From Biopolitics to Mindpolitics
Nudging in Safety and Security Management

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In *From Biopolitics to Mindpolitics* Marc Schuilenburg and Rik Peeters explore how 'nudging' as a technique to alter people's behaviour works in social fields and how it is embedded in our environment. They ask what nudging means in terms of Foucault's analysis of biopolitics. This essay is part of *Culture of Control* [www.onlineopen.org/culture-of-control], a collaboration with Stroom Den Haag.

Introduction

Michel Foucault's notion of biopolitics has become one of the boom concepts of our time. Foucault (1976) defined biopolitics as a modern form of power starting from the eighteenth century that is exercised at the level of life through control of the population.[1] One of the keys to this power over life is the training of the body, through a systematic standardisation of actions over time, and through the control of space. Despite the fact that the use of the term "biopolitics" in Foucault's work remains largely limited to the period 1976–1978, there is an ongoing interest in the way the appearance of the population on the political stage is linked to the advent of new techniques in which governments tackle their problems with the "usual suspects", such as the high-risk or high-rate offenders and the not-integrated elements of society. Although these studies on our culture of control reveal a great deal about the disciplinary and normalising effects on individuals, a deeper and more critical understanding of biopolitics is necessary.

We claim that Foucault's turn towards a critique of political economy in his lectures on *The Birth of Biopolitics* (2008) is precisely what is missing from contemporary, post-Foucaultian accounts of biopolitics. Key to these lectures is the idea that the neoliberal program seeks to create neither "a disciplinary society" nor a "society of control" (Deleuze, 1995), but instead a society that cultivates and optimises differences by using "new techniques of environmental technology or environmental psychology" (Foucault, 2008: 259). Unfortunately, Foucault does not elaborate on the question of which behavioural techniques are used to manage or govern citizens by "systematically modifying the variables of the environment" (2008: 270–71). As a consequence, it remains unclear (1) which techniques are embedded in our environment to manage individual behaviour in the social realm and (2) what these techniques mean in terms of Foucault's analysis of biopolitics.

The concept of "nudge" provides a useful insight here. Nudging has gained widespread recognition through the work of behavioural economist Richard Thaler and law scholar Cass Sunstein, who see nudging as a technique to alter people's behaviour in a predictable way without forbidding any options or significantly changing their economic incentives. In order to get a better understanding how nudging works, we consider recent examples of nudging in the field of safety and security management. We conclude that nudging should be understood as a new version of biopolitics, albeit with one crucial difference: instead of

working upon the individual body or populations in general, nudging is a form of "mind-politics", which works upon the psychological triggers underlying human behaviour and choice.

"We have been nudged"

Thaler and Sunstein state in their book *Nudge* (2009; Sunstein, 2014) that nudging is about influencing people's behaviour so that they will lead longer and healthier lives ("paternalistic aspect") while, at the same time, people should be free to do what they like ("libertarian aspect"). This "soft paternalism" is backed by the "publicity principle" of John Rawls, which, in its simplest form, bans government from selecting a policy that is not in accordance with principles that one would be willing as a rational being to enact as law for everyone. In order to comprehend the rationalities of the technique of nudging more succinctly, it is possible to reconstruct it in terms of the triangle of "power-knowledge-subject".

First of all, the operationalisation of nudging requires interventions in the choice architecture (the physical, socio-cultural and administrative environment) in which people live out their lives and make decisions. The concept of "script", as elaborated by Madeleine Akrich and Bruno Latour (1992), is helpful in understanding the way the choice architect, who is called upon to be the agent of design-led change of people's behaviour, anticipates how users will interact with their environment. A script is not just the set of directions to be used, it is rather the "built-ins" of "prescriptions" that impose themselves on the user: inviting one choice of action over another. A speed bump, for example, has the script "slow down when you approach me". It translates a driver's intention from "driving fast, because I'm in a hurry" to "driving slowly to save my shock absorbers" (Verbeek, 2006: 58). But, although it encourages drivers to reduce their speed, this type of script is not absolute: it leaves room for other options.

In addition, nudging departs from the idea that a "positive, injunctive norm is more effective than the negative, informational one" (Thaler and Sunstein 2009: 68). Especially for choices that have delayed effects; those that are difficult, infrequent, and offer poor feedback; and those for which the relation between choice and experience is ambiguous, people will need, "good nudges". The question is whether it is possible to decide when people will eat better, invest more wisely, and choose better. Pelle Hansen and Andreas Jespersen (2013) argue that Thaler's and Sunstein's appeal to Rawls's publicity principle is insufficient as a safeguard against non-legit state manipulation of the people's choice. Part of the problem of nudging is that it is extremely difficult for citizens to reconstruct either the intention or the means by which behavioural change is pursued.

