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978-0-521-89873-7 - The Legacies of Law: Long-Run Consequences of Legal Development in South Africa, 1652-2000

Jens Meierhenrich

Excerpt

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## I

## Introduction

From Afghanistan to Sierra Leone, the international community is promoting democratic norms and institutions. It is for this reason that the investigation of general and specific effects of authoritarian legacies has been identified as a “pressing challenge for political science.”<sup>1</sup> Research on this institutional overhang is timely, for surviving institutions have received scant attention in the literature.<sup>2</sup> Moreover, while scholars have written widely on how to make democracy work in changing societies, they have said relatively little about the contribution of law to this endeavor. By taking legal norms and institutions seriously, this book contributes new patterns, significant connections, and improved interpretations to the theory of democracy.

The book constructs the foundations for a theory of democracy that revolves around *rules of law*. It sheds light on the neglected relationship between path dependence and the law. By showing how, and when, legal norms and institutions served as historical causes to contemporary dictatorship and democracy, the book advances unexpected insights about the ever more relevant linkages between law and politics in the international system.<sup>3</sup> As such, the book also contributes to the emerging debate over the legacies of liberalism.<sup>4</sup>

<sup>1</sup> Michael Bratton and Nicolas Van de Walle, *Democratic Experiments in Africa: Regime Transitions in Comparative Perspective* (Cambridge: Cambridge University Press, 1997), p. 275.

<sup>2</sup> Richard Snyder and James Mahoney, “The Missing Variable: Institutions and the Study of Regime Change,” *Comparative Politics*, Vol. 32, No. 1 (October 1999), esp. pp. 112–117.

<sup>3</sup> For explorations of this linkage, see José María Maravall and Adam Przeworski, eds., *Democracy and the Rule of Law* (Cambridge: Cambridge University Press, 2003).

<sup>4</sup> For a leading contribution to this debate, see James Mahoney, *The Legacies of Liberalism: Path Dependence and Political Regimes in Central America* (Baltimore: Johns Hopkins University Press, 2001).

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## QUESTIONS

This book is built around an attempt to answer two central questions: How do legal norms and institutions evolve in response to individual incentives, strategies, and choices; and how, once established, do they influence the responses of individuals to large processes, especially democratization? The central theme is the importance of law in modern politics. The aim is to advance our understanding of exactly *how* law matters, to *whom*, *when*, *why*, and with *what* consequences. To this end, I advance analytic narratives of apartheid's endgame, surprisingly one of the least understood transitions from authoritarian rule.

Although the evolution of cooperation among adversaries in apartheid's endgame was impressive, the manner in which it was solved was a surprise to many. In the mid-1980s, the stakes in South Africa were perceived as incredibly high, and the depth of racial divisions too deep. The end of apartheid was an outcome expected neither by actors nor scholars. Nelson Mandela, F. W. de Klerk, and most others intimately involved in the process, did not anticipate the advent of democracy. Desmond Tutu, Archbishop Emeritus, remembers it thus:

Nearly everybody made the most dire predictions about where South Africa was headed. They believed that that beautiful land would be overwhelmed by the most awful bloodbath, that as sure as anything, a catastrophic race war would devastate that country. These predictions seemed well on the way to fulfilment when violence broke out at the time of the negotiations for a transition from repression to freedom, from totalitarian rule to democracy.<sup>5</sup>

Scholars echoed this view. For Arend Lijphart, writing in the late 1970s, it was an established fact that in South Africa, "the outlook for democracy of any kind is extremely poor."<sup>6</sup> In the late 1980s, apartheid's endgame had just begun, David Laitin cautioned scholars and practitioners alike: "That democracy, stability, and economic justice can occur in South Africa without being induced by the threat of armed upheaval appears to me to be a dream in the guise of science."<sup>7</sup> Looking back on apartheid's endgame, the eminent historian Leonard Thompson observed, "The odds against a successful outcome seemed insuperable, in part because South Africa was the scene of pervasive and escalating violence."<sup>8</sup> Most recently, Mahmood Mamdani

<sup>5</sup> Desmond M. Tutu, "Foreword," in Greg Marinovich and Joao Silva, *The Bang-Bang Club: Snapshots from a Hidden War* (New York: Basic Books, 2000), p. ix.

