

Bioethics and the risks of meta-nudging relativism

La bioetica e i rischi derivanti dalla meta-induzione del relativismo

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Health policies are often *nudging* policies, a fact full of ethical implications. In order to approach this complex topic, I shall, first of all, introduce the reader to the *Nudge Theory*, focusing on the presence of deep relativistic biases at its root. Secondly, I shall be arguing that nudging from relativistic premises has the hidden and contradictory effect of spreading (meta-nudging) relativism itself as a proper ethical stance. An effect that bioethics should be especially concerned with, because is likely to cause a general disregard of scientific data or even the production of pseudoscientific literature. The risk is then that public institutions on such an adulterated base could be led into a vicious circle, by promoting and increasing biased nudges instead of unbiasing them. As a paradigmatic example of the whole phenomenon, the case of gender theory will be briefly considered due to its very relevant medical and bioethical consequences.

Key words: *Bioethics, Health policies, Nudge theory, Meta-nudging, Ethical relativism, Gender theory*

Le politiche sanitarie si rivelano spesso essere politiche intese a indurre (nudging) certe scelte in preferenza di altre, un fatto foriero di molte implicazioni etiche. Al fine di trattare questa complessa tematica, si introdurrà in primo luogo il lettore alla Nudge Theory (letteralmente: “teoria della spintarella” o teoria sull’induzione delle scelte), concentrando l’attenzione sulla presenza alla sua radice di assunzioni preconcepite di tipo relativistico. In secondo luogo si dimostrerà che influenzare le scelte altrui a partire da premesse relativistiche, comporta come effetto occulto e contraddittorio una meta-induzione (meta-nudging) ad adottare il relativismo stesso come concezione etica propriamente intesa. Un effetto di cui la bioetica dovrebbe particolarmente preoccuparsi, in quanto possibile causa di indifferenza verso i dati scientifici o addirittura causa della produzione di letteratura pseudo-scientifica. Il rischio ulteriore è che le istituzioni pubbliche possano essere portate a cadere in un circolo vizioso, esercitando sempre più questo tipo di influenza preconcepita, piuttosto che sanando i presupposti errati su cui si basa. Come esempio paradigmatico del fenomeno nel suo complesso, verrà brevemente considerato il caso della teoria gender, in ragione delle conseguenze estremamente rilevanti che implica in campo medico e bioetico.

Parole chiave: *Bioetica, Politiche sanitarie, Teoria sull’induzione delle scelte, Meta-induzione, Relativismo etico, Teoria gender*

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Relativism and “Nudge Theory”

There was a time, even in modern democracies, when political authorities did not have to justify their ordinary interventions in maintaining social order and promoting welfare other than by discussing the most practical issues. The ethical values rooted into their social communities and especially those fundamental stemming from human nature as such (common good) were mostly given for granted. That time seems to be over for good in Western countries. Nowadays, when about to make interventions affecting social life in general, at a close inspection what results compelling as the only one permanent and common value to be respected, is that consisting in everyone's right of having his or her own life's view and behaviour being universally (by anybody) recognised, at least, as legally feasible. Individualistic will, claims and even only desires are increasingly becoming *virtually* untouchable, no matter of their contents. Indeed, if untouchability were not yet the case, that is, if allowing a specific claim were still a controversial issue, it would be just a question of time since the *archaic* moral value opposing the individualistic claim happened to be, first *legally* and then even *morally*, deposed. This is what can be inferred considering the overall trend assumed by legalisations with respect to the most sensitive ethical issues: from legally allowing divorce and abortion to guaranteeing freedom of euthanasia, from permitting homosexual marriage and adoptions to the implementation of transgender health policies the way traced by *modernistic freedom* cannot be seen otherwise than an interrupted sequence of stepwise successes. Beyond the superficial distinction between a political right and left the tendency proper to the leading political paradigm, therefore, seems to be that of legally allowing or forbidding not by considering actions in their real ethical meaning (content being measured by truth), but instead by morally valuing the mere fact of their stemming from or opposing one's will. This finally reduces morality in general, and politics in particular, to mere *formalism*, exactly because the criterion consisting in respecting one's will is only *incidentally* concerned with the moral quality characterising will's contents. In other words, it is the case of a criterion *essentially empty*, since only temporarily animated by a specific and stable moral content. To the extent that, being every specific content *per se* indefinitely changeable, what finally remains is only the permanent changing as such of the moral realm. All of which leads to the fact that not merely politics, but first of all the leading Western culture, is being ruled according to a form of more or less explicit (and theorised), albeit ubiquitous and tough, relativism.

