

Political and Economic Implications of Hayekian Criticism of 'Regulation'

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ABSTRACT

F. A. Hayek's basic philosophical arguments based on the criticism of the constructivist rationalism are still generating a framework which has been reserving its popularity in debates related with the problems of contemporary politics and economics. Broadly speaking, Hayek's that criticism of regulation based on philosophical foundations is a direct result of arguments which are related with the nature of human being and epistemology. This paper claims that Hayek's criticism on the constructivist rationalism could shed a light the issue of regulation with respect to current discussion about the matter. In this context this work concentrates on the connections and the implications of Hayekian criticism of regulation with regard to the contemporary political and economic discussions which have emerged in the framework of the concepts like state, market, civil society, human rights, rule of law, freedoms and etc. The first main section of the paper introduces Hayek's main philosophical arguments based on the criticism of the constructivist rationalism. The second section handles the concept of spontaneously generated order with respect to the relation between state/government and competitive market order. The last section includes the criticism of regulation in the context of Hayekian arguments. The paper ends with a conclusion.

Keywords: Hayek, constructivist rationalism, spontaneous order, regulation

Hayekçi 'Düzenleme' Eleştirisinin Politik ve İktisadi Sonuçları

ÖZ

F. A. Hayek'in kurucu rasyonalizm/akılcılık eleştirisine dayanan temel felsefi argümanları, çağdaş politika ve iktisat problemlerine ilişkin tartışmalarda hâlâ güncelliğini koruyan bir çerçeve oluşturmaktadır. Hayek'in bu felsefi temellere dayanan geniş anlamda 'düzenleme' eleştirisi, insan doğası ve epistemoloji bağlamındaki argümanlarının doğrudan bir sonucudur. Liberal dünya görüşü için büyük önem taşıyan Hayekçi 'düzenleme' eleştirisi, günümüzdeki temel tartışma alanlarında sıklıkla kullanılmaktadır. Bu çalışma devlet, piyasa, sivil toplum, insan hakları, hukuk devleti, özgürlükler vb. gibi kavramlar çerçevesinde açığa çıkan günümüzdeki politik ve iktisadi tartışmaların, Hayekçi 'düzenleme' eleştirisiyle bağlantılarına odaklanmaktadır. Bu bağlamda çalışmanın birinci kısmı, Hayek'in kurucu rasyonalizm eleştirisine dayanan temel felsefi argümanlarını ele alacaktır. İkinci bölüm ise devlet/hükümet ve rekabetçi piyasa düzeni arasındaki ilişki çerçevesinde 'kendiliğinden doğan düzen' kavramını inceleyecektir. Son bölüm ise Hayekçi argümanlar bağlamında düzenleme eleştirisini ele alacaktır.

Anahtar Kelimeler: Hayek, kurucu rasyonalizm, kendiliğinden düzen, düzenleme

Introduction

Just after the emergence of neo-classical economics in the stage of economic policy the concepts of regulation and deregulation have been started to be discussed in various areas of life as well as in economic one. The problem is whether various parts of human life areas need to be regulated or deregulated if some have been already regulated. That is totally related with the economic/social role of public authority in general and the government in particular.

With this respect, F. A. Hayek's basic philosophical arguments based on the criticism of the constructivist rationalism are still generating a framework which has been reserving its popularity in debates related with the problems of contemporary politics and economics. Broadly speaking, Hayek's that criticism of regulation based on philosophical foundations is a direct result of arguments which are related with the nature of human being and epistemology. We witness that Hayekian criticism of regulation which has a significant meaning for the views of the liberal world has been frequently used in the fields of major discussions. For this reason it would be useful to concentrate on the connections and

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the implications of Hayekian criticism of regulation with regard to the contemporary political and economic discussions which have emerged in the framework of the concepts like state, market, civil society, human rights, rule of law, freedoms, globalization and governance.

In this context the first main section of the work handles Hayek's main philosophical arguments based on the criticism of the constructivist rationalism. The second section concentrates on the questions of what results of those philosophical arguments are or would be in relation to political and economic orders. In the last section the arguments in the discussions currently taking place in the context of regulation, and their relations with Hayekian thought, and how they could be solutions to problems in our times will be studied and discussed in a critical perspective. Our basic research question is the following: How good solution could be the main arguments of Hayekian criticism of regulation which we have been coming across in various ideas and forms for new problems of our time in which concepts like globalization and governance etc have been coming forward.

