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**Judicial Fraud & Anti-Corruption Workshop**  
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**Keynote address**

**Chief Justice Gibbs Salika**

**Ethics - The Construct of Impartiality and Unconscious Bias**

**Introduction**

Good morning Chief Justices, Judges, Your Excellency, distinguished guests and friends.

I was asked to speak to you today about ethics.

Ethics is a subject which I, and many of us across our Pacific region, have worked hard to deliver on.

Not only have we had to reconcile our cultural norms with imported notions of appropriate conduct – which at several junctures, collide ideologically and in substance. But, we also work hard to continually ensure that we conduct and hold ourselves accountable both on and off the bench.

We are of course required by law, oath and codes to make decisions that are correct, fair, ethical and unfettered by the influence of bias and prejudice. And, this is strengthened by our individual resolve and sense of morality, duty and professional identity. I'm sure I speak for us all when I say that we spend a considerable amount of time consciously avoiding personal biases and prejudices in the discharge of our functions and responsibilities.

However, being truly impartial is far more complicated than we realise. And as a result, we may be less impartial than we think we are. This, is what I would like to speak about today.

So, how is it possible for someone whose intention it is to be impartial, to be unintentionally partisan? The reason for this dissonance is the existence and operation of biases and prejudices that we are unaware we have.

Over the past twenty years, a significant amount of research has explored the existence and extent of unconscious biases along with their repercussions – including their impact on judicial decision-making. Evidence from a number of studies of judges suggests that these biases can have a significant impact on judges’ first thoughts in resolving matters before them.<sup>1</sup>

Unconscious biases are a suite of associations we have developed during the course of our lives that, as their name suggests, are triggered through implicit mental processes that are beyond our conscious awareness.

While much remains to be researched, particularly in our Pacific region, studies elsewhere suggest, that even the most learned, experienced and ethically dedicated judges are not inherently impartial.

Research suggests that we can all be influenced by our unconscious biases. While the extent to which these biases impact our decisions remains understudied,<sup>2</sup> it is reasonable to assume that we all are impacted by them to varying extents in varying circumstances.

As I’ve said, we all strive to reach decisions that are both correct on the merits and correct from an ethical perspective. The difficulty with unconscious biases is that they can potentially impair our ability to reach correct decisions from either perspective. Simply recognising the existence and possible influence that unconscious biases can have on judicial decision-making affords us the opportunity to carefully consider all aspects of a decision, which in turn allows us to reach the most correct outcome from both perspectives.

Recognition of unconscious biases and the way in which they can impact decision-making is therefore, the first step toward seeking to eliminate whatever improper influences they might bring to the decision-making process.<sup>3</sup> With sufficient insight and motivation, we can also mitigate the influence of these biases on our decisions.<sup>4</sup>

### **Unconscious biases - defined**

So, what are these unconscious biases I say we all have?

The concept of unconscious bias is based on the science of unconscious cognition. The science “*suggests that actors do not always have conscious, intentional control over the processes of perception, impression formation and judgment that motivate their actions.*”<sup>5</sup> Rather,

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<sup>1</sup> John Irwin & Daniel Real, ‘Unconscious Influences on Judicial Decision-Making: The Illusion of Objectivity’ (2010) 42 *McGeorge Law Review* 1.

<sup>2</sup> *Ibid.*

<sup>3</sup> *Ibid.*

<sup>4</sup> Jeffrey J. Rachlinski & Sheri L. Johnson, ‘Does Unconscious Racial Bias Affect Trial Judges?’ (2009) 84 *Notre Dame Law Review* 1195.

<sup>5</sup> Anthony G Greenwald & Linda Hamilton Krieger, ‘Implicit Bias: Scientific Foundations’ (2006) 94 *California Law Review*, 945, 946.

they are mental processes beyond our conscious focus - including memories, perceptions, attitudes and stereotypes. In this sense therefore, the term bias is not pejorative. Rather, it is a displacement of neutrality along a spectrum of possible judgments, opinions and assessments.

Our biases can be favourable or unfavourable.

