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ELEMENTS OF COGNITIVE ECONOMICS AND LAW

PhD Dissertation in Law and Economics - XXIV ciclo

Supervisor: **Prof. Roberto Pardolesi**

Candidate: **Dott. Luca Arnaudo**

SYNOPSIS

The dissertation aims to provide an updated and comprehensive outlook of a research trend that is gaining growing importance within social science, paying its main attention to economics and law, focusing on the use of knowledge borrowed from cognitive science. This science is composed by a number of interdisciplinary studies with an experimental setting: also by means of the latest neuroscientific research, it is proving to be extremely promising with respect to an understanding “from within” of human behavior's reasons and dynamics. In addition to a general review of “cognitive economics”, a discipline already established since some years, the dissertation also aims to set up a brand-new “cognitive law”: such effort is developed from a perspective of legal theory, with a conceptual awareness of “law and economics” studies.

Given the pivotal role of economic thought within contemporary social science, the dissertation first provides a brief essay in the history of ideas related to economics [see § 2. of the index set forth below]. More in details, it reconstructs the path followed passing from an axiomatic layout having strong normative connotations [§ 3.] to the behavioral approach emerged in the seventies of the twentieth century [§ 4.], up to the most recent cognitive developments [§ 6.].

During the way the dissertation outlines, inter alia, the issue of agent's bounded rationality [§ 3.4.], the emergence of an experimental trend within contemporary economics [§ 4.1.], and the main contents of behavioral economics [§ 4.2.]. It comes, then, to account the new studies marked with the use of concepts and research tools of cognitive science; these studies are generally grouped under the definition of "cognitive economics", or, according to a wording that the dissertation rejects, "neuroeconomics". While behavioral economics still retains a setting research "from the outside", essentially based on that of experimental psychology typical of its most famous exponents, cognitive researchers are taking a different road [§ 6.1.2.]. In fact, cognitive economics aims to refine the understanding of the economics conducts by relying on a wide range of different knowledge in order to consider the internal mechanisms of human behaviors, embracing a declaredly evolutionary view [§ 6.2.]. The dissertation provides a series of practical examples [§ § 6.1 et seq.], together with some analysis of behaviors and attitudes that will also be taken into consideration in the section related to the law [§ 8.].

With regard to cognitive science, the dissertation offers a general reconstruction [§ 5.] by giving an account of its historical and cultural origins, as well of the developments occurred within some disciplines, especially cognitive neuroscience, with a survey of its main research tools [§ 5.1.2.]. Such survey is conducted having in mind the increasing use of these instruments made by the economic academia, and, most recently, by legal professionals.

With specific reference to the law, in order to reach its field the dissertation crosses a series of ongoing research within the framework of law and economics studies [§ 7.] which are currently showing a significant tendency towards a behavioral setting similar to the one already tested in economics [§ 7.2.]. After such review, based on the information and evidence introduced in the previous chapters, the dissertation supports the opportunity also for the legal thought of adopting a genuinely cognitive approach [§ 8.]. This approach should include a systematic use of experimental tests in order to better define the contents of relevant provisions and decisions related to conducts having legal relevance, as it has been already tried somehow in the past [§ 8.1.], showing an appropriate evolutionary sensitivity [§ 8.4.3.].

Given the fact that cognitive neuroscience knowledge and research tools have already made their admission under the law [§ 8.3.], although still limited to forensic criminal applications, the dissertation aims to provide an analysis of the opportunities and limits of such admission by means of a brief case-study collection [§ 8.3.2.] and a broader debate concerning the relationship between law and neuroscience [§ 8.4.]. The research also takes the opportunity to discuss some philosophical issues recurring in contemporary legal thought, from the debate on paternalism [§ 8.2.] to some recent claims of a growing “legal nihilism” [§ 9.]. It finally proposes a cognitive perspective that could hopefully help to reformulate the current law's “image of knowledge”, namely how the discipline consider and presents itself and its goals.

INDEX OF THE DISSERTATION

1. **Introduction**
2. **Epistemological statutes of economics: from history to mathematics, towards cognitive science**
 - 2.1. On science's notions and method's battles
 - 2.2. From Vienna to Chicago (ending to von Neumann)
 - 2.3. Positive economics and forecasts
 - 2.4. Models and 20th century economics: hyperbole and parables
 - 2.5. Evaluations and values of economic research: some warnings
3. **Rationality's notions and functions within economics**
 - 3.1. The rationality's axiomatic notion of neoclassical economics
 - 3.1.1. Revealed preferences and escapes from psychology
 - 3.2. Choices, rational expectations, games
 - 3.3. Against the rational expectations: the Allais experiment
 - 3.4. Herbert Simon and bounded rationality
4. **The new economic thought of the late 20th century**
 - 4.1. Experimental economics
 - 4.2. Behavioral economics
 - 4.2.1. Decision heuristics and cognitive bias: first classifications
 - 4.2.2. The prospect theory of Kahneman and Tversky
 - 4.3. Some developments of behavioral economics
 - 4.3.1. Endowment effect, loss aversion, status quo
 - 4.4. Beyond behavioral economics
 - 4.4.1. Cognitive architecture, reason and emotions
5. **Cognitive science: an introduction**
 - 5.1. Mind, brain and cognitive neuroscience
 - 5.1.1. Brain maps and functional correlates
 - 5.1.2. Biomedical imaging techniques
 - 5.2. Evolution and cognitive programming
 - 5.3. Towards a cognitive approach to social science

6. Cognitive economics

- 6.1. Opening the black box: new forms of economics
 - 6.1.1. Cognition, affections and cooperative interactions
 - 6.1.2. Predictions and descriptions
 - 6.1.3. Perspectives of cognitive economics
- 6.2. Evolution and economics

7. From economics to the law: the bridge of “law and economics” studies

- 7.1. Behavioral law and economics
- 7.2. Behavioral analysis of the law
 - 7.2.1. Coase theorem between endowment and status quo
 - 7.2.2. The case for behavioral antitrust
 - 7.2.3. Economic and behavioral analysis of the law: some reflections

8. Cognitive law

- 8.1. Experiments and the law
 - 8.1.1. Judge's anchors (and drifts): first experiments
 - 8.1.2. Price frames and consumer protection
- 8.2. On emotions, paternalism, and the law
- 8.3. Neuroscience and the law
 - 8.3.1. The law of neuroscience research
 - 8.3.2. Subjective mental states and neuroscience
 - 8.3.3. Neuroscience and the free will issue
- 8.4. The cognition of the law
 - 8.4.1. Neuroscience contribution to the design of the penalties
 - 8.4.2. Regulatory impact analysis and cognitive science: some notes
 - 8.4.3. Evolution and the law

9. Conclusions

Bibliography