

**A STUDY ON THE RELATIONSHIP BETWEEN PRESIDENTIAL TERM LIMITS
AND THE DOCTRINE OF SEPARATION OF POWERS IN UGANDA**

By

MUHWEZI, Stilson

THESIS

Submitted to

KDI School of Public Policy and Management

in partial fulfillment of the requirements

for the degree of

MASTER OF DEVELOPMENT POLICY

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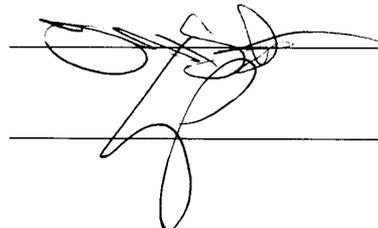
MASTER OF DEVELOPMENT POLICY

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ABSTRACT

A STUDY ON THE RELATIONSHIP BETWEEN PRESIDENTIAL TERM LIMITS AND THE DOCTRINE OF SEPARATION OF POWERS IN UGANDA

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Presidential term limits are a measure through which citizens prevent the retention of a popular president or a leader from becoming a perpetual dictator. The clamour for democracy in recent years has tremendously changed the way many people aspire to be governed. Universal democratic values, including presidential term limits, are widely accepted. However, many presidents around the world have prolonged their stay in power after the expiry of their constitutionally allowed terms by amending the constitution, sometimes by using a rubber-stamp legislature or a referendum. Consequently, the initial purpose of having term limits in the first place—to prevent a dictatorship—has been defeated. The practice of amending or disregarding the constitution for the sake of a particular incumbent does harm to the development of democratic institutions and governance based on the rule of law. This paper reviews the normative debate over presidential term limits and identifies the key claims of proponents and opponents. It focuses on Uganda, Venezuela, Cameroon and Egypt as key examples where absence of term limits has in one way or the other skewed the balance of power in favour of the executive, leading to a dictatorship. The study then considers alternatives measures that a country like Uganda can take to minimize the tendency of executive dictatorship in the absence of term limits. However, this study concludes that there is no perfect substitute for term limits especially in a young democracy where fragile institutions need to be nurtured. As a way forward, the study recommends that the people of Uganda, together with their representatives, should seriously consider a future where term limits are restored and strict constitutional guarantees put in place to avoid the past mistakes.

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1.0 INTRODUCTION

1.1 Background of the study

As in the case of liberal democracy, the idea of presidential term limits is foreign to most African countries. Prior to her contact with the West, most powerful African states were kingdoms and chiefdoms headed by hereditary leaders. By the time most African states gained independence in the 1950s and 1960s, most kingdoms had been subdued or significantly weakened in favour of western style of states. Political power was handed over to newly-formed political parties whose leaders had little or no experience in running the new type of governments. In Uganda, for example, having a Constitution was a prerequisite for gaining independence from the former colonial master, the Great Britain. Besides having inadequate local constitutional experts, most of the discussions were held in London in a process that was hurriedly completed before granting independence on October 9, 1962.

At independence, Uganda adopted a parliamentary system in which a ceremonial president and an executive Prime Minister became the top actors at the helm of Uganda's politics. This system, however, was short-lived as the internal power struggles resulted in the 1966 Constitutional crisis in which Dr. Apollo Milton Obote, the then Prime Minister, overthrew the Constitution, abolished kingdoms, and declared Uganda a republic. This was the first time in Uganda's post-independence history that politics was militarized. It set a precedence for a series of bloody military coup d'états. Between 1966 and 1986, power changed hands seven times, none of which was through peaceful means. The last was in 1986 which was a culmination of a five-year guerilla war that was wedged against the government by the National Resistance Army (NRA) which later became the National Resistance

Movement (NRM), promising a fundamental change. After 10 years of military dictatorship, a Constitution was written and adopted in 1995, to bring back a democracy and the rule of law.

Term limits under the 1995 Constitution of the Republic of Uganda

The 1995 Constitution, among other things, sought to remedy the culture of violent transfer of power and replace it with power transfer through elections. By peaceful change of leadership, there would be a continuity of development programs without undermining past achievements. Accordingly, article 105 (2) states that “A person shall not be elected under this Constitution to hold office as President for more than two terms...”¹ thus effectively limiting the tenure of the president to a maximum of 10 years. In 1996 and 2001, general elections were successfully held and won by incumbent President Yoweri Museveni. However, towards the 2006 elections, the Parliament amended the Constitution and lifted the term limitation to ensure that the incumbent could contest for as many times as he wished.

Periodic elections are held every five years and are largely reported to be “free and fair” by regional and international observers. The NRM government is satisfied that the pledge of democracy has been fulfilled, because people have a chance to choose their leaders every five years. It seems, as the NRM wants to portray, that democracy means elections, and where there is elections automatically there is democracy.

¹ The Constitution of the Republic of Uganda 1995 placed a two-term limit of five years on the president. At the time of making the new constitution in 1995, the incumbent president had served for 9 years—which were not counted because he had captured power through a coup d’état. An election was organized in 1996 and 2001—which he won all. He was supposed to step down in 2006 and allow a new president to take power, but the lifting of term limits by parliament in 2005 allowed him to stand for re-election in 2006 and 2011.

1.2 Statement of the problem

In modern times, governments seek to distribute state power between its branches instead of having it rest in the hands of one individual, who would become a dictator. There are varying degrees of success achieved by various countries in trying to do this. The United States and other developed democracies in Europe and Asia have constructed quite robust systems for the separation of powers. On the other hand, much of the developing world, particularly in Africa, power is in the hands of powerful individuals—presidents.

There is intense rivalry and contestation on the subject of term limits on the presidency in Uganda. Some people view the lack of term limits and prolonged stay in power by incumbent president as the main contributing factor for the unfair distribution of power between the government branches. On the other hand, others view open terms as an opportunity for continuity, stability and consolidation of past achievements. The restoration of presidential term limits movement is steadily gaining momentum among civil society, opposition parties and the general public. Even some of the legislators who supported the lifting of term limits in 2005 have publicly admitted that they were hoodwinked to vote for the amendment. The point that seems to be missed by the two parties is whether the mere presence of term limits guarantees the protection of the rights of Ugandans and independence of institutions and prevents the rise of a dictatorship. This research intends to examine whether and how the doctrine of Separation of Powers under a presidential system can be sufficiently upheld with or without term limits. The study will contribute to the current discourse on democracy, independence of institutions and efficiency, as well as good governance in Uganda.

