

**NUDGE, SHOVE, BUDGE, SLUDGE
AND ADMINISTRATIVE BURDEN:
Terminological Demarcation and Practical Implications***

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Abstract. *In this paper, the authors provide a precise terminological demarcation of the following behavioral concepts: “nudge”, “shove”, and “budge”. Based on these concepts and three defined criteria (freedom/coercion, internalities/externalities, and behavioral insights), the authors explain various behavioral public policies and their practical implications: 1) the behavioral public policy of libertarian-paternalistic orientation (the “nudge policy”); 2) the policy of coercive paternalism; and 3) the behavioral regulation of externalities. Then, the authors provide a terminological distinction between the concept of “sludge” and “nudge”, and discuss their potential misuses. Finally, based on the level of “frictions”, the authors distinguish between the concepts of “administrative burden” and “sludge”, as well as the types of public policies that are recommended for their reduction, particularly “sludge audits”. The conclusion is that all these public policies are very close, slightly different in terms of the subject matter of regulation and the intensity of encroachment on the freedoms of individuals, but that they all have a common root in behavioral insights.*

Key words: *Behavioral Economics, nudge, shove, budge, sludge, administrative burden, behavioral public policies*

1. BASIC BEHAVIORAL CONCEPTS – DEMARCATION

In the introductory chapter, we make a distinction between the three basic behavioral concepts: 1. “nudge” (and the related concept of “choice architecture”); 2. “shove”; and 3. “budge”. Their demarcation will serve as an introduction to the explanation of various behavioral public policies that emerge from these concepts.

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1.1. The concept of “nudge” and “choice architecture”

In English, *nudge* has multiple meanings. As a verb, it means: 1) to push something or someone gently, especially with an elbow; or 2) to encourage or persuade someone to do something in a way that is gentle rather than forceful or direct. As a noun, it means: 1) the act of pushing someone or something gently; or 2) something that encourages or persuades someone to do something in a gentle way (CUP, 2021).¹

The concept of nudge has been popularised by the famous book *Nudge: Improving Decisions about Health, Wealth, and Happiness*, authored by Richard Thaler and Cass Sunstein, which was first published in 2008. Considering that this book has not been translated into Serbian, and that this concept is not sufficiently known in our country,² there is no adequate translation of the term “nudge” into Serbian. One of the rare translations that can be found in domestic papers (Vukov, 2015: 65) is “*usmeravanje*” or “*teorija usmeravanja*” (gently urging in the right direction). Based on the application of behavioral insights in public policies, a parallel use of the term “*usmeravanje*” (urging) and “*gurkanje*” (nudging) has been proposed in another book (Mojašević, 2021: 77).³

Now, we can define this term. Nudge simply means *guiding people towards the right choices or better decisions*. Practically speaking, it is like a kind of GPS which directs us towards a certain goal, provided that we have the freedom to reach the goal in another way or to give it up. The concept defined in this way requires answers to several questions. First, what kind of right choices or better decisions are in question? Secondly, from whose point of view are these decisions considered to be better? The answer to the first question is simple and it is contained in the title of the aforesaid book *Nudge: Improving Decisions About Health, Wealth, and Happiness* (2008). For example, these could be decisions about reducing obesity or increasing our financial security. On the second question, Thaler and Sunstein (2008: 5) give a precise answer: *from the point of view of the decision makers themselves in the way they evaluate better decisions or make choices*. The implicit assumption behind this reason is that people do not make perfect decisions; they are prone to predictable cognitive biases (systematic cognitive errors) in reasoning and decision-making.⁴ Precisely due to the existence of cognitive biases, “someone from the outside” is needed to help people make better decisions. That “someone” can be a decision maker in the public sphere (i.e. state authority) or private sphere (e.g., management of private company).

Finally, we can quote a formal (and probably the most well-known) definition of this concept: *nudge is any aspect of the architecture of choice that changes people's behavior in a predictable way, without prohibiting any option or significantly changing their economic incentives* (Thaler, Sunstein, 2008: 6). This definition also requires an explanation of **the choice architecture**, which means *organizing the context in which decisions are made* (Thaler, Sunstein, 2008: 3). There is a wide area of application of this concept: politicians, employers, parents and others can play the role of choice architects. For example, politicians can create the design of ballots; employers can create different pension plans for their employees; parents can

¹ CUP (2021): Cambridge Dictionary (online): <https://dictionary.cambridge.org/dictionary/english/nudge>

² This tendency has been changing in recent years as more authors are acknowledging the importance of behavioral economics and behavioral science.

³ The first term (“*usmeravanje*”) is more formal and technical, but the second one (“*gurkanje*”) is more vivid and suitable for the popularization of the field of behavioral economics and behavioral science in Serbia.

