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Abstention Doctrine

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abstention doctrine

Abstention denotes a collection of judicially created rules under which a federal court that has jurisdiction over a case will decline to exercise its jurisdiction out of deference to ongoing or anticipated proceedings in state court. This doctrine is supposedly rooted in the constitutional concept of FEDERALISM, which requires the federal courts to respect litigation already occurring in state legal proceedings.

Abstention represents an exception to normal principles of judicial administration. The usual practice is that parties may file overlapping lawsuits in both the state and federal courts. Each court can proceed with its case rather than staying its hand in favor of the other, at least until one of the cases concludes. (Once one case concludes, doctrines of preclusion may require the second court to honor the first judgment rather than reexamining the same issues.) Abstention is accordingly reserved for special circumstances. Several distinct varieties of abstention have developed and merit discussion.

One doctrine, named Pullman abstention, requires federal courts to refrain from deciding difficult or controversial federal constitutional

questions when the constitutional ruling could be rendered unnecessary by future state proceedings. The doctrine takes its name from *Railroad Commission of Texas v. Pullman Co.*, 312 U.S. 496 (1941), which involved a challenge to a state regulation that required trains with sleeping cars to be staffed by white employees instead of only black employees. The railroad and some black employees sued in federal court, contending that the regulation both exceeded the state agency's authority as a matter of state law and violated the U.S. Constitution.

The Supreme Court determined that the federal district court should abstain from deciding the case so that the unsettled state law question could first be litigated in the state courts. If the state court decided that the agency had exceeded its authority, then it would be unnecessary for the federal court to decide the constitutional questions. The Supreme Court believed this rule would serve the goal of avoiding rulings on difficult and divisive constitutional questions and would reduce friction between state and federal courts. One disadvantage, of course, is that the plaintiffs might have to go through two lawsuits to get relief. Pullman abstention has become increasingly rare in recent decades, as many states have established procedures allowing federal courts to "certify" questions to state courts (that is, send a formal request for an opinion on a matter of state law), thus eliminating the need for a separate lawsuit in state court.

Other abstention precedents require federal courts to abstain in favor of pending state proceedings when the federal case would interfere with a complex state administrative scheme or involves unsettled and especially sensitive questions of state law. Unlike the case of Pullman abstention, in these circumstances abstention is not motivated by a desire to avoid a federal constitutional ruling but is rather more directly concerned with respecting state interests. Like Pullman abstention, these types of abstention are rare.

A more consequential abstention doctrine is Younger abstention, which takes its name from *Younger v. Harris*, 401 U.S. 37 (1971). The Younger doctrine generally forbids federal courts from

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interfering with a pending state court prosecution. Thus, a criminal defendant with a potential federal defense must present it to the state court rather than filing a separate federal case trying to stop the prosecution. (It should be noted that a federal statute, the Anti-Injunction Act, also restricts the federal courts' authority to halt state lawsuits; the judicially created Younger doctrine applies even when the statute does not.) Younger abstention reflects notions of respect for state courts as well as the thought that an extraordinary remedy such as an anti-suit INJUNCTION should not be granted when the federal defense can be heard in the due course of the state criminal proceedings. Later cases have applied Younger abstention principles to certain civil cases that resemble criminal proceedings.

The various abstention doctrines are controversial because Congress defines the jurisdiction of the federal courts by statute (within the bounds set out by the Constitution). Therefore, just as it would be improper for a court to expand its own jurisdiction by hearing cases that it is not empowered to hear, some argue that it is equally improper for a court to refuse to act when it has been given jurisdiction.

For more information: Chemerinsky, Erwin. Chapters 12–14 in *Federal Jurisdiction*. 4th ed. New York: Aspen, 2003; Redish, Martin H. "Abstention, separation of powers, and the limits of the judicial function." *Yale Law Journal* 94 (1984): 71–115.

—Aaron-Andrew P. Bruhl