in-depth ethnographic research of one or more cases and further ascertain its veracity.

Additionally, this study can also assist scholars of politics and democracy to reassess the role of political elites in their own research carefully, even if their interests extend to areas beyond the political elite role in enforcing term limits compliance. One of the greatest initial challenges I encountered in this study was the question of how to approach the loose or improper use of terminologies and concepts relating to elite and elite sociology. This phenomenon occurred with scholars with interdisciplinary areas of specialization. To avoid such confusion, terms and concepts like ‘the elites’ as sociologically used by Pareto and Finer (1969) or Mill (1958) had to be differentiated from ‘political elites’ and not used interchangeably.

In another example, some scholars appeared unconcerned with the unfolding sequence of events and the changing paradigms within African democratic processes. While it is unrealistic to expect journalists to completely restructure their writings to benefit scholars and students of political science, I hope that this study will lead the broader research community to rethink and reflect more on the contextual issues relating to presidential term limits politics and the political elite role in enforcing compliance.

Secondly, the issue and influence of money in politics has received superficial attention by some scholars. In my research, I have underscored the importance of money and its influence on both the removal of presidential term limits by incumbent presidents and its enforcement by political elites. Patronage, financial inducement, and counter-inducements characterized the outcomes of presidential term limits

politics in the cases studied. Though undemocratic, the processes in the three case studies yielded democratic outcomes. Students of African democratic processes may need to investigate more how the expansion of wealth among political actors has helped to stabilize the democratic process in new and emerging democracies, and can continue to do so.

Conclusion

I conducted this study on the firm conviction that the trend in the repealing of presidential term limits within post-Cold War African democracies is not yet behind us. I believe that comprehension of presidential term limits politics is central to the safeguarding of presidential term limits as a democratic principle in new democracies. In the course of my research, the presidents of Rwanda and the Democratic Republic of Congo (DRC) introduced debates aimed at repealing presidential term limits to allow them stay longer on power, thus adding urgency to the issue. The president of Burundi, who lost his bid to remove presidential term limits in 2014, pressed on to defy his defeated effort to stand in the presidential elections for a third time. African democracy observers appear uncertain regarding the trends in the seven countries where transition presidents are yet to conclude their second terms in post-Cold War African democracies.

Thus, the entrenchment of state power through the removal of presidential term limits is not yet obsolete in post-Cold War African democracies. The outcome of my research indicates that incumbent presidents are vulnerable to term limits

compliance if particular political elites consciously choose not to play along and are willing to step out to rupture executive loyalty and mobilize other forces to bundle pressures to enforce compliance.

If we are to understand technical democratic consolidation, we must understand the inherent role of political elites. Democracy assistance, civil society, the judiciary, and the parliament will make an insignificant impact if political elites support an incumbent president to repeal presidential term limits.

Paul Collier (2008) has stressed that most African new democracies, especially where democracies were unlikely, may constantly be under threat by incumbent presidents. In such new democracies, institutions seldom pose a threat to incumbent presidents who seek to entrench power, while the populace may remain vulnerable to executive suppression (*ibid.*). Collier further argues that in the absence of military incursion into politics (due to international restrictions), which hitherto presented a significant threat to and checkmated incumbent presidents, many incumbent presidents seemed to have increased their interest and appetite in entrenching state power. Many incumbent transition presidents have systematically entrenched power by repealing presidential term limits as soon as they had government machinery under their control. Weak institutions, military absence in politics, conquered judiciaries, a compromised international community, and an ill organized and badly financed civil society and NGOs, put the institution of presidential term limits at the mercy of incumbent presidents in the post-Cold War

African democratic experiment. Observations from the three case studies in this research suggest that the only sector that stands in the way for many incumbent presidents from challenging term limits are political elites. Incumbent presidents readily succeed in repealing term limits where political elite decide to play along and support the removal of presidential term limits, but fail where political elites decide to form a barrier to defend presidential term limits. I assume that in the absence of the military, political elites become indispensable in resisting the entrenchment of state power by incumbent presidents.

