

Behavioral Economics, Law, and Public Policy Syllabus

Spring 2024

Harvard Law School

Mondays 3:45pm-5:45pm

Professor Cass R. Sunstein

1/22/24

Class 1: Autonomy and its Limits, 1

Sunstein, Valuing Facebook, available at https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3241348

Leonardo Burszyn et al., When Product Markets Become Collective Traps, available at <https://www.nber.org/papers/w31771> (please skim technical parts; just get the gist)

Sunstein and Thaler, Libertarian Paternalism Is Not An Oxymoron, available at

http://chicagounbound.uchicago.edu/cgi/viewcontent.cgi?article=1184&context=public_law_and_legal_theory

Bubb and Pildes, How Behavioral Economics Trims its Sails and Why, available at http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2331000

1/29/24

Class 2: Autonomy and its Limits, 2

Sarah Conly, Against Autonomy: 1-53, 149-194

Gigerenzer, Breast Cancer Screening Pamphlets Mislead Women (2014), available at <https://www.bmj.com/content/bmj/348/bmj.g2636.full.pdf>

Hertwig, When to Consider Boosting, available at <https://www.cambridge.org/core/journals/behavioural-public-policy/article/when-to-consider-boosting-some-rules-for-policymakers/047550D639F89EEB137FE61BA7C09DEF>

2/5/24

Class 3: Autonomy and its Limits, 3

Hunt Alcott and Judd Kessler, The Welfare Effects of Nudges, available at <http://www.nber.org/papers/w21671>

Jacob Goldin, Libertarian Quasi-Paternalism, available at

<https://scholarship.law.missouri.edu/cgi/viewcontent.cgi?article=4282&context=mlr>

Bernheim, The Good, the Bad, and the Ugly: A Unified Approach to Behavioral Welfare Economics, pp. 12-19, available at

<https://www.cambridge.org/core/services/aop-cambridge-core/content/view/2FA67967E4A2019C4BBAD67ECEDF8B20/S2194588816000051a.pdf/the-good-the-bad-and-the-ugly-a-unified-approach-to-behavioral-welfare-economics1.pdf>

2/12/24

Class 4: Cost-Benefit Analysis

Cass R. Sunstein, The Value of a Statistical Life: Some Clarifications and Puzzles, Journal of Benefit-Cost Analysis, available at <https://www.cambridge.org/core/journals/journal-of-benefit-cost-analysis/article/value-of-a-statistical-life-some-clarifications-and-puzzles/7C9C27FAB00A11D4EA5268D1F7653DC7>

Daniel Hemel, Regulation and Redistribution, available at https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3796235

Jon Bronsteen et al., Well-Being Analysis vs. Cost-Benefit Analysis, Duke Law

Journal, available at

<http://scholarship.law.duke.edu/dlj/vol62/iss8/3/>

2/19/24

Class 5: Happiness and Adaptation

Schkade and Kahneman, Does Living in California Make People Happy?, available at [https://web.mit.edu/curhan/www/docs/Articles/biases/9_Psychological_Science_340_\(Schkade\).pdf](https://web.mit.edu/curhan/www/docs/Articles/biases/9_Psychological_Science_340_(Schkade).pdf)

Kahneman and Krueger, Developments in the Measurement of Subjective Well-Being, available at <https://pubs.aeaweb.org/doi/pdf/10.1257/089533006776526030>

Folk and Dunn, How Can People Become Happier, available at <https://www.annualreviews.org/doi/abs/10.1146/annurev-psych-022423-030818>

Killingsworth et al., Income and Emotional Well-Being: A Conflict Resolved, available at <https://www.pnas.org/doi/10.1073/pnas.2208661120>

Peter Ubel et al., Disability and Sunshine, available at http://www.contrib.andrew.cmu.edu/~gl20/GeorgeLoewenstein/Papers_files/pdf/DisabilitySunshine.pdf

Garrett et al., The Brain Adapts to Dishonesty, available at <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5238933/>

2/26/24

Class 6: Manipulation and Deception

Luguri and Strahilevitz, Shining A Light on Dark Patterns, available at https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3431205

FTC News, available at <https://www.ftc.gov/news-events/press-releases/2021/10/ftc-ramp-enforcement-against-illegal-dark-patterns-trick-or-trap>

FTC Proposes to Ban Junk Fees, available at <https://www.ftc.gov/news-events/news/press-releases/2023/10/ftc-proposes-rule-ban-junk-fees>

Anne Barnhill, You're Too Smart to be Manipulated By This Paper, available at

<https://www.bgsu.edu/content/dam/BGSU/college-of-arts-and-sciences/philosophy/documents/conferences/2012/what-manipulation.pdf>