One can find confirmation of all the above by reflecting on how the use of authority in public policy-making happens to be theorised in contemporary literature. This should be considered a topic of great interest for bioethics, because the context and the way how health policies happen to be thought and then realised can have a relevant influence on the quality of scientific research itself. In addition, since sci-

entific research, in its turn, represents one of the main factors in establishing public health policies, one can immediately understand the necessity of avoiding the risk of fostering a vicious circle between politics and science. Thus the fundamental question arises whether shaping public policies, in particular health policies, within the actual context of cultural relativism might promote a vicious circle, finally leading to the decrease of ethical commitment both in scientific research and in politics.

To address this issue it seems worth considering one of the most influential theory in contemporary philosophy of politics. Although its beginnings must be traced back to different origins, it was Richard Thaler and Cass Sunstein's book *Nudge: improving decisions about health, wealth, and happiness* to bring *nudge theory* (hereinafter: NT) to prominence in its most recent shape. According to it *choice architects* are those who, for a whatever reason, have the power and “the responsibility for organizing the context in which people make decisions” (Thaler and Sunstein 2008, p. 3). The design given to choice patterns, *choice architecture*, in its turn, can have a great impact in ruling somebody else's decisions and here is where the core concept of *nudge* is introduced:

“A nudge, as we will use the term, is any aspect of the choice architecture that alters people's behavior in a predictable way without forbidding any options or significantly changing their economic incentives. To count as a mere nudge, the intervention must be easy and cheap to avoid. Nudges are not mandates. Putting fruit at eye level counts as a nudge. Banning junk food does not” (Thaler and Sunstein 2008, p. 6).

The fundamental reason of interest in NT is due to what it entails, that is, the acknowledgement that nudging policies, being behavioural conditioning in essence, can easily be implemented into proper tools aimed at performing deep *ethical conditioning*. My main purpose, indeed, will not be that of proving against any possible adjustment the internal inconsistency of Thaler and Sunstein's doctrinal construct. It is instead in explaining why, and with which consequences, so frequently public and private institutions happen to be nudging in contrast with the ethical constraints belonging to NT that this paper is concerned. In other words, Thaler and Sunstein's NT is here considered in its particular meaning because the subsequent analysis unlocks interesting perspectives on the problem of nudge and social conditioning in general. This is not to say, however, that there are no internal intricacies in NT. As soon as the more general definition of *libertarian paternalism* is given, as the kind of nudging policy which “tries to influence choices in a way that will make choosers better off, *as judged by themselves*” (Thaler and Sunstein 2008, p. 5, emphasis in original), the tension intrinsic in attempting to merge the two terms¹ with one an-

¹ “When we use the term *libertarian* to modify the word *paternalism*, we simply mean liberty-preserving. And when we say liber-

other immediately arises. In fact, it is enough to read some of Sunstein's answers to critics (Sunstein, 2015) to verify that eventually what specifies NT's welfaristic aim ("choosers better off") is the ethical relativism underlying the "*as judged by themselves*" clause (the original emphasis was added for highlighting exactly the underpinning individualistic subjectivism). However, to be coherent, there is no form of *paternalism* which could be compatible with ethical relativism. For it does not seem possible to practice *paternalism* without deeply conditioning, in a way or another, also the whole of the third party represented both by those whose ethical view happens to be opposed to the one sponsored by nudging authorities and even by those who are not, or still not, able to have a personal ethical view. Indeed nudging according to one's ethical view often means nudging against somebody else's ethical view or against an equal probability for the two views of being adopted in the future.

