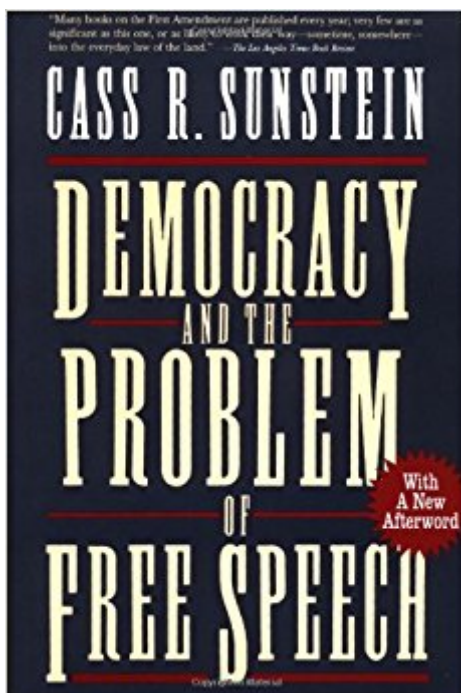


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# Democracy And The Problem Of Free Speech



## Synopsis

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.-- Akhil Amar, Southmayd Professor, Yale Law School This is an important book. Beautifully clear and carefully argued, Sunstein's contribution reaches well beyond the confines of academic debate. It will be of interest to any citizen concerned about freedom of speech and the current state of American democracy.-- Joshua Cohen,

## Book Information

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## Customer Reviews

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. Copyright 1993 Reed Business Information, Inc. --This text refers to an out of print or unavailable edition of this title.

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. Copyright 1993 Reed Business Information, Inc. --This text refers to an out of print or unavailable edition of this title.

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the vendor is a liar concerning the quality. the book is worth reading

Sunstein's observations simulate your thinking but it is hard to get pass his style. It is not so much a book as a transcription of a lecture. Nevertheless, his ideas are wonderful sophistry.

Cass Sunstein begins with a thesis that is very simple. I'd explain it like this. "Speech is not free if ordinary citizens do not possess it." Then, he elaborates on this fundamental idea in great detail. The problem is that our courts over many years have defined speech as something similar to a market commodity. Now, it's equated with access to TV and radio, which is purchased at a very high price. Some politicians like to say "money is speech" in this electronic age. The courts are more circumspect, of course, but they seldom view speech in terms of the actual results. Sunstein believes that the primary result desired by James Madison, "the father of our US Constitution," is an inspired, well-informed, citizenry educated by the free flow of ideas. So, he terms this view of free speech the

"Madisonian Ideal." Madison's view of freedom, and free speech, was always balanced with his ideas about Democracy, Sunstein says. Under Democracy, we expect freedom, equality, and justice, all three together. This expectation comes from the second paragraph of our Declaration of Independence and was reinforced by those last few, and very inspiring, lines of Lincoln's Gettysburg Address. In terms of modern consumerism, we'd call it a package deal. But, the court decisions in many free speech cases promise only freedom. There is not enough thought given to equality and justice. Thus, the longterm survival of free speech is threatened by court interpretations of freedom that are too narrow and do not consider the actual results. One of the worst of those results is the obvious frustration of serious discussion of the public issues by the influence of money. To be honest, this book is not very easy to read. Sunstein's style of writing is technical and legal. It's well worth the effort, though, if you care either way about the issue of campaign finance reform. It's a must-read in that case. Two nice companions to this book would be "Money and Politics: Financing Our Elections Democratically," by David Donnelly and others, and "If Buckley Fell: A First Amendment Blueprint for Regulating Money in Politics" by Joshua Rosenkranz and others.

Always prescient to the collective needs of his times, Czar Sunstein has fashioned a "reasonable" theoretical framework for allowing the government to regulate and control "expression" classified as "unnecessary" to Madison's concern for "deliberative democracy". (You can almost be excused for failing to notice that "government" will be deciding where and when such boundaries are erected.) His formulation can easily be refined to support the "Dhimmitude" of our country towards Islamic (or other) theological ravings. At a time when free expression can be easily, if not hysterically, likened to a loaded semi-automatic assault weapon, this exegesis is a welcome beacon to guide us away from the otherwise unpleasant clashes between the violent and the narrow minded.

I'm simultaneously giving this book one star and telling you that you must read this book. Sunstein's ideas stand in direct opposition to what our constitution's framers intended. People need to be aware of this man's dangerous ideas and the direct threat they pose to liberty.

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