

National security as a Political Question Doctrine in the Practice of the Supreme Court of the United States of America

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Extended Abstract

Introduction

Judicialization of politics and the doctrine of political question are among the components of constitutionalization in the constitutional legal system of the United States of America. Therefore, the supremacy of the constitution considered as the main pillar of the American political order.

Judicialization of politics in the United States is important, because modifying the doctrine of political question and through basic proceedings, issues have been brought into the jurisdiction and decision making of the courts, especially the Supreme Court, which have traditionally been classified as "political question" outside the judicial review United States.

Lawsuits related to national security in the Supreme Court of the United States were considered as political questions and decision-making was left to the executive and legislative powers. In two cases presented, by separating the internal and external dimensions of national security, the Supreme Court considered the internal dimensions of national security outside of the political question and decided on it.

Referring to the second article of the Constitution, the Supreme Court of the United States argues that the President is the only representative of the country in international affairs. The court also introduces the president as not only the head of the executive branch but also the commander-in-chief of the armed forces. Therefore, he has the authority to make decisions about the interests and external aspects of national security. Of course, he is responsible for these powers and must be accountable. In order to guarantee the principles of republicanism and democracy, the constitution deems judicial supervision of the president's decisions regarding national security inevitable.

No article or book has been published in Persian about judicialization and national security. The author of this article has previously published an article about the governance of national security and judicialization in Iran's judicial system. Research on the issue of politics and radicalization in the United States is available. However, considering national security as a political issue and explaining the procedure of the court in examining related claims can be considered the main issue and innovation of this article.

Methodology :

The results of this research are based on the theoretical foundations of the concepts of judicialization and political question. After analyzing the theoretical foundations, two decisions of the Supreme Court of America have been analyzed and analyzed based on the commentator-oriented interpretation method. First, the opinion of the judges of the court is stated, and then the criteria for decision-making and the governing principles of the method of interpreting the text of the constitution are explained.

Conclusion:

The research results indicate the following. (a) Ambiguity in the concept of national security in the legal system of the United States of America. (b) The extensive authority of the president as the commander-in-chief and also the sole representative of the nation in international relations has created a constitutional crisis. (c) The separation of national security interests in the internal and external dimensions has determined the political question. (d) The external dimension of national security is considered a political question and the court refuses to hear legal claims in this regard. The Supreme Court of Korea argues that the president, as the sole representative of the American nation and the commander-in-chief, has broad powers and is accountable to the Congress and the people for these powers.

Keywords: *national security, Supreme court of United States, judicialization, political Question.*