

# SCIENZE COGNITIVE PER LA PREVENZIONE DE LA CORRUZIONE

26 gennaio 2016

Quinto incontro del ciclo di seminari su "Scienze  
cognitive per una regolazione efficace"

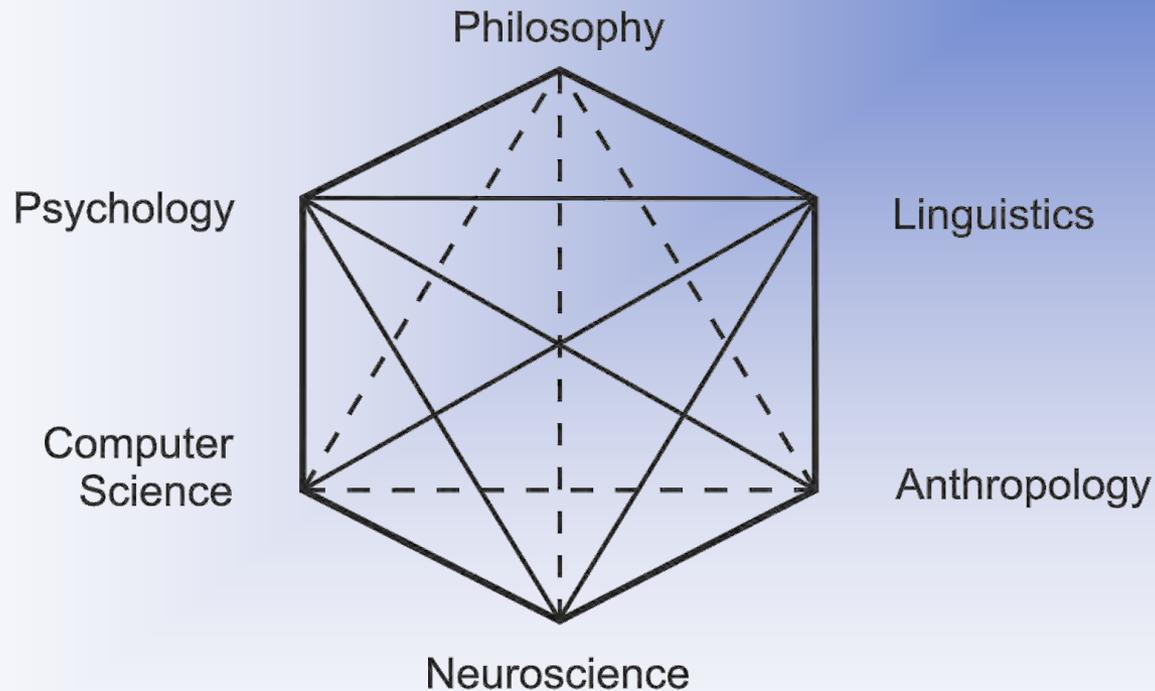
Juli Ponce

[jponce@ub.edu](mailto:jponce@ub.edu)

# Índice

- A) Ciencias cognitivas (*cognitive science*): estudio del pensamiento
  - 1. Distinción entre neurociencia (*neuroscience*) y ciencias de la conducta (*behavioural sciences*)
  - 2. Aportaciones de la neurociencia a la prevención de la corrupción
  - 3. Las ciencias de la conducta (*psicología cognitiva y behavioural economics*)
- B) Aportaciones de las ciencias del comportamiento a la prevención de la corrupción
  - La fórmula de la corrupción de Klitgaard
  - La vacuna contra la corrupción: obligaciones de buena administración y gobierno abierto
    - A) *Behavioural science* y papel de la discrecionalidad administrativa
      - DE SU ELIMINACIÓN A SU ORIENTACIÓN: PARTICIPACIÓN Y OBLIGACIONES DE BUENA ADMINISTRACIÓN PARA CORREGIR HEURÍSTICOS Y SESGOS (*BIASES*)
      - IMPORTANCIA DEL “*TONE AT THE TOP*”
    - B) *Behavioural science* y obblighi di trasparenza
      - 1. PROBLEMAS CON INFORMACIÓN DESDE PERSPECTIVA *COGNITIVE BASED*. EL CASO ESPAÑOL
      - 2. *LEGISLATIVE FOOTPRINT*

## A) Ciencia cognitiva (*cognitive science*): estudio del pensamiento



Adapted from Gardner, Howard (1985).  
The mind's new science: A history of the cognitive revolution.  
New York: Basic Books, Inc.

## 1. Distinción entre neurociencia (*neuroscience*) y ciencias de la conducta (*behavioural sciences*)

*J Exp Anal Behav.* 1994 Mar; 61(2): 307–317.

