

# **Does Nudging in Public Policies Harm Citizens' Democratic Freedom? A Critical Evaluation of Behavioural Public Policies in India**

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To err is human, but the incidence of errors can be controlled by proper guidance and action. Success stories proliferating worldwide vouch that applying behavioural economics and nudges in public policies can give significant payoffs. However, a criticism levelled against it is that the citizens' ability to evaluate and judge a piece of information comes from the policy only and nowhere else. The questions to address in this context are: Are Indian nudges manipulating the citizens' behaviour? Is their guidance aimed only at the citizens' welfare? What is the outcome of nudges if it creates a big societal gap in terms of information between informed people and uninformed people? Are the policymakers exploiting the citizens using inequality of information? In this paper, an attempt has been made to critically analyse some of the Indian government's policy interventions that used nudges. Our views are grounded in the belief that the nudgers may have their own agenda, and their nudges polarise citizens, thus undermining the potential of a democratic society. The nudges have the power to cause damage to the epistemic value of the democratic process. This paper discusses the violations of fundamental principles of behavioural nudges in Indian policymaking. It suggests that policy implications be put in place by concerned authorities to regulate the use of nudges.

**Keywords:** Nudges, Nudging, Democracy, Behavioural Economics, Rationality, Herding Bias, Manipulation

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In recent years, behavioural economics has been used transnationally in formulating public policies. This widespread acceptance is because behavioural economics applies an understanding of human psychology to explain why people deviate from rational action when they are making decisions. Many governments have shown interest in using nudges in their approaches to law and policy (Reisch & Sunstein, 2016). Multilateral organisations such as the International Monetary Fund, World Bank, United Nations, and Central banks of various nations also use behavioural nudges directed towards a purpose expecting a positive outcome from citizens.

Nudging is a decision-making framework that helps people make better decisions that lead to a desirable outcome. It enables humans to translate their intentions into actions that offer policymakers a cost-effective way to realise their goals without compromising the citizens' welfare, freedom, and autonomy (Schubert, 2017). The innovators of nudging, Professor Richard H. Thaler and Cass R. Sunstein, vocalised their sense of gratification in an interview conducted by McKinsey (2021)<sup>1</sup> that nudging for good has become a global success. Various Governments, starting with Britain and later the United States and other developed economies, have already started nudge units. Now developing economies such as India and China are using behavioural insight teams that explore policies to change the behaviour of the citizens towards making rational decisions.

Nudge, the manifestation of new paternalism, changes the choice architecture without distorting the choice environment and leads people towards the desired outcome (Leonard, 2008; Löfgren & Nordblom, 2020). Citizens are subject to many deviations of rationality that cause them to decide against their own best interests (Sunstein et al., 2018). People make bad decisions, ascribed to their limited attention and cognitive inability, incomplete self-control, and the possession of incomplete information (Mertens et al., 2022). Hence, Thaler and Sunstein (2008) opined that concerted efforts of private sector institutions and the government will help sway people's choices in the directions that will lead to a better quality of life.

The idea of nudging follows the principle of *yo*soft paternalism proposed by Thaler and Sunstein (2008). Professor Sunstein has expressed his optimism that India has the potential to become the world leader in the use of nudges. Later Economic Survey of India (2019) explicitly articulated that India has successfully framed and implemented public policies with the help of nudges. Prominent examples are (i) Beti Bachao Beti Padhao (BBBP) to Beti Aapki Dhan Lakshmi Aur Vijay Lakshmi (BADLAV); (ii) from Swachh Bharat to Sundar Bharat; (iii) from "Give It Up" for the LPG subsidy to "Think about the Subsidy"; and (iv) from tax evasion to tax compliance with direct and indirect taxes. Behavioural nudges are extensively applied while formulating these policies. Using the insights of behavioural economics was helpful to India as it saved much funds that have been otherwise utilised for other public welfare activities. For example, in the case of the Give It up LPG Subsidy Plan, which is aimed at encouraging LPG users to surrender their LPG subsidy voluntarily, many citizens gave up their subsidies while buying cooking gas; the government was able to channelise those savings to other welfare programs.

The prime purpose of nudging is achieving civic benefits through desirable social outcomes like improved public health, energy conservation, sanitation or higher rates of financial saving (Button, 2018). However, the time has arrived to cross-examine the behavioural policies in India to see whether they promote democratic values among citizens. Critics of behavioural public policies worldwide are recording their concerns regarding policymakers taking the wrong path by hurting citizens' freedom via this practice. They are concerned that these initiatives contravene democratic values such as fairness, freedom, transparency, and empowerment (Grüne-Yanoff, 2012).