1.3 Research questions

This study seeks to:

- (i) Examine the origins, history and tradition of term limits in the United States and how it relates to the doctrine of Separation of Powers.
- (ii) Examine the cases of term limits in Venezuela, Cameroon and Egypt, and how it has affected the relationship between the three arms of government.
- (iii) Analyze the normative debate by proponents and opponents of term limits
- (iv) Explore options for democracy and make recommendations for good governance under no term limits

The study will examine the question of presidential term limit from the bedrock principles of democracy: Separation of Powers, checks and balances, accountability, constitutionalism and the rule of law. Taking the U.S. as a model for term limits and Separation of Powers, this study will examine the trends in Uganda and other African countries which have term limits and those which do not.

2.0 THE THEORY OF DEMOCRACY

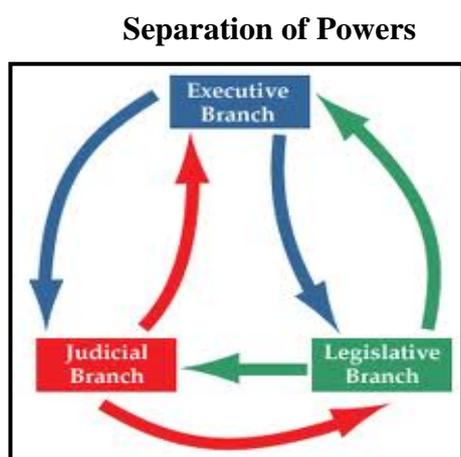
There are various views about democracy, yet they all have certain common characteristic: that no single person or group of persons has the warrant to rule others. They hold that “all persons are equal in many ways, and they deserve a say in how they should be governed.”² Democratic theorists all share the view that members of the political community “carry elementary, rational capacities that are sufficient to judge the conduct of government.” For such judgments to have meaning, “democratic citizens are expected to be free in several important respects; including freedom of speech, assembly and conscience.”

² Jason Lewis (2011)

2.1 The doctrine of Separation of Powers

The doctrine of Separation of Powers is largely credited to French enlightenment writer and philosopher Baron de Montesquieu, who proposed the idea based on the Roman Republic and the British constitutional systems. He argued that power in England and Roman Republic was less abused because their constitutions provided for checks and balances, as no single branch could claim absolute power. This was opposed to the French system where monarchs enjoyed too much power—and usually abused it.

James Madison, also known as the “father of the Constitution of the United States” was influenced by Montesquieu’s ideas on constitutional guarantees that limited the powers of leaders. The proponents of the principle of Separation of Powers sought to avoid the rise of dictatorship resulting from unchecked power of leaders. The three arms of government—the Executive, Legislature, and the Judiciary—are kept under checks and balances with and by each other to avoid abuse of power by any branch.



Like Montesquieu, the framers of US Constitution foresaw the need to have separate power centers, working in harmony, yet checking on each other to avoid the rise of a dictatorship. This model became widely accepted around the world as the best form of governance in a democratic system.

Fig. 1: Montesquieu’s Separation of Powers

Under the presidential system, the elected President is the head of the Executive branch and government. He appoints ministers, judges, and heads of other key institutions, depending on the constitutional provisions. He is also Commander-in-Chief of the armed forces, with the power to declare war. The Legislature makes laws, but needs the presidential assent before they come into force. The judiciary on the other hand interprets laws, and has the power to declare some laws unconstitutional. Ordinarily, this framework is supposed to ensure checks and balances among the branches of government. When this framework dysfunctions, the result is the rise of dictatorship.

2.2 Checks and Balances under Separation of Powers

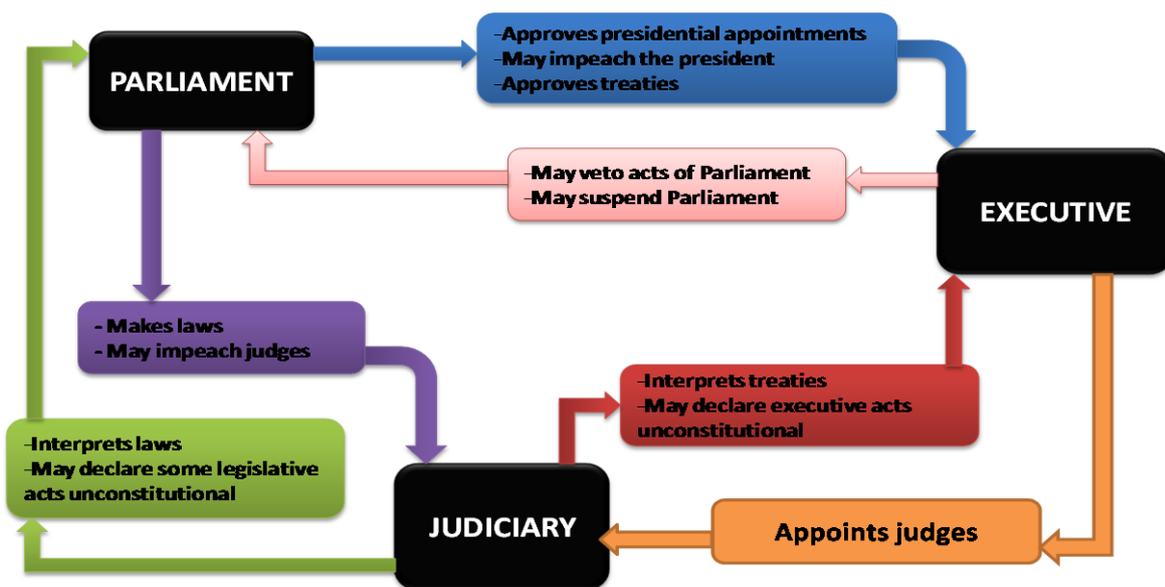


Fig. 2: How Checks and Balances works under Separation of Powers

Thomas Jefferson argued that “the two enemies of the people are criminals and government, and there was need to tie the second with the chains of the Constitution so that it will not become the legalized version of the first.”³ He further argued that the constitutions are made not only to protect people from each other, but from the government they created.

