‘Nudging to make the best choices for themselves’

The Paradox of Behavioural Economics and Neoliberalism in the SBST 2015 Annual Report

Abstract

This text seeks to assess how the use of ‘nudging’ by the US government is framed by the Social and Behavioral Sciences Team. This team of behavioural economists and psychologists advises the Obama administration on how big impacts in policy can be reached by adopting *nudging*: subtly changing environments to make people behave differently (Thaler and Sunstein 2008). However, ‘nudge units’ like the SBST are criticised because they would function as a ‘rational elite’ that determine which norms should be pushed while foreclosing discussion about what these norms should be (Whitehead et al. 2011). In doing so, nudging is seen a as a technique to make people accept as well as act according to neoliberal ideology (Cromby and Willis 2013, Whitehead et al. 2011, McMahon 2015). In order to assess whether the SBST’s statements indeed aligns with neoliberal ideology, a Foucauldian discourse analysis is conducted of the SBST’s 2015 annual report. In doing so, it is analysed how the report discursively constructs the SBST’s own practices and the image of the American citizen. Through this, it is argued that that the SBST’s discourse aligns with neoliberal thought for multiple reasons. Firstly, it presents its nudges as non-political implementation of scientific findings to meet the wishes of the people instead of persuasive acts. This aligns with principle of *laissez-faire* while negating the role of the government as interventionistic. Secondly, the SBST constructs an image of the citizen as an autonomous and rational actor similar to the neoliberal image of the citizen as *homo oeconomicus*. This avoids the paradox of nudging as a method enabling people to make better choices, while also being an intrinsically persuasive practice. This way, it is argued that the report’s discourse indicates a neoliberal ideology, which underpins the criticism on nudging as a method to normalise neoliberalism and foreclosing public discussion on this process.

Keywords: *Nudging, behavioural economics, discourse, ideology, neoliberalism, SBST.*

Sal Hendrik Hagen
4026047

Bachelor Eindwerkstuk
Taal- en Cultuurstudies, Universiteit Utrecht

1e lezer: Sanne Koevoets
2e lezer: Paulien Dresscher
Referentiesysteem: Chicago author-date

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> "Neo-liberal governmental intervention is no less dense, frequent, active, and continuous than in any other system [...] [the government] has to intervene on society as such, in its fabric and depth. Basically, it has to intervene on society as such so that competitive mechanisms can play a regulatory role at every moment and every point in society and by intervening in this way its objective will become possible, that is to say, a general regulation of society by the market."
>
> (Foucault 2008, 145)

INTRODUCTION

Since 2010, the UK government has been accompanied by the Behavioural Insights Team (BIT), informally called a "nudge unit" (Loewenstein et al. 2012, 23). The BIT advises the Cameron administration on how subtle interventions which play into irrational and subconscious decision-making can alter human behaviour in significant ways. For instance, the BIT was able to increase tax payment by 5.1% by merely including the following two sentences in a letter: "Nine out of ten people pay their tax on time. You are currently in the very small minority of people who have not paid us yet" (Hallsworth et al. 2014). In 2014, a similarly modelled nudge unit was set up for the United States government, known as the Social and Behavioral Sciences Team (SBST). Together with nudge-experts in other departments of the Federal government, the use of these behavioural techniques is now firmly entrenched in the operations of the Obama administration (Loewenstein et al. 2012, Camerer et al. 2003; Thaler and Sunstein 2008; Grunwald 2009; Subramanian 2013), even impacting the drafting of important acts (Dorning 2010).

The idea of nudging people towards certain behaviour is born out of advancements in behavioural economics. This academic discipline specialises in the psychological underpinnings of economy, which is applied to explain "field phenomena" such as human behaviour (Camerer and Loewenstein 2004, 3-4). Combined with the emergence of ubiquitous digital devices and the 'datafication' of society, behavioural economists can analyse in-depth what makes people act in a certain way (Eslambolchilar et al. 2010; Hildebrandt 2013; Verbeek 2014). The aforementioned SBST is an example of a specialised team which applies behavioural economic theory to produce nudges in order to improve and reduce costs of governmental policy. In this context, a nudge is a means to guide or encourage someone to a particular kind of behaviour, but without actually mandating or directly

instructing- it is essentially a subtle hint and thus contrasted to overt use of force (Halpern 2015). The American behavioural economists Cass Sunstein and Richard Thaler popularised the term in their 2008 book *Nudge: Improving Decisions about Wealth, Health and Happiness*. In it, they coined the term *choice architectures*: particularly structured environments in which people make choices. They understand a nudge as "any aspect of the choice architecture that alters people's behaviour in a predictable way without forbidding any options or significantly changing their economic incentives" (2008, 5). Important to the concept of a nudge is that it is not a mandate or an act of coercion. For instance, "putting the fruit at eye level counts as a nudge" but "banning junk food does not" (6). Because of its subtlety, nudging raises new questions about power between the government and the public as nudging is not a traditional use of regulation like mandating or restricting but rather a newfound ability to persuade often unknowing citizens into certain behaviour.

Mainly because of its 'hidden' nature, the use nudging by governments has received criticism from public opinion and media outlets. Before the SBST was set up, President Barack Obama was already advised by a team of behavioural economists, Cass Sunstein amongst others, operating within the Office of Budget and Management. Sunstein was later even promoted as Administrator of the Office of Regulatory Affairs (Dorning 2010). The team influenced major parts of Obama's health-care reforms as well as the 2010 'Dodd-Frank' financial regulation act (Dorning 2010). Following this, a dose of primarily right-winged criticism ensued, accusing the Obama administration of creating a paternalistic 'nanny state' in which Americans are manipulated by behavioural economic nudging (Dorning 2010). Glenn Beck from FOX went as far as calling Sunstein 'the most dangerous man in America', after which he began promoting the website *stopsunstein.com* to, perhaps rather hypocritically, convince the public of Sunstein's manipulative intentions (Murphy 2013). In the aftermath, an explicit attempt by the US government ensued to retreat its adaptation of behavioural economics from public discourse (Dorning 2010). However, the Obama administration publicly renewed its commitment in adopting behavioural economics from 2010 on, most prominently by launching the SBST in 2014 (McMahon 2015) and an executive order by Obama to encourage governmental offices to incorporate behavioural economics into their policy. The SBST currently advises multiple departments of the US government on how to integrate behavioural economics (SBST 2015).

