

Heap-ing on Lippmann: Liberalising Behavioural Public Policy

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Abstract

In several articles over the past decade, Shaun Hargreaves Heap has proposed a liberal, constitutional approach to behavioural public policy that conflicts with the paternalistic consequentialist approaches that have dominated the field to date. In recent years, I too have developed a behavioural public policy framework that sits within the classical liberal tradition. Recently, in commenting on my book, *A Political Economy of Behavioural Public Policy*, Hargreaves Heap identified similarities between my approach and that of the great 20th Century journalist and scholar, Walter Lippmann. In this article, I outline Lippmann's arguments in his classic book, *The Good Society*, in some detail, and reach the conclusion that Hargreaves Heap was right in suggesting that I am a Lippmannite. Finally, given that Hargreaves Heap and I share a belief in liberalism, I summarise why I think he is a Lippmannite too.

Introduction

My first encounters with Shaun Hargreaves Heap were of the student-master kind, although he of course will not remember those. He taught me undergraduate macroeconomics at the University of East Anglia in the early 1990s. He left a (metaphorical) mark on me by flinging a copy of *The General Theory of Employment, Interest and Money* across the lecture theatre, asking us students whether Keynes was a genius or a charlatan.¹ During, and after, graduating I was interested more in experimental economics than macroeconomics, and therefore Robert Sugden and his regular co-author, Graham Loomes (who taught me at the University of York and co-supervised my PhD at the University of Newcastle), were a greater influence on me.²

However, over the past decade, my and Hargreaves Heap's worlds have once again converged, both geographically (with him being based at King's College and I at the LSE) and intellectually, with us being engaged in questions pertaining to the political economy of the still relatively new field of behavioural public policy. We have therefore reconnected, and he was kind enough to speak at the launch of my book, *A Political Economy of Behavioural Public Policy*, at the LSE in February 2023.³

At the book launch, Hargreaves Heap focussed on the writings of the great American journalist-scholar, Walter Lippmann, outlining how Lippmann had, in essence, called for a form of liberalism that attached great weight to individual liberty and the use of the market mechanism as a means of forging social cooperation, while recognising that those mechanisms, if left unchecked, can cause substantive and widespread societal harms. It is therefore the responsibility of liberals, according to Lippmann, to mitigate those harms with rules that curtail the worst excesses of liberty and competition, so as to blunt calls for the State to replace free enterprise.

In my book, I challenged the paternalistic ethos that has dominated behavioural public policy to date, where it is commonly claimed that the behavioural affects – the so-called “biases” – that influence individual behaviours and choices cause people to harm themselves and are thus in need of correcting. My argument is that given the various interpersonal and intrapersonal desires that people have for their own lives – desires that any liberal ought to respect – no one can legitimately conclude that the behavioural affects cause mistakes in the personal realm of their decision-making. It may indeed be the case that the affects facilitate people in the pursuit of their own desires.

That said, although I argue against the use of behavioural science-informed government interventions for paternalistic purposes (i.e. to tackle internalities), I maintain that if the behavioural affects are deliberately used for reasons of self-interest by one party to manipulate another party into doing something they might not otherwise do, then explicit government regulations to curtail those activities *may* be warranted.⁴ Those uses of the behavioural affects, I contend, cause a form of externality, not on a third party as traditionally construed in economics, but upon a second party in a dyadic exchange relationship. In short, I argue that rules and regulations that curtail some specific freedoms – such as the freedom to

¹ I'm still not sure.

² Sugden (I'll stick with the convention of using surnames) was one of my PhD examiners.

³ A video of the book launch, with contributions from several of the leaders in the field of behavioural public policy, can be viewed here: [Book Launch: A Political Economy of Behavioural Public Policy - YouTube](#)

⁴ Here I define an act as manipulative if one party uses a tactic to influence the behaviour of a second party without the second party being fully cognizant of the tactic.

manipulate others beyond some threshold of acceptability – are sometimes needed to protect more general liberty for all. At my book launch, Hargreaves Heap suggested that placing a high premium on liberty with respect to individual personal behaviour and decision-making, but supporting government intervention in cases where otherwise unfettered freedom causes unacceptable harms to others, is consistent with a Lippmannite form of liberalism.

As with his undergraduate lectures, Hargreaves Heap's talk at the book launch left a mark on me. I had not read any of Lippmann's work when I wrote my book, but after hearing Hargreaves Heap I turned to Lippmann's writings, paying special attention to his canonical text in 20th Century liberal thought, *The Good Society* (Lippmann 1937/2017). This reading strengthened my conviction that the future of behavioural public policy would be best informed by an anti-paternalistic liberal vision – a vision that eschews a *laissez faire* ethos and yet respects the right for people to pursue their own desires in life so long as they do not impose substantive harms on others.

