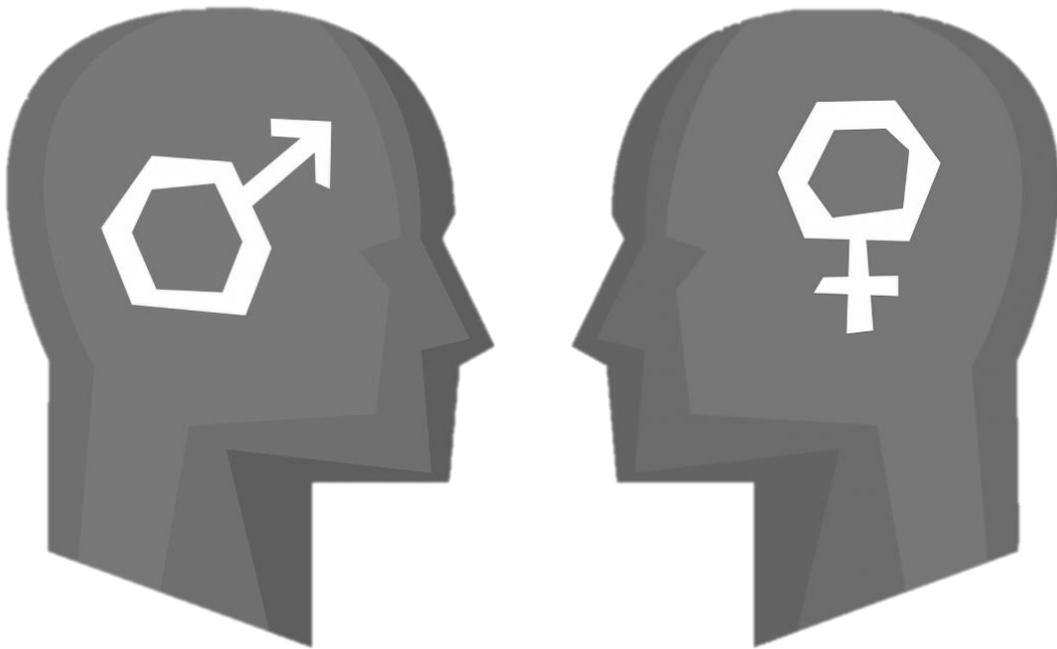


**Managing Our Unconscious Biases to  
Deliver Equal Opportunity Under the Law:**

**It Starts with **Pink** and **Blue****



*Dedicated to*

*my partner in crime, who came to me  
and said: I do not want to know the  
gender of our child, because their fate  
should not be pre-determined by us.*

*Special thanks to*

*my little sis, the citation guru.*

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*There was once a father driving his son late at night. They were both involved in a terrible collision. The father dies at the scene and his son is rushed to hospital in a critical condition. The surgeon takes one look at the boy and exclaims: "I cannot perform the surgery. He is my son!"*

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If this classic riddle does not instantly make perfect sense to you or if you had to re-read the events above before coming to the realisation that the surgeon was his mother, then you have just potentially identified one of your unconscious biases.

The discussion around unconscious bias and how it affects our perception and decisions is by no means new. Even in recent years, there has been acute focus on the effects of unconscious bias, how it affects diversity (or lack thereof), and how they both affect the Australian legal industry.<sup>1</sup> Despite the applaud-able efforts of

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<sup>1</sup> K Abraham Thomas, 'Affirmative Action in Piercing the Bamboo Ceiling within the Australian Legal Profession' [2017] *William Ah Ket Scholarship 2017*; Asian Australian Lawyers Association, 'The Australian Legal Profession: A snapshot of Asian Australian diversity in 2015' (Report, Asian Australian Lawyers Association, 2015); Tuanh Nguyen and Reynah Tang, 'Gender, Culture, and the Legal Profession: A Traffic

various legal authors to raise the awareness of the most prevalent unconscious biases and the numerous calls for affirmative action in our legal industry,<sup>2</sup> there is a lack of understanding by many legal professionals as to how biases work to produce biased behaviour and how we can effectively manage them (hint: having a bias does not necessarily result in a biased behaviour). This paper will endeavour to explain:

1. how our biases can lead to biased behaviour;
2. why we should care as legal professionals or members of the judiciary;
3. how we can pro-actively manage the effects of unconscious bias for the betterment of society and the legal industry, and

highlight how the challenge for each of us started before we were even born – with the colours pink and blue.

