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Nudges as an instrument of external control by the Brazilian Federal Court of Accounts: An analysis of the application of behavioral economics in public health policies in Brazil.

Nudges as an instrument of external control by the Brazilian Federal Court of Accounts: Na analysis of the application of behavioral economics in public health policies in Brazil

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Abstract

This article analyzes the potential of Nudge Theory, from behavioral economics, as an instrument for external control exercised by the Brazilian Federal Court of Accounts (TCU) over health policies in Brazil. Through bibliographic and documentary research, it investigates the legal and constitutional foundations that authorize a more preventive role for the TCU, in contrast to the traditional reactive model. The study explores how interventions in choice architecture can improve the efficiency of the Unified Health System (SUS), overcoming cognitive biases in management. International experiences are also analyzed to extract lessons applicable to Brazil. It concludes that nudges are promising tools compatible with the TCU's competencies, capable of modernizing external control and generating better results for society.

Keywords: Behavioral economics. Nudge. Federal Court of Accounts. External control. Public health policies.

Abstract

This article analyzes the potential of nudge theory, from behavioral economics, as an instrument for the external oversight exercised by the Brazilian Federal Court of Accounts (Tribunal de Contas da União- TCU) over health policies in Brazil. Through literature and documentary research, it investigates the legal-constitutional foundations that authorize a more preventive role for the TCU, as opposed to the traditional reactive model. The study explores how interventions in choice architecture can enhance the efficiency of the Unified Health System (Sistema Único de Saúde- SUS), overcoming cognitive biases in management. It also examines international experiences to extract lessons applicable to Brazil. The article concludes that nudges are promising tools, compatible with the TCU's powers, capable of modernizing external oversight and generating better outcomes for society.

Keywords: Behavioral economics; nudge; Brazilian Federal Court of Accounts; External control; Public health policies.

INTRODUCTION

The complexity of public policies and the pursuit of greater efficiency in management demand The modernization of external control. The traditional model, exercised by the Federal Court of Accounts. (TCU) and focused on acting after the fact, proves insufficient for contemporary challenges, especially in healthcare.

It is in this context that behavioral economics emerges as a fertile field for knowledge, offering new lenses to understand and influence human decision-making. The theory of *nudges*, popularized by the work of Richard H. Thaler and Cass R. Sunstein proposes that it is possible to guide people towards choices that are more beneficial to themselves and to others. collectivity, through small and subtle changes in the "architecture of choice," without restricting the



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freedom of choice. This approach, called "libertarian paternalism," recognizes that...

Individuals are not always the rational agents ("Econs") assumed by classical economics, but

Yes, "Humans," subject to cognitive biases, heuristics, and influences from the social context.

This scientific article focuses on the intersection of these two universes: external control and behavioral economics. The central objective is to analyze the potential of *nudges* as an instrument to be incorporated by the TCU (Brazilian Federal Court of Accounts) to improve the control of public health policies in Brazil. The aim is to answer the following question: In what way and on what grounds can the TCU (Brazilian Federal Court of Accounts) Should the *nudge* approach be used to promote more effective and preventative control over the management of the Brazilian Unified Health System (SUS)?

The relevance of the topic lies in the possibility of modernizing the performance of external control, transitioning from a reactive to a proactive approach, which not only points out flaws but also contributes to building solutions. In a universal healthcare system like the SUS (Brazilian Unified Health System), whose challenges range from... guaranteeing access to financial sustainability, low-cost and high-impact interventions, Like *nudges*, they can represent a significant advance. Applying this theory can optimize From patient adherence to treatments and vaccination programs to management decisions. public sector involvement in procurement and resource allocation processes.

To that end, the article explores the legal foundations for the use of nudges by the TCU (Brazilian Federal Court of Accounts), and analyzes... Its potential in public health policies and examines relevant international experiences.

The methodology employed is bibliographic and documentary research, with the analysis of works. Glaucia Maria, a reference in behavioral economics and law, such as those of Thaler and Sunstein. by Araújo Ribeiro and Luiz Felipe Drummond Teixeira, in addition to scientific articles and relevant legislation (CRFB/88 - Constitution of the Federative Republic of Brazil of 1988, Organic Law of the TCU) and publications from national and international regulatory bodies. It is hoped that this work will contribute to contribute to the debate on innovation in the public sector and present a viable path towards control. A more intelligent, dialogical external environment focused on generating value for Brazilian society.

1. LEGAL AND CONSTITUTIONAL FOUNDATIONS FOR THE APPLICATION OF NUDGES BY THE TCU (Brazilian Federal Court of Accounts)

The TCU, as an external control body, plays an essential role in... The soundness of public administration and the proper application of public resources. Its actions, traditionally associated with accounting, financial, budgetary, operational and auditing patrimonial, is in a process of evolution, seeking to incorporate new tools that increase their effectiveness and contribute to improved management. The incorporation of *nudges*, Behavioral incentives, or behavioral incentives, as a control tool, represent a promising frontier. This evolution is crucial, but it demands a careful analysis of its legal and constitutional foundations.



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1.1 The constitutional competence of the Federal Court of Accounts and the pursuit of efficiency

The Brazilian Federal Constitution of 1988 (CRFB/88) outlines, in its articles 70 and 71, the extensive competencies of the Federal Court of Accounts (TCU). The *opening paragraph* of

Article 70 establishes that oversight will be exercised "regarding legality, legitimacy,

"Cost-effectiveness, application of subsidies, and revenue waivers." This list, in itself, already...