⁴ There are numerous cognitive biases in different areas (for the legal area, see: Mojašević, Nikolić, 2018); some of them will be elaborated in this paper.

determine alternative education or leisure strategies for their children, etc. The choice of these alternatives, made by the “architects” (politicians, employers or parents), certainly influences the final decisions of those who decide in the given context (voters, employees, or children). So, as in real architecture, *there is no neutral design* (Thaler, Sunstein, 2008: 3).

1.2. The concept of “shove” and “budge”

The second concept which is very close to nudge is the concept of *shove*. In English, this term means *to push someone or something forcefully*.⁵ While “nudge” means to push someone *gently*, “shove” means to push someone *forcefully*. By comparing these meanings, the gradation is obvious and has significant practical implications in the field of policy creation and implementation, which will be explained in the next chapter in more detail. For now, it suffices to know that this concept implies the application of *regulation*⁶; by definition, it violates the freedom of individuals, i.e. it imposes certain behavior on them that they might not practice. Basically, this element gives this concept a forced, binding, intrusive (imposing) character.

The third very important concept which is close to the previous concepts is *budge*. It means *to move or cause someone or something to move*.⁷ So, while “nudge” means to push someone *gently* and “shove” to push someone *forcefully*, “budge” means to *move someone*. The concept of *budge* also implies the application of *regulation* that violates the freedom of individuals, but the difference in relation to *shove* is in the subject matter of regulation. It regulates *externalities*,⁸ not internalities⁹ (see in the next chapter).

If we have understood the essential difference in meaning between these three concepts, we can now move on to explaining the types of public policies that have been derived from them.

2. THREE FORMS OF PATERNALISTIC INTERVENTIONS

Three different but related types of paternalistic interventions were derived from these three concepts: 1) **libertarian paternalism**, derived from nudge; 2) **coercive paternalism**, derived from shove; and 3) **behavioral regulation of externalities**, derived from budge. These are all *behavioral interventions*, that is, interventions that have people's behavior as the subject matter of direction or regulation. Given that *public policy*, as a direction of action and a set of measures of state bodies towards achieving certain economic and social

⁵ CUP (2021): Cambridge Dictionary (online): <https://dictionary.cambridge.org/dictionary/english/shove>

⁶ *Regulation* is a framework of behavior and business operations of economic entities that aims to increase the wider social benefits. It is made up of a system of laws and administrative procedures that serve the realization of public interests (Karaulac, 2008: 5). In a *narrower sense*, regulation is equated with *normative framework* (Serb. *regulativa*), the adoption of rules by bodies entrusted with public authority, which affect the business of economic entities. In a *broader sense*, regulation is a *process* because, in addition to adoption of laws and other rules, it includes setting standards, direct forms of *ex ante* and *ex post* control, and all other components of the regulatory regime, forms and methods of restricting or directing business to meet the public interest (Jovanić, 2014: 33).

⁷ CUP (2021): Cambridge Dictionary (online): <https://dictionary.cambridge.org/dictionary/english/budge>

⁸ *Externalities* in economics mean the transfer of costs or benefits to other economic entities without their consent (Nikolić, Mojašević, 2016: 164). Classic examples of negative externalities are pollution or virus transmission. Vaccination would be a positive externality.

⁹ *Internalities* denote harmful (or beneficial) behaviors that concern only the individual who practices them, such as smokers or savers.

goals and changes,¹⁰ includes *inter alia* behavioral interventions, the name **behavioral public policy** has been created. Thus, Behavioral Public Policy (abbr. BPP) means *the application of behavioral insights¹¹ in the creation and implementation of various public policies* (Mojašević, 2021: 75). Now we realize that there are three forms of behavioral public policies to which we may give full meaning.

2.1. Libertarian paternalism

Libertarian paternalism (abbr. LP) or behavioral public policy of libertarian-paternalistic orientation represents a soft form of paternalism. It is an ideology of state intervention that is based on the two previously mentioned concepts: *nudge* and *choice architecture*. Some authors (Mitchell, 2004) consider libertarian paternalism to be an oxymoron.¹² Simply put, the term “libertarian paternalism” contains two contradictory and incompatible terms: the former implies freedom and autonomy of individuals, and the latter implies coercion. However, the creators of this ideology, Thaler and Sunstein, have a different opinion. Namely, the paternalistic aspect of choice architecture means that decision makers (choice architects) have the power to influence people's behavior to make their lives better, longer, or healthier (Thaler, Sunstein, 2008: 3). These people have the right to choose another course of action; they are only directed toward a certain generally accepted desirable behavior. The implicit assumption behind this reasoning is that people need the help of third parties to achieve these desirable goals. This external benevolent and unobtrusive intervention is the core of libertarian paternalism. A classic example refers to a *retirement plan (program)* including the workers' choice to opt out of the scheme. It implies that employers in the private and public sectors automatically enroll workers in a retirement savings plan. If workers do not want to participate in this plan, they can opt out, but employers are obliged to inform them about this option in advance. As workers have an “opt-out option”, their freedom of choice is preserved. This program targets internalities, i.e. it helps workers save more for retirement. The program is also based on the application of the “default rule”, a well-known concept in behavioral economics. In addition to the basic rule, the “nudge” policy includes reminders and warnings (e.g., a reminder that you have not paid a phone bill, or a warning that the tax authority will charge a penalty if the property tax is not paid on time). A common feature of all these “nudge” instruments is that they do not impose significant costs on people who are subjected to them.¹³

