

Friedrich A. Hayek – Individual Liberty: Its Enemies and Safeguards

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Abstract

This article critically exposes Hayek's liberal social and political philosophy, which all kind of collectivist intervention to market that is seen as the precondition of individual liberties. Therefore, he separates his philosophy from political liberalism that is open to public intervention in favor of social justice. The article concludes that Hayek's philosophy tries to legitimize all evils of market economy as the price of protecting and maintaining individual liberties and suggest a collectivist criticism of his philosophy.

Key words: liberty, freedom, market, state, collectivism, totalitarianism

Introduction

The period between First World War and the collapse of soviet block at the end of the 1980s is a left-dominated political and ideological era. The world wide influence of the left ideas coincides with the capitalist economic crisis and makes the collectivist economic policies acceptable even in the castles of liberalism as in United States and Britain. While half part of the world leads into socialism, the other part gave the first examples of the welfare state policies during the time of great depression. Even though the world was divided into capitalist and socialist camps, the general tendency in the former camp signaled a development of welfare economies, which permit the state an immense capability of demand management through revenue transfers and wage policies. The mixed economies of the capitalist world created a state machine, which is far away from the initial liberal conceptualizations in which the state preserves the system of individual liberties by maintaining the rule of law.

Friedrich A. Hayek represents a revenge of the old British liberalism from the collectivist wings, which emerged first from the Rousseau's social liberalism and find its full expression within the brands of Marxism. For him, even the welfare state is the substitution for socialism. He tries to rebuild a tradition written in the names of Locke, Constant, Tocqueville, Montesquieu, Smith, Hume, Mill and the pioneers of the American constitutionalism. In the sense that Hayek puts the notion

of liberty at the center of his political philosophy, it is correct to label him as a “libertarian”, and since he rejects any compromise between justice and liberalism, he is a right-liberal. And, his attacks towards the social democratic consensus within welfare state make him a new-right theorist. Finally, the dislike towards all rational designs of the society for a conscious change points to the conservative attitudes in his studies. He favors a gradual and spontaneous change. Evolutionary process does not need any creators and finds its way through success and failure. Such a process operates only in the way that individuals use their knowledge for their own purposes. Liberty of the individual is the operational feature of the evolution. Otherwise, liberty is replaced by coercion and the evolutionary forces are given place to the rational designs of collective wills.

Critique of collectivism: new serfdom¹

The Road to Serfdom is an ideological opposition to the left-leaning development of the first half of the twentieth century. In the preface of the book, foundation of the western civilization is presented as individualism, whose past goes back to the classical age, Christianity and whose real beginning was the Renaissance period. This individualistic civilization comes with an economic individualism. But, its enemies are in part the impotence of the liberal intellectuals and politicians who advocates some ideas as if they are the necessary part of the liberalism, like *laissez faire*, in part, success of the liberalism itself, which produces new aspirations. However, the real enemy was the totalitarianism, which emerges in the second half of the 19th century Prussia and spread out towards the Europe at the turn of century. German influence offered itself as an alternative to the British liberalism, which gradually evolved through centuries on the base of economic individualism. What Russia did was only to start from the place left by Germans and what Hitler did was just to complete the early developments initiated by the socialists. For Hayek, both Nazism and socialism are the variants of collectivism and totalitarianism, both of which render the society an organization (RS: 1999; 3-29). But the origin of the question is related with the emergence of socialist ideas and politics.

For Hayek, socialism was born as a critical reaction to the liberalism of French Revolution and makes itself acceptable as a flag of freedom. But, socialist believed that their ideas could be realized only with the measures of dictatorship. The father of modern planning, Saint Simon, saw the close relation between obedience and

¹ I will analyze Hayek’s five studies in turn: *The Road to Serfdom* (first 1944) (RS), *The Constitution of Liberty* (first 1960) (CL), and *Law Legislation and Liberty* (originally appeared in series, Volume I *Order and Rules* in 1973, Volume II *The Mirages of Social Justice* in 1976 and Volume III *Political Order of A Free Society* in 1979) (LLL, 3 Volumes). These books, I believe, cover all ideas developed by Hayek’s interdisciplinary evolution of libertarian philosophy. He, being an academic scholar in economics, is out of my consideration here. From now on, all quotations and references to Hayek’s works use abbreviations.

planning. For socialists in general, the great evils of the nineteenth century were caused by the freedom of thought. But, the events of 1848 lead them recognize the forces of libertarian thoughts. For Hayek, only Tocqueville saw that the democratic ideas and socialism could not be compromised. Nevertheless, socialism propagated that the struggle for political liberties could be concluded only with the economic freedom, which would become possible with socialism. Hayek claims that the initial meaning of liberty was changed by the socialist war of conquest. Till then, liberty had meant that an individual was immune from the arbitrary will of another person and freedom from personal orders, which do not recognize any choice for individual. But new content of the liberty meant an absence of external necessities and true freedom of human beings required a freedom from the pressures of physical needs and of the economic system. By doing so, socialism identifies the liberty with power and richness. For this, material wealth would be increased to a certain level and distribution would be made according to a new schema. The promise for a more extensive freedom was the main weapon of the socialism and it could find many supporters among intellectuals who believed that the socialism was the natural successor of liberalism (RS: 33-6).

For Hayek, results of socialism wake up the old liberal wonders. Livings under the fascist and communist regimes were significantly the same. Here, Hayek quotes in some observers: “Stalinism exactly is super-fascism” (RS: 36, Eastman), democratic means for socialism is only a utopia (RS: 37, Chamberlin), “Fascism is only a phase after it is recognized that communism is not but an imagination” (RS: 38, Drucker). Hayek’s argument that fascism is the absolute extension of the socialist experiences is contrary to the general left definition that fascism is counter-revolutionary coercion against socialist uprising. For him, the common enemy for both sides was liberalism. In Germany before Hitler seized the power, socialists had already destroyed liberalism.. But the argument that deserves most attention is that for Hayek, democratic means and individualism for socialist development are impossible (RS; 40). The difference between fascists and communists are not but a competition of the two rival groups, which believe in different prophets (RS; 39).

The proofs Hayek offers us are the common life styles under two regimes and the understanding of liberalism as a common enemy by both groups. In addition, the self-evident observation is the claim that the old socialists become Nazis later on and that these two rival groups compete most among themselves (RS; 38-9).

Socialism as a variant of collectivism, says Hayek, must have a planned economy for its ideals such as social justice and equality. Private property over the means of production, personal entrepreneurship and the profit-seeking production system must be given place to the decisions of a planning organization. For him, purposes and the means of socialism cannot be separated if it could come into existence. Planning view has been influential even for the liberals in order to arrange the economic system. This is another reason for the destruction of liberal order (RS: 45-7). Nonetheless, Hayek does not reject the planning completely and state intervention over the certain

economic spheres where the monetization problem of the externality effects emerges are inevitable. For him, planning can be put into motion only when competition does not operate completely enough. Liberalism does not accept that everything is left to itself and does not need some ineffective notions such as *laissez faire*. Economic liberalism prefers competition since it is not only the best-known method but more significantly, it is the unique way through which our activities can be performed without any arbitrary and forceful interference of the authority. Economic liberalism acknowledges the decision power of the individual in the face of risks and sets the individuals free for exchange, production and consumption. It must open up all professions and jobs for everybody. Otherwise, competition does not operate and the prices lose their guiding role for individual activities. But, where competition does not fulfill its function, when individual and social calculations do not correspond to each other, another method other than competition should be found. Nonetheless, this occasional impotence of the competitive method does not require it be given up for every places. For this reason, state activities are legitimate for the establishment of competition and if impossible, other methods should be considered. The state should interfere to the places where the activities which interest the community but where costs exceed the amounts which individuals does not meet. Moreover, the state must establish a legal system under which competitive order works and immoral behaviors are prohibited and prevented.

For Hayek, both left and right socialism and the modern planning thought come together to oppose the competition itself. By this, each interest group tries to renovate the old privileges which had been destroyed by liberalism. Industrial control by the state and syndicates through planning of certain production branches and the general opposition towards competition in favor of command economy arise in the war conditions. Here, Hayek recalls some attempts to bring centralism and competition together. But, this is impossible for him since any coexistence (of central planning and competitive market) make each of them ineffective. Nevertheless, planning can be used to realize competition. His criticism is related with the planning view to displace the competition (RS: 45-56).

For Hayek, planning of the economy has no objective reason. But this tendency is resulted from the systematic political interference since the last quarter of the nineteenth century and is similar to the fact that just as the monopolies has been established with the direct support of the state. In addition, ever-increasing complexity of the economy cannot be a reason for planning. Rather, complexity requires decentralization since various knowledge of the market, prices and economic affairs cannot be centralized within an organization. Only market and the price mechanism can perform the coordination function in the face of rising division of labor and production capacity. An automatic collection of the effects of the individual activities, decisions and preferences can be realized only through the coordination of decentralized and the automatic price mechanism of the market system.

Certain successful aspects of the central planning are acknowledged. Standard and cheap production of one type of automobile, for instance, is possible under control of planning. But this does not give the consumer any choice for other automobiles. The stranger example given by Hayek is the highways of Germany. Nonetheless, these do not prove the success of the planning but the fact that excellence of certain investments is obtained at the expense of the rational resource allocation of the country resources.