Those political elites willing to pressure incumbent presidents into compliance need institutional and international linkage to produce bundled pressures. As discussed in Chapter Eight of this study, political experience, economic wealth, entrepreneurship, unity of purpose, and a full grasp of the political culture of the dissenting elites are required in order to mobilize the kind of bundled pressures required to demand and enforce compliance. Since money and patronage have become influential in sustaining executive control and loyalty, strategic alliance with local and international partners is also necessary to sustain the resistance and activism where economic wealth is minimal among political elites. This is, however, not applicable in all cases. It is applicable only when and where political elites choose not to play along, but instead, opt to form a barrier, resistance, and activism by mobilizing other sectors.

I have analyzed the various pressures that converged to enforce term limits compliance in the various cases investigated in this study. The absence of the

convergence these pressures due the lack of elite activism that creates the platform for inter-institutional interaction sufficiently account for different outcomes in the politics of repealing and enforcing term limits inn African post-Cold War democracies. A separate and dissipated institutional pressure is not enough. The solution for term limits politics therefore is inter-institutionalism, awakened by elite visionary leadership and strong institutional interaction. Mere institutional pressures as a solution remains hollow and ineffective without some form of elite push and support which involves the forging of a collective attitude of hostility to the kind of power entrenchment and monopolization of state power as witnessed in many post-Cold War democracies in Africa. Inter-institutionalism presupposes a collective vision of the democratic process where all democratic institutions and social forces converge to expend collective hostility to an incumbent regime that sets out to defraud the democratic process by attempting to perpetuate self in power. I dare to conclude that such an attitude is the raw material that individual leadership and institutions could use to enforce compliance in African post-Cold Democracies.

This study is intended to help the international community, civil society, democracy promoters, democracy activists, and donor agencies to understand the politics of presidential term limits in Africa. Specifically, it is intended help these actors better comprehend the process of removing term limits by incumbent presidents, its impact on democracy consolidation, and the pressures that can culminate to enforce presidential term limits compliance in Africa democracies.

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Appendix 1: Ethic Review Form

Brussels School of International Studies

School of Politics and International Relations

Ethical Review Form

The University of Kent requires that each School has procedures in place to ensure that the ethical implications of research involving human participants have been considered and that ethical standards of conduct are achieved. All research proposals that involve any human participants should therefore be subjected to an ethical review prior to their commencement. Projects, which involve interviews and surveys of staff, students and other groups, are included in this category, alongside scientific interventional techniques and the use of non-anonymised primary source data.

The standardised format is to be used for the review process and it is the responsibility of staff to ensure that where appropriate their own research, and that of students they supervise, is submitted for ethical scrutiny.

An ethical review form should be completed and submitted to Amanda Klekowski von Koppenfels at ak248@kent.ac.uk.

The form is in four parts. Part I provides general information about the research project. Part II consists of an ethics checklist. Part III asks for more detailed answers to the ethical implications of your research. Part IV is your signature and date.

1.1: Title of Project: Democratic Consolidation: The Dynamic Role of Political Elites in Enforcing Presidential Term Limit Compliance in New Democracies.

1.2: Details of researchers and project organisers

a) Name of main researcher: [Reginald Chima Anyaeze](#)

b) Name of others involved and role (e.g. supervisor) including affiliation if not in the School of Politics and IR: [Dr. Tugba Basaran \(Supervisor\)](#)

[Dr. Albenaz Azmanova \(Second Supervisor\)](#)

c) Which relevant research ethics guidelines have you consulted before completing this form? (One such set of guidelines is the ESRC's *Research Ethics Framework*, <http://www.esrc.ac.uk/about-esrc/information/research-ethics.aspx>).

[I consulted ESRC before completing the form](#)

d) For students: please confirm that you have discussed this application with your supervisor.

[Yes](#)

e) For supervisors: What are your comments, if any, on this application?

f) Expected start date and duration of the research?

The field research in Nigerian took place between September and November 2013, while field in Zambia and Malawi took place between September and November 2014.

