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Behavioural Conditionality: Why the nudges must be stopped – an opinion piece

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Abstract: The use of behavioural conditionality has spread globally and is linked to the growth of behavioural economics and libertarian paternalism. This comment questions the ethics and effectiveness of this powerful trend and considers the alternative of moving towards universalism and unconditionality.

Introduction

The idea of *behavioural conditionality* is in vogue all over the world. Most notably, it has been interpreted to mean granting benefits, usually cash transfers but possibly vouchers or access to subsidised social services, on condition that the beneficiary behaves in a certain pre-specified way, or that the beneficiary ensures that others behave in some pre-specified way.

Such conditionality is linked to *behavioural economics* and its offspring *libertarian paternalism*, an oxymoron that stems from the simple proposition that people need to be steered to make the 'right choice'. The premise is that, for some reason, if left to their own devices, people will not do so. This perspective has become influential everywhere, in the form of conditional cash transfers, known by their acronym, CCTs, and in the form of regulatory reforms. Both are based on the premise that benefits and costs must be adjusted until people make the choice required.

This article questions the ethical foundations and practical impact of these twin trends. They stand in sharp contrast to rights-based policies and to policies based on prior 'contributions', as underpinned social insurance.

The significance of the topic is enormous. Both the White House and Downing Street now have advisers on how to harness the perspective to social and economic policies, as we will see, while the popularity of CCTs has been such that philanthropists, development agencies and international financial agencies have made them a major component of their funding and technical assistance. One well-placed American observer has described them as 'a magic bullet'. In their wake, research centres have grown, enriched by grants to conduct expensive evaluations through in-vogue Randomised Control Trials (RCTs), modelled on medical experiments in which one group is given 'the treatment', another not. The Economist (2010) has enthusiastically endorsed them. And speculative gossip about Nobel Prizes for CCT designers and for RCT advocates is spreading in the corridors of fashionable places. Before the hype is out of control, it is time for a reality check.

The rationale for mainstream CCTs (see also Barrientos in this issue)is that poverty is a reflection of the inter-generational reproduction of deprivation; this cycle must be broken through investment in 'human capital' (Fiszbein and Schady, 2009). Advocates of CCTs (henceforth, *conditionalists*) believe that it is necessary to persuade people to behave responsibly, particularly towards their children. Obliging them to send children to health clinics and to school implies that without being pushed people would choose to behave irresponsibly. Behind the conditionality lies the simple premise that the policymakers know what is best for those targeted for cash transfers.

There is also a tendency to believe any behaviour that the conditions are intended to overcome stems from character deficiency, 'persistent misguidedness', ignorance or laziness, notably by parents, and *not* from structural constraints preventing or discouraging them from doing what they would wish to do. Implicitly, conditionalists also presume there are facilities available, so that those required to behave in the designated ways can do so, and that the costs of using available facilities are low.

The arguments in favour of conditionality have been given extensive airing. For that reason, this article will not dwell on them. Instead it will highlight the pitfalls.

The meaning of 'behavioural conditionality'

Let us start with the term itself. Conditionality could mean several things. It could refer to conditions that must be satisfied *before* a person can obtain a benefit or service; or it could refer to conditions that have to be satisfied *during* receipt of the benefit; or conceivably it could refer to conditions that must be satisfied for some period *after* the benefit has ended, on sufferance of having to pay back something. In practice, it has referred only to the second of these.

A condition could be either *binding* (imposing known or unknown penalties for not meeting it) or *moral* (involving a commitment to respect it, but without penalties should the person not fulfil the condition). All CCTs so far seem to have been binding, although several ministers in charge of specific programmes have admitted in private that they would prefer to make them moral in character. And in some cases conditions are not applied strictly where it would be hard if not impossible to meet them.

One could also postulate a hypothesis: Conditions beget conditions. Once the principle of conditionality is accepted, then if one condition does not succeed in achieving the policy objective it is easy to slip to the next stage, by introducing further conditions to persuade people to adhere to the first.

The more complex the conditionality, the more difficult it would be to universalise the scheme. The zeal of the conditionalists, demonstrated by their enthusiasm for complex forms of conditional behaviour, implies that in practice conditionality also involves *selectivity* –

identifying those ‘deserving’ of treatment – and *targeting* – identifying those in need of treatment, usually by some measure of income poverty.

