AMERICAN LAW PROGRAM
The Catholic University of America, Columbus School of Law
Jagiellonian University, Faculty of Law and Administration
19th year, 2018-2019

ENTRANCE EXAM 4 – ESSAY PART

Dear American Law Program Candidate!

In order to let the American Law Program staff assess your English language skills and abilities to actively participate and benefit from the regular courses, we kindly ask you to take our Entrance Exam. As the amount of students willing to join the program exceeds the amount of students who can be admitted, it serves also the selection of the best candidates in an objective manner.

To make the assessment and competition both fair and reasonable, we kindly ask you to obey the following rules:

During the exam **you are not allowed** to:
- consult anyone nor any materials, except for the texts that we distribute;
- look at other candidate's work;
- leave the room without permission;
- possess turned on cell phones or similar devices.

During the exam **you are supposed** to:
- write in a readable way, so that we are able to read your answers and grade them;
- mark your papers with your PESEL only.

The exam contains of two parts and **altogether lasts 100 minutes.**

The **first part**, is an **essay** part. Your task is to write an essay on the separate sheet of paper, on the assigned topic, which is based on the text attached in order to inspire you. You are supposed to show us that you can discuss a general legal topic in an interesting manner and proper English. Your essay must not exceed one sheet of the given paper. You have **60 minutes** to complete this part. After this time you must turn in your essay. This part is graded for 0-30 points.

The **second part**, which you are supposed to take later, is a **reading** part. You should read the text provided carefully. You may take notes on the separate sheet of paper. After **30 minutes** you must turn in the texts, but you may still keep the notes. Then you receive the questions and answers sheet. You are supposed to mark T for True and F for False on the given questions, for which you have **another 10 minutes**. This part is graded for 0-20 points.

The **results** should be available soon after the exam. The results will be sent to you via e-mail and published on our website: http://www.law.uj.edu.pl/okspo/pl/alp as well as on our Facebook: http://www.facebook.com/szkolaprawaamerykanskiego

Good luck!

Essay Question

The 2015 UNICEF Report: Children's Rights and the Mining Sectors reported numerous problems regarding widely understood children's rights which in a different way may be affected by the mining industry. The excerpt below regards the theme of employment:

[…] Because large-scale mining operations do not directly hire children, the greatest risk of child labour in the sector is within the supply chain. This risk is heightened during construction, when a company maintains relationships with a large number of contractors and suppliers.

The required temporary labour force is often much larger than that employed during operations, and companies will frequently use contractors and labour brokers to meet these requirements. This heightens the risk of child labour and companies need to remain vigilant during this phase. The use of child labour in this way is not documented to any great degree, but it does indicate that a company should implement appropriate oversight regarding third-party contracts.

In some cases, spouses and children accompany men who have migrated into the area seeking work. As a result, children might play or work on construction sites, posing significant health risks to the child.

Regarding direct employment, potential impacts include the following.

- Youth workers. To alleviate unemployment among young people, some mining companies are required to take apprentices under domestic law; in this case, it is important that companies ensure that working conditions are appropriate to youth's particular needs. Also, the increased availability of job opportunities or apprenticeship schemes could mean that young workers no longer attend school or college.

- Workers who are parents or caregivers: Because the mining sector is traditionally male-dominated, discrimination against women could be more pervasive in this sector than in some others. During both recruitment and employment, women may be discriminated against as a result of pregnancy or the fact that they have reached childbearing age.

Women who are pregnant or breastfeeding may be exposed to materials and activities that are hazardous to their reproductive health or that of their child. In extreme situations, for both women and men, dangerous working conditions may lead to injury or death, and employment benefits may not be available to single-parent families.

The terms of employment may require long hours, possibly more than 60 hours a week, leaving parents little time with their children. On the arrival of a newborn or adopted infant, women may not be given the minimum 14 weeks maternity leave advised by International Labour Organization Convention 183.

Difficulties for children will be compounded when a company does not provide its employees with a living wage in the area of operation, and housing provided for employees and their families does not meet adequate standards. [...]

