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THE ROLE OF THE US SUPREME COURT IN THE LEGAL SYSTEM

The purpose of the article on the topic of judicial lawmaking in the USA, which attempts to invade the educational process and intensify the study of the History of State and Law of Foreign Countries, is devoted to the U.S. Supreme Court – the founder of constitutional justice and one of the pillars in the system of separation of powers. This is a unique judicial institution with an exceptional degree of influence, about which America's famous political writer Alexis de Tocqueville stated that "never before have any people had such a powerful judicial authority".

The purpose of the research is to identify the features of the law-making activity of the US Supreme Court, since judicial law making in science remains an unsolved problem. To achieve this goal, the methods of scientific research were used, in the form of general methods, complex special methods of jurisprudence.

For the reader, the phenomenon of the us Supreme Court is interesting in several aspects. First, from the point of view of the evolution of American law and the judicial system in all its dynamics and contradictions. Secondly, in terms of the implementation of judicial activity, complex thought processes of finding the necessary precedents and arguments in a particular case, achieving (if possible) a compromise between the judges-colleagues. Judicial activity should be interpreted not only as based on law, but also subject to ideological and political influences.

The results of the research are very important for researchers of the legal system of foreign countries, and to look at the us Supreme Court through the eyes of American history as an institution that has the potential to enter into conflict with both the legislative and Executive authorities. On the other hand, it is important to understand the logic of filling vacancies in the Supreme Court by the Executive branch. In the ongoing in this country, searches the reasons for negative political and legal phenomena attention is drawn to the interpretation of the Federal Constitution, the U.S. Supreme Court, in General, the activities of the court performing a legislative function, it is unusual and constitutional loose. However, many issues remain insufficiently studied, including the role of the US Supreme Court in constitutional law making, and the phenomenon of judicial law making itself.

Key words: lawmaking, jurisdiction, Supreme Court, USA, legislature.

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АҚШ жоғарғы сотының құқықтық жүйедегі рөлі

Тиісті мақала АҚШ Жоғарғы Сотының құқықтық жүйедегі рөлін зерттеуге арналған. Тиісінше мақалада конституциялық әділсоттың жүзеге асырылуы, әрі билік бөлу жүйесіндегі маңызы ашып көрсетілді. Ол туралы АҚШ Жоғарғы Соты туралы Американың атақты саяси қайраткері Алексис до Токвиль «бірде-бір халықтың осындай қуатты сот билігі болмады» деп айтқан еді.

Зерттеудің мақсаты – АҚШ Жоғарғы Сотының заң шығару қызметінің ерекшеліктерін анықтау, өйткені ғылымдағы сот ісі шешілмеген мәселе болып қала береді. Мақсатқа жету үшін ғылыми зерттеу әдістерін қолдану барысында жалпы әдістер және арнайы құқықтану бойынша кешенді әдістері қолданылды.

Оқырман үшін АҚШ Жоғарғы Сотының құбылысы бірнеше жағынан қызықты. Біріншіден, америкалық құқық пен сот жүйесінің эволюциясы тұрғысынан оның барлық динамикасы мен қарама-қайшылықтары. Екіншіден, сот қызметін жүзеге асыру, нақты іс бойынша қажетті прецеденттер мен дәлелдерді табудың күрделі ойлау процестері, әріптестер арасындағы ымыраға жету (мүмкін болса) тұрғысынан. Бұл жағдайда сот қызметі тек заңға негізделген ғана емес, сонымен бірге идеологиялық және саяси ықпалға да байланысты болуы керек.

Зерттеу нәтижелері шет мемлекеттердің құқықтық жүйесін зерттеушілер үшін өте маңызды және Америка Құрама Штаттарының Жоғарғы Сотына Америка тарихының көзімен заң шығарушы және атқарушы билікпен қақтығысқа түсу мүмкіндігі бар мекеме ретінде қарау керек.

