

A nudge in the right direction?

The ethics of shaping health (choices)
through public policy

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Outline

1. Outline some potential principled ethical concerns
2. Why some of these might not be that worrisome
3. Flag some possible practical ethical issues

Choice Architecture

- Nudge: “aspect of choice architecture that alters people’s behaviour in a predictable way without forbidding any options or significantly changing their economic incentives” (Thaler & Sunstein)
- Works by either harnessing or eliminating our systematic biases, heuristics (rules of thumb), & cognitive errors
- Cabinet Office Behavioural Insights Team (COBIT)
 - Health-related domestic policy on organ donation (prompted choice) & alcohol (responsibility deal)
 - Smoking, salt content of food, & prescription errors (‘Applying behavioural Insights to Health’)

Potential Ethical Concerns I

- Although (strict) nudges do not add or subtract from the options open to us, they do alter the probability that an individual will make one choice as opposed to another
- By constructing & shaping a variety of factors around us, including the physical, environmental, social, and informational
- Some commentators are concerned about the constructing & shaping of our decision-making contexts through new and potential policy initiatives
- Also nudges can affect decision-making and choices without the individual being aware that they have been nudged - in attempting to harness or eliminate our cognitive biases, they often by-pass individuals' rational processes



- Several interrelated worries

Potential Ethical Concerns II

1. Infringes autonomy & liberty
2. True interests better promoted by other means (authenticity worry)
 1. Infantilisation & decrease in individual responsibility
 2. Potentially lacks transparency & undermines individual control
 3. Behavioural techniques used involve deception (and possibly coercion)

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Autonomy & Liberty

- Concerned about how being nudged affects our judgements and decisions as purportedly autonomous persons
- “There is something less than fully autonomous about the patterns of decision-making that Nudge taps into. When we are subject to the mechanisms that are studied in ‘the science of choice’, then we are not fully in control of our actions . . . these are cases of not letting my actions be guided by principles that I can underwrite. And in as much, these actions are non-autonomous.”

- Bovens

- Circumvent rational decision-making and, therefore, seen as detrimental to our autonomy
- Is non-autonomous action this really a worry?

An Illustration: Paradigm Case

- Altering the layout of foods at a salad bar can have an effect on food consumption
- Intake of a particular food (e.g. broccoli or cheese) decreased when placed in a more inaccessible position or when serving tongs rather than spoons were used (Rozin *et al*)
- *If* those in charge change the layout they are influencing the eating habits of their patrons

but

- If they do *not* make any changes they are still exerting an influence
- Regardless, they are nudging their customers to put the more accessible foods on their plates



What does this mean for autonomy?

- 'Influence' does not simply appear *de novo* whenever a new policy is implemented
- Regardless of the implementation of new health-affecting policy, we are already being nudged/influenced (often as a result of market or industry forces)
- Something non-autonomous about all manner of decision-making in our everyday lives (e.g. lots of factors influence my weekly grocery shop: mood, hunger, shop layout, smells, pre-prepared list, special offers, etc.)
- *If* the main concern is *merely* about the lack of autonomous decision-making
- Then it has nothing to do with the involvement of government and policy-makers one way or the other
- If the worry is about who is doing the nudging, then should industry be left unopposed in its use of these techniques, especially given the health effects?

Concerns About True Interests

- Some are concerned that nudges make it less likely that our choices, decisions, and actions will represent our true interests (authenticity worry)
- Non-deliberately constructed environment might make it more likely that we will “make choices that reflect [our] true interests”
- White
- Where the numerous arbitrary forces that act on us somehow combine to nudge us in directions we would have chosen after reflective deliberation then they serve to promote our true interests
- Conversely, insofar as they conspire to push us in other directions, they may well be detrimental to the realisation of these interests
- Open question whether or not choice architecture which is randomly generated (non-constructed) promotes or hinders us in making choices which reflect our interests as autonomous persons

Concerns About Infantilisation

- Mechanism of action of nudges by-passes our rational processes
- Concern that nudges may in the longer term lead to infantilisation and a decrease in individual responsibility (e.g. Bovens, Hausman & Welch, & White)

however

- Individuals only have limited reserves of self-control and willpower (ego depletion & cognitive busyness)
- Range of effects on subsequent decision-making

Ego Depletion & Cognitive Busyness

Ego depletion:

- “deviating from one’s diet, overspending on impulsive purchases, reacting aggressively to provocation, . . . [and] performing poorly in cognitive tasks and logical decision-making”

Cognitive busyness:

- “[p]eople who are *cognitively busy* are . . . more likely to make selfish choices, use sexist language, and make superficial judgments in social situations”

- Kahneman (2012)

Well-judged Nudges?

- When our cognitive capacities have been depleted, or our efforts are being taken up with a multitude of tasks, we are not going to be operating at our optimal decision-making capacity
- If particular classes of decisions and choices were made easier to get right, this would free up our decision-making faculties for other perhaps more 'important' decisions
- Nudge policy need not necessarily lead to a diminishment of individual responsibility or autonomy in decision-making
- Certain well-judged nudges or other applications of behavioural research could actually aid us in becoming more sophisticated & autonomous moral thinkers and actors

Summary

- Some principled ethical objections currently in the literature not as strong as they might seem
- Many health-affecting choices are already in some sense 'constructed', 'shaped', & 'influenced'
- Non-autonomous action is not always a problem (and is often quite helpful)
- Open question whether such measures promote our true interests or not
- *If* nudge-type interventions shown to be genuinely effective - reason to think deliberately designed nudges could promote our interests as autonomous persons more effectively than a random assortment of influences . . .

Practical Ethical Concerns

- Often presented as a solution to ‘evidentially impoverished’ and ‘behaviourally blinkered’ forms of traditional regulation

but

- Limitations with the current evidence base, including gaps in our understanding of human behaviour and the practical implications of this

Empirical Limitations

- Translating controlled experiments into the real-world effective application may not be simple
- Unknown unintended consequences (e.g. calorie labelling)
- Therefore, need to have a solid real-world evidence base → randomised controlled trials (RCTs)

Concluding Thoughts

Even if we have a solid evidence base for nudge-type interventions in health:

1. We need to be mindful of the 'markers' of success
 - policy successes often claimed based on ethically non-optimal goals (e.g. organ donation registrations)
2. There is more at stake than evidence (of effectiveness)
 - answering normative health-related questions (questions of what ought to be done) need more than evidence – values and politics important



Thank you

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