<sup>6</sup> Arend Lijphart, *Democracy in Plural Societies: A Comparative Exploration* (New Haven: Yale University Press, 1977), p. 236.

<sup>7</sup> David D. Laitin, "South Africa: Violence, Myths, and Democratic Reform," *World Politics*, Vol. 39, No. 2 (January 1987), p. 279.

<sup>8</sup> Leonard Thompson, *A History of South Africa*, Revised Edition (New Haven: Yale University Press, 1995), p. 245.

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maintained, “If Rwanda was the genocide that happened, then South Africa was the genocide that didn’t.”<sup>9</sup> Or, as *The Economist* put it:

Cassandra would have been stumped by South Africa. How easy it was, in the long, dark days of apartheid, to predict catastrophe, only to be assured by South African boosters that all was well. . . . The voices of complacency were wrong. Yet so too were those that foretold a bloodbath. Of all of the horrors of the 20th century, South Africa’s was unique: it did not happen.<sup>10</sup>

For as Courtney Jung and Ian Shapiro remind us, “[d]espite considerable violence there was no civil war, no military coup, and the cooperation among the players whose cooperation was needed was impressive.”<sup>11</sup> This begs explanation. Thus far, the literature has pondered the *wrong* puzzle. The puzzle is *not*, as most of the literature assumes, why cooperation between democracy-demanding and democracy-resisting forces ensued. Rather, the puzzle is why cooperation – despite great uncertainty – spawned commitments that remained credible over time, and that inaugurated one of the most admired democratic experiments in the twentieth century.

## ARGUMENTS

The arguments developed in this book to explain the *real* puzzle of apartheid’s endgame are counterintuitive. The empirical argument suggests that apartheid law was, in an important respect, necessary for making democracy work.<sup>12</sup> In pursuit of this argument, I analyze the function of legal norms and institutions in the transition *to* and *from* apartheid. The theoretical argument purports that the legal norms and institutions, even illiberal ones, at *t* have an important – and hitherto undertheorized – structuring effect on democratic outcomes at *t*<sub>1</sub>.

In furtherance of this argument I revisit Ernst Fraenkel’s forgotten concept of the dual state. Fraenkel, a German labor lawyer and social democrat, fled the Nazi dictatorship in 1938. From his exile in the United States, he published *The Dual State: A Contribution to the Theory of Dictatorship* (New York: Oxford University Press, 1941). *The Dual State* remains one of the most erudite books on the origins of dictatorship. It provided the first comprehensive analysis of the rise and nature of National Socialism, and was the only such analysis written from within Hitler’s Germany. Although widely received on publication in the United States in the 1940s, the concept of the dual state, with its two

<sup>9</sup> Mahmood Mamdani, *When Victims Become Killers: Colonialism, Nativism, and the Genocide in Rwanda* (Princeton: Princeton University Press, 2001), p. 185.

<sup>10</sup> “Africa’s Great Black Hope: A Survey of South Africa,” *The Economist*, February 27, 2001, p. 1.

<sup>11</sup> Courtney Jung and Ian Shapiro, “South Africa’s Negotiated Transition: Democracy, Opposition, and the New Constitutional Order,” in Ian Shapiro, *Democracy’s Place* (Ithaca, NY: Cornell University Press, 1996), p. 175.

<sup>12</sup> This book, to be sure, does not, in any way, attempt to exonerate or justify the apartheid regime, its policies, or rights violating practices.

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halves – the *prerogative state* and the *normative state* – has received only scant attention ever since. This is unfortunate, for as this book demonstrates, the dual state is of immediate relevance for the theory of democracy.

Employing Fraenkel, I demonstrate that from colonialism to apartheid, South Africa was ruled by an ever-changing dual state. This dual state served what Juan Linz termed a “racial democracy.” According to Linz, the paradox of racial democracy was “reflected in the ranking of South Africa among 114 countries, according to eligibility to participate in elections and degree of opportunity for public opposition, in scale type 14 (when the least opportunity ranks 30), far above most authoritarian regimes in the world.”<sup>13</sup> This paradox was the result of the juxtaposition of two societies and political systems. This strange juxtaposition had unintended consequences for democratic outcomes, and is the subject of this book. Mine is an analytically driven and empirically grounded argument for taking the concept of the dual state out of its original context, and for increasing its extension. The book, in short, establishes the concept’s relevance for the comparative historical analysis of democracy.