2.2. Coercive paternalism

Coercive paternalism (abbr. CP) is grounded in the concept of shove. As mentioned, this paternalistic intervention is based on regulation and it is anti-liberal and intrusive by nature. Thus, unlike libertarian paternalism, it is a *hard* form of paternalism. But, there are two

¹⁰ This is a broader definition of public policy that is also accepted in the Serbian Planning System Act, “*Official Gazette of RS*”, No. 30/2018.

¹¹ *Behavioral insights* mean empirical knowledge about what motivates people, how they make decisions, and how they make moral judgments (Zamir, Teichman, 2018: 7).

¹² For a more detailed description of the critique of libertarian paternalism, see: Mojašević, 2021: 90–98; Mojašević, 2020: 135–139.

¹³ There are exceptions. For example, health warnings on cigarette packs might create significant emotional costs; sometimes, there is a “thin line” between nudge and material incentives. Thus, we might say that *in principle* the nudge policy should not impose large costs.

similarities between these interventions. In principle, both target *internalities*¹⁴ and both are based on behavioral insights. Sunstein (2013: 207) has perhaps best portrayed the difference between these two types of paternalism, stating that libertarian paternalism is about *means* while coercive paternalism is about *goals*. A classic example of the CP in the field of health is a *smoking ban*. Prescribing a prohibition of certain conduct is based on the fact that an individual who has had resistance to this policy will eventually accept that policy and, moreover, identify with it. The application of this policy is not arbitrary, but based on the findings and predictions of *the self-determination theory* (Ryan, Deci, 2000), which divides behaviors into *autonomous* and *controlled*. The prohibition of smoking or others behaviors falls into the category of controlled behaviors and arises from *extrinsic motivation*, which comes from an external reward or punishment.¹⁵ This reward or punishment can be prescribed by legislative or regulatory acts, or it can be a consequence of social pressure to behave in a certain way.

2.3. Behavioral regulation of externalities

Behavioral regulation of externalities (abbr. **BRE**) is grounded in the concept of budge. This paternalistic intervention has one thing in common with the previous two policies: it is based on behavioral insights. But, behavioral regulation of externalities differs from libertarian paternalism (LP) and coercive paternalism (CP) in two elements: 1) this policy is regulatory (as the name suggests); and 2) it targets *externalities*, not *internalities*. Classic examples are a ban on selling sweets or a ban on gambling. Let's elaborate on the first example. Some confectionery manufacturers could give a significant amount of money to sellers to display their products near the checkout counter (to make them salient).¹⁶ If customers buy a larger quantity of products that they otherwise would not buy, and especially if children consume these products, there is a justification for the application of a certain policy that would prevent that. In other words, such behavior of sellers creates a basis for the application of behavioral regulation of externalities, in this case, in order to prevent obesity, protect dental health, and other benefits for our health.

We can now summarize the similarities and differences between these three policies, which are shown in Table 1 for the sake of simplicity.

Table 1 Behavioral public policies (BPP) – demarcation

Type of policy	acronym	concept	freedom (F)/ regulation (R)	internalities (I)/ externalities (E)	behavioral insights (BI)
Libertarian paternalism	LP	nudge	F	I	BI
Coercive paternalism	CP	shove	R	I	BI
Behavioral regulation of externalities	BRE	budge	R	E	BI

Source: author

¹⁴ There are deviations because this intervention sometimes enters the field of externalities, thus approaching the third form of paternalism – *behavioral regulation of externalities*.

¹⁵ The opposite motivation is *intrinsic* and it comes from an inner sense of satisfaction that we have done something right. These are *morally motivated behaviors* that are different from *introjected motivated behaviors* (a consequence of external pressure).

¹⁶ Our attention is generally drawn to new things and those that we consider important; examples include: 1) *flashing lights on the highway or near schools*; 2) *items that are easily accessible and prominent*, such as products that are placed on a special shelf in the store; 3) or *simple messages*, like quick and effective advertisements, or slogans about the importance of keeping distance or wearing a mask during a pandemic (see more about this behavioral instrument in: *MindSpace Report*, 2010: 23–24).