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<sup>1</sup> Much anew about 'nudging', (McKinsey, 2021) August 6, 2021! Interview, <https://www.mckinsey.com/capabilities/strategy-and-corporate-finance/our-insights/much-anew-about-nudging>

Are Indian nudges manipulating<sup>2</sup> the citizens? Oliver (2018) observed that behavioural nudges could be used to convey information about the policies that manipulate the choices made by citizens. Manipulation involves influencing a person by exploiting their lack of exposure to sufficient information (Chriss, 2016; Sunstein, 2016a). Nudge can be viewed as a minimal intervention in people's behaviour that does not force them to make decisions. However, the Indian nudges are questionable due to their binding nature rather than being a choice architecture. They are also viewed as giving the citizen no chance to opt out once the decision is taken. Furthermore, multiple concerns have been raised regarding the manipulation/curtailment of the freedom and autonomy of citizens who are the objects of behavioural interventions and experiences. There are situations where nudge-based public policies challenge the learning abilities of heterogeneous citizens in India. India is a democratic country where citizens can vote a political party into power. However, the decisions of the political party with majority voting power are made with vested interests in mind and will show favouritism towards implementing their own agenda through their policymaking. The recent policymaking and execution-style in India use the technique of behavioural nudges. The authors' argument in this paper is that, not all but some of the public policies implemented in India using nudges have been deliberate attempts to enact some political agenda.

Nudges and the approach to libertarian paternalism should be evaluated in the context of the citizen's skill in the learning (Leggett, 2014). Some dark nudges and sludges are playing in India due to the inability of the citizen to evaluate information. Petticrew *et al.* (2020) elicited that dark nudges aim to change people's behaviour against their best interests to fulfil some vested interests, while sludges are behavioural strategies used in public policies that are not meant to enhance citizens' welfare but to delay any process. Here, the purpose is to identify the dark nudges and sludges that manipulate the behaviour of Indian citizens. Existing literature lacks intense studies exploring the negative aspects of behavioural nudges in the Indian context. In the same vein, it is argued that the government is exploiting the reasoning failures of citizens and is replacing democracy with a version of autocracy. Are these nudge-based public policies planned after seeking feedback from the citizens or to reach an outcome? Ultimately, the paper suggests the reasons for scoping an open discussion or debate on using behavioural techniques in public policies.

The article is structured as follows. The first section includes descriptions of nudge and nudge-based policymaking globally and specifically in India. Subsequently, the paper has incorporated a detailed overview of the significance of nudges in public policies in the Indian context. Thereafter, it discusses critical views of nudging that undermine democratic principles. In the remainder of the paper, we explore examples of ethical violations of the principles of nudging in Indian policymaking in which nudging is strategically used. Further, the paper raises questions or concerns over Indian public policymaking by highlighting and emphasising on present public policies. The final section presents policy implications and conclusions.

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<sup>2</sup> Manipulation: X manipulates Y if X can change Y's mind by doing something that undercuts or influence Y's rational abilities exploiting the insufficiency of information of Y (Wood 2014)

### **Nudge and Nudging**

Society sees people committing errors while making decisions because they need more guidance and direction. Sometimes they commit serious faults, which lead to losses. Hence, a direction from the government or policymakers might be essential to guide them properly. The behavioural economist tries to give suggestions and corrective processes to remove the biases of the citizens. Behavioural interventions or thought-provoking nudges from them are critical for the citizens to take proper decisions towards achieving ultimate well-being (Strassheim, 2021). Nudges act as behavioural interventions to guide society. However, critics argue that these behavioural interventions occasionally hurt the citizens by showing them the wrong way. It is suggested that citizens should have the learning ability to analyse the “political economy” of the nudges (Viale, 2016). At the same time, the policymakers may have a vested interest directed towards a task, and sometimes they may manipulate the power of nudges towards a wrong purpose (Schmidt, 2017). The paper further emphasises that these outliers leave ample space for policy options that have received little attention in today’s academic literature.

Nudge creates a choice architecture that can significantly modify people’s behaviour without restricting their freedom of choice (Thaler & Sunstein, 2008). It is a means to remind, alert or mildly warn a population segment, thereby helping them make a decision that results in their welfare rather than their detriment. Nudge theory has evolved from the idea of biases and heuristics<sup>3</sup> propounded by Daniel Kahneman and Amos Tversky<sup>4</sup>. The theory is based on two systems of thinking—Automatic or System 1 and Reflective or System 2. System 1 is automatic, rapid, and lacks control, while System 2 is reflective, slow, and needs conscious effort (Kahneman & Tversky, 1979). Initially, nudges were designed by taking advantage of System 1 as it speeds up decision-making without considering the rational agent model.

Extant studies have elicited the weaker side of the System 1 nudge, which paved the way for System 2 nudges (Sunstein, 2016b). Popular System 1 nudges are visual warnings, and defaults, while System 2 nudges include statistical information and factual disclosures. Sunstein (2016b) ascertained that people prefer System 2 nudges over System 1 in the context of public policy because they seem to prioritise individual dignity and autonomy more. People are willing to switch their preferences based on the significance and effectiveness of designed nudges. Nudging uses positive and negative reinforcements to shape the desired behaviour of individuals (Yeung, 2016).