As I demonstrate in Chapters 4 and 5, the law of apartheid was a blend of formally rational law and substantially irrational law. Figure 1.1 represents this blend. Box “A” represents formally rational law. Government was only weakly constrained by this law, yet it regulated white commercial activity, as well as other domains, including parts of black society. Box “B” represents substantively irrational law. Box “A” is synonymous with the normative state in Fraenkel’s model. Box “B” is synonymous with the prerogative state. Law affecting the disenfranchised majority under apartheid was for the most part substantively irrational. At times, however, even substantive law took on a rational character. Such was the structure of the dual apartheid state.

I show in Chapters 6 and 7 that in apartheid’s endgame, the memory of formally rational law – and agents’ confidence in its past and future utility in the transition from authoritarian rule – created the conditions for the emergence of trust between democracy-demanding and democracy-resisting elites. Iterative interaction strengthened this reservoir of trust in apartheid’s endgame. Adversaries at the elite level found “faith in judicial decision-making as a source of legitimacy in the governance of a post-apartheid South Africa.”<sup>14</sup> This faith in law produced remarkable, democratic outcomes. In terms of the Freedom House index of political rights and civil liberties, postapartheid South Africa achieved a consistent score of 1 for political rights and 2 for civil liberties in the period 1995–2002. Even as early as 1994, the tumultuous year of the country’s first free parliamentary elections, the scores were 2 and 3, respectively. What is more, South Africa’s apartheid-era ratings are indicative

<sup>13</sup> Juan J. Linz, “Totalitarian and Authoritarian Regimes,” in Fred I. Greenstein and Nelson W. Polsby, eds., *Handbook of Political Science, Volume 3: Macropolitical Theory* (Reading, MA: Addison-Wesley, 1975), pp. 326–327.

<sup>14</sup> Heinz Klug, *Constituting Democracy: Law, Globalism and South Africa’s Political Reconstruction* (Cambridge: Cambridge University Press, 2000), p. 180.

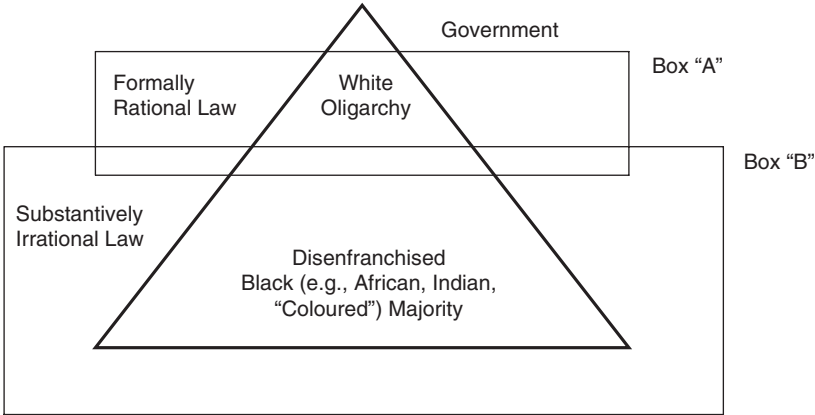


FIGURE 1.1. The Structure of Apartheid Law

of the limits the normative state was able to place on the prerogative state in select periods. The country ratings for the period 1973–1993 average an outcome of “partly free” (with annual scores ranging from 4 to 6 for both political rights and civil liberties).

EXPLANATIONS

Alternative explanations of these democratic outcomes have proved inadequate. The existing literature on apartheid’s endgame suffers from three major problems: empiricism, individualism, and determinism.