1.3: Research funding

Are you applying for, or have you received, funding from the following research councils and foundations for this research project: the ESRC or other members of Research Councils UK; The British Academy; the Leverhulme Trust; the Nuffield Foundation; the Rowntree Foundation; CORDIS (European Commission); Commonwealth, Chevening, Fullbright or Marshall Scholarships.

I did not apply

If you are seeking or receiving funding from different sources than above, please name the source(s). Please also discuss if there may be any conflicts of interest or possible impact on the independence of your research arising from this source of funding.

Not anticipated

1.4: Purpose of Project/aims and Objectives

Provide a brief outline (one/two paragraphs) of the project written in lay-person's language, assuming that the reader is unfamiliar with the subject. Include how the project fits with existing knowledge and what are its intended benefits (e.g. to

conceptual knowledge, specific groups, services etc). Include also a short description of methodology.

My research focuses how presidential term limits could be enforced in new democracies, especially in post-Cold War Africa democracies where the removal of term limits has achieved global record. The research pays particular attention to the role of political elites in galvanizing, mobilizing and bundling pressures through elite activism and dissidence to demand and enforce term limits compliance. Since the removal of presidential term limits appears to be one of the major setbacks militating against the consolidation process of most post-Cold War democracies in Africa, highlighting the pressures that could induce compliant outcome has become necessary.

Using Nigeria, Zambia and Malawi as primary case studies, and to some extent, Ghana, Kenya, Uganda and Namibia and Cameroon as semi-case studies, I argue that presidential term limits shall likely be enforced where individual political elites willingly or unwillingly resist power entrenchment by incumbent presidents. Elite activism, internal party dissidence and an across-the-board coalition are elite actions that rupture party and executive loyalty.

Consolidation experts have focused on the theories of democracy promotion, institutions and civil society in assessing presidential term limits politics and outcomes in new democracies. Democratic institutions are still weak in many new African democracies since they are mostly untested and seemingly under the control

of incumbent presidents. Thus, considering the fragile nature of these institutions, relying solely on the democratic institutions in enforcing presidential term limits compliance remains insufficient as evidenced by thirteen successful term limits repeals or neglect in Africa. Therefore, without prejudice to other perspectives, no individual approach seems sufficient to guarantee presidential term limits compliance without taking into consideration the elite political activism that galvanizes, mobilizes and bundles other sectoral pressures to demand and enforce compliance.

Though some scholars query the usefulness of presidential term limits for the growth of democracy, this study argues that the benefits of presidential term limits are necessary for the development and technical consolidation of new democracies. Presidential term limit enables power alternation, ensures electoral competition, prevents power entrenchment and creates room for an open-seat contest. These benefits ostensibly informed the framers of post-Cold War transition constitutions in Africa to adopt presidential term limits.

Despite the real intention of adopting presidential term limits, the problem of enforcement remains both procedural, normative and practical setback in post-Cold War African democracies. Through field research and interviews in the selected case studies, I shall demonstrate in this study that incumbent presidents fail to repeal presidential term limits to extend their tenures only when political elites (internal and external) choose not to play along and consciously or forcefully choose to resist power entrenchment by demanding strict compliance.

Part II: Research Ethics Checklist

Please think carefully through the potential risks to research participants (including the researcher) before filling in this checklist. If you are unsure which box to tick for any of these questions, and if consulting the ethics guidelines listed above do not help, please discuss it with Dr Hammerstad.

Please answer each question by ticking the appropriate box	YES	NO
1. Have you, before filling in this form, read a relevant research ethics guideline (e.g. from the ESRC)?	Yes	
2. Does the study involve participants who are particularly vulnerable? (e.g. refugees, prisoners, victims of violence)		No
3. Does the study involve participants who are unable to give informed consent? (e.g. children, people with learning disabilities)		No
4. Will the study require the co-operation of a gatekeeper for initial access to the groups or individuals to be recruited (e.g. pupils at a school, prisoners, refugees in camps)		No
5. Will it be necessary for participants to take part in the study without their knowledge and consent at the time? (e.g. covert		No

observation of people in non-public places)		
6. Will the study involve discussion of sensitive topics (e.g. sexual activity, drug use)		No
7. Could the study induce embarrassment, psychological stress or anxiety or cause harm or negative consequences?	Yes	
8. Will the study involve prolonged or repetitive testing?		No
9. Will financial inducements (other than reasonable expenses and compensation for time) be offered to participants?		No
10. Will the study involve recruitment of patients or staff through the NHS or Social Services?		No
11. Will the study involve the withholding of information from, or deliberate deception of, participants?		No
12. Will the study involve any potential risk to the researcher(s)?		No

