

# Cass R. Sunstein: Curriculum Vitae

## EDUCATION

### Harvard Law School

J.D., 1978, *magna cum laude*

Executive Editor, *Harvard Civil Rights-Civil Liberties Law Review*

Winning Team, Ames Moot Court Competition

### Harvard College

A.B., 1975, *magna cum laude*

Board of Editors, Harvard Lampoon

Varsity Squash

## EXPERIENCE

### Harvard University

Robert Walmsley University Professor, 2013-present

### Harvard Law School

Felix Frankfurter Professor of Law, 2012-2013

### United States Government

Administrator, White House Office of Information and Regulatory Affairs, 2009-2012

### Harvard Law School

Felix Frankfurter Professor of Law, 2008-2011

Visiting Professor of Law, *Winter 2005*

Visiting Professor of Law, *Spring 1987*

### University of Chicago

Karl N. Llewellyn Distinguished Service Professor of Jurisprudence, Law School and Department of Political Science, *1993 - 2008*

Karl N. Llewellyn Professor of Jurisprudence, Law School and Department of Political Science, *1988-1993*

Professor of Law, Law School and Department of Political Science, *1985-1988*

Assistant Professor, Law School and Department of Political Science, *1983-1985*

Assistant Professor of Law, Law School, *1981-1983*

## **Columbia Law School**

*Samuel Rubin Visiting Professor of Law, Fall 1986*

## **Office of Legal Counsel, U.S. Department of Justice**

*Attorney-Advisor, 1980-1981*

## **Honorable Thurgood Marshall, Supreme Court of the United States**

*Law Clerk, 1979-1980*

## **Honorable Benjamin Kaplan, Supreme Judicial Court of Massachusetts**

*Law Clerk, 1978-1979*

## **Books**

*The Ethics of Influence: Government in the Age of Behavioral Science* (Cambridge Studies in Economics, Choice, and Society, Cambridge University Press, forthcoming 2016)

*The Economics of Nudge (Critical Concepts in Economics)* (Routledge, forthcoming 2016) (with Lucia Reisch, eds.)

*The World According to Star Wars* (Harper Collins, 2016)

*Choosing Not to Choose: Understanding the Value of Choice* (Oxford University Press, 2015).

*Constitutional Personae: Heroes, Soldiers, Minimalists, and Mutes (Inalienable Rights)* (Oxford University Press, 2015)

*Wiser: Getting Beyond Groupthink to Make Groups Smarter* (Harvard Business Review Press, 2015)

*Valuing Life: Humanizing the Regulatory State* (University of Chicago Press, 2014)

*Conspiracy Theories and Other Dangerous Ideas* (Simon and Schuster, 2014)

*Why Nudge?: The Politics of Libertarian Paternalism* (Yale University Press, 2014)

*Simpler: The Future of Government* (Simon and Schuster, 2013)

*Nudge* (with Richard Thaler) (international edition; Penguin United Kingdom, 2009)

*A Constitution of Many Minds* (Princeton University Press, paperback 2011; hardcover 2009)

*Going to Extremes* (Oxford University Press, paperback 2011; hardcover 2009)

*Law and Happiness* (University of Chicago Press, 2010) (editor, with Eric Posner)

*On Rumors* (Farrar, Straus, and Giroux, 2009)

*Nudge* (Yale University Press 2008) (with Richard H. Thaler)

*Worst-Case Scenarios* (Harvard University Press 2007).

*Republic.com 2.0* (Princeton University Press 2007).

*Are Judges Political? An Empirical Investigation of the Federal Judiciary* (Brookings Institution Press 2006) (with David Schkade, Lisa Ellman, and Andres Sawicki).

*Infotopia: How Many Minds Produce Knowledge* (Oxford University Press 2006).

*The Second Bill of Rights: Franklin Delano Roosevelt's Unfinished Revolution and Why We Need It More Than Ever* (Basic Books 2006) (paperback edition).

*Radicals in Robes: Why Extreme Right-Wing Courts Are Wrong for America* (Basic Books 2005).

*Constitutional Law* 5th ed. (Aspen 2005) (with G. Stone, L.M. Seidman, P. Karlan, and M. Tushnet).

*The Laws of Fear: Beyond the Precautionary Principle* (based on the Seeley Lectures 2004 at Cambridge University) (Cambridge University Press 2005).

