Looking at the Law

Apartheid on Trial: Mandela’s Rivonia Speech from the Dock, Half a Century Later

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During my lifetime I have dedicated myself to this struggle of the African people. I have fought against white domination, and I have fought against black domination. I have cherished the ideal of a democratic and free society in which all persons live together in harmony and with equal opportunities. It is an ideal which I hope to live for and to achieve. But if needs be, it is an ideal for which I am prepared to die.

—Nelson Mandela’s Statement in 1964 Rivonia Trial

The death of Nelson Mandela on December 5, 2013, prompted a global outpouring of tributes and opened up important teachable moments for social studies educators. Some news commentators noted that effusive media coverage ran the risk of turning Mandela retrospectively into such a saintly figure as to airbrush away his humanity and his struggles. This article highlights Mandela the freedom fighter and seeks to extend the teachable moment for educating students about him. It does so by focusing on a pivotal political-legal event in his life and, indeed, in twentieth century world history.

In 1964, Nelson Mandela and his co-defendants were on trial for their lives, charged with sabotage against the apartheid regime. Most of the defendants had been captured with incriminating evidence of their anti-apartheid activities during a police raid in Rivonia, a Johannesburg suburb. At the Rivonia political trial in Pretoria, South Africa, Mandela delivered a powerful and momentous speech. The stirring words by Nelson Mandela that introduce this article concluded his speech, which opened the defense’s case. Many recent tributes marking Mandela’s life and mourning his death often quoted this speech. This article examines the backstory to these famous words—the historical, political, and legal context in which they were spoken. Such an examination is timely because April 20, 1964 marks the 50th anniversary of this event.

Lawyer and Political Activist

At the time of his Rivonia speech, Nelson Mandela was 46. By professional occupation, he was an attorney. Along with partner Oliver Tambo, Mandela had developed a thriving practice as, in his words, the country’s “only firm of African lawyers.” By political commitment, he was a long-time activist in the South African national liberation movement and fight against that country’s repressive apartheid regime. He was one of the principal leaders of the African National Congress (ANC), a black South African nationalist political party formed in 1912. In 1961 Mandela co-founded Umkhonto we Sizwe (“Spear of the Nation”), known as MK, often described as the “armed wing” of the ANC, with which it was associated, but separate.

Apartheid’s History

“Apartheid” is an Afrikaans word that means “apartness” and signifies the white supremacist policy that predominated in South Africa from 1948 to 1994. South Africa had a long history of colonial European domination of indigenous black and other non-white peoples. Apartheid, however, formally began when the Afrikaner-dominated National Party came to power in 1948. “Afrikaans” is a language once regarded as a dialect of Dutch. “Afrikaners” are a South African ethnic group of mixed continental European descent, primarily Dutch, German, and French Protestant. Following a referendum among white voters in 1961, South Africa severed ties with Great Britain and became a republic. At that time, about 20 percent of the South African population was classified as white. Of that minority, about two-thirds were Afrikaner and one-third of English descent. Approximately 70 percent of South Africans were classified as black and the remainder as either “coloured” or Asian.

The foundation of apartheid was legislation enacted by Parliament. These statutes either strengthened existing laws or codified social norms and practices. Early apartheid laws included the Prohibition of Mixed Marriages Act of 1949, Population Registration Act of 1950 (requiring that all South Africans be classified, as white, black, or coloured), Group Areas Act of 1950 (imposing territorial restrictions on
blacks), “Pass Laws” Act of 1952 (requiring blacks to carry passes when visiting “white” areas), and the Bantu Education Act of 1953 (nationalizing and severely restricting education for blacks, called “Bantus”). At the Rivonia Trial, Mandela summarized the repressive history of apartheid, asserting that “the rights of Africans became less instead of becoming greater” as time went on.

As political resistance to apartheid developed in the 1950s and 1960s, the regime responded by increasing restrictions on civil liberties as well as civil rights. In the Cold War era, the fervently anti-Communist South African government passed laws that conflated curtailing internal political protest against apartheid with the fight against international Communism. For instance, the Suppression of Communism Act of 1950 included a provision prohibiting activity “which aims at the encouragement of feelings of hostility between the European and non-European races of [South Africa].” In 1952, Mandela and the ANC conducted the Defiance Campaign, which deployed a strategy of passive resistance (such as used by Gandhi and Martin Luther King Jr.) to mobilize anti-apartheid protestors, risking mass arrest in peaceful civil disobedience. In response, the regime passed the Public Safety Act of 1953, which not only granted broad powers to declare states of emergency, but also allowed that laws “could be made retrospective for four days to cover any emergency action taken by the police.”