1. The Criticism of the Constructivist Rationalism: Philosophical Background

The criticism of the constructivist rationalism takes place in the philosophical foundation of Hayek's thoughts in relation to social and political theories. Within this context Hayek makes a paradigmatic division between The Continental Enlightenment or French Enlightenment and British or Scottish Enlightenment. These two traditions of thought reflect two distinct views of world when they are looked at their pure forms in the 18th century. British tradition fits into the context which found its roots within the concept of the common law, and was pioneered by David Hume, Adam Smith, Adam Ferguson, and was supported by Josiah Tucker, Edmund Burke and William Paley. According to Hayek, French Enlightenment which took place against that, and was deeply inspired by the Cartesian rationalism has got famous representatives like Rousseau, physiocrats and Condorcet. This division is made within the context of attachment to certain theoretical premises, and for this reason, it does not fit with the national boundaries. While Hayek regards thinkers like Montesquieu, Benjamin Constant and Alexis de Tocqueville within the British tradition, he includes Godwin, Priestley, Price, Paine and Thomas Hobbes to rationalist one. In the broadest sense this difference depends on the dominances of the empirical approach in the British tradition and that of the rationalist one in the French tradition. The Continental Enlightenment strongly relies on the power of the constructivist reason and stresses the concepts of 'design' and 'intention' in the human relations. The British tradition which moves from an empirical perspective approaches to the power of constructivist reason with criticism, and stresses 'spontaneity' and 'unplanned' one in the human relations.

Hayek does not advert to rationalist thinkers within the tradition of liberal thought as reference point of his own thoughts, but to evolutionary thinkers like Hume, Smith and Ferguson. According to Hayek, the theoretical arguments of real rationalism, of real individualism or of real liberalism exist in the tradition of the evolutionary thought which finds its roots in the Scottish Enlightenment. The tradition of that thought depends on the criticism of the constructivist rationalism at the epistemological level.* Hayek associates the constructivist rationalism, which he is against, with thinkers like Hobbes, Rousseau, Saint-Simon, Comte, Hegel, Marx, but finds its roots in the Cartesian rationalism: "Since for Descartes reason was defined as logical deduction from explicit premises, rational action also came to mean only such action as was determined entirely by known and demonstrable truth. It is almost an inevitable step from this to the conclusion that only what is true in this sense can lead to successful action, and that therefore everything to which man owes his achievements is a product of his reasoning thus conceived. Institutions and practices which have not been designed in this manner can be beneficial only by accident. Such became the characteristic attitude of Cartesian constructivism with its contempt for tradition, custom, and

* "I have indeed been led to the conviction that not only some of the scientific but also the most important political (or 'ideological') differences of our time rest ultimately on certain basic philosophical differences between two schools of thought, of which one can be shown to be mistaken. They are both commonly referred to as rationalism, but I shall have to distinguish between them as the evolutionary (or, as Sir Karl Popper calls it, 'critical') rationalism on the one hand, and the erroneous constructivist (Popper's 'naive') rationalism on the other. If the constructivist rationalism can be shown to be based on factually false assumptions, a whole family of schools of scientific as well as political thought will also be proved erroneous" (Hayek, 1973; 5-6).

history in general. Man's reason alone should enable him to construct society anew" (Hayek, 1973; 10). Hayek entirely rejects the approach which he calls as the 'constructivist rationalism'. For Hayek (1973; 5) this incorrect view depends on an amiss idea of human mind: "That erroneous view is closely connected with the equally false conception of the human mind as an entity standing outside the cosmos of nature and society, rather than being itself the product of the same process of evolution to which the institutions of society are due".

According to Hayek, broadly speaking it is not possible to explain the actions of human intellect in processes of information, judgement and perception through pure rationalist arguments and the Cartesian construction is drastically false. Because it is not possible to make clear cut deductions on the functions of intellect itself through depending on mind. In other words, the capacity of our perception and explanation is restricted by the fact that we cannot explain the rules which direct our perceptions and explanations. We can understand with general terms the essence of how the brain functions, but we can never reach detailed explanations of how it works in certain situations (Hayek, 1999). According to Hayek, the intellect has not got an existence isolated and independent from the outside world as the constructive rationalist claims. The intellect does not take place outside of the evolution in the historical process but it takes inside of it. For this reason, it will be affected from the changes which were let by the historical accumulation and experience. The intellect in Hayek's evolutionary epistemology is an ability which provides the adjustment between outside world or environment and human body. Here the intellect is explained within the framework of experiences obtained through trial and error in the context of changing relations between organism/human and environment. For this reason, the concept of intellect or mind as the constructive rationalists regard and the epistemological arguments which depend on these understanding do not reflect the reality (Hayek, 1973; 8-34).