It points to a scope that transcends the mere formal verification of the legality of the acts. The analysis of

Economy, in particular, opens a door to evaluating the efficiency and rationality of...

Administrative decisions are fertile ground for applying *insights* from behavioral economics.

Cost control is not limited to verifying whether the price paid in a contract is reasonable.

It is the smallest possible, but it encompasses the evaluation of the cost-benefit ratio of public policy as a

In this sense, the TCU (Brazilian Federal Court of Accounts) can and should assess whether the results achieved are compatible with the...

resources employed. As Maria Sylvania Zanella Di Pietro points out, the principle of efficiency, inserted

Article 37 of the Brazilian Federal Constitution of 1988, as amended by Constitutional Amendment No. 19/98, requires that the activity

The administrative function should be carried out with promptness, perfection, and functional efficiency. This is not a matter of...

not merely a recommendation, but a legal duty imposed on every public agent (DI PIETRO, 2023).

In this context, *nudges* present themselves as a tool for promoting

Efficiency. By understanding the cognitive biases that affect the decisions of managers and citizens, the

The TCU (Brazilian Federal Court of Accounts) can induce behaviors that lead to better results with the same resources. By

For example, when auditing vaccination policy, the TCU (Brazilian Federal Court of Accounts) can verify not only the regularity of the...

purchase and distribution of vaccines, but also evaluate the choice architecture that influences the

Public adherence is recommended, suggesting the adoption of automatic reminders and simplified scheduling.

or the dissemination of social norms, *nudge* strategies with proven effectiveness in increasing the

vaccination rates.

This action does not represent an overreach of the TCU's powers, but rather a

A more sophisticated and intelligent way to exercise control over cost-effectiveness and efficiency. This is...

to move from a control system that merely identifies waste to one that addresses its root causes, many

Sometimes behavioral, to prevent it.

1.2 Preventive control and libertarian paternalism

One of the recurring criticisms of the traditional model of external control is its nature.

predominantly repressive and *ex post facto*. Audits often identify irregularities.

when the damage to public funds has already occurred, leaving the TCU (Brazilian Federal Court of Accounts) only the application of sanctions and...

determination of compensation. Although essential, this function is insufficient to guarantee good

governance. The Organic Law of the TCU (Law No. 8,443/1992), in its article 1, item II, already provides for

competence to "judge the accounts of administrators and others responsible for money, assets and

public values", but also, in item IV, to "carry out, on its own initiative, the Chamber of

Members of Parliament, from the Federal Senate, technical or investigative committees, inspections and audits of



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accounting, financial, budgetary, operational and asset-related nature, in administrative units of the Legislative, Executive and Judicial branches, and other entities referred to in item II”.

Operational audits, in particular, are the quintessential tools for action. more preventative and proactive. They evaluate the performance of programs and public policies, identifying not only flaws but also opportunities for improvement. It is within the scope of these Audits where the application of *nudges* finds its most natural place. The TCU (Brazilian Federal Court of Accounts) can, through Their recommendations would act as a "choice architect," suggesting to public managers the Implementation of interventions that improve decision-making.

The "libertarian paternalism" approach, proposed by Thaler and Sunstein, is crucial for the legitimacy of this action. The idea is not to restrict the freedom of the manager or the citizen, but rather to structure the decision-making context in such a way that the most efficient, effective, or beneficial choice is also the easiest or most likely option to follow. Freedom of choice is preserved, which eliminates... questions regarding a potential violation of the manager's autonomy or the separation of powers. (THALER; SUNSTEIN, 2015).

The application of *nudges* by the TCU (Brazilian Federal Court of Accounts), therefore, should not be confused with co-management or with... The Brazilian Federal Court of Accounts (TCU) does not define which public policy should be implemented, replacing administrative merit. However, by auditing the public policy chosen by the manager, it can and should point out ways for it to improve. to be executed more efficiently. The recommendation to adopt a *nudge* is a way to to perform the pedagogical and guiding function of external control, in full accordance with the principles of efficiency and good administration.

As Luiz Felipe Drummond Teixeira argues, the implementation of *nudges* by government agencies State-owned enterprises raise questions about individual autonomy, but when applied transparently... And with the option to decline (*opt-out*), the risks are mitigated, especially when the gains... well-being is significant. In the case of external control, the recommendation of a *nudge* is aimed at public managers, agents who already operate in an environment of regulated discretion. and linked to the public interest, which makes the intervention even more justifiable.

1.3 Principles of Public Administration and the Legitimacy of *Nudges*

In addition to the specific competencies of the TCU (Brazilian Federal Court of Accounts), the application of *nudges* finds support in... The very principles that govern the Brazilian Public Administration, enshrined in article 37 of CRFB/88: legality, impartiality, morality, publicity, and efficiency. Each of these The principles offer a lens through which the use of behavioral incentives can be examined and justified.

The principle of legality, which binds the Public Administration to what is stipulated by law, The recommendation of *nudges* does not violate this principle, since these interventions do not create obligations.