Particularly in light of the preceding controversy, it is interesting how the US government presents its renewed commitment to behavioural economics and nudging to the public. In order to shine light on this, I will attempt to analyse how the use of nudging is discursively constructed by the SBST in their 2015 annual report. In the report, the SBST's projects and results are presented, together with an outline of how and why the team operates. Analysing the SBST's report is academically relevant as nudges themselves and its ethics have been thoroughly discussed (Wiggan 2010, Whitehead et al. 2011, Morozov 2013, Cromby and Willis 2013), but a thorough discourse analysis on the political

discourse constructed by nudge units has as of yet been absent. An analysis of such a discourse is relevant in that it shines light on how the controversial practice of nudging is 'sold' to the public, in which ideological norms could be embedded. I will conduct the discourse analysis departing from a Foucauldian framework. A Foucauldian discourse analysis (FDA) "entails exploring the way in which the objects, enunciative modalities, concepts and strategies of 'political activity' are discursively constructed, and then articulated" (Howarth 2000, 60). The 'political activity' of the SBST has been understood as using nudging as a neoliberal method of making citizens (unknowingly) accept neoliberal ideology (Whitehead et al. 2011, McMahon 2015). Through analysing the report, I will try to answer the question: "how does the SBST construct its discourse surrounding nudging by the US government in their 2015 annual report?" I do so while focussing the FDA on the criticism of the nudge unit as normalising neoliberalism in order to either underpin or refute criticism as formulated by e.g. Whitehead et al. (2011) and McMahon (2015).

Section one gives an overview of how nudging can be understood through Foucault's account of behavioural techniques as a form of neoliberal governmentality. Additionally, recent academic literature will be assessed which criticise nudging as a method to normalise neoliberal ideology, which leads to the government acting as a 'rational elite'. To assess whether the discourse by the SBST indeed can be seen as normalising neoliberal values, I then outline Foucauldian discourse analysis and explain how it is a relevant method for answering this question. Section two will provide a FDA of how the SBST's report construes its own nudges as 'the use of behavioural insights', while section three offers an analysis on how the SBST's report presents the discursive construction of the American citizens and their relation with the state. In sections two and three, I first indicate an 'object of discourse', a discursive formulation, after which I attempt to clarify the discursive function and the ideological effects of these formulations, and which *other* ways of formulating these phenomena are excluded. I argue that the discourse in the SBST's report can indeed be seen as a neoliberal account of nudging as it reflects what McMahon (2015) sees as the neoliberal practices of depoliticising politics in favour of following market principles and generalising the American citizen into an economic and rational actor. I argue that while this neoliberal discourse is not a problem in itself, it does underpin the criticism of nudging as a way to impose non-discussed norms constructed by a 'rational elite'.

1. THEORY AND METHOD: Nudging and Neoliberalism

While the use of behavioural sciences within governmental policy has only truly emerged no longer than a decade ago (Whitehead et al. 2011, 2819), Michel Foucault predicted its emergence as early as 1979. During his lectures at the prestigious Collège de France, Foucault coined the term 'biopolitics' to refer to a form of governmentality in which not a 'disciplinary society' nor a 'society of control' is constituted, but rather a society in which governmental intervention is entangled with human

behaviour through "techniques of environmental technology or environmental psychology (2008, 145, 259). Foucault cited 'behavioural techniques' to refer to methods that influence human conduct, which at the time were emerging through the work of psychologists like B.F. Skinner (1976), Daniel Kahneman and Amos Tversky (1973). Foucault understands the usage of these techniques as ways to generalise human behaviour as a quantifiable economic systems in order to make them manageable and governable (2008, 243). Unfortunately, Foucault did not elaborate further on these behavioural techniques. However, the usage of nudging by governments gives some affirmation of the deployment of behavioural techniques as governmentality, as it aligns with Foucault's understanding of behavioural techniques in that they are also economic approaches to human conduct as a "set of systematic responses to the variables of the environment" (2008, 270). Indeed, nudge theory is also based on the assumption by B.F. Skinner and Kahneman that human conduct is often fails to choose for the most 'optimal choice' due to irrationalities and bad judgement (Schuilenburg and Peeters 2015, 2).

While Foucault does not explore the behavioural techniques in detail, he does contextualise them as a method of governance by neoliberalist governments (2008, 278). Neoliberalism, while being a congested term, commonly refers to a political philosophy which upholds the withdrawal of the state to promote a 'freedom' defined almost exclusively in terms of the liberty to participate in markets without governmental intervention (Kingfisher and Makovksy 2008, 116). In doing so, it employs an economic approach not only to market principles, but also of individuals and social relations (115). Neoliberalism is most prominently based on the writings of economist Friedrich August von Hayek, whose re-interpretation of classical liberalism inspired frugal forms of government, illustrated by the governance of leaders as Reagan and Thatcher during the late 70s (116). Nowadays, neoliberalism is most often associated with Western capitalist societies, which can be attributed to the current prominence of large corporations, right-wing ideologies and a rollback of regulations, subsidies and social welfare policies in favour of a marketised mode of governance emphasising economic freedom and growth, suitable for current-day capitalism (116). On a more theoretical level, Foucault understands neoliberalism as a governmental and societal structure in which economic analyses and thought are not just applied to the market, but also to social relationships and individual behaviour (2008 243). Foucault illustrates this by giving the example of how neoliberalism tends to specify even the domain of parenthood as "human capital" and an "investment which can be measured in time" (244). In this way, by generalising the rational principles of the market to certain human conduct, neoliberalism considers individuals as self-interested and rational actors who optimise their live through a "scarce allocation of resources" (269). This depiction of the self-interested and rational human is what in economic theory is viewed as *homo oeconomicus*, or 'economic man' (McMahon 2015, 141). Because of the conviction that their self-interestedness and rationality will lead the best outcomes, neoliberal theory dictates that homo oeconomicus must be left alone to make the best choices for itself, which is understood as the principle of *laissez-faire*, or 'letting be' (Foucault 2008,

270). As such, a neoliberal government retreats and 'lets be' as the conditions of the market will lead to self-governance and eventually the best outcomes for the people.

