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ELEMENTS OF COGNITIVE ECONOMICS AND LAW

PhD Dissertation in Law and Economics - XXIV ciclo

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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.
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