Finally, nudging is critical to the *homo economicus* view of human beings in the standard economic framework. The fundamental assumption of classic economic theory that people are able to identify and choose what is best for them, when provided with accurate information about their circumstances, is seen as a false assumption. People fail to choose optimally, either because they immediately overstate in terms of the long-term prospects, develop all kinds of harmful habits or they copy the behaviour of others in their social group, even if this behaviour is detrimental to their health or safety. Against this background, one of the most important aspects of nudging is that it invokes a subject-image that is based on unambiguous emotions, such as "anger, hatred, guilt, shame, pride, liking, regret, joy, grief, envy, malice, indignation, jealousy, contempt, disgust, fear, and, oh yes, love" (Thaler, 2000: 139).

Having outlined the rationalities of the technique of nudging, let us now explore how nudging works in social fields that have a different background or are embedded in different rationalities such as the purely economical. Although there is a growing literature in behavioural economy studies on the advantages of nudging, there still remains the question of how nudging is taken up by policymakers to develop mutual strategies in other

fields, such as in the field of safety and security management. Here we limit our analysis to the Netherlands for practical reasons, but we believe our findings will not fundamentally differ from developments in other Western countries given the broad academic consensus on the current culture of surveillance in crime policy and security management (Garland 2001; Schuilenburg 2015).

Nudging in safety and security management

In modern Western states, safety and security policies have for a long time been executed within the framework of penal law and the police that have to enforce the law. However, as social control in families and communities declined and the opportunities for criminal or otherwise deviant behaviour increased during the final quarter of the twentieth century, governments began to develop alternative means to control the population. The so-called "punitive turn", with its greater intolerance of deviance and deviants and greater support for harsher policies and severer punishments, tells only part of the story. In terms of the impact on social life in the public domain, the rise of preventative policies and social control agendas are at least as influential (Peeters 2013).

What sets these preventative and control policies apart from a more classic punitive repertoire is their emphasis on the safety of the public domain and the management of the people who freely use this public domain. Government's interest here is not the reaction to individual acts of crime, but the permanent concern for social order, including feelings of insecurity among the population. In fact, public safety policies that rely primarily on law enforcement are seen as incomplete and insufficient to protect the public (Farrington and Tonry 1995). As such, the development of security policies is increasingly characterised by instruments that couple the concern for control with the freedom of behaviour – not only because Western governments are bound by constitutional constraints in their capacity to limit individual freedom, but also (and perhaps mainly) because control is most effective when its underlying values are internalised by citizens. These latter nudging techniques are the object of our interest here. The reason for this is that they are a more sophisticated approach to achieving change in people than traditional methods of law enforcement and punishment.

An example of a nudge as seen on highways in the Netherlands, which does not violate the "autonomous" character of people's lives, is the smiley that indicates that drivers are driving too fast: It smiles at cars under the speed limit and frowns at cars over the limit. This type of nudge is similar to the intervention that tried to provoke drivers to reduce their driving speeds by painting a series of white stripes on the roads that are initially evenly spaced but get closer together as drivers reach a dangerous curve. This environmental design gives the sensation that driving speed is increasing (even while the speed is not really changing), which in turn triggers the driver's natural instinct to slow down. The cost of sending such visual signals is close to zero, but the effectiveness is very significant according to nudging's most prominent proponents.

The institutionalising of nudges also takes place in other settings in the Netherlands, such as those involving mass private properties. A good example, which stresses positive instead of negative incentives, is the controlling of Dutch travellers with a low security risk at airports. Once registration has been approved, a chip pass with biometrical data is made, which contains both fingerprints and iris scans. This biometric chip pass allows travellers to subsequently more easily cross borders without being held up for questioning or physical inspections at the airport. This means that citizens voluntarily hand over personal data in exchange for access to the "fast track". In this nudge arrangement, control is transformed from an action induced by an exterior agency to hamper the flow from outside to a self-induced control mechanism to allow the fastest movement possible (Romein and Schuilenburg 2008). Control thus becomes an immanent part of flows. This means that surveillance is "designed into", as Nikolas Rose (2000) called it, the flows of

everyday existence.

