



LEGACIES OF POWER



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Leadership Change
and Former Presidents
in African Politics

Edited by
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Henning Melber

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Encouraged by this earlier experience, the two partner institutions agreed to proceed further with work originally undertaken by the HSRC on behalf of the Nelson Mandela Foundation (NMF) on a smaller scale concerning the role of former presidents in Africa. Consequently, with the backing of the NMF and the Swedish International Development Cooperation Agency (Sida), the project on 'Presidential Transitions and the Role of Ex-Presidents' emerged during late 2003 as a comparative endeavour, finally resulting in the exploration of a dozen different case studies in Anglophone African countries. The scholars assigned discussed preliminary papers at an internal workshop in Cape Town in December 2004. It was fully appropriate that we, as editors, should meet to edit these revised drafts in Windhoek in late March 2005 during the time when the people of Namibia celebrated the 15th anniversary of that country's independence, and witnessed for the first time a transfer of presidential power. The torrential rain which fell during the ceremony, welcome in a country which too often experiences drought, did nothing to dampen the spirits of those present as they gave a warm reception to their new president.

At the same time, when in Windhoek for many a dream came true, unfortunately other dreams found a painful end in confrontation with political reality. Ken Good, one of the contributors to this volume, was at the time of the celebrations in Namibia, served with a deportation order by the president in neighbouring Botswana for being considered a threat to the country's national security interests. This was directly related to his involvement in the chapter

on Botswana presented in this volume. We regret to experience once again that the pursuance of rigorous, committed, but at the same time intellectually honest scholarly work is met with repression even in environments widely regarded as being liberal democratic. We will remain loyal to advocating the principles of uncompromising academic freedom and pursuing the advocacy role of social sciences in contributing to notions of good governance. We trust the contributions to this volume offer testimony to this.

We are hopeful that this volume will offer constructive insights and add relevant aspects to the body of currently available knowledge. It aims at scholars, policy-makers and a wider audience alike in the hope of promoting best practices in a sensible policy area of direct relevance to the people in African societies. We are grateful to the Open Society of South Africa for further funding which will enable us to disseminate the findings of the study throughout the southern African region.

We wish to acknowledge our debt to the NMF, the Open Society of South Africa and Sida for their generous financial support, without which the completion of this project would have been impossible. We would also like to give particular thanks to John Samuel, Chief Executive Officer of the NMF, for his quiet but constant support (in this, as for other projects conducted at the HSRC). Joan Makalela, administrative assistant in the Democracy and Governance Research Programme, worked indefatigably to ensure our workshop was a success. John Daniel, wearing his HSRC publishing hat, dealt with many aspects of project management, as well as making his own valuable academic contribution, while other members of the HSRC Press were as efficient as usual in dealing with the technical aspects of editing. Finally, we would like to thank our contributors for taking part in a project which has been as much fun as it has been so thoroughly fascinating.

Roger Southall and Henning Melber

Abbreviations and acronyms

ACDR	Association of the Committee for the Defence of the Revolution
AFORD	Alliance for Democracy
AFRC	Armed Forces Revolutionary Council
ALF	Africa Leadership Forum
ANC	African National Congress
ANPP	All Nigeria Peoples' Party
ASP	Afro-Shirazi Party
ATU	Anti-Terrorist Unit
AU	African Union
BCP	Botswana Congress Party
BDP	Botswana Democratic Party
BNF	Botswana National Front
CCAP	Church of Central Africa Presbyterian
CCJP	Catholic Commission on Justice and Peace
CCM	Chama Cha Mapinduzi (Tanzania)
CDR	Committees for the Defence of the Revolution
CRC	Constitutional Review Commission
CUF	Civic Unity Front
DP	Democratic Party
DRC	Democratic Republic of Congo
ECOMOG	Economic Community of West African States Ceasefire Monitoring Group
ECOWAS	Economic Community of West African States
ESO	External Security Organisation
FDC	Forum for Democratic Change
FDD	Forum for Democracy and Development
GCA	Global Coalition for Africa
GDP	gross domestic product
GNU	Government of National Unity
HSRC	Human Sciences Research Council
ICD	Inter-Congolese Dialogue
IFP	Inkatha Freedom Party
IMF	International Monetary Fund

JFM	June Fourth Movement
KANU	Kenya African National Union
KAP	Kalangala Action Plan
LDP	Liberal Democratic Party
LPAC	Legal and Parliamentary Affairs Committee
LURD	Liberians United for Reconciliation and Democracy
MBC	Malawi Broadcasting Corporation
MCP	Malawi Congress Party
MDC	Movement for Democratic Change
MEC	Malawi Electoral Commission
MMD	Movement for Multiparty Democracy
MODEL	Movement for Democracy in Liberia
MoU	Memorandum of Understanding
MP	Member of Parliament
MRF	Mandela Rhodes Foundation
NAK	National Alliance Party of Kenya
NARC	National Alliance Rainbow Coalition
NCA	National Constitutional Assembly
NCP	National Convention Party
NDA	National Democratic Alliance
NDC	National Democratic Congress
NDP	National Development Party
NEC	National Executive Committee
Nepad	New Partnership for Africa's Development
NGO	non-governmental organisation
NICE	National Institute for Civic Education
NMCF	Nelson Mandela Children's Fund
NMF	Nelson Mandela Foundation
NP	National Party
NPFL	National Patriotic Front of Liberia
NPP	New Patriotic Party
NRA	National Resistance Army
NRM	National Resistance Movement
NRM(O)	NRM Organisation
NTGL	National Transitional Government of Liberia
OAU	Organisation of African Unity

PAC	Public Affairs Committee
PAFO	Parliamentary Advocacy Forum
PDP	People's Democratic Party
PMC	Parliamentary Movement Caucus
PNDC	Provisional National Defence Council
PNP	People's National Party
PRA	People's Redemption Army
PRC	People's Redemption Council
RA	Reform Agenda
RPDC	Rules, Privileges and Discipline Committee
RUF	Revolutionary United Front
SADC	Southern African Development Community
SSS	Special Security Service
Swapo	South West African People's Organisation
TAC	Treatment Action Campaign
TRC	Truth and Reconciliation Commission
TJC	Truth and Justice Commission
UDF	United Democratic Front
UJCC	Uganda Joint Christian Council
UN	United Nations
UNIP	United National Independence Party
UPND	United Party for National Development
Zanu-PF	Zimbabwe African National Union-Patriotic Front
Zapu	Zimbabwe African People's Union
ZCTU	Zimbabwe Congress of Trade Unions

Introduction: about life after presidency

Henning Melber and Roger Southall

This volume addresses what has become an increasingly common phenomenon in Africa over the last two decades – the presence within the countries they once ruled of former heads of state and presidents. Prior to this, if they were not forcibly ejected from power, it was customary for national leaders to remain in office, often citing their indispensability, cultivating an iconic status and even implying that age could not wither them. As late as at the end of the twentieth century, such notions remained central to ‘neo-patrimonialism’, a system in which ‘disorder’ was identified by a widely and controversially discussed book by Chabal and Daloz as a ‘political instrument’, a set of vertical and personalised relations whereby rule was maintained:

...the ultimate ambition of those who have power is most often to establish their standing as Big Men. Such standing is, by its very nature, subjective and can only be achieved within a context of personalized relations where clients, or dependants, will ensure its recognition. It is not, therefore, sufficient to be acknowledged as the supreme political ruler. It is also necessary to be recognized as the *primus inter pares* among all Big Men. (1999: 158)

Chabal and Daloz do, however, admit that this generalisation does not account for those exceptional African heads of state who ‘may genuinely aim to transcend the short-term view in favour of longer-term developmental goals’. Nonetheless, they insist ‘that the ability of such exceptional leaders to move the political system beyond its present rationality is limited, not primarily because of a lack of ambition but much more fundamentally because of the nature of existing forms of political legitimacy’ (Chabal & Daloz 1999: 162). The contributions to this book, while making no further explicit reference to this far-reaching (and much disputed) assumption, will certainly offer empirical studies which will contribute much to this wider debate.

It was a dominant perception until the early 1990s that African rulers do not vacate their office alive. The 1990 presidential address to the African Studies Association of the United Kingdom presented some striking arithmetic to illustrate the point. By then, as Anthony Kirk-Greene (1991: 181) summarised, the mean duration in power of leadership in 17 African states (a third of the continent) was 25 years. The 'for life' image associated with African rulers contrasted, however, with the brevity of rule of others, with no fewer than 20 having been in office for less than a year. At the end of 1988, the continental average duration of office for the 158 African leaders who had been or were heads of government in 50 states since 1960 was calculated at 3.1 years (Kirk-Greene 1991: 181). Nonetheless, the general assumption was that the shorter periods in office were attributed almost exclusively to the incumbents' untimely departure from this world: 'If my question of "What Happened to the President Afterwards?" has been overlooked in the literature, this may largely be due to the indisputable fact that, unless one is talking of a meta-physical after-life, in nine cases out of ten it is a rhetorical question: there was no Afterwards' (Kirk-Greene 1991: 183).

However, this notion was soon to be challenged by James Polhemus, who pointed out that Kirk-Greene's question required major rephrasing, since the (former) heads of state were not as passive as his formulation implied. Indeed, far from being in a minority, extant heads of state or government in the 16 Commonwealth countries in Africa who had left or lost office between independence and August 1992 were in a large majority: of the 52 who had held office during that period, 16 were still in office, and of the 36 no longer in power, four had died in office of natural causes, and fully 29 had experienced 'a non-metaphysical "Afterwards"'. In short, rather than being merely 'passive players', many former heads of state and government were very much alive, and the more apposite question to be addressed was 'What did the President do Afterwards?' – even if the brutal realities of African politics also meant that the further question of what had 'happened' to him remained valid (for many such former leaders were to be harassed or imprisoned) (Polhemus 1992: 2f). Nonetheless, for all that many former leaders were provided with limited options, quite a number of them did face 'the questions of what to do with what remained of a life which had to that point been characterized by power, purpose, and not to put too fine a point on it, position and privilege' (Polhemus 1992: 7), even though the varied solutions to this problem which they found were by no means always well received by successor regimes.

The dilemmas that such former heads of state faced and posed were to become far more pressing as a result of the 'second wind of change' which swept Africa from the late 1980s as an outcome of both domestic discontents and external pressures invigorated by the end of the cold war. There were few incumbent leaders who were not reluctant to vacate office, and there were many transitions from authoritarianism to a more democratic order which were deliberately stalled or rendered difficult, and not all were successfully accomplished. Nonetheless, the forces for change were such that there were few countries where they could be denied, and there were few leaders who could ultimately resist the call for democratic elections. Some successfully rode the tiger and managed to stay in power by manipulating new rules of the game, which now usually included the imposition of limits on the length of time a president could stay in power. Yet others were compelled to bow out, some far less gracefully than others. But the outcome was that an increasing number of rulers were displaced, and new regimes and former presidents were compelled to seek some answer to the question of what the role and status of former heads of state should be. Our purpose in this book is both to examine the dilemmas which demands for presidential transitions impose upon incumbent rulers and to analyse the relationships which are evolving between new regimes and their predecessors. Unfortunately, issues of practicability have dictated that we had to restrict our case studies to Anglophone sub-Saharan Africa, yet we hope that it will manage to provoke examination of what we are convinced is emerging as an extremely important issue in other parts of the continent.¹

Our perspective is framed by probing three propositions, which are put forward in the overview provided by Roger Southall, Neo Simutanyi and John Daniel in Chapter 1. The first is that while the hybridal (neither ambiguously presidential nor parliamentary) political systems which exist in much of post-independence Africa incline new leaders to assume that their predecessors should follow the example of former US presidents in withdrawing from day-to-day politics, former presidents themselves may choose to emulate those leaders in parliamentary systems who seek to regain power. The second is that the role allotted to or pursued by former African presidents reflects not only the nature of their regimes, but also the manner of their leaving office. The third is that while the prescription of the roles and rights of former presidents is always an important aspect of any country emerging from a 'difficult

transition' from authoritarianism to democracy, there is simultaneously a need to balance the demands for transitional justice (the desirable objective that former leaders should remain legally and politically accountable for any past misdeeds of office) against the requirements of political stability.

While our case studies indicate some general trends, they also demonstrate an enormous variety in the way that new leaderships are responding to these dilemmas, and in how authoritarian regimes are wrestling with issues posed by democratisation, notably whether presidents' tenure of office should be bound by fixed term limits. On the whole, our conclusions are that, first, the continuing engagement of former presidents in day-to-day politics, even if constitutional, tends to provoke conflict with new regimes and may well provoke an autocratic response which may test the limits of tolerance in a new democracy. Second, the better their record in office, the more likely presidents are to facilitate a relatively easy transition from one government to another and to play a constructive post-presidential role domestically and internationally. Finally, it is almost inevitable that any difficult transition, involving the potential or actual standing down of an authoritarian and corrupt dictator, will involve construction of some form of what Jennifer Widner (1994) refers to as a 'reform bargain'. Or to put this in a more popular parlance, the crafting of stable democracies will usually require that democrats have to hold their noses and make important concessions protective of incumbent power-holders if they wish to fashion a political transition and subsequently consolidate democracy. However, what our individual case studies do *not* demonstrate (but which is a point that we need to emphasise here) is that what happens in one country may strongly influence what happens in another. On the one hand, popular pressures to overthrow tyrants or to impose presidential term limits can often be encouraged by democratic triumphs elsewhere. On the other hand, a Robert Mugabe may be severely discouraged from leaving office by events in other African countries where former presidents have been variously dishonoured, persecuted and prosecuted for former misdeeds. A strong message emanating from our studies is that how the generic dilemmas concerning presidential transitions and former presidents are addressed inevitably reflects the peculiar political cultures and dynamics which obtain in individual countries.

It was tempting to arrange our case studies in some sort of progression of virtue. Indeed, our starting with a case study on the iconic Nelson Mandela as

a former president, and our concluding with one on the removal and exile of Liberia's brutal and despotic Charles Taylor, may encourage readers to think that we have done precisely that. However, it very easily became clear that no such ranking was tenable, especially on the basis of the rich and nuanced analyses offered by our contributors wherein the motivations and actions of presidents in conceding power are so often contradicted by the actual outcome. For instance, we most certainly acknowledge that Nyerere's record as a former president ranks equal or close to that of Mandela; yet equally, we also have to recognise that the Tanzania in which he stood down from power in 1985 was very different from the South Africa of 1999, the year when Mandela departed office. Similarly, for all that Nyerere's role as a former president was clearly commendable, in retrospect its legacy is complicated by his having established the precedent whereby, even if as a transitional device, an outgoing president retains the presidency of the ruling party. As it happened, Nyerere used his continuing control of the party to good effect. He utilised his position to further democracy and provoke debate about governmental policy, yet he never sought to use it to further his own personal domination and he resisted the temptation to sabotage the rule of Ali Hassan Mwinyi, who had followed him into State House. In contrast, as the chapter on contemporary Malawi demonstrates, retention of the ruling party presidency by an outgoing president can be a cause of political instability if it is utilised to undermine and limit the authority of the successor. Similarly, the Namibian case cannot exclude the possibility that Sam Nujoma's staying on as president of the ruling party – whilst having stood aside as Namibian head of state for his handpicked successor Hifikepunye Pohamba – indicates a desire to continue governing by remote control.

We have ultimately chosen to proceed through our chapters in a rather meandering, geographical fashion, choosing arbitrarily to start with South Africa and thereafter wandering, with perpetual fascination, through other countries of southern Africa, then East Africa, then West Africa. At risk of repeating ourselves, let us stress again the variety of experience that is to be found within the pages of this collection! We have no wish to spoil readers' fun or make life unduly easy for future reviewers by summarising the content of the chapters that follow. Nonetheless, having indicated above that there are some generalities which appear to govern the role of former presidents, and then having emphasised national differences, let us compromise

by highlighting what we, as editors, interpret as the major thrust of each case study.

- *John Daniel* emphasises the enormously constructive (but not always uncontroversial) role that has been played by Nelson Mandela in the domestic arena around such key issues as HIV/AIDS, although he regards his well-intentioned and much-lauded efforts with regard to conflict resolution internationally as having been rather less successful than is commonly supposed.
- *Kenneth Good* and *Ian Taylor* recognise the important contribution made by former President Ketumile Masire to African peace-making efforts in Central Africa, yet argue forcefully that – contrary to Botswana’s image as a model African democracy – the two presidential transitions experienced in that country hitherto have served to consolidate elite power.
- *Neo Simutanyi* illustrates how newly incumbent presidents in Zambia have used state powers to contain continued political activity by former presidents, not least through the tendentious lifting of the bargained amnesty from prosecution secured for himself by Frederick Chiluba before he handed over to Levy Mwanawasa.
- *Henning Melber* shows how authoritarian tendencies within the liberation struggle for Namibia’s late independence enabled Sam Nujoma to secure a constitutional amendment allowing him to serve a third term as president, and also encouraged him to stay on as leader of the ruling party after eventually pushing through a personally selected successor.
- *David Moore* argues that Robert Mugabe’s determination to hang on to power in Zimbabwe is structured by a series of considerations, not least of which is the fact that the neo-patrimonial system which his ruling party has constructed has rendered him truly indispensable if the material and political interests of those around him are to be maintained. They prefer to postpone the inevitable, as Zimbabwe’s stalled transition leads it ineluctably towards the dangers and tragedy of a failed state.
- *Seán Morrow* demonstrates how, although a bid for a third term in office by Bakili Muluzi was defeated by democratic forces in Malawi, his determination to retain power indirectly after reluctantly standing aside for his successor has set off a train of (as yet unfinished) events which have been acutely politically destabilising.
- *Roger Tangri* proposes that Yoweri Museveni’s political dominance in Uganda is such that he appears likely to defeat opposition to an extension

of his long run in office, and observes how international donors appear resigned to their continued propping up of an increasingly authoritarian regime because they deem it as having overseen an economic success.

- *Thomas Wolf* indicates how demands for one or another variety of ‘transitional justice’ that accompanied the united opposition’s victory in the 2002 Kenyan elections, were eventually submerged by a combination of bonds uniting the country’s political elite and the shorter-term needs of political survival, leaving retired President Moi with both an enhanced public stature and far more active political involvement than could have been foreseen prior to the transition.
- *Roger Southall* outlines how Nyerere used his status as an honoured former president to push for democratic reforms at home in Tanzania while engaging in peace-making in Africa and campaigning for a better deal for poorer countries globally.
- *Kwame Bofo-Arthur* argues that the unwise and unconstrained political antics of Jerry Rawlings since he has stepped down from the presidency may constitute a threat to democracy in Ghana, and that the new government of Arthur Kufuor may be justified in taking action against him so long as it recognises due process.
- *Sola Akinrinade* deals with the unique case of Nigeria, where the succession of coups, counter-coups and uncertain democracies has resulted in a multiplicity of former heads of state, and argues that the institutionalisation of their role constitutes a major aspect of democratic consolidation, a process which continues to be undermined by the continuing domination of political life by the military.
- *Daniel Hoffman*, while recognising the political difficulties surrounding the prosecution of Charles Taylor for appalling human rights offences in Liberia and Sierra Leone, argues that his poorly regulated exile in Nigeria facilitates his continued political influence at home and threatens to allow him to make a disruptive and dangerous comeback.

The Organisation of African Unity (OAU) was often referred to by commentators as little more than a self-serving club for African presidents, whose existence was premised upon the mutual convenience of the doctrine of non-interference in the affairs of sovereign states, which provided cover for authoritarian and despotic regimes throughout the continent. In contrast, it is widely hoped that the launch of the African Union (AU) in 2002/2003 – and

the subsequent institutionalisation of a visible political will to exercise more collective responsibility over the policies of member states – is an indication that the present generation of African leaders will be more prepared to police regimes which offend against international norms, rights and laws and to be more responsive to pressures for democracy and ‘good governance’ at home.

The recent shift in trends – if not even paradigms – in presidential transitions on the continent is highlighted by the increasing number of those who more or less voluntarily hand over presidential powers while still being in good physical shape and mental health. The birth of an African Statesmen Initiative, launched in Mali’s capital Bamako in the presence of 15 former African heads of state in June 2005, is no coincidence but the almost logical result. With the support of several international institutions,² the elder statesmen (indeed still all men) agreed on a remarkable document with far-reaching statements in terms of their political ideals. The ‘Bamako Declaration of the African Statesmen Initiative’, adopted on 8 June 2005, stated among other things:

We believe that democracy is the sole form of government that permits the development of the range of national institutions needed to ensure sustainable peace, security, economic growth and social well-being. We applaud the spread of democratic values and respect for the rights of citizens in a growing number of African countries. We commit ourselves to continuing to use our good offices to foster dialogue and the peaceful resolution of the continent’s conflicts, and to promote human security and democratic models of government that offer citizens the opportunity to choose their leaders freely and participate fully in the political life of their countries... We welcome the future participation of outgoing heads of state and government in efforts to promote democratic principles, good governance, and human security and development through individual and collective action... We affirm that changes of power and political succession should always be based on constitutional rule and democratic principles... We affirm the special responsibility of former heads of state and government to support the development of strong, well functioning legislative and judicial bodies, as well as other public institutions to ensure public accountability.³

Certainly, there are some encouraging signs one cannot ignore when dealing with the issue at present. The earlier stereotypes have lost even more meaning and are increasingly less helpful in explaining the more complex socio-political realities. Apart from the African presidential efforts which (if belatedly) saw to the eventual displacement of Charles Taylor, Nigeria and allied West African states have earned widespread plaudits for stepping in to challenge the constitutionally manipulated succession to the presidency of Faure Gnassingbe following the death of his father Gnassingbe Eyadema (who had ruled Togo with an iron fist for 38 years since he overthrew the government of Sylvanus Olympio in a military coup).⁴ With the just adopted 'Bamako Declaration', the question posed previously during the early 1990s remains more valid than ever: whether an increasing number of 'African heads of state will follow the eminent person path upon their retirement from political office, rising above narrow national politics'. For some, most certainly, this 'would seem to be an attractive way of putting their talents to good use and minimizing the pangs of withdrawal from a life of prominence and importance' (Polhemus 1992: 19).

'Is there life after presidency?' asked BBC Africa Live on the occasion of the African Statesmen Initiative, inviting its audience to participate in the debate. We cannot resist reproducing a few of the many different listeners' contributions to illustrate the current opinions:⁵

- 'Presidents are people too. The life after presidency should be retirement.' (Ghana)
- 'Former presidents should be respected because of what they did for a country. However at the same time, when Mugabe becomes a former president, my views will change.' (Zimbabwe)
- 'There is always life and prosperity for presidents in Africa because most of them are thieves.' (UK)
- 'Oh yes, there is life after the presidency. In fact a far better life...compared to the presidency. For example, you get to sleep peacefully at night (don't have to worry about whether your army is plotting to oust you the next morning); you become a well-respected statesman (provided you left office voluntarily...poor Charles Taylor), and the lot. Life after the presidency in Africa is like life after death – although no one has ever died (please, don't count Jesus) and come back to give account of what it is like at the other end. However, the good news is that Africa is on the right path.'

At least we are beginning to count Africa's former presidents who left office constitutionally. And it should send a very strong, positive message to sitting presidents that...yes, there is in fact very good life after the presidency, given you kept your promises to the best of your ability.' (Liberia)

Notwithstanding the light at the end of the tunnel, progress is uneven. The democratically interventionist posture of Nigeria and its allies in Togo has scarcely been matched by the determination of neighbouring states in southern Africa to continue to prop up the Mugabe dictatorship in Zimbabwe, not least through Orwellian statements which devalue democratic standards by upholding as 'free and fair' successive elections which have been systematically structured to maintain the regime in power and undercut the opposition. Even closer to home, one of our own authors, Ken Good, Professor of Political Studies at the University of Botswana, when seeking to present an earlier draft of his jointly authored paper for this book to a departmental seminar at the University of Botswana in Gaborone, was served with an arbitrary notice from the authorities declaring him a prohibited immigrant on the grounds of his being considered a risk to national security. This application of the full force of unrestricted autocratic repressive power at the discretion of the President's Office clearly indicates that our topic is a highly sensitive one and that consideration of the role and status of current, former and future presidents does constitute an important, and hitherto largely unexplored, dimension of democratic consolidation (or lack thereof).⁶ Nonetheless, despite the uncertainty of this advance, the important message of this volume is (as Southall, Simutanyi and Daniel argue in Chapter 1) that significant progress is being made on the African continent towards the 'ordinariness of presidential retirements'. In the final analysis, this is an outcome of the democratic struggles of African people, who, in country after country, have demonstrated their determination to confront dictatorships. These struggles remain incomplete, but it is our hope that they can be informed and strengthened by critical and committed scholarship of a nature we trust this volume to be.

We offer our efforts presented here as a stimulus to further careful observation and analyses concerning progress in a sensitive and still-contested arena of institutionalised political power. During our final preparations of the manuscripts for going to press, on 13 June 2005, five African presidents paid a visit to their fellow Head of State George W Bush in Washington, DC.

According to the official announcement, the US president welcomed Festus Mogae of Botswana, John Kufuor of Ghana, Armando Guebuza of Mozambique, Hifikepunye Pohamba of Namibia and Mamadou Tandja of Niger in the White House to ‘highlight the value that the United States places on supporting democracy across Africa. President Bush recognizes these countries’ successes at holding free and fair elections last year.’⁷ Coming from a president who was elected to office by a narrow victory whose outcome was determined by hugely controversial (some say ‘rigged’) results in the states of Florida and Ohio, such sentiments should not be regarded uncritically. Indeed, this volume should not be taken as arguing that African presidents are fundamentally different in their ambitions from their counterparts elsewhere; just that they are considerably less constrained by constitutions and political practice. Yet it is affirming, along with increasing numbers of political activists throughout the African continent, that democracy demands that there should be a regular and structured circulation not only of elites but of heads of state and government too.

Notes

- 1 A recent study of a topic, which overlaps strongly with our own, covers the four Francophone African states of Côte d’Ivoire, Mauritania, Benin and Togo, as well as The Gambia (see N’Diaye, Saine & Houngniko 2005).
- 2 These include the US-American National Democratic Institute, the National Endowment for Democracy, the Club de Madrid, the Bill and Melinda Gates Foundation, the United Nations Development Programme, the German government, the Dutch Institute for Multiparty Democracy, the African Centre for Strategic Studies, the Open Society Institute of West Africa, the Westminster Foundation for Democracy and USAID.
- 3 Quoted from the document as posted to the web by the National Democratic Institute for International Affairs (Washington, DC) on 9 June 2005. The signatories were the following former heads of state and government: Nicéphore Soglo (Benin), Ketumile Masire (Botswana), Antonio Mascarenhas Monteiro (Cape Verde), Dawda Kairaba Jawara (The Gambia), Jerry Rawlings (Ghana), Amos Sawyer (Liberia), Albert Zafy (Madagascar), Joachim Chissano (Mozambique), Sam Nujoma (Namibia), Mahamane Ousmane (Niger), Yakubu Gowon (Nigeria), Manuel Pinta da Costa (São Tomé and Príncipe), Miguel Trovoada (São Tomé and Príncipe), Al Sadig Al-Mahdi (Sudan) and Ali Hassan Mwinyi (Tanzania).

- 4 Gnassingbe was forced by outside pressure from the Economic Community of West African States (ECOWAS) and the AU to stand in a democratically conducted presidential election, which took place on 24 April 2005 (but was considered to be rigged).
- 5 Available at <http://news.bbc.co.uk/go/pr/fr/-/2/hi/africa/4607269.stm>; accessed on 16.06.05.
- 6 Ken Good's deportation order, which his lawyers had challenged on constitutional grounds, was confirmed by the High Court at the end of May. The 72-year-old was immediately handcuffed, denied communication with anyone and put on a plane to Johannesburg the same day (for more details see Taylor 2005).
- 7 Statement by the Press Secretary, The White House, Office of the Press Secretary, 08.06.05.

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1 *Former presidents in African politics*

Roger Southall, Neo Simutanyi and John Daniel

In established liberal democracies, it is the norm that heads of government retire from office either because they have reached a constitutional limit to their tenure or for personal or political reasons (such as loss of health or party support), or because they have lost an election. Thereafter, where they do not remain politically prominent, they customarily fade into the background, normally to enjoy an honorific retirement in which many of them engage in remunerative reminiscence. Hence it was that when, from the end of the cold war, Africa was swept by a post-independence wave of popular revolt against personalised dictatorships, the idea that heads of government should henceforth only be allowed to serve for limited terms was widely accepted as part of the overall package which projected a return to multiparty democracy.

Table 1.1 provides details of how African leaders have left or been forced from power in the 44-year-long post-colonial era. It reveals that a majority (54.3 per cent) have been forced from office unconstitutionally, the military coup being the most frequently employed means. When looked at by decade, the trend has at least been downward and sharply so in the post-cold war period. Even so, in the 1990s, more heads of state were forcibly ejected or assassinated (24 and 38.3 per cent) than retired either voluntarily or because they had been voted out of office (21 or 32.9 per cent). However, in the first four years of this current decade there has been a sharp increase in the number of political transitions involving African presidents retiring from office. The result has been a dramatic growth in the number of former heads of state¹ who now have to be accommodated by their successors.

Table 1.1 *How leaders have left office in sub-Saharan Africa, 1960–2004*

Reason for leaving office	1960–69	1970–79	1980–89	1990–99	2000–04	Total
Overthrown in coup, war or invasion	27 (72.9%)	30 (68.0%)	22 (59.4%)	22 (36.4%)	4 (16.6%)	105 (51.4%)
Assassination (not part of a coup)	1	1	1	2	1	6 (2.9%)
Died of natural causes or by accident	2	3	4	3	0	12 (5.8%)
Retired voluntarily	1	2	5	9	8	25 (12.2%)
Lost election and left office	0	0	1	12	3	16 (7.8%)
Other (interim regime or impeachment)	6	8	4	14	8	40 (19.6%)
All regime transitions	37	44	37	62	24	204

Source: Goldsmith 2001, updated by Ian Taylor.

Note: The table refers to the primary power-holder, usually the president and sometimes the prime minister. Rulers who presided over interregnum regimes are included, except leaders who were in office for only a few days during a period of political confusion. Leaders serving non-consecutive terms are counted twice. All 48 sub-Saharan African countries are included, starting with the year of independence if later than 1960.

This increase in the number of peaceful presidential transitions has raised important questions about the role and status of such former leaders, not least because alternations in the presidency are widely viewed as evidence of political maturity and democratic consolidation (O'Donnell & Schmitter 1986; Linz & Stepan 1996). However, before it is possible to consider adequately the role that former presidents may come to play in the future, it is necessary first to explain why Africa's leaders for some four decades typically displayed a reluctance or refusal to retire.

The perils of presidential transitions under autocracy

With but a few exceptions, African states were graced at independence with all the paraphernalia of liberal democracy: written constitutions, multipartyism, separations of power, and so on. However, the foundations for democracy were extremely weak. Not only had the colonial state itself embedded traditions of political authoritarianism, but African countries had limited cultural and

national homogeneity, had low literacy levels, lacked a substantial middle class, and had low levels of economic development, all factors widely considered to be prerequisites for democracy (Lipset 1963; Rustow 1970; Sorenson 1993). Consequently, for all that independence regimes made sometimes heroic and innovative efforts to promote both development and democracy – for instance, via socialism and participatory one-partyism – the overwhelming majority were rapidly to fall victim to political or military authoritarianism. Critically, this was driven by competition between (often ethnic or ethnicising) elites for control over a state machinery which deployed the major economic resources in society (Markowitz 1977; Mohamed Salih 2001).

At independence, most African economies were overwhelmingly dependent for the generation of surplus upon the international sale of primary commodities, whether crops or minerals. Whilst internal or regional markets for industrial goods were small and poor, and hence largely unattractive to foreign investment, the desire to assert national sovereignty and promote development led to the massive extension of state involvement in industry and construction via parastatal corporations and joint ventures. Access to state power, employment or patronage therefore became crucial to the accumulation of wealth, not least because state elites were simultaneously well placed to exact rents from those multinational corporations which did want to invest, and largely hostile to the emergence of indigenous business elites to whom success might impart a dangerous autonomy. African politics therefore became arenas of contestation in which incumbents' dictatorial authority served as a cover for a political fragility characterised by the threat or reality of coups, secessions, assassinations and general skulduggery (Clapham 1985).

In these circumstances, few African presidents were prepared even to contemplate the idea of retiring from office, and with the stakes so high, opponents were viewed as threatening not merely the political but also the physical survival of the incumbents in power. This was especially so where they had assumed office as leaders of anti-colonial movements which had 'created' or fanned emergent nationalisms. Some such presidents came to identify their persons with the state itself. Even if, unlike Hastings Kamuzu Banda of Malawi, they did not formally assume the title of 'President for Life', they came to assume their indispensability and longevity (Kirk-Green 1991; Decalo 1992). 'L'état', they said in fervent echo of Louis XIV, 'c'est moi'.

Not surprisingly, when such mortal gods fell from power and failed to flee, they could expect little but persecution, prosecution and punishment by their successors for real or concocted sins of corruption, dictatorship and economic mismanagement, regardless of bargained or formal constitutional immunities (O'Donnell & Schmitter 1986; Linz & Stepan 1996). Even if they did escape into exile, they would continue to be regarded as a threat to the stability of the new regime, and neighbouring regimes which harboured them were likely to be viewed, often with sound reason, as conspiring to aid their comeback. From this perspective, whilst far-flung exile might well provide a greater sense of security to those who had replaced them, the only former presidents who represented no threat at all were dead ones, although the more fortunate ones such as General Muhammadu Buhari of Nigeria escaped with house arrest or imprisonment. (Indeed, as Akinrinade relates in Chapter 12, Nigeria boasts of as many as seven living former heads of state, all save one former military leaders; the one civilian exception [Shehu Shagari] fell victim to a military coup). Ironically, of course, if safely dead, the memory of such presidents could then be mobilised as a political resource, as was that of Kwame Nkrumah by the Rawlings' regime in Ghana.

Democratic transitions: new prospects for former presidents in Africa

Given this background, it is scarcely surprising that what analysis there was of the role played by former presidents in Africa during the long years of dictatorship and authoritarianism was patchy, unsystematic and a by-product of larger studies of political leadership and succession (Mazrui 1967; Le Vine 1980; Cartwright 1983; Hughes & May 1988). However, more recently, the issue of former presidents has been brought more to the fore as an important aspect of the dynamics of democratic transitions as an increasing number of presidents have retired (Polhemus 1992; Baker 1998, 2004). The roll-call features some of the major African names of the last half-century. They include first and successor presidents who retired voluntarily (Julius Nyerere of Tanzania, Nelson Mandela of South Africa and Ketumile Masire of Botswana), who reached the expiry of constitutional term limits (Hassan Mwinyi of Tanzania, Jerry Rawlings of Ghana, Bakili Muluzi of Malawi, Daniel arap Moi of Kenya, Sam Nujoma of Namibia, Joaquim Chissano of Mozambique and Frederick Chiluba of Zambia) (Widner 1994; Ottaway 1998; Barkan 2000; Southall 2000; Rotberg 2003), and those who suffered

electoral defeat (Mathieu Kerekou of Benin, Mamadou Diouf of Senegal, Aristides Pereira of Cape Verde, and Kenneth Kaunda of Zambia).

A useful starting point for discussion about the role of this increasing clutch of retired African presidents in the contemporary era is a set of proposals made by Mazrui (1994) as to why former heads of state should be honoured. He argued, first, that they had a large reservoir of experience which could be put to good use as mediators and conciliators to resolve conflicts in strife-torn countries. Second, they should be saluted for having served their countries and for having allowed themselves to be replaced democratically and, finally, that the honouring of former heads of state was in keeping with Africa's tradition of respecting elders. For Mazrui, the honorific recognition of former presidents had the potential not only of diffusing political tensions but also of discouraging them from attempting to make an unconstitutional comeback.

Constructive though Mazrui's proposals may be, they need to be qualified by a recognition that many, if not most, African former (and not a few currently serving) presidents had or have poor leadership records. Many were guilty of gross abuses of human rights, many looted their nation's treasuries, and many have left their countries dangerously divided if not actively war-torn. There is therefore clearly a need to differentiate former heads of state in terms of their governance records and to lay down ground rules as to how they should be treated (Rotberg 2004).

In this regard, we put forward three propositions:

- First, whilst the role of former political leaders in established liberal democracies is dictated largely by the differences between presidential and parliamentary systems (in that in the former, ex-presidents tend to stand down from partisan politics whereas in the latter, ex-prime ministers may remain politically active, often with the objective of regaining power), in Africa the hybrid nature of constitutions and political systems dictates that whereas new power-holders incline to the view that former presidents should withdraw from politics, the latter may prefer to exercise the political latitude allowed to prime ministers in parliamentary systems.
- Second, the role allotted to, or assumed by, former presidents in Africa reflects not only the nature of their regimes, but also the manner of their leaving office. Presidents who vacated office voluntarily, and who did so basking in national or international prestige (personified by Mandela and

Nyerere), and who presided over systems recognised as relatively benign, are enabled to pursue a constructive role in their retirement. In contrast, those who presided over tyrannical regimes, and who were either ejected or squeezed from office, are likely to have been hemmed in politically by formal or informal restrictions imposed by a transition to a new, formally democratic order.

- Third, prescription of former presidential roles is likely to constitute a key aspect of any ‘difficult transition’ (unless, of course, the issue falls away by virtue of the head of state conveniently dying or being assassinated). In short, in difficult transitions there is almost always a pronounced need to balance the demands of justice against the requirements of political stability. Whatever the desirability of subjecting brutal and corrupt dictators to criminal proceedings, the quickest and surest way to peace and stability may lie along the road, if not of forgiveness, then of bargained protection for the tyrant, whether in the form of exile, amnesty, guaranteed security and pensioned retirement, or any combination of these.

These propositions are developed in greater depth in the following section and in the context of an examination of how the issues they raise have been dealt with in recent African transitions.

Constitutional models and former presidents in Africa

There is no body of political science doctrine that specifically defines the role of former heads of state and government; nor is there much laid out in legislative or constitutional frameworks. An exception is France, where a role for former presidents is constitutionally defined. There, in terms of the 1958 Constitution of the Fifth French Republic, former presidents are assigned a seat on its highest constitutional court of review (even if they may choose not to assume it). Nonetheless, even a cursory overview suggests that a broad (although by no means watertight) distinction can be made between the role of former presidents and prime ministers in presidential and parliamentary democracies.

Until the mid-twentieth century, retiring presidents in the United States reverted to being ordinary citizens with no special privileges or even pensions. According to Chambers (1979: 10), for most of American history, former presidents were left ‘to fend for themselves and to work out their own post-executive careers’, although the convention grew that former incumbents of

the White House should remove themselves from partisan politics and fade into obscurity. This pattern was set by George Washington, the founding president (1789–97), who decided unilaterally to retreat into private life after two terms of office. A hundred and fifty years were to pass before a Republican-dominated Congress saw fit to write into the Constitution a two-term limit, following Franklin Roosevelt's exceptional election to a fourth term in office.

In the period between, although most former presidents remained important figures in their parties, most retired from the political arena. Exceptions were Grover Cleveland (1885–89 and 1893–97), who won the presidency back after being defeated at the end of his first term, Democrats Martin van Buren (1837–41) and Millard Fillmore (1850–53), who ran on third-party tickets after losing their party's nomination for a second term, and Theodore Roosevelt (1901–09), who ran as a third-party candidate against his handpicked successor (William Taft) in 1912. As all the last three were unsuccessful in their bid for re-election and split their original parties' vote, their experience endorsed the wisdom of former presidents withdrawing from public life gracefully.

Because former presidents were expected to pursue dignified post-presidential lives, those who did not have substantial private means could find themselves eking out their retirement in genteel poverty. However, this situation was to change dramatically after the Second World War, as former presidents found themselves able to exploit new opportunities offered by the media. Harry Truman (1945–53) became the first former president to be interviewed for a fee on television, and Eisenhower (1953–61) established the precedent of selling his memoirs and going on the lecture circuit for major sums of money. This set the scene for the emergence of the former presidency as a form of public office, the most notable development being the Former Presidents Act of 1958, which provided ex-presidents and presidential widows with annual monetary allowances, personal assistants, and other privileges. Thereafter, the Presidential Transition Act of 1963 substituted federal for private funds to cover the transition costs incurred by a president in handing over to his successor, gave ex-presidents the right to address the Senate, and extended security for former presidents and their families.

Central to the elevation of the status of the former presidency has been the affirmation of the convention that former chief executives withdraw from

active partisan politics, and, in general, refrain from criticism of the actions of their successors. Broadly speaking, with the exception of Eisenhower, who launched vigorous attacks upon the domestic policies of both Kennedy (1961–63) and Lyndon Johnson (1963–69), the convention has been largely observed, even if in the present era it appears to be undergoing some challenge from the widening ideological rifts between the two major parties and the emergence of former presidents as speech-making party fundraisers.

In contrast to the convention of former presidential withdrawal from active politics, former prime ministers – as instanced, at least, by those within the Westminster system and its derivatives – are in no way bound to exit the political arena. Their situation is fundamentally different in that prime ministers are in no way bound by fixed terms of office, for whilst parliaments may not sit in excess of limits set by law, elections can be called by the party in power at any time within those limits that suit them, or as political misfortune (such as losing a vote of no confidence) dictates. Prime ministers therefore tend to remain in office for as long as they enjoy the support of their party and continue to win elections. However, after losing elections, rather than resigning immediately as leaders of their parties (as did John Major after defeat in the British election of 1997), they will more usually become leader of the opposition, either on a caretaker basis until the party elects a new leader, or – if they retain party support – seeking to lead their parties back into power, as did Winston Churchill in 1951 (after losing the general election of 1945) and Harold Wilson in 1974 (after Labour's defeat in 1970).

Key to the role of former prime ministers is that they normally retain their seats in the legislature. However, even when they resign as party leaders or are defeated in party leadership elections, they may opt to return to the back benches as ordinary members of parliament. Sometimes, however, they may accept office under their successors, as did Sir Alec Douglas-Home (British Prime Minister 1963–64), who served as foreign secretary in the Cabinets of both Edward Heath and Margaret Thatcher, and Joe Clarke, Canadian Prime Minister in 1982–83, who reappeared as Minister for External Affairs under the premiership of Brian Mulroney (1984–91). More usually, however, former prime ministers will recognise that their day is done and withdraw from active politics.

Yet even in this their situation differs from that of former presidents in the United States, for such is the adversarial nature of parliamentarianism that

they are in no way bound to cease criticising their opponents. Ironically, however, it is often their own party which has the most to fear if they continue to make forays into the political arena. Not only can their memoirs prove highly critical of party colleagues who remain in office, but their more robust interventions can prove highly damaging to party unity. Hence after Thatcher had been deposed as party leader, she gave highly vocal support to those Conservatives who were opposed to Britain's closer integration into the European Union, and by highlighting its division over the issue, undermined the party's campaigns in the elections of both 1997 and 2001.

In contrast to established presidential and parliamentary models, the overwhelming majority of constitutional systems in Africa are constitutional hybrids (Okoth-Ogendo 1991). The constitutions of most Francophone states imitate the semi-presidentialism of the French Fifth Republic, in which a popularly elected president appoints a prime minister and cabinet drawn from the majority party in the legislature (Barry 1991: 154). A similar situation obtains in most of former Portuguese Africa, where, following replacement of prior Marxist-Leninist parties with multiparty systems in the 1990s, a popularly elected president appoints a prime minister and other ministers drawn from a national assembly (although in Cape Verde, real authority lies with the prime minister). In Anglophone Africa, most countries inherited a Westminster model where political power resided in the hands of a prime minister commanding a majority in parliament, serving under either a governor-general (representing the British monarch) (for example, Ghana, Kenya, Malawi and the then Tanganyika) or a ceremonial president (Uganda and Zimbabwe). However, in part to shed colonial trappings, in part to centralise powers often encouraged by a drive to single-partyism, most countries moved rapidly to combine the offices of head of state and government under an executive presidency (Tordoff 1993: 60) whose imperial nature, as Okoth-Ogendo (1991: 13–15) has argued, tended to render it not only popularly but *legally* unaccountable. Even so, although the common pattern has been for presidents to be directly elected by the people (with Botswana a significant but little-recognised exception), such post-colonial constitutions retain an imprint of parliamentarianism. However, instead of, as in the United States, there being a distinct separation of powers between the executive and legislature, the African parliament has been rendered subservient to the president.

Constitutions vary considerably, but the general pattern is that, although the president selects his prime minister (if he has one) and cabinet ministers from parliament, he may also be entitled to appoint ministers from outside parliament as well as to supplement the elected numbers of parliament by a number of his own nominees. Rarely, too, is there a supreme court charged with preventing abuses of power by either the executive or the legislature. To be sure, this pattern has been challenged by the constitutional system adopted in 1994 in South Africa, where the president is elected from Parliament and a Constitutional Court can pronounce upon excesses. However, this does not challenge the generality that most African constitutions are largely awkward hybrids. One outcome, it would seem, is that the role of former presidents in Africa is perched uneasily between the honorific role accorded to ex-presidents in the United States and the more ambiguous role of former prime ministers in parliamentary systems. What goes in countries where heads of government are directly elected does not necessarily follow in countries such as Botswana and Lesotho, where they are not. As a result, there has been considerable difference in the way that post-dictatorial regimes have interpreted the legality and legitimacy of former presidents continuing to remain active politically.

There are some solid grounds for newly installed African presidents to be suspicious of the activities of their predecessors. In nearly all African countries which embarked upon political transitions in the 1990s, incumbents accepted change only reluctantly. Kaunda in Zambia, Houphouët-Boigny in Ivory Coast, Rawlings in Ghana, Banda in Malawi and Moi in Kenya, among others, initially resisted the reintroduction of multipartyism. Even in defeat, such leaders and their former ruling parties retained substantial pockets of support. Consequently, any continued explicit involvement of former heads of state in politics – even if not barred by the constitution – has been viewed with concern by their successors. By far the most celebrated instance has been that of Kenneth Kaunda, whose continuation as leader of his United National Independence Party in opposition led to his being denied retirement benefits, subjected to political harassment (including imprisonment) and eventually barred from running again for the presidency by legislation which, bizarrely, declared him a Malawian and hence ineligible as a candidate (see Chapter 4). In contrast, for the moment at least, Jerry Rawlings has suffered only the withdrawal of limited privileges, despite the highly inflammatory nature of his campaigning against the National People's Party government of President John A Kufuor

(see Chapter 11). Meanwhile, where a presidential transfer of power has been successfully accomplished within a ruling party – as with Masire’s handover to Festus Mogae in 1997 – a former president is more likely to be protected by the self-serving solidarity of the governing elite (see Chapter 3).

Further complicating the African presidential successions process has been the mystique that often came to surround the first generation of heads of state, who were commonly projected as ‘fathers of the nation’. Some of them – like Banda, Nujoma and Mugabe – developed a modern version of the ‘divine right of kings’ and ‘persuading’ them to hand over the reins of power was both difficult and protracted (and in the case of Mugabe has yet to work). Even some second- and third-generation leaders have tended to encourage similar veneration. They thus amassed enormous stature (nationally, if not internationally), and hence expected as former presidents that they should continue to be so honoured. Yet it is precisely in cases where they have remained active in politics that their elevated status has been contested, and that – as in parliamentary systems, where former prime ministers remain fair game – they have been subjected to insults and political harassment. Thus Kaunda, although regarded outside the country as a luminary of the southern African liberation struggle, was denied honorific recognition until he completely retired from politics. Some new governments, like that of post-Moi Kenya, have swiftly obliterated the former president’s image from currencies and stamps, removed his portrait from public display, renamed buildings bearing his name and denigrated his achievements, as well as humiliated members of his former regime.

Clearly, there is an emerging debate in Africa as to the rules, legal and political, by which former presidents should abide, and under what conditions they should be respected. This takes us to our second proposition.

Regimes, reputation and the role of former presidents

The relationship between ex-presidents and their successor regimes, as well as the roles which the former are able or allowed to play in national and global society, often reflect the manner of their leaving office. Reluctant retirees – those who would not have stood down unless circumstances had compelled them to do so – are not only more likely to have more difficulties in accepting a less elevated status in society, but are less likely to enjoy public honour

and the benefits which they deem due to them. Significantly, too, their very reluctance to step down may reflect the nature of their regime, for where they have overseen a state which has been dictatorial, abusive of human rights, corrupt and guilty of economic mismanagement, they may have reasonable cause for expecting that their political opponents will seek to humiliate if not prosecute them. In contrast, those who retire voluntarily or in conformity with constitutional limitations may expect to be treated with all due respect, to receive scheduled benefits and be enabled to play the constructive role for them envisaged by Mazrui, although in today's Zambia, former President Frederick Chiluba has had to suffer the indignity of having his immunity from prosecution removed by his successor, Levy Mwanawasa, who has accused him of embezzling funds whilst he was in office.

The archetypal cases of former presidents who have enjoyed domestic honour and international prestige following their retirement are Julius Nyerere and Nelson Mandela. As emerges from the studies of their post-presidential careers presented later in this volume, their cases are marked by important similarities:

- First, their very different careers were marked by a remarkable humility. Nyerere, known throughout Tanzania and the wider continent as 'Mwalimu' (or teacher), was probably unique amongst 'fathers of the nation' in the simplicity of his lifestyle, his abnegation of the material temptations of power and his personal incorruptibility. Mandela, similarly, emerged from his 27 years in prison with an astounding lack of rancour, a disarming sense of fun, and a manifest enjoyment of the ordinary pleasures of life (such as the company of small children) denied by his long imprisonment.
- Second, both had consistently propagated a vision of national and racial inclusiveness. From his earliest years, Nyerere decried a narrow Africanism which would have denied equality to the minority (especially the Indian) communities in Tanzania, and left behind a polity in which – unusually for Africa – the dynamics of ethnicity played only a minimal role. Likewise, Mandela had always embraced non-racialism as a doctrine, and emerged from prison to champion an inclusive sense of South African nationhood which did much to breach the racial divisions of the country's bitter past.
- Third, on vacating office, both remained as icons of their party as well as of their nations, thus ensuring that they retained a moral authority which was recognised by their successors.

- Fourth, both enjoyed considerable international as well as continental prestige founded upon the nature of the polity they had left behind. Mandela had presided over what many termed the ‘miracle’ of South Africa’s transition to becoming the most established democracy on the continent. Nyerere, meanwhile, although criticised by especially Western observers for his one-time espousal of one-partyism and socialist policies, was recognised as retaining a genuine commitment to human rights, and then earned widespread plaudits for the role which he played in shepherding Tanzania back to multiparty democracy.

It was against these similar backgrounds that Nyerere and Mandela were able to play prominent roles as former presidents. Whilst both, at times, were to be a source of some irritation to their successors for their occasional critical public pronouncements, they were nonetheless widely viewed as guarantors of national stability and by their own parties as a political resource (both continuing to campaign for their parties during elections). Similarly, their reputations for personal integrity and evenhandedness were to see both of them called upon to mediate in African disputes, most notably in the quest to bring about an end to the long-running war in Burundi, where Nyerere’s early initiatives to bring the warring parties together were, after his death, taken up by Mandela, whose rather more forceful style culminated in the Arusha Agreement of August 2000. Although dangerously flawed, this provided the framework for a continuing South African-led drive for peace which culminated in a successful conclusion with elections in August 2005 (Bentley & Southall 2005). Elsewhere, Mandela played a global role in resolving differences between Britain and Libya over the Lockerbie air disaster, while Nyerere chaired the South-South Commission established by the Non-Aligned Movement to promote the case for fairer international terms of trade. Finally, both established personal foundations geared at addressing African and national problems, ranging from conflict resolution and peace-building to mobilisation of efforts against the ravages of HIV/AIDS. Here, the achievements of the Nelson Mandela Foundation (and its associated Children’s Fund) have been more extensive than those of the Mwalimu Nyerere Foundation, not least because the former has been enabled to mobilise substantial finance from a formidable private sector in South Africa.

There is, however, one considerable difference between the Nyerere and Mandela examples which has had profound reverberations elsewhere on the

continent. In contrast to Mandela, who withdrew completely from formal politics when he retired, Nyerere initially retained the presidency of his party. At one level, this was designed to give assurance to a young nation, which had never known another leader and which continued to revere him, that he would remain in the background to oversee the country's welfare. At another level, his continuing party leadership served to bolster the authority of the new president, Ali Hassan Mwinyi, by bridging the gap between different socialist ideologues and liberal reformers within the party, although, ironically, Nyerere confounded both camps by concluding that the party's monopoly of power should give way to multipartyism. However, while Nyerere's staying on as leader of his party may have served as a constructive transitional device in Tanzania, the example he set may have had more ambiguous implications.

As Melber elaborates in Chapter 5 of this volume, the idea that the national and party presidencies are not automatically bound together may have played a significant role in persuading Namibia's Sam Nujoma (who had already benefited from one extension beyond the originally constitutionally prescribed two terms) not to succumb to the temptation of a fourth presidential term in the lead-up to the election of 2004. On the other hand, it may well be that Nujoma views his retention of the party presidency precisely as a way of controlling his elected successor, Hifikepunye Pohamba, from behind the scenes. Furthermore, the very division of party and national authority could work to foment division and conflict. This was the effect in Zambia where Levy Mwanawasa – handpicked to succeed as president by Frederick Chiluba – subsequently opted to assert his independence by arraigning the latter upon charges of corruption (see Chapter 4). In contrast, Bakili Muluzi sought to use his post-presidential retention of the leadership of the ruling United Democratic Front to continue to rule the country through remote control, leading ultimately to the contentious departure from the party of his successor, President Bingu wa Mutharika, and his formation of a new vehicle to shore up his power (see Chapter 7).

In short, emperors who retain the trappings of their authority whilst attempting to hang on to its substance run the risk of their successors appropriating their clothes. PW Botha stayed on as leader of the National Party when he retired as president in 1989, but was rapidly sidelined by his successor, FW de Klerk, with his dramatic reform initiatives of February 1990. This is perhaps a precedent which Thabo Mbeki would do well to

remember. This because there are contemporary musings within the African National Congress that he could or should retain the party leadership when he is constitutionally compelled to step down from the presidency in 2009. Such a duality of authority between party and government could well prove a prescription for factional struggle and threaten South Africa's newly acquired reputation for political stability.

Such a continuing partisan involvement in South African politics could also prevent Mbeki from assuming wider international responsibilities. Mbeki, it would seem, is a prime candidate for elevation to African 'statesman' following his retirement and could well play a leading role in promoting the Mazrui-like vision of a 'Council of Elders', composed of former presidents, which is associated with the New Partnership for Africa's Development (Nepad). Such a council, it is envisaged, would mobilise the skills and experience of former presidents by setting them to work on tasks of continental and international importance (while, it is sometimes added *sub voce*, continuing to flatter their penchant for the limelight and keeping them out of trouble). Alongside Nyerere and Mandela, an inspiration for such a model has been Ketumile Masire, who, after his resignation as Botswana's second president in 1999, has played a significant role on the African stage, notably by chairing the International Panel of Eminent Personalities of the Organisation of African Unity which investigated the 1994 genocide in Rwanda and by serving as facilitator of the Inter-Congolese Dialogue. As elaborated by Good and Taylor in Chapter 3, Masire's considerable success as a very active former president has rested to a considerable extent upon the reputation of Botswana as a model African democracy.

As suggested above, the traditional fate of those who have fallen from power but who have escaped the revenge of later regimes has been exile. So long as such former rulers eschewed ambitions of returning to power, this has been a solution which successor governments have, by and large, found convenient and tolerable. Various Ugandan governments were content to allow Idi Amin to devote himself to Islam in Saudi Arabia, whilst Yoweri Museveni was, for two decades, determined that Milton Obote (who reputedly was once reduced to living bereft of personal possessions in a garage) should remain safely marginalised in Zambia (although there were suggestions before the latter's death in October 2005 that he might be allowed to return home). Ironically, of course, whilst exile for such former rulers may be materially comfortable

(former Ethiopian strongman Mengistu Haile Mariam reputedly lives in fine style in Harare), it often condemns them to an informal incarceration for life in gilded prisons from which they fear to emerge without bodyguards.

With occasional exceptions (at present Charles Taylor, who, as Hoffman indicates in Chapter 13, remains a threat to the stability of Liberia from his exile in Nigeria), it is normally not so much the former tyrants who pose dilemmas to successor regimes but those who have stayed at home and retained some political support. Amongst the latter at present is Kenya's former President Moi.

After succeeding Jomo Kenyatta in 1978, Moi consolidated his power base within the Kenya African National Union (KANU), the country's only legal party since 1969, by displacing the predominance of the former Kikuyu ruling clique with that of his own Kalenjin ethnic group, whilst maintaining KANU as a coalition of competing ethnic elites. Thereafter, he oversaw a regime which became notorious for the extent to which politicians looted the national treasury, extracted illegal rents from the private sector, grabbed public land and accumulated huge fortunes. During the following decades, one of Africa's foremost economies was reduced to recurrent crisis and chronic indebtedness, with powerful individuals in government heavily implicated in an alarming symbiosis of corruption and violent crime. However, in the wake of popular and international pressures, Moi was forced to concede a constitutional amendment in 1992, which not only reintroduced multipartyism but imposed a two-term, five-year limit for the president elected at the next election. Moi, however, was far from finished. Not only did he win successive presidential elections in 1992 and 1997 (victories facilitated by divisions amongst opposition parties and an electoral system which allowed his re-election with a minority vote), but he maintained KANU's hegemony through a skilful mix of patronage, pressures and – when necessary – unofficial deployment of ethnic militias against his electoral opponents. Moi also stalled a series of opposition-led attempts at constitutional reform and, following his re-election in 1997, gave indications that he was considering standing for a third term (Southall 2000).

Central to the constitutional impasse of the late 1990s was the crisis which democratisation represented to Kenya's kleptocrats, for whom control of the state was fundamental to continued accumulation. This was made

increasingly explicit through calls for '*majimboism*' (or regionalism) whereby, implicitly, leading members of the regime threatened to erect ethnicised baronies against any democratised, central state, and their 'warnings' of the violence that democracy could bring. It was in these circumstances that various proposals were mooted that Moi should be granted immunity from prosecution for any actions committed during his presidency, as well as be assured of his honorific status and financial and physical security. In the end, such an Act did not eventuate, nor did guarantees of immunity for other members of his government. This was because in June 2002, Moi – responding to a growing crescendo of domestic and international pressures – made an unequivocal announcement that he would stand down from power. However, he then miscalculated by selecting the inexperienced Uhuru Kenyatta (Jomo Kenyatta's son) to serve as KANU's presidential candidate. While this was designed to smooth Kalenjin differences with the Kikuyu, it outraged key magnates and precipitated a series of major defections from KANU to the opposition. Moi's loss of control was soon confirmed by the agreement of the opposition, inclusive of numerous former KANU renegades, to coalesce in the National Alliance Rainbow Coalition (NARC), led by Mwai Kibaki, leader of the Democratic Party but formerly a one-time vice-president under Moi, as its presidential candidate. Kibaki and NARC proceeded to trounce Kenyatta and KANU in the December 2002 elections.

NARC assumed power with promises that it would combat the iniquities of the past. As well as indicating its support for constitutional reform, it established bodies to investigate past political corruption as well as a task force to consider the case for a Commission for Truth, Justice and Reconciliation. Various of these have now reported, and all have recommended that responsibility should be attributed for past abuses of power, moral and material, and that all identifiable past illegal gains made by individuals should be revoked. Implicit in such recommendations is that former President Moi should himself be put on trial, if only to explain the manner in which he has accumulated his enormous wealth. However, as Wolf elaborates in Chapter 9, although results may yet follow, there are few current indications that NARC will follow through on these recommendations. Although Moi has not been granted any legal immunity, he remains at large and wholly unrepentant, even though he has resigned as leader of KANU and formally retired from politics.

Wolf provides various explanations as to why Moi seems likely to escape formal prosecution. Yet what must be central to his continuing freedom is the risk that prosecution would represent to the already shaky NARC coalition, which is largely representative of the same class (politicians, senior civil servants and businessmen) that dominated the country under KANU (Brown 2004). Any attempt to reverse the corrupt gains of the past would constitute a huge threat to their interests, with the recent Ndungu Commission of 2004, for instance, having recommended the revocation of some several thousand 'land grabs' and the illegal transfers of countless official houses. Moi, therefore, retains his freedom, which he has used to shore up his influence by the launch of his personal foundation and even, on occasion, to make occasional criticisms of his successor. Nonetheless, for all that, he can still call upon a reservoir of support, especially amongst his Kalenjin, his freedom is conditional, and his immunity could be withdrawn if he were to re-enter the political arena.

Balancing transitional justice against stability

Moi's conditional immunity is illustrative of transitions to democracy in which the demands of justice have been bargained away in return for peace and stability. As the South African transition demonstrates with even greater clarity, such a bargain is normally the product of a protracted transition characterised by stalemate and in which neither side is able to defeat the other politically or militarily. In such cases, forces upon the political extremes are sometimes marginalised by centrist elements which make a deal involving concessions of power and principle – what have been termed 'second-best' outcomes (Bratton & van de Walle 1997: 25). Although these do not necessarily grant immunity from prosecution of elements on either side for abuses of human rights, they often provide guarantees of protection for outgoing leaders in the form of exile, amnesty or material and personal security.

The archetypal countries where such deals are likely to be struck are those which have been ravaged by civil war. Such conflicts are often versed in terms of religious, regional or ethnic identities. While in some cases they are driven by elites' desperation to monopolise the state, given limited economic alternatives (Burundi), in others they can be more accurately described as resource wars in which militarised and criminalised elites are competing for control of valuable commodities, whether these be oil (Sudan), mineral

flows (Democratic Republic of Congo) or diamonds (Liberia and Sierra Leone) (Reno 1998). Given the voracious demand for such resources – from multinational corporations through to international criminal and terrorist syndicates – such wars are sustained by the mainly illegal supply of arms and funding by rival backers to belligerents whose status as ‘governments’ or ‘warlords’ is often morally indistinguishable (Farah 2004). Conducive to heinous abuse of human rights, these conflicts are brought to an (uncertain) end only by international mediation backed by a show or threat of military force, usually resulting from the concerns of regional states to whose interests the continuation of war has become threatening. However, because ‘warlords’ or ‘warlord presidents’ may remain militarily undefeated, or threaten to regroup in the bush, they may retain sufficient bargaining power to secure themselves immunity from prosecution for war crimes and corruption.

In Chapter 13, Daniel Hoffman examines how Charles Taylor, who had risen from being a warlord to the presidency of Liberia – a status secured through his capture of Monrovia and an electoral victory secured through terror – was edged out of office by a combination of pressure from African and regional powers (Nigeria, Ivory Coast, and South Africa) and the United States. This occurred only after the Special Court of Sierra Leone, a country whose own civil war had been deepened by Taylor’s malign influence and whose democratically elected government had been restored to power by Britain (the former colonial power), announced his intended indictment for serious violations of international humanitarian law. However, Taylor was able to bargain his immunity by threatening to engulf Liberia in further vicious conflict. Ironically, therefore, when Taylor departed for exile in Nigeria, he took with him hundreds of supporters, retained his enormous, ill-gotten wealth (much of it stashed in Western bank accounts), and was even greeted by four African presidents when he landed in Abuja. Apparently protected by assurances made to Nigeria by Britain and the United States that he will not be arraigned for his crimes at some later date, Taylor remains a pivotal figure in West Africa and able to influence events in Liberia from afar. Although the Nigerian government has warned Taylor to keep to the conditions of his exile, that country – as Hoffman points out – is the worst possible place for his location, as it is itself politically unruly and a nodal point through which influence, information, funds and commodities circulate throughout the region.

Of course, the ideal is for despotic and corrupt former presidents to be rendered accountable for their crimes. However, in this highly imperfect world, they are likely to be brought to trial only in extreme conditions of political or military defeat, and even then, only where there is sufficient international and national will. It was only after President Vojislav Kostunica of Serbia and Montenegro had secured his domestic security situation and was confident that he could face down the supporters of Slobodan Milošević, that he was prepared to grant the extradition of the latter in 2001 to face prosecution for war crimes and genocide before the International Criminal Tribunal for the former Yugoslavia. Some four years on, the trial continues with Milosevic maintaining a vigorous defence on his own behalf, in which he has disputed the legality of his detention and trial, and from which he has extracted considerable political advantage, at least in the eyes of many of his former subjects (Maher 2003: 3627). If and when Milošević is convicted, he will have confirmed to an international community, already ambivalent about the virtues of international prosecutions of political leaders, that such trials are cumbersome and hugely expensive. Furthermore, as the United States-backed government in Iraq is likely to discover in its arraignment of Saddam Hussein, prosecution of former presidents may prove highly embarrassing, with the latter almost certainly likely to highlight the support they once had from the very powers which may eventually depose them.

Given the political and financial costs attending such trials, it is not surprising that presidents accused of crimes are enabled to negotiate immunity. In such circumstances, it may be left to victims of their rule to force their prosecution. Former President Augusto Pinochet, who headed the Chilean military regime responsible for the deaths of thousands of its opponents, has faced a series of moves by human rights organisations which have utilised the moral authority granted them by the discovery of mass graves to contest the legal basis of the immunity he granted himself when he resigned as president in December 1989. Pinochet has had to run the gauntlet of successive legal manoeuvres by his opponents, which, *inter alia*, were to see him detained in Britain (where he was visiting) in 1998 following a request for his extradition to Spain, on the grounds that his crimes had also been committed against Spanish nationals. Pinochet remained under effective house arrest in London whilst he challenged the legality of the request via a complex set of judicial cases which ultimately resolved that there were, indeed, valid grounds for his extradition.

Eventually, however, the British government allowed Pinochet to return to Chile, following a medical report that he was mentally unfit to stand trial. Nonetheless, the ageing Pinochet thereafter faced the lifting of his political immunity by the Supreme Court in Chile in 2000, a request for his extradition to Argentina for the alleged assassination of a former Chilean army chief in Buenos Aires, and the necessity of his again pleading his medical inability to stand trial. Even after the Supreme Court voted to close any case against him on the ground of incurable dementia, human rights lawyers have continued to contest that judgement (Maher 2003).

An African example of a former president pursued by his victims is former Chadian President Hissène Habré, who in early 2000 was arraigned before a tribunal in Dakar following accusations made by his former political prisoners, supported by an international coalition of human rights organisations (who together constituted the International Committee for the Trial of Hissène Habré). Habré was accused of being responsible for the death of some 40 000 people and the torture of some 2 million. However, in July 2000 the court dismissed the case on the ground that Senegalese courts had no jurisdiction over acts committed by a foreign national outside their jurisdiction, although subsequently a complaint against Habré for crimes against humanity was lodged in Belgium in November 2000, suggesting a possibility that his misdeeds may chase him to the grave (Seferdjeli 2004: B274).

Whilst the Pinochet, Habré and Chiluba cases indicate that politically bargained immunity is never inviolable, the downside is that they may serve as a deterrent to despots agreeing to leave office: 'difficult transitions' are likely to become even more intractable, even though Africa's leaders have yet to convince that they are prepared to indict one of their own, however intolerable and evident their crimes. Even so, at the very least, they should be prepared to impose strict conditions of exile, ensure these are kept, and make some reasonable attempt to enforce or encourage the return of looted assets.

Conclusion: promoting the ordinariness of presidential retirement

African politics has always been played for high stakes. For most African presidents, even if their rule has been relatively benign, the risks of stepping down can be great. In a continent where political authority often depends heavily on state capacity to deploy violence, it is only a small minority who have

not had good reason for being frightened for their skins if they were to opt for retirement. Nonetheless, the good news is that an important aspect of Africa's slow progression to democracy has been that, increasingly, despots have been forced to leave office, term limits have been imposed upon presidencies, and the expectations of and for former presidents have become institutionalised. Of course, the momentum of this advance has been uneven. For a start, it is difficult to impose term limits on presidents or prime ministers who continue to serve, Westminster-style, by formal permission of parliament rather than by direct election. Meanwhile, if rare countries such as Tanzania have seen second-term presidents step down without demur, others like Malawi and contemporary Uganda have seen vigorous attempts by incumbents to ape Nujoma by setting limits aside and stand for a third term (see Chapters 7 and 8; also Baker 2002). However, whilst Museveni appears likely to succeed, it is significant that civil society has engaged in vigorous contestation in 'the third-term' debate in most African countries in favour of the observance of term limits, and that even in Namibia, Nujoma was prevailed upon not to stand for a fourth term. Meanwhile, of course, a legion of 'reluctant democrats' remains, although even in the case of Robert Mugabe of Zimbabwe a slow but seemingly inevitable erosion of the political basis of his regime has led to the present suggestion that he may retire at the next presidential election. In Chapter 6, Moore argues that the threat that his retirement would represent to Mugabe and to his Zimbabwe African National Union-Patriotic Front is such that he is more than likely to linger on indefinitely.

For all the contrary cases, the trend towards the normality of presidential retirements is becoming well established in those parts of the continent where democracy can be claiming to take some root. Whilst Nyerere and Mandela may have blazed the way, the more heartening examples may well be those of less prominent leaders, like Diouf of Senegal, Masire of Botswana and Mwinyi of Tanzania. Most certainly, the more costs of retirement are reduced (even at the expense of bargained protection for the likes of corrupt former autocrats like Moi), and the more the prospective benefits (such as well-heel security and even international honour and office) are emphasised, the more likely it is that the status of former presidents will become ordinary, even though in most cases this is likely to require that they withdraw from domestic political activity.

The advantage of term limits is that they imply presidential vulnerability, a prospect which 'warlord presidents' or 'reluctant democrats' are reluctant to

concede. It is how to provide such unwelcome rulers with a viable exit strategy or whether to demand accountability for their criminal acts which remains a key dilemma in consolidating democracy in Africa.

Note

- 1 For ease of reference, this chapter will use the terms ‘president’ and ‘head of state’ interchangeably. However, it is recognised that this is technically incorrect in the case of various military regimes where leaderships often style themselves chairmen of national or revolutionary councils, and in the cases of the Kingdoms of Lesotho (where governmental power has been wielded by a prime minister or military regime) and Swaziland (where political power has been retained by an absolute monarch).

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2 *Soldiering on: the post-presidential years of Nelson Mandela 1999–2005*

John Daniel

Though his step may be a bit slower now, his voice still soars with conviction and vision, his eyes still burn with spirit and resolve, and his work still inspires the world.

Former President Bill Clinton, Nelson Mandela Annual Lecture, 19.07.03

In the concluding paragraph of his biography of Nelson Mandela, Anthony Sampson wrote of the president as he relinquished office that 'he retired from politics to become an ordinary old man' (1999: 585). This might be the least correct observation in what is otherwise a masterful study because the fact is that, with the possible exception of former US President Jimmy Carter, no other former head of state has in the aftermath of office had the impact on the domestic and global politics of his time as Nelson Mandela. Former US President Bill Clinton's description of Mandela's leaving office was nearer the mark. Delivering the inaugural Nelson Mandela lecture in July 2003, he likened Mandela to the old man in Dylan Thomas's epic poem who refused to 'go gentle into that good night' and neither did he 'rage, rage against the dying of the light' (Thomas quoted in NMF 2003: 7). Instead, according to Clinton, he 'simply soldiered on, raging instead against injustice and leading us towards the light' (NMF 2003).

The term 'soldiering on' is one which, in my view, best describes the post-presidential life of Nelson Mandela. With barely a pause, after May 1999 the now former president just kept on pursuing those issues and goals which had preoccupied him throughout his five-year presidency, but which he had pursued most particularly in the last three years of his term. This point is made because, though in a formal sense the post-presidency of Mandela dates from June 1999, it could be argued that it began in May 1996 when the National Party (NP) left the Government of National Unity (GNU).

Though from the time he took office in May 1994 Mandela had delegated much of the day-to-day running of the government to Thabo Mbeki, one of his two deputy presidents, in regard to his overriding presidential priority of promoting nation building and national reconciliation he was very much in charge. In pursuit of these goals, he displayed extraordinary energy and drive for someone in his mid-seventies. He also revealed a considerable flair for the bold, headline-catching gesture. This goal was not a one-dimensional one. It was rather a complex, interwoven one involving, as the director-general in his office, Jakes Gerwel, put it, issues of 'reconciliation, development, peace, freedom and culture' (Asmal, Chidester & James 2003: 141).

Within this project, in Mandela's view, the GNU was, if not central, at least one of the key instruments of reconciliation and peace in the new nation he had helped forge and now led. In particular, he saw it as key to the reconciling of that group which he regarded as the new dispensation's greatest threat, the white Afrikaners from whom power had so reluctantly been wrested. Thus it was that former President FW de Klerk was installed as second deputy president while other leading NP figures were offered posts in the first Cabinet (and not entirely insignificant ones either). Likewise, he retained key extra-party figures from the previous era in their posts and appointed others to public office, including a number of ambassadorships.¹

Beyond the realm of the state, Mandela pursued a policy of reaching out to his former Afrikaner opponents in ways which sometimes dismayed or puzzled his black constituency. This included highly public visits to both the much-hated former President PW Botha, who had only recently presided over the bloodiest decade in South Africa's modern history, and the widow of the equally despised architect of apartheid, Dr Hendrik Verwoerd, who continued to live the apartheid life in the whites-only town of Orania. Likewise, at an official luncheon he entertained Percy Yutar, the prosecutor responsible for securing his life-sentence conviction and that of his Rivonia colleagues, and gave a farewell dinner to the retiring and much-feared head of PW Botha's national intelligence set-up, Dr Niel Barnard. In the extra-political arena, he allowed the white-dominated South African rugby union to retain the Springbok symbol, long-regarded by black South Africa as a motif of their exclusion, and embraced the winning Springbok World Cup rugby team, which contained no Africans and only one player of colour.

The point being made here is that in his first two years in office Mandela was a man in a hurry, a leader with a mission and a vision. Unlike some of his critics, the president regarded his approach to his one-time foes as not one of weakness but as signs of his strength, courage and self-assuredness. As he put it in an interview with Anthony Sampson, conducted as he prepared to take power in May 1994, 'courageous people do not fear forgiving, for the sake of peace' (Sampson 1999: 523). Quite the contrary, he regarded it as an aspect of power whose exercise in his view established 'a moral superiority which reminded everyone that the balance had shifted' (Sampson 1999: 523).

The very public gestures cited above, along with countless other acts of little-noticed conciliation, spiked the prospect of Afrikaner resistance. By the time Deputy President De Klerk led his reluctant NP colleagues out of the GNU and into the political wilderness, there was no longer any credible threat of a right-wing revolt or resurgence. What flickering flames of resistance still smouldered were soon snuffed out by another of the reconciliation instruments of the African National Congress (ANC) – and one which Mandela enthusiastically embraced and promoted – the Truth and Reconciliation Commission (TRC). Within months of its establishment in December 1995, its workings began to unleash an avalanche of revelations about the killings and other gross human rights violations of the late apartheid era which humbled and shamed into silence those integral elements – black and white – of the NP's so-called national security management system. By mid-1996, few proclaimed in public their support for the old era and its politics.²

Thus, even though in public President Mandela expressed regret at the NP's walk-out from the GNU, he was in reality little concerned. He was now confident that the ANC could run the country without the assistance of leading figures from the past. He replaced them with ANC appointees³ and devolved more and more responsibilities to Thabo Mbeki. As Sampson put it, he became 'visibly more detached' and 'increasingly aloof from day-to-day government' (Sampson 1999: 536, 535). A then presidential adviser told Sampson that 'he really abdicated after the GNU broke-up' (Sampson 1999: 536). As we put it earlier, the post-presidency had, in a sense, begun.⁴

Mandela's conception of leadership

That Mandela should have moved seamlessly into a post-presidential role – whether it be regarded as from June 1996 or May 1999 – derived from two interconnected factors. One was his conception of leadership and of his own particular role and place in the life of the new South African nation, while the other was the international community's almost universal regard for him as an icon of the times. The consequence was that from the time of his release from prison whatever Mandela said or did mattered and was listened to, even if not always acted upon. To his public it mattered not one bit whether it was President or former President Mandela speaking – what he said (and did) carried weight and authority, irrespective of his office or status.