However, behavioural techniques and nudging clash with the fundamental assumptions of neoliberalism. Behaviourist are convinced that the majority of human decisions are made irrationally, which clashes with the neoliberal conviction of the citizen as a rational choice maker (McMahon 2015, 141) and behavioural interventions (e.g. nudging) counters the non-interventionistic principle of laissez-faire. Foucault affirms this crux by arguing that human behaviour is often irrational and based on emotions, which does not fit with the traditional neoliberalist notion of homo oeconomicus (2008, 269). By drawing from the work of Becker (1962), Foucault argues that neoliberalism had to redefine what rational conduct meant to overcome this paradox. Instead of understanding rational conduct as the conscious allocation of 'scarce resources' to optimize one's life, it had to be understood as:

> "any conduct which is sensitive to modifications in the variables of the environment and which responds to this in a non-random way, in a systematic way, and economics can therefore be defined as the science of the systematic nature of responses to environmental variables." (Foucault 2008, 269)

Instead of a truly rational actor, the rationality of homo oeconomicus thus ought to be understood as an actor whose conduct is non-random. As such, homo oeconomicus' predictability makes it an easy target for economic analysis and behavioural techniques in order to influence its behaviour (Foucault 2008, 269-70). In this way, Foucault argues that *laissez-faire* suggests a false freedom; citizens are supposed to be free, but an 'invisible hand' of the neoliberal government nudges persuades them to act according to neoliberal market principles (279-80). This hand is invisible in a way that it "prevents people from realizing that there is a hand behind them which arranges or connects everything that each individual does on their own account" (280). This points to the big paradox of neoliberalism: it supposes a free society, but only if this society acts within the confines of neoliberalism.

In more recent academic literature, nudging is often understood as this invisible hand of neoliberalism. This gave rise to criticism on 'nudging governments' by academics, most prominently from political sciences and humanities-focused texts. For instance, Whitehead et al. (2011) argue that the policy implementation of nudging is typically ideologically influenced, but governments and nudge units present their usage of behavioural techniques as neutral and apolitical. Whitehead et al. criticise this apparent invisibility of nudge units because it leads to "foreclosing discussions of what the values associated with 'good behaviour' should be" (2011, 2821). The policy makers and nudgers act as a "rational elite" (2833) who, through nudging, possess an effective tool to normalise a state's ideology. Whitehead et al. argue that nudging is often used to normalise neoliberalism, as nudging forms "a fulfillment, not negation, of the ultimate neoliberal goal of the economisation of existence" (2821).

In this way, the authors see the current use of nudging as a threat for democracy as citizens are subconsciously influenced (2829). In a similar line of thought, Evgeny Morozov criticises the popularisation of governmental use of behavioural economics in governments as it disregards non-measurable, philosophical accounts of society such as ethics and virtues, leaving the decision-making to be based upon the quantifiable truths of economics (2013, 343). According to Morozov, this is problematic because "the laws of economics are not always good at accounting for the complexities of human behaviour" (303) as it tends to overlook non-measurable but equally important values such as intrinsic motivation and morality when performing (civic) acts such as voting (301-3). Cromby and Willis (2013) illustrate how nudging was abused by the UK government to normalise neoliberalism. They criticise the process of neoliberal invisible hand-governmentality by analysing a particular nudge conducted by the BIT. Brits where asked to respond to a questionnaire which, according to the authors, "'nudged' towards acceptance of the precepts of neoliberal subjectivities" (241). Cromby and Willis argue that in doing so, nudging was employed as a method to promote and normalise neoliberal ideology. McMahon (2015) constructs a similar argument by stating that behavioural economists try to align citizens along the 'truth of the market' to ensure the viability of neoliberal governance. All of the above literature seems to point towards an overarching clash between an exact, behaviourist view of human conduct as opposed to an ethical, philosophical approach. Indeed, most of the criticism on nudging seems to arise from a refusal of the human as a quantifiable subject. Morozov illustrates this by stating "instead of investigating and scrutinizing the motivations for our actions, trying to separate the good ones from the bad, policymakers fixate on giving us the right incentives or removing the option to do the wrong thing altogether" (2013, 343), indicating the adaptation of a Skinnerian an economic view of the human as a programmable 'processing device' (301).

While the literature cited above critically considers the practices of nudging and its ethics, it misses a direct analysis of how nudging is supposedly presented (or, alternatively, hidden) to the public as a neoliberal form of governmentality. Additionally, an analysis of a text written by 'nudgers' themselves could avoid difficulties arising from the dissonance between different theoretical approaches to human conduct as indicated in the paragraph above, because it will mainly depart from a primary source by a nudge unit instead of theoretical assumptions. To do so, I will attempt to analyse how nudge units discursively construct nudging to 'sell' it to the public by conducting a discourse analysis of the 2015 annual report by the SBST (2015). In the report, the team highlights its projects and the accompanying results. The introductory pages (1 to 5) give a summary of this. While the remaining chapters consider the SBST's nudges and its results more in-depth, the introduction suffices for this (brief) discourse analysis because the main descriptions making up the 'objects of discourse' are constructed here and are merely repeated in the succeeding pages. Because the report is publicly available and heavily featured on the SBST's website (sbst.gov), the content is likely to be carefully constructed, particularly in light of the preceding controversies surrounding the governmental usage

of behavioural economics. The report is a viable source for this research in part because behavioural economics is now firmly entrenched in the US government (Loewenstein et al. 2012, Camerer et al. 2003; Thaler and Sunstein 2008; Grunwald 2009; Dorning 2010; Subramanian 2013), which makes the text not just a simple progress report but also an indication of the usage of nudging in the US government in a broader sense. A discourse analysis of the report will allow me to interpret if, and if so, how the statements made by the SBST point to a neoliberal form of government. This could either invigorate or refute the criticism outlined above. The main question here is: "how does the SBST construct its discourse surrounding nudging", while I focus in particular on the criticism of the nudge unit as normalising neoliberal ideology as argued in Whitehead et al. (2011) and McMahon (2015).