*The Second Bill of Rights: Franklin Delano Roosevelt's Unfinished Revolution and Why We Need It More Than Ever* (Basic Books 2004).

*Why Societies Need Dissent* (Harvard University Press 2003).

*Animal Rights: Current Controversies and New Directions* (Oxford University Press 2004) (edited with Martha Nussbaum).

*Risk and Reason* (Cambridge University Press 2002) (translations forthcoming in Spanish, Chinese, and Farsi) (paperback 2004).

*The Cost-Benefit State* (American Bar Association 2002).

*Punitive Damages: How Juries Decide* (University of Chicago Press 2002) (with Reid Hastie, John Payne and David Schkade).

*Republic.com* (paperback edition 2002, with a new afterword) (multiple translations, including Spanish, Italian, Japanese, and Chinese) (paperback with new afterword, 2002).

*Administrative Law and Regulatory Policy* (1999; new edition 2002) (with Stephen Breyer, Richard B. Stewart, and Matthew Spitzer).

*Free Markets and Social Justice* (2002) (Chinese edition with new foreword, Japanese edition) (Japanese translation, 2002; Chinese translation, 2002).

*Designing Democracy: What Constitutions Do* (Oxford University Press 2001).

[\*The Vote: Bush, Gore & the Supreme Court\*](#), University of Chicago Press (2001) (editor, with Richard Epstein).

*Constitutional Law* (4th ed. 2001) (with Stone, Seidman, and Tushnet).

*Behavioral Law and Economics* (editor, Cambridge University Press, 2000; reprinted 2003).

*One Case At A Time: Judicial Minimalism on the Supreme Court* (Harvard University Press 1999; paperback 2001; Chinese translation forthcoming, 2001).

*The Cost of Rights* (1999), (W.W. Norton paperback 2000; translations forthcoming 2001) (with Stephen Holmes).

*Clones and Clones: Facts and Fantasies About Human Cloning* (with Martha Nussbaum, W.W. Norton 1998) (paperback 1999, multiple translations forthcoming).

*Legal Reasoning and Political Conflict* (Oxford University Press 1996; paperback 1998).

*Free Markets and Social Justice* (Oxford University Press 1997; reprinted twice in hardcover; paperback 1999).

*Democracy and the Problem of Free Speech* (The Free Press 1993; paperback with a new afterword 1995).

*The Partial Constitution* (Harvard University Press 1993; paperback 1994, reprinted 1997).

*After the Rights Revolution: Reconceiving the Regulatory State* (Harvard University Press 1990 paperback 1993).

*Constitutional Law* (Little, Brown & Co. 1st edition 1986; 2d edition 1991; 3d edition 1995) (co-author).

*The Bill of Rights and the Modern State* (University of Chicago Press 1992) (co-editor with Geoffrey R. Stone and Richard A. Epstein).

*Feminism and Political Theory* (editor) (University of Chicago Press 1990).

## **Articles and Essays (Selected)**

“Antonin Scalia, Living Constitutionalist,” Harvard Law Review (forthcoming 2016).

*“People Prefer System 2 Nudges (Kind Of),”* 66 *Duke Law Journal* (forthcoming 2016).

*“The Most Knowledgeable Branch,”* *University of Pennsylvania Law Review* (forthcoming 2016).

*“Behaviorally Informed Health Policy? Patient Autonomy, Active Choosing, and Paternalism,”* in *“Nudging Health: Health Law and Behavioral Economics”* (I. Glenn Cohen, Holly Fernandez Lynch & Christopher T. Robertson, eds., John Hopkins University Press, forthcoming 2016).

*“Cost-Benefit Analysis and Arbitrariness Review,”* *Harvard Environmental Law Review* (forthcoming 2016) (Harvard Public Law Working Paper No. 16-12, Mar. 20, 2016).

*“Deliberative Democracy in the Trenches,”* *Daedalus* (forthcoming 2016).

*“Do Europeans Like Nudges?”* *Judgment and Decision Making* (forthcoming 2016) (with Lucia A. Reisch).

*“Do People Like Nudges?”* *Administrative Law Review* (forthcoming 2016).

*“Historical Explanations Always Involve Counterfactual History,”* *Journal of the Philosophy of History* (forthcoming 2016).