History is replete with cases where those who for one or other reason have acquired a similar iconic standing in the minds of their citizenry and/or the global community have abused their positions and lapsed into varying degrees of megalomania and despotism. This has been the unhappy history of a number of Africa's first generation of liberation leaders, the so-called 'fathers of the nation' – Kamuzu Banda, Robert Mugabe, Milton Obote, Kwame Nkrumah, Sam Nujoma, Muammar Ghaddafi and so on. In the case of Mandela this was never likely to happen, and did not. This was not simply due to the existence of a constitution with effective checks and balances but because to Mandela power was not an end in itself – to him, power was not something which one sought as a means to accumulating great wealth or personal self-aggrandisement. His conceptualisation of power was that it was a gift to be deployed as a force for good. To Mandela, those blessed with power and authority had the duty and calling to use those gifts in the cause of the greater good of the greater number. In the light of recent African history and in the context of the late twentieth century, this was an almost quaint and old-fashioned view of leadership. Sampson captured the essence of this when he described Mandela 'as not so much post-modern, but pre-modern' (Sampson 1999: 583).⁵

Mandela entered the non-tribal or traditional political sector in the mid-1940s through the ANC Youth League. He brought with him a combination of monarchical instincts and a strong sense of civic obligation. His history and experiences from that time on – his leadership of the Defiance Campaign and other national campaigns of the 1950s, his 'pimpernel-like' existence in

the ANC and Umkhonto we Sizwe undergrounds, his dramatic capture near Pietermaritzburg while disguised as a white man's car chauffeur⁶ and as a consequence of his betrayal by a local Central Intelligence Agency operative in the United States Consulate in Durban, the defiant morality articulated in his Rivonia dock speech and his subsequent quarter-century disappearance from public view – created of him a larger-than-life legend, almost more myth than man. By the late-1980s, the legend was such that it could fill England's then national football stadium (the Empire Stadium at Wembley) with 70 000 enthusiasts, while tens of millions of others in 60 countries around the world watched on television a concert dedicated to the release of an old man of whom they had only heard but never seen.

In retrospect, it is probably not an exaggeration to suggest that from that Saturday in July 1988 (the day of the Wembley concert), the days of white rule in South Africa were numbered as the legend was carried by a moral avalanche to the point where Mandela's release became a matter of when and not whether. And when it happened on 11 February 1990, the world literally stopped and watched in awe and disbelief as what few had ever believed possible unfolded before their eyes – the convict emerged from his prison walls as the nation's liberator. He moved slowly, with the gait of an old man but with the regal bearing of someone who seemed more monarch than politician. When last he had spoken in public in 1964, he had proclaimed his willingness to die for his beliefs. Now, 27 years on, in his first public address only hours after his release, he laid out his mission and his conception of self:

I stand here before you not as a prophet but as a humble servant of you, the people. Your tireless and heroic sacrifices have made it possible for me to be here today. I therefore place the remaining years of my life in your hands. (Quoted in Sampson 1999: 408)

It is often said (and with justification) that political leaders are products of their times. What makes the Mandela case so different and so interesting was that he was not. He was the product of an earlier era, a time light-years removed from the hi-tech, electronic age of the 1990s. It was a time of newspapers and radio, of landline and coin-operated telephones, when the normal mode of travel was by car and train. Nelson Mandela wrote letters which were sealed in envelopes and posted and then he settled back and waited weeks and months for a hoped-for response; not for him the email world of

instant communication. He had been in prison a full decade before television even reached South Africa's shores and long before it became the dominant mode of political communications and campaigning. He thus re-emerged into political life knowing nothing of the world of spin doctors, campaign managers and political fundraisers; nor did he show any inclination to learn, although he quickly seemed to acquire the skills of media manipulation.

Vaulted by history, circumstance and his own considerable qualities into the leadership of first the ANC and then the country, he seemed to eschew all political ambition. Indeed, he sometimes seemed to be above the fray, content to leave the hurly-burly of politics on the ground to mere mortals. He also seemed to be indifferent to the politics of race in his choice of staff and friends. Sampson described him as seeming to be 'above race' (Sampson 1999: 585).

And yet, of course, much of this was more chimera than reality. Despite his seeming monarchical image, Mandela remained the consummate politician. ANC to the core, he displayed a fierce loyalty – some would say perhaps excessive, as the Boesak case revealed⁷ – to the party; and he had an intensely political agenda for his presidency. Prime among his issues at a lofty level were those of reconciliation, nation building and conflict resolution, while on the ground, the plight of South Africa's children was uppermost. Related to this was the ancillary issue of their schooling. Late in his presidency, he embraced the HIV/AIDS issue. These were the issues that dominated his presidency and they were the ones he carried over into his post-presidency. It is to that to which we now turn.

Mandela in the post-presidential years

Like other past heads of state, African and otherwise, Mandela chose to continue his work largely through the legal instrument of a philanthropic foundation – or, in his particular case, more than one. Philanthropic foundations function as a means to apply private wealth or privately held capital to public purposes. They are generally autonomous organisations formed to support research or public service in such fields as education, science, law and politics, medicine, public administration and public health and social welfare. Although charitable endowments have existed since ancient times, the modern foundation is essentially a 20th-century – and predominantly United

States – phenomenon. The Smithsonian Institution created in the United States in 1846 by an English scientist, James Smithson, was one of the first large foundations possessing a broad purpose and flexibility of action. Its core function was ‘the increase and diffusion of knowledge amongst man’ (Goetz 1986: 365). Subsequently, as business fortunes and organised philanthropy developed, foundations with multi-billion dollar endowments were created by such wealthy entrepreneurs as Andrew Carnegie, John D Rockefeller and Henry Ford.

Foundations established by former presidents tend to be much more modest in their means and less expansive in their goals. Their function is often simply to continue the work which their founders like to present themselves as having pursued during their tenure of office, such as the promotion of such goals as peace and reconciliation, social justice, human development, education, healthcare, and global interdependence. These foundations are exemplified in the present era by two such institutions established by former US Presidents, Bill Clinton and Jimmy Carter. The William J Clinton Presidential Foundation⁸ has the dual mission of constructing the Clinton Presidential Center and Park and seeking to strengthen the capacity of people throughout the world to meet the challenges of global interdependence, notably through work in five critical areas: health and security, especially the battle against HIV/AIDS; racial, ethnic, and religious reconciliation; citizen service; economic empowerment of poor people; and leadership development.

The longer-established and far-better known Carter Presidential Center⁹ depicts itself as a place ‘where scholars and statesmen, in reflection and consultation, seek those things that make for peace’ and is committed, in partnership with the Atlanta-based Emory University (where the Center is located), to advancing human rights and alleviating unnecessary human suffering. The success of the Center’s work in particularly the areas of conflict resolution and electoral monitoring was recognised by the award of the Nobel Peace Prize to Jimmy Carter in 2003 and has led some to refer to Carter as the greatest former president the United States has ever had.

With regard to former President Mandela’s political practice in his post-presidential years, four distinct roles can be discerned. They are of philanthropist and development practitioner, national political activist, continental diplomatic broker, and, for want of a better term, ‘conscience of

the globe'. These have been pursued through three structures. Collectively referred to as the Mandela legacy organisations, they are the Nelson Mandela Children's Fund, the Nelson Mandela Foundation and the Mandela Rhodes Foundation.

The Nelson Mandela Children's Fund

The Nelson Mandela Children's Fund (NMCF) actually dates from the early years of Mandela's presidency. Formed in 1995, it is the largest non-profit institution dedicated to children in South Africa. It has its origins in a personal encounter in the first year of his presidency between then President Mandela and homeless children in Cape Town who took it upon themselves to seek an audience with him to explain their plight. Moved by their circumstances, Mandela launched the fund, to which he donated one-third of his presidential salary for the remainder of his term. A mechanism was also set up whereby individuals and organisations could become either lifetime annual donors to the fund or member contributors for a five-year period. The fee for US-based lifetime members was put at \$100 000 per annum, for UK-based members at £30 000 pounds and for South African members at R300 000. Among those who signed up as lifetime founder members were Bill Gates, Denzel Washington and HRH Prince Sultan Bin Abdul Aziz, a member of the Saudi royal family and the country's minister of defence. Among the organisations affiliated as lifetime members are the US-based Kellogg Foundation, the UK-based Linbury Trust and the Taipei Liaison Office, which represents Taiwan's interests in South Africa. Table 2.1 provides details of the membership of the NMCF as of 2004.

These donors guarantee the NMCF an annual income in the region of \$10 million. In addition, the fund has been the beneficiary of innumerable fundraising efforts organised inside and outside the country. As is perhaps inevitable in this world of high finance and charitable giving, there is scope for the name of an icon like Mandela to be commodified and exploited for corrupt purposes. This seems to have been the case with regard to the controversy surrounding some of the Mandela artworks. In this case, the former president alleges that some of those involved in fundraising by selling a set of artworks endorsed by him have generated and sold other works in his name and not remitted the proceeds to the fund.

Table 2.1 *Members of the Nelson Mandela Children's Fund, 2004*

Membership status	Membership rates	Current members
Lifetime founder members	US members: \$500 000 over five years (minimum \$100 000 per annum) UK members: £150 000 over five years (minimum £30 000 per annum) SA members: R1.5 million over five years (minimum R300 000 per annum)	Bill Gates Denzel Washington Eric Samson HRH Prince Sultan Bin Abdul Aziz Kellogg Foundation Nelson R Mandela Taipei Liaison Office Teddy Forstmann Telecom Italia S.p.A. The Linbury Trust
President's Club members	US members: \$250 000 over five years (minimum \$50 000 per annum) UK members: £75 000 over five years (minimum £15 000 per annum) SA members: R750 000 over five years (minimum R150 000 per annum)	Albaraka Bank Anglovaal Barlow Limited Bay Minerals Beacon Charitable & Education Trust Bidvest Carl & Emily Fuchs Foundation Chrysler Foundation Claas Daun Coca Cola Foundation Colgate Palmolive Foundation Donald Gordon Foundation Eskom Foundation for the Crippled Children Henry R Kravis Horacio da Silva Roque ISCOR Foundation Ithuba IVECO Kersaf Investments Michael Jackson M-Net MTN Group Murray & Roberts Naomi Campbell Nedcor New Africa Investment Limited Old Mutual Oticon Foundation Pierre Cardin Rembrandt

Membership status	Membership rates	Current members
		Rio Tinto, Palabora Mining & Richards SG Menell Trust Sanlam Sappi Siemens Limited Sporting Club de Portugal Standard Bank Sun International Telkom Tony O'Reilly Transnet Tupperware UBS Warburg United Grand Lodge of England – District of Transvaal Videovision Entertainment Virgin Atlantic Viva Trust Vodacom World Space

Source: <http://www.mediapost.rw/portfolio/mandela-children/Donations/Club-Memberships/memberships>

Operationally, the NMCF has concentrated its efforts on marginalised and vulnerable children and youth up to the age of 22 – orphans, the homeless, out-of-school youth, disabled children, those jobless, those ill with HIV/AIDS and the like. In the ten years of the fund's existence it has grown in range and depth. It has developed from a small organisation giving many small grants to a large organisation giving fewer but bigger grants to organisations located within the fund's suite of thematic priorities (NMCF 2004: 2). The fund claims to reach about 750 000 children per annum through the 120 projects it supports.

The NMCF also undertakes advocacy work around the rights of children and youth and commissions research on children's or child-related issues. One such research project was a national household-based study of HIV prevalence, while another was on the state of rural education.¹⁰ The deputy chairperson of the Children's Fund, Justice Dikgang Moseneke, recently declared that the organisation is now 'known for the work it does rather than

who its founder is' (NMCF 2004: 3). This is probably wishful thinking but there is no denying the impact of the fund on both the plight of children and raising public awareness of the state of this country's children. It is probably true to say, as well, that the reach of the fund is greater than any comparable organisation on the African continent.

The Nelson Mandela Foundation

Despite relinquishing the presidency in 1999, Nelson Mandela continued to be in huge public demand from groups and organisations, local and overseas. Indeed, if anything, there were probably more demands made on his time in the year or two after he left office than while he held it. A phenomenal number of these were invitations to speak at graduation, freedom of cities, honorary citizenship and numerous other awards ceremonies in all parts of the world.¹¹ There have also been frequent requests for him to intervene in all sorts of conflict-ridden situations, including some of the world's most intractable.

The Nelson Mandela Foundation (NMF) was established in response to this avalanche of wants and needs. It functions in part, therefore, to manage and arrange Mandela's diary and movements. However, and more importantly for the purposes of this paper, it became the vehicle for organising his post-presidential political life in pursuit of the ideals, as expressed in the foundation's mission statement, of promoting the 'values of democracy, freedom and development' (NMF 2004: 5). In pursuit of these ideals and goals, Mandela has worn a number of political hats but, as indicated earlier, four most frequently – that of national political activist, continental diplomat, 'the conscience of the globe' and, finally, a combination of philanthropist and social development practitioner. Each of these roles will be illustrated below.

The local activist

Mandela's most prominent post-presidential role as a local or party activist has been around the HIV/AIDS issue. While the transformation of a hideously inequitable healthcare system was an important priority of the Mandela presidency,¹² for probably more than half of his tenure the AIDS issue was not one which was a central concern of the president, something about which he has subsequently expressed regret. Towards the end of his presidency,

however, he began to acknowledge the crisis nature of the pandemic and to concern himself with the fight against AIDS. It is also around this time that it became a focus of the NMCF's programme of activities.

With the accession to power of Thabo Mbeki, Mandela became concerned at the complicity of silence that enveloped the ANC after President Mbeki advanced his denialist claims about HIV/AIDS. Even former members of Mandela's Cabinet fell silent and began to look the other way, so to speak. Eventually Mandela decided to speak out, both in public and in caucus (where he is said to have been heckled and jeered by some of President Mbeki's more loyal footsoldiers on at least one occasion). Undeterred, in caucus he voiced support for an antiretroviral programme for people living with AIDS, while, in public, he openly associated with leading members of the Treatment Action Campaign (TAC), involved then (as it still is today) in mobilising South Africans against the practices of pharmaceutical companies and the health policies of the government over HIV/AIDS. This included a very public meeting with TAC leader, Zachie Achmat, then probably 'enemy number one' in the eyes of President Mbeki and his denialist health minister. At this gathering, he implored the ailing and HIV-positive Achmat to embark on antiretroviral treatment. Achmat's position was that he would not purchase and take antiretrovirals while the government refused to make such treatment available through the state health system.

Simultaneously with his campaigning, the NMF began to sponsor and support a variety of research projects on how to combat AIDS, enabling Mandela to use this not only to facilitate dialogue with government departments, but also to continue to caucus within the ANC. These initiatives were so successful that some of the denialists/Mbeki acolytes within government and the National Executive Committee of the ANC complained that Mandela was crossing the line by behaving in a way that was not compatible with that expected of a retired president.¹³

Ultimately the denialists were forced to back off and concede the debate to their opponents. Even President Mbeki publicly announced that he would no longer enunciate his denialist views in public. There is little doubt that in the battle over both the causative factors of HIV/AIDS and the provision of antiretrovirals, the position taken by the former president was crucial. It helped turn the tide of public opinion by legitimating the actions and views of

a group which the government was trying to write off as a dissident minority at the time. There are South Africans alive today because their one-time president had the courage to stand up to his successor and say ‘no, enough’.

A second arena of local activism, but one which this time had the support of the ANC’s leadership, was Mandela’s initiative, in conjunction with others in the ANC, to separate the fortunes of the traditional leadership in KwaZulu-Natal from that of its previous political patron, the Inkatha Freedom Party (IFP). This initiative was highlighted in the trial of Shabir Shaik in Durban in 2005, where it was suggested that monies made available by the NMF found their way into the pockets of traditional leaders in the province.¹⁴ Setting aside the appropriateness of the action, what the evidence demonstrated was that Mandela, through the NMF, was integrally involved in the ANC’s strategy to depoliticise and neutralise the traditional leadership, and thereby win control of the province. The success of the strategy is evident not only in the fact that the ANC came to power in KwaZulu-Natal, but also in the steady emasculation of the IFP as a political force.

Continental peace-maker

Mandela’s one bout of post-presidential continental peace-making was his involvement in the Burundi peace process. He became involved in this complex ‘minefield’ immediately after the death in October 1999 of former Tanzanian President, Julius Nyerere, who had been playing the role of international mediator up to that point. Mandela’s involvement came about at the request of the regional leaders in the Great Lakes region, and had the support of President Mbeki. Perhaps because of his age and a sense that time was not on his side, or perhaps out of impatience with the self-serving stalling and posturing of some of the Burundian groups, Mandela’s approach to the negotiations was quite different from that of Nyerere’s. The latter’s softly-softly approach now gave way to what Southall (2006 forthcoming) describes as a ‘toughness and bluntness’ which was both novel to and unexpected by the Burundians. From the outset, Mandela adopted an uncompromisingly moral standpoint which he maintained throughout the process. For example, he criticised all parties to the process. He attacked the government of Burundi for the forced regrouping of civilians as well as for jailing people without just cause. He levelled strong criticism at opposition rebel groups who had ignored a declared ceasefire and

continued killing civilians. And he condemned all the leaders of the negotiating parties for their intransigence, failure to reach agreement, and for the ongoing violence, arguing that ‘the daily slaughter of men, women and children is an indictment of every one of you’ (Bentley & Southall 2005: 72).

Before being drawn into the process, Mandela had had little knowledge of Burundi. He thus spent some time familiarising himself with the situation, drawing on the experience of those from the Mwalimu Nyerere Foundation who had worked with the former Tanzanian leader. He also drew on the expertise of South African non-governmental organisations which had had experience of conflict resolution in Burundi. These were the Pretoria-based Institute of Security Studies and Durban’s African Centre for the Constructive Resolution of Disputes. Finally, he tapped into the considerable knowledge of President Clinton’s ambassador to the Great Lakes region, Howard Wolpe. A former congressman and for a number of years chair of the House of Representatives Sub-Committee on Africa, Wolpe was well respected by all sides in the conflict and had good connections to the White House. During this consultative process, Mandela made two visits to Burundi. During these trips, he spent time in the capital getting to know the delegates and leaders of the different parties and factions, and travelled outside of the capital to familiarise himself with the situation of those living in the rural areas where so much of the bloodshed of the past had occurred.

Once he had found his feet, Mandela moved rapidly. He insisted on the inclusion of both the armed rebel movements which had remained outside the negotiations and a political grouping party previously excluded for technical reasons. This was agreed to and was an important step forward since the exclusion of the rebels and the other party was widely regarded as the weakest link in the negotiations. It was felt that, unless they were included, a permanent peace was likely to prove elusive (Bentley & Southall 2005: 73).

Mandela also used his considerable international stature to bring the international community on board in support of the peace process. He addressed the United Nations Security Council on the severity of the conflict in Burundi, a speech which was followed by the Council’s adoption of Resolution 1286, which was more positive and supportive of the Burundi peace process than any of its previous resolutions. He borrowed unabashedly from his South African experience to advocate ethnic power-sharing solutions.

He also introduced the well-worn South African negotiating tactic of employing 'sufficient consensus' rather than unanimity in order to get around the blocking devices of minority groupings. He held up the 'carrot' of an international donor conference as an incentive to the squabbling groups to settle their differences and see much-needed aid begin to flow into the country. With a settlement proposal on the table, he imposed a deadline (28 August 2000) for signed acceptances and simply refused to be deterred by the delaying tactics of certain Tutsi groups. In addition, he wrapped the agreement in the cloak of international legitimacy by persuading US President Clinton, Organisation of African Unity General-Secretary Salim Salim, regional heads of state and Deputy President Zuma of South Africa to attend the signing ceremony. Only a statesman of Mandela's stature could have persuaded such an array of politicians, and most notably the US President, to travel to a remote African capital, albeit a 'hot-spot'. The tactic worked. On the agreed acceptance date, 13 of the 19 parties signed the Arusha Accord. Realising that the train was leaving the station without them and that their obstinacy cut no ice with Mandela, the recalcitrant six scrambled to get on board. In less than a month, all six had also signed the agreement.

With the signing of the Accord, Mandela began to withdraw from the process and give way to Deputy President Zuma. However, this was not before he persuaded President Mbeki to deploy South African troops to Burundi as part of the international peace-keeping force provided for in the Accord. In reality, it seems that President Mbeki had little choice as it is said that his predecessor committed South African troops to the force without first consulting his successor. These troops have now been in Burundi for several years and have played a vital role in securing the peace and in creating the space for the further implementation of the Accord. While there have been delays and missed deadlines, the agreement has held and Burundi has not reverted to the genocidal bloodshed of the mid-1990s. For this, Mandela's successor, Jacob Zuma, and others, like Wolpe, who has maintained his close involvement in the Burundi peace process after his tenure as ambassador, deserve great credit.¹⁵

But there can be little doubt that it was the involvement of Mandela that was the crucial catalyst. His even-handed, hands-on and no-nonsense approach to all the parties earned him the reputation of being a tough but fair negotiator. In an assessment of his role, the Institute of Security Studies attributed Mandela's success to his commitment to inclusivity, which enabled all sections

of Burundian society to develop a sense of ownership of the reconciliation process (NMF 2002: 30). In similar vein, the Speaker of the Burundi National Assembly, Leonce Ndikumana, remarked that the negotiation process benefited both from Mandela's international reputation and his South African experience of dealing with a situation which was a product of a tragic history (NMF 2002: 30). He went on to state that the South African leader convinced Burundian leaders that nation building involved hard choices in a give-and-take process where primitive revenge has no place. In his assessment of Mandela's role, Roger Southall (2006 forthcoming) argues that Mandela propelled the parties towards a settlement through a combination of 'international pressure, arm-twisting and argument'. Whatever one's assessment of Mandela's particular role, it is hard to argue with the NMF's view that their patron's approach drove the peace process further in one year than it had moved in the previous three (NMF 2002: 30).

'Conscience of the globe'

Since his retirement, Mandela has periodically used his immense global standing to articulate the outrage of particularly the developing world (the nations of the South) at issues which he regards as unjust (like global inequality) or as serving the narrow interests of the developed world. The policies of the Bush administration have been a particular target of his ire. After years of being fêted in the United States, during which he developed a genuinely warm and respectful relationship with President Clinton, Mandela's 'love affair' with the White House ended with the election of George Bush. His attitude soon turned to hostility and contempt as the Bush administration rolled out its reactionary and narrowly self-serving policies.

The aggressive unilateralism of the Bush administration in the build-up to the war in Iraq and the support accorded it by the British government have earned Mandela's harshest words. In September 2002, he attacked both President Bush and Prime Minister Blair in terms that were both pointed and unusually personal. Describing US conduct over Iraq as 'arrogant', he went so far as to suggest that President Bush was stupid by referring to him as someone 'who can't think properly and wants to plunge the world into holocaust', while Prime Minister Blair was depicted as a simple US stooge: 'He is the foreign minister of the United States. He is no longer prime minister of Britain.' He

then went on to impute racist motives to both leaders when he accused them of undermining the United Nations and queried whether this was 'because the secretary-general is now a black man? They never did that when secretary-generals were white' (*BBC News online* 01.09.2002, 30.01.2003).

While Mandela's criticism of President Bush and the United States engagement in Iraq failed to stop the war, it did much to undermine what legitimacy the war enjoyed in the eyes of the world, while providing a powerful impetus to a global anti-war movement. It also enabled a powerful criticism from within the political elite in South Africa without jeopardising the good diplomatic relations between South Africa and the United States and Britain. This was another occasion where the diplomacy of the past president has served the interests of his successor government.

Mandela's concern about the growing levels of inequality around the globe, and his ability to mobilise celebrity power on the matter, also assisted in bringing onto the official international agenda the issue of global inequities, one that for too long had been brushed aside by the G8, which represents essentially the interests of the richer states. In 2004, this took the form of the NMF mobilising a range of opinion on the continent on how to construct a human-centred development agenda, and how to fuse these ideas onto the agenda of the Blair Commission in the hope that it would influence the policies of the European Union and the G8 on Africa. The effectiveness of Mandela's activism around this issue was enhanced by the fact that he was in part free from the strictures that state positions would have imposed on him. Here again was a case of an ex-president being usefully deployed by state elites to highlight issues that they, by virtue of their office and other national interests or concerns, felt unable to raise.

Philanthropy and social development

Having contributed tellingly to the defeat of the AIDS denialists in the court of public opinion, Mandela has in recent years moved to use his considerable stature as a means to raising funds for the war on AIDS. This he has done through 'the 46664 campaign', which is an initiative that brings together artists, the media and big business to raise funds for and awareness of the pandemic. 46664 was Mandela's prison number and it is used 'as a symbolic reminder to

the world that the millions of people infected and affected by HIV/AIDS are more than just numbers and statistics' (NMF 2004: 6). The first event in this campaign was an international concert held on Robben Island in November 2003, which is said to have reached an audience of 2 billion people worldwide. A second concert was held in George in early 2005. The 46664 initiative has now been outsourced to a subsidiary company which will organise a series of two to three concerts per annum in different parts of the globe. The first of these was held in Scandinavia in mid-2005. In addition to raising global awareness of the disease, the funds generated are used for AIDS-related 'programmes on treatment, care and support; research; mobilising leaderships; and mitigating the impact of HIV/AIDS at the school level' (NMF 2004: 6).

A second area of philanthropy cum social development in which the former president has been involved – and in a very hands-on manner – is the Rural Schools Development Programme. This programme dates back to the early days of Mandela's presidency when he took to cajoling the corporate sector into funding either the construction of new schools in rural parts of the country or the refurbishment and upgrading of existing ones. This initiative has been extraordinarily successful. In a ten-year period a remarkable total of 150 new schools have been built, while dozens of others have been renovated and re-equipped with all or some of the following – furniture, chalkboards, ablution facilities, running water, electricity and telephones. Of the 150 new schools, 15 in the Eastern Cape have been designated as Multichoice Centres of Excellence and equipped with computers. In those schools, teachers are taught to use information communication technology as a resource to improve teaching and learning in the classrooms.

Linked to the Mandela schools network are a set of support activities which are driven by the University of Fort Hare's Unit for Rural Schooling and Development. In addition, in 2003 the NMF commissioned the Human Sciences Research Council (HSRC) to undertake an exhaustive audit of rural education in South Africa, the results of which were published in early 2005 in a volume entitled *Emerging Voices*. It is a moving and compelling document about a sector of our school system in desperate need of help. There can be little question that this programme of the NMF is filling a huge void.

The Mandela Rhodes Foundation

Launched in 2003, the Mandela Rhodes Foundation (MRF) directs its activities at producing a new generation of leadership. It is a partnership between the NMF and the Rhodes Scholarship Trust (awardee of the annual Rhodes scholarships to Oxford University) which affirms Mandela's commitment to the reconciliation of different, and at times opposed, historical traditions. Controversially, it declares its purpose as being to reflect areas of interest and concern common to both Cecil Rhodes, the arch imperialist, and Mandela, the icon of South African liberation. In practice, it constitutes a strategic alliance between two foundations to promote collaboration in the areas of education and the environment and, in particular, to develop a major scholarship programme for young South Africans to study overseas.

When the MRF was launched, Mandela emphasised the historical significance of the new partnership. He said: '...combining our name with that of Cecil John Rhodes in this initiative, is to signal the closing of the circle and the coming together of two strands in our history.'¹⁶ The memorandum of understanding between Mr Mandela and the Rhodes Trustees commits both parties to the fundamental values of the South African Constitution, in particular the enhancement of human dignity, and the advancement of human rights and fundamental freedoms (MRF 2003).

This programme has as its main objectives the promotion of education at the secondary and tertiary level, moral encouragement, physical vigour, a commitment to public service and social justice, enhancement of cultural heritage, education and research to support the rule of law, human rights and constitutionalism, and protection and enhancement of the natural environment by supporting training programmes in environmental conservation and management. This is achieved in the main through the provision of bursaries, scholarships and fellowships for either academically gifted South Africans or those with potential to develop into tomorrow's leaders. While those who have been historically disadvantaged will initially be prioritised, ultimately the aim is to develop a new cadre of South African leaders, interacting with and comprising a section of a new generation of world leaders, responsive to and representative of all of the world's citizens, including its most marginalised and dispossessed.

Conclusion

Now in his late eighties, Nelson Mandela is seen less and less in public. Yet he remains a powerful force in national and international politics. His intervention in the contest between Morocco and South Africa to stage the 2010 soccer World Cup was probably decisive in swinging the decision in South Africa's favour. His powerful condemnation of the war in Iraq resonated around the world. Yet less than two years later, he was being fêted by President Bush in the White House while on a private visit to the United States, an indication that even a leader as indifferent to international public opinion as George Bush felt he could not ignore an individual of Mandela's stature. Indeed, as the moral conscience of the world, his is a voice it seems none, even the seemingly most powerful, are able to ignore. Nor do they often respond to his critiques: witness Tony Blair's silence in the face of Mandela's strident attack.

I noted at the beginning of this chapter that only former President Jimmy Carter comes close to matching Nelson Mandela in terms of his impact as a former head of state on national and international politics. A significant difference, however, is that Jimmy Carter will be remembered and honoured more for what he achieved out of office than in it. Nelson Mandela will be honoured for the achievements of a lifetime, before, in and out of office. I know of no other politician of Mandela's time, and certainly no former head of state, for whom that is also true.

Indicative of the world's regard for Mandela is the fact that he has been showered with every conceivable type of award and honour. So much so that in 2003 the Mandela Foundation commissioned a study by the HSRC to document them. A year of research produced a report which catalogued the honours bestowed on the former president in 34 distinct categories.¹⁷ The earliest of these awards goes back to the time of the Rivonia trial when, in 1964 and 1965 respectively, the Student Unions of University College, London, and Leeds University elected Mandela as their honorary presidents, decisions which prompted outrage in NP circles in South Africa. Leeds University was again in NP 'hot water' when in 1973 it named a new nuclear particle its scientists had discovered after Mandela.

In 1979, the National University of Lesotho became the first tertiary institution to award Mandela an honorary degree (in absentia, naturally). Since then,

some 80 universities in 30 different countries have followed suit. Of these, 16 were awarded while Mandela was still incarcerated while the others, including many of the so-called great universities of the United States and Britain, could in some ways be said to have climbed on the bandwagon.¹⁸ In addition to his honorary degrees, Mandela has been accorded honorary citizenships by Brazil, Canada and Greece well as of two states (California and Maryland) of the United States, and 'Freedom of the City' awards by 42 cities or boroughs in 12 different countries. He also has countless streets, avenues, boulevards and squares named after him. There are also at least three sporting competitions named in his honour. One is an African club soccer tournament, another is an annual rugby contest between South Africa and Australia, while the third is the annual Nelson Mandela Golf Invitational played in South Africa in November of each year. This is a charity event involving established golf stars as well as celebrities from the entertainment world.¹⁹ Half of the proceeds from this event go to the NMCF. The HSRC also listed 26 films and television documentaries focused on Mandela's life and work. In 1995, Nelson Mandela's autobiography, *Long Walk to Freedom*, won South Africa's most prestigious non-fiction literary award (the Alan Paton Prize), as did Anthony Sampson's biography of Mandela in 2000.

Perhaps most impressive of all are the at least 60 international human rights awards given to the former president. The first of these – the Jaharwal Nehru Award for International Understanding – dates back to 1980. This was followed a year later by Austria's Bruno Kreisky Prize, and in 1983 by the Simon Bolivar International Prize given by the Government of Venezuela. The WEB Du Bois International Medal followed in 1986. Amongst the prizes given after his release were the Lenin Peace Prize of 1990, the 1991 Unesco Peace Prize and the 1993 Nobel Peace Prize, shared with former President FW de Klerk. In September 1998, President Mandela became the first and only African (and only one of four foreign nationals)²⁰ to receive the US Congressional Gold Medal. Speaking at the ceremony, Congresswoman Maxine Walters captured eloquently what Mandela meant for so many black Americans with these words:

Today I stand here as a proud Afro-American woman with the son of our ancestors...He taught me no fight is too tough for justice, no struggle too long for equality, no cause is greater than the struggle for freedom.

As part of the celebrations to commemorate the former president's 87th birthday in July 2005, the HSRC organised a series of lectures around the theme of 'The Meaning of Mandela.' One of the participants was another Afro-American, the distinguished academic, Cornel West. Along with Walters' moving words, his description of the meaning and significance of Mandela's life and work provides an apt ending to this chapter. In an interview he described Mandela as:

...one of the towering figures in the history of democracy that goes from Pericles to Jefferson to Mandela. He is in some ways a culminating figure in that history...Mandela represents the height of courage, of vision, of sacrifice, and of wisdom in the history of democracy. It is important to understand his particular role in the history of democracy: the history of the hindmost taking back power in the face of an elite's abuser of it...there is no one like him on the world stage: for the most part we have politicians. He is the last of the great democratic statesmen. (*Financial Mail* 15.07.05)

Notes

- 1 In addition to former President De Klerk, Mandela appointed to the Cabinet the long-serving apartheid-era Foreign Minister Roelof 'Pik' Botha, albeit to the rather lesser post of deputy minister of energy. He also brought into the Cabinet a respected white Afrikaner businessman, Chris Liebenberg, appointing him to the key post of finance minister. In similar vein, he retained Reserve Bank Governor Chris Stals in his post, while in the security sector he reappointed Chief of the South African Defence Force, General George Meiring, and Police Commissioner General Johan van der Merwe. The latter resigned within a year and was replaced by another apartheid-era senior police officer, George Fivaz.
- 2 Among the most damaging of the revelations uncovered by the TRC was the discovery of documentation in the files of the State Security Council which revealed that the Council had discussed at length, and eventually developed, a policy of elimination by assassination of certain of its political opponents operating inside South Africa. The killings of Matthew Goniwe and colleagues (the so-called Cradock 4) in 1985 were carried out in terms of this policy. Likewise, the killings of tenants in areas like Crossroads in the Western Cape were shown to have been the work of paid government operatives (the so-called 'witdoeke') living in the townships.

- 3 A telling example of Mandela's sense that he had, with the dissolution of the GNU, seen off the right-wing threat was provided by his decision in April 1998 to dismiss General Meiring from his post as commander in chief of the military after he had made unsubstantiated allegations of a plot to overthrow the government. In contrast to his appointing of another white apartheid-era policeman in the Van der Merwe case discussed earlier, Mandela replaced Meiring with the former head of the ANC's underground army, Umkhonto we Sizwe, General Siphiwe Nyanda.
- 4 This paper draws upon an earlier paper on this topic by Adam Habib, Arlene Grossberg and John Mafunisa, all of the Democracy and Governance Unit of the HSRC, and presented to an internal HSRC workshop in December 2004. I would also like to thank Maresha Ramdeen for her invaluable research assistance.
- 5 These notions of leadership had been drummed into Mandela from an early age by particularly his uncle, Jongintaba, who had adopted the 9-year-old Mandela upon the death of his father. At the time, Jongintaba held the position of Regent of the Thembu clan. From this time on, Mandela began at first to sit in on, and then later to participate actively in, tribal council meetings. For a fuller discussion of this early political socialisation of Mandela, see Hadland (in Asmal et al. 2003).
- 6 The white man who supposedly employed Mandela as a chauffeur and who enabled him to travel widely in South Africa organising the political underground was a theatre director and left-wing sympathiser by the name of Cecil Williams. For more details of his arrest on 5 August 1962, see Mandela (1994), and a film documentary entitled 'The Man who Drove with Mandela', written by Mark Gevisser and produced by Greta Schiller. It was released in 2001.
- 7 A one-time leader of the United Democratic Front and leader of the ANC in the Western Cape in the early 1990s, the Reverend Alan Boesak became embroiled in corruption allegations in the mid-1990s. Even so, Mandela stood by Boesak, even going so far as to appoint him as South Africa's ambassador to the United Nations in Geneva, a post he never actually took up. Instead, he was convicted on fraud charges and imprisoned.
- 8 See <http://www.clintonpresidentialcenter.org/>.
- 9 See <http://www.carterpresidentialcenter.org/>.
- 10 Both of these studies were undertaken in collaboration with the HSRC and resulted in two HSRC publications (Brookes, Shisana & Richter 2004; NMF 2005).
- 11 In the period from May 1999 to mid-2003, former President Mandela was awarded honorary degrees by 19 universities in 11 different countries; he had honorary citizenships conferred upon him by the governments of Canada and Brazil, as well as by the State of Maryland in the United States; he was also made a freeman of

the city of Leeds in England, as well as three towns and cities in South Africa. To practically every one of these ceremonies the octogenarian Mandela travelled. The full list of honours listed in the HSRC report is available on the NMF website. The HSRC report was compiled by Arlene Grossberg, a researcher in the Democracy and Governance Unit.

- 12 For a useful discussion of the health record under Mandela's presidency, see Shisana in Asmal et al. (2003).
- 13 This, in part, prompted the NMF to fund a study on the role of ex-presidents (see Adar et al. 2002).
- 14 See <http://iafrica.com/news/sa/385885.htm>.
- 15 Wolpe's ambassadorship to the Great Lakes ended with the accession of George Bush to the US presidency in 2001. He was then appointed to head the Africa Programme of the Woodrow Wilson International Center in Washington DC, where he has had special responsibility for developing and managing the Burundi Leadership Training Programme. This has involved him working closely with some 400 Burundian government, military, police, rebel and civil society figures to develop the skills needed to manage Burundi's economic recovery and transition to democracy. It has also involved training community figures in conflict management and resolution skills.
- 16 See <http://www.mandelarhodesfoundation.org>.
- 17 The full list of categories is: Africa-related awards; bursaries; educational institutions and student union buildings in Mandela's name; elected chancellorships; estates and housing developments named after Mandela; fellowships; freedom of cities awards; halls, buildings and monuments named after Mandela; honorary citizenships; honorary degrees; honorary freemans; honorary memberships of associations; honouring Mandela through support; international peace awards; life patronships; life presidencies; award of medallions; literary awards; media awards; music awards; award of orders; other forms of support; parks named after Mandela; public holidays in his honour; publications; scholarships named after Mandela; science discoveries named after Mandela; special awards; sports competitions named after Mandela and other sports awards; squares named after Mandela; statues and sculptures of Mandela; streets, roads, avenues and boulevards named after Mandela; student union awards; television and film documentaries about Mandela.
- 18 In addition to the National University of Lesotho, the universities which honoured Mandela prior to his release were: in the United States – the City College of New York (1983), University of Michigan (1987) and Western Michigan University (1988); in Canada – Guelph (1986), Trent (1986) and York Universities (1989); in Britain – Lancaster University (1983); the Free University of Brussels (1984);

University of Rio de Janeiro (1985); Ahmadu Bello University in Nigeria (1985); the University of Zimbabwe (1986); the United States Ross University in Dominica in the Caribbean (1987); the University of Havana (1987); the Karl Marx University in the German Democratic Republic (1987); the University of Carabobo in Venezuela (1988); and the University of Bologna in Italy (1988).

- 19 Half of the proceeds from the event go to the NMCF. From six events held to date, the fund has benefited to the tune of just over R7.5 million.
- 20 The other foreign recipients have been Sir Winston Churchill and Tony Blair of Great Britain and India's Mother Theresa.

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3 *Unpacking the 'model': presidential succession in Botswana*

Kenneth Good and Ian Taylor

Botswana has, since independence in 1966, been governed uninterruptedly by the Botswana Democratic Party (BDP) and its economic growth-rate record has been impressive. From being one of the poorest countries in the world at independence, Botswana is now classified by the World Bank as an upper middle-income country, with a per capita gross domestic product (GDP) at purchasing power parity of almost \$8 000 (UNDP 2003: 280; Republic of Botswana 2001). It must be said that much of this has occurred at the expense of diversification, persisting inequalities and weaknesses in human development (Taylor 2003).

However, because of such growth rates and the fact that it has been ostensibly operating a stable liberal democracy from the outset (in contrast to most African countries before 1990, with the exception of Mauritius), Botswana has been showered with praise and has been repeatedly dubbed the 'African miracle' (a phrase originally coined by Thumberg-Hartland 1978, repeated by Samatar 1999). The bulk of the literature on Botswana is heavily imbued with celebratory positions. Much of this is idealistic and largely economic in its approach, missing much of the *political* dynamics of the country's pre- and post-independence experience (Vengroff 1977; Thumberg-Hartland 1978; Picard 1985, 1987; Harvey & Lewis 1990; Holm & Molutsi 1989; Danevad 1993; Stedman 1993; Dale 1995; Leith 2004; Werbner 2004). These works even ask whether Botswana is indeed *A model for success?* (Picard 1987), and assert that the distinguishing characteristic of Botswana is its 'prosperity' (Leith 2004).

This chapter discusses whether or not Botswana is indeed a model for Africa, with particular reference to presidential successions and the behaviour and roles of any ex-president. We suggest that any discussion of this must be situated within the broader dynamics of Botswana's celebrated democracy as

this directly informs presidential behaviour and the wider context of the sole ex-president. Certainly, we suggest that Botswana's elitist democratic impulses must be investigated if the idea that the country represents a model of presidential transitions in Africa is to be properly assessed. The proposition is doubtful primarily on the basis that the country's democracy is highly elitist, power is centralised in the presidency, and the country's two presidential transitions, in 1980 and 1998, both took place without reference to the wishes of the people, were determined by very few, and involved successors who had no popular constituencies whatsoever.

Revisiting the 'beacon of democracy'

Independent Botswana began, much as the British Protectorate had gone on, through agreement among colonial and indigenous elites. It was a smooth and painless transition, which took place, according to Fawcus and Tilbury, among a quiescent, 'entirely apolitical electorate' (2000: 182). According to Wass (2004), a protectorate officer involved in the run-up to independence, when a nationwide competition for the design of a new national logo and motto was launched, entries included a picture of a biting spider with the proposed national motto being *Tsoga!* (Wake up!). The experience of popular struggle was wholly absent, and the BDP was a 'party of government' from its foundation in December 1960, shortly before the pre-independence elections (Picard 1987: 138–42).

The BDP's founders were leading cattlemen, led by Seretse Khama and Ketumile Masire. For Seretse 'it was [his] personal and financial interest in cattle which first led him into the confidence of...the colonial authorities', and by the 1960s he was 'the most influential livestock producer in the country' (Parsons, Henderson & Tlou 1995: 188–9). Khama and Masire established from the start an open, multiparty system, in which the BDP immediately predominated. This openness entailed what a liberal politics functionally necessitated: *relative* freedom of speech and association (Macpherson 1966: 46). Exceptional stability was conferred on the polity, and legitimacy too on the elected ruling elite, both bolstered further soon after by a competitive economy, diamonds and sustained growth.

Botswana's fundamental law was 'predicated on an effective executive president', and Seretse Khama quickly initiated the strengthening of the Office of the

President (Parsons et al. 1995: 271). Great power was, and has since been, centralised in the presidency, which at the moment is limited to two terms. Commanding both the state and the predominant party, all three presidents to-date have readily exercised their powers. Seretse Khama, we are told by his biographers, had ‘never been really happy’ with constituency politics and parliamentary debate, so the Constitution was changed, as early as October 1972, to accommodate the indirect election of the president – ‘the first step on the way to autocracy’ (Parsons et al. 1995: 299). Festus Mogae made a number of personal, seemingly even secret, decisions, favouring the inexperienced Lieutenant-General Ian Khama, eldest son of Seretse, as his vice-president – his initial appointment, his deputy’s almost immediate, unprecedented ‘sabbatical’ leave, and Khama’s continued piloting of BDF aircraft against the express recommendations of the ombudsman. The latter step expressed the presumption that he and the 52-year-old vice-president were above the law. During the October 2004 elections, Mogae publicly announced three times that, if Parliament rejected his re-nomination of Khama as his deputy, and thus heir apparent, he would dissolve Parliament. He supposedly backed up this threat by declaring his personal assurances that Khama did not have the authoritarian intentions that many BDP members suspected him of holding.

So elevated, all three presidents to date have been ready to subordinate the law and the Constitution to the political exigencies of the time on more than one occasion. When Vice-President Masire was twice rejected by his Kanye constituency, in 1969 and 1974, defeated by former Chief Bathoen Gaseetsiwe of the Botswana National Front (BNF), President Khama first abolished (in 1972) the provision for constituency election of the president, and then introduced the requirement that a chief had to have resigned his position for a period of five years before qualifying for parliamentary election (Makgala 2004: 6–8). The set of constitutional amendments introduced by President Masire in 1998 involved necessary reforms such as the lowering of the voting age and creating a (more) independent electoral commission, but they also allowed for the automatic succession of the vice-president on the retirement, death or incapacitation of the president. Parliament – effectively the BDP in Parliament – was removed from the succession process. It should be noted that when Ian Khama became vice-president while remaining Paramount Chief of the Bamangwato, Mogae and Khama violated Masire’s earlier constitutional amendment.

Presidential arrogance is repeatedly displayed in the immediate reappointment of BDP members of Parliament (MPs) and ministers rejected democratically by their constituencies. The appointment of (four) so-called ‘specially elected’ MPs was a constitutional provision intended to assist weak communities to gain representation, but the provision has been ‘blatantly used’ for getting ruling party members back into Parliament against the wishes of their constituents (see below). The provision was quickly used to reappoint Masire as both MP and vice-president by Seretse after Masire’s defeat in the elections mentioned above (Parsons et al. 1995: 283–84). Notably, in 1989, the former Permanent Secretary to the President, Festus Mogae, and the former Army Commander, General Mompoti Merafhe, were co-opted into Parliament and elevated to Cabinet office. When Vice-President Peter Mmusi was forced to resign in 1991 after his involvement in corrupt land transactions, Masire made Mogae his deputy.

This practice is a norm in Botswana politics. In October 2004, Margaret Nasha, an old BDP stalwart, was kicked out by her Gaborone Central constituents, only to be immediately returned to Parliament, and to her Ministry of Local Government, by Mogae – again, in direct contradiction of the wishes of the electorate. In the popular view, ‘The BDP government tends to reward its activists, rejected by the voters. The greatest loser in the whole circus is the people’ (*Mmegi* 29.11.04).

The dominance of nomination over election is extensive. In November 2004 Nasha announced the names of nominated councillors – out of 101 nominated local government councillors only three came from the opposition. Given that the BDP gained 52 per cent of the popular vote while the opposition accounted for 48 per cent, the nominations were described by the press as ‘a monstrosity’ (*Mmegi* 29.11.04). As the newspaper remarked:

We are reminded yet again that this is Botswana where a person who has been rejected by the people [i.e. Margaret Nasha] is brought to Parliament through some phony democratic exercise called specially elected arrangement. The outrageous circus continues when the same individual is appointed to oversee another ridiculously undemocratic ritual of nominating councillors.

Masire-Mogae and Mogae-Khama: automatic elitist succession

Until the early 1990s the BDP easily won general elections running on an effective political formula of returns (in goods, services, salaries and so on) to those who made the biggest contribution to the growth economy. Thereafter, as a result of both infighting in the party and a series of corruption scandals involving top-ranking government officials, the BNF challenged the predominance of the BDP in 1994. The response by Masire was to avoid the voters' judgement on his presidency and step down.

Masire's peaceful – and elitist – transfer of power to Mogae needs contextualising. At the time, the BDP was riven with factionalism and disputes, with the party split into essentially two different groups: one allegedly behind the Minister of Foreign Affairs, Mompoti Merafhe; the other behind BDP Secretary General, Daniel Kwelagobe. This factionalism related to various issues, including the problem of elite corruption, and the dent that this made in the BDP's till-then well-cultivated image of probity – or at least discipline – and development. It stemmed from a private parliamentary motion that supported a public register of all assets and business interests held by the president, vice-president, ministers and MPs. The Kwelagobe-associated group largely represented the interests of older elites, most of whom had 'business interests' (Kwelagobe had earlier resigned due to corruption allegations involving himself and Mmusi).¹

Infighting in the BDP reached a crescendo in and after 1992, as students and workers demonstrated in Gaborone against ministerial wrongdoing. This meant that the BDP went into the 1994 elections tainted with the look of a party given over to greed and infighting. The BNF duly gained the largest share of the popular vote in its history.

With its predominance seemingly threatened in the next 1999 elections, the BDP engaged a consultant, Lawrence Schlemmer, essentially to redefine its retention of power. The Schlemmer report (1997) identified factionalism as a major problem and recommended that the BDP should obtain a person of 'sufficient dynamism', 'untainted' by factional fights, to 'unite' the party. In addition, Schlemmer called for the retirement of the BDP old guard and an infusion of new talent – essentially these recommendations focused on imagery and on some large assumptions, but the report led directly to the supposedly celebrated transition from Masire to Mogae.

In 1997, the BDP failed to vote for a central committee, with a camp led by Merafhe threatening to boycott the poll because Kedikilwe (associated with the Kwelagobe clique) was believed to have agreed to step down as BDP chairman, so allowing Vice-President Mogae to obtain what he conspicuously lacked, a party post, unopposed. The Kwelagobe camp wanted Masire to remain in power until the 1999 national elections – amendments to the electoral law and Constitution would be coming into force by late 1997 which would provide for the automatic succession of the vice-president. Masire, however, indicated that he considered retirement, although this was initially implied in a decidedly circumspect way.

Masire himself was taciturn, not to say autocratic, towards his party colleagues on the issue. The 72-year-old, in the highest office then for 17 years, was aware, he said, that some were saying that they do not want another ‘*Bandanyana*’ (small Banda). He had always known that someday he would have to retire, but this would be ‘when I am ready’. He went on to say: ‘I will let you know. It could be tomorrow, next week, next month, any time, but I will tell you’ (*Botswana Guardian* 25.07.97). Here was the true voice of Botswana’s leadership: aloof and high-handed, even towards the presidency and ruling party. The Cabinet was said to be silently working on a retirement package modelled on that accorded to Kenneth Kaunda in Zambia.

In November 1997, Masire met with a group of BDP veterans, concerned with his imminent retirement and uncomfortable with the prospect of Mogae’s succession. These veterans acknowledged the vice-president’s capability, but were concerned that he was not, as it was reported, ‘a man of the people’ (*Mmegi* 07.11.97). Mogae was the minister most responsible for the efforts to clean up the ruling elite in the wake of the corruption furore, touching the top leadership closely.² All this added to the opposition he faced from the Kwelagobe group, who believed that Mogae’s policies could somehow lose the BDP the next election.

It was finally announced that Sir Ketumile would stand down on 31 March 1998. If part of his self-identity was that he was ‘merely a farmer on loan to the nation’, he was also a highly experienced BDP politician, but he asserted that he was now ‘going [back] into cattle farming’ (*Mmegi* 16.01.98).

However, Masire’s resignation was not some magnanimous gesture on his part – as Swatuk (1998: 6) remarked, ‘many observers [felt] that Masire got

out while the going was still good'. The Electoral Institute of Southern Africa noted that Masire 'retired his position as Botswana's president in April 1998 owing to internal factionalism within his party and allegations of corruption' (EISA n.d.). Masire's 'peaceful handover' thus took place within a context of elitist corruption and party infighting – hardly a 'model' transition.

Masire retired on favourable terms. The Presidential (Pensions and Retirement Benefits) Act of 1998 provided an ex-head of state with tangible benefits: 'A package that many considered adequate, a few considered too generous, but none considered mean', as Masire himself put it (*Daily News* 28.10.02). Masire's retirement package was generous in respect of services, but not overly lavish in cash terms. In terms of the Bill discussed in Parliament, retired presidents would receive, then and subsequently: a tax-free pension equivalent to the monthly basic salary attached to the office at the time of retirement, or 80 per cent of the incumbent's presidential salary, whichever was higher. If the retiree held any paid office, any pension or benefits would be temporarily suspended. He would also have the services of two drivers, a private secretary, a secretary and an office attendant, and an unstated number of security guards. He obtained a fully equipped office, a furnished house in Gaborone or a housing allowance, and two maids and a gardener to tend them. Medical insurance was provided, and rail and first-class air travel, to a maximum of four international trips per annum for himself and spouse. Additional entitlements were three vehicles – a sedan, a station wagon and a pick-up – an 'entertainment allowance', and paid telephone, water and electricity expenses.

BDP parliamentarians were supportive of this package. Patrick Balopi, a BDP MP, saw it as fitting 'appreciation' of all that the president had done for the nation, and Margaret Nasha felt that Botswana did not wish to throw the ex-president into 'destitution' – hardly likely, given Masire's status as one of the country's leading cattle-ranchers (he has consistently avoided revealing the extent of his ownership and wealth) (*Botswana Gazette* 08.04.04). When opposition member, Paul Rantao, put an estimate of 'almost P1.5 million a month' on the value of the total package, the government released figures that totalled P25 500 a month. But these, noticeably, did not include the value of house and office rental, petrol and car repairs, and travel benefits (*Mmegi* 10.04.98).

The apparent corollary of the retirement arrangement was that Masire would retire from active party politics in Botswana, though he might well devote himself to some statesman-like activities internationally. In fact he has concerned himself with the intractable problems of peace-making in central Africa (see below), and largely kept a low public profile at home. The American presidential spokesman, Jeff Ramsay, has glowingly described Sir Ketumile as 'Botswana's goodwill ambassador' whom other presidents would hopefully emulate (*Botswana Gazette* 12.01.05). With some negligible exceptions (for example, an appearance at a party rally before the 2004 election), he appears to have adhered to the retirement conditions rather well.

Masire as ex-president

As the ex-president of Botswana, Masire has not been inactive and indeed has carved out somewhat of a second career as a rather successful 'elder statesman' within and outside of Africa. Whilst not wishing to detract from Masire's genuine achievements as an ex-president, it is certainly the case that his 'respectability', coming from an African democracy that is routinely hailed as the model for the rest of the continent and the fact that it is still widely believed by outsiders that his stepping down was a gesture of magnanimity on his part, means that his legitimacy is relatively unquestioned. In the interests of fairness, this needs to be put into some perspective: Masire is far more legitimate than most other ex-presidents in Africa. Yet, at the same time, his record cannot and should not go unquestioned or be regarded as sacrosanct, as this chapter has demonstrated. Having said that, it is to Masire's record after his time as president that we now turn.

Masire has been notably active outside of Botswana. In 2001 he was named 'African Statesman of the Year' for 2001 by the Pan African Broadcasting Heritage and Achievement Awards and was presented with the award by President Obasanjo of Nigeria at a ceremony in Abuja. One of the key activities in which Masire involved himself was as chair of the Organisation of African Unity's 'International Panel of Eminent Personalities to Investigate the 1994 Genocide in Rwanda and the Surrounding Events'. In May 2000, this panel produced what became known as the 'Masire Report' (its official title was *Rwanda: The preventable genocide*).³ The panel's mandate was to investigate the 1994 genocide in Rwanda and the surrounding events in the Great Lakes

Region. The report was expected to establish how the genocide was conceived and brought about and how and why the Genocide Convention was not enforced in Rwanda. Measures aimed at preventing possible recurrences were part of the panel's remit.

In particular, the panel was tasked to investigate the Arusha Peace Agreement of 1993 and the killing of President Habyarimana (which sparked the genocide), as well as the refugee crisis that led indirectly to the overthrow of Mobutu in neighbouring Zaire. Finally, the panel was tasked to investigate the role – before, during and after the genocide – of the United Nations (UN), the Organisation of African Unity (OAU), 'internal and external forces', and non-governmental organisations (NGOs).

The Masire Report was highly critical of France, and found that Paris was closer to the Habyarimana regime than any other government and thus could have stopped the genocide before it even began. Under the cover of Operation Turquoise, the panel found that France had facilitated the exodus of a large number of *génocidaires* (those deemed to have participated in genocide), which subsequently brought about the larger Great Lakes crisis. The panel also criticised the United States and its role at the Security Council in blocking a more effective UN intervention force throughout the genocide.

The report was quite remarkable in that it demanded reparations by Western countries (the United States, France and Belgium) which had allegedly 'ignored' the genocide. The report was also critical of the Roman Catholic and Anglican churches. Indeed, in return for the West's failure to stop the genocide, the report demanded that Rwanda's debt (much of it accumulated by the government that had planned and executed the genocide) should be cancelled in full immediately. Yet the report was not a whitewash. It commented that:

During this same decade that African leaders repeatedly called upon foreign countries to send in their troops or to offer logistic support to African troops, more than a dozen new or protracted conflicts flared across the continent...three-quarters of the countries in sub-Saharan Africa were engaged in armed conflict or confronted by a significant threat from armed groups during 1999. Some of these were between state governments, not least the very war in central Africa...Apart from the DRC, direct military participants in that war include the governments of Uganda,

Rwanda and Burundi pitted against the governments of Angola, Zimbabwe, Namibia and Chad. Several other governments have lesser military involvements. Among them, they also support a large array of rebel groups, including those who are guilty of genocide and other crimes against humanity. Somehow or other, despite their poverty, all these governments as well as other African governments engaged in costly full-scale wars, have found the resources they need. And as one of our expert consultants pointed out to us, none of them has needed the assistance of the United Nations or any outside power to do so. (OAU 2000)

In other words, whilst African leaders sat back and watched fellow Africans be butchered in Rwanda, pleading poverty and 'lack of capacity' (and then energetically blaming the West for not doing anything either), these very same leaders were more than capable of launching ridiculous wars aimed at propping up heinous regimes or lining their own pockets with loot secured during such conflicts. Perhaps inevitably, the report has not had any discernible consequences or real impact on policy.

Perhaps the most famous role Masire has undertaken as an ex-president is as facilitator of the Inter-Congolese Dialogue (ICD), which was officially opened in Addis Ababa on 15 October 2001, two years after the signing of the Lusaka Ceasefire Agreement (brokered by Zambia's then-President Chiluba). Unfortunately, the 'government' of Joseph Kabila stonewalled and argued that the absence of various delegates in Addis meant that a postponement of the peace process was required. Political negotiations under the remit of the ICD began at Sun City, South Africa, only on 25 February 2002. The ICD soon came to have a dual purpose. As linked to the Lusaka Ceasefire Agreement, it was anticipated that the ICD would bring about a negotiated settlement to the war in the Democratic Republic of Congo (DRC) that had festered since 1998. In addition, it was hoped that the negotiations would breathe life back into a nascent democratisation process that had been stalled by Laurent Kabila. The overall objective of the ICD was to produce a transitional government that was inclusive and would supervise a gradual evolution of the DRC into a functioning democracy (admittedly a tall order).

Throughout the ICD's history Masire had to endure continual machinations by various factions hell-bent on securing privileges and positions within

any transitional government that might allow them to continue their self-enrichment. Masire accused both the Kinshasa government and rebel groups of intransigence and insincerity. In particular, he criticised Joseph Kabila for failing to respond to peace plans put forward by the South African president, Thabo Mbeki, which would have allowed Kabila to remain in office for another two-and-a-half years, while bringing rebel leaders into a council of state (BBC News 17.04.02). In addition, Masire had to appeal personally for funding to carry on the work; as early as 2001 he had claimed that he had received less than half the budget he had been promised from various Western donors.

Masire also had to contend with Laurent Kabila declaring him *persona non grata* and accusing Masire of holding views supporting the armed rebels trying to overthrow his 'government'. Kabila even had Masire's office in Kinshasa padlocked. Indeed, Kabila's behaviour towards Masire caused a minor scandal in Botswana, as politicians demanded the withdrawal of Masire due to mistreatment by Kabila. Maitlhoko Mooka of the ruling BDP told Parliament that Masire 'should quit his peace job because the Kinshasa government does not appreciate his services', whilst former cabinet minister, Ponatshego Kedikilwe, questioned Botswana's wisdom in continuing to support Masire in serving 'people who do not cherish his service'. Kedikilwe cautioned that Masire's life could be in danger and that his efforts had been rendered useless by the fact that some members of the Southern African Development Community (SADC) – Zimbabwe, Angola and Namibia – were fighting on the side of the DRC government (*Mmegi* 26.07.00). In the end, it was only Kabila's death that provided the space for Masire to resume his role within the ICD, one that was widely applauded and praised by most observers as he brought the negotiations to fruition.

Apart from his ICD work, Masire has been involved in the Global Coalition for Africa (GCA). The purpose of the GCA is to bring together African policy-makers and their partners to deepen dialogue and build consensus on what are seen as Africa's priority development issues. The GCA claims that its 'added value' lies in the 'distinctive composition' of its constituency and its 'emphasis on frank and open exchange of views, and its policy-focused approach'.⁴ The GCA's basic aim is to ensure that Africa remains high on the international agenda and to promote agreement on necessary actions to be taken by both African governments and their international partners. The coalition is made up of: Festus Mogae of Botswana; Meles Zenawi of Ethiopia; Alpha Oumar

Konaré (Chairperson of the Commission of the African Union); Frene Ginwala, former Speaker of the South African National Assembly; Minister Hilde Johnson of Norway; and President of JICA, Sadako Ogata. Former Minister Jan Pronk of the Netherlands, former World Bank President Robert McNamara and Masire are co-chairpersons emeritus. Hage Geingob, former prime minister of Namibia, was the GCA executive secretary until his return to Namibian politics in 2005.

What is interesting about Masire's role as an ex-president is that in many respects he is a role model and he has made some remarkable achievements upon leaving his post. As facilitator of the ICD, Masire achieved international recognition as a mediator of some skill and enhanced his status as one of the most respected ex-presidents on the continent. His record as an ex-president is untainted so far with the various allegations that surrounded his own presidency. So, as a former president, Masire *is* somewhat of a model (Masire as a president, though, is different). It is this contradiction that strikes at the heart of any overall evaluation of Botswana as a model case for presidential transitions. Certainly, it remains true that the country receives almost universal praise (except when the Bushmen case erupted – see Taylor & Mokhawa 2003).⁵ But it is our contention that the way in which the past presidential transition was handled, and certainly the way in which the imminent succession is being set up, profoundly undermines Botswana's status as the shining beacon vis-à-vis transitions in Africa. We believe that the nature of presidential rule and the manner by which transitions are handled in the country need to be understood – and critiqued – if we are to have any coherent grasp of Botswana's overall polity and its implications for the rest of the continent. It is to the future transition that we now turn.

An uncertain future: the march towards authoritarianism and irrationality

Botswana's October 2004 national elections revealed the severe limitations in the country's elite or liberal democracy. The polls were as free as previous elections, in the sense of being open – as the joke went in Gaborone, it is as easy to form a political party in Botswana as for a public servant to obtain a government-backed car loan. As a result, there was the usual proliferation of 'brief-case', essentially ballot-splitting parties, made up of one-man-and-

his-fax-machine efforts and egocentrics with highly localised or imaginary support. As in previous elections, these 'parties' diverted support from the two largest and best-organised opposition groups, the BNF and the Botswana Congress Party (BCP).

The ruling and predominant party was as ever best-resourced, particularly as regards corporate and other donor funding. President Festus Mogae reportedly said at a rally in Moshupa in early October that his party had received P2 million in contributions so far that year. He also noted that a leading BDP member, the car magnate Satar Dada, had arranged with Toyota to obtain on credit four-wheel-drive vehicles needed for nationwide campaigning. Dada is an appointed MP for very good reasons: he is both the BDP's treasurer and one of the richest persons in the country, owning the Toyota and Land Rover franchises in Botswana. Land Rovers are the vehicles of choice of the BDF and the police, arguably raising questions of conflicts of interests vis-à-vis Dada and his ownership of Lesedi Motors (the suppliers of these vehicles to the forces).⁶ Through Dada the BDP had acquired 57 vehicles, enabling its candidates to campaign effectively in all of the 57 new constituencies in the country.

The BDP also enjoyed favoured access to state resources, such as the electronic media and communications. It is documented that BTV does not enjoy editorial freedom in its presentation of news, and the appearances and speeches of the BDP leader, Mogae, are accorded special prominence on the grounds that he is state president. In contrast, appearances by the opposition leaders on BTV are limited on the grounds that they are 'political' in nature. The ruling party can readily attract able and ambitious candidates, and while it competed in all 57 constituencies, the BCP did so in only 50, and the BNF in just 42. The enlargement of Parliament from 44 elected seats to 57 a few months earlier – a move made without public notification and discussion of its consequences – further strengthened the position of the ruling party. The government steadfastly opposes all proposals for public funding for political parties. In consequence '[opposition] parties are under-resourced and depend on unreliable and unsustainable sources of funding' (Sebudubudu 2003: 1). This restriction extends into access to the media, with patent results. The Constitution provides for freedom of speech and of the press but, according to a report of the US Department of State (2003: 1, 4), released in 2004, 'in practice...the government attempted to limit freedom of the press and continued to dominate domestic broadcasting', and stories and news sources

were 'occasionally censored'. The report noted that radio remained the most important medium of public communication in the country, and the state-owned Radio Botswana was the only service capable of reaching out to the whole nation.

While the Independent Electoral Commission has an autonomy which its predecessor did not enjoy before 1997, this remains restricted by the characteristic power of the president to appoint the commission's secretary, its chief executive officer, with overriding responsibilities. The commission places restrictions on campaign spending by individual candidates – which it does not police – but there are no limits on the funding of parties. Botswana's democracy is further restricted by commonly low levels of electoral – and civil society – participation; in the 1999 elections only some 42 per cent of eligible voters went to the polls, probably due to a combination of apathy and positive abstention from an unchanging system of BDP predominance and weakness and division among the opposition.

Against all odds, the October vote represented a firm protest against the dominant order. Turnout of eligible voters rose to about 50 per cent, almost half of whom (48 per cent of all voters) supported the opposition. Under the prevailing simple-majority system, however, this strong vote translated into only 13 seats in Parliament – thus, 48 per cent of the votes gained 23 per cent of the elected seats. The BDP, which won just four per cent more votes than its opponents, obtained 44 seats, or 77 per cent of elected positions. Despite an electoral system which favoured the already strong ruling party, a divided opposition received 171 628 votes, against 192 020 votes for the government. The BNF obtained 12 seats and the BCP only one, although it had increased its vote from 40 096 in 1999 to 63 911 in 2004. At 48 per cent, the opposition won its highest vote ever, while at 52 per cent the BDP's support was at its lowest.⁷

Three cabinet ministers lost their seats, in addition to two others who had been defeated in the BDP's earlier, and decidedly acrimonious, primary elections. A notable change was the increased military component in the government, which now included three generals, a brigadier and a captain (the military ministers being Ian Khama [Vice-President], Lieutenant-General Mompoti Merafhe [Foreign Affairs], Major-General Moeng Pheto [Home Affairs], Captain Kitso Mokaila [Environment], and Brigadier Ramadeluka Seretse [Land and Housing]). As one veteran Motswana politician asked: 'Who can

tell me why all the ex-BDF men are in the Cabinet? I suppose we can all guess why. My guess is, obviously, to keep the presidency safe for Lieutenant-General Ian Khama' (*Mmegi* 23.11.04). There is widespread concern within Botswana as to why a third of the new Cabinet are now ex-military men.

However, it was the appointment of the vice-president which held greatest significance for the future and which energised debate within the country regarding presidential succession. Indeed, discontent over the election results for the opposition was rapidly sidelined by growing concern and apprehension over the possibility of Vice-President Khama assuming presidential powers if or when Mogae stepped aside. Constitutionally this was Mogae's second and last term in office, and under the law the vice-president inherits the presidency automatically. There was a widespread sentiment within the country, not without foundation, that Ian Khama possessed decidedly authoritarian tendencies, valued allegiance over merit, and was politically inexperienced to boot. Shortly after his initial appointment in 1998, Khama told an interviewer that his interests were in management, and that politics did not concern him. On the subsequent New Year's Eve, he used the police backed by the paramilitary to stop the serving of alcohol in bars and restaurants across the country at 11 pm in terms of legislation that is rarely enforced.

Parliamentarians, even from the ruling party, voiced opposition to these authoritarian trends. Isaac Mabiletsa, MP for Kgatleng East, pointed out that Khama was the first vice-president in Botswana's history to hold no ministerial post, and that Khama consistently failed to engage in parliamentary discussions. He also quoted Olifant Mfa, who said, as an assistant minister, that he was not sure what would happen to his democratic rights to free speech after Mogae's departure. This is understandable given that under Khama:

The BDF sometimes use[d] its power and influence to manipulate civilian institutions to its favour. In 1996, when the budget allocation for the Office of the President – under which the BDF falls – was presented in Parliament, more than 48 army officers marched into the House. The officers, in full uniform, took up positions in the public gallery. While it was their right to do so, the coincidence of their appearance in parliament in full uniform was viewed as intimidating by politicians. (Molomo 2001: 54)

Even prior to the 2004 elections, there seemed to be growing unease within the BDP *vis-à-vis* Ian Khama's ambitions *and* the prospect of yet another undemocratic transition. In a newspaper interview about democracy in Botswana, a senior BDP member, Kedikilwe, stated that:

Khama had to be brought into government on his own terms. That is something that was unprecedented. For instance when he left the army he brought with him his own baggage. He brought attendants for whom positions had to be created in the civil service. One wonders whether such people could then be transferred or redeployed to other ministries as is common practice. Senior positions in the army do not necessarily translate into equivalent in the civil service... We seem to be making special dispensations for one man... Over the last couple of years the politics of this country has gone backwards... *We have become a demo-feudal state* in the place of a democratic republic. (*Botswana Gazette* 18.06.03, our emphasis)

When asked whether Botswana was 'sliding towards a dynasty', Kedikilwe replied:

Yes indeed, and with very dire consequences. Democracy will give way to autocracy. Many people in the top echelons of the party are today scared to speak their minds because of the stature of Khama. Many are no longer following any principles, but merely taking a side which they think will guarantee them longest stay in positions of power. For instance even people who you would expect to know... are merely competing at who licks hardest the boots of the man at the top... I am a commoner and do not wish to be parented by a chief. My contest therefore marks the struggle of ordinary people against the rule of chiefs.

And there seems to be a strong desire to avoid a repeat of the Masire-Mogae transition. Some prominent party officials now openly call for the president of the BDP to be directly elected: 'The president will also feel proud that he has been elected by the majority, not the minority like it is now', said the Chairman of the BDP Youth Wing, Gomolemo Motswaledi (*Botswana Gazette* 24.12.03). Large parts of the media in Botswana agree, asserting that 'There is need for a debate on the wisdom of automatic succession of the vice-president to the presidency. The current practice, which was introduced more for expediency

than principle, shuts out everyone else – including the elected representatives, the MPs – from the process of choosing the country’s head of state. It is unthinkable that a president who is not popularly elected should enjoy the sole right to choose a future president for the nation’ (*Mmegi* 03.11.04).

Botswana, on the evidence, is a poor model for African presidential transitions, although the role of Masire as an ex-president cannot really be faulted. The current president and his deputy are essentially two managers, not politicians – one a financial bureaucrat and the other a soldier. The temperament and actions of the latter in particular are autocratic; for example, the recent decision to ignore a government task-force’s strong recommendations for the country’s second university to be sited in Selebi-Phikwe, and instead locate it in Khama’s home town, Serowe, was seen by many as a portent of things to come – favouritism and the overruling of procedure in the service of personal agendas (*Mmegi* 29.11.04, 03.12.04). Another example was the announcement in September by Ian Khama that he expected his younger brother, Tshekedi, to ‘inherit’ his parliamentary seat in Serowe North West, despite the BDP secretariat’s objection to such an abrogation of democratic procedures (*Mmegi* 15.09.04).

The growing opposition to Khama automatically becoming the next president is partly fuelled by the fact that President Mogae has been highly accommodating of Khama. This began with Khama’s appointment to the vice-presidency, followed by his almost immediate sabbatical and other matters noted already, and seemingly continues. In early 2004, the then editor of the *Botswana Gazette* wrote that he had learnt that the president might leave office early, and that Mogae had informed some of his aides and friends accordingly. Asked to comment, the presidential spokesman, Jeff Ramsay, ‘agreed that indeed the president may leave before his term ends’. Ramsay did not know exactly when this might be, but specifically mentioned a date halfway into Mogae’s second term. According to the editor, Ramsay even declared ‘that it has always been President Mogae’s wish not to stay long as president’. The press secretary also ‘ruled out health as a reason’ for a premature departure (*Botswana Gazette* 28.01.04, 04.02.04). On 3 March 2004, the *Gazette* quoted sources close to the BDP as saying that it was ‘Mogae’s intention to step down after the coming general elections’, but pressure from ‘some influential [party] members’ had ‘forced him to change his mind’. However, during his ‘State of the Nation’ address in November 2004, Mogae described automatic succession

as constituting ‘the smooth transfer of executive authority’, as being ‘now entrenched’, and as ‘a hallmark of our democratic stability’ (Republic of Botswana 2004: 12).

And in January 2005, the *Botswana Gazette* reported that a large plot had already being purchased for Mogae’s eventual retirement, at Phakalane Golf Estate, near Gaborone, at a possible cost of some P1.5 million, and that there were plans for the construction of a new house and office complex, at an estimated value of about P6 million. While this move could be seen as a prudent long-term commercial undertaking, this raised the question once again of how long President Mogae intended to remain in office.

The preference accorded Khama is to a man who has no ministerial job and who generates division within the country.⁸ Furthermore, Ian Khama has made no secret of his intense dislike of the compromises of politics and of his contempt for politicians. Indeed, he has previously attacked members of his own party as ‘unprincipled, intolerant, selfish vultures and monkeys’ (ISS 2001). This is the person who is almost certainly about to assume the presidency of the ‘African miracle’.

This scenario of elite domination and BDP high-handedness has been facilitated in Botswana by the fact that civil society has been poorly developed and disorganised, and the democratic impulse relatively weak, due to the undiversified nature of the resource-dependent economy (Good 2004). Thus there has been minimal opposition until now to the BDP’s actions. The predominance of the BDP was unchallengeable until the early 1990s, but considerable disarray in the ruling party has escalated since. Popular votes in the 1994 and especially the 2004 elections suggest that, with the spread of education and urbanisation – if not yet the strengthening of civil society – people might at last be waking up. Yet the adulation continues. The normally astute *Economist* ran a piece on the elections entitled ‘Africa’s prize democracy’, which ended with the baseless and purblind statement: ‘most people seem pretty happy, for now, without [a serious opposition party]’ (*The Economist* 06.11.04).

The long-term voting trend, despite low turnout levels, is against the BDP. The independent media are more active and more critical than ever before, and with future unity between the BNF and BCP, the dominance of the BDP just might be terminated. Long one-party predominance came to an end in

Italy and Japan as both Christian and Liberal Democrats there became, like the current BDP, bereft of new ideas and delegitimised through splits and misconduct within the ruling parties. Principle and ideas, as Makgala (2004) has highlighted, play no role in the intense factionalism in the BDP, and Mogae and Khama show no tendencies to restraint or conciliation. Though Masire's role as an ex-president has resulted in praise and applause – much of it entirely warranted – the overall context within which presidential transitions occur within Botswana and the looming succession from Mogae to Khama undermine the image of the country as the supposed model for Africa. The real miracle is still to come.

Notes

- 1 In 1991, the Presidential Commission of Enquiry into illegal land transactions in peri-urban land transactions close to Gaborone found evidence of the use of high office for personal gain in these illegal activities and implicated then Vice-President and Minister for Local Government Peter Musi, and Minister of Agriculture Daniel Kwelagobe. Both resigned from the government in March 1992. The report was nullified on a technicality after a Court declared that its submissions were made in camera rather than in public.
- 2 Essentially, Masire and his colleagues had been making the most of the National Development Bank through acquiring loan money. The president was in debt to the government's flagship lending agency for P546 000, while among other ministerial debtors, Kedikilwe owed P640 000, of which P260 000 was in arrears. (Mogae's name was conspicuously absent from the debtors list.) Masire offered no explanation about how these loans were obtained and maintained, but later suggested to an interviewer that, if the country wanted what he termed 'venture capitalism', then loan money and perhaps overdue repayments were par for the developmental course. The president appeared to see himself as such a risk-taking venture capitalist (Good 1994: 509–15).
- 3 The report itself was written in the main by the Canadian Gerry Caplan, in his home in North Toronto, and then rubberstamped by the Panel of Eminent Personalities (which explains how Caplan got away with such harsh criticisms of the OAU). Thanks to Douglas Anglin for this information.
- 4 See <http://www.gcacma.org>.
- 5 In August 2001 the government of Botswana cut off services to the Bushmen located in a remote area of the Central Kgalagadi Game Reserve. The termination of services was effective from 31 January 2002, despite the reserve being established in 1961 as a home

for two Bushmen 'tribes'. The twin goals of the reserve were to protect the human inhabitants of the central Kalahari and to protect the fauna and flora. However, over the past 16 years or so, the government has sought to remove them, relocating many to 'resettlement camps', where hunting and gathering is impossible and where the Bushmen have, like indigenous First People elsewhere in the world, become dependent on government handouts and alcohol – worsening their position at the bottom of the social ladder.