F STRUMWASSER

“The relations between neuroscience and human behavioral science.”

<http://www.ncbi.nlm.nih.gov/pmc/articles/PMC1334418/>

### Neuroscience and behavioral sciences

“Neuroscience seeks to understand how the human brain, perhaps the most complex electrochemical machine in the universe, works, in terms of molecules, membranes, cells and cell assemblies, development, plasticity, learning, memory, cognition, and behavior. The human behavioral sciences, in particular psychiatry and clinical psychology, deal with disorders of human behavior and mentation”

“The gap between neuroscience and the human behavioral sciences is still large. However, some major advances in neuroscience over the last two decades have diminished the span”

## The Nobel Prize in Physiology or Medicine 1906



Camillo Golgi  
Prize share: 1/2



Santiago Ramón y  
Cajal  
Prize share: 1/2

REDOLAR RIPOLL, D.

*NEUROCIENCIA COGNITIVA*

Ed. Panamericana,

<http://www3.uji.es/~gonzalez/Separata%20Panamericana.pdf>

“La neurociencia cognitiva se ha constituido como un campo científico reciente (...) a partir de la aproximación de dos disciplinas que inicialmente habían llevado itinerarios muy alejados:

la psicología cognitiva, que estudia las funciones mentales superiores, y la neurociencia, que estudia el sistema nervioso que las sustenta.

A pesar de que cada una de estas disciplinas ha contado con tradiciones separadas y con una historia previa singular, en los últimos años se ha realizado un gran esfuerzo por posibilitar la convergencia de ambas”

## 2. Aportaciones de la neurociencia a la prevención de la corrupción



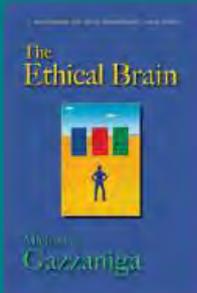
<http://link.springer.com/article/10.1007%2Fs13164-015-0240-9#/page-1>  
*Review of Philosophy and Psychology*

September 2015, Volume 6, Issue 3, pp 469-479  
Gidon Felsen and Peter B. Reiner

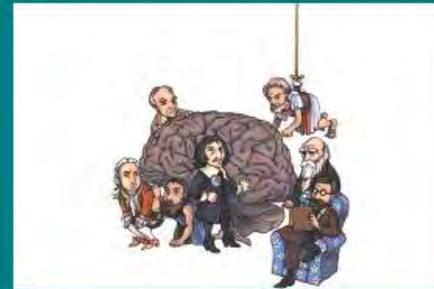
“What can Neuroscience Contribute to the Debate Over Nudging?”

“While the field of behavioral law and economics has integrated behavioral psychology into legal and economic theories (Camerer et al. 2003; Jolls et al. 1998), incorporating the related neuroscientific data, with an eye towards their application to public policy, is becoming increasingly important”

**Neuroscience and Law: an unlikely pair?....,  
 Towards diagnosing wickedness.**



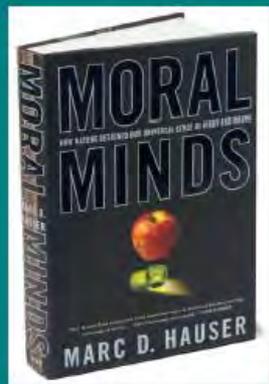
*Cognitive neuroscience  
 to help philosophers,  
 educators ... and  
 judges ???*



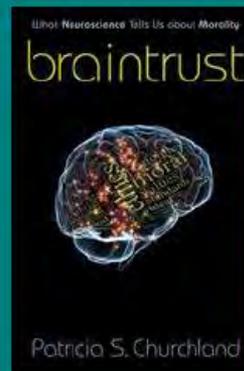
M. Gazzaniga (2005) New York: Dana Press



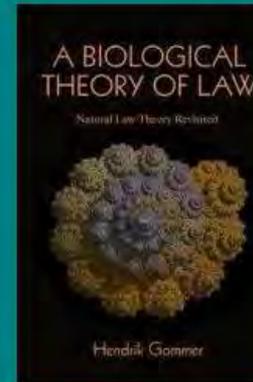
DW Pfaff (2008), The Chicago University Press



MD Hauser (2006) New York: Harper and Collins



PS Churchland (2011), Princeton Univ. Press



H. Gommer (2011), Tilburg Univ. Press

# Neuroscientists in court

Owen D. Jones, Anthony D. Wagner, David L. Faigman and Marcus E. Raichle

*Nature Reviews Neuroscience*, 14, 730-736, October 2013.