**How Do Biases Lead to Biased Behaviour?**

Before we discuss how our unmanaged biases are affecting the legal industry, let alone discussing how to potentially manage them, it is necessary to understand how our biases lead to biased (or unbiased) behavior. It is paramount that we understand that there is a distinction between having a bias and behaving in a biased manner. The former is an unavoidable characteristic of being human and the latter is

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Jam at the Intersection' [2017] *Griffith Journal of Law & Human Dignity*, 91.

<sup>2</sup> Ibid.

an avoidable result through controlled processes.<sup>3</sup>

### Cognitive Bias

Cognitive biases are our social perception lenses.<sup>4</sup> We construct images of the social world based on our experiences and perceptions and interpret our world through these social perception lenses.<sup>5</sup> Like glasses for our eyes, our social perception lenses come in all different shapes, sizes, and colours. They can be hued, warped, or flawed in various ways and are shaped by our varied experiences and the information we receive. Our biases also change over time as we continue to experience different events during our lives and receive new information (keeping in mind that our events experienced and information received are also affected by the lenses through which we perceive them).

In terms of how we use bias, we can consider cognitive biases as our “danger detector”:<sup>6</sup> like bodily reflexes, but for our minds. They provide us with a cognitive shortcut for making a quick decision to ensure our safety or repeat our previous successes.<sup>7</sup> Most importantly, we must note that:

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<sup>3</sup> P. G Devine, ‘Stereotypes and prejudice: Their automatic and controlled components’ (1989) 56(1) *Journal of Personality and Social Psychology*, 5.

<sup>4</sup> M. G Haselton, D Nettle and P.W. Andrews, (2005). ‘The evolution of cognitive bias’ in D. M. Buss (ed.), *The Handbook of Evolutionary Psychology: Hoboken*, (2005, New Jersey, United States of America, John Wiley & Sons Inc.) 724.

<sup>5</sup> Ibid.

<sup>6</sup> Howard J. Ross, ‘3 Ways to Make Less Biased Decisions’, *Harvard Business Review* (online), 16 April 2015 <<https://hbr.org/2015/04/3-ways-to-make-less-biased-decisions>>.

<sup>7</sup> Ibid.

*[I]t is unlikely that we can eliminate our biases. We are learning more and more that they are a natural part of human functioning.*<sup>8</sup>

So whilst we can seek to alter some of our biases and reduce our prejudice through new information and experiences, we cannot realistically become unbiased people. Of course, reshaping the information that has historically entrenched certain biases within our broader community can have a positive net effect in reducing prejudice: for example, connecting and educating the broader community on the local contributions to society by immigrants to counteract the out-group bias against immigrants which posits the stereotypical and prejudicial perception that immigrants are here to just ‘steal our jobs’. In fact, if this paper did not acknowledge the various other ways in which we can mitigate the effects of bias, it could be seen as an ironic case of confirmation bias.

### **Types of Cognitive Biases**

Biases arise from a number of different sources. If we are not even aware of the various sources of bias, it is difficult to see how we can be conscious of events and environments that may be affecting the rationality and impartiality of our behaviour. Here are some examples of cognitive biases:<sup>9</sup>

In-group Bias – arises from our innate tendency to like people who are similar to ourselves. The general tendency is to view people within your ‘group’ more favourably than those outside

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<sup>8</sup> Ibid.

<sup>9</sup> Rolf Howard, ‘The danger of unconscious bias in HR decisions and how overcome it’, *Human Resources Director Australia* (online), 28 December 2017, <<https://www.hcamag.com/hr-news/the-danger-of-unconscious-bias-in-hr-decisions-and-how-to-overcome-it-244975.aspx>>.

your 'group' and often results in an 'us versus them' mentality.<sup>10</sup>

Availability Heuristic – is our bias in giving more weight to how easily an example, instance, or case comes to mind.<sup>11</sup> An example is our perception of a segment of society based on information that was recently in the news, dismissing other relevant facts.