Do you think that there is a need for usage of legal tools to protect children and their parents, affected both directly and indirectly in course of employment, e.g. in the mining sector? Should it take place in form of prohibition of employment of particular subjects? Consider various factors – both economic (in sense of parents' willingness to earn money for their living and of the local community, which must ensure working force to the industry which is supposed to bring profit to the whole society), political (in sense of inalienable human rights), and social. Refer to the particularly difficult situation of the developing societies, and discuss the admissibility of lower protection of non-economic rights in favour of the economic development.

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ENTRANCE EXAM 4 – READING PART (TEXT)

Read the text of the U.S. Supreme Court judgment in: *Plessy v. Ferguson*, 163 U.S. 537 (1896), in which the Court affirmed the constitutionality of racial segregation on the example of separate railroad coaches for passengers of different races, as well as the *dissenting opinion* in this case. You may also take notes. After 30 minutes you will have to turn in the text and answer the questions with a use of your notes as well as your understanding only.

MR. JUSTICE BROWN, after stating the case, delivered the opinion of the court.

This case turns upon the constitutionality of an act of the General Assembly of the State of Louisiana, passed in 1890, providing for separate railway carriages for the white and colored races.

The first section of the statute enacts that all railway companies carrying passengers in their coaches in this State shall provide equal but separate accommodations for the white and colored races by providing two or more passenger coaches for each passenger train, or by dividing the passenger coaches by a partition so as to secure separate accommodations: […] No person or persons, shall be admitted to occupy seats in coaches other than the ones assigned to them on account of the race they belong to.

By the second section, it was enacted that the officers of such passenger trains shall have power and are hereby required to assign each passenger to the coach or compartment used for the race to which such passenger belongs; any passenger insisting on going into a coach or compartment to which by race he does not belong shall be liable to a fine of twenty-five dollars, or in lieu thereof to imprisonment for a period of not more than twenty days in the parish prison,

[…] The information filed in the criminal District Court charged in substance that Plessy, being a passenger between two stations within the State of Louisiana, was assigned by officers of the company to the coach used for the race to which he belonged, but he insisted upon going into a coach used by the race to which he did not belong. Neither in the information nor plea was his particular race or color averred. The petition for the writ of prohibition averred that petitioner was seven-eighths Caucasian and one eighth African blood; that the mixture of colored blood was not discernible in him, and that he was entitled to every right, privilege and immunity secured to citizens of the United States of the white race; and that, upon such theory, he took possession of a vacant seat in a coach where passengers of the white race were accommodated, and was ordered by the conductor to vacate said coach and take a seat in another assigned to persons of the colored race, and, having refused to comply with such demand, he was forcibly ejected with the aid of a police officer, and imprisoned in the parish jail to answer a charge of having violated the above act.

The constitutionality of this act is attacked upon the ground that it conflicts both with the Thirteenth Amendment of the Constitution, abolishing slavery, and the Fourteenth Amendment, which prohibits certain restrictive legislation on the part of the States.

1. That it does not conflict with the Thirteenth Amendment, which abolished slavery and involuntary servitude, except as a punishment for crime, is too clear for argument. […] A statute which implies merely a legal distinction between the white and colored races — a distinction which is founded in the color of the two races and which must always exist so long as white men are distinguished from the

other race by color — has no tendency to destroy the legal equality of the two races, or reestablish a state of involuntary servitude. Indeed, we do not understand that the Thirteenth Amendment is strenuously relied upon by the plaintiff in error in this connection.

2. By the Fourteenth Amendment, all persons born or naturalized in the United States and subject to the jurisdiction thereof are made citizens of the United States and of the State wherein they reside, and the States are forbidden from making or enforcing any law which shall abridge the privileges or immunities of citizens of the United States, or shall deprive any person of life, liberty, or property without due process of law, or deny to any person within their jurisdiction the equal protection of the laws.

[…] The object of the amendment was undoubtedly to enforce the absolute equality of the two races before the law, but, in the nature of things, it could not have been intended to abolish distinctions based upon color, or to enforce social, as distinguished from political, equality, or a commingling of the two races upon terms unsatisfactory to either. Laws permitting, and even requiring, their separation in places where they are liable to be brought into contact do not necessarily imply the inferiority of either race to the other, and have been generally, if not universally, recognized as within the competency of the state legislatures in the exercise of their police power. The most common instance of this is connected with the establishment of separate schools for white and colored children, which has been held to be a valid exercise of the legislative power even by courts of States where the political rights of the colored race have been longest and most earnestly enforced.