3. THE CONCEPT OF “SLUDGE”

The concept of “*sludge*” is very close to nudge. What does the concept mean? A (descriptive) definition of sludge was offered by Sunstein (2020a: 3): “*it is the form of excessive or unjustified frictions that make it difficult for consumers, employees, employers, students, patients, clients, small businesses and many others to get what they want or to do as they wish*”. Therefore, sludge is a “excessive friction”, unnecessary material or mental burden that is not in line with people's desires and motives. Several questions arise concerning the demarcation between sludge and nudge, sludge and administrative burden, as well as a source of sludge and its concrete manifestations.

3.1. Nudge and sludge – demarcation

What is the connection between sludge and nudge? Sludge could be the abuse of nudge, i.e. using nudge for bad purposes. In Sunstein's words (2020a: 6), a sludge is an “evil nudge”. A classic example is when sellers advertise products or services only for the sake of profit maximization, and not for the material well-being of consumers. In the Internet era, they might use interfaces that take advantage of cognitive biases (such as “anchoring”¹⁷, the framing effect,¹⁸ or the sunk costs fallacy¹⁹) to confuse users or to manipulate them to take some actions – the so-called “dark pattern” (see: Luguri & Strahilevitz, 2021). Thaler (2018) cites an example of investors fraud committed by Bernie Madoff;²⁰ then the example when sellers offer a rebate to customers who buy a product, but then require additional steps (e.g., to send a copy of the receipt by mail) that most people forget to do or do not want to bother with. Actually, redemption rates usually range between 10% and 40%, but it is interesting that people are over-optimistic²¹ that they will redeem forms (for more detail, see: Tasoff & Letzler, 2014). Sunstein (2020a: 1–3) also cites several vivid examples, and we single out three of them: 1) a request to fill out lengthy online form to register a complaint about defective automobiles (with detailed information on the origin of the purchase and how the automobile was used); 2) unclear and confusing announcement of privacy policy when visiting a new site as a condition to continue reviewing that site; 3) complicated registration on the site to apply for an article review (as a result of which the potential reviewer decides to give up). We can also add an example from our medical practice, when we are asked for

¹⁷ “**Anchoring** is a particular form of priming effect whereby initial exposure to a number serves as a reference point and influences subsequent judgments” (Samson, 2021: 167). Simply put, the anchoring effect means that we rely on insignificant information (the so-called anchor) when making decisions. The anchoring process usually takes place unconsciously.

¹⁸ **The framing effect** is at the heart of the prospect theory (Kahneman, Tversky, 1979) and its new version – the cumulative prospect theory (Tversky, Kahneman, 1992). This effect implies people's tendency to make different decisions (risky or less risky) depending on the framework (positive or negative) in which they do so. In the positive framework (the frame of gains) they show risk aversion, while in the negative framework (the frame of losses) they prefer risk.

¹⁹ These are costs that have been incurred and, as such, cannot be “reimbursed”. **The sunk cost fallacy** means that people continue a behavior or endeavor as a result of previously invested resources (Arkes & Blumer, 1985). Related concepts are the status quo bias and the loss aversion.

²⁰ Bernard L. “Bernie” Madoff is an American financier manager responsible for one of the largest financial frauds in the history of investment. He used *Ponzi scheme*, a fraudulent investing scam promising high rates of return with little risk to investors (see: Investopedia (2021): Ponzi scheme; <https://www.investopedia.com/terms/p/ponzischeme.asp>).

²¹ **Optimistic bias** implies the human tendency to see things in a more positive way. It is a widespread and robust phenomenon, especially evident in the assessment of future outcomes (see, for instance, Sharot, 2011).

a medical referral in a situation when we want to perform medical examination by a specialist doctor or, even worse, when a medical examination is urgent. These additional steps and procedures increase our material and mental costs and significantly affect our decisions. The problem arises when we are “led” to these additional steps, which makes the concept of “nudge” meaningless or abused.

There are numerous examples of “sludge” in the public sector. In our country, for example, submitting financial reports at the end of the business year can be associated with numerous difficulties related to accessing the site, requests for various types of verifications, the overloaded system, etc. In American tax law practice, there is an example (Thaler, 2018) where taxpayers face an unnecessary and complicated procedure (filling out a form) to obtain a tax return. Many of them failed to complete that form, thus depriving themselves of the exercise of that right. Thaler (2018) concludes that “sludge” can either encourage behavior that is not in our best interest (such as too risky investing) or discourage behavior that is in our best interest (such as claiming a tax credit or rebate on products or services).

