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**What Is the ‘Social’ in Behavioural Economics?
The Methodological Underpinnings of Governance by Nudges**

Sabine Frerichs

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Abstract

Behavioural economics builds on psychology rather than on sociology, and on cognitive science rather than the science of culture. The same is true for new behavioural scholarship in the legal discipline, whether this is referred to as ‘behavioural law and economics’ or ‘law and the behavioural sciences’. The result of a one-sided definition of a more realist research agenda in legal scholarship is an impoverished understanding of the ‘social’. In Thaler and Sunstein’s famous concept of nudging, social conformity appears as a property of the individual, which can be instrumentalized by social nudges. More generally, the cognitive strand of behavioural economics lends itself to strategies of regulatory ‘debiasing’, which suggests that it is possible to get down to pure preferences that are free from any distortions. While this approach neglects the endogeneity, or social contingency, of individual preferences, the social strand of behavioural economics is explicitly concerned with the dynamics of social interaction, or the effects of social interdependence. However, both strands of behavioural economics are still higher on methodological individualism, naturalism or positivism and lower on institutionalism, culturalism or constructivism than a genuinely sociological approach. More specifically, their understanding of the ‘social’ does not sufficiently account for the social embeddedness of both rational and irrational economic action. What is more, behavioural economics also lacks the means to reflect on the link between science and politics, which includes the question of why different models of economic man are attractive at different points in time. The conceptual move from rational to behavioural economic man bears distinctive policy implications, which are in line with the

transformation of welfare capitalism towards ‘less state’ and ‘more market’. While the overall direction of this project gets blurred in Thaler and Sunstein’s branding of ‘libertarian paternalism’, it is evident in the adaptation of consumer policies, which proceeds under the imperative of market-conformity. Accordingly, a strategy of nudging does not put into question the wider institutional context but offers a technical solution to what is defined as a problem of individual behavioural rigidities and cognitive biases in the market environment.

Key words

Behavioural economics, sociology, cognitive biases, social influences, welfare capitalism

Structure

Introduction

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2. The rise of behavioural economics as a (re)turn to psychology, not to sociology or history
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4. The institutional separation of the fields of behavioural economics and socio-economics
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Conclusion

Introduction

Behavioural economics is without doubt a flourishing research field, which has already changed the economic discipline and also gained much political influence. However, not everybody shares the enthusiasm about the new approach and its policy applications, and a good deal of scepticism can be found, in particular, among sociologists and social theorists. A pointed criticism from this end of the social sciences is that behavioural economics has, at least in its most prominent core, an impoverished understanding of the ‘social’.¹ Considering that the new ‘inter-discipline’ builds more on psychology than on sociology, and on cognitive science rather than on the science of culture, this may be little surprising. But the neglect of

¹ Will Leggett, ‘The Politics of Behaviour Change: Nudge, Neoliberalism and the State’ (2014) *Policy & Politics* 3-19, at 11.

social complexity also has normative implications, which come to the fore when behavioural economics is taken to the law.

In line with Thaler and Sunstein's bestseller *Nudge*,² an important strand of behavioural law and economics observes social reality through the lens of cognitive biases, and acts on it through behavioural nudges. In doing so, it combines an epistemology of failure with a technology of governance, the main reference point of which is the individual human being. This naturally limits its understanding of what is variously referred to as the 'social environment', 'social influences', or 'social norms'. Bearing the 'technocratic' imprint of the overall approach,³ the conception of the social is narrowed down to 'social nudges', which make use of the fact that people can be influenced by what other people do and think, and which either work by simply 'informing' the target subjects about or by subliminally 'priming' them into the expected behaviour.⁴ In other words, social conformity appears as a property of the individual, or another form of cognitive bias. At the same time, Sunstein's account of the social context which indubitably shapes individual behaviour, and does so quite generally and globally, remains rather vague. Acknowledging that '[t]he social environment influences choices', he can first think of it only as 'a product of self-conscious designers or some kind of invisible-hand mechanism'.⁵ Only in a later step, he adds organically grown institutions, like customs and traditions, to this dichotomous picture.⁶ However, more important than the notion of social environment is the concept of 'choice architecture' in this behavioural approach, which explicitly includes extra-social forces, such as the weather.⁷ This dilutes the significance of the institutional setting in shaping choice long before it is made. Even though social institutions may appear as 'fixed' at a certain time and place, one can assume that they are still more malleable by social collectives than the weather.

² Richard H. Thaler and Cass R. Sunstein, *Nudge: Improving Decisions About Health, Wealth and Happiness* (Yale University Press 2008).

³ Alberto Alemanno and Anne-Lise Sibony, 'Epilogue: The Legitimacy and Practicability of EU Behavioural Policy-Making' in Alberto Alemanno and Anne-Lise Sibony (eds), *Nudge and the Law: A European Perspective* (Hart Publishing 2015) 325-347, at 336.

⁴ Thaler and Sunstein, *Nudge* (n. 2 above), ch. 3.

⁵ Cass R. Sunstein, 'The Storrs Lectures: Behavioral Economics and Paternalism' (2013) *Yale Law Journal* 1826-1899, at 1879, including footnote 177.

⁶ Cass R. Sunstein, 'The Ethics of Nudging' (2015) *Yale Journal on Regulation* 413-450, at 418 and 422.

⁷ *Ibid.*, at 421.

A more contextual approach to questions of ‘law and behavioural sciences’⁸ would also be interested in the social contingency of cognitive biases and behavioural nudges, both from an empirical and a normative point of view. Sociologically speaking, even the choice ‘to nudge or not to nudge’⁹ is entirely endogenous. It is a reflection of how complexity is reduced, meaning is created, and politics is made in contemporary society. In this sense, ‘debiasing through law’¹⁰ is not just a solution to a problem that would be undeniably given, but it actually defines the problem as one of cognitive failure, attributes it to individual human beings, and offers a technical solution without regard to ‘the distribution of economic and political power’.¹¹ This objection concerns public as well as private nudges, which implies ‘public nudges’ counteracting ‘private nudges’,¹² no matter if they aim to reduce or, alternatively, exploit cognitive biases (including the desire for social conformity) to promote individual and collective welfare.

Having said this, any wholesale criticism of behavioural economics and its policy applications tends to overlook the heterogeneity of the field, which also includes more nuanced understandings of the ‘social’, laying emphasis on the dynamics of social interaction. Against this backdrop, this chapter follows a two-fold aim. On the one hand, it seeks to reconstruct the methodological foundations for a policy of nudging, which has become a central reference point in discussing the normative implications of the behavioural turn.¹³ This inevitably leads to a narrowing-down of the perspective on the most publicized parts of the field. On the other hand, the chapter also aims to work towards a broader assessment of the methodological position of behavioural economics against the backdrop of old and new methodological debates within and beyond the economic discipline. This requires opening-up the perspective beyond the ‘cognitive’ component of behavioural

⁸ Anne-Lise Sibony and Alberto Alemanno, ‘The Emergence of Behavioural Policy-Making: A European Perspective’ in Alberto Alemanno and Anne-Lise Sibony (eds), *Nudge and the Law: A European Perspective* (Hart Publishing 2015) 1-25, at 9.

⁹ Daniel M. Hausman and Brynn Welch, ‘Debate: To Nudge or Not to Nudge’ (2010) *Journal of Political Philosophy* 123-136.

¹⁰ Christine Jolls and Cass R. Sunstein, ‘Debiasing Through Law’ (2006) *Journal of Legal Studies* 199-241; Daniel Pi, Francesco Parisi and Barbara Luppi, ‘Biasing, Debiasing, and the Law’ in Eyal Zamir and Doron Teichman (eds), *The Oxford Handbook of Behavioral Economics and the Law* (Oxford University Press 2014) 145-166.

¹¹ Ana C. Santos, ‘Behavioural and Experimental Economics: Are They Really Transforming Economics?’ (2011) *Cambridge Journal of Economics* 705-728, at 722.

¹² Alemanno and Sibony, ‘Epilogue’ (n. 3 above), at 328.

¹³ Leggett, ‘Politics of Behaviour Change’ (n. 1 above), at 4.

economics to give more space to what has been referred to as its ‘social’ component.¹⁴ Suffice it to say that this is still a selective take on scholarship in this field, but it helps to refine the criticism from the viewpoint of its contenders. This includes scholars working in the interdisciplinary field of socio-economics, which like behavioural economics developed in opposition to neoclassical economics, but took a different route in elaborating alternatives. To compare and interrelate behavioural economics and socio-economics in methodological as well as institutional terms is a third goal of this chapter.

Framed by introduction and conclusion, the argument proceeds in six steps. It starts from the question of how the methodological debate between neoclassical economics and behavioural economics relates to the original ‘battle over methods’ in the economic discipline (section 1). To clarify the differences with older projects of historical and social economics, which were marginalized by the neoclassical mainstream, it is pointed out that behavioural economics links more with psychology than with sociology and history (section 2). Subsequently, the chapter turns to the methodological differences between the ‘cognitive’ and ‘social’ components of behavioural economics, which presumably also differ in their normative implications (section 3). The following step consists in a reconstruction of the institutional separation of behavioural economics and socio-economics, which share a ‘realist’ critique of neoclassical economics but attract different kinds of scholars (section 4). This is followed by an attempt to outline main points of contention between the two movements, drawing on theoretical classifications and representative viewpoints in lieu of a proper methodological debate (section 5). Finally, the chapter contrasts the model of behavioural economic man with rational and cultural economic man and discusses the hidden meaning, or cultural significance, of governance by nudges (section 6).

1. The new battle over methods between neoclassical economics and behavioural economics

The original ‘battle over method’ in the economic discipline took place between the Austrian school and the German historical school and unfolded in two rounds in the late nineteenth

¹⁴ Luca Zarri, ‘Behavioural Economics Has Two “Souls”: Do They Depart From Economic Rationality?’ (2010) *Journal of Socio-Economics* 562–567.

and early twentieth century.¹⁵ The initial proponents were Carl Menger and Gustav Schmoller. While both schools of economic thought have to be distinguished from neoclassical economics, the Austrian school is much closer to the latter than the German historical school. Interestingly, scholars on both sides of the battle line ‘share the substantive concept of a social economy’, which is ‘a commonality overlooked or neglected in the literature favoring their differences’.¹⁶ Menger had a more realistic understanding of economic action and social institutions but shared the methodological individualism of the rational choice approach.¹⁷ Schmoller favoured the empirical description and analysis of historical, social and political aspects of the national economy and thus was more collectivist in orientation.¹⁸

In the first round of the battle over methods, the more empirical, inductive and collectivist approach of the historical school of economics, which had been dominant in the German-speaking countries, was challenged by the more theoretical, deductive and individualist approach of the Austrian school, which became more influential after. The second round took place two decades later and concerned not only the economic discipline but also the new discipline of sociology. The focus of the renewed methodological debate, which is also known as the ‘battle over value judgements’ (*Werturteilsstreit*), was the distinction between ‘is’ and ‘ought’, or between positive and normative approaches.

From today’s perspective, the battle over methods marked the beginning of the reign of neoclassical mainstream economics (which came to include many Austrian elements), which may now come to an end or, what is more likely, will be continued with different means: drawing on behavioural, experimental, and neuroeconomics. As these are intersecting fields, it seems justified to simply speak of behavioural economics.¹⁹ On the one hand, behavioural economics considers experiments a key method in substantiating behavioural regularities, or ‘anomalies’ from the viewpoint of rational choice. On the other hand, its quest for more realistic microfoundations for economic theory easily extends into exploring the (neuro-) biological foundations of behaviour.²⁰ Mäki compares the methodological debate which the

¹⁵ Jürgen Backhaus and Reginald Hansen, ‘Methodenstreit in der Nationalökonomie’ (2000) *Journal for General Philosophy of Science / Zeitschrift für allgemeine Wissenschaftstheorie* 307-336.

¹⁶ Milan Zafirovski, ‘Sociological Dimensions in Classical/Neoclassical Economics: Conceptions of Social Economics and Economic Sociology’ (2014) *Social Science Information* 76-118, at 98.

¹⁷ Gertraude Miki-Horke, ‘Klassische Positionen der Ökonomie und Soziologie und ihre Bedeutung für die Wirtschaftssoziologie’ in Andrea Maurer (ed), *Handbuch der Wirtschaftssoziologie* (VS 2008) 19-44, at 26-28.

¹⁸ *Ibid.*, at 21.

¹⁹ Arno Riedl, ‘Behavioural and Experimental Economics Do Inform Public Policy’ (2010) *FinanzArchiv* 65-95, at 67-69 and 89-90.