In order to do this, I will conduct a discourse analysis that utilises a Foucauldian framework. Foucauldian discourse analysis (FDA), loosely outlined in Foucault's *Archaeology of Knowledge* (1972), is primarily focused on how discourses shape and inform our perception of the world and the social and political relationships in it (Wooffit 2005, 156). FDA differs from more structured and linguistic forms discourse analysis (such as critical discourse analysis) because of its post-structural tendency to emphasise the subjectivity of truth (Graham 2011, 3) and the social and political connotations of discourses instead of its linguistic features (Purvis and Hunt 1993, 490). Foucault argues that research in the humanities all too often presented "secret origins" hiding behind statements as unquestioned truths (1972, 27). He highlights that these findings are always operations of interpretation and therefore by definition subjective (27). To overcome overly emphatic truth claims, Foucault proposes more agency should be attributed to the discourse itself by emphasising the "pure description of discursive events" (29). In emphasising the effects of this discursive construction, Foucault tries to evade false objectivity by emphasising the agency of the discourses itself instead of the agency of discourse's creators (Wooffit 2005, 154).

A FDA can be cumbersome to conduct because Foucault never outlined discourse analysis as a rigorous method, but rather loosely outlined what a discourse analyst should entail (Graham 2011, 2). However, other academics elaborated on Foucault's thought in order to provide a somewhat more structural approach to FDA as a method (e.g. Graham 2007; Graham 2011; Wooffit 2005). For the sake of transparency and consistency, I will be following Linda Graham's interpretation of 'doing' a FDA. Graham acknowledges the ambiguity surrounding Foucault's perception of discourse analysis, but she notes that this does not mean that a FDA has to be random or inaccurate (2011, 5). In fact, she argues that in Foucault's refusal to follow standardised 'scientific' methodological guidelines lies its strength because it acknowledges that "truth is always contingent and object to scrutiny" and it "question[s] the intelligibility of truth/s we gave come to take for granted" (Graham 2011, 4). Graham notes that post-structural FDA should focus on the function of statements by questioning "what the constitutive or political effects of saying this instead of that might be" (Graham 2011, 5). She states that if something is 'discursively constructed' in a certain way, it means that the words used end

producing “the very ‘things’ or objects of which we speak” (Graham 2011, 6). These objects is what Foucault refers to as “objects of discourse” (53). A FDA should explicate how these objects of discourse are formed, or in other words, “trace the relationships between words and things” (Graham 2011, 6). A post-structural discourse analysis using Foucault should locate and explain statements which produce these objects of discourse. Graham gives the example how the statement ‘local and multicultural acts’ is worth analysing as it creates a dichotomy by how ‘multicultural’ is not local and as such forms ‘multicultural’ as an object of discourse implying ‘not local’ (7). A discourse analyst should examine such statements as “specific bodies of knowledge which, in validating certain statements build a discourse that reaffirms [a] particular perception of phenomena” (9). In my case, I will attempt to analyse how the SBST creates these objects of discourse and what political and ideological function they might carry out.

While not being the only correct method, FDA ‘fits’ this research for multiple reasons. As Read states, “any criticism of neoliberalism as governmentality must not focus on its errors, on its myopic conception of social existence, but on its particular production of truth” (2009, 34). FDA is suitable for this because the political effects of discourse have the ability to propose certain truths, and an analysis of this can unravel how these truths are presented in the SBST’s report (Howarth 2000; Graham 2011). Additionally, FDA, unlike other forms discourse analysis, has more to do with macro-structures forming ideological norms (Graham 2011) and takes notice of political orientation of research (Wooffit 2005, 147). This is of particular relevance when analysing the SBST’s discourse as a constitution of a certain political ideology. Finally, my intention aligns with post-structural theory in that in no way I attempt to uncover a ‘secret message’ hiding in the statements made by the SBST, nor will I argue to present an objective truth on the SBST’s intentions. I will rather provide a subjective but critical interpretation whether the discursive functions of the SBST’s statements align with critique of behavioural economics as a neoliberal ideology by looking at “that what is made up by the text itself” (Graham 2011, 10). In doing so, emphasis will be given to question what function of the descriptions of the SBST’s practices in a certain way in that it simultaneously excludes other discursive constructions of the same ‘things’.

This post-structuralist approach might seem contradictory to my research in that I search for ideology in the discourse itself, but ideology is often perceived to be ‘hidden’ in a subtext, which is exactly what a post-structuralist eschews. However, discourse and ideology in a post-structuralist fashion can be used in tandem. Purvis and Hunt (1993) write about the seeming mutual exclusion of discourse and ideology. They note that while Foucault seems to oppose the two terms, they are still compatible in that discourse can be understood as *process* and ideology as *effect* (496). By this they mean that discourse is a mechanism that can constitute and carry out a certain ideology (496). Purvis and Hunt illustrate this with the example of the expectation that a males should open doors for females. While not being a linguistic act, as discursive acts do not need to be linguistic, it does serve to explain the

relation between discourse and ideology: discourse should be understood as the social act of opening the door and the manner in which this is done, while ideology consists of the social or political effects that this action brings about, in this case, subordination of the female actor (497). In my research, I will adopt a similar understanding of the relation between discourse and ideology. Roughly, the formulation of the text of the SBST's report is considered as discourse while I understand ideology not as a discursive layer hiding the SBST's 'true' intentions, but as the political function that is brought about through its discourse. So, if the report 'normalises' neoliberal ideology, I mean that the discourse (i.e. the formulation of the text) carries out neoliberal values. This way, ideology is not simply 'hidden' underneath discourse but the ideological effect that a discourse can bring about.

2. DEPOLITICISING POLITICS: 'Behavioral insight to better serve Americans'

In this section, I will analyse how the SBST discursively constructs its own nudges into specific objects of discourse. In both academic and media discourse, the words 'nudge' and 'nudging' are most common when the use of behavioural sciences in a governmental context is concerned. For instance, teams like the SBST are informally referred to as 'nudge units' in public and media discourse (Rutter 2014; Sommers 2015) as well as by prominent 'nudgers' themselves (Halpern 2008, Service and Halpern 2015). Sunstein and Thaler also use the word 'nudging' to refer to these applications of behavioural economic theory (2008). With nudging being the popular term in these discourses to indicate subtle behavioural techniques to influence behaviour, it stands out that the annual report from the SBST does not use the same description. The only instances the word 'nudge' is used, is in footnotes to refer to Sunstein and Thaler's eponymous book. Instead, a different object of discourse is constructed by referring to their practices, as seen in the following citation:

> "When ***behavioral insights*** – research findings from behavioural economics and psychology about how people make decisions and act on them – **are brought into policy**, the returns are significant. […] Policy design and program administration must actively **integrate behavioral science research findings**, and promising findings must be adapted in a government context. […] SBST works how **behavioral insights can be integrated** into Federal agency programs […]" (SBST 2015, 2, emphasis mine)

Instead of using 'nudging', the SBST refers to their practices as 'integrating behavioural insights', amongst others. Similar descriptions are found throughout the report, such as "integrat[ing] behavioral science research findings" (2015, 2) and "using applications of behavioral insight" (4). In general, the authors use a verbs as 'applying', 'integrating' or 'using', in combination with 'behavioural insights'. As seen in the first sentence of the citation above, the authors denote 'behavioural insights' as the research findings from behavioural economics and psychology. In the sake of clearness in this text,

the SBST's discursive construction of its own practices will for now on be referred to as 'the use of behavioural insights'.