Екінші жағынан, атқарушы билік тарапынан Жоғарғы Сотта бос жұмыс орындарын толтырудың қисынын түсіну маңызды. Осы елде жалғасып жатқан теріс саяси және құқықтық құбылыстардың себептерін іздеу барысында АҚШ Жоғарғы Сотының федералды Конституцияны түсіндіруіне, тұтастай алғанда, заң шығару функциясын орындайтын, өзіне тән емес және конституциялық тұрғыдан бекітілмеген осы соттың қызметіне назар аударылады. Алайда, көптеген мәселелер жеткілікті зерттелмеген күйінде қалып отыр, олардың ішінде АҚШ Жоғарғы Сотының Конституциялық заң шығарудағы рөлі, сот заң шығару құбылысы.

Түйін сөздер: құқық шығармашылығы, юрисдикция, Жоғарғы сот, АҚШ, заң шығарушы орган.

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Роль Верховного Суда США в правовой системе

Данная статья посвящена изучению роли Верховного Суда США в правовой системе. В частности, в статье рассматриваются вопросы осуществления конституционного правосудия в США и его значение с системе разделения власти. Это уникальное судебное учреждение с исключительной степенью влияния, о котором знаменитый политический бытописатель Америки Алексис де Токвиль заявил, что «никогда ещё ни у одного народа не было столь могущественной судебной власти».

Цель исследования – выявить особенности правотворческой деятельности Верховного Суда США, поскольку судебное правотворчество в науке остаётся нерешённой проблемой. Для достижения цели были использованы методы научных исследований в виде общих методов, комплексные специальные методы юриспруденции.

Для читателя феномен Верховного Суда США интересен в нескольких аспектах. Во-первых, с точки зрения эволюции американского права и судебной системы во всей ее динамике и противоречиях. Во-вторых, в плане осуществления судебской деятельности, сложных мыслительных процессов отыскания нужных прецедентов и аргументов по конкретному делу, достижения (если это возможно) компромисса между судьями-коллегами. Судейскую деятельность при этом следует интерпретировать не только как основанную на праве, но и подтвержденную идеологическим и политическим влиянием.

Результаты исследования очень важны для исследователей правовой системы зарубежных государств, и взглянуть на Верховный Суд США глазами американской истории как на учреждение, потенциально располагающее возможностями вступить в конфликт и с законодательной, и с исполнительной властью. С другой стороны, важно понять логику заполнения вакансий в Верховном Суде со стороны исполнительной власти. В ходе продолжающихся в этой стране поисков причин негативных политико-правовых явлений внимание обращается на толкование федеральной Конституции Верховным Судом США, в целом на деятельность этого суда, исполняющего правотворческую функцию, ему несвойственную и конституционно не закреплённую. Однако многие вопросы остаются недостаточно изученными, среди них и роль Верховного Суда США в конституционном правотворчестве, сам феномен судебного правотворчества.

Ключевые слова: правотворчество, юрисдикция, Верховный суд, США, законодательная власть.

Introduction

If you refer to the U.S. Supreme Court's status following the Supreme Court's laws, they establish that the U.S. Supreme Court consists of 9 judges (there were six before 1869), one of whom is the U.S. President who appoints the Chief Justice. The entire panel of judges hears cases. The quorum required for decision-making is six members of the Court. Decisions are taken by a majority vote of the judges present. They are final, not subject to appeal, and cannot be revised to any authority.

The status of the Supreme Court of the United States is not only a set of judicial powers specified in the Constitution and the laws dedicated to the regulations of the Court. No less important is the role and place in the state – political mechanism. Again, due to the lack of an exact list of powers, the «acquired» status is essential. The high level of the Court was formed due to specific activity, primarily establishing a system of oversight and interpretation of the U.S. Constitution. The concept of «high» status, in addition to authority, is legally justified. Admitting the Constitution's texts and laws as the supreme

source, one should state the legitimacy of the status «acquired» in the judicial activity. (Ageeva E.A., 2008:6)

Appeal functions as a subfunction of a just process. The focus of the U.S. Supreme Court is to consider cases as the highest appellate Court. The appellate jurisdiction of the U.S. Supreme Court is implemented in three procedural forms. First, in the order of appeal itself (on request). Secondly, in the order of the recovery of cases from the lower Court (by certiorari). Thirdly, in the certification order (by certification), the federal appellate courts consider explanations on specific topics if there are any latter appeals.