- 6 There have been various allegations around the BDF and its suppliers for years. In the past it was criticised as being run as a 'family business' in favour of the Khamas. This was because the BDF bought some of its equipment from a company called Seleka Springs whose directors, Tshekedi and Anthony Khama, were brothers to Vice-President Ian Khama, who at the time was the Commander of the Botswana Defence Force (BDF). The BDF then also bought its vehicles from Lobatse Delta, which was under the directorship of the Khama twins. Another company linked to the Khama family was Hot Bread Ltd, from which the BDF bought its supply of bread for trainees and soldiers in the Kasane area. The wife of a former BDF Director of Personnel, Ndelu Seretse, coincidentally ran Hot Bread (*Botswana Gazette* 21.05.97).
- 7 The Independent Electoral Commission chooses to estimate turnout on the basis of registered voters, though by no means all eligible voters bother to register (the latter, as in 1999, might be only some 50 per cent of the former). The total of votes cast on 4 November was 421 272. If the over-18 population is estimated at some 50 per cent of the national total, or around 850 000, turnout was just short of 50 per cent. (Personal communication, IEC, November 2004, and Professor John Oucho, University of Botswana, same date.)
- 8 'Who is the Vice President? A distinguished retired army general? Big deal, he was never a colonel. [Made Brigadier at 26.] An accomplished academic? Have mercy! A seasoned politician? He is not active in parliament and is probably not accountable to it. A proven manager? He was relieved of his ministerial portfolio because he could not stomach being appraised by his peers in cabinet and having to report to the president as everyone else. Enter minister without portfolio, project manager supremo who works according to no known methodology and reports to nobody' (*Mmegi* 26.11.04).

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4 *The contested role of former presidents in Zambia*

Neo Simutanyi

The euphoria that accompanied the rise of multiparty democracy in Africa during the 1990s was based on an assumption of viable state structures and appropriate democratic attitudes from the new leaders. But many of the new leaders were no different from the erstwhile autocrats whom they replaced and they rapidly adopted undemocratic and authoritarian tendencies, including the harassment of political opponents, constitutional manipulations, restrictions on press freedom and intolerance of political dissent (Chege 1995). In recent years, therefore, a number of former heads of state have suffered harassment and intimidation at the hands of their successors. The present chapter examines how such tendencies have played out in Zambia, which is not only one of the few African countries to have held three successive elections since the era of re-democratisation began in the early 1990s, but has the distinction of having experienced the retirement of two heads of state. Indeed, the holding of successive elections in 1991, 1996 and 2001 and alternation in power clearly show that democracy has come to be accepted as ‘the only game in town’. However, in the case of Zambia the quality of the second and third elections has been poor and the results have been disputed by opponents.¹ That has led observers like Bratton and Posner (1999) to warn that we should be cautious about celebrating democratic consolidation in Africa.

Zambia’s political transition over the last decade has been discussed by an impressive array of authors (Bratton 1992; Mwanakatwe 1994; van Donge 1995; Sichone & Chikulo 1996; Baylies & Szeftel 1997; Burnell 2001, 2002; Taylor 2002; Erdmann & Simutanyi 2003; Rakner 2003). The focus of these studies has been mainly on the conduct of elections, the debate over the interpretations of electoral rules and the problems of political and economic management. These studies, though different in terms of focus and approach, come to the same conclusion: that there has been considerable continuity – ‘past, present and future’ (Burnell 2001) – in Zambia’s political practice.

The political transition in Zambia, by and large, can therefore be said to have been simply a change of the guard, as the fundamental political structure has remained intact.

Following his defeat to Frederick Chiluba in the October 1991 presidential election, first Zambian President Kenneth Kaunda suffered political harassment, vilification, prosecution and even imprisonment at the hands of his successor. He was denied his terminal benefits for two years, suffered the humiliation of being searched for suspected stolen books from State House, and only received recognition and full benefits when he retired completely from active politics in early 2000. On the other hand, the continuation of the Movement for Multiparty Democracy (MMD) government in office following the controversial 2001 elections did not deter Chiluba's handpicked successor, President Levy Patrick Mwanawasa, from authorising Parliament to vote to remove Chiluba's immunity from prosecution (*The Post* 12.07.02). Thus, since leaving office, Chiluba has been unable to claim his place among Africa's respected statesmen as he faces criminal prosecution in the Zambian courts for alleged embezzlement of public funds.

Zambia provides an excellent study of the role of former presidents for two reasons. First, because the country's political transition was heralded as a model of peaceful change on the continent, it is important to assess how former presidents have been treated and whether the initial optimism was well founded. Second, because Zambia is one of the few countries in Africa that has witnessed two alternations in the office of president in the last decade, it offers lessons on how the transition process should be handled and may explain factors which influence presidential transitions in Africa.

Background to presidential transitions in Zambia

In October 1991, Zambia embarked on a political transition when the founding president, Kenneth Kaunda, and his United National Independence Party (UNIP) were voted out of power by the MMD, a broad-based opposition coalition. As the first alternation of power in English-speaking Africa, Zambia was heralded as a model for Africa to emulate (Joseph 1992). The success of Zambia's transition was to inspire opposition forces in other African countries to fight for more political space and demand political pluralism. Subsequently, events in Kenya, Malawi and Tanzania followed the Zambian example, with

authoritarian ruling parties conceding a return from single to multipartyism (Bratton & van de Walle 1997).

The outcome of the 1991 presidential and parliamentary elections was not seriously disputed, for not only did both local and international observers and monitors judge the elections to be free and fair, but the result was consistent with popular expectations. Despite this, Kenneth Kaunda complained that the election had been rigged and voiced the suspicion that women may have been prevented from casting their votes freely. In his farewell address to the nation on 2 November 1991, Kaunda complained that 'our mothers did not vote' (*Zambia National Broadcasting Corporation* 02.11.91). He was also to complain later that there were 'glaring electoral malpractices in the 1991 elections' and that he would petition the results in court (*Sunday Mail* 04.05.92; *Zambia Daily Mail* 26.05.92).

Not having anticipated defeat, Kaunda appears to have been ill-prepared for a life as an ordinary citizen. He decided to continue as president of the party he had led since independence in 1964. This was to pose a number of challenges in a country where there was no established precedent on how to deal with a former president, or on the role and status of such an individual.

Initially, the Chiluba government expected that Kaunda would retire from active politics. When he did not do so, the government decided to withhold his retirement benefits and revoked legislation hurriedly passed by the previous Parliament to benefit all those people who had held public office since independence. The government insisted Kaunda would receive a retirement package only when he relinquished his position as UNIP president and retired completely from active politics. Chiluba stated that for as long as Kaunda continued in active politics, he would be treated as an ordinary citizen.²

After mounting pressure from party members and his family, Kaunda subsequently retired from active politics in August 1992. Yet two years later he reneged on that decision for several reasons. First, his hostility to MMD politicians was partly influenced by his belief that most MMD politicians had corrupt and criminal backgrounds and would use state power for private gain. Second, he felt that the only way to respond to his continued and sustained harassment by the MMD government was to return to active politics. Third, there was no role for him to play in multiparty Zambia and a lack of appropriate recognition by the government for what he considered

his distinguished service to the country. These factors combined to persuade Kaunda to return to active politics in 1995. However, he was barred from contesting the 1996 elections by a constitutional amendment – designed especially to block his candidature on the grounds of his parents’ Malawian origins – which provided that both parents of a presidential candidate should have been born in Zambia.

Kaunda led the UNIP in a disastrous boycott of the 1996 election. With the party effectively excluded from Parliament as a result of the boycott, the MMD amassed 131 parliamentary seats, against 19 seats by opposition and independent candidates. However, four opposition parties petitioned the Supreme Court to annul Chiluba’s election, alleging electoral irregularities and challenging his right to stand on the grounds that one of his parents may not have been born in Zambia. The petition, which took more than a year to determine and revealed many electoral irregularities, was decided in Chiluba’s favour (*The Post* 08.03.97).

In August 2001, Chiluba, who had been pressured to stand down as president at the end of his second term, persuaded his National Executive Committee (NEC) to select former Vice-President Levy Mwanawasa as the MMD’s presidential candidate. One of the losing candidates, Michael Sata, claiming a lack of transparency in the way the NEC elections had been conducted, resigned to form the Patriotic Front. Mwanawasa, who had earlier been courted by two opposition parties (the United Party for National Development [UPND] and the Forum for Democracy and Development [FDD]), had been out of party politics for seven years after resigning his position because of his concerns about widespread corruption and drug dealing by senior government officials, as well as because Chiluba had failed to stand by him when he faced harassment from a junior ministerial colleague. Despite these differences, Mwanawasa was chosen for two reasons. First, his decision to resign from government over corruption made him a good candidate given the overwhelming public perception of widespread corruption within the Chiluba regime. Second, Chiluba thought that Mwanawasa would remain indebted to him and would shield him from possible future prosecution for excesses during his presidency.

The elections that were held on 27 December 2001 produced a controversial and yet interesting result. For the first time since independence, a ruling party failed to win by a clear majority. In the presidential election, Levy Mwanawasa

of the MMD obtained less than a third (29 per cent) of the votes cast, against his nearest rival, Anderson Mazoka of the UPND, who obtained 27 per cent. Meanwhile, although in the parliamentary election the MMD obtained the largest number of seats, the party fell short of a complete majority. The MMD obtained 69 seats against the UPND 49, UNIP 13, FDD 12, Heritage Party (HP) 4, Zambia Republican Party (ZRP) 1, Patriotic Front (PF) 1 and one independent candidate. Even after adding eight nominated seats (all appointed from the ruling MMD), the combined opposition was larger than the MMD, with 80 seats against 77 (Electoral Commission of Zambia 2002).

The current composition of the Zambian legislature provides optimism that elections can be a reliable mechanism for promoting representation. However, the quality of the 2001 elections, as in 1996, was rather poor. Both presidential and parliamentary results were contested in the courts. Apart from the presidential petition there were no fewer than 42 parliamentary petitions. Nine of these petitions were upheld by the High Court, four of these involving ministers who retained their seats following appeals to the Supreme Court. Two of them subsequently lost their seats after the Supreme Court rulings. On 16 February 2005, the Supreme Court ruled that Mwanawasa was duly elected president of Zambia (*The Post* 17.02.05).

In his inaugural speech, President Mwanawasa committed himself to fighting corruption and to 'consulting' Zambia's former presidents, Kaunda and Chiluba. Chiluba had earlier indicated that he would step down as president of the MMD within a few weeks, to give Mwanawasa latitude 'to be his own man' (Chiluba 2002; *Zambia Daily Mail* 03.01.02). However, he did not keep his promise. He held on to the position of party president and made comments that suggested that he was unhappy with Mwanawasa's Cabinet selection and the way the fight against corruption was being waged. Commenting on his decision, Chiluba said: 'No one will force me to leave the party presidency, because I will leave when I feel like...No amount of force from anyone, including party members will force me out...I will go at an appropriate time and not tomorrow' (*The Post* 25.02.02).

This declaration provoked a serious split in the MMD, with one faction supporting Chiluba's leadership and another supporting Mwanawasa and calling on Chiluba to step down. In March 2002, the confrontation between the two men came to a head. Chiluba apparently shouted down Mwanawasa for not

appointing persons whom he had recommended, all of them Bemba-speaking. Another issue over which there was conflict concerned Chiluba's suspension from party functions of a deputy minister close to Mwanawasa without consulting him (Mwanawasa) (*The Post* 08.03.02). Some political insiders interviewed, especially members of the MMD NEC, suggested that Chiluba would use his influence to have Mwanawasa expelled from the MMD, as his decision to prosecute members of the Chiluba government was not sanctioned by the party. Mwanawasa stormed out of a meeting and declared that he could not be dictated to and reminded Chiluba that 'I am now in charge'.³

On 9 March 2002, Chiluba was pressured to resign as MMD president and Mwanawasa assumed the position of acting president. It is believed that Mwanawasa was unanimously voted as MMD president on an understanding that he would not prosecute 'the former head of state (Chiluba) and his lieutenants' (*The Post* 24.03.02). However, on 11 July 2002 Mwanawasa stunned the nation when he requested Parliament to lift Chiluba's presidential immunity in order to allow the state to mount criminal investigations into his past conduct and to try him for alleged theft of public funds and 'plunder of national resources'. Parliament unanimously voted to remove Chiluba's immunity on 17 July 2002, following which Mwanawasa appointed a Task Force on Corruption with a mandate to investigate all those who had held government positions during Chiluba's decade in office. On 24 February 2003, Chiluba was formally arrested and charged, along with several others, with over 65 counts of theft by public servants involving over \$40 million. Chiluba was granted \$300 000 bail, but had his passport confiscated to prevent him from travelling abroad (*The Post* 17.07.02, 06.08.03).

Defining the role and status of former presidents

It is clear that the role of former presidents in Zambia has been seriously contested. Yet beyond the immediate power plays, there has been debate regarding whether a former president should be passive, active or honorary. For example, should a former head of state engage in active politics or retire from the political stage? Should a former head of state be allowed to participate in active politics in keeping with the observance of human rights? Should former presidents enjoy immunity from prosecution even after leaving office? Does a former head of state deserve to be honoured and granted special benefits and

privileges? Are the benefits to be granted conditional or unconditional? The following section offers tentative answers to at least some of these questions.

A culture of vengeance: patterns of political behaviour

There are at least three different patterns of political behaviour that emerged after 1991: the desire for revenge of past treatment; the need to establish authority; and the desire to establish a new and independent constituency of support. These behavioural patterns were not always mutually exclusive.

A penchant for revenge

The individuals who assumed power in 1991 were an eclectic group, drawn from a wide spectrum of social and economic life, and their interests may not have been wholly compatible. However, the glue that bound them together was their hatred for Kenneth Kaunda and the one-party state. Most of these individuals had suffered humiliation – and sometimes detention – at the hands of Kaunda’s security agencies. Some had suffered humiliating dismissals and demotions by Kaunda during the era of the one-party state. Some prominent businessmen hated Kaunda and the one-party state for stifling local initiative and enterprise, through policies such as the leadership code, price and import controls, fixed exchange rates and an extensive parastatal sector which reached into almost every corner of the economy. Access to state power gave this group an opportunity for revenge.

On the other hand, Kaunda harboured a strong hostility to the MMD and its leaders. For example, Kaunda had a very low opinion of Frederick Chiluba and it was torturous for him to have to live in a country under Chiluba’s leadership. Kaunda believed that most of the MMD leaders were criminals who were involved in corruption and drug dealing (*The Post* 12.03.97, 18.08.97). He had campaigned vigorously against the reintroduction of a multiparty state in 1990, fearing ethnic tension and violence. His refusal to bow out of politics and recognise the right of the new leaders to govern made matters worse. Thus the stage was set for settling old scores.

During the first six months after leaving office, Kaunda suffered continuous harassment, insults and humiliation. For example, a few weeks after leaving office, the government seized two of his personal motor vehicles and cattle at

his Shambalakale Farm on suspicion that they were state property. Then in March 1992, his property (stored in a warehouse) was searched for suspected stolen State House books, and in June 1992, three of his sons, Panji, Wezi and Waza, were searched for firearms (which were not found). Kaunda described the search as ‘an attempt to embarrass and humiliate him’ (*Zambia Daily Mail* 10.06.92). However, senior MMD and government leaders justified their actions, saying Kaunda was not above the law.⁴

During 1992, Chiluba brought in six Scotland Yard investigators to investigate allegations that Kaunda may have stolen up to \$6 billion of state funds during his tenure. The results of the investigations were never made public, but it is believed that they yielded nothing. There was a perception in certain quarters that Kaunda’s reluctance to leave office may have been because he had something to hide and feared prosecution. However, Kaunda’s wealth was never found and he continued to complain that he did not have a house to go to when he left office. The MMD government found this strange and wondered how he could have been so irresponsible as not to prepare a house for his retirement.⁵

Kaunda’s return to active politics in 1995 gave the Chiluba government further reason to harass him and members of his family. For example, in 1993, two of his sons were detained and charged with sedition and treason in connection with the ‘Zero Option’ plan. (They were subsequently released by the High Court when they challenged the reasons for their detention.)

In effect, ‘Zero Option’ was a UNIP plan aimed at removing the MMD from office peacefully through mass demonstrations and workers’ strikes. In response, the government detained several senior UNIP leaders under the Preservation of Security Act and charged them with treason. Kaunda was denied access to visit one of his sons held at Mukobeko Maximum Prison in Kabwe.⁶

In 1996, several UNIP officials, including UNIP Vice-President Inyambo Yeta and one of Kaunda’s sons, Wezi, were again detained in connection with a shadowy group, the Black Mamba, which was alleged to have been responsible for bomb blasts and bomb scares in the capital, Lusaka. However, it emerged subsequently that the Black Mamba was in fact a creation of the MMD government to justify measures to victimise and weaken UNIP ahead of the

1996 elections (Erdmann & Simutanyi 2003: 14–15). After a coup attempt by junior officers on 28 October 1997, put down by loyal soldiers, the Chiluba government blamed opposition leaders, despite a lack of evidence. Kaunda, who was out of the country at the time, claimed the government had staged the affair to discredit and crush the opposition. On Christmas Day 1997, Kaunda was arrested and Chiluba imposed a state of emergency. Eighty-four officers were detained and tortured, and were charged with treason in June 1998. After his arrest, Kaunda went on a hunger strike and was only persuaded to break it on 30 December by former Tanzanian president, Julius Nyerere. Neighbouring governments and human rights organisations also expressed concern about Kaunda's detention. He was released from Mukobeko Maximum Prison on 31 December 1997, and thereafter was held under house arrest for five months. While the government claimed that Kaunda was released because the state found it inappropriate to continue with the prosecution, it appears that the decision to release him was actually brokered by former South African President Nelson Mandela and Zimbabwean President Robert Mugabe (*Zambia Daily Mail* 05.06.98).

As has been noted, Kaunda had vacillated over his retirement and between 1995 and 2000 he made contradictory statements regarding this. On 4 June 1998, following negotiations between a representative of former South African President Nelson Mandela, the Zambian government and his family, Kaunda announced that he would retire from active politics. However, in January 1999 he rescinded his decision, and stated: 'I will only retire when the people of Zambia [say so] and not through artificial laws made by President Chiluba' (*The Post* 05.01.99). Shortly after this, he declared his intention to contest the 2001 elections, arguing that 'current events in Zambia's political arena would not warrant that [his retirement]' (*The Post* 13.01.99). On 21 October 1999, Kaunda again announced that he was prepared to quit active politics to take up a larger role in solving Africa's conflicts. 'I am ready to go now', he said, but continued that he would leave active politics only after a change of nationality laws (*Zambia Daily Mail* 22.10.99). However, he finally gave in to growing demands from the international community, government, his party (UNIP) and family, and retired on 2 April 2000, shortly after the UNIP congress of January 2000 (*The Post* 03.04.00).

Establishing authority and cultivating a new constituency

The fact that Kaunda had been in office for close on three decades posed a serious problem for the new MMD government. Zambians had come to equate the country with the name of Kaunda. Thus on coming to power the MMD government mounted a campaign to obliterate Kaunda's image. For example, one of the first decisions of the Chiluba government was to order the removal of Kaunda's image on the national currency, the kwacha, ostensibly on the grounds that its retention would confuse people and imply that he was still in charge. As an MMD official in the rural district of Lundazi put it, 'Kaunda's portrait on the national currency [had to] be removed because people in Eastern Province still thought that Kaunda was just on leave and may come back to power.' In Kitwe, MMD supporters removed Kaunda's portraits from public buildings (*Zambia Daily Mail* 30.08.92, 05.11.91).

The MMD government also decided to rename institutions bearing the Kaunda name and legacy. For example, the Kenneth Kaunda Foundation, a publishing company, was renamed Zambia Publishing House and the President's Citizenship College in Kabwe was renamed the National College of Management and Development Studies. Paintings of Kaunda, such as the one at Lusaka's Civic Centre, were also removed. In Kabwe, the inscription 'Welcome to Kabwe – the birthplace of UNIP and Zambia's independence', at the northern entrance to the town, was erased. Ironically, there was even a suggestion that the kwacha should be renamed the pound, the colonial unit of currency. The new government was determined to rewrite history.

The new MMD leadership was also concerned over the extent of Kaunda's national and international stature, established over a long period in office. It was therefore important for the government to remove some of the obvious signs of his image so as to create a new legitimacy. In an interview, the MMD publicity chairman explained that 'Kaunda was associated with failure, despair and authoritarian rule, while the MMD promised hope, democracy and economic prosperity'.⁷ Because of the initial euphoria surrounding the removal of Kaunda and the end of a one-party state, the measures taken to obliterate the Kaunda image were enthusiastically welcomed by a cross-section of the Zambian people – as the same interviewee put it, Zambians needed to be released from the Kaunda spell.⁸

Chiluba's later problems with the Mwanawasa administration were also a function of certain patterns of behaviour. From the start Chiluba did not seem to favour Mwanawasa as his vice-president, but because the MMD had decided prior to the elections that whoever held the position of vice-president of the party would be appointed national vice-president, he had no choice but to honour that pledge. However, he marginalised Mwanawasa from important decisions, which fuelled speculation that the near-fatal accident in which Mwanawasa was involved in November 1991 may have been an assassination attempt.⁹

Mwanawasa himself revealed that he had no job as vice-president, as Chiluba never consulted him (*The Post* 24.10.04). As noted earlier, Mwanawasa had taken offence over Chiluba's failure to discipline various Cabinet ministers who openly criticised and ridiculed him. One such minister was former Minister without Portfolio, Michael Sata, who publicly ridiculed Mwanawasa on several occasions, without Chiluba doing anything about it. Indeed, it was Chiluba's failure to act against Sata, especially over allegations of corruption that he had made against the vice-president, that had precipitated Mwanawasa's resignation from his position in April 1994, a decision that has few parallels throughout Africa.

In February 2002, after Mwanawasa had been inaugurated as Zambia's third president, Chiluba sought to demonstrate that he was still in charge. At a membership card renewal function in Lusaka, Chiluba arrived late, causing everyone, including Mwanawasa, to stand up when he entered the conference hall. He then used the occasion to warn the Mwanawasa government to be careful in how they managed national affairs. Complaining that ministers should not comment on the corruption that occurred during his rule, Chiluba said: 'They should not condemn the MMD because they are condemning themselves. There will be no government if there is no party. Those in government should know that they are a product of the MMD, you can't separate the two' (*The Post* 18.02.02). It was clear from his pronouncement that he thought that he was still in control of both the party and the nation. Thus Mwanawasa was viewed as simply Chiluba's puppet, who could do only what he was told. This perception was widely held in the media and was also expressed by various opposition politicians, including a number of prominent leaders, such as Patriotic Front leader Michael Sata (Mwanawasa himself alludes to this in an interview with *The Post* 24.12.04). After all, Chiluba had

woken him up after midnight to tell him that he would be MMD's presidential candidate and had vigorously campaigned for him, especially in the Bemba hinterlands of Luapula and Northern province. The vote for Mwanawasa in those provinces was in fact a vote for Chiluba. It is alleged that Chiluba had told the people during the campaigns that 'if you vote for Mwanawasa you are voting for me'.¹⁰

During the election campaign Mwanawasa made a public undertaking that he would not prosecute Chiluba, even if there was a demand to do so, as he enjoyed presidential immunity (*The Post* 24.09.01). Subsequently, in February 2002, an opposition MP demanded that Chiluba's immunity be revoked so that he could clear his name. The MP was rebuked both by the Speaker – for criticising a former head of state in Parliament on the grounds that it was unparliamentary behaviour – and by Mwanawasa, who joined in the defence of Chiluba's immunity from prosecution for whatever wrongs he may have committed during his presidency. Mwanawasa insisted that removing Chiluba's immunity would set a bad precedent (*The Post* 25.02.02, 9.04.02).

However, the situation changed when Mwanawasa felt threatened by Chiluba's alleged plans to expel him from the MMD for not appointing a number of individuals Mwanawasa had recommended and for not towing the party line over corruption investigations. Mwanawasa contemplated resigning as president and forming another political party. It was against this background that he worked to popularise the 'New Deal' MMD as opposed to the Chiluba-led MMD.¹¹

Realising his weak constituency within the MMD, Mwanawasa reached out to opposition parties and explored the possibilities of establishing a government of national unity. In his address to the National Assembly in February 2002, Mwanawasa offered to appoint opposition MPs to his Cabinet as a way of building a broad-based government. While the cooptation of the opposition (involving the appointment of opposition MPs as ministers), which was eventually done in early 2003, was partly a response to a legitimacy crisis occasioned by the petition of the 2001 elections, it was also as a consequence of the problems he experienced within his own party, the MMD.¹²

It was only after the confrontation between Mwanawasa and Chiluba had reached a head and had threatened a constitutional crisis that Chiluba was persuaded to relinquish the party presidency to Mwanawasa. However, the

damage had been done and Mwanawasa was keen to establish his authority and to prove to Chiluba that he was not his puppet. So when newspaper journalists from *The Post* and two opposition MPs – accused of defaming Chiluba by calling him a thief – demanded that they be given access to bank statements for the Zambia Security and Intelligence Service (in an account codenamed ZAMTROP and held in the London branch of Zambia National Commercial Bank), Mwanawasa authorised their request. An inspection of the bank statements revealed a number of illegal and irregular financial transactions involving Chiluba, his family members and close associates. Mwanawasa then proceeded to Parliament on 11 July 2002 to ask that it lift Chiluba’s immunity so that he could face investigations and possible prosecution for theft of public funds. Parliament lifted Chiluba’s immunity on 16 July 2002 (*The Post* 17.07.02).

The politics of recognition: the struggle for recognition and status

In Zambia there has been a debate about the circumstances under which a former president should be accorded respect and recognition. While there is unanimity that a former head of state should be provided for by the state upon leaving office, there is considerable disagreement about the conditions for such provision. There is a public perception in Zambia that a former president should ‘retire for good’ from active politics and play an advisory role only (*Zambia Daily Mail* 04.11.91).¹³ But in addition some senior members of the government held the view that involvement in politics by a former head of state was sufficient reason not to accord him recognition.¹⁴

Following his victory in the 1991 elections, Chiluba appealed to Zambians to respect Kaunda as an elder statesman for his contribution to national development. He promised that the government would honour him as a former head of state by providing him with personal security (*Zambia Daily Mail* 05.11.91). However, at the time the government believed that Kaunda would retire from active politics shortly. When he failed to do so, his recognition became conditional on his retirement. Chiluba even suggested that Kaunda could not be accorded recognition as ‘father of the nation’ until he had withdrawn from active politics. Indeed, at one stage Chiluba even stated that his government would not accord Kaunda formal recognition as he had been defeated in the elections, and ‘retiring is different from losing

elections' (*Zambia Daily Mail* 10.01.92; *The Weekly Post* 11.01.92; *Times of Zambia* 12.01.00).

Legislation providing for benefits due to former presidents had already been passed when Kaunda had retired from active politics in August 1992. However, his continued harassment, coupled with demands by UNIP members that he return to the fray to lead their campaign in the 1996 elections, persuaded him to re-enter the political arena. But his return was met with hostility from the ruling MMD, and the party strengthened its resolve not to honour him as 'father of the nation'. It was even suggested within the party's ranks that his benefits should be withdrawn for as long as he remained in active politics and should only be restored when he retired. As one MMD MP, David Shimonde, put it: 'It is like arming your enemy because this man [Kaunda] is using the same money we give him to fight us' (*Zambia Daily Mail* 07.02.98).

Others had suggested that Kaunda should depart from the political stage so that he could play a low-profile role advising the government. Chiluba himself was of the view that Kaunda should have remained in the background because, after ruling for 27 years, he had nothing left to offer to the country or his fellow Zambians. Even some UNIP party members argued that Kaunda should retire from active politics so that he could secure his official recognition and status as a former head of state. He eventually bowed to persuasion from both UNIP and his family, as well as to international pressure, and in October 1999 he announced that he would retire from active politics for good at the next party congress. It is evident that Kaunda wished to secure his status as 'father of the nation' after suffering deep humiliation at having been arrested and harassed, and treated like any ordinary citizen. On one occasion in 1995, after his arrest for holding a public meeting without a permit, he complained bitterly that, 'I deserve some respect. I have been president of this country for 27 years, where can I run to and why? Tell your young men to be careful and respectful' (*The Post* 08.08.95).

Kaunda's retirement was also as a result of sustained pressure from the MMD government, which demanded that he state categorically whether he wanted to continue in active politics and forfeit his benefits or retire and keep his pension. In August 1999, Vice-President Christon Tembo told Parliament that 'the time has come for former President Kaunda to clearly state his political ambitions so that government could decide whether or not to continue

giving him terminal benefits' (*Zambia Daily Mail* 25.08.99). While Kaunda responded that he was entitled to receive the benefits for his 27 years of unbroken service to the nation, he realised that the law did not allow for him to claim his pension while he remained politically active. While Kaunda had received benefits provided for in the Benefits of Former Presidents Act of 1993, an amendment to the law in 1998 specifically inserted a provision (section two) that disqualified a former president who engaged in active politics from receiving benefits. Thus there was a real possibility that the MMD government would have withdrawn Kaunda's benefits if he insisted on playing an active partisan political role. This consideration – and possibly persuasion by former President Nelson Mandela and Libyan President Muammar Ghaddafi – convinced Kaunda to leave the political stage in early 2000 to concentrate on the Kenneth Kaunda Children of Africa Foundation (*Times of Zambia* 28.03.00).

There seems to be little consensus on whether a former head of state should enjoy immunity after leaving office. The MMD government ignored the fact that Kaunda supposedly enjoyed immunity on several occasions – when his property was searched for suspected stolen State House books, during the investigation by Scotland Yard and when he was detained in December 1997 in connection with a failed coup attempt. MMD ministers even threatened to waive his immunity so that he could face prosecution for the alleged crimes he committed while in office and for his persistent attacks on the MMD government. For example, in 1995, Legal Affairs Minister Remmy Mushota threatened that the government would remove Kaunda's immunity so that he could face prosecution 'so that Zambians know the full story of his misdeeds' (*The Post* 25.12.95). Defence Minister Benjamin Mwila also warned that he would order the arrest of Kaunda if he did not refrain from referring to MMD leaders as 'frightened little men' (*Zambia Daily Mail* 28.01.92). While Kaunda's immunity was not officially waived, it was ignored and between 1993 and 1999 he was routinely arrested and questioned by police, mainly for addressing unauthorised public meetings. In justifying police action to deny Kaunda a permit to address such a gathering, Inspector-General of Police Francis Ndhlovu stated: 'We are not victimising anybody. Dr Kaunda is an ordinary citizen like any other and if he wants to hold a public meeting he should get a permit' (*Zambia Daily Mail* 18.02.95).

Following the election of Levy Mwanawasa in 2001, and the departure of Chiluba from the political stage, the government's attitude to Kaunda

changed. Mwanawasa restored dignity and recognition to the office of former head of state especially for Kaunda, assigning him special roles (such as an emissary in certain regional conflicts),¹⁵ and in 2003, honouring him with one of the highest national decorations, the Grand Commander of the Eagle of Zambia (*The Post* 15.01.03). Kaunda now appears at social functions with Mwanawasa and members of his government.

Unlike Kaunda, Chiluba was accorded the recognition and status of a former head of state immediately upon leaving office on 2 January 2002. He was provided with some of the benefits prescribed by the Former Presidents Act of 1993, while holding on to the position of MMD president. However, three opposition MPs petitioned the High Court to declare that his actions were in violation of the Act. The Court ruled in their favour and Chiluba was ordered to surrender motor vehicles, security, administrative and household personnel, and salary to the state, until such time as he left active politics. These benefits were subsequently restored immediately he relinquished the presidency of the MMD.

The question of lifting Chiluba's immunity to face prosecution was raised partly through popular pressure. Thousands of Zambians marched on Parliament demanding that the immunity be removed so that 'Chiluba answers for his actions'. The experience of a former head of state losing his immunity and facing the due process of the law is unprecedented in Africa. However, parliamentarians unanimously resolved to lift Chiluba's immunity as they feared the wrath of the crowds who had gathered outside Parliament. But despite the fact that Chiluba has appeared in court to face accusations of theft of public funds, he has continued to be treated with respect as a former head of state. So, for example, in August 2002, Mwanawasa urged the people to accord Chiluba the respect befitting a former head of state and stated that the government would continue to provide him with all the facilities to which he was entitled (*The Post* 15.08.02). Since then, Chiluba has been a frequent guest at religious services, funerals, weddings and diplomatic functions. He has not attracted public disdain for his alleged misdeeds, but rather still seems to command public sympathy. It is believed that he is still immensely popular within the MMD and he may be a factor in determining Mwanawasa's fate – both for the MMD presidency and the presidential election in 2006.¹⁶

Institutionalising the role of former presidents in Zambia

As has been observed above, the institution of former president is relatively new in Africa in general, and in Zambia in particular. Hence, there is often an absence of constitutional and institutional mechanisms. In Zambia, at the time Kaunda lost elections to Chiluba there were no constitutional provisions concerning how to deal with a former president. The Former Political Leaders Act 1991 was passed in a hurry, without regard to cost implications. It proposed, for example, to provide a lifelong pension to all political leaders, both senior UNIP and government ministers, who had held office since independence in 1964. The MMD-dominated Parliament found that the Act was ill-conceived and could not have been supported by Zambia's cash-strapped treasury. Hence, one of the first acts of the new Parliament was to repeal that law. The MMD government then undertook to come up with a piece of legislation that would address the issue of former presidents specifically.

The Benefits of Former Presidents Act, passed in 1993, laid down the obligations of government to a former head of state. The main provisions of the Act include: funding for an office; entitlement to a salary and allowances based on 80 per cent of the sitting president's; a government house; three vehicles (including a luxury Mercedes-Benz) with maintenance and fuel; an administrative assistant, a personal secretary and three house employees; a diplomatic passport for him and his spouse; a house built in a place of the former president's choice at the expense of the state; medical insurance for him and his spouse, and an air ticket for him and his spouse for one foreign trip per year. All this was to be funded by a parliamentary appropriation and administered through the Cabinet Office. Subsequently, the actual budget for the former presidents has varied, though during the time Kaunda remained in active politics it was reduced. For example, in 2000, the government reduced Kaunda's funding almost by half, from K319 208 001 in 1999 to K121 703 925. Currently, the offices of former Presidents Kaunda and Chiluba receive around K1.4 billion per annum.¹⁷ However, the Act does not make any provision for the establishment of a library to house their papers, or provide any encouragement to them to write their memoirs (a task of potentially immense value to the nation – which neither Kaunda nor Chiluba has yet undertaken).

While the Act provides for the funding of an office for the former head of state, the government does not provide the actual accommodation. Until recently, Kaunda operated from his house. But the government has since provided an office for first President Kenneth Kaunda, which is also being used as offices for his Kenneth Kaunda Children of Africa Foundation (KKCF). Chiluba, on the other hand, operates from his house, a situation which both he and his staff find unsatisfactory. Yet this is not his only problem – he also complains that he has not been granted all his entitlements and that he lacks a full complement of staff.¹⁸ This charge has been dismissed by the government, which has maintained that Chiluba has been making unrealistic demands beyond his entitlements.¹⁹

The Kenneth Kaunda Children of Africa Foundation

The Benefits of Former Presidents Act does not outline a specific role for former heads of state, who therefore have to define their own future contribution. Kaunda sought to realise a long-held ambition when he initially announced the establishment of a peace foundation in 1992. However, his active involvement in politics prevented this from taking off, and he seems to have abandoned the idea until 1999, when he announced the launch of the KKCF.

Inspired by the Nelson Mandela Foundation, the foundation is registered in six countries, mainly in southern Africa. The purpose of the KKCF is to hold public awareness campaigns on the devastating HIV/AIDS epidemic, and its focus is on the children of Africa who have fallen victims to the scourge. The foundation has received international support, including support from the Southern African Development Community (SADC) heads of state. It has received donations to support its work on HIV/AIDS from organisations such as Unicef, the Zambia-India Friendship Society and Lion's Clubs, among others.²⁰ Interestingly, the success of Kaunda's foundation may in part be attributed to the co-operation and encouragement it has received from the Mwanawasa government, which – since he left active politics – has helped campaign for international donors to offer it their support. Meanwhile, the government has also used Kaunda's name in the campaign against HIV/AIDS in the public media, a practice which was not possible during the Chiluba era.

Apart from his work on HIV/AIDS, Kaunda has also been active in peace initiatives in Africa and internationally, such as in the Iraq conflict. For

instance, he was involved in mediating efforts prior to the United States-led intervention in Iraq in 2004, attempting to persuade Saddam Hussein to allow United Nations inspectors to enter the country and to have unrestricted access to weapons sites. He has been consulted frequently by leaders in Namibia, Zimbabwe, Botswana, Tanzania and South Africa and is still held in high regard by leaders of the southern African region, and through his foundation has been able to participate in election observation and mediating efforts on behalf of the African Union (AU) and SADC. He was part of observer missions in Ghana, Lesotho, Namibia and Zimbabwe.²¹ However, Kaunda's credibility on the international stage and the viability of the KKCF are still questionable. His involvement in opposition politics following his defeat in 1991 has reduced his international appeal. Recently, a proposal to appoint him mediator in the Togo conflict was overturned by AU Chairman President Olusegun Obasanjo, who felt Kaunda's past record did not make him a suitable mediator (*The Post* 06.06.05). On the other hand, KKCF lacks adequate qualified staff and there seem to be problems of duplication between the former president's office and the foundation. This has meant that there have been instances where members of Kaunda's family have meddled in the work of the foundation, allegedly redirecting funds meant for the foundation's work to Kaunda's personal use. This forced one of his assistants to resign in 2003.²²

The FJT Chiluba Institute for Democracy and Industrial Relations Studies

Before he left office Chiluba planned to establish a centre to promote the study of democracy and industrial relations, in keeping with his lifetime work in the trade unions. The FJT Chiluba Institute was subsequently established as a private company chaired by Chiluba's special adviser for press and public relations, Richard Sakala. Work began on the construction of the institute in 1999, before Chiluba left power, and the intention was that funding was to be obtained from well-wishers and donations from both private and public organisations. However, the construction work ceased soon after Chiluba left office. It was discovered that the bulk of the funds had been siphoned off from state institutions, especially the Presidential Housing Initiative, which was chaired by Sakala. With the transfer of the Presidential Housing Initiative back to the National Housing Authority, and the arrest and five-year imprisonment of Sakala for abuse of office and embezzlement, there were no further funds to

finance the construction work. Suppliers were owed colossal amounts of money and by order of the High Court, the FJT Chiluba Institute was repossessed and placed under receivership (*The Post* 12.09.04).

While Chiluba has unsuccessfully challenged the repossession of his institute in the courts, he has offered to play a role in peace-building and resolving serious industrial disputes in the country. In August 2003, Chiluba offered to resolve the civil servants' strike and referred to himself as an experienced 'chief trade unionist' (*The Post* 28.08.03). His close advisers believe that Chiluba has vast experience as a mediator, having played such a role as president in peace processes in the Democratic Republic of Congo, Rwanda and Angola.²³ He has also offered to promote inter-party dialogues. However, his offers have not been taken seriously. With a criminal case hanging over his head, his moral stature has greatly diminished. Nor has his reputation been helped by intra-party struggles within the ruling MMD, with his opponents accusing him of supporting and promoting a rival political party.

Meanwhile, it seems that investigators are finding it difficult to find firm evidence directly linking Chiluba to corruption, and to date a number of charges against him have been dropped. Consequently, fearing that Chiluba may be acquitted, Mwanawasa has been talking of offering him a pardon, but if only he makes a full disclosure of his offences, apologises to the Zambian people and returns at least 75 per cent of the funds he is alleged to have stolen (*The Post* 26.06.03). Furthermore, Mwanawasa has apparently been under pressure from some African heads of state to pardon Chiluba on the grounds that the revocation of his immunity following his exit from office has constituted a deterrent to heads of state, such as Robert Mugabe, who are under pressure to stand down but who fear the risk of subsequent prosecution. In early 2004, for instance, AU Chairman and Nigerian president, Olusegun Obasanjo, visited Zambia and met both Chiluba and Mwanawasa with a view to finding a solution to the problem of the treatment Chiluba has received since he left office.²⁴ If Mwanawasa does relent, it may well be because his pursuit of Chiluba has impacted negatively upon his popularity. This is because he is perceived to have targeted individuals from Chiluba's ethnic group, the Bemba-speaking people from Copperbelt, Northern and Luapula provinces, the power base of the MMD, which was largely responsible for his successful election campaign in 2001 and whose support may be necessary for his election for a second term.

Conclusion

The Zambian experience appears to point to three major conclusions concerning the role and status of former presidents in Africa.

First, there seems to be widespread agreement as to the wisdom and justice of former presidents receiving due honour as former heads of state when they stand down from power, such respect being embodied in the grant of appropriate benefits, emoluments and security arrangements. Progress towards the institutionalisation of the office of former presidents grants assurance to those who hold power, and serves as an inducement to them to adhere to constitutional term limits on their presidencies. Against this, it is equally clear that in the fragile conditions of African politics occupancy of the role of former president and receipt of the accompanying benefits appear to be largely incompatible with the continuing involvement of former heads of state in active politics, especially if this draws them into open conflict with their successors. Kaunda, who apparently did not accumulate significant wealth whilst he was in office and who therefore needed the benefits prescribed by the state, found this out the hard way, and was subject to harsh treatment from his successor until, at last, he withdrew from the political arena, whereupon his career as a respected elder statesman has blossomed. The only surprise, perhaps, is that a man who was so thoroughly politically experienced should have been so naïve as to move into active and vigorous opposition. In contrast, Chiluba is continuing to suffer the consequences of his attempts to control events and to undermine the actions and status of his successor by remote control, by retention of the ruling party's presidency. As illustrated also by the case of Bakili Muluzi in Malawi, and now potentially also in Namibia, this is bound to cause conflict, and it is more likely that the man in possession of state power will win out. Even Nyerere, a man who was far more astute and principled than Chiluba, found that his efforts to dictate key events from the shadows of power caused resentment and threatened party unity.

Second, while commentators such as Ali Mazrui favour the involvement of former presidents in constructive international work (such as mediation of conflicts and development initiatives), such a role can scarcely be undertaken while former heads of state remain controversially engaged in politics or legal battles concerning their past at home. For all the flaws of his presidency

domestically, Kaunda continues to be widely celebrated as an icon of the liberation struggle in southern Africa and for committing Zambia, at considerable cost, to the freedom from colonial and apartheid domination of Zimbabwe, Angola, Mozambique and South Africa. Yet it is only now that he has withdrawn from active politics that he has had either the time or the opportunity to reappear as an actor upon the international stage. Meanwhile Chiluba, mired in corruption proceedings, with his reputation for integrity shredded whatever their outcome, appears destined to remain marginalised internationally.

Finally, the Zambian case demonstrates the complexities of the dilemma of how and whether to prosecute former presidents for their past misdeeds. It is clear that granting immunity to the tyrannical and the corrupt can serve as an important device for inducing them to surrender power. Against this, any expectation of guaranteed immunity may serve as active inducement to sitting presidents to loot domestic treasuries and to maximise their opportunities for theft whilst they can. It seems, therefore, that actual solutions to this dilemma need to be tailored to particular situations. However, in retrospect, the post-presidential pursuit of Chiluba seems most unsatisfactory. While the lifting of immunity after a president has stepped down may be justifiable (if, for instance, strong evidence of abuse of power surfaces after an immunity deal has been struck), and while it does send out a strong message to corrupt leaders that one day they may have to suffer consequences – whatever protections they manage to secure for themselves – it not only serves as a deterrent to reluctant presidential retirees elsewhere, but it is almost bound to involve highly expensive, lengthy and often dubious legal and political proceedings. His prosecution may have sidelined Chiluba, to the considerable benefit of Mwanawasa, even if it may also have future political costs. It may also prove to be justified if it serves to prove Chiluba's guilt and leads to the recovery of funds stolen from the Zambian people. However, if the prosecution fails – as appears increasingly likely – it may suggest that it was undertaken too lightly and for political convenience rather than for the pursuit of justice. As such, its failure may undermine the likelihood of the pursuit of similar prosecutions elsewhere.

Notes

- 1 For a discussion on the quality of democracy in Africa see Gyimah-Boadi 2004.
- 2 Interview with Sikota Wina, 30.10.04.
- 3 Interview with senior MMD NEC official, 05.11.04.
- 4 President Chiluba and Vice-President Levy Mwanawasa defended the decision to search Kaunda's property, saying that 'police acted in line with the law' (*Zambia Daily Mail* 09.03.92).
- 5 The results of Scotland Yard's investigations were never made public. While it is possible Kaunda may have amassed a personal fortune during his tenure, there was no obvious clue to point to that. The reasons for the discontinuation of investigations may have been motivated by some prominent MMD leaders' involvement by that time in deals involving stashing millions of dollars in off-shore accounts.
- 6 Interview with Sikota Wina, 30.10.04.
- 7 Interview with Akashambatwa Mbikusita-Lewanika, MMD publicity chairman, Lusaka, 05.11.04.
- 8 Interview with Akashambatwa Mbikusita-Lewanika, 05.11.04.
- 9 Interview with Sikota Wina, 30.10.04.
- 10 Interview with a former Chiluba advisor, 11.11.04.
- 11 Interview with a former presidential advisor, 08.10.04.
- 12 Interview with Akashambatwa Mbikusita-Lewanika, 05.11.04 and a close aide to Mwanawasa, 15.10.04.
- 13 Interview with Sikota Wina, 30.10.04.
- 14 Interview with a former deputy of the Zambian Parliament and a former minister in the Chiluba government, Lusaka, 02.10.04 and 06.10.04.
- 15 Interview with Oliver Kalabo, Permanent Secretary responsible for Presidential Affairs at the Cabinet Office, Lusaka, 13.04.05.
- 16 Interview with a senior MMD official with close links to both Chiluba and Mwanawasa, Lusaka, 15.05.05.
- 17 Interview with former special assistant to former President Chiluba, Mikatazo Wakumelo, 05.11.04 and Oliver Kalabo, Permanent Secretary at the Cabinet Office responsible for Presidential Affairs, 13.04.05.
- 18 Interview with Chiluba's former assistant, Mikatazo Wakumelo, 05.11.04.
- 19 Interview with Oliver Kalabo, Permanent Secretary at the Cabinet Office, 13.04.05.

- 20 Interview with a former assistant to Kaunda, 07.08.04.
- 21 Interview with a former assistant to Kaunda, 07.08.04.
- 22 Interview with a former assistant to Kaunda, 07.08.04.
- 23 Interview with two of Chiluba's former advisors, Lusaka, 01.11.04 and 11.11.04.
- 24 Since 2002 foreign donor governments have been outspoken in favour of Chiluba's prosecution and have rendered support to the Task Force on Corruption. However, they have recently been concerned with what they consider to be a half-hearted approach by the government to the fight against corruption, which has targeted Chiluba and former members of his government to the exclusion of corruption by some members of the current government (*The Post* 30.05.05 and *The Saturday Post* 04.06.05).

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5 *'Presidential indispensability' in Namibia: moving out of office but staying in power?*

Henning Melber

Sam Nujoma, who had already served for 30 years as leader of the national liberation movement South West African People's Organisation (Swapo of Namibia), was sworn in as the first president of the Republic of Namibia at the independence ceremonies in Windhoek during the first minutes of 21 March 1990. According to the Constitution adopted prior to independence, he was obliged to leave office after a maximum of two legislative periods of five years each. However, the first constitutional amendment to be adopted by the National Assembly, which was facilitated by Swapo having obtained a two-thirds majority in the December 1994 parliamentary elections, provided the exception to the rule. It stipulated that Namibia's first president was to be entitled to a third period in office on the grounds that he had originally become president not by virtue of his being elected by the Namibian voters, but through election by the members of the Constitutional Assembly, who in turn had been elected under United Nations (UN) supervision during November 1989.

Initial signals during 2003 seemed to suggest that Nujoma (by now approaching his mid-seventies) was reluctant to vacate office at the end of his third term in March 2005. Instead, he was indicating his willingness to stand for another term in office if the people were to ask him to continue to serve the nation. Some people did, but a lot of others did not. More importantly, a substantial number of Swapo stalwarts seemed to share the conviction that it was time for a change in office. The outcome was a transition whereby Nujoma would retire as head of state, but would retain the presidency of Swapo – to which he had been re-elected during the party congress in 2002 – at least until 2007.

Instead of reaching consensus on a single Swapo candidate for the November 2004 presidential elections, the Swapo Central Committee, which met in March 2004, chose three contestants from its ranks (Hopwood 2004a). Delegates to the Extraordinary Congress held at the end of May 2004 were then tasked with

selecting one of them (Hopwood 2004b). This precipitated a fierce internal competition between Hifikepunye Pohamba, who had been identified by Nujoma as his crown prince (and whom he wanted to see endorsed by the delegates to the Extraordinary Congress) and two other long-serving members of the first generation of Swapo's leadership. After an embittered factional struggle – misleadingly presented as a showpiece of (inner-party) democracy – Sam Nujoma managed to secure the election of the candidate of his choice (Sherbourne 2004). Pohamba, as Swapo's candidate for the president's office from March 2005 onward, ultimately received the blessing of more than three-quarters of the voters in mid-November 2004. However, the extent to which he will be able to exercise his authority independently, and to what extent Sam Nujoma will continue to exercise power indirectly, constitutes the key issue within contemporary Namibian politics, which remains a subject-matter of further speculation beyond this chapter.

Swapo of Namibia: from liberation movement to government

The 'winds of change' brought about the decolonisation of the majority of African countries until the late 1960s. This contributed towards a diversified composition of the family of sovereign states within the UN, which in turn had an impact on the discourse in the international policy arena. The dispute over South-West Africa/Namibia as a 'trust betrayed' turned into open conflict and demanded recognition also in terms of international law.¹ The UN assumed full international legal responsibility and became absorbed with the matter for more than two decades in the General Assembly as well as the Security Council. Namibia turned into a genuine and singular case of UN concern, manifested also by the creation of the UN Council for Namibia² and the UN Institute for Namibia. Furthermore, as a result of intensive diplomacy – and with the overwhelming support of the non-aligned countries and the Eastern bloc – Swapo was acknowledged by the General Assembly as the only legitimate representative of the Namibian people³ and obtained formal observer status to UN bodies. Finally, Namibian independence was also the achievement of an international community, which, after the cold war, managed to end lengthy and complicated diplomatic negotiations, which had been dominated previously by the strategic interests of the two power blocs. The internationally negotiated settlement thus ultimately resulted in a transition towards independence with

a decisive degree of UN involvement (Melber 2004), leading to the election of a legitimate government led by Swapo.

Dobell (1998) suggests that the negotiated settlement in Namibia resembles an 'elite pact' as defined by O'Donnell and Schmitter (1986: 38). The question remains, however, as to what extent this transition has secured a lasting democratic quality internalised by those executing political power within the new post-colonial system. The organisation of an armed liberation struggle had produced strict discipline and command-and-obey structures. It also had firmly established and entrenched a strict control system in the organisation of exile life for non-combatants. These structures within the liberation movement might have been the necessary result of its effort to represent a challenge to the existing repressive system, but at the same time they had much in common with the authoritarianism and hierarchical organisation inherent in the colonial system which it opposed. To this extent, features of the colonial character are reproduced in the fight for their abolition and the emerging concepts of power applied in the post-colonial reconstruction phase (Leys & Saul 1995). During the first 15 years of Namibian independence a political system emerged that displayed tendencies towards an increasingly autocratic rule (Melber 2000, 2003b, 2003c). Based on its reputation as the liberating force (Melber 2003a) and in the absence of serious political alternatives, Swapo managed to entrench political dominance by obtaining a continuously higher proportion of votes in successive elections in a largely legitimate way. This far-reaching mandate encouraged a misplaced perception that the government is supposed to serve the party and that the state is the property of the government.

These tendencies were supported by and reflected in the results of the national elections held at five-year intervals since November 1989. While the voters under UN supervision in 1989 had elected a Constituent Assembly, which in turn from its midst elected Swapo's candidate, Sam Nujoma, as the country's first head of state, from 1994 onward they had registered to cast separate (but parallel) votes for both the National Assembly and the president. The presidential candidate nominated by Swapo (requiring an absolute majority of the votes to be elected) has so far always performed better than the party, and as a result has claimed a popular mandate to run the country with strong executive powers vested in his office. In addition, Swapo managed to obtain exclusive control over the parliamentary decision-making process by virtue of the two-thirds majority of seats it has obtained in parliamentary elections

in every such contest since December 1994. It has gone on to consolidate this dominance by turning the political system into one which, while it adheres to the formal democratic principles enshrined both in the Constitution and in the institutions, is characterised by the hegemonic rule of a single political party in firm control of the public sphere and its institutions.

Table 5.1 *Parliamentary election results for the larger parties in Namibian elections, 1989–2004*

Election	Votes	Swapo	DTA*	UDF**	CoD***
1989	687 787	384 567	191 532	37 874	–
Constituent	(56.90%)	(28.34%)	(5.60%)	–	–
1994	497 499	361 800	101 748	13 309	–
Parliamentary	(73.89%)	(20.78%)	(2.72%)	–	–
1999	536 036	408 174	50 824	15 685	53 289
Parliamentary	(76.15%)	(9.48%)	(2.93%)	(9.94%)	–
2004	838 447	620 787	41 714	29 336	59 465
Parliamentary	(74.04%)	(4.98%)	(3.50%)	(7.09%)	–

Notes: * Democratic Turnhalle Alliance; ** United Democratic Front; *** Congress of Democrats (founded in 1999)

The overwhelming number of elected parliamentarians from the party, most of whom hold Cabinet posts as ministers or deputy ministers (the latter acting as stand-ins in the absence of their ministers at Cabinet meetings) at the same time, also inhibits any exercise of accountability by Parliament. While Parliament possesses all the necessary formal powers to control the executive, it has not utilised them (Melber 2005b). While the Constitution adopted prior to independence established a strong executive president with far-reaching powers, who has full authority to appoint the Cabinet, it provided no adequate checks and balances to counteract the presidential rule sufficiently. A prime minister is considered to be in charge of Cabinet affairs, but over the years has increasingly surrendered this power to the president. The parliamentary democracy institutionalised in Namibia has increasingly turned into a personalised presidential rule. As Abbink points out, the entrenchment of democracy requires ‘the consolidation of institutional, social and legal frameworks which make the process of open political communication independent of the persons who happen to be in power’ (2000: 7). Since independence, Namibia has displayed the opposite tendency.

Sam Nujoma: from guerilla leader to head of state

The history of Swapo is inextricably linked with the person of Sam Nujoma. While social movements, and even more so anti-colonial mass movements, ought to be a collective effort to contribute to social change (and actually are), they are also shaped by personal factors and the impact of individuals. Only few such individuals, however, come to mind with regard to the history of Swapo, and Sam Nujoma has predominated among these since the early 1960s. To that extent it is hardly an exaggeration to say that Sam Nujoma is synonymous with Swapo, and that he personifies the movement.⁴ The degree of identification and congruence – behind which both the individual and the specific internal dynamics of an organisation tend to fade away – is exemplified and illustrated by the official version of both Sam Nujoma's own and Swapo's history, as recorded in his memoirs (Nujoma 2001). This story ends with Namibian independence and hence his return from exile. It is limited to the years of armed combat and is therefore reduced mainly to a species of 'struggle literature' of an ideologically dubious and narrow focus. As such, these remembrances can be considered a kind of official, 'nation-building' history of both the man and the movement – at least for the time being – in the absence of any counter-claims and challenges to the dominant patterns of patriotic history emerging.⁵ As Saunders observes, it is:

hardly at all self-reflective. Much of it is about the events that Nujoma was involved in, or connected to, rather than about his own experiences. There are long descriptive passages dealing with events that he was not present at and only heard about from others. There is hardly any of the personal detail that enlivens most autobiographies. There is no suggestion that his position as leader was even under serious challenge, or that there were setbacks, or that any wrong decisions were made. There is hardly anything, in fact, about the decision-making process within Swapo, and very little about his interaction with close friends or colleagues. The internal history of Swapo in these years remains to be written. This too fits the post-independence pattern of secrecy within the organisation, and unwillingness to open up to others. (2004: 90)

Saunders concludes that the president's book (if it is his in the true sense of ownership as author, which is highly questionable):

is a partial, highly selective account. It is valuable, nevertheless, for revealing the way the president remembers the past and wishes to try to stamp a certain version of the past on the nation's collective memory, to help shape the future...Nujoma's book is more a work of propaganda than history. It confirms that the Namibian struggle was fought for national liberation, and that this meant, for Nujoma and others, the accession of Swapo to power. It shows that Nujoma has little understanding of, or commitment to, democratic values. A reading of *Where Others Wavered* will bring no comfort to those concerned about the future of democracy in Namibia today. (Saunders 2004: 98)

Hence, the historiography on both the man and the movement reveals an interesting view on the mindset of the freedom fighters from their own perspective. It offers insight into Swapo fighters' reasoning, and the forces that drove them, which otherwise might not be understood. The impact of this patriotic history, which at the same time casts the 'father of the nation' in a particular mould, should not be underestimated. Sam Nujoma has not only personified Swapo, but also the mirror image and figure for identification and admiration of the dominant post-colonial political culture. His story is the story of Swapo, and as the Swapo version of Namibian history, it is at the same time part and parcel of the ideological core composing the official post-colonial Namibia.⁶ As a dominant narrative, it is hardly counteracted by attempts to tell the story or stories from another perspective such as that, in particular, which is based on the exile experiences of those who were victims of the Swapo terror in the Angolan and Zambian camps.⁷ Nujoma managed to survive all internal power struggles which took place within Swapo, and hence showed his qualities as a leader who was able to remain in charge. But these qualities are not necessarily founded upon democratic convictions as among the major priorities for success.

In consequence, it is not surprising that the type of statesmanship displayed by President Nujoma during his time in office did not always respect democratic principles, nor always meet minimum standards of diplomacy. There were increasingly alarming public performances by the president, particularly since the mid-1990s, which revealed growing intolerance of dissenting views and a certain self-righteousness, both at home and in the international arena.⁸ One might qualify this outward (or at least rhetorical) radicalisation as an

outcome of the arrogance of power, encouraged by general public approval of and widespread consent to his role, further supported by the absence of any initiatives towards corrective measures from inside party ranks or the Cabinet. Indeed, from following Nujoma's career as president and observing his visible behavioral changes during the initial years in office, it seems no exaggeration to arrive at the conclusion that despots are not genetically determined in their personality structure. They seem at least as much created by sycophants and those unable to openly resist dictatorial tendencies who play along for a variety of reasons – one of which is the fear of losing their own access to green pastures. Hence the idea for a third term in office was certainly not the exclusive and unilateral ambition of the president alone. It was clearly supported and implemented by a wide range of other actors and stakeholders. These included a wide range of actors and stakeholders, both inside and outside Swapo, who preferred to keep the devil they knew in power rather than opting for an unknown alternative.

To exit or not to exit?

Given the emergent consensus spanning major parts of the party and wider Namibian society that Nujoma should remain on as president, his third term was never publicly divisive. In addition, the formal procedures did not require any dubious procedures opening an arena for contestation: based upon its two-thirds majority, Swapo was entitled and able to pass the necessary constitutional amendment without offending any legal principles. Nor was the issue of the third term a major dispute in the public sphere, which would otherwise have provoked serious tests of acceptability. However, the way the third-term issue was handled by the party internally seemed to suggest that not everybody supported it fully. As a result, the modalities employed to seek party consensus over Nujoma's candidacy were rather dubious. They showed that the third term was a more controversial issue inside the party than outside. This was indicated by the fact that other members of the party's inner circle were pursuing an alternative agenda, but ultimately failed to rally sufficient support for the motion that Nujoma should vacate office after two terms to make way for another candidate.⁹ However, given that there was no obvious alternative, the majority within Swapo opted to extend their support to the proposal that Nujoma, as the first and founding president, should be granted a third and final term.

The second Swapo Congress since independence took place at the end of May 1997. It was – at least informally – dominated by the issue of the third term. But while everyone had expected an open vote, the outcome of which would be in favour of Sam Nujoma, the Congress resolved instead to call for an Extraordinary Congress the following year at which delegates would make an official decision on the issue. While this move was presented by Swapo as a procedural formality, observers agreed that it reflected strong internal differences. Perhaps to take advantage of this postponement of the decision, Nujoma's opening speech to the Congress had all the features of a mobilisation campaign to rally support behind his drive for another term. Meanwhile, in another move (which in retrospect appears to assume considerable significance), Hifikepunye Pohamba (then Minister for Fisheries and known to be among the closest and most loyal supporters of the president) was appointed to fill the vacant position as the party's secretary-general,¹⁰ in the absence of another candidate.

In contrast to the indicated procedure, in May 1998 Swapo's Central Committee announced its decision to instruct the party's MPs to change the Constitution for the first time to allow the party president a third term in office as head of state. The party's new secretary-general, Pohamba, officially confirmed this intention during a parliamentary debate in the National Assembly in July 1998. As a result, the scheduled Extraordinary Congress of the party, which took place at the end of August 1998, no longer had any reason to discuss the matter. The party leadership reasoned that – in spite of all evidence to the contrary – a decision had already been taken at the Congress a year earlier, and there was thus no need to devote time to the issue. Instead, delegates were given the task of dealing with a total of 71 amendments to the party's many remaining anachronistic rules from the 'struggle days', with the aim of enhancing internal efficiency.

In September 1998, Pohamba further justified the constitutional change providing for a third term in a speech televised countrywide by the state broadcasting company, NBC. Subsequently, Prime Minister Hage Geingob submitted the motion to Parliament in October 1998. Swapo subsequently utilised its two-thirds majority in both the National Assembly and the National Council (the second chamber) to adopt Namibia's first constitutional amendment. Signed by the president on 7 December 1998, the Namibian Constitution First Amendment Act (No. 34 of 1998) stipulates under Sub-article 134(3) that 'the first president of Namibia may hold office as president for three terms'.¹¹

However, whether Nujoma was planning to vacate office in March 2005 remained an open question throughout most of his third term, with some evidence pointing in another direction.¹² It was only towards the end of 2003 that, on several occasions abroad, Nujoma publicly stated his willingness to retire as Namibia's president. However, State House continued to remain tight-lipped on the issue at home. As late as March 2004, several events suggested that another term in office was not yet finally off the agenda. For instance, at the end of 2003, a demonstration was staged at the initiative of some local traditional leaders in Swapo's northern stronghold of former Ovamboland, who demanded that Nujoma should serve another term in office. When asked by a journalist if he would consider standing again if asked, Sam Nujoma reportedly responded: 'One cannot ignore the call by the people, because the people are the ones who make the final decision.'¹³ And as late as March 2004, Nujoma addressed a closed session of members of the Central Committee of the Swapo Youth League (considered to be among his strongest supporters), and his speech seemed to suggest a willingness to consider a fourth term.¹⁴ And in another instance in the same month, callers to the local Oshiwambo language service of the national radio station, based in the centre of Swapo's stronghold in the north of Namibia, used the live programme to mobilise in an obviously organised manner for a march in support of a fourth term.¹⁵ It was only shortly before the Swapo Central Committee and its Politbureau were due to meet in early April to discuss proposals for a party candidate for the presidential elections in mid-November 2004 that the present incumbent declared his unambiguous decision to stand down. The decisive stages of the decision-making process happened behind closed doors and related directly to opposition from within the inner circle of the Swapo leadership towards another term in office. Nujoma had clearly mobilised a core faction willing to support him for their own gains and had placed some of these acolytes in strategically relevant positions. However, it was increasingly evident that the pushing through of this agenda would come at a high price, putting the party's cohesion under serious strain. A reportedly visibly devastated and stressed president seemed to accept the party interest as above his personal ambitions at the Central Committee meeting on 2 and 3 April 2004.

As a result of this set of events, 'plan B' (or, more accurately, 'plan P') became operational with the determined promotion of Hifikepunye Pohamba as the president's closest confidante within the party's inner circle. With the benefit

of hindsight, it is illuminating to consider the contents of the exclusive interview Sam Nujoma had offered to the editor of the *New African* magazine, which was published in November 2003:

Baffour: Fourth term or no fourth term for President Nujoma?

Nujoma: Well, I am now serving my third term, and this was the request of the Namibian people. They demanded it! So I served a third term. I can tell you today that I don't need a fourth term, because the party machinery is there to take care of affairs. There is a vice-president and a secretary-general, if I am not there or anything happens to me, the vice-president will take over. We are organised. We are not a disorganised people. We know exactly what we want, and how to get it too.

Baffour: So you are confirming to your people and the world today that you will retire the next election?

Nujoma: Sure. You know I am also growing old. Age doesn't wait for anybody. I am going to retire to the party headquarters.

Baffour: So, there will be no fourth term for President Nujoma?

Nujoma: No. Some people are demanding it, but I don't think I want to do it. I must give the chance to the young people who have the strength to run the country. Because being a president, you have to attend to national issues, the reconstruction of the country, and still attend international conferences and African Union meetings. This is quite a heavy demand on the human body. And I am already 74. At my next birthday in May, I will be 75.

Baffour: What will you do when you retire?

Nujoma: I will retire to the party headquarters and concentrate on the business there.

Baffour: How is the party, Swapo, handling the succession problem?

Nujoma: Clearly we have the party echelon in place. We have the president, the vice-president, the secretary-general, the deputy secretary-general. We also have the Congress that elects the members of the Central Committee, which in turn elects the members of the Politbureau which carry out the day-to-day activities of the party. So Swapo is organised.

Baffour: So you haven't anointed anybody yet to take over from you?

Nujoma: Well, the vice-president is there. Swapo is organised. We have the machinery set.¹⁶

As the retrospective shows, the 'setting' of 'the machinery' had actually emerged rather early during the third term, when Nujoma had made strategically relevant recruitments within the party hierarchy, notably to the positions he referred to in the interview above. From this perspective, Swapo's third post-independence Congress, held at the end of August 2002, turned out to be of crucial relevance (Shikongo 2004). At his opening speech, President Nujoma addressed the more than 500 delegates with highly personal praise of Hifikepunye Pohamba, which was designed to establish from the start why he should be elected as the new party vice-president, a position to which he was duly elected by Congress when no other contender was put forward. By this act, the die was cast. A journalist who was present for the opening speech subsequently observed (with remarkable insight):

Another round of applause followed when Nujoma ended his short eulogy of Pohamba, the man he has picked to become the vice-president of Swapo. Many in the party believe the vice-president will ultimately take over from Nujoma. (*The Namibian* 22.08.02)

However, it was to turn out to be a longer and more winding road to reach this goal than most of those involved at the time had assumed. At the Congress in August 2002, Nujoma had also nominated the new secretary-general to replace Pohamba. He selected Ngarikutuke Tjiriange, the Minister of Justice since independence, and another reliable ally and old hand from the inner circle of the exile days. One of Nujoma's staunch followers of the younger generation, Albert Kawana, took over the Tjiriange's justice portfolio and proceeded to prepare for the eventualities of a national referendum to pave the way for a fourth term. Hence a 'double strategy' characterised most of Nujoma's third-term period until early April 2004, when he finally conceded to the growing pressure within the party and signalled his (presumably enforced) willingness to vacate office for the successor of his personal choice – who then had to be pushed through at high costs, which created unprecedented rivalries and purges within the governing party in post-colonial Namibia.

And the winner is ...

It remains to be seen to what extent Pohamba – as the newly elected successor to Nujoma as second head of state of Namibia – will remain a close associate of his party leader (who stays in this position at least until the next party Congress in 2007). Internal debates and speculations on this issue had already begun before Pohamba took office, with no conclusive end.¹⁷ However, on numerous occasions since his election the new president has confirmed that he is a team player and guided by a collective decision-making process in which the party president has a decisive role to play. It was thus no surprise that his much-awaited first Cabinet – after a lengthy incubation period – offered few surprises; or, as a local analyst described it, ‘old church with new priest’ (*New Era* 23.03.05).

Sam Nujoma defines his retirement as a move to the party headquarters, which arguably is not exactly meeting the definition of retirement and will almost certainly ensure his further influence and control over decisive policy matters. It is therefore another question to what extent his exit from the office as head of state is indeed a departure from the commanding heights of national politics. The ex-president will have to make difficult choices concerning the allocation of his time. As a seasoned hobby farmer, Nujoma has since independence – like most Cabinet members and other higher-ranking Swapo officials – acquired a substantial, well-developed piece of land in one of the country’s best commercial farming areas. He is also passionate about game hunting and ocean fishing, and found time for both of these activities during his terms in office.¹⁸ The official aims of the Sam Nujoma Foundation, which was officially established at a farewell gala dinner hosted in the retiring president’s honour by the Namibia Chamber of Commerce and Industry, suggest the continued social commitment of the former head of state.¹⁹ Nujoma also underlined his dedication to lifelong learning by registering for a Master’s degree course in Geology with the University of Namibia (UNAM). Already holding the university’s first honorary doctorate, he had recently been reappointed as UNAM’s first chancellor for another six years. The university subsequently allocated an office on campus for him to use between classes, ‘to extend the kind of hospitality that befits his standing’ (*The Namibian* 16.02.05).

In terms of material resources, Nujoma should be in a position to pursue his interests without any difficulty. In September 2004, the Justice Minister shared

his concern in Parliament that the existing Presidential Emoluments and Pension Act of 1990 provided pension benefits but ignored matters of security, staff, office and equipment, house and household, travel and transport. He therefore opined that a fair revision was in the national interest, as the retired head of state would continue to play a critical role in the affairs of the country as ‘a torch bearer...with a view to guiding the new generation of political leaders to continue to maintain the original aims and objectives of the Namibian nation’ (*The Namibian* 23.03.04). The subsequent passing of the Former Presidents’ Pension and Other Benefits Act of 2004 by the National Assembly in early 2005 secured the desired incentives to retire gracefully.²⁰ Consequently, the national Budget for 2005/06, submitted to Parliament by the Minister of Finance in May 2005, included a newly created Main Division 03 entitled ‘Office of the Founding President’, to which it allocated N\$5.7 million.²¹

The ‘golden handshake’ might have contributed to securing the desired ‘happy ending’, which resulted in heaps of praise generously dished out to the president when he left office on Independence Day, in the presence of numerous colleagues (mainly from neighbouring and other African countries), who celebrated him as a role model for democratic Africa. The handing over of the insignia of presidential powers to the Chief Justice, who then passed them on after the swearing-in of Nujoma’s successor, made the first Namibian presidency an irrevocable historical chapter. In his last battle in office, waged over the choice of his successor, Nujoma had once again kept the upper hand. He might personally consider his departure from the presidency a defeat, but he retired as the leader of what is still seen, to a large extent, as a winning team. Again, while he might have vacated the presidential office with an internally divided party, which had been tested to its limits over the issue of the next president and with at best a mixed record in terms of ‘good governance’ regarding socio-political and economic achievements,²² he had clearly mobilised wider support among the electorate for his own course. His decision – ultimately his own, though not necessarily completely voluntary – to retire as Namibia’s first head of state might provide him with an aura, which is necessarily denied to other African presidents who have clung on to power determinedly.

According to an empirical survey conducted a decade after Namibia’s independence by means of personal interviews with 1 000 persons above the age of 18, in ten of the country’s 13 regions (Nord 2004: 315ff.), Namibian democracy (and by implication social stability) is deeply rooted in the

confidence and trust the people have placed so far not only in Swapo as the exclusive agent for liberation, but even more so in the person of the first president of the Republic. Notwithstanding reservations concerning the limited fruits of independence for the mass of the population, his personal achievements are rated very highly. The outstanding legitimacy of the president and his image as 'father of the nation' are not based in the all-too-limited material improvements for the majority of the population resulting from the process of decolonisation, but are rather, to a large extent, a personalised affair based on individual trust (Nord 2004: 192, 300). While Nujoma receives – like his party – most support in his original 'home base' (the densely populated north of Namibia, where his approval rating reached 80 per cent), his and the party's overall rating is nonetheless a reflection of wide acceptance among other regions and language groups (with the lowest approval rate measured among the Nama in southern Namibia).

The critical analysis presented in this paper and elsewhere is focused principally upon the limits to liberation imposed by the political constraints resulting from the increasingly narrow-minded politics of intolerance (du Pisani 2003) and the growing tendency towards autocratic rule in Namibia. Notwithstanding these flaws, Sam Nujoma may well have chosen the appropriate moment in time to save his reputation and to enter the textbooks, to be used in Namibia for generations to come, as the elder statesman who, to a large extent, brought about the Namibian nation. After all, personalised trust in a political leadership, which is not abused, provides the opportunity to consolidate a democratic political culture, resulting in the strengthening of public institutions. Bratton and Mattes (2001: 468) assume that a citizen's trust in the person of the president is difficult to disentangle from the trust in the state and hence identification with the ruling party can hardly be distinguished from satisfaction with democracy. Thus they conclude that:

it is generally hard to know which came first: trust in particular state institutions or satisfaction with democracy. But even if the relationship is reciprocal, it points to the centrality of core political values – like trust in government – in the syndrome of democratic culture. (Bratton & Mattes 2001: 468)

Nord (2004: 307) draws the related conclusion that the scope of Namibian democracy very much depends on the other attitudes and practices of

both Swapo party office-bearers in general and the retiring head of state in particular. If they cultivate and respect the democratic rules of the game as the country's political leadership, this could have a decisive positive impact upon the future chances for a democratic political culture among the majority of the Namibian population. At the same time, however, a process of rapid erosion of democratic norms has become visible to a worrying degree, partly accelerated by the intrigues and power struggles accompanying the presidential transition process since early 2004.

At the end of his three terms in office, a number of manoeuvres suggest that Nujoma has not yet decided to vacate the commanding bridge of the ship entirely. Given his strategically central role as president of the party, much depends on his future political behaviour. If he acts wisely, he could reap an enormous harvest in terms of appraisal of his initial role in building a post-colonial, sovereign Republic of Namibia. On the occasion of his first (76th) birthday as an ex-president of the state he was so involved in creating, he was applauded by one of the most articulate opposition politicians from the Congress of Democrats. Himself earlier an active Swapo member of the younger (once exiled) anti-colonial generation, Tsudao Gurirab compared Nujoma to 'nation builders' such as China's Mao, the United States' George Washington and (West) Germany's Konrad Adenauer (*The Namibian* 13.05.05). These might be daring analogies, but from a Namibian political perspective they may be less doubtful (and in practical political terms more relevant) than from a comparative academic approach. Sam Nujoma might well leave behind an image of a Namibian Mao, Washington or Adenauer, or even provoke associations to the erstwhile German nation builder and chancellor Count Bismarck, who managed to consolidate the (still imperial) empire during the second half of the 19th century in a decisive manner.²³

In March 1890, 100 years before Sam Nujoma was sworn into office as president of the Republic of Namibia, *Punch* magazine published a famous cartoon showing the pilot, Bismarck, leaving the ship of state. Only the future will show if Nujoma's own departure from office deserved a similar tribute.

Notes

- 1 With Resolution 2145, the UN General Assembly terminated South Africa's mandate over South-West Africa on 27 October 1966 and subsequently qualified its continued presence as illegal occupation.