Why is the legal system increasingly turning to neuroscientists? The answer is simple: it does so in the hope that new technologies may help to satisfy many acute and long-lingering needs, including the law's need to answer questions such as: is this person responsible for his behaviour? What was this person's mental state at the time of the act? How much capacity did this person have to act differently? What are the effects of addiction, adolescence or advanced age on one's capacity to control behaviour? How competent is this person? What does this person remember? How accurate is this person's memory? What are the effects of emotion on memory, behaviour and motivation? Is this person telling the truth? In how much pain is this person? How badly injured is this person's brain?

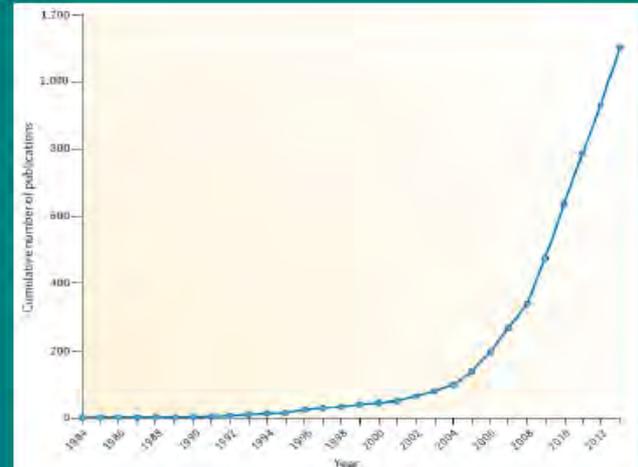
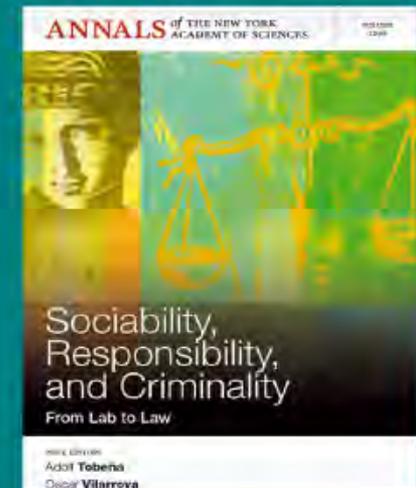


Figure 1 | Cumulative growth in the number of 'law and neuroscience' publications. The figure shows a sharp rise in the number of publications in the 'neurolaw' field between 2003 and 2013. These publications include both conceptual and empirical scholarship in the neurolaw field. Figure is reproduced from the *Law and Neuroscience Bibliography* on the website of The MacArthur Foundation Research Network on Law and Neuroscience.



# Neuroprediction of future rearrest

Aharoni E, Vincent GM, Harenski CL, Calhoun VD, Sinnot-Amstrong W, Gazzaniga MS and Kiehl KA (2013) *PNAS*, 110, 15, 6223-6228.

Identification of factors that predict recurrent antisocial behavior is integral to the social sciences, criminal justice procedures, and the effective treatment of high-risk individuals. Here we show that error-related brain activity elicited during performance of an inhibitory task prospectively predicted subsequent rearrest among adult offenders within 4 y of release ( $N = 96$ ). The odds that an offender with relatively low anterior cingulate activity would be rearrested were approximately double that of an offender with high activity in this region, holding constant other observed risk factors. These results suggest a potential neurocognitive biomarker for persistent antisocial behavior.

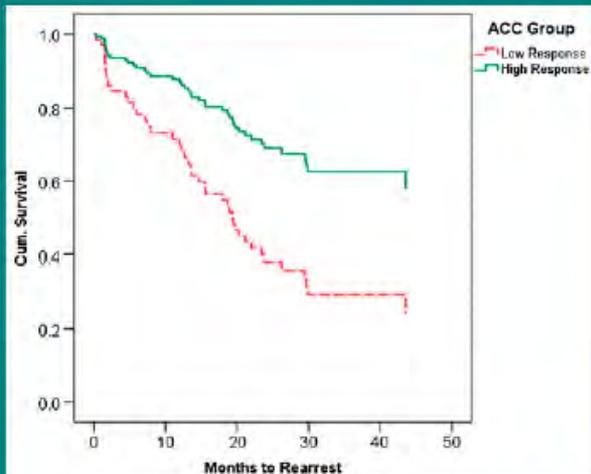


Fig. 1. Cox survival function showing proportional rearrest survival rates of high (solid green) vs. low (dashed red) ACC response groups for any crime over a 4-y period. Results of this median split analysis were equivalent to that of the parametric model: bootstrapped  $B = 0.96$ ;  $SE = 0.40$ ;  $P < 0.01$ ; 95% CI, 0.29–1.84. The mean survival times to rearrest for the low and high ACC activity groups were 25.27 (2.80) mo and 32.42 (2.73) mo, respectively. The overall probabilities of rearrest were 60% for the low ACC group and 46% for the high ACC group.