One of the earliest of these cases is that of *Roberts v. City of Boston*, 5 Cush. 19, in which the Supreme Judicial Court of Massachusetts held that the general school committee of Boston had power to make provision for the instruction of colored children in separate schools established exclusively for them, and to prohibit their attendance upon the other schools. […] Laws forbidding the intermarriage of the two races may be said in a technical sense to interfere with the freedom of contract, and yet have been universally recognized as within the police power of the State. *State v. Gibson*, 36 Indiana 389.

[…] So far, then, as a conflict with the Fourteenth Amendment is concerned, the case reduces itself to the question whether the statute of Louisiana is a reasonable regulation, and, with respect to this, there must necessarily be a large discretion on the part of the legislature. In determining the question of reasonableness, it is at liberty to act with reference to the established usages, customs, and traditions of the people, and with a view to the promotion of their comfort and the preservation of the public peace and good order. Gauged by this standard, we cannot say that a law which authorizes or even requires the separation of the two races in public conveyances is unreasonable, or more obnoxious to the Fourteenth Amendment than the acts of Congress requiring separate schools for colored children in the District of Columbia, the constitutionality of which does not seem to have been questioned, or the corresponding acts of state legislatures.

[…] The argument also assumes that social prejudices may be overcome by legislation, and that equal rights cannot be secured to the negro except by an enforced commingling of the two races. We cannot accept this proposition. If the two races are to meet upon terms of social equality, it must be the result of natural affinities, a mutual appreciation of each other's merits, and a voluntary consent of individuals. As was said by the Court of Appeals of New York in *People v. Gallagher*, 93 N. Y. 438, 448, this end can neither be accomplished nor promoted by laws which conflict with the general sentiment of the community upon whom they are designed to operate. When the government, therefore, has secured to each of its citizens equal rights before the law and equal opportunities for improvement and progress, it has accomplished the end for which it was organized, and performed all of the functions respecting social advantages with which it is endowed.

Legislation is powerless to eradicate racial instincts or to abolish distinctions based upon physical differences, and the attempt to do so can only result in accentuating the difficulties of the present situation. If the civil and political rights of both races be equal, one cannot be inferior to the other civilly or politically. If one race be inferior to the other socially, the Constitution of the United States cannot put them upon the same plane.

It is true that the question of the proportion of colored blood necessary to constitute a colored person, as distinguished from a white person, is one upon which there is a difference of opinion in the different States, some holding that any visible admixture of black blood stamps the person as belonging to the colored race (*State v. Chaver*, 5 Jones [N.C.] 1, p. 11); others that it depends upon the preponderance of blood (*Gray v. State*, 4 Ohio 354; *Monroe v. Collins*, 17 Ohio St. 665); and still others that the predominance of white blood must only be in the proportion of three-fourths. (*People v. Dean*, 4 Michigan 406; *Jones v. Commonwealth*, 80 Virginia 538). But these are questions to be determined under the laws of each State, and are not properly put in issue in this case. […]

The judgment of the court below is, therefore, *affirmed.*

MR. JUSTICE HARLAN, *dissenting.*

By the Louisiana statute the validity of which is here involved, all railway companies (other than street railroad companies) carrying passengers in that State are required to have separate but equal accommodations for white and colored persons by providing two or more passenger coaches for each passenger train, or by dividing the passenger coaches by a partition so as to secure separate accommodations. Under this statute, no colored person is permitted to occupy a seat in a coach assigned to white persons, nor any white person to occupy a seat in a coach assigned to colored persons.

[…] While there may be in Louisiana persons of different races who are not citizens of the United States, the words in the act "white and colored races" necessarily include all citizens of the United States of both races residing in that State. So that we have before us a state enactment that compels, under penalties, the separation of the two races in railroad passenger coaches, and makes it a crime for a citizen of either race to enter a coach that has been assigned to citizens of the other race. Thus, the State regulates the use of a public highway by citizens of the United States solely upon the basis of race.

However apparent the injustice of such legislation may be, we have only to consider whether it is consistent with the Constitution of the United States.