²⁰ Sanjit S. Dhama, *The Foundations of Behavioral Economic Analysis* (Oxford University Press 2016), ch. 23.

advance of behavioural economics triggered to the classical ‘battle over methods’ of the late nineteenth century.²¹ This is the starting point for the following reconstruction of what is at stake in the current encounter between neoclassical and behavioural economics.

The new battle over methods invokes the distinction between deductive and inductive approaches, which was already at issue in the original battle over methods. However, the frontlines have changed. In the late nineteenth century, the prevailing inductive approach to economics was challenged by a more deductive one. Today, the ‘new formalism’ of neoclassical economics is challenged by the ‘new realism’ of behavioural economics.²² But this is not all to it. The present methodological debate also relates to the dichotomy between positive and normative, which was the subject of the battle over value judgments about a hundred years ago. While both neoclassical and behavioural economics depict themselves as positive disciplines, they differ in their understanding of what this ‘positivism’ in the first place consists in: descriptive accuracy or predictive power. At the same time, both adhere to a higher or lesser degree to the normative ideal of rational decision-making, which economic policy may either presume or promote, by monetary incentives or behavioural nudges. To shed light on commonalities and differences between these two approaches, we will start from the methodological status of the rationality assumption in neoclassical economics.

In the economic standard model, it is assumed that individual preferences are stable whereas the restrictions delimiting alternative ways of action are variable. Under the rationality assumption, the individual always chooses the utility-maximising option. This makes it technically possible to explain a change in behaviour (such as an increase in the consumption of a specific good) by a change in restrictions (such as a reduction of the market price of the respective good), and not a change in preferences. The rationality assumption plays a different role on the microeconomic and the macroeconomic level. On the microeconomic level, individual behaviour is explained by rational choice under given preferences and restrictions. On the macro-economic level, collective outcomes are explained by the aggregation of individual behaviours, again assuming that the latter can be modelled on rational action. However, there are different opinions as to whether macroeconomic theories

²¹ Uskali Mäki, ‘Preface’ in Uskali Mäki, Dov M. Gabbay, Paul Thagard and John Woods (eds), *Philosophy of Economics* (Elsevier 2012) xiii-xvii, at xiv.

²² Cf. Victoria Nourse and Gregory Shaffer, ‘Varieties of New Legal Realism: Can a New World Order Prompt a New Legal Theory?’ (2009) *Cornell Law Review* 61-137, at 64.

require a substantiation of the rationality assumption on the microeconomic level, or whether this microfoundation may have a hypothetical character only.²³

Milton Friedman's essay on 'The methodology of positive economics',²⁴ which is claimed to be 'the most cited, the most influential, and the most controversial piece of methodological writing in 20th century economics',²⁵ prominently made a case for the latter. According to Friedman, the validity of a hypothesis entirely depends on its predictive capacity, and not on its descriptive accuracy. In other words, a theory has to be realistic in its predictions, and not in its assumptions. In fact, '[t]ruly important and significant hypotheses will be found to have "assumptions" that are wildly inaccurate descriptive representations of reality'.²⁶ Assumptions that are not claimed to be empirically correct but may nevertheless yield powerful empirical predictions can be referred to as 'as if' assumptions. Friedman illustrates this as follows: 'under a wide range of circumstances individual firms behave *as if* they were seeking rationally to maximize their expected returns [...] and had full knowledge of the data needed to succeed in this attempt'.²⁷ What he rejects, then, is realistic criticism of the assumptions rather than the predictions of neoclassical economics, 'unless supplemented by evidence' that more accurate assumptions also yield better predictions 'for as wide a range of phenomena'.²⁸ Friedman's example refers to the theory of the firm, which makes use of the rationality assumption to model the behaviour of producers. The theory of the (private) household, which models the behaviour of consumers, starts from similar 'as if' assumptions. Arguably, in many cases these suffice to predict the behaviour of aggregates, which is at focus in macroeconomics.

Drawing on this argument, attacks on the 'psychological inaccuracy' of neoclassical economic theories could be dismissed. Put differently, as long as the validity criterion of the rational choice approach is empirical, here specified as its predictive capacity, it is in line with scientific realism.²⁹ However, in defending axiomatic assumptions, the 'as if' methodology also resonates with the 'formalist turn' in economics, which is evident in an

²³ Christian Etzrodt, *Sozialwissenschaftliche Handlungstheorien: Eine Einführung* (UVK 2003), at 14 and 24-27.

²⁴ Milton Friedman, 'The Methodology of Positive Economics' in Milton Friedman (ed), *Essays in Positive Economics* (Chicago University Press 1953) 3-43.

²⁵ Uskali Mäki, 'Reading the Methodological Essay in Twentieth Century Economics: Map of Multiple Perspectives' in Uskali Mäki (ed), *The Methodology of Positive Economics: Reflections on the Milton Friedman Legacy* (Cambridge University Press 2009) 47-67, at 47.

²⁶ Friedman, 'Methodology of Positive Economics' (n. 24 above), at 14.

²⁷ *Ibid.*, at 21; original emphasis.

²⁸ *Ibid.*, at 31.

²⁹ Uskali Mäki, 'Realism and Antirealism About Economics' in Uskali Mäki, Dov M. Gabbay, Paul Thagard and John Woods (eds), *Philosophy of Economics* (Elsevier 2012) 3-24, at 12-14.

‘increased use of mathematics, abstraction, and deductive modes of reasoning’.³⁰ In this sense, a ‘formalist’ approach still seems to yield a ‘realist’ methodology. However, this realism has its limits where the rationalistic microfoundations of neoclassical economics fail to account for the behaviour of aggregates, not to mention the individual behaviour of producers and consumers. Given these deficiencies of the rational choice approach, the aim of behavioural economics is ‘to increase the explanatory and predictive power of economic theory by providing it with more psychologically plausible foundations’.³¹ It starts from settings in which the ‘as if’ assumptions of neoclassical economics fail to adequately explain or predict actual behaviour. More specifically, it explores the cognitive biases and social orientations that make individuals deviate from the normative ideal of rational choice in order to construct more realistic models of economic action, which may then also feed into politics.

While behavioural economics is more positivist in defining the microfoundations of the economic discipline, it is not necessarily less prescriptive, although the political lessons derived from behaviourally ‘enhanced’ economic models may differ from the policy implications of the neoclassical standard model. To demonstrate, we can once more take Friedman’s methodology essay as a point of departure, which is explicitly on ‘positive economics’.³² According to Friedman, positive economics ‘is, or can be, an “objective” science’ which is ‘in principle independent of any particular ethical position or normative judgments’.³³ The predictions and conclusions of positive economics can inform and eventually improve but not determine ‘policy conclusions’, which are the realm of ‘normative economics’, or ‘economic policy’.³⁴ In this sense, Friedman draws on the legacy of the battle over value judgements, which established the difference between ‘is’ and ‘ought’ and between ‘social science’ and ‘social policy’.³⁵ However, the distinction between positive and normative economics is not all that clear. Hands suggest that self-proclaimed positive economists tend to equate ‘normative’ with ‘ethical’, or the ‘ethically normative’, while they overlook the normative standards inherent to economic theory.³⁶ This namely concerns the

³⁰ D. Wade Hands, ‘The Positive-Normative Dichotomy and Economics’ in Uskali Mäki, Dov M. Gabbay, Paul Thagard and John Woods (eds), *Philosophy of Economics* (Elsevier 2012) 219-239, at 509.

³¹ Erik Angner and George Loewenstein, ‘Behavioral Economics’ in Uskali Mäki, Dov M. Gabbay, Paul Thagard and John Woods (eds), *Philosophy of Economics* (Elsevier 2012) 641-689, at 642.

³² Friedman, ‘Methodology of Positive Economics’ (n. 24 above).

³³ *Ibid.*, at 4.

³⁴ *Ibid.*, at 5-6.

³⁵ Cf. Max Weber, ‘Objectivity in Social Science and Social Policy’ in Max Weber, *The Methodology of Social Sciences* (first published 1904, Free Press 1949) 49-112.

³⁶ Hands, ‘Positive-Normative Dichotomy’ (n. 30 above), at 225-227.

(axiomatic) assumption of rational choice, which is ‘neither a positive/descriptive theory of real economic agents, nor an ethical theory about what such agents ought to do’.³⁷ Instead, it can better be understood as a normative principle of economic reasoning, which defines what it means to be rational. In this sense, it is not only an ‘as if’ assumption used for empirical predictions, but it is also a normative ideal meant to guide economic behaviour and to inform economic policy.

In this regard, there is less of a difference between neoclassical and behavioural economics. Many of today’s behavioural economists criticize rational choice ‘as a positive or descriptive theory, not as a normative or prescriptive one’.³⁸ Their aim is to demonstrate how people deviate from the rationality assumption, which serves as a null hypothesis to be refuted – or not – in empirical research.³⁹ However, this does not necessarily mean that behavioural economists would also give up rationality as a normative ideal. To the contrary, if they succeed to explain rational choice as a special case in more general theories of behaviour⁴⁰ – as the exception, and not as the rule – this may help to better understand the cognitive and contextual conditions enabling or ‘emulating’ rational economic action. Put differently, the insights gained from experimental studies may eventually help to turn the normative principle of rational choice into (institutionally assisted) behavioural practice. This is what governance by nudges is about.

2. The rise of behavioural economics as (re)turn to psychology, not sociology or history

The present methodological debate between behavioural and neoclassical economics thus seems to mirror the concerns of the classical battle over methods. However, it would be mistaken to think that the ‘new realism’ of behavioural economics would bring the holistic perspective of historical economics back in. A major difference between historical economics and behavioural economics can be captured in yet another dichotomy: between collectivism and individualism. Whereas historical economics was much interested in collective entities, such as the nation, neoclassical and behavioural economics share an emphasis on individual entities, even though they differ in how the microfoundations of macroeconomic phenomena are specified. In fact, behavioural economics seems to hold on to the methodological

³⁷ Ibid., at 227.

³⁸ Angner and Loewenstein, ‘Behavioral Economics’ (n. 31 above), at 668.

³⁹ Ibid., at 680.

⁴⁰ Ibid.,

individualism of neoclassical economics and, in particular, of rational choice theory. On this account, collectives are but aggregates of individuals and, the unintended consequences of individual behaviour notwithstanding, collective entities do not have a life or reality of their own. While historical economists were still interested in the ‘spirit of the nation’, neoclassical and behavioural economists are mostly interested in the mindset of individuals. However, whereas neoclassical economics starts from axiomatic assumptions about rational action, behavioural economics has a genuine interest in human psychology. Arguably, this makes its individualist tendencies even more pronounced. This is only counteracted in explicitly interactionist accounts of social behaviour.

To be sure, a return to historical economics is not the alternative promoted here. What is of more interest, from a sociological point of view, is how behavioural economics relates to ‘social economics’, which is already an old concept, and ‘socio-economics’, which is a more contemporary term. It has been held that much of classical economics in the eighteenth and nineteenth century could be qualified as social economics since economic science and social policy were still closely interlinked at that time.⁴¹ However, the term as such emerged in the nineteenth century and assumed almost opposite meanings in different contexts.⁴² It thus likewise came to be used by liberal economists, who understood the economic discipline not as a policy-oriented science of the state, but as a general social science focusing on individuals and their interaction,⁴³ and by social reformers interested in furthering a ‘social economy’ based on relations of solidarity and cooperation, a political project motivated by ‘a radical critique of individualist liberalism and the effects of early industrial capitalism’.⁴⁴ However, the reference point chosen here is yet a different one. At the turn of the twentieth century, scholars like Max Weber and Joseph Schumpeter defended social economics as an integrated view of economy and society against the increasing differentiation of economic theory from economic history and economic sociology.⁴⁵ Thus understood, the concept stands for a scientific and not a political project; it is about social science and not social policy. Our argument is that behavioural economics is far from reviving this integrative project, since it is much less inspired by (economic) sociology, not to mention (economic) history, than by

⁴¹ Reinhold Hedtke, ‘Was ist und wozu Sozioökonomie?’ in Reinhold Hedtke (ed), *Was ist und wozu Sozioökonomie?* (VS 2015) 19-69, at 20.

⁴² Gertraude Mikl-Horke, ‘Traditionen, Problemstellungen und Konstitutionsprobleme der Sozioökonomie’ in Reinhold Hedtke (ed), *Was ist und wozu Sozioökonomie?* (VS 2015) 95-123, at 96-98.

⁴³ *Ibid.*, at 97.

⁴⁴ *Ibid.*, at 97; my translation.