Part III: Research ethical considerations

3.1: Conduct of project

a) Location of the research:

Nigeria, Zambia and Malawi

b) Brief description of participants, including location and number:

Individual political actors who actively participated in the Presidential Term Limits Politics in Nigeria, Zambia and Malawi. About fifteen actors are expected to be interviewed in each country.

c) Brief description of controls and number

d) Brief account of how the Data Protection Act will be complied with

(for an outline of the main issues raised by the Act, see:

<http://www.kent.ac.uk/researchservices/docs/ethics-governance/Data%20Protection%20Act%201998%20-%20info%20for%20researchers.doc>)

I shall collect, store and process data only for the purpose of this research.

Where necessary, data shall be anonymized.

The data to be collected shall be digitally preserved on a computer with a stricted password.

Audio and videotapes to be taken with recording instruments shall immediately be transferred to computer systems for adequate protection. Manual data, like transcribed texts shall be stored in a locker and locked with padlocks.

I have designated a room specifically for my study and all study materials, including laptops, computers, iPad and voice recorder shall be housed in this study room. I shall provide security where necessary for all research materials in the study room. I alone have access to the computer systems in the study room.

An extra external hard-drive has been procured to serve as a backup to for the research data.

All data shall be preserved accurately in their originality, and kept up to date. I do not intend to keep any data longer than necessary.

All interviewees shall be informed beforehand about the purpose of the interview. The final results of the research shall not be made to identify any individuals without consent.

e) Payment of participants (if any):

Not applicable

g) Source of funding (if any):

Self-funding

h) Brief account of methodology/techniques (a summarised account of measures to be used should be included as should examples of any questionnaires etc):

- I shall use semi-structured interview for all the field research work.
 - I shall use qualitative and quantitative research methods for this study for primary and secondary data collection. I shall use semi-structured interviews for pro and opposition actors involved in the subject matter being investigated, including experts and the civil society organizations, not only to note their views, but also to ascertain and analyse their contested roles in the outcome of presidential term limits politics in the various case studies.
 - I have selected three different cases involving a successful enforcement of presidential term limits compliance for the research. These are Nigeria, Zambia and Malawi. The choice of case studies in this research is made on the basis of similarity. The three countries selected operate strong presidentialism, use English as Lingua Franca and enjoy the same colonial legacy. This allows for a general cross-case comparison. Further, both countries have witnessed both authoritarian regimes, and share the same status as post-Cold War African democracies. At transition, they all adopted presidential term limits of two terms. The selected cases have all held repeated elections since their transition-elections in the 1990s and after the defeat of the repeal attempts, fitting properly into Beetham's two election tests and Huntington's two turnover tests.
- i) Brief account of how participants will be selected and any issues that arise relating to the selection of participants

- Participants for the interview shall be selected based on their expected roles during the presidential term limits controversy in each of the selected case studies. These may include ex-presidents and vice presidents, MPs, Judicial officers, cabinet members, ambassadors, church leaders where applicable and academic experts. I intend to interview officers who were active during the third term controversies in the selected case studies as main actors. Depending on local situation, the list of interviewees could be altered.

3.2: Risk, harm and benefit

This section should address at least the following:

a) Any risks to the participants (including the researcher(s)): this might include all forms of harm, e.g. physical or psychological/emotional. Particular attention should be paid to the potential to cause distress and embarrassment. Measures to be taken where necessary to ensure the welfare and safety of participants.