Another reason behind the development of planning thought is the disappointments and aspirations of the professionals, who believe that their targets can be realized only with the planned community. But Hayek claims that these numerous one-sided thoughts does not involve any coherent view of the community and are inherently very limited ideas. The professionals exaggerate their ideas and each prefers planning for the achievement of their aims. They are “one-sided idealists”. The more interesting point is that the acceptance of planning view also uncovers the conflicting views of planning. For Hayek, alternative to the coordination capacity of the competitive market is a dictator, “who knows everything” (RS: 61-75).

Until now, Hayek observed that there is a conflict between the trio of democracy-individual liberty-competitive market and the quartet of planned economy-collectivism-socialism-fascism. Collectivism with its all types of conflicts with liberalism and individualism since it wants to organize the community with its whole resources for the purpose of one aim and because it ignores the existence of free spheres where individual aims are sovereign. In this sense, all collectivist systems are “totalitarian” (RS: 79-80).

The general argument Hayek puts forward is that problems of central planning cannot be resolved through democratic means and hence directly leads to bureaucratization of politics and all economic activities. Numerous, various and even conflicting aims of the individuals are merged into one coherent aims under the hierarchy of planning purposes. The worst, planning decisions cannot be made with the recognition of different individual purposes and the political process is not a suitable environment for the decision-making and the application of the planning purposes. For this, planning depends upon the notions such as general welfare, common interest, social purposes, all of which can not be known to everybody. Since the planning can be realized only when it is reduced to a technocratic problem, both political debate and negotiation over the planning decisions becomes a problem to overcome. Planning, nonetheless, cannot create a coherent knowledge different individual choices and even moral codes (RS: 79-95). Hayek claims that “economic dictatorship” (RS: 91) is an inevitable phase of planning wave and although “proletariat dictatorship” is a democracy in the form, it becomes not but an absolute regime by destroying individual liberty when it attempts to control from a center the economic activity. For Hayek, not democratic means of seizing the power but the limits to the power prevents democracy from arbitrariness (RS: 95).

A planned economy cannot be compatible with the most significant principle of a free society and rule of law, which requires that the executive powers behave in accordance with a priori abstract and general rules. However, views of the planning power must adapt itself to the new circumstances and needs, thus it cannot tie itself strictly to a priori general rules. It must always make a decision in the face of hierarchical needs. On the other hand, a government under the rule of law will be content with the definition of the conditions under which resources are processed. Which purposes the resources are used for is left to the individual decisions. Legal system points only to the general rules of the game but not to how to play the game. For Hayek, difference between the rule of law and the arbitrary authority correspond to the difference between competitive individualist market system and the planned economy of the collectivism (RS: 101-3). The principles under the rule of law are expressed in the abstract and general form that particular activities and aims of the individuals cannot be taken for granted. Under this system, it is less possible to know in advance the particular impacts of the measures. Only the general framework is formulated and the future projects are left to the individuals. The rule of law defines how government behaves under certain conditions and thus immediate and arbitrary decisions of the governments are ruled out. Such a liberal principle is suitable for the individuals making their own plans by using their own information instead of the state planning. For this, state should be satisfied to set the principles grounding on the general and typical conditions. For individuals to make their plans, they need to foresee the actions of the state. In this sense, Hayek observes that “when the state goes far in the planning activity, individuals are constrained to make their free plans (RS: 105).

The significant definition made by Hayek is that government under the planning economy has a morality since it must have a hierarchy of values and it cannot be neutral in the face of various and conflicting values. In contrast, liberal state has no morality in this sense (RS: 105-6). In a planned economy, relative weights of the individual and collective needs have to be known. As such economy develops, law begins to give its place to some “just” and “reasonable” formulas (RS: 108). Another result is the creation of certain privileges and statuses created through the preferences and classifications made by the government. Planning economy leads to privileged estates appointed by the authority. In this sense, claims Hayek, the real opposition of the statute system is the principle of the rule of law more than the contract system. In addition, the inverse of the arbitrary administration is the equality before the law (RS: 108-9).

Hayek is honest by saying that the rule of law leads in the inequality in the material wealth. The formal character of the equality before the law does not concern the material conditions of the individuals. For this reason, he observes that both socialists and Nazis demands for the socialization of the law and thus they rejects the independence of the judges. Hayek argues that property is an open institution for everyone. Its unequal distribution does not imply that property is privilege,

which belongs to certain groups. The land property is no longer a privilege for an aristocracy as before (RS: 109-10).

Hayek differentiates the legality and the convenience to the rule of law. As in the case of Hitler, power can be easily legalized. But this does not mean that the Nazis' government was limited by the rule of law. Accordingly, in a planned community, coercive power of the government cannot be limited in advance. In such a society, legislative power is in time transferred to ministries and administrative units. But, for the principle of the rule of law, coercive power of the state can be used only in the legally defined conditions and in the appropriate ways known in advance. Special orders cannot exist. Moreover, the rule of law constraints the legislative activity and acknowledges some essential rights and guarantees the immunity of the human rights. Hayek claims that planning, individual rights and liberty are not compatible. For example, exchange of the goods and services are constrained by the principle of common welfare. To whom jobs and professions are open is not clear. The authority defines distribution of the works. This is not compatible with the freedom of jobs selection. In a society where communication and transportation, definition of the industrial sites, assurance of the paper and the distribution system are controlled by the authority, how are freedoms of traveling and migration and of press provided? (RS: 111-15).

Hayek states that in such a society, individuals have no rights but only duties and this situation is the logical result of the state controlled economy, which creates a politics of unequal treatment and pressure (RS: 116-17).

While planned economy of the collectivism attempts to set humans free from the "so-called" pressures of the economic mechanisms, it creates a totalitarian system since the quality and the quantity of the needs are defined by the authority. It does not only control the production but also consumption. This implies that controlling of the economic system leads into a total control of the life. Decisions made by the individuals are in this case made by the authority in the name of every individual. All our ordinary needs, our relations, our leisure times activities are controlled by the authorities (RS: 123-8).

The collectivism of planned economy makes the individuals far more than before a means of production since individual choices and pleasure are not considered. The authority uses the individual in the name of some ambiguous principles such as social welfare and common interest (RS: 133). Hayek suggests that the material price must be paid in return of a living, goodness, virtue, honor and mental capacity in the liberal society (RS: 134). Supposed ideals and superiority of the planned economy such as material abundance and a far more productive capacity is not correct but a far more just distribution of the wealth under the base of this economic system is the unique logical argument for Hayek. But even this success creates more pressure and discomfort (RS: 136).

Economic freedom is the prerequisite and the foundation of other liberties. However, such an economic freedom must not be understood as if it is freedom from all sort of economic worry and care since it imposes a responsibility for individual choices, which is transferred to the decision making of the planning authority (RS: 137-8).

Against who objects the blind character of competition, Hayek recalls that one of the features of the God of the justice is dullness. For him, the choice is not between a system under which each is concerned according to a common and absolute just criteria and a system in which individual shares are defined on the base of contingency and chance; but one that is between an order in which individual shares are determined by the will of certain persons and the one through which individual prospects are defined partly by the events that is not known in advance and at least in part by the individual capacity and attempts. In a free entrepreneurial system, unequal distribution of the property, which is sure something to be cured, does not change its superiority since in a competitive society each has a chance to improve and change his own life prospects whereas in the other communities all individual fortune depends on the decisions of powerful ones (RS: 143-4). Private property guarantees freedom for both possessors and poor. The fact that the property in general is distributed among numerous individuals implies that no one alone has a power to determine the other individual conditions, revenues, et cetera. In contrast, socialist system with its collective property and planning authority has such power, which cannot be appropriated by any individual of a free society. In this sense, private property is a good guarantee of the freedom (RS: 145). In a competitive system, pressure a rich can impose over others is less than that of a public servant can. Hayek suggests that a world in which rich can be powerful is better than a system in which only powerful ones can be rich (RS; 146). In addition, inequality, which is created by the impersonal forces of the competitive market, is far more bearable than the deliberately produced inequality. Results of the bad fortune, such as unemployment, are less tragic than the negative impacts of the decisions of the planning authority (RS: 148).