Let us consider for instance the very actual and paradigmatic case when government or educational institutions adopt the *gender neutral* terminology of "parent one" and "parent two" in substitution of the traditional one of "father" and "mother" (Starnes, 2015). This cannot be considered, at any rate, an unbiased implementation. On the one hand, it is not respectful of all the involved ethical points of view, and, on the other, even assuming the validity of the invoked justification, it is surely not the case of a decision void of any nudging effect towards people's *future* choices. Although in the moment in which one is supposed to accept the new terminology, no specific choice happens to be "blocked", "fenced off" or "significantly burdened" (Thaler and Sunstein 2008, p. 5), nonetheless language manipulations of such kind represent a very powerful tool for progressively changing people's mentality in view of relevant future choices². As a matter of fact, given the general acceptance of

ty-preserving, we really mean it. Libertarian paternalists want to make it easy for people to go their own way; they do not want to burden those who want to exercise their freedom. The paternalistic aspect lies in the claim that it is legitimate for choice architects to try to influence people's behavior in order to make their lives longer, healthier, and better. In other words, we argue for self-conscious efforts, by institutions in the private sector and also by government, to steer people's choices in directions that will improve their lives" (Thaler and Sunstein 2008, p. 5).

² Changing semantics, that is, the way things are thought as referred to by language, finally leads to deep transformations in the behavioural relation that human beings have with reality itself. Thus it is surely not by chance that every kind of revolution and totalitarianism – let us think for instance to the French and to the communist revolutions – has massively employed the strategy of semantic manipulation not less than violence and physical coercion in attempting to re-shape reality according to their ideologies. But this is not only typical of explicit totalitarianism, like it was clearly denounced by the author of the emblematic novel *1984* already in 1946: "Political language – and with variations this is true of all political parties, from Conservatives to Anarchists – is designed to make lies sound truthful and murder respectable, and to give an appearance of solidity to pure wind" (Orwell, 1968). Reflecting upon Antonio Gramsci's theorised strategy, consisting in

not traditional families as something ethically unproblematic, many particular choices having social and political relevance – opposition to marriage and adoptions for homosexuals, along with related and even more controversial issues like e.g. *surrogate motherhood* – would be potentially deflected or contained.

The two authors could possibly answer that, according to their theory, this is not to be considered as a legitimate form of nudge. Nonetheless, as I have already noted, what really counts is what finally happens in daily life. As a consequence, given that there are many other similar cases, it seems either that the concept of nudge should be extended to include a whole category of public interventions, which proves to produce a much less "democratic" and unbiased influence than one could ever suspect at the first sight, or that NT, at least as intended by Thaler and Sunstein, corresponds more to what can be said without exceeding the limits of political correctness, than to what is really descriptive of how choice architects *commonly* accomplish their task all around the world.

Sunstein could then answer the objection by appeal, like he did against libertarian extremists, to the brute fact that the very structure of a whatever society is necessary build upon a certain number of heteronomically established nudging architectures³. Such a justification, however, entails that societies in order to avoid internal inconsistencies need not be based on relativism. Indeed, when relativism is adopted as public ruling tool, the aporia arises at different levels. First, because, when a real ethical opposition is at issue, there is simply no possibility of maintaining neutrality *while nudging*. Secondly, because if ethical relativism is the case, how to decide what is right to do if not only *by chance* (that is, by appeal to anything except to a true rational account)? In fact there would be not even a *moral* constrain in building and maintaining a social order of any kind. And why, in this case, should anyone be entitled to impose, or even only, to nudge in the direction of specific choices? If, on the contrary, ethical relativism were not true, there would be no reason for nudging according to relativism and, on the contrary, the use of real *paternalism* would be fully coherent. These very fundamental issues are left unaddressed by Thaler and Sunstein.