Confirmation Bias – once we have formed a view, we are biased in immediately accepting and embracing information that confirms our view and dismissing information that challenges our view.<sup>12</sup> A good example is illustrated by the comic below.



Image 1: Illustration of Confirmation Bias<sup>13</sup>

Groupthink – is a tendency for members within a group to deteriorate in “mental efficiency, reality testing, and moral judgment” due to group pressures.<sup>14</sup> It results in an echo chamber within the group, where group’s agenda is amplified exponentially and criticism or outside opinions are suppressed.

<sup>10</sup> Kendra Cherry, ‘What is the Ingroup Bias?’ Explore Psychology (online), 30 August 2016, <<https://www.explorepsychology.com/ingroup-bias/>>.

<sup>11</sup> A. Tversky and D. Kahneman, ‘Judgment under uncertainty: Heuristics and biases’ (1974) 185 *Science (New Series)*, 1124.

<sup>12</sup> Shahram Heshmat, ‘What is Confirmation Bias?’ *Psychology Today* (online) 23 April 2015, <<https://www.psychologytoday.com/au/blog/science-choice/201504/what-is-confirmation-bias>>.

<sup>13</sup> Kris Straub, ‘On Research’, *Chainsawsuit*, 16 September 2014, <<http://chainsawsuit.com/comic/2014/09/16/on-research/>>.

<sup>14</sup> Irving L. Janis, *Victims of Groupthink* (Houghton Mifflin, 1972) 9.

Halo Effect – is the effect of a specific characteristic or a property about a person influencing our overall impression of them and their performance (i.e. a person who is viewed as ‘rather good’ colouring our perception of their future behaviour or performance).<sup>15</sup>

Negative Bias – is our bias in placing greater weight on negative experiences or news (e.g. pain, emotional trauma, loss, etc.), which results in other factors, including positive information and experiences, being overcome by those negative experiences.<sup>16</sup>

Hindsight Bias – is the perception that events seem more obvious or predictable after they have already occurred and commonly results in the ‘I-knew-it-all-along’ phenomenon.<sup>17</sup> Importantly, it warps our perception of how likely an event was to happen if we are judging the event after it has occurred, which may have a very direct impact on litigation and the judiciary.

## Biased and Unbiased Behaviour

[Devine’s model of prejudice]

According to Devine, our biases, whether conscious or unconscious, only result in biased behaviour if we are:<sup>18</sup>

1. low-prejudice; and

<sup>15</sup> E.L. Thorndike, ‘A constant error in psychological ratings’ (1920) 4(1) *Journal of Applied Psychology*, 25.

<sup>16</sup> J. Cacioppo, S. Cacioppo and J. Gollan, ‘The negativity bias: Conceptualization, quantification, and individual differences’ (2014) 37(3) *Behavioral and Brain Sciences*, 309.

<sup>17</sup> Kendra Cherry, ‘Hindsight Bias in Psychology’, *Very Well Mind* (online), 13 March 2018, <<https://www.verywellmind.com/what-is-a-hindsight-bias-2795236>>.

<sup>18</sup> P. G. Devine, ‘Stereotypes and prejudice: Their automatic and controlled components’ (1989) 56(1) *Journal of Personality and Social Psychology*, 5.

2. are able to apply control processes before our behaviour.

In other words, if we are aware of our prejudices and do not endorse it (low prejudice), we can suppress our automatic stereotype processing (control process) and behaving in an unbiased manner.<sup>19</sup> Of course, if we are aware of our prejudices and actively endorse it (high prejudice), there will be no suppression of our automatic stereotype. Further, if we are not aware of our prejudice (unconscious bias), there is little hope for us applying a filter to our behaviour and the result will be biased behaviour.

If we wish to manage and reduce biased behaviours and biased decisions in our legal industry, we must seek to:

1. make ourselves aware of our biases;
2. cultivate a society that does not endorse those prejudices; and
3. provide an environment that allows us to apply control processes before our decisions and behaviours; or
4. alternatively, remove the associated characteristic linked to the bias and prejudice so that, irrespective of decision pressures being present, there is no stereotype activation at all.

