Syllabus

NOTE: Where it is feasible, a syllabus (headnote) will be released, as is being done in connection with this case, at the time the opinion is issued. The syllabus constitutes no part of the opinion of the Court but has been prepared by the Reporter of Decisions for the convenience of the reader. See *United States* v. *Detroit Timber & Lumber Co.*, 200 U. S. 321, 337.

SUPREME COURT OF THE UNITED STATES

Syllabus

UNITED STATES *v.* MORRISON ET AL.

CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT

No. 99–5. Argued January 11, 2000– Decided May 15, 2000*

Petitioner Brzonkala filed suit, alleging, *inter alia,* that she was raped by respondents while the three were students at the Virginia Polytechnic Institute, and that this attack violated 42 U. S. C. §13981, which provides a federal civil remedy for the victims of gender-motivated violence. Respondents moved to dismiss on the grounds that the complaint failed to state a claim and that §13981's civil remedy is unconstitutional. Petitioner United States intervened to defend the section's constitutionality. In dismissing the complaint, the District Court held that it stated a claim against respondents, but that Congress lacked authority to enact §13981 under either §8 of the Commerce Clause or §5 of the Fourteenth Amendment, which Congress had explicitly identified as the sources of federal authority for §13981. The en banc Fourth Circuit affirmed.

Held: Section 13981 cannot be sustained under the Commerce Clause or §5 of the Fourteenth Amendment. Pp. 7–28.

(a) The Commerce Clause does not provide Congress with authority to enact §13981's federal civil remedy. A congressional enactment will be invalidated only upon a plain showing that Congress has exceeded its constitutional bounds. See *United States* v. *Lopez*, 514 U. S. 549, 568, 577–578. Petitioners assert that §13981 can be sustained under Congress' commerce power as a regulation of activity that substantially affects interstate commerce. The proper framework for analyzing such a claim is provided by the principles the Court set out in *Lopez*. First, in *Lopez*, the noneconomic, criminal na-

– – – – – –

*Together with No. 99–29, *Brzonkala* v. *Morrison et al.*, also on certiorari to the same court.

ture of possessing a firearm in a school zone was central to the Court's conclusion that Congress lacks authority to regulate such possession. Similarly, gender-motivated crimes of violence are not, in any sense, economic activity. Second, like the statute at issue in *Lopez*, §13981 contains no jurisdictional element establishing that the federal cause of action is in pursuance of Congress' regulation of interstate commerce. Although *Lopez* makes clear that such a jurisdictional element would lend support to the argument that §13981 is sufficiently tied to interstate commerce to come within Congress' authority, Congress elected to cast §13981's remedy over a wider, and more purely intrastate, body of violent crime. Third, although §13981, unlike the *Lopez* statute, *is* supported by numerous findings regarding the serious impact of gender-motivated violence on victims and their families, these findings are substantially weakened by the fact that they rely on reasoning that this Court has rejected, namely a but-for causal chain from the initial occurrence of violent crime to every attenuated effect upon interstate commerce. If accepted, this reasoning would allow Congress to regulate any crime whose nationwide, aggregated impact has substantial effects on employment, production, transit, or consumption. Moreover, such reasoning will not limit Congress to regulating violence, but may be applied equally as well to family law and other areas of state regulation since the aggregate effect of marriage, divorce, and childrearing on the national economy is undoubtedly significant. The Constitution requires a distinction between what is truly national and what is truly local, and there is no better example of the police power, which the Founders undeniably left reposed in the States and denied the central government, than the suppression of violent crime and vindication of its victims. Congress therefore may not regulate noneconomic, violent criminal conduct based solely on the conduct's aggregate effect on interstate commerce. Pp. 7–19.

(b) Section 5 of the Fourteenth Amendment, which permits Congress to enforce by appropriate legislation the constitutional guarantee that no State shall deprive any person of life, liberty, or property, without due process or deny any person equal protection of the laws, *City of Boerne* v. *Flores*, 521 U. S. 507, 517, also does not give Congress the authority to enact §13981. Petitioners' assertion that there is pervasive bias in various state justice systems against victims of gender-motivated violence is supported by a voluminous congressional record. However, the Fourteenth Amendment places limitations on the manner in which Congress may attack discriminatory conduct. Foremost among them is the principle that the Amendment prohibits only state action, not private conduct. This was the conclusion reached in *United States* v. *Harris*, 106 U. S. 629, and the *Civil*

Syllabus

Rights Cases, 109 U. S. 3, which were both decided shortly after the Amendment's adoption. The force of the doctrine of *stare decisis* behind these decisions stems not only from the length of time they have been on the books, but also from the insight attributable to the Members of the Court at that time, who all had intimate knowledge and familiarity with the events surrounding the Amendment's adoption. Neither *United States* v. *Guest*, 383 U. S. 745, nor *District of Columbia* v. *Carter*, 409 U. S. 418, casts any doubt on the enduring vitality of the *Civil Rights Cases* and *Harris*. Assuming that there has been gender-based disparate treatment by state authorities in this case, it would not be enough to save §13981's civil remedy, which is directed not at a State or state actor but at individuals who have committed criminal acts motivated by gender bias. Section 13981 visits no consequence on any Virginia public official involved in investigating or prosecuting Brzonkala's assault, and it is thus unlike any of the §5 remedies this Court has previously upheld. See *e.g., South Carolina* v. *Katzenbach*, 383 U. S. 301. Section 13981 is also different from previously upheld remedies in that it applies uniformly throughout the Nation, even though Congress' findings indicate that the problem addressed does not exist in all, or even most, States. In contrast, the §5 remedy in *Katzenbach* was directed only to those States in which Congress found that there had been discrimination. Pp. 19–27.

169 F. 3d 820, affirmed.

REHNQUIST, C. J., delivered the opinion of the Court, in which O'CONNOR, SCALIA, KENNEDY, and THOMAS, JJ., joined. THOMAS, J., filed a concurring opinion. SOUTER, J., filed a dissenting opinion, in which STEVENS, GINSBURG, and BREYER, JJ., joined. BREYER, J., filed a dissenting opinion, in which STEVENS, J., joined, and in which SOUTER and GINSBURG, JJ., joined as to Part I–A.