Studying the original texts of the great social theorists of the past can disabuse us of the misleading caricatures that are often attached to whole branches of political and economic thought.⁵ It can also offer additional grist to the mill of argument on how we might best approach the problems that contemporary societies face. My objective in this article is to first outline Lippmann's arguments in *The Good Society* in some detail, and then relate them more specifically to my preferred political economy of behavioural public policy. Since Hargreaves Heap and I share a belief in a constitutional contractarian approach to this relatively new field, I will then summarise why I think he is a Lippmannite too.⁶

In Pursuit of *A Good Society*

Most of us are the product of our own times and of our own personal histories. Lippmann published *The Good Society* in 1937, when authoritarian regimes, on the left and right, dominated much of the world.⁷ Lippmann implied that this state of affairs was not inevitable and may not have come to pass if the liberal movement of the 19th Century had not abrogated its responsibilities to curtail the worst excesses of the free market. He wrote, “A hundred years after Adam Smith published *The Wealth of Nations* the liberal philosophy was decadent” (Lippmann 1937/2017, p. 183), and he castigated both Herbert Spencer (whose writings he despised) on the right and Karl Marx on the left for viewing the market mechanism as ‘settled’ – as a mechanism that could not be usefully reformed. In the 18th and early part of the 19th Centuries, Lippmann contended that *laissez faire* had been a useful mantra in the fight against old restrictive laws and institutions that protected vested interests but was not a doctrine by which to live once the old order had been overthrown.⁸

⁵ E.g., Liberalism can be highly interventionist, and does not necessarily equate to libertarianism.

⁶ As to this latter point, it is unlikely that Hargreaves Heap will need much convincing. See Hargreaves Heap and Lewis (2023).

⁷ Following its publication, the *Colloque Walter Lippmann* was organised in Paris to discuss *The Good Society*, which led to the formation of the *Mont Pelèrin Society* after World War II, although Lippmann chose not to participate in the latter. See Burgin (2012) for an extended discussion of that history.

⁸ According to Lippmann, the early liberals were social reformers, but by the late 19th Century many liberals were essentially defending the interests of the capitalists who had benefited from the free market. In short, at that time liberalism was used as a complacent defence of the powerful elites. “This is why [the latter-day liberals] lost the intellectual leadership of the progressive nations, and why the progressive movement turned its back on liberalism” (Lippmann 1937/2017, p. 182). Lippmann suggested that collectivists stepped in to

At the most basic level, Lippmann argued that the market needs laws in order to function. Without State intervention, property would be left unprotected, and contracts would be impossible to enforce. But more than that, State interventions, rules and regulations had to evolve in order to protect those who would not otherwise receive a share of the benefits of, and may indeed be actively harmed by, the market, as new and unequal bargaining powers are produced (see also Hargreaves Heap and Lewis 2023).⁹ Lippmann noted that “... the progress of liberalism was ... halted by the wholly false assumption that there was a realm of freedom in which the exchange economy operated and, apart from it, a realm of law where the state had jurisdiction. The consequences of the error were catastrophic. For in setting up this hypothetical and nonexistent realm of freedom where men worked, bought and sold goods, the liberals became the uncritical defenders of the law which happened to prevail in that realm, and so the helpless apologists for all the abuses and miseries which accompanied it” (Lippmann 1937/2017, p. 191).

Lippmann emphasised that the early classical liberal economists were not entirely at fault for these catastrophic consequences, because they did not foresee them. He argued that their proposals ought to have served as a *model* of how one might organise the economy, rather than as policy recommendations to be applied as given. The later liberals such as Herbert Spencer, John Bright and Richard Cobden, he argued, embraced the unfettered competitive market as a practical guide, and thus left the market’s negative implications regarding poverty, exploitation, information asymmetry, externalities, monopoly – “the cruel injustices, misery, defeat, and frustration” (Lippmann 1937/2017, p. 208) – to one side. Lippmann maintained that rather than to accept them as given, the prescriptions and predictions of the classical economists should have been treated as a searching critique of the existing order – of how far the real world is from their ideal processes and outcomes. This would then lend itself to a critical examination of how one might realistically achieve the ideal. According to Lippmann, the earlier classical liberals, had they foreseen the problems caused by a *laissez faire* approach, would not have wanted it to prevail. He wrote, “[had] the liberal economists realized this implication of their own hypothesis, they would have embarked at once upon the task of exploring the legal, psychological, and social circumstances which obstructed and perverted the actual society” (Lippmann 1937/2017, p. 201). It was thus the later 19th Century liberals who were at fault, and their error “... sterilized the scientific advance of liberal thought, paralysed the practical energies of liberal statesmen, and destroyed the prestige of liberalism” (Lippmann 1937/2017, p. 202).

As noted earlier, Lippmann believed that collectivists – from about 1870 according to Boettke and Candela (2019) – claimed the reformist ground that the liberals should not have relinquished: that people were “... asked to choose between the liberals who came to a dead

highlight and tackle the injustices that the free market engendered. The collectivists thus became the social reformers, which may be why Americans, in modern parlance, label them as liberals.

⁹ Boettke and Candela (2019) contend that the ordoliberal aspects of Lippmann’s writings are of most interest vis-à-vis the development of political economy after World War II. For a discussion of the relevance of Lippmann’s writings to contemporary societies, see Dold and Krieger (2019), who state that ordoliberals, in common with Lippmann, “usually share the conviction that *open markets* (i.e. free trade and globalization) paired with *rule-constrained politics* (on the national and international level) is the best social system for securing and fostering social cooperation and economic prosperity” (Dold and Krieger, 2019, p. 245). Dold and Krieger caution ordoliberals to keep an eye on distributional outcomes and not just rules and processes (which are generally their primary interest), because if there are too many losers in society, they may organise themselves into self-interested pressure groups, and those who benefit disproportionately from power and wealth concentrations may bend the rules further in their own favour.