*“The New Coke: On the Plural Aims of Administrative Law,”* *Supreme Court Review* (2016) (with Adrian Vermeule).

*“‘Practically Binding’: General Policy Statements and Notice-and-Comment Rulemaking,”* *Administrative Law Review* (forthcoming 2016)

*“The Principle of the Malevolent Hiding Hand; or, the Planning Fallacy Writ Large,”* *Social Research* (forthcoming 2016) (with Bent Flyvbjerg).

*“The Unbearable Rightness of Auer,”* *University of Chicago Law Review* (forthcoming 2016) (with Adrian Vermeule).

*“Are Choosers Losers? The Propensity to Under-Delegate in the Face of Potential Gains and Losses,”* (Feb. 15, 2016) (with Sebastian Bobadilla-Suarez & Tali Sharot).

*“Behaviorally Green: Why, Which and When Defaults Can Help”* in *“New Perspectives for Environmental Policies Through Behavioral Economics”* 161 (Frank Beckenbach & Walter Kahlenborn, eds., 2016) (with Lucia Reisch).

*“Cost-Benefit Analysis, Who’s Your Daddy?,”* 7 *Journal of Benefit-Cost Analysis* 107 (2016).

*“The Council of Psychological Advisers,”* 67 *Annual Review of Psychology* 713 (2016).

*"Fifty Shades of Manipulation," 1 Journal of Marketing Behavior 213 (2016).*

"Garbage in, Garbage Out? Some micro sources of macro errors," 11 *Journal of Institutional Economics* 561 (2015) (with Reid Hastie).

*"In Praise of Law Books and Law Reviews (and Jargon-Filled Academic Writing)," 114 Michigan Law Review 833 (2016).*

*"Institutional Flip-Flops," 94 Texas Law Review 485 (2016) (with Eric A. Posner).*

*"The Rise of Behavioral Economics: Richard Thaler's 'Misbehaving'" (Jan. 14, 2016).*

*"Beyond Cheneyism and Snowdenism," 83 University of Chicago Law Review 271 (2015).*

"Does Active Choosing Promote Green Energy Use? Experimental Evidence," *Ecology Law Quarterly* (2016)

*"The Ethics of Nudging," 32 Yale Journal on Regulation 413 (2015).*

*"Financial Regulation and Cost-Benefit Analysis," 124 Yale Law Journal Forum 263 (2015).*

*"How Star Wars Illuminates Constitutional Law" (May 11, 2015).*

*"Libertarian Administrative Law," 82 University of Chicago Law Review 39 (2015) (with Adrian Vermeule).*

"Manipulation, Welfare, and Dignity: A Reply," 1 *Journal of Marketing Behavior* 351 (2015).

*"Nudges, Agency, and Abstraction: A Reply to Critics," 6 Review of Philosophy and Psychology 511 (2015).*

"Nudges Do Not Undermine Human Agency," 38 *Journal of Consumer Policy* 207 (2015).

"Nudging Smokers," 372 *New England Journal of Medicine* 2150 (2015).

*"Partyism," University of Chicago Legal Forum (2015).*

*"On Interesting Policymakers," 10 Perspectives on Psychological Science 764 (2015).*

"Regulation as Delegation," 7 *Journal of Legal Analysis* 1 (2015)(with Oren Bar-Gill).

*"Regulating Internalities," 34 Journal of Policy Analysis and Management 698 (2015) (with Hunt Allcott).*

“A Theory of Civil Disobedience” (NBER Working Paper Series, July 2015) (with Edward Glaeser).

“There is Nothing That Interpretation Just Is,” 30 *Constitutional Commentary* 193 (2015).

“Unanimity and Disagreement on the Supreme Court,” 100 *Cornell Law Review* 769 (2015).

“*Unhelpful Abstractions and the Standard View*,” 12 *Econ Journal Watch* 68 (2015).

“Which Nudges Do People Like? A National Survey,” (June 23, 2015).

“Automatically Green: Behavioral Economics and Environmental Protection,” 38 *Harvard Environmental Law Review* 127 (2014) (with Lucia A. Reisch).

“Choosing Not to Choose,” 64 *Duke Law Journal* 1 (2014).

“Constitutional Personae,” 2013 *Supreme Court Review* 433 (2014).