Hayek's concept of mind and his thoughts on the working of the human intellect logically produce stresses toward the restraint of human knowledge. In another words, the knowledge produced by human with the limited capacity finds its restraint in the nature of human itself. Human being can produce partial or limited knowledge due to human nature. Moreover, a rule-guided structure exists in the nature of this knowledge and the functioning of the human mind in general. This means that there exists a rule-following in human nature and behaviour even though it cannot be put into language, and it cannot be expressed with conscious action and behaviours. With the words of Hayek (1973; 11), "Man is as much a rule-following animal as a purpose-seeking one. And he is successful not because he knows why he ought to observe the rules in words which he does observe, or is even capable of stating all these rules in words, but because his thinking and acting are governed by rules which have by a process of selection been evolved in the society in which he lives, and which are thus the product of the experience of generations". Those inarticulate rules are followed spontaneously when the human mind faces the outside world. The same case is valid for the social behaviours. If we make it clearer, that kind of tacit knowledge which come out in the historical experiences of societies and individuals functions as rules which are followed for social behaviours. However, those rules do not bear a clear cut visibility. As the mind cannot explain the rules on which its own functioning depends, the individual is inadequate in explaining the rules on which the working of the society depends. Hayek's thought on the formations of rules of ethics and justice is also seen within this framework. And it is claimed that the constructive mind is not the basis of those rules, and they have been formed in the historical process of evolution as a result of the functioning of human nature. All these ideas are seen in the framework of criticism against the Enlightenment rationalism, and stress the importance of traditions, customs, habits, historical accumulation and the codes of behaviours formed in the historical process.

Within this context Hayek makes division between tacit or inarticulate (practical) knowledge which guide the human mind and social behaviours, and the articulate (theoretical) knowledge. Theoretical knowledge is the knowledge that can be transferrable within the formal expression models or sentences. On the other hand, practical knowledge is the knowledge of doing something that is based on experience or skill-acquiring. Accordingly, through obeying the rules which are not noticed and letting the social practices guide their actions, individuals often achieve more than the conscious rational study could make. In another words, the human position for people is obeying unexpressed and unnoticed tacit rules rather

than obeying rules which are the result of conscious rational reasoning. Hayek (1967; 43-45) compares the way human follows these tacit rules to that a child can speak his/her mother tongue without knowing any grammar rule, and states that this originates from the working of human brain. According to Hayek, these rules make people's life spontaneously possible in an order (spontaneous order) without a rational reasoning.

The problem of knowledge which we have mentioned above is so important in Hayek's thinking that this working of human nature and the existence of practical knowledge and learning also lie in the foundation of the formation of civilization. The existence of inexpressible and uncountable practical knowledge brings out important results in relation to economic and social order. Especially within this view of angle the process of learning is not entirely logical and objective process. There is a difference between how to do a thing (knowing-how) and what the thing is (knowing-that). Practical knowledge which refers to 'learning by doing' bears a great importance in order to understand the daily life of people which forms the background of economic and social order.† According to Hayek, knowledge also includes the practical ability of making economic/social activities. Therefore, it is not possible to express the practical knowledge, which individuals use to be successful during the market process, numerically and make it calculable. When it is looked at the social level, the development of the civilization has been increasing the relative illiteracy of individuals. However, the state of increasingly dispersed knowledge and increase of individuals' illiteracy about general thing increases the importance of knowledge which they have got.

There are above basic premises in the foundation of market based arguments which Hayek put forward against the socialist regulation hypothesis. The economic problem of a society is that how known resources are used in the best way to meet aims. For Hayek this is actually the problem of using knowledge. However, all knowledge of economic states cannot be collected in a central authority. Any individual or any centre cannot have got all knowledge used in the economic/social planning because it is not possible to state formally the practical knowledge which is a different kind.‡ This knowledge which includes the practical ability of doing something comes out within the self-context of every individual and economic state.§ In this context, in the process of economic decision making, this dissemination of knowledge rather than rational choice bears importance. The knowledge which is effective during the market process also includes trial knowledge, expectations, beliefs and relevant knowledge.** The basic reason for that individuals make consistent decisions in one way or another in the market in this complexity and a spontaneous order is provided is the rules which individuals follow without being aware of. These rules which Hayek mentions are related with the practical knowledge which cannot be stated formally.

2. The Concept of Spontaneously Generated Order: State/Government and Competitive Market Order

According to Hayek, the provision of order among people in economic life and social one in broad sense is made through these knowledge which people have got unconsciously, and rules which depend on

† Hayek states (1967; 44-45) that "...the 'know how' consists in the capacity to act according to rules which we may be able to discover but which we need not be able to state in order to obey them... Rules which we cannot state thus do not govern only our actions. They also govern our perceptions and particularly our perceptions of other people's actions".

‡ "The economic problem of society is thus not merely a problem of how to allocate 'given' resources – if 'given' is taken to mean given to a single mind which deliberately solves the problem set by these 'data'. It is rather a problem of how to secure the best use of resources known to any of the members of society, for ends whose relative importance only these individuals know. Or, to put it briefly, it is a problem of the utilization of knowledge which is not given to anyone in its totality" (Hayek, 1948b; 77-78).

§ "It is hardly necessary to emphasize that this is an absurd idea even in so far as that knowledge is concerned which can properly be said to 'exist' at any moment of time. But much of the knowledge that is actually utilized is by no means 'in existence' in this ready-made form. Most of it consists in a technique of thought which enables the individual engineer to find new solutions rapidly as soon as he is confronted with new constellations of circumstances" (Hayek, 1948e; 155).