The two fundamentally essential elements of unconscious biases are therefore, that one - they are a normal part of human brain functions; and two - that we are unaware of them.<sup>6</sup>

Biases begin to form during our formative years when we learn to associate items that commonly go together – such as thunder and rain, or grey hair and older people. We learn to expect them to co-exist in other settings – which sometimes they do, and sometimes, they do not.

Unconscious biases are relevant to us judges as they can emerge in our decision-making. They are relevant because they can produce behaviours and responses that do not align with our avowed beliefs and principles.

They can be particularly challenging in our legal world, because the entire concept of equality related laws is, to some degree, premised on underlying notions that *“human actors are guided by their avowed beliefs, attitudes, and intentions.”*<sup>7</sup>

### **Unconscious bias - formation**

Where do these biases come from?

Unconscious biases accumulate throughout our lifetime.

Many were formed when we were young. They came from what we saw, heard and otherwise experienced within our families, upbringing, teachers, friends, peers, community and others with whom we interacted. Those experiences were infused with layers and generational knowledge, assessments, opinions and judgements about all facets of life and the people within it.

Those formative years, particularly, created the fundamental pillars of who we are, what we believe and even how we think. While those experiences undoubtedly provided a healthy foundation of beneficial skill, knowledge and wisdom, they inevitably come with a series of biases.

Whilst some biases may be innocuous in effect, more invidious however, are the biases that form from structural inequalities defined by gender, religion, ethnicity and social class, for example. These structural inequalities exist in all societies the world over. Even the most affluent and seemingly progressive nations of the world continue to suffer their impact.

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<sup>6</sup> Ibid, 4.

<sup>7</sup> Ibid, 1.

Governments often try to remedy these inequalities through policies and law, such as anti-discrimination statutes or affirmative action - which we must then enforce in our courts. A compounding challenge however, is that in most legal systems, the system itself may not have equal representation of the various societal groups against whom we may have developed associations.

One example relates to gender inequality issues, which become entrenched through our societal or cultural norms. Unless we have enough women on our benches to help us enforce our laws free of gender-related biases, it remains debateable whether our legal systems can effectively push back against structural inequalities, or whether they serve to entrench them. That is of itself a significant discussion, but one for another day – I mention it only to serve as an example of a bias we might unwittingly have within us, and within our institutions, that might influence our decisions.

### **Typology of unconscious bias**

While all of our lived experiences are different, a large body of research indicates that we all hold biases. Our biases are of course not homogenous and they vary greatly in nature, magnitude and impact.<sup>8</sup>

Research psychologists have identified a large number of unconscious biases, but I will talk about a few - those which seem most relevant to our judicial practices.

The first of these is **in-group bias**. In-group bias is the phenomenon of favouring members of our own group, or a group we identify with, over members of a group that we do not identify with. This manifests as trusting others in your group, or inferring positive attributes to them – such as those you confer on yourself. The flip side is that you may be more likely to distrust or accept negative characteristics to those who are not in your group.

An example of this in judicial practice is where a judge might inadvertently consider the testimony of a police officer as more credible than that of a convicted felon. In this vein, researchers suggest that racial, ethnic, gender and religious biases are forms of this ‘in’ and ‘out group’ bias.

**Racial and gender biases** are types of in-group bias where one might attach negative assumptions to particular races, ethnicities, and social groups. Studies undertaken in the United States of America have found that many judges hold unconscious racial biases and that these biases can influence their judgment.<sup>9</sup>

Similarly, with gender biases, if we associate different genders with their traditional roles – such as women historically being considered responsible for taking care of the home and children, rather than pursuing careers - we may not treat people fairly in the dispute resolution process or its outcomes. A 2015 study, also in the USA,

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<sup>8</sup> Ibid, 4.

<sup>9</sup> Harris & Sen, ‘Bias and Judging’, Annual Review of Political Science 22, 241-259, 2019.

confirmed that female attorneys continue to confront a variety of gender biases in the courtroom from both judges and jurors.<sup>10</sup>

While you might eschew any possibility of any of this occurring in your courtroom – remember, these are unconscious biases, and if they exist within you, you are not likely to be even aware of it.