Empiricism

Empiricism, the practice of describing without theorizing, is characteristic of most writings on apartheid’s endgame.<sup>15</sup> Although descriptive narratives of apartheid’s ending abound, innovative nomothetic interpretations are rare.<sup>16</sup>

<sup>15</sup> Prominent examples are Allister Sparks, *Tomorrow is Another Country: The Inside Story of South Africa’s Negotiated Revolution* (Johannesburg: Struik Book Distributors, 1994); Patti Waldmeir, *Anatomy of a Miracle: The End of Apartheid and the Birth of the New South Africa* (London: Viking, 1997); and Steven Friedman, ed., *The Long Journey: South Africa’s Quest for a Negotiated Settlement* (Johannesburg: Ravan Press, 1993).

<sup>16</sup> Three partial exceptions are Timothy D. Sisk, *Democratization in South Africa: The Elusive Social Contract* (Princeton: Princeton University Press, 1995); Heribert Adam and Kogila Moodley, *The Opening of the Apartheid Mind: Options for the New South Africa* (Berkeley: University of California Press, 1993), published in South Africa as *South Africa’s Negotiated Revolution* (Johannesburg: Jonathan Ball, 1993); and, more recently, Elisabeth Jean Wood, *Forging Democracy From Below: Insurgent Transitions in South Africa and El Salvador* (Cambridge: Cambridge University Press, 2000). Three other important nomothetic studies with even earlier cut-off dates (1989 and 1985, respectively) are Donald L. Horowitz, A

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Empirical narratives are useful for cutting deeply into a real life setting. They provide an indispensable backdrop for theoretical explanation. But empirical narratives are problematic from the perspective of explanation if pursued in isolation. A serious drawback is that most empirical narratives embody explanations without making explicit the assumptions, tenets, and propositions that underlie explanation. Social scientists have “found it difficult to extract defensible propositions” from empirical narratives because they “often mobilize the mythology and hagiography of their times, mixing literary tropes, notions of morality, and causal reasoning in efforts both to justify and to explain.”<sup>17</sup>

With respect to apartheid’s endgame, most explanations of its negotiated settlement claim that a mutually hurting stalemate between democracy-demanding and democracy-resisting coalitions made cooperation possible, and thus democracy inevitable. The stalemate hypothesis, however, although pervasive in journalistic and scholarly accounts, cannot explain why apartheid fell and democracy won. It is useful for understanding the *origins* of commitments, but inadequate for explaining the *credibility* of commitments among adversaries, and their *stability* throughout the endgame. Although the thesis of a political stalemate may explain why bargaining occurred in South Africa (a military stalemate never materialized), it fails to illuminate why, and how, bargaining produced sustainable cooperation. In other words, this line of argument cannot answer how domestic adversaries managed to construct credible commitments that prevented political, economic, and social conflict from turning (more) violent, and from derailing democratization.<sup>18</sup> Although the stalemate hypothesis may be able to explain why negotiations ensue in democratization, it cannot explain when, and why, these negotiations produce sustainable, self-enforcing outcomes.

## Individualism

Contingent explanations of apartheid’s endgame are the norm. Essentially all empiricist analyses are also grounded in methodological individualism. In

*Democratic South Africa? Constitutional Engineering in a Divided Society* (Berkeley: University of California Press, 1991); Heribert Adam and Kogila Moodley, *South Africa Without Apartheid: Dismantling Racial Domination* (Berkeley: University of California Press, 1986); and Arend Lijphart, *Power-Sharing in South Africa* (Berkeley: Institute of International Studies, University of California, Berkeley, 1985).

<sup>17</sup> Robert H. Bates, Avner Greif, Margaret Levi, Jean-Laurent Rosenthal, and Barry R. Weingast, *Analytic Narratives* (Princeton: Princeton University Press, 1998), p. 12. For a more extensive discussion of empiricism and its pitfalls, see Terry Johnson, Christopher Dandeker, and Clive Ashworth, *The Structure of Social Theory: Strategies, Dilemmas, and Projects* (New York: St. Martin’s Press, 1984), pp. 29–74. For a trenchant critique of the analytic narratives approach, in turn, see Jon Elster, “Rational-Choice History: A Case of Excessive Ambition,” *American Political Science Review*, Vol. 94, No. 3 (September 2000), pp. 685–695.

<sup>18</sup> For a conventional account of apartheid’s endgame, relying on the stalemate hypothesis, see Sisk, *Democratization in South Africa*, esp. pp. 67–75, 86–87. To be sure, the stalemate hypothesis is not an inadequate, merely an insufficient, explanatory tool.