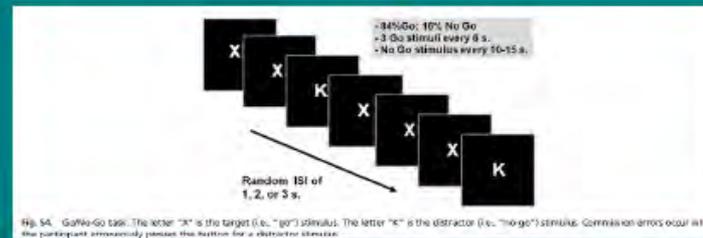


Fig. 5A. Go/No-Go task. The letter "X" is the target (i.e., "go") stimulus. The letter "K" is the distractor (i.e., "no-go") stimulus. Commission errors occur when the participant erroneously presses the button for a distractor stimulus.

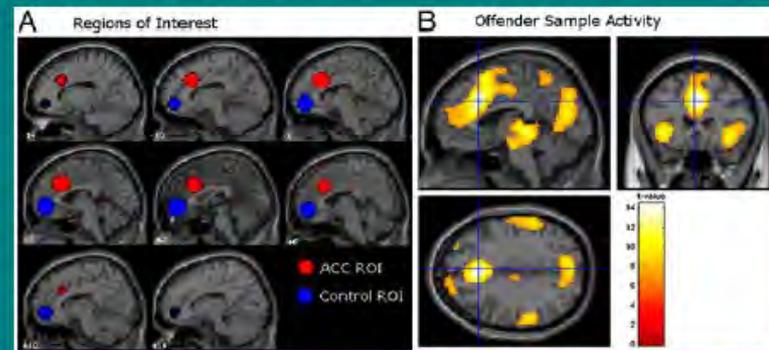
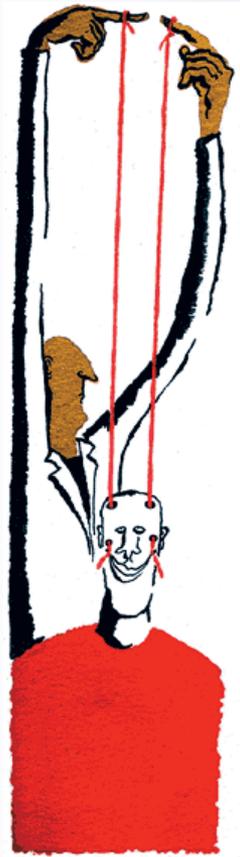


Fig. 2. (A) A priori seed region (red) for BOLD response to commission errors vs. correct hits in anterior cingulate from a GNG task with an independent sample of 102 healthy adult nonoffenders; peak voxel  $x = -3$ ,  $y = 24$ ,  $z = 33$ ; radius = 14 mm sphere;  $t(94) = 13.38$ ,  $P < 0.0001$ , FWE. A priori control region (blue) embodying anterior portion of the medial prefrontal cortex (peak voxel: 0, 51, -6; radius = 14 mm sphere). (B) Mean hemodynamic response change in offender sample ( $n = 96$ ) during commission errors vs. correct hits from sagittal (Upper Left), coronal (Right), and axial (Lower Left) orientations. Peak activation located at  $x = 3$ ,  $y = 24$ ,  $z = 33$  within the ACC ROI ( $P < 0.00001$ , FWE).



## The ethics of brain science

The  
Economist

### Open your mind

**Genetics may yet threaten privacy, kill autonomy, make society homogeneous and gut the concept of human nature. But neuroscience could do all of these things first**

Over the past decade, however, machines for measuring brain activity have proliferated. There are now half a dozen such technologies...

One of the most important new techniques is functional magnetic-resonance imaging (fMRI), which employs powerful magnetic fields to monitor the rate of blood flow in the brain, and thus to determine which parts are particularly active

Just as genetic markers can be associated with physical states, so features of brain scans will surely be linked to a wide variety of mental states. fMRI screening might, for example, become a foolproof method of lie detection—one that could catch out even “astute liars” who pretend to have impaired memories when put under pressure by an interrogator. Other personality traits, such as tendencies to aggression or risk-aversion, could also yield their secrets to fMRI's probing glance.

May 23rd 2002 | From the print edition

<http://www.economist.com/node/1143317/print>

## A Somatic Marker Perspective of Immoral and Corrupt Behavior

Sobhani N and Bechara A (2011) *Social Neuroscience*, 6,5-6, 640-652.

