

It Is Time To Straighten Scotus

By Tarcísio Beal

Our nation's present nightmarish political crisis is being compounded by a mostly partisan Supreme Court and part of the federal judiciary. The majority of the Supreme Court and a large number of federal judges have been empowered by the Republican party and have been subservient to its policies, goals and interpretations of the Constitution. Donald Trump and his Republican and conservative/MAGA, wealthy supporters have succeeded in not only seating 3 of the present 7 members of the Supreme Court but also 54 judges of the Federal Courts of Appeal plus 174 heads of the Federal District Courts. These, like the judges of the SCOTUS, have a lifetime appointment and can be impeached only by a 2/3 vote of the Senate. This means that some of the most incompetent and "trumpist" lawyers will be going along with the largest segment of the Republican party which stands as a threat to American democracy and to the basic human rights of millions of Americans.

In the 1960s, when the Democrats controlled the White House and Congress, especially under Robert F. Kennedy and Lyndon Johnson, they worked on the dreams and ideals of the "Great Society" where everyone counted, especially the majority of blacks who were denied socio-economic and civil rights. A major step forward had already been taken in 1954 with the congressional passing of the Brown v. Board of Education Act, which made racial segregation illegal. Attorney General Earl Warren followed up on the race issue and led Congress to pass the 1965 Voting Rights Act, a basic political measure that is now being shredded all over Republican-controlled States.

Things began going backwards, however, in the decade of the 1970s when the GOP regained control of the government with the election of Richard Nixon (1868-1974), whose largest number of supporters were from the old Confederacy: 62% of the whites, but only 12% of black voters. Yes, the Supreme Court approved and turned into law the 1973 Roe v Wade bill, which guaranteed

a woman's right to abortion and full control of her own body. However, one should note that the 1973 Roe v. Wade also made it illegal to promote and even to write about contraceptive devices, thus reversing the Supreme Court's 1873 Comstock Law. Under Attorney General John Mitchell, who shared Richard



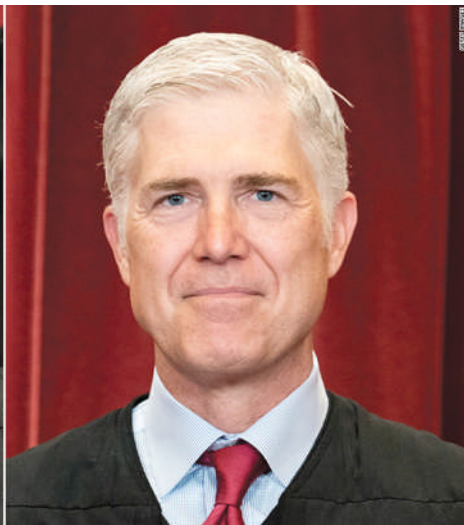
Nixon's views, the Supreme Court made a sharp move to the Right. At first, two of Mitchell's nominees, namely, Florida's Harold Carswell and South Carolina's Clement Haynesworth, were judged as too racist, so they were rejected by a two-thirds vote of the Senate. But Nixon was still able to successfully appoint four conservative justices, namely, Warren E. Burger, Harry Blackman, Louis F. Powell, Jr., and William Rehnquist. No surprise, then, that Nixon's Court proceeded to assault the freedom of the media, including denying a journalists'

right to refuse to answer questions from grand juries. Ultimately, however, Nixon paid dearly for it because the media later played a major role in exposing the Watergate spying scandal and helped force him to resign the Presidency.

Now, there is no doubt that SCOTUS, as spelled out by the Constitution, plays a central role in the American political system and, consequently, its judges should set the standard in their decisions and exemplify it in their personal lives. How can the Justices decide on important cases that are at the heart of American democracy and that directly affect human rights if they choose to be partisan and their decisions threaten the very lives of people. Take, for example, the issue that has become central to our contemporary society, that is, the safety of human lives that are being threatened daily by the mentally disturbed and others because of the abundance and easiness to acquire guns. The Supreme Court's ineffectiveness or refusal to do anything about arms sales and the multiplication of mass killings by playing along with the Republican control of the House of Representatives is truly shameful and a disgrace. At the center of the multiplication of killing weapons is, as we all know, the National Rifle Association (NRA).

