



Unit 3

Intuition and Expertise in Legal Decision Making

SELECTED READINGS

This bibliography features contributions on the role of intuition and expertise in reasoning and decision making, both in general and in the legal domain. While the readings of Unit 1 are mainly focused on intuition as a source of biases, most of the titles gathered here are focused on the role of intuition in normatively correct reasoning and decision making.

INTUITIVE JUDGMENT (IN GENERAL, AND IN THE LEGAL DOMAIN):

1. Hutcheson J.C., "Judgment Intuitive. The Function of the Hunch in Judicial Decision", *Cornell Law Review*, 14, 3, 1929: 274.
2. Metcalfe J., Wiebe D., "Intuition in Insight and Noninsight Problem Solving", *Memory & Cognition*, 15, 3, 1987: 238-246.
3. Dahmi M.K. Ayton P., "Bailing and Jailing the Fast and Frugal Way", *Behavioral Decision Making*, 14, 2, 2001: 141-168.
4. Stelmach J., Brożek B., *Methods of Legal Reasoning*, Springer, 2006.
5. Todd. P.M., Gigerenzer G., "Environments That Make Us Smart: Ecological Rationality", *Current Directions in Psychological Science*, 16, 3, 2007: 167-171.
6. Hodgkinson J.P., Langan-Fox J., Sadler-Smith E., "Intuition: A Fundamental Bridging Construct in the Behavioural Sciences", *British Journal of Psychology*, 99, 1, 2008: 1-27. Doi: 10.1348/000712607X216666. PMID: 17559716.
7. Glöckner A., Witteman A., "Beyond Dual-Process Models: A Categorisation of Processes Underlying Intuitive Judgement and Decision Making", *Thinking & Reasoning*, 16, 1, 2010, 1-25.
8. Schauer F., "Is There a Psychology of Judging?". In Klein D.E., Mitchell G. (eds), *The Psychology of Judicial Decision Making*, Oxford University Press, 2010.
9. Goldstein D., "Heuristics". In Bearman P., Hedström P. (eds), *The Oxford Handbook of Analytical Sociology*, Oxford University Press, 2011.
10. Ohlsson S., *Deep Learning. How the Mind Overrides Experience*, Cambridge University Press, 2011.
11. Bergen B.K., *Louder Than Words: The New Science of How the Mind Makes Meaning*, Basic Books, 2012.
12. Kahan D.M., Hoffman D.A., Braman D., Evans D., Rachlinski J.J., "'They Saw a Protest': Cognitive Illiberalism and the Speech-Conduct Distinction", *Stanford Law Review*, 64, 2012: 851-906.
13. Teichman D., Zamir E., "Judicial Decision Making: A Behavioral Perspective". In Teichman D., Zamir E. (eds), *The Oxford Handbook of Behavioral Economics and the Law*, Oxford University Press, 2014.
14. Zander Th., Öllinger M., Volz K.G., "Intuition and Insight: Two Processes That Build on Each Other or Fundamentally Differ?", *Frontiers in Psychology*, 2016. <https://doi.org/10.3389/fpsyg.2016.01395>
15. Rachlinski J.J., Wistrich A.J., "Judging the Judiciary by the Numbers: Empirical Research on Judges", *Annual Review of Law and Social Science*, 13, 2017: 203-229.
16. Crowe J., "Not-So-Easy Cases", *Statute Law review*, 40, 1, 2019, 75-86.
17. Brożek B., *The Legal Mind. A New Introduction to Legal Epistemology*, Cambridge University Press, 2019.
18. Kurek L., "Law, Folk Psychology and Cognitive Science". In Brożek B., Hage J., Vincent N. (eds), *Law and Mind. A Survey of Law and the Cognitive Sciences*, Cambridge University Press, 2020: 37.

EXPERTISE (IN GENERAL, AND IN THE LEGAL DOMAIN):

20. Ericsson K., Krampe R.T., Tesch-Römer C., "The Role of Deliberate Practice in the Acquisition of Expert Performance", *Psychological Review*, 100, 3, 1993: 363-406.
21. Ericsson K.E., Hoffman R.R., Kozbelt A., Williams A.M. (eds), *The Cambridge Handbook of Expertise and Expert Performance*, Cambridge University Press, 2006.

22. Christensen L.M., "The Paradox of Legal Expertise: A Study of Experts and Novices Reading the Law", *Brigham Young University Education and Law Journal*, 1, 2008: 53-87.
23. Kahneman D., Klein G., "Conditions for Intuitive Expertise: A Failure to Disagree", *The American Psychologist*, 64,6, 2009:515-526.
24. Hambrick D.Z., Oswald F.L., Altmann E.M., Meinz E.J., Gobet F., Campitelli G., "Deliberate Practice: Is that All It Takes to Become an Expert?", *Intelligence*, 45, 2014: 34-45.
25. Scmittat S.M., English B., "If You Judge, Investigate! Responsibility Reduces Confirmatory Information Processing in Legal Experts", *Psychology Public Policy and Law*, 22, 4, 2016 : 386-400.
26. Canela C., Buadze A., Dube A., Jackowski C., Pude I., Nellen R., Signorini P., Liebreuz M., "How Do Legal Experts Cope with Medical Reports and Forensic Evidence? The Experiences, Perceptions, and Narratives of Swiss Judges and Other Legal Experts", *Front Psychiatry*, 2019: 10-18.