- 2 This was subsequent to Resolution 2145 (XXI), decided upon by the General Assembly on 19 May 1967, to create an entity representing the interests of the Namibian people within UN agencies.
- 3 UN General Assembly Resolution 3111 of 12 December 1973 recognised Swapo as 'the authentic representative of the Namibian people'. This was amended in UN General Assembly Resolution 31/146 of 20 December 1976 to 'sole and authentic', endorsing an exclusive status and political monopoly of Swapo in the negotiations on behalf of the Namibian population.
- 4 This does not imply that others were not relevant. Andimba Toivo ya Toivo and some of his fellow-prisoners serving long sentences on Robben Island certainly had been during the formative years. So were several others less known today. They were in fact important to an extent that is not fully recognised by the official historiography currently in existence. The hagiography which imparts such a high degree of prominence to Nujoma is in itself a revealing factor concerning his role in the struggle and beyond.
- 5 On the notion of patriotic history, as conceptualised under Nujoma's close friend, role model and ally Robert Gabriel Mugabe, see Bull-Christiansen (2004) and Ranger (2004); for Namibia see Melber (2003a).
- 6 This official post-colonial discourse was prominently displayed on the occasion of the 10th independence anniversary celebrated in March 2000, when two glossy volumes with the official (but edited) speeches of Namibia's president since independence, as well as his 'State of the Nation' addresses, were published with a total volume amounting to more than 1 200 pages (Nujoma 2000a, 2000b, 2000c). Nujoma's exit from office was honoured by another compilation, claiming without any modesty to offer a collection of the president's wisdom by means of selected quotations (Gowaseb 2005).
- 7 For insights into this dark chapter of liberation politics see in particular the critical accounts by Groth (1995) and Saul & Leys (1995, 2003) as well as Hunter (2004/2005). The most relevant first-hand report by a victim to date is offered by Nathanael (2002).
- 8 Most revealing in this context are the impromptu speeches of Nujoma, when deviating from the official manuscripts and texts from which he reads. In particular, when publicly performing in his home region (and using the vernacular), or on internal party occasions, he is a firebrand, emitting scarcely gentleman-like polemics. He has also established quite a reputation for the way in which he has at times treated journalists in interviews and at press briefings. His track record includes vicious outbursts of homophobia or bashing of other deviant behaviour, including anti-

white sentiments as well as personalised attacks. Nujoma has obtained the nickname 'Mugabe lite' to characterise his radical attacks within regional and international politics in defence of his ally, with whom he has since the mid-1990s established increasingly closer ties in recognition of common interests and similar views.

- 9 This was an issue seen less in terms of political-ideological alternatives than with regard to inner-ethnic rivalries between different Oshivambo-speaking groups. While Nujoma comes from a minority within the Ovambo communities, members of the dominant Kwanyama were seeking to occupy the highest office to underline their claim for control over Swapo. Others had an interest in keeping the Kwanyama from seizing this commanding height, to preserve the more plural and multi-ethnic character of the party also in terms of the balance of power. The same issue had an impact on the succession of Nujoma five years later – when Hidipo Hamutenya, as the protagonist and candidate of the Kwanyama faction, suffered a second defeat.
- 10 In a Cabinet reshuffle in December 1997, Pohamba became a Minister without Portfolio and hence a full-time party official with Cabinet status on the payroll of the state. During Nujoma's third term in office, he was serving in the strategically sensitive and politically relevant position of Minister for Land, Resettlement and Rehabilitation.
- 11 As Swapo officially argued, the president's first term was a result of the appointment by the members of the elected Constituent Assembly. He should therefore be entitled to another (third) term in office based on popular vote through the registered electorate.
- 12 A certain degree of suspicion was aroused by various factors, not least the intense personal interest Nujoma developed during his third term in office in the design and construction of an ambitious – if not to say monstrous – new State House complex (termed the presidential village) on the outskirts of Windhoek, in a region with direct view to the Heroes' Acre. Situated in the Auas Mountains outside of the capital and officially opened in 2002, this pompous complex is almost a replica of the one built earlier in Harare by the same North Korean contractors. (As my co-editor remarked, the North Koreans might be forgiven their communism, but not their bad taste.) The 'Unknown Soldier', together with a large obelisk, constitutes the centrepiece of the monumental landscape. The statue itself displays striking physical similarities to Namibia's 'father of the nation'. The continuously soaring costs of the State House have been estimated to amount to more than 750 million Namibian dollars (equivalent to South African rand) to date. The preferences of Nujoma for gigantic prestige projects symbolising the public insignia of authority and power seemed to suggest that he would find it difficult to anticipate retirement before the new official residence could be completed.

- 13 Quoted from an article in *The Namibian* of 31 March 2004, based on a news report by the Namibian Press Agency/Reuters.
- 14 'Sources who attended the meeting said the President "indirectly" indicated he was willing to go for another term. Nujoma reportedly said people had been asking him to "stand" for another term, which, at present, is unconstitutional' *The Namibian* 08.03.04 ('President "tests the waters" with Swapo Youth League')
- 15 'Ethnic demo for 4th term tomorrow', press release by the National Society for Human Rights, Windhoek, 30.03.04.
- 16 Quoted from a 12-page interview in a Namibia Special Report in *New African* No. 423, November 2003, p. XII. The front cover of this issue had Nujoma's picture with the headline 'Nujoma "No fourth term for me"'. The paid pull-out advertorial was funded under a multi-million state budget allocation to the Pan African Centre of Namibia for covering substantive parts of the costs of turning Sam Nujoma's autobiography into Namibia's first blockbuster movie. At the time of the president's retirement as head of state it was reported in *The Namibian* of 18 February 2005 that film crews were beginning production of the movie (expected to cost far more than the original budget of N\$50 million – mainly taxpayers' money).
- 17 See the locally published opinion piece by Kaure (*The Namibian* 04.02.05) and the direct responses by Hengari (*The Namibian* 11.02.05) and du Pisani (*The Namibian* 18.02.05), the feature article by Gaomas (*New Era* 14.01.05), as well as further controversial exchanges between Kaure and a newly elected Swapo MP in the state-owned daily newspaper, *New Era*.
- 18 Nujoma has two private seaside residences in the coastal towns of Henties Bay (built on his instruction) and Walvis Bay (a gift from the municipality, accepted humbly on behalf of the Namibian people for his achievements in the struggle).
- 19 The objectives of the foundation 'include fostering a sense of common purpose and collective destiny among the Namibian people, identifying Namibian children with exceptional needs and those affected by the HIV/AIDS pandemic and soliciting support for them, and promoting arts and culture in Namibia' (*The Namibian* 18.02.05).
- 20 The package is similar to that of Botswana's ex-President Masire. It includes a continued full salary, a one-off equivalent for the first year, a sedan car (Mercedes-Benz S500 or equivalent), a four-wheel-drive station wagon and a pick-up van (plus petrol and maintenance costs for this fleet). Representative housing in Windhoek remains at the cost of the state. Some 30 public servants will ensure the well-being of the pensioner, comprising at least ten security personnel, three drivers, two private secretaries, two personal attendants and two office attendants, as well as three

domestic workers, two gardeners, two cooks, two waiters and two laundry persons to run the household. A fully equipped office adds to the cost for the state, as do medical aid, international and local travel (all family members included), entertainment, telephone, water and electricity bills (*The Namibian* 11.01.05). The Office of the Ombudsman (until then accommodating close to 30 staff members) was vacated at the end of March to make room for the ex-president's office. This is in the direct vicinity of State House, which has fed suspicions that once the president's office is moved into the new State House complex (see footnote 12), the retired president will move back into the Windhoek home that was his official residence for 15 years (*Republikein* 30.03.05).

- 21 Roughly equivalent to US\$800 000 – as Sherbourne points out: 'this compares with N\$2.5 million for the New Anti-Corruption Commission...and N\$4.6 million for the Office of the Ombudsman' (2005: 4). Another generous gift was the allocation of a further N\$50 million by government, under the 2005/2006 Budget, for the shooting of a movie based on Nujoma's biography. Previously allocated N\$15 million, this additional funding makes it a state-funded 'Hollywood' production. According to the Deputy Minister of Information and Broadcasting, who tried to justify the allocation during the Budget debate in Parliament, the film 'will no doubt bring out Namibia's history of liberation from colonialism and it is definitely of national interest' (quoted in *The Namibian* 20.05.05).
- 22 For a critical analysis of the presidential transfer and its impacts on the further erosion of the political culture, see Reich (2004). Melber (2005a) offers an overview of the most significant political consequences and the sobering socio-economic situation during 2004.
- 23 Notwithstanding all the dubious limitations of such daring comparisons, they carry a certain message. In the case of Namibia it boils down to the simple consequence that in achieving a truly successful presidential transition with full transfer of power the first head of state could enter the 'hall of fame' (with all the flaws and shortcomings of others gathered there too) as only a few African presidents before him. In recognition of his (more or less) voluntary exit, most of the failures during his three terms in office would ultimately weigh far less in the final balancing of the accounts. The rather euphoric praises before and during his departing act, as well as the mild tone in parts of this chapter, are an indication of such concessions.

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6 *'When I am a century old': why Robert Mugabe won't go¹*

David Moore

What stops Zimbabwe's President Robert Mugabe from retiring? Why will he not join the increasing number of his peers in undertaking worthy activities around Africa and elsewhere? Could he be excused his past misdemeanours and be whisked away to a large villa from where he would emerge occasionally to dispense the wisdom he is assumed to have gained from his youthful excesses? If he has been offered this option, why has he refused? Why, in 2005, in spite of an opposition party that would have won the three elections held since 2000 had they been 'free and fair', does he not falter: why is he so desperate to cheat? What prevents the members of his own party, the Zimbabwe African National Union-Patriotic Front (Zanu-PF), wracked by internecine struggles borne of his inability to anoint a successor, from abandoning their captain to save their ship? Why cannot the opposition party, Movement for Democratic Change (MDC), and its allies in Zimbabwe's sophisticated civil society get it together to get him out? Why, in the context of an economy for which even the phrase 'free-fall' is inadequate (Hill 2005: 71–81; International Crisis Group 2004), is there not simply a mass uprising? And why, as many south of the Limpopo River ask, does the rest of the world – ranging from themselves to the rest of Africa, to the ubiquitous but ill-defined 'international community' – essentially do nothing to hasten the old man's departure (Freeman 2005; Phimister 2004)? How has he remained in power for more than a quarter of a century?

This chapter is not about successful efforts to persuade or force an African president past his sell-by date to the sidelines of the power bloc in which he is embedded. For this book's purposes might Robert Mugabe and his Zimbabwe be the exception proving transitional Africa's rule? Perhaps not: as a once enthusiastic promoter of the 'democratic transition' idea writes, Africa has not gone far past the 'big man' syndrome (Carothers 2003: 9, 14). Mugabe's hanging-on skills may be more symptomatic of general trends than the brushing aside of a few heads of state, allowing them to remain

in impunity while their successors' path stays the same. This study, then, is instructive in the quest for quiescent retirement in Zimbabwe and Africa as a whole – and the factors conditioning this eventuality consistent with broad democratisation processes. As with the 'transition literature' transferred from Latin America and Southern Europe to South Africa and from there onwards (Friedman 1993, 2003; O'Donnell, Schmitter & Whitehead 1986a, 1986b, 1986c, 1987; Moore 2005a), a comparative, case study-based literature can inform those interested in facilitating smoother changeovers from a president and associated political factions, or, more optimistically, from 'presidentialism' in its feudal hues to régimes more compatible with thin *and* thick democracy (Abrahamsen 1997, 2000; Saul 1997).

Indeed, Mugabe's intransigence may be precisely because Zimbabwean opposition to Zanu-PF is more deeply democratic than in most of Africa. Poised against a ruling party not democratic enough to have developed an evolutionary and ordered succession procedure (one reason Mugabe does not leave), the MDC and its base may not allow Mugabe the compromises facilitating many other African presidents' departures. They will not allow a truth and justice commission to slide away (Chan 2005: 54–5) (note the word 'justice' rather than 'reconciliation': Mugabe's critics do not want him to gain amnesty for his crimes). Moreover, Zanu-PF itself forbids Mugabe's departure without assurance it will not implode when he leaves. A 'retirement office' would not suffice, unless it offered him a way to keep the fractious party together. Mugabe knows no easy sequestration awaits him. Yet, although his longevity appears not in the opposition's short-term interest, and means worsening the economic catastrophe for which 'Zimbabwe' has become synonymous, is it better for Zimbabwean democracy in the *longue durée*? Unless South Africa forces the parties to a government of national unity or a Franco-African style national conference blooms magically, the MDC will not be forced to compromise its principles – no easy way out this time may make it harder to hang on next time. Meanwhile, deprived of the opportunity of a period in oppositional renewal, Zanu-PF will sink when it finally goes. This view may be unduly optimistic: a pessimist wonders how long is long enough. While Mugabe weathers the storms he has created in his wake, Zimbabwe's progress is slowed torturously and millions suffer. Keynes's dictum about economic rectitude may hold true for hard-nosed politics: in the long term everybody is dead.

Immediate or distant considerations, the questions remain: Why does he stay? How? Approaching the roots of these problems means moving from structure to agency more adeptly than social science facilitates. This author has discussed Zimbabwe's stalled efforts to go through the process of primitive accumulation (Moore 2001b, 2001d, 2003, 2004a; see also Davies 2004). In a nutshell, the racially bifurcated mode of primitive accumulation in Zimbabwe creates a political powder keg. The vast majority of Zimbabweans have not been fully transformed by the dialectic of modernity embedded within full agricultural commodification and proletarianisation – capitalism's building blocks. Africans' only partial incorporation is the 'twist' to primitive accumulation's tale (Arrighi 1973). In Zimbabwe's crises – structural adjustment's legacy, the poorly solved 'war veterans' issue (Kriger 2003), the war in the Democratic Republic of the Congo (Nest 2001), and fundamentally the prolonged agony of the unresolved land question (possibly the root of primitive accumulation's impasse) – the political tail wags the socio-economic dog. 'Revolution,' fascistic or otherwise, begins.

That divide's racial and 'colonial' tone gave Zanu-PF's righteous liberation discourse enough legitimacy to weather the economic crisis – at least for Zimbabwe's hegemonic interlocutors in the state's ideological apparatuses fashioning the propaganda of 'moral and intellectual leadership' that supplements their military comrades' coercion (Gramsci 1971: 5, 57–8). This is the 'terrain of the crisis' (Saul & Gelb 1986) on which those hastening its resolution act.

At this level one may focus on the 'the man of the moment's' immediate political options and constraints – while emphasising man and moment are produced and constrained by the deep structures of Zimbabwe's unevenly articulated yet ever-changing and politicised social relations of production. Precisely these structures 'freeze' class transformations so societies such as Zimbabwe are held in the thrall of 'Bonapartism,' as Marx (1853) characterised the conditions allowing one person dictatorial powers. Gramsci's (1971) 'Caesarism' is similar, adding 'progressive' possibilities to his or her hands. Yet, as Gramsci might have put it, the chances of 'great men' ushering in positive transformations at moments like these are slim. When the old is dying and the new is struggling to be born, the symptoms are morbid (Gramsci 1971: 276). For structuralists this creates a contradiction: all history's weight pulls them into a morass from which extraction becomes harder and harder, yet the source of all change seems reliant on the singular condensation of all society's contradictions. When confronted with African politics, Marxist and modernisation theory share more similarities

than they admit. Perhaps Zimbabwe's main contradiction can be wrapped up like this: if Mugabe went, the old might die and the birth of the new would be easier. Structure and agency *could* meld.

Given these constraints, this chapter is as far as one can go towards the politics of 'personal rule' dominating 'Africanist' political science and journalism (Jackson & Rosberg 1982). Alluring as the psycho-history thus encouraged is, it helps little. Could one have known by chatting in the 1960s with nationalist supporter Guy Clutton-Brock that Mugabe would become one of the 'remarkably durable rulers' better at keeping power the longer they are on the job (Bienen & van de Walle 1989: 32)? Would his observation that Mugabe was a 'bit of a cold fish,' never taking his fiancé to the movies, dissuade potentially quiet Americans from their protégé (Meredith 2002: 23)? Taking Mugabe's abandonment by his father into account, would the Central Intelligence Agency have refused Mrs Mugabe a London secretarial science scholarship (Meredith 2002: 21; Moore 2005b)? Would strategists have known that Zimbabwe's unravelling began when Sarah died and Robert married Grace (Meldrum 2004: 81)? Where does this leave those planning his exit? Wine appreciation classes to wean him from Robespierrian rectitude? A sensible mistress? The Democratic Republic of the Congo (DRC) tactics that rid them of Lumumba, gaining Mobutu (de Witte 2001; Wrong 2000)? Fortunately, interventionists practise these politics less frequently now (however, Laurent-Désiré Kabila was killed just 40 years after his country's first prime minister). Their analysis, however, may not be better.

When the 'personalists' reach out of their individualist traps the only structure below kingship is 'tribe'. As Jackson and Rosberg supplement their 'personal rule', in the absence of 'language, traditions, institutions and so forth...held in common and...recognised by others as the essence of their nationality', ethnicity is the relevant sociological variable. Yet it too can be transcended if a good leader appears in the clouds. 'Tribe' can only be managed by leaders with sufficient 'personal authority, political acumen and determination' to 'provide the equity...necessary to secure popular legitimacy' (Jackson & Rosberg 1984: 179, 187, 198). Is there a formula to calculate the balance salving kith and kin's desires and also meeting their near and distant neighbours' needs (Londregan, Bienen & van de Walle 1995)? When that runs out and genocides begin, the 'international community' takes up the white man's burden, redrawing national/ethnic maps to help (Jackson 1990; Moore 2001c).²

One balks at such an idea, although in Zimbabwe some federalist autonomy for Matabeleland could help solve one of its maladies. Yet the 'tribalist' perspective does lead towards the issue of a lingering presidency: tensions among the subgroups of the major ethnic group, the Shona, in Zanu-PF's leadership. In the absence of ideological or even substantive policy disputes, struggles among Zezuru, Karanga, Manyika, Ndau and Kore Kore subgroups take on more relevance – especially given the late 2004 sidelining of the 'Karanga' faction of its leadership (Sithole 1979; Chinembiri 2005). If immediate solutions are available out of that minefield – beyond the long-term nation-building slog, emerging from the birth of a 'truly' national bourgeoisie in the primitive accumulation process – they are yet to be discovered.

The many instances of the intricately structured and historically accumulated 'events' simultaneously constraining Mugabe, his allies, and his enemies – yet forcing them to act – have to be understood, as well as the mercurial qualities of leadership. The determined, the chanced and the *won* must be tied together across state, society and global political economy so that neither overwhelms the others. The cliché that politics is the art of the possible must be undone: structures and processes determine the possibilities while art consists of knowing those elements and being able to build them into power. Mugabe is a master of the art of structured contingency (Karl in Robinson 1994: 45). He bends the deep structures behind the political ones to his will. He may misunderstand the long-term consequences of so doing, or not care. Thus he has created what amounts to a conspiracy to destroy Zimbabwe, but these are also the forces conniving to keep him in power. The tragedy is that those marshalled against him know how these forces keep his hold on power and strangle all Zimbabwe with it, but they cannot change them. Thus – unless he ushers himself out of power on his own terms – he will probably remain where he is, attended by panoplies and panegyrics to his power around his throne, until he dies, despite his announcement that he will retire at the end of his presidential term in 2008.

Recounting history

The factors militating against the removal of Mugabe range from the local to the global spatially, and, temporally, from the present to deep historical recesses. Thematically, they span the brutal politics involved in creating

and maintaining networks of economic accumulation’s cold calculus to the misty sub-terrain of ‘culture’, memory and mystical religious tropes. All add up to a situation where the past and the present’s skeletons and lies are simply too many to allow the thought of a truth and reconciliation (or justice) commission, now *de rigueur* in the politics of transitional justice. Even promise of remission would not be enough for a man hoist by so many petards. Guarantees of reprieve would not do, because the common knowledge of his sins would mean his escape would be tantamount to a guilty plea. For one who ‘would not hesitate to wreck the organisation [Zanu-PF – or the whole country], if his self-pride is hurt or if he is hurt personally’ (Horne 2001: 261), the only safe haven is on top. This – and the *après moi, la deluge* thinking, of equal import given economic catastrophe and Zanu-PF’s implosion – explains his disinclination to go. The why and how of his perpetual power are other questions.

A brief history of the tracks to Mugabe’s ‘personal rule’ is necessary before listing the current restraints on the exit option, because some of the reasons behind Mugabe’s intransigence are based on the difficulty of reconciling historical myth with ‘facts’ (Martin & Johnson 1981; Astrow 1983; Moore 1991). The most important of these occur from the mid-1970s, when Mugabe climbed his way to Zanu’s leadership while the party was in the midst of the guerilla war, eventually taking it to state power. First, however, it is necessary to establish the structures of tension within the party system emerging before that.

The predecessors to Zanu-PF were born in the context of mine and railway strikes (‘father of Zimbabwean nationalism’ Joshua Nkomo worked as a railway union welfare secretary) in the late 1940s, the evolution of an African petit bourgeoisie, and nationalism in southern Africa. 1957 saw the Southern Rhodesian African National Congress (SRANC) established, anchored in an ideology best characterised as ‘Christian socialist’, joining Salisbury’s City Youth League with Bulawayo’s emerging professionals. However, given the reluctance of the latter – a handful of lawyers, doctors, journalists and teachers who played with ‘partnerships’ with white liberals in anti-Communist organisations such as the Capricorn Society, led by retired Special Air Service Colonel David Stirling – to lead, a trade union and small businessman-based leadership emerged, with Nkomo as the SRANC’s compromise leader (*Central African Examiner* 18.06.60; Holderness 1985: 99).

When the professionals finally joined the nationalist movement, it was stricken by government restrictions, the exigencies of politics increasingly focused on foreign lobbying, conflicts over compromises from London constitutional conferences, the extent to which the armed struggle should be enjoined, generational and ethnic factors, and even the Sino-Soviet divide. These contributed to a leadership crisis, leading by 1964 to the new Zimbabwean African National Union led by Ndabaningi Sithole, with Robert Mugabe appointed publicity, and later, national, secretary. Nkomo remained head of the Zimbabwean African People's Union (as the SRANC became known) until it was swallowed up by Zanu-PF, which had gone on to emerge victorious through a 'liberation war' and the 1980 elections in the new country of Zimbabwe. Aside from a paper-thin 'Patriotic Front', starting in late 1976 and ending at Mugabe's command before the 1980 elections, 'unity' was never consummated until 1987. The new victors' *gukurahundi* ('spring storms washing away the chaff') in the mid-1980s destroyed any possibility of the re-emergence of the Zimbabwe African People's Union (Zapu) by killing up to 35 000 Ndebele people and torturing many more, in the search for a few hundred 'dissidents' justifying the terror (Eppel 2004; Catholic Commission for Justice and Peace 1997). But Mugabe's personal emergence was in the mid-1970s.

Between 1964 and 1987, the tensions between the quest for unity and the efforts of leaders to aggrandise their own power – using political and ideological resources ranging from ethnic identification to regional and super-power rivalry – ran through the ostensibly unifying project of a 'national liberation' war and its post-1980 consolidation. In late 1974, a few years after the armed struggle began in earnest, and with Angola and Mozambique's independence threatening 'communism' all around them, South African President John Vorster and his Zambian counterpart Kenneth Kaunda decided that Ian Smith, leader of the Rhodesian state, and his competitors among the Zimbabwean nationalists should hammer out a moderate compromise in a 'détente' exercise to be led from Lusaka. This came after generational and ethnic conflicts in both Zapu and Zanu, including the Front for the Liberation of Zimbabwe (FROLIZI), formed in 1971 by 'Zezuru' members of both parties (many observers claimed this party finally 'won' in 2004!) (Tshabangu 1979; Sithole 1979; Chinembiri 2005). To further complicate matters, within Rhodesia a group of nationalists under Bishop Muzorewa emerged in 1971

to contest a British initiative testing opinion on a new Constitution: they too would either incorporate themselves into the exiled parties or contest power separately.

Détente led to the release of Zimbabwean nationalist leaders detained in Rhodesian prisons since 1965. There, Mugabe captured Zanu’s leadership in what surprised Samora Machel – freshly installed as president of Mozambique – called a ‘coup in prison’ (Nyagumbo 1980: 221). That ‘coup’ was never confirmed by a full party congress until 1984, long after Mugabe’s party had gained the Zimbabwean state. The route to that authentication is simultaneously the root of his need – and ability – to stay in power now. As Machel’s comment suggests, neither the frontline states (Zambia, Tanzania, Mozambique, and to a lesser extent Botswana) nor Zanu rank and file accepted Mugabe’s rise easily – although ‘deposed’ Ndabaningi Sithole’s bad choices did nothing to slow the usurper. The 1974–79 interregnum marking Mugabe’s rise up the Zanu hierarchy can be divided into five moments, all important markers of the difficulties in resigning now and facing up to their truths.

The first is the still-unsolved March 1975 assassination of Herbert Chitepo, the party’s national chairman who had shepherded the struggle from its Lusaka base since 1966. Mugabe remains under suspicion for orchestrating the murder (Sithole 1979; Martin & Johnson 1981, 1985; Moore 1990; White 2003).

Secondly, Mugabe eliminated a perceived challenge from a group of ideologically radical and unity oriented ‘young Turks’ who formed the Zimbabwe People’s Army, taking over the armed struggle while Zanu’s leaders were imprisoned in Lusaka on the charge of murdering Chitepo and Mugabe was under house arrest in Mozambique (Moore 1995). Known as the *vashandi* (Shona for ‘workers’), they established Marxist training schools and a new ‘line’ for unity. Mugabe appropriated their militant Marxist discourse, but altered their plans for military unity with Zapu to a looser diplomatic and political front: thus the ‘Patriotic Front’.

Thirdly, while sidelining the young radicals, he patched together an alliance of exiled and internal Zanu actors and the army leaders at the October–December 1976 Geneva Conference, instigated by American Secretary of State Henry Kissinger to continue the lapsed Lusaka effort. After the Geneva meetings this alliance dealt with the *vashandi* challenge in January 1977 by

sending its leaders to Mozambique's prison camps. By July a special conference announced Mugabe and his 'enlarged Central Committee's' ascendance. Mugabe's speech warned against

...destructive or retrogressive or counter-revolutionary forces... against progress and so against unity... amongst us who arduously strive in any direction that militates against the party or who... seek... to bring about change in the leadership or structure of the party by maliciously planting contradictions within our ranks... [T]heir actions are a negation of the struggle. *We must negate them in turn. This is... the negation of the negation...* [T]he Zanu axe must continue to fall upon the necks of rebels when we find it no longer possible to persuade them into the harmony that binds us all. (Mugabe 1977: 13, original emphasis).

Fourthly, within a year Mugabe and his cohorts sidelined a group of politicians deciding belatedly to champion the *vashandi* cause and deeper unity with Zapu. The 'Hamadziripi-Gumbo Group' was accused of attempting a 'coup', in much the same way as the *vashandi* have been accused of such. They were also sent to Mozambican prison camps, where they waited two years for their pre-independence release.

Fifthly, just as the Lancaster Agreement in London marked the arrival of majority rule and independence at the end of 1979, the guerilla general joining Mugabe to rid the party of the young 'rebels', but later advocating unity with Zapu, died in a car accident en route to informing the guerilla soldiers of their victory. Josiah Tongogara, along with Chitepo, is on the mystery list rebounding into Mugabe's court.³

As noted above, 'unity' with Zapu happened only after the North Korean trained 'Five Brigades's' *gukurahundi* tore the heart out of the party. But before that, political action undermined Zanu-PF's desire for unity, harmony and unchallenged hegemony. University students transformed a demonstration mourning Samora Machel's death in October 1986 (possibly engineered by South African interference with the landing signals sent to his aircraft) into one against corruption. Three years later, a state newspaper exposed Cabinet ministers selling cars received at below market rates. After being expelled for his heated condemnations of similar behaviour, Mugabe's once-trusted lieutenant started his own party (Saunders 2000: 41). Edgar Tekere's Zimbabwe Unity

Movement – possibly encouraged by Western democracy promoters – opened Zimbabwe to the idea that opposition parties could be based on other than 'tribal' motivations. Its credible urban showing in the 1990 election – marred by Zanu-PF violence as all such contests have been (Kriger 2005) – also showed that Mugabe's politics held more rural than urban appeal.

With 'structural adjustment' policies hitting workers at the same time as the Zimbabwe Congress of Trade Unions (ZCTU) was weaning itself from Zanu-PF's control (Gibbon 1995; Saunders 2001) the stage was set for widespread opposition to the ruling party. Strikes and stayaways merged with war veterans' dissatisfaction with a disability payment plan exposed as a window for more corruption (as in the instance of a Cabinet minister who made a claim for thousands of dollars due to 'mental instability' caused by the trauma of the liberation war). However, Mugabe stymied a potential worker-veteran alliance with his September 1997 accession to the war veterans' demands for a Z\$50 000 once-off pension payment, Z\$2 000 per month thereafter, free schooling and healthcare, and 20 per cent of the land reform finally promised – and his decision to impose a surtax to pay for the \$Z4.5 billion bill.

Mugabe had found a new ally to replace those he had lost in the mid-1990s. By November 1997, 1 503 farms were listed for expropriation, and the Zimbabwean dollar lost 75 per cent of its value. The surtax replaced a potential working-class/veteran alliance with a state/veterans duo, into which the Central Intelligence Organisation was inserted. The ZCTU mobilised to resist the tax. ZCTU leader, Morgan Tsvangirai, was beaten to near death during the food and tax riots in early 1998.

With the ZCTU and urban dwellers marching, and industrialists co-operating with them, Mugabe could conjure a collusion of workers, whites, and the emerging phalanx of civil rights non-governmental organisations (NGOs) and activists against peasants and war veterans. Yet as if planning a quiet retirement for their leader, Zanu-PF held meetings in late 1998, at which leadership renewal and a new Constitution to pave a gradual path for succession were discussed and the construction of a huge retirement palace authorised.

Zanu-PF almost simultaneously entered the 'second rebellion' in the DRC to bolster its sovereignty against Rwandan and Ugandan infringement. This became a means of quick accumulation for Zimbabwean army leaders

and their relatives, while absorbing about one-half of Zimbabwe's export proceeds and earning the wrath of the Anglo-Saxon side of the West (*Sunday Independent* 08.12.2002; Nest 2001). Approximately 13 000 Zimbabwean soldiers were transported to the DRC, costing over a million US dollars per day. The International Monetary Fund (IMF) withdrew its services to the Ministry of Finance, claiming the misappropriation of its funds for military endeavours. Economic free-fall accelerated.

At the same time, radical and human rights-oriented lawyers and activists formed the National Constitutional Assembly (NCA), an umbrella organisation uniting scores of socio-economic justice and human rights NGOs mushrooming throughout the 1990s' merging of political and economic liberalism. Many of this new breed of activists had cut their political teeth in university student politics, which pressured the state to pass restrictive university legislation as early as 1991. Their ideologies had shifted from a Stalinist Marxism easily assimilated to Zanu-PF to a more critical Trotskyist brew, along with a vibrant liberalism emanating from other corners of the law faculty. The NCA took on ZCTU leader Morgan Tsvangirai as its leader, cornered Zanu-PF into a public constitution-drafting process (in which the NCA refused to participate because the commission was dominated by Zanu-PF acolytes), took a leading role in the creation of the MDC in 1999, and led Zimbabweans to a February 2000 referendum rejection of Zanu-PF's executive-friendly draft Constitution. This signalled the beginning of Zanu-PF's end. For Mugabe, it was clear he was the only human being capable of saving the ship.

With a parliamentary election due in early 2000, Mugabe chose to unleash the allied 'war vets' on over 1 500 white-owned commercial farms. Thus, by 2004 the 'fast-track' land-reform process settled 127 192 households on 'A1' plots with use rights and common grazing land, 7 260 'capitalists' with leasehold and a 'proposed option to buy', and a few hundred members of the party elite gaining the news coverage. Productive and white commercial farmers decreased from 4 500 in 2000 to under 500 in 2004 (Sachikonye 2004: 13–14). Wheat production fell to 170 000 tons from the former 300 000 average, the commercial beef herd went down from 1.2 million to approximately 150 000, inflation increased to 600 per cent, and unemployment increased to well over 80 per cent (Hill 2005: 80). As Rob Davies puts it, Zimbabwean income per head fell to 53 per cent of the 1996 level: if rates of growth had remained at the 1996 rate, this figure would have been 97 per cent higher (2004: 20).

Economic conditions improved slightly in the period approaching the March 2005 parliamentary elections, as new Reserve Bank Governor Gideon Gono wooed the IMF and the electorate. Pressure from the Southern African Development Community (evidence that some African heads of state were uncomfortable with Mugabe) meant that the electoral contest took place with marginally freer and fairer conditions than those of the 2000 (parliamentary) and 2002 (presidential) elections, although the poll-counting was fraudulent, meetings of more than five people had to be granted police permission, there were no opposition daily newspapers or broadcast media and journalists needed licensing, and human rights and 'governance' NGOs receiving foreign funding faced banning. However, April to June 2005 witnessed a drastic slide: basic foods and petrol (the latter costing Z\$3 500 per litre officially, but Z\$30 000 on the parallel market) were scarcer than ever, and the underground exchange rate for the American dollar rose from Z\$13 000 to Z\$28 000 per \$US1 from March to May. By late August of the same year, as the Zimbabwean government scurried to win a billion US dollar loan from South Africa to avoid total abandonment by the IMF, the official rate for the US dollar had escalated to Z\$24 025.31 to US\$1, while the underground exchangers traded at 45 000 to 1. If motorists went to petrol stations owned by Zanu-PF members they could pay in American dollars directly. If the value of a régime is measured in its relation to the American dollar, one could remember that in 1980 when Mugabe came on the scene, surprising everybody with his magnanimous reconciliatory gestures, the Zimbabwean dollar was worth twice its American counterpart. Most Zimbabweans probably accepted that scale for weighing the merits of Zimbabwe now and then: in 2005 life was 90 000 times worse than in 1980.

Within weeks of Zanu-PF's 'victory' the negative consequences of Mugabe's continued reign were increasingly clear. Furthermore, Zanu-PF was entering a phase of ethnic consolidation, threatening repetition of its historical purges (Chinembiri 2005). On all of this sat a 2000 to mid-2004 toll of 128 murders, 37 attempted murders, 3 849 incidents of torture, 619 abductions and kidnappings, 2 042 arrests and detentions, 712 assaults, 259 displacements, 26 rapes, 33 disappearances, and 190 death threats all committed in the cause of Zanu-PF's continuing leadership (Feltoe 2004; Reeler, 2004). Add to this the arrests of 22–30 000 urban *siya so* ('leave it as it is' or informal sector) and the destruction of their homes and businesses in Operation *Murambatsvina*

(‘drive out the rubbish’) after the 2005 elections demonstrated little urban support for Zanu-PF. Between 200 000 and 300 000 were homeless in the middle of winter (*Business Day* 07.06.05; *Sunday Times* 05.06.05).

Constraining powers

How can one stay in power during such a political mess? At one level, analysts might expect a leader to take an easy exit at such a time: if, as some observers say, South Africa had offered Mugabe a haven, or there was a one-way ticket to Malaysia (a Mugabe-friendly regime) available in 2000, why would he not accept it? There is certainly a tendency for leaders of Mugabe’s ilk to think ‘after me, the floods’, even as storms and floods worsen under their tutelage. When he himself had so much to lose – with a truth and justice commission looming – his perception that he must maintain the course for party and country’s anti-colonial history was unshakeable.

However, psychological conjecture can only take one so far. A list of the factors militating against the foreclosure of this phase of Zimbabwe’s history must be compiled. More than on Mugabe himself, it must focus on the elements in the domestic and global political environment, overlapping as they must, which have constrained the power of those who want Mugabe to go. These constitute the terrain of the conjuncture: the complex concatenation of events and processes adding up to a ‘structure’ on which political actors operate to gain and maintain power. By 2005, the events and processes of the ever-deepening Zimbabwean crisis conspired to convince enough global, regional and domestic power brokers that Mugabe must stay – or that removing him would create more problems than ever. The actions of these people on the accumulation of the past’s pile of dry bones and untold truths have further complicated this complex crisis.

Inside Zimbabwe, there are at least eight reasons why Mugabe is still in power, each requiring extensive treatment. They are listed here, with indicative elaborations and citations, in order to suggest the incredible hold this man and his small cabal have over that country.

There is no other leader for Zanu-PF

Mugabe has created a situation within Zanu-PF in which he is practically irreplaceable. This is partly due to his desire and ability to manipulate

uncertainty, from which he gains the power to assign posts to the Politburo, the Cabinet, and the 30 MPs he appoints after elections to that assembly. These seats make it virtually impossible for an opposition party to gain the two-thirds required for constitutional change. The staggered presidential and parliamentary elections contribute to legislative deadlock: the president has to sign all parliamentary Bills before they are enacted. He also made alliances with forces outside of government, for example, the war veterans. In Mobutu-like fashion, he has granted extensive corruption opportunities to key figures at certain moments, only to flag their crimes when they need to be sidelined – sometimes into prison. Also like Mobutu, Mugabe brought people close to his power centre, but expelled them as they posed a threat (for example, the Tongogara mystery, Edgar Tekere’s expulsion and, more recently, the jettisoning of one-time *eminence grise* and Minister of State for Information and Publicity in the Office of the President and Cabinet, Professor Jonathon Moyo, along with long-time security aficionado Emmerson Mnangagwa, when they got too close to the vice-presidency). As the leadership issue remained indeterminate, all the above factors contributed to internecine ethnic contests. Successors rarely emerge from such conflagrations except through force. With unclear norms for succession, even the leader’s death does not solve the problem.

The adept manipulation of coercion, ideology and allies

Although neither a ‘military’ man nor a facile ideologist, Mugabe has forged alliances with those with the ‘power of the gun’ by replicating their ideology (for example, the *vashandi*) and meeting their political desires. He dispenses with such allies when they are no longer useful, or threaten his power. The Tongogara case exemplifies this, as do the ‘war vets’. By 2004 their leadership had been replaced, those who attempted nominations at the Zanu-PF primaries were summarily replaced by the party centre’s (usually female) choices, and by 2005, new settlers were subjected to a rural Operation *Murambatsvina*, purportedly implementing Hernando de Soto’s universal dream of private property rights (*Financial Gazette* 09.06.05; Moore 2004a).

Military leaders maintain allegiance to the notion that those who participated in the liberation war are the only people entitled to rule. Now with access to the material benefits of the war in the DRC and its aftermath (apparently the

21-year-old son of the army commander owns a transport jet that takes food and clothes to the DRC, returning with diamonds) and the artificial foreign exchange rate, their links with the current leadership are even tighter: they too would face criminal charges at an accountability session. Tight links are maintained between Mugabe and the 'retired' General Solomon Mujuru, known as Rex Nhongo during the liberation war. As official Zimbabwe People's Army head, he played a crucial role in consolidating Mugabe's alliances. He was reportedly the first guerilla commander to understand that 'the gun is money': while hunting for elephants in Mozambique to feed the starving guerillas after the *vashandi* interlude, he also shot rhinoceros and sold their horns in the Middle East. In December 2004 Mujuru's wife was made the second vice-president of the ruling party.

Zanu-PF's chameleon ideological qualities may flow from its early reliance on Chinese, American and British – and Tanzanian – support to counter the Soviet-backed Zapu (the latter's accumulative tendencies little stilled by flirtation with scientific socialism). Its role as a counterpoint to the African National Congress (ANC) – it was allied with the Pan African Congress and feared a Zapu-ANC alliance – and reluctance to allow the USSR an embassy may have allowed the West to overlook the *gukurahundi* and Zanu-PF's 'Mao-Tse-Tung-Marxist-Leninist-(Christian Socialist)-thought'. Mugabe's propensities for perfecting propaganda made him once appear an enthusiastic structural adjuster, just as, more recently, his anti-imperialist, pro-sovereignty and 'look east' discourse appeals to African, other 'Third World' and Chinese politicians when the United States' war in Iraq and Chinese economic power incline much of the world towards such linguistic facility. He also appeals to some African-American ideologues (*Democracy Now* 2005; Horne 2001: 285).

Election time violence and trickery

Since 1980 Zanu-PF has adeptly employed all the tricks of election management (Kriger 2005). Its tactics range from gerrymandering urban seats to rural, combining pure violence (the threat of the 50 000 strong 'Green Bomber' youth militia, by 2005 incorporated into the police, is significant) and subtle intimidation, including the control of food aid, to convincing people that the new computers brought into rural schools at election time monitor votes. The ruling party has developed an array of strategies confounding NGO civic

educators and regional and international efforts to create states imbued with 'good governance' and all the other accoutrements of liberal modernisation – including threatening to ban 'imperialist' NGOs and allowing only civil servants to carry out electoral education. At the end of the 2005 vote – structured by a years' old voters' roll – the count was well calculated to guarantee victory⁴ (*The Zimbabwean* 15.04.05; *Agence France Presse* 13.04.05). The strategies are usually discovered by opposition parties and others, but by the time the information is released, or presented as evidence at lengthy trials presided over by a Zanu-PF-appointed judiciary awarded with large farms, it is too late. The relevant international adjudicators, sympathetic observers all, have already judged the elections as 'free and fair' or 'legitimately reflecting the will of the people' and have turned to efforts to hammer out an 'élite pacting' process.

The opposition cannot win

By 2005, the MDC leadership was virtually paralysed by Zanu-PF's election strategies and may have been unable to manage the links between Zimbabwean civil society and international support that buoyed up the party during its first few years. Indeed, the party was hardly able to decide to participate in the farcical 2005 elections – in August 2004 it 'suspended' participation, but re-entered the campaign in February 2005. By 2004, the international players alleged to have backed the MDC since 1999 thought its leader a 'buffoon'.⁵ Few remaining white commercial farmers still embraced the MDC as an icon of non-racialism (and a way to keep their land), and its radical base in the unions and among students and the urban unemployed became increasingly frustrated too. To be sure, there is every reason to believe that if the three elections from 2000 to 2005 had been 'free and fair', the MDC would have been in office. Without that avenue, and while the 'international community' refused intervention, the question (or the issue) for the MDC became how to manage the relationship between extra-parliamentary opposition and the trappings of liberal democracy.

Commenting on urban demonstrations about the lack of water in Harare's townships and manifestations of discontent in the soccer stands in May 2005, the weekly *Zimbabwe Independent* (13.05.06) advised the party to learn South African history lessons. The editorial claimed that in the 1980s:

South African demonstrators linked arms and marched against the apartheid regime in a well-organised and disciplined way led by bishops and other notables. Can Zimbabweans achieve that level of commitment and discipline in expressing their displeasure with Mugabe if there is no strong leadership?

As with young men of the opposition who were by then advocating going to the bush to fight the current régime, the *Independent* forgot the changes between then and now – and omitted to mention the fact that the ‘well-disciplined’ marchers and bishops were supplemented by tyre-burners and even more disciplined cadres dedicated to making the apartheid cities ‘ungovernable’. On the international front, by the late 1980s and the demise of the ‘communist threat’, the West had found apartheid dispensable. South Africa promised to bring a dose of democracy to Africa. Zimbabwe’s opposition carries fewer hopes for the imperial arbiters of democracy: Zimbabwe does not promise to inspire the rest of Africa and it has no oil.

By 2004, most of Zimbabwe’s cities were ‘ungoverned’, albeit in a sense other than the earlier situation in South Africa under the ‘young lions’. The West has had little success exporting ‘democracy’ to Africa (witness Zambia and Kenya) so is unlikely to risk more in Zimbabwe than encouraging an opposition to learn the ropes (Southall 2003). The logic of liberal democracy is to mediate subaltern civil society and political parties with the parliamentary form: thus the democracy think-tanks discourage ‘mass action’, moderate though the *Independent* thinks it could be – as do the members of opposition parties with a stake in Parliament and, possibly, business. Neo-liberal economic policies would not be easily implemented in a working-class-based party swept to power on the strong backs of the masses. Thus the MDC is not worth the full support of ‘the imperialists’.

Yet with its radical advice, the *Independent* also cited mistakes made during previous protests. The newspaper blamed criminals for the 1998 food and surtax riots, during which seven people were killed. And the mid-2003 ‘final push’, when the MDC and civil society were supposed to march to State House and bring it down, fizzled.

The days after the March 2005 illustrated the strategic and tactical rethinking needed in the opposition. In a twist on radical international solidarity, some NGO activists hoped that the strong mass action they predicted would

encourage the United States to take sterner measures against Zanu-PF. However, it soon became clear that if mass action did ensue – and the ‘if’ is crucial given the severe hunger of the population – it would demand tight organisation. In early April, an e-mail letter from an MDC supporter in Chitungwiza, a ‘city’ of over a million people south of Harare, indicated the potential problems of mass action:

MDC members in the streets yesterday singing and chanting slogans suddenly started beating people and much worse stealing from people found on ATMs. I really was disappointed to be assaulted by my party people. They just said, ‘Let’s go big man’... They started kicking and clapping me so much that I am finding some difficulties in chewing food. Some are saying they are Zanu-PF youth purporting to be MDC. But...they were also beating up members of the police force, soldiers, prison service, and anyone putting on Zanu-PF T-shirts. There is going to be a lot of violence. I don’t know what will happen.

No matter: Zanu-PF’s Operation *Murambatsvina* demonstrated the ruling party’s ability to pre-empt any concerted street action. The hundreds of thousands whose homes had been bulldozed were corralled in camps such as the ‘Caledonia’, while the régime tried to convince the rest of the world it would build new houses for them all and get rid of illegal money-changers with one sweep of the broom (Tibaijuka 2005).

The ‘personal rule’ perspective might portray Robert Mugabe believing himself a Christ-like figure driving out the money-changers. Materialists would argue his party was creating new wealth for the military and sending propitious signals to the global money managers. They see the armed forces’ top ranks getting the new property titles and running the rebuilt ‘formal’ market stalls; and the IMF meeting the Zimbabwean Reserve Bank while Mugabe’s minions were ‘cleaning up the trash’ would be convinced that the monetary system would be cleansed, too. A more multi-dimensional perspective might see a party and its leader lashing out in a paroxysm when there is everybody to punish, because there is so little to accumulate when everybody is so poor. Added to that is the fear that an organised opposition will take even that away.

Given Operation *Murambatsvina*'s convulsions, it is hard to blame the opposition for the lack of a revolutionary response. Perhaps better communication within the broad alliance made up of the MDC, NCA and the ZCTU was needed. As one Zimbabwean observed, there are few of ZCTU's 'real' workers left and those remaining in the unions were ill-equipped to organise the *siya so*: worse, more than a few Zimbabweans believed Zanu-PF's claims that the money-changers supposedly being routed were the root of the inflationary crisis.

In any event, criticism of the broad alliance's response ignores the mugged Chitungwiza's perspective: violence is hard to channel. When it does emerge, police and army forces, convinced their targets are imperialist agents, repel it. The muted response to *Murambatsvina* is understandable. However, when combined with the MDC's lacklustre parliamentary performance, one realises there is little challenge to Zanu-PF on any score. Samuel Huntington's 'order' has thus replaced the idea of 'democracy' in Zimbabwe (Huntington 1968; O'Brien 1972).

The cultivation – or betrayal – of the intellectuals

Despite his string of degrees, many consider Mugabe an intellectual manqué. However, he has a devoted corps of hegemonic organisers – Zanu-PF's 'organic intellectuals' – trained very well. The exceptions are the brave journalists on the banned *Daily News*, religious figures such as Bulawayo's Bishop Pius Ncube (although some of his peers have blessed the régime and received a farm), and those balancing academic and legal work with action in organisations such as the NCA, the Crisis in Zimbabwe Coalition and the hundreds of organisations under these umbrella groups. The remainder of Zimbabwe's intellectuals are putty in Mugabe's hands. In the process of manufacturing hegemony for themselves and for an 'overdeveloped state' serving their interests, they risk becoming a parasitical state class (Gramsci 1971; Saul 1979).

In Zimbabwe, their history is intimately tied up with the struggle for liberation and its consequent career. Perhaps Mugabe's intellectual aspirations encourage emulation among the less powerful acolytes, forced to write instead of wielding real power.

Besides the musicians employed through the state broadcaster's Zimbabweanisation policies, a list of some 'traditional *and* political' intellectuals supporting Mugabe includes the following prominent figures.

Mugabe has convinced Dr Ibbo Mandaza, inventor of the 'schizophrenic state' thesis and a Zanu-PF 'maverick' publishing and editing the South African Political Economy Series Trust and the *Mirror* newspaper group (seven days weekly), that in spite of its flaws Zanu-PF is the only party keeping Zimbabwe on a 'leftist' path (Mandaza 1986).⁶

Professor Sam Moyo, formerly of the South African Political Economy Series Trust, now managing the African Institute for Agrarian Studies and consulting on land reform, publicly supports the régime. He stated the 'Green Bomber' militia were 'above party politics...there is nothing sinister about it' (Solidarity Peace Trust 2003: 17). He believes the 'fast-track' land reform will create a small agrarian capitalist class, warranting what he contends are Zanu-PF's relatively mild human rights infringements.⁷

Fay Chung once directed education in the liberation camps. Later Minister of Education, she was demoted to the Co-operatives Ministry after criticising structural adjustment policies. She claims that 'the problems Zimbabwe faces today would be there with or without Mugabe', and traces them to structural adjustment policies encouraging Zanu-PF leaders to accumulate wealth. The MDC believes in 'the same bankruptcy'. She believes that Mugabe and Zanu-PF must allow new people with new ideas to enter the scene, but they will come from Zanu-PF and be developed in a 'fraternal rather than fratricidal' way, inevitably fostering 'political diversity' (Chung 2004: 247).

Trevor Ncube was the most surprising intellectual to support Mugabe in his hour of (pre-election) need. As a Zapu university student leader in the early 1980s, he had encountered Mugabe's repression first-hand. Ncube's editorship of the *Financial Gazette* newspaper in the late 1980s was, in his own words, the 'only opposition'.⁸ Yet by 2005, publishing South Africa's *Mail & Guardian* as well as Zimbabwean weeklies the *Independent* and the *Standard*, Ncube appeared to be the only person in those circles supporting Zanu-PF – albeit grudgingly. In an article in the *Mail & Guardian* (19–24.03.05) entitled 'Only Mugabe can save Zim', he wrote:

Never since independence has Zimbabwe desperately needed President Robert Mugabe as much as it does now. The country, the ruling party and the opposition are all in chaos and only he can get the nation out of this hole. Zimbabwe faces an acute leadership crisis that only Mugabe has the capacity to resolve, if he so decides.

The article claimed that tribalism had divided Zanu-PF, in the wake of what are arguably Mugabe's own debilitating choices. However, Ncube does not place blame on him, saying only that 'correcting this [intra-Shona] ethnic imbalance will require the skills that Mugabe evidenced after the 1987 Unity Accord'. Contemplating Zimbabwe's fate if the MDC won the elections, Ncube was scathing: 'the hugely divided and inexperienced new party...is not yet prepared' to repair the 'mess of more than two decades of misrule'. Worse, trade unions 'claim the party...and are marginalising other factions such as allied civil society, the student movement and intellectuals'. Conflicts between Ndebele and Shona also threatened the MDC's unity. In the face of all this, 'Mugabe could bequeath to Zimbabweans a stable, patriotic and purpose-driven ruling party'.

Zimbabwean pundits suggested that Ncube might be aiming for the post of Minister of Information. Some recalled Ncube's dislike of trade unions and the MDC, while others noted his attempts to construct a 'third force' of intellectuals (Zimbabwean political talk meaning a new party). All of these guesses illustrate many Zimbabwean intellectuals' political motivations, and how they buttress Mugabe's position.

Mugabe enjoys the support of some full-time academics, including Professor Ngwabi Bhebe, the vice-chancellor of Gweru's new Midlands State University (a position with ministerial status). There are three aspects of Bhebe's (2004) biography of the late Vice-President, Simon Muzenda, that work to preserve Mugabe's and Zanu-PF's power while simultaneously preparing a place for a faction of the party wishing to work beneath Mugabe's throne until he dies on it. The book depicts Muzenda as a man of 'immense humanity' – this despite the fact that his lieutenants nearly killed the candidate challenging him in Gweru in 1990, and in 2000 he told his constituents that they should vote for a baboon if Zanu-PF ran one. The second may be the creation of a place in Zanu-PF's pantheon for Emmerson Mnangagwa, who at the time of the book's writing appeared to be slated for the presidency. The third is to resurrect the reputations of some members of the 1978 'Karanga' or 'Hamadziripi-Gumbo coup' referred to above, while also ruining those of history's counter-hegemonic forces.⁹ This sort of history reinforces the patterns of power that have led Zimbabwe to its present cul-de-sac, thus preserving the president's position. Indeed, it almost guarantees its perpetual repetition.

Disguising political aims with the pretence of scholarly disinterest, such 'intellectual' work may do more for Mugabe's 'patriotic hegemony' than his strident screeching against imperialism – especially when lauded by international scholars (Ranger 2004, 2005). It also points to the tendency of praise-singing to lie when retelling Zimbabwe's history.

The chiefs

The chiefs in the communal areas have extensive political and economic control through their ability to 'monitor' voting and to allocate land. In Zimbabwe they seem to be under Zanu-PF control. Promises of four-wheel-drive vehicles, secretaries – actually CIO officers monitoring them – computers and salary increases replicate many of their past allegiances to the settler-colonial régime. Their appointment to parliamentary positions in Mugabe's block of 30, and indeed their own administrative posts, mean they are part of the extensive 'patron–client' relationships which keep Mugabe in power. The MDC's alleged advocacy of private tenure relations (although the party's promise of a land commission might water down that belief) would threaten their hold on land and labour.

Peasants and potatoes

Rural peasants are also prone to support Mugabe (although increased coercion in the country indicates that this is not guaranteed). Some are 'new farmers', grateful for their plots, albeit so inadequately serviced that they need a plot in the communal areas as well. Their residence in the communal areas means that they are subject to chiefly control, and Zanu-PF's 'carrots and sticks' are more meaningful in the rural areas where there are higher levels of HIV/AIDS, illiteracy, and even starvation. Many urban dwellers, reminiscent of Marx's comments about peasants having no more commonality than potatoes in a sack, think their 'rural brothers' let them down by not voting MDC: they forget about the 'Green Bomber' terror, the food for votes, and the control of chiefs. Perhaps Operation *Murambatsvina's* ruralisation will backfire, stopping Mugabe's rural-urban divide and rule. As Chabal and Daloz (1999) remind us, however, induced poverty among the peasantry *and* the urban lumpenproletariat often maintains the elite's power (1999).

The international comrades

There are as many international as domestic components contributing to the mystery of Mugabe's holding on to power, but we will discuss a minimum of these factors here. Mugabe's manipulation of the South African president and other African statesmen cannot be ignored. According to William Gumede, the Nigerian rejection of Thabo Mbeki's 1995 entreaty not to execute Ken Saro-Wiwa has remained with him until today. Thus Mugabe can lie to him about his plans to set up a government of national unity or to retire, in the knowledge that Mbeki will, although angered, do nothing. In addition, the ANC's desire to avoid the example of a working-class-based power on South Africa's border, combined with fears of looking like a Western-oriented regional sub-imperialist and being sympathetic to white farmers at home as well as abroad, works in Zanu-PF's favour. The MDC's visits to South Africa's imperious opposition party, the Democratic Alliance, did not help the situation either, although Gumede claims that the ANC was approached first (Gumede 2005: 178–9, 184). Furthermore, Mbeki and his policy-makers would like to see Zanu-PF change from within, although according to some Zimbabweans South Africa's policy of non-intervention does not extend to a prohibition on exacerbating what it sees as tensions within the MDC's leadership.

Overarching all of these concerns – even McKinley's (2004) guess that South Africa's stance on Zimbabwe is overdetermined by its corporations' interests in either not upsetting its investments, ensuring new ones are available at rock-bottom prices, or more generally bolstering its economic domination of the continent – is the sanctity of African leaders' fragile fig-leaf of sovereignty, allowing them freedom to abuse as many human rights as they wish, unmolested by nosy neighbours or do-gooding humanitarians. It is bolstered by the ideology that only a concerted battle for 'liberation' got them to this stage. This belief system contends that its 'anti-imperialist' aspirations remain true. Thus African leaders continue 'observing with a blindfold', as Susan Booysen noted of South Africa's supine election observers (*The Star* 11.04.05). The only signs against this tendency have been the fact that many African members of the Commonwealth voted not to reinstate Zimbabwe at the December 2003 meeting in Abuja, that the African Union nearly adopted a statement condemning human rights abuses in July 2004, and that in Mauritius in August 2004 progress was made towards SADC's imposition of conditions for free and

fair elections in its countries. Balanced against this, however, is Mbeki's desire to appease African politicians in his quest for a seat on the United Nations Security Council, or for more power in the African Union. All of these *raisons d'état* add up to a defence of non-intervention. Perhaps in the long run, too, it is best for Zimbabweans to settle their own fate, although allowing parastatal corporations to constantly defer payment on their electricity bills (as does South Africa's Eskom) and to support election cheating and violence may not be the best way to encourage vigorous self-reliance.

As for South Africa and the continent, so with the rest of the Third World. Mugabe's 'looking east' discourse is nothing new. Zanu-PF's days in the liberation struggle were heavily imbued with Chinese ideology and military training. Now, its ventures with Malaysian capital gains positive exposure in the Asian media. Perhaps, too, Zanu-PF's authoritarianism fits in with China's new mode of capitalist expansion.

With the United States' preferred methods of democratisation in Iraq on display, perhaps it is not surprising that paranoid politicians in southern Africa fear similar displays of imperial overstretch. China's imperialism through *zhing-zhong* (Zimbabwean for 'shoddy goods from Beijing') and fighter jets undoubtedly appears preferable to a ruling class with a tentative grip on power.

As far as other Western powers are concerned, the situation in Zimbabwe has not evoked much more than hand-wringing (Britain's historical ties may be exceptional, as might be Blair's ineptitude). In the cynical calculus of international diplomacy and humanitarianism, the few hundred corpses produced by Zanu-PF running amok come nowhere near the hundreds of thousands in Rwanda and Darfur, or the millions dead in the war in the DRC – about whom the 'Western citadels of freedom and liberty' have done so little. It is perhaps deemed best in the West to let the Zimbabweans learn democracy the hard way.

Conclusion

Truth and reconciliation and/or justice commission or not; special retirement office or not; subtle and quiet South African pressure for a government of national unity or not: as of October 2005, it does not look as if Mugabe will go.

This chapter has sought to show why. Heavy coercion, mixed with support from *just enough* of the critical class forces in Zimbabwe today, in combination with international allies and a global move away from ‘democracy at any cost’ – all Mugabe needs to do is to impose private property rights on his new farms and he will have the IMF eating out of his hands again – allow the president the luxury of escaping from the many compromises of his past and present. Cocooned in an ideology that propelled him to power, he does not even have to justify his prolonged stay. If there is a rational kernel to his party continuing to support him, it lies in the strings of patronage and fears of implosion without the great helmsman. Rationality aside, Mugabe’s jump from the material to the mystical in his post-2005 election interview with South Africa’s fawning state broadcaster indicated a self-enclosed world: ‘Yes,’ Mugabe replied to a leading question about the role of service improvements in his ‘victory’, ‘our services have been improving, but our people voted for principle. We liberated our people. They won’t forget that’ (*South African Broadcasting Corporation News* 03.04.05). It is on such pedestals that power rests. What does it take to knock them down?

Notes

- 1 This was Mugabe’s reply to a query about retirement at the press conference on 31 March 2005 after the parliamentary victory (*The Guardian* 04.04.05). Three weeks later he announced, in Indonesia, a 2008 retirement at the end of his presidential term.
- 2 ‘Congresswoman Cynthia McKinney to President Bush on DR Congo’; available at <http://www.group.yahoo.com/group/africadaily3/message/10296>. 28 March 2001.
- 3 Interviews suggest that during party discussions on the unity issue on the night before this ‘accident’, Tongogara advocated unity with Zapu. When Mugabe asked: ‘Who would then be leader?’ Tongogara said ‘the senior’ – meaning Nkomo.
- 4 Sokwanele (2005) What Happened on Thursday Night: An Account of How Zanu-PF Rigged the Parliamentary Elections, *Special Report*, April 5; available at www.sokwanele.com; Bond P & Moore D (2005) Zimbabwe: Elections, Despondency and Civil Society’s Responsibility, *Pambazuka News*, April 7, available at www.pambazuka.org/index.php?id=27627.
- 5 This was indicated in interviews with anonymous interviewees with close access to the British Commonwealth and Foreign Office and the US State Department, in London and Washington in September and October 2004.

- 6 Confirmed in an interview with I Mandaza, Harare, August 2004. In late 2005, Dr Mandaza's newspapers were taken over by the Central Intelligence Organisation. He challenged this takeover legally, but remained a Zanu-PF member.
- 7 Interview with Prof. Sam Moyo, Harare, July 2004.
- 8 Interview with Trevor Ncube, Johannesburg, July 2004.
- 9 The book claims Edgar Tekere demanded Hamadziripi and Gumbo's execution. In an interview in Harare in August 2004, Tekere denied this. Muzenda's henchmen tried to kill the Zimbabwe Unity Movement's co-leader.

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7 Toxic mushrooms? The presidential third-term debate in Malawi

Seán Morrow

... the question still
Lingers: won't toxic mushrooms burgeon
Under those rotten logs of nightmares
That now threatened *après moi, le deluge?*

Jack Mapanje 'The deluge of our Gweru prison dreams'
(in *Nazombe* 2003: 122)

Political systems presided over by executive presidents entitled to stand for multiple terms do not automatically indicate authoritarianism and a slide into dictatorship. Nevertheless, even the robust United States democracy, after Franklin Roosevelt's triple term, decided to confine presidents to a maximum of two four-year terms. Those framing the contemporary constitutions of often far-from-robust African democracies deal with societies with a colonial background and generally with post-independence histories of single-party rule under a sometimes revered, or more likely once-revered or feared, leader. In some cases, they are seeking to address the pathologies of former one-party systems that had imploded into dictatorships paying little or no attention even to the forms of democracy.

Given this history of personal, often brutal rule, it is not surprising that the wave of democratisation that has swept over much of the continent since the early 1990s has been characterised by attempts to limit the powers of political leaders, or at least to limit the time during which these powers may be exercised. Democratisation, it has been felt, should involve more than periodic plebiscites to endorse leaders with grandiose notions of their own power and indispensability, nourished on sycophancy and the spoils of office.

Malawi is a textbook example of these processes.¹ As the fertile but desperately poor British protectorate of Nyasaland, as much the child of Scottish and

other missionaries as of the British state (Linden 1974; McCracken 2000; Ross 1996), the area survived through commercial crops, particularly tobacco and tea, subsistence and peasant agriculture, and through the export of labour to South Africa and Rhodesia. Some migrants, especially from the north where Scottish Presbyterian missionaries were well established, were relatively well educated; most, however, were manual labourers for the mines and farms of the south.

For 11 crucial years from 1953 to 1964, as part of Britain's price for facilitating white settler domination, Nyasaland – without the copper of Northern Rhodesia or the expanding industrial, agricultural and mining economy of Southern Rhodesia – was joined with its neighbours in the Central African Federation. Never a willing partner, Nyasaland found its champion in the remarkable Dr Hastings Banda, an already ageing Malawian medical doctor called back by young nationalists from long residence in the United States, Britain, and, more recently Ghana, to lead the Malawi Congress Party (MCP) in its fight against the Federation (Short 1974).

In terms of Malawi's political culture, as in other respects, Banda is the crucial figure of the second half of the 20th century. He established his authority over the nationalist movement, which, it has been argued, already held within it the seeds of authoritarianism (McCracken 1998), and quickly disposed of or subdued to his will his younger allies, in the immediate aftermath of Malawi's independence in 1964. He represented a paternalistic African nationalism whose social conservatism was expressed in a neo-traditional idiom, absolutely unyielding in its intolerance and brutal suppression of dissent. He observed the outward forms of parliamentary procedure but relied for his control on allegedly 'traditional' courts, on the MCP Young Pioneers, and on the police and armed forces.

Malawi thus moved from colonial authoritarianism mellowed by missionary influence to a turbulent amalgamation with the settler-dominated Rhodesias, to 30 years of stringent dictatorship under the 'Ngwazi' (Supreme Leader), Dr Hastings Kamuzu Banda, all in the context of one of the world's poorest countries. This was not a likely nursery for constitutional democracy.

The shift towards democratisation in Malawi cannot be separated from wider changes. The international context is the end of the cold war, and the change that this made possible amongst the now seemingly all-powerful Western

nations from anti-communism, of which the Banda regime had been a remote and eccentric adherent, to the promotion of multiparty democracy, human rights and good governance. Though Malawi had never been in step with other independent nations in the region, dramatic political shifts in countries like Tanzania, Zambia, Mozambique and especially South Africa created a new environment within which parallel changes in Malawi appeared logical. Precipitated by a pastoral letter by the Catholic bishops, a process of political change began in 1992 and led to the 1993 referendum and the free election of 1994. Accompanying this process was the abrogation of the 1966 Constitution that had provided the legal underpinning for the 'life presidency' of Hastings Banda and the formulation of the 1994 Constitution of the Republic of Malawi. The 1994 Constitution states unambiguously (Chapter VIII, 83, 2) that 'The President or Vice-President may serve a maximum of two consecutive terms' (see Banda 1998 on the constitutional debate).

Given the autocratic uses to which Hastings Banda had put the presidency, it is not surprising that the debate on constitutional change focused particularly on its powers. The new Constitution reflected the wish to control the president and stipulated that he or she could be impeached for violation of the Constitution, could not use the office for personal gain, and had to have appointments of senior civil servants and ambassadors reviewed by a Public Appointments Committee of Parliament (Banda 1998: 323–4).

The transition to democracy in 1994 was remarkably orderly, as was internationally noted and approved at the time. However, as Kings Phiri and Kenneth Ross have argued, the very smoothness of the transition 'served also to limit both the range and the depth of the movement for democracy. The fundamental socio-economic structures remained securely in place, the politics of patronage was scarcely disturbed and attempts to address the problem of poverty remained largely at the level of rhetoric...Malawians went to the polls in a political vacuum' (1998: 12). If anything this was even more pronounced in subsequent elections. In the context of an impoverished nation with much political discourse in English, spoken and read by a small minority, Edge Kanyongolo's question as to 'the extent to which the regulatory authority of the current Constitution will be determined by conditions peculiar to the Malawian political economy', rather than its liberal provisions per se, is cogent (Kanyongolo 1998: 353).

Character assassination and dizzying and repeated shifts in political alliances, based on the scramble for power and office, characterised the new dispensation – a ‘democracy of chameleons’ as Englund (2002) termed it, playing ironically with the poet Jack Mapanje’s ‘chameleons and gods’ of the Banda period (Mapanje 1981). With few or no policy differences, politicians tended, and tend, to mobilise support on the basis of the three regional blocs, and the main political parties quickly resolved themselves into this pattern, implicit in the Banda period. In these terms, the Northern Region, with Tumbuka and not Chewa as its *lingua franca* and the smallest population of the three, remained, as under Hastings Banda, the least favoured and most vulnerable region (Chirwa 1998).

Previously tightly controlled by Dr Banda and the MCP, Malawi was now immersed in an unprecedented open political contest. Most of the protagonists emerged from and were marked by the politics of the period of dictatorship. Many politicians in the hothouse of the Malawian political elite had at one time or another been part of Dr Banda’s Cabinet. Many had also been in his gaols. This was true of the presidential candidate of the United Democratic Front (UDF), Bakili Muluzi, who had once been secretary-general of the MCP but had fallen out of favour. Many other UDF leaders had also been important MCP politicians. Muluzi and the UDF, with its voter base in the Southern Region and parts of Central Region, won in 1994 and again in 1999 (Ott, Phiri & Patel 2000: 212–13).

The political pork-barrel and the third term

The environment in which the open and third-term issues were discussed should be understood in the context of the populist pork-barrel politics that characterised the post-Banda era. This operated at parliamentary and governmental, but also at popular levels. Muluzi was a compelling speaker in Chewa and Yao (though halting in English), with enormous stamina, and he travelled with large sums of money in cash – the source of which was unclear – which his handlers would distribute at meetings and visits to individuals and to institutions, never asking for receipts, in an extensive patronage system. A typical first-hand account tells of a brown envelope with K50 000 for school desks being taken from a landcruiser where piles of such envelopes were stored, and K300 000 for church cloth.² This febrile atmosphere of easy money

and unaccountability in the context of grinding poverty and a declining economy is the background to the open and third-term debate.

An attempt to change the Constitution in 2002, when Muluzi was nearing the expiry of his constitutional term in office, emerged from a history of similar attempted manipulations. For example, the commission to oversee the 1999 elections proposed the creation of 70 new constituencies, 42 of which were to be in the Southern Region, the UDF stronghold; there was manipulation of voter registration in favour of the UDF and controversy over constituency boundaries and the date of elections. Government resources were used for campaigning, and the government-owned radio, the most pervasive means of communication in Malawi, was blatantly pro-UDF. The Muluzi regime thus had a history of interfering with due process, though its influence was – to some extent – limited by opposition parties, the churches, local non-governmental organisations (NGOs) and international donors, and the judiciary, which struck down some decisions of the patently pro-government Electoral Commission (Wiseman 2000).

The idea of the third term, and indeed of a life presidency, was raised in the immediate aftermath of the 1999 election, ironically by the Attorney-General, Peter Fachi, the very office-holder who might be expected to be the most punctilious about constitutionality. In the context of wrangling over the legitimacy of the election, he said that ‘Muluzi may even become life president regardless of what the courts rule’. Subsequently, Dumbo Lemani, a prominent UDF official, was quoted as saying that ‘the Constitution will be amended to pave way for a third term’ (Patel 2000: 44–5). This did not come out of nowhere. The campaign leading to the 1999 election was characterised by a blurring of the line between politics and government, and the use of state resources for essentially political ends. Constitutionalism was most certainly under attack (Kamwendo 2000: 192–3).

The form in which the issue was first raised was that of the open term: that is, that there should be no limitation on the number of times an incumbent might run for the presidency. The tabling of the Bill on 4 July 2002, without prior discussion within the Cabinet or the party’s national executive, was preceded by an unsuccessful attempt to substitute a simple for a two-thirds majority to carry a constitutional amendment (Hussein 2004: 14). The justification claimed was, first, the ostensible point of principle that

Malawians were being deprived of the freedom to choose the candidate that they might want for president and, more specifically, Muluzi's claim that 'I have a lot of development plans that will benefit Malawians and I want to finish implementing them' (*Nation* 29.04.02). The fiction was maintained that the issue was being put forward in response to popular demand, and the constitutional amendment was introduced as a private member's bill by Alliance for Democracy (AFORD) Member of Parliament (MP) Khwauli Msiska (*Nation* 18.06.02).

Enormous pressure was brought to bear on MPs in the 193-seat House to vote for the Bill, and on individuals and groups who might in turn influence politicians. Planning permission was ignored and influential people were given access to prime urban land – and it was intimated to businessmen who might otherwise have financed opposition to the Bill that they risked the withdrawal of government contracts. Chiefs' monthly stipends were raised by 25 per cent (*Daily Times* 17.05.02). It was widely believed that one million kwacha was the price for the vote of an opposition MP, and two and a half million for the support of a member of the opposition party leadership. Politicians like Chakufwa Chihana came over to the government with nearly half the MPs whom he led. It appears that party leaders such as Chihana and John Tembo connived in corrupting their own party members, thus making it difficult to pin the blame on Muluzi. Rumours abounded, archetypal being that of suitcases from Libya being whisked unopened through customs, and delivered to Sanjika Palace, the Blantyre presidential residence. The pressures on UDF MPs were immense. For example, at a dinner organised by the Catholic Commission on Justice and Peace (CCJP) to bring parliamentarians and clergy together and discuss the third-term issue, not one UDF MP turned up. However, lobbying does seem to have been effective in some cases, and appears to have been a factor in the decision of Deputy Finance Minister Jan Jaap Sonke to question the proposal. This led to a violent campaign against him and his eventual resignation from the party.

Martin Kansichi, a prominent businessman and president of the Malawi Confederation of Chambers of Commerce and Industry, reluctantly acted as an intermediary between a group of 22 opposition MCP MPs and the UDF. The MPs argued that they would sacrifice their public integrity if they accepted a bribe and that therefore their price had to be high. At a meeting with the president they therefore demanded five million kwacha for each of their

votes. This was accepted, but it appears that there were problems in raising this amount, and time ran out before the deal could be closed. According to Kansichi, 'that's why the Bill failed'³ (see also Khembo 2004: 284).

There was also intimidation. Demonstrations were banned (*Nation* 29.05.02), though this was overturned in court, with High Court Judge Dunstain Mwaungulu saying that the ban 'limits peoples' constitutional right to express themselves on a matter of public interest' (*Nation* 04.06.02). Muluzi then called on the public to 'ignore' this ruling, calling it 'irresponsible and highly insensitive' (*Nation* 05.06.02). The High Court subsequently overturned Judge Mwaungulu's ruling (*Nation* 06.06.02).

After two postponements, police action against meetings to discuss the Bill (see, for example, *Nation* 21.06.02) and the suborning of politicians (including the major figures of John Tembo of MCP and Chakufa Chihana of AFORD), the Bill failed by the narrowest of margins. Clergy in their clerical robes packed the visitors' gallery during the debate to remind MPs of their moral obligations. The Bill's supporters mustered 125 in favour and 59 against, with five abstentions, narrowly missing the two-thirds majority required to pass a constitutional amendment. Muluzi, therefore, came very close – closer than Chiluba in Zambia – to achieving his aim. However, as Brown Mpinganjira of the National Democratic Alliance (NDA) mischievously put it, 'this is a victory for democracy and I would like to congratulate those MCP and AFORD MPs who got money from UDF and voted against it' (*Daily Times* 05.07.02). Invoking higher powers, a speaker at a church-organised victory meeting asserted that 'God stopped the open-term Bill' (*Nation* 29.07.02).

However, the government did not give up, and introduced a third-term Bill specifically to allow an incumbent president to stand for a third term, with Muluzi claiming that some NGOs and religious groups had been bought 'by donors and former colonialists' (*Malawi Standard* 25–30.09.02). The government banned public rallies against the third term, a ban defied by the churches and others. Once more there were prayer meetings and protests, with side-shows like the attempted censorship by the Southern Region governor of songs by Billy Kaunda critical of the food crisis and the third-term proposal (*Daily Times* 23.10.02). Once more there was bribery and intimidation. However, support was ebbing away and it became apparent at a special session of Parliament in January 2003 that it would not be possible to secure the

required two-thirds majority and the Bill was withdrawn. On 30 March 2003 Muluzi announced that he would nominate Dr Bingu wa Mutharika as UDF presidential candidate (Ross 2004: 92; *Africa Confidential* 44(9): 5–6). The third-term proposal was defeated. Why did it turn out this way?

The regional and international context

In regional terms, there is a mixed record on the question of multiple presidential terms. Though he breaks no constitutional provision by doing so, if Robert Mugabe wins the next Zimbabwean presidential election he will enter his sixth term as president. The Namibian Constitution was amended to enable Sam Nujoma to stand for a third term. However, Frederick Chiluba failed to achieve the same in Zambia, and Joachim Chissano made no attempt to do so in Mozambique and, indeed, has criticised such attempts elsewhere. In spite of hints from the opposition Democratic Alliance that South African President Thabo Mbeki aspires to a third presidential term, and some calls from within the African National Congress that this should indeed happen (and, surprisingly, from the normally muck-raking and satirical magazine, *Nosweek* 65, March 2005), there are indications that South Africa is a force for constitutionalism in the region, with implications for Malawi as elsewhere. For instance, at the presentation of the credentials of the Malawian High Commissioner in April 2004, Mbeki praised Muluzi for holding elections and stepping down in line with the Malawian Constitution. ‘This is a very important sign to all around the continent’, he said, noting that the elections demonstrated that the country had moved a ‘long distance from when Malawi had presidents for life’ (*The Star* 21.04.04).

There are other important influences pushing African leaders in the same direction. At the opening session of the African Union (AU) summit in July 2004, United Nations Secretary-General Kofi Annan made a similar point, attacking the manipulation and amendment of constitutions so that presidents could hold on to office beyond the prescribed term, saying, ‘Let us always remember that constitutions are for the long-term benefit of society, 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’ (*ThisDay* 07.07.04).

Political appeals tend to be effective to the extent that they can be backed by action. The Malawian reality is of impoverished millions struggling for

daily existence, and few opportunities to rise above this level. One of these opportunities is politics, where the sparse resources, domestic and foreign, that the country provides tend to be highly concentrated, and as a result only the lucky or ruthless few prosper. However, the very poverty of Malawi, and therefore its reliance on donor aid, makes it particularly vulnerable to external pressure. The resources disbursed by donors in Malawi, tiny by world standards, are crucial to the survival and relative prosperity of the Malawian political class. When these resources are reduced or removed, consternation ensues. Therefore a form of proxy constitutionalism is logical, sufficient to keep donors forthcoming with support. At best, however, this represents the wishes of donors rather than those of the dominant Malawian elite.