Stemming from the perceived success of the Mexican *Progresa* (now *Oportunidades*) and the Brazilian *Bolsa Familia*, ‘conditional cash transfer’ schemes have become enormously popular. They have been backed by the World Bank and exported to the USA, notably with the *Opportunity New York – Family Rewards* programme that is much more complex than the Brazilian and Mexican variants (Riccio et al, 2010).

These latter schemes have achieved impressive results. *Bolsa Familia*, with over 50 million people receiving regular transfers as of 2010, has alleviated poverty in Brazil, and has had a positive effect on child nutrition, school attendance and performance, on women’s economic situation and on macro-economic recovery from the financial crisis. It has a fiscal appeal too**;** it has cost merely 0.5 per cent of Brazil’s GDP. Some observers have questioned some of those claims, but for our purposes, we will not go over these familiar grounds but will rather focus on questions that conditionality raises.

The most fundamental are: Is conditionality *necessary* for cash transfers to have the positive effects they seem to have? Could the conditions lessen the positive effects? Do conditions have effects that are bad in themselves, perhaps outweighing the good effects? And do unconditional benefits have more or better effects?

The morality of conditionality

Before designing or assessing any social policy, it is surely advisable to formulate ethical or philosophical principles to which it should adhere. Suppose it could be shown that putting every poor person into slavery would result in poverty being eradicated. It is hard to imagine any rational person supporting such a policy. Suppose imposing 100 conditions in return for receiving a cash payment would put every conforming person above a poverty line. Probably most of us could agree that this too would be unacceptable, because the encroachment on people’s freedom and autonomy would be offensive. If we can agree this far, then we must ask whether functional gains from conditional benefits contravene broad ethical principles. Elsewhere, an effort has been made to formulate five such principles (Standing, 2008, 2009). Here we will just mention the three most relevant to conditionality.

First, there is the *Security Difference Principle* which, drawing on John Rawls, states that a policy is socially just only if it reduces the insecurity of the most insecure. If it helped some groups that were not among the most insecure, and made the insecurity of the most insecure worse in absolute or relative terms, the policy would be flawed. The second is the *Paternalism Test Principle*, which is that a policy is unjust if it imposes controls on some groups in society that are not imposed on the most free. The third is the *Rights-not-Charity Principle*, which is that a policy or institutional change is just if it enhances the rights of the recipients and limits the discretionary powers of the providers. We draw on these principles in the following.

Conditionality and Economic Security

In practice, behavioural conditionality goes hand in hand with selectivity and targeting. The latter involves some means test or proxy means test. These are part of the social assistance orthodoxy, but are notoriously inaccurate, identifying only some of those in need (see, e.g., for India, Jhabvala and Standing, 2010)**.** The failings are egregious in developing countries, which is where CCTs have been most enthusiastically advocated and implemented. All existing CCTs have used means tests of some sort. So evaluations of their appropriateness cannot be divorced from evaluations of means testing per se.

First, a poverty line must be defined. Whatever is decided, it will be arbitrary. Then there is a matter of deciding what should be included and what excluded from 'income'. For instance, if a household is receiving remittances from a son working elsewhere, should they be included in household income? If they were, putting income above the poverty line, a moral hazard would arise, since it would pay to tell the son not to send money, or to send less.

There are other failings (see, e.g., Mkandawire, 2005). One factor is worth emphasising. Targeting and means tests do a poor job of identifying those vulnerable to deprivation resulting from economic *shocks* or *hazards*. With globalisation, these are more widespread; more people experience variable and unpredictable incomes. However one measures 'poverty', whether using a multi-dimensional or narrow concept, a large proportion of the population will have incomes that fluctuate around a line deemed to determine need.

If targeting offends the Security Difference Principle, so will the conditionality attached to schemes based on it. The most economically insecure, such as homeless people living in the streets, will tend to be excluded by the targeting that usually accompanies conditionality; and among those identified by the targeting, the most insecure may be the least able to comply with the conditions.

As for 'selectivity', this also offends the principle, because choosing one deserving group will mean including some who are more economically secure than many in other groups. To say that families with young children should receive a CCT while others should not means that the state prioritises the poverty reduction of that group relative to others. It also introduces a moral hazard. It will encourage more to join that group.

