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From the Selected Works of Curtis E.A. Karnow

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# Cognitive Fallacies Reading List

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Available at: [https://works.bepress.com/curtis\\_karnow/11/](https://works.bepress.com/curtis_karnow/11/)

## Cognitive Fallacies Reading List

C. Karnow, S.F.

- D. Kahneman, Thinking, Fast and Slow (most highly recommended)
- Kahneman's TED talk at [http://www.ted.com/talks/daniel\\_kahneman\\_the\\_riddle\\_of\\_experience\\_vs\\_memory.html](http://www.ted.com/talks/daniel_kahneman_the_riddle_of_experience_vs_memory.html)
- Duncan Watts, Everything Is Obvious Once You Know the Answer (2011) (the fallacy of thinking 'common sense' provides any guidance in even the most moderately complex systems, such as explaining human behavior. Watts integrates work on hindsight, cherry picking, and survivorship, and narrative fallacy biases. He convincingly attacks the notion that "common sense" can be used to decide complex issues. He argues that intuition or 'common sense' is unable to account for unintended consequences in large organizations, policy determinations, and other situations where there are many interacting agents and causes)
  - Video lectures: <http://fitforrandomness.wordpress.com/2012/08/08/duncan-watts-presentation-the-myth-of-common-sense/>;  
<http://www.youtube.com/watch?v=D9XF0QOzWM0>;  
<http://www.santafe.edu/gevent/detail/public/785/>
- Thinking (ed. Brockman) (lightly edited transcriptions of oral summaries of current research by some of the authors on this list (and many others), a quick introduction to sundry issues involved in cognition - not just cognitive fallacies)
- S. Vedantam, The Hidden Brain (some long-winded stories to set up the point, but has an excellent series of discussions on hidden bias and race, and the language proxies we use to allude to and manifest those biases)
- C. Tavis, et al., Mistakes Were Made (But Not By Me) (like *Blink* an informal discussion of some cognitive fallacies, especially cognitive dissonance and how we resolve data to favor our biases)
- M. Gladwell, Blink (popular anecdotal collection, a fun if superficial read)
- L. Mlodinow, The Drunkard's Walk (randomness and the false meanings we impose, nice introduction to probability, some statistics, and associated fallacies)
- N.N. Taleb, Foiled By Randomness (emphasizes economic behavior, and how we invent patterns which do not exist. Taleb is uneven, pithy, sardonic, but usually enjoyable)
- N.N. Taleb, The Black Swan
- C. Chabris et al., The Invisible Gorilla (self deception, false memory, misleading intuitions)
- R. Dobelli, The Art of Thinking Clearly (based on the work of Kahneman, Ariely, Taleb and others, about 100 very short chapters on the common cognitive fallacies and variants, including problems in thinking about probability. A fast read, good overview and summary)
- D. Ariely, The Upside of Irrationality (Ariely's experiments are rough and focus on small portions of society, but his writing is entertaining and his focus on social/economic dynamics is interesting)
- D. Ariely, Predictably Irrational
- Ariely's TED talk, [http://www.ted.com/talks/dan\\_ariely\\_asks\\_are\\_we\\_in\\_control\\_of\\_our\\_own\\_decisions.html](http://www.ted.com/talks/dan_ariely_asks_are_we_in_control_of_our_own_decisions.html)

- Ariely on self rationalization and the distancing between effect and our actions, effect of anchoring and reminders on morality:  
[http://www.youtube.com/watch?v=XBmJay\\_qdNc](http://www.youtube.com/watch?v=XBmJay_qdNc)
- J. Lehrer, How We Decide (focus on brain activity, neurotransmitters, etc.)
- Antonio Damasio, Descartes' Error (technical emphasis on brain structure and its interactions; critical role of emotions in *rational* decision making)
- Jan Lauwereyns, The Anatomy of Bias: How Neural Circuits Weigh the Options (depending on your mood, a charming or irritating interdisciplinary account of how neurons select and discriminate. This is based substantially on neuroscience; but also cites poetry, philosophy, psychology, and so on)
- D. Eagleman, Incognito: The Secret Lives Of The Brain (impact of unconscious mind). Interview at <http://www.npr.org/2011/05/31/136495499/incognito-whats-hiding-in-the-unconscious-mind>
- Radio Lab podcasts at e.g., <http://www.radiolab.org/2008/nov/17/>
- Laurence Gonzales, Deep Survival: Who Lives, Who Dies, and Why (an enjoyable read generally; first few chapters provide a good review of the science and practical impact of cognitive failure)
- Salley Satel et al., Brainwashed (a short cautionary report on the inappropriate use of neuroscience, sometimes as used in the other works on this list, to explain behavior and bias)

For more, see <http://appliedrationality.org/recommended-reading-on-rationality/>