“Cost-Benefit Analysis and the Knowledge Problem,” (Oct. 13, 2014).

“Deciding by Default,” 162 *University of Pennsylvania Law Review* 1 (2013).

“Disclosure: Psychology Changes Everything,” 6 *Annual Review of Economics* 391 (2014) (with George Loewenstein & Russell Golman).

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“The Law of “Not Now”: When Agencies Defer Decisions,” 103 *Georgetown Law Journal* 157 (2014) (with Adrian Vermeule).

“The Limits of Quantification,” 102 *California Law Review* 1369 (2014; the Brennan Lecture).

“Making Dumb Groups Smarter,” 93 *Harvard Business Review* 91 (2014) (with Reid Hastie).

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“The Real World of Cost-Benefit Analysis: Thirty-Six Questions (and Almost as Many Answers),” 114 *Columbia Law Review* 167 (2014).

“Redesigning Cockpits,” 37 *Journal of Consumer Policy* 333 (2014).

“The Office of Information and Regulatory Affairs: Myths and Realities,” 126 *Harvard Law*

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“Originalism v. Burkeanism: A Dialogue Over Recess,” 126 *Harvard Law Review Forum* 126 (2013).

“The Storrs Lectures: Behavioral Economics and Paternalism,” 122 *Yale Law Journal* 1826 (2013).

“Valuation of Statistical Lives: Some Clarifications and Puzzles,” 4 *Journal of Benefit-Cost Analysis* 237 (2013).

“Choice Architecture,” in *The Behavioral Foundations of Policy* (Princeton University Press, 2013, Eldar Shafir ed.) (with Richard Thaler).

“If Misfearing Is the Problem, Is Cost-Benefit Analysis the Solution,” in *The Behavioral Foundations of Policy* (Princeton University Press, 2013, Eldar Shafir ed.).

“Empirically Informed Regulation,” 78 *University of Chicago Law Review* 1394 (2011)

“Humanizing Cost-Benefit Analysis,” 1 *European Journal of Risk Regulation* 3 (2011)

“Overreaction to Fearsome Risks.” 48 *Environmental and Resource Economics* 435 (2011) (with Richard Zeckhauser).

“Irreversibility” 9 *Law, Probability and Risk* 227 (2010).

"Should Greenhouse Gas Permits Be Allocated on a Per Capita Basis?" 97 *California Law Review* 51 (2009) (with Eric Posner).

"Trimming," 122 *Harvard Law Review* 1049 (2009).

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"Introduction to the Conference on Law and Happiness," 37 *Journal of Legal Studies* 1 (2008) (with Eric A. Posner).

"Illusory Losses," 37 *Journal of Legal Studies* 157 (2008).

[Obama the visionary minimalist.](#) *The Colorado Independent* (November 11, 2008).

"Second Amendment Minimalism: Heller as Griswold," 122 *Harvard Law Review* 246 (November 2008).

["Misery and Company."](#) *The New Republic* (October 22, 2008).



"Is Osha Unconstitutional?" 94 *Virginia Law Review* 1407 (October 2008).

"[The Empiricist Strikes Back](#)," *The New Republic* (September 10, 2008).

"The World vs. the United States and China? The Complex Climate Change Incentives of the Leading Greenhouse Gas Emitters," 55 *UCLA Law Review* 1675 (August 2008).

"[Disclosure is the Best Kind of Credit Regulation](#)," *Wall Street Journal* A17 (August 13, 2008) (with Richard Thaler).

"Judicial Partisanship Awards," *Washington Independent* (July 31, 2008).

"[Throwing precaution to the wind](#)," *Boston Globe* C1 (July 13, 2008).

"Climate Change Justice," 96 *Georgetown Law Journal* 1565 (June 2008) (with Eric Posner).

"The Psychology of the Housing Mess: Human Behavior Has Compounded the Current Crunch—But Changed Behavior Can Guide Us Out of It," *USA Today* 11A (April 24, 2008) (with Richard H. Thaler).

"Economic Policy for Humans," *Boston Globe* A13 (April 17, 2008, 3rd ed.) (with Richard H. Thaler).

"[A gentle prod to go green](#)," *Chicago Tribune* (April 6, 2008) (with Richard Thaler).

"[Designing better choices](#)," *Los Angeles Times* (April 2, 2008) (with Richard Thaler).