Resources from donors support the recurrent expenditure of the Malawian state, and also the elections themselves. Overseas aid was crucial for the 1994, 1999, 2000 (local) and 2004 elections. The Malawi Electoral Commission (MEC) is substantially donor-supported, as are NGOs involved in voter education and such activities. It can be said that the institutions and processes of democracy are kept alive by donor support, giving them the perhaps decisive influence on what happens in this sphere (Kabemba 2005).

Pressure against the third term from outside was very clear, and was linked to economics. The United States embassy brought open, and no doubt concealed, pressure to bear, not against the proposed constitutional amendment in itself, but against any bypassing of democratic procedures in seeking the amendment. This was accompanied by cutting off aid in reaction to backpedalling on the democratic process. The United States also suspended a large part of its development aid at the end of 2002 in response to the increasing lack of financial and political transparency.⁴ Indeed, many donors had already cut or suspended development aid to Malawi because of corruption, economic and administrative mismanagement, and Muluzi's bloated Cabinet.

The Malawian government reacted vociferously. At a rally in Mulanje in August 2001, Muluzi's annoyance was clear. 'Why', he asked, '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* 25.08.01). A year later, at Mangochi, he made a similar point: 'Donors should work with poor countries as partners and should not release funds to influence political change...Nobody should come to Malawi or Africa to lecture us as if we're kids at a kindergarten' (*Nation* 24.01.02).

Donor aid is paradoxical. The example of Malawi's relations with Denmark points, *inter alia*, at the politics of the donor as well as of the recipient. In January 2002, following a change of government in Denmark, aid was withdrawn from Malawi amid Danish criticism of Malawian venality and inefficiency. This was followed by the expulsion of Örla Bakdal, the Danish ambassador. In Malawi, the Danish criticisms were taken at face value and turned to account in the domestic political arguments of the day, though much of the Danish aid had been directed at supporting democratic institutions in Malawi. It went almost without comment in Malawi that the withdrawal was the result of the coming into office of a right-wing populist government in Copenhagen, anxious because of its domestic agenda to seize any excuse to disengage from development aid to impoverished countries overseas (Englund 2002: 15–17).

Yet the Danes made a surprising, surreptitious reappearance. In July 2002, in the aftermath of the defeat of the open-term bid, but with the third-term question raised once again, a delegation of the Public Affairs Committee (PAC) – the body representing the (Roman Catholic) Episcopal Conference of Malawi, the (Protestant) Malawi Council of Churches, the Muslim Association of Malawi, and various civil society organisations – went to Lusaka to meet Danida, the Danish development body, which had officially moved out of Malawi. Funding was arranged, which went first to a Zambian NGO, Women for Change, which had combated Frederick Chiluba's third-term bid in Zambia. From thence the funds were directed to the PAC in Malawi. Danida justified its action in terms of good governance and the rule of law, but both it and the PAC were operating at or over the edge of legality. The Danes, in fact, were covertly supporting the Malawian political opposition.

None of the locally based donors appear to have given resources specifically to the anti-open-term and third-term movements. They were opposed to the actions of the Muluzi regime but, at least on the surface, careful to observe protocol. The United States was uneasy about the use of their funds in the context of political opposition, as was the British High Commissioner, Norman Ling, who tried to get the PAC to tone down its anti-third term rhetoric. The government complained to the Norwegian embassy when they suspected that resources from that country were being used in the agitation, and the Norwegians in turn called the PAC to check that they were not diverting their assistance in this direction. They were assured that they were

not, and that the funds were being used as intended for a programme against community violence, not for political change. Of course, it is difficult to disentangle totally the uses of funding in 'advocacy' projects such as these.

The role of the churches

A crucial factor in the third-term debate is the influence of religion and the churches. Perhaps recent developments in the United States, where religion has re-entered the public sphere from which it seemed to have been largely excluded or to have retreated, help to refocus attention on the religious dimension. However, in the predominantly secular Western academic world, religion in Africa tends to be studied as a discrete phenomenon, and less in relation to the social and political life of societies into which it is in fact densely woven (but see Ellis & ter Haar 2004). Malawi, with its strong Christian presence and significant Muslim minority, is a good example of an African society where religion is vital. Institutionally and ideologically, churches and mosques are part of village life, and therefore, unlike NGOs, form part of the life of the vast majority of Malawians. The role of Christian churches was central to the events that led to the end of the Banda dictatorship and to the birth of multiparty democracy in Malawi (Newell 1995; Nzunda & Ross 1995; Ross 1996b; Schoffeleers 1999; for a vivid personal memoir see Ó Máille 1999).

The PAC questioned the 'substantially free and fair' verdict on the 1999 general election, and in 2000, with other church bodies such as the CCJP, reacted to the as yet mere hints that the third-term issue was to be pressed by intensifying their campaign of 'constitutional awareness'. On 25 March 2001, the Catholic bishops issued a pastoral letter saying that 'the basic democratic principles which are enshrined in our Constitution must be respected and safeguarded, and we should not allow anyone or any group to manipulate others into eroding the Constitution' (Lungu 2004: 23). In April 2001, a year before the issue was raised openly in Parliament, a pastoral letter from the General Synod of the Church of Central Africa Presbyterian (CCAP) entitled 'Some Worrying Trends which Undermine the Nurturing of our Young Democratic Culture' (CCAP 2001) set the third-term concept within a wider social and political critique. For many in the Blantyre Synod, which was coterminous with the UDF's main support-base, this led to difficulties and accusations of treachery and ingratitude. This pastoral letter was the

precursor to the dramatic events at the National Service of Worship, held at Mzuzu University, on 5 July 2001. The preacher, Anglican Bishop James Tengtenga, criticised tendencies in Malawian politics and was heckled by senior UDF members present. A clerical colleague, apparently mistaken for the bishop, was subsequently beaten by UDF thugs. Though Bishop Tengtenga had not touched directly on the third-term issue, his emphasis on contemporary politics in relation to Christian morality was evidently highly sensitive (Ross 2004; CCAP 2001).

Thereafter, tension between church and government became increasingly concentrated on the third-term issue. Differences in emphasis between the forthright Livingstonia and Blantyre Synods, owing their origins to Scottish missionaries, and the Nkhoma Synod, its often quietist position perhaps originating from the South African Dutch Reformed Church, were set aside and Presbyterians united with Anglicans, Roman Catholics, Evangelicals and even some of the previously politically quiescent pentecostal and charismatic churches in opposing the third-term proposals. The government did, however, persuade some pentecostal and charismatic ministers to speak for them, unconstrained as they tended to be by church governance structures. This process culminated in a statement by the PAC, the crucial organisation in this context, appealing:

to all Parliamentarians to vote against the proposed amendment to section 83(3) of the Constitution...You may receive all the gifts from those who support the 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. (Quoted in Ross 2004: 97)

Even when the third-term Bill had been withdrawn, having been sent ostensibly for ‘technical refinements’ to the parliamentary Legal Affairs Committee (Khembo 2004a: 284), the PAC did not let this now embarrassing legislative corpse rest in peace. It sent a petition to the committee in February 2003 and, when the government did not formally withdraw the Bill, on 27 May issued a statement condemning intolerance and intimidation, and registering concern that the Bill had not been officially withdrawn: ‘[we] wish to appeal to the Committee to dispose of the undesirable Bill as a matter of urgency. We do not want greedy politicians to abuse the situation by reverting to the third-term bid in the foreseeable future’ (PAC 2004: 6, 22–7).

Ross argues that this emphatic stand by the churches represents what they see as their custodianship of democratic values: championing of the Constitution; giving voice to the people; appealing to the Bible; and engaging with the politics of patronage. The key role of the churches in the events of the early 1990s, and discomfort with their previous acquiescence with Banda's dictatorship, led the churches to view the third-term proposal as symbolic of the decline of Malawian politics into graft and self-interest. The religious beliefs and church membership of almost all Malawians in themselves gave the church involvement weight and significance. Added to this, the churches could claim particular moral authority because Malawi's origins are intimately linked with Christianity. As Bishop Tengatenga strikingly put it in his sermon at the National Day of Worship in 2001, 'One can almost say that Malawi was imagined as a Church!' (quoted in Ross 2004: 101).

The churches led the successful campaign against the third term, though Peter von Doepp (2002) warns us not to assume too readily that clerical activism at national level is necessarily widely mirrored locally. They may have helped breathe life into the Constitution that analysts such as Kanyongolo and Jande Banda, writing in 1997/98, considered a brittle, formal document, vulnerable to the scheming of self-interested politicians and of little perceived significance to the population as a whole (in Phiri & Ross 1998). It can be argued that the churches in a sense deputised for more weakly developed forces in Malawian civil society, even for political parties, hopelessly compromised by their obvious self-interest and many startling *volte-faces*. This, however, does not diminish the significance of the role of the church. Societies cannot choose their histories, and the fact is that religion and churches are of great importance in Malawi.

However, it can also be said that the church contained within it the conflicts and contradictions characteristic of the wider society. As well as genuine differences of opinion, churchmen were not immune to prevailing temptations: as the Reverend McDonald Kadawati, the Southern Region Coordinator for the PAC, put it in an interview, 'they bribed some – we should be honest.'⁵ The regional factors that play such a large part in Malawian politics were also a factor in the churches' campaign against the open and third terms. There were ministers in the Southern Region, the heartland of UDF support, who, through conviction, bribery or intimidation, refused to read the letter against the third term, sanctioned by the General Synod of the

CCAP to be read in churches. However, given the statements against Muluzi from the Blantyre Synod of the CCAP, it would be unwise to oversimplify. Cutting across regionalism was, for example, the suspicion – stronger in some cases than in others – of Islam, the president’s religion.

Another element is that of radical religious social involvement. The Centre for Social Concern, for example, and individuals such as Bishop Patrick Kalilombe, while noting and opposing attempts at constitutional manipulation, were concerned to place this within a critique of what they considered the neglect of the pressing needs of a population – many of whom were, and are, permanently on the brink of starvation. In the midst of the political excitement, it was the hoarding of and profiteering in maize, the country’s staple food, by UDF cronies to which such people wished to draw attention. To someone like Father Jos Kuppens, the third-term controversy was an enormous distraction from the real issues of poverty and development.⁶

There were other issues that motivated Christians against the government and provided some of the energy with which the agitation was charged. One such issue was the question of the replacement of Bible Studies by Religious Studies in the school curriculum. This was perceived as negative to Christianity, though in fact it was the manner of its introduction rather than its substance that caused the furore. Not wishing to alienate potential Christian support gratuitously, Muluzi withdrew the proposal. Also in 2000, the idea was floated, redolent of the Banda era, that the president should nominate a number of MPs to Parliament. This would, of course, have increased the president’s powers.

The Islamic factor

Malawi, a country where many identify themselves strongly as Christian, nevertheless has an Islamic minority of which Bakili Muluzi is a member. Historically, Malawian Islam – except for the lakeside area around Nkhoskhota – has tended to be enclosed within Yao ethnicity and by low levels of modern education. Nevertheless, using Middle Eastern funds, a large programme of mosque building and support for *madrassas* (Koranic schools), has made Islam literally and figuratively increasingly visible in the Malawian landscape. Though Malawians tend to pride themselves on their religious tolerance, some Christians appear uneasy about the apparently increasing influence of Islam, an attitude that can be traced to the later 19th century,

when Malawians grouped themselves or were forced into competing political and economic systems often identified as Christian and Muslim (Bone 2000). There is some indication that, at least in parts of the country, religious intolerance between the two religions is increasing (Centre for Social Concern 2004). Some Christians on the left, like Bishop Patrick Kalilombe, are more worried by the growth of fundamentalist Christian sects, often supported by the religious right in the United States – groupings from which the proponents of the third term attempted, with some success, to draw support – than they are by the growth of Islam.

In contemporary Malawi, the possibility of Christian-Islamic tension goes beyond the religious sphere. But it is important not to exaggerate the degree of religious rivalry or its politicisation. Nevertheless, for all her humour, an edge is apparent in, for example, the words of Kate Kainja, secretary-general of the MCP at the time of writing this chapter, who, unlike her party colleague John Tembo, voted against the open-term Bill. The Bill, Ms Kainja said, ‘chased away Jesus Christ’.⁷ She alleges that Muluzi encouraged proselytising, especially marriages between Muslim men and Christian women, thus spreading Islam. She places the open and third-term proposals, in part at least, in the context of this allegedly expansive Islam. Projecting this analysis into the future, she notes that if anything were to happen to the current president, the vice-president, Cassim Chilumpha, a Muslim, would succeed him. Chilumpha, her analysis continues, is the conduit for Muluzi’s confessionalism. Meinhardt and Patel (2003: 15–17) argue, confusingly, that Islam has not been particularly contentious in Malawi and has not been politicised, while also postulating that church involvement with the third-term issue was motivated more by opposition to and suspicion of Islam rather than their official constitutionalism.

However, the Muslim Association of Malawi, the modern and orthodox movement, and the Qadriyah Association of Malawi (more influenced by indigenous, especially Yao, culture) are members of the PAC. In the context of the open and third-term debates, the Muslims accused the PAC of sidelining them. They had good reason to do so, since, for example, money given to the PAC was entrusted to individual clergy partly so that it was invisible to government spies, but also so that Muslims on the PAC board itself, who supported the third term and would have gone straight to government if they had known about these manoeuvres, were deliberately kept in the dark.

In spite of all this the PAC did not lose its Muslim membership. For one thing, Islamic solidarity on the constitutional issue is not complete. Amongst the Qadriyah in particular, there was disquiet at political developments, which was sometimes openly expressed, though not in an organised way. The *cause célèbre* was the killing of Sheikh Abdul Hamid Bughdad from Liwonde. He and 12 other Sheikhs wrote to the president in June 2001, accusing him of not being a true Muslim and of siphoning off Middle Eastern funds meant for Islamic causes, saying they would prefer any other president. The letter was leaked to the press, and the Sheikh was subsequently murdered, allegedly by members of the Young Democrats, the UDF youth wing.⁸ Thus, though not publicly articulated, there may be reasons why at least some Muslims are willing to listen to Christian pleas that they should remain in the PAC. The Muslims were indeed offered, and accepted, the important post of secretary to persuade them to stay in the organisation at a time when debate on the third-term issue was bitter and divisive. In 2003, when the government, with no semblance of legality, deported some Al-Qaeda suspects at the behest of the United States, the PAC supported Muslim-led protests. Currently the PAC is arranging a conference to discuss the maintenance of good relations between Christians and Muslims.

The role of non-governmental organisations

The role of NGOs in Malawi is ambiguous. The changes of the early 1990s led to a multiplication of NGOs, many devoted to civic education and human rights (PAC 2004: 18; Chirwa 2000). However, a growing critique within Malawi portrays them in the same light as political parties – vehicles for aggrandisement and mechanisms for milking donor funds, symbolised by interminable seminars and workshops in well-appointed hotels (Englund 2000, 2003). This generalisation may be too sweeping, yet it carries conviction. The status of ‘NGO’ can also be imprecise. For example, a significant body in Malawi was the National Institute for Civic Education (NICE). Initially NICE, under David Faiti, came out strongly against the constitutional amendment, but falling under government, and with substantial funding from donors such as the European Union, it subsequently went quiet on the issue. In another case, the Muluzi Foundation for Democracy, a UDF think-tank, founded after the third-term debate and comprising regional and district governors and some university academics, is an NGO in name only.

Many NGOs did oppose the third term, but they tended to be pulled in the wake of the churches, though one NGO leader claimed that it was an NGO delegation that detached John Tembo of the MCP from his alliance with the UDF, thereby decisively altering the power balance in relation to the third term. It is worth noting that NGOs had additional reasons for hostility to government, having been obliged since January 2001 to register with and pay a fee to the Council for Non-governmental Organisations in Malawi, a move they tended to see as unwarranted control (Meinhardt & Patel 2003: 34–5).

Trade unionism, crippled under the Banda regime, has not recovered subsequently. Such unions as exist are badly organised, offering no real services to their members. They are not a strong force in civil society, and played no significant role in the third-term debate (Anders 2002).

The role of the media

The role of the media in Malawi should be seen against the background of the country's extreme poverty and overwhelming rurality. Television is only available to urban dwellers, as generally speaking are newspapers. Radio is the one medium that gives national coverage, though the private radio stations that have sprung up since the fall of Dr Banda can only be heard in the cities – only the two Malawi Broadcasting Corporation radio stations (MBC 1 and 2) have a national audience.

During the constitutional debate, MBC 1 and 2, and television were under complete government control. Anti-third-term sympathisers in the MBC managed to smuggle some veiled messages into a popular soap opera, but this was soon stopped. Independent radio stations were more varied in approach, though some, like Power 101, were threatened and thereafter toned down their opposition to the constitutional changes. The Malawi Institute of Journalism station, confined to Blantyre, was closed down at one point but obtained a court injunction that enabled it to reopen.

The press was less confined as neither national daily was under government control. The *Daily Times* had an MCP background, and the *Nation* was owned by veteran politician Aleke Banda, who had split from the UDF. These newspapers were independent from, even critical of, the government line, as was the bi-weekly *Chronicle*, probably the most consistently independent

voice in Malawian journalism. Clearly in contemporary Malawi, public demonstrations, pastoral letters read in church and other expressions were important not just as a manifestation of opinion, but as a means of spreading information.

A third term by other means?

The third-term debate ended in defeat for Bakili Muluzi and the UDF. An informal alliance of foreign donors and diplomats, 'civil society' and in particular, the churches, elements of the press and political opponents managed to defeat the call for the third term and maintain observance of the 1996 Constitution. Having failed to amend the national Constitution, the UDF amended its own, combining the powers of the party president and chair, thus enabling Muluzi to become what was now called the national chairman of the party. In party matters, any future UDF president and vice-president of Malawi would be subordinate to the UDF national chairman (Khembo 2004b: 91). The requirement that the UDF presidential candidate must have been a party member for ten years was also removed, opening the way for Bingu wa Mutharika's candidacy. It proved easier to whip the party than the Parliament into line, at least in the short run, and those who had supported the Bills amending the Constitution were awarded by nomination as party candidates in the 2004 elections. Those who had not were sidelined (Khembo 2005: 7–8).

By cowing the party and rooting out dissidents, Muluzi strengthened his control of the UDF, but weakened the political resources upon which he could hope to draw. In this situation he turned to Mutharika, an ex-international civil servant with a negligible political base. Mutharika had been abroad for many years and was soundly defeated when he stood for the presidency in 1999 under a different party label, coming last of the five candidates. This stratagem, forced on Muluzi by his autocratic dominance of the UDF and alienation of the more capable and prominent of his colleagues, proved his undoing.

In the 2004 election, though the UDF gained only 49 of the 193 parliamentary seats, it quickly managed to build a working majority by attracting some opposition parties into government, a tribute to the realism or venality of Malawian politics. Muluzi's nominee, Mutharika, was elected president. The power relationships were clear at election rallies, where typically Muluzi would

give a one-hour speech, and Mutharika would be invited by Muluzi to speak for a few minutes afterwards. Muluzi remained national chairman, and he, not Mutharika, negotiated to bring other parties into government. He seemed set to maintain considerable influence over, though not in, government (Economist Intelligence Unit 2004; *Africa Confidential* 45(2): 4–5).

However, it appears increasingly unlikely that Muluzi's successor will fulfil the role of cat's-paw no doubt intended for him. As the example of the transition from Frederick Chiluba to Levy Mwanawasa in Zambia shows, intended puppets can turn on their would-be puppeteers. Personal enrichment and patronage are at the heart of contemporary Malawian politics, and once these are in the hands of an individual there may be little reason to maintain loyalty to a predecessor. Some members of Muluzi's inner circle are beginning to be investigated and even arrested. An example is Humphrey Mvula, confidante of Bakili Muluzi and chief executive of state-run Shire Buslines, where millions of dollars were pilfered through the purchase of spare parts (*ThisDay* 07.08.04), and former Finance Minister Friday Jumbe, charged with the theft of more than \$4 million (*Business Day* 01.02.05).

At the time of writing (early March 2005), relations between Muluzi and his erstwhile puppet Mutharika appear to have broken down completely, mainly it would seem because of the attack on graft: it has yet to be seen whether this is an attack on all graft, or only on that associated with Muluzi. There was also an apparent attempt by some UDF politicians to bring loaded firearms into a meeting of UDF factions with the president at Sanjika Palace, for which they have been 'forgiven' (*Daily Times* 28.01.05). The National Intelligence Bureau, seen as loyal to Muluzi, has been disbanded (*Mail & Guardian* 28.01–03.02.05). There were rumours of the expulsion of Mutharika from the UDF, though he forestalled this by resigning. He has not yet formed a new party, but has created a parliamentary support base from small parties and independents, and from defecting UDF members. Though he is at the moment a president without a party, there seems no constitutional bar to this (*Mail & Guardian* 11–17.02.05). The Mutharika presidency was intended to have been a third term by other means. However, once grasped, the levers of power are not easily wrestled away, even by a powerful figure like Bakili Muluzi. While Muluzi is entitled to stand again for the presidency in 2009, there is talk of amending the Constitution to make such delayed third terms impossible.

Muluzi did not leave office willingly. Though he attempted to circumvent marginalisation by engineering the election of the supposedly pliant and accommodating Mutharika, the attempt backfired. The Malawian constitutional process held to the extent that Muluzi was thwarted from standing for a third term, and he certainly did not relinquish the presidency in the odour of sanctity in the manner of a Mandela or a Nyerere. Whether Muluzi will be required to account for his activities while in power is yet to be seen: it would appear that this is under debate in government circles. If the Mutharika regime takes the road of abstract justice, and arraigns Muluzi for corruption, it could precipitate instability. On the other hand, though weakened, even out of office Muluzi remains a powerful political figure. Political realism could dictate a more cautious approach.

An associated, more general question is: why did this crisis not lead to the collapse of the fragile Malawian polity? Writing before the third-term debate came into the open, Peter von Doepp argued that Malawi's 'enfeebled' democracy survived because 'the elites have avoided strategies that might fully destabilise the system' (2001: 232). The judiciary, embattled under the new regime as it had been under the old but still retaining its coherence, defended the constitutional settlement formalistically but doggedly (von Doepp 2001: 232, 235–7; for the judicial system after Banda, see Ng'ong'ola 2002). Certainly, that the open and third-term debates were not, in the end, pushed to the extreme suggests that ultimately the continued voyage of the leaking ship of state was collectively of more advantage to the Malawian political class than would have been its foundering with all hands.

Notes

- 1 Interviews contributing to this chapter took place in January 2005 at the places indicated. Prof. Kings Phiri was a particularly astute guide to the Malawian political landscape. My thanks go to the following interviewees: the Rev. Prof. Joseph Chakanza, Head, Department of Theology and Religious Studies, Chancellor College, University of Malawi (Zomba); Ms Emmy Chanika, Director, Civil Liberties Committee (Blantyre); the Rev. Felix Chingota, Senior Lecturer and Deputy Dean, Department of Theology and Religious Studies, Chancellor College, University of Malawi (Zomba); Dr Vera Chirwa, Director, Malawi Carer (Blantyre); Dr Martin Kansichi, President, Malawi Confederation of Chambers of Commerce and Industry (Lilongwe); the Rev. McDonald Kadawati, Blantyre Synod, CCAP (Blantyre);

Ms Kate Kainja, Secretary-General, MCP (Lilongwe); Mr Nixon Khembo, Deputy Director, Centre for Social Research, University of Malawi (Zomba); Fr Jos Kuppens, Director, Centre for Social Concern (Lilongwe); the Rev. Reginald M'mangisa, Regional Coordinator for South, PAC (Blantyre); Prof. Kings Phiri, History Department, Chancellor College, University of Malawi (Zomba); Mr Robert Phiri, Head of Programmes, PAC (Lilongwe).

- 2 On 1 July 2002 78.6610 Malawi Kwacha bought one US\$, and 7.6001 Kwacha one South African Rand.
- 3 Interview with Dr Martin Kansichi, President of the Malawi Confederation of Chambers of Commerce and Industry, Lilongwe, January 2005.
- 4 See http://www.afrol.com/News2002/maw009_3term_us.htm.
- 5 Interview with the Rev. McDonald Kadawati, Blantyre Synod, Blantyre, January 2005.
- 6 Interview with Fr Jos Kuppens, Director of the Centre for Social Concern, Lilongwe, January 2005.
- 7 Interview with Ms Kate Kainja, Secretary-General of the MCP, Lilongwe, January 2005.
- 8 See http://www.afrol.com/Countries/Malawi/documents/sunni_council_muluzi.htm.

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8 *Politics and presidential term limits in Uganda*

Roger Tangri

The problem of Africa in general and Uganda in particular is not the people but leaders who want to overstay in power.

President Yoweri Museveni's swearing-in address, 29 January 1986

The 1990s have seen African countries adopting new constitutions in which a president's term of office is usually limited to a maximum of two terms. Several presidents, such as Moi of Kenya and Rawlings of Ghana, have respected, even if reluctantly, constitutional term limits and exited the political stage they had dominated for so long. Other presidents, such as Chiluba of Zambia and Muluzi of Malawi, have attempted to repeal the constitutional two five-year term limits on the holding of the presidency. However, failing to change the constitution to contest another term, they have had to step down from presidential office. Only a few presidents, such as Nujoma of Namibia, have been successful in amending the Constitution and running for a third term in office (Baker 2002).

The issue of presidential term limits raises several important questions:

- Why have some African leaders abided by the constitutional provision for presidential term limits?
- Why have some African leaders wanted to hold office as president beyond the prescribed two terms?
- Why did some presidents succeed in lifting the constitutional two-term limit for a president while others failed to do so?

This chapter¹ seeks to provide answers to these three questions by examining the case of Uganda in comparative African perspective. First, it examines why President Yoweri Museveni has wanted to lift the presidential term limits as laid down in the recent 1995 Ugandan Constitution and considers various motivations as to why he has wanted to stand for office again. Has it been

attributable to the sheer unwillingness of an African president to give up power? Has it been the prospect of a loss of power not being countenanced by those who have benefited under the incumbent president?

Second, the chapter examines the political battles that have been waged to amend the Constitution to give President Museveni a third term. Intrigue and manoeuvre have characterised these struggles, especially those within Uganda's Parliament. This is the politics common to Africa's personalist political systems (Jackson & Rosberg 1984), where conflict and competition often lead to a manipulation of constitutional rules or deteriorate into violence. How the incumbent president perceives the outcome of these struggles can affect his decision whether or not to seek the removal of term limits.

Third, the analysis asks what impact civil society has had on the third-term issue in Uganda. In countries such as Malawi coalitions of religious and civic groups mounted pressure on incumbent presidents not to alter the Constitution and stand for a third term (Ross 2004). We thus need to inquire why it is that in Uganda civil society has had only a limited impact so far on third-term politics.

Although local actors and organisations have been the driving factors in the struggle over presidential term limits in African countries, the role of external donors has also been important. Uganda is a highly aid-dependent country, and international donors have been influential in its evolving political economy under structural adjustment. The chapter therefore also examines the nature of relations between rulers and donors in Uganda, and reflects on its significance in affecting the outcome of third-term struggles.

Changing term limits

President Museveni has ruled Uganda since 1986. He is the eighth Ugandan president since independence in 1962. He headed the National Resistance Army (NRA), the guerilla movement that captured power after a protracted armed struggle lasting nearly five years. It was, however, only with the promulgation of a new Constitution in 1995 that presidential term limits came into existence. Article 105(2) states that: 'A person shall not be elected under this Constitution to hold office as President for more than two terms as prescribed by this article.' The Constituent Assembly had prescribed a ceiling

on terms for presidents because of Uganda's turbulent post-independence history in which no president had left power willingly. Museveni won the presidential elections in 1996 and 2001, and was therefore constitutionally barred from standing for another term in 2006.

Museveni insisted that he would not break this rule preventing him from standing for office again. In his 2001 election manifesto, he pledged, if elected, to step down after serving two presidential terms (Museveni 2001). He declared he was seeking re-election to serve his 'second and final term as directly elected president' and also to organise 'an orderly leadership succession', the 'first ever peaceful transfer of power in Uganda'. He committed himself four times in the manifesto that 2001–2006 would be his last term as president.

Motives for removing presidential term limits

Despite his promises, just two years into his 'second and final term' Museveni called for Article 105(2) of the Constitution to be revisited. In March 2003, the national conference of the ruling National Resistance Movement (NRM) or 'Movement' resolved to scrap the constitutional two-term limit for a president. Museveni was certainly the moving spirit behind the proposal to remove term limits, but members of the NRM's ruling clique also wanted Museveni to stand again in 2006. Several of them feared they might not have much of a political future without Museveni. Others in Museveni's inner circle had been enjoying the spoils of office and feared that if Museveni left the presidency, new leaders would uncover some of the ways in which they had corruptly enriched themselves. As a former NRM minister and Director General of the External Security Organisation (ESO), David Pulkol, noted:

Just see who is talking about the life presidency. It is those linked to the President by marriage or the corrupt ones, those who have dipped their fingers in the national till. (*The Weekly Observer* 06.05.04)

Museveni himself has not publicly declared his intention to run for another term. Nonetheless, it is Uganda's most poorly kept secret that he wants to contest the presidency again in 2006. It seems that this is partly because he has been such a dominant political figure in Uganda that he is unable to countenance giving up power. Partly also, perhaps, the reason is to protect

himself as well as his relatives and close associates from investigation for wrongdoing. And partly it would seem that he fears that some of his erstwhile political allies, now leading the political opposition, could attain political power and seek to settle old scores. To diplomats and donors, however, Museveni has contended that his continued presidency is vital for 'stability in Uganda and the region', while at political gatherings he claims he is the only leader with the 'vision' to transform Uganda sufficiently to enable it to enjoy a prosperous future. Museveni has also said that he will not present himself as a presidential candidate unless the Constitution is amended through a national referendum, and the people call on him to stand again.

A referendum to decide on presidential term limits

Museveni has been insistent that a popular referendum be held to ask the people whether the constitutional requirement on presidential term limits should be deleted. A referendum has been Museveni's preferred approach as parliamentary approval for expunging term limits is less certain. With good reason, Museveni has expected more support from the largely rural electorate, which has enjoyed a measure of security and economic improvement under NRM rule, and which backed him strongly in the 1996 and 2001 presidential elections. Under Uganda's decentralisation policy, especially since 1997, an increasing amount of resources (nearly 40 per cent of the government's Budget in 2004) has been flowing to the districts where local council leaders have used them to build political support for Museveni and the Movement. Throughout 2004, the Movement was mobilising district council chairpersons and municipality mayors to pass resolutions asking President Museveni to stand again.

For all that Museveni favours a referendum, the Constitution states that referenda are not held to amend it directly but to approve Parliament's amendment of any of its specified provisions. Nonetheless, given the uncertainty as to whether Parliament would approve of a third term, Museveni continued to call for the Constitution to be amended by a referendum *before* the third-term issue is put before Parliament. Thus he angrily rejected the advice of the attorney-general, Francis Ayume, that this approach would be in violation of the Constitution. He quoted from Article 1 of the Constitution that 'Power belongs to the people', and that 'they shall be governed through

their will and consent in regular free and fair elections or referenda'. On several occasions he insisted that: 'There will be a referendum.' Only in mid-2004, however, was Museveni obliged to give way after the Cabinet agreed that Parliament should first consider ending term limits before the matter was put to a referendum. Since then Museveni has been focusing on Parliament lifting presidential term limits so that he can secure the referendum he craves for sometime in 2005, and then announce publicly his intention to run for the presidency again.

Manipulating the constitutional commission on term limits

The Cabinet had also resolved in September 2003 to propose that the Constitution be amended to remove term limits on the presidency. In its submission to the Constitutional Review Commission (CRC), the government declared that, in accordance with Article 1 of the Constitution, the amendment would allow 'the people to decide' at the polls the number of terms a person would serve as president (Government of Uganda 2003). Government ministers who had publicly voiced their opposition to another term for Museveni had been sacked from the Cabinet in May 2003, while a number of others not in favour of changing the Constitution kept their thoughts to themselves. It was relatively easy for Museveni to get the Cabinet he had appointed a few months after the NRM national conference to back his bid for a third term. Dependent as they are on state jobs for their income and livelihood, many cabinet ministers were fearful of losing their lucrative positions by speaking out against a third term. It was much less easy for Museveni to ensure that the CRC produced a report supporting the government's proposal on abolishing term limits. This was achieved only after the executive blatantly manipulated the findings of the CRC.

The draft report of the CRC in 2003 rejected the Cabinet proposal to scrap the constitutional limit of two terms on the presidency. As the executive became aware of this, the commissioners came under strong political pressure to change their stand on term limits. The draft report, however, was leaked to the press (*The Monitor* 17.11.03), whereupon the government immediately secured a court injunction stopping its publication. A number of commissioners subsequently buckled under government pressure and changed their position on term limits (*The Monitor* 18.02.04). Although the CRC chair, Fredrick

Ssempebwa, as well as another commissioner, took the bold step of writing minority reports opposing the removal of the two-term limit, a new 'Part B – Succession to Government' in the final report is virtually identical to the Cabinet's proposal on the subject. The report of the CRC, in fact, recommends the unconstitutional step of lifting the two-term limit by a referendum, which, as we have seen, would accord with the wishes of President Museveni.

Opposition to removing presidential term limits

Museveni's proposal to seek the removal of presidential term limits provoked rifts within the NRM leadership. Several close political allies opposed Museveni seeking a third term in 2006. They saw Museveni as reneging on his promises of 2001, and branded him as a man of bad faith. They were also concerned about the personalisation of power that was occurring in Uganda, and decried, in particular, the political manipulation that had taken place at the national conference of the NRM in March 2003 – to pass a resolution that was clearly intended to extend the tenure of the sitting president. Should the resolution supporting the end of term limits be approved by Parliament, they averred, then Museveni could hold onto office indefinitely. To be sure, he would have to be elected by the people, but the danger of a life presidency in Uganda loomed large.

Eriya Kategaya and Bidandi Ssali, both long-term allies of the president, and Miria Matembe, a senior Cabinet member, were sacked as government ministers in May 2003 because of their stand against erasing term limits. James Wapakhabulo, another long-standing friend of Museveni and prominent figure in the NRM, spoke against changing the Constitution to allow Museveni to stand for another term, but died shortly afterwards. David Pulkol was dropped as ESO director-general in December 2003, after he criticised the Cabinet's decision to change the Constitution to allow Museveni to stand again in 2006. They were joined by several other prominent figures, including Major-General Mugisha Muntu, who had been the longest-serving army commander (from 1989 to 1998) under the NRM government. They were to be at the forefront of the opposition to Museveni and the Movement on the issue of term limits.

The Movement had experienced its first major division in October 2000 when Kizza Besigye, a former Movement ideologue, government minister

and personal physician to Museveni during the 1981–86 guerilla war, broke ranks and announced he was challenging the president in the 2001 elections. Besigye had earlier in November 1999 caused a stir by sending an article to the press which described the Movement leadership as ‘corrupt...dishonest, opportunistic and undemocratic’ (reproduced in *Sunday Monitor* 05.11.00). The March 2001 presidential elections were hotly contested. If it had not been for fraud and intimidation, Besigye would have polled much more than the 27 per cent he obtained in such a short time of campaigning against the incumbent president (Tangri & Mwenda 2004). A pressure group, the Reform Agenda (RA), was born out of the task force that campaigned for Besigye during the 2001 presidential election. When it was launched in 2002, a number of Movement supporters who had backed Besigye’s presidential bid became its leaders. By now, Besigye himself was in political exile in South Africa alleging political persecution. In a May 2003 document, the RA claimed that after Besigye fled the country ‘about 4 000 RA supporters have been harassed, intimidated, tortured, arrested and detained...and others have been killed’.

Another important pressure group that emerged was the Parliamentary Advocacy Forum (PAFO). This was a caucus of Members of Parliament (MPs) drawn from various political parties, which became active in mid-2003 to fight the NRM’s plan to drop limits on presidential terms. Many MPs from Ankole, which had been the Movement’s stronghold, were among the supporters of PAFO. Augustine Ruzindana, a former Inspector General of Government (Ombudsman), was PAFO’s chairman. When interviewed he referred to a third term for Museveni as ‘a plot to entrench dictatorship’, echoing the views of other Movement leaders about Museveni’s lack of commitment to democratic governance. PAFO embarked on several regional workshops: a meeting organised in Jinja in March 2004 was broken up violently by pro-government thugs.

PAFO cooperated with the RA and some of the older political parties to try to create a wider grouping that would oppose attempts by Museveni and his supporters to amend the Constitution and run for a third term. In August 2004 the Forum for Democratic Change (FDC) was formed, following a merger of the RA, PAFO, and the National Democrats’ Forum. When interviewed, the promoters of FDC claimed that this merger was only the first step in building a coalition of ‘all political forces fighting for democratic change in Uganda’.

FDC would pursue discussions with the main traditional political parties – the Democratic Party and the Uganda Peoples Congress – to form one broad opposition coalition that would field one presidential candidate in 2006. In the meantime, there was a battle to be fought in Parliament by MPs supporting PAFO and FDC over term limits.

The Movement system, presidentialism and political competition

A so-called ‘Movement no-party system’ has been in existence in Uganda since 1986. Although political parties are recognised officially, they are barred by the Constitution from opening branches and holding public meetings, as well as from canvassing support for candidates at elections. Such legal restrictions have limited the full operation of party activities, including mobilising grassroots support. The NRM, however, to all intents and purposes, has operated as a political party supported by the state. It has had direct access to state resources and has also not been subject to the stringent regulations placed on political parties. For instance, it has fielded Movement candidates at elections, claiming after the 2001 elections that it had won 230 of the seats in Parliament. Under the restrictive Movement system, the NRM has ensured its political dominance in Uganda (Mugaju & Oloka-Onyango 2000).

In March 2003, the national conference of the NRM resolved to abandon the Movement political system in favour of multiparty politics. However, the government stated that political parties would not be freed of legal restrictions until the referendum on changing Uganda’s political system was held. In the meantime, in August 2003 the NRM registered as a party, NRM Organisation (NRM(O)). But, as before, little distinction is made between the NRM(O) and the government: the NRM(O) has access to state coffers to finance its activities; it operates all over the country and, together with civil servants such as resident district commissioners, it campaigns for a third term. At the same time, the government was harassing the FDC in its attempts to be registered as a political party. The FDC complained of the delaying tactics employed by the government to prevent it from being gazetted as a political party within the mandated 30 days. When it was gazetted after three months of protracted struggle with the authorities, political groups seeking to block its attempts to register raised various objections. Three parties – allegedly acting as fronts for the government – filed objections challenging the FDC’s slogan, name

and symbols and accused it of being linked to rebels. Only in December 2004, four months after lodging its application, was the FDC registered as a political party.

The government has also been intimidating the FDC in its mobilisation activities. It continues to use the police and the army to prevent other parties from recruiting supporters. In November 2004, a unit of Uganda Peoples' Defence Force soldiers, who blocked their consultative meetings with constituents, flogged four MPs – all promoters of the FDC. In addition, district-level FDC supporters have been charged with treason, accused of plotting to overthrow the government by force of arms. They have been alleged to be providing logistical support to the People's Redemption Army (PRA), a shadowy Ugandan rebel group based in the Democratic Republic of Congo (DRC), which the government says is headed by Dr Besigye, whose brother was remanded in October 2004 on treason charges and alleged links to the DRC-based PRA rebels. FDC officials argued that the government was seeking to win public support by falsely alleging that their supporters were involved in clandestine or subversive activities. Moreover, although a Supreme Court ruling in November 2004 nullified restrictions on political parties and decreed that opposition parties were free to operate, it is evident that they will be unable to hold meetings and rallies without hindrance. State security agents and government officials are limiting the possibilities of fair political party competition ahead of the 2006 polls. For instance, Major Kakooza Mutale, a presidential adviser on political affairs, is reorganising his Kalangala Action Plan (KAP) groups in preparation for the next presidential election. A paramilitary organisation, KAP was accused of beating and intimidating Besigye supporters in the 2001 election (Tangri & Mwenda 2004).

The Movement regime has been a highly presidential one since 1986, with Museveni exercising a personal hold on power. State institutions such as the legislature and the judiciary have been rendered weak relative to the powerful executive. The chief executive has tightly controlled the army and the police. The NRM has been said to be a 'one-man show', with Museveni holding the chairmanship since its beginning. When Museveni decided on a third term, it was evident that the Movement would back him. A highly personalised and semi-authoritarian regime has used its power to entrench the political dominance of the Movement in all institutions, including Parliament. In the 1996 and 2001 parliamentary elections, the principle of 'no-party' democracy

not only disempowered political parties but also enabled the executive to create a relatively pliable Parliament. In 2001, the NRM attained a two-thirds majority to carry out constitutional change.

President Museveni has possessed virtually uncontrollable power and has accepted few limits on his discretion over decision-making. In August 1998, for example, he ordered the Ugandan army to be deployed in neighbouring DRC – ostensibly to clear the border areas of hostile rebel forces intent on destabilising the NRM government. Museveni has never sought the approval of Parliament as he is constitutionally required to do. Indeed, presidential control of Parliament, especially through the Parliamentary Movement Caucus (PMC), has undermined legislative oversight of the conduct of government. For example, following defections from the PMC by MPs opposed to the lifting of the constitutional two-term limit on the presidency, President Museveni began scheduling meetings with pro-Movement members of the regional parliamentary caucuses. In January 2004, the Busoga parliamentary caucus was ‘told to assemble in Kampala and board a bus to Rwakitura, Mr Museveni’s country home’. This was the first of several meetings ‘aimed at restoring confidence among pro-Movement MPs’ (*The Monitor* 13.01.04). Two weeks later, some 117 members of the PMC attended a six-day retreat in Kyankwanzi. President Museveni was described as one of the ‘resource persons’ at the retreat, during which it was resolved ‘to put in place a disciplinary committee, to ensure cohesion and unified commitment within the Movement system’ (*The New Vision* 26.01.04; *The Monitor* 18.02.04).

Museveni was incensed when several prominent Movement figures opposed his third-term bid. After unsuccessful attempts to induce them to return to the fold, he resorted to maligning them publicly. In his current nationwide tours campaigning for the Constitution to be amended, Museveni has been urging MPs and former government ministers to return to the Movement while castigating those who continued to remain with the FDC. However, opposition leaders have declared that no amount of sabre-rattling by Museveni would frighten them. But what will disconcert them are Museveni’s manoeuvres to forge a united bloc of Movement MPs on the third term (popularly known as ‘*Ekisanja*’), as well as to increase his parliamentary numbers in order to push through his desired constitutional amendment.

Parliament and lifting term limits

Parliament is the forum for debate on the proposed amendment of Article 105(2). A fierce battle was fought around 'Ekisanja' when the Constitution Amendment Bill came up for consideration in Parliament. Both the opposition and the Movement manoeuvred to block or to pass the third-term amendment as well as other proposed constitutional changes.

Controlling strategic committees

Even before the Bill was presented, a bitter struggle was being waged for control of the influential parliamentary sessional committees, which would be scrutinising proposals to amend the Constitution. The Legal and Parliamentary Affairs Committee (LPAC) was the committee expected to handle the Bill in which the government hoped to amend the Constitution and lift presidential term limits. At the start of the new parliamentary session in June 2004, the majority Movement MPs mobilised to unseat the existing chair of the LPAC as well as to gain control of this key House committee. MPs with no legal training were among those elected to the LPAC, in the process ousting prominent lawyers known for their anti-'Ekisanja' views. By obtaining a majority on the LPAC, pro-Movement MPs hoped to determine the fate of the third-term project (*The Weekly Observer* 10.06.04, 24.06.04).

Wooing MPs to support 'Ekisanja'

To amend any single article of the Constitution, the pro-'Ekisanja' group needs the support of two-thirds of MPs (or 196 of the 295 MPs who are eligible to vote). The Movement was uncertain of its support in Parliament. About 60 MPs had been elected in opposition to the Movement candidate in 2001, but there were also an unknown number of Movement MPs, some of them PAFO supporters, who were apprehensive about Museveni's extending his stay in office. The Movement sought to woo as many MPs to its side by handing out Ushs5 million (\$3 000) to about 200 selected parliamentarians, claiming the money was for 'facilitation' of consultations with their constituents regarding proposed constitutional changes. In October 2004, the NRM(O) paid the money to MPs who had publicly professed support for the removal of presidential term limits. This was widely perceived as a bribe to MPs to

influence their vote. Opposition MPs described the cash payments as violating the code of conduct for legislators.

In November 2004, the Movement parliamentary caucus chairman disclosed that pro-‘*Ekisanja*’ MPs stood to pocket more than Ushs15 million (\$7 500) if they backed the third-term proposal (*The New Vision* 2004). Critics argued that these monies were being taken from public funds. The government was alleged to have used the finance ministry to withdraw at least Ushs1.2 billion (\$750 000) from the central bank. President Museveni responded to these allegations by saying the money was internally sourced by the NRM(O). He refused, however, to reveal the source of the money (as required by law).

Changing parliamentary voting procedures

Rule 75 of the Rules of Procedure of Parliament provides for ‘a secret voting method when amending the Constitution’. In November 2004, it was reported that ‘the NRM political committee has asked President Museveni to urgently give MPs more money and to change the rules to avoid a secret ballot ahead of the crucial vote on presidential term limits’ (*The Weekly Observer* 18.11.04). Movement officials were anxious to prevent MPs taking money and then voting against lifting presidential term limits – open voting by a show of hands would make it difficult for MPs who had been financially induced to vote contrary to the wishes of their benefactors. As FDC supporter and Vice Chairperson of the Rules, Privileges and Discipline Committee (RPDC), Miria Matembe, said: ‘Those calculating for open voting simply want to intimidate MPs who received the Ushs5 million *Kisanja* cash and are opposed to the third term’ (*The Monitor* 20.12.04).

In December 2004 a motion to remove the secret ballot received overwhelming backing from Movement MPs. However, when the motion was sent to the influential RPDC for consideration, opposition parliamentarians – who were strongly represented in the committee – argued that its timing was suspect and that it only reinforced concerns that the Movement was trying to erode parliamentary democracy. They opposed changing the secret ballot rule. By mid-March 2005, the RPDC had still not submitted its report on the motion. When the committee did report, it recommended that open voting be adopted during the constitutional amendment process. ‘While recognising the need to protect MPs from manipulation’, the committee noted that it was important

for an MP ‘not only to account for his/her actions but remain responsible for his or her action for posterity’ (*The Monitor* 01.04.05).

Parliament to decide

The move to repeal Article 105(2) overshadowed other important changes being proposed to the 1995 Constitution. In its *White Paper on the report of the Commission of Inquiry (Constitutional Review)* (Government of Uganda 2004), the government presented over 100 changes, which were intended to amend nearly one-half of the Constitution. The LPAC held hearings and received written memoranda on the constitutional changes proposed by the CRC and the government. Surprisingly, for a sessional committee which had been packed recently with Movement supporters, the LPAC reported that it was undecided on the idea of lifting presidential term limits, stating that: ‘of all the proposals in the White Paper’, the third-term issue was ‘the most controversial and the one with the potential to cause most political strife and turmoil’ (Parliament of Uganda 2004: 27). The proposal ‘needs to be revisited, as its political and related implications are quite dire for the country’ (Parliament of Uganda 2004: 29).

The committee pointed out that debate between those for and against the amendment had revolved around the incumbent president rather than the merits and demerits of the principle of term limits. The LPAC declared it would be for Parliament to decide. However, the committee was concerned that if Parliament rejected Cabinet’s proposed amendment, it could have serious consequences for Uganda’s political transition. It framed these consequences in the form of three key questions: Will President Museveni accept the verdict of Parliament? How will the army respond to such a decision? What will be the reaction of the Museveni supporters in the Movement? (Parliament of Uganda 2004: 29).

While it was manifestly clear that the government would not accept defeat on this vital issue, the opposition could also bring about turmoil if it was on the losing side. As a way of stemming potential political upheaval, the LPAC enquired if it was tenable ‘to give only one extra term to President Museveni but still maintain the term limits in the Constitution through a transitional arrangement, like [it] has been done in Namibia?’ (Parliament of Uganda 2004: 29).

There was some support among MPs for the LPAC's suggestion that Museveni be granted a special extra term. Several Movement MPs expressed concern privately that zero term limits and indefinite eligibility could create 'a constitutional presidential dictatorship'. However, the Movement leadership rejected all proposals other than the one concerned with the complete lifting of presidential term limits. In April 2005, the LPAC – which had been scrutinising the Constitutional (Amendment) Bill – voted to support the government's proposal to remove term limits from the Constitution. Unlike most other proposals in the Bill on which there was some consensus, the proposal to delete the article on presidential terms had to be put to the vote. It was approved by a majority of the committee members.

A survey carried out by the *Weekly Observer* and published on 3 February 2005 put the number of MPs supporting the repeal of Article 105(2) as 188, eight short of the 196 needed to win the third-term vote. The number of MPs had increased since October 2004, when the NRM gave money to 203 MPs. There was also the prospect of further monetary benefits if MPs backed the government's proposal to hold presidential and parliamentary elections on the same day. This would require that the current term of Parliament be shortened by three months to coincide with that of the president. The government wanted to compensate MPs for loss of employment in respect of the period by which their parliamentary term was reduced. MPs stood to gain up to Ushs30 million (\$15 000) for three months' emoluments, which would enable them to finance the large costs of election campaigning. Moreover, if re-elected, MPs would start earning their new salary from the beginning of the eighth Parliament in April 2006.

In addition to these incentives, NRM leaders were promising not to oppose pro-third term MPs in the 2006 elections: 'Indeed most MPs are supporting the third term to buy NRM support during parliamentary elections' (*The Weekly Observer* 03.03.05). With the change of rules from secret to open voting the Movement believed it would easily muster the two-thirds majority in Parliament to amend the Constitution. When the new NRM(O) parliamentary caucus group was launched in March 2005, nearly two-thirds of the MPs attended the meeting and declared enthusiastically they had the numbers to remove the two-term limits clause.

Civil society and the third-term debate

An extra-parliamentary opposition to 'Ekisanja' has hardly emerged. Under the prevailing Movement system, an active civil society has been discouraged. Few of the interest groups and professional associations have lobbied against the third-term proposal. It is mainly religious organisations that have voiced their reservations publicly. In May 2003, the Uganda Joint Christian Council (UJCC) – which brings together the Anglican, Catholic, and Orthodox churches in Uganda – adopted a resolution rejecting the removal of presidential term limits. A year later the UJCC issued a statement criticising moves to tamper with the Constitution. However, the UJCC has also stated that Parliament is the authority mandated by the Constitution to amend Article 105(2), implying that if this were done constitutionally it would be legally bound by the decision. But in November 2004 bishops in the UJCC were warning MPs against being compromised during the impending constitutional amendment process.

However, the churches appear unlikely to play an active political role on the issue of presidential term limits. Much of civil society has also been politically inactive since 1986 as strong and independent organisations have not been permitted under the NRM (Oloka-Onyango & Barya 1997). Many civil society organisations are also linked closely to the state. In the case of business, for example, the large Asian capitalists are among the leading elements in the Uganda Manufacturers Association. They have been conspicuously silent on the third-term issue, not wanting to undermine their close and mutually advantageous relationship with the president. Many emergent black Ugandan businesses are dependent on the government for contracts and concessions, and would be unwilling to jeopardise their enterprises by engaging in anti-'Ekisanja' politics. The trade unions have been politically demobilised during the past two decades. While there are a number of workers' representatives in Parliament, it was these particular MPs who were seen 'dishing out' the 'Ekisanja' money to fellow parliamentarians to support the third term.

The print media has placed considerable focus on 'Ekisanja'. Both state-owned and private newspapers have carried many articles either supporting or opposing a third term for Museveni. They have also documented the political manoeuvres and manipulations of Movement politicians to secure parliamentary support for the constitutional amendment on presidential

term limits. But newspapers hardly circulate outside the main urban centres, and within Kampala they have had little impact on shaping the views of MPs or members of civic organisations. While radio in Uganda reaches far into the rural areas – in which some 80 per cent of the population live – there are limits on radio as a medium of independent expression. Most of the 67 private FM radio stations – particularly those outside of Kampala – are owned by government ministers such as Amama Mbabazi, Mike Mukula, John Nassasira and Ruhakana Rugunda, who are loyal and firm supporters of the president. There are also state-owned radio stations, and it is clear that the government controls this crucial sector of the media.

It is Uganda's small political class that has been absorbed with the third-term issue. Since 1986, associational activity has been politically limited. Business associations, trade unions, and the many civic organisations have been politically quiescent and rarely involved in political agitation. Only the churches (and the mosques) are able to be active in the political struggle against 'Ekisanja', but at the moment that appears unlikely. However, an important potential constituency that could be rallied is the Buganda kingdom. In its king, the Kabaka, Buganda has a rallying point that could deliver a large bloc of parliamentary votes for or against 'Ekisanja'. The kingdom has been seeking a special federal status for Buganda for many years, which has led it into friction with the ruling Movement. Museveni, however, has feared that without some agreement on 'federo' or regional government his third-term ambitions could be thwarted by Buganda. He has employed his considerable political skills to divide the Buganda or Mengo establishment from district councillors, and has used Baganda government ministers (including the prime minister) to persuade Mengo to support him on the issue of the third term. In February 2005, Buganda and the government struck a 'federo' deal in which the latter would delegate some powers to the regions. The Kabaka and the Lukiko (the Bugandan Parliament) endorsed the deal, as did over 55 Bugandan MPs. Once again Museveni demonstrated his acute political and tactical sense in demobilising potential opposition to his continuing presidency.

International donors and the third-term issue

The close and cooperative relations that have developed between the NRM government and international donors since the late 1980s have influenced the

response of the latter to Museveni's third-term proposal. Since 1987, Uganda has been carrying out donor-sponsored economic reforms. The international financial institutions and Western bilateral donors have hailed Uganda as a successful economic reformer in Africa. They have supported Uganda with large amounts of aid, averaging over \$800 million a year since the late 1990s. Large amounts of aid resources have contributed in important measure to Uganda's economic recovery. Moreover, Uganda has been seen as a key state in Western geo-strategic interests in the region, especially in its role in preventing the spread of 'Islamic fundamentalism' from Sudan. The US administration in the mid-1990s lauded Museveni as one of 'the new breed of African leaders' on the continent pursuing liberal economic reforms as well as supporting the war against terrorism (Hauser 1999).

In their support for Museveni, aid donors for many years tended to ignore evidence of abuse of power and authoritarian politics in Uganda. They focused largely on economic issues as well as regional stability. They gave little attention to matters of governance and democratisation. They said little about the severe restrictions on political parties, which enabled the NRM to mobilise political power and turn Uganda into a de facto one-party state. Nor did the emergence of virtual one-man rule cause them much concern. Moreover, donor lending went ahead despite ample evidence of high-level state corruption and violations of human rights.

President Museveni has been adept at cultivating close ties with donors. In recent years he has supported US initiatives on combating terrorism and free trade – Uganda was one of the four African members of the United States-led coalition in Iraq. For many years, donors were reticent about criticising Museveni and the Movement lest they undermine economic progress and a strategic ally. It is only since the violence and irregularities of the 2001 elections that the donors have realised that they have been propping up a highly personalised and quasi-authoritarian régime in Uganda. Concerns about human-rights abuses, corruption, high military spending, and limited political reform have made Western governments more critical of the NRM regime (Consultative Group 2003). The economy has also been performing less impressively during the last few years – Uganda has been suffering from mounting foreign debt, fiscal deficits, trade imbalances, and limited foreign investment. On top of this has been Museveni's quest for a third term in office, which could have serious economic and political repercussions for the country.

Western governments have been opposed to Museveni's attempts to amend the Constitution and remove term limits on the presidency. Their opposition has been relayed to Museveni at various private meetings with top US and British leaders. Museveni has been urged to hand over power gracefully, to respect the Constitution and to cooperate with the opposition to ensure a peaceful transition to multiparty democracy. By clinging to power he could therefore undermine much of what he has achieved since coming to power in 1986. Moreover, he could forfeit financial support. For instance, in 2004, Uganda was denied funds from the US Millennium Challenge Account because of the government's poor scores on governance indicators and political pluralism.

In turn, Museveni has resorted to making combative speeches railing against the intrusive power of the international financial institutions, as well as condemning Western governments for their 'arrogance' and seeking to dominate the world. He criticised the United States' handling of the war in Iraq, saying that the Bush administration had pursued interests that it did not disclose to coalition partners. He also held Britain responsible for Africa's civil wars, backed Zimbabwean President Robert Mugabe's land seizures, and referred to changing leaders as 'unAfrican'.

Given Museveni's determination to stand for office again, it seems unlikely that any amount of criticism by donors will dissuade him from doing so. As has become evident, Museveni is prepared to use whatever means necessary to remain in power. In April 2005, the donors expressed doubts about the constitutional amendment process being 'perceived widely as legitimate, free of manipulation or coercion and as building consensus on change' (*The New Vision* 02.04.05). But they are also concluding that Museveni is likely to succeed in having the Constitution repealed and eliminating term limits. The Movement will gain the necessary numbers of MPs on its side and the referendum, which would follow a successful amendment of presidential term limits by Parliament, would be a walkover. 'He will eventually go, as did Moi in neighbouring Kenya', said one diplomat interviewed, demonstrating how resigned the donors have become to Museveni holding on to power.

Moreover, none of the bilateral donors is seriously considering the withdrawal of their aid to Uganda if Museveni goes ahead with his third-term project. It is true that the British withheld \$9 million in budgetary support in March 2005, because of 'insufficient progress...towards establishing a fair basis for

a multiparty system' (*The Monitor* 29.04.05). It is possible that several other countries may cut their aid by small amounts in protest against Museveni's seeking an unconstitutional third term in office. But these are limited gestures meant partly for domestic political consumption in donor countries, and unlikely to deter Museveni and his Movement supporters from amending the Constitution as they wish. Moreover, the international financial institutions who are the biggest donors – providing 65 per cent of Uganda's aid – are wholly opposed to curtailing their support for Uganda as that would taint the picture of economic success they have been painting over the past decade. The donors are also fearful that adopting a punitive approach by withholding economic support could plunge the country into economic crisis. This could force 'Museveni to do a Mugabe' and expropriate Western economic interests. For the donors it is neither in their interests nor those of Ugandans to adopt a confrontational stance against Museveni. On the other hand, they are well aware that their moderate stance is not only not discouraging Museveni's third-term moves, but may be perpetuating his hold on power.

Conclusion

The struggle for and against a presidential third term in Uganda is not yet resolved. New twists could change the current likelihood that Museveni will stand for office again in 2006. For instance, in November 2004 the press reported that Lieutenant General Salim Saleh had written to his elder brother, President Museveni, advising him to abandon the third-term bid for the sake of unity in the Movement. Museveni was quick to quash such talk, and Saleh was said to be giving unreserved support to his brother seeking another term as president. Yet the Ugandan experience to date yields some interesting insights regarding the removal of presidential term limits in African countries.

First, nearly everywhere in Africa presidents are unwilling to release their hold on political power. Both Moi and Rawlings entertained thoughts about remaining in office beyond the constitutional term limits. In view of the strength of the parliamentary opposition they faced, it was unlikely they would have obtained the required two-thirds vote to amend the Constitutions. This points to the need for a strong representation of the opposition in Parliament if the incumbent president is to be thwarted in bidding for office again. In addition, presidents need to be assured – as were Moi and Rawlings – that they

will be indemnified from any future charges of wrongdoing, before they are willing to give up the presidency. In the case of Museveni, however, it is very doubtful that, if offered indemnity, he would abandon his attempt to hang on beyond 2006, the more so as he has the support of an overwhelming majority in the legislature.

Second, presidential motives for hanging on to power are connected with protecting close political allies and relatives. Indemnity is usually granted only to the president, who will be under pressure to extend his stay in power for the sake of protecting the positions and privileges of his family and friends. In Uganda, 'there seems to be real fear within Museveni's family and *akazu* (an inner ruling clique of six relatives, in-laws and friends)' that a new government 'could follow them up on alleged corruption' (*The Weekly Observer* 12.05.05). It appears unlikely that they will be granted immunity from prosecution, and that will be an additional reason why Museveni will cling to power so determinedly.

Third, the issue of a presidential third term has to be resolved constitutionally by the legislature. Chiluba and Muluzi sought to achieve a constitutional extension of their tenure by offering MPs financial inducements and the prospect of improved services for their constituents. Their third-term bids failed – narrowly in the case of Muluzi – because opposition MPs as well as a sizeable number within their own party rejected it. But even in countries such as Uganda, where the Movement dominates the legislature, gaining the necessary two-thirds parliamentary vote is difficult, and owes much to cajoling and bribery as well as to Museveni's considerable political adroitness.

Fourth, attempts by presidents to seek a third term are met with resistance from the political opposition and civil society groups. But this domestic resistance alone appears unlikely to succeed in preventing a president from standing for office again. It is when domestic and external opposition combines that a president's attempts to remain in power are likely to be thwarted.

Fifth, the relationship between donors and incumbents is key to determining the outcome of third-term struggles. In Malawi there was a serious estrangement between the international financial institutions and the government of President Muluzi. The decision by the International Monetary Fund to withdraw economic assistance from the government, which depended on donor aid for 38 per cent of its Budget, sealed Muluzi's fate. In Uganda,

however, although expressing concerns that ‘developments notably linked to the political transition, protection of human rights and the fight against corruption...might influence our development partnership’ (DDGG 2005), neither the international financial institutions nor the Western bilateral donors have threatened to suspend their aid. Donors still provide some 50 per cent of the national Budget and most of the development expenditure. For good economic and political reasons, they are reluctant to undermine a regime with which they have enjoyed close ties during the past 18 years. This has been crucial for Museveni in dealing with surging anti-‘*Ekisanja*’ political forces and going ahead with his third-term project.

Note

- 1 Much of the information presented in this chapter is based on newspaper accounts as well as interviews conducted in Kampala in July 2004 and March 2005.

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9 *Immunity or accountability? Daniel Toroitich arap Moi: Kenya's first retired president*

Thomas P Wolf

The willingness of leaders to step down...often depends on whether they fear prosecution for having abused state powers and privileges...They fear the opposition's promises to prosecute them, and recalling the ignominious exile of the Marcoses of the Philippines or the Shah of Iran, worry that they will never be safe. (*Bratton & van de Walle 1997: 85*)

Kenya's president for close to a quarter century Daniel arap Moi could be headed for the Hague International Court for genocide crimes, along with corruption charges locally, on retirement...It is not clear whether he enjoys any immunity once he is out of office but even if he did, the ongoing trial of former Yugoslavia president Slobodan Milošević and the tribulations former Zambian president, Frederick Chiluba, is going through must cause considerable anxiety to Moi. Neither could have foreseen the distressing ordeal they now face. (*Kenya Confidential 24–30.07.02*)

President Moi yesterday crowned his last Independence Day address as head of state with a message of reconciliation and forgiveness to all. 'If you abused me I forgive you and forgive me if I hurt you', were the president's most telling words as he prepared to leave office at the end of the year. (*The Standard 13.12.02*)

Given the length of Kenyan President Daniel Toroitich arap Moi's incumbency (1978–2002), and the extensive human-rights violations and economic crimes committed under his watch, many doubted that he would agree to give up power in 2002 in accordance with the Constitution or, if he did, whether he would allow anyone but a chosen successor to proceed to State House. After all, here was a leader who presided over a country that became near-infamous

for its mega-corruption (Chweya 2005: 2) and political violence (involving both collective and individual-targeted killings) (Africa Watch 1993; Kagwanja 1998), especially after the president's overnight 'conversion' to multiparty politics at the end of 1991. Most significantly, not one conviction, let alone prison sentence, was obtained for any of the perpetrators of these crimes. And while all this was going on, Moi and those closest to him (including his children and personal aides) somehow became astronomically wealthy, notwithstanding his own frugal if not abstemious lifestyle (*Sunday Nation* 16.11.03).¹

But such doubts failed to materialise. True, Moi brooked no dissent in his choice of his party's presidential candidate, but he subsequently allowed an election that came far closer to meeting 'free and fair' standards than either of the previous two multiparty contests in 1992 and 1997. Moreover, when his candidate lost, and by a landslide, the transfer of power was peaceful in the extreme, again proving the pessimists wrong.²

In the wake of the opposition's overwhelming triumph, many assumed that Moi and those closest to him would indeed be held to account. Indeed, in several other African countries (such as Zambia and Malawi), even where chosen successors were eased into power (if not imposed), their mentors later faced considerable legal problems. Moreover, the new government was thought to have concrete reasons for doing so, beyond simply fulfilling a campaign promise:³ to neutralise Moi and his allies, likely to give support to the new government's opponents; to recover 'stolen' assets, thereby reducing the country's debt burden; to deter potential errant members of the new regime itself, thereby holding corruption in check and maintaining positive relations with donors and investors; and, in general, to protect property rights, a foundation of Kenya's market-oriented economy.

Yet, more than two years after vacating State House, the country's first retired president and those closest to him remain entirely unscathed, while Moi appears increasingly confident that he, at least, constitutes a 'special case', not to be 'disturbed' in retirement. How can this state of affairs be explained? In seeking to answer this question, the analysis that follows uses this recent Kenyan case to illustrate issues surrounding the exit from office of a regime associated with very serious abuses, and the challenges a successor regime faces in dealing with them. It therefore aims to capture both those features that make it, in some ways, unique, and those that give it considerably wider

relevance, particularly for the study of political systems undergoing similar processes of institutional development, especially those associated with peaceful transfers of power.

Exits from office and the question of criminal liability

[W]e do not have a law that states what judicial action should be taken against a president who abused the constitution...[T]he issue of amnesty is constitutional and if not handled properly, can easily plunge the nation into political genocide like in Rwanda, Somalia, Burundi and Democratic Republic of Congo. (*The People Daily* 05.02.02)

Both the prospect and the occurrence of the exit from power of rulers associated with governance crimes – whether or not these led to civil strife or more thorough state disintegration – have spawned heated debate in an increasing number of countries about the practicality and wisdom of subjecting their records to scrutiny of whatever kind.⁴ Two opposing perspectives have been applied to such situations.

One approach seeks amnesty, whether negotiated and formal, or unspoken and de facto. It recognises the often tragic legacy of highly personalised rule, in part a reflection of fragile institutions of the post-colonial state, and the still only tentative restraints on executive power in particular. In the wake of nearly inevitable abuses, peaceful, institutionalised transfers of power remain problematic. When they occur, therefore, they should be lauded as major achievements, at national, regional and international levels. From this perspective, then, overlooking past violations is an important – if not essential – element in encouraging such peaceful exits, and in ensuring that in retirement former leaders and their supporters play positive (or at least neutral) rather than pernicious roles in public life.

The opposing perspective holds that without accountability for misdeeds in such recently liberalised polities, few hard-fought governance gains will endure; that is, as long as leaders who have abused power enjoy immunity, even in retirement, the temptation for future occupants of high office to preside over similar ills remains irresistible. Beyond leaders themselves, such a culture of impunity generates a cynicism penetrating even the most remote corners of the

public sphere, while ‘contaminating’ the private sector and even interpersonal relations as well. As such, some form of censure is essential. The argument, therefore, should centre on just what form(s) this should take: full criminal prosecution; conditional amnesty based on a combination of confession and apology (together with some compensation for victims), along with the return of (at least some) amassed wealth; or simple public shaming along with, perhaps, the denial of any retirement benefits and honorific recognition.

Keeping these opposing positions in mind, four main factors appear to influence outcomes in such cases, beyond the extent and nature of whatever abuses occurred:

- the country’s legal regime;
- the departing leader’s entire policy/performance balance sheet;
- his role in the transition (generally earning greater goodwill if he supports rather than subverts the transfer of power); and
- the character of the succeeding regime, that may range from one led by a chosen successor to one comprising erstwhile political adversaries, the latter presumably more inclined to impose an accountability agenda.

Even if the latter scenario obtains, however, the actual bargaining power of the departed leader, through his political allies, may serve to dilute, if not wholly thwart, such intentions. Also critical here is the balance of forces within the successor government, as well as among those groups to which it owes its hold on office. Consequently, what actually happens may depend as much upon its internal dynamics as upon the interplay between it and other actors. In addition, comparisons with any predecessor regime(s) or former leader(s), the standing of the ex-leader’s wider family and community, the role of important external actors, as well as the retiree’s own post-incumbent behaviour – together with the attention given to all such issues by the media – may also impinge on developments, and should be kept in mind in assessing the account that follows.

Moi’s parting blunder – NARC’s threatening arrival

Retired President Daniel arap Moi, as reported in *The Standard* (05.10.04) said, ‘I am proud to have led a peaceful nation and have never been ashamed of my 24 years in power.’

The infamy of the Nyayo House torture rooms will endure, long, long after...the victims who suffered in those cells are dead and buried. Already the NARC government has said it will let the place remain undisturbed as a Monument of Shame...The Moi regime might be forgiven many things, but surely not this. (Warigi, *Sunday Nation* 16.02.03)

We want to build a free Kenya. A Kenya which is free of any of the evils that we saw before. (President Mwai Kibaki, quoted in Akivaga 2005: 280)⁵

Notwithstanding the imposition of term limits (two five-year terms) via constitutional amendment in 1992, it was not until his final year that 78-year-old President Moi made it clear that, despite repeated calls from Kenya African National Union (KANU) 'hard-liners' for him to stay on, he would, after all, retire.⁶ His parting shot, however, was to force upon the party a chosen successor – Uhuru Kenyatta, son of the country's first president, and still largely a political novice.⁷ Among the various factors cited in explaining this largely unforeseen choice, two stand out: the Kenyatta family's wealth (critical for the forthcoming campaign); and Moi's concern with having someone largely beholden to him who would be certain to ensure his perpetual immunity from prosecution in retirement.

Ironically, such a preoccupation with his own interests only ensured a resounding loss for both his candidate and party in the subsequent 27 December polls, with Uhuru delivering a somber concession speech even before the Electoral Commission had officially announced the results (*The East African* 06–12.01.03).⁸ The events leading up to this by-then predictable but still unprecedented 'error' by the self-styled 'professor of politics' have been described elsewhere (Oyugi, Wanyande & Odhiambo-Mbai 2003; Holmquist 2003). Here, we need only highlight the two main reasons for the resounding (62 per cent) win by twice presidential contestant Mwai Kibaki and his National Alliance Rainbow Coalition (NARC), that netted 132 out of 222 seats in the National Assembly, beyond Kenyans' overwhelming desire for change:

- the coming together of over a dozen opposition leaders and parties on the basis of sharing power once it was won,⁹ and
- the exit from KANU of a significant number of 'rainbow rebels' (who then 'colonised' the hitherto unknown Liberal Democratic Party, or LDP) in protest at Moi's forced choice of Uhuru.¹⁰

Given this victory, there seemed every reason to believe that the new government was solidly placed to put into effect its sweeping reform promises, including ‘justice’ for the outgoing leadership and its criminal accomplices. Such expectations were only heightened at Nairobi’s Uhuru Park on 30 December, when the crowd subjected Moi to unprecedented abuse, hurling both verbal insults and clumps of dirt in his direction, and loudly jeering guest President Yoweri Museveni of Uganda when he praised the retiring president. For his part, the just-sworn-in Kibaki – confined to a wheelchair after a serious campaign-related automobile accident – gave his predecessor’s governance record a most uncharacteristic trashing (failing even to acknowledge Moi, who was seated next to him).

In the lingering euphoria that followed, when Kenyans were confirmed as the most optimistic people on earth (Steadman-Gallup poll, cited in Wolf, Logan & Owiti 2004: 61), a succession of statements and actions suggested that the day of reckoning for Moi and his closest associates (including several family members) was not far off. These included a number of highly suggestive appointments, most notably that of Transparency International-Kenya’s Executive Director, John Githongo, as the country’s first Permanent Secretary for Ethics and Governance in the Office of the President, and the departure of a slew of discredited officials, beginning with that of Chief Justice Bernard Chunga along with a substantial number of other judicial officers (*Sunday Nation* 23.02.03; *Sunday Standard* 12.10.03). Such changes in personnel were accompanied by the passage of two landmark pieces of anti-corruption legislation (*The People Daily* 01.05.03). At the same time, new Justice and Constitutional Affairs Minister (and former human rights lawyer and opposition MP) Kiraitu Murungi warned Moi that his official retirement benefits (worth KShs42 million in the next financial year) – including his security detail – would be denied if he ‘continued to involve himself in politics’ (*Sunday Times* 27.04.03).

Outside government, demands pulsed for prosecutions of those the Akiwumi Commission Report (Republic of Kenya 2002) had implicated in past election violence, while candle-lit ceremonies and commemorative speeches took place in the basement of Nyayo House, a government office block that had concealed facilities designed especially for torture (*Daily Nation* 12.02.03). Mau-Mau veterans and their lobby groups, too, raised their voices to demand compensation for the transgressions of rulers of an earlier era, while many

called for the establishment of a 'heroes' corner' monument for all those who had sacrificed for the nation.

In quick response to such demands, among other measures President Kibaki appointed a task force, headed by founding Kenya Human Rights Commission Director Professor Makau Mutua, to collect views towards the establishment of a Truth and Justice Commission (TJC) – an effort that received professional support from the International Center for Transitional Justice in New York – and a Judicial Commission of Inquiry to investigate a fraudulent gold and diamonds export scheme of the early 1990s involving top government officials (the so-called Goldenberg Affair), said to have cost the Kenyan taxpayer upwards of \$1 billion (Transparency International-Kenya 2003), in preparation for criminal prosecutions (*Saturday Nation* 15.02.03).¹¹

Perhaps most worrying for Moi and his associates were calls from both within government and civil society groups for re-opening investigations into a number of high-profile unresolved murders and other 'mysterious' deaths, in particular those of Foreign Minister Dr Robert Ouko in 1990, and American Catholic priest and human rights crusader, Father John Kaiser, in 2000. Efforts were also made to revisit the case of the young British tourist, Julie Ward, murdered while visiting a game reserve in 1988, that was said to involve individuals 'at the centre of the Kenya government' in either the original crime, the subsequent police cover-up, or both (*The Nairobi Law Monthly* July 1992; *The East African* 10–16.05.04).¹² As preliminary steps were taken regarding these and other abuses of power, the former president and those closest to him were undoubtedly chilled as a near-endless succession of revelations and accusations emerged. With so much at stake, Kenyans watched intently so see whether the once-mighty would finally be subjected to justice, whether or not of a transitional nature.

A transitional justice agenda?

These initial threats failed to materialise. On the contrary, when questioned about the government's commitment in this regard towards the end of its first year in office, Githongo described Moi as 'a special case, given his role in the peaceful transfer of power following the election' (*Daily Nation* 22.12.03). Indeed, the increasingly confident retiree was making frequent and well-received appearances at home and abroad. Two such appearances during 2003,

involving both Moi and Kibaki, were particularly significant: during their first public encounter since the inauguration, in March 2003, at the funeral of the wife of former Democratic Party (DP) patron and now KANU MP, Njenga Karume, where Moi and Kibaki spent considerable time together engaging in what was clearly enjoyable conversation (*Saturday Nation* 22.03.03); and at the end of the year, at the wedding of Raila Odinga's daughter, where the media were quick to report that Moi received more enthusiastic applause than the president himself (*Sunday Standard* 05.12.04).

Moving into his third year in retirement, Moi busied himself in more formal activities both within Kenya and elsewhere: handing over the leadership reins of KANU to Uhuru; convening a conference for competing southern Sudanese factions under the auspices of his Moi Africa Institute (*Daily Nation* 21.04.05) in Kenya;¹³ making a three-day 'official visit' to Saudi Arabia; and participating in an African ex-presidents' seminar in both South Africa and the United States (*Sunday Nation*, 17.04.05).

In the interim, not a single major figure from his quarter-century of leadership had been successfully prosecuted. Indeed, the only judicial proceedings that materialised to engage Moi's lawyers emanated from several private parties. These included:

- a suit (still in progress) brought to a Nakuru court by a white Kenyan seeking to recover land that he claimed his father had been forced to part with in the 1980s at Moi's behest (*Daily Nation* 18.02.04);
- an attempt by a non-governmental organisation to sue him for failing to protect Kenyans from the ethnic clashes of the 1990s (dismissed on the grounds that the plaintiff had no standing);¹⁴
- a plea filed in the High Court by the owner of Royal Media Services Ltd (parent company of Citizen Radio and Television) seeking KShs764 million from Moi, based on a civil suit instituted earlier (*The People Daily* 04.12.04);¹⁵
- a suit for KShs217 million by a building contractor (and later an opposition MP) against Moi as the owner of Kabarak High School for unpaid work (*Daily Nation* 21.06.05); and
- an application filed in the High Court by human rights activists (later blocked by the Court of Appeal)¹⁶ demanding that Moi and several other senior officials of his regime be compelled to testify at the Goldenberg Inquiry (*The Standard* 26.11.04; discussed further later in this chapter).