stop – but stopped on the right road up to wealth and freedom and justice – and the collectivists who [were] in furious movement – but on a road that leads down to the abyss of tyranny, impoverishment, and general war” (Lippmann 1937/2017, p. 204).¹⁰ By collectivism, Lippmann meant the replacement of the market with State planning, which he thought would destroy the freedom for people to pursue their various and varied wants, needs and desires at prices that they were willing to pay, to instead have the distribution of goods and the division of labour imposed upon them by a ‘higher’ authority. Such an imposition would also be catastrophic for social cooperation, undermining the spontaneous division of labour that he believed is the engine of economic growth.¹¹ According to Hargreaves Heap and Lewis (2023), Lippmann valued liberty principally for instrumental reasons (i.e. in that it is necessary to secure economic growth), but there appears to be an element of intrinsic concern (i.e. in respecting varied individual goals in life) in his writing also. In essence, if people are participating in a game that is being played unfairly, the Lippmannite approach is to tighten the rules and to appoint an umpire (and to leave scope to challenge the rules), rather than to force people to partake in a game that is not of their choosing, and where their actions are entirely directed by others, instead.¹²

This said, a liberal response to tackling the vagaries of the market cannot hang on a critique of collectivism. Those who identify as liberals, unless they are adherents to what many may perceive as the irresponsible ethos of *laissez faire* libertarianism, must go beyond the familiar trope of protecting life and property rights and providing a defence against a common enemy, and make positive recommendations of their own. As noted by Frank Knight in a review of *The Good Society* in the *Journal of Political Economy*, Lippmann believed that we need liberty with action, rather than inaction, if liberalism is to stave off collectivism (Knight, 1938). Lippmann offered a number of general suggestions, although few were developed in detail. I label them as pertaining to ‘honest weights and measures’, ‘externalities’, ‘social insurance’, ‘collective goods’, and ‘reciprocity’, and will summarise them here, in part to later cross check the extent to which Hargreaves Heap and I, in the context of behavioural public policy, cohere with his vision.

To return to exploitation as a form of market failure, Lippman (1937/2017, p. 221) wrote that “Inequality of bargaining power afflicts particularly farmers dealing with middlemen, unskilled workingmen dealing with large employers, the poor in their purchases, and the

¹⁰ It is fair to accuse Lippmann of being a little shrill, and vague, in his charges against collectivism. Indeed, in a highly critical review of *The Good Society* in the *Political Science Quarterly*, Charles Merriam chastises Lippmann for grouping together all forms of collectivism and planning, and asks, “Is there not room in the vocabulary of liberalism for the ‘agenda of liberalism’ and for ‘planning’, too?” (Merriam, 1938, p. 134). However, as I will later explain, Lippmann did leave scope for planning.

¹¹ Lippmann does not engage with the Marxist argument that the division of labour, by breaking work down into discrete repetitive tasks (at least in the production of some goods and services), can separate people from the intrinsic value of their work, which may be antithetical to a sense of liberty.

¹² On the difference between liberalism and collectivism, Lippmann (1937/2017, p. 236) wrote: “The difference is that liberalism seeks to improve the exchange economy whereas collectivism would abolish it... In the liberal philosophy the ideal regulator of the labor of mankind is the perfect market; in the collectivist philosophy it is the perfect plan imposed by an omnipotent sovereign.” He went on to state that “[In the 19th Century] The reformers exalted the rights of the state, the conservatives the rights of the individual: the one doctrine became collectivism..., and the other doctrine became *laissez-faire*, which meant at last that no one must do anything... But this is a false issue... It is social control, not by authority from above commanding this man to do this and that man to do that, but social control by a common law which defines the reciprocal rights and duties of persons and invites them to enforce the law by proving their case in a court of law” (Lippmann 1937/2017, p. 265). Boettke and Candela (2019, p. 209) state that “The goal of progressives and collectivists... is to govern *over* people, while the goal of the true radical liberal is to govern *with* people in a self-governing democratic society.”

investors of small savings... They transact their affairs in exceedingly imperfect markets. Quite properly they distrust the markets and remember the many occasions where they have been outwitted, out-traded, and victimized. These wretched markets are an invitation to all the fraud and sharp dealing, the usury, jerry-building, and shoddiness, the quackery and shystering, of the capitalist underworld... it is the duty of a liberal society to see that its markets are efficient and honest.” He was clearly troubled by *laissez faire* arguments in favour of *caveat emptor* – i.e. let the buyer beware. A little later in *The Great Society*, Lippman (Lippmann 1937/2017, p. 237) suggested that “... the method by which liberalism controls the economy is to police the markets, to provide in the broadest sense *honest weights and measures*, to make the bargains represent the exchange of true equivalents rather than the victory of superior strength, inside information, legal privileges, conspiracies, secret combinations, corruption, and legalized sharp practices” [italics added].

Lippmann pays some, albeit brief, attention to the issue of externalities, both in relation to direct harms in the present and those that can be classified as intergenerational. On the former, he noted that “No one who asks to be let alone really wishes to be let completely alone: what he asks is that he be enabled to enjoy the undisputed exercise of the rights which he enjoys. But he expects the state to interfere promptly and effectively if anyone disturbs him” (Lippmann 1937/2017, pp. 269-270). His musings with respect to intergenerational harms are a little more interesting, as he (for)sees the need for environmental protection. “That anyone who thought he was preserving the system of free enterprise should have persuaded himself to believe that the law must leave men free to destroy the patrimony of their children”, he wrote, “is one of the curiosities of human reason” (Lippmann 1937/2017, p. 213), and he followed this up by contending that “... a civil society is a ‘partnership not only between those who are living, but between those who are living, those who are dead, and those who are to be born’” (Lippmann 1937/2017, p. 253).

