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Políticas Nudge no contexto do COVID-19: uma ação necessária ou dilema ético?

Abstract

Objective: The aim of this study is a theoretical discussion regarding nudges in Coronavirus SARS-Cov-2 pandemic context, bringing back some reflections about ethics and revising them on the new setting imposed by pandemic.
Methods: We undertook a literature review about nudge and searched through the latest studies about this subject applied to COVID-19 mitigation. In the ethical discussion's section, classical references are used to articulate nudge with the following moral theories: utilitarianism, deontology and virtue ethics.
Results: Our findings indicate that the most discussed behavior during this period is social influence and the trend intervention is nudge messages. Many experiments did not show significant correlations and some drawbacks in policies' application indicate that nudges might be revised in crisis scenarios, like pandemic outbreak. On the ethical discussion, we found three moral theories which can justify some nudges aspects.
Conclusions: This paper showed some flaws and inconsistencies on nudge theory that can be solved by discussing ethical aspects. We suggest that connect these problems with moral theories might be a solution for some deadlocks found on nudge theory.

Keywords: nudge; COVID-19; public policy; ethics.

Resumo

Objetivo: O objetivo deste estudo é fazer uma discussão teórica a respeito de nudges no contexto pandêmico do Coronavirus SARS-Cov-2, retomando algumas reflexões sobre a ética e revisando-as sobre o novo cenário imposto pela pandemia.
Métodos: Fizemos uma revisão da literatura sobre nudges e pesquisamos os últimos estudos sobre este assunto aplicados à mitigação da COVID-19. Na seção de discussão ética, as referências clássicas são utilizadas para articular nudges com as seguintes teorias morais: utilitarismo, deontologia e ética da virtude.
Resultados: Nossas descobertas indicam que o comportamento mais discutido durante este período é a influência social e a tendência em termos de intervenção são mensagens de nudge. Muitas experiências não mostraram correlações significativas e alguns inconvenientes na aplicação de políticas indicam que os nudges podem ser revistos em cenários de crise, como em pandemias. Sobre a discussão ética, encontramos três teorias morais que podem justificar alguns aspectos dos nudges.
Conclusões: Este artigo mostrou algumas falhas e inconsistências na teoria de nudge, as quais podem ser resolvidas através da discussão de aspectos éticos. Sugerimos que conectar estes problemas com as teorias morais pode ser uma solução para alguns impasses encontrados na teoria de nudge.

Palavras-chave: nudge; COVID-19; política pública; ética.

Introduction

Mainstream economics states that rational individuals consider costs and benefits on transactions, are self-interested and maximize utility. This assumption may be useful in contexts free of psychological and social influences on behavior, that said, makes much more sense for Social Science and Public Policy studies to take into consideration flexible and emotional actors whose decision making is influenced by shared mental models, contextual cues and local social networks. In this regard, the knowledge about cognitive processes has been helping policymakers and the emerging new approaches are proving to be low cost since depend on small changes in policies design and implementation (World Bank Group, 2015).

Behavioral Economics is one of the emergent sciences of choice developed over the past four decades which has been improving theory to overcome the biased and flawed human forecast. Such as, Thaler and Sunstein (2009) proposed a model to nudge people in directions that could make their lives better, initiating a new movement called libertarian paternalism. These self-consciously attempts to influence choice are paternalistic, but the authors strove to idealize policies liberty-preserving by permitting choosers to be the judges. In other words, a nudge policy is not a mandate and the interventions must be easy and cheap to sidestep.

This soft kind of paternalism has been proving useful for policies aiming certain selection decisions, as example when the long-term preferences for health can take over the short-term preferences for pleasure (Fateh-Moghadam & Gutmann, 2014). By the year of 2008, libertarian paternalism was the up to the minute idea in policy debates (Hausman & Welch, 2010) and one might see how nudges have its momentum in public health by improving policies and gaining expressively group-level results because of influences on individual health behavior (Saghai, 2013).

Nudges thoroughly influenced public policies theory, but not without critics and opposition regarding ethical and political concerns. Despite that, the discussion has been

opened again since mitigation on Coronavirus SARS-Cov-2 pandemic (also known as COVID-19 disease) asks for changes on human's behavior (Yan, Zhang, Wu, Zhu, & Chen, 2020) and nudge interventions are known as complements to standard policy instruments by interferences on choice architecture (Hume, John, Sanders, & Stockdale, 2020). Nonetheless, nudges efficiency on COVID-19 have been questioned from the time when some setbacks were brought up.