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or restrictions not foreseen in the legal system. On the contrary, they operate within the space of the manager's discretion, guiding them towards more efficient choices within the legally permitted options. permitted. As Hely Lopes Meirelles teaches, administrative discretion is not Arbitrariness; it must be exercised within the limits of the law and always with the public interest in mind. (MEIRELLES, 2016). *Nudges*, by providing evidence about which path tends to produce Better results help managers exercise their discretion in a more informed way and rational.

The principle of impartiality requires that administrative action be guided by public interest, without favoring or harming specific individuals or groups. *Nudges*, when Well-designed, they are universal in their application and aim for collective well-being. For example, a A vaccination campaign that uses automated reminders benefits the entire population, without Discrimination. The very methodology of randomized controlled trials (RCTs) often Used to validate *nudges*, it ensures that interventions are evaluated impartially and objective (NWAFOR et al., 2021).

Administrative morality, which imposes on public managers the duty to act ethically and Probity is reinforced by the transparency inherent in the *nudge approach*. Thaler and Sunstein They argue that *nudges* should be "transparent and never deceptive." The TCU, in recommending that Adopting a *nudge* can and should require that the intervention be clearly communicated to the parties involved. citizens, allowing them to understand how the choice architecture was structured. (SUNSTEIN; THALER, 2015). This transparency is essential to maintain public trust and to avoid improper manipulation.

The principle of publicity, which dictates the disclosure of administrative acts, also applies. This aligns perfectly with the application of *nudges*. The TCU's recommendations, including those that They suggest the adoption of behavioral incentives, are public, and can be accessed by anyone. citizen. In addition, the publicity of the results of public policies, including the impact of Implemented *nudges* are fundamental for accountability and institutional learning (TRIBUNAL DE CONTAS DA UNIÃO, 2020).

Finally, the principle of efficiency, already mentioned above, is the central pillar that justifies... The application of *nudges*. The search for better results with the same resources, or the same... Results with fewer resources are the essence of administrative efficiency. *Nudges*, by acting on... The behavioral causes of inefficiencies are a powerful tool for achieving this. principle (THALER; SUNSTEIN, 2019).



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1.4 The TCU's Organic Law and Operational Audits as a Vector for Innovation

Law No. 8,443/1992, which provides for the Organic Law of the TCU (Brazilian Federal Court of Accounts), is the normative instrument which details the competencies and procedures of external control in Brazil. Although promulgated in a context prior to the spread of behavioral economics in the public sector, the law contains provisions that not only allow, but encourage innovative and focused action. results, opening space for the incorporation of *nudges* into audit practices.

Article 1 of the Organic Law establishes the powers of the TCU, highlighting, in its clause... IV, conducting "inspections and audits of an accounting, financial, budgetary, and operational nature." and asset audits." The specific mention of operational audits is crucial. Unlike the Compliance audits, which are limited to verifying compliance with standards, are audits. Operational experts evaluate the efficiency, effectiveness, and cost-effectiveness of public programs and policies. This type of audit is, by excellence, the field where behavioral analysis can be applied.

Article 43 of the Organic Law, when dealing with the decisions of the TCU (Federal Court of Accounts), stipulates that the TCU may do... "Recommendations" for public managers. Although the recommendations are not binding. Like the regulations, they represent an instrument for dialogue and guidance, perfectly Suitable for suggesting *nudges*. When recommending the adoption of a behavioral intervention, The TCU (Brazilian Federal Court of Accounts) is not imposing an obligation, but offering a solution based on evidence that... The manager can accept, adapt, or reject it, while preserving their discretion.

Furthermore, Article 44 of the Organic Law establishes that the TCU (Federal Court of Accounts) may hold hearings with... those responsible for irregularities or illegalities. This provision can be interpreted in a way broad enough to include dialogue and collaboration sessions with managers, where the TCU can present Behavioral analyses and discussion of *nudge implementation*. This collaborative approach, already Adopted in other countries, it transforms external control into a process of mutual learning, where Auditors and those being audited work together to find solutions.

The Public Policy Control Framework, published by the TCU in 2020, represents (TRIBUNAL DE CONTAS DA UNIÃO, 2020). The document recognizes the importance of policies Based on evidence, it proposes a systematic approach to the evaluation of public policies. Although it doesn't explicitly mention behavioral economics, the Framework opens up space for... its application emphasizes the need to understand the causal logic of policies and the factors that Cognitive biases and choice architecture undoubtedly influence their success or failure. critical factors in this equation (THALER; SUNSTEIN, 2019).

A concrete example of how the TCU (Brazilian Federal Court of Accounts) is already approaching this approach can be found... in some of its recent audits. In work on public health policies, the The TCU (Brazilian Federal Court of Accounts) has recommended simplifying processes, improving communication with citizens, and... The use of more intuitive information systems. Although these recommendations are not



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Explicitly formulated as *nudges*, they align perfectly with the principles of Behavioral economics. The next step would be to formalize and deepen this approach, systematically incorporating the analysis of cognitive biases and the design of interventions behavioral.

In summary, the legal and constitutional foundations for the application of *nudges* by the TCU (Brazilian Federal Court of Accounts). They are solid and multifaceted. They are anchored in a broad interpretation of the principle of efficiency and of control of cost-effectiveness, in line with the TCU's vocation to exercise preventive control through Operational audits, in the compatibility of libertarian paternalism with the legal system. Brazilian, in alignment with all the principles of Public Administration and the provisions Specific provisions of the TCU's Organic Law allow and encourage innovative action. The challenge, Now, the challenge is to operationalize this approach, especially in a field as complex and vital as... of public health policies, the topic of the next chapter.