"[The Obama I know](#)," *Chicago Tribune* (March 14, 2008).

"The Visionary Minimalist," *The New Republic* 13 (January 30, 2008).

"How the rise of the Daily Me threatens democracy," *Financial Times* 9 (January 11, 2008).

"Caste and Disability: The Moral Foundations of the ADA," 157 *University of Pennsylvania Law Review* PENNumbra 101 (2008).

"[The Polarization of Extremes](#)," *The Chronicle Review* 9 (December 14, 2007)

"Climate Change and Animals," 155 *University of Pennsylvania Law Review* 1695 (2007) (with Wayne Hsiung).

"What Happened on Deliberation Day?" 95 *California Law Review* 915 (2007) (with David Schkade and Reid Hastie).

"The Myth of the Balanced Court," 18 *The American Prospect* 28 (September, 2007).

"Animal Rights Without Controversy" 70 *Law & Contemporary Problems* 117 (2007) (with Jeff Leslie).

["Pay China to cut greenhouse gas emissions,"](#) *Financial Times* 11 (August 6, 2007) (with Eric Posner).

"Clear Statement Principles and National Security: *Hamdan* and Beyond," 2006 *Supreme Court Review* 1.

"Tribute to Bernard Meltzer," 74 *University of Chicago Law Review* 443 (2007).

["Minimalists vs. Visionaries,"](#) *WashingtonPost.com* (June 28, 2007).

"Where are the liberal visionaries on the Supreme Court?" *TNR Online* (June 15, 2007).

"Second-Order Perfectionism," 75 *Fordham Law Review* 2867 (2007).

"The Thin Line," *The New Republic* 51 (May 21, 2007).

"The Law and Economics of Company Stock in 401 (k) Plans," 50 *Journal of Law & Economics* 45 (2007) (with Shlomo Benartzi, Richard H. Thaler and Stephen P. Utkus).

"On Discounting Regulatory Benefits: Risk, Money, and Intergenerational Equity," 74 *University of Chicago Law Review* 171 (2007) (with Arden Rowell).

"Introduction: Symposium on Intergenerational Equity and Discounting," 74 *University of Chicago Law Review* 1 (2007) (with David A. Weisbach).

"Response - On Learning From Others," 59 *Stanford Law Review* 1309 (2007) (with Eric A. Posner).

"Debate: Chevronizing Foreign Relations Law," 116 *Yale Law Journal* 1170 (2007) (with Eric A. Posner).

"Incompletely Theorized Agreements in Constitutional Law," 74 *Social Research* 1 (2007).

["Ginsburg's dissent may yet prevail,"](#) *Los Angeles Times* A31 (April 20, 2007).

"Of Montreal and Kyoto: A Tale of Two Protocols," 31 *Harvard Environmental Law Review* 1 (2007).

"The Survival of the Fattest," *The New Republic* 59 (March 19, 2007) (with Richard H. Thaler).

"Church, state and taxpayers," *The Boston Globe* D9 (March 11, 2007).

"Ideological Amplification," 14 *Constellations* 273 (2007).

"Essay: On the Divergent American Reactions to Terrorism and Climate Change," 107 *Columbia Law Review* 503 (2007).

"[A Brave New Wikiworld](#)," *The Washington Post* A19 (February 24, 2007).

"The Real Judicial Activists," *The American Prospect* 9 (January 2007) (with Thomas Miles).

"Celebrating God, Constitutionally," 83 *University of Detroit Mercy Law Review* 567 (2006) (McElroy Lecture).

"The Case for Fear," *The New Republic* 29 (December 11, 2006).

"Idea: Timing Controversial Decisions," 35 *Hofstra Law Review* 1 (2006).

"Book Review: Of Snakes and Butterflies: A Reply," 106 *Columbia Law Review* (2006).

"Climate change: Why U.S., China are key," *San Jose Mercury News*, OP2 (August 20, 2006).

"It Could Be Worse," *The New Republic* 32 (October 16, 2006).

"U.S. and China must be persuaded to get in the game," *Guelph Mercury* (Ontario, Canada) A10 (August 21, 2006).

"Limiting Climate Change: The Neglected Obstacle," *The Washington Post* A21 (August 18, 2006).

"Defining executive privilege," *The Boston Globe* A9 (July 12, 2007).