In the present study, we retrospect some reflections about ethics on nudge policies, revising them on the new setting imposed by COVID-19 pandemic. We also extend earlier discussion through ethics philosophy from three normative moral theories: utilitarianism, deontology, and virtue ethics. We based references on the latest literature and most important authors on covered areas. Our aim is not to report all policies implemented during pandemic period under the foundations of nudge theory and, on this subject, we undertook a literature review. Thereby, this paper is a theoretical essay intending to reflect on how COVID-19 pandemic can give inputs to the ethical discussion regarding nudges.

Our findings indicate that the most discussed behavior during this period is social influence and the trend intervention is nudge messages. Many experiments did not show significant correlations and some drawbacks on policies' application indicate that nudges might be revised in crisis scenarios, like pandemic outbreak. Regarding the ethical aspects, utilitarianism, deontology, and virtue ethics are moral theories that can give some insights to solve inconsistencies on nudge theory.

This introduction is followed by other four sections. First, we present some theoretical aspects on nudging, as also considering some of criticism received. Then, we briefly describe the methodological procedures for finding and select nudge articles related to COVID-19. Following, we present the main findings and discuss ethical aspects, based on three main normative ethical theories. Finally, we conclude with some future directions.

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A Glimpse of Nudges and its Criticism

The nudge theory is quite simple: "any aspect of the choice architecture that alters people's behavior in a predictable way without forbidding any options or significantly changing their economic incentives" (Thaler & Sunstein, 2009, p. 6). Assuming that everything matters and there is no neutral design, these small changes on choice architecture could lead people to better decisions. The nudge's premises are justified under the following evidence: people make good choices when they know what they are doing and have good information and quick feedbacks; otherwise stated, they choose like novices (Thaler & Sunstein, 2009).

The design of Thaler and Sunstein's nudges relies on the dual-system theory of Kahneman (2012) in which people have a fast and inconsistent automatic system that goes over the slow and lazy reflexive system in many domains that this last one is needed. However, much earlier Herbert Simon had already predicated that human beings often use rules of thumb on several decision process, without even realizing it (Heukelom, 2014). Nudges are not new, but its justification on irrationality is (Gigerenzer, 2015), thus, together with the conclusions about imperfections on decision making, theory were just a step to create a new branch on Behavioral Economics in which government interventions are justified on the social development argument (Camerer, Issacharoff, Loewenstein, Donoghue, & Rabin, 2011).

Hereupon, becomes clear the context where the libertarian paternalism movement of Thaler & Sunstein (2009) arose. Yet, nudge should not be narrowed to it: whereas nudges have diverse ways to steer people's behavior by the nature of the interventional mechanism, different aiming can also distinguish them. The advocacy of governmental use of pro-self is the so-called libertarian paternalism in which the target is private welfare-promoting direction while the pro-social one seeks to promote public goods. Anyway, both pro-self and pro-social nudges are nothing like the usual tools used by others forms of paternalism, as commands and incentives (Barton & Grüne-Yanoff, 2015).

In a broader context, libertarian paternalism is described as the fourth scenarios of soft paternalism, this one being the purported liberal solution to paternalism according to Fateh-Moghadam & Gutmann (2014). The four non-hard types are designed to autonomy-orientation and to achieve that, Thaler and Sunstein (2009) adopted the libertarian aspect ensuring that people should be free to choose, neutralizing paternalism and also outwitting ethical and political concerns. It means that, to count as nudge, the interferences must be easy to opt-out, cheap to avoid and must not impose significant material incentives (Sunstein, 2015). Inasmuch the nature of the interventional mechanism creates different types of nudges, to alter people's behavior in a private welfare-promoting direction is considered the most ethical way (Barton & Grüne-Yanoff, 2015).

Concerning health, our spotlighted argument, nudges and libertarian paternalism have offered a myriad of prospects as far as it illustrate perfectly the tradeoff between long-term preferences for health instead of short-term pleasure (Fateh-Moghadam & Gutmann, 2014). Also, social influence has an important hole since (un)healthy habits can be contagious. As example, one is more likely to be obese if s/he knows an obese person, the same way people will avoid unhealthy food and exercise if the group do it (Thaler & Sunstein, 2009). Equally important, Thaler and Sunstein clarify more three particular problems that can benefit from nudge policies: complex questions of choices architecture related to health issues, opportunities for governments to save money and enact better programs to protect environment and human health. As a matter of fact, in health, optimistic bias and irrational discounting cost billions of dollars annually in uninsured treatment and needy services (Trout, 2005).