In the collective system, says Hayek, another man determines individual positions. As the state begins to rule economy through a planning department, determination of the individual and community positions and ranks become the most important political question. Hayek is very hones to state that though being an ordinary part of the impersonal machine is unpleasant in a free society, a situation in which we have no capacity to change our place and that we are always under the supervision of the arbitrary will of chiefs are far more unbearable (RS: 148-9). In such a system in which we depend on the government for any possible change of our individual situations, every social and economic question is politicized (RS: 150). It is not surprising that both Nazis and socialists absolutely reject the division between economic affairs and politics. They both try to subject the economy to the politics. This explains also the difference between liberal and totalitarian systems, wherein

ruling estate becomes the only one force. But, controlling of the economic activity creates a problem according to which criteria of distributive justice can be realized. Is there any common value scale over which all reasonable men can agree? (RS: 151). It seems that the principle of equality fulfills this function. However, this criterion immediately changes into an aim for more equality. Nevertheless, it can not solve the practical problems of the planning decisions (RS: 152). It is ambiguous like the principles of common goodness or social welfare. What can be done is not but the expropriation of the possessions of the rich. This solution, however, recreates the original ambiguity of the distributive criteria again. Hayek suggests that the only valid criteria can be found in the common sense judgments of people about what just is. However, the criteria we develop in the competitive system are destructed with the abolition by planning (RS: 153). Here, Hayek quotes in J. S. Mill saying that men can accept the principle of equality but an order in which a small circle of men determines who deserves what cannot be bearable order. The solution of the planning authority is to reduce the various criteria into one. For this reason, Hayek claims that the moral freedom depends on the economic freedom (RS: 156). Therefore, this system needs a common world view and an absolute conviction and faith around which a mass movement can be mobilized through persuasion and propagation. The socialists first invented means of the organization of the people within a political movement. Nazis and fascists followed themselves (RS: 157-8).

Socialists were confident that the old middle class would rapidly disappear. But, they did not take for granted the emergence of a new middle class. When this class began to lose its relative power according to the proletariat, it developed its own distributive criteria within socialism in a sense that it was based on hate towards capitalism and on the demand for a new distribution of wealth. Fascists and national socialists could obtain the support of this middle class. Hayek states that there is a high share of truth to call the fascism “middle class socialism” (RS: 159). This class was no longer a middle class in the economic sense. It represented rebellion against the workers aristocracy that had been created by socialism. Hayek states that it is very illustrative that in the time of emergence of Italian fascism the parole “backward class struggle” was used. However, socialist leaders did not understand that new poor masses, which are outside of the privileged workers, hated themselves. Middle class background of the new working class created ruling aspirations within the state. They believed in the organized society in which they hoped to reach to higher echelons, which other socialists could not provide. They use the means of the socialist politics for a different class interest. They could take the support of all who want to control all economic activity without giving up the political power to the interest of industrial worker aristocracy. In the sense that positions of the individuals should be rearranged in the community, both Nazis and socialists supported planning movement. Their conflict was inevitable since they are the rival socialist groups (RS: 160-1). The difference, Hayek observes, was that workers socialism had been developed within a democratic liberal environment and

accepted many liberal ideas. On the other hand, fascists emerged in a community, which was gradually organized and in which it was understood that international and democratic socialism was difficult to be achieved. Just as the socialists developed their tactics concerning liberalism, strategy of the national socialists had to concern the socialist politics and the problems created by it. They did not believe that democratic means were suitable for difficult agreements in the community. In this sense, they were not dreamers. They did not believe that the criteria of distribution which appeared as a problem under the planned economy could be overcome by reason or any principle like equality. But they understood that the solution can be found only by mobilizing enough power to make decision. But Hayek observes that another feature behind their success was that they could develop a theory, a world view thanks to which their promises about the distribution of privileges seemed right (RS: 161-2).

Hayek states that search for security and freedom, after a certain point, are mutually exclusive. In a competitive system, minimums of shelter, health and food for all should be provided. In doing this, the unique criterion is to what extent public expenditure would be used and whether we lead to a planning economy, which would destroy freedom (RS: 167-70). However, planning practice of the collectivist system depend on a different view of security, which implies to preserve all privileges and protect individuals against the uncertainties. Unlike market system which requires market differentiation of wages, which should be based on the degree of utility created for others (RS; 170), in a planned economy, certainty and security are provided for some at the expense of the underprivileged. Rewards and punishment mechanism in the market are replaced by the decisions of the authority. Neither changing the job, nor working harder matters. Positions of the employees are not determined according to the criteria of success but to their compatibility to the predetermined rules (RS: 171-3). To be able to have a secure job, wage or position, we have to satisfy our chiefs. Security is bought in return of the freedom. The security we have is the security that can be found in the military barracks (RS: 174). In a market system, members of the growing industrial sectors who close the doors to the employees of declining industries lead to unemployment. Such a search for security creates insecure conditions for other workers. The fact that privileged workers who are supported by the state intervention into competitive order maintains exploitation over the weak and underprivileged producers are the most brutal example of exploitation of a class by another (RS: 176). The search for security creates insecurity for many and in time transforms the society (RS: 177). Hayek observes that Germany was a good example of this sort of transformation through which commercial spirit gives its place to the state of servants, *Beamtenstaat*. In such a society in which there is anti-capitalist propaganda, independent character of the citizen starts to disappear (RS: 178). Their sense of importance and respect can be obtained by moving through the state ranks and positions. Freedom does no longer matter unless economic security is provided (RS: 179). But, Hayek states that there is a price for freedom and being individuals, to preserve our freedom, self-denial for material security is inevitable (RS:180).

Incompatible relation between collectivism and individualism is also demonstrated by claiming that the former can make itself only in the context of special forms of nationalism, racism and class based politics. Common collective enemy such as Jews or kulaks and the conflict between “we” and “others” and the other objects of the fight are the inevitable themes (RS: 188). In addition, Hayek claims that collectivism of socialism is inevitably nationalist, as seen in Germany and Russia, in spite of its theoretical arguments. When problems it creates are considered, collectivism in a world wide level cannot be imagined. Its humanist base developed by individualist thought can be lived only within a small circle. Its liberal insights are only theoretical and in practice socialism becomes totalitarian. Humanism of liberal thought can not be inserted into strict framework of collectivism (RS: 189-90).

So long as community and the state are put ahead the individual, sense of importance and respect can be achieved only through identification with group as a result of inferiority complex of the individual. Honor of the individual does not originate from his position as being human being but from being a member of the group. Humanity and internationalism, which are the products of individualist world view, cannot be maintained under collectivism (RS: 190).

A reason behind nationalist tendency of collectivism is also result of planner’s explicit hate towards internationalism. It is thought that social relations with the outer world weaken planning. Hayek claims that nationalist and imperialist tendencies of the socialist planners are more than considered (RS: 191). Socialists, as seen in Fabians, favor huge and powerful state. Such a state imagination and wish for power are other connection points between socialists and nationalist socialists (RS: 191-2). In contrast, the notion of power is negatively notorious in liberal circles. Hayek recalls that Russell as a liberal says that wish to organize the social life according to a unitary (central-comprehensive) plan is caused by the wish for power (RS: 192).

That previously dispersed power among numerous and independent person are concentrated within one entity changes into an immense force. In a competitive society no one can have even a small part of the power which is used by the planning council in the socialist system. The argument that this power would be equal to the power of capitalists cannot be claimed since capitalists do not take decisions by unifying themselves in the same direction. This common direction can be possible only in the planned economy (RS: 193).

Diffusion and distribution of power decrease its absolute amount. In this sense, competitive system minimizes the power that is to be imposed by one man over the other. As a logical result, individual liberty requires the differentiation of political and economic power. Even though the latter is used as a means of pressure, its diffusion over many individual prevents its monopolist and comprehensive use and cannot be imposed over any one in his whole life. “Whenever it is centralized as a political power, it creates a dependency, which is not but a slavery” (RS: 193).

As for the moral and individual behavioral codes, Hayek claims that totalitarianism created by collectivism does not acknowledge any independent moral choices. In this system, aims legitimize the means (RS: 194), whatever the means are, gentle, respectful, honest, tolerating, confidential behaviors towards others and independent thinking begin to disappear (RS: 196). Discipline and consciousness of duty, compatibility with the group become valuable behaviors. Common aims may not leave any open place for individual values and rights (RS: 197). An absolute obedience of the citizen under the totalitarian system to an idea explains the brutal and tragic events, which are also the means for an individual to raise towards higher echelons of the authority (RS: 198-9). Obedience, power and sense of identification become the unique pleasures (RS: 198).

The Constitution of Liberty:

The Constitution of Liberty (CL) appeared in 1960. The book tries to present an ideal picture for the realization of the liberty. It develops and systematizes the themes and arguments processed in *The Road to Serfdom* published in 1944. But the real enemy of the individual notion of liberty is now defined by the practices of newly institutionalized welfare state, which is thought to be a continuation of the socialist politics which could not be successful. The welfare state was the agent of socialism, in fact². Hayek explains the “chief aim of this book”: as “the interweaving of the philosophy, jurisprudence, and economics of freedom which is still needed” (CL: 6). The design of the parts accordingly follows the line of philosophy, law and economics³.

In this part of the article I give much of the space to the first part of the book: *The Value of Freedom*.

Liberty and Liberties: The definition of liberty is given as a state which implies a “condition of men in which coercion of some by others is reduced as much as possible in society” (CL: 11). The original meaning of freedom is this description;

² The book has three parts (*The Value of Freedom*, *Freedom*, *The Law*, and *Freedom in the Welfare State*), a postscript, *Why I am not a conservative*, and a spacious reference notes covering more than hundred pages.