Meta-nudged relativism, society and scientific research

Apart from the last critical considerations, which directly concern relativism's soundness as such, an *ad hominem* objection against NT can be reformulated in a more substantive

the subordination of political power to *cultural hegemony*, could give great insights in this regard.

³ "It is essential to see that some form of choice architecture is inevitable. Human beings cannot wish it away, however much they are committed to freedom and autonomy. [...] Nor can public officials avoid nudging." (Sunstein 2015, pp. 512-3, see the text for the examples).

way by wondering whether it could be possible avoiding to nudge relativism itself while nudging from relativistic premises. It is indeed clear, although a thorough consideration of this point would far exceed the limits of the present paper, that all the efforts in preserving neutrality for not falling into “discriminations” of any kind – something which corresponds to the categorical imperative of our times – are finally rooted into the positive evaluation of a general relativistic attitude. Aiming at ethical neutrality, therefore, does not seem to represent a neutral ethical stance in itself, as if it were not considered by its advocates a moral virtue of some sort to be preferred to, and even imposed upon, absolute moral views. On the contrary, ethical neutrality, as immediately stemming from a virtually absolute freedom of conscience, appears to be the only universal value recognised by post-modernity and, perhaps, even the only one properly defining post-modernity’s *liquidity* as such, like I have noted at the beginning. Moreover, it has to be bear in mind that the way things are done, especially when previously planned, is not only significant with respect to the results considered as single and isolated outcomes, but to some extent it implies also a direct reference to the background principles upon which their attainment is methodologically based. It is evident, therefore, that in grounding nudge methodology upon relativistic premises one is bearing witness to – and thus is sponsoring – relativism itself. Thus welfarism along with NT risk to fall on their own premise, i.e. the myth of ethical neutrality. In fact relativism in this case happens to be *meta-nudged*, that is, nudged as such (as relativism) through the same act by means of which a more specific content is being relativistically nudged, eventually resulting, therefore, *sneakily* injected into society. But a hidden meta-nudge in favour of relativism is not consistent with a relativistically conceived form of welfarism and, on the contrary, it appears to be anti-welfaristic in essence. It is indeed not the case that every one’s desire of obtaining his or her welfaristic aim is *necessary* entailing a relativistic concept of desiring and achieving personal flourishing. Hence, promoting relativism in such a way, on the one hand, proves to be self-refuting and, on the other, seems to be unethical, since it sounds like subliminally (*de facto*) forcing relativism also into the consciences of whom, if explicitly asked about that, would deny to be relativist in principle.

However, it is not only a question of a general moral inconsistency. A large diffusion of relativism, in particular when tacitly induced, is at risk of negatively affecting also the quality of scientific research, especially with respect to the research areas more intrinsically related with ethical and bioethical issues. In the following, a main example of how relativism can cause a vicious circle between society (common moral sense, politics, jurisprudence) and science will be illustrated.

I have already noted how the actual cultural trend is increasingly leading to coincidence the pure subjective fact of *desiring* with the moral and legal acknowledgement of the

right to realise whatever happens to be desired. In the Western post-modern word of Politics, dominated by relativism, this goes under the label of “battle or fight for civil rights” and, since economy is reduced to the monologue of global-financial capitalism, the great part of the political game happens to be played around the proliferation of new rights (which, by the way, corresponds to the definitive abolition of the ethics based on *natural law*). In particular, discussions concerning “sexual identity” represent one of the main origins of such a proliferation, being *gender theory* and *queer theory* (hereinafter: GT and QT) its underlying justifications. GT and QT, however, are very far from representing an established doctrine with firm psychiatric, biological or psychological bases, and, on the contrary, belong much more to the field of philosophy (to a certain kind of philosophical anthropology and political philosophy) than to that of empirical sciences. One has rather the impression that references to psychiatry, biology and experimental psychology in fact represent only the external layer aimed at compacting the more internal layers which form the ideological kernel of these theories. And with regard to the internal kernel, the fusion of the *anthropological desires-centred paradigm* (“desire for recognition”) with the *disruptive political component* (“social transformation”) into one revolutionary aim is evident not only in reading authors directly compromised with Marxism, like the Italian Mario Mieli, but even very influential North American authors like Judith Butler, whose relations with European philosophy are well known:

“The Hegelian tradition links desire with recognition, claiming that desire is always a desire for recognition and that it is only through the experience of recognition that any of us becomes constituted as socially viable beings. [...] If part of what desire wants is to gain recognition, then gender, insofar as it is animated by desire, will want recognition as well” (Butler, 2004, p. 2).

