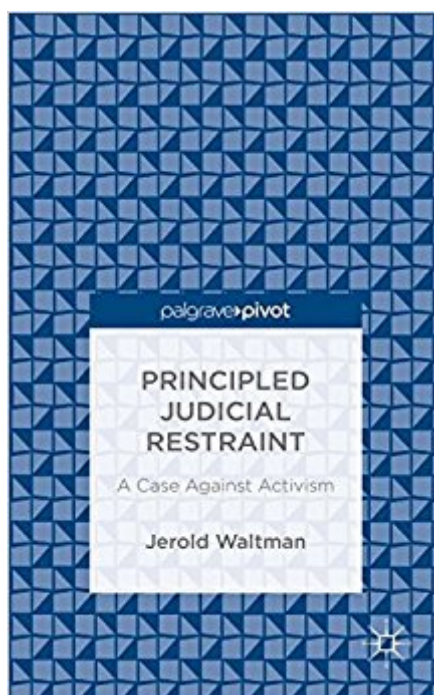


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Principled Judicial Restraint: A Case Against Activism



Synopsis

Like many books, this one argues for a more restrained Supreme Court. Unlike most other books, however, this one grounds that call in a fully elaborated constitutional theory that goes beyond the "counter-majoritarian difficulty."

Book Information

Hardcover: 117 pages

Publisher: Palgrave Pivot; 2015 edition (June 12, 2015)

Language: English

ISBN-10: 1137490659

ISBN-13: 978-1137490650

Product Dimensions: 5.5 x 0.4 x 8.5 inches

Shipping Weight: 11.2 ounces (View shipping rates and policies)

Average Customer Review: 5.0 out of 5 stars 1 customer review

Best Sellers Rank: #664,083 in Books (See Top 100 in Books) #264 in [Books > Politics & Social Sciences > Politics & Government > United States > Judicial Branch](#) #415 in [Books > Law > Rules & Procedures > Courts](#) #2011 in [Books > Politics & Social Sciences > Politics & Government > International & World Politics > European](#)

Customer Reviews

Jerold Waltman is the R.W. Morrison Professor of Political Science at Baylor University, where he teaches constitutional law. He is the author of eight previous books, the most recent of which is *Congress, the Supreme Court, and Religious Liberty: The Case of City of Boerne v. Flores* (2013).

RESTRAINTS ON JUDICIAL ACTIVISM? WHY, HOW AND WHEN IT SHOULD (AND SHOULD NOT) BE DONE
An appreciation by Phillip Taylor MBE and Elizabeth Taylor of Richmond Green Chambers
Although this book in the Palgrave Pivot series focuses strictly on the American legal and political landscape, it will nonetheless be welcomed by deep-thinking jurists on both sides of the Atlantic. The author, Jerold Waltman is a Professor of Political Science at Baylor University in the United States where he teaches constitutional law. As indicated by the subtitle, the book, published by Palgrave Macmillan, makes an eloquent case against judicial activism, which means that it advocates restraint on the part of judges on America's Supreme Court who disagree with specific majority decisions of the court. "Many people argue," says Waltman,

that the Court should adopt a more restrained posture across the board. What will resonate most with UK readers is the concern that the Court is damaging its legitimacy by wading into so many controversial political issues. Here, UK readers will certainly recall instances when there has been a tug of war, so to speak, between decisions of the courts and the will of parliament. I have long been of the opinion, says Waltman in the preface, that the modern Supreme Court has assumed too large a role in our political life. He therefore calls for a theory of constitutional government, rather than a set of prescriptions for the Court. The stated aim here is to set out just such a theory in this book. The result is a rather fascinating read which, among other things, sheds considerable light on the salient points, as well as the nooks and crannies of the American Constitution. The core of the book is the fourth chapter on A Constitutional Theory of Judicial Restraint which commences with commentary on the maladies of judicial activism especially the stentorian form that it has taken under the current Court. While a heightened judicial role could be appropriate and necessary in certain circumstances enumerated in the text, basically what is needed, says Waltman, is a constitutional and judicial philosophy that includes judicial review, but simultaneously grants a healthy respect for how people wish to govern themselves. Now who could or would disagree with that, except a particularly stentorian or dictatorial judge? As a clearly argued and thoughtful exploration of this and other issues worthy of urgent examination, this book -- which is available online as well as in hardback -- is quite a find. It will no doubt be welcomed by everyone from students to practitioners to judges everywhere, especially in the common law jurisdictions. The publication date is cited as at 2015.

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