³ The first Part *The Value of Freedom* explains the notion of liberty in relation to free civilization, idea of progress, tradition, responsibility, equality, majority vote, and the individual independence. The second part *Freedom and the Law* focuses on the liberal juridical base of liberty within the context of rule of law and the state of law. The third part *Freedom in the Welfare State* gives the early theoretical foundation of the critiques of welfare state and society, which appeared in liberal and conservative circles from mid 1970s onwards. It is not surprising that the postscript called *Why I am not a conservative* seems to inform the character of close relation between liberalism and conservatism. Hayek here claims that conservatism with its conception of power and change is closer to socialism than liberalism and it does not have any theoretical apparatus for future development. However, the conservatives and liberals share the view about the importance of tradition and spontaneous gradual evolution of social institutions and values.

“Independence of the arbitrary will of another”. Freedom, in this sense, implies only a relation among men and coercion is an infringement of freedom (CL: 12). The question of the possibilities before the person’s act according to his own choice and plan is very important but a different matter. Not the range of choice but individual decisions and intentions are decisive in the state of freedom and thus this personality requires a “private sphere”, which cannot be infringed by another (CL: 13).

For Hayek, considerations about collective freedoms are to confuse the notion of freedom. Political freedom, national freedom does not always mean that the free people are composed of free individuals. A community having a political freedom in the participation of administrative and legislative procedure may not be a community of free individuals. A national liberation movement may not lead to a nation of free individuals (CL: 13-5).

The so-called “inner”, “metaphysical”, or “subjective” freedom is related with the “freedom of will”. It is not the opposite of coercion or an arbitrary will of another but to be free from the “temporary emotions, or moral or intellectual weakness” (CL: 15).

Another confusing and also the most dangerous conception define freedom as an “ability to do what I want”. Freedom is identified with “power” and requires “omnipotence”. This understanding is fostered by socialists and leads to the most destructive results. Liberties may be suppressed in the name of liberty. Such a transition in the meaning of the notion has also been supported by the philosophical substitution of the word “restraint” for “coercion” (CL: 16). Hayek observed that such confusion even influenced the liberal circles of the United States through the mediation of John Dewey, who said “liberty is power” (CL: 17).

The logical conclusion of the identification of liberty with power, as Hayek sees, was the identification of liberty with material wealth. But they are different matters. A poor may be free, says Hayek, “Liberty does not mean all good things or the absence of all evils” (CL: 17-8).

As for the so called negative conception of liberty”, Hayek accepts the negativity. “This is true in the sense that peace is also a negative concept or that security or quiet or the absence of any particular impediment or evil is negative”. Liberty is defined as the absence of coercion by other men. And, he connects it to the positive conception also: “It becomes positive only through what we make of it”. We use liberty for different purposes but “liberty is one”. The stranger is that “Liberties appear only when liberty is lacking; they are the special privileges and exemptions that groups and individuals may acquire while the rest are more or less unfree”. Allowance to do something may not be liberty and constraint to do something may not contradict with liberty (CL: 19).

The negative character of freedom is clearly seen in its contrast with slavery. The rights given to the slave is citizenship, “immunity from arbitrary arrest”, “right to work at whatever he desires to do” and “right to movement”. Hayek states that

these are the essential conditions of freedom. Later on, the addition of property rights completed all essentials for the protection of individual from coercion. Right to vote or subjective freedom and other new freedoms are not the essential features and they could not make slaves free (CL: 19-20).

The concept of coercion occupies the decisive part of the notion of liberty. Although liberty is defined as the absence of the coercion, it can be avoided only by the “threat of coercion”. Free liberal society solves this problem by monopolizing coercion on the state, which protects the private spheres against the coercion of others and establishes a condition which should be taken for granted by the individuals in different and typical situations. Coercion is limited to the general and abstract rules thanks to which individuals know in advance when and where they will be coerced (CL: 20-1). This is what the rule of law means in a free society.

Powers of Free Civilization: Epistemological base of the free civilization of the west, for Hayek, depends on the conception of society in which “the individual in the pursuit of his ends can make use of more knowledge than he has himself acquired...and he can transcend the boundaries of his ignorance by profiting from knowledge he does not himself possess” (CL: 22). Such an inevitable “ignorance” gives an epistemological base to Hayek’s individualist philosophy. By doing so, Hayek can criticize all attempts to design society rationally and he can point to the limits of individual knowledge. For him, acknowledgment of our natural ignorance as individuals rules out any attempt to organize society totally in the name of any collective will and aim. It is impossible since none of any individual or group can concentrate the dispersed knowledge into one mind. “Knowledge exists only as the knowledge of individuals” (CL: 24). “The sum of the knowledge of all the individuals exist nowhere as an integrated whole”. Situation is similar for scientific knowledge. In the case of expert, knowledge implies information about where and how needed information can be found (CL: 25). The relation between civilization and growth of knowledge is related with the incorporation of the past experience for our adaptation to environment. Knowledge does not only belong to the intellectual sphere but also our habits, skills, emotions and tools and institutions that adapt us to past experience, which are the product of evolution through which less suitable behaviors have been eliminated. In this sense, science uncovers our ignorance much more and exaggeration of the ever growing knowledge through scientific activity often encourages the “enemies of freedom”. The increasing division of labor in the production of knowledge raises individual ignorance (CL: 26).

Traditions and institutions are the product of past cumulative growth of knowledge. We follow certain forms of conducts though we do not know why we do so (CL: 27). Appropriate practices and devices have been produced after the numerous experiences of the persons we do not know.

Hayek states that liberty requires recognition of the necessary ignorance and “if there were omniscient men...there would be little case for liberty”, which “is essential in

order to leave room for the unforeseeable and unpredictable”. Our essential ignorance also implies that probability and chances have to be considered (CL: 29).

Individual ignorance in the face of the whole knowledge embedded in civilization is also the foundation of “toleration” and an aspect of non-rationalist ideas (CL: 30). The notion of freedom also assumes we cannot do whatever we please. “Freedom necessarily means that many things will be done which we do not like. Our faith in freedom does not rest on the foreseeable results in particular circumstances but on the belief that it will, on balance, release more forces for the good than for the bad”. Hayek says that it is not known how freedom is used. Otherwise, majority could decide what should be done by individuals (CL: 31).

Hayek points to a fact that freedom is thought to be belonging mainly to intellectual sphere. This decreases the importance of “freedom of doing things” (CL: 33), which is important as much as intellectual freedom. For example, what does so called “economic freedom” mean? There is nothing merely economic (if a man does not make money for end in itself) (CL: 35).

The evolutionary point of view implies that our values are produced, and altered by the evolutionary dynamics. Survivor individuals and groups owe their continuation to their ethical codes, values and the degree to what extent they could meet their needs. “The ends of the successful group will tend to become the ends of all members of the society”. It is sure that there are social standards established before, but they are tested by other competing standards (CL: 36). As Hayek said in the case of his non-rationalism, resultant knowledge and aptitude is the “product of individuals imitating those who have been more successful and from their being guided by signs or symbols, such as prices offered for their products or expressions of moral or aesthetic esteem” (CL: 28).

The selection process occurs through competition of individuals or groups. But for such a process to operate perfectly in a free society, group organizations have to be voluntary and act within the free sphere. Organization of the society according to a single plan destroys the forces, which shape individual reason (CL: 37). The source of the reason is freedom and unpredictability and social process must be free from reason itself. Spontaneous forces make advance possible and thus they must be set free (CL: 38).

The Idea of Progress: The idea of progress was another controversial subject for Hayek’s evolutionary understanding of social phenomena. If it “means an advance towards a known goal”, he said, “it is not in this sense that social evolution can be called progress, for it is not achieved by human reason striving by known means toward a fixed aim”. It is “a process of formation and modification of the human intellect, a process of adaptation and learning”. If it was a sort of discovery process, its results were unpredictable. A general understanding of this process for us to create favorable to it, possible knowledge does not imply that we can make specific prediction (CL: 40). So, the laws of evolution, which can be derived from

this insight, are an “absurdity”. We can neither design nor shape our future. Its advance is based on finding out the wrongs.

Progress cannot be planned. It occurs for its own sake (CL: 41). Progressive society maintains itself only through its progress. As Adam Smith said, Hayek recalls, in a progressive state, “the condition of the laboring poor, of the great body of people, seems to be happiest and the most comfortable. It is hard in the stationary and miserable in the declining state”. The characteristic aspect of progressive process is that “new knowledge and its benefits can spread only gradually, and the ambitious of the many will always be determined by what is yet accessible only to the few”. There is the pioneers and the followers of the progressive process. New possibilities belong to the few at the beginning and then become the common possession after a process of “adaptation, selection, combination, and improvement” before they are fully utilized. In the case of economic progress, this requires an inequality since progress cannot proceed uniformly (CL: 42). The experiments of the few make the existing luxuries needs of tomorrow (CL: 43). The riches pay the cost of the experiment, in fact. The goods produced for them later on become the goals and the efforts for the majority. Hayek sees the inequality as a functional aspect of progress. He says that “Even the poorest today owe their relative material well-being to the results of past inequality”. In this sense, poverty is a relative concept. A relatively rich man lives in a stage of evolution that “others have not yet reached” (CL: 44). The more relativist argument is that “unsatisfied wants are usually no longer physical needs but the result of civilization”. Hayek is very intolerant in saying that progressive society “disregards the pain of unfulfilled desire aroused by the example of others”. The desire, which can be acknowledged in a progressive society, is the ones that “create only as a spur to further effort” (CL: 45).