Two Trials Before Rivonia
Rivonia in 1964 was the third in a series of trials in which Mandela was charged with political crimes. In December 1956, he and 155 other activists were rounded up and charged with treason. This “Treason Trial” would drag on for more than four years as the number of defendants, still including Mandela, was reduced to 30. In March 1961, they were all found not guilty. Writing about this favorable verdict in his autobiography, Mandela commented, “The court system … was perhaps the only place in South Africa where an African could possibly receive a fair hearing and where the rule of law might still apply.” And yet, “I never expected justice in court, however much I fought for it, and though I sometimes received it.” A year before this verdict, 69 peaceful demonstrators had been killed by police in Sharpeville, 45 miles from Johannesburg, many shot in the back while fleeing. This tragic event transformed the anti-apartheid struggle. Immediately afterwards, the government declared a national state of emergency and banned the African National Congress. After the Treason Trial, Mandela went underground. In 1962, he was captured; charged with inciting workers to strike and leaving the country illegally; convicted; and, in November, sentenced to five years in prison.

Setting the Stage
Mandela was the only Rivonia defendant who was already convicted and serving time. The other defendants, among them Walter Sisulu and Govan Mbeki, included prominent leaders of the ANC and the anti-apartheid movement. When the trial began in October 1963, there were 11 defendants. Because of their prominence, the sensational nature of their arrest, the severe penalties if they were convicted, and the obvious political dimensions, the case received national and international attention. The venue had been moved 35 miles from Johannesburg to Pretoria, an Afrikaner stronghold and the regime’s administrative capital. Transported by police van from the Pretoria prison to the Palace of Justice, a steel divider physically separated the accused by race, white from black and Indian. Machine-gun wielding police lined the route, holding back supporters of the defendants.

Red-robed Justice Quartus de Wet presided at the trial, which was conducted in English. Although South African criminal procedure was derived from English common law and had much in common with British, and even American, judicial proceedings, in this case, there was no jury, only the judge to determine guilt or innocence and sentencing.

The prisoners were seated in a specially built dock. The public galleries were racially segregated. Menacingly, police
recorded the names and addresses of all spectators and photographed them as they left the courtroom. South African and international media were present, along with representatives of foreign governments. Percy Yutar—ambitious, opportunistic, and theatrical—was the chief prosecutor in what became known as *The State v. Nelson Mandela and Others*. Advocate Bram Fischer, an Afrikaner, was the lead defense counsel of a brilliant team of lawyers committed to the anti-apartheid cause.

The accused seized at Liliesleaf Farm in Rivonia were initially imprisoned under the newly passed General Law Amendment Act. This law permitted the 90-day detention and interrogation of anyone suspected of a political crime. Moreover, it could be renewed indefinitely. The Rivonia defendants were not charged with treason, in contrast to the 1956-1961 trial, which had led to acquittals and embarrassment for the government. Instead, they were charged under the Sabotage Act of 1962. Sabotage and conspiracy to commit sabotage were easier to prosecute than treason. Trials could be decided by a single judge, rather than a three-judge panel. Both crimes, however, were punishable by death.

Rivonia was an extraordinary political trial. Both sides—the state prosecution and the defense—consciously and actively approached the trial as being about the very legitimacy of the regime, the integrity of the political and judicial institutions of national government, and the policy of apartheid. It was truly “apartheid on trial.” The state defended and the defense renounced. So, in that sense, the defense also played offense. The defendants and their lawyers developed a trial strategy that was at once legal and political. As a criminal legal matter, sabotage was a capital crime. The principal defendants, including Mandela and Sisulu, realized they would be convicted. What was at issue was sentencing. Would it be death? As a political matter, they recognized that the trial would be a performance on the national and world stage. As such, it presented an unrivalled opportunity to expose publicly apartheid’s brutal oppression.

**Mandela’s Speech from the Dock**
Walter Sisulu and other defendants would give testimony in the courtroom. Mandela, however, chose to make a non-testimonial statement “from the dock.” This meant his statement was not admissible. It also meant that he could speak directly—to the judge who would determine his fate, the spectators, and those beyond the courtroom—unconstrained by the question-and-answer strictures of direct and cross-examination. Mandela artfully exploited the available legal means for political ends. He began his speech by embracing the dehumanizing anonymity of his courtroom designation as “accused number one,” turning it into a badge of honor: “I am the First Accused.” Mandela's tone was strong, dignified, and resolute. His style was direct and unapologetic. He was respectful of the judge, addressing him repeatedly as “My Lord.”