We know this line has been used by some advocates of cutting child benefits. But one does not need to be a right-wing libertarian to see there are perverse signals and distributional implications of selective, targeted conditional schemes. They are simply part of the design. So one must be careful about deciding what constitutes 'success' of a conditional scheme.

Libertarian paternalism, or 'behavioural economics'

One point cannot be denied. CCTs are paternalistic. As such, they have been linked to 'behavioural economics', which has become part of mainstream economics, at least in the

USA. Essentially, the idea is that incentives and penalties should be used to steer people to behave in economically rational ways (e.g., Ariely, 2008). It has merged with what has been called *libertarian paternalism*, associated with a book, *Nudge* (2009), by two Chicago-based social scientists and advisers to Barack Obama, Richard Thaler and Cass Sunstein. Sunstein went on to become the chief regulator in the USA with an office in the White House. In 2010, guided by Thaler, the new coalition Government in the UK promptly set up a Nudge Unit in the Cabinet office, reporting to the Prime Minister.

Libertarian paternalists believe that since people often make decisions that are not in their best interest, they should be nudged to make better decisions through the creation of 'an architecture of choice'. Although Thaler and Sunstein seemed unaware of it, this is precisely the term used by Jeremy Bentham in his infamous Panopticon Papers of 1787 (Bentham, 1995). There he outlined his ideal prison, in which prisoners would be steered by an unseen guard to make the only choice the prison wanted them to make, on pain of being left to consume stale bread and bad water. One does not suppose the libertarian paternalists believe in the panopticon, but nudging leads towards social engineering and restriction of genuinely free choice (Standing, 2009, ch.10).

The nudge version is that conditions should steer people towards making the best choices. So, it should be made harder to make the 'wrong' decision. Another American advising the British Government, Lawrence Mead (see, e.g., *The Guardian*, June 16, 2010), argues that benefits *should* be mean and conditional, forcing recipients to take jobs. Calling himself a 'new paternalist', his stated premise is that people must be taught to blame themselves for their hardships (Mead, 1986) and accept that they deserve them. He believes that workfare should be an onerous threat, so that people opt out of welfare altogether.

Conditionality, however well intentioned, offends the *Paternalism Test Principle* by imposing controls on benefit recipients that are not imposed on others. It intrudes on their liberty and whittles away at their sense of personal responsibility. Who is liable if an action that is taken due to an imposed condition goes wrong? If you use carrots and sticks to nudge people to behave in ways the bureaucrats believe is best for them, eventually you risk infantilising the so-called 'clients'. Their autonomy is lost.

If poor people are not sending their children to school or taking them to clinics, policymakers should try to overcome the reasons, be they ignorance, cost or inaccessibility of some facility. One should surely look for the reasons why people do not do something that is supposedly so good for them.

Does conditionality advance or curtail rights?

Rights precede obligations. A right must be unconditional to be a right. It may be forfeited, but only as a result of an act of volition and after due process. Conditionality offends the Rights-not-Charity Principle. A right is a freedom. We all must adhere to laws. But beyond that, people cannot be said to have a right if they have to behave in ways determined by the state or its agents, particularly if they think that behaving differently would be preferable.

To take away someone's rights is a serious act, and there are constitutional and legal processes that should be satisfied beforehand. In existing CCT schemes, there has been little respect for rights *per se*. A right to do something must include a right not to do it, without the imposition of a cost on some of those choosing not to do it that is not imposed on others not doing it.

For example, low-income families are resource-constrained, and one resource they lack is time, since more time is locked in survival. They may lack means of transport, may have to spend more time scraping around for food and other basics, may have to labour longer to reach a subsistence income, and so on. Requiring them to take a child whom they perceive to be healthy to a clinic is more costly than for more affluent people, partly because they have to pay for travel, which eats into scarce funds, and partly because it takes up time, which may have a high opportunity cost. Even if a condition were applied fairly, it could be regressive in practice.

Conditionality also offends the Rights-not-Charity Principle by turning a benefit into something close to charity, in that it allows an encroachment of discretionary power by the state. In practice, rather arbitrary conditions (often written in astonishing detail) determine whether or not a person receives aid and whether or not they are punished for not doing something. Discretionary judgments must be made every day by the agents of CCT schemes. In Brazil, for example, each month 17,000 families who had qualified for the *Bolsa Familia* are stripped of entitlement because a local official decides that they have acted incorrectly. Perhaps their judgments were correct. Or perhaps a mother was ill on the day she was planning to take her child to a clinic; perhaps a child was truanting because he was being bullied at school. The list of possibilities is endless.

