Contents

List of Figures p					
List of Tables					
Acknowledgments					
	Intr	oduction	1		
1	Prel	liminaries	12		
	1.1	Institutional Scope	13		
	1.2	Inattention to Ideational Questions	15		
	1.3	This Study's Approach	34		
	1.4	Methods and Case Selection	44		
2	AT	ypological Theory of JR-Regime Change	49		
	2.1	Law's Autonomy: Legal-Cultural Ideal Not Empirically			
		Testable Claim	52		
	2.2	JR-Regime Transformation during the Lochner Era	58		
	2.3	Generalizing the <i>Lochner</i> Story	62		
		2.3.1 The Core Concept: JR Regimes	64		
		2.3.2 The Evolution of JR Regimes	66		
		2.3.3 The Key Independent Variables: Changing	40		
		Conceptions of Legal and Political Authority	68		
	2.4	Four Ideal-Typical JR Regimes	78		
		2.4.1 Democratic Legalism	78		
		2.4.2 Authoritarian Legalism	81		
		2.4.3 Authoritarian Instrumentalism	83		
		2.4.4 Democratic Instrumentalism	84		
	2.5	Consolidation, Transformation, and Incremental Chang	e 85 89		
	2.6 Conclusion: Refining and Testing				

X

3	Australian Democratic Legalism: Constant Cultural Cause or Path-Dependent Trajectory?					
	3.1	The Three Levels of Engineers	95			
	3.2	The Postwar Cases and the Failed Court-Packing Plan	108			
	3.3	The Dixonian Consolidation of Legalism	114			
	3.4	The Mason Court's Challenge	120			
	3.5	The Contemporary Australian JR Regime	134			
	3.6	Conclusion	140			
4	From Democratic Legalism to Instrumentalism: India's					
	Constitutional-Cultural Transformation					
	4.1	The Establishment Period: 1950–1967	149			
	4.2	From Golaknath to Shukla: 1967–1977				
	4.3	The Court's Rehabilitation: 1977–1989				
	4.4					
	4.5	Conclusion				
5	The Postcolonial Adaptation of Authoritarian Legalism in					
	Zim	Zimbabwe				
	5.1	Law and Politics in Zimbabwe before Independence	193 198			
	5.2	Building on the Colonial Legacy: 1980–1998	204			
		5.2.1 ZANU-PF's Illiberalism	206			
		5.2.2 Continuities between the Pre- and				
		Postindependence Regimes	209			
		5.2.3 ZANU-PF's Response to Assertive Judicial				
		Decisions	213			
	5.3	The Instrumentalist Interlude: 1999–2008	218			
		5.3.1 The Causes of the Transition	218			
		5.3.2 The Assault on the Judiciary	225			
		5.3.3 Assessing the Character of the Post-2000 Regime	230			
	5.4	Recovery and Return: 2009–2013	233			
	5.5	Reconsolidation: 2013 to Date	239			
	5.6	Conclusion	240			
6	Testing the Typological Theory: A Medium-N Comparative					
	Study of JR-Regime Change					
	6.1	Populating the Typology	24 5			
		6.1.1 Democratic Legalism	² 45			
		6.1.2 Democratic Instrumentalism	255			
		6.1.3 Authoritarian Legalism	257			

Contents xi

	6.1.4	Authoritarian Instrumentalism	261		
	6.1.5	Summary	269		
6.:	6.2 Consolidation				
6.:	Transfo	ormation	281		
6.2		-Regime Incremental Change	2 90		
6.9		ision	293		
7 Fi	ndings an	d Implications	295		
7.	Findings	296			
,	7.1.1	Findings Specific to Democratic and Authoritarian			
		Instrumentalism	303		
	7.1.2	Subtype Transformation under Democratic Legalism	306		
	7.1.3	Vertical and Horizontal versus Diagonal			
		Transformation	308		
7.	2 Norma	tive Implications	309		
7.	Practic	al Implications	318		
,		Constitutional Design	318		
	7.3.2	Judicial Practice	323		
	, ,	Social Activism	325		
7.	0 1		328		
Bibliog	raphy		329		
Index					