Individuals who engage in corrupt and immoral behavior are in some ways similar to psychopaths. Normal people refrain from engaging in such behaviors because they tie together the moral value of society and the risk for punishment when they violate social rules. What is it, then, that allows these immoral individuals to behave in this manner, and in some situations to even prosper? When there is a dysfunction of somatic markers, specific disadvantageous impairments in decision-making arise, for example in moral judgment, but paradoxically, under some circumstances, the damage can cause the patient to make optimal financial investment decisions. Interestingly, individuals with psychopathy, a personality disorder, share many of these same behavioral characteristics as those seen in VMPFC and amygdala lesion patients, suggesting that defective somatic markers may serve as a neural framework for explaining immoral and corrupt behaviors. While these sociopathic behaviors of sometimes famous and powerful individuals have long been discussed primarily within the realm of social science and psychology, here we offer a neurocognitive perspective on possible neural roots for immoral and corrupt behaviors.

Money, Status..



Sex, Status..



### 3. Las ciencias de la conducta (*psicología cognitiva y behavioural economics*) <https://es.pinterest.com/pin/246994360786398982/>

U

Although **Adam Smith's** thinking has shaped the popular conception of humans as *homo economicus*—a species that makes rational economic decisions—the great economist's lesser-known work, *The Theory of Moral Sentiments*, acknowledges that flawed human psychology affects economic decisions. Yet for a century and a half, few researchers took up this insight.



At a time of financial dynamism and then upheaval in the United States, a handful of economists, including **Irving Fisher** and **Vilfredo Pareto**, begin to write about the human factor in economic decision-making.

Maverick psychologist **Herbert Simon** suggests the concept of “bounded rationality,” wherein humans are not perfect processors of information, as classical economics had assumed. Dismissed by many of his peers at the time, Simon later wins a Nobel Prize in economics in 1978.

1759

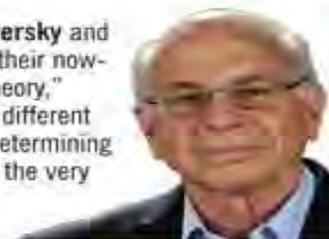
1920s and 1930s

1955



Researchers begin to view the brain as a processor of information, rather than only a responder to stimuli. This insight opens new doors to combining the fields of psychology and economic decision-making.

Star psychologists **Amos Tversky** and **Daniel Kahneman** publish their now-famous paper, “Prospect Theory,” positing that the framing of different options is as important in determining how decisions are made as the very options themselves.



A pivotal conference at the **University of Chicago** is the first major academic event to focus specifically on behavioral economics, bringing together economists, psychologists, and sociologists.

1960s

1979

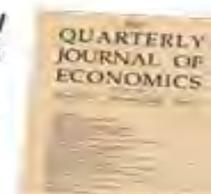
1986

Economists **Hersh Shefrin** and **Richard Thaler** introduce a “behavioral life-cycle” model of savings. People do not calculate their savings and spending rates so as to maintain a constant level of consumption throughout their lives. Instead, they find, humans prefer immediate gratification.



**David Laibson** becomes the first professor to be hired by a university (Harvard) specifically for behavioral economics.

*The Quarterly Journal of Economics* devotes an entire issue to behavioral economics.



1988

1994

1999

Economist **Terrance Odean** suggests that high trading volumes are largely due to the overconfidence of traders. Absent human emotion, it is difficult to see why anyone would logically want to buy a stock from someone willing to sell it to them.

The **Federal Reserve Bank of Boston** invites academics to a conference in hopes of garnering wisdom from the field of behavioral economics, whose profile is fast growing.

*Money* magazine christens *Nudge: Improving Decisions About Health, Wealth, and Happiness*—a bestseller by law professor **Cass Sunstein** and economist **Richard Thaler**—as the “movement’s intellectual spearpoint.”

An op-ed in St. Paul, Minnesota’s *Pioneer Press* concludes: “Only Winner in Madoff’s Scheme: Behavioral Economics.”



## *Applying Behavioural Science to EU Policy-Making*

<https://ec.europa.eu/jrc/en/publication/euro-scientific-and-technical-research-reports/applying-behavioural-science-eu-policy-making>