Before I consider 'the use of behavioural insights' and 'nudging' as essentially the same things but as different objects of discourse, one might ask if the two are indeed similar. In most ways, 'using behavioural insights' and 'nudging' are different in their denotations: a nudge does not necessarily have to be based on scientific behavioural insights, while the use of behavioural insights does not necessarily have to consist of nudging. Of importance here however, is whether the actual practices of the SBST to which they refer to as 'the use of behavioural insights' can be understood in the same way as 'nudging'. Thaler and Sunstein defined nudging as "any aspect of the choice architecture that alters people's behaviour in a predictable way without forbidding any options or significantly changing their economic incentives" (2008, 8). So, in other words, a nudge is a cheap and subtle change in a choice architecture. In the 2015 report, the SBST cites seven projects it carried out (2015). Six of the projects revolve around the usage of emails, text messages or letters to inform US citizens of various programmes, such college enrolment, a savings plans for army veterans and farmers or a survey for Federal employees. Each of the projects either creates or changes a choice environment in a subtle and cheap way, as the reminders were in no way coercive nor financially expensive (SBST 2015, xii). In this way, the SBST's projects align with Thaler and Sunstein's definition of nudging. Therefore, the description of the projects as 'the use of behavioural insights' will be considered as such (and vice versa).

The question following from a Foucauldian framework is: what *function* does it have to construct an object of discourse as 'the use of behavioural insight' in exclusion of 'nudging'? I will analyse this by interpreting the discursive function of the SBST's statements, particularly in light of what Foucault sees as the effects derived from "hidden elements [constituted by] the unsaid" (1972, 124). The *not stating* of certain objects of discourse brings along "constitutive or political effects of saying this instead of that" (Graham 2007, 14). From a Foucauldian standpoint, the exclusion of nudging in the text is relevant because that what is said "always defines itself by establishing a specific link with *something else* that lies on the same level as itself […] Almost inevitably, it is something foreign, something outside" (Deleuze 1988, 11). In this case, 'nudging' functions as this *something else*, while the political effects Foucault refers to will be viewed in light of neoliberal ideology.

As indicated in the previous section, nudging is often seen as overly persuasive because a 'rational elite' constructs norms without preceding public debate about what these norms are supposed to be (Whitehead et al. 2011; Morozov 2013). This criticism can be seen as embedded in the word 'nudging' itself, as nudging suggests at least two actors: the 'nudger' and the 'nudgee'. In the literal sense of the word (i.e. 'gently pushing someone'), at least two actors are proposed. In the abstract sense (i.e. defined by Thaler and Sunstein 2008), nudging also functions as a persuasive act: someone is gently suggested to act in a specific manner. While admittedly it could be possible to nudge yourself,

considering both definitions, it is assumed that the term implies persuasion of one actor by the other. In this way nudging, similar to an understanding of persuasion, "attempts, by definition, to change actor preferences and to challenge current or create new collective meaning" by presenting "normative structures" (Payne 2001, 38). In this case, nudging, by definition, suggests a persuasive or political action.

The SBST's framing of its practices as 'the use of behavioural insights' eludes this persuasive connotation in favour of suggesting a non-political action of applying research findings in order to meet the demands of the citizen. Consider the difference between these two statements, the first originally cited from the SBST report and the second adjusted by myself:

> 1: "Policy design and program administration must actively **integrate behavioural science research findings**, and promising findings must be adapted in a government context. […] SBST works how **behavioural insights can be integrated** into Federal agency programs […]" (SBST 2015, 2, emphasis mine)
>
> 2: "Policy design and program administration must actively **nudge**, and promising findings must be adapted in a government context. […] SBST works how **nudging** can be integrated into Federal agency programs […]"

This swap emphasises the difference in the political function of these objects of discourse. Describing nudging as the 'usage of behavioural insights' carries the function of framing a non-persuasive government that is merely applying research findings. In the first citation, the 'lack' (Foucault 1972, 124) of attention given to the SBST's practices as persuasive effaces the role of the state as a nudger of norms. The absence of the implication of persuasion transforms the discursive construction of the SBST's practices to a bottom-up approach: the state merely reacts to findings from scientific domains. This way, the discourse presents nudging as essentially unpolitical, as it evades the persuasive connotation embedded in nudging. In the second statements however, the usage of the word nudge does suggests a persuasive act of pushing citizens into desired behaviour. In this way, the first statements suggest the integration of scientific evidence to improve how the government operates, whereas the second statements suggest active imposition of the government's power.

Additionally, the use of 'using behavioural insights' instead of 'nudging' evades the paradox that emerges when nudging is presented as a way to meet the wishes of citizens. This becomes especially apparent when swapping 'behavioural insights' with 'nudging' in the title of US president Barack Obama's executive order to encourage the integration of behavioural science into governmental policy, which is prominently featured on the first page of the report:

1. "Using Behavioral Insights to Better Serve the American People." (SBST 2015, 2)
2. "Using Nudging to Better Serve the American People."

Here, the difference between the objects of discourse is clearly displayed. While 'nudging to serve the American people' is certainly possible, it seems a contradiction in terminis in that it is suggested that the nudgee's (the people's) own interest is served whenever the agenda of the nudger (the government) is pushed. As such, 'serving' and 'nudging' do not go hand in hand because of the persuasive act embedded in the latter contradicts the subservient connotation of the former. In the first statement however, this problem does not arise, as it suggests new-found insights to optimise the way the state operates in service of its citizens, which evades the paradox.