For Hayek, even the socialist idea of equality must depend on inequality, which is not produced by the impersonal forces of “the market, accidents of birth and opportunity”, but by the decisions of the authority through a selection of individuals and groups (CL: 45).

In a market based society, if “the steps in the income pyramid are “reasonably occupied”, those being lower down favors the fact the other are ahead. In the long run, follower benefits the pioneers. But we do not know what a “reasonable occupation” in the income distribution is. The more offensive argument is that “although today most of the people of the world benefit from one another’s efforts, we certainly have no reason to consider the product of the world as the result of a unified effort of collective humanity” (CL: 46). The prospect of the poor is more than before thanks to the Western development. In addition, the level of material well being of the most nations had been achieved by the West in a longer period. If the West had to share its wealth with the rest, their wealth could not have been achieved. Actually, unfree countries benefit the fruits of freedom. This is a reason

why importance of freedom is not perfectly understood. Egalitarian societies in this sense are “parasitical” since they do not pay the cost (CL: 47).

Any attempt to level class differences leads to a stationary condition. Great Britain, for this reason, lost its leading position in the world. Therein, even the leading position of the workers according to other countries was an extension of the leading position of Britain riches (CL: 48-9). Reduction of inequality and poverty has to be considered as a long run issue. Otherwise, an immediate and immense transfer of the wealth of riches into the poor makes the society stationary. “Impoverished but highly competitive countries” are very “dynamic” and “progressive”. Britain and Scandinavian countries, in this manner, followed wrong policies in contrast to Germany, Belgium or Italy (CL: 49).

Hayek states that civilization depends on the continuation of progress. “We are therefore not only the creators but the captives of progress” (CL: 52). Its discontents are inevitable since through it many are forced to live in a different manner. But “if the majority are asked their opinion of all the changes involved in progress, they would probably want to prevent many of its necessary conditions and consequences and thus ultimately stop progress itself” (CL: 50-1).

Freedom Reason and Tradition: Comprehension of the relation of freedom to reason and tradition demonstrates two rival theoretical traditions of liberty. The one is the French theory of liberty which is based on Enlightenment thought, Cartesian dualism, Encyclopedists, Rousseau and the Physiocrats and Condorcet (CL: 56). This tradition “sees collective purpose as a requirement for the realization of freedom and favors deliberate growth. Hayek quotes in Francis Lieber of 1848 about French emphasis on government, organization and the interference of public power in their search of liberty and political civilization. They believed in unlimited power of human reason (CL: 54-5). Although theoretical attempts to understand liberty emerged simultaneously in Britain and France in the 18th century, the former country knew freedom while the latter did not (CL: 54). The French tradition of liberalism, as Hayek observes, have been much more influential than British liberalism, which was interested with the evolutionary process of cumulative growth of institutions, moral rules and the law (CL: 57). For them, spontaneity and the absence of coercion were the essentials of freedom, and the growth was organic, slow and half-conscious. They gave a significant role to trial and error procedure (CL: 56). Institutions evolved as they were successful. They were the human creations but not the realization of human design (CL: 57).

Lawyers in Britain, Hayek says, first comprehended such an evolutionary understanding of institutions. On the contrary of design theorists, they recognized that the emergence of the order was “the result of adaptive evolution” (CL: 58-9).

Hayek says that evolutionary theory is interested in the institutional framework by which men use their mental power in the best way and harmful actions of “bad people” can be prevented. “The anti-rationalist tradition is here closer to the

Christian tradition of the fallibility and sinfulness of man, while the perfectionism of the rationalist is an irreconcilable conflict with it” (CL: 61). Some “naive views” such as “natural goodness of man”, “natural harmony of interests” or even “natural liberty” (in spite of its fruitful results in the theory of liberty) are far from the British tradition. The notion of natural liberty simply meant the institutions of “life, liberty, and property”. For British, harmony of conflicting interests is possible only within “well-constructed institutions” through which individual efforts are channeled to “socially beneficial aims” (CL: 60).

Evolutionary understanding of social order and institutions means that free society needs freely grown institutions. Hayek states “Paradoxical as it may appear, it is probably true that a successful free society will always in a large measure be a tradition-bound society”. “The experimentation of many generations may embody more experience than any one man possesses” (CL: 62).

From social evolution, there also emerge some “rules of conduct” which are both the condition and the result of freedom. Regular pattern of conducts develops mainly from instituted habits and traditions which we may not even recognize, rather than commands and coercion. If voluntary conformity to the established rules of conduct exists, coercion does not appear. Conformity also derives from the moral beliefs (CL: 62). Rules must be flexible for the evolution of spontaneous growth. Moreover, variety of rules operates the selection process for the more effective ones (CL: 63).

We always work within a framework of values and institutions we cannot understand exactly (CL: 63). Any rationalist attempt to change social process ignores inherently limited intellectual capacity of man. It also does not understand the importance of abstract rules which are devices invented by the insufficiency of reason, which cannot direct every detail of the complex social reality (CL: 66).

The most important moral rule for individual and collective actions of a free society are individual freedom. It should be acknowledged as a “value in itself” without thinking simply its consequences. It is, in the final analysis, a principle just as the liberty is a system for all governmental actions. When it is not recognized as supreme principle, free society erodes away (CL: 68).

The role of reason in such a society is to find limits for itself and to defend itself against its abuses (CL: 69). Human civilization is a self-maintaining whole with its own dynamics, our reason uses its forces but not replace them. We should only have piecemeal aims to improve the parts of it (CL: 70).

Responsibility and Freedom: Free individual is charged with the consequences of his actions. For this reason, liberty and responsibility completes each other (CL: 71). Any denial of the responsibility is a fear of freedom, says Hayek. One of the reasons behind the denial of responsibility is caused by the scientific determinism which overemphasizes the external conditions that eliminate the spontaneous

character of human action. In this sense, it shakes the moral and political beliefs for freedom (CL: 72). If determinist interpretation of the human actions is accepted, no one can be assigned as responsible for his actions. "In our decisions as to whether a person is to be his own master or be subject to the will of another, we must regard him as being either responsible or not responsible" (CL: 78). So, free acts operate only in a voluntary framework.

Another burden free society imposes over individual is that skills and capacities should be used in right places. Abstract value of the individual makes no sense unless it is used in favor of concrete service (CL: 80-1). A free society does not automatically award a talent but gives it an opportunity to achieve suitable position. Otherwise, the alternative to this pressure is the positions created by personal commands (CL: 82).

Responsibility in a free society also must be individual. Collective responsibility leads to a situation that no body accepts responsibility (CL: 83).

Hayek observes that emergence of modern urban society has destructed old feelings of responsibility among the members of community, which were based on close relationships and ha lead to the problem of security and protection on the part of individuals. These problems have been handled by the "impersonal power of the state". But responsibility towards concrete and familiar cannot be the same with that towards the abstract and unknown. Effective responsible feelings are based on the concrete knowledge of individual who morally and voluntarily act (CL: 84).

Equality Value and Merit: "The great aim of the struggle for liberty has been equality before the law". This aim has been extended to other social spheres in a democratic spirit to "make inoffensive the inequalities that liberty necessarily produces". But the only kind of equality compatible with a free society, Hayek claims, is equality before the law (CL: 85). Equal factual positions mean different treatment of the individuals. To make them alike in material conditions leads to discriminatory coercion. In fact, demand for material equality means a demand for a new pattern of redistribution to be imposed over society. What is demanded is not equality but a new redistribution chosen deliberately. This inevitably leads to state coercion (CL: 87). Hayek accepts the demand of decreasing sharp conflict between rich and the poor. But what kind of distribution pattern should be is another question. Who defines this pattern of distribution and with which capacity? Hayek claims that it is enough to open opportunities to all (CL: 88). Individual advantages are beyond human control although some conditions can be altered. "It is difficult to see why the same useful quality which is welcomed when it is the result of person's natural endowment should be less valuable when it is the product of such circumstances as intelligent parents or a good home" (CL: 89). Family transmits the heritage of civilization. For it to be able to function as a means of transmission of moral values, tastes, standards and knowledge, it has also had a transmission capacity for material values. The transferring of the property through family lines

is the cheapest way for society. Otherwise, resources are wasted and used unjustly as in the case of communist countries (CL: 90-1).

A rearrangement of opportunities to the individual capacities invites state action as if it “knows best how individual capacities can be used” Hayek claims that demands based on discontent and the feeling of envy towards more successful ones are recently disguised in the notion of social justice. But, if all demands are directed to the community, individual responsibility disappears. A free society must not meet such demands but “treat them, in the words of John Stuart Mill, as ‘the most anti-social and evil of all passions’ (CL: 93).

Neither objective criteria of merit nor our own value consideration, but the rewards of the free society, which “serve to tell those who strive for them how much effort they are worth” are decisive (CL: 95-6).

The idea that rewards are given to those who deserve substitutes the duty for success. It does not recognize individual responsibility, which cannot be separated from his freedom and implies that somebody guides each action of the individual. “We also expect in our dealings with others to be remunerated not according to our subjective merit but according to what our services are worth to them” (CL: 97). Hayek observes that when we think that our income or position is determined by society, we demand reward on the base of merit (CL: 98).