In his version of liberalism, Lippmann saw a role for social insurance to relieve people temporarily from and better prepare them for the frictions and disturbances of the market, an aspect of his work that is emphasised by Hargreaves Heap (2023). “There is no reason whatever”, Lippmann wrote, “why some part of the wealth produced should not be taken by taxation and used to insure and indemnify human beings against their personal losses in the progress of industry. If technological improvement increases wealth, – and, of course, it does, – if society as a whole is richer when an industry moves from a place where costs are high to one where they are lower, then some part of that increased wealth can be used to relieve the victims of progress. It can be used to tide them over while they are changing their occupations, to reeducate them for new occupations, to settle them in new places if they have to move... if it is properly devised, such a system of social insurance would facilitate the necessary technological changes, and reduce the very human resistance which comes from those who now see themselves the appointed victims of progress” (Lippmann 1937/2017, pp. 223-224). Lippmann’s suggested method of paying for social insurance is through inheritance taxes and steeply graduated income taxation on monopoly profits. Similarly, he believed that the public provision of services that have limited broadly agreed-upon objectives that help people to partake and contribute to society, and yet cannot be provided efficiently or equitably through the market mechanism, is perfectly consistent with his approach; “A liberal society must, of course, provide schools, hospitals, recreation centres, and all manner of

social services just as it must have a police force and an army” (Lippmann 1937/2017, p. 303).¹³

Towards the end of *The Good Society*, Lippmann implied that a further legitimate intervention by a liberal State is to protect and nurture reciprocity in the form of the Golden Rule (i.e. to do unto others that which you would have them do unto you).¹⁴ Lippmann (1937/2017, p. 377) contended that “... the Golden Rule is the moral maxim which establishes itself when men recognize others as autonomous persons, when they acknowledge the inalienable manhood of other men.” In short, he saw the Golden Rule as the ultimate criterion of human conduct that had evolved over aeons as a standard for securing The Good Society – as necessary for people to recognise others as equals to be respected, and not as objects to be stepped on.

Having outlined in brief Lippmann’s concerns regarding a *laissez faire* approach to organising the economy and society, and some of the liberalism-preserving actions that he proposed to correct for the negative consequences of libertarianism, I will now turn to whether my conceptual framework for the field of behavioural public policy can be labelled as Lippmannite, as Hargreaves Heap suggested.

A Liberal Approach to Behavioural Public Policy

Given that my primary focus is how behavioural science can inform public policy, my scope is inevitably somewhat narrower than Lippmann’s. As noted earlier, paternalistic approaches, particularly soft forms of paternalism, have dominated the rhetoric of behavioural public policy ever since it emerged as an acknowledged subfield of public policy. The essence of soft, or behavioural, paternalism is the claim that the systematic patterns in choices and behaviours that have been shown to conflict with the assumptions of rational choice theory by behavioural economists and cognitive psychologists over the past several decades, often cause individual decision-making errors. Behavioural paternalists retain the normative standard of rational choice theory – i.e. utility or welfare maximisation. Thus, the assumption of what is ‘good’ for people is typically an outcomes-based concept that tends to be chosen by the paternalist. The proposal then is to use the knowledge of the systematic behavioural patterns to modify the environment or context – often termed the choice architecture – that people find themselves in, such that their instinctive choices are more likely to align with those they supposedly would deliberately prefer to make.

Soft, and also of course, hard, paternalistic approaches are inevitably forms of planning that focus on outcomes rather than rules, and, I would argue, are inescapably highly statist and collectivist. They are forms of policy intervention that Lippmann (and most other liberals) would oppose. It is a huge leap to claim that soft paternalism will lead to despotism, but it is an undesirable policy direction if one wishes to preserve individual autonomy.¹⁵ The original

¹³ Thus, in response to Merriam’s critique noted earlier, Lippmann clearly did see a role for planning in a liberal society. See also Boettke and Candela (2019).

¹⁴ For an extensive multidisciplinary discussion of the role that reciprocity may play in behavioural public policy, albeit one in which I did not refer to Lippmann, see my *Reciprocity and the Art of Behavioural Public Policy* (Oliver, 2019).

¹⁵ It is assumed here that, within resource constraints, autonomy is synonymous with a person’s capacity to decide, choose and behave in ways that affect their own life that is free from interference by others. As will be clear later in this article, my conception of autonomy is consistent with elements of both negative and positive freedom.

architects of behavioural paternalism have consistently posed the question: since choice architecture is ubiquitous, why not use it to nudge people in welfare-enhancing directions (Thaler and Sunstein, 2003)?¹⁶ That they pose this as a rhetorical question underlines the point that they position themselves as planners; that they – or paternalistic policy makers – are the best placed persons to know what enhances the outcomes-based welfare of those they are nudging, and that an increase in outcomes-based welfare is all that the latter desire. We may indeed be surrounded by choice architecture, but that does not mean that we ought to sanction a particular architect to decide upon the relevant goals for all of us, and to manipulate our decision-making so as to move us towards those objectives. It may, however, mean that it is sometimes legitimate for policy makers to openly regulate against the self-serving design of choice architecture that imposes harms on others – i.e. if the policy intervention addresses externalities rather than attempts to improve internalities, which incidentally coheres with a Lippmannite framework – a point to which I will later return.

