# The Political Question Doctrine: Justiciability and the Separation of Powers (Paperback)

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Jared P. Cole	
Legislative Attorne	ry
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# THE POLITICAL QUESTION DOCTRINE: JUSTICIABILITY AND THE SEPARATION OF POWERS (PAPERBACK)

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Createspace, United States, 2014. Paperback. Book Condition: New. 279 x 216 mm. Language: English . Brand New Book \*\*\*\*\* Print on Demand \*\*\*\*\*. Article III of the Constitution restricts the jurisdiction of federal courts to deciding actual Cases and Controversies. The Supreme Court has articulated several justiciability doctrines emanating from Article III that restrict when federal courts will adjudicate disputes. One justiciability concept is the political question doctrine, according to which federal courts will not adjudicate certain controversies because their resolution is more proper within the political branches. Because of the potential implications for the separation of powers when courts decline to adjudicate certain issues, application of the political question doctrine has sparked controversy. Because there is no precise test for when a court should find a political question, however, understanding exactly when the doctrine applies can be difficult. The doctrine s origins can be traced to Chief Justice Marshall s opinion in Marbury v. Madison; but its modern application stems from Baker v. Carr, which provides six independent factors that can present political questions. These factors encompass both constitutional and prudential considerations, but the Court has not clearly explained how they are to be applied. Further, commentators have disagreed about the doctrine s foundation: some see political questions as limited to constitutional grants of authority to a coordinate branch of government, while others see the doctrine as a tool for courts to avoid adjudicating an issue best resolved outside of the judicial branch. Supreme Court case law after Baker fails to resolve the matter. The Court has historically applied the doctrine in a small but disparate number of cases, without applying clear rules for lower courts to follow. Possibly as a result of the murky nature of the doctrine, it has regularly been invoked in lower federal courts in cases...

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