The adoption of nudging has helped governments as it has resulted in many improvements to the delivery of various public policies, such as increased tax compliance, social security, better health, enhanced access to educational opportunities, and more charitable giving (John, 2019). However, it is criticised because of its subjectivity, which makes it difficult to ascertain its reliability and replicability under public emergencies. So it is of immense importance to assess the effectiveness of nudges in specific situations such as pandemics (Debnath & Bardhan, 2020).

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<sup>3</sup> Heuristics are mental shortcuts that help in problem-solving however, sometimes it results in irrational conclusions

<sup>4</sup> Daniel Kahneman and Amos Tversky developed “prospect theory” in contrast to the “expected utility theory” of Daniel Bernoulli. Daniel Kahneman was awarded the Sveriges Riksbank Prize in Economic Sciences in Memory of Alfred Nobel for his contribution to Economic Science in 2002.

It has been proved that changes in the choice architecture, otherwise known as nudges, have been employed in various contexts to alter people's behaviour (Hummel & Maedche, 2019). Research ventures in behavioural economics suggest approaches that may enhance the effectiveness of informational methods and compliment them (Guthrie, Mancino & Lin, 2015). Paternalistic interference in an individual's decision-making is justified by biases and distortions (Binder, 2014). Nudges take advantage of cognitive biases and motivational deficits to guide human beings towards desired behaviour so that policymakers can align their interests with that of these nudged individuals (Hertwig & Ryall, 2020). However, though adopting behavioural insights as a policy tool is a phenomenal decision, it strongly demands a critical evaluation of philosophical, ethical, and pragmatic dimensions of policy implications (Gaurav, 2019).

### **Evidence of behavioural interventions by countries**

Countries worldwide have proved successful in employing nudging techniques for shaping the behaviour of citizens towards public policies across various domains, such as public health, energy, and public finance. The British Behavioural Insights Team, also known as the "Nudge Unit", was established in the year 2010. Later in 2014, the US White House's Social and Behavioural Science Team (SBST) was constituted to bring insights into behavioural science to citizens' public welfare (Cai, 2020). Countries like Australia, Spain, and Wales addressed inertia and procrastination bias for accelerating the automatic registration of their citizens as organ donors with the option to retract it (Button, 2018). The government of New South Wales have nudged their citizens to pay taxes and fines without fail by setting up the Behavioural Insights community of practice in 2012 (Easton, 2014).

USA has introduced the Save More Tomorrow (SMART) programme to accelerate citizens' enrolment in 401(k) retirement plans by taking advantage of empirically proven nudging tools (Thaler & Benartzi, 2004). Reminders and positive reinforcements through text messages have increased tax compliance in the UK without raising the tax surveillance cost (UK Cabinet Office, Behavioural Insights Team, 2012). Countries like Bolivia, Peru, and Philippines have applied periodic and timely reminders to overcome their citizens' inertia to save money, resulting in a six per cent increase in savings among their citizens (Karlan et al., 2010). Defaults, framing, reminders (for both students and teachers), goal-setting, deadlines, and informational nudges have made remarkable changes in the USA's education sector (Damgaard & Nielsen, 2018). Inspired by these empirically proven successful interventions, countries such as the Netherlands, Germany, Sweden, Poland, Spain, Madagascar, and many more are actively incorporating psychologically driven nudging patterns for promoting educational growth (Booij, Leuven & Osterbeek, 2012; Wagner & Riener, 2015; Jalava, Joensen & Pellas 2015; Azmat et al., 2016; Nguyen, 2008; Krawczyk, 2011).

### **Behavioural Public Policies: Indian Experience**

In the Economic Survey of India (2019), NITI Aayog advertised their proposal

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<sup>5</sup> "Policy for *Homo Sapiens*, Not for *Homo Economicus*: Leveraging the Behavioural Economics of "Nudge" - [https://www.indiabudget.gov.in/budget2019-20/economicsurvey/doc/vol1chapter/echap02\\_vol1.pdf](https://www.indiabudget.gov.in/budget2019-20/economicsurvey/doc/vol1chapter/echap02_vol1.pdf)

for setting up a “Nudge Unit”<sup>5</sup> to introduce a novel paradigm for behaviourally informed policy formulation and execution in India. The Economic Survey has also pinpointed the weakness of neoclassical or standard economics for public policies. Since then, India has fully realised the significance of behavioural economics in public policymaking. It is argued that behavioural economics is best for nudging citizens and directing them toward the rationality (Gaurav, 2019).

Liberal democrats promise to focus on the general welfare of their citizens and also try to address social problems using soft interventions with the active influence of the government (Button, 2018). A country like India stresses the employment of nudge-based interventions to ensure the public welfare of its heterogeneous population. Prominent policies incorporating nudging techniques include the Give up LPG Subsidy Plan, Swachh Bharat, Beti Bachao Beti Padhao, and tax compliance (Economic Survey of India, 2019).

Divergence from ideal rational propaganda enables the employment of nudging strategies. Thaler and Sunstein (2008) state that people are mere “humans”, not “econs”; various biases govern their decisions. Systematic and democratically controlled transparent nudges can spur the manifold population in India by overriding those biases and directing them towards the desired behaviour without affecting their choice.