As example of practical experiences, Thaler and Sunstein (2009) debated how better choice architecture could improve Part D health plan during Bush administration, suggesting intelligent assignments and RECAP (record, evaluate and compare alternative prices) as solutions for complex choices; and the default option was an alternative recommended to

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increase organ donations since some bias and heuristic tend to maintain status quo. For further models, see "Mind, society, and behavior" report of the World Bank Group (2015) and "The Nudge blog" edited by John Baz[1] where more cases are exposed, like the HIV/AIDS reminders used in Kenya to increase adherence on health regimens, the social support used in a program at Lebanon to increase breast-feeding, generic medication given as default option and deposit contracts made between physicians and patients in programs to losing weight or quitting smoking.

Dan Ariely (2008) also explains how giving up long-term objectives for immediate gratification is procrastination. This author theorizes that humans are predictably irrational and have the right to be so. Nonetheless, better understanding of our nature can bring a lot of practical benefits as example as understanding the status quo bias that causes the discrepancy among organ donation rates across countries. The author noted that in Austria and France the donation rates are over 90%, while in the United Kingdom and Germany, they are between 10% and 20%. The different is that default option is "check if you don't want to donate organs" in the countries with higher rates, showing that the minimal effort to check a box might be too much for the irrational human beings.

However, ethical issues arose from questions of whether nudges endorse or erode autonomy, dignity and/or welfare. Besides, there is the problem of manipulation, wrong for its intrusion on the first and second and reduction on the last one (Sunstein, 2016). Regarding this, one might say that the government's interferences done for good motives works the same way of the infamous behavior control of marketers and advertisers. Coming from a bad government, nudging out people may be a manipulative power as well and violates autonomy for promoting decisions in directions different them the ones that persons would do rationally. Even though,

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[1] John Baz was a PhD student under Cass Sunstein and worked as a researcher on *Nudge*. On the mentioned examples, he was the editor on http://nudges.org

it is remarkably difficult to elucidate if a nudge is manipulative (Wilkinson, 2013) and, as response, Thaler and Sunstein (2009) secure that publicity and transparency can avoid these evil nudges since manipulations are objectionable due to obstacles on monitoring.

Applied logic, health-promoting measures can be justified on nudge premises but, when the focus relies essentially on individual choices, some anomalies can be found. For example, autonomy on individual health decisions might be seen on the ethical inquiry of informed consent. It happens because policies are not the same of interpersonal relations, as the ones pretty common on medical contexts. For example, nudges are useful in campaigns to change behavior, but in a face-to-face interaction of doctor and patient, influences on choice architecture are not so welcome and can be misinterpreted as manipulation (Cohen, 2013).

Note that soft paternalism likewise the libertarian version are excuses for allowing interventions to get back to the scene. In some areas, as medico-ethical and medical-legal, the soft paternalism is the new feature of paternalism on the 21st century. The problem is the very concept of autonomy might be reinterpreted as hard paternalism by just changing its gradation. Among soft paternalism types, the libertarian one made a transition from autonomy to rationality, but, even then, it could not overcome the legal definition of autonomy in which the individuals must be free to act even unreasonably, if they want so (Fateh-Moghadam & Gutmann, 2014).

Equally, freedom of choice and liberty, autonomy and dignity gave multiple conceptions and nudge's moral work depends on the selection of the adequate one for each situation. Depending on policy's context, the moral role is to avoid concerns about the interventions on decision making (Saghai, 2013). In this regard, if the opposite of autonomy is coercion, for dignity we have the humiliation. Therefore, nudges are noncoercive interventions that secures dignity as well respect people's agency. To do so, Sunstein (2016) speaks about avoiding treat people as children or inferior and gives special attention to the combination with

manipulative action. And, in addition to insult dignity by disrespecting people, the author discourse about welfare losses stating that it is not just about money since welfarists consider opportunity and emotional losses as well.

Until this point, we discussed how nudges end in paradox for promote option-freedom although violate autonomy and dignity. Those criticisms are regarding paternalistic nudges which seek to protect people from themselves. When nudges respond to market failures and are not necessarily related to individual errors on decision making, welfare increasing must be the goal (Sunstein, 2016). Similarly, Guala and Mittone (2015) use the term *welfaristic* to characterize nudges approach since they preach about helping people to get what they want, while in some sense they may be considered an ally of neoclassical welfare state. For example, authors explain how the organ donors program mentioned by Thaler and Sunstein and Dan Ariely benefit recipients rather than nudged donors.