- Some questions may be embarrassing to some participants. For instance, cases of financial inducement and corruption remain sensitive. Only a few actors expectedly may choose to talk about issues of corruption in the public. It is therefore likely to cause embarrassment. However, to forestall outright embarrassment, I shall first ask the participant if he/she would be willing to entertain questions on such a sensitive issue. Any response on the issue shall be respected. Though my research subject

covers issues of financial inducement, I do not judge it to be absolutely necessary to present such questions unless I receive green light to do so. I have also consulted some guidelines on phrasing such questions.

b) Issues relating to confidentiality during the project and in subsequent data analysis, presentation, and publication.

I shall treat all outcomes of the research confidentially. I shall respect the intention of the interviewee, whenever the participant requests me to treat his/her contribution as anonymous. The same principle shall apply to presentations and publications.

In both presentation and publication, the intention of the interviewee shall be respected.

c) Anticipated difficulties, particularly those relating to power imbalances between researcher and participants, e.g. staff/students or where dependant relationships are involved.

- Those to be interviewed for this study were high political figures in Nigeria, Zambia and Malawi including academic experts. I assume that power imbalance may not be a problem here.

d) Details of how the project meets the four main ethical principles of research i.e. non-maleficence (not causing harm), beneficence (doing good), autonomy (treating

people with respect and enabling them to make their own choices), and justice (who will be advantaged and disadvantaged by the research).

The project meets the four ethical principles of research:

1. It is not intended to cause any harm because the subject matter being investigated is no longer current while most of those selected for interviews do not hold sensitive positions any more. However, adequate care shall be taken to prevent any type of harm on individual interviewees.

2. The project is good intentioned. It is intended to discover how democracy can be strengthened in post-Cold War African democracies and elsewhere by designing strategies to enforce term limits compliance in new democracies.

3. It is not intended to coerce any interviewee.

4. The project does not set out to create a situation of advantage or disadvantage. Its aim is to discover the connection between the outcomes of presidential limits debates in the three case studies and the individual role of some of the interviewees and other social forces including political elites.

e) Details of how the research will take account of cultural issues, including some understanding of the need to provide appropriate interpreters etc.

- The interviews shall be conducted in English. The three countries use English as 'lingua franca.'

- Further, contacts have been made with local universities to assist in providing cover and advice for any cultural issues that may arise.

- Lastly, the researcher shares to some extent the same historical, social and cultural background with most of the interviewees. This is not intended to affect my findings by pre-empting emotions and concerns. However, adequate care has been taken to remain neutral, objective and professional when cultural issues come on board. Thus, while respecting cultural issues, objectivity, which is central in social science research shall be at all times maintained.

f) The rationale for the decision to pay, or not to pay, participants and the likely impact on participation. It should be noted that all incentives, whether monetary or otherwise may represent an unethical inducement to participation.

Not applicable

g) Issues relating to information to be provided to participants in advance of, or during the research. Are Issues relating to the intended feedback or otherwise of research results to participants?

I have attempted to make contact with some interviewees in advance. I also made contacts to give advance notice to other participants. Where participants request for feedback after the field research, their request shall be taken into consideration, with respect to the view of other participants as recommended by the Guide to Professional Ethics in political Science.

h) Information about other review procedures to which the research project has already been subjected, including management approval where staff are involved as subjects. Is further or alternative ethical review required?

Not applicable

3.3: Consent

It is essential that all those who participate in research should do so voluntarily, hence at a minimum this section should address:

All those selected for interview do so voluntarily, based on request. Where a selected actor declines to an interview, the decision shall be respected. Also an interviewee shall be informed beforehand that he/she can choose to not answer a question, or to stop the interview at any time.

a) Details of how it is intended that informed consent be obtained from the participants. Depending on the nature of the research, this can involve the production of a written information sheet that includes a mechanism for the participant to evidence that their consent has been obtained. Copies of any relevant documentation should be included.

Not foreseen at the moment, but where necessary, it shall be applied.

I intend to obtain an information sheet from the university, duly signed by my supervisor and the director for ethic research.

b) Procedures for gaining permission from participants who are unable to give informed consent (materials should be attached).

Not applicable

c) A special case has to be made for any cases where it is not possible to obtain consent.

Not applicable

Part IV: Signature

This part must be signed and dated regardless of whether or not you need to fill in Part III. If you send the form by email, you do not need to sign (only date). It is enough that it is sent from your University of Kent email address.

