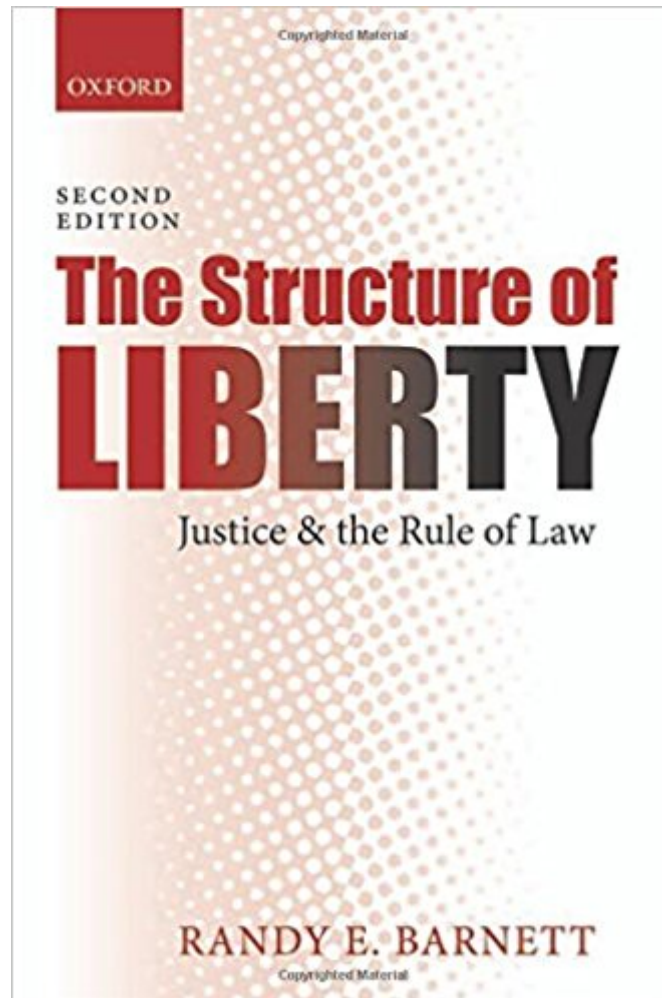




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The Structure Of Liberty: Justice And The Rule Of Law



Synopsis

In this book, legal scholar Randy Barnett elaborates and defends the fundamental premise of the Declaration of Independence: that all persons have a natural right to pursue happiness so long as they respect the equal rights of others, and that governments are only justly established to secure these rights. Drawing upon insights from philosophy, economics, political theory, and law, Barnett explains why, when people pursue happiness while living in society with each other, they confront the pervasive social problems of knowledge, interest and power. These problems are best dealt with by ensuring the liberty of the people to pursue their own ends, but this liberty is distinguished from "license" by certain fundamental rights and procedures associated with the classical liberal conception of "justice" and "the rule of law." He then outlines the constitutional framework that is needed to put these principles into practice. In a new Afterword to this second edition, Barnett elaborates on this thesis by responding to several important criticisms of the original work. He then explains how this "libertarian" approach is more modest than either the "social justice" theories of the left or the "legal moralism" of the right.

Book Information

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Customer Reviews

Updated for the second edition. I highly recommend Randy Barnett's *The Structure of Liberty* to anyone who wants to better understand the principles of justice and the rule of law. He develops and explains how they provide the structure of liberty that enables individuals to pursue their happiness in a social context. There are a lot of thought-provoking ideas throughout the book that are making me think more deeply about this topic. The most powerful feature of the book to me is

the way Barnett builds out the classical liberal conception of justice. He begins the book with a discussion of Natural Law and Natural Rights. Then he uses a "Given-If-Then" model of reasoning to set the context for what is to come: Given: The nature of human being and the world in which they live: "we want a society in which persons can survive and pursue happiness, peace and prosperity" Then: we should respect the liberal conception of justice and the rule of law The development of this conception of justice is what is covered in the rest of the book. I found his method of developing and refining his formulation of the liberal conception of justice very powerful. He evolves the formulation as he works through the "serious and pervasive social problems of knowledge, interest and power" that justice and the rule of law must address. There is a lot of great thinking as he works through these problems and evolves the conception of justice. There are 3 areas I want to call attention to since they are areas where I now see the need to think more about: 1.

I've enjoyed Randy Barnett's other books and his blogging. Barnett is a go-to guy on the Supreme Court and Constitutional issues concerning liberty His "The Structure of Liberty: Justice and the Rule of Law" is an ambitious book that would be enjoyed by anyone interested in liberty issues. He begins with a philosophical look at natural rights as the foundation of his structure. "If adherence to natural rights is indeed essential for the maintenance of social life, as natural rights theorists maintain and as I shall try to explain in the balance of this book, then laws are obligatory only if they are consistent with natural rights. By this account, a command may be a "law" in the descriptive sense that it is issued by a recognized law-maker, but it is only law in the normative sense of a command that binds in conscience on the citizenry if it does not violate the background rights of persons. Thus, for human laws to be obligatory, they should not violate natural rights." The next layer is economics: chiefly Hayek's knowledge problem and Mises's Praxeology. "Prices are by far the most neglected form of knowledge we have. Although some economic literature stresses the importance of prices, the knowledge-disseminating function of prices is largely unknown-- or, if known, then widely ignored-- in political and legal theory." In Barnett's view of liberty, individuals have bounded-domain jurisdiction over property. And consensual transfer, based on prices, best reflects local knowledge of property's value and the best use of the resource.

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