** "...that is how much knowledge and what sort of knowledge the different individuals must possess in order that we may be able to speak of equilibrium. It is clear that, if the concept is to have any empirical significance, it cannot presuppose that everybody knows everything. I have already had to use the undefined term 'relevant knowledge', that is, the knowledge which is relevant to a particular person" (Hayek, 1948a; 50-51).

this knowledge. It is not possible for people to have completely all necessary knowledge to make something. Moreover, people adjust their behaviours in the case of new knowledge due to this practical knowledge. Market system provides the economically efficient use of this personal, local and tacit knowledge. Hayek claims that individuals adjust their actions with others' aims and actions in order to achieve their own aims in the web of the catallaxic relations of this knowledge dispersed among individuals. In this respect the catallaxy is the social exchange system which allows individuals to act behind a curtain of obscurity. Norms followed within the catallaxy direct the social expectations about future by protecting that every individual falls into habits and thinks that others follow these norms. In this way the social order can be secured by decreasing the bad effects of unpredictable results of human actions to minimum level (Hayek, 1976; 107-132). For example 'price' is a catallaxic system. The formation of the price of a certain good depends on mutual interactions of millions people, and the efficient use of scarce resources can be provided in a decentralized and arbitrary way through that prices allow investors to have knowledge about preferences of people who they never know.

According to Hayek, the characteristics mentioned above are basic features which make market process superior to any central or planner authoritarian system. The function of the human mind, the problem of knowledge and the characteristics of human relationships make the market process and the spontaneous orders taken place in this process economically and socially efficient. Regulatory policies, a part from this, will lead to negative results due to the same reason. According to Hayek, however, all results of the market will not be excellent or satisfactory for everybody. Because there is no such an ideal case in the real life, and it is not possible to secure that occasion through a central regulation. Moreover, Hayek's analysis is not limited with a static state. Individuals unconsciously change their current perceptions with respect to new knowledge within the continuous changing of economic/social life. The processes of competition and market are continuous changing processes, rather than a state of stagnancy (Hayek, 1948c). The thing which keeps this process in a continuous movement is that people's plans are not match to each other and unexpected changes emerge. A spontaneous, limited but unexpected change occurs within the evolutionary process. The process of practical learning brings in an unconscious and unintended change in economic/social rules and institutions. According to Hayek, these practical rules will lead the society into a continuous development process because of that human actions can be increasingly more understandable and will be toward to more useful. In another words, the process of social evolution defined by Hayek refers to the spontaneous change of the rules of economic/social life.

As has been seen Hayek sets up a clear link between the practical knowledge and the spontaneously generated order. While people struggle for their aims, they live in an order through tacit and inarticulate rules which they obey. However, these kind of spontaneous orders do not have their own purposes. These rules develop spontaneously, rather than satisfying a certain aim, and after a while they adapt to changes in the human needs. This order allows that aims which are so various that are unknown and even contradicting could be followed because they were not made with aim and conscious. Spontaneous orders have got a complexity which transcends the framework which human reason governs. Hayek differentiates these spontaneous orders from organizations. Organizations are institutions which established around the openly stated rules (articulate) in order to serve a certain aim. Organization is a made-order, which is the product of certain reasons in the form of an order which is consciously and purposefully under control. These are relatively simple, and must have enough complexity to be managed and are in the position to service to the aims of their establishers. With the words of Hayek (1973; 50), "...the general rules of law that a spontaneous order rests on aim at an abstract order, the particular or concrete content of which is not known or foreseen by anyone; while the commands as well as the rules which govern an organization serve particular results aimed at by those who are in command of the organization. The more complex the order aimed at, the greater will be that part of the separate actions which will have to be determined by circumstances not known to those who direct the whole, and the more dependent control will be on rules rather than on specific commands".

Hayek claims that the complex structure of the modern society is a kind of spontaneously generated order. The society includes a great numbers of different spontaneous orders which are interrelated at different levels. This complex structure is not an order to which can be reached by the organization with

design. According to Hayek (1973; 50-51), “It is because it was not dependent on organization but grew up as a spontaneous order that the structure of modern society has attained that degree of complexity which it possesses and which far exceeds any that could have been achieved by deliberate organization. ...To maintain that we must deliberately plan modern society because it has become so complex is therefore paradoxical, and the result of a complete misunderstanding of these circumstances. The fact is, rather, that we can preserve an order of such complexity not by the method of directing the members, but only indirectly by enforcing and improving the rules conducive to the formation of a spontaneous order”. According to Hayek, it is never ever possible to establish an order which is totally based on organization and keeps the aspect of spontaneity outside. In other words any regulator could not re-establish the society by get ridding of the spontaneity of human life.^{††} At the same time a spontaneously generated order can contain some organization orders or suborders with individuals in its own structure. In broad sense the society is a spontaneous order which bears individuals and organizations in its structure. To put it another way, the society is not an organization itself, but it contains various organizations within. While Hayek (1973; 43) mentions about the content of the spontaneously generated order, he stresses this variety by using the concept of ‘element’ for the place of the concept of ‘individual’. Accordingly, these two orders coexist in every society. The order of organization is the most powerful method of efficient and useful coordination with respect to many limited works. Because the organization makes it possible that we adapt the emerging order much more to our wants. However, this does not mean that we could combine these orders whatever way we want. Hayek (1973; 46) states that “That the two kinds of order will regularly coexist in every society of any degree of complexity does not mean, however, that we can combine them in any manner we like. What in fact we find in all free societies is that, although groups of men will join in organizations for the achievement of some particular ends, the co-ordination of the activities of all these separate organizations, as well as of the separate individuals, is brought about by the forces making for a spontaneous order. The family, the farm, the plant, the firm, the corporation and the various associations, and all the public institutions including government, are organizations which in turn are integrated into a more comprehensive spontaneous order”.

