

Well-ordered Nudges

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The justification of evidence-based policies faces a challenge from democracy (Kitcher 2011, Anderson 2011, Elliot and MacKaughan 2013, John 2017). While evidence-based policies should fulfill their pragmatic function (that is to perform cogent evaluations of technical and expertise-requiring issues), it should do so by taking citizens' values into account, without bypassing their autonomy. Behavioral public policies such as nudges (Sunstein and Thaler 2008), boosts (Hertwig and Grüne-Yanoff 2017), and incentivized behavior change programmes (Chater and Loewenstein 2017) are all instances of evidence-based policies. Hence they face the challenge from democracy. Indeed, the challenge is even more stringent for behavioral policies than many other evidence-based policies because these policies have a direct impact on our choices and decision-making processes. Nudges, as a popular type of behavioral policy, and accompanied ideal of "libertarian paternalism" seem to offer a unique response to the challenge from democracy. Based on scientific evidence assembled in decision sciences such as behavioral economics, nudges steer citizens' choices through subtle interventions to the choice environments. Nudges aim at changing citizens' behavior in directions that *these citizens would endorse*, had they been free from cognitive biases and had sufficient resources to deliberate over their decisions. The proponents of libertarian paternalism argue that carefully designed and implemented nudges respect the autonomy of citizens. Nevertheless, the ethical foundations and the political character of nudges remain controversial (see Barton and Grüne-Yanoff 2016 for a review). As such, how nudges and their justification are embedded in democratic institutional procedures are also ambiguous. Therefore, nudges are both praised and cursed for realizing (and not realizing) democratic ideals, and the commentators in the literature have different intuitions regarding how nudges relate to democratic ideals and procedures (see, for instance, Schiavone et al. 2013, Waldron 2014, Sunstein 2017, Nys and Engelen 2017). In this paper, I focus on the implications of Philip Kitcher's 2011 ideal of well-ordered science for the evaluations of nudges as evidence-based policies (see Schiavone et al. 2013 for a partial attempt). Kitcher's framework provides us with a democratic norm in which citizens and scientific experts interact in order to determine the non-epistemic value-content of scientific projects, including that of evidence-based policy evaluations. In the context of behavioral policies, Kitcher's ideal specifies a democratic procedure regarding how non-epistemic value considerations in evaluating nudges should be identified. I distinguish between evidence-based evaluations of nudges from the design of nudges, and focus only on the former. I list Kitcher's criteria for evidence-based evaluations of

nudges and define *well-ordered nudges* as those nudges that are evaluated following Kitcher's criteria. I then make use of the ideal of well-ordered nudges to illuminate subtle differences among the commentators in the literature regarding their presuppositions on the norms of scientific assertion in a democratic evaluation of nudge. Some commentators do not include norms of scientific assertion in their democracy-based defenses of nudges (e.g. Schmidt 2017, Nys and Engelen 2017). Others seem to disagree on whether the norms of scientific assertion in the context of evaluating nudges should aim at improving the *epistemic* or the *non-epistemic* position of the nudgees (e.g. Sunstein, Grüne-Yanoff). The discussion also has implications for the ethics and the methodology of conducting empirical studies on the acceptability of nudges (Sunstein 2015, Tennebaum et al. 2016).