³ Jason Lewis; Power Divided is Power Checked: The arguments for States’ Rights

2.3 Term limits in the United States

In the long history of the United States, term limits were not institutionalized until the 22nd Amendment of March 21, 1947 which came into force in February 1951 after being ratified by requisite number of states. This followed President Franklin D. Roosevelt's successful bid for the fourth term in office, but unfortunately died before completing it. The 22nd Amendment formerly imposed a two-term limit on the president in order to further check on the perpetuity of the presidency. The former American presidents had respected the tradition of ruling for not more than two terms, and had therefore seen no need to enshrine it in the constitution. The 22nd Amendment was in the spirit that the Separation of Powers through the three branches of government was not enough to safeguard against a dictatorship. Presidential term limits was therefore an additional firewall against the rise of dictatorship of the executive branch. It has since become a widely accepted principle for most democracies around the world.

The idea of term limits, however, is not popular among many leaders in developing countries. History shows that even those who advocate for it at the beginning of their tenure later seek to amend the constitution in order to prolong their stay in power. In some of these countries, term limits were lifted, while in others, presidents are still struggling to amend their constitutions to do away with this limitation. In Uganda, term limits were lifted in 2005 by Parliament, which opened the door for the incumbent president to stand for reelection for as many times as he wishes.

There is no agreement on whether the existence of periodic elections alone without term limits is an adequate measure to control the likely excesses of the presidency. While

some argue that the absence of term limits undermines institutional growth and entrenches dictatorship,⁴ others claim that the longer a President stays in power, the better he/she will be able to execute the development programs without interruption since priorities remain the same. The former group further contends that absence of term limits on the president is itself a recipe for abuse of democracy and rule of law. They argue that when leaders stay in power for long, they undermine the growth of institutions in favour of personalities. To ensure that they win the next election, state resources and apparatus such as the army, police, and the economy itself are used to ensure the survival of the ruling party.

The rise of democracy as the best form of governance has been a great phenomenon of the twentieth century. Only a few authoritarian regimes remain, mainly in the developing world. Although a vast majority of governments and leaders claim to be democratic, their democratic credentials are to be judged by their actions rather than what they call themselves. Fombad and Murray (2007) argue that the culture of constitutionalism is an integral element of any democratic society. For constitutionalism to thrive, there are certain conditions that must be met, and key among them is presidential term limits. Their study reveals that at the time of independence, African countries' constitutions did not place term limits on their leaders, which helped them entrench themselves in power, often creating a myth of indispensability around themselves.⁵ Between 1960 and 2007, out of over 180 presidents who

⁴ Pablo Querubin (2011); *Political Reform and Elite Persistence: Term Limits and political dynasties in the Philippines*

⁵ See, e.g, Jean-Bedel Bokassa of the Central African Republic (who later proclaimed himself 'emperor'), Francisco Macias Nguema of Equatorial Guinea, Kwame Nkrumah of Ghana, Hastings Banda of Malawi, Gnassingbé Eyadéma of Togo, Idi Amin of Uganda and Mobutu Sese Seko of Zaire. As BO Nwabueze in *Presidentialism in Commonwealth Africa* (1974) 1 points out, presidentialism in Africa has tended towards dictatorship and tyranny, not so much because of its great power as because of insufficient constitutional, political and social restraint upon that power.

had held power in Africa, less than 20 percent of them had done so through peaceful means. Accordingly, the absence of term limits has the dangerous tendency of elevating the president into a cult and an institution, and turning the office into an inheritance, thus preventing people from choosing their leaders.⁶

The study contends that the post-1990 constitutional rights revolution introduced term limits in an attempt to end 'perpetual incumbency.' However, like the transition to constitutional democracy itself, respect for constitutions, adherence to the rule of law and the proper functioning of state institutions remain a major problem. It is therefore no surprise that provisions on presidential term limits have come under assault in many African countries as many leaders still maneuver to prolong their stay in power.

It is contended that, because of their increasing importance, presidential term limits must now be considered as an essential element under a presidential system because it minimizes the incumbent's ability to override other institutions. This, it is suggested, can be done by specially entrenching them in the constitution in a manner that will make their amendment very difficult and adding provisions containing special incentives, such as comfortable retirement packages, certain diplomatic privileges, and limited immunity from criminal prosecution to encourage Africa's Big Men to relinquish power voluntarily.

What appears to be emerging is that many African political leaders do not like the term limits. However, this phenomenon is not surprising for, even in developed countries like the United States, which has had a much longer experience of term limits, studies have shown

⁶Nearly three quarters of the African leaders who left power in the 1960s and 1970s did so via *coup*, violent overthrow or assassination. See DN Posner & DJ Young 'The institutionalization of political power in Africa' (2007) 18 *Journal of Democracy* 128-129.

that a majority of politicians as well as interest groups who depend on politicians for employment, patronage and other benefits are opposed to term limits because they have a misperception of democracy and hope to benefit from the incumbent's prolonged stay in power.

The African practice with respect to term limits since 1990 suggests that it is possible to place the different countries into at least four groups: 1) those countries where the presidents have willingly adhered to the term limits, such as South Africa, Botswana and Mozambique; 2) those countries where the presidents have adhered to the term limits only under pressure from the public and after abortive attempts to override the terms limits, such as Nigeria, Zambia and Malawi; 3) those countries where the presidents succeeded in overriding the term limits, such as Uganda and Cameroon; and 4) those countries where the incumbents have not yet exhausted their two terms, such as Rwanda, Burundi and DRC.

