



Free Markets and Social Justice

By Cass R. Sunstein

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The newest work from one of the most preeminent voices writing in the legal/political arena today, this important book presents a new conception of the relationship between free markets and social justice. The work begins with foundations--the appropriate role of existing "preferences," the importance of social norms, the question whether human goods are commensurable, and issues of distributional equity. Continuing with rights, the work shows that markets have only a partial but instrumental role in the protection of rights. The book concludes with a discussion on regulation, developing approaches that would promote both economic and democratic goals, especially in the context of risks to life and health.

Free Markets and Social Justice develops seven basic themes during its discussion: the myth of laissez-faire; preference formation and social norms; the contextual character of choice; the importance of fair distribution; the diversity of human goods; how law can shape preferences; and the puzzles of human rationality. As the latest word from an internationally-renowned writer, this work will raise a number of important questions about economic analysis of law in its conventional form.



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Editorial Review

Amazon.com Review

While not meant to be an overarching "theory of justice" Cass Sunstein's book supplies many of the theoretical components any grand theory ought to include. In the broadest terms, this collection of articles argues that achieving social justice should be of greater importance than the purity of free markets. Markets, he argues, are themselves only possible through political guarantees of rights and the rule of law, and they should be subordinate to discussions of justice. Sunstein considers seven principles that clarify what is at stake in contemporary discussions of law and economics, often exposing unfounded assumptions of libertarians and free market devotees, yet never losing sight of the value of markets and the goods they procure. Insightful chapters on the formation of preferences, the diversity of human goods, the context dependence of choice, and the vexing problems of rationality blend the author's broad knowledge of contemporary philosophy, his command of legal history and philosophy, and a solid grasp of economic theory. Those looking for sound and challenging thinking on these topics have an excellent source in this volume.

From [Booklist](#)

Sunstein, noted legal scholar and prolific author, is also the Llewellyn Distinguished Professor of Jurisprudence at the University of Chicago School of Law; he has written dozens of articles for academic and law journals and for the popular press. His books include *Democracy and the Problem of Free Speech* (1994) and *The Partial Constitution* (1993). In the context of a "mounting enthusiasm for free markets" worldwide, Sunstein undogmatically analyzes here the complex relationships between market forces, social justice, liberty, and freedom. He develops seven basic themes--beginning with the "myth of laissez-faire" as he declares that "the notion of 'laissez-faire' is a grotesque misdescription of what free markets actually require and entail." Organizing his presentation into three sections (foundational issues, rights, and regulation), he raises potent issues such as how we measure well-being, why markets do not eliminate discrimination, and the paradoxes of the regulatory state. Sunstein successfully and eloquently lays out weighty arguments without making them seem ponderous. *David Rouse*

Review

"This is an excellent book. Sunstein is one of the leading legal scholars of his generation and this is an extremely timely subject, particularly in this era of regulatory embattlement."--Carol Rose, Yale Law School

"This is a thought-provoking and important contribution to current public policy debate. Highly recommended for libraries at all levels."--*Choice*

"Sunstein's stature among legal scholars is tremendous; his previous books have reflected an admixture of pathbreaking, provocative scholarship on many key law and policy debates today. *Free Markets and Social Justice* represents a valuable and important contribution to Sunstein's impressive oeuvre."--Daniel B. Rodriguez, University of California School of Law, Berkeley

"Sunstein captures again and again in this provocative and insightful book the ways in which context and the nature of our humanity shape preferences, and so need to be accounted for (as markets cannot do) in a political system that seeks to be just. Fortunately for us, his luminescent career has developed at the University of Chicago, in the midst of colleagues whom, as he puts it, could TRY to teach him something about economics, but more importantly provoke and help him to hone the skeptical responses that have so consistently animated his influential scholarship. This collection of essays, revised and shaped to persuasive unity, will be enormously helpful to all who wish to explore the uses and abuses of market reasoning in the political and legal sphere."--Peter L. Strauss, Columbia University

"Sunstein is a man of many ideas, and this book is a splendid introduction to them."--Bruce Ackerman, Yale Law School

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