Mandela did not “deny that [he] planned sabotage,” the serious crime with which he was charged. To explain why he committed this act, his speech devastatingly critiqued apartheid, rejected the regime’s legitimacy, and defended the national liberation movement of the South African people. Mandela acknowledged he “must deal immediately … with the question of violence.” He explained, “It was only when all else had failed, when all channels of peaceful protest had been barred to us, that the decision was made to embark on violent forms of political struggle.” Based on a “calm and sober assessment of the political situation,” Mandela and his MK colleagues chose to adopt sabotage as a political tactic. He carefully differentiated it among a hierarchy of possible
forms of political violence, escalating from sabotage to guerrilla warfare to terrorism to “open revolution.” Sabotage was directed against “government buildings and other symbols of apartheid.” It “did not involve the loss of life, and it offered the best hope of future race relations.”

Mandela also articulated his political philosophy, which he closely identified with the ideology of the ANC and the principles of the Freedom Charter. In *Long Walk to Freedom*, Mandela characterized this landmark charter, adopted by anti-apartheid groups in 1955, as “a blueprint for the liberation struggle and the future of the nation.” His political values were nationalist, multi-racial, constitutionalist, and democratic. They found expression in the Freedom Charter’s preamble: “South Africa belongs to all who live in it, black and white, and ... no government can justly claim authority unless it is based on the will of all the people.”

He ended his 176-minute speech with the words quoted at the beginning of this article. Mandela’s lawyers feared the final sentence might be perceived as inviting a death sentence and martyrdom. They urged him to strike it. He refused, but accepted the suggestion by lawyer George Bizos to add “if needs be” before saying, “it is an ideal for which I am prepared to die.” The speech was covered in South Africa and around the world. Its power impressed even proponents of the regime.

**Verdict and Sentencing**

Aware that the Rivonia verdict was near, the United Nations Security Council passed Resolution 190, by a vote of 7–0, on June 9, 1964. It called on the South African government “to end forthwith the trial in progress, instituted within the framework of the arbitrary law of apartheid” and also urged the regime to end death sentences for anti-apartheid activities. Both the United States and United Kingdom abstained from Resolution 190, not opposing it, but reluctant to antagonize the South African government, a staunch anti-Communist ally.

With world attention focused on the case, Justice de Wet delivered his verdict on June 11 and sentence the next day. He questioned whether the accused were altruistically motivated in their “desire to ameliorate ... the grievances of the non-White population.” Justice de Wet emphasized, “The function of this court, as is the function of a court in any country, is to enforce law and order and to enforce the laws of the state within which it functions.” The crime with which the accused were charged was “in essence one of high treason.” Insofar as the government had not brought this charge, he decided not to impose the death sentence. Still, he sentenced 8 of the 9 remaining defendants, including Mandela and Sisulu, to life in prison.

**Aftermath and Legacy**

Of course, Nelson Mandela would not spend his entire remaining life behind bars. After Rivonia, he would remain in prison for another 26 years, enduring great hardship. By the end of his imprisonment, however, he was negotiating with the regime’s leaders for a political solution to a democratic and multiracial South Africa. His terms for
his own release were unconditional—he steadfastly refused offers, while apartheid persisted, contingent on him personally renouncing political violence. Freed in 1990, he provided national leadership through the difficult and violent political crisis of the early 1990s, which ultimately resulted in a new constitution and his election as president in 1994.

On the 10th anniversary of Mandela’s election as president and the 40th of the Rivonia speech, a new Constitutional Court opened in Johannesburg in 2004. It was the first major government building constructed in post-apartheid South Africa. The result of an international architectural competition, it was “designed to embody the openness and transparency called for by the Constitution itself.” The Court was intentionally built on the site of the Old Fort, which dates to 1893 and was a notorious prison. In fact, both Gandhi and Mandela spent time there as prisoners. Some 150,000 bricks from old prison buildings were used to erect the Court. Symbolically and literally, the site remembers the past, but builds a new future.

Engraved on a large panel underneath a walkway are the final words of Mandela’s Rivonia speech (see photo above): “It is an ideal which I hope to live for and to achieve. But if it needs be, it is an ideal for which I am prepared to die.” At the time of his original speech act, the first sentence expressed, at best, a distant hope and the second, a chilling possibility. Today, visitors to the Court—and all of us—can read it with new meanings, as representing, in turn, a commitment, an achievement, and an aspiration. Rivonia was “the trial that changed South Africa” and more. It deserves a place in our social studies curriculum.

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