On the other hand, Sunstein (2016) support that market failure nudges are not controversial, yet effectiveness should be considered. Besides, nudges usually are not enough, so coercion is widely spread in this domain, standing as a much worst solution. That said, nudges are emerging as useful complementary tools and, maybe, a forthcoming substitute. To the extent of individual welfare, a soft and means-oriented paternalism seeks to avoid the very own disrespect regarding liberty-choosing. So, rejecting traditional paternalism in the nudge theory comes from the believe of people as the best judges to increase their personal welfare in a private perspective.

Howbeit, nudges are liberty-preserving as far as we cannot consider all kinds of human interaction as an attack to autonomy, freedom and dignity (Saghai, 2013). Saying so, the biggest argument defending nudges are their inevitability. We are surrounded by choices architectures and invisible hands and could not live without them. In this framework, nudges work to promote people's agency, not undermine it. They also promote autonomy and dignity

for counteracts biased plans and permitting people to see what they could not do alone, while the welfare is the objective of the theory itself. So, it is not just ethically acceptable, but also required (Sunstein, 2016).

Methods

This paper provides a literature review of nudges in COVID-19 context to rekindle the discussion about ethical aspects regarding nudges as public policy instrument. This method is useful for synthetize a specific topic, formulate questions to subsequent researches, exploring evidences and finding gaps in the literature (Bolderston, 2008; Snyder, 2019), so, the strategy was look for nudges policies applied during the pandemic to analyze possible challenges that could improve current discussions about ethical aspects of this instrument. We opted for a narrative review because this work was produced in a short time since the pandemic outbreak asks for rapid responses. Google Scholar was used in December 2020 to look for articles with the query "nudging in COVID-19 context" published in the current year. The inclusion criteria were papers about the use of nudges in public policies and articles about this theory explaining the behavior out of the policy context were excluded. The software Mendeley was used for data control and articles' labelling.

Titles and abstract were read for select data. All articles found were written in English. Once most relevant works were identified, we located others by upward and downward citation, resulting in 45 papers' sample. Despite of criticism about subjectivity, lack of systematic criteria and inductive bias, the narrative review can be irreplaceable to pursuit the beginning of a new scientific principle or development of an argument (Mendes-Da-Silva, 2019), propelling agendas, findings gaps for researches or just highlighting discussions (Snyder, 2019). With this in mind, the narrative review showed as the alternative to update the overview of nudges' ethical discussion by bringing the new outcome imposed by the pandemic.

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Results

December 2019 was a turning point in the whole world because of coronavirus disease instantly spread around more than 200 countries[2]. Since then, governments are responding differently to the pandemic and the variations are seen on scale and scope, expressly in policies about containment and closure (Yan et al., 2020). As far as our concern is about nudge policies, this section consists in the narrative review in which the focus was studies that exemplify some aspects of nudge's approach already explained in this paper, now applied on the pandemic context. In the end of this section, we bring forward some analysis questioning nudge's policies efficiency in these contexts.

COVID-19 and the get back of nudges

As a matter of fact, the most successful case found was the nudges used for containing coronavirus in India. Using a machine learning method, Debnath and Bardhan (2020) extracted topic models mapping nudges made by policymakers. Their findings included measures to enforce lockdown, surveillance and preventive habits as wear masks and wash hands. The nudges included Primer Minister's messages, digital hashtags, nostalgia through television shows to help people staying home, herd effect to motivate donations and social pressure to maintain 1.3 billion people on their houses and adopt habits to mitigate the disease's spreading, even under economic and social costs.

Notwithstanding, one of the most discussed behavior was social influence and how nudges can benefit (or get into a tangle) with it. On a compared research performed by Al-Hasan, Yim and Khuntia (2020), nudge messages is the elected alternative in terms of health-

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[2] For better understanding of this background, see (Hale et al., 2020) to check the Oxford COVID-19 Government Response Tracker (OxCGRT) containing a systematic cross-national and cross-temporal measure over the full period of the virus' diffusion

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promoting behavior. When analyzing citizens' adherence to relevant policy recommendations in COVID-19 context from three different countries (United States, Kuwait, South Korea), they found that a positive thought about government efforts are followed by adherence on social distancing and sheltering and, in higher perceptions, individuals also belived that others would follow the recomendations. Government persuasion sharing relevant data performed an important whole, but the findings emphasize that people are influenced by wider range of information such as peers and social media, this last one being more significant on other's adherence.

