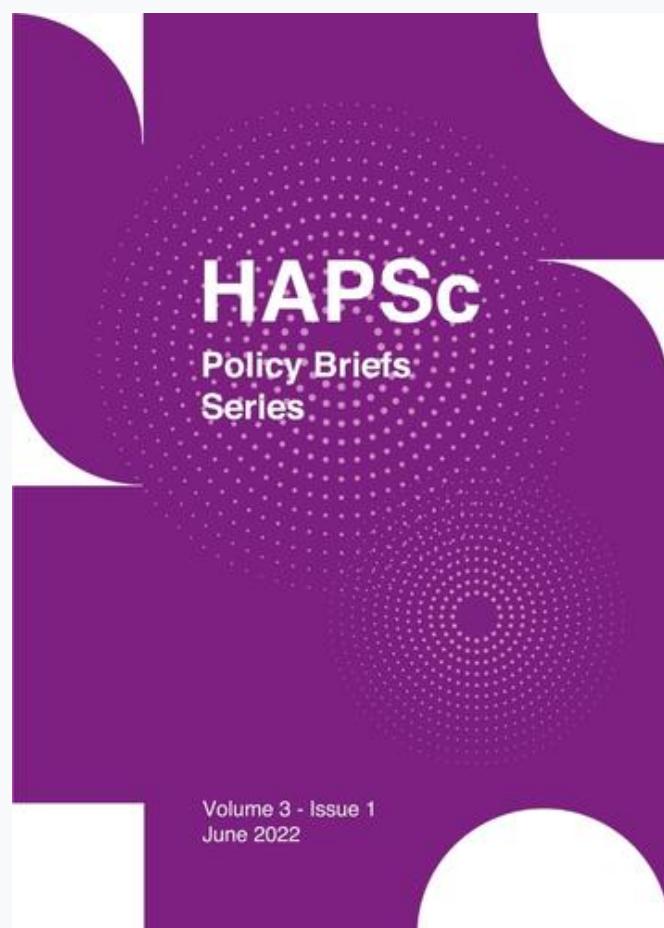


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Nudging As a Public Policy Tool: Exploring the Relationship Between Nudge and the Ability of Citizens for Rational Thought and Choice¹

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Abstract

This paper presents a theoretical analysis of the use of nudge as a tool of governments in influencing people's behaviour. It captures the emergence of nudge as a policy making tool and its meaning within the context of policy interventions. Then, the different conditions under which nudge effectively leads to citizens' loss of their ability for choice and thought are examined, which are (i) referring to the choice of architects promoting their own interests, (ii) unconscious nudging, (iii) overuse of nudging and (iv) the issue of who gets nudged and its associated implications. To conclude, the summative assessment of nudge's role in negatively influencing citizens' ability for choice and rational thought while also providing comments for future analysis is also discussed. Overall, this paper critically examines the use of nudge as a policy tool for governments, adding to the existing public management and policy literature.

Keywords: Public management, public policy, governance, nudge, behavioral economics.

Introduction

There has been an increase in the level of attention gained towards nudge as a tool of governments in influencing people's behaviour and this is evident both in the literature and practice. In particular, nudge became popular by Thaler and Sunstein with their book of *Nudge: Improving Decisions about Health, Wealth and Happiness* (Thaler & Sunstein, 2009). This is also demonstrated by the fact that soon after in 2010 the UK government established a Behavioural Insights Team (BIT) which developed interventions and publications showing how behavioural insights could be applied to a range of areas with examples from public health or energy use (Leggett, 2014). Following from that, other special BITs were formed inside many governments including Denmark, France, Germany, Singapore and the Netherlands (Feitsma, 2019). Inspired by these BITs, the Nudge Unit Greece (NUG) was established in 2017. Consequently, nudge is considered a significant tool that governments employ in order to help citizens make better decisions with the aim of improving the wellbeing of the population. It is important to note the existence of various definitions of nudge as each of them encompass something slightly different. This paper understands nudge as 'any aspect

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of the choice architecture that alters people behaviour in a predictable way without forbidding any options or significantly changing their economic incentives' (Thaler & Sunstein, 2009:6).

