

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 (NCAA champions)

EXPERIENCE

Harvard University

Robert Walmsley University Professor, 2013-present

Harvard Law School

Felix Frankfurter Professor of Law, 2012-2013

United States Government

Defense Innovation Board, U.S. Department of Defense, 2016-2017

The President's Review Group on Intelligence and Communications Technologies, 2013

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

Senior Advisor, Office of Management and Budget, Jan. 2009-Sept. 2009

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

Sludge (forthcoming 2021)

Noise: A Flaw in Human Judgment (forthcoming 2021) (with Daniel Kahneman and Olivier Sibony)

Averting Catastrophe: Decision Theory for COVID-19, Climate Change and Potential Disasters of all Kinds (forthcoming 2021)

Liars: Falsehoods and Free Speech in an Age of Deception (forthcoming 2021)

This Is Not Normal: The Politics of Everyday Expectations (forthcoming 2021)

Behavioral Science and Public Policy (2020)

Law and Leviathan (2020) (with Adrian Vermeule)

Too Much Information: Understanding What You Don't Want to Know (2020)

The First Amendment (Wolters Kluwer, 6th edition, 2020) (with Geoffrey R. Stone, Louis M. Seidman, Mark V. Tushnet, and Pamela S. Karlan)

The World According to Star Wars (rev. ed. 2019).

Which Nudges Do People Like? A National Survey, in Handbook of Behavioural Change and Public Policy 285 (Holger Straßheim & Silke Beck eds., 2019)

Conformity: The Power of Social Influences (2019)

On Freedom (2019)

How Change Happens (2019)

Trusting Nudges: Toward a Bill of Rights for Nudging (2019) (with Lucia A. Reisch)
The Cost-Benefit Revolution (MIT Press 2018)

Can It Happen Here?: Authoritarianism in America (2018)

Constitutional Law ((Wolters Kluwer 8th ed. 2018) (with Geoffrey R. Stone, Louis M. Seidman, Mark V. Tushnet, and Pamela S. Karlan)

Legal Reasoning and Political Conflict (Oxford Univ. Press 2nd ed., 2018)

Impeachment: A Citizen's Guide (2017)

Normal Rationality: Decisions and Social Order (Edna Ullmann-Margalit, author; Cass R. Sunstein & Avishai Margalit eds., 2017)

Human Agency and Behavioral Economics: Nudging Fast and Slow (2017)

'Better Off, as Judged by Themselves': *Bounded Rationality and Nudging*, in *Routledge Handbook on Bounded Rationality* (Riccardo Viale ed., 2017)

Administrative Law and Regulatory Policy: Problems, Text, and Cases (Wolters Kluwer 8th ed. 2017) (with Stephen G. Breyer, Richard B. Stewart, Adrian Vermeule, and Michael Herz)

#Republic: Divided Democracy in the Age of Social Media (2017)

'Don't Tell Me What I Can't Do!' *On the Intrinsic Value of Control, Introduction*, in *The Behavioral Economics Guide 2017* (Alain Samson ed., 2017)

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., 2016)

The Economics of Nudge (2016) (with Lucia A. Reisch)

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)

Foreword to Nudging Health: Health Law and Behavioral Economics xi (I. Glenn Cohen, Holly Fernandez Lynch & Christopher T. Robertson eds., Johns Hopkins Univ. Press 2016)

The Council of Psychological Advisers, in *67 Ann. Rev. Psychol. 713* (2016) (with Susan T. Fiske, Daniel L. Schacter & Shelley E. Taylor)

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

The Economics of Nudge (Critical Concepts in Economics) (Routledge, 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)

The Power of Green Defaults: The Impact of Regional Variation of Opt-out Tariffs on Green Energy Demand in Germany, 174 *Ecological Econ.* (Aug. 2020) (with Micha Kaiser, Manuela Bernauer, & Lucia A. Reisch).

Algorithms as Discrimination Detectors, *Proc. Nat'l Acad. Sci.* 201912790 (July 28, 2020) (with Jon Kleinberg, Jens Ludwig, and Sendhil Mullainathan).

Chevron as Construction, 105 *Cornell L. Rev.* 1465 (2020) (with Lawrence B. Solum).

The Triumph of the Friendly: A Review of Brian Hare and Vanessa Woods, Survival of the Friendliest, 22 *J. Bioecon.* 131 (2020).

Ten Considerations for Effectively Managing the COVID-19 Transition, *Nature Hum. Behav.*, June 24, 2020 (with Katrine Bach Habersaat, Cornelia Betsch, Margie Danchin, Robert Böhm, Armin Falk, Noel T. Brewer, Saad B. Omer, Martha Scherzer, Sunita Sah et al.).