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general terms, such analyses are “primarily interested in actors’ manipulation of their own and their adversaries’ cognitive and normative frames.”<sup>19</sup> The most influential individualistic account of apartheid’s endgame is Patti Waldmeir’s *Anatomy of a Miracle*.<sup>20</sup> Waldmeir, a former *Financial Times* correspondent in South Africa, offers an insightful, comprehensive, and ultimately important account of the interactions between key agents, and the games between these agents and their constituencies. Yet anecdotes belie systematic analysis. What is even more problematic is the neglect of structural variables. Allister Spark’s illuminating (and early) account of the hidden negotiations among incumbents and insurgents, likewise, suffers from a “myopia of the moment,” favoring a contingent interpretation over a structural perspective.<sup>21</sup>

**Determinism**

Retrospective determinism refers to the scholarly belief in the inevitability of outcomes.<sup>22</sup> Most available analyses of apartheid’s endgame are deterministic in this sense. As indicated a moment ago, with a few exceptions, South Africa’s path to democracy is portrayed as an inevitable process that had to unfold the way it did, yielding inevitable outcomes that were bound to result the way they have. Yet seasoned observers viewed the country as a “tinderbox” in the 1980s with an undeclared internal war that had the potential of producing a “bloodbath.”<sup>23</sup>

Very convincing reasons existed at the time to believe that a new order (whether democratic or otherwise) would not be negotiated, but imposed; especially because violence had become the modal way with which both democracy-demanding and democracy-resisting forces responded to the problem of social order in the 1980s. F. W. de Klerk put it thus:

<sup>19</sup> Herbert Kitschelt, “Political Regime Change: Structure and Process-Driven Explanations,” *American Political Science Review*, Vol. 86, No. 4 (December 1992), p. 1028. The contingent study of democratization originated with the four-volume work Guillermo O’Donnell, Philippe C. Schmitter, and Laurence Whitehead, eds., *Transitions from Authoritarian Rule: Prospects for Democracy* (Baltimore: Johns Hopkins University Press, 1986).

<sup>20</sup> Waldmeir, *Anatomy of a Miracle*.

<sup>21</sup> The more recent *Comrades in Business: Post-Liberation Politics in South Africa* (Cape Town: Tafelberg, 1997) by seasoned political sociologists Adam, Moodley, and Frederik van Zyl Slabbert, while evading the problems of empiricism, does not contain a distinct theoretical argument, but reflects on a series of existing views in the literature. The book concerns itself foremost with problems of democratic consolidation, not the immediate endgame (the transition game) that lasted from one critical juncture to another: approximately from the transition in leadership at the helm of the National Party and the government from P. W. Botha to Frederik de Klerk in 1989, to the adoption of the final constitution in 1996.

<sup>22</sup> For a valuable discussion of retrospective determinism in the context of postcommunist transitions, see Stathis N. Kalyvas, “The Decay and Breakdown of Communist One-Party Systems,” *Annual Review of Political Science*, Vol. 2 (1999), pp. 323–43.

<sup>23</sup> As quoted in Lijphart, *Power-Sharing in South Africa*, p. 2.



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Anyone who would have predicted then that we would be able to bring the IFP and the Freedom Front into the elections; that we would be able to defuse the threat of right-wing violence; that we would be able to hold the elections with reasonable success; that the ANC-led government would adopt responsible economic policies and that the country would be broadly at peace with itself four years after the transformation, would have been accused of hopeless optimism.<sup>24</sup>

De Klerk conveniently leaves out the prerogative state that stood in the way of a resolution of apartheid's endgame. Michael Clough estimated in 1985 that "the white state's coercive capabilities are more than sufficient to avoid negotiated capitulation."<sup>25</sup> The late Joe Slovo, a key negotiator and revered leader of the South African Communist Party (SACP), conceded in 1992 that "we [the democracy-demanding forces] were clearly not dealing with a defeated enemy."<sup>26</sup> And what was more, the apartheid government under de Klerk did not believe in the historical inevitability of black majority rule. Even in hindsight, de Klerk does not accept the argument that the outcome of apartheid's endgame was preordained.<sup>27</sup>