Just like justice which “does requires that those conditions of people’s lives that are determined by government be provided equally for all”, “reward for merit is reward for obeying the wishes of others in what we do, not compensation for the benefits we have conferred upon them by doing what we thought best” (CL: 99-100).

Majority Rule: The idea of majority rule leads into totalitarianism when it is not based on the acceptance of common principles. In democratic thought, the idea limits government, but Hayek asks, what limits majority rule? Traditional liberalism and democratic movement agree over the acceptance of political participation of all individuals in law making process. But liberalism of the 19.century is mainly interested in “limiting the coercive powers of all government”. In this sense, the opposite of liberalism is “totalitarianism” (CL: 103). The democratic thought is related with the method of law making whereas the liberalism is related with the characteristics of law. Not law, but obedience to “same rules of conduct” makes men a community. These principles actually limit the majority rule (CL: 106-7). In the face of minorities, majority is limited by the principles that are accepted also by the minority. In a free society, majority cannot do whatever it pleases to do. Hayek observed that some doctrinaire democrats argued that “since the power was now in the hands of the people, there was no longer any need for limiting that power” (CL: 106-7). Some democrats in the meaning of “unlimitable” majority rule use the notion of “popular sovereignty”. This is an argument for another arbitrariness, which the original democratic thought wanted to eliminate (CL: 106).

“...Democracy as a method of “peaceful change” is significant for individual liberties. But for this to be, majority must make “the principles of liberty its deliberate object”. Democracy is not an end, but a means (CL: 107). It is no doubt that majority must guide the government. But, for this, majority opinion must be developed independently from government. The freedom of speech, discussion is the inseparable parts of democracy. The fact that direction of collective action is based on the determination of majority rule does not mean that no one should try to change majority opinion (CL: 109). Also, the characteristics of civilizing process shows that new ideas, habits and advances first emerge among the few and then spread gradually becoming a part of common possession...” (CL: 112).

Democracy can limit individual actions only through abstract and general rules. If it goes beyond this, it begins to direct individuals specifically by dictating some ends through the decisions of public servants. In this sense, discretionary powers of administrators rather than laws made in legislative bodies are a source of danger for freedom. If government uses its coercive power for particular purposes, coercion cannot be limited effectively through democratic assemblies (CL: 116).

Employment and Independence: In a free society, with its competitive market, the employed “is not unfree in the sense of being coerced” (CL: 120). He is “not at the mercy of a particular employer” unless there is an extensive unemployment. The freedom of employed is contingent to the existence of large number of employers. In this regard, socialism makes the state a single owner of all working positions and render it an unlimited power of coercion (CL: 121). Multiplicity of employment opportunity increases the independence for individuals (CL: 124). Ownership of property, for this reason, is very important for the development of thoughts, tastes and beliefs (CL: 128).

Coercion and State: Hayek accepts that there is a close but not a necessary connection between power and coercion. For example, powers of Henry Ford, or the powers of United States president are not powers “to coerce particular people for the purposes they choose”. In addition, since coercion can be executed without force or violence, it is not the same thing with any of them. It is sure that oppression is continues execution of the coercion (CL: 135).

“Coercion occurs when one man’s actions are made to see another man’s will, not for his own but for the other’s purpose”. State monopoly of employment leads to unlimited coercive power. But Hayek says

“...I may have to act under great pressure, but I cannot be said to act under coercion. Even if the threat of starvation to me and perhaps to my family impels me to accept a distasteful job at a very low wage, even if I am ‘at the mercy’ of the only man willing

to employ me, I am not coerced by him or anybody else. So long as the act that has placed me in my predicament do or not do specific things, so long as the intent of the act that harms me is not to make me serve another person's ends, its effect on my freedom is not different from that of any natural calamity..." (CL: 137).

The essential condition to prevent coercion is the acceptance of private property, which is "the first step in the delimitation of the private sphere which protects us against coercion" (CL: 140). Property gives individual independence (CL: 141).

The Safeguards of Individual Freedom: In a liberal society it is not sufficient to monopolize the coercive powers within the state, but also there is a need to limit governmental power in this regard. The rule of law fulfills this function and requires that government should execute its coercive power only in the context of known rule. The rule of law limits all powers of the government, including legislation. It defines the particular attributes that a law must possess (CL: 205). It is a rule about the law, "a meta-legal doctrine or a political ideal". "It will be effective only in so far as the legislator feels bound by it"; "it forms part of the moral tradition of the community, a common ideal shared and unquestioningly accepted by the majority". If it is a decisive feature of public opinion, legislature and judiciary activity are realized according to it. The opposite of the rule of law is "a state of arbitrary tyranny" (CL: 206).

The other safeguard of individual freedom is the private sphere, which is differentiated from the public sphere. The private individual cannot be ordered, but is expected to obey only general rules that are valid for all (CL: 207-8). The suggestion that law must be just does not make sense since we have no formal criteria beyond the generality and equality before the law (CL: 210).

The idea of the separation of power of government is another integral part of the rule of law. Judges must be independent from the current issues and end of the government, which should be bound by rules and should be open to judicial review. But an effective government needs must have some powers that cannot be reviewed by the independent courts. Nevertheless, this power should not be related with persons and properties (CL: 211). The limitation over the discretion of the executive is also needed since government does not have "a test of efficiency which profits provide in commercial affairs". The limit is related mainly with the state's infringements of the private sphere of individuals (CL: 213).

In addition, administrative "discretion" should be limited legally. Such discretion is not the same with the judge's power to interpret the law under the base of general logic and spirit of the system. Judge has not an authority to execute his personal will for particular purposes. His decisions are subject to the control of higher courts (CL: 212).

The last safeguard Hayek mentions is the private rights for the preservation of individual's free spheres (CL: 216). Hayek says that any suppression of the rights by the ultimate power of the legislation can be eliminated only thanks to the general awareness of the dangers of the public. Moreover, rights are not absolute in the sense that they can be sacrificed in favor of long run interests of liberty. Emergency powers of the government can suppress the rights, but only with the recognition of the safeguards against abuse. Exceptions of freedom must be set by the rule and must be open to the judicial review of the independent courts (CL: 217). Procedural protection of individual liberty can be effective only when and where "the law decides" (CL: 218-9).

Spontaneous Order, Justice and Limited Democracy

Rules and Order: Rules and Order (originally 1973) (LLL I), which is the first Volume of *Law Legislation and Liberty*, sums up the epistemological base of Hayek's ideas about the philosophy and the legal extensions of individual freedom by refining and reformulating the concepts which has been used unsystematically in *The Road to Serfdom* and *The Constitution of Liberty*. The French tradition of liberalism is once a subject of criticism. It is traced back to Cartesian dualism, by which reason is elevated to a position over the factual reality and in the final course; power and capacity of the individual mind are given a construction power over the social phenomena and historical change. This is what Hayek calls constructivist rationalism, which creates the spirit of all superstitions embedded in positivist, rationalist and constructivist traditions of French social liberalism. Socialist theory is also a product of this mode of thinking.

Constructivist rationalism is based on some false assumptions about the evolution of mind, and spontaneous orders of society. It conceives the later as an organization designed by human beings and sees it as a living organism that behaves as a man. But society implies only a union of relations in which some rules of conduct are more or less acknowledged by all men. The rules are not humanly designed but evolved through an elimination process of wrong and false. The good and beneficial conducts are eliminated and then imitated by the other men.

Such an evolutionary process, which is spontaneous, is not and cannot be designed or controlled by any omnipotent power center since all information of individual instances cannot be collected within an individual mind. For this very reason, ignorance and the inherently limited knowledge of every man about the facts put a natural limit to control power. If men attempt to design social phenomena, they have to fulfill every function, which is realized in the spontaneous order of society. Consequently, omnipotent reason directly leads into totalitarian control of social order. It is sure that there is man made organizations, like the state, but social order is not such an organization.

Natural ignorance of men about spontaneous order of society increases the importance of abstract rules of conduct, which evolves from the past. The just moral conducts of men are as such and the main principle behind them is the individual freedom upon which Western civilization is based. The most abstract expression of freedom is the rules of law as the general reference point for other law making process.

The Mirage of Social Justice: The Mirage of Social Justice (originally 1976) (LLL 2), second volume of *Law Legislation and Liberty*, points to an example of dangerous confusion made between organizations and spontaneous orders. The term justice cannot be applied to the latter in that no one is sufficient and consciously responsible towards the results of actions. In this sense, it cannot be said that society as a spontaneous order acts justly or unjustly. Similarly, nature or the market is neither just nor unjust. Justice is a principle of human conduct and can only be related with the rules of man made organizations such as the state (LLL 2; 57-60). In this sense, there can be just rules of conduct, which are the prohibitions of unjust behaviors (LLL 2; 61-5). The demands of social justice have not a logical foundation since they cannot apply to the consequences of a spontaneous order; otherwise, they mean that a pattern of distribution is wanted to be imposed to the society in which relative revenue and the position of any individual cannot be defined by any will. If it is possible, who will define the pattern of distribution and according to which criteria? Such a demand can be met only within a command economy wherein individuals are ordered for what they should do (LLL 2; 101-4). But the logic of “economic game” is based on the fact that only conducts of players rather than the result can be just. Within this game, which has not been designed but only is a “unique method” we have ever discovered and which is just something we have learned to restore gradually after our discovery of it, “uniform rules” are valid for ever individual. Hayek calls this economic game “catalaxy”, which operates according to the guiding principles for participants who have different capabilities, aims and information. In this game results cannot be foreseen and there are winners and losers of it. We have a right to claim that game should be based on just rules but not about its results (LLL 2; 105).

