



Democracy and Distrust: A Theory of Judicial Review

By John Hart Ely

Download now

Read Online ➔

Democracy and Distrust: A Theory of Judicial Review By John Hart Ely

This powerfully argued appraisal of judicial review may change the face of American law. Written for layman and scholar alike, the book addresses one of the most important issues facing Americans today: within what guidelines shall the Supreme Court apply the strictures of the Constitution to the complexities of modern life?

Until now legal experts have proposed two basic approaches to the Constitution. The first, "interpretivism," maintains that we should stick as closely as possible to what is explicit in the document itself. The second, predominant in recent academic theorizing, argues that the courts should be guided by what they see as the fundamental values of American society. Mr. Ely demonstrates that both of these approaches are inherently incomplete and inadequate. *Democracy and Distrust* sets forth a new and persuasive basis for determining the role of the Supreme Court today.

Ely's proposal is centered on the view that the Court should devote itself to assuring majority governance while protecting minority rights. "The Constitution," he writes, "has proceeded from the sensible assumption that an effective majority will not unreasonably threaten its own rights, and has sought to assure that such a majority not systematically treat others less well than it treats itself. It has done so by structuring decision processes at all levels in an attempt to ensure, first, that everyone's interests will be represented when decisions are made, and second, that the application of those decisions will not be manipulated so as to reintroduce in practice the sort of discrimination that is impermissible in theory.

Thus, Ely's emphasis is on the procedural side of due process, on the preservation of governmental structure rather than on the recognition of elusive social values. At the same time, his approach is free of interpretivism's rigidity because it is fully responsive to the changing wishes of a popular majority. Consequently, his book will have a profound impact on legal opinion at all levels—from experts in constitutional law, to lawyers with general practices, to concerned citizens watching the bewildering changes in American law.

 [**Download** Democracy and Distrust: A Theory of Judicial Review ...pdf](#)

 [**Read Online** Democracy and Distrust: A Theory of Judicial Review ...pdf](#)

Democracy and Distrust: A Theory of Judicial Review

By John Hart Ely

Democracy and Distrust: A Theory of Judicial Review By John Hart Ely

This powerfully argued appraisal of judicial review may change the face of American law. Written for layman and scholar alike, the book addresses one of the most important issues facing Americans today: within what guidelines shall the Supreme Court apply the strictures of the Constitution to the complexities of modern life?

Until now legal experts have proposed two basic approaches to the Constitution. The first, "interpretivism," maintains that we should stick as closely as possible to what is explicit in the document itself. The second, predominant in recent academic theorizing, argues that the courts should be guided by what they see as the fundamental values of American society. Mr. Ely demonstrates that both of these approaches are inherently incomplete and inadequate. *Democracy and Distrust* sets forth a new and persuasive basis for determining the role of the Supreme Court today.

Ely's proposal is centered on the view that the Court should devote itself to assuring majority governance while protecting minority rights. "The Constitution," he writes, "has proceeded from the sensible assumption that an effective majority will not unreasonably threaten its own rights, and has sought to assure that such a majority not systematically treat others less well than it treats itself. It has done so by structuring decision processes at all levels in an attempt to ensure, first, that everyone's interests will be represented when decisions are made, and second, that the application of those decisions will not be manipulated so as to reintroduce in practice the sort of discrimination that is impermissible in theory.

Thus, Ely's emphasis is on the procedural side of due process, on the preservation of governmental structure rather than on the recognition of elusive social values. At the same time, his approach is free of interpretivism's rigidity because it is fully responsive to the changing wishes of a popular majority. Consequently, his book will have a profound impact on legal opinion at all levels—from experts in constitutional law, to lawyers with general practices, to concerned citizens watching the bewildering changes in American law.