The spectrum based on the strength of coercion used in implementing public policies shows laissez-faire at one extreme, followed by incentivising and, finally, mandates at the other end (Economic Survey India, 2019). In recent years, behavioural science experts have discovered the possibility of adding a new class in the spectrum—nudges—that lie between laissez-faire and incentives.

### **Critical Views that Nudges Undermine Democratic Principles**

Nudges can be problematic as they violate people’s ethical concerns by overriding their interests via modifying the choice architecture (White, 2013). The significant and persistent claim against nudging is that its idea is based upon the principle of manipulating the choices offered to people (Hansen & Jespersen, 2013). Noggle (1996) demonstrated that some nudges provide more comprehensive information that improves the quality of rational deliberation. Nevertheless, one cannot judge which information presented may be manipulative. Felsen, Castelo and Reiner (2013) elicited that while making decisions, people may come across various biases which can be mitigated through interventions called nudges. Still, it reported the infringement of individual autonomy in most of the cases. Moreover, overt nudges targeting conscious, high-order cognitive decision-making are more acceptable than covert nudges, which facilitate subconscious, low-order cognitive decisions (Felsen, Castelo & Reiner, 2013).

According to Galizzi (2014), behavioural public policy is a policy intervention that can be seen as a pluralist, non-deterministic, and multipurpose approach based on behavioural research principles on policy making. Hausman and Welch (2010) opined that nudging plays on the flaws of human reasoning and judgement, while Bovens (2009) supported the argument by stating that it involves the exploitation of specific patterns of the irrationality of the decision maker.

Nudges should ideally be libertarian, i.e., people should have the freedom to choose or opt-out as recommended by Thaler and Sunstein (2008). However, the

authors are doubtful about the Indian nudges following these principles. In the article “The Power to Nudge”, Schmidt (2017) shared the worries regarding the problematic social control over the citizens when the government used systematic nudging for implementing public policies. It also emphasises the lack of transparency, which makes it hard to control the effects of nudges individually and democratically. Strassheim (2021) pointed out that failures in behavioural public policies can be due to the misunderstanding of the linkage between social and cognitive mechanisms. It can result in unintended side effects that hamper the actual intention and thereby lead to undesired outcomes.

Libertarian or soft paternalism never restricts individuals’ decision leeway. It accepts the necessity of paternalism due to behavioural anomalies (Kirchgassner, 2017), while the same argument regarding irregularities supports strong paternalism. Nudge is not an effective strategy for changing deeply ingrained human behaviours. Such behavioural alterations due to gentle interventions would never help humans to cope with society’s major ills (Goodwin, 2012). The lack of a nudge-specific ethical framework poses a severe challenge as it would bring unanticipated and unintended side effects that are worse than the actual behaviour (Renaud & Zimmermann, 2018). For instance, concealing the real cause of unhealthy eating and nudging people toward a healthy diet only gives short-term results and no long-term effects (Just & Gabrielyan, 2018).

Many contributors to the theory are concerned about the ethical dilemma of using nudges to influence people (Raihani, 2013; Sunstein, 2016). Some of them opined that nudges might harm fundamental democratic values such as justice, autonomy and participation (Grüne-Yanoff, 2012; Schmidt, 2017). Some pieces of evidence reveal the risk of neglecting the importance of democratic principles when designing nudges for sustainable behaviour change, potentially complicating the democratisation of the system (Gumbert, 2019). Indian democracy is a participative one, so people’s decisions are considered. Citizens’ anti-nudges are present, and their words are least considered due to the system bottlenecks (Leonard, 2008).

The Economic Survey (2019) stated that Indian nudge policies lie between *laissez-faire* and incentives. However, Gaurav (2019) draws our attention regarding the character of Indian nudges to two perspectives: firstly, lack of understanding of the concept and conceptualisation of Behavioural Economics. Secondly, it does not acknowledge the concerns about the philosophy of nudge in policy designs as suggested by the funders of the nudge theory. For example, the definition of “anchoring bias”<sup>66</sup>

“in the Economic Survey 2019 (p 30) is wrongly interpreted. It confuses “default bias”<sup>7</sup> as the same as anchoring bias. It is to be noted that behavioural nudges play against the default bias of the citizens, not the “anchoring biases”. Further, he

<sup>6</sup> Anchoring bias is a cognitive bias that causes people to rely too heavily on the first piece of information or pre-existing information rather than the subsequent piece of information while taking decisions.

<sup>7</sup> Default biases are people’s decisions with the status quo instead of sticking to the current choice. They strictly follow this status quo even though it is not rational. However, policymakers are trying to change their preferences by directing them towards rational choices.