Summary of types of behavioural studies

Type of study	Pros	Cons	Minimum time horizon needed
Experiments	<p>Can establish causality (not only correlation)</p> <p>Can provide statistically significant results from a relatively small sample size</p> <p>Core findings can apply to other contexts</p>	<p>Representativeness for EU-28 not feasible</p> <p>A laboratory is an unrealistic and artificial environment</p>	6 months
Randomised control trials (RCTs)	<p>Can establish causality, not only correlation</p> <p>Allow for observations in natural settings</p>	<p>Very expensive to run at EU level (and to replicate in order to validate results)</p> <p>Results from one location not generalizable to others</p>	12 months
Surveys	<p>Representativeness for EU-28 is feasible</p> <p>Relatively cost-effective</p>	<p>Respondents are limited by pre-established options to questions</p> <p>Respondents might not be truthful</p> <p>Only gather data on self-reported behaviour</p> <p>Cannot establish causality, only correlation</p>	4 months
Qualitative research methods	<p>Provide richer, more nuanced data about behaviour</p> <p>Often take place in realistic settings</p> <p>Participants are given freedom to express themselves, with limited intervention by researcher</p>	<p>Data collected is generally not representative of the larger population</p> <p>Usually have small samples due to the time and cost involved</p>	4 months

## B) CIENCIAS COGNITIVAS Y PREVENCIÓN DE LA CORRUPCIÓN

- FORMULA de KLITGAARD

$C$  (corrupción) =  $M$ (monopolio) +  $D$  (discrecionalidad) –  $A$  (accountability)

# VACUNA para Menor C=

*D (reduciéndola)*



*+B (deberes y obligaciones jurídicas de buen gobierno y buena administración)*



*+T (transparencia)*

*Gobierno abierto*



*+P (participación)*

- ART. 15 trattato sul funzionamento dell'Unione europea

«1. Al fine di promuovere il buon governo e garantire la partecipazione della società civile, le istituzioni, gli organi e gli organismi dell'Unione operano nel modo più trasparente possibile»



“Administrative law must reestablish its place in the field of social sciences (economics and politics), and reconnect its links with history”

*Behavioural insights*, Derecho administrativo y prevención de la corrupción:

A) IMPORTANCIA DE LA DISCRECIONALIDAD: NO ES CONVENIENTE ELIMINARLA SIEMPRE (no es un *caballo de Troya* en el Estado de Derecho)

B) OBBLIGHI DI TRASPARENZA

- A) IMPORTANCIA DE LA DISCRECIONALIDAD (LAMBSDORFF, December 2015, working paper: “Preventing Corruption by Promoting Trust- Insights from Behavioural science”  
[https://www.researchgate.net/publication/286441815\\_Preventing\\_Corruption\\_by\\_Promoting\\_Trust\\_-\\_Insights\\_from\\_Behavioral\\_Science](https://www.researchgate.net/publication/286441815_Preventing_Corruption_by_Promoting_Trust_-_Insights_from_Behavioral_Science) )
  - Diferencia prevención-represión (derecho penal)
  - *Behavioural science*: Prevención basada en confianza “razonable”. SCHDMIDT-ASSMAN discrecionalidad no es elección libre e indiferente para el Derecho sino orientada por éste

- No es conveniente siempre eliminar la discrecionalidad: ejemplos de contratos y ayuda al desarrollo
- La discrecionalidad debe ir acompañada de obligaciones jurídicas para su ejercicio que corrijan heurísticos y sesgos (*biases*): como exceso confianza de los expertos (*overconfidence*) y miopía por falta de visión amplia (*tunnel visión*) (RACHLINSKI and FARINA (2002), “Cognitive Psychology and Optimal Government Design”, 87 *Cornell Law Review* 549-615 Available at <http://library2.lawschool.cornell.edu/facbib/faculty.asp?facid=1>)

# “*debiasing strategy*” mediante Derecho

- PARTICIPACIÓN (remisión *lobbies*)
- PONDERACIÓN ELEMENTOS RELEVANTES DE LA DECISIÓN Y ELIMINACIÓN DE LOS NO RELEVANTES
  - *Hard look* en US
  - Derecho a una buena administración en EU

- *due diligence o due care* exigida en jurisprudencia TJUE, con reflejo en expediente y motivación y escrutinio judicial riguroso

## The decision of the General European Court of the European Union of April 29, 2015, T-217/11, Claire Staelen vs. European Union Ombudsman:

- « devoir pour une institution compétente de rassembler, de manière diligente, les éléments factuels indispensables à l'exercice de son large pouvoir d'appréciation ainsi que son contrôle par le juge de l'Union sont d'autant plus importants que l'exercice dudit pouvoir d'appréciation n'est soumis qu'à un contrôle juridictionnel restreint sur le fond, limité à la recherche d'une erreur manifeste. Ainsi, **l'obligation pour l'institution compétente d'examiner avec soin et impartialité tous les éléments pertinents du cas d'espèce constitue un préalable indispensable** pour que le juge de l'Union puisse vérifier si les éléments de fait et de droit dont dépend l'exercice de ce large pouvoir d'appréciation étaient réunis »

- **¿PUEDE EL DERECHO PÚBLICO PROMOVER LA BUENA ADMINISTRACIÓN Y AYUDAR A CORREGIR LAS INSUFICIENCIAS COGNITIVAS DE LOS DECISORES PUBLICOS?**
- “There can be little doubt that the central purpose of Administrative Law is to promote good administration”

*Administrative Law Text and Materials*

**Mark Elliott, Jack Beatson and Martin Matthews**

Fourth Edition, 2011, p. 1.