[…] In respect of civil rights common to all citizens, the Constitution of the United States does not, I think, permit any public authority to know the race of those entitled to be protected in the enjoyment of such rights. Every true man has pride of race, and, under appropriate circumstances, when the rights of others, his equals before the law, are not to be affected, it is his privilege to express such pride and to take such action based upon it as to him seems proper. But I deny that any legislative body or judicial tribunal may have regard to the race of citizens when the civil rights of those citizens are involved. Indeed, such legislation as that here in question is inconsistent not only with that equality of rights which pertains to citizenship, National and State, but with the personal liberty enjoyed by everyone within the United States.

The Thirteenth Amendment does not permit the withholding or the deprivation of any right necessarily inhering in freedom. It not only struck down the institution of slavery as previously existing in the United States, but it prevents the imposition of any burdens or disabilities that constitute badges of slavery or servitude. It decreed universal civil freedom in this country. This court has so adjudged. But

that amendment having been found inadequate to the protection of the rights of those who had been in slavery, it was followed by the Fourteenth Amendment, which added greatly to the dignity and glory of American citizenship and to the security of personal liberty by declaring that all persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside, and that no State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty or property without due process of law, nor deny to any person within its jurisdiction the equal protection of the laws.

These two amendments, if enforced according to their true intent and meaning, will protect all the civil rights that pertain to freedom and citizenship. Finally, and to the end that no citizen should be denied, on account of his race, the privilege of participating in the political control of his country, it as declared by the Fifteenth Amendment that the right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color or previous condition of servitude.

It was, consequently, adjudged that a state law that excluded citizens of the colored race from juries, because of their race and however well qualified in other respects to discharge the duties of jurymen, was repugnant to the Fourteenth Amendment. *Strauder v. West Virginia*, 100 U.S. 303 , 306 , 307 ; *Virginia v. Rives*, 100 U.S. 313; *Ex parte Virginia*, 100 U.S. 339; *Neal v. Delaware*, 103 U.S. 370, 386; *Bush v. Kentucky*, 107 U.S. 110, 116. At the present term, referring to the previous adjudications, this court declared that underlying all of those decisions is the principle that the Constitution of the United States, in its present form, forbids, so far as civil and political rights are concerned, discrimination by the General Government or the States against any citizen because of his race. All citizens are equal before the law. *Gibson v. Mississippi*,162 U.S. 565. The decisions referred to show the scope of the recent amendments of the Constitution. They also show that it is not within the power of a State to prohibit colored citizens, because of their race, from participating as jurors in the administration of justice.

It as said in argument that the statute of Louisiana does not discriminate against either race, but prescribes a rule applicable alike to white and colored citizens. But this argument does not meet the difficulty. Everyone knows that the statute in question had its origin in the purpose not so much to exclude white persons from railroad cars occupied by blacks as to exclude colored people from coaches occupied by or assigned to white persons. […]

It is one thing for railroad carriers to furnish, or to be required by law to furnish, equal accommodations for all whom they are under a legal duty to carry. It is quite another thing for government to forbid citizens of the white and black races from traveling in the same public conveyance, and to punish officers of railroad companies for permitting persons of the two races to occupy the same passenger coach. If a State can prescribe, as a rule of civil conduct, that whites and blacks shall not travel as passengers in the same railroad coach, why may it not so regulate the use of the streets of its cities and towns as to compel white citizens to keep on one side of a street and black citizens to keep on the other? Why may it not, upon like grounds, punish whites and blacks who ride together in streetcars or in open vehicles on a public road or street? Why may it not require sheriffs to assign whites to one side of a courtroom and blacks to the other? And why may it not also prohibit the commingling of the two races in the galleries of legislative halls or in public assemblages convened for the consideration of the political questions of the day? Further, if this statute of Louisiana is consistent with the personal liberty of citizens, why may not the State require the separation in railroad coaches of native and naturalized citizens of the United States, or of Protestants and Roman Catholics?

