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What Is Implicit or Unconscious Bias?

For the legal profession, understanding implicit bias and ways to debias one's approach to law-related issues and decisions is critical to a fair and representative perception and reality of access to justice and equity.

The problem of implicit bias has been described by one researcher as follows:

We naturally assign people into various social categories divided by salient and chronically accessible traits, such as age, gender, race, and role. And just as we might have implicit cognitions that help us walk and drive, we have implicit social cognitions that guide our thinking about social categories. Where do these schemas come from? They come from our experiences with other people, some of them direct (i.e., real-world encounters) but most of them vicarious (i.e., relayed to us through stories, books, movies, media, and culture).

If we unpack these schemas further, we see that some of the underlying cognitions include stereotypes, which are simply traits that we associate with a category. For instance, if we think that a particular category of human beings is frail—such as the elderly—we will not raise our guard. If we think that another category is foreign—such as Asians—we will be surprised by their fluent English. These cognitions also include attitudes, which are overall, evaluative feelings that are positive or negative. For instance, if we identify someone as having graduated from our beloved alma mater, we will feel more at ease. The term “implicit bias” includes both implicit stereotypes and implicit attitudes.

Though our shorthand schemas of people may be helpful in some situations, they also can lead to discriminatory behaviors if we are not careful. Given the critical importance of exercising fairness and equality in the court system, lawyers, judges, jurors, and staff should be particularly concerned about identifying such possibilities.

[Jerry Kang, Implicit Bias: A Primer for Courts, prepared for the National Campaign to Ensure the Racial and Ethnic Fairness of America's State Courts, Aug. 2009.](#)

Malcolm Gladwell discusses implicit bias in his bestseller, *Blink*, this way:

All of us have implicit biases to some degree. This does not necessarily mean we will act in an inappropriate or discriminatory manner, only that our first “blink” sends us certain information. Acknowledging and understanding this implicit response and its value and role is critical to informed decision-making and is particularly critical to those whose decisions must embody fairness and justice.

[Blink: The Power of Thinking Without Thinking \(2005\).](#)