<sup>8</sup> Self-serving bias is when we attribute the credit of positive events and successes to our actions or internal factors, but blame negative results on external factors.

observed instances of “self-serving bias”<sup>8</sup> in the “Swachh Bharat Mission” and “Beti Bachao, Beti Padhao” (BBBP), which is again misinterpreted as a nudge. The author concluded that the Economic Survey’s definitions and conceptualisations of nudges are confused in its treatment of information and rationality<sup>9</sup>.

Our arguments also confirm Gaurav’s (2019) description of four specific problems of Indian nudges. The first one is a lack of clarification of the “good or rational”. For instance, one citizen’s “good” behaviour may not be a “rational” behaviour for the government or policymakers. Similarly, citizens’ “rationality” may not be “good” for the government. The outcome here is ‘confusion’ among the citizens about whether to opt-in or opt-out of a policy among the choice architecture. Therefore, citizens in India will be seriously affected by the “herding bias”<sup>10</sup>(following others if there is confusion) and choose an alternative, mostly by imitation, whenever there is policymaking through behavioural nudges.

The second problem is the legitimacy of nudges for which the Indian government is answerable. Public policies like Demonetisation, Good and Service Tax, and the National Pension Scheme target a behavioural change from the citizens towards a common goal. The opposition parties have raised substantial questions over the need for these public policies, and the matter of their efficacy in the long term is still under debate. Furthermore, some of these policies have used coercive power rather than a libertarian paternalistic approach and were later revealed to have failed to achieve several desired outcomes.

The third problem is “homogeneous irrationality”. For example, in the LPG subsidy policy, an opt-out option was given as the desirable option. But once a citizen gave up the subsidy, there was no opportunity to get it back. Thus, it is criticised as a coercive nudge rather than one based on soft paternalism and choice architecture. Wilkinson (2013) supported this view, arguing that governments employ nudges; however, it is objected to when it manipulates the citizens and treats them as puppets.

### **Shreds of evidence from India**

Noggle (2018) stated that the success of behavioural policymaking depends on the strength of the relationship between the country and its citizens. Therefore, the question is whether Indian nudges are controlling the people or rationalising them. Utilising a person’s lack of knowledge to someone’s advantage is manipulation rather than rationale (Chriss, 2016; Sunstein, 2016a). Nudge can be thought of as a minimal behaviour intervention that doesn’t compel people to make choices. The Indian nudges, on the other hand, are dubious because of their persuasive nature rather than being a choice architecture. They are also seen as not allowing the person to refuse the choice once it has been made. The manipulation or restriction of citizens’ freedom and autonomy, who are the targets of behavioural treatments and experiences, has also drawn much criticism. This paper discovers that nudge-based public initiatives in India test diverse populations’ learning capacities. The arguments against Indian nudges come around the notion that India is a democratic nation where people have the power to choose which political party rules. However, it is accustomed in many situations; the political party with the majority of votes makes

<sup>9</sup> See Kuehnhanss (2019) for an outstanding review of the history of the use of behavioural insights in policymaking. It also touches on a critical look into nudging as a policy tool.

<sup>10</sup> Herding denotes the citizen’s tendency to follow and copy what other citizens are doing.



decisions with vested interests in mind and will favour achieving their own agenda through creating policies.

This section critically outlines some of the policy interventions that have used nudges. Although the policies that used nudges are thriving on one side, a section of our society has strong objections. Over the decades, India has successfully adopted behavioural insights in implementing various policies (Economic Survey of India, 2019) like *Beti Bachao Beti Padhao*, *Swachh Bharat*, *Give It Up* for the LPG subsidy, avoiding tax evasion and many more. On assessing the strategic moves of the government on policy formulation and execution, it is observed that some of these interventions undermined the democratic principles of our nation. Based on this, five schemes have been selected after considering the impact and representation of these behavioural interventions. The Goods and Service Tax (GST), National Education Policy 2020, the *Give It Up* LPG Subsidy Plan, the Alcohol policy, and the Incredible India Campaign have been critically evaluated in the study.

### **Goods and Service Tax**

The Goods and Service Tax (GST), when implemented in the year 2017, was seen as one of the significant milestones of Indian financial regulations. However, implementing such a rigorous mandate in a country like India is a complex process. Behavioural modifications by the government were critical to the transition of the new taxation regime. The best epitome of this was the move by then Finance Minister Mr Arun Jaitley to enforce the constitutional amendment that the previous tax regime would only continue for a year, which categorically forced the state governments to speed up the process.