Fombad and Murray (2007) argue that absence of term limits is dangerous to a country because leaders lose touch with the grassroots and rule in a manner that is unresponsive to the needs and wishes of the people, thus promoting a lack of accountability in governance, necessitating in many instances their forceful removal from power through coups d'état. Indeed, in campaigning for lifting of term limits in Uganda, president Museveni portrayed himself as an exceptional leader who had brought peace, stability and development to his country and needed more time to complete the programme. It is also argued that term limits reduce the barriers to entry to politics, facilitate the process of developing a culture of political competition and enhance the prospects for political development and the consolidation of democracy. On the other hand, term limits provide a framework that not only ensures that political power is not retained for too long, but also that no cult of personality develops around the leader.

The study suggests that two terms are long enough for leaders to manifest their exceptional leadership qualities and to complete their programmes as well as to give others the opportunity to also display their own leadership qualities.

Term limits are usually misunderstood under the parliamentary democracy. Unlike in the presidential system where the president is elected directly by the people, the Prime Minister (head of government) is chosen from the party which wins majority of seats in the House. Every party has its own mechanism of choosing its leader who is most likely to lead it to victory in elections. It is therefore not possible for an individual to perpetually manipulate the party members to remain at the helm, as this could cost the party during elections. This contrasts with the presidential system where the president derives legitimacy directly from the people (majority of which in developing countries are illiterate) who can easily be manipulated. Accordingly, it is erroneous to argue that countries like the UK, Israel, Australia and Canada are strong democracies but with no term limits; without explaining how their systems differ from the presidential system.

2.4 The fallacy of elections

The spread of democratic ideals after World War II has rendered all forms of authoritarianism unpalatable, both the rulers and the ruled. Even the most authoritarian regimes like North Korea want to associate themselves with the term democracy. However, I contend that the term “democracy” is one of the most misunderstood. In many countries, especially the developing world, “democracy” has come to be synonymous with “elections.” It is now trendy for leaders to legitimize their dictatorship through elections. Schedler (2002)

argues that by simply identifying democracy with elections, we are in danger of forgetting that the modern history of representative elections is a tale of authoritarian manipulations as much as it is a saga of democratic triumphs.”⁷ He argues that elections have been an instrument of authoritarian control as well as a means of democratic governance.

According to Schedler (2002) elections have given birth to new forms of authoritarianism that do not fit into classic categories of one-party, military, or personal dictatorship. Accordingly, there is an increasing number of countries that hold elections and tolerate some level of pluralism and multi-party competition, yet they do not respect the minimal democratic principles. Hence, it makes no sense to classify them as democracies, however qualified they may seem.

Fareed (1997) argues that mere elections can give rise to “illiberal democracy.” Such are regimes which win elections and are declared to be “free and fair” by election observers, yet the elected officials are racist, fascist, separatist, and vehemently opposed to peace and development. Indeed, the world is continuously witnessing democratically elected regimes which are routinely ignoring constitutional limits on their power and denying their citizens basic rights and freedoms. Fareed argues that western democracy meant “liberal” democracy—a political system marked by not only free and fair elections, but by also the rule of law, a separation of powers, and the protection of basic liberties of speech, assembly, religion and property.”⁸ According to Fareed, what is being practiced in many new democracies is theoretically and practically distinct from the western model of democracy.

⁷ Schedler: “Elections without Democracy: The Menu of Manipulation”,

⁸ Fareed Zakaria is the Managing Editor of *Foreign Affairs* and a contributing writer of the *Newsweek*.

The new form of authoritarian regimes camouflage as democracies. They neither practice real democracy nor resort to naked repression. Regular elections are used for the purpose of obtaining a false image of democratic legitimacy, hoping to satisfy their populace as well as cooling external pressure especially from the donor community. Elections are placed under tight authoritarian controls; in the process they cement their continued hold on power. Such is the behavior of many popular democracies in developing countries.

Schedler (2002) contends that most regimes today occupy a Foggy Zone between liberal democracy and electoral authoritarianism. While liberal democracies go beyond the electoral minimum, electoral authoritarians do not. They manage to “get elections right” but fail to uphold and sustain other vital dimensions of democratic constitutionalism, such as the rule of law, political accountability, bureaucratic integrity, and public deliberation.

2.5 What is a democratic election?

Robert Dahl puts forward seven conditions which must be fulfilled for any election to be called as democratic: 1) Empowerment—political elections are about citizens wielding power. Elections exist to accomplish the binding selection of the polity’s most powerful collective decision makers. 2) Free supply—the range of available alternatives cannot be something engineered by a manipulative government, but must be determined by active citizens themselves within a framework of fair and universal rules. 3) Free demand—democratic elections presuppose the free formation of voter preferences. Citizens who vote on the basis of induced preferences are no less constrained than those who must choose from a manipulated set of alternatives. 4) Inclusion—democracy demands universal suffrage. Restrictions of the franchise once commonly applied on the basis of property, education,

gender, or ethnicity are not legitimate anymore. 5) Insulation—once citizens have freely formed their preferences, they must be able to express them just as freely. The use of the secret ballot is designed to shield them from undue outside pressures, whether in the form of actual or threatened coercion, bribery, or even just the disapproval of neighbors. 6) Integrity—once citizens have given free expression to their will at the polls, competent and neutral election management must count their votes honestly and weigh them equally. 7) Irreversibility—like elections that begin without choice, elections that end without consequences are not democratic. The winners must be able to assume office, exercise power, and conclude their terms in accordance with constitutional rules.

Of course, there is no single country whose elections can perfectly meet Dahl's conditions. They just work as a yardstick to help us judge how far or how near an election is from being democratic. By using this yardstick, we can plot different countries' elections to determine how democratic (and therefore how legitimate) their regimes are. The longer leaders stay in power and seek to legitimize themselves, the more their elections slide down on Dahl's yardstick.

3.0 HYPOTHESIS

This study is based on the hypothesis that absence of term limits tilts the balance of power among the three branches of government in favour of the executive president, leading to a dictatorship. Because of the uniqueness of the roles and privileges of the executive branch, a powerful president who perpetually stays in power can erode the independence and functioning of the Legislature and Judiciary, thus leading to a dictatorship. To avoid this, there is need for term limits as an additional firewall to protect the country from the excesses of the executive president.