Hume et al. (2020) discuss how good nudges are as an instrument for the COVID-19 policies, mentioning their potential to increase compliance to prosocial behaviors. Authors focused on providing normative feedbacks and foregrounding identifiable beneficiaries as alternatives to interventions on social contexts, since sharing information about norms can affect behavior. In the experiment run online in the UK, nudge plus (classic form combined with reflective device) was the only one to show promises for COVID environment and their findings suggest that pressure during pandemic might be diminishing nudges effects. Similarly, efficiently proved nudges of framing and salience to increase hand hygiene showed no effect in a field experiment done in Netherlands. One explanation is the prominence of prevention material on media, making people not paying much attention to the nudges (Weijers & de Koning, 2020).

The lack of efficiency of nudges messages may be consequence of the digital disruption during pandemic. In addition, artificial intelligence, data analytics and user profiling are manipulating people's behavior using nudge mechanisms, a fact that also increases the pressure by intensifying the message overload (Bunker, 2020). That is, for instance, one of the hypothesis raised by Favero & Pedersen (2020) to explain why no pattern was found on the experiment which goal was to measure if information cues priming prosocial motivation and

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empathy could shape reported physical distancing compliance. It means that the impact expected was not reached due to prior messaging saturation, so the messages lost potency on the course of pandemic.

Kim et al. (2020) discoursed about another behavior reaction to governments messages. Uncertainty scenarios take people to perceive threats instead of real problem. Lack of information, biased evaluation of risks and emotions can lead people to irrational behavior. During pandemic, public service advertisements might influenced people to this kind of reactions, for example, compulsive buying of toilet paper. In this situation, nudges might have worked differently than expected as far as the desired outcome was to evoke fear in order to engage people on the message's recommendations. Thought, among the results of their experiment, one may see that additional comparative statistics with the key information helps to decrease threat and stockpiling intention.

Still, the problem is not just the excess of messaging, but also the quality of that. Laato, Islam, Islam and Whelan (2020) wrote about the menace of misinformation during pandemics and proceeded an empirical test in Bangladesh whether specific individual and cyberchondria (anxiety or distress heading to online health searching) drivers of virus social media misinformation sharing. They found that health beliefs and cyberchondria had no relations with misinformation sharing, on the other side, online information trust and information overload had it. Along with Islam, Laato, Talukder and Sutinen (2020) and Bunker (2020) studies, this paper also shows how fake news, false or inaccurate information may nudge out people to comply with public health measures. On the other side, if nudge can be the problem, well used it is the solution as far as they can also be tools to make readers check information before sharing it.

Another path to engage people by nudge messages is to promote empathy. This behavior is showed by Pfattheicher, Nockur, Böhm, Sassenrath and Petersen (2020) in an

experiment with samples from United States, United Kingdom and Germany in which the discussion indicates how inducing empathy can motivate people's adherence to social distancing and wearing face mask. In this regard, empathy for more vulnerable ones is an example of prosocial behavior already discussed in this section.

Nudge policies in COVID-19 context: necessary action

Major health problems are, at least in part, result of modifiable unhealthy behaviors. That is one reason for the great success of nudges for health outcomes (Cohen, 2013). While there is no known efficient treatment to cure Coronavirus SARS-Cov-2 and tests are limited, a set of nonpharmaceutical interventions and simple measures regarding habit changing are the solution to curb the spread of pandemic (Al-Hasan, Yim, & Khuntia, 2020; Pfattheicher et al., 2020; West, Michie, Rubin, & Amlôt, 2020) More than ever, "getting people to behave in certain ways can literally save lives. In other words, the stakes have never been so high when it comes to incorporating behavioral insights into policy design" (Sibony, 2020, p.353) seeing that citizen's compliance and voluntary support are required to curb the human-to-human virus transmission (Yan et al., 2020). In this section, we return to some spotted behaviors during pandemic in which nudge policies can show suitable effects.

Principles of behavior science have already been brought to bear the situation thanks for its insights about how to promote healthier habits. To better understanding, see West et al. (2020) and their proposed behavior wheel settled in nine categories of intervention and the recommended policies. Similarly, Lunn et al. (2020) enhance five behavioral topics in the pandemic's mitigation perspective. Handwashing, face touching, and self-isolation are motivated with nudge messages and public-spirited behavior and responses to crisis communication were drive to social influence in order to increase compliance.

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Above all, the COVID-19 situation covers the whole social fabric, that said, the adherence to policy recommendations vary accordingly to social influence. It might happen because policies usually have collective implications, like limiting interactions (Al-Hasan et al., 2020). This setting demands prosocial behavior since physical distancing compliance depend on motivation and empathy for benefit not only individual's health but also lives of others, particularly the risky group. These stimulus drive to collective (Favero & Pedersen, 2020) and empathy to most vulnerable were already showed as motivation to COVID-19 measures (Pfattheicher et al., 2020), besides, human sociability has been proved as a tool for nudges working as policy instruments since Thaler and Sunstein's earlier studies.