Furthermore, the Central Board of Indirect Taxes and Customs (CBIC) had constituted a 'Nudge Team' to design a strategy for studying the behavioural patterns of taxpayers in India and use a stratified approach to motivate citizens to pay taxes. This approach has segmented the taxpayers into various categories based on their behavioural patterns (The Economic Times, 2018). The Indian taxpayers would be categorised into groups like "disengaged", "resisters", "triers", and "supporters" based on their behaviour (Business Standard, 2018). As per this, disengaged are individuals who wilfully violate tax rules and shirk their responsibilities, whereas resisters are those who see the system as harsh but are amenable to persuasion if their concerns are addressed. Those who want to cooperate but are having trouble in paying their taxes for a variety of reasons will be referred to as "Triers" whereas those who voluntarily obey tax laws and support the system will be labelled as "supporters". The tax nudges may be varied following the classification of taxpayers. Further, the tax agency will use a gentle approach to encourage defaulters to abide by the law by sending them personalised emails that remind them of the default in the tax payment cycle. While considering the behavioural interventions, the focus

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<sup>11</sup> The news appeared in the Economic Times on October 28, 2018 <https://economictimes.indiatimes.com/news/economy/policy/cbic-to-focus-on-behavioural-patterns-of-taxpayers-to-improve-gst-compliance/articleshow/66399753.cms?from=mdr>

<sup>12</sup> The news appeared in Business Standard on October 28, 2018 [https://www.business-standard.com/article/economy-policy/how-to-make-taxpayers-comply-with-gst-laws-cbic-now-has-a-solution-118102800122\\_1.html](https://www.business-standard.com/article/economy-policy/how-to-make-taxpayers-comply-with-gst-laws-cbic-now-has-a-solution-118102800122_1.html)

should be on societal norms, fairness perceptions, and tax morale, along with the retention of a “non-deterrence” strategy. But ambiguity still persists regarding how the officials classify the taxpayers based on their pattern of behaviour.

Business organisations can now demand that their vendors upload invoices to the GST Network (GSTN), a communication facility offered by the government. The facility connects both the seller and the buyer on the common tax return filing portal, where the buyer can flag any default by the seller to upload the invoice. The seller's default in paying the government the indirect tax collected from the buyer has long been an obstacle in the tax credit chain and a common source of litigation. However, while critically evaluating by comparing the nudge principles along with the acts of the Indian government, it is pretty much evident that the lack of transparency about the background working of the system enforced by the GSTN. Moreover, such an attempt by the government does not provide any sort of choice architecture, as envisioned by Thaler and Sunstein, which is considered key among the principles of nudging.

### **National Education Policy 2020**

The government claims that the problem with higher education in India is the lack of choices for the students, lack of competition, and little autonomy (Ahlborg, 2018). The New National Education Policy (NEP) 2020 envisages the following aims: (a) introducing more competition in higher education by enhancing the autonomy of higher education institutions, offering a wide choice of institutions and thereby increasing the course drive demand; (b) facilitating the entry of new domestic as well as foreign universities which are top rated and which may have different business models compared with existing universities, and (c) introduce flexibility into the provision of degree-awarding powers of the higher education institutions to reduce the market power of existing institutions.

Notably, some interventions by the Government of India in the education sector may nudge students toward decisions that help achieve the objectives for higher education set out by the Department for Education. The NEP 2020 has been criticised for not focusing on gender and minority rights as well as regional, cultural, and linguistic differences (Pillai, 2022). It is also criticised because an adequate reform implementation strategy has not been drawn up, including the people's mass participation and educational practitioners' & stakeholders' contributions while seeking inputs of the policy framework. Several additions to nudge institutions towards NEP 2020 were included in the Annual Quality Assurance Report (AQAR) format of the revised Manual of the National Assessment and Accreditation Council (NAAC) with effect from the academic year 2020–21. When these additions are part of the AQAR, the institutions must adhere to the best practices given by NEP 2020 mandatorily. They do not have an option to opt-out of the scheme. Despite the cardinal principle of nudging is to keep things straightforward and not allowing any room for ambiguities, these additions to the NEP 2020 seem to confuse and add to the already heavy workload of higher education institutions.

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<sup>11</sup> The Kerala model school curriculum and the anxiety of reform” (Professor Meena T Pillai's write-up in *The Hindu*, 2022), <https://www.thehindu.com/opinion/op-ed/the-kerala-model-school-curriculum-and-the-anxiety-of-reform/article65834972.ece>

Indian higher education follows the pattern that the conditions imposed by the UGC are not mandatory to the universities and institutions, but are available through choice architecture. However, the metrics of the UGC accreditation rules contain these mandates. Therefore, a university or a college essentially fulfils these conditions or criteria to be accredited well. In this instance, an indirect behavioural intervention by the UGC and higher education towards a common goal without a democratic approach is visible and these practices are not following the fundamental principles of nudges.

### **Give it up LPG Subsidy Policy**

The Give it up LPG Subsidy was a campaign introduced in March 2015 by the Indian government. Its goal is to persuade LPG consumers who can pay market rates for the fuel to forfeit their subsidy voluntarily. The government is redistributing the forfeited subsidy to grant free cooking gas connections to low-income people living in rural areas. This was done to finance the subsidy to be disbursed through the Pradhan Mantri Ujjwala Yojana, which was launched in 2016. The scheme aimed to provide LPG connections to rural women belonging to the BPL category. The scheme targeted to provide 50 million free LPG connections in the first three years, and later extend to 80 million connections in the next eight years. Currently, the scheme is extended to all rural households to cover BPL families who are not beneficiaries of LPG connections. The top five states to stop receiving subsidies were Maharashtra, Uttar Pradesh, Karnataka, Delhi, and Tamil Nadu.