For Hayek, even the idea of equality of opportunities is meaningless after a certain point in a free society. It is true that initial chances are different for individuals. But the equal opportunity easily changes into a demand for the equal physical and social conditions, and this means to call for the extensive state control (LLL 2; 120).

To advocate free enterprise since it awards every attempt is a wrong idea, for Hayek, but it is a problem of toleration toward a differentiation of rewards which are contingent on in part chance and in part on the success in favor of the majority of interests (LLL 2; 109).

The feelings behind the demands for social justice, Hayek argues, traces back to the mutual individual behaviors in the primitive conditions of the small group. But

these feelings and ideas cannot be applied to a Great Society (LLL 2; 124), which is not a man acting but a structure of actions caused by certain abstracts rules its members adapt (LLL 2; 132).

Any demand of right from the society is based on the positive conception of morality, which charges the society a responsibility to supervise the individual possessions. But this demand can be met only by an organization. Otherwise, it does not make sense since the demand is charged to a spontaneous order. This demand actually calls for changing the society into a organization whose consequences can be controlled by a conscious designs. In this sense so-called positive rights destroy the spontaneous order of society. Hence, Hayek claims that negative characteristics of the traditional civic rights and the positive attributes of new social and economic human rights, which all are related with private interests that is claimed to be derived from being human are mutually exclusive in a liberal order under the law (LLL 2; 143).

Political Order of a Free Society: Political Order of A Free Society (originally 1979) (LLL 3), the third and the last volume of *Law Legislation and Liberty*, begins with the observation about the crisis of contemporary representative government and ends up with the liberal and conservative attacks towards Marx and Freudian psychology. The former did not understand the logic of the market and the prices and tried to found out an absolute principle of distributive justice (LLL 3; 255). The latter made a destructive connection between moral rules and liberation of man (LLL 3; 259-63). But, evolution and the selection of certain moral rules and constraints are significant part of the civilization. He says:

“...for me, advance of the past has made some groups more powerful, rather than it has been made by the intellectual designs and in the future as well, there could be no doubt that the same thing will be done by the appropriate moral traditions...” (LLL 3; 254)

The ideas centers around the suggestion that limited government requires the power of representative democracy be limited as well. The latter leads into the unlimited power of legislative bodies, which are no longer related to law making activity but mainly to the needs of the execution and short-term issues of political process. As a result, government as a whole becomes the agent of organized interest groups towards which execution and the legislation cannot be indifferent if they can maintain their power. In this sense, government functions as an extension of organized interests rather than an organization which must establish the framework of free activities of individuals by protecting the rules of law. Democratically established government becomes the machine through which demands of the interest groups are met. It is a sort of resource allocation agent. The mutual dependency between the organized interests of electorate and the political

power makes the politics a bargaining and bribery process. Legislation is reduced to the current issues of party politics.

Solution, which Hayek suggests, is to come back to the idea of separation of powers, and to realize the liberal conception of law in particular. But the most general aim is to reestablish the limited government whose coercive powers are strictly defined in a way that it can protect only negative values of freedom, peace and justice (LLL 3; 195-7). Such a governing body can fulfill some service functions, which are not effectively met by the competitive market. But this does not give any monopoly right to it.

To limit the powers of government, there must be another legislative body besides the existing legislation, which is dependent on the executive needs of party politics, which owe their existence to the promises it gives to its supporters. A real legislative body must be established through the election of respectful and mature members of community for a longer period than term of the executive assembly and must be related only with the law making process in its exact meaning. Abstract, general and long term rules of the free society can be issued only within this body. But in order not to be another unlimited power, it must be limited by the more abstract and general rules of the constitution (LLL 3; 168-75).

The new legislative body will also decrease the influence of bureaucrats over the existing law making process. The framework of party politics, the election procedure and the short legislative period do not create suitable conditions for real law making activity. That the representatives have to deal with the legal needs of the current short-term issues of politics makes the bureaucrats real legislators.

Hayek's new legislative body seems to separate the legislation from the execution and then administration from the execution. The separation will prevent the possibility of the concentration of power into one hand and lead to a real law making activity by creating the framework for the rule of law and accordingly establish a limited government and a limited democracy.

Hayek's suggestion of limited government implies that separation of power in its perfect form is a key to prevent a politicization of any positive demand in society. For him, any positive demand, the most dangerous of which is to want a redistribution of wealth, means a demand of privilege, which is not compatible with the liberal principle of the equality before law and justice, both of which suffice to establish the conditions whose operation rules are the same for all. If the penetration of the executive government into the legislative power is prevented, its power over the distribution of resource and privileges are also limited. But, for a perfect limitation of this power, public monopolies over certain sectors of the economy, including money issues, must be put away. In addition, decentralization of government and the empowerment of the third sector, independent sector, are the other measures to limit the government in general.

Critical Evaluation of the Hayekian Ideology

Conception of socialism /collectivism vs. individualism /planning vs. market: Collectivism, planning, and totalitarianism are different attributes of the constructivist rationalism, which aims to transform society of the free individuals into a barrack, a camp of the collective will in the name of a collective aim. The search for equality and security, feelings of envy and the successful agitation of socialist or fascist, coinciding with liberal intellectual impotence, destroys the foundations of *free society* of Hayek (or let us say, *Open society* of Karl Popper, or the *Great society* of Adam Smith). A free society has not any collective aim but only has some common principles of individual just conduct. Collective aim requires the direction of society by a collective will that decides in the name of all individuals. In this sense, collective will organizes itself through collective identities such as class, or nation. We have only the variants of collectivism if we do not recognize the supremacy of free individual.

Collectivism directly leads to planning, says Hayek since collective aims that are located above the individual aims and plans can only be materialized by a planning authority. For this reason, planning, as Hayek observes, tries to surpass market forces and in the end tries to occupy its reign. Planning invades market. Hayek is rather correct to state that such an invasion-succession process is a logical result of the socialist claims against private property. When private property over the means of production is abolished, decision making mechanisms of the market are handed over to the new owners of property. But collective nature of this property requires the state ownership for its control and use. Hayek is rather right in his observation that socialism leads to collectivism-central planning and class dictatorship. But, as I mentioned above, meanings also change under socialism. Planning becomes socialist planning when dictatorship becomes proletariat dictatorship. In this sense, both fascism and socialism are dictatorships. But, whose dictatorship and for what reason?

Dictatorship, collectivity and planning are not peculiar to socialism. In a liberal society, public property is the collective property of the bourgeoisie. And many state activities need a sort of central planning. But, these are liberal plans, which channel the public resources into certain sectors and coordinate public-private economic investments. But, whose plans and for what reason?

Here it is very useful to take attention to the general characteristics of “democratic socialist” (Tomlinson 1990: xi) criticism of new right in general and of Hayek in particular. Tomlinson’s book *Hayek and the Market* is an example of left defense of the Keynesian welfare state against Hayek’s attacks industrial democracy, trade unionism, and social security system. Trade unions and social security system are not the reasons of inflation as Hayek claimed, for instance. Or, the worst one is that planning and market principle are not mutually exclusive, as Hayek observed (Tomlinson 1990: 120-1). But, this sort of argumentation is rather weak when it is considered that Hayek sees the welfare state is a solution accepted after socialism

is seen as impossibility. It is a negative extension of socialism. Furthermore, Hayek, as Raymond Plant observes, does not reject the welfare state that provides a minimum level of security for ones who are not successful in the market. What he rejects is the social democratic version of the welfare state that operates as a means of distributive justice (Plant 1994: 168).

For Hayek, market and planning can coexist. But his very claim is not to reject such coexistence but to point out that the coexistence simultaneously destroys both planning and market principle by making each of them ineffective. The one can only operate successfully without the other. Planning under welfare state is not the planning towards that Hayek attacks. His concern was completely related with socialist planning under collective property.

Negative vs. positive freedom, rights and the state /evolution vs. revolution /equality vs. freedom /minimal or limited: Why do individuals of a free society strive for a positive freedom?

Hayek says that the conception of equality before the law is extended into other spheres of life through democratic struggle. Economic and social rights have emerged in this way. But these rights all are new privileges before the law. They are not the basics of liberty. Here, we recognize that Hayek uses a different terminology. He uses the term democracy as a means of peaceful change through political participation throughout his books. He seems to equate democracy with the acquisition of positive freedom and positive rights. But, as seen in the French Revolution, democracy implies equality besides slogans of liberty and fraternity. It simply means material equality among the men, while liberty is used, as he favors, in the name of equality before the law. It should be noted that liberty is defined in terms of *equality* even though it is limited to the legal framework only. Nonetheless, liberty is only a *form* of equality among men. It requires an equal distribution of rights, duties, information and other material possibilities of civilization. Being an open process, it proceeds to the redistribution of other material values. If so, in contrast to Hayek, democracy is not a means but a principle of distribution of intellectual and material resources and opportunities. He stated that liberty “becomes positive only through what we make of it” (CL: 19). If so, as he could accept, liberty becomes meaningful “only through what we make of it”. Positive notion fills up the negativity.