Leading actors in the resistance movement were equally committed to confrontation rather than cooperation. The ANC's declared goal, as evidenced in many manifestos and speeches, was a violent, revolutionary overthrow of racial domination. The historian George Fredrickson reminds us that the ANC slogan "Apartheid cannot be reformed," which so successfully mobilized township resistance in the 1980s, must be understood at face value.<sup>28</sup> In June 1985, the ANC's "council-of-war" conference at Kabwe, Zambia, clearly preferred confrontation to cooperation in dealing with the enemy. The delegates concluded that "we cannot even consider the issue of a negotiated settlement of the South African question while our leaders are in prison."<sup>29</sup> The harbingers of confrontation in the townships were civic associations, the so-called civics. Some

<sup>24</sup> F. W. de Klerk, *The Last Trek – A New Beginning: The Autobiography* (New York: St. Martin's Press, 1998), p. 389.

<sup>25</sup> Michael Clough, "Beyond Constructive Engagement," *Foreign Policy*, No. 61, (Winter 1985–86), p. 22, cited in Laitin, "South Africa," p. 277.

<sup>26</sup> Joe Slovo, as quoted in John Saul, "Globalism, Socialism, and Democracy in the South African Transition," *Socialist Register* 1994, p. 178.

<sup>27</sup> Waldmeir, *Anatomy of a Miracle*, p. 149.

<sup>28</sup> George M. Fredrickson, *The Comparative Imagination: On the History of Racism, Nationalism, and Social Movements* (Berkeley: University of California Press, 1997), p. 143.

<sup>29</sup> African National Congress, "Communiqué of the Second National Consultative Conference of the African National Congress, presented by Oliver Tambo at a Press Conference, Lusaka, Zambia, June 25, 1985," reprinted in idem., ed., *Documents of the Second National Consultative Conference of the African National Congress, Zambia, 16–23 June, 1985* (Lusaka: ANC, 1985), as quoted in Klug, *Constituting Democracy*, p. 77. Waldmeir shows that the ANC remained divided throughout the endgame on the choice of confrontation or cooperation as bargaining strategies. "In May 1990, when the Groote Schuur talks took place, the lobby in favor of compromise was frighteningly small." Waldmeir, *Anatomy of a Miracle*, p. 163.



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saw the civics as expressions of “people’s power” and potential seeds of a revolutionary state.<sup>30</sup> Nelson Mandela remarked this:

Oliver Tambo and the ANC had called for the people of South Africa to render the country ungovernable, and the people were obliging. The state of unrest and political violence was reaching new heights. The anger of the masses was unrestrained; the townships were in upheaval.<sup>31</sup>

In fact, “the idea of negotiation with an undefeated enemy was ruled out as a sellout” within the ANC.<sup>32</sup> Despite conciliatory overtones, both the National Party and the ANC adopted “hegemonic models of bargaining” where democratic, inclusive rhetoric only masked a desire for total control.<sup>33</sup>

Only in hindsight is apartheid’s endgame an “easy” case for analysis in which democracy was inevitable. The problem with hindsight, notes Baruch Fischhoff, is that “people consistently exaggerate what could have been anticipated in foresight.”<sup>34</sup> The cooperative solution of apartheid’s endgame – this so-called negotiated revolution – was neither expected by participants nor predicted by analysts. Apartheid’s endgame could have ended differently at various critical junctures. A series of alternative outcomes come to mind, including intensified repression, modernized segregation, violent revolution, and all-out civil war. What the psychology literature calls “outcome knowledge” has clouded much of the existing literature. This outcome knowledge substantially hampers our understanding of apartheid’s endgame:

By tracing the path that appears to have led to a known outcome, we diminish our sensitivity to alternative paths and outcomes. We may fail to recognize the uncertainty under which actors operated and the possibility that they could have made different choices that might have led to different outcomes.<sup>35</sup>

To address the problem of outcome knowledge, but also the problems of empiricism and individualism, this book traces the behavior of particular agents, clarifies sequences, describes structures, and explores patterns of interaction employing the theoretical model developed in Chapters 2 and 3. It contains analytic narratives of apartheid’s endgame. Paying explicit

<sup>30</sup> Khehla Shubane and Peter Madiba, *The Struggle Continues? Civic Associations in the Transition* (Johannesburg: Centre for Policy Studies, 1992).

