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# Reducing Bias for Judges. Review of *Enhancing Justice: Reducing Bias*, by Sarah E. Redfield (ed.)

Victoria A. Knoche

**T**he book *Enhancing Justice: Reducing Bias* focuses on bias in the justice system—particularly the concept of implicit bias and its role in decision making. Aimed primarily at judges and, to a lesser extent, other legal actors such as prosecutors and jurors, “[t]his book helps explain how so many who pride themselves on being fair can be part of a system that is so widely seen as unfair by those who have historically been the victims of bias and prejudice, as well as by others” (p. viii). In this review, I reflect on the degree to which this goal is achieved and offer suggestions to potentially enhance the information presented and the impact of the book, including widening the readership, covering a variety of biases, and reorganization.

Editor Sarah E. Redfield presents a compilation of chapters written by myriad professionals including judges, attorneys, research consultants, and professors of law and social sciences. Redfield is a professor emerita at the University of New Hampshire’s School of Law who has a substantial background with the intersection of implicit bias and the law, which led to her being asked by the American Bar Association (ABA) to serve on their Implicit Bias Task Force. As a professor, Redfield focused on education law and wrote extensively about where implicit bias manifests, particularly in the education “pipeline” from preschool to profession as well as the “school-to-prison pipeline.” In chapter 2 of this book, Redfield notes that her focus on the White-ness of the preschool to law school/profession pipeline led her to the implicit bias literature, which provided some explanation for lack of diversity—that is, unintentional bias at several decision points. Additionally, Redfield states that she has had personal experience with bias as the first woman attorney in several Maine courts, where she was treated differently than her male colleagues and was on the receiving end of negative micro-messages (subtle slights that devalue a person, such as lack of eye contact).

Within this contextual framework, *Enhancing Justice: Reducing Bias* covers topics from the basics of implicit bias to how best to combat it in the justice system. The argument is made that despite judges’ focus on creating an objective, fair, and unbiased application of the law, bias does occur and needs to be addressed. Judge Theodore McKee, the author of the preface, states that, “[judges’] very identity is inextricably intertwined with the notion of fairness and the belief that our minds are as free of bias as are our rulings and judgements. That is our job, and we dedicate our professional (and often our personal) lives toward that end” (p. vii). The chapter authors present research that indicates that despite judicial actors’ best efforts, they harbor biases just like everyone else. However, the chapter authors argue that bias should not be accepted or tolerated in the justice system; rather, steps should be taken to neutralize and control bias.

Readers are treated to chapters with perspectives from a variety of professionals in the field, including judges, lawyers, social scientists, professors, and experienced trainers, and provided tools to enhance justice by reducing bias. The range and combination of expertise that the authors contribute is exceptional and a strength of the book. The authors provide varying perspectives from which implicit bias in the justice system can be addressed, giving the reader a wide-ranging understanding of the topic. Had the authors only been professors and researchers of social sciences, this book would have lacked the expertise judges, attorneys, and professors of law afford, potentially limiting the readership to students of the social sciences. Having judges, attorneys, and law professors as authors lends credence to the idea that proposed tools to enhance justice by reducing bias can be utilized in the justice system in a meaningful way.

Despite the importance of this information to a variety of legal actions, this book appears primarily written for consumption by *judges*. The first chapter poses questions specifically to judges asking whether they will place importance on routine judicial implicit bias training for themselves, as well as for all judges. Whereas judges can play a major role in enhancing justice by reducing bias, they are not the only legal actors that can benefit from the topics covered in this book. Authors throughout the book acknowledge that judges are not the only source where implicit bias can originate and affect the justice system, specifically mentioning the role of legal actors such as lawyers and jurors. However, by primarily addressing this book toward judges, there is the potential to miss or otherwise alienate other legal actors and keep them from the valuable information that this book has to offer. Therefore, I suggest that this book could have expanded its reach by providing additional coverage of various legal actors and how implicit bias can affect their domains of the justice system. Expanding the readership would then create a wider base for the book’s message about the presence of implicit bias in the justice system and effective ways to combat its influence on issues such as disproportionality and disparity, which, as the authors argue, is an important concept to understand.

Although this book covered racial biases extensively, it did tend to underemphasize other sources of bias in the justice system. Most of the chapters only occasionally mention gender, age, beauty, obesity, disability, religion, and other biases. When these biases are mentioned they are often only covered in the length of a paragraph. The one exception comes from a chapter that focuses exclusively on socioeconomic bias, a welcome context and divergence from the primary focus on racial bias throughout the book. Although the argument could be made that the effects

of racial biases are the most prevalent in the justice system when compared to other biases, it is still important to educate legal actors of how other biases can affect the justice system. Adding additional subsections or even entire chapters focusing solely on biases other than race could enhance the impact of this book.

One weakness that is common with edited volumes is the dispersion of topics throughout chapters rather than a centralized organization. For example, chapter 2 presents a brief overview to “provide scaffolding upon which the rest of the book builds in more depth and with more nuance” (p. viii)—most of which is provided in brief bulleted statements. Although these bulleted statements read easily, they do not fully cover the basic concepts of implicit bias until chapter 7, with tidbits throughout the chapters in between. If readers do not have a significant amount of background knowledge on the subject, they are left with having to contextualize very complex concepts without the benefit of a basic understanding of implicit bias and the effects it can have on the justice system.

One proposal for future iterations of this book would be a more logical organization with two parts. Part 1 could provide information about implicit bias in general terms and implicit bias in the justice system. The first few chapters could provide in-depth coverage of implicit bias in general terms (i.e., concepts including similarity and attraction, in-group vs. out-group, differential favoring, theories on the roots of favoritism, and methodological limitations in measuring prejudice) to provide a solid knowledge base of prejudice and implicit bias upon which to build its influence on legal aspects. The next few chapters could cover implicit bias in the justice system, focusing on various legal actors and how implicit bias can affect their portion of the justice system, as well as controversies at the intersection of implicit bias and the law. Part 2 could focus on providing readers with strategies to implement implicit bias training, with chapters on how to combat bias, how to best communicate that these biases exist in everyone, and interventions to ameliorate its effects, as well as how to assess the success of these interventions.

By addressing this organization, the authors can pare down chapters that tend to repeat the same information; for example, chapters 5 and 6 similarly cover System 1 and System 2 reasoning in depth. Another example of repeated information appears again in chapters 5 and 6 when the authors of each provide practical steps to reduce the risk of implicit bias in which they both

present recommendations to visit low-income neighborhoods (p. 145) or foster diversity in your private life (p. 115), as well as to decorate the courthouse with counter-stereotypical role models (e.g., “displaying photographs in the courthouse of respected women judges [and] inspiring civil rights leaders,” p. 115). As a result of this organization, there is information that is not necessarily needed for the readers to understand the concept of implicit bias in the justice system. Chapters 2 and 4 begin with the authors’ personal journeys encountering, learning, or combating implicit bias, and although this establishes author expertise, readers would benefit from adding more concise context about implicit bias at the intersection of experience and science.

Although the present book could be enhanced with a few adjustments, namely, widening the readership, covering a variety of biases, and reorganization, it provides a wealth of well-rounded information to its readers. The book presents useful information for readers to champion implicit bias training in their own portion of the justice system and how best to be successful. As such, this book acts as a guidebook and will undoubtedly prove to be useful for several legal actors, including lawyers and court-appointed mediators interested in improving the administration of justice. Not only does this book provide basic information about implicit bias in general and in the justice system, it also provides concrete strategies to implement implicit bias training, with chapters on how to combat bias, how to best communicate that these biases exist in everyone, interventions to ameliorate its effects, and how to assess the success of these interventions.



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