As mentioned before, awareness of our biases does help reduce biased behaviour, but as highlighted by Devine's model of prejudice above, it is insufficient in and of itself to mitigate biased behaviour.<sup>20</sup> Assuming we as a society do not endorse prejudicial behaviour and thus will impose societal pressure upon

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<sup>19</sup> Ibid.

<sup>20</sup> We should be careful to distinguish awareness of a bias from awareness of a stereotype resulting in stereotype-threat.

individuals to behave in a unbiased fashion, the missing link to managing our biases lies in legal practitioners and the judiciary imposing controlled stereotype-inhibiting processes before their decisions are made.<sup>21</sup> If we are aware of our bias and prejudices and wish to manage them, then the critical question then is: what hinders us from eliciting such controlled processes?

The answer is decision pressures. The most typical decision pressure is time pressure to make the decision or exhibit the behaviour.<sup>22</sup> When we have limited time in which to make our decision, we are unable to apply controlled stereotype-inhibiting processes. Conversely, if we wish to apply control processes, we take more time. This is the basis for the Implicit Association Test, which highlights our underlying perceptions and hidden biases by testing word associations and the time taken to link those word associations.<sup>23</sup> The other commonly discussed decision pressure is stress, such as in emergencies, high-stake situations, or under traumatic situations.<sup>24</sup>

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<sup>21</sup> Patricia G. Devine, 'Stereotypes and Prejudice: Their Automatic and Controlled Components' (1989) *56 Journal of Personality and Social Psychology*, 5.

<sup>22</sup> Anne Edland and Ola Svenson, 'Judgment and decision making under time pressure' in Ola Svenson, A.J. Maule (eds), *Time Pressure and Stress in Human Judgement and Decision Making*, (Springer, Boston, United States of America, 1993) 27.

<sup>23</sup> Anthony G. Greenwald, Debbie E. McGhee, Jordan L.K. Schwartz, 'Measuring Individual Differences in Implicit Cognition: The Implicit Association Test' (1998) *74(6) Journal of Personality and Social Psychology*, 1464.

<sup>24</sup> Kathleen M. Kowalski-Trakofler, Charles Vaught and Ted Scharf 'Judgment and decision making under stress: An overview for emergency managers' (2003) *1 International Journal of Emergency Management*, 278..

The alternative is to remove the knowledge of the characteristic triggering the stereotype activation in the first place. This is illustrated in stereotype-threat, whereby the awareness of a stereotype causes people to conform to that stereotype. The key thing to note from stereotype-threat is that it requires the subject to also perceive the presence of the characteristic or characteristics triggering the stereotype. For example, women underperformed only when:<sup>25</sup>

1. the task is perceived as favoring men; and
2. the rival's gender is explicitly mentioned.

Consequently, if the characteristic is not revealed and remains unknown to the subject, the stereotype is not activated. In terms of our legal industry, we can apply this understanding by removing the presence of irrelevant characteristics to minimise the number of stereotypes being activated by the decision-maker.

If we mitigate or remove these decision pressures in tandem with increasing our awareness of our biases and our social desire to behave in an unbiased manner, or if we remove knowledge of irrelevant characteristics to minimise the activation of stereotypes, we can strive toward a legal industry free of biased behaviour and decisions.

### **Why Should We Care?**

The entire premise of managing our unconscious biases would be moot (and this paper purely academic) if there were not compelling reasons for us manage our biases,

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<sup>25</sup> N. Iriberry and P. Rey-biel, 'Let's (not) talk about sex: Gender awareness and stereotype threat on performance under competition' (Working Paper, Barcelona GSE Working Paper Series, 2012).

both on an individual level and collectively as an industry. Rather than immediately launching into discussion on how could manage our biases as an industry, it would be prudent to remind ourselves why bias presents a surmountable problem that we should be addressing first, not last. The short of it is that, if we understand that unconscious biases can lead to biased decisions and that biased decisions in the law are a bar to fair treatment, then unmanaged unconscious biases of legal practitioners and members of the judiciary effectively prevent the due administration of justice via procedural fairness and equal opportunity under the law.