I will also explain later why our commitment to equality is not enough to counter and ameliorate their influence.

On to **overconfidence bias**. As its name suggests, overconfidence bias relates to the view we privately hold about ourselves. Some people, research suggests, have a tendency to be more confident in their own ability than is objectively reasonable. This can apply to ethics, in that we assume because we are intelligent, well educated, wise and make decisions according to law and a strong moral compass, we will make the right decisions. While we must, as judges, be confident in our knowledge of the law and our skill to apply it, this assumption cannot automatically extend to confidence in our attitudes. If we do so, it can cause us to act without adequate reflection. We cannot be overconfident and complacent in our abilities to control our unconscious biases.<sup>11</sup>

A less obvious bias, at least to me, is the **hindsight bias**. This is the tendency some people have to overestimate the foreseeability or predictability of an outcome or event. It is often referred to as the “knew it all along” bias, and it can lead to distortions of memories and our recollection of what we knew and when we knew it. To put it simply, hindsight does not equate to foresight – yet, this bias thinks it does.

In an interesting article I read about a US fraud case, the author alleges hindsight bias on the part of investigators. In this case, the investigators vigorously pursued the financial institutions that transacted with the accused on the basis that the fraud was so large, they must have known about it. Yet, they took no such action against any of the government institutions that had been aware of the accused but that had also failed to detect the fraudulent behaviour.<sup>12</sup>

Inferring dishonest intent in this way can lead to mistakes, poor exercise of judgment or even negligence being treated as criminal activity.<sup>13</sup> If this was not concerning enough, it has also been found that the more negative the outcome - which can include negative publicity; the more pronounced the hindsight bias.<sup>14</sup>

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<sup>10</sup> Connie Lee, ‘Gender bias in the Courtroom: Combatting Implicit Bias Against Women Trial Attorneys and Litigators’ (2016) 22 *Cardozo Journal of Law & Gender* 229.

<sup>11</sup> *Ibid.*, 4.

<sup>12</sup> Nicolas Bourtin, ‘Combatting Hindsight Bias in White Collar Criminal Investigations’ (2017) 257(62) *New York Law Journal*

<sup>13</sup> *Ibid.*

<sup>14</sup> *Ibid.*, 12.

The last typology of bias I would like to discuss is **heuristics**. Heuristics is a whole category of biases. They enable us to take mental shortcuts to quickly solve problems and make decisions. These shortcuts are useful in many ways as they save us the time of having to think about each step of a process. For example, I am sure that none of you think about each step in the process of making a cup of coffee, or bringing your court into session. Whilst often useful, these shortcuts can however, also lead to cognitive biases.

**Anchoring** is an example of a faulty heuristic, or to put it simply, where these shortcuts can be unhelpful. Anchoring is the bias we have towards favourably viewing the information that we first learn about a thing or person. It is commonly associated with numbers or amounts. This bias can make it more difficult to consider or incorporate new or additional information about the thing or person. This can be acutely problematic if that additional information is pertinent, and a useful determiner of a fact in a case before us.

I will give you an example. There are two suits on sale. Both are marked US\$200, but one is reduced from US\$500. Many people will have a favourable bias towards the reduced item due to its higher initial price - the anchor - and will buy it thinking they are getting a better deal. This is irrespective of whether the reduced price suit is actually the best product or best for them.

Anchoring has also been found to be relevant to our work as judges. An example of which is found in research into sentencing decisions. Research among a group of German trial judges found that the judges were influenced by the sentencing recommendations made by prosecutors. They found that where longer sentences were recommended, they were often given. And, vice versa. This was even true among highly experienced judges.<sup>15</sup>

So as you can see, although heuristics can be very helpful as we go about our daily lives, when it comes to our work as judges, we need to be mindful of these unconscious shortcuts. We need to take care to be alive to the possibility of faulty heuristics like anchoring that could influence our decision-making.

Whilst this is merely a brief introduction some of the many biases researchers have identified as prevalent and influential among society, I am sure you are beginning to see how these various unconscious biases can present us, and our capacity to be impartial, with challenges.