Reginald Chima Anyaeze

Signature:



Date: June 2013

Appendix 2 Sample Interview questions

Questions used for interviews in Malawi and Zambia

Mode of research: Semi-Structured Interviews

Target: Political Elites and elites of various organizations including the church who were active during the politics of presidential term limits in Malawi and Zambia

Necessity: Field research, based on interviews represents the primary source of my investigation in this study. It is considered an appropriate 'Strategy' to verify the claims being made in this study.

1. Sample questions for field research in Malawi.

Ex-Ministers/MPs:

I am aim to:

- ascertain the level of involvement of the ministers and MPs in enforcing presidential term limits compliance in Malawi 2002.
- understand how and why these political elites specifically opposed the amendment bill
- ascertain the form of consequences that opposition to incumbent regimes face

- understand the strategies used in achieving the outcome and the effectiveness and otherwise of such strategies
- note the place vested interest in political opposition and how it impacts on democracy consolidation, albeit indirectly
- ascertain whether personal connection and sympathy motivated some judicial officers to provide protection to the intimidated opposition elites.
- to ascertain if there were any pressures from regime loyalists, individual opposition elites, political groups and donors on the ministers and MPs to support or oppose the amendment bill.

Samples questions:

1 What role did the ministers play in limiting the presidential term of president Muluzi in 2002 in Malawi?

2 Many individual political actors including serving ministers and MPs formed an alliance to oppose the tenure elongation amendment bill. What could have informed their decision to oppose the tenure elongation bill?

Do you think there was pressure on the ex-ministers and MPs of the ruling party to support the amendment bill, and what type of pressure?

3 In many new democracies, opposition to an incumbent regime most often attracts consequences. Do you think there may have been consequences for those who opposed the amendment bill, and if so which?

4 What were the most important factors in shaping the amendment bill and its outcome in Malawi?

Do you think that elite experience, religion, and ethnicity may have played a role in shaping the outcome of the presidential term limits politics in Malawi?

Money seemed to have played a leading role in shaping the outcome of presidential term limits in Nigeria, Uganda and Cameroon. Was money important in in the politics of the amendment bill in Malawi, how in particular?

5 The involvement of the Church seemed to have changed the dynamics of the amendment bill. How important was the role of the church as an institution in deciding the outcome of the bill? What do you think was the reason why most church leaders stood in opposition against the amendment bill?

Do you think the involvement of the church provided an alternative platform for the opposition elites to sustain their resistance against the amendment bill?

6 Some prominent party members and ministers defected with some MPs to form an opposition platform. How did defection affect the general outcome of the amendment bill?

Do you think defection is a positive factor in resisting power entrenchment in new democracies?

7 Some judicial officers gave some judgments, which did not go down well with the regime of Bakili Muluzi, because such judgements favoured the opposition. What do you think was the reason for these judgements? Do you think such judgments were a boost for the opposition?

Do you think the ministers and MPs were under any form of pressure from external forces like the donor agencies and political contractors to support or oppose the amendment bill?

8 What do you think were the most important strategies employed by the oppositions elites: ministers and MPs in enforcing presidential term limits compliance on president Muluzi in 2002?

9 One of the aims of this research is to ascertain the importance of presidential term limits compliance for democracy consolidation. Was the enforcement of the presidential term limits compliance a benefit for democracy in Malawi, especially on the specific components of democracy like institution building, Elections, Rule of law and Human rights?

Judicial officers

I aim to:

- ascertain why different courts gave different judgements during the third term politics in Malawi.
- ascertain whether personal connection and sympathy motivated some judicial officers to provide protection to the intimidated opposition elites
- enquire if there were any pressures from any quarters: the regime loyalists, individuals opposition elites, political groups, government, donors on the judicial officers to deliver certain judgements

Sample questions:

1 In a democratic setting, the Judiciary as one of the arms of government is burdened with the duty of interpreting laws, also and especially when it concerns the constitution. What type of role did the court play during the constitution amendment bill in Malawi in 2001/2002?