It is too much to expect that due process could be respected in a scheme covering millions of people in which complex conditions end up being matters of interpretation. Type 1 and Type 2 errors will proliferate; some people will be assisted who are not in need, others in need will not be assisted. Many will not claim, or will drop out because they fear they cannot or have not met conditions or do not know how to do so. In sum, CCTs offend the Security Difference and the Rights-not-Charity Principles in egregious ways.

Is conditionality 'fair'?

If policymakers threaten to penalise one group of people for not doing something, but do not threaten others in society with similar penalties, this is patently unfair. The offence and the penalty should be the same for all. If low-income families are required to prove their children are attending school for 85 per cent of the time, why are the middle class and the rich not required to do the same? If it is desirable to send children to school, then there should be a law and the same checks should apply to all parents.

Then there is the acid test. If a CCT recipient does not meet the conditions, what penalties should or would be applied? After all, a condition that has no pre-specified penalty for failure to meet it is no condition. One suspects that in reality often the condition is a trick - i.e. the government does not intend to punish, merely to put pressure on the recipients. But this is a recipe for deception.

The threat of penalties is morally dubious. If a mother of two malnourished children failed to make sure her ten-year-old son attended school every day, would a bureaucrat take away the money and risk making the children more deprived, miserable and unhealthier? Consider the stress and fear. It is partly for this reason that policymakers have changed tack to start talking about ‘co-responsibility’. However, for conditions to be meaningful there must be sanctions. If well-meaning bureaucrats start by being selective in terms of whom they penalise and whom they do not, the policy becomes subject to discretionary arbitrary judgments.

Suppose a policy obliges families to send children to a local school, and the real reason why many were not sending their children there was the unsanitary conditions in the school or fear for their children’s safety. Is the wisdom on the side of the conditionalist or the parents who are failing to fulfil the condition? Suppose the lure of the cash leads families to act in a way that is in reality not in their best interests – a son contracts malaria from mosquitoes in the school latrines; a daughter is attacked on her way home. And the policy may reduce pressure on the authorities to make improvements in the school facilities as the way to draw more children into regular school attendance. In other words, conditionality may lessen the pressure to make proper policy improvements.

Then there are *moral hazards* and *immoral hazards*, both for the ‘clients’ and for those implementing the policy. The former are well-known. Less appreciated are those arising for local bureaucrats. Whenever lying pays, it will occur. Did the mother take Johnny to the clinic every month? Let us backdate the attendance record, for a small fee! Did Jane attend school for 85 per cent of the days required? If the teacher says no truthfully, she condemns the family to stress and loss of benefits. Then there are opposite pressures. A political message may filter through the ranks of the bureaucracy that money must be saved to meet ‘austerity’ criteria. So more ‘clients’ will have benefits suspended, earning local bureaucrats stellar assessments from their bosses.

Every conditional scheme induces corruption, since it gives too much space for it. Thus, even in the scheme regarded by many as the best of all CCTs, the *Bolsa Familia*, there have been reports (e.g. Marinis, 2009) that benefits have been paid to numerous politicians and 300,000 dead people. One may be extremely sceptical about the numbers, but enthusiasts for CCTs tend to overlook such perplexing anomalies.

The democratic deficit

A feature of CCTs is that local bureaucrats are required to make decisions on whether or not individuals or families should be sanctioned for not fulfilling a specified condition. This sets up several sources of tension, both for the bureaucrats and between them and their 'clients'. The bureaucrats become something close to social policemen, granted powers to charge, convict and penalise, without what most of us would regard as due process.

Suppose a bureaucrat decides that a person deserves to be sanctioned and denied a benefit. Is the so-called 'client' in a position to do anything about it? Almost by definition, the person will have inadequate resources and be ignorant of how to seek redress - even if there were means of doing so.