2. Limitations of Traditional Control and Potential of *Nudges* in Public Health Policies

The Unified Health System (SUS) represents one of the largest and most complex systems of The world's leading public health system, based on the principles of universality, comprehensiveness, and equity. Managing a system of this magnitude involves monumental challenges, ranging from... financing and resource allocation up to guaranteeing the quality and access to services by population. The external control exercised by the TCU (Federal Court of Accounts) over the SUS (Unified Health System) has been a pillar for oversight the application of the substantial resources allocated to the area, but the traditional control model, focused In terms of compliance and suppressing irregularities, it encounters significant limitations in promoting... Effective improvements at the system's edge.

2.1 The Unified Health System: Achievements, challenges, and the need for innovation

The Brazilian Unified Health System (SUS), created by the 1988 Federal Constitution and regulated by Law No. 8,080/1990, represents one of the... Brazil's greatest social achievements. By guaranteeing universal and free access to healthcare for all. For Brazilians, the SUS (Unified Health System) embodies the fundamental right enshrined in Article 196 of the Brazilian Federal Constitution of 1988: "Health is..." "A right for all and a duty of the State." With over 200 million potential users, the SUS is a one of the largest public health systems in the world, offering everything from basic care to Highly complex procedures, such as organ transplants.

However, the magnitude of the SUS (Brazilian Public Health System) also brings proportional challenges. Underfunding. chronic, regional inequalities in access to and quality of services, decentralized management at three federal levels (Union, States and Municipalities) and the resulting demographic pressure Population aging is just one of the obstacles the system faces. Furthermore, problems such as poor adherence to treatments, waste of medications and supplies, and



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The difficulty in implementing effective preventive policies compromises the efficiency and effectiveness of SUS.

In this context, innovation is not an option, but a necessity. The search for low-cost, high-impact solutions is imperative. This is where behavioral economics and *nudges* come in .

They present themselves as valuable tools. By understanding the psychological and social factors that

Since these factors influence the decisions of managers and users of the Brazilian Unified Health System (SUS), it is possible to design interventions that...

Improve results without requiring large financial investments.

For example, vaccination coverage in Brazil, which has historically been a global benchmark,

It has shown worrying declines in recent years. Factors such as misinformation, the

Forgetfulness and difficulty of access contribute to this scenario. *Nudges* as reminders.

Automated systems, simplified scheduling, and campaigns that utilize social norms can reverse this.

A tendency towards minimal cost. Similarly, adherence to treatments for chronic diseases, such as

Diabetes and hypertension can be significantly improved with behavioral interventions.

that simplify communication, reduce cognitive load, and utilize public commitments.

The role of the TCU (Brazilian Federal Court of Accounts) in this context is fundamental. It audits public health policies.

In public matters, the TCU (Brazilian Federal Court of Accounts) should not limit itself to verifying the regularity of expenditures, but also assess whether the...

Policies are being designed and implemented in a way that maximizes their impact. This includes

to analyze the choice architecture that influences the behavior of users and managers,

identifying opportunities for the application of *nudges*. In this way, external control is

It transforms into a true catalyst for innovation and continuous improvement in the SUS (Brazilian Public Health System).

2.2 The shortcomings of the reactive control model

Traditional control, often called compliance control, focuses on

verifying the legality of actions and determining responsibility for irregularities and fraud. Although

Essential for curbing corruption and the misuse of public funds, this approach has a

The audits are essentially reactive in nature. Audits, in general, identify the problem after it has occurred, and

Corrective actions are often limited to punishing those responsible and attempting to recover the losses.

losses. This model, by its nature, is not very effective in preventing failures and in

to induce a cycle of continuous improvement in management.

In the context of public health, the limitations of this model are even more evident. Problems

complex issues such as low adherence to treatments for chronic diseases and vaccination rates below expectations.

targets, medication waste due to improper storage, or inefficient use of hospital beds

Hospital compliance issues are only partially addressed by a compliance audit.

(LEDDERER et al., 2020). A control that is limited to verifying whether the purchase of medicines followed

The Law on Bidding and Administrative Contracts (Law No. 14.133/2021), for example, does not act on...



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The behavioral factors that lead to patient non-adherence to treatment, resulting in waste.

of resources and, more seriously, harm to citizens' health (HORNE et al., 2022).

An excessive focus on processes and punishment can, paradoxically, generate adverse effects.

such as the so-called "pen paralysis," where public officials, out of fear of oversight bodies,

They become averse to risk and innovation, preferring inertia to making decisions that could optimize their performance.

the service. In this case, control ceases to be an inducer of good governance and becomes an obstacle to administrative efficiency (TRIBUNAL DE CONTAS DA UNIÃO, 2020).

2.3 Behavioral economics and public health: Understanding the “humans” in the Unified Health System

Behavioral economics offers a crucial counterpoint to the purely agent-centered view.

The rationale of classical economics. It recognizes that human decisions, including those related to health, are...

often influenced by cognitive biases and heuristics. Sunstein and Thaler (2015) distinguish

The "Econs," perfectly rational beings, are the opposite of "Humans," who are susceptible to errors in judgment.