For their part, acting outside the courts in a symbolic attempt to begin to fill this void, on 10 October 2004 ('Moi Day', a national holiday), human rights protestors led by officials of the Release Political Prisoners group painted slogans on the Nyayo Monument in Nairobi's Central Park that called for Moi's imprisonment for the grievous rights violations over which he had presided. The protestors made it clear that such actions expressed their frustration at the Kibaki government's own failure to act.¹⁷

During this same period, however, and notwithstanding notable improvement in certain economic sectors and public revenue collection, the new government was facing increasingly serious problems that affected its political standing at home and its credibility abroad. On the anti-corruption side of its 'good governance' ledger, a string of accusations (and some evidence) regarding new scandals led to the abrupt resignation of John Githongo (who chose to stay behind in the United Kingdom after an official trip, reportedly in fear for his life at the hands of elements within the new government itself (*The Standard* 08.02.05)). And this was followed by a derisive rebuke from British High Commissioner Edward Clay – echoed by the American, Japanese and Canadian ambassadors – who had earlier submitted to Kibaki a dossier of 20 corruption cases which he claimed the government had refused to act upon (*Daily Nation* 16.02.04; Akivaga 2005). On the institutional reform side, with the constitutional review stalemate continuing and the LDP wing on the verge of either walking out or being expelled from Cabinet, the government resorted to using truncheon-wielding police, teargas and water hoses to prevent a reform rally from taking place in Nairobi in mid-2004 (*Sunday Standard* 03.07.04).¹⁸ While such events were infrequent in comparison with the later Moi years, the resort to such heavy-handed tactics, together with the lack of discernible progress towards a new Constitution and the failure to actively pursue its promised transitional justice agenda, gave rise to a call by a group of human rights activists – many of whom had made painful personal sacrifices in the cause of the 'second liberation' – for NARC's (and Kibaki's) defeat in the now not-so-distant 2007 elections (*Saturday Nation* 30.04.05).

Given such developments, Kenyans' views on transitional justice were bound to be affected, which is precisely what occurred.

Accountability options: the public's verdict

Q: And what do you think about Moi being made to testify [at the Goldenberg scandal inquiry]?

A: Of course he should. He's no longer a president. Isn't he a Kenya citizen now, just like me?¹⁹

Upon arrival the Kibaki government was confronted with a range of options regarding the possible criminal liability of the former president and his associates, not all mutually exclusive. These ranged (Tepperman 2002; GTZ 2005) from allowing the law to take its course to shepherding their potential liability through a truth-and-reconciliation process, and to the granting of formal amnesty and immunity. How did Kenyans themselves see these choices as the post-Moi era unfolded?

A rough indication was provided by the government's TJC task force; in seeking to determine the level of support for a truth-and-reconciliation process, the task force found an impressive majority (90 per cent) in favour of such an approach (Republic of Kenya 2003: ix). But as it only received the views of those who came forward, this figure cannot be taken as representing those of Kenyans as a whole. Far more reliable (though receiving no media attention) are the results obtained from several random-sample surveys that explored a range of justice options for those guilty of past governance crimes: full prosecution and punishment; conditional amnesty (that is, forgiveness following confession/apology and the return of 'stolen' assets); and unconditional amnesty. These surveys indicated a strong, if shifting, preference for the second of these three options.

For example, in the first Kenya Afrobarometer survey (conducted in August and September 2003 when the new government was still enjoying extremely high approval ratings [Wolf et al. 2004]), nearly two-thirds of respondents preferred this over three other options (full prosecution, unconditional amnesty, and 'do not agree with any of the above'). At the same time, while there was marginally less support (16 per cent) for full prosecution of the former president than there was for other government officials (23 per cent), there was twice as much support for unconditional amnesty for him (16 per cent) as there was for everyone else (eight per cent).

In sum, while most Kenyans were prepared at that time to support some sort of action against all previous government law-breakers, Moi attracted substantially more sympathy than others considered to have abused public office during his watch. Some significant variations in terms of ethnicity also emerged here. In particular, Moi's own Kalenjin led in their support for an unconditional amnesty (37 per cent, compared to 12 per cent or less among Kenya's other principal ethnic groups), as well as for a transitional justice process that would include the Kenyatta era as well.

A year later, in a Transparency International-Kenya urban corruption survey,²⁰ a marked increase was seen in those opting for all other government officials to face the full force of the law (58 per cent, from just 16 per cent in the former survey). Most striking, however, was that sympathy towards the former president, expressed in terms of support for unconditional amnesty, had nearly doubled, to 29 per cent.

Two general factors may explain this increasing goodwill towards Moi. First, in addition to growing – if grudging – gratitude for his having presided over a peaceful transfer of power in the first place, was his generally demure public role over the previous year. Second, and perhaps more salient, was growing concern over the successor government's own performance in terms of corruption and rights abuses. As one reform leader argued early in 2005:

So when Kiraitu Murungi told former President Daniel arap Moi to stop meddling in politics and instead 'enjoy your retirement and watch how we govern', it may not have occurred to him that the NARC regime would soon lose the moral authority and credibility to investigate the wrongs and violations of the past and, based on the findings, bring the culprits to account for their misdeeds. (*The Standard* 20.04.05)

Indeed, by February 2005 another (urban-only) poll²¹ revealed that an impressive majority (69 per cent) had concluded that the 'war on corruption' had been 'lost' (*The Standard* 18.02.05). It also showed that support for NARC as a collective entity had slumped to just 17 per cent, even less popular than its LDP component that was the party of choice for one in four respondents.²² In contrast, support for KANU stood at 29 per cent, a clear (if still weak) plurality. Altogether, KANU's resurgence and NARC's internal discord,

unfulfilled promises, and tarnished reform credentials were apparently two sides of the same coin, reflected in Kibaki's waning stature, and increasing support for the former president.

In sum, since the election a solid foundation for pursuing perpetrators of past governance crimes has remained, even if the most popular option was an instrumental approach leading to the recovery of assets as opposed to 'punishment' for its own sake, or simply as a warning to future leaders and officials. And while such a conditional amnesty remained (if decreasingly so) the most popular option regarding Moi as well, unconditional forgiveness became decidedly less repugnant to most Kenyans as time passed.

Yet, as shown, by 2005 it appeared that Moi was not going to be the target of a transitional justice process of any kind. In seeking to understand this outcome, we next present explanations offered by politicians, media analysts, academics, diplomats, and 'ordinary' Kenyans.

Explaining Moi's immunity: several non-competing hypotheses

Perhaps the most frequently encountered explanation was that, 'In Africa, elders are respected.' As such, 'disturbing Moi' in his retirement would be 'against our culture'. This opinion is sometimes accompanied by the more specific reason that because President Kenyatta died in office, 'no one could ever follow him for what he did, so why should we bother Moi?' Yet, however unique the Kenyan version of 'African culture' is, and while it may be inconsistent to apply certain 'rules' to Moi in life that could not be applied to his predecessor posthumously, 'African culture' has clearly not been sufficient to protect all the continent's former rulers from severe punishment.²³

Without attempting to assign specific weight (or credibility) to any of them, we now turn to several more specific explanations.

1. *There was a personal pre-election agreement between Kibaki and Moi based on their long-term political association and, indeed, friendship.*

Given their closely intertwined personal histories – a long-term political association and, indeed, friendship – many observers concluded that an 'understanding' had been worked out between these two leaders once Moi

accepted the likelihood of KANU's impending defeat in the elections of December 2002. Both had held Cabinet positions almost since independence, and Kibaki later played a key role in Moi's ascent to the presidency, and subsequently served as his vice-president for ten years. Despite a partial political falling out thereafter,²⁴ they continued to share considerable business interests that maintained, if through proxies, their close relations (*The Standard* 08.01.05). It was in character, therefore, that in 1991, even as Moi was preparing to bow to pressure and return the country to multipartyism, Kibaki (at a KANU national executive meeting) put his weight behind preservation of the status quo, quipping that any attempt to end the party's political monopoly would be 'like trying to fell a giant fig tree with a razor blade' (Morton 1998: 245). And throughout the often highly acrimonious decade that followed, Kibaki, in stark contrast to most opposition leaders, never once attacked Moi in public.

More specifically, some observers claim that during Moi's visit to Kibaki in the London hospital where he was receiving treatment after his road accident, an understanding was reached: that the electoral process would go ahead without regime-instigated interference, and Kibaki – if he won – would ensure his predecessor's immunity.²⁵

2. *Moi's forced nomination of Uhuru earned him sufficient goodwill among the Kikuyu community to make it politically impossible for Kibaki (as a Kikuyu himself) to move against him, even if his government had been inclined to do so.*

This ethnic explanation is offered, despite Kibaki's long-term reluctance to assume the guise of a 'tribal' leader, especially where this might have allied him with his fellow-ethnic 'have-nots'. Indeed, Kibaki's silence in the face of the ethnic violence of 1992–93, of which Kikuyu were the chief victims, and his encouragement of the (ultimately unsuccessful) reconciliation efforts of leaders from the Kalenjin and Kikuyu communities that followed, led some to conclude that, 'business interests took precedence over the rights of the violence victims' (*Sunday Standard* 20.02.04).²⁶

Whatever Kibaki's attitude towards 'tribal politics', Moi, like other Kenyans, was aware that, based on his own governance record, the most likely source of a revenge/justice agenda lay within the wider 'Mt Kenya' community (the Kikuyu, Embu and Meru people of the Mt Kenya region). As such, the

nomination of one of their own substantially reduced the appetite for such action, whatever the intentions of a future Kibaki government.²⁷

A closely related explanation focuses more precisely on Moi's motivation in his choice of Uhuru: his conviction – presumably based in part on his understanding of the Mau-Mau revolt and the near-miss at the presidency in 1992 by FORD-Asili's Kenneth Matiba²⁸ – that the greatest danger to Kenya's political-economic status quo, as well as to his own personal security, was for the country's leadership to pass or become beholden to the Kikuyu underclass. Moi's intention is thus said to have been far less whether Uhuru could win, but rather that his candidacy would ensure an enlarged public presence in the future that would bolster propertied, establishment interests, thus militating against the emergence of destabilising elements in Kikuyu (and therefore, Kenyan) political society.²⁹

3. *However vital for boosting NARC's electoral chances, the inclusion of a number of high-profile KANU-LDP 'refugees' in the new government made it impossible to launch any Moi-related legal probes without bringing down senior figures within its own ranks.*

Beyond whatever debt was owed to members of the ex-KANU LDP group for their contribution to NARC's electoral victory, several members of this group were said to have made substantial cash donations to the election campaign, effectively 'buying' themselves protection (Interview, Nairobi, 30.03.05; Wolf 2003).³⁰ This strategy was also employed by a number of senior civil service and parastatal personnel previously linked closely with KANU,³¹ as well as by various individuals in the private sector with close ties to the then ruling party.³²

Well before the election, at the public signing on 22 October of the 'Memorandum of Understanding' (MoU) that cemented NARC's campaign unity and identified Kibaki as its presidential candidate, Kibaki himself suggested that, 'People should not look back or find fault but forgive and work for reconciliation and peace' (*Daily Nation* 23.10.02). Critical here was the presence of his now LDP-'rainbow rebel' colleagues, several of whom (in the eyes of certain disgruntled pro-reform National Alliance Party of Kenya [NAK] elements) were joining the opposition with their KANU baggage wholly intact. The new president repeated this message again soon after

assuming office, at a prayer breakfast in the company of leaders of various political parties as well as former Presidents Pierre Buyoya of Burundi and Dr Yakubu Gowon of Nigeria: 'If you make a mistake ask to be forgiven however great you have been. Anyone can make a mistake...History is history, history happens and passes' (*Sunday Times* 01.06.03).

Moreover, with the new government in place – and even if the 50–50 power-sharing agreement between the NAK and LDP factions (as specified in the MoU) was never fully implemented (to NAK's distinct advantage) – it was in the interests of former Moi associates to defend the former president. This was evident, for example, when Cabinet Minister Kalonzo Musyoka threatened to lead 'a million man march' to prevent the ex-president's appearance at the Goldenberg Inquiry hearings (*The East African* 6–12.12.04).³³

KANU MPs took the same position. For example, in late 2004, William Ruto (having just been released on bond along with former Moi personal aide Joshua Kulei in a Kenya Pipeline Corporation illegal land acquisition case) opposed any threats to Moi by insisting that, 'all those Cabinet ministers who are associated with graft and are currently serving the NARC government should be sacked before anybody thinks of questioning Moi' (*Kenya Times* 06.12.04). It was an added incentive that this argument served to deflect attention away from such individuals themselves, seen also in former Moi strong-man Nicholas Biwott's call that: 'NARC leaders should quickly forgive past mistakes like Kenyatta did with his British predecessors so that the country can move forward' (*The Standard* 07.12.04).

The same situation applied to the bloc of some two-dozen Luo NARC MPs associated with LDP, nearly all of whom remained closely aligned to Raila Odinga. Having first 'cooperated' with KANU from 1998, and then winding up their opposition National Development Party (NDP) to join KANU in March 2002, they had largely cashed in the 'bargaining-chip' of communal outrage at the Ouko assassination of 1990 (*Finance* 06.09.98).

Ironically, then, the exodus of the 'rebels' that had so irked Moi following his imposition of Uhuru significantly reduced his worries in retirement, thanks also to the then opposition's 'open-door' policy towards the LDP, which significantly diluted the new government's pro-reform content associated with NAK.³⁴

4. *The threats issued by Kalenjin/Rift Valley KANU stalwarts in the wake of calls for Moi's legal 'blood' shortly after the election served to raise the stakes of an 'accountability agenda' beyond those that even the pro-reform element within the Kibaki regime could countenance.*

In response to initial indications that the new government would let justice take its course, a string of public rallies were held in the Rift Valley at which pledges were made to defend Moi through violence – and even secession – unless this ‘witch-hunting of the Kalenjin community’ ceased (*The Dispatch* 10.02.03).³⁵ At one demonstration led by civic councillors in Eldoret, for example, protestors shouted that the former president should be respected ‘the way he respected the Kenyatta family’ (*Sunday Times* 29.06.03). Others argued that any investigations should be extended to the Kenyatta era as well (*Sunday Nation* 23.06.03). Considering the use of public power for private gain (and several high-profile political killings) of that period, along with the recycling of a number of Kenyatta-era officials by the Kibaki government, the political import of such a demand was clear.

It was also in this context that several KANU leaders suggested, at a party conference in Mombasa in June 2003, that the retired president would be ‘safer’ staying on as party chairman (*Sunday Nation* 29.06.03).

5. *The failure of Kibaki and his closest associates to honour fully the pre-election MoU with LDP encouraged the NAK faction to look for allies elsewhere. Here, Moi gained important additional prosecution protection-credit by using his influence within KANU to shore up NAK against the LDP dissenters.*

Given its hasty and disparate origins, the government’s cohesion was problematic from the outset. Kibaki’s reduced capacities, stemming from his automobile accident, as well as his ‘hands-off’ management approach, simply allowed such inherent discord to escalate.

Such cohesion was most immediately undermined, moreover, as the group around Kibaki manipulated senior appointments, while backing away from NARC’s pre-election commitment to a reduction in presidential power. In particular, the DP/NAK faction’s about-face on the post of prime minister – widely advertised during NARC’s campaign as Raila Odinga’s post-election ‘property’ (*Daily Nation* 22.10.02) – led to bitter delays in the constitutional

review process, with an outcome still uncertain at the time of writing (*East African Standard* 15.09.03; *Daily Nation* 24.05.05).

The resulting acrimony, putting the more controversial elements of the government's programme at risk, provided Moi and associates, through KANU, an opportunity to offer selective support to NARC's DP/NAK wing ensconced in State House (*The Dispatch* 8.04.04). Initially, this was expressed through informal arrangements. However, by the middle of 2004, with some pundits wondering whether Kibaki might be best served by calling a snap election even as frustrated LDP elements threatened to bring an embarrassing no-confidence motion in Parliament, State House engineered a reconfiguration-expansion of the Cabinet by 'poaching' seven KANU and (fellow opposition party) FORD-People MPs, creating a 'government of national unity'.

For NARC back-bench MP (and political detainee under both Kenyatta and Moi) Koigi Wamwere, this development constituted 'the last nail in the coffin' of the government's reform credentials, given that several of these 'new arrivals' were associated with some of the worst abuses of the Moi era (*Daily Nation* 05.07.05).³⁶ Given such histories, Wamwere wondered what the point was of investigating 'KANU's sins' if nothing could be done with whatever evidence was collected (*Sunday Times* 04.07.04).

Even the government's Minister for Justice seemed to agree with this interpretation. Shortly after these Cabinet changes, Kiraitu Murungi made it clear to an LDP-NARC 'colleague' that both for present parliamentary purposes, and for the 2007 election, the last thing the group around Kibaki wanted to do was to 'antagonise KANU' by 'touching Moi', since 'you LDP fellows are being so difficult' (Radio programme, KISS-FM 13.02.05).³⁷ By early 2005, it was suggested that Biwott himself, and/or selected MPs associated with him from the Rift Valley, might be invited into the government as well (Oriang, *Daily Nation* 30.04.05), the possibility of which subsequently prodded the Odinga-LDP leadership (at least initially) to rein in its more rebellious elements (*Sunday Nation* 12.06.05).

6. *An immunity agreement was negotiated with Moi in exchange for his (quiet) repatriation of at least some of his substantial assets.*

There are two versions of this explanation, though they apply only to the economic side of the Moi regime's criminal ledger. Both are based on reports

that immediately after the election (if not before, as noted) substantial monies began to arrive on the 'doorstep' of the new government.³⁸ In one version, such payments went quietly to state coffers; in the other, certain individuals shared these among themselves. Both versions could be true (*The Independent* 18.08.03).

Relevant here was the government's stated intention to recover 'looted state assets', especially the 'billions' reportedly 'stashed abroad' by a relatively small number of the former president's closest associates (*The Independent* 20.01.03). The London-based firm hired for this purpose, Kroll Associates, began work early in 2003,³⁹ but by 1 May 2004, all Murungi's assistant minister, Njeru Githae, could state was that the government would 'soon' give a 'full account' of whatever Moi (among others) 'allegedly stole from the country' (*Sunday Standard* 02.05.04). Yet a year later still, no such list had been seen. When asked about this, Githae said only that the investigations had entered 'a very delicate stage', and would be jeopardised if he gave a full account (*Sunday Nation* 02.01.05). Considering this lack of progress, five months later Murungi himself suggested that a more effective recovery strategy might be 'direct negotiations with the thieves' (*The Standard* 19.05.05), subsequently admitting that 'the fight against corruption has lost momentum', with the public increasingly viewing the government's anti-corruption strategy as 'mere talk' and 'a pretext for doing nothing' (*Daily Nation* 10.08.05).

Whatever the actual reasons for such delays, some read John Githongo's resignation as stemming at least in part from his unhappiness with the non-transparent nature of the entire process, claiming that Moi and close associates were using such funds as part of a self-protecting bargaining process (*The East African* 28.02–06.03.05; *Daily Nation* 17.03.03; interview, Nairobi, 05.04.05).

Seen thus, the discretionary application of NARC's 'anti-corruption war' itself allegedly provided opportunities for personal enrichment, a motivation further encouraged by increasing uncertainty over whether the government would have a second term. The presumed consequence, according to British High Commissioner Clay, was that key NARC figures themselves soon became 'enmeshed in old and new networks of corruption' (*East African Standard* 14.07.04), an outcome that made 'justice' for the retired president and his associates even more unlikely.

7. *Influential external actors who had encouraged Moi to retire likewise employed their 'good offices' to ensure he remained unscathed after doing so.*

According to this explanation, the United States and United Kingdom in particular were intimately involved in the transition over several years, both determined that Kenya's stability should not be jeopardised, even if that meant failing earlier to sanction Moi's government for violations of international human rights standards (Brown 2003), or ever adding really sharp teeth to lamentations about massive corruption (Holman, *The Standard* 11.04.05). While the centrepiece of this policy was Moi's adherence to the term-limits provision in the Constitution, and gracefully bowing out (Barkan 2004), its corollary was that, having done so, he should be allowed to 'enjoy' his retirement. It was with regard to the latter stance that the Americans encouraged him to establish a philanthropic foundation that would ensure he retained some public stature after vacating State House.⁴⁰

That this view of Moi's exit left no room for any transitional justice 'embarrassment' was emphasised some two years after the event by a Western diplomat who served in Nairobi during this period:

It would be a serious mistake to prosecute Moi; we made this clear then, and I still believe it now. He served his country for a very long time: 24 years. Doing so would denigrate the office itself, rather than tarnish Moi as a person. It would set a very bad precedent, if they were to arrest, prosecute, or lock up someone who had been the highest official in the country. (Interview, New Orleans, 17.11.04)

At the same time, he argued that everyone else should be 'fair game':

But this shouldn't apply to others. We all know that no Minister, no Permanent Secretary, has ever been prosecuted, or meaningfully punished for corruption in Kenya. Take his Minister for Water, who is still free. He was probably the most corrupt person in the government, yet it's unlikely Moi had any idea of what he was doing; he was less hands-on than many people think. (Interview, New Orleans, 17.11.04)⁴¹

Leaving aside the issues of consistency and accountability, it is not clear how much more difficult it would be to prosecute such lower-level officials successfully, of whatever crimes, when their former 'boss' remains untouchable. The point, however, is that what is personal opinion now was official policy then, and carried (and presumably still does carry) weight.

More currently, and in the light of evidence of corruption within the new government, diplomatic concern has been directed entirely at those in office now, rather than at their predecessors. According to one of Nairobi's more outspoken Western diplomats:

A government's primary responsibility is to keep its own house in order; if this government can't stop, or discover and punish, corruption within its own ranks, it will have even less credibility in going after the previous lot. In any case, at some point you have to draw a line under it and say, 'That's done'. (Interview, Nairobi, 09.10.04)

Whatever prior commitments were made to Moi, then, such statements suggest that, in the pursuit of their own countries' interests, diplomats are tasked with conducting relations with incumbent, not previous, officials. It is also true that the Kibaki team set much higher standards for itself than did its predecessor. Nevertheless, one wonders whether, when British High Commissioner Clay refers to the 'powerful and shadowy external figures' manipulating senior members of the new government as if they were 'Mt Kenya marionettes' (*Daily Nation* 03.02.05), and calls corruption 'this monster coiled around Kenya's heart' (*The Standard* 16.06.05), he makes any explanatory link to the *de facto* immunity that those of the previous regime – starting with Moi – appear to enjoy.

8. *The NGO human rights community that had helped to galvanise pressure against the Moi government, and might have done likewise in holding Kibaki's to its transitional justice agenda, was unable to do so, due to its 'crippled', post-2002, condition.*

Following the election, various factors served to weaken and disorganise the network of human rights NGOs for whom justice for the perpetrators of violations during Moi's tenure was a key *raison d'être*. For a start, the

network was substantially 'decapitated', with many of its most experienced and charismatic leaders taking up posts within government. Meanwhile donors reportedly redirected considerable funding away from NGOs to the government,⁴² initially considered fully committed to its 'good governance' agenda (*The East African* 17–23.02.03). Many NGOs, therefore, had little choice but to access funding through state programmes if they hoped to remain active (interview, Nairobi, 06.05.05; *Sunday Nation* 15.05.05).⁴³ Finally, serious divisions arose among these groups, along ethnic and philosophical lines, between those who were willing to 'give the new government the benefit of the doubt' while celebrating the not inconsiderable expansion of 'democratic space' ushered in by NARC's victory, and those who came to believe that it had betrayed them (see Mitullah et al. 2005). Such divisions were deepened by disagreements over the constitutional review process, which also split the pro-reform religious sector (*The Eagle Christian Newspaper* 06.03.05; *The Standard* 07.06.05).

The combination of all these factors, serving substantially to lower their collective voice, also meant that those NGOs and individuals who did target Moi and/or his associates in whatever fashion appeared to be isolated, without the wider coordination that often obtained during the 'dark days' of the previous regime.

9. *Moi effectively earned immunity simply by leaving office peacefully, or for not having previously 'turned Kenya into a Sierra Leone'.*

According to this final explanation, to guarantee a safe retirement, all Moi really had to do was just that: retire. The fact that Kenya had not completely disintegrated under his gaze appears to have earned him credit as well:

Moi loves to say how he left a peaceful country which we should be thankful for. In a way, he is right...It sounds corny, but Moi had the means to turn this country into another Sierra Leone. Let's be thankful he did not have that inclination. (Warigi, *Sunday Nation* 14.03.03)

More effusive was a letter-writer in another local daily, who proposed that, based on the 'smooth transition' and Kenya's failure to 'go the way of Rwanda, Somalia, Burundi and Congo', the former president 'should be nominated

for the Nobel Peace Prize for 2005' (*The People Daily* 04.12.04). For his part, Catholic Archbishop Ndingi Mwana a'Nzeki expressed similar gratitude (though with one key caveat):

Why go for him? He did his job, he made his mistakes like all of us and he retired. We should forgive him and forget. Moi deserves special treatment because of what he did for us for 24 years. Unless, of course, we are talking murder. (*Sunday Nation* 05.12.04)⁴⁴

Viewed in this light, the violence associated with the 1992 and 1997 elections was a kind of 'bargaining-chip' that Moi continued to hold, gaining extra credit when he declined to play it. As Moi himself had ominously declared a decade earlier, when still resisting the calls for political pluralism:

Let those Kenyans who are making noise all over the place remember one thing: if they are looking for trouble then it will come. Those in Uganda, Somalia, Ethiopia and Sudan had peace but where is it now? I have always told you that our unity is genuine. Others do not appreciate this. They will understand what I have been saying one day. (*People Against Torture* 2005: 43)

In the context of a tempestuous regional and, indeed, continental environment, therefore, Moi's benign mode of departure earned him considerable goodwill from most Kenyans, as well as from critical international actors.

While the actual salience of each of these explanations cannot be adduced, none are mutually exclusive.⁴⁵ Yet most of them reflect certain broader aspects of political society in Kenya and the nature of the transition itself, issues to which, in conclusion, we now turn.

*Continuity = immunity? 'President Daniel arap Kibaki'*⁴⁶

[A] characteristic of the rule of law is that no man, save for the president, is above the law. (Attorney-General Amos Wako, speaking in Parliament upon his appointment in 1991, Republic of Kenya 2003: 11)

Q: Why do you think it is that Moi has not had any legal problems since he left office?

A: That's simple: because he's still ruling!⁴⁷

We now know what "NARC" means: "Nothing-Actually-Really-Changed"! (Njoya 2005)

As noted above, several criminal cases potentially involving Kenya's first retired president are still in progress or preparation; it is, therefore, too early to conclude that no abuse of power for which he may have been responsible will ever be placed on the scales of justice. Nevertheless, more than two years after his departure, this certainly appears to be the case. As such, several more general themes suggest themselves that also go beyond the Kenyan case.

A central one is the commonality of interests within Kenya's political class. This relates to both the limited set of individuals prominent in national life and the interests with which they are associated. It is also reflected in Moi and Kibaki's own long-standing relationship, with their public and financial/commercial careers crisscrossing repeatedly during the last half-century (*The Standard* 08.01.05; interview, Nairobi, 30.03.05). This common interest (or perhaps more colourfully, elite 'glue') was articulated by Moi when, according to his 'official biographer', he expressed regret that Kibaki left KANU in the wake of the country's return to multiparty politics, having decided on him as his preferred successor due to their 'similar policies' (Morton 1998: 289).⁴⁸ More recently, Kibaki suggested it as well, when honouring the former president during the 2004 December Independence Day celebrations in Nairobi (and in sharp contrast to his decidedly disparaging remarks at his swearing-in ceremony), as someone who is 'respected throughout the country', with Moi, in reply, obliquely implying that 'peace' remains a higher national goal for Kenyans than retrospective justice (*The Standard* 13.12.04).

Yet the basic congruence of interests within this socio-political stratum goes beyond personalities. As a local political analyst, writing in the middle of Kibaki's second year in power, pointed out:

[T]he rainbow dream was not killed because of tribal tensions. They killed it for class reasons. President Kibaki and his boy-hood buddies in State House do not care for tribe. They are about class...If President Kibaki is about class, this government is not about performance; it is about survival...The idea of political reforms is a bother to this government. (Ngunyi, *Sunday Nation* 22.08.04)

Evident here too, then, is the connection between Moi's de facto immunity and State House's about-face with regard to executive power in the constitutional review debate, and that also helps explain the TJC that never was:

Within NARC, at least before the elections, the DP core leaders...had previously been the fiercest supporters of the... [constitutional review process]. Accordingly, many people, particularly within the human rights movement were banking on the DP wing of NARC to spearhead the transitional justice agenda of NARC, including the completion of the constitutional review process...and the setting up of the Truth, Justice and Reconciliation Commission, [whereas]...those hopes are now being mercilessly trampled on by the same DP wing of NARC. (Ogony, *Sunday Times* 01.05.05)

Looking back, such political elite cohesion echoes that of the Moi succession itself. Having described the events leading up to the death of Jomo Kenyatta, Tamarkin emphasised the way previously bitter rivals quickly came into line behind his former deputy:

The 'band-wagon' scenario must be viewed not only at the level of personal ambitions and hopes. Over and above this level, members of the political elite, representing the bourgeoisie, had a keen interest in preserving political stability. The struggle for succession was essentially an intra-elite one, the two factions striving to control the regime rather than to subvert it. Once the succession was decided, the elite, and the bourgeoisie as a whole, had an overriding interest in stabilising the regime upon which they thrived. (1979: 33)

This cohesion also rests upon the independence transition (in the aftermath of Mau-Mau), where, in the absence of a 'socialist' policy of nationalisation and expulsion, the new political-bureaucratic elite quickly began to enjoy the assets and opportunities embedded in the ex-colony's economic structure, and that were increasingly abundant during the years of heavy foreign investment and growth that followed, especially in the agricultural and tourism sectors (Leys 1975; *Sunday Standard* 17.04.05).⁴⁹ And such a premium on power has only been magnified by the threat to indigenous economic interests posed by the donor-imposed liberalised economic regime of recent years across much of sub-Saharan Africa (Bayart 1993: 225–6). In this situation, punishing

any member of this club (at least too harshly), aside from the occasional 'delinquent' whose personal agenda threatens the status quo, would amount to breaking the 'silent rules of power'.

An additional, and more proximate, factor bolstering such cohesion is the trajectory of opposition politics during the decade prior to the transition. Whatever its initial strength, this history saw the gradual yet inexorable dilution of its more radical and 'levelling' elements (Throup & Hornsby 1998: 54–91; Onyango-Obbo, *Saturday Nation* 12.02.05), and this even before the absorption of the instant ex-KANU 'rainbow rebels' in October 2002.

Relevant here, too, in addition to the use of state (and 'shadow-state') terror to eliminate and intimidate, and material inducements to purchase and reward loyalty while disorganising more intractable opponents, was Moi's own flexibility in response to rapidly shifting realities. This is evidenced, first, by the ground he yielded in the tense periods prior to the 1992 and 1997 elections (Oyugi 2003; *Sunday Standard* 06.03.05), beginning with the acceptance of political pluralism itself and, finally, actually relinquishing power in 2002. Most critical, because his willingness to go was credible long enough before his departure date, his adversaries – largely bereft of a competing class agenda⁵⁰ – had little motivation to force anything approaching conclusive transitional negotiations, especially those that involved recruiting the highly volatile urban masses to their cause (as reformers had sought to do on several occasions in the preceding decade).⁵¹

As far as Moi's exit is concerned, then, it seems that Bates's characterisation of such power-transfers in Africa largely misses the mark. Noting that 'a retreating despot can threaten to bequeath political chaos and physical destruction', his lingering 'power to destroy', nevertheless, supposedly constitutes 'a seedtime for liberty', as departing 'tyrants' seek legal and political guarantees (1999: 84). It may be asked, however, whether the expectation of prosecution and conviction would actually encourage such 'late conversions' to liberty of a type Bates suggests. While mobilised popular pressure may well yield some concessions,⁵² it also seems that if the most serious rivals for power are seen, by and large, as cut from the same cloth as the outgoing leader and regime, the threat of any such accountability will appear much diminished.

Fortunately or otherwise, this Kenya case does not allow a test of Bates's thesis. On the contrary, as a member of KANU's National Executive Committee argued shortly after his party's elections in 2005:

NARC's is not an opposition government! It is 'old KANU', while now we are 'new KANU'! Of course, there are a couple of genuine reformers in there, but they have no real power. Kibaki's government is basically just him and those other Kikuyu and their allies who fell out with Moi a long time ago...Even after the return to multiparty politics, Moi tried hard to get them to come back, but they refused. So it was their hatred of Moi that took them out of KANU, not Moi's feelings about them, or anything about our policies as a party. (Interview, Nairobi, 12.03.05)

Seen thus, we may also question the summary offered by Bratton and van de Walle regarding such transitions in Africa as of the mid-1990s, described as 'zero-sum processes in which the strongest side needed to win conclusively', and based on '*ruptura*', or 'replacement' events, 'as incumbent dictators were rudely swept away' (1997: 177). This appears inappropriate in the Kenyan case, on two grounds. First, a period of less than a decade is clearly too short to draw meaningful conclusions about such transitions. Second, the froth and frenzy of neo-patrimonial power struggles in such non-ideological systems tend to rivet attention on the (undoubtedly, highly coveted) spoils themselves, while diverting focus from the underlying forces at work.

More generally, this case also highlights how the various tenets of liberal democracy embodied in the current 'good governance' mantra may compete against each other in such political systems as Kenya's. These comprise especially: expanded political space for dissent and electoral choice; genuinely competitive elections; and restraints on the use of state power, including here, judicial (or even quasi-judicial) accountability for the past abuse of office.

A preview-postscript: Moi's public future and the Kenyan presidency

The question is, did Moi stay at the helm for so many years as a result of his own astuteness or did he do so because his continued presidency, engendering awe if not stability, afforded a cover, a façade for a devilish mafia, who found it convenient to keep him in charge? (Loeffler, *The East African* 19–25.05.03)

Speaking in Kitale after opening the Nasisambu church, Moi said he was happy in retirement.

He caused laughter when he said retiring from the country's leadership did not mean he will remain quiet.

'Yes, I retired but that does not mean that the mouth is also in retirement,' he said, adding that the emerging democracies were not genuine. (*The Standard* 27.12.04)

It is important to repeat here that the current situation is not immutable. Especially with lingering doubts about Kibaki's own political future, Moi's fate could (and sooner rather than later) lie in somewhat different hands. According to one KANU activist who claims to meet with the former president from time to time, for example, while Moi feels quite comfortable now, his level of comfort could rise considerably were Uhuru to be victorious in 2007, but move in the opposite direction if certain other elements within NARC replace Kibaki at that time (interview, Nairobi, 10.01.05).

Whatever the case, the Kenyan presidency continues on its path into uncharted territory. In this drama, the former president continues to stride about the nation's public landscape (and beyond) and remains a key player. Moreover, Moi (especially given his family's propensity for longevity) is likely eventually to find himself sharing his 'ex-presidential space' in the country, perhaps attracting less attention than he does currently. Time itself, then, should be a factor encouraging the further institutionalisation of the office, for both incumbents and retirees.

At the same time, it is unclear what effect this will have on the country's evolving political system and, more broadly, on society. Four factors may be seen as currently weakening the executive, whatever the impact of Moi's post-incumbency 'shadow':

- the 1992 constitutional amendment's two-term 'clock' that greeted an incoming president in 2002 for the first time;
- Moi's failure to 'have his way' in the succession;
- the shaky coalition underwriting NARC's electoral victory; and
- the current incumbent's personal 'hands-off' or 'laid-back' management style.

Considering the history of the abuse of power in Kenya (and whatever one's view of the parliamentary or devolution alternatives), one might celebrate the reduced stature of the office, even without any constitutional restructuring.

Indeed, such a development may be considered essential to a more liberalised, if not yet fully democratic, public sphere. Yet given the still contested structure – and thus the legitimacy – of key state institutions, coupled with mounting population and poverty, and marked inequalities in terms of class, regional-ethnic and other divisions, it is unclear how ‘un-presidential’ the Kenyan political system can become while still guaranteeing a requisite level of national cohesion, or just what forms any loss of cohesion would take. While it can be assumed that making the former president ‘face the law’ (in whatever form) would further reduce the imperial stature of the executive, the practical impact of such an eventuality remains uncertain, as would the opposite – and apparently, far more likely – outcome of perpetual immunity.

What does seem clear is that, however important his own fate, the full ramifications of this new actor-role in Kenyan public life will go considerably beyond the issue of ‘immunity or accountability’ for the country’s first retired president, Daniel Toroitich arap Moi.

Notes

- 1 This is not to imply that Moi had not acquired considerable wealth during his lengthy tenure as vice-president (1967–78).
- 2 Given the absence of any statutory provisions informing this process, however, it was marked by considerable confusion (*Sunday Nation* 05.01.03; *Sunday Standard* 12.01.03). See also endnote 8 below.
- 3 For example, addressing a public rally in Likoni, Mombasa, shortly before the election, Raila Odinga (see below) gave assurances of justice under a NARC government for the perpetrators and victims of the 1997 pre-election violence there (interview, Mombasa, 01.08.04). The author is grateful to the many individuals in Kenya who availed themselves for confidential interviews, few of which are cited in the text.
- 4 Orizio (2004) provides portraits of seven ex-dictators in retirement, three of whom are Africans.
- 5 He was addressing NARC MPs in March 2003.
- 6 Moi’s several earlier public pronouncements, such as one in 1999, that he would indeed retire in 2002 in order to leave ‘a cohesive nation’ should be noted, however (*Daily Nation* 24.09.99). Whether Moi would have contested the 2002 election in the absence of term limits must remain a moot question. Such uncertainties are examined by Southall (2000).

- 7 Uhuru (as he is generally known) lost his first parliamentary bid in 1997, entering the National Assembly in 2001 as a nominated MP. He was soon elevated to the Cabinet, and became one of the party's four vice-presidents at the KANU National Delegates' Conference in March 2002. Taking this history into account, some sources insist that Moi had decided upon him as the KANU candidate as far back as 1997.
- 8 It has been asserted that the principal motivation for this move was to head off an attempt by Moi regime loyalists to first delay the swearing-in of the new president and then to launch legal challenges to the result so as to postpone for as long as possible, if not actually overturn, the popularly mandated transfer of power. Indeed, the speech drafted for Uhuru – that he quickly rewrote – did not contain any such concession (*The East African* 06–12.01.03).
- 9 After two years of painstaking negotiations, this led first to the use of an obscure (non-parliamentary) opposition party, the National Alliance Party of Kenya (NAK), that became NARC after taking in the KANU-LDP group, and then simply effecting a change-of-name with the Registrar of Societies.
- 10 Perhaps most important here was Odinga, whose refusal to stand aside (and campaign) for Uhuru within KANU reflected both his anger at Moi allegedly breaking a promise to allow the party a free choice that his joining the party was assumed to guarantee, and his community's antipathy to a repetition of what his father had done nearly 40 years earlier in standing aside for Kenyatta.
- 11 Just how much of this money was used in the 1992 election, how much went to various Moi regime personalities, and how much its chief architect, businessman Kamlesh Pattni, kept for himself, are questions whose answers may be given in the Judicial Inquiry's report, due for submission late in 2005. What success the government achieves in recovering any of this money, as well as in prosecuting those involved, will then depend upon its response to the report.
- 12 According to UK press reports, British Overseas' Intelligence (MI-6), 'fearing Moi', abetted the cover-up (*The East African* 10–16.05.04).
- 13 He was not among the 16 ex-presidents invited to a meeting in Bamako, Mali, in June 2005 however, as the organisers were said to require 'more time to decide how Moi was performing in retirement' ('News Hour', British Broadcasting Corporation, 06.06.05).
- 14 Miscellaneous Application No. 31 of 2004, Chief Magistrate's Court, Nairobi, Republic of Kenya; Miscellaneous Civil Application No. 1276, filed in High Court, Republic of Kenya on 24 September 2004.
- 15 The case reportedly ended in an out-of-court settlement, with Moi paying at least a substantial amount of the claim (interview, Nairobi, 21.06.05).

- 16 Miscellaneous Civil Application No. 1279 of 2004, High Court, Republic of Kenya, 25.11.04; Civil Application No. NAI 310 of 2004 (159/2004 UR), Court of Appeal, Republic of Kenya, 14.01.05.
- 17 In the words of one of the participating activists (and with charges against the group for holding an 'illegal meeting' and 'desecration of a national monument' pending in court), 'Of course, we knew we couldn't achieve much, but with nobody else doing anything, what can we do?' (interview, Nairobi, 19.03.05).
- 18 The following day, one of Moi's relatives could remark that 'this was his happiest day since he retired. Now Kenyans can see he wasn't so bad!' (interview, Nairobi, 03.07.04).
- 19 Q and A with an 11-year-old girl at her mother's kiosk, referring to the day's headlines of Moi's possible appearance at the Goldenberg Inquiry (Nairobi, 05.12.04).
- 20 This sample consisted of 2 406 individuals from the country's 20 largest urban centres, interviewed at the end of September 2004. Note that no significant differences were found between the urban and rural cohorts of the 2003 Afrobarometer sample on these questions, making the results of these several surveys quite comparable. The as yet unpublished study was undertaken by the author.
- 21 The sample comprised 1 010 respondents proportionally allocated among Kenya's four largest cities (Nairobi, Mombasa, Kisumu and Nakuru).
- 22 Such a finding followed repeated threats by LDP leaders that the party would field its own presidential and parliamentary candidates in the next election.
- 23 Polhemus (1992) offered the first examination of the roles played by ex-heads of state in Commonwealth Africa.
- 24 According to Widner, Moi ensured that Kibaki was never allowed 'to amass legitimacy within the Kikuyu business elite and with other groups' to prevent him from threatening the president's own hold on power (1992: 138).
- 25 A senior American diplomat dismissed this story, however, having himself visited Kibaki at about the same time: 'I can assure you that he was in no condition to discuss deals of any kind with anyone' (interview, New Orleans, 17.11.04). Whatever the case, simply making the visit was seen by many Kenyans as a highly significant gesture.
- 26 The only documented exception to this came in the wake of the violence in the Rift Valley's Laikipia District, purportedly the government's riposte to DP's lodging of a petition challenging Moi's re-election in 1997 (*Finance* 09.02.98). Even then, however, Kibaki refused to endorse the 'Declaration of War' that was issued by a

number of other Kikuyu MPs and leaders, and he kept aloof from the subsequent effort to organise the counter-attacks on Kalenjin that purportedly brought the violence to an end (interview, Nairobi, 24.03.05).

- 27 According to a senior KANU politician, in mid-2002 Moi justified his choice of Uhuru by referring to Kikuyu 'control' of the economy ('45 to 50 per cent'), explaining to him that, 'I have spent much of my effort containing this community during my presidency, and my successor must be able to do the same' (interview, Nairobi, 11.08.05). Some two years after his exit, Moi's 'fear of the Kikuyu' was also the subject of an extended analysis in the local press (*Sunday Standard*, 10.10.04).
- 28 FORD-*Asili* ('original') resulted from the split of the original Forum for the Restoration of Democracy (FORD) in mid-1992 following Matiba's return from London where he had been hospitalised as a result of an induced stroke suffered during detention. Jaramogi Oginga Odinga (who finished a distant fourth in the election) led the rival faction-party, FORD-Kenya (Thrup & Hornsby 1998: 92–172).
- 29 Following the election, Uhuru, as acting KANU chairman, became leader of the official opposition, a constitutional office. He formally captured the chairmanship at the party's National Delegates' Conference in January 2005, with Moi's strong, if quiet support (*Sunday Nation* 30.10.05).
- 30 Among the KANU-LDP rebels, the most 'generous' contributor was said to be former vice-president Prof. George Saitoti (whose name had featured prominently in the Goldenberg scandal when he was Finance Minister). He reportedly paid all the advertising costs of NARC's campaign through a local advertising company (Scanad), among other expenses, and was otherwise extremely close to Kibaki throughout the campaign. It may be recalled here that Kibaki and DP had saved the former vice-president from NDP's no-confidence motion in Parliament in 1999 (*The Metropolitan* 19–25.07.99). During NARC's first two years in power, he was increasingly (if quietly) identified as the NARC 'Mt Kenya' faction's candidate in 2007, should Kibaki himself not be able to run.
- 31 A prominent example here is Samuel Gichuru, former head of the Kenya Power and Lighting Company, cited in a special investigative report as warranting criminal investigation (*The Dispatch* 10.02.03; *Daily Nation* 12.12.03). Yet by mid-2005 not only had no case been brought against him, but he had by then just obtained a court judgement against the then Energy Minister (Ochilo Ayacko) for setting up the committee that produced the report in the first place 'in excess of his powers' (*The Standard*, 24.08.05).

- 32 It is also claimed that a group of 'the most corrupt' public works contractors of the Moi era pooled 'over Shs 8 billion', giving roughly equal amounts to the NARC and KANU election campaigns, 'to ensure that whoever won, they would be safe' (interview, Nairobi, 29.07.05). The Moi government's last-minute payment of massive 'pending bills' to such contractors had raised considerable controversy at the time (*Daily Nation* 20.12.02).
- 33 Such defence of the former president calls to mind Musyoka's invitation to Moi during the 2002 campaign to assume the role of 'African peacemaker' after he 'hands over power peacefully' (*Saturday Nation* 07.12.02).
- 34 Whether NAK could have won the election without LDP is an open question. Had LDP stood on its own, reports indicated Saitoti would have been its candidate (*Daily Nation* 23.10.02). Some believe this would have sent the presidential contest into a run-off.
- 35 Two Kalenjin MPs had somewhat contrasting views as to the community's reaction should the former president actually face the law. While one insisted that any action against Moi would have to follow prosecutions of subordinate figures, 'so that our people are psychologically prepared' (interview, Nairobi, 15.10.03), the other was less equivocal: 'They can go after any of us they want to, but if they try and touch Moi, there will be civil war' (interview, Nairobi, 14.08.04).
- 36 He was referring to William ole Ntimama and Kipkalya Kones, both implicated in the 'ethnic clashes' of the Rift Valley and elsewhere in the early 1990s (*The Economic Review* 01–07.11.93; *The Economic Review* 06–12.09.93), and to Noah arap Too, Moi's former police investigations (CID) boss, during whose tenure Nyayo House witnessed the bulk of the torture meted out to political detainees. Ntimama, a KANU-LDP 'rebel', was elected on an NARC ticket and actually took up his Cabinet position immediately thereafter. Kones, likewise a former Moi Cabinet member, returned to Parliament this time as a nominated FORD-People MP, while Too, a parliamentary newcomer, was 'poached' from the KANU benches.
- 37 Murungi's comment regarding 2007 was related by this MP later (interview, Nairobi, 03.03.05).
- 38 In at least one case, however, this depiction was literal. Barely three months into his job, the late Minister for Local Authorities, Karisa Maitha, claimed a briefcase had been left outside his office 'stuffed with KShs5 million'. What the bribe was for, or what happened to the money (and the briefcase), was never revealed (*Daily Nation* 05.04.03).
- 39 As of this date, one 'alternative' publication claimed some KShs600 billion was involved (*The Patriot Weekly* 11.05.03), a figure it cut in half a year later (17.05.04).

The London *Observer*, cited locally, spoke of 'up to Shs 73 billion already located in London bank vaults' that had been 'spirited abroad by only a small circle of people very close to the former President' (*Daily Nation* 07.03.05). Subsequent press reports mentioned Switzerland and Australia among other countries where such funds had been 'hidden'.

- 40 This included arranging at least one meeting with former President Jimmy Carter. Interviews with American officials in 2004 indicated that the United States was unlikely to provide any financial assistance for it.
- 41 Once again, the focus of this official's thoughts was entirely on economic crimes; he made no mention of human rights abuses, including the few but significant political killings. At the same time, both Biwott and Kulei have been denied visas for overseas travel, to the United States and United Kingdom, respectively (*Daily Nation* 02.12.04; interview, Nairobi, 25.05.05).
- 42 This was estimated by one long-serving NGO official as 'at least 50 per cent' of total civil society programme funding (interview, Nairobi, 30.05.05). One major donor representative claimed that no such reduction in funding to civil society groups had occurred, however, even if NGOs were being encouraged to work more closely with the government than they had in the past (interview, Nairobi, 12.08.05).
- 43 Several key donors, including the United States, withdrew support for certain reform programmes following Githongo's resignation, however (*Daily Nation* 09.02.05).
- 44 He was opposing the initial court order requiring Moi's appearance at the Goldenberg Inquiry.
- 45 One explanation not offered by any informant was fear of a backlash by the military or other members of the armed security forces if they perceived the former president was being threatened.
- 46 Taken from the article-caption in a local 'alternative' publication (*Kenya Confidential* 07-13.07.04).
- 47 Q and A with a former NGO rights activist, now in government (interview, Nairobi, 28.04.05).
- 48 Throup and Hornsby, however, maintain that Kibaki's departure from KANU came only after his failed attempts to reform the ruling party during 1991 and when he was advised that Moi – pushed by Kalenjin hard-liners – intended to sack him from the Cabinet (1998: 94-5). At the same time, it is said that immediately after the 1997 election, Moi offered Kibaki a direct line to the succession should he leave DP and rejoin KANU, but was rebuffed (interview, Nairobi, 11.06.05).

- 49 The current concentration of foreign interests was reported as follows: tea (earnings – 78 per cent), horticulture (earnings – 48 per cent); tourist hotels (ownership – 74 per cent); and banking (ownership – 71 per cent).
- 50 Given this neo-patrimonial context, both Bratton and van de Walle and Bates have pointed to the general absence of leaders of Africa's 'second liberation' pursuing an agenda of 'installing liberal democratic institutions' (1997: 184; 1999: 91).
- 51 Several civil society bodies made futile attempts to initiate such negotiations during the last few years of Moi's incumbency (for example, Transparency International-Kenya/Law Society of Kenya 2002).
- 52 Relevant here is Odinga's threat – the day before the election (26 December) – that should any attempt be made to subvert it, 'people-power' would be employed 'as in Côte d'Ivoire and Madagascar', in the form of a mass invasion of State House itself (quoted in Odhiambo-Mbai 2003: 88).

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10 *Troubled visionary: Nyerere as a former president*

Roger Southall

In September 1980, 'Mwalimu' Julius Kambarage Nyerere, first President of the United Republic of Tanzania, accepted the nomination of the ruling party, Chama Cha Mapinduzi (CCM), to stand for president at the next election for what he insisted would be the last time.¹ In contrast to a multiparty state, he said, where leaders were challenged regularly, there was a dangerous tendency in one-party states for presidents to be returned unopposed. The time had therefore come for Tanzanians to institutionalise a method of changing the president, and to impose limits on his term in office (*ACR 1980–81*: B326).

What this particularly remarkable and egalitarian African leader was stating in his customary, down-to-earth fashion, was not only that political leaders in democracies should be answerable to their electorate, but that they should also be subservient to constitutional limitations. His words reflected his long-held commitment to equality and democracy, the conviction that government belonged to all people as their inalienable right, and that therefore it was a necessity for them to be genuinely consulted and for the powers of government to derive from them. However, Nyerere's responses to the realities of power meant that his record as both president and former president fell some way short of his ideals.

Nyerere proved true to his declaration that he would resign, and handed over power to Ali Hassan Mwinyi, who had been popularly elected to the presidency the previous month, in November 1985. Subsequently, after serving two five-year terms, Mwinyi was succeeded ten years later by Benjamin Mkapa, who remains president of Tanzania to the present day. Tanzania has thus now managed two peaceful presidential transitions, and appears to be on the way to institutionalising that tradition as an important dimension of its democracy. Even so, that achievement has by no means been completely plain sailing, with Nyerere's own role – following his departure from the

presidency and before his death in October 1999 – having major domestic political significance concerning a return to multipartyism, the selection of his successors and the maintenance of the difficult union between the former Tanganyika and the islands of Zanzibar.

Even if it is allowed that his status as the founding president of the nation was particularly special, his domestic legacy as an ex-president is tendentious, despite the fact that, simultaneously, his various international involvements were to provide a most valuable illustration of the constructive role that retired African presidents can play in addressing their continent's problems.

Nyerere's immediate legacy

Nyerere, prime minister before he assumed the presidency when Tanganyika became a republic in December 1962, handed over power to Ali Hassan Mwinyi in extremely difficult circumstances.

First, the economy was in a state of acute crisis, and many Tanzanians (as well as external actors such as the World Bank and Western governments) held Nyerere directly responsible. Under his idealistic leadership Tanzania had embarked upon a socialist path that had placed more emphasis on the alleviation of illiteracy, poverty and disease than on economic production. This had been expressed in terms of the ideology of *Ujamaa*, which denounced neo-colonialism, imperialism, capitalism and class exploitation. The Arusha Declaration of 1967 had aimed at the eradication of these ills through a programme of socialism and self-reliance, central to which was an equalitarian and anti-capitalist leadership code, as well as a commitment to bringing benefits to the mass of ordinary people (a large proportion of whom were nomadic or dispersed in widely scattered homesteads) by grouping them together in villages. Driven by the personally ascetic Nyerere, *Ujamaa* undoubtedly mobilised and excited the majority of peasants, workers, intellectuals and civil servants, and legitimised the shift to a one-party state in 1965. However, in the course of time, Tanzania's socialist one-partyism – which provided for party-approved candidates for Parliament to compete against other in constituency elections, and hence the defeat of cabinet ministers at the polls and a circulation of elites – ran into acute difficulties.

The typically extraverted post-colonial economy had been founded upon peasant production and the export of crops. However, whereas colonial and later, Western 'development' strategy, had favoured the 'modernisation' of agriculture via capitalist farming centred around 'progressive' farmers and a marketised land system, socialist land reform in mainland Tanzania favoured a villagisation policy based upon communal production. Initially (1967–73), this had relied upon an approach whereby (some two million) peasants were encouraged by party and government officials to voluntarily join 'Ujamaa' villages. Subsequently, the strategy shifted to a more assertive phase, whereby from 1973 the government sought to ensure that all peasants remaining in traditional villages moved to *Ujamaa* or 'planned development' villages. Undoubtedly, some administrators resorted to coercion, although this was never part of official policy. However, by early 1977, the number of peasants living in some 8 000 such villages had increased to 13 million, representing some 70 per cent of the population (Havinevik 1993: 46, 55).

Considerable advances were registered in the provision of social (especially education and health) services and the provision of tap water (*ACR 1985–86*: B439). However, the sustainability of these gains was undermined by economic difficulties, with production of the three main export crops (coffee, cotton and cashew nuts) declining through most of the 1970s, whilst the export volumes of three other key crops (tea, tobacco and pyrethrum) stagnated (Mpangala 2000: 93–9). Meanwhile, the government's policy of nationalising important economic sectors, notably major industries and distribution and marketing, also resulted in lower output and stagnation. Although the economic decline was significantly attributable to the oil crisis, drought and worsening terms of trade encountered by Tanzania's major agricultural exports, the country was on the verge of economic collapse by 1985, was experiencing high inflation (which peaked at 44 per cent in 1986) and a standard of living for the mass of ordinary people which was no better than at independence. However, whilst peasant production remained the backbone of the economy, its surplus was siphoned off by a state bourgeoisie, located in the bureaucracy and parastatals, which – despite Nyerere's own best intentions and humble example – engaged in surreptitious private accumulation (notably via foreign bank accounts, real estate, transport and construction) and conspicuous consumption (palatial houses, smart cars and children in Western schools and colleges) (Shivji 1976: 63–100, 1994: 18). In contrast, what was left of an indigenous commercial or

capitalist bourgeoisie was effectively excluded from politics, until such time – from the early to mid-1980s – as space was made available for them to take part (Kiondo 1994: 73).

By 1980, economic decline and top-down politics had resulted in considerable discontent. Consequently, at the general election in October of that year, nearly one-half of the members of the National Assembly lost their seats in what was seen as a protest against the parlous economic conditions and bureaucratic inefficiency (*ACR 1980–81*: B329). By this time, the country was heavily indebted (not least because much of the investment for an inappropriate industrialisation policy came from foreign sources); the industries established through foreign external investment neither broke ‘the dependency stranglehold nor did they cater for the local market’ (Shivji 1994: 20); industrial capacity was underutilised yet there was a shortage of consumer goods; and, inevitably, to compensate for the latter, local capitalists promoted an informal, parallel (black) market to which the government responded, in 1983–84, with a populist campaign against ‘economic saboteurs’.

To engage with this crisis, the government had been forced to look for assistance to the International Monetary Fund (IMF). However, when it became clear that this would be forthcoming only if it was prepared to allow market forces to operate freely, Nyerere had engaged in a long-running resistance until in 1984 he reluctantly made a number of concessions which were to foreshadow later changes. One of these was the so-called ‘own currency’ arrangement whereby local capitalists were enabled to import goods with their own (illegal) foreign currency, and sell them at market prices without the interference of the Price Commission. Consequently, when Nyerere resigned he was to leave behind a struggle within the ruling party between those who wanted to maintain a socialist path and those who were determined to adopt a new economic direction. The latter included local capitalists who were now encouraged to consider entering politics (Kiondo 1994: 74). As will be elaborated, this divide was to leave its mark on the presidential succession.

The second difficult legacy was the troubled state of the relationship between the mainland and Zanzibar. Zanzibar, which became an independent sultanate in December 1963, comprises two main islands. More than half the population of 850 000 resides on Unguja, with most of the rest living on Pemba, where most of the valuable clove production is concentrated. A majority of the

population is actually of mixed African and Arab background, yet 'Africans' have historically felt discriminated against by the 'Arab' (Omani) minority, despite the fact that the overwhelming majority of the total population are Muslim. These tensions were to result in the overthrow of the Omani Sultan in an armed uprising in January 1964, yet were to leave behind continuing tensions between the two islands.

The impetus to the revolution of 1964 was both ethnic (to establish Zanzibar as an African state) and ideological, with the Afro-Shirazi Party (ASP) declaring Zanzibar Marxist. The arrival upon the islands of Cubans, Russians and East Germans alarmed Nyerere (who was keen to avoid the destabilisation of the region through East–West cold war rivalry) as much as it did the West, and within weeks negotiations between him and Sheik Abeid Karume, head of the recently proclaimed People's Republic, announced their union (adopting the shared name of Tanzania in October). Karume, who saw the Union as an instrument for defending the revolution against the Arab League, which was outraged by the overthrow of the Sultan, thereupon became the United Republic's first vice-president, as well as chairman of the Supreme Revolutionary Council of Zanzibar, until he was assassinated in April 1972.

Although a new Constitution, introduced in July 1965, provided for a one-party state, the price that Nyerere paid for unity was a highly asymmetrical dyad. Zanzibar, but not the mainland, retained its own government – the Supreme Revolutionary Council – headed by a president who simultaneously served as one of two vice-presidents of the Union. Furthermore, even though Zanzibar constituted only a small fraction of the Union population (around three per cent), it was heavily over-represented in the Cabinet, National Assembly and ruling party. Hence it was that during the early stormy years of the connection the Union government had difficulty in controlling its wayward partner, which proved reluctant to hand over key responsibilities (and foreign exchange from clove exports) assigned to the Union and which, under Karume's leadership, was reluctant to draw any closer to the mainland.

It was not until the assassination of Karume that the threat of secession began to recede, allowing modest progress towards further integration by his successor, Aboud Jumbe. He not only slapped down insular dissent within the ASP but led it into a merger with the Tanganyika African National Union (TANU) to form the CCM in 1977, before securing promulgation of a new Constitution in 1979.

This, for the first time, provided for popular election of the Zanzibari president (whereby a single candidate could be rejected by the voters), and a form of indirect elections (rather than nomination) for the Council of Representatives (*ACR 1979–80*: B330, C74–5). Nonetheless, whilst wholly committed to the connection with the mainland, Jumbe began working for the Union to be transformed into an unambiguous federation composed of three (rather than the existent two) governments, as a way of guaranteeing Zanzibar's autonomy. However, this was regarded by Nyerere as a threat to the very existence of the Union. Troops were dispatched from the mainland, and Jumbe and three of his ministers were forced to resign before they were able to put their proposals to a Union Constitutional Court which had been established in 1977 (Sheriff 1994: 154).² Mwinyi, a strong supporter of the Union, succeeded as president of Zanzibar and vice-president of Tanzania in 1984.

Patient efforts by Nyerere to reduce tensions between the islands were rewarded with the appointment of Shief Shariff Hamad, who enjoyed majority support on Pemba, as Mwinyi's chief minister. However, Hamad was regarded as aligned to Karume's 'old guard' supporters, whose hold over the Revolutionary Council was to be weakened by a new, 'modernising' Constitution which provided for the House of Representatives to be directly elected by universal suffrage in 1985 (*ACR 1984–85*: B373). Thereafter, although Mwinyi's commitment to the Union had been reinforced by his succession to the Union presidency upon Nyerere's resignation in 1985, and although this set in motion an intended tradition of Tanzanian presidents being alternately elected from the mainland and Zanzibar, tensions between the islands were to be deeply exacerbated by the passing over by the CCM's national executive committee (NEC) of Hamad for president of Zanzibar in favour of Iris Abdul Wakil, Chairman of the Revolutionary Council (*ACR 1985–86*: B425). Although Wakil sought to defuse tensions by retaining Hamad as chief minister, much of popular opinion on Pemba was outraged, and its progressive alienation from the ruling party had the inevitable effect of strengthening CCM's self-perception as the defender of the Union.

The presidential succession

In announcing that he would be retiring following a further term of office, Nyerere had spoken of the need to depersonalise the presidency; yet this

expressed wish was not evident in the terms of the Constitutional Amendment Bill dealing with the powers of the presidency, which was debated in October 1984. In line with the spirit of the Union, this reintroduced a second vice-presidency, and provided for the prime minister of the Union to become the first vice-president in the case of the president being drawn from Zanzibar. However, the Bill did nothing to reduce the sweeping powers of the president, who could declare war, proclaim a state of emergency, detain suspects indefinitely without trial, and appoint whomsoever he chose to any position in the country, as well as being commander-in-chief of the armed forces. This propelled backbench Members of Parliament (MPs) into unaccustomed revolt on the basis that the president should be made more accountable, certain limitations should be imposed upon his authority, and that Parliament should be empowered to move a vote of no confidence against the government. These were beliefs in line with Nyerere's own ideals, yet eventually the Bill was passed as the government had originally proposed, with the only significant restrictions placed upon the president being that the declaration of war or states of emergency should be confirmed by CCM's NEC and Parliament, and that he should be limited to serving only two five-year terms (*ACR 1984–85*: B367-8; Othman 1994). Whether this retention of the president's enormous powers was a reflection of Nyerere's own second thoughts, resistance to change at the highest levels of government or a conviction that an undiminished presidency remained crucial to the maintenance of the Union is unclear. Whatever the case, it was matched by Nyerere's personal commitment to securing an appropriate successor.

Nyerere's first choice as his successor was his then prime minister, Salim Ahmed Salim, who as well as coming from Zanzibar had an excellent reputation internationally. He justified this to Mwinyi by indicating that the latter needed to stay as president of Zanzibar in order to secure the island's stability. However, backstage manoeuvres within the CCM's central committee, which Nyerere had planned would present a single nominee to the NEC, mobilised opposition to Salim's candidacy not only from mainlanders who saw him as being too close to Arab interests but from those who felt that he remained too closely identified with Nyerere's faltering economic strategies. This emboldened the more reformist Mwinyi, who at the key meeting of the central committee declined to withdraw as a candidate as Nyerere had intended, and earned majority support. Consequently, the central

committee had to put two candidates forward to the NEC, which initiated a long discussion on the qualities needed for a president, and who would better strengthen the Union. Yet underlying these deliberations was discontent with continued economic restrictions, a weariness with material crisis, and a desire for a change in economic direction which could lead to recovery, even if this was at the cost of causing affront to a retiring president who was still held in high personal regard. Hence despite Nyerere's best efforts on behalf of Salim and his assertions that Mwinyi's transfer from Zanzibar would threaten the Union, the NEC went against his wishes. Once the trend of opinion became clear, Salim withdrew his candidacy, enabling the NEC to maintain formal unanimity, and declared his willingness to serve under Mwinyi (*ACR 1985–86: B421–3*). Nonetheless, although Nyerere commended Mwinyi to the party's annual conference, there is no doubt that his preference for Salim and his continuing suspicion of market-led economic reforms subsequently coloured his relations with his successor throughout the latter's two terms as president, even though he recognised his many excellent qualities.

Mwinyi's presidency and Nyerere's response

During his 18 months as president of Zanzibar, Mwinyi had eased restrictions on private business. When he moved to his new job, he promised that his government would continue to be committed to 'socialism and self-reliance', yet he distinguished his own approach by finally completing the negotiations with the IMF, which had been drawn out by Nyerere's resistance to the imposition of conditions. He subsequently went on to address the acute economic crisis by providing the private sector with many more freedoms and by accepting most of the IMF's proposals on budgeting, agricultural reform and management of the currency. Yet in undertaking economic reform, Mwinyi was forced to look over his shoulder, for Nyerere – although standing down as president – had retained the chairmanship of CCM, and had made it plain that the party would keep careful watch over the government (Nyerere 1985). Indeed, Nyerere was to go on to be re-elected to the chairmanship of CCM in October 1987, this coming as a disappointment to those who may loosely be described as the 'liberal-modernists' who backed Mwinyi's reforms, and a boost to the 'socialist radicals' who wanted the party to serve as a counterbalance to his new economic policies.³ Meanwhile, Mwinyi had to recognise that he was inheriting a system built up by Nyerere over 20

years, and that throughout the government, civil service, party and army, key positions were held by people who owed their loyalty to him. They were known as the ‘*watoto wa nyumbani*’ – ‘the home boys’ – and largely came from Nyerere’s ethnic group, the Zanaki, or related clans like the Wakurya, Watimbara, Wakiroba, Wakikizu, Wiakoma and the Wajita. Although political ethnicity was far less pronounced in Tanzania than almost anywhere else on the continent, Mwinyi almost certainly had to bear it in mind (*Africa Confidential* 26(14) 1985).

Although he remained committed to socialism as a goal and ideal, Nyerere did not stand in the way of Mwinyi’s economic liberalisation. Indeed, he recognised that some sort of change in this direction was inevitable, even if he did not necessarily like it. Under successive IMF economic recovery programmes, inflation was steadily brought under control, the Tanzanian shilling devalued, returns to producers increased and positive economic growth achieved. However, despite this clear improvement for which Mwinyi was granted much credit and gained enormous popularity, Nyerere was determined to remain politically active with the two objectives of, first, the attainment of a basis for lasting stability after his final departure, and, second, securing the integration of Zanzibar into the Union. It was with these ends in mind that Nyerere had persuaded Mwinyi to nominate for him a further term as chairman of the CCM in October 1987.

Nyerere and the attainment of political stability

Ever since his friend Milton Obote’s overthrow by the Ugandan army in January 1971, Nyerere had come to accept that a country’s stability rested in large part upon the stability of the army and its loyalty to the political leadership. Experience elsewhere had shown that one way to ensure military stability was through ethnic loyalty, and although himself in no way a tribalist, Nyerere had come to accept the dictum as an African reality. Since 1971 he had therefore paid close attention to the army and to cultivating the support of the Kurya elements who had been dominant in the military since the colonial days of the King’s African Rifles. He had therefore established a network of Kuryas throughout the army, police, prisons, intelligence and other security organisations, and was subsequently to float the idea of the army assuming the status of a region within the ruling party. After Mwinyi’s accession, the army

was said by some to have made its support for his elevation to the presidency on the understanding that he would serve only as a transitional president, and that Josepho Warioba, a Kurya who became prime minister and first vice-president, should assume the role of president-in-waiting in 1990 (*Africa Confidential* 26(14) 1985).

If this was the plan (and some observers discount it on the grounds that the army has always remained loyal to the party and government), then it failed for, as noted, Mwinyi was re-elected as president in 1990 and consolidated his position by also securing the chairpersonship of CCM after Nyerere's resignation from this position in 1990. This had followed a complex set of events which had demonstrated the party's decreasing ability to control the political arena and which suggested that its commitment to socialism was being undermined from within by followers of Mwinyi who were concerned to pursue a more marketised economic policy.

Following independence, Nyerere had stepped down for a year as prime minister in order to reorganise TANU. Following his resignation as president, Nyerere similarly invested much energy in seeking to revitalise the CCM and in particular to close the gap that was emerging between the leadership and the rank and file. He spent much of early 1986 visiting CCM branches all over the country, encouraging party members to speak out openly. He was hugely disappointed by what he heard. Most CCM branches were not functional, and the top leadership had failed to keep in touch with the grassroots. He heard allegations of a refusal by officials to listen to criticisms, complaints about the embezzlement of funds, and evidence of bureaucratic inertia. He committed himself to a revitalisation of the party and urged party members to rid themselves of inefficient and dishonest leaders. Indeed, in party elections in June 1986, some 25 per cent of incumbents lost their positions, and later in the year the NEC dismissed or disciplined some 30 branch chairmen. However, by early 1987 he admitted that the party's participatory structures had withered (*ACR* 1985–86: B424, 1986–87: B428–9). The party, he said, had 'gone to sleep', and the leadership lacked the commitment to revive it. From this time on, Nyerere began to raise questions about the continuance of the single-party system in Tanzania, and indeed in Africa as a whole. Subsequently, much attention was focused upon tensions between Nyerere as party chairman and Mwinyi as president, and between Nyerere as socialist ideologue and Mwinyi as economic reformer, as well as upon the evident decline of the party and

its crisis of legitimacy. Meanwhile, changes in the outside world were also persuading Nyerere that the CCM was no longer in a position to articulate a common position on major policy issues. By 1990, following the collapse of the Berlin Wall, the question for Nyerere was increasingly when and how, and not whether, changes should be made to the party system.

Nyerere argued that single-party rule had rendered the leadership complacent and had alienated the membership, and proposed that Tanzanians should debate a return to multipartyism. Interestingly, this echoed a dimension of his earlier political thought. In the early 1960s he had argued that strong, dominant parties would be likely in many African countries as a result of the nationalist unity they had forged during their struggles for independence. Hence in many African countries the result would be the development of one-party government. It would be a long time after independence, he opined, before any issues arose which would be significant enough upon which to build a real opposition organisation. Yet 'this [would] eventually happen and it [would] be brought about by a split in the nationalist organisation' (Pratt 1976: 69). To be sure, in the 1960s he was ambiguous about the legitimacy of political opposition. On the one hand, he had suggested that democracy did not require the existence of political parties, only the preservation of civil liberties which would permit their formation. On the other, he had put forward the argument that governments such as that of Tanganyika, which faced extraordinary development problems, had the right to silence irresponsible critics. In the end of course, hastened by events in Zanzibar, he had propelled Tanzania towards the declaration of a one-party state and the adoption (on the mainland, at least) of electoral and internal participatory structures which were designed to further democracy. Yet by the late 1980s he had clearly reached the position that there were emergent, real divisions within the party which should not be contained within what he increasingly saw as a lifeless shell. He insisted that the party must derive its legitimacy from consent.

Nyerere's provocative statements unleashed a lively debate. For his part, Mwinyi argued that Tanzania needed economic development more than multipartyism, and that the single party had created national unity and peaceful stability which would be threatened by the appearance of different parties, which might well be founded on tribal loyalties. His position initially appeared to be strengthened when Nyerere resigned from the party chairmanship in mid-term, arguing that the continued separation of

the positions of party chairman and president under one-partyism would inevitably lead to conflicts between the two roles (*ACR 1989–90*: B349).

This undoubtedly reflected the anxieties of Nyerere – and his more socialist followers – about the pace and direction of the government’s liberalising reforms. From around 1987, Nyerere had become more openly critical of the influence of the IMF and Western donors, who had made disbursement of a \$900 million structural adjustment loan dependent upon a 20 per cent devaluation of the Tanzanian currency. This had encouraged him to launch stinging attacks upon trade liberalisation, complaining that local industry could not compete against foreign imports which were being dumped in Tanzania. Indeed, his objections to devaluation had only been finally overcome when in October 1987, while he was out of the country attending to his duties as Chairman of the South–South Commission, Mwinyi chaired a meeting of the CCM central committee which approved what the IMF wanted. From this point of view, Nyerere seemed to be becoming increasingly isolated. Indeed, by now Mwinyi had increasingly marginalised Warioba, still rumoured to be Nyerere’s favourite, not least because it was recognised that his succession to the presidency would scare the IMF and Western donors. Nyerere’s endorsement of Mwinyi as his successor as party chairman, and his further indication that he had no intention of seeking any formal political leadership role in the future, therefore reinforced the perception that socialists had lost out to the pragmatists in the struggle over economic reform and structural adjustment. Yet an alternative interpretation was that Nyerere’s disillusionment with the party was actually far more influential in his decision than ideological struggles around economic reform (*ACR 1989–90*: B347–51; Mmuya & Chaligha 1992: 96–7).

At this stage, curiously, the government, which was by this stage deeply committed to economic liberalisation, remained opposed to the political liberalisation espoused by Nyerere. This created difficulties with the donor community, which was by now openly advocating multiparty democracy as a condition for aid. Ironically, therefore, Nyerere and the donor community were in accord, and this both enhanced and strengthened his position and international prestige.

In September 1990, following his accession to the chairmanship of CCM, and hence more confident of his position, Mwinyi conceded the possibility of a return to multipartyism and expressed the view that a referendum might be one

way of assessing popular opinion about the matter. However, any such move was postponed beyond the presidential and national parliamentary elections of October 1990. He himself was returned with a 95 per cent majority of the votes cast for president and, following the election, he consolidated his grip upon the government by replacing Warioba as prime minister with his own preferred nominee, John Malecala. Then, in March 1991, he inaugurated a presidential commission (the Nyalali Commission) on electoral reform which, even though it found that popular opinion strongly favoured the continuation of one-partyism, nonetheless made recommendations in December that democracy would be strengthened by a return to a multiparty system. Constitutional amendments to this effect were ratified by a special congress of CCM in February 1992, which also laid down that all new political organisations should command support in both Zanzibar and on the mainland, and should be free of tribal, religious and racial bias. In May of that year, the Constitutions of both the United Republic and Zanzibar were duly amended to register these major changes. Further amendments, which reduced presidential powers and enhanced the supremacy of Parliament, were effected in December 1992 (*ACR 1989–90*: B350–1; Mmuya & Chaligha 1992: 98–116).

Nyerere was to remain a major force within CCM and to emerge as an increasingly vocal critic of Mwinyi, whose economic reforms he blamed for opening up the country to wholesale corruption, although he stopped short of outright condemnation of the government. He also remained a critic of the party, which stopped short of implementing all the recommendations of the Nyalali Commission, not least by failing to repeal a battery of repressive laws and by dominating the transition to multipartyism to the detriment of the raft of new political parties which appeared. Yet, most of all, Nyerere openly deplored the impact of capitalism upon the style and content of the newly competitive politics. Prior to his resignation as party chairman, he had described Tanzania's economic liberalisation as an unplanned retreat from socialism, yet he argued that the latter had so taken root in the country that it would never die, and that what mattered was that the state should continue to control the commanding heights of the economy. CCM echoed his sentiments when, in engaging new party rivals, it described itself as still standing for socialism and self-reliance. However, that Nyerere doubted whether the party would be able to stay true to the principles with which he had worked to imbue it was evident from his expressed concerns that the party was failing to

curb the emergence of a class of new rich. He was particularly angry with the NEC's passage of the 'Zanzibar Declaration' in February 1991 which relaxed the leadership conditions imposed by the Arusha Declaration of 1967, thereby enabling party leaders to accumulate private wealth openly. By 1995, in the run-up to the first multiparty elections, he was complaining that wealth was bound to become a primary qualification for election (*ACR 1987–88*: B409; Shivji 1994: 12).