Nudging populations towards particular preset outcomes conflicts with the fact that people have various and varied desires that they might wish to fulfil in their own lives. It may well be that outcomes-based welfare is one thing that most people to some considerable degree desire, and for some people it may be all that they desire. But for most people, that which offers welfare in this sense differs across and (in different contexts and at different times) within people. The ‘one size fits all’ approach from a planning perspective conflicts with the diversity of desires.¹⁷ Moreover, many – probably most – people are driven in their choices and behaviours by considerations that transcend outcomes-based welfare, and these considerations also differ both interpersonally and intrapersonally. We may, for example, willingly sacrifice our own personal outcomes-based welfare in order to keep a promise, to limit the harms that we might otherwise place on others, to satisfy our own conception of fairness, to maintain a level of dignity that we believe is fitting to our position, or a host of other factors. Priorities differ across people; indeed, some people may desire to have no priorities at all, which, from a liberal perspective, is perfectly acceptable.

Soft paternalists generally make at least two counterclaims to this collection of thoughts. First, they tend to argue that neither they nor social planners should decide on the directions in which to nudge people. Rather, they contend that we ought to seek the deliberative preferences of those we wish to target, and then nudge them in the directions in which, after a period of reflection, they themselves say that they wish to go (Thaler and Sunstein, 2008).¹⁸ Second, soft paternalists argue that their approach does not coerce or force people to do anything; that they are merely guiding people to change their behaviours or choices. Retaining liberty is, they contend, the best safeguard against the possibility that their interventions are, at least for some people, misguided, and that nothing in their approach

¹⁶ In their 2003 article, Thaler and Sunstein, by claiming that choice architecture is everywhere and that it is therefore entirely legitimate for governments to nudge people in particular directions, could be accused of using a rhetorical style intended to close down debate. They wrote that “...we can abandon the less interesting question of whether to be paternalistic or not...” (Thaler and Sunstein, 2003, p. 175). For many liberals who are suspicious of planners, including myself, however, there are few questions more interesting and important than those that pertain to an encroaching State; questions that should never, I suggest, be abandoned in liberal democracies.

¹⁷ In *The Good Society* (p. 367), Lippmann wrote, “To the liberal mind, the notion that men can authoritatively plan and impose a good life upon a great society is ignorant, impertinent, and pretentious. It can be entertained only by men who do not realize the infinite variety of human purposes, who do not appreciate the potentialities of human effort, or by men who do not choose to respect them.”

¹⁸ It is somewhat convenient that the targeted behaviour change always seems to be something that is agreeable to the soft paternalists themselves, such as increasing pensions saving and smoking cessation.

prevents people from pursuing any desire, whether outcomes-based or otherwise, that anyone may possess.

In countering the second counterclaim first, soft paternalistic interventions are meant to work through automatic decision-making processes. If that is the case (and assuming that these interventions are effective), then it is difficult to square them with the argument that people will always continue to pursue goals other than those that the interventions are designed to promote. Soft paternalistic interventions that are designed in this way are inevitably manipulative, and if implemented by government are necessarily statist. To me, they appear to contrast with all forms of liberalism, including the Lippmannite approach. Soft paternalists make the further counterclaim that it is a misconception to believe that their preferred interventions are covert and hence manipulative; that these interventions should always be highly visible (Sunstein, 2017). However, this defence misses the point: no-one denies that nudges are invariably physically visible, but their underlying motivational force – the reasons why their design may move people’s behaviours and choices in particular directions – are typically hidden from their target populations.

Regarding the soft paternalists’ first counterclaim that their approach only seeks to nudge people in directions that align with the target population’s deliberative preferences, several of the deepest thinkers in the field, including – as discussed below – Hargreaves Heap, from different disciplinary backgrounds and with varying conceptual views on how behavioural public policy ought to be conducted, have forcefully argued that there is no philosophical or psychological basis to believe that an inner rational agent exists (e.g., see Bernheim, 2021; Chater, 2019; Sugden, 2008). Much of the time, when people reflect and then offer suggestions on what they claim to prefer, it is likely that their statements are constructed so as to sound like a reasoned response, but are actually divorced from what they do, or want to do, in the moment. These arguments have all been rehearsed in the literature cited above, and I do not want to dwell any further on critiquing the paternalist planning approach to behavioural public policy. Lippmann, as noted earlier, felt that liberals had a responsibility to not just critique but to outline an agenda for action, and it is to my suggested steps for action in the context of behavioural public policy that I will now turn.

The behavioural-informed liberal approach that I propose in my *Political Economy of Behavioural Public Policy* contends that a multitude of desires, that vary across and within people, drive behaviours and choices, and these desires are invariably antecedent to any consideration of outcomes-based welfare (Oliver, 2023).¹⁹ As such, behavioural paternalists, or planners, cannot hope to understand what individuals desire for themselves, let alone design policy that aims to promote some aggregated conception of societal welfare, since the latter will conflict with what many, perhaps most, people want. Moreover, my approach does not assume that the systematic behavioural patterns that conflict with the assumptions of rational choice theory necessarily cause errors in individual decision-making. It is plausible that those patterns evolved for ecologically valid reasons, perhaps to facilitate people in the pursuit of their varied, context-dependent, desires (see Page, 2023).

