Q: Why do proponents of the dynamic court theory say that the Supreme Court creates social change? State whether you agree or disagree with this theory. Use a 2020 Supreme Court case as an example to prove your point.

A:

The Dynamic Court theory states that the United States Supreme Court is in fact equipped for influencing far and wide change. The constraint court theory, according to the reading might have overlooked two things. First, it might be overstating the limits of court. Plus, the whole modern debate over judicial activism makes no sense if Constrained Court view is correct. Second, its claims on courts being unable to produce significant social reform does not help us understanding  when and under what conditions courts produce significant social reform, meaning, it is not a complete answer. On the other hand, the Dynamic Court view states, and as mentioned in the reading, “Its basic thrust is that not only are courts not as limited as the Constraint Court view suggests, but also, in some cases they can be more effective than other governmental institutions in producing significant social reform”. I completely agree with the above statement because of two reasons. One being courts do play a key role in producing social reform to some extent. Some historical cases like Roe v. Wade and Brown v. Board cases are examples of that. Two, the Constraint Court view is just not enough and might be missing key advantages of courts. It makes some strong arguments but does not have enough proof to prove them, which makes the argument of Dynamic Court more valuable and stronger. I also believe that Dynamic Court view oversimplifies the court’s job and expectations which is less realistic in some cases but optimistic at the same time.

The case of Espinoza vs. Montana (argued on January 22, 2020 and decided on June 30, 2020) is a perfect example where the courts did prove that they will do everything in their power to make sure that justice is served and a change is made, which is basically the Dynamic Court view. May a state exclude church schools from a state-sponsored tuition aid program that supports students in other private schools, or does that exclusion amount to unconstitutional discrimination against religion? That is unconstitutional discrimination based on religion, the court said in a 5-4 ruling in Espinoza vs. Montana. The Montana Supreme Court had blocked the $500 grants on the grounds that the state’s constitution, like those of most states, forbids giving tax money to churches or their affiliates. But the court said that the discriminatory policy violates the 1st Amendment and its protection for the free exercise of religion.