3.2. The manifestations and the source of “sludge”

Specific manifestations of “sludge” include: excessive paperwork burdens; excessive waste of time to exercise some rights or to do some jobs; various types of obstacles to exercising a right or performing a job (such as: complicated procedures, complex sites, multiple questions or vague words or phrases, manipulative words or advertisements, etc.) (Sunstein, 2020a: 8). We see that sludge generates different costs, such as information costs, opportunity costs (especially considering time), psychological costs (frustrations or humiliation), etc. Sometimes, it is very difficult to overcome these costs. Consider just the case of an elderly person who needs to fill out an online form, facing significant information costs as well as potential frustration and humiliation. As a result, he/she may give up. In the US, there is a very low take-up rate for different state or federal programs, such as claiming for certain tax benefits (see: Bhargava & Manoli, 2015).

We can see from these examples that “sludge” is a significant obstacle to free decision-making and taking various actions. But, the question is *what is the source of “sludge”*? The source of “sludge” lies in our cognitive biases, the most prominent of which are the status quo bias (or inertia), the present bias, and the procrastination.²² *The status quo bias* is the human tendency to maintain the current situation, resulting in resistance to change. Another name for this bias is *inertia*, which is present even when the costs of change (transition costs) are low and when the importance of the decision is great (Samson, 2021: 190, 178). We might recall the example of rebate on products or services and explain “sludge” by this bias or by procrastination. *The present bias* generally means impatience or the need for immediate gratification in the decision-making process (Samson, 2021: 184).²³ As future seems like an “unknown territory”, we are often tempted to postpone our administrative tasks for “tomorrow” despite the serious consequences of the delay. The present bias might explain why we often do not want to fill out various forms, especially if they are complicated or unclear. It is obvious that this bias is related to procrastination.

On the other side of the “sludge” is the “sludger”, the one who intends to exploit our biases to satisfy his/her interests and desires. This role is most often played by an economic

²² Of course, there are other cognitive biases, such as already mentioned over-optimism or loss aversion.

²³ For example, an individual prefers to receive 10 Euros today compared to 15 Euros tomorrow. But, an individual would be willing to wait for an extra day in the future when faced with the same choice.

entity that wants to maximize profit by behaving opportunistically or, even worse, in a Machiavellian fashion. In addition, there is a possibility that he/she does it *unintentionally*. This case is especially present in the public sector when bureaucrats or legislators impose some administrative burden out of “best intentions”, which turn out to produce unwanted negative consequences. In this regard, the question arises whether the administrative burden is always bad, or whether it serves some good purposes. Further on, we elaborate on this issue.

3.3. “Sludge” and administrative burdens

It has been said that sludge is an “excessive friction”. But, the question remains how “excessive” it is, and whether its “excessive” nature is always and necessarily bad. This raises a normative question that can be answered by linking it to the concept of *administrative burden*. First, we need to see what the administrative burden is and what its components are.

Herd & Moynihan (2019: 2) state that “*the administrative burden relates to the costs of business regulation or basic bureaucratic encounters, such as renewing a driver’s license*”. Those costs include: 1) *learning costs* (costs of searching for information about public services); 2) *compliance costs* (costs of complying with rules and requirements); 3) *psychological costs* (stressful experience, loss of autonomy, stigma arising from bureaucratic encounters).²⁴ In addition, a distinction should be made between the administrative burden and administrative costs (RSPP, 2020: 123). *Administrative costs* are costs that arise due to the obligation to comply with the regulation; they comprise the costs that regulated entities have due to the very nature of their activities (*business as usual costs*), which they would have without the requirements imposed by the regulation and the administrative burden. *The administrative burden* is a part of administrative costs that arises exclusively due to the obligation to comply with the regulation. The administrative burden usually entails imposing unnecessary or excessive obligations on citizens and businesses entities (so-called *unnecessary administrative burden*).

Any contact of citizens with the state can produce these “frictions”, and the question is how to reduce them. Herd & Moynihan (2019: 2) believe that it can be done either by simply reducing them (e.g., by increasing trust in citizens) or by shifting responsibilities from individuals to the state (e.g., by forming different databases). Herd & Moynihan (2019: 2–12) also elaborate on why administrative burdens matter, and single out *three* main dimensions. Namely, administrative burdens concern the exercise of some basic rights, such as the right to vote or the right to health care and social protection. People assess the quality of public services, as well as the competence of the government, by whether or not they face administrative burdens, and to what extent. Administrative burdens influence our educational decisions (e.g., which faculty we will choose to enroll in). They even determine whether we are members of a society or not (especially when it