"The Availability Heuristic, Intuitive Cost-Benefit Analysis, and Climate Change," 77 *Climatic Change* 195 (2006).

"The Law of Other States," 59 *Stanford Law Review* 131 (2006) (with Eric Posner).

"Problems With Minimalism," 58 *Stanford Law Review* 1899 (2006).

"Deliberation and Prediction Markets," in *Information Markets: A New Way of Making Decisions* 67 (Robert Hahn & Paul Tetlock eds., 2006).

"Costing Mead," 116 *Yale Law Journal Pocket Part* 79 (2006).

"The Virtues of Simplicity," 116 *Yale Law Journal Pocket Part* 70 (2006).

"Irreversible and Catastrophic: Global Warming, Terrorism, and Other Problems," 23 *Pace Environmental Law Review* 3 (2005) (Eleventh Annual Lloyd K. Garrison Lecture on Environmental Law).

"The Precautionary Principle as a Basis for Decision Making," *The Economists' Voice*: Vol. 2: No. 2, Article 8 (2005) (with Robert Hahn).

"Ranking Law Schools: A Market Test?" 81 *Indiana Law Journal* 25 (2006).

"Do Federal Judges Make Regulatory Policy? An Empirical Study," 73 *University of Chicago Law Review* 823 (2006) (with Thomas Miles).

"Burkean Minimalism," 105 *Michigan Law Review* 353 (2006).

"Misfearing: A Reply," 119 *Harvard Law Review* 1110 (2006).

"The Law of Implicit Bias," 94 *California Law Review* 969 (2006) (with Christine Jolls).

"Beyond Marbury: The Executive's Power to Say What the Law Is," 115 *Yale Law Journal* 2580 (2006).

"A New Progressivism," 17 *Stanford Law & Policy Review* 197 (2006).

"Boundedly Rational Borrowing," 73 *University of Chicago Law Review* 249 (2006).

"Irreversible and Catastrophic," 91 *Cornell Law Review* 841 (2006).

"Two Conceptions of Procedural Fairness," *Social Research* (2006).

"Debiasing Through Law," 35 *Journal of Legal Studies* 199 (2006) (with Christine Jolls).

"Justice Breyer's Pragmatic Constitutionalism," 115 *Yale Law Journal* 1719 (2006).

"Chevron Step Zero," 92 *Virginia Law Review* 187 (2006).

"Precautions Against What? The Availability Heuristic and Cross-Cultural Risk Perception," 57 *Alabama Law Review* 75 (2005).

"Correspondence: Testing Minimalism: A Reply," 104 *Michigan Law Review* 123 (2005).

"On Moral Intuitions and Moral Heuristics: A Response," 28 *Behavioral and Brain Sciences* 565 (2005).

"Moral Heuristics," 28 *Behavioral and Brain Sciences* 531 (2005).

"Deterring Murder: A Reply," 58 *Stanford Law Review* 847 (2005) (with Adrian Vermeule).

"Is Capital Punishment Morally Required? The Relevance of Life-Life Tradeoffs," 58 *Stanford Law Review* 703 (2005) (with Adrian Vermeule).

"Group Judgments: Deliberation, Statistical Means, and Information Markets," 80 *New York University Law Review* 962 (2005).

"Why Does the American Constitution Lack Social and Economic Guarantees?," in *American Exceptionalism*, Michael Ignatieff, ed. (2005).

"Sexual Freedom and Political Freedom," in *On Nineteen Eighty Four: Orwell and Our Future*, Abbott Gleason, Jack Goldsmith, Martha Nussbaum, eds. (Princeton University Press 2005).

"Administrative Law Goes to War," 118 *Harvard Law Review* 2663 (2005).

"Dollars and Death," 72 *University of Chicago Law Review* 537 (2005) (with Eric Posner).

"Environmental Protection and Cost-Benefit Analysis," 115 *Ethics* 2 (January 2005).

"The Right to Marry," 26 *Cardozo Law Review* 2081 (2005).

"Constitutive Commitments and Roosevelt's Second Bill of Rights: A Dialogue" (with Randy Barnett), 53 *Drake Law Review* 205 (2005).

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["Cost-Benefit Analysis and the Environment,"](#) 115 *Ethics* 351 (2005).