Nudges are even more necessary among young people as far as they often present mild or no symptoms while being contagious and with a high potential to spread the virus. This is a concern for policymakers since, accordingly to long studied behaviors, they display low compliance to policies due to low self-control, acceptance of moral rules, shame or guilt, besides bigger probability of breaking rules, engage in delinquent behaviors and for the antisocial potential. By way of solution, strategies concentrated on antisocial potential may promote protective health habits and behaviors, so nudging youngers with self-monitoring and modifying environment structure are plausible alternatives (Nivette et al., 2021).

In addition, the difficult context characterizes a complex structure for decision making. There is no efficiently proved treatment and the great deal of information put people in the complicated situation of learning from diverse sources and managing all the data in order to decide among actions most suitable or just good enough (Al-Hasan et al., 2020). Regarding lack of information, health behavior intentions have been influenced through gain and loss messages in many situations and public health campaigns are able to attain people's attention with emotional appeals (Kim et al., 2020), like the ones we experienced during the year of 2020. About this, Cohen (2013) explains that delivering information through nudges cannot be

a risk to rationality seeing that they are considered as such just because would not be normally provided and the goal is a particular influence on behavior.

About gain messages, pre-COVID studies have already shown how to increase hand hygiene. Messages on hospitals next to a hand sanitizer dispenser made 1.5 times more usage just by focusing on the benefits through framing effect technique. With this example, Weijers and de Koning (2020) also talk about salience nudge to intentionally draw attention to messages either on health care and nonmedical settings. Inasmuch as attempts to promote hygiene habits trough education are not enough, combined interventions with nudge reminders and better facilities resulted in significant improvements. Evidences from multiple researches expose that it is necessary to make habits convenient and fortify them as social norms (Lunn et al., 2020).

Previously we mentioned the problem of misinformation sharing on social media and this issue relates both to social influence and complex questions. With the massive amount of online data and also news intermixed with content in which accuracy is not relevant, sharing false information was shown by Pennycook, McPhetres, Zhang, Lu and Rand (2020) as a result of distraction from truthiness rather than willingness to share fake news. It might happen because the pandemic is characterized as a difficult or complex situation. Further, these authors also illustrate social influence on their argument about social media's immediate feedback in which social validation and reinforcement rely on. On this regard, nudge remembers may be useful to recall people on information checking.

Beyond that, large-scale crises as the COVID-19 ask for quick and population-wide solutions and instruments. One example is digital contact tracing, one of the necessary actions created by the pandemic outcomes. How to adopt it is an issue faced by many governments (Riemer, Ciriello, Peter, & Schlagwein, 2020). Mandates are highly effective, but they are also not well-regarded by general public. Moreover, they only work satisfactory in collectivist societies, as China, or in places used with previous pandemic outbreaks, as South Korea. In

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other instances, nudges are encouraged in voluntary, individualistic, non-government and balanced approaches.

Yan et al. (2020) elected four countries (Sweden, China, France and Japan) to discuss their divergent responses to pandemic exposing that different political systems and cultural factors interpose on the success of its policies. In this sample, Sweden counted with nudges insofar as is the country with loosest culture and a more decentralized regime. This research present that nudges are trustworthy alternatives and even the most appropriated in some cultures, specially where (and when) individual's self-responsibility and high level of trust are possible.

DISCUSSION

To discuss ethics regarding nudges, one must resort to applied ethics, in which questions are related do specific human affairs. Universality is not the goal and the deliberations are about practical problems, saying so, principles are inducted, and the moral dimension is highly connected. Moral depend on the context, so, when it is under a substantive view, comprehends principles, norms, commands/prohibitions, values and ideals; and, as adjective, characterizes certain human life's aspects (Zappellini, 2013). Ergo, we put applied ethics into perspective considering the ongoing discussion about nudges, especially in COVID-19's context. Our distinguishing argument is the relation with three normative moral theories: utilitarianism, deontology and virtue ethics.

Ethical dilemma

Ethics on nudges is a long-term discussion and troubles involving freedom of choice, autonomy, dignity, welfare and manipulation are already commonplace. The legal scholar Cass Sunstein is one of the greatest defenders, as shown previously in this paper, and his plea is the

nudge's inevitability as far as people are walled by choice architectures (Sunstein, 2016). If that is the reality, the libertarian paternalism premises secure that the best to do is intending private welfare-promotion with pro-self nudges (Barton & Grüne-Yanoff, 2015). In this logic, nudges are ethical, or at least not immoral, since they do not threat people's liberty, autonomy, dignity and welfare. In other words, neutrality is essential for maintaining all options at hand, so, nudges are liberty-preserving since they are just aids to decision-making. The ethical problem consists in deviate them for manipulative purposes, as described in the emergent term "sludge" (Leal & Oliveira, 2020).