The longer one stays in office, the more he needs to consolidate his position through exercising control over other branches of government. Because people naturally resent their leaders, a perpetual president uses dictatorial means like force, repressive laws and other diversionary tactics to keep himself in power. With time, the leader becomes insensitive to the real needs of the people and puts his interest ahead of those of the people. In the next section, I test the hypothesis by critically examining the experiences of three nascent democracies: Venezuela, Cameroon and Egypt. Examples from other developing countries which are struggling with democratization process will also be used.

4.0 CASE STUDIES

This chapter is the presentation of the findings of the study. It comprises of the descriptive and inductive information gathered on the topic under study. The first part is the descriptive presentation of the relationship between the executive branch and other organs of government as regards constitutional amendment on term limits in Venezuela, Cameroon and Egypt. The second part analyses the pro-term limits and anti-term limits arguments in relation to building a stable and sustainable democracy.

4.1 Term limits in the Bolivarian Republic of Venezuela

The case of Venezuela's constitutional amendment to lift term limits is atypical example of the overriding power of the executive over the legislature and the judiciary. Promulgated in 1999 through a referendum, the Venezuelan constitution previously provided for a 3 term limit for deputies and 2 term limit for other offices including the president. President Hugo Chavez first proposed the amendment to the constitution in 2007, but was not successful after nationwide protests by university students played a key role in the result of the referendum. But the president would not give up his ambition. He simply had to go back to the drawing board. He argued that the constitutional amendment was necessary for the

implementation of his socialist program. Chavez had an experience of his earlier unsuccessful coup attempt against the government of Carlos Andres Perez in 1992.

Chavez reintroduced his proposal for constitutional amendment by the end of 2008, known as *Amendment No. 1 of the Constitution of the Bolivarian Republic of Venezuela*. It was later put to a referendum on February 15, 2009, and endorsed by a simple majority of 54 percent of registered voters. The provisions of the constitution affected by the Amendment No. 1 of the Constitution are:

Previous	Current
<i>Article 160:</i> The governor shall be elected for a four-year term by the majority of the votes cast. The governor may be re-elected immediately and only once for one more term.	<i>Article 160:</i> The governor shall be elected for a four-year term by the majority of the votes cast. The governor may be re-elected.
<i>Article 162:</i> The regional legislators shall be elected for a maximum of two terms in a row.	<i>Article 162:</i> The regional legislators may be re-elected.
<i>Article 174:</i> The mayor shall be elected for a four-year term by the majority of the votes cast and may be re-elected immediately and only once for one more term.	<i>Article 174:</i> The mayor shall be elected for a four-year term by the majority of the votes cast and may be re-elected.
<i>Article 192:</i> The deputies for the National Assembly are elected for a five-year term with the possibility of re-election for a maximum of two terms in a row.	<i>Article 192:</i> The deputies for the National Assembly are elected for a five-year term with the possibility of re-election.
<i>Article 230:</i> The presidential term of office lasts six years. The President of the Republic may be re-elected immediately and only once for one more term.	<i>Article 230:</i> The presidential term of office lasts six years. The President of the Republic may be re-elected.

Table 1: Proposed constitutional changes in Amendment No. 1 of the Constitution of the Bolivarian Republic of Venezuela, 2009.

Source: Wikipedia; retrieved on October 29, 2012

from http://en.wikipedia.org/wiki/Venezuelan_constitutional_referendum,_2009#Provisions_of_the_amendment

4.2 Controversies surrounding the referendum

The referendum question was skewed in favor of a Yes vote. The National Electoral Council, a body overseeing the electoral process, is blamed for being a rubber-stamp for Chavez. The question put to the electorate read:

Do you approve the amendment of articles 160, 162, 174, 192 and 230 of the Constitution of the Republic, as processed by the National Assembly, which increases the political rights of the people, with the purpose of allowing any citizen incumbent in an elected office, to be nominated as candidate for the same office, for the period of time established constitutionally, his or her possible re-election depending exclusively on popular vote?

It is important to point out that the question portrayed the proposed constitutional amendment as a necessary action to “increase the political rights of the people” and a “No vote” would mean restricting the people’s rights. The result of the referendum was not a convincing enough as a reflection of the will of majority of Venezuelans. In most democracies, such major constitutional amendments require a convincing at least a two-thirds majority of either the legislature or electorate. A simple majority is not enough. The result of the referendum was as below:

Results of the Venezuela constitutional referendum, 2009.

Venezuelan constitutional referendum, 2009		
Choice	Votes	Percentage
Yes	6,310,482	54.85%
No	5,193,839	45.15%
Valid votes	11,504,321	98.24%
Invalid or blank votes	206,419	1.76%
Total votes	11,710,740	100.00%
Voter turnout	70.33%	
Electorate	16,652,179	

Table 2: Results of Venezuela Constitutional referendum of 2009.

Source: Wikipedia -

http://en.wikipedia.org/wiki/Venezuelan_constitutional_referendum,_2009

Given that the amendment was sponsored by the incumbent president and political party, coupled with the direct and indirect influence of the state machinery in the electoral process, the 54 percent Yes vote has been criticized as not reflecting the will of the Venezuelans. According to opposition figure Leopoldo Lopez, the No camp was not competing against “a political party, but against an entire state and all of the power it can wield.” The pro-amendment camp used government resources ranging from full support for the “Yes” campaign on state owned radio and television, to display of “Yes” campaign advertisements on official ministry websites. It can therefore be argued that were the question of amendment to be put to the vote through a free and fair referendum, majority of Venezuelans would have rejected it.

Another criticism of the amendment was the state brutality against the January 16, 2009 student protests. Aware of the role the student protests played in the 2007 failure, the Chavez government violently cracked down on protesters in Caracas. Chavez ordered the

authorities to ensure such protests were ended with maximum use of force. Tear gas was fired at the compound of the papal nuncio, who had granted asylum to an anti-Chávez student leader. These events, therefore, demonstrated the nature of environment in which the government was determined to see the Amendment passed.