As alluded to earlier, however, knowledge of the behavioural affects can inform where, from a liberal perspective, it is legitimate to introduce behavioural-informed regulation against externalities, interventions that I have elsewhere labelled ‘budges’ (see Oliver, 2023, and the

¹⁹ Over recent years, several scholars have argued for behavioural public policy to align with the liberal tradition. See, for example, Rizzo and Whitman (2020), Sugden (2018), Hargreaves Heap (2017, 2023), and Chater (forthcoming).

references therein). From my behavioural public policy perspective, these are not externalities as traditionally conceived in economics, where a third party who has no direct relationship with the activities of a first (or second) party suffers negative consequences from the latter's activities. Rather, they are externalities imposed by one party onto the other party in an exchange relationship. The systematic behavioural patterns that have been empirically observed by behavioural economists and psychologists are often used, either implicitly or explicitly, by certain interests to manipulate people to engage in actions and behaviours that serve the interests of the manipulators, but that may harm the manipulated. These are the nefarious designs of the choice architecture that so bother the soft paternalists, but rather than calling for public policy makers to counter-manipulate to protect target populations *from harming themselves*, the onus is placed upon policy makers to identify instances where people are being *unacceptably harmed by others*, and to openly and explicitly regulate against the activities that cause those harms.²⁰ It is not, therefore, a paternalistic approach; it does not presume that anyone is harming themselves through their own volition. But it does acknowledge that people can sometimes be manipulated, and even coerced, by others, and thus constraints sometimes need to be imposed on the activities of those others.

Instances of these types of manipulation often occur in the exchange relationship between contracting parties (for instance, between buyers and sellers, and employers and employees), and are related to Lippmann's concerns with arguments that favour *caveat emptor*. For example, online gambling companies use mechanisms that cause people to anchor upon extraordinarily high maximum recommended daily gambling stakes, and payday loan companies make salient the joys of spending in the immediate moment, and downplay the pain of repayment. If one considers such tactics as unacceptably pernicious – tactics that perhaps undermine the notion of a free, fair and mutually respectful exchange between trading parties – then one has an intellectual justification to call for policy makers to regulate against their use.

A further way in which one might address the problems embedded in the principle of 'let the buyer beware', and which also in a sense aims to better secure Lippmann's notion of 'fair weights and measures', is to advance individual agency by improving people's knowledge of how behavioural science is used to influence their decision-making, and to develop their reasoning abilities. These suggestions mirror those of the 'Boost' and 'Think' behavioural frameworks (e.g., see Hertwig, 2017; John *et al.*, 2011). Boosters contend that people ought to be taught the various behavioural affects so that they are more cognisant of whether they want to be influenced by them, and also assert that levels of statistical literacy can be improved by teaching people simple decision rules that allow them to better process the often complex decisions they are required to face in the modern world. Think policies aim to encourage people to engage in deeper deliberation before making their decisions. Both approaches perhaps require an unrealistic strain on the average person's cognitive resources in order to have a substantial widespread effect, but both can also be thought of as forms of education that most classical liberals would presumably endorse.²¹

²⁰ I cannot provide a standard or benchmark by which a harm is defined as an unacceptable harm. To do so would be an act of paternalism. Unacceptable harms will instead be identified via a (subjective) process of public deliberation.

²¹ From quite early in his adulthood, Lippmann was not exactly confident that the average person had the ability to participate usefully in public debate (see Steel, 2017). We may therefore question whether he thought that population-wide statistical (or non-statistical) reasoning abilities could be substantially improved. Incidentally, although Richard Steel paid little attention to *The Great Society* in his biography of Lippmann, he claimed that Lippmann displayed a serious contradiction in the book by lauding 19th Century *laissez faire* liberalism while

Many classical liberals, including Lippmann as already noted, also believe that there are certain services – such as education and health care – that are of fundamental importance to the whole population, and yet cannot be provided efficiently or equitably through a private market. Consequently, these liberals endorse the public provision and planning of certain services, each of which coalesce around a limited number of goals (e.g. improving literacy rates, relieving sickness). Their limited goals, if broadly agreed upon at a societal level, make these services ripe for State planning because the argument that autonomy is required for people to pursue multifarious desires is rendered moot. In my *Political Economy*, I contend that the services chosen for State planning must meet the above requirements, but most importantly because they are broadly believed to produce ‘goods’ that help people to pursue their privately held desires, irrespective of what those (varied and various) desires may be. Thus, one may take the view that basic levels of, for example, health, education and income are necessary in order for a person to be reasonably positioned to do most other things in life. Lippmann similarly believed that some services ought to be provided by the State, although his emphasis was on facilitating economic growth (see also Dold and Krieger), whereas my entire emphasis is on facilitating individual autonomy in the pursuit of personal desires. That is, if people have personal desires that are inimical to economic growth that are broadly adjudged to be facilitated by, for example, basic levels of health, literacy and income (the universal provision of which may be impossible via the private market) – if they wish to pursue a career in the arts instead of tech, for example – then my liberal framework would allow the public provision of health care, education and income-support services.²²

Finally, the human motivational drive to reciprocate occupies a central position in my *Political Economy*, where I argue, in common with Hume (1739-40/1978), that this instinct evolved to benefit the groups of which we are a part, because what is good for the group tends to be good for group members. A form of self-interest thus underpins reciprocal behaviours: reciprocity is the engine of social cooperation, and in turn facilitates most people in the pursuit of their own personal desires in life, whatever their desires may be. However, if one is not careful, reciprocity can be crowded out by the more selfish, egoistic tendencies that are often assumed under rational choice theory, and thus my approach to behavioural public policy urges policy makers to ensure that the broad institutional framework of society is organised such that it protects and nurtures the motivation to reciprocate (see Oliver 2019; 2023). The view that reciprocity functions to benefit most individuals is a theme that runs through the writings of the classical liberals (including, of course, Lippmann’s), as well as writers who are not normally classified as such, from Kropotkin (1902/2014) to Polanyi (1944/2001).