Contrary to procedural differences, there is a unifying feature important for understanding the U.S. Supreme Court's activities' essence. He accepts the case of any category to the production at his discretion. In other words, in each of the appeals procedures, the jurisdiction of the Court is discretionary. Since 1925, the U.S. Supreme Court has continuously "weeded out" the overwhelming number of appeals. Of the approximately 5,000 annual requests, the U.S. Supreme Court considers only about 150 in various procedural forms.

According to the initially established jurisdiction of the first-instance case, the U.S. Supreme Court has the following powers:

- disputes between two or more states;
- relations between the United States and individual states;
- debates in which one of the parties is a representative of a foreign state;
- affairs brought by states against citizens of other states or foreigners.

Besides, only the cases of the first of the categories listed fall within the exclusive jurisdiction of the U.S. Supreme Court (interstate cases). The remaining classes of cases are divided into jurisdictions (jurisdictional competences) divided with other subjects. This competence of the U.S. Supreme Court is shared with different federal courts and state superior courts and competes with foreign courts' jurisdiction. (Burnham W., 2001:32)

At the same time, R. Posner argues that with the existing diversity of interpretation factors, a more critical role is played not by specific interpretation methods (comparative, grammatical, etc.), but by the "systemic" way. R. Posner, like other American authors studying the Supreme Court, calls this method "structural", based not only on systematic interpretation but also on political, economic, and legal purposes. R. Posner identifies the following techniques, or instead methods of interpretive thinking.

Table 1 – Functions of the U.S. Supreme Court

1. The function of justice	
The appeals function, the scope, and significance of which is determined by the constitutional status of the Court, the common law tradition, and the leading role of the power to interpret interpretation activities.	The procedural function as the use of procedural rights – guarantees from the text of the U.S. Constitution interpretation and application of procedural requirements in the material – legal sense.
2. Interpretation function	3. The legal function of the U.S. Supreme Court
As a law enforcement function, the judges use methods to adapt constitutional principles and norms to new conditions and protect the constitutional system, acquiring the value of constitutional control.	As a lawmaking function emphasizing the Supreme Court's creation of new legal structures superimposed on normative meaning's existing provisions.
4. Political function	
Implementation of judicial constitutional control, interaction with the executive and legislative authorities, coordination of the political course.	Protection of the «fundamental» rights of citizens and constitutional legitimization and new rights under public pressure.

The first is the judges of the U.S. Supreme Court's attitude to society's prevailing attitudes and convictions, which implies a connectedness of the judge's opinion with his socio-cultural and political bias. Posner denies the decisive importance of this factor and cites several examples that refute it. In particular, the judge activists E. Warren

and W. Brennan were appointed Republican President D. Eisenhower, who became famous for his conservatism.

The second is strategic behavior. The judge's behavior is determined by society's expectations and socially meaningful goals (preservation of the principle of separation of powers, ensuring the polit-

ical system's stability, facilitating the implementation of the legislator's ideas, etc.). (Bondar, 2002:2)

The third is designated as a sociological factor. Posner believes that he contains some elements of the first two factors, based on the theories of «new liberalism» and «rational choice» (movement towards compromise, reconciliation of social groups with their disagreeing interests).

2. Doctrinal interpretation in judicial technologies.

The judicial technologies of the U.S. Supreme Court should be understood as a combination of means and methods aimed at achieving constitutional goals by judges. The concept of «forensic technologies» does not apply to generally accept in legal science, which is explained by its merging with such related ideas as «legal technologies», «legal technique», «judicial methodology», «judicial strategy», and «judicial procedures». Partial coincidence with these concepts' content takes place if judicial technologies are understood in a broad sense. However, in the context of the U.S. Supreme Court's lawmaking, it is advisable to approach the concept of «judicial technologies» not only in a broad but narrow sense, through the prism of judges' interpretation of the U.S. Constitution, laws, and other regulations. With a narrow approach, judicial technology interprets legal sources and methods of understanding applied by judges. Judicial technology and judicial lawmaking activities. Judicial technologies and judicial lawmaking are similar in terms of their primary (strategic) goals and the application of interpretation methods.

