



Unit 1

Heuristics and Biases in Adjudication

SELECTED READINGS

Included in this bibliography are contributions ranging from heuristics and biases *stricto sensu*, prejudices and stereotypes, and a title on bounded rationality. The list is subdivided in two parts. The first part features basic readings of general interest – a few handbooks, and seminal works –, not specifically related to the law or to legal reasoning. The second part comprises essays concerning, specifically, heuristics, biases, and stereotypes in adjudication. Some of these items are surveys, covering more or less vast areas of the general subject. Others are devoted to the analysis of the nature and workings of particular heuristics, biases, prejudices, and stereotypes, in judicial decision making generally, or in narrowly circumscribed judicial settings. Our aim is to give the reader a sense of the variety of phenomena, and research, in this area.

GENERAL:

1. Kahneman D., Slovic P., Tversky A. (eds), *Judgment Under Uncertainty*, Cambridge University Press, 1982.
2. Gilovich Th., Griffin D.W., Kahneman D. (eds), *Heuristics and Biases. The Psychology of Intuitive Judgment*, Cambridge University Press, 2002.
3. Greene J., "The Secret Joke of Kant's Soul". In Sinnott-Armstrong W. (ed), *Moral Psychology. Volume 3: The Neuroscience of Morality: Emotion, Brain Disorders, and Development*, MIT Press, 2008: 35-79.
4. Ariely D., *Predictably Irrational. The Hidden Forces That Shape Our Decisions*, Harper, 2009.
5. Kahneman D., *Thinking, Fast and Slow*, Penguin, 2011.
6. Dovidio J.F., Hewstone M., Glick P., Esses V.M. (eds), *The SAGE Handbook of Prejudice, Stereotyping and Discrimination*, SAGE Publications, 2013.
7. Viale R. (ed), *The Routledge Handbook of Bounded Rationality*, Routledge, 2020.

HEURISTICS, BIASES, AND THE LAW:

8. Efran M.G., "The Effect of Physical Appearance on the Judgment of Guilt, Interpersonal Attraction, and Severity of Recommended Punishment in a Simulated Jury Task", *Journal of Research in Personality*, 8, 1, 1974: 45–54. [https://psycnet.apa.org/doi/10.1016/0092-6566\(74\)90044-0](https://psycnet.apa.org/doi/10.1016/0092-6566(74)90044-0)
9. Chapman G.B., Bornstein B.H., "The More You Ask for, the More You Get: Anchoring in Personal Injury Verdicts", *Applied Cognitive Psychology*, 10, 6, 1996: 519–540. [https://doi.org/10.1002/\(SICI\)1099-0720\(199612\)10:6<519::AID-ACP417>3.0.CO;2-5](https://doi.org/10.1002/(SICI)1099-0720(199612)10:6<519::AID-ACP417>3.0.CO;2-5)
10. Guthrie Ch., Rachlinski J.J., Wistrich A.J., "Inside the Judicial Mind", *Cornell Law Review*, 86, 4, 2001: 777-830. Doi: 10.2139/ssrn.257634
11. Bibas S., "The Psychology of Hindsight and After-the-Fact Review of Ineffective Assistance of Counsel", *Utah Law Review*, 55, 1, 2004: 1-12.
12. Gigerenzer G., Engel Ch. (eds), *Heuristics and the Law*, The MIT Press, 2004.
13. English B., Mussweiler Th., Strack F., "The Last Word in Court: A Hidden Disadvantage for the Defense", in *Law and Human Behavior*, 29, 6, 2005: 705–722. <https://doi.org/10.1007/s10979-005-8380-7>
14. English B., Mussweiler Th., Strack F., "Playing Dice with Criminal Sentences: The Influence of Irrelevant Anchors on Experts' Judicial Decision Making", *Personality and Social Psychology Bulletin*, 32, 2, 2006: 188-200. <https://doi.org/10.1177/0146167205282152>

15. Harley E.M., "Hindsight Bias in Legal Decision Making", *Social Cognition*, 25, 1, 2007: 48-63. <https://doi.org/10.1521/soco.2007.25.1.48>
16. Guthrie Ch., Rachlinski J.J., Wistrich A.J. 2007. "Blinking on the Bench: How Judges Decide Cases", *Cornell Law Faculty Publications*, 93, 1, 2007: 1-43.
17. Klein D.E., Mitchell G. (eds), *The Psychology of Judicial Decision Making*, Oxford University Press, 2010.
18. Danziger S., Levav J., Avnaim-Pesso L., "Extraneous Factors in Judicial Decisions", *Proceedings of the National Academy of Sciences of the United States of America*, 108, 17, 2011: 6889-6892.
19. Abrams D.S., Bertrand M., Mullainathan S., "Do Judges Vary in Their Treatment of Race?", *The Journal of Legal Studies*, 41, 2, 2012: 347-83. Doi: 10.1086/666006
20. Ellsworth P.C., "Legal Reasoning and Scientific Reasoning", *Alabama Law Review*, 63, 1 2012: 895-918.
21. Jones C.E., "The Troubling New Science of Legal Persuasion: Heuristics and Biases in Judicial Decision-Making", *The Advocates' Quarterly*, 41, 2013: 49.
22. Skorinko J.L., Laurent S., Bountress K., Phyu Nyein K., "Effects of Perspective Taking on Courtroom Decisions", *Journal of Applied Social Psychology* 44, 4, 2014: 303-318. <https://doi.org/10.1111/jasp.12222>
23. Girvan E., "Wise Restraints? Learning Legal Rules, Not Standards, Reduces the Effect of Stereotypes in Legal Decision Making", *Psychology, Public Policy, and Law*, 22, 1, 2016:31-45. Doi: 10.1037/law0000068
24. Griffin L.K., "Criminal Adjudication, Error Correction, and Hindsight Blind Spots." *Washington and Lee Law Review*, 73, 1, 2016: 215.
25. Leibovitch A., "Relative Judgments", *The Journal of Legal Studies*, 45, 2, 2016. Doi: <https://doi.org/10.1086/687376>
26. Levinson, J.D., Bennett M.W., Hioki K., "Judging Implicit Bias: A National Empirical Study of Judicial Stereotypes Beyond Black and White", *Florida Law Review*, 69, 1, 2017: 62-114.
27. Wistrich A.J., Rachlinski J.J., "Implicit Bias in Judicial Decision Making: How It Affects Judgment and What Judges Can Do About It". In Redfield S.E. (ed), *Enhancing Justice: Reducing Bias*, Chicago, American Bar Association, 2017: 87-130.
28. Brewer N., Douglass A.B. (eds), *Psychological Science and the Law*, Guilford Press, 2019.