⁴⁵ Andrea Maurer, ‘Sozioökonomie’ in *Gabler Wirtschaftslexikon* (18th edn, Springer Gabler Verlag 2014) <<http://wirtschaftslexikon.gabler.de/Archiv/611744017/soziooekonomie-v2.html>> accessed 5 August 2017.

(economic) psychology. It thus lacks the possibility to reflect on broader economic developments, both in theory and in practice, and to take a self-reflective stance with regard to its own role in shaping them.

Since psychology is also a science of the social, even though it may start from the individual, we first have to get a better of understanding what kind of psychology behavioural economics draws upon to provide more realistic ‘microfoundations’ for economic theory. Occasionally, the turn to psychology has been depicted as a ‘return to the roots of neoclassical economics after a century-long detour’.⁴⁶ In fact, earlier versions of the model of economic man, or *homo economicus*, were still imbued with psychological concepts.⁴⁷ In Giocoli’s words: ‘The traditional subject of neoclassical economics was the behavior of the “real” *homo economicus* in his flesh and blood (i.e., in his tastes, motives and desires), actuated by the force of self-interest.’⁴⁸ Accordingly, it has been argued that ‘both classical and early neoclassical economists were deeply interested in the psychological underpinnings of economic behavior’.⁴⁹ An example is the pleasure-and-pain principle, which can be considered a cornerstone of early-neoclassical theorising. However, by the mid-twentieth century, references to ‘hedonic psychology’ had largely disappeared.⁵⁰ This is evident in the conceptual move from a subjective concept of utility, which is based on individual assessments and expressed in cardinal terms, to an objective concept of preference, which is based on aggregate observations and expressed in ordinal terms.⁵¹ This seminal step towards ‘revealed preference theory’ allowed postwar neoclassical economics to do away with any references to human psychology.

On the one hand, this strictly empirical definition of preferences seems to be in line with the emergence of behaviourism in the first half of the twentieth century,⁵² which has to be distinguished from the ‘behavioural’ or ‘cognitive’ turn that came to define today’s behavioural economics. Indeed, what the ‘behaviourist revolution’ was all about was to

⁴⁶ Colin F. Camerer and George Loewenstein, ‘Behavioral Economics: Past, Present, Future’ in Colin F. Camerer, George Loewenstein and Matthew Rabin (eds), *Advances in Behavioral Economics* (Princeton University Press 2004) 3-51, at 5.

⁴⁷ Mary S. Morgan, ‘The Character of “Rational Economic Man”’ (1996) London School of Economics and Political Science, Working Papers in Economic History No. 34/96 < http://eprints.lse.ac.uk/22412/1/34_96.pdf > accessed 5 August 2017.

⁴⁸ Nicola Giocoli, ‘Modeling Rational Agents: The Consistency View of Rationality and the Changing Image of Neoclassical Economics’ (2005) *Cahiers d’Économie Politique* 177-208, at 182.

⁴⁹ Angner and Loewenstein, ‘Behavioral Economics’ (n. 31 above), at 644.

⁵⁰ *Ibid.*, at 645.

⁵¹ *Ibid.*, at 648-649.

⁵² Don Ross, ‘The Economic Agent: Not Human, But Important’ in Uskali Mäki, Dov M. Gabbay, Paul Thagard and John Woods (eds), *Philosophy of Economics* (Elsevier 2012) 691-735, at 695.

substitute mental states, which were considered merely subjective, with observable behaviours, which could be objectively measured. On the other hand, the concept of revealed preferences allowed the economic discipline not only to do away with speculations about inner states and feelings, but to become ‘a *social* science independent of any foundations in individual psychology’.⁵³ Real economic man was replaced with the fiction of a ‘perfectly logical agent’.⁵⁴ And rationality was no longer equated with the reasoned pursuit of self-interest but with behaviour that is consistent with the order of preferences – whatever these may be.⁵⁵ As Ross argues, the conceptual emancipation of economics from psychology was, at the same time, an opportunity to move beyond the methodological individualism with which the neoclassical mainstream is often identified.⁵⁶ A less individualist and, in this sense, more collectivist orientation of economic theorising was evident in the ‘then-new [Keynesian] macroeconomics’ of the Bretton Woods era.⁵⁷ Again, the point is that macroeconomic theories, which are about ‘emergent systems of production, consumption and exchange’,⁵⁸ do not necessarily require psychologically accurate microfoundations. Instead, these can be construed ‘in strictly *economic* terms, where “economic” is defined by reference to an axiomatic theoretical system for identifying equilibria among behavioral dispositions or strategies of agents’.⁵⁹ In other words, ‘as if’ assumptions, such as of rational economic action, only bring the economic model to a ‘close’.

Returning to the roots of neoclassical economics eventually means abandoning this path. Human psychology is brought back in, albeit under the new premise of the ‘cognitive revolution’, which set the focus on information processing. Indeed, much of today’s behavioural economics draws on cognitive psychology, which became prominent in the second half of the twentieth century, and in particular on ‘behavioural decision research’. Developing in the 1970s, the aim of this field was ‘to identify the common set of cognitive skills, their benefits and limitations’ in human decision-making, and ‘to explore how they help produce observable behavior, whether optimal or not’.⁶⁰ With the emphasis being on the study of cognitive processes, it would also be possible to refer to behavioural economics as

⁵³ *Ibid.*, at 695; original emphasis.

⁵⁴ Giocoli, ‘Modeling Rational Agents’ (n. 48, above), at 182.

⁵⁵ *Ibid.*, at 180.

⁵⁶ Ross, ‘Economic Agent’ (n. 52 above), at 698-699.

⁵⁷ *Ibid.*, at 705.

⁵⁸ *Ibid.*, at 698.

⁵⁹ *Ibid.*, at 713; original emphasis.

⁶⁰ Angner and Loewenstein, ‘Behavioral Economics’ (n. 31 above), at 661.

‘cognitive economics’.⁶¹ In fact, these terms are sometimes used interchangeably, but they may also refer to different strands of scholarship.⁶²

Given that the subjects of cognitive enquiries in behavioural economics are typically human beings, the story of the rediscovery of the psychological underpinnings of economic action can also be told in different terms: as a return of the human individual to the heart of economic theorising. This point deserves emphasis since the abstract economic agent envisioned in neoclassical economics cannot be equated with concrete human beings. In other words, taking homo economicus for real means to commit the ‘fallacy of misplaced concreteness’. This is highlighted by Ross: ‘The contemporary concept of the agent is primarily a theoretical construction that facilitates modeling of aggregate phenomena; and it does a better job of this than would an agent fleshed out according to the profile of the human being furnished by psychologists.’⁶³ Hence, there is a fundamental difference between the ‘constructed artifacts’ of neoclassical economics and the ‘natural objects’ of behavioural economics.⁶⁴ The neoclassical homo economicus exists but in theory. It is an exemplary, hypothetical or statistical entity; ‘a reference point for ascription of a utility function’, which does not have a life of its own.⁶⁵ This includes collective actors, such as firms, households, and countries, which can easily be referred to as economic agents, but are not identical with individual human beings. In contrast, behavioural economics equates the economic agent with natural persons, concrete individuals, living organisms. With the behavioural, or cognitive, turn, the methodological individualism of mainstream economics thus becomes ontological. Behavioural economics is interested in individuals as they really are, and not in their rational choice abstractions. It is in this sense, that the new field is more individualist in orientation than its neoclassical counterpart. However, this finding requires qualification in terms of what ‘properties’ of the individual are brought to the fore in different strands of the field.

3. The methodological differences between ‘cognitive’ and ‘social’ behavioural economics

⁶¹ Ibid., at 642-643.

⁶² Salvatore Rizzello and Anna Spada, ‘Behavioural and Cognitive Economics’ in Gilbert Faccarello and Heinz D. Kurz (eds), *Handbook on the History of Economic Analysis, Volume III: Developments in Major Fields of Economics* (Edward Elgar 2016) 22-26.

⁶³ Ross, ‘Economic Agent’ (n. 52 above), at 703.

⁶⁴ Ibid., at 707.

⁶⁵ Ibid., at 696-697.

Behavioural economics has become a brand for various types of enquiry into how ‘real humans’ deviate from the rationality assumption connected with the neoclassical model of economic man. From a socio-economic point of view, it is of particular interest in what form and to what extent psychologically enhanced conceptions of homo economicus take account of the social influences shaping individual economic action and thus also respond to the quest for integrated models of socio-economic man. The aim of such models has been to enrich homo economicus in sociological terms, or to bridge the gap between homo economicus and homo sociologicus.⁶⁶ Given that behavioural economics is, first of all, ‘inspired by psychology’, even though it is conceded that there ‘may be much to learn from sociology, anthropology, and other neighboring fields’ as well,⁶⁷ the projects of ‘psychologising’ or ‘sociologising’ economic man obviously do not enjoy the same rank in the discipline. However, some areas of research score higher in combining these agendas than others. The question of what is the ‘social’ in behavioural economics can thus be answered differently for different strands of scholarship.

As Zarri argues, ‘far from being a monolithic theory’, behavioural economics ‘consists of two different “souls”’,⁶⁸ which stand for two different ways of dealing with apparent deviations from the rationality assumption of the neoclassical model. The first strand of scholarship, which is referred to as the ‘cognitive component’ of behavioural economics, focuses on ‘major cognitive limitations and systematic biases in decision-making affecting economic behaviour’.⁶⁹ Research in this field is concerned with ‘various forms of cognitive limitations and behavioral biases’ that may affect individual decision-making, including, among others, ‘framing effects, self-control problems, overconfidence, status quo bias and projection bias’.⁷⁰ For Zarri, the neoclassical model is inherently connected with the ‘self-interest hypothesis’, that is, ‘the assumption that economic agents are systematically driven by the pursuit of material self-interest’.⁷¹ However, as we have seen above, such a ‘thick’ conception of rationality is not necessarily what contemporary neoclassical economics starts from. This is conceded by other behavioural economists: ‘The [neoclassical] theory does not say that people are selfish, materialistic, or greedy’.⁷² What is technically supposed, though, is the assumption of ‘full’ rationality in terms of consistent utility-maximising behaviour.

⁶⁶ Möslein, this volume.

⁶⁷ Angner and Loewenstein, ‘Behavioral Economics’ (n. 31 above), at 642.

⁶⁸ Zarri, ‘Behavioural Economics Has Two “Souls”’ (n. 14 above), at 562.

⁶⁹ *Ibid.*

⁷⁰ *Ibid.*, at 563.

⁷¹ *Ibid.*, at 562-563.

⁷² Erik Angner, *A Course in Behavioral Economics* (Palgrave Macmillan 2012), at 27.

This important nuance notwithstanding, Zarri suggests that the cognitive component of behavioural economics differs from the neoclassical mainstream in that it addresses phenomena of ‘bounded’ rationality while it retains the assumption of ‘egoistic’, or self-regarding, preferences.⁷³

The second strand of scholarship discussed by Zarri is qualified as the ‘social component’ of behavioural economics and characterized by an interest in situations in which individuals manifest not only self-regarding but also other-regarding preferences.⁷⁴ The main instrument to study deviations from the assumption of rational self-interest in empirical research is behavioural game theory, which uses experimental ‘interaction scenarios’ to show that ‘behavioral choices by individual agents [...] can (either positively or negatively) be affected by *other players*’ preferences, material well-being, intentions and/or behavioral choices’.⁷⁵ According to Zarri, the inclusion of social, or other-regarding, preferences in economic models contradicts the self-interest assumption associated with neoclassical economics while it is not necessarily in conflict with the rational choice approach as such. Indeed, his aim is to demonstrate ‘that modelling sociality via social preferences [...] is compatible with the classic notion of rationality as “internal consistency”’.⁷⁶ In other words, for Zarri the distinctive element of the social component of behavioural economics both with regard to the cognitive component of behavioural economics and with regard to neoclassical economics is a ‘thin’ conception of rationality. However, if one acknowledges that much of neoclassical economics, including (analytical) game theory, does not subscribe to the ‘selfishness axiom’, the findings of behavioural game theory make less of a difference. The problem is that modelling becomes more complex the more the dynamic of social interaction is taken into account,⁷⁷ which includes mutually-contingent behaviour such as reciprocation.⁷⁸

While Zarri’s argument may be flawed (or, at least, misleading) with regard to the state of the art of neoclassical economics and the role of ‘as if’ assumptions, it nonetheless helps to distinguish between different strands of scholarship in behavioural economics with regard to their views of the individual and the social. In a nutshell, behavioural economics thus combines a cognitive component, which focuses on the cognitive biases of self-interested but

⁷³ Zarri, ‘Behavioural Economics Has Two “Souls”’ (n. 14 above), at 563.