## **In the Pacific**

The challenges these biases present us with are compounded by a number of contextual realities faced by courts and judges in our region. While many of these

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<sup>15</sup> Birte Engh & Thomas Mussweiler, 'Sentencing Under Uncertainty: Anchoring Effects in the Courtroom' (2001) 31(7) *Journal of Applied Social Psychology* 1535-1551.

challenges are either unique or nuanced versions of those that exist elsewhere, they are challenges that can exacerbate our unconscious biases.

We have for example, faced the challenges of adopting imported legal codes that are normatively different in some key areas from our traditional and cultural norms. This has required us to examine our cultures and practices and, in some instances, set aside our culture, giving precedence to norms that were, at first, quite alien to us. Setting aside our culture of gift giving is an example of this. Have we processed and fully accepted this displacement? Or, do we harbour biases against western norms and perhaps even people?

Our region is also replete with informal systems of justice operating where the formal system does not physically exist or cannot often get to. These systems dispense justice according to local, cultural norms, many of which are rooted in deeply held inequalities and biases.

Following a number of studies in our region, it is clear that the vast majority of our peoples, particularly those who live outside urban centres, are afraid of and lack familiarity with formal courts. While we are more fortunate than most in PNG, our region generally lacks sufficient human and physical capital investment in our court and justice systems. This makes it hard for us to perform our functions to the standard we would like to. And even when we surmount those challenges, many people come before us without legal representation, because they cannot afford it.

Many of us have done a considerable amount of work to reach out into physically distant populations to foster awareness about our courts, laws and judicial processes. And while we cannot provide legal representation, we have worked hard to learn how to best support unrepresented litigants in our courtrooms. Have we though, acknowledged and equally been active in addressing the latent biases we might have towards these groups?

I welcome the opportunity to participate in research of our region, to identify the biases that result from our operating realities and the impact they, and the other biases I have mentioned, have on our judicial decision-making.

### **Mitigating bias**

Accepting this biased reality as I do, we need to recognise that true impartiality is perhaps better described as an aspiration.<sup>16</sup> And it is not then a question of whether a judge is impartial, but whether a judge is impartial enough.<sup>17</sup>

***Professional commitment to equality*** - Research suggests that adopting a neutral perspective and a professional commitment to equality is not enough.

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<sup>16</sup> Catie Wheatley, 'Honesty is the Best Policy: Addressing Implicit Bias in the Judiciary' (2021) 9 *Indiana Journal of Law and Social Equity* 94.

<sup>17</sup> Ibid; Gardner, C, *The Dimensions of Judicial Impartiality*, 65 *FLA. L. REV.* 493, 493 (2013).

They are not enough to eliminate the role biases play in our decision-making. Neutrality and professional commitments not only lull us into a false sense of security that our decisions are unassailable, they enable the blind-spot within which our unconscious associations can influence our decisions.<sup>18</sup>

Those of us with personal commitments to equality may fare somewhat better, along with those prepared to entertain the notion that they may unknowingly harbour biases.

Research suggests that many judges, when made aware of factors that generate bias – such as race and gender - attempt to compensate for unconscious biases in their decision-making.<sup>19</sup>

I have never met a judge that was not highly motivated to avoid making biased judgments.

We do therefore, and I am confident of it, have the capacity to compensate for the effects of our unconscious biases. However, just as our unconscious biases accumulate and are reinforced during our lifetimes, we cannot expect to extinguish them without conscious effort.<sup>20</sup>

***Acknowledging our biases*** - In our eternal quest to be the best judges we can be, adding another layer of knowledge – about oneself – can assist us to reduce or eliminate the effects of unconscious bias on our judicial decision-making. We can do this by compensating for these biases, and actively checking that our decisions are not unconsciously biased.

Legislation is a powerful reminder to check and counter bias, and a requirement to actively do so. Judges reminded of their biases and proactively committed to countering them, can effectively do so.

