

# **Bias in decision making**

## **Resources & Annotated reading list for judges**

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### **On decision making**

*These four books are all accessible guides to the psychology of decision making:*

**Reckoning with Risk: Learning to Live with Uncertainty** by Gerd Gigerenzer (2002)

**The Power of Intuition: How to Use Your Gut Feelings to Make Better Decisions at Work** by Gary Klein (2004)

**The Invisible Gorilla: And Other Ways Our Intuitions Deceive Us** by Christopher Chabris and Daniel Simons (2010)

**Thinking, Fast and Slow** by Daniel Kahneman (2011)

### **On bias**

*These are resources which might help understand how bias, sometimes subtle, can affect our decision*

**Reviewing Applicants: Research on Bias and Assumptions,**  
**Women in Science & Engineering Leadership Institute,**  
**University of Wisconsin-Madison**

[http://wiseli.engr.wisc.edu/docs/BiasBrochure\\_3rdEd.pdf](http://wiseli.engr.wisc.edu/docs/BiasBrochure_3rdEd.pdf)

**Project Implicit** (Harvard) <https://implicit.harvard.edu/implicit/>

## Resources for legal professionals

*These are specifically for people working in courts or with the law*

Parliamentary Office of Science and Technology (POST) note on  
**'Unintentional Bias in Court'** (October 2015)  
<http://researchbriefings.parliament.uk/ResearchBriefing/Summary/POST-PN-0512>

National Center for State Courts, **'Helping Courts Address Implicit Bias'** [www.ncsc.org/IBReport](http://www.ncsc.org/IBReport)

## De-biasing

*These scholarly papers discuss the evidence on improving decisions*

Wilson, T. D., & Brekke, N. (1994). Mental contamination and mental correction: unwanted influences on judgments and evaluations. *Psychological bulletin*, 116(1), 1171-142.

*- classic review of type of bias*

Paluck, E. L., & Green, D. P. (2009). Prejudice reduction: What works? A review and assessment of research and practice. *Annual review of psychology*, 60, 339-367.

*- review of explicit prejudice, and what works to reduce it*

Moss-Racusin, C. A., van der Toorn, J., Dovidio, J. F., Brescoll, V. L., Graham, M. J., & Handelsman, J. (2014). Scientific diversity interventions. *Science*, 343(6171), 615-616.

*- recent review on evidence about effective diversity interventions*

Milkman, K. L., Chugh, D., & Bazerman, M. H. (2009). How can decision

making be improved? *Perspectives on Psychological Science*, 4, 379-383.

- *evidence of how decisions can be improved*

Dixon, J., Levine, M., Reicher, S., & Durrheim, K. (2012). Beyond prejudice: Are negative evaluations the problem and is getting us to like one another more the solution?. *Behavioral and Brain Sciences*, 35(06), 411-425.

- *argues against focussing on individuals*

Jolls, C., & Sunstein, C. R. (2006). Debiasing through law. *The Journal of Legal Studies*, 35(1), 199-242.

- *describes how legal procedure can interact with our psychological tendencies*

Kassin, S. M., & Wrightsman, L. S. (1988). *The American jury on trial: Psychological perspectives*. Taylor & Francis.

- *Argues that legal system poorly accounts for some cognitive biases*

Hahn, U., & Harris, A. J. (2014). What does it mean to be biased: motivated reasoning and rationality. *Psychology of Learning and Motivation*, vol 61, 61, 41-102.

- *Argues that evidence of human "irrationality" is mostly exaggeration*

Croskerry P, Singhal G, Mamede S. Cognitive debiasing 1: origins of bias and theory of debiasing. *BMJ Qual Saf* 2013; 22 (Suppl 2):58 – 64. 2

Croskerry P, Singhal G, Mamede S. Cognitive debiasing 2: impediments to and strategies for change. *BMJ Qual Saf* 2013; 22 (Suppl 2):65 – 72

- *Review from a medical decision making context*

## **Our work**

*Our project, funded by the Leverhulme Trust, has focussed on the analysing what implicit bias means for our ideas of responsibility for our (biased actions)*

Stafford, T. (2014). [The perspectival shift: how experiments on unconscious processing don't justify the claims made for them.](#) *Frontiers in Psychology*, 5, 1067.

Holroyd, J., Scaife, R. Stafford T. (forthcoming 2017) What is Implicit Bias? *Philosophy Compass*

Holroyd, J., Scaife, R., Stafford, T. (forthcoming 2017) Responsibility for Implicit Bias, *Philosophy Compass*

## **Scholarly work on bias in courts**

*These are references in case you want to read the scholarly literature on bias in law*

Greenwald, A. G., & Krieger, L. H. (2006). Implicit bias: Scientific foundations. *California Law Review*, 94(4), 945-967.

Kassin, S. M., Dror, I. E., & Kukucka, J. (2013). The forensic confirmation bias: Problems, perspectives, and proposed solutions. *Journal of Applied Research in Memory and Cognition*, 2(1), 42-52.

<http://www.sciencedirect.com/science/article/pii/S2211368113000028>

Casey, P. M., Warren, R. K., Cheesman, F. L., II, & Elek, J. K. (2012). *Helping courts address implicit bias: Resources for education.*

Williamsburg, VA: National Center for State Courts.

[http://www.ncsc.org/~media/Files/PDF/Topics/Gender%20and%20Racial%20Fairness/IB\\_Strategies\\_033012.ashx](http://www.ncsc.org/~media/Files/PDF/Topics/Gender%20and%20Racial%20Fairness/IB_Strategies_033012.ashx)

Kang, J., Bennett, M. W., Carbado, D. W., Casey, P., Dasgupta, N., Faigman, D. L., ... & Mnookin, J. (2012). [Implicit bias in the courtroom](#). *UCLA Law Review*, 59(5).

Jolls, C., & Sunstein, C. R. (2006). The law of implicit bias. *California Law Review*, 94, 969–996. doi:10.2307/20439057

Babcock, L., Loewenstein, G., & Issacharoff, S. (1997). *Creating convergence: Debiasing biased litigants*. *Law & Social Inquiry*, 22(4), 913-925.

Farnsworth, W. (2003). *Legal Regulation of Self-Serving Bias*, *The UC Davis L. Rev.*, 37, 567.

Koehler, J. J., & Meixner, J. B. (2013). Decision Making and the Law: Truth Barriers. *Wiley-Blackwell Handbook of Judgment and Decision Making*, Forthcoming, 13-04.