To understand nudges whereby an ethical instrument in a substantive perspective, one must reflect the moral as a practice. On the other hand, Sunstein's argument (and from most of the authors pro-nudges) is that nudges are ethical and moral because they are liberty-preserving. This reasoning, in contrast, represents an adjective qualification of each specific case. Labelling a situation, or adjective it, like ethical or not is also necessary on Public Policy, it means that Sunstein's argument works if we are classifying the application of every single nudge on itself. The problem on nudge's theory consists in trying to describe it in the substantive standpoint; grounding it through a normative perspective should give some direction. However, as we explain forward, some inconsistencies are found when nudge's justification are put into a moral theory on a substantive perspective.

In fact, nudges should not be a burden to those who want to use their freedom (Thaler & Sunstein, 2009), although, it is impossible to steer every single one according to their true preference in a heterogeneous society. It means some people may wish to be unreasonable and nudges might drive them to outcomes different than desired (Barton & Grüne-Yanoff, 2015). Due this, nudges are better fitted in a utilitarian[3] logic since the goodness of its acts are justified

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[3] Utilitarianism is a consequentialist theory in which actions, values and results are judge as good or bad in accordance with the positive consequences produced (Petit, 1997).

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by the ends. In addition, utilitarianism also states about freedom as Leal and Oliveira (2020) remarked when quoted John S. Mill definition of liberty, consisting in the boundaries of power carried out in social and individual terms. In this regard, government should honor people's choice, and this is where nudges can fall into traps.

Utilitarian normative theory has two main strands: act-utilitarianism and rule-utilitarianism. In the first, goodness is judge by its consequences, while, in the other, right and wrong are regarding rule conformation, which aim is the greater good (Smart, 1998). As far as Public Administration and Public Policy need to cope with power and politics, the act-utilitarianism is dangerous while deontological rules are difficult to follow since politics involve managing different values (Pops, 1994). That said, guiding nudges with utilitarian ideas should avoid the act option because of the same premises Pops (1994) used to validate it for Public Administration.

Nudges utilitarian justification is even more adjusted on COVID-19 pandemic context since personals preferences might be put aside for the good of the greatest number of people. So, be nudged to wear face mask, sanitize hands, physical distancing and stay at home are measures which voluntarily followed represent the attempt to achieve a greater good to society on a utilitarian perspective. Like the criticism against utilitarianism, knowing what is the greater good during this pandemic outbreak is the question no one answered yet. In case of nudges, the libertarian paternalism gives the hint that governments are the ones defining it and this is the troubled part of accepting nudges to steer our behavior if one take into account the nudges premises of liberty.

Nevertheless, the biggest problem of the utilitarian view applied to nudges are the social orientation of its ends. As claimed before, the societal version of it, characterized as the pro-social nudges, are not so welcome as the pro-self ones since the justification for liberty preserving and autonomy-keeping is the promotion of individual welfare. Since the individual

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versus social welfare promotion guides the ethical discussion into a crossroad, a solution might be analyzing it from rational perspective, leading to a deontological view as far as nudges interventions seek to help on decision making when people usually deviate from rationality.

Deontology as a moral theory is better seen in Kant (2005), where what we ought do come from the pure reason, as the only maxim *a priori*. If ethics were built from human actions and experience, the maxim would be empirically constructed. Summing up, Kant propose a universal moral law guided by the pure reason and nothing is better than the willingness to obey by the rules dictated from the categorical imperative (Zappellini, 2013). That said, if one accepts nudges because they are ruled by the rationality maxim, one is doing it by deontological premises.

Autonomy and freedom are widely discussed as necessary statements to an intervention being labeled as nudge. Kant's ethical theory may also give some insights about these premises since he claimed that regular people should be capable of fully self-government in moral matters. It is, no one can tell us what to do (Schneewind, 2005). In this logic, the deontological argument justifies interventions in the way that they are only aids to get to the moral law imposed by the rationality. Saying so, we are not following a government, we are autonomously governing ourselves to the best outcome. In this regard, this premises perfectly justify the nudge recommendation to consider people the best judges of themselves.