The capacity to effectively counter our biases is evinced in the findings of a recent study in India. Researchers looked at five million cases to assess the impact of gender and religious bias. Despite the well-documented gender and religious in-group bias prevalent in society, the study found no evidence of the same bias in judicial decisions.<sup>21</sup>

As many of you will be aware, the Indian judiciary has undertaken a significant amount of work to create awareness of these biases and to address them. The findings of the research seem testament to it having ‘worked’.

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<sup>18</sup> Mahzarin R Banaji & Anthony G Greenwald, *Blindspot: Hidden Biases of Good People*, (Delacourt Press, 2013).

<sup>19</sup> Wishrich & Rachlinski, Implicit bias in judicial decision-making, how it affects judgments and what judges can do about it’, Chapter 5, 17-16, 2017.

<sup>20</sup> Ibid, 4.

<sup>21</sup> Aditi Bhowmick et al, ‘In-group bias in the Indian judiciary: Evidence from 5.5 million criminal cases.’ (2021) In *ACM SIGCAS Conference on Computing and Sustainable Societies (COMPASS '21)*. Association for Computing Machinery, New York, NY, USA, 47. <https://doi.org/10.1145/3460112.3471943>



Building awareness of our own unconscious biases and navigating the cognitive path to correcting ourselves, is not a skill we are necessarily born with. We need to be *trained*. It is clear that this type of training goes far beyond the scope and nature of the classical ethics and related training we receive. It must be expanded. It must enable us to explore ourselves and our biases.

### ***Intuitive and deliberative decision-making***

Another way to stop bias is to quieten our intuition and rely instead on deliberative decision-making.

The process of, and training in judicial decision-making, is not an easy one to classify in easily defined and confined categories. However, some historical studies of how judges reach their decisions have categorised different approaches as either ‘deliberative’ or ‘intuitive’.

The deliberative model describes the application of the law to the facts in a logical and mechanical manner through syllogistic reasoning.

The intuitive model describes the following of instincts to resolve disputes which is later rationalised and deliberately explained – or put more simply – we retrofit our logic to fit our instinctive response.

Intuitive thought processes occur spontaneously and involve decisions that are made automatically, effortlessly, and quickly. Deliberative thought processes, on the other hand, occur through controlled processing and involve decisions that are rule-governed and made slowly, self-critically, and with great effort. The relationship between intuitive thought processes and deliberative thought processes is complicated, and judicial decision-making can certainly be seen to involve both types of thought processes.<sup>22</sup>

A recent study of judicial decision-making indeed suggests that elements of both deliberative and intuitive models form a more accurate picture of judicial decision-making. Called the ‘intuitive-override’ model, this approach describes the process where judges generally make intuitive decisions, but they check, or override, their intuition with deliberation.<sup>23</sup>

The distinction between intuitive and deliberative decision-making is important for a number of reasons. Not only is it relevant to the determination of final decisions, but in the various inferences of fact and the various decisions we make along the way.

Trial judges tend to more often need to intuitively process problems that arise during the course of a trial that require quick answers. Indeed, inferences are to some extent,

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<sup>22</sup> Ibid, 1.

<sup>23</sup> Ibid, 1; Zhuang Liu, ‘Does Reason Writing Reduce Decision Bias? Experimental Evidence from Judges in China’ (2018) 47(1) *Journal of Legal Studies* 83-118.

the fulcrum of civil litigation. If inferences were a matter of universally held logical deductions, this would not be problematic. They are however, deeply contestable conclusions that vary from judge to judge. Inferences differ significantly, and they matter – which ought to register as a significant concern for us all.<sup>24</sup>

There are though stages of the judicial process where we arguably defer to more deliberative reasoning. This includes our reflection after hearing arguments from both sides of the case and during appeals. Notwithstanding, our decisions can still be influenced by our intuitive first impression of the arguments we are presented with. As such, the potential impact of unconscious bias seems likely to impact both intuitive and deliberative reasoning.<sup>25</sup>

*Minimising the number of ‘in-the-moment’ decisions* a judge is required to make can assist. Decisions made during pre-trial and motions hearings proceedings for example, are more likely to be intuitive and impressionistic rather than deliberative. Similarly, evidentiary rulings made during hearings or trials would be better considered if they were made based on written briefs and with time for the judge to research and reflect.