It is essential to identify the three structural components of judicial technologies interconnected, corresponding to the goals of a particular stage of the U.S. Supreme Court. This is a judicial strategy, judicial methodology, and doctrinal interpretation as the foundation of the U.S. Supreme Court's technologies. Judicial constitutional doctrines ensure the integrity and consistency of judicial technologies, the interaction of components. According to the author of this study, the U.S. Supreme Court's principles are an essential component of judicial activities' technology. Considering the comparatively more significant survey of legal methodology and judicial strategies in Russian legal American studies as close to political and legal procedures, this section will focus on the doctrinal interpretation as an essential element of standard engineering. (Zhidkov, 2006:608)

Judicial strategy – court protection of fundamental values of American society. The matters are legal and economic, political, and ideological values (protected by legal decisions) on a long-term basis.

We can agree with the opinion of R. Dworkin that the concept of a judicial strategy includes «reliance on constitutional principles, taking into account the influence of legal norms on the future development of public relations». Constitutional principles define the objectives of the activity, and activities for the administration of justice are carried out under the directions. Recognizing the constitutional tenets' role in statistics, we will clarify that the concept of constitutionalism is viewed in dynamics. That is, it is characterized by the development of constitutional principles in judicial activities, including, among other things, the lawmaking of the U.S. Supreme Court.

Three goals constitute the dominant part of the judicial strategy and the political and legal strategy in general.

A. Protecting the interests of the state and society, the rights of individuals, and social groups.

B. Protection of human rights mainly in the form of so-called «fundamental» rights, which include the liberty to property, a list of fundamental civil freedoms, equality before the law, and the Court.

C. Maintaining the authority of the judiciary and the effectiveness of the justice system.

Strategic objectives determine the main approaches of the judges of the U.S. Supreme Court to the choice of judicial activity methods, the use of legal means, directions to the role of the judiciary, and judicial lawmaking. (Safonov, 2007:8)

Judicial methodology. The basic concepts of the right of understanding (based on some pictures formed scientific directions, or schools), which are crucial for the judicial methods, should be attributed.

Legal formalism with its dogmatic attitude to judicial precedent and the original interpretation of the U.S. Constitution. One of the modern branches of legal formalism is analytical jurisprudence, recognizing the case law and the text as the primary source of direction, emphasizing commenting on traditional texts and the rejection of judicial lawmaking.

Sociological jurisprudence, characterized, among other things, by the use of law as a tool in achieving social goals (analysis of law is also carried out using the achievements and methods of sociology).

The approach to the court decision and the individual one is inadmissible for the U.S. Supreme Court because such a decision is not binding for future cases. Such an approach contradicts the main component of judicial technologies – the doctrinal interpretation. (Safonov, 2008:272)

For the U.S. Supreme Court judges, lawmaking elements are not reducible to creating precedents by resolving litigations. Adopting court decisions in unity with the pursuit of the old and establishing new conceptual approaches – concepts in legal doctrines. This is a multifactorial approach to solving a complex case. Complicated, from the point of view of a general, predominantly judicial law, where the right is required to be found in various sources, including moral or «discovered», and to apply, perhaps, in the form of a modified principle.

There is a perception that the English and American legal systems' doctrines are the sources of law. However, it should clarify that the primary source of direction is a precedent, along with the law. However, to assign constitutional judicial doctrines to «secondary», «soft», «persuading», etc., sources cannot be. Judicial constitutional doctrines are based on legitimate constitutional principles. Constitutional judicial philosophy is close in its meaning to the head of law. Besides, the doctrinal approach's role increases if the provisions of implicit meaning that allow for different interpretations are applied.

The U.S. Supreme Court formulated specific verification methods as criteria for verifying the constitutionality of laws and other acts.

Since the end of the 1930s, when the question of the grounds and criteria for recognizing the laws of F. Roosevelt's new policies that do not contradict the U.S. Constitution became most relevant, the U.S. Supreme Court proceeded to a judicial constitutional review on two levels.

Firstly, the so-called «non-strict» verification (lax scrutiny), otherwise referred to as verification on rational, reasonable grounds (ration basis test). For example, the law on helping people with disabilities is appropriate and corresponds to a sensible justification since benefits are not privileges; it is necessary for them. This is a test criterion based on the reasonableness of the act's status or other regulatory requirements.

Secondly, «strict scrutiny» (strict scrutiny), based on the criterion of the prohibition of restricting fundamental constitutional rights as the basic constitutional principle, as well as the prohibition of limiting the principles of separation of powers and federalism.