Although Warioba had been displaced as prime minister, Nyerere continued to work quietly for his candidature for the presidency. Consequently, when the NEC met in 1995 to authorise candidates to succeed Mwinyi, Nyerere sought to secure his selection as one of the three candidates it had been decided would be forwarded to the party conference for election. However, he miscalculated badly, not realising that Warioba's popularity had been severely dented by his perceived arrogance when he had been prime minister, and his favourite failed to make the top three. Nonetheless, when it came to the final vote at the conference, Nyerere's support for Benjamin Mkapa, then Minister of Science, Technology and Higher Education, was influential in securing his election over the head of Jakaya Kikwete, who may have been backed by Mwinyi, although, critically, the former also gained the backing of the Zanzibari bloc led by Salmin Amour (Anglin 2000: note 11, 63).⁴

The proliferation of opposition parties which emerged to contest the 1995 election, and the advantages of incumbency which accrued to the CCM, meant that it was never in danger of losing power (Omari 1997). Yet the party was widely berated for corruption and incompetence, and looked vulnerable on two fronts. This was, first, in the presidential election, where a populist, anti-corruption campaigner, Augustina Mrema, was running against the CCM under the banner of the National Convention for Construction and Reform (and had declined to accede to Nyerere's pleas to withdraw in the interests of national unity). Second, as events were to prove, although the CCM was expected to secure a large majority on the mainland, its position in Zanzibar was far more precarious. In the event, Mkapa won the presidency with 61.8 per cent of the votes cast and CCM won 186 of the 232 elective seats (although the election process was chaotic and drew strident protests from the opposition). Mkapa – who was widely deemed to have been honest but politically unambitious – subsequently swept away most of the old guard politicians and embarked upon a more rapid pace of economic reform, a

strategy in which he had Nyerere's guarded support, notably in so far as he had linked this to a commitment to tackle corruption.⁵

Although many blamed him for the country's economic ills and opposition forces believed him singularly responsible for the political authoritarianism to which one-partyism had given rise, Nyerere was widely credited for having fostered an overriding sense of national unity. Yet even that had been threatened by alarming cracks in the Union.

Nyerere and the Union

When president, Nyerere had supported Mwinyi's introduction of the economic and political reforms which had strengthened the role of the Zanzibari legislature and weakened the Supreme Revolutionary Council, until then the only centre of power. Despite Union, the political culture in Zanzibar had remained highly authoritarian, and these reforms seemed likely to bring political practice on the islands closer to the more democratic norms of the mainland. The changes also represented a direct challenge to the old guard of the Revolutionary Council, who had enjoyed power under and since Karume's reign, not least by granting recognition to the demand for a greater say in affairs to the island of Pemba, many senior leaders of which were to be promoted to higher political and administrative posts in Zanzibar. As noted above, these included Sief Shariff Hamad as chief minister in 1984 after Nyerere had played a role in toppling Jumbe in 1984 and installing Mwinyi in his place. These moves served to weaken the old guard, and hence held promise of forging a reconciliation with Pemba, if at the cost of the latter securing greater de facto autonomy from the larger island.

In the event, this greater goodwill was shattered in November 1985 when Mwinyi succeeded as president of the Union, for Chief Minister Hamad was in line for succession to the Zanzibari presidency but was passed over in favour of Iris Abdul Wakil, Chairman of the Revolutionary Council. The rift was then widened by the deliberate spread of an unfounded rumour that Nyerere was intent upon reducing the status of Zanzibar to a region much like any other on the mainland. Tensions thereafter increased when Hamad, together with five other ministers who favoured economic liberalisation, were dismissed. All were subsequently expelled from the CCM on 13 May 1988, accused of being 'foreign agents and enemies of Tanzania' after their objection

to an alleged statement by Nyerere that Zanzibar and Pemba were merely offshore islands of Tanzania. In contrast, Nyerere emerged in strong defence of Zanzibar's special status in the Union when, in August 1993, a group of 55 mainland MPs secured the passage of a Bill through Parliament which would have provided for the creation of a separate Tanganyikan government. Accepted by the Union government, the Bill was nonetheless rescinded after Nyerere intervened at a joint meeting of Parliament, the Zanzibari House of Representatives and CCM's NEC, arguing that potential 'Yeltsins' had emerged within the party, and that creation of a mainland government within an explicitly federal structure would encourage Zanzibari secessionism and threaten the dissolution of the Union (Bakar 2000: 145; *ACR 1992–94*: B407). Nyerere was later to write a short book in which, in outlining the history and principles of the Union, he criticised Mwinyi and the CCM leadership for the way they had been handling the crisis (Nyerere 1995).

By the time of the first multiparty elections in 1995, popular opposition to the CCM-Zanzibar was spearheaded by Hamad, who had formed the Civic Unity Front (CUF). Even more than the party on the mainland, CCM-Zanzibar had been resistant to Nyerere's prodding in favour of political liberalisation, and few amongst its leadership seemed prepared to relinquish the rewards of office in the event of defeat, least of all to Pemba 'Arabs'. The outcome was an acute crisis when the CUF, campaigning for Pemba autonomy, secured 26 of the 50 elective seats, including every constituency on Pemba, yet failed to secure the presidency. This was awarded by the Zanzibar Electoral Commission to the CCM's candidate, Salmin Amour, with 50.2 per cent of the vote against Hamad, who was credited with 49.8 per cent of the vote. International observers were virtually unanimous that the count had been rigged and that Hamad had been denied a narrow victory. Amour was hastily sworn in, but the CUF persisted in maintaining that Hamad was the legally elected president. The bitterness between the two parties was subsequently increased by the CCM's resort to well-documented acts of repression and harassment of the opposition.

When faced with a national crisis, Tanzanians instinctively looked to Nyerere for guidance. Indeed, when he had established the Mwalimu Nyerere Foundation – dedicated to conflict resolution – in 1996, it was widely assumed that Zanzibar would rank high on its agenda. Instead, at the request of the Organisation of African Unity (OAU), he turned his attention to Burundi.

Anglin (2000) argues that his unhappy memories of past dealings with the islands was one reason for his reticence. Another factor was his fear of precipitating a rupture of the Union, for both CCM-Zanzibar and CUF were capable of playing the secessionist card.

Nyerere claimed that his reluctance to intervene was because he had not been invited to do so. This was no fabrication, for both parties had their reasons for distrusting him. The CUF had bitterly resented his speedy endorsement of Amour as president, which Nyerere justified in the interests of peace and stability. On the other hand, CCM-Zanzibar had been angered by his advice, following release of unofficial results which indicated a victory for Hamad, that Amour resign as both Zanzibaris and the Union were mature enough to live with a CUF government. Indeed, Nyerere had declined to attend Amour's inauguration, and – together with Mwinyi and Mkapa – had strongly urged him to form a government of national unity. Nonetheless, for the moment Nyerere kept his own counsel, until in January 1998 he spoke out publicly, deploring the fact that Amour was denying that there was a state of crisis in Zanzibar. CCM-Zanzibar responded robustly in a statement that just about 'stopped short of calling the former president a liar' (Anglin 2000: 47). Despite growing pressure for him to take a lead, Nyerere preferred to maintain his distance, and took the view that it was up to Mkapa to assume that responsibility. Yet Mkapa also declined to intervene, wary perhaps of risking the Union, and aware that he needed Amour's support if he were to win the CCM's nomination for president for a second term of office. In the event, the crisis dragged on, defying attempted mediation by the Commonwealth, and posing an even deeper question mark against the quality of Tanzania's democracy when, again in 2000, CUF was denied victory in further, seriously flawed elections (Anglin 2000).

The inability, or reluctance, of the Union government to intervene more forcibly in Zanzibar is in large part an outcome of the asymmetric terms under which the islands were joined to the mainland. For all its flaws, the Union remains a symbol of African unity. In the ultimate analysis Nyerere had been reluctant to risk that in the cause of a multiparty democracy whose virtues were untried and whose prospects were deeply uncertain.

Nyerere's wider role

Prior to his retirement as president, Nyerere was the current chairman of the OAU, chairman of the Frontline States, a doyen of both the Commonwealth and the Non-Aligned Movement and enjoyed enormous international prestige. It was therefore only natural that once he had stepped down from the presidency he was drawn into a series of important international engagements. Two of these are of particular interest. First, in his capacity as chairman of the South–South Commission, he became influential as a champion for the Third World, notably for his advocacy of fairer terms of trade. Second, he played an important role in kick-starting the mediation process in Burundi.

Nyerere had long reflected upon the inequalities of the international order, and in his latter years he had become particularly concerned about how Africa's indebtedness nullified its development prospects. His particular *bête noir* was the IMF, which in a speech in London in March 1985 he described as having become an instrument for economic and ideological control of poor countries by the rich, exercised through the imposition of inappropriate and burdensome conditions upon debtors (*ACR 1984–85*: B364). It was therefore only natural that in 1987 he should accept the invitation to chair the South–South Commission, a body of prominent Third World politicians and intellectuals, to study the post-war experience of developing countries and to suggest, in the light of trends in the world economy, how they could secure sustained progress.

The Commission reported in August 1990, and set out an ambitious agenda, which – after analysing how world arrangements penalise the Third World – called for a global programme to combat world poverty and initiate a restructuring of the international system to ensure a more equitable management of global interdependence. Centred around calls, *inter alia*, for a reduction of Third World debt, for the protection of global commons, for the lifting of protectionist barriers to promote developing countries' exports and for the establishment of contingency arrangements to protect developing countries against the vagaries of the international financial system, the report also demanded of countries in the South that they reshape their institutions and practices in order to achieve social justice, realise the potentialities of their peoples, close the knowledge gap with the North, and adopt effective population and sound environmental policies and practices (South

Commission 1990). Subsequently the Commission gave rise in August 1995 to the establishment of the South Centre as a permanent intergovernmental organisation of developing countries, based in Geneva and Dar es Salaam, which – whilst formally independent of governments – continues to draw on technical and intellectual capacity from the South to service the research needs of the Non-Aligned Movement and the Group of 77 (for example, South Centre 1998).

Nyerere accepted the role of mediator of the civil conflict in Burundi after the request was formalised by the OAU at summits in Cairo in November 1995 and Tunis in March 1996, and only after he had made exploratory visits to Bujumbura to receive assurance that Burundian politicians were prepared to accept him. He was subsequently to play a vital role in facilitating the Mwanza peace process of April–July 1996, which sought to guarantee democracy and security for Burundians. This was an intractable task for since independence Burundi had experienced violence between forces representative of the politically dominant Tutsi (about 14 per cent of the population) and the long-dominated Hutu majority (roughly 85 per cent of the population). Acute crises had resulted in the deaths of hundreds of thousands of Hutu in the early 1970s, and conflicts in 1988 in which thousands of Tutsi civilians had been killed by Hutu, who were in turn subject to indiscriminate repression by the Tutsi-dominated military.

By 1996, international pressure had secured a transition to multipartyism and the appointment of the country's first Hutu president. However, Hutu-led governments were never able to control the security forces and after Nyerere and Presidents Mkapa and Musuveni of Uganda had urged the intervention of a regional peacekeeping force in June 1996, the military installed Major Pierre Buyoya as president. The outraged regional leaders were disinclined to talk to Buyoya, but Nyerere argued strongly that if they were not prepared to displace him, they were logically bound to talk to him, although simultaneously he emerged as the strongest voice for the imposition of sanctions upon Burundi's government in order to cajole it into restoring the constitutional process. The eventual outcome was Buyoya's reluctant agreement to negotiate with the various opposition groupings in terms of a process that was formally inaugurated in Arusha, Tanzania, in June 1998. Nyerere thereafter served as moderator of the subsequent difficult negotiations until his death in October 1999. Although vicious armed conflict between the army and different Hutu

rebel militias continued throughout this period, the beginning made by Nyerere in getting the different parties to talk to each other provided a solid foundation upon which Nelson Mandela, who succeeded him as the main mediator, was able to build, and led eventually to the signing of the Arusha Peace Accord of 28 August 2000. This was, to be sure, a highly imperfect instrument. Nonetheless, it constituted the beginning of an admittedly contentious transitional process, centred around the successful conduct of elections in early 2005, which remains the best hope for peace (Bentley & Southall 2005).

Beyond these formal engagements, apart from establishing his personal foundation to promote 'peace, unity and people-centred development', Nyerere was widely called upon to address audiences across the globe about African problems. His moral authority meant that his views remained respected throughout the African continent, and enjoyed considerable purchase, as with the influence he deployed in securing the release of his old colleague, Kenneth Kaunda, from a Zambian jail in 1998 (although he failed to dissuade Sam Nujoma from running for a third presidential term in Namibia). Nonetheless, it would seem that for all that Nyerere drew satisfaction from the constructive role he had played as a former president, it was matched by a sense of disappointment at how national and global developments had eventuated.

Troubled visionary?

By the time of his retirement from the presidency Nyerere had seen the collapse of many of the hopes of his earlier years, notably for socialism and self-reliance in Tanzania, and for peace and development in Africa. Nor, indeed, although massive gains in terms of liberation in southern Africa had been made by 1985, was South Africa itself yet free from apartheid. Worse, as a former president, Nyerere looked upon a world in which Africa remained rooted at the bottom of a global order in which inequalities of power and wealth had become even more entrenched. Nonetheless, despite these acute disappointments, Nyerere was to remain a principled activist and a pragmatic realist to the end.

Key to Nyerere's career as a former president was his flexibility of thought, and his willingness to adjust to change, even if he did not necessarily approve of its direction. One-partyism may have initially promoted national unity, but if

it was leading to authoritarianism and bureaucratic privilege, then democracy would be better served by a return to multipartyism and the legitimization of opposition. If one-partyism had led to the CCM's political decay, then the party's internal democracy should be reactivated. If multipartyism led to the displacement of the CCM's hegemony in Zanzibar, then the party should be prepared to accept a form of cohabitation; yet if it was not, then – however regrettably – short-term demands for democracy should not be allowed to threaten the sanctity of the Union. If global capitalism was increasingly triumphant, then within Tanzania socialist values should continue to shape development goals and limit domestic inequalities whilst internationally Southern solidarity should be harnessed to promote global dialogue for a more equal and fairer world. Within Africa, the historic goals of peace, development and unity should continue to be pursued through democracy and constitutionalism.

Even if many of his hopes had been disappointed, even if as former president he *was* a 'troubled visionary', his experience and activism continued to fire an optimism based upon a long view of Africa's move away from colonialism. Speaking to the Parliament of a democratic South Africa in 1997, he not only hailed that country's liberation but stressed that Africa was changing for the better. The cold war was over, dictators like Mobutu were gone, more countries had elected governments, and a democratic South Africa was available to lead the continent against continuing imperialism and neo-colonialism. His message continued to be one of hope for the continent. It was no surprise that his death in 1999 was followed by what the BBC described as 'perhaps the greatest outpouring of grief ever witnessed in sub-Saharan Africa'.⁶

Notes

- 1 I should like to acknowledge the assistance of the Mwalimu Nyerere Foundation for securing key interviews with Ambassador Jaafar Msolomi, the Honourable Paul Bomani and the Honourable Salim Ahmed Salim in November 2004, which have deeply informed my interpretation of Nyerere's role as a former president. I am also grateful for comments made by Gero Erdmann.
- 2 Controversy continues to dog the declaration of the Union. Not only did neither Nyerere nor Karume have a popular mandate to surrender part of their countries' sovereignties, but significant local legal opinion argues that the terms of the Union

provide for a federation rather than a unitary state. Whilst they may or may not provide for the existence of three governments, they do throw doubt upon the legality of subsequent moves which have seen increasing authority over a large number of spheres added to the Union government's responsibilities. 'There is no doubt', argues Sheriff, 'that it is this gradual diminution of the autonomy of Zanzibar that has been the cause of the perennial crisis of the Union' (1994: 155).

- 3 The distinction between 'liberal-modernists' and 'socialist radicals' is a considerable simplification of the policy debate in Tanzania. For an extended and informed discussion of the 'productionist' (spanning capitalist and socialist positions, albeit tending to be technocratic), 'pragmatic' (disparate, yet predominant in government and responsive to perceived short-term economic needs) and 'populist' (predominantly left-wing critics favouring neo-autarchic approaches to the national economy) tendencies, see *ACR 1985–86*: B450–455.
- 4 Accounts differ, but one insider argues that by the time the election had reached a play-off between Kikwete (a Muslim) and Mkapa (a Catholic), religious factors had come into play.
- 5 Mkapa appointed a Presidential Commission of Inquiry against Corruption in January 1996. Reporting later in the same year, this documented rampant corruption and an apparent convergence of interests between powerful local politicians and foreign and local corporations. This led to the resignation of the Minister of Natural Resources and Tourism, and subsequently that of the Minister of Finance and his deputy, and a Cabinet reshuffle after parliamentary follow-up (*ACR 1996–98*: B464–5).
- 6 Cited by *Tanzanian Affairs* (London), 65, 2000.

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11 *Rawlings' former presidency: a threat to democracy in Ghana?*

Kwame Boafo-Arthur

Flight Lieutenant Jerry John Rawlings, one of the most controversial actors in Ghanaian political history, has been head of state three times. First, he assumed the chairmanship of the Armed Forces Revolutionary Council (AFRC) in 1979, which after a populist junior officers' coup overthrew a predecessor military government, supervised democratic presidential and parliamentary elections and handed over power to a civilian regime led by Dr Hilla Limann. Second, after the manifest failure of the latter to tackle corruption and deal with the mounting problems of an economy in acute crisis, Rawlings led a second coup and again assumed power, this time as chairman of the Provisional National Defence Council (PNDC) from 1981 to 1992. Third, after responding to internal and external pressures for political democratisation, he founded the National Democratic Congress. Subsequently, between January 1993 and December 2000, he served twice as an elected civilian president, before standing down in reluctant obedience to a constitutionally imposed two-term presidential limit, only to see his chosen successor, Dr John Atta Mills, defeated by John Agyekum Kufuor of the New Patriotic Party (NPP). This chapter deals with his career, and explores in particular whether his continuing engagement in Ghana's contemporary politics constitutes legitimate activism or a subversion of civil order and democracy.

Rawlings is better remembered for various acts of omission and commission when he was the chairman of the AFRC and chairman of the PNDC than when he was a democratically elected president. It was as a military head of state that he earned plaudits, at least in Western circles, for rescuing Ghana from bankruptcy by carrying out a draconian economic recovery and structural adjustment programme under the *imprimatur* of the Bretton Woods Institutions, and few now deny that his policies reversed the tide of economic decay and rescued the country from stagnation. Furthermore, in spite of the fact that he overthrew a democratic government which was still finding

its feet in 1981, he is also to be credited with helping to rebuild democratic governance, not only by his espousal of grassroots popular democracy during at least his initial years in power, but also by his return of the country to civilian administration after (admittedly, highly contentious) elections in 1992, and his toleration of opposition political parties thereafter. Nonetheless, despite these attainments, Rawlings has proved unable to overcome the stigma of the human-rights abuses committed under his two military regimes, and to adjust to a life shorn of the trappings of power. Given this background, it is necessary to examine the totality of Rawlings' past involvements in Ghanaian politics if we are to venture a judgement as to his present role as a former president.

Rawlings as a military ruler

Flight Lieutenant Jerry John Rawlings shot onto the Ghanaian political scene with his leadership of an abortive coup on 15 May 1979. He was arrested and was standing trial when junior and non-commissioned officers of the Ghana Armed Forces successfully staged a coup on 4 June 1979. Rawlings was immediately spirited out of prison and prevailed upon to be the leader of the AFRC. His boldness in taking personal responsibility for the actions of the other six men charged with him had endeared him to the bulk of the armed forces, whilst being tried in an open court had resulted in his winning wide support amongst the general populace. During these proceedings, in reference to the corrupt nature of the existing military regime, he had indicated that 'there was the need for bloodshed to clean up the country and the exercise should start from within the Ghana Armed Forces' (*Daily Graphic* 29.05.79). After the coup of 4 June, this statement culminated in the execution of eight high-ranking army officers, three of them former military heads of state, after their condemnation by arbitrary secret courts. Although Rawlings is said to have been reluctant to sign their death warrants, and to have done so only to keep control of an explosive post-coup political situation (Shillington 1992: 54–55), the executions were to leave an ineradicable stain upon his reputation and to arraign him with others who were guilty of a litany of human-rights abuses under his military regimes.

The junior officers' coup, subsequently dubbed the June 4th 'revolution', took place against the backdrop of preparations to return the country to civilian

administration, a commitment to which the new regime adhered. On 18 June 1979, after just two weeks in power, the AFRC supervised the scheduled general elections which were won by Dr Hilla Limann and the People's National Party (PNP). At the handing-over ceremony in September 1979, rather than confirming the finality of the return to civilian governance, Rawlings informed the incoming president that he was on probation and admonished him to 'never lose sight of the new consciousness of the Ghanaian people' (cited in Adedeji 2001: 3). In hindsight, his statement was a clear harbinger of the later coup of 31 December 1981.

Rawlings never withdrew from the politics of the nation after handing over power in September 1979. The PNP government sponsored most of Rawlings' AFRC colleagues for higher studies, but he refused to leave the country and was compulsorily retired. He spent his time building on his political base and enhancing his appeal to the Ghanaian populace through speeches organised by various associations such as the June Fourth Movement (JFM), the New Democratic Movement and the People's Revolutionary League of Ghana, which had backed the populist ideals of the 4 June 1979 military revolution. It was during this same period that he underwent a socialist conversion, having previously disavowed any formal (leftist) ideological commitment on behalf of the AFRC. He spent much of his untimely retirement in the company of intellectuals who were known socialists on the campus of the University of Ghana, Legon, absorbing from them dependency interpretations of development. Furthermore, provoked by the allegedly corrupt practices of the PNP government, he rapidly came to accept the need for the radical change of Ghanaian society in order to promote justice, economic growth, and societal development (Ahiakpor 1985: 540). 'New institutions', he was soon arguing, would have to be organised to ensure that Ghanaians held on to their newly won freedom, 'to ensure that they dictate the terms of their survival' (*West Africa* January 1982: 224–5). However, the only means available to him for bringing about what he now envisaged as a socialist revolution was through another military intervention.

The coup of 31 December 1981

The overthrow of the Limann government and the formation of the PNDC provided Rawlings with the opportunity to implement the ideas which he had

imbibed from his socialist tutors: 'I ask for nothing less than a revolution', he declared in his post-coup speech, 'something that will transform the social and economic order of this country' (Hanson 1987: 173). Subsequently, the 31 December 1981 'revolution' was ideologised in terms of promoting a 'people's democracy' and socialist order via:

- the termination of the control of the local economy by foreign interests, especially multinational corporations;
- changes in the class structure of production and production relations;
- changes in the class structure of control of the state; and
- the creation of political forms which would make the interests of the broad masses of people predominant and realisable.

Drawing inspiration not only from the memory of Ghana's founding president, Kwame Nkrumah, but also from the Libyan and Cuban examples, the commitment to popular power was expressed through the creation of workers' defence committees, people's defence committees, the National Defence Committee, the Citizens' Vetting Committee, the National Investigation Committee and public tribunals. The various defence committees were later renamed Committees for the Defence of the Revolution (CDR). These organs were meant to provide for mass political participation and to overcome the limits of the parliamentary 'bourgeois democracy' hitherto in existence (Hanson 1987; Boahen 1992; Shillington 1992: 31–60).

Most certainly, the 'revolution' initially gained much support and earned much credit for its mobilisation of popular energies to evacuate the cocoa crop, the coffee and other foodstuffs which had previously been locked up in the countryside for want of adequate transport, decent roads and proper leadership (Shillington 1992: 85). Nonetheless, the PNDC was soon facing an acute crisis. Not only had it been damaged by a litany of human-rights abuses conducted in its name, but its threats of nationalisation and confiscation of assets, its renegotiation of contracts already signed with major foreign companies like Kaiser Reynolds' Volta Aluminum Company Limited and AGRIPETCO, and its expressed intention to raise government shareholdings in foreign-owned banks and insurance companies from 40 to 80 per cent were all actions which rapidly set it on a collision course with international finance capital (Ahiakpor 1985). As early as mid-1982, therefore, it was clear that the PNDC had failed to stem the deterioration of an economy which was already effectively bankrupt when it had seized power just months earlier.

Despite the PNDC's revolutionary credentials, aid from socialist countries amounted to little more than expressions of solidarity. In consequence, the only other major available sources of aid were the World Bank and the International Monetary Fund (IMF), yet their immediate demand would be for a radical devaluation of the currency (a move which, ironically, the PNP government had been loath to take for fear of a rising cost of living and popular backlash). Subsequently, on 30 December 1982, the PNDC announced the principles of a four-year economic recovery programme, which was soon to be accepted as a basis for financial credits by the IMF, and which in April 1983 was capped by an austerity Budget of astounding severity. By October 1983, the cedi had been devalued by 991 per cent and three further devaluations had followed by the end of 1984; meanwhile the PNDC carried out a thorough-going liberalisation of the economy, cut back on public employment, encouraged the unhindered operation of private capital, and promoted reliance upon market forces, most notably by abolishing state control of the producer price of cocoa, while also agreeing to curb press attacks on the United States, multilateral agencies, and the IMF (Boafo-Arthur 1999; World Bank 1994).

These actions were inevitably accompanied by a major change in ideological tone. Government leaders now called for a moderation of revolutionary rhetoric, as the initial socialist experiment had proved incapable of reversing economic decline and enhancing the welfare of ordinary Ghanaians. Rawlings himself called for the halting of 'populist nonsense' and for revolutionary activities to be replaced by hard work, and chided those who deceived themselves with 'empty theories' (Ahiakpor 1985: 550), whilst his finance secretary was soon welcoming direct foreign investment and assuring investors that they would be able to repatriate their profits (Ahiakpor 1985: 549). Furthermore, whilst radicals deplored the betrayal of the revolution, Rawlings cracked down on leftist elements within the PNDC and alienated the trade unions, while simultaneously seeking a reconciliation with professionals and other societal elites such as religious leaders and chiefs who had been antagonised by the revolutionaries, and went on to assure them further by abolishing people's defence committees and workers' defence committees in 1984, after accusing them of exercising 'power without authority' (Yeebo 1989: 180). Shorn of its ideological veneer, the PNDC had come to the firm conclusion that cooperation with the international financial institutions and Western development partners was crucial if economic development was to be achieved.

An earlier attempt to pursue IMF economic policies by the Progress Party government of KA Busia during the Second Republic (1969–72) was aborted by military intervention. Subsequently, during the Third Republic, Limann's hesitation in reaching agreement with the Bretton Woods Institutions as a way of addressing the economic crisis had been influenced by strong opposition mounted by progressive radicals within his own government, as well as by fear of the army. Ironically, therefore, after committing his ideological reversal, Rawlings was doing what earlier Ghanaian leaders would have done had it not been for the fear of a backlash from the army and popular forces. With the weight of the military behind him he was able to undertake a programme of authoritarian economically liberalising reform. Rawlings' draconian approach to the implementation of structural adjustment programmes had the tacit support of the Bretton Woods Institutions, which in the 1980s favoured such a high-handed approach in the implementation of economic reforms. A World Bank economist, Deepak Lal, noted that in the implementation of such programmes, 'courageous, ruthless and perhaps undemocratic government is required to ride roughshod over the newly created interest groups' (cited in Olukoshi 1992; Boafo-Arthur 1998: 15).

It is incontrovertible that in the short term the structural adjustment programme checked economic distortion and stagnation. Economic indicators showed appreciable improvement, with gross domestic product (GDP) in real terms increasing by 5.3 per cent in 1986. There was equally a growth in per capita income and improved agricultural output by 2.6 per cent and 5.4 per cent respectively during the same period (Government of Ghana 1987). By June 1990, the government was enabled to pay off the \$600 million of foreign exchange arrears which had accumulated before the economic recovery programme was launched, and the following year international agencies pledged even more soft loans and grants than Ghana had asked for. Furthermore, although most Ghanaians remained very poor and the economy remained fragile, the PNDC had managed 'to place production at the forefront of economic policy and to raise production in every sector', as well as achieving a modest growth and diversification of exports (Shillington 1992: 122–4). In the light of such impressive gains, the PNDC earned numerous accolades as having overseen an economic miracle and implemented 'Africa's most successful stabilization and structural adjustment program' (Toye 1991: 155; Anyemedu 1993). It must be stated without equivocation that the credit

for such positive economic changes goes to Rawlings, whose focused but often draconian approach to the resolution of Ghana's economic stagnation through hard-nosed IMF-supported economic reforms was unprecedented in the history of Ghana. Matthew Martins, a former World Bank official, also noted that Rawlings was 'prepared to be ruthless when he believed it was necessary, by detaining trade unionists, academics or students or overruling or sacking anti-IMF politicians or officials' (Martins 1991: 242).

For sure, this success was driven by an exercise of political power which was draconian and never departed from 'familiar patterns of officially sanctioned repression, intolerance, and exclusion' (Chazan 1991: 22). An admixture of strongly authoritarian mechanisms was employed not only to hold on to power but also to implement IMF policies to the letter. First, decision-making was highly centralised and popular consultation all but abolished, while hidden advisers and intrigues in the Castle – the seat of government – proliferated, even while some rudimentary neo-corporatist mechanisms were created which gave an illusion of social depth. Second, the personal idiosyncracies of Rawlings came to the fore as a form of political style and this in most cases replaced institutional forms of political interaction. Third, Rawlings' security chief, Captain Kojo Tsikata, handled security issues with the sole purpose of intimidating the political opponents of the government. Fourth, violent tactics of governance were continuously employed, including the torture and summary executions of perceived and real political enemies or opponents to the regime. Even though the populist disorder of the initial phase of the PNDC was quelled, the coercive and capricious nature of the regime remained intact (Chazan 1991). For fear of incarceration or being killed, Ghanaians now relapsed into a culture of silence and passivity which was interrupted only occasionally by strike actions (as in 1986), all of which were brutally repressed by the regime.

Nonetheless, the PNDC did embark upon a vigorous local government administration with the launch of a 'Blue Book' on district political authority, outlining modalities for district-level elections on 1 July 1987. This was consolidated later with the promulgation of the Local Government Law of 1988 (PNDC Law 207). Together, these became harbingers for district assembly (local government) elections held between December 1988 and February 1989. The PNDC embarked on this decentralisation for two main reasons. The first was to legitimise its illegal usurpation of political power

as the 1988 law and the district assembly elections were promoted as moves towards democratisation. Secondly, decentralisation was a convenient way of tightening the regime's grip on regional and local institutions, and extended rather than diminished centralised authority (Ayeë 1993). Thus by the time of the transition to democracy Rawlings was an absolute ruler with firm control over all the levers of political power. Ayeë's position notwithstanding, it could be argued in contrast that the decentralisation policy has deepened participatory democracy at the local level (Amponsah & Boafo-Arthur 2003) and that the credit could be attributed to Rawlings. But how, then, did Rawlings perform as an elected democratic leader?

Rawlings as a democratic ruler

Popular revolt against authoritarian rule, the collapse of the Eastern Bloc and the end of the cold war provoked a wave of democratic transitions across Africa from the early 1990s. Yet many were surprised at the speed with which the PNDC championed the return to democratic government, not least because Rawlings had hitherto persistently rejected multiparty democracy. However, Ghana's extreme dependence on foreign aid rendered the PNDC vulnerable to external pressures and left it no option but to open up the political space (Boafo-Arthur 1998: 183). Rather than conceding a straightforward return to the barracks, the PNDC resolved to hold on to power by metamorphosing into the National Defence Committee (NDC) in order to contest national elections as a political party. Ghana's transition therefore became possible because the government realised it could still protect the interests of the key players in the military government. This largely explains the Transitional Provisions of the 1992 Constitution, which protect appointees in the military government from prosecution. Hence Section 34(1) of the Transitional Provisions states that: 'No member of the Provisional National Defence Council, Provisional National Defence Council Secretary, or other appointees of the Provisional National Defence Council shall be held liable either jointly or severally, for any act or omission during the administration of the Provisional National Defence Council.' The indemnity goes further. Section 34(3) states, *inter alia*, that 'no executive, legislative, or judicial action taken or purported to have been taken by the Provisional National Defence Council...shall be questioned in any proceedings whatsoever and, accordingly, it shall not be lawful for any

court or other tribunal to make any order or grant any remedy or relief in respect of any such act (Government of Ghana 1992: 202–3, my emphasis).

The NDC swept to power in 1992 in presidential and parliamentary elections which boycotting opposition parties claimed were tailored to produce that result (*ACR 1992–94*: B47–48). The NDC took 189 seats in the 200-member Parliament. Despite the controversy, Rawlings was inaugurated as president in January 1993, while the appointment as vice-president of Kow Nkensen Arkaah, leader of the National Convention Party (NCP), which had taken eight seats, ensured that the NDC was left without any effective parliamentary opposition. The NDC was little more than military government in civilian clothing, and did little to ameliorate the authoritarian image garnered by the PNDC. For instance, on 11 May 1995, the government secured passage through Parliament of the value-added tax and faced widespread popular opposition. However, when the Alliance for Change, an amorphous political pressure group led by members of the opposition who had boycotted the elections, organised a protest march against the new tax, the government let loose the Association of the Committee for the Defence of the Revolution (ACDR), a quasi-militarised wing of its party, upon it, leading to the death of four protestors (*Daily Graphic* 12.05.95; *Ghanaian Chronicle* 15–17.05.95).

It was also during the first term of his presidency that Rawlings demonstrated his own personal instability. The chemistry of the vice-president and Rawlings had never matched and the latter looked upon the former with huge suspicion. The elderly Arkaah had become vice-president by virtue of his leadership of the NCP, appointed to broaden the support base of the NDC and nullify opposition. Yet apart from the fact that Arkaah had been neither a PNDC nor an NDC insider, he was also ideologically, ethically, morally and temperamentally at odds with Rawlings, and complained bitterly about being marginalised by the president. The animosity between the two became common knowledge and it came to a head at a Cabinet meeting on 28 December 1995, when the vice-president was allegedly pummelled by Rawlings and physically ejected from the meeting (*Daily Graphic* 29.12.95). Even though officialdom denied that the vice-president had been assaulted, the fact that the latter had complained to the police, and inconsistencies in the denials of those seeking to protect the image of the president, convinced many Ghanaians that Rawlings had given way to the violent streak in his temperament.¹ Inevitably, Rawlings

dumped Arkaah as his vice-president and picked Dr John Atta Mills as his running mate for the second election under the 1992 Constitution.

Rawlings led the NDC to another electoral victory in December 1996. On this occasion, all the opposition parties which had boycotted the previous election participated, resulting in a far more competitive contest in which the NDC's parliamentary strength was reduced to 133 seats, with the NPP obtaining 61 seats, the People's Convention Party five, and the People's National Convention just one (*ACR 1996–98*: B67). Through their combined efforts in Parliament, the opposition parties exerted growing pressure upon Rawlings to accord greater tolerance and respect. Of equal influence, if not more influential, was external pressure, which reached its high point with the visit of US President Bill Clinton on 23 March 1998, during his high-profile visit to six African countries (the others were Uganda, Botswana, South Africa, Senegal and Rwanda). Clinton's visit – the first by a sitting US President to Africa – was explicitly designed to support and reward countries which were deemed to be democracies or which were making progress towards that end. His passing through Ghana therefore undoubtedly represented a major diplomatic triumph for Rawlings (who had himself made several state visits to the United States). At the same time, it constituted a firm warning that the United States expected Ghana's return to democracy to be maintained. Rawlings therefore had little option but to honour the provision of the 1992 Constitution which laid down that a president's tenure of office should be limited to two terms. His projected standing down from power immediately opened up democratic space, with the result that Kufuor and the NPP rode to a handsome victory over Atta Mills (Rawlings' handpicked would-be successor) and the NDC in the elections of 2000 (*ACR 1998–2000*: B73–4).

Even though the NDC lost the 2000 elections to the NPP, the strong popular appeal of Rawlings was not in doubt throughout the campaign. He has charisma and is a good orator who almost always stirred his audience on the campaign trail. Furthermore, having been a leader for almost two decades, he had personal support across the country. Above all, he proved he was still popular among a sizeable segment of the population, especially in the rural areas. Given his persona, national stature and immense popularity, his exit as a president (in conformity with the 1992 Constitution) raised important issues. The main question that agitated the minds of many people in the wake of the defeat of the NDC at the polls was how would Rawlings, who had bounced back to power after standing down before, react to being out of office?

Outside the trappings of political power

Article 68 of the 1992 Constitution deals with conditions of a serving president and how he should be treated when he leaves office, outlining generous material terms and provisions for his personal security. However, it has come to light that the drafters of the 1992 Constitution originally provided for former presidents to become members of the Council of State, a body which, according to Article 89(1) of the 1992 Constitution, shall counsel the president in the performance of his functions. However, this clause had been expunged upon the insistence of Rawlings, probably because he did not want to see his predecessor, Hilla Limann, being restored to any position of honour, influence or potential rivalry. Since the time of his overthrow in 1981, the latter had lived without any ex-presidential privileges; nor was he to be accorded them even after the promulgation of the 1992 Constitution. Even if there was ambiguity about whether the new Constitution's provisions should be extended to someone who had been head of state well before they had become law, it was widely felt that Limann – who was known to be living in undignified poverty – should be granted its benefits. Yet Rawlings declined to exercise his undoubted prerogative to relieve Limann's plight, and treated him with utter disdain – or at least until his death on 23 January 1993, when the NDC government attempted to give him a state burial, an offer which was rejected angrily by his family. In retrospect, the affair indicates that Rawlings had given little thought to the dangers of the precedent that he was setting for his own personal future.

For sure, Rawlings' immediate engagement after leaving the presidency was very positive locally and internationally. United Nations (UN) Secretary General Kofi Annan appointed him an Eminent Person for the UN's International Year of Volunteers in 2001. This resulted in his travelling widely to attend conferences on HIV/AIDS, corruption and malaria. He toured Botswana, Kenya, Tanzania, Guinea, and Ethiopia on anti-AIDS campaigns and visited numerous hospitals and AIDS centres. He met health workers across Africa and had discussions with officials on how best to deal with the pandemic. He spearheaded the voluntary testing of UN heads of local agencies in Guinea who publicly underwent AIDS tests before national media cameras. And throughout his African campaigns, he drove home the point that since 'the scourge does not discriminate the rich from the poor, children from adults and the young from the elderly, all groups and individuals regardless of

their status must take part in the war against AIDS' (*UN Volunteer*, December 2001).

However, the end to Rawlings' UN volunteer year saw him confined to home, and rather than opting for a low profile, he launched into highly controversial political activities. He first devoted much attention to the rebuilding of the NDC, which had obviously been despondent on account of its defeat in the 2000 elections. He did this through firm support for the presidential candidacy of Dr John Atta Mills in the 2004 elections. In the process, he clashed with some of the leading members of his own party, especially Dr Obed Asamoah, the party chairman and former attorney-general and Minister for Foreign Affairs. This was because Dr Asamoah had openly preferred the presidential candidacy of Dr Kwesi Botchway, the former PNDC Finance Minister. Although Dr Asamoah conceded to the fact that Rawlings is an asset to the NDC, after the second electoral debacle of the NDC he pointed out that, 'I believe his utterances were not helpful to us' (*Daily Guide* 15.12.04). Earlier, Dr Asamoah strongly urged the NDC leadership to redefine Rawlings' role in the party, arguing that 'a central role for the founder of the party in matters affecting it will, unfortunately, damage the image of the flagbearer and the electoral fortunes of the NDC in the 2004 polls' (*Daily Graphic* 11.04.03). The animosity between the founder and the party chairman factionalised the NDC into pro-Rawlings and pro-Obed factions. Belated attempts made to patch up the differences did not bear much fruit before the 2004 elections.

Rawlings' popularity on the campaign trail notwithstanding, people hold different views as to his contributions to the political fortunes of his party in the 2004 polls. Generally it is assumed that his magnetic pull of supporters and non-supporters to political rallies did not translate into votes to enable his party to win the elections because his negative politicking – in the form of insults and unsubstantiated allegations against his political opponents – boomeranged. Dr Obed Asamoah made it clear that he believed that Rawlings' utterances were unhelpful to the party's cause. Nonetheless, his participation in politics and the campaigns of the NDC enlivened the political atmosphere since he drew crowds wherever he visited. If effective political opposition is crucial to the sustenance of democratic governance in that it keeps the ruling government on its toes, then arguably Rawlings has gingered the opposition NDC to be alive to its responsibilities, drawing national attention to inequities in the system and alleged corrupt practices in the politics of Ghana.

Apart from his engagement with his party, he directed attention to the day-to-day politics of the country, with particular focus on the ruling NPP. In a series of highly polemical and contentious speeches, Rawlings accused the NPP government of presiding over massive corruption and labelled it the worst administration the nation had had since independence – the same accusations he had previously levelled against the PNP government of Hilla Limann. He appeared to incite his followers to civil disobedience, asserting that ‘there is something called unlawful order. We must learn how not to accept wrong things from authority. Positive defiance is what I used to call it.’ He stated further, ‘We don’t have to wait for the next election to prevent the rot.’²²

Such outbursts generated widespread tension, with the private media speculating that Rawlings was replaying what he had done after he had handed over to Dr Limann. As the *Ghanaian Chronicle* (12.08.02) commented, ‘the nation was once again treated to what has become a seasonal volcanic eruption from the lips of the “old man” who insists on being seen as a man of integrity.’ The paper went on to state, in response to those who called for action against the former president, that ‘the best answer to a fool is silence.’ The *Accra Daily Mail* had no doubt that the ex-president was hankering for a coup against the NPP administration. While upholding his right to free speech, the *Daily Graphic* (13.08.02) noted, ‘we think that the former president would do Ghana and Ghanaians a lot more good if he gives advice and expresses worries...through a more acceptable means.’ In such circumstances, many believed that the government had acted with due foresight when, after assuming power, it had almost immediately banned Rawlings from visiting military bases as a precaution against his mobilising officers and men for a coup as he had done in 1981.

The general feeling was that Rawlings wanted to incite people to overthrow the government. By sheer coincidence, it was around this same time that Rawlings took delivery of four bullet-proof four-wheel-drive Landcruisers. The General Secretary of the NPP, Dan Botwe, commented that, ‘The NPP really finds it very difficult to understand why Rawlings chooses to undermine the democratic process at the least opportunity. His latest call to arms and his hypocritical romanticising of what he called positive defiance should be condemned by all Ghanaians before it leaves a disastrous imprint on the minds of adventurous demagogues.’²³ One retired army officer simply wondered why Rawlings, a former president, declined to act as an elder statesman, and

accused him of creating the conditions for disgruntled military officers to stage a coup (*Daily Guide* 29.09.04). Although some of the editorials in the private press and comments by individuals on Rawlings' behaviour could be deemed too harsh, it could also be argued that the editors were being proactive and acting on hindsight since Rawlings adopted the same tactics during the Third Republic of Hilla Limann and succeeded in psyching the people for the coup of 31 December 1981.

Rawlings ignited further major controversy on the 24th anniversary of the uprising on 4 June 1979 by stating that 15 cabinet ministers in Kufuor's administration had masterminded the mysterious and unsolved killings of some 34 women (*Daily Graphic* 06.06.03). This was a serious criminal allegation against members of the incumbent government. For sure, right-thinking Ghanaians had been worried about the unsolved murders for some time, yet recalled that they had started in 1997 when Rawlings was the head of state, and that, further, after women had demonstrated against the failure of the NDC government to apprehend the murderers, the Inspector General of Police during the regime of the NDC, Peter Nanfuri, stated that suspects had been held and were being interrogated (*Daily Graphic* 23.12.00). Nonetheless, the former president spoke on that day as if he had fresh evidence about the murders.

On account of his allegations, the police invited Rawlings for questioning since they needed evidence to bring the murderers to justice. His response was that he would be prepared to mention their names under chemical interrogation or a lie detector. He repeated this before party supporters in Techiman in the Brong Ahafo Region, saying that if he had prosecuted those he was now accusing, people would have thought that he was doing so because he did not want to hand over power. Likewise, he reiterated his willingness to subject himself to chemical interrogation, stating that 'there I will prove to the world that Kufuor and his folks of 15 are the murderers' (*Ghanaian Chronicle* 07.07.04).

Rawlings' motivations for making these accusations remain unclear – possibly he was seeking to minimise the potential damage to his reputation of evidence about extra-judicial killings during his administration which was then being laid before the National Reconciliation Commission that had been established by the NPP government. In any case, his accusations backfired, not least

because he subsequently failed to divulge the identity of those he accused of murder to the police, and failed to respond to the challenge by a government minister that he should name names. What turned out to be most damaging to his credibility and truthfulness in this matter was the about-turn made by Ebenezer Josiah, editor of the *National Democrat*, a pro-NDC newspaper which had been championing his criminal accusations, when at a specially held press conference he declared that all the information being peddled by the former president had been concocted. He further claimed that the story had been foisted upon him by Victor Smith, the special aide to the former president, and roundly admitted that 'all the allegations that we have produced in our newspaper are without any foundation'. After apologising profusely for damaging the reputation of the sitting president, Josiah went on to proclaim: 'We all agree that for the past four years Ghana has witnessed a period of tolerance and respect for human rights to the extent that a sitting president is able to suffer such an extreme slur on his character and still not use his powers to retaliate' (*The Independent* 02.12.04). It is interesting to note that after this valiant exposure and apology by the editor of the pro-NDC *National Democrat*, the ex-president stopped peddling such allegations.

Rawling's reputation has also suffered from his inability to control his notorious temper. On one occasion, the former president was invited by the police for questioning after he and his personal security personnel had beaten up one Adamu Seini Mansu at Ashiaman, a suburb of Accra. It was alleged that while the president and his security outfit were going to Ashiaman, the man in question had made gestures denoting support for the ruling government. As a result he was invited by Rawlings to move closer to the car, whereupon he was assaulted. The man's torn shirt was part of an exhibit at the police station (*Daily Guide* 30.03.04). The anti-Rawlings independent newspapers had a field day and amidst the uproar, the police were compelled to invite Rawlings to make a statement. After initial hesitation he reported, but the case was dropped after pressure was brought to bear on the young man by his father (*Daily Guide* 15.04.04). In yet another instance, Rawlings was alleged to have assaulted a district chief executive and his bodyguards were alleged to have vandalised the man's vehicle at Bongo in the Upper East Region. Commenting upon the latter incident, a leading independent newspaper observed:

With such a proclivity for violence, and uncouth behaviour, we wonder whether the youth of today have anything to learn from

his personality...If he wants to be accorded the respect that goes with the title of an elder statesman, he should have a re-think, re-engineering of his general behaviour...If nobody has been able to tell the former president that, so far, his behaviour leaves much to be desired, then the horde of hangers-on in his office are not doing enough to assist him repair his battered image. (*Daily Guide* 23.11.04)

In another editorial on the same issue, *The Independent* (25.11.04) labelled the alleged assault 'a blot on the 56-year-old Mr. Rawlings' temperament, attitude, and style and he cannot wish it away. If anything at all, it has added to the profile of an erratic and violent person who loses his balance and composure easily – certainly not the qualities of one who wants to be treated as a statesman.'

Amid such controversies Rawlings has continued to make what the press came to label his 'boom speeches'. In what many regard as breaches of diplomatic etiquette, he has attacked the sitting president on visits outside Ghana,⁴ whilst at home he has incessantly accused the government of intimidating members of his party and embarking on witch hunts (in particular reference to the jailing of three of his former ministers who were consigned to prison after due process before the law for having caused financial loss to the state under legislation which ironically had been enacted by the NDC government and signed by Rawlings). In addition, he was to prove controversially active on the campaign trail for the NDC during the 2004 election campaign, touring the length and breadth of the country in support of the party and Dr John Atta Mills, who was again standing as its presidential candidate. Most of his campaign speeches combined open attacks with personal insults directed against the president, such as on one occasion when he told party supporters that Kufuor was a thief and that if the police refused to arrest him, then the military should do so. On another occasion, he mounted a platform and displayed portraits of himself, Dr John Atta Mills and President Kufuor and asked his supporters which amongst the three most resembled a thief. He answered his own question by saying 'Kufuor'. Such undecorous behaviour was complemented by his writing a letter to President Obasanjo of Nigeria, which he copied to many leading world leaders – including President Bush of the United States, Prime Minister Tony Blair of Britain, and UN Secretary General Kofi Annan – in which he repeated his standard accusations against the government and complained bitterly about

how the latter was planning to rig the elections (*Daily Guide* 11.11.04; *Daily Graphic* 13.11.04). The Electoral Commissioner, Dr Afari Gyan, subsequently debunked his allegations, none of which were upheld by independent election observers and monitors (*Daily Guide* 12.11.04; *Daily Graphic* 13.11.04).

Many of his associates and party supporters have repeated Rawlings' words and accusations on political platforms of the NDC, and have continued to lionise him. Yet others, notably Justice DF Annan, the former Speaker of Parliament under the NDC government and a member of the NDC's Council of Elders, have been made distinctly uneasy. Indeed, Annan has argued that Rawlings would serve the interest of the nation better and enhance his international image if he were to distance himself from domestic politics (*Daily Guide* 18.10.04). This and other such utterances by leading members of his own party implied recognition of the fact that the former president's controversial behaviour is severely undermining the reputation and future prospects of the NDC. What appears to be more worrying is what many condemn as Rawlings' highly questionable behaviour that may serve to destabilise Ghana's fragile democracy.

The Kufuor government's response

The Kufuor government's initial reaction to Rawlings' various effusions was to dismiss his actions as those of an embittered former leader who had been reluctant to stand down, and who has lost his bearings within the political system. On the other hand, given Rawlings' past record as a coup maker and military leader, they could not afford to ignore the potential threat that he represented to their security.

It has already been noted that Rawlings had been prohibited from visiting security installations, even before the launch of his provocative campaigning against the government. More controversially, the government had chosen to prune his personal security detail, consisting of over ten men, which was deemed to be excessive. This had prompted a sharp reaction from the NDC, who filed a writ in the Supreme Court for a constitutional interpretation of Article 68 of the 1992 Constitution (dealing with the conditions of service of a president), and specifically clause 9, which states: 'The pension payable to the president and the facilities to him shall not be varied to his disadvantage during his lifetime.' The NDC stated that, contrary to Article 68, 'certain

personalities, agents and spokesmen of the present government have been making statements and pronouncements which seem to indicate that a group unknown to the ex-president, and chosen by others and trained by others, are to be substituted for the security personnel he currently has and had in the past.⁵ However, the Supreme Court chose to dismiss the writ as lacking substance and merit, a judgement which it is probably fair to say was approved of by the majority of Ghanaians who remembered Rawlings' actions in 1981. Nonetheless, although sorely tried at times by his insults and accusations, the Kufuor government proved reluctant to heed calls from hawks within the party that some form of action should be taken against the former president, not only because it was wary of the constitutional implications but also because it was reluctant to act in a way that might give credence to Rawlings' allegations that both he and the NDC were being harassed by the government.

To be sure, Rawlings' two major 'boom speeches' – on positive defiance and the murder of the 34 women – led to the police inviting him to make himself available for questioning. However, when he failed to oblige, they declined to subpoena him and the matter was left to ride. Rather ominously, his positive defiance speech coincided with his importation of the four bullet-proof vehicles. Subsequently, the Bureau of National Investigations quizzed Rawlings on these four new acquisitions registered in his name, worth some \$136 200. He indicated that they were 'gifts' from friends, but when pressed to name them, he is alleged to have replied that he would have his head cut off before he would divulge them. This prompted the government to ask for the immediate return of all but one of five state vehicles which he had at his disposal at the time.

The NDC immediately accused the government of not following the recommendations of the Greenstreet Committee, made prior to the adoption of the 1992 Constitution. 'The action of the government coming after the former president had exercised his legitimate constitutional right to free expression', stated the NDC, 'is dangerous for the country's fledgling democracy, especially as it seeks to gag no less a person than a former president... Sooner than later, nobody in this country can comment [sic] on the government's policies, programmes and actions and the government would become dictatorial.'⁶ For its part, the government responded through Papa Owusu Ankomah, the then majority parliamentary leader, that the Greenstreet Committee report had never laid down that a former president

should be entitled to have five state cars as part of his retirement package. Another government spokesman, Kwabena Agyepong, later insisted that the government was not denying Rawlings any of his retirement privileges: 'We are not stripping him of anything. We are only going by the book. We bent over backwards to ensure a smooth transition of power, and allowed him to take those cars.' Yet, significantly, he added 'but his conduct has shown that he is not worthy of such treatments' (*Ghanaian Chronicle* 07.07.03).

However, while forbearing to take action against Rawlings in response to even his most provocative utterances domestically, the government responded more assertively to the insults against Kufuor which he had made outside the country. Hence, in response to Rawlings' request for diplomatic courtesies normally extended to him prior to one of his intended trips outside the country, the Foreign Minister announced it was not possible 'at the moment' for the government to grant his request on the grounds that he had abused his position as a former president by using 'every occasion of his foreign travel to malign and denigrate publicly his successor as president of the Republic, the current government and by implication Ghana.'⁷

The withdrawal of Rawlings' diplomatic privileges generated heated political exchanges between the government and the opposition NDC on constitutional grounds. The NDC perceived it as an attack on the Constitution. John Mahama, former NDC Minister of Communications, declared that, 'the right to free speech and expression is enshrined in Chapter 5, Article 21(1)(a) of the 1992 Constitution. Indeed this freedom is at the heart of the concept of democracy. There can be no true democracy without free speech and expression. This fundamental right is availed to all citizens including ex-presidents.'⁸ The NDC argued strongly that the action of the government was unconstitutional because it sought to change a constitutional provision regarding the treatment of former presidents. The government denied all the charges, contending that its actions were within the ambit of the Constitution. Some of the independent media with pro-NPP sympathies expressed support for the action taken by the government. For instance, the *Accra Daily Mail* (18.05.04) proposed: 'If the Constitution is so loud on how to give former presidents a good life after leaving office, the same Constitution must have strictures against ex-presidents who do not respect themselves or the high office they once occupied.'

Broadly speaking, the government appears to have moved from understandable caution regarding Rawlings (exemplified by its understandable imposition of security restrictions to limit his contacts with the military) to increasing control, notably in terms of the withdrawal of his diplomatic privileges when he travels abroad. Overall, however, it has reacted with remarkable forbearance to the political activities of a former president who many feel has gone well beyond the bounds of decorum, and whose utterances could well be construed as not only threats to civil order but as incitement to overthrow democracy.

Conclusion

It has been common in Africa for heads of state who have been overthrown to be incarcerated by their successor governments or, if left at large, to have been harassed and humiliated. Rawlings' own ungenerous handling of Hilla Limann is one such example which, for all the provisions of the 1992 Constitution regarding the treatment of former presidents, undermines his own moral claims to post-power privileges and respect. Notwithstanding Rawlings' at times irritating behaviour, the Kufuor government has exhibited a remarkable level of tolerance; this in itself is a testament to the growing maturity of democracy in Ghana and a sign of the civilian authority's growing confidence in the face of a military which has a long history of involvement in political affairs. Yet what can explain Rawlings' provocative role as a former president, when he must know – from his own involvement in the execution of three former military heads of state and his humiliation of Limann – the perils to which he may be exposing himself?

The answer would seem to lie in a mixture of factors. First, Rawlings is an extrovert who, having been in the political limelight for almost 20 years, has been unable to adapt psychologically to being without authority and not being at the centre of attention. Impetuous, impatient and subject to violent bouts of temper, he has proved unable to refrain from behaviour which may ultimately prove self-destructive. Second, at 51 years of age when he retired from the presidency, he remains a relatively young man who, critically, appears not to have prepared himself well for life after office. He never anticipated that after 19 years in power the political party he had formed would lose in democratic elections, and hence deprive him of even backdoor influence.

Because of this, he has lacked any semblance of a well-focused programme of personal activities that is capable of constructively engaging his attention in the long term. He therefore performs activities as and when they emerge, either local or international. Third, unlike Kwame Nkrumah, Ghana's first president, who utilised his enforced retirement in Guinea to reflect upon his record in power and to produce a formidable series of writings analysing the Ghanaian and wider African condition,⁹ Rawlings has little intellectual bent and exhibits no inclination to find solace in academia. Fourth, although he made initial and apparently successful forays onto the international arena, his chequered reputation and unstable behaviour preclude his emergence as a respected statesman.

In addition to the foregoing, the hybrid political system could also be blamed, to some extent, for contributing to Rawlings' behaviour as an ex-president. The presidential system, unlike the parliamentary system, has fixed terms for presidents. Thus a young and active personality such as Rawlings was consigned to the margins of national political activities after his two terms. As founder of the NDC, very energetic and nostalgic for the centre stage he used to occupy, he has been acting in ways designed to draw attention to himself. In contrast, in a parliamentary system he might well have retained leadership of his party and, given his popularity, might have come back to power once more through the polls.

Rawlings left office as a two-term democratic ruler. Nonetheless, his prior dictatorial rule for 11 years constituted a huge baggage both in and out of office. Thus, unlike Mandela for instance or even Nyerere, Rawlings and his close associates have had to fend off attacks over high-handedness and human-rights abuse whilst in office. I believe that his prior poor human-rights record (Boafo-Arthur 2003; Oquaye 2004) deprived him of the moral authority to make judgemental comment upon human-rights issues across Africa. This makes it difficult for Rawlings to play any constructive role as a mediator at the international level. Although he has been alluding to political intimidation of his party members at home, some perceive that as hypocritical given his record in office.

Finally, and as noted in Chapter 1, the essence of balancing the demands of transitional justice against the expediency of political stability influenced the insertion of the transitional provisions that indemnified the military regimes

in Ghana (including those headed by Rawlings) in the 1992 Constitution. Consequently, no court of law in Ghana has the power to question or make any order or grant any remedy or relief on account of the excesses of the military regimes (Government of Ghana 1992). This compelled a leading politician to note that it is 'monstrous to think that a Constitution will contain provisions which nakedly seek to prevent courts of justice from doing justice and providing relief to persons who have suffered without just cause, not for a period, but forever (*Joy-FM News on line* 29.08.98).

In sum, Rawlings' erratic, contentious and often confrontational role since he retired as head of state raises difficult questions about the obligations as well as the privileges of former presidents. Too often African governments have resorted to imposing restraints upon former leaders on specious grounds of security. It may well be that if Rawlings continues to act so provocatively, then his behaviour may come to constitute a genuine threat to Ghana's stability and democracy. If this is the case, then it will be incumbent upon any future government considering taking action against him albeit through due process of law, to minimise the potential for political polarisation by combining firmness with magnanimity.

Notes

- 1 A recent attempt by the former Speaker of Parliament, Justice DF Annan, to defend Rawlings in a radio interview has failed to convince. In answer to a question about what happened on that eventful day, Annan remarked: 'When Arkaah arrived at the Cabinet room to moderate the meeting, he was asked to leave. Things got a little out of hand at that stage, and there was some physical contact. Rawlings tried to draw Arkaah out but Arkaah, my cousin, resisted, then he and Rawlings tumbled over.' He continued that it was in the process of forcing his vice-president to leave the Cabinet room that the latter's coat got torn (Arkaah having reported to the police with his coat in disarray) (*Daily Guide* 11.10.04). Kwamina Ahwoi, a former Minister for Local Government and Rural Development during the NDC and a former chairman of the Citizens Vetting Committee during the PNDC, was among those who denied the assault (see *Daily Graphic* 30.12.95).
- 2 BBC News, 16.08.02. Available at <http://news.bbc.co.uk/2/low/africa/2190746.stm>; accessed on 15.08.04.
- 3 'Bad blood reigns', ANB-BIA supplement, Ghana. Available at <http://www.ospiti.peacelink.it/anb-bia/nr452/e01.html>; accessed on 15.08.04.

- 4 It was reported by the Ghanaian press that Rawlings insulted the incumbent president in interviews with some Nigerian pressmen after attending the wedding of the daughter of former Nigerian President, Ibrahim Babangida. The standard accusations were that the NPP regime under Kufuor is the worst in the history of Ghana and that the incumbent president has been intimidating him and threatening to send him to court. It was on the basis of these allegations and other insults, disrespect and unguarded utterances that the NPP government withdrew presidential courtesies to the former president. In withdrawing his privileges, the Foreign Minister, Nana Akufo-Addo, stated *inter alia*: 'It makes little sense to continue to accord courtesies to someone who persistently refuses to reciprocate them, as his recent utterances in Nigeria vividly illustrate' (*Daily Guide* 12.09.03, 15.09.03). See also J Mahama 'Of free speech and presidential courtesies', feature article 18.09.03. Available at <http://www.ghanaweb.com>; accessed on 18.09.04.
- 5 Available at <http://gov't.ghana.gov.gh/story.asp?ID=41>.
- 6 See 'Rawlings returns official vehicles'. Available at <http://www.Newsinghana.com/politics/Rawlings-returns-official.htm>; accessed on 15.08.04.
- 7 Available at <http://www.ghanaweb.com/GhanaHomePage/NewsArchive/printnews.php?ID=43211>; accessed on 18.09.04.
- 8 Available at <http://www.ghanaweb.com/GhanaHomePage/NewsArchive/printnews.php?ID=43211>; accessed on 18.09.04.
- 9 Once accepting (if not reconciled to) his fate in exile, Nkrumah produced a formidable series of books. These included *Challenge of the Congo* and *Axioms* (Freedom Fighters' Edition), both published in 1966; *Voice From Conakry* (1967); *Dark Days in Ghana*; *Handbook on Revolutionary Warfare*; *Ghana: The Way out*; *The Spectre of Black Power*; and *The Struggle Continues* (all published in 1968); *Two Myths* and *The Big Lie* (1969); and the revised edition of *Consciencism* and *Class Struggle in Africa*, both in 1970. *The Revolutionary Path* and *The Rhodesia File* were then posthumously published in 1973 and 1974 respectively.

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12 *An army of ex-presidents: transitions, the military and democratic consolidation in Nigeria*

Sola Akinrinade

There are two ways to look at the development [i.e. the dominance of retired generals in politics]. It's either that these former soldiers who had been military rulers have become converts to democracy and want to be active participants, or that having tasted power they have become addicted to it and now want it by other means.

Ike Onyekwere, IRIN News 09.11.04

Observers of the Nigerian political process agree that one of the greatest challenges to the development of national consensus is the vast scale of ethnic and other sectarian differences and how these differences have been exploited by political and military leaders over the years. Nigeria is dominated by three major ethnic groups – the Hausa-Fulani in the north, the Igbo in the south-east and the Yoruba in the south-west – although there are over 200 others. Between them, the three groups constitute over half of the country's population. The differences have found expression politically in that political leaders have customarily drawn support from their own or closely related ethnic groups, with the result that by the time of the transition to civilian rule in 1999, the impression had registered that the more populous 'North' had already had more than its fair share of hold on national political leadership, having produced more elected and unelected rulers than any other ethnic group. The challenge of democratic consolidation is in part complicated by the impact of these sectarian rivalries and mistrust.

Nigeria's current democratic dispensation requires one more electoral turnover to reach Huntington's phase of consolidation (Huntington 1991: 267). However, after almost six years of civilian administration that included a successful civilian-to-civilian transition, the country can be considered as

being close to it. A major point of crisis for previous civilian administrations was the mode of conduct of elections by the incumbent administration. Both the 1965 (First Republic) and the 1983 (Second Republic) elections were accompanied by intense violence and destabilisation of the polity that culminated in military interventions in the political process. Civilian-to-civilian transition had become a jinx of Nigeria's democratic experiments – a hurdle difficult to surmount. However, despite the apparently successful transition from one civilian administration to another in 2003, there remain doubts about the true worth of Nigeria's current system, notably with regard to the question of whether in essence it represents a continuation of military rule clothed in democratic garb. The apparent scepticism stems from certain features of the current democratic system, including the dominance of the political terrain by retired military rulers, ex-generals and equivalents of the armed forces, and the militarisation of civil society.

The domination of the political terrain by fabulously wealthy retired generals is not the outcome of a sound manifesto or commitment to an admirable political programme. Rather, it is the consequence of the travails of the Nigerian political system in the hands of the military since 1966. Between independence in October 1960 and the inauguration of the Third Republic on 29 May 1999, Nigeria experienced only nine years of democratic rule. Not only did the generals' position in past military administrations grant them access to opportunities to amass large wealth at public expense (wealth that has come in handy in a country where money plays a crucial role in politics), it also gave them opportunity to build up their own constituencies and circles of power and influence. The domination of the political terrain by retired generals even extends to the structure of the political parties, with former military rulers occupying prime positions in the leadership of these parties. These factors should be considered alongside the consequences of almost 30 years of military rule that have left distinct marks on the collective psyche – a psyche that 'embraces force, routine violence, and instinctively shies away from debate and dialogue, the two all-important props without which a truly democratic edifice cannot stand' (Agozino & Idem 2001: 6).

An army of ex-presidents/heads of state

While in many African countries progress towards democracy has been blocked by the dominance of individual, domineering leaders who have

proved reluctant to adhere to their constitutionally allowed terms of office, Nigeria's crisis has been that of multiple unelected and authoritarian leaders whose tenures, in almost every case, were abruptly terminated. With 11 former heads of state (only two of whom were elected), nine extra-constitutional changes of government (six of which were successful military coups d'état) and three attempted coups, Nigeria has one of the longest lists of unelected governments in Africa. The two previous *fully* civilian administrations never completed their legal terms of office.¹ The present administration of President Olusegun Obasanjo, now into the second year of its second and final term in office, is the longest-serving civilian administration serving a second term in office in the country's political history (Joseph 1987; Oyediran 1988; Oyediran & Agbaje 1999; Falola 2002).

In seeking an explanation for the above, the limited nature of the space for political competition in the country cannot be ignored. Until the termination of the First Republic in January 1966, Nigeria operated an effective federal system of government in which there were four powerful regions. The regional administrations exercised powers over considerable areas of government, including certain aspects of foreign policy. Each region had considerable control over the revenues it generated and over internal security, and had its own police forces. Under this arrangement, the central government had less attraction for political leaders. Until the 1959 federal elections, the leaders of the major parties were the premiers of their respective regions.² The abolition of the federal system by Aguiyi-Ironsi, and the introduction of a unitary government, was resisted fiercely and one of the first acts by Gowon was the restoration of the federal arrangement. However, other acts of the Gowon government, beginning with the splitting up of the regions into 12 states,³ served to weaken other tiers of government while the centre acquired more powers. With the states so greatly dependent on the centre for funding, the federal government became the place for real competition (Amuwo, Agbaje, Suberu & Herault 1988; Lincoln 1999; Akinrinade 2000; Yaqub 2004).

Particularly with the military usurpers, control of the federal government was crucial to domination of the political process. This made it difficult for incumbents to seek to perpetuate themselves in office. Indeed, every attempt at perpetuation was met with counter-moves within the military hierarchy.⁴ Resistance to self-perpetuation found expression in military coups, counter-coups, palace coups and failed coups (Joseph 1987; Oyediran 1988; Ikpe 2002).

Table 12.1 *Regime changes in Nigeria, 1960–99*

Period	Head of state	Type of government	How regime ended
1960–1966	Abubakar Tafawa Balewa	Parliamentary democracy	Military coup
January–July 1966	JTU Aguiyi-Ironsi	Military government	Military coup
1966–1975	Yakubu Gowon	Military government	Military coup
1975–1976	Murtala Muhammed	Military government	Failed military coup/ assassination of head of state
1976–1979	Olusegun Obasanjo	Military government	Civilian elections
1979–1983	Shehu Shagari	Presidential democracy	Military coup
1983–1985	Muhammadu Buhari	Military government	Military coup
1985–1993	Ibrahim Babangida	Military government	Forced resignation/ mass uprising after annulled election
August– November 1993	Ernest Shonekan	Interim/caretaker government	Military coup
1993–1998	Sani Abacha	Military government	Death
1998–1999	Abdulalami Abubakar	Military government	Civilian elections
1999 to date	Olusegun Obasanjo	Presidential democracy	

The presence of so many formidable potential candidates for the highest office has meant that the messianic syndrome that has characterised the politics of many African countries could not be established in Nigeria. Even among politicians there is usually keen contest for the presidential tickets of political parties, leading to the formation and abandonment of alliances to suit political needs.

Life after office: Nigeria's ex-presidents

One major consequence of the rapid turnover of governments is the current large army of former presidents and heads of state. In seeking to define potential roles for former heads of state with a view to encouraging them not to perpetuate themselves in office, it is useful to examine the pattern of engagements of living former presidents or heads of state.

One factor common to almost all the former military heads of state, which affects their post-office life, is that none has a recognised professional expertise outside of military service. The two civilians, President Shagari and Chief Shonekan, present a different picture. Shagari, although a trained teacher, is the only professional politician among all the living previous leaders, while Shonekan was executive chairman of the conglomerate, United Africa Company PLC, and thus had an active corporate life to which he returned easily after he was eased out of office. In contrast, all former military rulers had to retire from the armed forces on leaving office. Most left at relatively young ages, saddled with qualifications that had little relevance to societal needs. This undoubtedly raises the question of whether there has been a nexus between their bleak career prospects after office and the propensity to primitive accumulation while in power. It can also be posited that lack of qualification and requisite skills would limit the engagement to which they could be put by successor governments or the international community after their departure from office. These differential patterns can be demonstrated by brief reference to the experiences of the different heads of state after they lost or were ejected from office.

General Yakubu Gowon

General Gowon was strictly a career soldier until he was suddenly thrust into office as head of state (1966–75). A Christian born in Wusasa, southern Zaria (but of Plateau State origin), Gowon is from the minority northern Angas ethnic group. His successful prosecution of the 30-month civil war raised his national and international profile but his failure to honour the commitment to hand power back to civilians was partly responsible for his overthrow in 1975, when he was still relatively young at age 40. Gowon proceeded to exile in the United Kingdom, where he enrolled as a student at the University of Warwick, obtaining a BA and a PhD in Political Science.

In 1976, he was implicated in the abortive military coup that led to the assassination of his successor, General Muhammed, leading to the withdrawal of all his retirement benefits and his dismissal from the army. After his pardon in 1981 by President Shagari, he returned to the country and led a generally quiet life. In 1992, he surprised observers when he opted to enter the presidential contest. However, he lost at the primaries, and since this ill-fated

quest for the presidency, has largely maintained a dignified distance from the arena of partisan politics.

In 1992, Gowon established the Yakubu Gowon Centre as a 'multi-purpose, multi-faceted, non-governmental, non-profit organisation'.⁵ The Centre enjoys a close relationship with the Ford Foundation, Global 2000, the Carter Center, the Institute of Governance and Social Research, and the Institute of Conflict Prevention and Research. It boasts of having a presence in all geographical regions of the country and is the forum for the former leader's involvement in public policy and advocacy work. The most important spheres of the centre's operations have been public health (guinea worm infestation eradication) and conflict management and prevention. In recent years, the Centre's work expanded to include HIV/AIDS prevention, and it is one of the two nominated beneficiaries of the \$150 million grant by the Global Fund to Nigeria to fight AIDS, tuberculosis and malaria (*ThisDay* 18.10.04).

Gowon has also represented the country at international events. A significant international assignment was his membership of the Group of Eminent Persons constituted by the then Secretary-General of the Organisation of African Unity (OAU) to advise him on matters pertaining to the transition of the OAU to the African Union (AU). General Gowon presented the group's report to President Yoweri Museveni of Uganda ahead of the OAU summit that transmuted the continental body to the AU.

On the sidelines, Gowon initiated Nigeria Prays Inc. in 1996. Under the project, Gowon coordinates prayer groups that seek divine intervention in the country's problems. He has also been concerned with promoting the cause of Nigerian unity and nation building.⁶

Olusegun Obasanjo

When President Obasanjo, a Yoruba Christian from the south-west city of Abeokuta, was sworn in on 29 May 1999, it was the second time that he had taken the oath as head of state. His first political appointment was as Commissioner for Works under General Gowon. When Gowon was overthrown, he became Chief of Staff, Supreme Headquarters, and became head of state following the assassination of General Murtala Muhammed in February 1976. During his three-and-a-half years as head of state, he vigorously pursued the already

scheduled programme for a return to civilian rule and he retired from the army following the handover to President Shagari.

After his retirement, General Obasanjo set up business as a commercial farmer. His Obasanjo Farms remains one of the biggest and most diversified in Nigeria. He also became an international elder statesman and was elected to membership of several commissions and boards, including many in the United Nations system. In 1988 he established the Africa Leadership Forum (ALF) as a civil society organisation concerned with developing and improving the capacity of African leaders to confront development challenges.⁷ This stemmed from what he perceived as the widespread and palpable crisis of leadership and management in the continent – part of the organisation’s mission is to develop capacity in the continent in order to increase the productivity of major actors in government, Parliament, business and civil society. The ALF organises a wide range of high-level conferences, seminars and workshops and publications that address the quest for effective leadership, efficient management and enhancement of leadership skills. It is likely that his international credentials encouraged him to compete for the post of UN Secretary-General in 1991, losing to Dr Boutros Boutros-Ghali.

Obasanjo’s was a critical voice during the years of misrule that followed the overthrow of the Shagari government. In 1995, he was sentenced to life imprisonment by the Abacha regime for alleged involvement in coup plotting. However, his international profile ensured that he remained in the public mind and on the world’s conscience throughout the period of his incarceration. The sentence was subsequently commuted to 15 years after pressure from such world leaders as then President Nelson Mandela of South Africa, former US President Jimmy Carter, and former German Chancellor Helmut Schmidt. He was released from prison in 1998 following Abacha’s death. When he emerged as the presidential candidate of the dominant People’s Democratic Party (PDP) in 1999, his declared mission was to restore the pride of the country and put Nigeria to work again.⁸

Alhaji Shehu Shagari

Alhaji Shagari, a Fulani from Sokoto in northern Nigeria, is the only professional politician among the group of living former Nigerian heads of state. A trained teacher, Shagari had served at every level of government before his emergence

as president in 1979. Rampant corruption and continued economic problems were the hallmarks of his administration. Widespread violence and electoral malpractices marked his victory in the 1983 elections, and his government was overthrown in a military coup on 31 December 1983. The new administration of General Muhammadu Buhari placed him under house arrest, which was not lifted for three years, by which time Buhari himself had been overthrown in a palace coup by Babangida. The Buhari government also banned Shagari from participation in politics for life. Even under Babangida, his movements were restricted to his village. He therefore decided to give full attention to his Janzomo Farm, which he incorporated into a limited liability company, Janzomo Farm Estate Limited, in 1987. Upon the lifting of the restrictions on his movement in 1989, Shagari opted for a quiet life, avoiding open partisan political involvements (Shagari 2001).

Although he established the Shehu Shagari World Institute for Peace and Conflict Studies in 1998, his involvement in public affairs was limited to advisory matters. He was the 2001 recipient of the Foundation for Democracy in Africa Medal of Glory, and on a few occasions he served as envoy of the federal government to outside countries.

In October and November 2002, he stepped in to reconcile the legislators and President Obasanjo in the wake of attempts to impeach the president. Following his intervention and that of General Gowon, the law-makers agreed to drop impeachment proposals against the president in return for certain concessions. In 2004, he joined other former living heads of state in pledging support for the polio immunisation campaign which had been mired in deep controversy. Until then, Islamic leaders in northern Nigeria had mounted a stiff opposition to the polio vaccine and this had hindered efforts at securing the vaccination of children against the deadly disease. The intervention of Shagari and others helped to break the impasse (*ThisDay* 02.11.02; *The Guardian* 20.03.04).

Muhammadu Buhari

General Buhari is a Fulani from the northern state of Katsina. The coup that brought him to power was followed by efforts to restore order and clean up the corrupt political system presided over by Shagari. However, despite the efforts of Buhari's government to create good order, the economy posed the

greatest challenge. Heavily dependent on oil exports, the economy continued to unravel as international oil prices collapsed. Opposition, though still stifled, grew as unemployment, inflation and external debt soared. With public discontent growing, the chief of army staff, General Babangida, moved against him in a bloodless coup on 27 August 1985.

Buhari was placed under house arrest for the next 40 months. After the restrictions on his movements were lifted, he remained essentially a recluse, shunning the public glare, apparently embittered by his experience at the hands of his former colleague. He resurfaced into the gaze of the public only in 1994, when the Abubakar Tafawa Balewa University, Bauchi, conferred an honorary Doctorate of Science upon him. However, in March 1995, he was appointed executive chairman of the Petroleum (Special) Trust Fund by the Abacha regime, and he remained in that position until the Obasanjo administration abolished the fund in 1999.