When ruling on the admissibility of evidence at trial, judges often have little choice but to think intuitively. We should not however be compelled to make difficult or important evidentiary rulings in such a setting – particularly when the presiding judge does not have the benefit of understanding the full context in which the evidence will be heard. Accordingly, we could change our rules and require parties to file important evidentiary motions before trial, but delay ruling on them until the issues arise during the trial. And, even then, we could pause for a recess to afford ourselves the opportunity to study the papers and deliberate.<sup>26</sup>

I understand that this seeming time luxury will come at the expense of expedience. And when our dockets are overflowing with cases and our courtrooms are so often very busy, it might seem like a luxury we cannot afford.<sup>27</sup> Notwithstanding the need for maximal efficiency, we must, to the extent possible, promote the quality and fairness of our decisions, and engage in conscious and deliberative decision-making to ensure we negate the impact of these biases in our conclusions.<sup>28</sup>

Taking the time to *write down our reasons*, as many of you already know, assists us to gather and organise our thoughts coherently, logically and defensibly. It also provides the necessary pause, enabling us to engage in higher level, deliberative thinking. I know for reasons of efficiency that many judgments in some courts in

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<sup>24</sup> Elizabeth Thornburg, ‘(Un)Conscious Judging’ (2019) 76 *Washington & Lee Law Review* 1567

<sup>25</sup> Ibid, 1.

<sup>26</sup> Andrew Wistrich and Jeffrey Rachlinski, ‘Implicit Bias in Judicial Decision Making How It Affects Judgment and What Judges Can Do About It’ in American Bar Association, *Enhancing Justice* (2017), Cornell Legal Studies Research Paper No. 17-16

<sup>27</sup> Ibid, 4.

<sup>28</sup> Ibid, 24.

this region are delivered *ex tempore*. In these cases, even a checklist for each step of the decision-making process will likely help. Following checklists or writing down our reasoning and decisions is not though a bulletproof approach. It will not inherently produce a better decision. If any of our biases remain unchecked, they will find their way into influencing our decisions.<sup>29</sup>

To give us enough time to deliberate, we must reduce the time pressure on us to produce decisions and dispose of cases. Judges with heavy caseloads might have little choice but to rely on rapid, intuitive judgments to manage their dockets. The justice system should encourage that process with the provision of more judges,<sup>30</sup> so we can take the time we need without sacrificing efficiency and causing delays in the accessibility of justice.

***Judgment audit*** - We could also, as the research I mentioned in India suggests, audit our decisions. An audit would check that we are not making different decisions based on common biases related to gender and race et cetera. This should never be done by anyone other than fellow judges. And, it should never to admonish an individual judge. Such research's only purpose should be to empower our courts as institutions, and to provide us as individuals with deeper knowledge of ourselves and the biases upon which our decisions are made, so we can mitigate them in future.

***Stereotype-incongruent models*** - Another practice that seems to be effective in enabling judges to acknowledge and address their biases is through exposure to stereotype-incongruent models.<sup>31</sup> Better representation of women in the judiciary would for example be a constant reminder to ensure we pursue gender-equal outcomes for parties before us. Better representation within the judiciary of our diverse racial and ethnic minorities would be another way to generate stereo-type incongruent models. Another study in the USA found that the simple act of placing pictures of judges and inspiring leaders of different genders, racial, religious, cultural and other backgrounds along the corridors between courts and judges' chambers, served as an adequate reminder to mitigate their biases.<sup>32</sup>

While we all have work to do in order to acknowledge and mitigate the impacts and influences of our unconscious biases, I am buoyed by the research and data that shows it is possible to effectively ameliorate this challenge. I can see how some of the solutions I have discussed could be implemented within each of our jurisdictions. There are others however that require state investment and changes to our laws. It will, as all good things do, take time, and commitment. But like other challenges we have traversed, I believe that together, we can surmount this challenge of unconscious bias in our judiciaries across the Pacific.

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<sup>29</sup> Ibid, 26.

<sup>30</sup> Ibid.

<sup>31</sup> Ibid, 1.

<sup>32</sup> Ibid.