According to Hayek, it is not possible to transform the spontaneous order into organization and develop it by intervening with commands. However, it is possible to use organizations as elements of the spontaneous order.^{‡‡} Unless the foundations of the spontaneous order are not destroyed, the outcomes which are created can be completed with the efforts of various organizations. It can be provided to work more efficiently through some partial interventions and corrections. However, it is necessary not to expect to change this order with the one which totally depends on the conscious control. Hayek (1973; 51) states that “what the general argument against 'interference' thus amounts to is that, although we can endeavour to improve a spontaneous order by revising the general rules on which it rests, and can supplement its results by the efforts of various organizations, we cannot improve the results by specific commands that deprive its members of the possibility of using their knowledge for their purposes”.^{§§} In other words, provided that in broad sense the spontaneous order is to be preserved it is possible to set up partial or temporary organization orders in limited areas.

According to Hayek, the typical example of spontaneous orders is market economy. Hayek supports a market economy which depends on the institutions of private property and contract. However, some conditions are required for the market order to work: the protection of property, the provision of

^{††} Hayek (1973; 49) contends that “In none but the most simple kind of organization is it conceivable that all the details of all activities are governed by a single mind. Certainly nobody has yet succeeded in deliberately arranging all the activities that go on in a complex society”.

^{‡‡} Hayek (1973; 51) writes that “We shall see that it is impossible, not only to replace the spontaneous order by organization and at the same time to utilize as much of the dispersed knowledge of all its members as possible, but also to improve or correct this order by interfering in it by direct commands... it is sensible to... use organizations as elements of a spontaneous order... This is the gist of the argument against 'interference' or 'intervention' in the market order”.

^{§§} With the words of Hayek (1952; 84) “In so far as we learn to understand the spontaneous forces, we may hope to use them and modify their operations by proper adjustment of the institutions which form part of the larger process. But there is all the difference between thus utilizing and influencing spontaneous processes and an attempt to replace them by an organization which relies on conscious control”.

contract, the prohibition of terror and deception, the application of abstract, equal and common rules to everyone. At this point the existence of state or government becomes necessary (Hayek, 1973; 47). Accordingly, the government or the political administration must have a public policy which contains the jobs that government must do for the market economy to work sincerely. However, at this point the relationship of the public policy with the market order becomes important. In another words, what is the place of the government or the state within the market economy? In this respect Hayek (1948d; 111) differentiates 'competitive order' and 'ordered competition' from each other. "...what I mean by 'competitive order' is almost the opposite of what is often called 'ordered competition'. The purpose of competitive order is to make competition work; that of so-called 'ordered competition', almost always to restrict the effectiveness of competition". Hayek supports the 'competitive order' in which the state settle for regulating only rights and tasks which make competition possible. However, it is not much true to say that Hayek is a partisan of laissez faire or advocate of minimal state from this point.

According to Hayek, the government exercises two different functions. The first one is the mission of administrating rules which contains aspect of coerciveness and market order depends on. The second one is the function of fulfilling services which cannot be adequately produced by market order.^{***} There are some services such that they cannot be produced within the market order because the individual benefitting from them is not charged. However, Hayek states that while fulfilling this kind of services governments must be under the same rules as the other actors. In other words, when the government uses its coercive powers, this will disturb the competitive nature of the market and will lead to monopolization. For this reason, the government must undertake the fiscal responsibility of these services, but it must leave the administration of them to the competitive market actors. According to Hayek, the public sector is not certain functions or services specific to the government; they are limited material resources given to the government to execute services which are demanded to be so. For this reason, the government has got/should have no privilege except taxation which works forcefully within certain rules. The government has to be depended on the general rules of the competitive order as any organization in using those resources.