The answer given at the argument to these questions was that regulations of the kind they suggest would be unreasonable, and could not, therefore, stand before the law. Is it meant that the

determination of questions of legislative power depends upon the inquiry whether the statute whose validity is questioned is, in the judgment of the courts, a reasonable one, taking all the circumstances into consideration? A statute may be unreasonable merely because a sound public policy forbade its enactment. But I do not understand that the courts have anything to do with the policy or expediency of legislation. […] There is a dangerous tendency in these latter days to enlarge the functions of the courts by means of judicial interference with the will of the people as expressed by the legislature. Our institutions have the distinguishing characteristic that the three departments of government are coordinate and separate. Each must keep within the limits defined by the Constitution. And the courts best discharge their duty by executing the will of the lawmaking power, constitutionally expressed, leaving the results of legislation to be dealt with by the people through their representatives. Statutes must always have a reasonable construction. Sometimes they are to be construed strictly; sometimes liberally, in order to carry out the legislative will. But however construed, the intent of the legislature is to be respected, if the particular statute in question is valid, although the courts, looking at the public interests, may conceive the statute to be both unreasonable and impolitic. If the power exists to enact a statute, that ends the matter so far as the courts are concerned. The adjudged cases in which statutes have been held to be void because unreasonable are those in which the means employed by the legislature were not at all germane to the end to which the legislature was competent.

The white race deems itself to be the dominant race in this country. And so it is in prestige, in achievements, in education, in wealth and in power. So, I doubt not, it will continue to be for all time if it remains true to its great heritage and holds fast to the principles of constitutional liberty. But in view of the Constitution, in the eye of the law, there is in this country no superior, dominant, ruling class of citizens. There is no caste here. Our Constitution is color-blind, and neither knows nor tolerates classes among citizens. In respect of civil rights, all citizens are equal before the law. The humblest is the peer of the most powerful. The law regards man as man, and takes no account of his surroundings or of his color when his civil rights as guaranteed by the supreme law of the land are involved. It is therefore to be regretted that this high tribunal, the final expositor of the fundamental law of the land, has reached the conclusion that it is competent for a State to regulate the enjoyment by citizens of their civil rights solely upon the basis of race.

In my opinion, the judgment this day rendered will, in time, prove to be quite as pernicious as the decision made by this tribunal in the *Dred Scott Case*. It was adjudged in that case that the descendants of Africans who were imported into this country and sold as slaves were not included nor intended to be included under the word "citizens" in the Constitution, and could not claim any of the rights and privileges which that instrument provided for and secured to citizens of the United States; […]

The recent amendments of the Constitution, it was supposed, had eradicated these principles from our institutions. But it seems that we have yet, in some of the States, a dominant race — a superior class of citizens, which assumes to regulate the enjoyment of civil rights, common to all citizens, upon the basis of race. The present decision, it may well be apprehended, will not only stimulate aggressions, more or less brutal and irritating, upon the admitted rights of colored citizens, but will encourage the belief that it is possible, by means of state enactments, to defeat the beneficent purposes which the people of the United States had in view when they adopted the recent amendments of the Constitution, by one of which the blacks of this country were made citizens of the United States and of the States in which they respectively reside, and whose privileges and immunities, as citizens, the States are forbidden to abridge. Sixty millions of whites are in no danger from the presence here of eight millions of blacks. The destinies of the two races in this country are indissolubly linked together, and the interests of both require that the common government of all shall not permit the seeds of race hate to be planted under the sanction of law. What can more certainly arouse race hate, what more certainly

create and perpetuate a feeling of distrust between these races, than state enactments which, in fact, proceed on the ground that colored citizens are so inferior and degraded that they cannot be allowed to sit in public coaches occupied by white citizens. That, as all will admit, is the real meaning of such legislation as was enacted in Louisiana.

[…] citizens of the black race in Louisiana, many of whom, perhaps, risked their lives for the preservation of the Union, who are entitled, by law, to participate in the political control of the State and nation, who are not excluded, by law or by reason of their race, from public stations of any kind, and who have all the legal rights that belong to white citizens, are yet declared to be criminals, liable to imprisonment, if they ride in a public coach occupied by citizens of the white race. It is scarcely just to say that a colored citizen should not object to occupying a public coach assigned to his own race. He does not object, nor, perhaps, would he object to separate coaches for his race if his rights under the law were recognized. But he objecting, and ought never to cease objecting, to the proposition that citizens of the white and black race can be adjudged criminals because they sit, or claim the right to sit, in the same public coach on a public highway.