This means that there is a democratic deficit, in that the groups subject to the policy have little or no say in the design or about how it is run, or how they are treated. It is most unlikely that they will have any right of appeal if a bureaucrat deems that they have failed to satisfy the conditions. At the very least, advocates of any conditional scheme should state unequivocally that it should only operate if there are credible, affordable and transparent mechanisms of appeal, with equivalent costs for both sides. One is not aware of any existing CCT that meets those 'conditions'.

A claim made by some conditionalists is that a claimant always has a 'free choice', in that they need not apply for a scheme or continue to receive a benefit. Someone claiming a Jobseeker's Allowance in the UK, for instance, has a choice on whether or not to sign a JSA agreement accepting designated conditions. But this reasoning offends a basic principle of legal justice, that neither party should be under duress. An unemployed person is obviously under duress.

Another insufficiently discussed problem is that CCTs weaken *agency* with legalistic conditions that, as in New York's *Opportunity NYC*, verge on exercises in social engineering. Loosely based on Mexico's *Oportunidades* scheme, *Opportunity NYC* involved a long list of conditions, allocating different sums of benefit if the parent or child acted in a way deemed to be beneficial. An examination pass gained an extra $600; a 95 per cent attendance rate in school, $100; obtaining a library card, $50, and so on. Ironically, the RCT evaluation concluded that the one thing it did not do was to improve school outcomes (Riccio et al, 2010). And it tended to benefit those with initial advantages more than others, thus breaching the Security Difference Principle.

More generally, the commonly-stated political rationale for conditionality – that it helps legitimise transfers with taxpayers – is morally dubious. If a policy is sold to the public as being conditional and integrative, rather than liberating and redistributive, or rights based, it is appealing to two dangerous sentiments – pity and moralism. The idea is that assistance is just being given to the deserving poor. This could lead taxpayers to favour meaner benefits with tighter conditions and more penalties for breaching them.

By contrast, social insurance and universalistic cash transfers help strengthen ideas of social solidarity, by emphasising that somebody who is fortunate cross-subsidises somebody who is unfortunate, and over time we may all contribute and we may all have need for assistance. Strengthening social solidarity fosters a greater societal respect for altruism and empathy, so that social behaviour towards others improves.

Conditionality weakens social solidarity by introducing or extending a distinction between the 'deserving' and 'undeserving', saying that those who live in poverty are irrational (disinclined to do things that are in their best interests) and/or disinclined to do their duty as responsible members of society. The imposition of conditionality implicitly treats them as if they are guilty of at least one of those faults. They are thus different from others, not just unluckier in being poorer than others.

Conditional versus unconditional schemes

Conditional schemes should be compared with unconditional alternatives. At present, most reviews have not done so, partly because there are relatively few unconditional schemes to provide suitable comparisons. Most of the evaluations have concentrated on seeing whether or not CCTs do or do not achieve what it is claimed. This leads to a focus on aspects policymakers would like to have assessed. For instance, the World Bank, having long opposed cash transfers, issued a report in 2009 strongly backing CCTs that focused on whether the evidence showed that conditional transfers were successful in inducing households to invest in the 'human capital' of their children (Fiszbein and Schady, 2009).

A few fortuitous evaluations have been able to compare the outcomes of unconditional and conditional schemes. One study in Malawi was quite convincing in suggesting that the conditions applied there to cash transfers did not make any difference to behaviour (Baird, McIntosh and Ozler, 2009). Other studies have been more ad hoc, and clouded by selectivity problems.

A contrast with the effects of conditionality emerged in a pilot basic income scheme conducted in Namibia in 2008-2009 [Haarmann et al, 2009]. This was an unconditional universal cash transfer, in which an equal amount was given monthly to each man, woman and child. Although there was no obligation to send children to school, within weeks of the launch of the cash transfer, almost all the children were attending the local school on a regular basis. A notable feature was that the villagers set up an advisory committee on how to use the cash transfers wisely, an act of collective agency that sprang from within the community of low-income people. There was no proposal or pressure from outside.

Some observers make the obvious point that conditions will not work where basic services are unavailable. This is where the appeal of universal unconditional cash transfers can perhaps be strongest. If everybody in a community receives a transfer, they can look at ways of unlocking a constraint to public services. In the villages in Namibia, there were four constraints to 'human development' before the introduction of the unconditional basic income grants. The local clinic had no money for medicines, the school had too little to purchase books, the sanitation was bad, adversely affecting the health of children, and there was no post office for easy access to receive benefits, necessitating queuing and form-filling.