### Biased Decisions are a Bar to Equal Opportunity Under the Law

Legal Practitioners and the Judiciary are gatekeepers to the law, because, whether we like it or not, the law is set, interpreted, and administered by people. Being human, we each inherently herald from different backgrounds and hold a diverse set of personal values, views, and biases. We repeatedly bring all of our diverse values, views, and biases to the table whenever we interact and make decisions. Since we humans cannot guarantee a 'fair outcome', a concept which is nebulous and varies from person to person, the legal system can only seek to administer justice through procedural fairness and equal opportunity to access those fair procedures; as the High Court acknowledged in *SZBEL v Minister for Immigration and Multicultural and Indigenous Affairs* (2006) 228 CLR 152, the Courts are primarily "concerned with the fairness of the procedure adopted, not the fairness of the decision produced by that procedure."<sup>26</sup>

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<sup>26</sup> at [25] as per Gleeson CJ, Kirby, Hayne, Callinan and Heydon JJ.

As the gatekeepers to society accessing the law, legal practitioners and members of the judiciary are erroneously entrusted with the responsibility of remaining independent and impartial so that the legal system can deliver both procedural fairness and equal opportunity to access the law.<sup>27</sup> The proposition that people can be impartial (i.e. unbiased) is demonstrative of how the legal industry lacks understanding of how biases work. By failing to properly understand or pro-actively address how we subconsciously make biased decisions, we are ultimately failing to perform our role as gatekeepers to the law and therefore hindering rather than promoting equal opportunity under the law.

Even the perception of unconscious bias and biased decisions are a bar to equal opportunity under the law. The legal system functions on the basis that society trusts its gatekeepers to administer the system fairly. The paramountcy of this societal trust in our legal system is embodied in our emphasis on legal ethics, good character, due process, and transparency. The legal industry is understandably criticised as soon any bias by its gatekeepers is perceived by the public, let alone when it results in prejudice and biased behaviour. If the legal industry is perceived to not be managing its biases and allowing biased behaviour and decisions to eventuate, that public trust in the legal system is eroded. The lack of public trust will act as a mental barrier to access to the legal system and therefore prevent equal opportunity to access the law. If we as an industry not only pro-actively seek to manage our environments to mitigate (or ideally remove) biased behaviour and decisions, but are perceived to be pro-

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<sup>27</sup> As discussed above, it is unlikely that we can eliminate our biases as they are a natural part of being human.

actively doing so, it can only work to strengthen the trust in our legal system and minimise any public mental barriers to the law.

#### Unmanaged Bias is Evident in our Legal Industry

The negative impact of biased decisions would not be problematic in the legal industry if they were properly managed. Keeping in mind the fact that as humans we cannot eliminate our biases, there is evidence throughout the legal industry of unmanaged bias and therefore evidence of biased decisions. As discussed before, biased decisions, whether actual or perceived, work against our responsibilities as gatekeepers to the law and act as a bar to equal opportunity under the law.

In recent years there have been instances of alleged bias against judges and examples of prejudicial nomenclature in the adjudication process, both of which evidence unmanaged bias within the judiciary.

In 2016 there were allegations against the Honourable Judge Street of bias against immigrants in their immigration applications.<sup>28</sup> It was alleged that the 252 decisions for the Immigration Minister (and against the applicant) out of the 254 applications before the Honourable Judge Street in the first half of 2015 was irrefutable statistical evidence of biased decision-making.<sup>29</sup> Whilst this statistic, when benchmarked against other judges for similar applications, suggests some form of hampered impartiality with high statistical probability, it is not evidence of conscious bias or some form of

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<sup>28</sup> Natasha Robinson, 'Federal Circuit Court Judge Alexander Street not biased over asylum seeker decisions, court rules', ABC News (online), 11 March 2016, <<http://www.abc.net.au/news/2016-03-10/judge-rejected-almost-all-asylum-seeker-cases-not-biased/7237666>>.

<sup>29</sup> Ibid.

malicious agenda. With our now improved understanding of how unmanaged bias can lead to biased behaviour, the statistic can be easily explained without any reference to intent. As such, it is, at the very least, evidence of unmanaged hidden associations being present in our judiciary.