“Indeed, individuals rely on institutions of social support in order to exercise self-determination with respect to what body and what gender to have and maintain, so that self-determination becomes a plausible concept only in the context of a social world that supports and enables that exercise of agency. Conversely (and as a consequence), it turns out that changing the institutions by which humanly viable choice is established and maintained is a prerequisite for the exercise of self-determination. In this sense, individual agency is bound up with social critique and social transformation” (Butler, 2004, p. 7).

This is not to deny that philosophy is necessary when a comprehensive account of human sexuality is at issue. Rather, my point is that it is exactly the case of a truly multidisciplinary research field. However, within the contemporary cultural context an active role of philosophy is admitted too often only as a deconstructive tool, useful for fostering self-determination as pure *negative freedom*, that is, liberty intended as primarily and most properly, if not exclusively,

committed to become its own rule of development (autopoiesis). Indeed after the use of philosophy as a *tabula-rasa*-setter it is easier to tame the scraps of reality intercepted by empirical research in the direction of one's subjective hermeneutics, once more according to, and therefore also reinforcing into society, a general relativistic attitude. As a consequence GT and QT's *liquefying* claims are increasingly perceived as enjoying, partly, the status of acquired scientific knowledges and, partly, that of acceptable/accepted ethical stances. The following three indicators are particularly relevant in testifying these changes: a) the great deal of propaganda, realised according to this ideology, targeting above all, but not exclusively, educational systems; b) the clear and increasing tendency of jurisprudence, both as issued laws and sentences, to sanction traditional views opposed to GT and QT's claims; c) what has been already allowed in terms of medical and pharmacological treatments by public health authorities and governments (the expenditure being often covered by the same public institutions).

In particular public health policies concerning *gender dysphoric* (GD) children and pre-adolescents are surely to be included among the most questionable matters in this area. Quite recently strong concerns has been expressed by the American College of Pediatricians (ACP) with respect to the medical treatments allowed and increasingly recommended at younger ages for GD children. ACP's position is based upon two studies: a long and detailed survey concerning sexuality and gender, conducted on the most recent literature in the fields of biology, psychology and social sciences (Mayer and McHugh 2016), and a more specific article regarding the treatment of gender dysphoria in children through hormone interventions aimed at puberty suppression (Hruz, Mayer, and McHugh 2017). Both the studies, although having been published on a non peer-reviewed journal, are co-authored by Professor Paul R. McHugh, a very well known and distinguished psychiatrist and scholar. I will briefly consider only the second article, in reason of the recent approval by the Italian "National Committee of Bioethics" (NBC) of the synthetic hormone *triptorelin* as treatment for obtaining *puberty suppression* in GD children. Although the NBC finally approved the treatment with this *off-label* hormone as eligible for being offered by the Italian Public Health System, the report (Comitato Nazionale per la Bioetica, 2018) issued as official answer to the applicant (the "Agenzia Italiana del Farmaco": *Italian Medicines Agency*) ends with an important and quite long annotation. It is written by Assuntina Morresi, the only member of the committee who gave a negative opinion. Interestingly, on the bases of the auditions and the scientific literature collected by the Committee itself, Morresi expresses almost the identical alarmed concerns which were enumerated in the article published on *The New Atlantis*.

There would be much more to be said about all the concerns expressed in the article, but the following list contains

only those quotations from which I will draw my final observations.