"Liberty after Lawrence," 65 *Ohio State Law Journal* 1059 (2004).

"Market Efficiency and Rationality: The Peculiar Case of Baseball," 102 *Michigan Law Review* 1390 (2004) (with Richard Thaler).

"Lives, Life-Years and Willingness to Pay," 104 *Columbia Law Review* 205 (2004).

"Minimalism at War," 2004 *Supreme Court Review* 47 (2004).

Empirical projects on voting behavior of federal judges, under the auspices of the Chicago Judges Project

"Deliberation, nouvelle technologies, et extrémisme," 2 *Raison Publique* 9 (2004).

"On the Psychology of Punishment," 11 *Supreme Court Economic Review* 171 (2004).

"Valuing Life: A Plea for Disaggregation," 54 *Duke Law Journal* 385 (2004).

["Fear and Security,"](#) 71 *Social Research* 4 (2004).

"Ideological Voting on Federal Courts of Appeals: A Preliminary Investigation," 90 *Virginia Law Review* 301 (2004) (with David Schkade and Lisa Ellman).

["Are Poor People Worth Less Than Rich People? Disaggregating the Value of Statistical Lives."](#) University of Chicago Law & Economics, Olin Working Paper No. 207; AEI-Brookings Joint Center Working Paper No. 04-05 (2004).

["Black on Brown."](#) 90 *Virginia Law Review* 1649 (2004).

"Lives or Life Years?" 104 *Columbia Law Review* 205 (2004).

"Moral Heuristics and Moral Framing," 88 *Minnesota Law Review* 1556 (2004).

"Statistics, Not Memories: What Was the Standard of Care in Administering Antenatal Steroids to Women in Preterm Labor Between 1985 and 2000?," 102 (no. 2) *Obstetrics and Gynecology* (August, 2003) (with William Meadow and Anthony Bell).

"Lochnering," 82 *Texas Law Review* 65 (2003).

"What Did Lawrence Hold? Of Autonomy, Desuetude, Sexuality, and Marriage," *Supreme Court Review* 27 (2003).

"Libertarian Paternalism," 93 *American Economic Review* 175 (2003) (with Richard Thaler).

["Libertarian Paternalism Is Not An Oxymoron."](#) *University of Chicago Law Review* (2003) (with Richard Thaler).

"Interpretation and Institutions," 101 *Michigan Law Review* 885 (2003) (with Adrian Vermeule).

"Interpretive Theory in Its Infancy: A Reply to Posner," 101 *Michigan Law Review* 972 (2003) (with Adrian Vermeule).

["Why Does the American Constitution Lack Social and Economic Guarantees?"](#) University of Chicago Public Law Working Paper No. 36 (January 2003).

"A Hand in the Matter: Has the Rehnquist Court Pushed Its Agenda on the Rest of the Country?" *Legal Affairs* 26 (March/April 2003).

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"Terrorism and Probability Neglect," 26 *Journal of Risk and Uncertainty* 121 (2003), reprinted in *The Risks of Terrorism* (W. Kip Viscusi ed. 2003) .

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"Military Tribunals and Legal Culture: What a Difference Sixty Years Makes," 19 *Constitutional Commentary* 261 (2002) (with Jack Goldsmith).

"The Arithmetic of Arsenic," 90 *Georgetown Law Review* 2255 (2002).

"In Praise of Numbers: A Reply," 90 *Georgetown Law Review* 2379 (2002).

"On a Danger of Deliberative Democracy," *Daedalus* 120 (Fall 2002).

"Is There a Constitutional Right to Clone?," 53 *Hastings Law Journal* 987 (2002).

"The Paralyzing Principle," 25 *Regulation* 32 (2003).

"The Rights of Animals," 70 *University of Chicago Law Review* 387 (2003).

"Predictably Incoherent Judgments," 54 *Stanford Law Review* 1153 (2002) (with Daniel Kahneman, David Schkade, and Ilana Ritov).

"Enforcing Existing Rights," 8 *Animal Law i* (2002).

"Is Incoherence Outrageous?" 54 *Stanford Law Review* 1293 (2002) (with Daniel Kahneman, David Schkade and Ilana Ritov).

"Probability Neglect: Emotions, Worst Cases, and Law," 112 *Yale Law Journal* 61 (2002).