Thaler and Sunstein (2008) proposed these three ethical principles for using nudges in their book *Improving Decisions about Health, Wealth, and Happiness*. Firstly the principle emphasises that the nudge should be transparent and never misleading; secondly, the nudge should have a choice to be easily opted out. And finally, “there should be a good reason to believe that the behaviour being encouraged will improve the welfare of those being nudged”. This criterion serves as the key and ultimate litmus test. It should ensure that the nudge serves the best interest of the person who nudged it. If this criterion is not satisfied, then it is not a nudge but something else. Now, let us evaluate each criterion with the reality on the ground regarding the scheme’s implementation and determining whether the Give up LPG subsidy scheme could be equated with a nudge as propounded by Richard Thaler. Prima facie, while scrutinising the policy in the light of the first criterion of whether the nudge was transparent or misleading, it can be seen there was a confusion in the minds of the public whether once given up, the subsidy could be reinstated. This question is also key to evaluating whether the public had any choice regarding giving up their subsidy. A clear violation of the principles of nudge is evident as no information was given to the public to substantiate the words of then Petroleum Minister Shri. Dharmendra Pradhan said, “Those who voluntarily give up the LPG cylinder subsidy under the government Give It Up scheme can ask for it after a year”(The Hindu, 2016). Thus it is clear that the people did not have an option initially, and later on, the Minister’s promise was not kept.

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<sup>14</sup> Adding that K. Ravichandran, senior vice-president, Corporate Sector Rating, ICRA, also quoted, “The usual understanding is that once you have given it up, you can’t get it back, the government must make clear at what LPG price point it is willing to reconsider giving back the subsidy to those who gave it up.”

It is evident that the people did not have an option of quickly opting out of the nudge, triggering a contention that the 'Give it Up'<sup>11</sup> scheme was a sludge rather than a nudge. Furthermore, Thaler (2018) held that the people being nudged should be a beneficiary in terms of welfare; contrary to that presumption, people opting out of the scheme were not direct beneficiaries as those funds are being used for allotting LPG connections for rural women below the poverty line. However, it could be argued here that the whole public should be considered a single unit in a broader sense. Wilson et al. (2017) averred that while individual contexts can differ in manifold ways, some general results also contribute to welfare in its wide application.

### **Alcohol policy**

Petticrew et al. (2020) observed that the alcohol industry uses nudge through smart communications about "responsible drinking" by priming consumers to drink more by offering oral and pictorial cues to drink while attempting to warn about the harms of alcohol consumption. Similarly, in India, alcohol policy focuses on the prominence of family ties and quality of relationships, thus stimulating alcoholics to regulate their alcohol consumption by reminding them of their emotional attachment to their dear ones. The public advertisement shown before starting the cinema is one such case. Even though the government is making efforts to improve health and modify the behaviour of its citizens, its prime intention remains to generate more revenue from the sale of alcoholic beverages. In this case, it can be said that intentional manipulations of the behaviour of citizens may not be in their best interest.

### **Incredible India Campaign**

The Incredible India Campaign was instituted in 2002 by the Indian Ministry of Tourism to promote tourism in the country and attract tourists from all over the world to visit and experience the country. They concentrate on promoting cultural and heritage tourism by putting extraordinary effort into restoring cultural sites, including destinations in UNESCO's World Heritage Site list, facilitating sustainability, and adopting the latest technology (Menon, Bhatt & Sharma, 2021). Nudging the tourists by popularising the prominence of Yoga for better health and wellness has resulted in a tremendous contribution to the tourism sector. The Ministry tries to integrate the ideals of conservation of the environment and sustainable development, thus arousing the sentiments of people and subsequently attempts to develop a sense of commitment toward protecting nature and its resources (Nelson, Bauer & Partelow, 2021). Instead of concentrating on developing sufficient infrastructure and ensuring a secure experience while visiting the country (Export-Import Bank of India, 2019), the Ministry puts tremendous effort into drawing people to attractive spots through priming and cues. Our argument here is critical of the Tourism Ministry's attitude that the nudging efforts to promote tourism without creating sufficient tourist infrastructure may have long-term detrimental consequences.