-

Davidai and Shafir, Are Nudges Getting a Fair Shot? Available at: <https://www.cambridge.org/core/journals/behavioural-public-policy/article/are-nudges-getting-a-fair-shot-joint-versus-separate-evaluation/A96EA4F1E9500A487E1D0A74563D7EDF>

3/4/24

Class 7: Information: Seeking and Avoiding

Ryan Bubb, TMI?, available at

https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2483983

Linda Thunstrom, Welfare Effects of Nudges, available at <https://journal.sjdm.org/18/18829/jdm18829.pdf>

Russell Golman et al., Information Avoidance, available at <https://www.cmu.edu/dietrich/sds/docs/loewenstein/InfoAvoidance.pdf>

Sharot and Sunstein, How People Decide What They Want to Know, available at <https://www.nature.com/articles/s41562-019-0793-1>

3/18/24

Class 8: Polarization and Misinformation

David Schkade et al., What Happened on Deliberation Day?, available at https://chicagounbound.uchicago.edu/cgi/viewcontent.cgi?referer=&httpsredir=1&article=12230&context=journal_articles

Hassan and Barber, The Effect of Repetition Frequency on the Illustory Truth Effect, available at <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC8116821/#:~:text=People%20tend%20to%20perceive%20claims,fake%20news%20to%20be%20true.>

Wilson et al., Polarization in the Contemporary Political and Media Landscape, available at https://www.researchgate.net/publication/343720891_Polarization_in_the_contemporary_political_and_media_landscape

Jesse Graham et al., Liberals and Conservatives Rely on Different Sets of Moral Foundations, available at <http://projectimplicit.net/nosek/papers/GHN2009.pdf>

Benjamin Enke, Moral Values and Voting, available at https://benjamin-enke.com/pdf/Values_voting.pdf

Why Aren't You Voting in Your Self-Interest, available at <https://www.nytimes.com/2022/09/14/opinion/elites-populists-political-beliefs.html>

3/25/24

Class 9: Surprises and Cascades

Timur Kuran, The Inevitability of Future Revolutionary Surprises, available at <https://sites.duke.edu/timurkuran/files/2016/10/inevitability-of-surprises-1.original.pdf>

Salganik et al., Experimental Study, http://www.princeton.edu/~mjs3/salganik_dodds_watts06_full.pdf

-

Duncan Watts, The Non-Inevitability of Donald Trump, available at <https://medium.com/@duncanjwatts/the-non-inevitability-of-donald-trump-and-almost-everything-2a78e764183f-.wvbr1s5o>

George Lifchits et al., Success Stories Cause False Beliefs About Success, available at <http://journal.sjdm.org/21/210225/jdm210225.pdf>

Cass R. Sunstein, Beatlemania, available at https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4018431

4/1/24

Class 10: Artificial Intelligence, Algorithms, and Noise

Daniel Kahneman et al., Noise (excerpts, available online)

Ludwig et al., The Unreasonable Effectiveness of Algorithms, available at <https://www.nber.org/papers/w32125>

Kleinberg et al., Human Decisions and Machine Predictions, available at

<http://cs.stanford.edu/~jure/pubs/bail-qje17.pdf> (important note: skim as you like; no need to read the more technical parts)

Yeomans et al., Making Sense of Recommendations, available at

https://www.mikeyeomans.info/papers/Making_Sense.pdf

Gigerenzer, One Data Point Can Beat Big Data, available at <https://behavioralscientist.org/gigerenzer-one-data-point-can-beat-big-data/>

4/8/24

Class 11: Scarcity, Preferences, and Sludge

Human Bias in Algorithm Design, available at <https://www.nature.com/articles/s41562-023-01724-4>

Mullainathan and Shafir, Scarcity (1-66; 105-181)

Cass R. Sunstein, Sludge Audits, available at <https://www.cambridge.org/core/services/aop-cambridge-core/content/view/12A7E338984CE8807CC1E078EC4F13A7/S2398063X19000320a.pdf/sludge-audits.pdf>

4/15/24

Class 12: Big Issues and the Future

Loewenstein and Chater, The S-Frame and the I-Frame, available at https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4046264

Sunstein, Behavioral Science in the Administrative State, available at https://administrativelawreview.org/wp-content/uploads/sites/2/2023/07/ALR-75.2_Sunstein.pdf

FTC, Noncompete Clauses, available at <https://www.ftc.gov/news-events/news/press-releases/2023/01/ftc-proposes-rule-ban-noncompete-clauses-which-hurt-workers-harm-competition>, and (please skim but read p. 3503) <https://www.govinfo.gov/content/pkg/FR-2023-01-19/pdf/2023-00414.pdf>