⁷⁴ *Ibid.*, at 562.

⁷⁵ *Ibid.*, at 563; original emphasis.

⁷⁶ *Ibid.*

⁷⁷ Angner, *Course in Behavioral Economics* (n. 72 above), at 194-200.

⁷⁸ Sven Hoeppe, ‘The Unintended Consequence of Doorstep Consumer Protection: Surprise, Reciprocation, and Consistency’ (2014) *European Journal of Law and Economics* 247–276, at 261-265.

boundedly rational individuals, with a social component, which is interested in the social preferences that more broadly rational individuals manifest in situations of strategic interaction. What one can derive from this distinction is that in concentrating on technically isolated individuals with self-regarding preferences, the cognitive component of behavioural economics is more individualist than the social component, whose behavioural models take account of interacting individuals with interdependent (self-regarding as well as other-regarding) preferences. Hence, the two strands of scholarship differ in their conceptions of the ‘social’, which is implicit in the former approach and explicit in the latter. As to the cognitive component of behavioural economics, individual cognitive biases and behavioural rigidities do not necessarily have to be ‘hard-wired’, but they may also be influenced by the social environment, which likewise shapes individual cognition and behaviour. However, this possibility appears to be neglected in respective scholarship. In contrast, the social component of behavioural economics is evidently interested in the social conditions of individual behaviour and the social dynamic of strategic interaction, albeit its conception of the ‘social’ is somewhat truncated by its commitment to game-theoretic models and the rational choice approach. Of main interest in this area of scholarship are the workings of social norms or preferences in interactive situations in which individuals respond to the anticipated or observed reactions of other players. Interestingly, the (more explicitly) social strand of behavioural economics seems less visible in normative debates about the policy relevance of behavioural findings, whereas the political implications of the cognitive strand are widely discussed. Arguably, the divergence in political attractiveness and/or applicability of the two strands of behavioural economics directly reflects the observed variance in the social complexity of their underlying models.

Against this backdrop, we can refine our above argument and claim that scholars in the cognitive component of behavioural economics are more prone than scholars in the social component to interpret the methodological individualism associated with mainstream economics and the rational choice approach also in ontological terms: by focusing on boundedly rational individuals, with very limited regard to their social environment. However, in the methodological debate with neoclassical economics this downside of a more ‘realistic’ view of economic man is rarely seen. This is evident in Tomer’s ‘stereotypical’ comparison of behavioural economics with mainstream economics, in which the latter is characterized by its ‘narrowness’, ‘rigidity’, ‘intolerance’, ‘mechanicalness’, ‘separateness’,

and ‘individualism’.⁷⁹ By ‘narrowness’, Tomer refers to the formalistic-deductive approach of neoclassical economics and its axiomatic assumptions, among which he includes ‘rationality, self-interest, and self-control’.⁸⁰ ‘Rigidity’ and ‘intolerance’ are related to the defence of a narrow approach, whereas ‘mechanicalness’ refers to the use of ‘machine-like metaphors and concepts such as equilibrium’ to describe the economy, in contrast to conceiving it ‘as an organic, holistic, evolving, human entity’.⁸¹ More relevant, in the present context, are the remaining attributes: ‘separateness’, which refers to the closure of the economic discipline with regard to ‘noneconomic disciplines, especially social science disciplines’,⁸² and ‘individualism’. The latter criterion is introduced as follows: ‘A discipline high on individualism is one where explanations invariably focus on individual decision-making behavior. A discipline low on individualism gives much more consideration to individuals as part of collectivities as well as social and group motivations and behavior.’⁸³ In practice, Tomer connects the label of high individualism with a rational choice approach that is characterized by a ‘thick’ conception of rationality based on self-interested preferences. According to Zarri, the assumption of self-interest would be shared by neoclassical economics and the cognitive component of behavioural economics,⁸⁴ while according to many neoclassical economists, the discipline nowadays starts from a ‘thin’ conception of rationality, which allows including other-regarding preferences in individual utility functions. In this sense, today’s mainstream economics is lower in individualism than Tomer suggests, who considers a relatively low degree of individualism a distinctive characteristic of behavioural economics. Accordingly, ‘psychological economics’, by which he refers to ‘the strand of [behavioral economics] that borrows from psychology, especially cognitive psychology’, could be considered ‘much less individualistic than [mainstream economics], as [its] practitioners [...] recognize that behavior may not be self-interested or strictly rational, and they recognize important social influences on individual decision making’.⁸⁵ Distinguishing between the two strands of behavioural economics identified above, one would actually arrive at a different conclusion: that the cognitive component of behavioural economics is actually higher in individualism than neoclassical economics while the social component of behavioural economics is lower, since the latter not only reserves a place for

⁷⁹ John F. Tomer, ‘What is Behavioral Economics’ (2007) *Journal of Socio-Economics* 463-479, at 465-467.

⁸⁰ *Ibid.*, at 468.

⁸¹ *Ibid.*, at 466.

⁸² *Ibid.*

⁸³ *Ibid.*

⁸⁴ Zarri, ‘Behavioural Economics Has Two “Souls”’ (n. 14 above), at 563.

⁸⁵ Tomer, ‘What is Behavioral Economics’ (n. 79 above), at 471.

social preferences in individual utility functions but makes them the very subject of enquiry. It may be contested at what point the rational choice approach, which is occasionally itself depicted as ‘social economics’,⁸⁶ reaches its limits in accommodating the ‘social’.⁸⁷ However, from a socio-economic perspective it is clear that the social component of behavioural economics comes much closer to ‘sociologising’ economic man than the cognitive component, which is obviously more concerned with ‘psychologising’ economic man with relatively little regard to the social. In Lindenberg’s original version of socio-economic man, the emphasis was on bridging economic and sociological models of man, and explicitly not on tying in psychological conceptions.⁸⁸ His argument was that economics and sociology share, as social-scientific disciplines, that their ‘main task is to analyze social systems’, for which they ‘make use of theories of action’, and that their interest in the individual is only instrumental.⁸⁹ In contrast, psychology is individualist not only in its means but also in its ends. Hence, ‘different requirements are placed on the “individual” theories in psychology on the one hand and in economics and sociology on the other’.⁹⁰ Indeed, Lindenberg was still able to claim, a quarter of a century ago, that ‘it is very unlikely that a *homo socio-economicus* will consist of a psychological behavioral theory’.⁹¹ Drawing on the above, we could conclude that this is still the case, but that there is a split between two conceptions of economic man in behavioural economics: one informed by bridging economics and (some sort of) psychology in the cognitive component of behavioural economics and one informed by bridging economics and (some sort of) sociology in the social component of behavioural economics.

The latter model of socio-economic man is evident in Fehr and Gintis’s integrated approach, which regards *homo economicus* and *homo sociologicus* as ‘special cases’.⁹² Whereas the former is considered as ‘rational and purely self-regarding’, an asocial egoist, the latter is pictured as a social conformist, who ‘follows prevailing social norms without regard to self-

⁸⁶ Gary S. Becker and Kevin M. Murphy, *Social Economics: Market Behaviour in a Social Environment* (Belknap Press 2000).

⁸⁷ Viktor J. Vanberg, ‘Rational Choice, Preferences Over Actions and Rule-Following Behavior’ in Uskali Mäki, Dov M. Gabbay, Paul Thagard and John Woods (eds), *Philosophy of Economics* (Elsevier 2012) 505-530, at 511-512.

⁸⁸ Siegwart Lindenberg, ‘Homo Socio-oeconomicus: The Emergence of a General Model of Man in the Social Sciences’ (1990) *Journal of Institutional and Theoretical Economics* 727-748.

⁸⁹ *Ibid.*, 736.

⁹⁰ *Ibid.*

⁹¹ *Ibid.*, at 744.

⁹² Ernst Fehr and Herbert Gintis, ‘Human Motivation and Social Cooperation: Experimental and Analytical Foundations’ (2007) *Annual Review of Sociology* 43-64.

interest'.⁹³ Again, the rational choice approach is taken as a useful framework to combine the two concepts, with rationality being interpreted in terms of consistency only and not being equated with self-interest. In a more recent paper, Gintis and Helbing coined the term 'homo socialis' for an analytical species that not only includes aspects of economic man and sociological man but also draws on behavioural insights gained from 'laboratory and field experimentation into choice and social interaction'.⁹⁴ While informed by sociological theories, the rationale behind this integrative endeavour is, once more, to formulate a generalized model of economic man, in which internalized social norms appear as 'arguments in the preference function that the individual maximizes'.⁹⁵ This 'broadened version of rational decision theory' is combined with the 'general economic equilibrium model' to calculate effects on the aggregate level.⁹⁶ Overall, this model is still much in line with the conventions of mainstream economics and will therefore be of limited appeal to the latter's more sociologically minded critics. What will be addressed next is, therefore, how the realist contenders of neoclassical economics came to be organized in different, if partly overlapping, movements, one of which is behavioural economics whereas the other is known as 'socio-economics' (and at least partly harkens back to old ideas of 'social economics').

4. The institutional separation of the fields of behavioural economics and socio-economics

Behavioural economics and socio-economics have shared roots in their opposition to neoclassical mainstream economics and can be understood as different branches of 'heterodox' economics.⁹⁷ It is thus no coincidence that the leading academic associations in both fields, the *Society for the Advancement of Behavioral Economics* (SABE) and the *Society for the Advancement of Socio-Economics* (SASE), almost have the same names. However, some scholars still use the terms behavioural economics and socio-economics interchangeably or include the one in the other. Indeed, the two movements have only become differentiated in the last few decades. This is evident in the development of their respective institutional cores and flagship journals.

⁹³ Ibid., at 44.

⁹⁴ Herbert Gintis and Dirk Helbing, 'Homo Socialis: An Analytical Core for Sociological Theory' (2015) *Review of Behavioral Economics* 1-59, at 3.

⁹⁵ Ibid., at 11.

⁹⁶ Ibid., at 2-3.

⁹⁷ Cf. John B. Davis, 'The Turn in Recent Economics and Return of Orthodoxy' (2008) *Cambridge Journal of Economics* 349-366.

To reconstruct this development we can start from the *Journal of Behavioral Economics* (JBE), which was founded in 1971 ‘to encourage interdisciplinary research which brought economics together with the other social sciences and the applied business disciplines’.⁹⁸ The journal’s first editor was, and basically remained over thirty years, Richard Hattwick.⁹⁹ The editorial of the JBE’s ‘demonstration issue’ in 1972 describes the mission of the new journal as follows: ‘The Journal of Behavioral Economics seeks to (1) further knowledge of real world economic phenomena by integrating psychological and sociological variables into economic analysis and (2) promote interdisciplinary work among economists, psychologists, sociologists, political scientists and scholars working in business school disciplines.’¹⁰⁰ What is referred to as behavioural economics here could as well be described as socio-economics. Moreover, there is no perceivable trade-off between psychology and sociology in enriching economic analysis yet.

Ten years later, in 1982, SABE was founded ‘by a group of scholars, mostly economists, who were in a variety of ways dissatisfied with mainstream economics’, on the side of a meeting of the *Allied Social Sciences Association* in New York.¹⁰¹ Among the founding members were, amongst others, Herbert Simon, whose concept of bounded rationality made him a pioneer of behavioural economics,¹⁰² and George Akerlof, whose work has been labelled as ‘behavioural macroeconomics’,¹⁰³ as well as Richard Thaler.¹⁰⁴ Thaler later became one of the figureheads of the popularization of behavioural economics and ‘libertarian paternalism’ through the bestseller *Nudge*, which he co-authored with Cass Sunstein.¹⁰⁵ The first SABE conference in 1984 included the cognitive psychologists Amos Tversky and Daniel Kahneman, whose writings on heuristics, biases and framing effects had inspired Thaler’s early work on ‘anomalies’ in economic decision-making,¹⁰⁶ which shows that consumers often do not live up to the normative assumptions of the rational choice model.¹⁰⁷ Since 1986, SABE has held Joint Meetings with the *International Association for Research in Economic*

⁹⁸ Richard Hattwick, ‘JBE/JSE – The First 30 Years’ (2001) *Journal of Socio-Economics* 469-471, at 469.

⁹⁹ *Ibid.*

¹⁰⁰ Cited as in Hedtke, ‘Was ist und wozu Sozioökonomie?’ (n. 41 above), at 22.

¹⁰¹ John F. Tomer, ‘Society for the Advancement of Behavioral Economics’ in Morris Altman (ed), *Real-World Decision Making: An Encyclopedia of Behavioral Economics* (Greenwood 2015) 406-407, at 406.