²⁴ Herd & Moynihan (2019: 23) specify the structure of these costs: 1) *learning costs*: time and effort expended to learn about the program or service, ascertaining eligibility status, the nature of benefits, conditions that must be satisfied, and how to gain access; 2) *compliance costs*: a) *provision of information and documentation* to demonstrate standing; b) *financial costs* to access services (fees, legal representation, travel costs, etc.); c) avoiding or responding to discretionary demands made by administrators; 3) *psychological costs*: a) *stigma* arising from applying for and participating in an unpopular program; b) *loss of autonomy* arising from intrusive administrative supervision; c) *frustration* at dealing with learning and compliance costs, unjust or unnecessary procedures; d) *stress* arising from uncertainty about whether a citizen can negotiate processes and compliance costs.

comes to immigrants). So, administrative burdens are *consequential* by nature. Beside that, they are *distributional*; they affect some groups more than others, and often reinforce social inequalities. Just consider how the administrative burdens concerning the right to vote affect different groups of people, for instance, people with disabilities or the poor. Finally, administrative burdens are *constructed* in such a manner that they are the product of administrative and political choices. Politicians can use administrative burdens as a tool to promote certain ideological goals. The current immigration crisis in Europe confirms this thesis (just consider how Hungary introduced all the barriers to the passage of immigrants).

We can see that the concept of administrative burden is broader than the concept of “sludge”. First of all, the administrative burden does not necessarily have to be “excessive”. Therefore, unlike “sludge” which always has a negative connotation, the administrative burden might have a positive role. Sunstein (2020a: 12–15) has summarized the reasons that may justify administrative burdens:

- 1) *self-control problems* – for instance, a *cooling off policy* might prevent people from making decisions in “hot states” of consciousness that are present at the time of marriage, divorce, or when purchasing weapons;
- 2) *privacy and security* – private and public institutions often ask for some personal information: date of birth, place of residence, ID number, bank account number, amount of income, credit history, data on prior conviction or prosecution, etc. Providing such information, with (or sometimes without) our consent, may be in our best interest since it preserves our personal or material security. Of course, there is the question of misusing this information or asking for too much information (see: Sunstein, 2020b) but, in principle, giving these information might prevent the worst-case scenario;
- 3) *acquiring useful data* – companies acquire useful information about consumers to provide better services, or state officials request information from people about their employment training or educational funding to promote public and private accountability;
- 4) *eligibility and qualifications* – the beneficiaries of certain government programs must be eligible to use them, or private companies must have relevant information on workers' qualifications. Information on eligibility and qualifications sometimes *but not always* implies an unnecessary administrative burden (especially considering that private and public institutions might obtain information on their own, using, for instance, machine learning).

By and large, the government has a legitimate interest in imposing some administrative burdens (costs) on citizens. The same can be said for private institutions. After all, whether administrative burdens are excessive or not, and whether they shift into “sludge” or not, is the empirical question. We can conclude that sometimes there is a thin line between low and high frictions, and that high frictions could serve good purposes whereas low frictions could serve bad purposes. For instance, the high frictions might be the “deliberation-promoting nudge”²⁵ (such as *cooling off*), while at the same time they often represent the “sludge” or the “evil nudge” (e.g., a long period of waiting for a visa or ID card). On the other side, if consumers have defaulted to an expensive health care program, it would be a “harmful nudge”.

²⁵ The *deliberation-promoting nudge* navigates us to rely on the thoughtful and rational *System 2* of our cognitive apparatus when making decisions, instead of the intuitive and faster *System 1* (see: Kaneman, 2015).

3.4. How to measure administrative costs or burden?

The specific technique for measuring the administrative costs/burden imposed by regulations, primarily on economic entities, is *the standard cost model* – *abbr. SCM* (RSPP, 2020: 106). This model is usually a part of a broader cost-benefit analysis that considers the effect on the costs of aligning economic entities with public policy or more often regulation. *The SCM does not provide an answer if a regulation or a public policy measure is necessary or not* (RSPP, 2020: 106).