Following this second approach, if there is a violation of fundamental constitutional rights and principles (for example, refusal to hire non-union members), then a law containing such a provision (federal or state) is deemed contrary to the Constitution. According to such a law, trade union members receive privileges, and this violates contractual

freedom, freedom of employment, as a fundamental right, the application of strict verification, as the Court decided in the decision on the recalled case of Karolen Products, is required not only because of the violation of the rights to freedom, property, life.

The application of the doctrines developed by the U.S. Supreme Court based on principles, taking into account the entire regulatory array, is not the only thing determining the judicial decision. Other doctrines and their wording influence it. The application of different principles related to the Court's subject matter is presumed to justify the decision's correctness.

The combination of doctrines applied by the Court means, for example, that the philosophy of the due process of law, which means adherence to individual personal rights and the priority of procedural law, can be a basis for protecting private ownership based on legal equality, and for safeguarding subjective rights based on legal equality, and for passing laws granting privileges and additional rights to minorities.

Anti-discrimination and constitutional law-making

One of the main issues in the U.S. Supreme Court activities has always been racial discrimination. The doctrine of “the constitution is blind to the color of skin,” formulated in the last third of the XIX century, remained a “shameful spot” in the history of American law. The U.S. Supreme Court refused to take decisive action to intersect racial inequality until the second half of the 20th century. Judges denied the need for real movement towards equality even after adopting anti-slavery amendments to the U.S. Constitution following the results of the Civil War of the mid-19th century.

In these amendments (XIII, XIV, XV) were declared: the prohibition of slavery and other types of forced labor; the right of the United States Congress to enact laws to implement this provision; the ban of depriving the fundamental rights of former slaves while respecting equal protection by law; citizenship with constitutional prohibitions to deny voting rights based on race. These provisions could become total equality, but their implementation depended on the further actions of the branches of government and the U.S. Supreme Court, interpreting the requirements of the amendments, clarifying their meaning. (Hamilton, 2000:346)

The primary purpose of Section XIV, Section I, of the Amendment to the U.S. Constitution in a literal reading is to prohibit states from depriving citi-

zens (freed slaves) of equal protection of laws and due process of law. In the first “narrow” interpretation of the state actions doctrine, the corresponding conceptual approach and method prohibit the states from passing discriminatory laws. The federal authorities were forced to respond because the state legislatures approved numerous electoral requirements, the so-called “Black Codes” (labor contract laws for former slaves, not containing a hint of equality of the parties). Such measures contradicted the tasks of implementing progressive amendments of the 1860s, led to a net increase in racial discrimination, and a stream of appeals to the courts of all instances.

However, manifestations of racism were never limited only to the actions of state authorities. Still, they were a product of efforts and private individuals, employers, homeowners, campaigns and small firms, professional corporations, social and educational institutions, etc., equality of rights and constitutional protections for all, only the states’ actions. The actions of private individuals? After the formal abolition of slavery, it was discrimination at the level of private actors that turned into a complicated reality.

Religious refusal to protect the rights of former slaves and black people in hiring, in educational institutions, in public places, discrimination has become a disgrace to the United States, including the courts’ connivance. State judges established light and symbolic punishments or refused to consider these cases, explaining discrimination against individuals as irrelevant to state authorities’ actions.

This interpretation and the corresponding doctrinal approach contradicted the logic of interpretation.

Firstly, it is difficult to imagine that the legislator would see the only violators in the state authorities’ person and did not mean other racism manifestations.

Secondly, text XIV of the Amendment to section 5 establishes a link between the goal of prohibiting discrimination and the actions provided for the realization of this goal: “Congress ... has the right to comply with this provision by adopting appropriate legislation.” In other words, the requirement of legislative regulations was contained.