While it is not certain what effect the abolition of the fund had on Buhari's decision to join politics and opt to compete against Obasanjo,⁹ he soon became the focal point for anti-Obasanjo forces, particularly those in the north who wanted to oust the president. With Obasanjo entrenched in office and apparently desiring to serve a second term, forces began to rally against him. First, Ibrahim Babangida was approached to join the presidential race, an offer which he declined after a critical assessment of the political landscape and his own chances of winning an election at the time. After Babangida turned down the offer, Buhari was approached. These moves coincided with attempts to impeach the president, a saga that rocked the country for a good part of 2002.

On 25 April 2002, Buhari formally registered as a member of the All Nigeria Peoples' Party (ANPP). In September 2002, he wrote to all former heads of state (including Obasanjo), indicating his intention to contest the 2003 presidential elections. He said the administration's performance was so poor that it did not deserve a second term (*Weekly Trust* 06.09.02). Buhari won the party's presidential ticket under controversial circumstances in which all other candidates were forced to step down.¹⁰ In annoyance, some who had crossed over from the PDP decided to return to their original party. In the event, President Obasanjo won the 2003 presidential election by more than 60 per cent of the votes cast, but Buhari and the ANPP continued to challenge the election results. Nearly two years into the life of the administration, the case is still in court (*The Guardian* 30.07.03).¹¹

Ibrahim Babangida

General Babangida, a Fulani from the northern middle-belt state of Niger, joined the army straight from completing his secondary school education in 1962. He rose to the rank of brigadier-general in 1979 and chief of army staff in 1984. He became the country's sixth military ruler when he ousted Buhari in a palace coup on 27 August 1985. Babangida has reportedly claimed that he had taken part in all coups in Nigeria up to the one which brought him to power. The major bane of his administration was its endless transition to civil rule programme. He initiated a series of political reforms ostensibly aimed at creating a new environment for democratic practice, but every step pointed in the direction of an agenda of self-succession (Diamond, Kirk-Greene & Oyediran 1997; Oyediran & Agbaje 1999).

The presidential election which was scheduled to return the country to civilian rule was finally held in June 1993. National and international observers regarded the election as free and fair and the most peaceful in the country's history. Chief MKO Abiola won the majority of votes, but the Babangida government annulled the election results, citing an electoral process rife with fraud. Thousands of people took to the streets protesting the move and accusing the government of seeking to thwart the will of the people. The demonstrations were ruthlessly crushed as the Defence Minister, General Sani Abacha, rolled out army tanks to confront the demonstrators. As the political crisis spiralled out of control, the government was denounced by several Western countries and, in the face of domestic and international opposition, General Babangida resigned on 27 August 1993. Before departing, he installed a lame-duck interim national government, headed by Chief Ernest Shonekan, the corporate mogul who had been recruited to chair the transitional government that Babangida had put in place at the beginning of 1993 (Campbell 1994).

The interim national government was plagued by crisis throughout its existence. Its legitimacy was successfully challenged in the courts¹² and on the streets. Barely 82 days later, Abacha overthrew the interim national government. Meanwhile, Babangida entered into a period of political isolation, which continued till Abacha's death in 1998.

Babangida found a way back from political isolation following the curious death of Abacha (officially from a heart attack) and the tragic death

(supposedly from heart failure) of MKO Abiola in detention. The attempt to pacify the Yoruba of the south-west saw other ethnic groups tacitly conceding the presidential slot to the south-west. However, powerful northern elements were keen to influence the selection of an acceptable Yoruba man (Akinrinade 2000). Babangida was one of the key northern figures who approached Obasanjo, recently released from prison, to run for the presidency. Babangida backed the Obasanjo campaigns financially and brought his considerable influence to bear on northern political and business interests. Upon assumption of office, Obasanjo appointed Babangida as the first presidential envoy to Sudan, but he has since been replaced in this assignment by General Abdusalami Abubakar.

The attempts of powerful elements of the northern political establishment to snatch the presidency from Obasanjo in 2003 most probably ignited Babangida's interest in returning to power. Babangida has admitted to nursing presidential ambition, which is awaiting an auspicious moment. The reason he gave for not contesting in 2003 was that he would not contest against his former boss, Obasanjo. While he must have been convinced that he had little chance against the incumbent, Babangida's support for at least one of the lesser parties was perceived as nothing more than a vehicle for launching his future political ambitions.

Attempts to burnish his image started around October 2000, when a three-day seminar was convened in Jos, under the auspices of the African Centre for Social and Political Research and Open Press Limited. The theme of the seminar was 'The Babangida Regime: Problems and Perspectives of Interpretation'. It brought together Babangida's former lieutenants and associates from various backgrounds and parts of the country. Participants included representatives of the political class, retired generals, former ministers in his regime and academics. Not a few observers and commentators concluded that the seminar was simply a platform for a relaunch into politics (*Tempo* 23.10.00).

A few months after the inauguration of Obasanjo's second-term administration, Babangida came out more openly about his renewed bid for the presidency following the expiration of Obasanjo's second term in 2007 (*Vanguard* 22.11.04).¹³ One of the steps he took was to make public his membership of the PDP (*Daily Times* 14.11.03). 'Project 007'¹⁴ offices have opened in several

places inside and outside the country. It is premature at this stage to write off Babangida's ambitions, as many observers have done.¹⁵ In a country where money plays such a crucial role in politics, Babangida must be considered one of the frontrunners for 2007 given the enormous wealth at his disposal.

Ernest Shonekan

Chief Shonekan, a Yoruba from Abeokuta, was installed as head of the interim national government on the eve of Babangida's departure from office. Before then, he had been chairman of the Transitional Council from January 1993. His principal mandate as head of the interim national government was to oversee local elections in late 1993 and a fresh presidential election early in 1994.¹⁶ However, his government was plagued by a crisis of legitimacy, which came to a head on 17 November 1993, shortly after the Federal High Court declared the interim national government illegal, as Sani Abacha forced him out of office. Thereafter, Shonekan returned to his turf in the corporate world to manage his numerous investments. He is now chairman and director of several companies in the commercial, industrial and financial sectors of the economy.

Shonekan served as economic adviser to Abacha, the man who ousted him from office. The height of his service to the Abacha regime was his chairmanship, between 1996 and 1997, of the Vision 2010 Committee which was set up to draw up a blueprint for Nigeria's economic development. The committee's 250 members included representatives of the private sector, government ministers, academics, journalists, traditional rulers, and trade union leaders, among others. The committee had extremely nebulous terms of reference, and not many gave it any chance of making the slightest impact on the policies of the Abacha government. Indeed, some committee members were convinced that the government would never implement its recommendations. Yet, Chief Shonekan approached the assignment with all seriousness, shutting out dissenting voices, preferring instead to persevere with educating and informing Nigerians on the need for a long-term view of the country's future. Despite this, the report of the Vision 2010 Committee has effectively been consigned to the dustbin of history.¹⁷

Under the current dispensation, President Obasanjo appointed Chief Shonekan as his special envoy to mediate in the Zimbabwe crisis that pitched the Movement for Democratic Change-led opposition against the

government of President Mugabe. He facilitated discussions in Abuja between the government and the opposition, convened under the auspices of the Nigerian government, and headed the Nigerian observer team to the March 2002 elections in Zimbabwe. Its findings, alongside those of all other African observer teams (barring that of the Parliamentary Forum of the Southern African Development Community), that the elections were free and fair, were strongly challenged by dissenting judgements delivered both by Western observers and the Commonwealth observer team led by General Abdusalami Abubakar.¹⁸

It has been suggested that Chief Shonekan has no claim to Nigeria's ex-presidency, given the circumstances of his appointment (he neither won an election nor shot his way into power) and the manner of his departure, coming shortly after his government was declared illegal by the courts. However, he continues to enjoy the privileges and rights of a former head of state including membership of the Council of State, a presidential advisory council established by the Constitution (Omoruyi 2000).

Abdusalami Abubakar

While Abacha's death was strange and unexpected, the succession was swift. General Abdusalami Abubakar, the chief of defence staff, a Fulani from Niger State, stepped immediately into his shoes as head of state. A career soldier, he was perceived as not having any political aspirations, which made his selection even more acceptable. While many other senior officers, such as Lieutenant-General Oladipo Diya, the chief of general staff, ran into problems on account of their presumed ambition, Abubakar had managed to maintain his position in the ruling clique throughout Abacha's tenure without any difficulty.¹⁹

Upon assuming office, Abubakar swiftly demonstrated that he was in favour of handing over power to an elected government. He initiated internal reforms, including changes to the penal system, and released political prisoners. Furthermore, he abolished the political parties established under his predecessor, declaring that they were discredited. He made clear that his tenure would be brief and that he intended to hand over power to civilians. He maintained his commitment to the transfer of power and pursued his transition to a civil rule agenda with purpose.

His successful handover of power to an elected government raised his national and international profile considerably. Abubakar has since remained in demand for various national and international assignments and has enjoyed a profile similar to that enjoyed by Obasanjo after he handed over power to Shagari. He has continued to represent the country on the international stage. For example, he accepted the 2000 Africa Peace Award on behalf of the Nigerian people and of President Obasanjo. He was appointed the Economic Community of West African States (ECOWAS) chief negotiator in the Liberian peace process – in which capacity he supervised the various peace talks until a transitional government was finally put in place. Abubakar also replaced Babangida as Obasanjo's envoy to Sudan, in which position he functioned until he was appointed as the personal envoy of the AU chairman to Sudan. In addition, he has carried out a fact-finding mission to Chad and Sudan and helped to facilitate the AU-brokered peace talks between the various Sudanese warring factions held in Abuja in September 2004. Beyond his national, regional and continental assignments Abubakar was appointed chair of the 42-member Commonwealth observer group to the Zimbabwe elections in March 2002, which, as already noted, delivered a verdict at odds with that delivered by the Nigerian government's own observer team. The Commonwealth group's report formed the basis of the subsequent response of Commonwealth heads of government to the crisis in that country. Overall, his distinguished post-presidential career has ensured that Abubakar continues to enjoy widespread respectability in policy-making circles both nationally and internationally.

Life after office

Most of the living Nigerian former presidents/heads of state have refused to fade into the background years after their departure from office. The regular call upon their services by subsequent governments and by the international community has ensured that they have remained in the public view. Indeed, this has enabled them to assume 'elder statesman' status. However, the pursuit of an active political life has been limited largely to former military rulers. The involvement of Alhaji Shagari in politics has been limited to playing a mediatory role when current politicians are at war with one another, while Chief Shonekan has refrained from politics completely. The fact that all former heads of state led active post-retirement lives points to the need to consider whether or not there should be institutionalised roles for former

rulers. In addition, given the continuing importance of ethnicity, most former rulers have remained influential in their immediate and among their wider ethnic communities. The question, then, is how to engage them creatively without destabilising the polity.

Transitions, the military and democratic consolidation in Nigeria

The presence of a large 'army' of former presidents/heads of state raises serious questions about the prospects for democratic consolidation in Nigeria. This is particularly important given that the current president, Olusegun Obasanjo, is a retired general and former military head of state. His electoral success may well ignite similar ambitions in other former military rulers who may wish to follow his example, not least because almost all former military heads of government have access to tremendous wealth and business and political contacts that could prove crucial in a system where money plays a big role in determining the outcome of elections. Indeed, with the exception of General Abubakar, all other former military heads of state have either attempted a comeback or have signified their intention to do so. So far, Obasanjo is the only successful case, but the prospect of others seeking to follow his example should not be discounted.

At this stage we should point out that a military career should not necessarily constitute a dent on a candidate's democratic credentials. After all, as the examples of George Washington, Ulysses Grant and Dwight Eisenhower in the United States demonstrate, outstanding military service, a record of heroic performance and honourable discharge from the armed forces are badges of honour which may sustain civilian presidencies. Indeed, as William J (Bill) Clinton and George W Bush discovered in their presidential election campaigns, a record of attempts to dodge military service usually constitutes a dent on a candidate's credibility, which whilst not barring eventual success, may demand vigorous counter-measures. Indeed, the opinion voiced by General Gowon in an interview with this author, that proper military training usually equips soldiers with leadership qualities, should not be discounted.²⁰ Thus, a career in the military should in no way constitute grounds for automatic disqualification from civilian political office. However, in Nigeria, the problem lies with the past record of military rule, with the remembrance of the repression and brutalities of particularly the Buhari, Babangida

and Abacha regimes creating a widespread fear of military domination of the political process in any form – in or out of uniform. Nor, indeed, has the constant lapse into arbitrary actions by the current administration of Obasanjo boosted the reputation of the army.

Containing the military in uniform

The military *in uniform* remains a potential threat to democratic consolidation. The stunted growth of the country's democratic system is partially the outcome of constant military intervention in the political process. Thus, a civilian democratic political culture was never really permitted to develop and mature. The extent of the problem can be demonstrated by the fact that when the Obasanjo government took power in May/June 1999, it deemed it necessary to institute an immediate purge from the armed forces of officers who had held political appointments under previous military administrations. Hundreds of officers who had served for six months or more in political posts as ministers, state governors, state military administrators, heads of government agencies and state-owned companies, as well as their immediate aides and assistants, were compulsorily retired from the armed forces. This was in addition to an immediate replacement of all service chiefs and the concomitant retirement of the holders of those positions under the previous administration.²¹

Having demilitarised the state, how can the military be prevented from once again seeking to overthrow constitutionally elected governments? The first major requirement is the development of professionalism in the armed forces. A professional military will acknowledge the leadership of civilian authorities. From this perspective, the purge of the armed forces carried out by Obasanjo in 1999 constituted an appropriate step that should serve notice to career officers that accepting political appointments is likely to terminate their military careers prematurely. The purpose was to make military coups an unattractive proposition to serving officers.

The Nigerian Constitution already legislates against a military or any unconstitutional overthrow of government; indeed, all previous Constitutions contained provisions that legislated against military intervention in politics. However, this was scarcely a deterrent to military intervention as the first act of every military government was always to suspend the Constitution, or at

least that provision which proscribed the military from overthrowing elected governments.²² In these circumstances, it may be appropriate to reinforce the provision relating to the illegality of military intervention with one which indicates that officers who take up political office may under future civilian governments not only be banned from holding further official appointments but may also be denied retirement benefits.

A similar suggestion is that civilian governments should deny recognition to past military rulers by barring them from membership of the Council of State (to which, as laid down under the Constitution at present, all former heads of state and presidents belong). While it is doubtful whether this would be sufficient to dampen the ambitions of a military adventurer, the ostracism that would follow should constitute some form of deterrence to potential coup-makers. A similar proposal is that former military rulers should not be entitled to the retirement benefits accorded to retired presidents. However, the danger in this is that it could encourage rapacious behaviour by adventurers in government while in office.

A further position that has been canvassed is that all heads of state should be bound by a code of conduct which should prohibit them from seeking to amend the Constitution to extend their tenure in office, whilst requiring them to exhibit appropriate levels of tolerance for opposition. Although such a device cannot guarantee good presidential behaviour, it may help to establish democratic norms and encourage popular attempts to defend the political system against authoritarianism, whether of civilian or military origin.²³

A final proposal in seeking to neutralise the military in uniform is the reservation of a role for the military in the political system in a way that would encourage them to develop a stake in the democratic consolidation process. This is similar to the proposal for a diarchy once put forward by late elder statesman, Dr Nnamdi Azikiwe, ceremonial President of Nigeria, during the First Republic.²⁴ However, there are problems with this suggestion. General Gowon, for example, is firmly of the opinion that no political role should be reserved for the military in the democratic consolidation project.²⁵ His argument is that the military are part of the Nigerian system and as long as they are in service, no political role should be reserved for them beyond voting in elections like any other citizen. However, once they are out of the military they should be free, like any other citizen, to participate fully in the political

process, including voting and being voted for. Gowon further suggests that any military officer wanting to run for political office should resign his commission. Reserving a role would amount to bribing the military.

Containing the military out of uniform

Secondly, how can the political system contain the military *out of uniform*? If one retired military ruler were to succeed another as president, would Nigeria really be democratising?

Involvement in politics usually changes the perceptions and values of former military rulers, and, having withdrawn from office, they 'sooner or later will develop a nostalgia for the power they once wielded' (Bratton & van de Walle 1997: 243). Under the democratic system, the only way former military rulers can regain power is through the ballot box in competition with other political players. However, given that in Nigeria they have access to fabulous wealth, former military rulers have an unfair advantage. So how can the system neutralise this advantage or how can it get them not to utilise it? As suggested earlier, a possible option is to impose a constitutional life ban on former military rulers from holding public office, yet one former chief of army staff and chief of defence staff who was interviewed for this research opined that any legislation aimed at precluding former military rulers from contesting the presidency could only arouse the fury of the military and pose more danger than it is seeking to contain.²⁶ Of course, the view that imposing a constitutional ban on former military rulers might provoke unsavoury reaction from the military is at best speculative. On the other hand, the argument that the constitutional right of any citizen to participate in the government of his country should not be breached can be dismissed by reference to the fact that the unconstitutional usurpation of power constitutes sufficient ground to impose such a ban in order to serve as a deterrent to other potential adventurers in power.

Developing the office of former head of state

A related issue is how the political system can make pursuit of return to office less attractive to former military rulers, a question which links up to the larger one of how civilian presidents can be dissuaded from attempting to overstay their constitutionally permitted terms of office.

If incumbent presidents are to be encouraged not to overstay their constitutional term of office, then their apprehensions about post-office life should be adequately addressed and they should be assured that they are not committing physical or economic suicide by giving up power. A serving president must know that upon completion of his term of office he will be well looked after. Indeed, given that almost all men who reach the pinnacle of power in Nigeria are by definition ambitious and forceful, there should be guarantees of minimum comfort for former presidents if they are to be encouraged to leave office and stay out of mischief. In this regard, General Gowon has recommended three particular aspects of the treatment now accorded to former presidents in the United States to Nigerian policy-makers.²⁷

First, the US government assists every former president to set up presidential libraries or centres of activities such as the Carter Center in Atlanta, the Reagan Library and the Clinton Presidential Library, a provision which, whilst giving vent to post-presidential aggrandisement and ambitions, also plays a valuable national role in terms of preserving historical memory. In Nigeria, only General Obasanjo (the ALF), General Gowon (The Yakubu Gowon Centre), and Alhaji Shagari (Shehu Shagari World Institute for Peace and Conflict Studies) have set up similar centres. While the government of the day provided some financial assistance when these centres were being established, a substantial proportion, as in the United States, came from private sources. The institutionalisation of a process whereby former presidents are assisted in this direction would go a long way toward reassuring departing presidents that there is life after office.

Second, former American presidents are now provided with relatively generous pensions (even if after office they often need to go on the lecture circuit to earn enough money to pay off financial debts racked up in the course of their previous political campaigning). In Nigeria, likewise, whatever pension the government gives should enable former presidents and heads of state to maintain a respectable lifestyle. This is particularly important as it could affect the conduct of presidential incumbents. Indeed, if they were to be guaranteed a future of reasonable comfort, their propensity to misappropriate funds whilst in office might be less compelling. In contrast, both President Shagari and General Gowon faced tough times financially upon their removal from office. In his autobiography, Alhaji Shagari confirmed that he had to depend on the goodwill of his friends to survive when his personal account was frozen upon his removal from office. When he regained access to the

account in 1986, he had a balance of less than 63 000 Naira (Shagari 2001: 530). As his successors might be likely to regard Shagari's post-retirement penury as an incentive to loot, the assurance of an adequate post-presidential pension should not be unduly compromised (even if such payment should not be so grand as to encourage rather than discourage instability).

Third, the US government is responsible for the security of former presidents when they travel, particularly outside the country, and guarantees their welfare. The same should apply to former Nigerian presidents and heads of state.

Gowon's position has been backed by Chief Emeka Anyaoku, who as Commonwealth secretary-general had cause on several occasions to intervene in disputes between incumbents and former presidents in a number of African countries. In addition to the three areas identified by General Gowon, Chief Anyaoku added that the government should provide secretarial and general office support to manage their daily activities, transportation and accommodation. Although the current practice in Nigeria grants all of these privileges, it does not do so under the Constitution, thereby removing their provision from the mood or whims of an incumbent president. Furthermore, the financial element of the provisions should be generous enough to allay fears of post-presidential penury, so that incumbents will not reasonably be tempted to hang on to power on financial grounds.²⁸

Developing a post-presidential role

Prescribing a role for former Nigerian presidents and heads of state at the regional and continental levels is relatively unproblematic, particularly in relation to the pursuit of the New Partnership for Africa's Development's (Nepad) objective of consolidating democracy and promoting good governance. Hence one major area for post-presidential service is their acting as peace envoys to troubled states on behalf of ECOWAS or the AU. As seen in the preceding section, some Nigerian former heads of state have already been active in this regard, although what is equally clear is that their record in power and the manner of their exit from office strongly influences the level of goodwill, acceptance and potential usefulness internationally. It is no coincidence that Obasanjo and Abdusalami Abubakar, who both conducted a successful transition to civil rule, have been two Nigerian former heads of state who have served most prominently and successfully in this regard.

Against this, prescribing a role for former presidents at the national level is rather more difficult. For the moment, all former heads of state belong under the Constitution to the Council of State, an advisory organ presided over by the incumbent president. On the one hand, it can be argued that, wisely, this keeps them inside the circle of power whilst allowing them to all keep an eye on each other. On the other hand, it has been suggested that the intention of the framers of the Nigerian Constitution could not have been to grant legitimacy to military usurpers of power by making them members of a constitutionally recognised body, and that former military rulers should be barred from the body as a disincentive against any further military incursion (Omoruyi 2000). However, if the current dispensation is taken as a 'new beginning', a politically realistic and sensible compromise might be that past military rulers should be allowed to retain their seat on the council but future usurpers should be excluded.

Beyond their constitutional position, and in view of their experience in state management, former leaders could perhaps usefully be involved in efforts to promote stability in the polity. They could be asked to intervene in some of the communal conflicts plaguing different parts of the country. In addition, they could put their weight behind national policies, as demonstrated by the support given to the polio vaccination initiative by all six living former heads of state in 2004. Former leaders could lend support to such initiatives as the anti-HIV/AIDS campaign and similar efforts of the government. These are less obtrusive issues which nevertheless would demonstrate their continuing relevance to the lives of the people. However, a note of caution has been injected by General Gowon, who has been actively involved in the guinea worm eradication project and the HIV/AIDS campaign – he has advised that former heads of state should be careful not to upstage incumbent leaders.²⁹ A balance must be struck to ensure that the public activities of former leaders do not undermine serving leaders. Former leaders can undertake initiatives without necessarily taking the limelight.

Accountability

The development of their status and office and the provision to them of material benefits would be designed in large measure to provide guarantees against former heads of state threatening political stability. However, in many instances, the reluctance of incumbents to depart from office is evidence

of their concern that successor administrations might want to call them to account for their misdeeds. This is a sensitive issue and the experience of the present government has pointed to the difficulties inherent in such an approach. Hence, shortly after the inception of the current administration it set up the Human Rights Violation Investigation Commission, chaired by a respected retired judge of the Supreme Court, Justice Chukwudifu Oputa. Generals Buhari, Babangida and Abubakar were all summoned but refused to appear before the commission. Instead, Babangida went to court and challenged the validity of the exercise on the grounds that the enabling law setting up the commission was illegal. The Supreme Court ruled in his favour and consequently effectively nullified the commission's work.³⁰

The tensions generated by the incident raised the question whether the advantages of pursuing accountability would be worth the costs in terms of the potential destabilisation of the polity. The complexity of the Nigerian political terrain makes this immensely challenging as action against a former leader will in all probability be interpreted in ethnic and other primordial terms, while possibly also offending the military. This probably informed Gowon's judgement that in instances where past leaders have been caught looting the treasury, such monies should be recovered but otherwise no action should be taken against them as recrimination and punishment is likely to provoke an angry reaction from their supporters.³¹ Yet, this overlooks the important fact that democracy is not built on injustice and the demand that looted funds should merely be returned is unlikely to serve as an effective deterrent against misappropriation in the first place.

On the other hand, while the challenge of democratic consolidation suggests caution in dealing with former leaders, it should be possible to find a way round the problem of holding them accountable for wrongs committed while in office. In particular, addressing the needs of the victims of injustice is crucial to moving forward. An apology by both the state and the individual perpetrator to victims of injustice is one clear way forward, while another option could be the granting of compensation (individual and/or communal) as necessary. In addition, memorials could be built for victims of injustice and commemorative days declared to mark the sacrifice of acknowledged martyrs. Restoring the honour of those wrongly convicted and decriminalising certain acts by which people were convicted should go some way towards ensuring justice for the victims of injustice.³²

Conclusion

The process of consolidating democracy in Nigeria faces many challenges – the most obvious being the continuing domination of the political terrain by the military and former military rulers. The military threat is on two fronts. The first comes from the military in uniform, which ultimately has the capacity to abort the whole process. The second is presented, more subtly, by the military out of uniform, for former military heads of state and those they placed in power retain enormous wealth and influence and continue to dominate the political process. Fortunately, the threat of the military in uniform appears to be becoming more remote, as current experiences continue to confirm that the process of subordinating the military to civilian authority is on course. However, the military has dominated the Nigerian political system for almost 30 years, and it may take that long again before the full effects of military misrule are finally eradicated.

As Nigeria's democracy continues to mature it must grapple with the challenge of defining the status of former leaders and laying down ground rules for their behaviour. In line with the practice in presidential democracies, retiring presidents would gradually fade into graceful retirements even if they continue to wield influence behind the scenes. The extent to which they will continue to be active and relevant – in the state and beyond – will depend not only on the manner of their departure from office and the kind of regimes over which they presided, but also on their skills and experience and how they can use these skills, particularly in relation to conflict mediation and reconciliation activities. With more popularly elected presidents joining the ranks of ex-rulers, former military rulers will continue to fade into the background.

Notes

- 1 Between 1990 and 1993, there were elected administrations at the local government and state levels, and an elected national assembly. They operated under General Babangida's so-called gradual transition to civil rule programme. The process, which was expected to terminate with the election of a president, ended in chaos with the annulment of the result of the presidential election of 12 June 1993.
- 2 Sir Ahmadu Bello, leader of the largest party at the centre, chose to remain premier of the Northern Region. His deputy, Sir Abubakar Tafawa Balewa, headed the federal government.

- 3 General Muhammed created seven more states in 1976, while General Babangida created 17 more in 1990 for the current 36.
- 4 Two examples will suffice. First, Gowon was overthrown after he disclosed that the 1976 target date for return to civilian rule was no longer realistic. Second, when General Buhari declared that his administration had no plans for returning the country to democracy, public resentment was so intense that it provided legitimacy for the military coup that was swift in following. See http://www.en.wikipedia.org/wiki/Yakubu_Gowon; Akinrinade 1988.
- 5 See <http://www.ygc.ng.org>.
- 6 See <http://www.thisdayonline.com/archive/2003/07/08/20030708news25.html>.
- 7 See <http://www.alf.org>.
- 8 See <http://www.onlinenigeria.com/obasanjo.asp>.
- 9 Buhari felt compelled to defend his tenure as chairman of the fund because of insinuations that the body, under his leadership, was riddled with corruption. See 'My stewardship at the PTF'. Available at <http://www.buhari2003.org>.
- 10 See 'Nigerian opposition picks military man', BBC World Service News, 08.01.04. Available at <http://www.news.bbc.co.uk/1/hi/world/africa/2634803.stm>.
- 11 See also 'Text of press briefing delivered by the ANPP presidential candidate, General Muhammadu Buhari (rtd) on the outcome of the April 19 Election, on Wednesday, April 23, 2003, at Hilton Hotel, Abuja'. Available at <http://www.buhari2003.org>.
- 12 The High Court invalidated the decree establishing the interim national government. The decree was numbered after the one under which Babangida resigned from office. By law he could not sign a decree when he was no longer head of state.
- 13 'I won't disappoint my supporters in 2007, says IBB' (*Vanguard* [Lagos] 22.11.04).
- 14 Official name of Babangida's campaign team; Babangida is registered as number 007 on his ward's party membership list.
- 15 For example, the Prelate of the Nigerian Methodist Church, the Right Reverend Sunday C Mbang, who says 'Babangida is wasting his time' (*ThisDay* 23.11.04).
- 16 Babangida had initially proposed a fresh presidential election for September 1993 in which he banned all the contestants in the voided poll, with the hope that this would assuage public feelings. It never did. The conduct of a presidential election and completion of the transition to civil project was the principal mandate of the interim national government.
- 17 'Nigeria-development: People have little faith in Vision 2010', Inter Press Service 06.09.97. Available at <http://www.nucleus.com/~omo/news.html#Dev>. The full

report of the Vision 2010 Committee can be viewed on <http://www.vision2010.org/vision-2010/index.htm>. See also <http://hrw.org/reports/1997/nigeria/Nigeria-08.htm> for the views of the human rights community.

- 18 See http://www.eisa.org.za/WEP/zim_observation4.htm.
- 19 Profile: How General Abubakar emerged from the shadows, BBC World Service Online, 2 December 1998, <http://news.bbc.co.uk/>.
- 20 Interview with General Gowon, 06.10.04.
- 21 Those retired received full retirement benefits and so were able to maintain the standard of life to which they were used while in service.
- 22 The courts are of little help here because once military rule sets in the independence of the judiciary is greatly compromised by the introduction of various decrees that erode the autonomy of the judiciary and of judicial officers.
- 23 Interview with Chief Emeka Anyaoku, former Commonwealth Secretary-General, 28.08.04.
- 24 Dr Azikiwe's proposal was a matter for much public discussion during the mid- to late 1970s, but particularly after General Gowon's government had shown signs of reluctance to disengage from power.
- 25 Interview with General Gowon, 06.10.04.
- 26 Interview in September 2004. General Alani Akinrinade (retired) was appointed chief of army staff during the last few months of the first Obasanjo administration. He had previously been appointed chief of defence staff under President Shehu Shagari. He later served as Minister of Agriculture and later, Minister of Industries under General Ibrahim Babangida. He left the administration when it was becoming clear that Babangida was intent upon staying in power as a civilian ruler. He later became a leading member of the National Democratic Coalition, the group of pro-democracy activists who fought the Abacha regime to a standstill.
- 27 Interview with General Gowon, 06.10.04.
- 28 Interview with Chief Anyaoku, 28.08.04.
- 29 Interview with General Gowon, 06.10.04.
- 30 The government has so far failed to release the report of the Human Rights Violation Investigation Commission on the ground that it would be tantamount to disobeying the orders of the Court.
- 31 Interview with General Gowon, 06.10.04.
- 32 One sore point in the relationship between the leadership of the pro-democracy movement and the present administration is the failure of the latter to recognise

officially the sacrifices made by pro-democracy activists, many of whom suffered brutally for their courage, towards ensuring the restoration of democracy in the country. Sympathetic state governments, such as that of Lagos State, have taken steps such as naming roads after slain pro-democracy leaders and declaring 12 June, the anniversary of the voided election, as public holiday and Democracy Day. However, a national recognition would have a greater impact and be more important symbolically.

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13 *Despot deposed: Charles Taylor and the challenge of state reconstruction in Liberia*

Daniel Hoffman

If I were the problem, which I know you know I'm not, I would step aside...I would become the sacrificial lamb, I would become the whipping boy that you should live...I love you from the bottom of my heart. I will always remember you where I am. And I say, God willing, I will be back. God bless you, and save the state.

From the parting speech of Liberian President Charles Taylor, 11.08.03

On 11 August 2003, Liberian President Charles Ghankay MacArthur Dapkana Taylor boarded a plane outside Monrovia bound for Abuja and exile in Nigeria. In what must have sounded like a threat to many in the Mano River region of West Africa, Taylor promised before departing that, 'God willing, I will be back.'¹

Taylor's was not an empty promise. Anyone who hoped that his departure from Liberia signified the end of his profound importance to that nation's – indeed the entire region's – political landscape could not have been paying attention over the 15 years since Taylor's rise from modest insurrectionary to elected president. Two years after his departure, the former president continues to wield enough political, economic, and social power to influence the post-war reconstruction of the Liberian state. Whether he returns physically to the country or not, Taylor has already fulfilled his promise to be a force in Liberia's future.

Charles Taylor represents the limit case in the analysis of the role of ex-presidents in Africa. Though an elected ruler, the circumstances of his election, his repeated violations of international and humanitarian law, the nature of his despotic regime and the violence surrounding his departure would all

seem to preclude a peaceful, stable transition with an institutionalised role for the former leader in a post-Taylor government. The question of Taylor's status *vis-à-vis* the post-war reconstruction of Liberia is therefore one of limiting his ability to influence Liberia's future through political surrogates and transnational socio-economic networks. The measure taken so far, asylum in Nigeria, has failed to do so because it does not adequately address the fact that Taylor's power is not rooted in the state but in regional and even global networks with political, economic, and social dimensions.

In this chapter, I briefly trace the history of the Taylor period in Liberia, highlighting the nature of Taylor's power and those dynamics relevant to the enduring impact he can and does have on Liberian reconstruction. Though Taylor's legitimacy as president was conferred outside Liberia by his nominally democratic election and control of the apparatuses of the state, the source of his authority was not direct control over territory or institutions. Rather, Taylor ruled through control over the trade in resources and the 'cultural capital' accrued through his ability to manipulate violence and the dramaturgy of power. The chapter then provides an account of the circumstances of Taylor's departure from Liberia under the dual threat of a violent overthrow by advancing rebel forces and indictment by the Special Court for Sierra Leone. I suggest that Taylor's current circumstances are the least desirable: the former president is at least temporarily beyond the reach of any international juridical body but remains capable of exerting great influence over regional affairs. I conclude with a series of proposed lessons that might be taken from the experience of removing Taylor from office. The first is conceptual. Any programme for dealing with post-conflict transition needs to locate the question of what to do with the former leader within a broad scope of interrelated sociological, political, and economic concerns. Since leaders such as Taylor exercise influence through channels that are not purely political, they require remedies that are equally comprehensive. This precludes the kind of exile arrangement in which Taylor is currently held, and has implications for the kind of ad hoc tribunal indictment which helped put him there. While there is no perfect solution for dealing with a figure like Taylor, I propose that a standing judicial body is a more effective venue for prosecution, and any asylum deal must be one that takes the former ruler well outside the channels of power.

The Taylor years

The events of Taylor's post-presidency and the nature of his continued influence are inextricably linked both to his individual biography and the recent history of the Liberian state. The 12 April 1980 coup, which brought Sergeant Samuel K Doe to power in Liberia, marked the end of the Americo-Liberian hegemony which had dominated the country's politics since its founding as a republic in 1847.² Relatively unconnected politically, Doe consolidated power by politicising ethnic affiliations. The process produced dramatic effects in Nimba County in eastern Liberia when Doe, a Krahn, split with his Gio ally, Thomas Quiwonkpa, in 1983 and then allegedly stole elections from the Nimba County politician Jackson D Doe (no relation to the president). Doe began to court Mandingo traders in the county as a way to marginalise Quiwonkpa and Jackson Doe's allies within the Gio and Mano communities in Nimba (on this history, see Ellis 1999: chapter 1).

This was the context into which Taylor and the National Patriotic Front of Liberia (NPFL) launched their violent incursion into Nimba County from Côte d'Ivoire in 1989. At that time Taylor was a recent graduate of military training in Libya and a former mid-level functionary of the Doe regime, where he had distinguished himself within the bureaucracy of the People's Redemption Council (PRC) by using his post in the Government Services Agency to procure vehicles and other perks for higher-level government employees. A relation of Quiwonkpa, Taylor fled when Quiwonkpa split with Doe, allegedly stealing almost one million dollars worth of government funds and fleeing with it to the United States. At the request of the Liberian government, Taylor was jailed in Massachusetts and held for 15 months awaiting extradition before he escaped from prison. He surfaced in West Africa among a community of regional dissidents and potential insurrectionary leaders. Through relationships fostered during stays in various West African capitals, Taylor became a player in a web of mercenaries and profiteers which helped Blaise Compaore replace Thomas Sankara as president of Burkina Faso. Eventually these connections led him to Ghaddafi's Libya and an even wider network of Africans and Europeans interested in the wealth and power West Africa had to offer.

From the beginning, the NPFL was supported in Nimba County by Gios and Manos reacting to the increasing ethnic oppression of the Doe regime, and from outside the country by business interests in Burkina Faso, Côte d'Ivoire,

and France. The result was a conjunction of local interests – especially youth willing to employ violence to seize Mandingo assets – and a transnational network of independent businessmen and commercial enterprises anxious to exploit the rich iron-ore deposits and timber reserves of eastern Liberia.

Taylor's NPFL typifies a particularly post-cold war movement: a violent military organisation whose supporters did not necessarily share or endorse a political agenda, and whose interest in seizing control of the sovereign state was only one facet of a broad strategy to exploit international opportunities for private wealth accumulation. The NPFL was a profiteering organisation for which the overthrow of the Doe government was a goal, but only to the extent that international recognition of sovereignty could ease certain obstacles to private commercial enterprises. As Taylor once reportedly put it, 'I'm not interested in ideology. I just want money and I want to be on top' (Schuster 1994: 52).

William Reno (1998) has termed this a warlord politics. He distinguishes Taylor's mafia-esque brand of governance by its reliance on transregional and transnational commercial interests; by its near-total abandonment of bureaucratised authority; and by the collapse of any distinction between the private interest of the ruler and the collective interest of the state. Though Taylor sought, and in 1997 won, the presidency of the Liberian state,³ the locus of his power was never his ability to control the bureaucracy of the nation or to command the collective institutions more familiar to observers of post-colonial African governance. The mode of elite accommodation by which power in the African post-colony is often solidified relies on drawing together elites from different spheres of influence – religion, trade unions, state bureaucracy, military and so on – in a web of informal patronage that allows for mutual profiteering but also nullifies any effective base of opposition. Such a patronage system needs a bureaucratic state to legitimate itself and to provide a structure for the accumulation of public rents and their conversion to private profits and alliance-building resources. To some extent such a neo-patrimonial arrangement sees to the needs of the state collective by spreading the resources of the state through various networks of interest (see Bayart 1993; Bratton & van de Walle 1997: chapter 2; Chabal & Daloz 1999).

By contrast, the warlord's allegiances are more deeply bound to those of external commercial interests, and lack the imperative to cultivate internal

alliances and spread resources among state-based institutions. Taylor's networks tended to be centred less on local elites and more on a globally diffuse and highly mobile cadre of businesspersons and international commercial patrons who could help him solidify his rule through force of arms. Taylor exchanged the resources of the territory under his control to his external patrons in return for the (often violent) means by which to secure his grip on power.

For example, Taylor was accused of having arranged a deal with the Firestone corporation in which he was provided with communications equipment, including satellite phones, and a base from which to launch Operation Octopus, the 1992 assault on Monrovia. In exchange Taylor facilitated continued access to Firestone's large holdings in the country (see Reno 1998: 100). A report by the monitoring organisation, Global Witness, notes that Taylor frequently received illicit payments from commercial interests divided half into cash and half into arms.⁴ After his election the salaries of Taylor's numerous security forces – notably the Anti-Terrorist Unit (ATU) and Special Security Service (SSS) – were paid in part through manipulation of the petroleum market. Following an agreement between Taylor, key Liberian figures and members of the West African Lebanese diaspora, Liberians paid an extraordinary \$3 per gallon for petrol. This was the result of an exclusive five-year supply contract entered into in 1998, after a \$10 million payment to Taylor by the Basma family, much of it in hardware such as automobiles and earth-moving equipment. In addition to this payment, Taylor's personal assistant collected 'additional taxes' on fuel, which amounted to between \$300 000 and \$600 000 in cash every month and went to the ATU and SSS.⁵ Similarly, Taylor entered into an exclusive agreement for the importation of rice with George Haddad – an agreement which included \$1.3 million worth of free rice for Taylor's security forces for 2002, and \$5–\$6 per bag built into the retail price of the grain (\$20–\$22 per bag), which went directly to Taylor or into accounts controlled by his personal secretary.⁶ As Reno points out, there is nothing particularly new in the manipulation of public interests for private gain in the West African post-colony. 'What is significant about post-1989 Liberian warlord politics,' he writes, 'is the extent to which that politics has grown out of the conjunction of long-running Liberian factional struggles and the international economy' (Reno 1998: 106).

Taylor's ability to manipulate global and local networks of exchange was not simply a matter of economic acumen. His success as an insurrectionary leader and later as head of state was predicated on his ability to trade in cultural capital – to perform a 'dramaturgy of power' (Cohen 1981). Taylor recognised the extent to which power in the contemporary African post-colony is exercised through spectacular performance (Mbembe 1992; see also Ellis 1993; Piot 1999), and he masterfully manipulated the tropes of authority, legitimacy and strength. To Liberian expatriates in the United States (and allegedly to the US government) Taylor presented himself as a former insider with the connections to mount a credible rebellion against the Doe regime. To others in the NPFL organisation he parlayed his connections to Ghadaffi's Libya and the Pan-Africanist revolutionary movement into a leadership position. As president, Taylor – whose father was Americo-Liberian and who speaks no Liberian language other than English – associated himself with 'traditional' signs of power, including a false claim to autochthony signified in his adopted Gola middle name '*Ghankay*', the Gola word for 'strong'.⁷ He circulated images of himself as a leader recognised by the world when he insisted on extensive media coverage of his 1991 meeting with former US President Jimmy Carter, even going so far as to print T-shirts of the two 'leaders' together (see Reno 1998: 101). These were stratagems of power that did not rely on physical control of territory to support or legitimate them; they rested, rather, on an ability to deploy strategically the symbolism and discourse of power to actualise the control of political and commercial networks.

Two of Taylor's most notorious efforts to spectacularise his own power illustrate this best. For many both in and out of Liberia, Taylor became a known entity when he phoned the BBC 'Focus on Africa' programme on New Year's Day 1990 and announced the NPFL incursion into Liberia and a rebel presence within the capital. Taylor recognised that 'Focus' was (and remains) West Africa's most popular and important news programme, and that broadcast on the network conveyed a certain legitimacy. The satellite phone became Taylor's most important tool of war. He used it throughout his incursion to phone in the status and agenda of the NPFL, 'as though they were football scores' (Schuster 1994: 51). These calls in many ways functioned as self-fulfilling prophecies. Taylor's predictions and descriptions of accomplishments, real and imagined, became truths because they became public knowledge – 'truths' that belied the fact that the NPFL was a relatively small, poorly trained and poorly

organised outfit. Thanks to a cooperative journalist at the other end of the line, Taylor's has been called the presidency Robin White built (after the BBC correspondent with whom Taylor was in frequent phone contact).

Taylor also drew to great effect on the religious iconography of a born-again, evangelical Christianity that has become increasingly politically important throughout the past two decades in West Africa. Ellis describes Taylor's audacious entry into Monrovia in the summer of 1995 – after a decade outside the capital – an entry which was only the first of many efforts on Taylor's part to link himself to the power of Christian divinity: 'Dressed all in white and driving his own car, he made every effort to appear as a Messiah, like Christ arriving in Jerusalem on Palm Sunday' (Ellis 1999: 105). In one of his BBC broadcasts, Taylor responded to the accusation that he was a murderer by claiming that 'Jesus Christ was accused of being a murderer in his time', and in the final days of his forces' defence of the Liberian capital in 2003, Taylor told a journalist that: 'This force that came to Monrovia [Liberians United for Reconciliation and Democracy] is not greater than God.'⁸ Taylor's association with foreign evangelicals such as the American televangelist Pat Robertson linked him to a category of powerful religious actors capable of directing very tangible and material occult forces to affect the outcome of political contests.

Taylor's most important ploy for demonstrating and solidifying power, however, was his use of violence. As it is throughout the region, violence for Taylor was more than simply a tool or strategy to be employed by those with authority (of whatever type) or in positions of power. Rather, it is those capable of demonstrating their capacity for violence who could stake a claim to authority and power by having made public their ability to exercise violence and thus the strength to rule. This was exemplified by the campaign slogan associated with Taylor's successful 1997 presidential bid: 'He killed my Ma/He killed my Pa/Still I will vote for him.' Beyond simply fearing that Taylor would resume the civil war if he lost the election (the conventional wisdom among observers baffled by the fact that Taylor seems to have legitimately won the 1997 vote), Liberians recognised that Taylor's demonstrable command of violent power meant he had the capacity to exercise the power of national office.⁹ I return to the implications of this point later, but it is worth noting here. Like his ability to control commercial networks that existed and acted independently of the direct physical control of territory, and like his ability to employ the signifiers of authority independently of any real claim to office or

title, Taylor's capacity to exercise violence was the foundation of his political power rather than a consequence of it.

Exile

On 4 June 2003, the Special Court for Sierra Leone made public its widely expected indictment of Charles Taylor as one of those 'persons who bear the greatest responsibility for serious violations of international humanitarian law and Sierra Leonean law committed in the territory of Sierra Leone since 30 November 1996'.¹⁰ The Special Court for Sierra Leone charged Taylor on 17 counts, mostly for war crimes committed by the forces of the Revolutionary United Front (RUF) and the AFRC in Sierra Leone. Taylor was widely known to have been a principal backer of Foday Sankoh's RUF and the AFRC, organisations he allegedly supported as retribution for Sierra Leone's role in the anti-Taylor Economic Community of West African States Ceasefire Monitoring Group (ECOMOG), and as a vehicle through which to profit from the black market trade in diamonds.

The indictment came at a delicate moment. Liberians United for Reconciliation and Democracy (LURD)¹¹ forces had advanced to the outskirts of Monrovia, making the violent defeat of Taylor's regime a virtual certainty if no negotiated solution could be reached. Taylor himself was attending peace talks in Akosombo, Ghana, under the auspices of the Economic Community of West African States (ECOWAS) when the indictment was made public. Ghanaian officials allowed Taylor to leave and he quickly returned to Liberia.

In statements about his decision to reveal the Taylor indictment while the president was at the Ghana peace talks, Special Court Prosecutor David Crane suggested that only outside of Monrovia would there have been a realistic chance of an arrest.¹² Whether he genuinely thought Ghanaian officials would oblige and detain Taylor is not clear. What is clear is that they did not. Rather, as one journalist put it:

There was anger and embarrassment on the part of the Ghana government, and sympathy for Ghana's anger and embarrassment from other nations in the region. 'Yes he's a bad guy. And yes he's probably a war criminal, but he came here at our invitation to negotiate,' might sum up their attitude.¹³

More certain is that Crane and other officials in the region felt that indicting Taylor might help to avoid what was perceived as Taylor's manipulation of the peace talks in Ghana to secure an outcome favourable for his own future. As Crane put it:

It was very apparent that in order to have a legitimate process the negotiators [in Ghana] had to know that they were dealing with an indicted war criminal so that once this card was turned over, a legitimate peace process could start, as opposed to one that would have eventually been considered a sham and a way of manipulating the good intentions of other nations so that one [participant] could survive and live another day which is what Charles Taylor's ultimate motive was...He was using the Accra [Ghana] summit as another means by which he could hang on to political power and to manipulate events while the rebels began to move on Monrovia.¹⁴

The indictment did remove Taylor from the negotiations over Liberia's immediate future. But it also guaranteed that Taylor would not leave Liberia under any circumstance that might result in his hand-over to the Court. The remainder of June, July and the first half of August was therefore a complex dance between Taylor and his forces, LURD and Movement for Democracy in Liberia (MODEL) rebels, the Special Court, Nigeria, Côte d'Ivoire, South Africa and the United States. Taylor alternately vowed that there would be no peace in Liberia so long as the indictment against him stood; that he would step down as president if international peacekeepers secured the country; that he would prevail militarily; that he would serve out his term and then retire; and that he would depart the country for a place yet to be determined. With rebel forces making incursions into the city and after a number of high-profile attacks against civilians by both rebel and government troops, there was intense pressure from all quarters to remove Taylor before the fighting completely engulfed Monrovia. When Taylor did depart the country on a Nigerian government jet for exile in Calabar, Nigeria, his vice-president and ally, Moses Blah, temporarily assumed the presidency. On 14 October 2003 the National Transitional Government of Liberia (NTGL) under the leadership of Charles Gyude Bryant became the new government.

Although the exact terms of his exile appeared ill-defined when he left – Taylor at one point even called it a temporary 'cooling-off period' (*New*

York Times 08.07.03) – one of the more certain outcomes was that he would not be standing trial in Sierra Leone in the near future. President Obasanjo of Nigeria secured a pledge from the US and British governments that there would be no attempt to forcibly remove Taylor once he arrived in Nigeria.¹⁵ In November 2003 Obasanjo stated that he would surrender Taylor only if asked to do so by the Liberian government, a prospect quickly ruled out by Gyude Bryant.¹⁶ What is more, the asylum deal was allegedly brokered with input from ECOWAS, South Africa and the African Union and included no provision for eventually bringing Taylor before the court. It seems unlikely, therefore, that Nigeria expected any pressure from those in the region to surrender him. Obasanjo's own credibility might well have been shattered had he agreed to turn a fellow head of state over for war crimes, complicating Nigeria's leadership role within the delicate balance of powers of the ECOWAS states (Human Rights Watch 2004: 40–1).

When he left for exile Taylor was reported to have taken with him luxury cars, goods, 23 security guards, and 'hundreds of hangers-on'. Four heads of state were on hand to welcome him on arrival in Abuja. Though he is allegedly no longer living as well as when he first arrived,¹⁷ Taylor apparently also left Liberia with tremendous wealth. The UN Panel of Experts on Liberia found that on 8 May 2003 an Ecobank Liberia employee took \$800 000 in cash to Belgium for Taylor, and in June of that year the Central Bank was asked to pay out \$700 000 for Taylor's use. A 29 July 2003 promissory note was drafted for \$1 million to be paid on 1 August to a Cyprus-based company, again allegedly for Taylor. Other reports suggest that he may have gone into exile with 'a fortune worth hundreds of millions of dollars grabbed from state coffers'.¹⁸ Although UN Security Council Resolution 1532 froze the assets of Taylor, his wife Jewel, son Charles 'Chuckie' Taylor Jr and his closest associates in early 2004, it was not until mid-October that the transitional government of Liberia froze his assets within that country. The former president's web of surrogates and loyalists is complex and extensive enough that it has never been clear exactly which ventures he has a stake in, a fact which would strongly suggest that freezing his assets will only ever be partially successful. He maintains connections to bank accounts in Switzerland and Burkina Faso, and probably to others in Monrovia, Frankfurt, and New York (*Global Witness* 2004: 16). Bizarrely, his stake in oil ventures in Liberia may still be generating income, and turning an even greater profit thanks to the demand spike caused by

the massive UN and international non-governmental organisation presence (*Global Witness* 2004: 17). Taylor was a major stakeholder in Liberian logging outfits and communications companies and may well be profiting from those stakes still (*Global Witness* 2003, 2004).

His financial resources and the channels through which they move have helped Taylor manipulate events in Liberia itself and around the region since August 2003. It is here that we see the importance of the manner in which Taylor accumulated and exercised his power – through diffuse and shifting networks of control rather than the possession of territory and the infrastructure of the state. The physical removal of the body of the president from his office and from his country has not, in other words, removed him from the web of connections that have always been the foundation of his authority and power.

In the early days of his exile, and in violation of the terms of his asylum, Taylor communicated with his former Vice-President Moses Blah and with the military commanders of his forces around Liberia, up to the point of directing military operations in the countryside.¹⁹ Both the Nigerian government and the UN publicly reprimanded Taylor for violating this aspect of the terms of his agreement on many occasions. Although the UN has attempted to curtail Taylor's direct phone contacts with Liberia, he has apparently been able to subvert the ban by using surrogate messengers and by routing calls through Europe. Human Rights Watch has reported that as late as September 2004 Taylor remained in communication with former allies in Liberia and may be supporting an insurgent force of his former fighters, along with Guinean dissidents intent on destabilising Guinea (Human Rights Watch 2004: 39–40). At the end of 2004, with fighting escalating in Côte d'Ivoire, President Laurent Gbagbo has stated that he believes rebels in that country 'were organising with Charles Taylor and mercenaries from Sierra Leone' (*New York Times* 14.11.04). Taylor's past contacts with transnational figures such as arms trafficker Victor Bout relied on private rather than public or state transactions to fund violent agents who are loyal to Taylor as warlord rather than to the Liberian state or its president. Contacts with his former politico-commercial allies and the profits from business contacts and personal deal-making have allowed him to continue the pattern of regional involvement that began in the early 1980s in Doe's Government Services Agency. The telephone remains Taylor's most important tool of war.

Nor does Taylor's exile in Nigeria neutralise the sociological power and authority he exercised in the region, both from the bush and from the executive mansion. The promise Taylor made before departing that he would be back struck many as a sign that the president intended to use his command of all manner of powerful forces to continue the campaign he had waged for a decade and a half. Taylor's pledge remained a part of the public discourse on regional events in Sierra Leone at the end of 2003 and in the refugee camps of Ghana in the summer of 2004.²⁰ Nor, incidentally, were such speculations only those of West Africans. Sierra Leone's Special Court Prosecutor David Crane has also noted Taylor's promise to return as a legitimate concern.²¹ Newspapers in the region continue to speculate about Taylor's role in planning a violent return and in fomenting instability, generating a 'feedback loop' with the circuits of popular rumour and speculation which accompany each new development.²² The fact that President Obasanjo of Nigeria was so personally associated with Taylor's exile agreement, when the Nigerian public was so firmly against it (see Akinyemi 2004; Coleman 2003), and that Taylor was welcomed into exile by South Africa's Thabo Mbeki, Ghana's John Kufuor and Mozambique's Joaquim Chissano, signified his continued association with a pantheon of actors capable of marshalling all manner of forces to achieve their stated objectives. The 'reciprocal assimilation of elites' (the process of elite accommodation outlined earlier and in Bayart 1993: chapter 6) is not only a political-economic reality but an imaginative one. Taylor's exile in Nigeria could be (and was) read on the streets of West Africa as simply one more manoeuvre in the dynamics by which ever-shifting elite alliances are seen to orchestrate events of regional import. In short, there was nothing in the way Taylor's exile came about or in its actualisation that would lead Liberians to believe they had seen the last of their former president.

It is not hard to imagine that even the mere prospect of Taylor's return is of consequence to the reconstruction of Liberia. On the scale of state policy, it may in the future facilitate exactly the kind of emergency declarations which Taylor's and other governments in the region have enacted to cover their own efforts to crack down on dissent and profiteer from a war-time economy. On a more local level it would seem to preclude any sense of security or stability in the short term; Taylor's notoriety was and remains such that even the rumour of an imminent attack is enough to create disruptive movements of refugees internally and across borders.²³ Rumours of former Taylor loyalists

regrouping and training circulate throughout the region and have already led to increased tensions with Guinea, Côte d'Ivoire and Ghana.

Taylor remains the pivotal figure in the region. Acts of violence taking place anywhere in the Mano River zone or its environs are frequently linked to the ousted leader, and in turn exacerbate the perception of a supernaturally powerful agent capable of disrupting the lives of West Africans attempting to move into a post-Taylor peace. At least temporarily beyond the reach of any judicial body, Taylor is free to profit from his patronage network and continue to take his toll on the region.

Lessons

Charles Taylor is in some ways a singular figure. (Though as I take up later, he may be emblematic of a new age of African leaders.) In a continent with an unfortunate share of despotic leaders, Taylor is widely regarded as unusually sadistic and corrupt. What is more, ongoing events in West Africa – tenuous peace in Sierra Leone, Liberia, and Guinea, escalating hostilities in Côte d'Ivoire – mean it is simply too early to draw firm conclusions from the end of Taylor's regime. Nevertheless, the Liberia case study points to some instructive considerations for future efforts to deal with state reconstruction in the wake of a despot deposed.

It is worth considering first what might have happened had there been no outside intervention of any kind, and had the forces of LURD, MODEL and Taylor's security apparatus been allowed to battle for control of the capital. Though it seems unlikely, Taylor might have found it possible to escape the city and return to the bush. The result would have been a prolonged civil war that almost assuredly would have swept the region and seen renewed fighting in Sierra Leone and the escalation of the tense situation in Guinea and Côte d'Ivoire, as Taylor and others recruited mercenaries and sought allies and staging areas around the region. More likely would have been Taylor's eventual defeat. On the one hand, this would seem to be the most desirable of circumstances. Yet with two ambiguously allied rebel forces surrounding the city a power struggle would no doubt have occurred, with Monrovia as its violent staging ground. Even without the presence of MODEL, the LURD rebels were in no position to implement peace themselves. They lacked any real post-conflict plan or strategy other than the defeat of Taylor, and had no

leaders capable of controlling the competing figures within the movement (Hoffman 2004; Reno 2002).

In short, some form of brokered agreement was critical to averting a transnational disaster. Clearly it needed to be one that removed Taylor from power, though the standing indictment meant that he would agree only if shielded from prosecution, making most options impracticable. As it happened, the solution which was eventually reached, exile in Nigeria, was the worst possible arrangement.

The most significant lesson of the Taylor years is therefore that the dynamics through which African leaders exercise power needs to be considered more critically and more holistically. Taylor's mode of wielding power was never purely 'political' in a narrow sense. It relied on networks with intertwined economic, social *and* political dimensions. A 'political' solution – such as exile – that emphasises removing the president from the offices of state authority and access to its bureaucracies does not neutralise the alternative channels through which he impacted on events in the region. Today, Taylor still remains capable of working through the personal networks of business contacts and 'shadow' market channels of exchange to mobilise mercenaries, influence former allies in the Liberian government and undermine the efforts of other nations and organisations in the region (Nordstrom 2000; Reno 1995). His ability to communicate his intention to return and to impact on post-war Liberia functions independently of his physical location. The result is devastating to efforts to make the Taylor years truly a thing of the past.

What should be clear is that Nigeria cannot be the site of asylum for regional leaders. In the recent past Nigeria has been an attractive dumping ground for African elites in need of isolation, and has hosted or detained the former leaders of Somalia, Chad, and Niger, as well as RUF leader Foday Sankoh and the Liberian insurrectionaries Prince Johnson and Roosevelt Johnson. Yet the Nigerian government is not a neutral broker in the region, and Nigeria is itself a major nodal point in the web of connections through which influence, information, funds, and commodities circulate in the region. It is a virtually impossible location from which to isolate leaders like Taylor from the channels through which they exercise power. Nigeria's handling of the ECOMOG peacekeeping force is instructive here. General Babangida, under whom the ECOMOG force was first deployed to Liberia in 1990, was one

of Samuel Doe's few remaining supporters and was apparently supplying his forces with arms even as ECOMOG deployed (Ellis 1999: 86; Global Witness 2003: 10, 22). By contrast, under President Abacha, ECOMOG's efforts went largely toward guaranteeing Taylor's safety and power upon his return to Monrovia. Throughout, Nigerian troops (both in Sierra Leone and Liberia) were known to be trading and running business operations with all sides to the conflict.²⁴ By virtue of their long deployments and with almost no international oversight, Nigerian troops were never a purely neutral peacekeeping force. Like all parties to the conflict they availed themselves of trade routes and unregulated transit networks that make it more fruitful to think of West Africa in terms of 'transboundary formations' and regional connections than monadic nation states.²⁵

For asylum to be truly effective (barring the total isolation of the former ruler in prison), the host country must be outside these channels of influence. This precludes bordering states, regional power-brokers like Nigeria, and perhaps most significantly the former colonial metropolises. One of the most intriguing insights of the recent scholarship on African diasporic communities is the extent to which the contemporary African nation state should be reconceived to include within its 'borders' those who reside in the United States, Europe, the Middle East and elsewhere around the globe (D'Alisera 2004; Ferme 2004; Stoller 2002). With an extensive Liberian exile community which is extremely involved in the affairs of the homeland, the United States might be the only place less desirable than Nigeria to host Taylor in exile.

By contrast, the exile of former Ugandan dictator Idi Amin to Saudi Arabia was an inspired choice. Justified by his proclaimed deep Islamic faith, the location to which he was exiled was a place in which his contact with his native country could be minimised and his daily activity closely regulated (though even there he was not completely outside of the expatriate channels of influence, as reported in Orizio 2003).

There is also reason to reconsider the effectiveness of the kind of ad hoc tribunal under which Taylor was charged in Sierra Leone. The concerns raised by the Special Court are by now well known: the possibility of violence resulting from proceedings held in-country during a fragile peace, and the risk of indicting a sitting head of state during negotiations to remove him from office (see, for example, *The Observer* 20.10.02). Taylor's indictment,

however, raises additional concerns. Like the decision to allow Taylor asylum in Nigeria, the Special Court indictment does not remove Taylor from the web of connections through which power relations operate. The UN imprimatur on the Court proceedings does not serve as a guarantee of impartiality or neutrality, any more than Nigeria could be seen as a neutral peacekeeper after the machinations of ECOMOG deployment. As I have explored in more detail elsewhere (Hoffman 2003, 2004) the UN in West Africa is generally seen as operating according to the same rules of elite privilege and manipulation as other bodies composed of politicians and big men. Nor are the kinds of public pronouncements envisioned by the Special Court verdicts and its sister organisation, the Truth and Reconciliation Commission, likely to be accepted at face value in a context in which official discourse is always considered to be only one level of meaning and often a mask for other political forces and events (Ellis 1999; Ferme 1999; Murphy 1980). The fact that Ghanaian and Nigerian officials flouted the most high-profile indictment handed down by the Court has already called into question the effectiveness of the forum. The passage of so much time between the indictment and any handover of Taylor to the Court (should it occur) and the public spectacle of Taylor's embrace in Nigeria by members of the club of African presidents suggest that any future prosecution is more likely to be read in the region less as the end of impunity than as a shift in the political winds and the success of a patronage network other than Taylor's own.

Though they would not automatically be seen as free of the kind of manipulation and power politics of the Special Court or other regional efforts, prosecutions held in a standing body such as the International Criminal Court or even tribunals in a (as yet non-existent) standing body of the AU could minimise the extent to which the trials of former despots like Taylor are seen simply as politics by other means. The perceived independence of such organisations outweighs the misplaced emphasis on indigenous, local, or state-based solutions – the famous 'African solutions to African problems' – that so often signifies a lack of international will to devote serious resources and attention to problems on the continent.²⁶ A commitment to ensuring African representation on the International Criminal Court's governing and judicial structures would be a more satisfying demonstration that justice in and for Africa is a commitment that the world is prepared to make.

Conclusion

In this chapter I have suggested that a purely 'political' solution for dealing with the deposed despot cannot fully remove him from the networks through which he created such havoc throughout the region. I have argued that the solution achieved in the Taylor case – a poorly regulated exile in a nation at the centre of the channels the former president manipulated to enact his rule – is hardly an effective tool for keeping him from radically impacting on Liberia's future. As the chapter by Southall, Simutyane and Daniel in this volume states, Africa's exiled former leaders have historically been locked in 'gilded prisons' from which they pose a lesser threat than those 'reluctant democrats' who remained in country. The fact that Taylor exercised his authority through transnational shadow networks means that this emphasis on the physical location of the president as the lynchpin to stability and the future of the state does not apply here. I have suggested therefore that any asylum effort needs to take into account the political, economic, and social aspects of Taylor's success as an insurrectionary and then state leader. And I have proposed that any judicial measures which would seek to punish the Liberian president need to take into account those same regional realities. Liberia is not a case in which, as Southall et al. put it, the moderate middle negotiates a balance of immunity in exchange for peace. Taylor's exile arrangement was negotiated under crisis conditions precipitated in part by the way a number of actors understood the relationship between justice, impunity, stability and peace. Local understandings of power and the vicissitudes of elite alliances and accommodation mean that the question becomes not simply one of prosecution versus immunity, but the socio-political milieu in which states, regional bodies and the international community find themselves defining the limits and meaning of justice, accountability and peace.

At the time of this writing, fighting has once again erupted in Côte d'Ivoire, and Sierra Leone, Liberia and Guinea remain tense. Though there is disagreement as to the exact mechanics of conflict in the region, there can be no doubt that the circulation of arms, cash, combatants, minerals and other resources all make for an explosive mix. Add to this a leader capable of deploying violence in the exercise of power, and willing to do so, and the proven results are devastating for the entire region. Charles Taylor has been such a leader, though it seems unhelpfully optimistic to suppose that he is the last. Many of

the contributions to the present volume chart the legacies of presidents who rose to power during and immediately after the struggles for independence. These are leaders conscious of their place as ‘fathers of the nation’ or striving to claim that title. Taylor represents a different generation of African ruler, one whose transnational, entrepreneurial mode of authority may well be a signifier of things to come. Across Africa, quasi-state and non-state actors – from international non-governmental organisations to UN peacekeeping forces, from multinational corporations to arms trafficking networks, from the New Partnership for Africa’s Development to the Southern African Development Community – are shifting the locus of power toward the kinds of alternative web of alliances that brought Taylor to power in Liberia. Understanding the means by which Taylor achieved and held power is critical to minimising the extent to which he can continue to wield it. Most important, it is an imperative if we are to prevent similar developments in the future.

Acknowledgements

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Notes

- 1 ‘Taylor farewell speech excerpts’. Available at <http://www.cnn.com/2003/WORLD/africa/08/11/taylor.excerpts/>.
- 2 The so-called ‘Americo-Liberians’ traced their ancestry to repatriated slaves who began to populate the coast of the future Liberian state in 1822. As Reno (1998: 80–91) points out, Doe’s ascension to power did not do away with the Americo-Liberian elite wholesale; rather, he skilfully repositioned elite networks *vis-à-vis* the bureaucracies of the state and international patronage.
- 3 The elections which brought Taylor to power took place on 19 July 1997. Taylor’s National Patriotic Party took 75.3 per cent of the vote. Former UN official Ellen Sirleaf-Johnson and her Unity Party took second place with 9.6 per cent of the electorate in a vote that saw an estimated 89 per cent voter turn-out. Although there were widely noted irregularities in the polling, the elections were declared by most monitors to have reflected a more or less accurate outcome. As I take up later in this chapter, the conventional wisdom among observers stunned by the victory of a

widely despised rebel leader was that Taylor's threat to restart the war if he lost was sufficient to guarantee his victory.

- 4 'The usual suspects', Global Witness 2003. Available at <http://www.globalwitness.org>.
- 5 United Nations Security Council report s/2003/937, dated 28.10.03: 18–19.
- 6 United Nations Security Council report s/2003/937, dated 28.10.03: 19–20.
- 7 Statute of the Special Court for Sierra Leone, 14.08.00 (Article 1). UN Security Council resolution 1313 (2000). Available at <http://www.sc-sl.org/scsl-statute.html>.
- 8 See 'Charles Taylor – preacher, warlord and president', Mark Doyle, BBC News, 04.06.03. Available at <http://www.news.bbc.co.uk/go/pr/fr/-/2/hi/africa/2963086.stm>; 'Liberian chief defiant as rebels near', Ellen Knickmeyer, Associated Press, printed in *Raleigh, North Carolina News and Observer* 08.06.03: 13A.
- 9 Ellis (1999) and Moran (1998) have each looked in greater detail at the significance of this slogan and its meaning in terms of Liberian conceptions of violence and political power, and I owe much to their respective readings of this dynamic. Elsewhere I have written in greater detail about violence and political authority (see Hoffman 2004). For useful analysis from elsewhere in the region, see Ferme (1999, 2001).
- 10 Statute of the Special Court for Sierra Leone, 14.08.00 (Article 1). UN Security Council resolution 1313 (2000). Available at <http://www.sc-sl.org/scsl-statute.html>.
- 11 LURD was the principal of the two forces which eventually succeeded in ousting Taylor. LURD began its invasion from Guinea in 1999 using a combination of fighters from Liberia, Guinea, and Sierra Leone. The organisation was nominally headed by Ayesha and Sekou Conneh, and received support from the Guinean government (which was concerned about Taylor's support for Guinean dissidents) and international entrepreneurs seeking access to resources from LURD-held territories. For more on the origins and character of LURD, see Hoffman 2004; International Crisis Group 2002, 2003; Reno 2002.
- 12 See 'Nigeria will hand over Charles Taylor, predicts War Crimes Prosecutor', Charles Cobb Jr, allAfrica.com 25.09.03. Available at <http://www.globalpolicy.org/intljustice/tribunals/sierra/2003/0925ctinterv.htm>.
- 13 See 'Nigeria will hand over Charles Taylor, predicts War Crimes Prosecutor', Charles Cobb Jr, allAfrica.com 25.09.03. Available at <http://www.globalpolicy.org/intljustice/tribunals/sierra/2003/0925ctinterv.htm>. Baker (2004) suggests that in addition to the loyalty of African leaders to one another, Ghanaian officials may have refused to hand Taylor over to the Special Court as part of a calculation that peace in the region outweighed the demands of justice (see Lamin 2003). While there may

be some truth to this, it seems highly improbable that ‘neither the Ghanaians nor the OAU saw the connections between Taylor’s de facto immunity and continued regional instability’ (2004: 1490). Whatever the complex reasoning by which Ghanaian authorities decided not to arrest Taylor and through which Nigerian officials elected to receive him (both unpopular moves domestically), it was certainly not because they misunderstood who Taylor was and the role he played during 15 years of violence in the region.

- 14 See ‘Nigeria will hand over Charles Taylor, predicts War Crimes Prosecutor’, Charles Cobb Jr, allAfrica.com 25.09.03. Available at <http://www.globalpolicy.org/intljustice/tribunals/sierra/2003/0925ctinterv.htm>.
- 15 Testimony by Howard Jeter, former United States ambassador to Nigeria, before the House Committee on International Relations Subcommittee on Africa, 09.06.04. Available at http://www.house.gov/international_relations/109/jet062404.htm. See also ‘Bring Charles Taylor to justice’, Ed Royce (op-ed), *New York Times* 05.05.05.
- 16 ‘Nigeria will surrender Taylor for trial’, Glenn McKenzie, Associated Press, 25.11.03. Available at <http://www.globalpolicy.org/intljustice/tribunals/rwanda/2003/1125surrender.htm>. As Baker (2004: 1490) points out, if Obasanjo is to surrender Taylor to the Special Court, it will most likely happen after an elected government is sworn in in Monrovia in January 2006 and can ask for Taylor’s extradition.
- 17 See ‘Exiled Taylor deserted by followers as hard times bite’, IRINNEWS.org 09.11.04 (available at <http://www.irinnews.org/print.asp?ReportID=40485>); Global Witness 2004: 15.
- 18 See United Nations Security Council report s/2003/937, dated 28.10.03; Global Witness 2003, 2004: 15; ‘Taylor meddling in Liberian politics, diplomats say’, IRINNEWS.org 17.09.03 (available at <http://www.irinnews.org/print.asp?ReportID=36663>).
- 19 See ‘Taylor meddling in Liberian politics, diplomats say’, IRINNEWS.org 17.09.03 (available at <http://www.irinnews.org/print.asp?ReportID=36663>); ‘President Blah tells Liberian exiles to stop meddling’, IRINNEWS.org 22.09.03 (available at <http://www.irinnews.org/print.asp?ReportID=36741>); International Crisis Group 2003.
- 20 The former observation comes from the author’s own interviews in Freetown in 2003. The latter is from personal communications with Charles Piot, to whom I am grateful for his observation.
- 21 ‘Nigeria will hand over Charles Taylor, predicts War Crimes Prosecutor’, Charles Cobb, Jr, AllAfrica.com 25.09.03. Available at <http://www.globalpolicy.org/intljustice/tribunals/sierra/2003/0925ctinterv.htm>.

- 22 See, for example, 'Liberia probes reports of fighters grouping', Alphonso Toweh, Reuters News Service 03.03.04 (available at http://www.onliberia.org/Search_Docs/FOL_Liberia_News_From_World_Press_3_March_2004.htm); 'Liberia's mercenary market and the confessions of a collaborator', Tom Kamara, New Democrat 05.09.04 (available at <http://www.newdemocract.org/other/@@@Mercenaries.html>); 'Charles Taylor and Guinea's gathering storm of war', Tom Kamara, New Democrat 29.08.04 (available at <http://www.newdemocrat.org/other/@@@CTGuinea29Aug04.html>).
- 23 Despite the high number of casualties in the Mano River conflict that spanned Sierra Leone, Liberia and Guinea, much of the war was a process of manipulating rumour, dramatic display, and fear to drive populations and competing forces out of their territory, even if only briefly. Taylor's NPFL and the surrogate RUF in Sierra Leone used such tactics to particular effect. This is a point that has been noted by a number of writers on the various phases of the conflict. Among them, see Ellis 1999; Richards 1996.
- 24 See, for example, Human Rights Watch 1999, 2003. Popular reinterpretations of the ECOMOG acronym circulating in Sierra Leone perhaps made the case most eloquently: Every Computer and Motorcycle to Go [to Nigeria].
- 25 I draw here from a range of recent scholarship on the multiple meanings of boundaries in the contemporary African post-colony. See, for example, Mbembe 2000, and the essays in Callaghy, Kassimir and Latham 2001, from which the term 'transboundary formation' is taken.
- 26 United States support for the Special Court in Sierra Leone is an especially cynical example of the susceptibility of these tribunals to political manoeuvre. As some observers have noted, United States support for both the Special Court and for the exile solution in Nigeria seems to stem from efforts on the part of the Bush administration to cultivate alternatives to the International Criminal Court. See Akinyemi 2004; 'Questions raised over Taylor's exile in Nigeria', IRINNEWS.org 21.08.03 (available at <http://www.irinnews.org/print.asp?ReportID=36121>); Royce 2005. Such 'local' solutions also offer a palatable alternative given the United States' hesitation to be involved in more engaged and sustained interventions. As Special Court officials have pointed out, such trials may also serve as useful experiments for later prosecutions of US enemies, notably Saddam Hussein (author's interviews and 'Tribunal in Africa may serve as model for trial of Hussein', Jess Brevin, *Wall Street Journal* 12.02.03). And, as Special Court Prosecutor David Crane pointed out, ad hoc tribunals have the added benefit of being cheap. See 'Nigeria will hand over Charles Taylor, predicts War Crimes Prosecutor', Charles Cobb Jr, AllAfrica.com 25.09.03. Available at <http://www.globalpolicy.org/intljustice/tribunals/sierra/2003>.

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Appendix

The status of former heads of state and the presidency in democracies in case study countries

Country	Present head of state	Former heads of state still alive (bracketed if in exile)	Fixed-term presidency	Constitutional (or bargained) immunity against prosecution for former presidents	Date of transition to multi-party democracy	Peaceful turnover of presidency since transition to democracy
Botswana	Festus Mogae	Ketumile Masire	Yes	No	1966	1980, 1998
Ghana	John Agyekum Kufor	Flt Lt Jerry Rawlings	Yes, from 1993	Yes	1993	2000
Kenya	Mwai Kibaki	Daniel arap Moi	Yes, from 1992	Bargained	1992	2003
Liberia	Gyude Bryant (until elections in October 2005)	(Charles Taylor)	Yes, from 1984	Bargained	1848 (although in practice, single party state from 1883 to 1980)	No
Malawi	Bingu wa Mutharika	Bakili Muluzi	Yes, from 1994	No	1994	2004
Namibia	Hifikepunye Pohama	Sam Nujoma	Yes, since independence (1990), but constitutional amendment of 1998 allowed Nujoma as first president to serve a third term	Yes, but can be revoked in exceptional circumstances where a president has earlier been removed from office by a two-thirds majority in Parliament	1990	2005

Country	Present head of state	Former heads of state still alive (bracketed if in exile)	Fixed-term presidency	Constitutional (or bargained) immunity against prosecution for former presidents	Date of transition to multi-party democracy	Peaceful turnover of presidency since transition to democracy
Nigeria	Olusegun Obasanjo	General Yakubu Gowon, Alhaji Shehu Shagari, General Muhammadu Buhari, General Ibrahim Babangida, Chief Ernest Shonekan General Abdusalami Abubakar	Yes	No	1999	No
South Africa	Thabo Mbeki	PW Botha FW de Klerk Nelson Mandela	Yes	No	1994	1999
Tanzania	Benjamin Mkapa	Ali Hassan Mwinyi	Yes	No	1990	1995
Uganda	Yoweri Museveni	–	No	No	2006 projected	–
Zambia	Levy Mwanawasa	Kenneth Kaunda, Frederick Chiluba	Yes	Yes, but Chiluba's immunity was removed by Parliament	1990	1991, 2001
Zimbabwe	Robert Mugabe	–	No	No	1980 (Independence)	No

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