¹⁰² Angner and Loewenstein, ‘Behavioral Economics’ (n. 31 above), at 655-656.

¹⁰³ Tomer, ‘What is Behavioral Economics’ (n. 79 above), at 472-473.

¹⁰⁴ SABE, ‘Honorable Members’ (File linked to the archived webpage of the Society for the Advancement of Behavioral Economics, 2015) <<http://www.dotwebresearch.net/SABEonline/Honorable%20Members%20File.pdf>> accessed 5 August 2017.

¹⁰⁵ Thaler and Sunstein, *Nudge* (n. 2 above).

¹⁰⁶ Richard Thaler, ‘Toward a Positive Theory of Consumer Choice’ (1980) *Journal of Economic Behavior and Organization* 39-60; Richard Thaler, ‘Mental Accounting and Consumer Choice’ (1985) *Marketing Science* 199-214.

¹⁰⁷ Angner and Loewenstein, ‘Behavioral Economics’ (n. 31 above), at 664.

Psychology.¹⁰⁸ Thaler's 'first major contribution to behavioural economics'¹⁰⁹ was published in the very first issue of the *Journal of Economic Behavior and Organization* (JEBO) in 1980, which would become 'by far the most-cited journal' in the field, followed by the *Journal of Economic Psychology* (JEP), founded in 1981.¹¹⁰ However, the journal that entered into 'a formal relationship' with SABE, at the initiative of the latter, in 1988, was the 'older' JBE.¹¹¹

In 1989, seven years after SABE, SASE was founded at the end of a conference organized to discuss Amitai Etzioni's *The Moral Dimension*,¹¹² which had just been published.¹¹³ Etzioni became the first president of the new organization, which started from a 'minimum platform' of socio-economic principles, and from the outset included '[a] large variety of viewpoints and perspectives'.¹¹⁴ In this respect, it differs from the older *Association for Social Economics*, which came into being as Catholic Economic Association, that is, a professional organization based on Catholic social doctrine, and which only later opened up for other theoretical traditions,¹¹⁵ while it kept a strong focus on normative questions of human dignity and social justice.¹¹⁶ In contrast, the programmatic statement of SASE reflects a broader, social-scientific approach to the economy: 'Socio-economics assumes that economics is embedded in society, polity and culture, and is not a self-contained system. It assumes that individual choices are shaped by values, emotions, social bonds, and judgments – rather than by a precise calculation of self-interest.'¹¹⁷ SASE had originally planned to launch a *Journal of Socio-Economics* (JSE) next to the JBE,¹¹⁸ but this did not materialize. As a 'backup plan' SASE turned to the JBE and suggested to change the name of the journal.¹¹⁹ The JBE's editor Hattwick sympathized with Etzioni's initiative and included members of the newly created SASE in his editorial board. In 1991, the title of the journal indeed was changed from JBE to

¹⁰⁸ Detlef Fetchenhauer, Ofer H. Azar, Gerrit Antonides, Dave Dunning, Dave, Robert H. Frank, Stephen Lea and Folke Ölander, 'Monozygotic Twins or Unrelated Stepchildren? On the Relationship Between Economic Psychology and Behavioral Economics' (2012) *Journal of Economic Psychology* 695-699, at 695.

¹⁰⁹ Angner and Loewenstein, 'Behavioral Economics' (n. 31 above), at 664.

¹¹⁰ Ofer H. Azar, 'Behavioral Economics and Socio-Economics Journals: A Citation-Based Ranking' (2007) *Journal of Socio-Economics* 451-462, at 457.

¹¹¹ Hattwick, 'JBE/JSE' (n. 98 above), at 469.

¹¹² Amitai Etzioni, *The Moral Dimension: Toward a New Economics* (Free Press 1988).

¹¹³ Amitai Etzioni, *My Brother's Keeper: A Memoir and a Message* (Rowman and Littlefield 2003), at 182.

¹¹⁴ David O. Sears, 'Socio-Economics: Challenge to the Neoclassical Economic Paradigm' (1991) *Psychological Science* 12-15, at 12-13.

¹¹⁵ Mark A. Lutz, 'Social Economics, Justice and the Common Good' (2002) *International Journal of Social Economics* 26-33, at 28-29.

¹¹⁶ Mark A. Lutz, 'Centering Social Economics on Human Dignity' (1995) *Review of Social Economy* 172-194.

¹¹⁷ Cited as in Etzioni, *My Brother's Keeper* (n. 113 above), at 182.

¹¹⁸ Sears, 'Socio-Economics', at 12.

¹¹⁹ Hattwick, 'JBE/JSE' (n. 98 above), at 470.

JSE. However, Hattwick's intention was not to play out one organization against the other; instead, he thought that '[t]he JSE would continue to serve SABE and would not be an official journal of SASE'.¹²⁰

Etzioni's initiative was much less appreciated by SABE members. On the webpage of the 2007 SABE Conference, which includes a retrospective of the development of the organization, it is stated that 'Etzioni [...] opportunistically took the wind out of SABE sails in the process of bringing a new organization, the [SASE], into existence'.¹²¹ Tomer, who had been a founding member of SABE in 1982, refers to this as the 'transformation' of SABE into SASE, which was 'oriented more toward noneconomic social science scholars, especially sociologists, not economists'.¹²² It was also Tomer who decided to breathe new life into SABE after its 'near death experience' in the early 1990s.¹²³ Tomer drew his motivation from the fact that 'some SASE economists were unhappy with the position of behavioral economics in SASE'.¹²⁴ When the SABE was 'officially re-established' in 1992,¹²⁵ with Tomer as its new president, behavioural economics and socio-economics started to bifurcate in organizational terms. At the same time, some scholars, including Tomer, remained members of both organizations.

Somewhat ironically, the JSE, formerly JBE, 'again became affiliated with SABE' in the 1990s.¹²⁶ However, at the tenth birthday of SASE in 1991, the journal was still also considered an organ of the latter, even though Etzioni depicted its records as 'quite poor, publishing many papers irrelevant to socio-economics and weak ones to boot'.¹²⁷ In the same year, the long-standing editor, Hattwick, underlined, on his part, that the journal served as a platform for all kind of scholarship in the 'socio-economics movement', the 'leading professional organizations' of which were SABE, SASE and the *Socio-economics Section of the Association of American Law Schools* (which eventually published its own journal – the *Journal of Law and Socio-Economics* – between 1997 and 2007).¹²⁸

¹²⁰ Ibid.

¹²¹ SABE, 'About SABE' (Entry on the webpage of the Organisers of the 25th Conference of Economists, 15-18 May 2007, New York University, New York City) <<http://web.scps.nyu.edu/sabe/about.html>> accessed 5 August 2017

¹²² Tomer, 'Society for the Advancement of Behavioral Economics' (n. 101 above), at 406.

¹²³ Hattwick, 'JBE/JSE' (n. 98 above), at 470.

¹²⁴ Tomer, 'Society for the Advancement of Behavioral Economics' (n. 101 above), at 406.

¹²⁵ Ibid.

¹²⁶ Ibid., 407.

¹²⁷ Etzioni, *My Brother's Keeper* (n. 113 above), at 183.

¹²⁸ Richard Hattwick, 'The Future Paradigm for Socio-Economics: Three Visions and a Call for Papers' (1999) *Journal of Socio-Economics* 511-532, at 511-512.

In the same piece, Hattwick outlined three ‘paradigms’, or ‘visions’, of socio-economics, which he termed ‘Psychological Socio-Economics’, ‘Sociological Socio-Economics’ and ‘Humanistic and Holistic Socio-Economics’.¹²⁹ Accordingly, psychological socio-economics is based on mainstream economics ‘but replaces the assumption of economic man with the richer concept of psychological man’.¹³⁰ While mitigating the rationality assumption, it retains the relatively narrow focus of (mainstream) economics on the economy as an independent system and on questions of utility maximization.¹³¹ Sociological socio-economics is depicted as a more encompassing paradigm, which ‘incorporates all of the first vision, but adds a strong emphasis on issues of equity, justice and community as well as a focus on social institutions and their impact on the economy’.¹³² Whereas the interaction of economy and society is key to all sociologically oriented approaches to socio-economics, a more specific interest in social values and communitarian aspects of ‘balancing I and we’ is prominently connected with Etzioni’s approach.¹³³ Finally, the humanistic vision of socio-economics would span all scientific disciplines, from ‘biology’ to the ‘humanities’, and focus on ‘[i]nteracting and evolving social and natural systems’.¹³⁴ Interestingly, Hattwick prioritizes neither the first nor the second vision for the future development of the journal but announces that ‘[i]n times of extreme scarcity of space, priority will be given to the frame of reference represented by Vision 3’.¹³⁵

In reality, the development was different. Close to retirement, Hattwick ‘originally thought’ to find the journal’s new editor-to-be from SASE.¹³⁶ At the same time ‘several commercial publishers were anxious to buy the journal’, which was ultimately sold to Elsevier.¹³⁷ In 2001, Morris Altman became the new editor of the JSE, with Tomer as co-editor. Altman was, like Tomer, ‘co-founder of the resuscitated SABE in 1992’, served as its president 1992-2003, and as a board member 1982-2013.¹³⁸ It is thus likely that the journal became more aligned with SABE’s interests under Altman, who remained its editor until 2012, even though Altman was also involved with SASE. The result was ‘a big jump’ in the number of citations

¹²⁹ Ibid., at 512-513.

¹³⁰ Ibid., 512.

¹³¹ Ibid., 514.

¹³² Ibid., 512.

¹³³ Ibid., 514.

¹³⁴ Ibid., at 513-514.

¹³⁵ Ibid., 530.

¹³⁶ Hattwick, ‘JBE/JSE’ (n. 98 above), at 471.

¹³⁷ Ibid.

¹³⁸ SABE, ‘Honorable Members’ (Entry on the current webpage of the Society for the Advancement of Behavioral Economics, 2017) <<http://www.sabeconomics.org/about/honorable-members>> accessed 5 August 2017.

of the journal, which now came to be ranked third after JEBO and JEP in the (combined) field of behavioural economics and socio-economics.¹³⁹

On the socio-economic side, these developments created both space and need for a new outlet covering the broader research interests of SASE members. In 2003, the *Socio-Economic Review* (SER) was launched to further ‘dialogue among a wide and inclusive range of the various communities interested in the economy’ and to stimulate ‘work on the relationship between society, economy, institutions and markets, moral commitments and the rational pursuit of self-interest’.¹⁴⁰ Wolfgang Streeck, chief editor of the SER between 2006 and 2012, laid emphasis on ‘the socio-political content of the economy’.¹⁴¹ Accordingly, socio-economics is concerned with ‘how the economy is or should be supported and constrained, or governed, by social relations, political decisions, and cultural values’ as much as in ‘how the economy in turn affects the society of which it is part, dissolving old forms of social institutions, and giving rise to new ones’.¹⁴² In 2013, incoming editor Gregory Jackson noted that economics ‘has turned more strongly to psychology (e.g. behavioral economics) and law (e.g. ‘law and economics’) rather than sociology or political science’,¹⁴³ while he saw ‘a particular strength’ of the SER precisely ‘in its disciplinary breadth across sociology, political science, economics and the management and policy sciences’.¹⁴⁴ As to its impact factor, the journal indeed ranks relatively high in political science and sociology but also in economics. While SASE is now firmly linked with the SER, the journal associated with SABE, which had for almost twenty years been known as JBE and for more than twenty years as JSE, was once more changed. In 2013, the new editor Ofer Azar, who was a board member of SABE 2006-2014 and also served as its president 2012-2014, still invited ‘submissions that deal with various economic topics but also involve issues that are related to other social sciences, such as psychology and sociology’, with ‘contributions in behavioral economics, economic psychology, experimental economics, socio-economics, and judgment and decision making’ being especially welcome.¹⁴⁵ However, one year later, the title of the journal was changed to *Journal of Behavioral and Experimental Economics*. Azar gives the reason as follows: ‘The

¹³⁹ Azar, ‘Behavioral Economics and Socio-Economics Journals’ (n. 110 above), at 457.

¹⁴⁰ Alex Hicks and David Marsden, ‘Editorial’ (2003) *Socio-Economic Review* iii-iv, at iii.

¹⁴¹ Wolfgang Streeck, Jens Beckert, Jonathan Zeitlin and Jürgen Feick, ‘Editorial’ (2007) *Socio-Economic Review* 1-2, at 1.