Maximin, 37 *Yale J. on Reg.* 940 (2020).

How Behavioural Sciences Can Promote Truth, Autonomy and Democratic Discourse Online, *Nature Hum. Behav.*, June 15, 2020 (with Philipp Lorenz-Spreen, Stephan Lewandowsky, & Ralph Hertwig).

Behavioral Welfare Economics, 11 *J. Benefit-Cost Analysis* 196 (2020).

How Special is Democracy?: An Experimental Study of Recommendations in the Minimum Effort Game, 190 *Econ. Letters* 109066 (2020) (with Johanna Mollerstrom).

The Siren of Selfishness, *N.Y. Rev. Books*, Apr. 9, 2020, at 33 (reviewing Lisa Duggan, *Mean Girl: Ayn Rand and the Culture of Greed* (2019))

Falsehoods and the First Amendment, 33 *Harv. J.L. & Tech.* 387 (2020)

On Neglecting Regulatory Benefits, 72 *Admin. L. Rev.* 445 (2020)

Sludge Audits, *Behav. Pub. Pol'y* (Jan. 6, 2020)

Fuel Economy 2.0, 44 *Harv. Envtl. L. Rev.* 1 (2020) (with Michael Greenstone and Sam Ori).

How People Decide What They Want to Know, 4 *Nature Hum. Behav.* 14 (2020) (with Tali Sharot).

Optimal Sludge? The Price of Program Integrity, *Duke L.J. Online* (2020) (with Julien L. Gosset).

Presidential Review: The President's Statutory Authority Over Independent Agencies, *Geo. L.J.* (2020) (with Adrian Vermeule).

Self-Silencing and Online Learning, 69 J. Legal Educ. (2020).

Superheroes of A Thousand Faces: The Irresistible Stan Lee, L.A. Rev. Books (forthcoming 2020) (reviewing Liel Leibovitz, *Stan Lee: A Life in Comics* (2020)).

The Meaning of Masks, J. Behavioral Econ. for Pol'y (2020).

The Unitary Executive: Past, Present, Future, Sup. Ct. Rev. (2020) (with Adrian Vermeule).

Valuing Environmental Labels, 28 N.Y.U. Envtl. L.J. 135 (2020).

Voluntary Agreements, J. Econ. Methodology (2020).

Drawing False Inferences from Mandated Disclosures, 3 Behavioural Pub. Pol'y 209 (2019) (with Oren Bar-Gill and David Schkade).

Like a Dog, L.A. Rev. of Books (Oct. 24, 2019)(reviewing Lee Alan Dugatkin & Lyudmila Trut, *How to Tame a Fox (and Build a Dog)* (2017) and Richard Wrangham, *The Goodness Paradox: The Strange Relationship Between Virtue and Violence in Human Evolution* (2019)).

Epistemic Spillovers: Learning Others' Political Views Reduces the Ability to Assess and Use Their Expertise in Nonpolitical Domains, 188 Cognition 74 (2019) (with Joseph Marks, Eloise Copland, Eleanor Loh, and Tali Sharot).

Lapidation and Apology (June 19, 2019)

Heuristics and Public Policy: Decision Making Under Bounded Rationality, 7 Stud. Microecon. 7 (2019) (with Sanjit Dhami, and Ali al-Nowaihi).

Ruining Popcorn? The Welfare Effects of Information, 58 J. Risk & Uncertainty 121 (2019).

Growing Outrage, 3 Behavioural Pub. Pol'y 1 (2019).

Sludge and Ordeals, 68 Duke L.J. 1843 (2019)

Wading Through the Sludge, N.Y. Rev. Books, Apr. 4, 2019, at 34 (reviewing Pamela Herd & Donald P. Moynihan, *Administrative Burden: Policymaking By Other Means* (2019)).

Nudging: A Very Short Guide, 54 Bus. Econ. 127 (2019).

Which Radicals?, 117 Mich. L. Rev. 1215 (2019)(reviewing Jeremy McCarter, *Young Radicals: In the War for American Ideals* (2017)).

Valuing Facebook, 3 Behav. Pub. Pol'y (Feb. 27, 2019).

Does Size Matter? The Allais Paradox and Preference Reversals with Varying Outcome Magnitudes, 78 J. Behavioral & Experimental Econ. 45 (2019) (with Adam Oliver).

#MeToo As A Revolutionary Cascade, 2019 U. Chi. Legal F. 261.

Algorithms, Correcting Biases, 86 Soc. Res. 499 (2019).

Chevron as Law, 107 *Geo. L.J.* 1613 (2019).