Of Lippmann’s general suggestions for action – i.e. in promoting or addressing honest weights and measures, externalities, social insurance, collective goods, and reciprocity – it is

also favouring a 20th Century welfare state. For reasons earlier explained, I see this as a misreading of Lippmann’s arguments.

²² A further difference between Lippmann’s and my approaches lies in his criticism of John Stuart Mill. In that I propose that policy makers ought to intervene when people are imposing unacceptable harms on others and not when they are supposedly harming themselves (Mill’s no-harm principle), I argue that my approach is substantively Millian (see Mill, 1859/1969). Lippmann, however, (I think unfairly) disparaged Mill by contending that he restricted government intervention to only those circumstances where it could do a great good, which, according to Lippmann, he left undefined. Such ‘great good’ is left undefined because it needs to be adjudged, through some form of public debate, on a case-by-case basis. Mill was providing the conceptual framework for legitimate actions, not examples of the specific actions themselves. I have faced the same criticism.

only social insurance that is arguably missing from my liberal vision for behavioural public policy, but even then, as suggested earlier, some level of minimum income guarantee could, in theory, be viewed as a primary good that is necessary to enable people to pursue their own personal desires in life. Therefore, Hargreaves Heap is, I think, correct: I am an accidental Lippmannite. I will now briefly explore whether Hargreaves Heap shares that designation with me.

A Constitutional Approach to Behavioural Public Policy

In recent articles in the journal *Behavioural Public Policy*, Hargreaves Heap (2017; 2023), like others mentioned earlier, questions when people have the deliberative, stable preferences that nudge advocates assume, and, in common with my *Political Economy*, proposes a Millian behavioural public policy framework. Hargreaves Heap contends that the following two insights can be drawn from experiments in behavioural economics and cognitive psychology. First, people do not generally have an underlying fixed and stable preference ordering over goods (conflicting with the assumptions of standard rational choice theory), and often employ rules of thumb – i.e. decision-making heuristics – in reaching their decisions.²³ Rather than preferences driving decisions, Hargreaves Heap suggests that decisions create apparent preferences, and that we cannot judge this to be irrational.²⁴ Second, reciprocal and even altruistic actions – the so-called pro-social preferences – often exist, but can also be heavily influenced by context. When pro-social preferences depend on the institutional context they cannot be taken as exogenous, which conflicts with standard rational choice theory (Hargreaves Heap, 2013). As such, pro-social preferences are somewhat unstable and can be crowded out or in depending on experimental and certain institutional settings, but, in and of themselves, we cannot conclude that they are unreasonable either.

In common with my line of reasoning, Hargreaves Heap suggests that the lesson from these insights is that there is no underlying fixed and stable preference standard, and the choice of institutions becomes, in part, a choice of what social preferences a society wants to encourage. He therefore contends that policy ought to be evaluated in some other way than individual preference satisfaction.²⁵ The standard he proposes involves assessing policies by the degree to which they advance individual liberty, and he states that “... in the spirit of liberalism one might ... be less sure that having a preference for eating a lot (and short life) is wrong or that it is right to prepare for a retirement. There is perhaps no ‘correct’ preference to have that policy should support. Nevertheless, it still matters (or ought to) for those with liberal instincts that whatever action people take, they should feel they own it in the sense that they have had the resources to reflect on what preferences to hold and how to act on them. That is, they should feel autonomous” (Hargreaves Heap, 2013, p. 995).²⁶

²³ Of course, this is the longstanding conjecture in behavioural economics, but for an interesting extended discussion see Chater (2019).

²⁴ For an extended discussion on the notion that people construct preferences when faced with decision tasks, see Lichtenstein and Slovic (2012).

²⁵ “... welfare economics should be concerned with the conditions under which people’s preferences form and not simply with how best to satisfy them” (Hargreaves Heap, 2013, p. 998).

²⁶ It is to this point, aside from the no-harm principle, that Hargreaves Heap invokes Mill in his writings. “For Mill”, he writes, “our preferences are in a state of flux, open to amendment in the light of experience, discussion and thought. This is how we come to have an individual identity, and it is little wonder that we often do not reveal a well-defined set of preferences in our behaviours” (Hargreaves Heap, 2017, p. 255). He agrees with Mill that people need institutions, such as the education sector and the media, that promote reflection and

At a general level, Hargreaves Heap proposes a constitutional approach to behavioural public policy, in which attention is shifted away from the focus on outcomes that is typical in the paternalistic frameworks and on to the rules that constrain and enable actions.²⁷ He does not contend that outcomes do not matter at all – as noted earlier, the distribution of outcomes can serve as an indicator of whether the rules are doing their job effectively. If some in society are becoming worse off as society develops, he argues, the order of society has failed the contractarian test of doing no harm (Hargreaves Heap, 2017). But public policy needs to be viewed as procedurally fair and as allowing freedom of action (within reason), rather than being just a consequentialist concern.