Hayek calls some goods and services as 'collective goods'. The supply of them to the use of certain people is either technically impossible or expensive enough to make it impossible. For this reason, the government must provide these to everyone through using taxation.^{†††} However, as we have mentioned above financing some services with taxation does not require by no means the administration of actions which are toward fulfilling these services by the government. According to Hayek, in this case, the inevitably designed organization order must be applied in a manner that it does not disturb the spontaneous competitive market order in order to reach certain targets. "...the necessity of relying on the coercive powers to raise the finance does not even necessarily mean that those services ought also to be organized by government... It is indeed most important that we keep clearly apart these altogether different tasks of government and do not confer upon it in its service functions the authority which we concede to it in the enforcement of the law and defense against enemies. There is no reason whatsoever why such authority or exclusive right should be transferred to the purely utilitarian service agencies entrusted to government simply because it alone can finance them" (Hayek, 1979; 42).

^{***} "These two distinct functions of government are usually not clearly separated; ...the distinction between the coercive functions in which government enforces rules of conduct, and its service functions in which it need merely administer resources placed at its disposal, is of fundamental importance. In the second it is one organization among many and like the others part of a spontaneous overall order, while in the first it provides an essential condition for the preservation of that overall order" (Hayek, 1973; 48).

^{†††} "To this category belong not only such obvious instances as the protection against violence, epidemics, or such natural forces as floods or avalanches, but also many of the amenities which make life in modern cities tolerable, most roads (except some long-distance highways where tolls can be charged), the provision of standards of measure, and of many kinds information ranging from land registers, maps, and statistics to the certification of the quality of some goods or services offered in the market. In many instances the rendering of such services could bring no gain to those who do so, and they will therefore not be provided by the market. These are the collective or public goods proper, for the provision of which it will be necessary to devise some method other than that of sale to the individual users" (Hayek, 1979; 44).

3. The Criticism of Regulation in the Context of Hayekian Arguments

'Regulation' has been one of the most discussed topics in the social sciences in the last 30 years. Due to the wideness of the impact area different disciplines like economics, politics and law handle the issue from their own perspectives. State regulations have been affecting our daily lives in different ways and they lead to important economic, political and social results. The standards, prices and quantities of goods and services which we consume can be regulated through various ways. When it is looked at from the methodological perspective the concept of the regulation is defined at different levels: It includes the mechanism of all social controls in the first one which is the widest level. It is used to refer to all interventions of the state to economy in the second which is the narrow level. It refers to specific rules which are brought in through the public administration as a specific mode of governance in the third level which is the narrowest one. The inspection of social and economic life by the state has been historically very old, and but the concept of regulation is relatively new in the narrowest meaning. It is not true to see regulation as a technical topic which is about the economics in which factors like price and quantity are directly or indirectly determined. The processes of regulations are political processes as well as economic ones. The intercept and diversion points of these two constitute an important debate platform of the issue.##

If we leave aside the discussions in relation to definitions, regulation in general is the organization, control and administration or direction of markets by means of a higher authority in order to reach the aims of certain socio-economic policies. The regulative process which reflects a situation between public property and perfect competitive market contains actions executed by a higher authority depending on a legal background. These often occur in different forms which are telescoped in daily life. For example, economic regulations are actions which regulate access to markets and behaviours in them; social regulations are actions which regulate the social externalities of the production like security, environment and health; when it comes to process regulations, they are regulative actions which content bureaucratic processes. Furthermore, it is necessary to state that regulation of markets has gained an international dimension with the process of globalization. Extension of markets over national boundaries also let to the fact that regulations exercises bear some common characteristics at global level. Moreover, international regulators have started to be effective in some areas as well as national ones.###

Economic justification of regulations is often based on 'market failures' and the 'principle of public goods'. Accordingly, in the cases of market failures in terms of economic and social aspects, for example, situations like monopolization, failure in efficiency or negative externalities the state makes regulation in order to increase social welfare. The main argument here is the following: when the market is let on its own, outcomes against public goods are produced; hence it is helped market to work efficiently with the intervention of administrative authority. These regulations can be made in many various ways. They can also be made through the hands of local organs as well as that of central ones. The content of the regulation could also be much very strict as well as elastic. For instance, price or quantity can be determined or the market actors can be set free between certain gaps. When it is looked at practical applications there are many various styles of regulations with respect to the structure, importance, size, strategic place of the sector, and the number of market players and the expected results.

All regulations carried out have to depend on the provision of the public goods on way or another. Because the behaviours of markets actors are controlled with the regulation and their freedoms are restricted. These regulations are often made with justifications like protecting consumers or trying to constitute the conditions of competition in the market as possible as it could be. However, it is the matter of debate how successful the regulations are in reaching these targets. Because measuring the cost and benefits of regulations, especially that of the social ones, is quite difficult. Moreover, when the dynamic feature of the market process is noticed, the analysis of cost and benefit carried out does not take into account the long term effects of the regulation in the market or cannot calculate them. For example, regulations change the structure of entrepreneurial activities in the market. As a result of this entrepreneurs run after rent increasing activities instead of profit increasing ones. Profit increasing

For the details of all these issues, see (Oğuz, 2011).

