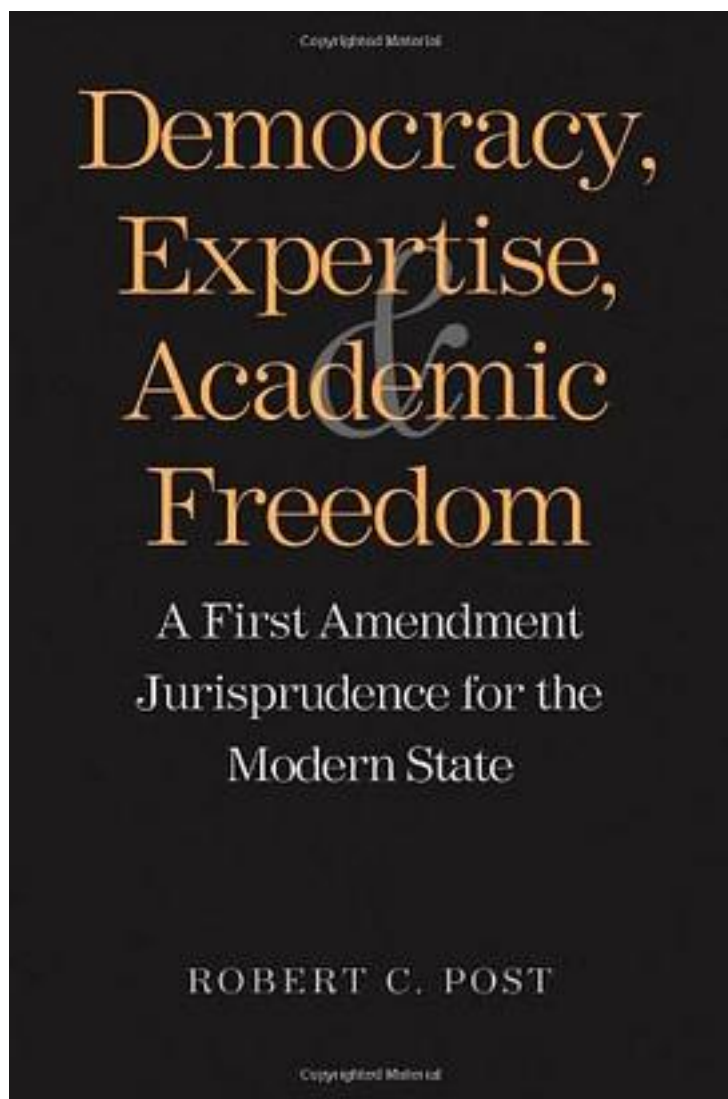


# Democracy, Expertise, and Academic Freedom



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著者:Robert C. Post

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A leading American legal scholar offers a surprising account of the incompleteness of prevailing theories of freedom of speech. Robert C. Post shows that the familiar understanding of the First Amendment, which stresses the "marketplace of ideas" and which holds that "everyone is entitled to an opinion", is inadequate to create and preserve the expert knowledge that is necessary for a modern democracy to thrive. For a modern society reliably to answer such questions as whether nicotine causes cancer, the free and open exchange of ideas must be complemented by standards of scientific competence and practice that are both hierarchical and judgmental. Post develops a theory of First Amendment rights that seeks to explain both the need for the free formation of public opinion and the need for the distribution and creation of expertise. Along the way he offers a new and useful account of constitutional doctrines of academic freedom. These doctrines depend both upon free expression and the necessity of the kinds of professional judgment that universities exercise when they grant or deny tenure, or that professional journals exercise when they accept or reject submissions.

作者介绍:

Robert C. Post is Sol & Lillian Goldman Professor of Law and Dean of the Yale Law School.

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标签

法学

美国政史

美国

政治哲学

宪法

宪政

PoliticalScience

## 评论

democratic legitimation v. democratic competence

其实就是公共事务参与权的两个面向：允不允许，质量如何。在非public discourse领域，区分对非disciplinary knowledge制造者的律师医生的合宪管制和对disciplinary knowledge制造者的大学学者的非合宪管制。机构的学术自由与个体学者学术自由的对立。除了Frankfurter的意见，作者对于最高法的判决多有微词，认为学术自由保护得太少了。／／为什么在课堂上传播知识被自然地排除于public discourse的领域之外呢？作者自己不是也说，受众的数量不是判断是否向“公众”传播的标准吗？总体而言，感觉问题没有讲透彻，结论也不明晰。

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## 书评

3p 我们不是政府的学生，而是为自己代言权利的成年人。 4p 知识与意见无关，也许的确不存在错误的观点，但对知识的主张却分对错。意见涉及每个人的个人信念，知识却设计我们对这个世界客观真相最准确的理解。 5p 学术自由的目的，是服务于“沉默的大多数”的普通群众，而非专...

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