In 1840, the Supreme Court of Tennessee ruled that the Second Amendment authorized Americans at large to possess arms to hunt, and not otherwise. But the National Rifle Association, es-

tablished in 1871, began expanding its interpretation by adding the needs to fight a war and for sports/rifle competitions. As Heather Cox Richardson forcefully remarks (heathercoxrichardson@substack.com), it is quite clear that the early National Rifle Organization itself viewed the Second Amendment as the right to establish a well-regulated militia for the security of a free State to



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Continued on Page 12



Justice at the U.S. Supreme Court building must extend to the SCOTUS justices, themselves. It may be time to institute a Code of Ethics for the justices as more questions about their conduct arise.

proper reading of the Constitution and of fundamental human rights.

Justices Neil Gorsuch and Clarence Thomas are involved in potentially serious legal conflicts for dealing with billionaires who have business before the Court (cf. Heather Cox Richardson's report of May 6, 2023 in heathercoxrichardson.substack.com). Furthermore,

Thomas' wife Ginny has been shamefully engaged in defending and spreading the "Big Lie" that Trump won the 2020 election and that Biden is an illegal occupant of the White House.

The U. S. Congress now needs to set the ethical norms that will help restore the good name of the Supreme Court so that its appointees are worthy and prepared for the most important decisions within our democracy and will be able to supervise federal and district courts all over the country. At the present time, the constitutional right to vote is being restricted in several Republican-controlled states. The basic human rights of women and of LGBTQ people continue to be denied, making them victims of violence. The present activism and the crimes of white supremacists spelled out in anti-Semitism, racist disrespect, and even hatred of Blacks, Latinos, Asians, and Muslims can only be lessened with some decisive action by the Supreme Court. Furthermore, the Court's ineffectiveness in curbing the overwhelming power of the National Rifle Association by agreeing with an interpretation of the Second Amendment that is totally contrary to the intention of the Founding Fathers is contributing to the multiplication of the epidemic of mass killings. Take, for example, the case of Shasta County, California: Patrick Jones, the chairman of its Board of Supervisors, is also the manager of a gun store. In early 2023, he announced his intention to turn the archconservative county into an "American Gun Sanctuary."

Finally, Congress, in concert with the Supreme Court, must also move to stop the MAGA campaign to destroy true education. The elimination of "Critical Thinking," that is, of the whole truth of American history, is a maneuver to destroy free education and a major threat to the future of the new generation of Americans. Congress, especially the House of Representatives, which at the moment is paralyzed by partisan fever, must center on the real needs of the country and its people. For instance, there is also an urgent need for the courts and their lawyers to address the abuse and manipulation of the lies and false propaganda that are infesting the Internet and the sophisticated new technology that facilitates the infection of millions of American minds and is leading to violence and mass killings everywhere. The proper rule of law must guarantee the human rights of everyone and the civil rights of every American, period!

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Straighten Scotus

Continued from Page 6

be carried out by the military and the police as well as to hunt and for sports competitions, thus retaining the original interpretation of the Second Amendment. In fact, in 1925, when the NRA secretary began taking money from ammunition and arms manufacturers, he was immediately fired. In 1931, with the spread of bootlegging gangs, the NRA supported federal legislation to prevent gun possession by criminals and the mentally ill, requiring gun dealers to be licensed and to undergo background checks before selling arms. Then it supported the 1934 National Firearms Act which was later incorporated into the Gun Control Act of 1968.

In the mid-1970s, the NRA turned politically conservative and began opposing gun control. In 1975, it created its PAC (Political Action Committee) and moved towards a literal reading of the Second Amendment, with the endorsement of President Ronald Reagan and of the Republican party. Soon enough it was spending millions of dollars to defeat gun control as spelled out by the Brady Bill that required background checks before the purchase of a weapon. Not surprisingly, the Supreme Court, in 1997, ruled the Brady Bill unconstitutional (*Print v. US*). From then on the NRA started spending the millions of dollars that they received from gun manufacturers and, at the turn of the century, it became one of the three most powerful lobbies in Washington. In 2008, it spent another \$40 million to have the Court (*District of Columbia v. Heller*) strike down gun regulation and make the Second Amendment the legal protector of the individual's right to buy, keep, and bear arms. Finally, in 2016, in order to ensure that its gun sales profits were not going to be threatened in the near future, the NRA spent \$50 million on Republican congressional candidates, with \$30 million going for the election of Donald Trump.

As we have seen above, the record of SCOTUS is a mixed and controversial one, not always undemocratic, but too often subservient to partisan ideology and goals. At the moment, the majority of the Court, chosen by a republican-dominated Congress, is anything but exemplary, having made partisan decisions and failing to uphold the human rights of women (*Dobbs* decision) and of LGBTQ people, and allowing State District Courts to enact anti-people legislation all over the country. Two of the Court members were seated despite very serious complaints about their sexual abuse of women while the majority seem to judge some cases in light of their religious beliefs, and not on a