The SCM breaks down the prescribed administrative procedures and requirements into procedures and necessary activities that regulated entities must perform. Then, based on the data on the time limits required to meet these requirements, as well as the data on the costs they create, it measures the administrative costs, i.e. the administrative burden. For the purpose of the SCM, costs are divided into: 1) *financial costs* (e.g., administrative fees or fees for the use of some public goods); 2) *structural costs of implementing regulations* (e.g., costs of complying with certain production standards or installing anti-pollution filters); and 3) *administrative costs* which are divided into necessary administrative costs and the administrative burden.²⁶ In addition, the SCM takes into account *information requests*, including obligations towards the state or a third party arising from an administrative procedure or a request regarding the collection, delivery, or storage of data in the form and manner prescribed by regulations. In order to meet the requirements, it is necessary to undertake *administrative activities*. Using the SCM, the costs of performing these activities are estimated.²⁷ For example,²⁸ let's assume that a person in a regulated company needs five hours to perform five steps that include an administrative request (getting to know the request, filling out forms, collecting data, etc.). Suppose that the price of labor is 600 RSD and that the additional costs (e.g., transportation costs, telephone costs, etc.) total 1,000 RSD. In that case, the *cost of the administrative procedure* would be 4,000 RSD.²⁹ If this request refers to 1,000 regulated economic entities per year, the total administrative cost would be four million RSD. Now, if it is estimated that the person in a regulated company would need two hours *without* handling an administrative request, the total cost would be 2,200,000 RSD.³⁰ This hypothetical example shows a clear distinction between the administrative burden and administrative costs³¹ (for more detail, see: RSPP, 2020: 106–112).

3.5. The policy against “sludge” and administrative burdens

We have already said that administrative burdens should be generally reduced by increasing trust in citizens or shifting responsibilities from individuals to the state. We have also explained how they should be measured but we did not say anything about *how* to reduce administrative burdens/“sludge”.³² Sunstein (2020a: 15–18) proposed “**Sludge**

²⁶ In the previous section, we have explained the difference between administrative costs and administrative burden.

²⁷ The Republic Secretariat for Public Policies of the Government of the Republic of Serbia (abbr. **RSPP**) enables the calculation of administrative costs and potential savings/additional costs (see: <https://rsjp.gov.rs/sr/kalkulator/>).

²⁸ This is an adapted version of an example taken from (RSPP, 2020: 109).

²⁹ 5 hours x 600 RSD + 1,000 RSD = 4,000 RSD (Serbian dinars).

³⁰ 2 hours x 600 RSD + 1,000 RSD = 2,200 RSD x 1,000 entities = 2,200,000 RSD.

³¹ The difference between them is: 4,000,000 RSD – 2,200,000 RSD = 1,800,000 RSD.

³² The Register of Administrative Proceedings (RAP) has been recently established in Serbia (see: <https://rap.euprava.gov.rs/privreda/home>), as an introductory step in the preparation for their optimization within the E-Paper Program for Simplification of Administrative Procedures and Regulations, managed by the Republic

Audits". Reducing the "sludge" is of great importance because it not only decreases costs for public and private institutions but also has significant effects on improving the quality of citizens' life, and even save lives (in the medical sphere). In this regard, Sunstein (2020a: 16) gives three clever suggestions. First of all, he suggests **periodical "reviews"** of the existing administrative burdens to see if they are justified and to remove the outdated, pointless or too expensive ones. Secondly, the least burdensome method (the one generating the lowest costs) should be chosen to achieve certain social or private goals, the so-called **cost-effectiveness analysis** (abbr. **CEA**).³³ Thirdly, he suggests applying the standard **cost-benefit analysis** (abbr. **CBA**); if the benefits outweigh the costs, then the administrative burdens have to be justified.³⁴ In addition, Sunstein (2020a: 16) proposes not only to use the classic economic analysis of social costs and social benefits but also to assess the **proportionality**.³⁵ In other words, there is a need to determine whether substantial administrative burdens are established and, if so, whether they serve significant purposes? The negative answer to this question would reveal the "sludge". The potential answer may also be informative and stimulate the "sludge" reduction in the future. In other words, public and private institutions may learn about the benefits of reducing the "sludge", which would serve as an incentive to reduce sludge. But, it should be borne in mind that they can sometimes use "sludge" to achieve certain political goals (in the public sphere) or to beat competitors (in the private sphere).

We can now summarize the differences between the administrative burden, nudge, and "sludge" in Table 2.

Table 2 Administrative burden, nudge, and sludge – demarcation

Concept	Type of frictions	Policy/technique
nudge	low high	simplifications, automatic enrollment deliberation-promoting nudge
administrative costs (burden)	low high ("sludge")	/ Sludge Audits (CEA, CBA, SCM, PP)

Source: Author

Secretariat for Public Policies/RSPP (see: https://rsjp.gov.rs/wp-content/uploads/Program-ePAPIR_final_usvojeno_110719.pdf).

³³ "*Cost-effectiveness analysis* is a method that compares the costs of different public policy options (alternatives) that create the same or approximately the same type of benefits (results, outcomes or effects), and which is used when the benefits are difficult to monetize" (RSPP, 2020: 123).

³⁴ According to the *Manual Cost Benefit Analysis – Republic of Serbia* (2010: 129), "*cost-benefit analysis* represents a conceptual framework applied to any systematic, quantitative appraisal of a public or private project to determine whether, or to what extent, that project is worthwhile from a social perspective". This practically means that the investment is valuable and can be financed from public funds if the socio-economic benefits outweigh the socio-economic costs.