# IMPORTANCIA DE “THE TONE AT THE TOPE”

-ratio de criminalidad entre políticos (electos y altos cargos) y empleados públicos: 100 a 1

“De los casos de corrupción importantes, en términos cuantitativos y cualitativos, analizados en los últimos seis años, **lo que se observa es que la intervención funcionarial es muy minoritaria**. Puede haber intervenido algún secretario municipal, arquitecto municipal o algún asesor jurídico, pero no suelen ser funcionarios de carrera.

-Ámbito municipal: 200 municipios con alguna causa penal abierta entre 1000 con “riesgo” (750 de + 10.000 h y otros costeros)

... **Todo ello no obsta** para que la percepción de corrupción en la Administración sea mucho más elevada de lo que los datos objetivos reflejan. En enero de 2007, el 34,3 por ciento de los encuestados consideraba que bastantes o casi todos los funcionarios públicos estaban implicados en casos de corrupción en España (CIS 2671). **En una encuesta relativamente reciente, de diciembre de 2010, solo en Cataluña el 34 por ciento consideraba que los funcionarios eran «poco» o «nada» honestos”**



- “People can be intrinsically motivated to cooperate and to punish norm violators. In fact, as experimental findings show, “a social norm, especially where there is communication between parties, can work as well or nearly as well at generating cooperative behavior as an externally imposed set of rules and system of monitoring and sanctioning” (Ostrom 2000). Practitioners wishing to fight corruption might therefore wish to experiment with campaigns that emphasize the social norm of clean government.”

Cass SUNSTEIN: “As a simple nudge, disclosure can promote three different goals”

1. Sunlight as disinfectant
  2. Providing people with information
  3. Improving decisions made by governments
- Simpler*, pp. 80-81

B) OBBLIGHI DI TRASPARENZA (“From a policy standpoint, our findings strongly favor the ongoing trend toward increased transparency in government (...) This alone is a sufficient reason to promote increased access to information”, Cordis, A. S., & Warren, P. L. (2014). Sunshine as disinfectant: The effect of state Freedom of Information Act laws on public corruption. *Journal of Public Economics*, 115, 18-36)

– ESPAÑA:

- LEY 19/2013

[http://transparencia.gob.es/transparencia/transparencia\\_Home/index.html](http://transparencia.gob.es/transparencia/transparencia_Home/index.html) (también en inglés)

- LEYES AUTONÓMICAS: EG. CATALANA 19/2014

[http://transparencia.gob.es/transparencia/transparencia\\_Home/index.html](http://transparencia.gob.es/transparencia/transparencia_Home/index.html)

# 1. PROBLEMAS CON INFORMACIÓN DESDE PERSPECTIVA *COGNITIVE-BASED*. EL CASO ESPAÑOL

## 2. *LEGISLATIVE FOOTPRINT*

# 1. INFORMACIÓN: PROBLEMAS DESDE UNA APROXIMACIÓN *COGNITIVE- BASED*:

- SOBRECARGA DE INFORMACIÓN, NO MODULADA
- PRESENTACIÓN (*SMART DISCLOSURE*) DE LA INFORMACIÓN
  - Sintetizada, corta, fácil de entender
  - En formato comparado
  - Empleando el medio ambiente físico

# El despellejamiento de Sisamnes

Gerard David

1498

(La pintura fue encargada por el Ayuntamiento de Brujas para decorar la sala Aldermen, recordando a los líderes de la ciudad sus deberes de evitar la corrupción)

<http://ambient-accountability.org/tagged/justice>



<http://ambient-accountability.org/>

- *Ambient accountability* (DIETER ZIMBAUER, TI)