2 Was the court officially invited to give its opinion on the debate or did the court get involved based on the invitation of some individual political actors who sought the opinion and the judgement of the court on certain individual cases concerning the debate?

Were there personal contacts between judicial officers and political elites in either side of the debate? If so, how strong were such contacts in influencing judicial decisions?

3 There were reports of seeming intimidation of the media, NGOs and church leaders to support the amendment bill. Do you think judicial officers faced such intimidation, and if so how?

4 Prior to the tenure elongation debate, and even at the beginning of the controversy, the courts granted some favourable judgements to the incumbent regime in Malawi. But as the presidential term limits politics heated up, this seemingly changed, with opposition elites getting favourable judgements. Has this anything to do with pressure or influence arising from the debate?

5 In 2001, president Muluzi banned all protests concerning the amendment bill. What do you think was the motivation behind this ban, and what impact did it have on the opposition against Muluzi in general?

6 In 2002, a High Court Judge, Dustain Mwaunglu, upturned the president's executive ban on protest by describing it as an 'affront on the constitutional rights of the Malawian people to express themselves on a matter of public interest.' How did such a judgement affect the prospects and outcome of the tenure elongation bill?

7 Do you think the judicial officers were under any form of pressure from external forces like the donor agencies and political contractors to give judgements in either in support or opposition to the amendment bill?

8 How has the defeat of the tenure elongation attempt helped to deepen democracy in Malawi in terms of: Institution building, Elections, power alternation, Rule of law and Human rights?

Appendix 3: List of interviewees

Nigeria

Dr. Frank Ozoh	Former Coordinator, The Electoral Institute of Nigeria (TEI)
Anonymous	Former Governor of Abia State
Emeka Duru	Former Director of Research and Planning of the Peoples Democratic Party (PDP) (1999-2005)
Anonymous	Former Senator of the Federal Republic of Nigeria 1999-2007
Dr. Mike Anyaeze	Political Leader and Member of the Ruling PDP
Anonymous	Former Chair of the Independent National Electoral Commission of Nigeria (INEC)
Prof. Toyin Falola	Professor of History, University of Texas at Austin. USA

Prof. Ojeshile	Professor of Philosophy. University of Ibadan. Nigeria
Shaibu Danladi	African Scholar and Writer. Prague, Czech Republic
Anonymous	Prominent Member and political sponsor and God-father in the ruling PDP
Anonymous	Former Chair and Secretary of the Ruling Party in Nigeria
Anonymous	Justice of the Appeal Court of Nigeria
Anonymous	Democracy Activist
Anonymous	Two serving Senators
Anonymous	Two Former Senators
Anonymous	Serving Judicial Officer
Anonymous	Serving Officer of the Economic and Financial Crimes Commission (EFCC)

Malawi

Dr. Blessings Chissinga	Malawian expert and Director of Studies, Social Science Research at University of Malawi, Zomba
Mongr. Boniface Tamani	Former Chairman of Public Affairs Commission (PAC)
Father John Guwa	A catholic priest and researcher at Catholic University of Malawi
Anonymous	4 Ex-Ministers
Anonymous	4 Former MPs of the ruling UDF
Anonymous	3 Former MPs of the opposition: AFORD and MCP
Anonymous	3 Catholic priests
Anonymous	1 Catholic Bishop
Anonymous	Spokesperson of the Blantyre Synod
Anonymous	2 Judicial Officers
Anonymous	1 Former Appeal Court Judge

Zambia

Mark Chona	Former Special Adviser to president Kenneth Kaunda on International Affairs
Swithin K.M Haagala	Managing Director of Zambezi FM Radio, Livingstonia. Zambia
Mayrose Majinge	Political Activist
Fabian Ezenwa	Superior, Spiritan Missionaries in Zambia
Milimo Chona	Former United Nations Development Programme Officer, Zambia.
Anonymous	2 Ex-Ministers
Anonymous	3 Ex-MPs of the opposition UNIP
Anonymous	4 Ex-MPs of the ruling MMD
Anonymous	1 Former National Women Leader
Anonymous	3 Catholic priests
Anonymous	1 retired judge of the Appeal Court