"Beyond the Precautionary Principle," 151 *University of Pennsylvania Law Review* 1003 (2003).

"Avoiding Absurdity? A New Canon of Regulatory Law (with notes on what's wrong with contemporary interpretive theory)," *Env. L. Rep.* (2002).

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"[Inequality and Indignation](#)," 30 *Philosophy and Public Affairs* 337 (2002) (with Edna Ullmann-Margalit).

"The Law of Group Polarization," 10 *Journal of Political Philosophy* 175 (2002).

"Lawless Order and Hot Cases," in *A Badly Flawed Election*, Ronald Dworkin, ed. (2002).

"The Laws of Fear," Review of Paul Slovic, *The Perception of Risk*, 115 *Harvard Law Review* 1119 (February 2002).

["Social and Economic Rights? Lessons from South Africa,"](#) University of Chicago, Public Law Working Paper No. 12; University of Chicago Law & Economics, Olin Working Paper No. 124 (2001).

"A New Executive Order for Improving Federal Regulation," 150 *University of Pennsylvania Law Review* 1489 (2002) (with Robert Hahn).

"Does the Constitution Enact the Republican Party Platform? Beyond Bush v. Gore," in *Bush v. Gore: The Question of Legitimacy*, Bruce A. Ackerman, ed. (2002).

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"Human Behavior and the Law of Work," 87 *Virginia Law Review* 205 (April 2001).

"On Academic Fads and Fashions," 99 *Michigan Law Review* 1251 (2001).

"Of Artificial Intelligence and Legal Reasoning," 8 *University of Chicago Law School Roundtable* 29 (2001).

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## **Awards and Activities (selected)**

Regulatory Innovation Award, 2012 (Burton Foundation) ("to honor an academic or non-elected public official whose innovative ideas have made a significant contribution to the discourse on regulatory reform")

Henderson Prize, Harvard Law School, 2002, for Free Markets and Social Justice (awarded for best book on law and government in preceding five years).

Goldsmith Book Award, Harvard University, 1994, for Democracy and the Problem of Free Speech (awarded for best book on free speech)

Certificate of Merit Award of American Bar Association for contribution to public understanding of American legal system, 1991, for *After the Rights Revolution*

Award of American Bar Association for best scholarship in administrative law, 1987, for *Interest Groups in American Public Law*, 38 *Stanford Law Review*

Award of American Bar Association for best scholarship in administrative law, 1989, for *Interpreting Statutes in the Regulatory State*, 102 *Harv. L. Rev.*

Award of American Bar Association for best scholarship in administrative law, 1999, for *Is the Clean Air Act Unconstitutional?*, *Michigan Law Review*, and *Informational Regulation and Informational Standing*, *U. Pa. L. Rev.*

[Graduate Teaching Award, 2003](#)

Member, Institute of Medicine Committee, Reducing Tobacco Use: Strategies, Barriers, and Consequences, *2004-2005*

Member, Presidential Advisory Committee on the Public Service Obligations of Digital Television, *1997-1998*

Co-Director, Center on Constitutionalism in Eastern Europe, University of Chicago, *1990-1997*

Contributing Editor, *The New Republic*, *1999-2009*

National Council, World Wildlife Fund, *1994*

Commissioner, American Bar Association Commission on the future of the Federal Trade Commission and of economic regulation, *1988*

Associate Editor, *Ethics*, *1986-1988*

Board of Editors, *Studies in American Political Development*, *1989-2009*

Board of Editors, *Journal of Political Philosophy*, *1991-2009*

Board of Editors, *Constitutional Political Economy*, *1991-2009*

Contributing Editor, *The American Prospect*, *1989-2009*

Chair, Administrative Law Section, Association of American Law Schools, *1989-1990*

Vice-Chair, American Bar Association Section on Governmental Organization and Separation of Powers, *1986-1987*

Council, American Bar Association Section on Administrative Law, *1987-1988*

Member, American Academy of Arts and Sciences, elected 1992

Visiting Scholar, University of Minnesota Law School, Rutgers University, George Washington University

Testified on numerous legal subjects, usually involving separation of powers, administrative law, regulatory policy, and constitutional law, before a number of national and local government bodies, including Senate Judiciary Committee, Senate Government Affairs Committee, House Rules Committee, Attorney General's Commission on Pornography, and Illinois House of Representatives