

Democracy and the Problem of Free Speech

By Cass R. Sunstein

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Freedom of speech is one of our greatest legal rights and Cass Sunstein is one of our greatest legal theorists. This book is a must read for anyone who wants to think seriously about the free speech issues facing this generation.
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Akhil Amar, Southmayd Professor, Yale Law School

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Joshua Cohen, Massachusetts Institute of Technology

How can our constitutional protection of free speech serve to strengthen democracy? Cass Sunstein challenges conventional answers with a remarkable array of lucid arguments and legal examples. There is no better book on the subject.
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Editorial Review

From Publishers Weekly
Calling for a "large-scale reassessment of the appropriate role of the First Amendment," University of Chicago law professor Sunstein here offers nuanced and provocative proposals for reform. After providing a primer on the contrasting developments in First Amendment law, he argues that the notion of free expression should be connected to the goal of creating a Madisonian "deliberative democracy." Thus, he criticizes "market theology" and calls for free media time for political candidates, and for federal guidelines--but not mandates--for coverage of public issues. Drawing on precedents regarding commercial speech, Sunstein proposes a lesser degree of protection for nonpolitical speech like advertising. He suggests allowing "deliberative" racist or sexist political speech, but not hateful epithets, which he compares to obscene phone calls. Convinced that there is a causal connection between pornography and violence against women, he endorses the proposal, advanced by legal scholar Catharine MacKinnon and feminist author Andrea Dworkin, for civil action against violent pornography. Sunstein is fuzzy on finding principles to govern taxpayer support for the arts. Still, his worthy book should stimulate valuable argument.
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From Library Journal
To many, the First Amendment to the Constitution is clear and unambiguous: "Congress shall make no law abridging the freedom of speech, or of the press." Sunstein (jurisprudence & political science, Univ. of Chicago) instead analyzes the First Amendment under the Madisonian conception: that is, he links the amendment to the American vision of sovereignty and a specific idea of democracy. Arguing that the First Amendment has been changed from a Madisonian principle to a "species of neo-classical economics," he calls for a "New Deal" vision of the First Amendment in which political speech, so vital to a democracy, would be more fully protected than commercial speech. Though Sunstein analyzes the relationships among broadcasting, politics, and liberty and discusses issues raised by hate speech, cross burning, pornography, government arts funding, and corporate speech, his arguments will satisfy neither the free speech absolutists nor proponents of "politically correct" speech. For academic and law libraries.
- Sue Kamm, Inglewood P.L., Cal.
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From the Back Cover
The right to free speech is invoked to protect an astonishing range of activities, a range that seems to expand every day. Newspapers publish the names of rape victims, flags are burned, pornography flourishes, and all of these controversial actions are protected under the constitutional right of free speech. The Supreme Court increasingly decides disputes by invoking the First Amendment. Civil libertarians, former antiwar protesters, and tobacco advertisers join revisionist conservatives in attacking almost all forms of censorship, extending the search to the farthest reaches of commercial and symbolic speech. In short, we are in the midst of a revolution of absolutist interpretations of free expression. The absolutists are misguided, argues Cass Sunstein. Our government now protects speech that causes harm yet forbids speech that is essential, he says. Instead, we should conceive of free speech first and foremost as a means to achieve civic deliberation and true popular sovereignty. Building on James Madison, Sunstein proposes a "New Deal" for the first Amendment, a new interpretation that attacks undifferentiated absolutism and replaces it with a vision of responsible public life. Sunstein examines broadcasting, campaign finance, hate speech, pornography, government art funding, commercial speech, and the privacy of rape victims. He insists that political speech, essential for the functioning of any democracy, must not only be protected, but encouraged. If the government, say were to use broadcasting markets to encourage attention to public issues and diverse points

of view, the First Amendment would not stand in the way. Nonpolitical speech, on the other hand, should be less fullyprotected when it conflicts with other interests and rights such as that of privacy. Democracy cannot achieve its full potential with a stunted public discourse. Instant polls and 900 numbers may seem to increase political participation, but they are no substitute for reasoned and careful public deliberation. In Democracy and the Problem of Free Speech, Cass Sunstein points the way toward a renewal of American democracy and a reaffirmation of political equality.

Users Review

From reader reviews:

Mark McCarver:

Why don't make it to be your habit? Right now, try to prepare your time to do the important behave, like looking for your favorite book and reading a book. Beside you can solve your condition; you can add your knowledge by the book entitled Democracy and the Problem of Free Speech. Try to make the book Democracy and the Problem of Free Speech as your close friend. It means that it can for being your friend when you experience alone and beside those of course make you smarter than ever. Yeah, it is very fortuned for you. The book makes you much more confidence because you can know every little thing by the book. So , let us make new experience as well as knowledge with this book.

Alysha Johnson:

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Ida Vanwormer:

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Rachel Kaufman:

Spent a free time and energy to be fun activity to perform! A lot of people spent their spare time with their family, or their friends. Usually they accomplishing activity like watching television, gonna beach, or picnic

within the park. They actually doing ditto every week. Do you feel it? Do you want to something different to fill your own personal free time/ holiday? Might be reading a book may be option to fill your totally free time/ holiday. The first thing you will ask may be what kinds of publication that you should read. If you want to consider look for book, may be the guide untitled Democracy and the Problem of Free Speech can be great book to read. May be it is usually best activity to you.

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