Call for Papers

4th Law and Economics Conference, University of Lucerne, 17 – 18 April 2015

Nudging – Theory and Applications

In the late 1970s, Daniel Kahneman and Amos Tversky demonstrated that cognitive biases often prevent people from making optimum decisions in order to maximize their long-run utility. In his book «Thinking, Fast and Slow» (2011), Kahneman differentiates between two systems of human thought: «System 1 operates automatically and quickly, with little or no effort and no sense of voluntary control.» This system concerns the intuitive mode of thought where decisions are made rapidly and without volition. «System 2 allocates attention to the effortful mental activities that demand it, including complex computations. The operations of System 2 are often associated with the subjective experience of agency, choice, and concentration.» This system concerns the rational method of thinking, where decisions are made based on thorough considerations that require time to be processed.

Both modes of thought have their advantages and disadvantages. The rational thought of thinking mode 2 allows the individual to carefully analyse a problem and make an informed decision. However, this process takes its toll in the form of time and concentration. Thinking mode 1, on the other hand, takes little to no time and works effortlessly. These cognitive rules of thumb, known as heuristics, are generally useful, necessary even, to master complex situations time-efficiently on a daily basis. However, they can lead to serious systematic errors (biases). Just as an optical illusion may lead to a misinterpretation of reality, so mental heuristics may lead to misjudgements. Several empirical studies have since independently confirmed these systematic cognitive biases.

From a legal point of view, this raises the question of whether the state should work towards correcting these cognitive biases, and if so, how.
In «Nudge – Improving Decisions About Health, Wealth, and Happiness» (2008) Cass R. Sunstein and Richard Thaler propose to correct cognitive biases via libertarian paternalism (paternalism without coercion). By means of defaults, for example, people can be «nudged» in the desired direction. A textbook example for a default is the objection clause in organ donation according to which every human being is considered to be a donor after death unless explicitly opting out during their lifetime. Yet who decides which behavior is desired? Does the state have sufficient information for de-biasing? Are there clear-cut boundaries between paternalism, manipulation and indoctrination? To what extent should the state protect human beings from themselves? Will an increase in guidance lead to a decrease in self-reliance? What are the benefits of wrong decisions? What is the role of the legislator?

The contributions will be published in the academic book series “Economic Analysis of Law in European Legal Scholarship” (http://www.springer.com/series/11927).

Schedule

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Submission of Proposals

If you would like to submit a paper for this conference you are kindly requested to send a brief description of your topic (1-2 pages) and a short CV no later than 15 August 2014 to Prof. Dr. iur. Klaus Mathis (klaus.mathis@unilu.ch).

Speakers’ Expenses

Speakers’ expenses for accommodation and travel to and from the conference will be covered within reason (economy class).

Organization

Organized in collaboration with Notre Dame Law School: http://law.nd.edu/program-on-law-and-market-behavior/.