**TABLE 1:** Consolidation of programmes in India, behavioural intervention and nudges adopted along with the intended positive outcome

Programmes	<i>Behavioural interventions</i>	<i>Nudges</i>	<i>Intended positive Outcome</i>
Goods and Service Tax	Categorisation based on past behaviour	Priming using emails, social norms.	Increased tax revenue and reduced tax evasion.
National Education Policy 2020	Institutional approach	Social and culturing priming, educational nudges	Strengthening the education system through restricting it.
Give it up LPG Subsidy Policy	Priming citizens through social vows	Priming cues, default and social norms.	Cooking gas connections for low income people.
Alcohol policy	Information framing	Priming cues like framing of the term “responsible drinking”	Generating a responsible drinking community.
Incredible India Campaign	Psychological campaigning strategies	Social and cultural norms, framing, healthy argument based nudges	Tourism development of the nation

*Note:* Compiled by the authors

### **Policy Implications**

The underlying principle of nudging is that humans may err if they make decisions themselves, but proper guidance and action can control such errors. This learning has prompted governments to interfere with people’s decision-making. Nudges are founded on the enrooted limitation of the human mind, which is explained by the acronym WYSIATI, which stands for What You See Is All There Is (Kahneman, 2011). However, people’s worldview is limited to the available known information. In the Indian context, it is crucial to understand the wide societal gap between informed and uninformed people. The solutions put forth by Hausman and Welch (2010) say that the government can address this gap if it is transparent about its intent and informs the people about how their choices are being shaped. Further, rational methods like campaigns, awareness drives etc., can be used by the government along with nudges for better awareness and information to the citizens to influence people’s behaviour. And most importantly, this should be done respecting their freedom, liberty, and equality.

The study of Reisch and Sunstein (2016) attempted to find out whether Europeans like nudges or not. The study’s outcome is based on nationally representative surveys

in six European nations: Denmark, France, Germany, Hungary, Italy, and the United Kingdom. The study reported strong majority support for nudges which are already adopted and under consideration in democratic nations. Despite the strong support in Europe, it yielded only less support in Hungary and Denmark. But in the case of India, no sincere and rigorous efforts have been taken to know the liking pattern of Indians towards the behavioural nudges used for policy implementation. Studies should be conducted adequately to validate people's preference towards nudging in public policies. In summary, this paper has shown how some policies of the Government can be detrimental to the welfare of its citizens. Our analysis provides insights to the regulators and supervisors to use appropriate nudging techniques to guide people to take better decisions to lead a better life.

### **Conclusion**

Nudges can be communications from the government directing their citizens towards rational decisions. If the communications from the government are essential, the citizen may rely on the transmission. However, these communications threaten democratic participation when citizens' environments are not conducive to political sophistication (Christiano, 2022). While considering that these communications are targeted explicitly to segments that are generally not sophisticated or informed is problematic to the democratic environment. Therefore, the uninformed or barely informed citizens can be vulnerable to manipulation and can be pushed into herding bias because they do not have the skill to evaluate the information correctly. Moreover, the trend is that most uninformed people choose the default option because they are lethargic about making choices on their own.

The authors find that the government and policymakers aim to achieve a purpose through public policies. But to do this, they exploit the citizens' inequality regarding access to information. Moreover, Sunstein (2016) points out overwhelming support for nudges of this kind in democratic societies and that support can be found across partisan lines. People tend to have severe objections to mandates and may withdraw their support when they suspect the motivations of those put forth through nudging. They also fear nudging because of inertia with outcomes which does not match their interests or values.

We live in a society in which the information gap is extreme. India is diverse, and convincing this diverse group is a big challenge to policymakers. Psychological interventions have helped India on several fronts of policymaking. The fact is that nudges helped India during the first year of the COVID-19 pandemic when the government imposed the country's strictest and longest lockdowns and vaccination drives. The policy reforms practised through nudges have continued in India without a futuristic cross-examination by the policymakers. For example, Union Budget 2023 has applied a classic nudge by deploying a concessional income-tax regime as the default option, which will act as a force of inertia and could move taxpayers in the desired direction towards the new regime. The government is arguing that they are simplifying the rules to reduce the complexity of the old regime consisting of many provisions for deductions. However, the old regime's tax-offs for insurance and investments can be regarded as policy nudges, too; the concessional one is decidedly more libertarian in outlook. Therefore, there are two schools of tax system that address different types of citizens; those who want to save to avail of tax exemptions and deductions and those who are interested in paying a flat rate without savings and

deductions. It is noted that the consumption margin will benefit if there is a big migration to the new system because the citizens may give up the potential tax savings to opt for the new regime. This policy is criticised; it may create a generation of citizens interested in spending rather than saving.

Many government policies are needed to meet the success point regarding nudging efficacy. The human attribute of being averse to uncertainties has led people to view such policies with a sceptical mind. For a nudge to be successful, it should aim at the welfare of the ones who are nudged and not the ones who nudge. As seen earlier, European countries are conducting surveys to study the opinion of citizens regarding their likes and dislikes towards nudge-incorporated public policies (Reisch and Sunstein 2016). Unfortunately, in India, we could not see such efforts from the policymakers and concerned authorities. In the Indian context, combining policies with smart and hyper nudges is impossible in this chaotic and uncertain state of behavioural nudges usage without seeking feedback from the citizens.

On the contrary, the government set a framework in line with the Constitution of India and considered the population's heterogeneous nature. Further, the nudge should not harm the citizens' freedom of choice. The creators of nudges would do better to adopt a focused approach. It is recommended that a detailed investigation of Indian citizens' attitudes towards nudging and whether they like or dislike nudging in public policies should be conducted before more public policies are implemented using nudges.

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