In the context of the Brazilian Unified Health System (SUS), managers, patients, and healthcare professionals all act as "Humans."

Understanding their decision-making patterns is fundamental to improving public policies.

Several cognitive biases affect healthcare decisions. The status quo bias, for example,

describes the tendency of people to maintain their current choices, even when alternatives exist.

better. This may explain the difficulty managers have in adopting new technologies or patients have in doing so.

in changing harmful lifestyle habits (SAMUELSON; ZECKHAUSER, 1988). Another relevant bias

It is unrealistic optimism, which leads individuals to underestimate the probability of events, such as

diseases, resulting in low adherence to preventive examinations (WEINSTEIN, 1980).

The availability heuristic also plays an important role, causing...

People overestimate the risks of events that have been recently reported or are easily remembered.

treat it like an epidemic, while underestimating more common and silent risks, such as chronic diseases.

(TVERSKY; KAHNEMAN, 1973). Furthermore, loss aversion bias demonstrates that the pain of

Losing something is psychologically more powerful than the pleasure of gaining something of equal value, which

can be used to frame health messages more effectively (KAHNEMAN; TVERSKY,

1979).

Understanding these and other biases is the first step in designing effective nudges.

Recognizing that decisions in the SUS (Brazilian Public Health System) are made by "Humans," external control can begin to...

to evaluate not only the conformity of the acts, but also the choice architecture in which they

These issues arise, leading to recommendations for interventions that align individuals' mental shortcuts with outcomes.

Healthier and more efficient for the community.



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2.4 The potential of *nudges* for intelligent external control in public health

By incorporating the perspective of behavioral economics, the TCU (Brazilian Federal Court of Accounts) can transform its Operating in the healthcare field, moving towards a smarter and more predictive control model. In Instead of simply auditing the past, the TCU (Brazilian Federal Court of Accounts) can help build a more efficient future. Within this context... In operational audits, the analysis of the chosen architecture becomes a central element.

The potential of nudges in the Brazilian Unified Health System (SUS) can be illustrated in several ways. First, in adherence to... treatments and vaccination, the use of automatic reminders via SMS or the reformulation of announcements To highlight the social norm (e.g., "9 out of 10 people your age have already been vaccinated") are strategies. Low cost and proven effective. Second, in combating waste, changing the pattern. (Default) in electronic prescription systems for generic drugs can generate savings. Significant, without preventing the doctor from choosing another brand. Third, to optimize scheduling. In consultations, the patient may be required to write down the date and time of their return visit in their own handwriting, a A commitment nudge that has been shown to reduce absenteeism rates.

This approach is aligned with the Public Policy-Based Management movement. Evidence (PPBE), as explored in the thesis by Glaucia Maria de Araújo Ribeiro. The author highlights the importance of state technical and bureaucratic capacities for the formulation and implementation of Effective policies (RIBEIRO, 2024). The application of *nudges* by the TCU can be seen as a way to strengthen these capabilities by providing managers with tested and evidence-based tools. scientific evidence about human behavior.

By recommending the adoption of *nudges*, the TCU would not be imposing a single solution, but Yes, by encouraging experimentation and impact assessment. The Court can even stimulate... that the managers themselves conduct randomized controlled trials (RCTs) to verify which The intervention works best in its specific context, promoting a culture of learning and Innovation in Public Administration. This action, far from being undue interference, is... materialization of external control that generates public value, actively contributing to the health policies should achieve their primary objectives: saving lives and promoting well-being. Brazilian population (PINHEIRO, 2020).

2.5 Practical cases: *Nudges* applicable to the public health system

To illustrate concretely the potential of *nudges* in the context of public policies of In the context of Brazilian public health, it is useful to examine some practical cases where these interventions could be... These examples are recommended by the TCU (Brazilian Federal Court of Accounts) in its audits. They are based on evidence from the literature. International models adapted to the reality of the Brazilian Unified Health System (SUS) demonstrate the versatility and reach of the economy. behavioral.



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CASE 1: Increased adherence to childhood vaccination.

One of the biggest challenges for the Brazilian public health system (SUS) is maintaining high vaccination coverage rates, especially in remote regions or among vulnerable populations. International research shows that simple *nudges* can significantly increase adherence. For example, sending reminders by SMS messages to parents a few days before the vaccination date reduce forgetfulness (*present bias*). More The message that incorporates social norms is still effective, such as: "9 out of 10 parents in their The community has already vaccinated their children. Don't leave yours behind!" This approach, tested in In various countries, the social proof effect is used to encourage desired behavior.

The TCU, when auditing the national immunization policy, could recommend to the Ministry of Health: the implementation of a national system of automatic reminders, integrated with the registries. from the Basic Health Units (UBS). The cost of this intervention is minimal, especially when Compared to the cost of traditional advertising campaigns, the potential impact is enormous, both in terms of both public health and cost-effectiveness.

CASE 2: Reducing medication waste

The waste of medicines in the Brazilian public health system (SUS) is a chronic problem, caused both by the lack of... Patient adherence to treatment is affected by both poor and poor inventory management. An effective *nudge* for this... Adherence refers to the simplification of instructions for use. Studies show that complex package inserts and prescriptions... Using technical language increases the patient's cognitive load and reduces adherence. A recommendation for a simple communication standard, using icons and accessible language, is a low-cost *nudge*.