What can the discursive functions of excluding 'nudging' in favour of 'the use of behavioural insights' indicate about the ideological effects constituted by the SBST's discourse? The discursive construction of the SBST's practices seem to indicate a frugal image of the government, as 'nudging the American people' suggests interventionism while 'using behavioural insights' to 'better serve the American people' suggests merely using scientific insights to adapt the government to the wishes of the citizen. John McMahon (2015) sees this depoliticisation as a characteristic for neoliberal ideology in governmental policy. According to McMahon, and similar understanding of neoliberalism described in the previous section, neoliberalists attempt to depoliticise the state in favour of organising a self-regulating society along the principles of the market (2015, 147). He argues that behavioural economics shares this neoliberal ideology in that its practitioners and its practices (i.e. nudging) are applied as a means to (falsely) present and construct a non-political state. As McMahon states:

> "The object of these behavioural economic interventions, of course, is the smoother functioning of the market, and in its self-presentation as technical and non-ideological, seeks to depoliticize its deployment." (2015, 145)

While I would not go as far as arguing that the SBST's discourse functions as 'smoothing the functioning of the market', the depoliticisation of nudging in the report does suggest a 'self-presentation as technical and non-ideological' – in this case because nudges are presented as research findings. Indeed, the depoliticisation of nudging in the SBST's report aligns with statements made by prominent behavioural economists pointing to an identical tendency to present itself as non-ideological and non-political. For instance, Thaler and Sunstein propose 'libertarian paternalism', the idea of a subtly nudging government, as a 'the real Third Way' in between the polarised, ideological and political fields of left and right (2008, 252). Camerer et al. propose that their view of governmental regulation through nudging will "appeal to everyone across the political spectrum" because it is based on empiricism instead of debates about the justification of paternalism (2003, 1254). Just as these behavioural economists themselves, the discourse in the SBST's report presents nudging as a neutral "consensus to be sought after" because it depoliticises "political intervention, often understood to be characteristic of neoliberalism" (McMahon 2015, 145). McMahon argues that this depoliticisation is the result of an economic view of political actors and questions (144-6), instead of a more humanistic and philosophical conceptions of society and regulation that for instance Morozov (2013) proposes.

Constructing nudging in objects of discourse suggesting non-political acts thus brings about neoliberal ideology in that, just as neoliberalism, it presents itself as apolitical and pragmatic (McMahon 2015, 145).

The discursive construction of nudging as apolitical in the SBST's report might bring about a neoliberal ideology, but the follow-up question is whether this should perceived as a problem. Presenting nudging as apolitical does present it as 'invisible' in the same way that neoliberalism's invisible hand is unnoticeable by the citizens as a political force, as Foucault argues (2008, 279-80). The discursive construction of the SBST that blurs the persuasive role of the government can be seen as a way to frame the US government as frugal. This way, SBST's discourse touches upon *laissez-faire* of neoliberalism: the government only has a function inasmuch as it is obliged to enable the people to pursue their own wishes. Adding this up, the SBST's discourse aligns with the neoliberal paradox in which a "disqualification of the political sovereign" (2008, 283) is suggested while simultaneously using an invisible hand, in this case the inherently political act of nudging. This could justify the criticism on nudging by governments as undemocratic as argued in Whitehead et al. (2011). The depoliticising of nudging as mere implementations of a scientific findings underscores the "instrumental utilisation" (2834) of nudging that Whitehead et al. criticise it for because it forecloses discussion about what the policy goals and designs using nudging should be (2834). After all, if nudging is a mere neutral instrument to optimise the live of citizens, why should there be a need for discussion about its operations? This instrumental conception underlying the usage of behavioural economics points to a further discussion because, according to Whitehead et al., this apolitical view of nudge units is also rooted in the conceptualisation of the human subject as highly irrational and emotional beings. Because of this, the 'rational elite', consisting of choice architects that design the nudges, function as the definers of what the 'best' behaviour of citizens should be (2834). In this way, the discourse and practicalities surrounding nudging are deeply rooted in a discussion of the human subject (2819), which brings me to the next section about the SBST's discursive construction of the citizen.

3. PRODUCING HOMO OECONOMICUS: Nudging to 'make the best choices for themselves'

I will now turn to how the SBST's report structures an object of discourse of the American citizen and its relation with the state. Perhaps the most interesting 'statement' concerning this is made when the focus area of the SBST's operations is discussed:

> "Where programs and policies offer choices, SBST works to carefully consider how the presentation and structure of those choices, including default settings and the number and arrangement of options **can empower participants to make the best choices for themselves and their families.**" (SBST 2015, 3, emphasis mine)

Here, it is suggested that citizens are better off when they are in the liberty of making their own optimal choices, and the usage of behavioural insights by the SBST will 'empower participants' to do so. This way, the statement echoes Thaler and Sunstein's conviction that nudging enables individuals to be "better off as judged by themselves" (2008, 5) and that libertarian paternalism is not an oxymoron as it can "preserve freedom of choice while still nudging people in directions that will improve their lives" (252). The same sentiment is echoed in the title of Obama's executive order, "Using Behavioral Insights to Better Serve the American People" (SBST 2015, 2), as it implies a non-persuasive government that meets the wishes of the citizens. In this way, the citizen is constructed in an object of discourse that emphasises its wishes and freedom.

Next to highlighting freedom of choice, the report also depicts an image of the citizen as autonomous and willing to participate. Consider for instance the following statements:

1. "SBST looks for opportunities to help qualifying individuals, families, and businesses access programs and benefits by streamlining processes that may otherwise limit participation." (SBST 2015, 3)

2. "As detailed in this report, SBST efforts are already paying dividends for Americans. Due to SBST projects, more Servicemembers are saving for retirement, more students are going to college and better managing their student loans, more Veterans are taking advantage of education and career counselling benefits, more small farms are gaining access to credit, and more families are securing health insurance coverage." (SBST 2015, 2)

In the first citation, it is suggested that the citizen wants to participate in various programmes, but might be prevented to do so due to complicated processes, and the SBST 'helps' these people gaining access by streamlining these. In the second citation, different groups of citizens are formulated as the active party by structuring the sentences as 'group x is doing y'. Turning to the looming 'not said' of the persuasive nature of nudging, the statements are not formulated in a way that the SBST is constructed as a direct nudger, as would be the case in 'the SBST made more students apply for college' or 'the SBST nudged students to apply for college'. Instead, the citizens are framed as the active agents, while the SBST's role is pushed backwards with a simple 'due to SBST projects'. The report states that the 'use of behavioural insights' acts as a remover of "small barriers of engagement" (SBST 2015, 1) to participate in programs, suggesting that the SBST's project merely makes participation possible instead of having a political role in encouraging a certain option. Elsewhere in the report, the SBST states that one of their efforts led to "billions of dollars of savings by Americans" (2), again emphasising the agency of the citizens. The question following from a Foucauldian discourse analysis is: what discursive function does it serve to frame the citizen as a rational and free

choice maker? Why is it that the statements about active citizens emerge "to the exclusion of all others" (Graham 2011, 5), and what (ideological) function do they serve?