Thirdly, the legislator, by his actions at this time, has once again confirmed that he is fighting against racism and private individuals. Namely: the U.S. Congress, faced with poorly concealed sabotage by state and private institutions to protect the rights of former slaves, adopted the Civil Rights Act (the first Civil Rights Act of 1875). Legislators, assuming the law, relied on the provision of Article I XIII of the

section of the U.S. Constitution: “to issue all laws that are necessary and relevant to exercise the above powers and all other powers granted by this Constitution to the U.S. government.” Moreover, they revealed a coincidence in meaning (in the sense of realizing the amendments’ progressive goals, the wording of Article I of Section VIII with the language of Section 5 of Amendment XIV “through the adoption of appropriate legislation”). (Madison, 2000:346)

The U.S. Supreme Court received a large group of homogeneous cases with lawsuits against violators, primarily individuals. After numerous appeals against state courts’ decisions, the U.S. Supreme Court answered the following question. Are U.S. court judges required to respond to racism as a product of private action? “No, it should not” – this was the response of the U.S. Supreme Court in 1883, when it made a decision, combining the consideration in a single proceeding. In judgments of “Civil Right Cases”, the Court turned to the judicial interpretations of section 5 of the XIV Amendment and decided that the U.S. Congress did not have the authority to pass a law restricting private individuals’ rights.

The Court separated Section 1 of the XIV Amendment (anti-discrimination) from the legislative provision for achieving this goal. Also, the U.S. Supreme Court ignored the meaning of section 5 of the XIV Amendment provisions.

The decision of the Supreme Court of the United States in 1883 was based (to preserve the focus of the Amendment solely on state authorities) on a deliberately narrow interpretation that does not go beyond the mechanical understanding of the text. The Court refused to provide judicial protection to citizens subject to discrimination.

With this argument of the U.S. Supreme Court, I cannot agree that Discrimination in American society is still a global problem for all of humanity. The U.S. Supreme Court, through its position in the Civil Right Cases case, itself violated the U.S. Constitution Bill of Rights were the amendments proclaimed freedom of religion, freedom of speech, freedom of the press, people’s right to peaceful assembly, people’s right to apply for damages, people not being subjected to unreasonable searches and confiscations, the right to due process, prompt and public review of their cases by an impartial jury court. Thus, the U.S. Supreme Court tried not to notice that the essence of the problem was in the states’ racist laws but in the root of racism in the system of public relations and in restricting black people’s constitutional rights at all levels.

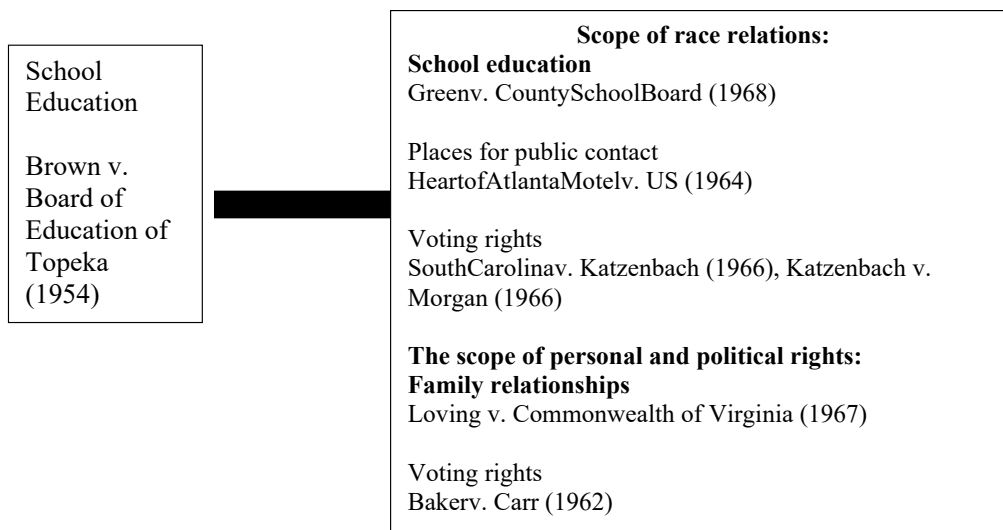
Conclusion

In the Civil Rights Cases case, the path to racial segregation was opened. This, among other things, meant that to promote racism and prevent conflicts in schools and educational institutions, primarily conflicts with parents from white families, the states embarked on the path of separate education, different use of essential academic, and then other (transport, trade and catering, hotel business, sports and leisure services. Immediately two problems arose.