Having secured the mandate to stand for election in 2012, President Hugo Chavez was able to win another 6-year term that extends his rule to 2019. He polled a simple majority of 55.2 percent, against his closest challenger who polled 44.1 percent. The election was largely peaceful and President Chavez congratulated by most South American governments who look at him as a champion of the Latin American revolution. Surprisingly, the White House also issued a congratulatory message to the Venezuelan people upon a high voter turnout and peaceful election.

4.3 The Republic of Cameroon

For many reasons, Cameroon is little talked about—at least in the international media. At 79, President Paul Biya is one of Africa’s oldest and longest serving president, having served for 29 years. He came to power in November 1982 after the surprise resignation of President Ahmadou Ahidjo. He consolidated himself in power and has since won elections in 1992, 1997, 2004 and 2011. Independent observers have always labeled the elections on all these occasions as marred by widespread irregularities.

Having ruled under a single-party system, President Biya was under pressure from the Anglophone region to return to a federal system and introduce multiparty system. He responded by introducing ‘Law number 96/06’ which gave way for the enactment of new Constitution in 1996. Notably, article 14 established a Senate as the upper house of legislature, and Article 6, extended the president’s term limit to 7 years. It also provided that the president of the Senate or vice-president should be the president's successor in case of eventualities.

4.4 The 2008 Amendment

On April 10, 2008, the National Assembly overwhelmingly passed a bill to change the Constitution by amending the *Law 96/06*. Among many other changes, the amendment provided the president with immunity from prosecution for acts as president and allowed him to stand for unlimited re-elections. This vote took place a month after anti-government protests against the price rises and proposed constitutional changes. These were violently crushed resulting in dozens of deaths and hundreds of arrests. The opposition Social Democratic Front (SDF) protested by walking out of the Assembly.

The opposition was denied access to the media by the state machinery. Opposition-leaning artists and journalists were banned from the air. One artist, Lapiro De Mbanga, who had composed a song titled "Constitution constipée" ("Constipated Constitution") was arrested, and painter Joe La Conscience, who had attempted to walk to Yaoundé from Loum to give a petition of 100 signatures to the President protesting the constitutional changes. He was later sentenced to six months in prison. Although the proposed changes were published in the *Cameroon Tribune*—the official newspaper—there was no mention of the crucial changes to Article 53 paragraphs 3 and 5 which gave immunity to the president from prosecution after office. This lack of transparency was undemocratic.

Even before the constitutional amendment had been made, there were indications that Paul Biya was interested in elongating his stay in power. He had earlier consented to a two-term limit in article 6(2) of the amended Cameroonian Constitution of 1996, only after extending the normal presidential tenure from five years to seven years and ensuring that the powers of the executive were considerably increased whilst those of the legislature and

judiciary were reduced. President Biya used all the available state machinery including the army and police to intimidate, frustrate and weaken the opposition to the constitutional changes. His grip on power is sustained by personalization of state apparatus. It can therefore be argued that the Constitutional changes were introduced to favour one individual—the president.

Fombad and Murray (2010) observed that the Cameroonian case is so unique because by the time the constitution was amended, Paul Biya had been in power for 26 years, and still had four more years to complete his term. It was a time when international attention was focused on Zimbabwe, where Robert Mugabe had clearly lost the presidential elections but refused to concede defeat and leave gracefully. In 2011, president Biya won the election by 77.9 percent, with his closest challenger, John Fru Ndi Ni polling only 10.7 percent. Biya's current term runs till 2018, when he will be 87, and will be eligible for re-election.

4.5 Term limits in the Arab Republic of Egypt

The February 2011 Egyptian uprising was largely due to the need for constitutional changes that expanded people's freedoms to choose their leaders. The then President Hosni Mubarak had assumed power in October 1981 following the assassination of President Anwar El Sadat. Before reform in 2005, the Egyptian Constitution restricted Egyptians from competing against the President because the People's Assembly played a key role in electing the President. Thus, Mubarak was elected in 1981, 1987, 1993 and 1999 through a referendum. On all these occasions, Mubarak maneuvered his way to secure his position through a referendum without opposition.

There was increased domestic and international pressure for reform. Mubarak then asked Parliament on 26 February 2005 to amend the Constitution and allow competitive presidential elections which took place in September 2005. He however remained with tight control over the electoral process and the security organs. The media, too, openly supported President Mubarak. Civil society organizations which monitored the election observed mass electoral fraud by Mubarak's team. The opposition leader who challenged the result in the courts of law was arrested on charges of forgery, and later sentenced to five years with hard labour. In expressing their dissatisfaction with the political persecution of the opposition leaders, the White House released a statement calling for "increased openness and political dialogue within Egypt."

Osman (2005), a leading Egyptian political analyst, argues that Mubarak's style of rule was "highly influenced by the experience of witnessing his predecessor assassinated right in front of him." He was also a long term military man, who knew the science and art of controlling the state. Osman further contends that Mubarak sought advice "not from the official bureaucratic structures and educated advisors, but from his security chiefs especially the interior ministers, army commanders, and the heads of the ultra-influential intelligence services." Because of his hardliner position against Islamic fundamentalism, together with his friendliness towards Israel, he became a target of repeated assassination attempts. Accordingly, he always put in place stricter controls over the state and involved the military and para-military institutions in Egyptian politics. Mubarak was believed to have been grooming his son, Gamal Mubarak, whose public profile had been increasing, as his successor. Therefore, there was no regard to the Egyptian constitution on matters of presidential succession.