Despite the popularity of nudge, there has been a shift in the literature regarding nudge towards the development of a more critical literature with focus on areas inclusive of manipulation, restriction of autonomy and other ethical considerations against nudge (Whitehead et al., 2011; Hansen & Jespersen, 2013; Leggett, 2014; Schubert, 2017). This analysis places the attention to one particular aspect of the debate that is the relationship of nudge and the ability for rational thought and choice. Specifically, the argument is that under certain conditions nudge can lead to the loss of ability of citizens to rational thought and choice, consequently resulting to a loss of agency. Section II analyses the concept of nudge and its meaning within the context of policy interventions. This is essential as it provides the underlying background to introduce nudge as a distinctive tool for the governments. Section III explores the different conditions under which nudge effectively leads to citizens' loss of their ability for choice and thought. This is performed by critically examining four certain conditions such as choice architects promoting their own interests, unconscious nudging, overuse of nudging and the issue of who gets nudged and its associated implications. Lastly, Section IV concludes the paper with a summative assessment of nudge's role in negatively influencing citizens' ability for choice and rational thought while also providing comments for future analysis.

The Emergence of Nudge within the Toolbox of Governments

Governments want to change the behaviour of their citizens to tackle a range of acute social problems such as obesity, climate change, crime and binge drinking (John et al., 2009). However, it is now apparent that traditional tools of government inclusive of legislation, regulation and information provision are largely insufficient in achieving this. In particular, Snyder et al. (2004) found an average effect size of 9% of traditional approaches, highlighting the limitation of traditional tools. According to Thaler and Sunstein (2009), the problem for traditional approaches to behavioural change is that they assume humans are generally capable of acting rationally, meaning they act optimally according to their reflected preferences as long as they are given true information and the right incentives to guide them. However, in a behavioural world this is not the case as people often make decisions based on limited information and attention as well as biases, leading to poor choices and decisions (Thaler & Sunstein, 2009). Consequently, the idea of nudge is to link insights from psychology to public policy in order to allow governments effectively persuade people to change their behaviour. The rationale behind this, is that all human beings have certain values that makes them respond to certain things. As a result, the governments need to know what these values are and work with the reality of

peoples' rationality rather than the assumed one. Thus, the value of nudge comes from its design which is devised to capture the fact that human decision making and behaviour are influenced by cognitive biases and boundaries in ways that may be utilised for promoting particular behaviours and help solve social problems that are pervasive (Hansen, 2016). It is within this context together with the fact that nudge is a relatively cost efficient option that makes nudge attractive to governments in the era of austerity.

Nudge: Key Conditions under which Citizens Lose their Ability for Choice and Rational Thought

Choice architects promoting their own interests

Perhaps an important starting point in the discussion, is the argument that some kind of nudging always takes place within a society and this cannot be avoided. In particular, Sunstein (2014:130) emphasizes that 'every hour of everyday choices are implicitly made for people' as they are influenced by their environment one way or another. This means that peoples' choices whether they like it or not, are influenced or 'nudged' in a way in their everyday lives and this is inevitable. Therefore, the mistake that many critics of nudge make is to assume that before the implementation of public nudges, people act upon preferences that are somehow pure and nudging spoils them by distorting processes of preferences formation (Schubert, 2015). Indeed, it is apparent that the private sector employs nudging techniques constantly to influence peoples' choices for profit. Since, the choice architecture is not neutral and private sector exploits nudge, it make sense for the governments to use nudge to improve the lives of its citizens rather than leaving them to profit or chance. Some even argue that the governments as choice architects have a moral obligation whenever possible to be doing what they can to construct the choice environment in a way that is more likely to improve health and well-being than to worsen it (Vlaev et al., 2016). This seems to enhance citizens' ability for choice and agency as when nudges are employed freedom of choice is not compromised and agency always takes place in the context of some kind of choice architecture (Sunstein, 2015).

However, scholars make a distinction between accidental intervention and intentional intervention which aims to affect behaviour change (Hausman & Welch, 2010; Hansen & Jespersen, 2013). They argue that when intervention is intentional by governments, this has certain implications for the governments and policymakers that the concept of nudge does not sufficiently address (Hansen & Jespersen, 2013). Indeed, the legitimacy of governments to nudge comes from the paternalistic aspect of nudge which emphasizes that it is acceptable to nudge peoples' behaviour as long as it benefits them as judged by the choice architectures themselves (Sunstein, 2014). This in turn, assumes that

the state knows best the interests of the people, nevertheless this may not always be the case. This is because the state could misplace the interests of its citizens or even worse act against those interests in favour of the governments' own interests. Thus, nudged can be turned to a tool of manipulation to shape us, using the hidden face of power. In this sense, the use of nudge becomes problematic as there is the danger instead of government realising peoples' aspirations, government change them to fit its own aspirations and values. In such conditions, the ability of citizens to choose and think for themselves is seriously impaired.