For the details of the relations between globalization and regulation, see (Oğuz ve Çakmak, 2002).

activities has positive effect on economic growth but rent seeking targets the changing hands of current wealth rather than economic growth. Or firms run after innovations which will affect regulatory institutions or politicians instead of market oriented innovations which provide economic development. However, the results of all these cannot be included into analysis. In other words, a healthy comparison of the situation with no regulation and the one with regulation could not come up, because what will be happened in the situation with no regulation could only be analyzed under very limited assumptions (Oğuz, 2011).

The regulations, which are made for a limited area and sector due to reasons like market failure, public goods and preventing the formation of monopoly, can be able to disseminate to other sectors and even to social life through the time and unexpected manner. Moreover, ever regulation can result in other unintended consequences in addition to the one which is needed to be solved. Hence this opens doors to new regulations which are required to solve the problems created the previous regulation. This situation ranges from the intention of regulating a limited area to replacing the market (Kurrild-Klitgaard, 2005; 3-6). In this point it would be useful to look at Hayek's views about the monopoly which is one of the most important reasons of regulation. According to Hayek, it is necessary to separate the monopolies based on political decision which have an unrightfully privilege from the ones emerged in competitive market in some cases. If the position of monopoly occur due to better and more efficient services in the competitive market and if the enter is free to the market, it is not true to say that this results in lost in social welfare. The position of monopoly could be provided in a dynamic economy only by being more efficient from rivals and satisfying the consumers better. Otherwise rivals will come out in the competitive environment and the position of monopoly will end. In short, it is not undesirable situation or always harmful to have a single firm in the competitive market. Thus, the controls of monopolies which are seen as the results of market failures are not quite meaningful in relation to Hayekian arguments. According to Hayek, actual harmful monopolies emerge due to state interventions. The easiest and the most frequent way of being monopoly is to create privilege by benefitting from the state power (Hayek, 1979; 71-74).

Hayek claims that state activities must be carried out consistent with the rule of law. However, state activities are divided into the ones which are consistent with the rule of law and the ones which are not so with it. The ones which are consistent with the rule of law include that common, abstract and equal rules must be applied to everyone. The ones which are not consistent with the rule of law transcend the application of general rules and lead to arbitrary discrimination among people. For example, rules which allow various goods and services to be produced by whom and at which prices are interventions which transcend the framework of the rule of law. In other words, Hayek is against that administrative authority exercises controls on price and quantity. Because this kind of regulations let the market players receive signals which are different from the ones in the competitive market. This is because it is not possible to fix the prices to the long term rules with regulation. The prices are the functions of continuously changing conditions in the competitive market order and they carry out their functions due to these dynamic characters. However, adaptation of prices to these changes through regulation cannot be achieved. Furthermore, according to Hayek, these controls will lead to decisions which inevitably depend on the desire of regulatory agencies and result in arbitrary discriminations among individuals. In short, it is not possible to associate this kind of regulations with the functioning of a free and competitive system (Hayek, 1960; 227-229).

According to Hayek, the existence of public funds is required for some services to be carried out. However, there is the danger of distributing these public resources according to arbitrary measures of the politicians or to the interests of the organized interest groups. The increasing of the resources under government control and the empowering of the bureaucracy during the process are important threats in terms of social and economic freedoms. As we have mentioned above the free market has got the ability to adopt itself to the changing conditions. However, this kind of regulations which are determined by the authority's judgements which are related with the relative importance of certain targets disturb this function of the market and transforms the competitive order gradually into organization one. People who carry out the state activities have also got characteristics like following the personal interests among the basic propensities of individuals and having limited knowledge. In short, Hayek's criticism of the

constructivist rationalism at the philosophical level constitutes the foundation of the opposition of intervention or regulation at the economic and political levels.

Hayekian arguments, which we have handled above, especially the 'knowledge problem', were used in all applications of the theory of market process and constituted the roots of the Austrian economic theory. Hayekian 'knowledge problem' which is defined as the natural inadequacy of human's knowledge about her/his world has produced the concept of the critical regulation at economic and social levels. The 'limited knowledge' is not only an inadequacy in the market, but it is also an inevitable result of the human nature. For this reason, the cognitive background of the decision making in the market process is always inarticulate. The thing which makes the market process work and leads to the entrepreneurial explorations is this disseminated, tacit and inarticulate knowledge. Thus, due to the complexity and unique structure of every social and economic situation it is not possible to use knowledge as universal ones by breaking them from their contexts. Furthermore, the dynamic characters of the social and economic life make it impossible to reflect the knowledge of the concrete as it is. We can try to drive the information of the concrete reality in order to use in analysis or regulation, but after a while the social and economic life will change, and even the general rules of the game will may change. In brief, the state of inadequate information which is always valid makes it impossible to do a regulation which is carried out as there is full information. Learning processes defined in an inductive form which is in the shape of trial and error and depends on the concept of the limited information constitute the context of all the economic and social activities (Oğuz, 1999).