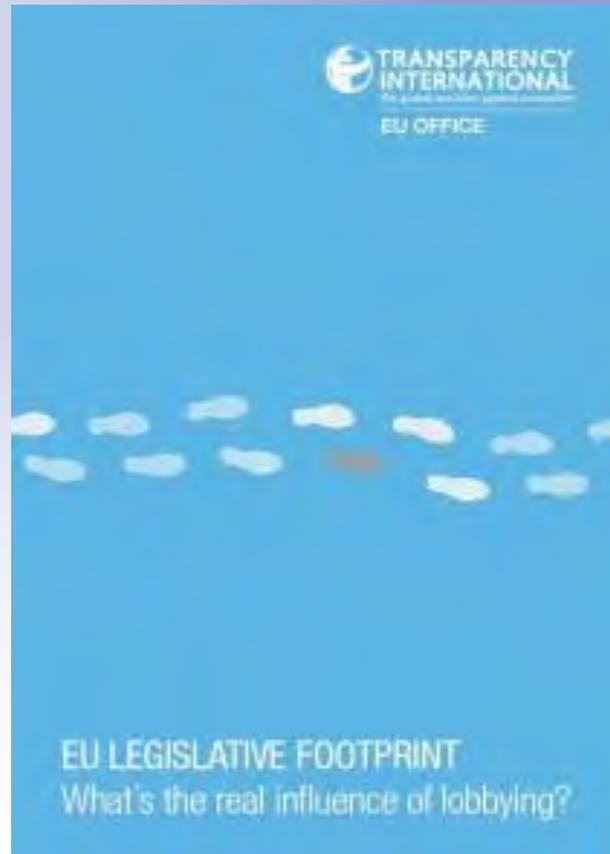


# DEFICIENCIAS EN ESPAÑA: una comparación

PORTAL GOBIERNO ESPAÑOL	CIVIO
<p>PRESUPUESTOS</p> <p><a href="http://transparencia.gob.es/transparencia/transparencia_Home/index/categorias/Presupuestos-fiscalizacion-informes/Presupuestos-generales.html">http://transparencia.gob.es/transparencia/transparencia_Home/index/categorias/Presupuestos-fiscalizacion-informes/Presupuestos-generales.html</a></p>	<p>PRESUPUESTOS</p> <p><a href="http://dondevanmisimpuestos.es/politicas">http://dondevanmisimpuestos.es/politicas</a></p>
<p>INDULTOS</p> <p>?</p>	<p>INDULTOS</p> <p><a href="http://www.elindultometro.es/indultos.html">http://www.elindultometro.es/indultos.html</a></p>

## 2. *LEGISLATIVE FOOTPRINT* (REMISIÓN A ORIENTACIÓN DISCRECIONALIDAD)

– ¿QUÉ ES?





## The 10 Principles for Transparency and Integrity in Lobbying

<http://www.oecd.org/corruption/ethics/Lobbying-Brochure.pdf>

**6. Countries should enable stakeholders – including civil society organisations, businesses, the media and the general public – to scrutinise lobbying activities.**

The public has a right to know how public institutions and public officials made their decisions, including, where appropriate, who lobbied on relevant issues. Countries should consider using information and communication technologies, such as the Internet, to make information accessible to the public in a cost-effective manner. A vibrant civil society that includes observers, 'watchdogs', representative citizens groups and independent media is key to ensuring proper scrutiny of lobbying activities. Government should also consider facilitating public scrutiny by indicating who has sought to influence legislative or policy-making processes, for example by disclosing a 'legislative footprint' that indicates the lobbyists consulted in the development of legislative initiatives. Ensuring timely access to such information enables the inclusion of diverse views

## Ley catalana 19/2014, de 29 de diciembre, de transparencia, acceso a la información pública y buen gobierno.

“Artículo 10. Transparencia en las decisiones y actuaciones de relevancia jurídica.

1. La información relativa a las decisiones y actuaciones con relevancia jurídica que la Administración debe hacer pública en aplicación del principio de transparencia debe incluir:

d) Las memorias y los documentos justificativos de la tramitación de los proyectos o anteproyectos normativos, los distintos textos de las disposiciones y la relación y valoración de los documentos originados por los procedimientos de información pública y participación ciudadana y por la intervención de los grupos de interés, en su caso.”

+REGISTRO DE GRUPOS DE INTERÉS

+CÓDIGO DE CONDUCTA

- “Second, as regards the principle of good administration laid down in Article 41 of the Charter of Fundamental Rights, it is apparent from settled case law that that principle **imposes a duty on the competent institution to examine carefully and impartially all the relevant aspects of the individual case (...) the principle of good administration may, depending on the circumstances of the particular case, be under a duty to make such a record of the statements it receives** (see, to that effect, Case T-15/02 BASF v Commission [2006] ECR II-497, paragraph 501).
- In that regard, **it should be pointed out that the existence of a duty on the Commission to record the information which it receives during meetings or telephone conversations** and the nature and extent of such an obligation depend on the content of that information. The Commission is required to establish adequate documentation, in the file to which the undertakings concerned have access, on the essential aspects relating to the subject matter of an investigation. That conclusion is valid for all information of a certain importance and which bears an objective link with the subject matter of an investigation, irrespective of whether it is incriminating or exculpatory.”

- **GRAZIE MILLE!!**  
(un piccolo *nudge*...)