The discursive construction of the 'active and rational citizen' in the report can be seen as similar to Foucault's understanding of homo oeconomicus. Foucault saw homo oeconomicus as a rational actor, an "entrepreneur of the self" (2008, 226), pursing their self-enterprise in the face of scarcity (McMahon 2015, 149). Homo oeconomicus is an "atomistic individual who has stable, coherent and well-defined preferences rooted in self-interest and utility maximization that are revealed through their choices" (McMahon 2015, 141). It can be said that the same model of the citizen arises from the statements in the SBST's report, as an object of discourse of the American people that 'make the best choices for themselves' suggest they are the ones who know what choices to make. The suggestion that the American people want to participate in programmes, aligns with the 'well-defined preferences' and the 'self-interest and utility maximization' of homo oeconomicus. This way, the discursive construction of the citizen by the SBST is in many ways equal to the model of homo oeconomicus.

The object of discourse of the American citizen as homo oeconomicus brings up the contradiction between an economic view of the human subject as a rational choice maker and the behavioural, Skinnerian view of the human subject as a highly irrational being. As noted above, the SBST's discourse aligns with the economic view of the human as homo oeconomicus. This is contradictory because the report also states that the SBST's job is to make a translation "from academic research findings to pragmatic program solutions" (2015, 5) which they base on behavioural theory by e.g. Kahneman and Tversky (5), which suggests that the SBST also adopts a behavioural and irrational image of human subject. Still, the report's discourse mainly seems to ignore this in proposing an economic view of the human subject by creating an object of discourse of the American citizen as homo oeconomicus. As such, the discursive construction of the American citizen report becomes an example of how governmental nudging can be understood as a discussion "centred on nothing less than the nature of the human subject, the relationship between our conscious and subconscious selves, and the complex interface between the rational and irrational" (Whitehead et al. 2011, 2819). McMahon tries to explain the contested images of the human subject in that behavioural economics does not contradict homo oeconomicus because "it does nothing to upset the broader model of an individual allocating scarce means to varied ends" (McMahon 2015, 149). Rather, the 'modern' view of homo oeconomicus functions in the same way as a behavioural view of the human subject because both try to "systematically theorize and model that strategic rationality" (149). This points to Foucault's argument that in the wake of Skinnerian behaviourism, economics had to adopt a view of the human as a subject having a "systematic nature of responses to environmental variables" (2008, 269). However, the SBST's report does not seem to align with this 'modern' understanding of homo oeconomicus as it emphasises the agency and freedom of the American citizen. Additionally, nowhere

in the report is attention given to the irrationality of human conduct, nor to the human subject as having a systematic nature of responses. In this way, the report seems to point to a more traditional and perhaps naïve understanding of homo oeconomicus.

In the light of neoliberal ideology, McMahon argues that nudging is being used by governments and behavioural economics as a way to turn citizens into homo oeconomicus by "shaping of individual instincts, values, desires and so forth to more closely conform to the market logics of neoliberalism" (2015, 148). To conform the citizen to market logics, neoliberalism presupposes that "the real is programmable by authorities: the objects of government are rendered thinkable in such a way that their difficulties appear amenable to diagnosis, prescription, and cure" (Rose 1996, 53). In the same vein as Cromby and Willis (2013), McMahon argues how the use of behavioural economics by governments does precisely this, and subsequently 'transforms' the citizen into homo oeconomicus by generalising economic principles through nudges (2015, 152). He illustrates how US citizens often undersave for their retirement, which led behavioural economist to advise the Obama administration to change to transfer from an opt-in system for retirement savings to an opt-out system (152). This way, more individuals started following the principles of the market as it compels the citizen to "self-manage in the realm of the neoliberal finance economy" (153). Consequentially, McMahon argues that this "automatic enrolment produces homo oeconomicus" (153). In this way, nudging has the ability to transform certain passive citizens who are not fully (financially) invested in the market economy into subjects akin to homo oeconomicus. Discourse and ideology aside, the SBST's report also presents nudges that seem to do just this, such as an email informing students of joining an income-driven repayment plan ("an email campaign to increase awareness of IDR and help borrowers make more informed decisions about loan repayment options", SBST 2015, 11) and a reminder to farmers to enter a savings programme ("A new outreach letter led to a 22 percent increase in eligible farmers obtaining business loans", SBST 2015, 13). By informing citizens of these programmes, "behavioural economics grants priority to choice, but only if that choice is presented in the correct (read: neoliberal) way" (McMahon 2015, 154), pointing to the neoliberal paradox explained previously.

While I would regard it as an overly bold claim to say that the SBST's discourse directly 'produces' the citizen as homo oeconomicus merely because it discursively structures the citizen as homo oeconomocus, it does suggest neoliberal ideological effects because it generalises homo oeconomicus to the American population as a whole. Again, I do not consider discursively constructing the citizen as a rational choice maker as an absolute and direct way to subjectivise the people into homo oeconomicus, but it can be understood as an indirect way to do so. Just as nudging, discourse has the ability to subjectivise humans into certain roles and creates identities (Howarth 2000, 9) – it is not coincidental that discourse analysis has been popular in topics on misogyny and racism. As explained earlier, objects of discourse show how "the words we use to conceptualise and communicate end up

producing the very 'things' or objects of which we speak" (Graham 2011, 6). In a way, discourse might be seen as functioning in the same way as nudging: they are both capable of subtly constructing norms and letting this pass by relatively unnoticed (Graham 2011, 10). Presenting the citizen as a homo oeconomicus who wants to participate in (financial) programmes, while ignoring the view of the human subject as irrational that the SBSTs projects are actually based on, creates a discourse that underscores McMahons view of a neoliberal government that generalises its citizens as homo oeconomicus (2015, 154). In doing so, I believe that the ideological effect of the report has the same result as using nudging in governmental policy in that it "has intensified and further entrenched ongoing processes of neoliberalization" (2015, 154) because it propagates an image of the citizen as rational, economic and autonomous, and does so by presenting it as a given.