Another *nudge* is the use of packaging with "smart blisters," which visually indicate which packaging is available. The tablets should be taken each day of the week. This reduces errors and forgetfulness. (TCU - Brazilian Federal Court of Accounts) I could recommend that tenders for medications for chronic diseases be prioritized, when feasible, packaging that facilitates adhesion, considering this factor as a criterion for technical evaluation.

CASE 3: Optimizing resource allocation by local managers

Municipal health managers often face complex decisions regarding Resource allocation with incomplete or confusingly presented information. A useful *nudge*. It is the creation of *dashboards* (control panels) that present data in a visual way and comparative. For example, a dashboard that shows, in real time, the bed occupancy rate in different hospitals in the region, highlighting in red those close to maximum capacity, It facilitates quick and informed decision-making.

The TCU (Brazilian Federal Court of Accounts), when evaluating the management of hospital beds, could recommend the implementation of... Information systems that utilize behavioral *design* principles, making data more protruding and actionable. This intervention not only improves efficiency but also reduces stress.



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It enhances the cognitive abilities of managers, allowing them to focus on strategic decisions.

CASE 4: Promoting healthy habits in prevention programs

Programs for the prevention of chronic diseases, such as diabetes and hypertension, depend on Changing patient behavior. An effective *nudge* is the use of "public commitments".

When asking the patient to sign a commitment form to follow a diet or exercise program, And by sharing this commitment with family or friends, the likelihood of adherence increases. due to the consistency effect and the desire not to disappoint others (THALER; SUSTEIN, 2019).

Another *nudge* is the use of healthy "defaults." For example, in hospital cafeterias or... In public health units, place fruits and salads in easily accessible and visible locations. While less healthy options take a back seat, it influences choices without restricting them. Freedom. The TCU (Brazilian Federal Court of Accounts) could recommend the incorporation of these principles into education programs. in health financed by the federal government (THALER; SUNSTEIN, 2019).

These practical examples illustrate that *nudges* are not panaceas, but tools. complementary technologies that, when properly applied, can generate substantial efficiency gains and effectiveness. The TCU's role, in identifying opportunities for its application and recommending its effectiveness. Implementation transforms external oversight into a true partner of public administration in the pursuit of excellence. for better outcomes for the population.

3. International Experiences of *Nudges* in External Control Bodies

Applying insights from Behavioral Economics to public policy is not a This is a purely theoretical phenomenon or one restricted to academic debate. Several countries have... 2. The use of *nudges* to improve service delivery and efficiency has become institutionalized. governmental. Similarly, external oversight bodies around the world, known as Supreme Audit *Institutions* (SAIs) are beginning to explore This field is seen as a way to modernize its auditing practices and broaden the impact of its... work. Analyzing these international experiences is fundamental to drawing lessons and visualizing pathways for the implementation of a similar approach by the Federal Court of Accounts in Brazil.

3.1 The UK's pioneering role: The *Behavioural Insights Team* (BIT)

The most emblematic and influential case in the governmental application of behavioral science. It is from the *Behavioural Insights Team* (BIT), created in 2010 in the United Kingdom. Popularly known as Known as the "*Nudge Unit*," BIT began as a small unit within the Office of the Prime Minister.



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Minister tasked with applying the principles of Behavioral Economics to improve policies.

public services in a cheap and effective way. The success of his interventions was so remarkable that, in

In 2014, the unit was transformed into a social purpose company, expanding its operations to

various countries (UNITED KINGDOM, 2010).

The BIT methodology is based on a rigorous cycle of diagnosis and proposal of...

interventions and, crucially, testing through Randomized Clinical Trials (RCTs), or

Randomized Controlled Trials (RCTs). This empirical approach allows for precise measurement of...

The impact of each *nudge*, ensuring that policies are based on concrete evidence.

BIT's successes are vast and span diverse areas, including health, taxation, and employment (KINGDOM).

UNIDO, 2010).

In the field of public health, for example, BIT has managed to increase the donation rate of

agencies, when reformulating the message on government websites, including an appeal for reciprocity with

The phrase: "If you needed an organ transplant, would you accept one? If so, please help."

"The others." On another front, he redesigned letters sent to patients who did not attend appointments,

reducing absenteeism rates by highlighting the costs generated for the healthcare system and the harm to

other patients (UK, 2010).

Although the BIT is not an external regulatory body, its expertise is directly relevant.

This is relevant to the TCU (Brazilian Federal Court of Accounts) for two main reasons. First, it demonstrates the feasibility and high...

The impact of low-cost interventions in solving complex public problems, many of which...

which are the subject of operational audits by the TCU. According to the BIT's emphasis on rigorous testing and

in the collection of evidence, it offers a methodological model that can be adapted by the Court to...

To formulate recommendations for public managers, encouraging a culture of experimentation and management.

based on data (UK, 2010).

3.2 The incorporation of behavioral *insights* by supreme audit institutions

The movement toward behavioral science is not limited to specialized units.

like BIT. The Supreme Audit Institutions (SAIs) themselves are beginning to recognize the

The value of these *insights* is relevant to their core work: auditing. The International Organization of

Supreme Audit Institutions (INTOSAI) have been promoting debate on the topic, recognizing

that understanding cognitive biases can improve the audit process itself and the impact of recommendations

(MORALES CASTRO; UMAÑA ALVARADO; CERDAS BENAVIDES,

2024).