In *Gatenby & Chisler* [2017] FAMCA 1109, the judge elected to refer to the biological mother and the non-biological mother as “the mother” and “the other mother” respectively.<sup>30</sup> Again, there is no suggestion of conscious bias or a malicious agenda; however, the use of prejudicial nomenclature suggests that bias is, at the very least, being unmanaged.

Evidence of unmanaged bias in legal professionals is more difficult to view due to most transgressions within firms being undocumented. Nonetheless, we can still see evidence of unmanaged bias by understanding that diversity and inclusion in the workplace is primarily driven by the absence or management of bias.<sup>31</sup> Therefore, evidence of gender inequity,<sup>32</sup> the ‘bamboo ceiling’,<sup>33</sup> and general lack of societal representation within the legal professional workforce is evidence of insufficient management of bias. To put it simply, if there were no cognitive barriers to recruitment and career progression (whether

stemming from cultural biases, in-group biases, groupthink, or otherwise), it would be statistically improbable that the legal professional workforce would not closely represent the average demographic profile of our society. Diversity and inclusion are symptoms of equal opportunity and arise primarily where there is an absence of bias or the presence of managed bias. Of course, it would be imprudent to ignore the time required for career progression (and therefore the time required for current societal demographics to penetrate senior positions) and other impediments to equal opportunity, such as access to education and the distribution of wealth.

In addition to the social justice in equal opportunity under the law and the social and economic benefits of diversity and inclusion in our legal workforce,<sup>34</sup> understanding the importance of managing our biases is a paramount step to the legal industry delivering equal opportunity under the law in our role as gatekeepers and administrators of the law.

### **How Should We Pro-Actively Manage Our Biases for the Better?**

*There is still a tendency to see diversity and inclusion as the responsibility of HR or a specialist team, rather than integrating them into wider business management.*<sup>35</sup>

Whilst this comment is directed more broadly, it applies to the legal industry. In its current state, the legal industry is, by analogy, in the

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<sup>30</sup> *Gatenby & Chisler* [2017] FAMCA 1109.

<sup>31</sup> PriceWaterhouse Coopers, ‘No Holding Back: Breaking Down the Barriers to Diversity’ (Report, 2017) <<https://www.pwc.co.uk/human-resource-services/assets/documents/real-diversity-2017-no-holding-back.pdf>>

<sup>32</sup> Workplace Gender Equality Agency, ‘Legal Services Summary for 2017’, Workplace Gender Equality Agency, 2017 <<http://data.wgea.gov.au/industries/115#summary-content>>.

<sup>33</sup> Thomas, above n 1; Asian Australian Lawyers Association, above n 1; Nguyen and Tang, above n 1.

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<sup>34</sup> McKinsey & Company, ‘Delivering through Diversity’ (Report, January 2018) <[https://www.mckinsey.com/~media/mckinsey/business%20functions/organization/our%20insights/delivering%20through%20diversity/delivering-through-diversity\\_full-report.ashx](https://www.mckinsey.com/~media/mckinsey/business%20functions/organization/our%20insights/delivering%20through%20diversity/delivering-through-diversity_full-report.ashx)>.

<sup>35</sup> PriceWaterhouse Cooper, above n 31.

equivalent of the Inspection era and needs to adopt pro-active management of biases.<sup>36</sup> The Inspection era was when the quality of products was managed by inspecting the products at the end of the line and, if there was a lack of quality (i.e. a defect), the products were re-worked or discarded.<sup>37</sup> In this case, the legal industry is in the 'Bias' Inspection era, where bias is managed by inspecting the situation on a case by case basis and, if necessary, remedying the bias by removing the 'biased' person.<sup>38</sup> To put it into perspective, the Inspection era was prevalent in the 1800s.