## Conclusion

Let me be clear, through this address I am in neither suggesting that any of our judicial decisions should be questioned, nor that they are not legally sound. What I am suggesting is that we can all improve. Just as we learn and apply new areas of law and procedure as they emerge, we must learn about our biases and how to mitigate them.

The topic of unconscious bias is emerging as an important part of international discourse,<sup>33</sup> and the discussion that follows this address serves as an important opportunity for us to begin to explore the area for ourselves. The blue continent is the biggest in the world, with arguably the greatest diversity of peoples, languages and cultures. Yet, we are united both in harbouring unconscious biases, and with our commitment to discharging our duties and functions to the best of our abilities.

To quote Judge John Irwin from the Nebraska Courts of Appeal: *“To be as intelligent as we can is a moral obligation. Intelligence is one of the talents for the use of which we shall be called to account. If we haven't exhausted every opportunity to know whether what we are doing is right, it will be no excuse for us to say that we meant well.”*<sup>34</sup>

As deliverers of justice, I believe this to be a moral obligation upon us all – part of our implicit ethical responsibility.

As I've said, the impact and mitigation of unconscious bias is a subject that has not yet been thoroughly studied. We are therefore on the precipice of a new level of insight, thought and judicial craft. The interplay between law, psychology and anthropology is, I think, very clear. It is now up to us to embrace learning more about ourselves, to enable us to continue progressing towards the aspirational goal of true judicial impartiality.

Thank you and good morning.

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<sup>33</sup> Ibid, 1.

<sup>34</sup> Ibid, 1.

## BIBLIOGRAPHY

- Banaji, Mahzarin R & Anthony G Greenwald, Anthony G, *Blindspot: Hidden Biases of Good People*, (Delacourt Press, 2013)
- Bhowmick, Aditi, Novosad, Paul, Asher, Sam, Ash, Elliott, Siddiqi, Bilal, Goessmann, Christoph, Chen, Daniel and Devi, Tanaya, 'In-group bias in the Indian judiciary: Evidence from 5.5 million criminal cases.' (2021) In *ACM SIGCAS Conference on Computing and Sustainable Societies (COMPASS '21)*. Association for Computing Machinery, New York, NY, USA, 47.
- Bourtin, Nicolas, 'Combatting Hindsight Bias in White Collar Criminal Investigations' (2017) 257(62) *New York Law Journal*
- Enough, Birte & Thomas Mussweiler, Thomas, 'Sentencing Under Uncertainty: Anchoring Effects in the Courtroom' (2001) 31(7) *Journal of Applied Social Psychology* 1535-1551
- Greenwald, Anthony G & Krieger, Linda Hamilton, 'Implicit Bias: Scientific Foundations' (2006) 94 *California Law Review*, 945, 946
- Irwin, John & Real, Daniel, 'Unconscious Influences on Judicial Decision-Making: The Illusion of Objectivity' (2010) 42 *McGeorge Law Review* 1
- Lee, Connie, 'Gender bias in the Courtroom: Combatting Implicit Bias Against Women Trial Attorneys and Litigators' (2016) 22 *Cardozo Journal of Law & Gender* 229
- Liu, Zhuang, 'Does Reason Writing Reduce Decision Bias? Experimental Evidence from Judges in China' (2018) 47(1) *Journal of Legal Studies* 83-118
- Rachlinski, Jeffrey J & Johnson, Sheri L, 'Does Unconscious Racial Bias Affect Trial Judges?' (2009) 84 *Notre Dame Law Review* 1195
- Wheatley, Catie, 'Honesty is the Best Policy: Addressing Implicit Bias in the Judiciary' (2021) 9 *Indiana Journal of Law and Social Equity* 94
- Thornburg, Elizabeth, '(Un)Conscious Judging' (2019) 76 *Washington & Lee Law Review* 1567
- Wistrich, Andrew and Rachlinski, Jeffrey, 'Implicit Bias in Judicial Decision Making How It Affects Judgment and What Judges Can Do About It' in American Bar Association, *Enhancing Justice* (2017), Cornell Legal Studies Research Paper No. 17-16