¹⁴² *Ibid.*

¹⁴³ Gregory Jackson, ‘Editorial: Looking Backwards and Looking Forwards’ (2013) *Socio-Economic Review* 1-4, at 2.

¹⁴⁴ *Ibid.*, at 1.

¹⁴⁵ Ofer H. Azar, ‘The Journal of Socio-Economics: A Letter From the Incoming Editor’ (2013) *Journal of Socio-Economics*, 140-141, at 141.

recent scope of the journal and the way I see it moving forward led me and others to think that the new title [...] better captures the journal's content.'¹⁴⁶ Thus, the 'JSE's vision of disciplinary inclusiveness'¹⁴⁷ ultimately seems to have given way to greater confinement to behavioural economics. The bifurcation in the names and agendas of the two professional organizations thus also came to be reflected in the names and policies of the respective journals.

5. The incipient battle over methods between behavioural economics and socio-economics

According to SASE founder Etzioni, '[t]he term "socio" in socio-economics does not stand for sociology; it includes major segments of psychology and anthropology, history, and political science – the whole complex of disciplines that [examine] the relationships between society and the economy'.¹⁴⁸ To be sure, socio-economics also includes sociology, but the latter does not 'monopolize' the field, to the exclusion of other social-scientific disciplines.¹⁴⁹ However, from the perspective of Tomer, who had taken initiative to revive SABE a few years after the formation of SASE, the latter was clearly drifting towards sociology: 'In its infancy, the socio-economics of SASE was very much multi-disciplinary (sociology, economics, psychology, organizational behavior, anthropology, etc.), but today socio-economics is generally acknowledged to be an interdisciplinary endeavor carried out largely by sociologists.'¹⁵⁰ This indicates that behavioural economics and socio-economics are not only perceived as distinctive enterprises but that there is also potential for a new – or continued – battle over methods between the two. However, this remains somewhat hidden, since both academic movements have so far been preoccupied with distinguishing themselves from neoclassical mainstream economics.

Classifying the considerable number of 'heterodox' approaches that developed in opposition to 'orthodox' neoclassical economics, Davis distinguishes between 'traditional' and 'new' heterodoxy.¹⁵¹ Traditional heterodox approaches developed outside the neoclassical

¹⁴⁶ Ofer H. Azar, 'The "Journal of Socio-Economics" Changes Its Title To the "Journal of Behavioral and Experimental Economics"' (2014) *Journal of Socio-Economics* v.

¹⁴⁷ Hattwick, 'JBE/JSE' (n. 98 above), at 471.

¹⁴⁸ Amitai Etzioni, 'Toward a New Socio-Economic Paradigm' in J. Roger Hollingsworth, Karl H. Müller; Ellen Jane Hollingsworth (eds), *Advancing Socio-Economics: An Institutional Perspective* (Rowman & Littlefield 2002) 37-49, at 40; corrected.

¹⁴⁹ Cf. Hedtke, 'Was ist und wozu Sozioökonomie?' (n. 41 above), at 54.

¹⁵⁰ Tomer, 'What is Behavioral Economics' (n. 79 above), at 477.

¹⁵¹ Davis, 'The Turn in Recent Economics' (n. 97 above).

mainstream, to which they aim to provide alternatives, often ‘based on closer ties to, and less sharp boundaries with, sociology, history, politics and anthropology’.¹⁵² Examples of this kind of scholarship are ‘(old) institutional economics’, ‘Marxist economics (and radical economics)’, ‘post Keynesian economics’, ‘social economics and socio-economics’, ‘feminist economics’, and ‘post-modernist economics’.¹⁵³ In contrast, behavioural economics, experimental economics and neuroeconomics are classified as new heterodox approaches, which aim to reform neoclassical thinking and thereby also redefine what the mainstream is.¹⁵⁴ Davis also speaks of ‘mainstream heterodoxy’ in this respect, which may eventually become the ‘new orthodoxy’. He explores to what extent this mainstream heterodoxy shares the ‘substantive principles’ of traditional heterodoxy, such as that ‘[i]ndividuals are socially embedded rather than atomistic’ and that ‘[i]ndividuals and social-economic structures are mutually influencing’.¹⁵⁵ What he finds is that the new heterodox approaches are characterized by a rather ‘mild adoption’ of these principles.¹⁵⁶ Even though they suggest ‘a genuine departure from neoclassical rational choice microfoundations thinking’, their macrocontextualization of individual action and behaviour still remains underdeveloped. In other words, the social is conceived in an ‘abstract’, ‘formal’ and ‘positivistic’ manner.¹⁵⁷

In a recent contribution, Hedtke lists a plethora of dichotomies for the divergent research perspectives and methodologies of mainstream economics and socio-economics, such as: reductionism vs. complexity; asociality vs. sociality; disembodiedness vs. embeddedness; universalism vs. historicity; linearity vs. circularity; instrumental rationality vs. multi-motivationality; individualism vs. culturalism; naturalism vs. constructivism; mechanics vs. evolution; anti-realism vs. realism; positivism vs. normativity; monism vs. pluralism.¹⁵⁸ Hollingsworth and Müller (2008) contrast two scientific paradigms, called ‘Science I’ and ‘Science II’.¹⁵⁹ Science I is the conventional paradigm, which is reductionist in its orientation: ‘societies are believed to be built up from individuals, individuals from cells and their neural organization, cells from molecules, molecules from atoms, etc.’.¹⁶⁰ Science II is a more novel paradigm, which aims at the analysis of complex systems and is premised on the

¹⁵² Ibid., at 360.

¹⁵³ Ibid., at 359.

¹⁵⁴ Ibid., at 354.

¹⁵⁵ Ibid., at 360.

¹⁵⁶ Ibid., at 362.

¹⁵⁷ Ibid., at 361-362.

¹⁵⁸ Cf. Hedtke, ‘Was ist und wozu Sozioökonomie?’ (n. 41 above), at 41.

¹⁵⁹ Rogers Hollingsworth and Karl H. Müller, ‘Transforming Socio-Economics With a New Epistemology’ (2008) *Socio-Economic Review* 395-426.

¹⁶⁰ Ibid., at 397.

idea that ‘the whole is more than the sum of its parts’.¹⁶¹ If mainstream economics is firmly rooted in the conventional paradigm, socio-economics has clear affinities with the alternative paradigm. An example of the latter is multi-level analysis, which takes bottom-up effects as seriously as top-down effects.¹⁶²

Going one step further, Zafirovski analysed classical and neoclassical economics for implicit or explicit inclusion of ‘sociological dimensions’, that is, elements that go beyond economic reasoning in the narrow sense.¹⁶³ These sociological elements are referred to as ‘social economics’ or even ‘economic sociology’, but they may also include social applications of the rational choice paradigm. What Zafirovski finds is that for a broad sample of classical or neoclassical scholars sociological considerations did play a role and ‘consist primarily of conceptions and elements of social economics or economic sociology as the sociological approach to economy and, only secondarily, of rational choice theory as the economics of society’.¹⁶⁴ Interestingly, he thus employs a triangular approach to distinguish different ‘sociologically informed’ approaches not only from ‘pure’ economics but also from each other. This distinction between two different ways to include the ‘social’ in economic reasoning can already be found in an earlier text where Zafirovski explicitly addressed the relation between socio-economics and rational choice theory.¹⁶⁵ In that piece, rational choice theory is defined as a ‘*micro-economic* approach to society, which assumes utilitarian determination of all social life’, whereas socio-economics is characterized as a ‘*macro-social* approach to the economy, positing societal structuration of economic behaviour’.¹⁶⁶ Like Hedtke, Zafirovski resorts to a number of dichotomies to distinguish the two approaches, such as: univariate vs. multivariate; monism vs. pluralism; reductionism vs. realism; non-institutionalism vs. institutionalism; social vacuum vs. embeddedness; atomism vs. holism.¹⁶⁷ While these dichotomies may also be helpful to specify the relation between behavioural economics and socio-economics, this is not what Zafirovski originally had in mind, and some of the labels (such as univariate models, economic monism, utilitarian reductionism) cannot be applied as easily to behavioural ‘extensions’ of the rational choice paradigm as to its more analytical versions, precisely because the more ‘realistic’ models of behavioural economics

¹⁶¹ Ibid., at 398-399.

¹⁶² Ibid., at 414-416.

¹⁶³ Zafirovski, ‘Sociological Dimensions in Classical/Neoclassical Economics’ (n. 16 above).

¹⁶⁴ Ibid., at 77.

¹⁶⁵ Milan Zafirovski, ‘Socio-Economics and Rational Choice Theory: Specification of Their Relations’ (1998) *Journal of Socio-Economics* 165-205.

¹⁶⁶ Ibid., at 195; original emphasis.

¹⁶⁷ Ibid., at 167.

do include non-rational factors. What is clear, though, is that socio-economics, as understood by Zafirovski, still stands out in terms of its ‘institutional realism’, which lays emphasis on the constitutive effects of social institutions, and its ‘methodological holism’, according to which the dynamics of social collectives cannot be reduced to the (rational or irrational) decisions of individuals.¹⁶⁸ The latter methodological position can also be referred to as to as ‘methodological culturalism’ or ‘methodological constructivism’,¹⁶⁹ which contrasts not only with the commitment to methodological individualism which is evident in the rational choice paradigm, but also with the meta-scientific principles of (scientific) realism, positivism or naturalism. These describe a distinctly ‘empiricist’ orientation, to which much of behavioural economics subscribes, while many adherents of a ‘science of culture’¹⁷⁰ would consider this too narrow an approach. Considering both its cognitive and social components, one can thus conclude that behavioural economics is still much higher on individualism, naturalism or positivism and much lower on institutionalism, culturalism or constructivism than a genuinely sociological approach.

However, the debate between socio-economists or economic sociologists on the one hand and behavioural economists on the other is still in its infancy. Few socio-economists or economic sociologists directly engage with behavioural economics, even though its relevance has been highlighted in recent overviews¹⁷¹ and reference works¹⁷² of the field. Some emphasize the commonalities in striving for more realism in our conceptions of the economy,¹⁷³ others highlight the differences in defining what these realities actually are.¹⁷⁴ For many behavioural economists, these realities are still ‘found’ – in human nature, in observable behaviour, in given institutional settings – and usually not furthered questioned. For sociologists and socio-economists, namely those of a more constructivist bent, these realities are always ‘produced’ in certain contexts – of social interaction, institutionalized relations, political-economic

¹⁶⁸ Ibid., at 180-186.

¹⁶⁹ Hedtke, ‘Was ist und wozu Sozioökonomie?’ (n. 41 above), at 45.

¹⁷⁰ Weber, ‘Objectivity in Social Science’ (n. 35 above).

¹⁷¹ Maurer, ‘Sozioökonomie’ (n. 45 above); Hedtke, ‘Was ist und wozu Sozioökonomie?’ (n. 41 above).

¹⁷² Roberto Weber and Robyn Dawes, ‘Behavioral Economics’ in Neil J. Smelser and Richard Swedberg (eds), *Handbook of Economic Sociology* (2nd edn, Princeton University Press 2005) 90-108; Simon Gächter, ‘Behavioural Economics’ in Jens Beckert and Milan Zafirovski (eds), *International Encyclopedia of Economic Sociology* (Routledge 2006) 25-28.

¹⁷³ E.g., Amitai Etzioni, ‘The Limits of Knowledge: Personal and Public’ (2012) *Issues in Science and Technology* <<http://www.issues.org/29.1/amitai.html>> accessed 5 August 2017; Bernhard Kittel, ‘Experimente in der Wirtschaftssoziologie: Ein Widerspruch?’ in Marc Keuschnigg and Tobias Wolbring (eds), *Experimente in den Sozialwissenschaften* (Soziale Welt, Sonderband 22) (Nomos 2015) 79-104.

¹⁷⁴ E.g., Wolfgang Streeck, ‘Does “Behavioral Economics” Offer an Alternative to the Neoclassical Paradigm?’ (2010) *Socio-Economic Review* 387-397; Sabine Frerichs, ‘False Promises? A Sociological Critique of the Behavioural Turn in Law and Economics’ (2011) *Journal of Consumer Policy* 289-314.

regimes and scientific rationalities – which are historically and culturally contingent and can therefore themselves become a subject of enquiry.