Is Cost-Benefit Analysis a Foreign Language?, 72 *Q.J. Experimental Psychol.* 3 (2019).

Rear Visibility and Some Problems for Economic Analysis (With Particular Reference to Experience Goods), 10 *J. Benefit-Cost Analysis* 317 (2019).

Respecting Autonomy: "Information First, Then Opinion" is More Effective Than "Opinion First, Then Information," 3 *J. Behavioral Econ. for Pol'y* 5 (2019) (with Hasan Sheikh).

Which Europeans Like Nudges? Approval and Controversy in Four European Countries, 52 *J. Consumer Aff.* 655 (2018) (with Cäzilia Loibl, Julius Rauber & Lucia A. Reisch).

"They Are and Were There", *Soc. Res.*, Fall 2018, at 687 (reviewing A. S. Byatt, *Possession: A Romance*).

Reply: Sure It Can, *N.Y. Rev. Books*, Aug. 16, 2018, at 77 (in response to Cass R. Sunstein, *It Can Happen Here*, *N.Y. Rev. Books*, June 28, 2018, at 64).

On Preferring A to B, While Also Preferring B to A, 30 *Rationality & Soc'y* 305 (2018).

It Can Happen Here, *N.Y. Rev. Books*, June 28, 2018, at 64 (reviewing Milton Mayer, *They Thought They Were Free: The Germans, 1933-45* (2017) & Konrad H. Jarausch, *Broken Lives: How Ordinary Germans Experienced the Twentieth Century* (2018)).

Originalism, 93 *Notre Dame L. Rev.* 1671 (2018).

The Morality of Administrative Law, 131 *Harv. L. Rev.* 1924 (2018) (with Adrian Vermeule).

The Science of Fake News, *Science*, Mar. 9, 2018, at 1094 (with David M. J. Lazer, Matthew A. Baum, Yochai Benkler, Adam J. Berinsky, Kelly M. Greenhill, Filippo Menczer, Miriam J. Metzger, Brendan Nyhan, Gordon Pennycook, David Rothschild, Michael Schudson, Steven A. Sloman, Emily A. Thorson, Duncan J. Watts & Jonathan L. Zittrain).

A World-Wide Consensus on Nudging? Not Quite, But Almost, 12 *Reg. & Governance* 3 (2018) (with Lucia A. Reisch and Julius Rauber).

"Better Off, as Judged by Themselves": A Comment on Evaluating Nudges, 65 *Int'l Rev. Econ.* 1 (2018).

Behavioral Economics and Public Opinion, 53 *Intereconomics* 5 (2018) (with Lucia A. Reisch).

Changing Climate Change, 2009-2016 42 *Harv. Envtl. L. Rev.* 231 (2018).

Chevron Without Chevron, 2018 *Sup. Ct. Rev.* 59.

Greener by Default, *Trinity C. L. Rev.* 31 (2018) (with Lucia A. Reisch).

Is Social Media Good or Bad for Democracy?, 15 *Sur: Int'l J. on Hum. Rts.* 83 (2018).

Radicals, Democratic and Technocratic, Mich. L. Rev. (forthcoming 2018).

Social Influences on Policy Preferences: Conformity and Reactance, 102 Minn. L. Rev. 1339 (2018) (with Meirav Furth-Matzkin).

The Rise of Behavioral Economics: Richard Thaler's Misbehaving, 2 J. Behavioral Econ. for Pol'y 53 (2018) (reviewing Richard H. Thaler, *Misbehaving: The Making of Behavioral Economics* (2015)).

Unleashed, 85 Soc. Res. 73 (2018).

Moral Commitments in Cost-Benefit Analysis, 103 Va. L. Rev. 1809 (2017) (with Eric A Posner).

Obesity Prevention in the Supermarket--Choice Architecture and the Supplemental Nutrition Assistance Program, 107 Am. J. Pub. Health 1582 (2017) (with Anne Thorndike).

Boundedly Rational Patients? Part 1: Health and Patient Mistakes in a Behavioral Framework, 1 J. Behav. Econ. for Pol'y 11 (2017) (with Ada C. Stefanescu Schmidt and Ami B. Bhatt).

Boundedly Rational Patients? Part 2: Health and Patient Mistakes in a Behavioral Framework, 1 J. Behav. Econ. for Pol'y 11 (2017) (with Ada C. Stefanescu Schmidt, and Ami B. Bhatt).

Should Governments Invest More in Nudging?, 28 Psychol. Sci. 1041 (2017) (with Shlomo Benartzi, John Beshears, Katherine L. Milkman, Richard H. Thaler, Maya Shankar, Will Tucker-Ray, William J. Congdon, Steven Galing).