However, since democracy is an open ended and inherently inadequate process of struggle for factual equality, it *may* immediately lead into socialist struggle for a new synthesis of freedom and equality. Yet, every historically decisive form of struggle changes meaning of the concepts, which is under circulation. The notions of freedom, morality, law, justice and even the concept of labor are older than liberalism. The meaning of value has been also changed by it. Accordingly, meanings of equality and freedom have been first changed by democratic movement and secondly by the socialist struggle. For the latter, equality began to

imply a society without exploitation of man by other man and the freedom meant that government of men by other men changed into the government of things by men. Similarly, the meaning of coercion has been enlarged in a way that all moral, economic and social forces could be involved and became anonymous with the concept of “restraint”.

Hayek is an orthodox liberal in a sense that he tries to eliminate all sort of influences that are alien to liberalism and tries to keep it in its puritan form. The enemies of liberalism are not only socialism and fascism, which are both collectivist, but also social liberalism. This puritan search is based on a rigid conception of negative freedom and the merits of competitive market.

As Berlin formulates, negative notion of freedom is “a freedom from”, whereas the positive conception is “a freedom to” (Berlin 1966). The former conceives the individual as “an empirical self”, while the other divides it into empirical and real selves, which is existed only potentially. Let me follow the idea behind the real self; we have an essential self which is not perceived yet in our surface appearances. So we may have a wish to reveal it from its sources. If we put aside the metaphysical implications of this essence, it charges us to develop and direct it through some aims. All ideas behind the conscious struggle for freedom, I believe, are based on the claim that we are not yet what we are. So, positive conception of freedom requires an open ended process of history of human beings. It is inherently a progressive idea.

On the other hand, negative conception of freedom tries to preserve what is already possessed. If basic liberties are achieved in the social evolution, that is if you are no longer a slave, there is no freedom you must strive for. But what you want more is only the fruits of freedom you have. Otherwise, a wish more than this inherently takes you a new tyranny

Crisis of democracy /post-Keynesian framework /new right synthesis: Is the crisis of liberal democracy caused by the fact that the rule of law has been given up over time?

Democratic political framework is based on three power concentration: the electorate, professional politicians, and bureaucracy. The first defines who uses the political power. Elected political group through elections operates the bureaucratic machine of the state for the realization of its promises. This chain of instrumentality is based on the assumption that majority would perfectly represent itself in the political power, which is a part and above the state bureaucracy. The bureaucracy is the instrument of political power, which is the instrument of electorate in the end. Such a system does not charge any responsibility over any of three power concentration. Each of them tries to extend its own movement sphere. Populism, corruption and bureaucratization are three negative attributes of this political framework of liberal democracy. But they are not new. The democratic and socialist struggles of the nineteenth century occurred against the similar social and political background. Populism, corruption and the bureaucratization were first

the results of Hayekian the rule of law-equality before the law, separation of powers, limited and constitutional government, which were the main attacks of the political struggles between 1848 and 1871 events in France.

Liberal analysis of the crisis of liberal democracy is also directed by the public choice theorists. They focus on three conflicting aspiration of citizens (electorate), of politicians and of the bureaucrats. None of them concerns the costs of their aims and demands. The solution is to change the citizen into consumer, who have a test of cost and benefit, is to change politician into a speaker, and is to transform the bureaucrat into a manager and supervisor of the limited and effective government.

Limited and effective government transfers the whole welfare apparatus into an organization of the communities, civil societal organizations and local governments. But many welfare services that can be monetized are transferred into private entrepreneurship. Conservative sensibility towards locality, community, and self-government (as in the case of religious communities) occupies the space which is retreated by the welfare state. But conservative occupation seems to realize because of the changing meaning of national citizenry with the transformation of national welfare state.

The new right, as a general framework and intersection point of neo-liberalism, conservatism and economic analysis of the liberal democratic framework (see Aksoy 1995) owes its theoretical weight the most to Hayekian liberalism whose main attacks have been leveled towards socialism and Keynesian welfare state. The post-Keynesian transformation needs a new coalition of liberalism with conservatism. Ironically, liberalism is a traditional concept whereas the conservatism is a modern reaction as before in this process. Liberalism gives the theory to conservatism while the latter provides the former with a social and psychological force. Such an ideological alliance is very temporary and short term until the post-Keynesian transformation will be completed.

Left and right liberalism /procedural justice: Hayek's notion of justice is procedural in the sense that equality before the law and the rule of law in general provides same rules and limitations of the free societal game, be it in the market, or be it in the state. I think John Rawls' (1971) justice as fairness at first suggests a same procedure of justice. However, Rawls clearly recognizes that there should be a common consent over the rules of the game. For this consent to emerge, he puts forward two principles of justice that should be recognized unanimously. Hayek assumes that such an initial consent is already existed if there is still a society. I think that the main drawback of Hayek's liberalism is this implicit consent, which is not known where it is. For this lack of understanding, Hayek cannot understand the notion of positive freedom, positive right and positive law.

Evolution/determinism vs. voluntarism /structure vs. agency: Hayek's evolutionary process occurs for the sake of evolution. It does not have any purpose. But it shows us what is beneficial and functional. But, it has not any creator for its origination. It

begins with historically regular and more or less stable gatherings of the mutual relations. It is a general spontaneous process of spontaneous orders. We are presented its results and the logic of the emerging results. But we do not know from Hayek's accounts that why such process occurs. The beneficial features survive and are imitated by others and so spread into other places. Habits, skills become rules, institutions and traditions through a selection process that eliminates the failures, wrongs and unsuccessful ones at the end. But even though evolutionary process has not its creator and controller, it must have an agency. Who competes?, whose traditions, whose success, whose failures, whose rules,.

The answer makes clear that agents of the evolution compete, struggle, fight, learn, organize, change, communicate, force, and coerce in order to survive. Be it in the form of individual, or collective, agents of the evolution must be active entities having their own interest considerations. In sum, there must be an evolutionary struggle in search of power that provides for agents with surviving capacity. So, we turn back and repeat that men make its own history, but not as they wish. And, Hayek forgets that the most successful agent of the evolution is also ones who can organize their material and mental power to eliminate weaker ones. This explains the evolutionary logic of Hayek's liberal market society that is based on competition, which occurs over the each circuits of life. Evolution changes into revolution when the most dangerous enemy of specie is eliminated. Glorious revolution of 1688, industrial revolution of 1800s and the French revolution after 1789 are the examples of this sort of qualitative ruptures from evolution to revolution.

Natural insufficiency of individual man always points to collective organizations of the similar interests.

Liberalism of Hayek: The central aspect of the Hayekian liberalism is the claim that liberalism cannot maintain without market order. Market is a coordination mechanism, which puts together numerous, various and even conflicting aims of the individuals. Therein, each can use the knowledge of the other that can not be obtained with the individual effort. Market resolves the information problem of the individual, his natural ignorance and insufficiency.

Market, as an impersonal and abstract mechanism, prevents the concentration of power within the authorities. Even the richest man in the society, for Hayek, cannot have the immense power that planning authority has. Market puts into motion the abstract and impersonal dynamics that are valid for all individuals, and by doing so, it rules out personal commands and orders of the authority over the individuals.

Market, with its opportunities and resources, provides a free sphere for individual in regards with the working and living places. Otherwise, our living conditions are determined by the authorities. The range of choice for the working and living conditions depends on the free market activities of the employers and land developers, for instance.

Market creates the conditions of individual autonomy. It is the *sine quo non* of individual freedom. It can impose pressure upon us, but this does not necessarily imply coercion, which is the opposite of freedom.

Market, with the diffusion of private property, creates the conditions of private sphere and independence for individual. So, market guarantees the protection of individual spheres.

Hayek accepts that market is not a perfect order, but it s the best one we have ever discovered and it is the best method of coordination of different individual aims and plans when we see its alternative, that is, the decisions of planning authority. It is good since its alternative bad.

Market inevitably leads to inequality. But inequality simply means that progress has not only pioneers but also followers. Otherwise, the cost of progress cannot be charged on anybody and progress stops.

Market is an order that has not any ruler. Hence, it does not coerce anybody. It has no responsibility towards the results that emerge with and through it. In this sense, it cannot be the subject of distributive justice. We can only demand that individuals we meet in the market should be just. Our relations must be morally just-no bribery, no lie, no coercion, no robbery, so on.

I think that Hayek is rather persuasive in that liberalism is nothing without market order if we define liberalism as being the theoretical ideology of puritan capitalism. Otherwise, we meet a sort of social democratic market society, as seen in the Keynesian welfare state. Furthermore, for Hayek, liberalism cannot be defined in the political sphere only without market (as argued by Rawls 1971). The absence of the market order inevitably results in collectivism and then liberalism is changed into totalitarianism.

The road to freedom points to the road of market.

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