In 2003, the SER addressed ‘the potential contributions of behavioural economics to socio-economics’ in a discussion forum based on a panel of the 2009 SASE Annual Conference.¹⁷⁵

In this context, Streeck takes a very critical stance towards behavioural economics, which for him rests on the assumption ‘that the “natural,” instinctive base of human behaviour is the leading determinant of how people act’ and ‘that differences can be reduced to and subsumed under commonalities’.¹⁷⁶ What was sought for are behavioural universals, while the ‘enormous differences we observe between individuals and historical periods with respect to almost everything that really matters’ were neglected.¹⁷⁷ Already before, Streeck had argued together with Jens Beckert, who was co-editor of the SER at that time, that the behavioural response to neoclassical economics is ‘severely misleading’, and that namely ‘the attempt to trace regularities in social action to psychological universals or even neurological endowments’ is ‘fundamentally mistaken’.¹⁷⁸ Instead, they request to take the ‘macro-foundations of individual action’ seriously, which they believe ‘must be at the center of any realistic theory not just of social but also of economic action’.¹⁷⁹ In contrast, Etzioni’s position has overall been more supportive of the developments in behavioural economics: ‘Even though behavioral economists are not considered as socio-economists, they do make important contributions to the agenda of the developing [field of] socio-economics – in particular in its cognitive and individualist elements.’¹⁸⁰

As a political scientist and economic sociologist active in experimental research, Kittel emphasizes the ‘potential for fruitful collaboration’ between behavioural economics and economic sociology¹⁸¹ and eventually suggests a division of labour alongside the deductive-nomological model of science. However, to make this point, Kittel first has to fend off criticisms of behavioural and experimental research by the ‘mainstream of economic sociology’,¹⁸² which he finds uninformed and biased. For this purpose, he also engages with

¹⁷⁵ Amitai Etzioni, Wolfgang Streeck and Michael Piore, ‘Behavioral Economics’ (2010) *Socio-Economic Review* 377-397, at 377.

¹⁷⁶ Streeck, ‘Does “Behavioral Economics” Offer an Alternative?’ (n. 174 above), at 392.

¹⁷⁷ *Ibid.*, at 393.

¹⁷⁸ Jens Beckert and Wolfgang Streeck, ‘Economic Sociology and Political Economy: A Programmatic Perspective’ (2008). MPIfG Working Paper 08/4, Max Planck Institute for the Study of Societies <<http://www.mpifg.de/pu/workpap/wp08-4.pdf>> accessed 5 August 2017, at 16.

¹⁷⁹ *Ibid.*

¹⁸⁰ Amitai Etzioni, ‘Sozioökonomik heute?’ in Reinhold Hedtke (ed), *Was ist und wozu Sozioökonomie?* (VS 2015) 73-93, at 73; my translation.

¹⁸¹ Kittel, ‘Experimente in der Wirtschaftssoziologie’ (n. 173 above), at 91; my translation.

¹⁸² *Ibid.*, at 90.

the paradigmatic differences between the two.¹⁸³ His integrative vision is that behavioural and experimental research would establish the ‘universal laws’ of economic action (microfoundation), while research into the structure or culture of societies would specify its ‘initial conditions’ (macrocontextualization): ‘Together these could form the explanans of an explanation.’¹⁸⁴ However, under the sociological premise of institutionalism, culturalism, or constructivism it would be misleading to prioritize the formulation of ‘general laws’ over the specification of ‘initial conditions’, as the deductive-nomological model suggests, and put behavioural economists in charge of the former and economic sociologists and socio-economists of the latter. Instead, it would also have to be explored to what extent the general laws of behaviour sought or found in experimental studies are actually an artefact of specific economic, political and cultural conditions. The ‘ultimate’ subject matter is then not our universal human nature but our contemporary society. The concern is thus that behavioural economics attributes its findings to the cognitive formatting of mankind, as it has existed for many thousand years, instead of focusing on how economy and society have evolved in the last few hundred years, or even decades, and how they shape economic action in ever different and distinctively modern ways.

6. The hidden meaning of subjecting behavioural economic man to governance by nudges

Behavioural economics and socio-economics converge in one important aspect: they demand a more realistic model of man than neoclassical economics has on offer. However, many social scientists would agree that there is not one right model of man, or one best theory of action. In *Economy and Society*,¹⁸⁵ Weber introduced four ideal types of social action, namely, instrumentally rational, value rational, affectual, and traditional action. Similarly, Schimank presents four models of man: homo sociologicus, homo economicus, emotional man, and ‘identity maintainer’.¹⁸⁶ In comparing and combining different theories of action, emphasis is put on the relation between homo sociologicus and homo economicus. Zafirovski contrasts the purported ‘assumption’ of neoclassical economics and rational choice theory ‘that economic or rational variables are always primary in relation to sociological or non-

¹⁸³ Ibid., at 83-91.

¹⁸⁴ Ibid., at 97; my translation.

¹⁸⁵ Max Weber, *Economy and Society: An Outline of Interpretive Sociology* (first published 1922, University of California Press 1978), at 24-25.

¹⁸⁶ Uwe Schimank, *Handeln und Strukturen: Einführung in die akteurtheoretische Soziologie* (2nd edn, Juventa Verlag 2002).

rational ones' with the 'opposite assumption' of socio-economics regarding the 'empirical primacy of nonrational behavior relative to rational one'.¹⁸⁷ Schimank argues that it is analytically easiest to start from the assumption of norm conformity and always to check first whether certain patterns of behaviour can be explained by existing social norms and routines.¹⁸⁸ However, he also emphasizes that self-interested rational action has become increasingly 'normal' in modern society. In Weber's terms, it has gained 'cultural significance'.¹⁸⁹ Hence, 'theoretical primacy' is given to homo economicus.¹⁹⁰ This means no less than that, sociologically speaking, the validity of utilitarian explanations of action is also an artefact of the process of 'rationalization' in modern societies.¹⁹¹ As such, it bears witness to the performativity of economic models of man in today's 'market society'.¹⁹² By analogy, this raises the question of the cultural significance of the 'new' model of boundedly rational man, its societal preconditions and practical consequences. What is at stake can be highlighted by contrasting and connecting three models of economic man, or homo socio-economicus for that matter: homo economicus rationalis, homo economicus behavioralis and homo economicus culturalis.¹⁹³

Homo economicus rationalis refers to the (neo)classical model of economic man, which has been given different interpretations over time.¹⁹⁴ In the present context, the question is less whether this is a good scientific model that allows to generate accurate explanations and predictions but whether this is a good policy template that helps to promote individual and collective welfare. Indeed, one can assume that much of the present debate is not about science but about politics, or about where science turns into politics by way of its normative and performative effects. The argument is then not that the maximization or consistency approach are inadequate or inferior scientific models, but that they do insufficient service to society, say, by informing policies that privilege more rational over less rational consumers. In this regard, the 'fiction' of rational economic man would be first and foremost under attack for its conservative policy implications. Against this backdrop, it is little surprising that the new behavioural approaches evoke particular interest in the field of consumer law, which can be described as 'intrinsically paternalistic in that it seeks to protect consumers from making

¹⁸⁷ Zafirovski, 'Socio-Economics and Rational Choice Theory' (n. 165 above), at 189.

¹⁸⁸ Schimank, *Handeln und Strukturen* (n. 186 above), ch. 6.

¹⁸⁹ Weber, 'Objectivity in Social Science' (n. 35 above).

¹⁹⁰ Schimank, *Handeln und Strukturen* (n. 186 above), at 158.

¹⁹¹ Weber, *Economy and Society* (n. 185 above), at 69-71.

¹⁹² Karl Polanyi, *The Great Transformation* (first published 1944, Beacon Press 1957).

¹⁹³ Frerichs, 'False Promises?' (n. 174 above), at 295-303.

¹⁹⁴ Morgan, 'Character of "Rational Economic Man"' (n. 47 above); Giocoli, 'Modeling Rational Agents' (n. 48 above).

decisions deemed bad for them and offers remedy when they do'.¹⁹⁵ In more classical terms, consumers are perceived to be the weaker party of business-to-consumer contracts, which needs special protection. Whereas the prototype of modern (paternalist) consumer law thus seems to be the naïve consumer, neoclassical (law and) economics takes rational consumers as a starting point, who just have to be provided with sufficient information.¹⁹⁶

Behavioural economics counters the theoretical primacy of homo economicus rationalis with the empirical priority of homo economicus behavioralis. The axiomatic model of neoclassical economics is replaced with a more realistic one that has different policy implications and, most prominently, justifies an agenda of proactive 'nudging'.¹⁹⁷ Whether this results in more or less regulation is subject to debate,¹⁹⁸ and also depends on the context, which is marked by the (ideological) alternative of market-based libertarianism and state-based paternalism. In a context in which libertarianism has strong roots, nudges promise more social protection without sacrificing the freedom of choice of rational consumers. This is a plausible normative starting point in the United States. In contrast, in a context in which paternalism has a stronger tradition, as it is the case in many European countries, the cultural default is a more protective legal framework. However, relatively rigid regimes of consumer protection also have their shortcomings. Against this backdrop, a policy of nudging becomes attractive since it seems to allow the continuation of paternalism by other, less burdensome means. An additional factor shaping the European context is the European Union, which worked towards more market-conform consumer policies, mostly drawing on the neoclassical, or neoinstitutional, information paradigm. This 'apparent anti-model of behavioural regulation'¹⁹⁹ is now at stake again. In the light of the new findings of behavioural economics and social psychology,²⁰⁰ some European legal scholars thus explicitly argue for more 'intrusive' consumer policies.²⁰¹ However, the idea of governance by nudges, which came to Europe from the United States, is charged with different cultural premises:²⁰² a strong 'normative commitment to freedom of choice'²⁰³ and, relatedly, to regulatory strategies of

¹⁹⁵ Anne-Lise Sibony and Geneviève Helleringer, 'EU Consumer Protection and Behavioural Sciences: Revolution or Reform?' in Alberto Alemanno and Anne-Lise Sibony (eds), *Nudge and the Law: A European Perspective* (Hart Publishing 2015) 209-233, at 210-211.

¹⁹⁶ Cf. *Ibid.*, 217.

¹⁹⁷ Thaler and Sunstein, *Nudge* (n. 2 above).

¹⁹⁸ Sibony and Alemanno, 'Emergence of Behavioural Policy-Making' (n. 8 above), at 7.

¹⁹⁹ Sibony and Helleringer, 'EU Consumer Protection and Behavioural Sciences' (n. 195 above), at 211 and 213.

²⁰⁰ Hoepfner, 'Unintended Consequence of Doorstep Consumer Protection' (n. 78 above), at 258.

²⁰¹ Fabrizio Esposito, 'A Dismal Reality: Behavioural Analysis and Consumer Policy' (2017) *Journal of Consumer Policy* 193-216, at 194-196.

²⁰² Sibony and Alemanno, 'Emergence of Behavioural Policy-Making' (n. 8 above), at 5.

²⁰³ Esposito, 'Dismal Reality' (n. 201 above), at 210.

‘debiasing’ individual decision-making, which suggests that it is possible to get down to pure preferences that are free from any cognitive or social distortions. The failure to subject this pre-analytical commitment to empirical evidence, and confront it with behavioural accounts of the endogeneity, or social contingency, of individual preferences, has been referred to as the ‘artificial truncation problem’.²⁰⁴

The libertarian pedigree of behavioural economics shows not least in the latter’s insistence on the rationality norm. While it is conceded that the normative ideal of rational decision-making may yield suboptimal outcomes when applied to ‘real’ human beings, a suitable remedy is found in manipulations of the choice architecture, or the technique of nudging. In other words, rational action can be induced by institutional means. On the abstract level, the idea that economic agents may act rationally in certain institutional environments without being rational as concrete persons, is nothing new. Indeed, it forms part of (macro-)economic explanation for the power of ‘as if’ assumptions in the rational choice approach. In other words, rational decision-making is not a property of individuals; it is a product of interaction, or the effect of institutions, in a given social context that shapes, or channels, individual behaviour towards rational action. The predictive power of ‘as if’ assumptions would then, in fact, rest on the disciplining function of markets, networks, and hierarchies, and not on the psychological qualities of individuals. Ideally, ‘these institutions press you to approximate your behavior to that of an economic agent’.²⁰⁵ In short, economic rationality is ‘socially constituted’.²⁰⁶

In economic sociology, the social constitution of economic rationality has been captured in terms of ‘*agencement*’, a neologism which seeks to describe the ‘socio-technical arrangements’ that create and condition agency.²⁰⁷ The notion of *agencement* includes ‘human beings (bodies) as well as material, technical and textual devices’²⁰⁸ and thus bridges the conceptual dichotomy between individuals and institutions. Institutions are understood as ‘socio-cognitive prostheses that enable the (economic) formatting of individual behaviours’,²⁰⁹ such as in bringing about rational economic action. Even though economic agency may be

²⁰⁴ Ibid., with reference to Ryan Bubba and Richard H. Pildes, ‘How Behavioral Economics Trims Its Sails and Why’ (2014) *Harvard Law Review* 1593-1678.