The arbitrary separation of citizens on the basis of race while they are on a public highway is a badge of servitude wholly inconsistent with the civil freedom and the equality before the law established by the Constitution. It cannot be justified upon any legal grounds. […]

The result of the whole matter is that, while this court has frequently adjudged, and at the present term has recognized the doctrine, that a State cannot, consistently with the Constitution of the United States, prevent white and black citizens, having the required qualifications for jury service, from sitting in the same jury box, it is now solemnly held that a State may prohibit white and black citizens from sitting in the same passenger coach on a public highway, or may require that they be separated by a "partition," when in the same passenger coach. […]

I do not deem it necessary to review the decisions of state courts to which reference was made in argument. Some, and the most important, of them are wholly inapplicable because rendered prior to the adoption of the last amendments of the Constitution, when colored people had very few rights which the dominant race felt obliged to respect. Others were made at a time when public opinion in many localities was dominated by the institution of slavery, when it would not have been safe to do justice to the black man, and when, so far as the rights of blacks were concerned, race prejudice was, practically, the supreme law of the land. Those decisions cannot be guides in the era introduced by the recent amendments of the supreme law, which established universal civil freedom, gave citizenship to all born or naturalized in the United States and residing here, obliterated the race line from our systems of governments, National and State, and placed our free institutions upon the broad and sure foundation of the equality of all men before the law.

I am of opinion that the statute of Louisiana is inconsistent with the personal liberty of citizens, white and black, in that State, and hostile to both the spirit and letter of the Constitution of the United States. If laws of like character should be enacted in the several States of the Union, the effect would be in the highest degree mischievous. Slavery, as an institution tolerated by law would, it is true, have disappeared from our country, but there would remain a power in the States, by sinister legislation, to interfere with the full enjoyment of the blessings of freedom to regulate civil rights, common to all citizens, upon the basis of race, and to place in a condition of legal inferiority a large body of American citizens now constituting a part of the political community called the People of the United States, for whom and by whom, through representatives, our government is administered. Such a system is inconsistent with the guarantee given by the Constitution […]

For the reasons stated, I am constrained to withhold my assent from the opinion and judgment of the majority.

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ENTRANCE EXAM 4 – READING PART (QUESTIONS)

Based on the read texts of the U.S. Supreme Court judgment in: *Plessy v. Ferguson*, 163 U.S. 537 (1896) in particular your notes as well as your understanding to it, decide whether the statements below are True (T) or False (F). You have 10 minutes to complete this part of the exam.

PESEL:

		True	False
Questions regarding the main opinion of the Court:			
1.	The separated coaches were varied when it comes to comfort offered.		
2.	Mr Plessy was mostly of African blood, but due to the presence of Caucasian blood he referred as to white race.		
3.	It is discussed by the Court that separation does not affect equality between citizens and, therefore, has nothing to do with slavery.		
4.	According to the Court it may be reasonable to separate people of different races.		
5.	It is claimed, with reference to a different case, that full equality should not be promoted by legislature, as long as there is no consent of individuals therefor.		
6.	The question of how to assess the race of a person is not a matter of the Court's analysis, as it was not raised by Mr Plessy.		
7.	The judgment of the previous instance court was different as to result, in comparison to the Court's.		
Questions regarding the dissenting opinion:			
8.	The dissenting opinion was written by the member of the Court we know from name.		
9.	The dissenting opinion questions not only the legality of the legislation, but also its justified character.		
10.	The equality as well as personal liberty are challenged, when civil rights depend on the race.		

11.	It is claimed that the Louisiana statute had its original intent to exclude colored people from coaches occupied by white more than to exclude white people from coaches occupied by colored.		
12.	The dissenting opinion accepts the tendency that competences of courts are raising.		
13.	The judge may challenge the unreasonable or impolitic legislature.		
14.	Although the dissenting opinion confirms the dominance of white race, it also claims that the Constitution does not distinguish between races.		
15.	The civil rights may, however, treat people of a particular environment specifically.		
16.	The Court (in a different, though mentioned case) once excluded slaves from those, who were intended to be included under the notion of "citizens" in the U.S. Constitution.		
17.	In the time of issuing the judgment there were more white people than black in the U.S.		
18.	Lacking involvement of the black people in creation of the Union is justified by their poor political position at that time.		
19.	The decisions of the courts referred to as in the main judgment should not be followed, because they no longer fit the general legal environment.		
20.	The dissenting opinion does not agree with the Court's reasoning, but agrees with the final resolution of the case.		