An article published in the *INTOSAI Journal* details the experience of the Comptroller General of

The Republic of Costa Rica, which developed a project to train its audit teams in

The project focuses on identifying cognitive biases and applying behavioral *insight* techniques.



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entitled "Use of behavioral *insights* and identification of cognitive biases in the process of "An audit aimed at better designing and monitoring audit recommendations" stemmed from premise that biases affect not only the managers being audited, but also the auditors themselves (MORALES CASTRO; UMAÑA ALVARADO; CERDAS BENAVIDES, 2024).

Costa Rica's initiative focused on two fronts: (1) raising auditors' awareness about their own biases to strengthen objectivity and professional judgment; and (2) use behavioral *insights* to design more effective recommendations and promote a more empathetic and persuasive follow-up with those being audited. One of the practical changes was... co-creation of recommendations between the audit team and the monitoring area, seeking to formulate clearer, more feasible proposals that would reduce the cognitive load on managers. The result was the perception that recommendations that are "more specific, brief, and drafted in a consensual manner, using A proactive tone, accompanied by more empathetic and close follow-up, can be the key to promoting compliance based on conviction" (MORALES CASTRO; UMAÑA ALVARADO; CERDAS BENAVIDES, 2024).

This experience is particularly inspiring for the TCU, as it shows a path towards... The application of *nudges* is not seen as an audit object in itself, but as a tool *of the audit process itself. control*. The focus shifts from simply monitoring public policy to improving the interaction between auditors and audited, making the control process more collaborative and focused on problem-solving. This This involves, for example, the use of proactive language, simplifying communication, and designing... recommendations that take into account the cognitive biases of the managers who will need to implement them (MORALES CASTRO; UMAÑA ALVARADO; CERDAS BENAVIDES, 2024).

3.3 Lessons for the Brazilian context

International experiences, particularly those from the United Kingdom and Costa Rica, offer Valuable lessons for the TCU (Brazilian Federal Court of Accounts). The first is the importance of institutionalization. The creation of a A unit, or at least a core of expertise in behavioral sciences, within the TCU (Brazilian Federal Court of Accounts). or its higher education institution (Instituto Serzedello Corrêa) could accelerate the dissemination of knowledge and practical application of *nudges* (UK, 2020; MORALES CASTRO; UMAÑA ALVARADO; CERDAS BENAVIDES, 2024).

The second lesson is the centrality of evidence-based methodology. The recommendation The use of *nudges* should be accompanied by incentives for conducting tests and pilot projects. The TCU (Brazilian Federal Court of Accounts) can... to act as a catalyst, encouraging SUS managers to adopt an experimental approach. for problem-solving, generating a virtuous cycle of innovation and learning.

Finally, the Costa Rican experience highlights the importance of a cultural shift in The regulatory body itself. Applying behavioral *insights* requires auditors to see themselves



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not only as auditors, but also as "choice architects" and solution facilitators. This

This involves developing new skills, such as empathy, persuasive communication, and the ability to...

To collaborate with the auditees in developing feasible and effective recommendations.

Adapting these lessons to the complex Brazilian legal and administrative framework is the

This is a major challenge. However, the potential exists to improve control over critical areas such as health,

Making it more preventative, intelligent, and a generator of public value fully justifies the effort of

to explore this new frontier of external control.

3.4 Challenges and opportunities for implementation in Brazil

The implementation of a *nudge*-based approach by the TCU (Brazilian Federal Court of Accounts) is not without challenges.

Understanding these obstacles, as well as the opportunities that arise, is essential for

to chart a realistic and effective course.

3.4.1 Challenges

The first challenge is cultural in nature. The tradition of external control in Brazil is...

markedly legalistic and formalistic. The shift to an approach that values Economics.

Behavioral learning and experimentation require a shift in the mindset of auditors and...

Public managers themselves. There is a risk of resistance, both due to a lack of knowledge of the science.

behavioral as well as out of fear that recommendations based on *nudges* will be seen as

"Too mild" interventions, lacking the coercive force of traditional sanctions (RIBEIRO, 2024).

The second challenge is technical. The rigorous application of *nudges* requires knowledge.

specialized in behavioral economics, intervention design, and assessment methods of

impact, such as Randomized Clinical Trials (RCTs). The TCU (Brazilian Federal Court of Accounts) would need to invest in training.

from their servers or in hiring specialists. Furthermore, implementing *nudges* requires

a robust data infrastructure capable of collecting and analyzing information about behavior.

from users and managers of the SUS, which is not always available (TEIXEIRA, 2022).

A third challenge is ethical and political. As Luiz Felipe Drummond Teixeira points out in his

In this dissertation, the implementation of *nudges* raises questions about autonomy and manipulation. Although the

Libertarian paternalism preserves freedom of choice, but critics argue that any form of

"A push" can be seen as an attempt to unduly influence behavior.

In the context of external control, it is essential that *nudge* recommendations be transparent.

justified by solid evidence and subject to public and parliamentary scrutiny. Legitimacy

The democratic functioning of the TCU (Brazilian Federal Court of Accounts) depends on this transparency.