Consequently, this raises questions such as what is limiting and stopping the government in promoting its own values rather than the interests of its citizens (Hansen & Jespersen, 2013). Supporters of nudge argue that in the possibility that some kind of elite imposes its own values, the answer is still nudge as opposed to other tools as default rules rather than mandates give citizens the choice to opt out (Sunstein, 2015). However, this may not always hold in practice as citizens may not have that choice in reality. Since, the legitimacy of governments rests on the fact that they represent and serve the people, it is necessary for choice architects to engage better with citizens to explore what is acceptable and what is not (Vlaev et al., 2016). Similarly, before policymakers consider how they can apply new insights, they need to determine whether they should be attempting to change behaviour in the first place, thus it is vital that publics' views and permission are taken into account when introducing interventions (Vlaev et al., 2016).

Unconscious Nudging: limiting citizens' ability for thought and choice?

The libertarian aspect of nudge theory refers to the fact that people are free to do what they like and to opt out of any undesirable arrangement if they want to (Hansen, 2016). Thus, in principle people have a choice to choose otherwise if they want to and as a result their freedom and autonomy to make choices is preserved. Indeed, Sunstein (2015) emphasises that if the cost of opt-out is low and if publicity and transparency is guaranteed then there is far less threat to the autonomy and ability of citizens to make choices. Following from this argument, it make sense to support nudge as a government tool as it does not restrict choice, in the contrary it seems to open new possibilities of choice unlike traditional tools such as banning or regulation. This seems compatible with the types of nudges that work by opening up decisions to the benign influence of our reflective system, such as forcing a conscious choice on an issue or requiring a cooling off period to reflect on a decision, leading to effectively enhance an individual's control over their behaviour (Horton, 2009). Nevertheless, this argument seems to work less when one considers the type of nudges that appeal to the unconscious system of decision making. This is because if people are unaware that they are in a situation that they are nudged, then it becomes very difficult to opt out of it in practice (Oliver, 2013).

Similarly, Hansen and Jespersen (2013) argue that while in principle citizens may be free to choose otherwise, one can hardly appeal to this in a practical context because the nudge approach to behavioural change is applied exactly in contexts where we tend to fall short of such principles. Instead, one important way to protect against such abuse and to respect autonomy that is the control an individual has over his choices, is to make sure that the governments actually inform people of efforts to shape their choices and not merely that it be able and willing to do so (Hausman & Welch, 2010).

Overuse of Nudging: decreased capacity for active citizenship

As mentioned above, in principle at least nudge gives citizens have the ability to choose otherwise if they want to. Such conception of freedom is regarded as negative because it encompasses a very narrow definition of what freedom is (Hausman & Welch, 2010). As negative freedom is merely concerned with just being able to make a choice, however that way it ignores the qualitative nature of the choice being made (Goodwin, 2012). What is missing here, is for citizens to be able to enhance their capacities and not just have the choice to opt out of an undesirable arrangement. Indeed, autonomy is important in the sense that people can develop their personality through taking responsibility for their lives and deciding how to organise their lives as they see fit (Furedi, 2011). This is something that nudge does not allow to happen as it is merely concerned with providing an alternative choice. This in turn, has important implications for citizens in terms of being active and reflexive agents. Firstly, nudge and other behavioural interventions aim to encourage people make decisions for their best interests, which indirectly prevent people making the wrong choices. However, if citizens are freed from the burden of distinguishing between right and wrong they cease to be choice makers, thus their ability for thought and choice is eliminated (Furedi, 2011). This is because citizens no longer have the capacity to decide for themselves what the right choice is. Consequently, Furedi (2011) comes to the conclusion that it is better to make wrong choices than to follow the right advice as this entails no thinking from the part of the citizens.