The Intrinsic Value of Choice: The Propensity to Under-Delegate in the Face of Potential Gains and Losses, 54 J. Risk & Uncertainty 187 (2017) (with Sebastian Bobadilla-Suarez, and Tali Sharot).

Default Rules Are Better Than Active Choosing (Often), 21 Trends Cognitive Sci. 600 (2017)

The American Nondelegation Doctrine (May 23, 2017)

Beyond Carrots and Sticks: Europeans Support Health Nudges, 69 Food Pol'y 1 (2017) (with Lucia Reisch and Wencke Gwozdz).

Nudges That Fail, 1 Behavioural Pub. Pol'y 4 (2017)

The Statements I Most Regret, 14 Econ J. Watch 294 (2017)

The Next Generation of Transportation Policy (Mar. 29, 2017) (with Michael Greenstone and Sam Ori).

Behavioral Insights All Over the World? Public Attitudes Toward Nudging in a Multi-Country Study (Feb. 21, 2017) (with Lucia A. Reisch & Julius Rauber)

Cost-Benefit Analysis and Arbitrariness Review, 41 Harv. Envtl. L. Rev. 1 (2017)

Deliberative Democracy in the Trenches, Daedalus, Summer 2017, at 129.

Forcing People To Choose Is Paternalistic, 82 Mo. L. Rev. 643 (2017) (Symposium on Libertarian Paternalism).

Formalism in Constitutional Theory, 32 Const. Comment. 27 (2017).

How People Update Beliefs about Climate Change: Good News and Bad News, 102 Cornell L. Rev. 1431 (2017). (with Sebastian Bobadilla-Suarez, Stephanie C. Lazzaro & Tali Sharot)

Irreparability as Irreversibility, 2017 Sup. Ct. Rev 93.

Is Cost-Benefit Analysis a Foreign Language?, Q. J. Experimental Psychol. (2017) (Symposium on 'the Foreign Language Effect').

On the Costs and Benefits of Mandatory Labeling, with Special Reference to Genetically Modified Foods 165 U. Pa. L. Rev. 1043 (2017).

Requiring Choice is a Form of Paternalism, 1 J. Behavioral Econ. for Pol'y, no. 1, 2017, at 11.

The Unbearable Rightness of Auer, 84 U. Chi. L. Rev. 297 (2017) (with Adrian Vermeule).

Beyond Cheneyism and Snowdensim, 83 U. Chi. L. Rev. 271 (2016).

In Memoriam: Justice Antonin Scalia, 130 Harv. L. Rev. 1 (2016) (with Chief Justice John G. Roberts Jr., John F. Manning, Justice Elena Kagan, Justice Ruth Bader Ginsburg, Martha Minow & Rachel E. Barkow).

Listen, Economists!, 63 N.Y. Rev. of Books, Nov. 10, 2016, at 53 (reviewing Guido Calabresi, *Future of Law and Economics: Essays in Reform and Recollection* (2016)).

Autonomy by Default, 16 Am. J. Bioethics 1536 (2016).

Were the Framers Democrats?, New Rambler Rev., Oct. 31, 2016 (reviewing Michael J. Klarman, *The Framers' Coup: The Making of the United States* (2016)).

People Prefer System 2 Nudges (Kind Of), 66 Duke L.J. 121 (2016)

Output Transparency vs. Input Transparency (Aug. 18, 2016).

Do Europeans Like Nudges?, 11 Judgment & Decision Making 310 (2016) (with Lucia A. Reisch).

Climate-Friendly Default Rules (June 18, 2016) (with Lucia A. Reisch).

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

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

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

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

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

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

“From Technocrat To Democrat,” 128 *Harvard Law Review* 488 (2014).

“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).

“Nudging: A Very Short Guide,” 37 *Journal of Consumer Policy* 583 (2014).

“Nudges vs. Shoves: the benefits of preserving choice,” 127 *Harvard Law Review* 210 (2014).

“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*

Review 1838 (2013).

“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).

“Some Effects of Moral Indignation on Law.” 33 *Vermont Law Review* (2009).

"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).

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Review of Baer, *Equality Under the Constitution*, 95 *Ethics* (1984).

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Awards and Activities (selected)

Director, Program on Behavioral Economics and Public Policy, Harvard Law School, 2013-present

Chair, Technology Advisory Group, Behavioral Insights and Public Health, World Health Organization, 2020-present

Holberg Prize, Government of Norway, 2018

Honorary degree, University of Pennsylvania

Honorary Degree, Copenhagen Business School

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