First, the apparent contradiction of the racist doctrine of “divided but equal” with the philosophy of 1 section XIV of the Amendment of “equal protection of laws”. This legal equality doctrine still applies to the issues of desegregation, discrimination, and overcoming their consequences. However, concerning African Americans, and in other areas of regulation, the requirement of equal protection by law, as a requirement of legal equality, can be applied to protect the rights of a given social group,

and to continue actual discrimination, refusing the real actions of the legislator to protect social groups. Due to this “rubber elasticity”, the U.S. Supreme Court, to most other regulatory areas, by the beginning of the 21st century, did not apply the “equal protection” clause later.

Secondly, did not resolve the issue of targeting the XIV Amendments to states or individuals. The U.S. Supreme Court was inclined to accept state authorities’ responsibility as outlined in the U.S. Constitution (Amendment XIV), not imposing an obligation on private individuals. The Court ignored the inaction or the indulgence of state courts in obvious racist manifestations by private individuals. Rejected arguments about the imperfection of the constitutional provisions and the need for their new interpretation. Over the next five decades (after 1896), the U.S. Supreme Court examined several racial segregation cases. Still, in its decisions, the doctrinal principle of “divided but equal” did not become in doubt.



Scheme 1 – The most significant (initiating and deterrent) decisions of the U.S. Supreme Court under the leadership of E. Warren, 1953-1969

In 1954, the U.S. Supreme Court made a decisive turn toward a constitutional ban on racial discrimination by deciding the case of Brown v. Board of Education, assessed (both supporters and opponents of the decision) as the most important in the activities of the U.S. Supreme Court, and in constitutional history in general. The trial ended with the U.S. Supreme Court’s conclusion in 1954, which recognized the separation of black and white schoolchildren as contrary to the Constitution. The

decision was an important event in the fight against racial segregation in the United States. It can be said that the U.S. Supreme Court (from 1953–1969 under the leadership of E. Warren) came to the defense of whites and against black people in the fight against discrimination by protecting them in the sphere of all social benefits. Thus, the U.S. Supreme Court made it clear that the judiciary cannot notice the problems of discrimination and segregation in which I pointed out at the top.

The Court cited psychological and sociological research results, which confirmed that separate educational institutions could not be equal. The «divided but equal» doctrinal method is contrary to the Constitutions, concluded the Court, revising the Plessy precedent. In Brown's case, the U.S. Supreme Court's decision and the E. Warren report with its presentation settled with doctrinal arguments based on the text of the Constitution and moral arguments. The Court pursued the goal of ensuring a sustainable society without conflicts between social groups. The Court did not proceed from the letter of the law, but from the principles of justice and morality, which changed by the middle of the 20th century. The recognition of civil rights equality, the prohibition of discrimination undoubtedly, strengthened state power's authority.

With this decision in the case of Brown v., the Board of Education must fully agree. Indeed, the United States Supreme Court, chaired by E. Warren, recognized the equality of civil rights and the prohibition of discrimination. It is possible to con-

clude that the highest judicial authority acted from the principle of justice and the U.S. Constitution. Based on this case, I can give the legal highest rating to President E. Warren. Studying this scientific article, I can say as a lawyer for me the freedom and civil rights of all humankind not only in the USA all over the world is very important and strict principles respecting civil rights and liberties. In such a situation, the U.S. Supreme Court, chaired by E. Warren, not only reacted to the actions of the government but often took the initiative to expand constitutional rights and create a mechanism for their protection through a new interpretation of well-known constitutional doctrines.

Sharp disagreements among judges of the Supreme Court on discrimination issues appeared in the 1970-the 1980s, with a change in the country's political situation towards conservatism. The decisions on several cases resolved the subject of the obligation of enterprises and individuals to eliminate the results of discrimination that occurred in the past period («past» or «historical discrimination»).

Appendix 1 – Twenty-five rotary decisions (court precedents) in the history of the supreme court of the USA

1) *Marbury v. Madison* (1803): a law that contravenes the Constitution is void; The Supreme Court is empowered to exercise constitutional oversight of the laws of Congress.

2) *McCulloch v. Maryland* (1819): if the aim pursued is legitimate, all ways of achieving it are justified, since, being compatible with the letter and spirit of the Constitution, they are constitutional; Congress is authorized to pass “necessary and appropriate” laws to enforce all the powers of the federal government.

