

DETAILED CONTENTS

<i>Acknowledgements</i>	xi
<i>Table of cases</i>	xiii
<i>Table of legislation</i>	xv
 CHAPTER 1 INTRODUCTION	 1
1.1 A brief introduction to the development of judicial decision-making research	3
1.2 Researching judicial decision-making: matters of terminology and methodology	5
1.3 A preview of this book	9
 CHAPTER 2 THE PSYCHOLOGY OF JUDICIAL DECISION-MAKING	 12
2.1 Heuristics, cognitive biases and judicial decision-making	13
2.1.1 Confirmation bias	15
2.1.2 Hindsight bias	18
2.1.3 Representativeness heuristic	22
2.1.4 Egocentric bias	24
2.1.5 Other heuristics and biases	25
2.1.6 Combatting heuristics and biases in judicial decision-making	28
2.2 Cognitive errors in judges' numerical decision-making	32
2.2.1 Anchoring effect	37
2.2.2 Contrast effect	46
2.2.3 Framing effect	48
2.2.4 Gambler's fallacy	52
2.2.5 Clustering	53
2.2.6 Combating cognitive errors in judges' numerical decision-making	54
2.3 Motivated reasoning and judging	60
2.4 Judging and emotion	70
2.5 Group psychology effects on judicial panels' decision-making	78
2.5.1 Positive effects of group decision-making	81
2.5.2 Negative effects of group decision-making	83

DETAILED CONTENTS

CHAPTER 3	JUDGES' PROFESSIONAL MOTIVATIONS AND JUDICIAL DECISION-MAKING	91
3.1	Work-life balance and judicial decision-making: workload, leisure, and retirement	93
3.2	Reputation, prestige and influence	99
3.3	Pay	103
3.4	Promotion	107
3.5	Conclusions on judges' professional motivations and judicial decision-making	109
CHAPTER 4	JUDGES' CHARACTERISTICS AND EFFECTS ON JUDICIAL DECISION-MAKING	111
4.1	Judges' gender	112
4.1.1	Gender and judicial decision-making on sentencing	115
4.1.2	Gender and judicial decision-making on gender-salient issues	116
4.2	Judges' race and ethnicity	124
4.2.1	Conclusions on judges' race and ethnicity	131
4.3	Judges' age and experience	132
4.3.1	Judges' age and conservative judging	132
4.3.2	Judges' age and age discrimination claims	134
4.3.3	Judicial experience and the "freshman effect"	135
4.3.4	Interpreting judges' age and experience on the bench meaningfully	137
4.4	Judges' religion	139
4.4.1	Judges' religion and liberal or conservative judicial decision-making	141
4.4.2	Judging on religious freedom cases	143
4.4.3	Understanding religious affiliation as a factor in judicial decision-making	144
4.5	Judges' politics	145
4.5.1	Background and development of research on judges' politics and their decision-making	149
4.5.2	The attitudinal model	150
4.5.3	The strategic model	152
4.5.4	Judges' politics and decision-making: a global perspective	154
4.5.5	Experimental studies on judges' political views and judging	159
4.5.6	Conclusions on judges' politics and their decision-making	161
CHAPTER 5	LITIGANTS' CHARACTERISTICS AND EFFECTS ON JUDICIAL DECISION-MAKING	164
5.1	Litigants' gender	165
5.2	Litigants' race and ethnicity	169
5.3	Litigants' age	174
5.4	Litigants' sexual orientation	177
5.5	Litigants' other characteristics	180

5.6	Combinations and interactions of different litigants' characteristics and judges' characteristics	182
5.7	Combatting bias based on litigants' characteristics	183
CHAPTER 6 JUDICIAL DECISION-MAKING IN AN INSTITUTIONAL CONTEXT: IN-COURT INFLUENCES		186
6.1	Actors in the courtroom and their influence on judicial decision-making	187
6.1.1	Lawyers' influence	187
6.1.1.1	Lawyers' written submissions	189
6.1.1.2	Oral argument	190
6.1.1.3	Lawyers' characteristics	196
6.1.2	Judicial assistants' influence	197
6.1.2.1	Judicial assistants as gatekeepers on courts with discretionary jurisdiction	198
6.1.2.2	Judicial assistants' influence at trial	200
6.1.2.3	Writing judgments	202
6.1.3	Expert witnesses' influence	204
6.1.4	Conclusions on the influence of courtroom actors	206
6.2	Courts' operations and courtroom layout and design as in-court influences	207
6.2.1	Inquisitorial and adversarial trial modes and judicial decision-making	208
6.2.2	Judicial specialisation	211
6.2.3	Rules and procedures on panel courts	213
6.2.3.1	Discretionary jurisdiction and effects on judicial decision-making	213
6.2.3.2	Composing judicial panels for cases	216
6.2.3.3	Deliberation on panel courts	218
6.2.4	The physical courtroom environment: courtroom layout and design	221
6.2.5	Conclusions on courts' operations, and layout and design	222
CHAPTER 7 JUDICIAL DECISION-MAKING IN AN INSTITUTIONAL CONTEXT: BEYOND-COURT INFLUENCES		224
7.1	Other courts in the judicial system: judicial decision-making in a hierarchy	225
7.2	Other branches of government	231
7.2.1	Judicial decision-making as dialogue with other branches of government	233
7.2.2	Governments' powers over courts' operations and the judiciary	239
7.2.2.1	How judges are selected and the consequences for judicial decision-making	240
7.2.2.2	Governments' control over the terms and conditions of judges' employment	254
7.3	Judges and their professional networks	257

DETAILED CONTENTS

7.4	Judges, their public and decision-making	260
7.5	Media coverage and judicial decision-making	265
7.5.1	Lights. Camera. Law! The presence of media in the courtroom	269
CHAPTER 8 THE FUTURE OF JUDGING		273
8.1	The rise of courtroom technologies	274
8.2	Artificial intelligence	276
8.2.1	AI in the courtroom	277
8.2.2	The case for and against AI judges	280
8.3	Conclusion	287
<i>Index</i>		291