Equally significant is the argument that overreliance on nudge can decrease the capacity of citizens in making active choices in the long run. This is because, nudges work by systematically relieving agents from the need to muster mental and cognitive efforts (Schubert, 2017). For example, green defaults allow to act in a pro-environmental way without even thinking about it, framing the cafeteria experience allows you to go with the vegetables with a minimum level of self-control and peer comparison allows you to save willpower when deciding upon your energy use (Schubert, 2017). This is up to a certain extent unavoidable and even desirable. As Quigley (2013) argues any conception of ideal autonomy conceived of as set apart from the reality of contextual influences is a

philosophical fiction. Once this is realized, there is a potential to see that not all non-autonomous decision should be rejected as unwanted. In fact, a certain level of non-autonomous functioning helps us go about our daily lives (Quigley, 2013). Although to a certain extent this may be unavoidable and even desirable, too much nudging result in dangerous practices as it becomes convenient and it is no longer questioned as it has become the norm. It is within this context, that Schubert (2015; 2017) emphasizes the potential for a vicious circle, as the more individuals lose their identity as recognizable agents, the more they need to rely on the support nudges so seductively provide. Thus, individuals will end up expecting other members of society to take responsibility for nudging them away from anything that is bad for them. Consequently, this leads to morally lazy, fragmented selves that are quick to have others take responsibility for their welfare (Bovens, 2009; Selingr & Whyte, 2011). Therefore, these individuals will not have an interest in making conscious choices and in having the ability to decide for themselves. As a result, there is the question of what citizens does nudge produce in the long run and if these types of citizens are compatible with what the governments want.

Who is nudged?: does it make a difference?

Following the example of health, one could convincingly argue that someone who actively and reflectively opts for the default option and chooses for instance a calorie-reduced, low-fat canteen meal, has not been nudged stealthily and thus, could be assimilated to the ideal of an actively engaged citizen (Ewert, 2018). In such cases, the choice architecture merely played an informational role that facilitated citizens' active choice. On the other hand, it is the person who mindlessly follows behavioural cues and unreflectively goes along the default option who is the primary target of nudge (Ewert, 2018). Consequently, what is important here is that behavioural influences does not target and nudge all citizens in the same way, leading to a fragmented or multi-tier conception of health citizenship (Ewert, 2018). This means that those who are the most vulnerable in a society because they lack the resources or the critical thought will not be able to resist. Then, nudge can become a tool of oppression in the system. In a similar way, choice architecture does not work out similarly for governed actors from different socio-economic backgrounds, meaning that less affluent actors appear to make poorer choices than affluent actors (Kosters & Van der Heijden, 2015). This means in practice that some people may have less ability to choose for themselves due to structural barriers. In this sense, this call into question whether nudging is an inclusive or exclusive tool of government intervention.

Conclusions

In recent years, there has been a shift away from traditional approaches of government intervention towards behavioural tools such as nudge. This idea of nudge gained prominence after the influential book of Thaler and Sunstein on nudge and decision making (Thaler & Sunstein, 2009). The value of nudge lies in the idea that governments can influence peoples' behaviour and nudge them towards better decisions without restricting their choice. Together with the fact that they entail a kind of rationality that is bounded by peoples' biases thus can better influence people. Nevertheless, the use of nudge by government as a tool is not uncontroversial as many critics of nudge point to issues like manipulation, decrease in autonomy or even how effective is (Hansen & Jespersen, 2013; Leggett, 2014; Schubert, 2017). This paper has focused on one aspect of the debate and the issue of citizens' choice and ability for rational thought. The analysis demonstrated that under certain conditions nudge can decrease or even eliminate citizens' choice and showed what can be done to counterbalance this. One such condition is when choice architects tend to promote their own interests and values through nudge as opposed to that of their citizens. The second condition was the unconscious nudging which in practice challenges the idea that citizens can opt out of a nudge intervention easily, leading to citizen's ability for choice to be constrained. Similarly, the overuse of nudging in expense of the rest of traditional tools can have negative effects on active citizens as citizens will no longer want to make their own decisions but rather rely solely on nudge. Lastly, the analysis demonstrated that who gets nudged matters as not all people react to nudge in the same way and this leads to concern about the inclusivity of nudge. It would be interesting to see in the future the new ways in which nudge will be used in practice and what implications this might produce.

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