3) *Gibbons v. Ogden* (1824): when state law does not coincide with federal law, it belongs to federal law; in the area of interstate commerce, federal law has a higher status than state law.

4) *Dred Scott v. Sandford* (1857): The Constitution does not consider slaves U.S. citizens. On the contrary, they are constitutionally protected property of their owners.

5) *Plessy v. Ferguson* (1896): State laws that allow for racial segregation of citizens are considered constitutional because they follow the principle of “divided but equal.”

6) *Locher v. New York* (1905): The Constitution does not allow state intervention in the right of an employee to enter into a contract with an employer; such a request is considered fundamental constitutional, and the state is not authorized to take this job from an employee.

7) *Near v. Minnesota* (1931): Freedom of the press is protected from state interference; state authorities do not have the right to forbid publication, i.e., engage in press censorship.

8) *West Coast Hotel v. Parrish* (1937): The Supreme Court reversed the decision of *Locher v. New York* and decided that the state can regulate the contractual relationship between the employee and the employer.

9) *Brown v. Board of Education* (1954): in the field of public education, there is no place for the principle of “divided but equal”; After this decision was made, the process of desegregation of state educational institutions began.

10) *Mapp v. Ohio* (1961): Evidence that has been obtained illegally by state authorities cannot be used against a defendant in a trial; Marr extended to states the scope of the rule, which until now had been applied only to federal authorities.

11) *Baker v. Carr* (1962): one person – one vote; The XIV Amendment to the U.S. Constitution obliges the states to give each person one electoral vote.

12) *Gideon v. Wainwright* (1963): in criminal proceedings, the defendant has the absolute right to a lawyer; the defendant accused of committing a serious crime, the state is obliged to provide a lawyer if he does not have the material ability to hire him.

13) *New York Times v. Sullivan* (1964): in a defamation lawsuit, a public figure must prove that the defendant acted with direct intent; the Amendment to the Constitution protects the right of the media to hold open debates about public figures.

14) *Griswold v. Connecticut* (1965): The Constitution protects the right of couples to the secrecy of contraception; the state does not have the right to prohibit contraception.

15) *Miranda v. Arizona* (1966): the detainee (suspect) has the right not to answer the questions posed by the police; V amendment to the U.S. Constitution protects his right not to act as a witness against himself.

16) *San Antonio Independent School District v. Rodriguez* (1973): The Constitution does not guarantee the fundamental right to education; The Constitution does not require states to provide citizens with education.

17) *Roe v. Wade* (1973): the constitutional right to personal secrecy protects a woman's right to an abortion; the state may regulate these rights but cannot prohibit abortion.

18) *the U.S. v. Nixon* (1974): neither the separation of powers nor the need to preserve the confidentiality of relations between the President and his subordinates provides grounds for recognizing the President's absolute immunity from the judicial process.

19) *Texas v. Johnson* (1989): The Constitution protects abuse of the U.S. flag as a form of symbolic freedom of speech; the state does not have the right to ban an idea just because it does not like the society.

20) *Cruzan v. Missouri Dept. of Health* (1990): although the Constitution protects the human right to refuse treatment, which prolongs life artificially, i.e., his death rights, the state may regulate this right if it is reasonable.

21) *Washington v. Glucksberg* (1997): Washington State law prohibiting assisted suicide is not in conflict with the Constitution.

22) *Lawrence v. Texas* (2003): Texas law prohibiting voluntary sexual intercourse between adults of the same sex is contrary to the 14th Amendment.

23) *Roper v. Simmons* (2005): Juvenile Offenders Cannot Be Sentenced to Death.

24) *Georgia v. Randolph* (2006): during a police search in a private house or apartment without a judge's sanction, if at least one of the tenant's objects to the investigation, the evidence cannot be used in a court against the tenant who objected (Note: The Fourth Amendment to the U.S. Constitution guarantees the inviolability of the home. Police officers are not allowed to invade anyone's private home without the authorization of the judge or the permission of the residents).

25) *Obergefell v. Hodges* (2015): The Fourteenth Amendment obliges the state to issue marriage certificates to people of the same sex as well as to recognize such marriages that are legally registered outside the state.

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