The neoliberal tendency to view the human subject as homo oeconomicus is not problematic in itself, but this way the SBST's discourse does suggest a 'rational elite' as criticised by Whitehead et al. (2011). The report presents the American citizen as a homo oeconomicus while their projects are based on a behavioural view of the human subject. The latter view of the citizen is ignored in the report however, as nowhere is written about the irrational aspects of human behaviour that can be influenced by nudging. Instead, the citizen is portrayed as a rational choice maker without discussing why and how the SBST handles this. Not writing about the possibilities in which nudging can be used for ideological normalisation and political acts underscores the criticism on the governmental use of behavioural economics as apolitical, non-inclusive and undemocratic because it does not open up the discussion about the governmental usage of nudging. Therewith the report underscores McMahon argument that behavioural economics as a form of neoliberal governmentality "seeks to emphasize the individual choices and decisions on the market over other concerns" (154), as this emphasis on individuality and freedom of choice can be found in the SBST's report. In this way it also supports the criticism by Whitehead et al. in that "the instrumental utilization of […] behavioural insights leaves little opportunity to question the political and economic values that may lie behind the policy goals" (2011, 33) because nowhere in the report attention is given to discussion about how nudging is used and on what (ideological) values it is based. In the same way, by merely depicting the citizen as a rational, participating actor without questioning its irrational tendencies or the norms underlying nudging, the SBST's report negates how nudging can be fundamentally ideological. As such, based on its discourse, the SBST can be seen as acting as similar to what Whitehead et al. (2011) call the 'rational elite' that form these ideological norms, in this case because neoliberal ideology is presented as a natural, logical and non-controversial mode of operations. This opens up questions about governmental reasoning (McMahon 2015, 151) as it might indicate a (further) neoliberalisation of American politics and an acceptation of nudging as non-political and generally beneficiary for the American people.

CONCLUSION

This text neither tried to criticise the use of nudging in itself nor did it try to directly accuse the SBST of unethical neoliberal tendencies. In line post-structural theory, this FDA also did not present a singular objective truth on the SBST's intentions or on nudging by governments. It did offer a reading on the SBST's discursive construction and how its discourse can be seen as aligning with neoliberal thought. My interpretation of this is that the discourse in the SBST's 2015 annual report indeed suggests neoliberal forms of governmentality. The FDA conducted suggests that by avoiding 'nudging' in favour of 'using behavioural insights', the objects of discourse in the SBST's report have an enunciative function in suggesting that the team is not a political nudger, but rather an enabler of the wishes of the people through applying 'findings' from behavioural economics. This way, the SBST depoliticises their own politics which conforms to the neoliberal tendency not to act interventionistic but instead to govern according to the wishes of the people. This negates the political nature that nudging by definition possesses. The analysis also suggested that the report constructs an image of the citizen as similar to the model of homo oeconomicus. The American people are presented as rational choice makers in part because it is stated that the SBST projects are enabling the citizens to 'make the best choices for themselves' and they seek active role in various governmental and financial programmes. I have argued that, similar to nudging, constructing the citizen as an object of discourse as a rational actor consequentially constitutes the citizen as homo oeconomicus. Adding up the discursive functions of the SBST's statements, I see the report's discourse as indicating a neoliberal ideology. While this not being a problem in itself, my interpretation of the report does underscore the critique as found in Whitehead et al. (2011), Morozov (2013), Cromby and Willis (2013) and McMahon (2015) of governmental nudging as an inherently normalising practice conducted by a 'rational elite' favouring neoliberal ideology while not discussing this process on its normalising, ideological and ethical implications.

Naturally, this research has its limits and shortcomings. While a discourse analysis can make sense of ideological effects in discourses, as Graham (2011) highlights, it also is not 'scientific' insofar that it merely provides guidance for multiple interpretations of 'truths' to make sense of the world. As such, in the post-structuralist tradition, this research was just one of the many interpretations one can make of the SBST's report. Reading the SBST's discourse as presenting the nudges as apolitical and citizens as homo oeconomicus is highly dependent on which ideology one looks for in a text. As a result, in my research process I might have looked too hard for any signs of neoliberalism, which could have negatively impacted the nuanced and multifaceted approach that a difficult topic like nudging requires. Additionally, while certainly being enough content for this research, using only one source and analysing only the first five pages of the SBTS's report might be too limited to make any bold claims on governmental nudging at all. While the full report is mostly a continuation of the introduction discourse-wise, a more complete vision of the operations of the SBST would still be possible when analysing the full report's discourse or, alternatively, comparing the report to other text

of the same or other nudge units. A more comprehensive text could also further and more extensively analyse the influences of neoliberalism and behavioural economics on nudge units and subsequently on governments. In this text, the theorisation on this was limited to a few sources, most notably Foucault (2008) and McMahon (2015), while this naturally is not enough to do full justice to the complex operations and implications of governmental nudge units. Other theories like Gramsci's hegemonic power, Deleuze's society of control or Foucault's disciplinary society are all viable handles in explaining how governmental nudging can be understood, but were left aside in this text.

I suggest that further research should focus more clearly on the ideologies underlying the nudge units and nudges themselves in order to reach a well-founded assessment on this new way of using governmental power. While I analysed discourse, nudges themselves are also viable objects for analysis, as Cromby and Willis (2013) and McMahon (2015) have shown. With the global rise of nudging, comparative research on how different governments employ different forms of these behavioural techniques could indicate how nudging ought to be used in an ethically correct manner. Additionally, further inquiry on the behavioural economic view of the human subject, governmental regulation and society as a whole (e.g. by Thaler and Sunstein 2008 or Camerer et al. 2004) could give further explanation on how behavioural economists influence governmental policy. The economic view of the human subject adopted by behavioural economists could point to a broader clash between what Morozov (2015) indicates as economic and philosophical modes of governance. Ultimately, as Whitehead et al. (2011) suggest, research should inquire how nudging can be made more democratic and transparent, and in doing so formulate solutions to the current problems of nudging presented in this text.

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