The idea of willingly giving up one's privacy or freedom in exchange for a reward also forms the basis of innovative insurance plans. For instance, a Dutch car insurance company has installed a device into a client's car to track his driving style (speeding, accelerating, etc.). Clients with a "safe driving style" are rewarded with a discount on their insurance policy.[2] Another example is an insurance company's policy that gives their clients discounts on measures that prevent fire or theft and services that install preventative devices. The company offers an extensive range of products in its online shop.[3] A final example of nudging in safety and security management comes from the Dutch city of Rotterdam, where a neighbourhood speed limit is enforced by positive financial incentives. Each time a car driver sticks to the speed limit, a small amount of money is transferred to a fund for neighbourhood improvement. A screen along the road indicates a driver's speed as well as the current level of donations. [4]

The most critical comment with respect to these types of nudges is that they seem to overlap with well-known techniques of situational crime prevention against violence and malicious damage. In fact, the aim of situational crime prevention is to establish environmental changes and to reduce the opportunity for unwanted behaviour. However, nudging does not seek to directly enforce desirable behaviour. Instead, a web of incentives and disincentives is spun around people to manage their behaviour. This moulding of conduct is typically dispersed and flows through networks of authorities and professionals rather than being executed from a hierarchical centre. As such, these types of techniques do not oppose or limit the freedom of individuals, as opposed to many examples of situational crime prevention (and disciplinary techniques), but use the freedom of citizens as an instrument of penal power ("power to"). This means that individuals adapt their own behaviour in response to psychological incentives ("fast track", "happy face"), which are an integral part of the design of public space ("choice architecture"). As such, the choice architecture is not an amoral approach, but a deeply normative technique of design that aims at creating a better life and society for everyone.

Governing through nudging

In the above discussion, we hope we have shown that nudging is one of the most prominent new techniques to govern the conduct of citizens in the context of neoliberal societies. According to Thaler and Sunstein, nudging citizens towards responsible behaviour is a fitting addition to the intervention repertoire of neoliberal governments. Key to this reconfiguration of the self is the idea that people are "nudge-able" and that they can be governed from a distance by environmental technology and environmental psychology. Nudging allows individuals to choose freely, but also always implies that certain behavioural options are made more attractive than others.

What is important here is that nudging is not a technique of juridical power – such as criminal law or social rights, which constitute a relationship between state and individual – nor is nudging a technique of discipline, which deprives the individual of his or her freedom to choose and works through his or her body inside institutions such as prisons, factories, asylums and schools. Nudging takes the entire population as its object of intervention, seeks to enable individuals to use their freedom, and promotes positive values of health, self-efficacy and safety. As a consequence, we argue that nudging should be understood as a differentiation of Foucault's analytic of "biopolitics", albeit with one crucial difference. Instead of working upon the individual body or populations in general, the formalisation of conduct and thought works mainly via the architecture of choice. The object of intervention is not primarily the individual body, which needs to be controlled and trained ("disciplinary power"). Instead, it is the mind that needs to be triggered to make responsible choices.

To avoid any misunderstanding, the focus on the mind does not depend on a false Cartesian mind-body dualism by privileging the rational mind over the emotional body. The mind-body dualism is an artificial construct rather than an inherent property of the individual. At the heart of Foucault's analysis of power, he sought to transcend a mind-body dualism by describing the relations between knowledge and power that come to constitute subjects in a specific historical context. Nevertheless, the task of current research in biopolitics is not simply to describe the eighteenth-century disciplinary and regulatory mechanisms but also to reflect on "who we are today".

To think in terms of biopolitics today means to think of its relation to a world where it is increasingly difficult – and undesirable from both an economic and normative perspective – to "pin down" individuals in a specific location or institution. Today's core mechanisms of production and competition are mobility and choice (in sharp contrast to the logic of the assembly line at industrial factories). The technique of nudging follows these transformations in our social ecology by intervening in motion. That is, nudging aims to move individuals in a certain direction or to make certain choices whilst not restraining their physical mobility or freedom of choice. As a result, the future seems to lie in, what we call, a form of "mindpolitics". Mindpolitics is the management of the population by working upon the psychological triggers underlying human behaviour and choice in order to produce healthier and safer lives.

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Footnotes

1. The term first appears in a lecture entitled "The Birth of Social Medicine" that Foucault presented at the University of Rio de Janeiro in October 1974. The concept subsequently returned in *The Will to Knowledge*, the first part of *The History of Sexuality*, and in the lecture series Society Must Be Defended, both of which date from 1976, in which Foucault connects the concept with the conditions under which people live and the way in which their body functions as a bearer of biological processes. Finally, the theme is covered in his lecture series Security, Territory, Population and The Birth of Biopolitics at the Collège de France from 11 January 1978 to 4 April 1979.
2. www.fairzekering.nl.
3. www.interpolispreventiewinkel.nl.
4. www.ad.nl.

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