On the other hand, virtue ethics as a normative ethical theory can unite both individual and societal perspectives. The moral virtues, as considered since Aristotle (1999), are developed from individuals to the collective and the happiness, or *eudaimonia*, is reached just in social means. In other words, it is possible in a lifestyle and conditions that permit others to flourish as well (Sison & Ferrero, 2015). A virtuous agent which is a carrier of moral maturity (it is the same of saying that is someone with practical wisdom) would agree to accept a nudging policy that reduces risks to the society as a matter of prudence. This could happen

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through a heteronomous morality suggested by a nudge policy. The virtuous agent would come to act according to the nudge, even if he did not participate in the deliberation of that option.

The biggest difference on others normative ethics perspective and virtue ethics is that this last one seeks to understand moral acts from someone (any person), that is, it rules the central aspect of its moral foundation in the own person, considering human nature and its final end (Sison & Ferrero, 2015). In addition, virtue ethics considers that people will decide and act on the basis of each decision while taking into account the various contextual elements involved: others, consequences, rules and the action itself.

Still, remains the problem of virtuous action by those who are still developing the moral virtues, such as the behavior of the youngest, for whom, as stated, self-control (temperance or moderation) (Sanz & Fontrodona, 2019) may be lacking, as well the strength to maintain actions and, on the other hand, there may be a predominance of the sense of justice based more on the self and the small group than on society. Especially for this audience, nudge policies can be a tool to motivate the learning of expected behaviors by the collective. Initially, it is a habit practiced based on an external recommendation (heteronomous morality), but which, over time, as discussed by MacIntyre (2007), may come to be contemplated from the person's own will, when it already understands the internal goods of such practices, that is, the virtues. Even Aristotle conceives that "we become just by doing just actions, and temperate by doing temperate actions and brave by brave actions" (Aristotle, 1999, 1103a1–2).

In this sense, nudges could contribute to moral improvement, especially in contexts where the expected behaviors are not consolidated in the local culture. On the other hand, this is still an issue under discussion, that is, the possibility of using nudges to cultivate virtue in adult citizens (Niker, 2018). For example, Niker (2018) gives light to the discussion over the difference between automatic-behavioral and discernment-developing nudges. At last, a final issue related to the nudge policies to confront the COVID-19 context would be to immerse in

the issue of autonomy and the long-term consequences for individuals and society, since following virtue ethics theory, it is possible to see nudges as tools for learning behaviors. So, the nudge policies during pandemic could have long-lasting consequences on the individual's moral development.

Smart (1998) said that an ethical system cannot appeal to all people, every time and above all different moods, but he tried to prove the opposite by defending utilitarianism. We do not aim that, since this brief reflection just brings up some topics bypassed by the ethical discussions regarding nudges. Our purpose was to give a different view for an old problem thru a different perspective and scientific foundation, showing that the classic philosophy of normative ethics can give more inputs to find a way to consolidate nudge's theory.

Conclusion

In this paper, we brought back some discussion about ethics on nudge policies, revising them on the new setting imposed by COVID-19. Since the pandemic outbreak, behavior changes were required to curb the spread of the disease, hence, behavioral sciences and nudges have been returned to focus, regarding government responses and public policies. Up to this time, no consensus was reached whether nudges are ethical and effective instruments for policies, moreover, many experiments have been showing no significant results and some drawbacks are indicating that nudges must be more extensively revised, especially during crisis.

On the literature review section, we opted for a narrative review to search for latest studies about nudges in COVID-19 context presents social influence and nudge messages as the main topics. Our findings indicate that, despite of some drawbacks and non-desired outcomes on its implementation, nudges theory should not be discarded as an alternative for low-cost and quick implemented policy instrument.

Our study differentiates from others since we try to explain nudges within three normative moral theories. We reflect that utilitarianism best defines the "by any means" found during the pursuit of the greater good that rules nudge policies. These conclusions drive to a warning regarding the act-utilitarianism for nudges and the changing of perspective on its aiming since utilitarianism leads nudges to the pro-social perspective. Deontology gives some insights that help to justify this theory through the rationality maxim to rule the theory and the Kantian explanations for autonomy justifies nudges as an incentive to consider people as the best judges of themselves. On the other side, virtue ethics combines individual and social perspective, as well gives an outcome for the uses of nudges as tool to improve morality, being an aid to the regular development of morals in adults.

This discussion is important to better understand some inconsistencies found on nudges application by a different perspective. Our suggestion for further research is to go deeper into the normative grounds offered by moral theories aiming to propose a model to analyze nudges, combining ethics to fulfil current gaps and inconsistencies, also giving more effectiveness on its application during crisis, as saw during the pandemic outbreak.

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