In this context Hayek regards the market as a process in which people having limited and different information have been living the process of learning, and information is disseminated and is in the complex and continuous change/evolution. The nature of this process does not supply us information about the prediction of any final point. For this reason, it is not possible to predetermine a value/point of equilibrium. As we have explained in previous section this process works as a spontaneous order and competition which cannot be defined with mathematical precision is one of the most important elements of this process. According to Hayek the market itself has got a regulative and adaptive function. The market is a corrective system which provides coordination among individual behaviours. The market works as an information system and informs individual about the environment. However, the market is a dynamic social process such that it meets these functions through its own internal processes and it loses these characters when it incurs to externally intervention. At this point 'competition' becomes very important. The existence of the conditions of perfect competition is not necessary for the market system to be functional. There is not situation like that in the real life. According to Hayek (1979; 68), "competition is thus, like experimentation in science, first and foremost a discovery procedure". As a method of exploration competition is an element which cannot be benefited only in economic fields, but also in ones out of economic areas. That what the process of competition do is cannot be foreseen let the uses of knowledge and skills which are much more than any other method can supply or provide necessary background. "The real issue is how we can best assist the optimum utilization of the knowledge, skills and opportunities to acquire knowledge that are dispersed among hundreds of thousands of people, but given to nobody in their entirety. Competition must be seen as a process in which people acquire and communicate knowledge: to treat it as if all this knowledge were available to any one person at the outset is to make nonsense of it" (Hayek, 1979; 68).

According to Hayek, the competition is the name of a process in which the results are not known; it is the method of merging dispersed and different minds. What makes the competition possible is not the rationality in individuals; what produces the rationality is the competition process or tradition which institutionalizes the competition (Hayek, 1979; 75-77). Thus, the concept of this complex and dynamic competition is a wide system which also includes economic institutions and understandings. According to Hayek, unless the competition is blocked by state interventions and political decisions, it supplies benefits which no central regulation could provide.**** The easiest and most used way of prohibiting competition

**** Hayek (1979; 74) asserts that "Competition, if not prevented, tends to bring about a state of affairs in which: first, everything will be produced which somebody knows how to produce and which he can sell profitably at a price at which buyers will prefer it to the available alternatives; second, everything that is being produced is produced by persons who can do so at least as cheaply as

and formation of really harmful monopolies is that the political administration intervenes directly or indirectly to economic life in this way. One of the most dangerous results of these interventions is that it destroys the entrepreneurial spirit in people. In other words, regulation will have negative effect on the role which the competition and the market play as an exploration process. Because the prices will not reflect the reality profit opportunities and innovations will be blocked. The administrative authorities can foresee some inefficiency in the market, but it is not meaningful to look for the solution of this outside the market. According to Hayek, it is not right to compare the competitive market order with an ideal situation which is not even possible to reach and identify. What must be done is to compare the one where there is competition in the market with the one where the competition is blocked.

When we look through the Hayekian arguments it is not true to assume that the information which is necessary for regulations can be analyzed without the existence of the market. As the prices cannot be determined without the competitive market order the epistemological foundation of the regulation is invalid. The dynamic nature of the market and the competition cannot be understood and identified exactly by an eye from outside. For this reason a situation which can be seen as an inefficiency or defect from outside could be a process of exploration or the solution path of a problem in the market. The regulations which are made by the regulatory agent in order to solve a problem which he/she defined from her/his own perspective will lead the market actors toward actions which he/she can't foresee. Thus this will result in new regulations in order to reach the targets at the beginning. In brief, trying to solve the problems in the market through regulation and good will is not enough on its own. The Hayekian arguments which we have tried to carry over stresses the limits of regulations and the working of the competitive market order which cannot be understood with naked reason.

Conclusion

Hayek's perspective depends on widely the concept of social order which also includes economic and political areas. For this reason even the government and markets are analyzed separately, due to human nature and behaviours they have common foundations. In other words, Hayek states a social theory which depends on human nature and behaviours. The arguments of this theory are valid for individuals in the market or government. In this respect, an intervention which directs or changes the behaviours of actors in the competitive market order will affect the political order at the same time. In other words, for Hayek regulation is not only a technical issue, it is related with the various aspects of the social and political order with respect its outcomes.

Furthermore, in Hayek's conceptual framework the concept of freedom is directly related with intervention. However, this point of view does not make law/regulation contradictory with the concept of 'freedom'. Every law is not necessarily loss of freedom. On the contrary, the establishment of a free order is only possible with the application of general, abstract and equal rules to everyone. The provision of this, however, requires codes of laws which state the coercive power of the state and its tools. Nevertheless, Hayek is the thinker who expresses the boundaries of this power. In this respect Hayek places the government activities in an extent that facilitates the working of the spontaneous order, evolutionary and dynamic process. At the present day how much this comes true is open to debate.

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anybody else who in fact is not producing it; and third, that everything will be sold at prices lower than, or at least as low as, those at which it could be sold by anybody who in fact does not do so".

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