Characteristic	Inspection	Assurance	Management
<b>Primary Concern</b>	Detection	Coordination	Strategic Impact
<b>View</b>	Problem to be solved	Problem to be solved, but tackled pro-actively	Competitive opportunity
<b>Method</b>	Gauging and measurement	Programs and systems	Strategic planning, goal-setting, and mobilising the organization
<b>Role of person/people responsible</b>	Inspection	Planning and program design	Goal-setting, education and training, consultative work with other departments/ industries and program design
<b>Person/people responsible</b>	Inspection department (i.e. HR)	All departments, although top management is only peripherally involved in designing, planning, and executing policies	Everyone in the organisation, with top management exercising strong leadership

<sup>36</sup> Zeepedia.com, 'History of Quality Management Paradigms', Zeepedia.com (online), undated, <[http://www.zeepedia.com/read.php?history\\_of\\_quality\\_management\\_paradigms\\_total\\_quality\\_management\\_tqm&b=59&c=10](http://www.zeepedia.com/read.php?history_of_quality_management_paradigms_total_quality_management_tqm&b=59&c=10)>.

<sup>37</sup> Ibid.

<sup>38</sup> Recall that we all inherently hold biases.

Table 1: 'Bias' eras adapted from Total Quality Management paradigms

If we are to improve the status quo, we must first progress to the mentality that management of our biases is everyone's job and transition from the 'Bias' Inspection era to the 'Unbiased' Assurance era or the Total 'Bias' Management era. This difference is that the Inspection era is reactive and primarily concerned with the result, whereas the Assurance and Management eras engrain the target practice throughout the business and convert it to a strategic objective that delivers competitive advantage vis-a-vis business competitors.

What then do the colours pink and blue have to do with bias and equal opportunity under the law?

### It Starts with You

Change is an evolution, not a revolution.<sup>39</sup> Industry change evolves from societal change, and societal change evolves from individual change. The law and the legal industry are merely a reflection of us as a society. The solution therefore does not revolve around changing the law, but instead convincing the individual.

The earliest instance to bias and prejudice for most us came from our parents, our family, and our peers. It came when they innocently decided to endow you as a baby with objects coloured blue for boys and pink for girls. Putting aside the issue of bucketing sex into two categories rather than acknowledging and appreciating the entirety of the sexual spectrum, the gender associations imported with these two colours are society's first gift of bias to you.

<sup>39</sup> Special thanks to my Global Business Economics professor, Loic Sadoulet, 2018.

From there it only cascades into implications of capabilities, societal roles, domestic roles, and professional competencies (just to name few) that are purely associated with your biological composition of organs and some chromosomes; and have nothing to do with those attributes or capabilities at all.

How then do we adequately adapt to manage the effects of these inherent biases that cannot be eliminated? As discussed previously, awareness of our biases is a start since we cannot mitigate the effects of bias if we are not even aware of the bias; but it is insufficient in and of itself. Societal pressure to conform to non-prejudicial and unbiased behaviour (ironically a case of social desirability bias) is also necessary to encourage low-prejudice people to refrain from endorsing biased behaviours. With the increasing prevalence of media attention and academic studies on bias framing it as socially undesirable to behave in a biased manner, this trend is arguably well on its way. More attention and awareness is, of course, still warranted since our legal industry still exhibits cases of unmanaged bias.

The key takeaways from this paper are that we should:

1. appreciate and account for how decision pressures affect the ability of low-prejudice individuals to control stereotype-inhibiting processes, which therefore still results in biased behaviour;
2. screen for and ignore characteristics of individuals that are unnecessary for our decisions; and
3. not merely inspect and react to the issue of unmanaged bias, but pro-actively engage as individuals at all levels and as an industry in taking responsibility and managing bias as a strategic objective.

Only by fully understanding the process in which our inherent biases can lead to biased behaviour and decisions can we hope to shift the legal industry into a position where we can assure equal opportunity under the law and assure diversity, inclusion, and the social and economic benefits they bring.

The evolution starts with you and only you. Whenever you are pressed to make a decision, take a breath and step away for a moment. Whenever you are required to make a decision, ask yourself: do I really need to know this to make my decision? The evolution starts with this paper improving your understanding of bias and convincing you that it should be first and foremost consideration for our legal industry. It starts with you convincing the person sitting next to you. It starts with what you choose to do today. It starts from before we are even born. It starts with the colours pink and blue.