Once the grants were made, the villagers all paid a small amount for visits to the clinic, all children paid a small fee for school enrolment, villagers helped each other to build latrines, and collectively they built a post office. Had conditions been applied individualistically and had only 'the poor' with particular circumstances been targeted, there would have been no engendering of a spirit of social solidarity or *ubuntu*.

Some commentators believe that in the absence of facilities neither conditional nor unconditional transfers will have a positive effect on 'human development'. This ignores demand-side effects and the effects on agency and social mobilisation. Suppose there is one bad school, 10 kilometres away. In the absence of cash transfers, few children go to the school because it is too far and bad. The cash would make travelling to that or another school easier, which could lead to pressure to improve the school facility to meet the increased demand for its service.

Barrientos (this volume) argues that *all* social assistance programmes include conditions, because they *all* require registration. This is true of means-tested and conditional schemes. However, if one believes that conditions are hurdles, and thus lead to low take-up rates, then this is an argument for minimising conditions. Universal, non-means-tested, unconditional transfers have the highest take-up rates. For instance, the universalistic unconditional Namibian Old-Age Pension has a take-up rate of over 95 per cent.

Conditional schemes have three types of cost that are much lower for unconditional schemes. They involve higher administrative costs, simply in registering and introducing the mechanisms, high monitoring and enforcement costs, and high transaction costs for the beneficiaries. Rarely are the costs for beneficiaries taken into account; with conditional schemes they are very high, if not onerous. Whether in Britain or in any developing country, they must have an adverse effect on the take-up rate.

In sum, particularly given their potential liberating, agency and security-enhancing effects, we need more unconditional cash transfer schemes. These will also enable evaluators to disentangle the effects of cash and conditions, and to assess the community-wide impacts of universal transfers.

Conclusions

Conditionality in its two forms, of nudging and CCTs, should be subject to 'multi-dimensional' evaluation. Years ago, Jan Tinbergen received the Nobel Prize in economics partly for his demonstration that the number of policy instruments should equal the number of policy objectives. Something analogous should apply to this issue. The popular metaphor is that you cannot play golf with just one club. If countries want to ensure all children go to school, then the law should be equal, and penalties, if any, should be the same for all families.

The long-established fact that 'poverty' is multi-dimensional does not mean that one policy should try to attack all dimensions directly.

In the rush to embrace CCTs, there has been a loss of appreciation for principles of universalism. We should never forget Richard Titmuss' aphorism: services that are only for the poor are invariably poor services (Titmuss, 1968, p.134). Sooner or later, targeted conditional benefits will run up against opposition from those who do not benefit from them and from those who feel they are paying for them without any reciprocity or prospect of needing or qualifying for them. This will lead them to favour lower benefits and tighter conditionality, backed by stiffer penalties for perceived 'scroungers', 'rule breakers' and others who fail to satisfy the conditions. Conditions will multiply. At present, there is no check on this unsavoury trend. It is a road being taken**.**

Indeed, because of the perceived success of what are called 'first generation' CCTs, conditionalists are lobbying for 'second generation' CCTs, moving up the age range. The avowedly ultra-liberal *Economist* (2010) has advocated a paternalistic second generation scheme in which school-leavers would be required to attend vocational training as a condition for their family receiving a cash transfer. Does anyone believe it would end at that?

Whatever the conditions on any benefit, they should not offend basic ethical principles, and should not have negative externalities, imposing disadvantages or costs on others not subject to the policy. This is an objection to 'workfare' schemes - i.e. providing cash transfers conditional on the person performing labour. If someone is obliged to take a low-wage job in order to receive a state benefit, there are negative effects for other people, whose job opportunities, wages and working conditions may be dragged down as a result.

In October 2010, the UK's coalition government reneged on pre-election promises to preserve existing universal benefits and announced that child benefits would from 2013 be withdrawn from families containing a higher rate taxpayer. One can predict that the Nudge Unit in Downing Street will consider how entitlement could also be made conditional. There is precedent. Steadily stricter behavioural conditionality was made a feature of what used to be unemployment benefits by the Labour government. Incapacity benefits were becoming more conditional, with 'well-notes' and doctors being required to verify degree of employability. Conditionality is sweeping forward. The nudge state is on the march. It should be resisted.

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