Mirroring Lippmann's assertion that liberals should recommend actions and not only inaction, Hargreaves Heap maintains that absence of restriction – i.e. negative liberty – must be supplemented in at least two ways. First, he calls for the provision of goods that I earlier suggested are in some sense foundational in enabling people to pursue their personal desires (and are consistent with Sen's (1999) notion of capabilities), such as an education system. Second, Hargreaves Heap leans on Mill's (1859/1969) no-harm principle to argue for a variety of familiar policies for unfamiliar reasons, such as a health care service and unemployment insurance, and for a number of less familiar policies, including a flat rate tax and a basic universal income.

Hargreaves Heap (2017) warns that when tax and benefit systems become too complex, they can run counter to the no-harm principle because the difficulties of then understanding and traversing the systems (in addition, perhaps, to incentivising cheating) renders them unfit for the purposes for which they were created, which, he posits, are to appropriately address externalities, to redistribute resources, and to collect appropriate levels of revenue for public investment (hence, for example, the proposal of a flat tax rate).²⁸ Lippmann argued that progress tends to increase complexity in general in the economy and society, which makes it increasingly risky for individuals to engage in growth-inducing activities, exacerbated by the fact that people are typically risk averse. This was his justification for suggesting that new forms of social insurance are needed if governments want people to engage in risks that, on the whole, benefit the economy: i.e. to serve as safety nets if the risks do not pay off. Hargreaves Heap, with Lewis, make a similar argument in support of a minimum income guarantee, and suggest that the economic slowdown in liberal economies over the last forty years, which has led to the contemporary crises in liberalism, may have in part been caused by the erosion in social safety nets, resulting in a general reluctance to take entrepreneurial risks (Hargreaves Heap and Lewis 2023).²⁹

discussion. Lippmann came to believe that critical reflection, at least on matters of public interest, was extremely difficult for most people, and that the media undermined their capacities in this regard.

²⁷ "... the history of constitutionalism is the effort to transform the coercive authority of the state so that it shall be employed to protect and disarm ..." (Lippmann, 1937/2017, p. 374).

²⁸ A progressive tax is invariably, of course, favoured by progressives, but Hargreaves Heap suggests that progressive rates of income tax fail the no-harm principle when incomes fall. For instance, a high-income earner who is subject to a 50% income tax rate loses only 50p in after-tax income following each £1 fall in income, whereas a low-income earner who faces a 25% income tax rate faces a 75p drop in after-tax income for every £1 fall. Hargreaves Heap maintains that raising the threshold for income tax exemption coupled with a flat rate tax protects the no-harm principle and can be at least as progressive as a progressive rate of income tax. It is also administratively easier to manage.

²⁹ I am sceptical of this line of argument. Some of the greatest periods of economic growth, in time and place, have surely occurred where this is little by the way of a social safety net, and one may ask the legitimate question that if one is guaranteed an income, then why take risks? A minimum guaranteed income is potentially allowed in my liberal behavioural public policy framework, but for reasons of facilitating autonomy rather than

There are other aspects of Hargreaves Heap's perspective that align closely with my own. For instance, he notes that we would not necessarily wish for producers rather than consumers to be in charge of the creation of new wants, tastes and choices (Hargreaves Heap, 2013), which perhaps justifies the forms of behavioural regulation to which I refer in my *Political Economy*. More generally, Hargreaves Heap's approach, like mine and Lippmann's (and others) before us, calls for an institutional framework that is conducive to facilitating mutually agreeable exchange between citizens, and his proposed policies, also like mine, relate closely to Lippmann's concerns pertaining to honest weights and measures, externalities, social insurance, collective goods, and reciprocity. We might, all three of us, be categorised quite fairly as ordoliberals, in tune with Lippmann's statement that "... great and salutary changes in human relations can be and usually have been effected not by commands from on high but by amending the laws under which men deal with one another" (Lippmann, 1937/2017, p. 271). One might contend that Hargreaves Heap places more emphasis on the instrumental implications of his behavioural public policy framework than I do in my *Political Economy*, but we are close enough together for me to be classified not just as a Lippmannite but also as a Heapian (and perhaps, assuming that our original master-student relationship has evolved, for Hargreaves Heap to be labelled an Olivetti!).

More importantly, there is a common misconception that all classical liberals champion the notion of selfish egoism, but for many liberals the opposite is in fact the case. They believe in mutual respect between individuals, in the autonomy that people need to pursue their own desires in life, and in controls on the actions and behaviours of those who might otherwise impose substantive harms on others. They recognise that people have diverse, multifarious objectives in life, but, equally, they highlight that we cooperate in communities and that by doing so, we help ourselves. Intellectually, they show scholarly depth and are cautious of glib caricatures. To my mind, Shaun Hargreaves Heap is a personification of all of these beliefs and attributes.

economic growth. On these grounds, the conclusion of whether such a guarantee ought to be implemented would follow a detailed consideration of all of its pros and cons, but the argument that it would facilitate people in their pursuit of their multifarious desires might at least get it a hearing.

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