Finally, there is the challenge of measuring results. Unlike an irregularity...

While accounting values can be easily quantified, the impact of a *nudge* is often difficult to isolate and measure.

Developing appropriate metrics and conducting long-term assessments are necessary.



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to verify whether the recommended interventions actually generated the expected results.

3.4.2 Opportunities

Despite the challenges, the opportunities are significant. The first is the potential for impact. As demonstrated by international experiences, well-designed *nudges* can generate impact. Significant results at minimal cost. In the context of the Brazilian Unified Health System (SUS), where resources are scarce and... Demand is immense, making this cost-benefit ratio extremely attractive. The possibility of Saving lives and improving population health with simple interventions is an opportunity that cannot be ignored (REÑOSA et al., 2021).

The second opportunity is to strengthen the legitimacy of the TCU. By adopting a With a more preventive, collaborative, and results-focused approach, the TCU (Brazilian Federal Court of Accounts) may position itself not... not just as an inspector, but as a true partner in public administration. This can reduce the The negative perception that external control is merely a bureaucratic obstacle, transforming it into an agent of innovation and continuous improvement (TRIBUNAL DE CONTAS DA UNIÃO, 2020).

The third opportunity is the promotion of an evidence-based culture in management. Public. By recommending rigorous testing and evaluation, the TCU can encourage a A change in the way public policies are designed and implemented in Brazil. Instead of Decisions based on intuition or ideology: the country can move towards data-driven policies. and scientific evidence, as advocated by the Evidence-Based Public Policy movement. (PPBEs) (PINHEIRO, 2020).

Finally, there is the opportunity for international recognition. By becoming one of the first Courts From the world's Accounts body to systematically incorporating behavioral economics into its audits, The TCU (Brazilian Federal Court of Accounts) can position itself as a global reference, contributing to the debate in INTOSAI and in... other international forums, and exporting knowledge and best practices to other countries (MORALES CASTRO; UMAÑA ALVARADO; CERDAS BENAVIDES, 2024).

In summary, although the challenges are real and should not be underestimated, the opportunities The benefits that the application of *nudges* offers to the TCU (Brazilian Federal Court of Accounts) and, by extension, to Brazilian society, are immense. The path ahead requires planning, training, dialogue and, above all, a willingness to innovate. and learn from experience.

4. FINAL CONSIDERATIONS

The path taken throughout this article leads to the conclusion that the application of economics Behavioral therapy, through the theory of *nudges*, represents a promising and legally sound approach. grounded in the modernization of external oversight exercised by the TCU, with particular relevance for public health policies. The analysis demonstrated that the transition from a model of purely reactive and punitive control towards a more preventive, dialogical and inductive approach.



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Good practices are not only possible, but also desirable for tackling complex challenges.

of contemporary Public Administration.

In short, the proposal to use *nudges* as an instrument of external control by the TCU does not

This is a disruptive innovation that breaks with legal paradigms, but it's an evolution.

sophisticated control of the court itself. It means equipping the court with 21st-century tools.

XXI to audit an increasingly complex State, focusing not only on correcting the error of

The past is not the same, but rather the goal is to build a more efficient and beneficial future for Brazilian society.

Implementing this approach, if conducted gradually, technically, and transparently, has the...

The potential to transform the TCU (Brazilian Federal Court of Accounts) into a true architect of good policies, the impact of which will be...

Measured not only in reais saved, but fundamentally in lives saved and improvements.

for the well-being of the population.

In practical terms, the incorporation of *nudges* by the TCU (Brazilian Federal Court of Accounts) can occur gradually and...

Incremental. A first step would be to carry out pilot projects in operational audits.

specific, testing the application of behavioral recommendations in areas such as vaccination,

medication adherence or hospital bed management. A rigorous evaluation of the results of these...

Pilots, using scientific methods such as Randomized Clinical Trials (RCTs), would provide

Concrete evidence regarding the effectiveness of the approach would be needed, and adjustments would be possible before further expansion.

wide.

In parallel, it would be essential to invest in the training of TCU (Brazilian Federal Court of Accounts) employees.

especially those involved in operational audits. The Serzedello Corrêa Institute, a school

The head of the TCU (Brazilian Federal Court of Accounts) could develop courses and seminars on Behavioral Economics and design.

of *nudges* and impact assessment methods. The creation of a core of expertise in science.

Behavioral models, along the lines of the UK's *Behavioural Insights Team*, would also be a step.

It is important for institutionalizing knowledge and provides technical support to audit teams.

Furthermore, the TCU could establish partnerships with universities and research centers.

specialized in Behavioral Economics and Public Health. These partnerships could facilitate the

access to cutting-edge knowledge, support for applied research, and contribute to...

Scientific validation of the recommended interventions. Collaboration with international organizations,

Like INTOSAI and the OECD, it would also be beneficial for mutual learning and the exchange of knowledge.

experiences.

Finally, it is essential that the TCU promote transparency and dialogue regarding the application of the law.

of *nudges*. Recommendations based on behavioral insights should be clearly

justified, with reference to the scientific evidence that supports them. The TCU (Brazilian Federal Court of Accounts) must be open to

public scrutiny and debate, recognizing that the application of *nudges* raises ethical questions and

legitimate policies that need to be addressed democratically (ZINGALES; BAKONYI,



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