4.6 The new Egyptian Constitution

The 2011 uprising that ousted President Mubarak led to the promulgation of a new, more liberal constitution. Under the new Constitution, the President is eligible to stand for re-election only once for a four-year term. People's freedoms have been expanded, and the role of the military has been greatly diminished. President Muhammad Mursi, the first civilian president of Egypt, has so far demonstrated a commitment to transform Egypt from a military-run government to a civilian one. The National Assembly and Judiciary have to a greater extent exercised their independence from the influence of the president. For example, in October 2012, President Mursi was embarrassed when his attempt to sack the Chief Prosecutor was unsuccessful, as the court ruled that the President had no power to sack him. The courts of law proved to be a crucial front in Egypt's transition to democracy, and on several occasions have determined the path of political disagreements between the players in three arms of government. This was never the case under Mubarak.

At this time, it is still too early to predict with certainty the future of Egyptian democracy, specifically the relationship between the Executive, Legislature and Judiciary. Perhaps, the experience from the 2011 uprising will teach the current and future Egyptian leaders that the era for dictatorship is over, and people have the right to choose how they should be governed.

In summary, constitutions are designed to last in order to ensure political stability. However, constitutions are not infallible documents that should endure regardless of the changes in the peoples' circumstances and values. Fombad argues that "when the management of the Constitutional changes falters, the country is likely to face the twin

dangers of extra-legal or revolutionary methods of change” like in Egypt on one hand; and “arbitrary, hasty and opportunistic changes” like in Venezuela and Cameroon on the other.

5.0 DISCUSSION

This chapter is a presentation of an analysis of the findings in relation to the research questions.

5.1 Arguments for term limits

Term limits are a necessary check on executive power to prevent it from becoming a dictatorship. It may be argued that the legislature and judiciary are also likely to become dictatorships if they become too independent. However, unlike the legislature and judiciary which are composed of diverse views, with members of various political parties and inclinations represented, the executive of a country usually is a single entity, speaking with one voice. Cabinet ministers are usually appointed by the president, and those who express divergent views are forced to resign from the executive. Executive power rests solely in the hands of the president, with full power over the decisions of the executive branch of government. Cabinets, which form part of the executive in practice, are usually directly answerable to the president. It is thus necessary to have a check on the highly individual power of the president and term limits are the best such check.

By observing the trends in Cameroon, Venezuela, Egypt and Uganda, this study found that it becomes necessary that when the president enacts his policies over a set time period, there must come a time when they are ushered out of office. This is essential because too much power in the hands of one individual or group can in the long run upset the balance of power in a country, usually in favour of the executive. When a set of policies, for example,

Chavez's socialist revolution, are perceived to have failed, a new leadership can usher in alternative policies which may ultimately help the country move forward.

In Uganda, the president came to power in 1986 with the famous Ten Point Program which included achieving minimum economic recovery, national unity and building infrastructure. However, the president has been criticized for having abandoned this program and allowed his government to divert into populist programs that consolidate him and his party in power at the expense of national development. It is at such a stage that term limits would have brought in by new leaders could have moved the country forward.

The study further reveals that absence of term limits brings the president closer to the temptations of being corrupted by power and become insensitive to the interests of the people. This is true in Uganda, Cameroon and Egypt under Mubarak where dissenting voices are suppressed using force and other unjust laws. The Ugandan lawmakers have recently passed some laws that undermine the enjoyment of people's rights. There are also some proposals for draconian legislations that would limit citizens' participation in governance and holding their leaders accountable. For example, the Public Order Management Bill (POMB, 2009) in Uganda prohibits demonstrations and requires that written permission from the Chief of Police be obtained before any political gathering can be held. This was worsened by the fear that citizens may topple the government like in North Africa and Middle East. The opposition has thus faced heavy crackdown by security forces under the pretext of keeping public order.

The study reveals that when a leader is firmly entrenched, he will usually seek to enrich himself at the expense of the public. The only way to insure his survival is by placing family members and close friends in strategic positions in government. The military, police,

public service and key parastatals are put in the hands of people who may not necessarily be competent to run them, but pay allegiance to the president. This, in the long term, becomes counter-productive. In Uganda, a clear family tree of the president is firmly in control of key agencies including the cabinet, the army, police, business sector and social affairs. Case in point is the president's wife who is a cabinet minister, his younger brother an army general, his son a commander of the Special Forces, and close relatives heading key ministries like Foreign Affairs and Agriculture. All these are signs that prolonged stay in power results in personalization of state power and resources by the all-powerful leader.

This study also finds that where there are no term limits, the powerful president is more likely to turn the executive into a personal club, rather than an office of first servant of the people, as it should be. In Uganda, for example, state funds are used to generate electoral support from key groups and to maintain the loyalty of essential supporters. Even donor money is used for populist programs that make the leaders popular for the upcoming elections. In Venezuela, President Chavez was able to personalize power for 14 years. When he was unable to execute the duties of his office due to ill-health, the constitution was disregarded on who would take on the presidential duties in Chavez's absence. In this case, term limits would have served to limit the ability of individuals like Chavez to enact self-aggrandizing policies and to retain power for as long as they live.

This study shows that incumbency generally gives a huge election advantage. History shows that incumbents in the United States are almost always re-elected. Politicians are re-elected because they are better recognized both by the electorate and powerful lobby groups which give them funding. People tend to vote for familiar candidates, and lobby groups support those who have won in the past and are likely to continue to meet their interests. This

notion is even more serious in young democracies in which revolutionary leaders from the independence movements and political parties are still politically active. Such leaders still command considerable support as they ride on people's anti-colonial sentiments. This partly explains why Robert Mugabe has been able to cling to power by winning periodic presidential elections in spite of economic and other mismanagement challenges Zimbabweans are facing.

The study identifies the existence of an uphill battle new politicians face to unseat incumbents. This makes term limits necessary for the health of democratic systems. Countries need new policies which come from a new set of leaders. Politicians who use pseudo-elections to retain power hurt their countries. It is necessary that power changes hands over time in order to allow for dynamic new solutions to be applied in a changing world. Term limits can cater for this necessity.

Furthermore, it can be argued that leaders who are looking to the next election usually focus on winning as many voters as possible to themselves. Leaders need to make some decisions which may be unpopular with the voters but necessary for long term progress of the country. This makes it hard for perpetual leaders to make such decisions for fear of losing elections. When term limits are in place and respected, leaders tend to make the most of their limited time in office, thus prioritizing difficult but crucial decisions and reforms. In Uganda's last two elections, local and foreign business companies have offered support to the incumbent party in return for lucrative deals after elections. Under these circumstances, tough decisions that are in the national interest have been sacrificed. While there will always be some of this behaviour, such a tendency is minimized by term limits.