Democracy and Distrust: A Theory of Judicial Review By John Hart Ely Bibliography

- Sales Rank: #1048585 in Books
- Brand: Brand: Harvard University Press
- Published on: 1980-02-19
- Ingredients: Example Ingredients
- Original language: English
- Number of items: 1
- Dimensions: 1.05" h x 6.45" w x 9.49" l,
- Binding: Hardcover
- 280 pages

 [**Download** Democracy and Distrust: A Theory of Judicial Review ...pdf](#)

 [**Read Online** Democracy and Distrust: A Theory of Judicial Review ...pdf](#)

Download and Read Free Online Democracy and Distrust: A Theory of Judicial Review By John Hart Ely

Editorial Review

Review

The single most important contribution to the American theory of judicial review written in this century.
(Henry P. Monaghan *Columbia Law School*)

Democracy and Distrust will have a wide influence for a long time...Ely writes simply and engagingly with a sense of humor. Yet the reader had better keep his wits about him lest he miss the subtleties. Much of the charm is in the author's candor in facing hard questions. Much of it lies in his good common sense.
(Archibald Cox *Harvard Law Review*)

Wry, witty, and endowed with both dignity and informality. Would that more lawyers (including judges) could write half so well. (Telford Taylor *New York Times Book Review*)

This is the most important book about law in at least fifteen years. It is a great book...In developing his new and exciting theory, Ely spins off important insights like sparks from a generator. (Daniel J. Kornstein *New York Law Journal*)

This is the rare book that lives up to its dust-cover raves. (Andrew L. Kaufman *Harvard Law School*)

From the Back Cover

This book elaborates a third theory of judicial review, one that the author argues is consistent with those underlying assumptions, in fact constructed so as to enlist the courts in helping to make them a reality.

Users Review

From reader reviews:

Monte Lawson:

The book Democracy and Distrust: A Theory of Judicial Review can give more knowledge and information about everything you want. Exactly why must we leave a good thing like a book Democracy and Distrust: A Theory of Judicial Review? Wide variety you have a different opinion about publication. But one aim which book can give many data for us. It is absolutely correct. Right now, try to closer with your book. Knowledge or details that you take for that, you can give for each other; you could share all of these. Book Democracy and Distrust: A Theory of Judicial Review has simple shape however you know: it has great and big function for you. You can look the enormous world by start and read a reserve. So it is very wonderful.

Janette Collins:

As people who live in the actual modest era should be upgrade about what going on or details even knowledge to make these keep up with the era which can be always change and make progress. Some of you maybe may update themselves by reading through books. It is a good choice for you but the problems coming to you actually is you don't know which one you should start with. This Democracy and Distrust: A Theory of Judicial Review is our recommendation so you keep up with the world. Why, since this book

serves what you want and want in this era.

Marissa Wegener:

Nowadays reading books become more and more than want or need but also become a life style. This reading habit give you lot of advantages. The huge benefits you got of course the knowledge the actual information inside the book that improve your knowledge and information. The knowledge you get based on what kind of reserve you read, if you want get more knowledge just go with education and learning books but if you want experience happy read one together with theme for entertaining for example comic or novel. The particular Democracy and Distrust: A Theory of Judicial Review is kind of publication which is giving the reader unpredictable experience.

Na Urquhart:

Precisely why? Because this Democracy and Distrust: A Theory of Judicial Review is an unordinary book that the inside of the e-book waiting for you to snap it but latter it will zap you with the secret the idea inside. Reading this book adjacent to it was fantastic author who else write the book in such wonderful way makes the content within easier to understand, entertaining technique but still convey the meaning totally. So , it is good for you because of not hesitating having this any more or you going to regret it. This unique book will give you a lot of benefits than the other book include such as help improving your proficiency and your critical thinking approach. So , still want to hold up having that book? If I had been you I will go to the e-book store hurriedly.

Download and Read Online Democracy and Distrust: A Theory of Judicial Review By John Hart Ely #WS8F5392Y0L

Read Democracy and Distrust: A Theory of Judicial Review By John Hart Ely for online ebook

Democracy and Distrust: A Theory of Judicial Review By John Hart Ely Free PDF d0wnl0ad, audio books, books to read, good books to read, cheap books, good books, online books, books online, book reviews epub, read books online, books to read online, online library, greatbooks to read, PDF best books to read, top books to read Democracy and Distrust: A Theory of Judicial Review By John Hart Ely books to read online.

Online Democracy and Distrust: A Theory of Judicial Review By John Hart Ely ebook PDF download

Democracy and Distrust: A Theory of Judicial Review By John Hart Ely Doc

Democracy and Distrust: A Theory of Judicial Review By John Hart Ely Mobipocket

Democracy and Distrust: A Theory of Judicial Review By John Hart Ely EPub