*Re: effect on lawyers, courts, and others in litigation:*

- Andrew J. Wistrich, et al., "How Lawyers' Intuitions Prolong Litigation," 86 Southern California Law Review 101, 142 et seq. (2013).
- C. Guthrie, et al., "Blinking On The Bench: How Judges Decide Cases," 93 *Cornell.L.Rev.* 1 (2007) (refers to the judges' study cited below)
- C. Guthrie et al., "Judging By Heuristic: Cognitive Illusions In Judicial Decision Making," 86 *Judicature* 44 (July-August 2002) (anchoring, framing, hindsight bias, inverse fallacy (base rate fallacy), and egocentric bias (self-serving bias) all influence judges' decision making)
- C. Guthrie, et al., "Inside the Judicial Mind," 86 *Cornell Law Rev.* 777 (May 2001)
- Russell Korobkin & Chris Guthrie, "Psychological Barriers to Litigation Settlement: An Experimental Approach," 93 *Mich. L. Rev.* 107 (1994)
- D. Kahneman, "Hawkish Bias," <http://www.princeton.edu/~kahneman/docs/Publications/Hawkish%20Biases.pdf>
- Ian Weinstein, "Don't Believe Everything You Think: Cognitive Bias in Legal Decision Making," 9 *Clinical Law Review* 783 (2003) (reasoning by lawyers and clients)
- "Insightful Or Wishful: Lawyers' Ability to Predict Case Outcomes," 16 *Psych. Pub. Pol. and L.* 133 (May, 2010); Zev J. Eigen, et al., "Do Lawyers Really Believe Their Own Hype and Should They?: A Natural Experiment," Yale Law & Economics Research Paper No. 412 (July 14, 2010), [http://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=1640062](http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1640062)
- Curtis Karnow, "The Temptation of Common Sense," *The Daily Journal* (April 7, 2104)
- Curtis Karnow, "Recognizing Confirmation Bias," *The Daily Journal* (October 10, 2014)

- Cory S. Clements, “Perception and Persuasion in Legal Argumentation: Using Informal Fallacies and Cognitive Biases to Win the War of Words,” 2013 *BYU L. REV.* 319 (2013), at <http://digitalcommons.law.byu.edu/lawreview/vol2013/iss2/3>
- Samuel H. Solomon, “How Jurors Make Decisions: A Practical and Systematic Approach to Understanding Jury Behavior” (2002), [www.doar.com](http://www.doar.com)
- Erin Harley, “Hindsight Bias In Legal Decision Making,” 25 *Social Cognition* 48 (2007) (juror hindsight bias, its relationship (positive correlation to) to severity of outcome, visual hindsight bias, and re: experts; some means of redaction of the bias)
- Robert J. MacCoun, “Media Reporting Of Jury Verdicts: Is The Tail (Of The Distribution) Wagging The Dog?,” 55 *DePaul L.Rev.* 539 (2006) (“If one were to use the media as a basis for estimating the expected value of a jury verdict, one would grossly overestimate the likelihood that the case would go to trial, the plaintiff’s probability of victory, and the magnitude of the award. Moreover, one would form the mistaken impression that tort litigation mostly involves medical malpractice and product liability rather than automobile negligence cases.”)
- Jeffrey J. Rachlinski, Et Al. “Heuristics and Biases in Bankruptcy Judges,” 163 *Journal of Institutional and Theoretical Economics* 167 (2007) (specialization does not necessarily produce better judging; experts (and specialized judges) make same errors as others; anchoring, loss aversion, self-serving bias, based rate fallacy)
- J.J. Prescott et al., “Improving Criminal Jury Decision Making After the Blakely Revolution,” *law & Economics Working Papers Archive: 2003-2009* (U.Mich.L.School 2006) (impact on juries of cognitive overload, complex structures, distortions due to the framing of nonbinary questions, and deliberation-related biases)
- *Israeli Judges’ Study*:
  - S. Danziger, et al., “Extraneous Factors In Judicial Decisions,” <http://www.pnas.org/content/108/17/6889>
  - *Reports on the Study*:
  - <http://economix.blogs.nytimes.com/2011/04/14/time-and-judgment/>
  - <http://www.guardian.co.uk/law/2011/apr/11/judges-lenient-break>



- Many problems in the use of numbers, statistics and probability stem from classic cognitive fallacies. For more on these issues with statistics and probability, see my “Statistics In Law: Bad Inferences & Uncommon Sense” at [http://works.bepress.com/curtis\\_karnow/](http://works.bepress.com/curtis_karnow/)
- *See also*, Nate Silver, [The Signal And The Noise](#) (enjoyable introduction to classic errors made in statistics and probability in the contexts of baseball, economic prediction terrorism, global warming, and political polling, among others); Charles Seife, [Proofiness](#) (2010) (how numbers and statistics are used to deceive); *generally*, Edward Cheng, “Fighting Legal Innumeracy,” 17 *GREEN BAG 2D* 271 (2014); Gerd Gigerenzer, [Risk Savvy](#); Charles Wheelan, [Naked Statistics](#).