³⁵ Kovač (2021: 11) states that "[...] according to **the principle of proportionality** (abbr. **PP**), *regulations are only adopted to the extent strictly necessary to achieve the set goal, which in public law relations is the balance between the public interest and the rights of individual parties*". The PP is closely related to the concept of **effectiveness** (srp. *delotvornost*) – a qualitative concept which means the relationship between set goals and achieved results (Jerinić, Vučetić, Stanković, 2020: 323). In addition, in **the impact assessment** (abbr. **IA**), the PP means that the analysis of the effects of public policy and regulations has to be conducted only for those segments for which public policy and regulations have *significant effects*. In other words, it is not necessary to spend time and other resources when it is not purposeful, i.e. when the effects (financial, economic, social, environmental, etc) are not significant (RSPP, 2020: 9, 37).

4. CONCLUSION

In this paper, the authors have provided a terminological clarification of the following mutually related concepts: nudge, shove, budge, sludge, and the administrative burden. The first three concepts (nudge, shove, and budge) represent the basis for the application of three close but distinct types of behavioral interventions, whose impacts differ: libertarian paternalism (weak), coercive paternalism (strong), and behavioral regulation of externalities (the strongest). These interventions are often intertwined and it is sometimes difficult to draw a clear line between them. Thus, their application depends on the subject matter of regulation and the context in which the regulation is implemented. In addition, a clear demarcation line is given between “nudge” and “sludge”, the latter of which is defined as “excessive frictions”. In fact, “sludge” represents the use of “nudge” for bad purposes (the so-called “evil nudge”), for instance, solely to maximize profits to the detriment of consumer interests. Also, we made a distinction between necessary administrative costs and the administrative burden, which is designated as the imposition of unnecessary or excessive obligations on citizens and businesses entities. Finally, the question of reduction of the administrative burden/sludge was raised. In this regard, the recommended policy for the detection and minimization of “sludge” is “sludge audits”. There are four elements of this policy. The first is to periodically review the existence of administrative burdens. The second is to determine whether social or private goals have been achieved by choosing the method that generates the lowest costs. The third is to determine whether the administrative burden is in line with the cost-benefit standard. The fourth is to assess whether the administrative burden is proportional to the goals it aims to pursue. So, the administrative burden might be useful if it is in line with cost-benefit analysis and the principle of proportionality (if it serves a significant purpose). If it is established that it does not serve such a purpose, it can be clearly said that the administrative burden is “**sludge**”; thus, it has to be reduced.

The conclusion is that there are different public policies according to what they target (internalities or externalities), if and to what extent they encroach on the freedoms of individuals, and whether their implementation serves good or bad purposes. But, in principle, what they all have in common is, *inter alia*, that they are grounded in *behavioral insights*.

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TERMINOLOŠKO RAZGRANIČENJE I PRAKTIČNE IMPLIKACIJE BIHEVIORISTIČKIH KONCEPATA: Nudge, Shove, Budge, Sludge, Administrative Burden

U ovom radu autori daju precizno terminološko razgraničenje sledećih biheviroističkih koncepata: „blago usmeravanje ili gurkanje” (engl. nudge), „guranje” (engl. shove) i „pomeranje” (engl. budge). Na osnovu ovih koncepata i tri definisana kriterijuma (sloboda/prinuda, internalije/eksternalije i biheviroistički nalazi), autori objašnjavaju različite biheviroističke javne politike i njihove praktične implikacije: 1) biheviroističke javne politike libertarijansko-paternalističkog usmerenja (politike usmeravanja), 2) politike prinudnog paternalizma, i 3) biheviroističke regulacije eksternalija. Potom, autori pružaju terminološku distinkciju između koncepta „mulja” (engl. sludge) i „usmeravanja” (engl. nudge), te raspravljaju o njihovim potencijalnim (zlo)upotrebama. Konačno, na osnovu nivoa „frikcija”, autori razgraničavaju i koncepte „administrativnog opterećenja” (engl. administrative burden) i „mulja” (engl. sludge), kao i vrste javnih politika koje se preporučuju za njihovo smanjenje, od kojih se izdvaja provera (revizija) „mulja” i administrativnog opterećenja (engl. sludge audits). Zaključak je da su sve navedene javne politike veoma bliske, po predmetu regulacije i intenzitetu zadiranja u slobode pojedinaca neznatno različite, ali da sve imaju zajednički koren u biheviroističkim nalazima.

Ključne reči: Biheviroistička ekonomija, „gurkanje” (nudge), „guranje” (shove), „pomeranje” (budge), „mulj” (sludge), administrativno opterećenje, biheviroističke javne politike