1. "In one prominent treatment approach, called *gender-affirming*, the therapist accepts, rather than challenges, the patient's self-understanding as being the opposite sex. Gender-affirming models of treatment are sometimes applied even to very young children. Often, the gender-affirming approach is followed in later youth and adulthood by hormonal and surgical interventions intended to make patients' appearances align more closely with their gender identity than their biological sex. In order to improve the success of the physical changes, interventions at younger ages are increasingly being recommended" (Hruz et al., 2017, p. 4).
2. "Hormone interventions to suppress puberty were not developed for the purpose of treating children with gender dysphoria – rather, they were first used as a way to normalize puberty for children who undergo puberty too early" (Hruz et al., 2017, p. 10).
3. "In the case of gender dysphoria, however, the safety and efficacy of puberty-suppressing hormones is not well founded on evidence [...]. Whether puberty suppression is safe and effective when used for gender dysphoria remains unclear and unsupported by rigorous scientific evidence" (Hruz et al., 2017, p. 15).
4. "This is especially worrying in light of the lack of understanding of the causes of gender dysphoria in children or adults. Conditions like precocious puberty, for instance, have a biological course that is relatively well understood. Hormone interventions that treat that condition are tailored to its causes. In the case of gender dysphoria, however, we simply do not know what causes a child to identify as the opposite sex, so medical interventions, like puberty suppression, cannot directly address it" (Hruz et al., 2017, p. 15). "All discussions of appropriate treatments for gender dysphoria in adolescents or adults are subject to the qualification that entirely new therapeutic approaches might be discovered as a result of improvements in our currently limited understanding of the etiology and course of gender dysphoria" (Hruz et al., 2017, p. 16).
5. "But most children who identify as the opposite sex will not persist in these feelings and will eventually come to identify as their biological sex. According to the Diagnostic and Statistical Manual of Mental Disorders,"In natal [biological] males, persistence [of gender dysphoria] has ranged from 2.2 to 30%. In natal females, persistence has ranged from 12 to 50%" (Hruz et al., 2017, p. 19). What instead characterises the opposite position is the concept of reality:
 - according to which the condition of gender dysphoria, that in fact represents a true contradiction between one's body and *soul* (idea of the self and feelings), is not to be considered intrinsically abnormal in relation to what a human being is, but possibly only in

relation to what one undergoes in reason of *social discrimination*;

- but also according to which a healthy body is pharmacologically and surgically treated as if it were unhealthy, for reaching a fictional condition of conformity that will need a lifetime and artificially supported fight against the natural flow of its own physiology;
- and finally according to which the dysphoric subjective self-perception, nonetheless, is what happens to be adopted as objective criterion for re-shaping and revolutionising all the other elements of personal life.

Such a view appears to be consistent with the adoption of relativism as epistemological criterion, that is, as methodological tool for interpreting and regulating the relation of mankind to reality. In my opinion this is the fundamental (philosophical) reason why *gender-affirming* approaches (see point 1 of the above quotations) are adopted in situations in which, all considered, a true rational approach to reality, before turning to invasive pharmacological and surgical treatments – I have here no room for reporting the reasons invoked by Hruz et al., (2017) in objecting against the full reversibility of the pharmacological treatments given to GD children –, should lead to evaluate point 5 as especially relevant in conjunction with point 4. As I was arguing above, this is indeed a case where, in order to find the right solution, a multidisciplinary answer is needed, and in which, conversely, every possible answer *de facto* is entailing a multidisciplinary combination of factors. Hence, what seems to be lacking in this attempt of re-matching body and psychology is a really sound philosophical background view, which is absolutely necessary, as the adoption of a relativistically based one *ipso facto* demonstrates.

Conclusions

The main point of my reflection consists in that relativism, especially when tacitly induced (*meta-nudged*), represents the aporetic issue to be put under focus more often than the very fact of its cultural hegemony would easily allow. Adopting or promoting a relativistic attitude by systematically giving priority to the duty of respecting somebody else's conscience, in the end does not seem to lead rationality and justice to reign. This is true even for those multi-disciplinary research fields that are supposed to benefit from the use of an empirical and rigorous scientific method.

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