Furthermore, having term limits helps build institutions especially political parties, through which retiring leaders can influence the next leadership such the choice of their successor, ensuring that they have a legacy. Accordingly, term limits encourage the development of strong institutions upon which political decisions are made, rather than those based on personalities. Indeed, from the study of Cameroon and Uganda, political parties are so weak that they can disappear from the picture in case the party leader loses power.

5.2 Arguments against term limits

Democracy—the government of, by and for the people—means that the citizenry, regardless of their social, economic and political status, have the power to make choices on who and how they should be ruled. It is therefore grossly undemocratic, arguably, to prevent people from choosing a leader they like because he has completed a permissible number of terms in office. If a leader has done well during his term of office, and still has the capacity to lead, and the people like him, then it should be their choice to re-elect him. Like the case of Venezuela, where Hugo Chavez is very popular with his socialist revolution, it would be undemocratic to deny Venezuelans the right to re-elect a man who represents the ideals they feel are in line with the future they desire. Preventing a popular leader from standing for re-election denies the electorate the right to choose who and how they need to be governed.

Whereas the above argument holds some water, it is important to consider the circumstances under which re-election of the “popular” leader is done. Young democracies still battle with low literacy levels, inadequate civic education, voter intimidation and bribery, and partisan electoral bodies. Therefore, it is hard to determine whether the claimed popularity of the leader genuinely stems from the people’s support, or such extraneous factors like ignorance, bribery and intimidation.

As Meredith (2003) points out, where leaders have wrested power from the other branches and become dictators, as in Cameroon, the cause of the problem is not a lack of term limits, but rather a lack of adequate separation of powers in government. Term limits cannot stop the rise of dictatorship, as a would-be dictator can easily remove term limits by use of his powers. The solution to dictatorship, therefore, is the establishment of robust democratic institutions and a genuine separation of powers.

Meredith further argues that “a strong leader may be necessary to counter the potential tyranny of a dominant legislature as much as the reverse. Removing term limits may therefore ensure balance among the power centres of government and thus avoid a dictatorship.” However, in most developing countries, there are rare cases where the legislature has become so powerful to threaten the executive. In Uganda, for example, members of the legislature who have become outspoken against the government have been silenced either through giving them ministerial appointments, business contracts, or disciplinary actions taken against them. In the end, the balance of power still tilts in favour of the executive.

In countries which are still battling fundamental problems like internal divisions, poverty, and civil war, it can be argued that continuity and experience are very important elements in providing steady and transformational leadership. Experienced leaders can easily navigate the difficult path of politics, and such experience is critical in the executive. In Rwanda, for example, after the 1994 genocide that killed almost 1 million people and left the country deeply divided on ethnic lines, it has been necessary to have a strong president for more than the usual two-terms in order to stabilize the country and set it on the path of

recovery. Uganda was equally in the same situation after 1986. However, it would be important that in such unique circumstances, term limits are opened up for a specified time rather than forever.

Historical evidence suggests that having no term limits allows visionary leaders to focus on long-term national development programs that might take more than the time allotted to them under term limits. When new leaders come to office, always take some time getting used to their new responsibilities, thus not putting to efficient use the valuable time they have in effective delivery. In some situations, new leaders want to break ties with the old systems, thus taking much time to deliver. Arguably, South Korea was able to build a solid economic foundation during the leadership of dictator Park Chung-hee. Although democracy fell casualty to his reign, he laid the foundation of modern Korea through his strong, visionary leadership. Developing countries at times have to make a choice between democracy and human rights on one hand, and economic and orderly development on the other. Finding a leader who can strike the balance between the two is a challenge, but if poor countries have to make a choice now, they may choose the latter.

6.0 SUMMARY, CONCLUSION AND RECOMMENDATIONS

This section summarizes the ideas expressed in the previous chapters. A conclusion is also drawn in relation to term limits relate with separation of powers.

6.1 Summary and conclusion

From the facts analyzed, the study finds that presidential term limits are an important firewall against entrenchment of dictatorship of the executive president. As former British legislator

William Pitt put it, “unlimited power is apt to corrupt the minds of those who possess it.” An analysis of Venezuela, Cameroon, Egypt and Uganda in regards to presidential term limits leads to a common conclusion: unlimited power in the hands of leaders undermines institutions and the democratization process. The Legislature and Judiciary are the first casualties of unlimited terms, as they fail to exercise their constitutional powers due to pressure from the executive. If they resist pressure, they are persecuted; if they give in, their independence is further eroded. In the end, it is the citizens who suffer the repressive and unresponsive regime—corruption, press censorship, poor service delivery and uncertainty.

6.2 Recommendations

From the study, constitutional firewalls are recommended to minimize on the excesses of the president. As James Madison believed, the chains of the constitution are necessary to protect the citizens from the two twin enemies—the state and the criminals. Once the constitution becomes easily manipulated to favour the executive, the state becomes a legalized version of criminals. Accordingly, it is recommended that the amendment of the constitution should be very difficult that it is done only when necessary. The United States constitution has endured for generations without major alterations. This is not because leaders have not deemed it necessary to change, but the process is so complex that they cannot tamper with it. A constitutional change through a referendum should require at least three-quarters of the population voting in the affirmative in order for the proposed changes to be accepted.

In parliament, since the ruling party legislators are usually manipulated to vote in certain ways yet they enjoy majority seats, a $\frac{3}{4}$ requirement can also go far in preventing constitutional changes that are deemed to be of long term effect, such as lifting of term limits and giving immunity from prosecution to former presidents.

It is also recommended that certain amendments should only be carried out after a lengthy consultative process with the citizens. In this case, a vote in parliament or referendum hurriedly organized should be unable to effect constitutional amendments. These measures can minimize on the excesses of the executive president.

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