<sup>31</sup> Nelson Mandela, *Long Walk to Freedom: The Autobiography of Nelson Mandela* (Randburg: Macdonald Purnell, 1994), p. 518.

<sup>32</sup> Adam and Moodley, *The Opening of the Apartheid Mind*, p. 45.

<sup>33</sup> Pierre du Toit and Willie Esterhuyse, eds., *The Mythmakers: The Elusive Bargain for South Africa’s Future* (Johannesburg: Southern Books, 1990), as quoted in Adam and Moodley, *The Opening of the Apartheid Mind*, p. 159.

<sup>34</sup> Baruch Fischhoff, “For Those Condemned to Study the Past: Heuristics and Biases in Hindsight,” in Daniel Kahneman, Paul Slovic, and Amos Tversky, eds., *Judgment Under Uncertainty: Heuristics and Biases* (Cambridge: Cambridge University Press, 1982), p. 341.

<sup>35</sup> Richard Ned Lebow, “What’s So Different about a Counterfactual?,” *World Politics*, Vol. 52, No. 4 (July 2000), p. 559.

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attention to theory, these narratives examine critical episodes in the endgame. In doing so, they shed light on real and alternative paths open to agents, and the reasons why the former were traveled, and the latter were not.

## METHODS

The counterintuitive argument advanced in this book – that apartheid law was necessary for making democracy work – offers a “redescription” of apartheid’s endgame. Shapiro recently defended redescription as a methodological approach: “The recent emphases in political science on modeling for its own sake and on decisive predictive tests both give short shrift to the value of problematizing redescription in the study of politics. It is intrinsically worthwhile to unmask an accepted depiction as inadequate, and to make a convincing case for an alternative as more apt.”<sup>36</sup> For the purpose of constructing such an alternative, this book synthesizes insights from law, political science, sociology, economics, philosophy, and history. Locating an inquiry “at the boundary or intersection of various established fields has obvious dangers because it may satisfy none of the respective specialists and draw the ire of all of them.”<sup>37</sup>

This book’s contribution, or so I hope, lies in the fact that it uses the interdisciplinary approach to discern new patterns, significant connections, and improved interpretations about the demise of apartheid and the resurgence of liberalism. The foundation is a synthetic methodology in which nomothetic reasoning converges with ideographic reasoning. The analysis moves back and forth between theoretical and historical levels, using one to amplify and illuminate the other. For, as recent scholarship has shown, “[b]y promoting intimate dialogue between ideas and evidence, the joint construction of history and theory can improve our knowledge of both.”<sup>38</sup>

The analysis combines insights from rational choice institutionalism and historical institutionalism, advancing a deep, interpretive analysis that recognizes the interplay between rationality and culture.<sup>39</sup> For the purpose of the analysis, I assume that agents “are partly pushed by internal predispositions

<sup>36</sup> Ian Shapiro, “Problems, Methods, and Theories in the Study of Politics, or: What’s Wrong with Political Science and What to Do About It,” in Ian Shapiro, Rogers S. Smith, and Tarek E. Masoud, eds., *Problems and Methods in the Study of Politics* (Cambridge: Cambridge University Press, 2004), p. 39.

<sup>37</sup> Friedrich Kratochwil, *Rules, Norms, and Decisions: On the Conditions of Practical and Legal Reasoning in International Relations and Domestic Affairs* (Cambridge: Cambridge University Press, 1989), p. 1.

<sup>38</sup> Nicholas Pedriana, “Rational Choice, Structural Context, and Increasing Returns: A Strategy for Analytic Narrative in Historical Sociology,” *Sociological Methods and Research*, Vol. 33, No. 3 (February 2005), p. 350.

<sup>39</sup> For a discussion, see Robert H. Bates, Rui J. P. de Figueiredo, Jr., and Barry R. Weingast, “The Politics of Interpretation: Rationality, Culture, and Transition,” *Politics and Society*, Vol. 26, No. 4 (December 1998), pp. 603–642.