²⁰⁵ Ross, ‘Economic Agent’ (n. 52 above), at 730.

²⁰⁶ Ibid.

²⁰⁷ Koray Çalışkan and Michel Callon, ‘Economization, Part 2: A Research Programme for the Study of Markets’ (2010) *Economy and Society* 1-32, at 9.

²⁰⁸ Ibid.

²⁰⁹ Koray Çalışkan and Michel Callon, ‘Economization, Part 1: Shifting Attention From the Economy Towards Processes of Economization’ (2009) *Economy and Society* 369-398, at 380.

attributed to individuals, it is constituted as much by extra-individual forces that increase or restrict their capacity of ‘economic valuation’.²¹⁰ Individuals are limited in their cognitive capacities, but they can be enabled to act in an economically rational way by their institutional environment. What is new in behavioural economics is the concrete emphasis on a subliminal choice architecture that reckons with individual cognitive biases. In this context, the notion of socio-cognitive prostheses seems particularly apt.

Whereas rational economic man is modelled on voluntary, reasoned or consistent economic action, behavioural economic man brings irrational or unreflected patterns of behaviour to the fore. The purpose of contrasting homo economicus rationalis and homo economicus behavioralis with a third model of economic man – homo economicus culturalis – is twofold. In a substantivist or ontological perspective, it captures those aspects of economic man, which are neglected in the other two models or only represented in a reductionist manner. In a constructivist or epistemological perspective, it emphasizes the cultural contingency of any (economic) model of man and points to the respective limitations of the other two models, whose axiomatic or universalist claims are theoretically meaningful, empirically substantiated, and culturally significant only in the here and now. In substantive terms, cultural economic man can be understood as a version of Zafirovski’s ‘homo complexicus’, who embodies rational and nonrational features of modern economic man.²¹¹ Moreover, this ideal type lays emphasis on the social embeddedness of economic action, which has to be approached on micro-, meso- and macro-analytical levels.²¹² In epistemological terms, or on the meta-level of social embeddedness, this includes the study of models of man as social and scientific constructions which shape reality by way of its ‘rationalization’. The model of cultural economic man thus has a critical potential with regard to the premises and effects of science, which the other two models are missing. Hence, besides competing with rational and behavioural economic man for the best empirical description of economic realities, the reflexivity of cultural economic man helps to put the methodological debate between rational and behavioural economic man into perspective and link it with contemporary economic and political developments. At any rate, the recent rise of behavioural economic man appears to be ‘culturally significant’.

²¹⁰ Ibid., at 384.

²¹¹ Zafirovski, ‘Socio-Economics and Rational Choice Theory’ (n. 165 above), at 173.

²¹² Sabine Frerichs, ‘The Legal Constitution of Market Society: Probing the Economic Sociology of Law’ (2009) Economic Sociology – European Electronic Newsletter 10(3) 20-25 <econsoc.mpifg.de/archive/econ_soc_10-3.pdf> accessed 5 August 2017.

The normative implications of opting either for homo economicus rationalis or homo economicus behavioralis as a subject of governance are different. The rationality assumption is reflected in policies which emphasize individual agency, or an ‘internal locus of control’. Rationality is being ‘personified’. Policies that reckon with bounded rationality suggest an ‘external locus of control’ instead. Irrationality is being ‘reified’. A similar argument is made by Harding:²¹³ ‘By describing human behavior as irrational, and presupposing that individual decision-making is permanently deficient, individuals lose agency over their rationality.’ Whereas the classical model emphasizes ‘will power, self-interest, and rationality’, the behavioural model ultimately ‘degrade[s] humans to slaves of their deficient cognitions’.²¹⁴ Sociologically speaking, freedom is a social practice of attributing and taking responsibility.²¹⁵ It cannot just be presumed by politics, nor should it be undermined. Cserne contrasts, to the same effect, two conceptions of law: law as a ‘normative framework’ which assumes responsive persons who are ‘given reasons to act’, and law as a ‘governance mechanism’, or a means of ‘social engineering’, which basically works through manipulation.²¹⁶

While behavioural economics thus claims to be more ‘positive’ than neoclassical economics it is not necessarily less normative in defining behavioural norms that also guide economic policies. As a case in point, ‘libertarian paternalism’ confirms the institutional and regulatory ideal of rational choice as much as the individualized and normalized ‘reality’ of cognitive biases. From a socio-economic or socio-legal perspective, libertarian paternalism can be seen as a new mode of governance,²¹⁷ which consists in a strategy ‘to govern and manipulate the design of institutions and mechanisms in order to shape choice and preferences’:²¹⁸ in short, ‘governance by nudges’. In Thaler and Sunstein’s words, the aim is to ‘steer people’s choices

²¹³ Lauren M. Harding, ‘Banal Behaviour: A Study of Non-Choice’ (2013) SPICE (Student Perspectives on Institutions, Choices, and Ethics) – Philosophy, Politics, and Economics Undergraduate Journal 47-128 <www.sas.upenn.edu/ppe/Students/documents/Spice2013.pdf> accessed 5 August 2017, at 59.

²¹⁴ *Ibid.*, at 56 and 59.

²¹⁵ Jürgen Habermas, ‘The Language Game of Responsible Agency and the Problem of Free Will: How Can Epistemic Dualism Be Reconciled With Ontological Monism?’ (2007) *Philosophical Explorations* 13-50.

²¹⁶ Péter Cserne, ‘Making Sense of Nudge-Scepticism: Three Challenges to EU Law’s Learning from Behavioural Sciences’ in Alberto Alemanno and Anne-Lise Sibony (eds), *Nudge and the Law: A European Perspective* (Hart Publishing 2015) 279-299, 292-295.

²¹⁷ Sabine Frerichs, ‘Taking Governance to Court: Politics, Economics, and a New Legal Realism’ in Eva Hartmann and Poul Kjaer (eds), *The Evolution of Intermediary Institutions in Europe: From Corporatism to Governance* (Palgrave Macmillan 2015) 157-173.

²¹⁸ David Levi-Faur, ‘From “Big Government” to “Big Governance”’ in David Levi-Faur (ed), *The Oxford Handbook of Governance* (Oxford University Press 2012) 3-18, at 8.

in directions that will improve their lives'.²¹⁹ The concept of nudges rests on a commitment to the principles of rationality and efficiency which were already connected with the neoclassical model: albeit not as axiomatic assumptions this time, but as intended outcomes of the design of 'choice architecture'. In other words, the aim of libertarian paternalism is 'the fabrication of the conditions of rationality and efficiency' where they are missing in reality.²²⁰ In this sense, the rationale of governance by nudges is to amend the neoclassical model not only in theory but also in practice.

New modes of governance typically encourage the collaboration of public and private actors in 'ordering' society, that is, they draw on 'a third-way vision between unregulated markets and top-down government controls'.²²¹ Similarly, libertarian paternalism seeks to strike a balance between state-based paternalism and market-based libertarianism. Against this backdrop, nudges are but an addition to the 'policymaking toolbox' of new governance.²²² From a sociological point of view, policy instruments are not neutral but may exert normative and performative effects by themselves.²²³ This concerns not least the question of how the policy problem is framed and how it is, therefore, supposed to be solved, for example, as a problem of state failure, market failure, or human failure. From this perspective, '[public policy] instrumentation is really a political issue'.²²⁴ The concern that nudges are more about manipulation than about empowerment²²⁵ has to do with the very politics of instrumentation. In the words of Soss et al.,²²⁶ libertarian paternalism 'reframes collective policy questions as problems of individual choice and uses the cognitive biases revealed by behavioral economics to justify expert manipulations of "choice architecture"'.²²⁷

Hence, nudges carry the implicit or explicit policy message that the problem is in cognitive biases which can be cured, or compensated, by institutional prostheses. One could argue that the focus is thus as much on shaping individual behaviour as on changing social institutions. However, at a closer look, governance by nudges consists in modifying 'minor' institutions in

²¹⁹ Thaler and Sunstein, *Nudge* (n. 2 above), at 5.

²²⁰ Santos, 'Behavioural and Experimental Economics' (n. 11 above), at 707.

²²¹ Orly Lobel, 'New Governance as Regulatory Governance' in David Levi-Faur (ed), *The Oxford Handbook of Governance* (Oxford University Press 2012) 65-82, at 65.

²²² On Amir and Orly Lobel, 'Stumble, Predict, Nudge: How Behavioural Economics Informs Law and Policy' (2008) *Columbia Law Review* 2098-2138, at 2117.

²²³ Patrick Le Galès, 'Policy Instruments and Governance' in Mark Bevir (ed), *The Sage Handbook of Governance* (Sage 2011) 142-159, at 150-151.

²²⁴ *Ibid.*, at 152.

²²⁵ Hacker, this volume.

²²⁶ Joe Soss, Richard C. Fording and Sanford F. Schram, *Disciplining the Poor: Neoliberal Paternalism and the Persistent Power of Race* (University of Chicago Press 2011), at 51.

order to safeguard ‘major’ ones. By adjusting certain institutional parameters (such as the default option in private pension plans), individual behaviour can be geared towards the challenges of a complex institutional environment (such as the three-tiered pension system), which is taken as given, or considered without alternative. As Santos puts it, ‘[t]he minimalist solutions of choice architecture contain an implicit acceptance of the prevalent institutional arrangements’.²²⁷ Put differently, the market environment is taken as positively and normatively given, whereas individual economic actors require socio-cognitive prostheses to act in their own best interest. This is why it is important to situate governance by nudges in the context of the transformation of welfare capitalism,²²⁸ which includes the liberalization and privatization of former state monopolies. Simply speaking, this means ‘less state’ and ‘more market’ in the provision of services of general interest and consumer welfare writ large. Against this backdrop, nudges are but a new way to protect boundedly rational consumers (turned into ‘market citizens’) in the flurry of private contracts and market relations shaping their lives from the cradle to the grave. An assessment of whether libertarian paternalism means more or less social protection with regard to the status quo ante – ‘the way things were before’ – thus requires not only comparing single policies with and without nudging, but to consider welfare systems as a whole before and after liberalization. The balance might look quite different depending on the starting point, which may (or may not) be the ‘European social model’. As indicated above, this has already been redefined by European Union law, which has now become the target of behavioural law and economics and related studies ‘at the intersection of law and psychology’.²²⁹

Conclusion

Behavioural economics is an interdisciplinary research field, but it is selective in what behavioural disciplines it draws upon and which research paradigms it buys into. The aim of this chapter has been to demonstrate this selectivity by focusing on the question of what is the ‘social’ in behavioural economics, which allows contrasting it with socio-economics, its more sociologically minded cousin. While behavioural economics and socio-economics have

²²⁷ Santos, ‘Behavioural and Experimental Economics’ (n. 11 above), at 715.

²²⁸ Sabine Frerichs, ‘From Social Rights to Economic Incentives? The Moral (Re)construction of Welfare Capitalism’ in Toomas Kotkas and Kenneth Veitch (eds), *Social Rights in the Welfare State: Origins and Transformations* (Routledge 2017) 137-156.

²²⁹ Sibony and Alemanno, ‘Emergence of Behavioural Policy-Making’ (n. 8 above), at 9.

common ground in their opposition to neoclassical economics, they developed in different directions, and they notably differ in how they deal with social complexity. Focusing on the ‘cognitive’ component of behavioural economics, which is associated with the much-publicized idea of nudging, the methodological differences are particularly clear. A conception of the ‘social’, which reckons with the cognitive failures of individual human beings, and does not reflect on the social background of their ‘deficiencies’, nor the political context of nudging, can rightfully be found to be ‘very thin’.²³⁰ Other strands of scholarship in behavioural economics may draw on a ‘thicker’ understanding of the social, but they still stick to the rigidities of the rational choice model. In contrast, a distinctly sociological approach would also be able to put the rise of behavioural economics into perspective: by laying emphasis on the embeddedness of economic action in history and culture, the interplay of power and knowledge in socio-economic regimes, and the reflexivity and performativity of science in society. Lacking this critical potential, the ‘choice architectures’ of libertarian paternalism ultimately tell us more about ‘[behavioural] economists’ conceptions of economics and of the social world’²³¹ than about the world as it really is: in all its social contingencies.

²³⁰ Leggett, ‘Politics of Behaviour Change’ (n. 1 above), at 11.

²³¹ Santos, ‘Behavioural and Experimental Economics’ (n. 11 above), at 706.